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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA, : 18-CR-0204(NGG)

Plaintiff, :

-against- : United States Courthouse

KEITH RANIERE, : Brooklyn, New York

Defendant. : Wednesday, April 24, 2019

: 9:30 a.m.

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TRANSCRIPT OF CRIMINAL CAUSE FOR JURY SELECTION  
BEFORE THE HONORABLE NICHOLAS G. GARAUFI  
UNITED STATES SENIOR DISTRICT JUDGE

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Proceedings recorded by mechanical stenography, transcript produced by Computer-Aided Transcription

1 (In open court; prospective jurors not present.)

2 THE COURT: All right. Appearances, please.

3 MS. PENZA: Moira Penza, Tanya Hajjar, Mark Lesko  
4 for the United States. Good morning, Your Honor.

5 THE COURT: Good morning.

6 MR. AGNIFILO: Good morning, Your Honor. Marc  
7 Agnifilo, Teny Geragos, Paul DerOhannesian and Danielle Smith  
8 for Keith Raniere who is now with us in court.

9 THE DEFENDANT: Good morning, Judge.

10 THE COURT: Good morning. Good morning, everybody.  
11 Good morning to the deputies. Good morning.

12 You may be seated. I just have a question.

13 Have you worked out the issue regarding the  
14 individuals who are not in the United States who may be called  
15 as witnesses for the defense?

16 MR. AGNIFILO: We -- I do not see at this point us  
17 trying to do Rule 15 depositions or --

18 THE COURT: Video.

19 MR. AGNIFILO: -- or video, yes. The one thing -- I  
20 don't see that right now, I don't. The one thing --

21 THE COURT: Don't jump me with it like on the last  
22 day of your case.

23 MR. AGNIFILO: I know. I know.

24 THE COURT: We need to be prepared and details have  
25 to be worked out if they can be worked out and so forth.

1 MR. AGNIFILO: Right. I know that. I know. It's a  
2 complicated -- no, I do, and I don't say this lightly that I  
3 don't see doing it right now. I mean, the one thing that I  
4 don't want to have to sign on to unless the Court makes me at  
5 this point is, you know, I don't know who their witnesses are  
6 and they don't have to tell me and that's all fine, but I  
7 don't want to necessarily -- and I would try to get these  
8 people here. I mean, that would be my first choice. I don't  
9 want to have a video. I don't like video statements because I  
10 think the jury thinks it's gimmicky. If the government puts  
11 their witnesses on the witness stand, I want to put my  
12 witnesses on the witness stand.

13 So what's more likely, Judge, is if something were  
14 to happen, I would try to reach an accommodation with the  
15 government where they would let this person travel, but I  
16 don't see doing a video statement and I certainly don't see  
17 doing Rule 15 depositions.

18 MS. PENZA: Your Honor, that can't be done during  
19 trial. This idea of they don't know who our witnesses are  
20 going to be, they have a general sense of what our case is  
21 going to be and what the witnesses are. We've given all the  
22 3500. I don't think there's a big mystery here that would  
23 result in, at the end of day, Mr. Agnifilo needing to say, All  
24 of the sudden, we need, we're planning on bringing this  
25 person.

1           So that's where we are. I just don't think that's  
2 true, given the back and forth that there's been about this  
3 case and about the government's theory about this case.  
4 There's more laid out than I think is typical pre trial.

5           THE COURT: Well, let me just say this. At this  
6 point, the defense doesn't plan to apply for this kind of  
7 accommodation. If you change your mind, do it soon. That's  
8 all I can say, because I do not want to do anything here at  
9 the last minute. This case is complicated enough as it is.

10           Furthermore, I don't know how long the government's  
11 case is really going to last. I don't know if you are going  
12 to have a case, if you have a case, how long yours is going to  
13 last, and then I have jurors who, you know, are planning to  
14 take vacations at the end of June and I am not going to  
15 exclude them because we should be able to finish up with one  
16 defendant by mid-June and that's my target.

17           MR. AGNIFILO: I think we should. And we were  
18 talking this morning about, you know, stipulating to  
19 custodians. We don't -- we haven't gotten that evidence yet,  
20 but when we do, I'm sure that's something we can work through.  
21 I don't think I'm going to make them call records custodians  
22 and things like that.

23           THE COURT: Well, that might shave, you know, three  
24 hours off the case.

25           MR. AGNIFILO: Three hours here, and three hours --

1 THE COURT: I would appreciate that kind of  
2 streamlining, don't get me wrong, but it's not a giant time  
3 saver I've learned over the last 19 years.

4 MR. AGNIFILO: No, I agree.

5 THE COURT: All right? Okay. Anything else before  
6 we start --

7 MS. PENZA: No, Your Honor.

8 MR. AGNIFILO: Nothing from us, Judge.

9 THE COURT: -- with the jurors?

10 Okay. Mr. Reccoppa is bringing up the jurors now.

11 MS. PENZA: Thank you.

12 (Pause.)

13 THE COURT: Juror 60 and Juror 143 are on their way  
14 but they're not here yet and the jury clerk hasn't been able  
15 to reach Juror 157 and is still trying. So we have 14 jurors  
16 for this morning thus far and we'll have another two as soon  
17 as they arrive.

18 MR. AGNIFILO: Very good, Judge.

19 (Prospective jurors enter.)

20 THE COURT: Please be seated, everyone.

21 Good morning, ladies and gentlemen. I am  
22 Judge Garaufis and today we are going to follow up on your  
23 answers on your questionnaires. The parties and the Court  
24 have reviewed your questionnaires and we have a few follow-up  
25 questions for each one of you.

1           At the time you filled out the questionnaires, you  
2 were introduced to the lawyers for the government, Assistant  
3 United States Attorneys Moira Penza, Tanya Hajjar and Mark  
4 Lesko who are at the near table, and at the far table, the  
5 defendant Keith Raniere and his attorneys Marc Agnifilo, Teny  
6 Geragos, Paul DerOhannesian and Daniel Smith.

7           I want to advise you that Keith Raniere who is  
8 seated at the far table in the sweater and with the  
9 open-collared shirt is the only defendant who will stand trial  
10 before this jury that's being selected this week. Please do  
11 not speculate as to why this is the case.

12           Let me go over what we are going to do today in a  
13 little more detail. After I have spoken to you as a group, I  
14 am going to ask Juror No. 45, all right, you will be  
15 questioned first and. When the other jurors leave, you will  
16 sit in that very first seat with the microphone in the first  
17 row closest to the Court. Okay? And then the other jurors  
18 will wait in the jury room that is behind this courtroom.

19           When you go to the jury room -- I am going to talk  
20 to you about your responsibility not to discuss the case with  
21 anyone -- you are not to discuss the case with anyone else in  
22 that room. In other words, you can talk about anything you  
23 want while you are waiting. You can talk about the Yankees,  
24 the Mets, movies you have seen and loved, movies you have seen  
25 and hated, the weather, and so on, but do not talk about the

1 case at all. I appreciate that and so do the parties.

2 So let me remind you that it is extremely important  
3 that you follow my instruction that you not discuss the case  
4 with anyone, not your family, your friends or business  
5 associates and not with each other as jurors and that you  
6 refrain from doing this until you have been dismissed from  
7 jury service.

8 Now, some of you will be, will have to come back for  
9 final decision on the composition of the jury and some of you  
10 in the end, when we complete that process, will be dismissed  
11 from jury service on this jury, but between now and when your  
12 jury service ends, you are not to discuss the case with  
13 anyone. If someone at your office says, Gee, you've been to  
14 the courthouse twice, you know, is this about such and such  
15 case, I think the answer is, The judge said that we can't  
16 discuss any of the details with anyone. So blame it on me.  
17 You're not being rude. You're just following the Judge's  
18 instructions.

19 So that's the way to handle it. Sometimes that's  
20 hard because these are people you work with or they're members  
21 of your family or your close friends, but it really is  
22 important. Once you start discussing anything about it, that  
23 begets more discussion or questions. So, please, be very  
24 careful about that.

25 In addition, you must not read, listen to, watch or

1 access any accounts of this case on any form of media, whether  
2 it's newspaper or TV or radio, podcasts or on the internet.  
3 You should not research or seek outside information about any  
4 aspect of the case. Please do not communicate with anyone  
5 about the case on your phone, whether through e-mail, text  
6 messaging or any other means, through any blog or website or  
7 by way of any social media including Facebook, Twitter,  
8 Instagram, YouTube or other similar sites. You must not  
9 consider anything you may have read or heard about the case  
10 outside of this courtroom, whether you read it before or  
11 during the jury selection process.

12 Do not attempt any independent research or  
13 investigation about the case. Do not visit any of the  
14 locations identified on the questionnaire or discussed during  
15 the course of jury selection. And as I said, do not discuss  
16 the case in the jury room while you are waiting to be  
17 interviewed.

18 So now, let me tell you what the schedule is thus  
19 far. The trial would begin on or about Tuesday, May 7th, and  
20 will last up to six weeks. The Court will provide the jurors  
21 with a schedule of the trial dates before the trial starts.  
22 In other words, the jurors will not have to wonder what days  
23 they have to come in and what days they do not have to come  
24 in. It will all be on a chart and each juror will get a copy  
25 of that chart at the very beginning of the trial.



Prospective Juror 45

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1           So please continue to call in to the jury  
2 information phone line as you have been instructed to do so by  
3 the jury clerk.

4           So now, at this point, I am going to ask everyone  
5 except Juror No. 45 to retire to the jury deliberation room.

6           All rise for the jurors.

7           (Prospective jurors except Juror No. 45 exit.)

8           THE COURT: All right. Thank you. Everyone may be  
9 seated.

10          Well, good morning.

11          THE PROSPECTIVE JUROR: Good morning.

12          THE COURT: You are Juror No. 45, are you not?

13          THE PROSPECTIVE JUROR: I am.

14          THE COURT: Okay. So you do a lot of traveling in  
15 your job?

16          THE PROSPECTIVE JUROR: I do. Yes, I work in PR.

17          THE COURT: Where?

18          THE PROSPECTIVE JUROR: In public relations.

19          THE COURT: Yes. So tell me about your planned trip  
20 for the Memorial Day weekend.

21          THE PROSPECTIVE JUROR: I'm going to New Orleans for  
22 a vacation.

23          THE COURT: Oh, that's very nice. What day are you  
24 leaving?

25          THE PROSPECTIVE JUROR: I leave on the 23rd,

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1 May 23rd.

2 THE COURT: What day of the week is that? Is that  
3 Thursday?

4 THE PROSPECTIVE JUROR: I think Thursday.

5 THE COURT: What time do you leave?

6 THE PROSPECTIVE JUROR: I printed out my flight.

7 THE COURT: Okay.

8 THE PROSPECTIVE JUROR: It's a 2:21 flight.

9 THE COURT: All right. Well, I have a few  
10 questions.

11 Do you know what your company's policy is about  
12 paying you for your jury service?

13 THE PROSPECTIVE JUROR: I'm not 100 percent sure.

14 THE COURT: Okay. Well, I am going to ask you to  
15 find out and inform Mr. Reccoppa. I will give you his phone  
16 number. You can call and if he is not at his desk, you can  
17 leave your juror number and advise him what your company's  
18 policy is.

19 So if you only receive pay for a week or two and  
20 this is a six-week trial, would that create a financial  
21 hardship for you?

22 THE PROSPECTIVE JUROR: No, but being out of work  
23 for six weeks would be professionally a hardship for me.

24 THE COURT: I see. Okay.

25 THE PROSPECTIVE JUROR: And I also believe that I

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1 have a professional conflict with the case. My PR agency is  
2 an entertainment agency and we represent Allison Mack so I'm  
3 colleagues with her personal publicist.

4 THE COURT: So have you done any work directly for  
5 her?

6 THE PROSPECTIVE JUROR: I haven't done work directly  
7 for her, but the entire agency, we always cover clients for  
8 each other and we always work with each other's clients.

9 THE COURT: Okay. Well, between now and the time  
10 you are excused from jury service, just decline to do any work  
11 with her representative or her as long as you haven't been  
12 doing work with her directly up to this point. It is better  
13 that you, until we know whether you are going to be on this  
14 jury, that you not have any direct contact with her. In other  
15 words, I'm building a firewall for you. So if anyone in your  
16 agency says, We want to you do some work with Allison Mack who  
17 is a defendant in the overall case, just indicate the judge  
18 said that you shouldn't do that. Okay? Leave it at that.

19 THE PROSPECTIVE JUROR: Okay.

20 THE COURT: Thank you.

21 Let me ask a few more questions.

22 So you have tickets already for Memorial Day weekend  
23 to fly to --

24 THE PROSPECTIVE JUROR: New Orleans.

25 THE COURT: New Orleans?

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1 THE PROSPECTIVE JUROR: Yes.

2 THE COURT: What airline?

3 THE PROSPECTIVE JUROR: JetBlue and I have it  
4 printed out if you wanted to see.

5 THE COURT: No, it's all right.

6 THE PROSPECTIVE JUROR: I come prepared.

7 THE COURT: Now, you indicated that you have someone  
8 close to you who has participated in a self-help program and  
9 that you were asked to, it was a three-day seminar and the  
10 people who ran the seminar had her invite you as a friend for  
11 the closing ceremony where they promoted their program with  
12 you.

13 THE PROSPECTIVE JUROR: Right. It was Landmark  
14 Forum.

15 THE COURT: Landmark Forum. And you declined?

16 THE PROSPECTIVE JUROR: Well, no. I went -- I  
17 didn't know what it was.

18 THE COURT: You declined to join the program?

19 THE PROSPECTIVE JUROR: Yes, for sure.

20 THE COURT: It wasn't to your liking?

21 THE PROSPECTIVE JUROR: Not at all. I, I thought --  
22 I thought it was dumb.

23 THE COURT: I was going to ask you how would you  
24 describe it and I got my answer.

25 Question: Have you or anyone else close to you ever

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1 been the victim of sexual assault including date rape? You  
2 answered yes and you said: Sexually assaulted in a bar  
3 bathroom.

4 You or someone you know?

5 THE PROSPECTIVE JUROR: Me.

6 THE COURT: Okay. And did you report it?

7 THE PROSPECTIVE JUROR: No, I didn't.

8 THE COURT: How long ago was this?

9 THE PROSPECTIVE JUROR: Over ten years ago. I was  
10 in my 20s.

11 THE COURT: Here in New York?

12 THE PROSPECTIVE JUROR: Yes.

13 THE COURT: Well, you answered this question: Are  
14 you someone who generally makes up their mind right away or do  
15 you like to wait and hear the entire story? You answered:  
16 I'd like to say that I wait but can be impulsive.

17 THE PROSPECTIVE JUROR: Yes. I mean, I work in an  
18 industry that moves very quickly so making quick decisions is  
19 what I'm doing on a daily basis.

20 THE COURT: Well, if you are a juror, the Court will  
21 ask you not to make up your mind until you have heard all the  
22 evidence. Do you think you can follow the Court's  
23 instruction?

24 THE PROSPECTIVE JUROR: I can try.

25 THE COURT: Now, you say you have read newspaper

1 articles about Allison Mack in connection with this case?

2 THE PROSPECTIVE JUROR: I have.

3 THE COURT: Now, Ms. Mack isn't going to be on trial  
4 in this particular trial but would you be able, if information  
5 is developed regarding Ms. Mack during the trial in connection  
6 with Mr. Ranieri, would you be able to set aside anything you  
7 have heard or read and just consider the evidence as presented  
8 here in court and use that for making your decision as a  
9 juror?

10 THE PROSPECTIVE JUROR: I mean, I'd like to say so  
11 but, again, as I mentioned, she's a client of our agency and,  
12 you know, working with talent, that's, our first instinct is  
13 to protect our talent and to -- I don't know. Honestly, I'm  
14 not sure.

15 THE COURT: Let's have a side bar.

16 (The following occurred at sidebar.)

17 THE COURT: Yes?

18 MR. AGNIFILO: I don't want a juror who's going to  
19 professionally protect someone who may be a government  
20 cooperator. That's not an appropriate juror for this case.

21 MS. PENZA: I don't think -- I don't know what she  
22 actually means by that. She seems to have had absolutely no  
23 contact with Ms. Mack and there is no, like, professional  
24 protection of her in her role as a juror in a case against  
25 only Keith Ranieri.

1 THE COURT: I want to cut to the chase.

2 MS. PENZA: The question is whether she's going to  
3 be biased.

4 THE COURT: I don't know that this is about bias,  
5 frankly. I think this is about she doesn't want to be a juror  
6 on this case and so, you know, she said the words that, you  
7 know, she's protecting Ms. Mack. Why is she protecting  
8 someone who isn't her client?

9 MS. PENZA: We don't -- exactly, Your Honor.  
10 Someone that doesn't believe --

11 THE COURT: I think the issue is whether the mere  
12 fact that she would be in the jury room with other people and  
13 be in a position to talk about Ms. Mack, should Ms. Mack be a  
14 cooperator or should she be forced to, you know, if she is  
15 subpoenaed to testify, whatever it happens to be, that it is a  
16 risk that we take having her in the jury room at all because  
17 she is a loose cannon in that situation and we don't control  
18 what goes on in the jury room, you know, and she seems  
19 reticent to follow the rules. I asked her whether she can be  
20 put it aside and she basically said, you know, I can't promise  
21 you anything, Judge, I can't promise that I'll follow the  
22 instructions. That's the problem here.

23 MS. PENZA: She said she would try which is what  
24 other jurors have said as well.

25 THE COURT: I know, but they're not working for an

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1 agency that represents this talent is what I'm saying.

2 MR. AGNIFILO: Her answer to Your Honor's question  
3 is that she protects her talent and when you said can you  
4 follow the rules, she said, Well, we protect our talent.

5 THE COURT: Yes, I know.

6 Anything else now that you have helped me so much  
7 with this?

8 MS. PENZA: No, Your Honor.

9 THE COURT: Thank you.

10 (In open court; side bar ends.)

11 THE COURT: Now, this case is likely to receive  
12 ongoing media attention and the Court wants to make sure that  
13 the case is decided solely on the evidence presented in the  
14 courtroom and not based on influences outside the courtroom.

15 The Court will be advising you daily that you avoid  
16 reading about the case on the internet, newspaper, or  
17 listening to any radio or TV reports about the case. The  
18 Court will further advise you not to discuss the case with  
19 family or friends during the trial or with your fellow jurors  
20 until it is time to deliberate. Would these restrictions pose  
21 any difficulty for you? You said: Yes, I work in PR, part of  
22 my job is to be up to date on pop culture and news.

23 THE PROSPECTIVE JUROR: Yes. I mean, I read the  
24 newspaper every day. It's part of my job. It's to be in the  
25 know what's going on in the world.

CMH

OCR

RMR

CRR

FCRR



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1 THE COURT: Well, if you're a juror, you will  
2 certainly know what's going on in this case without reading  
3 the newspaper because you'll be in the courtroom every day.  
4 Do you have enough self control to, if you see a headline in  
5 the New York Post or the Daily News or Variety or whatever you  
6 read to just go past it and read the next story?

7 THE PROSPECTIVE JUROR: I'd like to say so.

8 THE COURT: Well, I don't want you to like to do  
9 anything, ma'am. I want to know whether you will follow the  
10 Court's instructions. It's a very simple question.

11 THE PROSPECTIVE JUROR: I mean I, I believe so.

12 THE COURT: What's the problem?

13 THE PROSPECTIVE JUROR: I believe so.

14 THE COURT: You believe so or you will do so? You  
15 see, there's a difference. Look, we're not at a dinner party  
16 here. All right? We're not at a bar. We are in a courtroom.  
17 This man is accused of serious crimes and I need every juror  
18 to follow the rules.

19 Have you been a juror before?

20 THE PROSPECTIVE JUROR: I have.

21 THE COURT: Yes, what was the context of that?

22 THE PROSPECTIVE JUROR: It was a car accident. It  
23 was a very small case.

24 THE COURT: Okay. But every case is important to  
25 the people who are parties to the case --

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1 THE PROSPECTIVE JUROR: Yes.

2 THE COURT: -- as you are well aware. So don't tell  
3 me what the verdict was, but were you on a jury that reached a  
4 verdict?

5 THE PROSPECTIVE JUROR: Yes.

6 THE COURT: Okay. So you know how it works.

7 THE PROSPECTIVE JUROR: Yes, of course.

8 THE COURT: You're not new to this. So I'm being  
9 specific in asking you will you follow the Court's  
10 instructions as to that particular issue and everything else I  
11 would add, but will you follow the Court's instructions?

12 THE PROSPECTIVE JUROR: Yes. I mean, there's an  
13 element of human nature and curiosity but yes.

14 THE COURT: Well, you see, you know, you say "yes"  
15 and then you back off. Saying yes and backing off, that  
16 doesn't cut it. Well, let me say this. If you are picked as  
17 a juror, we will provide you with a calendar of the days you  
18 need to be here and you will have to be here on those days.

19 So now, you answered this question: You may hear  
20 testimony from certain individuals that the government alleges  
21 are victims. A victim's testimony is not to be given any more  
22 or less credence than any other witness' testimony. Would you  
23 be able to follow the Court's instructions in this regard?  
24 And you said no.

25 Why wouldn't you be able to follow the Court's

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1 instruction?

2 THE PROSPECTIVE JUROR: I'm sorry. Can you repeat  
3 what the question is?

4 THE COURT: Let me read it again.

5 THE PROSPECTIVE JUROR: Yes.

6 THE COURT: You may hear testimony from certain  
7 individuals that the government alleges are victims. The  
8 victims' testimony is not to be given any more or less  
9 credence than any other witness' testimony. Would you be able  
10 to follow the Court's instructions in this regard?

11 THE PROSPECTIVE JUROR: Maybe I misunderstood the  
12 question.

13 THE COURT: Yes.

14 THE PROSPECTIVE JUROR: Yes. The answer is yes.

15 THE COURT: That sometimes happens.

16 THE PROSPECTIVE JUROR: Yes.

17 THE COURT: Because it's a negative, it's a  
18 positive.

19 THE PROSPECTIVE JUROR: Right.

20 THE COURT: So that's why I asked the question again  
21 because I thought that might be the case.

22 Okay. Any other questions.

23 MR. AGNIFILO: Nothing from us, Your Honor.

24 THE COURT: Any other questions?

25 MS. PENZA: No, Your Honor.

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1 THE COURT: Okay. Thanks for coming in. Have a  
2 nice day.

3 THE PROSPECTIVE JUROR: Thank you.

4 (Prospective Juror 45 exits the courtroom.)

5 THE COURT: Motion?

6 MR. AGNIFILO: Yes, Judge. We move to excuse the  
7 juror for cause. Your Honor tried to focus her on how  
8 important it is to view the evidence objectively and she  
9 brought up in response to Your Honor's question a second time  
10 that she feels the need to protect our talent, referring to  
11 Ms. Mack.

12 I think that in conjunction with Your Honor's other  
13 questions where you're trying to get, I think the Court was  
14 trying to gauge whether this is someone who can be trusted to  
15 stay on point, to follow the Court's instructions on the law,  
16 she never really gave the Court, I think, any vote of  
17 confidence that she could do that and, combined with a  
18 professional relationship that cannot change, whether she  
19 works on Ms. Mack's matters or not, you know, her professional  
20 employment is linked to Ms. Mack and she feels a proprietary  
21 possessory interest towards Ms. Mack by saying, We protect our  
22 talent.

23 She's just not the right juror for this case and we  
24 think that she should be excused.

25 THE COURT: Government?

1 MS. PENZA: Your Honor, the juror did say, "I  
2 believe so" when Your Honor did ask her the pointed question  
3 about following your instructions.

4 Also, the outcome of this case has nothing to do  
5 with Allison Mack and I don't think she actually has any  
6 professional connection to Allison Mack. The type of  
7 relationship, I think, is something where she's trying to not  
8 serve on the jury versus it being something that is actually a  
9 conflict. So the government does not believe that there's a  
10 basis for striking her.

11 THE COURT: I understand all that but my concern  
12 more than this professional obligation she articulated which  
13 the Court does not give any real credence to since she doesn't  
14 even know the person and she hasn't done any work for the  
15 person, but the Court's concern is that sort of cavalier  
16 approach to following the Court's instructions just generally  
17 that, you know, maybe I can do it, yes, I can do it but then  
18 again, I'm not so sure I can do it. That sort of, you know,  
19 sort of flip answer to a direct question about, This will be  
20 the Court's instructions, will you follow it? Yes or no. And  
21 the answer was, Well, yes, but then there's this other thing.  
22 That is what I'm concerned about with this individual and I  
23 think that was intentional on her part.

24 She wanted to convey -- I would think, in my mind,  
25 that she wanted to convey the impression that she really

Prospective Juror 45

415

1 couldn't follow, she wouldn't follow the Court's instructions  
2 unless she felt like it and that's --

3           You didn't get that sense from her?

4           MS. PENZA: I got the sense that she will follow  
5 your instruction. She's been on a jury before. I think her  
6 personality is reflected in her questionnaires. She answers  
7 things "Duh" and stuff like that on her questionnaire, so I  
8 think she does have an improperly -- I think she was having an  
9 improperly casual dialogue with Your Honor which you  
10 recognized and raised with her and I think by the end, she did  
11 say, "I believe so."

12           So the government just notes its, that it does not  
13 consent but we understand what the Court --

14           THE COURT: Okay. I'm going to grant the motion --  
15 thank you.

16           I am going to grant the motion to strike the juror  
17 for cause in an abundance of caution for the reasons or on the  
18 grounds that I just articulated, so 45 is struck.

19           (Prospective Juror 45 excused.)

20           (Continued on next page.)

21

22

23

24

25

Prospective Juror No. 144

416

1 (Continuing.)

2 THE COURT: 144.

3 MS. OTTAWAY: Your Honor? Very briefly --

4 THE COURT: From where?

5 MS. OTTAWAY: Amanda Ottaway with Courthouse News.

6 THE COURT: Yes?

7 MS. OTTAWAY: Ms. Saul had to step out. Is it okay  
8 if I am the pool reporter at the sidebar until she comes back?

9 THE COURT: Sure. If that's agreed by the First  
10 Amendment team.

11 MS. OTTAWAY: I just wanted to make sure it was okay  
12 with Your Honor.

13 THE COURT: Thank you. Nice to meet you.

14 MS. OTTAWAY: Nice to meet you.

15 MR. AGNIFILO: Your Honor, could I have one second  
16 to speak to the Government?

17 THE COURT: You can have two seconds.

18 (Pause in proceedings.)

19 (Prospective juror enters.)

20 THE COURT: Please be seated. Good morning, ma'am.

21 PROSPECTIVE JUROR No. 144: Good morning.

22 THE COURT: You are Juror No. 144?

23 PROSPECTIVE JUROR NO. 144: Yes, I am.

24 THE COURT: And you are retired?

25 PROSPECTIVE JUROR NO. 144: Yes.

Prospective Juror No. 144

417

1 THE COURT: Did you have something for me there?

2 You had some paper. That is not for me?

3 PROSPECTIVE JUROR NO. 144: No, not for you.

4 THE COURT: That is fine. I just have a few  
5 follow-up questions for you.

6 PROSPECTIVE JUROR NO. 144: Okay.

7 THE COURT: You indicated that your stepson is an  
8 attorney working for Broome County?

9 PROSPECTIVE JUROR NO. 144: Yes.

10 THE COURT: And he had previously at some point not  
11 that long ago clerked for a federal judge in New Jersey?

12 PROSPECTIVE JUROR NO. 144: Yes.

13 THE COURT: Okay. Did you ever discuss his work  
14 with him as a law clerk?

15 PROSPECTIVE JUROR NO. 144: No.

16 THE COURT: And before he worked for Broome County,  
17 what kind of -- did he go from being a clerk to Broome County  
18 or was there something in between?

19 PROSPECTIVE JUROR NO. 144: No, he only clerked for  
20 a summer season, like an intern while he was in law school.

21 THE COURT: I see.

22 PROSPECTIVE JUROR NO. 144: Before that he was a  
23 case worker for Child Protective Services in Broome County.

24 THE COURT: I see. You mean before he went to law  
25 school?



Prospective Juror No. 144

418

1 PROSPECTIVE JUROR NO. 144: Yes, before he went to  
2 law school.

3 THE COURT: Did he ever talk to you about that job?

4 PROSPECTIVE JUROR NO. 144: Very little.

5 THE COURT: And, so, you have four children?

6 PROSPECTIVE JUROR NO. 144: Yes.

7 THE COURT: And your stepson is how old?

8 PROSPECTIVE JUROR NO. 144: 37.

9 THE COURT: And then you have a 39-year-old son?

10 PROSPECTIVE JUROR NO. 144: That's my stepson also.

11 THE COURT: What does he do?

12 PROSPECTIVE JUROR NO. 144: He's a financial

13 adviser.

14 THE COURT: And the 38-year-old is the person we  
15 just spoke about?

16 PROSPECTIVE JUROR NO. 144: Yes.

17 THE COURT: Okay. Now, there's a question here,  
18 "Have you or anyone close to you ever participated in any  
19 self-help programs or read any several help books? You said  
20 "Yes," yourself. "I used many self-help books while raising a  
21 developmentally disabled child, mostly positive experience."  
22 Is that right --

23 PROSPECTIVE JUROR NO. 144: Yes.

24 THE COURT: -- can you remember what kind of  
25 self-help book it was?

Prospective Juror No. 144

419

1 PROSPECTIVE JUROR NO. 144: How to raise a difficult  
2 child, different types and techniques on how to -- she would  
3 have overwhelming -- things with, like, walking into a big  
4 room or a grocery store or a movie theater.

5 THE COURT: You indicated that you were physically  
6 and emotionally abused by your mother?

7 PROSPECTIVE JUROR NO. 144: Yes.

8 THE COURT: When you say you were physically abused,  
9 can you be more specific? Was it just being hit?

10 PROSPECTIVE JUROR NO. 144: No, being beaten with a  
11 belt. Hit with the buckle end, hit with shoes, coat hangers.

12 THE COURT: And how old were you at the time?

13 PROSPECTIVE JUROR NO. 144: From as far back as I  
14 can, remember, probably until I was ten or twelve.

15 THE COURT: Any other questions?

16 MR. AGNIFILO: Nothing from us.

17 MS. PENZA: No, Your Honor.

18 THE COURT: Thank you very much for coming in. Have  
19 a nice day, ma'am.

20 (Prospective juror exits.)

21 THE COURT: Is there any motion from anyone?

22 MR. AGNIFILO: No, none.

23 MS. PENZA: No.

24 THE COURT: Juror No. 144 is approved. We are up to  
25 145.

Prospective Juror No. 145

420

1 (Prospective juror enters.)

