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Case No.....:	003047
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3047-09T2

SUPERIOR COURT OF NEW JERSEY
CRIMINAL DIVISION - MIDDLESEX COUNTY
INDICTMENT NO. 07-10-1579
APP. DIV. DOCKET NO. A-3047-09-T2

STATE OF NEW JERSEY,

Complainant,

vs.

FILED
APPELLATE DIVISION

Transcript of Proceedings
(Jury Selection)

PABLO MACHADO, **OCT 29 2010**

Defendant

(With An Interpreter)

[Signature]
CLERK

Place: Middlesex County Courthouse
56 Paterson Street
New Brunswick, N.J. 08903

Date: DECEMBER 15, 2008

B E F O R E:

THE HONORABLE BARBARA STOLTE, J.S.C., and a Jury

TRANSCRIPT ORDERED BY: STEPHEN KIRSCH, ESQ., A.D.P.D.
(Designated Counsel Section)

A P P E A R A N C E S:

MANUEL SAMEIRO, ESQ.
Middlesex County Assistant Prosecutor
Attorney for the State

DANIEL GONZALEZ, ESQ.
(Perez & Gonzalez)
Attorney for the Defendant

RECEIVED
APPELLATE DIVISION
OCT 29 2010
SUPERIOR COURT
OF NEW JERSEY

Georgeann Crowell, C.C.R.
Official Court Reporter
Middlesex County Courthouse
P.O. Box 964
New Brunswick, New Jersey



1 (Whereupon, the following hearing took place
2 with the use of a Spanish Interpreter.)

3 (Whereupon, the following discussion occurred
4 outside the presence of the prospective jury panel.)

5 THE COURT: Good morning, everyone. I just
6 wanted to -- before I let them know -- regarding the
7 time of trial -- it's hard -- I don't know if we'll get
8 the jury picked today. Obviously, a portion of this
9 trial -- two days -- I mean, you have witnesses --

10 MR. SAMEIRO: Judge, good morning. First of
11 all, Manuel Sameiro, for the State. Mr. Gonzalez and I
12 were discussing this briefly before your Honor got out.
13 I should be able to put in my case tomorrow, if we
14 start at nine. I'm expecting to call three witnesses.
15 Not more than that. There are a lot more on the
16 witness list. We can discuss evidential issues after
17 the jury is selected.

18 I don't want to waste any time now. There
19 are a couple things I do -- I wanted to put on the
20 record before I begin. But I expect, if we start at
21 nine tomorrow, I would ask your Honor to start
22 tomorrow, not today, given my victim's work schedule.
23 I did not want to have him miss more than one day of
24 work. He is on call for this afternoon, if your Honor
25 overrules my request. But I prefer to call him

1 tomorrow. Then finish the case after we present the
2 three witnesses that we intend to call.

3 THE COURT: Okay, Counsel.

4 MR. SAMEIRO: And in answer to the question,
5 we can be done by Thursday.

6 THE COURT: Okay.

7 MR. SAMEIRO: Unless the jury takes a lot of
8 time.

9 THE COURT: All right. We should be done by
10 Thursday. If not -- We should close probably Thursday
11 morning. What I'm thinking, I will probably tell them,
12 you should be getting the case at the latest on
13 Thursday. Which means, we have to schedule Thursday to
14 be here. Potentially, Friday. We have no control over
15 their deliberations. So, this way, we're done this
16 week.

17 MR. SAMEIRO: As far as scheduling is
18 concerned, I have a closing on my home, that my wife
19 and I are buying, on December 23rd. I would prefer to
20 have that day off, since the home is in Hunterdon. The
21 walk-through needs to be done. A lot of stuff needs to
22 be done. My attorney has not yet told me what time the
23 closing is going to take place, what time during the
24 day.

25 THE COURT: Right. December 23rd. That's



1 next week. I am hoping to have this done by Friday.

2 MR. SAMEIRO: Right. I just say that in the
3 abundance of caution.

4 THE COURT: Okay. That is fine.

5 MR. SAMEIRO: That may impact on what you
6 tell the jury. That is the only reason why I say that
7 now.

8 THE COURT: I will let them know. Something
9 along the lines, if, in fact, that we don't finish on
10 Friday, if we went into next week, we wouldn't be here
11 on Tuesday. That's what I'll do. A lot of it is
12 depending upon them.

13 MR. SAMEIRO: Right.

14 THE COURT: All right. Other than that,
15 we're ready to go?

16 MR. SAMEIRO: Ready to go.

17 MR. GONZALEZ: I think I only issue was, I
18 think I spoke to Mr. Sameiro. I did a follow-up with
19 Officer Bobadilla Thursday and Friday. Left messages
20 with the Sergeant. Also, left messages with the
21 Captain. Indicating he had to honor the subpoena that
22 was given to him prior to trial. I haven't heard back
23 from him -- Officer Bobadilla. I'm told by Mr. Sameiro
24 that he is currently working.

25 It shouldn't be an issue. But should I need

1 your Honor to order him to be here, if he decides that
2 he doesn't want to show up for any reason, I don't
3 think he should -- he is just across the street -- but
4 what was indicated to me -- when I called on Thursday,
5 was he was hurt still. Mr. Sameiro indicates, he is
6 not hurt.

7 MR. SAMEIRO: I didn't say that. I said he's
8 working. I do happen to know that he is on light duty.
9 His medical status was -- he is off -- despite the
10 information -- he would be back working -- I've been
11 told he is behind the desk, not on the road. For the
12 record, he was on bike patrol, and fell, and tore some
13 ligaments in his knee. And that was the nature of his
14 injury.

15 Judge, I don't know if Mr. Gonzalez is
16 finished with that issue. But I did submit to the
17 Court by e-mail today, a witness list, a potential
18 witness list, with my proposed summary of the case. I
19 don't know if Mr. Gonzalez wants to object to this. I
20 have not gotten from him a defense version of the
21 incident. And I don't have any additional witnesses
22 from him. I guess, since we just discussed Officer
23 Bobadilla, I would expect he would be the only person
24 that he'll call. I have no additional witnesses from
25 the defense.



1 MR. GONZALEZ: Judge, there is no additional
2 witnesses. With regard to the blurb submitted by the
3 State, naturally I object to it. I would only ask,
4 Judge, that your Honor do the easiest version, it is
5 alleged that on April 24, 2007, that Mr. Machado
6 committed a robbery of Mr. Cedillo, in the City of New
7 Brunswick. And he pleads not guilty to all the charges
8 alleged in this Indictment. The most basic items. The
9 State is getting into some facts, in this blurb, I
10 think it is too much. Naturally, I think it should be
11 neutral.

12 THE COURT: All right. Here is the proposed
13 information that the State has submitted. On April 24,
14 2007, Wilmer Cedillo was robbed at gunpoint. Again, I
15 will indicate that the State alleges that on April 24,
16 2007, Mr. Cedillo was robbed at gunpoint by the
17 defendant and others. Mr. Cedillo was operating a
18 taxicab in the City of New Brunswick.

19 I don't think there is anything wrong with
20 that. I think it is pretty basic. It gives the idea,
21 where it occurred, that kind of information. On or
22 about July 25, 2007, Mr. Cedillo recognized the
23 defendant from a photo line-up procedure, which was
24 videotaped at New Brunswick headquarters. In addition
25 to the out-of-court identification, the defendant has

1 been linked to the crime through his telephone records
2 and address information, which you will hear more about
3 during this case.

4 I mean, my purpose, first of all, is just
5 giving them general information. Just that it's an
6 allegation. The more you put in, the more that has to
7 be proven. I always caution the State as to what they
8 want to put in.

9 MR. SAMEIRO: I ask the Court to give them
10 this anyway. There is clearly going to be a videotape
11 that we're going to see.

12 THE COURT: I would assume that prior, we
13 will hear information regarding the telephone records
14 and address information.

15 MR. SAMEIRO: Which I wanted to discuss after
16 jury selection. It's my intent to sanitize the
17 information that the police had on file. That the
18 defendant was previously arrested, and his address and
19 information, his telephone information, was recorded.
20 It's that information that we can link him to the
21 events, notwithstanding the photo array.

22 Just so the Court understands, what I'm
23 trying to say here, put in context, the very telephone
24 number on file, that the police had, was used to call
25 the taxi in this case. The taxicab kept it. They had



1 it in their caller ID. And that, obviously, was a
2 piece of information, that the police utilized when
3 they put the photo array together.

4 Because this defendant's address information,
5 including his telephone number, is the very same
6 ten-digit telephone number. That it turns out that the
7 incident took place in front of the defendant's last
8 known address, which also is recorded in the arrest
9 report from the prior episode. And I don't remember
10 the name of the street off the top of my head. But it
11 was 400 Lee Avenue, I believe.

12 I not only have a defendant, who is
13 identified by the victim, through a photo line-up. But
14 I have the crime scene taking place right in front of
15 the defendant's last known address. And the cab being
16 called with the phone number that the defendant had
17 prior to this episode, which the police recorded.

18 THE COURT: Okay.

19 MR. SAMEIRO: That's the context, Judge. I
20 intend to ask my officers leading questions, so, that
21 it's not disclosed to the jury that we had the
22 information because of the arrest. Your Honor could
23 give an instruction, similar to a mug photo charge,
24 where you could say, the police obtain photographs from
25 a variety of sources, like driver's license

1 information, or passports.

2 You could say the same thing about this
3 information. Telling them that the police come into
4 possession of the information, because witnesses report
5 crimes, or witnesses are asked questions. And we could
6 deal with that. But, again, I'm entitled to this
7 information. It's going to be part of the case. And
8 that's why I think it's important in the summary of the
9 facts. Because the jury needs to understand, if we're
10 going to give them a summary, to lead them along the
11 right path, it is really an identification case.

12 If Counsel doesn't see it that way, he can
13 explain his position to the Court. I see this as an
14 identification case. So, my summary was intended to
15 frame the issues along those lines. Thank you.

16 MR. GONZALEZ: I think Mr. Sameiro is putting
17 the cart before the horse with regard to the evidence
18 that will be allowed -- the evidence that will be
19 introduced in this trial. There is an allegation that
20 the phone number, that was given to Officer Bobadilla,
21 at the time of the initial intake of this particular
22 case, was a phone number that was included on his
23 report. Now, if the State neglected to do an
24 investigation, it is not my job to do so.

25 To say that that number came from a phone



1 call made by the alleged victim, to the taxi company,
2 wherein a taxi company person, whoever it was, whom I
3 do not know, that indicated that is the number that
4 called for that address. Now, with regards to the
5 information, that was obtained from the taxi company,
6 the State would need the taxi company, this person who
7 actually observed this phone number on the caller ID,
8 or the phone record log, indicating that the phone
9 number was, in fact, the phone number used.

10 So, it's a hearsay type statement, Judge,
11 which we would be objecting to the whole time, as to
12 that particular fact, of the phone number, because the
13 phone number, in and of itself, is hearsay. Because
14 the cab driver never ever saw that particular phone
15 number. He was allegedly, simply, relayed that
16 particular information. What was seen, as part of the
17 State's evidence, whether it be the phone log, via a
18 phone log, via a business record, or a person who could
19 testify to this. And the statement itself is a hearsay
20 statement.

21 It's going to be offered to prove the truth
22 of the matter asserted, being the phone number which
23 doesn't tie into this case. If the proper evidence
24 rule, which will be objected to, and in part of my
25 motion in limine, I intended on addressing that

1 particular issue. The State does not have anything
2 that ties this information, through the witness, Mr.
3 Cedillo. So, it's clear hearsay, Judge. And I'm going
4 to be asking, continuously, for it to be not included
5 in the State's evidence. I don't think it can.

6 THE COURT: Well, look, I am not going to get
7 into this kind of stuff. The real issue is, I'd rather
8 not go into the statement, if I don't have to.

9 Well, let me ask you: You have any problem
10 just ending with the wording, recognized the defendant
11 in a photo line-up procedure, that was videotaped at
12 New Brunswick headquarters, and other corroborating
13 information?

14 MR. SAMEIRO: I asked for the corroborating
15 information.

16 THE COURT: How about other investigation, or
17 something very general?

18 MR. GONZALEZ: I haven't heard the Prosecutor
19 claim that the defendant's prior address information
20 won't be coming in.

21 MR. SAMEIRO: It is provided directly by the
22 defendant, through his prior arrest.

23 MR. GONZALEZ: If Counsel wants me to have
24 the burden, then we won't sanitize that.

25 MR. SAMEIRO: But, in any event, the only



1 objection that I heard dealt with the phone number.
2 I'll concede, for the purposes of the Court's summary,
3 you can remove that. But there are other corroborating
4 bits of information, that helps identify this
5 defendant.

6 And, Judge, I'm surprised to hear that
7 Counsel alluded to the motion in limine. I don't
8 recall reading about them or seeing them on the trial
9 memo. Being told in advance, that there was going to
10 be a motion in limine.

11 MR. GONZALEZ: Judge, just by virtue of what
12 the State intends to prove, I anticipate Mr. Sameiro
13 knows the Rules of Evidence, what can come in, and what
14 can't come in. Him indicating that he is going to use
15 this particular phone number, in his case-in-chief, is
16 adverse to the Rules of Evidence. So, in hearing that,
17 naturally, I have addressed it. It's been noted as an
18 objection that I would have, Judge.

19 THE COURT: Okay. Let's address it when we
20 get to it.

21 For now, I think, the best thing to do is to
22 indicate, that that second sentence, on or about July
23 25, 2007, Mr. Cedillo recognized this defendant from a
24 photo line-up procedure, which was videotaped at New
25 Brunswick headquarters.

1 MR. GONZALEZ: I would ask the Court to end
2 there. And then proceed, Mr. Machado pleads not guilty
3 to all charges in this Indictment.

4 THE COURT: Now, let's just leave it there.
5 That is very simple for them. What I'll read to them
6 is, simply put, April 24, 2007, Wilmer Cedillo was
7 robbed at gunpoint by the defendant and others, while
8 Mr. Cedillo was operating a taxicab in the City of New
9 Brunswick. On or about July 25, 2007, Mr. Cedillo
10 recognized this defendant from a photo line-up
11 procedure, which as videotaped at the New Brunswick
12 police headquarters.

13 Hearing that -- The defendant, hearing these
14 allegations -- what do you wish me to say? Mr. Machado
15 pleads not guilty to all the charges in the Indictment?

16 MR. GONZALEZ: Fine. In addition -- it can
17 be added to that -- that the defendant denies the
18 allegations or contests the allegations. That's not
19 substantive.

20 MR. SAMEIRO: A not guilty plea. That is not
21 substantive. It is a piece of evidence, contrary to
22 the summary of the facts, which I'm offering is
23 substantive evidence, to say that he contests the
24 allegations. I guess, that statement is obvious. I
25 wouldn't object to that.



1 THE COURT: I've said this before, in
2 previous trials, that the defendant denies these
3 allegations.

4 MR. GONZALEZ: I would prefer, that the
5 defendant pleads not guilty to these allegations. I
6 have used that before in other trials.

7 MR. SAMEIRO: I don't want it to be
8 substantive.

9 THE COURT: Look, I'm just trying to give
10 them some general information. It shouldn't be a
11 20-minute argument. I will put down, he pleads not
12 guilty.

13 MR. GONZALEZ: He pleads not guilty.

14 MR. SAMEIRO: Obviously, that's why we're
15 here.

16 MR. GONZALEZ: There we go, Judge.

17 THE COURT: All right. Are we ready to bring
18 the jury in?

19 MR. GONZALEZ: Yes, Judge.

20 MR. SAMEIRO: Yes, Judge.

21 THE COURT: Okay. Let's bring the jury in.

22 (Whereupon, the prospective jury panel enters
23 the courtroom.)

24 (Whereupon, the jury selection process
25 began.)

(Jury Selection)

1 THE COURT: All right. Good morning,
2 everyone. Hopefully, we can move through this process
3 in a little bit, and we can get those of you who are
4 standing, seated.

5 All right. My name is Barbara Stolte. I'm a
6 Judge of the Superior Court of the State of New Jersey.
7 Ladies and gentlemen, you have been brought here today,
8 so, we may select a jury for this case, which is
9 entitled the State of New Jersey versus Pablo Machado.

10 Now, we are about to begin a process, which
11 is called the voir dire. The purpose of the voir dire
12 is really very simple. To obtain a jury, which is very
13 able to hear this case, without any bias, prejudice, or
14 preconceived ideas. In short, the idea is to select a
15 fair jury.

16 Now, members of the panel, we are here to try
17 the matter in dispute, between the State of New Jersey
18 and Pablo Machado. This is a criminal case. I'll just
19 generally let you know what the charges are. I'll read
20 to you, more specifically, the charges in the
21 Indictment, in just a few minutes.

22 The charges are, one count of conspiracy, one
23 count of armed robbery, one count of unlawful
24 possession of a weapon, a count of possession of a
25 weapon for an unlawful purpose, one count of theft, and



1 two different counts of terroristic threats.

2 Now, what I should now do first is make sure
3 that everyone is qualified to be on the jury. I'm
4 reading from the questionnaire. Let me make sure that
5 everybody has a questionnaire. Is everyone here age 18
6 or older? It looks like that. Thank you. Is everyone
7 here a citizen of the United States? Yes. Yes. Okay.
8 Is everyone here able to read and understand the
9 English language? Yes. Yes. Yes. Is everyone here a
10 resident of Middlesex County? Yes. Yes. Yes.

11 Has anyone here been convicted of an
12 Indictable offense, in any State or Federal Court? No.
13 No. No.

14 JUROR KIMMEL: What is an Indictable offense?

15 THE COURT: I'm going to say, a fourth
16 degree. You won't probably know that. One where a
17 Grand Jury case has been presented to a Grand Jury.
18 And it would be held, most likely, in Superior Court.
19 DWI, things along those lines, are not Indictable
20 offenses. Motor vehicle offenses are not Indictable.
21 Municipal Court is not an Indictable offense.

22 A JUROR: Okay.

23 THE COURT: All right. Anybody have a
24 response to that? No. No. Okay. Does anybody have
25 any physical or mental disability, that would prevent

1 them from serving as a juror? Anybody who has that
2 issue? No.

3 All right. Now, I'm going to move to 2-A. I
4 will let you know this. I've spoken to the attorneys
5 in this case. And our assumption is that, depending
6 upon when you start. Obviously, we are starting to
7 pick a jury. I don't know how long it is going to
8 take. More than likely, this jury would get this case
9 probably Thursday morning. Okay. Today is Monday.
10 However long it takes to pick a jury. The case will go
11 to the jury on Thursday morning.

12 What that means, once the case goes to the
13 jury, the jury gets to deliberate. I can't tell -- I
14 really can't say how long that would be. But because
15 it would go to you Thursday morning, I would assume you
16 would have to be available Thursday, and, potentially,
17 Friday. So, we're looking at the trial to take this
18 week.

19 All right. If you have plans to be out of
20 the state for next week, again, I don't anticipate it
21 going into next week. But if you have plans to be out
22 of state next week, hold that in the back of your mind.
23 If you come up as a juror, I will address that. Okay.
24 But I think we should be ending by Friday.

25 All right. Also, before we keep going, we



1 try to start as close to 9:00 in the morning as
2 possible. We do take a mid-morning break at 10:30 or
3 so. We usually break for lunch at 12:30 to 1:30. We
4 have an afternoon break. We finish really anywhere
5 between 4:00 and 4:30, at the very latest.

6 All right. I just wanted to give you the
7 schedule, too, as well. Does anybody here -- This is
8 the only reason I want to hear now -- who because of
9 their not getting paid from work, they have a prepaid
10 vacation this week, or a prearranged business trip this
11 week, who cannot be here? Just those people. Other
12 issues I will deal with. Only those people that I want
13 with prepaid vacation this week, prearranged business
14 trip, not getting paid, and it's a financial hardship.
15 Anybody over here?

16 Ma'am, what is your name? Your name and
17 juror numbers.

18 JUROR GU: Lingping Gu.

19 THE COURT: How do you spell that?

20 JUROR GU: G-u.

21 THE COURT: Lingping Gu?

22 JUROR GU: Lingping Gu. And, also, I have
23 time scheduled --

24 THE COURT: Let me take one thing at a time.
25 Miss Gu, what's the problem with this week?

1 JUROR GU: Well, I'm a physician. I solely
2 practice. I did ask one person to cover for me. But
3 Thursday and Friday, she is going to take vacation. I
4 cover for her.

5 THE COURT: Well, here's the problem. When
6 you get your notice, it should say, one day, one trial.
7 Your trial could be three days. You come in. You've
8 been able to work with whatever the schedule will be.

9 JUROR GU: Yeah. I explained to them,
10 initially, I say, very difficult to arrange time,
11 because I do have patient in hospital and in my office.
12 And one day ahead of time I schedule.

13 THE COURT: Okay.

14 JUROR GU: But, after that, I didn't expect
15 Thursday and Friday. So, my partner, we usually cover
16 each other. She is scheduled for vacation for this
17 week, end of the week. She is scheduled to be out on
18 vacation the end of this week. So, I'm supposed to
19 cover for her.

20 THE COURT: All right. Miss Gu, I'll excuse
21 you, based on your issue, because the person taking
22 over for you is not going to be here. But, next time,
23 please remember, when you get that notice, you have got
24 to schedule a back-up plan. It does tell you, one
25 trial. One trial could be two weeks. It is somewhat



1 rare for one day.
2 All right. I'll excuse you from this panel.
3 That doesn't mean that you are excused from the other
4 ones. From this one, I will excuse you from.
5 All right. Yes, sir? What is your name?
6 JUROR ALSTON: Alston.
7 THE COURT: Alston.
8 JUROR ALSTON: I have customers on Thursday.
9 I have to go on Thursday.
10 THE COURT: Where is that?
11 JUROR ALSTON: Basking Ridge. I have to
12 present to customers on Thursday.
13 THE COURT: Can anybody else do that for you?
14 JUROR ALSTON: No. Actually, my account is
15 in sales.
16 THE COURT: Mr. Alston, I will hold you. I
17 will mark it down. If you get up here, I will question
18 you further about it.
19 JUROR ALSTON: I have to present to customers
20 on Thursday. I am in sales.
21 THE COURT: Okay. I understand.
22 Yes, ma'am?
23 JUROR NEVES: Maria Neves.
24 THE COURT: Maria Neves.
25 JUROR NEVES: I have a small business, and

1 I'm only one running the business. If I'm here, I have
2 to close the doors.
3 THE COURT: What kind of business?
4 JUROR NEVES: It's a store. A dress shop. A
5 little dress shop. I'm the only one that is there.
6 And there is -- times are bad enough. I can't afford
7 to close the store.
8 THE COURT: You don't have anybody to work
9 for you?
10 JUROR NEVES: I just only one. If I am not
11 there, the store is closed, and I am not making any
12 money now.
13 THE COURT: Is that a financial hardship for
14 you?
15 JUROR NEVES: Yes.
16 THE COURT: Okay, Miss Neves, based on your
17 circumstances, I will excuse you.
18 JUROR NEVES: Thank you.
19 THE COURT: Sir?
20 JUROR ESSIEN: My name is Victor Essien. I'm
21 an attorney, sole practitioner. And I have cases to
22 attend to this week. Particularly, Wednesday, I have
23 two hearings to attend. And I just relocated my
24 office. And, any time, I haven't seen my clients for
25 almost a week now. And any time you take from work it



1 is going to cost me financially. I can't get anybody
2 to cover for those cases that I have hearings for.

3 THE COURT: Mr. Essien, let me hold you for a
4 little bit. If you get up, I will question you a
5 little bit further regarding your status.

6 Sir?

7 JUROR HORWITZ: Alan Horwitz. Run a small
8 business with a partner, who just -- Unfortunately, my
9 partner just texted me, that he could not come in
10 today, because he is ill. So, right now, nobody is
11 running the business, besides my employees. I'm here
12 and he's in bed. Because normally he would be able to
13 take over. He just sent me a message about an hour
14 ago. He is in bed with a hundred and one.

15 THE COURT: I will hold you a little bit. If
16 you get up here, I will question you a little further.

17 Yes; ma'am?

18 JUROR PADILLA: Hi. Respectfully, Judge, I
19 understand. I have served in a jury before with no
20 problem. But if it is a week long, I am self-employed.
21 I own a dancing school.

22 THE COURT: Your name?

23 JUROR PADILLA: Doreen Graham Padilla.
24 Number 276.

25 MR. SAMEIRO: Second page, middle, your

1 Honor.

2 THE COURT: I have a different list from you.
3 There it is.

4 Miss Padilla?

5 JUROR PADILLA: I'm already paying somebody
6 to teach for me. It is a difficult time to come. It
7 is Nutcracker week. Sunday -- I've invested a lot of
8 money. I have the truck rentals and stage time. If
9 I'm not there, the show won't go on. I have a hundred
10 children in the show. It is not a good week. It is a
11 hardship. I have a small business. Times are bad as
12 it is.

13 THE COURT: You are paying somebody to teach
14 the students?

15 JUROR PADILLA: I am paying somebody right
16 now.

17 THE COURT: To do the work you would normally
18 be doing?

19 JUROR PADILLA: Yes.

20 THE COURT: Which day?

21 JUROR PADILLA: Thursday it starts. I have
22 rental truck coming at 8:00 a.m. Thursday morning, to
23 start moving all my scenery to Middlesex County
24 College.

