

1 Knowing that, Ms. Bradford, would you be able
2 to set aside your feelings and follow the law and not
3 consider that or would that be something that would
4 bother you if my client doesn't testify?

5 A It would be something that would bother me. It
6 would.

7 Q You don't -- if he didn't testify, you don't
8 think you could be a fair juror in this case?

9 A Not at this point.

10 MR. SANDERS: Let me ask you another thing;
11 Ms. Bradford indicated she had read about this case in
12 the newspaper. The rest of you indicated you have
13 not. Let me ask the question again. Now that we've
14 had some time to think about this, do any of you
15 recall reading articles in the newspaper about a cold
16 case involving a woman that was killed in
17 Lucerne Valley in 1985, any of that -- any of those
18 kinds of things?

19 Sometimes what I worry about is that you may
20 not remember now, but as a case goes along, you may
21 remember something later. Let me ask you this: The
22 district attorney of our county is a politician. Like
23 any other politician, he has to be elected. When he was
24 running for re-election, he sent out mailers and the
25 mailers looked like this on the front. There was
26 another mailer that he sent out that looked like this.

27 Do any of you remember receiving these in the
28 mail?

1 THE PROSPECTIVE JUROR: I did.

2 THE COURT: Ms. Tierney.

3 THE PROSPECTIVE JUROR: Yeah.

4 MR. SANDERS: 034XXXXXX. Any of the rest of
5 you? The reason is because when the district attorney
6 sent them out, he put my client's picture on the back.

7 Do any of you remember seeing that photograph
8 when you got the mailer in the mail?

9 THE PROSPECTIVE JUROR: I ripped mine up
10 coming out of the post office.

11 MR. SANDERS: That's what I do. I throw them
12 in the trash. People may read them, and it may come
13 back to you and actually in the mailer --

14 THE COURT: Just a minute. Just a minute.
15 Sorry. We only have one reporter, so we can only have
16 one voice at a time. If someone's talking, you'll
17 have to stop.

18 MR. SANDERS: Yes, sir.

19 THE COURT: Go ahead.

20 MR. SANDERS: Okay. Who was talking?
21 Ms. Tierney?

22 THE PROSPECTIVE JUROR: I didn't -- like I
23 said, it came out in the mail, and I ripped -- I don't
24 remember seeing that side.

25 MR. SANDERS: Okay. Those of you that saw
26 this, if you read the writing on this, it makes it
27 sound like Mr. Yablonsky has already been convicted,
28 and he hasn't been.

1 Did any of you get that impression that saw
2 this that he had been found guilty? All right.

3 Again, those of you -- do you remember seeing
4 this one with my client's picture on the inside?

5 Ms. Bradford, do you remember seeing that?

6 THE PROSPECTIVE JUROR: It's Bradfield.

7 MR. SANDERS: I'm sorry. You don't remember
8 seeing that?

9 THE PROSPECTIVE JUROR: I don't remember that
10 mailer at all.

11 MR. SANDERS: All right. 025XXXXXXXXX, you
12 don't remember seeing this?

13 THE PROSPECTIVE JUROR: No.

14 MR. SANDERS: 059XXXXX?

15 THE PROSPECTIVE JUROR: Um-hmm, no.

16 MR. SANDERS: No one else? All right.

17 If during the trial you remember that you did
18 read something in the paper or something triggers a
19 memory in your mind, would all of you agree to decide
20 this case just on the evidence that comes out in court
21 and not on anything that you might have read or seen any
22 other occasion?

23 Is there anyone that couldn't do that?

24 Fact is, when this case is over, you'll know
25 more about this case than the district attorney. You
26 will have all the facts.

27 Thank you, your Honor.

28 THE COURT: Thank you, Mr. Sanders.

1 Mr. Thomas will now get an opportunity to
2 address you.

3 MR. THOMAS: Good morning, ladies and
4 gentlemen. Before I get started, I want to thank
5 everybody that's in the box right now and everybody
6 who's out in the audience for your time and your
7 attention in this matter. It's really important that
8 we have jurors in order for our criminal justice
9 system to work the way that it does. Without each one
10 of you taking the time out of your busy schedules and
11 every day lives, we wouldn't be able to have the
12 system that we have. So I wanted to thank you, and
13 I'm sure Mr. Sanders and the judge feel the same way.

