

1 courtroom. And I'm reading it and I go, "That sounds
2 weird." Then I'll realize that they're talking about
3 something that happened in my courtroom that's not quite
4 accurate. Reporters have to get information. They have
5 to get a story out.

6 I mentioned the question of honesty of police
7 officers. You heard me talk about that. You know we
8 make a big deal of it. It's even on question 8 out of
9 the few that we ask. The fact is that most of the time
10 you're not going to have a law enforcement officer who
11 is a witness to anything other than relating to us what
12 he saw later or somebody pointed out to him or her or
13 what somebody told him or her.

14 So are you going to be able to be a fair juror?

15 A I think so.

16 Q Okay. Is that it?

17 A Yeah.

18 025XXXXXXXXXXXXXXXXXXXX

19 BY THE COURT:

20 Q 025XXXXXXXXXX?

21 A Good afternoon. I'm a registered nurse. My
22 husband is a school teacher. He teaches fifth grade. I
23 have been on two previous juries, one has been within
24 this -- your court system. And verdicts on both of
25 them.

26 Q Okay.

27 A No to all of the answers.

28 THE COURT: Thank you.

MS. SHARON TIERNEY

1
2 BY THE COURT:

3 Q Ms. Tierney?

4 A Good afternoon, Judge. Yes to 3. There was a
5 verdict. 6, I know a lot of law enforcement over the
6 years, and I do have attorneys in the family that are
7 San Bernardino County. Yes on 11, a son, friends,
8 family. 12 is a yes. And for myself, personally, just,
9 like, home invasion and vehicle theft. My son was
10 charged and he was -- on 11 -- he was sentenced, and
11 that was a felony. It was later dropped to a
12 misdemeanor and I believe before your court. I attended
13 most of the hearings or whatever. I thought he got a
14 fair shake.

15 Q What about 1 and 2?

16 A Sorry.

17 Q I'm wondering if you were anti-consecutive or
18 chronological.

19 A Dyslexic. I have been retired for about ten
20 years from the medical field, phases from nursing to
21 managing. And separated from my spouse for ten years.
22 I guess he would be categorized as welder, maintenance.

23 Q Is your son an attorney?

24 A No. My brother-in-law and father-in-law.

25 THE COURT: Okay. Thank you.

MS. MARIE CERVANTES

26
27 BY THE COURT:

28 Q Ms. Cervantes?

1 A Hi. I'm an instructional assistant for the
2 Victor Valley Elementary School here in Victorville. My
3 husband is in maintenance. I did serve on a jury a long
4 time ago, civil. Number 7 would be yes. My nephew is a
5 sergeant. He is a transfer here in the courthouse
6 somewhere.

7 Q What's his name?

8 A Steven Hinojos.

9 Q There's only one sergeant here in the
10 courthouse. I wanted to see if we were talking about
11 the same person.

12 A Yeah.

13 Q Yeah.

14 A Steven Hinojos and the last time I knew, he was
15 supposed to be transferred here.

16 Q He's here. He replaced Sergeant Bachelor, who
17 was a lieutenant. Maybe Steven will get promoted too.

18 A Does that mean I can leave? Number 12 is a
19 yes. My son was a victim. And the rest would be no.

20 THE COURT: Thank you.

21 MR. CHRISTOPHER PROCTOR

22 BY THE COURT:

23 Q Mr. Proctor?

24 A I work at Wal-Mart Distribution Center as a
25 loader. I have been there for seven years. My wife is
26 a stay-at-home mom/home school teacher. And I never
27 served on a jury. The only one I have a yes to is
28 Number 12. My best friend, she was raped by her father.

1 And my sister-in-law, she was raped at a party.

2 Q Okay. Is there anything about the fact that
3 you have friends or relatives that were raped, you know,
4 that rape is an allegation in this case? Is that going
5 to affect how you view the evidence in this case?

6 A I would like to say no. But a part of me -- I
7 didn't know until just now until I said it.

8 Q Okay. It happens all the time. Don't feel
9 like the Lone Ranger. Sometimes you can sit there
10 thinking about it, and you have your thoughts all in
11 order and I have seen people before all of a sudden have
12 a catch in their throat, hear the emotion rising, and
13 realize that it's going to affect them. This is going
14 to be something that you're going to hear about. It's
15 going to be an unpleasant experience in some ways.
16 Nobody says you have to be able to be unaffected by your
17 jury service.

18 But if you think that what you are telling me
19 about your own experience through your relative and your
20 friend and if those are going to affect you.