25 THE COURT: So, Miss Padilla, based on your



1 set of circumstances, regarding this week, I will
2 excuse you from the panel. Again, folks, I don't know
3 if anybody else is going to excuse you.

4 JUROR PADILLA: I appreciate that. Thank
5 you.

6 THE COURT: Then let me continue on.
7 Sir?

8 JUROR KIMMEL: Going back to the question
9 about the Indictable offense.

10 THE COURT: Right.

11 JUROR KIMMEL: In the past, I've had, I
12 believe, a misdemeanor. I am not sure --

13 THE COURT: Tell you what, if you come up
14 here, we'll come over to sidebar. We will see where we
15 are. Could we have your name for the record?

16 JUROR KIMMEL: Kevin Kimmel.

17 THE COURT: Kevin Kimmel. Okay. If you get
18 up here, then come over to sidebar.

19 And to the left?

20 JUROR AURIEMMA: Jessica Auriemma.

21 THE COURT: Yes, ma'am. Stand up.

22 JUROR AURIEMMA: Today is the only day I am
23 getting paid for.

24 THE COURT: Today is what?

25 JUROR AURIEMMA: Today is the only day I'm

1 getting paid for work.

2 THE COURT: Miss Auriemma, where do you work?

3 JUROR AURIEMMA: Gill & Chamas, an attorneys'
4 office in Woodbridge.

5 THE COURT: Gill & Chamas are not paying you
6 to be here this week?

7 JUROR AURIEMMA: No.

8 THE COURT: Did you check with them?

9 JUROR AURIEMMA: Yes. I only get paid for
10 today.

11 THE COURT: That's Ray Gill?

12 JUROR AURIEMMA: Ray Gill.

13 THE COURT: Which I think is crazy. But
14 that's my opinion. That's surprising to me as well.

15 All right. Miss Auriemma, you checked with
16 them? They said, they are only going to pay you for
17 today?

18 JUROR AURIEMMA: Yes.

19 THE COURT: Is that a financial hardship to
20 you?

21 JUROR AURIEMMA: Yes.

22 THE COURT: I'll excuse you based on the fact
23 that I know this trial will go for -- I know that the
24 case is expected to be given to you Thursday. But, at
25 least, three days or four days, perhaps, without you



1 having to be paid. That is a financial hardship.
2 Thank you for that information. I will make a note of
3 that.

4 So, what I'm going to do now, folks, I'm
5 going to call our panel up of 14 people. Then I'll let
6 you know what we are going to do from there. Ready?
7 It seems like we are experiencing some technical
8 difficulties with the lists. We don't normally have
9 the same list. We have the same names, but not in the
10 same spot.

11 Okay. My Clerk will start by calling out the
12 names. I think we are ready now.

13 THE CLERK: Juror Number 0466, Ammar,
14 Estissam. First name, E-s-t-i-s-s-a-m. Juror Number
15 0264, Alston, Corwin. Juror Number 0126, Colon, Rene.
16 Juror Number 0043, Essien, Victor. Juror Number 0296,
17 Martinez, Jimmy. Juror Number 0196, Kimmel, Kevin.
18 Juror Number 0006, Chan, Wailing. Juror Number 0413,
19 Sitton, Jose. Juror Number 0034, Gonzalez, Marianela.
20 Juror Number 0085, Delgado, Scott. Juror Number 0069,
21 Remick, Stacey. Juror Number 0162, Horwitz, Alan.

22 Juror Number 0063, Patel, Kunal. First name,
23 K-u-n-a-l. Juror Number 0273, Booker, Benjamin.

24 THE COURT: Can I just see Counsel at
25 sidebar?

1 (Whereupon, the following discussion occurred
2 at sidebar.)

3 THE COURT: Wouldn't you know that every
4 single person that has an issue is in the panel.

5 May I get rid of them in some fashion now? I
6 will bring them over here. I will start with Mr.
7 Alston. He was the one -- as he comes over -- I'll
8 remember.

9 Mr. Alston, come over here, sir.

10 MR. SAMEIRO: He has a Thursday work
11 presentation.

12 THE COURT: Yes.

13 (Whereupon, Juror Alston complies.)

14 THE COURT: Hi, Mr. Alston. You said you
15 have a presentation for work on Thursday?

16 JUROR ALSTON: Yeah. I do account sales for
17 Verizon Wireless.

18 THE COURT: What is your presentation on
19 Thursday? You go to someone that you're trying to sell
20 to and present?

21 JUROR ALSTON: We actually have an executive
22 briefing, where we present to the CEO. Some executive
23 teams of IT.

24 THE COURT: Let me ask you: Have you been
25 working on this presentation, I suppose, for some time?



1 JUROR ALSTON: Yeah.

2 THE COURT: Is there anybody else that can go
3 do it for you?

4 JUROR ALSTON: Well, my manager is going to
5 be there. But as the account manager -- the manager
6 of the account, I actually have to kind of be present.
7 I've done most of the leg work on the presentation.

8 THE COURT: Can I ask you a question? It is
9 unlikely that you are sitting on Friday. Well, I don't
10 know if you could adjourn it to Friday, or make it some
11 other day? If you could maybe adjourn it to another
12 date?

13 JUROR ALSTON: Some of the problem is, I
14 can't postpone it now. I've been working on it for a
15 long time.

16 THE COURT: I don't doubt that. I was just
17 wondering if it could be a different day.

18 Okay. I'm going to excuse you, Mr. Alston.
19 Perhaps, another time would be better. That appears to
20 be a real genuine conflict. I think we have some other
21 people who raised their hands.

22 JUROR ALSTON: Thank you.

23 THE COURT: Thank you. Have a good day.

24 (Whereupon, Juror Alston leaves sidebar.)

25 THE COURT: Mr. Essien?

1 (Whereupon, Juror Essien comes to sidebar.)

2 THE COURT: Mr. Essien, you have a law
3 practice. You have some motions you said for
4 Wednesday?

5 JUROR ESSIEN: Wednesday. For separate
6 individuals.

7 THE COURT: Usually the court system works
8 with us in adjourning things. Is it possible that you
9 can get those matters put on for another day, so, you
10 will be able to sit?

11 JUROR ESSIEN: Well, the problem is that this
12 is -- It's in New York. And I think that they would
13 not. You know, you have to be there to get the
14 adjournment. I'm a sole practitioner. I can't get
15 anybody to cover for me, given the short notice and
16 everything else.

17 THE COURT: Okay. Any questions?

18 MS. SAMEIRO: No.

19 THE COURT: Mr. Essien, because you are a
20 sole practitioner, and those schedules in New York,
21 I'll excuse you from the panel.

22 JUROR ESSIEN: Thank you.

23 THE COURT: Thank you. Another time might be
24 better for you.

25 (Whereupon, Juror Essien leaves sidebar.)



1 THE COURT: Mr. Kimmel, come up.
2 (Whereupon, Juror Kimmel comes to sidebar.)
3 THE COURT: Hi, Mr. Kimmel. What did you
4 have, as to the charge?
5 JUROR KIMMEL: It was like more than 20 years
6 ago. There were four separate simple assaults total.
7 THE COURT: Some kind of fight situation, or
8 something like that?
9 JUROR KIMMEL: Yeah. Altercations.
10 THE COURT: They were simple assaults?
11 JUROR KIMMEL: Yeah.
12 THE COURT: Down in Municipal Court?
13 JUROR KIMMEL: Yeah. One set of two, I had
14 come here, to the courtroom, to use PTI, because they
15 were higher than misdemeanors. They got knocked down
16 to simple assaults.
17 THE COURT: All one incident, so to speak?
18 JUROR KIMMEL: Two separate ones. And then
19 one set of two, with the same incident.
20 THE COURT: So, you came up here? You got
21 PTI?
22 JUROR KIMMEL: Yeah. I believe it was PTI.
23 I believe. Because they were aggravated assaults to
24 police officers.
25 THE COURT: Okay. They downgraded them, I

1 guess?
2 JUROR KIMMEL: The PTI was the downgrade.
3 THE COURT: Well, not necessarily. Because
4 PTI, if that's how it was handled, is not a conviction.
5 You have nothing. You weren't put on probation?
6 JUROR KIMMEL: I was on probation once or
7 twice, I believe.
8 THE COURT: Was it the Municipal level?
9 JUROR KIMMEL: The Municipal level, yes. And
10 I think, also, when I came here, to court for the one
11 set of two simple assaults.
12 THE COURT: Okay. So, the PTI was on the
13 aggravated assault.
14 JUROR KIMMEL: Right.
15 THE COURT: Then you were on probation for
16 the simple assault?
17 JUROR KIMMEL: Yeah.
18 THE COURT: It sounds to me that it might
19 have been just a PTI, not a conviction for you.
20 JUROR KIMMEL: Yeah.
21 THE COURT: You said about 20 years ago?
22 JUROR KIMMEL: Yeah.
23 THE COURT: When they got you over here, what
24 happened?
25 JUROR KIMMEL: Well, with the police



1 officers?

2 THE COURT: Yes.

3 JUROR KIMMEL: In my opinion, I was provoked.
4 And they just -- this is one of them -- they just
5 wanted my license. They wanted my license. They
6 wanted my information. They got my information. Two
7 police officers -- One police officer gave my insurance
8 card to the other police officer, to give back to me.
9 Then he went to hand it to me, and, jokingly, when I
10 went to grab it, he pulled it away from me. He did it
11 like two or three times.

12 And then like the third or fourth time, he
13 handed it to me. And I just grabbed it out of his hand
14 real quick. And then it ripped, you know. And I still
15 stood there. The other police officer was writing my
16 information down, the license information. And the
17 other police officer was like behind me. And he nudged
18 me into the other one. That police officer was like,
19 step back a little. I stepped back a little. He
20 nudged me, again, into him. From there, it was like,
21 it just like escalated.

22 THE COURT: Okay. Let me ask you this: I am
23 getting a little ahead of myself in the question.
24 Since I do have you over here, do you feel that that
25 involvement -- you said, 20 years ago -- Where did this

1 happen?

2 JUROR KIMMEL: East Brunswick.

3 THE COURT: Do you think that, if you heard
4 from a police officer, if police officers came up and
5 testified, would the fact you've had this experience,
6 impact on your ability to judge the credibility of
7 police officers?

8 JUROR KIMMEL: No. Not at all. It's 20
9 years ago. I'd go by the facts and stuff.

10 THE COURT: All right.

11 JUROR KIMMEL: Being that the police officers
12 are under oath, basically, I'd just go on the facts and
13 stuff.

14 THE COURT: Okay. All right. I'll certainly
15 go through a lot of the questions with you, too. But
16 since I have you up here, any questions regarding that,
17 from the attorneys?

18 MR. SAMEIRO: No.

19 MR. GONZALEZ: Did you get an expungement
20 after?

21 JUROR KIMMEL: No, I never did. Never got it
22 expunged. I heard about it.

23 MR. GONZALEZ: You just never got it done.
24 I've had that happen before. You can get it expunged.
25 You are probably still eligible.



1 JUROR KIMMEL: Okay.

2 MR. SAMEIRO: Actually, I do have a question,
3 if I may. Are you done, Counsel?

4 MR. GONZALEZ: Sure.

5 MR. SAMEIRO: You mentioned two episodes.
6 That is, another assault episode in your history.
7 There were two separate simple assaults. One was
8 handled at the Municipal level. One was, I believe,
9 actually, two ---

10 JUROR KIMMEL: Actually, there was three.
11 One was, I guess, about a special police officer. He
12 wasn't full-fledged. He was patrolling the high
13 school.

14 THE COURT: Different episode?

15 JUROR KIMMEL: Different episode.

16 THE COURT: What about the third? Was there
17 a third episode? Let's talk about the events.

18 JUROR KIMMEL: Well, the first one was the
19 simple assault on the regular civilian.

20 THE COURT: Where was that?

21 JUROR KIMMEL: East Brunswick.

22 THE COURT: About when was that?

23 JUROR KIMMEL: Around the same time. Maybe
24 '86, '87, '88. Like they all pretty much happened --
25 They were handled in Municipal Court.

1 THE COURT: Were you convicted of that?

2 JUROR KIMMEL: Yeah. I was charged with
3 simple assault. Put on probation.

4 THE COURT: What was the sentence? Do you
5 remember?

6 JUROR KIMMEL: I believe, maybe like one year
7 probation. Something like that. Then the incident
8 with the special officer, the law enforcement officer.

9 THE COURT: Where did that happen?

10 JUROR KIMMEL: East Brunswick as well.

11 THE COURT: That was Municipal Court as well?

12 JUROR KIMMEL: Municipal Court.

13 THE COURT: Were you found guilty? Did you
14 plead guilty to that charge?

15 JUROR KIMMEL: I believe, I was found guilty.
16 I'm not sure if I pled guilty. I forget.

17 THE COURT: You were put on probation?

18 JUROR KIMMEL: I believe so. Yeah.

19 THE COURT: Then the other incident, as you
20 said, around the same time? The one that occurred in
21 East Brunswick, that was up here, that you got the PTI
22 for?

23 JUROR KIMMEL: I believe I got PTI. The
24 charges were, you know, aggravated assault on police
25 officers, which, I believe, were felonies.



1 THE COURT: Uh-hum. Yes. I guess, you must
2 have been in the pre-trial intervention program. I
3 know that you don't know. But the pre-trial
4 intervention program is similar to probation. You have
5 to comply with conditions or fulfill conditions. Once
6 you complete the program, the case is dismissed. Do
7 you remember that happening?

8 JUROR KIMMEL: I know I was on probation. I
9 am not sure if it was PTI. I am pretty sure, because
10 that's what, I guess, my lawyer put in for, at first.
11 I'm not sure. It was so long ago. I was young.

12 THE COURT: Okay. All right.
13 Anything further?

14 MR. SAMEIRO: Do you feel like you were
15 provoked in the other two episodes? The one with the
16 special police officer, the one with the civilian? You
17 said with the cops, who had the insurance card --

18 JUROR KIMMEL: Yeah. I was provoked.

19 MR. SAMEIRO: You felt provoked in those
20 other two matters? Yes? No?

21 JUROR KIMMEL: No. They were totally
22 different circumstances. The one was just, because it
23 was in a high school, he was chasing me. I ran down
24 the hall. The door swung open. He wasn't too far
25 behind. The door swung back and hit him. I didn't do

1 it intentionally. You know, just running. And the
2 other one, pretty much, I provoked it.

3 MR. SAMEIRO: Okay.

4 THE COURT: Thank you.

5 JUROR KIMMEL: Thank you.

6 (Whereupon, Juror Kimmel leaves sidebar.)

7 THE COURT: You're Mr. Horwitz? Come over
8 here, Mr. Horwitz.

9 (Whereupon, Juror Horwitz comes to sidebar.)

10 JUROR HORWITZ: My brother and I own the
11 business together. He contacted me this morning. He
12 is in bed. No one is there right now running the
13 business except my employees.

14 THE COURT: What kind of business?

15 JUROR HORWITZ: It's a supply house. A
16 supply house in Perth Amboy.

17 THE COURT: I'm hoping you have good
18 employees, who are able to run, at least, run the
19 business, with no management there right now. How many
20 people are there?

21 JUROR HORWITZ: Employees, 15.

22 THE COURT: I'm going to hold you for now. I
23 am not certain how sick your brother is.

24 JUROR HORWITZ: I can tell you the message.

25 THE COURT: That is not necessary.



1 Do you think he'll get better by tomorrow?

2 JUROR HORWITZ: You want me to read the
3 message? The message says, "I feel like shit. I'm in
4 bed with a hundred and one."

5 MR. SAMEIRO: It wasn't like his normal
6 message, no offense?

7 JUROR HORWITZ: No. Not a normal message.

8 THE COURT: Okay. Have a seat, Mr. Horwitz,
9 for a minute.

10 JUROR HORWITZ: Thanks.

11 (Whereupon, Juror Horwitz leaves sidebar.)

12 (Whereupon, the hearing continued at
13 sidebar.)

14 THE COURT: I really don't want to go through
15 this whole thing, and have something happen. He can
16 feel better tomorrow.

17 MR. SAMEIRO: Well, I don't have an
18 objection, if you excuse him for cause. I don't think
19 he wants to be here.

20 THE COURT: That is the issue I'm having.

21 MR. GONZALEZ: I don't have an issue either.

22 THE COURT: All right. I'll excuse him. I
23 have the same type of feeling. I really don't think he
24 wants to be here. This is somebody who is going to
25 look for something, as soon as they can, to get out

1 from serving on the panel.

2 MR. GONZALEZ: What if it worsens?

3 THE COURT: That would be our luck.

4 Okay. Thank you.

5 MR. SAMEIRO: Thank you.

6 MR. GONZALEZ: Thank you.

7 (Whereupon, the sidebar discussion
8 concluded.)

9 (Whereupon, the hearing continued in the
10 presence of the prospective jury panel.)

11 THE COURT: Mr. Horwitz, I'll excuse you.

12 Let's put new people in those seats. Then
13 we'll go from there.

14 THE CLERK: Juror Number 0108, Salley,
15 Tamara. Seat number two.

16 THE COURT: Seat number two.

17 THE CLERK: Juror Number 0307, Velez, Joel.
18 Seat number four. Juror Number 0151, Crockett,
19 Phillip. Seat number 12.

20 THE COURT: All right. Now, as I go through
21 my questions with those individuals who are seated in
22 the box, I'm going to ask the individuals in the back
23 just to follow along with your own questionnaire. We
24 may be excusing people. As we do, we will call new
25 jurors up. I'm just going to ask you what your



1 responses are, if you have any responses up to the
2 point that we're at.

3 All right. So, let me start with my group in
4 the box. I'm really going to start pretty much with
5 2-B. I really think we talked about 2-A. Do you have
6 any medical, personal, or financial problem that would
7 prevent you from serving on this jury? Anybody have an
8 answer to that question? Seeing no response, I will go
9 on to the next one.

10 Is there anything that would make it
11 difficult for you to sit, listen, or deliberate, for
12 about two hours without a break? Quite frankly, it is
13 only about an hour and a half that you would have to
14 sit. Sometimes it is less. We take breaks pretty
15 often. Sometimes there is just a reason for the jury
16 to be excused while we do other things. You could
17 always use the facilities during that point. Everybody
18 okay for that period of time?

19 Mr. Velez?

20 JUROR VELEZ: Going back to 2-B. My son is
21 two months. He's in the hospital with bronchitis. My
22 wife is in the hospital. I don't know.

23 THE COURT: Your two-month-old son has
24 bronchitis?

25 JUROR VELEZ: Yeah.

1 THE COURT: Your wife is with him now?

2 JUROR VELEZ: Yeah.

3 THE COURT: Was he admitted?

4 JUROR VELEZ: He was admitted since Monday.

5 THE COURT: Mr. Velez, I'm going to excuse
6 you. You have a two-month old in the hospital, Mr.
7 Velez. You are excused. Thank you for being here.

8 THE CLERK: Juror Number 0231, Cepeda, Lucy.
9 Seat number four.

10 THE COURT: Okay. We have gotten -- Miss
11 Cepeda, any response to 2-B?

12 JUROR CEPEDA: No. I just asked just one
13 question. Again, Miss Cepeda, any problem sitting,
14 listening, for two hours without a break? Everybody
15 okay with that? I have to go through many more
16 questions, to give more information really for
17 everyone.

18 I will have the attorneys and Mr. Machado
19 introduce themselves to you. I do realize that jury
20 service is new to some of you. A few preliminary
21 remarks may prove helpful. The first step in a jury
22 trial is the selection of the jury. This process is
23 important because both the State and the defendant are
24 entitled to jurors, who are impartial and will agree to
25 keep their minds open until a verdict is reached.



1 Jurors must be free from any possible bias, prejudice,
2 or sympathy, and must not be influenced by preconceived
3 ideas.

4 Those of you who are selected as jurors on
5 this case shall serve as judges of the facts. In other
6 words, you will listen to the testimony of the
7 witnesses, examine any physical evidence that is
8 introduced. Thereafter, determine the facts in the
9 case. I am the judge of the law. At the conclusion of
10 this matter, after the evidence has been presented, and
11 Counsel have made their closing arguments, I will tell
12 you what the law is. And you must apply that law to
13 the facts, in order to reach a fair and impartial
14 verdict.

15 Now, although you may be qualified to serve
16 as a juror, in most cases, there may be something that
17 could disqualify you in this case. Or, perhaps, make
18 it embarrassing for you to serve. In order to learn
19 this, I will be asking you questions. Please
20 understand, the questions I will ask are for a
21 legitimate purpose. Not simply to pry into your
22 personal affairs. Do not hesitate to speak your mind
23 honestly and plainly. It is very important that you
24 answer each question fully and truthfully. Keep in
25 mind, too, there are no right or wrong answers.

1 Truthful and honest answers are necessary so that a
2 fair, impartial jury will be selected.

3 Now, as we mature, we all, to some extent,
4 develop certain biases and prejudices, fixed opinions
5 and views. We develop these from our families, from
6 others around us, the media, and from our own everyday
7 experiences. You are entitled to be who you are. To
8 feel and think about things as you do. It is important
9 to recognize any biases and prejudices, fixed opinions
10 and views, that you may have, and to disclose them to
11 me during the jury selection process.

12 If, for any reason, my questions do not cover
13 why you would not be able to listen with an open mind
14 to the evidence in the case, or be unable to reach a
15 fair and impartial verdict, it is necessary that you
16 volunteer this information to me, when you are being
17 questioned. If, at any time, during the jury selection
18 process, you wish to discuss anything with me,
19 concerning your ability to serve as a juror, raise your
20 hands.

21 I will speak with you outside the presence of
22 the other jurors; but in the presence of the attorneys.
23 After I have had the ability to question each of you,
24 you may be excused if, in my opinion, there is a valid
25 reason why you should not serve. Each attorney may



1 also excuse a limited number of jurors, without giving
2 a reason for doing so. In the event you are excused,
3 please do not consider this an insult, or take it
4 personally in any way. It is really just part of our
5 process that we use, according to our court rules in
6 selecting a jury.

7 Now, again, this is a criminal case. And
8 there are certain principles of law that must be
9 accepted and followed by jurors. The Indictment, I'm
10 going to read it to you shortly. That Indictment is
11 not evidence of the defendant's guilt on the charges.
12 The Indictment is a step in the procedure, to bring the
13 matter, before the Court and jury, for the jury's
14 ultimate determination, as to whether the defendant is
15 guilty or not guilty of the charges in it.

16 The defendant has pleaded not guilty to the
17 charges. He is presumed to be innocent. Unless each
18 and every essential element of the offense charged is
19 proven, beyond a reasonable doubt, the defendant must
20 be found not guilty of that charge. The burden of
21 proving each element of the charge, beyond a reasonable
22 doubt, rests upon the State. That burden never shifts
23 to the defendant.

24 It is not the obligation, or the duty of the
25 defendant, in a criminal case, to prove his innocence,

1 or offer any proof relating to his innocence. The
2 Prosecution must prove its case, by more than a mere
3 preponderance of the evidence, yet not necessarily to
4 an absolute certainty. The State has the burden of
5 proving the defendant guilty, beyond a reasonable
6 doubt.

7 As I question you, we may learn that some of
8 you have been civil jurors before, where you were told
9 that it's necessary to prove that the fact is more
10 likely true than not true. In criminal cases, the
11 State's proof must be more powerful than that. It must
12 be beyond a reasonable doubt. A reasonable doubt is an
13 honest and reasonable uncertainty, in your minds, about
14 the guilt of the defendant, after you have given full
15 and impartial consideration to all of the evidence.

16 A reasonable doubt may arise from the
17 evidence itself, or from a lack of evidence. A doubt,
18 that a reasonable person, hearing the same evidence
19 would have. Proof, beyond a reasonable doubt, is
20 proof, for example, that leaves you firmly convinced of
21 the defendant's guilt. Now, in this world, we know
22 very few things with absolute certainty.

23 In criminal cases, the law does not require
24 proof that overcomes every possible doubt. If, based
25 on your consideration of the evidence, you are firmly



1 convinced that the defendant is guilty of the crime
2 charged, you must find him guilty. If, on the other
3 hand, you are not firmly convinced of the defendant's
4 guilt, you must give the defendant the benefit of the
5 doubt, and find him not guilty.

6 Now, you will have to apply the law, as I
7 give it to you, regardless of your own personal
8 feelings about it. Again, since this is a criminal
9 case, any verdict that is returned by the jurors, must
10 be unanimous. This simply means that all 12 jurors,
11 who may be selected to deliberate, must agree upon any
12 verdict that is returned to the Court.

13 Now, let me read to you the Indictment. As I
14 said earlier, there are, let's see, seven different
15 charges. The first is a conspiracy charge. It reads
16 as follows: The Grand Jurors, of the State of New
17 Jersey, for the County of Middlesex, upon their oaths,
18 present that Pablo Machado, on or about the 24th day of
19 April 2007, in the City of New Brunswick, in Middlesex
20 County, within the jurisdiction of this Court, did
21 conspire with other unknown and diverse individuals, to
22 commit the crime of robbery, in violation of 2C:15-1,
23 this is contrary to the provisions of our statute,
24 2C:5-2, against the peace of the State, the Government
25 and the dignity of the same.

