

1 UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF GEORGIA
3 ATLANTA DIVISION

4 UNITED STATES OF AMERICA,
5
6 vs.

DOCKET NO.
1:20-CR-00296-JPB-5-20
VOLUME 2 (PM SESSION)

7 CARLA JACKSON and
8 TELDRIN FOSTER,

9 Defendants.

10
11 TRANSCRIPT OF JURY TRIAL PROCEEDINGS
12 BEFORE THE HONORABLE J.P. BOULEE
13 UNITED STATES DISTRICT COURT JUDGE
14 TUESDAY, FEBRUARY 6, 2024

15 Appearances:

16 For the Government: Tal C. Chaiken, Esq.
17 Samir Kaushal, Esq.
Babasijibomi Moore, Esq.

18 For Defendant Jackson: David D. Marshall, Esq.

19 For Defendant Foster: Leigh Ann Webster, Esq.
20 Saraliene Durrett, Esq.

21
22 Court Reporter: Judith M. Wolff, CRR
23 Official Court Reporter
1914 United States Courthouse
24 75 Ted Turner Drive, S.W.
Atlanta, Georgia 30303-3361
25 (404) 215-1317
judith_wolff@gand.uscourts.gov

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(Court was called to order at 12:37 p.m.)

THE COURT: All right. You can be seated.
Off the record for a moment.

(Off-the-record discussion, and proceedings
continued:)

THE COURT: All right. Let's go on the record.
Let's bring in Juror No. 12, please.

Juror 12, hello. The court security officer is
going to give you a microphone.

I wanted to follow up with you. You said you might
have a scheduling issue of some sort.

So what's going on?

THE JUROR: Well, I wanted to ask.

COURTROOM DEPUTY: One second.
Try now.

THE JUROR: I wanted to ask -- if it's a no, it's a
no, but I'm under immense pressure at work, sir.

I serve at Clayton State University in the bursar's
office. I'm the university bursar. We are tremendously
understaffed.

THE COURT: Sorry, what office?

THE JUROR: The bursar, student accounts, all the
accounts receivable for the university, student billing,

1 collections, all of that. That's the bursar's office.

2 THE COURT: Okay.

3 THE JUROR: And we are currently in a situation
4 where we are extremely understaffed. I'm the university
5 bursar. We are in a season right now where we have to issue
6 student refunds, and the operations of the department is
7 affected with my absence.

8 So I wanted to ask if, under these circumstances, I
9 could be excused. If not, they will have to figure it out.

10 THE COURT: Okay. Tell me who else is in your
11 office. Who is your office made up of?

12 THE JUROR: I'm the bursar. We have an assistant
13 bursar. We have a head cashier.

14 THE COURT: Okay. All right.

15 So you were saying who your office is made up of.

16 THE JUROR: Right now we're comprised of three,
17 three and a half employees. Myself, I'm the university
18 bursar, we have an assistant bursar and we also a head
19 cashier, and then we have a work-study who is a student
20 employee.

21 THE COURT: Okay? And who do you report to.

22 THE JUROR: I report to the university's
23 AVP/controller.

24 THE COURT: Okay.

25 And have you discussed with that person the fact

1 that you have jury duty?

2 THE JUROR: Yes. She's fully aware, and also HR.

3 THE COURT: Okay. What was her response when you
4 said you had jury duty and would potentially have to be out
5 for a while?

6 THE JUROR: Well, she understands that it's my
7 civic duty to serve in this capacity, but then we were also
8 brainstorming to see how we could make operations work.

9 Last night, thankfully, I was able to leave early,
10 I was able to work remotely. But serving in this role would
11 require me to work at night to make sure our students are
12 served.

13 As I mentioned, we're going through a refunding
14 process right now so we have to make sure students' refunds
15 are issued in a timely manner. Failure to do that will cause
16 us to have an audit finding, and just to make sure that we
17 have coverage in the office.

18 I'm just under a lot of pressure, that's all.

19 THE COURT: Sure.

20 All right. Counsel, any questions for Juror 12
21 about her situation?

22 MR. MOORE: Not from the government, Your Honor.

23 MS. WEBSTER: Not for Mr. Foster.

24 MR. MARSHALL: None for Ms. Jackson.

25 THE COURT: And you work for the university of --

1 THE JUROR: It's a University System of Georgia
2 institution, yes, sir.

3 THE COURT: Okay. All right. Thank you, ma'am.

4 THE JUROR: You are welcome.

5 Thank you.

6 THE COURT: Officer, let's please bring in Juror
7 No. 14.

8 COURT SECURITY OFFICER: 14.

9 THE COURT: Good morning, Juror 14.

10 If you could let me know what's going on, please.

11 THE JUROR: Yes. So my wife is doing the IVF
12 process, in vitro, and she's about to start the egg retrieval
13 process. So at some point I need to be available to create
14 the embryos. It's either going to be in week or next week.

15 THE COURT: All right. Where is your doctor's
16 office, or where is her doctor's -- I guess it's your
17 doctor's office.

18 THE JUROR: Shady Grove Fertility. It's in Sandy
19 Springs.

20 THE COURT: Okay.

21 THE JUROR: She had an ultrasound today, so I
22 should know more in the next, like, probably later today of,
23 like, when I need to be available for it.

24 THE COURT: Okay. All right.

25 I am confident -- how long do you think you will

1 need to travel up there and travel back if you were to need
2 to take a break at some point?

3 THE JUROR: I think just like a day.

4 THE COURT: Okay. It will take a day?

5 THE JUROR: Well, I guess. I think a few hours,
6 then.

7 THE COURT: Okay. All right. I think we will be
8 able to accommodate that for you. Just let us know.

9 THE JUROR: Okay.

10 THE COURT: Thank you, sir. And best of luck to
11 you and your wife.

12 THE JUROR: Thank you.

13 THE COURT: Counsel, just to discuss the first two,
14 I would be inclined on Juror 14, we'll just take a
15 partial-day break at some point if he makes the jury and it
16 turns out that he needs to go.

17 Does anyone disagree with that course?

18 MS. WEBSTER: No, Your Honor.

19 MS. CHAIKEN: Your Honor, I wanted to raise one
20 thing as to Juror No. 14. I believe that he is a member of a
21 synagogue where my husband and my in-laws are very active.
22 They have the same last name as me. I don't know if he knows
23 that. I don't know him.

24 THE COURT: Okay.

25 MS. CHAIKEN: I just wanted to put that on the

1 record.

2 THE COURT: I appreciate your letting us know.

3 It seems that he hasn't put two and two together,
4 and I wouldn't be inclined to bring it up and make an issue
5 of it unless any defense attorneys think we should probe that
6 issue for some reason. Seems like a nonissue to me, but ...

7 MS. WEBSTER: No. We do not want to ask any
8 additional questions about that.

9 MR. MARSHALL: Same, Judge.

10 THE COURT: Very well.

11 No. 12, unless anyone wants to be heard and thinks
12 I should, I wouldn't be inclined to release No. 12 for her
13 alleged hardship regarding getting the numbers done properly.
14 It's a state school; it's a big system. If they really need
15 the help desperately, I would think they would be able to
16 scramble and fill her role, at least in part.

17 Does anyone disagree or want to be heard?

18 MS. WEBSTER: No, Your Honor.

19 MR. MARSHALL: No, Judge.

20 MR. MOORE: No, Your Honor.

21 THE COURT: All right. Very well.

22 Let's bring in Juror 15, please.

23 COURT SECURITY OFFICER: 15.

24 THE COURT: Good afternoon, Juror 15.

25 THE JUROR: Good afternoon.

1 THE COURT: If you could please let us know what
2 your issue is.

3 THE JUROR: I have a flight -- I don't know why I'm
4 getting so much feedback -- planned for the 15th. I'm out of
5 town the 15th and 16th.

6 THE COURT: Okay. What are you scheduled to be out
7 of town on the 15th and 16th?

8 THE JUROR: Vacation to New York City.

9 THE COURT: Okay.

10 How long is your vacation planned for?

11 THE JUROR: I will be back -- is it on? No.

12 I'll be back on the 19th.

13 How is this? That's better.

14 THE COURT: Better.

15 Is this a pleasure trip, I guess? You called it a
16 vacation.

17 THE JUROR: Yes.

18 THE COURT: How long have you -- have you booked
19 the hotel already, booked your flights already?

20 THE JUROR: All of that.

21 THE COURT: Is the airfare refundable?

22 THE JUROR: I could probably move it. I don't
23 think it's refundable, but I think they allow you to move it
24 out.

25 THE COURT: Are you within the window of changing

1 your hotel reservations if you have to?

2 Usually I found that hotels are pretty amenable to
3 that sort of thing, oh, I was going to be there four nights,
4 I'm not going to be there two, or something to that effect.

5 THE JUROR: Yes, within two, I think I can move it.

6 THE COURT: I hate to probe about your personal
7 details, but are you going up there on vacation with anyone
8 else? A solo trip? If you weren't there on Thursday and got
9 there Friday night instead, would you be inconveniencing
10 anyone other than yourself?

11 THE JUROR: I'm going up there for my best friend's
12 50th birthday. So there are two females that are joining me
13 on the trip. They are coming from Jacksonville.

14 I could potentially go on Friday evening. We have
15 reservations on Friday at a restaurant, and then we also have
16 tickets for a live TV taping on Thursday night.

17 THE COURT: Okay. Which show?

18 THE JUROR: Late Night with Seth Meyers.

19 THE COURT: Well, that would be fun and I know that
20 you want to go.

21 I will discuss it with counsel. Honestly -- I'm
22 going to be blunt with you -- I will always talk to counsel
23 before I make any rulings on things like this, but I don't
24 know that the law will allow me to excuse you for that trip.

25 But I'll discuss it with counsel and we'll circle

1 back. Okay?

2 THE JUROR: Okay. Thank you.

3 THE COURT: Thank you.

4 Unless anyone disagrees, I don't believe I should
5 release Juror No. 15.

6 MR. MOORE: No objection to that, Your Honor.

7 MR. MARSHALL: What was the Court's statement? I'm
8 sorry, Judge.

9 THE COURT: I don't believe I should release Juror
10 15. If anyone disagrees, I would be happy to hear from you.

11 MR. MARSHALL: We do not object, Judge.

12 THE COURT: All right.

13 MS. WEBSTER: We do not object either, Judge.

14 THE COURT: All right. Very well.

15 Let's bring in Juror No. 37, please.

16 COURT SECURITY OFFICER: 37.

17 THE COURT: Juror 37, hello. I wanted to follow up
18 with you. You raised your hand as to a potential scheduling
19 issue.

20 THE JUROR: Yes, sir.

21 THE COURT: Go ahead.

22 THE JUROR: My daughter, who is 36, had surgery
23 November -- no, yes, November 30 for ACL and meniscus and she
24 has been unable to drive or get around transportation-wise.
25 She lives at home temporarily and I am her sole provider and

1 caregiver in order to make sure that she is taken care of.
2 She has to be to different appointments as well as physical
3 therapy.

4 And next week my husband is scheduled to be in
5 Kentucky for a trial, and he can't get out of that in order
6 to take care of her needs. So that's my conflict.

7 THE COURT: Is -- and I hate to pry on something
8 like that but I have to to do my job, so pardon me.

9 THE JUROR: Yes.

10 THE COURT: The surgery was what exactly?

11 THE JUROR: It was a torn meniscus and ACL, which
12 means that she hasn't been able to walk without crutches, and
13 it's her right leg so she cannot drive.

14 THE COURT: Okay. If you weren't there to take her
15 to an appointment -- first off, does she have any
16 appointments next week?

17 THE JUROR: Yes. She has two physical therapy
18 appointments next week.

19 THE COURT: Could she Uber to each of those or both
20 of those, or something?

21 THE JUROR: Well, she has to go twice a week, so
22 it's very complicated in order to move those around and
23 reschedule them.

24 THE COURT: I'm not suggesting she move them
25 around. I'm suggesting she take a taxi or one of these new

1 internet services that you can call and pick you up and a car
2 comes and takes you somewhere, like similar to a taxi but
3 kind of high tech. Could she do that? Although I know she
4 would rather have you as her chauffeur.

5 THE JUROR: I don't know. I have to say I don't
6 know the answer to that question. We have not attempted
7 that, so I don't know.

8 THE COURT: Okay. Counsel, any questions for
9 Juror 37?

10 MR. MOORE: No, Your Honor.

11 MS. WEBSTER: I have one --

12 MR. MARSHALL: No, Your Honor.

13 MS. WEBSTER: Is she in a knee immobilizer where
14 she can't bend her knee?

15 THE JUROR: It has been at that point, yes. She
16 also had blood clots and was in the hospital for Christmas.
17 It was very serious and she was there for several days for
18 that as well.

19 She has been working to get mobility back to bend
20 her knee, but she has not fully gained that mobility yet.

21 MS. WEBSTER: Thank you.

22 MR. MARSHALL: No questions, Judge.

23 THE COURT: All right, ma'am. Thank you. I'll
24 discuss your issue with counsel and we'll let you know.

25 Thank you.

1 Counsel, I wouldn't be inclined to release Juror 37
2 from jury duty for that reason unless anyone disagrees and
3 wants to be heard.

4 MR. MOORE: No objection from us, Your Honor.

5 MS. WEBSTER: No objection, Your Honor. Thank you.

6 MR. MARSHALL: No objection, Judge.

7 THE COURT: Very well.

8 At the break, a couple other jurors notified either
9 the court security officer or Ms. Lee about wanting to be
10 heard.

11 Juror 29 had an issue. So we will hear from Juror
12 No. 29.

13 COURT SECURITY OFFICER: 29.

14 THE COURT: Juror 29, hello.

15 I understand you may have an issue that you wanted
16 to discuss with the Court. So please go ahead.

17 THE JUROR: Hi.

18 THE COURT: Hi.

19 THE JUROR: So, I am totally fine with this. I
20 just have one day that really -- next Thursday, is the day
21 that my boss and best friend took her life, and it's a
22 one-year anniversary. It was from the --

23 THE COURT: Sorry about that feedback.

24 THE JUROR: It was from the cat rescue that we ran,
25 and that's just my one concern is next Thursday.

1 Every other day I'm fine. I just -- I will be -- I
2 do have a therapy appointment, but it's from 5:00 to 6:00. I
3 don't know if it's like -- I don't know anything about jury
4 duty, when it ends or anything.

5 THE COURT: Okay.

6 So is your primary concern next Thursday, making
7 sure you make that appointment?

8 THE JUROR: Yes, sir.

9 THE COURT: And where is the appointment.

10 THE JUROR: It's in, like, Atlanta. It's like 400,
11 exit -- Peachtree. I --

12 THE COURT: Let me cut to the chase.

13 THE JUROR: It's by Lenox Mall.

14 THE COURT: So if we were to stop court next
15 Thursday at 4:00, even in the worst of Atlanta traffic, do
16 you think that would allow you to get there by 5:00?

17 THE JUROR: Oh, yes.

18 THE COURT: Let's do this -- and Ms. Lee, I'm
19 charging you with the responsibility to remember this, and
20 Juror No. 29, I'm going to charge you with reminding Ms. Lee
21 next Thursday. If you're on the jury, we will stop court at
22 4:00 to make sure that you make it to that appointment.

23 And my condolences to you for that loss, and I'm
24 sorry that we will coming up on what will be a hard
25 anniversary for you.

1 THE JUROR: Yes, sir.

2 THE COURT: All right. Thank you, ma'am.

3 All right.

4 Counsel, before we bring the other folks in, I've
5 looked at your requests for additional strikes. I do want to
6 have a couple alternates. And if I keep the regular six
7 strikes for the government, ten for the defense, that would
8 be 16 strikes, plus a strike for each side would be 18
9 strikes. And then 14 jurors, I would need to have 32 members
10 of the panel qualify for the strike conference.

11 What I would like to do is accommodate the defense
12 request for a little bit more, since there are two
13 defendants.

14 And I would also like, whatever the little bit more
15 number is that I give the defense to be an even number that
16 can be divided by two.

17 So what I was going to do is give the government
18 seven strikes total, six plus one, and then give each
19 defendant seven, to allow for additional strikes, plus
20 strikes for the alternates.

21 So that would be 21 preemptory challenges. Plus I
22 need 14 jurors. So I need to have 35 jurors qualified.

23 I was going to try something new here and maybe
24 save us a little bit of time. We already have gotten through
25 45 potential jurors. I think what I would like to do is just

1 hold off on asking Jurors 47 through 50-whatever to give us
2 their life story and just see where we are. Have them, of
3 course, raise their hand to any questions you have, but not
4 even have you ask any of that group follow-up questions yet.

5 And then assume that we're going just 1 through 46,
6 those 45 potential jurors, and see if that gets us where we
7 need to be, see if we have 35 qualified jurors at that point,
8 which I think would save us some time from hearing from these
9 people that I don't think we're probably going to need, and
10 it would save any follow-up questions of those folks that we
11 don't need to spend time on.

12 But if we got to the challenges for cause and
13 needed one or two more, we could then revisit hearing from
14 them about what their children do for a living, et cetera,
15 and you could ask them any follow-up questions.

16 Does anyone take issue with that for any reason?

17 MS. WEBSTER: No, Your Honor. We do not take issue
18 with that.

19 THE COURT: Let me get the answer to that question
20 real quick and then any follow-up questions you may have.

21 I want to hear from Mr. Marshall and from
22 Ms. Chaiken.

23 MR. MARSHALL: Ms. Chaiken.

24 MR. MOORE: No objection from the government, Your
25 Honor.

1 THE COURT: All right, Ms. Webster, go ahead.

2 MS. WEBSTER: I just wasn't sure the math was
3 correct? Maybe I'm the only one who -- but if you have to
4 have 12 jurors plus two alternates, and three for the strikes
5 for the alternates, right -- one for each group, then six for
6 the government and then 14 for us, I think that adds up to
7 37.

8 THE COURT: It's basically six plus one for the
9 government, six plus one for Mr. Foster, six plus one for
10 Ms. Jackson, so you essentially are getting 14 total, 12 plus
11 two, and the government is getting seven total, six plus one,
12 and that's 21, plus 14 more of the actual jurors.

13 That means we need 35 qualified jurors.

14 MS. WEBSTER: I'm sorry.

15 THE COURT: No apology necessary. This gets
16 confusing, and we are maybe all lawyers because we weren't
17 perfect in math. I don't know.

18 But it sounds like no one has an issue with that.

19 So what I'm going to do is I'm going to bring in
20 Jurors 47 through 52 and explain to them what we are doing
21 and let them know they are kind of in reserve but I'm going
22 to still need them to raise their hands to any questions you
23 have.

24 All right. Let's bring in 47 through 52, please.

25 COURT SECURITY OFFICER: Jurors 47 through 52.

1 (Potential Jurors 47 - 52 enter the courtroom.)

2 THE COURT: Officer, could you close that door for
3 me?

4 Good afternoon, Jurors 47 through 52. I wanted to
5 let you know, I don't know if we're going to need you for
6 this jury selection process or not. It may be that from
7 Jurors 1 through 46, we're going to have enough.

