

1 THE COURT: Go ahead.

2 MR. THOMAS: Then as far as being a witness,  
3 let me give you an example. As far as let's say  
4 you're asked to evaluate testimony as jurors, and  
5 that's what you're going to be asked to do. There's  
6 going to be certain factors that you have to evaluate.  
7 There's going to be an instruction given to you that  
8 just because there's a discrepancy in testimony that  
9 that doesn't mean somebody's lying. The example I  
10 like to give is let's say that you're at the Rose  
11 Parade, and you see about 20 floats, about 10 bands  
12 and 5 horses. You go home, and you tell your  
13 significant other, your spouse, I was at this parade.  
14 I saw so many floats. I saw so many horses. I saw so  
15 many bands. Are you going to tell your significant  
16 other all the details of the parade, like what the  
17 floats looked like, what the horses' colors were,  
18 everything like that?

19 Mr. Bean, would you do that?

20 THE PROSPECTIVE JUROR: Probably not, no.

21 MR. THOMAS: You'd try to get to the  
22 important details like if there was a float you  
23 thought was really cool, you would say hey, I saw this  
24 float and --

25 MR. SANDERS: Same objection, your Honor.

26 THE COURT: Sustained.

27 MR. THOMAS: I know one of the questions that  
28 was asked by the judge was has anybody had a close

1 family member or relative or close friend who had been  
2 charged with a crime, and my question's going to be,  
3 has anybody here had either themselves or close  
4 friend, close family member, relative ever been  
5 arrested for a crime?

6 THE COURT: You're asking that question  
7 separate from the issue of disclosures made yesterday;  
8 is that correct?

9 MR. THOMAS: That's correct.

10 THE COURT: So if you have already told us  
11 about that, he's not asking you to repeat it. Go  
12 ahead.

13 MR. THOMAS: The people that had their hands  
14 up, if you already told us about it, put your hand  
15 down. If you hadn't told us about it, keep your hand  
16 up.

17 MR. MARVELL GREENWOOD

18 BY MR. THOMAS:

19 Q Mr. Greenwood, what was that about?

20 A I had a misdemeanor that happened five or six  
21 years ago.

22 Q Okay. What type of misdemeanor was it?

23 A It was domestic violence actually.

24 Q Okay. So you were arrested for it but never  
25 charged?

26 A Well, yes, I was charged.

27 Q Okay. So you were charged with it too. You  
28 had to go to court?

1 A Yes.

2 Q Was that here in this courthouse?

3 A No, actually it was Long Beach.

4 Q Then as far as the case goes, was it dismissed?

5 A No, actually did something ignorant. I took a  
6 deal because I didn't want jail time and should have  
7 went through it.

8 Q Then you were placed on misdemeanor probation?

9 A No. It was misdemeanor (sic).

10 Q Okay. As far as your experience in the system,  
11 did you think you were treated fairly?

12 A Yeah, for what they -- from their view point.

13 Q What about your view point?

14 A From mine, it was -- no.

15 Q Okay. What was it that you felt like you were  
16 being treated unfairly?

17 A For one, the physicalness started with my  
18 ex-wife, and that's what it was. It was like if you  
19 want to call it that, a mutual thing. I would say that  
20 I pushed her. That was after she started fighting me  
21 first, and I was just getting her off me. The police  
22 were called by our neighbors or something. That's when  
23 they came. There was nothing else I could have done.

24 Q You felt like you weren't able to tell your  
25 side of the story?

26 A Well, just ignorance of the law system. I went  
27 ahead because they had me over the weekend. I was  
28 not -- I don't go to jail, so I was trying to get out of

1 it.

2 Q Okay.

3 A They came in and bargained, so I took it. I  
4 shouldn't have because now that's on my record as a  
5 misdemeanor domestic violence and it shouldn't have  
6 been. If anything, it was defensive.