2 THE COURT: Good morning.

3 PROSPECTIVE JUROR NO. 145: Good morning.

4 THE COURT: You are Juror No. 145?

5 PROSPECTIVE JUROR NO. 145: Yes, sir.

6 THE COURT: Welcome. I just have a few follow-up  
7 questions for you. Now, are you in construction?

8 PROSPECTIVE JUROR NO. 145: Sheet metal.

9 THE COURT: Sheet metal?

10 PROSPECTIVE JUROR NO. 145: Yes.

11 THE COURT: And do you work full-time?

12 PROSPECTIVE JUROR NO. 145: Yes, sir.

13 THE COURT: Do you work for one company or --

14 PROSPECTIVE JUROR NO. 145: Yes, one company.

15 THE COURT: All right. And do you know what their  
16 policy is on paying for jury duty?

17 PROSPECTIVE JUROR NO. 145: They don't pay.

18 THE COURT: They don't pay?

19 PROSPECTIVE JUROR NO. 145: Yes, they don't pay,  
20 sir.

21 THE COURT: Okay. Now, would that create a hardship  
22 for you financially?

23 PROSPECTIVE JUROR NO. 145: Yes.

24 THE COURT: To be on jury duty?

25 PROSPECTIVE JUROR NO. 145: Yes, sir, I'm the only

Prospective Juror No. 145

421

1 one in my family that works.

2 THE COURT: And you have a 13-year-old and a  
3 17-year-old?

4 PROSPECTIVE JUROR NO. 145: Yes, two kids, boy and  
5 girl.

6 THE COURT: Okay. Do you own your own home?

7 PROSPECTIVE JUROR NO. 145: Yes, I own my own home.

8 THE COURT: Do you have a mortgage?

9 PROSPECTIVE JUROR NO. 145: I have a mortgage.

10 THE COURT: And do you basically live from  
11 month-to-month based on your pay?

12 PROSPECTIVE JUROR NO. 145: Yes, my wife is a  
13 stay-at-home mom right now.

14 THE COURT: How long have you been with this  
15 company?

16 PROSPECTIVE JUROR NO. 145: Like, over 20 years.

17 THE COURT: 20 years?

18 PROSPECTIVE JUROR NO. 145: Yes.

19 THE COURT: And they don't pay for jury duty at all?

20 PROSPECTIVE JUROR NO. 145: No. They say they don't  
21 pay for jury duty at all.

22 THE COURT: Are there other questions?

23 MR. AGNIFILO: Nothing from us.

24 MS. PENZA: No, Your Honor.

25 THE COURT: Okay. I want to thank you for coming

Prospective Juror No. 147

422

1 in. You have a nice day, sir.

2 PROSPECTIVE JUROR NO. 145: Thank you.

3 THE COURT: You're welcome.

4 (Prospective juror exits.)

5 MR. AGNIFILO: We ask that he be excused as a

6 hardship.

7 MS. PENZA: Consent.

8 THE COURT: 145 is struck on consent.

9 147.

10 (Prospective juror enters.)

11 THE COURT: Please be seated, sir. Good morning.

12 PROSPECTIVE JUROR NO. 147: Good morning.

13 THE COURT: You are Juror No. 147?

14 PROSPECTIVE JUROR NO. 147: Yes.

15 THE COURT: Okay. And I just have a few follow-up

16 questions for you. Are you employed full-time?

17 PROSPECTIVE JUROR NO. 147: Yes.

18 THE COURT: Do you work for a company or the

19 Government?

20 PROSPECTIVE JUROR NO. 147: I work for a company.

21 THE COURT: I see. And what kind of a company is

22 it?

23 PROSPECTIVE JUROR NO. 147: It's a maintenance

24 company.

25 THE COURT: I see. And how long have you worked

Prospective Juror No. 147

423

1 with them?

2 PROSPECTIVE JUROR NO. 147: About 18 years.

3 THE COURT: 18 years. And what type of work do you  
4 do?

5 PROSPECTIVE JUROR NO. 147: I'm a window cleaner.

6 THE COURT: I see. So you clean windows in  
7 various -- for various buildings that this company has  
8 contracts with, is that it?

9 PROSPECTIVE JUROR NO. 147: Yes.

10 THE COURT: I see. And do you know what your  
11 employer's policy is about paying you for your jury service?

12 PROSPECTIVE JUROR NO. 147: It's three days.

13 THE COURT: That's it?

14 PROSPECTIVE JUROR NO. 147: Yes.

15 THE COURT: You checked?

16 PROSPECTIVE JUROR NO. 147: Yes. I had to do jury  
17 duty before.

18 THE COURT: I see. And would this cause you a  
19 financial hardship to be on a trial for six weeks.

20 PROSPECTIVE JUROR 147: Probably.

21 THE COURT: Well, you smiled when you said that.  
22 Why would it? I mean, that's the question.

23 PROSPECTIVE JUROR NO. 147: I mean, I'm the primary  
24 breadwinner in the family.

25 THE COURT: Do you have a spouse or a partner?

1 PROSPECTIVE JUROR NO. 147: Yes.

2 THE COURT: And does this person work for a living?

3 PROSPECTIVE JUROR NO. 147: Yes.

4 THE COURT: As a social worker?

5 PROSPECTIVE JUROR NO. 147: Yes.

6 THE COURT: And this person is a salaried employee  
7 somewhere?

8 PROSPECTIVE JUROR NO. 147: She really does per diem  
9 normally.

10 THE COURT: Per diem work?

11 PROSPECTIVE JUROR NO. 147: Yes.

12 THE COURT: Okay.

13 THE COURT: Are there other questions?

14 MR. AGNIFILO: No, judge.

15 MS. PENZA: Yes, Your Honor. May we have a sidebar?

16 THE COURT: Sure.

17 (The following sidebar took place outside the  
18 hearing of the courtroom.)

19 THE COURT: Yes?

20 MS. PENZA: Thank you, Your Honor. So just to be  
21 consistent with the other jurors that we've seen here, he does  
22 indicate that he makes over \$150,000 a year, owns his home.  
23 His child is 20 years old. I don't know whether his wife  
24 could work more given that she is per diem if he is serving.  
25 I'm not sure if there is a financial hardship.

Prospective Juror No. 147

425

1 THE COURT: Let me ask him how much money he makes  
2 as a full-time window washer.

3 MS. PENZA: And I don't remember if Your Honor asked  
4 if he still has a mortgage on his house.

5 MR. AGNIFILO: If Your Honor is inclined to excuse  
6 him because of the hardship would you mind following up on  
7 question 40.

8 THE COURT: I can remember from the point I leave  
9 here to the point I made it to my chair.

10 MR. AGNIFILO: That's why I only gave you one.

11 (Sidebar ends.)

12 THE COURT: So, not to put too fine a point on it,  
13 how much do you make in salary a year? You put down that you  
14 made between 100 and \$150,000 a year; between the two of you I  
15 guess that is?

16 PROSPECTIVE JUROR NO. 147: Yes.

17 THE COURT: How much do you make a year?

18 PROSPECTIVE JUROR NO. 147: About 100 of that.

19 THE COURT: Really?

20 PROSPECTIVE JUROR NO. 147: Yes.

21 THE COURT: And you said you own your own home. Do  
22 you have a mortgage? Did I ask you that?

23 PROSPECTIVE JUROR NO. 147: Yes.

24 THE COURT: You do?

25 PROSPECTIVE JUROR NO. 147: Yes.



Prospective Juror No. 147

426

1 THE COURT: As a window washer for your company,  
2 does it involve apartment houses? What is the nature of your  
3 work?

4 PROSPECTIVE JUROR NO. 147: Where I work is a  
5 commercial property, a sky-rise building on Park Avenue, and  
6 usually it's me and another guy and we do the scaffolding  
7 twice a year on the outside and then twice a year on the  
8 interiors but I've done work in residential and all sorts of  
9 different types of buildings.

10 THE COURT: And you've been doing this 20 years?

11 PROSPECTIVE JUROR NO. 147: I've been with this  
12 company for 18 but I've been cleaning windows for 21 years  
13 with the union.

14 THE COURT: I see. You answered this question,  
15 "Would you be able to listen to and discuss matters of a  
16 sexual nature with your fellow jurors," and you said "No. I  
17 just didn't feel I should be talking with them about something  
18 like that."

19 PROSPECTIVE JUROR NO. 147: I felt it was  
20 inappropriate to be talking about things like that with people  
21 I didn't know.

22 THE COURT: Well, the charges in this case involve  
23 that, so it's a definite that there will be testimony on that  
24 subject matter; and that when you go into the jury room you  
25 will have to have a certain amount of discussion about the

Prospective Juror No. 147

427

1 charges and whether the Government has proven the charges  
2 beyond a reasonable doubt.

3 So if the Court instructs you that that is something  
4 you must consider, would you consider it?

5 PROSPECTIVE JUROR NO. 147: I would have to.

6 THE COURT: And discuss it with your fellow jurors  
7 discretely if you must, but you would have to have some  
8 discussion about it?

9 PROSPECTIVE JUROR NO. 147: Yes, I would.

10 MR. AGNIFILO: Could you follow up on question 52,  
11 Judge?

12 THE COURT: Sure.

13 "Have you or anyone else close to you been the  
14 victim of a sexual assault or date rape?" And the answer was  
15 "Yes" and then the explanation was "rather not talk about it."  
16 Was it you or someone else?

17 PROSPECTIVE JUROR NO. 147: Someone else.

18 THE COURT: Was this person related to you?

19 PROSPECTIVE JUROR NO. 147: It was multiple people.

20 THE COURT: And they told you about this?

21 PROSPECTIVE JUROR NO. 147: Yes.

22 THE COURT: And as far as you know did they ever  
23 report it to law enforcement?

24 PROSPECTIVE JUROR NO. 147: No.

25 THE COURT: How old were you when this happened?

Prospective Juror No. 147

428

1 PROSPECTIVE JUROR NO. 147: It's occurred over, you  
2 know, over my lifetime with certain people.

3 THE COURT: So that being said, would that have any  
4 effect on your ability to be fair and impartial in considering  
5 charges of, for instance, child molestation and so forth in  
6 this case?

7 PROSPECTIVE JUROR NO. 147: It's possible.

8 THE COURT: Were any of them children?

9 PROSPECTIVE JUROR NO. 147: One.

10 THE COURT: How old?

11 PROSPECTIVE JUROR NO. 147: I think about 12.

12 THE COURT: Was this a relative?

13 PROSPECTIVE JUROR NO. 147: No.

14 THE COURT: Questions?

15 MR. AGNIFILO: Nothing, Judge.

16 MS. PENZA: No, Your Honor.

17 THE COURT: I want to thank you for coming in. You  
18 have a nice day.

19 PROSPECTIVE JUROR NO. 147: Thank you. You do the  
20 same.

21 (Prospective juror exits.)

22 MR. AGNIFILO: I move that he be stricken on two  
23 grounds. I think the hardship seems substantial enough if  
24 he's making \$100,000 of that overall salary he gets paid for  
25 three days that leaves him for five and a half weeks without a

Prospective Juror No. 147

429

1 salary and he has a mortgage on his house. That's the first  
2 basis.

3           The second is I think he was answering the court's  
4 questions honestly but his facial expression to me conveyed  
5 some measure of pain or discomfort about the subject matter  
6 which is why he didn't walk to talk about it and the Court is  
7 certainly appropriate in not pushing too far because he said  
8 he didn't walk to talk about it, but as a result there may  
9 be -- you know, I don't think we have as full a record because  
10 I think Your Honor was careful with the juror and I didn't ask  
11 for any more questions for that reason. But I do have some  
12 concerns that he has some deep-seated things that he doesn't  
13 want to talk about but he could bring with him in the jury  
14 room.

15           MS. PENZA: Your Honor, the Government objects to  
16 this juror being stricken for cause. The financial hardship,  
17 he indicated on his questionnaire that he makes \$150,000 a  
18 year. In light of comparison with other jurors, it's not  
19 clear to the Government that this is actually a hardship that  
20 would bar him from serving on this jury. As for cause, Your  
21 Honor, he stated that he can be impartial and the measures of  
22 discomfort don't -- outweigh the fact that he did say he could  
23 be impartial.

24           THE COURT: I am going to strike this juror based on  
25 hardship. And the reason is, I am trying to be consistent.

Prospective Juror No. 151

430

1 The fact that he makes \$100,000 a year doesn't mean that he  
2 doesn't live from month to month to pay his mortgage and he  
3 has an employer who only gives him three days of jury service.  
4 He's already used two. So basically for six weeks he would be  
5 without pay and I think that that is more of a burden than we  
6 should place on someone who has these obligations, is meeting  
7 his obligations. If he got three weeks it would be a closer  
8 call, but if it's six weeks, which is what it ends up being, I  
9 think a month and a half is too great a burden to place on  
10 someone, even someone who makes, you know, a decent living.  
11 Everyone knows that people in that category of income tend to  
12 live at their -- up to the limit of their income and sometimes  
13 beyond. So -- and he has a mortgage.

14 Obviously he's hard working. He's had the same job  
15 for 18 years and he's doing the job and it's a job which has  
16 its risks. So I'm going to grant the motion. Juror No. 147  
17 is struck for cause over objection.

18 Okay, we are up to 151. Now, this individual had an  
19 incomplete questionnaire.

20 (Prospective juror enters.)

21 THE COURT: Please be seated, sir. Good morning.

22 PROSPECTIVE JUROR NO. 151: Good morning.

23 THE COURT: You are Juror No. 151; correct?

24 PROSPECTIVE JUROR NO. 151: Yes.

25 THE COURT: Okay. I just have a few follow-up

Prospective Juror No. 151

431

1 questions for you. What kind of work do you do?

2 PROSPECTIVE JUROR NO. 151: Plumber helper.

3 THE COURT: You're a plumber's helper?

4 PROSPECTIVE JUROR NO. 151: Yes.

5 THE COURT: Do you work for one company or do you

6 work for various companies?

7 PROSPECTIVE JUROR NO. 151: One company.

8 THE COURT: How long have you worked for this

9 company?

10 PROSPECTIVE JUROR NO. 151: About one and a half

11 year.

12 THE COURT: I see. And do you know what the  
13 company's policy is about paying you for your jury service?

14 PROSPECTIVE JUROR NO. 151: I'm -- I'm not sure yet.

15 THE COURT: Well, I would like you to contact the  
16 company's personnel office -- how big is the company?

17 PROSPECTIVE JUROR NO. 151: I'm not sure about it  
18 because I just work at the job site and just -- I go to the  
19 company for once, so the office for once, sir.

20 THE COURT: Do you have a supervisor?

21 PROSPECTIVE JUROR NO. 151: Yes.

22 THE COURT: Please check with your supervisor and he  
23 or she can give you a phone number to call for the company and  
24 you can check with the company personnel office. How many  
25 people work for the company?

Prospective Juror No. 151

432

1 PROSPECTIVE JUROR NO. 151: I'm not sure, but it's  
2 more people, so. . .

3 Q I see. And where do you work, what neighborhoods?

4 PROSPECTIVE JUROR NO. 151: For now it's at Delancy,  
5 at the -- I finished Kent Street; Brooklyn, Kent Street.

6 THE COURT: Well, Mr. Reccoppa, my deputy here, will  
7 give you his phone number. When you find out, call and give  
8 him your juror number or put it on his answering machine and  
9 tell him how many days of jury duty you are paid for.

10 PROSPECTIVE JUROR NO. 151: Sorry, could you repeat  
11 again?

12 THE COURT: Sure. When you find out how many days  
13 you get paid during jury duty, call Mr. Reccoppa and let him  
14 know.

15 PROSPECTIVE JUROR NO. 151: Okay.

16 THE COURT: There's a question here, "Some people  
17 believe that rich people can buy their way out of anything."  
18 What is your opinion?

19 PROSPECTIVE JUROR NO. 151: I think money -- it  
20 can't buy anything.

21 THE COURT: And what is your opinion?

22 PROSPECTIVE JUROR NO. 151: Sorry, I don't  
23 understand "opinion" means.

24 THE COURT: Some people believe that rich people can  
25 buy their way out of anything. What is your opinion on that

Prospective Juror No. 151

433

1 subject; that people with money can buy their way out of  
2 trouble by spending money?

3 PROSPECTIVE JUROR NO. 151: No.

4 THE COURT: What is your opinion?

5 PROSPECTIVE JUROR NO. 151: I think that money can't  
6 buy everything.

7 THE COURT: Would you be able to listen to and  
8 discuss matters of a sexual nature with your fellow jurors?

9 PROSPECTIVE JUROR NO. 151: Sorry about it because I  
10 can't catch all the words.

11 THE COURT: Let me just ask you one more time.

12 Would you be able to listen to and discuss matters of a sexual  
13 nature with your fellow jurors?

14 PROSPECTIVE JUROR NO. 151: Sorry?

15 THE COURT: Are there any other questions?

16 MS. PENZA: No, Your Honor.

17 MR. AGNIFILO: No, Judge.

18 THE COURT: Thank you very much for coming in.

19 Mr. Reccoppa will give you his phone number.

20 (Prospective juror exits.)

21 THE COURT: Is there a motion?

22 MR. AGNIFILO: Your Honor, we're going to move to  
23 strike the juror. I think Your Honor made the questions very,  
24 very short and concise and clear and I think he had a hard  
25 time understanding. My interpretation I think he said he



Prospective Juror No. 153

434

1 didn't know what the word "opinion" meant.

2 THE COURT: I was not sure what he was saying.

3 MR. AGNIFILO: But I think he was not understanding  
4 what the court was telling him.

5 MS. PENZA: The Government consents.

6 THE COURT: Juror No. 151 is stricken for cause  
7 based on English language difficulties.

8 All right. We are up to 153.

9 (Prospective juror enters.)

10 THE COURT: Please be seated. Good morning.

11 PROSPECTIVE JUROR NO. 153: Good morning.

12 THE COURT: You are Juror No. 153; correct?

13 PROSPECTIVE JUROR NO. 153: Correct.

14 THE COURT: I just have a few follow-up questions  
15 for you. Now, you have worked at your current employment for  
16 the last nine years; correct?

17 PROSPECTIVE JUROR NO. 153: Yes.

18 THE COURT: And you indicated you didn't know  
19 whether your employer pays you during your jury service. Did  
20 you check on that?

21 PROSPECTIVE JUROR NO. 153: No, I didn't. Because I  
22 didn't know if I was going to get called back.

23 THE COURT: But you did.

24 PROSPECTIVE JUROR NO. 153: But I called after 7  
25 yesterday. But he did put it in as my sheet as jury duty,

Prospective Juror No. 153

435

1 paid.

2 THE COURT: Well, it would be useful for you to find  
3 out and let us know whether you're paid for your entire period  
4 of jury service.

5 PROSPECTIVE JUROR NO. 153: Sure, I will.

6 THE COURT: It's a major law firm that you work for?

7 PROSPECTIVE JUROR NO. 153: Yes.

8 THE COURT: Okay. And you have a daughter who works  
9 as a customer service rep for Social Security?

10 PROSPECTIVE JUROR NO. 153: Correct.

11 THE COURT: Do any of your children work in law  
12 enforcement?

13 PROSPECTIVE JUROR NO. 153: No.

14 THE COURT: There was this question: "There may be  
15 evidence in this case about people engaging in relationships  
16 with multiple sexual partners. Would hearing about that  
17 evidence affect your ability to serve as a fair and impartial  
18 juror in this case?" You checked "Yes." You said, "I believe  
19 in one sex partner."

20 PROSPECTIVE JUROR NO. 153: Yes. Yeah, I do.

21 THE COURT: Well, the fact that there may be  
22 testimony of people engaging in sex with more than one sex  
23 partner, would you be able to set aside your personal views on  
24 it and simply follow the law as I give it to you as to whether  
25 anything that is testified to constitutes a crime?

Prospective Juror No. 153

436

1 PROSPECTIVE JUROR NO. 153: Yes.

2 THE COURT: "There will be evidence in this case  
3 that includes sexually explicit images and language. Would  
4 hearing about this type of evidence affect your ability to  
5 serve as a fair and impartial juror in this case?" You said,  
6 "Yes, I don't watch sex movie or films."

7 PROSPECTIVE JUROR NO. 153: I don't.

8 THE COURT: Okay. But, again, although there will  
9 be a limited amount of information provided in terms of your  
10 fact-seeking responsibility, you may have to and you will have  
11 to look at or observe some materials of that nature. Would  
12 you be able to consider and deal with such materials in your  
13 fact-finding role?

14 PROSPECTIVE JUROR NO. 153: I don't understand.

15 THE COURT: Well, there's going to be evidence  
16 presented, some of which will be photographic images, I  
17 believe --

18 PROSPECTIVE JUROR NO. 153: Okay.

19 THE COURT: -- of people who are unclothed or  
20 engaged in sexual behavior. Since I haven't seen these  
21 images, I can't describe them to you --

22 PROSPECTIVE JUROR NO. 153: Okay.

23 THE COURT: But the fact is there will be a limited  
24 amount of that but there will be some. So I wanted you to  
25 know about that and the purpose of showing them to you is that

Prospective Juror No. 153

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1 the defendant is accused of certain crimes and the evidence is  
2 being presented to you as part of the Government's obligation  
3 to prove his guilt of certain crimes beyond a reasonable  
4 doubt. That is the only reason these materials are being  
5 shown.

6 PROSPECTIVE JUROR NO. 153: Okay.

7 THE COURT: Could you view them and consider them  
8 for that purpose?

9 PROSPECTIVE JUROR NO. 153: Yes.

10 THE COURT: You didn't answer this question. That's  
11 okay. I'm going to read it to you: "Some people believe rich  
12 people can buy their way out of anything. What is your  
13 opinion on that subject?"

14 PROSPECTIVE JUROR NO. 153: I really -- I really  
15 don't know.

16 THE COURT: Is that why you didn't answer it?

17 PROSPECTIVE JUROR NO. 153: Yes.

18 THE COURT: Okay. "An indictment itself is not  
19 evidence. The defendant was indicted for several crimes by a  
20 grand jury. It merely describes the charges against the  
21 defendant. It is an accusation. It may not be considered by  
22 you as any evidence of a defendant's guilt. Are you able to  
23 follow this rule of law?"

24 PROSPECTIVE JUROR NO. 153: Yes.

25 THE COURT: And then you were asked a question about

Prospective Juror No. 153

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1 law enforcement officers. "Do you hold any beliefs or  
2 opinions that would prevent you from evaluating the testimony  
3 of law enforcement officers fairly and impartially?" You said  
4 "No." And then there was a second part to the question which  
5 you didn't answer and I will read it to you: "Would you be  
6 inclined to believe a witness is more or less truthful solely  
7 because that witness is a law enforcement officer?"

8 PROSPECTIVE JUROR NO. 153: Yes, I would.

9 THE COURT: And which is it; would you be more  
10 inclined to consider that person's testimony to be truthful  
11 because he's a law enforcement officer or would you say that  
12 you would be less likely to consider it truthful?

13 PROSPECTIVE JUROR NO. 153: More likely.

14 THE COURT: If I instruct you that under the law,  
15 the testimony of law enforcement officers should be judged on  
16 the same standards as any other witness who comes in here and  
17 you have to decide for each witness whether you find that  
18 witness credible or not credible, whether you rely on that  
19 witness' testimony in your deliberations, would you be follow  
20 my instruction to consider all witnesses using the same  
21 standard?

22 PROSPECTIVE JUROR NO. 153: Yes.

23 THE COURT: Anything else?

24 MR. AGNIFILO: No.

25 THE COURT: Anything else from the Government?

Prospective Juror No. 153

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1 MS. PENZA: Yes, just question 59, please.

2 THE COURT: Surely.

3 "Do you believe that people under 17 should be able  
4 to consent to section with adults?"

5 PROSPECTIVE JUROR NO. 153: No, I don't think so.

6 THE COURT: Anything else?

7 MS. PENZA: No nothing, Your Honor.

8 MR. AGNIFILO: Nothing from us.

9 THE COURT: Well, I want to thank you for coming in.  
10 Have a nice day.

11 PROSPECTIVE JUROR NO. 153: Thank you very much.

12 THE COURT: You are very welcome.

13 (Prospective juror exits.)

14 MR. AGNIFILO: No motion from us.

15 MS. PENZA: No, Your Honor.

16 THE COURT: All right. Juror No. 153 is approved.  
17 We are up to 154?

18 MR. AGNIFILO: 154.

19 THE COURT: My expectation is that the law firm will  
20 pay for jury duty.

21 MR. AGNIFILO: Yes, I believe so.

22 THE COURT: 154.

23 (Prospective juror enters.)

24 MR. AGNIFILO: Judge, just one second, I'm sorry.

25 (Pause in proceedings.)

Prospective Juror No. 154

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1 THE COURT: Please be seated, sir. Good morning?

2 PROSPECTIVE JUROR NO. 154: Good morning.

3 THE COURT: You are Juror No. 154?

4 PROSPECTIVE JUROR NO. 154: Yes, sir.

5 THE COURT: I have a few follow-up questions for you  
6 based on your questionnaire. Did you find out whether your  
7 employer pays for you to be on jury duty?

8 PROSPECTIVE JUROR NO. 154: Yeah.

9 THE COURT: Do they?

10 PROSPECTIVE JUROR NO. 154: Yes.

11 THE COURT: For the whole time?

12 PROSPECTIVE JUROR NO. 154: Yes.

13 THE COURT: That's what I thought.

14 PROSPECTIVE JUROR NO. 154: Yes.

15 THE COURT: It's a utility.

16 PROSPECTIVE JUROR NO. 154: Yeah.

17 THE COURT: Thanks for checking that out. So, you  
18 said you were familiar with the name Rick Ross. Who is the  
19 Rick Ross that you are familiar with?

20 PROSPECTIVE JUROR NO. 154: I'm not sure if you  
21 meant the rapper.

22 THE COURT: The rapper?

23 MS. PENZA: It is not the rapper.

24 THE COURT: I wish I could say I knew Rick Ross the  
25 rapper, but I don't know him.

Prospective Juror No. 154

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1 PROSPECTIVE JUROR NO. 154: You're not missing out  
2 on anything.

3 THE COURT: All right. "Have you or anyone close to  
4 you ever participated in any self-help programs or read any  
5 self-help books?" You said "Yes." Occasionally you will  
6 Google this topic. Do you Google it to find out about it?

7 PROSPECTIVE JUROR NO. 154: Occasionally, yes, it's  
8 helpful.

9 THE COURT: And when you Google it, are you provided  
10 with information that's helpful just by Googling?

11 PROSPECTIVE JUROR NO. 154: Usually. You have to  
12 weed out the bad information, but usually there is some good  
13 information out there.

14 THE COURT: And you indicated that what you hoped to  
15 get out of it is "a better me." So does it help?

16 PROSPECTIVE JUROR NO. 154: Yeah.

17 THE COURT: Good to know. "Some people believe that  
18 rich people can buy their way out of anything. What is your  
19 opinion on that topic?" And you wrote, "It is true." That's  
20 your view?

21 PROSPECTIVE JUROR NO. 154: Yes.

22 THE COURT: And just let me follow on to that. In  
23 what context is it true in your opinion? I mean, what  
24 evidence do you have that it is true?

25 PROSPECTIVE JUROR NO. 154: I just believe, I mean,



Prospective Juror No. 156

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1 money is power, so --

2 THE COURT: Okay.

3 PROSPECTIVE JUROR NO. 154: You can buy your way  
4 through things if you've got enough of it.

5 THE COURT: Thank you. Any other questions?

6 MR. AGNIFILO: No, Your Honor.

7 MS. PENZA: No, Your Honor.

8 THE COURT: What do you actually do for the utility?

9 PROSPECTIVE JUROR NO. 154: Automotive equipment  
10 technician.

11 THE COURT: Okay. Have a nice day.

12 (Prospective juror exits.)

13 THE COURT: Any motion?

14 MS. PENZA: No, Your Honor.

15 THE COURT: Juror No. 154 is approved. Next is 156.  
16 Another Rick Ross person.

17 (Prospective juror enters.)

18 THE COURT: Please be seated, sir. Welcome.

19 PROSPECTIVE JUROR NO. 156: Thank you.

20 THE COURT: You are Juror No. 156; correct?

21 PROSPECTIVE JUROR NO. 156: Yes, correct.

22 THE COURT: And now, you have -- I am trying to --  
23 you have more than one job or one job?

24 PROSPECTIVE JUROR NO. 156: It's more than one job.  
25 Sometimes it's just part-time. It could be once every three

Prospective Juror No. 156

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1 months or every six months. It's intermittently.

2 THE COURT: Do you have a full-time job?

3 PROSPECTIVE JUROR NO. 156: I do, yes.

4 THE COURT: Is that the one at the wholesale place?

5 PROSPECTIVE JUROR NO. 156: Yes.

6 THE COURT: And did you check to see if they pay for  
7 your jury duty?

8 PROSPECTIVE JUROR NO. 156: They do, but I'm not  
9 going to be getting my overtime that I normally get at this  
10 time of year.

11 THE COURT: But they will pay the basic --

12 PROSPECTIVE JUROR NO. 156: The 40 hours.

13 THE COURT: For as long as you're on jury duty?

14 PROSPECTIVE JUROR NO. 156: Yes, but I get -- I get  
15 25 hours a week now at this time of the year that I'm not  
16 going to be getting.

17 THE COURT: All right. You indicated that your  
18 brother -- is it your brother who is a states attorney in  
19 Delaware?

20 PROSPECTIVE JUROR NO. 156: A district attorney,  
21 yes.

22 THE COURT: A DA. And how long has he done that?

23 PROSPECTIVE JUROR NO. 156: Pretty much at least 25  
24 or 30 years or so.

25 THE COURT: I see. And do you ever discuss his

Prospective Juror No. 156

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1 cases with him?

2 PROSPECTIVE JUROR NO. 156: No, no.

3 THE COURT: You indicated this answer, "There may be  
4 evidence in this case about abortions. Would hearing about  
5 that type of evidence affect your ability to serve as a fair  
6 and impartial juror in this case?" And you said, "No."

7 PROSPECTIVE JUROR NO. 156: Well, I have never been  
8 confronted with that situation so it could be a difficult  
9 situation when confronted. I wouldn't know it right now, I  
10 would have to be --

11 THE COURT: Let me put it this way: Would you be  
12 uneasy about confronting that kind of --

13 PROSPECTIVE JUROR NO. 156: It's a possibility, I  
14 would think so, yes.

15 THE COURT: But would you attempt to consider the  
16 evidence that's presented of that nature in the context of  
17 analyzing whether the defendant is guilty beyond a reasonable  
18 doubt for the crimes he's charged with?

19 PROSPECTIVE JUROR NO. 156: I would have to be, yes.

20 THE COURT: Have you been a juror before?

21 PROSPECTIVE JUROR NO. 156: It never went to trial.  
22 It was out of court.

23 THE COURT: I see.

24 PROSPECTIVE JUROR NO. 156: It was settled.

25 THE COURT: Okay. And then there's a question,

Prospective Juror No. 156

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1 "Would you be able to listen to and discuss matters of a  
2 sexual nature with fellow jurors?" You said, "No, I don't  
3 talk about that subject."

4 PROSPECTIVE JUROR NO. 156: There's no reason to.

5 THE COURT: Well, except when the jury is  
6 deliberating.

7 PROSPECTIVE JUROR NO. 156: Well, yeah.

8 THE COURT: Under those circumstances in effect you  
9 are compelled to talk about it, but only in terms of whether  
10 the evidence presented proves beyond a reasonable doubt that  
11 the defendant committed certain crimes. Could you do that in  
12 that context?