8 So we're going to hold off on having you answer the
9 questions on that sheet for now.

10 But in a moment, the attorneys are going to ask
11 questions of the whole panel, and it's going to be the same
12 thing, raise your hand if you think this applies to you.

13 I want you to go ahead and raise your hand for any
14 of those questions that might apply to you. But just like we
15 haven't yet done the questions with you about your family and
16 if you have been the victim of a crime, et cetera, I'm going
17 to have the lawyers hold off on asking you any follow-up
18 questions about any questions that they ask as well, and
19 we'll know later this afternoon, I think, whether or not we
20 need to have you for this process or not.

21 So please stay engaged and answer the questions
22 like you would otherwise, but we're just going to hold off on
23 the other parts for you right now. And it may be that we do
24 not need you and that we are able to release you.

25 Thank you very much.

1 Officer, if you could bring in the rest of the
2 panel.

3 Thank you.

4 (Potential jurors enter the courtroom.)

5 THE COURT: Officer, we are going to start with
6 Juror 21. If you could give him or her the mic.

7 Juror 21, I understood you wanted to follow up on
8 one thing.

9 THE JUROR: Yes. So I forgot, in 2010 I was the
10 victim of crime. My car was stolen. It was recovered a few
11 days later. Most of the property in it was not recovered.
12 I'm not sure what happened to the perpetrator, if they were
13 ever caught or not.

14 I do not think it would have any sway in this case
15 at all.

16 THE COURT: All right. Thank you, Juror 21.

17 Ladies and gentlemen, I am now going to allow the
18 attorneys an opportunity to ask you some questions. Just
19 like my questions earlier, as they are going through their
20 list of questions if you have an affirmative response to any
21 question, please raise your juror number up in the air and
22 keep it up in the air until you hear one of the attorneys or
23 someone working with them call your number out to signify
24 that they recorded that.

25 With that, Government. You can go ahead.

1 MR. MOORE: In this case you will hear that the
2 criminal investigation was conducted primarily by law
3 enforcement officers with the FBI. Have you, your relatives,
4 or close friends had any experience with the FBI or any other
5 agency of the United States government which would cause
6 unfair prejudice to the government?

7 Some of the witnesses for the United States may be
8 federal agents. For example, some witnesses may be from the
9 FBI. Do you feel that you might tend to favor or disfavor
10 these witnesses or give them more or less credibility just
11 because they are federal agents?

12 Okay. No affirmative responses.

13 Do you otherwise have a strong bias for or against
14 law enforcement?

15 Would your belief affect your ability to --

16 COURTROOM DEPUTY: 41.

17 Sorry. Are we going to follow up at the end?

18 THE COURT: Oh, yes. We are not going to follow up
19 now. We're going to get all the answers now, and then we'll
20 follow up, to the extent we need to follow up.

21 Thank you.

22 MR. MOORE: Have you, a relative, or a close friend
23 ever sought or obtained a Paycheck Protection Program loan?

24 Is there anything about that experience that might
25 affect your ability to serve as a fair and impartial juror?

1 No responses -- sorry.

2 COURTROOM DEPUTY: 19.

3 MR. MOORE: 19.

4 Have you, a relative, or a close friend ever sought
5 or obtained a Paycheck Protection Program loan?

6 THE JUROR: Okay.

7 MR. MOORE: 19, 25, 36, 43, and 45.

8 And then, as a follow-up to that:

9 Is there anything about that experience that might
10 affect your ability to serve as a fair and impartial juror?

11 All right. No responses.

12 Have any of you ever worked for a federal
13 government agency, whether federal, state, or local, that you
14 have not told us about already?

15 11.

16 Have any of you, your relatives, or your close
17 friends ever had a negative experience with any federal,
18 state, or local agency that could bias you against the
19 prosecution?

20 No responses.

21 Have any of your relatives or your close friends
22 ever been involved in a lawsuit or any kind of litigation
23 with the United States government that you have not already
24 told us about today?

25 No responses.

1 Have any of you, or any member of your immediate
2 family, ever studied criminal justice or worked in the
3 criminal justice system as a law enforcement officer,
4 probation officer, parole officer, or in some other similar
5 position that you have not already told us about today?

6 24, 27 and 38 and 11.

7 MR. MARSHALL: Excuse me. Could you give those
8 numbers again, please? Could you raise your cards again?

9 MR. MOORE: 11, 24, 37, 28.

10 THE JUROR: Sorry. Family members worked in law
11 enforcement?

12 MR. MOORE: Yes. That you haven't told us about
13 already today.

14 THE JUROR: Yes.

15 MR. MOORE: And 1.

16 Your verdict must be based on the facts and the
17 evidence of the case. Your duty as jurors is to judge guilt
18 or innocence based upon the evidence. It is the duty of the
19 judge to instruct you on the law and to determine punishment
20 if you vote guilty.

21 The law does not permit you to consider emotion,
22 sympathy, prejudice, vengeance, fear, or hostility.

23 Do any of you believe that you would have
24 difficulty following this rule?

25 46.

1 The law does not permit you to consider the issue
2 of punishment because it has into nothing to do with guilt or
3 innocence.

4 Would any of you vote not guilty, no matter what
5 the evidence indicates, merely because the charged crimes may
6 result in a prison sentence?

7 THE COURT: Let me go off the record for a moment.

8 (Off the record at 1:09 p.m., and proceedings
9 continued at 1:17 p.m.)

10 THE COURT: Okay. We're back on the record.

11 Counsel, you can continue.

12 Sorry about that delay.

13 MR. MOORE: Do any of you have any beliefs, whether
14 moral, religious, philosophical or otherwise that would
15 prevent you from being a fair and impartial juror or that
16 would make it difficult for you to sit in judgment of the
17 defendants?

18 No responses.

19 Thank you.

20 Those are all our questions, Your Honor.

21 THE COURT: All right.

22 Thank you.

23 And either Ms. Webster or Mr. Marshall, go ahead.

24 MS. WEBSTER: Thank you, Your Honor.

25 How many of you have any education or training in

1 the law, criminal justice or law enforcement that you haven't
2 already told us about?

3 No responses.

4 Has anyone or any member of your family ever worked
5 in a lawyer's office, a public defender's office or a
6 prosecutor's office that you haven't already told us about?

7 Okay. 11, 14, 15, 24, 26, 21, 18, 29 and 15, I
8 got.

9 Thank you.

10 If you were in the military, were any of you ever
11 assigned to the military police, intelligence or
12 investigative work?

13 No responses.

14 Has any member of the panel ever been active in a
15 neighborhood crime watch group, something beyond setting up a
16 sign or -- more like attending meetings or serving as an
17 officer?

18 Okay. 36.

19 Thank you.

20 How many of you are regular viewers of any of the
21 following TV shows: CSI, American Greed, or Law and Order?

22 Okay. 8, 5, 6, 3, 12, 27, 28, 40, 41 -- sorry, I'm
23 not going in order, 50, 36, 24, 22, 34, 29 and 16.

24 How many people here regularly listen to talk
25 radio?

1 22, 38, 42 and 32.

2 THE JUROR: No. 1.

3 MS. WEBSTER: And 1. Thank you.

4 How many of you have ever been sued or sued someone
5 in court?

6 42, 27, 45, 8, 27, 40 and 50.

7 MS. CHAIKEN: I think there is a juror down here
8 who wants some additional clarification about the question.

9 THE JUROR: I was asking, do that count as -- do it
10 count as a car accident?

11 MS. WEBSTER: If you sued an insurance company or
12 something about it.

13 THE JUROR: Well, yeah. It was my own insurance.
14 Does that count?

15 MS. WEBSTER: Sure.

16 THE JUROR: Okay.

17 MS. WEBSTER: Yes, we'll circle you. Thank you.

18 THE JUROR: Yes.

19 MS. WEBSTER: Have you or a close family member
20 ever had any positive interaction with criminal defense
21 attorneys?

22 No one? Okay.

23 Flip it around.

24 14, thank you. 14, 1, 6 and 42.

25 Thank you.

1 Have you or a close family member had any negative
2 interactions with criminal defense attorneys?

3 Okay. 41 and 24.

4 Thank you.

5 Something that made you look poorly upon them.

6 Okay. 36.

7 Thank you.

8 Some of the people who will testify in this case
9 have admitted to committing some of the crimes charged here.

10 Does that fact tend to make anyone here assume that
11 Mr. Foster must have also committed those crimes?

12 32.

13 Thank you.

14 Do any of you feel that our legal system does too
15 much to protect the rights of the accused? So of criminal
16 defendants?

17 No affirmative responses. Thank you.

18 Does anyone here feel that defense attorneys use
19 tricks or technicalities to help guilty people go free?

20 Okay. 11, 13, 10, 24 and 5. Okay.

21 Does anyone here feel like prosecutors or the
22 police use tricks or technicalities to make their case?

23 Okay. 10, 11, 13, 14, 24, 26, 28, 40, 41 and 42,
24 50, 36, 46, 43, 18, 19 -- and 44.

25 THE COURT: Counsel, let me interrupt for one

1 moment.

2 I'm going to ask all counsel and all attorneys, to
3 the extent the question is asked and you might be surprised
4 or whatnot by numbers being held up, I would like everyone to
5 make sure that they're not making any statement or noise or
6 et cetera in response to numbers being raised up going
7 forward, counsel, and everyone.

8 Thank you.

9 MS. WEBSTER: Thank you.

10 How many --

11 THE COURT: These are, after all, your questions.
12 Go ahead.

13 MS. WEBSTER: I'm sorry.

14 How many people do not believe a person can be
15 wrongfully accused of committing a crime? Meaning, you
16 believe if they are charged in court, they must be guilty?

17 No affirmative responses.

18 Does anyone here believe that because a cooperating
19 witness has admitted guilt, his testimony or her testimony is
20 more or less credible than other witnesses?

21 No responses.

22 Is there anyone here who feels that there is just
23 something about this case, the nature of the charges, the
24 defendants or something about your background or your past
25 experiences that might cause you to start out favoring one

1 side or the other?

2 46, 41, 5, 28.

3 Thank you.

4 Mr. Foster has been charged with multiple crimes in
5 this case. Is there anyone here who feels like he must be
6 guilty of something because he has been charged with more
7 than one crime or that he is more likely to be guilty because
8 he has been charged with more than one crime?

9 No responses.

10 The term implicit bias refers to the attitudes or
11 stereotypes that affect your understanding, actions and
12 decisions in an unconscious manner.

13 Is anyone not willing to explore how, if at all,
14 your implicit bias affects your verdict after you have heard
15 all the evidence and listened to the Court's instructions?

16 46.

17 Would any of you feel difficulty expressing your
18 own opinions and thoughts about this case to your fellow
19 jurors?

20 51, 4 and 18.

21 Does anyone have any especially negative feelings
22 about groups like Black Lives Matter?

23 No responses.

24 Is anyone a member of or strongly supportive of
25 white nationalist groups or all white groups?

1 No responses.

2 How many of you feel that if a defendant does not
3 testify, he or she is most likely guilty?

4 No responses.

5 In a criminal case, the burden is on the
6 prosecution to prove their case against the defendants beyond
7 a reasonable doubt. Does anyone have any problems with the
8 burden being placed on the prosecution?

9 No responses.

10 Does anyone feel that you cannot make a fair
11 decision in this case if the defense presents no evidence at
12 all and you have to decide solely on whether the prosecution
13 has proved its case beyond a reasonable doubt?

14 23, 6.

15 Thank you.

16 Does anyone have a problem with the idea that a
17 defendant is presumed innocent of the charges against him?

18 No responses.

19 Does anyone have a problem with withholding
20 judgment and not making a decision about this case until you
21 have heard all of the evidence and are in the process of
22 deliberating with other jurors?

23 No responses.

24 Does anyone have a negative opinion about someone
25 who accepted a bank loan under the PPP, the Payroll

1 Protection Program, or the EIDL program, which is the
2 Economic Injury Disaster Loan program?

3 No responses.

4 Do any of you or any of your close friends work for
5 a bank or other lender, like Kabbage or Cross River bank,
6 BlueVine or other entities like that?

7 No responses.

8 MR. MOORE: 40.

9 MS. WEBSTER: I'm sorry. 40.

10 Thank you.

11 Have you seen or read reports about people being
12 charged with fraud related to the PPP or EIDL loans?

13 Okay. Maybe we should do "if you haven't heard
14 reports about." Thank you.

15 11, 16, 29, 30, 43, 44, 46, 13 and 52.

16 Is there anything not covered by any previous
17 questions that you feel like would affect your ability to be
18 a fair and impartial juror in this case?

19 No responses.

20 Thank you.

21 THE COURT: Mr. Marshall.

22 MR. MARSHALL: Yes, Your Honor.

23 Has anyone here ever worked for the Small Business
24 Administration, the SBA?

25 No responses.

1 Has anyone here had a close friend or family member
2 ever work for the SBA?

3 No responses.

4 Let me repeat the last question.

5 Has anyone here had a -- either you or a close
6 family member ever worked for the SBA, Small Business
7 Administration?

8 Is there anyone here who has received any loans or
9 financing through the SBA or any of its programs?

10 Okay. No. 19 and No. 25 and 22.

11 Thank you.

12 Has anyone here ever had a negative experience with
13 the SBA for or any of its programs?

14 Has anyone here had a positive experience with the
15 SBA for any of its programs?

16 No. 19, 22, 25 and 45.

17 Thank you.

18 Has anyone here in their professional or personal
19 life had experience litigating issues against the SBA?

20 No responses.

21 Are any of you current or former small business
22 owners?

23 Okay. 19, 10, 12, 32, 45, 22, 25, 26 and 38.

24 For those that have answered that or raised those
25 cards, have you ever applied for a bank loan or other types

1 of financing for those businesses?

2 12, 25, 38 and 32.

3 THE COURT: Excuse me.

4 MR. MARSHALL: Yes, your Honor?

5 THE COURT: Counsel, let me interrupt for a moment.

6 One of the jurors indicated they needed a very
7 short comfort break.

8 So whoever that is, if you want to just pop out and
9 pop back in.

10 Thank you. And we'll just recess here for a
11 moment.

12 (There was a recess at 1:33 p.m., and proceedings
13 continued as follows at 1:35 p.m.)

14 THE COURT: All right. Mr. Marshall, you can
15 continue.

16 MR. MARSHALL: Thank you, Your Honor.

17 Has anyone on the panel ever processed loan
18 applications as part of their job at either a bank or a
19 financing company?

20 43, 21.

21 Okay. Thank you.

22 This may have been asked: Has any business that
23 you were or are associated with ever applied for a loan
24 through the Paycheck Protection Program?

25 25, 45 and 19.

1 Thank you.

2 Do you or any members of your family know anyone in
3 the following categories: People who work for other
4 prosecutorial agencies? This would be other than the U.S.
5 Attorney's Office.

6 22.

7 THE JUROR: (Indiscernible audio).

8 MR. MARSHALL: County prosecutors or state
9 prosecutors.

10 Okay. 11, 29 -- so I have 22, 11, 29.

11 Has anyone here worked at or know anyone who has
12 worked in a prison or a jail?

13 16, 29, 8, 2, 16, 44, 46, 36, 50, 37, 25, 40, 41,
14 14, 42 and 22 and 1.

15 Thank you.

16 Has anyone here ever attended a police academy or
17 considered working for any law enforcement agency?

18 27.

19 Thank you.

20 Has anyone here ever served as a law enforcement
21 officer in the armed forces of any country?

22 Is there anyone here who is trained or works in the
23 legal field? This may have been asked. I apologize.

24 15.

25 Yes. Thank you.

1 Thank you, 31.

2 If selected to serve in this case, each of you will
3 be required to consider and weigh the evidence. If a
4 considerable number of jurors were voting differently than
5 you, would you change your verdict for that reason alone?

6 No responses.

7 Would you tend to believe or disbelieve -- let's do
8 it this way.

9 Would you tend to believe the testimony of a law
10 enforcement officer merely because of the person's status as
11 a law enforcement officer or because you believe that they
12 serve such a vital role in our society?

13 Number -- is that 6?

14 Thank you.

15 Is there anyone here who is a person who tries to
16 follow major criminal trials?

17 42.

18 Thank you.

19 Have any of you ever been a witness to a crime?

20 24.

21 Have any of you ever participated in any efforts to
22 increase or lessen the punishment of individuals who are
23 convicted of criminal offenses?

24 No responses.

25 Do you think that an innocent person can be made to

1 look guilty?

2 5, 6, 7, 8, 10, 11, 12, 13, 14, 16, 17, 18, 20, 21,
3 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32 -- probably should
4 have asked the other way.

5 No. 7, 34, 35, 37, 38, 40, 41, 42, 43, 44, 45, 46,
6 47, 51, 50 and 52.

7 Thank you.

8 Has anyone here ever been falsely accused of
9 something?

10 No responses.

11 Does anyone here feel that because an indictment
12 has been returned against Ms. Carla Jackson, that she must be
13 guilty of something?

14 No responses.

15 Do you agree with the legal principle that the
16 burden of proof -- well, who agrees with the legal principle
17 that the burden of proof is always on the government and that
18 the defendant does not have to present any evidence on her
19 own behalf to prove that she is innocent?

20 6 -- No. 6, 18, 31, 32, 21, 22, 10, 11, 15, 24, 25,
21 45.

22 Thank you.

23 Does anyone here believe that if a defendant is
24 truly innocent then she should testify at trial or that if a
25 defendant does not testify, then she must be guilty or must

1 be hiding something?

2 No responses.

3 If you are selected as a juror on this case you
4 must have the ability to make your own independent decision
5 about the defendant's guilt or innocence. Is there anyone
6 who feels they could not do this?

7 No responses.

8 If you or a member of your family were a party to
9 this case or one like it, on either side, would you be
10 willing to have your case tried, or theirs, by people in the
11 same frame of mind as you are now?

12 No. 1, No. 2, No. 8, No. 10, No. 12, 13, 14 and 15,
13 18, 19, 20, 21, 22, 24, 25, 27, 28, 29, 30, 31, 32, 33, 35,
14 40, 41, 42, 52, 51, 49, 47, 45, 44 and 43.

15 After everything you have heard so far about this
16 case, is there anyone here who would feel uncomfortable about
17 serving on this jury?

18 No. 41.

19 If the government fails to prove that what
20 Ms. Jackson did was illegal but you believe in your heart
21 that it was wrong, would you have any hesitation whatsoever
22 voting to acquit her?

23 I'll say it again.

24 THE JUROR: Would you repeat that?

25 MR. MARSHALL: You want me to repeat it? Sorry.

1 If the government fails to prove that what
2 Ms. Jackson is alleged to have done was illegal, but you
3 believe in your heart that it was wrong, would you have any
4 hesitation whatsoever in voting to acquit her?

5 That's okay.

6 That's all I have, Your Honor. Thank you very
7 much.

8 Thank you.

9 THE COURT: All right. Thank you, counsel.

10 We have been going a little while. And I know the
11 jurors have had an opportunity to have a quick comfort break.

12 Any counsel or court staff need a break right now?

13 Okay. I got one "Yes, please."

14 So let's go ahead and take a 10-minute comfort
15 break.

16 You're reminded of your instructions for breaks,
17 ladies and gentlemen of the panel.

18 Thank you.

19 (a recess taken at 1:46 p.m., and proceedings
20 continued as follows at 2:02 p.m.):

21 THE COURT: All right. I understand we're still
22 missing Juror 47.

23 That will not prohibit us from starting our
24 follow-up questions that counsel may have for one of the
25 other jurors.

