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STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

COPY

THE PEOPLE OF THE
STATE OF MICHIGAN,

Case No. 16-010813-01-FC

vs.

ANDREW MICHAEL CZARNECKI,

Defendant.
_____/

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APPELLATE DEFENDER OFFICE

JURY TRIAL

PROCEEDINGS HAD BEFORE THE HONORABLE Michael Hathaway, a Judge of the Third Judicial Circuit of Michigan, at 502 Frank Murphy Hall of Justice, 1441 St. Antoine Street, Detroit, Michigan on 48226, on Tuesday, November 27, 2018.

COURT REPORTING SERVICES
CRIMINAL DIVISION-FMHJ
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APPEARANCES:

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(None).

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Detroit, Michigan

November 27, 2018

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(At about 09:40 a.m. matter commenced)

COURT CLERK: This is from the docket of the Honorable Cynthia Gray Hathaway.

Calling case number 16-10813, The People of the State of Michigan versus Michael Andrew Czarnecki. The parties are here for a jury trial. Appearances, please.

MS. POWELL-HOROWITZ: Good morning, your Honor. May it please the Court, Jaimie Powell Horowitz for the People.

MR. CRIPPS: Good morning, your Honor. For the record, David Cripps on behalf of Mr. Andrew Czarnecki, who's seated here in the court with us.

DEFENDANT CZARNECKI: Good morning, your Honor.

MS. POWELL-HOROWITZ: Your Honor, this is the date and time set for trial.

The People are ready. We would ask for an order of sequestration and would ask for an

exception for the officer in charge, Officer Kevin Wight, who is seated at the table with me.

THE COURT: Okay.

MR. CRIPPS: I agree with the motion to sequester. I have no objection to the officer in charge remaining in the courtroom.

THE COURT: All right. So if there's anybody sitting in the courtroom now who expects to be a witness for either side in the case of the People versus Czarnecki, please leave the courtroom and have a seat in the hall or in the witness room and wait until you're called.

MS. POWELL-HOROWITZ: Your Honor, just a few housekeeping matters.

Mr. Cripps did meet with me last week. We went over all of the witnesses in the case, the evidence that I believe we would be using. He has seen everything the People have.

I believe there are no outstanding issues regarding discovery. So I don't anticipate any problems throughout the course of this trial. Is that correct?

MR. CRIPPS: Only in regards to a motion in limine, your Honor. Regarding some of the discovery.

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THE COURT: Okay. We'll take that up after we pick a jury.

MS. POWELL-HOROWITZ: There was an offer in this case. The People offered 25 to 40, murder two, to the defendant. The defendant is facing two counts that carry life without the possibility of parole.

So that is a -- a reduction in the charges. And I believe the defendant wishes to reject that offer. We do need that for the record.

THE COURT: Okay. Mr. Czarnecki, I guess this is the last chance you have to plead with a sentence agreement or take your chances on a trial. The offer on the table is, what did you say, 25 to 40?

MS. POWELL-HOROWITZ: That's correct, your Honor.

THE COURT: Twenty-five to 40.

MS. POWELL-HOROWITZ: It would be murder two and mutilation of a dead body. So it's two counts.

THE COURT: Okay. Twenty-five to 40. How old are you?

DEFENDANT CZARNECKI: Twenty-four.

THE COURT: Twenty-four. Okay. Well, a

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25 to 40 year sentence means that you could at least see the light at the end of the day when you're 50. If you get convicted of either one or both of these capital offenses, it's life without parole. Do you understand that?

DEFENDANT CZARNECKI: Yes, sir.

THE COURT: Do you want to roll the dice?

DEFENDANT CZARNECKI: Yes, sir.

THE COURT: Okay. That's what we're here for.

MR. CRIPPS: I'll put on the record, your Honor, that I have advised him that if he gets convicted of Count 1, first degree premeditated murder, he'll be in prison for the rest of his life without the chance of parole.

THE COURT: Right.

MR. CRIPPS: I also advised him that if he -- if he gets convicted of Count 2, he'll be in prison for the rest of his life without a chance of parole.

I advised him he faces up to life in prison on Count 3, armed robbery. And I advised him he faces up to life in prison on Count 4, carjacking. And that -- that count can be consecutive in the Court's discretion to any other

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felony count on this case.

And I advised him he faces up to 10 years in prison for Count 5, disinterment and mutilation of a dead body.

And I also advised him that he's got credit time accumulated for roughly around two years, that would be subtracted from the 25 years.

So he's in full knowledge of all of this. I made my very strong recommendation to him about what I think he should do on the case, in light of these very serious charges against him.

And I guess I would leave it to him for a final decision, but I want it to be a very knowingly and intelligent one, because of the possible ramifications here.

THE COURT: You know, Mr. Czarnecki, I -- I know that the advice that Mr. Cripps gave you was probably not what you wanted to hear, but of course Mr. Cripps can't change the facts and he can't change the evidence.

You're probably as aware, as anybody sitting in this courtroom right now, what the evidence is against you.

And I -- I mean, I think you can -- you can think through how this case is going to go in

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front of the jury. It's going to be a fairly lengthy trial. And the jury is going to be sitting here listening to a lot of witnesses with a lot of evidence.

I don't know what your expectations are of what a jury is going to do after they hear all that evidence, but you know, unless you -- unless you just win all together and get acquitted of everything you're charged with, the sentencing consequences for you are going to be very dire. Probably worse than the offer that's on the table right now.

You seem to be pretty resolute and pretty adamant about your wanting to go to trial. Maybe there's something you know that we don't know or what that might be, but you've got an offer now to -- to contain the damage.

So that's what's on the table. And Mr. Cripps, as your lawyer, wants to make sure that you understand everything that's going on so there aren't any questions about this later. Do you know what's on the table?

DEFENDANT CZARNECKI: Yes.

THE COURT: And you're intent on going to trial?

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DEFENDANT CZARNECKI: Yes, sir.

THE COURT: Okay. All right. Well, we've got a jury panel waiting out in the hall. I guess we're ready to go.

Anything else?

MS. POWELL-HOROWITZ: No, your Honor.

MR. CRIPPS: No, your Honor. Thank you.

THE COURT: All right. Let's bring the panel in. Oh, wait a minute. Wait a minute. Before you do that. Let me just double check about scheduling here. We're going to be knocking off tomorrow afternoon, you know that. Are we not going to try the case on Friday? Is that your...

MR. CRIPPS: That's my understanding, your Honor.

THE COURT: Okay. You can't do it. I think -- I remember you both said you couldn't do it this coming Friday. What about the following Friday?

MS. POWELL-HOROWITZ: Your Honor, I -- I really think that we're doing one jury and we get the panel actually picked today, I think we'll be done by next Wednesday. I really do.

THE COURT: Next Wednesday.

MS. POWELL-HOROWITZ: I would tell the

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jury Thursday, just to be safe. But I -- I really think -- Mr. Cripps and I -- we talked about witnesses we're going to call. There are a lot of endorsed witnesses.

There are a lot of witnesses that aren't going to become necessary throughout the course of the case, as we admit evidence.

THE COURT: So you think I can honestly and safely tell this jury this week and next week?

MS. POWELL-HOROWITZ: I really do, yes.

MR. CRIPPS: Yes, your Honor.

THE COURT: Okay. All right. Let's bring them in.

MR. CRIPPS: Also, just a reminder. You said at 1:00 o'clock on Monday. I have a special appointment I have.

THE COURT: Oh, yeah. Yeah. Okay.

MR. CRIPPS: It's not going to take long, but I need to be there.

THE COURT: Yeah. It's 1:00 o'clock?

MR. CRIPPS: Yes.

THE COURT: Okay. Just remind us.

MR. CRIPPS: Thank you, your Honor.

MS. POWELL-HOROWITZ: Your Honor, I would ask that we not do that. I do have some witnesses

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that are scheduled to leave the State on Tuesday.

THE COURT: Well, he's got an appointment at 1:00, it's going to take...

MS. POWELL-HOROWITZ: I can get them in in the morning. They're quick witnesses. I just need to get them in.

THE COURT: Oh, okay.

MR. CRIPPS: Oh, yeah.

THE COURT: I mean, we'll -- we'll go Monday.

MS. POWELL-HOROWITZ: Oh, good.

THE COURT: It's just that we might be taking a break for Mr. Cripps' appointment.

MR. CRIPPS: Thank you.

THE COURT: How long is it going to take you to get to where you've got to go?

MR. CRIPPS: Dearborn.

THE COURT: Okay. Yeah. Okay. You think you can come back afterwards?

MR. CRIPPS: Yes.

THE COURT: Oh, really. I can call to find out how long it will take.

THE COURT: All right. Let's see. We'll see. But -- I mean, you get your -- whether or not we expect you to come back or not.

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MR. CRIPPS: I don't mind coming back, I just want to make that appointment.

THE COURT: Yeah. I got you.

MR. CRIPPS: Okay.

THE COURT: Well, it's close.

(Whereupon the Prospective Jurors were brought into the courtroom at about 10:07 a.m.)

THE COURT: Good morning, everybody. So, ladies and gentlemen, I'm Judge Michael Hathaway, notwithstanding the sign out in front of the courtroom that says Judge Qiana Lillard.

I'm simply sitting in for Judge Lillard for a few weeks. Actually, this is the last of eight weeks that I'm doing that.

But I am Judge Michael Hathaway. It's my honor to have you here today. You're the jury panel that has been brought up here for the possible jury service in the case of the People of the State of Michigan versus Andrew Michael Czarnecki. You are the group from which our jury will be selected to hear that case.

Now -- one of you didn't make it up the

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elevator, apparently. Okay. Well, let me continue. I guess we'll -- well, there we are. Okay.

All right. So anyway, there are some other Judge Hathaways in the building. Don't wander into the wrong courtroom.

Please remember that this is courtroom 502 and that I'm Judge Michael Hathaway. Now, what courtroom we're working in for the course of this trial may change, but at least this week it will be here in 502.

Now, this may sound a bit odd to you, but I'm going to congratulate you on being selected for possible jury duty today. Because you're about to participate in one of the most important duties of American citizenship.

I'm sure, though, that many of you, when you got that jury summons in the mail, probably looked at the upper left hand corner of the envelope, where it says Wayne County Jury Service, and you probably said, oh, no, why me?

How can I get out of this? Who can I call? I know you -- I get those calls once in a while, so I know.

We understand that jury service is a disruption in your life. And we also understand

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that for those of you that come from the far western part of Wayne County, this is a long drive for you. Maybe one you haven't made for a long time. Even for those of you that live close to the courthouse, all of you have to put up with a low rate of pay, the high cost of parking, and perhaps even the added inconvenience of public transportation.

I wish there was something I could do about all of those inconveniences. Unfortunately, there is not.

The why me or how can I get out of this excuse, though, is the wrong attitude. It's -- it's the wrong attitude, because you're being asked to perform one of the highest duties of citizenship. And that is to sit in judgement of the facts that will resolve a criminal dispute.

And as I'm sure, you know, it is a Constitutionally guaranteed right of every person in this country charged with a crime to have a trial in open court, according to certain rules that we have, and to have the facts of that case weighed, heard and resolved by a jury of his or her peers.

So it's vitally important not just to the people directly involved in this case, but to the people of the State of Michigan in general that

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you openly, willingly and without reservation accept this very important responsibility.

Remember that trial by jury is one of the most sacred and fundamental rights in our society or in any free society, but in order to have jury trials, we have to have jurors.

And that's men and women just like you who take a brief period of time out of their busy lives to help make our system of justice work. And if not you, who?

If you're one of those people who grumbles a lot about how our criminal justice system works or doesn't work, and we come in for some justifiable criticism from time to time, this is your opportunity to make your mark on the system. To make your own impact on it and to get an inside view of it.

And you should always remember, too, that at some other time in the future or the past, it could be you or a close friend or family member that has to go through this very same thing; as a defendant charged with a crime or a crime victim or even just a witness.

And I'm sure that under those circumstances you would not want to see good people

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like yourselves try to duck and dodge this very important responsibility. The system needs you in order to function properly and that's why you're here.

And besides all of that, if you approach this duty with a positive attitude, you might even enjoy it. I -- I know you'll be enriched by it. I -- I know that because I get a chance to talk to jurors after trials are over and every panel I've ever talked to has told me how much they benefitted from the experience, it wasn't exactly what they thought it was going to be. It was better.

They learned something about the criminal justice system. They got a chance to interact with people that they don't -- maybe don't ordinarily see or interact with in their everyday lives.

And they got a chance to -- to enjoy downtown Detroit for a few days, which may be a little bit off your beaten path, but I think you'll find it a friendly and welcoming place during your brief term of service here.

And I know many of you, especially if you've never been through this before, are out there thinking, what's going to be expected of me? Am I

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up to it? Can I do it?

And let me assure you, this is not rocket science. All you have to do is use your commonsense and follow some simple instructions and every one of you can be just fine as being a juror in a case like this.

I know that we here in courtroom 502 will certainly do all we can to make this a positive and enriching experience for all of you and to create a friendly, safe and civil atmosphere for all of you during the course of the trial.

All right. Before I say anything else, I'm going to have my clerk call the names of 14 of you at random and then when you hear your name called, go sit in the jury box where the deputy tells you and bring any belongings you may have along with you.

COURT CLERK: For seat number one, Felicia Phillips, P-h-i-l-l-i-p-s.

For seat number two, Curtis Harris, H-a-r-r-i-s.

For seat number three, Daniel Paulot, P-a-u-l-o-t.

For seat number four, David Manees, M-a-n-e-e-s.

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For seat number five, Michael Wallace, W-a-l-l-a-c-e.

For seat number six, Tmia Seal, S-e-a-l.

For seat number seven, Michael Moses, M-o-s-e-s.

For seat number eight, Michael Sieloff, S-i-e-l-o-f-f.

For seat number nine, Jesus Gavia-Munoz, G-a-v-i-a - M-u-n-o-z.

For seat number 10, Megan Cloughesy, C-l-o-u-g-h-e-s-y.

For seat number 11, Zane Fristick, F-r-i-s-t-i-c-k.

For seat number 12, Frank Muth, M-u-t-h.

For seat number 13, Shaun Lewis, L-e-w-i-s.

For seat number 14, Hussein Atoui, A-t-o-u-i.

THE COURT: All right. Well, a trial typically begins with jury selection. And our point or purpose here is to obtain information about you that will help us choose a fair and impartial jury to hear this case.

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During jury selection the lawyers and I will be asking you some questions. This is called Voir Dire. And the questions are meant to find out if you know anything about the case, but we also need to find out if you have any opinions or personal experiences that might influence you for or against one side or the other in this case.

One or more of those things could cause you to be excused in this particular case, even though you may be qualified to serve in another case.

So the questions that we're going to ask will probe somewhat deeply into your attitudes, beliefs and experiences. They are not meant to be an unreasonable prying into your private life. I don't think you'll find our questions to be unduly intrusive.

But the law does require we get a certain amount of basic information from all of you so that we can be certain we're doing our best to choose a fair and impartial jury to hear this case.

Now, if you don't hear or understand one of the questions, then you should say so. If you do understand it, then you should answer it truthfully and completely.

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And please do not hesitate to speak up freely about anything that you believe we should know about you.

And during jury selection, you may be excused from serving on this jury in one of two ways. The first way is that I may excuse you for what is called cause. I may decide that there's a valid reason why you cannot or should not serve on this particular jury.

The other way that you may be excused is that a lawyer from one side or the other may excuse you without giving any reason for doing so and that's called a peremptory challenge. And the law does give each side the right to excuse a certain number of jurors in that way.

So if you are excused, either by me or by one of the lawyers, don't feel bad about it or take it personally. As I said, there may simply be something that causes you to be excused.

All right. Before I say anything else, I'm going to ask all of you, those of you sitting in the jury box as well as those of you in the gallery, to stand now and take an oath. This is an oath to tell the truth on voir dire. And from this point forward, you are now all under oath.

COURT CLERK: Please raise your right hands.

Do you solemnly swear or affirm that you will answer truthfully all questions put to you, touching upon your qualifications to serve as jurors in the matter now pending before this court? Please affirm by saying I do.

PROSPECTIVE JURORS EN MASSE: I do.

COURT CLERK: Thank you. You may be seated.

THE COURT: All right. Let me introduced you to some of the people that you're going to be seeing during the course of the trial. And then I'm going to have the lawyers read the names of the witnesses they're going to call.

So please watch and listen carefully, because if you know any of these people we need to know that to determine whether or not that might affect your ability to serve.

So the young lady that just administered the oath to you is Gloria DeLoach. She's my court clerk or docket administrator. You'll see her usually at -- in front of me at the -- at the desk in front of me. Sometimes working on a desktop, fielding phone calls from lawyers that may call or

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other people that call the court for one reason or another. Sometimes lawyers will come in to talk to her about other things that have nothing to do with the case. So you'll see her doing a lot of multi-tasking there.

And then sitting immediately to her right is Deputy Kim Baker. And then we also have Deputy Gary McDougall sitting against the wall. These are our two Wayne County Deputies that are assigned to our courtroom. And there will always be at least two deputies in the courtroom at all times.

The deputies provide courtroom security, obviously, but they also have a couple of other important responsibilities. The deputies will ack as a kind of bridge or liaison between you and me. So that if a problem or an issue comes up during the course of the trial, something that you think you need to bring to my attention, you'll do that by mentioning it to the deputy and the deputy will bring it to my attention and in that way we'll resolve your problem.

It's also the deputies that will escort you in and out of the jury room. They'll let you know when it's time to come out after recesses and

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resume your seats. And then at the end of the trial, after you have concluded your deliberations and you've reached a unanimous verdict, it is to one of the deputies that you will report that information.

So you'll have a fair amount of interaction with your deputies.

Then the young lady sitting down here with her profile to you, Sherry Scott, is our court reporter or court stenographer. Different court reporters have different ways of reporting the -- the words that they hear in the courtroom. Ms. Scott uses a mask.

You'll see some reporters with those little machines. And sometimes recording devices as well. But in any event, there's always a court reporter or some other way of making a record of everything that's said in court.

Ms. Scott is taking down, in her own way, everything that I'm saying right now. And then in a few minutes, when you start answering my questions, she will -- she will have my questions and your answers.

And then later when we get into the trial itself, everything that's said in open court

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is taken down by Ms. Scott and is a matter or record.

At some time in the future, Ms. Scott can prepare a transcript. That isn't something that can be done instantaneously, but with some effort on her part she can prepare what's called a transcript and that's something in book form that anybody can read. It's open to the public. This is a court of public record. It means that anybody that wants to look at the court files sometime later, can do that or read the transcript of the trial, it's open for anybody's inspection. That's why we call this a court of public record.

Everything we do or say in court is recorded in some way and is available to be seen by any member of the public at any time.

Because Ms. Scott is obligated to take down everything that's said in court, we have to empower her to be able to do that by following a few simple rules of decorum. Two people cannot talk at once.

Sometimes I'll have to remind a lawyer or a witness not to talk while somebody else is talking and that's so that Ms. Scott can be certain at getting everything down. She's good at her job,

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but no court reporter can record or take down two people talking at once. So I have to remind people of that once in a while.

It's also important, too and you'll notice this as we go on, that you answer and everybody that answers questions in court, answers in a nice, loud clear voice that we can all understand. Using English words that we can all understand.

And I say that because some people are inclined to answer questions with gestures, like shrugging your shoulders or nodding your head or rolling in your eyes. We can't have you do that here, because we need an answer, in a nice, loud clear voice that Ms. Scott can take down.

Also, it's important that you refrain from responding to questions with sounds like uh-huh or uh-uh, because even though it may be clear to you what you're trying to communicate, it isn't always that clear to others.

So please say yes or no or I don't know or I don't care, but say something that we can all understand.

All right. Now, this is a criminal case. The defendant here is charged with two

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different counts of first degree murder. He's charged in Count 1 with first degree premeditated murder and then in Count 2 with a slightly different crime of first degree felony murder. And then he's also charged in Count 3 with armed robbery. And Count 4 with carjacking. And in Count 5 with disinterment or mutilation of a dead body. I'll tell you a little bit more about this case in a few minutes.

These charges have been brought against the defendant, Andrew Michael Czarnecki, who is represented by attorney David Cripps. Mr. Cripps, will you stand and introduce yourself and your client to the panel members.

MR. CRIPPS: Yes, your Honor.

THE COURT: Thank you.

MR. CRIPPS: Good morning, ladies and gentlemen.

PROSPECTIVE JURORS: Good morning.

MR. CRIPPS: Welcome to Judge Michael Hathaway's courtroom. My name is David Cripps. I'm an attorney in private practice. Throughout the trial I'll be seated here on this side of the podium, where my seat assignment is.

And sitting across from me throughout

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the trial will be my client, Mr. Andrew Michael Czarnecki. This young man right here. Turn so everybody can see you, please.

Thank you, your Honor.

THE COURT: Okay. Thank you. The People of the State of Michigan are represented by assistant Wayne County Prosecutor Jamie Powell Horowitz.

Ms. Horowitz, will you stand and introduce yourself and your table, please.

MS. POWELL-HOROWITZ: Good morning. Good morning.

PROSPECTIVE JURORS: Good morning.

MS. POWELL-HOROWITZ: My name is Jamie Powell Horowitz. I'm a assistant prosecutor with Wayne County.

Seated at the table with me is Officer Kevin Wight from homicide with the Detroit Police Department. Would you like for me to read the witnesses?

THE COURT: Yes. While you're up, please do that. And indicate which ones are police officers and which ones are not.

MS. POWELL-HOROWITZ: Your Honor, should I also indicate the name of the co-defendant? In

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case anyone knows him?

THE COURT: Yeah. Maybe that's -- his name is going to come up.

MS. POWELL-HOROWITZ: That's correct.

THE COURT: Yeah. Okay. Go ahead.

MS. POWELL-HOROWITZ: In this case there are numerous witnesses that might be called. I'm going to read a list to you. You should also know that there is a co-defendant in this case that is not on trial today. His name is Hameer Alkotiat.

We tell you these names because if you have any indication that you know any of these people or the names sound familiar, please let us know up front.

The potential witnesses in this case are Robert Bonas, Doctor Gary Berman, Doctor Carl Schmidt from the Wayne County Medical Examiners Office, forensic anthropologist Julie Saul, Anna Cristina Lopez Arias, Jose Jamie Lopez Lujano, Officer Kevin King, Officer Arron Colwell, Agent Stan Brue, Corporal Ki Sobol, Police Officer Lori Dillon, Sergeant Manny Gutrerrez, Officer Eugene Fitzhugh, Officer Clinton Mack, Officer Rick Fields, Officer Holly Reed, Officer Donald Hiatt, Lieutenant Omar Davidson, Lieutenant Winston Farrow, Officer

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Lori Briggs, Sergeant Nicole Bock, Officer Brian Herndon, Eric Cervenak, Scott Shea -- Officer Scott Shea, Sergeant Ray Martin, Sergeant B. Rodak, Officer May -- R. May, Officer J. Murphy, Officer E. Harris, Officer N. Gregory, Officer R. Stender, Jennifer Dillan from biology with the Michigan State Police, Lynn Helton from the Michigan State Crime Lab, Miranda Irwin from the crime lab, and that's -- and Officer Kevin Wight, who is the officer in charge of the case.

THE COURT: All right. Mr. Cripps, any additional witnesses we should know about?

MR. CRIPPS: No additional witnesses at this time, your Honor.

THE COURT: All right. Do any of you sitting in the jury box think you know or recognize any of the people that might have been named or introduced to you?

PROSPECTIVE JURORS: (Silence.)

THE COURT: I see no hands. Anybody in the gallery think you know any of the folks that have been named or introduced?

PROSPECTIVE JURORS: (Silence.)

THE COURT: Okay. I see no hands. All right. All right. Now, I'm going to give you the -

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- the scheduling information here. This is going to be a fairly lengthy trial by our standards. It is probably about a two week trial.

So today is Tuesday already. I expect that when we get through picking this jury and maybe giving you preliminary instructions, it will probably be time for lunch and then when you come back, probably opening statements and then, perhaps, it will be time for a witness to two.

Then tomorrow is actually going to be a short day. Wednesday we'll be in business here from 9:00 until noon. Thursday I expect we'll be here all day. All day means 9:00 to 4:00 ish. We never start any earlier than 9:00 and you won't be here any later than 4:00. Friday you will not be here. We don't have the trial Friday. Friday's are days set aside for other matters in this court house.

And then next week, December 3rd, 4th, 5th and 6th, we will have more or less full days. We could be leaving early a couple of those days. We'll know that better as we go on. I don't -- we think the trial will be over with by Thursday the 6th. But remember, we're not in business on Friday the 7th.

So it is possible, I mean this is the

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outside, the worst case scenario that you might be coming in on like maybe Monday the 10th to wrap this up. But anyway.

So I know that's kind of a lengthy trial and it gets in the way of everything you're doing. I am going to ask you now in a minute if that schedule that I announced presents any sort of unusual or undue hardship for any of you.

But please notice I did say hardship and I did say you. I know it's inconvenient. I -- I know that. I will listen to legitimate hardship complaints. And remember, it's your hardship, not someone else's hardship that I'm concern about.

So that said, do any of you sitting in the jury box, just those of you in the box, claim or contend that the schedule that I just announced presents any sort of unusual or undue hardship?

PROSPECTIVE JURORS: (non verbal answers)

THE COURT: All right. I see a couple of hands. Ms., is it Cloughesy?

PROSPECTIVE JUROR 10: Cloughesy.

THE COURT: Yeah. What would -- what would your hardship be?

PROSPECTIVE JUROR 10: I'm a stay at home mom and I do not have care for my child.

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THE COURT: And how old are your children?

PROSPECTIVE JUROR 10: I have one son who's three.

THE COURT: And his father is there, too?

PROSPECTIVE JUROR 10: His father is present, but he works.

THE COURT: His father works?

PROSPECTIVE JUROR 10: Correct.

THE COURT: Well, how did you think when you got your jury summons in the mail you were going to deal with this?

PROSPECTIVE JUROR 10: I can coordinate care for a couple of days, but that would be a long period for us, too, to coordinate care for.

THE COURT: So there's no grandparents or close relatives either on your side or your husband's side that can step in for a couple of weeks?

PROSPECTIVE JUROR 10: Potentially, but it -- it would be difficult. My parents are disabled.

THE COURT: Okay. Mr. Fristick, you had your hand up, too?

PROSPECTIVE JUROR 11: Yes. I'm the only

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one at our company that has a CDO license. I had to deliver equipment Thursday on Thanksgiving to be here today. Two weeks and, you know, I don't know if I'll be working for the two weeks.

THE COURT: What's a CDO license?

PROSPECTIVE JUROR 11: A driver's license for heavy equipment.

THE COURT: Oh, sure. Okay.

PROSPECTIVE JUROR 11: I'm the only one in the company with a CDO.

THE COURT: Is it your company?

PROSPECTIVE JUROR 11: No, it is not. I mean, a day or two, I can do that.

THE COURT: So it's the company's inconvenience?

PROSPECTIVE JUROR 11: Very inconvenient.

THE COURT: Well, okay. So what is the company you work for?

PROSPECTIVE JUROR 11: Novi Wall. They're in Novi.

THE COURT: And what is the nature of --

PROSPECTIVE JUROR 11: (Interposing) Construction company.

THE COURT: What do they do?

PROSPECTIVE JUROR 11: Construction.

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THE COURT: All right. And you're the only one that can drive the heavy equipment?

PROSPECTIVE JUROR 11: I deliver the equipment.

THE COURT: You deliver the equipment. Okay. And there's nobody else that can do that?

PROSPECTIVE JUROR 11: No.

THE COURT: Well, you -- you do that all by yourself?

PROSPECTIVE JUROR 11: Yes. That's why I worked Thursday.

THE COURT: And there's a special --

PROSPECTIVE JUROR 11: (Interposing) It's a small company. Ten -- ten guys.

THE COURT: There's a special license you have to have to --

PROSPECTIVE JUROR 11: (Interposing) Yes.

THE COURT: -- to be able to operate that?

PROSPECTIVE JUROR 11: Yes. Trucks with air brakes.

THE COURT: Okay. All right. Ms. Seal, did you mean to put your hand up?

PROSPECTIVE JUROR 6: Uh-huh.

THE COURT: Yes.

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PROSPECTIVE JUROR 6: I work for a company and we're very, very low staffed for Kinder Care Center for day care. And we're very, very low staffed and I didn't --

COURT REPORTER: (Interposing) Excuse me.

THE COURT: Keep your voice up.

PROSPECTIVE JUROR 6: I'm sorry. We're very, very low staffed.

THE COURT: That I got.

PROSPECTIVE JUROR 6: Yeah. I'm an assistant teacher and they need me there.

THE COURT: So it's inconvenient to the day care center?

PROSPECTIVE JUROR 6: Yes. Very.

THE COURT: Okay. Well, what do they do when somebody gets sick or can't come in?

PROSPECTIVE JUROR 6: They'll try to work around it, work some ways around it, but...

THE COURT: One thing that I can tell -- and maybe the rest of you sitting in the gallery need to know this now, too. No employer can take any adverse action against somebody for missing work because of jury duty.

It's against the law. I mean, it is --

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they can't do it. They might make you take vacation time or something, but they can't take adverse action against you. And -- but, okay, I -- you know, I hear and respect your concerns. Okay. Anybody else?

PROSPECTIVE JURORS: (Silence.)

THE COURT: Oh, now, we're going to start getting more. Mr. Moses. How come you didn't think of it first?

PROSPECTIVE JUROR 7: I -- I did have my hand up.

THE COURT: I'm sorry. Okay.

PROSPECTIVE JUROR 7: I -- I'd be glad to serve on a jury this way. My wife is eight months pregnant. She has had some complications. And so they -- they said it may not be unlikely for her to deliver a little bit early.

We also have a one-year old son, who I -- I care for three days a week. So, you know, I -- I was looking forward to maybe serving a day or two, but two weeks stretches pretty close to --

THE COURT: (Interposing) Yeah. We can't choose the -- so do you work outside the home?

PROSPECTIVE JUROR 7: I do. Yeah. I -- I work full-time.

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THE COURT: So your wife cares for the one-year old.

PROSPECTIVE JUROR 7: Yeah. And then she -- she works late afternoon a few days a week. So I'm -- I'm able to get home around 3:00 or 4:00 and watch my son for a few hours.

THE COURT: Okay. So the child --

PROSPECTIVE JUROR 7: (Interposing) And then -- that's kind of a secondary concern. The main one is her -- her due date.

THE COURT: Yeah. Her due date coming up. What is her due date right now, by the way?

PROSPECTIVE JUROR 7: It's early -- the first week of January.

THE COURT: Okay. All right. All right. Duly noted, Mr. Moses. Thank you for sharing that with us. Anybody else?

PROSPECTIVE JURORS: (Silence.)

THE COURT: All right. If there are any of you in the gallery that think you have a hardship serving on this jury, let us know if and when your number comes up. I won't keep asking these same questions over and over again, but many of you will end up in the jury box eventually, and -- and when you do, that's when you tell us about your hardship,

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if you have one.

