

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 23-CR-60173-KMW

UNITED STATES OF AMERICA, Miami, Florida
Plaintiff, October 23, 2024
vs.
11:14 AM - 1:34 PM
CAROLYN DENISE WADE and DAY 9
TRACY D. WADE,
Defendants. Pages 1 to 23

TRANSCRIPT OF JURY TRIAL
HELD BEFORE THE HONORABLE DONALD L. GRAHAM
UNITED STATES DISTRICT JUDGE

FOR THE GOVERNMENT:

DAVID A. SNIDER, AUSA
ADAM LOVE, AUSA
United States Attorney's Office

ON BEHALF OF THE DEFENDANTS:

JOHNNY L MCCRAY, JR., ESQ.
Law Office of Johnny L. McCray, Jr, P.A.
and
DARYL E. WILCOX, ESQ.

ALSO PRESENT: Carolyn Wade
Tracy Wade
Hendrith V.A. Smith, paralegal

LANCE W. STEINBEISSER, FCRR, RPR, FPR-C
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produced by computer-aided transcription.

T A B L E O F C O N T E N T S

PAGE

Verdict.....	10
Certificate of Reporter.....	19

1 (Call to the Order of the Court.)

2 THE COURT: All right, ladies and gentlemen. We have
3 received two questions.

4 Question one: "Does it matter when a defendant
5 agreed or participated in the conspiracy?" emphasis on when,
6 signed by Mr. Vera, who is the foreperson, Juror Number 8.
7 And now I see the jury box is on the opposite sides. I have
8 to get oriented here. All right. That's question one.

9 Let's go to question two, which I think is the easier
10 of the two:

11 "Help us understand why Tracy Wade is charged with
12 Count 2 and 3 and Carolyn Wade only Count 3."

13 That really isn't a question that I can answer. The
14 Government decides the charging process, so I don't know that
15 I can answer that question.

16 Counsel?

17 MR. MCCRAY: Judge, with respect to Count 2, it would
18 be my position that the Court says that the government has
19 charged, and you must decide whether or not they proved it
20 beyond a reasonable doubt. I think that's the simplest and
21 the only way you can answer that properly.

22 THE COURT: They've been advised what the counts
23 are --

24 MR. MCCRAY: Right.

25 THE COURT: -- and who's charged in each count, and

1 they must make the decision as to the counts charged.

2 MR. SNIDER: I agree. I don't think it's an area
3 that we can wade into in terms of answering this question. I
4 don't think they need to be instructed again on reasonable
5 doubt. I think that's very clear. I think the answer, as the
6 Court just suggested, is that we can't tell you why someone
7 was charged in one count versus others. Those are the
8 charging decisions that the Government has made. You'll just
9 have to deliberate based upon the charges as they are in the
10 indictment.

11 THE COURT: All right. In order to be expeditious,
12 I'm going to have the jurors come in and explain the responses
13 here in open court. Sometimes we communicate in writing. For
14 these questions, I'm going to respond directly to them, and I
15 will integrate your answers or suggested answers in a
16 statement to the jury as to the second question.

17 The first question: "Does it matter when a defendant
18 agreed or participated in the conspiracy?" emphasis on when.

19 Can I see the indictment?

20 So the conspiracy counts are Counts 1 and 4. Those
21 are the only two conspiracy counts; correct, Counsel?

22 MR. SNIDER: That's correct, Judge.

23 THE COURT: And Count 1 alleges from in or about
24 May 2021 through in or about August '21. Count 4 alleges the
25 same time period. So what is your suggestion as to the

1 response?

2 MR. SNIDER: One thought that the Government had,
3 Judge, was to read the instruction on or about a particular
4 date. I don't know if that gives any more clarity to the
5 question that they've raised. I think what matters, Judge, is
6 that the Government has proved that the conspiracy -- that the
7 defendants participated in the conspiracy during the period
8 that's alleged in the indictment in each count. I think
9 that's what matters, if the Court wants to address the
10 question of what matters.

11 THE COURT: You know, we don't like to delve too much
12 in what they're thinking about --

13 MR. SNIDER: Right, right.

14 THE COURT: -- but it seems like the gist of the
15 question is: Does it matter when a person joins in the
16 conspiracy between the dates charged?

17 MR. SNIDER: I think that does not matter if it's
18 within the period.

19 THE COURT: But I want to be as general as I possibly
20 can.

21 MR. WILCOX: Your Honor, we would just add that you
22 instruct the jury to rely on the instructions that you've
23 already given them.

24 THE COURT: Well, I have to be a little more
25 responsive than that. I mean, they ask a question and I say,

1 "Read the instructions." Well, we have to presume they've
2 read the instructions, so I think I would at least have to
3 tell them that it's alleged that the two conspiracies occurred
4 from in or around May through August 21.

5 MR. SNIDER: August 2021, Judge.

6 THE COURT: August 2021, I'm sorry.

7 Is there any instruction that states that a party can
8 join at any time? I mean, we know what the law is. If you
9 join in a conspiracy at any time during the stage of the
10 conspiracy, you can be a conspirator. We know that is the
11 law, but the question is -- I would like to simply point to
12 some specific language that on or about addresses the issue
13 and the dates in the counts address the issue. Is there any
14 other instruction that embraces this point?

15 MR. WILCOX: I don't believe any instruction that's
16 included in the instruction that the Court has sent back.

17 THE COURT: Let's take a quick look at the counts
18 again and see if there's any assistance.

19 Interestingly, the indictment makes certain
20 allegations about when certain things happened throughout the
21 period of the conspiracy. So what really is the gravamen of
22 the question?

23 There is a paragraph that embraces the issue. In the
24 conspiracy count, it says, "If the defendant played only a
25 minor part in the plan but had a general understanding of the

1 unlawful purpose of the plan and willfully joined in the plan
2 on at least one occasion, that's sufficient to find the
3 defendant guilty." Join on one occasion, which you would
4 think by inference means one occasion during the period of the
5 conspiracy, if they had a general understanding of the
6 unlawful purpose and willfully joined in the plan.

7 MR. SNIDER: Yes. I would agree with that.

8 MR. WILCOX: Your Honor, we would object to the Court
9 highlighting any particular part of the instruction, placing
10 emphasis on a particular part of the instructions that they
11 have, that they can read for themselves.