1 So, counsel, you can start with any follow-up
2 questions you have.

3 I'll let the government go first.

4 MR. MOORE: Juror 41, you had stated that you had a
5 cousin that was falsely accused of identity theft. What was
6 the circumstances of that case?

7 THE COURT: Sorry. Officer, if we could make sure
8 any juror has a mic that's being asked a question.

9 MR. MOORE: For 41, please.

10 Thank you.

11 THE COURT: And for all concerned, counsel, staff,
12 me -- we're off the record for this.

13 (Off-the-record discussion, and proceedings
14 continued:)

15 THE COURT: Okay. We're back on the record.

16 THE JUROR: Can you repeat the question, please?

17 MR. MOORE: You said that you had a cousin who was
18 falsely accused of identity theft. Do you think that would
19 effect how you would deliberate in this case?

20 THE JUROR: Yes.

21 MR. MARSHALL: And you said that you are also
22 uncomfortable serving on this jury.

23 What about this --

24 THE JUROR: Just simply with the facts of the case,
25 and I feel that it's similar to the case that my cousin went

1 through, being that he got charged with identity theft and
2 fraud and he was falsely accused and sentenced for ten years.
3 He served three. And they only acquitted him after that
4 because of evidence that his public defender found.

5 He didn't have the best public defender, so he
6 spent most of his time in jail. And he was a good kid, and
7 it just ...

8 MR. MOORE: All right. Thank you.

9 For No. 46, you had stated that you don't believe
10 you can follow the instructions in this case. Could you
11 explain why that is?

12 THE JUROR: I feel -- could you ask the question
13 again?

14 MR. MOORE: You had raised your paddle for if you
15 could follow the instructions from the judge. Why do you
16 think you would have trouble following the instructions?

17 THE JUROR: Oh, I must have misheard the question.
18 I apologize about that.

19 I thought it was something else.

20 MR. MOORE: Would you have any trouble following
21 the judge's instructions in this case?

22 THE JUROR: No.

23 MR. MOORE: Do you have anything that you think
24 would make it difficult for you to serve on this jury?

25 THE JUROR: Yes. I'm more of a bias with evidence.

1 I like to believe what I see, and that's how I like to see
2 it.

3 MR. MOORE: When you say you're biased with
4 evidence, are you saying that you sort of make up your mind
5 ahead of time? Or what do you mean by bias?

6 THE JUROR: I like to make up my mind ahead of
7 time.

8 MR. MOORE: Do you think you would have trouble
9 waiting until you see all the evidence before making up your
10 mind?

11 THE JUROR: A bit, yeah.

12 MR. MOORE: All right.

13 And for the rest of the panel, is there anything
14 that you have raised your paddle to "yes" that you think
15 would stop you from serving on this jury panel, being fair
16 and impartial and serving on this jury panel?

17 For No. 38, can you tell us what would keep you
18 from being fair and impartial?

19 Wait for the mic, please, for the record. Thank
20 you.

21 THE JUROR: The FBI seems to have a two-tier
22 justice system.

23 MR. MOORE: So do you think you have a bias against
24 the FBI?

25 THE JUROR: Yes.

1 MR. MOORE: Thank you for that.

2 Anyone else think they would have difficulty being
3 fair and impartial? And does anyone think that they would
4 substitute their own views or beliefs for the law that the
5 judge instructs you?

6 Thank you.

7 No further questions.

8 THE COURT: All right. Either Ms. Webster or
9 Mr. Marshall.

10 MS. WEBSTER: Thank you.

11 Juror No. 20, I think your son said -- or you said
12 that your son worked at Martin & Miller. Can you tell me
13 what sort of cases he handles?

14 THE JUROR: He's an IP attorney.

15 MS. WEBSTER: Okay. Thank you.

16 Juror No. 38. I think you said earlier that you
17 were the victim of bank fraud in 2020.

18 THE JUROR: Yes.

19 MS. WEBSTER: Can you tell us a little bit about
20 that? What happened?

21 THE JUROR: I got an email from Bank of America, or
22 it seemed to look like it was, asking me to transfer \$2,500
23 to a Zelle account.

24 And as soon as I did that, the Zelle account
25 switched to Chase Manhattan in Michigan. And the next day,

1 when I could see where the money went, then I told Bank of
2 America what account it went to, so we got the money back but
3 they wouldn't tell me any information on who did it.

4 MS. WEBSTER: Okay. Thank you.

5 So you said the FBI, you think, has a two-tier
6 justice system. Can you tell us what you mean about that?

7 THE JUROR: I'm a Trump supporter.

8 MS. WEBSTER: Um-h'm.

9 THE JUROR: Is that enough?

10 MS. WEBSTER: No. I'm sorry. Can you explain a
11 little bit more?

12 THE JUROR: How Biden and Trump are completely
13 treated differently by the FBI, CIA, the judiciary system.

14 MS. WEBSTER: And obviously, in this case, you
15 are -- if you were on the jury, you would hear evidence in
16 this case and the judge would instruct you to make a decision
17 based on the evidence in this case.

18 Would you be willing to follow those instructions?

19 THE JUROR: Yes.

20 MS. WEBSTER: Thank you.

21 Juror No. 45, I think that you mentioned that you
22 had a son or a child who works on forensics. Can you tell me
23 what sort of forensics you mean?

24 THE JUROR: She went to college for medical stuff
25 and I know she's in -- she's a little estranged from the

1 family, but she went to FBI, just forensics. I don't really
2 know a whole lot about it.

3 MS. WEBSTER: Okay. So she worked for the FBI, or
4 she would do forensics for the FBI?

5 THE JUROR: For the FBI.

6 MS. WEBSTER: Okay. And you said you are
7 estranged, so --

8 THE JUROR: Yeah. We don't have a lot of contact
9 with her.

10 MS. WEBSTER: Okay. Thank you.

11 Juror No. 24, I think you said that you had a
12 negative interaction with criminal defense attorneys.

13 Can you tell us a little bit about that?

14 THE JUROR: Well, I'm -- I mentioned earlier that I
15 had some issues with the way a case of mine was handled in
16 Clark County, and there was a DA there that I had some
17 significant issues with about some things and the way they
18 were handled.

19 MS. WEBSTER: Okay. Thank you.

20 And does that interaction -- sorry. One more
21 follow-up question.

22 Does that interaction with the attorney there,
23 would that preclude you or prevent you from being fair and
24 unbiased here?

25 THE JUROR: I would hope not. I held a grudge for

1 a long, long time. But it was long ago.

2 MS. WEBSTER: Thank you.

3 Juror No. 36, I think that you also mentioned that
4 you had had a negative interaction with a criminal defense
5 attorney, I think you mentioned that during your sort of
6 opening statement.

7 Can you give us a few more details about your
8 experience with the defense attorney?

9 THE JUROR: Yes. I felt the defense attorney for
10 my nephew didn't try as hard. And I think it was because he
11 was from a low-income family, and he didn't put as much
12 attention to it that he did for other cases.

13 MS. WEBSTER: I'm sorry. Say that last bit again.

14 THE JUROR: As much attention to my nephew's case
15 as I felt like he put onto other cases.

16 MS. WEBSTER: Other cases. Okay. Thank you.

17 Would that -- obviously, we're defense attorneys.
18 Are you going to -- would you hold that experience against us
19 in this case or would you base a verdict on the evidence in
20 this case?

21 THE JUROR: On the evidence.

22 MS. WEBSTER: Juror No. 32, I think you answered
23 "yes" to the question when I said that some people who will
24 testify in this case will have admitted to committing these
25 crimes and so that would make you assume that Mr. Foster must

1 have also committed those crimes.

2 Can you explain that answer for me?

3 THE JUROR: Yeah. I think if they were affiliated,
4 right, and they were all part of the same potential crime, I
5 think the fact that some of the people involved admitted that
6 they did it makes it more likely that everyone involved did
7 it.

8 Now, I don't think it's a sure thing, but
9 definitely in my mind I think that makes it more likely.

10 MS. WEBSTER: Juror No. 5, I think you said that --
11 you raised your number when asked if you felt like defense
12 attorneys can use tricks or technicalities to help guilty
13 people go free.

14 Can you explain that?

15 THE JUROR: Yeah. I think there are a lot of
16 circumstances where defense attorneys can pressure and just
17 kind of use, like, outside tactics to kind of like allow a
18 witness or the, I guess, defendant in this case to, like, say
19 something that they're not supposed to or just -- just say
20 something that they don't mean completely or don't
21 understand.

22 MS. WEBSTER: Can you tell me what experience
23 that's based on?

24 THE JUROR: Yes. A lot of it is from a lot of
25 articles that I read from certain cases and just, like,

1 classes I have taken.

2 MS. WEBSTER: Okay. Thank you.

3 Juror No. 10, the same question.

4 THE JUROR: Same question. Well, I think I have
5 watched a lot of television in my life, and you see shows all
6 the time where I didn't necessarily know that the rules were,
7 that you could -- I don't want to say "entrap," but like you
8 could not always tell the whole truth to someone, on either
9 side, to get the information that you are after.

10 I don't know that that's necessarily the truth, but
11 I have seen it enough in enough shows that I think -- I don't
12 know. Like, maybe I should do some research.

13 MS. WEBSTER: Thank you.

14 And Juror No. 11, same question.

15 THE JUROR: Hello. I have three lawyers in my
16 family. I was a philosophy major. I know how legalese can
17 be used to befuddle everyone who isn't fluent in it. I know
18 that words can be used deviously. And I believe that it's
19 the job of the defendant and the prosecution to make the best
20 case. Language can be used, can be wielded as a weapon.

21 MS. WEBSTER: Okay. Thank you.

22 Juror No. 13, same question.

23 THE JUROR: It's based on the movies that I
24 watched. I don't have any experience with that.

25 MS. WEBSTER: The television shows?

1 THE JUROR: Yes.

2 MS. WEBSTER: Okay. Thank you.

3 And then, 24, same question.

4 THE JUROR: What was the question?

5 MS. WEBSTER: About defense attorneys using tricks
6 or technicalities to help guilty people go free.

7 Can you explain yourself on that?

8 THE JUROR: Again, as it relates to a case that I
9 was involved in. I know I was in a room where I know that
10 some things were being discussed that were -- by a district
11 attorney -- that were completely false.

12 I was ignored. And matter of fact, the guy
13 reviewing my case records was eating a sub sandwich and
14 dripping lettuce and oil all over my paperwork while I was
15 trying to explain to him that he was lying.

16 THE COURT: Sir, could you speak into the mic? I'm
17 having trouble hearing you.

18 THE JUROR: Sorry.

19 MS. WEBSTER: You are referring to the district
20 attorney, right?

21 THE JUROR: The district attorney, yes.

22 MS. WEBSTER: Okay. So the prosecutor in your
23 case?

24 THE JUROR: It was the district attorney, yes.

25 MS. WEBSTER: Juror No. 5, sorry to go back to you.

1 I think you said there was something about this
2 case and the nature of it that might cause you to start out
3 favoring one side or the other.

4 THE JUROR: I don't remember raising my hand for
5 that, to be honest. So I guess, disregard that, please.

6 MS. WEBSTER: Disregard that?

7 THE JUROR: Yes. I don't -- yeah.

8 MS. WEBSTER: Okay. Thank you.

9 28, I think you had raised your hand for that
10 question as well, about something about this case making you
11 start out favoring one side or the other.

12 THE JUROR: Right. I almost was a victim of wire
13 fraud. I was -- I was closing on my house and I was sent two
14 router numbers, one from -- one from a criminal, and they
15 almost took my \$400,000 in two seconds.

16 And thank God, I had the -- I was in my right mind
17 to -- you know, it was a Wells Fargo account, so it was like
18 it could have happened in two seconds and there would have
19 been no recourse for me at all.

20 And they had falsified my attorney's letterhead,
21 name. They had -- it was completely -- it looked completely
22 legit.

23 So that was just kind of niggling on me while I
24 was -- when you said that.

25 MS. WEBSTER: And so -- sorry. So obviously, this

1 is a fraud case. Do you think that that experience is going
2 to -- is going to prevent you from being fair and impartial?

3 THE JUROR: Well, I would hope not. But I do feel
4 like it kept coming to me during -- when -- because it could
5 have destroyed me, you know. In one second it could have
6 taken all my savings.

7 So that did keep coming up. And it was fraud, it
8 would have -- potentially have been fraud.

9 So I hope that, you know, I can listen to the
10 evidence and be unbiased, but that did come up for me.

11 MS. WEBSTER: Okay. So I think I hear you saying
12 that you are not confident that you could be fair and
13 impartial; is that right?

14 THE JUROR: Well, I consider myself to be unbiased
15 and -- but I -- that did happen to me.

16 So um -- and it wasn't too long ago. So it's kind
17 of fresh out there.

18 MS. WEBSTER: When did it happen?

19 THE JUROR: January, two years ago.

20 MS. WEBSTER: Thank you.

21 Juror No. -- one second.

22 Juror No. 4, I think that you said you might have
23 difficulty expressing your own opinions and thoughts about
24 this case.

25 Can you tell me why that would be?

1 THE JUROR: Yes. Sometimes I have some
2 difficulties to understand. That's what I said.

3 THE COURT: Sorry. Officer, can you take a look at
4 that mic, see if you can figure it out for us?

5 COURT SECURITY OFFICER: This is from the last,
6 Your Honor, the mic was messing up like this before. It was
7 giving that -- so we switched it and she gave me that one.

8 COURTROOM DEPUTY: Yes. Why don't we try new
9 batteries. I'm trying to get the batteries out of this one.
10 You can turn that one off.

11 (Pause.)

12 THE JUROR: I said that I have some issue for
13 understanding the English sometimes. That's what I said.

14 MS. WEBSTER: Okay. Thank you.

15 Juror 18.

16 THE JUROR: Hello.

17 MS. WEBSTER: I think you said "yes" to the same
18 question about having difficulty expressing your own
19 opinions.

20 THE JUROR: Yes. I was just saying that if the
21 whole jury was saying "guilty," I might have a hard time
22 being the one person saying "I don't think so."

23 MS. WEBSTER: Thank you.

24 And then Juror No. 6, I think you raised your hand
25 when I asked if you felt like you could make a fair decision

1 or that you could not make a fair decision if the defense did
2 not present any evidence and you had to decide solely on
3 whether the prosecution had proved its case beyond a
4 reasonable doubt.

5 Can you explain your answer?

6 THE JUROR: Well, I didn't understand the question
7 or something because I should not have raised my card then.

8 MS. WEBSTER: Thank you.

9 And No. 23, did you raise your hand for that
10 question?

11 THE JUROR: Yes, I did. Obviously, I believe in,
12 like, the burden of proof being on the government and
13 everything like that. But ultimately, I think if they were
14 to make a case and you did not make any case, I think it
15 would be difficult for me to not side with them.

16 MS. WEBSTER: Thank you.

17 No further questions, Your Honor. Thank you.

18 THE COURT: All right. Thank you.

19 There are a handful of issues, counsel, that have
20 arisen, folks that have just grabbed Ms. Lee at the break and
21 wanted to add something else, so I'm going to run through
22 that list.

23 First off -- and I'm going to just read the notes
24 that I have, and then I'll ask that juror if they feel a need
25 to elaborate in any way.

1 First off, Juror 6 wanted to elaborate on her work
2 history. Said she spent 12-plus years as a paramedic and saw
3 a lot of stuff but doesn't believe this would bias her.

4 Anything to add, Juror No. 6?

5 THE JUROR: I worked very closely with a lot of APD
6 and DeKalb County. So I have seen a lot and I have had
7 associations with lots of people. We had an FBI agent come
8 down and spend some time with us. So ...

9 THE COURT: Thank you, Juror 6.

10 And, counsel, if you have any follow-up questions
11 on any of this, I'll trust that you will jump up or get my
12 attention.

13 Juror 14 did receive a Paycheck Protection Program
14 loan in 2020 as a 1099 employee. And he forgot to mention
15 that he was the victim of a car break-in but would not be
16 biased.

17 Anything to add, Juror 14, or does that cover it?

18 THE JUROR: No.

19 THE COURT: Okay.

20 Juror 41, we're going to discuss your issue in
21 private.

22 Same with Juror 40 and Juror 11.

23 So one moment.

24 We will take a break in a moment and I will discuss
25 with you three individually.

1 Before we get to that, Juror No. 5, if you could
2 give Juror No. 5 the mic, please.

3 Sir, if you could stand up. I guess you had some
4 issues. It turns out you are a student. Tell me a little
5 bit more about that and what's going on.

6 THE JUROR: Yes. It's just mid-terms are coming up
7 the next two or three weeks, so just prepping for that and
8 then doing that with this would just really diminish my
9 mental capacity, doing either/or.

10 THE COURT: So let me drop back a little bit. I've
11 learned that you're a student, but I don't know much about
12 that.

13 Are you a full-time student or part-time?

14 THE JUROR: I'm a full-time student.

15 THE COURT: Okay. Where are you studying?

16 THE JUROR: Georgia Tech.

17 THE COURT: Okay. All right.

18 Counsel, any questions for Juror No. 5?

19 MR. MARSHALL: I do, Judge.

20 What are you studying at Georgia Tech?

21 THE JUROR: Finance and chemistry.

22 MR. MARSHALL: Finance and chemistry. And you have
23 mid-terms coming next week or two to three weeks?

24 THE JUROR: They're like within the next week, to
25 two or three weeks. They are, like, spanned out.

1 MR. MARSHALL: Okay. Nothing else. Thank you,
2 sir.

3 THE COURT: All right.

4 MR. MOORE: And when did you say your next exam is?

5 THE JUROR: I could check --

6 MR. MOORE: But you think approximately in a week?

7 THE JUROR: Like -- yeah.

8 MR. MOORE: And when do you think you would start
9 studying for that.

10 THE JUROR: Now.

11 MR. MOORE: Do you think your studying for that
12 would make it hard for you to focus on this case?

13 THE JUROR: Yes. Probably.

14 MR. MOORE: Thank you. Nothing further.

15 THE COURT: All right. Ladies and gentlemen of the
16 jury, what I would like to do now is just do some follow-up
17 questions with a few of those jurors that wanted to discuss
18 some things in private.

19 So sorry about having you come in and go back out,
20 but it's part of the process.

21 So if everyone, except Juror No. 11, could take a
22 break.

23 Thank you.

24 And please try to stay close by because I will be
25 calling everybody else back in.

1 MR. MARSHALL: Judge, as I understand, we're still
2 coming back to my follow ups, right, after we do all this?
3 Because I have not done my follow ups.

4 THE COURT: Yes.

5 MR. MARSHALL: The prosecutor asked.

6 Thank you, Judge.

7 (Jury withdrew from the courtroom at 1:29 p.m.)