21 You think it will?

22 A Yeah. I would believe so, but like I said,
23 I've been trying to work on that for a while.

24 Q But you think it might be hard to separate?

25 A Yeah.

26 THE COURT: Counsel, do you stipulate that I
27 can excuse Mr. Proctor for cause?

28 MR. SANDERS: Yes, your Honor.

1 MR. THOMAS: Yes, your Honor.

2 THE COURT: Mr. Proctor, you are excused.

3 We are getting close to that break. If you're
4 wondering does he ever stop.

5 Call another name, please.

6 THE CLERK: Juror Number 1, Cherri Allen.

7 **MS. CHERRI ALLEN**

8 BY THE COURT:

9 Q Hello, Ms. Allen.

10 A Hello. I am a campus assistant for Hesperia
11 Unified School District, Hesperia High School. My
12 husband is a laid off construction foreman. I have
13 never served on a jury. And I have yes to 6, 7, and 12.
14 6, I have an acquaintance that works for San Bernardino
15 police department, he's a detective. And I have my son
16 works -- is a San Bernardino County sheriff's deputy
17 here in Victorville. And me and my husband had some
18 construction equipment stolen about 20 years ago.

19 Q That's it?

20 A That's it.

21 Q So your son's name, what is his first name?

22 A Steven Allen.

23 Q Steve Allen. I have heard of that name before.
24 It was a joke. The original Tonight Show. What about
25 this? You know that Detective Alexander is with the
26 San Bernardino Sheriff's Department; right? So if you
27 sat as a juror in this case, are you going to
28 automatically want to see Mr. Thomas win because

1 Mr. Thomas is here as the attorney for the People and
2 he's the one calling the police officers and he's trying
3 to sell you on this investigation being proven beyond a
4 reasonable doubt? Are you going to want to see that or
5 are you going to wait and see?

6 A No.

7 Q You will wait and see?

8 A Yeah, I'll wait and see.

9 Q Okay. This case is over. Your son comes up,
10 "Hey Mom, you acquitted somebody on a murder?"

11 What are you going to say?

12 A I listened to all the facts.

13 Q No problem. Let the chips fall where they may?

14 A Yeah.

15 THE COURT: I'm going to ask this now for
16 everyone here, that is all 18, you have heard me bring
17 up some things back there, for instance, 059XXXXX. I
18 talked to you quite a while ago. Ms. Austin, I talked
19 to you before I brought up the subject of presumption
20 of innocence, the right to remain silent. All of
21 those things I talked about later. But you all heard
22 everything that I have talked about so far.

23 Does everyone agree to apply those principles
24 that I have talked about with you so far?

25 (Whereupon the prospective jurors answered in the
26 affirmative.)

27 THE COURT: Any problem with any of them?

28

1 (Whereupon the prospective jurors answered in the
2 negative.)

3 THE COURT: Okay. We're going to take a
4 recess. When we come back, we're going to hear from
5 Mr. Sanders. He is going to get an opportunity to ask
6 questions of you, then Mr. Thomas will get a chance.

7 Every time we take a break I'm going to say
8 you're admonished, that it is your duty not to converse
9 among yourselves or with anyone else on any matter
10 connected with this case nor form or express an opinion
11 on it until it's submitted to you.

12 15 minutes.

13 (Whereupon a brief recess was taken.)

14 THE COURT: Okay. Thank you very much.

15 We're back on the record in the case of
16 People of the State of California versus
17 John Henry Yablonsky, who is here along with his
18 attorney David Sanders. John Thomas is here along with
19 Detective Alexander.

20 And we're continuing in our voir dire.

21 Mr. Sanders, would you like to have an
22 opportunity to ask questions?

23 MR. SANDERS: I do. Thank you.

24 THE COURT: Ladies and gentlemen, Dave
25 Sanders.

26 You're going to have to speak so loudly that
27 the people behind you can hear you, and I know that's
28 not your normal tone of voice. Maybe if you would move

1 to this podium down here, you would be facing the right
2 direction.

3 MR. SANDERS: I'm sorry, your Honor. I
4 started off with something happening in my throat and
5 it came out soft. I'll try to make it louder.

6 THE COURT: Thank you.

7 MR. SANDERS: Ladies and gentlemen of the
8 jury, my opportunity at this point is to ask you some
9 questions. As the judge indicated, voir dire is the
10 desire that all of us have to have a fair trial, to
11 have a jury that is fair, a jury that is unbiased, a
12 jury that is unprejudiced, and a jury that can perform
13 a task that we hope in our country that jurors will
14 do. My questions are asked in that light.