12 THE COURT: So another issue is which conspiracy are
13 they talking about? Is it 1 or 2? The language is different
14 for each of the conspiracies. One could infer that they're
15 really talking about Count 1, but it's not clear because that
16 would help with a response.

17 MR. MCCRAY: Judge, it's the defense's position that
18 we're running the risk, by interpreting the instructions,
19 telling them which instruction may apply to this question. I
20 think that we run the risk of attaching -- you may not agree,
21 Judge, but --

22 THE COURT: No, I'm listening to you.

23 MR. MCCRAY: I'm saying by this Court -- if this
24 Court were to highlight a particular instruction or a
25 particular part of an instruction and we don't know exactly

1 why they're asking this question, I think that's unduly
2 prejudicial. I think we're giving credibility --

3 THE COURT: Well, I wouldn't do it the way you're
4 framing it. I would ask them, You make reference to a
5 conspiracy count. Are you referring to Count 1, 4, or both?
6 Right? That's what I would present to them, and then we would
7 know more directly how to respond with regard to the language.

8 MR. WILCOX: Your Honor, the language that you were
9 speaking of before is in both counts -- in both Counts 1 and
10 Count 4.

11 MR. MCCRAY: We think it's covered, Judge, by the
12 pattern instructions that the Court has given. And, you know,
13 even if we find out that they're talking about the first
14 conspiracy count or the second conspiracy count, we think the
15 language, as presently is, we think it answers it --

16 THE COURT: Well, it obviously doesn't because they
17 asked the question.

18 MR. MCCRAY: But I don't think we are in the position
19 to answer the question, Judge.

20 THE WITNESS: All right. Bring the jury in, please.
21 Thank you for your input.

22 (Jury entered at 11:32 AM.)

23 THE COURT: Good morning, again.

24 So we have two questions that you have asked, and we
25 may have a question too.

1 So the first question I will respond to is: "Help us
2 understand why Tracy Wade is charged with Count 2 and 3 and
3 Carolyn Wade only Count 3."

4 That is a question that I cannot answer because the
5 Government brings the charges, and we're bound to the charges
6 brought. So that question is not within the purview of the
7 Court. So that's the response to the second question that was
8 presented.

9 The first question we need to be a little more
10 specific. There are two conspiracies charged in the
11 indictment, and the question is: "Does it matter when a
12 defendant agreed to participate in a conspiracy?" emphasis on
13 when.

14 So the question we have is are you referring to
15 Counts 1 and 4, both conspiracies, or one? Because they both
16 have different language. And frankly, in the end, the best I
17 would be able to do would be to refer you back to the
18 instruction that relates to that count. It is a fine line
19 between the law and the facts. And I can tell you what the
20 law is, but as far as your interpretation of the law, that's a
21 matter that the jury decides.

22 Now, sometimes the answer is in the instruction, and
23 sometimes I reread an instruction. But we have to be careful
24 because I don't want to say anything that directs you in one
25 direction or the other because you decide the factual issues

1 consistent with the law.

2 So what I will ask you to do is to go back into the
3 deliberation room and let us know, number one, is your
4 question with reference to the conspiracy in Count 1, Count 4,
5 or both. That will give us a little more direction. So I'll
6 ask you to excuse yourself at this time.

7 (Jury exited at 11:37 AM.)

8 THE COURT: Let's hope we get a response momentarily.

9 (Pause in the proceedings to 11:45 AM.)

10 THE COURT: We have received a response. I just made
11 the statement to my clerk. I can't really -- oh.

12 "The jury has decided that we no longer need
13 clarification after reading the instructions." So that
14 resolves the issue, and we will be in recess. Thank you.

15 (Recess from 11:46 AM to 1:20 PM.)

16 THE COURT: We have received a communication that the
17 jury has reached a verdict on all counts. Is there any reason
18 the Court should not accept the verdict at this time?

19 MR. SNIDER: No, Your Honor.

20 MR. MCCRAY: No, Judge.

21 THE COURT: Bring the jury in, please.

22 (Jury entered at 1:20 PM.)

23 THE COURT: I have received a communication that the
24 jury has reached a verdict on all counts.

25 Mr. Vera, has the jury reached a verdict on all

1 counts?

2 THE FOREPERSON: We have, Your Honor.

3 THE COURT: Would you pass the verdict form in the
4 folder to the security officer.

5 I will ask the deputy to publish the verdict, and
6 then the jury will be polled.

7 THE COURTROOM DEPUTY: Case Number 23-cr-60173, the
8 United States of America versus Carolyn Denise Wade and
9 Tracy D. Wade.

10 "Verdict.

11 "We, the jury in the above-captioned case,
12 unanimously find the following as to Count 1 of the
13 superseding indictment as follows: We find the defendant,
14 Tracy D. Wade, guilty.

15 "As to Count 2 of the superseding indictment, we find
16 the defendant, Tracy D. Wade, guilty.

17 "As to Count 3 of the superseding indictment, we find
18 the defendant, Tracy D. Wade, guilty.

19 "As to Count 4 of the superseding indictment, we find
20 the defendant, Tracy D. Wade, guilty.

21 "As to Count 6 of the superseding indictment, we find
22 the defendant, Tracy D. Wade, guilty.

23 "As to Count 7 of the superseding indictment, we find
24 the defendant, Tracy D. Wade, guilty.

25 "As to Count 10 of the superseding indictment, we

1 find the defendant, Tracy D. Wade, guilty.

2 "So say we all, signed by the foreperson, today's
3 date."

4 Case Number 23-60173-cr, the United States of America
5 versus Carolyn Denise Wade and Tracy D. Wade.

6 "We, the jury in the above-captioned case,
7 unanimously find the following as to Count 1 of the
8 superseding indictment. We find the defendant, Carolyn Denise
9 Wade, guilty.

10 "As to Count 3 of the superseding indictment, we find
11 the defendant, Carolyn Denise Wade, guilty.

12 "As to Count 4 of the superseding indictment, we find
13 the defendant, Carolyn Denise Wade, guilty.

14 "As to Count 5 of the superseding indictment, we find
15 the defendant, Carolyn Denise Wade, guilty.

