Appellate Case No. 25A-CR-00591

STATE OF INDIANA	)	IN THE ALLEN SUPERIOR COURT
	)SS:	
COUNTY OF ALLEN	)	CAUSE NO.: 08C01-2210-MR-1

STATE OF INDIANA, Plaintiff, VS. RICHARD M. ALLEN, Defendant.	))))))))

THE HONORABLE FRANCES C. GULL, PRESIDING

The Transcript

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week and $90 the second week. Is that gonna be enough supplement for you to survive if you're picked as a juror?

JUROR 37: No.

Q Does that make – does that question make sense?

JUROR 37: Yes.

Q Okay. And so you're saying that even with that income from being a juror, you can't maintain your bills, those kind of things?

JUROR 37: No.

Q And if you were picked as a juror, are you gonna be more worried about, "Okay, how am I gonna pay, I don't know, car payment next month", instead of what's going on here in court?

JUROR 37: Yes.

Q Okay.

JUROR 37: For sure.

Q You're gonna be more worried about the bills at home, as opposed to testimony that's given or what's – evidence that's being presented?

JUROR 37: Yes. Yes.

Q Okay. I appreciate you being honest, we talked about it and I kind of skipped over being brutally honest, but I assume all you guys heard me, and that's what we want. I don't want to dig too much into personal stuff, but we just gotta know. This is gonna be a long trial, you know, it's gonna be a couple weeks at best, and so if you've got other things going on at home or at work or with your health, we want to know about that, because we want you to pay attention to what's going on out here and not be distracted, so that's the reason for the questions. Sir, number 43, you said you've heard about it at work and

you've already formed an opinion.

JUROR 43: Yeah, that's all they talk about.

Q Okay, fair enough.

JUROR 43: Seriously, that's all they talk about.

Q Fair enough.

JUROR 43: You know, just every so long, you know, saying this and that.

Q And do you feel that they've – I don't want to get into what they've talked about, but do you feel they've talked about everything that's been in the media?

JUROR 43: Just about.

Q Okay. And at this point, you've formed an opinion as to the guilt or innocence?

JUROR 43: Yes.

Q And if the Judge were to ask you, "Hey, set that aside, don't think about that, make a new opinion on what you hear in court," would that be something you could do?

JUROR 43: I'd have a problem with it.

Q Okay.

JUROR 43: Yeah.

Q Only you can tell us. It's okay, I mean, you can tell us. So you're saying, "I probably couldn't do that" is what I hear; is that true?

JUROR 43: Yeah.

Q Okay. All right. Ma'am, Number 44, you had work, and phlebotomist, is that right? Is that what you said?

JUROR 44: Pharmacist.

Q Pharmacist, I'm sorry, but you deal with cancer – children cancer patients; right?

JUROR 44: Yes.

Q Okay. Thank you. And if you were to serve as a juror on this case, you would be concerned about whether or not those kids would have care and then the quality of the care. I think you said you were trying to train some of your co-workers, but you weren't –

JUROR 44: Correct.

Q -- satisfied at this point.

JUROR 44: It is a very highly specialized position.

Q Sure.

JUROR 44: It does require a lot of training, so to try to teach them everything I know in the span of a few days was very difficult.

Q Sure, sure.

JUROR 44: And this position also requires me to be on-call 24/7, to be available to the providers, the nurses, the patients, the medical staff, if they have any questions on medications.

Q Let's say you are picked for the jury, let's say you're on the jury, what is the plan to cover the treatment for those kids? Just to have the co-workers do it?

JUROR 44: Um-hmm, to try to do the best they can, yes.

Q Okay. If you are picked as a juror, are you gonna be angry because you have those outside – you know, "I can't believe they picked me as a juror. I have this stuff I have to take care of. I gotta be there."

JUROR 44: I wouldn't say I would be angry, because I'd want to do

my civic duty.

Q Sure.

JUROR 44: I just don't feel like this would be best case for both myself and for the parties.

Q What we don't want is for you to get picked and say, "Why did they keep me? I told them I had appointments, financial hardships. This is bull crap. Why am I here?" And we don't want it to be that kind of experience. Okay. Hopefully I got everybody. Number – Juror Number 5, sir, you said you've already formed an opinion at this point from what you heard.

JUROR 5: Yes, sir.

Q Okay. And do you feel that that opinion is strong enough at this point that if the Judge asks you to set that aside, that's something you couldn't do?

JUROR 5: No, I could not.

Q Okay. And you also have some medical health issues?

JUROR 5: Yes.

Q I don't need to know what they are, I just – you have some medical issues that you've informed the Court about?

JUROR 5: Yes.

Q Okay. And if you served as a juror, would those medical issues, would those cause you poor quality of life, pain, uncomfort, all those kind of things?

JUROR 5: All of these above.

Q Okay. Okay. And then, sir, Number 52, I think that you said that you had already formed an opinion, as well. The Judge kind of asked you a few questions, you kind of came back and so with the things that you've heard in the media and friends, family, wherever, in the community, have you formed an

opinion yet?

JUROR 52: Yeah, I have.

Q Is it a strong enough opinion that if – the Judge is gonna tell you to only base your opinion on what you see and hear in court. Now, we do not ask you to check your common sense at the door. We don't ask you to come in here as complete blank slates in terms of personal experience; right? But we do ask you to only make a decision as to guilt or innocence based on what you hear and see in court. If you've already formed an opinion and your opinion – and you're telling me, "Look, I don't think it can be swayed," then that's an issue. So you – only you can tell me.

JUROR 52: It would take a lot to sway my opinion.

Q Okay. Okay, we're gonna stick with that.

JUROR 52: If I had to, I would listen.

Q I appreciate that. I appreciate that. Anybody I've missed?

A (No response or indication from any potential juror.)

Q I know we talked about being away from the children, we talked about those things. Well, let me just touch base with Number 40.

JUROR 40: Yeah.

Q Thank you. I get it, a lot of us have kids, it's hard to be away from them.

JUROR 40: Yeah.

Q With you never been – being away from your kids –

JUROR 40: For that long.

Q -- for that long a time, is that – if we get to week 2 or week 3, are you gonna be thinking about, "Oh, my gosh, I miss the kids," and not focusing on what's going on here in court?

JUROR 40: I can focus on what's in court.

Q Okay. You feel confident about that?

JUROR 40: I do.

Q Okay. And then, Number 54, ma'am, same questions: Do you feel good with work and kids? You've got kind of a double, work and kids. Do you have arrangements made where you feel comfortable if this goes on two or three weeks?

JUROR 54: It's not ideal, but it can be done.

Q Okay. Okay. That cover everybody? I don't want to leave anybody out. Ma'am, okay, Number 3; is that right? Go ahead.

JUROR 3: With matching the pharmacy.

Q Ah, sorry.

JUROR 3: Not having a 100 percent reliable pharmacist that can cover is an issue.

Q If this goes a couple weeks, are you gonna be thinking about that? The same questions: Are you gonna be more focused on that than what's going on here?

JUROR 3: (Responds by shaking head in the negative.)

Q Okay. If you are picked as a juror, are you gonna be angry? "I can't believe I was picked. I got work. I told them I had work. They wouldn't listen to me."

JUROR 3: No.

Q Okay. All right. Anybody else?

A (No response or indication from any potential juror.)

Q Okay. I'll go over some things quickly and try to cover the bases as quick as we can. Sir, Number 14, I just want to focus on, when you hear the charge

of murder, what do you think of?

JUROR 14: The seriousness of it, the loss.

Q What kind of evidence would you expect to see?

JUROR 14: As much as I could get.

Q Fair enough.

JUROR 14: Witness testimonies, hopefully DNA, hopefully some physical evidence.

Q You're heard – were you able to hear the answers that were given before with the other jurors? Some of the things talked about, DNA, weapon, motive, are those things that's - that are important to you?

JUROR 14: Yeah, I would think so.

Q Okay. Okay. Ma'am, let's just – I haven't talked to you. Number 3, what do you think of when you hear murder, the charge of murder?

JUROR 3: A serious legal matter.

Q Sure. What kind of evidence would you expect to see?

JUROR 3: Anything available, like fingerprints, DNA, weapons, medications, you know, anything.

Q Who's seen *CSI*? On the show, they seem to have – every single piece of evidence that's involved in a crime, they seem to get. Who thinks that's real life?

A (No response or indication from any potential juror.)

Q Okay. All right. Ma'am, Number 54, what do you think of when you hear about – when you heard the charge of murder?

JUROR 54: Loss of life.

Q And what evidence would you expect to see?

JUROR 54: What everyone else has mentioned already.

Q Is there anybody here that has to have what they have on *CSI?* "Look, I have to have DNA, murder weapon, motive. I – that's what I need if I'm ever gonna convict somebody of murder." Anybody feel that way?

A (No response or indication from any potential juror.)

Q Okay. Okay. Talked about beyond a reasonable doubt and being firmly convinced and what that means, and the Judge is gonna give you an instruction on that, and what it means is that you're firmly convinced. And so – who did I talk to before? Sir, Number 14, you convinced I'm an attorney? You had mentioned some things you would need to see for murder, you said, "As much as you could give me."

JUROR 14: Um-hmm. (Affirmative response)

Q Convinced I'm an attorney?

JUROR 14: Probably.

Q I haven't given you as much as I could.

JUROR 14: Judge Gull hasn't kicked you out of here.

Q That's true, she has not, not yet. Firmly convinced?

JUROR 14: Sure.

Q Okay. I'm picking on the same people here, but, Juror Number 3, you said everything I could give you. Convinced I'm an attorney?

JUROR 3: Yeah. You have been verified.

Q Okay. That's all you need, firmly convinced. Let me switch it up. Number 37, sir, you convinced I'm an attorney?

JUROR 37: I am, yes.

Q You firmly convinced?

JUROR 37: Yes.

Q So beyond a reasonable doubt? Very little evidence you've seen besides Judge Gull allowing me to stand up here and talk to you and then my –

JUROR 37: So I would think for the State you would have to be. I know sometimes defendants might be their own attorneys, so –

Q Sure, sure.

JUROR 37: So yes.

Q Again, we don't ask you to check your common sense at the door; right? Common sense tell you that if I wasn't an attorney, I wouldn't be able to run for prosecutor, wouldn't be able to be elected, wouldn't – the Judge wouldn't allow me to stand up here and talk to you. Does everybody agree with that?

A (No response or indication from any potential juror.)

Q So we want you to not form an opinion as to this case. So in that sense, we want you to be a blank slate. We do not want you to be a blank slate of all your life experiences. We want you to use those life experiences and your common sense to judge the evidence, the credibility, the weight, all those kind of things. And so, gentlemen back there, you may have already formed an opinion as to this case, that's not good; but in terms of using your common sense, it's common sense that you wouldn't need my license, my bar license, my degree to tell that I'm attorney. Is everybody in agreement with that? Is anybody in disagreement with that?

A (No response or indication from any potential juror.)

Q Okay. Who thinks that burden for the State is too low? We talked about beyond a reasonable doubt and beyond all doubt. Who is the type of person that says, "I have to see it with my own eyes or it has to be on video for it to be true?" Beyond all doubt. Anybody have – is of the opinion that, "Hey, it has to be beyond

all doubt or it should be beyond all doubt"? This is a criminal matter, serious offense, it should be beyond all doubt. Does anybody feel that way? Ma'am, you're kind of shaking your head in the back, Number 44.

JUROR 44: I just feel like if I'm gonna stand in judgment of someone, I don't want to have any doubts in my conscience.

Q So your opinion is it should be beyond all doubt. Ma'am, you're – sorry, I gotta look at the numbers – Number 7, you're kind of shaking your head with her, so that's how you feel, too?

JUROR 7: (Responds by nodding head in the affirmative.)

Q Okay. Serious crime, serious offense. I think the Defense has said serious business I think is what they used. So you think beyond all doubt?

JUROR 7: Um-hmm. (Affirmative response)

Q Okay. Anybody else?

JUROR 14: Close.

Q Number 14, sir, kind of?

JUROR 14: Close.

Q Close, okay. Kind of –

JUROR 52: I've worked quite a bit.

Q Number 52, okay. And then, ma'am, I haven't talked to you. Number 9, do you think it should be beyond all doubt?

JUROR 9: I mean, like he said, there should be a lot more.

Q Sure.

JUROR 9: Yeah.

Q Okay, okay. So you think it should be more than firmly convinced?

JUROR 9: I would think.

Q Okay. Anybody else feel that way, even just a little bit? Does anybody say, "You know, I kind of feel that way"? Anybody else?

A (No response or indication from any potential juror.)

Q Okay. Well, ma'am, let me just talk to you. We talked a little bit about the Frosty example. Where would you be on that? Where were you firmly convinced that, okay, someone had built a snowman and it melted? Did it take you all the way to the name tag "Frosty" or did you need more than that?

JUROR 9: Well, probably the carrot, I was beginning to get the connection.

Q That's usually where people start to say, "Oh, okay. Yeah, I know where you're going." Where were you firmly convinced in that scenario? Was it the carrot? "Okay, I'm firmly convinced. I know what's going on. I don't need any more."

JUROR 9: But then I'm positive when you said Frosty.

Q Right. That's almost – that's closer to beyond all doubt; right? I mean – sir, where were you at in the Frosty example? Where were you at? When were you firmly convinced?

JUROR 34: About midway.

Q Midway?

JUROR 34: Yeah.

Q Okay. All right. Let's see, sir, what about you? I haven't talked to you much, Number 43. Where were – you were able to hear the Frosty example that I used?

JUROR 43: Yeah. Just the carrot.

Q The carrot?

JUROR 43: Yeah.

Q Okay. All right. Is there anybody that, when I got to the name tag "Frosty", they needed more? I'm gonna focus on you two, 'cause you said 100 percent in the back, so I gotta pick on you a little bit. Number 7, did you need more? Would you want an eyewitness to say, "Hey, I saw them build a snowman and I saw it melt"?

JUROR 7: Um-hmm. (Affirmative response)

Q You would?

JUROR 7: Um-hmm. (Affirmative response)

Q Okay. Number 44?

JUROR 44: I think I kind of believed it when I got to the – when you got to the top hat.

Q Okay.

JUROR 44: But then again, building a snowman's a much lesser determination to make than –

Q So the gravity of what you're making the decision about would influence where you need to be, that's what I'm hearing. "Building a snowman takes less for me, murder takes more for me." Is that fair?

JUROR 44: Um-hmm. (Affirmative response)

Q Okay. I don't want to put works in your mouth. Okay. Anybody else feel that way, "It depends on the gravity of the decision I'm making"?

A (No response or indication from any potential juror.)

Q Does anybody have a problem – we talked a little bit, I think it was you, Number 54, about passing judgment on somebody, maybe it wasn't. But is there anybody here that has an issue with passing judgment on somebody for this type

of offense? Number – sir, Number 14?

JUROR 14: Yeah. If it were ever a capital punishment question, I'm religiously, personally, ethically opposed to it.

Q Sure.

JUROR 14: So yeah, I would never vote to convict somebody for that.

Q I'm glad you brought that up. You cannot worry about the punishment. You're asked only in this case to decide the guilt or innocence. Can you set –

JUROR 14: Yeah, I don't know.

Q Okay.

JUROR 14: You can say that, but can you really do it?

Q Well, that's why we're asking you these questions, because it's easy to answer the way you think I want you to answer.

JUROR 14: I think that would always be in the back of my mind.

Q Yeah. I want you to be brutally honest and say, "Look, I'm not gonna be able to get it out of my mind. I don't care what the Judge tells me, I don't care what you tell me, it just is what it is."

JUROR 14: Yeah.

Q Does anybody else feel that way, that they couldn't – "This type of offense, I'm not – I can't pass judgment." Number 7?

JUROR 7: (Responds by nodding head in the affirmative.)

Q Yep. So you're – what I'm hearing you say is if the State proves beyond a reasonable doubt each element of the offense, you still couldn't enter a conviction or a verdict for guilty?

JUROR 7: (Responds by shaking head in the negative.)

Q Okay. Anybody else feel that – sir, you're – Number 52?

JUROR 52: I don't really want to put judgement on anybody in any situation, just not this case, anybody.

Q But you also told me you're the one that already formed an opinion.

JUROR 52: I have formed an opinion, yes, on this case of what I've –

Q But it would make you uncomfortable if you had to pass the judgment?

JUROR 52: But on anybody.

Q Sure.

JUROR 52: I don't feel I'm qualified. And I know we listen to evidence and everything, but it's just, you know, when you don't really want to be here to start out with, let alone passing judgment, yeah.

Q I want to come back to that. Let me – I'm gonna come back to that; okay? Is there anybody else here that has an issue with passing judgment on someone? And let's just focus passing judgment on – for murder. I mean, it's a serious offense. Anybody else, don't really want to – okay, ma'am, sorry, Number 9?

JUROR 9: I don't know if I'm qualified.

Q Okay.

JUROR 9: I don't know how else to say that, just –

Q I don't want to embarrass you or get in too much personal stuff, but can I ask you why you don't feel qualified?

JUROR 9: Just memory issues I've had. Like even with my kids, they'll tell me something and then, you know, I'll go back at them and they go, "Mom, I didn't say that." So I'm like not trusting myself to make –

Q Okay.

JUROR 9: -- a judgment like this.

Q The Judge, I think she mentioned this to you, and sorry, I was making some notes while she was talking, but she'll give you a pen, paper, you're gonna have the other jurors; does that help alleviate some of your concerns?

JUROR 9: A little bit.

Q A little bit?

JUROR 9: Yeah.

Q You're still worried that you might forget something?

JUROR 9: Yeah.

Q Okay.

JUROR 9: I don't want that on my conscience if I make a wrong decision.

Q Well, let's come back to an answer that he brought up or a topic he brought up. Who doesn't want to be here?

A (Some potential jurors respond by raising hands.)

Q Okay. Okay. I was gonna touch base on something else you said, memory – are you – if you're picked as a juror, are you willing to listen to other jurors' comments, their statements when you're back deliberating?

JUROR 9: Yeah. I'm a listener.

Q Okay.

JUROR 9: I'm not outgoing or –

Q Are you also –

JUROR 9: -- take-charge or anything.

Q Sure. Are you also able to stand firm in your convictions in terms of what you saw and what you heard in court? Meaning if you know that you saw and

heard something in court, are you able to stand behind that and say, "Look, I respectfully disagree. This is what I saw or heard"? We want jurors to –

JUROR 9: I mean, I think it's – yeah, it's hard hearing the one side and then hearing the other side when they're completely opposite.

Q Sure, sure.

JUROR 9: I just have doubts in myself.

Q Okay. I appreciate that. I'm not trying to embarrass you, I just appreciate you being honest. This is an unusual trial in the sense that it's gonna be so long or has a potential to be so long, so we have to ask you these questions to – is anybody concerned about – speaking of that, is anybody concerned about how long this is gonna take? About the effect it'll have on their mental health or their, you know, whatever you want – mental health is the best thing I can say. Can you raise your hands again. I'm sorry. Okay. Okay. Okay, I want to move on to something else, but if there's something else that comes up, don't be afraid to raise your hand; but I want to talk a little bit about credibility of witnesses. And so, sir, Number 43, what kind of things are you gonna look at to determine whether or not someone's – a witness is credible?

JUROR 43: Consistency.

Q Okay.

JUROR 43: You know, if a story was the same all the way through.

Q Sure, sure.

JUROR 43: Behavior, I guess.

Q If they're nervous or not?

JUROR 43: Yeah.

Q Are you nervous here today?

JUROR 43: Yes.

Q Do you think a witness testifying in front of 12 or 15 strangers and audience members would be nervous?

JUROR 43: Yes.

Q So you willing to consider that, as well, that the witness may be nervous, so that may affect their eye contact and things like that?

JUROR 43: (Responds by nodding head in the affirmative.)

Q Okay. Ma'am, Number 3, what kind of things are you gonna look for?

JUROR 3: The same things, consistency, body language –

Q Okay.

JUROR 3: -- story –

Q Sure.

JUROR 3: -- (Inaudible)

Q Sure. What about confidence in statements? Is that something you'll look for?

JUROR 3: Yeah.

Q How confident, how sure? "I'm sure it's this way."

JUROR 3: Yes.

Q Okay, okay. What about their ability to recall their statement? What if they can't recall their statement without some assistance of a report they wrote back then, back in time or something like that? Would that affect it?

JUROR 3: A little bit.

Q Okay. Ma'am, Number 40, what about you? What kind of things are you gonna look for? Let's start there. What things do you look for when your kids – you go in a room and there's red paint on the wall and they're both holding red

paintbrushes and they both point their finger at each other, what kind of things do you look for to determine who's telling the truth?

JUROR 40: Well, first you were asking about – just forget about the kids pointing –

Q Okay.

JUROR 40: -- but the expertise of a witness.

Q Sure.

JUROR 40: Like a doctor's gonna know more about many – about medical –

Q Right.

JUROR 40: -- procedures –

Q Sure.

JUROR 40: -- and what they've seen. You said officers, officers are gonna know the law better than myself. So yeah, I'm gonna take that into account.

Q So you would give – you may not give an officer more credibility simply because he's an officer, but you would give him more credibility in certain areas?

JUROR 40: Yes.

Q So if it were – I'll make up something – stopping a vehicle for a traffic infraction, you might give an officer more credibility to talk about that, as opposed to a construction worker?

JUROR 40: Correct, yeah.

Q Okay. Fair enough. Anybody else feel that way, that there are specialized people, experts, specialized people that may have credibility in certain areas that others don't?

A (No response or indication from any potential juror.)

Q Right? You wouldn't want me to testify about how to build a house, there's no way; right? Okay. Anybody have anything different that they're gonna look for when determining the credibility of a witness?

A (No response or indication from any potential juror.)

Q All right. Has anybody had a negative interaction with law enforcement? You got a ticket, they said you were speeding, you weren't speeding. Anything that would have you hold a law enforcement officer in a bad light? Sir, go ahead, Number 52.

JUROR 52: I had my house broke into. The officer done what I thought a good job. The detectives, it was right before Christmas, they didn't seem to be interested and dropped the ball I think on a lot of things.

Q Are you gonna hold that opinion against the officers that testify in this case?

JUROR 52: Probably not.

Q Okay.

JUROR 52: Everybody's an individual.

Q Sure, sure.

JUROR 52: There are some better at their jobs and some worse at their jobs.

Q And that's the answer we want to hear, that you're not gonna take that experience and then hold it against –

JUROR 52: Yeah.

Q -- the officer. Okay. Fair enough. Besides you, sir, which I think I've talked to, is there any – well, I think we've already touched base on who's

comfortable with being a juror or not, and I think a lot of you raised your hands. Are there any questions for me about anything that we've covered or anything the Judge has covered?

A (No response or indication from any potential juror.)

Q Any other concerns, issues that anybody wants to bring to my attention? "Hey, I wouldn't be a good juror for this case because of" something we haven't talked about yet?

A (No response or indication from any potential juror.)

MR. MCLELAND: How much time do I have left, Judge?

THE COURT: Five minutes.

MR. MCLELAND: Okay. That's all I have, Judge. Thank you.

THE COURT: Okay. Mr. Rozzi. Oh, Ms. Auger.

MS. AUGER: Thank you, Your Honor.

VOIR DIRE BY THE DEFENSE – MS. AUGER

ANSWERS BY POTENTIAL JURORS.

Q Good afternoon. My name is Jennifer Auger.

COURT REPORTER: Do you have a wireless microphone?

MS. AUGER: Oh, I gotta turn it on. Am I on?

COURT REPORTER: Yeah.

MS. AUGER: Okay. Thank you.

Q I don't have a fancy inside pocket on my jacket, so I'm hoping not to get caught up in the wires. Jennifer Auger, I'm one of the attorneys representing Mr. Allen. I want to follow up with some of you on a couple of things. Juror Number 3, I think you and I are probably the same height, and I could hear almost nothing of what you said because of the very tall gentleman in front of

you, so I'm gonna follow up with some things, if that's okay.

JUROR 3: Yep.

Q You're a pharmacist; is that correct?

JUROR 3: Correct.

Q All right. And tell me the situation again with your employment.

JUROR 3: I'm the pharmacy manager and the staff pharmacist, Monday through Friday, 7 to 4. I do have a back-up pharmacist, but she's not 100 percent reliable, so I – I'm sure, if she's able to cover for me whichever days I need to be here –

Q Okay.

JUROR 3: -- it could work, but it's difficult.

Q Okay. And would you be – I'm gonna ask you some of the same questions. You know, probably, what I'm about to ask. Would it be – would you be so worried that you wouldn't be able to pay attention during the day?

JUROR 3: No; no, I wouldn't.

Q Okay. All right. Now a couple of things, Mr. McLeland talked about his attorney analogy. I'll tell you I'm an attorney, I have a bar card, I'm sitting here talking to you today in the role of an attorney, I have a degree from a law school, and so I think everyone here would probably say, "Yeah, you're an attorney"; right?

A (No response or indication from any potential juror.)

Q No? Anyone?

JUROR 52: I would think so. The Judge let you in.

Q Pardon?

JUROR 52: The Judge let you in.

Q She did. She did. So, you know, Mr. McLeland said a couple times you don't leave your common sense at the door; right? We all come into court, we bring our life experiences, we bring our biases, our prejudices, all the things we know maybe from our co-workers or other places, and all those things come into the courtroom with us; right? And we think we can make good opinions and good decisions. But, as Mr. Baldwin said earlier, if you were listening, we have an attorney in our county who showed up to court, argued cases, put a bar number down on his pleadings, and was working for a well-known law firm in our county, and it turned out that the bar number he had was one he'd made up. And he went to law school, he got a degree, but he couldn't pass the bar, so he wasn't allowed to practice. And so my question to you is: Would you agree with me that sometimes it's easy to come to a quick conclusion, but sometimes we have to dig a little deeper? And so that brings me to something else you heard earlier. Are – Mr. Allen may not testify in his defense, and my – and we all have a Fifth Amendment right not to incriminate ourselves. So my question to the 12 of you is: What do you expect? If you were innocent and you were accused of a heinous, heinous crime, what would you do? Sir?

JUROR 34: I would expect to get legal guidance from my attorney, my team, and if they want to put on the stand, then I would be on the stand.

Q You would defer though to your attorneys?

JUROR 34: Well, I would certainly get their input, absolutely.

Q Okay. Would there – are there reasons that you could think of that you may not want to testify?

JUROR 34: Maybe I was guilty.

Q Okay. Any other reason?

JUROR 34: Maybe I just want to take the path of least resistance.

Q Okay. Anyone else?

A (No response or indication from any potential juror.)

Q Not a lot of talkers here. All right. Number 9, can I ask you?

JUROR 9: Well, on one way, I probably wouldn't, 'cause I know the prosecuting can twist things.

Q Okay.

JUROR 9: But I probably wouldn't want to.

Q All right. How about – you're dying to talk.

JUROR 52: I am.

Q Come on, 52, what do you have to say about that?

JUROR 52: If I knew I was innocent, I guess I'd want to say it, tell everybody. Now, the attorneys might disagree, I don't know. But I do agree, both sides have a way they can twist things.

Q So that brings up something else I want to talk about. Sometimes defense attorneys, such as myself, get kind of bad raps and those sleazy attorneys, ambulance chasers. Someone on my dad's obituary called him a bottom feeder. And we kind of get bad names, kind of – people think we're shady 'cause we're trying to hide things. And it's okay, no one's gonna hurt my feelings, does anyone here believe that?

JUROR 34: Is it true?

Q Well, I hope not.

JUROR 34: Okay.

Q I certainly don't think so. But do you think it is?

JUROR 34: I don't think I have enough information to make that –

make a decision. I guess I don't believe that it is.

Q Okay. Have you ever heard people talk like that?

JUROR 34: In general, I have, but I guess I was talking more specifically.

Q Okay. Do you think I am?

JUROR 34: Um-um. (Negative response)

Q Okay. Fair. Anyone else? Yeah.

JUROR 40: I have heard people talk like that, yeah.

Q Well, and you work in the legal profession; right?

JUROR 40: Yes. And I do have a family member who was a prosecuting attorney.

Q Okay. All right. And what kind of – can I ask you what kind of legal profession you were in or are?

JUROR 40: As a paralegal, yes. Like personal injury, medical malpractice, divorce, family law, wills, estates, all of it.

Q Wow, you've done all of it.

JUROR 40: Yeah.

Q What about – is there anything in your experiences that makes you think you would be a good juror? Not a good juror?

JUROR 40: Like you've talked about, you, you know, bring in your common sense, but those past experiences that you – you have an unconscious bias I guess you could say. I feel like perhaps I would.

Q Okay. And would that unconscious bias affect your ability to listen?

JUROR 40: Not listen, no. I could listen and form an opinion, but like I said, I don't know how unbiased it would be.

Q Okay. Well, I appreciate you sharing that. I think that's – it's hard for all of us to acknowledge our biases. And we all have them; right? In terms of listening to the evidence, what about making a decision?

JUROR 40: I could make a decision, yes.

Q Fairly?

JUROR 40: In my mind, it would be, to the best of my ability, very fair, but I think that we have those past experiences that come along with you, I mean, yeah.

Q Sure. Let me ask you this: If you were sitting where Richard Allen is sitting and you were accused of killing two young girls, would you want someone with your mind and your mindset and your past experiences sitting in judgment of you?

JUROR 40: I'm not sure. That's a weird question.

Q Sure. No one ever expects to be sitting where Richard Allen is sitting; right?

JUROR 40: Right. I don't think I could put myself in that position.

Q Okay. All right. And would it make you evaluate some of the evidence differently?

JUROR 40: No. No, I could evaluate evidence just based on the evidence.

Q Okay. I want to talk to everyone for a minute about expert witnesses. There are gonna be some people come and testify who are not fact witnesses, they've looked at certain evidence and they've used their past background, expertise, education, experience to come at some opinions and some things, and so there are gonna be some experts who come in and tell you, "Well, I think this."

And so, you know, there may be an expert – this isn't gonna happen, this is my analogy – who's gonna come in and say, "This book is blue." Okay. Looks like a blue book, seems good. Now, there could be an expert who comes in and who says, "This book is red." And they're an expert and they've got a lot of experience, and they've got specialized training, skills, education, they testified in court a bunch, and they're gonna tell you that this book is red; okay? And so, Juror Number – I'm not good with the numbers – 43, if an expert comes in and tells you that this book is red, how do you deal with that?

JUROR 43: I'm gonna look at the evidence. I see it's blue –

Q Okay.

JUROR 43: -- so I'm thinking it's blue.

Q So you can still use your eyes and your common sense and your background experience and education to come to your own opinion?

JUROR 43: Correct.

Q Okay. Anyone else? Anyone else who's gonna think the book is red?

A (No response or indication from any potential juror.)

Q How about purple?

A (No response or indication from any potential juror.)

Q Pale blue?

A (No response or indication from any potential juror.)

Q All right. So you all can be independent thinkers yourselves, is that what I'm hearing?

A (No response or indication from any potential juror.)

Q You're a hard bunch to crack. Go ahead, sir. What'd you say?

JUROR 37: I said yes.

Q Okay. Now, Mr. McLeland had an analogy about a snowman. I'm not gonna follow up on that, because this is a really serious case, two young girls were murdered and our client is accused of murdering two young girls. And while you don't leave your common sense at the door, it is hard and it's going to be hard – you're gonna look at evidence that's disturbing, and I need to make sure that everyone is able to look at this disturbing evidence and hear the facts and still listen objectively, because the fact is two young girls were murdered, but there's also a man accused who deserves a fair trial. Is there anyone who thinks that those images might be so disturbing – and it's a real thing, I get it, I understand. Everybody wants to find who did this, but can you look at those pictures and still make an objective opinion about whether Richard Allen – whether the State has proven beyond a reasonable doubt that he is guilty of these murders? That was a terrible question. I hope I do better if I'm cross examining witnesses. But, ma'am, I haven't talked to you yet. What do you – I mean, is that something you think you would be able to do?

JUROR 54: Yeah.

Q Yes?

JUROR 54: Um-hmm. (Affirmative response)

Q Okay. And Number 3?

JUROR 3: Yes.

Q Okay. 43?

JUROR 43: (Responds by nodding head in the affirmative.)

Q Yeah? Sir?

JUROR 34: Yes.

Q Okay. Yes?

JUROR 40: Um-hmm. (Affirmative response)

JUROR 37: Yes.

JUROR 9: I think it would be hard to look at those pictures –

Q It will be.

JUROR 9: -- but, you know, I'd have to focus on evidence.

Q Okay. Sir?

JUROR 14: I think I'm gonna think about my daughters.

Q Yeah. Sir?

JUROR 52: I got a granddaughter just turned 14, I'd definitely think about that, and that's where passing judgment on somebody, where I don't want to be put in that situation. If I'm forced to be on the jury, then yeah, I would have to listen to everything and take that into account.

JUROR 44: With more – me, it's just more of an emotional reaction, because I lost a sister at the age – when she was 16 in a car accident, so I remember going to the morgue and seeing her, so I think seeing those pictures would definitely bring a lot of those feelings back.

Q I'm sorry. Yeah. Well, I appreciate everyone's honesty. Sir, when I'm watching you, you look like you're really uncomfortable.

JUROR 14: My back is killing me.

Q Okay. Well, it's pretty noticeable and –

JUROR 14: Sorry.

Q No, you don't have anything to apologize for, and I don't mean to call you out and I'm sorry for that.

JUROR 14: No, it's okay.

Q But I guess my question is: If you're in this much pain sitting here for four

– oh, my gosh, almost five hours, a long time, what's it gonna be like for you to sit nine hours a day for a month?

JUROR 14: Hard to say. Probably not great, but –

Q Okay. Let me ask you – are you – would you be at all concerned that you might miss things?

JUROR 14: It's distracting.

Q Sure. Is it – I guess let me drill down a little bit, only because I want to make sure that everyone is able to give us – give Mr. Allen their full attention and listen to the testimony, and I know – you know, I used to get migraines, and there's no way I was gonna sit on a jury and listen to evidence –

JUROR 14: Yeah.

Q -- not that anyone would ever pick me, but, you know, I couldn't even sit through a class sometimes and really take it in. What – I mean, are you concerned about that at all?

JUROR 14: Maybe.

Q Okay.

JUROR 14: I guess it's kind of hard to say unless you're in that kind of situation, but –

Q Sure. It's hard for someone to evaluate someone else's level of pain –

JUROR 14: Yes.

Q -- and how it affects them.

JUROR 14: Yeah.

Q So –

JUROR 14: It might be a concern.

Q Might be a concern?

JUROR 14: Yeah.

Q Okay. Now, earlier, if you were listening, Mr. Rozzi talked a little bit about some incriminating statements that Mr. Allen has made, and I want to ask you a little bit about those. There's a whole – when you do what I do, there's all kinds of research and books and things written about false confessions, incriminating statements, things like that. Is there anyone who can think of a reason why someone may make a statement, an incriminating statement, about a horrible crime?

JUROR 44: Under duress.

Q Pardon?

JUROR 44: Being under duress.

Q Under duress? In what kind of circumstances might one be under duress?

JUROR 44: Mental or physical, pain, suffering.

Q Okay. And Number 9?

JUROR 9: Just that people would be against him, like, you know, if you confess then they would – well, that's not what you asked me about.

Q No, that's okay. What do you mean by that?

JUROR 9: Well, just – like just to get it over with or end it – end all the – how people think about him and all that.

Q Okay.

JUROR 9: Maybe.

Q 37?

JUROR 37: Yeah, sure. I watch a lot of crime shows, *The First 48, Dateline*, all that, and a lot of times, the interrogation process sometimes can go on for hours and they, eventually, just say, "Yes, I did it," just to be done. Or

they think they can go home if they say yes.

Q Sure.

JUROR 37: Yeah.

Q 52?

JUROR 52: I think – how I look at it, if I was accused, I wouldn't admit to it period.

Q Can you think of a situation where someone else might?

JUROR 52: Well, I'm sure under duress, like you said, hours and drilling and just wanting to be out of there, I can see where that can happen, yeah.

Q Okay. Yeah?