13 PROSPECTIVE JUROR NO. 156: In that context, yes,  
14 yes.

15 THE COURT: Now, you indicated that in answer to the  
16 question have you or anyone close to you ever been the victim  
17 of section assault including date rape. You said, yes, a  
18 former girlfriend.

19 PROSPECTIVE JUROR NO. 156: Yes, that's correct.

20 THE COURT: And so did your former girlfriend tell  
21 you about this?

22 PROSPECTIVE JUROR NO. 156: Yes.

23 THE COURT: And that was before you met her?

24 PROSPECTIVE JUROR NO. 156: No, it was during while  
25 I was with her.

Prospective Juror No. 156

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1 THE COURT: And so someone did what to her?

2 PROSPECTIVE JUROR NO. 156: Three men raped her.

3 THE COURT: Did she -- did she report this?

4 PROSPECTIVE JUROR NO. 156: She didn't report it,  
5 no. It went unreported.

6 THE COURT: How long ago was this?

7 PROSPECTIVE JUROR NO. 156: This is -- I was 21  
8 years old at the time. We're going back some time. Also I  
9 have never been confronted with that situation since then. It  
10 would be difficult to discuss that or hear about it or  
11 whatever it would be even though I said no.

12 THE COURT: So what do you think about the Me Too  
13 movement?

14 PROSPECTIVE JUROR NO. 156: I don't really know  
15 anything about it. I don't really pay any attention to it.

16 THE COURT: Did you give her any advice?

17 PROSPECTIVE JUROR NO. 156: I didn't know what to  
18 say at the time. Her mother was taking control of the  
19 situation. I stepped away from it. I did what I could.

20 THE COURT: There has been a lot of discussion about  
21 that particular type of issue recently, in recent years and  
22 months, do you think that if something like that happened at  
23 the age you were at but in the present environment that it  
24 would have been dealt with differently?

25 PROSPECTIVE JUROR NO. 156: Absolutely, yes.

Prospective Juror No. 156

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1 THE COURT: Is that better or worse?

2 PROSPECTIVE JUROR NO. 156: I think it's better. It  
3 would be taken care of.

4 THE COURT: I'm just wondering what your views were  
5 on that.

6 PROSPECTIVE JUROR NO. 156: Okay.

7 THE COURT: "An indictment is not evidence. It  
8 merely describes the charges made against the defendant. It  
9 is an accusation. It may not be considered by you as any  
10 evidence of the defendant's guilt. Are you able to follow  
11 that rule of law?"

12 PROSPECTIVE JUROR NO. 156: Yes.

13 THE COURT: And "You may hear testimony from certain  
14 individuals that the Government alleges are victims. A  
15 victim's testimony is not to be given any more or less  
16 credence than any other witness' testimony. Would you be able  
17 to follow the Court's instructions in that regard?"

18 PROSPECTIVE JUROR NO. 156: Yes.

19 THE COURT: Any other questions?

20 MR. AGNIFILO: Nothing.

21 MS. PENZA: No, Your Honor.

22 THE COURT: Okay. Thanks very much for coming in.  
23 Have a nice day.

24 PROSPECTIVE JUROR NO. 156: Thank you. Exits.

25 THE COURT: Does anybody have a motion?

Prospective Juror No. 158

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1 MR. AGNIFILO: We do not.

2 MS. PENZA: No, Your Honor.

3 THE COURT: Okay. Juror No. 156 is approved. Let's  
4 do one more and then take a break.

5 MR. AGNIFILO: Very good.

6 THE COURT: We're going to do 157.

7 MR. AGNIFILO: I think it's 158.

8 THE COURT: Hold on. We can't reach 157. That is  
9 right. All right. 158. Thank you.

10 (Prospective juror enters.)

11 THE COURT: Good morning.

12 PROSPECTIVE JUROR NO. 158: Good morning.

13 THE COURT: You are Juror No. 158, are you not?

14 PROSPECTIVE JUROR NO. 158: I am.

15 THE COURT: Okay. Now, have you checked with your  
16 employer as to whether they pay for your jury duty?

17 PROSPECTIVE JUROR NO. 158: They do.

18 THE COURT: For the entire period?

19 PROSPECTIVE JUROR NO. 158: Yes.

20 THE COURT: I was going to make a joke about they  
21 need to try harder.

22 PROSPECTIVE JUROR NO. 158: That was a good one.

23 THE COURT: But it didn't work because they pay?

24 PROSPECTIVE JUROR NO. 158: Yes.

25 THE COURT: You work for Avis?

Prospective Juror No. 158

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1 PROSPECTIVE JUROR NO. 158: I do.

2 THE COURT: Okay. So, let me just ask a few  
3 follow-up questions. You indicated that you applied to be a  
4 911 operator and went through the process a few years ago.  
5 Did you ever hear from them one way or the other?

6 PROSPECTIVE JUROR NO. 158: Yeah, we basically  
7 stopped because they kept making me go back and forth and back  
8 and forth with the process and stuff and then they moved to  
9 the Bronx and that would be too far for me to commute anyway.

10 THE COURT: I see. And what town do you live in?

11 PROSPECTIVE JUROR NO. 158: I live in Staten Island,  
12 in Richmond.

13 THE COURT: That's a town.

14 PROSPECTIVE JUROR NO. 158: Yeah. The forgotten  
15 borough, as they say.

16 THE COURT: There's a question, "Have you or has a  
17 family member or a close friend ever been charged with a  
18 crime?" You said, "Yes. A few friends were charged with drug  
19 charges." What kind of drug charges were they charged with.

20 PROSPECTIVE JUROR NO. 158: It was cocaine and weed,  
21 but that was years ago when I was a teenager.

22 THE COURT: And were they treated appropriately by  
23 law enforcement?

24 PROSPECTIVE JUROR NO. 158: Yeah. They didn't have  
25 no issues except getting caught.



Prospective Juror No. 163

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1 THE COURT: Are there other questions?

2 MR. AGNIFILO: Nothing from us.

3 MS. PENZA: No, Your Honor.

4 THE COURT: Okay. Thank you for come in. You have  
5 a nice day?

6 PROSPECTIVE JUROR NO. 158: Thank you, you too.

7 (Prospective juror exits.)

8 THE COURT: Is there a motion?

9 MR. AGNIFILO: No motion from us.

10 MS. PENZA: No, Your Honor.

11 THE COURT: All right. Juror No. 158 is approved.  
12 We will take a five-minute break.

13 (Recess taken.)

14 THE COURT: 163 is next. We will wait for the  
15 defendant.

16 (Defendant present.)

17 (Prospective juror enters.)

18 THE COURT: Good morning. You are Juror No. 163?

19 PROSPECTIVE JUROR NO. 163: Correct.

20 THE COURT: Just a couple of follow-up questions for  
21 you. You are currently not employed; is that right?

22 PROSPECTIVE JUROR NO. 163: Correct.

23 THE COURT: And you are looking work?

24 PROSPECTIVE JUROR NO. 163: Correct. Not only that,  
25 but I'm supporting -- my mother had a double heart valve

Prospective Juror No. 163

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1 replacement recently so she is home as well.

2 THE COURT: I see, okay. It is just the two of you  
3 at home?

4 PROSPECTIVE JUROR NO. 163: Correct.

5 THE COURT: And when you were working, what kind of  
6 work do you do?

7 PROSPECTIVE JUROR NO. 163: Sales.

8 THE COURT: What kind of sales?

9 PROSPECTIVE JUROR NO. 163: Software.

10 THE COURT: How far did you go in school?

11 PROSPECTIVE JUROR NO. 163: Bachelor's.

12 THE COURT: Where did you go?

13 PROSPECTIVE JUROR NO. 163: St. Francis.

14 THE COURT: Right over here?

15 PROSPECTIVE JUROR NO. 163: Yup.

16 THE COURT: Are there other questions?

17 MR. AGNIFILO: No, Judge.

18 THE COURT: You are actively looking for work you  
19 said in your questionnaire?

20 PROSPECTIVE JUROR NO. 163: Correct.

21 THE COURT: And that continues to be the case;  
22 correct?

23 PROSPECTIVE JUROR NO. 163: Correct.

24 THE COURT: That's it, thank you very much. Have a  
25 nice day.

Prospective Juror No. 167

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1 PROSPECTIVE JUROR NO. 163: Thank you.

2 (Prospective juror exits.)

3 MR. AGNIFILO: Your Honor, we are going to ask that  
4 the juror be excused as a hardship. He's looking for work.  
5 The way he expressed in his juror questionnaire this would  
6 make these difficult for him. He says he has a situation with  
7 his mother.

8 MS. PENZA: The Government consents.

9 THE COURT: Okay. Juror No. 163 is struck.  
10 167.

11 (Prospective juror enters.)

12 THE COURT: Be seated, sir. You are Juror No. 167;  
13 correct?

14 PROSPECTIVE JUROR NO. 167: That's correct.

15 THE COURT: Thank you. You are currently teaching  
16 for a living?

17 PROSPECTIVE JUROR NO. 167: Yes, that's correct.

18 THE COURT: At what grade level are you teaching?

19 PROSPECTIVE JUROR NO. 167: I'm teaching fifth grade  
20 ELA.

21 THE COURT: What is that?

22 PROSPECTIVE JUROR NO. 167: It's departmental at my  
23 school -- I have two groups that come in and I teach reading  
24 and writing predominantly, a little science and social  
25 studies. And they go to another teacher for math.

Prospective Juror No. 167

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1 THE COURT: And how long have you been doing this as  
2 a teacher?

3 PROSPECTIVE JUROR NO. 167: 21 years. It will be 21  
4 in June.

5 THE COURT: I see. And you indicated that you would  
6 consider it a hardship to have to serve on a jury for six  
7 weeks in May and June; is that right?

8 PROSPECTIVE JUROR NO. 167: Yes.

9 THE COURT: So why don't you explain why it is you  
10 feel that way?

11 PROSPECTIVE JUROR NO. 167: All right. They're  
12 fifth grade and they're graduating. So there's a lot of  
13 graduation activities which they expect the teachers to be at.  
14 There's the graduation ceremony. There's the awards day.  
15 There's the dance. There's different trips. We have a  
16 statewide math test after the break. We're on spring break  
17 now.

18 THE COURT: Right.

19 PROSPECTIVE JUROR NO. 167: There is also -- I have  
20 two groups and one of the groups especially has -- the  
21 children have -- some of the students have some behavior  
22 problems. So, you know, having a lot of substitutes may not  
23 be the best for them. That's basically --

24 THE COURT: I taught school between college and law  
25 school. I understand what you are saying. Let me ask you

Prospective Juror No. 167

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1 about your career which is interesting because you went to law  
2 school.

3 PROSPECTIVE JUROR NO. 167: Yes.

4 THE COURT: And you also were admitted to practice  
5 law?

6 PROSPECTIVE JUROR NO. 167: Yes. And I practiced a  
7 few years.

8 THE COURT: And you gave it up?

9 PROSPECTIVE JUROR NO. 167: Yes.

10 THE COURT: What kind of law did you practice?

11 PROSPECTIVE JUROR NO. 167: Personal injury.

12 THE COURT: Personal injury?

13 PROSPECTIVE JUROR NO. 167: For a few years and then  
14 I tried immigration.

15 THE COURT: And you decided not to pursue your legal  
16 career?

17 PROSPECTIVE JUROR NO. 167: Right, well, when I did  
18 personal injury, the firm laid people off. So at that point I  
19 had to make a decision, am I going to continue. So I tried  
20 immigration per diem and I was subbing at the same time and I  
21 realized at that point that I preferred the subbing in the  
22 elementary school.

23 THE COURT: It's a different kind of challenge,  
24 isn't it?

25 PROSPECTIVE JUROR NO. 167: Right. But it's

Prospective Juror No. 167

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1 people-related. So that's when I made my decision.

2 THE COURT: I see. Okay. Let's have a sidebar.

3 (The following sidebar took place outside the hearing of  
4 the courtroom.)

5 THE COURT: Now, there are many other questions that  
6 I could ask this juror, but I am concerned that he appears to  
7 be an extremely dedicated teacher for children who are not  
8 regular fifth graders and it's a critical time of the year.  
9 And we just finished letting someone out who was unemployed  
10 and claims he was taking care of his mother and this gentleman  
11 appears to be an extremely driven, dedicated teacher and it  
12 would have a detrimental effect on these children so I am  
13 inclined to let him out for cause but convince me that I am  
14 wrong.

15 MS. PENZA: No objection, Your Honor.

16 THE COURT: No.

17 MR. AGNIFILO: I think you're right.

18 THE COURT: Okay. I got this one right.

19 (Sidebar ends.)

20 THE COURT: Let me say for myself and I am sure the  
21 others agree that the work you do is very important for the  
22 community and you appear to be extremely dedicated to what you  
23 do and I think we can very proud of what you are doing, so we  
24 thank you.

25 PROSPECTIVE JUROR NO. 167: Thank you.

Prospective Juror No. 170

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1 THE COURT: And we have no other questions. Have a  
2 nice day.

3 PROSPECTIVE JUROR NO. 167: So does that mean that I  
4 am dismissed?

5 THE COURT: Just follow the instructions.

6 PROSPECTIVE JUROR NO. 167: Okay.

7 THE COURT: There will be instructions. Just follow  
8 the instructions.

9 PROSPECTIVE JUROR NO. 167: Thank you.

10 (Prospective juror exits.)

11 MR. AGNIFILO: We ask that he be excused for the  
12 reason that we discussed at sidebar.

13 THE COURT: And you agree?

14 MS. PENZA: Yes, yes.

15 THE COURT: Juror No. 167 is struck on consent.

16 I think we are up to 170. Why are you interested in  
17 47? You want more information about the case?

18 MS. PENZA: The gun possession case he served as a  
19 juror?

20 (Prospective juror enters.)

21 THE COURT: Please be seated, ma'am. Good morning.

22 PROSPECTIVE JUROR NO. 170: Good morning.

23 THE COURT: You are Juror No. 170?

24 PROSPECTIVE JUROR NO. 170: Correct.

25 THE COURT: You work for New York City; right?

Prospective Juror No. 170

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1 PROSPECTIVE JUROR NO. 170: Yes.

2 THE COURT: Is that a full-time job?

3 PROSPECTIVE JUROR NO. 170: Yes.

4 THE COURT: And which agency do you work for?

5 PROSPECTIVE JUROR NO. 170: Right now it's FISA-OPA.

6 It's under the mayor's office, Mayor de Blasio.

7 THE COURT: But what part of his office do you work  
8 in?

9 PROSPECTIVE JUROR NO. 170: You mean the name of the  
10 agency?

11 THE COURT: Yes.

12 PROSPECTIVE JUROR NO. 170: I used to work for  
13 Financial Services Agency, but now I'm with OPA, Office of  
14 Payroll Agency, Administration, so now -- now it's merged into  
15 one agency. It's in the process of merging into one  
16 agency. They put FISA-OPA together.

17 THE COURT: And so this is not inside DCAS? This is  
18 within the mayor's office?

19 PROSPECTIVE JUROR NO. 170: It's under the mayor's  
20 office. We handle the payroll system, the financial reports.

21 THE COURT: The financial reports for --

22 PROSPECTIVE JUROR NO. 170: For the City.

23 THE COURT: So these are financial reports for  
24 people who make a certain amount of money or more?

25 PROSPECTIVE JUROR NO. 170: Employees and the



Prospective Juror No. 170

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1 financial statements for the City. It was created under Mayor  
2 Beam, when the City didn't have money so they created FISA,  
3 Financial Information Services Agency.

4 THE COURT: And what do you do for the agency?

5 PROSPECTIVE JUROR NO. 170: I'm a computer  
6 programmer.

7 THE COURT: All right. I just have a few follow-up  
8 questions for you. Now, you indicated in your questionnaire  
9 that back in 1995 you were on a criminal jury in a gun  
10 possession case and that the jury reached a verdict.

11 PROSPECTIVE JUROR NO. 170: Yes.

12 THE COURT: Without telling me what the verdict was,  
13 were you one of the 12 jurors who deliberated to that verdict?

14 PROSPECTIVE JUROR NO. 170: Yes.

15 THE COURT: Okay. You had no other jury service,  
16 that's the only time?

17 PROSPECTIVE JUROR NO. 170: I was never selected.

18 THE COURT: You went to jury duty but then you  
19 weren't selected on other occasions?

20 PROSPECTIVE JUROR NO. 170: Right.

21 THE COURT: Thank you. And you indicated that you  
22 did read, before you filled out the questionnaire, you did  
23 read in the newspaper and heard news on the radio, I guess,  
24 about this case; is that right?

25 PROSPECTIVE JUROR NO. 170: Yes.

Prospective Juror No. 170

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1 THE COURT: But would this affect your ability to be  
2 fair and impartial in this case?

3 PROSPECTIVE JUROR NO. 170: Yes.

4 THE COURT: Why?

5 PROSPECTIVE JUROR NO. 170: Well, about 40 years ago  
6 someone -- this guy forced himself on me and I said no, and he  
7 doesn't understand when a woman says no, it's no.

8 THE COURT: So what was the result?

9 PROSPECTIVE JUROR NO. 170: He got his way.

10 THE COURT: And did you report it?

11 PROSPECTIVE JUROR NO. 170: No, because at that time  
12 40 years ago -- first of all, I was over 20 at that time and  
13 people wouldn't believe it. It's different now.

14 THE COURT: I see.

15 PROSPECTIVE JUROR NO. 170: Compared to 40 years  
16 ago.

17 THE COURT: I see. I am sure that was extremely  
18 traumatic. Bearing that in mind, do you think you could  
19 listen to the testimony in this case and fairly and  
20 impartially consider the testimony of people who come to court  
21 and tell their stories, witnesses, and look at the evidence  
22 and decide whether the charges, specific charges in this case  
23 have been proven beyond a reasonable doubt?

24 PROSPECTIVE JUROR NO. 170: I don't know.

25 THE COURT: Why is that?

1 PROSPECTIVE JUROR NO. 170: Because I lived through  
2 it. I still remember, even though it was 40 years ago.

3 THE COURT: Any other questions?

4 MR. AGNIFILO: Nothing from us.

5 MS. PENZA: Your Honor, can we have a brief sidebar?

6 THE COURT: Sure.

7 (The following sidebar took place outside the  
8 hearing of the courtroom.)

9 THE COURT: Your Honor, she didn't raise that issue  
10 in her questionnaire and, so, I think it -- we would just want  
11 clarity as to --

12 THE COURT: I would say, because there's nothing in  
13 there.

14 MS. PENZA: I think it would be helpful to have  
15 clarity as to that. And she also answered the same question  
16 that asked that had her respond that way. It was a question  
17 about seen articles and she had written that she set that  
18 aside. It was confusing.

19 THE COURT: She answered a question I didn't ask. I  
20 noticed that. I will follow up.

21 MS. PENZA: Thank you, Your Honor.

22 (Sidebar ends.)

23 PROSPECTIVE JUROR NO. 170: So, this assault that  
24 you described 40 years ago, you didn't mention that on your  
25 questionnaire.

Prospective Juror No. 170

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1 PROSPECTIVE JUROR NO. 170: Those were questions  
2 that -- that had me fill it out.

3 THE COURT: There wasn't what --

4 PROSPECTIVE JUROR NO. 170: I answered the question,  
5 but there wasn't a place.

6 THE COURT: There wasn't a place? Well, there is a  
7 question and you answered "No." "Do you have any personal  
8 experience where you were victimized where it would make it  
9 difficult for you to be a fair and impartial juror?" And you  
10 said "No."

11 PROSPECTIVE JUROR NO. 170: At that time I didn't  
12 remember, but now I hear in the news it brings back because  
13 this happened 40 years ago. I didn't remember -- I don't  
14 think about it until now. I hear about it in the news. It  
15 brings back memories now. I never told anybody; my close  
16 friends, my family. I just -- I didn't want to talk about it.  
17 No one knows about it.

18 THE COURT: Are there any other questions?

19 MR. AGNIFILO: Nothing.

20 MS. PENZA: No, Your Honor.

21 THE COURT: Well, thank you for coming in. You have  
22 a nice day.

23 PROSPECTIVE JUROR NO. 170: I appreciate it.

24 (Prospective juror exits.)

25 THE COURT: Is there a motion?

1 MR. AGNIFILO: Yes, Judge. We're going to move to  
2 excuse the juror. Your Honor is right, the questionnaire  
3 asked questions directly.

4 THE COURT: There were other questions. That's the  
5 first one I found.

6 MR. AGNIFILO: There's 52 and 53 with zero writing  
7 on that precise issue. She didn't indicate yes. My concern  
8 really is I'm not sure if she sees this as her ticket to get  
9 out of jury service, I don't know. If she wanted to, she  
10 would have put yes in the question. I don't know what's  
11 happening here.

12 THE COURT: Right, but to follow up when she said I  
13 didn't tell anyone about it, I don't talk about it, that would  
14 say to me, that, you know that this is something she has  
15 buried in her past. I'm not a psychologist or a psychiatrist,  
16 but it is something she does not want to talk about. She  
17 doesn't want to put it down. She doesn't want to think about  
18 it and it's -- it's very hurtful to her to talk about it,  
19 which is totally understandable and whether it's everything  
20 that she said or the way she described it, if it was the way  
21 she described it or not, she feels, my sense is that this is  
22 something that was very hurtful to her and too difficult to  
23 even mention, but she mentioned it and she mentioned it and  
24 wasn't asked about it before she mentioned it. She was asked  
25 a completely different question. So we have to take her at

Prospective Juror No. 171

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1 face value, I think, on something as personal and harmful as  
2 this.

3 MR. AGNIFILO: I agree. That's why we ask that she  
4 be excused.

5 THE COURT: Any objection?

6 MS. PENZA: No, Your Honor.

7 THE COURT: All right. Juror 170 is struck for  
8 cause on consent.

9 So we have two more and then we have two who have  
10 arrived since I gave the initial talk to the morning's jurors.  
11 So we are going to start with 171.

12 (Prospective juror enters.)

13 THE COURT: Please be seated. You are Juror No.  
14 171; correct?

15 PROSPECTIVE JUROR NO. 171: Yes, I am.

16 THE COURT: Welcome.

17 PROSPECTIVE JUROR NO. 171: Thank you.

18 THE COURT: And you currently work as an  
19 administrative manager for Northwell Health?

20 PROSPECTIVE JUROR NO. 171: I do, yes.

21 THE COURT: How long have you done that?

22 PROSPECTIVE JUROR NO. 171: I've been with Northwell  
23 for almost two years now.

24 THE COURT: And before that?

25 PROSPECTIVE JUROR NO. 171: I worked for BlackRock

Prospective Juror No. 171

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1 asset management for almost nine years.

2 THE COURT: What did you do for them?

3 PROSPECTIVE JUROR NO. 171: I was a senior executive  
4 assistant.

5 THE COURT: Okay. And do you work out in Lake  
6 Success?

7 PROSPECTIVE JUROR NO. 171: My building is in  
8 Manhasset, yes.

9 THE COURT: In Manhasset?

10 PROSPECTIVE JUROR NO. 171: Yes. It's five minutes  
11 away.

12 THE COURT: It's the North Shore piece of the  
13 Northwell puzzle, so to speak?

14 PROSPECTIVE JUROR NO. 171: Yes, exactly.

15 THE COURT: Now, I have a few follow-up questions.  
16 Do you know Northwell's policy about paying for jury duty?

17 PROSPECTIVE JUROR NO. 171: I do.

18 THE COURT: What is that?

19 PROSPECTIVE JUROR NO. 171: They do pay for jury  
20 duty.

21 THE COURT: All of it?

22 PROSPECTIVE JUROR NO. 171: Yes, they do.

23 THE COURT: Thank you. I have a few other questions  
24 for you. Now, you have been a juror in a criminal case  
25 involving fraud; is that right?

Prospective Juror No. 171

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1 PROSPECTIVE JUROR NO. 171: That's correct.

2 THE COURT: And this was ten years ago?

3 PROSPECTIVE JUROR NO. 171: I would say at least ten  
4 years ago.

5 THE COURT: What county was that in?

6 PROSPECTIVE JUROR NO. 171: In Queens.

7 THE COURT: Queens?

8 PROSPECTIVE JUROR NO. 171: Yes.

9 THE COURT: And without telling me what the verdict  
10 was, the jury reached a verdict; is that right?

11 PROSPECTIVE JUROR NO. 171: Correct.

12 THE COURT: And you deliberated with the jury to  
13 reach that verdict?

14 PROSPECTIVE JUROR NO. 171: I did, yes.

15 THE COURT: Okay. You indicated to this question,  
16 "Have you or anyone close to you ever been the victim of  
17 sexual assault including date rape?" And you said, "Yes" and  
18 you said your mother was when she was young?

19 PROSPECTIVE JUROR NO. 171: She was, yes.

20 THE COURT: She told you about this. This was  
21 before you were born?

22 PROSPECTIVE JUROR NO. 171: Correct.

23 THE COURT: I see. And you also indicated that  
24 knowing that would not make it difficult for you to be a fair  
25 and impartial juror; is that correct?



Prospective Juror No. 171

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1 PROSPECTIVE JUROR NO. 171: Correct.

2 THE COURT: You answered this question and then  
3 there's a follow-up question. "Do you hold any beliefs or  
4 opinions that would prevent you from evaluating the testimony  
5 of a law enforcement officer fairly and impartially?" And you  
6 said "No." And then the second half of that was, would you be  
7 inclined to believe a witness is more or less truthful solely  
8 because that witness is a law enforcement officer?"

9 PROSPECTIVE JUROR NO. 171: Can you repeat that,  
10 please.

11 THE COURT: It's a hard one. I think we're going to  
12 write it differently the next time because many people have a  
13 problem with it. I just want to tell you you are not the only  
14 person who has trouble understanding this question.

15 Would you be inclined to believe a witness is more  
16 or less truthful solely because that witness is a law  
17 enforcement officer.

18 PROSPECTIVE JUROR NO. 171: No.

19 THE COURT: Any other questions?

20 MR. AGNIFILO: No, Your Honor.

21 MS. PENZA: No, Your Honor.

22 THE COURT: Thank you for coming in. Have a nice  
23 day?

24 PROSPECTIVE JUROR NO. 171: Thank you, you too.

25 (Prospective juror exits.)

Prospective Juror No. 172

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1 THE COURT: Is there a motion?

2 MR. AGNIFILO: No.

3 MS. PENZA: No, Your Honor.

4 THE COURT: All right. Juror No. 171 is approved.  
5 172.

6 (Prospective juror enters.)

7 THE COURT: Please be seated. Good morning.

8 PROSPECTIVE JUROR NO. 172: Good morning.

9 THE COURT: You are Juror No. 172?

10 PROSPECTIVE JUROR NO. 172: Yes.

11 THE COURT: Okay. Welcome.

12 PROSPECTIVE JUROR NO. 172: Thank you.

13 THE COURT: You're a teacher?

14 PROSPECTIVE JUROR NO. 172: Yes.

15 THE COURT: All right. And what level do you teach?

16 PROSPECTIVE JUROR NO. 172: I teach fourth grade  
17 special ed.

18 THE COURT: In New York City?

19 PROSPECTIVE JUROR NO. 172: Yes.

20 THE COURT: The public schools?

21 PROSPECTIVE JUROR NO. 172: Yes.

22 THE COURT: I have a few follow-up questions for  
23 you. There's a question, "How important is your faith, if  
24 any, to you." You said, "Extremely important and I make major  
25 life decisions based on my faith." Is that right?

Prospective Juror No. 172

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1 PROSPECTIVE JUROR NO. 172: Yes.

2 THE COURT: And you interned in the District  
3 Attorney's office 15 years ago. Was that in Staten Island?

4 PROSPECTIVE JUROR NO. 172: Yes, it was.

5 THE COURT: And your father is a retired NYPD  
6 detective?

7 PROSPECTIVE JUROR NO. 172: Yes, he is.

8 THE COURT: And your mother was an NYPD sergeant?

9 PROSPECTIVE JUROR NO. 172: Yes.

10 THE COURT: But she is deceased?

11 PROSPECTIVE JUROR NO. 172: Yes.

12 THE COURT: Did they meet on the job as they say?

13 PROSPECTIVE JUROR NO. 172: No, they met in church.

14 THE COURT: They met in church. All right.

15 PROSPECTIVE JUROR NO. 172: Yes.

16 THE COURT: And then you have an uncle who's a  
17 retired corrections officer and a cousin who's a corrections  
18 officer. So you have a family with a number of people who  
19 were in law enforcement.

20 PROSPECTIVE JUROR NO. 172: Yes.

21 THE COURT: There will be some law enforcement  
22 officers who testify. Do you feel you can be fair and  
23 impartial in considering their testimony and not be biased one  
24 way or another because they're law enforcement officers?

25 PROSPECTIVE JUROR NO. 172: I feel I do. The way I

Prospective Juror No. 172

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1 feel is we're all people. We're all human and from my  
2 perspective I can see kind of, like, both sides of the law.  
3 So because I am Hispanic and my parents were law enforcement.  
4 So I can see it in a fair way.

5 THE COURT: So, the Court will instruct you that all  
6 the witnesses should be assessed the same way. In other  
7 words, that you should consider their testimony on its merits  
8 and decide whether to believe them or not believe them based  
9 on what they say here in court and not give any special  
10 consideration one way or another to people who are law  
11 enforcement officers as opposed to people who are civilians,  
12 let's say. Can you follow that basic rule?

13 PROSPECTIVE JUROR NO. 172: Absolutely.

14 THE COURT: Now, you have a five-year old?

15 PROSPECTIVE JUROR NO. 172: Yes.

16 THE COURT: This is a six-week trial.

17 PROSPECTIVE JUROR NO. 172: Yes.

18 THE COURT: So would there be any difficulty for  
19 your five-year old getting to school and so forth?

20 PROSPECTIVE JUROR NO. 172: My father and his wife  
21 help me to take her and pick her up for me because I'm a  
22 teacher. So it kind of would be the same schedule for me.

23 THE COURT: I just wanted to make sure.

24 PROSPECTIVE JUROR NO. 172: Thank you. Sometimes  
25 people don't think about it when they come in and when they're

Prospective Juror No. 172

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1 faced with being a juror they say, how am I going to take care  
2 of getting my child to school. That is why I ask.

3 PROSPECTIVE JUROR NO. 172: Thank you.

4 THE COURT: I had two boys. And you have read  
5 something about this case?

6 PROSPECTIVE JUROR NO. 172: Yes.

7 THE COURT: Whatever you read before you filled out  
8 this questionnaire, can you put that aside and disregard it  
9 and just base your consideration of the facts on the evidence  
10 that's presented here in court during the trial if you are  
11 selected?

12 PROSPECTIVE JUROR NO. 172: Absolutely.

13 THE COURT: Any questions?

14 MR. AGNIFILO: No, Your Honor.

15 MS. PENZA: No, Your Honor.

16 THE COURT: Thank you for coming in.

17 PROSPECTIVE JUROR NO. 172: You too.

18 (Prospective juror exits.)