8 THE COURT: Okay. Juror No. 11, you had a question
9 that you wanted to ask or say something in private. Go
10 ahead.

11 THE JUROR: Yes. I wanted to -- with the door
12 closed?

13 Yes. I wanted to amend my answer.

14 When asked if I were against Black Lives and Matter
15 and such groups, I did not raise my placard and I should
16 have. I'm also against any other extremist from any
17 ethionic, racial -- any organization, but anything like that,
18 yes, I'm against.

19 THE COURT: All right. Counsel, any follow-up
20 questions?

21 MR. MOORE: Not from the government, Your Honor.

22 MS. WEBSTER: No, Your Honor.

23 MR. MARSHALL: Just curious, you're against -- it's
24 BLM, right?

25 THE JUROR: Yes. And like organizations.

1 MR. MARSHALL: So you're against just the idea of
2 its existence, or tell me a little bit more about what it is?

3 THE JUROR: Well, the riots during COVID were
4 certainly influential in my opinion of that organization.
5 The stories of fraudulent spending of donations given to that
6 organization, on mansions and such, like, gave me concern, as
7 well.

8 And just, generally speaking, I believe the
9 organizations that are, again, based on whichever religion or
10 ethnicity or whatever that are extremist and hold themselves
11 against others, I don't know, I just do not like that.

12 MR. MARSHALL: That's fine.

13 Okay. Thank you. I have no other questions.
14 Thank you, ma'am.

15 THE COURT: Officer, bring in Juror No. 40, please.
16 Ma'am, thank you.

17 COURT SECURITY OFFICER: You said 40, Your Honor?

18 THE COURT: Yes, please.

19 COURT SECURITY OFFICER: Juror No. 40. Juror No.
20 40.

21 THE COURT: Good afternoon, Juror No. 40.

22 THE JUROR: How are you doing?

23 THE COURT: Sir, I understand that you wanted to
24 add something to an earlier answer. So, go ahead.

25 THE JUROR: Yes. I think the young lady here

1 asked --

2 THE COURT: Ms. Webster.

3 THE JUROR: -- asked a question about trickery, and
4 so did he, ask a question about trickery but in a different
5 term.

6 And I failed to mention that my brother was killed
7 or shot, I should say, in the Atlanta Police Department sally
8 port, in the back of a police car.

9 They never did clear that up. We never did get a
10 clear understanding of what happened on that.

11 I do have three family members that are police,
12 retired sheriff, Riverdale Police, park police and Cobb
13 County Police.

14 THE COURT: All right. Thank you.

15 Counsel, do you have any follow-up questions for
16 Juror No. 40?

17 MR. MOORE: No, Your Honor.

18 THE COURT: Thank you, Juror No. 40.

19 Officer, would you please bring in Juror No. 41.

20 Juror 41, hello. Thank you for letting Ms. Lee
21 know about your ADHD condition.

22 Can you just expand on that and tell us a little
23 bit more about what's going on?

24 THE JUROR: Yes, I just have a hard time focusing.
25 It's kind of why I'm in the profession that I'm in, being a

1 chef because I kind of get to do a lot of things at once.

2 So me, sitting still right now, I notice I'm
3 bouncing around and kind of playing with my hair, so I want
4 to make sure I'm able to focus.

5 THE COURT: Okay.

6 Well, first, thank you for sharing that with us. I
7 know it's hard to divulge things about you that might be
8 relevant to your jury service, but we appreciate your being
9 forthcoming about that.

10 How long have you had ADHD?

11 THE JUROR: Since I was 10 -- well, diagnosed since
12 I was 10.

13 THE COURT: Okay. And how old are you now?

14 THE JUROR: 26.

15 THE COURT: Okay. Are you medicated for that
16 condition at all?

17 THE JUROR: Yes.

18 THE COURT: Okay. And is that medication helpful
19 for you?

20 THE JUROR: Yeah.

21 THE COURT: Okay. Do you take that medication
22 every day?

23 THE JUROR: Not every day. I know I probably
24 should, but...

25 THE COURT: Okay. Did you take it -- if you do not

1 mind my asking --

2 THE JUROR: I did take it today, yes.

3 THE COURT: Okay. And if you took it throughout
4 this trial, if you were on the jury, do you think you would
5 be able to be a juror and pay attention and reach a fair
6 verdict?

7 THE JUROR: I would try my best to reach a fair
8 verdict, but me paying attention, to be honest, my mind might
9 kind of go elsewhere.

10 THE COURT: Okay. Counsel, do you have follow-up
11 questions for juror 41?

12 MR. MOORE: Have you had any trouble following
13 today when we have been asking questions?

14 THE JUROR: Yes.

15 MR. MOORE: Nothing else.

16 MS. WEBSTER: No questions. Thank you.

17 THE COURT: Ma'am, thank you.

18 MR. MARSHALL: No questions, Your Honor.

19 THE COURT: Officer, I'll be a minute before I need
20 to call anybody else in.

21 Counsel, Juror No. 5 is the student, full-time
22 student, has midterms, sounds like next week.

23 I spoke with jury management about this issue when
24 I learned that it was an issue, and that's something that he
25 would have been pushed back for and not even been here had he

1 mentioned it before this jury selection process started.

2 And it would seem to me that that is a hardship. I
3 mean, I don't know about you all, but I was pretty stressed
4 out for midterms when I was in college and I can't imagine
5 being in jury duty for the two weeks beforehand.

6 Does anyone object to my releasing Juror No. 5
7 immediately?

8 MR. MOORE: No objection, Your Honor.

9 MS. WEBSTER: No objection.

10 MR. MARSHALL: Judge, and it being Georgia Tech,
11 seriously, he's under a lot of pressure.

12 THE COURT: All right. The record will reflect the
13 snide remarks directed towards the Georgia graduate on the
14 benching.

15 All right. Officer, will you bring in Juror No. 5,
16 please.

17 (Juror 5 enters the courtroom.)

18 THE COURT: Juror No. 5, we are going to release
19 you from jury duty so you can go study and hopefully do well
20 on your exams.

21 If you need a letter or something for your
22 professors to the extent you have missed something today,
23 jury management up on the 22nd floor or down on the 22nd
24 floor can get you that letter before you leave. Okay?

25 THE JUROR: Thank you, Your Honor.

1 THE COURT: Best of luck to you. Take care.

2 Counsel, before we move forward, I had already been
3 taking a lot of notes about Juror No. 41 based on her answers
4 to a lot of your questions before she came in and told us
5 that she had ADHD and she was having trouble paying attention
6 and doesn't think she could pay attention during the trial.

7 Really, based on that alone, before I even get to
8 any of her answers to substantive questions that might draw a
9 strike for cause from one or more of you, just based on the
10 ADHD, does anyone object to my releasing Juror No. 41?

11 MR. MOORE: No objection, Your Honor.

12 MS. WEBSTER: No objection.

13 MR. MARSHALL: No objection.

14 THE COURT: All right. Could you please bring in
15 Juror No. 41.

16 (Juror 41 enters the courtroom.)

17 THE COURT: Ma'am, we are going to release you from
18 jury duty. Thank you for being here.

19 You can check in on 22, if you need a letter for
20 your employer or anything. Okay.

21 THE JUROR: Thank you.

22 THE COURT: Take care.

23 All right. Officer, if you could -- well, let me
24 first off.

25 Counsel, anything else we need to discuss before I

1 bring the panel back in so Mr. Marshall can ask any follow-up
2 questions that he has?

3 MR. MOORE: Nothing from the government, Your
4 Honor.

5 MS. WEBSTER: Not for Mr. Foster.

6 MR. MARSHALL: No, Your Honor.

7 THE COURT: Very well.

8 Officer, if you could please -- actually,
9 Mr. Marshall, do you have a list of jurors that you have
10 questions for? If it's a short list, I guess I could let
11 everybody else -- or are you going to be bouncing around a
12 little bit?

13 MR. MARSHALL: I'm going to be bouncing around,
14 Your Honor.

15 THE COURT: All right. Let's bring everyone back
16 in.

17 (Jurors enter the courtroom.)

18 THE COURT: All right, everyone. Mr. Marshall is
19 now going to ask his follow-up questions of some of you.

20 Go ahead, Mr. Marshall.

21 MR. MARSHALL: Thank you, Your Honor.

22 Marshal, if you could please give the microphone to
23 Juror No. 19.

24 Good afternoon. I think you answered that you had
25 received loans or financing through the SBA or through one of

1 its programs.

2 THE JUROR: Yes.

3 MR. MARSHALL: Tell us a little bit about that.

4 THE JUROR: Okay. So I am a real estate agent.

5 During, I guess COVID -- okay.

6 I'm a real estate agent and during COVID, our
7 broker had made available information reference to getting, I
8 guess the PPP loan. And so I did apply for it, for myself,
9 as I'm an independent contractor.

10 MR. MARSHALL: Okay. In that process -- so that
11 was a response also when I asked about the PPP loan program;
12 correct?

13 THE JUROR: Yes. That would be one and the same, I
14 guess.

15 MR. MARSHALL: So did you fill that -- the loan
16 application, did you fill that out yourself?

17 THE JUROR: Yes, I did.

18 MR. MARSHALL: And did you receive funding?

19 THE JUROR: Yes, I did.

20 MR. MARSHALL: How many employees did you have?

21 THE JUROR: Myself.

22 MR. MARSHALL: Was that process a satisfactory one
23 for you?

24 THE JUROR: Yes, it was.

25 MR. MARSHALL: Okay. Did you have any issues at

1 all with the program when you applied?

2 THE JUROR: No, I did not.

3 MR. MARSHALL: That's fine.

4 Thank you.

5 Juror No. 25.

6 Yes, sir, Juror No. 25. I asked basically the same
7 questions, if you received any financing or loans through the
8 SBA and also if you had applied for a loan through the
9 Paycheck Protection Program.

10 THE JUROR: Yes. My company got a PPP loan and an
11 EIDL.

12 MR. MARSHALL: What years are we talking about?

13 THE JUROR: It was 2020, 2022.

14 MR. MARSHALL: Okay. And did you fill out the
15 paperwork yourself?

16 THE JUROR: I did a lot of it.

17 MR. MARSHALL: Did you go through an agent or
18 anything like that?

19 THE JUROR: No. It was my team internally working
20 on it.

21 MR. MARSHALL: And can I ask how many employees in
22 your business?

23 THE JUROR: Currently 100. At that point, we were
24 probably between 50 and 60.

25 MR. MARSHALL: Did you work through any kind of

1 broker or agent?

2 THE JUROR: I mean, we went through our bank, yeah.
3 P&C.

4 MR. MARSHALL: Did you have any issues or
5 dissatisfaction with the program?

6 THE JUROR: No. I think the application was very
7 clunky at the beginning, but no real negativity.

8 MR. MARSHALL: Thank you, sir.

9 If you could hand that to No. 27.

10 Hello, sir. How are you?

11 THE JUROR: I'm fine. Yourself?

12 MR. MARSHALL: I'm doing fine, thank you.

13 I think you also answered that you received some
14 loans or financing through the SBA through one of --

15 THE JUROR: Nope. Wasn't me.

16 MR. MARSHALL: I wrote the wrong one down.

17 Thank you.

18 And just check real quick, No. 22, raise your hand,
19 if you have -- have you received SBA?

20 THE JUROR: I did.

21 MR. MARSHALL: Okay.

22 THE JUROR: I didn't fill it out. My wife filled
23 out ours for us in 2020, when COVID hit. That's when it was.

24 MR. MARSHALL: What kind of program was it?

25 THE JUROR: The one where -- something due to the

1 harmful to my business or whatever it was, and they loaned
2 me -- I forget exactly what it was, but yes, we got
3 something.

4 MR. MARSHALL: And how would you describe that
5 process, that financing process?

6 THE JUROR: I thought it was great, to be honest
7 with you.

8 MR. MARSHALL: It was what?

9 THE JUROR: It was great.

10 MR. MARSHALL: Thank you very much, sir.

11 Appreciate it.

12 No. 43.

13 THE JUROR: Hi.

14 MR. MARSHALL: Hi. I think you said -- you
15 answered a response that you worked at a bank or finance
16 company?

17 THE JUROR: So years, like, early 2000s, I used to
18 work at TitleMax. I don't know if that counts.

19 MR. MARSHALL: It does. So you would be processing
20 applications and things like that at TitleMax?

21 THE JUROR: Right. When people pawn their car
22 title.

23 MR. MARSHALL: Right. Pawn a title and so forth.
24 Okay. Any other bank experience or finance experience at
25 all?

1 THE JUROR: No. That was it.

2 MR. MARSHALL: That's fine.

3 Thank you.

4 No. 21.

5 Let me ask the same thing for you.

6 Have you gotten any kind of financing at all?

7 THE JUROR: Financing? So I think I answered that
8 one because I worked as a temp worker for a mortgage company.
9 I was making copies of loan applications.

10 MR. MARSHALL: So you just made copies, you didn't
11 actually, like, sign off on them?

12 THE JUROR: No. After I raised my placard I was,
13 like, maybe I shouldn't have for that.

14 MR. MARSHALL: Okay. Thank you.

15 No. 22.

16 Sorry. Different question. Should have kept it on
17 you.

18 I asked a question about if you knew anybody that
19 works for another type of prosecuting agency, I think.

20 THE JUROR: Yes. That would be my future
21 daughter-in-law. She works as an investigator for Walton
22 County.

23 MR. MARSHALL: An investigator for Walton County?

24 THE JUROR: Yeah.

25 MR. MARSHALL: How long has she been there?

1 THE JUROR: I couldn't tell you. She's 27 or 28,
2 so since she has been out of school, I would say.

3 MR. MARSHALL: Have you ever talked to her about
4 her work or anything like that?

5 THE JUROR: Just knowing that's what she does.

6 MR. MARSHALL: Anybody else that you know, or is
7 that pretty much the extent of it?

8 THE JUROR: That's basically it.

9 MR. MARSHALL: Thank you.

10 No. 11.

11 And I think you may have mentioned that earlier,
12 right, when you would have people --

13 THE JUROR: Yes. I have Navy jag officers in my
14 family. My brother-in-law is an FBI agent.

15 MR. MARSHALL: Does he ever talk to you, generally,
16 about his cases or anything like that?

17 THE JUROR: Not really.

18 MR. MARSHALL: Okay. How often do you -- well,
19 your brother-in-law, you see him somewhat frequently?

20 THE JUROR: A couple times a year, maybe. Once or
21 twice.

22 MR. MARSHALL: That's fine.

23 Thank you.

24 No. 29, do you know someone who works for a
25 prosecuting agency?

1 THE JUROR: Yes. My dad is a lawyer.

2 MR. MARSHALL: Does he work as a prosecutor or is
3 he a defense attorney?

4 THE JUROR: Um, civil.

5 MR. MARSHALL: Civil. Okay. But not prosecuting,
6 like, criminal cases or anything like that?

7 THE JUROR: No.

8 MR. MARSHALL: All right. That's fine. Thank you.

9 No. 31, I asked a question about anyone that's
10 trained or works in the legal field. I know about No. 15.

11 Please repeat, what's your training in the legal
12 field?

13 THE JUROR: I work in human resources, so in my
14 master's degree I took several courses in employment law, and
15 then just in the daily course of my work, engaging with
16 employment attorneys internally.

17 MR. MARSHALL: So you work with in-house counsel, I
18 guess, right?

19 THE JUROR: Yes.

20 MR. MARSHALL: All right. Thank you very much,
21 ma'am.

22 No. 6 up here in the front, marshal. Thank you.

23 Ma'am, I think I asked you, the group, if you would
24 tend to believe the testimony of a law enforcement officer
25 merely because of that person's status as a law enforcement

1 officer or because you believe that they serve such a vital
2 role in our society.

3 Do you remember that?

4 THE JUROR: I do.

5 MR. MARSHALL: Could you just elaborate a little
6 bit more, why you answered that, why you raised your hand --

7 THE JUROR: I do have a tendency to believe what
8 law enforcement presents.

9 I have worked with, you know, a lot of lawmen, FBI,
10 all kinds of people that I have an early tendency to believe
11 that they are correct, unless it's something totally obvious,
12 like they shoot the man in the back, you know. Okay, that
13 wasn't right.

14 MR. MARSHALL: That's fine. Thank you very much.
15 I appreciate that answer.

16 No. 42, criminal trial follower, major criminal
17 trials. Which ones are we talking about?

18 THE JUROR: I watched the Kyle Rittenhouse trial.
19 I haven't watched, probably, another one end-to-end recently.
20 I catch highlights of reviews on YouTube and things like
21 that.

22 MR. MARSHALL: Just of any general big case that's
23 going on?

24 THE JUROR: Yes. And then, obviously, the big ones
25 in the media with, you know, Trump, things that dominate

1 everything. You can't look anywhere and...

2 MR. MARSHALL: Do you follow, like, Court TV or the
3 programs where you can watch the live testimony?

4 THE JUROR: I don't have cable so I don't get
5 those. So I would have to go out of my way to watch
6 livestreams of them.

7 MR. MARSHALL: Thank you, sir. Thank you very
8 much.

9 41 again.

10 41, please.

11 THE JUROR: I'm 42.

12 MR. MARSHALL: Oh, he's gone. That's right. Thank
13 you.

14 That's all I have, Your Honor. Thank you.

15 THE COURT: Thank you, counsel.

16 All right. Just to clarify, none of counsel have
17 any additional follow-up questions; is that correct?

18 MS. WEBSTER: Correct.

19 MR. MOORE: Nothing from the government at this
20 time, Your Honor.

21 THE COURT: All right. Very well.

22 Ladies and gentlemen, I need to now have
23 communications with the attorneys about this process. I
24 don't know how long that will take. Sometimes it's short;
25 sometimes it's long. And it may be that I need to have a few

1 of you back for some additional questions. I don't know.

2 It's 2:50. Why don't all of you take a 10-minute
3 or so break, and I will have -- I'll start my conversation
4 with counsel.

5 Go wherever you want for that first 10 minutes.
6 But after 10 minutes, if you could be back outside the
7 courtroom in case we need to call you back in, I would
8 appreciate it.

9 After I have those communications with the
10 attorneys, I'm going to give the attorneys a little time to
11 look over their notes before we have the actual jury
12 selection itself. So that will take at least another 15
13 minutes or so.

14 The bottom line, I don't know how long this is
15 going to take. Take a 10-minute break and go wherever you
16 want, but please be outside the courtroom in 10 minutes, at
17 which point we may call some of you back in.

18 And then, eventually, we've going to call all of
19 you back in, but I don't know when.

20 And you are reminded of your instructions for
21 breaks.

22 (Jury withdrew from the courtroom at 2:52 p.m.)

23 THE COURT: All right, counsel.

24 Let's go back on the record.

25 I would like to see if there are any strikes for

1 cause. And I have found an efficient way of doing that is
2 for all of you just to put your lists together and just give
3 me the numbers, if there are any. And then sometimes we can
4 compare lists and the conversation is sometimes quicker and
5 easier when the same juror number appears on multiple lists.