JUROR 3: With my job experience, I've seen a lot patients with mental illness actually confronting that they have admitted something, turning themselves into law enforcement or (inaudible), just because they are scared would hurt somebody else further.

Q Okay.

JUROR 3: That's what I've seen. That's some things you'll actually see due to mental illness or being under pressure and they'll come out of it.

Q And in those scenarios or those going to the police, are those to confess something that's actually happened?

JUROR 3: A lot of times it is.

Q Okay. Sometimes not?

JUROR 3: Sometimes no.

Q Yeah, great. 34, I hate to call you out, too, but you look like you're a little uncomfortable.

JUROR 34: Yeah, it's not the most comforting, which is part of the procedure that I'm trying to get scheduled to take care of.

Q Okay. Are you in enough discomfort and pain that you feel that it would be – you would not be the best choice to be on the jury?

JUROR 34: Yes.

Q Okay. Would it be distracting?

JUROR 34: Yeah.

Q Okay. I'm sorry to keep you here this long.

JUROR 34: That's okay.

Q I'm sorry.

JUROR 34: No, that's okay.

Q Now, Mr. Allen is, again, accused of murder, and I want to talk to you about what it takes for you to find someone guilty of murder. Earlier, there's been – Mr. McLeland asked about DNA, would you have to have DNA. Does anyone think that you have to have DNA?

A (No response or indication from any potential juror.)

Q What if there's a little bit of DNA and it wasn't properly dealt with, how does that factor into your analysis, 40?

JUROR 40: There are a lot of – I've heard a lot of things about this case and some of the evidence that you had talked about being mishandled, so yeah, I can see where not all the evidence is gonna be available for us to hear.

Q Okay. I'm gonna move on, 'cause I don't want to get into something. I'm not trying to be rude.

JUROR 40: No, I didn't want to –

Q Yeah. Thank you for that. All right. We talked about motive earlier, Mr.

McLeland said there is no motive. Is that – is there anyone who thinks it would be important or helpful to know a potential motive for the murder of two girls? 43?

JUROR 43: What was the question again? I –

Q Sorry. Motive. So Mr. McLeland told you earlier that he's not gonna be able to tell you –

MR. MCLELAND: Judge, can we approach?

Q -- any motive.

THE COURT: Yep, come on up.

(Sidebar conference conducted.)

MR. MCLELAND: That's not what I said. What I said we don't have to prove motive. I never said that we couldn't prove it or we didn't have it, especially (inaudible).

THE COURT: That's what he said. He didn't say –

MS. AUGER: Oh, I apologize. I'll move on.

THE COURT: Okay.

(Sidebar conference concluded.)

Q Now, weapons, would anyone here like to find or would it be helpful to you to have the murder weapon?

JUROR 34: Yes.

Q Yeah? And if you don't, is that critical? Sure, you can –

JUROR 34: It's important, but not essential.

Q Exactly. Yeah. Anyone else want to weigh in on that? Sir?

JUROR 37: Me?

Q You, yeah.

JUROR 37: I'm sorry. Sometimes you may never find it.

Q Okay.

JUROR 37: So –

Q But it's one of the many factors that might be helpful; fair?

JUROR 37: Oh, it's definitely helpful to have it, yes.

Q Okay. So DNA, motive, weapon. What about fingerprints? Could that be helpful?

JUROR 52: Sure.

Q What about – I know some of you do watch crime shows, my kids love *NCIS* and *Criminal Minds*. Anybody? Yeah. All right. So trace evidence, anybody know what that is?

A (No response or indication from any potential juror.)

Q So the fibers and hairs and whatnot you might find at a crime scene. Does anyone expect to see that kind of evidence? Hopeful? Yeah? Okay. And let me ask you this: It – what does it take – I'm gonna came back to you, ma'am. Number 40, what does it take for you to find someone guilty of murder? What kind of evidence do you think that you need?

JUROR 40: You wouldn't want to have any regret. You would want to see everything that you were presented with and come to the conclusion that this is the correct verdict.

Q Okay. 54?

JUROR 54: I would agree, feeling at peace with the decision that I've had an open mind to hear everything presented and to feel confident in myself and the jury that we made the right decision.

Q Okay. And what kind of evidence would you expect to see?

JUROR 54: Well, hopefully everything that you described, anything that you would give to us or the prosecution would provide. I'm not hung on one particular piece, but enough that it would prove one way or the other, that we could feel confident.

Q Sure. And that kind of rolls into the theory of beyond a reasonable doubt, that it's going to be your job, if you're selected, to determine whether the State proved Mr. Allen's innocence – or guilt beyond a reasonable doubt. And so can you tell me what reasonable doubt means to you, what is that?

JUROR 54: That I'm not convinced completely that he did it. Yeah.

Q All right.

JUROR 54: There's doubts still whether – I don't need to be 100 percent, I see you over there, but that I don't feel quite confident in my decision.

Q Okay. Ma'am?

JUROR 3: That I probably have doubts in the evidence or lack of evidence, you know, with like maybe everything that's presented, you know, is against – or not against him, but then, you know, who can find it, what other tools were you – who can (inaudible) – so what if there's something missing?

Q If there were things missing from the analysis, would that be something that you would want to see?

JUROR 3: Probably or have some (inaudible).

Q Sure. Now, Mr. McLeland earlier talked about being firmly convinced, and what the statute actually says is that a defendant must not be convicted on suspicion or speculation. It is not enough for the State to show that the Defendant is probably guilty. On the other hand, there are very few things in this world that we know with absolute certainty. The State does not have to

overcome every possible doubt. The State much prove – must prove each element of the crime by evidence that firmly convinces each of you and leaves no reasonable doubt. The proof must be so convincing that you can rely and act upon it in this matter of the highest importance. Is there anyone who has any questions about that?

A (No response or indication from any potential juror.)

Q No? Is there anyone who thinks that that standard is too high because we don't want a killer on the loose?

A (No response or indication from any potential juror.)

Q That's your fear; right? At the end of the day?

A (No response or indication from any potential juror.)

Q No? Sir?

JUROR 37: Not if there's doubt.

Q Okay. 'Cause we also don't want to convict innocent people. Okay. Ma'am, what do you think about that? Is that standard too high?

JUROR 7: (Responds by shaking head in the negative.)

Q No? Okay. Sir, is that standard too high?

JUROR 43: No.

Q And you would require the State to prove each element of the crime by all of the evidence that we've – kinds of evidence we talked about earlier?

MS. AUGER: Judge, can you tell me where I am?

THE COURT: You have two minutes.

MS. AUGER: Two minutes.

Q It's a good thing I circled. So the State gets to go first, because they have the burden of proof, they have to prove – right? – beyond a reasonable doubt.

And so what I am asking you, would it be possible – 'cause you're gonna hear a lot of evidence. They're gonna put all their really strong evidence on first and try to convince you of Mr. Allen's guilt; right? So can you wait until we present our evidence and can you wait with an open, unbiased mind? It's gonna be hard. You're gonna hear a lot of statements by Mr. Allen. Is there anyone who thinks that they can't wait for us to present our evidence before they start to come to a conclusion? Sir?

JUROR 34: I can wait.

JUROR 54: I can wait.

JUROR 9: It would be hard.

Q Okay. I appreciate that, I think it will be.

JUROR 14: It might be a little difficult, but it –

Q Pardon?

JUROR 14: It might be a little bit difficult, but –

Q But if you were sitting where Mr. Allen is, you would want –

JUROR 14: Yeah.

Q Sir?

JUROR 43: Yeah, I think it would be hard. Obviously, I know a lot about the case, you know, and, you know, from what I heard, what I've seen on the news, you know, and I think evidence is everything, you know what I mean. Like it places somebody there at that time, you know, stuff like that. So I would just say I'd base it on the evidence really.

Q Would you be willing to wait for all of the evidence before coming to a decision?

JUROR 43: Yeah. Anybody's innocent till proven guilty but, like I

said, if the evidence is overwhelming, then, you know –

Q Sure.

THE COURT: Ms. Auger, your time's up.

MS. AUGER: Thank you.

THE COURT: Counsel may approach when you're ready.

(Sidebar conference conducted.)

MR. ROZZI: What's the number listed?

THE COURT: Seat 9.

MR. ROZZI: Seat 11, yeah.

THE COURT: Okay. The State is asking for cause on seat 1, and you agree on that –

MR. ROZZI: Seat 1?

THE COURT: -- so I will take him for cause. The State is asking for cause on seat 4 –

MR. ROZZI: Financial.

THE COURT: -- and his extreme financial hardship.

MR. ROZZI: Yeah.

THE COURT: And you don't disagree with that. Okay. So I will take him. State is asking for cause on seat 5.

MR. MCLELAND: The – her concern about her memory is what I was focused on.

MR. ROZZI: Yeah. She said, "Well, if you give me some paper." You know, that's what she said, "I can take notes." I think it is.

THE COURT: That's not cause. Do you want a perempt on her?

MR. MCLELAND: Yes.

THE COURT: Okay. State's asking for cause on seat 6.

MR. ROZZI: For cause on 6?

THE COURT: Um-hmm. (Affirmative response)

MR. MCLELAND: For his health.

MR. ROZZI: I didn't – I just – I heard him talk about it, I did hear him say anything about –

THE COURT: He –

MR. ROZZI: He just said – actually, when he asked him about – she asked him about his back, he said, "Well, I think I could do it."

THE COURT: Yeah.

MR. ROZZI: I mean, I – that's what I heard.

THE COURT: I heard it, too. Do you want a perempt on him?

MR. MCLELAND: No, I don't want a perempt on him. I was just trying to save him, because he was saying that he was already (inaudible).

MR. ROZZI: Well, I don't think he's over there with pom-poms wanting to hang around, but –

THE COURT: Well, nobody is. So you don't want to use a perempt on him?

MR. MCLELAND: No.

THE COURT: Okay. The State is asking for cause on seat 7. That's the gentleman who said, "I can't be fair, my co-worker," that gentleman. Do you have any objection to 7? And you are not putting – you didn't put him as cause.

MR. ROZZI: I don't – no. I mean, I think he can probably be rehabbed, but I don't know that he said much. I mean, honestly, I guess, I don't have any objection.

THE COURT: Okay, I'll take him for cause. State is asking for cause on seat 8, and you agree with that one, and that's the work and –

MR. MCLELAND: Yeah.

THE COURT: Cause on seat 9 and you agree with that one, as well, that's extreme financial hardship. Cause –

MR. ROZZI: Which I don't actually think is part of the rule, is it? I mean, I –

THE COURT: Yeah.

MR. ROZZI: Is it really?

THE COURT: Extreme financial hardship, it's the jury rules, extreme financial hardship.

MR. ROZZI: I mean, I'm okay with it, I just thought – I didn't know that it was that –

THE COURT: It is.

MR. ROZZI: -- detailed in there.

THE COURT: And then, the State's asking for cause on 10. What is the cause on her?

MR. MCLELAND: She talked about her work schedule and that she didn't have a replacement, she thought she could get one, but she wasn't sure, so we just went ahead.

THE COURT: Ms. Auger rehabilitated her quite nicely.

MR. ROZZI: I can't – I couldn't hear her at all.

THE COURT: No, she rehabilitated her.

MR. ROZZI: So we won't take it for cause.

THE COURT: No.

MR. MCLELAND: I'll take her.

THE COURT: You want to take her for a perempt?

MR. MCLELAND: Yeah.

MR. ROZZI: I just couldn't hear what some of them were saying, so I was gonna ask you.

MR. MCLELAND: Is she gonna be an alternate anyways?

THE COURT: 11 and 12, so you both agree on 11 and 12 for cause. Okay. So the State is taking seat 5, and that's – you are up to five now. Defendant is taking seat 3, and you are up to five now. We all accept seat 2, seat 4 –

MR. MCLELAND: Seat 6 you mean? Seat 6?

THE COURT: I'm sorry, seat 6.

MR. ROZZI: (Inaudible)

THE COURT: And seat 10.

MR. MCLELAND: Are we gonna hold them for alternates?

THE COURT: Well, here's the problem that you – I haven't been able to share this with you yet. Juror Number –

MR. ROZZI: We got a fall-out already?

THE COURT: Yeah, a fall-out already. The gentleman who's in seat 9, who was Juror Number 35, you all accepted him. As he was being walked down the hallway, he shared with Lieutenant Hogan that he has a concern about how is he going to drop. Lieutenant Hogan said, "What do you mean?" And he said, "Well, I'm in Circuit Court and I have to call into the color line" and –

MS. AUGER: Oh, that guy.

THE COURT: -- he's in – he's on a felony cause, 02C01-2409-F6-

1351, with an omnibus date November 18th of 2024. So he's under court supervision and failed to share that with any of you.

MR. ROZZI: Number 36?

MS. AUGER: Now you'll always know where he is.

THE COURT: So obviously –

MR. ROZZI: He's already sequestered, is that what they said?

THE COURT: No. Obviously, he's ineligible to serve.

MR. MCLELAND: Does that make number 10 our last juror, then?

MR. ROZZI: So which one –

THE COURT: I'm gonna have to take him out, and we will – we'll call him and let him know that he doesn't have to come back for jury service, that –

MR. MCLELAND: Judge, can I have a moment with my team, let them know, just to make sure – we don't want to use any peremptories on the ones that weren't for cause?

MR. ROZZI: Hold on a minute. So which ones – we have 2, 6, and 10.

THE COURT: We all like 2, 6, and 10.

MR. ROZZI: Okay.

THE COURT: So we had ten, now we have nine. So ten, 11, 12.

MR. MCLELAND: So 10 would be on the jury?

THE COURT: Yes.

MR. MCLELAND: She would not be an alternate.

THE COURT: Yes. So we need alternates now. He has to eat. I can't – we have to take a break for lunch. The other panel is downstairs and

ready.

MR. ROZZI: Do you want kill the rest of these people?

THE COURT: Do you want kick these people? Do you agree that we can just let them go?

MR. ROZZI: What number was the juror that was on supervision again? I just want to make sure. What round and what –

THE COURT: It was round 1.

MR. ROZZI: Okay.

THE COURT He was in seat 9.

MR. ROZZI: Okay.

THE COURT: He was Juror Number 35.

MR. ROZZI: All right. Very good. Thank you.

THE COURT: I still have your strike sheets. Do you want to change anything?

MR. MCLELAND: Yeah, Judge. Sorry, but 35 kind of threw us for a loop.

THE COURT: Oh, totally.

MR. MCLELAND: I wasn't prepared.

THE COURT: Yeah, and I totally get that, I totally get that, so –

MS. AUGER: What?

THE COURT: He just said 35 threw us for a loop.

MR. MCLELAND: And I kind of also though that, even though the Defendant doesn't have any concerns, I have concerns about him being able to sit, and so we'd like to add two peremptory strikes for 6 and 10.

THE COURT: Oh, okay.

MR. MCLELAND: So on 6, I wanted to use a peremptory and on 10 use a peremptory.

MR. ROZZI: 6 and 10?

MR. MCLELAND: Yeah.

THE COURT: 6 and 10. So you're up to seven, then.

MR. MCLELAND: Yes. And then, we'd like to try and get the regular jury from the people that are left and then bring up a new pool to get the alternates. That's our consensus, but we'll do it however you want to.

THE COURT: That's fine. I mean, do we –

MR. ROZZI: I say we just keep grinding.

MR. MCLELAND: Yeah, we got two left for the regular jury.

MR. ROZZI: You know, if we get lucky, we won't have to educate a whole other, you know, panel; you know what I mean?

THE COURT: You're just thinking of yourselves.

MR. MCLELAND: Do I need to –

MR. ROZZI: That's kind of a good point.

THE COURT: I don't care.

MR. MCLELAND: I don't care, either. If you want to take a break, Judge, that's fine, but –

MR. ROZZI: I mean, you're the boss here, but my guy said he's fine, if that's what your big concern was.

THE COURT: Well, my concern is him. He needs to eat. And you're saying that he's fine?

MR. ROZZI: He's fine. Well, I know you gotta be thinking about all these people, too.

THE COURT: Yeah. Okay. So we got one.

MR. ROZZI: Yeah. So tell us where we are on strikes, if you wouldn't mind.

MR. MCLELAND: I'm at seven.

THE COURT: You're at five, he's at seven. Okay. So we got one.

MR. ROZZI: So we, basically, retained number –

THE COURT: Seat 2.

MR. ROZZI: -- 2. Okay. All right. Very good.

THE COURT: So I'm just gonna – instead of going through the entire thing, I'm gonna say, "Seat 2, you have been selected. Everybody –

MR. ROZZI: Everybody else, see you later.

THE COURT: Okay.

(Sidebar conference concluded.)

THE COURT: All right, ladies and gentlemen, the same rules as before. I'm going to indicate to the juror that has been selected and the balance are – will be free to go. So, Juror 54 in seat 2, you have been selected and approved by the attorneys. Everybody else, you would be excused. And I'm gonna go ahead and have the bailiffs take you all into the jury room and release you from there. Jeremy. So seat 2.

THE BAILIFF: All right. Juror Number 30, 30, seat 1. Juror 17, seat 2. Juror 11, seat 3. Juror 15, seat 4. Juror 41, seat 5. Juror 50, seat 6. Juror 31, seat 7. Juror 32, seat 8. Juror 16, seat 9. Juror 24, seat 10. Juror 55, seat 11. And, Juror 47, seat 12.

THE COURT: Thanks, Jason.

VOIR DIRE BY THE COURT

ANSWERS BY POTENTIAL JURORS.

Q All right. Juror 30 in seat 1, did you have any responses to any of my questions, sir?

JUROR 30: Yes.

Q And what were your responses?

JUROR 30: I read information about the – in the media about the trial.

Q Okay.

JUROR 30: And I don't think it's gonna affect my ability.

Q You don't think it will?

JUROR 30: It will not.

Q Okay. So you can set aside whatever you read or heard in the media -

JUROR 30: Yes.

Q -- and give the Defendant and the State a fair trial?

JUROR 30: Yes.

Q And you can just make a decision based on the evidence, not on what the media says?

JUROR 30: Yes.

Q Okay. Any other responses?

JUROR 30: Yes. My brother is a sitting judge in a city court and a lawyer. I have two nephews that are practicing lawyers. My cousin was a retired state policeman. And a nephew who is a deceased city policeman.

Q Okay. And do you – have you talked with all of those folks about their work?

JUROR 30: Yes.

Q And is there anything about their work or those discussions that would affect your ability to be fair and impartial?

JUROR 30: No.

Q Anything else?

JUROR 30: Yes. My wife is – has an appointment Wednesday to find out whether or not she has breast cancer, and she has an appointment on the 9th of November to find out whether or not she has to have a partial corneal transplant.

Q Okay. So do you need –

JUROR 30: We've got transportation provided, by the idea of being sequestered during that time and not being – knowing what she's doing – going through, it'd be a lot of stress on me.

Q Okay. Okay. So if you were selected to serve and you weren't able to be there with your wife, would that cause you some problems you're telling me?

JUROR 30: Yes.

Q Okay. Anything else?

JUROR 30: That's it.

Q All right. Thank you, sir. Juror 17, did you have any responses to my questions?

JUROR 17: Yes, I do.

Q And what are they?

JUROR 17: Prior media knowledge and I feel that it would impact by ability to remain impartial.

Q Okay. So what you read or heard in the media, you understand, isn't the evidence?

JUROR 17: Yes.

Q Okay.

JUROR 17: But I still have –

Q You can't set that aside?

JUROR 17: -- a strong opinion about it. I don't think I'd be able to set it aside.

Q Okay. Thank you for sharing that with me. I appreciate that. Juror 11, did you have any responses to any of my questions?

JUROR 11: Yes. I suffer from depression and anxiety. And I also am, like, a full caregiver for my grandmother.

Q Okay. So your medical issues, if you were selected to serve, would that cause you discomfort?

JUROR 11: Yes.

Q Okay. And you're – you are the full-time caregiver of your grandma; is that what you said?

JUROR 11: Yes.

Q Okay. If you were selected to serve, would you be able to make arrangements for her care?

JUROR 11: I wouldn't. I don't have any help with her.

Q Okay. And –

MR. ROZZI: What'd she say, Judge? I'm sorry.

Q She said, "I would not. I don't have anybody else that can help."

MR. ROZZI: Okay. Thank you.

Q Okay. Anything else that you need to share with me?

JUROR 11: (Responds by shaking head in the negative.)

Q Thank you. Juror 15, did you have any responses to my questions?

JUROR 15: Yes.

Q And what were they?

JUROR 15: Family and financial hardship, but I'm not sure if you wanted that yet.

Q Okay. So family. What do you mean?

JUROR 15: I'm a single parent.

Q Okay. So if you were selected to serve, would you be able to make arrangements?

JUROR 15: No.

Q Okay. And media, did you say media?

JUROR 15: No. Financial hardship.

Q Financial hardship. Okay. Explain that to me, please.

JUROR 15: I'm a sole provider.

Q Okay. So if you were selected to serve, would it be an extreme financial hardship for you?

JUROR 15: Um-hmm. (Affirmative response)

Q Okay. Thank you for sharing that with me, I appreciate that. Juror 41, did you have any responses to my questions?

JUROR 41: I do not. Is this where I tell you about jury duty –

Q Yes.

JUROR 41: -- before?

Q Yes.

JUROR 41: Yes, I did serve on a jury in Kentucky when we lived there.

Q Okay. And is there – what type of a case was it?

JUROR 41: It was a malpractice suit.

Q A civil matter? Okay. Is there anything about that previous experience that would affect your ability to be fair and impartial in this case?

JUROR 41: No, ma'am.

Q Okay. Anything else?

JUROR 41: No.

Q And any concerns about the sequestering process that I explained?

JUROR 41: No, ma'am.

Q All right. Thank you. Juror 50, did you have any responses to my questions?

JUROR 50: Yes. I have type 1 diabetes, insulin dependent, so I will need to eat, drink, or take a shot of insulin at any given time.

Q Okay.

JUROR 50: If that's not a problem to you, it's not a problem to me.

Q No, we can make arra –

JUROR 50: Yeah.

Q Unfortunately –

JUROR 50: Yeah.

Q -- we've had to deal with that particular issue before, so – but I appreciate that you've shared that with me so that we can make accommodations for your medical condition.

JUROR 50: Next, I am a seminary professor in the middle of an academic term. I'm the only one that can teach my classes; and if I'm sequestered, the classes cannot continue, and so all of those students – I'm – as

I said, I'm the only one that can teach those classes. All of those students will probably have to take an incomplete for this academic term –

Q Okay.

JUROR 50: -- and so extending their time. So it's not a hardship on me, but it would be a hardship on them.

Q Okay. And there's nobody that could – if you were selected to serve, there's no arrangements that you could make for that?

JUROR 50: The only thing would be to – they would have incomplete for their academic term, that's the only thing that I can think of.

Q Okay. All right. Any other concerns that you need to share with me?

JUROR 50: One other question: Being sequestered, would I be permitted to obtain – to attend church services on Sundays?

Q Yes, yes.

JUROR 50: Thank you.

Q You would have to go with one of the bailiffs, but yes, you would. Any other issues?

JUROR 50: No.

Q Okay.

JUROR 50: Thank you.

Q Juror 31, did you have any responses to any of my questions?

JUROR 31: No.

Q Juror – and you're okay with the sequestering process that I explained?

JUROR 31: Yes.

Q Okay. Juror 32, did you have any responses to my questions?

JUROR 32: I don't drive. I only drive short distances. I have a note

from my doctor.

Q Okay. Well, you understand you wouldn't have – you won't be driving? The Court will be providing all of the transportation.

JUROR 32: Yeah. But I wouldn't have no way to get here.

Q How did you get here today?

JUROR 32: My niece brought me.

Q Okay. Okay. So if you were selected and you could make arrangements to get back to the courthouse?

JUROR 32: No, 'cause she has chil – she made arrangements for me today.

Q Okay. Okay. And any other concerns that you need to share with me?

JUROR 32: No, ma'am.

Q Okay. Juror 16, did you have any responses to any of my questions?

JUROR 16: No.

Q And you understand the sequestering process and have no concerns with that –

JUROR 16: I understand.

Q -- other than the natural concerns?

JUROR 16: No concerns, I just – yeah, nothing that would cause me any issue.

Q Okay. Thank you. Juror 24, did you have any responses to my questions?

JUROR 24: Yes. The question of a family member being a victim of a crime.

Q Yes.

JUROR 24: My cousin was attacked and robbed like five years ago.

Q Okay. And is there anything about your cousin's situation that would interfere with your abilities to be fair and impartial here?

JUROR 24: No.

Q Okay. Anything else?

JUROR 24: No, that's it.

Q Okay. And I explained the sequestering process and there's – outside the normal concerns, you could –

JUROR 24: Yeah, there was –

Q Okay. Thank you. Juror 55, did you have any responses to my questions?

JUROR 55: Yeah. My responses – or my concerns are financial in nature. My job is not willing to accommodate me to be away for the entire month of the trial duration. I am aware of what you spoke about previously, day to day payments being made out to the jurors, but I was recently involved in a civil suit where I need to make payments to my university, and that money would not be enough for me to do it.

Q Okay. So would it be an extreme financial hardship for you?

JUROR 55: Yes.

Q Okay. And you heard my explanation about the sequestering; is there any concerns with that?

JUROR 55: Not at this time, no –

Q Okay.

JUROR 55: -- just what we just talked about.

Q Okay. Thank you. And, Juror 47, did you have any responses to my questions?

JUROR 47: Yes. I feel like I've already formulated an idea or I guess

not a – my nerves are getting the best of me.

Q Okay.

JUROR 47: I feel like I've already –

Q Come to an opinion?

JUROR 47: Come to an opinion.

Q Okay.

JUROR 47: Thank you very much.

Q All right. Is that an opinion that you can set aside and listen to this evidence with an open mind?

JUROR 47: No, I don't think so.

Q Okay. And you heard my explanation about being sequestered?

JUROR 47: Yes. I – it would be an issue for our family. We've adopted six children, and five out of the six are special needs.

Q Okay.

JUROR 47: Mainly the two that would be the hardest is I'm homeschooling my son and he has autism, and then also my 15-year old son has – is completely dependent upon me for lifting, getting on and off the school bus, and the transmission to and from school for the other three children, as well.

Q Okay. All right. Thank you, sir.

JUROR 47: And if I was to be selected, my wife would lose a work contract. She goes three months at a time for a work contract, and she would lose the contract, she'd be out of work for three months.

Q Okay. All right. Thank you, sir, I appreciate that.

THE COURT: Mr. McLeland.

JUROR 30: Your Honor.

Q Oh, I'm sorry, Juror 30.

JUROR 30: I forgot one thing.

Q Yes?

JUROR 30: I have a niece who was attacked. She was doing her internship at Pendleton, the prison, as a clinical psychologist –

Q Okay.

JUROR 30: -- and was attacked by one of the convicts and was able to ward him off, but she did not suffer any physical injury, but suffered psychological injury.

Q Okay. And knowing that there's a prison involved in this, is – knowing that, what you've just shared, is there anything about that that would affect your ability to be fair and impartial?

JUROR 30: I hope not.

THE COURT: Okay. Thank you, sir. Mr. McLeland.

MR. MCLELAND: Thank you, Judge.

VOIR DIRE BY THE STATE – MR. MCLELAND

ANSWERS BY POTENTIAL JURORS.

Q Ladies and gentlemen, good afternoon. It's three o'clock already. Sir, I'll start with you, you talked about some health issues with your wife and, if you were asked to serve, instead of be there for her, would that be enough of a distraction for you that you wouldn't be able to pay attention to what's happening in court?

JUROR 30: I hope not.

Q Okay. You also talked about your job, but I didn't catch all of it. Do you

have something going on with your employment that would be a hardship?

JUROR 30: No, I don't.

Q Okay. Where are you employed at?

JUROR 30: I'm a technical recruiter. I'm self-employed.

Q Okay. Is that – did you retire from a job prior to that or is that just what you've done your whole life?

JUROR 30: Done that most of my adult life.

Q Okay, gotcha. Gotcha. So work wouldn't be an issue for you, it's just the health conditions with your wife?

JUROR 30: That's correct.

Q Okay. All right. (Coughs) Excuse me. Sir, you talked about that you'd already formed an opinion one way or the other. Are you telling the Court that, at this point, you can't set aside that opinion and make a new opinion based on what you see in court?

JUROR 17: Yes. I feel that I would have difficulty with being impartial.

Q Okay. So your conviction to your opinion is strong enough at this point that you're not gonna be swayed, regardless of what you hear; is that a fair –

JUROR 17: Yes.

Q Okay. All right. Thank you. Ma'am, you talked about financial – or depression and anxiety. Is that – are you feeling the effects of that now?

JUROR 11: Yes.

Q Are you nervous to be here?

JUROR 11: Yep.

Q Okay. And then you also talked about a hardship on your family 'cause

you take care of a family member; is that right?

JUROR 11: My grandmother.

Q And there's no other – you might have to speak up little bit, 'cause having a hard time hearing you, but there's nobody else that can take care of that family member, is that what I'm hearing?

JUROR 11: Yeah, nobody else.

Q Okay. All right. Do you think that those issues that you have going on with your depression and then with taking care of your family member, do you think that's gonna draw your attention away from what's going on in court?

JUROR 11: Yes.

Q Okay. To the point where you don't think you'd be a good juror for this case?

JUROR 11: No, I don't.

Q Okay. All right. Ma'am, Number 15, I believe, you talked about you're a single parent, the only income, I get it. What if you are selected as a juror? Do you have a back-up plan to who's gonna take care of your child?

JUROR 15: We have our normal like weekday babysitter –

Q Sure.

JUROR 15: -- but outside of, you know, the hours that I would use her –

Q The weekends or the evenings?

JUROR 15: -- and the differences of when I would be at work and –

Q Gotcha.

JUROR 15: -- I don't have anyone else that would do it.

Q If you're able to get childcare taken care of, the Judge talked about some money that you would get as a jury member, would that be enough to add to your income where the financial part would be alleviated?

JUROR 15: I make $230 a day at my job.

Q So no.

JUROR 15: No.

Q Okay. Fair enough. Okay. Sir, Number 50, I think you said it best, probably wouldn't be a hardship on you, but how many students do you have that would have to take an incomplete?

JUROR 15: Fifteen.

Q Okay. And if they were – had to take an incomplete, when is the next time that they'd be able to take your class? Next semester? Or is it a yearly –

JUROR 15: Well, we're small enough that we'll have to see what can be done, might be able to schedule something for the next academic term.

Q Gotcha. But the next academic term would be spring; right? And that's where we're at.

JUROR 50: Well, for us it'd be – we're on a quarter system.

Q Oh.

JUROR 50: It would start – it'd be the winter quarter.

Q Got it. Okay. Thank you for that. And the other health issues you have, as long as we make accommodations, those can be taken care of?

JUROR 50: Yes.

Q Okay. All right. Any other concerns that you'd – you've kind of given – any other concerns you have about being a juror besides those two things?

JUROR 50: No.

Q Okay. You kind of hesitated. You sure? This is your chance, you can expand on it.

JUROR 50: I'd rather not be here, but I don't – but I feel a duty –

Q Okay.

JUROR 50: -- to our country.

Q With you being in the position that you're in, do you have an issue with passing judgment on someone else?

JUROR 50: I don't think so.

Q Okay. Ma'am, Number 32, you talked about that you can't drive. Do you have any arrangements – the Judge said you wouldn't have to drive back and forth to the courthouse or even drive to Delphi. Do you have arrangements for somebody to bring you to the courthouse?

JUROR 32: (Responds by shaking head in the negative.)

Q Nothing at all?

JUROR 32: No.

Q Okay. Any other concerns that you have about being a juror?

JUROR 32: Me?

Q Yes.

JUROR 32: Yeah. This makes me nervous. I'm just – and I have a neurologist – an oncologist appointment on the 1st to see if I have cancer.

Q Okay.

JUROR 32: Of November.

Q If you miss that appointment, would you be able –

JUROR 32: And I already had cancer once.

Q Okay. If you missed that appointment or you had to cancel that

appointment, how quickly could you reschedule it?

JUROR 32: Well, that's the thing, I had an appointment the middle of the September and I don't have one now till the 1st of November, so –

Q Okay. And if you have to reschedule it, I assume that that could put you in a –

JUROR 32: Right, right.

Q -- worse health condition – I'm losing my words here, but it –

JUROR 32: Yes, sir.

Q -- cause you additional health issues.

JUROR 32: Yes, sir.

Q If they don't catch the cancer in time and it grows or whatever –

JUROR 32: Right.

Q -- that could be bad; right? Okay. Right. Any other concerns?

JUROR 32: I'm just up – just upset in my stomach. I could vomit.

Q We don't want you to do that; okay?

JUROR 32: I know.

Q Take a deep breath. It's gonna be okay. I think a lot of – who else is nervous to be here? It's okay. Yeah, sir, I heard you kind of stumble over your words. It's okay. We're all a little bit nervous, so just take a deep breath, we'll get through it; okay? Sir, Number 55, you talked about the financial hardship it would be on you, and the Judge talked about how you'll get some payment; and is that payment not enough to cover I guess the financial obligations that you have?

JUROR 55: Yeah, it wouldn't be enough.

Q Okay. Is that gonna cause you to focus on, "Oh, my gosh, what am I gonna

do? How am I gonna pay for that?" Instead of focusing on what's happening here in court?

JUROR 55: Yes.

Q Okay. And if it's a civil suit, it probably has a pretty big effect on you if you don't make that payment; is that fair?

JUROR 55: Yes.

Q Not trying to embarrass you or anything.

JUROR 55: No, you're good.

Q I just kind of want to get to the information.

JUROR 55: Yeah.

Q And then, sir, Number 47, I think I do remember reading on your questionnaire that you had some kids that were homeschooled and one child with special needs, and it sounds like there may be two.

JUROR 47: There are five in total that are special needs.

Q Okay.

JUROR 47: Two smaller ones that have some integration disorder, another with ADHD, and another one we're trying to get the diagnosis of autism.

Q And you're the – are they all homeschooled?

JUROR 47: They are not all homeschooled.

Q Okay.

JUROR 47: (Inaudible)

Q Okay. Well, home many is homeschooled? Just one?

JUROR 47: One.

Q Okay. But you're the homeschooler for that kid?

JUROR 47: Correct.

Q Okay. And you're the primary caregiver for the other kids?

JUROR 47: Correct.

Q And so – and the other part of that is, if you're asked to serve, your wife may become the primary caregiver, which would cause her to lose – a financial hardship on your family, because she would lose a contract. Is that –

JUROR 47: Correct.

Q Do I have all that right?

JUROR 47: That's correct.

Q Okay. Is that something that's going to draw your attention away from what's happening in court? Is that concern or worry, is that something that's gonna draw your attention away?

JUROR 47: Very much so.

Q Okay. Okay. Anybody else? Did I miss anyone?

A (No response or indication from any potential juror.)

Q Okay. So I'm gonna go over the same kind of things that we went over before. The State of Indiana has charged Richard Allen with murder, and I just want to focus on murder as a crime itself. And I'm gonna start with you, sir, Number 47, what do you think of when you hear a charge of murder?

JUROR 47: I think of intentional killing.

Q What kind of evidence would you expect to see?

JUROR 47: I would expect to see as much as I could. I think I'd want to hear about alibi. I'd want to her about murder weapon, DNA, the whole thing.

Q Ma'am, Number 41, what do you think of when you hear murder?

JUROR 41: A loss of life taken by somebody else.

Q What kind of evidence would you expect to see?

JUROR 41: The same that everybody's been saying, the fingerprints, DNA, a weapon would be (inaudible).

Q Is there one thing that sticks out to you that said – that you say, "Look, I have to have this. They have to have a weapon" or "They have to have DNA"? Or is there one thing that sticks out to you?

JUROR 41: No, sir.

Q Okay. Ma'am, what about you, Number 32, what do you think of when you hear murder?

JUROR 32: I think that they should be tested to see if they're incompetent. And DNAs, the murder weapon, and why they done it.

Q Are those things you have to have?

JUROR 32: Most of them. Why they done it, you know.