15 I know the judge asked all of you individual
16 questions, and it took a couple of hours so I hope
17 you'll forgive me if I sometimes repeat some of the
18 things that the judge asked you. The reason I do that
19 is sometimes when 059XXXXX answers questions at 10:30 in
20 the morning and we get all the way to Ms. Tierney,
21 059XXXXX thinks over, "Wait a minute. You know, there
22 was this other time," or "There was -- I do have an
23 answer to question Number 8 or 9," or something like
24 that. So I might do that a couple of times.

25 Then I do have some individual questions based
26 upon the answers that you gave the judge. All of you
27 understand that to be a juror, you're going to be a
28 judge. You're going to have to judge people. And those

1 people will be witnesses in this case.

2 Is there any of you that have a feeling, a
3 religious feeling or otherwise, that you should not
4 judge other people? I don't see any hands.

5 Do you understand that those people are going
6 to come up here and sit right here and Mr. Thomas and
7 myself will ask them questions? And you will have to
8 judge that. Now, his honor is the judge of the law. He
9 will tell you what the law is because you have to be the
10 judge of the witnesses and the facts. You, and only
11 you, would have to decide what it was that happened or
12 what it was that didn't happen in this case.

13 Some of those witnesses may not be people off
14 the street. We might have a doctor coming in this case.

15 In fact, I think we will have a doctor come in this
16 case. And that doctor is going to take a stand and he's
17 going to testify. And you understand that if you're on
18 the jury in this case, you have to judge the doctor's
19 testimony and decide if it is credible or not.

20 Is there anybody intimidated by that
21 task?

22 Ms. Austin, do you feel up to that?

23 THE PROSPECTIVE JUROR: Yeah.

24 MR. SANDERS: That's not a problem, Mr. Bean?

25 THE PROSPECTIVE JUROR: No, sir.

26 MR. SANDERS: Okay.

27 You understand that the judge said we may have
28 some police officers testify in this case. Usually it's

1 police officers that go out to a crime scene and pick up
2 evidence and things like that, and there may be
3 testimony of that. You will have to judge when they
4 testify. If they say they saw something or they say
5 they heard something, you have to make a judgment.

6 Is that reasonable?

7 (Whereupon the prospective jurors answered in the
8 affirmative.)

9 MR. SANDERS: Anyone intimidated by that
10 task?

11 (Whereupon the prospective jurors answered in the
12 negative.)

13 MR. SANDERS: Okay.

14 I think in this case we might have some people
15 that call themselves experts, some people that say, "I
16 know all about DNA testing. I know all about
17 fingerprinting. I know about something else." And you,
18 again, are going to have to make those judgments, make
19 the decisions.

20 Is anyone intimidated by that?

21 (Whereupon the prospective jurors answered in the
22 negative.)

23 MR. SANDERS: No matter who the witness is in
24 this case or what it is that they're testifying about,
25 you are the people that have to make the judgments as
26 to whether or not that's reasonable testimony,
27 consistent testimony, it's competent testimony.

28 In this case, you are going to have to make

1 logical judgments. The judge is going to, for example,
2 instruct you that there is more than one kind of
3 evidence. There's direct evidence, something somebody
4 saw happen, and there's indirect or circumstantial
5 evidence. And you'll have to decide is that
6 circumstantial evidence that the District Attorney or
7 the government's lawyer presented? Is it logical?

8 Is there anyone that feels they're not up to
9 that task? I don't see any hands.

10 All of us have emotions. There's nobody in
11 this room, I don't think, that is emotionless. You go
12 see a movie sometimes and just cry. Somebody tells you
13 a sad story, it makes you cry. One of your kids does
14 something great, they are in a play at school, you get
15 those feelings inside. And it's a strong feeling. But
16 you understand that emotion is something that you have
17 to set aside when you are a juror in a case like this.
18 You may hear things that are very emotional. But you
19 can't judge the case on emotion. You have to judge the
20 case on evidence and logic.

21 Is there any of you that feel you may have
22 difficulty with that?

23 (Whereupon the prospective jurors answered in the
24 negative.)

25 MR. SANDERS: Okay. Ms. Bradfield, do you
26 think you might have difficulty with that? Or do you
27 think that emotions might overwhelm?

28 THE PROSPECTIVE JUROR: I feel I might get

1 emotional but I don't think that would overwhelm me
2 because the logic would come over and it would have to
3 be --

4 MR. SANDERS: The logic and the thought would
5 be there?

6 THE PROSPECTIVE JUROR: Right.

7 MR. SANDERS: Okay.

8 034XXXXXX, do you feel that way?