7 Q Okay. I'm sorry to hear that you feel that you  
8 were treated unfairly.

9 MS. CATHERINE ANDERSON

10 BY MR. THOMAS:

11 Q Ms. Anderson, you also had your hand up?

12 A Yes, mine was my nephew that had raped my  
13 grandmother. He went to prison.

14 MS. NITIKA AUSTIN

15 BY MR. THOMAS:

16 Q Okay. I know yesterday, Ms. Austin, you said  
17 that some of your family was involved in crime of some  
18 sort. I don't think we ever discussed what type of  
19 crimes we're talking about.

20 Are we talking about drug crimes, crimes of  
21 violence?

22 A Talking about a lot of drug crimes, violence,  
23 murder. I don't know the extent of what it was, but I  
24 have a cousin who is now serving time for murder. I  
25 have a relative that is serving time for drugs.

26 Q Did you follow any of these cases as it went  
27 through the justice system?

28 A Never.

1 Q Then as far as the court proceeding, you never  
2 went to court on any of them?

3 A No.

4 Q Did you ever go visit any of your relatives  
5 while they were incarcerated?

6 A I visited my --

7 THE COURT: I can't hear you.

8 THE PROSPECTIVE JUROR: I did visit one, my  
9 cousin.

10 BY MR. THOMAS:

11 Q And that was the cousin that --

12 A With the murder charge.

13 Q With the murder? Okay. But you didn't talk  
14 about any of the details?

15 A No.

16 MR. THOMAS: Okay. Anybody else here, since  
17 we're on the topic, ever gone and visited a friend,  
18 family member in jail, or prison?

19 018XXXXXXXXXXXXXX

20 BY MR. THOMAS:

21 Q 018XXXXXXXX, you've done that? What was the  
22 person in prison or jail for?

23 A He was a friend in jail who was accused of  
24 child molestation, and he was found innocent.

25 Q Okay. And did you ever talk about the case  
26 with him?

27 A He asked me to testify if he needed me to, but  
28 I never did.

1 Q All right. Were you willing to testify?

2 A Yes.

3 004XXXXXXXXXXXXXXXXX

4 BY MR. THOMAS:

5 Q And then, 004XXXXXXX, you had your right hand  
6 up also?

7 A Couple of my cousins, one just got out from  
8 dealing drugs. He served his time, and two other  
9 cousins that are dead now for -- in LA doing the  
10 gang-bang stuff.

11 Q Again, as far as these visits go, were they  
12 just to say hello, how are you doing?

13 A Yeah. You know, the one I visited before he  
14 died in the hospital. The other one was murdered. The  
15 other one I visited in jail once because he kept going  
16 back. I just visited him once. That was it.

17 MR. THOMAS: Has anybody here ever sought  
18 some type of employment where they applied to be a law  
19 enforcement officer or be involved in law enforcement  
20 in some fashion or another?

21 THE PROSPECTIVE JUROR: I work for the  
22 courts.

23 MR. THOMAS: In what capacity?

24 THE PROSPECTIVE JUROR: Clerk with traffic.

25 MR. THOMAS: Okay. So it was the same thing  
26 we talked about?

27 THE PROSPECTIVE JUROR: Yeah.

28 THE PROSPECTIVE JUROR: My job that I'm doing

1 now, I have to -- I work maintaining State buildings.  
2 Sometimes I got to go to the Department of Justice and  
3 take care of buildings and make sure their evidence  
4 rooms are nice and cold and they have heat where they  
5 need to have heat, electrical, lights supposed to be  
6 working where they should. I get exposed to a lot of  
7 that stuff that they do in there.

8 MR. THOMAS: Okay.

9 THE PROSPECTIVE JUROR: I get to see a lot of  
10 the stuff, evidence, pictures.

11 MR. THOMAS: Uh-huh.

12 THE PROSPECTIVE JUROR: Crime scenes and  
13 sometimes they -- they kind of are in the garage, what  
14 happened, sometimes they bring cars that are all, you  
15 know, bullet holes in them, sometimes see the blood  
16 and just horrible stuff, you know.

17 MR. THOMAS: You think that's going to affect  
18 you in any way as being a juror?

19 THE PROSPECTIVE JUROR: No. I mean, been  
20 around it for so long that you just do what you got to  
21 do and get out.