1 Count two charges armed robbery. It states
2 that the Grand Jurors, of the State of New Jersey, for
3 the County of Middlesex, upon their oaths, present that
4 Pablo Machado, on this same date, in the same location,
5 within Middlesex County, in the course of committing a
6 theft, did use force upon Wilmer Cedillo, and/or did
7 inflict bodily injury upon Wilmer Cedillo, and/or did
8 threaten immediately to commit the crime of aggravated
9 assault upon Wilmer Cedillo, and/or did threaten
10 immediate bodily injury to Mr. Cedillo, and/or did
11 purposely put Mr. Cedillo in fear of immediate bodily
12 injury, while armed with and/or threatening the
13 immediate use of a deadly weapon. This is contrary to
14 2C:15-1, and against the peace of the State, the
15 Government and dignity of the same.

16 Now, count three is unlawful possession of a
17 weapon. It states, that the Grand Jurors, of the State
18 of New Jersey, for the County of Middlesex, upon their
19 oaths, present that Pablo Machado, at the same time, in
20 the same location in Middlesex County, within the
21 jurisdiction of this Court, knowingly and unlawfully
22 did possess a certain weapon, to wit, a handgun,
23 without first having obtained a permit to carry the
24 same, as provided in 2C:58-4, contrary to 2C:39-5b, and
25 against the peace of the State, the Government and the



1 dignity of the same.

2 Now, count four is possession of a weapon for
3 an unlawful purpose. It states, that the Grand Jurors,
4 of the State of New Jersey, for the County of
5 Middlesex, upon their oaths, present that Pablo
6 Machado, on the same date, in New Brunswick, in
7 Middlesex County, knowingly and unlawfully did possess
8 a certain weapon, to wit, a handgun, with the purpose
9 to use it unlawfully against the person of another.
10 This is contrary to 2C:39-4a, and against the peace of
11 the State, the Government and the dignity of the same.

12 Count five is a theft charge. It states,
13 that the Grand Jurors, of the State of New Jersey, for
14 the County of Middlesex, upon their oaths, present that
15 Pablo Machado, on that same date and location, did
16 unlawfully take, or exercise unlawful control over the
17 movable property of Wilmer Cedillo, with a value in
18 excess of five hundred dollars, with the purpose to
19 deprive the owner thereof. This is contrary to
20 2C:20-3, and against the peace of the State, the
21 Government and dignity of the same.

22 Count six is a terroristic threats charge.
23 It states that, the Grand Jurors, of the State of New
24 Jersey, for the County of Middlesex, upon their oaths,
25 present that Pablo Machado, on the same date and

1 location, did threaten to inflict serious bodily
2 injury, aggravated assault, against Wilmer Cedillo,
3 with the purpose to terrorize Wilmer Cedillo, or in
4 reckless disregard of the risk of causing such terror,
5 contrary to 2C:12-3a, and against the peace of the
6 State, the Government and dignity of the same.

7 Count seven, also terroristic threats. I
8 will read it to you. There is a different theory. It
9 states, that the Grand Jurors, of the State of New
10 Jersey, for the County of Middlesex, upon their oaths,
11 present that Pablo Machado, again, on the same date,
12 the same location, did threaten to kill Wilmer Cedillo,
13 with the purpose to put him in imminent fear of death,
14 under circumstances reasonably causing Mr. Cedillo to
15 believe the immediacy of the threat and the likelihood
16 that it would be carried out, contrary to 2C:12-3b, and
17 against the peace of the State, the Government and
18 dignity of the same.

19 Now, I read to you before about the
20 Indictment. I stated to you, that the Indictment,
21 which I have just read to you, is not evidence of the
22 defendant's guilt on knife of the charges. It is a
23 step in the procedure, that brings the matter before
24 the Court and the jury, for the jury's ultimate
25 determination, as to whether the defendant is guilty or



1 not guilty of the charges stated in it.

2 Now, ladies and gentlemen, I have read you
3 the Indictment. I have asked the State just to give me
4 some general information about what they allege. And
5 this is what I'll read to you. The State alleges that
6 on April 24, 2007, Wilmer Cedillo was robbed at
7 gunpoint by the defendant and others, while Mr. Cedillo
8 was operating a taxicab in the City of New Brunswick.
9 On or about July 25th, 2007, Mr. Cedillo recognized
10 this defendant from a photo line-up procedure, which
11 was videotaped at New Brunswick police headquarters.
12 Here, Mr. Pablo Machado pleads not guilty to these
13 charges.

14 Now, ladies and gentlemen, if you go back to
15 your questionnaire, I'm going to ask now for the
16 attorneys to introduce themselves to you. The State of
17 New Jersey will be represented, throughout these
18 proceedings, by Mr. Manuel Sameiro. Mr. Sameiro?

19 MR. SAMEIRO: Thank you, Judge. Good
20 morning, everyone. Thank you for your patience and
21 your diligence. My name is Manuel Sameiro. I'm an
22 Assistant Prosecutor. I represent the State of New
23 Jersey in this matter. I want to thank you for being
24 here.

25 THE COURT: Thank you, Mr. Sameiro.

1 The defendant in this case will be
2 represented by Mr. Daniel Gonzalez.

3 Mr. Gonzalez?

4 MR. GONZALEZ: May it please the Court,
5 ladies and gentlemen, my name is Daniel Gonzalez. I
6 represent Mr. Pablo Machado in this matter.

7 THE COURT: Thank you. Mr. Machado, can you
8 just stand and introduce yourself to the jurors?

9 THE DEFENDANT: Good morning. My name is
10 Pablo Machado.

11 THE INTERPRETER: I did not hear the last
12 thing.

13 THE DEFENDANT: And thank you for being here.

14 THE COURT: I didn't mean to interrupt you,
15 Mr. Machado.

16 All right. Thank you, folks. Mr. Machado,
17 you can have a seat.

18 Question number three, that I will ask the
19 jurors, who are presently seated, do you know any of
20 the attorneys or do you know Mr. Machado? No. No.

21 Now, if you could turn to the back of your
22 questionnaires. The last thing I'll go over with you,
23 the list of witnesses. Now, not every one of these
24 witnesses will be called. But their names could come
25 up during the testimony. I just want to know if



1 anybody knows any of these individuals.
2 We have Wilmer Cedillo, from North Brunswick.
3 Agent John Selesky, from the Middlesex County
4 Prosecutor's Office. From the New Brunswick Police
5 Department, we have Patrolman Sergio Mattias, Patrolman
6 Edward Bobadilla, Patrolman Donald Taylor, Patrolman
7 John Yurkovic, Patrolman Miguel Chang, Patrolman
8 Michael Coppola, Patrolman John Langan. Anybody know
9 any of those individuals? And I see everybody shaking
10 their head, no.

11 Now, again, ladies and gentlemen, looking to
12 question five, I have briefly described the case to
13 you. Does anybody here know anything about the case,
14 from any source, other than what I've just told you
15 here today? No. Anybody know anything about the case?
16 I have given you a little bit of a general area, as to
17 where the incident occurred in New Brunswick. I
18 haven't given any specific street address. The
19 specific street address that I have, I think, is near
20 400 Lee. Near the area of 400 Lee Avenue.

21 MR. SAMEIRO: Yes.

22 MR. GONZALEZ: Yes.

23 THE COURT: Anybody have any specific
24 familiarity with that specific area of New Brunswick?
25 No. Okay. Has anybody here ever served as a juror

1 before, either here in New Jersey, or in any State,
2 Federal Court? No.

3 Mr. Kimmel?

4 JUROR KIMMEL: Civil matter.

5 THE COURT: Civil matter. About when was
6 that?

7 JUROR KIMMEL: I'd say maybe ten or more
8 years ago. Maybe fifteen.

9 THE COURT: Was it here in Middlesex County?

10 JUROR KIMMEL: I'm trying to think about
11 that. The incident happened at the Collingswood
12 Auction. I'm not sure if that is Middlesex or Ocean
13 County.

14 THE COURT: Probably not in this County.
15 Were you living down there?

16 JUROR KIMMEL: I was living down there, down
17 in that area.

18 THE COURT: So, it probably wasn't Middlesex
19 County. Monmouth or Ocean. Okay.

20 Let me ask you this: You said about an
21 incident that occurred at the Collingswood Auction.
22 What do you remember about that? Was it an assault or
23 was it a theft? What was involved in it? Do you
24 remember?

25 JUROR KIMMEL: No. I believe, it was a civil



1 matter. A woman slipped on a banana peel.

2 THE COURT: Let me ask you this: Were you on
3 the jury that actually reached a verdict?

4 JUROR KIMMEL: Yes. Yes.

5 THE COURT: Now, you may not remember the
6 standard of proof. It was different. Preponderance of
7 the evidence. In a criminal trial, it's beyond a
8 reasonable doubt. Are you able to set aside that
9 standard and use the standard that I give you in a
10 criminal trial?

11 JUROR KIMMEL: Yes.

12 THE COURT: Anything from that experience, as
13 a civil juror, that would affect your ability to be
14 fair and impartial in this case?

15 JUROR KIMMEL: No.

16 THE COURT: Thank you. Anybody else ever
17 been a juror?

18 Mr. Martinez?

19 JUROR MARTINEZ: Yes. I served as a juror
20 way back in 1983 in Middlesex County.

21 THE COURT: What kind of case, Mr. Martinez?

22 JUROR MARTINEZ: Criminal case.

23 THE COURT: Do you remember generally what
24 the charges were?

25 JUROR MARTINEZ: Yeah, a stick-up. Armed

1 robbery.

2 THE COURT: Armed robbery. Again, without
3 telling me the verdict, were you on a jury that reached
4 a verdict?

5 JUROR MARTINEZ: Yes.

6 THE COURT: Now, the standard of proof, in a
7 criminal case, is beyond a reasonable doubt. Are you
8 able to set aside the facts in that case, and listen to
9 the facts in this case, and be a fair, impartial juror?

10 JUROR MARTINEZ: Yes.

11 THE COURT: Thank you, Mr. Martinez.

12 Anybody else have a response as to being a
13 juror before? No. I will continue on.

14 Has anybody here ever sat as a Grand Juror?
15 No. Does anybody know anybody else in the jury box,
16 other than as a result of reporting here today? No.
17 Okay. Nobody does. Would your verdict, in this case,
18 be influenced in any way, by any factors, other than
19 the evidence in the courtroom, such as friendships or
20 family relationships, the type of work you do? Anybody
21 have that issue? No. Everybody is responding, no.

22 Is there anything about the nature of the
23 charge itself, that would interfere with your ability
24 to be fair and impartial? Anything about the nature of
25 the charge itself? No. No responses there.



1 Has anybody here ever been a witness in a
2 criminal case, regardless of whether it went to trial
3 or not? No. No. Okay. No responses there.

4 Has anybody ever testified in any court
5 proceeding? No. No. No responses there. Nobody has.
6 Has anybody here ever applied for a job, as a state or
7 local police officer, or with the Sheriff's Department,
8 County Jail, or State Prison? Anybody ever applied for
9 any of those jobs? No.

10 All right. Have you, or any family member,
11 or close friend, ever worked for any agency, such as
12 the Police Department, Prosecutor's Office, F.B.I., or
13 D.E.A., Sheriff's Department, jails or prisons, either
14 here in New Jersey, or in any other state? Let me
15 start from the row here. Start with Miss Salley?

16 JUROR SALLEY: My brother is a Prosecutor in
17 one of the other Counties.

18 THE COURT: An Assistant Prosecutor in one of
19 the other Counties. What other County? Do you know?

20 JUROR SALLEY: Essex.

21 THE COURT: Essex County. You said your
22 brother-in-law?

23 JUROR SALLEY: No. Brother.

24 THE COURT: Oh, brother. Okay. You see him
25 on a regular basis, Miss Salley?

1 JUROR SALLEY: Yes.

2 THE COURT: Would the fact that you have a
3 brother, that is an Assistant Prosecutor in Essex
4 County, affect your ability to sit and listen to the
5 fact in the case? Be a fair, impartial juror?

6 JUROR SALLEY: No. Other than that, that's
7 all I know, that he's a Prosecutor. I have never seen
8 him work or anything.

9 THE COURT: Okay. Anybody else?

10 JUROR SALLEY: Just a nephew by marriage is a
11 Sheriff's Officer, also up in Essex County.

12 THE COURT: In Essex County. Would that
13 affect you, in any way, being a fair, impartial juror?

14 JUROR SALLEY: No, it would not.

15 THE COURT: Thank you, Miss Salley. Who
16 else? The next hand raised is Mr. Colon. Who do you
17 know?

18 JUROR COLON: My cousin, NYPD.

19 THE COURT: You see your cousin on a regular
20 basis?

21 JUROR COLON: Yes.

22 THE COURT: Would the fact that your cousin
23 is a New York police officer, would that affect your
24 ability to sit and listen to the witnesses here, and be
25 a fair, impartial juror?



1 JUROR COLON: No.

2 THE COURT: Thank you, Mr. Colon. Anybody
3 else in that row? Miss Cepeda?

4 JUROR CEPEDA: My cousin also.

5 THE COURT: Where are they?

6 JUROR CEPEDA: In NYPD.

7 THE COURT: Also, in New York. See them on a
8 regular basis?

9 JUROR CEPEDA: No.

10 THE COURT: Would the fact that you have a
11 cousin, employed with the New York Police Department,
12 affect your ability to be a fair, impartial juror?

13 JUROR CEPEDA: No.

14 THE COURT: Thank you, Miss Cepeda.

15 Mr. Martinez?

16 JUROR MARTINEZ: Yes. My brother, Perth
17 Amboy Police Officer. He is also on the Middlesex
18 County SWAT Team.

19 THE COURT: Perth Amboy Police Officer, with
20 the County SWAT Team. Now, do you see your brother on
21 a relatively regular basis?

22 JUROR MARTINEZ: Yes.

23 THE COURT: Would the fact that your brother
24 is a Perth Amboy Police Officer, as well as on the SWAT
25 Team, would that affect your ability to sit and listen

1 to the witnesses here, and be a fair, impartial juror?

2 JUROR MARTINEZ: It wouldn't affect me.

3 THE COURT: Thank you. Anybody else with a
4 response? Mr. Sitton? Who do you know?

5 JUROR SITTON: I have a cousin who is an
6 Assistant District Attorney for the City of Alexandria,
7 Virginia. His wife is a Judge for the EOC.

8 THE COURT: The fact you know those two
9 individuals, that are, as you say, law enforcement,
10 would any of those -- Do you see them on a regular
11 basis? I realize they live out of state. Do you speak
12 with them?

13 JUROR SITTON: Four or five times a year.

14 THE COURT: Would the fact that they are in
15 those positions, affect your ability to sit and listen
16 to the witnesses here, and be a fair, impartial juror?

17 JUROR SITTON: No.

18 THE COURT: Thank you, Mr. Sitton.

19 Who else along that row? Mr. Delgado?

20 JUROR DELGADO: Yes.

21 THE COURT: Who do you know?

22 JUROR DELGADO: My brother-in-law is a
23 correctional officer at Jamesburg. My brother is a
24 State Trooper.

25 THE COURT: You have a brother-in-law who



1 works in Jamesburg, and a brother who is a State
2 Trooper?
3 JUROR DELGADO: Correct.
4 THE COURT: You see them on a regular --
5 relatively regular basis?
6 JUROR DELGADO: Yeah.
7 THE COURT: Would it affect your ability?
8 The fact you have a brother who is a State Trooper, and
9 a brother-in-law who is an officer in Jamesburg, would
10 that affect your ability to sit and listen, and be a
11 fair, impartial juror?
12 JUROR DELGADO: No.
13 THE COURT: Thank you, Mr. Delgado.
14 Miss Remick?
15 JUROR REMICK: I have a cousin who is a
16 retired detective in New York. My mom's cousin. See
17 him maybe once every couple years. Then my younger
18 cousin just started the police academy in Ocean County.
19 THE COURT: Youngest son?
20 JUROR REMICK: Youngest cousin.
21 THE COURT: Would either of those cousins in
22 law enforcement affect your ability to be fair and
23 impartial?
24 JUROR REMICK: No.
25 THE COURT: Thank you. Anybody else?

1 Okay. All right. Now, just because of the
2 way that this question is worded, I am probably going
3 to ask you individually. As a general proposition, do
4 you think that a police officer is more likely, less
5 likely, or just as likely to tell the truth than a
6 witness who is not a police officer?
7 Okay. Miss -- I can't read my own writing.
8 I write so darn fast. I will check the name. Miss
9 Ammar, I will start with you, since you are sitting in
10 the first seat.
11 Let me ask you this question.
12 JUROR AMMAR: Okay. I would say, just as
13 likely.
14 THE COURT: And Miss Salley?
15 JUROR SALLEY: Just as likely.
16 THE COURT: Mr. Colon?
17 JUROR COLON: Just as likely.
18 THE COURT: Miss Cepeda?
19 JUROR CEPEDA: Just as likely.
20 THE COURT: Mr. Martinez?
21 JUROR MARTINEZ: Just as likely.
22 THE COURT: Mr. Kimmel?
23 JUROR KIMMEL: Just as likely.
24 THE COURT: Miss Chan?
25 JUROR CHAN: Just as likely.



1 THE COURT: Mr. Sitton?
2 JUROR SITTON: Just as likely.
3 THE COURT: Miss Gonzalez?
4 JUROR GONZALEZ: Just as likely.
5 THE COURT: Mr. Delgado?
6 JUROR DELGADO: Just as likely.
7 THE COURT: Miss Remick?
8 JUROR REMICK: Just as likely.
9 THE COURT: Mr. Crockett?
10 JUROR CROCKETT: Just as likely.
11 THE COURT: Mr. Patel?
12 JUROR PATEL: Just as likely.
13 THE COURT: And Mr. Booker?
14 JUROR BOOKER: Just as likely.
15 THE COURT: Thank you. Now, we have the next
16 question, which is similar to this question that I just
17 asked you. Let me ask you it. Would you give any
18 greater weight or lesser weight to the testimony of a
19 police officer, merely because of his or her status as
20 a police officer? Or would you be able to give them
21 equal weight?
22 Miss Ammar?
23 JUROR AMMAR: Equal weight.
24 THE COURT: Miss Salley?
25 JUROR SALLEY: Equal weight.

1 THE COURT: Mr. Colon?
2 JUROR COLON: Equal weight.
3 THE COURT: Miss Cepeda?
4 JUROR CEPEDA: Equal.
5 THE COURT: Mr. Martinez?
6 JUROR MARTINEZ: Equal.
7 THE COURT: Mr. Kimmel?
8 JUROR KIMMEL: Equal.
9 THE COURT: Miss Chan?
10 JUROR CHAN: Equal.
11 THE COURT: Mr. Sitton?
12 JUROR SITTON: Equal.
13 THE COURT: Miss Gonzalez?
14 JUROR GONZALEZ: Equal.
15 THE COURT: Mr. Delgado?
16 JUROR DELGADO: Equal.
17 THE COURT: Miss Remick?
18 JUROR REMICK: Equal.
19 THE COURT: Mr. Crockett?
20 JUROR CROCKETT: Equal.
21 THE COURT: Mr. Patel?
22 JUROR PATEL: Equal.
23 THE COURT: Mr. Booker?
24 JUROR BOOKER: Equal.
25 THE COURT: This is a more general question.



1 Have any of you, or any of your family members, or
2 close friends, ever been accused of committing an
3 offense, other than a minor motor vehicle offense? If
4 anybody has that, if you want to come to sidebar. Or
5 are you okay sitting there?

6 Miss Salley? A friend, family member, close
7 friend, accused of committing an offense?

8 JUROR SALLEY: My brother is incarcerated at
9 the moment. I don't know the charges. Up in upstate
10 New York. And I had an older sister, who, previously,
11 I don't know what the charges were. She is much older
12 than I am.

13 THE COURT: Okay. Regarding your brother,
14 you said, who was incarcerated in New York?

15 JUROR SALLEY: Uh-hum.

16 THE COURT: You don't know what the charges
17 are.

18 JUROR SALLEY: I'm not clear on what it is.
19 I didn't care, to be honest. But the second round, I
20 didn't get any details.

21 THE COURT: Then let me ask you: From what
22 you do, know, I know it may be limited, do you feel that
23 he was treated appropriately or fairly by law
24 enforcement?

25 JUROR SALLEY: I honestly wouldn't know. But

1 probably. Probably.

2 THE COURT: Would the fact that you have a
3 brother that is incarcerated, impact on your ability to
4 sit and listen to the case, and be a fair, impartial
5 juror?

6 JUROR SALLEY: Not at all.

7 THE COURT: You also said, you had a sister
8 who was also incarcerated previously?

9 JUROR SALLEY: Yes. I believe hers was a
10 theft.

11 THE COURT: She is not incarcerated now?

12 JUROR SALLEY: Oh, no. She turned her whole
13 life around. She is much better.

14 THE COURT: That was some time ago?

15 JUROR SALLEY: Yeah. Years ago.

16 THE COURT: In New Jersey or a different
17 state?

18 JUROR SALLEY: I don't know. I was a little
19 kid.

20 THE COURT: You were young.

21 I will ask you -- Again, you may not even
22 know the answer. From what you know, do you think or
23 know if she was treated appropriately and fairly by law
24 enforcement? If you know.

25 JUROR SALLEY: She says she was.



1 THE COURT: Okay. Would that affect your
2 ability to be a fair, impartial juror in this case?
3 JUROR SALLEY: Not at all.
4 THE COURT: Anything, from both of those
5 combined, that would, in any way, affect your ability
6 to sit and listen and be a fair, impartial juror in the
7 case?
8 JUROR SALLEY: No.
9 THE COURT: Anybody else in the first row?
10 Mr. Colon?
11 JUROR COLON: Sidebar.
12 THE COURT: Sidebar.
13 (Whereupon, the following discussion occurred
14 at sidebar.)
15 THE COURT: Mr. Colon?
16 JUROR COLON: I was arrested for a
17 misdemeanor, shoplifting, 13 years ago.
18 THE COURT: How old were you then?
19 JUROR COLON: 17.
20 THE COURT: What happened?
21 JUROR COLON: I was arrested for shoplifting
22 in Filene's Basement.
23 THE COURT: Were you prosecuted?
24 JUROR COLON: I just went to court. I
25 pleaded guilty. I paid the fine.

1 THE COURT: No probation, anything like that?
2 JUROR COLON: No.
3 THE COURT: Was that here in Middlesex
4 County?
5 JUROR COLON: No. In Jersey City, Hudson
6 County.
7 THE COURT: You feel you were treated fairly
8 by law enforcement?
9 JUROR COLON: Yes.
10 THE COURT: You hold any kind of grudge
11 against law enforcement because of that?
12 JUROR COLON: No.
13 THE COURT: Anything from that situation that
14 might affect your ability to be fair and impartial?
15 JUROR COLON: No.
16 THE COURT: Any follow-up?
17 MR. SAMEIRO: Just a question. Was law
18 enforcement involved or store security that followed
19 up?
20 JUROR COLON: No. Store security caught me.
21 And then law enforcement was involved, because they
22 arrested me. They called the cops.
23 MR. SAMEIRO: Okay. Got you. Thank you.
24 THE COURT: Anything further?
25 MR. SAMEIRO: No. Thank you.



1 THE COURT: Okay. Thank you.

2 (Whereupon, Juror Colon leaves sidebar.)

3 (Whereupon, the hearing continued at
4 sidebar.)

5 MR. SAMEIRO: We might as well stay here.

6 THE COURT: Okay. Along this first row,
7 anybody else have a response to that question? No.
8 Let me go up to the second row. Does anybody have a
9 response to question 18? Mr. Crockett? Come over, Mr.
10 Crockett.

11 (Whereupon, Juror Crockett comes to sidebar.)

12 THE COURT: Hi, Mr. Crockett. So, question
13 18, family member or close friend?

14 JUROR CROCKETT: Yes. My nephew. He served
15 -- He is serving time in upstate New York prison. He
16 was convicted of an Indictment for rape. And he is
17 serving a 4 to 12 consecutive sentence, for 15 of those
18 counts, or 12 of those counts.

19 THE COURT: When did that happen?

20 JUROR CROCKETT: 1991.

21 THE COURT: 1991. Did you go to the trial?
22 Did you get involved?

23 JUROR CROCKETT: I was in and out of the
24 trial. I was in school at the time. I couldn't be
25 there every day. But I was there as much as I could

1 possibly be.

2 THE COURT: Let me ask you: Close to your --
3 Did you say nephew?

4 JUROR CROCKETT: It was my nephew.

5 THE COURT: Close to your nephew?

6 JUROR CROCKETT: Yes.

7 THE COURT: From what you know about it,
8 sitting at the trial or talking with him, do you feel
9 he was treated fairly by law enforcement?

10 JUROR CROCKETT: Law enforcement is different
11 from the court system?

12 THE COURT: Right.

13 JUROR CROCKETT: Yes. Yeah. I would say, in
14 terms of like the police officers, or things like that,
15 I would probably say, yes. I'm not sure, but in terms
16 of the court system, and the sentence that was meted
17 out, I don't believe he was treated fairly.

18 THE COURT: Too harsh of a sentence?

19 JUROR CROCKETT: Yeah. Very much. Yes.

20 THE COURT: Because of your feelings on the
21 sentence, do you hold that against law enforcement, in
22 any way?

23 JUROR CROCKETT: No.

24 THE COURT: Would that affect your ability to
25 sit and listen, and to be a fair juror in this case?



(Jury Selection)

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1 JUROR CROCKETT: I don't think so, no.