14 I also want to emphasize something that the
15 judge said yesterday about telling the truth. It's very
16 important that you answer our questions truthfully. I
17 can give you numerous examples. My last trial down in
18 Fontana in October through December was about a
19 two-month trial, one and a half month, and there was a
20 juror that failed to disclose some information during
21 the voir dire process.

22 Well, we found out there was some information
23 that she failed to disclose, and she sat through the
24 whole trial. At the very end when we found out this
25 information, she was dismissed as a juror. So she
26 wasted all her time being a part of the jury for that
27 trial and never got to deliberate or make any decisions
28 on the case.

1 If there's something that comes to mind that
2 you're not sure of whether or not this is important or
3 unimportant or that this would answer the question that
4 was posed, it's very important for you to tell us or
5 tell the judge that information regardless of whether or
6 not we ask you specifically about that particular
7 incident or not. If it's something you feel might cause
8 you to feel one way or the other or not be impartial in
9 the case, we need to know that.

10 With that, I want to get started. I'm sure all
11 of you received your jury summons weeks ago that you
12 were going to be on jury duty. I'm sure once you opened
13 up that envelope and you saw, oh, I got a jury summons,
14 you got all excited and you called your spouse or
15 significant other and told them, I got selected to be on
16 jury duty. I'm so excited about this; right,
17 Mr. Greenwood? Nobody does that; right? That's because
18 this is one of those things that people take seriously.
19 It's a duty pretty much that you come here, and you sit
20 as a juror. That's part of being an American and being
21 in the system that we are.

22 Not everybody gets to do this. There's certain
23 people that don't get to participate in this. If you
24 live outside the county of San Bernardino, you wouldn't
25 be able to sit as a juror here in San Bernardino County.
26 People that have been convicted of felonies, they aren't
27 able to sit and be a juror on these cases. So it's a
28 privilege to do that, and it's like voting.

1 As far as the whole thing, what was the first
2 thing that came to your mind, 004XXXXXXX, as far as when
3 you opened that summons? What did you think?

4 THE COURT: Boating, Mr. Thomas? Did you say
5 boating?

6 MR. THOMAS: Voting. When I was over there?

7 THE COURT: Yeah.

8 MR. THOMAS: Yeah.

9 THE COURT: You're speaking plenty loud. I
10 thought I heard boating, and I kept waiting to figure
11 out where the privilege of boating was going to become
12 important. Go ahead, please.

13 004XXXXXXXXXXXXXXX

14 BY MR. THOMAS:

15 Q What were your first thoughts, 004XXXXXXX?

16 A Well, I didn't like it.

17 Q Uh-huh.

18 A I mean for one, who likes to come and sit in
19 court, go through the process and get picked. Most of
20 the time, I don't get picked when I have sat. I was
21 picked once, late '90s, and I enjoyed it. It was
22 something that I wanted to do again, and I never got
23 picked again.

24 Q When you got picked, what kind of case was it?

25 A It was a murder.

26 Q Murder case?

27 A Um-hmm.

28 Q That was in the 1980s?

1 A No, it was late '90s.

2 Q Late '90s. Was that in this county?

3 A Yes.

4 Q Okay. And you were actually a member of the
5 actual 12 that got to decide?

6 A Yes.

7 MR. THOMAS: Okay. And you said -- one of
8 the things you said was who wants to come in here and
9 spend their day listening to a bunch of attorneys
10 basically talk to you, a bunch of attorneys argue and
11 judge tell you all the instructions.

12 Anybody here think that this is going to be
13 like what they see on TV, on Law and Order and CSI and
14 some of those other shows?

15 Anybody open that jury summons and say this is
16 going to be great? I get to listen to something that's
17 kind of like Law and Order. It will be real-life TV
18 basically.