6 So take a minute and put your lists together, and
7 then I'll ask you for your list.

8 (There was a pause, and proceedings continued as
9 follows at 2:55 p.m.):

10 THE COURT: All right, counsel. Why don't I get
11 your list of any motions to strike for cause.

12 Let me hear from the government first.

13 MR. KAUSHAL: The government has identified only
14 one individual juror, No. 38.

15 THE COURT: Thank you very much.

16 Ms. Webster.

17 MS. WEBSTER: Your Honor, our list is No. 4, No. 6,
18 11, 18, 23, 28, and 32.

19 THE COURT: All right. Mr. Marshall.

20 MR. MARSHALL: 23, 24, 38, No. 6. I think those
21 are ours, Judge.

22 THE COURT: All right.

23 Let me first hear from Ms. Webster and Mr. Marshall
24 about their motions as to Juror No. 6.

25 MS. WEBSTER: Yes, Your Honor.

1 I think that she testified -- or she stated that
2 she had spent a lot of time working with law enforcement
3 agencies and that she was biased or tended to believe law
4 enforcement officers.

5 So here, law enforcement officers are going to be
6 testifying. And I think she felt compelled enough by that
7 belief to come back and tell us, even when she wasn't
8 directly responding to a question so that indicates that she
9 feels that pretty strongly.

10 THE COURT: Mr. Marshall.

11 MR. MARSHALL: Judge, I have the same position on
12 that same number, on that juror.

13 THE COURT: All right. Government, any objection?

14 MR. KAUSHAL: Yes, Your Honor. The juror just
15 described her prior interactions with law enforcement. I
16 don't think it rises to the level of a bias where she would
17 disregard the evidence. And that was not a question that was
18 asked of her.

19 If there is a question here, I believe we could
20 call in Juror No. 6 and ask her if she will follow Your
21 Honor's instructions, set aside her preconceived notions on
22 law enforcement, and follow Your Honor's instructions on the
23 law and review this case based on the evidence.

24 I believe she is going to answer "yes" to that
25 question, Your Honor.

1 THE COURT: All right. Let me hear from you,
2 Ms. Webster and Mr. Marshall, about Juror 23. Both of you
3 listed Juror No. 23.

4 MS. WEBSTER: Yes, Your Honor.

5 He stated that it would be difficult, if not
6 impossible, if we did not put up a case at all and that he
7 would tend to believe the government.

8 So I think that is unfairly shifting the burden to
9 the defense and would give rise to a strike for cause.

10 THE COURT: Mr. Marshall.

11 MR. MARSHALL: I think that's basically what he
12 said, Judge. If there is enough evidence he thinks is
13 presented, it's done. So yes, I have the same argument.

14 THE COURT: Let me hear from the government on 23.

15 MR. KAUSHAL: Thank you, Your Honor.

16 I believe that this juror started his answer with
17 the statement "I understand the burden of proof."

18 And again, these jurors are being asked half of the
19 questions. They are not being asked whether they would
20 follow Your Honor's instructions and make their decisions
21 based on the facts in the case and the law as given by Your
22 Honor. And they have all indicated that they have, these
23 particular individuals have said they will do that.

24 So again, if there is a question here, if this
25 juror is called in to answer questions, I believe he's going

1 to say that he will listen to Your Honor's instructions and
2 apply the law fairly.

3 Your Honor, just one other sidenote that I would
4 like to add here is that the jurors have not been instructed
5 on the law yet. So what they are being asked is simply, you
6 know, their reactions on the moment. It's not their set
7 beliefs that they will not follow Your Honor's instructions.

8 So for that reason, we believe that these jurors
9 should not be struck, 23 specifically.

10 THE COURT: All right.

11 I guess I am confused on Jurors 23 and 6.

12 I asked the question at the outset. My questions
13 were, especially as to 23 -- I think 26 there's some
14 additional.

15 But as to 23, I noted that the defendant is not
16 required to prove their innocence or even testify, they're
17 not required to present evidence. If they choose not to
18 testify or put on any evidence, you can't consider that in
19 your deliberations.

20 I asked is there anyone who disagrees and can't
21 follow the law, and Juror 23 did not raise his hand.

22 But I know that when he was then asked -- I forget
23 which attorney asked it -- does anyone feel that you cannot
24 make a fair decision in this case if the defense presents no
25 evidence and all you have to decide is whether solely the

1 prosecution proves their case beyond a reasonable doubt, and
2 he raised his placard.

3 So I feel like there has been some inconsistency as
4 to Juror No. 23. And I think it's fair, given that
5 inconsistency, to bring him in and just see if he can do that
6 or if he can't do that.

7 If he can't do that, he shouldn't be on this jury.
8 If he can, he should.

9 So let's just bring in Juror 23, Officer.

10 (Juror No. 23 enters the courtroom.)

11 THE COURT: Juror 23, hello.

12 THE JUROR: Hi.

13 THE COURT: I have follow-up questions for you, and
14 counsel may as well.

15 THE JUROR: Sure.

16 THE COURT: When I started my introductory
17 questions, I explained that a defendant is not required to
18 prove his or her innocence or even testify, nor are they
19 required to present evidence. And if they choose not to
20 testify or put on any evidence, you may not consider that in
21 your deliberations.

22 And I asked does anyone disagree with that or
23 anyone that can't follow that. And you did not raise your
24 number.

25 But when one of the attorneys asked a somewhat

1 similar question, which was: Does anyone feel you cannot
2 make a fair decision in this case if the defense presents no
3 evidence at all and if you have to decide solely on whether
4 the prosecution has proved its case beyond a reasonable
5 doubt, you did raise your number.

6 So I just would like to hear from you a little bit
7 about how you feel about -- and here's the instruction at the
8 end of the case that I'm going to give, something to this
9 effect:

10 It's that the burden of proof is on the government
11 until the end of the case. The defendant has no burden to
12 prove his or her innocence or to present any evidence or to
13 testify. Since the defendants have the right to remain
14 silent and may choose whether or not to testify, you cannot
15 legally put any weight on a defendant's choice not to
16 testify. It's not evidence.

17 So that's the law that I'm going to give you.

18 What I would like to hear from you is whether or
19 not you can follow that instruction.

20 And there is no right or wrong answers. I just
21 want to know where you are on that.

22 THE JUROR: For sure. I apologize for the
23 conflicting answers. I don't think I picked it up right in
24 your initial statement.

25 I guess the way I'd put it is, you know, I'm asking

1 about something that happened, right, and there are two sides
2 to it and one side presents evidence as to why they are right
3 and the other side just says nuh-uh.

4 It's difficult for me to say that this side that
5 provided evidence is not accurate, just based on that alone.

6 In terms of your closing statement to the jury, I
7 guess the way that I picked that up was primarily against the
8 defendant going on and being questioned directly. And I feel
9 a little bit differently about that.

10 But overall, if the defense provided absolutely no
11 case, then, yeah, I think I would probably lean towards the
12 prosecution unless the prosecution didn't provide an adequate
13 case.

14 THE COURT: All right. Thank you.

15 Counsel, I assume no additional questions for this
16 juror; correct?

17 MR. MOORE: Correct, Your Honor.

18 THE COURT: All right. Very well. Thank you, sir.

19 (Juror No. 23 withdrew from the courtroom.)

20 THE COURT: All right.

21 Based on Juror 23's explanation of where he stands,
22 I am going to strike -- I am going to grant the motion to
23 strike Juror No. 23, unless anyone wants to be further heard.

24 Hearing none, Juror No. 23 is struck.

25 No. 6, I think, goes a little deeper than just

1 that. It's the stated preference for law enforcement
2 testimony.

3 Mr. Kaushal, I would be happy to have her back in
4 so you can follow up with any questions you have. I think
5 you wanted to bring her back in?

6 MR. KAUSHAL: I would appreciate the opportunity,
7 Your Honor. Thank you very much.

8 THE COURT: Okay. Please bring in Juror No. 6,
9 please, officer.

10 Mr. Kaushal, I'll start on the first issue and you
11 follow up on the second.

12 MR. KAUSHAL: Thank you, Your Honor.

13 THE COURT: Juror 6, thank you for coming back in.

14 I wanted to, first off, follow up. I asked a
15 question early on, and I noted that defendants aren't
16 required to prove their innocence or to even testify, nor are
17 they required to present evidence. If they choose not to
18 testify or put on any evidence, you may not consider that in
19 your deliberations.

20 I asked if anyone disagreed. You didn't raise your
21 placard.

22 But when one of the defense attorneys asked the
23 following question, you did raise your placard.

24 They asked: Does anyone feel that they cannot make
25 a fair decision in this case if the defense presents no

1 evidence at all and you have to decide solely on whether the
2 prosecution has proved its case beyond a reasonable doubt.

3 Not the exact same question but similar concepts.
4 And you did raise your hand.

5 Just for clarification, the full instruction that
6 I'm going to give at the end of this case is as follows:

7 The burden of proof is on the government until the
8 very end of the case. Each defendant has no burden to prove
9 his or her innocence or to present any evidence or to
10 testify.

11 Since the defendants have the right to remain
12 silent and may choose whether to testify, you cannot legally
13 put any weight on the defendant's choice not to testify.
14 It's not evidence.

15 So I guess, given what I saw as a little
16 inconsistency in where you raised your placard and where you
17 didn't, I would just like to hear from you whether you think
18 you can follow that instruction on the law or not.

19 And let me say there is no right or wrong answer.
20 I just need to know your answer.

21 THE JUROR: I absolutely can. Like I said
22 previously, because I worked in public safety for so long
23 with the officers and stuff, I -- my mind first goes to no,
24 they didn't do it; no, he's not being scammed.

25 But then, when I look at it more, with more facts,

1 I'm able to look my husband in the eye and say I think
2 they're wrong this time.

3 So I think that I would be able to make a fair
4 judgment of what's going on, whether the defense had
5 witnesses or what. I'm having to look at what -- the proof
6 coming from the prosecutors.

7 THE COURT: Okay. And, one moment.

8 And you also, I think, raised your hand at a
9 question: Would you tend to believe the testimony of a law
10 enforcement officer merely because the person's status as a
11 law enforcement officer or because you believe that they
12 served such a vital role in our society?

13 And you raised your hand for that. So help me
14 understand that answer a little bit more, in a little more
15 detail.

16 THE JUROR: The number of police officers that I
17 worked with in my 26 years at Grady, a lot, a lot. And we
18 would do simulations with them, and I became very familiar
19 with a lot of them.

20 And my first -- my brain goes first to they are
21 following their jobs, they are following what they are
22 supposed to be doing. And I have to hear the rest of the
23 story to make a reasonable judgment.

24 I watch lots of news with my husband and we'll talk
25 about, good grief, how did they do that? And when the whole

1 story comes out a couple of days later, it will go he didn't
2 do it, he's not guilty.

3 So I am examining facts. I work with -- my brain
4 works with facts and comprehension in an orderly
5 presentation.

6 THE COURT: Okay.

7 Counsel, do you have -- well, let me ask you.
8 Let's say the prosecution puts up a witness that's a law
9 enforcement officer.

10 THE JUROR: Um-h'm.

11 THE COURT: And they say -- and this isn't a car
12 wreck case, but if it were and they say, well, the light was
13 red, and then Ms. Webster or Mr. Marshall brings up another
14 witness, non-law enforcement officer, just a fellow citizen,
15 and says no, light was green.

16 Are you going to be more likely to believe the law
17 enforcement officer than the other witness?

18 THE JUROR: Believe it or not, no, I'm not.

19 THE COURT: Tell me more about that.

20 THE JUROR: I have seen a lot of auto accidents
21 with everything from small cars to firetrucks. And over my
22 years, I have found that not everybody is totally accurate or
23 everybody doesn't have the right memory or you could have a
24 different memory opposed to what the real facts are.

25 And I'm open to that. I don't feel like I would

1 show bias --

2 THE COURT: Okay.

3 THE JUROR: -- towards the police officers.

4 THE COURT: All right. Thank you.

5 Mr. Kaushal, do you have any questions?

6 MR. KAUSHAL: Yes, Your Honor.

7 THE COURT: Go ahead.

8 MR. KAUSHAL: Just a few follow up.

9 Ma'am, would you be able to set aside any prior
10 experiences that you've had with law enforcement? You have
11 described that you've had many, would you be able to set
12 those aside and examine this case and the law enforcement
13 officers that you hear from in this case and all the
14 witnesses that you hear from in this case, fresh and anew,
15 set aside your preconceived notions and listen to the facts
16 in this case and reach a decision based solely on the facts
17 in this case?

18 THE JUROR: Absolutely. You have to know that when
19 I started at Grady, I was 19 years old and was in the nursing
20 school there and had already gone to paramedic school.

21 I work best by examining all the facts, looking at
22 the facts. And it's, it has to be logical in my brain. But
23 I could definitely be fair.

24 MR. KAUSHAL: Will you follow the judge's
25 instructions that he gives you at the end of the trial?

1 THE JUROR: Absolutely.

2 MR. KAUSHAL: Thank you.

3 I have got nothing further, Your Honor.

4 THE COURT: Ms. Webster or Mr. Marshall, any
5 questions for Juror No. 6?

6 MS. WEBSTER: No, Your Honor. Thank you.

7 MR. MARSHALL: I think that's enough, Judge.
8 Nothing further.

9 THE COURT: All right.

10 Ma'am, you can step out. Thank you for your time.

11 THE JUROR: All right.

12 MR. MARSHALL: Judge, I did have two additional
13 strikes for cause.

14 THE COURT: Let's get to those after I work my
15 first list.

16 MR. MARSHALL: Yes, Your Honor.

17 THE COURT: All right. Let's at least talk about
18 No. 6, then I'll let you add whoever you want to add.

19 Is there any remaining motion to strike Juror
20 No. 6?

21 MS. WEBSTER: No, Your Honor. We'll withdraw our
22 motion.

23 THE COURT: Okay. Mr. Marshall?

24 MR. MARSHALL: Withdrawn.

25 THE COURT: All right. Very well.

1 Let's hear about Juror No. 38. I think the
2 government and Mr. Marshall had moved to strike 38.

3 MR. KAUSHAL: Yes, Your Honor. The government is
4 moving to strike Juror No. 38 due to his statements about a
5 two-tier system of justice and the idea that he would not be
6 able to trust the FBI.

7 This case, of course, involves FBI agents, so that
8 seemed to be a significant bias that he had against FBI
9 agents and there will be at least one FBI agent that
10 testifies in this case.

11 THE COURT: All right. Let me hear from
12 Mr. Marshall who shared the objection as to juror 38.

13 MR. MARSHALL: I do.

14 THE COURT: On the same grounds?

15 MR. MARSHALL: Yes.

16 THE COURT: All right. Very well.

17 Ms. Webster, do you want to be heard on that?

18 MS. WEBSTER: Your Honor, I just think that we do
19 not strike people because of their political affiliation and
20 it seemed like his issue with the FBI really went to his
21 political beliefs.

22 And when he was talking about the two-tier system,
23 it wasn't in a way that seems like it would have a big impact
24 in this case. It seems like he was talking about because of
25 how Biden and Trump are treated differently, which I don't

1 know that it is entirely relevant to the issues here.

2 So we object to the -- his being struck for cause.

3 THE COURT: One moment.

4 All right. I'm going to grant the motion to strike
5 Juror No. 38.

6 And I agree with Ms. Webster that, you know, we do
7 not strike people based on their political beliefs. We are
8 not striking somebody because they like Trump; we're not
9 striking somebody because they dislike Trump. We're not
10 striking somebody because they like Biden or that they
11 dislike Biden.

12 But this juror did state very clearly a bias
13 against, or I guess it would be a prejudice against FBI
14 agents, although, I think the witness said bias.

15 Just like we just explored with Juror No. 6 to make
16 sure she didn't have a bias towards law enforcement officers
17 and I was planning to strike her if she did, I think we do
18 strike a witness who says they have that bias, and this
19 witness clearly said it, flat out.

20 I think the words were -- he was asked the
21 follow-up questions: So do you think you have a bias against
22 the FBI?

23 Yes.

24 So I don't know that it gets much clearer than
25 that. There is no rehabilitation or anything that I'm aware

1 of.

2 So granted as to juror 38.

3 Mr. Marshall, you wanted to add to your list. Go
4 ahead.

5 MR. MARSHALL: Yes. Sorry, Judge. No. 32, I
6 believe Mr. Foster's counsel asked about a question about
7 other --

8 THE COURT: And, sorry, just give me your list now.

9 MR. MARSHALL: No. 32 and 46.

10 THE COURT: Okay.

11 Thank you.

12 MR. MARSHALL: Those are the only ones, extra ones.

13 THE COURT: All right. Let's -- and I'm kind of
14 going through the ones where multiple people have made the
15 same motions. So I had exhausted the list until you added
16 Juror No. 32 to your list, Mr. Marshall.

17 So now Juror No. 32 is on it.

18 So let me hear from Ms. Webster and Mr. Marshall as
19 to your motion to strike for cause Juror No. 32.

20 MS. WEBSTER: Your Honor, when I asked if he was
21 more likely to believe that Mr. Foster was guilty if a
22 codefendant testified, he said that the answer was yes. And
23 here, I believe there are people who will testify,
24 codefendants who will testify.

25 So he basically said that if other people had pled

1 guilty or admitted to the conduct, then he was going to tend
2 to believe that Mr. Foster was also guilty despite the fact
3 that we are at trial. So I think that would give rise to a
4 strike for cause.

5 THE COURT: Mr. Marshall.

6 MR. MARSHALL: Same argument, judge. Those are
7 what my notes show.

8 THE COURT: All right. Let me hear from the
9 government.

10 MR. KAUSHAL: Your Honor, I think that the juror,
11 when he answered the question, he did caveat it with an
12 explanation saying if they were in the same organization,
13 then that might influence his view on what he would believe
14 or disbelieve.

15 And that's precisely -- I don't think they asked
16 the question, Will you vote -- Will you find the defendant
17 guilty based solely on the statements of another individual?

18 He was just talking about his ability to evaluate
19 evidence, which is what we would ask for from our
20 witnesses -- from our jurors.

21 We ask them to look at the evidence and determine
22 whether they believe or disbelieve somebody who is
23 testifying, who is a potential -- a testifying codefendant.
24 And he did caveat it at the beginning by saying if they were
25 in the same organization, which is showing that he's engaging

1 with a hypothetical and does not -- he's not taking a
2 hardline stance, Your Honor.

3 I don't believe that it's a reason to strike him
4 for cause.

5 THE COURT: All right.

6 One moment.

7 I guess it's kind of a nuanced issue. I mean, if
8 the juror is saying, yeah, if one person is guilty, these
9 other defendants are guilty, too, I would strike him for
10 cause.

11 But if what the juror is saying is if somebody who
12 did this comes in and testifies, yeah, I did it and they did
13 it too; if the juror is saying that's going to cause me to be
14 more likely to think they're guilty, well, yeah. I mean, I
15 would think that, probably, a lot of jurors would say that or
16 any finder of fact might.

17 And I just do not know which of the two we're
18 talking about here. So I think it's worthwhile to bring this
19 juror back in and explore that because I just do not know. I
20 mean, either the objection -- or the motion to strike is
21 well-founded or not. And I don't know.

22 So let's bring in juror 32, please.

23 MS. WEBSTER: Your Honor, if we are bringing in
24 jurors, then we would request that we bring back in Juror No.
25 38, as well.