2 THE COURT: All right. Any follow-up
3 questions on this one?

4 MR. SAMEIRO: I do. That was in State or
5 Federal? I assume State Court.

6 JUROR CROCKETT: State Court.

7 MR. SAMEIRO: You felt that your nephew was
8 wrongly convicted?

9 JUROR CROCKETT: Yes.

10 MR. SAMEIRO: Did you testify as a character
11 witness?

12 JUROR CROCKETT: No.

13 MR. SAMEIRO: I assume other members of the
14 family were there. When you went to court, you were
15 just an observer?

16 JUROR CROCKETT: Just an observer.

17 THE COURT: Any questions?

18 JUROR CROCKETT: Basically, we weren't called
19 to testify as character witnesses.

20 THE COURT: Any follow-up?

21 MR. GONZALEZ: No, Judge.

22 MR. SAMEIRO: I do have some. Did your
23 nephew testify?

24 JUROR CROCKETT: No, he did not. That was a
25 strategic decision by his attorney.

(Jury Selection)

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1 MR. SAMEIRO: Okay. Thank you.

2 MR. GONZALEZ: Thank you.

3 THE COURT: Thank you.

4 JUROR CROCKETT: Thank you.

5 (Whereupon, Juror Crockett leaves sidebar.)

6 (Whereupon, the hearing continued from
7 sidebar.)

8 THE COURT: Anybody else have a response over
9 there before we leave?

10 Let me go to the next question before we go
11 back.

12 That is, have you, or any family member, or
13 close friend, ever been the victim of a crime, whether
14 it was reported to law enforcement or not? Anybody?
15 Reported to law enforcement or not?

16 Mr. Kimmel?

17 JUROR KIMMEL: Car theft.

18 THE COURT: Out of where? Where were you
19 living at the time? Where was it stolen from?

20 JUROR KIMMEL: Belleville, New Jersey -- up
21 next to -- which is next to Newark.

22 THE COURT: Did you report it to law
23 enforcement?

24 JUROR KIMMEL: Yeah.

25 THE COURT: Was anybody ever apprehended?



1 JUROR KIMMEL: I don't believe so. I guess,
2 they would have contacted me.
3 THE COURT: Ever get the car back?
4 JUROR KIMMEL: Yes. The next day.
5 THE COURT: Damage to the car?
6 JUROR KIMMEL: No damage. But the whole
7 front end was gone. They unbolted everything, took the
8 whole front end.
9 THE COURT: When did that happen?
10 JUROR KIMMEL: Going on -- I believe -- when
11 did that happen -- I believe it was 2005.
12 THE COURT: Let me ask you: That situation,
13 that experience, would that stop you from sitting and
14 listening to the facts in this case, being a fair,
15 impartial juror?
16 JUROR KIMMEL: No. No.
17 THE COURT: Thank you, Mr. Kimmel.
18 Anybody else? Miss Ammar?
19 JUROR AMMAR: Yes. You want me to come over
20 there?
21 THE COURT: No. You can do it from there.
22 JUROR AMMAR: My son's car was stolen, and a
23 week later it was found, because the person who stole
24 it was having a race with someone else. That's how the
25 police found the car. It was kind of like --

1 THE COURT: Let me ask you: Your son's car,
2 where was it stolen from? What town?
3 JUROR AMMAR: In Newark. He used to work in
4 Newark. In front of his house.
5 THE COURT: Did he report it to the Newark
6 Police?
7 JUROR AMMAR: Yes.
8 THE COURT: Then you say a week later, it was
9 involved in some form of police activity, where they
10 found the car?
11 JUROR AMMAR: Right.
12 THE COURT: Did he, ultimately, get the car
13 back?
14 JUROR AMMAR: Yes.
15 THE COURT: Was there damage to the car?
16 JUROR AMMAR: Yes.
17 THE COURT: Would the fact that your son had
18 this incident, affect your ability to be a fair and
19 impartial juror?
20 JUROR AMMAR: I actually forget about it; but
21 somebody said something about a car theft.
22 THE COURT: When did it happen?
23 JUROR AMMAR: About six or seven years ago.
24 And another incident where his checks were stolen.
25 Somebody wrote checks in his name. And then the bank



1 called me -- my bank account -- that is another thing
2 about two years ago.

3 THE COURT: Was anybody ever apprehended?
4 Did he report that to law enforcement?

5 JUROR AMMAR: The bank dealt with all that.
6 I have no idea what was going on.

7 THE COURT: All right. Okay. Would that
8 incident affect your ability to be fair and impartial?

9 JUROR AMMAR: No. I tend to forget these
10 things. No.

11 THE COURT: Okay. Thank you, Miss Ammar.
12 Anybody else in the front row? No? Back
13 row? Mr. Crockett?

14 JUROR CROCKETT: Yes. My house was
15 burglarized.

16 THE COURT: Where were you living at the
17 time?

18 JUROR CROCKETT: Montgomery County, Maryland.

19 THE COURT: Did you report it to the police?

20 JUROR CROCKETT: Yes.

21 THE COURT: Was anybody apprehended?

22 JUROR CROCKETT: No.

23 THE COURT: Items taken from the home?

24 JUROR CROCKETT: Uh-hum.

25 THE COURT: Did you ever receive any of those

1 items back?

2 JUROR CROCKETT: No.

3 THE COURT: Hold any grudge against law
4 enforcement that nobody was apprehended?

5 JUROR CROCKETT: No.

6 THE COURT: Anything from that situation
7 affect your ability to be a fair and impartial juror?

8 JUROR CROCKETT: No.

9 THE COURT: Mr. Crockett, when did that
10 happen?

11 JUROR CROCKETT: About 1986.

12 THE COURT: Okay. Thank you.

13 Anybody else have any response to that
14 question? No? Thank you.

15 I think we can go back to our seats.

16 (Whereupon, the sidebar discussion
17 concluded.)

18 (Whereupon, the hearing continued in the
19 presence of the prospective jury panel.)

20 THE COURT: Okay. All right. The next
21 question is: Would you have any difficulty following
22 the principle, that the defendant on trial must be
23 innocent, must be found not guilty of a charge, unless
24 each and every essential element of the offense charged
25 is proven, beyond a reasonable doubt? Anybody have any



1 problem with that concept? No? Everybody is shaking
2 their head, no.

3 When I read to you the charges, the
4 Indictment is not evidence of guilt. It is simply a
5 charging document. Would the fact that the defendant
6 has been arrested and indicted, and is here in court
7 facing these charges, cause you to have any
8 preconceived opinion on the defendant's guilt or
9 innocence? Anybody have that? No? Everybody is
10 shaking their head, no.

11 Okay. Now, I have given you the definition
12 of reasonable doubt. I will explain it again at the
13 end of the trial. Would any of you have any difficulty
14 in voting not guilty, if the State fails to prove the
15 charge, beyond a reasonable doubt? Anybody have any
16 problem with that? No. I see no response.

17 Okay. If the State does prove each element
18 of the alleged offense, beyond a reasonable doubt,
19 would you have any difficulty in returning a verdict of
20 guilty? Anybody have any problem with that? No?
21 Everybody is shaking their heads, no.

22 Okay. Now, the burden of proving each
23 element of a crime, beyond a reasonable doubt, rests
24 upon the Prosecution. That burden never shifts to the
25 defendant. The defendant, in a criminal case, has no

1 obligation or duty to prove his innocence, or offer any
2 proof relating to his innocence. Would any of you have
3 any difficulties in following these principles?
4 Anybody have any problem following these principles?
5 No? No?

6 A defendant, in a criminal case, has the
7 absolute right to remain silent, an absolute right not
8 to testify. If the defendant chooses not to testify,
9 the jury is prohibited from drawing any negative
10 conclusions from that choice. The defendant is
11 presumed innocent whether he testifies or not. Would
12 any of you have any difficulty in following these
13 principles? Anybody have any difficulty following
14 these principles? No? No?

15 Okay. Would you have any difficulty or
16 reluctance in accepting the law as explained by the
17 Court, and applying it to the facts, regardless of your
18 own personal beliefs about what the law should be or
19 is? Anybody have a problem with that? No?

20 Okay. Is there anything about the case,
21 based upon what I've told you so far, that would
22 interfere with your ability to be fair and impartial?
23 Perhaps, I haven't asked you about something. Anything
24 that would interfere with your ability to be fair and
25 impartial? No?



1 All right. 28 is a similar question. The
2 purpose of questioning you as prospective members of
3 the jury, is to select a jury, which will be fair and
4 impartial. Is there anything, perhaps, not covered by
5 my previous questions, that would affect your ability
6 to be fair, impartial jurors? Or, in any way, be a
7 problem for you serving on the jury? Anybody?
8 Something that I haven't asked? No?

9 All right. 29, I kind of ask you a little
10 later. I am going to ask you this in just a second. I
11 think what I'm going to do is, give you your little
12 break right now. Let you know what is going to happen
13 when you come back. When you come back, I think, the
14 next set of questions, is what we call the personal
15 questions. They are not too personal. Don't worry
16 about that. I will just go through the personal
17 questions, and then some general open-ended questions
18 that I have for you. I do this individually.

19 All right. So, that will be your next step
20 in the process of the jury selection. I will give you
21 a chance to go downstairs, use the bathroom, if you
22 need to. We will bring you back up in about 10, 15
23 minutes. Then we'll continue in the jury selection
24 process. Folks, I also need you to come back, those of
25 you in the back. As you see, I may end up excusing

1 individuals for whatever reason. You may end up being
2 in the position of a potential juror.

3 Again, Judge Stolte. Go downstairs.
4 Reconvene. We will bring you back up in about 10, 15
5 minutes. You haven't heard anything about the case.
6 So, please do not discuss the case among yourselves or
7 with anybody else. We'll bring you back up in just a
8 few minutes. Keep your questionnaires. You can put
9 your questionnaires in your pockets. So, you have them
10 when you come back up.

11 (Whereupon, the prospective jury panel leaves
12 the courtroom.)

13 (Whereupon, the hearing continued outside the
14 presence of the prospective jury panel.)

15 THE COURT: All right, folks. Take your
16 little break. We'll come back and have the open-ended
17 questions. I normally ask whether or not somebody
18 thinks they can be a good juror in the case and why.
19 Whether they think that the criminal justice system is
20 fair and effective. I have been asking their favorite
21 famous person question. And any other questions that
22 you feel compelled. I'll probably ask those three.

23 MR. GONZALEZ: The only thing I ask, Judge,
24 instead of "yes" or "no" answers, that they expand,
25 when you ask them if they think they'd be a good juror.



1 THE COURT: I ask them that, and then I ask
2 them, why.

3 MR. GONZALEZ: Right.

4 THE COURT: And then whether or not they
5 think our criminal justice system is fair and
6 effective. I also follow-up, and ask them, why they
7 think so. Because they usually say, yes.

8 MR. GONZALEZ: Some Judges just leave it at
9 that.

10 THE COURT: No. I go to the next step. I
11 ask them, why do you feel that way.

12 MR. GONZALEZ: Okay.

13 MR. SAMEIRO: I don't have any problem, if we
14 go to sidebar. I don't want anything negative said in
15 front of the whole jury pool. I'd ask that we go to
16 sidebar if they say, I don't think so.

17 THE COURT: We'll go to sidebar. That's
18 fine. Let's take our break, and then we'll come back.

19 MR. SAMEIRO: Thank you.

20 MR. GONZALEZ: Thank you.

21 THE COURT: Thank you.

22 (Whereupon, a short recess was taken.)

23 (Whereupon, the hearing continued.)

24 (Whereupon, the prospective jury panel enters
25 the courtroom.)

1 THE COURT: All right, folks. We are now
2 going to go into the personal questions. Let me just
3 tell you what they are first. And you can feel free
4 to give the information to me. Or if you need me to
5 repeat them, I certainly will.

6 So, we are going to start with Miss Ammar.

7 Miss Ammar, we will start with you. We're
8 going to ask you, just the town, where you live. Just
9 the town. What you do. Who you live with. What they
10 do. If you have children, just their ages and their
11 sexes. What you like to do in your free time. Let's
12 see. If you have any military background. What your
13 educational background is. Do you have any favorite TV
14 shows. Where you get your news from. And do you have
15 any bumper stickers.

16 JUROR AMMAR: I will start with the last one.
17 I have a bumper sticker.

18 THE COURT: You have. Okay.

19 How about, where you live. The town.

20 JUROR AMMAR: I live in Plainsboro. Right
21 now I live by myself. I have two sons. They both live
22 in California. And I was managing a gym until like two
23 years ago. Then I decided to quit. And now I visit my
24 sons a lot. I do a lot of volunteer work. And I love
25 to read in my spare time. I watch a lot of news. I



1 watch, what I consider, political shows, that are
2 substantial, like Meet the Press, and, you know, This
3 Week. I watch CNN a lot. I watch sitcoms. That's
4 about it.

5 THE COURT: Okay. That is it. How about,
6 let me ask you, any military background?

7 JUROR AMMAR: No.

8 THE COURT: Educational background?

9 JUROR AMMAR: I got my undergrad from Trenton
10 State College at the time, in psychology, sociology.
11 And then I did graduate work at Rutgers in social work.
12 That's it.

13 THE COURT: How about -- Now, you said what
14 you like to watch. You watch a lot of news programs or
15 sitcoms. Do you find that you read papers, too? Local
16 papers? New York papers?

17 JUROR AMMAR: Basically, if something is very
18 interesting, and somebody sends it on e-mail, I'll read
19 it. But I don't read the papers everyday. I read a
20 lot of books.

21 THE COURT: And let me ask you -- Let me go
22 to the open-ended questions. Do you think you would
23 make a good juror for the case?

24 JUROR AMMAR: I hope so. I don't know.

25 THE COURT: Let me ask you this: Are you

1 able to keep an open mind during the trial, listen to
2 all of the witnesses?

3 JUROR AMMAR: I do.

4 THE COURT: Are you able to judge their
5 credibility or their truthfulness as they testify?

6 JUROR AMMAR: As best as I can.

7 THE COURT: From what you know about our
8 criminal justice system, do you think it's fair and
9 effective?

10 JUROR AMMAR: It could be.

11 THE COURT: All right. Let me ask you a
12 little bit about that. What areas do you feel there
13 could be work on? It could be better?

14 JUROR AMMAR: I think, mostly, it always
15 comes down to people's biases. That's really what I
16 feel makes the difference in, you know, people's
17 ability to really be rational and weigh the facts.
18 Yeah. It's hard.

19 THE COURT: Are you willing to be rational
20 and weigh the facts, and listen to the evidence?

21 JUROR AMMAR: I try in life. But as best as
22 I can.

23 THE COURT: Here's the question, that you get
24 kind of cold and the other jurors get to think about
25 it. That is: Do you have a favorite famous person?



1 They can be dead or alive.
2 JUROR AMMAR: Martin Luther King comes to
3 mind. Yeah.
4 THE COURT: Thank you.
5 Let me go to Miss Salley. You have some
6 extra seconds to think about your favorite famous
7 person. If you have a favorite famous person.
8 Let me start you off with the town you live
9 in, what you do.
10 JUROR SALLEY: Iselin. I am a claims
11 examiner.
12 THE COURT: You live with anybody else in the
13 house?
14 JUROR SALLEY: I have two girls and my
15 boyfriend.
16 THE COURT: Boyfriend employed?
17 JUROR SALLEY: Yes, he is.
18 THE COURT: What does he do?
19 JUROR SALLEY: Security for the school
20 system, in, I think, it's Franklin.
21 THE COURT: You said two girls? How old are
22 they?
23 JUROR SALLEY: 16 and 18.
24 THE COURT: In school?
25 JUROR SALLEY: Yeah. One in college. One is

1 a junior in high school.
2 THE COURT: What do you like to do in your
3 spare time?
4 JUROR SALLEY: I like to sing, I like to
5 read.
6 THE COURT: Any military background?
7 JUROR SALLEY: None.
8 THE COURT: Educational background?
9 JUROR SALLEY: First year college.
10 THE COURT: Favorite TV shows?
11 JUROR SALLEY: I think all the court shows.
12 All the Law and Orders, CSI, Criminal Minds I like.
13 THE COURT: Okay. Where do you find you get
14 your news from?
15 JUROR SALLEY: MSNBC, CNN, Channel 4.
16 THE COURT: Bumper stickers?
17 JUROR SALLEY: No.
18 THE COURT: Do you think you'd make a good
19 juror for the case?
20 JUROR SALLEY: I believe so. Yes.
21 THE COURT: How come?
22 JUROR SALLEY: Because I am open-minded. I
23 have many relatives and friends on both sides, you
24 know. I don't know -- I think I'm just fair. I have a
25 big sense of fairness.



1 THE COURT: From what you know about the
2 criminal justice system, do you think it is fair and
3 effective?

4 JUROR SALLEY: I think it could be better, it
5 could be worse. I think it's the best in the world.

6 THE COURT: Thank you. Do you have a
7 favorite famous person?

8 JUROR SALLEY: Oh, I would say that I have
9 several. None that come to mind really, that is my
10 absolute favorite, no.

11 THE COURT: Thanks.

12 Mr. Colon, I will start you off with who you
13 live with, where you live.

14 JUROR COLON: I live with my wife in Parlin,
15 New Jersey. We have one son.

16 THE COURT: How old is he?

17 JUROR COLON: A year and ten months.

18 THE COURT: Okay. What do you do?

19 JUROR COLON: I am a financial analyst. My
20 wife works in commercial operations for a television
21 station.

22 THE COURT: Spare time?

23 JUROR COLON: I'm a sports fanatic. Anything
24 sports related.

25 THE COURT: All right. Any military

1 background?

2 JUROR COLON: No.

3 THE COURT: Educational background?

4 JUROR COLON: College graduate, Bachelor's.

5 THE COURT: How about news? Where do you get
6 your news from?

7 JUROR COLON: Either Channel 7 or CNN. Two
8 recent ones, two sources.

9 THE COURT: TV shows?

10 JUROR COLON: TV shows is ESPN. I mean,
11 anything sports related or some shows I like, 24, CSI.
12 Those are possibly two that stick out.

13 THE COURT: Bumper stickers?

14 JUROR COLON: None.

15 THE COURT: Do you think you would make a
16 good juror for the case?

17 JUROR COLON: I hope I will.

18 THE COURT: Why? Let me hear a little bit
19 more. Do you think you would be able to keep an open
20 mind?

21 JUROR COLON: Yeah. I do my best to keep an
22 open mind. I'm a fairly fair person. I try to keep
23 any biases out of my thinking.

24 THE COURT: From what you know about our
25 criminal justice system, do you think it's fair and



1 effective?

2 JUROR COLON: I don't know too much. But I
3 believe it to be fair.

4 THE COURT: When you say you don't know too
5 much, do you feel you get most of your information from
6 the news, what you hear from others?

7 JUROR COLON: Exactly. So, you never know
8 what the news is reporting, if it's accurate or not
9 accurate information. That's why, I guess, I'll say, I
10 feel it's a good system.

11 THE COURT: Do you have a favorite famous
12 person?

13 JUROR COLON: Roberto Clemente.

14 THE COURT: Thank you.

15 Miss Cepeda? Where do you live?

16 JUROR CEPEDA: I live in Perth Amboy. I live
17 with my parents and my brothers.

18 THE COURT: What do you do?

19 JUROR CEPEDA: Right now I am unemployed.

20 THE COURT: What were you doing before?

21 JUROR CEPEDA: Working in a law office.

22 THE COURT: A law office you worked for?

23 Where was that located?

24 JUROR CEPEDA: In Morganville.

25 THE COURT: What was the name of the firm?

1 JUROR CEPEDA: Samson Law Group.

2 THE COURT: Do you know if they did criminal
3 work?

4 JUROR CEPEDA: Yes, they do.

5 THE COURT: Were you working on any criminal
6 matters or documents?

7 JUROR CEPEDA: No. Just translated in
8 Spanish. I just did translations.

9 THE COURT: Okay. You also live with your
10 parents?

11 JUROR CEPEDA: Yes.

12 THE COURT: Are they working?

13 JUROR CEPEDA: My father. My mom, no.

14 THE COURT: What does your father do?

15 JUROR CEPEDA: He works in a factory.

16 THE COURT: How about -- There was one more
17 person in the house?

18 JUROR CEPEDA: My sister.

19 THE COURT: Your sister. And is she employed
20 outside the home?

21 JUROR CEPEDA: Yeah. She works for the
22 Jewish Renaissance Medical Center.

23 THE COURT: What do you do in your spare
24 time?

25 JUROR CEPEDA: Listen to music, watch TV. My



1 favorite TV shows, all of them, everything. I like
2 everything.

3 THE COURT: Any military background?

4 JUROR CEPEDA: No.

5 THE COURT: What is your educational
6 background?

7 JUROR CEPEDA: High school, and two years of
8 college.

9 THE COURT: How do you get your news? Where
10 do you get your news from?

11 JUROR CEPEDA: MSN, watching TV, like Spanish
12 TV.

13 THE COURT: Bumper stickers?

14 JUROR CEPEDA: Yes.

15 THE COURT: Oh, good. What are they?

16 JUROR CEPEDA: Speeding. Just one. Speeding
17 tickets.

18 THE COURT: No. No. Bumper stickers. I
19 thought maybe you had a bumper sticker. See how
20 excited I was. I don't usually get anybody with bumper
21 stickers. Not speeding tickets.

22 Do you think you would make a good juror for
23 the case?

24 JUROR CEPEDA: I will try.

25 THE COURT: Are you able to keep an open mind

1 and listen to each of the witnesses and determine their
2 truthfulness or their credibility?

3 JUROR CEPEDA: Yes.

4 THE COURT: From what you know about the
5 criminal justice system, do you think it's fair and
6 effective?

7 JUROR CEPEDA: I will try to be fair.

8 THE COURT: Do you know -- You may not know
9 too much about the criminal justice system.

10 JUROR CEPEDA: I don't know that much.

11 THE COURT: From what you've heard or read or
12 seen, do you believe our system of justice is fair and
13 effective? Do you think there is room for improvement?

14 JUROR CEPEDA: Try to be a fair system.

15 THE COURT: Now, let me ask you: Do you have
16 a favorite famous person?

17 JUROR CEPEDA: Yes.

18 THE COURT: Who is that?

19 JUROR CEPEDA: Selena.

20 THE COURT: Okay. Thank you.

21 JUROR CEPEDA: You are welcome.

22 THE COURT: Mr. Martinez, where do you work?
23 Where do you live?

24 JUROR MARTINEZ: I live in Woodbridge. I
25 live with my wife and three children. Total of five



(Jury Selection)

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1 children, two are older and have moved away. I work as
2 a project accountant. I have a degree in business
3 administration, with a concentration in accounting.
4 THE COURT: Any military background?
5 JUROR MARTINEZ: No.
6 THE COURT: Wife employed outside the home?
7 JUROR MARTINEZ: Yes, she is a bus driver.
8 THE COURT: Now, the three that are living in
9 the house, what are their sexes and ages?
10 JUROR MARTINEZ: Two boys and a girl, 10, 11,
11 and 12.
12 THE COURT: All in school?
13 JUROR MARTINEZ: All in school.
14 THE COURT: Free time?
15 JUROR MARTINEZ: My free time is spent with
16 church.
17 THE COURT: News? Where do you get your news
18 from?
19 JUROR MARTINEZ: Either New Jersey 12, News
20 12, or Yahoo online.
21 THE COURT: Bumper stickers?
22 JUROR MARTINEZ: No bumper stickers.
23 THE COURT: I think I have to take that
24 question off. Do you think you would make a good
25 juror?

(Jury Selection)

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1 JUROR MARTINEZ: I think I'm a good listener.
2 I usually am a good judge of character.
3 THE COURT: How about the criminal justice
4 system? Do you think it is fair and effective?
5 JUROR MARTINEZ: I think it's fair. I think
6 90 percent effective. I heard of cases where people
7 have been tried unjustly. But, for the most part, I
8 think that ample chance is given to everybody.
9 THE COURT: Okay. Thanks, Mr. Martinez. Do
10 you have a favorite famous person?
11 JUROR MARTINEZ: My favorite person would be
12 the Lord Jesus Christ. For a living person, Pastor
13 John Hagget.
14 THE COURT: Thank you, Mr. Martinez.
15 Mr. Kimmel, I will start you off with, who
16 you live with, and where you live.
17 JUROR KIMMEL: I live in East Brunswick. I
18 live in a two-family house. My parents live on one
19 side. My brother-in-law and sister live on the other.
20 I rent the apartment upstairs.
21 THE COURT: What do you do?
22 JUROR KIMMEL: I'm a lead man. A machine
23 operator.
24 THE COURT: Any military background?
25 JUROR KIMMEL: No.



1 THE COURT: Educational background?

2 JUROR KIMMEL: High school.

3 THE COURT: How about spare time? What do
4 you like to do in your spare time?

5 JUROR KIMMEL: Spend a lot of time with my
6 fiancée, and just going out to movies, stuff like that.

7 THE COURT: News. Where do you get your news
8 from?

9 JUROR KIMMEL: Usually, just looking at the
10 front page of the newspaper. A little bit on the
11 internet.

12 THE COURT: Not so much on TV shows?

13 JUROR KIMMEL: No. I don't watch that much
14 TV.

15 THE COURT: My next question is, any favorite
16 TV shows?

17 JUROR KIMMEL: Nothing in particular, no.

18 THE COURT: Any bumper stickers?

19 JUROR KIMMEL: No bumper stickers. Just
20 window sticker, American flag.

21 THE COURT: Okay. How about the question, do
22 you think you'd make a good juror?

23 JUROR KIMMEL: I think I'd make a good juror.

24 THE COURT: How come?

25 JUROR KIMMEL: I strongly listen to both

1 sides, weigh all the facts and testimony.