And I -- I will simply ask those of you that come into the jury box, after this, if any of you would have had a yes answer to any of the questions that I ask and that's when you'd tell me about your hardship or any other issue that's going to be coming up here in my questions.

So -- so please note, these questions are for everybody. Not just for the people in the box. But right now, I only need answers from the people in the box.

All right. Now some of you could have health concerns, too, that might affect your ability to serve and the most obvious one of those would be a hearing loss.

Although I expect by this time one of you would have put up your hand and said that you can't hear anything I'm saying, but if any of you have any other kind of a medical problem that you think might affect your ability to serve, we'll -- we'll hear you out on that.

Some of the more common medical problems we hear about is high blood sugar or low blood sugar. A lot of people are afflicted with that one or the other of those problems. And we will work

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with you in any way we can.

We'll accommodate our needs to yours. If you have to consume nourishment at certain intervals that don't necessarily with -- with our intervals, we will work with you on that. Some of you could have orthopaedic issues that make it uncomfortable for you to sit in those chairs for any length of time.

You usually won't be in those chairs for more than about an hour and 45 minutes. But, you know, if you have to get up and move around or something, that's fine with me. As long as we know ahead of time.

If any of you are taking any kind of medication that might make you drowsy or inattentive or if any of you are taking psychotropic medication, we need to know about that. Do any of you have any of those kinds of medical issues or any other issues that you think might affect your ability to sit on this jury?

PROSPECTIVE JURORS: (Silence.)

THE COURT: Anybody?

PROSPECTIVE JURORS: (Silence.)

THE COURT: Okay. No medical concerns. So again, folks, those of you in the gallery, if any

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of you would have had a yes answer to that, please let us know if an when your number comes up.

All right. Now, as I mentioned earlier, this is a criminal case. And the paper or the legal document used to charge a defendant with a crime in the State of Michigan is called a felony information. And the information in this case charges the defendant here with five separate counts. I mentioned those earlier.

Count 1 is first degree premeditated murder. Count 2 is felony murder. And then Count 3 is armed robbery, Count 4 carjacking, Count 5 disinterment or mutilation of a dead body.

These charges arise out of the killing of one Gavino Hernandez Rodriguez, on about July 10th, 2016. And this killing -- I'm not sure if this is the --

MS. POWELL-HOROWITZ: (Interposing) Your Honor, you have the amended information. It's 2013.

THE COURT: Oh, I have something called an amended information.

MR. CRIPPS: The amended information says 16.

MS. POWELL-HOROWITZ: It says 13.

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MR. CRIPPS: It is 13, your Honor, I believe.

THE COURT: It is 13?

MS. POWELL-HOROWITZ: May I approach? I have a copy.

THE COURT: Yes, please do. Okay. Was I right about July 10th?

MS. POWELL-HOROWITZ: That's correct, your Honor.

THE COURT: Okay. July 10th, 2013. All right.

So this is what we call sort of a slightly cold case. And was it the murder or the discover at Braden and Wagner and/or Lola and Wesson in the City of Detroit?

MS. POWELL-HOROWITZ: Murder at Lola and Wesson. Discovery at Braden and Wagner.

THE COURT: Okay. So this killing is alleged to have occurred at Lola and Wesson in the City of Detroit, southwest side, I think, probably, right?

MS. POWELL-HOROWITZ: That's correct.

THE COURT: And then the remains were discovered at Braden and Wagner in the City of Detroit.

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I mentioned the deceased is a Gavino Hernandez Rodriguez. You also heard that there is a co-defendant in this case who is not on trial today with Mr. Czarnecki. You don't need to concern yourself with that, except that the defendants are being tried separately.

So you're going to be hearing about Mr. Alkotiat during the course of the trial.

These two defendants are essentially charged with luring Mr. Rodriguez to a home that one or both of them occupied and then robbing him and killing him.

You're going to be introduced to the concept of aiding and abetting here. I'm not sure what the evidence is going to be in this case, except that Mr. Czarnecki is the only one on trial and you'll -- the People are contending that he participated in some way or other with the killing, robbing and dismemberment and the deceased.

Now, the defendant has pled not guilty to these charges and you should clearly understand that the information I have just read from is not evidence.

The information is read in every criminal trial so that the defendant and the

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prospective jurors can hear the charges. You must never think that someone is guilty just because they've been charged.

In fact, any person charged with a crime is presumed to be innocent. And this means that you must begin with the presumption that the defendant is innocent and this presumption continues throughout the trial and entitles the defendant to a verdict of not guilty, unless or until you are satisfied beyond a reasonable doubt that he is guilty.

Now, every crime is made up of parts called elements. The prosecutor must prove each element of each crime beyond a reasonable doubt and I'll tell you what the elements of these crimes are at the end of the trial.

The defendant is not required to prove his innocence or to do anything. So in the end, if you find that the prosecution has not proven every element beyond a reasonable doubt, then you must find the defendant not guilty.

So I used the term reasonable doubt and I'm going to define that for you. Because you'll hear other phrases used on television and in the movies like beyond a shadow of a doubt or beyond all

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doubt. That's not the burden of proof in this case. That's the burden of proof on TV.

The burden of proof in this case is the People have to prove the case beyond what is called a reasonable doubt. Which is a fair, honest doubt growing out of the evidence or lack of evidence. It's not merely an imaginary doubt or a possible doubt. It's a doubt based on reason and commonsense.

So a reasonable doubt is just that, a doubt that is reasonable after a careful and considered examination of all of the facts and circumstances of this case.

Now, what I just read to you represents some of the cornerstones of the American justice system. That is that any defendant charged with a crime is presumed to be innocent. And it's the prosecutor that has to prove the defendant is guilty. She has to prove that beyond a reasonable doubt.

The defendant is not required to do anything. He's not required to present any evidence. He can sit and watch if he wants. And it's still up to the prosecutor to prove the case beyond a reasonable doubt.

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Now, do any of you have any philosophic or ideological disagreement with any of those concepts that are at the heart of our justice system in this country?

PROSPECTIVE JURORS: (Silence.)

THE COURT: None of you. Good. You all passed Civics 101. Okay. If there are any of you in the gallery that would have had a yes answer to that question, please let us know if and when your number comes up.

How many of you watch television shows like CSI and Law & Order -- and I know you watch Law & Order, it's on all the time. It still is. That show went on for 25 years.

And at one time it was the most popular television show in the world, I'm told. And I know how they loop them on TBS on weekends, because I get sucked into those once in a while. And once you get sucked in, it's hard to get out.

And you can imagine why I'm asking you this question. I -- you know, I watch those things and I get infuriated with how fake they are because I know how things really work.

But still, they're fun to watch. We don't want you thinking that anything that you're

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likely to see in the Frank Murphy Hall of Justice bears much relationship to a Law & Order episode. Television dramas like Law & Order and -- and other shows like it have been very popular.

But they can give you a very unrealistic or melodramatic view of how trials go. You know how quickly they move or -- you know, how dramatic they are. And police procedurals as well.

I think I can be fairly certain when I tell you that Ms. Powell here, when she calls witnesses, those witnesses have not been trained at the actors studio. They will probably not look like GQ models.

And Mr. Cripps is probably not going to pull some big stunt at the end of the trial, like they used to do on Perry Mason. Where the real culprit would walk into the courtroom and confess to committing the crime and reveal a complicated conspiracy between the Detroit Police and the Russian Secret Service.

That is just stuff for movies and television. This is the real world here. Trial evidence can be tedious. It can be imperfect. What you have to do to do your job properly is to take the evidence that's presented to you, take it on its

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own terms, and then using your commonsense and the instructions that I give you at the end of the trial and decide whether that evidence proves to you beyond a reasonable doubt, that the defendant is guilty or not.

What you're not to do is measure the evidence against how you think it might have been presented on last night's Law & Order episode. Where they get fingerprints out of snowbanks. Okay. Do any of you think you cannot follow that instruction?

PROSPECTIVE JURORS: (Silence.)

THE COURT: All right. Very good. If there are any of you in the gallery that think you cannot follow that instruction, please let us know if and when your number comes up.

All right. Because of the nature of this case, I think it's important for me to ask you a couple of questions about any crimes, homicide or even any crime of violence that may have occurred to you or any close member of your family or friends.

Have any of you or any close friends or family members ever been victims of a crime of violence of any kind?

PROSPECTIVE JURORS: (Silence.)

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THE COURT: We'll leave out sex offenses. We don't need to hear about those, I don't think. But any other crimes of violence?

PROSPECTIVE JURORS: (Silence.)

THE COURT: Robberies, shootings, killings?

PROSPECTIVE JURORS: (non verbal answers)

THE COURT: Okay. Keep your hands up. I know this is -- okay. Nobody in -- oh, Ms. Phillips, yes.

PROSPECTIVE JUROR 1: Well, someone just broke into my house last week.

THE COURT: Someone broke into your house last week. Was there anybody home?

PROSPECTIVE JUROR 1: My son walked in, but they ran out the back door.

THE COURT: The burglars ran out the back. Okay. Have they been caught yet?

PROSPECTIVE JUROR 1: No.

THE COURT: Did you call the police?

PROSPECTIVE JUROR 1: Yes.

THE COURT: Oh, I guess that's sort of a crime of violence, but I was thinking about something a lot worse than that.

I think if we, you know, everybody has

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probably had the experience of your home or garage being broken into. We'll be here all day listening to those. But is that event going to make a difference in your ability to be fair in this case?

PROSPECTIVE JUROR 1: I don't know.

THE COURT: How -- how could it, really?

PROSPECTIVE JUROR 1: I don't know. Because that's a scary thing. That's the first time that's happened to me. I don't know.

THE COURT: Okay. But why would that affect your ability to give this defendant or the prosecution a fair trial? I've told you something about this case.

PROSPECTIVE JUROR 1: I just have different views and different things.

THE COURT: Different views?

PROSPECTIVE JUROR 1: Yes.

THE COURT: What is that supposed to mean?

PROSPECTIVE JUROR 1: Well, I just see things a little bit differently.

THE COURT: Differently than who?

PROSPECTIVE JUROR 1: (Silence.)

THE COURT: Than everybody else on Earth?

PROSPECTIVE JUROR 1: Yes.

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THE COURT: Anybody else have a crime of violence history?

PROSPECTIVE JURORS: (Silence.)

THE COURT: Mr. Sieloff?

PROSPECTIVE JUROR 8: I've had guns and knives pulled having problems at work in Detroit. I work for DTE, turning people's gas off.

THE COURT: Oh, yeah. So you've been threatened by consumers?

PROSPECTIVE JUROR 8: Yes.

THE COURT: Have you ever actually been assaulted, physically hurt?

PROSPECTIVE JUROR 8: No. Just guns pulled on me.

THE COURT: Yeah.

PROSPECTIVE JUROR 8: A lot closer than I'd like.

THE COURT: Yeah. So do you customarily report those events to the police?

PROSPECTIVE JUROR 8: (Silence.)

THE COURT: I think you have to, right?

PROSPECTIVE JUROR 8: Yes. We have a -- a corporate security team and they usually take it and --

THE COURT: (Interposing) Do something.

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PROSPECTIVE JUROR 8: -- make the situation safe.

THE COURT: So have you ever had to testify in a case where the offender was caught and arrested?

PROSPECTIVE JUROR 8: No.

THE COURT: I -- I see some of those cases sometimes. All right. How long have you worked for DTE?

PROSPECTIVE JUROR 8: About 16 years.

THE COURT: All right. Well this is, of course, a very different kind of case, but still I have to ask you as I asked Ms. Phillips, is that going to affect in any way your ability to be fair?

PROSPECTIVE JUROR 8: I don't think so.

THE COURT: I mean, if this were a DTE stabbing case, I guess I would probably send you downstairs. Okay. Anybody else in the second row?

PROSPECTIVE JURORS: (Silence.)

THE COURT: Last row?

PROSPECTIVE JURORS: (Silence.)

THE COURT: All right. Mr. Muth, yes.

PROSPECTIVE JUROR 12: I had a close family friend who filed for divorce and her husband went into her place of work and killed her. And I

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seen that.

THE COURT: This Mr. Muth.

PROSPECTIVE JUROR 12: And I remember what --

THE COURT: (Interposing) You're Mr. Muth, right?

PROSPECTIVE JUROR 12: Yes.

THE COURT: Okay. And I'm sorry, tell me that again, a friend of yours?

PROSPECTIVE JUROR 12: We had a close family friend who filed for divorce and her husband went to where she worked and killed her.

THE COURT: Okay.

PROSPECTIVE JUROR 12: And I seen what happened to the family after that.

THE COURT: Yeah, I'm sure it was horrible. You probably didn't have to see that to know how awful that sort of thing is and the consequences. All right. That was how long ago?

PROSPECTIVE JUROR 12: About three years ago.

THE COURT: And so were a lot of people at work witnesses to the killing?

PROSPECTIVE JUROR 12: No. It was a small business.

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THE COURT: And the -- the husband, I assume, was charged, right?

PROSPECTIVE JUROR 12: Yeah. Well, he committed suicide after that.

THE COURT: Oh.

PROSPECTIVE JUROR 12: He got her and shot himself.

THE COURT: Okay. Right there?

PROSPECTIVE JUROR 12: Yeah.

THE COURT: Okay. All right. So did -- is that going to affect, in any way, your ability to be fair in this kind of case?

PROSPECTIVE JUROR 12: I don't think so.

THE COURT: Okay. Thank you. Who else in the last -- Mr. Munoz, yes.

PROSPECTIVE JUROR 9: I had two brothers. Older brothers. One got killed in a robbery and another one in a --

MR. CRIPPS: (Interposing) Again, I'm having trouble hearing.

THE COURT: Okay. Speak up a little more, Mr. Munoz.

PROSPECTIVE JUROR 9: I have two older brothers. One killed in a robbery and another one in a hit and run and the cases were never solved.

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They closed them.

THE COURT: Okay. How long ago was the robbery case?

PROSPECTIVE JUROR 9: The robbery about 18 years.

THE COURT: And the hit and run?

PROSPECTIVE JUROR 9: The hit and run about 14.

THE COURT: So you lost two brothers to violence?

PROSPECTIVE JUROR 9: Violence, yes.

THE COURT: And -- and you don't know anything about the robbery or the hit and run. You weren't there. You didn't see any part of it?

PROSPECTIVE JUROR 9: Don't know nothing about it. The hit and run happened in Little Rock.

THE COURT: Little Rock, Arkansas?

PROSPECTIVE JUROR 9: Arkansas. And my parents and some of my brothers went down there to see what happened. But they closed the case.

THE COURT: Yeah.

PROSPECTIVE JUROR 9: My parents fought hard to solve the problem and prosecute the person that hit and run my -- my brother, but nothing ever happened.

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THE COURT: Well, they didn't find him?

PROSPECTIVE JUROR 9: I think they did find him, but I don't know after -- after that, I don't know.

THE COURT: And then what about the robbery. Where did that happen?

PROSPECTIVE JUROR 9: Southwest Detroit.

THE COURT: That was about 18 years ago, you said?

PROSPECTIVE JUROR 9: About 18 years ago.

THE COURT: And that robber was never caught?

PROSPECTIVE JUROR 9: It was never solved.

THE COURT: Now, I know those events were a long time ago, but you did mention them and since you did mention them, I need to ask you if that -- if either of those two events might affect your ability to be fair in this case?

PROSPECTIVE JUROR 9: (Silence.)

THE COURT: Can you be -- give both sides a fair trial?

PROSPECTIVE JUROR 9: I will affect me.

THE COURT: It will affect you?

PROSPECTIVE JUROR 9: Yes.

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THE COURT: So how so?

PROSPECTIVE JUROR 9: The way that the cases were never solved.

THE COURT: Okay.

PROSPECTIVE JUROR 9: The -- the guy that murdered my brother in the robbery, he was never caught. We fought so hard. Even my parents fought hard to get the guy who did it --

THE COURT: (Interposing) I understand you feel grieved about that. You know, that your brother's crime was never solved.

PROSPECTIVE JUROR 9: It was never solved.

THE COURT: But here we are with a different defendant, a different case, a different 18 years later. I mean, why would the -- the beefs you have about your brother's case spill over and so that you couldn't give one side or the other a fair trial here?

PROSPECTIVE JUROR 9: (Silence.)

THE COURT: How does that -- how does one connect to the other?

PROSPECTIVE JUROR 9: One is connected, because of the robbery. It's about this case here.

THE COURT: Okay. I'm not quite sure I

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follow you, but I guess we've pursued it as much as we can. All right.

Who else in the last row would have had a yes?

PROSPECTIVE JURORS: (Silence.)

THE COURT: Mr. Lewis, yes?

PROSPECTIVE JUROR 13: I was robbed at gunpoint?

THE COURT: You were?

PROSPECTIVE JUROR 13: Yes, sir.

THE COURT: And where did that happen?

PROSPECTIVE JUROR 13: On the westside.

THE COURT: How long ago?

PROSPECTIVE JUROR 13: About 18 years ago.

THE COURT: Were you shot?

PROSPECTIVE JUROR 13: No. Hit.

THE COURT: Hit?

PROSPECTIVE JUROR 13: Hit, kicked, stomped, took everything off me.

THE COURT: Were the robbers caught?

PROSPECTIVE JUROR 13: No.

THE COURT: Is that going to affect your ability to be fair in this case?

PROSPECTIVE JUROR 13: I don't know. I'm

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very cautious about how I do things.

THE COURT: Well, okay, great. Me, too. There's nothing wrong with that. The question on the table is, I mean, you -- you had a -- you were a crime victim several years ago.

Here's a young man on trial in a slightly different kind of a case. But, you know, it has similarities. I guess the question on the table is, can you hear the evidence that's going to be presented in this case?

PROSPECTIVE JUROR 13: (Silence.)

THE COURT: The witnesses and the exhibits and then give this defendant a fair trial, based on that evidence or, for that matter, give the prosecution a fair trial?

PROSPECTIVE JUROR 13: I don't know, sir.

THE COURT: And you don't know because you were robbed 18 years ago?

PROSPECTIVE JUROR 13: Yes, sir.

THE COURT: Okay. Anybody else in the back row? Mr. -- how do you say your name?

PROSPECTIVE JUROR 14: Hussein.

THE COURT: Hussein?

PROSPECTIVE JUROR 14: Yes.

THE COURT: Okay. That's your...

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PROSPECTIVE JUROR 14: My name is Hussein Atoui.

THE COURT: Oh, actually I meant your last name. Atoui?

PROSPECTIVE JUROR 14: Yes.

THE COURT: Okay. You were a crime victim?

PROSPECTIVE JUROR 14: Yes. I was robbed at a gas station six years ago at gunpoint.

THE COURT: Were you working there?

PROSPECTIVE JUROR 14: Yes.

THE COURT: Okay. Shot, not shot?

PROSPECTIVE JUROR 14: No, not shot.

THE COURT: Okay. Robbed and then you -- I assume you reported it to the police?

PROSPECTIVE JUROR 14: Yes, sir.

THE COURT: And was the robber caught?

PROSPECTIVE JUROR 14: Yes.

THE COURT: And what happened to the robber?

PROSPECTIVE JUROR 14: Well, I think he's still in jail.

THE COURT: Did you have to show up in court?

PROSPECTIVE JUROR 14: Yes.

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THE COURT: Okay. Is that going to affect, in any way, your ability to be fair in this case?

PROSPECTIVE JUROR 14: Yes, sir. Because it's robber that is still like now.

THE COURT: So because you were robbed you couldn't give somebody else charged with robbery a fair trial?

PROSPECTIVE JUROR 14: No.

THE COURT: Or you just don't want to be here for two weeks?

PROSPECTIVE JUROR 14: Not really, but I can -- I can be here, but I cannot give you a fair trial.

THE COURT: Can you give the defendant a fair trial?

PROSPECTIVE JUROR 14: (Silence.)

THE COURT: It's not about me. And this all because of a -- a robbery that occurred -- how long ago did you say?

PROSPECTIVE JUROR 14: Six years ago. Five, six years ago.

THE COURT: And you were reasonably satisfied with the outcome, I assume?

PROSPECTIVE JUROR 14: I was. I don't

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know if he's out or he's still there, because he had a couple cases.

THE COURT: Okay. I thought you said he was still in jail. But okay. All right. Anybody else?

PROSPECTIVE JURORS: (Silence.)

THE COURT: All right. If there are any of you in the gallery that would have had a yes answer to that question, let us know if and when your number comes up.

Another question that we're always interested in knowing about you and we get a little bit of biographical information about you.

I noticed that there was one person on the panel who's a lawyer. We've had lawyers and even judges. We get police officers, ex-police officers, retired police officers on our jury panel sometimes. And we don't always know it from the brief information that we get.

So do any of your sitting in the jury box, have any background or training or experience in law or law enforcement?

PROSPECTIVE JURORS: (Silence.)

THE COURT: Any of you?

PROSPECTIVE JURORS: (non verbal answer)

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THE COURT: Mr. Is it Manees?

PROSPECTIVE JUROR 4: Manees.

THE COURT: Yes. What is your background?

PROSPECTIVE JUROR 4: I was a police officer for thirty and a half years.

THE COURT: Oh, what department?

PROSPECTIVE JUROR 4: Melvindale.

THE COURT: And now retired?

PROSPECTIVE JUROR 4: Just recently, yes.

THE COURT: Okay. Are you doing anything in retirement?

PROSPECTIVE JUROR 4: Yeah. I'm working security on a -- on a bridge, 75/94.

THE COURT: Okay. So you have 30 years of Melvindale PD?

PROSPECTIVE JUROR 4: On the road, yes, sir.

THE COURT: I was about to ask you what your -- you were a patrol officer all during those years?

PROSPECTIVE JUROR 4: Yes.

THE COURT: I'm going to be giving the jury an instruction at the end of this trial, that you are to give the testimony of a law enforcement officer no greater or lesser weight than you would

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give to any other witness. Can you follow that?

PROSPECTIVE JUROR 4: No, sir.

THE COURT: There are some cases where the testimony of police officers is what turns the case. Or other trials where police officers are only connecting a few dots, they're not the critical witnesses.

I suspect this is the latter kind of a case. You don't think you can objectively, dispassionately judge the evidence in this case if it comes from police witnesses?

PROSPECTIVE JUROR 4: I don't think I could be fair and impartial.

THE COURT: You don't mean that because you spent 30 years with Melvindale PD you don't believe a single thing any cop says, right?

PROSPECTIVE JUROR 4: Yeah. I believe everything a cop says.

THE COURT: Right.

PROSPECTIVE JUROR 4: That's what I'm saying. Yeah. That's what I meant.

THE COURT: And that's it. You're just going to believe whatever they say?

PROSPECTIVE JUROR 4: Yeah. Sorry.

THE COURT: Well, I mean, it would be

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hard to come across a case in this building where there wasn't at least one police officer as a witness. So I guess you can talk yourself out of every trial?

PROSPECTIVE JUROR 4: In this particular, yeah, I -- I would. I've been in a few homicides myself, investigating.

THE COURT: Right. I suppose so. All right. Anybody else?

PROSPECTIVE JURORS: (Silence.)

THE COURT: Anybody else with any background, training or experience in law or law enforcement, besides Mr. Manees?

PROSPECTIVE JURORS: (Silence.)

THE COURT: No. All right. So if any of you in the gallery would have had a yes answer to that, let us know if and when your number comes up.

Let me broaden the question a little bit. I'm sure I'll get some more hands.

Do any of you have any close friends or relatives, either now or sometime in the past, you know, your favorite uncle now deceased, somebody who might have had some role to play in the shaping of your world view?

PROSPECTIVE JURORS: (Silence.)

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THE COURT: Anybody have any close friends or relatives now or in the past in law or law enforcement?

PROSPECTIVE JURORS: (Silence.)

THE COURT: Any of you?

PROSPECTIVE JURORS: (Silence.)

THE COURT: Mr. Muth, yes?

PROSPECTIVE JUROR 12: Yes. I have an uncle and a cousin. They're both retired from the Dearborn Police. My son-in-law is a Dearborn policeman.

THE COURT: Oh, so the Muth family kind of had Dearborn --

PROSPECTIVE JUROR 12: They're not all Muths.

THE COURT: Right. Okay. All right. So you get together with them, I assume, on family occasions?

PROSPECTIVE JUROR 12: Family -- family functions, family holidays.

THE COURT: Probably heard a few war stories over a diet Coke?

PROSPECTIVE JUROR 12: Oh, yes.

THE COURT: Anything about your relationship with them or your conversations with

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them over the years that you think would affect your ability to be fair in this case?

PROSPECTIVE JUROR 12: No, I don't think so.

THE COURT: Do any of them know you're on jury duty today?

PROSPECTIVE JUROR 12: No, they don't. My son-in-law might.

THE COURT: Okay.

PROSPECTIVE JUROR 12: My daughter might have told him.

THE COURT: All right. Well you know you can't talk to them about the case?

PROSPECTIVE JUROR 12: Correct.

THE COURT: Anybody else, close friends or relatives? Ms. -- tell me again, Cloughesy?

PROSPECTIVE JUROR 10: Cloughesy.

THE COURT: Cloughesy, yeah.

PROSPECTIVE JUROR 10: My grandmother worked in an administrative role for the Detroit Police Department for --

COURT REPORTER: (Interposing) Excuse me. Could you --

THE COURT: (Interposing) Yes. Talk louder and slower, please.

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PROSPECTIVE JUROR 10: I'm sorry. My grandmother worked in an administrative role for the Detroit Police Department. My husband's family has officers in various states.

THE COURT: And your grandmother was a civilian employee in the Detroit Police?

PROSPECTIVE JUROR 10: Correct.

THE COURT: Okay. Is -- is -- are any of those relationships likely to cause you to be unfair to either side in this case?

PROSPECTIVE JUROR 10: No.

THE COURT: All right. Somebody else had their hand up?

PROSPECTIVE JURORS: (Silence.)

THE COURT: Mr. Sieloff, yes?

PROSPECTIVE JUROR 8: I have a buddy who works in the robbery at the Detroit Police Department. Another buddy who works at Woodhaven Police Department. And then one more who works for the U.S. Postal Inspectors.

THE COURT: All right. And so how do you happen to have three friends in law enforcement?

PROSPECTIVE JUROR 8: I have absolutely no clue.

THE COURT: Okay.

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PROSPECTIVE JUROR 8: It's been a long time

THE COURT: So are these guys that you went to school with?

PROSPECTIVE JUROR 8: Yes.

THE COURT: Or just met during -- okay. Do any of them know you're on jury duty today?

PROSPECTIVE JUROR 8: I don't think so.

THE COURT: All right. And you'll keep it that way?

PROSPECTIVE JUROR 8: Yes.

THE COURT: Are any of those relationships likely to cause you to be unfair to one side or the other in this case?

PROSPECTIVE JUROR 8: I don't think so.

THE COURT: Okay. Anybody else?

PROSPECTIVE JURORS: (Silence.)

THE COURT: All right. Again, if there's any of you in the gallery that would have had a yes answer to that question about law or law enforcement, close friends or relatives, let us know if and when your number comes up.

Have any of you or any close friends or relatives ever been through the system?

PROSPECTIVE JURORS: (Silence.)

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THE COURT: This is the -- the flip side of this. Been through the system, charged with a crime and on trial or gone through the system?

PROSPECTIVE JURORS: (Silence.)

THE COURT: You or close friends or relatives?

PROSPECTIVE JURORS: (Silence.)

THE COURT: And I'm not interested in traffic offenses. Crimes?

PROSPECTIVE JURORS: (Silence.)

THE COURT: Anybody?

PROSPECTIVE JURORS: (Silence.)

THE COURT: Close friends or relatives that have been through the system?

PROSPECTIVE JURORS: (Silence.)

THE COURT: Nobody has a nephew that got picked up with a joint?

PROSPECTIVE JURORS: (Silence.)

THE COURT: Really. Well, okay. Again, if there's anybody out there, not the joint question, but --

MS. POWELL-HOROWITZ: (Interposing) Judge, you have a hand.

THE COURT: Oh, I do have a hand. Where? Oh, now. Okay. Yes.

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PROSPECTIVE JUROR 1: Well, my uncle, he was charged with murder.

THE COURT: Oh. And do you know anything about the circumstances of that case?

PROSPECTIVE JUROR 1: I don't know.

THE COURT: Did you know the victim?

PROSPECTIVE JUROR 1: No, I didn't know the victim.

THE COURT: And you know something about the case by based on what your uncle told you or do you have other information?

PROSPECTIVE JUROR 1: Well, I have other information.

THE COURT: Okay. And what happened to the case?

PROSPECTIVE JUROR 1: He ended up going to jail, but he got out. Because it ended up being for self defense.

THE COURT: So did he go trial?

PROSPECTIVE JUROR 1: Yes, he did.

THE COURT: And was he found not guilty in the trial?

PROSPECTIVE JUROR 1: He was found guilty.

THE COURT: He was found guilty?

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PROSPECTIVE JUROR 1: Uh-huh.

COURT REPORTER: Is that a yes?

PROSPECTIVE JUROR 1: Yes.

THE COURT: You have to say yes?

PROSPECTIVE JUROR 1: Yes.

THE COURT: And then he went to prison?

PROSPECTIVE JUROR 1: Yes. And then he did another trial and it ended up being self defense.

THE COURT: Oh, he got another trial. And how long ago was the first trial?

PROSPECTIVE JUROR 1: Probably about maybe ten years ago.

THE COURT: And what about the second trial?

PROSPECTIVE JUROR 1: Probably about maybe two or three years ago.

THE COURT: Oh, just two or three years ago?

PROSPECTIVE JUROR 1: Uh-huh. Yes.

THE COURT: And then so he went to trial the second time and he was found not guilty?

PROSPECTIVE JUROR 1: Yes.

THE COURT: And did you go to either one of the trials?

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PROSPECTIVE JUROR 1: No.

THE COURT: Were they here at Frank Murphy?

PROSPECTIVE JUROR 1: I don't know. It may have been. I don't know.

THE COURT: Oh, really?

PROSPECTIVE JUROR 1: Yes.

THE COURT: You weren't that close to the uncle?

PROSPECTIVE JUROR 1: It was my grandparents and my mother and -- and one of my aunties that went to the trial?

THE COURT: That went to the trial?

PROSPECTIVE JUROR 1: Yes.

THE COURT: All right. So when they -- when your uncle was in prison, did you ever go visit him?

PROSPECTIVE JUROR 1: A couple times.

THE COURT: Okay. How did you feel about when he was first convicted?

PROSPECTIVE JURORS: (Silence.)

THE COURT: Do you think he got a -- a fair trial or not a fair trial?

PROSPECTIVE JURORS: (Silence.)

THE COURT: Because I know he got a new

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trial, eventually, but what did you think?

PROSPECTIVE JURORS: (Silence.)

THE COURT: Did you know anything about it?

PROSPECTIVE JUROR 1: I knew a little about it, but, I mean, personally, I felt that what happened, you know, may not be his fault.

THE COURT: Okay. All right. Is any of that likely to influence your ability to be fair in this case?

PROSPECTIVE JUROR 1: No. But it happened.

MR. CRIPPS: I can't hear you?

PROSPECTIVE JUROR 1: It happened a while ago.

