

1 through the legal system?

2 A His case?

3 Q Yes.

4 A No.

5 Q You did not form any opinion about whether he  
6 was treated fairly or unfairly, just that he's friend  
7 and he's in jail?

8 A He's a friend and he's in jail.

9 Q Okay. That's it?

10 A That's it.

11 MS. ANGELA ROO

12 BY THE COURT:

13 Q Ms. Roo.

14 A I work at Desert Valley Hospital in dietary,  
15 and this is my first time.

16 Q Do you have a life partner, Ms. Roo.

17 A No, I'm single. I have four kids. Number 11,  
18 my brother for, like, traffic.

19 Q That's it?

20 A Yeah.

21 THE COURT: Thank you.

22 MR. HUE FORTSON

23 BY THE COURT:

24 Q Mr. Fortson.

25 A Yes. I'm a material specialist with  
26 Continental Airlines as well as an ordained minister.  
27 My spouse, she's a home-care worker, and I have served  
28 on a jury in LA county. That was a civil case, and the

1 gentleman got paid.

2 On Number 6, I have a -- we like to call her  
3 our spiritual daughter who just became an attorney.  
4 She's working with the LA Public Defender's Office.  
5 She's now moving to San Diego in the same position.

6 On Number 11, I had a situation with my eldest  
7 son before we moved up here. He was charged with --  
8 supposedly accused of molesting a young man several  
9 years ago that we had went to a church service and in  
10 that the court battle drug out from there actually up to  
11 here. We've only lived here for three years. It was  
12 finally resolved in the sense that he had to take a  
13 plea. It was either take a plea or go to jail for eight  
14 years, get on the computer system or whatever it's  
15 called. He went on and took that in spite of his  
16 innocence. He went on with it. Now things are  
17 resolved. He was on probation, had to go through  
18 counseling and such, but he's moved on with his life.

19 Q You heard me ask Mr. Jordan how did he feel  
20 about that. I'm going to ask you the same question.  
21 How did you feel about that?

22 A Actually, everything happened so fast and at  
23 the very wrong time in my life because at the time I was  
24 laid off from my previous job. So I didn't have the  
25 funds to get the proper defense that I felt he needed.  
26 So we had to end up taking the lesser of the two sides.

27 It was quite an experience, but there was one  
28 thing that really puzzled me with the public defender

1 that we had. I asked him, when are we going to get to  
2 the truth. His words were, we never get to the truth.  
3 We just want to win the case. Winning the case meant  
4 that he had to take one or the other.

5 At first, I didn't understand, and I was  
6 somewhat bitter, my wife and I, because we felt like it  
7 was wrong and unjust. This is a kid that we had known.  
8 They had gone to school with, and I know things happen.  
9 I have that understanding. We're dealing with just  
10 people. I felt there should have been another way, but  
11 we were told because of the economic situation that he  
12 was not able to have a jury trial because we thought if  
13 we went to a jury trial, the truth would have come out  
14 with our situation, but we're not bitter now. We're  
15 just moving on with life.

16 Q Mr. Fortson, let me say this: I don't know and  
17 I can't tell you what the specifics were in that  
18 situation, but I can say that if the lawyer advised you  
19 that because of the economics that your son couldn't get  
20 a jury trial, that's not correct. Everybody's entitled  
21 to a trial by jury. It's a constitutional right if  
22 their liberty is at stake, and you don't have to have  
23 any money to hire a lawyer. A lawyer is provided for  
24 you.

25 In fact, on top of that, the court will provide  
26 the expense for bringing witnesses in to testify if you  
27 want them to come in. The court will make sure that  
28 they are available for testimony and provide

1 investigation costs and provide costs for expert fees  
2 and all kinds of things like that whether a person can  
3 afford it or not. So I -- that -- the information that  
4 you were given, I'll just say that's -- it was an  
5 incorrect statement that you were given.

6 Now, a lot of times people look at -- what can  
7 I say -- risk analysis. Somebody might look at it and  
8 say, do I want to take a chance to be convicted and go  
9 to prison for eight years and have to register as a sex  
10 offender for the rest of my life, or am I willing to  
11 save myself even that possibility I'll plead to a lesser  
12 or different charge and take probation? That happens.  
13 Those are plea bargains. It happens all the time.

14 I don't know what happened specifically, and I  
15 would suspect that with your son, that you probably  
16 didn't have as much direct contact with the attorney as  
17 your son did.

18 Is that a fair statement?

19 A Yes.

20 Q A lot of what you have determined was what your  
21 son related back to you --

22 A Yes.

23 Q -- from what the attorney said to him?

24 A Correct.

25 Q Okay. I didn't have to spend all that much  
26 time except I didn't want to create a misimpression  
27 about the rights that someone has. I need to go through  
28 that.