22 MR. THOMAS: Has anybody here had some sort  
23 of contact with law enforcement where they, at the end  
24 of the contact, were dissatisfied in some way? The  
25 example I give is let's say you were pulled over.  
26 Most of us have been pulled over, and let's say the  
27 officer pulled you over or the deputy that pulled you  
28 over just wasn't a nice person. They were having a

1 bad day or whatever. Has anybody had that experience  
2 before, show of hands?

3 026XXXXXXXXXXXXXXXXXXXXXXXXXX

4 BY MR. THOMAS:

5 Q Okay. 026XXXXXXXXXX, since we haven't talked  
6 to you really today, what was that experience?

7 A It was a case of mistaken identity. There was  
8 a person that was in a store and was pointed out to  
9 officers -- the owner of the store said that I was  
10 involved in the crime he was committing, and it was like  
11 a group of cars, say three, four, and they slandered my  
12 friends and I, used force on us, and we didn't know what  
13 was going on.

14 Q Um-hmm.

15 A And, you know, I was just really dissatisfied  
16 how they approached us with guns drawn, and we didn't  
17 show any kind of appearance that we were threatening.

18 Q Okay. Would you be able to set that experience  
19 aside in this case and judge the evidence as it comes  
20 out during the trial?

21 A Sure.

22 Q That wouldn't affect your judgment of the  
23 evidence?

24 A No.

25 MR. THOMAS: And everybody knows as far as  
26 their contacts with law enforcement, if you have an  
27 unpleasant contact with law enforcement, that doesn't  
28 mean all law enforcement acts that particular way?



1 Everybody agree with that just by nodding your heads.

2 (Whereupon the prospective jurors answered in the  
3 affirmative.)

4 MR. THOMAS: Anybody disagree? Just raise  
5 your hand. No hands.

6 Anybody here think that the legal system -- I  
7 know it's been touched upon by Ms. Anderson and  
8 Ms. Bradfield, anybody here think the legal system  
9 favors or unduly favors one side over the other, they  
10 favor the prosecution or they favor the defense?

11 THE PROSPECTIVE JUROR: That's not what --

12 034XXXXXXXXXXXXX

13 BY MR. THOMAS:

14 Q Were you going to say something?

15 A Yeah. In the family court system, not -- not  
16 particularly defendant -- the lawyers per se, but  
17 it's -- I've had bad experiences in family court --

18 Q Okay.

19 A -- with the other party, them siding with the  
20 other party once I even gave all the evidence of what  
21 was going on. I had a pretty bad experience in family  
22 court for my children.

23 Q You'd be able to set that experience that you  
24 had aside in family court and judge the evidence?

25 A I would try. I would try.

26 Q When you say you're going to try --

27 A Yeah.

28 Q Always makes myself, and I'm sure Mr. Sanders

1 feels the same way, it always makes us nervous when  
2 people say I'm going to try because it tells us that  
3 there's something there you might not be able to.

4 A The only reason I'm taking the classes and  
5 about to get my degree is because, you know, of a lot of  
6 the stuff I didn't know when I went to court over my  
7 children and stuff, and I ended up losing custody  
8 because of what I didn't have. When I'm saying I would  
9 try it's not that, you know -- everybody is different.  
10 I know that much. I know when the system starts to  
11 play, there's certain things that I would look for and,  
12 you know, if I see the same thing maybe it would make  
13 me, you know, feel that something's not fair.

14 Q Let's say hypothetically we go through this  
15 trial and you come up with something that you think was  
16 unfair one way or the other, whether or not it favored  
17 me or whether or not it favored the defense in this  
18 case, and the judge at the end of the trial is going to  
19 give you the law. Let's say your feelings conflicts  
20 with the judge's instructions on the law.

21 Would you be able to put your feelings aside  
22 and follow the instructions that the judge has given no  
23 matter how strong your feeling might be? It might be  
24 where you're about to explode, hey, this is totally  
25 unfair. Would you be able to put that aside and follow  
26 what Judge Tomberlin's instructions are?