1 THE COURT: All right. Well, I've already granted
2 the motion to strike Juror No. 38 before you'd requested that
3 I do that.

4 So why don't we table that issue and we'll come
5 back to that later.

6 But I will tell you, going forward, that if you
7 want to ask a juror additional questions, the time to do that
8 is before I issue my ruling instead of after.

9 We have got a long list of things to address, it's
10 not a real efficient use of our time, to keep going back over
11 old ground.

12 All right, let's bring in juror 32 for now, please.

13 (Juror 32 enters the courtroom.)

14 THE COURT: Juror 32, hello. I wanted to ask you
15 some follow-up questions.

16 You were asked a question, some of the people who
17 will testify in this case have admitted committing some of
18 the crimes charged here. Does that fact tend to make anyone
19 here assume that Mr. Foster must have also committed the
20 crimes? And I think you raised your hand.

21 So I wanted to ask you a little bit more about
22 that. Can you explain your answer to me a little bit more,
23 why you answered yes to that?

24 THE JUROR: Yes, of course. I think there was a
25 follow-up question to that, too, which was: Are you more

1 likely to believe testimony from somebody who admitted guilt?
2 I am. I don't know if I raised my paddle for that.

3 But maybe I don't have a full understanding of the
4 facts of the case yet, and that would change the way that I
5 make a decision. But I'd imagine that it's a business-loan
6 and they are partners in a business working together.

7 And asking for PPP loan coverage for their
8 business, if one person in that business admits to committing
9 wire fraud as part of that PPP loan program, I think it's
10 much more likely that their coworkers or partners in the
11 business were also involved in that same scheme.

12 So that's how I'm thinking about it.

13 I hope that answers your question.

14 THE COURT: It does.

15 Mr. Kaushal, do you have any follow-up questions
16 for this potential juror?

17 MR. KAUSHAL: Yes, Your Honor. Just a few.

18 Sir, will you be able to set aside any preconceived
19 notions or hypotheticals, such as the one you just described,
20 and if you are selected as a juror, make your decision based
21 on the facts and evidence that come in during the trial and
22 make your decision also on the law that the judge will
23 describe at the end of the trial?

24 THE JUROR: Yeah, of course. I will make the
25 judgment based on the evidence, but I want to make the Court

1 aware of my -- you know, you hear somebody who has already
2 pleaded guilty, that influences the way that I would think
3 about it.

4 But like you said, it would depend on the evidence
5 that comes out.

6 MR. KAUSHAL: And when you say it influences the
7 way you think about it, is it fair to say that you would --
8 would you be able to set aside any preconceived notions you
9 have about somebody pleading guilty or not guilty and listen
10 to their testimony at the trial and determine whether you
11 believed or disbelieved them based on their testimony?

12 THE JUROR: Yeah, I think that's right. I don't
13 know if setting it aside is what I would do. I mean, I would
14 take it into account and weigh it against the other evidence
15 that comes out, right.

16 I wouldn't stick with this one piece of evidence
17 that we're talking about as the whole truth. Right. It's
18 just one of the pieces of evidence that are going to come out
19 of the case.

20 MR. KAUSHAL: So you would consider that they pled
21 guilty -- you would consider all the other --

22 THE JUROR: I would consider it, yes.

23 MR. KAUSHAL: And you would be, also consider their
24 testimony as a whole and everyone else's testimony?

25 THE JUROR: That's right.

1 MR. KAUSHAL: Is there anything that you can think
2 of right now that would prevent you from being a fair and
3 impartial juror in this case?

4 THE JUROR: No.

5 MR. KAUSHAL: Thank you.

6 THE COURT: Ms. Webster or Mr. Marshall. Any
7 additional questions for juror 32?

8 MS. WEBSTER: I just want to make sure that I
9 understand what you are saying.

10 Are you saying that you're coming in with the
11 presumption that someone who has already pled guilty is more
12 likely to be telling the truth and then you would have to set
13 that aside?

14 That's sort of -- like, that's the presumption that
15 you are starting with and then someone would have to rebut
16 that; is that an accurate statement?

17 THE JUROR: The second way you said it is correct.
18 If somebody pled guilty and is testifying, that makes me
19 think that witness is probably more credible than baseline.

20 Now, that's not to say I'm going to take them at
21 their word, absolutely. But that's -- I haven't heard
22 anybody, but that's a compelling piece of evidence, in my
23 opinion, talking right now.

24 MS. WEBSTER: Thank you.

25 MR. MARSHALL: Let me ask you: When you just gave

1 that example, okay. So if someone pleads guilty and we're
2 assuming -- and then he come in and testified, you're
3 assuming they're coming in and testifying for the
4 prosecution, for the government; correct?

5 THE JUROR: I assume that, yes.

6 MR. MARSHALL: Okay. And you said you would be
7 more likely to believe them and find them credible; is that
8 essentially right?

9 THE JUROR: That's right.

10 MR. MARSHALL: Okay. Let me flip it.

11 What if someone who has pled guilty in this case
12 and they come and testify for a defendant, are you going to
13 have the same belief and leaning towards credibility towards
14 that?

15 THE JUROR: Yeah, that's right. I mean, if they
16 worked in the same business together, someone comes in and
17 said, no, I committed wire fraud but this man is completely
18 innocent, he wasn't involved in it.

19 I would weigh that equally, I think. Yeah, I would
20 believe that.

21 MR. MARSHALL: I appreciate that. And thank you
22 very much for that answer.

23 Thank you, sir. I appreciate it.

24 THE COURT: All right. Thank you, sir. Appreciate
25 it.

1 (Juror 23 withdrew from the courtroom.)

2 THE COURT: Let me ask, first off, Mr. Marshall, if
3 there is the continuing objection to any -- or any continuing
4 motion to strike juror 23?

5 MR. MARSHALL: 23, Judge?

6 THE COURT: I'm sorry. 32.

7 MR. MARSHALL: 32. Judge, I withdraw my motion.

8 THE COURT: Okay. Ms. Webster.

9 MS. WEBSTER: We're sticking with ours, Your Honor.

10 THE COURT: Okay. I'm going to overrule that
11 objection.

12 I think the potential juror was very clear. He's
13 going to treat both sides equally and be fair and wait to
14 hear the testimony and what the witness says.

15 And the scenario I gave before we brought him in of
16 if someone gives testimony that they're in on this and they
17 did it and they can testify about it and he might listen to
18 that and believe it, it goes back, really, to almost a
19 403-type analysis.

20 You're not -- 403 prohibits evidence that's going
21 to give you unfair prejudice but not evidence that's going to
22 give you prejudice.

23 I mean, yes, might a prosecution witness come in,
24 whether they're a codefendant or a noncodefendant and say
25 something incriminating towards the defendants, yes. I would

1 imagine that's going to happen. It's happened in every case
2 I have ever been a part of. And then some where it's not
3 convincing, they are acquittals.

4 I think that's all this juror is saying, is that
5 he's going to listen to that and would potentially believe it
6 if it's good evidence.

7 I think this witness can be fair and impartial and
8 he said that he thought he could be.

9 Officer, let's bring in Juror No. 38, and
10 Ms. Webster you can ask juror 38 any questions that you would
11 like and then if you would like to move to reconsider my
12 previous ruling, I would be happy to entertain that.

13 MS. WEBSTER: Thank you, Your Honor. I appreciate
14 it.

15 (Juror 38 enters the courtroom.)

16 THE COURT: Juror 38, hello. The officer is going
17 to give you a microphone.

18 Got it. Good.

19 Ms. Webster, go ahead.

20 MS. WEBSTER: Thank you, Your Honor.

21 Juror 38, I know that we talked earlier about your
22 issue with the FBI. And then you said that it was the -- it
23 was in part because you are a Trump supporter.

24 Can you please -- but, you know, in this case, if
25 you were on the jury, you would have to listen to the

1 evidence and the judge is going to instruct you on the law;
2 right? And at the end of the case, would you be able to set
3 aside those beliefs and listen to the evidence and listen to
4 the judge's instructions?

5 THE JUROR: Yes, I would.

6 MS. WEBSTER: No further questions.

7 Thank you.

8 THE COURT: Thank you, sir.

9 (Juror 38 withdrew from the courtroom.)

10 THE COURT: Ms. Webster, is there any motion to
11 reconsider based on that?

12 THE JUROR: Yes, Your Honor. I mean, he said he
13 would set aside his beliefs and he would listen to the
14 evidence and he would listen to your instructions and to be
15 fair and impartial.

16 THE COURT: All right. Motion to reconsider is
17 denied. He still hasn't taken back that he's going to have a
18 bias against the FBI.

19 MS. WEBSTER: Thank you.

20 THE COURT: All right. Let's move to Juror No. 4.

21 Ms. Webster, I think you had an objection to Juror
22 No. 4 -- I'm sorry. You had a motion to strike Juror
23 No. 24 -- No. 4.

24 MS. WEBSTER: Our concern with No. 4 is he said he
25 would have difficulty participating in deliberations in part

1 because, if I understood him correctly, that he had
2 difficulty speaking and understanding English at times. So
3 that's the basis of that motion.

4 THE COURT: Okay.

5 MR. KAUSHAL: Your Honor, the government -- the
6 juror did not raise his number when he was asked whether he
7 would have difficulty reading or understanding the English
8 language. And he was here and he did answer the questions.
9 He was given questions and answered them.

10 And while his English may not be the type of
11 English that some people would be used to hearing, that is
12 not grounds to strike him for cause.

13 I think he is just being a little cautious. This
14 is not the situation where he does not understand what is
15 happening in these proceedings and to strike him for having a
16 different -- some sort of different command of the English
17 language in this issue is not appropriate, in the
18 government's view.

19 THE COURT: Okay. I think it's prudent to bring
20 Juror 4 in and see if he has understood what's been going on
21 here so far, or not. If he hasn't, we will strike him; if he
22 has, we will keep him on.

23 So, Officer, please bring in Juror No. 4.

24 (Juror No. 4 enters the courtroom.)

25 THE COURT: Juror No. 4, hello.

1 Officer, can you grab that door for us, please.

2 Thank you.

3 Juror No. 4, I want to just explore with you your
4 ability to read and understand the English language. Okay?

5 THE JUROR: Yeah. I can read. But the accent,
6 that sort of I cannot sometimes understand.

7 THE COURT: Okay. So if I'm hearing you correctly,
8 you can read English, but sometimes different accents can be
9 hard for you to understand.

10 THE JUROR: Yes. I can read, but understanding
11 sometimes the accent.

12 THE COURT: Okay. Have you understood everything
13 that's been said so far today here in court?

14 THE JUROR: Yeah. Most of it.

15 THE COURT: I'm sorry? Yes?

16 THE JUROR: Yes.

17 THE COURT: Did you say "most of it"?

18 THE JUROR: Yeah, most of it.

19 THE COURT: So if you understood most of it, there
20 has been parts of it that you have not understood; is that
21 correct?

22 THE JUROR: Yes.

23 THE COURT: Okay.

24 Counsel, any follow-up questions for Juror No. 4?

25 MS. WEBSTER: I think you --

1 MR. KAUSHAL: Sorry. Go ahead.

2 MS. WEBSTER: I think you said earlier that you
3 would have trouble sort of interacting with other jurors
4 because of your -- because of some issues understanding
5 English? Is that --

6 THE JUROR: Yes, or English that I do.

7 MS. WEBSTER: Would you feel comfortable
8 interacting with the other jurors and, like, stating your
9 opinion and debating the guilt or innocence?

10 THE JUROR: Really, the language problem, that's...

11 MS. WEBSTER: I'm sorry. I didn't understand. I'm
12 sorry.

13 THE COURT: Can you repeat your answer? She didn't
14 hear it.

15 THE JUROR: Yes. Pardon me one more time, then,
16 question.

17 MS. WEBSTER: Are you asking me to repeat it?

18 THE JUROR: Yes.

19 MS. WEBSTER: I'm sorry.

20 You said earlier that you were -- you could have
21 trouble interacting with the jurors when you are
22 deliberating; do you remember raising your hand to that
23 question?

24 THE JUROR: Yes.

25 MS. WEBSTER: Okay. Do you feel like that's true?

1 Would you be able to participate in a discussion about guilt
2 or innocence, or would that be difficult for you?

3 THE JUROR: Yeah, I can help.

4 MS. WEBSTER: Okay.

5 THE COURT: Sir, thank you very much.

6 THE JUROR: Okay.

7 (Juror No. 4 withdrew from the courtroom.)

8 THE COURT: All right. Unless anyone wants to be
9 further heard, I'm going to strike Juror No. 4.

10 I think there are issues with his ability to fully
11 understand these proceedings. And what I will like for both
12 the government, Mr. Foster, and Ms. Jackson, is that each and
13 every one of the jurors understand, not most of what's being
14 said here in court, but every single thing that's being said
15 here in court. So he will be struck.

16 Let's move on to Juror No. 11, please.

17 Ms. Webster, if you want to state the grounds for
18 that motion to strike.

19 MS. WEBSTER: Juror No. 11 is the juror who came
20 back to report feeling strongly against Black Lives Matter,
21 but then also emphasized that her -- I believe that her
22 brother was an FBI agent. And -- sorry. Could I have one
23 second?

24 (Pause.)

25 So I think we need to question her about if she

1 would be biased or tend to believe FBI agents when they
2 testify.

3 THE COURT: Okay.

4 I guess, just to clarify -- well, let me hear from
5 the government on that, and then from Mr. Marshall.

6 MR. KAUSHAL: Thank you, Your Honor.

7 There is no indication of bias in any of the
8 answers that she has given. When she discussed BLM, she did
9 not discuss any bias or prejudice. She spoke about extremist
10 organizations and actually said that she does not approve of
11 any extremist organization.

12 And that's her view. She did not express an
13 impermissible bias in that respect.

14 And in terms of having an FBI agent relative, there
15 was no question that was asked that suggested that she would
16 be unable to listen to the evidence in this case and decide
17 based on the facts and the evidence here.

18 There is no evidence -- no questions that were
19 asked about whether she -- nothing she answered indicated
20 that she would be biased towards or against the FBI.

21 And she didn't raise her hand when we asked that
22 question during voir dire.

23 THE COURT: All right. Mr. Marshall, any position
24 on this?

25 MR. MARSHALL: I'm actually in support of

1 Mr. Foster's motion, Judge, to strike for cause.

2 FBI agents -- I thought No. 11 also mentioned that
3 this was directed towards defense attorneys, that they
4 befuddle and confuse and they use language as a weapon.

5 It shows -- to me it seems like a very strong bias
6 that she has, along with the previous concerns from
7 Mr. Foster's attorneys.

8 THE COURT: Well, didn't she clarify that it was
9 about both sides potentially could do that; that's what
10 lawyers might try to do?

11 I mean, I'm happy to hear you more on the other
12 issues, but as far as defense lawyers are tricksters, I
13 thought -- and remind me if I'm wrong, but I thought she, in
14 follow-up questions, accused government lawyers of doing the
15 same thing. Am I wrong?

16 MR. MARSHALL: I don't recall that part of the
17 follow up, Judge, if she mentioned that about the
18 prosecution.

19 But I still sense that the statement that she did
20 make, along with her kind of bias towards certain agents and
21 so forth, gives me concern. I think it would rise to the
22 level of striking for cause, Judge.

23 THE COURT: All right.

24 Ms. Webster, you have asked to bring in Juror
25 No. 11, and we can do that. I guess I just want to clarify,

1 you know, maybe for the next trial we all have together, I
2 have in some instances here, with Jurors 6 and 23, brought
3 jurors back in.

4 And I have done that when I felt like there was
5 some inconsistency in what they have stated on the record
6 during this process because I have looked at the record and
7 they have said X and they have said Y, and I want to bring
8 them in and figure out, gosh, is it X or Y?

9 What I normally don't look to engage in in this
10 part of the jury selection process is when there is a lack of
11 inconsistency, when somebody has basically said X, and them
12 having said X doesn't get you where you need to go and you
13 want to bring them in and you want to see what else you can
14 get them to say, and I feel like that's kind of what's
15 happening here.

16 With Juror No. 11, she said she doesn't like Black
17 Lives Matter and extremist organizations, and she explained
18 about knowledge of the FBI, but she didn't say anything that
19 would indicate, based on her testimony, that she is going to
20 be anything but fair and impartial.

21 As you said yourself, we don't strike people for
22 their political opinions, including their political opinions
23 whether or not they like extremist organizations or not, ones
24 that support Black people or ones that support white people.

25 So I'm not going to deny you your request to bring

1 back in Juror No. 11 and ask her whatever you want to ask her
2 but I would say, for the next trial, if somebody says
3 something and it makes you think, hmm, I should follow up on
4 that, the time to follow up on it is when we have the panel
5 here and asking them questions, not in the strike conference
6 when you do not have enough artillery to strike someone for
7 cause.

8 So let's please bring in Juror No. 11.

9 I'd just say that's just an inefficient use of our
10 time.

11 (Juror No. 11 enters the courtroom.)

12 THE COURT: Juror No. 11, hello. You can stand
13 wherever you would like.

14 I believe that Ms. Webster has some additional
15 questions for you at this point in the process.

16 Go ahead, Ms. Webster.

17 MS. WEBSTER: Thank you, Your Honor.

18 Yes, I think you mentioned that your
19 brother-in-law --

20 THE COURT: Would you please speak into the
21 microphone.

22 MS. WEBSTER: I think you mentioned that your
23 brother-in-law is an FBI agent.

24 THE JUROR: Yes, that's correct.

25 MS. WEBSTER: Does that relationship make you more

1 or less likely to believe testimony from other FBI agents?

2 THE JUROR: Oh, wow. Um ... you have got me
3 stumped.

4 Well, I know he has great personal integrity as an
5 individual. I -- based on following things in the media --
6 am not certain of FBI agents' integrity in general.

7 But he is a wonderful, upstanding gentleman,
8 professionally and personally.

9 So I guess the answer is no, it doesn't impact my
10 opinion of general FBI persons.

11 MS. WEBSTER: Okay. So your relationship with him
12 does not -- it sounds like you might have opinions about FBI
13 agents?

14 THE JUROR: Concerns. Yes.

15 MS. WEBSTER: Thank you.

16 MR. KAUSHAL: No questions, Your Honor.

17 THE COURT: Anything else, Ms. Webster?

18 MS. WEBSTER: Not from us, no.

19 THE COURT: Very well.

20 Thank you, ma'am.

21 (Juror No. 11 withdrew from the courtroom.)

22 THE COURT: Any additional argument from anyone as
23 to whether or not I should strike Juror No. 11?

24 MS. WEBSTER: No, Your Honor.

25 MR. MARSHALL: No, Your Honor.

1 MR. KAUSHAL: No, Your Honor.

2 THE COURT: All right. I think Juror 11 can be
3 fair and impartial. I think her initial testimony didn't
4 indicate any lack of fairness or impartiality, and
5 Ms. Webster's follow-up questions confirmed that.

6 So the motion to strike Juror No. 11 is denied.

7 Let's move on to Juror 18, Ms. Webster. I think
8 that was your next motion.

9 MS. WEBSTER: The only basis for that, Your Honor,
10 is when I asked if she would have a hard time or be able to
11 participate in jury deliberations, she said she would have
12 difficulty if everyone else wanted to vote guilty and she was
13 the only one still standing, that she felt like it would be
14 difficult to stand her ground.

