

1 UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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18-CR-561 (DLI)

3 UNITED STATES OF AMERICA,

United States Courthouse
Brooklyn, New York

4 Plaintiff,

5 -against-

February 1, 2023
2:00 p.m.

6 KEITH WYCHE AND ONEIL ALLEN,
Defendants.

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8 TRANSCRIPT OF CRIMINAL CAUSE FOR TRIAL
BEFORE THE HONORABLE DORA L. IRIZARRY
9 UNITED STATES SENIOR DISTRICT JUDGE
BEFORE A JURY

10 APPEARANCES

11 For the Government: UNITED STATES ATTORNEY'S OFFICE
Eastern District of New York
271 Cadman Plaza East
12 Brooklyn, New York 11201
13 BY: GILBERT REIN, AUSA
IRISA CHEN, AUSA
14 JAMES MCDONALD, AUSA

15 For Defendant Wyche: GARY SCHOER, ESQ.
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16 Syosset, New York 11791

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18 Staten Island, New York 10301
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BY: NATALI J. H. TODD, ESQ.

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23 BY: CODY WARNER, ESQ.

24 Court Reporter: Georgette K. Betts, RPR, FCRR, CCR
25 Proceedings recorded by mechanical stenography. Transcript
produced by computer-aided transcription.

PROCEEDINGS

1 (In open court; Jury not present.)

2 THE COURTROOM DEPUTY: All rise.

3 THE COURT: Please have a seat, everyone.

4 You can call the case.

5 THE COURTROOM DEPUTY: Criminal cause on trial.

6 Docket number 18-CR-561. United States versus Keith Wyche and
7 Oneil Allen. Please state your appearances.

8 MR. REIN: Good afternoon, your Honor, Gilbert Rein
9 for the United States. I'm joined by Assistant United States
10 Attorneys, Irisa Chen and James McDonald, paralegal Teri
11 Carby, and Special Agent Traveis Guy.

12 THE COURT: Good afternoon, to all of you. Please
13 have a seat.

14 MR. SCHOER: Good afternoon, your Honor, for
15 Mr. Wyche, Gary Schoer.

16 MR. VITALIANO: And Michael Vitaliano, good
17 afternoon.

18 THE COURT: Good afternoon. Good afternoon,
19 Mr. Wyche.

20 MS. TODD: Good afternoon, your Honor, Natali Todd
21 for Mr. Allen.

22 MR. WARNER: Cody Warner.

23 THE COURT: Good afternoon. Good afternoon,
24 Mr. Allen.

25 DEFENDANT ALLEN: Good afternoon.

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1 THE COURT: I'm going to remind everyone -- thank
2 you for being properly seated. I also want to remind everyone
3 to keep your voices up nice and loud so that the mics will
4 pick you up when you're speaking.

5 A reminder again that I will allow the speakers, the
6 witness and the attorneys, to remove their masks while you are
7 speaking. I think we may want to move the speaker podium back
8 a little bit closer to the government's table. And probably
9 the microphone too so that it's a little closer.

10 MR. REIN: Is this okay?

11 THE COURT: I think that's good, yes. That should
12 be about six feet away from the jury even though the jury is
13 going to be masked. I appreciate that everyone else,
14 including in the audience, has their masks on. We're not out
15 of this pandemic yet, unfortunately, but so we're trying to
16 keep everyone as safe as we can.

17 I'm advised that all of the jurors are present.
18 There are a couple of issues that I do want to address with
19 the parties, some of which I believe you may be aware of all
20 of this already because I believe all of this was already
21 discussed earlier with Judge Kuo during the jury selection
22 process.

23 With respect to alternate three, Ms. Pease, she has
24 a flight out tomorrow from LaGuardia at almost 6 o'clock. She
25 advised my case manager that she needs to leave the courthouse

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1 around 2 p.m. in order to make the flight. So I imagine that
2 this was already discussed with everybody, and we can make the
3 accommodation. I know we've gotten a late start to the trial,
4 but if everyone gets here promptly at 9:30 and we can get
5 started right away, we'll just go straight through without a
6 lunch break. Maybe I'll give a little bit longer morning
7 break, and we'll just break for the day at 2 o'clock, keeping
8 in mind that we're not meeting on Friday. Okay? So we'll
9 just advise her of that when we bring the jury in.

10 Alternate number 5, Zi Li, I hope I'm pronouncing it
11 correctly, apparently teaches on Wednesdays, walking distance
12 from the courthouse. So his class starts at 6 p.m. I'm not
13 sure how close to the courthouse it is. I don't know if he
14 mentioned it -- did he mention whether it's at Brooklyn Tech
15 or the NYU campus close by?

16 MR. McDONALD: CUNY, your Honor, just down the
17 street, I think.

18 THE COURT: It's right next to Brooklyn Tech, sort
19 of between Westinghouse and Brooklyn Tech. Okay. So that
20 shouldn't take him more than 15 minutes at the most to get to.

21 I think that that would still -- we'll keep it in
22 mind. I intend to break pretty much around 5 o'clock every
23 day anyway, so that should not be a problem with the
24 exception, of course, if we can finish with a witness. So
25 we'll just try keep that in mind with respect to Wednesdays.

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1 And then the other issue -- and I can just let him
2 know that once we bring out the jury. And with respect to
3 alternate number two, Jodi Vitali, apparently it was raised
4 during the voir dire. She had a concerns that she is a
5 teacher of special needs children and was concerned about the
6 length of the trial. I could bring her in on her own before
7 we bring in the rest of the jury so we can address that some
8 more. Quite frankly, I still don't see that as an issue.
9 Everybody has to serve. Everybody's job is important and
10 everybody has concerns about their jobs. And during the
11 course of this trial, there will be one week where there won't
12 be classes and that will be President's week.

13 It's not the best possible world for a teacher, but
14 I don't think it's nearly as bad as she is making it out to
15 be, and if everyone is efficient, as I hope you will be, and
16 we move along with the presentation of the evidence, then I
17 really would hope that we'll finish earlier than anticipated
18 as opposed to later, even with the delay in jury selection.

19 Would you prefer to bring her in and let us address
20 that before we bring in the rest of the jury, government?

21 MR. REIN: Yes, Judge.

22 THE COURT: Okay. And how about for the defense,
23 the same?

24 MR. SCHOER: Yes, your Honor.

25 MS. TODD: Yes, your Honor.

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1 THE COURT: Okay. So why don't we do that. Let's
2 bring in Ms. Vitali.

3 And just as a reminder, you are all requesting daily
4 copy?

5 MR. REIN: Yes.

6 MR. SCHOER: Yes.

7 THE COURT: Okay. Who is going to open for the
8 government?

9 MR. REIN: I'll be opening, Judge.

10 THE COURT: Okay. Juror entering.

11 (Juror enters the courtroom.)

12 THE COURT: Good afternoon. Everyone, please be
13 seated.

14 Good afternoon, Ms. Vitali. How are you?

15 THE JUROR: Fine.

16 THE COURT: My name is Dora Irizarry. I'm the judge
17 who will be presiding over the trial of this matter. I know
18 you've been in front of Judge Kuo earlier for jury selection.
19 And I understand that you have a concern about your job and
20 the length of the trial. What exactly is your concern?

21 THE JUROR: It's the fact that the school is so
22 short staffed, and I take care of a lot in the school. I'm
23 the busing coordinator. I'm an after-school coordinator. And
24 I'm in charge of a classroom. And my students are very
25 special needs, a very tough class, and they need consistency

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1 in the people that are there and in the -- their education,
2 and, yes, I do have TAs, but it's not the same. And they even
3 get pulled sometimes to other classrooms because of the short
4 staffed, and then my kids are still in distress with not
5 enough staff in the room to cater to their needs and their
6 education. And I just feel like I don't feel comfortable
7 being away from the school.

8 THE COURT: Well, I would imagine that if you are
9 not there, the TAs would not be pulled to other classrooms
10 because they need to cover for you, correct?

11 THE JUROR: Probably.

12 THE COURT: Okay. And the other thing is that there
13 is -- we are off that -- well, school is not in session for
14 the week of president's week, which will probably fall during
15 the time of this trial.

16 THE JUROR: Uh-huh.

17 THE COURT: So while yes, we're anticipating three
18 to four weeks, I am hopeful that we will finish before that.
19 These attorneys are working very, very hard, and I'm pushing
20 them really hard to make sure that we can run this trial as
21 smoothly as possible to minimize any delays. Obviously,
22 things happen in the world of human beings and we can't help
23 that, but the reality is that there will be in terms of the
24 amount of class that you will miss, it's not really three or
25 four weeks because you have that President's week that schools

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1 are closed.

2 THE JUROR: I also have like reports due. Reports
3 were due today actually too, and in the beginning of next
4 month as well. So it's a lot to be away.

5 THE COURT: But everyone else --

6 THE JUROR: No, no, I understand.

7 THE COURT: -- has jobs and so on as well.

8 THE JUROR: I understand, I understand.

9 THE COURT: Can I speak to counsel please at the
10 side?

11 THE JUROR: I don't mean to be --

12 THE COURT: That's okay. I understand.

13 (Continued on the next page.)

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SIDEBAR CONFERENCE

1 (The following occurred at sidebar.)