Q Sure. Ms. Auger misspoke earlier, I didn't say we don't have motive, but the State's not required to prove motive; and so is that something you can live with? The State – that's not a requirement by the State, it's just not part of the – what we have to prove. You're telling me you'd want to hear motive.

JUROR 32: Yeah, if you got it.

Q And if the Judge said, "Look, that is not an element the State has to prove, you have to set that aside," would you be able to do that? Or are you saying, "Look, I have to have motive, and if I don't –

JUROR 32: Well, I'd want to know why they done it.

Q Sure.

JUROR 32: 'Cause, I mean, like nowadays, people don't talk things over, they just get a gun and start shooting.

Q Sure.

JUROR 32: And what's the purpose? They don't talk it over, you know.

Q Sure, sure.

JUROR 32: So –

Q But I guess what I'm trying to get to is are you gonna put that burden on the State to make us prove motive when we don't have to?

JUROR 32: DNA would be good, too.

Q Okay. Fair enough. Fair enough. All right. We talked a lot about beyond a reasonable doubt and talked about firmly convinced, and the example I used was a lawyer, and the Defense has said, "Well, somebody couldn't be a lawyer – they could practice in front of you and not be a lawyer." So, ma'am, Number 31, do you believe I'm an attorney?

JUROR 31: Yes.

Q Okay.

JUROR 31: You're here.

Q Just because I'm here? Okay. Are you firmly convinced?

JUROR 31: No.

Q Okay. What else would you need to be firmly convinced?

JUROR 31: Maybe a certificate.

Q Some kind of paperwork telling you that I was an attorney?

JUROR 31: Yeah.

Q Now, I say this, I repeat this a bunch, again, common sense tells you I'm an attorney; is that fair?

JUROR 31: Yes.

Q Your common sense? I mean, common sense tells you the Judge wouldn't let me stand up here, the State of Indiana wouldn't let me run as a prosecutor and be elected, so your common sense tells you I'm an attorney; right?

JUROR 31: Yes.

Q We don't ask you to throw out your common sense. We ask you to use your common sense when evaluating the evidence. And so are you firmly convinced I'm an attorney or would you need to see more?

JUROR 31: I would need to see a little more.

Q Okay. Ma'am, I saw you laugh, Number 24. Are you firmly convinced I'm an attorney?

JUROR 24: Yes.

Q You heard the Defense talk about examples about, "Well, we have a guy in our county that practices who didn't have a license." So you still firmly convinced I'm an attorney?

JUROR 24: Yeah, 'cause you're here.

Q Right.

JUROR 24: Common sense.

Q Sure, sure. Common sense tells you that I'm an attorney; right?

JUROR 24: Yes.

Q Ma'am, Number 41, what about you?

JUROR 41: If I were going to hire you for myself, I would like to see the paper on the wall.

Q Okay. Some kind of license or –

JUROR 41: Maybe that.

Q Okay.

JUROR 41: And then I'm trusting the system that she allowed you to be here. And you said you were voted in, so –

Q Correct.

JUROR 41: -- you were voted by the people, so –

Q Correct.

JUROR 41: -- people respect you and are gonna give you that appreciation.

Q Well, I just use that example because the State of Indiana probably wouldn't let me run for a office that requires a law license –

JUROR 41: That's true.

Q -- if I wasn't a lawyer.

JUROR 41: But you're right, I trust the system.

Q But you're using that common sense; right? The common sense that, "Hey, this Judge is not gonna let somebody that's not an attorney – the county's not gonna let him represent" – you know, you're using common sense; right?

JUROR 41: Right.

Q Okay. Anybody else that would need more besides Number – sorry, let me – Number 31? Anybody else that would need more to be convinced I'm an attorney?

A (No response or indication from any potential juror.)

Q Nobody? Okay. All right. Good. The burden's on the State to prove each element beyond a reasonable doubt, to firmly convince you of each element, but it's not beyond all doubt. We talked about not beyond all doubt. Who here thinks that, "I gotta see it with my own eyes. I've got see a video of it. I've got to be convinced beyond all doubt to enter a verdict of guilty"? Who agrees with that

just even a little bit? Anybody?

A (No response or indication from any potential juror.)

Q Anybody say, "Look, I need more. I need – firmly convinced is too low, it's gotta be beyond all doubt for me"? Does anybody believe that?

A (No response or indication from any potential juror.)

Q Sir, Number 30, any thoughts about that?

JUROR 30: I don't have to be convinced beyond all doubt, firmly is enough.

Q Has any been about – has anybody been on a jury before?

JUROR 41: Yes, sir.

Q Ma'am, Number 41, you have?

JUROR 41: Yes, sir.

Q What kind of case was it?

JUROR 41: A malpractice suit.

Q So a civil case. So the burden was different than what we're dealing with here today.

JUROR 41: Yes, sir.

Q Do you remember how the outcome or what the outcome was?

JUROR 41: He was accused of the death of the man.

Q And did the jury find that he was liable for that?

JUROR 41: Yes.

Q Okay. How long ago was that? That was down when you were in Kentucky; right?

JUROR 41: Ten years. Yes.

Q Okay. I think that's what you said. I couldn't remember what you said.

Okay. And through that process that you had, did you – did they have witnesses that provided testimony?

JUROR 41: Yes, sir.

Q What kind of things did you look for when a witness was testifying to determine whether or not they were credible?

JUROR 41: Their knowledge of what they were giving us based on – we were told that they were an expert in that field.

Q So you had experts testify in that case?

JUROR 41: Yes, sir.

Q And what kind of things did you look at in those experts to determine, "Hey, I'm gonna believe what this expert said, that holds a lot of weight for me"?

JUROR 41: They gave us like receipts and the ledger that the nurse write – wrote the information in, time-sensitive stuff that they had actual proof that somebody didn't do what they were supposed to do.

Q And so you – they had stuff that corroborated whatever they said, that backed up what they said?

JUROR 41: Yes, sir.

Q Okay. Is that –

JUROR 41: Yes, sir.

Q Okay. I want to make sure I got it right.

JUROR 41: Yes.

Q Okay. Sir, I haven't talked to you yet, Number 16. What kind of things are you gonna look at when you look for credibility of a witness or try to determine the credibility of a witness?

JUROR 16: Body posture, you know, eye contact, their voice, do

they sound like they are secure in what they're saying.

Q Okay.

JUROR 16: All those things.

Q Anybody else have anything different? We've touched on a lot of – sir, yes, Number 50?

JUROR 50: Yeah. I would not go by posture. People have all different kinds of attitudes and mental make-up, and it's gonna be based on the consistency of what they're saying with the other web of facts that are presented.

Q You have 15 students; is that right?

JUROR 50: Yeah.

Q And if one of the tells you, "Oh, Professor, I just couldn't, you know, I had this and I had that, I couldn't get the assignment done," what kind of things do you look for to say, "You know what? I'm calling bluff on that"? I mean, you deal with students, what do you look for?

JUROR 50: Well, that particular issue is different for me, because I've just got a policy that covers that.

Q Okay.

JUROR 50: So – but generally, I give the guy the benefit of the doubt. If there's something that came up, you know, give him the benefit of the doubt and set a new due-date.

Q Okay. Well, in your personal life, if somebody's giving you a line of BS, what kind of things – I mean, what do you look for to determine that?

JUROR 50: Well, again, you know, people have different mannerisms.

Q Sure.

JUROR 50: You just gotta watch out. And sometimes, somebody can have a mannerism that doesn't necessarily indicate anything. But you go on whether the information that's being given is falsifiable, like could I actually look into this and find out that you're telling me something here.

Q Sure.

JUROR 50: So that's one of the big ones for me I guess.

Q Okay. Does everybody agree, some people do lie? Ma'am, Number 15, why would someone lie?

JUROR 15: Self preservation.

Q What about to protect somebody else?

JUROR 15: Um-hmm. (Affirmative response)

Q Yeah.

JUROR 15: Many reasons.

Q Sure. Are you gonna give someone who testifies more credibility simply because of what they do? And I'll just cut to the chase: Are you gonna give a law enforcement officer more credibility simply because he's a law enforcement officer?

JUROR 15: Probably would criticize him harder.

Q Okay. Would you give him more credibility, and certain – this came up with the last group that sitting here. Would you give them more credibility in certain areas?

JUROR 15: If they were a expert witness and they were educated in what they were discussing.

Q So if they focused on a certain discipline of some kind, you would give them more credibility in that discipline?

JUROR 15: Um-hmm. (Affirmative response)

Q Okay. What about – maybe I should be asking you – what about if it's a preacher up here talking?

JUROR 15: I'm not the one to ask that.

Q Okay.

JUROR 15: I wouldn't trust them at all.

JUROR 50: I've known some dishonest preachers before, so I'd have to –

Q That's kind of sad, but okay.

JUROR 50: -- I'd have to – I'd treat them just like anybody else.

Q Okay. All right. Sir, what are some things you would look for to determine whether or not a witness is credible?

JUROR 30: The details and the absence of details, 'cause nobody has a complete picture, and it's what they noticed and why they noticed it.

Q What if they have to look at documentation – what if they can't remember the details, but if they look at documentation, that helps refresh their memory? Is that gonna affect you one way or another? If they have to go back and look at notes or reports or whatever the case may be?

JUROR 30: Memory's imperfect –

Q Okay.

JUROR 30: -- so yes, that would not affect me if they had to go back and look at notes.

Q Would that affect anybody? "Hey, if they have to look at notes, I'm gonna lose credibility."

A (No response or indication from any potential juror.)

Q Who here has to sometimes go back and look at their notes to remember what happened, what they did? I do, I mean, all the time. We talked a little bit about with Juror Number 50, but I want to ask everybody else, you – does anyone here have an issue with passing judgment on someone else? Ma'am, okay, Number 11, you would?

JUROR 11: Yeah. I don't like to judge people. I mean, I guess everybody make mistakes, nobody's perfect, so yeah, I don't like judging people.

Q And I agree, yeah, I don't like to judge people either; but if the State is able to firmly convince you of all the elements, prove them beyond a reasonable doubt, can you enter a conviction for guilty? Or are you the person that says, "Look, I just can't, that's too heavy a burden for me and I can't do it"?

JUROR 11: I think it would be too heavy.

Q Okay.

JUROR 11: Yeah, it's too heavy.

Q Does anybody else feel like Juror Number 11, even a little bit? Juror Number 55?

JUROR 55: Yeah, same thing. It's like kind of a moral thing.

Q Sure, sure.

JUROR 55: Heavy burden, like you said.

Q And if the Judge asked you that you can't worry about the punishment, you can't worry about any of that, you just have to worry about if the State has met their burden or not, if the Judge asked you to set aside everything else and just focus on that, could you do that?

JUROR 55: I don't know that I could.

Q Okay. Juror Number 17, you had your hand up.

JUROR 17: Same.

Q Same? So even if the Judge told you – gave you the rules, there are the rules, you're saying, "I don't know if I can do it"?

JUROR 17: Correct.

Q Okay. Anybody else feel that way?

A (No response or indication from any potential juror.)

Q All right. I know the Judge has talked to some of you, is anyone not comfortable with being a juror on this case? I know we've talked about the depression and some things at home. Is anyone – they don't have any of those things going on, but they just wouldn't feel comfortable being a juror on this case?

JUROR 32: I wouldn't.

Q Okay. Let's start with you, sir. Besides the – I know your wife had some health issues. Why wouldn't you be comfortable being a juror on this case?

JUROR 30: Because of my granddaughter's being attacked.

Q Okay.

JUROR 30: Intellectually, I could separate; emotionally, I'm not sure I can.

Q You have some concerns about that?

JUROR 30: Yes.

Q I appreciate you being honest. Ma'am, Number 32?

JUROR 32: I'm too emotional.

Q Okay.

JUROR 32: If I – I can't see anything that's horrible. I'll start crying. I just am an emotional person.

Q Okay. Do you have kids and grandkids?

JUROR 32: Pardon?

Q Do you have kids and grandkids?

JUROR 32: Oh, yeah, yeah.

Q Yeah, yeah.

JUROR 32: I'm just emotional, you know.

Q Okay. Sir, Number 17, I think you had your hand raised.

JUROR 17: Yes. I'm the type of person, wear my heart on my sleeve, I would – I am very animated, I have a high facial affect. It would be difficult for me to, you know, keep that hidden, and I also would feel uncomfortable viewing the images –

Q Sure.

JUROR 17: -- that you might see on this type of case.

Q Sure, sure. Anybody else feel that way about the images? I've not touched base on it, but you can image, with a murder, there's gonna be some images that may be uncomfortable. So I see a lot of people shaking their hands – heads, sorry.

MR. MCLELAND: Judge, how much time do I have left?

THE COURT: Seven minutes.

Q Juror Number 50, my co-counsel brought this up, is there any way that you can do the classes virtually in the evenings? That may be a lot to ask to be able to sit through court all day and then do that, but just curious if that's a possibility.

JUROR 50: If that's agreeable to the Court, that would be possible, yeah.

Q Okay. So that may have to – may not be able to do that if you're sequestered and that's not allowed?

JUROR 50: Right.

Q Okay. Ah, okay, this is a good question. Sorry. Does anybody have a distrust for prosecutors or defense counsel? This kind of came up last time when Ms. Auger asked the last group some questions about defense attorneys being bottom feeders or whatever the case. Does anybody have a bad experience with prosecutors or defense attorneys where they have a distrust for them or they just flat-out don't like them? Anybody? You're kind of smiling, Number – ma'am, Number 41, any –

JUROR 41: No, I don't. I just looked at her and she smiled.

Q Okay.

JUROR 41: I was feeling the being called a name, so –

Q Yeah.

JUROR 41: -- no judgment on my part.

Q Any – in Kentucky, any bad experiences down there? Do they call them prosecutors down there or district attorneys? I don't even know.

JUROR 41: I don't know.

Q Okay.

JUROR 41: No, sir.

Q But any bad experience with an attorney down there of any kind?

JUROR 41: No, sir.

Q Anybody else had a bad experience, the attorney didn't help you, the prosecutor was a jerk, defense attorney didn't do their job, anything like that for anybody? Number 16, sir?

JUROR 16: I was robbed at work in 2017, and the first prosecutor here locally tells me it's a slam-dunk case, everything, doesn't communicate anything with us. Next thing you know, there's plea agreements and – like it –

Q Just felt a little bit left out or offended?

JUROR 16: Well, then he leaves and the new prosecutor, he communicates and he's like, "I don't know why you were told this. I don't know why. We never say this. We never say that." It just –

Q Kind of felt like you were getting the run-around?

JUROR 16: Yeah. I mean, it was about a year-long situation.

Q Yeah. Are you gonna hold that against me?

JUROR 16: No.

Q Okay. I'm not the prosecutor here, I don't know who you're talking about.

JUROR 16: I know. That was in 2018.

Q Okay.

JUROR 16: That was all over –

Q Okay.

JUROR 16: -- when those two young men, you know, pled guilty. Once that was done and over with, it was done, but –

Q But nothing about that where you're gonna hold anything against me to say, "You know what" – or the Defense for that matter?

JUROR 16: No.

Q Maybe the defense attorneys in that case, you didn't like them; and nothing you're gonna hold against the Defense?

JUROR 16: Nope, not at all.

Q Okay. All right. Feel like you'd be a good juror on this case?

JUROR 16: Absolutely.

MR. MCLELAND: I don't have any other questions, Judge. Thank you.

THE COURT: Mr. Rozzi.

MR. ROZZI: Thank you.

VOIR DIRE BY THE DEFENSE – MR. ROZZI

ANSWERS BY POTENTIAL JURORS.

Q All right. Again, it's a little tough to hear back there, we're just a little farther away, so I want to make sure I can just run through a few things real quick. Sir –

COURT REPORTER: You don't have your microphone on.

Q You've got a family hardship; right?

JUROR 30: Yes.

Q And you just believe that that's gonna be a hardship, no matter what we do to try to accommodate you?

JUROR 30: I've been married 56 years, and my wife was diagnosed with cancer – my daughter's already had cancer and so have I – I know what the stress has gotta be and I know what she's feeling right now going into it, so yes, it would be a stress.

Q Okay.

JUROR 30: She's already had both eyes partial corneal transplants, and they told us the corneal transplants are wearing out. She has the surgery, that means she has to lay on her back for 48 hours – or, excuse me – for four days without moving, looking up at the ceiling, and that's coming up and appointments on the 9th of November, and it, conceivably, could be the surgery

during that time. So yes, that's a stressor.

Q Very good, I appreciate that. My wife's a cancer nurse, so I hear these stories on occasion and I understand that. I'm assuming that, if you were seated as a juror in this case, that your mind would be somewhere else anyway, even if we made you sit there.

JUROR 30: Yeah.

Q You couldn't focus on anything that was going on in this case; is that fair?

JUROR 30: Pretty much.

Q Okay. Family hardship for you, too; right?

JUROR 11: Um-hmm, yes.

Q Not really wanting to say much today, are you?

JUROR 11: Sorry, I'm nervous.

Q All right. Are those hardships just such that there's no other accommodations we could make?

JUROR 11: Yeah, no, there's not. I have full care of my grandmother and I don't have anybody else and she has a lot, doctors appointments and stuff, and it's just me.

Q Okay. I appreciate that. Family hardship with you, too?

JUROR 15: Child.

Q Child. Okay. You got any other way to make some accommodations? I know like if you had to? I mean, you know, sometimes there's emergencies.

JUROR 15: Have you paid for childcare? It's not really –

Q Yeah.

JUROR 15: No. It's too much.

Q So it's mostly monetary? It's –

JUROR 15: Well, I don't really have anyone I would trust with her. I don't know if she would be wanting to go with anyone else, like we have three old people left in our family, no one else lives in Indiana.

Q You don't have any sisters or brothers or anything like that that could help?

JUROR 15: I do, but they're not – they have their own kids. They're not –

Q Okay. Does your – forgive me for asking, how old is the child we're talking about?

JUROR 15: Eight.

Q So he or she goes to school; right?

JUROR 15: She, uh-huh.

Q So a lot of the times, the kid would be in school.

JUROR 15: For a small part of the day, yeah; but when she gets out at three o'clock.

Q But you don't have an aunt or anybody that could take care of the child in the evenings or anything like that?

JUROR 15: I have miscellaneous family members, but I don't think it's their burden and I don't think they would want to help me.

Q Okay. I appreciate that. Financially, you've made that pretty clear, there's no other alternatives for you; right?

JUROR 55: No.

Q Okay. And you've already got an opinion about this case and, no matter what I say or the Judge or the prosecutor, that's not changing; right?

JUROR 47: Correct.

Q Okay. Ma'am, you too; right? You have an opinion about Mr. Allen's guilt in this case; is that right?

JUROR 32: Yes.

Q And you – is there – do you agree that there's nothing I can say or the Judge or the prosecutor to change that opinion?

JUROR 32: I don't think so.

Q Okay. Do you know so or are you –

JUROR 32: No.

Q Okay.

JUROR 32: I can't change my mind.

Q Okay. You shared that in your jury questionnaire, that's why – I know nobody's brought it up, but that's true; right?

JUROR 32: Right.

Q Okay. All right. Let's talk about this business with, you know, me being a lawyer and Ms. Auger and Mr. McLeland, the idea that, you know, hey, I'm most likely a lawyer, we can exercise some common sense because I'm standing here. You familiar with this discussion that's been going on today?

JUROR 41: Yes, sir.

Q Okay. Do you think that you making a common sense decision or coming to a common sense conclusion about what I do for a living is in any way compared to the decision you're gonna make if you're a juror as to that man's guilt or innocence?

MR. MCLELAND: Judge, can we approach?

THE COURT: Sure, come on up.

(Sidebar conference conducted.)

MR. MCLELAND: Judge, that's conditioning the jury.

MR. ROZZI: This is about burden of proof. He's the one conditioning them, getting them to – suggesting to them that, "You should just exercise common sense," by trying to water down the burden of proof. And I think they have a right to know that this is a much more important situation than that.

THE COURT: Well, talk about the burden of proof.

MR. ROZZI: Okay. I will.

THE COURT: Okay.

MR. ROZZI: Thank you.

(Sidebar conference concluded.)

Q Let me get my chart. You probably couldn't see this earlier, because you were sitting back here, but this is the chart I was using to demonstrate the different burdens in our business; did you catch that discussion?

JUROR 41: Yes. Yes, sir, I did.

Q How about you?

JUROR 50: Yeah.

Q Okay. Right here, we're on the top of the mountain, beyond a reasonable doubt; right? Okay. Are you gonna put more effort in making a decision about whether or not there's proof beyond a reasonable doubt than you are in what my job is here today?

JUROR 41: Can you ask me the question again.

Q Yeah, I will. Which decision are you gonna put more effort into? This one or making a determination about what I do for a living as I sit here today?

JUROR 41: That one.

Q Way more important; right?

JUROR 41: Yes.

Q Am I being nit-picky about that?

JUROR 41: I don't believe so.

Q You do?

JUROR 41: I do not.

Q What do you think about that?

JUROR 50: Yeah, obviously, the snowman doesn't really matter, but this matters, so more evidence would be needed.

Q Yeah. So if you're sitting here and you're saying, "Well, I'm making – you know, drawing conclusions about things I'm seeing, you know, around the courtroom," that just happens naturally; right? Do you agree with that?

JUROR 50: Yeah. If – yeah, I think.

Q But in this case, if you were seated as a juror, it's something you prob – wouldn't you agree with me, you'd put a little bit more thought into?

JUROR 50: Oh yeah.

Q I mean, you're not gonna just come to some conclusion and just sign your name to it and move on; right?

JUROR 50: Right.

Q Do you think it's fair that we're kind of comparing apples and oranges when you take those two scenarios?

JUROR 50: Well, they're definitely different scenarios. I agree with you.

Q What do you think about that, sir?

JUROR 16: I mean whether somebody is an attorney or not is not

my decision, but whether – looking at you, looking at the prosecutor, any of you, doesn't matter, 'cause anybody can wear a suit, stand in front of somebody and talk all day long. But when it comes to beyond a reasonable doubt, we – it's a criminal case, we gotta weigh all the facts and all the evidence.

Q You think you'd put more effort into this exercise than you would just trying to come to a conclusion about what I do for a living?

JUROR 16: Yeah. I see people that come into my job every day and I don't know what they do for a living. They can come in in scrubs, but that doesn't mean they're a nurse.

Q Okay.

JUROR 16: People that come in dressed in a suit, that doesn't mean that they're a banker or a realtor or anything like that. So –

Q What do you think about this exercise?

JUROR 24: About the snowman or just –

Q About –

JUROR 24: -- generalized –

Q -- you drawing conclusions about what I do for a living versus sitting in judgment of another man.

JUROR 24: Well, I mean, of course the actual case, like deciding a person's outcome of their life, is more important than a snowman, but, you know, I see why the snowman was the comparison. I see what it was meant to be, but also, you now, you don't –

Q Not really the same things, are they?

JUROR 24: They're not, but yeah.

Q Well, my concern is, is that I have a client that might be concerned about

you just going back there and just drawing some quick conclusions about what you heard over the course of a month.

JUROR 24: Well, that doesn't mean that we're gonna draw a quick conclusion.

Q That's what I'm asking, would you be the kind –

JUROR 24: Well, no.

Q -- to do that?

JUROR 24: No, I wouldn't. I would think very carefully about it.

Q One of the most important things you'll probably ever tackle in your entire life.

JUROR 24: Yeah, it is very important.

Q Okay. What's my job? Mr. Baldwin's job? Ms. Auger's job?

JUROR 50: Make sure the Defendant gets his – gets treated fairly.

Q Okay. What do you think?

JUROR 41: That you present the evidence in his defense to help him not be guilty.

Q Okay. So to present something in his defense.

JUROR 41: Yes.

Q Right?

JUROR 41: Yes.

Q Get up here and fight for him; right?

JUROR 41: Yes, sir.

Q Okay. What if I didn't do that? What if I just sat there and listened to these prosecutors put on evidence and I didn't say anything at the end? How would you feel about that?

JUROR 41: I would be disappointed in you.

Q All right. All right. Do you think I have to do that? Do you think Mr. Baldwin, do you think Ms. Auger has to do that?

JUROR 41: Has to?

Q Do you think we have an obligation to defend him?

JUROR 41: I do believe when you took the oath that that was your goal, to defend people who are innocent.

Q Very good. What do you think about that?

JUROR 24: About taking the oath?

Q No. About what my job is, Mr. Baldwin and Ms. Auger's?

JUROR 24: Well, yeah, it's your job to give him a fair chance; because just because someone is accused of something, that doesn't mean that they did it. They deserve a chance to be heard out, even if it is a murder case. You can't – essentially, if it's something as serious as a murder case, you can't come in with your mind already made up, so you need to listen and at least hear what the Defense has to say before you make up your mind.

Q Okay. What if the State put on their case and, at the end of the day, the burden of proof that they've met is somewhere here, the clear and convincing standard, and not the highest standard? But what if we, as defense lawyers, didn't say anything? What if we just sat there, didn't say anything? What are you gonna do?

JUROR 24: Can you repeat the question?

Q Yeah, sure. What if the State puts on their case – and they have this burden of proof – right? – beyond a reasonable doubt, and – but the evidence they give you doesn't quite get there, they're just slightly under it; right? And

what if we don't do anything? What if we just sit there and say, "We rest. I don't have anything to say, no defense"? Are you gonna take that out on Rick Allen?

JUROR 24: That's not good enough. That's not your job. You took your oath, you're supposed to defend this man and give him a chance, so you need to do that.

Q But what if I did that really poorly? Would you take that out on Rick Allen?

JUROR 24: No. That's not his fault.

Q Okay. Is the burden still with these people to prove beyond a reasonable doubt that he committed these crimes, regardless of how we act over there?

JUROR 24: Yes. Well, we need to make the right decision, so it needs to be beyond a reasonable doubt or –

Q A lot of tongue-tied, twisting words; right?

JUROR 24: I'm sorry, I'm speaking a lot.

Q Okay. Well, I just – I've talked to jurors in the past and sometimes they have expectations about what, you know – about what defense lawyers are supposed to be doing; and I'm just saying is it my job to prove that him innocent?

JUROR 24: It's not necessarily to prove him innocent, but to give him a chance and, like, give all the evidence so we can make the right decision and see if he actually is innocent or guilty like fairly.

Q Okay. You probably think you're gonna get away without talking today, don't you? What do you think about that? What's my job?

JUROR 31: To help him. They have evidence, you all have your other evidence out of either witnesses.

Q Do you think that we have an obligation to try and prove anything?

JUROR 31: Yes, to give him a fair – his fair trial.

Q Okay. See what I'm talking about? I appreciate that, I really do. Like there's this assumption that, they, you know what, the Defense has to come in here and put on some evidence, too. Is that –

JUROR 15: No.

Q Is that the rules?

JUROR 15: No.

Q Right. Who's got the burden?

JUROR 15: The State.

Q These people; right?

JUROR 15: And you're here to combat what they have.

Q Yeah. I mean, it's nice if I get up there and say something, isn't it? And if I were representing you, I'm assuming you'd be looking for new representation if I were not doing anything.

JUROR 41: Yes, sir.

Q But do you understand that's not our job?

JUROR 41: Right.

Q Does that make you uncomfortable?

JUROR 41: No.

Q Okay. Does it make you uncomfortable?

JUROR 14: Not at all.

Q You?

JUROR 11: (Responds by shaking head in the negative.)

Q All right. Police officers, I love police officers. Okay. Are there bad police officers?

JUROR 24: Yes.

JUROR 15: Yes.

Q All right. Does anybody here – I think we had a couple people that – I don't know about in this round, but there are – have close relatives that are police officers? Did anybody say that in this round?

JUROR 30: My cousin is a state policeman, retired.

Q Okay. Good. You got a cousin who's a state policeman, retired state policeman, appreciate that. Are all cops honest?

JUROR 24: No.

Q Okay. Are there cops who try hard to do the right thing, but sometimes they just don't get there?

JUROR 24: Yes.

Q Like is that the way it is in every profession?

JUROR 24: Yeah.

Q Yeah? Good, hard-working, honest people, but sometimes you just don't have the capacity to a job; right? Does that make sense?

JUROR 15: Um-hmm. (Affirmative response)

Q And is it – do you believe just because a police officer puts a uniform on that they should be held to a higher standard? Actually, was it you that said that earlier? Somebody did say that; right? That – was it you that –

JUROR 15: I did, yeah.

Q It was you.

JUROR 15: If they're – um-hmm. (Affirmative response)

Q Okay. So you actually think the police should be held to a higher standard?

JUROR 15: In that capacity, if they're testifying and they're here to

try to prove something or explain something to the jurors, then they should, yeah.

Q Right. They're the one bringing the case; right?

JUROR 15: Any lackadaisical evidence or their opinion or –

Q Okay. Does anybody else feel that way? How about you? You think the police should be held to a higher standard than a normal witness or –

JUROR 31: No.

Q Same standard?

JUROR 31: Um-hmm. (Affirmative response)

Q Okay. What do you think?

JUROR 16: I mean, they're law enforcement officers, they should be at a higher standard to an extent, but when they're doing their job on the street, yeah, but when they step on there, they're held to the same standard as anyone: To tell the truth, be honest.

Q Okay. What are your thoughts?

JUROR 24: Well, similar to what he said, like a – the police officers overall, they should have, you know, higher morals or be held to higher standards because they took their oath, they're supposed to be protecting us and do their – to be doing their jobs and doing all that stuff. And same thing, whenever anyone comes into court and takes their oath, they need to be honest, whoever they are. But also a cop's a person, and any person can have bad intentions or they can be good or do some bad things behind the scenes, so –

Q Okay. I appreciate that. Anyone here ever been in jail before?

JUROR 15: (Responds by raising hand.)

Q I appreciate that. I mean, it must be hard to sit here –

JUROR 15: No.

Q -- at all, and then, you know –

JUROR 15: Not at all.

Q Okay. Great. Then, we're not gonna sit and talk about it anymore. Tough place?

JUROR 15: Not really.

Q Okay. Tell me about it, your experience? You think it was fun?

JUROR 15: Do I have to?

Q Enjoyable?

JUROR 15: It was neutral –

Q Okay.

JUROR 15: -- I guess.

Q All right. Was it a short period?

JUROR 15: No.

Q Okay. So you were there for a longer period?

JUROR 15: Um-hmm. (Affirmative response)

Q Okay. Jail or prison?

JUROR 15: Both.

Q Do you know anybody that's been to prison?

JUROR 15: Yeah.

Q You do?

JUROR 15: Um-hmm. (Affirmative response)

Q You think those are two totally different environments?

JUROR 15: It depends on the kind of criminal you are.

Q Okay. What do you mean by that?

JUROR 15: You can accept it and you can do what you need to do to get through it or you can do the opposite of that and make it worse.

Q Okay. So you can embrace it and it might be better?

JUROR 15: Not embrace it. Be good and get it over with, not make problems, you know, make it worse.

Q What do you think the prison system is meant for?

JUROR 15: Do you want my honest opinion?

Q I would love your honest opinion.

JUROR 15: I think they're for profit mostly, and I think that a lot of people that go to prison should just be rehabilitated, instead of incarcerated, but –

Q So you think it's a moneymaking scam?

JUROR 15: For some, yes.

Q Okay. What do you think prisons are for?

JUROR 41: To, one, contain the person who's done the crime, and then the other aspect is to, I guess, control that situation. I don't believe that just putting a person in jail makes them better, but I feel like it breaks them down and creates maybe either a worse mentally come out or a worse criminal, if they're in the – what – depending on the jail they go to.

Q Or the prison.

JUROR 41: Exactly, yes.

A So it actually creates an opposite effect of what you really would hope for?

JUROR 41: I feel it does.

Q You ever had any experiences with that in your own life with family or anybody?

JUROR 41: I do not, but I have a friend whose son was arrested at 17 and tried as an adult, sent to a prison where he was abused and, you know, he served his time, but he never came out the same. He didn't come out the same person he went in.

Q Thank you for sharing that. These are all serious conversations, but we're here for a serious matter, so –

JUROR 41: Yes.

Q -- appreciate that. What are your thoughts on that? What's the purpose of the prison system?

JUROR 16: It should be more for rehabilitation, but it's not. I had an uncle that served 16 years in Pendleton, came out and went right back.

Q Made him worse?

JUROR 16: It didn't help him, but everybody's different, every prison's different.

Q So the – what I'm hearing here between the two of you is, is that, ideally, you'd have some rehabilitative side to it; right? I'm putting these words out there, so tell me if you're like, "Hey, Rozzi, that's not what I was saying." Is that what we're talking about?

JUROR 16: There should be with any prison.

Q Are there other reasons for prisons?

JUROR 50: Punishment.

Q Right. Punish people; right? Maybe the primary reason. Would you argue with me about that?

JUROR 50: I think originally, yeah. I don't know how people see it nowadays.

Q Originally. What do you mean by that? That's interesting.

JUROR 50: Well, I mean, I think like the beginning of our country and even before that, oftentimes prisons could be pretty bad and they were used for punishment. But again, I –

Q So historically, there was time –

JUROR 50: Yeah.

Q -- when we were locking people up and –

JUROR 50: It was horrible.

Q -- solely for punishment?

JUROR 50: Yeah.

Q It was horrible?

JUROR 50: From what I understand, yeah.

Q Fire away.

JUROR 15: It was never –

Q You're our resident expert, no offense, but –

JUROR 15: It was never solely for punishment though.

Q Okay.

JUROR 15: Political dissidents, all kinds of people are put in prison. It's who holds the key. Prison can be used for whatever whoever wants to use it for.

Q Do you think there's a difference between the purpose behind jails and prisons?

JUROR 15: Um-hmm. (Affirmative response)

Q What's that difference to you?

JUROR 15: Local – how would you say it? Locality.

Q Geographics matter?

JUROR 15: Um-hmm. (Affirmative response)

Q Anything else?

JUROR 15: The kind of crime maybe or the kind of level of – what's it called? Like the different levels of max security and stuff.

Q Okay.

JUROR 15: Like you can't put crazy criminals in a jail, they'd have to go to a prison.

Q You can't put who?

JUROR 15: Crazy criminals in a jail, they have to go to prison, I don't know.

Q Okay. So maybe the more violent somebody is, the more likely you are to put them in a prison relative to a jail; is that what you're saying?

JUROR 15: Maybe more secure, yeah.

Q Okay. All right.

MR. ROZZI: How much time do I have, Judge?

THE COURT: Seven minutes.

MR. ROZZI: Thank you.

Q Earlier, I was – oh, there's one thing I wanted to point – we talked about the right to remain silent earlier; did you hear us talking about why somebody would or would not want to get up here in this chair in this box? Did you hear that? Everybody hear that? Might it also be the case that somebody's already spoken their peace, you now, previous coming into court; right? They've already had something else to say? They've already told their story? Is that another reason why? What are you thinking?

JUROR 16: I mean, what exactly is your question?

Q Well, how do you feel about the fact that somebody who's charged with a crime might not want to get up here and testify in their own case?

JUROR 16: I mean, it could be to protect themself against self-incrimination or protect somebody else, but, I mean, if you're innocent, as other people have said today, why not continue to fight to prove you're innocence? Q So if the judge instructed you, in a case like this, that you were not to consider somebody's non-testimony as guilt, what would your thought about that be?

JUROR 16: I mean, it all depends on the evidence. It's hard to say what I would do or what if, 'cause –

Q We're asking questions in a vacuum here; right?

JUROR 16: Exactly. What-ifs can go any way, but it's all gonna be dependent on the situation and the evidence in the case that's presented.

Q Okay. So are there circumstances under which you might be like, "Hey, I'm gonna hold it against that person because they didn't get up there and speak"? I mean, I'm kind of hearing that, but I'm not. I'm just –

JUROR 16: No.

Q -- entirely –

JUROR 16: I mean not exactly, no. I mean my 15-year old kid does something and I know he does it and he's not gonna defend himself, I'm gonna hold it against him, but this is completely different.

Q Okay.

JUROR 16: So –

Q I appreciate you sharing that. Right? Things you do every day at home,

the common sense decisions you make, we talked about that earlier, totally different than what we're doing in this situation; right? What do you think about that? Are you gonna hold that against him?