16 "As to Count 8 of the superseding indictment, we find
17 the defendant, Carolyn Denise Wade, guilty.

18 "As to Count 9 of the superseding indictment, we find
19 the defendant, Carolyn Denise Wade, guilty.

20 "So say we all, signed by the foreperson,
21 October 23rd, 2024."

22 THE COURT: At this time, ladies and gentlemen, you
23 will be polled. When your name is called, you will respond
24 either yes or no as to whether the verdict as read is your
25 verdict.

1 Please poll the jury.

2 THE COURTROOM DEPUTY: Juror Number 1, Jose Ramos, is
3 the verdict read your true verdict?

4 JUROR NUMBER 1: Yes.

5 THE COURTROOM DEPUTY: Juror Number 2, Mario
6 Aulicino, is this your true verdict?

7 JUROR NUMBER 2: Yes.

8 THE COURTROOM DEPUTY: Juror Number 3, Samantha
9 Loynaz, is this your true verdict?

10 JUROR NUMBER 3: Yes.

11 THE COURTROOM DEPUTY: Juror Number 4, Viviane
12 Infante, is this your true verdict?

13 JUROR NUMBER 4: Yes.

14 THE COURTROOM DEPUTY: Juror Number 5, Stephen
15 Schaffer, is this your true verdict?

16 JUROR NUMBER 5: Yes.

17 THE COURTROOM DEPUTY: Juror Number 6, Olga
18 Bustamante, is this your true verdict?

19 JUROR NUMBER 6: Yes.

20 THE COURTROOM DEPUTY: Juror Number 7, Gabriel
21 Sanchez, is this your true verdict?

22 JUROR NUMBER 7: Yes.

23 THE COURTROOM DEPUTY: Juror Number 8, Hernan Vera,
24 is this your true verdict?

25 JUROR NUMBER 8: Yes.

1 THE COURTROOM DEPUTY: Juror Number 9, Susy Gomez, is
2 this your true verdict?

3 JUROR NUMBER 9: Yes.

4 THE COURTROOM DEPUTY: Juror Number 10, Nicholas
5 Mandri, is this your true verdict?

6 JUROR NUMBER 10: Yes.

7 THE COURTROOM DEPUTY: Juror Number 12, Tammie
8 Williams, is this your true verdict?

9 JUROR NUMBER 12: Yes.

10 THE COURTROOM DEPUTY: Juror Number 13, Dangela
11 Dimercurio, is this your true verdict?

12 JUROR NUMBER 13: Yes.

13 THE COURT: Thank you very much, ladies and
14 gentlemen. I want to thank you very much for your service. I
15 do not count or comment on the verdict itself because the
16 verdict as read is your verdict. By taking the time out of
17 your daily lives to participate in the jury system, our
18 judicial system, we can't thank you enough.

19 I'll ask you to go into the jury deliberation room.
20 I'll join you in just a few moments and excuse you
21 permanently. Thank you very much.

22 (Jury exited at 1:27 PM.)

23 THE COURT: In accordance with the verdict as read in
24 the case of the United States of America versus Carolyn Denise
25 Wade and Tracy D. Wade, you are adjudged guilty as the verdict

1 form was published.

2 Are there additional matters by the parties at this
3 time?

4 MR. SNIDER: Yes, Your Honor.

5 THE COURT: I didn't hear you.

6 MR. SNIDER: Yes.

7 THE COURT: All right. Yes, sir.

8 You may be seated, ladies and gentlemen.

9 MR. SNIDER: With respect to Defendant Tracy Wade,
10 based on the jury's verdict and the Court having adjudged
11 Mr. Wade guilty, the United States is making a motion to have
12 his bond revoked and Mr. Wade remanded into custody pending
13 sentencing in this case.

14 THE COURT: Do you have some particular factual
15 issues that you want to point out?

16 MR. SNIDER: I do, Your Honor.

17 THE COURT: All right.

18 MR. SNIDER: Let me just start with the standard, if
19 I may.

20 Under Title 18, United States Code, Section 3143, it
21 provides that the judicial officer shall order that a person
22 who has been found guilty of an offense and who is awaiting
23 sentencing -- sorry -- awaiting imposition or execution of
24 sentence shall be detained unless the judicial officer finds
25 by clear and convincing evidence that the person is not likely

1 to flee or pose a danger to the safety of any other person in
2 the community if released.

3 Your Honor, on the evening of Monday, October 21,
4 two days ago, I received a text message from the attorney
5 representing Haydee Rivero presently. His name is
6 Mr. Schwartz. Mr. Schwartz advised me that -- a few things --
7 that Ms. Rivero and Mr. Rivero had received phone calls in
8 which threats had been made to their lives and that a text
9 message was received by Ms. Rivero from a phone number that is
10 presently assigned to Tracy Wade. That text message -- we are
11 investigating -- that text message had content, which I don't
12 want to reveal in open court --

13 THE COURT: Well, if -- do you want me to consider it
14 or not?

15 MR. SNIDER: Okay. So we are investigating the
16 context of it. It said, "About 44." We don't know what that
17 means. We are -- let me just keep going with the chronology
18 here.

19 Upon receiving that information from Mr. Schwartz, I
20 requested that the FBI investigate this matter. Agent
21 DiPietrantonio, I spoke with her. I relayed what Mr. Schwartz
22 had told me, and Kelly DiPietrantonio went to the home of
23 Mr. and Mrs. Rivero to interview them and interview them
24 separately, which she did.

25 I think she can address the Court as to -- or

1 summarize what she learned, if the Court would like. It's my
2 understanding, based on my conversations with Agent
3 DiPietrantonio, that Mr. Wade -- I'm sorry -- that Mr. Rivero
4 had received at least two phone calls in which harm was being
5 threatened against him and his family and that --

6 THE COURT: By whom?

7 MR. SNIDER: The caller was unknown. The caller was
8 unknown. It was a male's voice. I'm not suggesting that that
9 person was Mr. Wade. Ms. Rivero was interviewed as well. She
10 stated to the FBI that she had also received more than one
11 phone call from an unknown number in which a male voice had
12 threatened to, I believe, "kill Eddie" was the words.