2 THE COURT: I'm not inclined to let her go. We're
3 already at the barest amount as far as alternates are
4 concerned. It's really, for her, it's two weeks. I
5 understand her concern but I'm happy to hear from all of you
6 beginning with the government.

7 MS. CHEN: I think we agree with you, your Honor.

8 MS. TODD: We agree.

9 MR. SCHOER: We agree.

10 THE COURT: We will let her stay on.

11 (End of sidebar conference.)

12 (Continued on the next page.)

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1 (In open court.)

2 THE COURT: Again, we've given careful consideration
3 to your concerns. We understand your concerns, but it is
4 going to be very difficult for us to excuse you from this
5 case, which is also very important to the parties. So we're
6 going to keep you on this case.

7 THE JUROR: Okay.

8 THE COURT: All right. So let's bring in the rest
9 of the jury.

10 THE COURTROOM DEPUTY: You can come with me.

11 (Juror exits the courtroom.)

12 THE COURT: I should have reminded her that we don't
13 meet on Fridays, so she has Fridays to work on her reports or
14 go to school if that's what she wanted to.

15 MS. CHEN: Judge, we just want to note for the
16 record. We encountered one of the jurors. The government was
17 riding up the elevator. I don't think the juror recognized
18 us. He tried to get into the elevator, and we kind of just
19 said, sorry, and he backed out. But we wanted to note that
20 for the record that that occurred.

21 THE COURT: Okay.

22 (Pause in proceedings.)

23 THE COURT: When they come -- I just want to make
24 sure that they are all properly seated and sworn in, and I
25 want to jump into the openings. And then before we close,

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1 I'll address the other scheduling concerns, the flight
2 tomorrow, and the Wednesday classes.

3 MR. SCHOER: Your Honor, are you going to give them
4 any sort of preliminary instructions?

5 THE COURT: Yes, sir.

6 MR. SCHOER: You didn't mention that.

7 THE COURTROOM DEPUTY: All rise.

8 (Jury enters courtroom.)

9 THE COURT: Thank you. Everyone may be seated.

10 Do the parties agree that all of the prospective
11 jurors are present and properly seated, government?

12 MR. REIN: Yes, Judge.

13 THE COURT: Defense for Mr. Wyche?

14 MR. SCHOER: Yes, your Honor.

15 THE COURT: Mr. Allen?

16 MS. TODD: Yes, your Honor.

17 THE COURT: Please administer the oath to the jury.

18 THE COURTROOM DEPUTY: Please raise your right
19 hands.

20 (Jury sworn.)

21 THE JURY: Yes.

22 THE COURT: Ladies and gentlemen, welcome. My name
23 is Dora Irizarry. I am the judge who will be presiding over
24 the trial of this matter.

25 First of all, I want to extend the thanks on behalf

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1 of the parties and the Court for your willingness to serve.
2 This is a very important part of our duties as citizens. It
3 is an important right that everyone has the right to have a
4 trial by jury, and it doesn't work unless we have volunteers
5 such as yourselves who are willing to come and serve.

6 Though I see that some of you still have coats and
7 sweaters on, I know it's really cold out today, but just be
8 mindful that I don't want you to get too overheated either.
9 We're going to try to keep the temperature in the courtroom
10 comfortable, not too hot, not too cold. We try to do our best
11 in that regard.

12 Members of the jury, now that you have been sworn, I
13 will give you some preliminary instructions to guide you in
14 your participation in the trial.

15 It will be your duty to find from the evidence what
16 the facts are. You, and you alone, will be the judges of the
17 facts. You then will have to apply those facts to the law as
18 I give it to you. I, alone, am the judge of the law. You
19 must follow that law whether you agree with it or not.
20 Nothing that the Court may say or do during the course of the
21 trial is intended to indicate or should be taken by you as
22 indicating what your verdict should be.

23 The evidence from which you will find the facts will
24 consist of the sworn testimony of witnesses, documents, and
25 other things received into the record as evidence and any

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1 facts that the lawyers agree to or stipulate to or that the
2 Court may instruct you to find.

3 Certain things are not evidence and must not be
4 considered by you. I will list them for you now.

5 Statements, arguments, and questions by the lawyers
6 are not evidence. Questions in and of themselves are not
7 evidence. Therefore, you cannot infer any fact from the mere
8 asking of a question. It is the answer coupled with the
9 question that constitutes evidence. For example, if a witness
10 is asked the question, do you own an automobile, and the
11 witness answers no, you may not infer from the mere asking of
12 the question that the witness does own an automobile.

13 Objections to questions are not evidence. Lawyers
14 have an obligation to their clients to make objections when
15 they believe evidence being offered is improper under the
16 rules of evidence. You should not be influenced by the
17 Court's ruling on it. If the objection is sustained, ignore
18 the question. If it is overruled, treat the answer like any
19 other. If you are instructed that some item of evidence is
20 received for a limited purpose only, you must follow that
21 instruction.

22 Testimony that the Court has excluded or told you to
23 disregard is not evidence and must not be considered.

24 Anything you may have seen or heard outside the
25 courtroom is not evidence and must be disregarded. You are to

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1 decide the case solely on the evidence presented here in the
2 courtroom.

3 There are two kinds of evidence, direct and
4 circumstantial. Direct evidence is direct proof of a fact,
5 such as testimony of an eyewitness. Circumstantial evidence
6 is proof of facts from which you may infer or conclude that
7 other facts exist.

8 I will give you further instructions on these as
9 well as other matters at the end of the case. But keep in
10 mind that you may consider both kinds of evidence.

11 It will be up to you to decide which witnesses to
12 believe or not to believe, and how much of any witness'
13 testimony to accept or reject. I will give you some
14 guidelines for determining the credibility of witnesses at the
15 end of the case.

16 As you know, this is a criminal case. There are
17 certain important basic rules about criminal cases that you
18 must keep in mind. First, the indictment brought against the
19 defendants by the government is only an accusation, nothing
20 more. It is not proof of guilt or anything else.

21 Second, the defendants are presumed innocent, and
22 this presumption of innocence remains with the defendants
23 throughout the trial and may be overcome only if and until
24 after appropriate deliberation, the jury unanimously finds
25 that the government has proven the defendants' guilt of each

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1 and every element of the crime charged beyond a reasonable
2 doubt.

3 The defendants have no burden to prove that they are
4 not guilty, or to present any evidence, or to testify. Since
5 the defendants have the right to remain silent, you must not
6 draw any adverse inference against the defendants from the
7 fact that they may choose not to testify.

8 During the course of the trial, you may hear
9 testimony about other individuals who may have been involved
10 in the crimes charged in the indictment, but who are not on
11 trial before you. You may not draw any inference favorable or
12 unfavorable towards the government or to the defendants at
13 trial from the fact that no other defendants are present at
14 this trial, nor should you speculate as to why that is. Your
15 sole concern is the defendants on trial before you.

16 In this case, the defendants, Keith Wyche and Oneil
17 Allen, are charged with conspiracy to distribute and possess
18 with intent to distribute one or more controlled substances,
19 specifically heroin and fentanyl; distribution of and
20 possession with the intent to distribute one or more
21 controlled substances, specifically heroin and fentanyl; and
22 distribution of heroin causing serious bodily injury to
23 another, specifically Jane Doe.

24 Defendant Wyche is charged with an additional count
25 of distribution of fentanyl causing the death of another,

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1 specifically John Doe. I will give you detailed instructions
2 on the elements of the crimes charged and other legal
3 principles at the end of the case. Those instructions will
4 control your deliberations and verdict.

5 And now, a few words about your conduct as jurors
6 throughout this trial. First, I have instructed the parties
7 that they must not have any contact with the members of the
8 jury. And there's another side to that coin. The jurors also
9 must not have any exchange of conversation whatsoever with the
10 Court or any of the parties, including witnesses. So if you
11 see any of the parties in the hallways of the court, or on the
12 street or any other location, and they look away, do not speak
13 to you and keep on walking, please do not hold it against
14 them. They are following the Court's instructions, and I am
15 instructing you to behave in similar manner. This is not
16 meant to encourage rudeness or antisocial behavior, but is
17 simply the best method of avoiding any possible appearance of
18 impropriety and of assuring the absolute impartiality required
19 of you as jurors in this trial.

20 If, while serving on this jury, any attempt is made
21 by any person to converse with you about this case or any
22 incident occurs within your knowledge involving an attempt by
23 any person to improperly influence any member of the jury, you
24 must report it promptly to the Court. I'm not expecting that
25 to happen, but if it should become necessary to report such an

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1 incident, do not discuss with any of your fellow jurors either
2 the incident or the fact that you feel it necessary to bring
3 it to the Court's attention. Report it only to the Court and
4 please do so as quickly as possible.

5 Any such incident should be reported to my case
6 manager, Christy Carosella, whom you met already, or either
7 one of my law clerks, Rae Berger, who is seated to my right
8 and Brachah Goykadosh, who is seated over there next to
9 Ms. Carosella.

10 Second, I instruct you that during the trial you
11 absolutely must not discuss this case with anyone or permit
12 anyone to discuss it with you. Until you are directed by the
13 Court to retire to the jury room at the end of the case to
14 deliberate on your verdict, you simply are not to talk about
15 this case. That's family, neighbors, co-workers, friends,
16 strangers on the street.