1           Tell me, if you were a juror in this case,  
2 would that be something that would affect how you view  
3 the evidence here?

4           A     No. I view the evidence as -- as it's put  
5 before me.

6           Q     Okay. You mentioned you're an ordained pastor  
7 or minister?

8           A     I said minister, but I am a pastor.

9           Q     Okay. Do you have a church that you regularly  
10 preside over?

11          A     Yes, but we only meet on Sunday mornings. I  
12 don't have a mid-week because I work swing shift at LAX  
13 Airport.

14          Q     May I ask what denomination if there is one?

15          A     It's a spinoff from the Foursquare Church. We  
16 were ordained under the Saints of Value Ministry, which  
17 their particular leaders came from the Foursquare  
18 denomination. It's a Christian non-denominational.

19          Q     So do you have any problem, if it turns out  
20 that you were a juror in this case, is that a problem  
21 for you to sit and be a judge of the facts in this case?

22          A     No, it's not in that we actually judge every  
23 day about just about everything.

24                THE COURT: I say this again for everyone's  
25 benefit, so you'll realize. No one's going to be able  
26 to have a problem or hope that no one's going to have  
27 a problem with sitting in judgment of another human  
28 being because no one in this case is going to be asked

1 to sit in judgment of another human being. You, as a  
2 jury, are going to be charged with the responsibility  
3 of judging the facts.

4 Is that a good distinction? Everybody  
5 understands the difference there?

6 (Whereupon the prospective jurors nodded in the  
7 affirmative.)

8 THE COURT: Then now speaking, again, to  
9 Ms. Banbury and those of you in the front row. You  
10 heard me talk about a lot of things. You heard  
11 amplification of those things by Mr. Thomas and  
12 Mr. Sanders. Is there anyone here that has a problem  
13 with the notion of the presumption of innocence?  
14 Everyone okay with that? As he sits right now,  
15 Mr. Yablonsky is innocent. Can you all agree with me  
16 on that?

17 (Whereupon the prospective jurors nodded in the  
18 affirmative.)

19 THE COURT: Okay. Mr. Sanders could sit  
20 there playing tic-tac-toe with Mr. Yablonsky through  
21 this entire trial, and if in the final analysis he  
22 does nothing other than that, he doesn't ask a single  
23 question of a single witness, do you think that --  
24 that that in any way relieves the burden of proof on  
25 Mr. Thomas?

26 (Whereupon the prospective jurors answered in the  
27 negative.)

28 THE COURT: Okay. Because he's presumed



1 VICTORVILLE, CALIFORNIA; JANUARY 20, 2011;  
2 DEPARTMENT NO. V-2 HONORABLE JOHN M. TOMBERLIN, JUDGE  
3 P.M. SESSION

4 (Appearances as heretofore mentioned.)

5 (Shawna Manning, Official Reporter, CSR No. 12827.)

6 -oOo-

7 THE BAILIFF: Remain seated. Come to order.  
8 Court is now in session.

9 THE COURT: Good afternoon, ladies and  
10 gentlemen. Back on the record in the case of People  
11 of the State of California versus John Henry  
12 Yablonsky, who is here along with his attorney,  
13 Dave Sanders. John Thomas is here for the People, and  
14 he is, once again, joined by his investigating  
15 officer, Detective Robert Alexander.

16 One of your numbers didn't make it back from  
17 lunch. Leaves me with an awkward situation. The proper  
18 way of stating it is I can't go forward without excusing  
19 that member of the jury because everyone has to be here  
20 for all stages of all proceedings.

21 With that in mind, Mr. Sells, are you here?  
22 Mr. Sells is not here.

23 Counsel, will you stipulate that I can excuse  
24 Mr. Sells from this panel so we can go forward?

25 MR. THOMAS: People stipulate.

26 MR. SANDERS: Yes, your Honor.

27 THE COURT: Mr. Sells is excused from the  
28 panel. Ms. Roo, I was informed by Deputy Fliegner



1 that you determined or found out that you only get  
2 paid for three days?