THE COURT: She said no. All right. Anybody else?

PROSPECTIVE JURORS: (Silence.)

THE COURT: Close friends or relatives through the system?

PROSPECTIVE JURORS: (Silence.)

THE COURT: Okay. Again, if any of you in the gallery would have had a yes answer to that, let us know if and when your number comes up.

Well, I think I know the answer to this

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question, from just the questioning that I've done so far. But are any of you not secure in English?

PROSPECTIVE JURORS: (Silence.)

THE COURT: Have any of you had any difficulty understanding me for any reason?

PROSPECTIVE JURORS: (Silence.)

THE COURT: Are any of you not US Citizens?

PROSPECTIVE JURORS: (non verbal answer)

THE COURT: Okay. Remind us of that when you get into the box.

MR. CRIPPS: Could we have the juror's name?

THE COURT: Yes. What's your name, sir?

PROSPECTIVE JUROR NASSER: Taha.

THE COURT: Taha. That's your last name?

PROSPECTIVE JUROR NASSER: Nasser.

THE COURT: Nasser. Okay. That's your last name, of course, that we'd be interested in. All right. Duly noted. If and when your number comes up, just remind us.

All right. Let's find out a little bit more about you on an individual basis here. Let's start with Juror Number 1, Ms. Phillips.

Ms. Phillips, tell us, please, your

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marital status?

PROSPECTIVE JUROR 1: Divorced.

THE COURT: You have children?

PROSPECTIVE JUROR 1: Yes.

THE COURT: Would you tell us the gender and range of age of your kids, please?

PROSPECTIVE JUROR 1: Three boys and a girl; 26 to 8.

THE COURT: Okay. And what do you do for a living?

PROSPECTIVE JUROR 1: I work for Detroit Medical Center and I do the billing, coding for the medical center.

THE COURT: Okay. You're what's called a code?

PROSPECTIVE JUROR 1: Yes.

THE COURT: Okay. And the extent of your formal education is what?

PROSPECTIVE JUROR 1: A degree.

THE COURT: In?

PROSPECTIVE JUROR 1: Associate degree.

THE COURT: In medical coding?

PROSPECTIVE JUROR 1: Yes, in coding, yes.

THE COURT: All right. Have you ever sat

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on a jury before?

PROSPECTIVE JUROR 1: Yes.

THE COURT: Where was that?

PROSPECTIVE JUROR 1: Here.

THE COURT: How long ago?

PROSPECTIVE JUROR 1: Probably about maybe four years ago.

THE COURT: And without telling us the outcome of that trial, was your jury able to reach a verdict?

PROSPECTIVE JUROR 1: Yes.

THE COURT: Were you the foreman?

PROSPECTIVE JUROR 1: No.

THE COURT: Foreperson. Mr. Harris, your marital status?

PROSPECTIVE JUROR 2: Single.

THE COURT: Any kids?

PROSPECTIVE JUROR 2: No.

THE COURT: What do you do for a living?

PROSPECTIVE JUROR 2: I work for a third party company for Chrysler.

THE COURT: Say that again?

PROSPECTIVE JUROR 2: Third party company for Chrysler.

THE COURT: Third party company for

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Chrysler. A supplier or something?

PROSPECTIVE JUROR 2: Yes.

THE COURT: What kind of work do you do?

PROSPECTIVE JUROR 2: We do accessory installs. Like leather, foam, insulation.

THE COURT: Okay. And the extent of your formal education is what?

PROSPECTIVE JUROR 2: High school.

THE COURT: And have you ever sat on a jury before?

PROSPECTIVE JUROR 2: No.

THE COURT: First time. Mr., is it Paulot?

PROSPECTIVE JUROR 3: Sure.

THE COURT: How do you -- how do you like to say it?

PROSPECTIVE JUROR 3: Paulot.

THE COURT: Paulot. Okay. Your marital status?

PROSPECTIVE JUROR 3: Single.

THE COURT: Any kids?

PROSPECTIVE JUROR 3: No.

THE COURT: And what do you do for a living?

PROSPECTIVE JUROR 3: I'm a union

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electrician.

THE COURT: So you've got apprenticeships and apprentice -- you're a journey electrician?

PROSPECTIVE JUROR 3: I'm currently finishing up my apprenticeship.

THE COURT: Okay. And what is the -- the extent of your formal education before that?

PROSPECTIVE JUROR 3: High school.

THE COURT: And have you ever served on a jury before?

PROSPECTIVE JUROR 3: No.

THE COURT: Mr. Manees, your marital status?

PROSPECTIVE JUROR 4: Married.

THE COURT: Children?

PROSPECTIVE JUROR 4: Three boys.

THE COURT: Okay. What's the range of age of your kids?

PROSPECTIVE JUROR 4: Twenty-seven to 35.

THE COURT: All right. We know what you do for a living. Does your wife work outside the home?

PROSPECTIVE JUROR 4: No.

THE COURT: The extent of your formal is what?

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PROSPECTIVE JUROR 4: I've got an associate's.

THE COURT: Have you ever sat on a jury before?

PROSPECTIVE JUROR 4: No.

THE COURT: Mr. Wallace, your marital status?

PROSPECTIVE JUROR 5: Single.

THE COURT: Any kids?

PROSPECTIVE JUROR 5: No.

THE COURT: What do you do for a living?

PROSPECTIVE JUROR 5: I'm a junior developer for a digital marketing company.

THE COURT: Okay. And the extent of your formal education is what?

PROSPECTIVE JUROR 5: I have a bachelor's in software engineering.

THE COURT: All right. And I assume never sat on a jury before, right?

PROSPECTIVE JUROR 5: No.

THE COURT: Okay. So those of you that are not married and I ask you if you have any kids, it's not because we're, you know, church police here.

A lot of people who are divorced or

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whatever, they say they're -- you know, they're not married. And we need the total picture, anyway.

Ms. Seal, your marital status?

PROSPECTIVE JUROR 6: Single.

THE COURT: Any kids?

PROSPECTIVE JUROR 6: No.

THE COURT: And what do you do for a living?

PROSPECTIVE JUROR 6: I work at a daycare, Kindercare.

THE COURT: Oh, that's right. And the extent of your formal education is what?

PROSPECTIVE JUROR 6: High school diploma.

THE COURT: Okay. And have you ever sat on a jury before?

PROSPECTIVE JUROR 6: No.

THE COURT: Okay. Mr. Moses --

MS. POWELL-HOROWITZ: (Interposing) Your Honor, number 6 had her hand up to one of the questions earlier where you addressed regarding anyone who had been through the system.

THE COURT: Oh, is that right and did I miss that.

MS. POWELL-HOROWITZ: Oh, no, I'm sorry.

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I'm sorry. Thank you.

THE COURT: Okay. Mr. Moses, your marital status?

PROSPECTIVE JUROR 7: I'm married.

THE COURT: And children? That's right, one on the way.

PROSPECTIVE JUROR 7: A one-year old and then another on the way.

THE COURT: And what do you do for a living?

PROSPECTIVE JUROR 7: I'm a pastor.

THE COURT: Full-time?

PROSPECTIVE JUROR 7: Yes, sir.

THE COURT: And what denomination?

PROSPECTIVE JUROR 7: Bible Church.

THE COURT: Okay. And you're not of a denomination where the adherence claim that they cannot make judgments?

PROSPECTIVE JUROR 7: No.

THE COURT: In a setting like this?

PROSPECTIVE JUROR 7: No, sir.

THE COURT: Okay. And did you say your wife worked outside the home or does not?

PROSPECTIVE JUROR 7: She teaches private music lessons for a few hours a day, three days a

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week.

THE COURT: Okay. The extent of your formal education is what?

PROSPECTIVE JUROR 7: A masters degree.

THE COURT: In theology?

PROSPECTIVE JUROR 7: Yes, sir.

THE COURT: Have you ever sat on a jury before?

PROSPECTIVE JUROR 7: No, sir.

THE COURT: Mr. Sieloff, your marital status?

PROSPECTIVE JUROR 8: Married.

THE COURT: Children?

PROSPECTIVE JUROR 8: Two, 18 and 4.

THE COURT: Okay. And what do you do for a living?

PROSPECTIVE JUROR 8: I work at DTE Energy.

THE COURT: Oh, that's right. And the extent of your formal education is?

PROSPECTIVE JUROR 8: High school.

THE COURT: Ever sat on a jury before?

PROSPECTIVE JUROR 8: No.

THE COURT: I used to know a lawyer named Sieloff, you're not related to him?

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PROSPECTIVE JUROR 8: No.

THE COURT: Okay. You'd admit it if you were related to a lawyer?

PROSPECTIVE JURORS: (Silence.)

THE COURT: You wouldn't try to hide that?

PROSPECTIVE JURORS: (Silence.)

THE COURT: All right. Mr. Munoz, your marital status?

PROSPECTIVE JUROR 9: Married.

THE COURT: Children?

PROSPECTIVE JUROR 9: No.

THE COURT: Okay. And what do you do for a living, sir?

PROSPECTIVE JUROR 9: I work for Fiat Chrysler.

THE COURT: And what do you do for them?

PROSPECTIVE JUROR 9: Assembly.

THE COURT: And what does your wife do?

PROSPECTIVE JUROR 9: Child care.

THE COURT: Have you ever sat on a jury before?

PROSPECTIVE JUROR 9: No.

THE COURT: and Ms. Cloughesy, marital status?

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PROSPECTIVE JUROR 10: Married.

THE COURT: Children?

PROSPECTIVE JUROR 10: One, 3. Three-year old.

THE COURT: Okay. That's right. And you -- you do not work outside the home?

PROSPECTIVE JUROR 10: I do not. I was formally an engineer.

THE COURT: Or, you're a graduate engineer?

PROSPECTIVE JUROR 10: I used to work in engineering.

THE COURT: Okay. The extent of your formal education is what?

PROSPECTIVE JUROR 10: Bachelor's of science.

THE COURT: And have you ever sat on a jury before?

PROSPECTIVE JUROR 10: I sat on a grand jury in Ohio.

THE COURT: Okay. Intermittent?

PROSPECTIVE JUROR 10: It was every Friday for eight weeks.

THE COURT: All right.

COURT REPORTER: Excuse me. I didn't hear

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you.

PROSPECTIVE JUROR 10: It was an eight day essentially over the course of eight weeks.

THE COURT: Every Friday for eight weeks you said?

PROSPECTIVE JUROR 10: Right.

THE COURT: Mr. Fristick, your marital status?

PROSPECTIVE JUROR 11: Divorced.

THE COURT: Children?

PROSPECTIVE JUROR 11: One, 28-years old.

THE COURT: Okay. What do you do for a living, sir?

PROSPECTIVE JUROR 11: Construction worker, truck driver delivery.

THE COURT: Right. And have you ever sat on a jury before?

PROSPECTIVE JUROR 11: no.

THE COURT: Mr. Muth, your marital status?

PROSPECTIVE JUROR 12: Married.

THE COURT: Children?

PROSPECTIVE JUROR 12: Three kids, six grand kids. Graduated, bachelor's degree in industrial management. Retired building engineer

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with Dearborn Schools.

THE COURT: Okay. And what does your wife do?

PROSPECTIVE JUROR 12: She's a secretary for Dearborn Schools.

THE COURT: And, Mr. Lewis, your marital status?

PROSPECTIVE JUROR 13: Single.

THE COURT: Any kids?

PROSPECTIVE JUROR 13: Nope.

THE COURT: What do you do for a living?

PROSPECTIVE JUROR 13: Work for Amazon, delivery driver.

THE COURT: All right. And the extent of your formal education is what?

PROSPECTIVE JUROR 13: High school diploma.

THE COURT: And have you ever sat on a jury before?

PROSPECTIVE JUROR 13: No, sir.

THE COURT: And Mr. Atoui, your marital status?

PROSPECTIVE JUROR 14: Single.

THE COURT: Any kids?

PROSPECTIVE JUROR 14: No, sir.

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THE COURT: What do you do, sir?

PROSPECTIVE JUROR 14: I work for Ryder Logistics as a supply chain manager.

THE COURT: And the extent of your formal education is what?

PROSPECTIVE JUROR 14: Bachelor degree.

THE COURT: In something that I wouldn't understand?

PROSPECTIVE JUROR 14: Logistics and supply chain management.

THE COURT: Okay. Right. I was right. Ever sat on a jury before?

PROSPECTIVE JUROR 14: No, sir.

THE COURT: All right. Counsel, if you'd like to each take a total of about 15 minutes for voir dire, you can do that. Ms. Powell.

MS. POWELL-HOROWITZ: Thank you, Judge. Good morning.

PROSPECTIVE JURORS: Good morning.

MS. POWELL-HOROWITZ: Welcome to the Frank Murphy Hall of Justice. Thank you for being here and being willing to serve today. We really appreciate it, because without you we can't have a jury trial.

So please note that the families of the

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victim of this case, please note that the families on all sides are appreciative of you being here, ready to serve and do your best.

So I'm going to ask you some questions. It's not my intention to delve into your personal lives. I just want to make sure that we pick out and get a fair jury for both sides.

Before I begin, though, Mr. Atoui, you look so familiar to me. Do I look familiar to you?

PROSPECTIVE JUROR 14: No.

MS. POWELL-HOROWITZ: Okay. Good. Okay. I can't place you. All right.

Mr. Lewis, I'm sorry, you -- you told us that you had been the victim of a crime. I, too, have been assaulted with a firearm. I -- I get it. This case has nothing to do with any firearm. Will that change your ability to be a fair and impartial juror in this case?

PROSPECTIVE JUROR 13: Yes.

MS. POWELL-HOROWITZ: It will change. It will change. You think you can be fair and impartial?

PROSPECTIVE JUROR 13: Yes.

MS. POWELL-HOROWITZ: And -- and lots of people have been crime victims and you have to put

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that aside. Can you do that?

PROSPECTIVE JUROR 13: I don't know. I'll try.

MS. POWELL-HOROWITZ: All -- all we can ask of anyone is that you try and that you do your best. All right.

Ms. -- Ms. Phillips, you said that you've recently been the victim of a home invasion?

PROSPECTIVE JUROR 1: Uh-huh. Yes.

MS. POWELL-HOROWITZ: Very sorry. You said that that would affect how you would feel about sitting as a juror. Can you tell me why?

PROSPECTIVE JUROR 1: Because it's -- it's because of the scary feeling. I just, you know, been a victim -- maybe because it's just fresh and new, you know. It's just like now I'm watching my back and just like I don't trust nobody and it just makes me scared.

MS. POWELL-HOROWITZ: It changes how you view everyone around you?

PROSPECTIVE JUROR 1: Yes, it does.

MS. POWELL-HOROWITZ: Okay. I think anybody that's been a crime victim can -- can relate to that. This doesn't have anything to do with a home invasion case.

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Does that change your opinion as to how you can sit in this case?

PROSPECTIVE JUROR 1: Yes, I can be fair.

MS. POWELL-HOROWITZ: Thank you. That's all we're asking. Thank you. All right. Who here has ever run a red light?

PROSPECTIVE JURORS: (Silence.)

MS. POWELL-HOROWITZ: Anyone?

PROSPECTIVE JURORS: (Silence.)

MS. POWELL-HOROWITZ: Come on. No one?

PROSPECTIVE JURORS: (Silence.)

MS. POWELL-HOROWITZ: Come on. Who here has run a red light?

PROSPECTIVE JURORS: (Silence.)

MS. POWELL-HOROWITZ: Yes. Thank you. Anybody else want to fess up?

PROSPECTIVE JURORS: (Silence.)

MS. POWELL-HOROWITZ: Anybody else? We've got two, three -- keep your hands up, please. Five, eight.

THE COURT: Even a cop. Oh, my god?

PROSPECTIVE JUROR 4: When I was working, yes.

MS. POWELL-HOROWITZ: Okay. All right. I'm going to start with you, former lieutenant

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officer. What -- what are you doing -- what do you do when you approach that yellow and it's turning red, what do you do?

PROSPECTIVE JUROR 4: Slow down.

MS. POWELL-HOROWITZ: Oh, but you're not going to stop, are you?

PROSPECTIVE JUROR 4: Put the lights and siren on. Look both ways. Because any traffic could cause a traffic -- or traffic coming at me, and then I proceed cautiously.

MS. POWELL-HOROWITZ: Are you looking for other officers?

PROSPECTIVE JUROR 4: For what?

MS. POWELL-HOROWITZ: To pull you over if you're running a red light?

PROSPECTIVE JUROR 4: No, I'm in the police car.

MS. POWELL-HOROWITZ: Oh, you're in the police car. Haven't you run a red light as a civilian?

PROSPECTIVE JUROR 4: No.

MS. POWELL-HOROWITZ: No?

PROSPECTIVE JUROR 4: (Silence.)

MS. POWELL-HOROWITZ: Never?

PROSPECTIVE JUROR4: (Silence.)

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MS. POWELL-HOROWITZ: All right. All right. Mr. Harris. Mr. Harris, what do you do when you run a red light?

PROSPECTIVE JUROR 2: Look out for the cops.

MS. POWELL-HOROWITZ: Yes. Okay. So you're approaching and you're looking for cops. What else are you looking for?

PROSPECTIVE JUROR 2: That's basically it.

MS. POWELL-HOROWITZ: Are you looking for traffic? Is -- is --

PROSPECTIVE JUROR 2: (Interposing) Of course. If I'm going to run a red light, there's no traffic.

MS. POWELL-HOROWITZ: But you're taking notice, right?

PROSPECTIVE JUROR 2: Yes.

MS. POWELL-HOROWITZ: Because you don't want to get hurt?

PROSPECTIVE JUROR 2: Right.

MS. POWELL-HOROWITZ: All right. You're looking for traffic, you're looking for people, and you're looking for cops. What else are you doing?

PROSPECTIVE JUROR 2: That's it, really.

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MS. POWELL-HOROWITZ: Are you accelerating?

PROSPECTIVE JUROR 2: (Silence.)

MS. POWELL-HOROWITZ: Are you slowing down?

PROSPECTIVE JUROR 2: Oh, no. I'm slowing down, if I'm late for work I may have run a red light.

MS. POWELL-HOROWITZ: Why are you slowing down?

PROSPECTIVE JUROR 2: Because I don't want anyone to see me.

MS. POWELL-HOROWITZ: You don't want anyone to see you.

PROSPECTIVE JUROR 2: And if there is traffic coming.

MS. POWELL-HOROWITZ: Okay. So you have just done a lot of things in a very short amount of time?

PROSPECTIVE JUROR 2: Yes.

MS. POWELL-HOROWITZ: Yes. So you took notice of what was going on around you. You slowed down. You're looking for cops. That's a whole lot of things that you're doing in a matter of just a few short seconds.

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This case involves premeditated murder. And you are not going to get an instruction at any time during this case for how long it takes to premeditate.

We're talking about time to take a second look. Time to stop. Time to think about what you're doing.

You premeditated what you did when you ran that traffic light, would you agree with me?

PROSPECTIVE JUROR 2: Yes.

MS. POWELL-HOROWITZ: You thought about it?

PROSPECTIVE JUROR 2: (Silence.)

MS. POWELL-HOROWITZ: Yes? You took a second look?

PROSPECTIVE JUROR 2: Yes.

MS. POWELL-HOROWITZ: All right. Who here has got thick skin?

PROSPECTIVE JURORS: (Silence.)

MS. POWELL-HOROWITZ: Who can I pick on. Who wants to volunteer. I'm going to pick someone. All right. Mr. Paulot, I want you to write down some things that you did this morning before you came to court, please. And you don't have to listen to anything else I say while you're writing that.

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So you go ahead and write, please.

Okay. All right jury, does anybody here have a relative or a friend who's a member of the LGBTQ community?

PROSPECTIVE JURORS: (Silence.)

MS. POWELL-HOROWITZ: No one?

PROSPECTIVE JURORS: (Silence.)

MS. POWELL-HOROWITZ: LGBTQ, a gay. A gay person?

PROSPECTIVE JURORS: (Silence.)

MS. POWELL-HOROWITZ: All right. Great. All right. All right. We're going to start with Mr. Harris, again. Tell me?

PROSPECTIVE JUROR 2: My cousin.

MS. POWELL-HOROWITZ: Who?

PROSPECTIVE JUROR 2: My cousin, Eric.

MS. POWELL-HOROWITZ: Okay. And is he accepted by the family?

PROSPECTIVE JUROR 2: For the most part.

MS. POWELL-HOROWITZ: Okay. Anyone else?

PROSPECTIVE JURORS 12: I just have friends.

MS. POWELL-HOROWITZ: Okay. And that's Mr. -- Mr. Muth, friends. Okay. Friends that you maintain relationships with?

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PROSPECTIVE JUROR 12: Yes.

MS. POWELL-HOROWITZ: Okay. Mr. Paulot, you're not supposed to be listening to me. You're writing. Okay. But you do. Okay. Anyone else? Ms. -- Ms...

PROSPECTIVE JUROR 6: Seal.

MS. POWELL-HOROWITZ: Ms. Seal. You have friends. Okay. And that -- these are people you maintain friendships with?

PROSPECTIVE JUROR 6: Yes.

MS. POWELL-HOROWITZ: Mr. Munoz?

PROSPECTIVE JUROR 9: A nephew.

MS. POWELL-HOROWITZ: A nephew. Do you maintain a relationship with him?

PROSPECTIVE JUROR 9: Yes.

PROSPECTIVE JUROR 10: Two of my best friends.

MS. POWELL-HOROWITZ: Ms. -- Ms. Cloughesy. Before I get away from you. You're an engineer. What kind of engineer?

PROSPECTIVE JUROR 10: I have a degree in mechanical engineering and aerospace.

MS. POWELL-HOROWITZ: Oh, okay. All right. Thank you. All right. So anybody here have any strong feelings about people in the gay

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community?

PROSPECTIVE JURORS: (Silence.)

MS. POWELL-HOROWITZ: Does anybody think that -- that they should not -- that if they're a victim of a crime, that they deserved it?

PROSPECTIVE JURORS: (Silence.)

MS. POWELL-HOROWITZ: Does anybody feel that way?

PROSPECTIVE JURORS: (Silence.)

MS. POWELL-HOROWITZ: I know that that's a really pointed question and a tough question and you might not want to admit to it, but there are people that feel that way. And you're going to be hearing about a person who was gay in this case and if you harbor those feelings, we need a fair jurors -- a jury. So if you feel that way, I want to know about it.

Does anybody have any particular feelings about members of the LGBTQ community?

PROSPECTIVE JURORS: (Silence.)

MS. POWELL-HOROWITZ: Anyone?

PROSPECTIVE JURORS: (Silence.)

MS. POWELL-HOROWITZ: No. Are you writing still?

PROSPECTIVE JUROR 3: I ran out of stuff

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to write.

MS. POWELL-HOROWITZ: All right. You kept going. Okay. Mr. Paulot, is that your name?

PROSPECTIVE JUROR 3: Yes.

MS. POWELL-HOROWITZ: You just gave me a witness statement. One, two, three, four, five, six, seven lines. All right. This morning, Mr. Paulot, you let the dog outside?

PROSPECTIVE JUROR 3: Yes.

MS. POWELL-HOROWITZ: You ...

PROSPECTIVE JUROR 3: Showered.

MS. POWELL-HOROWITZ: Showered. You got dressed?

PROSPECTIVE JUROR 3: Yes.

MS. POWELL-HOROWITZ: You packed a lunch?

PROSPECTIVE JUROR 3: Yes.

MS. POWELL-HOROWITZ: You drove here. You brushed your teeth. You made coffee. How do you take your coffee?

PROSPECTIVE JUROR 3: Black.

MS. POWELL-HOROWITZ: With nothing in it?

PROSPECTIVE JUROR 3: Nothing.

MS. POWELL-HOROWITZ: What color was the mug you used this morning?

PROSPECTIVE JUROR 3: Green.

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MS. POWELL-HOROWITZ: What kind of a car did you drive?

PROSPECTIVE JUROR 3: '21 Chevy Cruz.

MS. POWELL-HOROWITZ: Where did you park? You did park, didn't you?

PROSPECTIVE JUROR 3: Yes. Over there somewhere.

MS. POWELL-HOROWITZ: But you didn't tell us that you parked your car in your witness statement.

PROSPECTIVE JUROR 3: No.

MS. POWELL-HOROWITZ: Why not?

PROSPECTIVE JUROR 3: Kind of implied.

MS. POWELL-HOROWITZ: Are you making it up?

PROSPECTIVE JUROR 3: No. I gave away my car for free this morning.

MS. POWELL-HOROWITZ: But you didn't write it down and tell me. Why didn't you tell me you parked your car this morning?

PROSPECTIVE JUROR 3: (Silence.)

MS. POWELL-HOROWITZ: I asked you to tell me everything you did this morning, didn't I?

PROSPECTIVE JUROR 3: (Silence.)

MS. POWELL-HOROWITZ: Mr. Paulot, you

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have thick skin, right?

PROSPECTIVE JUROR 3: Sure.

MS. POWELL-HOROWITZ: Is this annoying?

PROSPECTIVE JUROR 3: A little bit.

MS. POWELL-HOROWITZ: Do you feel like you're being put on the spot?

PROSPECTIVE JUROR 3: Yeah.

MS. POWELL-HOROWITZ: Don't you hate lawyers?

PROSPECTIVE JUROR 3: Yeah.

MS. POWELL-HOROWITZ: We have civilians that come in here and testify and they're going to be questioned, just like I questioned you. Okay. And I want you guys to know that these guys are human beings. Don't hold them to a standard that you, yourself, cannot meet.

Many times people are trying their best to tell what happened and they're going to be grilled by someone like me or someone like Mr. Cripps.

And I want you to remember poor Mr. Paulot's experience here of being interrogated, ruthlessly, and being made to seem like he's lying or making stuff up or just careless and I want you to remember this experience. Okay. And I want you

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to treat the civilians the same way you would want someone to evaluate your testimony.

All right. I don't have anything further right now. We may have a chance to talk to you again, maybe not. Thank you.

THE COURT: Mr. Cripps?

MR. CRIPPS: Thank you, your Honor.

Good morning. Ladies and gentlemen.

PROSPECTIVE JURORS: Good morning.

MR. CRIPPS: This is a very serious case. There is somebody who lost their life. And we -- all of us have to have respect and dignity for that. But also there are certain rules that we all follow in a case.

It's easy to be frivolous and laugh about things, but honestly, this is a very hard and heavy obligation for anybody to carry to be a juror in the case.

That's why we have the jurors oath being at the very beginning and that -- and the Judge's admonitions to all of you that we have to follow the rules. Everybody agree to do that?

PROSPECTIVE JURORS: Yes.

MR. CRIPPS: Ms. Phillips, good morning.

PROSPECTIVE JUROR 1: Good morning.

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MR. CRIPPS: You heard the Judge talk about the presumption of innocence?

PROSPECTIVE JUROR 1: Yes.

MR. CRIPPS: Did you hear him say that?

PROSPECTIVE JUROR 1: Yes.

MR. CRIPPS: What does that mean to you?

PROSPECTIVE JUROR 1: You don't be presumptuous and you don't assume anything.

MR. CRIPPS: All right. And -- and as a favor, keep your voice up. I know you and I are near each other, but the -- but the reporter needs to take every single word down. Okay.

PROSPECTIVE JUROR 1: Okay.

MR. CRIPPS: All right. Tell me again.

PROSPECTIVE JUROR 1: Being presumptuous and assuming anything.

MR. CRIPPS: Okay.

PROSPECTIVE JUROR 1: Yes.

MR. CRIPPS: Anybody else have any different definition?

PROSPECTIVE JURORS: (Silence.)

MR. CRIPPS: Mr. Sieloff, as you sit here today and look at my client, do you think he did these offenses that have been charged against him, because he's here in court and he's been charged?

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PROSPECTIVE JUROR 8: I have no idea. I haven't heard anything.

MR. CRIPPS: Anybody else have a different feeling about that?

PROSPECTIVE JURORS: (Silence.)

MR. CRIPPS: Mr. Wallace?

PROSPECTIVE JUROR 5: I don't know the evidence.

MR. CRIPPS: Okay. I heard a lot of people or saw a lot of people raise their hand about traffic tickets. I assume maybe one of you raised your hand went to court to fight the ticket? Anybody at all?

PROSPECTIVE JURORS: (Silence.)

MR. CRIPPS: Nobody went to court to ever fight a ticket?

PROSPECTIVE JURORS: Yes.

MR. CRIPPS: All right. Mr. Muth, thank you. And when you walked in the door to contest the ticket, you didn't want the -- anybody to think, oh, here's another person. Must be guilty just fighting for the points, right?

PROSPECTIVE JUROR 12: I didn't want to think. I was just trying to reduce the ticket.

MR. CRIPPS: Right. And you wanted to be

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-- have a fair shot at that, your fair day in court, right?

PROSPECTIVE JUROR 12: (Silence.)

MR. CRIPPS: And so does everybody understand that we're all working here towards what this presumption of innocence means is, as I always say, a fair day in court. A fair trial. Right?

PROSPECTIVE JURORS: (Silence.)

MR. CRIPPS: Does anybody here think that my client must have done this because he's been charged with all these various charges and he's here in court?

PROSPECTIVE JURORS: (Silence.)

MR. CRIPPS: Mr. Moses.

PROSPECTIVE JUROR 7: Yes, sir.

MR. CRIPPS: Do you think he must have done something that he's been charged with all these different charges?

PROSPECTIVE JUROR 7: No. I need to hear the evidence.

MR. CRIPPS: All right. He has to be presumed innocent, right?

PROSPECTIVE JUROR 7: Yes.

MR. CRIPPS: And that's what I -- I ask all of you to do, is follow this Judge's

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instruction, Judge Hathaway's instruction that he's presumed innocent.

Otherwise, Ms. Seal, nobody would get a fair trial. If -- if every time somebody was charged, no matter what the charges are, from traffic ticket all the way to these very serious homicide charges, if we always assumed that they must be guilty, they must have done something wrong, because they're here in court on trial, nobody would ever get a fair trial, right?

PROSPECTIVE JUROR 6: Right.

MR. CRIPPS: So does everybody understand that's what we start out with by looking at the case with the presumption of innocence?

PROSPECTIVE JURORS: Yes.

MR. CRIPPS: Everybody be able to do that?

PROSPECTIVE JURORS: (Silence.)

MR. CRIPPS: Mr. Harris, you could do that?

PROSPECTIVE JUROR 2: Yes.

MR. CRIPPS: Okay. So you've heard --

COURT REPORTER: (Interposing) Wait a minute. Excuse me. I didn't hear his -- his answer.

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THE COURT: You have to say yes.

PROSPECTIVE JUROR 2: Yes.

MR. CRIPPS: Okay. You heard the prosecutor list three pages of witnesses earlier, right?

PROSPECTIVE JUROR 2: Yes.

MR. CRIPPS: And Ms. Horowitz Powell said a number of -- of witnesses she'd call, right?

PROSPECTIVE JUROR 2: Yes.

MR. CRIPPS: And you heard the Judge ask me whether I plan on calling any witnesses and you didn't hear me say anything, right?

PROSPECTIVE JUROR 2: Right.