17 I know that many of you use cell phones, tablets,
18 smartphones, laptops, the internet, social media, like
19 Instagram or Facebook, for example, and other tools of
20 technology. And who knows what will be invented by the end of
21 today, right? You must not talk to anyone about this case or
22 use any such tools to communicate electronically with anyone
23 about the case. As I said, this includes your family,
24 co-workers, neighbors, and friends.

25 You may not communicate with anyone about the case

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1 on your cell phones, smartphones, or electronic devices
2 through email, instant messaging, text messaging, any blog,
3 website, internet chatroom, or by way of any other social
4 networking websites, such as Twitter, Facebook, Instagram,
5 LinkedIn and YouTube, for example.

6 Third, you must not read or listen to or view
7 anything touching on this case in any way over any media, and
8 this would include newspapers, magazines, radio, television,
9 and internet.

10 Fourth, do not try to do any research or conduct any
11 investigation about this case on your own. As jurors, you
12 must decide this case only on the evidence presented here
13 within the walls of this courtroom. I instruct you that you
14 may not visit or view any place where the offenses charged
15 allegedly took place, or that might be mentioned, during the
16 course of the trial.

17 Nor may you conduct any research or investigation
18 over the internet or any other media. In other words, you
19 should not consult dictionaries or reference materials, search
20 the web, look at blogs, or use any other electronic tools or
21 other media to obtain information about this case or to help
22 you decide the case. Even something as simple as trial
23 procedure. I will be advising you as to what you need to know
24 about trial procedure and the law, as I've already done with
25 respect to what you can expect during the trial.

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1 Finally, do not form any opinion until all the
2 evidence is in. You have -- you will have received my
3 instructions on the law and -- excuse me, let me rephrase
4 that. Do not form any opinion until all the evidence is in,
5 until you have received my instructions on the law, and until
6 you have begun to deliberate.

7 You must keep an open mind until you have
8 deliberated sufficiently at the end of the case. These
9 admonitions apply whenever the Court stands in recess, and I
10 will repeat them each time we break, and I assure you every
11 jury that I've ever had can recite them back to me by the end
12 of the trial. So you're going to hear them over and over
13 again. It is important.

14 Please be here promptly at the time directed by the
15 Court, as we cannot begin until all of you are here. I
16 applaud all of you for coming back here promptly this
17 afternoon. Each and every one of you is important. We do
18 have some challenges downstairs because one of the mag
19 machines is broken. They are working very hard to try to fix
20 that, so please take that into account and work that in. It
21 takes awhile to go through security. If even one of you is
22 missing, we cannot go forward without you.

23 The trial will now begin. First the government will
24 make an opening statement, which simply is an outline to help
25 you understand the evidence as it comes in. Next, each

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1 defendant's attorney may make an opening statement, but
2 remember that they are not required to do so. Opening
3 statements are neither evidence nor arguments. You may
4 consider the opening statements as a preview of what each side
5 expects the evidence in the case will show.

6 Then the government will present its witnesses.
7 This is called direct examination. Counsel for the defendants
8 may cross-examine them. Then there may be further questions
9 on what we call redirect and recross. This process will be
10 repeated with each witness.

11 Following the government's case, the defendants may,
12 if they wish, present witnesses whom the government may
13 cross-examine. Again, bear in mind, that there is no
14 obligation on the defendants to offer evidence because the
15 entire burden of proof remains upon the government at all
16 times.

17 After all the evidence is in, the attorneys will
18 present their closing arguments to summarize and interpret the
19 evidence for you. However, these closing arguments are not
20 evidence. The Court then will instruct you on the law. After
21 that, you will retire to deliberate on your verdict.

22 We now will proceed with the next step in the trial,
23 which is the opening statement by the Assistant United States
24 Attorney, and I believe, Mr. Rein, you will be opening?

25 MR. REIN: Yes, Judge, thank you.

OPENING STATEMENT - MR. REIN

1 THE COURT: You may proceed when you are ready.

2 MR. REIN: The defendants, Keith Wyche and Oneil
3 Allen, sold drugs. They sold drugs including heroin and
4 fentanyl all across Staten Island. They sold drugs that were
5 dangerous and that were deadly.

6 A Staten Island man named Vincent Price is dead. He
7 died from a fatal dose of fentanyl. His lifeless body was
8 found in a bathroom by his father, a needle full of lethal
9 fentanyl by his side. That fentanyl was sold to him by
10 Defendant Wyche. A woman named Sarah Wieboldt could have died
11 if she was not quickly given life-saving care. She overdosed
12 on heroin sold to her by Defendants Wyche and Allen.

13 This is a case about drug dealing, about the illegal
14 sale of potent and powerful drugs, but it's also a case about
15 money. Because for the defendants, this was business. And it
16 was all about money. That's what it came down to. No matter
17 the cost, no matter the danger, no matter the risk of death.

18 Ladies and gentlemen, my name is Gilbert Rein. I'm
19 an Assistant United States Attorney here in the Eastern
20 District of New York, and along with my colleagues, Assistant
21 United States Attorneys, Irisa Chen, James McDonald, paralegal
22 Teri Carby, and Eileen Rosado, and Special Agent Traveis Guy
23 of the FBI, I have the honor of representing the United States
24 in this case.

25 In 2017 and 2018, the defendants ran a drug

OPENING STATEMENT - MR. REIN

1 distribution service delivering heroin and other drugs
2 directly into the hands of paying customers, people who were
3 drug users and drug addicts. And as you will hear, cell
4 phones were crucial to their operation. Each day that they
5 were selling drugs they would send out a text message to their
6 customers signaling that they were open for business.

7 The evidence will show that cell phones allowed them
8 to cover their tracks, and they would frequently change their
9 phone numbers. They would also hide their identities by at
10 times going by nicknames, Marco and James.

11 When customers would respond to the defendants' text
12 messages or communications and order drugs, the defendants
13 would arrange where and when to meet them, and then they would
14 drive to a meet-up spot. Once they arrived, customers would
15 hand over money, in exchange for small, thin, paper packages,
16 which the defendants had filled with heroin, fentanyl, or
17 both.

18 Customers could then snort drugs right out of the
19 envelopes, or prepare them and inject them with a needle
20 directly into their bodies. That's the way Vincent Price used
21 the drugs that he bought from Keith Wyche on April 18th, 2017,
22 the date that he would buy drugs for the last time.

23 After buying from Defendant Wyche near his home in
24 Staten Island, Vincent Price went into a bathroom, injected
25 fentanyl into his arm and died. He was 43 years old. The

OPENING STATEMENT - MR. REIN

1 father of a young child.

2 And as I mentioned, his own father would find him
3 dead in the bathroom, a belt had been around his arm, a needle
4 was by his side, and his body was lifeless. A few months
5 after Vincent Price's death in October 2017, a woman named
6 Sarah Wieboldt was looking to buy heroin and get high. She
7 had been introduced to the defendants over the prior summer
8 and regularly bought heroin from them by calling or texting
9 the cell phone number that they shared.

10 On October 27th, 2017, she went with her friend to
11 buy heroin after arranging when and where to make that
12 purchase. She bought bags of heroin, snorted them, and she
13 overdosed. Unlike Vincent Price, she lived because she was
14 given an emergency dose of something called Narcan by first
15 responders. As you'll hear, Narcan is a drug that counteracts
16 the dangerous effects of substances like heroin.

17 The defendants continued to sell drugs with no end
18 in sight, changing their shared phone number and meeting
19 customers all over Staten Island. But after the overdose of
20 Sarah Wieboldt, one thing was now different, many of these
21 sales were now being made to confidential informants, drug
22 users, who in exchange for money, worked with the police to
23 buy drugs from drug dealers and provide the police with
24 information. As a result, many of the defendants' sales now
25 took place with detectives watching.

OPENING STATEMENT - MR. REIN

1 After these sales occurred, detectives would meet
2 with the informants, collect fentanyl that the defendants had
3 sold the informants. And as you'll see, these drugs became
4 valuable evidence against the defendants. The defendants were
5 arrested and charged with several federal crimes. They're
6 charged with conspiracy to distribute and possess with intent
7 to distribute heroin and fentanyl. Because as the evidence
8 will show, they agreed with each other to sell those drugs.

9 They're charged with the actual distribution and
10 possession with intent to sell heroin and fentanyl because the
11 evidence will show that that's what they did, they sold those
12 drugs to others. Defendant Wyche is charged with selling the
13 fentanyl that killed Vincent Price. And the defendants are
14 charged together with selling the heroin that caused Sarah
15 Wieboldt overdose, that caused her serious injury.

16 Here is how the evidence will prove that the
17 defendants committed these crimes. You're going to hear from
18 witnesses who will tell you what happened. You will see with
19 your own eyes evidence of the defendants' crimes, which will
20 be produced here in this courtroom, including some of the
21 actual drugs the defendants sold and drugs recovered before
22 they could be sold. You'll also be shown phone records and
23 phone data which further linked the defendants to their drug
24 distribution operation. This will include messages from
25 several cell phones found in the defendants' possession.

OPENING STATEMENT - MR. REIN

1 In addition, experts from the Office of the Chief
2 Medical Examiner will explain how Vincent Price died and the
3 extreme potency and danger of the drugs that he was sold.