13 And we're looking into this -- we, the Government and
14 the FBI. And as far as the text message, all we have is a
15 text message that was sent from Mr. Wade's number to
16 Ms. Rivero with the words "About 44." The condition --

17 THE COURT: "About 44" means?

18 MR. SNIDER: I don't know what it means.

19 THE COURT: No idea what it means.

20 MR. SNIDER: I don't know what it means.

21 THE COURT: All right.

22 MR. SNIDER: I do know that there is a condition of
23 Mr. Wade's bond that precludes him from having any contact
24 with any witnesses in this case. And certainly Ms. Rivero not
25 only was listed as a Government witness but actually testified

1 for the Government, and this message was sent after her
2 testimony.

3 THE COURT: All right. Well, based on what I've
4 heard, I'm not going to remand anyone. However, it sounds
5 like the Government is investigating this matter. I will
6 notify the magistrate that this matter should be set for a
7 bond hearing when the Government notifies that you're ready to
8 proceed.

9 MR. SNIDER: Very well.

10 THE COURT: And you stay in touch with defense
11 counsel, letting them know when such a hearing will be held,
12 and the same conditions that were a part of the original bond,
13 as explained to you about defendants not having contact with
14 anyone, are in effect.

15 MR. SNIDER: Very well.

16 THE COURT: All right. Anything further by the
17 defense?

18 MR. MCCRAY: Not from the defense, Judge.

19 THE COURT: All right. Thank you all very much. We
20 are in recess.

21 MR. WILCOX: Thank you.

22 (Proceedings concluded at 1:34 PM.)

23

24

25

CERTIFICATE OF REPORTER

I certify that the foregoing is a correct transcription of the record of proceedings in the above-entitled matter prepared from my stenotype notes.

DATE: 14th of May, 2025

/s/Lance W. Steinbeisser

Lance W. Steinbeisser,
FCRR, RPR, FPR-C
Official Court Reporter
United States District Court
Southern District of Florida
Miami, Florida

	3143 [1] - 15:20 33128 [1] - 1:23	15:10 advised [2] - 3:22, 16:6 Agent [2] - 16:20, 17:2 ago [1] - 16:4 agree [3] - 4:2, 7:7, 7:20 agreed [3] - 3:5, 4:18, 9:12 aided [1] - 1:25 allegations [1] - 6:20 alleged [2] - 5:8, 6:3 alleges [2] - 4:23, 4:24 ALSO [1] - 1:18 AM [5] - 1:6, 8:22, 10:7, 10:9, 10:15 America [3] - 11:8, 12:4, 14:24 AMERICA [1] - 1:3 answer [7] - 3:13, 3:15, 3:21, 4:5, 8:19, 9:4, 9:22 answering [1] - 4:3 answers [3] - 4:15, 8:15 apply [1] - 7:19 April [1] - 19:5 area [1] - 4:2 assigned [1] - 16:10 assistance [1] - 6:18 attaching [1] - 7:20 attorney [1] - 16:4 Attorney's [1] - 1:14 August [4] - 4:24, 6:4, 6:5, 6:6 Aulicino [1] - 13:6 AUSA [2] - 1:13, 1:13 Avenue [1] - 1:22 awaiting [2] - 15:22, 15:23	brings [1] - 9:5 brought [1] - 9:6 Bustamante [1] - 13:18	18:12 consider [1] - 16:13 consistent [1] - 10:1 conspiracies [4] - 6:3, 7:14, 9:10, 9:15 conspiracy [18] - 3:5, 4:18, 4:20, 4:21, 5:6, 5:7, 5:16, 6:9, 6:10, 6:21, 6:24, 7:5, 7:12, 8:5, 8:14, 9:12, 10:4 conspirator [1] - 6:10 contact [2] - 17:23, 18:13 content [1] - 16:11 context [1] - 16:16 