3 THE PROSPECTIVE JUROR: Yes, I just called my  
4 boss.

5 THE COURT: Where do you work?

6 THE PROSPECTIVE JUROR: At Desert Valley.

7 THE COURT: Did you tell me you had four  
8 children?

9 THE PROSPECTIVE JUROR: Yeah, I'm a single  
10 mom. So I won't be able to do it.

11 THE COURT: Your children have a lot of jobs?

12 THE PROSPECTIVE JUROR: No. Driving me nuts,  
13 yeah.

14 THE COURT: So it would be a financial  
15 hardship for you to be paid for only three days?

16 THE PROSPECTIVE JUROR: Yeah.

17 THE COURT: I'm going to excuse you for  
18 financial hardship. Thank you for being here with us  
19 so far.

20 THE PROSPECTIVE JUROR: Thank you.

21 THE COURT: Call another name for that seat,  
22 please.

23 THE CLERK: Juror Number 14, Marie Burger.

24 MS. MARIE BURGER

25 BY THE COURT:

26 Q Ms. Burger, hello.

27 A Hello.

28 Q You remember how this goes; don't you?

1           A     Yes, I do. I'm a housewife. I've never  
2 worked. My husband's deceased now, and he was a  
3 carpenter, and I was on a -- previously I was on a jury  
4 trial.

5           Q     Criminal case or civil?

6           A     Yes, it was criminal.

7           Q     Reach a verdict?

8           A     It was -- yes, we did.

9           THE COURT: Thank you. Well, we haven't done  
10 very much. I don't know if you all want to open this  
11 up to re-admit Mr. Sells.

12           MR. SANDERS: It's fine with us.

13           MR. THOMAS: It's fine with the People.

14           THE COURT: Okay. Mr. Sells is with us, and  
15 he's back in our pool by stipulation. Mr. Sells  
16 didn't miss very much except that Ms. Roo, who was  
17 Number 17, indicated she did not get paid for more  
18 than three days jury duty. She just found that out.  
19 I excused her for financial hardship.

20                           MS. MARIE BURGER

21 BY THE COURT:

22           Q     Ms. Burger, what yes answers do you have to  
23 Questions 4 through 14?

24           A     Number 11, my nephew was convicted.

25           Q     Of what?

26           A     Of murder.

27           Q     Of murder. How long ago was that?

28           A     It's been about ten years.

1 Q Did you follow that case?

2 A Yes, I was -- I was in the courtroom during the  
3 trial. I was there.

4 Q Where was that trial?

5 A Orange county.

6 Q Did you form any opinion about how he was  
7 treated by the legal system?

8 A I wasn't satisfied, no. I wasn't satisfied  
9 with his trial.

10 Q Do you think that he was treated unfairly by  
11 the legal system?

12 A Yes, I do.

13 Q Do you think that that feeling would in any way  
14 affect how you view the evidence in this case?

15 A I don't think so, but I don't know if I would  
16 relate what I heard in the courtroom or not.

17 Q Well, you've heard me say that there's no way  
18 that we can look at someone and tell by just what we  
19 see. We have to hear from you.

20 What do you think? Do you think this is the  
21 wrong kind of case for you because of your own  
22 experiences?

23 A Well, since it was a murder case, I think it  
24 would be hard for me because there's a lot of evidence  
25 that comes out that's not easy to hear and to see what  
26 you're seeing in the courtroom. It won't be easy for  
27 me, but I would do the best that I could.

28 Q I understand that you'd do the best that you

1 could, and everybody wants to be fair, but do you think  
2 you've got some -- because of the influence of the  
3 experience that you've had so far that that would affect  
4 how you view the evidence in this case?

5 A I don't know. I can't answer that, your Honor.  
6 I don't know.

7 Q Well, I don't know how to put it any other way,  
8 but I'll start off saying this again. Ms. Burger,  
9 everyone has to decide this case based upon just what is  
10 shown here in this court; right?

11 A Yes.

12 Q It's the evidence that you hear. Mostly it's  
13 going to be from sworn testimony. People are going to  
14 take the witness stand and give testimony. Then they're  
15 going to be given an opportunity to be examined by what  
16 I refer to as the world's oldest lie detector, and  
17 that's cross-examination.

18 That's what you're going to have to do. You're  
19 going to have to listen to that evidence and form some  
20 conclusion based upon the law that I tell you and the  
21 arguments that you listen to from the attorneys. You'd  
22 have to completely remove from your consideration the  
23 things that involve your nephew's trial in Orange county  
24 because that has nothing to do with this case.

25 You understand and agree that it has nothing to  
26 do with this case?

27 A Yes, I understand.

28 Q Well, so tell me, could you completely remove

1 the influence of that case from your consideration of  
2 the facts and law in this case?

3 A I could, but it would not be easy.

4 Q I'm not -- easy really has nothing to do with  
5 what I'm asking. I think you heard me say before I  
6 can't guarantee that this is going to be at all times a  
7 pleasant task. It's a job. It's a job that you didn't  
8 volunteer for, but you have the responsibility to be a  
9 juror if you can be, but you have to be fair.