MR. CRIPPS: Would you be swayed by the fact in terms of whether -- how you would look at this case if the prosecution called some 20 witnesses and I didn't call any?

PROSPECTIVE JUROR 2: Not really.

MR. CRIPPS: And why is that?

PROSPECTIVE JUROR 2: I really don't --

MR. CRIPPS: (Interposing) Keep your voice up for the reporter.

PROSPECTIVE JUROR 2: I really don't know. There's no evidence.

MR. CRIPPS: No evidence, right?

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PROSPECTIVE JUROR 2: Right.

MR. CRIPPS: In fact, if the Judge were -- Judge Hathaway were to ask you to give a verdict right now, in relation to this case, what would it be?

PROSPECTIVE JUROR 2: Not guilty.

MR. CRIPPS: Does everybody -- did everybody hear him say that?

PROSPECTIVE JURORS: Yes.

MR. CRIPPS: He said not guilty. And that's because you haven't heard anything. Right?

PROSPECTIVE JUROR 2: Right.

MR. CRIPPS: Okay. So that leads me to the next concept that we need to talk about a little bit and that would be the burden of proof. The burden of proving something. Right. Who in this case, Mr. Harris, has to prove something to you?

PROSPECTIVE JUROR 2: The prosecutor.

MR. CRIPPS: The prosecutor. Right?

PROSPECTIVE JUROR 2: Yes.

MR. CRIPPS: Not the Judge, correct?

PROSPECTIVE JUROR 2: Yes.

MR. CRIPPS: Not the defense lawyer, correct?

PROSPECTIVE JUROR 2: Uh-huh.

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MR. CRIPPS: It's the prosecutor that has the burden of carrying this -- of proving the case beyond a reasonable doubt. Right?

PROSPECTIVE JUROR 2: Yes.

MR. CRIPPS: Okay. The way I ask you to remember that is maybe I can tell you this story, many years ago, when I had my first trial, I came into court early, before anybody else, and I sat right down at this table right here where the prosecutor is.

I thought, this is the group of people I have to persuade throughout the trial and at the end, why not be closest to them. It's like going to a movie in first -- and -- you know, and got a good seat.

The judge came out and told me, Mr. Cripps, you're in the wrong seat. You have to sit over here on this side of the podium. I said, why is that, Judge? I was here first. The judge said, that's the way it is. The prosecutor sits here, defense sits over here.

Since that time I've come to think about it and -- and I realize why that is. It's to emphasize to everyone of you 14 jurors that this burden of proof always remains upon the table

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closest to you. Who has the burden of proving something to you in a case. All right. Now, Mr. -- is it Fristick?

PROSPECTIVE JUROR 11: Yes.

MR. CRIPPS: Did I pronounce that right?

PROSPECTIVE JUROR 11: Yes.

MR. CRIPPS: All right. That burden of proving something, who -- what is that burden of proof?

PROSPECTIVE JUROR 11: Yes.

MR. CRIPPS: Do you remember what the Judge said earlier?

PROSPECTIVE JUROR 11: Not really.

MR. CRIPPS: Does anybody else remember? Mr. Lewis?

PROSPECTIVE JUROR 13: (Silence.)

MR. CRIPPS: Do you remember saying that phrase of proof beyond a reasonable doubt?

PROSPECTIVE JUROR 13: Yes, sir.

MR. CRIPPS: Okay. Now does everybody -- and you understand, Mr. Lewis, what the Judge was saying is the prosecutor has to prove her case to you beyond a reasonable doubt. All right. Are you going to be able to follow that burden of proof?

PROSPECTIVE JUROR 13: Yes, sir.

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MR. CRIPPS: Okay. And Mr. Sieloff, let's say you had reasonable doubt at the end of the case, as to any one of these charges, what would your verdict be if you had reasonable doubt in your mind?

PROSPECTIVE JUROR 8: Guilty.

MR. CRIPPS: If you had reasonable doubt? Not that the case was proven beyond a reasonable doubt, but if you went back and said, I have reasonable doubt as to these charges, what would your verdict be?

PROSPECTIVE JUROR 8: I would talk to these guys and see what theirs was and...

MR. CRIPPS: Everybody would share their opinion, but if your opinion, after listening to all your other jurors, but you had reasonable doubt, what would your verdict be?

PROSPECTIVE JUROR 8: Guilty.

MR. CRIPPS: Even if you had reasonable doubt? Do you understand what I'm asking?

PROSPECTIVE JUROR 8: I guess not, because you keep asking me.

MR. CRIPPS: Right. No. But she has the burden of proving the case beyond a reasonable doubt and you go back and say I've got -- I've got doubt

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in my mind. I have reasonable doubt as to these charges that have been filed against Mr. Czarnecki. Then what would your verdict be?

PROSPECTIVE JUROR 8: Innocent.

MR. CRIPPS: Or not guilty.

PROSPECTIVE JUROR 8: Yes.

MR. CRIPPS: The box -- the box will be either guilty or not guilty.

PROSPECTIVE JUROR 8: Okay.

MR. CRIPPS: Does everybody understand that?

PROSPECTIVE JURORS: Yes.

MR. CRIPPS: How I phrased the question, I apologize for that. That if you have reasonable doubt, when you go back and deliberate you're duty bound to say not guilty.

Now, Mr. Paulot, what is it you think that the prosecutor has got to prove to you beyond a reasonable doubt?

PROSPECTIVE JUROR 3: Facts and circumstances that would lead to the charges listed.

MR. CRIPPS: All right. Excellent point. You've heard all -- each one of these charges; first degree premeditated murder, felony murder, armed robbery, carjacking, mutilation of a dead body. You

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heard all that right?

PROSPECTIVE JUROR 3: Yes.

MR. CRIPPS: All of these have certain elements to them, right?

PROSPECTIVE JUROR 3: (Silence.)

MR. CRIPPS: You have -- you have to say yes or no?

PROSPECTIVE JUROR 3: Yes. I -- I agree.

MR. CRIPPS: Okay. All right. For example, if she's trying to prove that -- she had to prove that a car was a working car and you had an engine and a body, but no wheels, would that -- would she be able to prove beyond a reasonable doubt that it was a working car without wheels?

PROSPECTIVE JUROR 3: You could drive on the rotors, I guess, but probably not.

MR. CRIPPS: But probably not, right? Okay. And so it's very similar to each one of these charges to have multiple elements to them. All right. That I just went over with you.

And if you feel that any one of those elements haven't been established, for example first degree murder has the element that you have to show premeditation and deliberation. All right.

If you felt that there was reasonable

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doubt as to that one element, the Judge would instruct you that he should be found not guilty as to that charge. Do you understand that?

PROSPECTIVE JUROR 3: Yes.

MR. CRIPPS: Does everybody understand that each one of these charges have various elements that have to be proven beyond a reasonable doubt?

PROSPECTIVE JURORS: Yes.

MR. CRIPPS: Mr. -- I see a hand back there, Mr. Muth?

PROSPECTIVE JUROR 12: Yes. I have a question, you confused me just a little bit.

MR. CRIPPS: Sure.

PROSPECTIVE JUROR 12: You have the prosecuting attorney having to prove beyond a reasonable doubt to all of us of the guilt of the party?

MR. CRIPPS: Yes.

PROSPECTIVE JUROR 12: But as a defense attorney, isn't it your job to prove to us that he's not guilty also, with the case that is brought out?

PROSPECTIVE JUROR 12: Yes.

MR. CRIPPS: Could you explain that?

MR. CRIPPS: I feel that my job is to make sure a trial is fair. That a trial is fair.

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To make sure that my client gets a fair trial. And if the proper evidence is brought out and I always have a belief in this system that if it's a fair trial and each one of you follow the instructions the Judge gives to you and -- and are not influenced by bias or prejudice, that the right result will come from the jury. That's what I feel in my heart.

I don't have -- the Judge said that the defense does not have the burden of proof in a case. That's the way our system -- system operates. That's a very good question as to what a lawyers role is.

But I always believed in the thousands of trials I've done, that if a jury is properly instructed and all of their evidence is presented, and each and one of the jurors -- each one of you follows that burden of proof, that you're going to give the right results whatever it is. It's just my job to make sure he gets a fair trial.

And I know that -- that -- that no client would ever be wrongfully convicted if that happens. But that's a very good point and I was going to lead to that in terms of what a lawyer's job is.

Now, one of the jobs, Ms. Ms.

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Cloughesy, did I pronounce it right?

PROSPECTIVE JUROR 10: Cloughesy.

MR. CRIPPS: Cloughesy. We've gone -- we've gone over about the fact about these burdens of proof and -- and what has to be shown. The Judge will tell you that one of the other jobs you'll have is deciding believability or credibility. Would you be able to do that?

PROSPECTIVE JUROR 10: I believe so.

MR. CRIPPS: All right. You're not going to think that simply if somebody takes this witness stand here and swears to tell the truth means they automatically are, right?

PROSPECTIVE JUROR 10: I don't know.

MR. CRIPPS: All right. But the Judge would tell you you're going to make an independent decision whether anybody seated here is telling the truth or not, right?

PROSPECTIVE JUROR 10: Correct.

MR. CRIPPS: It's something we do in everyday life, correct?

PROSPECTIVE JUROR 10: Uh-huh.

MR. CRIPPS: You go out -- you go out for lunch and somebody runs up to you and says I have an authentic Gucci -- Gucci purse I want to sell to you

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for ten dollars, what would you think?

PROSPECTIVE JUROR 10: I would not buy it.

MR. CRIPPS: Right. You would think they're running a scam on you, right?

PROSPECTIVE JUROR 10: Correct.

MR. CRIPPS: And you watch things on TV, hear people say things. Politicians where I can't believe that, right?

PROSPECTIVE JUROR 10: Correct.

MR. CRIPPS: Okay. We do that every day, making judgment calls about whether somebody's telling the truth or not. And it's the same thing in a courtroom.

The Judge is going to instruct you that part of your job, if you hear a witness and say oh, I can't believe that, that juror is not telling the truth, you can do that, right?

PROSPECTIVE JUROR 10: Yes.

MR. CRIPPS: It's not -- it's not -- it's not nothing magical about that. If you think they're -- they're misleading you, I mean, that's part of your job to go back with other jurors and say, I don't believe that witness.

Or I think that witness is exaggerating.

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We can't -- can't believe everything that they're saying and the Judge will say that's fine. That's part of your job. Okay. Are you able to do that?

PROSPECTIVE JUROR 10: Yes.

MR. CRIPPS: It's also part of -- of the prosecutor's job and my job, as lawyers, to make sure that all the full evidence is presented, right?

PROSPECTIVE JUROR 10: Yes.

MR. CRIPPS: Okay. And I say that as part of my job is to do good and a thorough cross-examination. Okay.

PROSPECTIVE JUROR 10: Yes.

MR. CRIPPS: For example, if somebody gets up there and say it's running a red light case. That seems to be the example of the day here. Somebody runs a red light and a witness gets on the stand and says, I'm a hundred percent certain that the person went through the light when it was red. Okay.

And as -- as a lawyer I bring up, well, didn't you make a statement to the police, right after it occurred, in what you said, you know what, I'm not sure whether that light was red or it may have been yellow. All right.

It would be my responsibility to bring

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it up that that person made a statement that doesn't fit with what they're saying on the stand, right?

PROSPECTIVE JUROR 10: Yes.

MR. CRIPPS: I don't call that as -- seeing that as bending the rules or anything, but it's part of my job, right?

PROSPECTIVE JUROR 10: Yes.

MR. CRIPPS: To make sure that each one of you get the full picture, correct?

PROSPECTIVE JUROR 10: Yes.

MR. CRIPPS: Would you be able to do that?

PROSPECTIVE JUROR 10: Yes.

MR. CRIPPS: You wouldn't hold that against me if I do that, right?

PROSPECTIVE JUROR 10: No.

MR. CRIPPS: It would assist you as to whether that person is telling you the truth or not, right?

PROSPECTIVE JUROR 10: Yes.

MR. CRIPPS: Okay. So, Mr. Moses, let's say I bring up the fact that somebody, as to that same thing, has testified under oath before, swore to tell the truth at a different hearing and under oath said, I don't know whether the light was red or

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not. It could have been yellow.

But on the -- at trial they say, I'm a hundred percent certain that light was red when he went through, right?

PROSPECTIVE JUROR 7: Yes.

MR. CRIPPS: That would be something duty bound for me to bring up for cross-examination, right?

PROSPECTIVE JUROR 7: Yes.

MR. CRIPPS: And it might be something for you to consider as to whether they're telling you the truth or not on the witness stand?

PROSPECTIVE JUROR 7: Yes.

MR. CRIPPS: Everybody understand and you understand, Mr. Moses, that's part of the responsibility and part of your job, too, as to whether somebody is telling you the truth or not?

PROSPECTIVE JUROR 7: Yes, sir.

THE COURT: I think you've almost used up your 15 minutes.

MR. CRIPPS: All right. Your Honor...

THE COURT: You might want to save a few minutes.

MR. CRIPPS: Okay. The last question I have, I -- I know how hard these cases are in terms

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of somebody's lost a life. It's a homicide case. You've all these various charges. Is there anybody who thinks that this type of case that they can't sit as a fair juror and give -- give my client, Mr. Czarnecki, a -- a fair trial?

PROSPECTIVE JURORS: (non verbal answer)

MR. CRIPPS: Okay. I see two hands. And I think I know the reasons why you -- you gave us your explanations before. That would be the juror in seat number 9 and the juror in seat number 4. Okay. Thank you, your Honor. I think I've used my time.

THE COURT: All right. Could you approach, please?

(Whereupon a sidebar was held at about 11:25 a.m.)

(Whereupon a sidebar ended)

THE COURT: Back on the record. The two of you and number 14. I had made a note here that you may have expressed some difficulty in being a fair juror for some reason. I mean, do you still feel that way?

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PROSPECTIVE JUROR: Yes, sir.

THE COURT: You do? Because you were the victim of a robbery

PROSPECTIVE JUROR: Yes.

THE COURT: You can't be fair?

PROSPECTIVE JUROR: I don't think so.

THE COURT: Okay. The Court is going to thank and excuse the following three jurors for cause. Mr. Manees in seat number four, Mr. Munoz in seat number nine, and Ms. Atoui in seat number 14.

COURT OFFICER: You guys are free to go. You have to go back down to the jury room.

COURT CLERK: For seat number four, David Sanderson, S-a-n-d-e-r-s-o-n.

For seat number nine, Caitlin Turner-Livingston, T-u-r-n-e-r - L-i-v-i-n-g-s-t-o-n.

And for seat number 14, Donald Locascio, L-o-c-a-s-c-i-o.

THE COURT: All right. Mr. Sanderson, you are our first test case today. Remember all the questions that I've asked so far?

PROSPECTIVE JUROR 4: Sure. And I'll do my best.

THE COURT: Okay. Any yes answers to any of them?

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PROSPECTIVE JUROR 4: I was convicted ten years ago of a DUI.

THE COURT: Okay.

PROSPECTIVE JUROR 4: That actually went to trial.

THE COURT: And was that like the first or second DUI, not the third?

PROSPECTIVE JUROR 4: That was the first.

THE COURT: Okay. Misdemeanor. All right. It happens in the best family, but thank you for sharing that with us. Any other yes answers?

PROSPECTIVE JUROR 4: No.

THE COURT: Your marital status?

PROSPECTIVE JUROR 4: Married.

THE COURT: Children?

PROSPECTIVE JUROR 4: No.

THE COURT: And what do you do for a living?

PROSPECTIVE JUROR 4: I'm an account manager for a travel agency.

THE COURT: And the extent of your formal education is what?

PROSPECTIVE JUROR 4: A bachelor's degree.

THE COURT: In accounting?

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PROSPECTIVE JUROR 4: In communications.

THE COURT: Okay. And -- so when you say account manager for a travel agency. Then you're not doing accounting work, you're -- you're doing --

PROSPECTIVE JUROR 4: (Interposing) Managing the relationship between the client and my employer.

THE COURT: And the employer. Okay. All right. And what does your wife do?

PROSPECTIVE JUROR 4: She is a patient access specialist at Beaumont Wayne Hospital, checking people into the surgery center.

THE COURT: Have you ever served on a jury before?

PROSPECTIVE JUROR 4: No, sir.

THE COURT: And Ms. Turner-Livingston, did you have any yes answers?

PROSPECTIVE JUROR 9: I believe three.

THE COURT: Three. Okay.

PROSPECTIVE JUROR 9: The first one, I went to school to be a paralegal, but did not finish.

The second one was, my good friend's brother is a detective in Washington, DC. And then -- I don't remember. It guess it doesn't matter.

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THE COURT: Okay. So you -- you -- you went to paralegal school for a while?

PROSPECTIVE JUROR 9: Yes.

THE COURT: And did you take a class in criminal law?

PROSPECTIVE JUROR 9: I did.

THE COURT: Have you forgotten everything you learned?

PROSPECTIVE JUROR 9: Pretty much, yeah.

THE COURT: Good. That's the better answer. I mean, what we don't want going on here is, you know, somebody on the jury thinking they know more than everybody else or they know some law that, you know, isn't going to get read during the jury instructions.

But, I mean, you can just make your decision based on the evidence that's presented in this case, my instructions on the law, and not based on any knowledge you think you have about the law?

PROSPECTIVE JUROR 9: Correct.

THE COURT: Okay. Great. And then your -- what was your relationship with the DC --

PROSPECTIVE JUROR 9: (Interposing) He was my boyfriend's brother in Washington DC.

THE COURT: Okay.

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PROSPECTIVE JUROR 9: He was actually on duty when Donald Trump was inaugurated.

THE COURT: He was part of the security team there?

PROSPECTIVE JUROR 9: Yes.

THE COURT: Okay. How many people did he say showed up for the inauguration? Never mind.

PROSPECTIVE JUROR 9: There were a lot.

THE COURT: Okay. So -- so do you talk to him a lot about -- do you get together with him fairly often?

PROSPECTIVE JUROR 9: I haven't seen him in a year, but we don't talk often.

THE COURT: Okay. Anything about that relationship or conversations you've had with him over the years that you think could affect your ability to be fair in this case?

PROSPECTIVE JUROR 9: No.

THE COURT: Okay. And you're still thinking about the third thing?

PROSPECTIVE JUROR 9: I forgot about it. It's no big deal.

THE COURT: Okay. If you say so. And, Mr. Locascio, is that how you say your name?

PROSPECTIVE JUROR 14: Locascio.

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THE COURT: Okay. Do you have any yes answers to any of my questions?

PROSPECTIVE JUROR 14: Just one. My younger son is in the system right now. He's on probation for being in an area where drugs were being sold.

THE COURT: Okay.

PROSPECTIVE JUROR 14: A misdemeanor.

THE COURT: A misdemeanor. Okay. Do you have any opinions or feelings about the -- the case or how your son was treated or anything where you, you know, you have a beef with the prosecutor or the police or anything?

PROSPECTIVE JUROR 14: No. No, sir.

THE COURT: And how long ago was his case in court?

PROSPECTIVE JUROR 14: I think it was about a year ago. He's actually in court today, to get release from probation.

THE COURT: Oh, okay. He's doing okay now?

PROSPECTIVE JUROR 14: Yes.

THE COURT: That's not going to have an affect on your ability to be fair?

PROSPECTIVE JUROR 14: No.

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THE COURT: All right. Did you have any other yes answers?

PROSPECTIVE JUROR 14: I mean, I wish I was at work, you wouldn't listen.

THE COURT: Yeah. You might as -- don't waste your time. Right. Your marital status -- I've got to get to you on this, too. Your marital status?

PROSPECTIVE JUROR 14: Married.

THE COURT: Children.

PROSPECTIVE JUROR 14: Two; 31 and 33.

THE COURT: All right. And what do you do for a living?

PROSPECTIVE JUROR 14: I'm a manager of a -- I'm a support manager for a software company.

THE COURT: And the extent of your formal education?

PROSPECTIVE JUROR 14: I have an associates degree in communication.

THE COURT: In what?

PROSPECTIVE JUROR 14: Communication.

THE COURT: All right. And what does your wife do?

PROSPECTIVE JUROR 14: She's a surgical assistant for an oral surgery practice.

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THE COURT: And have you ever sat on a jury before?

PROSPECTIVE JUROR 14: I have about 12 years ago. It was a civil trial at Coleman Young.

THE COURT: At Coleman Young, right. And so I assume your jury was able to reach a verdict?

PROSPECTIVE JUROR 14: Yes.

THE COURT: Did they elect you foreperson, by any chance?

PROSPECTIVE JUROR 14: No.

THE COURT: And, Ms. Turner-Livingston, I don't think I asked, your marital status?

PROSPECTIVE JUROR 9: Yes.

THE COURT: You're engaged?

PROSPECTIVE JUROR 9: No, single.

THE COURT: Oh. Single. Children?

PROSPECTIVE JUROR 9: No.

THE COURT: And what do you do for a living?

PROSPECTIVE JUROR 9: I work at Diamond Tool Manufacturing.

THE COURT: What?

PROSPECTIVE JUROR 9: Diamond Tool Manufacturing.

THE COURT: Okay. And the extent of your

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formal education is what?

PROSPECTIVE JUROR 9: High school.

THE COURT: Have you ever sat on a jury before?

PROSPECTIVE JUROR 9: No.

THE COURT: All right. Any challenges for cause, Ms. Powell?

MS. POWELL-HOROWITZ: Pass for cause.

THE COURT: For cause, Mr. Cripps?

MR. CRIPPS: I'd also pass for cause, your Honor. Thank you.

THE COURT: Peremptory challenges, Ms. Powell.

MS. POWELL-HOROWITZ: I'm going to thank and excuse -- we can exercise multiple?

THE COURT: Yeah. All you want.

MS. POWELL-HOROWITZ: Okay. I'll thank and excuse the juror seated in seat number seven, Mr. Moses, thank you very much.

And the juror in seat number one, Ms. Phillips. Thank you very much.

THE COURT: Okay. Okay.

COURT CLERK: For seat number one, Lita Brooks, B-r-o-o-k-s.

For seat number seven, Tisha Lewis, L-e-

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w-i-s.

THE COURT: Oh, we have two Lewises. Lewis day.

Ms. Brooks, did you have any yes answers to any of my questions?

PROSPECTIVE JUROR 1: No.

THE COURT: All right. No cops or robbers in the family?

PROSPECTIVE JUROR 1: No.

THE COURT: No lawyers that you're willing to admit to?

PROSPECTIVE JUROR 1: No.

THE COURT: No. All right. Your marital status?

PROSPECTIVE JUROR 1: Married.

THE COURT: Children?

PROSPECTIVE JUROR 1: Three.

THE COURT: What's the range of age and gender of the kids?

PROSPECTIVE JUROR 1: Thirty to 21.

THE COURT: And what do you do for a living?

PROSPECTIVE JUROR 1: Production scheduling.

THE COURT: And the extent of your formal

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education is what?

PROSPECTIVE JUROR 1: Some college.

THE COURT: And what does your husband do?

PROSPECTIVE JUROR 1: Tool and die maker.

THE COURT: Have you ever sat on a jury before?

PROSPECTIVE JUROR 1: Years ago.

THE COURT: Okay. Where?

PROSPECTIVE JUROR 1: I do not remember. I believe it was here.

THE COURT: It was here. Was it a criminal case? Somebody charged with a crime?

PROSPECTIVE JUROR 1: Yeah. Maybe breaking and entering. I don't remember.

THE COURT: Do you remember, without telling us the outcome, even if you remembered it, was your jury able to reach a verdict?

PROSPECTIVE JUROR 1: I can't even remember. It was a long time ago.

THE COURT: Okay. All right. Ms. Lewis, did you have any yes answers?

PROSPECTIVE JUROR 7: Yes.

THE COURT: Okay.

PROSPECTIVE JUROR 7: One, this might not

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be good cause for you, but I'm a third grade teacher in Detroit Public Schools and next week we are having our mid-year assessment for my students. They're standardized assessments. And my students don't perform well when I'm not there. So it would be really important for me to be there.

The second thing is, I was a victim three years ago. Someone that I dated 20 years ago, threatened my life and I had to testify at his probation hearing, which caused him to go back to prison.

THE COURT: Okay. So he was on probation already for something and then he threatened you or you were the original complainant?

PROSPECTIVE JUROR 7: No. I don't know what he was on probation for, because I hadn't dated him in 20 years.

THE COURT: Oh.

PROSPECTIVE JUROR 7: This came out of nowhere. And I testified at his probation hearing and it caused him to go back to prison.

THE COURT: Okay. All right. So let's aside the inconvenience at school. But is the other incident you just described likely to affect your ability to be fair in this case?

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PROSPECTIVE JUROR 7: No.

THE COURT: Okay. And then the school issue. What community do you teach in?

PROSPECTIVE JUROR 7: I teach in Detroit. And we have a problem with substitute teachers. We don't have enough -- well, one we don't have enough teachers.

THE COURT: You're with DPS or with the Charter?

PROSPECTIVE JUROR 7: DPS. And we don't have enough substitute teachers. I actually called in a favor from a substitute teacher that I made a relationship with over years and he subbed in my class today. But he doesn't have availability -- this is the only day he had available.

THE COURT: Okay. All right. And then next week is what, some kind of assessment?

PROSPECTIVE JUROR 7: Yes. We have three standardized assessments in the school year. One at the beginning of the school year, one at the beginning of December, and one -- well they have two in April. One at the beginning of April and one at the end of April.

THE COURT: All right. Your marital status?

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PROSPECTIVE JUROR 7: Single.

THE COURT: Any kids?

PROSPECTIVE JUROR 7: No.

THE COURT: And we -- we know what you do for a living. I can sort of imagine what your educational background is. Have you ever sat on a jury before?

PROSPECTIVE JUROR 7: No. I did complete one year of law school.

THE COURT: Oh did you. How long ago was that?

PROSPECTIVE JUROR 7: Two years ago.

THE COURT: And you didn't...

PROSPECTIVE JUROR 7: I didn't finish, but I'll be back in May.

THE COURT: Oh, really? Okay.

PROSPECTIVE JUROR 7: Yeah.

THE COURT: What's your long term goal?

PROSPECTIVE JUROR 7: I want to go into -- well, educational policy.

THE COURT: So with your one year of law school, did you take a course in criminal law?

PROSPECTIVE JUROR 7: No.

THE COURT: Oh, you didn't?

PROSPECTIVE JUROR 7: No. I was a part-

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time student. So I took torts 1 and 2.

THE COURT: Okay. All right. Any challenges for cause, Ms. Powell?

MS. POWELL-HOROWITZ: Not for cause.

THE COURT: For cause, Mr. Cripps?

MR. CRIPPS: I also pass for cause, your Honor. Thank you.

THE COURT: Do you want to do any more voir dire right now or would you like to wait for a couple more rounds?

MS. POWELL-HOROWITZ: I'll wait.

MR. CRIPPS: I'll wait, your Honor.

THE COURT: All right. Peremptory challenges, Mr. Cripps?

MR. CRIPPS: Yes, your Honor. And you said we can use multiple?

THE COURT: You bet.

MR. CRIPPS: I'd thank and excuse juror in seat number 12, Mr. Muth.

Juror in seat number 11, Mr. Fristick.

Juror in seat number eight, Mr. Sieloff.

And Juror Number -- in seat number 13, Mr. Shaun Lewis.

And juror in seat number 7, Mr. Tisha

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Lewis.

THE COURT: Okay. Getting rid of the Lewises. Okay. All right. You're all excused.

COURT CLERK: All right. For seat number seven, Ramon Byrd, B-y-r-d.

For seat number eight, Linda Lambrix, L-a-m-b-r-i-x.

For seat number 11, Reginald Dozier, D-o-z-i-e-r.

For seat number 12, Kristopher Chambers, C-h-a-m-b-e-r-s.

And for seat number 13, Richard Truchan, T-r-u-c-h-a-n.

THE COURT: Okay. Ms. Byrd, did you have any yes answers to any of my questions?

PROSPECTIVE JUROR 7: No.

THE COURT: No cops or robbers in the family?

PROSPECTIVE JUROR 7: No.

THE COURT: No lawyers?

PROSPECTIVE JUROR 7: No.

THE COURT: You'd tell us? No. Okay. Your marital status?

PROSPECTIVE JUROR 7: Divorced.

THE COURT: Any kids?

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PROSPECTIVE JUROR 7: No.

THE COURT: And what do you do for a living?

PROSPECTIVE JUROR 7: Plant operator for BASF.

THE COURT: You could be a radio announcer. You have a great voice. All right. The extent of your formal education is what?

PROSPECTIVE JUROR 7: High school, diploma.

THE COURT: And have you ever sat on a jury before?

PROSPECTIVE JUROR 7: No.

THE COURT: Ms. Lambrix, your -- did you have any yes answers?

PROSPECTIVE JUROR 7: I have a nephew that is a Taylor policeman.

THE COURT: Okay. How long has he been with Taylor PD.

PROSPECTIVE JUROR 7: Just recently.

THE COURT: Do you ever talk to him about his work?

PROSPECTIVE JUROR 7: No.

THE COURT: Is the fact that you have a nephew with the Taylor PD going to affect in any way

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your ability to be fair in this case?

PROSPECTIVE JUROR 7: No.

THE COURT: Was that the only yes answer?

PROSPECTIVE JUROR 7: Yes.

THE COURT: Okay. Your marital status?

PROSPECTIVE JUROR 7: Married.

THE COURT: Children?

PROSPECTIVE JUROR 7: Three; 34, 31 and 25.

THE COURT: Okay. And what do you do for a living?

PROSPECTIVE JUROR 7: I'm retired, but I work part-time in an assisted living on weekends.

THE COURT: And what was the job you retired from?

PROSPECTIVE JUROR 7: I was a special education instructional aid with the Wyandotte Public Schools.

THE COURT: And the extent of your formal education then is what?

PROSPECTIVE JUROR 7: High school. Twelfth grade.

THE COURT: And what does your husband do?

PROSPECTIVE JUROR 7: He's medically

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retired.

THE COURT: And what did he do before he retired?

PROSPECTIVE JUROR 7: He worked at Great Lakes Steel, crane operator.

THE COURT: Have you ever sat on a jury before?

PROSPECTIVE JUROR 7: Yes.

THE COURT: Where was that?

PROSPECTIVE JUROR 7: I believe it was at Frank Murphy several years ago.

THE COURT: All right. So it was a criminal case?

PROSPECTIVE JUROR 7: Yes.

THE COURT: It was here?

PROSPECTIVE JUROR 7: Oh, no, it wasn't. I'm sorry. It was at the other one.

THE COURT: Coleman A. Young?

PROSPECTIVE JUROR 7: Yes.

THE COURT: Yeah. Okay. So was it a criminal or a civil case?

PROSPECTIVE JUROR 7: A civil case.

THE COURT: All right. Were you the foreman, by any chance?

PROSPECTIVE JUROR 7: No.

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THE COURT: Okay. Mr. Dozier.

PROSPECTIVE JUROR 11: Yes, sir.

THE COURT: Did you have any yes answers, well, you're a lawyer, apparently. That's what it says here.

PROSPECTIVE JUROR 11: I'm the one you identified earlier.