19 THE COURT: Is there a motion?

20 MR. AGNIFILO: Not from us.

21 MS. PENZA: No, Your Honor.

22 THE COURT: Juror No. 172 is approved. Then we have  
23 two additional jurors coming, 60 and 143.

24 (Recess taken.)

25 (Continued on the following page.)

1 (Prospective Jurors enter the courtroom.)

2 THE COURT: Ma'am, you can sit in the front row.

3 Welcome. I'm Judge Garaufis and I think we met when  
4 you filled out your questionnaires. Let me just reintroduce  
5 you to the parties to this case.

6 At the table closest to you are the government  
7 lawyers, Assistant U.S. Attorneys Moira Penza, Tanya Hajjar  
8 and Mark Lesko. And then at the far table is the defendant  
9 Keith Raniere who is wearing a sweater and an open-collared  
10 shirt and he is represented by lawyers Marc Agnifilo, Teny  
11 Geragos, Paul DerOhannesian and Danielle Smith.

12 So, I'm going to advise you both that Mr. Raniere,  
13 Keith Raniere is the only defendant who will be standing trial  
14 before the jury that we are picking now and please do not  
15 speculate as to why this is the case. So, Mr. Raniere is the  
16 only defendant who will be tried in this trial.

17 Now, what we are going to do is, who is Juror  
18 No. 60?

19 THE PROSPECTIVE JUROR: Right here.

20 THE COURT: So you will go first and then Juror No.  
21 143 will wait in the jury deliberation room behind the  
22 courtroom, Mr. Reccoppa will show you, while we interview  
23 Juror No. 60 and then we will interview Juror No. 143. We  
24 interview jurors one at a time.

25 I am going to just mention a couple of things.

1           The trial is going to begin on Tuesday, May 7th, and  
2 it will last up to six weeks. The Court will provide a  
3 schedule of the trial days before the trial starts. Please  
4 continue to call in to the jury information phone line as  
5 instructed by the jury clerk, but I'm going to remind you  
6 about certain other things that are very important as well.

7           It is extremely important that you follow my  
8 instruction that you not discuss the case with anyone, not  
9 your family, your friends or business associates, and not with  
10 the other jurors.

11           In addition, you must not read, listen to, watch or  
12 access any accounts of this case on any form of media,  
13 newspaper, TV, radio, podcasts or the internet, nor research  
14 or seek outside information about any aspect of the case.  
15 Please do not communicate with anyone about the case on your  
16 phone, whether through e-mail, text messaging or any other  
17 means, through any blog or website or by way of any social  
18 media including Facebook, Twitter, Instagram, YouTube or other  
19 similar sites. You must not consider anything you may have  
20 read or heard about the case outside of this courtroom,  
21 whether you read it before or during jury selection purposes.

22           Do not attempt any independent research or  
23 investigation about the case. Do not visit any of the  
24 locations identified in the questionnaire or discussed during  
25 the course of jury selection.

Sidebar

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1           So, at this point, I am going to ask Juror No. 143  
2 to retire to the jury deliberation room and we will be with  
3 you in just a few minutes.

4           THE PROSPECTIVE JUROR: Okay.

5           THE COURT: Okay? Thank you.

6           And Juror No. 60, would you take that seat by the  
7 microphone?

8           THE PROSPECTIVE JUROR: Sure.

9           THE COURT: So we can hear what you have to say.

10           (Prospective Juror 143 exits the courtroom.)

11           MR. AGNIFILO: May we have a quick sidebar? It will  
12 just take two seconds.

13           THE COURT: Of course.

14           (The following occurred at sidebar.)

15           THE COURT: I thought there was something --

16           MR. AGNIFILO: No. I think we had 60.

17           MS. PENZA: Judge Garaufis brought him back.

18           THE COURT: I'm sorry?

19           MS. GERAGOS: You're bringing him back because he  
20 said he was not sure he could be fair so Mr. Agnifilo made a  
21 cause challenge. They objected to it. You were bringing him  
22 back to see if he could be fair. Secondly --

23           THE COURT: I remember, because of the way he wrote  
24 what he wrote and what he wrote, yes. Thanks for reminding  
25 me. That's right.

CMH

OCR

RMR

CRR

FCRR



Prospective Juror 60

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1 (In open court; sidebar ends.)

2 THE COURT: So you've been here before.

3 THE PROSPECTIVE JUROR: Yes.

4 THE COURT: Right? And I just wanted to follow up  
5 with you on your remarks the last time.

6 You were asked: On the question of evidence being  
7 presented involving allegations of a sexual nature with  
8 someone who is underage, do you believe you could be fair and  
9 impartial? You said you weren't sure. Why is it that you're  
10 not sure?

11 THE PROSPECTIVE JUROR: The nature of it.

12 THE COURT: The nature of it?

13 THE PROSPECTIVE JUROR: In terms of -- you said that  
14 there might be a possibility that they could be underage.

15 THE COURT: They might be underage. Well, there may  
16 be evidence presented that some of the sexual encounters that  
17 the government will try to prove specifically involved girls  
18 who are underage and who could not consent and the question  
19 will be whether, when you hear that and learn about it,  
20 whether you will be able to consider that evidence along with  
21 all the other evidence in deciding whether the defendant is  
22 guilty of the crimes for which he is charged.

23 So it's basically a situation where you have to  
24 listen to some evidence and consider the evidence in  
25 connection with the law as I give it to you in deciding

Prospective Juror 60

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1 whether the defendant is guilty or not guilty.

2 THE PROSPECTIVE JUROR: I think I understand now.

3 THE COURT: You think you can do that?

4 THE PROSPECTIVE JUROR: Yes.

5 THE COURT: I'm sorry?

6 THE PROSPECTIVE JUROR: Yes.

7 THE COURT: Now, let me just go back to what you're  
8 doing. You're in school now?

9 THE PROSPECTIVE JUROR: Oh, no, not currently. Not  
10 this semester.

11 THE COURT: Not this semester. When do you go back  
12 to school?

13 THE PROSPECTIVE JUROR: Around, like, the end of  
14 August.

15 THE COURT: The end of August. So sitting on the  
16 jury would not interfere with going back to school?

17 THE PROSPECTIVE JUROR: No.

18 THE COURT: Okay. You have a summer job?

19 THE PROSPECTIVE JUROR: I'm seeking.

20 THE COURT: What's that?

21 THE PROSPECTIVE JUROR: I'm looking for.

22 THE COURT: "Seeking," you said?

23 THE PROSPECTIVE JUROR: Yes.

24 THE COURT: Okay. How long were you a cashier at  
25 the Salvation Army?

1 THE PROSPECTIVE JUROR: For about, I think three  
2 months, from July until September.

3 THE COURT: Last year?

4 THE PROSPECTIVE JUROR: Yes.

5 THE COURT: Anything else?

6 MR. AGNIFILO: No, no, Judge. Thank you.

7 MS. PENZA: No, Your Honor.

8 THE COURT: All right. Thank you very much for  
9 coming in. Have a nice day and thanks for coming back. We  
10 appreciate it.

11 THE PROSPECTIVE JUROR: You're welcome.

12 (Prospective Juror 60 exits the courtroom.)

13 MR. AGNIFILO: We withdraw the motion in light of  
14 the juror's answer to Your Honor that he can follow.

15 THE COURT: I think it just wasn't clear to him.

16 MR. AGNIFILO: I think that's right.

17 THE COURT: Anything?

18 MS. PENZA: No, Your Honor. Nothing.

19 THE COURT: Okay. Without objection, Juror No. 60  
20 is approved.

21 Okay. 143 who we have not seen before is next but  
22 thanks for the catch.

23 MS. GERAGOS: You're welcome.

24 MR. AGNIFILO: It's all Ms. Geragos.

25 THE COURT: Well, I pointed to Ms. Geragos.

Prospective Juror 143

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1 (Prospective Juror 143 enters the courtroom.)

2 THE COURT: Please be seated, ma'am.

3 THE PROSPECTIVE JUROR: Okay.

4 THE COURT: Good afternoon.

5 THE PROSPECTIVE JUROR: Good afternoon, sir.

6 THE COURT: And welcome. I just have a few  
7 follow-up questions for you.

8 Did you have any difficulty filling out the  
9 questionnaire?

10 THE PROSPECTIVE JUROR: Yes, because I don't speak  
11 English that very well.

12 THE COURT: Okay. Now, the medicines that you take,  
13 what are they?

14 THE PROSPECTIVE JUROR: Metformin. That's because  
15 I'm diabetic.

16 THE COURT: And --

17 THE PROSPECTIVE JUROR: And the other one, I had  
18 cancer, so I'm taking that cancer medication.

19 THE COURT: I see. And do these medications affect  
20 your ability to think or reason?

21 THE PROSPECTIVE JUROR: I think so, yes. Specially  
22 the Metformin. I think it does.

23 THE COURT: You don't take insulin though?

24 THE PROSPECTIVE JUROR: No, thank God.

25 THE COURT: Okay. Good.

Prospective Juror 143

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1 THE PROSPECTIVE JUROR: Thank goodness for that one.

2 THE COURT: Very good. And you're retired, is that  
3 right?

4 THE PROSPECTIVE JUROR: Yes, sir.

5 THE COURT: And before you retired, what did you do  
6 for a living?

7 THE PROSPECTIVE JUROR: I was a nurse's aid. I was  
8 working in the nursing home taking care of the elderly.

9 THE COURT: I see.

10 You answered this question: Do you worry about you  
11 or someone else close to you being falsely accused of sexual  
12 abuse or sexual assault?

13 THE PROSPECTIVE JUROR: No, I don't know anybody  
14 have that.

15 THE COURT: Would you be concerned about someone  
16 being falsely accused?

17 THE PROSPECTIVE JUROR: Oh, yes, I think I would,  
18 yes.

19 THE COURT: Now, the government has the burden of  
20 proof to prove these allegations against Mr. Raniere beyond a  
21 reasonable doubt, all right, based on the evidence at the  
22 trial. Do you understand that?

23 THE PROSPECTIVE JUROR: Not really.

24 THE COURT: Well, there is a standard of proof that  
25 would have to be used by the jury to decide whether the

Prospective Juror 143

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1 defendant is guilty and that standard is proof beyond a  
2 reasonable doubt. Do you understand that?

3 THE PROSPECTIVE JUROR: Yeah.

4 THE COURT: Okay. Are you willing to accept that  
5 standard of proof as a juror and use it in considering the  
6 evidence in the case?

7 THE PROSPECTIVE JUROR: I think so.

8 THE COURT: Okay. Under the law, you must consider  
9 each defendant and each alleged crime separately. We only  
10 have one defendant here. You must find a defendant not guilty  
11 of the alleged crime you are considering unless the evidence  
12 that has been presented in court proves him guilty beyond, of  
13 the crime beyond a reasonable doubt.

14 Are you willing to follow that standard of beyond a  
15 reasonable doubt?

16 THE PROSPECTIVE JUROR: I think I could follow.

17 THE COURT: You could what?

18 THE PROSPECTIVE JUROR: I think I could follow.

19 THE COURT: You could?

20 THE PROSPECTIVE JUROR: Follow.

21 THE COURT: That rule?

22 THE PROSPECTIVE JUROR: That rule. If I understand  
23 some of it, you know.

24 THE COURT: Well, I mean, it's a basic rule of  
25 criminal law in this country that you have to be rather sure

Sidebar

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1 based on the evidence that the person is guilty and the  
2 standard, it doesn't mean that the government has to prove  
3 that the defendant is guilty beyond all doubt, but the  
4 government has to prove that the defendant is guilty beyond a  
5 reasonable doubt and I will discuss that with you, the jury,  
6 at the end of the trial and tell you what that rule means in  
7 more detail. Do you understand that?

8 THE PROSPECTIVE JUROR: Okay, yes.

9 THE COURT: Okay. Any other questions?

10 MR. AGNIFILO: No, Judge.

11 MS. PENZA: No, Your Honor.

12 THE COURT: All right. Thank you for coming in.

13 THE PROSPECTIVE JUROR: Thank you.

14 THE COURT: And Mr. Reccoppa will tell you what to  
15 do next.

16 MR. AGNIFILO: Thank you.

17 THE PROSPECTIVE JUROR: Have a nice day.

18 MR. AGNIFILO: A quick sidebar? Literally  
19 30 seconds.

20 THE COURT: Just one moment.

21 THE PROSPECTIVE JUROR: Okay.

22 (The following occurred at sidebar.)

23 MR. AGNIFILO: There's some question -- I just want  
24 to make sure she really understands. She's incredibly  
25 respectful. She's paying rapt attention to everything Your

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Prospective Juror 143

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1 Honor is saying. I just have a little concern about her  
2 ability to understand. She seems like a lovely person. I  
3 don't know if Your Honor wants to ask her, Have you been able  
4 to understand everything that I've said, is this all clear to  
5 you, or something relevant if the Court wants to do it.

6 THE COURT: I'll ask her an open-ended question.  
7 I'm not going to ask her if she understands.

8 MR. AGNIFILO: That's fine. Very good.

9 (In open court; sidebar ends.)

10 THE COURT: Let me just ask you, do you have any  
11 questions for me about this process?

12 THE PROSPECTIVE JUROR: No. I just want to say I'm  
13 sorry I was late.

14 THE COURT: You're sorry you were late?

15 THE PROSPECTIVE JUROR: Yes, because I didn't have  
16 with me my number when I called last night. That's why I  
17 didn't get ready. So the guy called me this morning. I says,  
18 oh, my Lord, I'm not even ready yet, I didn't even shower,  
19 because I was supposed -- I've been taking care of this  
20 elderly woman. She was my patient before. So I've been  
21 helping her so she asked me if I could go in today since I  
22 didn't have to come over.

23 THE COURT: And so --

24 THE PROSPECTIVE JUROR: So I called her this  
25 morning.



1 THE COURT: So, from time to time, you help out --

2 THE PROSPECTIVE JUROR: Yes.

3 THE COURT: -- even though you retired?

4 THE PROSPECTIVE JUROR: Yes.

5 THE COURT: And do you like doing that?

6 THE PROSPECTIVE JUROR: Yes. She needs me. She has  
7 no one.

8 THE COURT: That's very nice of you to do that.

9 THE PROSPECTIVE JUROR: Thank you.

10 THE COURT: All right. Well, you have a lovely day.

11 THE PROSPECTIVE JUROR: Thank you so much.

12 Okay. Have a good day, everyone.

13 (Prospective Juror 143 exits the courtroom.)

14 MR. AGNIFILO: We have no motion.

15 MS. PENZA: No, Your Honor.

16 THE COURT: Okay. Juror No. 143 is approved.

17 So what we will do for this afternoon is we have  
18 another, I don't know, 15 or 16 jurors to interview, and then  
19 we will see where we are in terms of the numbers.

20 We are not going to have jury selection tomorrow in  
21 any event at the request of both sides. And then we will see  
22 if we need to do a day of it next week but an alternative, and  
23 I want to discuss this with you, you can discuss it at  
24 lunchtime among yourselves, is that on the 6th of May, we  
25 bring in everyone who's been approved for final peremptory

1 challenges, but we also bring in 20 or 30 additional people in  
2 case we have a substantial call-off in the number of jurors  
3 for whatever reasons they have, health, changed circumstances,  
4 they left town because they knew we were making the final  
5 selections, whatever it happens to be, and so that we can  
6 interview more jurors before we do the final peremptory  
7 challenges. Then we will do the peremptories on the 6th and  
8 we will have opening statements on the 7th. So that's a  
9 concept that sometimes works since we do have a week to play  
10 with here.

11 MR. AGNIFILO: It does. It sounds good to us.  
12 We'll talk about it, but it sounds perfect for us.

13 MS. PENZA: It sounds fine for the government but we  
14 can talk about it.

15 THE COURT: Talk about it and we will know better  
16 after the completion of interviews today exactly how many, you  
17 now, whether we have enough to cushion, if you will, to avoid  
18 bringing in more jurors next week.

19 MR. AGNIFILO: Right.

20 THE COURT: Okay? All right. We will take a lunch  
21 break until 2:00.

22 MS. PENZA: Thank you, Your Honor.

23 MR. AGNIFILO: Thank you very much.

24 (Luncheon recess .)  
25

1 AFTERNOON SESSION

2 (In open court; prospective jurors not present.)

3 THE COURT: Everyone is here for the afternoon  
4 session except Juror 173 is not yet here. He's traveling in  
5 from Brooklyn.

6 MR. AGNIFILO: From Brooklyn? Hopefully he or she  
7 has a passport.

8 THE COURT: Okay. Please be seated.

9 All right. We are going to start, we will have them  
10 all come in and then we will start with 132.

11 (Prospective jurors enter the courtroom.)

12 THE COURT: Okay. Please be seated, everybody.

13 Good afternoon, ladies and gentlemen. I'm  
14 Judge Garaufis and we have all reviewed your questionnaire  
15 results and we will ask you a few extra questions when you are  
16 called out here one at a time.

17 Juror 132? All right. You will go first when  
18 everyone else goes back to the jury deliberation room later.  
19 We're not ready yet. You will take that first seat in the  
20 first row with the microphone over there. There is a  
21 microphone. You don't have to do it now. Not now. You can  
22 do it when we finish. Okay? And we will interview you one at  
23 a time.

24 I'd like to reintroduce you to the parties to this  
25 case. The U.S. Government is represented by the following

1 Assistant United States Attorneys. They are seated at the  
2 first table here. Moira Penza, Tanya Hajjar and Mark Lesko.  
3 And seated at the far table is defendant Keith Raniere who is  
4 wearing a sweater, and his attorneys Marc Agnifilo and Teny  
5 Geragos and Paul DerOhannesian and attorney Danielle Smith.

6 Now, I just want to point out that Keith Raniere is  
7 the only defendant who will stand trial before the jury that's  
8 being selected this week. Please do not speculate as to why  
9 this is the case.

10 Now, I would also like to let you know that when we  
11 complete jury selection, the trial will begin on or about  
12 Tuesday, May 7th, and it will last up to six weeks. The Court  
13 will provide a schedule of trial days before the trial starts  
14 and you should continue to call in to the jury information  
15 phone line as instructed by the jury clerk.

16 I would like to remind you that it is extremely  
17 important that you follow my instructions that you not discuss  
18 this case with anyone not your family, your friends or  
19 business associates, and not your fellow jurors. So when you  
20 go back into the jury deliberation room while you are waiting,  
21 feel free to discuss many different things. You can talk  
22 about the Mets, the Yankees, the weather, movies you like,  
23 what it's going to be like to see the Avengers this weekend if  
24 that's what you are going to do, but please do not discuss  
25 anything about the case.

1           In addition, you must not read, listen to, watch or  
2 access any accounts of this case on any form of media,  
3 newspaper, TV, radio, podcasts or the internet, nor research  
4 or seek outside information about any aspect of the case.  
5 Please do not communicate with anyone about the case on your  
6 phone whether through e-mail, text messaging or any other  
7 means, through any blog or website or by way of any social  
8 media including Facebook, Twitter, Instagram, YouTube and  
9 other similar sites.

10           You must not consider anything you may have read or  
11 heard about the case outside this courtroom, whether you read  
12 it before or during the jury selection process. Do not  
13 attempt any independent research or investigation about this  
14 case and do not visit any of the locations identified on the  
15 questionnaire or discussed during the course of the jury  
16 selection process.

17           So, on behalf of the parties to the case, I would  
18 like to thank you for your efforts to be as complete as  
19 possible in answering the questions on the questionnaire and  
20 we would just ask you each a few follow-up questions to  
21 clarify certain points that we think might need some  
22 clarification.

23           So at this point, everyone except Juror 132 should  
24 proceed to the jury deliberation room.

25           All rise for the jurors, please.

Prospective Juror 132

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1 (Prospective jurors except Juror No. 132 exit.)

2 THE COURT: Take that first seat in the first row.

3 Thank you.

4 Okay. Everyone may be seated.

5 So you are Juror No. 132, correct?

6 THE PROSPECTIVE JUROR: Sorry. I can't hear too  
7 good.

8 THE COURT: Could you lower the microphone?

9 THE PROSPECTIVE JUROR: I couldn't hear you. I'm  
10 sorry.

11 THE COURT: You are Juror No. 132.

12 THE PROSPECTIVE JUROR: Yes. Yes.

13 THE COURT: Welcome. I have just a few questions  
14 for you.

15 Now, do you take any medicine for your blood  
16 pressure?

17 THE PROSPECTIVE JUROR: Yes.

18 THE COURT: What do you take?

19 THE PROSPECTIVE JUROR: I forgot the name.

20 THE COURT: One or two pills?

21 THE PROSPECTIVE JUROR: I take one, 50 milligram.

22 THE COURT: Okay.

23 THE PROSPECTIVE JUROR: "Amo" something, A-M-O. I  
24 don't remember the name.

25 THE COURT: Okay. And does it affect your ability

Prospective Juror 132

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1 to think?

2 THE PROSPECTIVE JUROR: No.

3 THE COURT: Okay. And you're retired, I take it?

4 THE PROSPECTIVE JUROR: Yes.

5 THE COURT: Okay. And so what kind of work did you  
6 do when you were working?

7 THE PROSPECTIVE JUROR: Secretarial and data entry.

8 THE COURT: I see. How long did you work?

9 THE PROSPECTIVE JUROR: I've been retired for about  
10 22 years taking care of the grandchildren.

11 THE COURT: Oh, how nice. How old are the  
12 grandchildren?

13 THE PROSPECTIVE JUROR: They're 22 -- there are six  
14 of them, 22 and the youngest is 5.

15 THE COURT: I see. And how much time do you spend  
16 taking care of the grandchildren?

17 THE PROSPECTIVE JUROR: Most of my time. Well, four  
18 of them are in Toronto, Canada and two are in Florida.

19 THE COURT: Oh, I see.

20 THE PROSPECTIVE JUROR: So we travel a lot.

21 THE COURT: I see.

22 THE PROSPECTIVE JUROR: I just got back there for  
23 Easter. I spent a week with them.

24 THE COURT: Oh, how nice.

25 THE PROSPECTIVE JUROR: Easter and next month, I'm

Prospective Juror 132

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1 going to Florida. Michaela, the 17-year old, is graduating  
2 from high school.

3 THE COURT: And when is that?

4 THE PROSPECTIVE JUROR: She's going to college.

5 THE COURT: When is that?

6 THE PROSPECTIVE JUROR: So we travel a lot just to  
7 see them.

8 THE COURT: When is that travel?

9 THE PROSPECTIVE JUROR: The graduation? The  
10 itinerary was on my cellphone. It's, May 25th is the  
11 graduation but I think we're going on the 21st, 21st to the  
12 25th.

13 THE COURT: You have tickets for this trip?

14 THE PROSPECTIVE JUROR: Yes. It's in my cellphone  
15 but they took it downstairs.

16 THE COURT: I'm sure.

17 Any questions for the juror?

18 MR. AGNIFILO: Not from us, Judge.

19 MS. COOLEY: No, Your Honor.

20 THE COURT: Okay. Well, thank you for coming in.

21 THE PROSPECTIVE JUROR: Thank you.

22 THE COURT: Nice to meet you.

23 (Prospective Juror 132 exits the courtroom.)

24 THE COURT: Is there a motion?

25 MR. AGNIFILO: Yes, Judge. We're going to move to



Prospective Juror 177

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1 strike the juror. Her prepaid trip is going to be actually  
2 the 21st, Wednesday, the 22nd, Thursday, the 23rd, and then  
3 through the weekend.

4 THE COURT: That's three --

5 MR. AGNIFILO: Three trial days.

6 MS. PENZA: We agree, Your Honor.

7 THE COURT: Okay. Juror No. 132 is struck for cause  
8 on consent.

9 (Prospective Juror 132 excused.)

10 THE COURT: Next is 177 because 173 is traveling  
11 from Brooklyn. 177.

12 (Prospective Juror 177 enters the courtroom.)

13 THE COURT: Please be seated, sir.

14 THE PROSPECTIVE JUROR: Yes.

15 THE COURT: You're Juror 177?

16 THE PROSPECTIVE JUROR: Indeed it is.

17 THE COURT: Welcome. So you work for the Town of  
18 Islip?

19 THE PROSPECTIVE JUROR: Yes, I do.

20 THE COURT: How long have you been doing that?

21 THE PROSPECTIVE JUROR: I've been doing that part  
22 time for the past two years now going to and from school and I  
23 started full time about eight months ago in August.

24 THE COURT: I see. You finished school and started  
25 there?

Prospective Juror 177

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1 THE PROSPECTIVE JUROR: Yes. Bachelor's degree in  
2 network administration from Alfred State College.

3 THE COURT: Very good.

4 THE PROSPECTIVE JUROR: Thank you.

5 THE COURT: So did you check to see if you would be  
6 paid for your jury duty?

7 THE PROSPECTIVE JUROR: I didn't check but I was  
8 told ahead of time saying that I had jury duty at some point.

9 THE COURT: And they said you would be paid for all  
10 of your jury duty?

11 THE PROSPECTIVE JUROR: Yes, that is what my  
12 co-workers told me but people could be wrong. I didn't check  
13 with personnel.

14 THE COURT: Just double check.

15 THE PROSPECTIVE JUROR: Yes.

16 THE COURT: But most governments pay for the  
17 entirety of jury duty.

18 THE PROSPECTIVE JUROR: And then I'm supposed to  
19 give the \$50 to them or something like that.

20 THE COURT: They want your \$50, that's right.  
21 You're not surprised, are you?

22 THE PROSPECTIVE JUROR: No.

23 THE COURT: Good. So I have a few questions  
24 following on to your answers on the questionnaire.

25 THE PROSPECTIVE JUROR: Okay.

Prospective Juror 177

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1 THE COURT: You indicated you have a couple of  
2 friends who are aspiring law enforcement officers.

3 THE PROSPECTIVE JUROR: Uh-huh.

4 THE COURT: And have they yet gotten these jobs?

5 THE PROSPECTIVE JUROR: No. So, my one friend who  
6 is, who has been an aspiring law officer for a while has been  
7 working as a nurse in, gosh, I don't remember, some hospital  
8 in Smithtown. Sorry. The names escape me. And my other  
9 friend is going to St. John's or John Jay, I'm sorry.

10 THE COURT: John Jay in Manhattan?

11 THE PROSPECTIVE JUROR: My apologies.

12 THE COURT: In Manhattan?

13 THE PROSPECTIVE JUROR: Yes.

14 THE COURT: Okay. Now, these are friends from the  
15 neighborhood or from school?

16 THE PROSPECTIVE JUROR: Yes. So my one friend who  
17 is a nurse, I have been going to the same school district with  
18 him. I've known him since fourth grade. And my other friend  
19 who is going to John Jay, I've known him since ninth grade.

20 THE COURT: I see.

21 THE PROSPECTIVE JUROR: But he's in Deer Park so  
22 he's a little further away.

23 THE COURT: These are social friends?

24 THE PROSPECTIVE JUROR: Yes, those are my two  
25 closest friends.

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1 THE COURT: I see.

2 Do you ever post comments on any internet forums or  
3 websites? You said yes, you sometimes interact on social  
4 media like Reddit and Twitter. Is that right?

5 THE PROSPECTIVE JUROR: Yes.

6 THE COURT: Okay. You know not to discuss this  
7 case --

8 THE PROSPECTIVE JUROR: Yeah, no.

9 THE COURT: -- on any of those websites?

10 THE PROSPECTIVE JUROR: Uh-huh.

11 THE COURT: Okay. And what's the last movie you  
12 saw?

13 THE PROSPECTIVE JUROR: Gosh, I don't watch movies  
14 very often. The last one I can remember is Silver Linings  
15 Playbook.

16 THE COURT: Oh, yes, loved that movie, with Bradley  
17 Cooper.

18 THE PROSPECTIVE JUROR: Yes. Great duo, him and,  
19 what's her face? I don't remember. I'm so bad with  
20 celebrities. Jennifer Aniston? I don't know who it is.

21 THE COURT: Okay.

22 THE PROSPECTIVE JUROR: No, I don't remember. I  
23 don't remember now.

24 THE COURT: That's fine.

25 MR. AGNIFILO: Jennifer Lawrence.

1 THE PROSPECTIVE JUROR: Lawrence. Lawrence.  
2 Aniston. Completely separate people.

3 THE COURT: Thank you very much. I appreciate the  
4 assistance.

5 THE PROSPECTIVE JUROR: You can tell I don't watch  
6 "Friends" very much.

7 THE COURT: You also stated that you've looked at  
8 life coach and self help video.

9 THE PROSPECTIVE JUROR: Yes.

10 THE COURT: What is that?

11 THE PROSPECTIVE JUROR: Well --

12 THE COURT: It's too late for me but what's in it  
13 for you?

14 THE PROSPECTIVE JUROR: I just kind of, within the  
15 past year, have been sort of obsessed with just self-help life  
16 coach stuff, just sort of maximizing your life and not being a  
17 dreary, you know, sad individual who just lulls through life.  
18 So, yes, that's the long and short of it.

19 THE COURT: How is it going so far?

20 THE PROSPECTIVE JUROR: It's going well.

21 THE COURT: Okay.

22 THE PROSPECTIVE JUROR: Absolutely.

23 THE COURT: Let's move on from there. Good.

24 All right. And you said, dash: Watching spike ball  
25 technology. These are different things?

Prospective Juror 177

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1 THE PROSPECTIVE JUROR: Yes. I must have not put  
2 the proper punctuation or something like that. Spike ball is  
3 a sort of lesser known sport that I play.

4 THE COURT: And you found Tony Robbins' stuff to be  
5 helpful?

6 THE PROSPECTIVE JUROR: Yes. He's one of the more,  
7 he's kind of like a role model, I guess you can say. I like  
8 his work most among the other life coach people.

9 THE COURT: How did you find out about him?

10 THE PROSPECTIVE JUROR: YouTube's algorithm. I  
11 watched one video, gosh, I don't even know what it was,  
12 something pertaining to, like, life coaching and, you know,  
13 building charisma and all that, and YouTube thought that I  
14 might like Tony Robbins so that led me down the rabbit hole.

15 THE COURT: Now, you answered this question: Have  
16 you or anyone close to you ever been the victim of sexual  
17 assault including date rape? And you said no but then you  
18 said: I had a girlfriend in the past I believe was a  
19 pathological lying sociopath that claimed she was date raped  
20 by someone after our relationship but I am doubtful that was  
21 true.

22 THE PROSPECTIVE JUROR: Yes. I figured that would  
23 be --

24 THE COURT: It caught my attention.

25 So the question, my question is do you think you're

Prospective Juror 177

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1 a good judge of these things?

2 THE PROSPECTIVE JUROR: Yes. I mean, I don't like  
3 to, you know, treat someone as if, you know, they've done  
4 something that I don't know for sure. I know that sounds very  
5 pander-y but, like, I don't parade around saying that my  
6 ex-girlfriend was a complete psychopath who was doing all  
7 these terrible things, but there was a lot of stories that  
8 didn't, like, line up over time and that was my assumption, so  
9 I decided to cut all ties and make sure that she can't access,  
10 you know, my life in any way.