9 THE PROSPECTIVE JUROR: Yes.

10 MR. SANDERS: Mr. Greenwood?

11 THE PROSPECTIVE JUROR: Yes.

12 MR. SANDERS: How about 016XXXXXXX?

13 THE PROSPECTIVE JUROR: The same.

14 MR. SANDERS: Okay.

15 This case is about a woman that died 25 years
16 ago. It may be that there will be people in the
17 audience that were related to her or that feel -- or her
18 family, feel strong -- and they be sitting in the
19 audience, and they will be watching you and listening to
20 what happens and looking at you and watching what you
21 do.

22 Do you realize that no matter what -- who is
23 out there or who is listening or who is watching you,
24 you have to decide the case based on the evidence and
25 not on whether or not someone might be sad or happy
26 depending on which side you're on as to what you are
27 doing?

28 Is there anybody who might have difficulty with

1 that?

2 Ms. McKenzie, so you are a juror in this case,
3 and it's time for you to go deliberate. And you go back
4 in the back room and you decide there's not enough
5 evidence here. I have to put not guilty because there's
6 not enough evidence beyond a reasonable doubt. But I
7 know if I do that, I'm going to come out and there's
8 going to be six members of their family and they're all
9 going to be crying and looking at me. I don't think I
10 can do that.

11 Do you think you might feel that way?

12 THE PROSPECTIVE JUROR: No.

13 MR. SANDERS: 018XXXXXXX, do you think that
14 way?

15 THE PROSPECTIVE JUROR: No.

16 MR. SANDERS: Is there anybody here that is
17 concerned that maybe might affect them?

18 (Whereupon the prospective jurors answered in the
19 negative.)

20 MR. SANDERS: Mr. Bean, I wanted to ask you a
21 couple of questions based upon a couple of answers
22 that you gave the judge. I think you used the words
23 "Where there's smoke, there's fire." Did you use
24 that, or did you answer a question?

25 THE PROSPECTIVE JUROR: I didn't use the
26 words, no.

27 MR. SANDERS: I think what you said was, you
28 hope that as a taxpayer that your government -- the

1 politicians that run the District Attorney's office
2 are not going to bring a case in to you unless they
3 have some evidence.

4 Is that when you said?

5 THE PROSPECTIVE JUROR: That's correct.

6 MR. SANDERS: Okay. I hope that too. But at
7 the same time, are you able to follow the instructions
8 the judge will give you that you must presume my
9 client innocent until the government's attorney is
10 able to prove otherwise?

11 THE PROSPECTIVE JUROR: Sure.

12 MR. SANDERS: Okay. And you don't think that
13 would be a problem one way or the other?

14 THE PROSPECTIVE JUROR: No.

15 MR. SANDERS: You understand that this
16 presumption of innocence is one of the pillars of our
17 own justice system?

18 THE PROSPECTIVE JUROR: I do.

19 MR. SANDERS: Okay. And the other main
20 pillar of our justice system, being that you can't
21 find a person guilty unless the government is able to
22 prove it beyond a reasonable doubt.

23 Now, the judge indicated as he was questioning
24 some of you, he told you the difference between -- in a
25 civil case it's just a preponderance and in some other
26 civil cases it might be clear and convincing evidence.
27 But this is a criminal case. This isn't preponderance.
28 This is beyond a reasonable doubt. You must decide the

1 case beyond a reasonable doubt to find anyone guilty.

2 Is there any of you that think that that was
3 unfair to the other side of the prosecution that they
4 have to meet such a high standard? Is there any of you
5 that think that's not fair? I don't see any hands.

6 Is there any of you that will not or you have a
7 doubt in your mind that you could actually have to find
8 somebody guilty beyond a -- or not guilty beyond a
9 reasonable doubt?

10 (Whereupon the prospective jurors answered in the
11 negative.)

12 MR. SANDERS: Okay. Have any of you ever
13 been a part of an organization, a political
14 organization or a club or a class or a group that has
15 ever tried to change anything in the criminal justice
16 system telling -- for example, writing letters to your
17 congressman that the criminal justice needs to be
18 changed?

19 Pardon me for a minute. I'm going through my
20 notes here. Ms. Anderson, you said that you had a
21 brother or husband or son in law enforcement?

22 THE PROSPECTIVE JUROR: Correct.

23 MR. SANDERS: All the same ages?

24 THE PROSPECTIVE JUROR: My brother and my
25 husband and my son.

26 MR. SANDERS: Your husband is retired?

27 THE PROSPECTIVE JUROR: Yes.

28 MR. SANDERS: And your son is?