19 MS. NITIKA AUSTIN

20 BY MR. THOMAS:

21 Q Ms. Austin, did you think it was going to be
22 like that?

23 A No, I didn't. Every time I call it always says
24 I'm canceled. That's what I was hoping for.

25 Q I'm sure more people here were hoping they
26 would call up and say it was canceled.

27 Everybody here understand as far as TV goes
28 that's something that isn't real life? Everybody

1 understands that nobody's going to go back in the
2 deliberation room -- let's say the 16 of you are
3 selected and you go back in the deliberation room and --
4 who watches CSI or Law and Order just by show of hands?
5 Okay.

6 034XXXXXXXXXXXXXX

7 BY MR. THOMAS:

8 Q 034XXXXXX, let's say you're selected as a
9 juror. You watch CSI Miami?

10 A No, Law and Order.

11 Q So you watch Law and Order. Let's say you go
12 back in the deliberation room, something comes up and it
13 reminds you of an episode that you saw the night before
14 or sometime on Law and Order where you heard that the
15 prosecution or the police did something in that show and
16 you wonder how come they didn't do it in this case. How
17 come Mr. Thomas and Detective Alexander didn't do all
18 this stuff that I saw on Law and Order? I'm having
19 problems with that.

20 Would that be something that you would do back
21 in the deliberation room?

22 A No. A lot of that on TV, I know it's not true
23 because I've been studying about that and a lot of stuff
24 on like Law and Order wouldn't even hold in court as far
25 as that goes. No, I don't think so.

26 MR. THOMAS: Anybody disagree with 034XXXXXX
27 who would go back in the deliberation room and
28 basically say, look, you know, Horacio on CSI Miami

1 did this cool thing that I saw on Monday night and why
2 didn't Detective Alexander do that when he was
3 investigating this case? Nobody's going to do that;
4 right? All right.

5 018XXXXXXXX

6 BY MR. THOMAS:

7 Q What was the first thought that went through
8 your head, 018XXXXXXXX, when you heard the charges and
9 you heard the charge was murder in this case?

10 A I was surprised. I didn't think I'd be here
11 anyway, and I have never been on a jury. That's a big
12 one.

13 Q Okay. Did you have some sense of shock or
14 anything when you heard murder?

15 A Um-hmm.

16 Q What was your thought after you heard the
17 murder or before you heard the murder you heard the date
18 that it occurred, 1985? What was your thought when you
19 heard that?

20 A That was a long time ago.

21 MR. THOMAS: Okay. 016XXXXXXXX, did you have
22 any thoughts when you heard murder and the fact that
23 it occurred back in 1985?

24 THE PROSPECTIVE JUROR: No, because that's
25 just life, you know. We have -- every day there's
26 crime and every day there's trials, and we just have
27 to weigh everything out and see what fits and use your
28 better judgment on everything that's presented to you.

1 MR. THOMAS: Other than 004XXXXXXX, has
2 anybody sat on a jury before where the charge was
3 murder? I know there were a few individuals that sat
4 on juries before.

5 059XXXXXXXXXXXXXXXXX

6 BY MR. THOMAS:

7 Q 059XXXXX, you've sat as an alternate on a jury?

8 A Um-hmm.

9 Q What type of trial was that?

10 A It was a criminal -- I guess it was criminal,
11 guy running from the police.

12 Q Okay. So kind of an evading charge?

13 A Yeah.

14 Q Okay. And as an alternate, what would -- what
15 did that make you feel like when you saw the 12 jurors
16 that were selected as jurors go back there and
17 deliberate and you weren't invited back there to
18 deliberate?

19 A Well, it didn't take long for them to
20 deliberate. Everybody got out of court and they had
21 already did the judgment.

22 Q Uh-huh. So you didn't feel like you were left
23 out or anything like that?

24 A No.

25 025XXXXXXXXXXXXXXXXXXXX

26 BY MR. THOMAS:

27 Q All right. I know there was someone that had
28 two prior jury experiences. 025XXXXXXXXXX, I think it

1 was you; right?