4 You'll hear from Vincent Price's father about the moment he
5 discovered his son dead in a bathroom from a drug overdose.
6 He had seen him alive only hours earlier. He tried to help
7 his son. He called 9-1-1. But there was nothing that first
8 responders could do when they arrived. His son was gone,
9 leaving behind a young child.

10 You'll also hear from Sarah Wieboldt. The evidence
11 will show that she struggled with addiction for years. She
12 started with pills and eventually she was introduced to
13 heroin. She's had periods of sobriety, been in and out of
14 treatment, and it's been a struggle. She'll tell you about
15 first being introduced to the defendants and buying drugs from
16 them regularly and about her overdose in October 2017. And
17 you'll also learn that she later worked as a confidential
18 informant for law enforcement helping to buy drugs from the
19 defendants and gather evidence against them. That was all a
20 part of law enforcement's efforts to investigate and identify
21 the defendants.

22 And you'll learn how law enforcement used
23 confidential informants, like Sarah Wieboldt, to conduct these
24 controlled purchases of drugs from the defendants. The
25 confidential informants would arrange to buy the drugs from

OPENING STATEMENT - MR. REIN

1 the defendants, then actually buy the drugs using money
2 provided by law enforcement, all while detectives were
3 watching.

4 You're going to hear about how detectives knew where
5 and when these sales were going to occur so they could
6 position themselves to see the defendants coming. NYPD
7 detectives would meet with informants right afterward, right
8 after these sales occurred and collect the drugs that the
9 defendants had just sold. You'll see the drugs that the
10 defendants sold to these informants. You'll see how they were
11 packaged, how the defendants prepared them. You'll also see
12 photographs of some of the areas where the defendants would
13 sell to their customers, and you'll be able to understand how
14 it was that the defendants could be seen by the detectives as
15 they were engaging in these drug sales.

16 Photos will be shown in this case of the scene that
17 Vincent Price's father saw when he opened the bathroom door
18 and saw his son lifeless and dead from a drug overdose. And
19 you'll see a syringe containing fentanyl directly next to
20 Vincent Price's body and toilet full of now empty paper
21 envelopes, which previously contained the fentanyl Defendant
22 Wyche sold to Vincent Price.

23 You'll hear from independent medical examiners from
24 the city's Office of the Chief Medical Examiner who will
25 testify about the examination of Vincent Price's body and the

OPENING STATEMENT - MR. REIN

1 results of tests done on his blood. Those tests showed a
2 large amount of fentanyl, an amount which you will hear, which
3 the evidence will show was lethal. Those tests also show the
4 presence of other drugs, including cocaine and alprazolam.
5 The doctors will explain to you how fentanyl works and why it
6 caused Vincent Price's death.

7 You'll hear that in connection with the defendants'
8 arrests, their homes and cars were searched and additional
9 evidence was recovered. Among the things found, which I
10 expect you'll see, are the materials that the defendants used
11 to package and prepare their drugs and the money, the cash
12 that they were paid by their customers.

13 You'll also see the protective equipment that the
14 defendants had, including masks. All necessary to protect
15 themselves against the harmful effect of the dangerous drugs,
16 the dangerous substances that they were selling their
17 customers, highly potent drugs like fentanyl. You'll also
18 have the opportunity to review phone messages taken from many
19 cell phones recovered at the defendants' homes, messages which
20 detailed the defendants' many drugs sales and show how their
21 operation works.

22 Then there are the drugs themselves. There are
23 drugs seized from Defendant Allen's car, which were all
24 packaged and ready for sale, but which the efforts of law
25 enforcement prevented from being distributed.

OPENING STATEMENT - MR. SCHOER

1 The evidence in this case is about to be presented,
2 so please listen carefully because it will show how the
3 defendants conspired to sell heroin and fentanyl, how they
4 sold those drugs, and how their actions had dangerous and
5 deadly consequences.

6 And that is why at the end of this trial, we will
7 come back before you and ask you to reach the only verdict
8 supported by the evidence, guilty.

9 THE COURT: Thank you. Does the defense for
10 Mr. Wyche wish to open?

11 MR. SCHOER: Yes, your Honor.

12 THE COURT: You may proceed when you're ready.

13 MR. SCHOER: May it please the Court, members of the
14 prosecution team, my colleagues at the defense table,
15 Mr. Allen, Mr. Wyche, and most importantly, good afternoon,
16 ladies and gentlemen of the jury. As you know, my name is
17 Gary Schoer. I'm an attorney, and together with Michael
18 Vitaliano, we are privileged to be able to represent Keith
19 Wyche in this trial that you're about to hear.

20 Today, you as jurors take on a duty and a
21 responsibility. You take on the duty that you swore to in
22 your oath this afternoon as jurors, your oath as jurors. The
23 duty to uphold the law, to follow the law as Judge Irizarry
24 will give it to you. You take on the duty to try this case
25 fairly and impartially, and you take on the duty to presume

OPENING STATEMENT - MR. SCHOER

1 Keith Wyche innocent.

2 You take on the duty to hold the prosecution to
3 their burden of proof, proof beyond a reasonable doubt, and
4 not one scintilla less. They must prove beyond a reasonable
5 doubt that Keith Wyche participated in a drug distribution
6 conspiracy. That he acted knowingly and intentionally. They
7 must prove beyond a reasonable doubt that he was the person
8 who sold drugs to Vincent Price on the day of Mr. Price's
9 death, and they have to prove beyond a reasonable doubt that
10 he was the person that sold drugs to Sarah Wieboldt on the day
11 she overdosed.

12 And finally, they have to prove beyond a reasonable
13 doubt that those drugs were the but for cause, the but for
14 cause of Mr. Price's death and Ms. Wieboldt's overdose. You
15 take on those duties and you take on the responsibility. You,
16 and you alone, hold the fate of Keith Wyche in your hands.
17 He's pled not guilty. He denies all these charges that are
18 brought against him. You, and you alone, must determine
19 whether the prosecution has proven each of the elements of the
20 crimes charged beyond a reasonable doubt, each of the elements
21 of the crimes that they have chosen to charge him with.

22 You have to use your common sense. You have to
23 judge the credibility of each witness that takes the witness
24 stand. You have to determine whether they are telling you the
25 truth, the whole truth, and nothing but the truth. You have

OPENING STATEMENT - MR. SCHOER

1 to judge the evidence that the prosecution will present, and
2 you have to make sure that it is credible, believable, and you
3 have to make sure that it establishes beyond a reasonable
4 doubt that Keith Wyche committed the crimes charged.

5 You have to use your common sense, and most
6 importantly, you have to apply the law that Judge Irizarry
7 will give you at the end of the case. That's the purpose of
8 this trial and that's the purpose of every trial. It comes
9 down to a simple question: Did the prosecution prove beyond a
10 reasonable doubt, based upon the credible evidence, your
11 common sense, and the law each of the elements that are
12 charged in the crimes against Keith Wyche. And I submit to
13 you that at the end of the case, you're going to find they
14 haven't. You're going to find that you have reasonable doubts
15 as to whether Mr. Wyche sold those drugs on April 18th, 2017
16 to Vincent Price. And you're going to have doubts as to
17 whether he sold drugs to Sarah Wieboldt on October 27th, 2017.
18 And you're going to have reasonable doubts as to whether those
19 drugs were the but for cause of Vincent Price's death and
20 Sarah Wieboldt's overdose.

21 Now, to help you in this task, the law permits me to
22 make this opening statement, to give you a preview of what we
23 think the facts will show. Before I do, I want to remind you
24 that nothing I say is evidence, just as nothing that Mr. Rein
25 said to you in his opening statement is evidence. The

OPENING STATEMENT - MR. SCHOER

1 evidence, as the judge told you, comes from one place alone,
2 from the mouths of the witnesses, from the exhibits that are
3 introduced into evidence through those witnesses. Remember
4 that. Focus on that. But remember also that it is not
5 everything that comes out of the mouth of a witness that's
6 evidence. It's not -- it's only the credible, believable
7 facts upon which you must base your decision.

8 The prosecution told you what they think they are
9 going to prove. They weaved a spider web of a story of what
10 they claim happened. It's a web in which they attempt to
11 catch everything that goes through that web. But it's a web.
12 And it's one that you're going to learn has holes in it.
13 Holes that doesn't catch everything that goes through it.
14 Reasonable doubts in that web. Reasonable doubts through
15 which those they seek to trap can fly and can escape.

16 They didn't tell you certain things in their opening
17 statement. They didn't tell you that they can't establish
18 that the cell phone that was used on April 18th, 2017 was
19 possessed by Keith Wyche. They didn't tell you that with
20 respect to Vincent Price there are no photos of someone
21 selling him drugs. There are no photos -- I'm sorry, there
22 are no fingerprints. There is no DNA. And they didn't tell
23 you that the death certificate that the ME's office signed and
24 prepared with respect to Mr. Price's death says it's a
25 combination -- a combination of cocaine, fentanyl, and

OPENING STATEMENT - MR. SCHOER

1 alprazolam. And you're going to learn also that he had
2 alcohol in his system. There was no autopsy done. There is
3 no evidence as to what his health condition was.

4 You will learn that there's no way that they can and
5 have proved that it wasn't the combination of all those things
6 in his body that was the but for cause of his death. Not just
7 solely fentanyl, which is what is charged in this case.