27 A Based on the facts I know -- I know, I'd have  
28 to go based on the facts, but it might still, you know,

1 my decision -- still influence my decision. I think it  
2 would seriously, yeah.

3 Q So you don't think you can set that aside? You  
4 think it would be too much in a case where you wouldn't  
5 be able to follow the judge's instructions?

6 A Not really sure. I don't -- I would do my  
7 best, you know, to ensure that Mr. Sanders can get a  
8 fair trial with what I hear. I -- I don't know. All I  
9 can say is I'll try, but there's an element of --

10 Q You think that if it came down to it where you  
11 had a particular feeling, you wouldn't be able to set  
12 that aside?

13 A I think maybe I could.

14 Q You think maybe you could?

15 A Yeah.

16 Q One of the things that you said during your  
17 answer was that Mr. Yablonsky gets a fair trial.

18 A Yeah.

19 Q The People are entitled to a fair trial also.

20 A Definitely.

21 Q Would you be sure that you'd give the People a  
22 fair trial that they're entitled to also?

23 A Yeah, definitely.

24 MR. THOMAS: Okay. And everybody here heard  
25 Mr. Hoody's answer. Everybody agree with him as far  
26 as giving both sides a fair trial in this case?

27 (Whereupon the prospective jurors nodded in the  
28 affirmative.)

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034XXXXXXXXXXXXX

BY MR. THOMAS:

Q Okay. 034XXXXXX, I don't know if anybody's asked you. I know yesterday we talked about you had a couple of brothers in prison.

What were the charges in that case?

A Several different ones drugs, gang violence, but mostly they're going -- they're repeat offenders. They're in and out. They've been going for violations of parole. They don't see their PO. Then they go back. Most of those, but this last -- my -- my brother a year older than I am is facing like his third strike right now because of some stuff that went down in Barstow.

Q Are you following that case?

A Little bit, as much as I can.

Q I know there's a lot of people that don't feel that this third-strike law is something that's fair or good. Are you one of those people that -- do you think it's fair that your brother's facing life on a third strike? I'm assuming that the charge is a non-violent charge?

A No, it's -- it's a violent charge --

Q Okay.

A -- what he's looking at because he's had two. I think it depends on the charge. I'm sure there's people that can get the third strike and not be a serious charge. Then there's those who do something really bad, so it's like, you know, that's how I feel.

1           Q     It's a case-by-case basis, sometimes you agree  
2 with the way that the system works and sometimes you  
3 disagree?

4           A     Yeah. As far as my brother, I'm going to be a  
5 little biased because he is my brother, but I got to  
6 look at, you know, the facts, and did he do what he was,  
7 you know, suspected of doing, and that's -- when I talk  
8 to him, he said, no, so, you know what I mean?

9           MR. THOMAS: As a family member, you believe  
10 what your brother's saying.

11                     Anybody else here in a similar situation as  
12 034XXXXXX where you have some issues with the way that  
13 the laws are? No. Nobody's raising their hand.

14                     Mr. Sanders talked about it and the judge  
15 talked about it, my burden in this case is beyond all  
16 reasonable doubt. The judge kind of hit on it  
17 yesterday. There's a higher standard than that. That's  
18 all possible doubt. I can tell you right now if that  
19 was the standard I would never be able to prove a case  
20 because there's always, as the judge said, there's  
21 always some possible or imaginary doubt out there.

22                     The example I give is, let's say I tell you I  
23 can drive from here to Vegas in an hour, and all of you  
24 are going to say that's not reasonable. That's not  
25 reasonable for you to drive a distance of 186 miles or  
26 190 miles from here to Vegas. Is it possible? Of  
27 course it's possible. I can have the -- let's say I had  
28 the governor's powers, and I was able to shut down the

1 15, and I had a race car, and I was able to drive  
2 200 miles an hour. I can get there in an hour. It's  
3 possible, but does everybody understand the difference  
4 between reasonable and possible as far as that goes?