2 THE COURT: From what you know about the
3 criminal justice system, do you think it is fair and
4 effective?

5 JUROR KIMMEL: I think it's fair and
6 effective.

7 THE COURT: Okay. Any particular reason why
8 you think that? From what you hear, what you read?

9 JUROR KIMMEL: I just have a strong belief in
10 the entire judicial system.

11 THE COURT: Okay. Do you have a favorite
12 famous person?

13 JUROR KIMMEL: Not in particular.

14 THE COURT: Thanks, Mr. Kimmel.

15 Miss Chan, let me ask you, who you live with,
16 what you do.

17 JUROR CHAN: I live with my husband and my
18 three sons.

19 THE COURT: What does your husband do?

20 JUROR CHAN: My husband is systems
21 administrator.

22 THE COURT: How about you? Are you employed
23 outside the home?

24 JUROR CHAN: I am a computer programmer.

25 THE COURT: How old are your three boys?



1 JUROR CHAN: Nine and five and five.
2 THE COURT: Any military background?
3 JUROR CHAN: No.
4 THE COURT: Educational background?
5 JUROR CHAN: I have MBA.
6 THE COURT: What do you like to do in your
7 spare time?
8 JUROR CHAN: Sleeping, watching TV.
9 THE COURT: How about TV shows?
10 JUROR CHAN: CSI, Criminal Minds, House.
11 THE COURT: Where do you get your news from?
12 JUROR CHAN: TV, internet.
13 THE COURT: Any bumper stickers?
14 JUROR CHAN: No.
15 THE COURT: Do you think you would make a
16 good juror for the case?
17 JUROR CHAN: Not sure, but try.
18 THE COURT: Well, are you able to keep an
19 open mind, to listen to all the testimony?
20 JUROR CHAN: Yeah.
21 THE COURT: From what you know about our
22 criminal justice system, it could be from any source,
23 do you think it is fair and effective?
24 JUROR CHAN: I think so.
25 THE COURT: Do you have a favorite famous

1 person?
2 JUROR CHAN: No.
3 THE COURT: Okay, folks. What I'm going to
4 do, I'm going to break. Then I will go to the next
5 half. After I go through the personal questions with
6 you, then comes the attorneys. They have the ability
7 to excuse individual jurors. That will be the next
8 step in the process. That may be when the other jurors
9 will come up, and I will go through the questions with
10 you. I am keeping you advised of the process.
11 I'm going to break now for lunch. Come back
12 about twenty of. Just about an hour. Come downstairs.
13 Reconvene, all of you. We will bring you back up and
14 continue our process. Please remember, you haven't
15 heard any information about the case. Don't discuss
16 the case in any way. But please have a nice lunch.
17 See you downstairs in about an hour. We will bring you
18 up. All right.
19 (Whereupon, the prospective jury panel leaves
20 the courtroom for lunch.)
21 (Whereupon, the hearing continued in the
22 presence of Juror Number 13, Kunal Patel.)
23 THE COURT: Mr. Patel, right now, is in seat
24 -- Juror Number 13.
25 JUROR PATEL: That is correct.



1 THE COURT: Stand right there. What is the
2 matter, Mr. Patel?

3 JUROR PATEL: I work in the airport. I am a
4 loader. I don't get paid for today. I am not going to
5 get paid for tomorrow. If it goes to Thursday, I am
6 not going to get paid. The number two thing is, the
7 second person who does it, he's not going to be here.
8 He's called out. Nobody else that has a license to do
9 it.

10 THE COURT: Let me ask you, Mr. Patel, when I
11 asked about getting paid, you did not respond.

12 JUROR PATEL: I'm sorry. No. It's not -- I
13 wasn't sure. I checked. I had to call in. Like, I
14 don't work like directly for the airport. I work for
15 an agency. That is the way it is.

16 THE COURT: You were able to check. They do
17 not pay you for any days?

18 JUROR PATEL: They don't pay for any days.

19 THE COURT: Is that a financial hardship, Mr.
20 Patel?

21 JUROR PATEL: The thing is, I live with my
22 dad, my mom. And my dad, he gets paid minimum wage
23 where he work.

24 THE COURT: Mr. Patel, thank you for
25 checking. I probably should have reminded those other

1 jurors, in case they didn't know, to check, too.

2 But I do thank you for checking. And,
3 Counsel, I think I'm going to excuse Mr. Patel for a
4 hardship.

5 MR. GONZALEZ: No objection.

6 MR. SAMEIRO: No objection.

7 JUROR PATEL: Sorry. I didn't mean to cause
8 any trouble. I didn't want to do it too late.

9 THE COURT: I appreciate that. It is a good
10 thing you did that.

11 JUROR PATEL: Also, one more thing. My dad
12 is here as well. He is sitting back over there.

13 THE COURT: Father and son on the same date.

14 JUROR PATEL: The thing is, he doesn't
15 understand English. Only understanding is basic
16 English. He works at a bank. But like in the back, at
17 the sorter center.

18 THE COURT: Well, if he does come up, I will
19 question him a little bit. If there is an issue --

20 JUROR PATEL: Sorry about that.

21 THE COURT: Thank you. Maybe you can stay
22 and translate, if necessary, this afternoon.

23 (Whereupon, Juror Patel leaves the
24 courtroom.)

25 (Whereupon, the hearing continued outside the



1 presence of the prospective jury panel.)

2 MR. SAMEIRO: I have two comments I want to
3 make before we break for lunch. To give the Court, I
4 guess, some time to think about my request during the
5 lunch break, rather than rush out now.

6 Perhaps, I should have thought about this
7 earlier; but I didn't. I apologize. We have two
8 jurors, it appears to me, understanding Spanish. It
9 would be Miss Cepeda, Juror Number 4, and Mr. Martinez,
10 Juror Number 5.

11 Or, at least, these two have come to my
12 attention, in light of the colloquy. I would like to
13 know if they, or anybody else in the jury, understands
14 Spanish. Whether they can read and write Spanish. And
15 if that gets affirmative answers, your Honor needs to
16 tell the jurors -- the jury -- these witnesses --
17 excuse me -- these jurors in particular, that it's the
18 translation that matters. Because we have Interpreters
19 here. My victim is Spanish speaking. Okay. He is
20 going to need an Interpreter, number one. Number two,
21 the videotape, that I intend to play for the jurors,
22 has the photo array procedure done entirely in Spanish.

23 Now, the import of the tape is really visual.
24 The most important thing for me is having the witness
25 identify the photograph, which is his nodding in the

1 affirmative. That requires no translation. But there
2 is a photo display sheet in Spanish, read to the
3 witness, which I have marked.

4 THE COURT: Okay.

5 MR. SAMEIRO: I expect that Officer Sergio
6 Mattias, who is a Spanish speaking officer, that did
7 the photo array procedure, to translate that document,
8 with the English version, that we have also premarked.
9 I say all this to put it in context. Because you're
10 going to have jurors, perhaps, hearing something that
11 is not a hundred percent translated accurately, with
12 all due respect to the Interpreters, you could have
13 more than one translation. What I would like to know
14 is, in terms of their Spanish speaking ability during
15 the process.

16 THE COURT: Okay.

17 MR. SAMEIRO: I don't think there is any harm
18 in asking them. If they answer in the affirmative, to
19 have the Court telling them, that they need to be
20 guided by and bound by the official translation.

21 THE COURT: I have no problem with that.

22 MR. SAMEIRO: I think that is number one.
23 Number two, Mr. Martinez said something that piqued my
24 curiosity, when asked about the most famous person
25 question. He said, the Lord Jesus Christ.



1 I would like the Court to not necessarily
2 highlight the particular juror, but ask the panel, in
3 relation to any religious beliefs that would prevent
4 them from judging another. I do happen to know, I just
5 don't have chapter and verse, at my hand, in the
6 Christian faith, there is a passage in the Bible, that
7 some evangelicals believe, prevents them from judging
8 another. I have seen those answers before.

9 I've had pastors, in fact, come before the
10 Court, in other cases, you know, Judge, I can't be
11 fair. I can't judge another human being, you know,
12 based upon my religious belief. I don't know if Mr.
13 Martinez believes that way. I think it is worth
14 asking. I don't certainly want anybody to be precluded
15 from judging Mr. Machado, or any of the witness'
16 credibility, based upon a religious obstacle.

17 MR. GONZALEZ: I think what the juror said
18 about the criminal justice system was pretty
19 unequivocal, and his ability to listen.

20 THE COURT: Right. That he had an open mind.
21 I got into some of the things, where he would be a good
22 juror.

23 MR. GONZALEZ: I think his resounding, "Jesus
24 Christ" -- I don't know. It might be a problem, a
25 jurisdictional problem.

1 MR. SAMEIRO: I'm just asking, perhaps, your
2 Honor could say it, not necessarily picking out Mr.
3 Martinez. You can say, does anybody have any religious
4 principles or beliefs, that would get in the way of
5 judging people.

6 THE COURT: I don't have a problem asking
7 that. I think they're dealt with, through the guilty
8 and not guilty. Would you be able to find someone
9 guilty. Would you be able to find someone not guilty.
10 It is kind of dealt with in those questions.

11 Again, I have no problem, with personal or
12 religious beliefs, that would interfere in the judgment
13 of another. Normally, these people do come forward.
14 It might be much to do about nothing.

15 MR. SAMEIRO: Like Mr. Gonzalez said, a
16 resounding, "Lord Jesus Christ." That just made me
17 think about the issue. To think that there may be a
18 problem.

19 THE COURT: I have no problem asking that.
20 I'll ask it.

21 MR. SAMEIRO: I had an ironic issue my last
22 trial, regarding Spanish speaking jurors.

23 MR. GONZALEZ: I heard about that.

24 THE COURT: I'll ask if anybody does speak
25 Spanish, write Spanish, read Spanish.



1 MR. SAMEIRO: And indicate to them, as you
2 can see we are using the assistance of an Interpreter.
3 And they must understand that the translation, that is
4 given by the Interpreter, is what we must go by. If
5 you differ, fine. But you have to use the translation
6 of our Court-appointed translator. You can also
7 indicate that the victim will be using an Interpreter.

8 THE COURT: I have no problem with that.
9 Both the defendant and the victim.

10 MR. SAMEIRO: They will be using the
11 assistance of an Interpreter.

12 MR. GONZALEZ: I think they noticed that.

13 MR. SAMEIRO: You know, you'd be surprised
14 how many times, that somebody thinks that he has a
15 hearing problem.

16 THE COURT: You know, I've heard that in the
17 past from jurors.

18 Okay. So, I'll ask them those questions when
19 we come back.

20 MR. SAMEIRO: Thank you.

21 MR. GONZALEZ: Thank you.

22 THE COURT: Thank you, folks.

23 See you at 1:45. We'll come back at 1:45.

24 (Whereupon, a luncheon recess was taken.)
25

1 A F T E R N O O N S E S S I O N

2 (Whereupon, the hearing continued after
3 lunch.)

4 (Whereupon, the prospective jury panel enters
5 the courtroom.)

6 THE COURT: Thank you, folks. Please have a
7 seat. I'd like to tell you that we took an extended
8 lunch. I apologize. It was a totally separate matter.
9 I do apologize, ladies and gentlemen.

10 Let me come back to asking those personal
11 questions, starting where we left off, with Mr. Sitton.

12 Mr. Sitton, where do you live and who do you
13 live with?

14 JUROR SITTON: I live with my wife and two
15 daughters. We live in Metuchen, New Jersey.

16 THE COURT: What do you do?

17 JUROR SITTON: I work in finance for
18 JP Morgan.

19 THE COURT: How about your wife? Is she
20 employed outside the home?

21 JUROR SITTON: She works for Cordis
22 Endovascular, out of Warren, New Jersey.

23 THE COURT: You said two daughters? How old
24 are they?

25 JUROR SITTON: Thirteen and six.



1 THE COURT: What do you like to do in your
2 spare time?

3 JUROR SITTON: Once in a while, I get to play
4 some golf, sporadically. I do like to watch TV, read.

5 THE COURT: What are your favorite shows?

6 JUROR SITTON: Law and Order. I watch
7 Supernatural with my oldest daughter.

8 THE COURT: Any military background?

9 JUROR SITTON: No.

10 THE COURT: Educational background?

11 JUROR SITTON: College degree. And I'm also
12 a charter financial analyst.

13 THE COURT: How about the news? Where do you
14 get your news from?

15 JUROR SITTON: The Wall Street Journal,
16 mostly for business, and CNN.

17 THE COURT: Any bumper stickers?

18 JUROR SITTON: Metuchen Bull Dogs, Go Bull
19 Dogs.

20 THE COURT: Do you think you would make a
21 good juror for the case?

22 JUROR SITTON: Yes, I do. I think so. I am
23 a fair-minded person, open-minded. Try not to reach a
24 judgment on any situation, or anybody, without sort of
25 hearing both sides.

1 THE COURT: With what you know about our
2 criminal justice system, do you think it is fair and
3 effective?

4 JUROR SITTON: I think it's as far as a large
5 system can be. So, yes.

6 THE COURT: Do you have a favorite famous
7 person?

8 JUROR SITTON: Not particularly. Although, I
9 will note that Clemente is not a bad choice.

10 THE COURT: Thank you.

11 Miss Gonzalez, where do you live, what do you
12 do?

13 JUROR GONZALEZ: I live in Cranbury with my
14 husband, and my 12-year-old daughter, and 9-year-old
15 twins. I teach in high school. And I actually
16 encountered a problem during the break.

17 THE COURT: All right.

18 JUROR GONZALEZ: I very much would like to
19 serve. But I have encountered a problem, when I called
20 my husband. I called several stay-at-home moms, to see
21 if they could help me, in terms of a week long trial.
22 I have my kids to pick up at 3:00 o'clock, which I
23 always do.

24 THE COURT: Okay.

25 JUROR GONZALEZ: And I only found one mom who



1 would; but the others tell me, it was a very bad week.
2 to drive three additional kids. And my husband said to
3 me -- he works as a sales manager. That this is the
4 toughest week of the year. That he has a quota to get
5 in sales. And there is a lot of pressure this week.
6 He would be unable to pick up the kids.

7 THE COURT: Okay.

8 JUROR GONZALEZ: So, help me out. I
9 really --

10 THE COURT: Is there after care?

11 JUROR GONZALEZ: There used to be, when I
12 taught at the elementary level. Right now, there isn't
13 after care. They are not registered for it. It's a
14 private after school care that serves Metuchen,
15 Cranbury, Monroe. It is not an after care school
16 program, that the Cranbury School has. So, I would
17 also be stressed. I don't know if I could -- They're
18 not registered for it. You have to preregister. You
19 have to do that a month ahead of time. I would have to
20 see if they would be able to take them on such a short
21 notice.

22 THE COURT: Okay. You've got to get over to
23 my school, it is only a day's notice.

24 But I understand your problem. I appreciate
25 you doing all that work, checking on the other mothers,

1 to see if they can pick up the children.

2 JUROR GONZALEZ: It is just a tough week.

3 THE COURT: I know that it is a tough week.

4 JUROR GONZALEZ: A lot of people had all
5 kinds of reasons.

6 THE COURT: Okay. We thought about the after
7 care. No relative or anything like that?

8 JUROR GONZALEZ: No. My family consists of
9 my children and my husband. My husband and I are only
10 children. And our last surviving parent, my father,
11 passed away a year ago. Except for the neighbors that
12 I have, who I called, and only one would say sure, no
13 problem, for one day a week. The others couldn't
14 promise me anything.

15 THE COURT: Miss Gonzalez, I'm going to
16 excuse you, based upon your issue, that, I think, is
17 somewhat unique to you this week, unfortunately. Maybe
18 another week, you will be able to come back in.

19 JUROR GONZALEZ: Thank you.

20 THE COURT: Thank you. All right, Miss
21 Gonzalez.

22 Before I put someone else in, let me go to
23 Mr. Delgado, with the personal questions. Who do you
24 live with, what do you do?

25 JUROR DELGADO: I live by myself. I live in



1 New Brunswick. I'm a network technology support
2 specialist. I have military background. Two years in
3 the military academy. That's about it.
4 THE COURT: How about educational background?
5 JUROR DELGADO: Graduated Rutgers, with a
6 degree in Japanese. And that's it.
7 THE COURT: Free time? What do you like to
8 do in your free time?
9 JUROR DELGADO: I train at the academy about
10 four, five days out of the week.
11 THE COURT: TV shows?
12 JUROR DELGADO: TV shows, I don't watch TV
13 that much, unless I am watching the Simpsons, I guess.
14 THE COURT: News?
15 JUROR DELGADO: BBC online, that is usually
16 where I get my news from.
17 THE COURT: Bumper stickers?
18 JUROR DELGADO: None.
19 THE COURT: Do you think you'd make a good
20 juror for the case?
21 JUROR DELGADO: I hope so. I think so.
22 THE COURT: Can you keep an open mind when
23 you are listening to all the witnesses?
24 JUROR DELGADO: I think so. Sure.
25 THE COURT: What you know of our criminal

1 justice system, do you think it is fair and effective?
2 JUROR DELGADO: I don't know much about it.
3 THE COURT: Would you say you get, what you
4 do know about it, from newspapers or what you hear from
5 people? Where would you say you get your information
6 about our criminal justice system?
7 JUROR DELGADO: Actually, I've got a few
8 friends who are lawyers and such. So, we don't really
9 talk a lot, a whole lot, about it.
10 THE COURT: Okay. Do you have a favorite
11 famous person?
12 JUROR DELGADO: Dalai Lama.
13 THE COURT: Okay. Miss Remick, who do you
14 live with, and where do you work?
15 JUROR REMICK: I live with my husband and two
16 sons, ages seven and five. I'm a middle school
17 teacher. I live in Perth Amboy. My husband is a
18 computer consultant.
19 THE COURT: Military background?
20 JUROR REMICK: Nope.
21 THE COURT: Educational background?
22 JUROR REMICK: Bachelor of Arts in teaching.
23 THE COURT: What do you like to do in your
24 spare time?
25 JUROR REMICK: Keep after the kids pretty



1 much. Lots of family activities.
2 THE COURT: Favorite TV shows?
3 JUROR REMICK: None. They don't give me the
4 remote. So, mostly just kids shows for now. I watch
5 with them.
6 THE COURT: How about news? Where do you get
7 your news from?
8 JUROR REMICK: CNN and Home News Tribune.
9 THE COURT: Do you think you'd make a good
10 juror for this case?
11 JUROR REMICK: I do. I am an objective
12 person. With my students, I always play the devil's
13 advocate. Try to show them both sides.
14 THE COURT: Both sides of the situation?
15 JUROR REMICK: I do.
16 THE COURT: Do you think that our criminal
17 justice system is fair and effective?
18 JUROR REMICK: I do think it's fair. I'm
19 trying to recall -- I can't think of any time that I've
20 seen a verdict, that I've been outraged at or surprised
21 by. So, it's fair.
22 THE COURT: Favorite famous person?
23 JUROR REMICK: None.
24 THE COURT: Thank you. Mr. Crockett, who do
25 you live with, what do you do?

1 JUROR CROCKETT: My girlfriend and I live
2 together in North Brunswick. And I work as a project
3 manager for a digital imagining company.
4 THE COURT: Now, is your girlfriend employed?
5 JUROR CROCKETT: Yes, she is. She works for
6 Off Track Betting in New York City. She is one of the
7 senior executives of that organization.
8 THE COURT: Any military background?
9 JUROR CROCKETT: Six years in the U.S. Army.
10 THE COURT: Educational background?
11 JUROR CROCKETT: Currently working on my
12 doctorate. MBA. Undergraduate.
13 THE COURT: Spare time?
14 JUROR CROCKETT: Spare time, I run. You
15 know, usually, I have time constraints, relative to my
16 studies. So, running, sleeping.
17 THE COURT: How about any TV?
18 JUROR CROCKETT: TV, I'm a flipper. Wherever
19 I land on. A spectrum of channels I watch.
20 THE COURT: How about the news? Where do you
21 find that you get your news from?
22 JUROR CROCKETT: I listen to MPR. I like to
23 watch MSNBC and FOX news reports.
24 THE COURT: Any bumper stickers?
25 JUROR CROCKETT: No.



1 THE COURT: Do you think you'd make a good
2 juror for the case?

3 JUROR CROCKETT: Yes, I do.

4 THE COURT: How come?

5 JUROR CROCKETT: Well, I feel that I am
6 objective. I feel that I could weigh both sides of an
7 argument. And, you know, I feel I would be persuasive
8 enough, to be able to present my own points of view.

9 THE COURT: Okay. When you deliberate?

10 JUROR CROCKETT: Yes.

11 THE COURT: How about, from what you know
12 about our criminal justice system, do you think it is
13 fair and effective?

14 JUROR CROCKETT: I think that it's biased.
15 And I say that because, I am an African American male.
16 I look at the percentages of, you know, men in the
17 population, relative to the prison population. I also
18 think it's also a function of one's resources, in terms
19 of the quality of representation, that you may get.
20 So, I do have my own continuing opinions about the
21 justice system. That said, I wouldn't want to be tried
22 -- on trial -- anywhere else in the world.

23 THE COURT: Okay. Thank you. How about a
24 favorite famous person? You have a favorite famous
25 person?

1 JUROR CROCKETT: So many. There is so many
2 of them. You know, there are so many, I don't want to
3 pick one.

4 THE COURT: Okay.

5 JUROR CROCKETT: I don't want to slight the
6 others.

7 THE COURT: Thanks, Mr. Crockett.

8 And, Mr. Booker, who do you live with, and
9 what do you do?

10 JUROR BOOKER: I live with my wife, and I
11 have three small kids. I have two older ones. We have
12 four sons and one daughter.

13 THE COURT: What do you do?

14 JUROR BOOKER: I work for the Franklin
15 Township Board of Ed, maintenance custodian in the
16 department.

17 THE COURT: Is your wife employed outside the
18 home?

19 JUROR BOOKER: No, she is not.

20 THE COURT: You said three younger children
21 and two older?

22 JUROR BOOKER: Yes.

23 THE COURT: How old are the younger ones?
24 What are they? Boys? Girls?

25 JUROR BOOKER: There is two boys and a girl.



1 Eleven, nine, and seven.
2 THE COURT: And how old are the older ones?
3 JUROR BOOKER: 19 and 25, I think.
4 THE COURT: But they're out of the home?
5 JUROR BOOKER: Yes.
6 THE COURT: Any military background?
7 JUROR BOOKER: No.
8 THE COURT: Educational background?
9 JUROR BOOKER: Just high school.
10 THE COURT: Free time. What do you like to
11 do in your free time?
12 JUROR BOOKER: I catch a movie with the kids.
13 Get them involved with sports, things like that.
14 THE COURT: News. Where do you get your news
15 from?
16 JUROR BOOKER: I watch CNN. And my wife
17 likes to watch Nancy Grace.
18 THE COURT: Bumper stickers? Any bumper
19 stickers?
20 JUROR BOOKER: I have a Pop Warner Vikings.
21 THE COURT: Pop Warner Vikings. Okay. Do
22 you think you'd make a good juror in this case?
23 JUROR BOOKER: Yes, I do.
24 THE COURT: Why?
25 JUROR BOOKER: I am a very objective,

1 open-minded person.
2 THE COURT: From what you know about our
3 criminal justice system, do you think it is fair and
4 effective?
5 JUROR BOOKER: I think it's fair. Because,
6 you know, even sitting here now, looking around at the
7 people, from all different walks of life, I believe we
8 are part of that. I think the system is fair.
9 THE COURT: Okay. Mr. Booker, do you have a
10 favorite famous person?
11 JUROR BOOKER: It's an artist named Robert
12 Byrd. A big inspiration, as far as art. I used to be
13 fond of drawings and things like that. I don't have
14 time anymore. Time to do that. He has inspired me a
15 great deal.
16 THE COURT: Thank you, Mr. Booker.
17 All right. Now, we need to ask additional --
18 a couple additional questions. I will ask them as a
19 group. Let me ask you, first of all, does anybody else
20 here, at this point, who speaks Spanish?
21 Okay. So, we have Mr. Sitton, Miss Cepeda,
22 and Mr. Martinez. The three of you speak Spanish. Do
23 you also read and write Spanish? Yes? You are all
24 shaking your heads, yes.
25 As you can see, this is to all our potential



1 jurors. We are using the assistance of an Interpreter.
2 And if there are witnesses that speak Spanish, which
3 there may be, we're going to be using a translator to
4 assist us again.

5 Now, my first question is, is there anybody,
6 first of all, that believes, because we're using a
7 translator during this case, that it will impact their
8 ability to be fair and impartial? Anybody have any
9 problem, with the fact that we are using the translator
10 to assist us? No? That is my first question.