JUROR 24: We can't necessarily just hold it against someone because you, obviously, can't read their mind, you don't automatically know if they're guilty or innocent, so it could be anything. Like what you mentioned before, they could have already have said their peace and they have nothing more to say, so that could be a statement in of itself, like, "I said my peace. I have nothing more to say and that's it." So it just depends on the situation. They could be guilty and be silent because they don't want to incriminate themselves or they said their peace and they have nothing to say.

Q Okay.

MR. ROZZI: How many minutes?

THE COURT: Four.

MR. ROZZI: Oh, very good.

Q One last thing, we talked earlier – I was kind of rushed through it, 'cause always – when you do this, the first round it's always – your timing's off and, you know, you realize you don't have as much time as you'd like, and that's just the way the rules are and that's fine, but I was kind of rushed through this idea of these government processes, I was talking about things like Medicaid and Social Security and I even mentioned NASA, which the government used to invest in and we'd send people up to the moon. Did everybody hear me talking about that generally? Could you hear that general conversation? You couldn't?

JUROR 16: No.

Q Okay. All right. Well, you just sit patient, we'll take care of that. Do you

believe that just because the government buys into a process, that we should accept that as citizens?

JUROR 24: No.

Q Oh, she's back there already like, "No, uh-uh-uh-uh-uh." Tell me about that. Why do you feel that way?

JUROR 24: Well, the government can invest in anything they'd like. They can invest in something that's really harmful or just – I don't know, they – I don't know, like – I know I'm very articulate. They could invest in something that just helps them, but not the people, 'cause they – a lot of the time, that's what happens. So they could invest in something good, but again, they could be greedy and invest in whatever they want, so –

Q Okay. So there might be other motivations –

JUROR 24: Yeah, maybe.

Q -- that are driving those processes and systems?

JUROR 24: Yeah.

Q I know we're talking real general, but I gave you some examples. What are your thoughts on, you know, trusting the government's processes and systems just because that's what they've adopted?

JUROR 41: I would like to trust the government and I feel I mostly do. There are areas – it's run by people who have flaws, and we all do, so, like she said, depending on the motivation of the person running or setting the precedent, sometimes it does veer off from its original design or destination, but –

Q Would you be upset if you heard lawyers attacking government processes? Like would that bother you that, "Hey, you know what, I have some problems

with the process they're using"?

JUROR 41: No, sir, I would not be.

Q Okay. What are your thoughts on that?

JUROR 50: Wouldn't bother me. I mean, generally, I would trust, but everything needs to be examined and criticized and see if it holds up.

Q I mean, the government uses radar guns; right?

JUROR 50: Yeah.

Q Everybody knows what a radar gun is.

JUROR 50: Yeah.

Q You know a speed gun or whatever. You think those things are always perfect?

JUROR 50: Probably most of the time, but maybe not all the time.

Q Okay. But we rely on them, don't we?

JUROR 50: Yeah.

Q Is it okay to be critical of those things?

JUROR 50: Oh, yeah.

JUROR 41: Yes.

Q And do you have a problem with somebody who's doing that?

JUROR 50: No.

Q Like, "Oh, they're one of those anti-government, you know, anti-establishment kind of people"?

JUROR 50: No.

Q Okay. All right. I appreciate that. I appreciate all the honesty. Is there anything else that I've said, Mr. Baldwin or Ms. Auger or, frankly, even the prosecutors that you feel like, "Hey, you really need to know this about me"?

Because now's the last opportunity you're gonna get, so if you've got something, let me know. Like, "I wish Rozzi would have asked me this, 'cause I would have told him." Is there anything at all?

A (No response or indication from any potential juror.)

MR. ROZZI: Okay. Thank you very much.

THE COURT: All right, counsel, you may approach when you're ready.

MR. MCLELAND: Judge, may I approach?

THE COURT: Yes.

(Sidebar conference conducted.)

MR. MCLELAND: So if we strike – this is the first one, that would be second – we have one juror left; correct?

THE COURT: Two.

MR. MCLELAND: Oh. Never mind, then.

THE COURT: Okay.

(Sidebar conference concluded.)

(Sidebar conference conducted.)

THE COURT: Okay. So you all agree on cause on seat 1, he's the gentleman who was his opinion. You all agree for cause on seat 2, the other gentleman that has the opinion he can't set aside. You agree on cause on seat 3, who just doesn't want to be here period. You agree on cause on seat 8, also does not want to be here.

MR. ROZZI: What was that number, what seat? 8?

THE COURT: Seat 8.

MR. ROZZI: We didn't – I don't – did I have 8 for cause? Oh, I

might have.

THE COURT: Yes, you do.

MR. ROZZI: Okay.

THE COURT: You agree on cause on seat 11 for work and issues. And you agree on cause on 12, the gentleman with an opinion who cannot set it aside. And that's all the Defendant had.

MR. MCLELAND: Yeah, I got more for cause.

THE COURT: The State had more. The State is seeking cause on seat 4.

MR. MCLELAND: Yes.

THE COURT: This is the lady who's got the, I don't know –

MR. MCLELAND: She's a single parent –

THE COURT: -- single parent, extreme financial hardship. Okay, so I'll take her. State is asking for cause on –

MR. MCLELAND: No, that's it.

THE COURT: -- seat – that's it. That's it. Okay, sorry, that's it. Okay. And the Defendant is striking seat 7 and seat 10. And the State is striking seat 5 and seat 7. So you're up to nine, you're up to seven.

MR. ROZZI: 5 and 7, Your Honor?

THE COURT: Um-hmm. (Affirmative response)

MR. ROZZI: Which that was a double; right? 7 was a double?

MR. MCLELAND: Yes.

THE COURT: Yeah, 7 was. Okay. So we all –

MR. MCLELAND: So we got –

THE COURT: We like seat 6 –

MR. ROZZI: 6, 9, that's it.

THE COURT: -- and seat 9. So that gives you your jury.

MR. ROZZI: 6 and 9, you say?

THE COURT: 6 and 9 are your jury. And then we just need the alternates.

MR. MCLELAND: Judge, do you want to give him a break so we can keep going?

THE COURT: I mean, we've got the four and there's 52 people downstairs, if we need them, but we need four alternates. You each get two strikes.

MR. MCLELAND: Okay. Whatever you want to do, Judge, if you want to keep going, but I'm okay (inaudible)

MR. ROZZI: What are the odds of us getting four out of four?

THE COURT: You never know.

MR. ROZZI: Part of me's like maybe we just get rid of them, bring the 50 – we're gonna have to bring the 50 in, sounds like, either way.

THE COURT: Well, I don't know know, 'cause I don't know what these folks – how they're gonna be.

MR. MCLELAND: Yeah. We might as well examine them.

MR. ROZZI: Yeah, that's true. That's a good point. We could find out pretty quick if there's a couple causes in here.

THE COURT: Well, at that point, yeah, then maybe it's just approach and let's be done, get rid of them.

MR. ROZZI: Yeah, let's move on. 'Cause we're gonna have to educate a whole new pool.

MR. MCLELAND: They may just have cause (inaudible)

MR. ROZZI: Why don't you bring them up and just see what they say and –

THE COURT: Okay.

MR. ROZZI: I'm okay with you just making the decision, if you're like, "Hey, these are causes".

THE COURT: Okay. Very good.

(Sidebar conference concluded.)

THE COURT: Okay. Again, those – all of you are going to go into the jury room to be released in there. And those of you that are selected, please, don't speak to anybody about the case. You're free to tell your family and friends you've been selected to serve as a juror, but that's the extent of it. Please avoid any media coverage about the case and don't conduct any research on your own about this case. So, Juror Number 50 in seat 6, you have been selected to serve and approved as a juror. Juror 16 in seat 9, you have also been selected as a juror. The balance of you have been excused and I appreciate your time and your indulgence. So the bailiffs will get you into the jury room and then we'll keep 16 and 50. Jeremy.

THE BAILIFF: All four of you might as well head up here. 28, seat 1. 12, seat 2. 10, seat 3. And 26, seat 4.

VOIR DIRE BY THE COURT

ANSWERS BY POTENTIAL JURORS.

Q All right. Juror 28, did you have any responses to any of my questions, sir?

JUROR 28: Yes. I did pay attention to the media.

Q Okay. And without going into whatever you read or heard in the media, have you formed an opinion in this case?

JUROR 28: I have.

Q And is that an opinion that you can set aside and be fair and impartial to the Defendant and the State?

JUROR 28: No.

Q I'm sorry?

JUROR 28: No.

Q No? Okay. And you heard my discussion about being sequestered; any issues with that?

JUROR 28: I have diabetes and I lost my sight in my left eye, so I'm working on keeping my right eye going.

Q Okay.

JUROR 28: So I have an appointment on the 22nd for that.

Q Okay. And if you were selected to serve, is that an appointment that you could reschedule?

JUROR 28: Probably.

Q Okay. Anything else that we need to discuss?

JUROR 28: No.

Q Okay. Juror 12, did you have any responses to any of my questions?

JUROR 12: Yes, I did.

Q And what were they?

JUROR 12: The sequestering. I'm the primary care for my three-year old son at home, and so if I were to leave, he would be without care. And also, my husband has a business trip that's going to take place for half of when

the trial is scheduled, so there would be nobody to care for my son.

Q Okay. So if you were selected to serve and given the opportunity to make some phone calls to try to arrange that while your husband is gone, could you do that?

JUROR 12: I could try.

Q Okay. Any other things that we need to discuss?

JUROR 12: No.

Q All right. Juror 10, did you have any responses to any of my questions?

JUROR 10: Yes, I did.

Q And what were they?

JUROR 10: First, I have heard from the media regarding the case.

Q Okay. And without going into what you may have read or heard in the media, have you formed an opinion on this case?

JUROR 10: No.

Q All right. So you can set aside whatever the media said –

JUROR 10: Yes.

Q -- and make a decision on the evidence and the law as you hear it in the courtroom?

JUROR 10: Yes.

Q Okay. What else?

JUROR 10: My dad was police off – Fort Wayne police officer for over 25 years –

Q Okay. Did you –

JUROR 10: -- and he was also captain in juvenile during that time.

Q Okay. Did you talk with him about his work?

JUROR 10: Not when he was – after he retired, he brought up some cases.

Q Okay. So is there anything about his former employment or those conversations that would affect your ability to be fair and impartial?

JUROR 10: No.

Q Okay. Anything else?

JUROR 10: Yes. I'm the primary caregiver for my 88-year old mother.

Q Okay. And you were able to make arrangements for today?

JUROR 10: Well, luckily, my cousin is visiting from Maryland today and so he's with her.

Q Okay.

JUROR 10: But I see her every day, I drive her, you know. She's a fall risk, so I check on her every day. I do have a sister that lives in Fort Wayne, but she's employed full-time and she can't, you know, do it, so –

Q Okay. So if you were selected to serve, would you be able to make arrangements?

JUROR 10: No.

Q Okay. Anything else that we need to discuss?

JUROR 10: Yes. My sister was the victim of a violent crime.

Q Okay. And is there anything about your sister's situation, the way it was handled or was not handled, that would interfere with your ability to be fair and impartial?

JUROR 10: Not how it was handled but, I mean, I think the whole experience of what happened to her would.

Q Okay.

JUROR 10: And then, I also am a victim of a crime.

Q Okay. So both of these situations, you understand that those are separate situations –

JUROR 10: Yes.

Q -- from what you're dealing with here?

JUROR 10: Yes.

Q And can you set those things aside and listen to this evidence with an open mind?

JUROR 10: I think I would have some bias by what happened to me.

Q Okay. Could you set that bias aside?

JUROR 10: It's pretty ingrained in me, it'd be hard.

Q Okay. Anything else?

JUROR 10: I think that's it.

Q Okay. Thank you. And, Juror 26, did you have any responses to my questions?

JUROR 26: Yes, Your Honor, I have a few. I'm diabetic and I have some medical appointments soon, but that probably wouldn't be a problem. And also, my wife is having eye surgery tomorrow; and the next day, I'm the designated driver for her for those two days.

Q Okay.

JUROR 26: And when I was 14 years old, I was the eyewitness to a murder.

Q Okay. So understanding your medical condition and you've got an

appointment, if you were selected to serve, would you be able to reschedule that appointment?

JUROR 26: Probably would, yeah.

Q Okay. And we won't be getting started with the actual trial for a couple of days, so does that help you with your transportation issues with your wife?

JUROR 26: That should be fine, yes.

Q Okay. And then, the – what you shared with me when you were 14, is there anything about that that would affect your ability to be fair and impartial in this case?

JUROR 26: No, it wouldn't.

Q Okay. Anything else?

JUROR 26: No, I'm fine. Thank you.

THE COURT: Okay. Mr. McLeland.

MR. MCLELAND: Thank you, Judge.

VOIR DIRE BY THE STATE – MR. MCLELAND

ANSWERS BY POTENTIAL JURORS.

Q Ladies and gentlemen, good afternoon. Let's just start off were you able to hear everything that I asked before throughout the day?

JUROR 26: Yeah.

Q Do you have any questions? Does anybody have any questions about anything I've talked about? I guess let's start there. Anything that sticks out in your mind like, "Hey, I gotta ask Mr. McLeland about that when I get up there"?

A (No response or indication from any potential juror.)

Q All right. Sir, let's start with you, Number 28; you said you had formed an opinion already?

JUROR 28: Um-hmm. (Affirmative response)

Q And that you have some other medical – I think you said you had something wrong with your eye and –

JUROR 28: Yeah.

Q Do you have another appointment coming up? Did I hear that right?

JUROR 28: Yeah, the 22nd.

Q I can't remember if the Judge asked you, I'm sorry, I was trying to get things together, but is the appointment for your eye?

JUROR 28: Yes.

Q Okay.

JUROR 28: Yes.

Q If you had to – and so do you have any vision in your –

JUROR 28: My left eye.

Q Your left eye – your right eye?

JUROR 28: No.

Q No vision in your left eye at all?

JUROR 28: No.

Q Does that affect your ability to read and see things or has your right eye adapted to where you're able to drive and –

JUROR 28: It's pretty much adapted. I can drive with it.

Q Okay.

JUROR 28: Yeah.

Q So if you can drive, I trust that you can read and –

JUROR 28: Yep.

Q -- tell what's going on. If you had to miss that appointment, is it something

you could reschedule easily?

JUROR 28: I don't know. It's with a retinal surgeon, so I have –

Q Okay. Are you in any discomfort right – as you sit here today?

JUROR 28: It doesn't – it's not painful, it's just –

Q Okay. You're just blind in that –

JUROR 28: Depends whether it's bleeding or not, yeah.

Q Okay. Okay.

JUROR 28: And I can't tell until he looks into it.

Q Okay. Anything going on at home or work that would draw your attention away from being able to listen and see what's going on here in court?

JUROR 28: No.

Q Okay. Are you working? You retired?

JUROR 28: Working.

Q Working. And where you work at?

JUROR 28: Wayne Pipe.

Q Okay. Talked to them and, if you're gonna be here for a month, they're okay with it? Or at least they're willing to accept the subpoena or accept the jury selection and –

JUROR 28: I don't know.

Q Okay.

JUROR 28: I guess so.

Q Fair enough. Ma'am, you said – talked about child care.

JUROR 12: Yes.

Q How old's your child? Three?

JUROR 12: He'll be three next month.

Q Three next month. And do you have – you got child care lined up for today.

JUROR 12: Yes. It's my husband, he was able to take a personal day.

Q Ah, that's what it was, okay.

JUROR 12: Yeah.

Q Okay. So if this extends past today and if your husband doesn't watch him, you don't have a back-up plan?

JUROR 12: No.

Q Is that fair?

JUROR 12: That's correct, yes.

Q Okay. Okay. What if – what is the plan if you're selected? Have you talked to your husband about it and say, "Hey, what if I'm selected? What are we gonna do?"

JUROR 12: Yeah, we've gone into it. We don't really have a plan of care as of right now.

Q Okay.

JUROR 12: But I do have family members that would be able to rotate out –

Q Okay.

JUROR 12: -- as far as like a couple hours here, a couple hours there; but as far as like long-term, we have no plan, 'cause there is –

Q Okay.

JUROR 12: -- nobody that can watch him long-term.

Q Sure. Is he – I don't want to get too much into it –

JUROR 12: No, go ahead.

Q -- but is he special needs or anything or –

JUROR 12: No.

Q -- just a normal three-year old, so –

JUROR 12: I mean, yeah, he's a normal three-year old –

Q Okay.

JUROR 12: -- so he's, you know, destroying stuff and –

Q Sure.

JUROR 12: -- crazy.

Q Got it. Most of us have kids –

JUROR 12: Yeah.

Q -- we get it, we've been through that phase –

JUROR 12: Yeah.

Q -- so we get it. Okay. So the fact – let's say you were selected, are you gonna be so worried about – is it a boy or a girl?

JUROR 12: It's a boy.

Q Boy. Are you gonna be so worried about his care that you're not gonna be able to focus on what's happening here in court?

JUROR 12: I would say yes.

Q Okay. And it's gonna distract you enough that you think that you might miss evidence or testimony that was put on?

JUROR 12: I believe so, yes.

Q And so are you saying that you would not be a good juror for this case because of those reasons?

JUROR 12: Correct.

Q If the Judge said, "Look, you can't think about your son, you can't think

about those things, you have to focus on the case," could you follow that direction?

JUROR 12: I don't believe I could, no.

Q Okay. I appreciate you being honest. Thank you.

JUROR 12: Of course.

Q Ma'am, you cited various things, dad was law enforcement – I kind of wrote a list down of everything you said, but I want to focus – and I don't want to bring up the past and I don't want it –

JUROR 10: That's okay.

Q -- it to be traumatic to you, but –

JUROR 10: That's all right.

Q -- if you were to be a juror on this type of case, knowing that this is a murder case and there is a victim, would it be traumatizing to you?

JUROR 10: Yes.

Q And would it cause you to have – I want to say flashbacks, 'cause I can't think of a better word right now, but bring up memories of when you were a victim?

JUROR 10: Yes.

Q And do you think that would affect you in a way that you wouldn't be able to focus on the evidence and testimony that was presented in court?

JUROR 10: Most definitely.

Q Okay. Do you think that would have a negative effect on your emotions?

JUROR 10: Yeah.

Q Okay. If you are chosen as a juror, you – I think it was your mother you were caring for.

JUROR 10: Yes.

Q Okay. It's really hard to hear down there –

JUROR 10: No.

Q -- sometimes, so I apologize. And you had a family member that was in town for today?

JUROR 10: Yeah, my cousin's visiting the weekend from Maryland and –

Q When they leave, what is –

JUROR 10: Yeah –

Q -- the plan?

JUROR 10: -- it's me. It's me.

Q Is there a backup plan?

JUROR 10: No. I have siblings, they're all out of state.

Q Okay.

JUROR 10: I have three siblings that live out of state and a sibling that lives here, but she's a school teacher.

Q Sure.

JUROR 10: So –

Q So she's working for 8 to 3:30 –

JUROR 10: Yeah.

Q -- or 8 to 4?

JUROR 10: Yeah. And my mom, in August, had a hospitalization; and the three doctors recommended she have home health, and she's pretty stubborn about that, and so I'm the home health.

Q And she's a fall risk?

JUROR 10: Yes.

Q And so if she falls, are you the emergency contact?

JUROR 10: Oh, yeah.

Q Okay.

JUROR 10: Yeah.

Q Okay.

JUROR 10: Yeah, I'm there every day.

Q Okay.

JUROR 10: You know, grocery shopping, taking her to appointments.

Q Are you working?

JUROR 10: No.

Q And so you're able to be there –

JUROR 10: Yeah.

Q -- all day, all hours of the day –

JUROR 10: Yes.

Q -- "Hey, Daughter, I need something –

JUROR 10: Yeah.

Q -- come help me"?

JUROR 10: Yeah.

Q Okay. Okay. And if you were to serve as a juror, on top of being a victim in a prior offense, the fact that you're worried about your mother, would that –

JUROR 10: Yeah.

Q -- consume you –

JUROR 10: Yep.

Q -- to the point where you're not gonna be able to pay attention? Okay. Thank you for being honest. Sir, you talked about your diabetes and your wife having eye surgery. The Judge told you that the trial may not start for a couple days. Would that alleviate the concern for your wife, if you're able to take her tomorrow and then drive her back?

JUROR 26: Yeah, kind of, yes, it would. My only concern is probably my job, being off 30 days, you know.

Q Are you concerned about – are you the only one working in the home?

JUROR 26: No. We –

Q Both work?

JUROR 26: -- both work, yeah.

Q So if – do you think your job wouldn't accommodate you or –

JUROR 26: Well, right now at this time, I work for Dana Light Axle Assembly –

Q Okay.

JUROR 26: -- and they looking at strikes and layoffs right now, and that – I'm already under pressure right now with that.

Q Sure.

JUROR 26: But, you know, me doing the best I can, period, that's –

Q And so you're worried –

JUROR 26: I am.

Q Are you worried that if you say, "Hey, guys, I'm out for 30 days," you may be next on the chopping block?

JUROR 26: That could be true –

Q Okay.

JUROR 26: -- but I can also probably take short-term disability –

Q Okay.

JUROR 26: -- also hopefully.

Q The Judge had talked about earlier about you get some stipend, I think $80 the first week and $90 afterwards.

JUROR 26: That would –

Q Would that help alleviate some of your concerns?

JUROR 26: That cut my income completely in half.

Q I understand.

JUROR 26: That'd hurt.

Q I understand.

JUROR 26: That would hurt, but whatever we have to do, that's how my family works.

Q Okay. Are you comfortable being a juror on this case?

JUROR 26: This is my first time, you know. I'm usually on the other side.

Q Okay. Okay, fair enough.

JUROR 26: You know, I thank God that I've been rehabilitated and everything.

Q Sure. Do you want to be a juror in this case?

JUROR 26: For the pay? Nah.

Q That's okay.

JUROR 26: But I wouldn't mind the experience.

Q Okay. Never been on a jury before?

JUROR 26: Never been on.

Q Is there anyone that doesn't – beside the issues we've talked about, is there anybody that just doesn't want to be a juror on this case?

A (No response or indication from any potential juror.)

Q Okay. All right. I want to talk a little bit about where we're at. If you're chosen to serve, you're gonna be an alternate, and the alternate has a different – a little bit of different role than a juror. The alternate, the Judge is gonna ask you to deliberate with the jury – or go back when they deliberate, be sequestered with them, but when they deliberate, you can't throw in your –

JUROR 26: Opinion.

Q -- opinion. You have to sit quietly until the Judge calls you to action, so if we lose a juror for illness or health or anything like that. Can everybody do that? Is everybody built where they can listen?

A (No response or indication from any potential juror.)

Q And what if a juror, another juror, has it completely wrong – "Look, he says the car was blue, I know it was red" – can you sit quietly and not speak up? Everybody's shaking their head. Anybody have – foresee any issues with that?

A (No response or indication from any potential juror.)

Q Okay. We've charged Mr. Allen with murder. Ma'am, Number 10, what do you think of when you hear the charge of murder?

JUROR 10: It's a very serious offense. There's an intent to kill.

Q What kind of evidence would you expect to see?

JUROR 10: Hopefully, there'd be physical evidence, phone records, you know, tying the person to the location. I know – I don't know if I can comment on this or not, I know that motive was brought up before that, that

isn't – I mean, I think people do just do things –

Q Sure.

JUROR 10: -- they don't necessarily need a reason. But eyewitness would be nice or witnesses would be nice.

Q Is there any one thing that you have to have? And I always bring up the *CSI* effect, that we watch *CSI*, and I'm guilty of this, too, I watch it, and that we expect when someone's charged that law enforcement has all the evidence that goes with that case, just like a *CSI* episode. Is there anything that you have to see? Like, "Hey, look, there has to be DNA" or "There has to be a murder weapon"? "There has to be motive," that was something that was brought up earlier.

JUROR 10: Obviously, I'd like there to be some type of physical evidence.

Q Sure, sure.

JUROR 10: You know, whether it's DNA or not.

Q But is there any one thing that sticks under your mind that says, "I have to have that"?

JUROR 10: Yeah, no, not really.

Q Sir, Number 28, what do you – first of all, what do you think of when you hear the charge of murder?

JUROR 28: Somebody lost a life.

Q What kind of evidence would you expect to see?

JUROR 28: I'm more of a "show me".

Q Okay.

JUROR 28: So video, something concrete.

Q Okay. Now, we've talked about the State has to use the evidence to convince you beyond a reasonable doubt of each element of each offense, and I've used the attorney example, and it's not using that example to compare it to the crime of murder. The point of that example is to show you that sometimes you don't need a lot of evidence to be firmly convinced that something is true, that's the point of that example. So, sir, Number 26, do you believe I'm an attorney?

JUROR 26: You wouldn't be standing up there without credibility, not in the state of Indiana.

Q Sure.

JUROR 26: You know, you have to be certified and have your credentials.

Q And so you –

JUROR 26: That's the way I believe. That's what I believe.

Q So you're firmly convinced I'm an attorney?

JUROR 26: You have to be here, yeah. I'm convinced you are.

Q And that's not to say that – deciding my job and comparing murder is two things –

JUROR 26: Right, exactly.

Q -- that's not what I'm trying to do here.

JUROR 26: I'm saying that you wouldn't be standing in this courtroom, doing what you do, without the credibility, you would have to be a lawyer, as far as I'm convinced.

Q Sure. Ma'am, Number 12, what do you think?

JUROR 12: I think you're a lawyer.

Q Okay.

JUROR 12: Yeah.

Q The point of that exercise is very little evidence that you have, you don't know who I am. I've never had a jury trial in this county, I'm not the prosecutor in this county or – but you're – are you firmly – is everyone firmly convinced I'm an attorney?

JUROR 26: Yeah.

Q And you're firmly convinced based on your common sense – right? – and what little evidence you have gathered from what you've seen: The Judge lets me stand up here, you know from the introductions I'm the elected prosecutor in Carroll County, and you all have common sense, the State of Indiana wouldn't let me run for an office that requires a law degree unless I had one.

JUROR 26: Exactly.

Q Right? And so it's not comparing my job to murder. What it is is explaining that sometimes to be firmly convinced, you don't need a lot of evidence. Now, it's also to illustrate that the burden on the State is not beyond all doubt. For you to be convinced beyond all doubt, you would probably want to see my ID, my law license, my law degree, that would be beyond all doubt. Our burden is firmly convinced. Does anyone think that burden is too low? Sir, Number 28, do you think the burden should be beyond all doubt for criminal cases?

JUROR 28: In a perfect world, but we don't live in a perfect world, so –

Q How many things can you determine beyond all doubt? Things you see with your own eyes; right?

JUROR 28: And things I hear.

Q Things you hear, okay. Things you see on video?

JUROR 28: Um-hmm. (Affirmative response)

Q Those would be beyond all doubt. If all crimes were on video or you were able to witness all crimes, that'd be awesome; right? That'd be nice, but that's not reality.

JUROR 28: No.

JUROR 26: No.

Q Very few things – maybe more today, in today's world, more things are on video, but that's not the burden for the State. Are you willing to hold the burden – the State to the burden that the Court instructs you on? The beyond a reasonable doubt and firmly convinced? Everybody's shaking their heads.

JUROR 28: Yep.

Q Okay. I know it's been a long day, so I'm trying to get through this stuff quick. I know, been a long day. Talked about beyond a reasonable doubt. A few more things and then I'll sit down. Credibility of witnesses. Ma'am, Number 12, what kind of things are you gonna look for when you determine the credibility of a witness?

JUROR 12: Consistency within their stories –

Q Okay.

JUROR 12: -- and things like that. And yeah, that's about it. I mean, everybody's different –

Q Sure, sure.

JUROR 12: -- so being nervous on a witness stand is not unusual.

Q Sure, sure.

JUROR 12: So –

Q What about if someone can't recollect what happened in the past and they have to look at notes or a report or something to refresh their memory?

JUROR 12: I mean, I barely remember what I had for breakfast –

Q I'm with you.

JUROR 12: -- so –

Q I'm with you.

JUROR 12: -- that wouldn't surprise me.

Q Okay.

JUROR 12: Especially – yeah.

Q You wouldn't hold that – would you hold that against a witness?

JUROR 12: No.

Q Okay. Ma'am, your dad's a – Number 10, Juror 10, your dad's a law enforcement officer?

JUROR 10: He was.

Q Was a law enforcement officer, sorry.

JUROR 10: Yeah, it was 20-plus years.

Q You gonna give a law enforcement officer more credibility simply because they're a law enforcement officer?

JUROR 10: Honestly – well, my dad was probably one of the most honorable people in my life –

Q Sure.

JUROR 10: -- so – and I also knew a lot of his friends that were, obviously, in the law enforcement, and they were really good people. I'm not saying there can't be bad –

Q Everybody can lie.

JUROR 10: -- bad apples in – everywhere, but yes, I think I do look at law enforcement with a little bit higher –

Q Sure.

JUROR 10: -- regard.

Q Would you give a law enforcement more credibility in certain areas, and I keep using, you know like –

JUROR 10: In their expertise.

Q Yeah, like a violation of a traffic offense?

JUROR 10: Right, right.

Q As opposed to a construction worker?

JUROR 10: Right.

Q You're not gonna give a law enforcement officer more credibility in how to construct a house?

JUROR 10: Correct.

Q But you may give him more credibility if it was something to do with law enforcement?

JUROR 10: Yes.

Q Is that a fair –

JUROR 10: Yes.

Q -- statement? Sir, I see you shaking your head, too. Do you agree with that?

JUROR 26: Yep.

Q Okay. That goes for experts, too. What kind of things you gonna look for when an expert testifies, what kind of things you gonna look for to determine their credibility?

JUROR 26: Their skill.

Q Their skill?

JUROR 26: Yes.

Q What does it mean to be skilled to you? Years of service? Education? Both?

JUROR 26: All of those.

Q All of it? Okay. Okay. Sir, what about you? You haven't said much. Number 28, what kind of things are you gonna look for to determine the credibility of an expert? Maybe it's the same things they've said.

JUROR 28: Yeah, mostly what they've been saying.

Q Years of service?

JUROR 28: Yeah.

Q Education?

JUROR 28: Um-hmm. (Affirmative response)

Q Any other credentials that may come up? Okay. Anything different?

A (No response or indication from any potential juror.)

Q It's easy with four people, I can kind of pick on you all. All right. Other thoughts, we talked about passing judgment on someone. Does anybody have a issue with passing judgment on somebody?

A (No response or indication from any potential juror.)

Q So if the State does prove each element of each offense beyond a reasonable doubt, is there anyone that says, "I still can't enter a judgment of conviction because I can't pass judgment on anyone, I can't do that"? I see you all shaking your heads no, so – okay. We've talked about issues at home and work, with being sequestered, we've talked about that. Ah, this is a good one

that I forgot. Okay. Sir, Number 26, you made a comment that you're usually on the other side, and so I gotta pick on you a little bit. With your experience with that in your past, do you have a negative view about law enforcement?

JUROR 26: Not really.

Q Are you gonna hold it against me?

JUROR 26: Because – I'm not gonna hold it against nobody –

Q Okay.

JUROR 26: -- 'cause what I did, I had to be accountable for my own actions.

Q Sure, sure.

JUROR 26: So I understand clearly what I had – my experience. I can't blame nobody for how they are. I can only make my judgments through solid concrete facts and evidence, that's the only –

Q No, that's –

JUROR 26: That's me.

Q Is it safe to say that you're not gonna hold that against me or any of the law enforcement officers that may testify?

JUROR 26: Yeah, it's safe to say that.

Q Okay. Safe to say that? Okay.

JUROR 26: Yeah.

Q Appreciate that. You know, this might be an interesting question for you, too, 'cause growing up as a – I assume, as you're growing up, your father was a law enforcement. Anything that you saw in law enforcement that gave you a negative perception of law enforcement? You said he was very –

JUROR 10: When I'd get in trouble –

Q Well, that's fair enough.

JUROR 10: -- 'cause I'd definitely get in trouble.

Q You said your dad was honorable –

JUROR 10: Yeah.

Q -- and he had a lot of honorable friends, but is there anything you saw growing up that like, "Man, that's –

JUROR 10: No, um-um.

Q Okay.

JUROR 10: No, and my son, several years ago, he lived – he went to school in North Carolina and he got some – into some trouble –

Q Okay.

JUROR 10: -- with – minor, but still –

Q Sure.

JUROR 10: -- no, and, you know, I – you know, he's a college student and doing something stupid and – but, you know, they handled it very professionally and –

Q What did your dad say when your son got in trouble?

JUROR 10: He's passed away.

Q Oh, okay. I'm sorry to hear that.

JUROR 10: But he probably would have laughed.

Q Okay.

JUROR 10: No, my sister was – you know, she's passed away, too, but, you know, she got arrested at a party, a graduation party.

Q Underaged drinking, something like that?

JUROR 10: Well, it was trespassing.

Q Oh, my word.

JUROR 10: People were sick of having – there were parties on this land and they were sick of it –

Q Okay.

JUROR 10: -- and so, you know, he got – my dad got the call that, "Your daughter's in jail." And he said, "Well, she can sit for a little bit." You know, he didn't use his clout or anything to get her out or anything and, you know, he – so no, I don't – I had never seen anything negative.

Q But that's, obviously –

JUROR 10: Right.

Q -- something that stuck out in your mind.

JUROR 10: Right.

Q Your dad –

JUROR 10: Oh, yeah.

Q You probably thought your dad could have made a call and got her out.

JUROR 10: Oh, easily.

Q And your dad –

JUROR 10: No.

Q -- basically walked the line and said, "Look, she can sit"?

JUROR 10: Yeah, yeah.

THE COURT: Your time's up, sir.

MR. MCLELAND: Okay. Thank you, Judge.

THE COURT: Mr. Rozzi.

VOIR DIRE BY THE DEFENSE – MR. ROZZI

ANSWERS BY POTENTIAL JURORS.

Q All right. Good afternoon. Again, I'm gonna talk to you a little bit, because it's tough to hear back there.

JUROR 28: Okay.

Q So you have a medical situation?

JUROR 28: Um-hmm. (Affirmative response)

Q And it's a hip replacement, is that what I understand?

JUROR 28: That's down the road, but it's my eye right now.

Q Oh, okay. I'm sorry.

JUROR 28: Yes.

Q Okay. I'm looking at your questionnaire –

JUROR 28: Yes.

Q -- while I'm trying to listen to you.

JUROR 28: Yes.

Q And are you suggesting that that is – that medical circumstance is such that it would impact your ability to sit as a juror in this case?

JUROR 28: I don't know. Whatever the surgeon says.

Q Okay.

JUROR 28: If it's still bleeding back in there, then we need to get it, you know – get them burned off and get them closed up.

Q And when's your appointment?

JUROR 28: The 22nd.

Q Okay. So it's a necessity that you be there, because you've got some on-going issues?

JUROR 28: Yes.

Q Okay. And so it's a medical necessity?

JUROR 28: I don't want to go blind.

Q What'd you say?

JUROR 28: I don't want to go blind.

Q Okay.

JUROR 28: Yeah.

Q Okay. Appreciate that. And one second. And you talked earlier, you've kind of already expressed or formed an opinion about Mr. Allen's guilt or innocence; correct?

JUROR 10: No. No, I just have a bias because of what happened to me.

Q Oh, okay. All right. So we're not talking about an expressed opinion, we're talking about –

JUROR 10: Right.

Q -- an inherent bias?

JUROR 10: Right, right. And, you know, I was date-raped –

Q Okay.

JUROR 10: -- when I was in college, so that – you know, it – that definitely brings up bad memories to it, so –

Q And so that bias, do you believe that would impair your ability –

JUROR 10: Yes.

Q -- to just be fair and impartial?

JUROR 10: Um-hmm. (Affirmative responses)

Q And you're shaking your head yes?

JUROR 10: Yes.

Q Okay. 'Cause we're trying to pick up a recording.

JUROR 10: Oh, yes.