2 A Um-hmm.

3 Q What type of trials were they?

4 A One was in Big Bear, spousal abuse. The other
5 one was here. It was an incident at the Adelanto Jail.

6 Q Both of those trials you were actually one of
7 the 12 jurors?

8 A Yes.

9 Q You came to verdicts on both of those trials?

10 A Yes.

11 MR. THOMAS: Did anybody here follow any of
12 these high-profile cases, let's say the Lindsay Lohan
13 case or any of these other cases where you have
14 celebrities or has anybody been following what's been
15 going on in the news in Tucson with the congresswoman
16 that was shot there and the federal judge that was
17 killed? A few of you have been following that.

18 Has anybody watched any of the trials on these
19 high-profile cases on TV where you sat through and
20 watched it on TV? No.

21 016XXXXXXXXXXXXXXXXXX

22 BY MR. THOMAS:

23 Q 016XXXXXXX, as far as your prior jury
24 experience, what did you think about the whole
25 experience?

26 A It's educational.

27 Q Uh-huh.

28 A You -- you are privileged to examine everything

1 and weigh the facts, and I think that's a very good
2 experience.

3 MR. THOMAS: Okay. Anybody here think
4 that -- think it's going to be a bad experience,
5 anybody that's not been a jury before?

6 I always ask this question of everybody in
7 here, and I didn't tell the people in the audience, but
8 it's very important that you listen to all of the
9 questions that are posed by myself and Mr. Sanders and
10 the judge in this case because once you get up here,
11 we're not going to go through all this again.

12 It's going to be a shortened version,
13 basically, did you hear everything that I asked all the
14 other jurors while they were up here? Yes. Would your
15 answers be any different? No or yes, they would be
16 different. I remember you asking this question, it
17 would be different as far as that particular question.
18 So it's very important that you pay attention.

19 As far as when you opened up that summons and
20 going back to opening up the summons, did you think,
21 look, I know I have this duty to go in there, a civil
22 duty to be a juror on this case, but, you know, this is
23 just a bad time in life? I got too much other stuff
24 going on? I wouldn't be able to concentrate for
25 whatever reason? I have a family member in the hospital
26 or something along those lines or, you know, I'm too
27 busy looking for a job or something along those lines
28 where it's going to impair your ability to concentrate?

1 When you're up in the jury box listening to all the
2 evidence in this case you might be wondering, you know,
3 what's going on with this, what's going on with that, to
4 the extent that it impairs your ability to actually
5 listen to the testimony carefully.

6 Anybody here of the 18, did you get that
7 feeling when you opened up that summons or do you have
8 that feeling now where there's something in your life
9 that's going on right now that this isn't a good time
10 for me to be a juror?

11 MS. CATHERINE ANDERSON

12 BY MR. THOMAS:

13 Q Ms. Anderson.

14 A Yes, not when I opened the summons. Yesterday
15 when I was driving home, things that I had already
16 scheduled, medical things for family members that I do
17 for them, I remembered I had dates set and everything.
18 I was going to have to look at the dates and see if I
19 can manage.

20 Q Okay. You think it will be to the extent where
21 let's say you're selected that you'd be focusing in on,
22 oh, well, what do I have to do tomorrow? I got to make
23 sure that I do this, get to this medical appointment in
24 time or I got to make sure I do this particular thing at
25 a certain time the day after? Is that something that
26 would cause you to lose focus?

27 A It might because I have a sister that's going
28 in for a third brain surgery. I'm the one that's taking

1 her and dealing with that along with my father also.

2 Q I'm sorry to hear that.

3 A I take him, so I take care of three people in
4 between, not all the time but right now things
5 scheduled, surgeries are getting scheduled. I was going
6 through it to see if I can re-arrange or if anything
7 was -- I really didn't think I was going to get this far
8 in this process. I had something I want to add too.