5 Anybody here going to hold me to a higher  
6 standard of the beyond all possible doubt? No.

7 Has anybody here ever been strangled or choked  
8 before or know somebody that's been in that situation?

9 MS. CATHERINE ANDERSON

10 BY MR. THOMAS:

11 Q I see Ms. Anderson shaking her head. Can you  
12 tell us about it?

13 A It was a close friend of mine whose second  
14 husband was strangling her and her daughter caught him  
15 and called the police.

16 MR. THOMAS: Okay. Anybody else ever seen  
17 something like that? No.

18 In this particular case, you're going to hear  
19 some scientific evidence. Let's say there was no  
20 scientific evidence and I'm asking you to convict  
21 somebody on a murder charge with no scientific evidence.  
22 The jury instructions the judge is going to give you  
23 apply for that.

24 Is there anybody here that would be unable to  
25 do that? Would anybody here require some sort of  
26 scientific evidence before you were able to convict in a  
27 murder case?

28 The example I give is --

1           THE COURT: Just one minute. Counsel, I'm  
2 sorry. I'm sorry. I heard you say there's going to  
3 be scientific evidence then you gave a hypothetical  
4 about what happens if there's -- in a case where  
5 there's no scientific evidence. I really don't think  
6 this goes for cause at all. The Court's going to  
7 sustain its own objection under 352.

8           MR. THOMAS: Could I rephrase the question,  
9 your Honor?

10          THE COURT: I don't think so, but I'm not  
11 going to try to stop you from getting questions  
12 answered that are for cause. Why invent a  
13 hypothetical that doesn't apply in this case? How can  
14 that be for cause? If you can ask it in another way,  
15 go ahead.

16          MR. THOMAS: Let's say there is scientific  
17 evidence but you didn't believe the scientific  
18 evidence, and let's say at the end of the case you  
19 still believe that there is a murder that was  
20 committed, and it's based on the testimony of  
21 witnesses. Would you be able to still convict even  
22 though in your mind there's no scientific evidence  
23 because you disbelieve the scientific evidence? Would  
24 you be able to convict on a murder charge?

25          MR. SANDERS: Objection, your Honor. It's an  
26 incomplete hypothetical, and it's not for cause.

27          THE COURT: It's also asking them something  
28 that I think is asking them to prejudge the evidence.

1 I'm going to sustain the objection.

2 MR. THOMAS: This case is going to involve a  
3 sexual assault or alleged sexual assault. Is there  
4 anybody here that feels like, well, a sexual assault  
5 requires some degree of force or some degree of the  
6 victim resisting in some way, otherwise you're not  
7 going to have a sexual assault?

8 MS. DEBRA MC KENZIE

9 BY MR. THOMAS:

10 Q Ms. McKenzie, you have your hand up?

11 A Isn't that the definition of rape?

12 Q The definition that's going to be given  
13 involves force or fear. Let's say the hypothetical --

14 MR. SANDERS: Objection, your Honor.

15 THE COURT: Sustained. This is not the time  
16 for the instructions, Mr. Thomas. Sorry.

17 MR. THOMAS: Does anybody here feel like  
18 because a sexual assault wasn't reported, that it  
19 didn't happen?

20 Anybody here going to require that a sexual  
21 assault be reported before they would ever be able to  
22 say it happened? No

23 THE PROSPECTIVE JUROR: You're confusing.

24 MR. THOMAS: How is that confusing?

25 THE COURT: I'm going to sustain the Court's  
26 objection. It's going into instruction on the law  
27 that's going to be given, and that's really something  
28 that I'm jealous about, Mr. Thomas. So I'm going to



1 sustain the Court's objection.

2 MR. THOMAS: Anybody here, other than what  
3 we've already talked about, has anybody here been a  
4 victim or know somebody close to them, family  
5 relative, friend, that's been a victim of sexual  
6 assault?

7 Other than what we've already discussed,  
8 anybody thought of a situation that they haven't  
9 discussed already?

10 MS. MARIE CERVANTES

11 BY MR. THOMAS:

12 Q Ms. Cervantes.

13 A It was my son. I feel like it's personal for  
14 me because they're strangers.

15 Q Would you like to go up with the judge's  
16 permission? Can we approach?

17 THE COURT: Sure.

18 (Whereupon the following proceedings were held at the  
19 bench out of the hearing of the jury:)

20 THE PROSPECTIVE JUROR: My son was sexually  
21 abused by a baby sitter at a young age, by a male, and  
22 to me that's personal for me.