THE COURT: Yes. Yes, I did. So what kind -- are you still practicing?

PROSPECTIVE JUROR 11: Yes. I practice civil law, civil law defense and litigation for mainly like the management end of the business.

THE COURT: All right. Are you with a firm?

PROSPECTIVE JUROR 11: Yes. I'm the president of Lewis and Munday.

THE COURT: Oh, that's where you work. Okay. I've known a lot of people that were there.

PROSPECTIVE JUROR 11: Yes. I also have four depositions scheduled for tomorrow and the day after. A federal court matter. And in addition to having been -- in addition to currently being an attorney, I was, for seven years, a Detroit Police officer and for five years a Michigan Corrections Officer.

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THE COURT: Oh, okay. So you have some law enforcement. Did you ever practice criminal law?

PROSPECTIVE JUROR 11: No.

THE COURT: And how long have you been a lawyer?

PROSPECTIVE JUROR 11: Thirty-three -- 32 years.

THE COURT: And you -- and so have you been with Lewis and Munday --

PROSPECTIVE JUROR 11: (Interposing) Eighteen years.

THE COURT: -- 18 of those. So you weren't there when Graves was there?

PROSPECTIVE JUROR 11: No.

THE COURT: Or Clay?

PROSPECTIVE JUROR 11: No.

THE COURT: Okay. All right.

PROSPECTIVE JUROR 11: Although I saw him yesterday?

THE COURT: Eric you saw. Judge Eric. Okay. Now, the depositions, I -- I practiced law, too, for a number of years. They used to adjourn depositions all the time. Are they trial depositions or discovery depositions?

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PROSPECTIVE JUROR 11: They're discovery depositions, but, again, there are four of them.

THE COURT: Yeah. Four different cases with four different opposing lawyers, you mean?

PROSPECTIVE JUROR 11: No. Four in the same case.

THE COURT: Yeah.

PROSPECTIVE JUROR 11: Different witnesses. That, as you know, aren't necessarily that easy to schedule.

THE COURT: Right. Right. Okay. Are they your deps or the other sides?

PROSPECTIVE JUROR 11: No. The other sides.

THE COURT: You can't get anybody to cover these for you?

PROSPECTIVE JUROR 11: Not on -- no, not on this.

THE COURT: Okay. Well, I don't know what to tell you. You know how important this is. You -- you as -- you know, I don't have to tell you. All right.

Did you have any other yes answers to any of the questions?

PROSPECTIVE JUROR 11: Yes.

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THE COURT: You have some law enforcement background, legal background, obviously. Your marital status?

PROSPECTIVE JUROR 11: I'm married.

THE COURT: Children?

PROSPECTIVE JUROR 11: I have three children raging in ages from 41 to 22.

THE COURT: And what does your wife do?

PROSPECTIVE JUROR 11: She's a dentist.

THE COURT: She's a dentist, it says. Okay. And I assume you've never sat on a jury before?

PROSPECTIVE JUROR 11: No, your Honor.

THE COURT: Well, isn't this -- you've been waiting for this opportunity all these years, haven't you?

PROSPECTIVE JUROR 11: Not exactly.

THE COURT: Okay. Mr. Chambers, did you have any yes answers to any of my questions?

PROSPECTIVE JUROR 12: Yes.

THE COURT: Okay.

PROSPECTIVE JUROR 12: My mother is a Wayne County nurse for the Wayne County Sheriff's department.

THE COURT: Okay. Does she work in the

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jail?

PROSPECTIVE JUROR 12: Yes.

THE COURT: Okay. But she's not a deputy, she's a civilian.

PROSPECTIVE JUROR 12: She processes inmates.

THE COURT: Right. Okay. All right. And so there's a law enforcement connection there. How long has she worked over there?

PROSPECTIVE JUROR 12: I would say at least 15 years.

THE COURT: Okay. So she knows a lot of deputies. Have they become family friends?

PROSPECTIVE JUROR 12: Some of them have, yes.

THE COURT: All right. Is that relationship or what comes out of it going to affect, in any way, your ability to be fair in this case?

PROSPECTIVE JUROR 12: I don't think that will.

THE COURT: Okay. And you had something else?

PROSPECTIVE JUROR 12: Yes. So my cousin, in '97, was -- it was kind of a similar situation to

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this case. He was lured, carjacked, robbed and killed. A month ago or last month, in '97. So ...

THE COURT: Twenty-one years ago.

PROSPECTIVE JUROR 12: Yeah.

THE COURT: And -- so when you say a similar situation, -- well, okay. I understand what you mean.

So how old was your cousin at the time and how old were you?

PROSPECTIVE JUROR 12: I was 17 and he was like 18 ½.

THE COURT: Were the killers caught?

PROSPECTIVE JUROR 12: The killers were not -- were not caught.

THE COURT: Really.

PROSPECTIVE JUROR 12: He lived a different lifestyle.

THE COURT: Yeah. Okay. So it was hard to find witnesses?

PROSPECTIVE JUROR 12: Exactly. Yeah.

THE COURT: Okay. Well, I know it's tough, but it was a long time ago and here we are today. I don't know how similar this case is for the one that your family experienced in the past, but can you listen to the evidence in this case and

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then dispassionately decide whether or not, if proved beyond a reasonable doubt that the defendant is guilty or not?

PROSPECTIVE JUROR 12: So far I could say that I can't, because of the situation just as you listed the charges, they were all similar, except for like mutilation. I wouldn't be able to be looking at any graphic photos of anything.

And then also, a financial hardship for me would be, I'm in sales. I'm a sales manager of a car dealership.

I make eighty percent of my monthly profit during the last week of the month. And for me it just wouldn't be something. I can serve on any other type of a jury, but not -- not something at the end of the month and not something related to something so graphic as this.

THE COURT: Okay. So what -- what car dealership do you work at?

PROSPECTIVE JUROR 12: I manage the LaFontaine Volvo in Farmington.

THE COURT: And they've got all those great end of the month, black Friday and Cyber Monday sales? I know, I just bought a car the other day. So, I know. Lots of great deals out there.

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All right.

So -- Well, let's talk to -- well, let me ask you a couple other questions, Mr. Chambers. Your marital status.

PROSPECTIVE JUROR 12: I'm single.

THE COURT: Any kids?

PROSPECTIVE JUROR 12: I have no kids.

THE COURT: And where did -- and we know what you do for a living. The extent of your formal education is what?

PROSPECTIVE JUROR 12: Some college.

THE COURT: Have you ever sat on a jury before?

PROSPECTIVE JUROR 12: I have not.

THE COURT: Mr., is it Truchan?

PROSPECTIVE JUROR 13: Truchan.

THE COURT: Truchan. Did you have any yes answers to any of my questions?

PROSPECTIVE JUROR 13: No.

THE COURT: Your marital status?

PROSPECTIVE JUROR 13: Single.

THE COURT: Any kids?

PROSPECTIVE JUROR 13: Zero.

THE COURT: What do you do for a living?

PROSPECTIVE JUROR 13: Union iron worker.

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THE COURT: What do you do?

PROSPECTIVE JUROR 13: I'm a union iron worker.

THE COURT: Okay. Have you ever sat on a jury before?

PROSPECTIVE JUROR 13: No.

THE COURT: All right. Counsel, would you approach, please.

(Whereupon a sidebar was held)

(Whereupon a sidebar ended)

THE COURT: I'm going to thank and excuse Mr. Chambers. Thank you, sir.

COURT CLERK: All right. For seat number 12, Janet Whittington, W-h-i-t-t-i-n-g-t-o-n.

THE COURT: Ms. Whittington, did you have any yes answers to any of my questions?

PROSPECTIVE JUROR 12: Yes.

THE COURT: Okay. In 2014, I was crossing the street on foot at Griswold and Congress and I was hit by a truck. It was a hit and run.

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They never caught the guy.

THE COURT: Okay. So --

MR. CRIPPS: (Interposing) I'm sorry, I didn't hear the rest of the answers.

THE COURT: She said it was a hit and run. So we don't know that it was a lawyer?

PROSPECTIVE JUROR 12: I'm pretty sure it was not.

THE COURT: All right. Okay. Well, you're right there, the Guardian Building is there. What did you say, Griswold and Congress?

PROSPECTIVE JUROR 12: Uh-huh.

THE COURT: Okay. So that was four years ago?

PROSPECTIVE JUROR 12: Getting close to five.

THE COURT: Pretty serious injuries you had?

PROSPECTIVE JUROR 12: They were pretty serious, yes.

THE COURT: Okay. Causing you to miss work or anything?

PROSPECTIVE JUROR 12: Oh, yeah.

THE COURT: Okay. All right. So the offender was never caught?

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PROSPECTIVE JUROR 12: Never caught.

THE COURT: Didn't get a license plate? Nobody got a plate?

PROSPECTIVE JUROR 12: He took his license plates off.

THE COURT: Oh, okay. All right. So that makes you the victim of a hit and run, I guess. Is that going to affect, in any way, your ability to be fair in this case?

PROSPECTIVE JUROR 12: I don't think so.

THE COURT: All right. Okay. I had to ask, but okay. Did you have any other yes answers?

PROSPECTIVE JUROR 12: Yes.

THE COURT: Okay.

PROSPECTIVE JUROR 12: In terms of personal hardship, a year ago my husband had some cancer surgery and he had complications and he's now taking opioids and we're trying to get him in a program in the last two weeks.

THE COURT: Oh, okay. All right. Was there anything else?

PROSPECTIVE JUROR 12: Just personal stuff like I have sat on a jury before, three trials.

THE COURT: How many times did you sit on

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a jury?

PROSPECTIVE JUROR 12: Three.

THE COURT: Three?

PROSPECTIVE JUROR 12: Yes.

THE COURT: Where you actually sat on a jury and reached a decision?

PROSPECTIVE JUROR 12: Yes.

THE COURT: Oh, really. That's a lot.

PROSPECTIVE JUROR 12: Yes.

THE COURT: So well, congratulations. You must be good. Well, all right. So then were any of them here at Frank Murphy?

PROSPECTIVE JUROR 12: No. They were in Washtenaw County.

THE COURT: Oh, all in Washtenaw County. And were they civil or criminal cases or both?

PROSPECTIVE JUROR 12: Criminal.

THE COURT: All criminal. Did you ever sit on a jury that was unable to reach a unanimous verdict?

PROSPECTIVE JUROR 12: No.

THE COURT: Did you ever sit on a jury that elected your foreperson?

PROSPECTIVE JUROR 12: Yes.

THE COURT: How many times?

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PROSPECTIVE JUROR 12: Once.

THE COURT: Okay. And how long ago was your last jury trial?

PROSPECTIVE JUROR 12: We're talking 30 years.

THE COURT: Oh, oh.

PROSPECTIVE JUROR 12: A long time ago.

THE COURT: So you had a streak of jury duties and then 30 years of --

PROSPECTIVE JUROR 12: (Interposing) Washtenaw County has a very odd system. Or they did then. I served for a month.

THE COURT: Oh. Oh. Thirty days, huh. Okay. All right. So your marital status is you're married. And what do you do for a living?

PROSPECTIVE JUROR 12: I'm a retired commercial banker.

THE COURT: So you're home all day?

PROSPECTIVE JUROR 12: Yes.

THE COURT: And your husband did what?

PROSPECTIVE JUROR 12: He was an engineer.

THE COURT: All right. And he has some medical issues?

PROSPECTIVE JUROR 12: Yes.

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THE COURT: So you're not working part-time anywhere, you're pretty much at home?

PROSPECTIVE JUROR 12: I'm retired.

THE COURT: Yeah. All right. And, I'm sorry, do you have children?

PROSPECTIVE JUROR 12: I have no children.

THE COURT: Okay. All right. Do you want to do any more voir dire. You've still got five minutes?

MS. POWELL-HOROWITZ: No, Judge.

THE COURT: Okay. Mr. Cripps?

MR. CRIPPS: Yes.

THE COURT: Okay. Go ahead. You've got a couple minutes.

MR. CRIPPS: I think it's still morning. Good morning, Ms. Whittington.

PROSPECTIVE JUROR 12: Good morning.

MR. CRIPPS: You heard about the burden of proof earlier, right?

PROSPECTIVE JUROR 12: Uh-huh.

MR. CRIPPS: And let's say that the prosecutor --

COURT REPORTER: (Interposing) Excuse me, sir. Could you please answer yes?

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PROSPECTIVE JUROR 12: Yes.

MR. CRIPPS: All right. Again, we're -- we're making a record here so that's why we have to keep our voices up loud. Louder than maybe they should be, but it's for everybody's benefit. Okay.

And let's say the prosecutor calls her twenty some witnesses. And do you think after hearing the witnesses there's reasonable doubt, okay. We know what your verdict would be, right?

PROSPECTIVE JUROR 12: Yes.

MR. CRIPPS: If you thought there was reasonable doubt?

PROSPECTIVE JUROR 12: Yes. It would be not guilty.

MR. CRIPPS: He would be not guilty.

PROSPECTIVE JUROR 12: (Silence.)

MR. CRIPPS: Would you still have that verdict if I stood up, when the -- when the prosecutor called all their witnesses and I say I'm not calling any witnesses, would that change your verdict at all if you felt that there was reasonable doubt in the case and she failed to prove it?

PROSPECTIVE JUROR 12: (Silence.)

MR. CRIPPS: Would it change it at all?

PROSPECTIVE JUROR 12: Oh, no.

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MR. CRIPPS: In other words, would you -- really what I'm asking, would you have to hear from my client on the witness stand --

PROSPECTIVE JUROR 12: (Interposing) Oh, no.

MR. CRIPPS: -- in order to find him not guilty?

PROSPECTIVE JUROR 12: No.

MR. CRIPPS: Does everybody understand that, and -- and I understand it's -- it's part of our -- our society, you want to hear both sides of the story.

In sporting events there's a first half, second half, one team has the ball, the other team -- it's like almost ingrained in us that you want to hear from the other side, right?

PROSPECTIVE JUROR 12: (Silence.)

MR. CRIPPS: But you understand, in terms of a -- a trial, and the context of the burden of proof always remaining on the prosecutors table and never shifting over here, that there's no Constitutional duty of someone to take the witness stand?

PROSPECTIVE JUROR 12: That's correct.

MR. CRIPPS: All right. Does everybody

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understand that?

PROSPECTIVE JURORS: (Silence.)

MR. CRIPPS: As much as you may want to hear, there's a lot of reasons why somebody may not take the stand, do you understand that, Ms. Whittington?

PROSPECTIVE JUROR 12: Yes.

MR. CRIPPS: For example, let's say the running the red light situation. You hired or retained a lawyer because you don't want the points. When you go to trial and your anxious to get up there and tell your side of the story, right?

PROSPECTIVE JUROR 12: (Silence.)

MR. CRIPPS: You may be. And then -- but the officer gets up there and says, I'm not sure. It may have been yellow. And then the prosecutor rests their case and now it's my turn. I really would like to get up there because I know everybody will believe me. And your lawyer, who you've retained, leans over and says to you, there's no reason to dignify the charges, because the officer said he's not sure. Would you follow the advice of your lawyer?

PROSPECTIVE JUROR 12: Yes.

MR. CRIPPS: All right. So what I'm

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saying is there's a lot of reasons why somebody may not take the stand. It may be that, it may be other things, right?

PROSPECTIVE JURORS: (Silence.)

MR. CRIPPS: It's not that they're trying to hide something from you. So does everybody understand it's an important concept. The -- the defense has no duty to call any witnesses to the witness stand and including my client?

PROSPECTIVE JURORS: (Silence.)

MR. CRIPPS: That's a decision we make at the end of the case. But what -- you wouldn't hold that against me if he didn't take the stand, right?

PROSPECTIVE JURORS: (Silence.)

MR. CRIPPS: Ms. Whittington?

PROSPECTIVE JUROR 12: I'm going to tell you what I would do. I think it would be very hard to have no witnesses.

MR. CRIPPS: Right.

PROSPECTIVE JUROR 12: If that's what you're saying?

MR. CRIPPS: Right.

PROSPECTIVE JUROR 12: If they have no witnesses at all.

MR. CRIPPS: And that's why I spend most

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of my voir dire talking about the fact that that burden of proof never shifts from the prosecution to the defense. Do you understand that?

PROSPECTIVE JUROR 12: I understand that.

MR. CRIPPS: Okay. Kind of like if a -- if a lawyer feels that there's reasonable doubt at the end of the prosecutor's case, it's kind of like, you know, being a cause that's already been run if there's reasonable doubt, right?

PROSPECTIVE JUROR 12: (Silence.)

MR. CRIPPS: Why prolong things if I think there's reasonable doubt. There may be a lot of reasons why I'm not calling any witnesses, do you understand that?

PROSPECTIVE JUROR 12: Yes.

MR. CRIPPS: But the important thing for you to remember is that Judge Hathaway, whose instructions you will be duty bound to follow, you -- you know that from your experiences in the past, said -- will tell you that your -- that burden of proof never shifts to the defense. Would you be able to follow that instruction?

PROSPECTIVE JUROR 12: Yes. That's correct. I understand.

MR. CRIPPS: And would you be able to

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follow that instruction?

PROSPECTIVE JUROR 12: Yes.

MR. CRIPPS: Thank you. Thank you, your Honor.

THE COURT: Okay. Any challenges for cause, Ms. Powell Horowitz?

MS. POWELL-HOROWITZ: Not for cause.

THE COURT: Mr. Cripps?

MR. CRIPPS: I pass for cause, your Honor.

THE COURT: Peremptories, Ms. Powell Horowitz.

MS. POWELL-HOROWITZ: Yes, your Honor. The People will thank and excuse the juror in seat number five, Mr. Wallace and seat number six, Ms. Seal.

And I see a sweating mom in number ten, Ms. Cloughesy.

THE COURT: You said five, six and what were the other ones?

MS. POWELL-HOROWITZ: Ten.

THE COURT: Ten. Okay. You know, this might be a perfect time to take a short break. I'd like to finish jury selection before lunch, but let's all take about a ten-minute break.

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For those of you that are sitting in the jury box already, if you want to use one of the -- there's two lavatories in the jury room that you can use. Those of you in the gallery, you'll have to use the one outside, the public lavatory. But we'll take about ten minutes. And then we'll have you all back. Okay.

COURT OFFICER: All rise for the jury.

(Whereupon the jury was excused at about 12:05 p.m.)

(Whereupon the proceedings resumed at about 12:50 p.m.; jury not present)

COURT CLERK: Recalling case number 16-10813, The People of the State of Michigan versus Andrew Michael Czarnecki. The party is here for a jury trial.

Appearances, please.

MS. POWELL-HOROWITZ: Good afternoon, your Honor. May it please the Court, Jamie Powell Horowitz.

MR. CRIPPS: And good afternoon, David

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Cripps on behalf of Mr. Andrew Czarnecki, who's in court with us, your Honor.

MS. POWELL-HOROWITZ: Your Honor, before we bring the jury in, would you read the instruction maybe, if you didn't already, I didn't hear, regarding the lawyers not having any contact with the jury in the hall.

THE COURT: Yeah.

MS. POWELL-HOROWITZ: I always feel terrible walking by them.

THE COURT: Did somebody try to say something to you?

MS. POWELL-HOROWITZ: No. But I just --

THE COURT: (Interposing) Okay. And, by the way, where do we stand here? We've got -- whose turn is it for pre-empts?

MS. POWELL-HOROWITZ: I think we're back to Mr. Cripps and we have to fill some seats.

COURT CLERK: We have to fill three seats first.

MR. CRIPPS: We both used five peremptories.

THE COURT: Oh, who did you -- who did you excuse. I didn't cross them off. Oh, yes, I did. Never mind.

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COURT CLERK: Five, six and 10.

MS. POWELL-HOROWITZ: Five, six and 10.

THE COURT: Okay. Five, six and 10. Okay. Let's bring the panel in.

(Whereupon the jury returned at about 12:50 p.m.)

THE COURT: You may all be seated. Thank you. Bring the rest of them in. All right.

Are we all back? You may be seated, folks. Thank you.

Sorry about that ten minute break. We got into about a half an hour. So what happens, every time we have an opportunity, other lawyers come piling in here giving us other things to do and -- any way. We're back in business now.

I don't know if we're going to finish this before lunch. I don't want to keep my staff and, of course you either, waiting too much longer. But we'll get as much done as we can. All right. We have three seats to fill.

COURT CLERK: For seat number five, Oscar Jaime, J-a-i-m-e.

For seat number 6, Siham Ahmed,

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A-h-m-e-d.

For seat number 10, Allen McFall, M-c-F-a-l-l.

THE COURT: Okay. Mr. -- do you say Jaime or Jaime, how do you say it?

PROSPECTIVE JUROR 5: Jaime.

THE COURT: Jaime. Okay. Did you have any yes answers to any of my question?

PROSPECTIVE JUROR 5: Yes.

THE COURT: Okay.

PROSPECTIVE JUROR 5: I have a family friend that's a retired deputy sheriff out of Lucas County.

THE COURT: Lucas County, Ohio?

PROSPECTIVE JUROR 5: Ohio.

THE COURT: Okay. And is this somebody that you see or get together with fairly often?

PROSPECTIVE JUROR 5: Often.

THE COURT: Okay.

PROSPECTIVE JUROR 5: But not too often.

THE COURT: Not a relative?

PROSPECTIVE JUROR 5: No.

THE COURT: And does this person know you're on jury duty today?

PROSPECTIVE JUROR 5: No.

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THE COURT: Okay. Anything about that relationship or conversations you've had with the sheriff's deputy over the years that you think would make it difficult to be a fair and impartial jury in this case?

PROSPECTIVE JUROR 5: No.

THE COURT: Did you have any other yes answers?

PROSPECTIVE JUROR 5: I noticed that I think the -- the family of the victim is here. I do know one of their relatives.

THE COURT: One of the victim's relatives?

PROSPECTIVE JUROR 5: Yes. From my job.

THE COURT: I'm sorry.

PROSPECTIVE JUROR 5: From my job.

THE COURT: From your job. Who is -- what's the name of the person that you think you know?

PROSPECTIVE JUROR 5: I don't know their name, but I -- I work at a school. Special Education. And there are -- I believe they're either a legal guardian or a babysitter.

THE COURT: For one of the children at the school. What school is it?

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PROSPECTIVE JUROR 5: City Child Academy in Detroit.

THE COURT: Does that sound right?

MS. POWELL-HOROWITZ: Yes.

THE COURT: It could be. Is he going to be a witness?

MS. POWELL-HOROWITZ: I don't believe so, no.

THE COURT: Okay. All right. Is that going to affect your ability to be fair?

PROSPECTIVE JUROR 5: I don't know.

THE COURT: So -- how often do you see this person at your school?

PROSPECTIVE JUROR 5: Daily.

THE COURT: Daily?

PROSPECTIVE JUROR 5: Daily. That particular student I had in my class two-years ago.

THE COURT: So I guess this is really the key question.

Let's say you heard all the evidence in this case and you find that it does not prove beyond a reasonable doubt that the defendant is guilty and you bring in a verdict of not guilty, is that going to be embarrassing or difficult to -- to deal with when you maybe see the victim's relatives?

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PROSPECTIVE JUROR 5: (Silence.)

THE COURT: Do you know what relationship this person is to the victim?

PROSPECTIVE JUROR 5: The pick up the student regularly.

THE COURT: No, I mean to the victim in this case?

PROSPECTIVE JUROR 5: (Silence.)

THE COURT: Do you know what relationship?

PROSPECTIVE JUROR 5: I do not know.

THE COURT: All right. Okay. Let's hold that thought. Did you have any other yes answers?

PROSPECTIVE JUROR 5: No.

THE COURT: All right. Your marital status?

PROSPECTIVE JUROR 5: Single.

THE COURT: Any kids?

PROSPECTIVE JUROR 5: No.

THE COURT: And what do you do for a living?

PROSPECTIVE JUROR 5: A teacher. Special education.

THE COURT: Okay. So you have at least a bachelor's degree in?

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PROSPECTIVE JUROR 5: Not in education.

THE COURT: Oh.

PROSPECTIVE JUROR 5: Political science major.

THE COURT: Oh, okay. And you came into teaching a little later. Are you certified?

PROSPECTIVE JUROR 5: No.

THE COURT: And so have you ever sat on a jury before?

PROSPECTIVE JUROR 5: No.

THE COURT: You didn't have any other yes answers?

PROSPECTIVE JUROR 5: Not that I remember, no.

THE COURT: Okay. Ms. Ahmed, how about you, did you have any yes answers to any of my questions?

PROSPECTIVE JUROR 6: Three.

THE COURT: Okay. I think I know someone from the victim's family.

MR. CRIPPS: Judge, please.

THE COURT: Speak up more, please. Louder.

PROSPECTIVE JUROR 6: I think I know someone from the victim's family.

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THE COURT: How -- how so?

PROSPECTIVE JUROR 6: Neighbor.

THE COURT: And what part of the county do you live in?

PROSPECTIVE JUROR 6: Wayne.

THE COURT: You -- you live in southwest Detroit? Of course you live in Wayne. Do you mean in Wayne, Michigan?

PROSPECTIVE JUROR 6: Yes.

THE COURT: The City of Wayne? Is that...

PROSPECTIVE JUROR 6: In southwest Detroit.

THE COURT: Well, do you live in Wayne?

PROSPECTIVE JUROR 6: No.

THE COURT: The City of Wayne?

PROSPECTIVE JUROR 6: No, sir.

THE COURT: You live in southwest Detroit?

PROSPECTIVE JUROR 6: Yes.

THE COURT: Oh, oh. Okay. And you think one of -- there's somebody there that's -- that's a family?

PROSPECTIVE JUROR 6: Yeah. I was going to check and see if they were a jury, but I think they're part of the case?

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THE COURT: Did you say something to one of them?

PROSPECTIVE JUROR 6: No, I didn't speak to them.

THE COURT: Okay. And the -- what is it, one person that you recognized?

PROSPECTIVE JUROR 6: The wife and the husband.

THE COURT: And you think they live near you?

PROSPECTIVE JUROR 6: They're neighbors.

THE COURT: Like next door neighbors?

PROSPECTIVE JUROR 6: Yes.

THE COURT: Oh.

MS. POWELL-HOROWITZ: May we approach, Judge?

THE COURT: Yes.

(Whereupon a sidebar was held)

(Whereupon a sidebar ended)

THE COURT: We're going to thank and excuse Mr. Jaime and Ms. Ahmed. Thank you.

Now, Mr. McFall, if you tell me you know

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these people, then I'm going to know there's something funny going on.

PROSPECTIVE JUROR 10: No, I don't.

THE COURT: Okay. All right. Before we fill those two seats, let's -- Mr. McFall, did you have any yes answers to any of the questions?

PROSPECTIVE JUROR 10: Well, I do know -- I do know a Royal Oak police officer. I see him a couple times a year during hunting season. That's about it.

THE COURT: Okay. He's a hunting buddy?

PROSPECTIVE JUROR 10: Yeah.

THE COURT: Do you talk about his work at all?

PROSPECTIVE JUROR 10: He does, occasionally.

THE COURT: So Royal Oak, it's mostly stopping drunk drivers at 2:30 in the morning?

PROSPECTIVE JUROR 10: Yeah. Yeah.

THE COURT: Coming out of the bars. Okay. Anything about that relationship that you think would affect your ability to be fair in this case?

PROSPECTIVE JUROR 10: No. Not with that.

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THE COURT: Not with what?

PROSPECTIVE JUROR 10: No.

THE COURT: Something else?

PROSPECTIVE JUROR 10: Well, I was just listening earlier and the defendant's attorney was asking about not having any witnesses or anything like that.

THE COURT: Yeah.

PROSPECTIVE JUROR 10: I think you should have something there to prove --

THE COURT: (Interposing) Well, the rule is you don't have to.

PROSPECTIVE JUROR 10: Well, I know they don't, but ...

THE COURT: That's what I'll be telling the jury at the end of the trial. The defense doesn't have to present any witnesses. They don't have any burden of proof.

It's all up to the prosecution to prove the case beyond a reasonable doubt. Either they do it or they don't. They don't have to get help from the defense. Can you follow my instructions?

PROSPECTIVE JUROR 10: I can try. Because I would be more to turn towards listening to the prosecution more than I would then the

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defendant.

THE COURT: Do you have any other yes answers?

PROSPECTIVE JUROR 10: No.

THE COURT: All right. Your marital status?

PROSPECTIVE JUROR 10: Married.

THE COURT: Do you have children?

PROSPECTIVE JUROR 10: I have two kids of my own and two step-kids.

THE COURT: Okay. And what do you do for a living?

PROSPECTIVE JUROR 10: I am a used car -- at the used car lot -- I basically a porter at a used car lot.

THE COURT: Have you ever sat on a jury before?

PROSPECTIVE JUROR 10: Yes. About three years ago.

THE COURT: Where was that?

PROSPECTIVE JUROR 10: Here.

THE COURT: Here?

PROSPECTIVE JUROR 10: Yes.

THE COURT: So you got past the witness test. I mean, you must have said you could be a

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fair juror in that case?

PROSPECTIVE JUROR 10: (Silence.)

THE COURT: Did you answer all the questions then the same way --

PROSPECTIVE JUROR 10: (Interposing) I answered all the questions. But they didn't have as much as you have here today.

THE COURT: It was a less serious case?

PROSPECTIVE JUROR 10: Yeah.

THE COURT: That -- all the rules still apply, right?

PROSPECTIVE JUROR 10: Yes.

THE COURT: Was your jury able to reach a verdict in that case?

PROSPECTIVE JUROR 10: Yes, we did.

THE COURT: And were you the foreman?

PROSPECTIVE JUROR 10: No.

THE COURT: All right. So I'm going to be instructing the jury at the end of the trial that they're to evaluate the case based on the evidence the People present. The defendant doesn't have to testify. The defense doesn't have to present any witnesses. That's -- that's just the way it is. So can you follow that instruction?

PROSPECTIVE JUROR 10: Yeah. I could --

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I could listen. I would be -- like I said, I would be more apt to -- to believe what's put there in front of me, as far as the prosecution. But the defendant's not or the lawyer is not trying to defend him anyhow.

THE COURT: Well, defending him, I mean, just because he doesn't present witnesses doesn't mean he isn't trying to defend him. The aim of the defense lawyer is to try to poke holes in the prosecutions case. I mean, that -- that's not exactly sitting there passively.

All right. What do you want to do? Any objection that we thank and excuse Mr. McFall?

MR. CRIPPS: No objection.

MS. POWELL-HOROWITZ: No, your Honor.

THE COURT: All right. You're excused.

COURT CLERK: For seat number five, Taha Nasser.

THE COURT: All right. Let's hold on here. You said you're not a citizen?

PROSPECTIVE JUROR 5: I'm a citizen.

THE COURT: Oh, you are a citizen?

PROSPECTIVE JUROR 5: Yeah. But I'm not really understand English very well.

THE COURT: You don't understand English?

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PROSPECTIVE JUROR 5: Very well.

THE COURT: Well, I guess you understood and so far you're understanding my questions, aren't you?

PROSPECTIVE JUROR 5: Yes.

THE COURT: How long have you been here?