9 Q Go ahead.

10 A You said that it's important if it's small or
11 large if we feel it's important to know, Mr. Sanders
12 asked jurors about socializing with people. Yesterday I
13 was at a social event where there was law enforcement,
14 and they did know that I'm on jury duty. They said, oh,
15 you weren't dismissed, and I said no. That was it.

16 Then I was asked a question and the question
17 was, you know, you're -- the 40-plus years that you've
18 been around law enforcement, not -- have you known any
19 law enforcement to lie of all the years you've been
20 associated?

21 Q Uh-huh.

22 A And I said no. Being honest and truthful,
23 that's important, but I was asked that question. I just
24 think that -- you know, you said nothing's too small. I
25 think it's important.

26 Q We really appreciate your honesty. As far as
27 that particular thing goes, it's connected to what the
28 judge was talking about yesterday.

1 A Right.

2 Q Do you think you can set that aside? Just
3 because you personally haven't had the experience of a
4 law enforcement officer lying, that doesn't mean that
5 law enforcement officers don't lie; right?

6 A Correct.

7 Q Okay. And let's say a law enforcement officer
8 gets up on the stand and says something that you believe
9 is contrary to what all the other evidence shows, and
10 you believe, well, I think they -- they could be lying.
11 Would you be able to set your personal experiences, the
12 fact that you haven't had a law enforcement officer lie
13 to you personally, and still be able to judge that
14 officer's credibility separately?

15 A Yes.

16 Q Okay.

17 A Then they wanted to make sure -- it's just the
18 way it was -- I was approached that be made clear that I
19 have -- you know, that I never had -- you never met --
20 you don't know of anyone that has ever lied; correct?

21 Q Uh-huh.

22 A Correct. I don't know -- you know, I've never
23 heard of anyone that I've known that lied. It was just
24 the way I was approached.

25 Q Along those lines, you mentioned that if
26 Mr. Yablonsky didn't take the witness stand that you
27 would have some difficulty with that?

28 A Yes.

1 Q Okay. Despite the fact that you're going to be
2 instructed that you can't consider that as part of the
3 evidence in this case?

4 A Correct, but it's always --

5 Q Do you think you can set that aside? Let's say
6 we go through the whole trial and at the end of the
7 prosecution's case you don't believe that I proved my
8 case beyond a reasonable doubt, and Mr. Yablonsky and
9 his attorney decide they're not going to put on any
10 evidence. He's not taking the stand. They're not going
11 to put on any evidence.

12 Do you think that you can set that feeling that
13 you have that you believe defendants should have to take
14 the stand and judge the evidence the way it is at the
15 end of my case?

16 A I would probably have to hear it, but I feel,
17 knowing myself, it would still be a -- I would have that
18 doubt that there has to be more to it if he didn't want
19 to defend himself. For myself, I don't see why a person
20 wouldn't want to defend themselves for something.

21 Q It sounds like you're telling me you wouldn't
22 be able to set that aside. You wouldn't be able to
23 follow the judge's --

24 A I wouldn't want to say yes.

25 MS. KATHERINE BRADFIELD

26 BY MR. THOMAS:

27 Q Ms. Bradfield, you had the same problem that
28 Ms. Anderson had. You heard the question I posed to

1 Ms. Anderson about at the end of the prosecution's case
2 if you believed I hadn't proved my case beyond a
3 reasonable doubt, would you be able to set that aside
4 and still come to a verdict of not guilty?

5 A I would have to hear the evidence, like you
6 said, and if I didn't feel it -- I don't know. If I --
7 I'd probably have to go back and weigh it. If you
8 haven't proved beyond a reasonable doubt to me, and he
9 simply hadn't taken the stand, I would have to actually
10 think about it and deliberate. If that's -- if you
11 understand that.

12 Q Okay. So let's say, hypothetically, at the end
13 of the case you believe that I haven't proven the case
14 beyond a reasonable doubt. Mr. Sanders gets up. The
15 defense isn't going to present any evidence. Do you
16 think you can go back in the deliberation room and say,
17 hey, Mr. Thomas didn't prove his case beyond a
18 reasonable doubt and the verdict by law has to be not
19 guilty, but I can't come back with a not guilty verdict
20 because I haven't heard from Mr. Sanders's client in
21 this case?