Q And do you agree that, you know, there's really nothing the Judge or myself or the prosecutor can do to change that?

JUROR 10: Well, it's been with me for 40 years –

Q Okay.

JUROR 10: -- so it's tough.

Q All right. So do you agree that, after 40 years, we're not gonna change that?

JUROR 10: I wish you could, but no.

Q So you agree with that?

JUROR 10: Yes.

Q All right. Thank you for sharing that. I understand how difficult it might be to come in here and –

JUROR 10: That's all right.

Q But maybe it's therapeutic, too, I don't know.

JUROR 10: Right, right.

Q All right. Well, that leaves two. Talked about a lot of stuff today and every time we get to the alternates, you know, I think my experience is lawyers have a tendency to kind of move along a little more hastily, but this is a matter of the highest importance; you understand that?

JUROR 12: (Responds by nodding head in the affirmative.)

Q You understand that?

JUROR 26: (Responds by nodding head in the affirmative.)

Q And I want to talk about this burden of proof. You've heard both sides here, you know, one's trying to kind of elevate, the other one's, you know, trying

to suggest that, "I don't have to prove everything, you know, with absolute certainty." The rules are the rules. My question to you is: How much significance do you place on that obligation? How important do you think it is that you apply the burden of proof in this case?

JUROR 12: I would say it's pretty high, especially depending – I mean, it's a very serious situation, so I think, you know, you want to be sure that you make the correction decision and – yeah.

Q Do you think that if you were sitting in judgment of somebody who was accused of theft or writing a bad check or something that you might take that responsibility a little differently or do you think, "Oh, no, I would see those two as the same thing"?

JUROR 12: I want to say no, but I feel like when you're talking about someone's losing their life compared to petty theft, it is different. I mean, the – it's still the same proceedings and you should always, you know, treat it as this is important, this could impact someone's life; however, with, you know, the loss of life, it is extremely important that you make the right choice, and we would need the burden of proof to do that.

Q There's just some circumstances where you gotta give it a little extra time and a little –

JUROR 12: Yeah.

Q -- extra thought?

JUROR 12: You need to be extra careful I feel, yes.

Q Because the damage is worse – right? – if you're wrong.

JUROR 12: I guess, yeah, I would suppose, yeah, in this case for sure.

Q What do you think about those thoughts, sir?

JUROR 26: It's very high, and I believe everyone got the right to be proven innocent, you know, until they're proven guilty. Murder is – to me it's somebody's life being taken unwillingly, so the courts and the laws, it's y'all's job to seek the evidence and the facts for me to make a judgment on, and that's where I'm at.

Q Do you think that employing or applying that highest of all legal standards is the right thing in this case?

JUROR 26: Well, it depends on the case. Like you said –

Q Okay.

JUROR 26: -- when you said theft and murder are two different, you know, sides. One, to me, will be a little higher than the other.

Q This one being the highest, I presume?

JUROR 26: Well, I guess we could say that. But like I said, evidence is what convinces me.

Q Hard facts?

JUROR 26: Hard facts, you know, would help my –

Q Reliable information?

JUROR 26: -- my judgment, yeah. It's gotta be good though.

Q Yeah.

JUROR 26: Gotta be solid.

Q All right. What are your thoughts on somebody who's accused of a crime that – well, you shared with us a minute ago.

JUROR 26: I was doing bad.

Q You were a bad boy at one point; right?

JUROR 26: Yeah, I made some bad decisions.

Q I appreciate your sharing that. I mean, again, you know, it's not an easy place to talk at all –

JUROR 26: Right.

Q -- let alone do that, but it's really important to my client over here that we know who we're – who's gonna be sitting through this.

JUROR 26: Well, I'm proud of myself today for what I've been through, you know, coming from the streets of Chicago.

Q Kind of overcame it?

JUROR 26: Yeah. It's a blessing, too. I couldn't even be here.

Q Well, yeah. What are your thoughts on – I mean, having kind of been through this, what are your thoughts on somebody who chooses not to testify in their own case? How do you feel about that?

JUROR 26: Not to testify on your own case? Hmm. That's deep, man. I wouldn't want to say the wrong thing, but if it was me and I decided not to testify on my own case, I would probably be submitting.

Q You would probably what?

JUROR 26: I'd probably be giving up my rights.

Q And what do you mean by that?

JUROR 26: I would probably be admitting to what I did.

Q Well, okay, I'm trying to –

JUROR 26: If it was me. That's just the way I'm looking at it.

Q Yeah.

JUROR 26: I would probably be admitting or expecting my lawyer to save me.

Q Okay. Having kind of been there, done that, so to speak, is – if the Judge tells you you can't consider that at all in making a determination about guilt or innocence, I guess, is that something that you can do or are you gonna be like, "Well, I really think that – I really would have liked to heard what he had to say"? You know, I mean, it's probably one of the most controversial things –

JUROR 26: Yeah.

Q -- that we deal with in here. People have split down the middle on this.

JUROR 26: It's like you said, yeah, I would like to hear what he would, you know, have to say.

Q And if you didn't hear that, you might be a little biased toward him or –

JUROR 26: Like I said, if it was me and I made that choice, then I would be giving up.

Q What are your thoughts on that?

JUROR 12: I don't really know honestly. I think – I see both sides of it, whereas like you – sometimes it's the first time you're ever being questioned in that way, it can be very – I'm looking for the right word – just protruding into your personal life, and sometimes you can get very scared up on the stand. And so I think as a lawyer sometimes it would be the right move to say, "Okay, you're not getting up there. Like, that's not gonna happen." But also, on the other side of it, why wouldn't you want to if you know you're innocent? Why wouldn't you want to get up there and say that you are, 'cause you could probably sway someone into believing you?

Q You ever – did you have speech class in high school?

JUROR 12: I – yeah. I was on the debate team, as well.

Q Okay. I mean, I know nowadays my kids don't have speech.

JUROR 12: Yes.

Q We used to have to take speech class. I hated it, honestly, and it was one of those situations where you were always uncomfortable knowing I was next up; right?

JUROR 12: Yeah.

Q You know that feeling when you gotta get up in front of the class and you gotta talk? And that's just in high school; right? How might you think that feeling would be enhanced or aggravated or just – I guess "enhanced" is probably the right word if you were in a situation in here. You ever take speech class?

JUROR 26: No.

Q So you don't know that feeling?

JUROR 26: Um-um. (Negative response)

Q What do you think?

JUROR 12: I mean, I loved speech class, but that's just me. I just enjoyed that. And I was also on the debate team, so I remember standing up in front of people, especially in debate, when you had several other schools. It's quite an audience and it can be very intimidating, so I would imagine being on the stand, like on a witness stand in front of your peers, and also being accused of something would – and having people judging you, basically, that is our job, I imagine it would be quite difficult and scary.

Q Yeah. And you might not be yourself?

JUROR 12: Correct.

Q You don't think I'm blowing a bunch of hot air by talking about this; right?

JUROR 12: No.

Q Well, I mean, I think you get opinions from all different kind of people in

this business –

JUROR 12: Well, yeah.

Q -- and we get a chance to talk to people when they leave her sometimes, and it's like, you know, you're just always surprised by what people are thinking about –

JUROR 12: Yeah.

Q -- what we're talking about. But that's a fair conversation to have?

JUROR 12: Yeah.

Q Okay. I've talked about a lot of other things here, I'm just gonna go down the list. We talked earlier quite a bit about false confessions; you hear us talking about? You hear that?

JUROR 12: Yes.

Q Did you hear that?

JUROR 26: I think so, yeah.

Q Some of the reasons why somebody might say something, say they did something when they really didn't?

JUROR 26: Um-hmm. (Affirmative response)

Q Was there anything about that conversation that either one of you were like – or any of you, for that matter, were like, "Well, I don't believe that" or "That person was wrong" or anything that resonated with you?

JUROR 12: It's been a long day –

JUROR 26: It has been.

JUROR 12: -- so it's a little hard to recall.

JUROR 26: I mean, you can about almost tell if somebody's making a false confession, you know what I'm saying?

Q You can almost tell?

JUROR 26: No, I mean, you've been around.

Q I've been around.

JUROR 26: If somebody's telling a lie, a set-up, you know, you see it all the time on TV or whatever, but here, in these – you know, I don't expect it, you know, but – I don't know, I'm not sure about it.

Q Do you think it happens?

JUROR 26: I'm sure it probably does.

Q What about you?

JUROR 12: I think it does, yeah.

Q What about you?

JUROR 10: Sure.

Q You're like, "I thought I was done. Why are you picking on me?"

JUROR 10: No, no, sure.

Q Do you think that happens in our world?

JUROR 10: Sure. You know, I mean, if somebody – I think earlier today somebody, one of the potential jury, said that, you know, if someone just has been interrogated for a really long time, they just want it to be done –

JUROR 26: Yeah.

JUROR 10: -- you know, that they might just say, "Yeah, I did it, and I can go home", you know.

Q You ever been in that situation where maybe your spouse is accusing you of –

JUROR 10: Yeah.

Q -- and this is small beans, I understand that, but where somebody's – your

spouse is accusing you of doing something and they're just on you and on you and on you, and you're finally like –

JUROR 26: Yeah.

Q -- "You know what? Yeah, I did it"; right? Those things happen in life?

JUROR 26: Part of life.

Q You think of any reasons why somebody would admit to something and they – it was wrong, did that was wrong if they didn't do it, other than what they've talked about?

JUROR 28: For something small, sure. But something big? No.

Q You think there's a threshold?

JUROR 28: I think there's a threshold.

Q And that – you recognize it as one place that you're gonna cross.

JUROR 28: I will admit a lot of things to my ex-wife for a lot of things, I wouldn't admit to doing something bad.

Q Yeah.

JUROR 28: Yeah.

Q What about if somebody's compromised, mentally compromised, like they're not capable of really seeing where that threshold is? Might that be a reason?

JUROR 28: Possibly.

Q I mean, at some point, if you're just –

JUROR 28: That's for a doctor though, not for me.

Q Okay. So it'd be nice to know that, hey, a doctor examined this person or had an opinion about their mental state? That'd be helpful?

JUROR 28: I don't know.

Q Okay. What do you think?

JUROR 12: I think it would be difficult to prove if your mental capacity is being called into question and that can cause a false confession. I think that's something that would be difficult to not only prove, but believe in, just because, I mean, you can fake anything these days. But also, like, I also think that false confessions do happen under coercion and distress and, I mean, there's been documentaries about it, there's been recorded cases of people who have been proven not guilty, even though they said they did it. So I think it does happen, but I don't think it's something that happens all the time.

Q Yeah, it's not the norm; right?

JUROR 12: No. Yeah.

Q Statistically, it's not the norm.

JUROR 12; No, not at all.

Q Okay. You mentioned faking it; right?

JUROR 12: Yeah.

Q What kind of things would you be looking at to determine whether or not somebody is –

JUROR 12: I don't even know. But I think that – not necessarily faking it, but like – I'm trying to find the right words, but I guess, you know, sometimes – sometimes I get really worked up in my own personal life with anxiety and things and then you get – you put your mind into a place of like, "Oh, my God, this is the worst thing that's ever happened," and then you can make decisions based off of that mindset, but even though I know that that was true for me, it's hard to prove to someone else that, "Because of this, this, and this, this created my mindset and that's why I made that choice."

Q Um-hmm. (Affirmative response)

JUROR 12: Because someone could say, "Well, if I – if that was me, I would never have said that." But you can – it's only a case-by-case basis.

Q Really tough thing to prove –

JUROR 12: Yes.

Q -- because you're, essentially, opening somebody's brain up and then showing it to everybody else?

JUROR 12: Yes.

Q That's kind of what you're trying to accomplish; right?

JUROR 12: Correct.

Q Does anybody here – I can check the juror questionnaires – have any anxiety, depression, any issues like that?

JUROR 10: Some anxiety, yeah.

Q Okay. How does that impact you just, you know, kind of on a daily basis if you have external stressors? Does it –

JUROR 10: Yeah.

Q -- change the way you function?

JUROR 10: Yes.

Q Tell me about that.

JUROR 10: If it's really bad, I'll freeze, it's like I just can't think and can't do anything. It hasn't happened in a long time, but I used to have panic attacks, you know, where my heart's racing and I'm thinking everyone's seeing my heart just pounding and – but it can affect you really negatively. But I've – personally, it just make me kind of freeze up and not be able to do anything.

Q Okay. Does it ever make you do things that you wouldn't normally do,

other than just freeze up? Like you ever panic and do something like, "Oh, I – you know, I tried to pour that coffee real quick and I spilled it" or "I – you know, I called my husband and I said something to him I shouldn't have said" because you're kind of under some duress?

JUROR 10: No.

Q I don't know what it's like to have anxiety, frankly, so –

JUROR 10: No, not for me, no.

Q Okay. All right. What about depression? You?

JUROR 26: I go through a little depression every now and then. I had back surgery a couple years ago and I have four screws in my back and a metal disk, and sometimes it affects me, you know, my work, you know. I'm getting a little older, I'm looking toward my retirement, so I want to just go to work and not feel no pain. Every day I got pain, you know, I'm dealing with pain each day, so – and then, I'm trying to perform my duties at work at my age, so I'm looking at just trying to hurry up and retire, but I gotta wait.

Q So that physical pain –

JUROR 26: So the physical –

Q -- 'causes your depression to kind of –

JUROR 26: A little, yeah.

Q -- worsen?

JUROR 26: Kind of worsen, yeah. And really just my performance, you know, me moving around –

Q Okay.

JUROR 26: -- 'cause I'm – I always was athletic when I was younger, and now I'm getting slower and it's bothering me now; you know what I'm saying?

When I'm used to moving a certain way.

Q All right. I appreciate that. Anything else that I talked about? You know, I mean, we've hit on a few topics here: Government processes I talked about earlier; what kind of things people do when they commit crimes and how they change, we talked about that earlier today. Are there any thoughts from anybody? Like, "Hey, you know, I feel this way about one of those concepts"? Anything?

A (No response or indication from any potential juror.)

Q Okay. All right. Last question: Anything else that I need to know about any of you that I haven't heard today or Mr. McLeland didn't ask you about?

A (No response or indication from any potential juror.)

MR. ROZZI: Thank you.

THE COURT: All right, counsel, you may approach when you're ready.

(Sidebar conference conducted.)

THE COURT: Okay. Defendant is asking for cause on 1 and 3.

MR. MCLELAND: I have no objection, I'm okay with that. .

THE COURT: Okay. 1 is the – he's already got an appointment, he's told us. Number 3, she's biased. Okay. And no challenges other than just the cause?

MR. ROZZI: No, ma'am.

THE COURT: Okay. And then, the Defendant – the State is taking seat 4.

MR. ROZZI: You struck 4?

MR. MCLELAND: Yeah.

THE COURT: Um-hmm. (Affirmative response) So the woman in seat 2 would be your first alternate, and she's the one that said primary caregiver, and there are no challenges on her?

MR. MCLELAND: Okay.

MR. ROZZI: We really are in a situation where we gotta get three out of 50, aren't we? I mean, I'm okay, I'm just like -

THE COURT: Yeah, no.

MR. ROZZI: It's just the numbers worked out – it's not working out great.

THE COURT: No, it's not.

MR. MCLELAND: Number 3 or number 2? Number 2, okay, that's what I asked – sorry, Judge, I'm –

THE COURT: No, no, no, that's – 1 and 3 were cause –

MR. MCLELAND: Yep.

THE COURT: -- and you took 4, so 12. So here's let me release her – let me release these people, but you've got 52 people downstairs that are just highly aggravated and agitated, 'cause they've been kept waiting for three hours. Do you want to start fresh tomorrow morning and finish jury selection tomorrow morning? I mean, none of you have eaten. He hasn't eaten. We haven't been taking any breaks.

MR. MCLELAND: I –

THE COURT: I hate to be getting into the position where we have done this –

MR. MCLELAND: I don't think we can. I've – some of my other co-counsel are chomping on my heels to –

MR. ROZZI: Well, and by the time we get done with them moving around and –

THE COURT: It's gonna be –

MR. ROZZI: -- you know, instructions.

THE COURT: -- another three hours.

MR. ROZZI: Yeah, yeah. I mean, this is not –

MR. MCLELAND: (Inaudible)

MR. ROZZI: Yeah, we'll be here till 7 or 8, so I say that –

THE COURT: And we did that before. Do we really want to do this?

MR. ROZZI: Let's just take the break.

MR. MCLELAND: All right.

THE COURT: All right. So we'll accept her, let everybody else go, and then send the bailiffs down to release those people.

MR. ROZZI: And let them know that they don't have to come back, so they don't –

THE COURT: They do not have to come back.

MR. ROZZI: -- jump us in the parking lot.

THE COURT: And then they will be – and we'll start fresh with whatever our group is tomorrow morning.

MR. ROZZI: Sounds like a plan.

MR. MCLELAND: Oh, you're – okay. I'm with you. Sorry. I though they were gonna have to come back and I thought "They're gonna be pissed."

THE COURT: Oh, no, no, no. We'll start fresh.

MR. MCLELAND: You want to start with this – the first 50 of day 2 tomorrow?

THE COURT: Correct. So let me let them go and then we can have this discussion on the record; okay?

(Sidebar conference concluded.)

THE COURT: Okay. So, Juror 12 in seat 2, you have been accepted as a juror. The other three have been released with the Court's thanks. So we're gonna have the bailiff take all of you in through the jury room and we will go ahead and accept seat 2 and releases the other three. Thank you so kindly.

JUROR 26: Thank you.

THE COURT: Would counsel approach, please. Would counsel approach, please.

(Sidebar conference conducted.)

THE COURT: Okay. I'm not sure what's going on yet, but I will inform you as soon as I find out what's going on. Juror 50 in seat 6, the person that you last selected, as caused an issue. I don't know what it is. Jeremy said, "I'll be right back with you and explain it to you, but we've got a problem."

MR. MCLELAND: Juror 16?

THE COURT: 50.

MR. MCLELAND: 50.

THE COURT: 50.

MR. MCLELAND: Oh.

THE COURT: He's seat 6. That was the –

MR. MCLELAND: In the front row.

THE COURT: -- professor.

MR. MCLELAND: Yeah.

THE COURT: So what's his problem?

THE BAILIFF: Well, there's a couple different things, I guess. First and foremost, he's diabetic. He requires to have his cell phone with him at all times to monitor his glucose.

THE COURT: Okay.

THE BAILIFF: While that's fine and we can monitor that in the courtroom, I can't monitor that in his hotel room.

THE COURT: Oh.

THE BAILIFF: And that is a piece (inaudible), so that is a problem.

THE COURT: Because it's one of those monitors?

THE BAILIFF: Yes.

THE COURT: And it's activated by his phone?

THE BAILIFF: Yes, and that's how he does it. And he stated that, you know, "If I have to take a shot, I have to just do that right there in the courtroom and take out the needle and, you know, wherever." That's ancillary compared to him having his cell phone.

THE COURT: Right. Okay. So chew on that.

THE BAILIFF: Another things was his classes, he was complaining about it.

THE COURT: Yeah, he can complain about his classes.

THE BAILIFF: Yeah, okay.

THE COURT: Oh, no, 'cause he – and I think it was Mr. McLeland that talked to him at length about the – being able to maybe do it virtually or something like that and he was not terribly receptive. I'm more concerned about the diabetic issue and the fact that he has to have his phone to monitor his glucose levels. And it's not like we could –

THE BAILIFF: Well, the first thing that he told me –

THE COURT: It's an app.

THE BAILIFF: -- is that, "You trust me" (inaudible)

MR. MCLELAND: Maybe it's an unfair question, but you're gonna make that an official strike and he'll be let go for cause because of that?

THE COURT: That would be my initial thought, but I'm not gonna – you guys have all been working really hard. It's 4:45. I want you to be aware of the issue, think about it and decide what you would like to do. We don't have to do anything until tomorrow morning.

MR. MCLELAND: Okay.

THE COURT: Because then, by tomorrow morning, I need to know are we picking – because –

MR. MCLELAND: Three more and then –

THE COURT: Yeah, yeah, you're good.

MR. MCLELAND: -- the last person on the jury?

THE COURT: Correct. Right. This person would be filling and then we pick – so you think about it.

MR. ROZZI: Okay.

THE COURT: Okay.

MS. AUGER: Thank you, Judge.

THE COURT: And I didn't say this in front of company, I will do all of that up here at the bench. Okay.

(Sidebar conference concluded.)

THE COURT: Okay. So thank you, counsel, for your indulgence. It is 4:45, you are tired, the Defendant is tried. We have worked completely

through with very few breaks and very – no food, whatever little noshes you all have had available, but I've been concerned about Mr. Allen not having dinner or lunch. My suggestion is – we've got 52 people downstairs that have been sitting down there for about three and a half hours and are getting irritated. My suggestion is that we adjourn for the day, release those panel – that panel downstairs, let them go home. You all get some rest, get some food, and we will reconvene tomorrow morning with the first panel of Tuesday ready to go for the selection of the alternates that we need. What is the State's position on the Court's proposal?

MR. MCLELAND: No objection, Judge. That's fine, that's satisfactory.

THE COURT: Mr. Rozzi, what is the Defense position?

MR. ROZZI: Agreed.

THE COURT: Okay. I will have Jason or somebody go down and release those folks and then we will reconvene tomorrow morning at nine o'clock for our next round of – hey, folks, we're still working in here. Thank you for your indulgence, as well, please. We can then reconvene tomorrow morning fresh and then you can let the Court know what your thoughts are about our conversation up here at the bench about one of our selected jurors and some issues that that individual has presented to us. So let me know tomorrow before we get started what it is that we're doing tomorrow morning. Is there anything else that we need to do on the record, Mr. McLeland?

MR. MCLELAND: I'm a little brain dead, but I can't think of anything right at the moment, Judge.

THE COURT: Okay. Mr. Rozzi?

MR. ROZZI: I think just want maybe a little time with our client after the hearing.

THE COURT: Before he goes – okay. And then, once we get the jury picked, if we could use some of the day tomorrow to resolve all of the outstanding pending motions. There's a couple of motions in limine, you've got some motions for transport that I need some clarification on, the motion for separation of witnesses. So could we wrap all of that up and then you would have the entire day Wednesday to relax, get ready, and get down to trial? Yes, Ms. Auger?

MS. AUGER: I'm sorry, I'm – what is happening Thursday? Anything?

THE COURT: Thursday, we will have to reconvene in the presence of the Defendant and swear the jury in.

MS. AUGER: Okay.

THE COURT: And then, that will be the extent of that day.

MR. ROZZI: Okay.

THE COURT: So we will swear in the jury, since I'm required to do that in his presence, we'll swear in the jury and adjourn, and then you all travel back to your respective homes, jurisdictions, wherever you're all staying –

MR. BALDWIN: Okay.

THE COURT: -- and then the jury will be transported by private conveyance with the bailiffs. So that's what's happening on Thursday, it's just swearing them in –

MR. MCLELAND: So regardless of –

MR. BALDWIN: Thank you.

THE COURT: -- and going.

MS. AUGER: I was just confused about –

THE COURT: Yeah.

MR. BALDWIN: Thank you.

THE COURT: I think I shared this in an email, the logistics of the jury, the lodging and the transportation, was impossible. I had to set a date and I just picked Thursday. I should have picked Wednesday, but –

MS. AUGER: Well, then we wouldn't have a jury today.

THE COURT: Right. Yeah, we wouldn't have had the jury today, exactly, and then we would have been scrambling and scrambling and scrambling. So, Mr. McLeland, did you have –

MR. MCLELAND: I don't have anything, Judge. Thank you.

MR. BALDWIN: Thank you.

MR. MCLELAND: I agree with all that.

THE COURT: So be back here tomorrow morning at 9. And, Jason, you can go ahead and let the jury go. Jodie, you can go off the record.

(Off record at 4:50 p.m.)

(On record October 15, 2024, at 9:00 a.m.)

THE COURT: Well, good morning, ladies and gentlemen. We are back on the record in *State of Indiana versus Richard Allen*, 08C01-2210-MR-1. We are in courtroom 1 outside the presence of the jury. I know Jason and Jeremy have been downstairs corralling our next round of the folks for jury selection. Could I impose upon counsel to approach, please.

(Sidebar conference conducted.)

THE COURT: Okay. Very crowded up here.

MS. AUGER: Well, is it okay if I stand up here?

THE COURT: Oh, that's fine. Just watch out for Jodie's elbow.

MS. AUGER: Makes me feel tall.

THE COURT: Well, you are tall. Okay. So yesterday, we chatted about the theological gentleman who requires his phone. I asked you to kind of think about what you wanted to do, to see if you want me to strike him for cause.

MR. MCLELAND: The State's in agreement with that, Judge.

THE COURT: Okay.

MR. BALDWIN: I think our position was that that's – if he doesn't think he can – we don't – we're not opposed to it I guess is what we decided.

THE COURT: Okay. Okay. Okay. Then, I will – and we have not yet communicated with the gentleman in the first round that had to – he's under court supervision. So we will release – I'm just gonna call him the Circuit Court guy –

MS. DIENER: I think it's Number 35.

THE COURT: Yeah, Number 35, and the theological gentleman.

MR. LUTTRULL: He's 50.

MR. BALDWIN: 50.

THE COURT: 50?

MS. AUGER: Yeah.

THE COURT: Okay. Thank you.

MR. BALDWIN: Sure, yeah.

THE COURT: Okay. So –

MS. AUGER: I do know that.

THE COURT: Number 35, Number 50. Then, this morning

apparently – yesterday afternoon, you selected as an alternate Juror 12, (Inaudible). She is the lady that has the concerns about her family and her children and everything else, and I think even up at the bench yesterday I asked you if anybody was concerned. She's a primary caregiver, her husband's on a business trip, could she make arrangements, and she didn't know if she could or not, but nobody challenged her for cause, you all accepted her. She got home last night and had a melt-down. Called this morning and left a message requesting a phone call back. The staff, I think it was Dan Till, communicated with her this morning, that she is – she cannot find childcare for her three-year old. She had made efforts. She cannot find anybody. She can find a couple of people here and there that will kind of cobble some stuff together. Her husband cannot cancel his business trips and she cannot do this she says.

MS. AUGER: May I ask a procedural question?

THE COURT: Sure.

MS. AUGER: If we are in a position where we have to find one more juror, we go back to our old number of strikes?

THE COURT: Yes, because she would have filled out your jury.

MS. AUGER: Right.

THE COURT: No, I'm sorry, she would have been your first alternate.

MS. AUGER: Well, if pastor's gone, no –

THE COURT: Well, if the pastor is gone –

MR. ROZZI: (Inaudible)

THE COURT: Correct.

MR. ROZZI: Okay.

THE COURT: Yeah. So yes.

MS. AUGER: So –

THE COURT: So if we have excused the pastor – thank you, that's what we'll call him – then we're at 11.

MS. AUGER: Okay. Do you –

MR. BALDWIN: So whatever peremptories we had?

THE COURT: Yes, we go back to that.

MS. AUGER: Do you happen to have that written down?

THE COURT: I do.

MS. AUGER: Thank you. I'm sorry.

THE COURT: No, that's okay. I had – the State had used nine, the Defendant had used seven.

MS. AUGER: Okay.

THE COURT: So if we lose her, then yes, we are back to 11.

MR. MCLELAND: Okay.

MS. AUGER: Could we confer for a moment, please?

THE COURT: Sure. Yeah, go ahead and talk. I mean, I –

MS. AUGER: Thank you.

MR. MCLELAND: The State has no objection to striking her as cause, Judge. She indicated a lot of that on her jury questionnaire, so we knew it was –

MS. DIENER: Yeah. We kind of ignored it.

MS. AUGER: She didn't seem to be concerned about it.

MS. DIENER: She was very honest.

MR. BALDWIN: No objection on that, Judge.

THE COURT: Okay. So we can let her go, as well. Okay. Yes, because now we're down to ten.

MR. ROZZI: Okay.

THE COURT: No.

MR. ROZZI: No, we should be down to 11.

THE COURT: Eleven, we're down to 11.

MR. ROZZI: Yeah.

MS. AUGER: Okay.

THE COURT: I wrote 11, I said 10.

(Sidebar conference concluded.)

THE COURT: All right. Thank you, counsel, for the opportunity to have a discussion here about – okay – about our panel. Jason has a new panel for today and I believe we are in four rounds for that. As we discussed up here at the bench, Juror 35 – where's Jeremy? Okay. So Juror 35 from the first round yesterday will be excused. Juror 50, the gentleman that was selected yesterday who has some medical issues, will be released, as well. And the phone call that we received this morning from Juror 12 with her concerns about childcare, she will also be released. So that takes us then to – so you can go ahead and phone all three of those and thank them from the Court and the parties for their willingness to serve. That brings us down to 11 potential – well, we have 11 now, so we need to fill the last seat. I note that, counsel, you have used – the State has used nine strikes and the Defendant has used seven. The Court has struck dozens for cause. And out of fairness, I know yesterday when we thought we were selecting an alternate, we had some challenges for cause and the State exercised a challenge. I think, in fairness, since we're back now

to the regular jury panel, I will restore your alternate strikes.

MR. MCLELAND: Thank you, Judge.

MS. DIENER: Thank you.

THE COURT: So the first round, then, you have the seating chart and you have the list of folks. So we will be needing one juror plus four. Okay. Jason's indicating he'll need about 15 minutes to get everybody around and gathered and brought up, so that'll give you about 15 minutes then to kind of readjust. As trial attorneys, you should be used to working on the fly. So yeah, why don't you go ahead and get started and when – just let me know when you're ready.

MR. BALDWIN: Judge, before the jury gets brought up, I wanted to make a record on something, if that's okay.

THE COURT: Sure.

MR. BALDWIN: Okay.

THE COURT: Go ahead.

MR. BALDWIN: Oh. Is it okay without –

THE COURT: Yeah, she left the record running. She just ran to go get some water.

MR. BALDWIN: Judge, yesterday, Brad had asked for the Court to provide the reasonable doubt jury instruction in its entirety, which is pattern 1.15, the pattern instruction, and I would object to the current prelim instruction as, you know, not providing the pattern. And on that – kind of the same note, I would ask the Court to – Mr. McLeland was using the phase "firmly convinced", I think that was – it's not an accurate – and he was calling it – this is what the standard is – it is not the standard, the entire – it's – you know, it's conditioning

the jury to think that that is the pattern, that that is the standard, and it is not, and I would ask the Court to instruct him to not use that phraseology or at least put it in the context of an entire – the entire definition, 1.15.

THE COURT: Does that State have any response to that or no?

MR. MCLELAND: Judge, I don't think it's conditioning the jury. Firmly convinced is within the instruction the Court gives, it's within the pattern instruction. The jury must be firmly convinced to be convinced beyond a reasonable doubt, that's right there in the instruction. I don't think it's conditioning at all. If anybody's conditioning the jury, Judge, it's the Defense. I've never had to object to so many times I did yesterday, because they intentionally and knowingly are trying to condition the jury to see how they would vote on this case, and so I don't think following or using the language that's within the instruction is conditioning at all.

THE COURT: Well, you did ask for pattern 1.5 [sic], and I had Dawn prepare it. When the new pattern instructions came out, I did a comparison between the patterns and what the Court traditionally uses, which is pattern instructions. I've never veered from pattern instructions. So when I reviewed the new pattern instruction, it was this Court's opinion that everything that's contained in the pattern instruction is contained in the preliminary instructions if read as a whole; but at the Defendant's request, I did have it prepared and I will try to incorporate it into the preliminary and the final instructions in some fashion. I haven't had a chance to do that yet, obviously, we've all been a little bit busy; so I'll figure out where it can go in here. I'm thinking it's probably on that first page someplace. But I will give the pattern reasonable doubt instruction, which I note counsel for the Defendant read to the jurors –

MR. BALDWIN: Right.

THE COURT: -- twice, so –

MR. BALDWIN: Thank you.

THE COURT: -- and it contained the language that you complained of.

MR. BALDWIN: And I would like to address what Nick said about the indoctrination. Why is it – or whatever he –

THE COURT: Conditioning.

MR. BALDWIN: Conditioning. I don't understand why asking the jury if they already believe he's guilty as he sits there, why that is conditioning. I'm trying to understand if they have a preconceived bias against him. I'm not trying to condition a jury, I'm trying to understand, as a lot of people do, if they think just because somebody's arrested that they have – that they are guilty, and I'm trying to weed those people out or at least figure out who they are.

THE COURT: That's not what the State complained of. They complained of you asking if they – if it's proved beyond a reasonable doubt – or not proved beyond a reasonable doubt, will you vote not to convict my client –

MR. BALDWIN: I didn't –

THE COURT: -- that's what you asked.

MR. BALDWIN: No, I respectfully disagree, that is not what I asked.

THE COURT: Well, that's conditioning.

MR. BALDWIN: Well, that – I don't know that I would agree with that, Judge, but that's not what I asked. I mean, what I asked was is he guilty as he sits here, something to that effect, and I just don't – I don't want to run afoul of the Court, that is for sure, and I – but I – I'm having – that's why I'm

having this conversation is I don't want to run afoul. I just – I don't understand. I mean, when I was accused of conditioning the jury, I'm just telling you that's not my intent. I'm trying to figure out who has a preconceived idea that Mr. Allen is guilty, that's all that I'm doing, which is exactly what I should be doing.

THE COURT: And I don't have a problem with that.

MR. BALDWIN: Okay.

THE COURT: Asking them – as he sits here, he is innocent, he is innocent –

MR. BALDWIN: Correct.

THE COURT: -- until proven guilty. That's not what you're asking them. You're asking them if he's guilty and that – well, I don't know why you would ask that. And, candidly, conditioning the jury is explained thoroughly in the case law that I have encouraged counsel to become familiar with.

MR. BALDWIN: So – and I'm not trying – I'm really trying to understand this. So asking a jury if they think that he is guilty as he sits here is conditioning and it's not me trying to figure out if a jury has a preconceived bias against him? That's what – which is what I'm trying to do. You think that that is conditioning? And if it is, I will honor that, but I just don't –

THE COURT: That is not conditioning, sir. Asking a jury how they will vote is conditioning. If you want to ask the jury or if you want to encourage the jury to honor his right that he is innocent until proven guilty, you are absolutely entitled to do that and I'm not gonna stop you from doing that.

MR. BALDWIN: Okay. Thank you for the –

THE COURT: Sure.

MR. BALDWIN: Appreciate it.

THE COURT: Is there anything else that we need to talk about on the record before the jury comes in? I mean, they're not quite up here yet, but we've got a few minutes, if there's anything else.

MR. ROZZI: No, ma'am.

MR. BALDWIN: No, thank you.

THE COURT: Anything from the State?

MR. MCLELAND: Judge, I guess if we have a few minutes, we could – is it the State's intention – or State's – I'm sorry, Judge. Is it the Court's intention that, if we get a jury selected today, that we're gonna move right into the motions that are out there pending?

THE COURT: As many of them as we can get through, yes.

MR. MCLELAND: Okay. Judge, there may be one motion that we have witnesses that we had subpoenaed for Thursday –

THE COURT: Okay.

MR. MCLELAND: -- and so there may be one motion that we're not prepared to go forward on today, I think there are others that we are; but I just kind of wanted to give the Court a heads-up, we may have a witness problem, because we just expected them to – we expected to do them Thursday.

THE COURT: Okay. That's fair.

MS. DIENER: And to that end, Judge, when we were to subpoena the witnesses, I didn't know whether to subpoena them to Allen County or to Carroll, because we're swearing in the jury Thursday morning, and it was the motion on sketches, so I have two witnesses, one coming from Michigan and one that lives in Carroll County. They're both aware that it could be in either place, I just haven't told them where.

THE COURT: Okay. I mean, there are several motions that were filed by the Defense that we need to resolve and several that were filed by the State that we need to resolve. Perhaps the one that you need witnesses for could be – we could do that tomorrow.

MS. DIENER: And do that?

THE COURT: Here.

MS. DIENER: Here? Okay.

THE COURT: I mean, Mr. Allen has to stay here until the jury is sworn in, so I know I had indicated to counsel that, you know, tomorrow we'll have the day off, but maybe we won't have the day off if we need to use that day for evidentiary hearing.