8 You're going to learn that with respect to
9 Ms. Wieboldt, she was taken to the hospital. I think the
10 medical records said she eloped from the hospital. She didn't
11 even wait for any tests to be done. There's no medical
12 evidence as to what caused her overdose.

13 (Continued on the next page.)
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OPENING STATEMENT - MR. SCHOER

1 (Continuing.)

2 MR. SCHOER: Those are the facts you're going to
3 hear. Facts. I've used that word a lot in this very short
4 statement. It's the facts and the credibility of the
5 witnesses and the law that are the keys to the task you face.
6 You have to analyze the facts, you have to judge the
7 credibility, and you have to apply the law that Judge Irizarry
8 will give you. And I submit to you that when I return to you
9 at the end of this case, when I review with you all of the
10 credible, the believable evidence, that upon that credible
11 evidence, upon those facts and the law, there will be one and
12 only one conclusion that you can reach in this case, and that
13 is that the prosecution has not proven their case, that they
14 haven't proved beyond a reasonable doubt, the charges against
15 Keith Wyche. Thank you.

16 THE COURT: Thank you, Mr. Schoer.

17 Does counsel for Mr. Allen wish to open?

18 MS. TODD: Yes, Your Honor. Thank you.

19 THE COURT: You may proceed when you're ready,
20 Ms. Todd.

21 MS. TODD: May it please the Court. Counsel for the
22 Government, Mr. Schoer, Mr. Vitaliano, Mr. Wyche, Mr. Warner,
23 and Mr. Allen, ladies and gentlemen of the jury, good
24 afternoon.

25 Mr. Allen is charged in an indictment alleging a

OPENING STATEMENT - MS. TODD

1 drug conspiracy and that someone suffered serious bodily
2 injury from a drug overdose. The Government alleges that
3 Mr. Wyche and Mr. Allen are to be held responsible for serious
4 bodily injury caused by the overdose on October 27th, 2017.
5 The ultimate determination whether Mr. Allen actually sold
6 heroin on October 27th, 2017, which caused the overdose of
7 Ms. Wieboldt is yours and yours alone to decide, based on the
8 evidence.

9 It is a fact that is not in dispute that Mr. Allen
10 was not physically meant in Staten Island on March 20th, 2017,
11 through July 6th, 2017, and was not capable of distributing or
12 assisting in the distribution of Fentanyl or heroin during
13 that time. This period of time is critical. It is important,
14 because you will hear about other incidents that may have
15 occurred during that time when he was not present and could
16 have not participated in those occurrences for the other times
17 relevant to the charges, and you will decide whether the
18 Government has proven each and every element of the crimes
19 charged. That is your decision alone, and you will make that
20 determination based on the evidence and whether they have
21 proven their case beyond a reasonable doubt.

22 You're going to hear testimony from a number of
23 witnesses including law enforcement and a witness by the name
24 of Sarah Wieboldt who is the witness who overdosed on
25 October 27th, 2017. You will learn from the evidence that

OPENING STATEMENT - MS. TODD

1 Ms. Wieboldt has many years of being a drug addict, that she
2 is a habitual opioid user, and that as a result, she has had
3 multiple drug overdoses over time.

4 At the conclusion of this case, after you've heard
5 all of the evidence and Judge Irizarry has given you the
6 instructions on the law, your only determination and decision
7 will be a legal decision based on the evidence. Not a moral
8 one; a legal decision. It is expected that you will hear
9 evidence that Ms. Wieboldt bought heroin on October 27th,
10 2017, that she ingested the heroin on that date, and the
11 Government alleges that the ingested heroin caused her to
12 suffer an overdose. I expect that as you listen to the
13 evidence, you will have many doubts and those doubts will be
14 among the many reasons that I stand up before you at the end
15 of this trial and ask you to find Mr. Allen not guilty.

16 Thank you for listening.

17 THE COURT: Thank you, Ms. Todd.

18 The Government may call its first witness.

19 MS. CHEN: Your Honor, the Government calls Vincent
20 Price senior.

21
22 (Continued on the following page.)
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24
25

PRICE - DIRECT - MS. CHEN

1 (The witness takes the stand.)

2 THE COURTROOM DEPUTY: Please raise your right hand,
3 sir.

4 (The witness was sworn and/or affirmed in by the
5 courtroom deputy.)

6 THE WITNESS: I do.

7 THE COURTROOM DEPUTY: Thank you. Please be seated,
8 sir.

9 Please state and spell your name for the record.

10 THE WITNESS: Vincent Price, V-I-N-C-E-N-T,
11 P-R-I-C-E.

12 THE COURTROOM DEPUTY: Thank you.

13 THE COURT: Good afternoon, Mr. Price. And if you
14 feel comfortable speaking with your mask off, you may take
15 your mask off. If you would prefer to keep it on, you may.

16 THE WITNESS: I'll leave it on.

17 THE COURT: It's your choice.

18 THE WITNESS: Okay. Thank you.

19 THE COURT: You may inquire when you're ready.

20 MS. CHEN: Thank you, Your Honor.

21 **VINCENT PRICE SENIOR**, called as a witness, having been first
22 duly sworn/affirmed, was examined and testified as follows:

23 DIRECT EXAMINATION

24 BY MS. CHEN:

25 Q Mr. Price, how old are you?

PRICE - DIRECT - MS. CHEN

1 A Seventy.

2 Q And where do you live?

3 A Staten Island, New York.

4 Q And specifically, what's your address?

5 A Sixty-nine Carlyle Green, Staten Island, New York.

6 Q Is that a particular neighborhood in Staten Island?

7 A No, just a regular neighborhood.

8 Q And do you own your house, Mr. Price?

9 A Yes, I do.

10 Q And how long have you lived there?

11 A I believe it's 32 years.

12 Q Prior to Staten Island, where did you live?

13 A Brooklyn.

14 Q And how long were you in Brooklyn?

15 A All my life until 33 years until I moved to Staten
16 Island.

17 Q Mr. Price, can you have the microphone pulled just a
18 little bit closer to you?

19 A Oh, I'm sorry.

20 Q That's all right. Thank you.

21 Mr. Price, how far did you go in school?

22 A Not far. I went to ninth grade, but I was basically
23 pushed through the ninth grade. Let's put it that way.

24 Q After you left school, what did you do?

25 A I got a job as a pipefitter.

PRICE - DIRECT - MS. CHEN

1 Q Okay. And do you currently work, Mr. Price?

2 A No, I do not.

3 Q What was the last job that you had?

4 A Pipefitter.

5 Q And can you explain for the jury what a pipefitter does?

6 A I install sprinkler symptoms for fires and standpipes for
7 the fire hoes in the hallways.

8 Q When you say sprinkler, are those indoor --

9 A Those are indoors, yes.

10 Q And can you talk a little bit about what that means to
11 install pipes.

12 You know, are you at a desk, are you doing --

13 A No. I'm in a truck and I go to all five boroughs,
14 depending where they send me, and install the pipe or fix the
15 system or dismount the system. Whatever the job requires.

16 Q And I apologize, do you mind explaining what installing a
17 pipe would actually mean?

18 A Well, you got to basically load the truck up, bring it to
19 the job, bring it up to the building in the elevators, cut the
20 pipe, thread the pipe, hang it on the ceiling, and it's ready
21 for use.

22 Q Is it manual labor, Mr. Price?

23 A Very manually, yes.

24 Q Okay. Mr. Price, when did you stop working?

25 A In '99, I believe it was.

PRICE - DIRECT - MS. CHEN

1 Q Mr. Price, are you married?

2 A Yes.

3 Q To whom?

4 A Kathleen Price.

5 Q And how long have you been married?

6 A Fifty years.

7 Q Do you have any children?

8 A Four. Three now.

9 Q Can you provide their names, please.

10 A Vincent was the oldest, Kathleen, Tammy, and Kevin.

11 Q And did you just list them in the order of eldest to
12 youngest?

13 A Yes, from the oldest to the youngest.

14 Q Do you have any grandchildren, Mr. Price?

15 A Yes. Six.

16 Q Are you close with your children?

17 A Very close.

18 Q Are you close with your grandchildren?

19 A Very close. See them every day.

20 Q Mr. Price, I want to direct your attention to
21 April 18th, 2017, okay.

22 A Yes.

23 Q Do you recall whether anything happened that day?

24 A Yes.

25 Q What happened?

PRICE - DIRECT - MS. CHEN

1 A I woke up, I did not know what time it was, because I was
2 very tired from the night before, my wife was in the hospital.

3 Q Mr. Price, if I could stop you there.

4 A Go ahead.

5 Q Let's talk about the day before, so April 17th, okay.

6 A Okay.

7 Q On April 17th, you said you were in the hospital; is that
8 right?

9 A Yes.

10 Q Were you there seeing anybody?

11 A My wife.

12 Q Why was your wife in the hospital?

13 A She had COPD.

14 Q And what is that, more generally?

15 A From smoking. I think it's a lung disease, I believe.

16 Q And how long had she been in the hospital?

17 A She's been in and out that whole week, and I believe she
18 was in the hospital when this all happened, four days, I
19 believe she was in the hospital.