PROSPECTIVE JUROR 5: A couple of years.

THE COURT: A couple of years. How many -- how many years have you been here?

PROSPECTIVE JUROR 5: Eight years.

THE COURT: Eight years.

PROSPECTIVE JUROR 5: I understand, but not a whole lot. I can say yes or no, I -- I know what that means. So I can understand right now what you're talking about.

THE COURT: Okay. Well, you know, it's not -- we're not going to be talking about computer engineering here. It's just going to be life and death basic human issues. Okay.

So you are a citizen, notwithstanding your claim earlier that you were not a citizen?

PROSPECTIVE JUROR 5: Right. Yes.

THE COURT: All right. Did you have any other yes answers to any of my questions?

PROSPECTIVE JUROR 5: No.

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THE COURT: Your marital status?

PROSPECTIVE JUROR 5: Yes.

THE COURT: Yes? Married?

PROSPECTIVE JUROR 5: Yes.

THE COURT: And do you have kids?

PROSPECTIVE JUROR 5: One baby.

THE COURT: Okay. Where do you work?

PROSPECTIVE JUROR 5: I used to work at a company supply for GM. But right now I am unemployed.

THE COURT: Okay. And does your wife work outside the home?

PROSPECTIVE JUROR 5: No.

THE COURT: Okay. And have you ever sat on a jury before?

PROSPECTIVE JUROR 5: No.

THE COURT: Okay. All right. Let's fill six and 10.

COURT CLERK: For seat number six, Craig Abbott, A-b-b-o-t-t.

For seat number 10, Wanda Monsegur, M-o-n-s-e-g-u-r.

THE COURT: Okay. Mr. Abbott, did you have any yes answers to any of my questions?

PROSPECTIVE JUROR 6: No.

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THE COURT: None at all?

PROSPECTIVE JUROR 6: No, sir.

THE COURT: No cops or robbers in the family?

PROSPECTIVE JUROR 6: No.

THE COURT: No lawyers?

PROSPECTIVE JUROR 6: No.

THE COURT: What's your marital status?

PROSPECTIVE JUROR 6: Married.

THE COURT: Any kids?

PROSPECTIVE JUROR 6: I have a five-year old.

THE COURT: Okay. Great. And what do you do for a living?

PROSPECTIVE JUROR 6: I am a union garbage man.

THE COURT: And what does your wife do?

PROSPECTIVE JUROR 6: She is an accountant.

THE COURT: Have you ever sat on a jury before?

PROSPECTIVE JUROR 6: No, I have not.

THE COURT: Ms. Mos -- how do you say your name?

PROSPECTIVE JUROR 10: Monsegur.

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THE COURT: Monsegur. Oh, okay. You say it the English way. So did you have any yes answers?

PROSPECTIVE JUROR 10: The only thing is that I live in southwest Detroit. And one of the ladies that was back there, she works at the gas station on Livernois where I go every day.

THE COURT: One of the ladies that you think is affiliated with this case in some way?

PROSPECTIVE JUROR 10: Yes.

THE COURT: Do you know her by name?

PROSPECTIVE JUROR 10: I don't know her by name.

THE COURT: Do you interact with her when you're in the gas station?

PROSPECTIVE JUROR 10: Yes. She sells food on Livernois.

THE COURT: Do you know which side she's associated with here?

PROSPECTIVE JUROR 10: I have no clue. She's not in the courtroom right now.

THE COURT: Right.

PROSPECTIVE JUROR 10: She's in the hall.

THE COURT: Okay. You don't know, she could be part of the defendant's family, part of the

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victim's family, you don't know?

PROSPECTIVE JUROR 10: No, I don't.

THE COURT: Okay. But you recognize her?

PROSPECTIVE JUROR 10: Yes.

THE COURT: All right. Is that going to have any affect on your ability to be fair in this case?

PROSPECTIVE JUROR 10: No.

THE COURT: Okay. Thank you for letting us know that. Did you have any other yes answers?

PROSPECTIVE JUROR 10: No.

THE COURT: Your marital status?

PROSPECTIVE JUROR 10: Divorced.

THE COURT: Children?

PROSPECTIVE JUROR 10: Yes. A nine-year old autistic.

THE COURT: Okay. And what do you do for a living?

PROSPECTIVE JUROR 10: Machine operator.

THE COURT: And have you ever sat on a jury before?

PROSPECTIVE JUROR 10: Yes.

THE COURT: Where was that?

PROSPECTIVE JUROR 10: At Mayor Coleman Young building.

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THE COURT: Okay. How long ago?

PROSPECTIVE JUROR 10: And I had a bad experience.

THE COURT: A bad experience on the jury?

PROSPECTIVE JUROR 10: Yes.

THE COURT: Okay.

PROSPECTIVE JUROR 10: Yes. The people from the crime had followed us home. And the next day we had told the judge and he made them, you know, stay while he made sure we got out safely.

THE COURT: It was a criminal case?

PROSPECTIVE JUROR 10: Yes.

THE COURT: Okay. That doesn't happen very often. But you -- when you say he followed us home?

PROSPECTIVE JUROR 10: It was the family followed multiple people home. It wasn't only me, it was multiple.

THE COURT: Yeah. So you were followed -

MR. CRIPPS: (Interposing) Judge, can we approach?

THE COURT: Yes.

(Whereupon a sidebar was held)

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(Whereupon a sidebar ended)

THE COURT: We'll excuse Ms. Monsegur.

COURT CLERK: For seat number 10, Carolyn Collins, C-o-l-l-i-n-s.

THE COURT: Okay. Ms. Collins, did you have any yes answers?

PROSPECTIVE JUROR 10: No.

THE COURT: What a relief. All right. Ms. Collins, your marital status?

PROSPECTIVE JUROR 10: I'm married.

THE COURT: Children?

PROSPECTIVE JUROR 10: Three boys.

THE COURT: What's the range of age?

PROSPECTIVE JUROR 10: Twenty-two, 24 and our oldest would have been 25, but we lost him six years ago.

THE COURT: I'm sorry. And what do you do for a living?

PROSPECTIVE JUROR 10: I'm not currently working. I babysit my niece.

THE COURT: Okay. Where and when were you last employed at work?

PROSPECTIVE JUROR 10: Six years ago. I stopped right after we lost our son.

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THE COURT: Okay. And what did you do?

PROSPECTIVE JUROR 10: I was a dental assistant.

THE COURT: Okay. And what does your husband do?

PROSPECTIVE JUROR 10: He's a master plumber. He owns his own company.

THE COURT: Have you -- have you ever sat on a jury before?

PROSPECTIVE JUROR 10: Yes.

THE COURT: Where was that?

PROSPECTIVE JUROR 10: I think it was Coleman Young. It was like 33 years ago.

THE COURT: Oh, okay. It could have been a civil case, criminal case?

PROSPECTIVE JUROR 10: Yeah. It was a hung jury, though.

THE COURT: Oh, it was. Okay. All right. So I don't mean to scratch any wounds here, but your son did not die in a violent crime?

PROSPECTIVE JUROR 10: No. He was at Central Michigan and got meningitis.

THE COURT: Okay. Any challenges for cause, Ms. Powell Horowitz.

MS. POWELL-HOROWITZ: Pass for cause.

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THE COURT: Mr. Cripps?

MR. CRIPPS: I pass for cause, your Honor.

THE COURT: Peremptories, Mr. Cripps.

MR. CRIPPS: Thank you, your Honor. We'd thank and excuse Mr. Nasser in seat number five.

And Mr. Dozier in seat number 11.

THE COURT: Okay.

COURT CLERK: For seat number five, Ninette Soares, S-o-a-r-e-s.

For seat number 11, Aaron Nichols, N-i-c-h-o-l-s.

THE COURT: All right. Ms. Soares, do you live in southwest Detroit?

PROSPECTIVE JUROR 5: Livonia.

THE COURT: Oh, okay. Did you have any yes answers to any of my questions?

PROSPECTIVE JUROR 5: No.

THE COURT: Nothing. Okay. Your marital status?

PROSPECTIVE JUROR 5: Single.

THE COURT: Any kids?

PROSPECTIVE JUROR 5: No.

THE COURT: What do you do for a living?

PROSPECTIVE JUROR 5: I'm a middle school

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math teacher.

THE COURT: All right. So you've got at least a bachelor's degree in Math Ed.

PROSPECTIVE JUROR 5: I have my ED specialist. So almost a doctorate.

THE COURT: Right. Okay. Have you ever sat on a jury before?

PROSPECTIVE JUROR 5: No.

THE COURT: Anything else we should know about you that might affect how these lawyers evaluate your ability to be fair and impartial?

PROSPECTIVE JUROR 5: No.

THE COURT: All right. Mr. Nichols, did you have any yes answers?

PROSPECTIVE JUROR 11: No.

THE COURT: Your marital status?

PROSPECTIVE JUROR 11: I'm married.

THE COURT: Okay.

COURT REPORTER: Could you speak up, please, sir.

THE COURT: His marital status is yes.

PROSPECTIVE JUROR 11: Yes.

THE COURT: You're married?

PROSPECTIVE JUROR 11: Yes.

THE COURT: Okay. Do you have children?

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PROSPECTIVE JUROR 11: Yes.

THE COURT: What -- how many kids do you have?

PROSPECTIVE JUROR 11: Two.

THE COURT: What's the range of age and gender of your kids?

PROSPECTIVE JUROR 11: Boy and a girl, 36 and 28.

THE COURT: Okay. And what do you do for a living, sir?

PROSPECTIVE JUROR 11: I'm retired.

THE COURT: From where?

PROSPECTIVE JUROR 11: DTE.

THE COURT: Okay. What did you do there?

PROSPECTIVE JUROR 11: I worked in the supply and management.

THE COURT: Okay. Does your wife work outside the home?

PROSPECTIVE JUROR 11: No. She's retired, too.

THE COURT: What did she do?

PROSPECTIVE JUROR 11: She -- she worked for Henry Ford.

THE COURT: Okay. The hospital?

PROSPECTIVE JUROR 11: Yes.

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THE COURT: Okay.

PROSPECTIVE JUROR 11: Actually, no. She worked at the clinic. Henry Ford clinic.

THE COURT: Okay. All right. So, have you ever sat on a jury before?

PROSPECTIVE JUROR 11: Yes.

THE COURT: Where was that?

PROSPECTIVE JUROR 11: Here.

THE COURT: How long ago?

PROSPECTIVE JUROR 11: Oh, I can't remember, it was in the 80's.

THE COURT: Okay. A long time ago?

PROSPECTIVE JUROR 11: Yes.

THE COURT: Do you remember what kind of a case it was?

PROSPECTIVE JUROR 11: A felony.

THE COURT: Was your jury able to reach a verdict?

PROSPECTIVE JUROR 11: Yes.

THE COURT: And were you the foreman?

PROSPECTIVE JUROR 11: No.

THE COURT: So just that one time 30 years ago?

PROSPECTIVE JUROR 11: Yes.

THE COURT: And they got you back 30 to

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35 years ago.

PROSPECTIVE JUROR 11: It wasn't just one time, it was a couple times.

THE COURT: Oh, but in the 80's.

PROSPECTIVE JUROR 11: Yeah.

THE COURT: Okay. You were -- both times your jury was able to reach unanimous verdict?

PROSPECTIVE JUROR 11: Yes.

THE COURT: Okay. All right. Any challenges for cause?

MS. POWELL-HOROWITZ: Pass for cause.

MR. CRIPPS: Pass for cause, your Honor.

THE COURT: Peremptories Ms. Powell Horowitz?

MS. POWELL-HOROWITZ: Thank and excuse Ms. Soares. Thank you.

THE COURT: Ms. Soares.

COURT CLERK: For seat number five, Rebecca Eyster, E-y-s-t-e-r.

THE COURT: Ms. Eyster?

PROSPECTIVE JUROR 5: Yes.

THE COURT: Did you have any yes answers to any of my questions?

PROSPECTIVE JUROR 5: Yes.

THE COURT: Okay.

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PROSPECTIVE JUROR 5: I was a victim of an armed robbery some 40 years ago.

THE COURT: Okay.

PROSPECTIVE JUROR 5: And also my brother-in-law plead guilty to a felony, trafficking drugs and served five years in the federal penitentiary.

THE COURT: This is a brother-in-law that is married to your sister or your husband's brother?

PROSPECTIVE JUROR 5: My husband's brother.

THE COURT: Your husband's brother. So you knew him pretty well, did you?

PROSPECTIVE JUROR 5: Yes.

THE COURT: How did you feel about his being convicted of drug trafficking? Was it a surprise?

PROSPECTIVE JUROR 5: No.

THE COURT: Do you think he got a fair shake from the system?

PROSPECTIVE JUROR 5: Yes, I do.

THE COURT: Okay. So is that going to have any effect on your ability to be fair in this?

PROSPECTIVE JUROR 5: No.

THE COURT: And then you were an armed

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robbery victim about -- what did you say about 40 years?

PROSPECTIVE JUROR 5: It was about 40 years ago. I was working at a drug store -- drug store when I was in college and it got robbed. Held up.

THE COURT: And you -- somebody pointed a gun at you?

PROSPECTIVE JUROR 5: Yeah. Had to lay on the ground, guns on the back of our heads.

THE COURT: Oh boy. Anybody get hurt?

PROSPECTIVE JUROR 5: No.

THE COURT: And were the robbers caught?

PROSPECTIVE JUROR 5: No.

THE COURT: Really? All right. Is that going to affect in any way your ability to be fair in this case?

PROSPECTIVE JUROR 5: (Silence.)

THE COURT: It was a long time ago?

PROSPECTIVE JUROR 5: No. It was a long time ago.

THE COURT: Thank you. Okay. All right. Anything else we should know about you?

PROSPECTIVE JUROR 5: No.

THE COURT: Your marital status?

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PROSPECTIVE JUROR 5: Married.

THE COURT: Children?

PROSPECTIVE JUROR 5: Three boys; 33, 32 and 30.

THE COURT: Okay. And what do you do for a living?

PROSPECTIVE JUROR 5: I'm a human resource director for Wyandotte Public Schools.

THE COURT: All right. And the extent of your formal education is what?

PROSPECTIVE JUROR 5: Masters.

THE COURT: In what, human resources?

PROSPECTIVE JUROR 5: Educational leadership.

THE COURT: Okay. And what does your husband do?

PROSPECTIVE JUROR 5: He's a retired machinist from US Steel.

THE COURT: Have you ever sat on a jury before?

PROSPECTIVE JUROR 5: No.

THE COURT: Mr. Collins -- or Mr. Nichols, you had your hand up? Yes?

PROSPECTIVE JUROR 11: Yeah. I do have a medical issue.

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MR. CRIPPS: I couldn't hear, your Honor.

PROSPECTIVE JUROR 11: I do have a medical issue. I've got a letter from my doctor.

THE COURT: Okay. Is there some reason why you didn't bring it up -- well, okay. What is your medical issue?

PROSPECTIVE JUROR 11: Well, I'm -- can I just give you the letter?

THE COURT: Okay. One of the deputies will get -- do you have it with you?

PROSPECTIVE JUROR 11: Yes.

THE COURT: Okay. All right. Do you want to come up here, please.

(Whereupon a sidebar was held)

(Whereupon a sidebar ended)

THE COURT: I've seen your -- your letter that appears to be from a Doctor Steven Dobitz. Doctor Dobitz had mentioned what your medical diagnosis is. I don't know where he comes off saying that you have to be excused, but anyway. But we'll -- we'll work with you on that. I mean, if you have to, you know, get up and use the bathroom,

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you know, more frequently than usual, just -- you know, just raise your hand and --

PROSPECTIVE JUROR 11: (Interposing) Okay.

THE COURT: Okay. Great. I will give this back to you. Thank you. All right. Any challenges for cause, Ms. Powell?

MS. POWELL-HOROWITZ: Not for cause.

THE COURT: For cause, Mr. Cripps?

MR. CRIPPS: I pass for cause, your Honor.

THE COURT: Peremptories -- is it Cripps' turn?

MR. CRIPPS: Yes.

THE COURT: Okay. Mr. Cripps.

MR. CRIPPS: Yes. I'm consulting with my client.

Thank you, your Honor. We would thank and excuse Ms. Eyster in seat number five.

THE COURT: Okay.

MR. CRIPPS: And Mr. Nichols in seat number 11.

THE COURT: All right. Okay. Mr. Nichols is excused.

COURT CLERK: For seat number five, Mark

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McMorris, M-c-m-o-r-r-i-s.

For seat number 11, James Kinney, K-i-n-n-e-y.

THE COURT: All right. Mr. McMorris, did you have any yes answers?

PROSPECTIVE JUROR 5: Yes, sir. I did.

THE COURT: Okay.

PROSPECTIVE JUROR 5: Well, a couple medical -- I mean, I'm comfortable getting up and going to the bathroom, I have high blood pressure. There's a water pill I take, sends me running.

THE COURT: Okay.

PROSPECTIVE JUROR 5: And I have a friend in the Detroit Police Department and Wayne County Sheriff.

THE COURT: How did that happen?

PROSPECTIVE JUROR 5: Military.

THE COURT: Oh, okay. All right. Do any of them know you're on jury duty today?

PROSPECTIVE JUROR 5: No.

THE COURT: Okay. You'll keep it that way, of course.

PROSPECTIVE JUROR 5: Yes, sir.

THE COURT: Okay. Anything else?

PROSPECTIVE JUROR 5: (Silence.)

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THE COURT: We'll try to accommodate your medical issue. We're -- we'll try to -- we'll work with you on that, because, you know, we're -- okay. We need you. Okay. Anyway. All right. So your marital status?

PROSPECTIVE JUROR 5: Married.

THE COURT: Do you got kids?

PROSPECTIVE JUROR 5: Yes.

THE COURT: How many?

PROSPECTIVE JUROR 5: Four. And three are my wife's

THE COURT: Oh, okay. What's the range of age all together of all those kids?

PROSPECTIVE JUROR 5: Twenty-seven, 31, the youngest is 10, two of them is 22.

THE COURT: All right. And what do you do for a living?

PROSPECTIVE JUROR 5: Retired.

THE COURT: From where?

PROSPECTIVE JUROR 5: Military.

THE COURT: Oh, okay. You had a -- you were a career guy?

PROSPECTIVE JUROR 5: Yes.

THE COURT: Army?

PROSPECTIVE JUROR 5: Yes.

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THE COURT: How many years?

PROSPECTIVE JUROR 5: Twenty-seven.

THE COURT: Oh. Well, thank you for your service?

PROSPECTIVE JUROR 5: Thank you. You're welcome.

THE COURT: And how long ago did you retire?

PROSPECTIVE JUROR 5: In 2012.

THE COURT: Okay. And you haven't worked part-time anywhere since or --

PROSPECTIVE JUROR 5: (Interposing) Security.

THE COURT: Okay.

PROSPECTIVE JUROR 5: I was a security guard.

THE COURT: And then what does your wife do?

PROSPECTIVE JUROR 5: She's a Chrysler worker. She works at Chrysler.

THE COURT: Have you ever sat on a jury before? Either civil or court marshal?

PROSPECTIVE JUROR 5: Yes.

THE COURT: Which?

PROSPECTIVE JUROR 5: Here at Frank

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Murphy.

THE COURT: Okay. How long ago?

PROSPECTIVE JUROR 5: I would guess it would be about three years ago.

THE COURT: Okay. And then without telling us the outcome, was your jury able to reach a verdict?

PROSPECTIVE JUROR 5: Yes.

THE COURT: Did they elect you foreman?

PROSPECTIVE JUROR 5: Yes.

THE COURT: Sergeant McMorris, okay. And that was the only time you actually sat?

PROSPECTIVE JUROR 5: Yes.

THE COURT: Okay. All right. Anything else we should know about you?

PROSPECTIVE JUROR 5: No.

THE COURT: Okay. How about Mr. Kinney?

PROSPECTIVE JUROR 11: Yes, sir.

THE COURT: Did you have any yes answers?

PROSPECTIVE JUROR 11: No.

THE COURT: You sure?

PROSPECTIVE JUROR 11: Yes.

THE COURT: Okay. Your marital status?

PROSPECTIVE JUROR 11: Married. Two children, a girl 18 and a boy 14.

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THE COURT: Okay. What do you do for a living?

PROSPECTIVE JUROR 11: Security guard.

THE COURT: All right. And what does your wife do?

PROSPECTIVE JUROR 11: School bus driver.

THE COURT: Okay. Have you ever sat on a jury before?

PROSPECTIVE JUROR 11: Yes, sir.

THE COURT: How many times?

PROSPECTIVE JUROR 11: Once.

THE COURT: And when was that?

PROSPECTIVE JUROR 11: About 12 years ago and it was here.

THE COURT: And it was here. Okay. So it was a criminal case. Was your jury able to reach a verdict?

PROSPECTIVE JUROR 11: Yes, sir.

THE COURT: And were you the foreman?

PROSPECTIVE JUROR 11: No, sir.

THE COURT: Okay. Challenges for cause, Ms. Powell Horowitz?

MS. POWELL-HOROWITZ: Pass for cause.

THE COURT: Mr. Cripps, for cause?

MR. CRIPPS: I pass for cause. Thank

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you, your Honor.

THE COURT: Peremptories, Ms. --

MS. POWELL-HOROWITZ: (Interposing) Not from the People.

THE COURT: You pass. Okay. Mr. Cripps?

MR. CRIPPS: We're ready, your Honor. We thank and excuse juror in seat number three, Mr. Paulot.

THE COURT: Okay. Is that it?

MR. CRIPPS: That's it.

THE COURT: Okay.

COURT CLERK: For seat number three, Jethro Maguad, M-a-g-u-a-d.

THE COURT: Okay. Mr. Maguad, is that how you say your name?

PROSPECTIVE JUROR 3: Yes.

THE COURT: Okay. Did you have any yes answers to any of my questions?

PROSPECTIVE JUROR 3: No. But I just have one question.

THE COURT: Okay.

PROSPECTIVE JUROR 3: At my job, are they -- can they force to pay me by law today or now?

THE COURT: No. They're not forced to pay you by law. I don't know what your arrangements are

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with your employer. They can't take any action against you.

PROSPECTIVE JUROR 3: Okay.

THE COURT: I mean, like they can't fire you because you're on jury duty. But I don't -- there's not -- who do you work for?

PROSPECTIVE JUROR 3: I work in a small restaurant.

THE COURT: Yeah. We can't make them pay you, but I don't know what your situation is there. If you've got to deal with them about vacation time or ...

PROSPECTIVE JUROR 3: We don't have vacation time.

THE COURT: Okay. So you --

PROSPECTIVE JUROR 3: (Interposing) I was just asking, because it's almost the end of the month and I need money to pay.

THE COURT: So --

PROSPECTIVE JUROR 3: (Interposing) I'm only getting paid twenty-five dollars today.

THE COURT: Yeah.

PROSPECTIVE JUROR 3: And I was supposed to work today.

THE COURT: So what -- what are your

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hours working usually?

PROSPECTIVE JUROR 3: Twelve hours.

THE COURT: Twelve hours?

PROSPECTIVE JUROR 3: Yeah.

THE COURT: From when to when?

PROSPECTIVE JUROR 3: From 10:45 to 10:00 -- 10:30.

THE COURT: At night. So is there any way you could work just a later shift, work about six or eight hours and get there about 4:00 or something?

PROSPECTIVE JUROR 3: There's not going to be enough for rent.

THE COURT: Okay. Did you have any other issues or yes answers? You're okay with English, aren't you?

PROSPECTIVE JUROR 3: Yes.

THE COURT: What is your first language?

PROSPECTIVE JUROR 5: Filipino.

THE COURT: Your marital status?

PROSPECTIVE JUROR 5: I'm single.

THE COURT: Okay. Any kids?

PROSPECTIVE JUROR 5: I have a three-month old baby.

THE COURT: Lives with you?

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PROSPECTIVE JUROR 5: Yes.

THE COURT: So does the baby's mother work?

PROSPECTIVE JUROR 5: Just half time.

THE COURT: Okay. And we know what you do for a living. Have you ever sat on a jury before?

PROSPECTIVE JUROR 5: No.

THE COURT: All right. Challenges for cause, Ms. Powell?

MS. POWELL-HOROWITZ: Not for cause.

THE COURT: For cause, Mr. Cripps?

MR. CRIPPS: Pass for cause, your Honor.

THE COURT: Peremptories, Ms. Powell?

MS. POWELL-HOROWITZ: Thank and excuse Mr. Maguad.

THE COURT: Okay. Mr. Maguad is excused. Thank you.

COURT CLERK: For seat number three, Rhonda Harper, H-a-r-p-e-r.

PROSPECTIVE JUROR: Excuse me, your Honor. I should mention that my son is graduating from Wayne State December 11th.

You said it would be done by the 10th, so it shouldn't be a problem?

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THE COURT: His commencement is the 11th?

PROSPECTIVE JUROR: Yes.

THE COURT: I don't think that's going to be a problem. No.

PROSPECTIVE JUROR: It better not be.

THE COURT: No, it better not be. But if it is, we'll give you the day off.

PROSPECTIVE JUROR: Thank you.

THE COURT: We wouldn't want you to miss that. Is it in the morning at Ford Field?

PROSPECTIVE JUROR: At 10:00 o'clock at the Fox.

THE COURT: Oh, okay. Congratulations. All right. Did we fill -- I'm sorry, I lost track. What seat was it?

COURT CLERK: Ms. Harper.

THE COURT: Ms. Harper, yes. So, Ms. Harper, did you have any yes answers?

PROSPECTIVE JUROR 3: No. None of it's relevant. I have some family members, but I don't speak to them, that are law enforcement down in Ohio.

THE COURT: Okay.

PROSPECTIVE JUROR 3: Some lawyers.

THE COURT: That's not going to matter?

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PROSPECTIVE JUROR 3: No.

THE COURT: Okay. Your marital status?

PROSPECTIVE JUROR 3: Married.

THE COURT: Kids?

PROSPECTIVE JUROR 3: One, 26.

THE COURT: Okay.

PROSPECTIVE JUROR 3: Boy.

THE COURT: And what do you do for a living?

PROSPECTIVE JUROR 3: I'm a corporate travel agent.

THE COURT: And the extent of your formal education is what?

PROSPECTIVE JUROR 3: I have a bachelor's degree.

THE COURT: In what field?

PROSPECTIVE JUROR 3: Marketing.

THE COURT: Okay. And what does your husband do?

PROSPECTIVE JUROR 3: He is an interactive advertising agency.

THE COURT: And have you ever sat on a jury before?

PROSPECTIVE JUROR 3: Yeah, but it was here, but they decided not to complete, it was an

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appeal. There was an appeal case and after three days, they said he changed his mind.

THE COURT: Was it a trial?

PROSPECTIVE JUROR 3: Yes.

THE COURT: You sat through three days of a trial?

PROSPECTIVE JUROR 3: Yes.

THE COURT: And then the trial ended in -- in the middle?

PROSPECTIVE JUROR 3: Correct.

THE COURT: All right. Okay. So you didn't deliberate and reach a verdict?

PROSPECTIVE JUROR 3: No.

THE COURT: Okay. All right. Ms. Powell, it's been a long time since you've voir dired. Do you want to -- you've got a few minutes of voir dire if you'd like? No.

MS. POWELL-HOROWITZ: No.

THE COURT: Okay. Any challenges for cause?

MS. POWELL-HOROWITZ: Pass for cause.

THE COURT: For cause, Mr. Cripps?

MR. CRIPPS: I pass for cause, your Honor.

THE COURT: All right. Peremptories, Mr.

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Cripps?

MR. CRIPPS: Not at this time, Judge.

THE COURT: Ms. Powell?

MS. POWELL-HOROWITZ: Thank and excuse number three, please.

THE COURT: Okay.

COURT CLERK: For seat number three, William Obrien, O-b-r-i-e-n.

THE COURT: Okay. Mr. O'Brien, did you have any yes answers?

PROSPECTIVE JUROR 3: Yes.

THE COURT: Okay.

PROSPECTIVE JUROR 3: My father-in-law is a retired police officer from Ypsilanti.

THE COURT: Okay.

PROSPECTIVE JUROR 3: My niece has been -- - she was a victim of assault where she --

THE COURT: (Interposing) I'm sorry, would you say that again.

PROSPECTIVE JUROR 3: My niece was a victim of assault.

THE COURT: And then I couldn't hear what you said after that?

PROSPECTIVE JUROR 3: Oh, she got beaten up, her teeth knocked out, it was like a robbery.

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THE COURT: Oh, okay. How long ago was that?

PROSPECTIVE JUROR 3: About two years.

THE COURT: And was the robber caught?

PROSPECTIVE JUROR 3: Yes, I think so.

THE COURT: Okay. Where did that happen, around here?

PROSPECTIVE JUROR 3: Toledo.

THE COURT: Oh, okay. You heard about, but --

PROSPECTIVE JUROR 3: (Interposing) I don't know the details.

THE COURT: All right. Anything else?

PROSPECTIVE JUROR 3: Other than I have -- I'm married, three step-kids. They all have, you know, issues with police and pot and ...

THE COURT: Okay.

PROSPECTIVE JUROR 3: One has two drunk driving issues where he went to jail. Ages 22 to 34.

THE COURT: Okay. Is any of that going to affect your ability to be fair in this case?

PROSPECTIVE JUROR 3: No.

THE COURT: You don't have any beefs with the prosecutors or lawyers about -- or police about

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any of your step-kids issues?

PROSPECTIVE JUROR 3: No.

THE COURT: You don't have an issue with them?

PROSPECTIVE JUROR 3: No.

THE COURT: Okay. All right. Anything else we should know about you?

PROSPECTIVE JUROR 3: No.

THE COURT: There used to -- there was a lawyer I used to know named Willie O'Brien, but obviously not you?

PROSPECTIVE JUROR 3: No.

THE COURT: No. No relation. All right. So -- I'm sorry, what do you do for a living?

PROSPECTIVE JUROR 3: I'm an environmental engineer.

THE COURT: And the extent of your formal education is what?

PROSPECTIVE JUROR 3: A bachelor of science.

THE COURT: In environmental engineering?

PROSPECTIVE JUROR 3: Chemical engineering.

THE COURT: Okay. And then what does your wife do?

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PROSPECTIVE JUROR 3: She works medical records for UofM.

THE COURT: Takes care of her kids?

PROSPECTIVE JUROR 3: And that.

THE COURT: Okay. And have you ever sat on a jury before?

PROSPECTIVE JUROR 3: No.

THE COURT: Okay. All right. Any challenges for cause, Ms. Powell.

MS. POWELL-HOROWITZ: Not for cause.

THE COURT: For cause?

MR. CRIPPS: I pass for cause, your Honor.

THE COURT: All right. Peremptories, Mr. Cripps?

MR. CRIPPS: We'd like to thank and excuse juror in seat number three, your Honor.

THE COURT: Mr. O'Brien is excused. Thank you, sir.

COURT CLERK: For seat number three, Jose Burgos, B-u-r-g-o-s.

THE COURT: Okay. Mr. Burgos, did you have any yes answers?

PROSPECTIVE JUROR 3: Yes. I'm from southwest Detroit.