conversations [1] - 17:2 convincing [1] - 15:25 correct [3] - 4:21, 4:22, 19:2 counsel [2] - 3:16, 18:11 Counsel [1] - 4:21 Count [25] - 3:12, 3:17, 4:23, 4:24, 7:15, 8:5, 8:10, 9:2, 9:3, 10:4, 11:12, 11:15, 11:17, 11:19, 11:21, 11:23, 11:25, 12:7, 12:10, 12:12, 12:14, 12:16, 12:18 count [9] - 3:25, 4:7, 5:8, 6:24, 8:5, 8:14, 9:18, 14:15 Counts [3] - 4:20, 8:9, 9:15 counts [10] - 3:22, 4:1, 4:20, 4:21, 6:13, 6:17, 8:9, 10:17, 10:24, 11:1 COURT [39] - 1:1, 3:2, 3:22, 3:25, 4:11, 4:23, 5:11, 5:14, 5:19, 5:24, 6:6, 6:17, 7:12, 7:22, 8:3, 8:16, 8:23, 10:8, 10:10, 10:16, 10:21, 10:23, 11:3, 12:22, 14:13, 14:23, 15:5, 15:7, 15:14, 15:17, 16:13, 17:6, 17:17, 17:19, 17:21, 18:3, 18:10, 18:16, 18:19 Court [18] - 1:21, 1:22, 3:1, 3:18, 4:6,
'21 [1] - 4:24	4		C	
/	4 [10] - 4:20, 4:24, 8:5, 8:10, 9:15, 10:4, 11:19, 12:12, 13:11, 13:13 400 [1] - 1:22 44 [3] - 16:16, 17:16, 17:17		caller [2] - 17:7 cannot [1] - 9:4 captioned [2] - 11:11, 12:6 careful [1] - 9:23 CAROLYN [1] - 1:7 Carolyn [12] - 1:18, 3:12, 9:3, 11:8, 12:5, 12:8, 12:11, 12:13, 12:15, 12:17, 12:19, 14:24 Case [2] - 11:7, 12:4 CASE [1] - 1:2 case [5] - 11:11, 12:6, 14:24, 15:13, 17:24 certain [2] - 6:19, 6:20 certainly [1] - 17:24 Certificate [1] - 2:4 CERTIFICATE [1] - 19:1 certify [1] - 19:2 charged [8] - 3:11, 3:19, 3:25, 4:1, 4:7, 5:16, 9:2, 9:10 charges [3] - 4:9, 9:5 charging [2] - 3:14, 4:8 chronology [1] - 16:17 clarification [1] - 10:13 clarity [1] - 5:4 clear [3] - 4:5, 7:15, 15:25 clerk [1] - 10:11 Code [1] - 15:20 comment [1] - 14:15 communicate [1] - 4:13 communication [2] - 10:16, 10:23 community [1] - 16:2 computer [1] - 1:25 computer-aided [1] - 1:25 concluded [1] - 18:22 condition [2] - 17:16, 17:22 conditions [1] -	
/s/Lance [1] - 19:5	5			
1	5 [3] - 12:14, 13:14, 13:16			
1 [13] - 1:8, 4:20, 4:23, 7:13, 7:15, 8:5, 8:9, 9:15, 10:4, 11:12, 12:7, 13:2, 13:4 10 [4] - 2:3, 11:25, 14:4, 14:6 11:14 [1] - 1:6 11:32 [1] - 8:22 11:37 [1] - 10:7 11:45 [1] - 10:9 11:46 [1] - 10:15 12 [2] - 14:7, 14:9 13 [2] - 14:10, 14:12 15th [1] - 19:5 18 [1] - 15:20 19 [2] - 1:8, 2:4 1:20 [2] - 10:15, 10:22 1:27 [1] - 14:22 1:34 [2] - 1:6, 18:22	6			
	6 [3] - 11:21, 13:17, 13:19			
	7			
	7 [3] - 11:23, 13:20, 13:22			
	8			
	8 [4] - 3:6, 12:16, 13:23, 13:25			
2	9			
	9 [4] - 1:7, 12:18, 14:1, 14:3			
2 [7] - 3:12, 3:17, 7:13, 9:2, 11:15, 13:5, 13:7 2021 [3] - 4:24, 6:5, 6:6 2024 [2] - 1:4, 12:21 2025 [1] - 19:5 21 [2] - 6:4, 16:3 23 [1] - 1:4 23-60173-cr [1] - 12:4 23-cr-60173 [1] - 11:7 23-CR-60173-KMW [1] - 1:2 23rd [1] - 12:21	A			
	able [1] - 9:17 above-captioned [2] - 11:11, 12:6 above-entitled [1] - 19:3 accept [1] - 10:18 accordance [1] - 14:23 ADAM [1] - 1:13 add [1] - 5:21 additional [1] - 15:2 address [3] - 5:9, 6:13, 16:25 addresses [1] - 6:12 adjudged [2] - 14:25,	B		
3		based [4] - 4:9, 15:10, 17:2, 18:3 BEFORE [1] - 1:10 BEHALF [1] - 1:15 best [1] - 9:16 between [2] - 5:16, 9:19 beyond [1] - 3:20 bond [4] - 15:12, 17:23, 18:7, 18:12 bound [1] - 9:5 box [1] - 3:7 bring [2] - 8:20, 10:21		
3 [8] - 3:12, 9:2, 9:3, 11:17, 12:10, 13:8, 13:10 305.523.5633 [1] - 1:23				