10 Is that -- is that your final answer that you  
11 can be fair, but it's going to be hard?

12 A Yes, that's my final answer.

13 MR. FERRILL JORDAN

14 BY THE COURT:

15 Q Okay. Mr. Jordan, I thought I recognized you,  
16 and I thought lots of people have similar facial  
17 characteristics. You were in my court observing some of  
18 the Deering trial, the trial that I did just before this  
19 one; is that correct?

20 A That's correct, Judge.

21 Q Were you here for any part of any hearing  
22 involved with this case?

23 A No.

24 Q Okay. And are you a lawyer?

25 A No. If I may address, I did graduate from law  
26 school, and I have passed the bar. I'm in limbo waiting  
27 for my background check. That said, I'd be happy to  
28 follow the instructions you have much easier than trying

1 to figure it out myself.

2 Q But, in any event, you understand if you were a  
3 juror in this case that we're not looking for anybody  
4 that's an expert on the jury? We want the jurors to all  
5 decide this case for themselves but only after talking  
6 with the other jurors.

7 You could do that just like any other juror?

8 A Yes, sir. I'm nothing like an expert.

9 THE COURT: All right. Now, I'm told this  
10 thing goes a lot quicker at this point in the  
11 proceedings.

12 Mr. Sanders, why don't you demonstrate that for  
13 us.

14 MR. SANDERS: I will, your Honor. Thank you.  
15 Ms. Banbury, those in the front row, that's who I'm  
16 addressing at this point. Did all of you hear the  
17 questions that I asked the other jurors this morning?  
18 If there's anyone that didn't, please raise your hand.

19 Did any of you have specific answers to those  
20 questions and thought I have to say something? Any of  
21 you thought that?

22 Is there any of you that have a doubt in your  
23 mind that you couldn't be a fair juror in this case?

24 Thank you, your Honor. Finished.

25 THE COURT: Mr. Sanders, you have certainly  
26 convinced me.

27 Mr. Thomas, feel free to take about the same  
28 amount of time.



1 People pass for cause.

2 THE COURT: Guess what I told them. I told  
3 them that if we get a jury today, we can stop and come  
4 back to begin the case and the presentation of the  
5 case on Monday. I think they like the idea of getting  
6 a jump on the -- I was going to say get a jump on the  
7 weekend. They all work on Fridays. I was a trial  
8 attorney myself for a number of years, and it's a  
9 tough job. They've got to coordinate things in court  
10 and out of court. They've got to jump through hoops  
11 that people in black robes put in front of them.

12 Everybody's passed for cause. We're going to  
13 the musical chairs portion of our trial. Remember, they  
14 have 20 each. Mr. Thomas has used three, passed one  
15 time. Mr. Sanders has used four. So it's Mr. Thomas's  
16 opportunity to exercise a peremptory challenge.

17 MR. THOMAS: The People accept the 12 jurors.

18 THE COURT: Mr. Sanders.

19 MR. SANDERS: Your Honor, the defense would  
20 thank and excuse Juror Number 3, Ms. Allen.

21 THE COURT: Ms. Allen, thank you for being  
22 with us. You're excused. 040XXXXX, will you please  
23 take the seat left by Ms. Allen?

24 Mr. Thomas.

25 MR. THOMAS: People accept the 12 jurors.

26 THE COURT: Mr. Sanders.

27 MR. SANDERS: Defense would thank and excuse  
28 Juror Number 4, Ms. Banbury.



1 THE COURT: Ms. Banbury, thanks for being  
2 with us. You're excused. Will you take that seat  
3 please, Mr. Jordan?

4 MR. THOMAS: Before Mr. Jordan takes that  
5 seat, the People would thank and excuse Mr. Jordan.

6 THE COURT: Thank you, Mr. Jordan, for being  
7 with us. You're excused. Will you take that seat,  
8 010XXXXX?

9 Mr. Sanders.

10 MR. SANDERS: The People (sic) thank and  
11 excuse Juror Number 5, Ms. Cervantes.

12 THE COURT: Ms. Cervantes, thank you for  
13 being with us. You're excused. Will you take that  
14 seat, Ms. Vaughan?

15 MR. THOMAS: Before Ms. Vaughan takes that  
16 seat, the People would thank and excuse Ms. Vaughan.

17 THE COURT: Thank you, Ms. Vaughan. You're  
18 excused. Will you take that seat, Ms. Burger?

19 Mr. Sanders.

20 MR. SANDERS: The jury (sic) thanks and  
21 excuses Juror Number 10, Ms. Tierney.

22 THE COURT: Ms. Tierney, thank you for being  
23 with us. Will you take that seat please, Mr. Fortson.

24 MR. THOMAS: Before Mr. Fortson takes that  
25 seat, the People would ask the Court to thank and  
26 excuse Mr. Fortson.