22 A Yes, because if you haven't proved it, all the
23 more reason for him to get up there and prove that he's
24 actually not guilty.

25 Q So you would have difficulty with that, and you
26 would have some difficulty coming back with a verdict of
27 not guilty in this case in this hypothetical?

28 A Yes.

1 Q And you don't think that you can set that
2 feeling that you have that Mr. Sanders' client has to
3 take the stand, and you don't think you can set that
4 aside and follow the law and come to a verdict of not
5 guilty?

6 A I don't think I could.

7 MR. THOMAS: Okay. Does anybody here have
8 any specialized training? I know 034XXXXXX mentioned
9 something in the law or criminal justice, like, you've
10 taken classes way back in junior college or high
11 school regarding the criminal justice system and how
12 it works.

13 Ms. Anderson? Nobody else?

14 THE PROSPECTIVE JUROR: I was asked by the
15 other attorney about working in courts. I did
16 traffic.

17 MR. THOMAS: Okay.

18 THE PROSPECTIVE JUROR: I did a little bit of
19 criminal when I worked in San Bernardino, but I did
20 that like 20 years ago.

21 MR. THOMAS: That was Ms. Pineiro.

22 THE PROSPECTIVE JUROR: The majority of my
23 time I worked -- I've been retired six and a half
24 years. When I was working up here, it was traffic.

25 MR. THOMAS: Nobody else other than
26 Ms. Anderson? Mr. Greenwood?

27 THE PROSPECTIVE JUROR: I'm not sure. I did
28 security, and I don't know if that pertains to that,

1 but I did security for three years.

2 MR. SANDERS: I'm sorry?

3 THE COURT: He did security for about three
4 years.

5 MR. MARVELL GREENWOOD

6 BY MR. THOMAS:

7 Q During those three years, did you have to take
8 some classes on what you can do and what you can't do as
9 a security officer?

10 A Right, yes.

11 Q Okay.

12 A To obtain a guard card, you have to learn your
13 power to arrest, tear gas, perhaps first aid, CPR.

14 Q Like Mr. Sanders had asked 034XXXXXX, those
15 people that have any specialized training in that area,
16 particularly Mr. Greenwood, I'm going to ask you the
17 same question that was asked of 034XXXXXX by
18 Mr. Sanders. Do you think you can set that aside and
19 not bring that into the deliberation room?

20 Let's say something comes up where you say,
21 wait a minute. I learned when I was doing security the
22 police aren't allowed to do that or that I wasn't
23 allowed to do that in order to make an arrest.

24 Do you think you can keep that out of the
25 deliberation room?

26 A Yes, I can.

27 MR. THOMAS: Has anybody here been a witness
28 in court before whether or not it be a deposition of

1 some sort or a civil case, divorce proceeding,
2 anything like that where you had to testify on the
3 weekend, take an oath before you got up there?

4 Ms. Tierney?

5 THE PROSPECTIVE JUROR: Medical malpractice.

6 MR. THOMAS: Okay. Then, Ms. McKenzie, you
7 had to?

8 THE PROSPECTIVE JUROR: My divorce.

9 MR. THOMAS: Anybody else? Ms. Anderson?
10 You always have your hand up. So you've had to too.

11 THE PROSPECTIVE JUROR: Yes. I worked for an
12 insurance company, and it was somebody that had some
13 racial things said to them.

14 MR. THOMAS: I'm going to pick on Ms. Tierney
15 since she volunteered information regarding having to
16 give a statement to the police which was written down
17 in a police report.

18 When you did that, did you remember every
19 single detail and you told every single detail to the
20 police?

21 MR. SANDERS: Objection, your Honor, not for
22 cause.

23 THE COURT: Sustained.

24 BY MR. THOMAS:

25 Q As far as --

26 THE COURT: That's a two-sided sword,
27 Mr. Sanders.

28 MR. SANDERS: It is.