11 THE COURT: So my question, I suppose my question  
12 then is do you think that you can listen to the testimony  
13 about issues like rape or allegations of child exploitation  
14 and so forth objectively, dispassionately, and be fair and  
15 impartial in considering the evidence as to whether the  
16 defendant has committed any of the crimes that he is accused  
17 of? Do you think you can do that?

18 THE PROSPECTIVE JUROR: Yes, absolutely.

19 THE COURT: And do you understand that your  
20 responsibility is to assess the testimony and the other  
21 evidence and determine whether the defendant has been proven  
22 guilty beyond a reasonable doubt of any or all of the charges  
23 against him?

24 THE PROSPECTIVE JUROR: Absolutely, yes.

25 MR. AGNIFILO: Nothing from us, Judge.

Sidebar

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1 THE COURT: Anything from the government?

2 MS. PENZA: Yes. May we have a sidebar?

3 THE COURT: Yes, sure.

4 (The following occurred at sidebar.)

5 THE COURT: Welcome back.

6 MS. SAUL: Thank you.

7 THE COURT: Yes?

8 MS. PENZA: Thank you. So we are hoping that you  
9 would follow up on whether he's ever been exposed to any of  
10 the teachings of NXIVM or ESP or Keith Raniere specifically.

11 MR. LESKO: Also, if the Court is so inclined, if  
12 you can follow up with the issue of self-help programs and  
13 personal growth programs are going to be centrally featured in  
14 this trial and ask whether or not he would have a bias in  
15 connection with --

16 THE COURT: I hear you.

17 MS. PENZA: Sorry. One more, Your Honor.

18 THE COURT: I would have brought my notes.

19 MS. SAUL: Do you want mine?

20 THE COURT: That's okay. You can help me later.

21 MS. PENZA: In light of his experience given his  
22 girlfriend, whether he would be able to follow the Court's  
23 instruction that he could find guilt based on the testimony of  
24 victims alone.

25 THE COURT: Okay. I understand that question.

CMH

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1 MR. AGNIFILO: That's fine.

2 (In open court; sidebar ends.)

3 THE COURT: So, there will be testimony by people  
4 who claim to be victims of the defendant. Could you, if you  
5 believed the victims of the defendant, decide whether he had  
6 committed the crimes alleged beyond a reasonable doubt based  
7 on the testimony of victims in the case?

8 In other words, you said what you said about your  
9 former girlfriend but does that mean that you would be unable  
10 to trust and believe the victims even if you thought that they  
11 were telling the truth?

12 THE PROSPECTIVE JUROR: I mean, I don't know. It's  
13 hard to say and determine whether or not someone's, like,  
14 trustworthy just based on nothing other than their testimony.  
15 I don't know. My apologies for not maybe totally  
16 understanding the question.

17 THE COURT: Well, I --

18 THE PROSPECTIVE JUROR: If they provided testimony  
19 that is, I don't know, convincing and follows the story  
20 accurately and has maybe some sort of backing of evidence,  
21 then, yes, I would tend to believe them.

22 THE COURT: Well, backing of evidence is, the  
23 evidence is what --

24 THE PROSPECTIVE JUROR: Is what they're saying?

25 THE COURT: Is their testimony. And then there's

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1 testimony and then there's cross-examination, so they would  
2 be, their testimony on direct would be tested by  
3 cross-examination. So you would look at the entire picture,  
4 not just the direct examination, but also the  
5 cross-examination and then you would make your assessment.

6 So, you know, the situation with your former  
7 girlfriend, you have the experience of having known her and  
8 her behavior so that puts you in a sort of a special  
9 relationship and circumstance with her. She was your former  
10 girlfriend. So you already had made certain determinations  
11 about your girlfriend. Did you break up with her?

12 THE PROSPECTIVE JUROR: No, actually, but I stayed  
13 broken up with her. That's the key.

14 THE COURT: You stayed broken up. Okay. So you  
15 didn't get back to together?

16 THE PROSPECTIVE JUROR: Gosh, no.

17 THE COURT: Okay. I've got the picture.

18 THE PROSPECTIVE JUROR: I don't make too many  
19 mistakes sequentially to that degree.

20 THE COURT: So now what about have you ever, have  
21 you had any experience with any of the entities in this case  
22 like NXIVM or --

23 MR. AGNIFILO: ESP.

24 THE COURT: ESP?

25 THE PROSPECTIVE JUROR: Never even heard of them.

Sidebar

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1 MR. AGNIFILO: Or DOS?

2 THE PROSPECTIVE JUROR: No, never even heard them.

3 THE COURT: What was the third one? Something else.

4 MR. AGNIFILO: I think a general, like, self help --

5 THE COURT: Yes.

6 I mean you have had a positive experience with  
7 self-help programs like Tony Robbins, is it?

8 THE PROSPECTIVE JUROR: Uh-huh.

9 THE COURT: Would you be able to objectively look at  
10 other alleged self-help entities and judge them separately,  
11 you know, based on what you learned here and not based on  
12 other self-help programs that have been successful?

13 THE PROSPECTIVE JUROR: Yes, absolutely.

14 THE COURT: Other questions?

15 MR. AGNIFILO: Nothing from us, Judge.

16 THE COURT: Anything?

17 MS. PENZA: No, Your Honor.

18 THE COURT: You can. We can go to side bar.

19 MS. PENZA: I'm sorry, yes, let's go to side bar.

20 THE COURT: You seemed reluctant to say yes. It's  
21 early in the afternoon.

22 (The following occurred at sidebar.)

23 THE COURT: Did I miss something?

24 MS. PENZA: No. I'm sorry to belabor it. It seemed  
25 like you followed up, he said he would need backup evidence

CMH

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1 and then you explained the concept of direct and  
2 cross-examination, but I don't think there was an actual  
3 question after that. And so --

4 THE COURT: Okay. Okay.

5 MS. PENZA: But my concern is that I think he does  
6 have a bias against victims and people who are, and women, and  
7 so I think if there's a question that is pointed towards are  
8 you inclined to disbelieve somebody --

9 THE COURT: I'll try to do it a little more artfully  
10 than that.

11 MS. PENZA: I'm sure. Thank you, Your Honor.

12 (In open court; sidebar ends.)

13 THE COURT: So let me just cut to the chase and I  
14 was sort of getting there but I didn't actually pose the  
15 question as the lawyers made clear to me so I apologize.

16 You know, you had an unpleasant experience with this  
17 young lady who you described in the way you've described it  
18 which is a rather chilling indictment on her behavior and  
19 personality. Wouldn't you say that?

20 THE PROSPECTIVE JUROR: Yes, I agree.

21 THE COURT: I mean, was that aberrational? I mean,  
22 was that the first time you ever had that kind of an  
23 experience?

24 THE PROSPECTIVE JUROR: Yeah. Yeah. I -- aside  
25 from some minor past relationship of, you know, lighter lies,

Prospective Juror 177

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1 like, I don't know, being someplace where they said they  
2 weren't or with whoever, but the past relationship --

3 THE COURT: You mean being dishonest about what they  
4 were doing when they weren't with you?

5 THE PROSPECTIVE JUROR: Yeah. So, I mean, the only  
6 thing that ever really stuck out was just one girlfriend in  
7 the past, like, being at a party with someone, like, I didn't  
8 realize and there was canoodling going on.

9 THE COURT: But she was your girlfriend at the time?

10 THE PROSPECTIVE JUROR: Yes, she was. The past  
11 relationship that I was in with the person that I described so  
12 colorfully, that kind of just stuck out to me because, you  
13 know, obviously it was recent and it was a two-ish year  
14 relationship.

15 THE COURT: It was what, two-ish?

16 THE PROSPECTIVE JUROR: Sorry. About two-year  
17 relationship.

18 THE COURT: That's what you were saying. So you  
19 were going out with her for a long time?

20 THE PROSPECTIVE JUROR: Yes.

21 THE COURT: How old are you now?

22 THE PROSPECTIVE JUROR: I'm 23.

23 THE COURT: That's a long time for a 23-year old.

24 THE PROSPECTIVE JUROR: Yes.

25 THE COURT: And was it serious at the time?

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1 THE PROSPECTIVE JUROR: Yeah. Yeah. You know, I  
2 thought that I would end up with her at some point, you know,  
3 like, I thought I had found someone that I really, for once,  
4 felt right for and, you know, it turns out that, you know, she  
5 wasn't entirely the person that I had thought she was.

6 THE COURT: I see.

7 THE PROSPECTIVE JUROR: She was very convincing.

8 THE COURT: So are you dating somebody else now?

9 THE PROSPECTIVE JUROR: No.

10 THE COURT: So do you think that you would have  
11 difficulty believing women who make these kinds of allegations  
12 against men?

13 THE PROSPECTIVE JUROR: No, because I'd, you know --  
14 I have heard multiple stories that -- you know, the magnitude  
15 at which the whole -- I know you mentioned "Me-Too" in that  
16 packet. I personally find it hard to believe that it isn't a  
17 more, you know, widespread issue just based on the fact that  
18 so many people, you know, have their own stories or at least  
19 claim to so --

20 THE COURT: So you --

21 THE PROSPECTIVE JUROR: I'm not --

22 THE COURT: You don't take issue with the  
23 development of the "Me-Too" movement in raising these issues?

24 THE PROSPECTIVE JUROR: No.

25 THE COURT: And you would tend to believe many of

1 them?

2 THE PROSPECTIVE JUROR: Yeah. So, for me, like,  
3 personally, when I handled a situation, like, someone coming  
4 to me or whomever, coming out to the social media saying that  
5 something had happened to them, it's, like, whether or not  
6 it's true doesn't necessarily matter to me as long as, you  
7 know, they're getting the support and the help that they need  
8 and, you know, the person that they're claiming to be the  
9 perpetrator is at least, like, properly looked at and  
10 investigated. You know what I'm saying? Like, don't burn  
11 them at the stake but, you know, at least take a gander, for  
12 lack of a better term.

13 THE COURT: So the difference is between social  
14 media and this in court is that when someone testifies as to  
15 an allegation of experiencing some sexual crime alleged with  
16 the defendant, that it's not just, you know, they're going to  
17 go get some counseling. It's that if it's true and the jury  
18 believes its true, it may result in the defendant being found  
19 guilty of a serious crime.

20 So do you think that you could make those judgments  
21 as fairly and appropriately and dispassionately after you  
22 review all the evidence? Could you make those judgments as a  
23 juror?

24 THE PROSPECTIVE JUROR: Yes, I do believe so.

25 THE COURT: Okay. Other questions?

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1 MS. PENZA: No, Your Honor. Thank you.

2 MR. AGNIFILO: Nothing from us, Judge.

3 THE COURT: Okay. Well, thanks for coming in. Have  
4 a good day.

5 THE PROSPECTIVE JUROR: Thank you so much. You too.

6 (Prospective Juror 177 exits the courtroom.)

7 THE COURT: Does anyone have a motion?

8 MR. AGNIFILO: We do not. We don't have a motion.

9 THE COURT: Do you have a motion?

10 MS. PENZA: Your Honor, yes. The government moves  
11 to strike for cause. There was inconsistency in what the  
12 juror said. At first, the juror stated that he would need  
13 backup evidence beyond just a victim's testimony.

14 THE COURT: Right.

15 MS. PENZA: And then I believe by the time Your  
16 Honor was questioning him regarding "Me-Too," he knew where  
17 Your Honor was going. Previously, when asked about women who  
18 bring those sorts of allegations, he made the opposite comment  
19 and he said that he did not think that they should be believed  
20 right away.

21 So the government moves to strike him for cause  
22 based on his bias against victims.

23 THE COURT: All right. Yes?

24 MR. AGNIFILO: We oppose the government moving to  
25 strike him for cause. I mean, I think at the end of the day,



1 he said what his feeling is which is that he can follow  
2 Your Honor's instructions, he can follow the law.

3 I think what he was expressing to the court in  
4 regard to the testimony of a single person is that if it  
5 followed logically, he would find it more convincing, is the  
6 word he used, and I think what he was also suggesting is it's  
7 hard to do this in a vacuum. He seems very open to listening  
8 to testimony. There's nothing about what he said that seems  
9 to indicate he won't listen with an open mind to the testimony  
10 and there's nothing about what he said that seems to indicate  
11 he can't follow the Court's instruction.

12 So he seems like an appropriate juror to us.

13 THE COURT: Anything else?

14 MS. PENZA: Nothing further, Your Honor.

15 THE COURT: Well, you know, one of my concerns is  
16 the -- let me just get it here -- nomenclature that he used in  
17 describing his girlfriend of two years. He went out with this  
18 girl for two years and then he said, you know, he wasn't with  
19 her for, like, two minutes, he was with her for two years and  
20 he was considering spending his life with her.

21 Then he says: I had a girlfriend in the past I  
22 believe was a pathological lying sociopath --

23 She's not even in public office. How would he know?

24 -- that claimed she was date raped by someone after  
25 our relationship but I am doubtful that it was true.

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1           Why would someone say this about someone he had gone  
2 out with for two years who he was serious about having a  
3 lifetime relationship with just in a way that sort of was  
4 dismissive? It was dismissive. That is a real problem for me  
5 that he made this judgment. It may have been because she  
6 dumped him. All right, that could be bad, but the anger  
7 that's reflected in this statement about a woman who claimed  
8 she was raped is very troubling to me and makes him not  
9 qualified in my opinion to be judging the statements of women  
10 who make such claims.

11           He has a tremendous bias based upon, I don't know  
12 what, and he is not in a relationship now. Now, I won't hold  
13 it against him that he hasn't found a girlfriend, but he had a  
14 girlfriend for two years, he was thinking of marrying her and  
15 then he comes up with this incredibly derogatory statement  
16 based on the fact that she claims she was date raped. I think  
17 this is really someone who needs help and I don't want to be  
18 here to, you know, parse out how to deal with that so I'm  
19 going to grant the motion.

20           MS. PENZA: Thank you, Your Honor.

21           THE COURT: And you have your exception.

22           (Prospective Juror 177 excused.)

23           THE COURT: 178.

24           (Prospective Juror 177 enters the courtroom.)

25           THE COURT: Please be seated, ma'am. Good

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1 afternoon.

2 THE PROSPECTIVE JUROR: Hi.

3 THE COURT: You're Juror No. 178, correct?

4 THE PROSPECTIVE JUROR: Yes.

5 THE COURT: Welcome.

6 THE PROSPECTIVE JUROR: Thanks.

7 THE COURT: You're retired?

8 THE PROSPECTIVE JUROR: Yes.

9 THE COURT: From what? What did you do before you  
10 retired?

11 THE PROSPECTIVE JUROR: I worked for a living,  
12 customer service, sales.

13 THE COURT: I see. And how long were you in that,  
14 in customer service and sales?

15 THE PROSPECTIVE JUROR: Nine years. Maybe eight.

16 THE COURT: I'm sorry?

17 THE PROSPECTIVE JUROR: Maybe eight.

18 THE COURT: Maybe eight? Okay. And you live in  
19 Nassau County?

20 THE PROSPECTIVE JUROR: No, Suffolk.

21 THE COURT: Suffolk County. You indicated that your  
22 daughter-in-law is an attorney?

23 THE PROSPECTIVE JUROR: Correct.

24 THE COURT: Do you know what kind of law she  
25 practices?

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1 THE PROSPECTIVE JUROR: Corporate.

2 THE COURT: Corporate. And you have two sons?

3 THE PROSPECTIVE JUROR: Yes.

4 THE COURT: What do they do for a living generally?

5 THE PROSPECTIVE JUROR: One is in advertising on the  
6 internet and one is a high fashion photographer and an  
7 entrepreneur making men's pins.

8 THE COURT: Men's?

9 THE PROSPECTIVE JUROR: Lapel pins.

10 THE COURT: There were a few blanks so I'm just  
11 going to go over them.

12 You answered one person who you least admire, but  
13 you didn't mention anyone other than friends and relatives who  
14 you most admire. Is there any public figure that you most  
15 admire, living or dead?

16 THE PROSPECTIVE JUROR: Not really.

17 THE COURT: Okay. You may hear allegations  
18 involving immigration and propriety in this case. What are  
19 your beliefs and opinions on the subject of immigration and  
20 would those opinions impact your ability to be fair and  
21 impartial? Yes or no.

22 THE PROSPECTIVE JUROR: I don't think it's so black  
23 and white.

24 THE COURT: Meaning?

25 THE PROSPECTIVE JUROR: Meaning that after you've

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1 seen the children separated from their parents and unable to  
2 get the children back to the parents, there's definitely a  
3 flaw with that.

4 THE COURT: There's a --

5 THE PROSPECTIVE JUROR: A flaw, a problem.

6 THE COURT: A flaw.

7 THE PROSPECTIVE JUROR: But, how's this. In regard  
8 to immigration, there's so many ways to come into the country  
9 legally that, you know, you should.

10 THE COURT: Okay. Now, you indicated that you've  
11 lived through two armed robberies and were you handcuffed and  
12 gagged in both.

13 THE PROSPECTIVE JUROR: Yes.

14 THE COURT: I take it these were reported to the  
15 police.

16 THE PROSPECTIVE JUROR: Oh, yes.

17 THE COURT: Were you satisfied with the assistance  
18 that you received from law enforcement in these cases?

19 THE PROSPECTIVE JUROR: Yes.

20 THE COURT: You also indicated that you've heard  
21 about this case from the news and a friend before you filled  
22 out the questionnaire.

23 Could you put aside anything you may have heard  
24 along the way from others or from the media and only consider  
25 the evidence that is provided from witnesses here in court and

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1 documentary evidence in deciding the guilt or non-guilt of the  
2 defendant if you become a juror?

3 THE PROSPECTIVE JUROR: I could weigh it but, you  
4 know, I have opinions already, some, but I know the media  
5 isn't always honest, so ...

6 THE COURT: I think the better word is -- I might  
7 put words in your mouth -- it isn't always accurate.

8 THE PROSPECTIVE JUROR: That's a better word.

9 THE COURT: And fulsome. And that's the reason why  
10 we ask jurors, like I did earlier when you were all here  
11 together, not to access anything in the media or on the  
12 internet. You know, if you look at an internet site like  
13 Wikipedia, Wikipedia has many citations in it that are  
14 inaccurate and it may not be intentional. It may just be they  
15 picked up something off of a news site and they put it in but  
16 whatever that was was not accurate.

17 So it would not be fair to the defendant and it  
18 would not be in the interest of justice to take into  
19 consideration by the jury anything that is basically hearsay  
20 in the newspapers or on a website or that you heard from your  
21 friend when you played bridge. All right? So or whatever  
22 you, social activities you have. So what we ask is that you  
23 put say side anything like that and that you start fresh as a  
24 juror and only consider the evidence which is appropriate to  
25 be heard in the courtroom. Can you do that?

CMH

OCR

RMR

CRR

FCRR

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1 THE PROSPECTIVE JUROR: I'm not sure.

2 THE COURT: Why is that?

3 THE PROSPECTIVE JUROR: Because I form opinions.  
4 I'm human. I make my decisions based on facts given.

5 THE COURT: On what?

6 THE PROSPECTIVE JUROR: On facts that I hear that  
7 are given, that I read, that I see.

8 THE COURT: Where did you hear these facts? I'm  
9 just curious.

10 THE PROSPECTIVE JUROR: On the news.

11 THE COURT: What news?

12 THE PROSPECTIVE JUROR: Channel Four, NBC.

13 THE COURT: You mean you would reach a conclusion  
14 about whether someone has committed crimes that could cause  
15 him to go to jail for many years based on a 30 second or one  
16 minute news story on Channel Four? Does that sound rational?

17 THE PROSPECTIVE JUROR: The way you put it,  
18 absolutely not.

19 THE COURT: Well, how long were these stories?

20 THE PROSPECTIVE JUROR: I saw -- you watch the news.  
21 It's on many times and, you know, I formed my own opinion and  
22 take into account what I've seen and figure somewhere in the  
23 middle is a big gray area.

24 THE COURT: Anything else?

25 MR. AGNIFILO: Nothing else.

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1 MS. PENZA: No, Your Honor.

2 THE COURT: All right. Thank you for coming in.

3 THE PROSPECTIVE JUROR: Okay.

4 (Prospective Juror 177 exits the courtroom.)

5 MR. AGNIFILO: Your Honor, we ask that the juror be  
6 stricken for cause. She made very clear that she's formed her  
7 opinion about this case, the results of this case based on  
8 watching NBC and things on the news and Your Honor tried to  
9 focus her on the evidence to see if she can follow the rules  
10 of evidence and listen to the evidence and she said she is not  
11 sure she can follow the evidence because she's already  
12 rendered an opinion.

13 THE COURT: I think her body language tells me that  
14 she doesn't want to be a juror in this case and that she's  
15 going to say whatever she needs to get out of jury duty.  
16 That's what this tells me. I don't think she cares one wit  
17 about what NBC says. She just has this attitude that she  
18 knows her way out of jury service and that's it. She's not  
19 dumb. She understood what I was saying to her. She's raised  
20 two sons, I think. And no one would reach a conclusion based  
21 on, you know, a one minute story on News Four New York if they  
22 knew that someone's life hung in the balance. I think it's  
23 really a sad commentary.

24 Do you have an opinion?

25 MS. PENZA: Yes, Your Honor. The government objects



1 to her exclusion for cause. I think she said that there was a  
2 gray area and that she has an opinion that would be difficult  
3 to set aside, but that is what -- a lot of people have  
4 opinions that are difficult to set aside, but I do believe  
5 that if Your Honor gave the instruction, she would be able to  
6 follow it.

7 MR. AGNIFILO: Can I follow because I agree with  
8 Your Honor wholeheartedly on your observations.

9 THE COURT: Well, of course you do, because they  
10 agree with what you want to happen.

11 MR. AGNIFILO: Not necessarily. My concern is this  
12 is a very serious case as you tried to impress on every juror  
13 where this issue has come up and there are plenty of jurors  
14 who come in here and say that they will absolutely listen to  
15 Your Honor's instructions and those are the right jurors for  
16 this case. To have a juror, either because she has these  
17 strong opinions or she's playing games with the Court, either  
18 way she's not the right juror for this case.

19 (Continued on next page.)  
20  
21  
22  
23  
24  
25

Prospective Juror No. 179

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1 (Continuing.)

2 THE COURT: Well, I think based on this juror's  
3 performance here that I'm going to grant the motion to strike.  
4 Juror No. 178 is struck.

5 (Prospective juror enters.)

6 THE COURT: Please be seated. Good afternoon.

7 PROSPECTIVE JUROR NO. 179: Good afternoon.

8 THE COURT: You are Juror No. 179, are you not?

9 PROSPECTIVE JUROR NO. 179: Yes, I am.

10 THE COURT: Welcome. Now, you live on Long Island  
11 in Suffolk County?

12 PROSPECTIVE JUROR NO. 179: Yes, sir.

13 THE COURT: And you work in an elementary school?

14 PROSPECTIVE JUROR NO. 179: Yes, sir.

15 THE COURT: And you have a daughter?

16 PROSPECTIVE JUROR NO. 179: Yes, sir.

17 THE COURT: How old is she?

18 PROSPECTIVE JUROR NO. 179: She's 15. I made a  
19 mistake. I wrote eight years old because that was a question  
20 that I answered before about a situation that happened to me  
21 when I was eight.

22 THE COURT: But she is 15?

23 PROSPECTIVE JUROR NO. 179: Yes, sir. And I have a  
24 son, 22 years old.

25 THE COURT: Does he live at home?

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1 PROSPECTIVE JUROR NO. 179: Yes, sir, he's going to  
2 college and working at my school also.

3 THE COURT: Does he work in the summer?

4 PROSPECTIVE JUROR NO. 179: My son, yes. We do  
5 summer school.

6 THE COURT: I see. Now, does your school pay for  
7 your jury service?

8 PROSPECTIVE JUROR NO. 179: Yes until -- until  
9 summer school. After June, the last day of school, if I want  
10 to get paid, I have to do summer school -- I have to work  
11 during the summer for five weeks.

12 THE COURT: And they would not pay you for that?

13 PROSPECTIVE JUROR NO. 179: If I don't work -- if  
14 I'm in jury duty -- if I don't work, no.

15 THE COURT: So that would be in June?

16 PROSPECTIVE JUROR NO. 179: The last day of school  
17 would be June 24th.

18 THE COURT: Well, we don't anticipate this case will  
19 go beyond June 24th.

20 PROSPECTIVE JUROR NO. 179: Okay.

21 THE COURT: You said something about putting your  
22 daughter on the bus?

23 PROSPECTIVE JUROR NO. 179: I put my neighbor's  
24 daughter on the bus because she works in the factory. She  
25 needs to leave early and the little girl comes to me early and

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1 I put her on the bus.

2 THE COURT: She may have to make other arrangements  
3 if you become a juror.

4 PROSPECTIVE JUROR NO. 179: Okay.

5 THE COURT: So, let me ask you a few additional  
6 questions, if I might. You indicated that your faith is  
7 extremely important to you and you make major life decisions  
8 based on your faith; is that right?

9 PROSPECTIVE JUROR NO. 179: Yes.

10 THE COURT: Are you Catholic?

11 PROSPECTIVE JUROR NO. 179: Yes, I am.

12 THE COURT: And you also indicated that in answer to  
13 this question: "There may be evidence in this case about  
14 abortions. Would hearing about that type of evidence affect  
15 your ability to serve as a fair and impartial juror?" And you  
16 said, "Yes." You said, "I think only God can take the life of  
17 a person."

18 PROSPECTIVE JUROR NO. 179: I totally agree with  
19 that, yes.

20 THE COURT: Okay. Now, there will be some testimony  
21 here about allegations that abortions took place and that will  
22 be relevant to some degree having to do with certain charges  
23 against the defendant. Will you be able to listen to the  
24 evidence and apply your judgment to that evidence if you  
25 decide that the defendant has engaged in an activity having to

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1 do with abortions, some of which may have been legal; some of  
2 which may have been illegal, I don't know? Would you be able  
3 to make judgments about that in connection with whether the  
4 defendant is guilty or not guilty?

5 PROSPECTIVE JUROR NO. 179: I think I would.

6 THE COURT: Now, you said this, the question was,  
7 "Do you worry about you or someone close to you being falsely  
8 accused of sexual abuse or sexual assault?" And you said  
9 "Yes. I have a daughter and a son. I always will be  
10 worried."

11 PROSPECTIVE JUROR NO. 179: Always, also a mother,  
12 you never know what goes out. I know -- I believe in my kids.  
13 I know I have great kids. I know they wouldn't do anything.  
14 These days you never know. Someone can come out and say,  
15 hey -- accuse my family or kids from doing something like  
16 that.

17 THE COURT: So you would be concerned about that?

18 PROSPECTIVE JUROR NO. 179: Yes.

19 THE COURT: So how do you counsel your children --  
20 you have a son who is how old?

21 PROSPECTIVE JUROR NO. 179: 22.

22 THE COURT: How do you counsel your son or your  
23 daughter when she becomes older as to how to deal with that  
24 possibility?

25 PROSPECTIVE JUROR NO. 179: I have an extremely --

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1 and like I said, I am very lucky. I have a very good  
2 relationship with my kids. I am able to talk to my kids about  
3 sex, AIDS, diseases, about everything. I always told my kids  
4 that you need to respect everyone the way you want to be  
5 respected. Don't be -- you know, if you date a girl, don't  
6 say, oh, you're the only one and I'm not sleeping with anyone.  
7 Just be open and I just told them that they have to take care  
8 of themselves. They have to just be careful. I know all my  
9 kids' friends.

10 Every day I have friends over in my house. I always  
11 tell them if you go out, if you are drinking, don't take  
12 the -- take the drink with you or don't drink it after you go  
13 to the bathroom or something. I have a very good relationship  
14 with my kids. I talk to my kids for hours.

15 THE COURT: Okay. Good for you. There is this  
16 question: "An indictment is not evidence. It merely  
17 describes the charges made against the defendant. It is an  
18 accusation. It may not be considered by you as evidence of  
19 the defendant's guilt. Are you able to follow this rule of  
20 law, yes or no?"

21 PROSPECTIVE JUROR NO. 179: Yes.

22 THE COURT: Okay. You may hear evidence, you may  
23 hear testimony from certain individuals that the Government  
24 alleges are victims. The victims' testimony is not to be  
25 given anymore or less credence than any other witness'

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1 testimony. Would you be able to follow the Court's  
2 instruction in this regard?

3 PROSPECTIVE JUROR NO. 179: Yes.

4 THE COURT: There's this question: "Is there any  
5 matter not covered by this questionnaire that you think is  
6 important to bring to the attention of the court?" You  
7 checked off "Yes." Is there something else you want the Court  
8 to know?

9 PROSPECTIVE JUROR NO. 179: No, I'm sorry. I was so  
10 tired and --

11 THE COURT: You mean after answering 94 other  
12 questions you got tired?

13 PROSPECTIVE JUROR NO. 179: I was tired.

14 THE COURT: That was to be sarcastic.

15 There is nothing else though.

16 PROSPECTIVE JUROR NO. 179: No, and there was  
17 questions there that affect me also.

18 THE COURT: All right. Anything else from anyone.

19 MR. AGNIFILO: Not from us, Judge.

20 MS. PENZA: Question 59, Your Honor.

21 THE COURT: Okay. 59. Oh, yes. "Do you believe  
22 that people under 17 should be able to consent to sex with  
23 adults?" And you said, "Yes." And then you said, "I think  
24 these days a 17-year-old knows what is right or wrong."

25 What did you mean by that?

1 PROSPECTIVE JUROR NO. 179: Well, I think if a  
2 17-year-old girl or boy are having sex, they know what they  
3 are doing. It is not like -- if it is not a rape, like  
4 someone is raping them, like, if they are in a relationship  
5 and they are having sex, yeah, I think they -- you know, I  
6 think they are -- they can do it. It's a consent. It's not  
7 like a 12-year-old doesn't know what sex is, so -- they know  
8 if they're in a relationship. I agree in a relationship, I  
9 think they know. They are mature enough, I don't know, to  
10 have sex.

11 THE COURT: Anything else?

12 MS. PENZA: Yes, Your Honor. May we have a sidebar,  
13 please?

14 THE COURT: Sure.

15 (The following sidebar took place outside the  
16 hearing of the jury.)

17 THE COURT: Yes?

18 MS. PENZA: She answered the question regarding  
19 someone under 17, but here the issue is someone 15. If you  
20 could ask that specifically and also ask if she could follow  
21 the Court's instruction.

22 THE COURT: As to the law. All right.

23 (Sidebar ends.)

24 THE COURT: So, just to follow on to that a bit, the  
25 Court will instruct you about what the law is about the age of



Prospective Juror No. 180

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1 consent. So, if the Court instructs you that it is -- that a  
2 person cannot give consent legally at a certain age, which is  
3 below 17 I assure you, will you follow the law in considering  
4 the testimony of witnesses?

5 PROSPECTIVE JUROR NO. 179: Yes, definitely.

6 THE COURT: And I think that will do it.

7 Anything else?

8 MR. AGNIFILO: Nothing from us.

9 MS. PENZA: Thank you.

10 THE COURT: Thank you. Mr. Reccoppa will tell you  
11 what to do.

12 (Prospective juror exits.)

13 MR. AGNIFILO: No motion from us.

14 MS. PENZA: No, Your Honor.

15 THE COURT: All right. Juror No. 179 is approved.  
16 180.

17 (Prospective juror enters.)

18 THE COURT: Please be seated: You are Juror No.  
19 180; correct?

20 PROSPECTIVE JUROR NO. 180: Yes.

21 THE COURT: Welcome. I just have a few follow-up  
22 questions for you. Now, you indicated that you work as a  
23 business manager at a publishing firm; is that right?

24 PROSPECTIVE JUROR NO. 180: Yes.

25 THE COURT: And you've been doing this for eight

Prospective Juror No. 180

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1 years?

2 PROSPECTIVE JUROR NO. 180: I have been a business  
3 manager for five years. I've been with the company for eight  
4 years.

5 THE COURT: And you are employed full-time?

6 PROSPECTIVE JUROR NO. 180: Yes.

7 THE COURT: And do you know whether your firm pays  
8 you for your entire jury duty?

9 PROSPECTIVE JUROR NO. 180: They only pay me for 30  
10 days. After 30 days, they don't pay me.

11 THE COURT: So, if you were not to be paid for a  
12 week and a half, would that be a hardship?

13 PROSPECTIVE JUROR NO. 180: It would be a big thing.  
14 I'm a single woman and I have a mortgage to pay.

15 THE COURT: You have a mortgage?

16 PROSPECTIVE JUROR NO. 180: Yeah.

17 THE COURT: You have a cousin who is in the fire  
18 department?

19 PROSPECTIVE JUROR NO. 180: A cousin and a  
20 brother-in-law.

21 THE COURT: I see. And what do they do in the fire  
22 department? Are they firefighters?

23 PROSPECTIVE JUROR NO. 180: They're firefighters,  
24 yes.

25 THE COURT: Thank you. You didn't list anyone who

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1 you least admire. "Is there anyone in history, living or  
2 dead, a public figure, that you least admire?"

3 PROSPECTIVE JUROR NO. 180: No.

4 THE COURT: You said in answer to this: "There may  
5 be evidence in this case about people engaging in  
6 relationships with multiple sex partners. Would hearing about  
7 that type of evidence affect your ability to serve as a fair  
8 and impartial juror?" You said, "Yes" and you explained "It's  
9 gross"?

10 PROSPECTIVE JUROR NO. 180: Yeah.

11 THE COURT: So, could you expound a little on that  
12 answer. "It's gross" doesn't really tell me much.

13 PROSPECTIVE JUROR NO. 180: Well, it's wrong. It's  
14 disgusting. I mean, it's just exactly what it is. I don't  
15 agree with it is what I'm saying.

16 THE COURT: Well, if you're a juror in this case,  
17 you will have to examine the evidence and reach a  
18 determination as to whether the evidence is to be believed,  
19 number one; and whether it's sufficient to find the defendant  
20 guilty beyond a reasonable doubt to a set of charges.

21 Do you think you can set aside your personal dislike  
22 for certain behavior and decide the case based on the law as I  
23 give it to you and the evidence as you find it in the case?

24 PROSPECTIVE JUROR NO. 180: That's difficult to say  
25 because I've never been in a situation like this so I can't

Prospective Juror No. 180

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1 say that it would or wouldn't, to be honest with you. Just  
2 like everything else you hear on the media, you make your own  
3 decisions and assumptions and the same would apply here. I  
4 wouldn't know.

5 THE COURT: So you can't be sure?

6 PROSPECTIVE JUROR NO. 180: Correct.

7 THE COURT: Are there other questions?

8 MR. AGNIFILO: One second, Judge.

9 Follow up on 39, Judge.

10 MS. PENZA: Yes.

11 THE COURT: "There may be evidence in this case of a  
12 sexually explicit nature and language. Would hearing about  
13 that type of evidence affect your ability to serve as a fair  
14 and impartial juror?" And you said "Yes" and explaining,  
15 "It's gross. I don't want to see anyone's naked pic that are  
16 presented."

17 PROSPECTIVE JUROR NO. 180: Right. It's just like  
18 everything else. If you don't want to hear something. You  
19 just turn it off. The same would apply there.

20 THE COURT: Well if you are a juror you can't turn  
21 it off, can you? Right.

22 PROSPECTIVE JUROR NO. 180: No.

23 THE COURT: It is an obligation of citizenship. You  
24 said you served as a juror in a state case. Was it a civil  
25 case or a criminal case?

Prospective Juror No. 180

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1 PROSPECTIVE JUROR NO. 180: It was a civil case.

2 THE COURT: And without telling me what the outcome  
3 was, what the verdict was, did you deliberate to a verdict?

4 PROSPECTIVE JUROR NO. 180: No, they just -- they  
5 settled.

6 THE COURT: They settled?

7 PROSPECTIVE JUROR NO. 180: Yeah, they settled.

8 THE COURT: Okay.

9 Any other questions for this juror?

10 MR. AGNIFILO: 75.

11 THE COURT: 75, yes.

12 "The charges in this case involve allegations of,  
13 among other things, sex trafficking, forced labor, child  
14 pornography and child exploitation. Is there anything about  
15 the nature of these allegations that would make it difficult  
16 for you to be fair and impartial?" You said "Yes" and then  
17 you explained, "Poor kids." What did you mean by that?

18 PROSPECTIVE JUROR NO. 180: Well, I have nieces and  
19 nephews and if something like that was to happen, that's  
20 disturbing. They're young. They can't make their decisions.  
21 Someone is doing this to them so it's actually disturbing.

22 THE COURT: And you understand, of course, that  
23 these are allegations that have to be proven to your  
24 satisfaction beyond a reasonable doubt in order to find the  
25 defendant guilty of specific charges that are being brought by

Prospective Juror No. 180

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1 the Government. So there's a presumption of innocence. The  
2 fact that people -- people are accused of crimes all the time  
3 by prosecutors around the country and jurors return, from time  
4 to time, many times, return verdicts of not guilty. So that  
5 is why we have juries. The jurors have to hear the evidence,  
6 assess the evidence and then make a reasoned decision whether  
7 the defendant is guilty beyond a reasonable doubt. Without  
8 the jurors we wouldn't have a system of criminal justice. Do  
9 you understand that?

10 PROSPECTIVE JUROR NO. 180: Yes, I understand you.

11 THE COURT: So, would you be able to fulfill that  
12 responsibility as a juror and make that call after hearing the  
13 evidence in this case?

14 PROSPECTIVE JUROR NO. 180: It's like I said  
15 earlier, I've never been in a situation like this so it's hard  
16 to determine how you would actually weigh, weigh both sides.  
17 I don't know how to answer that. It's just as I stated  
18 before, I don't know how I'm going to feel. I've never been  
19 in a case like this. I know how I treat news and I make my  
20 decisions that way, but I guess the same would apply.

21 THE COURT: What would apply is I would tell you  
22 what the law is and you will decide what the facts are and  
23 then it will be your job to apply the law as I give it to you  
24 to the facts. Will you follow the law as the judge gives you  
25 the law?

Prospective Juror No. 180

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1 PROSPECTIVE JUROR NO. 180: Yeah, yes.

2 THE COURT: Okay. And then you will decide the  
3 facts. The judge doesn't decide them. That would be your  
4 responsibility. Do you think you are able to listen and  
5 consider the evidence and decide the facts?

6 PROSPECTIVE JUROR NO. 180: Yes.

7 THE COURT: Okay. Anything else?

8 MR. AGNIFILO: I didn't hear the last answer.

9 PROSPECTIVE JUROR NO. 180: Yes.

10 THE COURT: Yes.

11 MS. PENZA: Nothing from the Government.

12 THE COURT: Anything from the defense?

13 MR. AGNIFILO: No, Your Honor.

14 THE COURT: Thank you for coming. Have a nice day.  
15 (Prospective juror exits.)

16 THE COURT: Is there a motion?

17 MR. AGNIFILO: Yeah, Judge. I know that she ended  
18 up saying she could follow the law, but she started out saying  
19 "It's gross."

20 THE COURT: Well, she's talking in a vernacular.  
21 Many people say things are gross.

22 MR. AGNIFILO: I'm not sure people come back from  
23 gross. Once you think something is gross, you tend to always  
24 think it's gross.

25 THE COURT: I do not know.

Prospective Juror No. 180

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1 MR. AGNIFILO: I think she's a very dutiful person  
2 and she shows respect for Your Honor as well, but she thinks  
3 this is gross and that troubles me.

4 THE COURT: So you are making a notion?

5 MR. AGNIFILO: Yes.

6 THE COURT: I wanted to be sure this was in the  
7 context of a motion and not just cathartic for you.

8 MR. AGNIFILO: I'm not trying to wax eloquent on the  
9 word "gross."

10 MS. PENZA: The Government objects. The juror  
11 stated she could be fair and follow the law as it is given  
12 and, as we discussed several times, I think it is the very  
13 rare person who's not going to find child pornography gross.

14 THE COURT: My guess is this juror is in her heart  
15 sincerely unhappy about having to confront this type of  
16 evidence. I think that is a fair conclusion based on what she  
17 said in her questionnaire and how difficult it was for her to  
18 answer my questions, but I think in the end she answered that  
19 she would follow the law and she would consider all the  
20 evidence that's presented and she would make a judgment. And  
21 she seems intelligent, articulate. We could do without the  
22 word "gross," I agree.

23 So, the motion is denied and you have your  
24 exception. She is qualified. 180 is qualified. 181 is next.

25 (Prospective juror enters.)



Prospective Juror No. 181

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1 THE COURT: Please be seated, sir.

2 PROSPECTIVE JUROR NO. 181: Thank you.

3 THE COURT: Good afternoon.

4 PROSPECTIVE JUROR NO. 181: Hello.

5 THE COURT: And you are Juror No. 181; correct?

6 PROSPECTIVE JUROR NO. 181: Correct.

7 THE COURT: Okay. Now, I have a few questions to  
8 follow up with you. You indicated that you have lumbar back  
9 problems; is that right?

10 PROSPECTIVE JUROR NO. 181: Yes, sir.

11 THE COURT: And when did that start happening?

12 PROSPECTIVE JUROR NO. 181: I fell through a roof  
13 when I was, I'm going to say, 20 years old. I'm 59 years old  
14 now. I fractured the first and second lumbar vertebrae and  
15 worked for 40 years in construction after that.

16 THE COURT: After that?

17 PROSPECTIVE JUROR NO. 181: Yeah, my parents died  
18 when I was very young, so I was on my own at 17 out of high  
19 school. I worked with that. I made it 40 years and I started  
20 seeing a specialist. After retirement, 55 early retirement,  
21 your back is, I won't use the word, but your back is messed  
22 up. And you need hip replacement. I have a hip replacement  
23 also.

24 THE COURT: Did you have a hip replacement?

25 PROSPECTIVE JUROR NO. 181: Yes, I did.

Prospective Juror No. 181

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1 THE COURT: When was that?

2 PROSPECTIVE JUROR NO. 181: 2016, October 9th.

3 THE COURT: And your back, how do you deal with the  
4 back situation?

5 PROSPECTIVE JUROR NO. 181: I know I put it in  
6 there. I can't sit for a long time.

7 THE COURT: How long is long?

8 PROSPECTIVE JUROR NO. 181: I stood up in there a  
9 few times. A couple of hours and then I have to either lie  
10 down or stand up.

11 THE COURT: Well, let me just tell you that if you  
12 were to become a juror in this case, we take breaks.

13 PROSPECTIVE JUROR NO. 181: Okay.

14 THE COURT: We go from 9:30 to 11, 11:15. We stop  
15 for ten minutes. You get to walk around and then we have a  
16 lunch at 1 and then we have a mid-afternoon break and so on.  
17 So we never go more than, like, an hour, 45 minutes, but,  
18 also, if you are on the jury, I can seat you in the back and  
19 you can get up whenever you want and I know -- I get up. I  
20 have a bad back as well. So I empathize with you about the  
21 back situation. So, I just want to let you know, that is how  
22 I run the courtroom and you should know that.

23 PROSPECTIVE JUROR NO. 181: All right. And not to  
24 interrupt you. I just answered the question. I wasn't  
25 looking to get out of jury duty.

Prospective Juror No. 181

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1 THE COURT: I did not think you were. When you  
2 mentioned back, I am very sensitive about that issue so that  
3 you understand that I get it and, you know, and how we work  
4 with people who have that kind of a manageable medical  
5 problem.

6 PROSPECTIVE JUROR NO. 181: Understood.

7 THE COURT: Let me move on. And you're retired?

8 PROSPECTIVE JUROR NO. 181: Yes.

9 THE COURT: What do your children do for a living?

10 PROSPECTIVE JUROR NO. 181: My son is a digital  
11 advertising manager with Garnier (phonetic), I think it's  
12 called. They do Field & Stream and my daughter is in HR. And  
13 I don't remember the name of the company. Digital  
14 advertising, That's what my son does.

15 THE COURT: What does he do?

16 PROSPECTIVE JUROR NO. 181: Digital advertising.

17 THE COURT: I see. You say you've heard of the Me  
18 Too movement and you say you have mixed feelings. Some  
19 actresses who make that accusation dress like prostitutes at  
20 award shows."

21 PROSPECTIVE JUROR NO. 181: Correct.

22 THE COURT: So, do you question -- what, if  
23 anything, do you question specifically about the Me Too  
24 movement?

25 PROSPECTIVE JUROR NO. 181: I wouldn't question

Prospective Juror No. 181

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1 anything that anybody was abused by no means or sexually  
2 mistreated by any means. It's just when certain actresses or  
3 just people in general have that kind of comment and then they  
4 come out in the Golden Globes or at an award show and dress  
5 like tramps -- and my girlfriend says it too. Nobody in  
6 particular. I totally empathize with the women 1,000 percent.  
7 I don't agree with that kind of thing, but it irks me when  
8 some of these same women will come out with something and  
9 dress like that.

10 THE COURT: Anything else?

11 MR. AGNIFILO: None from us.

12 THE COURT: From the Government.

13 MS. PENZA: If you could follow up with question 42  
14 and 75, please.

15 THE COURT: You may hear allegations involving  
16 immigration impropriety in this case. What are your beliefs  
17 and opinions on the subject of immigration? Would those  
18 opinions impact your ability to be fair and impartial?" And  
19 you said, "Yes." You said, "Build the wall, drug trafficking,  
20 human trafficking and child endangerment makes me sick to my  
21 stomach." So, how is that it related to immigration?

22 PROSPECTIVE JUROR NO. 181: Because everything that  
23 I have read previously and to date that children, women,  
24 people in general are being trafficked across the border or  
25 any border to be prostituted against their will, it's -- I

Prospective Juror No. 181

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1 hate to bring it up, but the most recent thing with Robert  
2 Kraft from the Patriots and the parlor that he went to.  
3 Obviously there's no fault of his, but that's the one that is  
4 popping out in my mind. People held against their will, taken  
5 from their countries against their will by truck or maybe  
6 their families are threatened. It's not new, but it's in the  
7 front with Trump and the wall. And people forget and it hurts  
8 me, to say the least. It's disgusting. There's a way to come  
9 into the country and you --

10 I have a daughter. I made her watch the movie Taken  
11 with Liam Neeson. I found later on it wasn't really based on  
12 a true story. It's not across-the-border type of thing. She  
13 was drugged and prostituted and since I have a daughter, now  
14 she's 29. I made her watch it as 17 when she was going away  
15 on spring break. It's just disgusting.

16 THE COURT: Do you have any objection to legal  
17 immigration?

18 PROSPECTIVE JUROR NO. 181: Legal immigration?  
19 Absolutely not. My grand parents and all -- they're deceased,  
20 but no, absolutely not.

21 THE COURT: Any other questions?

22 MR. AGNIFILO: Not from us.

23 MS. PENZA: Just one quick sidebar, Your Honor.

24 THE COURT: Sure.

25 (The following sidebar took place outside the

1 hearing of the courtroom.)

2 MS. PENZA: Your Honor, so the question regarding  
3 when he refers to the women at the awards shows, if you're  
4 going to ask whether he believes that the fact that they dress  
5 that way makes the allegations that they are making -- if he  
6 is less inclined to believe their allegations. It wasn't  
7 clear whether --

8 THE COURT: If it's clear that he doesn't make the  
9 way they appear -- or whether that that it encourages people  
10 to engage in that activity, I'm not sure.

11 MS. PENZA: I'm concerned that there is -- all of  
12 our rape shield laws and things which prohibit making  
13 statements based on the way a woman dress et cetera, would he  
14 be less inclined to believe that a woman had been sexually  
15 assaulted because of the way she dresses or behaves sexually  
16 prior to that?

17 MR. AGNIFILO: There was an indication that he  
18 thought they were not proper spokespeople for the movement.

19 MS. PENZA: That may be true.

20 THE COURT: Let me try to define the nuances.

21 MS. PENZA: Thank you.

22 (Sidebar ends.)

23 THE COURT: So, let me try to delve a little more  
24 into your comments about the women who go down the red carpet  
25 at these events and are wearing, let's put it this way,

Prospective Juror No. 181

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1 suggestive garments. What is your objection about these women  
2 in connection with their involvement with the Me Too movement?

3 PROSPECTIVE JUROR NO. 181: Well, let me make sure  
4 that I -- I hate to say at this late point that I'm not Me Too  
5 movement. The Me Too is actresses and/or actors that were  
6 physically or sexually manipulated to get their careers going.

7 THE COURT: No, the Me Too movement as I understand  
8 it, and the lawyers can correct me if I'm wrong, is the effort  
9 to bring to public consciousness the fact that women have been  
10 abused and that there is now an effort to make it well-known  
11 about the abuse, and to deal with the abuse of women when in  
12 the past women were afraid to come forward. They didn't come  
13 forward and they suffered in silence.

14 But now the Me Too movement is encouraging women who  
15 are the victims of sexual attacks and so on, and  
16 discrimination of that nature, to come forward and tell their  
17 stories and to have the matters dealt with by the appropriate  
18 law enforcement and so forth. So, it is double-pronged. It's  
19 both getting the word out as to when women are abused, and  
20 also encouraging people to come forward so that these  
21 situations can be dealt with by law enforcement. I mean, I am  
22 sure there is more to it than that, but I think that's a large  
23 part of it.

24 Would you like to add anything to it.

25 MR. AGNIFILO: That's fine, Your Honor.

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1 MS. PENZA: That's fine, Your Honor.

2 THE COURT: That is the Me Too movement? It's not a  
3 Hollywood thing. It's a widespread movement.

4 PROSPECTIVE JUROR NO. 180: Then I misunderstood,  
5 Your Honor. I certainly misunderstood it.

6 THE COURT: That's okay because it is not like  
7 someone passed a law this is the Me Too movement. It's a  
8 grassroots kind of thing that has developed and not everybody  
9 has a, you know, a detailed knowledge of it. So my question,  
10 going back to my question --

11 PROSPECTIVE JUROR NO. 181: Okay.

12 THE COURT: What is it about these Hollywood  
13 personalities dressed the way they sometimes dress that  
14 concerns you? It's not the Me Too movement, I take it?

15 PROSPECTIVE JUROR NO. 181: Well, since I didn't --  
16 if the Me Too movement is about abuse and, like, physical  
17 abuse and, I don't know how else to put it, but I took it as  
18 flirtation by a director or another actor or flirtation.

19 THE COURT: Flirtation.

20 PROSPECTIVE JUROR NO. 181: Or an inappropriate  
21 statement or something like that. I thought these people were  
22 coming out of the woodwork also saying that, me too, me too.  
23 He said he wanted to take me to bed, I'm part of this too.  
24 No, if they were sexually abused, there is no place or that.  
25 There's no place for any of it. I don't know why it's in my



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1 head and my girlfriend said the same and a couple of other  
2 people, not that you care about that. Some of these people,  
3 and I can't name names, they go down the red carpet dressed  
4 and they're dressed provocatively and you don't expect  
5 somebody to make a comment. A comment is what i'm saying.

6 THE COURT: I understand. So there is a dividing  
7 line somewhere in there and one could debate about where it is  
8 between a flirtatious comment and sexual harassment.

9 PROSPECTIVE JUROR NO. 181: Definitely.

10 THE COURT: So there is a line to be drawn there and  
11 I think the Me Too movement is raising the specter that we  
12 have to be, that's society, that we have to be sensitive of  
13 where to draw that line so what might be an innocent comment  
14 like, that dress is lovely, turns into a constant office  
15 situation where someone keeps coming back and coming back and  
16 making suggestive comments and making the other person feel  
17 uncomfortable with the outcome that the person who feels  
18 uncomfortable has difficulty because the person who's making  
19 the statements appears to be doing more than just making a  
20 compliment but wants something out of the relationship in the  
21 office. That's just one of many scenarios. That's the Me Too  
22 movement in part.

23 PROSPECTIVE JUROR NO. 181: Okay, understood. And I  
24 100 percent agree with what you're saying. I guess that is  
25 what the Me Too movement is, but the line is the line and,

Prospective Juror No. 181

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1 again, I'm going to go back to my daughter. She's 29 now, but  
2 back in the day, if she went out dressed a certain way, if you  
3 don't expect this boy to do this, that and the other, you  
4 don't dress like that. And I told her to make sure the boy or  
5 man or whatever knows that no is no. And I totally agree with  
6 it. I don't know how I'm coming off here. I do care, but I  
7 answered the question pretty pointblank.

8 THE COURT: I'm just -- we are having a  
9 conversation.

10 PROSPECTIVE JUROR NO. 181: The line is the line. I  
11 got that.

12 THE COURT: Okay.

13 PROSPECTIVE JUROR NO. 181: And especially having a  
14 daughter and me personally, not that everybody cares when I  
15 was younger, I never went over the line. When somebody wanted  
16 to go home, I took them home. I wouldn't want anyone talking  
17 to my daughter like that or my ex-wife or my girlfriend.

18 THE COURT: Let me cut to the chase then. There  
19 will be witnesses that are going to testify here, I assume,  
20 about sexual acts, alleged acts, of sexual exploitation. Will  
21 you be able to fairly and impartially consider their testimony  
22 and make your judgment as to whether whatever they allege, if  
23 you believe it, is sufficient to result in your finding the  
24 defendant guilty beyond a reasonable doubt, if you find them  
25 to be credible?

Prospective Juror No. 181

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1 PROSPECTIVE JUROR NO. 180: Oh, yeah, if there's  
2 proof that -- yeah, I would say, yes, yeah. If that's the  
3 question.

4 THE COURT: Anything else?

5 MS. PENZA: No, Your Honor.

6 MR. AGNIFILO: Nothing else.

7 THE COURT: Thank I very much for coming in.

8 PROSPECTIVE JUROR NO. 181: Thank you. Could I add  
9 one or two things? I did put in the comment list you  
10 mentioned that this starts, the case is going to start May 7th  
11 I believe you said?

12 THE COURT: Yes.

13 PROSPECTIVE JUROR NO. 181: Two things, one is not  
14 that important. I finally got approved for a variance hearing  
15 on May 15th. Maybe I can send somebody in my stead.

16 THE COURT: For what?

17 PROSPECTIVE JUROR NO. 181: A variance hearing. The  
18 guy next to me after Sandy built an eight-foot concrete  
19 structure that I've been looking at since Sandy.

20 THE COURT: You mean it's a fence case?

21 PROSPECTIVE JUROR NO. 181: Yeah, I can probably  
22 send somebody in my place, bu the hearing is May 15th.

23 THE COURT: What day of the week is that?

24 PROSPECTIVE JUROR NO. 181: May 15th at 7:30 at  
25 night. That isn't important.

Prospective Juror No. 181

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1 THE COURT: Oh, it's at night. What's the other  
2 one?

3 PROSPECTIVE JUROR NO. 181: My son is getting  
4 married July 13th upstate.

5 THE COURT: July 13th.

6 PROSPECTIVE JUROR NO. 181: He's getting married on  
7 a ranch Upstate and I am delegated to help the week before. I  
8 don't know how long the case is going to go.

9 THE COURT: We are hoping it will be over by  
10 mid-June?

11 PROSPECTIVE JUROR NO. 181: Well, hoping.

12 THE COURT: Here is my promise to you. It is not  
13 going into July.

14 PROSPECTIVE JUROR NO. 181: Okay, that's fair  
15 enough. I had to put that out because that one I can't miss.

16 THE COURT: It's not really for you to hear. It's  
17 for them to hear. It's for the lawyers. I want the lawyers  
18 to know.

19 PROSPECTIVE JUROR NO. 181: Understood.

20 THE COURT: Six weeks beginning May 7th?

21 PROSPECTIVE JUROR NO. 181: Okay.

22 THE COURT: Thank you so much.

23 PROSPECTIVE JUROR NO. 181: Thank you.

24 THE COURT: Have a nice day.

25 PROSPECTIVE JUROR NO. 181: You too.

Prospective Juror No. 181

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(Prospective juror exits.)  
MR. AGNIFILO: No motion from us.  
MS. PENZA: No, Your Honor.  
THE COURT: All right. Juror 181 is approved.  
  
(Continued on the following page.)

Prospective Juror 183

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1 THE COURT: Next is 183.

2 (Prospective Juror 183 enters the courtroom.)

3 THE COURT: Please be seated sir. Good afternoon.

4 THE PROSPECTIVE JUROR: Yes. Good afternoon.

5 THE COURT: You're Juror No. 183, correct?

6 THE PROSPECTIVE JUROR: Yes.

7 THE COURT: You indicated that you will be paid for  
8 your jury duty?

9 THE PROSPECTIVE JUROR: Yes.

10 THE COURT: The entire time?

11 THE PROSPECTIVE JUROR: Yes, the company pay for it.

12 THE COURT: Okay. Very good.

13 Let me just go over a few questions with you. Sorry  
14 to keep you waiting.

15 You indicated in answer to this question: You may  
16 hear allegations involving immigration and propriety. What  
17 are your beliefs and opinions on the subject of immigration.  
18 Do those opinions impact your ability to be fair and  
19 impartial? You checked off "yes" and you explained, Because  
20 I'm an immigrant.

21 So what are your views on immigration? I mean,  
22 obviously you don't oppose it.

23 THE PROSPECTIVE JUROR: I'm not opposed to it but,  
24 you know, society has been creating so many negative things  
25 about the immigrant so I think that's my opinions.

Prospective Juror 183

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1 THE COURT: Do you think that's unfortunate?

2 THE PROSPECTIVE JUROR: Unfortunate, yes.

3 THE COURT: Okay. Are you someone who generally  
4 makes up their mind right away or do you wait and hear the  
5 entire story?

6 THE PROSPECTIVE JUROR: Well, I think it would be  
7 fair we listening to the entire story. Right?

8 THE COURT: Okay. The government has the burden of  
9 proof to prove the allegations in this case beyond a  
10 reasonable doubt. Are you willing to accept and comply with  
11 this legal requirement in a case involving allegations of  
12 child pornography and sexual exploitation?

13 THE PROSPECTIVE JUROR: Yes.

14 THE COURT: Are there other questions?

15 MR. AGNIFILO: Nothing from us.

16 MS. PENZA: No, Your Honor.

17 THE COURT: Okay. Thank you very much for coming  
18 in.

19 THE PROSPECTIVE JUROR: Thank you.

20 THE COURT: Have a nice day.

21 THE PROSPECTIVE JUROR: Thank you.

22 (Prospective Juror 183 exits the courtroom.)

23 THE COURT: Does anyone have a motion?

24 MR. AGNIFILO: We do not.

25 MS. PENZA: No, Your Honor.

Prospective Juror 185

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1 THE COURT: All right. Juror No. 183 is approved.  
2 Next is 185.

3 (Prospective Juror 185 enters the courtroom.)

4 THE COURT: Please be seated. Welcome.

5 THE PROSPECTIVE JUROR: Thank you.

6 THE COURT: You are Juror No. 185. Correct?

7 THE PROSPECTIVE JUROR: Correct.

8 THE COURT: Okay. I just have a few follow-up  
9 questions.

10 Do you know how long your employer pays for jury  
11 duty?

12 THE PROSPECTIVE JUROR: I followed up with my  
13 employer and they said -- I mean, I, it's an annual salary so  
14 they said that it will be fine. If it's over ten days, I have  
15 to speak to my principal about it.

16 THE COURT: Good idea. You should do that.

17 THE PROSPECTIVE JUROR: Yes.

18 THE COURT: But when does school end?

19 THE PROSPECTIVE JUROR: I'm in private school so we  
20 end June 7th or so.

21 THE COURT: Okay. Well, you should do that --

22 THE PROSPECTIVE JUROR: Okay.

23 THE COURT: -- because, generally, educational  
24 institutions pay their employees for jury duty, but this is a  
25 private school.



Prospective Juror 185

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1 THE PROSPECTIVE JUROR: Right.

2 THE COURT: So they may have a separate set of rules  
3 but we really need to know that.

4 THE PROSPECTIVE JUROR: Okay.

5 THE COURT: If you were not paid for most of your  
6 jury duty, would that be a hardship?

7 THE PROSPECTIVE JUROR: Not, not that bad of a  
8 hardship. I'll be okay.

9 THE COURT: You have another income?

10 THE PROSPECTIVE JUROR: No, I don't, but my husband  
11 does.

12 THE COURT: No, that's what I meant.

13 THE PROSPECTIVE JUROR: Okay.

14 THE COURT: Is there another income in the family.

15 THE PROSPECTIVE JUROR: Yes, my husband is making  
16 money.

17 THE COURT: What does he do?

18 THE PROSPECTIVE JUROR: He's a physician.

19 THE COURT: Oh, he's a physician. How nice.

20 THE PROSPECTIVE JUROR: Yes.

21 THE COURT: Okay. Thank you.

22 Well, I have a few additional questions. Let me  
23 just raise them with you.

24 THE PROSPECTIVE JUROR: Okay.

25 THE COURT: Oh, there's this question: Would you be

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1 inclined to believe a witness is more or less truthful solely  
2 because that witness is a law enforcement officer? And you  
3 said: No. I believe every witness is truthful regardless of  
4 being a law enforcement officer.

5 THE PROSPECTIVE JUROR: Yes. I, I would take  
6 everyone's, what everyone says as the truth regardless of what  
7 their occupation is because --

8 THE COURT: Well -- go ahead.

9 THE PROSPECTIVE JUROR: Because what I -- I mean, I  
10 would think that they would swear an oath and be truthful.

11 THE COURT: Well, your job as a juror will be to  
12 assess the testimony of witnesses. A witness will give direct  
13 evidence when called and then there will be cross-examination  
14 and you will be able to test the truthfulness of the witness  
15 based on the evidence, many factors, a witness' demeanor,  
16 everything that you would do in talking to someone in your  
17 work or socially, you will have the opportunity to assess  
18 witnesses here in the courtroom.

19 THE PROSPECTIVE JUROR: I see.

20 THE COURT: Well, so you have the right as a juror  
21 to completely discount what a witness says because you don't  
22 believe it or believe some of what a witness says or believe  
23 all of what a witness says.