5:9, 6:16, 7:8, 7:23, 7:24, 8:12, 9:7, 10:18, 15:10, 16:25, 17:1, 19:6, 19:7 court [2] - 4:13, 16:12 COURTROOM [13] - 11:7, 13:2, 13:5, 13:8, 13:11, 13:14, 13:17, 13:20, 13:23, 14:1, 14:4, 14:7, 14:10 covered [1] - 8:11 credibility [1] - 8:2 custody [1] - 15:12	12:13, 12:15, 12:17, 12:19, 14:24 deputy [1] - 11:5 DEPUTY [13] - 11:7, 13:2, 13:5, 13:8, 13:11, 13:14, 13:17, 13:20, 13:23, 14:1, 14:4, 14:7, 14:10 detained [1] - 15:24 different [2] - 7:13, 9:16 Dimercurio [1] - 14:11 DiPietrantonio [3] - 16:21, 16:22, 17:3 direction [2] - 9:25, 10:5 directly [2] - 4:14, 8:7 directs [1] - 9:24 DISTRICT [3] - 1:1, 1:1, 1:11 District [3] - 1:22, 19:7, 19:7 DONALD [1] - 1:10 doubt [2] - 3:20, 4:5 during [3] - 5:7, 6:9, 7:4	F	11:22, 11:24, 12:1, 12:9, 12:11, 12:13, 12:15, 12:17, 12:19, 14:25, 15:11, 15:22	5:22, 6:1, 6:2, 7:10, 7:18, 8:12, 10:13 integrate [1] - 4:15 interestingly [1] - 6:19 interpretation [1] - 9:20 interpreting [1] - 7:18 interview [2] - 16:23 interviewed [1] - 17:9 investigate [1] - 16:20 investigating [3] - 16:11, 16:15, 18:5 issue [5] - 6:12, 6:13, 6:23, 7:12, 10:14 issues [2] - 9:25, 15:15 itself [1] - 14:15
D	D		H	J
daily [1] - 14:17 Dangela [1] - 14:10 danger [1] - 16:1 DARYL [1] - 1:17 DATE [1] - 19:5 date [2] - 5:4, 12:3 dates [2] - 5:16, 6:13 DAVID [1] - 1:13 DAY [1] - 1:7 days [1] - 16:4 decide [2] - 3:19, 9:25 decided [1] - 10:12 decides [2] - 3:14, 9:21 decision [1] - 4:1 decisions [1] - 4:8 Defendant [1] - 15:9 defendant [18] - 3:4, 4:17, 6:24, 7:3, 9:12, 11:13, 11:16, 11:18, 11:20, 11:22, 11:24, 12:1, 12:8, 12:11, 12:13, 12:15, 12:17, 12:19 defendants [2] - 5:7, 18:13 Defendants [1] - 1:8 DEFENDANTS [1] - 1:15 defense [3] - 18:10, 18:17, 18:18 defense's [1] - 7:17 deliberate [1] - 4:9 deliberation [2] - 10:3, 14:19 delve [1] - 5:11 DENISE [1] - 1:7 Denise [9] - 11:8, 12:5, 12:8, 12:11,	E	G	I	J
daily [1] - 14:17 Dangela [1] - 14:10 danger [1] - 16:1 DARYL [1] - 1:17 DATE [1] - 19:5 date [2] - 5:4, 12:3 dates [2] - 5:16, 6:13 DAVID [1] - 1:13 DAY [1] - 1:7 days [1] - 16:4 decide [2] - 3:19, 9:25 decided [1] - 10:12 decides [2] - 3:14, 9:21 decision [1] - 4:1 decisions [1] - 4:8 Defendant [1] - 15:9 defendant [18] - 3:4, 4:17, 6:24, 7:3, 9:12, 11:13, 11:16, 11:18, 11:20, 11:22, 11:24, 12:1, 12:8, 12:11, 12:13, 12:15, 12:17, 12:19 defendants [2] - 5:7, 18:13 Defendants [1] - 1:8 DEFENDANTS [1] - 1:15 defense [3] - 18:10, 18:17, 18:18 defense's [1] - 7:17 deliberate [1] - 4:9 deliberation [2] - 10:3, 14:19 delve [1] - 5:11 DENISE [1] - 1:7 Denise [9] - 11:8, 12:5, 12:8, 12:11,	easier [1] - 3:9 Eddie [1] - 17:12 effect [1] - 18:14 either [1] - 12:24 embraces [2] - 6:14, 6:23 emphasis [4] - 3:5, 4:18, 7:10, 9:12 end [1] - 9:16 entered [2] - 8:22, 10:22 entitled [1] - 19:3 ESQ [2] - 1:16, 1:17 evening [1] - 16:3 evidence [1] - 15:25 exactly [1] - 7:25 excuse [2] - 10:6, 14:20 execution [1] - 15:23 exited [2] - 10:7, 14:22 expeditious [1] - 4:11 explain [1] - 4:12 explained [1] - 18:13	facts [1] - 9:19 factual [2] - 9:25, 15:14 family [1] - 17:5 far [2] - 9:20, 17:14 FBI [3] - 16:20, 17:10, 17:14 FCRR [2] - 1:21, 19:6 few [2] - 14:20, 16:6 fine [1] - 9:18 first [4] - 4:17, 8:13, 9:1, 9:9 flee [1] - 16:1 FLORIDA [1] - 1:1 Florida [4] - 1:3, 1:23, 19:7, 19:8 folder [1] - 11:4 following [2] - 11:12, 12:7 follows [1] - 11:13 FOR [1] - 1:12 foregoing [1] - 19:2 foreperson [3] - 3:6, 12:2, 12:20 FOREPERSON [1] - 11:2 form [2] - 11:3, 15:1 FPR [2] - 1:21, 19:6 FPR-C [2] - 1:21, 19:6 framing [1] - 8:4 frankly [1] - 9:16	harm [1] - 17:4 Haydee [1] - 16:5 hear [1] - 15:5 heard [1] - 18:4 hearing [2] - 18:7, 18:11 HELD [1] - 1:10 held [1] - 18:11 help [3] - 3:11, 7:16, 9:1 Hendrith [1] - 1:19 Hernan [1] - 13:23 highlight [1] - 7:24 highlighting [1] - 7:9 home [1] - 16:22 Honor [8] - 5:21, 7:8, 8:8, 10:19, 11:2, 15:4, 15:16, 16:3 HONORABLE [1] - 1:10 hope [1] - 10:8	JOHNNY [1] - 1:16 Johnny [1] - 1:16 join [4] - 6:8, 6:9, 7:3, 14:20 joined [2] - 7:1, 7:6 joins [1] - 5:15 Jose [1] - 13:2 JR [1] - 1:16 Jr [1] - 1:16 judge [2] - 3:17, 7:17 JUDGE [1] - 1:11 Judge [9] - 4:22, 5:3, 5:5, 6:5, 7:21, 8:11, 8:19, 10:20, 18:18 judicial [3] - 14:18, 15:21, 15:24 Juror [13] - 3:6, 13:2, 13:5, 13:8, 13:11, 13:14, 13:17, 13:20, 13:23, 14:1, 14:4, 14:7, 14:10 JUROR [12] - 13:4, 13:7, 13:10, 13:13, 13:16, 13:19, 13:22, 13:25, 14:3, 14:6, 14:9, 14:12 jurors [1] - 4:12 Jury [4] - 8:22, 10:7, 10:22, 14:22 jury [16] - 3:7, 4:16, 5:22, 8:20, 9:21, 10:12, 10:17, 10:21, 10:24, 10:25, 11:6, 11:11, 12:6, 13:1, 14:17, 14:19