23 THE COURT: Sure.

24 THE PROSPECTIVE JUROR: As a male, and I know  
25 he's a male. I can put it to the side and forget  
26 about it. As long as I can see the evidence, I would  
27 be fine.

28 THE COURT: All right. Any questions you

1 want to ask her?

2 MR. THOMAS: Would you be able to set that  
3 aside?

4 THE COURT: She just said that.

5 MR. SANDERS: No questions.

6 (Whereupon the prospective juror left the bench and the  
7 following proceedings were held at the bench:)

8 THE COURT: Mr. Thomas, I don't like the idea  
9 of shutting you down in front of the jury. You're not  
10 going to be able to try the case right now. This is  
11 not the time to ask them to make a decision on what  
12 they're going to do with certain facts if they're  
13 there. That's asking them to prejudge the case. I'll  
14 sustain the objections every time.

15 How much more time do you think you're going to  
16 have?

17 MR. THOMAS: Five minutes.

18 (Whereupon the following proceedings were held in open  
19 court in the presence of the jury:)

20 MR. THOMAS: I know there was another hand  
21 up.

22 026XXXXXXXXXXXXXXXXXXXXXXXXXX

23 BY MR. THOMAS:

24 Q 026XXXXXXXXXX, is it something more than what  
25 we talked about yesterday?

26 A Yes, with the person that I spoke of yesterday.

27 Q Yeah. We already talked about yesterday?

28 A No, it was another person.

1 Q Okay. All right.

2 A My ex-girlfriend was gang raped.

3 MR. MARVELL GREENWOOD

4 BY MR. THOMAS:

5 Q Mr. Greenwood, you had your hand up?

6 A Yes, it was my ex-wife when she was a minor.

7 Q She was sexually assaulted?

8 A Yes.

9 Q Okay. And then --

10 THE COURT: Mr. Thomas, we've got a request  
11 for a rest room break. Do you --

12 MR. THOMAS: We can take a recess.

13 THE COURT: Okay. 15 minutes, ladies and  
14 gentlemen. You're admonished that it is your duty not  
15 to converse among yourselves or with anyone else about  
16 any matter connected with this case nor form or  
17 express an opinion on it until it's submitted to you.  
18 15 minutes.

19 (Whereupon a recess was taken.)

20 THE BAILIFF: Remain seated. Come to order.  
21 Court is now in session.

22 THE COURT: Welcome back. We're on the  
23 record in the case of People of the State of  
24 California versus John Henry Yablonsky who is here  
25 with his attorney, David Sanders. John Thomas is here  
26 for the People.

27 Mr. Thomas.

28 MR. THOMAS: Thank you, your Honor. Good

1 morning, again. I just have two more questions then  
2 I'm done. Everybody here, regardless of the law the  
3 judge instructs you, are you going to be able to  
4 follow that law regardless of what your personal view  
5 points and opinions are? Everybody comfortable with  
6 that?

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

9 MR. THOMAS: Except for the people we've  
10 talked about, the difficulties that you're having,  
11 anybody else?

12 The last question I'd like to ask of everybody,  
13 you've heard all these questions we've asked. You've  
14 heard the overall subjects and subject matter that we  
15 covered. Anything that comes to mind you can think of  
16 at this time that might cause you to not be able to be  
17 an impartial juror in this case? Anything at all? I  
18 mean, anything at all that you wanted to bring up at  
19 this point that you haven't brought up that you thought  
20 might be important for us to know?

21 MS. SHARON TIERNEY

22 BY MR. THOMAS:

23 Q Ms. Tierney.

24 A I've lived here most of my life. Back in '85,  
25 it was still a relatively small town, and I worked in  
26 the medical field. Some of the names that the judge  
27 read off yesterday sound familiar, however, I won't know  
28 until I see faces.