11 My second question is, those jurors, who
12 speak or read or write Spanish, all of the above
13 jurors, when there is a translation being made from the
14 witness stand, you must accept the translation that the
15 Official Court Translator gives. Okay? Even if there
16 may be a different interpretation, you have to use that
17 interpretation, that our Official Translator is giving
18 the Court. Miss Cepeda, do you have any problem with
19 that?

20 JUROR CEPEDA: No.

21 THE COURT: Mr. Martinez, do you have any
22 problem with that?

23 JUROR MARTINEZ: No.

24 THE COURT: Mr. Sitton, do you have any
25 problem with that?

1 JUROR SITTON: No.

2 THE COURT: I just want to make sure, that
3 when we have the Official Court Translator, that's
4 here, that we have to go by that, listening as all the
5 jurors would have to go by, as when the testimony is
6 being given.

7 My first question to you then, let me ask as
8 a group, once again, does anybody have any religious or
9 personal beliefs, that would stop them from sitting, on
10 this trial, or sitting in judgment of another? Anybody
11 have any personal or religious beliefs that would stop
12 them from doing that? No? Okay.

13 Now, I just wanted to ask those questions
14 generally. So, if there was any response, I would have
15 heard them. We're now going to fill those two seats.

16 THE CLERK: Juror Number 0232, Fahmy, Sandra.
17 F-a-h-m-y. Seat number 13. Juror Number 0175,
18 Ibrahim, Roswitha. I-b-r-a-h-i-m. Seat number --

19 MR. SAMEIRO: Before your Honor begins, can
20 we have a brief sidebar?

21 THE COURT: Sidebar.

22 (Whereupon, the following discussion occurred
23 at sidebar.)

24 MR. SAMEIRO: Judge, I have some information.
25 At 12:30, I was given a message from a colleague about



1 Miss Fahmy. That Miss Fahmy is the sister of Mr.
2 Arango, Guillermo Arango. And that she is pregnant.
3 Mr. Arango came in this afternoon, at around quarter to
4 three, while the jury was downstairs, and I witnessed
5 Mr. Arango acknowledge that his sister was in the
6 courtroom.

7 THE COURT: Uh-hum.

8 MR. SAMEIRO: Before that happened, Counsel
9 and I both had an opportunity to speak with Mr. Arango
10 about Miss Fahmy. That was especially after Mr. Arango
11 told us that she is not pregnant right now. She had a
12 baby. But that was not the information originally
13 conveyed by the individual.

14 THE COURT: Right.

15 MR. SAMEIRO: In fact, Mr. Arango is confused
16 himself on that point. So, I asked him. I guess, Mr.
17 Arango and I don't talk that much. But, in any event,
18 I asked him. I didn't want to be personal. But I
19 asked him anyway. Do you know if your sister is
20 nursing. He told me she was. Now, this entire
21 colloquy, the fact that Mr. Arango was here,
22 acknowledged his sister, he stayed here -- he chose to
23 stay in the courtroom -- I didn't say anything to him
24 about it; but that causes me concern.

25 Furthermore, when I asked him, flat out, who

1 do you think she would be better for -- Mr. Gonzalez or
2 me -- his answer was, well, she doesn't like the
3 business that I'm in, which was a suggestion to me, she
4 probably doesn't like defendants or defense attorneys,
5 or things of that nature.

6 So, Judge, she is an issue. I would ask she
7 be removed for cause, based upon these representations.
8 I don't know if you want to question her on this. We
9 could save time, if you were to remove her, if there is
10 no objection.

11 MR. GONZALEZ: No objection, Judge.

12 MR. SAMEIRO: Probably the easiest way to
13 have her removed for cause, would be that she is
14 nursing. She just had a baby a month ago.

15 THE COURT: I'd want to ask her that at
16 sidebar. Then I'd excuse her today for that purpose.

17 MR. SAMEIRO: I think you can draw an
18 inference there, since the baby is not here.

19 THE COURT: I had -- just to let you know --
20 I had a juror a couple months ago that was nursing. It
21 was a complete disruption to the trial tremendously.
22 We had to change our schedule. We had to stop and take
23 breaks at times that I didn't want to. As much as this
24 juror really wanted to sit, it was very, very
25 difficult. So, that, to me, is reason enough.



1 MR. SAMEIRO: I think you can call her over.
2 Also, what I said here, as to Mr. Arango, what happened
3 in the courtroom, causes me some concerns.

4 If you want to question her, to kind of
5 smooth it over with her. Number two, when you asked
6 the question about -- my question number two -- point
7 number two -- When you asked the jurors about -- the
8 question about religious or personal reasons that may
9 influence their ability to be fair -- Juror Number One
10 squinted and squinted and struggled with the question.
11 I need your Honor to follow up on that.

12 THE COURT: I didn't notice that.

13 MR. SAMEIRO: I noticed she looked at me. I
14 looked at her, as if she had an answer, and she didn't
15 want to disclose it.

16 THE COURT: I'll bring her over and just ask
17 her about that.

18 MR. SAMEIRO: I think that's all I have at
19 this time.

20 THE COURT: That was Juror Number One?

21 MR. SAMEIRO: Yes. That is all I have at
22 this point.

23 MR. GONZALEZ: I have nothing further.

24 THE COURT: Let me bring over Miss Ammar.
25 Miss Ammar, come over for one minute, please.

1 (Whereupon, Juror Ammar comes to sidebar.)

2 JUROR AMMAR: I'm so glad you called me.

3 THE COURT: It is nice to have you over here.

4 JUROR AMMAR: Yes.

5 THE COURT: I wanted to follow-up on the
6 question about religious beliefs.

7 JUROR AMMAR: Yes. Because, actually, I'm
8 glad. I was going to make a comment about that. The
9 way you phrased the question, it might not be religious
10 beliefs, that might impede me from making a judgment.
11 But there is that spiritual force that, like you don't
12 want to be put in a position, when you make a judgment
13 on someone else, even if you have -- like unless you
14 really have enough -- It is a tremendous
15 responsibility.

16 Unless you have like really tremendous
17 evidence that this person did what he did, it would be
18 very hard to say, yeah, he's guilty. It would be just
19 a tremendous responsibility. You don't want it on your
20 conscience, unless you have all the evidence in the
21 world, that somebody saw him with the gun. I mean,
22 then if somebody actually saw him with the gun, then,
23 yes, he should not be let go. But unless you have that
24 kind of evidence, I don't know that I can say, yes.

25 THE COURT: You don't know if you can sit in



1 judgment?

2 JUROR AMMAR: No. No. It's hard. It's a
3 tremendous responsibility.

4 THE COURT: Any follow-up questions?

5 MR. SAMEIRO: Would you want me to prove the
6 case, beyond any possible doubt in your mind?

7 JUROR AMMAR: It has to be beyond any
8 reasonable doubt, that he did commit that.

9 MR. SAMEIRO: I didn't ask you that question.
10 The Judge has not defined what reasonable doubt is.
11 Because I'm wondering if you're going to increase the
12 burden, given your personal beliefs. You said you
13 needed tremendous evidence.

14 JUROR AMMAR: Yes. I needed hard evidence,
15 what that person did, to commit these crimes.
16 Otherwise, I would be feeling very uncomfortable,
17 saying that he did it.

18 THE COURT: Well, that is the standard,
19 beyond a reasonable doubt. I did give you a little bit
20 of a definition as to what it is. I guess, the
21 Prosecutor is asking if you can listen to what that
22 standard is, beyond that standard, or if you feel you
23 need more than beyond a reasonable doubt.

24 JUROR AMMAR: No. If we agree on the
25 definition of beyond a reasonable doubt.

1 THE COURT: Which I would give to you.

2 JUROR AMMAR: And I know what it is. And
3 that person absolutely, you know, had met that burden,
4 and, you know, because it is a tremendous
5 responsibility.

6 THE COURT: Okay.

7 MR. GONZALEZ: If I can just follow-up? The
8 Judge is going to instruct you on the law. Basically,
9 what the State and I both are curious, whether or not
10 you'd be able to follow the law, follow the definition
11 that the Judge gives you, and you understand it. You
12 said it is, beyond a reasonable doubt.

13 JUROR AMMAR: Right.

14 MR. GONZALEZ: If it's beyond a reasonable
15 doubt, that you could convict?

16 JUROR AMMAR: Oh, yeah. Absolutely. If I
17 know somebody did something, oh, yeah.

18 MR. GONZALEZ: If it is less than that, you
19 would have no problem saying not guilty?

20 JUROR AMMAR: Absolutely. Absolutely. It's
21 my duty. If somebody did something wrong, yeah, they
22 should pay for it. It has to be proven.

23 THE COURT: Okay. Thank you. You can have a
24 seat.

25 (Whereupon, Juror Ammar leaves sidebar.)



1 (Whereupon, the hearing continued at
2 sidebar.)

3 THE COURT: Let me speak to Miss Fahmy. Can
4 I ask you to come over for a minute?

5 (Whereupon, Juror Fahmy comes to sidebar.)

6 THE COURT: Hi, Miss Fahmy. I have two
7 things. It's come to our attention that you are the
8 sister of Guillermo Arango, who does a lot of cases
9 here on the fifth floor. Which is one thing. The
10 other thing is, I think the Sheriff's Officer had told
11 me earlier -- I don't want to embarrass you in any way
12 -- that you are nursing?

13 JUROR FAHMY: I'm breast-feeding.

14 THE COURT: It takes some time to
15 breast-feed.

16 JUROR FAHMY: Exactly.

17 THE COURT: We can't always take a break at a
18 certain time.

19 JUROR FAHMY: Yeah.

20 THE COURT: And I only say that because a
21 couple months ago, we had a juror who was nursing. I
22 tried to accommodate her; but it was so difficult.

23 JUROR FAHMY: Yeah.

24 THE COURT: So, I wanted to let you know
25 that. I wanted to also bring it to your attention,

1 that I know there are times, when we can't take a
2 break, and you need to take a break, no matter what.

3 So, I'm going to excuse you, just because I
4 don't think it would really work out. Now, any other
5 time --

6 JUROR FAHMY: Okay.

7 THE COURT: -- would be a better time for
8 you. But this is a tough time.

9 JUROR FAHMY: Thank you.

10 THE COURT: I appreciate you being here.

11 MR. GONZALEZ: Thank you.

12 MR. SAMEIRO: Thank you.

13 (Whereupon, the sidebar discussion
14 concluded.)

15 (Whereupon, the hearing continued in the
16 presence of the prospective jury panel.)

17 THE CLERK: Juror Number 0274, Derek May,
18 M-a-y.

19 THE COURT: Okay. My first question, to my
20 two new jurors, let me start with Miss Ibrahim. Let me
21 ask you: Were you able to follow along with the
22 questionnaire?

23 JUROR IBRAHIM: Yes.

24 THE COURT: Do you have any responses to
25 these questions?



1 JUROR IBRAHIM: No.

2 THE COURT: Have you ever been a juror
3 before?

4 JUROR IBRAHIM: No.

5 THE COURT: Any personal or financial or
6 medical problem, that would keep you from serving as a
7 juror?

8 JUROR IBRAHIM: No.

9 THE COURT: Anything you responded to on your
10 little sheet there?

11 JUROR IBRAHIM: No.

12 THE COURT: Everything was okay?

13 JUROR IBRAHIM: Yes.

14 THE COURT: Then let me ask you: As a
15 general proposition, do you think police officers are
16 more likely or less likely or as likely to tell the
17 truth than a witness who is not a police officer?

18 JUROR IBRAHIM: As likely.

19 THE COURT: Would you give any greater weight
20 to the testimony of a law enforcement officer, or
21 lesser weight to the testimony of a law enforcement
22 officer, just because they're in law enforcement?
23 Would you give them equal weight?

24 JUROR IBRAHIM: Equal.

25 THE COURT: This wasn't on the questionnaire.

1 I ask you, do you speak Spanish?

2 JUROR IBRAHIM: No.

3 THE COURT: How about any personal or
4 religious beliefs that would stop you from sitting in
5 judgment of another?

6 JUROR IBRAHIM: No.

7 THE COURT: Okay. No other responses?
8 Towards the end of the questions, there are many
9 general principles of law that I read to you. Do you
10 have any problem regarding these principles of law?

11 JUROR IBRAHIM: No.

12 THE COURT: Then I am going to go right to
13 those personal questions, and ask you who you live with
14 and what you do.

15 JUROR IBRAHIM: I live with my husband. He
16 is a retired chemist. Ph.D. Chemist from Rutgers. I
17 am also retired. I used to be a teacher. Degree from
18 Rutgers as well. That's it. Just the two of us.

19 THE COURT: What do you like to do in your
20 spare time?

21 JUROR IBRAHIM: I like to travel. I like to
22 swim. I like to read.

23 THE COURT: How about any military
24 background?

25 JUROR IBRAHIM: No.



1 THE COURT: Educational background?
2 JUROR IBRAHIM: I have a Bachelor's degree.
3 THE COURT: Let's see. TV shows? Any
4 favorite TV shows?
5 JUROR IBRAHIM: I like the CSI's. And I like
6 the Amazing Race, because of the travel.
7 THE COURT: Right. How about the news?
8 Where do you get your news from?
9 JUROR IBRAHIM: FOX News, and radio, talk
10 radio, and the Home News, the local paper.
11 THE COURT: Okay. Bumper stickers?
12 JUROR IBRAHIM: No.
13 THE COURT: Do you think you'd make a good
14 juror for the case?
15 JUROR IBRAHIM: I think so.
16 THE COURT: How come?
17 JUROR IBRAHIM: I think I can be fair-minded.
18 THE COURT: From what you know about our
19 criminal justice system, do you think it is fair and
20 effective?
21 JUROR IBRAHIM: Yes.
22 THE COURT: Any particular reason why you
23 feel that way? Just based on what you read or hear, or
24 both?
25 JUROR IBRAHIM: Well, it's been in effect for

1 a long time. It served us well this long time.
2 THE COURT: Okay. How about the question
3 about a favorite famous person? Anybody come to mind?
4 JUROR IBRAHIM: So many of them. No one in
5 particular.
6 THE COURT: Okay.
7 JUROR IBRAHIM: Mother Teresa.
8 THE COURT: Mother Teresa.
9 JUROR IBRAHIM: I'd like to talk to her.
10 THE COURT: Okay. Mr. May, were you able to
11 follow along with the questionnaire?
12 JUROR MAY: Yes.
13 THE COURT: Any responses to that
14 questionnaire?
15 JUROR MAY: No.
16 THE COURT: Have you ever been a juror
17 before?
18 JUROR MAY: Yes, I have.
19 THE COURT: What kind of case, Mr. May?
20 JUROR MAY: I was on a murder case. Two
21 separate occasions.
22 THE COURT: Two separate trials?
23 JUROR MAY: Yes.
24 THE COURT: Both murder?
25 JUROR MAY: Yes.



1 THE COURT: What County were they in?
2 JUROR MAY: In the Bronx, New York.
3 THE COURT: In New York. Now, on both of
4 those, were you actually on the jury panel that reached
5 a verdict?
6 JUROR MAY: Yes, I was.
7 THE COURT: They were criminal trials, so,
8 the standard of proof was the same, beyond a reasonable
9 doubt. But are you able to set aside those two
10 experiences and listen to the facts in this case, and
11 be fair and impartial?
12 JUROR MAY: Yes, I can.
13 THE COURT: When were they, Mr. May?
14 JUROR MAY: They both were in the nineties.
15 THE COURT: In the nineties?
16 JUROR MAY: In the nineties. I'm not sure
17 which year.
18 THE COURT: That is fine. Anything from
19 those circumstances that would stop you from being fair
20 and impartial in this case?
21 JUROR MAY: No.
22 THE COURT: Let's see. Do you know any of
23 the witnesses that are listed?
24 JUROR MAY: No, I don't.
25 THE COURT: Let me ask you: As a general

1 proposition, do you think police officers are more
2 likely, less likely, or as likely to tell the truth
3 than a witness who is not a police officer?
4 JUROR MAY: As likely.
5 THE COURT: Would you give any greater weight
6 or lesser weight to the testimony of a law enforcement
7 officer, just because he is in law enforcement?
8 JUROR MAY: Equal weight. No, I would not.
9 THE COURT: All right. Then let me go to
10 those personal questions, and ask you who you live with
11 and what you do.
12 JUROR MAY: I live in Perth Amboy, with my
13 wife and my daughter. Working in a Museum in New York
14 City, custodial supervisor. My wife works in a law
15 firm, on Wall Street. She is a trainer. My daughter
16 is a junior in college in Pennsylvania. My military
17 background, I was in the Army for six years.
18 Educational background, high school.
19 THE COURT: What do you like to do in your
20 spare time?
21 JUROR MAY: Fish.
22 THE COURT: Fish. How about TV shows?
23 JUROR MAY: TV programs, mostly sports.
24 THE COURT: Sports. And, let's see, news.
25 Where do you get your news from?



1 JUROR MAY: From the newspaper, internet and
2 television.
3 THE COURT: Bumper stickers?
4 JUROR MAY: I have New York Jets and New York
5 Yankees logos on the back of my car.
6 THE COURT: Okay. How about, do you think
7 you'd make a good juror for the case?
8 JUROR MAY: Yes, I would.
9 THE COURT: How come?
10 JUROR MAY: I feel that I'm even-keeled and
11 I'm impartial.
12 THE COURT: Okay. From what you know about
13 the criminal justice system, do you think it is fair
14 and effective?
15 JUROR MAY: Yes, I do.
16 THE COURT: Any particular reason why you
17 feel that way? Just what you've heard or read or both?
18 JUROR MAY: It's the only system I've ever
19 known. So, I just feel, it's fair.
20 THE COURT: Do you have a favorite famous
21 person?
22 JUROR MAY: Not necessarily.
23 THE COURT: Do you speak Spanish?
24 JUROR MAY: No, I don't.
25 THE COURT: Okay. Anything, in your

1 personal, in your religious beliefs, that would stop
2 you from sitting on a case like this, where you would
3 be sitting in judgment of another?
4 JUROR MAY: No, there is not.
5 THE COURT: Okay. We have gone through our
6 personal questions. As I indicated, the next step, in
7 this phase of jury selection, is the attorneys
8 themselves get to excuse jurors, really for reasons
9 best known to them.
10 I might state, if you are excused in that
11 manner, please do not take it personally in any way.
12 It is just the process used in selecting our jury.
13 Okay. We're going to start with the State.
14 Mr. Sameiro?
15 MR. SAMEIRO: Thank you, Judge.
16 You're smiling. I know you know what is
17 coming. Please thank and excuse Miss Ammar.
18 THE COURT: Thank you, Miss Ammar.
19 JUROR AMMAR: You are very welcome.
20 MR. SAMEIRO: You were smiling. You knew it
21 was coming.
22 THE COURT: Thank you, Miss Ammar.
23 JUROR AMMAR: You're very welcome.
24 THE CLERK: Juror Number 0280, John Genoni,
25 G-e-n-o-n-i, seat number one.



1 THE COURT: Genoni?
2 JUROR GENONI: Genoni.
3 THE COURT: Mr. Genoni, how are you this
4 morning?

5 JUROR GENONI: Fine. How are you, your
6 Honor?

7 THE COURT: Okay. Now, were you able to
8 follow along with the questions?

9 JUROR GENONI: Yes.

10 THE COURT: Any responses to the questions?

11 JUROR GENONI: 2-B. Just to kind of address
12 the two little issues that I have. Normally, I drop my
13 kids off. I have twins. They're seven years old. I
14 drop them off, and come here by nine. My wife goes
15 like at seven. I would have to secure some pre-care,
16 like we did this morning.

17 Secondly, on December 1st, I took a new
18 position in my company. I'm a sales rep for Fed Ex.
19 And this is only one of my positions under my manager.
20 So, I have customer calls the rest of the week. And,
21 like I said, nobody else that can take my spot.
22 Because they all have their own territories that they
23 have to deal with.

24 THE COURT: Okay. The issue with the
25 children, who took them today? Neighbor? Friend?

1 JUROR GENONI: Well, I took them. I just
2 left earlier. Normally, I don't use the before care.

3 THE COURT: You dropped them off?

4 JUROR GENONI: It is too expensive.

5 THE COURT: Well, now, what I said to
6 everybody, you tell me, there is no question being here
7 is an inconvenience for everybody.

8 JUROR GENONI: Uh-hum.

9 THE COURT: Absolutely no question. Even not
10 working outside the home, it is simply difficult to be
11 here. In your particular case --

12 JUROR GENONI: I just started a new position.

13 THE COURT: You may not even know. Would
14 there be anybody to take over your calls, what you have
15 to do during this period of time?

16 JUROR GENONI: Probably not. Because if it
17 doesn't get done, the work just piles up for myself.

18 THE COURT: All right. Let me hold onto you
19 at this point. Now, do you have any other responses,
20 before we go through the form?

21 JUROR GENONI: One that I did have, my
22 brother and sister-in-law are police officers.

23 THE COURT: Where are they police officers?

24 JUROR GENONI: Verona, North Caldwell.

25 THE COURT: Would the fact that your brother



1 and sister-in-law are in law enforcement affect your
2 ability to be fair and impartial?

3 JUROR GENONI: No, I don't think so.

4 THE COURT: Any other responses?

5 JUROR GENONI: I did have one note. Here it
6 is. With the friend or family being a victim of a
7 crime. My dad was robbed in Atlantic City about two
8 years ago.

9 THE COURT: Was a weapon used during that
10 robbery?

11 JUROR GENONI: No. They just kind of
12 snatched his ticket after he won like eight hundred
13 dollars on the slot machine, and ran out of the place.

14 THE COURT: Did he report it?

15 JUROR GENONI: He reported it; but the guy
16 was long gone.

17 THE COURT: Nobody was ever caught?

18 JUROR GENONI: No. He's handicapped. He
19 couldn't even go after them.

20 THE COURT: Do you hold any grudge against
21 law enforcement for not apprehending the individual?

22 JUROR GENONI: No.

23 THE COURT: Anything from that situation stop
24 you from sitting as a juror, being fair and impartial
25 in this case?

1 JUROR GENONI: I don't think so. No.

2 THE COURT: Let me ask you a question: If
3 you were sitting here, listening to the case, would you
4 be able to focus on the case, knowing, I guess, that,
5 anybody who is sitting here, "oh, shoot, my work is
6 piling up." I'm sure that all of you are thinking
7 that.

8 But would you be able to continue to
9 concentrate on the matter?

10 JUROR GENONI: Yeah. Like, during the break,
11 I'm checking my e-mails, on my BlackBerry and stuff.

12 THE COURT: The other issue, regarding the
13 children, is something you would be able to work with?
14 Would it be a financial hardship for you for this week?

15 JUROR GENONI: It is not going to put me in
16 the poor house. But I'd rather not incur the cost, if
17 I didn't have to.

18 THE COURT: And the cost then is, it's about,
19 every day, at least, an hour or so?

20 JUROR GENONI: Yeah, about an hour and a
21 half.

22 THE COURT: I'll let you think about that for
23 a little bit, and see how we go from there.

24 JUROR GENONI: Sure.

25 THE COURT: Now, let me go ask the next



1 question about, would you give any greater weight to
2 law enforcement or lesser weight, just because they are
3 law enforcement?
4 JUROR GENONI: No. Equal.
5 THE COURT: As a general proposition, do you
6 think a police officer is more likely, less likely or
7 as likely to tell the truth than any witness?
8 JUROR GENONI: As likely.
9 THE COURT: Do you know any of these jurors
10 -- these potential witnesses that I listed on the
11 witness list?
12 JUROR GENONI: No.
13 THE COURT: Any other responses?
14 JUROR GENONI: No, I don't think so.
15 THE COURT: Then let me ask you the personal
16 questions, what you do, where you live.
17 JUROR GENONI: I'm a sales rep for Fed Ex. I
18 live in Colonia, with my wife, and twin children. Two
19 twin children, both three years old.
20 THE COURT: Military background?
21 JUROR GENONI: No military background.
22 THE COURT: Educational background?
23 JUROR GENONI: Graduated from Seton Hall
24 University.
25 THE COURT: Spare time? What do you like to

1 do in your spare time?
2 JUROR GENONI: I work out, fish, play with
3 the kids.
4 THE COURT: News? Where do you get your news
5 from?
6 JUROR GENONI: Mostly from FOX News.
7 THE COURT: Any favorite TV programs?
8 JUROR GENONI: I used to watch a show -- it
9 just ended -- so, I have to find a new one. Exactly.
10 Little Einsteins and all that stuff.
11 THE COURT: How about bumper stickers? Any
12 bumper stickers?
13 JUROR GENONI: I have a Giant's helmet. I'm
14 really ashamed to say that today.
15 THE COURT: Let me ask you: Do you think
16 you'd be a good juror for the case?
17 JUROR GENONI: I hope see.
18 THE COURT: Do you think you'd be able to
19 keep an open mind, and listen to all the testimony?
20 JUROR GENONI: I can take a look at the
21 facts, look at them objectively.
22 THE COURT: How about, from what you know
23 about our criminal justice system, do you think it is
24 fair and effective?
25 JUROR GENONI: For the most part. You know,



1 pretty much what everybody else is saying, that it's
2 the best system that we have. I wouldn't want to be
3 tried anywhere else. But I think it does have flaws in
4 some spots.

5 THE COURT: All right. Favorite famous
6 person?

7 JUROR GENONI: Well, aside from members of my
8 family, I guess, I have to say, probably Jerry Garcia.

9 THE COURT: Okay. Thank you.

10 Mr. Gonzalez?

11 MR. GONZALEZ: Judge, we would like to thank
12 and excuse Juror Number Six.

13 THE COURT: Juror Number Six. Mr. Kimmel,
14 thank you very much, sir. You are excused.

15 THE CLERK: Juror Number 0275, Patricia
16 Mindel, M-i-n-d-e-l.

17 THE COURT: Miss Mindel, I will get to you in
18 one second. I realize that I forgot to ask Mr. Genoni,
19 if you speak Spanish.

20 JUROR GENONI: No, I do not.

21 THE COURT: Let me ask you: Is there any
22 religious or personal beliefs, that stop you from
23 sitting in judgment of another?

24 JUROR GENONI: No.

25 THE COURT: Thank you. Miss Mindel, let me

1 ask you, if you have been able to follow along with the
2 questionnaire?

3 JUROR MINDEL: Yes.

4 THE COURT: Do you have any responses?

5 JUROR MINDEL: No.

6 THE COURT: As a general proposition, do you
7 think a police officer is more likely -- Let me start
8 again. Do you think that a police officer is more
9 likely, less likely, or as likely to tell the truth?

10 JUROR MINDEL: As likely.

11 THE COURT: As likely. Would you give any
12 greater weight or lesser weight to the testimony of a
13 law enforcement officer, just because they are in law
14 enforcement?

15 JUROR MINDEL: No. Equal weight.

16 THE COURT: Equal weight: Any other
17 responses?

18 JUROR MINDEL: No.

19 THE COURT: Then let me go to the personal
20 questions, and ask you where you live, who you live
21 with, and what you do.

22 JUROR MINDEL: Avenel. I live with my
23 husband. And I work in a nursery school.

24 THE COURT: Is your husband employed?

25 JUROR MINDEL: Yes.



1 THE COURT: What does he do?
2 JUROR MINDEL: Recycle company in Keasbey.
3 THE COURT: Military background?
4 JUROR MINDEL: No.
5 THE COURT: Educational background?
6 JUROR MINDEL: High school.
7 THE COURT: What do you like to do in your
8 spare time?
9 JUROR MINDEL: Read and watch TV.
10 THE COURT: Any favorite TV programs?
11 JUROR MINDEL: Nancy Grace and Young and the
12 Restless.
13 THE COURT: How about the news? Where do you
14 get your news from?
15 JUROR MINDEL: I watch the news, Channel 7,
16 from the paper, the newspaper.
17 THE COURT: What newspapers?
18 JUROR MINDEL: Home News Tribune and local
19 papers.
20 THE COURT: Bumper stickers?
21 JUROR MINDEL: I don't drive.
22 THE COURT: On the husband's car, any bumper
23 stickers?
24 JUROR MINDEL: Yankees and Rangers.
25 THE COURT: Do you think you would make a

1 good juror for the case?
2 JUROR MINDEL: I think so.
3 THE COURT: How come?
4 JUROR MINDEL: I think I'm pretty fair.
5 THE COURT: From what you know about our
6 criminal justice system, do you think it is fair and
7 effective?
8 JUROR MINDEL: I think so.
9 THE COURT: Why do you feel that way?
10 JUROR MINDEL: Well, compared to other
11 countries, I think we're the best.
12 THE COURT: Do you have a favorite famous
13 person?
14 JUROR MINDEL: Oprah.
15 THE COURT: Oprah. All right. Thank you.
16 State?
17 MR. SAMEIRO: Would your Honor please thank
18 and excuse Mr. Crockett, in the 12th seat.
19 THE COURT: Mr. Crockett, thank you very
20 much, sir. You are excused, Mr. Crockett.
21 THE CLERK: Juror number 0735, Joseph
22 DeSandre. Seat number 12. D-e-S-a-n-d-r-e.
23 THE COURT: Mr. DeSandre, how are you?
24 JUROR DE SANDRE: I'm fine. Thank you.
25 THE COURT: Able to follow along with the



1 questionnaire?

2 JUROR DE SANDRE: Yes.

3 THE COURT: Do you have any responses to
4 those questions?

5 JUROR DE SANDRE: I just have one issue.

6 The other night, I was informed of a friend of ours,
7 that was a hundred three years old, who was a mentor,
8 if you will, passed away. I was asked to be a
9 pallbearer tomorrow. And I said I had to wait. I
10 couldn't give them an answer until I had come to court.

11 THE COURT: Okay. I'm assuming it is
12 tomorrow morning?

13 JUROR DE SANDRE: That's correct.

14 THE COURT: You tell me. Do you want to be a
15 pallbearer for the funeral?

16 JUROR DE SANDRE: I would like to.

17 THE COURT: I'm going to excuse you based on
18 the death.

19 JUROR DE SANDRE: Thank you.

20 THE CLERK: Juror Number 0115, Arsenio
21 Arocho. A-r-o-c-h-o. Seat number 12.

22 THE COURT: Hi, Mr. Arocho. Were you able to
23 follow along with the questionnaire?

24 JUROR AROCHO: Yeah.

25 THE COURT: Do you have any responses?

1 JUROR AROCHO: No. I only have one thing
2 that I wanted to say in private.

3 THE COURT: Okay. Come over to sidebar.

4 (Whereupon, the following discussion occurred
5 at sidebar.)

6 JUROR AROCHO: Sorry about that.

7 THE COURT: Not a problem, Mr. Arocho.

8 JUROR AROCHO: If it was a different case, I
9 wouldn't mind. But my daughter got mugged twice. I
10 can't get that out of my mind.

11 THE COURT: You think a different case, you
12 would be all right?

13 JUROR AROCHO: Yes.

14 THE COURT: Based on the information --

15 JUROR AROCHO: I want to be fair, you know.

16 THE COURT: You feel like you kind of already
17 have made up your mind regarding this case?

18 JUROR AROCHO: I still -- It's just every
19 time I hear about muggings, all the stuff I remember,
20 it's the same thing.

21 THE COURT: Okay. All right. That would
22 affect your ability to be fair and impartial?

23 JUROR AROCHO: That's what I don't want. I
24 don't want to hurt nobody.

25 THE COURT: I'm going to excuse you, Mr.



1 Arocho. Your daughter being mugged -- being the victim
2 of a mugging twice -- this isn't the case --
3 JUROR AROCHO: She was going from high school
4 in Amboy. Twice, actually mugged and hurt.
5 THE COURT: Okay. I'm going to excuse you.
6 JUROR AROCHO: I don't know that I could be
7 fair. I don't want to lie.
8 THE COURT: No. I thank you for telling me
9 the truth. I'm going to excuse you. Thank you.
10 JUROR AROCHO: Thank you.
11 MR. GONZALEZ: Thank you.
12 MR. SAMEIRO: Thank you.
13 JUROR AROCHO: Where do I go?
14 THE COURT: Right over there.
15 JUROR AROCHO: Let me get my stuff.
16 THE COURT: Okay.
17 (Whereupon, Juror Arocho leaves sidebar.)
18 (Whereupon, the hearing continued at
19 sidebar.)
20 THE COURT: I just wanted to ask you what
21 your thinking is about Mr. Genoni, Juror Number One. I
22 mean, it is going to cost him more for child care. But
23 he seems like he is okay to sit.
24 MR. SAMEIRO: I agree with the Court's
25 assessment. I don't know how much the child care costs

1 will impact on him financially. It didn't appear to
2 me, that he was, you know, going to have to take a loan
3 out or anything.
4 MR. GONZALEZ: I think he would have pressed
5 a little harder if he really didn't want to be here.
6 THE COURT: I think so. Because other people
7 have pressed.
8 MR. SAMEIRO: That's true.
9 THE COURT: I think he is okay.
10 MR. SAMEIRO: Now, Judge, there is something
11 that I forgot to ask you earlier. I didn't want to
12 highlight it. But, I guess, I'll highlight it now.
13 There is a juror who said he was in the military
14 academy -- Scott Delgado. Can we ask him which one it
15 was. I was just curious if it was Admiral Farragut.
16 THE COURT: Well, I'll find out.
17 MR. SAMEIRO: Do you want to just bring him
18 over?
19 THE COURT: No. I'll ask him in open court.
20 MR. SAMEIRO: Okay.
21 MR. GONZALEZ: Thank you.
22 THE COURT: Thank you.
23 MR. SAMEIRO: Thank you.
24 (Whereupon, the sidebar discussion
25 concluded.)



1 (Whereupon, the hearing continued in the
2 presence of the prospective jury panel.)
3 THE COURT: Let me ask you, Mr. Delgado.
4 Before, Mr. Delgado, you had said you went to a
5 military academy.
6 JUROR DELGADO: Correct.
7 THE COURT: Where did you go?
8 JUROR DELGADO: Admiral Farragut Academy,
9 Pine Beach, New Jersey.
10 THE COURT: Thank you.
11 THE CLERK: Juror Number 0189, Shailesh
12 Patel. Seat number 12. P-a-t-e-l.
13 THE COURT: If we can approach sidebar with
14 regards to Mr. Patel. I would ask you to come over to
15 sidebar, Mr. Patel.
16 (Whereupon, the following discussion occurred
17 at sidebar.)
18 THE COURT: Mr. Patel, I wanted to ask you,
19 do you feel comfortable with understanding everything?
20 JUROR PATEL: No.
21 THE COURT: For the record, we had your son,
22 who was here earlier. All right. He said, you might
23 have some issues with the English language. Have you
24 been able to understand everything?
25 JUROR PATEL: No.

1 THE COURT: I'm going to excuse you. I know
2 he came here -- Actually, I know, he was helping you.
3 JUROR PATEL: Yes. He help me.
4 MR. SAMEIRO: He was helping him.
5 THE COURT: Okay. Then I'll excuse you.
6 Thank you, Mr. Patel. You can go.
7 JUROR PATEL: I can go?
8 THE COURT: Yes. Thank you.
9 (Whereupon, the sidebar discussion
10 concluded.)
11 (Whereupon, the hearing continued in the
12 presence of the prospective jury panel.)
13 THE CLERK: Juror Number 0106, Edward Rella.
14 R-e-l-l-a. Seat number 12.
15 THE COURT: Mr. Rella, were you able to
16 follow along with the questionnaire?
17 JUROR RELLA: Yes.
18 THE COURT: Do you have any responses?
19 JUROR RELLA: Item 7. I was, in March of
20 this year, I was on a Federal District Jury.
21 THE COURT: Okay. Did the jury actually
22 reach a verdict in the case?
23 JUROR RELLA: Well, it was a hung jury.
24 THE COURT: Let me ask you this: What was
25 the case about? Just generally.



1 JUROR RELLA: It involved, basically, police
2 brutality. A civil case. But it involved brutality by
3 the police.

4 THE COURT: Okay. Now, again, the standard
5 of proof is different here. Beyond a reasonable doubt.
6 Are you able to set aside the facts in that case, the
7 standard of proof, and listen to the facts here, and
8 use the standard of proof that I give you?

9 JUROR RELLA: Yes.

10 THE COURT: Anything in that situation, that
11 experience, that would stop you from sitting and being
12 a fair, impartial juror?

13 JUROR RELLA: No.

14 THE COURT: Any other responses to the
15 questions?

16 JUROR RELLA: I mean, I was on some other
17 juries. Several over the years. But, mostly, small
18 ones, like civil cases.

19 THE COURT: Civil cases.

20 JUROR RELLA: Accidents, civil cases.

21 THE COURT: In this County or other Counties?

22 JUROR RELLA: Other Counties. Nothing like
23 this.

24 THE COURT: Are you able to set aside those
25 experiences, and deal with the facts here, and be a

1 fair, impartial juror?

2 JUROR RELLA: Yes.

3 THE COURT: Are you able to set that aside?

4 JUROR RELLA: Yes.

5 THE COURT: As a general proposition, do you
6 think that police officers are more likely, less
7 likely, or as likely, to tell the truth, than a witness
8 who is not a police officer?

9 JUROR RELLA: As likely.

10 THE COURT: Would you give any greater weight
11 to the testimony of a law enforcement officer or lesser
12 weight, just because they're in law enforcement?

13 JUROR RELLA: No.

14 THE COURT: Do you speak Spanish?

15 JUROR RELLA: No.

16 THE COURT: Do you have anything, regarding
17 your religious or personal beliefs, that would stop you
18 from sitting in judgment of another?

19 JUROR RELLA: No.

20 THE COURT: Any other responses?

21 JUROR RELLA: No.

22 THE COURT: Then I'll go to those personal
23 questions. I will ask you, who you live with, what you
24 do.

25 JUROR RELLA: I live in East Brunswick, with



1 my wife. I'm retired. I worked for Revlon for 32
2 years. Mainly in engineering, industrial engineering,
3 facility engineering, safety engineering. Some quality
4 control.

5 THE COURT: Is your wife employed outside the
6 house?

7 JUROR RELLA: Yes, she was. She was an
8 accountant. But, basically, she's been a housewife for
9 many years.

10 THE COURT: You have any children in the
11 house?

12 JUROR RELLA: No. My daughter -- I have a
13 daughter, 33. She lives in Maryland.

14 THE COURT: Military background? Any
15 military background?

16 JUROR RELLA: Vietnam veteran.

17 THE COURT: Educational background?

18 JUROR RELLA: Two years of college.

19 THE COURT: Free time? What do you like to
20 do in your free time?

21 JUROR RELLA: Gardening. Play with the
22 computer now and then.

23 THE COURT: News. Where do you find you get
24 your news from?

25 JUROR RELLA: Star Ledger, TV news, some

1 magazines, and TV shows.

2 THE COURT: Any favorite TV shows that you
3 watch?

4 JUROR RELLA: Mostly sports. With the
5 exception of maybe Monk.

6 THE COURT: Okay. How about bumper stickers?
7 Any bumper stickers?

8 JUROR RELLA: No.

9 THE COURT: Do you think you would make a
10 good juror for the case?

11 JUROR RELLA: Yes.

12 THE COURT: How come?

13 JUROR RELLA: I think I'm a pretty good judge
14 of character. I'm pretty fair in my judgment.

15 THE COURT: All right. From what you know
16 about our criminal justice system, do you think it is
17 fair and effective?

18 JUROR RELLA: I think it is fair.

19 THE COURT: Any reason? Any particular
20 reason why you feel that way?

21 JUROR RELLA: Just from my observations.

22 THE COURT: Do you have a favorite famous
23 person?

24 JUROR RELLA: Not really.

25 THE COURT: Thank you.



1 Is it Mr. Sameiro? Mr. Gonzalez?

2 MR. GONZALEZ: The jury is satisfactory.

3 THE COURT: Mr. Sameiro?

4 MR. SAMEIRO: The jury is satisfactory.

5 THE COURT: There you go. We have two people
6 saying that the jury is satisfactory. Ladies and
7 gentlemen, that means that they are satisfied with the
8 jury as it is presently constituted.

9 So, let me ask you now, because I think what
10 our intention is, once we get a good group, to break
11 for the night, and have you come back tomorrow, ready
12 to start at nine o'clock tomorrow morning, and go right
13 through the case.

14 Any reason, perhaps, that I don't know about
15 you, anything at all, that would stop you from serving
16 on the jury? Everybody okay to serve as a juror?

17 A JUROR: Actually, I have one question. I
18 received a text at the lunch break.

19 THE COURT: Right.

20 A JUROR: You said, we would not be doing the
21 jury on Thursday?

22 THE COURT: Our feeling is, it should
23 probably go on Thursday morning.

24 A JUROR: I have to be -- My brother is
25 having surgery Friday morning. But if you don't

1 think --

2 THE COURT: Well, that is the thing, I don't
3 know how long deliberations are going to take. That's
4 up to the jury. But you should be getting this case --
5 it looks like -- what my goal is -- to start at nine
6 o'clock -- as close to nine tomorrow as possible. Move
7 right through the witnesses in the trial. So, we don't
8 have too many delays. I don't think I have anything
9 else scheduled. My goal is to get the case to you. Be
10 as efficient with your time as possible.

11 Okay? Is everybody okay?

12 JUROR GENONI: My only question is, if you
13 would reconsider your decision for my job.

14 THE COURT: Let me ask you: Do you think --
15 in all honesty -- I leave it up to you -- you are able
16 to sit and listen?

17 (Whereupon, Juror Genoni shakes his head.)

18 THE COURT: I mean, I know things back up
19 when you are sitting here. If you are able to sit and
20 listen, and be able to get that done?

21 JUROR GENONI: For example, I have four
22 appointments scheduled for tomorrow. And I have, at
23 least, two scheduled for every day during the rest of
24 the week. One of the ones I have for tomorrow
25 afternoon, like I said, I am a sales rep for Fed Ex. I



1 have a brand new customer coming on board. There is
2 nobody else that will go there, and help implement the
3 Fed Ex program for them.

4 THE COURT: So, there is nobody else to take
5 over your spot? What if you are sick or out? Does
6 anybody take over?

7 JUROR GENONI: Pretty much, I do it.
8 Sometimes we have reps covering for us, if I go away
9 for vacation. But I prepare for that, when I know that
10 I'm going to go away. Like I said, the only reason it
11 is happening now, because it is a new position in the
12 company that I took. I'll respect your decision,
13 whatever it will be.

14 THE COURT: Okay. Well, my biggest concern
15 is going to be something that I keep thinking about.
16 That you can't focus on the case. That would be a
17 concern to me. Because, as jurors, you need to be
18 listening to the testimony, and being able to focus. I
19 don't want you to be distracted, so to speak. That is
20 why I'm asking you. I'd like to have you as a juror.

21 JUROR GENONI: Right. Okay.

22 THE COURT: You tell me, if you think you'd
23 be too distracted with these concerns, that you
24 wouldn't focus. That would be a concern for me. Think
25 about it. I mean, it is just human nature. I

1 shouldn't say, "think about it." Are you able to set
2 it aside? At least, listen, and be a juror in this
3 case?

4 JUROR GENONI: I guess. Like I said, it is
5 going to hold me up for another week with these
6 accounts.

7 THE COURT: That I do understand. That I
8 truly do. I guess, my biggest concern is to make sure
9 that, even though this is it now, everybody sitting
10 here is probably saying the same thing. All the work
11 on my desk. Even though when people say, they'll do
12 it, they're not doing it. I know it is difficult.
13 That they're not going to do it the way you want it
14 done, if they do it at all. That some people wouldn't
15 even do it.

16 If you are able to sit and listen and focus,
17 for these three days as a juror, I'd like to have you.
18 If it is going to interfere with your ability to think,
19 let me know that. Okay. You think you'll be able to
20 do it?

21 JUROR GENONI: Sure.

22 THE COURT: Everybody else okay?
23 Mr. May?

24 JUROR MAY: On question 15 on here, I failed
25 to mention that I was in the service. I was in the



1 military police.

2 THE COURT: Okay.

3 JUROR MAY: I was a military police officer
4 in the service.

5 THE COURT: How long were you in that
6 position?

7 JUROR MAY: For six years, I was in.

8 THE COURT: You were in for six years. Let
9 me ask you: Would that impact your ability to sit and
10 listen to the witnesses? Be fair and impartial?

11 JUROR MAY: No, it would not.

12 THE COURT: Let me ask you, Counsel, with
13 this new information, any change in the decision?

14 MR. SAMEIRO: No. Nothing said by any of the
15 three jurors would affect me.

16 THE COURT: Mr. Gonzalez?

17 MR. GONZALEZ: Nothing from me, Judge. Maybe
18 a follow-up question for Mr. Genoni. Are you getting
19 paid by commission?

20 JUROR GENONI: Yes.

21 MR. GONZALEZ: So, will it affect -- I know
22 you just started your new job. I imagine that you want
23 to make a good impression.

24 JUROR GENONI: In all fairness, I'd ask, it
25 is a new company. The position that I took with Fed Ex

1 -- Yeah, I get paid. By putting the packages on the
2 belt, that's how we get paid. But for the new customer
3 starting -- they're supposed to start tomorrow. If I
4 postpone that, they're not going to start next week.
5 Next week, being Christmas. It's probably going to get
6 pushed to January. It's probably two weeks worth of
7 revenue that I'll lose.

8 THE COURT: I think, in a nutshell, where I'm
9 going, is that going to affect your thought process?

10 JUROR GENONI: Christmas is coming. They're
11 going to evaluate me in my new job.

12 MR. GONZALEZ: I was just wondering, whether
13 or not you think that would affect you personally,
14 because often our minds wonder. That's all.

15 JUROR GENONI: I mean, can I separate it,
16 yeah. Sure. Will I think about it, like human nature,
17 of course.

18 MR. GONZALEZ: But, the bottom line is, would
19 you be able to focus on the case?

20 JUROR GENONI: Sure.

21 THE COURT: Okay?

22 MR. GONZALEZ: Okay.

23 MR. SAMEIRO: Sure.

24 THE COURT: All right, folks. This is what
25 I'm going to do. I am not going to swear you in until



1 tomorrow morning. I will let you go home for the
2 evening. Get a little bit of a head start on the New
3 Brunswick traffic.

4 Tomorrow morning, be downstairs at 8:30.
5 What we'll do is, we will bring you up as close to 9:00
6 as we can. We will then swear you in, and I will give
7 you some general information regarding the trial. Then
8 we go right into the witnesses in the case.

9 Okay. Is everybody good?

10 Hold on, folks. My trusty Clerk thought of
11 something really important. For those poor people in
12 the back, because if I don't swear you in, I have got
13 to bring back the people in the back tomorrow. I'm
14 sure that you all don't want to come back tomorrow.
15 But I think what I'll do is swear in the jurors now.
16 So, we don't have to bring back the people in the back
17 tomorrow. I forgot all about that.

18 THE CLERK: Would everyone in the jury box
19 please stand.

20 (Whereupon, the jury complies.)

21 (Whereupon, a jury panel is duly impaneled
22 and sworn.)

23 THE COURT: You can be seated.

24 (Whereupon, the jury complies.)

25 THE COURT: Okay. Now, we'll do this again.

1 You are now sworn in. We'll take you back downstairs.
2 We will bring you upstairs as soon as we can. Remember
3 not to discuss the case. You haven't heard anything
4 about it.

5 And, to my jurors in the back, I hope that,
6 if you wanted to get on a jury panel, and you were not
7 able to, just let me let you know that, just for being
8 here, just for being potential jurors, for being part
9 of the process, you were very important, and I thank
10 you very much.

11 (Whereupon, the jury leaves the courtroom for
12 the day.)

13 (Whereupon, the hearing continued outside the
14 presence of the jury.)

15 THE COURT: Okay. One thing we don't have to
16 do tomorrow. We are all done swearing in the jurors.
17 What we'll do, I can be ready to go at 9:00. We'll get
18 them up here. Your witnesses will all be ready.

19 MR. SAMEIRO: Right.

20 Judge, I didn't want to interrupt anything.
21 There is something I need to address.

22 THE COURT: Yes.

23 MR. SAMEIRO: Once upon a time, I filled out
24 a trial memo. I objected to the introduction of any
25 interview reports that were provided to Counsel by the



1 Public Defender's Investigator.

2 THE COURT: All right.

3 MR. SAMEIRO: I assume there will be no
4 surprises. There will be no cross-examination on this.

5 MR. GONZALEZ: Certainly.

6 MR. SAMEIRO: Nor is there anything on the
7 witness list. And Counsel thought it was work product.
8 And it's going to remain work product. I just want to
9 put that on the record.

10 THE COURT: I remember that.

11 MR. GONZALEZ: Judge, there are no surprises.

12 MR. SAMEIRO: On the issue of there being no
13 surprises, today I was given a chance to review six
14 photographs that were in the possession of Counsel.
15 They purport to be the crime scene. I don't know if
16 they are, in fact. It's late in the game to have
17 photographs of the alleged crime scene. I certainly
18 don't even have copies to take with me.

19 Counsel should have, at the very least,
20 provided me with copies of these pictures, so, I could
21 do my own independent review, after leaving here today.
22 I don't have that opportunity. I'm going to object to
23 the introduction of these photographs during the case.
24 The crime scene has been around since this defendant
25 was indicted in November of 2007. I don't know why

1 these photographs are being given to me today. I
2 object.

3 MR. GONZALEZ: Judge, I think they will be
4 authenticated by the State's own witnesses, as to what
5 400 Lee Avenue looks like.

6 THE COURT: What they are, are pictures of
7 the outside?

8 MR. GONZALEZ: These are just the vicinity,
9 as to where the crime is alleged to have taken place.
10 I didn't do so this morning, Judge, but I'm going to
11 get a google, I guess, picture of what it is. I
12 apologize that I hadn't presented it. You can really
13 take judicial notice of that type of thing. It is just
14 a picture of the crime scene itself.

15 Just a description, I'm sure, that Officer
16 Bobadilla or Detective Selesky, all of those people
17 that know what's in New Brunswick, will describe what
18 it is. What 400 Wood Avenue looks like. Just so the
19 Court knows, it's a cul-de-sac, basically, surrounding
20 the apartment area, where there is numerous buildings
21 on the outside of the cul-de-sac type area.

22 The allegation is that the robbery occurred
23 in front of 400 Wood Avenue, which is this entire
24 cul-de-sac.

25 THE COURT: You are saying Wood. Is it Lee?



1 MR. GONZALEZ: I am sorry. Lee. I
2 apologize. Lee. 400 Lee Avenue. Like all the
3 buildings are not 402. It's, basically, all of the
4 buildings. There is lots of people that live there.
5 All the pictures depict the buildings themselves. That
6 there is, in fact, a parking lot in the middle.

7 THE COURT: I guess the question is, why
8 didn't Counsel give them to Mr. Sameiro. Can you
9 address that?

10 MR. GONZALEZ: Simply because I had them in
11 my possession. I didn't give them to the State.

12 MR. SAMEIRO: That's the point.

13 MR. GONZALEZ: I expected that the State
14 would take pictures of the crime scene area. And, in
15 addition, I didn't say that I went out and I actually
16 got these pictures taken. So, with that in mind, I'm
17 not trying to hide anything. There is no surprises.
18 400 Lee Avenue is what it is. It's not a -- There is
19 no other defendants hiding in the bushes or anything
20 like that.

21 MR. SAMEIRO: I'd like the photographs, to
22 have them with me, so, I can inspect the area tonight
23 or tomorrow morning.

24 THE COURT: I would agree.

25 MR. GONZALEZ: Now, if the State wants to

1 take pictures of the surrounding area, and present them
2 to us -- They are simply pictures of the scene. If
3 they want their own pictures, maybe that look nicer or
4 maybe more in focus, I think that would be fine. This
5 presents, essentially, the crime scene area. I think
6 it would be beneficial for the jury to actually view
7 it.

8 THE COURT: Here's what I ask you to do. If
9 you can make -- I certainly want either copies of those
10 photos. At least, photocopies that are legible --
11 photocopies -- clear pictures. I don't want the State
12 to not be able to see what they are, so, they can talk
13 to their witness about it. Do you have copies of them?

14 MR. GONZALEZ: I don't have copies. I don't
15 have copies of them.

16 THE COURT: Let me ask you, if you have
17 copies, you give him copies.

18 MR. GONZALEZ: I don't have copies. I don't
19 have copies of these photographs. I would ask you to
20 simply turn them over to the State. Do you have the
21 negatives?

22 MR. GONZALEZ: I don't have the negatives.

23 THE COURT: You do?

24 MR. GONZALEZ: I don't have the negatives.

25 The person who took them -- I don't know -- there is



1 one, two, three --

2 THE COURT: Give them to Counsel.

3 MR. GONZALEZ: -- four, five, six, seven.

4 Seven photographs.

5 THE COURT: Seven photographs. If one
6 doesn't come back, you know that one is missing. Mr.
7 Sameiro, I doubt would --

8 MR. SAMEIRO: You know, one thing with
9 photographs, when they are developed, it has the date.
10 It says here, 08/12/2008.

11 MR. GONZALEZ: They were turned over to me by
12 my client.

13 MR. SAMEIRO: He is in jail. He can't take
14 pictures in jail, Judge. I heard Counsel say, I think,
15 that he had them taken. That's what he told me off the
16 record. That family members had them taken.

17 MR. GONZALEZ: I didn't have them taken. The
18 family of my client. I understand where Mr. Sameiro is
19 trying to go. But that is not a fact. Somebody from
20 his family took the pictures. They gave them to him.
21 He then gave them to me, in preparation for the first
22 time we came to trial, I think, in September. That is
23 when I received them.

24 MR. SAMEIRO: Well, it's been a long time
25 since September.

1 MR. GONZALEZ: He can take possession of the
2 photos until tomorrow morning.

3 MR. SAMEIRO: I don't think Counsel gets it.
4 It is about trial prep. It is ten after four, and I am
5 finding out about this. Without having to go to the
6 crime scene, with the photos, and see if the angles may
7 or may not be accurate. I haven't had a chance to go
8 over there with the victim at all. I'm entitled to
9 that type of trial prep.

10 MR. GONZALEZ: He should have prepared --

11 MR. SAMEIRO: Counsel doesn't get it. I'm
12 sorry.

13 THE COURT: His issue is, they weren't here
14 before today. So, he's not using the photos. He
15 doesn't need to use the photos. He wasn't going to use
16 them. It's fine, if you wish to use them. His
17 position is, they should have been turned over a long
18 time ago. If you are going to use them, he is
19 objecting at this point.

20 My feeling is, if they're photos of the area
21 -- you are right -- they are not some kind of, you
22 know, just like a neighborhood picture of the area.
23 Sobeit. But the concern now, coming from the
24 defendant, there may be -- And, also, they were taken
25 -- He has not had a chance to go over them with his



1 witness.

2 Let me ask you this, Mr. Sameiro: Tomorrow
3 morning, if your witnesses take a look at them, and
4 there is not a problem, any objection to them, perhaps,
5 going into evidence or used for ID?

6 MR. SAMEIRO: No, there wouldn't be. I'd
7 like, in the interim, to have an opportunity to see the
8 scene myself. Have these pictures with me. That's
9 all.

10 THE COURT: Any objection, Mr. Gonzalez, to
11 Mr. Sameiro taking the photos with him?

12 MR. GONZALEZ: No objection. If it will make
13 him feel more comfortable, I'd love for him to have
14 them.

15 THE COURT: I have to tell you, making a
16 copy, it is not going to be that clear. If you can
17 give him those copies, I'm sure the family has the
18 negatives. It is seven pictures. I do trust that Mr.
19 Sameiro will be careful with them. Because it is
20 difficult when you are copying them to really get a
21 good view.

22 MR. GONZALEZ: I agree. You can take them.
23 Take a look at them. No objection.

24 THE COURT: We'll see if we can't --

25 MR. GONZALEZ: I do apologize to Mr. Sameiro

1 and the Court. I have had pictures brought in by the
2 Prosecutor.

3 THE COURT: You're right. The recommended
4 way is to get them ahead of time.

5 MR. GONZALEZ: It just shows the area.

6 THE COURT: There may not be -- You have had
7 a chance to take a look at them. If there is no
8 objection, then that's what we'll do. You may take a
9 look at them tonight. Have anybody take a look at
10 them.

11 MR. SAMEIRO: If Counsel wants to duplicate
12 these, with a good photocopy machine, we can go back to
13 my office. So, that he can take them back.

14 THE COURT: Or, if not, you trust him.

15 MR. GONZALEZ: I trust him.

16 THE COURT: All right. Then we'll be back --

17 MR. SAMEIRO: There is seven there.

18 THE COURT: Okay. We'll be back tomorrow
19 morning and that is the only issue.

20 MR. SAMEIRO: That's the only issue.

21 THE COURT: Okay.

22 MR. GONZALEZ: The other issue of the phone
23 number. But I think we can flesh that out with the
24 first witness.

25 MR. SAMEIRO: All the witnesses -- except for



1 Sergio Mattias -- makes reference to it. I can
2 overcome the hearsay objection. This is just an
3 ordinary hearsay issue that Counsel seems to have
4 latched onto. And I did my homework. I know the rule
5 and what the exceptions are.

6 THE COURT: We'll wait to see what happens.
7 The question could be asked. If there is an objection
8 to it, we'll come to sidebar. And I'll hear you. If I
9 need to focus the jury in to it, we will go from there.

10 MR. SAMEIRO: Let's deal with the evidence
11 that is objected to, Counsel, so, I can prepare my
12 witnesses with respect to this. In respect to the
13 sanitization, this defendant was previously arrested,
14 and he provided a phone number. That comes from the
15 defendant's own lips. That's how this information is
16 put on the arrest report.

17 Now, frankly, I don't want to ask the Lead
18 Investigator, how did you get the records, who filed
19 the information, and where it came from, under what
20 circumstances. I can simply ask John Selesky, isn't it
21 true, on such and such a date, you obtained the
22 telephone number of the defendant, and his address
23 information. You have that on file, yes. That would
24 be the answer. Then I would say, well, what's the
25 address that he provided to the Police Department, and

1 what is the telephone number that he provided, without
2 getting into arrests and the like.

3 Now, if Counsel wants to put me to my proofs
4 in this, he does it at his own peril. Clearly, there
5 is no business record exception, that he could argue,
6 vis-a-vis what the taxi dispatcher had. That was his
7 issue this morning. The number that the taxicab
8 company trapped, which was provided to the police,
9 after the defendant's first arrest. I hope you're
10 following me.

11 THE COURT: I have got it.

12 MR. SAMEIRO: There is two sources of the
13 information.

14 THE COURT: With the same number?

15 MR. SAMEIRO: With the same number. So, I
16 don't believe Counsel is challenging me as to the prior
17 arrest, and the so-called hearsay nature of that,
18 because the defendant provided that.

19 THE COURT: Right. The pedigree
20 information?

21 MR. SAMEIRO: The pedigree information.

22 MR. GONZALEZ: That is the way that they get
23 Mr. Machado's name, to put him in the photo array.

24 MR. SAMEIRO: That pedigree information.
25 Because, allegedly, in the records, that they have,



1 that they previously had, that was entered in. That it
2 came back as a hit, in whatever computer system is
3 used, with regard to the hit, or how they -- I don't
4 even know that end of the activity.

5 MR. GONZALEZ: With regard to the phone
6 numbers, I don't think they do.

7 THE COURT: Okay.

8 MR. GONZALEZ: With regard to the pedigree
9 information, there is no objection to that.

10 THE COURT: Okay.

11 MR. GONZALEZ: Through their investigation,
12 they composed a photo line-up.

13 THE COURT: Okay.

14 MR. GONZALEZ: I wouldn't object to that.

15 THE COURT: Okay.

16 MR. GONZALEZ: The photo line-up, and then
17 they found out that he lived at 400 Lee Avenue. And,
18 yes, the victim, eventually, identifies him. Now,
19 what I did have a problem with is the original phone
20 number put in the original police report. Just so you
21 know, your Honor, a robbery occurs allegedly. And,
22 allegedly, a phone number is given. That the
23 dispatcher, from Victoria Taxicabs, did give,
24 supposedly, to the victim.

25 The victim then comes to the New Brunswick

1 police station, and gives this number, allegedly. You
2 know, that number, later on, when they find out that
3 Mr. Machado lives at 400 Lee Avenue, they find out that
4 he had given this phone number. That they then
5 comprise this photo identification. My issue is, the
6 gaining of that particular number, at the original
7 police report, that that's hearsay.

8 THE COURT: Why isn't it a part of his
9 pedigree?

10 MR. GONZALEZ: I agree that's part of his
11 pedigree.

12 MR. SAMEIRO: Through further investigation,
13 we comprised.

14 THE COURT: You get the phone number.

15 MR. SAMEIRO: Yes.

16 THE COURT: Well, the phone number is fine.

17 MR. GONZALEZ: But that linking it to this
18 original phone number, whether or not that is, in fact,
19 the number that was given to Mr. Cedillo, and then
20 through Officer Bobadilla. But my point is that, that
21 particular number was given by someone who we don't
22 know who it is.

23 THE COURT: So, somebody calls in from this
24 number. Is that how this works?

25 MR. GONZALEZ: Well, it's alleged that Mr.



1 Cedillo calls the taxicab company, and asks them where
2 that last call came from, or what is the number of the
3 last call.

4 MR. SAMEIRO: It is alleged that the victim,
5 Mr. Cedillo --

6 THE COURT: He is the taxicab driver?

7 MR. SAMEIRO: Right.

8 THE COURT: He calls this company?

9 MR. SAMEIRO: Right. And says, what's the
10 phone number, which is regularly trapped in their
11 system.

12 THE COURT: It is in their system.

13 MR. SAMEIRO: As a part of ordinary business,
14 that number was trapped. That number was presented to
15 the victim, as a present sense impression, by the
16 dispatcher. It was recorded in the document, given to
17 the victim, who turned it over to the police.

18 THE COURT: Okay.

19 MR. SAMEIRO: Now, let me correct the record.
20 I made a mistake. Because of the hour, I guess. I
21 watch Einsteins, too. I have the arrest report of the
22 defendant, which postdates the incident, just so the
23 Court is aware of the chronology. The robbery incident
24 is alleged to have taken place in April '07. The
25 defendant was arrested in June of '07 on a warrant. He

1 was found to be in the company of another person, who
2 had a gun on him. And when the defendant was arrested
3 on the warrant, he gave the police the telephone number
4 which is the same number that the victim provided to
5 the police earlier.

6 THE COURT: Okay. In an attempt to identify
7 his assailants, the photo ID hadn't occurred yet?

8 MR. SAMEIRO: No. But it's because of the
9 number and the address. Mainly the number. It came to
10 the officers' attention. That they were able to put
11 two and two together. Because they had that number
12 from the prior report of that episode.

13 THE COURT: Okay.

14 MR. SAMEIRO: Of course, they then had the
15 defendant's mug shot from the subsequent arrest.

16 THE COURT: Okay. All right.

17 MR. SAMEIRO: There is more to this.

18 THE COURT: All right.

19 MR. SAMEIRO: The police did a -- They then
20 did a subpoena for a records check on the phone number.
21 And the telephone company gave them information about
22 the phone number. They came up with a different name,
23 other than the defendant, as the owner of this cell
24 phone. But the information was indicated, as the
25 person being born in Honduras. When the defendant was



1 arrested in June, he indicated that Honduras was his
2 place of birth.

3 There is a little bit more to it than just
4 the number found in the arrest report. Detective
5 Selesky issued the Grand Jury subpoena to the cell
6 phone company for their business records. In response,
7 we have all that information. Actually, the police
8 were waiting for the results of the subpoena. That's
9 made clear in the photo array preamble. It's on the
10 DVD. He did it on camera.

11 He just did not have the information that
12 came back on the phone. They're now waiting -- you can
13 see in the photo array -- that they're waiting to see
14 what came back. That the name on the account, that
15 wasn't his name. It was a different name.

16 But, nevertheless, we had the defendant's
17 phone number from the June arrest on file. Because
18 that's what he provided to the police when he was
19 arrested. That's undisputable. Your concern is as to
20 when Mr. Cedillo gets the phone number. It is from the
21 cab people, basically.

22 THE COURT: Yeah. So, that is the base of
23 this whole business, so to speak.

24 MR. SAMEIRO: Uh-hum.

25 THE COURT: So, what you are saying, that's

1 really hearsay.

2 MR. GONZALEZ: It is. That's what I'm
3 saying.

4 MR. SAMEIRO: I agree. There are clearly
5 exceptions.

6 THE COURT: That was my next question.

7 MR. GONZALEZ: If this is a present sense
8 impression of a person that is present, I understand.
9 But if it's a present sense impression of a person, who
10 is not present, who is merely hearing something on the
11 other side of the phone, he can't say what that guy
12 saw, on the other side of that phone. They're looking
13 at the screen at the taxi company, and it is also
14 whether or not the investigation is then done exactly
15 at that time.

16 What I'm saying is, that that stuff has not
17 been proved in the State's case. Nor did the State
18 investigate that particular issue. So, with regards to
19 this, it is not my burden to go and find it. To go
20 ahead and find that stuff. If the State intends on
21 introducing that particular number, through Wilmer
22 Cedillo --

23 THE COURT: You're going to be objecting,
24 that he can't do it, because it's hearsay.

25 MR. GONZALEZ: There is layers of hearsay.



1 If the present sense impression -- As I said, the
2 person who is sitting there, would have to have that
3 present sense impression.

4 THE COURT: Okay.

5 MR. GONZALEZ: Which is where I'm going.
6 It's layers of hearsay. With that in mind, Judge, I
7 would have no objection, that the pedigree information
8 -- if, in fact, it is pedigree information.

9 THE COURT: All right.

10 MR. GONZALEZ: But the original giving of
11 what's on the police report, from Officer Bobadilla, on
12 the original information, that phone number, cannot be
13 testified to.

14 THE COURT: From Mr. Cedillo.

15 MR. GONZALEZ: By Mr. Cedillo or Officer
16 Bobadilla. Because they're both hearsay.

17 THE COURT: Your feeling is that, they're not
18 going to get it in through them?

19 MR. SAMEIRO: There is an exception to the
20 hearsay rule. I could get it in through them, Judge.

21 THE COURT: Okay.

22 MR. SAMEIRO: Now, that we're arguing this
23 point, to start from the beginning, there is no
24 prohibition against hearsay. It is intended to prevent
25 information, that is deemed unreliable, to go before a

1 jury. There are so many exceptions to the rule
2 because there are so many ways that hearsay can be
3 found to be reliable. To make something reliable.

4 What are the odds that Wilmer Cedillo, who
5 doesn't know Pablo Machado from a hole in the wall,
6 could come in with the following number, written on a
7 piece of paper? 732-801-5418. And that not being the
8 number belonging to the defendant, who two months
9 later, when he is arrested, on an unrelated crime,
10 presents the very same number to the police?

11 I mean, how more reliable can we get, in
12 terms of that kind of information? The testimony will
13 be, I've got the telephone number as an exhibit
14 (indicating). That with all of these phone numbers,
15 with the caller ID, the number is trapped.

16 What we have here is, someone using the
17 defendant's number, calling the cab, moments before the
18 defendant and others get in it, and rob the victim.
19 This happens to take place in front of 400 Lee Avenue,
20 which is also the same address found on the arrest
21 report, that is put together in June of '07, when the
22 defendant got arrested.

23 THE COURT: Okay.

24 MR. SAMEIRO: Now, I would argue that when
25 the dispatcher looked at this number, and wrote it



1 down, he was playing out his present sense impression
2 of a phone number.

3 THE COURT: Okay.

4 MR. SAMEIRO: That was trapped in a caller
5 ID. And when he wrote that down, for the benefit of
6 the victim, the victim gave it to the police officer,
7 who transcribed that information. Unfortunately, we
8 don't have that little piece of paper. I will admit
9 that. But Officer Bobadilla didn't just dream up,
10 732-801-5418 two months before the defendant got
11 arrested on something unrelated. Which, by the way, is
12 what touches upon a gun incident, where the
13 co-defendant was arrested.

14 MR. GONZALEZ: Which doesn't matter.

15 MR. SAMEIRO: It is a firearm case, Counsel.
16 That if you put me to the proofs on this, which dealt
17 with a warrant that the defendant had, after he was
18 apprehended next to someone else who had a gun, who the
19 police saw that gun being passed to, by another person.

20 THE COURT: This third person, that is the
21 suggestion?

22 MR. SAMEIRO: There is the suggestion, that,
23 perhaps, this defendant passed the gun to his -- let's
24 call him his companion -- Javier Rivas -- who has been
25 charged and indicted and sentenced.

1 THE COURT: By this Court?

2 MR. SAMEIRO: Yes, your Honor.

3 THE COURT: The name is familiar.

4 MR. SAMEIRO: Mr. Rivas never implicated or
5 exculpated that Machado had the gun or who gave him
6 that gun. But those are the circumstances.

7 THE COURT: Okay. All right.

8 MR. SAMEIRO: In any event, I think also the
9 rules of hearsay, or the exceptions to the rules of
10 hearsay, allow this information. And it's interesting
11 that Counsel touched upon how the number factored into
12 the photo array process. I could alternatively argue,
13 that I wouldn't offer it for the truth of the matter.
14 To explain to the jury how they came up with the
15 defendant's picture for the photo array.

16 THE COURT: All right. I guess, that's the
17 issue for the Court to consider. They are really two
18 issues, regarding the possible exception and/or the
19 hearsay.

20 MR. GONZALEZ: Judge, I'd just like to note,
21 that all of what Mr. Sameiro said, regarding some other
22 charge, that he never was arrested for, never charged
23 with -- never --

24 MR. SAMEIRO: I don't intend on doing that.

25 MR. GONZALEZ: It would be improper, totally



1 improper, if the State went there at all. That's what
2 I'm worried about.

3 MR. SAMEIRO: I don't intend to go there.

4 MR. GONZALEZ: What is interesting is that,
5 if there was a piece of paper, Judge, that Mr. Cedillo
6 had written that number down on, I would say that,
7 possibly, I could still argue against it. Because it
8 possibly would be a present sense impression, that he
9 wrote it down, having heard it.

10 THE COURT: Right.

11 MR. GONZALEZ: That's what he heard from the
12 person. Now, it doesn't exist. There is no number.
13 There is no nothing linking that number at all. Be it
14 a business record, via Victoria Taxi. It probably
15 would be fine that the person, from Victoria Taxi, that
16 person, that he told Mr. Cedillo what the number was,
17 it would probably be fine if he said that he saw it at
18 that time.

19 THE COURT: Right.

20 MR. GONZALEZ: I'd probably say -- I'd
21 probably say that the taxicab company gets many calls
22 that go to 400 Lee Avenue. Lee Avenue is a big
23 cul-de-sac. All these people that live there, there is
24 hundreds of people that live there. There is hundreds
25 of people that live on Lee Avenue. The cul-de-sac is

1 all 400 Lee Avenue. 400 Lee Avenue is designated A, B
2 and C.

3 MR. SAMEIRO: I don't know about that.

4 MR. GONZALEZ: That is why in the discovery
5 that I should have been given an answer, because I have
6 one photograph -- I will show the Court -- that says
7 Building 301-320 -- suggesting to me different
8 apartment buildings.

9 That is, how would the postman deliver
10 anything to the apartments at 400 Lee Avenue? There
11 are about a hundred different people who live there.
12 Judge, this is just preposterous.

13 There is Building Three, Apartment One,
14 Building Two, Apartment Three. I mean, that's for the
15 State to look at these things. 400 Lee Avenue is
16 unique. 400 Lee Avenue is the name of the apartment
17 complex. It is the name of the complex. Each building
18 has its own number and apartment. But it's a group of
19 apartments. This isn't like the Livingston Apartments
20 or like a larger name for all these apartments back
21 there.

22 MR. SAMEIRO: Counsel, I can disprove this
23 point, with one little sign, 301-320, suggesting 20
24 different units are in the building.

25 THE COURT: All right.



1 MR. SAMEIRO: I can do that through the
2 testimony of the taxi driver himself. He's called to
3 400 Lee Avenue.

4 THE COURT: All right.

5 MR. SAMEIRO: I was there last night. It is
6 a popular place.

7 THE COURT: I'll hear you tomorrow. Your
8 point is well taken, in the sense, if you had the
9 person who saw the number, or, perhaps, if you had the
10 number, there would be no objection from the defense.

11 MR. GONZALEZ: I think it is classic hearsay.
12 I think that is unequivocal.

13 THE COURT: Well, I have Mr. Boda looking
14 it up. We can talk about this tomorrow. This is one
15 of those situations where the Rules of Evidence --
16 That's why I gave it to my Law Clerk to do some
17 research, as to the exceptions to the rules of evidence
18 and the rules of hearsay.

19 MR. GONZALEZ: Again, I have no objection.
20 By further investigation, we found out that they
21 comprised a line-up. So, they have got a line-up.

22 THE COURT: Okay.

23 MR. GONZALEZ: And he picked out this person.
24 Meaning that he'll say, I'm a hundred percent sure it
25 was this guy. It wouldn't matter, is what I'm saying,

1 that they comprise a line-up through further
2 investigation. That's where I think that the hearsay
3 is being brought in. That's what I think the State --
4 I don't want to try the State's case. The State would
5 love for the number to come in. They would love for
6 that to occur. But I think it is improper and clear
7 hearsay.

8 And, so, with that being said, I'm going to
9 rest my argument.

10 THE COURT: All right.

11 MR. GONZALEZ: I guess, we'll probably all do
12 a little research tonight and figure it out.

13 THE COURT: We sure will.

14 MR. SAMEIRO: It's reliable. It is a true
15 example. He was given the address. You have to look
16 at the totality of the circumstances. The same
17 address, 400 Lee Avenue, with that number. It is very,
18 very unique. The number appears on the arrest report.

19 The arrest report would not support the
20 present sense impression of the taxicab guy, who
21 relayed that information. I mean, frankly, they want
22 to solve this crime. They want the police to have
23 accurate, reliable information. It behooves them,
24 therefore, to give the police the right info. Of
25 course, you haven't heard the testimony.



1 THE COURT: This was the call that was placed
2 prior to the robbery, using this number?

3 MR. GONZALEZ: We don't know.

4 THE COURT: At least, the information, that
5 he called back to?

6 MR. GONZALEZ: We don't know. There could
7 have been five cabs going to 400 Lee Avenue.

8 MR. SAMEIRO: That is something that we can
9 argue. He can say that Pablo Machado called the cab
10 minutes earlier, and it went elsewhere, and he wasn't
11 involved in this robbery. He can say that. He's not
12 deprived of that argument.

13 THE COURT: Okay. Well, I'll research it
14 myself tonight. Certainly Counsel can. We'll deal
15 with the issue in the morning. I don't want you to get
16 into that question before we have a decision. I would
17 rather kind of go through it first, and then come to
18 some kind of a determination.

19 MR. SAMEIRO: That I understand, your Honor.
20 Thank you very much.

21 MR. GONZALEZ: Thank you, Judge.

22 THE COURT: All right. See you tomorrow
23 morning. Thank you.

24 (Whereupon, the hearing concluded for the
25 day.)

C E R T I F I C A T I O N

I, **GEORGEANN CROWELL, C.C.R.**, License Number **XI00983**, an Official Court Reporter in and for the State of New Jersey, do hereby certify the foregoing to be prepared in full compliance with the current Transcript Format for Judicial Proceedings and is a true and accurate compressed transcript of my stenographic notes taken in the above matter to the best of my knowledge and ability.

Georgeann Crowell, C.C.R.

Georgeann Crowell, C.C.R.
Official Court Reporter
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Date: OCTOBER 21, 2010