24 THE PROSPECTIVE JUROR: Okay.

25 THE COURT: And to the extent you believe what a

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1 witness says, to apply that in your effort to decide whether  
2 the defendant is guilty beyond a reasonable doubt of a  
3 particular crime.

4 So, the question, this question really asks you  
5 whether you would treat law enforcement, some witnesses like  
6 law enforcement witnesses differently from other witnesses  
7 when you do that assessment or would you treat everybody the  
8 same?

9 THE PROSPECTIVE JUROR: I think based on what you  
10 said, I would, you know, I would, of course, look at the  
11 individual and hear what they're saying.

12 THE COURT: Let me help you for a minute.

13 THE PROSPECTIVE JUROR: Okay.

14 THE COURT: I will direct the jury that they are to  
15 treat law enforcement witnesses the way they treat all other  
16 witnesses and to consider their testimony based on what you  
17 hear in the courtroom and every witness should be assessed in  
18 the same, with the same approach. Can you do that?

19 THE PROSPECTIVE JUROR: I agree, yes, I agree with  
20 that.

21 THE COURT: Okay. Other questions?

22 MR. AGNIFILO: No, Judge.

23 MS. PENZA: No, Your Honor.

24 THE COURT: Okay. Well, thank you for coming in.  
25 You have a lovely afternoon.

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1 THE PROSPECTIVE JUROR: Thank you so much.

2 (Prospective Juror 185 exits the courtroom.)

3 THE COURT: Is there a motion?

4 MR. AGNIFILO: Not from us.

5 MS. PENZA: No, Your Honor.

6 THE COURT: All right. Juror No. 185 is approved.

7 187 is next.

8 (Prospective Juror 187 enters the courtroom.)

9 THE COURT: Please be seated.

10 THE PROSPECTIVE JUROR: Thank you.

11 THE COURT: Good afternoon.

12 THE PROSPECTIVE JUROR: Good afternoon.

13 THE COURT: You're Juror 187?

14 THE PROSPECTIVE JUROR: Yes.

15 THE COURT: Okay. I'm going to review with you some  
16 of your answers and follow up on some of them.

17 You're retired?

18 THE PROSPECTIVE JUROR: Yes.

19 THE COURT: What did you do when you worked?

20 THE PROSPECTIVE JUROR: I taught college. I  
21 actually taught at City Tech right across the street.

22 THE COURT: Oh, what did you teach?

23 THE PROSPECTIVE JUROR: Engineering technology.

24 That was -- I mean, I -- that was before my gender change.

25 THE COURT: I see. And how long did you teach

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1 there?

2 THE PROSPECTIVE JUROR: Twenty-seven years.

3 THE COURT: Wow. Okay. Well, they've been  
4 rebuilding that place. It's very impressive.

5 So now, first of all, this jury is not going to be  
6 sequestered.

7 THE PROSPECTIVE JUROR: Okay.

8 THE COURT: Meaning there are no overnights. That's  
9 not done anymore.

10 THE PROSPECTIVE JUROR: Okay.

11 THE COURT: I don't even know if it was ever done in  
12 the federal court. It's in the state court that they did  
13 that.

14 THE PROSPECTIVE JUROR: Okay. Good.

15 THE COURT: This jury, you'll be accompanied to the  
16 courthouse every day, you'll have lunch in the jury room and  
17 then you'll be accompanied away from the courthouse by  
18 marshals every day. It's just --

19 THE PROSPECTIVE JUROR: From where? All the way  
20 from home?

21 THE COURT: Well, you'll work that out with the  
22 Marshals Service. I don't get involved in that.

23 THE PROSPECTIVE JUROR: Okay.

24 THE COURT: But if you are selected as a juror, you  
25 will meet with the marshals and they will work it all out with

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1 you.

2 THE PROSPECTIVE JUROR: Okay.

3 THE COURT: Where do you live?

4 THE PROSPECTIVE JUROR: Staten Island.

5 THE COURT: Staten Island. Okay. Let's see. And  
6 the way the trial is run, we start at about 9:30, we take a  
7 mid-morning break, we take lunch at 1 and start again at 2, we  
8 take a mid-afternoon break and we finish by 5 o'clock.

9 THE PROSPECTIVE JUROR: Okay.

10 THE COURT: And if anyone, you know, needs to use  
11 the lavatory when we are not in a break or at lunch, the way  
12 it's pretty clear. The person can leave the room and come  
13 back.

14 THE PROSPECTIVE JUROR: Oh, all right.

15 THE COURT: And we suspend while the person is out  
16 of the room because every juror has to be here for the  
17 testimony.

18 THE PROSPECTIVE JUROR: Okay.

19 THE COURT: Does that work?

20 THE PROSPECTIVE JUROR: Yes, it does.

21 THE COURT: Okay. Good.

22 THE PROSPECTIVE JUROR: Can I ask you a question,  
23 Your Honor?

24 THE COURT: Sure.

25 THE PROSPECTIVE JUROR: When we met for the

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1 orientation, there were multiple defendants and a whole long  
2 list of charges. Now there's only one defendant. Can I know  
3 what the charges are that we would be considering?

4 THE COURT: There are only charges against the one  
5 defendant that will be tried before --

6 THE PROSPECTIVE JUROR: Okay.

7 THE COURT: -- this court. So it's a range of  
8 charges and I don't have the list of charges with me.

9 MS. PENZA: Your Honor, the charges are the same as  
10 the juror heard while we were --

11 THE PROSPECTIVE JUROR: All right.

12 THE COURT: They're the same charges --

13 THE PROSPECTIVE JUROR: Okay.

14 THE COURT: -- as before.

15 THE PROSPECTIVE JUROR: Okay. Thank you.

16 THE COURT: Thank you.

17 So there's this question: How important is your  
18 faith, if any, to you? And you said: Extremely important. I  
19 make major life decisions based on my faith.

20 Is that right?

21 THE PROSPECTIVE JUROR: Yes. As it would affect a  
22 court case, I -- well, I would have -- any verdict that I  
23 would render would have to be something that my conscience  
24 personally would back me up on. You know, I'm kind of old. I  
25 might have to answer for what I've done in this life before

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1 too long and I would have to believe in whatever verdict I  
2 give.

3 THE COURT: Well, let me ask this. That having been  
4 said, the Court will charge you as to the law. Will you  
5 follow the law that I give you with the facts that you find  
6 from the testimony and the other evidence?

7 THE PROSPECTIVE JUROR: I would hope that there  
8 would be no conflict.

9 THE COURT: With what?

10 THE PROSPECTIVE JUROR: Between my conscience and  
11 the law. I think, generally, things that -- like, basically  
12 right is right, wrong is wrong, no matter where you are, but  
13 basically --

14 THE COURT: So you are going to follow your  
15 conscience no matter what?

16 THE PROSPECTIVE JUROR: If there's -- well, there's  
17 so many possible situations, it would be impossible to predict  
18 what but say, just say I have to believe in the verdict that I  
19 render, that I couldn't say give a verdict that I felt was the  
20 opposite of what it should be.

21 THE COURT: Okay. Now, you indicated to this  
22 question: Have you or anyone close to you ever participated  
23 in a Landmark Forum, S or anything you view as similar and you  
24 said: Yes, my late wife's sister did ask for a while decades  
25 ago. We humored her.

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1 THE PROSPECTIVE JUROR: Yes.

2 THE COURT: So what did you mean by that?

3 THE PROSPECTIVE JUROR: Well, we, I think we went to  
4 a meeting with her. They were big on people supporting one  
5 another so, of course, we said we supported her and -- we  
6 weren't close. It wasn't something that impacted our daily  
7 life and before too long, she dropped out of it, but, yes, we  
8 went along. We didn't think that it was as big a deal as she  
9 did but it was important to her.

10 THE COURT: So this question: Would you be able to  
11 listen to and discuss matters of a sexual nature with your  
12 fellow jurors when you deliberate? And you answered: Listen  
13 to, yes. Discuss, probably not. So --

14 THE PROSPECTIVE JUROR: I don't know.

15 THE COURT: Well, there will be definitely issues  
16 having to do with sexual exploitation of a minor, for  
17 instance, that would be the subject of testimony in this case  
18 and the jury will have to grapple with that testimony in  
19 deciding the verdict in this case. So will you be able to  
20 engage in that discussion, among others, having to do with a  
21 sensitive subject related to sexuality?

22 THE PROSPECTIVE JUROR: That's a tough one. It's --  
23 I mean, all I can say is that's a tough question. I would do  
24 my best but I, I guess that's about all I can say, is that if  
25 I'm selected, I would do, do my best.

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1 THE COURT: All right. Thank you.

2 Have you or anyone close to you ever been the victim  
3 of sexual assault including date rape? You said: Yes, some  
4 of the women who perform at the same open mics that I do have  
5 been assaulted.

6 THE PROSPECTIVE JUROR: Yes.

7 THE COURT: And how do you know this?

8 THE PROSPECTIVE JUROR: They've said so publicly.

9 THE COURT: An open mic is like at a comedy club?

10 THE PROSPECTIVE JUROR: For me, it's usually  
11 musical. I play saxophone. So they, they're singers, you  
12 know, singer/songwriters, guitar players, performers of  
13 various kinds and I've become Facebook friends with many of  
14 them and they've shared their experiences.

15 THE COURT: Do you think that your knowledge of  
16 these experiences would affect your ability to serve as a fair  
17 and impartial juror in a case where there are issues involving  
18 sexuality?

19 THE PROSPECTIVE JUROR: It would have an impact.

20 THE COURT: Then there's this other question: The  
21 charges in this case involve allegations, among other things,  
22 of sex trafficking, forced labor, child pornography and child  
23 exploitation. Is there anything about the nature of these  
24 allegations that would make it difficult for you to be fair  
25 and impartial? And you were asked to say "yes" or "no" but

Sidebar

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1 you said -- you didn't check off either. You said: I'm not  
2 sure I can give you an honest answer right now.

3 Can you give me an answer?

4 THE PROSPECTIVE JUROR: Well --

5 THE COURT: What's that?

6 THE PROSPECTIVE JUROR: The best I can say is that  
7 hearing about those things would influence my conscience and  
8 that, in turn, would make it harder for me to be impartial.

9 THE COURT: Okay.

10 THE PROSPECTIVE JUROR: Very much harder.

11 THE COURT: Okay. Thank you. Thank you.

12 Anything else?

13 MR. AGNIFILO: Nothing else.

14 THE COURT: Anything else?

15 MS. PENZA: Brief sidebar, Your Honor?

16 THE COURT: Sure.

17 (The following occurred at sidebar.)

18 MS. PENZA: Your Honor, I think if Your Honor could  
19 just ask the direct question of whether it came down to the  
20 facts and the law leading to one decision and her conscience  
21 telling her something else, whether she would follow the facts  
22 of the law or she would follow her conscience.

23 THE COURT: That's a good question.

24 MR. AGNIFILO: That's fine. Does Your Honor at this  
25 point have a feeling as to whether the juror would be excused?

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1 THE COURT: I think the juror seems tortured by this  
2 situation, frankly, and I feel a certain sympathy for her.

3 MS. PENZA: Agreed, Your Honor, but I think --

4 THE COURT: But I will ask the question. That's my  
5 current assessment.

6 MR. AGNIFILO: Yes, me too.

7 THE COURT: Okay. All right.

8 (In open court; sidebar ends.)

9 THE COURT: So I just have one other question.

10 After hearing the evidence and hearing my giving you  
11 the charge on the law, and you came down with your 11  
12 colleagues on the jury to deciding the case and you found that  
13 the law, based on the facts that you found, would have you  
14 find one verdict but your conscience as opposed to the law  
15 would result in the other verdict, in your mind, which way  
16 would you go, follow the law or follow your conscience which  
17 you feel so strongly about? From the very beginning of this  
18 interview, it was very clear you had a strong sense of right  
19 and wrong and conscience.

20 THE PROSPECTIVE JUROR: Maybe that's part of why  
21 I -- I was brought up Catholic, I was an Episcopalian for  
22 awhile and I've been a Lutheran I'm going to say for about  
23 15 years and I like this church because Martin Luther was so  
24 big on conscience and, well, you've got my age there. I'm 68.  
25 I don't know how much longer before I'll have to give an

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1 account of my actions up there. I would hope that there  
2 wouldn't be a serious conflict.

3 THE COURT: By the way, there's no right or wrong  
4 answer here. There's only your answer.

5 THE PROSPECTIVE JUROR: Okay.

6 THE COURT: All right. So I'm not looking for an  
7 answer. I'm looking to know how you think and feel about it.

8 THE PROSPECTIVE JUROR: Okay. Well, it would boil  
9 down to whether there was something that, I guess if I can  
10 use, it's probably a bad word in a courtroom, is a  
11 technicality. If it was a matter of a technicality, I would  
12 -- well, I probably could not either convict or acquit based  
13 on one. It would have -- it would have to be a fundamental  
14 finding that, based on the evidence, you know, definitely not  
15 on anything else, that the defendant is either guilty or not  
16 guilty and as I see it and subject to your explaining the  
17 letter of the law, I would hope that I could give that verdict  
18 but I would hope that it doesn't boil down to something where  
19 there would be a significant difference between what the law  
20 says and what my conscience says.

21 I think our legal system has been around long enough  
22 and that it really, it really shouldn't be a conflict but as  
23 to what would actually happen, it would really depend on the  
24 specifics of the situation. I couldn't really give a general  
25 answer that would apply in all cases.

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1 THE COURT: Well, let me talk about your faith for a  
2 minute. As a Christian --

3 THE PROSPECTIVE JUROR: Yes.

4 THE COURT: -- there is a great deal said in the  
5 Bible, and this is the week to talk about it, I suppose, about  
6 the importance of faith, the importance of mercy, the  
7 importance of sympathy for people and it may be that as a  
8 moral matter, based on the church's teachings, that you would  
9 feel obligated to follow a certain path in making a decision  
10 but the law would have you follow a different path and where  
11 those paths converge, separate as opposed to converging, where  
12 they separate based on the facts, you could either reach one  
13 conclusion based strictly on the law and possibly another  
14 outcome based on your faith and morality and your belief  
15 structure. And that's really, that's the question.

16 The Court requires that the jurors decide the case  
17 based on the law as I give it to you and the facts of the case  
18 as you find them and that's why I'm asking the question.  
19 It's --

20 THE PROSPECTIVE JUROR: I understand.

21 THE COURT: It's not about a technicality. It's  
22 about a fundamental distinction. Now, those two may merge in  
23 most cases and you hope that they do. I think that's your  
24 view, but where they diverge, that's where the problem exists  
25 and that's why I asked the question because you are obligated,

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1 I mean, you take an oath as a juror which is made under God  
2 that you will follow the law as I give it to you. So that is  
3 the quandary and that's why I ask question.

4 Do you have anything else to say about that?

5 THE PROSPECTIVE JUROR: Well, this would not -- I  
6 think that a verdict does have to be in accordance with the  
7 law. I could not give a verdict that was based on the  
8 evidence. That would just totally destroy the whole judicial  
9 system if anybody did that. It would probably boil down to  
10 fine points like, say, a large percentage of the evidence  
11 pointed in one direction but there was some consideration that  
12 might point in the other direction and possibly having to  
13 balance those two, I'd say I could promise you that any  
14 verdict that I would render would be in accordance with the  
15 law, but if there are conflicting parts of the evidence, then  
16 the law probably, what -- I don't know. I'm trying to -- I  
17 can't really imagine. Oh, let's see.

18 I don't know if I can imagine a situation where  
19 there would be a real conflict. The only thing that I would  
20 say is that if -- well, I would have to find in accordance  
21 with the law. Just sometimes the law is not unambiguous, that  
22 there might be more -- it might be possible to go either way  
23 with a verdict based on the same body of evidence.

24 THE COURT: Okay.

25 THE PROSPECTIVE JUROR: And in that case, my

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1 conscience would tell me which way to go.

2 THE COURT: Okay. Thank you. Thank you.

3 Anything else?

4 MR. AGNIFILO: No, Judge.

5 MS. PENZA: No, Your Honor.

6 THE COURT: Thank you very much for coming in. Have  
7 a nice day.

8 THE PROSPECTIVE JUROR: You're welcome. Thank you.

9 (Prospective Juror 187 exits the courtroom.)

10 THE COURT: Is there a motion?

11 MR. AGNIFILO: Yes, Judge. We're going to ask that  
12 Your Honor strike the juror for cause. I mean, to the extent  
13 that I followed it, there's a strong, there's a strong sort of  
14 alternative element, sort of intellectual element that this  
15 juror would call upon in rendering a verdict and whether the  
16 legal instructions and our system would be in accordance with  
17 this juror's conception of the juror's own conscience, the  
18 juror's conscience is kind of a wild card and seems  
19 influential enough that we can't say with confidence that the  
20 law and Your Honor's instructions would be the only guiding  
21 principles.

22 MS. PENZA: Your Honor, the government objects to  
23 her being stricken for cause. She stated as clearly as, as  
24 clear as crystal: I promise any verdict will be in accordance  
25 with the law. I think this process can be difficult, to be



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1 here and being questioned, but I think what it's shown is that  
2 she will be a thoughtful and diligent juror.

3 THE COURT: Well, I think we have here is an  
4 intelligent and articulate person who's grappling with the  
5 concepts that we have. I think she can understand the Court's  
6 instructions on the law and will apply the instructions and  
7 she appears to be a person of conscience and at the end, it  
8 was clear that she would make following the Court's  
9 instructions her objective, but she also said that without  
10 some concrete issue before her, it would appear that she felt  
11 it was impossible to give an ironclad answer as to how all of  
12 this would come together but I think that her intent is to  
13 follow the law.

14 So the motion is denied and you have your exception.  
15 Juror No. 187 is qualified.

16 I also think, I just make note that I thought that  
17 the juror had what was, at first, I thought it was  
18 nervousness, but I think it's just a nervous tremor in one of  
19 her hands.

20 MR. AGNIFILO: I think -- I agree.

21 THE COURT: All right.

22 So next is Juror No. 188.

23 (Prospective Juror 188 enters the courtroom.)

24 THE COURT: Please be seated, sir.

25 Good afternoon.

Prospective Juror 188

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1 THE PROSPECTIVE JUROR: Afternoon.

2 THE COURT: You are Juror 188, correct?

3 THE PROSPECTIVE JUROR: Correct.

4 THE COURT: And you work full time, correct?

5 THE PROSPECTIVE JUROR: Yes, sir.

6 THE COURT: And you work at a hospital?

7 THE PROSPECTIVE JUROR: Correct.

8 THE COURT: Now, and that's full time?

9 THE PROSPECTIVE JUROR: Correct.

10 THE COURT: And I notice that you take a number of  
11 medicines, is that right?

12 THE PROSPECTIVE JUROR: Yes, sir.

13 THE COURT: And did they affect your ability to  
14 think or reason?

15 THE PROSPECTIVE JUROR: I have high glucose level.

16 THE COURT: You have a high glucose level?

17 THE PROSPECTIVE JUROR: Yes.

18 THE COURT: Yes.

19 THE PROSPECTIVE JUROR: I have a monitor with me. I  
20 have a continued glucose monitor machine on me.

21 THE COURT: A what?

22 THE PROSPECTIVE JUROR: A continued glucose monitor  
23 on me so my blood sugar goes up and down.

24 THE COURT: Glucose?

25 THE PROSPECTIVE JUROR: Yes, I'm diabetic.

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1 THE COURT: Does that affect your ability to do your  
2 job?

3 THE PROSPECTIVE JUROR: I get moody sometimes when  
4 my blood sugar is high. When my sugar is low, I get sluggish  
5 and when my blood sugar is high, I take a little breather,  
6 water, walk around a little bit and it goes down and I take my  
7 insulin.

8 THE COURT: Now, let me just describe jury duty to  
9 you. The way it works is we begin the day at 9:30. We take a  
10 break in the middle of the morning. Then we have a lunch  
11 break for an hour at 1. Then we have a mid-afternoon break  
12 and we finish the day by 5.

13 Do you think, with that schedule, you would be able  
14 to deal with whatever the medical issues you have on an  
15 ongoing basis?

16 THE PROSPECTIVE JUROR: No.

17 THE COURT: Why not?

18 THE PROSPECTIVE JUROR: Because I have to constantly  
19 check my glucose level, try to continue controlling it. If I  
20 don't, I could collapse. I could have high sugar level where  
21 it could affect me, like, visually and I can be irritable.

22 THE COURT: Are there other questions?

23 MR. AGNIFILO: No, Judge.

24 MS. PENZA: No, Your Honor.

25 THE COURT: Okay. Thanks very much for coming in.

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1 Have a nice day.

2 THE PROSPECTIVE JUROR: Thank you.

3 (Prospective Juror 188 exits the courtroom.)

4 THE COURT: All right.

5 MR. AGNIFILO: We're going to ask that he be  
6 excused. He's expressing a medical hardship. He seems to be  
7 very concerned about his glucose level maintenance and I'm  
8 certainly not in a position to second guess him.

9 THE COURT: Yes.

10 MS. PENZA: Agreed, Your Honor.

11 THE COURT: Well, you know, when I read his  
12 questionnaire, I saw that he was on at least ten medications  
13 and he's 34 years old so, I mean, he has serious issues  
14 obviously.

15 MS. PENZA: Absolutely, Your Honor. The government  
16 didn't know -- again, I'm not a doctor. I don't know the  
17 difference between sitting at jury duty and his current job  
18 and what accommodations he's able to get.

19 THE COURT: But that's why I asked the question and  
20 explained how it worked in jury duty.

21 MS. PENZA: Agreed.

22 THE COURT: All right. On consent, Juror No. 188 is  
23 struck.

24 (Prospective Juror 199 is excused.)

25 (Continued on next page.)

Prospective Juror No. 189

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1 (Continuing.)

2 THE COURT: Please be seated. Good afternoon.

3 PROSPECTIVE JUROR NO. 189: Good afternoon.

4 THE COURT: You are Juror No. 189; correct?

5 PROSPECTIVE JUROR NO. 189: Yes.

6 THE COURT: Okay. I am going to follow up on your  
7 questionnaire, ma'am. What kind of work do you do?

8 PROSPECTIVE JUROR NO. 189: I'm a lunch helper.

9 THE COURT: Okay. And do you work at a school?

10 PROSPECTIVE JUROR NO. 189: Yes.

11 THE COURT: Okay. So you work part-time, is that  
12 it?

13 PROSPECTIVE JUROR NO. 189: Yes.

14 THE COURT: And do you know whether your employer  
15 would pay for your jury duty?

16 PROSPECTIVE JUROR NO. 189: The City, yes. I work  
17 for the Department of Education.

18 THE COURT: Do you work in the summer?

19 PROSPECTIVE JUROR NO. 189: Most of the time, yes.

20 THE COURT: Okay. Well, this case will be over by  
21 that time, okay?

22 PROSPECTIVE JUROR NO. 189: Okay.

23 THE COURT: So have you ever been a juror before?

24 PROSPECTIVE JUROR NO. 189: No.

25 THE COURT: And you have one son who is 20 years

Prospective Juror No. 189

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1 old?

2 PROSPECTIVE JUROR NO. 189: Yes.

3 THE COURT: Let me ask you this: Now, the defendant  
4 has been indicted for certain crimes by a grand jury. Do you  
5 understand that?

6 PROSPECTIVE JUROR NO. 189: Yes.

7 THE COURT: An indictment itself is not evidence.  
8 It merely describes the charges made against the defendant.  
9 It is an accusation. It may not be considered by you as any  
10 evidence of the defendants' guilt. Are you able to follow  
11 this rule of law?

12 PROSPECTIVE JUROR NO. 189: In some ways, like the  
13 legal -- the legal -- the legal way when they ask the question  
14 it's like, I don't understand too much, but if, like, when you  
15 say it's not an accusation yet if because they don't have no  
16 proof, that's the way that I understand.

17 THE COURT: Well, the indictment tells the defendant  
18 what he accused of.

19 PROSPECTIVE JUROR NO. 189: Okay.

20 THE COURT: But it is not evidence that can be used  
21 by the jury to determine whether the defendant is guilty or  
22 not guilty. The only evidence that can be used is the  
23 witnesses who come to court and documents, pictures and other  
24 items that the jury can use if it believes them, all right.  
25 But that is up to the jury to do. So, can you accept that an

Prospective Juror No. 189

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1 indictment cannot be used as evidence?

2 PROSPECTIVE JUROR NO. 189: I'm not sure.

3 THE COURT: Let me ask you one other question. You  
4 may hear testimony at the trial from certain individuals that  
5 the Government alleges are victims of the defendant. A  
6 victim's testimony is not to be given any more or less  
7 credence or belief than any other witness' testimony. Would  
8 you be able to follow the Court's instructions?

9 PROSPECTIVE JUROR NO. 189: If I have to follow the  
10 Court's instruction, I have to be able.

11 THE COURT: I'm asking you about specific  
12 instructions, an instruction that the testimony of a victim or  
13 somebody that claims to be a victim, rather, is not to be  
14 given any more or less believability than any other witness  
15 who testifies just because the witness is a victim. Do you  
16 understand that?

17 PROSPECTIVE JUROR NO. 189: Yes, just because he's a  
18 victim just if we hear something about it, have to -- do we  
19 agree and to follow the rules that you send me to follow.

20 THE COURT: Well, there will be many witnesses and  
21 some will be law enforcement witnesses. Some will be people  
22 who claim that they are victims and then there will be other  
23 witnesses. There may be witnesses who worked with the  
24 defendant and know the defendant and will testify about the  
25 work that they did with the defendant.

1           So there will be many witnesses but I will tell you  
2 that all the witnesses need to be examined by you, the jury  
3 and considered as to whether they are telling the truth. Can  
4 you do that?

5           PROSPECTIVE JUROR NO. 189: I think so.

6           THE COURT: Are there other questions?

7           MR. AGNIFILO: Could we have a sidebar, Judge?

8           THE COURT: Yeah, sure.

9           (The following sidebar took place outside the  
10 hearing of the court.)

11           MR. AGNIFILO: My sense is that she's not  
12 comprehending everything that the Court is saying and I think  
13 that there's a comprehension issue. I don't think she has  
14 issues of presumption of innocence or anything of a  
15 substantive matter.

16           THE COURT: That's why I'm asking the questions to  
17 see if she comprehends, if she follows what I'm saying so that  
18 she can say what do you mean by this or what do you mean by  
19 that. I don't know how much more I can do.

20           MR. AGNIFILO: I think Your Honor is being very  
21 clear. I think there is something about her personality, I  
22 think she is either embarrassed that she doesn't understand or  
23 she's trying hard to understand or she's not admitting that  
24 she's not understanding but I think she's missing the crux of  
25 the principles.



Prospective Juror No. 189

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1 MS. PENZA: I think it's difficult to tell. I think  
2 some of these questions were inartfully worded by us.

3 THE COURT: Yes, and I didn't edit them.

4 MS. PENZA: And when they're being asked especially  
5 to people who don't have perfect English skills it can be  
6 difficult.

7 THE COURT: Is there anything that you suggest that  
8 I do to --

9 MS. PENZA: Perhaps you can ask whether her comfort  
10 level with the questions that have been -- that are being  
11 asked.

12 THE COURT: I will try to do something.

13 MS. PENZA: When she reads, perhaps.

14 THE COURT: It is a challenge.

15 (Sidebar ends.)

16 THE COURT: So let me tell you a little bit more  
17 about the law that you have to apply. So you are on the jury  
18 and a witness testifies or witnesses testify and then the jury  
19 has to decide whether will the defendant based on the evidence  
20 and the law that I give you, whether the defendant is guilty  
21 beyond a reasonable doubt. The Court tells you that you have  
22 to follow certain rules and reasonable doubt is not doubt  
23 beyond any doubt, but it's -- reasonable doubt is a high level  
24 of certainty that the person committed the crime.

25 Do you think you can follow the Court's instructions

Prospective Juror No. 189

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1 on the law when I give you those instructions on reasonable  
2 doubt, for instance?

3 PROSPECTIVE JUROR NO. 189: Yes, I think so. If you  
4 give me all the instructions.

5 THE COURT: And have you ever been on a jury?

6 PROSPECTIVE JUROR NO. 189: Never.

7 THE COURT: So this will be the first time?

8 PROSPECTIVE JUROR NO. 189: Yes.

9 THE COURT: And some will be about matters having to  
10 do with sexuality and alleged misconducts, alleged. Do you  
11 know what alleged means? Alleged means the defendant has been  
12 accused of it but it hasn't been proven to have done it until  
13 a jury and unless a jury decides he did it. So until the  
14 jury -- until the jury finds him guilty, it's alleged.

15 PROSPECTIVE JUROR NO. 189: Okay.

16 THE COURT: All right? So do you have any question  
17 whether a person with your background and understanding will  
18 be able to fairly and impartially decide the case?

19 PROSPECTIVE JUROR NO. 189: First of all, I'm going  
20 to feel like a little bit -- in some ways because it's with  
21 it's sexual things including sexual things that's when I --  
22 because -- that's when I feel like I maybe -- I'm going to  
23 feel nervous and afraid or something and maybe I'm not going  
24 to think from what my from what my heart say, because right  
25 away whenever I see, then am I going to say, then I agree or

Prospective Juror No. 189

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1 not agree. I don't know if I can explain myself well.

2 THE COURT: Based on your morals or based on your  
3 convictions?

4 PROSPECTIVE JUROR NO. 189: My morals, my vision.

5 THE COURT: Are you a religious person?

6 PROSPECTIVE JUROR NO. 189: Yes.

7 THE COURT: Well, are you uncomfortable discussing  
8 issues about possible sexual crimes?

9 PROSPECTIVE JUROR NO. 189: I'm telling you the  
10 truth, it's not like I feel uncomfortable. The afraid that I  
11 have it's, like, I can't understand you 100 percent or maybe  
12 explain what I think or what I feel. That's what made me,  
13 sometimes, not express myself.

14 THE COURT: Well, are you afraid you won't  
15 understand or are you afraid you might make a mistake or are  
16 you afraid that you don't know what questions to ask?

17 PROSPECTIVE JUROR NO. 189: I'm afraid to make a  
18 mistake.

19 THE COURT: And why would that be bad?

20 PROSPECTIVE JUROR NO. 189: Because I know for  
21 whatever they showing, they show, the show of all the proof of  
22 whatever they have, but I don't know if some kind of word in  
23 there I don't understand or some terms I don't understand and  
24 that's why I have to feel afraid when you have to make a  
25 decision.

Prospective Juror No. 189

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1 THE COURT: Okay, thank you. I appreciate it and I  
2 appreciate you telling me about it. It's very important for  
3 me to know how you feel and what your concerns are. Because  
4 for this defendant or for any defendant, the decision that the  
5 jury makes matters tremendously; right?

6 PROSPECTIVE JUROR NO. 189: Yes.

7 THE COURT: If you were in the defendant's shoes,  
8 would you be concerned about someone with your state of mind  
9 would be making a decision about you? In other words, if you  
10 were the defendant, would you be comfortable with someone with  
11 your -- if someone in your situation was on the jury?