JURY [1] - 1:10 jury's [1] - 15:10	message [7] - 16:4, 16:9, 16:10, 16:11, 17:14, 17:15, 18:1 Miami [4] - 1:3, 1:22, 1:23, 19:8 minor [1] - 6:25 momentarily [1] - 10:8 moments [1] - 14:20 Monday [1] - 16:3 morning [1] - 8:23 motion [1] - 15:11 MR [33] - 3:17, 3:24, 4:2, 4:22, 5:2, 5:13, 5:17, 5:21, 6:5, 6:15, 7:7, 7:8, 7:17, 7:23, 8:8, 8:11, 8:18, 10:19, 10:20, 15:4, 15:6, 15:9, 15:16, 15:18, 16:15, 17:7, 17:18, 17:20, 17:22, 18:9, 18:15, 18:18, 18:21 must [2] - 3:19, 4:1	12:21, 16:3 OF [5] - 1:1, 1:3, 1:10, 1:15, 19:1 offense [1] - 15:22 Office [2] - 1:14, 1:16 officer [3] - 11:4, 15:21, 15:24 Official [2] - 1:21, 19:6 Olga [1] - 13:17 ON [1] - 1:15 one [12] - 3:4, 3:8, 4:7, 5:2, 7:2, 7:3, 7:4, 7:14, 9:15, 9:24, 10:3, 17:10 open [2] - 4:13, 16:12 opposite [1] - 3:7 Order [1] - 3:1 order [2] - 4:11, 15:21 oriented [1] - 3:8 original [1] - 18:12	PM [5] - 1:6, 10:15, 10:22, 14:22, 18:22 point [3] - 6:11, 6:14, 15:15 poll [1] - 13:1 polled [2] - 11:6, 12:23 pose [1] - 16:1 position [3] - 3:18, 7:17, 8:18 possibly [1] - 5:19 precludes [1] - 17:23 prejudicial [1] - 8:2 prepared [1] - 19:3 PRESENT [1] - 1:18 present [1] - 8:6 presented [1] - 9:8 presently [3] - 8:15, 16:5, 16:10 presume [1] - 6:1 proceed [1] - 18:8 Proceedings [2] - 1:24, 18:22 proceedings [2] - 10:9, 19:3 process [1] - 3:14 produced [1] - 1:25 properly [1] - 3:21 proved [2] - 3:19, 5:6 provides [1] - 15:21 publish [1] - 11:5 published [1] - 15:1 purpose [2] - 7:1, 7:6 purview [1] - 9:6	received [9] - 3:3, 10:10, 10:16, 10:23, 16:4, 16:7, 16:9, 17:4, 17:10 receiving [1] - 16:19 recess [2] - 10:14, 18:20 Recess [1] - 10:15 record [1] - 19:3 recorded [1] - 1:24 refer [1] - 9:17 reference [2] - 8:4, 10:4 referring [2] - 8:5, 9:14 regard [1] - 8:7 relates [1] - 9:18 relayed [1] - 16:21 released [1] - 16:2 rely [1] - 5:22 remand [1] - 18:4 remanded [1] - 15:12 Reporter [2] - 1:21, 19:6 REPORTER [1] - 19:1 Reporter..... [1] - 2:4 representing [1] - 16:5 requested [1] - 16:20 reread [1] - 9:23 resolves [1] - 10:14 respect [2] - 3:17, 15:9 respond [4] - 4:14, 8:7, 9:1, 12:23 response [5] - 5:1, 7:16, 9:7, 10:8, 10:10 responses [1] - 4:12 responsive [1] - 5:25 reveal [1] - 16:12 revoked [1] - 15:12 risk [2] - 7:18, 7:20 Rivero [9] - 16:5, 16:7, 16:9, 16:23, 17:3, 17:9, 17:16, 17:24 room [2] - 10:3, 14:19 RPR [2] - 1:21, 19:6 run [1] - 7:20 running [1] - 7:18
K				
keep [1] - 16:17 Kelly [1] - 16:22 kill [1] - 17:12				
L				
ladies [4] - 3:2, 12:22, 14:13, 15:8 Lance [1] - 19:5 LANCE [1] - 1:21 language [6] - 6:12, 7:13, 8:7, 8:8, 8:15, 9:16 Law [1] - 1:16 law [6] - 6:8, 6:11, 9:19, 9:20, 10:1 learned [1] - 17:1 least [3] - 6:2, 7:2, 17:4 letting [1] - 18:11 likely [1] - 15:25 line [1] - 9:18 listed [1] - 17:25 listening [1] - 7:22 lives [2] - 14:17, 16:8 look [1] - 6:17 looking [1] - 17:13 LOVE [1] - 1:13 Loynaz [1] - 13:9	N name [2] - 12:23, 16:5 need [3] - 4:4, 9:9, 10:12 Nicholas [1] - 14:4 NO [1] - 1:2 North [1] - 1:22 notes [1] - 19:3 notifies [1] - 18:7 notify [1] - 18:6 Number [15] - 3:6, 11:7, 12:4, 13:2, 13:5, 13:8, 13:11, 13:14, 13:17, 13:20, 13:23, 14:1, 14:4, 14:7, 14:10 number [4] - 10:3, 16:9, 17:11, 17:15 NUMBER [12] - 13:4, 13:7, 13:10, 13:13, 13:16, 13:19, 13:22, 13:25, 14:3, 14:6, 14:9, 14:12	P P.A [1] - 1:16 PAGE [1] - 2:2 Pages [1] - 1:8 paragraph [1] - 6:23 paralegal [1] - 1:19 part [5] - 6:25, 7:9, 7:10, 7:25, 18:12 participate [2] - 9:12, 14:17 participated [3] - 3:5, 4:18, 5:7 particular [6] - 5:3, 7:9, 7:10, 7:24, 7:25, 15:14 parties [1] - 15:2 party [1] - 6:7 pass [1] - 11:3 pattern [1] - 8:12 Pause [1] - 10:9 pending [1] - 15:12 period [5] - 4:25, 5:7, 5:18, 6:21, 7:4 permanently [1] - 14:21 person [5] - 5:15, 15:21, 15:25, 16:1, 17:9 phone [4] - 16:7, 16:9, 17:4, 17:11 placing [1] - 7:9 Plaintiff [1] - 1:4 plan [4] - 6:25, 7:1, 7:6 played [1] - 6:24	Q questions [3] - 3:3, 4:14, 8:24 quick [1] - 6:17	R raised [1] - 5:5 Ramos [1] - 13:2 reached [3] - 10:17, 10:24, 10:25 read [7] - 5:3, 6:2, 7:11, 12:24, 13:3, 14:16, 14:23 Read [1] - 6:1 reading [1] - 10:13 ready [1] - 18:7 really [4] - 3:13, 6:21, 7:15, 10:11 reason [1] - 10:17 reasonable [2] - 3:20, 4:4
M				
magistrate [1] - 18:6 male [1] - 17:11 male's [1] - 17:8 Mandri [1] - 14:5 Mario [1] - 13:5 matter [10] - 3:4, 4:17, 5:15, 5:17, 9:11, 9:21, 16:20, 18:5, 18:6, 19:3 matters [4] - 5:5, 5:9, 5:10, 15:2 MCCRAY [9] - 1:16, 3:17, 3:24, 7:17, 7:23, 8:11, 8:18, 10:20, 18:18 McCray [1] - 1:16 mean [2] - 5:25, 6:8 means [6] - 7:4, 16:17, 17:17, 17:18, 17:19, 17:20 mechanical [1] - 1:24	O object [1] - 7:8 obviously [1] - 8:16 occasion [3] - 7:2, 7:3, 7:4 occurred [1] - 6:3 October [3] - 1:4,			S safety [1] - 16:1 Samantha [1] - 13:8