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THE COURT: I had a hunch. Okay. So do you know any of these people involved in the case?

PROSPECTIVE JUROR 3: Yeah, I know the family. My knows their family.

THE COURT: The victim?

PROSPECTIVE JUROR 3: Yes.

THE COURT: Okay. Well, any objection that we thank and excuse Mr. Burgos?

MS. POWELL-HOROWITZ: No, your Honor.

MR. CRIPPS: No, your Honor.

THE COURT: All right. You're excused, sir. Thank you. Small world.

COURT CLERK: And for seat number three, William Turner, T-u-r-n-e-r.

THE COURT: All right. If you're from southwest Detroit, I'm going to have a meltdown.

PROSPECTIVE JUROR 3: Not from southwest Detroit.

THE COURT: Thank you. Did you have any yes answers to any questions?

PROSPECTIVE JUROR 3: Yeah. My wife's family, her -- so my step -- or my father-in-law is a State Police or retired State Police. Two nephews, police, up in Grayling. Uncle or my wife's uncle, a retired police in Ypsilanti. So that's my wife's

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side of the family.

THE COURT: All right. So you've got a lot of police officers in the -- in the in-laws -- amongst the in-laws?

PROSPECTIVE JUROR 3: Yeah.

THE COURT: All right. So do you see these people from time to time and talk to them?

PROSPECTIVE JUROR 3: Yeah. Lots of stories.

THE COURT: Lots of -- well, I don't know about Grayling. I don't know what stories they have.

PROSPECTIVE JUROR 3: They kill people. I mean --

THE COURT: (Interposing) Do they?

PROSPECTIVE JUROR 3: Yeah. So they had -- I think two incidents in Grayling.

THE COURT: So any of those relationships going to affect in any way your ability to be fair in this case?

PROSPECTIVE JUROR 3: I don't think so.

THE COURT: Okay. Any other yes answers?

PROSPECTIVE JUROR 3: I -- the only hardship I have is I run a small company. There's only four of us and I'll make some arrangements. I

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travel next week, so there are some changes I'll make in order to be on the jury.

THE COURT: All right. Well, we appreciate that. All right. So your marital status?

PROSPECTIVE JUROR 3: Married. Four kids. Three girls, one boy. Ages 11 through 17.

THE COURT: Okay. And you're a small business owner?

PROSPECTIVE JUROR 3: I am.

THE COURT: What is the business?

PROSPECTIVE JUROR 3: Manufacturers rep. So we sell products for other manufacturers.

THE COURT: All right. The extent of your formal education is what?

PROSPECTIVE JUROR 3: Bachelor's.

THE COURT: In what field?

PROSPECTIVE JUROR 3: Finance.

THE COURT: Have you ever sat on a jury before?

PROSPECTIVE JUROR 3: No.

THE COURT: And what does your wife do?

PROSPECTIVE JUROR 3: Substitute teacher.

THE COURT: Okay. All right. Challenges for cause, Ms. Powell?

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MS. POWELL-HOROWITZ: Pass, your Honor.

THE COURT: Mr. Cripps?

MR. CRIPPS: Pass for cause.

THE COURT: Peremptories, Ms. Powell?

MS. POWELL-HOROWITZ: Not for the People.

THE COURT: All right. The People pass. Mr. Cripps?

MR. CRIPPS: No peremptories.

THE COURT: Okay. We have a jury. Great. All right. Well, there's --

MS. POWELL-HOROWITZ: (Interposing) May we approach.

THE COURT: What?

MS. POWELL-HOROWITZ: May we approach regarding time?

THE COURT: Yes.

(Whereupon a sidebar was held)

(Whereupon a sidebar ended)

THE COURT: Here's what we're going to do, folks.

PROSPECTIVE JUROR 3: I just have one question.

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THE COURT: Yes, sir.

PROSPECTIVE JUROR 3: Is there any time between -- I have to make arrangements to cancel flights. Is there time that you can --

THE COURT: (Interposing) I think I'm about to answer that question right now, because this has taken a little longer. There were so many people from southwest Detroit on this panel.

But anyway, what I'm going to do is I'm going to give you some preliminary instructions right now. And then you're home for the day. I mean, you're done for the day. You'll come back tomorrow at 9:00.

You'll have the afternoon, hopefully, to -- is that -- is that good? Does that help?

PROSPECTIVE JUROR 3: I'm -- I'm needing more time that that. I -- I don't know. I've got a company to run. So I've got --

THE COURT: (Interposing) I know. I -- and I -- I get it. We all have --

MS. POWELL-HOROWITZ: (Interposing) Tomorrow is the day that the court is breaking at 12:00.

THE COURT: Oh, yeah. Oh, yeah, we're breaking at 12:00. You heard me say that before.

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PROSPECTIVE JUROR 3: I did not hear that. Friday is free, too, right?

MS. POWELL-HOROWITZ: Yes.

THE COURT: I'm sorry.

PROSPECTIVE JUROR 3: Friday is off as well?

THE COURT: Yes. Friday is off. You're off Friday.

PROSPECTIVE JUROR 3: Okay. I should be able to do it.

THE COURT: Yeah. Okay. And so tomorrow is a short day, three hours. But -- but an intense three hours. No interruptions, no -- okay.

All right. So let me -- let me do this and then we'll -- we'll send you home. The first thing I'm going to ask you to do is to stand, now, and take another oath. This is an oath to be a good juror.

COURT CLERK: Please raise your right hands.

Each of you do solemnly swear or affirm that in this action now before the court you will justly decide the questions submitted to you, that unless you are discharged by the court from further deliberation, you will render a true verdict and

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that you will render your verdict only on the evidence introduced and in accordance with the instructions of the court? Please affirm by saying I do.

PROSPECTIVE JURORS: I do.

COURT CLERK: Thank you. You may be seated.

THE COURT: Thank you. All right. This is about a ten minute monologue here or so.

So let me tell you what you're going to expect tomorrow, then, and there after. We'll begin tomorrow with the opening statements.

The prosecutor will make an opening statement first. That's where she will give you her theories about the case. After that, the defense lawyer may make an opening statement if he wants to, or he can wait until later.

Either way, the opening statements themselves are not evidence. They're only meant to tell you what each lawyer thinks the evidence will show in the case.

After the opening statements are over, then the prosecutor will then begin presenting her evidence. She will call witnesses to testify and she may show a few exhibits, like documents or objects.

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And the defense attorney has the right, of course, to cross-examine each of the prosecution witnesses.

After the prosecutor has presented all of her evidence, the defense attorney may then also offer evidence, but again, the emphasis is on the word may, because remember by law the defendant does not have to prove his innocence or to produce any evidence.

But if the defense does call any witnesses, then of course the prosecutor would have a right to cross-examine them.

After all of the evidence has been presented, the prosecutor and the defense lawyer will then give you their closing arguments. And the closing arguments, like the opening statements are not evidence. They are only meant to help you understand how each side sees the evidence and how each side wants you to see the evidence and why.

My responsibilities as the judge in this trial are to make sure the trial is run fairly and efficiently, to make decisions about evidence, and to instruct you about the law that applies to this case.

You must take the law as I give it to you, but nothing I ever say is meant to reflect my

own opinions about the case. As jurors, you are the only ones who will be deciding the case.

Your responsibility as jurors is to decide what the facts of the case are. This is your job and no one else's.

And in doing so, think about all of the evidence and all of the testimony and then decide what each piece of evidence means to you and how important you think it is. And this includes how much you believe what each of the witnesses say. What you decide about any fact in this case is final.

Now, when it's time for you to decide the case you're only allowed to consider the evidence that was admitted in the case.

And evidence includes only the sworn testimony of witnesses and the exhibits admitted into evidence and anything else I might tell you to consider as evidence.

So when I said it's your job to decide what the facts of the case are and to decide what happened, and in doing so you often have to decide which witnesses you believe and how important you think their testimony is.

You don't have to accept or reject

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everything every witness say. You are free to believe all or none or any part of any witnesses testimony.

But in deciding which testimony to believe, rely on your commonsense but set aside any bias or prejudice that you may have based on the race, gender or national origin of the witness.

Now, there's no fixed set of rules for judging whether to believe a witness, but it may help you to think about these factors. Was the witness able to see or hear clearly?

How long was the witness watching or listening?

Was there anything else going on that might have distracted the witness?

Another thing to keep in mind is does the witness seem to have a good memory?

And how does the witness look and act while testifying?

Does the witness seem to be making an honest effort to tell the truth or does the witness seem to be evading questions or arguing with the lawyers?

Does the witness' age or maturity affect how you judge is or her testimony

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Or does the witness have any bias or prejudice or personal interest in how this case is decided?

Have there been an promises, threats, suggestions or other influences that might affect how a witness testified?

In general, does the witness have any special reason to tell the truth or any special reason to lie?

And all in all, how reasonable does the witness' testimony seem to you when you think about all of the other evidence in the case?

Now, the questions the lawyers ask witnesses are not evidence. Only the answers are evidence and you should never think that something is true just because one of the lawyers asked a question that seems to assume or suggest that it's true.

And I may ask questions of witnesses myself. I sometimes do that during jury trials. But if I do, my only reason for doing so would be to clarify a point that I think needs clarification for your benefit or to expand on a point that I think needs a little further amplification.

And during the trial the lawyers may

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object to certain questions or statements made by the other lawyers or witnesses. I will rule on these objections according to the law. But my rulings for or against one side or the other are never meant to reflect my opinions about the case.

And sometimes the lawyers and I will have discussions out of your hearing. And also while you're in the jury room I may have to take care of other matters that have nothing to do with this case. We'll try to keep those kind of interruptions down to a minimum, but when they occur, please pay no attention to them.

When you come back tomorrow you're going to find notepads on your chairs and pens. You may take notes during the trial if you'd like. You don't have to. It's entire up to you.

Some people are big note takers. Some people don't take many notes at all. But we find that note taking sometimes helps some people focus on a witness' testimony and the details of that testimony. But we also don't want you to get so lost in your note taking that you neglect to watch witnesses and observe them and see their manner and appearance and look at what's going on in the courtroom.

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So it's a fine line to walk. You figure it out for yourself how much note taking that you want to do or not do.

We also find sometimes that if there's a dispute that arises among the jury, maybe while you're deliberating and there may -- you know, you may start to have an argument over a -- a fact or a detail. You know did -- did witness A say that it was a blue car or a green car and, you know, it might -- it might not even be an important -- an important fact, but it's enough to cause you to get hung up, you know, in your deliberations.

Well, if you have a note, if -- if a sufficient number of you have a note on that point, then that answers the questions probably.

But -- so the only other thing is we could bring you all out here while you're deliberating and have that witness' testimony read back to you. But read backs are time consuming and intrusive. We can do them if we have to, but note taking sometimes reduces the need for -- for doing that.

So your notes will be your own. Nobody's going to look at them. When the trial is over, one of my deputies will go in there and tear

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all the notes out of the pads and shred them. So you don't have to worry about anybody looking at them. You -- you will not be allowed to take your notes with you, however, anywhere.

When you leave for the day, you'll just leave them behind. And then when you take recesses you'll have to leave them behind as well.

If I call for a recess during the trial, I'll either send you back to the jury room or allow you to leave the courtroom and go on and about your business.

But, again, during those times you're not to discuss the case among yourselves or with anyone else. And don't let anybody talk to you about the case. Sometimes that happens. We don't want anybody trying to talk to you about the case while you're -- while this case is ongoing.

The way this building is designed, unfortunately, it's almost inevitable that you're going to have some contact with the people involved in this case. The lawyers, witnesses, family members on both sides.

Obviously, we don't want those people trying to talk to you. And if anybody involved in the case does try to talk to you about the case, you

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tell them that as a juror, you're not allowed to talk about the case. And if they persist, then you should come back and report that to one of my deputies. It doesn't happen very often, but it can.

And, really, and you shouldn't be talking to any of the people involved in this case, the lawyers or any of the other people, the police officers, the witnesses, the family members about anything at all, even if it has nothing to do with the case.

And the reason we tell you that is because if you were to, you know, maybe ask Ms. Powell what her favorite Greektown restaurant was and somebody saw that conversation from a distance, they might think something funny is going on. So we tell you not to talk to the lawyers or any of the people involved in this case about anything at all, even if it's completely innocent and it has nothing to do with the case.

The lawyers, by the way, are trained in this practice. So they're not going to talk to you. They're going to act like they don't know you. And they're not going to pay any attention to you. They know who you are, but they're just following this instruction.

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So was there any news coverage of this incident?

MS. POWELL-HOROWITZ: In 2013, yes.

THE COURT: A little, yes, back then. Okay. My experience with the news media is they're attention span is pretty short. So there was apparently some news about this case back in 2013 when it happened.

It could suddenly be resurrected. I don't -- there are no news reporters here, obviously. Somebody might be following it. I don't know. Maybe they'll do a story about it tonight on the news. But I don't think that's going to happen. But do not listen to or watch any news reports about this case.

Also, please do not go online. I know you all have handheld devices and they're sitting in your car and they're just waiting for you to get back to your car so you can turn them on.

Well, some of you maybe that are not millennials that doesn't apply to. Even I do that. So don't do that. Don't try to look this case up or try, you know, go online to try to find out anything about the case or lookup legal terms.

The information that you need to use in

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order to reach your verdict must come in open court, when we're all here, when you're all sitting there in the jury box and the lawyers and everybody is here and witnesses are subject to cross-examination. So don't do any independent research about any aspect of this case.

If you find that any of your fellow jurors have disobeyed that instruction, report that to one of my deputies as quickly as you can.

Now, we have chosen a jury of 14, as you can see. At the end of the trial, when you've heard everything, then we'll draw two of you by lot to be designated as alternate jurors, thus forming a jury of 12.

And possible penalty should not influence your decision in this case. It is my duty, as the trial judge, to fix the penalty within the limits provided by law if the defendant is convicted. So the issue of penalty should not be your concern.

After all of the evidence has been presented and the lawyers have given you their closing arguments, then I will give you detailed instructions about the rules of law that apply to this case. Then you will go to the jury room and

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decide on your verdict.

And a verdict, of course, in a criminal case must be unanimous. That means that everyone of you must agree on it and it must reflect the individual decision of each one of you.

And last but not least, it's vitally important that you keep an open mind and not make any decisions about this case until after you've heard everything.

All right. So you're going to go now, except there's one thing I need you to do before you leave, actually. And that is to go in the jury room. There's going to be a clipboard in there, if it isn't there already, it will soon be, for you to sign.

We just need you to sign a roster with your name next to your jury seat number. And it's got 14 lines on it. So Ms. Brooks will sign line one. Write your name and your cell phone number or a number where we can reach you if we have to. And as soon as you get through filling in your line, then you're free to go.

Also, on your way out, one of the deputies is going to give you a badge. Which is a duplicate of a sticker that you're wearing now, but

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it's a more permanent piece of identification. When you leave the building, you don't have to make any other stops after you sign in. You're free to leave the courtroom and leave the building and go on about your business.

When you come in tomorrow morning you don't have to make any other stops either, other than you'll have to go through security. Then you'll come up here to the 5th floor and gather out in front of courtroom 502 and we'll get started as soon as everybody is here.

So please be on time. Remember it's a short day tomorrow, 9:00 to 12:00. And then Thursday will be a more or less full day, 9:00 to 4:00. Friday you'll be off.

Yes.

PROSPECTIVE JUROR 10: I just want to like make sure that there is not going to be any newscasters. I don't want to really put my face out there. I just don't want that whole thing -- my dad is not a good person. He's in prison right now, but I don't know when he's getting out. And I don't want -- I want my privacy respected.

THE COURT: Well, that only makes sense as to what happened. There won't be any cameras

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here, I'm sure. But if they are, they're all trained never to take a picture or a juror or a jury. They do not do that. They might take pictures of me and the lawyers and the defendant, if they were here, yes. But they aren't -- yeah, we would know that ahead of time. So don't worry about it.

PROSPECTIVE JUROR 10: Okay.

THE COURT: Yes, sir.

PROSPECTIVE JUROR 13: Is this -- is this the same schedule next week. It will be short Wednesday and Friday off?

THE COURT: Friday off for sure.

PROSPECTIVE JUROR 13: Next Friday, too?

THE COURT: Yes. That's for sure. The length of the days next week is -- I can't really tell you exactly. But no earlier than 9:00, no later than 4:00. So that's --

PROSPECTIVE JUROR 13: (Interposing) And zero Friday?

THE COURT: I'm sorry?

PROSPECTIVE JUROR 13: And zero Friday.

THE COURT: And zero Friday. You got it. Okay. See you tomorrow at 9:00 a.m. Sign in --

COURT OFFICER: (Interposing) All rise

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for the jury.

You can step in here. Okay. One person is not going to get a badge today. We have --

PROSPECTIVE JUROR 3: (Interposing) Are we allowed to let people know we're on a jury and that's why we can't be at certain places?

THE COURT: Yes. You can say that, just don't talk about the case.

PROSPECTIVE JUROR 3: Understand.

THE COURT: Yes. Thank you.

COURT OFFICER: Everybody step in. You guys knock on the door when everybody has signed the roster and you're ready to go. Okay.

(Whereupon the jury was excused at about 2:00 p.m.)

THE COURT: I -- what do you think about taking lunch and coming back?

MS. POWELL-HOROWITZ: Would you like to -- oh, you want us to argue the motion now?

THE COURT: No. Later. After lunch. I was thinking. Is that okay?

MS. POWELL-HOROWITZ: Whatever the court wants.

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THE COURT: Yes, lets do that. Because these people have been -- it's 2:00 o'clock and they're -- they're entitled to their break. Okay. Well, we're -- we're in recess until 2:00. Okay. No, 3:00, 3:00.

MS. POWELL-HOROWITZ: Okay.

THE COURT: Come back at 3:00. So we'll come back at 3:00 and we can get this done?

MS. POWELL-HOROWITZ: Yes. Can the interpreter be released for the day?

I would just ask that she could talk to one of the witnesses with me very quickly and she's to come back tomorrow morning and we'll be done with her after tomorrow.

THE COURT: Oh, okay. I didn't even notice you back there. Okay. Okay. You're -- are you interpreting -- were you interpreting for somebody back there?

INTERPRETER: No.

THE COURT: No. Okay. You're going to be here for a witness?

MS. POWELL-HOROWITZ: We have two witnesses in the morning that she'll be needed for.

THE COURT: Oh, okay. Okay. So we'll see you tomorrow morning at 9:00. You're -- you're

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going to call those two witnesses first? Those are your --

MS. POWELL-HOROWITZ: Second -- first and third.

THE COURT: Okay.

MS. POWELL-HOROWITZ: They're in the lineup.

THE COURT: Okay. Well, we'll definitely get -- get them in and out of here tomorrow. Okay. Okay. We're done. We're done.

(Whereupon a recess was taken at about 02:00 p.m.)

(Whereupon the proceedings resumed)

COURT CLERK: Calling case number 16-10813, The People of the State of Michigan versus Andrew Michael Czarnecki. The party is here for a jury trial.

Appearances, please.

MS. POWELL-HOROWITZ: Good afternoon, your Honor. May it please the Court, Jamie Powell Horowitz for the People.

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MR. CRIPPS: Good afternoon, your Honor, David Cripps on behalf of Mr. Czarnecki, who is here in court with us.

THE COURT: Okay. I understand there's a couple of pretrial motions. Did -- did either of you file anything in writing?

MR. CRIPPS: Not on this issue, your Honor.

THE COURT: Okay. Okay. How many motions in limine do you have?

MR. CRIPPS: There's really just two.

THE COURT: Both yours?

MR. CRIPPS: There's one that was -- that was argued out before extensively. I'll make reference to it in just a minute.

THE COURT: It was argued extensively?

MR. CRIPPS: Yes. A -- a motion to admit co-defendant's statements.

MS. POWELL-HOROWITZ: Well, why don't we start with jail calls. That's ...

MR. CRIPPS: We'll start with the jail calls.

THE COURT: Okay. Jail calls.

MR. CRIPPS: There's jail calls that were made, allegedly, by my client. I'm sure a

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foundation will be established eventually that they were made by my client.

And during the course of the phone calls, he's talking -- although he's talking to a third party, he's talking about confidential communications that he and I had regarding this case.

THE COURT: And he's telling that to who?

MR. CRIPPS: Third party.

THE COURT: Well, there goes your privilege.

MR. CRIPPS: I understand it's not an exact privilege, but at the same time I would argue to you that the prejudice far outweighs any probative value for the jury to hear, well, my lawyer told me don't worry about the co-defendant's statement to the -- to the police, because that can't come in against you.

I don't think that's -- that's -- that should be heard by the jury. It is a confidential communication between he and I.

And I understand he's talking to a third party when he says that, but how in the world is that relevant for the jury to hear. And it far outweighs the --

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THE COURT: (Interposing) Well, that's a different -- that's a different issue.

MR. CRIPPS: It's far outweighed by -- right. It's more of a balancing on your part as to the -- I don't even see any relevance to it, to be honest with you. And the --

THE COURT: (Interposing) Well, it's sort of -- well, it's circumstantial evidence of a consciousness of guilt, I guess.

MR. CRIPPS: Well, he may be entirely innocent and the co-defendant may be entirely guilty. And so he's worried about what the co-defendant had said to the police being admissible against him at trial.

THE COURT: Well, that's another story. Maybe we should talk about that. Because there is a written motion.

Ms. Powell did file a motion in limine to admit evidence pursuant to People v Taylor. I don't know that case. Of statements made by defendant; Alkotiat, against defendant Czarnecki.

MS. POWELL-HOROWITZ: Those were ruled upon by Judge Cynthia Gray Hathaway over a year ago.

THE COURT: What did she say?

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MS. POWELL-HOROWITZ: That the statements are certainly admissible. They're non testimonial and they fall under People versus Taylor, as well as 804(B)(3), which are statements against penal interest.

MR. CRIPPS: Which -- which are statements -

THE COURT: (Interposing) 804(B)(3)?

MS. POWELL-HOROWITZ: Yes, your Honor.

THE COURT: Well, that's a hearsay exception.

MS. POWELL-HOROWITZ: I'm sorry.

THE COURT: It's got to be 8 oh something?

MS. POWELL-HOROWITZ: Yes. The hearsay exception. Statements against penal interest, 804(B)(3).

THE COURT: Okay, 804(B)(3).

MR. CRIPPS: What -- what we are talking about there are not statements to the police, but those who are admissions back and forth being made by the defendant and co-defendant to a third party.

THE COURT: Oh, his statements to the police would be no -- I mean there's no way.

MS. POWELL-HOROWITZ: Of course not. It

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would never.

THE COURT: You wouldn't even offer those, right. So these are statements that defendant, Alkotiat, made to whom?

MS. POWELL-HOROWITZ: To Robert Bonas.

MR. CRIPPS: Who will be testifying.

MS. POWELL-HOROWITZ: Who will be testifying.

THE COURT: Okay. So --

MS. POWELL-HOROWITZ: (Interposing) Can we -- can we stay with the jail calls, first of all?

THE COURT: Well, yeah, except that it sounds like the jail calls -- you don't think they merge?

MS. POWELL-HOROWITZ: No. The content that Mr. Cripps is complaining about, --

THE COURT: (Interposing) Okay.

MS. POWELL-HOROWITZ: -- this is -- this is the excerpt from the calls. Call number 37, made on January 9th, 2017, shortly after defendant Alkotiat is arrested in New York and has now been extradited back.

THE COURT: So he's already in custody.

MS. POWELL-HOROWITZ: This defendant was in custody. He had already had his preliminary

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exam. In January he's talking to a third party about his co-defendant being apprehended in this case and being sent back.

THE COURT: Okay.

MS. POWELL-HOROWITZ: And the statement is, is the defendant makes a statement regarding Hameer being caught and says, you know, basically whatever he has they can't use it against me. Only as to himself. So he doesn't reference Cripps.

Now why is that all so relevant? Well, first of all 801(B)(2)(a) allowed for anything that a defendant says to be admissible against him. The fact that he may or may not be talking about what Cripps advised him, which he doesn't say in the call, is really irrelevant because that privilege, any privilege that would have existed has been waived because it's -- this information is being spoke to a third party.

THE COURT: Yeah.

MS. POWELL-HOROWITZ: Now, as to relevance of it, obviously the fact that the defendant has now concerned that his co-defendant has been arrested, this is some circumstantial evidence, I infer the defendant has --

THE COURT: (Interposing) Yeah. Yes.

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MS. POWELL-HOROWITZ: It's also relevant, your Honor, because I believe the strategy in this case will be to blame Robert Bonas as a co-defendant. And there's going to be a series of calls where two or three calls admitted where the defendant says nothing about Robert Bonas, but refers to a co-defendant, Mr. Alkotiat and never Bonas as a co-defendant. But Bonas only as a witness. So that's --

THE COURT: (Interposing) Never Bonas as a co perp?

MS. POWELL-HOROWITZ: Exactly.

THE COURT: And -- okay. Well, that kind of a call, Mr. Cripps, is -- I mean, it's a statement by a defendant. And they're almost invariably admissible.

When you say prejudicial, I mean, I'm not sure there is a prejudicial versus probative balance that I have to strike here in -- in deciding about the admissibility of a defendant's statement. Is there? I never heard of that?

MR. CRIPPS: I misinterpreted. I -- I thought the way it came out in the call, I have to listen to it again, is something to the effect that Cripps told me that anything that's said by the co-

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defendant can't be used against my charge. I mean, that was my bigger -- bigger concern, but if I heard that wrong.

MS. POWELL-HOROWITZ: Even if he did say that, it doesn't matter.

THE COURT: Well, I think it would still -- yeah. I think it would still be admissible, because there's no privilege any more.

I mean, if he's telling a third person what your advice to him was, then that's the end of the privilege. But it doesn't really ...

MR. CRIPPS: I -- I just don't see how it's relevant, what advice I give him, if it's just his thinking on it on his own, that's different. But if it's based on advice that he received from me that he's repeating to a third party ...

THE COURT: Well, apparently the call isn't that clear. But if he's worried about Alkotiat, is that how you say his name?

MS. POWELL-HOROWITZ: Alkotiat.

THE COURT: Alkotiat getting arrested in New York and what he might say and he says, well, his statement can't be used against me, that is sort of circumstantial evidence of a consciousness of guilt. And so, yes, I believe that that is

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admissible.

MR. CRIPPS: Yes, your Honor.

THE COURT: So -- so that's that. Now, the -- the motion to admit Alkotiat's statement. He gave a statement to this Bonas, in which he implicated Czarnecki?

MS. POWELL-HOROWITZ: So, your Honor, the testimony in this case and what both judges at the preliminary examination heard, there were two separate examinations held. And then the transcript was read by the Honorable Cynthia Gray Hathaway, who also ruled on this issue after reading the testimony.

What the court is going to hear is that Robert Bonas had a conversation the night of the murder with Mr. Alkotiat and Mr. Czarnecki. And the two of them, at the same time, are talking to him about what has happened, what they've done, how they killed him, where the body is.

And there's also a statement by Moose, Mr. Alkotiat, that they had planned on robbing the victim in this case. In fact, Moose had met the victim about two weeks before and had planned on robbing him for his car.

The testimony then goes into the fact

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that Mr. Czarnecki contacts the victim, asks him to come over to the house on Lola and Wesson. And what happens from there is -- is the killing of Mr. Gavino Rodriguez.

So because the two are talking in tandem and there's that statement that is going to be corroborated by phone records and text messages regarding Moose meeting the victim prior to this, these are statements that are -- they're statements against penal interest, they're non-testimonial, because they were not made while they were in custody.

THE COURT: Right.

MS. POWELL-HOROWITZ: Therefore, they are admissible and the statements can be --

THE COURT: (Interposing) Okay. Now, I'm going to assume that Judge Cynthia Gray Hathaway -- getting a statement in, a co-perpetrator's statement to a witness that implicates another person does involve going through a few hoops in that -- that hearsay exception.

MS. POWELL-HOROWITZ: Which we've already done, your Honor.

THE COURT: But you did that. Okay.

MS. POWELL-HOROWITZ: That's why we filed

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the motions.

THE COURT: All right. Well, if she's already ruled that that's admissible, --

MR. CRIPPS: (Interposing) She has.

THE COURT: Yeah. I'm -- I'm ...

MR. CRIPPS: Jaimie briefed it. I -- I counter briefed it.

THE COURT: I'm kind of bound by that decision, I think. It's a pre-trial --

MS. POWELL-HOROWITZ: (Interposing) Well, it's the law of the case.

THE COURT: Yeah. It's the law of the case. And I think -- I mean, it isn't -- it's not an evidentiary issue that just pops up in the middle of the trial.

MR. CRIPPS: That's why we did it pre-trial.

THE COURT: Yeah. Well, if she's ruled it's admissible, then who am I to argue? Actually, it sounds like she probably made the right decision.

I know that that particular hearsay exception has got a lot of hurdles in it, you know, if -- if somebody wants to get it in. But it's usually -- actually, it's usually offered by the defense when they're trying to prove that somebody

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else admitted that they committed the crime.

Actually, I think that's the way the rule reads when it imposes the hoops. Read me that -- I know the rule, but do you have it in front of you?

MS. POWELL-HOROWITZ: I do. 804(B)(3) hearsay exception statement as penal interest. A statement which was at the time was making so far contrary to the declarant's pecuniary or proprietary interest or so had tended to subject the declarant to civil liability or criminal liability or to render invalid a claim by the declarant against another that is -- that a reasonable person in the declarant's position would not make the statement unless believing it to be true [sic].

People versus Taylor set forth some -- some of those --

THE COURT: (Interposing) But then there's another paragraph. When offered by the defense, I think, is that --

MS. POWELL-HOROWITZ: (Interposing) Let me read it, your Honor.

MR. CRIPPS: While she's looking it up, what I was arguing is there has to be a showing under 804(B)(3) that a declarant's inculpation of an

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accomplice is made in a context of a narrative of events at the declarant's initiative without any prompting or inquiry. There's a questioning --

THE COURT: (Interposing) Is that the case?

MR. CRIPPS: No. That's the court rule. And it's a case out of -- out of People versus D-u-h -- D-h-u-b.

THE COURT: Oh, Dhub.

MR. CRIPPS: Dhub and Pool.

THE COURT: Oh, yeah. I know. Dhub and Pool, famous --

MS. POWELL-HOROWITZ: (Interposing) Pool is not -- this is not testimonial. So the Taylor case controls this, which I'll get into in just a minute.

THE COURT: Well, Dhub and Pool testimony. Of course, I think when Dhub and Pool were decided that was before Crawford.

MR. CRIPPS: Taylor came out after Pool.

MS. POWELL-HOROWITZ: Yes. Taylor actually addresses that Crawford issue. But as to the Court's question, the last part of this was a statement tending to expose a declarant to criminal liability and offered to exculpate the accused is

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not admissible unless corroborative circumstances clearly indicate the trustworthiness of the statement.

THE COURT: Right. And that's not the case here. This isn't being offered by the accused. So --

MS. POWELL-HOROWITZ: (Interposing) No, your Honor. And then I did want to, just for the record, the People versus Taylor case. When we were doing non-testimonial statements, obviously Crawford is not implicated.