MS. AUGER: Could we do it Thursday, when we're going to be here anyway?

THE COURT: After the jury is sworn? That's fine.

MS. DIENER: I originally told them Thursday, so I just told them I didn't have a location yet. I wouldn't even care if we did it Thursday afternoon in Carroll County. I'll do whatever the Court wants me to do –

THE COURT: Okay.

MS. DIENER: -- but –

THE COURT: We could do it Thursday morning.

MS. AUGER: Thank you.

THE COURT: 'Cause you're –

MS. AUGER: That'd be nice.

THE COURT: 'Cause you're gonna – are you – well, it doesn't matter. I get what you're saying.

MS. AUGER: Thank you.

THE COURT: Yeah, we could do it – let's do it Thursday morning, then –

MS. DIENER: Okay.

THE COURT: -- after the jury is sworn. 'Cause the jury's gonna be told to report back – there's some logistical things that I need to take care of with the jury, as far as their belongings and the bus and everything else that we need to worry about, so we could swear the jury in, get them going with their stuff, and then we could hear that motion.

MS. DIENER: Okay. So –

THE COURT: Is that the only motion that we need witnesses on?

MS. DIENER: Yes.

MR. MCLELAND: Yes, Judge, I believe so.

THE COURT: And that was the one that was just filed, something about a composite sketch?

MS. DIENER: Yes.

MR. MCLELAND: Correct.

MS. DIENER: And so what time should I anticipate?

THE COURT: Well, I'm gonna have the jury here at 9 to be sworn in –

MS. DIENER: Okay. So I'll just say 9.

THE COURT: -- right after.

MS. DIENER: Okay.

THE BAILIFF: All rise.

(Potential jurors in at 9:31 a.m.)

THE BAILIFF: Thank you. You may be seated.

MR. MCLELAND: Judge, before you get started, may be approach?

THE COURT: Sure. Come on up.

(Sidebar conference conducted.)

MR. MCLELAND: Judge, I'll wait till Mr. Rozzi gets up here, but there's one juror that put on her questionnaire that her sister (inaudible) Mr. Rozzi's trying to get the exact juror number. Mr. Rozzi approached me, that he's gonna try to get her for cause because it's maybe the sister of Dr. Wescott.

THE COURT: Oh, okay.

MR. MCLELAND: I'd have to find it.

MS. AUGER: Oh, I had it.

THE COURT: So what's the deal?

MS. MCLELAND: On her questionnaire, she put, "My sister interviewed Richard Allen."

THE COURT: Oh.

MR. ROZZI: And I texted our doctor, she said, "My assistant, who did one of the interviews, has family in Fort Wayne," and I'm pretty sure that's who that.

MS. AUGER: Here it is.

MR. MCLELAND: I guess we don't have any objection to a strike him for cause.

MR. ROZZI: You don't think she's on this group?

MS. AUGER: I think she's on the 12 in the box.

THE COURT: (Inaudible)

MS. AUGER: I think she's back there.

MR. ROZZI: Okay. Sorry, we're just trying to figure this out.

THE COURT: Mr. McLeland.

MS. AUGER: Sorry.

MR. ROZZI: You got your paws on it.

MS. AUGER: There it is. See it, Judge?

THE COURT: Okay.

MS. AUGER: Well, the ID is –

THE COURT: Yeah. What's her number, juror number?

MS. AUGER: 43680.

THE COURT: No.

MS. AUGER: That one?

MR. ROZZI: So she's not on our – maybe she didn't appear.

THE COURT: Maybe she didn't show up.

MR. ROZZI: Yeah.

THE COURT: I knew that there were 55 summoned and 44 showed up.

MR. ROZZI: Huh.

MR. MCLELAND: Yeah. Definitely Number 8, Judge.

MR. ROZZI: Okay. Well, then maybe that solves the problem.

MS. AUGER: Okay.

THE COURT: And you have the right panel; right? I don't mean to be rude, but you've got the right panel for today?

MS. AUGER: (Inaudible)

THE COURT: Okay. Maybe she didn't – okay. Maybe she didn't show up.

MR. MCLELAND: Yeah.

THE COURT: All right. Are we ready, then?

MR. MCLELAND: Yes, Judge.

THE COURT: Okay.

(Sidebar conference concluded.)

THE COURT: Okay. So we're ready, folks? We're ready? Okay. Very good. Well, good morning, ladies and gentlemen. It's nice to see you here this morning. My name is Fran Gull, I am a judge here in Allen Superior Court in our Criminal Division. I've also been appointed by the Indiana Supreme Court as a special judge in a case entitled *State of Indiana versus Richard Allen*. The case is from Carroll Circuit Court in Delphi, Indiana, which is approximately two hours west of here in Fort Wayne. Thank you for coming in today and for filling out the questionnaires which were sent out to you several weeks ago. Your thoughtful responses to those questions will greatly reduce the amount of time necessary for us in selecting a jury. All of you will be asked today to take an oath or an affirmation that your answers to the questions today will be truthful. I will then ask a number of questions addressed to all of you as a group. Those of you already seated in the jury box, if you have any responses to my questions, just let me know and raise your hand and we'll take care of your responses as they come up. Those of you out in the gallery, if you'd just be so kind, please, to keep track for us anything you might be responding to. The only question that I'll have for you is – if you do get up into the box will be to ask you if you had any responses to my questions, and then that would be your opportunity to share with us anything you might be responding to. Once I'm done with my questioning, the attorneys for the State and for the Defendant will question you,

as well. Again, those of you out in the gallery, please, pay care careful attention to the attorneys' questioning, as well, so that you can adequately respond if asked to. The questions that we have for you are not intended to be in any way offensive, personal, or prying, but rather are necessary to ensure that a jury is selected of individuals who can fairly and impartial resolve this case. This is a criminal case brought by the State of Indiana. The trial is scheduled to conclude November 15th of 2024. The attorneys have indicated that it may be done sooner, but it's currently scheduled for October 14th, which was yesterday, through November 15th of 2024. We will start each day at 9 a.m. in the Carroll Circuit Court. We will break for lunch as close to noon as we can get. And then we work into the late afternoon, perhaps as late as five or six o'clock, it just kind of depends on where we're at with the trial. We do take breaks in the morning and in the afternoon as needed, generally about every two hours or so. And I just tell you that so that you have some kind of an idea on the time commitment that we would be asking of you. It is necessary that those of you that are selected as jurors be kept together under the court supervision of the bailiffs from the time that you are sworn in as the jury on Thursday until the trial is concluded. This procedure is necessary to assure that you are not subjected to any improper influence or any improper information. Those of you that are selected to serve will be provided with transportation, lodging, food, and other necessities by the Court during the trial. We realize that such jury service will be a hardship for many of you, but Indiana law provides for it in order to assure that there is a fair trial for the State and for the Defendant. If this procedure which is called sequestering, will be subjecting you to any especially severe hardship, you will have an opportunity to explain your situation to me before the decision is made

that you would be selected as juror. If you are selected to serve as a juror in this case, you will receive a phone call from the Court's bailiffs later in the week, perhaps as early as tomorrow, giving you instructions on when you are to report to the courthouse. Prior to leaving the courthouse, once you are selected, the Courts bailiff will give you an information packet and directions regarding what to pack and bring and your return to the courthouse for transportation by the court to the trial down in Delphi, Indiana. We'll begin the trial with a process called voir dire or jury selection. I'll tell you a little bit about this case, I'll tell you a little bit about our trial process, and then ask you some questions to determine your qualifications to sit as jurors in this particular case. To begin that process, first I'll introduce the attorneys to you and then they're going to list their witnesses. I'd ask that you pay careful attention as the attorneys are listing witnesses, as one of the questions that I'll have for you is to ask you if you know any of the folks that are expected to testify. Representing the State of Indiana is the elected prosecutor of Carroll County, Nicholas McLeland, and deputy prosecuting attorneys Stacey Diener and James Luttrull. Folks, if you'd, please, stand and introduce yourselves and list your witnesses for us, please.

MR. MCLELAND: I'm Nicholas McLeland, elected County – Carroll County Prosecutor.

MR. LUTTRULL: I'm Jim Luttrull. Good morning.

MS. DIENER: I'm Stacey Diener.

MR. MCLELAND: The witnesses that we intend to call, at least in part, for trial are Becky Patty, Kelsi German, Derrick German, Anna Williams, Mitch Catron, Steve Mullin, Shane Haygood, Pat Brown, Darren Giancola, Jason Page, Duane Datzman, Brian Olehy, Greg Edwards, Brian Bunner, Jeremey

Chapman, Railly Voorhies, Breanna Wilber, Betsy Blair, Daniel Pearson, Cheyenne Mill, Jake Johns, Sarah Carbaugh, Thomas Plantz, Kathy Pennington, Nikkole Robertson, Dr. Roland Kohr, Christopher Cecil, Kathy Shank, Dan Dulin, Tony Liggett, Matt Clemens, Dave Vido, Jerry Holeman, Melissa Oberg, Christopher – sorry, Jerry – sorry, Jerry Holeman, I think I listed him already, Stacy Bozinovski, Pat Cicero, John Galipeau, Mark Moneypenny, Ethan Drang, Mark Clemens, Michael Roberts, James Early, Antonio Contreras, John Miller, Nicholas Greer, Brandon Fisher, Brandon Smith, Jason Bedwell, Monica Wala, Brad Weber, and Brian Harshman.

THE COURT: Thank you. Representing the Defendant, Richard Allen, are attorneys Bradley Rozzi, Andrew Baldwin, and Jennifer Auger. Folks, if you'd, please, stand, introduce yourself and list your witnesses for us.

MR. ROZZI: Thank you, Judge. Good morning. I'm Brad Rozzi, I'm from Logansport.

MR. BALDWIN: Andy Baldwin from Franklin, Indiana.

MS. AUGER: I'm Jennifer Auger, I'm also from Franklin, Indiana.

MR. ROZZI: And, Judge, as I indicated yesterday, I'm just gonna name all the witnesses on our list, so I'm not trying to pick out the ones that are duplicates.

THE COURT: That's fine.

MR. ROZZI: Tobe Leazenby, Anthony Liggett, Jerry Holeman, Brian Harper, Douglas Carter, Steve Buckley, David Vido, Greg Edwards, Brian Bunner, Kevin Murphy, Todd Click, Richard Davies, Dan Dulin, Jason Page, Roland Purdy, Ryan Winters, Stephen Mullin, Nikkole Robertson, Roland Kohr, Betsy Blair, Sarah Carbaugh, John Galipeau, Randy Jones, Joshua Robinson,

Teresa Liebert, Brad Holder, Elvis Fields, Patrick Westfall, Johnny Messer, Amber Holder, Taylor Hornaday, Kelsi German, Railly Voorhees, Bre Wilber, Anna Spath, Carl Abbott, Kegan Kline, Tony Kline, Derrick German, Mike Patty, Beck Patty – Becky Patty, excuse me, Anna Williams, Drew Yoder, Taylor Bryant, Thomas Plantz, Polly Wescott, William Tobin, Eric Warren, Brian Alvey, Monica Wala, Matt Hoffman, Max Baker, Ed Schroder, Stuart Grassian, Kathy Allen, Janis Allen, Andrew Jackson, Zachary Hanes, Susan Case, Richie Davis, Jr., James Haas, Misty Moore, Troy Jacobs, Lacey Patton, Jr., John Miller, Jaime Jones, Cheyenne Mill, Shelby Duncan, Shelby Hicks, Daniel Pearson, Bradley Heath, Melissa Dawn Yoakum, Richard Kaman, Karl Reich, Logan Holder, Rod Abrams, Ned Smith, Kerri Messer, Brad Weber, Rebecca Stevens, Brittany Zapanta, Brandon Mansfield, Josh Moore, Alvin Flynn, Matt Buzberg, Larry Spiegel, Danny Hammond, Peter Dunn, Josh Harrison, Benny Cameron II, Terry Wilson, Brett Ingram, Mitchell Catron, Angel Empey, Raymond Smith, Michael Roberts, Officer Grassian – C. Grassian, Jesse James, Pat Cicero, Robert Ives, Neil Broom, Stacy Eldridge, Joseph Alvey, Greg French, Brian Kubiak, Stacy Bozinovski, Robert Orr, Adam Pohl, Christopher Gootee – Gootee, excuse me, M. Blessing, J. Furtee, James Chadwell, Richard Everett, David Jones, Jonathan Jewell, Misty Adams, Chris Cecil, Kevin Hobson. One second. Judge, I don't recall yesterday if I read – there was a few other foundational –

MS. AUGER: You did.

MR. ROZZI: -- witnesses. Did I read those yesterday? I'm sorry, I'm not sure what I did with that list. Let me check right here. Judge, there was a handful, maybe 7 or 8 of other foundational witnesses that I can't find the list of them sitting here. Would the Court just allow me to pass on that and, if I can

find it maybe –

THE COURT: Sure. Yeah, just let me know if you find it.

MR. ROZZI: -- we can address it here in a minute?

THE COURT: Yeah, okay.

MR. ROZZI: Yeah, very good. Thank you.

THE COURT: All right. Also in the courtroom with us are officers from the Allen County Sheriff's Department assigned to assist the Court, officer Jason Bohde and Corporal Jeremy Tinkel, who are the gentlemen that brought you upstairs from the jury assembly area. Also with us is Leslie Ross. If you would stand, so they can see you. She's also gonna be assisting us during the trial. To her left is Reed Davis and we've got Zach Filipiak and Deantre Campbell over here in the corner. If there's anything that you need from me during your stay with us here today and then into the trial, if you'd just let – today, if you'd let one of those folks know that you've got an issue or a question or concern, they'll get that to me. During the trial, we will be having you communicate to the Court through Jason, Corporal Jeremy Tinkel, and Leslie. We have a lot of microphones in this courtroom. The attorneys are wearing wireless microphones so that we can pick them up as they move around the room speaking with you. Seated directly in front of me is Jodie. Jodie's my court reporter and she's monitoring the proceedings on the microphones and her headset and the computer. If she can't hear you during our discussion, she will interrupt and said, "I can't hear you. Please speak up." Please don't be embarrassed or offended by that. We're not trying to shine a light on you as a quiet or soft-spoken or a nervous person, we're just trying to make a good record. This is a beautiful courtroom, it is a wonderful place to work every day, but the sound is

terrible, and our voices just bounce off these beautiful walls, and then your voices in the jury box go up into that lovely skylight overhead. The Preservation Trust has made it perfectly clear to me that they won't let me put any equipment up there to capture your voice, so it's just real important that you speak up nice and loud so that we can hear you. Sometimes I tell people, "Use your outside voice." You're gonna feel like you're screaming, I feel like I'm screaming at you right now. Use your outside voice so that we can all hear. So this is a criminal case, I'm going to read the charging informations to you and the statutory elements of those charges that the State is required to prove before you can convict an individual. This case charges the defendant with count 1, felony murder, a felony; count 2, felony murder, a felony; count 3, murder, a felony; and count 4, murder, a felony. The charges read in count 1 that: On February 13th, 2017, in Carroll County, Indiana, Richard Allen did kill another human being, to-wit: A.W., while committing or attempting to commit kidnapping. To convict the Defendant of this count, the State is required to prove these elements: One, the Defendant, Richard Allen; two, killed; three, A.W.; four, while committing or attempting to commit kidnapping, which is defined as a person who knowingly or intentionally removes another person by force or threat of force from one place to another. Count 2 reads: On February 13th, 2017, in Carroll County, Indiana, Richard Allen did kill another human being, to-wit: L.G., while committing or attempting to commit kidnapping. To convict the Defendant of this count, the State is required to prove these elements: One, the Defendant, Richard Allen; two, killed; three, L.G.; four, while committing or attempting to commit kidnapping, which is defined as a person who knowingly or intentionally removes another person by force or threat of force from one place to another.

Count 3 reads: On February 13th, 2017, in Carroll County, Indiana, Richard Allen did knowingly or intentionally kill another human being, to-wit: A.W. To convict the Defendant of count 3, the State is required to prove these elements: One, the defendant, Richard Allen; two, knowingly or intentionally; three, killed; four, A.W. And Count 4 reads: On February 13th, 2017, in Carroll County, Indiana, Richard Allen did knowingly or intentionally kill another human being, to-wit: L.G. And to convict the Defendant of this count, the State is required to prove these elements: One, the Defendant, Richard Allen; two, knowingly or intentionally; three, killed; four, L.G. As I said, the State of Indiana has the burden of proof in a criminal case since the Defendant is presumed to be innocent. The State's burden of proof is proof beyond a reasonable doubt. Proof beyond a reasonable doubt is proof that would leave you firmly convinced of the Defendant's guilt. If, based on your consideration of the evidence, you're firmly convinced the Defendant's guilty of the crimes charged, you may find him guilty. If, on the other hand, you think there is a real possibility that he is not guilty, you must give him the benefit of the doubt and find him not guilty. Under our jury rules, the attorneys have the opportunity during this process to give you a brief overview of their case in order to acquaint you with any facts or issues which may arise during the trial. These are called mini-opening statements, they're about five minutes in length. For purposes, then, of the mini-opening statement, Mr. McLeland.

MR. MCLELAND: Thank you, Your Honor. Ladies and gentlemen, good morning. This case is about three things: Bridge Guy, a bullet, and the brutal murder of two young girls. The two young girls are A.W. and L.G., A.W. and L.G. A.W. and L.G. are from Delphi, Indiana. It's a small town, as the Judge

said, about two hours southwest of here. They go to Delphi schools. On February 13th of 2017, they had the day off from school; and on that day, it was unseasonably warm in our town, so A.W. and L.G. decided to go to the trails, and specifically to go to the Monon High Bridge. The trails are a local attraction in Carroll County and it's a trail system, walks you through the woods, crosses over several bridges. The Monon High Bridge is an abandoned train trestle, it's about 60 feet above the Deer Creek. There's no rails, it's still got the ties there; again, it's an abandoned train trestle. And the plan for A.W. and L.G. that day were to go to the trails and go across this train trestle. It's common for children their age to do that, either as a rite of passage, for fun, or to test their bravery, it's common for them to cross this bridge. Well, they weren't alone on that day. When they crossed the bridge, it wasn't just A.W. and L.G. They were followed by a man, a man we refer to as Bridge Guy; and Bridge Guy followed them across the bridge and used the gun that he had and forced them down the hill, he kidnapped them. And his intent was to have his way with them, to do with him what he wanted them to do, but he was interrupted, he was stopped short, and with the power that he had over A.W. and L.G., he forced them wade across the creek, forced them to take off their clothes, and then slit both of their throats. He brutally murdered both A.W. and L.G. He took the clothes that he could gather and he threw them into the creek, and he casually walked back to his vehicle and went home. But what he didn't know was he left behind a clue, a bullet, a bullet with distinct marks that show it was cycled through a gun that he owns, that it came from his gun, a bullet that was found right between the bodies of A.W. and L.G. But you don't have to take my word for all of this, because you're gonna hear a statement from Richard Allen himself, a statement

that places him on the trails at the same time as A.W. and L.G. were on the trails and places him on the bridge at the same time that A.W. and L.G. were on the bridge. And through his statement, but also search timestamps and information in photos and other evidence and in a video, the State will show that Richard Allen is Bridge Guy. The timing is right, he is Bridge Guy. He is the guy who forced the girls down the hill. Finally, you're going to hear from Richard Allen himself in his own words. He's gonna tell his wife, his mother, correctional officers, his therapist, the warden, and anybody else that'll listen that he brutally murdered A.W. and L.G., that he killed A.W. and L.G., and he's gonna repeat it over and over and over again. And these are unsolicited, unprovoked admissions, admissions he made on his own. And in some of the admissions, you're not only gonna hear that he killed A.W. and L.G., but you're gonna hear details about how he did it and why he did it. That is why the State has charged Richard Allen with the murder of A.W. and L.G., because Richard Allen is Bridge Guy who used a gun, left behind a bullet when he brutally murdered A.W. and L.G.

THE COURT: Mr. Baldwin.

MR. BALDWIN: Richard Allen confessed to taking a gun and shooting those girls in their back. The problem is medical evidence will show that Richard Allen lied, because the medical evidence shows those girls weren't shot, they weren't shot in the back, they weren't shot at all. So Richard Allen confessed to the crime that he didn't commit and admitted to facts that aren't true. Richard Allen confessed to raping those girls and burying their bodies in a shallow grave, but the medical evidence will show you that those girls weren't raped and crime scene photos will show you those girls weren't buried in a

shallow grave. Once again, Richard Allen confessed to crimes he didn't commit admitted and admitted to facts that simply weren't true. Along the way, he also said, “I think I killed my family, including my grandchildren.” Richard Allen doesn't have grandchildren, and his family was never killed. He admitted to things that aren’t true, he confessed to things that didn't happen. How did that happen? You're gonna learn the context, the context, behind how those words came out of his mouth. For the previous four months, he was in solitary confinement in Westville Prison, one of the worst prison, housing the worst people, rapists, murderers, people that kill people in prison, and that's where the Sheriff of Carroll County sent Richard Allen after he arrested him four months earlier. And that never happens, you get arrested and you stay in the county jail, but they sent him up to Westville, where he ended up in solitary confinement in a maximum security facility. In this country and this state, that happened. An innocent man was plucked up – where was he four months earlier? Well, Richard Allen was at home. He was living, working at CVS, living with his wife of 30 years, his dog, raised a daughter, and he was plucked out of there and placed into Westville. And you're gonna hear evidence from experts who are gonna tell you that what he went through, what he endured, “you're a child killer, a baby killer, kill yourself,” that takes its toll. And you're going to see video of him in his cell, his tiny little cell, with a little mattress on it that high up, and a toilet where he has to - people have to watch him go to the bathroom, something that he’s never endured, and it takes its toll and the ingredients were there for what ended up happening, confession. What about the evidence? Any DNA evidence? No. Fingerprints? No. Trace evidence? No. Oh, there's hair found in A.W.’s hand, but it's not Richard Allen’s. This bullet, you're gonna find

there's gonna be a couple types of evidence out there, there's evidence that's open to interpretation, like the bullet. By the way, whoever's on that jury – and we're gonna be talking about all this stuff with you, by the way, you know, the confessions and how you feel about it and evidence and stuff like that in a minute. But, you know, you're gonna hear evidence from this bullet, and it is open to interpretation, expert, expert. But you guys, whoever's on the jury, they have their own eyes, as well, and they'll be able to look at the comparison photos, and you'll see with your own eyes, it's a bunch of bunk. In the end, Richard Allen is an innocent man and the evidence will support it, including this evidence from a phone that L.G., one of the victims, it's hard evidence, not open to emotion, it's just there, data is data is data, and that will help you know that Richard Allen is innocent, it will exonerate him, and you will ultimately find him not guilty because of that. Thank you.

THE COURT: Have you found your list yet, Mr. Rozzi?

MR. ROZZI: I have.

THE COURT: Okay.

MR. ROZZI: Thank you, Judge. May I?

THE COURT: Yes, please.

MR. ROZZI: So the remaining witnesses are Joanna Primeau, Sarah Clark, Kenneva Mapps, Thomas Wellington, Phil Ivy, Steve Bour, John Martin, Bravlio Eloiza, Deanna Dwenger, and Dawn Stephens. Thank you.

THE COURT: All right. Thank you. All right. Before we begin the questioning process, I'm required by state law to administer an oath you. If you would respond at the end of the oath either by stating “I do” or by stating “I so affirm.” If all of you out in the gallery that are here for jury duty, as well as the

12 of you in the box, if you would all, please, raise your right hands for me. Do you solemnly swear or affirm under the penalties for perjury that you will honestly answer any question asked of you during the jury selection process?

(Potential jurors sworn at 10:00 a.m.)

THE COURT: Thank you. When you were selected for jury duty, each of you were assigned a jury number. Under our jury rules, those of us in the trial courts are required to maintain your privacy. We're also required to maintain as a confidential court record that questionnaire that you filled out several weeks ago. To maintain your privacy, I'll use that juror number. The attorneys may use that number, they may use the number of the seats that the 12 of you are currently occupying, or they may just address you as “ma’am” or “sir”, I'll leave that up to them, but we don't use your names here in criminal court. I’ll begin the questioning process and then the attorneys will have 30 minutes per side the question you. Once they're done with their questions, they’ll approach the bench to excuse errors. They have two types of challenges that they can make to a juror. The first kind of challenge is a peremptory challenge and, within certain guidelines, they can use that for any reason at all. The other kind of challenge is a challenge for cause, and that is used to excuse a juror who has personal knowledge about the facts in the case and obviously couldn't be fair and impartial. Please don't be offended if you are excused. It means you're free to go. It also means, under our jury rules, before we can call you back in the next two years, we have to go through our list of folks that are eligible to serve. Allen County is very fortunate that there's about 270,000 people on that list, and we're not gonna go through all those people in the next two years and get to you again, so thank you in advance for coming in and going

through this process with us. If you are selected to serve, you have to keep an open mind. You can't form an opinion or an a conclusion about the case until jury deliberations again. Our jury rules do give you the opportunity during the trial to take notes, and I'll provide you with paper and pens to do that. Our rules also give you the opportunity to ask questions of witnesses if you think the answer would be helpful in understanding the case and also to have some limited discussions about the evidence that you've heard when we're on our breaks. And once we get through this process and get into the actual trial itself, I'll give you formal written instructions on everything that I've just covered so, please, don't panic and think, "I'm never gonna remember all of this," I'll give you written instructions on all of that. Most of my questions anticipate a negative response from you; by that, I mean you probably don't know any of these lawyers, you probably don't know any of the witnesses, and hopefully don't have an opinion about the criminal justice system that you can't set aside. So those of you in the box, if you have a response other than no, raise your hand and let me know and we'll take care of your responses as they come up.

VOIR DIRE BY THE COURT

ANSWERS BY POTENTIAL JURORS.

Q So with all of that being said, do any of you know the attorneys?

A (No response or indication by any potential juror.)

Q Do any of you know any of the people who may testify during the trial?

A (No response or indication by any potential juror.)

Q Do any of you know the Defendant, Richard Allen?

A (No response or indication by any potential juror.)

Q Do any of you have any personal knowledge concerning the facts in this

case?

A (No response or indication by any potential juror.)

Q Do any of you remember reading or hearing anything about this case in the media? Okay, so we've got several. All right. Juror 30, without going into what you may have read or heard, have you formed an opinion about this case?

JUROR 30: No.

Q Can you set aside whatever you read or heard in the media and give – and just base your decision on the evidence that you see and hear in the courtroom?

JUROR 30: Yes.

Q Okay. And, Juror 14, without going into what you may have read or heard, have you formed an opinion about this case?

JUROR 14: Yes.

Q And is that an opinion that you can set aside and listen to the evidence with an open mind?

JUROR 14: Yes.

Q And you can make a decision on the evidence that you see and hear, not on what the media tells you?

JUROR 14: Yes.

Q Okay. And, Juror 39, I saw your hand go up. Without going into what you may have read or heard, have you formed an opinion about this case?

JUROR 39: Yes.

Q Is that an opinion that you can set aside and listen to the evidence with an open mind?

JUROR 39: I think so.

Q Okay. That's all we ask. Thank you. And you can listen to the evidence

with an open mind and make a decision on what you see and hear in the courtroom, not on what the media says?

JUROR 39: (Responds by nodding in the affirmative.)

Q Okay. Juror 11, did I see your hand go up? Without going into what you may have read or heard, have you formed an opinion about this case?

JUROR 11: Yes.

Q And is that an opinion that you can set aside and listen to the evidence with an open mind?

JUROR 11: (Responds by nodding in the affirmative.)

Q You're nodding your head yes. So you can ignore what the media said and base a decision on the evidence and the law that I instruct you on?

JUROR 11: Yes.

Q Okay. Anybody else in the box? Juror 2, without going into what you may have read or heard, have you formed an opinion about this case?

JUROR 2: Yes.

Q And is that an opinion that you can set aside and listen to the evidence with an open mind?

JUROR 2: Yeah.

Q So you can ignore the media and make a decision on the evidence that you see and hear in the courtroom and the law as I instruct you?

JUROR 2: Yes.

Q Okay. Is there anybody else in the box?

A (No response or indication by any potential juror.)

Q Okay. Very good. Do any of you feel that a person who has been arrested probably is guilty or else that person would not have been arrested?

A (No response or indication by any potential juror.)

Q Have any of you or members of your immediate family or close personal friends ever served as a law enforcement officer? Okay. Juror 2, family or friends?

JUROR 2: Family.

Q And do you talk with them about their work?

JUROR 2: Occasionally.

Q Anything about their work or those conversations that will affect your abilities to be fair and impartial?

JUROR 2: No.

Q Okay. Juror 48, did I see your hand go up?

JUROR 48: Yes.

Q Family or friends?

JUROR 48: Family.

Q And do you talk with them about their work?

JUROR 48: Occasionally.

Q Anything about those occasional conversations or their work that would affect your abilities to be fair and impartial?

JUROR 48: No, Your Honor.

Q Okay. Anybody else? Okay. Juror 1, family or friends?

JUROR 1: Family.

Q And do you talk with them about their work?

JUROR 1: No.

Q Anything about their work that would affect your ability to be fair and impartial?

JUROR 1: No.

Q Okay. Anybody else? Okay. Juror – I'm sorry – 14 –

JUROR 14: Yeah.

Q -- family or friends?

JUROR 14: Family.

Q And do you talk with them about their work?

JUROR 14: No.

Q Anything about their work that would affect your ability to be fair and impartial?

JUROR 14: (Responds by shaking head in the negative.)

Q Okay. Thank you, sir. Do any of you feel that the testimony of a person who is a law enforcement officer should be given extra weight or consideration because they are a law enforcement officer?

A (No response or indication by any potential juror.)

Q Have you ever served as a juror in a criminal or a civil case or as a member of a grand jury, either in a state court or a federal court?

A (No response or indication by any potential juror.)

Q Has anyone talked to you about this case?

A (No response or indication by any potential juror.)

Q Are you now or have you ever been an official or an employee of the State of Indiana?

A (No response or indication by any potential juror.)

Q Do any of you have any reservations about the rule of law that requires you to presume that the Defendant is innocent throughout the trial? Okay. Juror 2?

JUROR 2: Can we go back to the employee of Indiana?

Q Yeah.

JUROR 2: I don't know if it matters, but I work for the Department of Education.

Q That does matter. You are an employee of the State of Indiana. Okay. And understanding – no, I appreciate that. And understanding that the State is a party to this lawsuit, is there anything about your employment that would affect your abilities to be fair?

JUROR 2: No.

Q Okay. Thank you. Do any of you disagree with the theory of the law that the burden and duty to prove a person is guilty of a crime rests entirely on the State of Indiana and that a person so accused has no burden or duty whatsoever to take any steps to maintain his innocence?

A (No response or indication by any potential juror.)

Q Have you, any members of your family, or close personal friends ever been the victim of a crime? Okay. Juror 39, family, friends, or yourself?

JUROR 39: Family.

Q And is there anything about your family member's situation that would interfere with your ability to be fair and impartial?

JUROR 39: No.

Q All right. Thank you. And, Juror 14, family, friends, or yourself?

JUROR 14: Family.

Q And is there anything about your family member's situation that would interfere with your ability to be fair and impartial?

JUROR 14: No.

Q Okay. Anybody else?

A (No response or indication by any potential juror.)

Q Okay. If you were the prosecutors charged with the responsibility for prosecuting this case or if you were the Defendant on trial here today, charged with the same offenses, or his layers, do you know of any reason why you would not want your case tried by somebody in your frame of mind?

A (No response or indication by any potential juror.)

Q Can you think of any other matter that you should call to the Court's attention which may have some bearing on your qualifications as a juror or which may prevent you from rendering a fair and impartial verdict?

A (No response or indication by any potential juror.)

Q All right. So, ladies and gentlemen, you, hopefully, recall the brief explanation that I gave you earlier on the sequestration procedure. Are there any reasons why that you do not feel that you would be able to be a juror under the procedure that I described for you? Okay. Juror 45.

JUROR 45: I have an elderly aunt and uncle I live with –

Q I'm sorry, I can't hear you.

JUROR 45: I have an elderly aunt and uncle I live with and help take care of with daily tasks –

Q Okay.

JUROR 45: -- also assist my great-grandmother with getting up every day.

Q Okay. So if you were selected to serve and given the opportunity to make some phone calls and arrangements, could you make those arrangements for your family?

JUROR 45: I don't have anyone else that could take care of them.

Q You are the sole caregiver?

JUROR 45: Yes.

Q Okay. Okay. And I saw another hand up here. Juror 28.

JUROR 28: Yes, ma'am. I own three small businesses, and I'm afraid if I'm away for more than a day, we're – it just – it won't happen. We're too – I'm too involved in the day-to-day operations to where we would fail, you know, if I was gone for a month.

Q Okay. So if you were selected to serve and given the opportunity to make some phone calls or make some arrangements –

JUROR 28: Yeah, that's –

Q -- for those businesses, could you do that?

JUROR 28: No. There's nobody with the level of knowledge to step in, there just isn't anybody else.

Q Okay. Thank you. Anybody else for that? Okay. Juror 32.

JUROR 32: I'm in a high-risk pregnancy, so I've been in and out of the hospital for a few months now, and I have a lot of appointments I have to attend to.

Q Okay. And do you have a doctor's note or anything that you brought with you?

JUROR 32: I couldn't get it today, but they said they were gonna fax one over.

Q Okay. Okay. And when do you have appointments?

JUROR 32: It just depends. I had two appointments Friday, I have one next Tuesday and next Thursday.

Q Okay. And where are they gonna be faxing that? To the jury office?

JUROR 32: Yeah, probably.

Q Okay. Well, one of my jury managers is in the back of the courtroom, so perhaps he can pop down and check and see if we've gotten anything. Okay. Do any of you have any health or medical conditions which might affect your abilities to serve as a juror in this case?

A (No response or indication by any potential juror.)

Q Do you have any special health or medical needs which you do not think could be adequately provided for you while you stayed with the other jurors in a – during the trial in lodging provided by the Court? Okay, Juror 39.

JUROR 39: Would I be able to bring my meds?

Q I'm sorry?

JUROR 39: Would I be able to bring my specific asthma medication?

Q Oh, absolutely. Whatever medication, yes. Yes, so you could bring your medication. Okay. Do you take any special medication which would affect your abilities to concentrate and remain alert?

A (No response or indication by any potential juror.)

Q Would you have any difficulty having to stay in the company of just the other jurors and the Court's bailiffs during the trial?

A (No response or indication by any potential juror.)

Q And I forgot to mention this yesterday, we will have family days on Sundays to – so that your families could come down and visit with you, but that would be under the supervision of the bailiffs, as well.

THE COURT: Okay. Mr. McLeland.

MR. ROZZI: Judge, may we approach just real quick?

THE COURT: Sure.

MR. ROZZI: I've got a procedural question.

THE COURT: Yeah, come on up.

(Sidebar conference conducted.)

MR. ROZZI: So we only need one, obviously.

THE COURT: We need one and then four alternates.

MR. ROZZI: Right. And the – so are we gonna – if we get more than one here, are we gonna just consider the next one the first alternate and so on?

THE COURT: Right. And then you – then the strikes for the alternates will begin. So you've gotten your one, whoever that one is that you all are agreeing on, and then we would go into, okay, "We've got six people left. Do any of you want to exercise an alternate strike?"

MR. ROZZI: So our strike – any strikes that we use based on peremptories would be like the first number of juror; in other words, like if I strike two people, the first numbered juror is gonna be my peremptory and then the next one is the alternate?

THE COURT: No, no, no. First we're gonna get the – we're gonna pick the jury, so whatever –

MR. ROZZI: I think that's my point –

THE COURT: Forget that we have one; okay? Just strike who you want to strike.

MR. ROZZI: Okay. And then we're gonna get rid of these people and pick four more out of the next batch?

THE COURT: If that's how you want to do it.

MR. ROZZI: 'Cause it impacts how much time we spend on them, you know the back row kind of –

THE COURT: Okay. If you want to do that, I'm happy to do that, to go into the second round, I don't care.