12 PROSPECTIVE JUROR NO. 189: Yeah, because maybe I  
13 not 100 percent if that person understands where the case are  
14 or how this thing is going.

15 THE COURT: Are there any other questions?

16 MS. PENZA: No, Your Honor.

17 MR. AGNIFILO: Nothing from us.

18 THE COURT: I want to thank you for coming in and  
19 thank you for your candor and your sensitivity?

20 PROSPECTIVE JUROR NO. 189: You're welcome.

21 THE COURT: You have a nice day.

22 PROSPECTIVE JUROR NO. 189: Thank you.

23 (Prospective juror exits.)

24 MR. AGNIFILO: Your Honor, move to strike the juror  
25 for cause. She said she's afraid she's going to make a

Prospective Juror No. 191

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1 mistake because she doesn't understand. It's a very honest  
2 thing she said and we're afraid that she might make a mistake  
3 because she doesn't understand.

4 MS. PENZA: The Government consents.

5 THE COURT: Juror No. 189 is struck for cause by  
6 consent.

7 We are up to Juror No. 191.

8 (Prospective juror enters.)

9 THE COURT: You are Juror No. 191?

10 PROSPECTIVE JUROR NO. 191: Yes. Hello.

11 THE COURT: Welcome. Now, you are a full-time  
12 student?

13 PROSPECTIVE JUROR NO. 191: Yes, I attend NYU. I'm  
14 a graduate student.

15 THE COURT: And what school are you with?

16 PROSPECTIVE JUROR NO. 191: I'm in Steinhardt.

17 THE COURT: Which is?

18 PROSPECTIVE JUROR NO. 191: At NYU, New York  
19 University.

20 THE COURT: No, Steinhardt is what?

21 PROSPECTIVE JUROR NO. 191: The School of Education.

22 THE COURT: Okay. And when is your term over?

23 PROSPECTIVE JUROR NO. 191: It's over in two weeks.  
24 I have finals coming up.

25 THE COURT: When are finals?

Prospective Juror No. 193

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1 PROSPECTIVE JUROR NO. 191: Finals start May 8th to  
2 about the 20th.

3 THE COURT: Do you have any finals?

4 PROSPECTIVE JUROR NO. 191: I do. I have several  
5 finals and final papers.

6 THE COURT: Are there any questions?

7 The trial starts on May 7th. Would that create an  
8 untenable situation for you?

9 PROSPECTIVE JUROR NO. 191: Yes, especially because  
10 I am full-time and I have a lot of coursework that needs to  
11 get done.

12 THE COURT: Any questions?

13 MR. AGNIFILO: We have no questions.

14 MS. PENZA: No questions, Your Honor.

15 PROSPECTIVE JUROR NO. 191: Thank you. Bye.

16 (Prospective juror exits.)

17 MR. AGNIFILO: It seems like the potential juror has  
18 a hardship due to her finals schedule and being a full-time  
19 student.

20 MS. PENZA: We agree, Your Honor.

21 THE COURT: Juror No. 191 is struck for cause by  
22 consent of both parties.

23 Next is 193.

24 (Prospective juror enters.)

25 THE COURT: Please be seated, sir. Good afternoon.

Prospective Juror No. 193

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1 You are Juror No. 193?

2 PROSPECTIVE JUROR NO. 193: Yeah.

3 THE COURT: Welcome. Now, you indicated that you  
4 have a back condition?

5 PROSPECTIVE JUROR NO. 193: Just sitting still for a  
6 long time is rough. I'm used to being on my feet. I'm on my  
7 feet all day at work.

8 THE COURT: Well, the way the trial works is that we  
9 start at 9:30. There's a mid-morning break. There's an hour  
10 for lunch at 1. There's a mid-afternoon break and then we end  
11 by 5 and if you need to stand up, you get to stand up. If  
12 necessary, if you need to stand up a lot I will put you in the  
13 back row so everyone can still see.

14 PROSPECTIVE JUROR NO. 193: That's fine.

15 THE COURT: And if you need to leave the room to  
16 stretch, we can wait for you. So many people have back  
17 problems sitting on juries or on the bench.

18 PROSPECTIVE JUROR NO. 193: I can imagine.

19 THE COURT: So let me ask you a few questions. Did  
20 you check with your employer as to whether you get paid for  
21 jury duty?

22 PROSPECTIVE JUROR NO. 193: We are on spring break  
23 right now so I didn't get an answer from them before we left.

24 THE COURT: Generally school districts pay for jury  
25 service the entire service, but we would like to know for

Prospective Juror No. 193

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1 sure. So contact Mr. Reccoppa just to confirm that and he  
2 will give you his information.

3 PROSPECTIVE JUROR NO. 193: All right.

4 THE COURT: Let me ask you a few questions based on  
5 your answers in the questionnaire. "There may be evidence in  
6 this case about engaging in relationships with multiple sexual  
7 partners. Would hearing about that type of evidence affect  
8 your ability to serve as a fair and impartial juror in the  
9 case?" And you answered, "Yes. I feel that such behavior is  
10 morally wrong especially if minors are exposed to it." Is  
11 that your view?

12 PROSPECTIVE JUROR NO. 193: Yeah.

13 THE COURT: Okay. Now, there will be evidence in  
14 this case regarding certain alleged sexual misbehavior and I  
15 will instruct you on the law on it. You will hear evidence on  
16 it from witnesses. You will be able to assess the  
17 truthfulness of the witnesses, the demeanor of the witnesses,  
18 whether you believe it is true or not true, the extent to  
19 which it is true and then apply the law to the facts as you  
20 and the jury find them and decide whether a particular charge  
21 requires a verdict of not guilty beyond a reasonable doubt.

22 I know it's a sensitive area. I know nobody likes  
23 to deal with this type of evidence, but it is the evidence in  
24 this case. There are charges in this case having to do with  
25 that type of evidence. Would you be able to put aside your



Prospective Juror No. 193

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1 discomfort with it and deal with the evidence?

2 PROSPECTIVE JUROR NO. 193: I mean, I suppose I  
3 could try, but, you know I have strong beliefs about it so  
4 that would be part of my decision-making process. So I don't  
5 know that it would be completely objective. It would be based  
6 on my own life experiences, right? So --

7 THE COURT: No.

8 PROSPECTIVE JUROR NO. 193: I understand you're  
9 going to give directions, but -- I mean, I would do my best.  
10 That's, you know --

11 THE COURT: Well, the way I look at this, and it is  
12 not easy for you or anybody else who comes here, the Court is  
13 trying to put together with the parties a jury of people who  
14 will, to the greatest extent that they can, put aside any  
15 moral indignation that they have about certain actions and  
16 decide the case based on the law and the facts of the case.

17 And, so, that is not easy, but it is necessary to do  
18 it in order to do justice. You're a professional in your  
19 career. My sense is that as a professional you understand  
20 that there are certain steps that need to be taken in doing  
21 certain jobs that may not be pleasant. You may not like it,  
22 but that it is a job that needs to be done and that is really  
23 what you are being asked to do here, the job that needs to be  
24 done. I am just wondering whether --

25 PROSPECTIVE JUROR NO. 193: I suppose, but I don't

Prospective Juror No. 193

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1 know that setting aside my own morals is a fair thing for  
2 anybody to ask. Just, I mean -- do you understand what I am  
3 saying? Like, if I have a moral objection to something that  
4 doesn't fit within the law's code, I'm not sure that it's fair  
5 for me to be asked to set aside my morals.

6 THE COURT: I'm not asking you to set them aside. I  
7 am asking you to follow the law and assess the facts of the  
8 case as to whether you -- whether you believe the witnesses or  
9 you don't believe the witnesses or you believe some of what  
10 they say and then apply the law to what you believe is true.  
11 You know, we are not discussing the morality of something  
12 here. We are discussing -- Congress has established certain  
13 laws that make certain acts illegal and we are applying those  
14 laws to the facts of this case. That is really what we are  
15 doing. So this is really about what Congress has done to  
16 establish certain legal requirements or legal prohibitions.

17 So I don't view this as having to do with morals.  
18 The morals were dealt with by Congress in establishing these  
19 laws. All we are being asked to do is to apply Congress's  
20 decision to the facts of this case. That's the way I view it  
21 and if you are not able to follow the law, then you just won't  
22 be a juror. So just tell me if you can follow the law or  
23 whether we are going to have a debate over the morality of  
24 anything that anybody did; because I am not in church or  
25 temple.

Prospective Juror No. 193

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1 I am in a courtroom and this person's life depends  
2 on jurors following the law. So, you have got to tell me  
3 straight up whether you can follow the law. That is all. If  
4 you can't, you just tell me. I don't want to talk about  
5 morality because I have my morality and do I want to try a  
6 case involving in these issues? There's nobody in this  
7 courthouse, no judge in this courthouse wants to do that, but  
8 that is the job. That is why I ask the question. I'm not  
9 questioning your right to have your moral views and to live by  
10 a certain --

11 PROSPECTIVE JUROR NO. 193: I'm questioning more  
12 whether I can set them aside to do what you are asking.

13 THE COURT: Yeah.

14 PROSPECTIVE JUROR NO. 193: Honestly, I don't know  
15 that I can.

16 THE COURT: Okay. Any other questions?

17 MR. AGNIFILO: Not from us, Judge.

18 MS. PENZA: You not from us.

19 THE COURT: Thank you very much. Have a nice day.

20 PROSPECTIVE JUROR NO. 193: Sorry I couldn't help.

21 THE COURT: It helps that you tell me your honest  
22 answer. It's not a criticism of you at all. I just need to  
23 know because to have you on a jury if you are wrestling with  
24 this and saying I don't know if I can follow the law, that  
25 would not be fair to the defendant and we can't have that,

Prospective Juror No. 195

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1 right?

2 PROSPECTIVE JUROR NO. 193: I understand.

3 THE COURT: Thank you.

4 PROSPECTIVE JUROR NO. 193: Thank you.

5 (Prospective juror exits.)

6 MR. AGNIFILO: We ask that the juror be excused for  
7 cause because he told the Court very frankly he did not think  
8 he could set aside his own morality and follow the Court's  
9 instructions.

10 MS. PENZA: We consent, Your Honor.

11 THE COURT: All right. Juror No. 193 is struck for  
12 cause on consent. Next?

13 THE COURTROOM DEPUTY: 197.

14 THE COURT: 197? What happened to 195?

15 MS. PENZA: We consented to 197 last night.

16 THE COURT: 195 or 197?

17 MS. PENZA: 197, Your Honor.

18 THE COURT: Who is here? We just did 193. We have  
19 195. And 173 is downstairs, I guess.

20 (Prospective juror enters.)

21 THE COURT: Please be seated. You are Juror No.  
22 195, sir.

23 PROSPECTIVE JUROR NO. 195: Yes.

24 THE COURT: Good afternoon.

25 PROSPECTIVE JUROR NO. 195: Good afternoon.

Prospective Juror No. 195

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1 THE COURT: Thank you for your patience.

2 PROSPECTIVE JUROR NO. 195: Okay.

3 THE COURT: Now, you work at the Pierre Hotel?

4 PROSPECTIVE JUROR NO. 195: Yes.

5 THE COURT: And you are an IT tech?

6 PROSPECTIVE JUROR NO. 195: Yes.

7 THE COURT: And what does an IT tech do?

8 PROSPECTIVE JUROR NO. 195: I tend to corporate  
9 events.

10 THE COURT: Like in the ballroom?

11 PROSPECTIVE JUROR NO. 195: Yes.

12 THE COURT: You set up the events with screens and  
13 music?

14 PROSPECTIVE JUROR NO. 195: Webcasting. Whatever  
15 they need, printers.

16 THE COURT: All right. And do you know how many  
17 days of jury duty you are paid for by your employer?

18 PROSPECTIVE JUROR NO. 195: Right now, as far as I  
19 understand, it's five days.

20 THE COURT: Did you check with anybody?

21 PROSPECTIVE JUROR NO. 195: I sent a letter to  
22 corporate which is in India.

23 THE COURT: You mean the Taj people?

24 PROSPECTIVE JUROR NO. 195: Yeah.

25 THE COURT: The Taj people have not responded to you

Prospective Juror No. 195

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1 from India?

2 PROSPECTIVE JUROR NO. 195: No, no, no.

3 THE COURT: Well, I wish they would.

4 PROSPECTIVE JUROR NO. 195: When I talked to HR here  
5 they said the last time someone got jury duty they got paid  
6 for eight days. So I don't know what exceeds after that.

7 THE COURT: It's important for us to know.

8 PROSPECTIVE JUROR NO. 195: It's really important  
9 for me.

10 THE COURT: If you were not paid for your jury duty  
11 beyond five days would that be a hardship?

12 PROSPECTIVE JUROR NO. 195: That would be  
13 devastating.

14 THE COURT: And why is that?

15 PROSPECTIVE JUROR NO. 195: Paying my bills, paying  
16 my mortgage. Paying my car payment. I've got a lot of pills.

17 THE COURT: So basically you're a middle class  
18 person who lives from month-to-month?

19 PROSPECTIVE JUROR NO. 195: Yeah, I mean, yeah.

20 THE COURT: It's like everybody.

21 PROSPECTIVE JUROR NO. 195: Yeah.

22 THE COURT: You are not operating on a trust fund is  
23 what I'm saying.

24 PROSPECTIVE JUROR NO. 195: Not at all.

25 THE COURT: Okay. Let me see if I have other

Prospective Juror No. 195

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1 questions for you. "The charges in this case involve  
2 allegations of, among other things, sex trafficking, forced  
3 labor, child pornography and child exploitation. Is there  
4 anything about the nature of these allegations that would make  
5 it difficult for you to be fair and impartial?" You said  
6 "Yes. Anything with underage kids, this would make it hard to  
7 be fair."

8 PROSPECTIVE JUROR NO. 195: Correct.

9 THE COURT: And you understand that the defendant  
10 has pleaded not guilty to all of these charges and we have a  
11 Constitutional requirement that a defendant is innocent until  
12 proven guilty. So he is presumed to be innocent. Do you  
13 understand that?

14 PROSPECTIVE JUROR NO. 195: Yeah, I understand that,  
15 but someone close to me was raped as a child, so it is -- I'm  
16 a little biased about it even though the charges are not true  
17 yet until proven.

18 THE COURT: Well --

19 PROSPECTIVE JUROR NO. 195: I mean, I can have an  
20 open mind, but it's going to be tough, to be honest about it.  
21 It's a tough thing when it comes to kids, children, any  
22 children, you know what I'm sag. Any kid that gets hurt.  
23 It's a tough thing to have an open mind about it.

24 THE COURT: Well, I understand that. That is why  
25 this case is so difficult, that any case of this nature is so

Prospective Juror No. 195

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1 difficult.

2 PROSPECTIVE JUROR NO. 195: It's tough, yes.

3 THE COURT: But the way it works at a trial is that  
4 you will hear evidence from people and you will assess the  
5 evidence. You might not believe what you hear from a witness  
6 or you might believe it or believe a part of it and then I  
7 will give you -- tell you the law that you have to apply to  
8 the facts and then the jury gets to discuss and decide whether  
9 the evidence proves beyond a reasonable doubt that the  
10 defendant committed a certain crime. Do you think you are  
11 capable of doing that in a case involving these types of  
12 charges?

13 PROSPECTIVE JUROR NO. 195: I can say yes to you,  
14 but I don't know.

15 THE COURT: Why is that?

16 PROSPECTIVE JUROR NO. 195: I can say yes, I can  
17 listen to the facts and hear the facts and try to judge on  
18 facts only, but once I hear the charges and the details of the  
19 charges and picture or whatever else may come out, it may be a  
20 different story.

21 THE COURT: You mean as to whether the defendant did  
22 what is claimed that he did?

23 PROSPECTIVE JUROR NO. 195: Correct.

24 THE COURT: Are there other questions?

25 MR. AGNIFILO: A quick sidebar?



Prospective Juror No. 195

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1 THE COURT: Sure.

2 (The following sidebar took place outside the  
3 hearing of the courtroom.)

4 MR. AGNIFILO: So I'm trying to figure out his  
5 problem because if -- do you think it might be useful for Your  
6 Honor to ask whether if evidence proves beyond a reasonable  
7 doubt guilty or if it doesn't prove beyond a reasonable doubt  
8 not guilty and keep it to that and see what he says and  
9 then --

10 MS. PENZA: The Government agrees with that.

11 THE COURT: Okay. All right.

12 (Sidebar ends.)

13 THE COURT: So let's say hypothetically that there's  
14 evidence and after hearing the evidence, meaning after hearing  
15 the direct testimony and the cross-examination you conclude on  
16 a specific charge that, you know, I think the defendant did it  
17 but I don't think the Government proved it beyond a reasonable  
18 doubt to my satisfaction, in that situation, would you vote to  
19 acquit someone?

20 PROSPECTIVE JUROR NO. 195: No.

21 THE COURT: Why not?

22 PROSPECTIVE JUROR NO. 195: I would go with my gut  
23 feeling.

24 THE COURT: In other words, you would not address  
25 the question of reasonable doubt?

Prospective Juror No. 195

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1 PROSPECTIVE JUROR NO. 195: If you proved to me 100  
2 percent that he's innocent of these charges, he's not guilty.  
3 If I have an idea or I see something that even the attorneys  
4 doesn't see and I feel that he's guilty, I'm going to make  
5 sure he's guilty. I'm going to feel he's guilty and  
6 especially when it comes to child pornography.

7 THE COURT: Any other questions?

8 MR. AGNIFILO: No knowledge.

9 MS. PENZA: No, Your Honor.

10 THE COURT: Thank you very much for coming in. Have  
11 a nice day.

12 PROSPECTIVE JUROR NO. 195: You too.

13 THE COURT: See you at the Pierre.

14 PROSPECTIVE JUROR NO. 195: No problem.

15 (Prospective juror exits.)

16 MR. AGNIFILO: Your Honor, we're going to ask that  
17 the juror be excused. I thought Your Honor's question was  
18 very clear. It cleaned up the issue perfectly and he seems to  
19 have an issue with the burden of proof and what he basically  
20 said was regardless of proof beyond a reasonable doubt --

21 THE COURT: He has saying you have to prove to him  
22 that the defendant is innocent is what he's saying.

23 MR. AGNIFILO: That's --

24 THE COURT: I mean, that was the sum and substance.

25 MR. AGNIFILO: So we ask that he be excused based on

Prospective Juror No. 195

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1 that.

2 MS. PENZA: The Government consents.

3 THE COURT: Juror No. 195 is struck for cause on  
4 consent.

5 Before the last person comes in. We have a total.  
6 Our count is 54 jurors.

7 MS. PENZA: We have that number as well.

8 THE COURT: Some of whom we are waiting to hear  
9 about whether they are getting paid by their employer for  
10 their entire jury service. So maybe there is about four of  
11 those. I don't know exactly how many and that means if  
12 everyone shows up we have more than enough approved jurors to  
13 make the final peremptory strikes. Some people may not come.  
14 They may have intervening problems between the day that they  
15 were here and the day that we do the final selection.

16 So what I think we should do is what I sketched out  
17 earlier in the day; that we will make the final peremptory  
18 strikes on May 6th starting at 9:30. If not enough jurors  
19 come in, we will also bring in another maybe 20 to 30 people  
20 on the list.

21 Have you sent me your questions for the next group?

22 MS. PENZA: We haven't sent questions, Your Honor,  
23 no.

24 THE COURT: Why don't you do that by next Wednesday.

25 MS. PENZA: Up to 30, Your Honor?

Prospective Juror No. 173

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1 THE COURT: Up to 30.

2 MR. AGNIFILO: Yes.

3 THE COURT: So we will be prepared to call in these  
4 additional jurors just to wait in the jury assembly area until  
5 we know we have enough jurors, qualified jurors. We need 40  
6 to do all of the peremptory strikes of the jury and the  
7 alternates. Then we can complete that process on Monday the  
8 6th and arrangements can be made.

9 (Prospective juror enters.)

10 THE COURT: Good afternoon, ma'am. Please be  
11 seated. You are Juror No. 173?

12 PROSPECTIVE JUROR NO. 173: Yes, I am.

13 THE COURT: Welcome. Let me just mention, before I  
14 ask you some questions, that you met the lawyers and the  
15 defendant before, but let me reintroduce them to you.

16 PROSPECTIVE JUROR NO. 173: Okay.

17 THE COURT: At the near table to you are the  
18 attorneys for the United States, the Government; Assistant  
19 U.S. Attorneys Moira Penza, Tanya Hajjar and Mark Lesko. At  
20 the far table is the defendant, Keith Raniere. He is wearing  
21 a sweater an open-collared shirt. He is represented by  
22 attorneys Mark Agnifilo, Teny Geragos, Paul DerOhannesian and  
23 Danielle Smith. I want to tell you that Mr. Raniere is the  
24 only defendant who will be standing trial before the jury that  
25 is being selected. So there is only one defendant who will

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1 actually be standing trial in this trial. So, please don't  
2 speculate as to why this is the case, but I just wanted to let  
3 you know there is only one defendant who will be standing  
4 trial in this trial. Okay?

5 PROSPECTIVE JUROR NO. 173: Okay.

6 THE COURT: And I am going to remind you that it is  
7 very important that you follow my instruction that you do not  
8 discuss this case with anyone; not your family, friends or  
9 business associates or other jurors. In addition, you must  
10 not read, listen to or access any accounts of this case in any  
11 form of media such as newspapers, TV, radio, podcasts or the  
12 internet nor research or seek outside information about any  
13 aspect of the case.

14 Please do not communicate with anyone about the case  
15 on your phone, whether through e-mail, text messaging or any  
16 other means; through any blog or website or by way of any  
17 social media; including Facebook, Twitter, Instagram, YouTube  
18 or other similar sites. You must not consider anything you  
19 may have heard or read about the case outside of this  
20 courtroom, whether you read it before or during jury  
21 selection. Do not attempt any independent research or  
22 investigation about the case. Do not visit any of the  
23 locations identified on the questionnaire or discussed during  
24 the course of the jury selection process.

25 And I just wanted to let you know about the

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1 schedule. The trial will begin on or about Tuesday, May 7th  
2 and will last up to six weeks. The Court will provide a  
3 schedule of trial days before the trial starts. So, you  
4 should continue to call in to the jury information phone line  
5 as instructed by the jury clerk. Do you understand all of  
6 that?

7 PROSPECTIVE JUROR NO. 173: Yes, I do.

8 THE COURT: Okay, thank you. So I just wanted to go  
9 over your questionnaire with you. We have a few follow-ups.  
10 At present, you are not employed?

11 PROSPECTIVE JUROR NO. 173: No, I'm retired.

12 THE COURT: Oh, congratulations.

13 PROSPECTIVE JUROR NO. 173: Thank you.

14 THE COURT: What did you do before you retired?

15 PROSPECTIVE JUROR NO. 173: I worked at New York  
16 Life as a supervisor.

17 THE COURT: New York Life Insurance?

18 PROSPECTIVE JUROR NO. 173: Yes.

19

20 (Continued on the following page.)

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Prospective Juror 173

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1 THE COURT: And how long did you work there?

2 THE PROSPECTIVE JUROR: Forty-seven years.

3 THE COURT: Forty-seven years?

4 THE PROSPECTIVE JUROR: Yes.

5 THE COURT: Congratulations.

6 THE PROSPECTIVE JUROR: Thank you.

7 THE COURT: And let me ask you some follow-ups.

8 There may be evidence in this case about abortions.

9 Will hearing about that type of evidence affect your ability  
10 to serve as a fair and impartial juror in this case?

11 You said: I don't believe in killing a human being.  
12 Is that right?

13 THE PROSPECTIVE JUROR: Yes.

14 THE COURT: Now, there will be evidence about  
15 abortions in this case and will you be able to -- I will give  
16 you instructions on the law. You will hear witnesses  
17 testifying. You will be as a juror asked to evaluate their  
18 testimony and to decide whether to believe what they say, the  
19 extent to believe it and also whether what they say would lead  
20 you to conclude that the defendant committed certain specific  
21 crimes beyond a reasonable doubt.

22 I know that discussions of abortion or instances of  
23 abortion would be difficult for you to deal with, but would  
24 you be able to listen to the evidence and follow the law as I  
25 give it to you even on a subject as sensitive as that?

CMH

OCR

RMR

CRR

FCRR

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1 THE PROSPECTIVE JUROR: Yes.

2 THE COURT: Oh, you didn't answer this question but  
3 you just overlooked it: Would you be able to listen to and  
4 discuss matters of a sexual nature with fellow jurors to the  
5 extent you had to do so to reach your conclusions as a juror?

6 THE PROSPECTIVE JUROR: Yes, I will.

7 THE COURT: There may be evidence in this case about  
8 fraternities, sororities, secret societies, rituals or cults.  
9 Would hearing about that type of evidence affect your ability  
10 to serve as a fair and impartial juror in this case?

11 THE PROSPECTIVE JUROR: No.

12 THE COURT: Now, certain witnesses in this case may  
13 be law enforcement officers like police, FBI agents and so  
14 forth. Do you hold any beliefs or opinions that would prevent  
15 you from evaluating the testimony of law enforcement officers  
16 fairly and impartially?

17 THE PROSPECTIVE JUROR: No.

18 THE COURT: If I instruct you, as I will, that a law  
19 enforcement officer's testimony should be considered and  
20 evaluated using the same standards as the standards you would  
21 use for any other witness, would you follow the Court's  
22 instructions?

23 THE PROSPECTIVE JUROR: Yes.

24 THE COURT: Any other questions?

25 MR. AGNIFILO: Nothing from us.



1 MS. PENZA: No, Your Honor.

2 THE COURT: Well, thank you very much for coming in.  
3 Sorry it's so late in the date. You have a good evening.

4 THE PROSPECTIVE JUROR: You too.

5 (Prospective Juror 173 exits the courtroom.)

6 THE COURT: Does anybody have a motion?

7 MR. AGNIFILO: No, no, Judge.

8 MS. PENZA: No, Your Honor.

9 THE COURT: All right. Juror No. 173 is approved.  
10 So, as I was saying, we have 55 approved jurors. We  
11 need 40. I think we have enough of a cushion so that we  
12 probably won't need to question anyone else but I do want to  
13 use belts and suspenders in this situation so we will bring in  
14 additional jurors on Monday, May 6th. All right.

15 MR. AGNIFILO: Very good, Your Honor.

16 THE COURT: Now, next, do we need to have an  
17 additional pretrial conference next week in the view of either  
18 side? I mean, I'm deciding motions. The motions will be  
19 decided in the near future. Of course, I won't have your  
20 papers on the latest motion to suppress until Friday though,  
21 before 5:00 p.m.

22 MS. PENZA: Yes, Your Honor.

23 THE COURT: But my question is is there anything  
24 that you need to discuss, you think you'll need to discuss  
25 with the Court before Monday the 6th?

1 MR. AGNIFILO: My sense is yes but if you ask me  
2 what that was, I wouldn't necessarily have an answer right  
3 now.

4 THE COURT: Well, why don't we put, do this. When  
5 you figure out what it is, speak to the other side. If you  
6 don't resolve whatever it is that you need to resolve and you  
7 need me, contact Mr. Reccoppa. I'm here all next week except  
8 for Friday.

9 MR. AGNIFILO: Okay.

10 THE COURT: All right? So any time Monday to  
11 Thursday, I will make myself available to you for a pretrial  
12 conference. All right?

13 MR. AGNIFILO: Perfect.

14 THE COURT: Okay. And apart from that, is anyone  
15 planning to use IT equipment for this trial?

16 MS. PENZA: Yes, Your Honor.

17 THE COURT: And are you going to have someone from  
18 your organization come in and set it up for you?

19 MS. PENZA: Yes. We're in the process of figuring  
20 that out but, yes, we will communicate with chambers about it  
21 if that's helpful.

22 THE COURT: All right. And will you need to come in  
23 and sort of test it out?

24 MS. PENZA: Yes, Your Honor.

25 THE COURT: Are you going to need any IT equipment.

1 MR. AGNIFILO: We'll coordinate so when they test  
2 out the IT equipment, we'll make sure that we can use it and,  
3 you know, so we don't fumble too much.

4 THE COURT: Well, that's the whole idea. I don't  
5 think it looks good to a jury if a lawyer who's trying to use  
6 the equipment says, you know, I'm not too good at this. In  
7 this day and age, it's necessary to at least make it look as  
8 if you know what you're doing.

9 MR. AGNIFILO: Right.

10 THE COURT: With IT equipment.

11 MS. PENZA: We agree, Your Honor.

12 THE COURT: With IT equipment. That goes for  
13 everybody. I'm including myself.

14 MR. AGNIFILO: Right. Now the Court has an ELMO?

15 THE COURT: That ELMO is there and it is available.

16 MR. AGNIFILO: So we can hook that into the overall  
17 system?

18 THE COURT: Well, no, no. If you're using a laptop,  
19 you'll hook it in over here probably at counsel's table and  
20 I'll just make the switch on the master console.

21 MR. AGNIFILO: Got it. Perfect.

22 THE COURT: So I handle that but you have to tell me  
23 are you using the ELMO, are you using the laptop and so forth.

24 MR. AGNIFILO: Perfect. Thank you.

25 THE COURT: All right?

1 MS. PENZA: Thank Your Honor. Just to the extent we  
2 do not meet next week, if Your Honor would go over, are we  
3 going -- how exactly you envision us exercising our  
4 peremptories? Will the jurors come in --

5 THE COURT: We'll bring in 278 individuals. The  
6 first 28 in numerical order, as soon as we figure out the  
7 numbers beginning with one, all right, and my sense is we will  
8 seat the first 18 in the box and then we will seat the others  
9 at the first, in the first bench inside. All right? And so  
10 you'll see everybody. Then we'll go through -- you have the  
11 chart that I use so you know how we exercise, we deal with  
12 exercising the peremptories and we'll just do it. And what  
13 we'll also do is --

14 Are you getting real-time?

15 MR. AGNIFILO: We're not. We're getting daily.

16 THE COURT: Okay. In between rounds, you will have  
17 an opportunity to go back to counsel's table and consult with  
18 your client. All right. So that, you know, your client is  
19 involved in every, in every round before you make your  
20 strikes.

21 MR. AGNIFILO: That's great. Thank you.

22 THE COURT: So that way, that way, you know,  
23 everybody is going to know what's going on.

24 MS. PENZA: Thank you, Your Honor.

25 THE COURT: And then once we have the 12, we'll

1 bring in the next 12 individuals and we'll choose the  
2 alternate jurors from the 12. Each side will get three  
3 strikes and you have the order of the strikes.

4 Any other questions about the process.

5 MR. AGNIFILO: No. I think we're clear, Judge.

6 MS. PENZA: No, Your Honor.

7 THE COURT: Okay. Anything else for today?

8 MR. AGNIFILO: Nothing from us.

9 MS. PENZA: No, Your Honor.

10 THE COURT: All right. Thanks, everybody.

11 MR. AGNIFILO: Thank you, Judge.

12 MS. PENZA: Thank you.

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14 (Matter adjourned until May 6, 2019.)

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