27 THE COURT: Mr. Fortson, thank you for being  
28 with us. You're excused.

1           Let's call seven new names.

2           THE CLERK: Juror Number 55, Doris Redding;  
3 Juror Number --

4           THE COURT: Counsel, will you approach for a  
5 second? Ms. Redding, will you come up here, please?

6           (Whereupon the following proceedings were held at the  
7 bench out of the hearing of the jury:)

8           THE COURT: The microphone's off. We are  
9 recording this though. My bailiff indicated that you  
10 have a very uncomfortable feeling about this. You  
11 think you would not be able to be a fair juror based  
12 upon your own experiences as a crime victim.

13           Is that a correct statement?

14           THE PROSPECTIVE JUROR: Yes.

15           THE COURT: Think that would affect your  
16 ability to be fair and impartial?

17           THE PROSPECTIVE JUROR: In this case, yes.

18           MR. THOMAS: I don't have any questions.

19           MR. SANDERS: No questions.

20           THE COURT: Do you want to stipulate that  
21 Ms. Redding can be excused for cause?

22           MR. THOMAS: People stipulate.

23           MR. SANDERS: Yes.

24           THE COURT: Thank you for being with us.  
25 You're excused.

26           (Whereupon the following proceedings were held in open  
27 court in the presence of the jury:)

28           THE COURT: Okay. No secrets. Because of

1 the nature of this case, Ms. Redding had told Pete she  
2 would like to talk to us before anything else, and  
3 she's been excused for cause. Thank you, Ms. Redding.

4 THE CLERK: Juror Number 67, 067XXXXXXXXX;  
5 Juror Number 72, 072XXXXXXXXX; Juror Number 65,  
6 065XXXXXXXXX; Juror Number 50 -- I'm sorry, sir, it's a  
7 great name. I just can't say it. Juror Number 33,  
8 Barbara Holmwood; Juror Number 31, Joyce Hall; Juror  
9 Number 45, Curtis Miller.

10 THE COURT: Okay. I think we all know that  
11 I'm going to be speaking to 067XXXXXXXXX and only those  
12 of you in the front row. The other 11 of you, I'm not  
13 speaking to you. The attorneys are asking nothing of  
14 you, but, once again, I'll say if someone is reminded  
15 of information they wish they would have brought up  
16 earlier, feel free to raise your hand and we'll talk  
17 to you.

18 Just as I did last time, I'm going to jump to  
19 Question 14. Is there any reason you feel you should  
20 not sit as a juror in this case for 067XXXXXXXXX and  
21 anyone in the front row? I see one hand.

22 Hello, Ms. Hall.

23 THE PROSPECTIVE JUROR: My the problem is I  
24 can't reverse what's happening. I have a dump truck  
25 full of rocks coming to my house this afternoon, and  
26 I'm covering what was grass with rocks, and I couldn't  
27 reverse it. I thought I could, but I can't.

28 THE COURT: Are you going to be driving the

1 truck?

2 THE PROSPECTIVE JUROR: I hope not. No, it's  
3 a dump truck.

4 THE COURT: What are you going to be doing?

5 THE PROSPECTIVE JUROR: Paying the guy.

6 THE COURT: It's going to be a financial  
7 hardship if they come out and can't dump the rock,  
8 they'll charge you for a second trip?

9 THE PROSPECTIVE JUROR: Probably, your Honor.

10 THE COURT: Why don't we say -- that  
11 satisfies me. I'm going to excuse you for financial  
12 hardship, Ms. Hall. Thank you for being with us.

13 THE PROSPECTIVE JUROR: Thank you very much,  
14 your Honor.

15 THE COURT: Come back and see us real soon.

16 THE PROSPECTIVE JUROR: I'd love to.

17 THE COURT: Call another name.

18 THE CLERK: Juror Number 28, Susan Grace.

19 THE COURT: No one else asked or said they  
20 had a problem with Number 14. What about you,  
21 Ms. Grace, can you be fair? Any reason why you can't  
22 be fair?

23 THE PROSPECTIVE JUROR: The only thing that I  
24 have a problem with is looking at the pictures because  
25 I will be vomiting because I just cannot -- my stomach  
26 is very queasy for nasty things.

27 THE COURT: So am I just so you'll know.

28 THE PROSPECTIVE JUROR: Okay.