15 THE COURT: All right.

16 Anyone else who wants to be heard as to Juror 18?

17 MR. KAUSHAL: Your Honor, that's not a ground to
18 strike for cause. Just to say that it would be difficult for
19 her to stand her ground is different from saying "I would
20 vote guilty just to get the trial over with," which is really
21 kind of the standard that we would be looking at for purposes
22 of a strike for cause, in the government's view, Your Honor.

23 THE COURT: Ms. Webster, what's your reply to that?

24 MS. WEBSTER: The reply to that, Your Honor, was
25 that it wasn't just that -- the question wasn't that would

1 she plead guilty just to get it over with.

2 But in order to convict someone, you're supposed to
3 have 12 jurors who all believe that the government has proven
4 their case beyond a reasonable doubt. And she is saying that
5 if 11 people do and she does not, then she would still find
6 it difficult -- she would find it difficult to hold true to
7 that opinion. And it seemed like she said that it would be
8 likely that she would agree even though she herself had
9 reservations.

10 So I think that would deprive Mr. Foster of a truly
11 unanimous jury.

12 THE COURT: Well, it's an interesting discussion.

13 Everyone agrees it would seem that this juror is
14 maybe more malleable to other people's opinions than others?

15 MR. KAUSHAL: Perhaps, Your Honor. Although any
16 particular juror might feel that it would be difficult to be
17 in a position where they're against all the other jurors.
18 That might not be a notable proposition.

19 THE COURT: Mr. Marshall, agree?

20 MR. MARSHALL: Yes, sir.

21 THE COURT: Ms. Webster agree?

22 MS. WEBSTER: That she is more malleable, Your
23 Honor? Yes, I agree.

24 THE COURT: Do you have any case law that would
25 support my striking a juror because of that?

1 MS. WEBSTER: I don't have a case, Your Honor. But
2 I just wanted to -- sorry. I was trying to find the exact
3 question that I asked her because she felt strongly enough
4 about it that she felt like she needed to raise her hand and
5 say that she would feel uncomfortable or unable to
6 participate in those deliberations.

7 So I think that that is evidence of how strongly or
8 how concerned that she is about it. So I think it's fair for
9 the Court to consider that.

10 THE COURT: I think you raise a legitimate concern.
11 I'm just not sure how to analyze it and I am wondering if you
12 have any case law that gives me some direction because I
13 just -- I don't know that just because someone might be more
14 apt to go along and somebody else might dig their heels in
15 means we strike them.

16 I would think that, in the group of the 52 people
17 we have, we have a spectrum of personalities. Some people
18 might be pushovers and some people might -- on one end you
19 might have somebody who's a pushover, and on the other end of
20 the spectrum you might have somebody who is not going to
21 change their mind after 100 days of deliberations.

22 And I just don't know that that's -- I think that's
23 what's going on. I don't know if that's -- I don't know if
24 I'd do an analysis of that for jurors and then decide that
25 folks that aren't on the center of the bell curve can't be

1 jurors.

2 My gut is that I wouldn't. But I want to entertain
3 your motion and hear you if you have reason to think that
4 that is reason to strike someone.

5 MS. WEBSTER: Well, I think that -- I don't have a
6 case, but I think the cases say you have wide discretion over
7 that; right?

8 So I think it's well within your discretion to say
9 that if she is saying that "I'm not sure that I would stand
10 my ground even if I'm firmly convinced that someone is not
11 guilty or that the government has not met their burden," and
12 she feels, like I said, strongly enough about it to stand up
13 and raise her hand when I asked that question, then I think
14 you absolutely have the right to strike her.

15 I think it's well within your discretion, even if
16 there is not a case directly on point.

17 THE COURT: But I guess what I'm getting at is I
18 would think that that's the type of thing -- and I have never
19 sat on a jury, but I would think that's the type of thing
20 that happens in a lot of trials is -- I think sometimes they
21 might, after discussing it, maybe take an initial vote and it
22 might be 10 to 2 to acquit, and the two people that wanted to
23 convict eventually changed their mind and this individual --
24 and of the two individuals that changed their mind, one of
25 them might do it pretty easily and say, yeah, although I was

1 thinking this, I've now heard these other folks and now I'll
2 do that; whereas the other juror might not be so quick or
3 easy to change their mind.

4 I mean, I get your issue. You would rather -- I
5 guess what you are saying is you would rather it not be
6 somebody who is going to change their mind easily. I just
7 think we're going down a rabbit hole and getting on a
8 slippery slope if that's grounds to strike someone.

9 I'm willing to hear from you as to why I should.

10 MS. WEBSTER: I finally found the question I asked,
11 which was: Would any of you have difficulty expressing your
12 own opinions and thoughts about this case to your fellow
13 jurors?

14 So she is saying she is going to have difficulty
15 even expressing her own opinions and thoughts and
16 participating in deliberation.

17 So I think that's enough.

18 THE COURT: Okay. All right. I think that's maybe
19 a different issue than what we have been debating.

20 MR. MARSHALL: Judge Boulee --

21 THE COURT: One moment.

22 Yes, Mr. Marshall.

23 MR. MARSHALL: Sorry, Your Honor.

24 There is, I mean, that question 32 can be
25 problematic. And I know that we have a jury instruction or

1 jury instructions that address this issue.

2 So although I didn't move for her to be struck for
3 cause, Judge, it may be questioning her and reading that jury
4 instruction on having an open mind and listening to the
5 deliberations of all the members and so forth, I think there
6 is a jury instruction on that, Judge.

7 THE COURT: All right.

8 MR. MARSHALL: And if she can do that, then -- I
9 don't know what the pattern charge is.

10 THE COURT: I'm conscious of the fact that we have
11 been going a long time and Ms. Wolff's been typing this whole
12 time. Why don't we take a comfort break, hopefully on the
13 shorter end of comfort breaks.

14 All right. Thanks everyone.

15 (There was a recess at 3:55 p.m., and proceedings
16 continued as follows at 4:04 p.m.):

17 THE COURT: Back on the record.

18 We were discussing Juror No. 18 and her answer to
19 Ms. Webster's question about would any of you have difficulty
20 expressing your opinions and thoughts about this case to your
21 fellow jurors?

22 Ms. Webster argued she is saying she is going to
23 have difficulty even expressing her own opinions and thoughts
24 and participating in deliberations.

25 Mr. Marshall referenced the duty to deliberate

1 instruction, which is, I'm not going to read the whole thing
2 into the record, but it's document 840, request to charge --

3 MS. WEBSTER: I'm sorry, Your Honor. Can you talk
4 into the microphone?

5 THE COURT: Sure. Request to charge No. 33, it's a
6 pattern Eleventh Circuit instruction, duty to deliberate.

7 And I guess that's partially, but not entirely, on
8 point for this particular issue.

9 I think the most prudent course is for me to bring
10 her back in and say you have raised your hand to this
11 question, expand, please. And then you all can ask whatever
12 questions you want of the juror.

13 I'm still not convinced there is an issue here, but
14 there might be. I'm happy to explore it further to see if
15 there is.

16 So officer, if you could please bring in Juror No.
17 18. Thank you.

18 (Juror 18 enters the courtroom.)

19 THE COURT: Juror 18, hello.

20 THE JUROR: Hello.

21 THE COURT: Thank you, again, for being here and
22 being part of this process.

23 I wanted to follow up with you.

24 THE JUROR: Okay.

25 THE COURT: You -- I think Ms. Webster or one of

1 the other lawyers asked a question which was in sum and
2 substance Would any of you have difficult expressing your own
3 opinions and thoughts about this case to your fellow jurors?
4 And I think you raised your placard in response to that
5 question.

6 So I'm wondering if you can just expand on that a
7 little bit.

8 THE JUROR: Well, I guess, I'm just real nervous
9 with public speaking so in any kind of a group situation, I
10 would feel -- like I maybe wouldn't say everything that I was
11 thinking.

12 THE COURT: Okay.

13 One moment.

14 (Pause.)

15 Let me read you the instruction I'm going to give
16 to the jury at the end of this case, if you were on it, you
17 would hear this later.

18 It's this: Duty to deliberate.

19 Your verdict whether guilty or not guilty must be
20 unanimous, in other words, you must all agree. Your
21 deliberations are secret and you'll never have to explain
22 your verdict to anyone. Each of you must decide the case for
23 yourself, but only after fully considering the evidence with
24 the other jurors.

25 So you must discuss this case with one another and

1 try to reach an agreement. While you are discussing the
2 case, don't hesitate to re-examine your own opinion and
3 change your mind if you become convinced that you were wrong,
4 but don't give up your honest beliefs because others think
5 differently or because you simply want to get the case over
6 with.

7 Remember that in a very real way, you are judges,
8 judges of the facts. Your only interest is to seek the truth
9 from the evidence in this case.

10 Would you be able to follow that instruction?

11 THE JUROR: I think so. Yes.

12 THE COURT: And part of that instruction was you
13 must discuss the case with one another and try to reach an
14 agreement. Would you be willing to discuss the case with
15 your fellow jurors?

16 THE JUROR: Yes.

17 THE COURT: Would you be able to state your own
18 opinions about things with your other jurors?

19 THE JUROR: Pretty much.

20 THE COURT: When you say "pretty much," help me
21 understand the "pretty much."

22 THE JUROR: Well, I guess -- I mean, I don't know
23 what might come up in the case, so if I felt like it sounded
24 stupid, I guess I might not say it.

25 THE COURT: Sorry. Can you repeat that. I didn't

1 hear you.

2 THE JUROR: I said if I guess if I felt like it
3 sounded stupid, I might not say is.

4 THE COURT: Okay. So if you had an opinion that
5 you didn't think was stupid you'd say it, but if you had an
6 opinion that you thought was stupid, you might decide, "I
7 probably won't share that one. I want I don't want to sound
8 stupid."

9 THE JUROR: Yes. Yes.

10 THE COURT: Counsel, do you have questions for
11 Juror No. 18?

12 MS. WEBSTER: No, Your Honor. Thank you.

13 MR. MARSHALL: Can I ask, Judge.

14 Assume you're not the foreperson, but the
15 foreperson you're deliberating and going over evidence, the
16 foreperson turns to you and says, juror 18, what are your
17 thoughts about this? Are you going to be able to contribute,
18 talk about what the other jurors have been discussing?

19 THE JUROR: Yes, yes, I could. Um-h'm.

20 MR. MARSHALL: Nothing further, Judge.

21 MR. KAUSHAL: Ma'am, is there -- let's say everyone
22 is -- let me start over.

23 Is there any scenario where you would vote guilty
24 or not guilty just to get the case over with?

25 THE JUROR: No.

1 MR. KAUSHAL: So you would follow the Judge's
2 instructions?

3 THE JUROR: Yes.

4 MR. KAUSHAL: Including that duty to deliberate?

5 THE JUROR: Yes.

6 THE COURT: All right. Ma'am, thank you. You can
7 step out of the courtroom.

8 (Juror 18 withdrew from the courtroom.)

9 THE COURT: All right. Based on that
10 clarification, is there any continued motion to strike juror
11 18?

12 MS. WEBSTER: No, Your Honor. We'll withdraw it.

13 THE COURT: Very well.

14 Let's move on to juror 24, which I believe is
15 Mr. Marshall's motion.

16 MR. MARSHALL: Judge, I'm withdrawing 24.

17 THE COURT: Okay. Very well.

18 MR. MARSHALL: I did ask 46, whenever the Court
19 wants to consider it.

20 THE COURT: Very well. I think next is juror 28,
21 which was, Ms. Webster, your motion.

22 MS. WEBSTER: Yes, Your Honor. It was the lady
23 here who said she had been the victim of wire fraud. And she
24 said that -- like it just kept coming up for her every time
25 she thought about being on the jury, her feelings and how she

1 almost lost, I think, \$400,000.

2 And so I think when I tried to ask her if she can
3 be fair and impartial, I think she gave a pretty ambiguous
4 answer where she wasn't fully convinced that she could be.

5 THE COURT: Mr. Kaushal.

6 MR. KAUSHAL: Your Honor, I'm not certain that
7 there was a follow-up that actually reached the conclusion
8 that Ms. Webster says was reached.

9 In my notes, I don't see something precise like
10 that.

11 The juror did say that she was almost a victim of a
12 wire fraud and she did describe it. But I don't have
13 anything in my notes or from the original qualifying
14 questions to suggest that she would not be able to be fair
15 and impartial.

16 THE COURT: All right. I'm going to grant the
17 motion to strike 28. She, I will say, she described her own
18 almost wire fraud, I guess I would call it. And from my
19 impression, seeing her and the record might not reflect this,
20 but she seemed visibly shaken each time she was discussing
21 it.

22 She was asked, I don't know what the exact question
23 was, but about if she could put it aside or if she could be
24 fair and impartial or whatever, and she said, well, I hope
25 not, but it does keep coming up for me. That's one of the

1 things that I wrote down.

2 So I think there is a legitimate question about
3 whether or not she can be a fair and impartial juror in this
4 case, and I will grant the motion.

5 I think that leaves us with juror 46. And that was
6 your motion, Mr. Marshall.

7 MS. CHAIKEN: Your Honor, I don't think we're going
8 to get to 46 based on the strikes we have made.

9 THE COURT: Let me check.

10 I have struck, Ms. Lee, if you can help us out
11 here. I think we have struck 4, 5; 9 never made it to the
12 courtroom; 23, 28, 38 and 41. Is that right?

13 COURTROOM DEPUTY: That's what I have. And then we
14 told 47 to 52 to stand by.

15 And you haven't discussed juror 32 yet; right?

16 Juror 32, did we discuss defendant's motion?

17 THE COURT: Yes.

18 COURTROOM DEPUTY: Oh, sorry.

19 THE COURT: All right. So I have struck one, two,
20 three, four, five, six, plus No. 9 is seven, and if we needed
21 35, 35 plus 7 is 42.

22 And Ms. Chaiken's point is well-taken, I think,
23 such that we do not need to discuss 46.

24 Does everyone agree?

25 MS. WEBSTER: I'm not good at math, Your Honor, so

1 I will defer to you.

2 THE COURT: All right.

3 So I think, again, we need 35 people to do the
4 strike conference. Given the number of jurors, we need 14
5 and the number of peremptory strikes you have combined, which
6 is 21, 21 plus 14 is 35. So I need 35 qualified jurors.

7 And I have only struck seven, if you count No. 9 as
8 being a strike. So 35 plus 7 is 42.

9 So I really only need to get to Juror No. 42,
10 ergo -- which is a word that's just too smart for me to ever
11 use -- but, thus, I think Ms. Chaiken's point is really any
12 objections or motions to strike anybody above 43 and above
13 is -- I mean, I think she said it more respectfully than
14 this, but she's kind of telling me, Judge, I think you are
15 wasting your time. And I think she's right.

16 But why doesn't everybody take a look at their
17 notes for a second, but we may be ready for Ms. Lee just to
18 go through our list of 35 qualified jurors.

19 MR. MARSHALL: Can you repeat the numbers struck
20 for cause?

21 THE COURT: 4, 5, 9, 23, 28, 38 and 41.

22 MR. MARSHALL: Thank you.

23 I had crossed off 41, thank you.

24 THE COURT: And therefore, Ms. Lee, do you want to
25 call out who I think that leaves us, as far as the 35 people

1 we will choose the jury from?

2 COURTROOM DEPUTY: Okay. So, 1 to 3. 6 to 8. 10
3 through 22.

4 24 to 27.

5 How many is that? Sorry.

6 I'm not good at math either. So let me count as I
7 go.

8 (Pause.)

9 COURTROOM DEPUTY: Okay. Sorry about that.

10 THE COURT: No apology necessary.

11 COURTROOM DEPUTY: 24 to 27. And then 29 through
12 37.

13 39, 40, and 42 makes 35.

14 THE COURT: That's what I had, as well.

15 Does everyone agree?

16 MS. CHAIKEN: Yes, Your Honor.

17 MS. WEBSTER: Yes.

18 THE COURT: All right. It's 4:19 coming up on
19 4:20.

20 Is 15 minutes enough time for you all to look over
21 your list and be ready to do the strike conference?

22 MS. CHAIKEN: Yes, Your Honor.

23 MS. WEBSTER: Yes, Your Honor.

24 MR. MARSHALL: Yes.

25 THE COURT: All right. Officer, if you would let

1 them know we are going to take about 15 minutes to pick the
2 jury, and thank them for their patience with the process.

3 We'll stand in recess for about 15 minutes. Thanks
4 everyone.

5 Y'all can keep your seats.

6 (There was a recess at 4:19 p.m., and proceedings
7 continued as follows at 4:39 p.m.):

8 THE COURT: You can all have your seats.

9 Thank you.

10 All right. We're off the record just for a moment.

11 (Off-the-record discussion, and proceedings
12 continued at 4:39 p.m.)

13 THE COURT: All right. We are on the record.

14 Counsel has had some time to look over their notes
15 and ready to have the strike conference.

16 We just had a brief off-the-record discussion of
17 logistics, that I'll put on the record and if anybody wants
18 to add anything, please do.

19 The sum and substance of which is I clarified that
20 all counsel want to have the full group of 35 to choose from,
21 as opposed to having the first portion of that for the 12
22 jurors and then the last portion of it for the two
23 alternates.

24 So we're just going to have the whole group of 35
25 for everything.

1 Also, folks can exercise their strikes in whatever
2 order they want, meaning they can strike Juror No. 1 at the
3 end of the session or whenever. We're not going to do it
4 juror by juror and everyone agreed to that.

5 Is that correct, counsel?

6 MS. CHAIKEN: Yes, Your Honor.

7 MS. WEBSTER: Yes, Judge.

8 MR. MARSHALL: Yes.

9 THE COURT: All right. Very well, let's bring in
10 the jury, please.

11 (Potential Jurors enters the courtroom at 4:44
12 p.m.)

13 THE COURT: All right. Counsel, you can be seated.
14 Thank you.

15 Ladies and Gentlemen, let me thank you again for
16 your patience with this process. I know that was a pretty
17 long break while I had my conversation with the lawyers and
18 then I give them some additional time to look over their
19 notes before we actually picked the jury.

20 So now that's going to happen. And the way it's
21 going to happen is Ms. Lee is going to pass the lawyers a
22 list and they are going to go through it and pass it back and
23 forth and pick the jury.

24 The rest of us will just sit here in silence and
25 wait.

1 All right. Thank you very much.

2 (Striking of the jury commenced, and proceedings
3 continued at 5:01 p.m.)

4 THE COURT: All right. Any objections to the
5 exercise of strikes by the government?

6 Mr. Marshall or Ms. Webster?

7 MS. WEBSTER: No, Your Honor.

8 MR. MARSHALL: No, Your Honor.

9 THE COURT: Any objection to the strikes the
10 defendants --

11 MS. CHAIKEN: No, Your Honor.

12 THE COURT: Ladies and Gentlemen, I'm now going to
13 ask Ms. Lee to call the numbers of jurors that have been
14 selected to serve as jurors in this case.