Taylor's case is very similar to the case at hand. The factor to consider is whether or not it was made contemporaneously with the events, whether or not the statement was voluntarily given, whether it was made to family or friends or confederates, that is some who declarant is likely to speak the truth, and whether or not it was uttered spontaneously at the initiation of the declarant and without prompting for inquiry of the listener.

So obviously the statements involved in this case are completely covered by the considerations in People versus Taylor.

THE COURT: It sounds like it. Okay.

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MR. CRIPPS: The roadblock that I saw to that is that the co-defendant, Alkotiat's statement were in direct response to questions that were being asked by Robert Bonas, as opposed to a narrative.

And so it was -- there was no indication that the co-defendant was doing that as owned initiative as a narrative, but it was in response to questioning and that's how that came about.

THE COURT: Well, I don't know what Bonas' testimony is going to be. But I assume he -- he testified at the exam?

MS. POWELL-HOROWITZ: Yes. We've already hashed all of this out.

THE COURT: And so all of that was hashed out. Yeah. Well, okay, I think it's a -- it's a sealed issue.

MS. POWELL-HOROWITZ: But I -- I do think that Mr. Cripps did have a motion today regarding the text messages of Mr. Czarnecki and Mr. Alkotiat in this case. These were turned over over a year ago. My position is that they're admissible under 801(B)(2)(a).

The defendant -- this defendant uses Mr. Alkotiat's number, so he self identifies. As he's -- while he's using Mr. Alkotiat's number, Mr.

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Alkotiat and the defendant, Czarnecki, they're texting within seconds of each other.

So they are -- and the context of the conversation with the victim is such that they are together, speaking with the victim.

And, again, this defendant self identifies as texting from Mr. Alkotiat's phone. And, again, the text of Mr Alkotiat, while he's sitting with Mr. Czarnecki and texting again, fall into this statement against -- under this 804(B)(3) statement that tend to inculpate --

THE COURT: (Interposing) That was -- there's been no ruling on that yet, though?

MR. CRIPPS: No.

MS. POWELL-HOROWITZ: No.

MR. CRIPPS: And -- and there's no way she can lay that foundation.

THE COURT: What foundation?

MR. CRIPPS: Mr. Alkotiat is not going to be here to testify that he wasn't doing all the texting himself.

MS. POWELL-HOROWITZ: Well, you can authenticate it -- authenticate the text or even authenticate anything in a multiple of avenues. When somebody texts from a phone and says this is

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Drew, the defendant's name, and then the circumstances are such that although you've testified to it, by Mr. --

THE COURT: (Interposing) Who else would it be?

MR. CRIPPS: No. It's -- it's Alkotiat doing all this texting, directly using my client's name. So that's a foundational requirement that's got to be shown. Not an argument to the jury. And -- and I'm just saying a foundation --

THE COURT: (Interposing) Okay. I need to see that text, I guess.

MS. POWELL-HOROWITZ: I have an extra copy for the Court.

THE COURT: Yeah.

MS. POWELL-HOROWITZ: Let's take it day to day.

MR. CRIPPS: And the phone number that's being utilized, as you'll see on those text messages, is not my client's phone number.

THE COURT: Okay.

MS. POWELL-HOROWITZ: If I may, your Honor. The testimony in this case is going to be that Mr. Bonas had spoke to Mr. Alkotiat about a week before that. This statement is already

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admissible. There's already been a ruling on this regarding Moose, Mr Alkotiat, setting up the victim to be robbed for a Pontiac G6.

So about a week and a half before, we have the phone records from Mr. Alkotiat, we are able to authenticate that number through the circumstances in the case and through phone numbers that were given to us by the witnesses and the defendants in this case.

So what you're going to see, if you look on June 25th, is this corroboration from Bonas' testimony that in fact Alkotiat met the victim about a week and a half before -- a week and a half to two weeks before the murder. As is going to be testified to in this case.

Now, --

MR. CRIPPS: (Interposing) That foundation requires the co-defendant.

MS. POWELL-HOROWITZ: No, it does not. This is the same -- this is the same issue as People versus Taylor. I just want to isolate --

MR. CRIPPS: (Interposing) No --

MS. POWELL-HOROWITZ: (Interposing) Give me a minute, please.

Look at just June 25th. If you look at

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June 25th, there is -- they start at 17:58, military time.

THE COURT: Okay.

MS. POWELL-HOROWITZ: Okay. And there's going to be four -- okay. So it's one through six. These are -- these are all texts that were from Mr. Alkotiat --

MR. CRIPPS: (Interposing) Which page are you referring to?

MS. POWELL-HOROWITZ: We're going to refer to the --

THE COURT: (Interposing) So 313-247-0050 is you think whose phone?

MS. POWELL-HOROWITZ: This is Mr. Alkotiat's phone. This is the number that -- that he uses.

THE COURT: And how do you prove that's his number?

MS. POWELL-HOROWITZ: So this is the number that is -- that belongs to his brother in the case and then --

THE COURT: (Interposing) Do you have phone records that show that?

MS. POWELL-HOROWITZ: I do, yes. It belongs to -- it belongs to the -- to the brother.

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THE COURT: And ...

MS. POWELL-HOROWITZ: I can't remember his name. Give me a minute, Judge.

THE COURT: Okay. So ...

MS. POWELL-HOROWITZ: That -- and, also, your Honor, we were able to authenticate the records from Mr. Bonas.

Mr. Bonas gave us his phone number when he first reported to the police. We pulled his phone records and we were able to go back and he was able to tell us that he was communicating with Czarnecki and Alkotiat at these numbers.

THE COURT: What was Bonas' involvement in this whole thing?

MS. POWELL-HOROWITZ: So Bonas, according to the testimony, comes down to southwest Detroit about nine hours after the victim's phone goes dark. He comes to meet Mr. Czarnecki and Mr. Alkotiat on Renville. They are in possession of the victim's Pontiac G6.

He sees Mr. Czarnecki and Mr. Alkotiat wiping down the handles of the car. And ultimately he takes them to drop off the car.

Before that they go back to the house on Lola and Wesson. They start drinking and smoking

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and Bonas asked Czarnecki why do you have a gash on your arm. And Czarnecki responds, I basically killed a guy for a car.

Bonas and -- and Czarnecki and Alkotiat then begin to tell Bonas that the victim touched Mr. Czarnecki inappropriately tried to grab his dick and that a screwdriver was introduced. They started fighting.

Then Mr. Alkotiat got a chain, wrapped it around the neck of the victim. Put him to the ground. They kicked, stomped, and then --

THE COURT: (Interposing) So Bonas is going to testify that they said all this to him?

MS. POWELL-HOROWITZ: Oh, yes. Yeah.

THE COURT: Yeah. So now the text -- the first text at 5:58 pm is from Moose.

MS. POWELL-HOROWITZ: Yes.

THE COURT: And the message is to Gavino Rodriguez. He's the complainant, right?

MS. POWELL-HOROWITZ: Yes.

THE COURT: The deceased.

MS. POWELL-HOROWITZ: Yes.

THE COURT: And the message is simply Moose.

MS. POWELL-HOROWITZ: Yes. Texting this

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is my number. Moose.

MR. CRIPPS: Can we stop right there. How do we prove that?

THE COURT: Prove what?

MR. CRIPPS: That that, in fact, who was using the phone.

MS. POWELL-HOROWITZ: You authenticate the number by the number that this was used to contact Mr Alkotiat.

THE COURT: Yeah.

MS. POWELL-HOROWITZ: And he says it's Moose. He says, I --

THE COURT: (Interposing) He can say -- he can say what number he customarily used to call Moose.

MR. CRIPPS: This is his brother's phone. We don't know who's using it.

MS. POWELL-HOROWITZ: Well, anybody can use anybody's phone.

THE COURT: Well, Bonas --

MS. POWELL-HOROWITZ: (Interposing) You can get a phone in anyone's name.

THE COURT: If Bonas testifies that that's the number he used to call and text Moose, I -- I mean, I don't know if he's going to say that.

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MR. CRIPPS: But you can't -- you can't rely on that that in fact Moose is using that phone for these texts for a foundation for the text messages.

MS. POWELL-HOROWITZ: But Moose says it's him using this phone. So that's -- that's an issue for cross-examination --

MR. CRIPPS: (Interposing) Moose is not testifying in this case.

MS. POWELL-HOROWITZ: It doesn't matter, because it's admissible under 804(B)(3).

THE COURT: Well, this is before the murder, obviously. So is that --

MS. POWELL-HOROWITZ: (Interposing) And you're going to -- you're going to hear the testimony from Mr. Bonas that a week and a half to two weeks before that Moose stated that he met Gavino Rodriguez and that they were going to plan to rob him for his car. This actually corroborates that --

MR. CRIPPS: (Interposing) And -- excuse me --

MS. POWELL-HOROWITZ: (Interposing) Wait. I'm not done. I'm not done.

MR. CRIPPS: But it's misleading to the

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Judge.

MS. POWELL-HOROWITZ: I'm not done.

MR. CRIPPS: It's not Moose, it's Moose and Mr. Bonas who have that discussion. Not my client.

MS. POWELL-HOROWITZ: No, no, no.

MR. CRIPPS: That's what he testified --

MS. POWELL-HOROWITZ: (Interposing) Yes, it's already -- it's already been ruled upon that that -- that conversation is admissible.

MR. CRIPPS: No, I'm not saying that. But he's referring -- he's not referring to my client, he's referring to Bonas. Mr. Bonas.

THE COURT: He who, Moose?

MS. POWELL-HOROWITZ: No. Bonas never had any contact with the victim in this case. There's -- there's no contact ever between the victim and Mr. Bonas.

MR. CRIPPS: No. See this is -- this is in dispute here. Because the way he testified before, in fact it was Moose is the one who told Mr. Bonas about these plans that he had before it happened.

MS. POWELL-HOROWITZ: Okay. So this is why it's important -

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MR. CRIPPS: (Interposing) And my client wasn't even present at that time.

MS. POWELL-HOROWITZ: So this is why it's -- this is why it's important, your Honor. So we're going to start with Moose's text, right, which is going to be -- which is going to corroborate Mr. Bonas' testimony regarding this plot. And there is also -- there's also going to be testimony that the day of that it is defendant Czarnecki that invited him over to rob him.

So we start two weeks and if you look at the text messages --

THE COURT: (Interposing) Czarnecki invited the complainant over?

MS. POWELL-HOROWITZ: Yes. And the victim's cell phone, his last call is in the area of Lola and Wesson and he's also texting defendant Czarnecki the day that he disappears.

So going back to June 25th, this corroborates with what Bonas says regarding this plan. That they meet this victim and they plan on robbing.

Now, if you go through these text messages you're going to see eventually that Drew takes the phone, because these are all within

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seconds within each other. Second after second. There's texts, texts, texts, back and forth, back and forth. And then Drew picks up the phone and says, it's Drew.

And what you're going to see here is -- is Drew. What you're going to see here is Drew actually flirting with Mr. -- Mr. Rodriguez. And indicating that they should get together and they should get to know each other a little bit better.

Which is consistent with Mr. Bonas' testimony that they -- there was a plan here. That they had -- they had worked together to conspire to rob this victim.

THE COURT: Okay. Let me -- I'm going to read through this.

MR. CRIPPS: The point -- the point here, Judge, isn't the contents of the text. The point is there's no foundation that can be laid for any of that.

MS. POWELL-HOROWITZ: The foundation is not --

MR. CRIPPS: (Interposing) And, in fact, it's my client doing the texting when it's a phone not -- not --

MS. POWELL-HOROWITZ: (Interposing) He

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says it's Drew.

THE COURT: Okay.

MR. CRIPPS: So what. Anybody can say it's Drew coming from a cell phone.

THE COURT: Okay. You can say that. But then how would they ever be able to lay any kind of a foundation?

MR. CRIPPS: By -- by one of the persons sitting -- saying I was with Drew and he was texting at that point in time under that phone saying it's Drew.

MS. POWELL-HOROWITZ: Drew is saying he's with him. And he's also referencing an area that he frequents.

THE COURT: Well, how would the witness to that know what phone he's using. I mean there's so many -- you -- you know I think a lot of this goes maybe to weight rather than admissibility. But I -- I've got to look at these texts and figure out if they're circumstantial evidence in the content that points us to who's doing the communicating. And that may be.

MR. CRIPPS: I agree with that. The problem --

MS. POWELL-HOROWITZ: (Interposing) But

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the relevance is --

MR. CRIPPS: -- here, Judge, those phone numbers are not my client's phone numbers.

MS. POWELL-HOROWITZ: It doesn't matter. We have to be able to lay a foundation that he was using it and we can show that he was sitting with Moose, within seconds, picked it up, says it's Drew, and he's also giving information about where he lives and where he hangs out, which is information known to us where he lives and hangs out.

THE COURT: Yeah. That only he would have.

MR. CRIPPS: But you can't use that content of the text messages to lay a foundation and that's what she's trying to do.

MS. POWELL-HOROWITZ: Of course we can.

THE COURT: Sure you can.

MS. POWELL-HOROWITZ: Of course you can.

MR. CRIPPS: Anybody can say I'm Drew. This is Drew.

MS. POWELL-HOROWITZ: So that's a weight on admissibility argument.

THE COURT: Well, yeah. But there's more than just that, according to -- well, wait. I've got to read these. But if -- if there's -- yes, I

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can use the content. I've got -- I've got the content right here in front of me.

I can look at the content and say that it provides circumstantial evidence supporting the foundation or not. I mean, as long as it's not admitted first, then certainly I can use content and circumstantial evidence for foundation. I mean I don't know how else anybody would do it in a -- in a case like this.

MR. CRIPPS: Well, --

THE COURT: (Interposing) And, yes, you're right. Anybody could have -- I mean, I -- I don't know what the -- how the People are going to prove that this phone number is Moose's brother's phone. I mean, I don't know.

MS. POWELL-HOROWITZ: Well, he says it's Moose texting.

THE COURT: Yeah. He says --

MS. POWELL-HOROWITZ: (Interposing) He self identifies.

THE COURT: Yeah.

MR. CRIPPS: We're back to the content. See, it's not my client's phone. That's the problem I'm having with it.

THE COURT: Well, why would somebody else

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identify himself as your client? This is before the murder.

MR. CRIPPS: Because we've already got Mr. Bonas, who -- who really probably committed this offense. His fingerprints are on the murder weapon. One of the weapons used to kill him.

MS. POWELL-HOROWITZ: That's just not true.

MR. CRIPPS: It's on this -- he's --

MS. POWELL-HOROWITZ: (Interposing) It's not true.

MR. CRIPPS: He thinks they are.

MS. POWELL-HOROWITZ: Mr. Bonas -- the testimony at the exam is that when Mr. Czarnecki showed him the metal rim that he used to bludgeon the victim in this case, that he was surprised and that he took it and thought, what is going on here and then gave it back.

MR. CRIPPS: That's why he went to the police. He knew his finger -- he thought his fingerprints would be on the weapon that was used and on the car that was taken. And he's with -- with Moose --

THE COURT: (Interposing) Well, was his fingerprint found on the murder weapon?

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MS. POWELL-HOROWITZ: No. The murder weapon was never found.

MR. CRIPPS: He thought it was. That's the import here.

MS. POWELL-HOROWITZ: No, he was upset.

THE COURT: Well, --

MS. POWELL-HOROWITZ: (Interposing) He didn't want to be implicated.

THE COURT: Well, you know, you can cross-examine him on that, I guess. But I will -- I'll look at the text. But, yes, of course content is going to be important in -- in circumstantial evidence and foundation.

And then if -- if the People can prove that this phone is the defendant's brother's phone, --

MR. CRIPPS: (Interposing) The co-defendant's brother's phone. Not my defendant.

THE COURT: The co-defendant. Okay. So it's -- I mean, I'm sorry. Moose's brother -- Moose is the co-perp.

MR. CRIPPS: Right.

THE COURT: So that's Moose's brother's phone that Moose has -- his brother is not going to testify, I assume?

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MS. POWELL-HOROWITZ: No.

THE COURT: If there is circumstantial evidence in the content of the text that Moose and/or the defendant are using that phone or planning things together, and this is all before the murder, what's the likelihood that some other -- some other person is identifying themself as the defendant and why would they do that? I mean, why would somebody -- this is before the murder.

MR. CRIPPS: Just maybe he knew that my client had some kind of prior relationship with him -- with the deceased and they're using that to bait him in. There's a lot of different reasons.

MS. POWELL-HOROWITZ: Well, Drew, in his statement --

MR. CRIPPS: Other than the fact that my -- my client made the statement.

MS. POWELL-HOROWITZ: Well, Andrew Czarnecki, in his statement, denies knowing Gavino Rodriguez, so it's highly relevant that he's texting and communicating with this victim that he says he doesn't know who this person is.

THE COURT: He says he doesn't know who he is. Well, okay. Let me take a look at it. I'll give you a ruling tomorrow before you make your

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opening statement.

MR. CRIPPS: Okay. The other -- other motions are real quick.

It's my understanding that -- that my client's interrogation record that was made when he made a statement to the police is going to be introduced into evidence. And he has the phone number of 778-5322, which you'll probably -- you may see in there, --

THE COURT: (Interposing) That's the phone number he gave?

MS. POWELL-HOROWITZ: Yes. They're also in the text messages.

THE COURT: Okay.

MR. CRIPPS: And my concern has to do with there's some information written down by the officer in charge that the jury probably shouldn't know about. Which is that my client's on probation. And to a Ms. Thomas at a Lasher and Grand River location. That's on page two.

THE COURT: Okay.

MS. POWELL-HOROWITZ: We'll redact.

MR. CRIPPS: Also he has -- says he has two prior arrests and one prior conviction. That probably should be redacted, too.

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MS. POWELL-HOROWITZ: We'll redact.

THE COURT: Okay.

MR. CRIPPS: And the fact that he -- he uses marijuana.

MS. POWELL-HOROWITZ: Well, he talks about that a lot in his statement.

THE COURT: Well, I was going to say, probably not relevant. Although I can imagine the circumstance where it might become relevant. It's not very prejudicial. Especially after the election last week.

MR. CRIPPS: Well, it's not. But the other -- other stuff is, his prior record.

THE COURT: Yeah. She'll redact that, right?

MS. POWELL-HOROWITZ: Yes.

MR. CRIPPS: Thank you.

THE COURT: All right. I'll take a look at this and we'll see you tomorrow.

MR. CRIPPS: Thank you, your Honor.

THE COURT: I want to get started at 9:00, if humanly possible.

MR. CRIPPS: Yes.

THE COURT: So we'll get -- get through a -- get a solid three hours of work.

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MR. CRIPPS: Thank you, your Honor.

MS. POWELL-HOROWITZ: I have a quick lineup. Thank you.

THE COURT: Okay. And we're done.

(Proceedings concluded)

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REPORTER'S CERTIFICATE

STATE OF MICHIGAN)
)SS
COUNTY OF WAYNE)

I, RICHARD JOSEPHS, CSR-2345, Certified Shorthand Reporter, acting in and for the Third Judicial Circuit, Criminal Division, Wayne County, State of Michigan, do hereby certify that the foregoing pages 1 through 266, inclusive, were reduced to typewritten form and comprise a true rendition of the proceedings taken in the matter of the People of the State of Michigan versus Andrew Michael Czarnecki, as reported by Official Court Reporter, Sherry Scott, CSMR-4640.

/S/Richard Josephs

RICHARD JOSEPHS, CMRS, RPR, CSR2345
Certified Manager of Reporting Services
Registered Professional Reporter
Certified Shorthand Reporter

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STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

CRIMINAL DIVISION

THE PEOPLE OF THE STATE OF MICHIGAN,

vs Case No. 16-010813-01-FC

ANDREW MICHAEL CZARNECKI,

Defendant.

_____/

PRETRIAL HEARING

BEFORE THE HONORABLE CYNTHIA GRAY HATHAWAY, CIRCUIT JUDGE,

Detroit, Michigan - Friday, April 13, 2018

APPEARANCES:

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None.	

WITNESSES: DEFENDANT	
None.	

EXHIBITS:	IDENTIFIED	ADMITTED
None.		

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Detroit, Michigan

Friday, April 13, 2018

11:14 a.m.

-- --- --

THE CLERK: Calling case 16-010813, the People versus Andrew Czarnecki, pretrial, and 17-004516, the People versus Hameer Alkotiat, scheduled for a competency hearing.

MS. POWELL HOROWITZ: Good morning, your Honor.

May it please the Court, Jaimie Powell Horowitz for the People.

MR. CRIPPS: Good morning, Judge.

David Cripps on behalf of Andrew Michael Czarnecki who is standing to my right.

MS. DIALLO: Judge, good morning to you and your staff.

Lillian Diallo on behalf of Mr. Alkotiat who is present to my right.

Your Honor, I am in receipt of a competency report where my client is competent. I am trying to forward such to Ms. Powell. I thought I had dropped her a copy off from Dr. Miller. I'm doing it right now. He's competent, though.

MS. POWELL HOROWITZ: And there was a previous report from the forensic center and he was determined

competent by the doctor at the forensic center. I would ask the Court to make a finding that the Defendant is indeed competent to stand trial.

THE COURT: All right. Motion granted.

MS. DIALLO: Thank you.

THE COURT: Now what do we need?

MS. DIALLO: Asking for a trial date. My client has executed a waiver in this matter and madam prosecutor has signed off of it.

MS. POWELL HOROWITZ: That is correct?

THE COURT: I need Mr. Alkotiat to come forward and be sworn.

THE CLERK: Sir, do you solemnly swear or affirm that the testimony you are giving today before this Court will be the truth, the whole truth, and nothing but the truth, so help you God?

DEFENDANT ALKOTIAT: Yes.

DEPUTY SHERIFF: Put your hand down.

THE COURT: Good morning, Mr. Alkotiat.

DEFENDANT ALKOTIAT: Yes.

THE COURT: Do you speak English well enough to understand me?

DEFENDANT ALKOTIAT: Yes. Yes.

THE COURT: Okay. Is this your signature on the waiver of trial by jury form?

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DEFENDANT ALKOTIAT: Yes.

THE COURT: That signature --

MS. DIALLO: Judge, may I see that, please.

THE COURT: Wrong place.

MS. DIALLO: Yes.

THE COURT: The record should reflect that the Defendant is signing the waiver of trial by jury form.

MS. DIALLO: Thank you so much, Judge.

THE COURT: All right. Your signature indicates that you know that you have a right to be tried by twelve citizens, that those twelve citizens could decide if you were guilty or not. Do you know you have that right?

DEFENDANT ALKOTIAT: Yes.

THE COURT: All right. And those twelve citizens are called a jury. So you have a right to be tried by that jury, do you know that?

DEFENDANT ALKOTIAT: Yes.

THE COURT: Your signature further indicates that you don't want to be tried by the twelve citizens, you want to be tried by one person, the Judge. Is that what you want?

DEFENDANT ALKOTIAT: Yes.

THE COURT: All right. And you know that the Judge is going to decide everything, the legal issues, the

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factual issues, what happened, and decide if you are guilty or not. You know that the Judge will do all of that. Do you understand that?

DEFENDANT ALKOTIAT: Yes.

THE COURT: And is that what you want?

DEFENDANT ALKOTIAT: Yes.

THE COURT: Has anybody promised you anything or done anything to you to cause you to give up your right to be tried by the twelve citizens?

DEFENDANT ALKOTIAT: No.

THE COURT: Has anybody promised you anything, threatened you or used any influence against you or told you about how this Court may rule in this case? No promises have been made to you, right?

DEFENDANT ALKOTIAT: No.

THE COURT: And you know that the Judge does not know anything about what the verdict is going to be. It is going to depend on the credible evidence and the law that applies to it. Do you know that?

DEFENDANT ALKOTIAT: Yes.

THE COURT: Have you discussed this matter thoroughly with your attorney Ms. Diallo?

DEFENDANT ALKOTIAT: Yes.

THE COURT: Is it your decision and your decision only to give up your right to be tried by the

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twelve citizens?

DEFENDANT ALKOTIAT: Yes.

THE COURT: Any objection from the People?

MS. POWELL HOROWITZ: No, your Honor.

THE COURT: All right. The Court will accept the waiver as knowingly and voluntarily made.

MS. POWELL HOROWITZ: Your Honor, I don't know if I need to make a separate request but all of the witnesses in this case are the same but for the statements that the two Defendants made.

I do need to order an interpreter and I want to make sure that we were going to have an interpreter available.

THE COURT: Okay. And I don't have a trial date yet, right?

MS. POWELL HOROWITZ: We do not, your Honor.

MS. DIALLO: Correct.

MS. POWELL HOROWITZ: I do expect, it is a very lengthy case. We do have interpreters for the majority of the civilian witnesses. We had experts, we had to employ experts to identify the body in this case because of its extremely deteriorated state. That witness does have to come in from out-of-state. I do expect about 25 witnesses.

THE COURT: June 11th?

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MS. POWELL HOROWITZ: June 11th is good for the People, your Honor.

MS. DIALLO: That's fine, Judge.

MS. POWELL HOROWITZ: Judge, your Honor, I do have a flight leaving on the 18th.

MS. DIALLO: Of June?

MS. POWELL HOROWITZ: Yes, to visit my parents in South Carolina, the 18th through the 22nd but if we do work full days I do believe we can get it done.

THE COURT: We can start June 6th or 7th.

MS. POWELL HOROWITZ: I would love that, your Honor.

MS. DIALLO: If we do the 6th, Judge, I am supposed to be in trial with Judge Ramsey on the 4th, it really should be over and then on the 7th I have a federal court matter in Port Huron in front of Judge Cleveland. It doesn't take him long. So that's fine.

MS. POWELL HOROWITZ: Starting on the 6th, your Honor?

THE COURT: What about the codefendant?

MR. CRIPPS: No, I'm not available.

THE COURT: June 6th or 7th?

MR. CRIPPS: No. I have a murder trial.

THE COURT: Are we going to try them separately.

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MS. POWELL HOROWITZ: No, your Honor. Again, it's 25 witnesses. We do have to bring in witnesses from out-of-state. And all of the evidence is the same but for the statements of the Defendant so it really does not make sense to take four weeks out of the Court's schedule to do this twice.

THE COURT: Well, I have the two weeks available from the 11th through the 22nd but you are saying that you won't be here the week of the 18th, right?

MS. POWELL HOROWITZ: That's correct, your Honor. I can try to move my flight if the Court can guaranty that this will be going.

THE COURT: I can guaranty it because they are older than probably anything else on my docket right now.

MS. POWELL HOROWITZ: That's correct.

THE COURT: Mr. Cripps, what about you on June 11th?

MR. CRIPPS: I have a jury trial, murder case starting on June 11th in front of Judge Van Houten. That Defendant is on bond but it is set for trial that date.

THE COURT: What about July 61th?

MS. DIALLO: Well, Judge, if it's July the 16th, I will, once again, accommodate the Court.

I do want the Court to be aware that I do have next Tuesday a meeting with Judge Edmonds in federal

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court. We have a scheduling meeting. We had a trial that was supposed to begin on the 25th. It was supposed to only go two weeks, they think it will go four weeks. But I will do my best to work around everything, Judge, to get this case done. So, yes.

MS. POWELL HOROWITZ: Your Honor, I do have my family vacation the 23rd and 24th. If we started on the 16th -- we were supposed to leave on the 20th. It took us a year to get these reservations up north.

THE COURT: It does not look like one week will be enough for this trial.

MS. DIALLO: It will not.

THE COURT: Not with that many witnesses. I am trying to find a place where I have two weeks.

MS. DIALLO: As you can see, your Honor, I'm doing my best to accommodate the Court.

MS. POWELL HOROWITZ: Could we start on July 30th?

THE COURT: Yes.

MS. DIALLO: No, Judge, because I have Judge Ramsey in a homicide trial, although my client is out on bond, so, yes, Judge, we'll have somebody make some calls. I'm sure Judge Ramsey will be a little upset but this is justice right here.

MS. POWELL HOROWITZ: Are you available July

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30th?

MR. CRIPPS: I have a trial starting the 23rd in front of Judge Thomas Hathaway. I don't know if we'll be done. If we're done, I can start.

MS. DIALLO: I'm with you, Judge, whatever you say. Every date is fine with me. And I have a very heavy trial schedule.

THE COURT: We have to try the case. We're talking about two weeks. And the latest that I am will to go on this is July 30th. So we have to find two weeks. And I can tell you right now it will not be the week of July 2nd because I won't be here.

MR. CRIPPS: That makes sense, that's a short week.

MS. POWELL HOROWITZ: May we start on July 30th, Judge?

MR. CRIPPS: As soon as I finish my trial I'll come right to your courtroom.

THE COURT: July 30th.

MS. DIALLO: Okay, Judge. I might need a little back up for Judge Ramsey.

MS. POWELL HOROWITZ: Your Honor, should we come back for a status conference and see if anyone's cases have pled -- I apologize, I'll stop right there.

MR. CRIPPS: Give us manslaughter.

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MS. POWELL HOROWITZ: Your Honor, this case has been going on for a while. There was an offer of 28 to 40, murder two as to Czarnecki. I just wanted to make sure he had rejected that on the record, Mr. Cripps?

MR. CRIPPS: Yes, Mr. Czarnecki, can you stand up, please.

Do you understand that Ms. Powell, the prosecutor, has just made an offer to you that was made earlier but we'll put it again on the record, of a charge reduction from first degree murder down to second degree murder with a sentence agreement of 28 years to 40 years?

DEFENDANT CZARNECKI: I disagree with that.

MR. CRIPPS: No, do you understand that offer, though?

DEFENDANT CZARNECKI: Yes.

MR. CRIPPS: You disagree with wanting to take it; is that correct?

DEFENDANT CZARNECKI: Yes.

MR. CRIPPS: But do you understand what the offer is?

DEFENDANT CZARNECKI: Yes.

MR. CRIPPS: And your answer to that offer is?

DEFENDANT CZARNECKI: No.

MS. POWELL HOROWITZ: And for the record there have been no offers made to Mr. Alkotiat.

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MS. DIALLO: That is correct.

THE COURT: Okay. So we're definitely at this point going to trial; is that right?

MS. DIALLO: Yes, ma'am.

MS. POWELL HOROWITZ: Yes, your Honor.

THE COURT: Okay.

MS. POWELL HOROWITZ: And as to the interpreter, the interpreter will be Mexican speaking.

And the Court will order the interpreter to be present on the 30th?

THE COURT: Yes.

MS. POWELL HOROWITZ: Spanish speaking Mexican.

THE COURT: I'm not going to schedule a pretrial. If you guys resolve anything, you can come back or if you have any special issues you can come back.

MS. DIALLO: Thank you.

MR. CRIPPS: Thank you, your Honor.

MS. POWELL HOROWITZ: Thank you.

(Record concluded at 11:28 a.m.)

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R E P O R T E R ' S C E R T I F I C A T E

I do hereby certify that I have recorded stenographically the proceedings had and testimony taken in the above-entitled matter at the time and place hereinbefore set forth, and that the foregoing is a full, true, and correct transcript of proceedings had in the above-entitled matter; and I do further certify that the foregoing transcript has been prepared by me, or under my direction.

_____

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Dated: