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: PETER J. CORRIGAN, J.

COUNTY OF CUYAHOGA.)

IN THE COURT OF COMMON PLEAS

CRIMINAL DIVISION

FILED
COURT OF APPEALS
JUN 30 2009
GERALD E. FUERST
CLERK OF COURTS
CUYAHOGA COUNTY, OHIO

THE STATE OF OHIO,

Plaintiff,

-v-

KENNY PHILLIPS,

Defendant.

Case No. CR-481840C
C/A: 07-090124

VOL I of II

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DEFENDANT'S TRANSCRIPT OF PROCEEDINGS

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APPEARANCES:

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by: **CHRISTOPHER WAGNER & BRIAN DECKERT, ESQS.**,
Assistant County ProsecutorS,

on behalf of the Plaintiff;

ON BEHALF OF DEFENDANT CREEL;
JAYE SCHLACHET, ESQ.,

ON BEHALF OF DEFENDANT TIDMORE:
RICHARD AGOPIAN, ESQ.,

ON BEHALF OF DEFENDANT PHILLIPS:
MARK MARIOTTI, ESQ.

ON BEHALF OF DEFENDANT SUTTON:

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Official Court Reporters
Cuyahoga County, Ohio

THE STATE OF OHIO,)
) SS: **PETER J. CORRIGAN, J.**
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KENNY PHILLIPS,	)	
	)	
Defendant.	)	

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DEFENDANT'S TRANSCRIPT OF PROCEEDINGS

- - - -

BE IT REMEMBERED, that at the May A.D., 2007 term of said Court, to-wit, commencing on **Tuesday**, May 29, 2007, this cause came on to be heard before the Honorable Peter J. Corrigan, in Courtroom No. 19C, Courts Tower, Justice Center, Cleveland, Ohio, upon the indictment filed heretofore.

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TUESDAY MORNING SESSION, MAY 29, 2007

PROCEEDINGS

(Thereupon, the following discussion was had in open court without the jury present:)

MR. SCHLACHET: Your Honor, may it please the Court.

We have reason to believe that the actual perpetrator of this crime is an individual named Willie Wayne Moore. We are having a subpoena issued to him today, Judge, but we think that he's going to be rather recalcitrant and unreasonable and not want to come to court. We're asking for a material witness warrant so we can get him here in county jail. We've got evidence, Judge, that this is the actual shooter.

THE COURT: Mr. Wagner?

MR. WAGNER: Your Honor, we've known about the existence of this person. Certainly we're not objecting to them trying to get -- trying to make him appear before Court, but I don't know if this Court can actually issue a warrant without some kind of notice that he knows about it or has been served on it. Certainly we don't really have

a stand on that.

THE COURT: Well, I mean, do you concur with his indication that there's evidence that this is the actual perpetrator of the crime?

MR. WAGNER: No, Your Honor. We knew about his existence. It was disclosed by defense. We have no belief whatsoever he was involved in the shooting.

THE COURT: Mr. Schlachet?

MR. SCHLACHET: Judge, if we can just suggest to you that a material witness warrant, we believe, is different than a typical bench warrant for somebody who doesn't come. We have no reason to believe that this individual is going to want to come here to court and testify under oath that he was the shooter or be examined about that, so we're asking that that warrant be issued so we don't hold up the process. Otherwise, I'll have a subpoena served today, or it will go out today, it will come back as probably not served or can't find him, or he doesn't come and it will be held up for a few days. Thank you.

THE COURT: Well, what do I need to -- what do I need to issue, a material witness warrant?

MR. SCHLACHET: I think you just need --

THE COURT: Probable cause that he's a witness? A material witness?

MR. SCHLACHET: Yes, I believe you need some sufficient probable cause and likelihood that he's not going to come and I think we have both of those.

THE COURT: All right. Let's hear what the probable cause is.

MR. SCHLACHET: Your Honor, we have sworn statements of four individuals taken under oath: Michael Gott, Willie Barnes, Marsean Watters and Lavelle Gibson. And they all talk about an individual who was shooting in a car, in front of this car, and they have all indicated who it was.

Additionally, we have a lady, her name is Miss Harris, Your Honor, who is prepared to come to court and say that she had dinner -- she's a very reliable lady -- and who had dinner with this individual and he

told her, I did it, but I don't want to go to prison for the rest of my life, so I'm not going to tell anybody about it. But he made an admission and he's made admissions to these other individuals also.

THE COURT: That he did what?

MR. SCHLACHET: That he was the person that actually did the shooting.

THE COURT: Did what shooting?

MR. SCHLACHET: The shooting that brings us here today, the shooting that came out of the car that shot the two victims in this case, not the police part of it, but the two individuals who were shot. That's what we believe the evidence is going to show.

THE COURT: And you have those statements for me to review?

MR. SCHLACHET: I do. These are my only copies, but, yes, I have these.

THE COURT: Why don't I take a look at those before I issue a warrant.

MR. SCHLACHET: Okay. Would you like them now, Judge?

THE COURT: Yeah. Let's start our voir dire.

MR. WAGNER: Your Honor, on a similar note, the State does have concern about solicitation by the defense for a hearsay statement of this shooter where he's disclosed to other people who are going to come in or are prepared to come in and testify that this person admitted to the shooting.

Your Honor, the State believes that that would be hearsay and unless that person can come in to say it, or some person witnessed the shooting, I don't think that these -- the State would actually ask for a motion in limine unless they're going to back it up by something that complies with the rules of evidence. Evidence, Your Honor.

I believe it also would be covered in the transcripts when you review it, Your Honor. That's why I'm bringing it up now if you would look at those transcripts and fashion a ruling for a request for a motion in limine, Your Honor.

THE COURT: All right. Anything else? Okay. Let's bring the jury in.

(Thereupon, the jury entered the courtroom)

THE COURT: Welcome, ladies and gentlemen, to Courtroom 19-C. My name is Peter J. Corrigan and I appreciate your patience with us this morning. You have been called here this afternoon to hear a criminal matter. We're going to endeavor on a process that's known as voir dire. Voir dire is very simply -- I think it's a French term. There's two French words, to see and to speak, and we're going to see you speak and we want you to speak the truth.

This is a process to ensure the parties to this matter are able to choose the best type of jurors for this type of a case.

Everybody brings certain experiences, prejudices, biases, to this experience. We all have some prejudice or bias about something or other. We prefer things over other things, and that's what I'm talking about. Therefore, those experiences that you might have had, ones your family might have had, your attitudes about certain things or thoughts, or thought processes, are important to these parties and something that they want to try to learn about you to figure out who is

the right type of juror for this case. Not everybody's right for every type of a case.

For instance, everybody has a preference over, let's say, Pepsi versus Coke, right? You like Pepsi or you like Coke, or you get away with whichever if you don't have a choice, right? Well, if this was a case about Coke tasting better than Pepsi and all you drink is Pepsi, you're not a fair and impartial juror to decide that case, which is which tastes better, Coke or Pepsi.

That's sort of a simplified idea of a prejudice and a bias and you're prejudiced against Coke if you don't like Coke, you like Pepsi, and that's what I'm talking about. Not something as shallow as that either, but other personal attitudes you might have about the justice system or any other things, or perhaps you were a victim of crime in the past.

So we're going to ask you some questions and we're going to ask you about your personal lives. And we always say we're not going to pry too much, but, you know, we're going to pry into your personal affairs. There's no way around it. These parties have

an absolute right to choose the right type of jurors for this case, so they're going to ask you some questions that perhaps may be uncomfortable for you to answer in open court.

And believe it or not, this is an open court. There's two more chairs back there for any visitor who wants to sit back here and listen to these proceedings. This is an open society; this is an open courtroom. Anybody is free to come back here and sit and listen and watch as each and every one of you are when you're not on jury duty. You can come in the Justice Center any day and find a trial or other proceeding and sit down and watch.

So in order to make you feel comfortable about some personal information that we're going to have to get out of you, I allow you and I encourage you all that if we ask you something that you don't want to talk about in open court, just say, Judge, I really would like to talk to you about that in private, and we'll go to the side bar. It's no big deal. It will just be between yourself, myself, the attorneys and our court

reporter and that will be it.

But it's important. If you have something that needs to come out, it's better to bring it out. Even if you're not sure whether it would be important or not, it's better to bring that information out. The attorneys will decide if it's important or not. And what you think is important and not important may not be what these attorneys have the same idea about.

So we want you to be open and honest and allow this process to be a two-way street. And we'll talk to each and every one of you here today. There's so many of you here today because we have four defendants in this matter and so we need a big pool of potential jurors.

This process is going to take some time. It may be the least exciting of the entire process, but it's probably one of the most important parts of the process for these attorneys and these parties to really get to know you as much as you can and I'm going to give them the time that they need to make that happen.

So bear with us during this process.

A lot of things will be repeated. I have to ask each of you pretty much the same sort of questions.

Listen carefully to how other people answer, think about how you would answer that same question because your turn will be coming up sooner or later, and be honest and forthright with us, please.

In order to encourage your truthfulness and to actually demand it, I'm going to ask that you all stand and be sworn to tell the truth as we ask you questions. So please raise your right hand. If you agree to be bound by this oath, when I'm done reading it, answer, "I do."

(Thereupon, the panel was duly sworn)

THE COURT: The first thing I would like to do is to have the parties, the attorneys, introduce themselves and recite a list of potential witnesses that may be called in this matter. So folks, I want you to look at the people at the trial tables here, to listen carefully to these names, look at their faces again, listen to the names, and my first question to all of you is if you recognize

anyone or recognize a name. We will start with the State of Ohio. Mr. Wagner.

MR. WAGNER: Thank you. Afternoon, ladies and gentlemen. Christopher Wagner with the Cuyahoga County Prosecutor's Office. This is Brian Deckert, also with the Cuyahoga County Prosecutor's Office.

MR. DECKERT: Good afternoon.

MR. WAGNER: Seated with us, at least in the afternoon or tomorrow, will be Detective Carl Hartman with the Third District of the Cleveland Police Department. Our witness list is several officers, all with the City of Cleveland: Officer Danny Lentz, Officer Michael Keane, Detective Hartman, Officer Lundy, Officer Jones, Officer Haist, Officer Papaleo.

We also have some civilian witnesses: Christopher Lovelady, Kenneth and Kevin Tolbert, Leonard Brown, Detectives Belle and Koslov with the CPD SIU laboratory, Martin Lewis with the BCI laboratory, as well as Officers Nuti and Browning with the Cleveland Police Department.

Thank you, Your Honor.

THE COURT: All right. We'll start with Mr. Schlachet.

MR. SCHLACHET: Good afternoon, ladies and gentlemen. My name is Jaye Schlachet. I have the pleasure of representing Mr. Deante Creel. We expect, Your Honor, that we may call the following witnesses: Michael Gott, Lavelle Gibson, Michael Creel, Willie Barnes, Marsean Watters, Shannon Burks-Pointer, Lavelle Gibson, and Shawna Harris. Thank you.

THE COURT: And on behalf of Defendant Phillips, Mr. Agopian?

MR. AGOPIAN: Thank you, Your Honor. Morning, ladies and gentlemen. My name is Richard Agopian. Standing next to me is my client, Kenny Phillips. Mr. Schlachet has enumerated a list of witnesses. That list is essentially the same as mine. Thank you.

THE COURT: And Mr. Mariotti for Mr. Tidmore.

MR. MARIOTTI: Morning, Your Honor. Mark Mariotti, and Akeem Tidmore is my client. I join with the other attorneys with the same witness list.

THE COURT: And Mr. Guarnieri, for Mr. Sutton?

MR. GUARNIERI: Morning. My name is William T. Guarnieri and I represent Michael Sutton and the list of witnesses is the same for us as well.

THE COURT: Anybody here recognize anybody sitting at the trial tables or recognize a name that's been mentioned as a potential witness? I take it by your silence -- all right. There's one person. Your name, sir?

JUROR NO. 24: Dan Spirko. I know Mr. Deckert.

THE COURT: How do you know Mr. Deckert?

JUROR NO. 24: Through my wife. My wife was a prosecutor. So I recognize Mr. Deckert.

THE COURT: What's your wife's name?

JUROR NO. 24: Nicole Spirko.

THE COURT: And do you talk to Mr. Deckert about what he does for a living often?

JUROR NO. 24: No.

THE COURT: Had any conversation with him about this case whatsoever?

JUROR NO. 24: No.

THE COURT: And what does your wife do for the prosecutor's office?

JUROR NO. 24: She was a prosecutor. She left the office a couple, two or three years ago. She's now with the Eighth District Court of Appeals.

THE COURT: And was she in the criminal, civil division?

JUROR NO. 24: Criminal.

THE COURT: She worked here in the Justice Center?

JUROR NO. 24: Yes, she did.

THE COURT: And which judge does she work for in the Eighth District now?

JUROR NO. 24: Sean Gallagher.

THE COURT: Anything about those relationships that you have that would cause you to be unfair in any way to the State of Ohio or any of these defendants?

JUROR NO. 24: No, Your Honor.

THE COURT: Thank you. Anyone

else recognize anyone? I take it by the rest of your silence and head shaking that no one else recognizes anybody here or any names that have been announced.

Let me at this time indicate to you what the charges are with respect to this case. I'm going to read the indictments to you. I need to inform you all, though, that the fact that there's been an indictment handed down by the grand jury is not to be taken in any way as evidence with respect to whether the State can prove these allegations beyond a reasonable doubt.

The grand jury proceeding is a one-sided proceeding in which the State of Ohio presents some evidence to grand jurors in a secret proceeding and where the grand jury is making a determination whether there's probable cause to charge a defendant with a crime. It is a formal way of informing the defendant that there are charges pending. And it's also another safeguard in the system that requires the State to show that there is probable cause for these allegations.

That standard in the grand jury is a

much, much lower burden of proof standard than you'll be applying in this case. This burden of proof in this case is beyond a reasonable doubt, a much higher burden than probable cause.

Also, you have to understand that the defendants do not have any counsel in that proceeding representing or defending them in any way. So it's a one-sided proceeding. Therefore, for all those reasons, the fact that there's been an indictment cannot be used in any way for you to assume or to consider that it's evidence of any wrongdoing whatsoever.

As a matter of fact, the only assumptions that you all are to make at this point and throughout the proceeding is the assumption of the presumption of innocence of these defendants. They are presumed innocent until and unless the State of Ohio proves the allegations to you beyond a reasonable doubt.

They are cloaked with that presumption throughout the proceedings up until the time you are asked to deliberate and make the determination on the facts of this

case whether the State has been able to prove the allegations beyond a reasonable doubt.

Count 1 is attempted murder. It reads as follows: May 26, 2006. The jurors of the grand jury of the State of Ohio, within and for the body of the county aforesaid, on their oaths, in the name and by the authority of the State of Ohio, do find and present that the above-named defendants, on or about the date of the offense set forth above, in the County of Cuyahoga, unlawfully did attempt purposely to cause the death of Kenneth Tolbert.

There is a firearm specification on Count 1 that reads: The grand jurors further find and specify that the offenders had a firearm on or about their person or under their control while committing the offense.

There is another firearm specification on this count as well: The grand jurors further find and specify that the offenders had a firearm on or about their person or under their control while committing the offense and displayed the firearm, brandished the firearm, indicated that they

possessed the firearm, or used it to facilitate the offense.

And there is one other firearm specification as well which reads as follows: The grand jurors further find and specify that the offenders committed the violation of the Revised Code or -- it's the violation of Section 2923.161 of the Revised Code or the felony that includes, as an essential element, purposely or knowingly causing or attempting to cause death or physical harm to another, and the offense was committed by discharging a firearm from a motor vehicle other than a manufactured home.

MR. WAGNER: Your Honor, can we approach?

THE COURT: Yes.

(Discussion had between the Court and counsel off the record at the bench, after which the following proceedings were had in open court:)

THE COURT: Thank you, Mr. Wagner. I made a mistake. I misspoke. The date of the offense is May 29th, 2006.

Count 2 reads: State of Ohio versus Deante Creel, Kenny Phillips, Akeem Tidmore

and Michael Sutton.

By the way, I believe all these will be related to all these defendants. I don't think I read the names on Count 1, but Count 2 is also the same defendants. And it's a true bill indictment for attempted murder. This count indicates that these defendants allegedly did attempt purposely to cause the death of Christopher Lovelady. There are the same three firearm specifications on Count 2 as I read in Count 1.

Count 3 is attempted murder. The same defendants are accused on May 29th, 2006, that they unlawfully did attempt purposely to cause the death of Kevin Tolbert, and once again, all three of the same firearm specifications are part of Count 3.

Count 4 is attempted murder. The same four defendants are alleged to have attempted to purposely cause the death of Leonard Brown. Once again, Count 4 also contains the same three firearm specifications as Count 3.

Count 5 is felonious assault. And this indictment reads that these defendants

knowingly did cause or attempt to cause physical harm to Kenneth Tolbert by means of a deadly weapon or dangerous ordnance, to wit: a gun, as defined in Section 2923.11 of the Revised Code. Once again, the same three firearm specifications apply to Count 5 as were read in Counts 1 through 4.

Count 6 is felonious assault. These four defendants are accused of knowingly causing or attempting to cause physical harm to Christopher Lovelady by means of a deadly weapon or dangerous ordnance, to wit: a gun, as defined in the Ohio Revised Code. Count 6 also has all three firearm specifications that I read earlier as part of it.

Count 7 is felonious assault. The same defendants are accused of knowingly causing or attempting to cause physical harm to Kevin Tolbert by means of a deadly weapon or dangerous ordnance, to wit: a gun, as defined by the Revised Code. Once again, all three firearm specifications are contained in Count 7.

Count 8 is felonious assault. These four defendants are alleged to knowingly cause

or attempt to cause physical harm to Leonard Brown by means of a deadly weapon or dangerous ordnance, to wit: a gun, as defined by the Revised Code.

Once again, the same three firearm specifications are part of Count 8 that I read earlier.

Count 9 is felonious assault. These four defendants, on the same date, May 29th, 2006 -- and all these counts relate to the same date, May 29th, 2006 -- these four defendants are also accused of knowingly causing serious physical harm to Kenneth Tolbert. Once again, the same three firearm specifications are contained in Count 9 as was read earlier.

Count 10 is felonious assault. These four defendants, on the same date, May 29th, 2006, are accused of knowingly causing serious physical harm to Christopher Lovelady. Again, the same three firearm specifications are contained in Count 10.

Count 11 is attempted felonious assault. These four defendants are accused on that same day of attempting to knowingly --

did attempt knowingly to cause serious physical harm to Kevin Tolbert. Once again, all three firearm specifications I read earlier are contained in Count 11.

Count 12 is attempted felonious assault. Once again, these same four defendants, on the same date, are accused that they did attempt knowingly to cause serious physical harm to Leonard Brown. Once again, the same three firearm specifications apply to Count 12.

Count 13, attempted aggravated murder. These four defendants are accused on the same date, May 29th, 2006 --

MR. WAGNER: Your Honor?

THE COURT: Oh, I'm sorry. That's not correct. Defendants Creel and Phillips, that's Deante Creel and Kenny Phillips, have these charges levied against them only. So these only apply to those two defendants.

The grand jurors, on their oaths, further find that the defendants, that's Deante Creel and Kenny Phillips, unlawfully did attempt purposely to cause the death of

Police Officer Daniel Lentz, a law enforcement officer, whom the offenders knew or had reasonable cause to know was a law enforcement officer and who at the time was engaged in his duties.

Furthermore, the grand jurors further find and specify that the offenders assaulted a peace officer as defined in Section 2935.01.

There are three firearm specifications attached to this count as well, and they apply to Defendants Deante Creel and Kenny Phillips.

The first one is that these offenders had a firearm on or about their person or under their control while committing the offense.

The second firearm specification for this count reads: The grand jurors further find and specify that the offenders had a firearm on or about their person or under their control while committing the offense and displayed the firearm, brandished the firearm, indicated that they possessed the firearm, or used it to facilitate the offense.

Finally, the third firearm

specification is a little different than the other ones I read. It reads as follows: The grand jurors further find and specify that the offenders discharged a firearm at a peace officer while committing the offense.

Count 14 applies to Defendants Deante Creel and Kenny Phillips and it reads as follows: On May 29th, 2006, the grand jurors, on their oaths, further find that the defendants, Deante Creel and Kenny Phillips, unlawfully did purposely attempt to cause the death of PO Daniel Lentz, a law enforcement officer, whom the offenders knew or had reasonable cause to know was a law enforcement officer and it was the offender's purpose in committing the offense to kill a law enforcement officer.

Furthermore, the grand jurors further find and specify that the offenders assaulted a peace officer as defined in Section 2935.01.

There are, again, three firearm specifications attached to Count 14 that apply only to Deante Creel and Kenny Phillips on this charge. They are the same three firearm specifications I read for Count 13.

Count 15 is attempted murder and applies to Defendants Deante Creel and Kenny Phillips and it reads as follows: On May 29, 2006, the grand jurors, on their oaths, further find that the defendants unlawfully did attempt purposely to cause the death of Police Officer Daniel Lentz.

Furthermore, the grand jurors further find and specify that the offenders assaulted a peace officer as defined in Section 2935.01.

Once again, folks, the same three firearm specifications are attached to Count 15 as were read earlier for Count 14.

Count 16 is felonious assault, and it applies to Defendants Deante Creel and Kenny Phillips, that on May 29, 2006, the grand jurors further find that the defendants unlawfully and knowingly did cause or attempt to cause physical harm to Police Officer Daniel Lentz by means of a deadly weapon or dangerous ordnance, to wit: a gun, as defined in the Revised Code.

Furthermore, the grand jurors further find and specify that the offenders assaulted a peace officer as defined in Section 2935.01.

Once again, the same three firearm specifications are attached to Count 16 as were read to you previously.

Count 17, attempted felonious assault. This applies to Deante Creel and Kenny Phillips. The grand jurors, on their oaths, further find that the defendants unlawfully did attempt knowingly to cause serious physical harm to Police Officer Daniel Lentz.

Furthermore, the grand jurors further find and specify that the offenders assaulted a peace officer as defined in the Revised Code.

Once again, the same three firearm specifications apply in Count 17 to Defendants Creel and Phillips as I read earlier.

Count 18 applies to all four defendants, Deante Creel, Kenny Phillips, Michael Sutton and Akeem Tidmore, and it is inducing panic, and it reads as follows: The grand jurors, on their oaths, further find that the defendants unlawfully did cause the evacuation of a public place or cause serious public inconvenience or alarm by committing an

offense with reckless disregard of the likelihood that its commission would cause serious public inconvenience or alarm, resulting in physical harm to Kenneth Tolbert, in violation of Section 2917.31 of the Ohio Revised Code.

Count 19, likewise, inducing panic, applies to all four defendants, and its reads that these defendants, on May 29, 2006, did cause the evacuation of a public place or cause serious public inconvenience or alarm by committing an offense with reckless disregard of the likelihood that its commission would cause serious public inconvenience or alarm, resulting in physical harm to Christopher Lovelady.

Count 20 applies to Defendant Michael Sutton, and it is failure to comply with order or signal of a police officer, and it reads as follows: The grand jurors, on their oaths, further find that the defendant unlawfully did operate a motor vehicle so as to willfully elude or flee a police officer after receiving a visible or audible signal from a police officer to bring his motor vehicle to a stop.

Furthermore, in committing the offense, the offender was fleeing immediately after the commission of a felony and/or the operation of the motor vehicle by the offender was a proximate cause of serious physical harm to persons or property and/or the operation of the motor vehicle by the offender caused a substantial risk of serious physical harm to persons or property.

Count 21 applies to all four defendants, and it is resisting arrest. The grand jurors, on their oaths, further find that the defendants unlawfully did recklessly or by force, resist or interfere with the lawful arrest of themselves or another and brandished a deadly weapon.

All right. Once again, folks, I remind you, now that you've heard the allegations in this matter, that you keep in mind my instruction that these indictments should not be used in any way as evidence with respect to what you will hear in this case.

All right. We're going to ask you a bunch of questions. Now, I'm going to start and my questioning is going to take some time

because I talk to every single person here. And I'm going to ask you the same things. So bear with us. This is, as I said, this is a tough part of the trial, but it's probably one of the most important parts.

So be attentive, listen up. We will stop for lunch by 1 o'clock today, okay? So there's a light at the end of that tunnel for you. Look, you got about 25 minutes or so to bear with me. Try to keep yourselves alert for another 25 minutes and we'll take a lunch break and then we'll try not to bore you so bad in the afternoon, but I can't promise you that.

We're going to pick our jurors in a unique way. If anybody here has had prior jury service, I'm going to ask you about that in a minute. I'm going to talk to everybody. I'm going to ask you questions and then the State of Ohio will ask you questions and then each attorney for the defendants will have an opportunity to ask you questions to get inside your heads a little bit to find out what you're all about.

When that process is concluded -- and

there will be an end to it, don't worry; it may seem like it's endless, but there will be an end to it -- we'll then come to the side bar and these parties will choose the jurors outside of your hearing. So you won't know which attorney, which party excused which juror.

I do that for a very specific reason. Often times when people come to jury service and they sit through this process, some people may have a preconceived notion about why a certain person may want a certain type of juror on their case or not want a certain type of person on their case and they speculate and wonder about, Why was I left on as a juror and why was someone else excused?

And sometimes jurors kind of make little friendships and acquaintances during this process because there's a lot of waiting around in the back for us and we understand that and sometimes they get a little upset, Hey, why did my new friend not make this jury and why did I make it? And sometimes a juror will assign some kind of sinister motive to that for one of the parties and I want to

completely eliminate any thought of that because 9 times out of 10, the thoughts that you have about why you're chosen or why someone else is chosen and you're not is going to be completely and utterly wrong.

These attorneys are seasoned trial attorneys. They have their own ideas about the types of jurors they may want or not want and they may be nonsensical, illogical, crazy ideas, that if they had to explain it to you, they wouldn't want to explain it to you because it doesn't often make sense.

And I tell you the same story as I tell all my jurors because I think it's very illustrative of the process, and not to sort of guess and wonder what the attorneys are thinking about when they choose their jurors.

There was an attorney back in the '50s, early '60s that tried many, many cases and the story has been repeated many times and I'll repeat it for you. That attorney chose jurors on his own system, and back in those days, most gentlemen when they were called to jury service, they showed up to court with a tie on, a suit and a tie, and that's sort of

what the culture was back then and most guys walked around town with suits and ties and a hat and a overcoat and I'm always amazed looking at the old film clips of the Browns in the '50s and '60s and notice even the guys sitting in the bleachers have a hat on, a Fedora top hat, and half of them had ties or suits on, and boy, you would be hard-pressed to find a suit and a tie at a Browns game nowadays. The times have changed.

So naturally when men came to court for jury service, they most likely had a tie on. And this attorney had a fast rule he never, ever wavered from, that if some guy came to court and he had on a red tie or any part of red on his tie, he was not going to choose that person as a juror. It brought him bad luck, it gave him the heebie-jeebies, I don't know, it just was his rule, and he never, ever left someone on with a red tie. You like the heebie-jeebie business, huh? He never left anybody with a red tie on the jury, okay?

So folks, if you beat yourself up and wonder about why did one person make the cut,

so to speak, and was chosen as a juror and I wasn't and you want to assign some kind of sinister motive to it or wonder about it, it's not worth your time and effort because it may be as silly, illogical and nonsensical as the color of the shirt you wore here today, okay? So don't bother even worrying about it. And I try to even eliminate that by you not knowing who excuses whom.

Now, that same attorney is long gone, so don't you all show up tomorrow with a red tie on because that's not going to work. You're not going to be excused for wearing a red tie tomorrow. One time I had a jury, they all came in wearing red shirts after that story to mess with my head, and I don't care if you want to get together and do that, but that's not going to get you out of jury service.

While we're talking about that, I just want to let you know and sort of impress upon you folks that this is a rare privilege, a duty, an honor that you have to participate in our system, jury service. And it's sort of the butt of a lot of jokes and people are

inconvenienced and sometimes people are upset when they get the notice to come in for jury service. It's a total disruption of your life, no doubt about it. You're missing time away from your work and your family members and your leisure activities or what you would much rather be doing other than sitting here and listening to some judge spout out about things that you're not very interested in at the moment.

However, if you think about it, folks, this is an opportunity for you all to participate in how your community is governed, and it's a rare opportunity where you are going to make the decision about this case, about what the facts of this case are, and you don't get that opportunity in your government.

I mean your state senator, your Congresswoman, your state rep doesn't call you up and say, Hey, Mr. Citizen, I'm about to go vote on the floor on this bill. How should I vote? Tell me what I should do. You can write that person letters, you can lobby your representatives all you want, it doesn't mean that what you tell them to do is going to

happen.

But in this opportunity, this instance, you participate in your democracy, and without your participation, folks, this system would not work at all.

This is -- we have a unique system of justice in our country where it is not the government that makes decisions about how things are handled, how your community is governed. It's you, a fellow citizen, sitting in judgment to see if the State proves these allegations beyond a reasonable doubt, and it's your duties and it's your honor and it's your privilege to participate in your democracy right now in this manner and so we really, all of us here, tremendously appreciate and understand what you have to go through, the inconveniences. What are you getting, 25 bucks a day for being here? It barely pays for your lunch and your parking. And we understand. That's not even what you're missing from work.

So we appreciate -- and you will hear it many times; you might get sick of hearing it after awhile -- but thank you for your

participation. We couldn't be more sincere about it. You will hear it from every judge in this building and every attorney as well.

And this is a right, this is the sort of proceeding that our forefathers had in mind. When you think about it, our forefathers, it's astounding that they thought of this system and they melded a bunch of systems together. It's not perfect. No doubt it's not perfect. It improves all the time as time goes on, but it's the best system that I have ever heard of and it's the most effective one that I know of, and I think you will find when you're done with this experience, you will go back to your families and your friends and say, You know what? It's not what I expected and it's a pretty darn good system. I'm confident you will have that experience.

So that's the last flag-waving speech that I'll have. Thank you very much for putting up with it. I hope you take it to heart because I'm serious.

First question to everybody. Let me see a raise of hands: Who here has had prior jury service? Keep your hands up for a

minute.

JUROR NO. 16: Can I ask a question? Do you mean if you were on a jury or if you just got selected?

THE COURT: If you got called down to the court for jury service, or got a notice in the mail and were called off. Any kind of experience with any kind of jury service. What's your name, ma'am?

JUROR NO. 16: Marsha Woody.

THE COURT: Sir, what's your name?

JUROR NO. 31: Dean Balog.

THE COURT: Thank you. Sir, the first row, what's your name?

JUROR NO. 39: Allen Jablonski.

THE COURT: Thank you very much. You can put your hands down, let the blood run back down. I might have missed a couple of people up here. We'll get to you, though.

We're going to start with lucky Juror Number 1, Mr. Wiesenberger.

JUROR NO. 1: Wiesenberger.

THE COURT: Wiesenberger?

JUROR NO. 1: Yes.

THE COURT: How are you today?

JUROR NO. 1: Terrific.

THE COURT: Tell us about your prior jury service.

JUROR NO. 1: I was a juror in a civil case, I don't even remember, seven or eight years ago.

THE COURT: Do you remember what the case was about generally?

JUROR NO. 1: No.

THE COURT: Was it here in our Common Pleas Court?

JUROR NO. 1: I think so, but I really don't remember, truly.

THE COURT: Do you remember who the judge was?

JUROR NO. 1: No.

THE COURT: And about seven years ago you said?

JUROR NO. 1: Something like that, yeah.

THE COURT: This is a criminal matter, so it's going to be different than a civil matter. There are some differences and I might as well explain them to you as well as

everyone else. A civil case has a couple of big differences. First of all, the number of jurors is different. Do you remember how many jurors was on your civil case? There was eight.

JUROR NO. 1: Okay.

THE COURT: And in a criminal case, there's going to be 12 jurors, plus a couple alternates. Civil case, there's eight plus one or two alternates. Do you remember how many jurors had to agree before you had a verdict on your civil case?

JUROR NO. 1: No.

THE COURT: Did you go through the entire trial, you heard voir dire and testimony and instructions of law and then you deliberated?

JUROR NO. 1: Yes.

THE COURT: You don't remember how many had to agree?

JUROR NO. 1: No.

THE COURT: Six out of eight have to agree in a civil case. In a criminal case, which this is a criminal case, all 12 jurors must be unanimous. They all must agree

before there's a verdict. Also, really the biggest difference is the burden of proof in a civil case. Do you remember what the burden of proof was in your civil case?

JUROR NO. 1: No.

THE COURT: I don't expect most people to remember any of this. Don't feel bad. In a civil case, the plaintiff has the burden to prove their allegations and the level of convincing that has to be -- that has to be there for the jurors to find for the plaintiff is by a preponderance of the evidence. And that's just a slight tipping of the scales, the weight of the evidence slightly tipped in their favor.

In a criminal case, the burden of proof, the level you must be convinced before you can find these allegations true, is beyond a reasonable doubt. It's the highest burden in our justice system. For good reason. And I'll have some specific comments about that burden a little bit later. But rest assured now that the burden is different, it's a higher burden, and you'll hear some instructions about all those matters of law

before we're done, probably several times.

Mr. Wiesenberger, can you set aside what that other faceless, nameless judge told you in that civil case and accept the law as I give it to you in this case?

JUROR NO. 1: Yes.

THE COURT: I know you're sitting there not recalling one darn thing about that case and most people may have that thought as well who have had some prior jury service, but as we go through this process, you may hear terms, concepts, ideas that ring a bell with you and it will come back to you and you'll go, Oh, yeah, that was an important concept.

What I'm asking each of you specifically is to set aside that remembrance, that thought that comes back, keep an open mind about what I tell you the law is, because, folks, you are going to be the judges of the law. I am the judge -- the judges of the facts. I already screwed that up. The judges of the facts. I am the judge of the law.

So I'll tell you what the law is; you

must follow my instructions of law. Even if you completely disagree with what I'm telling you, that in your mind, that doesn't sound fair or right in any way, you will have to take an oath to swear that you will follow the law as I give it to you and not substitute what you think the law ought to be.

And I don't think there will be too many circumstances in which you will completely disagree with what I'm telling you the law is. There may be some things that you don't expect or that you didn't realize the law provided for or that you may think, Wow, that doesn't quite -- I don't quite understand how that fits with what I've heard so far, but what I'm asking you all is to keep an open mind, wait until you've heard all the evidence, wait until you've heard my instructions of law, and you must follow my instructions of law, and it will come together for you in the end and you'll see what we're talking about and you'll be able to render a decision, a fair decision.

So Mr. Wiesenberger, can you accept the law as I give it to you in this case?

JUROR NO. 1: Yes.

THE COURT: Thank you very much. Anything about your prior jury service that would cause you not to want to be a juror in this case?

JUROR NO. 1: No.

THE COURT: Mr. Bell? How are you?

JUROR NO. 2: Good.

THE COURT: Tell us about your prior service.

JUROR NO. 2: Well, it was probably about five, six years ago, but I vaguely remember it because it went quite quick.

THE COURT: Do you remember what kind of a case it was?

JUROR NO. 2: I think it could have been a civil.

THE COURT: Do you remember what the dispute was?

JUROR NO. 2: It was a postal worker getting in between a domestic dispute.

THE COURT: So they were suing for money?

JUROR NO. 2: No. I think somebody struck somebody and that's why they went to court.

THE COURT: So it could have been a criminal case?

JUROR NO. 2: Could have been.

THE COURT: Do you remember how many jurors sat on the case?

JUROR NO. 2: I do remember people behind me, but not how many.

THE COURT: Do you remember who the judge was?

JUROR NO. 2: No.

THE COURT: Was it in our Common Pleas Court?

JUROR NO. 2: Yes.

THE COURT: That's okay. Nobody ever remembers the judge. That's fine. But you can all see my name down here, right? Is that clear to everybody, Peter J. Corrigan? All right.

So it might have been a criminal case or a civil case. You can be charged with a criminal charge for assaulting somebody as well as you can sue someone for being

assaulted, right?

JUROR NO. 2: Yes.

THE COURT: For money damages. Have you understood what I said the differences were to Mr. Wiesenberger about a civil and a criminal case?

JUROR NO. 2: Yes.

THE COURT: Can you set aside the things that the forgotten judge told you about that case and accept the law as I give it to you in this case?

JUROR NO. 2: Yes.

THE COURT: And did you actually deliberate during that case, come up with a verdict?

JUROR NO. 2: I mean it was so quick. I think we did, but it just seemed to go -- be done within a day or so.

THE COURT: Yeah, that's possible. Do you remember what the deliberation process was like?

JUROR NO. 2: No, because it was like five and-a-half, six years ago. It was just in and out.

THE COURT: And anything about

that experience that would cause you not to want to be a juror in this case?

JUROR NO. 2: No.

THE COURT: That was your only jury service?

JUROR NO. 2: Right.

THE COURT: I forgot to ask Mr. Wiesenberger, did the deliberation process go smoothly in your case?

JUROR NO. 1: Yes.

THE COURT: Everyone was able to speak their mind and voice their opinion and people got along?

JUROR NO. 1: Yes.

THE COURT: Mr. Barrett, how are you today, sir?

JUROR NO. 6: Okay.

THE COURT: Tell us about your prior jury service.

JUROR NO. 6: Okay. The prior jury service, people were scuffling down in the flats. There was some pushing or fighting. And the judge was George McMonagle. It was in his courtroom.

THE COURT: So that was over in

the old courthouse?

JUROR NO. 6: No. It was in this building here.

THE COURT: It was in this building?

JUROR NO. 6: Yeah.

THE COURT: So that was a civil case, though, right?

JUROR NO. 6: Civil case.

THE COURT: People were suing about the pushing and scuffling?

JUROR NO. 6: Yeah. Outside of two clubs down in the flats. As far as I know.

THE COURT: And you went through the entire process, the voir dire, and you heard instructions of law, testimony?

JUROR NO. 6: Yeah.

THE COURT: And you deliberated?

JUROR NO. 6: Yes.

THE COURT: Tell us about the deliberation process without telling us what your verdict was.

JUROR NO. 6: Well, they had like witnesses and things like that stand up, the

prosecutor and the attorney.

THE COURT: I'm talking about when you, as a jury, went back and decided the case. Tell us about how that process was when you deliberated without telling us what the verdict was.

JUROR NO. 6: Oh, very smoothly. The jurors all got along real well. Men and women.

THE COURT: Everybody was able to voice their opinion?

JUROR NO. 6: Yes.

THE COURT: And anything about that experience that would cause you not to want to be a juror in this case?

JUROR NO. 6: No.

THE COURT: It was a good experience for you?

JUROR NO. 6: Yeah.

THE COURT: Okay. Good. Same question to you. Can you set aside the law that Judge McMonagle told you with respect to that case? It's going to be much different in this case. Can you accept the law as I give it to you?

JUROR NO. 6: Yeah.

THE COURT: Do you understand the differences between a civil and a criminal case?

JUROR NO. 6: Yes.

THE COURT: There's going to be a different burden of proof, right?

JUROR NO. 6: Yes.

THE COURT: There's going to be more jurors.

JUROR NO. 6: More jurors.

THE COURT: And you all have to be unanimous in this case.

JUROR NO. 6: There were a lot less people in the back, too, on that case.

THE COURT: Yes, yes, I'm sure there were. Will you be able to do all that?

JUROR NO. 6: Yes.

THE COURT: Thank you very much, sir. All right.

Anyone else here in our jury box with prior jury service? All right. Mr. Sisto, tell us about your prior service.

JUROR NO. 14: What I wanted to ask was that I was called to serve on the grand

jury and that was with Congresswoman Stephanie Tubbs Jones when she was the chief prosecutor and I was allowed to get off because I was a sole proprietor at the time. So I didn't really get chosen. I don't know if you wanted that information.

THE COURT: Sure, that's good information. The attorneys appreciate knowing that. So that means you were called down?

JUROR NO. 14: Yes.

THE COURT: You went through a big general voir dire with a whole bunch of -- a whole courtroom full of jurors, right?

JUROR NO. 14: Yes.

THE COURT: And you listened to the judge give sort of the same explanation about what grand jury was going to be about and then you begged off? Is that what happened?

JUROR NO. 14: Pretty much, yes.

THE COURT: And you had a business then?

JUROR NO. 14: Yes.

THE COURT: What kind of business?

JUROR NO. 14: A manufacturer's rep business. I still have it, but we incorporated and now my son is working for me.

THE COURT: Good. So you let him do all the work?

JUROR NO. 14: Exactly.

THE COURT: That's the way to do it. And you don't have the same concerns about being able to serve that you did then?

JUROR NO. 14: No.

THE COURT: Grand jury service lasts months. You're called, you serve, what is it, three or four months?

JUROR NO. 14: If not longer, yeah.

THE COURT: And you only come in one or two days a week, but it's one or two days a week for months and so that's serious jury service. The fact that it takes a long time, it's a serious commitment. So you never actually got to hear any cases?

JUROR NO. 14: No.

THE COURT: All right. My explanation of the grand jury process ring true to what you remember?

JUROR NO. 14: Yes.

THE COURT: Do you remember who the judge was that voir dired you?

JUROR NO. 14: No, I can't remember.

THE COURT: Can you accept the law as I give it to you, set aside whatever law that judge may have mentioned to you for your grand jury service? Can you do that?

JUROR NO. 14: Yes.

THE COURT: Anything about that prior service that would cause you not to want to be a juror in this case?

JUROR NO. 14: No.

THE COURT: Great. Thank you, sir.

Anyone else in the first 12, prior jury service? All right. I guess the first 14.

Let's see, let's go to Miss Woody.

JUROR NO. 16: I was called in South Euclid. Patricia Cleary was the judge and I wasn't selected as a juror, but I was called in for a day. The case was for a DUI.

THE COURT: So you got the notice, you went down to court, you sat around

until you were excused?

JUROR NO. 16: Correct.

THE COURT: You never heard any explanation of the law from the judge?

JUROR NO. 16: Not that I recall.

THE COURT: After the case was resolved, did the judge talk to you about what the case was about and why you weren't needed?

JUROR NO. 16: I was eliminated as part of the -- probably the side bar.

THE COURT: I see what you're saying. So you were on a panel and you were sitting and going through the voir dire process and you were excused from the panel?

JUROR NO. 16: Correct.

THE COURT: And did you wonder why you were excused?

JUROR NO. 16: No, I don't think so.

THE COURT: Did you have a thought about why you were excused?

JUROR NO. 16: Well, yeah, I did. I thought about the fact that it was a 18-year-old and it was for a DUI and I probably didn't look like a jury of his peers,

but I watch a lot of television.

THE COURT: So you mean you weren't 18? Is that why you felt you weren't a jury of his peers?

JUROR NO. 16: Right.

THE COURT: Was this a year ago?

JUROR NO. 16: About a year and-a-half or so.

THE COURT: I don't know why they wouldn't assume you weren't 18. Were you disappointed that you couldn't hear the case?

JUROR NO. 16: Yes.

THE COURT: And did you find out later what the verdict was?

JUROR NO. 16: No, I didn't.

THE COURT: You curious about what happened?

JUROR NO. 16: No.

THE COURT: No? You got past that, huh?

JUROR NO. 16: Right.

THE COURT: All right. And so you heard some instructions of law from Judge Cleary about what to expect in that case in muni court?

JUROR NO. 16: Correct.

THE COURT: Can you understand and accept that the law that you're going to hear from me may be quite different than what you heard from Judge Cleary? In fact, you probably will hear a lot more from me than you heard from her and I need to ask you, you need to accept the law as I give it to you and set aside what Judge Cleary told you. Can you do that?

JUROR NO. 16: Absolutely.

THE COURT: Thank you. Anything about that experience that would cause you not to want to be a juror in this case?

JUROR NO. 16: No.

THE COURT: All right. Let's squeeze one more in before we take a break. Miss Friedman, tell us about your prior jury service.

JUROR NO. 21: It was similar to the other lady. I was in a different state and it was a small jurisdiction and the person was appealing his DUI and on the day of the trial he changed his mind. So he accepted the previous decision and we all went home.

THE COURT: So that case was resolved without you having to make a decision?

JUROR NO. 21: Correct.

THE COURT: Did you go through the voir dire process?

JUROR NO. 21: No.

THE COURT: Which jurisdiction was it?

JUROR NO. 21: Leesburg, Virginia.

THE COURT: Leesburg, Virginia? So you didn't hear any instructions of law from the judge?

JUROR NO. 21: No.

THE COURT: Were you disappointed you couldn't hear the case?

JUROR NO. 21: Yes, I was.

THE COURT: You're down there anyways to do your duty; you might as well hear a case. Right?

JUROR NO. 21: Exactly.

THE COURT: I understand that. Can you -- did you have any kind of introductory, sort of preliminary, like what they showed you a video of today? Anything

like that in Virginia?

JUROR NO. 21: No.

THE COURT: Anything you might have heard out of that judge or from that experience you can't set aside? Can you accept the law as I give it to you?

JUROR NO. 21: Yes.

THE COURT: Anything about that experience that would cause you not to want to be a juror in this case?

JUROR NO. 21: No.

THE COURT: If you're not chosen, you can deal with that disappointment and you might get in on another case with your week's service here. Also, that brings up a good point that I might as well talk about. Most cases that come to court are resolved one way or another. The system would grind to a halt if every case required a jury trial.

What you need to understand and remember is that all the parties in this matter here today, the State of Ohio, each and every one of these defendants, they have an absolute right to have this case decided by fellow citizens like yourselves, by jurors,

and you're not to speculate, you're not to wonder, Why wasn't this one resolved in some way or another? Why are we listening to this case? Don't even think about that.

That will really have nothing to do with what the facts are in this case, and that is what you're here to do, to determine what are the facts, and that's your sole province.

On that happy note, I've already kept you four minutes later than I said. I'm going to let you go down.

Before you go down, you're going to have an hour for lunch. It's 5 after 1. Gather down on the fourth floor together no later than 5 after 2. We'll bring you up as close to 5 after 2 as we can, together.

Be patient with us, folks, because there's so many of you, and trust me, when you're not here, we're dealing with all kinds of other cases, legal issues involved with this case that you have no need to know about or hear, and be patient with us. We're going to get to you as quick as we can. This will be part of your experience, unfortunately. If you're used to being in the Army, it's the

hurry up and wait mentality. So you're going to be rushed around and then you got to wait. Be patient with us.

I must admonish everybody, you can't talk about this case with anyone. You can't even talk amongst yourselves about the case. Don't allow anyone to talk to you about this case in your presence. If that happens, if someone approaches you, wants to talk to you about this case or any case, or is talking to you about this case in your presence, that's a serious problem, and please tell Maggie, the bailiff, immediately.

Let us know as soon as you can and we'll deal with that situation. Along those lines, you're going to see these attorneys, these parties, myself, throughout the building, maybe in the cafeteria. We share the elevators. Folks, we're not going to have any contact with you. We're going to take the next elevator if we can. Don't be insulted by that. Don't be insulted if we don't say, Hey, how are you doing, Mr. Juror, or more than just a nod hello.

And that's true of all the other

prosecutors and defense attorneys in this building. You'll see that if you're on the elevator, the doors open up and the people see it's jurors, people become very quiet suddenly. They shut up. They don't want to have any undue influence on any of you and everyone is very cognizant of that here. So don't take that personally either. We're not hiding things from you, but we sort of are. We just want you to be completely open-minded, to be completely uninfluenced by any other outside things other than what you hear in this courtroom. This is what we want you to base your decision on.

On that, we'll break for the afternoon. We'll see you around 5 after 2.

(Thereupon, the jury exited the courtroom and the following proceedings were had in open court:)

THE COURT: Anything on the record? We'll see you after lunch.

(Lunch recess taken at 1:08 p.m.)

TUESDAY AFTERNOON SESSION, MAY 29, 2007

PROCEEDINGS

(Thereupon, the jury entered the courtroom)

THE COURT: We were talking with people about prior jury service. Miss Friedman was the last one; is that correct? All right.

Mr. Spirko, you had some prior jury service?

JUROR NO. 24: I didn't actually serve. I was called for Cleveland Municipal Court jury service about three years ago. I was supposed to call in each night and they never required me to appear. So I never actually served.

THE COURT: So that's pretty easy jury service.

JUROR NO. 24: Yeah.

THE COURT: Anything about that experience that would cause you not to want to be a juror in this case?

JUROR NO. 24: Oh, no.

THE COURT: You never actually heard any voir dire from any judge about anything or know anything about any of the

cases that you might have been called for?

JUROR NO. 24: No, Your Honor.

THE COURT: Mr. Novak? You had some prior jury service?

JUROR NO. 25: Yes, served on three different juries. One civil, two criminal.

THE COURT: Tell us about the civil case.

JUROR NO. 25: Something about dental things, somebody suing somebody.

THE COURT: Our court, Common Pleas Court?

JUROR NO. 25: It was across the street, yeah.

THE COURT: Do you remember who the judge was?

JUROR NO. 25: I think that was McGinty back then I think.

THE COURT: And you went through the entire process and deliberated?

JUROR NO. 25: Yes, sir.

THE COURT: Do you remember anything about that deliberation process, how that was for you?

JUROR NO. 25: It went smoothly,

seemed to be fine.

THE COURT: People got along; you were able to voice your opinion?

JUROR NO. 25: Yes.

THE COURT: Have you understood my instructions with respect to the differences between a criminal and civil case?

JUROR NO. 25: Yes.

THE COURT: And can you set aside what that judge told you in that civil case, accept what I tell you in this case?

JUROR NO. 25: I think so, yes.

THE COURT: Tell us about the two criminal cases.

JUROR NO. 25: Do you want to know what they were?

THE COURT: Yeah.

JUROR NO. 25: One was a fraud, Cleveland schools, and the other was a rape case.

THE COURT: How long ago was the fraud case?

JUROR NO. 25: Within the last five years maybe.

THE COURT: Do you remember who

the judge was?

JUROR NO. 25: I don't know -- Russo or Callahan, one of those was -- I don't remember exactly which one had which case.

THE COURT: Do you remember which Russo?

JUROR NO. 25: I want to say Joe, just because I saw his picture down there on the wall and I remembered him.

THE COURT: And you did the same thing, you heard the voir dire, you heard testimony, instructions of law, and then you deliberated in those two cases as well?

JUROR NO. 25: Yes.

THE COURT: The same question for you. Can you set aside what Judge Callahan told you and what Judge Russo told you, accept the law as I give it to you?

JUROR NO. 25: Yes, sir.

THE COURT: Good deliberation process for those cases?

JUROR NO. 25: They were both good.

THE COURT: Anything about all those experiences that would cause you not to want to be a juror in this case?

JUROR NO. 25: No.

THE COURT: Thank you very much.

Mr. Balog? Tell us about your prior service.

JUROR NO. 31: This is the third time I have been here plus once called down to Cleveland Municipal. It was one civil and three criminal.

THE COURT: Tell us about the civil case.

JUROR NO. 31: It was a fraud case. Suing over misrepresentation of a car sale.

THE COURT: You went through the entire process and deliberated?

JUROR NO. 31: Yeah.

THE COURT: How was the deliberation process for you, without telling us the verdict?

JUROR NO. 31: Worked fine. Everybody cooperated with each other. It was very smooth.

THE COURT: How about the criminal cases?

JUROR NO. 31: Well, the deliberation for those also was very smooth.

Everyone had a chance to talk, look at the evidence, all that.

THE COURT: Do you remember who the judge was in the fraud case?

JUROR NO. 31: No. That was 20 some years ago.

THE COURT: And how about the other criminal cases?

JUROR NO. 31: I believe Michael Russo was one of the judges. I can't remember the other two.

THE COURT: Same question for you generally. All the law that you heard from those different judges, can you set those aside, keep an open mind, accept the law as I give it to you?

JUROR NO. 31: No problem.

THE COURT: And anything based on those past experiences that would cause you not to want to be a juror in this case?

JUROR NO. 31: Nothing at all.

THE COURT: All right. Thank you very much.

Mr. Humphrey? Did you have some prior service?

JUROR NO. 34: Yes. I served five years ago. I was an alternate and I deliberated on another case. Both of them were drug-related. The judges were Judge Sutula and Judge Mahon.

THE COURT: Kathleen Sutula or John Sutula?

JUROR NO. 34: Kathleen.

THE COURT: Tell us about your experience as an alternate.

Now, before I ask you, let me explain what the role of an alternate is, so you all know. An alternate juror is kind of like the backup quarterback of the jury. Anybody here not a football fan, doesn't know what a backup quarterback is? A couple people, okay.

An alternate juror is someone who sits and listens to all the testimony, all the evidence, all the instructions of law, is ready to deliberate at the drop of a hat. As soon as the judge says, You're in, alternate, they're ready to come in and have all the same duties as any other juror.

And they're there just in case something, god forbid, happens to another

juror where they can't continue listening to the evidence or they can't deliberate for some reason, some emergency, serious reason. If that happens and the alternate steps into that juror's place -- because from the very beginning, they've heard all the same things that all the other jurors have heard -- they're ready to do that and deliberate.

If all goes well, however, and the alternate's services are not necessary, all the jurors are present, healthy and able to deliberate, when it comes time for that, the alternates are excused and they're not allowed to deliberate, and sometimes that can be a frustrating experience I suppose. You invested a bunch of time and energy and thought in a case that you listened to over an amount of time, but then you're excused.

And it's an important role, just like any other juror, and you never know when you're going to be ready, you never know when that backup quarterback is going to get that call to go in. So the alternate juror is always prepared.

Let me ask you, Mr. Humphrey, how did

you find your alternate juror experience? Were you frustrated you couldn't deliberate?

JUROR NO. 34: Yes, I was a little bit, but it was better than sitting downstairs.

THE COURT: So it was the lesser of two evils?

JUROR NO. 34: Right.

THE COURT: And were you able to find out later what the verdict was?

JUROR NO. 34: Yes, I did.

THE COURT: I tell my alternate jurors the same thing, to take the bailiff's phone number when you're excused. In a couple days, you can call back and find out once the verdict is read in open court, you can find out what the verdict was and that usually quenches some of your curiosity, although did it quench yours, Mr. Humphrey?

JUROR NO. 34: Yes, it did. I found out the same day, so it was good.

THE COURT: Were you surprised by the outcome of that case?

JUROR NO. 34: Not at all.

THE COURT: And tell us about

the other case. You said two cases, right?

JUROR NO. 34: Yes.

THE COURT: One was an alternate. What was the other case?

JUROR NO. 34: It was a drug -- drug possession case, and we deliberated. We had no problems. It went real smooth.

THE COURT: Good experience for you?

JUROR NO. 34: Yes.

THE COURT: Was it what you expected, your jury experience?

JUROR NO. 34: Probably aside from the waiting and all that, yeah, it was good. I enjoyed it.

THE COURT: It's not what you see on TV, though, is it? Not even close. They don't show all the waiting around, boring voir dire from the judge, you know.

Anything, based on your experiences of prior jury service, that you would not want to be a juror in this case?

JUROR NO. 34: No, sir.

THE COURT: Also, all the law you heard from those judges, and those laws,

the general concepts might be the same, but drug possession laws, they're not going to come into play here in this case. Do you understand that?

JUROR NO. 34: Yes.

THE COURT: Can you set all those things aside and even things that come back to your recollection as we discuss them and accept the law as I give it to you?

JUROR NO. 34: I can do that.

THE COURT: Great. Thank you very much.

Let me ask you, Mr. Humphrey: Do you remember much of what the judge told you as far as the law in those other cases?

JUROR NO. 34: Just that we deliberated based strictly on the evidence. That's it.

THE COURT: Were you surprised by any of the law that was discussed with you by the judge or that the judge gave to you that you didn't expect, you didn't realize that was what the law indicated?

JUROR NO. 34: No. That didn't happen.

THE COURT: Thank you, sir.

Mr. Ferkul?

JUROR NO. 35: Yes.

THE COURT: How are you today?

JUROR NO. 35: Good.

THE COURT: Am I saying your name right?

JUROR NO. 35: Ferkul.

THE COURT: Tell us about your prior service.

JUROR NO. 35: I was called only once at least 10 years ago. I was dismissed each morning.

THE COURT: Which court was that?

JUROR NO. 35: I think it was the same court.

THE COURT: Common Pleas Court?

JUROR NO. 35: I'm not sure, though.

THE COURT: You heard some general voir dire and then jurors were chosen and you were excused?

JUROR NO. 35: I didn't hear anything. I was down in the big room and --

THE COURT: Watching a video maybe?

JUROR NO. 35: No video even.

THE COURT: So you were down there cold, locked up, not knowing what's happening, whether this is some kind of cruel government trick, you know? Okay. So are you excited about the possibility of hearing a case this week?

JUROR NO. 35: It's interesting, yeah.

THE COURT: You wouldn't use the word excited?

JUROR NO. 35: Not really.

THE COURT: Anything about that prior service or you sat in the big room and did nothing that would cause you not to want to be a juror in this case?

JUROR NO. 35: No.

THE COURT: Thank you very much. Miss Allanson? How are you today?

JUROR NO. 37: Good. How are you?

THE COURT: Are you back there? I think I see you. Did you have some prior jury service?

JUROR NO. 37: I was summoned but was excused for classes.

THE COURT: When was that?

JUROR NO. 37: That was a couple months ago.

THE COURT: So you called up, you said you were in school and they said, Come back at the end of May?

JUROR NO. 37: Yeah. They said, Let us know when, and I didn't, so they just kept calling me.

THE COURT: Good for them. They're very persistent. And were you in school at the time you said, in classes?

JUROR NO. 37: Yes.

THE COURT: What school?

JUROR NO. 37: Tri-C.

THE COURT: Classes are over now?

JUROR NO. 37: No, but I'm giving in.

THE COURT: You gave in finally. You might as well get it over with, right?

JUROR NO. 37: Right.

THE COURT: So you never went

through the process; you never heard any voir dire?

JUROR NO. 37: Nothing.

THE COURT: You just talked to someone on the phone?

JUROR NO. 37: Yes.

THE COURT: Okay. Thank you very much. Miss Johnson?

JUROR NO. 40: Yes.

THE COURT: How are you today?

JUROR NO. 40: Fine.

THE COURT: Tell us about your prior jury service.

JUROR NO. 40: I had a criminal service and I guess I got called up for two, but dismissed for one, and it lasted about a week and-a-half.

THE COURT: And how long ago was the case that lasted a week and-a-half?

JUROR NO. 40: About three years ago.

THE COURT: Do you remember who the judge was?

JUROR NO. 40: I was trying to remember her name. She's no longer a judge

now. She's a travelling judge I guess now.

THE COURT: Peggy Foley Jones?

JUROR NO. 40: Foley, yes.

THE COURT: And what kind of a case was it that you heard?

JUROR NO. 40: Robbery.

THE COURT: And you went through the voir dire process, you heard testimony, and were instructed on the law and you deliberated?

JUROR NO. 40: Yeah.

THE COURT: Tell us, without telling us what the verdict was, tell us about how the deliberation process was for you.

JUROR NO. 40: Started off smoothly. Kept going on and on and on and on and we didn't come to a conclusion.

THE COURT: You weren't able to all 12 unanimously agree?

JUROR NO. 40: No.

THE COURT: So that's another possibility, the jury can be hung.

JUROR NO. 40: Right.

THE COURT: Did you hear special instructions after awhile when you couldn't

come to a decision from the judge?

JUROR NO. 40: Yes.

THE COURT: How often did she give you those instructions?

JUROR NO. 40: Daily.

THE COURT: Every day?

JUROR NO. 40: Yes.

THE COURT: And how many days did you attempt to reach a decision?

JUROR NO. 40: I don't know. It was about at least five days, five or six days.

THE COURT: Five or six days of nothing but deliberating?

JUROR NO. 40: Yeah.

THE COURT: And there was a difference of opinion?

JUROR NO. 40: 11 to 1.

THE COURT: And that person stuck by their thoughts about their opinion in the case?

JUROR NO. 40: Do or die.

THE COURT: And was that person you?

JUROR NO. 40: No, it was not. I

was trying to be a facilitator. It didn't work.

THE COURT: Folks, that's always a possibility. Because it's a criminal case, there must be a unanimous verdict and you will be asked to work, and to work hard to try to reach that unanimous verdict. And you'll be asked to really -- the way I like to put it, as jurors, when you deliberate, is that you are really acting as consultants to one another. Okay?

You're going to talk -- if one person is going to be the foreman or forewoman they're going to be the facilitators sort of, to make sure that people have a fair amount of time to discuss their opinion. I'll have some specific instructions about how to go about the early part of your deliberations, you know, that it's not often wise to announce right away when you first begin one way or another how you're feeling, that you should let everybody discuss some of the facts and the evidence and look at the law before you state your opinion because you might change your opinion, and once you start off with one

opinion, your pride might be inflamed and you might become stubborn about relenting your opinion to others, even when you realize that you might have not been correct.

And the deliberation process, the process of determining what are the facts in the case should be a collaborative effort where people respect each other's opinion, but keep an open mind as to the other persuasive evidence and reasoning that other people find persuasive with respect to their view on the case, but of course you must stick with your conscience and you should be guided by that, your conscience, and all the instructions of law that I give you, but you should keep an open mind as much as possible as well, so that both sides are ensured that their case was fairly heard and decided.

So that was one case. Did you say you had other cases that you heard?

JUROR NO. 40: No. I was called up for another and then they dismissed me.

THE COURT: Was that before or after that case?

JUROR NO. 40: Before.

THE COURT: Did you ever hear any voir dire in that first case? When were you dismissed?

JUROR NO. 40: It was during like this process -- is this voir dire?

THE COURT: Yeah, this is voir dire.

JUROR NO. 40: Yeah, I did hear it. I'm sorry.

THE COURT: Do you remember who that judge was?

JUROR NO. 40: No, I don't. I don't remember.

THE COURT: Can you set aside the law that that judge and Judge Foley Jones gave you and put it out of your mind, accept the law as I give it to you in this case? Can you do that?

JUROR NO. 40: Yes.

THE COURT: And are you wary of getting on another jury after that experience?

JUROR NO. 40: Yeah, there's a little pain there.

THE COURT: You're willing to give it a shot, though, if you're chosen, to

do your civic duty in this case?

JUROR NO. 40: Yeah, okay, my civic duty, yes.

THE COURT: Am I making it hard for you to say no?

JUROR NO. 40: Yes.

THE COURT: All right. Well, I guess you wouldn't call that experience a positive experience, although it is part of our system, it is part of making sure that things are done fairly, but would that affect your ability to want to be a juror in this case? It affects it somewhat. I can imagine that you're maybe a little bit afraid. Can you handle it if you're chosen in this case?

JUROR NO. 40: I'm sure I can handle it.

THE COURT: Okay. Thank you very much. Mr. Jablonski? How are you today, sir?

JUROR NO. 39: Fine, thank you.

THE COURT: Tell us about your prior jury service.

JUROR NO. 39: It was about 20 years ago, but I was on two separate cases.

One was car theft and the other one was attempted murder.

THE COURT: Do you remember who the judges were?

JUROR NO. 39: No, I don't.

THE COURT: And without telling us what the verdict was, tell us about how the deliberation process was in those cases.

JUROR NO. 39: It went pretty good. I think initially when we all went in, we were 50-50 and we deliberated for like two days and called in a few times to ask about evidence and so on and so forth, but after the second day, we came up with a verdict.

THE COURT: Was that in the car case or the attempted murder case?

JUROR NO. 39: In the attempted murder.

THE COURT: How about the deliberation process in the car case?

JUROR NO. 39: That was pretty cut and dry. I think we deliberated for 15 minutes and it was pretty cut and dry. It was a guilty case.

THE COURT: Everybody got along

okay with that case?

JUROR NO. 39: Yes.

THE COURT: And you mentioned that during your deliberation process, the second time, the attempted murder case, that you had some questions that you wanted answered and so you wrote a question out and the judge answered them?

JUROR NO. 39: Yeah, more or less, yeah, when we weren't sure of something, yeah, asked questions and then would get an answer.

THE COURT: Was it always the answer that you needed or wanted?

JUROR NO. 39: Pretty much so. We were satisfied with the answer given.

THE COURT: And I'll explain this to folks. There is an opportunity, when you deliberate, that if the instructions of law that I have given you leaves you with some question about what the law is, or how to apply it to the facts, it is possible to have the Court review such a question and what is required is the foreman writes a question out on a piece of paper in ink, signs it, buzzes for the bailiff, who brings the question to my

attention, we get the attorneys together, and then we talk about the question and how to answer it. And I would say 9 times out of 10, the answer is, You have all the information in your instructions, please review them and your question will be answered.

It's pretty rare that you get a real definitive answer to a question. We want you to work and deliberate to find the law that's there without tipping your deliberations in any way whatsoever. And so a lot of times that's the answer and I think sometimes jurors get a little frustrated with, Well, that's no answer. Why can't you just give us a straight answer? What's the answer to our question? And that's the reason. We want you to recall what you need to recall from the testimony, to look at the law and apply it and figure it out. It's usually all there for you to make a determination.

Also, often times, jurors will ask for some kind of exhibit that was talked about during the trial. Maybe some kind of a statement or report of some sort or another that people testified to but that wasn't

ultimately admitted into evidence. That means the piece of paper wasn't admitted into evidence as an exhibit.

And when you go back to deliberate, you'll have all the exhibits that were admitted into evidence and sometimes I think jurors get frustrated when they hear about some other piece of paper or something that they don't have and they ask for it: Judge, we never got this report or this statement that was talked about. And I have to answer you that you received all the information you're going to get, you received all the exhibits that are admitted into evidence, and that you can consider the testimony related to whatever that thing is, that exhibit or that piece of paper. If there was testimony related to it, consider the testimony.

That's the best evidence of whatever that subject matter is. You're not going to get anything else. You have heard the best evidence, and that's what you are to consider.

So be prepared for that if that comes about.

Anything else, Mr. Jablonski, about

your jury service that sticks out in your mind?

JUROR NO. 39: One thing I do remember is that after we did come up with a verdict, the judge called us all in and talked to us about the decision we made and voiced his opinion on what he thought and he says he thought we made the right decision, which I didn't know -- I don't know if you do that, but I didn't expect that, but it was something that I didn't know that happened in the process.

THE COURT: Do you remember who the judge was?

JUROR NO. 39: No, I don't.

THE COURT: Yeah, many judges do that. They go back and they get your thoughts about the process, about how to improve this whole experience that you have as much as we can improve it, and also to get your ideas of how you came to your decision making process. We're always very interested, and we're all students of this process, to streamline it, to put the most efficient and best procedures into place to do justice in these cases and so

we get your opinions and we like to see what your thought processes were and often times the attorneys are interested in that.

These are trial attorneys and they present their cases to jurors all the time and they sort of want to know what went through your head so they can make adjustments with respect to how they presented something or to emphasize something that perhaps wasn't clear to you that they thought they made clear.

So, again, I will talk to you when the case is over as well. And that judge indicated that he thought that you guys did a good job?

JUROR NO. 39: Yes.

THE COURT: There's probably not hardly any judge that would say anything otherwise, all right? I tell you, jurors do a good job. And they do make the right decisions. All right.

Anything about that experience, Mr. Jablonski, that would cause you not to want to be a juror in this case?

JUROR NO. 39: No.

THE COURT: Can you set aside

the law that you heard in those cases?

And we have some allegations of attempted murder in this case as well and the law may have changed since that case. You may hear a totally different instruction of law.

Can you keep an open mind, set aside those things that you might remember, might come flooding back to your memory and accept the law as I give it to you?

JUROR NO. 39: Yes, Your Honor.

THE COURT: Great. Thank you, sir.

Mr. Lambe? Am I saying your name right?

JUROR NO. 42: Yes, sir.

THE COURT: You had some prior jury service?

JUROR NO. 42: It was probably 25 years ago. I did not live in Ohio at the time.

THE COURT: Where were you living at that time?

JUROR NO. 42: Illinois.

THE COURT: Whereabouts?

JUROR NO. 42: The suburbs of

Chicago.

THE COURT: And tell us about what the jury service was like there.

JUROR NO. 42: It was a drug case.

THE COURT: So it was a criminal case?

JUROR NO. 42: Yes, sir.

THE COURT: Was it in a county court or a city court?

JUROR NO. 42: I don't recall.

THE COURT: And you went through the entire process, the voir dire, heard testimony and evidence and instructions of law, and then you deliberated?

JUROR NO. 42: Yes, sir.

THE COURT: And tell us about the deliberation process without telling us what the verdict was.

JUROR NO. 42: It went smoothly. We reviewed the evidence, came to a conclusion.

THE COURT: Everybody got along and was able to voice their opinions?

JUROR NO. 42: Yes, sir.

THE COURT: How long did you

live in the Chicago area?

JUROR NO. 42: I grew up in that area.

THE COURT: How long have you lived in Cleveland?

JUROR NO. 42: Eight years.

THE COURT: How do you like Cleveland?

JUROR NO. 42: It's fine.

THE COURT: I've often heard it described as Cleveland is sort of like a little mini-Chicago.

JUROR NO. 42: I don't know if I would go that far.

THE COURT: A miniscule fraction of a part of Chicago?

JUROR NO. 42: They're both on a lake.

THE COURT: All right. White Sox or Cubs fan?

JUROR NO. 42: White Sox.

THE COURT: We won't hold that against you. Anything about that service that would cause you not to want to be a juror here?

JUROR NO. 42: No.

THE COURT: You understand that the law might be quite different than what you heard in the Chicago area?

JUROR NO. 42: Yes.

THE COURT: Can you accept the law as I give it to you and set aside what you heard in that other case?

JUROR NO. 42: Yes.

THE COURT: Thank you very much. Welcome to Cleveland, too, by the way.

Mr. Delmonte?

JUROR NO. 43: Yes.

THE COURT: Am I saying your name right?

JUROR NO. 43: That's correct.

THE COURT: Tell us about your prior service.

JUROR NO. 43: Probably about the early '90s, I served in a civil case in Stark County involving a accident. I think it was an insurance company and one of the injured parties. And then I was called to serve a couple years ago in a criminal case here but was excused during voir dire.

THE COURT: Were you disappointed you didn't make the panel in that case here in our court?

JUROR NO. 43: Actually, that was at the time that we were finalizing my daughter's adoption and the judge said, I don't want to interfere if you get a sudden call to head out to Arkansas and file it, I don't want something to interfere with that, so we'll wait until the next time.

THE COURT: So that was the reason you were excused?

JUROR NO. 43: Yes.

THE COURT: So you weren't disappointed?

JUROR NO. 43: No, because the adoption was going to be finalized very shortly.

THE COURT: Probably took a little worry off your mind that you wouldn't be stuck here?

JUROR NO. 43: That's correct.

THE COURT: In a civil case, you understand the differences between a civil and a criminal matter?

JUROR NO. 43: Yes.

THE COURT: You heard all those instructions that I said with the differences and can accept what I told you?

JUROR NO. 43: Yes.

THE COURT: And follow the law as I give it to you and forget about what the Stark County judge told you?

JUROR NO. 43: Yes.

THE COURT: Any reason based on that experience in Stark County that would cause you not to want to be a juror in this case?

JUROR NO. 43: I don't think so.

THE COURT: All right. Thank you. Miss Twingstrom?

JUROR NO. 44: Yes.

THE COURT: Tell us about your prior service.

JUROR NO. 44: About 29 years ago, embezzlement of McDonald's money. I guess the two stores were embezzling between.

THE COURT: Was that a criminal matter or a civil matter?

JUROR NO. 44: I don't remember.

THE COURT: Could go either way.

JUROR NO. 44: I don't remember.

THE COURT: Do you remember who the judge was?

JUROR NO. 44: No.

THE COURT: Was it here in our Common Pleas Court?

JUROR NO. 44: Yes.

THE COURT: And do you remember that deliberation process, what it was like?

JUROR NO. 44: Yes.

THE COURT: Tell us about what it was like for you, without telling us what the verdict was.

JUROR NO. 44: We agreed on the majority of things, 90 percent of us did, and it didn't last very long then.

THE COURT: Did everybody have to agree before you had a verdict?

JUROR NO. 44: Yes.

THE COURT: So that must have been a criminal case.

JUROR NO. 44: Okay.

THE COURT: And you understand the law can be much different what you heard

then and what you hear now?

JUROR NO. 44: Yes.

THE COURT: Can you accept the law as I give it to you and set aside the other things that you heard?

JUROR NO. 44: Yes.

THE COURT: Yes?

JUROR NO. 44: Yes.

THE COURT: Okay. You have to set aside all those things you hear on Law & Order and CSI and all those other TV shows. Anybody here watch any of those shows? Anybody who doesn't watch any of those shows? All right. A couple. Good. I think you can see Law & Order 24 hours a day, about eight different channels.

I mean I guess you can understand why what happens in courtrooms and what happens in people's lives is filled with drama. It's interesting. And every case is a little bit different. And that's what attracts people to this profession and that's why they're popular on TV. But ladies and gentlemen, I have to tell you that you will not -- this case will not be anything like you see on TV. It won't

be done in an hour. There won't be a dramatic courtroom confession most likely, I highly doubt it. There won't be any sort of drama, the type you see on TV.

There may be some scientific type evidence in this case that you hear. Folks, you have to accept what you hear in this courtroom as evidence, all right? You can't take an idea of something you heard about on CSI or something else you might have read about that maybe you're not even a hundred percent sure about what you read and expect that this case will have that same type of a molecule from a fingernail traced back to an envelope, licked 30 years ago, that was dug out of a garbage pit yesterday, right? I mean that's CSI sort of stuff. I think half the things they do on CSI are physically impossible. They just don't have it. They're there to entertain you.

So don't CSI the evidence in this case. Keep an open mind. If you hear some scientific evidence, listen to it and keep an open mind. You will hear cross-examination or hear differing views about that as well, but

don't expect what you see on TV. Can everybody follow that instruction?

Is there anybody here who is going to expect some kind of dead-bang scientific fact that will prove this case? Is anybody expecting that or would require that before they could come to a verdict? Okay. I take it by everybody's silence that nobody will expect that. Everybody will follow that instruction of law not to expect CSI-like scientific evidence.

All right. Anybody here, yourself, your friend, or a family member, who have been a victim of crime? From a stolen car to much worse. All right. Keep your hands up for a second. Your name?

JUROR NO. 29: Joan Schneider.

THE COURT: Keep your hands up again. Okay. Put your hands down. Thank you.

Let's start with Mr. Solomon.

JUROR NO. 7: Yes.

THE COURT: Tell us about your situation.

JUROR NO. 7: Our house was robbed

approximately I think two years ago.

THE COURT: Which city did that occur in?

JUROR NO. 7: Highland Heights.

THE COURT: Were the people home when this occurred?

JUROR NO. 7: No.

THE COURT: So it was a burglary, someone came into your house?

JUROR NO. 7: Yes.

THE COURT: Robbery is something different than burglary.

JUROR NO. 7: Yes. I'm sorry.

THE COURT: Did the police respond to that incident?

JUROR NO. 7: Yes, they did.

THE COURT: Did they treat you and your family courteously and professionally?

JUROR NO. 7: Very well.

THE COURT: Was anybody apprehended for that?

JUROR NO. 7: Not that I'm aware of. They also hit another house down the street at the same time, same day.

THE COURT: Did you have an idea who might have been responsible?

JUROR NO. 7: None.

THE COURT: No idea?

JUROR NO. 7: No idea.

THE COURT: That even makes it scarier for you, doesn't it?

JUROR NO. 7: Well, I came home and I saw the door was open and then I saw the back door was kicked in and I went in the house anyhow, which I shouldn't have done that because they could have still been there.

THE COURT: Things were taken?

JUROR NO. 7: Yes.

THE COURT: And the fact that this occurred to your family and yourself, would you hold that against these defendants or the State of Ohio?

JUROR NO. 7: Absolutely not.

THE COURT: You understand that that's got nothing to do with these defendants, or you're not going to punish the State of Ohio because nobody was apprehended in that case?

JUROR NO. 7: No.

THE COURT: Anything else?

JUROR NO. 7: No. That's the only crime that I'm aware of.

THE COURT: Anything due to that incident that would cause you to be unfair to any party?

JUROR NO. 7: No.

THE COURT: Mr. Hoffman? How are you today?

JUROR NO. 10: Doing well. Yourself?

THE COURT: Great. Tell us about your situation.

JUROR NO. 10: My mother had her purse stolen out of the South Euclid Library parking lot.

THE COURT: When was that?

JUROR NO. 10: This was about five, seven years back.

THE COURT: Were the South Euclid police notified?

JUROR NO. 10: They were. They actually traced them very quickly, but not in time. They had run up quite a few bills around town.

THE COURT: This happened at the library?

JUROR NO. 10: Yeah, in the parking lot. She left her purse in the car when she had run in.

THE COURT: Was the car broken into or was it unlocked?

JUROR NO. 10: It was unlocked.

THE COURT: Did the police treat her courteously and appropriately?

JUROR NO. 10: Yes, they did.

THE COURT: No one was ever caught?

JUROR NO. 10: Yeah, they did, they caught a few of the suspects and I guess it just kind of dominoed from there.

THE COURT: Has your mother been called to testify or give any kind of statement?

JUROR NO. 10: Actually, she wasn't. Apparently they had been doing this before and they kind of had all the evidence they needed.

THE COURT: So her appearance in court wasn't necessary?

JUROR NO. 10: No, it wasn't.

THE COURT: And were you satisfied, and your mother, was she satisfied with the justice system as a result of that incident?

JUROR NO. 10: She was.

THE COURT: Anything based on that situation your mother had that would cause you to be unfair in any way to the State or these defendants?

JUROR NO. 10: Not at all.

THE COURT: Anything else?

JUROR NO. 10: No.

THE COURT: Thank you. Mr. Conlin? How are you today?

JUROR NO. 11: Good. How are you?

THE COURT: Good. Tell us about your situation.

JUROR NO. 11: It was a couple years ago. My dad was a victim of fraud on e-Bay where someone else, an outside party came on during a transaction he was making and posed as the seller after the item he was buying had already been sold to someone else and this person came on and made pretend like

the transaction was still going on and made away with a thousand bucks.

THE COURT: Was that before the PayPal was available?

JUROR NO. 11: No. It was just a little bit of a bad judgment there.

THE COURT: He got taken?

JUROR NO. 11: Yeah. The guy refused to use PayPal. He didn't have much time on his hands, so he didn't really spend much time to do a background check or anything.

THE COURT: Well, that's a tough buyer beware lesson to learn, right? Was anybody ever caught for that?

JUROR NO. 11: No. We corresponded with the police and they said that all they could give us was just a hunch that they said that there was a terrorist group in Turkey and this is how they drew their funds was by these frauds.

THE COURT: Which police department did you speak with?

JUROR NO. 11: North Royalton.

THE COURT: Did they treat your

father appropriately and courteously?

JUROR NO. 11: Yes.

THE COURT: Anything based on that that would cause you to be unfair in any way to the State or these defendants?

JUROR NO. 11: No.

THE COURT: Thank you very much. Mrs. Schneider?

JUROR NO. 29: Yes.

THE COURT: How are you?

JUROR NO. 29: Good.

THE COURT: Tell us about your situation.

JUROR NO. 29: My husband was attacked at his store and beaten and was shot.

THE COURT: Was he the bicycle shop owner?

JUROR NO. 29: Yeah.

THE COURT: How is he doing?

JUROR NO. 29: He's doing well. He's doing very well considering what was done to him.

THE COURT: I'm so sorry about that. So that was what, about how many months ago?

JUROR NO. 29: March of 2006.

THE COURT: And that happened in the City of Cleveland?

JUROR NO. 29: Yes.

THE COURT: Did the police officers treat your husband and your family courteously and appropriately?

JUROR NO. 29: Yes. They took care of it.

THE COURT: I'm so sorry. And they did find somebody?

JUROR NO. 29: Yes.

THE COURT: And that person took responsibility?

JUROR NO. 29: Yes.

THE COURT: And so you or your husband, were you present in court when that person was sentenced?

JUROR NO. 29: No, we weren't.

THE COURT: You chose not to come down for that?

JUROR NO. 29: Right.

THE COURT: And did you ever have to give any testimony in any kind of court proceeding?

JUROR NO. 29: No. I wrote a letter that they read at court and we had a lot of our friends speak at court, but my husband was still going to therapy and it wasn't a good time to go to court. It would have been too much for him.

THE COURT: Did you feel that under the circumstances of what happened with your husband, that our criminal justice system treated your husband and your family fairly?

JUROR NO. 29: Yes.

THE COURT: Although you can never get back some of those injuries, right?

JUROR NO. 29: Right.

THE COURT: Nothing will ever make up for that.

JUROR NO. 29: Right.

THE COURT: Are you going to be comfortable sitting here and listening to some allegations potentially of some violence in this case?

JUROR NO. 29: I don't know. I've never been here before to do this.

THE COURT: Well, it's one of the instructions that I will give you, and

everyone, is that part of your duty here as a juror is to separate some things from the process.

I've been talking about setting aside other law that people had heard on jury service. I talked about we want open-minded, impartial jurors, so you're to set aside your natural biases or prejudices.

Another thing that you have to set aside is your natural human emotion of sympathy for or against a victim or the defendant or any thoughts of consequences and what will be the consequences of our decision. You have to set those aside. You have to almost have a bit of a robotic mental state that you're not going to allow those outside considerations to affect your view and your determination of what are the facts. Just the facts, ma'am.

That is what needs to be proved by the State of Ohio beyond a reasonable doubt, facts, and how you feel about a victim or a defendant or the sympathy that's evoked, or any of those things really you'll agree with me I think has nothing to do with what are the

facts. You agree with that?

JUROR NO. 29: Yes.

THE COURT: So what you will be asked to do, and this is sort of a counterintuitive thing that people are asked to do, is set aside that natural human emotion of sympathy, which I think would probably be the thing you would have to struggle with, with what's happened in your family, and so that's why I'm asking you: Can you do that? Can you separate that sympathy, the thoughts of what happened to your husband? After all, justice was done in that case. And you have to keep an open mind about what you hear in this case and not allow that emotion to enter into the equation. Can you do that?

JUROR NO. 29: I can try. I don't know. I'm pretty sensitive about this.

THE COURT: Sounds like just thinking about what happened to your husband, you're feeling some of those emotions that you did. Is that fair to say?

JUROR NO. 29: Yes.

THE COURT: And that's totally understandable. You have all of our sympathy,

but if you're going to be a juror in this case, you're going to have to buck up and swear an oath that you will be able to be impartial and not allow sympathy or what happened to your family in that case affect how you look at the facts in this case. Do you think you will be able to take that oath?

JUROR NO. 29: Yeah, I think so.

THE COURT: All right. Great. Thank you. Mr. Balog, tell us about your situation.

JUROR NO. 31: Back in the late '70s, a friend of mine had his car stolen from in front of my house.

THE COURT: In which city did that occur?

JUROR NO. 31: Cleveland.

THE COURT: I don't think there's one jury panel I've ever had in all the times I've tried cases and heard cases that at least one person in this county had a car stolen unfortunately.

JUROR NO. 31: He had left it unlocked and running, so it was pretty much an open invitation.

THE COURT: Still, that's no excuse, right? And were the police called in that case?

JUROR NO. 31: Yes. However, they found the car a couple of days later, but there were no leads on who had it or anything.

THE COURT: Did the police treat your friend appropriately?

JUROR NO. 31: Yes.

THE COURT: Anything about that situation that would cause you to be unfair in any way to the State or these defendants?

JUROR NO. 31: No.

THE COURT: Thank you very much. Mr. Humphrey?

JUROR NO. 34: My wife's van was stolen about four or five years ago.

THE COURT: Which city did that occur in?

JUROR NO. 34: Wherever Case Western --

THE COURT: The City of Cleveland?

JUROR NO. 34: Yeah, I guess it was.

THE COURT: Did she speak with the Cleveland Police Department?

JUROR NO. 34: Yeah.

THE COURT: Or the University Circle police?

JUROR NO. 34: Yeah. Actually, the van was recovered in Highland Heights, but the guy wasn't caught. We did get the van back.

THE COURT: Police treat your wife appropriately?

JUROR NO. 34: Yes.

THE COURT: She never had to come in and testify or anything like that?

JUROR NO. 34: They never caught the guy.

THE COURT: Could have been a girl, right?

JUROR NO. 34: Well, that's true.

THE COURT: Guy or girl.

JUROR NO. 34: Actually, I think it was a guy because he got away by outrunning the police officer.

THE COURT: There's some fast girls out there.

JUROR NO. 34: It was a him.

THE COURT: All right. They got a look at the person and -- all right.

Will you hold it against the State of Ohio that nobody was caught for that case or these defendants and punish them in any way because you didn't get justice in that case?

JUROR NO. 34: No. He didn't get caught this time. Next time he probably will.

THE COURT: Hopefully. Anything about that situation that would cause you to be unfair in any way to any of the parties?

JUROR NO. 34: No.

THE COURT: Thank you. Anything else? Any other incidents?

JUROR NO. 34: No.

THE COURT: Miss Johnson? Tell us about your situation.

JUROR NO. 40: Well, I had a purse stolen. This was in Bowling Green, Ohio.

THE COURT: Bowling Green?

JUROR NO. 40: Yeah.

THE COURT: Did you report that to the police?

JUROR NO. 40: Yes.

THE COURT: Was anybody caught?

JUROR NO. 40: Nope.

THE COURT: Did you ever have to go to court for any reason?

JUROR NO. 40: No. They never caught the guy, but months later, they recovered some of the car.

THE COURT: Did the police treat you appropriately?

JUROR NO. 40: Yeah.

THE COURT: You shook your head when you said yeah.

JUROR NO. 40: Did I say it like that? No, they treated me as well as they could. I was a college student. I didn't have any money in it.

THE COURT: So they gave it the attention they thought was appropriate?

JUROR NO. 40: Right.

THE COURT: And they had other, bigger fish to fry?

JUROR NO. 40: Basically.

THE COURT: Basically, yeah. You hold it against anybody that nothing came of that case?

JUROR NO. 40: No.

THE COURT: Would you hold that against the State of Ohio or any of these defendants?

JUROR NO. 40: No, absolutely not.

THE COURT: And anything about that that would cause you to be unfair?

JUROR NO. 40: No. I don't think so.

THE COURT: Okay. Great. Thank you very much. Anything else?

JUROR NO. 40: No. Not really. I have had other crimes, but that's the one that stands out. There's been other crimes.

THE COURT: Like what else?

JUROR NO. 40: I mean our house has been invaded and --

THE COURT: Was anybody home when that happened?

JUROR NO. 40: No one was home, thank god.

THE COURT: Was that in the City of Cleveland?

JUROR NO. 40: That was in the City of Cleveland.

THE COURT: Police notified?

JUROR NO. 40: Yes.

THE COURT: Police treat you appropriately?

JUROR NO. 40: Yes.

THE COURT: Nobody was caught for that, though?

JUROR NO. 40: Nope.

THE COURT: What else?

JUROR NO. 40: Cleveland Heights. A car stolen.

THE COURT: Same thing. Police treat you appropriately out there in Cleveland Heights?

JUROR NO. 40: Yes.

THE COURT: Anybody ever have to go to court with any of these cases?

JUROR NO. 40: No, because they seem to get away. I don't know why.

THE COURT: Anything else?

JUROR NO. 40: No.

THE COURT: Burglary, a stolen car and a stolen purse. Why did the stolen purse case stick out in your mind more so than the other ones?

JUROR NO. 40: I was a broke

college student. That's why.

THE COURT: It really hurt.

JUROR NO. 40: It hurt.

THE COURT: Anything about any of those situations that would cause you to be unfair in any way to the State of Ohio or any of these defendants?

JUROR NO. 40: No.

THE COURT: Great. Thank you very much. Anyone else? I talked to Mr. Jablonski.

JUROR NO. 39: I had the same car stolen twice.

THE COURT: What kind of car was it so we can avoid that model?

JUROR NO. 39: It was a '76 Monte Carlo that I had to special order.

THE COURT: How long ago was it?

JUROR NO. 39: 1976. Somebody stole it from work one day in Independence and then the other time it was at the car dealership. After they got done fixing it, they left the keys in the car and somebody just jumped in and helped themselves to it.

THE COURT: It was too

irresistible.

JUROR NO. 39: Right.

THE COURT: I had a '76 Monte Carlo. I had a lot of fun in that car, except I had mine in 1999. It wasn't in the type of shape that was irresistible to anybody to take, but it was still a fun car.

Police treat you appropriately those two times it was stolen?

JUROR NO. 39: Yes, no problem.

THE COURT: Where was the dealer?

JUROR NO. 39: Parma Heights.

THE COURT: Anybody caught?

JUROR NO. 39: No, in fact, but it was recovered both times like on 40 something and Clark.

THE COURT: Same guy maybe or girl?

JUROR NO. 39: Who knows. It was recovered within two blocks of where the first time and the second time it was stolen.

THE COURT: Maybe someone just needed a ride home from that area, didn't have bus fare.

Anything about those cases that would cause you to be unfair in any way to any of the parties in this case?

JUROR NO. 39: No, not at all.

THE COURT: Thank you. Mr. Delmonte?

JUROR NO. 43: Yes, sir.

THE COURT: Tell us about your situation.

JUROR NO. 43: Let's see, when I was going to Case Western Reserve in my college time, I was robbed on East Boulevard and the other time somebody broke into my locker during phys ed and cleaned out the contents.

THE COURT: Were the police notified in those situations?

JUROR NO. 43: Yes, the University Circle police.

THE COURT: And how long ago was that situation?

JUROR NO. 43: Late '70s.

THE COURT: Police treat you appropriately?

JUROR NO. 43: Yeah.

THE COURT: Was there any kind of weapon involved in that robbery?

JUROR NO. 43: Yes. They stuck a gun in my back and took my wallet and everything in it.

THE COURT: Did you actually see the gun or just felt it in your back?

JUROR NO. 43: I saw it as he was running away.

THE COURT: How did you feel after that incident?

JUROR NO. 43: A little scared, but they told us to be very careful on campus.

THE COURT: Police treat you appropriately?

JUROR NO. 43: Yes.

THE COURT: Anybody ever caught?

JUROR NO. 43: No. They basically said, you know, We'll just add you to the statistics.

THE COURT: So you're just another statistic.

JUROR NO. 43: Right.

THE COURT: Anything about that situation that would cause you to be unfair in

any way to these defendants or the State of Ohio?

JUROR NO. 43: Shouldn't, but you have to be cognizant of it.

THE COURT: In what way would you be cognizant of it?

JUROR NO. 43: Well, I just have to, like you said, you don't want to hold it against anybody, don't want to exact justice some other way.

THE COURT: Right. And you agree with me that none of these four defendants had anything to do with that case?

JUROR NO. 43: That's correct.

THE COURT: In the early '70s. So you wouldn't hold it against any one of these defendants, would you?

JUROR NO. 43: I would try my hardest not to.

THE COURT: Would there be any reason for you to, if you're just determining this case based on the facts?

JUROR NO. 43: It shouldn't. But it's something, like I said, I have to be cognizant of it.

THE COURT: How about the State of Ohio? You might be more inclined to blame the State of Ohio for treating you like a statistic and never tracking down the person who robbed you?

JUROR NO. 43: No. I didn't hold that against them.

THE COURT: So you're cognizant of that possibility that you may have some feelings about crime, right?

JUROR NO. 43: Right.

THE COURT: And that you were a victim and you never really had the justice that you deserved, right?

JUROR NO. 43: Right.

THE COURT: And you would want to keep that separate from your determination of what are the facts in this case? Am I summing up your thoughts correctly?

JUROR NO. 43: That's a good summation.

THE COURT: Would there be anything to add to that?

JUROR NO. 43: There were a couple of incidents afterwards, but those were

probably the most similar to this. I join the case of the stolen car crowd. My car was broken into in my driveway.

THE COURT: In what cities did the stolen car and car break-in happen?

JUROR NO. 43: The car was stolen in Fairview Park and the car was broken into in the City of Cleveland.

THE COURT: Police treat you appropriately in those cases?

JUROR NO. 43: Yes.

THE COURT: Anybody caught?

JUROR NO. 43: No.

THE COURT: So you might have the same thoughts about people not getting caught in those cases, right?

JUROR NO. 43: Right.

THE COURT: And you will be cognizant and not allow that to intrude in your deliberations with respect to what are the facts in this case?

JUROR NO. 43: Right.

THE COURT: And you can be fair and impartial to both of these parties?

JUROR NO. 43: I will try very hard

to do that.

THE COURT: You have to take an oath that you will do that. Will you be able to take that oath?

JUROR NO. 43: I think so.

THE COURT: All right. Thank you.

Anyone else? Did I skip anybody? Yourself, a close friend or family member a victim of crime? All right.

Anybody here, yourself, a close friend or family member who has ever been accused of a crime? We'll start with Mr. Conlin.

JUROR NO. 11: My great aunt was convicted of embezzlement when I was very young.

THE COURT: And were you close to your great aunt?

JUROR NO. 11: For awhile. She was kind of the aunt that always just gave you presents whenever you went over to her house and stuff but that was about as deep as the relationship went.

THE COURT: She had a lot of

extra money around, correct?

JUROR NO. 11: Right.

THE COURT: And was there a trial involved in that case?

JUROR NO. 11: I'm assuming there was. I didn't -- my parents didn't let me know too much about it.

THE COURT: There wasn't talk around the dinner table every night about what happened in Aunt Suzy's trial that day?

JUROR NO. 11: No.

THE COURT: You never went to court and attended any sort of court proceeding?

JUROR NO. 11: No.

THE COURT: As far as you know, did your parents?

JUROR NO. 11: No. They told me they didn't do it. I talked to them recently about it actually.

THE COURT: What brought it up recently?

JUROR NO. 11: It was a family get-together and kind of going over grievances and stuff. That's how my family celebrates.

THE COURT: And were people upset about what happened to your aunt in your family?

JUROR NO. 11: There are very mixed feelings. It was kind of a complicated relationship everyone had with her.

THE COURT: Some people agreed with what the result was?

JUROR NO. 11: Everyone agreed that -- she ended up going to jail and everyone agreed that it was just that she went. It was just a matter of how they felt about her.

THE COURT: Some people were more accepting of that mistake than others?

JUROR NO. 11: Yeah.

THE COURT: So you feel that the justice system treated her fairly? Is that what your family's general consensus is?

JUROR NO. 11: Yeah, to the best of what I heard about it.

THE COURT: Anything based on that situation with your great aunt that would cause you to be unfair in any way to the State of Ohio or these defendants?

JUROR NO. 11: No.

THE COURT: Anything else?

JUROR NO. 11: No.

THE COURT: All right. Thank you. Anyone else? Mr. Hoffman?

JUROR NO. 10: Correct.

THE COURT: Tell us about your situation.

JUROR NO. 10: Well, it's myself and I wouldn't feel comfortable.

THE COURT: You want to talk about it over here?

JUROR NO. 10: If you would like.

(The following proceedings were had in open court:)

THE COURT: We're at side bar out of the hearing of the other jurors. Mr. Hoffman wants to tell us something at side bar.

JUROR NO. 10: I just wanted to let everybody know that I was accused of a felony for felonious assault, but it was knocked down to domestic. This is 1993.

THE COURT: Was that in our county?

JUROR NO. 10: Yes, it was.

THE COURT: And did you have a

trial? You said it was knocked down, so you took a plea?

JUROR NO. 10: No. We just pleaded.

THE COURT: Do you remember who the judge was?

JUROR NO. 10: No, I don't. I don't even think we made it into the courtroom.

THE COURT: Do you remember who the prosecutor was?

JUROR NO. 10: No, I don't.

THE COURT: Do you recognize any of these prosecutors here?

JUROR NO. 10: No.

THE COURT: Who was your attorney?

JUROR NO. 10: I don't think he's an attorney anymore. I think he's been disbarred. I don't remember the name.

THE COURT: Did you feel like the justice system treated you fairly?

JUROR NO. 10: Absolutely.

THE COURT: Are you on probation for an amount of time?

JUROR NO. 10: Yeah, I did a couple weekends here in county.

THE COURT: The case has been over for some time?

JUROR NO. 10: Since '93.

THE COURT: Did you -- what police department was involved?

JUROR NO. 10: It was Sixth District I think. 185th. If that's Sixth.

THE COURT: Cleveland Police Department?

JUROR NO. 10: Yes.

THE COURT: It happened on East 185th?

JUROR NO. 10: Yes.

THE COURT: Was it a bar situation?

JUROR NO. 10: Yes.

THE COURT: That's not an uncommon situation.

Anything about that that would cause you to be unfair in any way to other police officers or these prosecutors or these defense attorneys or these defendants?

JUROR NO. 10: Not at all.

THE COURT: Thanks very much. I appreciate your honesty.

JUROR NO. 10: There's some more.

THE COURT: Before we go any further, anybody have any questions? All right. Everybody is saying no.

JUROR NO. 10: The other ones, I have DUIs and one drug possession and that was awhile ago also.

THE COURT: Did you have a trial in any of those cases?

JUROR NO. 10: No.

THE COURT: You took pleas?

JUROR NO. 10: Yes.

THE COURT: Remember who your lawyers were?

JUROR NO. 10: Tony Bondra.

THE COURT: On all those?

JUROR NO. 10: Pretty much.

THE COURT: And were any of them in Felony Common Pleas Court?

JUROR NO. 10: No.

THE COURT: Do you feel the system treated you fairly in all those cases?

JUROR NO. 10: Yes, absolutely.

THE COURT: Anything about those cases that would cause you to be unfair to anybody here?

JUROR NO. 10: Not at all.

THE COURT: Questions?

MR. AGOPIAN: No.

THE COURT: Okay. Thank you.

(The following proceedings were had in open court:)

THE COURT: Thank you, Mr. Hoffman. Appreciate that.

Anyone else here, close friend, family member, yourself, accused of a crime?

(The following discussion was had between the Court and counsel on the record at the bench out of the hearing of the jury as follows:)

THE COURT: We're at side bar out of the hearing of the jury.

Miss Woody, would you like to tell the Court something?

JUROR NO. 16: My son is currently serving a 6-year sentence at the Belmont Correctional Institution for robbery when he lived in Canton, Ohio.

THE COURT: Was there a trial?

JUROR NO. 16: No.

THE COURT: He accepted responsibility and took a plea?

JUROR NO. 16: Correct.

THE COURT: And how long ago was that?

JUROR NO. 16: March of '06 is when he got arrested.

THE COURT: Was that his only case that he had?

JUROR NO. 16: No. He had a case before then. He was on probation for -- he had been in federal court for bank robbery.

THE COURT: Did he have a trial in that bank robbery case?

JUROR NO. 16: No.

THE COURT: Did he do any time in that bank robbery case?

JUROR NO. 16: Three years.

THE COURT: So the prosecutors in Stark County, the county prosecutors, is that correct, for the robbery case?

JUROR NO. 16: Correct.

THE COURT: In the federal case, it was U.S. Attorneys?

JUROR NO. 16: Correct.

THE COURT: Nobody from the Cuyahoga County Prosecutor's Office involved in those cases?

JUROR NO. 16: No, not at all.

THE COURT: Which police departments were involved?

JUROR NO. 16: It was in Canton.

THE COURT: So Canton area?

JUROR NO. 16: Down in Canton.

THE COURT: And how about for the federal case?

JUROR NO. 16: It was in Canton, but Solomon Oliver was the federal judge.

THE COURT: Did you go to any of the court proceedings for either one of those cases?

JUROR NO. 16: Yes, both.

THE COURT: Did you give any testimony at all in either one of those?

JUROR NO. 16: Once for when we went to Akron Federal Court to say that if he got out on bond that he could stay at my house.

THE COURT: Had he been living with you prior to the incidents?

JUROR NO. 16: No.

THE COURT: Do you feel like the police and the justice system were fair to your son in these matters?

JUROR NO. 16: Extremely fair. In fact, I sent Solomon a thank you note.

THE COURT: He's a good judge.

JUROR NO. 16: He's outstanding.

THE COURT: Anything about that situation that would cause you to be unfair to either the State of Ohio or the defendants in this case?

JUROR NO. 16: No, not at all.

THE COURT: Anybody have any questions for Miss Woody? Thank you very much.

(The following proceedings were had in open court:)

THE COURT: Thank you very much.

Anyone else, yourself, or a close friend or family member? Mr. Orr?

JUROR NO. 20: Yes, Your Honor. I used to live across the street from a guy named Daniel Hines and I was asked to come down and testify on a murder trial on his behalf. I got down there and I never

testified. They never called me up to testify on his behalf.

THE COURT: You were a witness for the defense?

JUROR NO. 20: I wasn't a witness.

THE COURT: Who asked you to come down to testify?

JUROR NO. 20: His lawyer.

THE COURT: Mr. Mancino?

JUROR NO. 20: Yeah.

THE COURT: And you never testified?

JUROR NO. 20: No. I didn't testify. My wife and my two daughters did, but I didn't. They never asked me to take the stand.

THE COURT: Did your wife and daughter, were they called by Mr. Mancino?

JUROR NO. 20: Yes.

THE COURT: So were you or someone in your family accused of a crime?

JUROR NO. 20: No.

THE COURT: You were just called to give testimony?

JUROR NO. 20: Yes.

THE COURT: Did you feel like you were being accused of something?

JUROR NO. 20: No.

THE COURT: Did you watch any of the trial?

JUROR NO. 20: Yes.

THE COURT: And what parts did you watch? Do you recall?

JUROR NO. 20: I went down there for pretty much start to finish.

THE COURT: You were in the courtroom and heard the testimony and other evidence?

JUROR NO. 20: Some of it, yes.

THE COURT: And anything about that situation that would cause you to be unfair in any way to the State or these defendants?

JUROR NO. 20: No.

THE COURT: Do you think that justice was served in that case?

JUROR NO. 20: Yeah, I think justice was served.

THE COURT: Do you think the justice system was fair?

JUROR NO. 20: At first I didn't think so because of what they done to him and the way they done it, but after everything was said and done, I think it was pretty fair.

THE COURT: The system was fair in the long run?

JUROR NO. 20: Yes.

THE COURT: How about to you and your family? Do you think the system was fair to you and your family when you're called up as a potential witness and you get a subpoena, right?

JUROR NO. 20: Right.

THE COURT: And that's a court order to come to court and there's some pressure and some stress on you, I can imagine, right?

JUROR NO. 20: Yes.

THE COURT: And were you -- anybody talk to you about the case, any of the attorneys or police or --

JUROR NO. 20: Well, before we went to court, yeah, the police talked to us. They came pretty much every day, his lawyer did, he came by the house quite often and talked with

us.

THE COURT: They treat you appropriately, the police and the lawyer?

JUROR NO. 20: Yes.

THE COURT: And they gave the information that you had?

JUROR NO. 20: Yes.

THE COURT: Anything about that situation that would cause you to be unfair in any way to the State or these defendants?

JUROR NO. 20: No.

THE COURT: Thank you very much, sir.

Anyone else? Yourself, a close friend or family member ever accused of a crime? Okay. Let's see, what's your name?

JUROR NO. 27: I'm Danielle Barr.

THE COURT: All right. Miss Barr, can you tell us about your situation?

JUROR NO. 27: I was accused of consuming and possession of drugs while in high school.

THE COURT: And what city was that?

JUROR NO. 27: North Olmsted.

THE COURT: And did you go to Court?

JUROR NO. 27: No. They didn't end up pressing charges against me.

THE COURT: Police bring these charges or someone at school?

JUROR NO. 27: The school did, but there were police at my school, but they let the school deal with it.

THE COURT: And do you feel like everyone treated you appropriately and fairly in that matter?

JUROR NO. 27: I guess. Not really. I didn't do anything, so no.

THE COURT: You thought you were falsely accused?

JUROR NO. 27: Yes.

THE COURT: Did the school punish you because of that allegation?

JUROR NO. 27: Yes.

THE COURT: And they never gave you an opportunity to go to court and have your day in court?

JUROR NO. 27: No. I had a hearing with the school board, but that was it.

THE COURT: Did you have an attorney that helped you with that hearing?

JUROR NO. 27: Yeah. There was one with us at the school board meeting.

THE COURT: Who was that attorney? Do you remember?

JUROR NO. 27: I have no idea.

THE COURT: Someone your parents paid for?

JUROR NO. 27: Yeah.

THE COURT: And who did the accusing?

JUROR NO. 27: The principal.

THE COURT: And did you suffer some bad consequences because of it?

JUROR NO. 27: Well, I was expelled from school, so yeah.

THE COURT: That's pretty bad.

JUROR NO. 27: Yes.

THE COURT: You never had an opportunity to pursue that in any other sort of court?

JUROR NO. 27: No.

THE COURT: And you felt like they were unfair with you because it wasn't

true?

JUROR NO. 27: Yes.

THE COURT: The fact that you were treated unfairly because the North Olmsted school system -- which they sort of skirted the justice system because you were a juvenile, right?

JUROR NO. 27: Pretty much.

THE COURT: Juveniles don't have as many rights as adults. It's just sort of a fact of life. Is there -- do you harbor any ill will for the State of Ohio or against these defendants?

JUROR NO. 27: No, not at all.

THE COURT: You won't punish anybody just because you were punished in that case?

JUROR NO. 27: No.

THE COURT: And anything about that situation that would cause you to be unfair in any way?

JUROR NO. 27: No.

THE COURT: Thank you very much for telling us. Let's see. Anyone else? Is it Miss Simpson?

JUROR NO. 30: My uncle was convicted of involuntary manslaughter by a vehicle for drunk driving when I was like 14 years old.

THE COURT: Which city did that occur in?

JUROR NO. 30: I believe Cleveland.

THE COURT: Was there a trial?

JUROR NO. 30: I honestly don't know. I was like 8 when it happened. So I really don't remember.

THE COURT: Did you know if anybody in your family attended any sort of court proceedings?

JUROR NO. 30: No, I don't.

THE COURT: And how did your family feel about how the police treated your uncle?

JUROR NO. 30: I don't know.

THE COURT: You haven't talked about it with anyone?

JUROR NO. 30: No.

THE COURT: How about yourself? Do you have any thoughts about how he was treated?

JUROR NO. 30: No. When it happened, I was younger, so it didn't have any effect on me, so he's out now doing well.

THE COURT: And do you harbor any ill will or do you feel the justice system was unfair in any way?

JUROR NO. 30: No.

THE COURT: Anything about that situation that would cause you to be unfair in any way to any of the parties here?

JUROR NO. 30: No.

THE COURT: Thank you very much. Anyone else here? Okay. Mr. Hager?

JUROR NO. 32: I have an uncle that spent most of his adult life I think in jail. I believe it was for robbery and drugs.

THE COURT: Did you have a lot of contact with that uncle?

JUROR NO. 32: No. We only seen him a couple times.

THE COURT: Did the family talk much about how he was treated by the police or by the justice system?

JUROR NO. 32: No, not much.

THE COURT: Any of that talk

that was had, people feel that he was treated fairly?

JUROR NO. 32: Again, there wasn't much talk.

THE COURT: You don't have any thoughts in your head that people thought he was treated unfairly?

JUROR NO. 32: Not that he was treated unfairly. There was some questioning that was done for other family members.

THE COURT: So because of what he was associated with, they questioned other family members as well?

JUROR NO. 32: Yes.

THE COURT: And some family thought that was unfair that they were guilty by association?

JUROR NO. 32: Yes.

THE COURT: Anyone else ever convicted of anything other than that one uncle?

JUROR NO. 32: No.

THE COURT: So even though they might have been questioned by the authorities, the justice system never kicked in for them

and they were never accused?

JUROR NO. 32: No.

THE COURT: Anything about that situation that would cause you to be unfair in any way to the State of Ohio or these defendants?

JUROR NO. 32: Not that I can think of.

THE COURT: Thank you, sir. Anyone else? Yourself, close friend, family member accused of a crime? I take it by your silence that no one else has that situation.

All right. Anyone else here, yourself, ever watched a trial, come to court and watched a trial, been a witness, been called as a witness? Mr. Conlin?

JUROR NO. 11: When I was younger, I think I came to this very building and sat and just watched a little bit of Frank Celebrezze's trials and it was for a Boy Scout event actually. Two of the boys were friends with his daughters from school and so we came in and kind of interviewed him at his office and watched one of his trials.

THE COURT: Was that an

interesting experience for you?

JUROR NO. 11: I guess right then my mind wasn't occupied with what was going on or the trial or anything.

THE COURT: Just happy to be out of school for that day?

JUROR NO. 11: Yeah, the view from the windows and everything.

THE COURT: You remember the view more than anything? Anything about that situation that would cause you to be unfair in any way?

JUROR NO. 11: No.

THE COURT: Let's see. Mr. Solomon?

JUROR NO. 7: Yes. 1984, my father-in-law was broadsided by two drunk guys and his best friend died five days later. He was blind for the rest of his life and came down here for much of the trial, which they were let off on a technicality.

THE COURT: Was that a criminal proceeding or a civil?

JUROR NO. 7: I believe that was the criminal proceeding and then there was a

civil proceeding after that.

THE COURT: Do you remember who the judge was in that case?

JUROR NO. 7: No.

THE COURT: How long ago was it?

JUROR NO. 7: Well, the accident was December 10th of '84 and I think the trial was probably the following year.

THE COURT: So you watched that trial?

JUROR NO. 7: I didn't watch it all, but I was there for a lot of it and it was very interesting to watch and --

THE COURT: Was there a jury impanelled?

JUROR NO. 7: I think there was.

THE COURT: And then at some point during the proceeding, some matter of law came up and the case was dismissed?

JUROR NO. 7: The jury didn't get to hear a piece of evidence because I believe one of the policemen involved didn't advise somebody of their Miranda rights and so that was not admissible and that turned the whole case.

THE COURT: Do you feel like the justice system was fair to your family in that case?