20 Q Okay. And do you remember on April 17th when you got to
21 the hospital that day?

22 A No, I don't.

23 Q Okay. Was it in the morning time?

24 A I don't remember.

25 Q Was it in the evening?

PRICE - DIRECT - MS. CHEN

1 A It most likely was in the afternoon some time, yeah.

2 Q In the afternoon. And how long did you stay at the
3 hospital?

4 A I stayed there until about 1:00 o'clock.

5 Q 1:00 o'clock in the afternoon?

6 A In the morning.

7 Q 1:00 o'clock in the morning, okay.

8 What did you do after you left the hospital?

9 A I believe I went to the -- well, I went to -- not a
10 restaurant, but a store that was open 24 hours. I got myself
11 a coffee and a piece of cake.

12 Q And what did you do after that?

13 A I went right home.

14 Q Did you see anybody when you got home?

15 A No.

16 Q Did you do anything when you got home?

17 A I went right up to bed.

18 Q Before we get to April 18th, Mr. Price, I want to show
19 you what's been marked for identification as Government
20 Exhibit 601.

21 MS. CHEN: Ms. Carosella, can we just show the
22 witness that?

23 Q Mr. Price, do you recognize this?

24 A That's my son.

25 Q Do you know about what age --

PRICE - DIRECT - MS. CHEN

1 THE COURT: Which son?

2 THE WITNESS: Oh, I'm sorry. That's my son,
3 Vincent.

4 Q Okay. Do you know about what age he is in that picture?

5 A I'm going to say 39, 40, maybe.

6 Q Okay. And is this a true and accurate depiction of your
7 son, Vincent Price?

8 A Yes, it is.

9 MS. CHEN: Your Honor, at this moment, we move to
10 admit Government Exhibit 601.

11 THE COURT: Any objection?

12 MR. SCHOER: No objection.

13 THE COURT: Ms. Todd.

14 MS. TODD: No objection, Your Honor.

15 THE COURT: It's admitted.

16 (Government Exhibit 601, was received in evidence.)

17 MS. CHEN: May we please publish that.

18 (Exhibit published.)

19 MS. CHEN: Thank you.

20 Q Mr. Price, can describe again for the jury who is
21 depicted in this picture?

22 A That is my son Vincent.

23 THE COURT: Can I just stop you for one second.

24 I'm sorry to interrupt you. In between each of the
25 jurors, if you open up that panel there -- there you go.

PRICE - DIRECT - MS. CHEN

1 There's a monitor in there. If you want to pull it out and
2 then you'll be able to see what is posted. There you go.

3 Okay. It may take some time for it to come up.

4 Okay. All right.

5 And is everyone's monitor working, yeah?

6 THE JURY: Yes.

7 THE COURT: Okay. Perfect. I'm sorry, can we just
8 read back the last question and answer.

9 (Whereupon, the record was read.)

10 MS. CHEN: May I proceed, Your Honor?

11 THE COURT: Yes.

12 Q Mr. Price, can you tell us in your own words what your
13 son was like?

14 MR. SCHOER: Objection.

15 A He was a very good kid.

16 MR. SCHOER: Objection.

17 THE COURT: Overruled.

18 Q You can go ahead, Mr. Price.

19 A I had no problem with him all his life. He was a very
20 good kid, very respectful to me.

21 Q Mr. Price, did your son have his own children?

22 A Yes. He had a --

23 Q How many children did he have?

24 A He had one daughter, Nancy.

25 Q And how old is she now?

PRICE - DIRECT - MS. CHEN

1 A Seventeen.

2 Q Who's Nancy's mother?

3 A Tara Brown.

4 Q And was Tara Brown ever married to your son,
5 Vincent Price?

6 A No.

7 Q What was your son's birthday, Mr. Price?

8 A March 18, '74.

9 Q And how far did your son go in school?

10 A Ninth grade.

11 Q And do you know if at the time he passed away, he was
12 working?

13 A Yes, he was.

14 Q What was his job?

15 A He also was a pipefitter.

16 Q And how did he start working as a pipefitter?

17 A I brought him in when he was 17 to help us out, clean up
18 the work areas.

19 Q And can you explain just briefly what his job was as a
20 pipefitter?

21 A Basically the same things, hanging pipe, troubleshooting
22 when there was a problem with the sprinkler system, and the
23 alarm bells, to fire test the sprinkler for the fire
24 department.

25 Q Did he also install pipes?

PRICE - DIRECT - MS. CHEN

1 A Yes. Yes, he did.

2 Q And did that involve the same process that you described
3 earlier?

4 A Yes, it does.

5 Q Do you know if he was working for a specific company at
6 the time he passed away?

7 MS. TODD: Objection.

8 THE COURT: I will allow it.

9 You may answer.

10 A He was working for my nephew who had his own business,
11 but he passed away from a heart attack. He was doing that.
12 I'm not sure of the name. I think it was Independence
13 Sprinkler. I'm not sure.

14 Q Okay. In April, 2017, do you know where your son was
15 living?

16 A He was staying with me at the time. They were selling
17 the house he was living in, so we -- he was staying in -- I
18 have an extra bedroom upstairs, and my kids are welcome any
19 time.

20 Q I just want to talk about your house a little bit to
21 understand how many rooms.

22 Can you explain what type of house you live in?

23 A It's -- I don't understand that question. It's just a
24 house with three bedrooms, three bathrooms, a basement, full
25 basement, a yard. I don't know what else to say.

PRICE - DIRECT - MS. CHEN

1 THE COURT: Is it a single-family home?

2 THE WITNESS: It's a single family, yes, I'm sorry.

3 Q How many floors does it have, Mr. Price?

4 A With the basement, it's three floors.

5 Q And how many bedrooms?

6 A There's three bedrooms.

7 Q And what floor are those bedrooms?

8 A That would be on the top floor.

9 Q Okay. How many bathrooms?

10 A Three bathrooms.

11 Q And can you tell us on what floors are those bathrooms?

12 A There's two bathrooms on the top floor and one on the
13 middle floor which would be the first floor. I'm sorry.

14 Q Okay. First floor. Understood.

15 For the bathroom on the first floor, can you
16 describe about how big it is?

17 A It's about 3-foot by 3-foot.

18 Q And what's in the bathroom?

19 A There's a toilet and a sink.

20 Q No shower?

21 A No shower.

22 Q Okay. In April 2017, do you know where Vincent Price's
23 daughter, Nancy, was staying?

24 A She was staying with us.

25 Q Okay. And -- okay. How long had your son,

PRICE - DIRECT - MS. CHEN

1 Vincent Price, been staying with you since, I guess, in
2 April 2017?

3 A It was a few months, I believe.

4 Q And what about his daughter, Nancy?

5 A She also -- she was with us for a while.

6 Q Can you explain --

7 A We were getting custody for her, trying to get custody
8 for her.

9 Q Can you explain how long for a while was?

10 A Since she was about three years old, I guess.

11 Q Mr. Price, when your son was living with you in 2017, did
12 you see any medication with his name on it in the house?

13 A I haven't seen none, no.

14 Q Were you able to see him, was he able to walk up the
15 stairs?

16 A When he came home from work, he normally went right
17 upstairs, and most of the time, I wasn't home myself.

18 Q How would you describe his health in April 2017?

19 A He looked -- when I did see him, he looked fine to me.

20 Q Did you ever see him struggling physically?

21 A No.

22 Q Are you aware of any health issues that your son had in
23 April 2017?

24 A I do not.

25 Q Are you aware of any health issues that your son had at

PRICE - DIRECT - MS. CHEN

1 any time prior to April 2017?

2 A I do not.

3 Q Mr. Price, I want to direct your attention back now to
4 April 18th, okay.

5 Can you tell me the first thing you remember that
6 day?

7 A I woke up, I got out of bed to make breakfast for my
8 granddaughter which I always do, and when I walked down the
9 stairs, I got to about three quarters of the way and my son
10 was sitting on the couch, his back to me. I asked him, are
11 you taking her to school and are you going to work, the answer
12 was yes, and I went right back to bed.

13 Q Do you know around what time of day that was?

14 A I do not know, because I do not have a clock upstairs. I
15 never used a clock upstairs.

16 Q Was that in the morning time?

17 A It was in the morning.

18 Q But you're not sure when, specifically?

19 A No, I'm not sure.

20 Q Okay. What happened after -- I'm sorry, you said you
21 went back to sleep.

22 Did you wake up again?

23 A I woke up a little after 12:00, I believe it was. I went
24 downstairs. My granddaughter was on the couch sleeping. I
25 told her to go upstairs.

PRICE - DIRECT - MS. CHEN

1 Q And why did you tell her that?

2 A Because I knew she didn't go to school, so I told her to
3 go upstairs.

4 Q Did you go upstairs with her?

5 A No.

6 Q Did she, in fact, go upstairs?

7 A She went upstairs, yes.

8 Q What did you do next?

9 A Then I walked over to the bathroom, it was locked.

10 Q And did that -- was that strange to you, at all?

11 A I got six grandkids; the door is always locked.

12 Q What did you do --

13 A I took a butter knife and I opened it up which I normally
14 do when it's locked.

15 Q Can you explain how you did that, Mr. Price?

16 A I just -- it's not a fancy lock. I just pried it open a
17 little bit and opened the door.

18 Q And when you opened the door, what did you see?

19 A My son started falling out. His head was leaning against
20 the door -- his whole body, basically.

21 Q At that point, did you do anything?

22 A I slammed the door closed and I yelled up to my
23 granddaughter, Don't come down, whatever you do.

24 Q After you did that, what did you do next?

25 A I opened the door, my son fell out, I tried to -- I

PRICE - DIRECT - MS. CHEN

1 couldn't move him too much. He was pretty heavy. I tried to
2 straighten him out, and I called 9-1-1 as fast as I could.