MR. MCLELAND: I thought you were gonna do it the way you said, basically we just go through and strike and the first person will be part of the jury and then –

THE COURT: Do you want more time, then? I said 30 minutes. And do you still want –

MR. ROZZI: Yeah –

THE COURT: -- the one-minute warning?

MR. ROZZI: -- yeah, that might be a little more efficient way to do it.

MR. MCLELAND: I do, I do, would like the one minute.

THE COURT: You want the one minute warning?

MR. MCLELAND: So I don't have to keep looking at the time.

MR. ROZZI: You would like what?

MR. MCLELAND: The one-minute warning.

MR. ROZZI: Yeah.

THE COURT: He wants the one-minute warning.

MR. ROZZI: Maybe 45 minutes, that'd maybe help us –

THE COURT: Forty-five minutes?

MR. ROZZI: You just – you asked – I'm asking – you offered, I'm accepting. I don't care. Yeah, a little more time might be helpful. It'd be nice to a batch here. I was just – I don't want to waste a bunch of time on the second

row of people if we were only picking one.

THE COURT: Oh, no, you've got all of these people to pick your –

MR. ROZZI: So the alternates are coming out of this?

THE COURT: -- final person and the alternates.

MR. ROZZI: Okay. Then, let's just do it all. That's fine.

THE COURT: So you want 40 minutes?

MR. ROZZI: That's fine.

MR. MCLELAND: Judge, just as long as you give me a one-minute warning.

THE COURT: I'll give you – do you want the one minute, as well?

MR. ROZZI: Yeah.

THE COURT: Okay.

(Sidebar conference concluded.)

THE COURT: All right. Thank you. All right. Go ahead, Mr. McLeland.

MR. MCLELAND: Thank you, Judge.

VOIR DIRE BY THE STATE – MR. MCLELAND

ANSWERS BY POTENTIAL JURORS.

Q Morning again, ladies and gentlemen. Who's nervous to be here? Okay. I get it. I'm a little nervous, too. I've only been in this courtroom, well, yesterday and then one other time before. And I have to call you by numbers, instead of Mr. Smith or Mrs. Smith, which I'm used to in a small county; typically, I know the jurors, and so don't be offended, but I'll probably say "ma'am", "Juror Number 1", and those kind of things. One of the things, I know some of you are soft-spoken and I know everybody's nervous, but we do need you to speak up.

Unfortunately, your microphones don't amplify, and so I have to be able to hear you, the Judge and the Defense have to be able to hear you, so – and if Ms. Williams asks you to speak up, she's kind of the boss in terms of if you're talking loud enough or not, so just make sure you speak up. Use your best outside voice when you give your answers. Welcome to jury selection. This is one of the few opportunities that we, as attorneys, get a chance to talk to you, and we just want to talk to you to get to know you better. And so you all are good jurors, you all would be good jurors, you might just not be a good juror for this case specifically. One male talked about he's got work issues. And so this is our chance to talk to all of you to determine if you're a good juror for this case, and so I want to talk to you a little bit and talk just about some of the things – some of the answers you gave to the Judge. Sir, just briefly, I heard the answers that you gave. There's nobody else that can cover for you; is that correct?

JUROR 28: Correct.

Q And it sounds like it would be a financial hardship on your businesses, but also probably your employees?

JUROR 28: Yeah. If it wasn't for the hotel deal, I would be able to go to work after here, work second shift, half of third, take a nap –

Q Sure.

JUROR 28: -- come back in the next day.

Q But being sequestered –

JUROR 28: I can't.

Q -- just no other way around it?

JUROR 28: Correct.

Q Fair enough.

JUROR 28: Yeah.

Q And I have a limited time to talk to you, so I'm gonna hurry you along a little bit –

JUROR 28: Right.

Q -- so don't be offended by that either. Sir, I think you said there's no other caregivers that you have for –

JUROR 11: No, I don't.

Q Okay. And then, ma'am, your pregnancy, you have doctor's appointments, things you can't – Number 32, doctor's appointments that you need to keep scheduled to make sure your pregnancy's on track; is that fair?

JUROR 32: Yes.

Q Okay. All right. The Judge said you're gonna be sequestered for at least the next couple weeks, possibly three weeks, you may have a family day on Sunday, but you're gonna have limited access to the phones, family, and those kind of things. Who has an issue with that? Sir, Number 39, talk to me about that.

JUROR 39: I got two girls that I pick up and drop off so that their mom can work at night sometimes throughout the week. That would be hard to be away from them.

Q If you're selected as a juror, do you have any alternative for those pick-ups and drop-offs?

JUROR 39: Possibly. It just depends.

Q I also saw – we have your questionnaire that you sent in, so we had a chance to review them. You also mentioned on your questionnaire you there may be a significant loss of income for you.

JUROR 39: Yes.

Q Is that something you're concerned about?

JUROR 39: Absolutely.

Q Okay. There is a stipend I guess I'll call it, for jurors who serve service. I think it's, if I remember correctly, $80 a day for the first week and $90 a day for the second week. Would that be something that would alleviate some of your financial concerns? I know it's a silly question, but I've got to ask you.

JUROR 39: No.

Q Okay. So only you can tell us, but are you gonna be so concerned about your financial situation that you're not gonna be able to pay attention to what's happening in court?

JUROR 39: It'll be on the forefront of my mind.

Q Is it gonna be enough to distract you?

JUROR 39: That's a good possibility.

Q Okay. Only you can tell us. Because what we – to be a good juror on this case, we're gonna ask you to listen and look at the evidence and the testimony presented over the course of trial; and if you're preoccupied with other things, maybe you're not a good juror for this case. So what do you think? You tell me.

JUROR 39: I would say probably not.

Q Okay. Probably too much going on at home with work and with the income and the pick-up/drop-off, you'd be too distracted?

JUROR 39: Yeah.

Q Okay. Anybody else in that boat with stuff? Number 16, ma'am?

JUROR 16: I have a young child at home.

Q Okay. How young is young?

JUROR 16: She'll be two in January.

Q Okay. And are you worried about caregiving for that child?

JUROR 16: No.

Q Okay. Just worried about being away from the child?

JUROR 16: Yes.

Q Okay. What's the longest amount of time you've been away from the child in the past two years?

JUROR 16: A week.

Q A week? Okay. I assume that had some negative emotional effect on you, just being away from the child, a little bit?

JUROR 16: Yes.

Q Okay. You have some concern if you're away from the child even with the family day on Sunday? Does that alieve some of the concerns?

JUROR 16: Yeah.

Q Okay. Do you think it's gonna be so much of a concern that you won't be able to pay attention to what's going on?

JUROR 16: No.

Q Okay. So you're okay with being a juror?

JUROR 16: Yes.

Q All right. Was there somebody else that raised their hand? Did I miss somebody? I thought, ma'am, Number 2 –

JUROR 2: Yeah, I just had a question.

Q Sure.

JUROR 2: What's the ability – I know it's limited in whatever, but to be able to catch up on work at night or be –

Q That is not in my pay schedule to answer, that is something for the Judge and the bailiffs, so you'll have to ask that question –

JUROR 2: Okay.

Q -- of somebody else. I apologize, I don't know the answer to that.

THE COURT: What was your question?

Q I imagine you'll have limited access to stuff.

THE COURT: What was your question?

JUROR 2: Just the ability to like, you know, catch up on work like on a computer at night. I mean, I understand the limits –

THE COURT: You might have some opportunity, but it would always be under the supervision of the bailiff.

JUROR 2: All right.

THE COURT: Okay?

MR. MCLELAND: Thank you, Judge.

Q Does that alleviate some concerns that you have?

JUROR 2: Potentially.

Q Okay. Again, in some of these questions, I'm not trying to embarrass you at all, and I don't want to know details about medical issues you have going on or anything like that, I just gotta know whether or not you're gonna be in the right mindset to be able to pay attention. Everybody has things going on, this young lady's pregnant, there's a lot of things going on. So, ma'am, on your questionnaire you said you had a vacation planned.

JUROR 2: I'm sorry, what?

Q You said you had a vacation planned.

JUROR 2: I did.

Q Okay.

JUROR 2: But the hurricane wipe that out, so –

Q Okay. So that's not a problem. Okay. Fair enough, fair enough. So I want to get into a little bit of – anybody – well, let me back up. Anybody else have any concerns about being a juror on this case?

A (No response or indication by any potential juror.)

Q Okay. What the State of Indiana has charged Richard Allen with is four counts of murder, two counts of felony murder, which means that he – someone died in the act of him committing the felony, in this situation kidnapping; and then, two counts of intentional murder. There's only two victims, but there's four counts, 'cause they're under different theories. I don't want to talk about murder in this case, I want to talk about the charge of murder, in general. Sir, Number 30, what do you think of when you hear charge of murder?

JUROR 30: What do I think of? Somebody died. Somebody killed somebody else.

Q What kind of evidence would you expect to see?

JUROR 30: Ooo, that's a tough one. Weapons, any other witnesses, I don't know.

Q Okay. Ma'am, Number 42, I haven't talked to you yet, what do you think of when you hear murder?

JUROR 42: Death.

Q Sure.

JUROR 42: Somebody got killed.

Q Sure. What kind of evidence would you expect to see?

JUROR 42: Maybe DNA evidence or fingerprints or something like

that.

Q Okay. Sir, Number 48, what do you think of when you hear charge of murder?

JUROR 48: Like everyone else, death.

Q Okay.

JUROR 48: Somebody was murdered.

Q Okay. Do you have – what evidence would you expect to see? Anything different from what they've mentioned?

JUROR 48: Weapons, clothing, DNA, things of that sort.

Q Who here has seen *CSI* or one of the *CSI*?

A (Most potential jurors respond by raising hands.)

Q Who here expects that there's gonna be an arrest, a trial, and the – a conclusion to a trial all in an hour?

A (No response or indication by any potential juror.)

Q Who expects that, like *CSI*, you're gonna have all the evidence collected, every single thing? Who expects that?

A (No response or indication by any potential juror.)

Q Is there anybody that – sir, let me just focus on you, Number 48, is there one thing you have to have? "Hey, look, I have to have DNA" or "I have to have the murder weapon"?

JUROR 48: I guess some form of physical evidence like a murder weapon or DNA that's presented or studied.

Q Okay. So in your mind, you gotta have one or the other or both, physical – a murder weapon or DNA?

JUROR 48: Potentially, yes.

Q Sir, Number 30, what do you think? Is there something you have to have?

JUROR 30: No. I think it's just a combination of all the different pieces of evidence that they might offer, but no, nothing that specifically have to have.

Q Okay. Sir, Number 14, I haven't talked to you much. I saw you shaking your head.

JUROR 14: Same.

Q Same thing?

JUROR 14: Yeah.

Q So is there – there's no one thing that you specifically have to have? Is that –

JUROR 14: I just – physical evidence.

Q Yeah, physical evidence –

JUROR 14: Yeah.

Q -- of some kind?

JUROR 14: Yeah.

Q Okay. Okay. The burden is on the State to take the evidence that we do have and show that evidence to you and convince you beyond a reasonable doubt that Richard Allen is guilty on each element of each offense. The Judge went over the elements with you briefly in her opening. The burden is on the State to prove to you those elements. And the burden – I'm sure you've all heard of it before – is beyond a reasonable doubt. The Judge went over a definition of what that means. You must be firmly convinced, that's what beyond a reasonable doubt means. For someone to be firmly convinced, it's different for everybody. We ask you to come in here unbiased, meaning not to make a judgment before

you hear evidence and testimony in this case. We don't ask you to come in here as a clean slate, we don't ask you to check your common sense at the door. We ask you to use that common sense, to review the evidence, and to review the credibility of witnesses to determine whether or not you're firmly convinced. Sir, Number 39, do you believe I'm an attorney?

JUROR 39: Yeah.

Q Why?

JUROR 39: Because you said you are.

Q Firmly convinced?

JUROR 39: Yeah.

Q You haven't seen anything.

JUROR 39: No.

Q You haven't seen my ID, my bar card, my license. You don't know who I am; right? We've never met each other. I've never –

JUROR 39: The Judge (inaudible)

Q Is that enough for you?

JUROR 39: I trust her.

Q Convinced beyond a reasonable doubt?

JUROR 39: Yeah.

Q Okay. Ma'am, what about you, Number 2? Believe I'm an attorney?

JUROR 2: Yes.

Q Firmly convinced?

JUROR 2: Yes.

Q Why?

JUROR 2: Well, you have to have some sort of certification to have

been (inaudible) and probably went through a series of whatever steps it takes to be employed and also things –

Q So that's a good point. You heard the Court tell you that I'm the elected prosecutor in Carroll County. Common sense tells you that, in order to run for that office, I have to be an attorney. I see everybody's shaking – so we don't ask you to check your common sense at the door. And this, in no way, equates whether – you know, how I'm employed to whether or not Richard Allen is guilty. It's simply an exercise for you to explain to you what "firmly convinced" means and that you use your common sense when making that determination. Sometimes it takes a lot of evidence to get you there, sometimes it doesn't. The fact that I'm standing here and talking in front of you and the Judge allows me to do that, that's been enough for everybody. Does anybody think that burden is too low? Does anybody say, "Hey, that burden is too low in a criminal case, especially a murder case. That burden is too low and the burden should be higher"? Who agrees with that statement even just a little bit? Sir, Number 28, think it should be higher?

JUROR 28: If you're dealing with somebody's life, I feel like you better be dang sure.

Q Sure, sure.

JUROR 28: I mean –

Q Sure.

JUROR 28: -- there better be something that ties him.

Q Right. Do you think that just applies to murder or all criminal cases?

JUROR 28: Life –

Q Life? Okay.

JUROR 28: -- in general.

Q Gotcha. Okay. You think it should be higher. Do you agree that very few things are beyond all doubt?

JUROR 28: Oh, 100 percent agree with that.

Q I always use the examples, for me personally beyond all that would be if I saw it with my own eyes, if there was a video of it, perhaps. Do you agree that's very hard to convince somebody beyond all doubt in many things in life?

JUROR 28: Yes.

Q And that's why the burden is what it is.

JUROR 28: Yep.

Q But you're saying – your belief is it should be closer to beyond all doubt?

JUROR 28: It's gotta be as close as you can be there. That's somebody's life, so –

Q And that's what I want, I want you guys to be brutally honest with me, good, bad, or indifferent. If you don't agree with me, that's perfectly okay, but that's what we want to know. Sir, Number 39, you were kind of – kind of did a half-raise here. What do you think, burden's too low?

JUROR 39: I actually agree more with him.

Q Should be higher?

JUROR 39: Should be closer to no doubt.

Q Sure. Anybody agree with these two gentlemen even a little bit? Say, "You know what? I think so. This is murder, it should be higher"? Sir, Number 30?

JUROR 30: Yes, for murder. I mean, you were comparing yourself as an attorney to, you know, life or death stuff, yes.

Q Sure. So you think for murder, it should be higher?

JUROR 30: Sure.

Q Should be closer to beyond all doubt?

JUROR 30: Really close.

Q Okay. Number 48, sir?

JUROR 48: Also high –

Q Same way?

JUROR 48: It's very high profile, so we have to be absolutely sure.

Q Now, I'm gonna focus on – anybody else feel that way? I don't want to exclude anybody. So, ma'am, Number 42, you think it should be beyond all doubt in this type of case?

JUROR 42: As close as you can get, yeah.

Q Okay. Okay. To everybody that answered that way, if the Judge asks you to set aside that belief and say, "You have to follow the rules that I give you, beyond a reasonable" – not beyond all doubt, not close to beyond all doubt, without, where you're firmly convinced – the Judge asks you to set aside those beliefs and asks you to follow the rules, can you do that?

JUROR 42: Yes.

Q Okay. All right. Now, some of the evidence you're gonna see is gonna be in the form of physical evidence, but other pieces of evidence are gonna be evidence from witnesses. Has anybody – I don't think anybody raised their hand. Has anybody been a juror before? Okay. Ma'am, let's start with you, Number 1. Do you remember what kind of case it was?

JUROR 1: Murder.

Q Okay. Do you remember what the outcome was?

JUROR 1: It was at least 16 years ago, so no.

Q Not a big deal. How was the experience?

JUROR 1: Very interesting.

Q Okay. When you were – when witnesses were testifying in that trial, what kind of things did you look for to determine whether or not that witness was credible, whether or not that witness – whether or not you were gonna believe that witness?

JUROR 1: Body mechanics.

Q Okay.

JUROR 1: Vocabulary, facial expressions, and how many times – it was a man, looked to the audience for affirmation of his responses.

Q Wow. Okay. Never heard that one before. Okay. Don't everybody piggyback off her good answer. Sir, you raised your hand you've been on a jury before. What kind of things did you look for?

JUROR 30: Again, you take all the evidence, you combine it all together, try to develop an overall hypothesis.

Q So consistency in story maybe? Is that – I'm kind of hearing –

JUROR 30: Sure.

Q I don't want to put words in your mouth, trying to kind of summarize –

JUROR 30: No, I agree with that.

Q Does anybody have anything else they look at? Just in their everyday life, when you're talking to somebody, you know, where's your BS meter? Hey, they're lying to me, I know it." What kind of things do you look for? Ma'am, I haven't talked to you yet, Number 11.

JUROR 11: I guess, like she said, the body language –

Q Sure.

JUROR 11: -- if they look you in the eye or are they looking away, that kind stuff.

Q How many people said they were nervous to be here today? Would you be nervous if you had to testify in this case? Do you think some of the witnesses might be nervous? Do you think that might affect their body language or their volume of their voice or those kind of things? Are those things you're gonna consider, as well, when you're listening to a witness testify? I see you all shaking my head. We don't have video here, so I'm kind of narrating as you're talking to me for the record. What about if the witness is a law enforcement officer? Sir, Number 14, law enforcement officer testifies, you gonna give him more credibility simply because he or she is a law enforcement officer?

JUROR 14: It just depends on what he presents, the evidence, you know –

Q Okay.

JUROR 14: -- we're gonna have to weigh that.

Q What about if the law enforcement officer was testifying about something that he or she had experience in, like violation of a traffic ordinance? Would you give them more credibility to talk about that?

JUROR 14: If he's experienced in that, yes.

Q Okay. What would experience mean to you? Years of service? Education?

JUROR 14: Years of service, education, you know, all of that would apply.

Q Okay. And that brings up an interesting question. Ma'am, Number 42, if someone is an expert that testifies, what kind of things are you gonna look at to determine the credibility of that expert? He talked about years of experience,

education. What other things are you gonna look for? Somebody gets up here and says, "I'm an expert in this field." What kind of things are you gonna look at to determine, "Okay. I find that guy or girl credible"?

JUROR 42: The information that they give.

Q Okay. What about if information matches the physical evidence?

JUROR 42: I'm not sure.

Q We, meaning the court, the attorneys, we all expect the witnesses here that'll testify to take the oath and tell the truth; but why would someone lie? Sir, Number 48, why would someone lie on the stand?

JUROR 48: If they're aligned with the prosecutor or the defense and they kind of want to like either get over the witnesses, 'cause they don't want to be up there, or just kind of like, "Oh, I'm friends with so-and-so" and just go for it and –

Q Protect somebody?

JUROR 48: Potentially.

Q Protect themselves or their cause or somebody else?

JUROR 48: Yeah.

Q Okay. Ma'am, Number 2, why would someone lie?

JUROR 2: I think someone would like because they have either, A, their own agenda or, at this point, they have the agenda of someone else, or – and that could be whether it's a guilty or innocent verdict or "I don't want to be called up again" or whatever that is, it doesn't have to be a guilty/not guilty. Or if, you know, under stress of some sort, that they feel like they have to answer a certain way or that perhaps their perception wasn't necessarily what the evidence necessarily shows.

Q Ma'am, Number 16, I haven't talked to you much except about your young child. What do you think? What – why would someone lie?

JUROR 16: If they were protecting somebody.

Q Okay. No, it's a good answer. We talked – I talked about with everybody – with a lot of people, what kind of things are you gonna look for when determining credibility?

JUROR 16: Just the way they carry themselves when they're speaking, body language and eye contact.

Q Okay. Eye contact's important to you?

JUROR 16: Um-hmm. (Affirmative response)

Q Do you make eye contact when you're nervous with somebody?

THE COURT: Can you speak up for us, ma'am.

Q Oh, I'm sorry. Yeah, could everybody speak up. I can hear you, but Defense is way over there, the Judge; and like the Judge said, this room has horrible acoustics, so just make sure you use your best outside – when you're yelling at your two-year old, that's kind of the voice that I want; okay? When they get into something. Is it a boy or girl?

JUROR 16: It's a girl.

Q A girl? Okay. I've got two girls, so I get it. When they get into something, I want that kind of voice so everybody can hear you. So what kind of things are you gonna look for when determining the credibility of a witness?

JUROR 16: The way they carry themselves and eye contact.

Q Okay. What about if a law enforcement officer testifies? Are you gonna give him or her more credibility simply because they're a law enforcement officer?

JUROR 16: Depending on what they say –

Q Okay.

JUROR 16: -- and the way they still carry themselves.

Q Let's make it harder: What if it's a preacher?

JUROR 16: The body language is still –

Q You think a preacher's gonna lie?

JUROR 16: They could.

Q Everybody can lie; right? Okay. So it can be – the point is it can be difficult. Again, have to use your life experiences, your common sense, and make those determinations. A few other topics here and then I'll sit down. We've had jurors that – we, my office, and me myself have had jurors in the past comment that it would be very difficult for them to pass judgment on someone, it would be very difficult for them to be a juror because, whether they're personal beliefs, religious beliefs, it would be very difficult for them to pass judgment on someone for anything, judge onto others as you would yourself, it's a common phrase we hear a bunch. I've gotta make sure that if the State of Indiana proves each element beyond a reasonable doubt, that you can judge someone and enter a verdict of guilty. And so is there anyone here – and this case is murder, this is a big deal – I think you said it's a big deal – is there anyone here who has a problem with passing judgment on someone else?

A (No response or indication by any potential juror.)

Q And you cannot worry about the punishment. The punishment is not in your hands. Your role as a juror is to decide the guilt or innocence of Mr. Allen and that's the only part that you have a role; is everybody okay with that?

A (No response or indication by any potential juror.)

Q Is there anyone, for whatever reason, that is uncomfortable with being a

juror on this case? We talked about the financial reasons and all those kinds of things. If all those things were satisfied, are there any other reasons you can think of that you'd be uncomfortable being a juror on this case? Sir, Number 28?

JUROR 28: I know in the paperwork it mentioned something about graphic images.

Q Correct.

JUROR 28: You think about that all the way up until this point and it doesn't seem like big of a deal, and then you hear the other – the defense attorney and you talk about things that we could possibly see and that just puts it to a whole new level.

Q I get it.

JUROR 28: You know, I mean, thinking you're gonna see something versus now you may actually see it –

Q Um-hmm. (Affirmative response)

A -- kind eye-opening, I mean, unsettling almost.

Q Who's got children?

A (Most potential jurors respond by raising hands.)

Q Anybody here concerned about seeing the graphic images? Anybody else? Ma'am? Number 2, sorry, I forget the numbers, sorry. Have concerns?

JUROR 2: I mean, I think most people would have some sort of emotional response.

Q Sure. I assume in your everyday lives and everyday businesses, unless you're an RN or a nurse in the emergency room or something like that, you don't see these images often. And oftentimes, they are hard for people to accept. The

fact you have to see the images, is that – would that make you a bad juror for this case? And only you folks can tell us that. Some concern?

JUROR 28: I don't think so, but I just – I feel like it would stay with you. I don't know that that's something you would ever forget. Good or bad, that would never go away.

Q I don't disagree. I don't know, it's gonna be individualized to the person, so I don't know.

JUROR 28: Right.

Q But it is something you're thinking about?

JUROR 28: Yep.

Q Okay. All right. Has anyone had a negative interaction with law enforcement? Got a ticket, you didn't think you had a ticket? You were speeding, you weren't speeding?

A (No response or indication by any potential juror.)

Q Any of you have a negative interaction with a prosecutor or a defense attorney?

A (No response or indication by any potential juror.)

Q And what we're trying to make sure is that you're not gonna hold that against myself or anybody on the defense team, that you're gonna consider – base your decisions on the evidence you see, not on how you feel about attorneys. Okay. Ah, here's another one, one other final thought – and I keep saying that, but I'm getting close to the end, I promise. If the Judge excludes piece of evidence for whatever reason, the Judge says, "Look, that's not coming into evidence," and you're not able to view it, how are you gonna feel about that? Sir, Number 14? Are you gonna want to see it and say, "Look, I can't make – she didn't let it in, I

can't make a decision"?

A Just depends how it applies to everything. I mean, if it's something that I really need to be concrete to make my decision, I would like to see it.

Q Okay. Number 30, what – sir, what do you think?

JUROR 30: No, you have to base your decision on the evidence provided. If it's not provided, you can't, nope.

Q Does anybody have any different thoughts, "Hey, if the Judge excludes something, that's gonna bug me"? Ma'am, Number 42?

JUROR 42: (Responds by shaking head in the negative.)

Q No? Okay. Let me see if there's anything else.

MR. MCLELAND: Judge, I don't have anything else. Thank you.

THE COURT: All right. Mr. Rozzi.

MR. ROZZI: Thank you, Judge.

VOIR DIRE BY THE DEFENSE – MR. ROZZI

ANSWERS BY POTENTIAL JURORS.

Q All right. Got a couple things, first of all, I'm gonna turn my mic on, so the court reporter's not upset with me, let me just do that. Second, I'm gonna try to do my best to talk really loud. I said this yesterday – we're kind of repeating ourselves a little bit – but I can't hear very well back there and so I'm gonna yell up here a little bit, but I also want these people to hear me so that if we get to another panel, that they'll have heard what I said and they won't be saying, "Well, I didn't hear that earlier." So be patient with me if it seems like I'm yelling at you, but again, the acoustics in here are a little challenging; okay? The prosecutor's talked a lot about being firmly convinced today, those are the big words, that's the tag line, firmly convinced. And, you know, we've heard some

opinions about how you feel about those words, but let me add a few words to that idea and then I'm gonna ask you some questions about that; okay? Strict and heavy burden. So let's add those lines to the words "firmly convinced". And that is to say that you must be firmly convinced and this is a strict and heavy burden. Does I start to sound a little different? Do the words "firmly convinced" mean anything different when you start to talk about a strict and heavy burden and you put it in that context? Yes or no?

JUROR 14: No.

Q Okay. Still the same feel; right?

JUROR 14: Yep.

Q Firmly convinced, it's a strict and heavy burden. How do you feel about that? Does it make firmly convinced feel, eh, kind of the same?

UNIDENTIFIED JUROR: Pretty much the same, yeah.

Q Okay. Anybody feel any differently, like hey, that's starting to kind of heighten the standards?

A (No response or indication by any potential juror.)

Q No? Okay. All right. Let me add some additional words. You must rely on it in the matter – in a matter of the highest importance. So let's add those two additional phrases, "strict and heavy burden" and "you must rely on it in a matter of the highest importance". Is it starting to mean a little bit more to you? Do you have any thoughts on that?

JUROR 2: I guess knowing that this case was already around murder, that that was implied.

Q Okay. That it was a matter of highest importance, is that what you're saying?

JUROR 2: No, that it is, that it already was.

Q Okay.

JUROR 2: That beyond a reasonable doubt, at this point, is someone's life, you know, that it was already taken very seriously that there was a burden.

Q Okay. So as a juror, do you believe that you might spend more time in deliberating in a case like this than you would, let's say, in a case where somebody was accused of stealing some bubble gum or, you know, something like that?

JUROR 2: I mean, possibly. I mean, it depends on the 12 people in that room and what they took away from the case.

Q Okay. Yeah. I mean, we had that conversation yesterday a little bit, too, you know, does it mean more because of the charges than maybe a theft charge. What do you think about that?

JUROR 11: Yes, and I think there's gonna be way more evidence than a simple trial, so there's gonna be a lot to go over –

Q Okay.

JUROR 11: -- before you come to a decision.

Q It's just gonna take more time, is that what you're saying? Okay. More energy?

JUROR 11: Probably.

Q Okay. Do you think that the risk of being wrong in this case is greater?

JUROR 11: Good question.

Q Thanks. Appreciate that.

JUROR 11: Probably.

Q Okay. What do you think?

JUROR 42: I think so.

Q The risk is greater?

JUROR 42: I think so.

Q Okay. Do you think that that elevates the burden of proof or is it still the same to you as it is in any other case? What do you think?

JUROR 39: It's the same.

Q Still the same burden? You're gonna put just as much energy into a theft case as you would this?

JUROR 39: That's not what I said at all.

Q Okay. Well, then tell me what you're thinking.

JUROR 39: The burden of proof in this case, I mean this man's life is at – life in prison, it takes his life way if he didn't do it, so, to me, that's an all-encompassed in the burden of proof based on this trial.

Q Okay. Okay. I appreciate that. What are your thoughts?

JUROR 1: Somewhat like his. I hope that evidence is challenged. There's often multiple sources for evidence, and I hope those are all looked at favorably or disfavorably, but definitely explored. And I hope it isn't a rush to judgment based on your personal beliefs, but rather what you're hearing and understanding.

Q Okay. All right. I appreciate that. If, at the end of the day, you know, you sit down and you've taken all this time and you've considered everything that's put in front of you and you're like, "Hey, I'm – he's probably guilty," is that enough in terms of – do you think that that's the standard we're talking about?

JUROR 1: You have 11 other people to discuss that with, and my

past experiences, lots more came out in those discussions.

Q Okay. So if you thought he was probably guilty, you think that's enough to get you over the hump?

JUROR 1: No.

Q Okay. Just not quite there?

JUROR 1: No.

Q Okay. You think the standard's quite a bit higher than that?

JUROR 1: Yes.

Q Okay.

JUROR 1: Yes.

Q This chart has on it the different burdens of proof that we use in our business – I'm probably hitting my microphone, so I'm sorry – and I've listed them here starting at the bottom, reasonable suspicion, which is the burden we use – the police use when they make a traffic stop; probable cause, that's the standard for arresting somebody, you might be surprised that it's actually quite low on our burdens or our list of burdens; greater weight of the evidence, this is the burden we use in, like, personal injury cases, where you have an auto accident and we're trying to determine who's at fault, you know, it's kind of a 51/49 standard, that's kind of the way we think of it; and then clear and convincing here the burden that we use in termination of parental rights cases, so if you've got a child and the State's gonna take your child from you permanently, deprive you of those parental rights permanently, this is the standard, clear and convincing evidence. In this case, we're actually up here on the top, some would say the Mount Rushmore of standards, Mount Everest. Knowing that, knowing that you can have your child taken in the state of Indiana

for lesser evidence, what does it say about this? What are your thoughts about this standard, the highest one? Is it too high?

JUROR 1: No.

Q You think it's fair?

JUROR 1: Yes.

Q You think, at the end of the day, that if one of the other jurors in your pool says – you know, you're back there talking and, well, one of the jurors says, "Yeah, I think it's pretty clear and convincing to me that he's guilty," do you think you can step in and remind the juror that we're talking about a higher standard?

JUROR 2: Most likely, yes.

Q Okay. Do you think you have that personality to do that?

JUROR 2: Yes.

Q Okay. That's good to know. What about you?

JUROR 14: Yeah, I could do that.

Q You think you can redirect another juror if they're just not quite up here?

JUROR 14: I'm not gonna tell someone else to make their choice.

Q Okay.

JUROR 14: For me, it has to be clear, yes/no, pretty much.

Q Okay. So you're kind of down here in the clear and convincing?

JUROR 14: I mean, I want it to be reasonable doubt. I mean, it has to be. I want to see all the evidence and be able to say, "Yes, that's what I feel."

Q Okay. Matter of the highest importance; right?

JUROR 14: Um-hmm. (Affirmative response)

Q Okay. What are your thoughts?

JUROR 48: Well, obviously, I'm not the sole juror on this case. If there's other evidence I missed during the trial that someone else had written down or taken notes, so I'm gonna have to listen to them, as well. Sure, I can throw my own opinion, but also, there's 11 other people here that may be like, "Hey, maybe this happened," or you know, "Hey" – different – just a different thought of mind that I might not be thinking of. So it would just be something I'd have to listen in on before I went, "You know what? This is what I think."

Q Okay. Do you think that the standard's too high or do you think it's where it needs to be?

JUROR 48: It's justifiable, because again, it's a matter of someone's life that we'd all be deciding on, so –

Q Okay.

JUROR 48: -- we can't just take it lightly and be like, "Oh, I got like three things, I'm good."

Q All right. Does anybody here, by a show of hands, think that this highest of standards is too high, we're just asking too much of the State of Indiana? Anybody think that?

A (No response or indication by any potential juror.)

Q Okay. Why would somebody admit to something they didn't do?

JUROR 30: Why would somebody – that's a good question. Maybe they're scared, they're nervous, they weren't in the right frame of mind.

Q Okay. Scared, nervous, not in the right frame of mind, there's a lot to unpack there. So why might somebody be scared?

JUROR 30: You're scared for a number of different reasons, I don't know.

Q It's kind of a test, isn't it?

JUROR 30: Yeah.

Q And you're like, "Oh, I'm on the hot spot here." Okay.

JUROR 30: Why would somebody be scared? You're afraid that something bad might happen to you.

Q Okay.

JUROR 30: That's usually the number one reason to be scared.

Q Okay. What about maybe you were scared for somebody else and you were trying to protect somebody else?

JUROR 30: It could be that, too.

Q And you might say something that – you know, admit to something you didn't do because you were trying to protect somebody else.

JUROR 30: It's possible.

Q Possible? What are your thoughts?

JUROR 2: Yeah, (inaudible)

Q What about environmental conditions that somebody's dealing with? Think that might be a reason why you might say something that you didn't do or admit to something you didn't do? What are your thoughts?

JUROR 1: That's a possibility, especially if finances were also involved with those environmental conditions.

Q Oh, that's interesting. Yeah, Okay, finances, as well. So that is to suggest that you were under such financial stress that maybe somebody else would be impacted by that, too and – okay. Can you think of any examples? I kind of think I know what you're talking about, but –

JUROR 1: I suppose what it was admitting to, but removal of

housing, threatening to fire another family member, moving forward in your own career.

Q Okay. I appreciate that. Do you have any thoughts on why somebody would admit to something they didn't do?

JUROR 16: Not anything that hasn't been said already.

Q Okay. All right. Well, I happen to have a little list back here of some other ideas that have been given in the past when I've asked these questions. What about if you were placed under duress just generally? We kind of talked about that, environmental conditions, a little bit, we didn't quite get into it entirely. What about being tired and worn out? Think that's fair?

JUROR 45: Yeah, that could be. If you were tired enough, you could misstate some of the facts and tell a lie..

Q Right. You know, a lot of people, when I deal with these issues and one of the things we hear often is, “I would never admit to something I didn't do.” You ever heard some – you’ve heard that phrase; right? “I would never admit to something I didn't do.” Do you think there are people that actually do admit to things they don’t do?

JUROR 39: Absolutely.

Q There's such thing as a false confession?

JUROR 39: Yeah.

Q Okay. Do you think that duress could be one of the big factors? Does that make sense to you that you were in a condition such that you just were overcome by that?

JUROR 39: I'd say yes, but I would say there's a hierarchy of it.

Q Okay. So where does that fall in the hierarchy for you?

JUROR 39: Probably somewhere in the middle.

Q Somewhere in the middle? Can you tell me what's at the top of your hierarchy?

JUROR 39: Threatening your life or somebody else's life.

Q Okay. Yeah, yeah, you're taking – taking one for the team; right?

JUROR 39: Yeah.

Q That's good – that's a good thought, I appreciate that. Do you have any thoughts on any of this?

JUROR 11: Yeah. I think somebody can be worn down to confess. I mean, I've seen enough TV shows where they –

Q Yeah, sure, yeah, yeah. Can you think of a scenario that comes to mind in particular or –

JUROR 11: No, I can't recall any specific cases or –

Q Okay. Ma'am, what do you think?

JUROR 32: Oh, I think the same as her, for real.