JUROR NO. 7: Well, the justice system was fair. I mean, things happen every day. I mean we weren't happy with the outcome obviously, but that's how the system is. It's the best thing we have.

THE COURT: You understand that that technicality is there for a purpose, to protect the rights of the accused?

JUROR NO. 7: Yes.

THE COURT: And that the Court and the system is going to bend over backwards to ensure that those rights are upheld, even when it has a result that an innocent victim may not get the justice that would seem to be fair?

JUROR NO. 7: Yeah. I would want the same for myself if I were in that position, but it doesn't make it any easier for the family, but that's what it was, so --

THE COURT: Do you know what police department was involved with that?

JUROR NO. 7: Mayfield Heights.

THE COURT: The civil case that was the second part of that, was the result better for the family in that case?

JUROR NO. 7: Yes. They received I think a wrongful death settlement for the man who passed away and then for my father-in-law, he got a sum of money, which didn't bring back his eyesight.

THE COURT: Was the family satisfied with the justice system in that second case?

JUROR NO. 7: I think the family was. I don't know if my father-in-law was ever satisfied, just because that money didn't bring back his eyesight and so --

THE COURT: So a certain amount of bitterness?

JUROR NO. 7: That he had.

THE COURT: Do you think that experience would in any way affect your ability to be fair and impartial in this case?

JUROR NO. 7: Not at all.

THE COURT: And you watched a lot of the testimony?

JUROR NO. 7: Of the criminal

trial. I don't think I -- I may have watched a little bit of it for the civil trial as well. I don't recall how often I was there.

THE COURT: Were your family members witnesses?

JUROR NO. 7: To the -- you mean to the accident?

THE COURT: Right.

JUROR NO. 7: No.

THE COURT: To any of the witnesses that came up and testified?

JUROR NO. 7: I don't believe so.

THE COURT: You didn't see anybody that you know or that you knew testify?

JUROR NO. 7: I don't recall. I don't think so. I knew one of the accused.

THE COURT: How did you know --

JUROR NO. 7: Well, he went to my high school and my memory of him is punching out our vice principal, but I've heard that he has since straightened out his life and is a good person.

THE COURT: Sounds like you've accepted this.

JUROR NO. 7: It was a long time ago.

THE COURT: And understand the realities of the justice system and accept that?

JUROR NO. 7: Yes.

THE COURT: And none of that would influence your ability to be fair in this case?

JUROR NO. 7: Absolutely not.

THE COURT: Thank you very much. Anyone else? Yourself, a close friend or family member who have watched a trial not as a juror, but sat and watched a trial, had to testify in court or been deposed, anything like that, had to give some testimony? All right. A couple people.

Mr. Orr?

JUROR NO. 20: It's the same case that I spoke of earlier, Your Honor.

THE COURT: You actually had -- your family members came and gave some testimony?

JUROR NO. 20: Yes.

THE COURT: Were they nervous

when they had to testify?

JUROR NO. 20: I think a little bit.

THE COURT: Do you think that affected their ability to communicate the information they had, being nervous?

JUROR NO. 20: No.

THE COURT: They were able to get what they needed across?

JUROR NO. 20: Yeah.

THE COURT: And that was just in that one case?

JUROR NO. 20: Yes, sir.

THE COURT: Thank you. Someone in the back also? Let me find you. You are Miss Maurer?

JUROR NO. 36: Yeah, that's me.

THE COURT: Tell us about your situation.

JUROR NO. 36: It's for work. So I have been doing it for the past four years, various courts in Summit County.

THE COURT: I see that you work for Reminderville Police Department.

JUROR NO. 36: Right. I'm an

officer.

THE COURT: How long have you been doing that type of work?

JUROR NO. 36: Four years I've been a cop.

THE COURT: And so you have had to testify yourself in different courts?

JUROR NO. 36: Right. Criminal and traffic.

THE COURT: Misdemeanor so far only?

JUROR NO. 36: No. One felony.

THE COURT: And remember the first time you had to testify in court?

JUROR NO. 36: Yeah.

THE COURT: Was there a jury present?

JUROR NO. 36: There was.

THE COURT: And were you nervous?

JUROR NO. 36: No. I was laughing before I went on.

THE COURT: You weren't nervous about that?

JUROR NO. 36: No. I thought it

was fun.

THE COURT: Okay. Good. The fact that you're a police officer and we're going to hear testimony from police officers and it's alleged that a police officer is a victim of this crime, will that affect your ability to be fair and impartial to the State and these defendants?

JUROR NO. 36: Nope. I got to do it every day.

THE COURT: Will you give the same or use the same tests of truthfulness that you use in your everyday job deciding who's credible and who's not for a police officer's testimony as much as you would any other witness?

JUROR NO. 36: Yes.

THE COURT: And do you understand that the procedures and protocol that you may use in Reminderville may be quite different than what is done in a different jurisdiction; and can you set aside how you might have handled something or your opinion about certain matters and keep an open mind about what was done in this case and listen to

the evidence in this case and judge the evidence you hear and not what you might have done differently?

JUROR NO. 36: I understand.

THE COURT: You'll be able to do that?

JUROR NO. 36: I can.

THE COURT: Thank you. Anyone else? Mr. Wiesenberger?

JUROR NO. 1: Yes. I was involved in a eminent domain civil lawsuit.

THE COURT: How long ago was that?

JUROR NO. 1: About seven years ago.

THE COURT: You had to testify in court?

JUROR NO. 1: I did, yes.

THE COURT: That was in which county?

JUROR NO. 1: Cuyahoga.

THE COURT: So you were over in the probate court?

JUROR NO. 1: Yes, I was.

THE COURT: Do you remember

which judge over there --

JUROR NO. 1: I don't.

THE COURT: -- handled the case? There's two very mean ones over there, Judge Corrigan and Judge Donnelly.

JUROR NO. 1: I think it was Corrigan.

THE COURT: Probably Corrigan. He's the meanest. The fact that my dad, Judge John E. Corrigan, your probate judge, heard your testimony, would that affect your ability to be fair and impartial in this matter?

JUROR NO. 1: Not at all.

THE COURT: Would you hold that against me in any way?

JUROR NO. 1: Not at all.

THE COURT: All right. Were you nervous about testifying?

JUROR NO. 1: No.

THE COURT: In what capacity were you testifying?

JUROR NO. 1: I was a principal on a piece of land and the municipality was taking the land and it was simply about the price of the taking.

THE COURT: That was in front of a jury?

JUROR NO. 1: Yes.

THE COURT: Were you nervous about testifying?

JUROR NO. 1: No.

THE COURT: And anything about that situation that would cause you to be unfair in any way to the State or these defendants?

JUROR NO. 1: No.

THE COURT: And Judge Donnelly, for the record, is the nice judge over there. His son sits right next to me here, Michael Donnelly, just so the record is clear on that.

JUROR NO. 1: Would you like me to say that Corrigan was a good guy, too?

THE COURT: No. I'm not fishing for that at all. That's okay.

Thank you, sir. Anyone else? Miss Allanson?

JUROR NO. 37: Yes. My parents have testified against each other because they have been divorced and my grandparents have also.

THE COURT: Were you present for any of that testimony?

JUROR NO. 37: I was pretty young, so I think we had different questioning, never in the court or anything like that, but I know that we were questioned in a room.

THE COURT: Someone asked you what was going on in your family and how you feel about what's happening?

JUROR NO. 37: Yup.

THE COURT: Was that hard for you?

JUROR NO. 37: As a kid, you don't really know what's going on, so it's not that hard.

THE COURT: Were you satisfied with how the Court resolved that situation?

JUROR NO. 37: Yeah, for the most part.

THE COURT: And were you nervous about talking in court or in the room with people about that?

JUROR NO. 37: Probably a little, but no more than the normal.

THE COURT: And you think you

got all the information out as effectively as you could?

JUROR NO. 37: Yeah, probably.

THE COURT: Everyone treated you appropriately?

JUROR NO. 37: Yeah.

THE COURT: The lawyers weren't mean to you, grilling you in cross-examination?

JUROR NO. 37: I don't think so.

THE COURT: I wouldn't think so either. Anything about that situation that would cause you to be unfair in any way to any of the parties here?

JUROR NO. 37: No.

THE COURT: Thank you very much. Anyone else? Miss Maldonado?

JUROR NO. 3: Yes.

THE COURT: Tell us about your situation.

JUROR NO. 3: A good friend of mine was murdered in 2004 and I attended the sentencing.

THE COURT: And do you remember which court it was?

JUROR NO. 3: It was here.

THE COURT: Which judge?

JUROR NO. 3: It was a female. I don't remember.

THE COURT: Did you actually speak at the sentencing?

JUROR NO. 3: No. They didn't even have a jury. It was just --

THE COURT: Right. It was just sentencing. There either had been a trial or some sort of plea.

JUROR NO. 3: Yeah, there was a plea.

THE COURT: So that person accepted responsibility, gave a plea?

JUROR NO. 3: Yes.

THE COURT: And you were just there for the sentencing?

JUROR NO. 3: Yes.

THE COURT: And were you satisfied with how that turned out?

JUROR NO. 3: Yes.

THE COURT: And you knew the victim of the crime?

JUROR NO. 3: Yes.

THE COURT: And did you -- well, it was murder?

JUROR NO. 3: Yes.

THE COURT: Oh, I'm so sorry. It was a friend of yours?

JUROR NO. 3: Yes.

THE COURT: And anything about that situation -- you know, there's allegations here in this case that there was an attempt to purposely kill someone. Will that affect your ability to be fair in this case?

JUROR NO. 3: No.

THE COURT: No?

JUROR NO. 3: No.

THE COURT: Was your friend's family also satisfied with how the justice system treated --

JUROR NO. 3: Yes.

THE COURT: Thank you very much. Anyone else? All right. Let's see. Mr. Novak?

JUROR NO. 25: Side?

THE COURT: Sure, come on.

(The following discussion was had between the Court

and counsel on the record at the bench out of the hearing of the jury as follows:)

JUROR NO. 25: I had a friend back in the late '80s, early '90s, a couple guys came in and killed him. I didn't go to the whatever -- the jury. My friend said they started getting the evidence on these guys, they started playing the race card, and they let this guy off and they stole all these guns and everything and it was just like these guys walked away.

THE COURT: How long ago was that?

JUROR NO. 25: Late '80s, early '90s.

THE COURT: And you didn't attend the trial, but you understand that there was a jury trial?

JUROR NO. 25: Yeah.

THE COURT: And the victims --

JUROR NO. 25: I guess it was all either death or life imprisonment and then they started playing all this stuff was going on, just to get out of what they did.

THE COURT: So there was a

conviction, they were found guilty of the murder?

JUROR NO. 25: They were convicted.

THE COURT: And then there was a question about death penalty or life, right?

JUROR NO. 25: Life.

THE COURT: And at that point, the defense brought out all the circumstances in the defendants' lives that maybe gave them some sympathy to the jurors with respect to --

JUROR NO. 25: Exactly.

THE COURT: You didn't like that part of the proceeding?

JUROR NO. 25: Well, not the way they did it.

THE COURT: And then the jurors decided to impose life?

JUROR NO. 25: Yes.

THE COURT: And you were hoping that the death penalty would be imposed?

JUROR NO. 25: For what they did. Five minutes later, they would have taken the wife's life, too. She was just right about coming in the back door. It was out in Chagrin Falls.

THE COURT: I'm sorry for your friend's family. You understand that --

JUROR NO. 25: I understand what you're going to say. I understand. I can do that. I'm just telling you, I just was not going to not say something.

THE COURT: I'm glad you brought it up. You did the right thing. You got some emotion still thinking about your friend. Can you set aside that emotion?

JUROR NO. 25: I hope so, yeah.

THE COURT: These defendants have nothing to do with that; is that right?

JUROR NO. 25: I don't know anything about them.

THE COURT: The fact that they're African American?

JUROR NO. 25: It's nothing to do with it. It's just the way the system -- what people said just to get people off. I mean that was really frustrating, giving them a reason, like he said this because they had said that. It's frustrating.

THE COURT: And that procedure is something that only happens in a death

penalty case, not any other type of a case, where after the jury comes back with a guilty verdict with death specifications, then they continue to deliberate about whether there's mitigating factors that outweigh the aggravating circumstances of the crime.

That's the only time when those types of social considerations of how they were brought up, they were poor, they had mental problems as kids, their parents ignored them, whatever was brought forward, that's the only type of situation where a jury hears that sort of information and makes a decision about a punishment. You understand?

JUROR NO. 25: I understand what you're saying, yes.

THE COURT: And in this case, you will not have any say whatsoever about any sort of punishment if we get to that point and you won't be able to consider that as part of your determination of what the facts are.

JUROR NO. 25: I understand.

THE COURT: And the fact that there are multiple rights that defendants enjoy in our system, that you enjoy, that we

all enjoy that protect our rights as citizens, and that those rights are invoked all the time, do you accept all those things and can you set aside the natural emotion and be fair and open-minded in this case?

JUROR NO. 25: I have been fair and open-minded in other things, yes.

THE COURT: That means you're looking for some retribution with your friend? You wanted some retribution out of that case with your friend?

JUROR NO. 25: I mean, for what happened, I mean definitely, yes.

THE COURT: All right. Any questions from anybody?

MR. SCHLACHET: No.

(The following proceedings were had in open court:)

THE COURT: Anyone here, yourself, a close friend or family member ever had to testify in court or watch a trial, other than jury service? Mr. Barrett?

JUROR NO. 6: When I was a teenager, my brother and me went down to the old courthouse and we sat there and watched a

trial.

THE COURT: What made you do that?

JUROR NO. 6: The friend that we had that we went to school with took us and wanted to watch a trial.

THE COURT: You weren't cutting class, were you?

JUROR NO. 6: No. At the time, we were graduated out of school.

THE COURT: I was thinking that might be a clever way to cut class. They would never think to look for you in court, right?

JUROR NO. 6: It was in the summertime, too, but we already graduated from school and everything.

THE COURT: Did that person ever do anything as far as employment with the court systems or law?

JUROR NO. 6: No, no.

THE COURT: Just thought it would be an interesting way to spend an afternoon?

JUROR NO. 6: Yeah.

THE COURT: Did you see anything interesting?

JUROR NO. 6: Well, we saw a civil case there for awhile. We didn't stay very long.

THE COURT: Was it interesting what you did see?

JUROR NO. 6: Yeah. We looked around the courthouse a little bit, things like that.

THE COURT: That was the old courthouse down at East 22nd?

JUROR NO. 6: No, over on Lakeside.

THE COURT: Right over here?

JUROR NO. 6: Yeah.

THE COURT: And anything about that that would cause you to be unfair in any way to these parties?

JUROR NO. 6: No, no.

THE COURT: Thank you. Anyone else? I take it by your silence no one else has that situation. Anybody here, yourself, a close friend or family member, other than Officer Maurer, that is a part of law

enforcement? Yourself, a friend, family member? We'll start with Mr. Conlin.

JUROR NO. 11: My dad is retired now, but he spent 20 years in the U.S. Marshal Service.

THE COURT: What kind of work did he do for the U.S. Marshal?

JUROR NO. 11: He did a lot of transporting prisoners to trials and stuff. I think the most action he saw was chasing back at the old Richfield Coliseum. He chased a guy selling illegal merchandise from a hockey game, chased him across the ice on the parking lot.

THE COURT: Did you talk to your father about what he did for a living?

JUROR NO. 11: Yeah. I mean, he was always pretty vague about it. The most he will do is when we watch The Fugitive, just point out discrepancies between that and what actually happens in real life.

THE COURT: So he was testament to the fact that what you see on TV has very little to do with reality?

JUROR NO. 11: Yeah, he took me to

his office a couple times and I have never seen so many papers in my life.

THE COURT: Did he ever work in a courtroom for one specific federal judge?

JUROR NO. 11: No.

THE COURT: The fact that you have this connection with law enforcement, will that affect your ability to keep an open mind and use the same tests for truthfulness for another police officer as you would any other witness?

JUROR NO. 11: Yes.

THE COURT: Will that affect your ability to do that?

JUROR NO. 11: No.

THE COURT: You can be fair and impartial and keep an open mind?

JUROR NO. 1: Yeah.

THE COURT: Thank you. Anyone else? All right. Let's talk with Mr. Clark.

JUROR NO. 8: I have a friend named Jason Turner, he's a highway state trooper. I mean he's pretty cool. I don't know if you ever seen, like within the last year, there was a lady on the turnpike, maybe

I want to say 11, 12 months ago, she escaped a state trooper's custody and she was hit and killed or whatever, you know, but that was that trooper, if anyone seen that.

THE COURT: That was your friend?

JUROR NO. 8: Yes. I mean the situation was funny because she was such a small woman, and when he apprehended her or whatever, he had the cuffs on her so tight that they was cutting off her circulation. So he loosened the cuffs a little and she was in the back seat and he said that she became so irritated that when he was doing the paperwork, he faced her out and she was in the back seat talking and I guess when he got out his car to go to her car to get like her belongings or whatever, because actually when he caught her, she wasn't in her car. She was crossing the highway on foot.

So when they played the audio, when he was coming back to the car, you can hear him saying, Ma'am, I have your purse, your shoes and your cell phone. You don't hear her say anything.

So he gets in the car. He was a tall guy, too. So you see the lights flashing, you really can't see in the back seat and even when he's in the car, there's so many gadgets and the shotgun and she's real small, you can't see in the back seat.

So I guess heading back to the station, he asked her a question because he got word from another trooper that there was another lady crossing the interstate and it was actually her, but when he got back to the depot or whatever, he was like, Ma'am, was there anyone else with you? And she didn't respond.

So when she didn't respond, he turned and looked in the back seat and you can hear him saying, Oh, my goodness, and he goes back out, all the troopers are looking for this lady, and unfortunately she had got hit.

THE COURT: She got hit by a car?

JUROR NO. 8: She got hit by a car.

THE COURT: That's sad. How long has he been a state trooper?

JUROR NO. 8: Since '04, March of '04.

THE COURT: And how long have you known him?

JUROR NO. 8: I'm 29 now. 18 years.

THE COURT: You went to school with him?

JUROR NO. 8: Yes.

THE COURT: What school was that?

JUROR NO. 8: Collinwood. That's the high school. We went to separate junior high schools and elementary.

THE COURT: You talk to him much about what he does other than that?

JUROR NO. 8: Yeah. We talk every day.

THE COURT: He gives you some little war stories about what he's doing out there?

JUROR NO. 8: Yeah.