15 When your number is called, if you could please
16 stand up and come to the front of the courtroom, in front of
17 the jury box; right over here, please.

18 Go ahead, Ms. Lee.

19 COURTROOM DEPUTY: No. 7, 8, 10, 12, 14, 16, 17,
20 19, 21, 22, 25, 26, 27, 30.

21 THE COURT: Thank you, Ms. Lee.

22 Counsel, any objection to the jury as selected?

23 MS. CHAIKEN: Not from the government, Your Honor.

24 MS. WEBSTER: Not from Mr. Foster.

25 MR. MARSHALL: Not from Ms. Jackson.

1 THE COURT: All right. Thank you.

2 In a moment, I am going to release the rest of you.

3 Ms. Lee, do we know from jury management if they
4 need to check in with them this evening?

5 COURTROOM DEPUTY: I'm not sure, so I would call
6 the number.

7 THE COURT: Okay. Why don't we check on that,
8 please, if we can.

9 So we're going to let you know if I'm able just to
10 release you or if you need to check back in with jury
11 management on 22. I don't know the answer to that question,
12 but Ms. Lee will check and will communicate that with you.

13 But I want to thank you again for your jury
14 service.

15 Please remember my earlier remarks about the
16 importance of jury service to the court system. Your
17 presence here and your availability to serve are greatly
18 appreciated.

19 And if you will stand by, Ms. Lee will let you know
20 if you need to go up to the 22nd floor or not.

21 And, Ms. Lee, I'm giving you double duty here. If
22 you can go ahead and swear this jury in.

23 COURTROOM DEPUTY: Please raise your right hands.

24 (Jury was sworn.)

25 THE COURT: All right. You can be seated. Thank

1 you.

2 All right. I'm going to read you your preliminary
3 instructions, while, Ms. Lee, you run down what the other
4 folks need to do this evening, okay.

5 Off the record for a moment.

6 (Off-the-record discussion, and proceedings
7 continued at 5:05 p.m.)

8 THE COURT: All right. On the record.

9 Now that you have been sworn, I need to explain
10 some basic principles about a criminal trial and your duty as
11 jurors. These are preliminary instructions. At the end of
12 the trial, I will give you more detailed instructions.

13 It will be your duty to decide what happened so
14 that you can determine whether the defendants are guilty or
15 not guilty of the crimes charged in the indictment.

16 At the end of the trial I will explain the law to
17 you that you must follow to reach your verdict. You must
18 follow the law as I explain it to you, even if you do not
19 agree with the law.

20 You must decide the case solely on the evidence
21 presented here in the courtroom. Evidence can come in many
22 forms. It can be testimony about what someone saw or heard
23 or smelled. It can be an exhibit admitted into evidence. It
24 can be someone's opinion. Some evidence proves a fact
25 indirectly, such as a witness who saw wet grass outside and

1 people walking into the courthouse carrying wet umbrellas.

2 Indirect evidence, sometimes called circumstantial
3 evidence is simply a chain of circumstances that proves a
4 fact.

5 Off the record for a moment.

6 (Off-the-record discussion, and proceedings
7 continued at 5:06 p.m.)

8 (Remainder of jury pool exits the courtroom.)

9 THE COURT: As far as the law is concerned, it
10 makes no difference whether the evidence is direct or
11 indirect. You may choose to believe or disbelieve either
12 kind and should give every piece of evidence whatever weight
13 you think it deserves.

14 Certain things are not evidence and must not be
15 considered as such. I will list them for you now:

16 Statements and arguments of the lawyers. In their
17 opening statements and closing arguments, lawyers will
18 discuss the case but their remarks are not evidence.

19 Questions and objections of the lawyers. The
20 lawyers's questions are not evidence. Only the witness's
21 answers are evidence. You should not think that something is
22 true just because a lawyer's question suggests that it is.
23 For instance, if a lawyer asks the question: You saw the
24 defendant hit his sister, didn't you? That question is no
25 evidence whatsoever of what the witness saw or what the

1 defendant did, unless the witness agrees with it.

2 There are rules of evidence that control what can
3 be received into evidence. When a lawyer asks a question or
4 offers an exhibit and a lawyer on the other side thinks that
5 it is not permitted by the rules of evidence, the lawyer may
6 object.

7 If I overrule the objection, then the question may
8 be answered or the exhibit received. If I sustain the
9 objection, then the question cannot be answered and the
10 exhibit cannot be received.

11 Whenever I sustain an objection to a question, you
12 must ignore the question and not try to guess what the answer
13 would have been.

14 Sometimes I may order that evidence be stricken and
15 that you disregard or ignore the evidence. That means that
16 when you are deciding the case, you must not consider the
17 evidence.

18 Some evidence is admitted only for a limited
19 purpose. When I instruct you that an item of evidence has
20 been admitted for a limited purpose, you must consider it
21 only for that limited purpose and no other.

22 In reaching your verdict, you may have to decide
23 what testimony to believe and what testimony not to believe.
24 You may believe everything a witness says, or part of it, or
25 none of it.

1 In considering the testimony of any witness, you
2 may take into account the opportunity and ability of the
3 witness to see or hear or know the things testified to, the
4 witness's memory, the witness's manner while testifying, the
5 witness's interest in the outcome of the case and any bias or
6 prejudices, whether other evidence contradicted the witness's
7 testimony, the reasonableness of the witness's testimony in
8 light of all the evidence, and any other factors that bear on
9 believability.

10 I will give you additional guidelines for
11 determining credibility of witnesses at the end of the case.

12 As you know, this is a criminal case. There are
13 three basic rules about a criminal case that you must keep in
14 mind:

15 First, the defendants are presumed innocent until
16 proven guilty. The indictment against the defendants brought
17 by the government is only an accusation, nothing more. It is
18 not prove of guilt or anything else. The defendants
19 therefore start out with a clean slate.

20 Second, the burden of proof is on the government
21 until the very end of the case. The defendants have no
22 burden to prove their innocence or to present any evidence or
23 to testify.

24 Since defendants have the right to remain silent
25 and may choose whether to testify, you cannot legally put any

1 weight on a defendant's choice not to testify. It is not
2 evidence.

3 Third, the government must prove the defendants's
4 guilt beyond a reasonable doubt. I will give you further
5 instructions on this later. But bear in mind that the level
6 of proof required is high.

7 Our law requires jurors to follow certain
8 instructions regarding their personal conduct in order to
9 help assure a just and fair trial. I will now give you those
10 instructions:

11 Number one: Do not talk, either among yourselves
12 or with anyone else, about anything related to this case.
13 You may tell the people with whom you live and your employer
14 that you're a juror and give them information about when you
15 will be required to be in court, but you may not discuss with
16 them, or anyone else, anything related to this case.

17 Do not, at any time during the trial, request,
18 accept, agree to accept, or discuss with any person any type
19 of payment or benefit in return for supplying any information
20 about the trial.

21 You must promptly tell me about any incident you
22 know of involving an attempt by any person to improperly
23 influence you or any member of the jury.

24 Do not visit or view the premises or place where
25 the charged crimes were allegedly committed, or any other

1 premises or places involved in the case. And you must not
2 use the internet, internet maps, or Google Earth, or any type
3 of program or device to search for a view of any location
4 discussed in the testimony.

5 Do not read, watch, or listen to any accounts or
6 discussions related to the case which may be reported by
7 newspapers, television, radio, the internet, or any other
8 news media.

9 Do not attempt to research any fact, issue, or law
10 related to this case, whether by discussions with others, by
11 library or internet research or by any other means or source.

12 In this age of instant electronic communication and
13 research, I want to emphasize that, in addition to not
14 talking face-to-face with anyone about the case, you must not
15 communicate with anyone about the case by any other means,
16 including by telephone, text messages, email, internet chat,
17 chat rooms, blogs, or any social networking websites.

18 You may not use any similar technology of social
19 media, even if I have not specifically mentioned it, whether
20 it's Facebook, Instagram, Snapchat, YouTube, Twitter, or any
21 of the recent ones. I think this list was compiled five
22 years ago, and I'm sure it's updated. There is something new
23 as of yesterday I'm sure I'm not even aware of.

24 You must not provide any information about this
25 case to anyone by any means whatsoever. And that includes

1 posting information about the case or what you are doing in
2 the case or -- on any device or internet site including
3 blogs, chat rooms, social websites, or any other means.

4 You also must not use Google or otherwise search
5 for any information about the case or the law that applies to
6 the case or the people involved in the case -- Google or any
7 other search sites -- including the defendants, the
8 witnesses, the lawyers, the judge.

9 It's important that you understand why these rules
10 exist and why they are so important.

11 Our law does not permit jurors to talk with anyone
12 about the case or to permit anyone to talk with them about
13 the case because only jurors are authorized to render a
14 verdict. Only you have been found to be fair, and only you
15 have promised to be fair. No one else is so qualified.

16 Our law also does not permit jurors to talk among
17 themselves about the case until the Court tells them to begin
18 deliberations because premature discussions can lead to a
19 premature final decision.

20 Let me repeat that.

21 Do not talk amongst yourselves about this case
22 until I instruct you to begin your deliberations.

23 Our law does not permit you to visit a place
24 discussed in the testimony.

25 First, you can't be sure that the place is in the

1 same condition as it was on the day in question.

2 Second, even if it were in the same condition, once
3 you go to that place to evaluate the evidence in light of
4 what you see, you become a witness, not a juror. As a
5 witness, you may now have a mistaken view of the scene that
6 neither party may have a chance to correct, and that wouldn't
7 be fair.

8 Finally, our law requires that you not read or
9 listen to any news accounts of this case and that you not
10 attempt to research any fact, issue, or law related to the
11 case.

12 Your decision must be based solely on the testimony
13 and other evidence presented in this courtroom.

14 Also, the law often uses words and phrases in
15 special ways, so it's important that any definitions you hear
16 come only from me and not from any other source.

17 It wouldn't be fair to the parties for you to base
18 your decision on some reporter's view or opinion or upon
19 other information you acquire outside the courtroom.

20 These rules are designed to help guarantee a fair
21 trial, and our law accordingly sets forth serious
22 consequences if the rules are not followed.

23 I trust that you understand and appreciate the
24 importance of following these rules. And in accord with your
25 oath and promise, I know that you will do so.

1 Moving on now. If you wish, you may take notes to
2 help remember what witnesses say. If you do take notes,
3 please keep them to yourself until you and your fellow jurors
4 go to the jury room to decide the case.

5 Do not let note-taking distract you so that you do
6 not hear other answers by witnesses.

7 When you leave the courtroom, your notes should be
8 left in the jury room -- excuse me, when you leave the
9 courthouse, your notes should be left in the jury room.

10 Whether or not you take notes, you should rely on
11 your own memory of what was said. Notes are to assist your
12 memory only. They are not entitled to any greater weight
13 than your memory or impression about the testimony.

14 Although the defendants are being tried together,
15 you must give separate consideration to each defendant. In
16 doing so, you must determine which evidence in the case
17 applies to a particular defendant and disregard any evidence
18 admitted solely against one of the defendants but not the
19 other.

20 The fact that you may find one of the defendants
21 guilty or not guilty should not control your verdict as to
22 any other defendant.

23 The trial will begin in earnest tomorrow morning.
24 First, the government will make an opening statement, which
25 is simply an outline to help you understand the evidence as

1 it comes in.

2 Next, the defense attorneys may, but do not have
3 to, make an opening statement.

4 Opening statements again, are neither evidence nor
5 argument. They are just statements of what counsel believes
6 the evidence will be in the case.

7 The government will then present its witnesses, and
8 counsel for the defendants may cross-examine them.

9 Following the government's case, the defendants
10 may, if they wish, present witnesses whom the government may
11 cross-examine.

12 After all the evidence is in, the attorneys will
13 present their closing arguments to summarize and interpret
14 the evidence for you, and then I will instruct you on the
15 law.

16 After that, you will get to the jury room to decide
17 the case.

18 All right. It's about 5:15, 5:20 or so. I'm going
19 to release you for the night.

20 Is 9:00 adequate time for all of you to be here and
21 be ready to go in the morning?

22 Okay. Very well.

23 I'll tell you, we're going to be here together for
24 another week and a half, close to two weeks. And if I'm late
25 by five or ten minutes, or if one of the attorneys is late or

1 one of my staff is late or one of you is late, we can't do
2 anything. We need everybody here to move this case along.

3 So each time, even one person is five or ten
4 minutes late, that's the beginning of every day and the end
5 of every break, multiply that times the number of breaks and
6 starts and stops we're going to have over a week and a half,
7 two weeks, and it really adds up and it can mean being here
8 another day, sometimes.

9 So please -- and I tell you this. I tell everybody
10 this. I tell myself this -- please allow for bad Atlanta
11 traffic. Please allow for lines downstairs. Please allow
12 for crowded elevators. Everything.

13 So maybe shoot to get here more like 8:30 or
14 something.

15 Ms. Lee, will we have coffee and breakfast snacks
16 and everything ready for them?

17 COURTROOM DEPUTY: Yes.

18 THE COURT: Great.

19 So come early and have a little snack.

20 All right. Thank you again for being here.

21 Yes, sir.

22 THE JUROR: Do we just come right here?

23 THE COURT: What we are going to do, the officer
24 and Ms. Lee will escort you and show you where the jury room
25 is.

1 What you will do in the morning is you will just
2 go -- come up to the 23rd floor and go to the jury room and
3 that will be your base of operations, where you will take
4 your breaks and everything. Ms. Lee will show you that
5 before you leave for the night, tonight.

6 But leave your juror number placards there in your
7 seat and Ms. Lee will gather those up.

8 Any other questions, administratively, from any of
9 you?

10 Okay.

11 Have a good evening. And you are reminded of your
12 instructions.

13 (Jury withdrew from the courtroom at 5:20 p.m.)

14 THE COURT: You all can be seated.

15 (Pause.)

16 I want to go over with you my ruling on the motion
17 in limine regarding the Roadrunner evidence.

18 First off, I think most of what Ms. Jackson
19 objected to is no longer coming in because Mr. Gaines has now
20 pled guilty, but there is the remaining issue of the bank
21 records relating to Roadrunner, Roadrunner Automotive Group.

22 The government has proffered that it's necessary to
23 bring this evidence in to understand where the proceeds went,
24 the proceeds from the alleged unlawful activity.

25 And as I understand it, it went through various

1 accounts, Gaines Reservation and Travel, Bellator Phront
2 Group, Roadrunner, Management Resources.

3 And I think it seems clear that how the proceeds
4 moved through those accounts, where the proceeds went, and
5 how Roadrunner was part of that is intrinsic to this case.

6 We went over, in pretty great detail, as to some
7 other motions intrinsic evidence, but intrinsic evidence is
8 generally evidence arising out of the same transaction or
9 series of transactions as the charged offenses. It is
10 necessary to complete the story of the crime, or it's
11 inextricably intertwined with the evidence regarding the
12 charged offenses.

13 We talked about the U.S. v Ford case, 784 F.3d
14 1386, which is where a lot of language of same scheme or
15 series transactions is intrinsic evidence.

16 I would also add from United States v
17 Infrastructure, 576 F.3d 1195, pinpoint 1210 to 1211,
18 Eleventh Circuit from 2009, that the evidence is admissible
19 when it's linked in time and circumstances and it concerns
20 the context or the setup of the crime, it's an integral part
21 of the crime, it's necessary to complete the story.

22 And here I think this is -- this is exactly that.
23 I don't think I even reach 404(b) here. And as to 403, I
24 think that the -- as the government has proffered it, I think
25 the probative value is not substantially outweighed by any of

1 the 403 considerations.

2 Now again, this is just based on the government's
3 proffer and what I understand the facts to be. It's without
4 prejudice to renew the motion once that first piece of
5 evidence regarding Roadrunner is about to come in.

6 But based on the context that I have been given so
7 far about that evidence, I think it is intrinsic as the
8 government has argued, and I'm going to therefore deny the
9 motion without prejudice to renew it at trial.

10 MR. MARSHALL: Your Honor, can I ask one thing?
11 Could I possibly ask that the government not be allowed at
12 this stage to mention that segment of the Roadrunner evidence
13 until their case-in-chief, because if we do have a ruling
14 then the jury has already heard about it in opening
15 statement, even though they are not supposed to consider that
16 as evidence.

17 THE COURT: No, I'm not going to do that. I'm not
18 going to bind up the government and not let them mention it.

19 I think the whole reason behind a motion in limine,
20 as I see it, is to give you -- especially when I grant or
21 deny something without prejudice to renew, is just a
22 recognition, based on what I have heard so far, of something
23 either I think is or I think isn't going to go in.

24 And here, I think the government is entitled to, in
25 their opening statement, talk about what they think the

1 evidence will show.

2 Now if I had granted your motion without prejudice
3 to renew, I think it would be imprudent for the government to
4 mention it.

5 But obviously, you might renew your objection and
6 convince me later. And if that happens, the government will
7 be taking a slight risk, I guess, by even mentioning it
8 because the jury, at the end of day, will go, oh, they
9 mentioned Roadrunner in their opening statement and they
10 never talked about that. And you might, then, in your
11 closing go, aha, the government mentioned Roadrunner and they
12 never brought any evidence about Roadrunner.

13 So I think I'm not going to disallow the government
14 to mention it in their opening, given that I denied
15 preliminarily your motion without prejudice to renew.

16 Anything else we need to cover before tomorrow
17 morning?

18 My view is that at 9:00 all the jurors will be
19 here, all of you will be here, and I will say "We will now
20 have opening statements."

21 Okay.

22 MS. CHAIKEN: Not from the government, Your Honor.

23 MS. WEBSTER: Not from Mr. Foster.

24 MR. MARSHALL: Not for Ms. Jackson.

25 THE COURT: All right. Thanks, everyone, very much

1 for all the good work and the competent lawyering you have
2 done today.

3 I think things -- despite the fact that we got
4 caught up yesterday on the issue with Mr. Baptiste, I thought
5 that everyone moved forward efficiently today, and I
6 appreciate that. And I'm sure that each of your clients
7 appreciate that and that the jurors appreciate that.

8 So thank you for the good lawyering from both the
9 government, for Mr. Foster, and for Ms. Jackson thus far.

10 Everyone take care and have a good evening.

11 MR. MARSHALL: Thank you, Your Honor.

12

13 (Proceedings were adjourned at 5:33 p.m.)

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2 CERTIFIED STENOGRAPHIC REPORTER'S CERTIFICATE
34 I, Judith M. Wolff, a stenographic reporter,
5 Certified Realtime Reporter and Official Court Reporter for
6 the United States District Court for the Northern District of
7 Georgia, with offices at Atlanta, do hereby certify:
89 That I reported on the Stenograph machine the
10 proceedings held in open court on Tuesday, February 6, 2024,
11 in the matter of United States of America v. Carla Jackson
12 and Teldrin Foster, Case No. 1:20-cr-00296-JPB-5-20;
1314 That said proceedings in connection with the
15 hearing were reduced to typewritten form by me;
1617 And that the foregoing transcript is a true and
18 accurate record of the proceedings.
1920 This the 7th day of February, 2024.
21
2223 /s/ Judith M. Wolff, RPR, CRR
24 Official Court Reporter
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