3 Q Mr. Price, I know this is difficult, but I want to talk
4 to you about what you saw specifically when you opened that
5 door, okay.

6 Were you able to see your son's face before he fell?

7 A No. I seen the back of his head.

8 Q Okay. Can you describe what his head looked like that
9 day?

10 A It was a light purple.

11 Q Were you able to see his arms?

12 A Not when I -- not until I pulled him out.

13 Q And when you were able to see his arms when you pulled
14 him out, were you able to see his bare skin or was he wearing
15 a shirt?

16 A I believe he had a short-sleeved shirt on.

17 Q Okay. So you were able to see his arm --

18 A Yes.

19 Q -- past his shirt?

20 A Yes.

21 Q Was there anything on his arm?

22 A There was a belt.

23 Q Can you explain when you say, There was a belt, how was
24 the belt on his arm?

25 A It was wrapped around, above his elbow.

PRICE - DIRECT - MS. CHEN

1 Q Whether you say, Wrapped around, was it tied?

2 A It was just around his arm. I don't know how -- I
3 assumed he just grabbed it and pulled on it.

4 Q Do you remember which arm it was on?

5 A I do not.

6 Q But it was on one arm, not both?

7 A It was on one arm, yes.

8 Q Mr. Price, do you have an understanding as to why a belt
9 would be around his arm?

10 MR. SCHOER: Objection.

11 THE COURT: If he knows.

12 Do you know why a belt would be around his arm?

13 THE WITNESS: Yes.

14 Q And why would that be?

15 A I grew up in the '70s. I had a lot of friends that died
16 of AIDS from shooting up.

17 Q When you say, Shooting up, can you explain what that
18 means, Mr. Price?

19 A People that shoot up drugs, needles.

20 Q And how is a belt used in connection with that?

21 A I don't know much about it. I don't take drugs, so I
22 assume it's just what the doctor does, wraps around before
23 they take your blood.

24 Q Were you able to see your son's torso before he fell out?

25 A I don't remember what I seen.

PRICE - DIRECT - MS. CHEN

1 Q Okay. When you opened the bathroom door, can you
2 describe the position of your son's body?

3 A His backside was on the toilet, and his head was in the
4 corner of the door. It's a very small bathroom.

5 Q So if I'm understanding correctly, you're saying the
6 corner was a wall and the door; is that right?

7 A The door -- the door and the wall is basically about
8 2 inches apart.

9 Q Okay.

10 A Of the buck of the door, the door buck.

11 Q And does your bathroom door on the first floor, does that
12 open out or does that open in?

13 A It opens out.

14 Q So when you opened the door, you opened the door out, and
15 then Mr.-- I'm sorry, your son fell out?

16 A A little bit of his body started moving, and I again,
17 closed it, and went to my granddaughter to yell not to come
18 down.

19 Q Okay. Mr. Price, when your son fell out of the bathroom,
20 did you hear anything?

21 A I heard -- I don't know how to explain it. I assumed it
22 was air in his lungs, and it escaped.

23 Q Mr. Price, what was your reaction to your son falling out
24 of the bathroom?

25 A I was shocked. I was -- everything turned into, like,

PRICE - DIRECT - MS. CHEN

1 cloud nine, basically. I didn't know where I was.

2 Q Mr. Price, were you able to see what was in the bathroom
3 on the sink, for example?

4 A No, I did not.

5 Q Did you see what was on the floor in the bathroom around
6 your son?

7 A I was not looking for nothing. No, I did not.

8 Q So Mr. Price, I think you said you called 9-1-1; is that
9 right?

10 A That's correct.

11 Q What did you tell the 9-1-1 operator?

12 A I'm not 100 percent sure.

13 Q Did you alert them to what you had seen?

14 A Yes.

15 Q Did someone respond to your house in connection with that
16 9-1-1 call?

17 A Yes. EMS, I believe it was the Fire Department EMS was
18 about -- not even two minutes away.

19 Q Mr. Price, going back to what you saw.

20 Did you touch your son's body when he fell out of
21 the bathroom?

22 A I tried to straighten him out, pull him, you know, from
23 the position he was in.

24 Q Do you remember where on your son's body you touched him?

25 A I do not.

PRICE - DIRECT - MS. CHEN

1 Q Okay. Did you try to revive your son?

2 A I did not.

3 Q Did you hear your son breathing?

4 A I did not.

5 Q Who was the first to arrive at your house in connection
6 with the 9-1-1 call you made?

7 A I believe it was the Fire Department EMS.

8 Q And did you tell that EMS personnel anything when he or
9 she arrived?

10 A No. When she arrived and she told me he's gone, there's
11 nothing we can do, I walked over to the steps, and I had a
12 heart attack in '08, so I was kind of messed up, and she asked
13 me, are you okay, and I said, I believe I'm okay.

14 Q Did you see the EMS personnel do anything to your son?

15 A I did not.

16 Q Did you see the EMS personnel touch your son?

17 A I did not.

18 Q Were you in the room when the EMS personnel was near your
19 son?

20 A Yes, I was.

21 Q Okay. Did other individuals arrive at your home in
22 connection with that call?

23 A There was quite a few police officers in and out.

24 Q Did you speak with any of them?

25 A I spoke to, I believe, two of them.

PRICE - DIRECT - MS. CHEN

1 Q Do you remember what you told them?

2 MR. SCHOER: Objection.

3 A I do not.

4 THE COURT: Overruled.

5 A I do not.

6 Q Mr. Price, at some point, did you speak with your
7 granddaughter later that day?

8 A After everything went on, once they came, I went upstairs
9 and told my granddaughter that your father has passed and we
10 both sat there and cried. That's about it.

11 Q Mr. Price, when is the last time you saw your son's body
12 that day?

13 A Alive or...

14 Q When you saw your son at all, dead or alive?

15 A It was when I opened the door. I don't know the time.

16 Q Was your son -- was your son's body taken out of your
17 house that day?

18 A Oh, yes. It was a while went by, I don't know how long,
19 and they finally came to take him out and they had him in the
20 body bag, and outside, I touched the bag...

21 THE COURT: Take your time.

22 A I'm sorry. I touched the body bag and told him good bye.

23 I'm okay.

24 Q Mr. Price, are you okay?

25 A I believe so.

PRICE - DIRECT - MS. CHEN

1 Q Mr. Price, did you tell anyone else what happened that
2 day?

3 A I called my son-in-law to go get -- to get his wife to
4 pick him up, but don't tell him what happened, because I
5 didn't want her to get upset while she was driving.

6 MR. SCHOER: Objection.

7 THE COURT: Overruled.

8 Q Did you tell your wife what happened that day?

9 MR. SCHOER: Objection.

10 THE COURT: Overruled.

11 A I called my wife and told my wife our son was gone.

12 Q How did your wife react to that?

13 A She was in the hospital. I was on the phone. I have no
14 idea.

15 Q Mr. Price, do you have a belief as to what happened to
16 your son that day?

17 MR. SCHOER: Objection.

18 THE COURT: Sustained.

19 Q Mr. Price, do you remember being asked whether or not an
20 autopsy could be performed on your son?

21 A I don't remember, to tell you the truth.

22 Q Do you know if an autopsy was conducted on your son?

23 A I really don't know.

24 Q Do you recall telling -- talking to anyone about an
25 autopsy on your son?

PRICE - CROSS - MR. SCHOER

1 A I really don't recall.

2 Q Do you ever recall talking to your son about an autopsy
3 being done?

4 MR. SCHOER: Objection.

5 THE COURT: Which son?

6 Q I'm sorry, do you recall speaking with your son,
7 Vincent Price, about an autopsy being done on him?

8 MR. SCHOER: Objection.

9 THE COURT: Sustained.

10 MS. CHEN: Can I have one moment, Your Honor?

11 THE COURT: Yes.

12 Q Mr. Price, I just have one more question.

13 The morning of April 18th, 2017, other than you,
14 your son, Vincent Price, and his daughter, Nancy, was there
15 anybody else that you're aware of being in the house?

16 A Not that I was aware of.

17 Q Okay.

18 THE COURT: Does counsel -- are you done?

19 MS. CHEN: Yes, Your Honor.

20 THE COURT: Does counsel for Mr. Wyche wish to cross
21 examine?

22 MR. SCHOER: Yes, Your Honor.

23 THE COURT: You may proceed.

24 CROSS-EXAMINATION

25

PRICE - CROSS - MR. SCHOER

1 BY MR. SCHOER:

2 Q Mr. Price, good afternoon.

3 A Good afternoon.

4 Q My name is Gary Schoer and I represent Keith Wyche. I
5 want to indicate to you that we're sorry for your loss.

6 A Thank you.

7 Q You've been interviewed many time about what happened on
8 April 18th, correct?

9 A No, I haven't.

10 Q Well, did you meet with the Government, the prosecutor's
11 office to talk about what happened that day?

12 A A few days ago, yes.

13 Q Do you remember meeting with them on Tuesday,
14 January 23rd, about 20 days ago?

15 A No, I do not.

16 Q I'm sorry, January 10th, 2023, about 20 days ago.

17 Do you remember that?

18 A No, I did not.

19 Q Do you remember meeting with Mr. Rein and a Detective
20 Vaccarino on that day?

21 A Somebody did come to my house that day. I don't know
22 what day it was, but I did have him come to my house.

23 Q Okay. And do you remember telling them that on that
24 day -- well, do you remember telling them on that day that you
25 weren't sure when you had last seen your son alive, either

PRICE - CROSS - MR. SCHOER

1 that morning or maybe it was the night before that you had
2 seen him?