THE COURT: Can you set aside the things he's told you about how he does things or the protocol, procedures that the

State require him to do if you might have heard about those things, how they investigate different matters, keep an open mind about whatever procedures or protocol you hear in this case, not wonder or anticipate or speculate about how things were handled in this case, keep an open mind about it?

JUROR NO. 8: Yes.

THE COURT: Set aside his attitudes and opinions about certain matters and keep an open mind about the testimony you hear?

JUROR NO. 8: Yes.

THE COURT: Can you use the same tests of truthfulness for another police officer as you would anyone else?

JUROR NO. 8: Yes.

THE COURT: You understand there's some good and some bad in every profession, right?

JUROR NO. 8: Yeah.

THE COURT: I even hear there's a bad judge here and there. Right?

JUROR NO. 8: Yes.

THE COURT: And you got to take

-- you can't judge someone by their cover or what they do. You got to judge them by what their character is and how they present themselves and whether they're credible or not. Is that fair?

JUROR NO. 8: Yes.

THE COURT: Okay. And let me ask you: You talk to your friend every day?

JUROR NO. 8: Yes.

THE COURT: If you're chosen as a juror in this case and you hear all the evidence and instructions of law and you go back and you deliberate and you decide that the State did not prove its allegations beyond a reasonable doubt, would you feel uncomfortable talking to your friend about, Hey, I had to come back not guilty and one of the charges was even a serious charge with a police officer as a victim? Would you be uncomfortable in that conversation?

JUROR NO. 8: No.

THE COURT: Why not?

JUROR NO. 8: I mean because just the type of dude he is and the type of guy I am. We understand, you know, because I

actually took the state trooper test. I failed. I mean they told me I was a, what, a basket case, in a sense, in so many words. I guess they didn't like the way I responded to some questions. Like the little physical part of the test, I passed, but it was like the mental.

THE COURT: They didn't really say you're a basket case, did they?

JUROR NO. 8: No, no, no, no, they didn't say that, they didn't say that.

THE COURT: You didn't pass and whatever; you weren't the right type of person for that type of a job?

JUROR NO. 8: Yeah.

THE COURT: Your friend who is a trooper, he's a fair person?

JUROR NO. 8: Yes.

THE COURT: So he wants you to be fair as well in this situation?

JUROR NO. 8: Yes.

THE COURT: So you wouldn't have a problem talking to him about a not guilty verdict if you thought that was fair?

JUROR NO. 8: No.

THE COURT: Anything about that association with your friend that would cause you to be unfair in any way to the State or these defendants?

JUROR NO. 8: No.

THE COURT: One of the admonitions you will hear from me is that you're not allowed to talk about this case with anybody. That means if your friend calls you this week and says, Hey, I hear you're on jury duty; tell me about the case you're listening to, you have to tell him, My fellow judge, Judge Peter J. Corrigan -- because you are a judge of the facts, you're my fellow judge -- has indicated that I can't talk to you about this case and you can't do any sort of outside research or mini-investigation in any way whatsoever with what you hear in the courtroom here. Will you be able to follow that instruction?

JUROR NO. 8: Yes. We've already talked about that before I even came down here.

THE COURT: Did he tell you what to expect for jury service?

JUROR NO. 8: No, not really. Just can't open your mouth, can't talk.

THE COURT: Right. About the case?

JUROR NO. 8: Right.

THE COURT: Okay. Good. Thank you very much.

Anybody else, yourself, close friend, family member? All right. Know someone in law enforcement. All right. Let's try Mr. Sisto.

JUROR NO. 14: Yes, my father-in-law is a retired Cleveland policeman.

THE COURT: In which district did he work?

JUROR NO. 14: He worked in 1 and 2. He retired 17 years ago and when he retired, he was number one in seniority. He had 41 years on the force.

THE COURT: Did you talk to him much about what he did as a police officer?

JUROR NO. 14: No, because it was 17 years ago and I met his daughter, my wife, in Texas. So we lived down there and moved up

here and he pretty much retired shortly after us moving back to Cleveland.

THE COURT: Can you view the testimony of a police officer the same as any other witness and use the same tests of truthfulness?

JUROR NO. 14: Yes.

THE COURT: Any problem with that association that would cause you in any way to be unfair to the State or these defendants?

JUROR NO. 14: No.

THE COURT: Thank you very much. Mr. Solomon?

JUROR NO. 7: I have a close friend that I have known since seventh grade who is a police lieutenant in Lyndhurst.

THE COURT: Do you talk to him much about his job?

JUROR NO. 7: I guess in the past we have talked. He's been on the force there I think for close to 30 years, and I think a lot of what he does is I don't think he's out on the street a lot. I think he's behind the desk and in management a little bit and he has

some other duties as well with the union I think, but it's not something that would affect -- he's the most level-headed guy I've ever known and very even-tempered and fair.

THE COURT: Do you think that association, that friendship, would cause you to be unfair in any way to the State or these defendants?

JUROR NO. 7: No.

THE COURT: Would you have any problem discussing, after the case is over, you deliberated and you decided that there was not evidence that the State provided, would you have any problem discussing a not guilty verdict with your friend?

JUROR NO. 7: After it's all over with, no. Every case has its own merit and that's what I base anything that I feel on.

THE COURT: Okay. Great. And you can use the same tests for credibility with a police officer's testimony as you can anyone else?

JUROR NO. 7: Yes.

THE COURT: Anyone else? Let's go with Mr. Jablonski.

JUROR NO. 39: I got a friend I used to work with -- this was over 30 years ago -- who is now a detective. I just talked to him at lunchtime. His name is Detective Joe Chojnowski and we just talked about working in the past together. And that was about it. But I don't really have any contact with him anymore, but we're still friends.

THE COURT: He doesn't talk about the work he does with you now?

JUROR NO. 39: No. We talked about when we worked together and about getting together and having a beer with a couple of guys we used to work with. That was it.

THE COURT: Where did you work together?

JUROR NO. 39: TRW.

THE COURT: And the fact that you know this officer, would that affect your ability to be fair in any way to either of these parties?

JUROR NO. 39: No, not at all.

THE COURT: Same questions that I have asked other people. Any problem talking about a not guilty verdict with that

friend of yours if that's the way you decided this case?

JUROR NO. 39: Well, I wouldn't talk to anybody until the case was over.

THE COURT: But after the case was over, would you be uncomfortable talking about that with him?

JUROR NO. 39: If the case was over, we could talk about it. That's no problem.

THE COURT: You wouldn't be uncomfortable discussing that?

JUROR NO. 39: No.

THE COURT: Use the same tests of credibility for police officers as you would anyone else?

JUROR NO. 39: Yes.

THE COURT: Anyone else? Let's see. Mr. Baird?

JUROR NO. 33: I actually married into the family, a ex-husband, he's a Cleveland police officer. George Peters. I'm not sure what district he works in. Him and the aunt has been divorced for about 10, 12 years now.

THE COURT: So that's your wife's aunt was married to George Peters?

JUROR NO. 33: Correct.

THE COURT: You ever talk to Detective Peters about any of the work he's done?

JUROR NO. 33: I don't bring it up, but every once in awhile when we're at family get-togethers, we'll talk about a past case or something that may have happened to him.

THE COURT: And so he still associates with the family; there's no hard feelings about that divorce?

JUROR NO. 33: Every once in awhile, he's around. He's not around as much as he probably should.

THE COURT: He ever talk to you about any cases he's involved with as far as shootings go?

JUROR NO. 33: Not shootings, no.

THE COURT: The things he has talked to you about, can you set aside his opinions about things, how he might have done things or how he explained how things were done in certain cases and keep an open mind

about what you hear, the procedures, if there is any testimony along those lines in this case?

JUROR NO. 33: Yes.

THE COURT: Same thing. Any problem talking to him about a not guilty verdict after the case is over if that's what you decide?

JUROR NO. 33: Sure.

THE COURT: No problem with that?

JUROR NO. 33: No.

THE COURT: You can use the same tests of credibility with a police officer as you would anyone else?

JUROR NO. 33: Correct.

THE COURT: Thank you, sir. Would any of that association with Detective Peters cause you to be unfair to any party in this case?

JUROR NO. 33: No.

THE COURT: Thank you. Miss Johnson, did you have your hand up?

JUROR NO. 40: Yeah. I have a relative that's with the highway patrol and

his dad was with the Cleveland Police and I have several friends that are Cleveland police officers.

THE COURT: You ever talk to any of them about their jobs?

JUROR NO. 40: Yes.

THE COURT: Same thing. Can you set aside their opinions about things and stories they told you about how they handled matters and keep an open mind about the testimony you will hear from police officers and others in this case?

JUROR NO. 40: Yes, but because I have so many friends that are police officers, I understand their vision and their scope of how a crime is viewed, so it has changed me over the years.

THE COURT: In what way has it changed you?

JUROR NO. 40: Well, I mean it gives me a different perspective as to how to look at crimes.

THE COURT: How do you look at crimes?

JUROR NO. 40: I guess I look at it

-- I give -- I can view crimes from several different perspectives as opposed to being the victim of the crime.

THE COURT: So you can view a crime from the victim's perspective. How about the perspective of the accused?

JUROR NO. 40: As an accused and as the officer.

THE COURT: You got a pretty good view of all the potential perspectives in a criminal case?

JUROR NO. 40: True.

THE COURT: And your acquaintance with these other police officers, would that affect your ability to be fair in any way to the State of Ohio or any of these defendants?

JUROR NO. 40: No. I would try to be fair, but I do have a different opinion than I did in my younger days.

THE COURT: And you got a little bit wider perspective than you had in your younger days. Is that fair to say?

JUROR NO. 40: Yeah, it's wider.

THE COURT: You got some new

perspective that you didn't really think about when you were younger?

JUROR NO. 40: True.

THE COURT: That's sort of the advantage of becoming older. Our experiences and things we know about, we gain a little wisdom and perspective. That's fair to say, right?

JUROR NO. 40: Yes.

THE COURT: I know I learn something new every day, get a new perspective on things every day and I guess you're the perfect sort of a juror with an open mind to allow yourself to be influenced and persuaded with different perspectives. Is that fair to say?

JUROR NO. 40: Well, no. I still have my opinion, and my opinion is what counts.

THE COURT: Right. You're going to have your opinion based on the evidence that you hear?

JUROR NO. 40: Based on the evidence that's presented to me, correct.

THE COURT: Do you have an

opinion right now about the guilt or innocence of these defendants?

JUROR NO. 40: No, because I haven't heard it. I've only heard the charges.

THE COURT: Exactly right. You have nothing to base any opinion on whatsoever. So you have an open mind at this point?

JUROR NO. 40: Yes, sir.

THE COURT: The fact that you know these police officers, does that change your ability to keep that open mind?

JUROR NO. 40: I don't know if I would discuss it with them afterwards if I was involved in it. I don't know if I would discuss it with them. I truly wouldn't.

THE COURT: You feel that that might be an uncomfortable conversation?

JUROR NO. 40: Absolutely would.

THE COURT: But that's not going to affect your ability to do what's right with respect to the evidence you hear and apply the law as I give it to you and deliberate and keep an open mind with your fellow jurors in

coming to a decision?

JUROR NO. 40: Yes.

THE COURT: You will be able to do all those things, correct?

JUROR NO. 40: Yes.

THE COURT: Great. Thank you very much. Anyone else? Mr. Hager?

JUROR NO. 32: I had cousins that are deputy sheriffs down in Oklahoma City.

THE COURT: You talk to them much about their jobs?

JUROR NO. 32: We talk every month, get together every year.

THE COURT: Same thing. Can you keep an open mind, set aside what they tell you about how they do things or their opinion about certain matters and keep an open mind about this case?

JUROR NO. 32: Yes.

THE COURT: Would you feel comfortable talking to them after the case is over, if you feel like the State has not proved its case, discussing the not guilty verdict with them?

JUROR NO. 32: Yes.

THE COURT: You would feel comfortable?

JUROR NO. 32: Yeah.

THE COURT: They would understand, right, that you had a job to do; you heard the evidence and you did what you thought was right?

JUROR NO. 32: Uh-huh.

THE COURT: Anything about that association that would cause you to be unfair in any way to the State or these defendants?

JUROR NO. 32: Not that I can think of.

THE COURT: You can use the same tests of credibility on a police officer as you would anybody else?

JUROR NO. 32: Yes.

THE COURT: Thank you very much.

JUROR NO. 32: Question. How big a circle are we supposed to be thinking in when you ask these questions?

THE COURT: What do you mean, how close a friend or relative?

JUROR NO. 32: Exactly, exactly.

THE COURT: I would say close

friends. Why? Is there someone else outside in a bigger circle that is associated with law enforcement?

JUROR NO. 32: No. You're just asking some of these questions and they're making me think about people I haven't thought about in a long time.

THE COURT: Is there someone else that you thought about?

JUROR NO. 32: My uncle that I spoke to you earlier about. That was more of my reason for asking the question.

THE COURT: Thank you. Thanks for your question. Anyone else?

Mr. Delmonte?

JUROR NO. 43: I have a couple cousins who are. One is a Westlake police officer; one is in Cleveland.

THE COURT: And do you talk to them about what they do?

JUROR NO. 43: Not really. We only see each other at weddings and funerals and that's not exactly a typical topic of conversation.

THE COURT: Same thing to you.

Can you keep an open mind with the testimony of a police officer, use the same tests of credibility as you would any other witness?

JUROR NO. 43: Yes.

THE COURT: Would you feel uncomfortable talking to your cousins about a not guilty verdict, if that's the way this case turns out, after the case is over?

JUROR NO. 43: No.

THE COURT: Anything about that association with your cousins that would cause you to be unfair in any way to the State or these defendants?

JUROR NO. 43: I do not believe so.

THE COURT: Great. Anyone else, close friend, family member who is a member of law enforcement? All right. I take it by your silence that no one else has that situation.

I have a little bit more time of voir dire. I know it seems impossible that I could have anything else to talk to you about. A couple of concepts that I want to talk to you about. We're going to have a busy week this week. It's already 4:35. Usually court runs

between 8:30 and 4:30. Usually we don't get anything started until close to 9 or thereafter because there are so many people trying to get up the elevator at the same time, around 9 o'clock, 8:45.

So sometimes if there's an opportunity, we go a little bit past 4:30, but I understand that people have lives and commitments and buses to catch and maybe some daycare to relieve.

Anybody here in a situation where you can't stay past 4:37 right now today? What's your situation?

JUROR NO. 30: I have to go to church this evening for praise team. I have to --

THE COURT: What time is that?

JUROR NO. 30: I have to be there by 6, but I have to catch a bus all the way home, which is in Mayfield Heights. So that's going to take about an hour and-a-half.

THE COURT: So you need to get out of here, huh? I don't want your pastor to be upset.

JUROR NO. 30: Me either.

THE COURT: Are you in the choir?

JUROR NO. 30: Praise team.

THE COURT: All right. Well, then we'll stop here for now.

And keep this in mind, folks. I would like to go until 5 o'clock tomorrow if it's possible. Anyone else have an issue with 5 o'clock, if we go to 5? Okay.

Miss Robinson, what do you have?

JUROR NO. 12: I have to get somebody like probably before 5 o'clock, like I'm running late now.

THE COURT: You give someone a ride?

JUROR NO. 12: Yeah, my mother. And I know she don't want to have me get her too late because she drives for RTA, so she's on the bus all day.

THE COURT: Anybody who works all day wants to get home as quick as they can.

JUROR NO. 12: Especially an RTA driver.

THE COURT: And Miss Barr, is

it?

JUROR NO. 27: I work at 4:45.

THE COURT: Where do you work?

JUROR NO. 27: Drug Mart, North Olmsted.

THE COURT: They know you're on jury duty?

JUROR NO. 27: Yes.

THE COURT: They expect you to be a little late?

JUROR NO. 27: A little, yes.

THE COURT: We'll get you out of here today. Folks, what I would like you all to do is this: We have a lot of jurors. I have a little bit more voir dire, and then these attorneys are going to have a shot at asking you questions. This is an important part of the trial. This is going to be a trial that may last more than a couple of days as well. So the more time we can put into court, the quicker this will go.

So if you guys can arrange your schedules to stay up until 5 o'clock, let your mother know, let your babysitters know, let your work know, that you may have to stay a

little bit later and it's really to your advantage because you'll be done with this case sooner if you can stay a little bit later. Let's try to make that happen. Okay?

Now, you're going to be excused for the day. I'll get you out of here in a minute. Remember my admonition to you. You can't talk about this case. You can't let anybody talk to you about this case. You can't listen to, read, or watch any news media accounts of this case.

If you read something, you see something on TV, or you hear something on the radio that involves the names, Deante Creel, Kenny Phillips, Michael Sutton or Akeem Tidmore, bring that to our attention, and stop listening, stop reading, stop watching when that occurs. Let us know about it and we can deal with it at that point. I highly doubt there will be any, but you never know.

Also, as I said, when you go home tonight and your family members ask, What the heck did you do all day down there, you look exhausted, explain to them, some chubby Irish judge talked his head off all day about a

bunch of stuff and asked the same darn questions over and over again.

Other than that, you can't talk about the case at all. Don't tell them what type of a case it is. Don't tell them any information about this case. Tell them, My fellow judge, Judge Peter Corrigan, told me I'm the judge of the facts, so I'm a judge in this case as well. That's why we all stand up when you come in the room, out of respect for your office as jurors. Same reason people stand up in the room when I come into the courtroom, out of respect for my office.

You're going to take an oath as jurors, just the way I took an oath as an officer of the court, the same way the attorneys took oaths as officers of this court.

So let them know, As a fellow judge, I cannot talk about this case. Get something out of it. Say, Hey, if you're good, if you make me cookies tomorrow, maybe I'll tell you when this case is over. Get something out of it. But when the case is over is the only time you can talk about the case.

You can't go on the Internet and start looking up things, doing your own investigation, legal concepts or anything. You can't drive by the alleged scene of this crime, which I don't think you have any idea of right now. You can't do anything. You have to confine your decision in this case to what you hear in this courtroom. All right.

Be back downstairs no later than 8:30 tomorrow morning. We'll call you up close to 8:45 or so, try to beat that rush to the elevators before 9 o'clock. We'll try to get in a full day of court tomorrow, and that includes the rest of voir dire.

Hopefully we'll have some opening statements and maybe even a witness by tomorrow afternoon. Let's try to work toward that goal. Have a good rest of the afternoon. All rise for the jurors.

(Thereupon, the jury exited the courtroom and the following proceedings were had in open court:)

THE COURT: Anything for the record? All right. We'll see you tomorrow morning.

(Proceedings adjourned)