Sanchez ^[1] - 13:21 Schaffer ^[1] - 13:15 Schwartz ^[4] - 16:6, 16:19, 16:21 seated ^[1] - 15:8 second ^[3] - 4:16, 8:14, 9:7 Section ^[1] - 15:20 security ^[1] - 11:4 see ^[3] - 3:7, 4:19, 6:18 sent ^[3] - 6:16, 17:15, 18:1 sentence ^[1] - 15:24 sentencing ^[2] - 15:13, 15:23 separately ^[1] - 16:24 service ^[1] - 14:14 set ^[1] - 18:6 shall ^[2] - 15:21, 15:24 sides ^[1] - 3:7 signed ^[3] - 3:6, 12:2, 12:20 simplest ^[1] - 3:20 simply ^[1] - 6:11 Smith ^[1] - 1:19 SNIDER ^[21] - 1:13, 4:2, 4:22, 5:2, 5:13, 5:17, 6:5, 7:7, 10:19, 15:4, 15:6, 15:9, 15:16, 15:18, 16:15, 17:7, 17:18, 17:20, 17:22, 18:9, 18:15 someone ^[1] - 4:6 sometimes ^[3] - 4:13, 9:22, 9:23 sorry ^[3] - 6:6, 15:23, 17:3 sounds ^[1] - 18:4 Southern ^[1] - 19:7 SOUTHERN ^[1] - 1:1 speaking ^[1] - 8:9 specific ^[2] - 6:12, 9:10 stage ^[1] - 6:9 standard ^[1] - 15:18 start ^[1] - 15:18 statement ^[2] - 4:16, 10:11 STATES ^[3] - 1:1, 1:3, 1:11 states ^[1] - 6:7 States ^[8] - 1:14, 1:22, 11:8, 12:4, 14:24, 15:11, 15:20, 19:7 stay ^[1] - 18:10 STEINBEISSER ^[1] -	1:21 Steinbeisser ^[2] - 19:5, 19:5 stenography ^[1] - 1:24 stereotype ^[1] - 19:3 Stephen ^[1] - 13:14 sufficient ^[1] - 7:2 suggested ^[2] - 4:6, 4:15 suggesting ^[1] - 17:8 suggestion ^[1] - 4:25 summarize ^[1] - 17:1 superseding ^[13] - 11:13, 11:15, 11:17, 11:19, 11:21, 11:23, 11:25, 12:8, 12:10, 12:12, 12:14, 12:16, 12:18 Susy ^[1] - 14:1 system ^[2] - 14:17, 14:18 T Tammie ^[1] - 14:7 terms ^[1] - 4:3 testified ^[1] - 17:25 testimony ^[1] - 18:2 text ^[6] - 16:4, 16:8, 16:10, 16:11, 17:14, 17:15 THE ^[56] - 1:10, 1:12, 1:15, 3:2, 3:22, 3:25, 4:11, 4:23, 5:11, 5:14, 5:19, 5:24, 6:6, 6:17, 7:12, 7:22, 8:3, 8:16, 8:20, 8:23, 10:8, 10:10, 10:16, 10:21, 10:23, 11:2, 11:3, 11:7, 12:22, 13:2, 13:5, 13:8, 13:11, 13:14, 13:17, 13:20, 13:23, 14:1, 14:4, 14:7, 14:10, 14:13, 14:23, 15:5, 15:7, 15:14, 15:17, 16:13, 17:6, 17:17, 17:19, 17:21, 18:3, 18:10, 18:16, 18:19 themselves ^[1] - 7:11 they've ^[3] - 3:22, 5:5, 6:1 thinking ^[1] - 5:12 threatened ^[2] - 17:5, 17:12	threats ^[1] - 16:8 throughout ^[1] - 6:20 Title ^[1] - 15:20 today's ^[1] - 12:2 touch ^[1] - 18:10 Tracy ^[15] - 1:19, 3:11, 9:2, 11:9, 11:14, 11:16, 11:18, 11:20, 11:22, 11:24, 12:1, 12:5, 14:25, 15:9, 16:10 TRACY ^[1] - 1:7 transcript ^[1] - 1:24 TRANSCRIPT ^[1] - 1:10 transcription ^[2] - 1:25, 19:3 TRIAL ^[1] - 1:10 true ^[12] - 13:3, 13:6, 13:9, 13:12, 13:15, 13:18, 13:21, 13:24, 14:2, 14:5, 14:8, 14:11 two ^[9] - 3:3, 3:9, 3:10, 4:21, 6:3, 8:24, 9:10, 16:4, 17:4 U unanimously ^[2] - 11:12, 12:7 under ^[1] - 15:20 unduly ^[1] - 8:1 UNITED ^[3] - 1:1, 1:3, 1:11 United ^[8] - 1:14, 1:22, 11:8, 12:4, 14:24, 15:11, 15:20, 19:7 unknown ^[3] - 17:7, 17:8, 17:11 unlawful ^[2] - 7:1, 7:6 unless ^[1] - 15:24 V V.A ^[1] - 1:19 Vera ^[3] - 3:6, 10:25, 13:23 verdict ^[28] - 10:17, 10:18, 10:24, 10:25, 11:3, 11:5, 11:10, 12:24, 12:25, 13:3, 13:6, 13:9, 13:12, 13:15, 13:18, 13:21, 13:24, 14:2, 14:5,	14:8, 14:11, 14:15, 14:16, 14:23, 14:25, 15:10 Verdict ^[1] - 2:3 versus ^[4] - 4:7, 11:8, 12:5, 14:24 Viviane ^[1] - 13:11 voice ^[2] - 17:8, 17:11 vs ^[1] - 1:5 W wade ^[1] - 4:3 WADE ^[2] - 1:7, 1:7 Wade ^[31] - 1:18, 1:19, 3:11, 3:12, 9:2, 9:3, 11:8, 11:9, 11:14, 11:16, 11:18, 11:20, 11:22, 11:24, 12:1, 12:5, 12:9, 12:11, 12:13, 12:15, 12:17, 12:19, 14:25, 15:9, 15:11, 15:12, 16:10, 17:3, 17:9 Wade's ^[2] - 17:15, 17:23 wants ^[1] - 5:9 WILCOX ^[6] - 1:17, 5:21, 6:15, 7:8, 8:8, 18:21 willfully ^[2] - 7:1, 7:6 Williams ^[1] - 14:8 witness ^[1] - 17:25 WITNESS ^[1] - 8:20 witnesses ^[1] - 17:24 words ^[2] - 17:12, 17:16 writing ^[1] - 4:13 Y yourself ^[1] - 10:6
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