Q Okay. So you think somebody can be worn down?

JUROR 32: (Responds by nodding head in the affirmative.)

Q What about the impact of mental health on that? What are your thoughts about that, somebody's mental health and whether or not that might put them in a position?

JUROR 28: It kind of depends on if they're diagnosed or not; because if they're not diagnosed, it kind of goes – nobody knows that they're, you know, kind of mental or –

Q Yeah, yeah.

JUROR 28: -- or they're not all there.

Q So you'd want to hear from an expert, a doctor maybe?

JUROR 28: I would say yes.

Q If a doctor told you "Hey, this person was really sick," would you take that into consideration in passing judgment on a confession?

JUROR 28: Yeah, with some sort of proof or something that why they feel the way – why they're saying what they're saying.

Q Okay. All right. What are your thoughts about that, mental health?

JUROR 14: On the mental health thing?

Q Yeah.

JUROR 14: I think if they can be so worn out, you know, so beat, so let's say, you know, they're in isolation, that they start playing in their mind and thinking this is the easy way out or something like that.

Q Yeah, the easy way out, right. Put an end to all of this; right?

JUROR 14: Yeah.

Q I have the power to do that; right? Okay. You think he's full of it or you agree with him?

JUROR 16: No, I agree with him.

Q Who doesn't agree with him? And if you don't, raise your hand, I want to hear about it.

A (No response or indication by any potential juror.)

Q Nobody? Okay. Good. All right, very good. Mr. McLeland touched on this a little earlier – we're shifting gears here – touched on being nervous up here on the stand, things like that. If you were selected as a juror in this case, you would be instructed that you're not to consider Mr. Allen's non-testimony or the fact that he doesn't testify as evidence against him. And as defense lawyer, somebody

who hangs out in courtrooms on a routine basis and talks to people, that rule makes – the rule is good, I think it's arguable the rule is good, but it makes me really nervous, 'cause I don't think a lot of people believe that. So my question to you is: If Rick Allen didn't testify or someone didn't testify in a case where they've been accused of a crime, how would you feel about that?

JUROR 48: I wouldn't pass judgement that easily because, again, it might not pertain to specifically, again, the mental health thing or what they might be thinking at the time. So as long as they have the defense maybe have a statement for them or had already talked them through with that, "Hey, we're going forward with the trial as proceeded," you know, with no, like, interference from them or just conversation.

Q So are you suggesting that, hey, you leave that decision up to the defense lawyer or the representative for that person?

JUROR 48: Correct.

Q Like there might be a strategy reason for that; right?

JUROR 48: No, not really. Just it's just what they've talked about is what proceeds to court pretty much the easiest, I guess

Q Okay. What are your thoughts on that?

JUROR 2: No, I do think there's a strategy behind that. It's sort of like you don't put your worst speaker in public relations.

Q Yeah, right. Yeah, that's a good point. Yeah, sure.

JUROR 2: So –

Q Do you think that people may act differently in that chair right there than they do in their normal lives?

JUROR 2: Yeah.

Q Can you think of a more high-stress circumstance than being accused of a crime and having to get up in front of a group of people like yourselves?

JUROR 2: I mean, I think –

Q In the entire world, can you think of a more high-stress –

JUROR 2: (Inaudible) basing their own livelihood for people that they don't know.

Q Sure. Do you remember taking speech class in high school? Did you have speech class?

JUROR 14: Yeah.

Q I know some of us are old enough that we were required to take it.

JUROR 14: Yeah, maybe.

Q Yeah. You kind of recall that?

JUROR 14: Sort of remember it.

Q Well, do you remember having to get up in front of your class and give a speech for the – you know, because it was, you know, a speech class; right?

JUROR 1: Right.

Q Had to get up and give a speech. Do you remember that?

JUROR 1: Loved it.

Q You loved it, okay. You're the gunner, you're that one in the front row that's going, "Call on me"; right? Do you think everybody loved it?

JUROR 1: Oh, no.

Q Do you think more people loved it or more people hated doing that?

JUROR 1: Hated it.

Q Right. You're kind of the exception; right?

JUROR 1: I would like to think so.

Q Yeah. So yeah, you had to get up there in front, and a lot of nerves come with that; right?

JUROR 1: Um-hmm. (Affirmative response)

Q And that's just in your high school class.

JUROR 1: And beyond.

Q Can you imagine how that might be elevated in an environment like this if you were gonna be asked to sit up in front and talk about these kind of things?

JUROR 1: The nerves, yes; but if they did their homework and had accurate results, that should help control the nerves.

Q Okay. So you think with some good preparation that those things might be controlled?

JUROR 1: Yes.

Q All right. I appreciate that. And what are your thoughts on that?

JUROR 42: I don't necessarily agree with that.

Q Okay.

JUROR 42: I mean, I'm a nervous person.

Q Then, tell me why you don't agree. You're nervous no matter what?

JUROR 42 I'm a nervous person and it doesn't matter how much information I have it doesn't really change that I'm nervous, you know, standing up in front of a bunch of people.

Q How many people agree with her that, you know, even some preparation might not get you there? What are your thoughts on that? You agree with her?

JUROR 16: (Response by nodding head in the affirmative.)

Q You're just a nervous person; right?

JUROR 16: Yes.

Q You can't get rid of it?

JUROR 16: Yes.

JUROR 30: I think nerves can affect maybe the way you project yourself, but the details and what you're saying are probably still really close to what you meant to say.

Q Okay. Really close? Maybe not quite the same, but really close?

JUROR 30: It may be little off, sure.

Q All right. Okay.

JUROR 30: You may misspeak.

Q Yesterday, somebody mentioned about being questioned by another attorney; does anybody think that that has an impact on how somebody might react up here, being questioned by somebody that's skilled in asking questions? What are your thoughts about that, sir?

JUROR 39: I would agree with that statement.

Q That's something that's gonna have to be taken into consideration?

JUROR 39: Yeah. (Inaudible) the first time talking in front of all these people, they're speaking more eloquently than you are, you just feel kind of stupid.

Q So you think that might be a reason why somebody might not want to get up there?

JUROR 39: Yep.

Q Anybody – you have any thoughts about that, sir?

JUROR 45: Thoughts about what?

Q Do you agree with it? Disagree with it?

JUROR 45: I agree that someone that does it for a living could make

you feel intimidated if you were questioned by them.

Q But at the end of the day, when the dust settles and you're sitting in the jury room, is it something that you can just entirely wipe out of your brain because the Judge tells you you have to do that? Can you really do that? Can you say, "You know what? I'm not gonna consider his or her non-testimony at all, at all, not one little bit, because the Judge told me"? Is that reasonable? Can you do that?

JUROR 28: I would hope so. I mean, you would think everybody would be able to, but there's gonna be some that can't.

Q Right.

JUROR 28: It's just gonna creep in the back of their minds and it's just gonna keep eating at them.

Q If you were to sense that from another juror, that they were not following that rule, are you wiling to stand up and say, "Hey, you know, that's – there's rules here we gotta follow"?

JUROR 1: To a fellow juror?

Q Yeah.

JUROR 1: Certainly.

Q Pretty tough to do though; right?

JUROR 1: Yeah. If you have kids, it's not tough.

Q You're willing to crack the whip at all times; right?

JUROR 1: Pretty much.

Q Okay. All right. Could you stand up to another juror?

JUROR 16: Yeah.

Q Okay. You?

JUROR 14: Oh, yeah.

JUROR 30: Yes.

Q Okay. Anybody else, yes? Think so? Okay. All right. Yesterday, we also talked about government processes, I've used that phrase. Do we all recognize that there are certain things in government, certain systems and processes in place that we just live within – and I'll give you a quick example, I think it'll give you some context – like the Social Security system? Does that make sense? The government has a system of Social Security, this is what's you're entitled to and this is how long you're gonna get it and this is how you apply for it, all those kind of things. We generally – does anybody here not understand that? Okay. Can you think of another government system that we all live under? Just name one, if you would.

JUROR 30: A government system?

Q Yeah, some process that the government uses in the course of your life.

JUROR 30: Taxes.

Q Taxes. Oh, I wasn't even thinking about that one. Oh, you got my stomach hurting. Okay. All right. Yeah, yeah, okay. So that's a good example. Do you think that that system is always a just one?

JUROR 30: No.

Q And do you think there's probably a lot of other people around here that feel the same way?

JUROR 30: Probably.

Q But it's a government system; right? Like the government relies on it; right?

JUROR 30: Sure.

Q So do you believe it's a perfect one?

JUROR 30: No. There's very few perfect governments.

Q Yeah. Do you think it's flawed?

JUROR 30: Taxes?

Q Yeah, the system of taxation.

JUROR 30: Sure. It could always be adjusted.

Q I mean, it's one thing to say it's not perfect, but it's another thing to say it's flawed; right? Like that's a whole other –

JUROR 30: I don't know if it's flawed, but it could always be adjusted.

Q Okay. Anybody think of any other government systems? Do you have any thoughts?

JUROR 2: Education.

Q What's that?

JUROR 2: Education.

Q Okay. System of education, you think it's flawed?

JUROR 2: In some ways.

Q Okay. But we live within it; right? Are you willing to question those kinds of systems if you were a juror in this case?

JUROR 2: Yes.

Q What about you? Be critical of them?

JUROR 48: No.

Q You don't think so?

JUROR 48: No.

Q Because the government adopts it, it must be good?

JUROR 48: Well, I mean, honestly, you're not gonna just take it face value, but it's – the government's in place for a reason, so you're gonna have to abide by their laws and standings –

Q Okay.

JUROR 48: -- and processes to go with it.

Q Okay. So you're talking about you would follow the rule. You're a rule follower; right?

JUROR 48: Naturally.

Q One of those guys? That's okay. Yeah, that's fine. So that's what you're saying; you're saying, "I'd follow the law." What I'm asking: Could you be critical of that system?

JUROR 48: Oh, absolutely.

Q You think it's fair to have an opinion about those kind of things?

JUROR 48: Well, yeah, 'cause you're also a person, not just a mindless drone, and you have your own thoughts, opinions, you know, about everything. So I could be critical of a system if, like, I had personal experience with it or I just, you know, know of it.

Q Yeah, yeah, sure. Okay. All right. What are your thoughts about that? You willing to be critical about a government process?

JUROR 16: I don't know.

Q What about the process of issuing drivers license, that's one that comes to mind. People are all over the place driving and I'm like, "I'm pretty sure they didn't pass any kind of test." I mean, it's a government system; right? But is it a perfect one?

JUROR 16: It is not.

Q You think it's got a lot of flaws?

JUROR 16: A little bit.

Q Okay. Are you willing to be critical of something like that if you were in a situation where you had to be?

JUROR 16: Yes.

Q Okay. What are your thoughts?

JUROR 11: Yeah. I mean, I'm critical of it, but I'm a rule follower, too.

Q You are?

JUROR 11: I do follow the rules; but, you know, on the side, I might think that's not the greatest.

Q Okay. You think the government adopts these types of processes sometimes, even though they're not really efficient and they're not reliable? Or do you think, because our government adopts them, we should just follow them?

JUROR 11: Yeah, I think some of them are not efficient.

Q Okay. Anybody feel any differently? I think most of us are on the same page here. Any thoughts on this?

JUROR 28: If the government's involved, it's usually a mess. It's just a fact.

Q It is what it is; right?

JUROR 28: It is.

Q Okay. All right. I appreciate that.

MR. ROZZI: Judge what's my time?

THE COURT: Fifteen minutes.

MR. ROZZI: Thank you.

Q All right. A couple things here. So let's get back to talking about guilt and innocence for a second, ma'am. So again, it was a little tough for me to hear over there, so bear with me if I'm kind of rehashing a few things, but it seems like you came into this courtroom kind of leaning in one direction about your thoughts in this circumstance; is that fair? That you had some opinions about guilt or innocence when you walked in here?

JUROR 1: No, I don't.

Q Okay.

JUROR 1: My concern is, is the depth of material deep enough that we have the whole story, not just opinions.

Q Okay. So is your concern in that regard driving some opinion in your head one way or the other? Is it causing you to feel one way or the other about Richard Allen's circumstances?

JUROR 1: Very cautious.

Q Okay. Very cautious. So you're worried about you might not see the whole – get the whole story; is that what you're saying?

JUROR 1: Right. I think the information can be skewed by the presenters, no offense, but that's –

Q Yeah. Me being one of them; right?

JUROR 1: Yes.

Q Okay. All right. You are cracking the whip today. Okay. All right. I appreciate that. You have a financial problem with work?

JUROR 28: Yes, sir.

Q An essential employee, is that what we were calling people there for a while?

JUROR 28: Yeah.

Q Is that right, under COVID?

JUROR 48: Essential worker, yeah.

Q Essential worker, there you go. But you're your own essential worker?

JUROR 28: Yeah.

Q Is there any circumstance under which you can financially manage if you're holed up in a hotel, sequestered for 30 days?

JUROR 28: Personally, it wouldn't hurt me financially, just my business would go under, because nobody can do what I do there, there isn't a replacement.

Q But I mean, are you gonna be able to survive on the back end? Like if you were sequestered, when you got out, are you still gonna be able to go back to work and get it up and running again? Are there some processes in place that you can employ to get that done?

JUROR 28: It'd be very difficult –

Q It's a pretty important situation.

JUROR 28: -- there wouldn't be much left. After a month of me not being able to be there, I would be shocked if there was much left.

Q If you were selected, is it something where you maybe could make a few calls and say, "Look, this is my weird circumstance. Can Bill help me? Can Bob help me?"

JUROR 28: If it was not for the hotel thing, I could totally go to work after.

Q Yeah, I heard that.

JUROR 28: Just being stuck in a hotel, a computer's not gonna be

enough. I have to physically be in the plant.

Q Okay. Okay. Let's see here, looking at my notes. Did you kind of walk in here with an opinion about Mr. Allen's circumstances, not having heard anything from any of the lawyers?

JUROR 14: Some at the beginning, you know, from the media from way back, it was like kind of swaying my thoughts, like I think he could be, but I don't have any proof to –

Q You think he's – you think he could be guilty is what you're saying?

JUROR 14: Yeah.

Q I mean we're just talking –

JUROR 14: Yeah, yeah.

Q -- realities here.

JUROR 14: Yeah.

Q So I know it's hard to say those things and –

JUROR 14: Oh, yeah, yeah, he could be guilty. I mean –

Q Yeah. What was it about – you know, what was making you feel that way?

JUROR 14: Just a feeling, basically, just from presentation in media.

Q Okay. So the way the media was –

JUROR 14: Yeah.

Q -- portraying some issue or –

JUROR 14: Yeah. I mean, and I had nothing to base it on though besides that.

Q Yeah. Do you agree with me that once you start to kind of acquire those feelings and beliefs, it's really hard to put them aside?

JUROR 14: No.

Q You don't? You disagree?

JUROR 14: I could put them aside; I mean, yes, I could put them aside.

Q All right. But you've been sitting here now for about an hour I'm gonna guess in this chair.

JUROR 14: Yeah.

Q Do you feel any differently than you did when you came in here?

JUROR 14: I feel more open.

Q Okay. Tell me what you mean by that.

JUROR 14: Just to hear everything –

Q You can wait?

JUROR 14: -- and weigh it.

Q Can you wait?

JUROR 14: Wait? Yes.

Q Can you wait to hear everything?

JUROR 14: I want to wait and hear everything, yes.

Q They get to go first in this case and it's a long case, so there might be a week or two or more of evidence from the State, just from the State –

JUROR 14: Right.

Q -- before we get to talk, and one of the concerns that we have is, you know, people are gonna get impatient, they're not gonna have time to just – they're not gonna be willing to wait until it's all over, until the dust settles. Do you think you can do that?

JUROR 14: I can wait.

Q Okay. What are your thoughts on that?

JUROR 30: Yes.

Q Do you think that's a fair concern for me to have because we don't get to go first and there's going to be a lot of witnesses and it's like, wait, people are gonna make up their minds on day 2?

JUROR 30: I can see where you're coming from and why you feel that way, but yeah, I can listen to the entire three, four weeks of evidence and base my decision on the entirety.

Q Okay. What are your thoughts?

JUROR 2: I would agree with that.

Q What are your thoughts?

JUROR 48: It's a very justifiable concern on your end, because, obviously, there's two sides that you have to present and listen to, so you can't just go, "All right, I heard one side, I just think the rest of the trial I'm just gonna have my mind made up." You have evidence, witnesses, everything that kind of comes together from both sides before you can, like, finally formulate an opinion or bring it up with your fellow jurors.

Q Okay. Can you wait?

JUROR 42: (Responds by nodding head in the affirmative.)

Q You have the patience to just sit back and let all this unfold before you make a –

JUROR 42: Yeah.

Q -- judgment, you pass judgment? Okay. What if he's not waiting? You gonna be willing to say something to him?

JUROR 42: Yeah.

Q You gonna speak up to him?

JUROR 42: Yep.

Q Okay. You're already kind of looking like, "I don't know." Okay. What about you? Do you have the patience to wait and hear both sides?

JUROR 11: I do.

Q I mean, it sounds kind of cliché; right? You want to hear both sides. But at the end of the day, you're gonna be sitting in that chair back there in – down in Carroll County, and the question is: Can you really sit there and say, "You know what? I'm consuming this information, but I'm not drawing any opinions until I consume the other side's information"? That's a process; you agree with me on that?

JUROR 11: Yes.

Q Am I being too overly dramatic about that?

JUROR 11: No.

Q Eh, you're kind of hedging on that one, aren't you?

JUROR 11: You're driving your point.

Q Well, I think it's an important point, you know, especially in a longer trial where you've got, you know, you've got just one side presenting for such a long time and then the other side. Now, I understand the pendulum can swing back, but people tend to have very little patience these days. Does that sound like something that you recognize in our society?

JUROR 16: Yes.

Q Right? The cell phones, we're all buzzing through them, three seconds of information, you've made up a decision about who you're voting for for president; right? I mean, people do that. Do you –

JUROR 30: They do.

Q All right. Can you wait in this case?

JUROR 30: Yes.

Q All right.

MR. ROZZI: How am I on time?

THE COURT: Thirteen minutes.

Q All right, I might have one or two more. You, Number 39 – sorry we're being impersonal, but we don't have names – John Doe, 39, did you walk in here today with an opinion about –

JUROR 30: I did.

Q -- guilt? And – go ahead.

JUROR 30: I did, yes.

Q And since you've been sitting their, has that changed at all?

JUROR 30: No.

Q Okay. And do you believe that when you acquire these opinions, that it's hard to set those aside?

JUROR 30: It can be, but –

Q is there anything the Judge or myself or the prosecutor can say to you to change the way you feel?

JUROR 30: I would just try my best to be impartial in this case.

Q Okay. But it hasn't changed since you've been sitting here?

JUROR 30: No.

Q Okay. So there's nothing that I've said or the prosecutor said that can make you change your mind at this point; right?

JUROR 30: Not at this point.

Q Okay. All right.

JUROR 30: I don't really have much evidence.

Q Okay. What's your opinion? What kind of opinion did you come in here with?

JUROR 30: Innocent.

Q That he's not guilty?

JUROR 30: That he's not guilty.

Q Is that based on the things you've seen on – in the media and you've kind of – 'cause I think somebody else down here was mentioning that they had been exposed to some of that. Okay. And you think that you can be open-minded, even though you've got the lawyers sitting here, you know?

JUROR 30: Yeah, I can be open-minded.

Q Okay. What are your thoughts? You come in here with an opinion about anything as it relates to his guilt or innocence?

JUROR 42: (Responds by shaking head in the negative.)

Q Nothing?

JUROR 42: I don't know nothing about it.

Q A lot of people will say, "You know, if he was arrested, he must be guilty," you ever heard of that phrase? You ever heard anybody say anything like that?

JUROR 42: I've heard of it, but I don't believe that.

Q Yeah. You don't believe that?

JUROR 42: No.

Q Do you think there are people that do?

JUROR 42: Some people might, yeah.

Q You understand why we might be concerned about that?

JUROR 42: Yeah.

Q Is that a fair thing for me to ask about? Do you think that that's something that – the way people think often?

JUROR 1: I think it's a fair question to ask of people, and they may be unaware that they even do that.

Q Yeah. It's just almost inherent, it's genetic almost; isn't it?

JUROR 1: It's more inherent –

Q It's 'cause you see –

JUROR 1: -- not genetic, but inherent.

Q Yeah. I mean, it's that ingrained in humans; right?

JUROR 1: Um-hmm. (Affirmative response)

Q How do you avoid that? What would you tell the rest of the jurors? Like, you know, "We've got to be neutral"; how do you really do that?

JUROR 1: Well, I keep hearing you say things like, "If you hear this", "You hear that." That's only one sense. I think you need to be aware of the whole surroundings during the trial of what's going on, the interactions of the lawyers among themselves and their physical reactions to comments that are made, whether they're before the audience right now or waiting for their turn, as you mentioned earlier –

Q Yeah, yeah.

JUROR 1: -- waiting for the second half.

Q So you're gonna take a more comprehensive view of what's going on around you? It might not just be listening to one witness?

JUROR 1: Exactly.

Q So do you – I'm glad you brought this up, because we talked about this

yesterday. So if myself and Mr. Baldwin or Ms. Auger are sitting over here at the table in the middle of this trial and you see us laughing about something or giggling or chuckling, what's your thought gonna be about that?

JUROR 1: They think they have it in the bag.

Q Okay. So you're thinking, “These lawyers think they've got it lock, stock, and barrel”; right?

JUROR 1: Yeah.

Q Okay. What if you saw Mr. Baldwin and I over there kind of chuckling during the trial, what might you think about that?

JUROR 16: I kind of agree with her.

Q That there's some arrogance with that, is that the right word?

JUROR 1: That's the word, yes.

Q Okay. All right. You ever heard of gallows humor?

JUROR 1: Um-hmm. (Affirmative response)

Q Okay. Tell the jury what you know that to be.

JUROR 1: Somewhat follow the crowd, sense of mystery and intensifies the feeling.

Q Okay. What do you think it is?

JUROR 39: I mean, I think it's more like you’re laughing at something that could be seen as absurd in your mind.

Q Okay. All right. Anybody else heard of it? It's the idea that, you know, sometimes when you're confronted with really stressful circumstances, one way to deal with that is to add a little levity to it, you know You know what levity is? It's when, you know, some humor when, you know, you're just dealing with things that are some of the most difficult things in life, sometimes you just laugh

about it; right? Well, in this business, unfortunately, you know, I think there are lawyers that do that. I mean, when I say unfortunately, I mean unfortunately we have to be in this situation, 'cause it's the subject matter that we deal with; right? And this isn't the only case that Mr. Baldwin and Ms. Auger and I have, there's a whole file cabinet full of these at home – back at the office. And so my question to you is this: If you see us over there and we're maybe not looking as dead serious as you might think we need to be looking in a case like this, are you gonna hold that against our client?

JUROR 14: No.

Q Not a whole lot of worry about this in one- or two- or three-day trials, because they're quick, you don't have a lot of interaction with jurors; but when we're in a trial that lasts a week, two weeks, three weeks, four weeks, it can be more important because the parties start to have personalities; right? You start to see the way we move. Do you think that that's a fair thing for us to do or would that be just so offensive to you if you saw us –

JUROR 11: I mean you're human, you're gonna have moments when something humorous comes up that you're going to chuckle at, but, I mean, if you're over there yucking it up, that might be a different think.

Q Yeah. There's a threshold; right?

JUROR 11: Yeah.

Q Can't be sitting at the barstool telling jokes.

JUROR 11: I would expect you to –

Q Yeah, sure.

JUROR 11: -- have a humorous moment.

Q What about Mr. Allen? Do you feel any differently about how he reacts?

'Cause as a lawyer, I'm always worried, like "What are they thinking?" I mean, how do you sit over there and be normal; right?

JUROR 14: Yeah, I mean –

Q Do you - would you feel any different?

JUROR 14: I don't know him, so I would expect he would probably have moments too where he would find something humorous.

Q Yeah, that's just the way life is – right? – sometimes. Okay. You're not gonna hold that against us if that happens? I mean, I don't think you're gonna see the, you know, comedy club over here.

JUROR 14: Right. Yeah. If I saw the comedy club, that would be different.

Q Yeah.

JUROR 14: But if I see an occasional smile and –

Q Okay. What are your thoughts about that? Silence. It's tough, isn't it?

JUROR 32: Yeah. I don't really have a thought.

Q Well, do you think that it's fair that sometimes we have to have a little humor in our lives too, just to deal with this stuff?

JUROR 32: Yeah.

Q Okay. What are your thoughts?

JUROR 2: No, I think that that's fair.

Q There's a line for everything; right?

JUROR 2: Yeah.

Q Okay. All right. I appreciate that.

MR. ROZZI: How much time do I have?

THE COURT: One minute.

MR. ROZZI: All right.

Q And anything – or one more – actually, you came in here with an opinion?

JUROR 2: I did.

Q All right. Number 2, and is that opinion such that you're – you know, it's ingrained in you such that you're not gonna be able to set that aside?

JUROR 2: No.

Q Okay. Has it changed since you've been sitting here?

JUROR 2: Not really. It's not an opinion of guilt or innocence.

Q Okay.

JUROR 2: It's an opinion of the overall trial and information that I've been presented –

Q Consumed before?

JUROR 2: Yes.

Q Okay. So you had an opinion about some of that, but is – what's your opinion?

JUROR 2: My opinion is that I was wavering on what's even available and not available and the amount of weight of it.

Q Okay. But is there anything today that's really shifted that entirely one way or the other, whether good or bad, for my client?

JUROR 2: No, not really. I mean, I think there's been some conversations that talk about, you know, the burden of proof, reasonable doubt, and those types of things, but I think both sides have clearly an agenda.

Q Okay. Or maybe a job to do –

JUROR 2: Yeah.

Q -- right?

JUROR 2: A job, yeah.

Q Okay. That's fine. I'm just listening to what you're saying. All right. Very good. I appreciate that, thank you.

THE COURT: Your time's up. Counsel, you may approach when you're ready.

(Sidebar conference conducted.)

THE COURT: Okay. So the State is asking for cause on seat 2, and you are in agreement on seat 2, that's the financial –

MR. MCLELAND: Seat 2 is a cause?

THE COURT: Um-hmm. (Affirmative response) The State is asking for cause on seat 4. And I'm sorry, what is the cause on 4? Hey, folks, could we keep it down in here, please? We're working still. Thank you.

MR. MCLELAND: The cause on 4, Judge, is he's made up his mind, won't be able to set that aside.

MR. ROZZI: I'm okay with that.

THE COURT: Okay. So cause on 4.

MR. ROZZI: Cause on 4.

THE COURT: Okay. State is asking for cause on 7?

MR. MCLELAND: Same thing. His mind hasn't changed, and he also talked about how he can't set aside his financial problems, and I asked him if he'd be a good juror and he said no because of those issues that he had or those concerns that he had.

THE COURT: Okay.

MR. ROZZI: I heard him say he could keep an open mind. I didn't hear him say anything about financial that led me to believe one way or the

other.

THE COURT: That was at the very beginning.

MR. ROZZI: Okay. Well, I couldn't hear him.

THE COURT: I know, you can't.

MR. MCLELAND: I kept trying to get him to speak up.

THE COURT: He wouldn't speak up, but he said four kids, but yeah, he could get through that, but he was distracted by the money aspect of it.

MR. ROZZI: Okay. Did he say he could get through it?

THE COURT: No, he said he would be distracted and worried about the money.

MR. MCLELAND: I said, "Would it cause you to be a bad juror in this case?" He said, "Yes."

THE COURT: And he kind of laughed when you explained the gigantic sums of money or snorted. I'll take him. And then, you're asking for 10 and 11, and the Defense agrees with you. And just so you know, high-risk pregnancy, they will not fax anything. I sent my guy out and he just –

MR. MCLELAND: I just took her word for it. She said –

MR. ROZZI: Oh, on the health care –

MR. MCLELAND: She had that on her questionnaire, she had that on her questionnaire too, she said she was high-risk and she was concerned.

THE COURT: Yeah. They wouldn't –

MR. ROZZI: Oh, the pregnancy issue.

THE COURT: They wouldn't confirm, they wouldn't deny.

MR. ROZZI: She's – I have an opinion, but I think I'll keep it to

myself.

THE COURT: Okay. So the Defendant's taking seat 3, seat 6, and – I'll give you 4 back, since that was –

MR. ROZZI: Wait a minute, what about 1?

THE COURT: Well, you didn't do anything with that one.

MR. ROZZI: No, I said – oh, I thought you were telling us who we're empaneling.

THE COURT: No, no, no.

MR. ROZZI: Sorry. You were getting to our strikes.

THE COURT: I was getting to your strikes.

MR. ROZZI: Okay.

THE COURT: And I'm giving you back a strike, because we took seat 4.

MR. ROZZI: Yeah. Okay. So seat 4 was the first one –

THE COURT: Seat 4.

MR. MCLELAND: So we agreed on 1 –

THE COURT: You have all agreed on 1, you've all agreed on 5, you've agreed on 8, 9, and 10. So 1 will be finishing out your jury.

MR. ROZZI: 1, 5, 8, 9?

MR. MCLELAND: The four would be the alternates?

THE COURT: And then these would be your alternates, unless you have strikes for the alternates?

MR. ROZZI: 1, 5 –

THE COURT: 1 –

MR. ROZZI; -- 8, 9 –

THE COURT: -- 5, 8, 9, and 12.

MR. MCLELAND: So now we'll have the jury?

THE COURT: That's correct.

MR. MCLELAND: And do you – are you asking if we have any strikes for the alternates?

THE COURT: If you – yeah.

MR. ROZZI: We're filling one spot or two? One?

THE COURT: No, we've already – seat 1 fills your jury.

MR. ROZZI: Yeah. Just the one spot we needed to fill?

THE COURT: Just the one, yes.

MR. ROZZI: Okay. But they were saying we needed somebody – they got some bad news, that's why I was kind of –

THE BAILIFF: (Inaudible) Number 51.

THE COURT: Now, I will tell you, she kind of looked at me like – and she had – she was in 3, I think. Nope.

MR. MCLELAND: Did she mention all this then?

THE COURT: Nope.

MR. MCLELAND: 'Cause I'm looking at my notes and, see, I don't remember.

THE COURT: She was –

MR. ROZZI: She was round 2?

THE COURT: She was round 2. She talked about childcare and that she had three kids. She never once mentioned she was breastfeeding. She never even said – I marked childcare and then I marked it off, because she said she could take care of it. And I think this is the one that indicated that her dad

was a cop.

MR. ROZZI: Yeah, I do remember her.

MR. MCLELAND: Yeah. She was a shorter gal?

THE COURT: Right.

MR. MCLELAND: Yes, I know who you're talking about.

MR. ROZZI: Dark (inaudible)

MR. MCLELAND: Yes, yes.

MR. ROZZI: Okay. All right. We're back to square one.

THE COURT: So not a peep about this, so I don't know if this is now buyer's remorse, which is kind of what it seems to be.

MR. ROZZI: Yeah. Well, she wasn't real anxious to be on the jury anyway. I think she was kind of sitting there hoping –

THE COURT: Well, but tough crap.

MR. ROZZI: Yeah, oh, no, I agree.

MR. MCLELAND: Can I tell – can I talk to Jim and Stacey about this? Will you also us to strike an alternate at this point, too?

MR. ROZZI: Basically, these five. Basically –

THE COURT: Yes.

MR. ROZZI: -- 5, 8, 9, and 12 are subject to getting stuck by alternate –

THE COURT: Correct.

MR. ROZZI: -- strikes.

MR. MCLELAND: Correct.

THE COURT: So –

MR. MCLELAND: I'll go back and talk and –

THE COURT: Okay. Well –

MR. MCLELAND: Well, if you're gonna get rid of her, I guess number – we're gonna get seat – then it'll be 1 – seat 1 and seat 5 would be on the jury, and we just need three.

THE COURT: And we can't – we need four al – I'd like to get six, but we don't have room.

MR. MCLELAND: Okay. So if we concede to this, then 1 and 5 are on the jury, and then we're doing one more round?

THE COURT: And then we have to do one more round for the other alternate.

MR. ROZZI: Can I take that back?

THE COURT: Yeah, but I need it, I need that that.

MR. ROZZI: Yeah. I'm just gonna show them –

THE COURT: So we're not done yet, so I'm just telling everybody to sit tight?

MR. MCLELAND: Yes, please.

THE COURT: Okay. Ladies and gentlemen, just kind of sit tight for us, something just came up that we need to address, so just sit tight; okay?

MR. MCLELAND: Judge, the State's willing to concede we strike her for cause. If she's breastfeeding, I'm not gonna – the State's in agreement.

MR. ROZZI: I agree.

THE COURT: God.

MR. ROZZI: I don't want her lactating in the jury box.

THE COURT: Well, I mean, we've had experience with this before unfortunately –

MR. ROZZI: I think she just doesn't want to be here.

THE COURT: She doesn't want to be here.

MR. ROZZI: We've got a month-long trial, I don't want somebody pissy back there that's not interested. I get it, but –

THE COURT: Okay.

MR. MCLELAND: So does that mean that 1 and 5 is our juror – jury?

MR. ROZZI: Yeah.

MR. MCLELAND: And you're giving strikes for the alternate –

MR. ROZZI: 8, 9 and 12.

MR. MCLELAND: And the State wants to strike 8 as the alternate, seat 8, sorry.

MR. ROZZI: One of your two strikes?

MR. MCLELAND: Yes.

THE COURT: Okay. So now we have ten jurors.

MR. MCLELAND: We have what?

MR. ROZZI: We have ten plus the –

THE COURT: Ten. So 1 and 3 – I'm sorry, 1 and 5 would fill your jury.

MR. ROZZI: Yes.

THE COURT: Correct?

MR. ROZZI: Yes.

THE COURT: Are we all in agreement with that?

MR. MCLELAND: Yes.

THE COURT: Okay. So 1 and 5. And then – so we picked our jury.

MR. MCLELAND: Jury's done. So now we're on alternates.

THE COURT: And we're not taking any more notes or passes from anyone.

MR. ROZZI: No email.

THE COURT: And no email.

MR. MCLELAND: They're gonna form a line and –

THE COURT: On to alternates.

MR. MCLELAND: On to alternates. We gotta do another round anyways –

THE COURT: Yes.

MR. MCLELAND: -- so State wants to strike number – seat 8, number 42, as one of our alternate strikes; and then I'm okay with other two and I don't have any for cause on them.

THE COURT: Okay. Yes. What about you?

MR. ROZZI: So we're not striking any for the alternates.

THE COURT: Okay. So these two are the alternates.

MR. MCLELAND: Yeah.

THE COURT: And we need two more –

MR. MCLELAND: Two more.

THE COURT: -- so we're gonna take break, obviously, because they all had to go to the bathroom.

MR. ROZZI: I need to use the restroom. 9 and 12 are our alternates right now?

THE COURT: 9 and 12 are your alternates.

MR. ROZZI: Okay.

MR. MCLELAND: Judge, do we have to go downstairs to use the bathroom?

THE COURT: You can go into courtroom 2, there's a restroom in there.

MR. ROZZI: Are they in session?

THE COURT: No.

MR. ROZZI: Okay.

MR. MCLELAND: Okay.

THE COURT: We've locked that back door so nobody can go in –

MR. ROZZI: Okay.

THE COURT: -- 'cause we hogging up everything, all of the resources.

(Sidebar conference concluded.)

THE COURT: All right. Ladies and gentlemen, I'm going to release you individually and advise you whether you've been excused from service or whether you've been selected to serve. To those jurors that are selected, I will ask that you accompany the officer into the jury room, which is right through here, Room 320, for a briefing and for information gathering from you, and we'll also provide you with some information. Ladies and gentlemen, those of you that have are selected to serve, please, do not speak to anyone about this case. You are free to tell your family and friends that you have been selected to serve as juror, but that is the extent of what it is that you may share. Please avoid all media coverage about this case. Please don't conduct any research on your own about the case. Please don't post any remarks on – about this case on any social media platform, and please, don't read any anybody else's notes or comments or