3 A I did say that because -- yes, I did.

4 Q Now, you indicated that -- well, let me ask you this:
5 Were you aware that your son had a heroin problem?

6 A No, I did not.

7 Q Well, do you remember telling the police officers who
8 arrived there that morning that your son had a heroin problem?

9 A No, I do not.

10 THE COURT: I'm sorry, you said when the police
11 arrived.

12 What morning?

13 MR. SCHOER: I'm sorry, April 18th, 2017.

14 Q You don't remember telling them that?

15 A No. I do not remember telling them that.

16 Q Do you remember telling the 9-1-1 operator when you
17 called that your son had a heroin problem?

18 A No. I don't remember that either.

19 Q Do you remember meeting with the Government on
20 September 24th, 2019, concerning what happened on April 18th,
21 2017?

22 A I do not remember meeting with them, no.

23 Q Do you remember telling the Government well -- withdrawn.

24 Do you remember on that day meeting with Agent Guy,
25 who's sitting here at the end of the table, and another FBI

PRICE - CROSS - MR. SCHOER

1 agent concerning what happened on April 19 -- April 18th,
2 2017?

3 A I remember meeting them, but I don't remember the date.

4 Q And do you remember meeting them with your wife present?

5 A I don't remember that.

6 Q Well, do you remember telling them that you and your wife
7 were aware of your son's drug use?

8 A No, I don't remember that, saying that.

9 Q And that you allowed him to move into your home,
10 notwithstanding the fact that he had a drug problem?

11 A No. I know -- I knew he smoked pot. To me, that's
12 drugs.

13 Q Well, did you know that he had overdosed on occasions
14 prior to April 18th?

15 A No, I did not.

16 MS. CHEN: Objection, Your Honor.

17 THE COURT: I will allow it. The question is
18 whether he knew.

19 The answer will stand.

20 Q Well, do you remember telling the agents that day that
21 you were made aware of your son's previous overdose?

22 A No, I do not.

23 Q Are you familiar with your son's girlfriend, Marla
24 Milano?

25 A I know as Mara. I met her once.

PRICE - CROSS - MR. SCHOER

1 Q Okay. Mara?

2 A Yes.

3 Q And she's a nurse, correct; do you know that?

4 A I believe that's what she is.

5 Q And when they were living together, your son and --

6 THE COURT: First of all, that's assuming facts not
7 in evidence.

8 MR. SCHOER: I'm asking him.

9 THE COURT: No, you're not asking. You're assuming
10 facts not in evidence.

11 Rephrase your question.

12 MR. SCHOER: I'm sorry.

13 Q Your son and Mara, did they live together at times?

14 A Yes, they did.

15 Q And when they were living together, were you aware that
16 your son had overdosed on several occasions?

17 A No, I do not.

18 Q Were you aware that that Mara, Ms. Milano, had to NARCAN
19 him in order to revive him?

20 A No, I do not.

21 Q When you met with agents, did you indicate to them that
22 you thought that your son was buying heroin at a gas station
23 down the road?

24 MS. CHEN: Objection, Your Honor.

25 The witness has already said he does not recall

PRICE - CROSS - MR. SCHOER

1 meeting with agents.

2 MR. SCHOER: Well, I think he said he didn't --

3 THE COURT: Excuse me. No argument. If you want to
4 argue it, then we'll have a sidebar.

5 MR. SCHOER: Sorry, Judge.

6 THE COURT: The objection is sustained.

7 Q Mr. Price, you indicated that you remember meeting with
8 the agents, but you don't remember what day that was, correct?

9 A That's correct.

10 Q And when you met with the agents, do you remember telling
11 them that your son -- it was your understanding that your son
12 went down to the gas station down the road and that's where he
13 got the drugs?

14 A No. I believe the question was they were looking for any
15 kind of video, and my -- I believe my wife said, he's been --
16 he always goes to the gas station for paper. Maybe you should
17 check that. That, I remember.

18 Q Okay. And in addition, your wife gave the agents some
19 e-mails, correct?

20 A I don't know that.

21 MR. SCHOER: May I just have a second, Judge?

22 THE COURT: Yes.

23 (Pause in the proceedings.)

24 MR. SCHOER: No further questions, Judge.

25 THE COURT: And does counsel for Mr. Allen have any

PRICE - REDIRECT - MS. CHEN

1 questions?

2 MS. TODD: No, Your Honor.

3 THE COURT: Is there any redirect?

4 MS. CHEN: Just a couple of questions, Your Honor.

5 THE COURT: Okay. You may proceed.

6 REDIRECT EXAMINATION

7 BY MS. CHEN:

8 Q Mr. Price, I believe Mr. Schoer just asked you whether
9 you recall originally telling individuals that you may have
10 seen your son the night before or the morning of his death.

11 Do you recall that?

12 A As I said, I really don't remember seeing him the night
13 before. I might have passed him by, but I was so tired, I
14 couldn't tell you whether I seen him or not. The morning is
15 when I first went down the stairs to make breakfast for my
16 granddaughter and he was sitting on the couch with his back
17 towards me. That was the last time I seen him alive.

18 Q Okay. And you're sure of that now, Mr. Price?

19 A I'm positive.

20 MS. CHEN: No further questions, Your Honor.

21 THE COURT: Anything further for the defense, either
22 defendant?

23 MR. SCHOER: No, Your Honor. Thank you.

24 THE COURT: Ms. Todd.

25 MS. TODD: No.

PRICE - REDIRECT - MS. CHEN

1 THE COURT: Thank you, sir. You may step down.

2 THE WITNESS: Thank you.

3 (The witness steps down.)

4 (Continued on the following page.)

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PROCEEDINGS

1 THE COURT: You may call your next witness.

2 MR. REIN: Your Honor, the government has a
3 stipulation to read into the record.

4 THE COURT: You may read it in the record. What is
5 the government's exhibit?

6 MR. REIN: It's Government's Exhibit 101, your
7 Honor. May I proceed, Judge?

8 THE COURT: Yes, you may.

9 MR. REIN: Government Exhibit 101 contains a
10 caption, United States District Court, Eastern District of New
11 York, United States of America against Keith Wyche and Oneil
12 Allen.

13 And it states, it is hereby stipulated and agreed by
14 and between the United States of America and the Defendant
15 Keith Wyche, through his attorneys Gary Schoer and Michael
16 Vitaliano, and the Defendant Oneil Allen, through his
17 attorneys Natali Todd and Cody Warner that, one, Government
18 Exhibit 401 -- I'm sorry, Judge. Government Exhibit 401 is a
19 true and accurate copy of title and registration records
20 reflecting that an Infiniti bearing New York license plate
21 number HRD5545, was registered to Terry Torres at 70 East
22 11 -- I'm sorry, 70 East 115th Street, Apartment 2H, New York,
23 New York, 10029, and was maintained by the New York State
24 Department of Motor Vehicles as part of its regularly
25 conducted business activity.

PROCEEDINGS

1 Two, Government Exhibit 402 is a true and accurate
2 copy of title and registration records reflecting that a Jeep,
3 bearing New York license plate number HRD7229, was registered
4 to Keith T. Wyche at 801 Manor Road, Apartment 2C, Staten
5 Island, New York, 10314, and was maintained by the New York
6 State Department of Motor Vehicles as part of its regularly
7 conducted business activity.

8 Three, Government Exhibit 403 is a true and accurate
9 copy of title and registration records reflecting a Lexus,
10 bearing New York license plate number JAG1606 was registered
11 to Oneil A. Allen, Jr. at 218 Ada Drive, Staten Island, New
12 York, 10314, and was maintained by the New York State
13 Department of Motor Vehicles as part of its regularly
14 conducted business activity.

15 Four, Government Exhibit 404 is a true and accurate
16 copy of an external examination report, toxicology report,
17 case worksheet, certificate of death, and related forms and
18 reports concerning the April 18th, 2017 death of Vincent Price
19 that were maintained by the Office of the Chief Medical
20 Examiner for the City of New York as part of its regularly
21 conducted business activity.

22 Five, Government Exhibit 405 is a true and accurate
23 copy of hospital treatment records, including physician notes
24 and discharge plan, concerning the October 27th, 2017
25 treatment regarding the overdose of Sarah Wieboldt that were

PROCEEDINGS

1 maintained by Richmond University Medical Center as part of
2 its regularly conducted business activity. The redactions in
3 Government Exhibit 405 are agreed upon by the parties.

4 Six, Government Exhibit 406 is a true and accurate
5 copy of a pre hospital care report in connection with
6 treatment provided to Sarah Wieboldt on October 27th, 2017 by
7 individuals from the Fire Department of the City of New York
8 that were maintained by the Fire Department of the City of New
9 York as part of its regularly conducted business activity.

10 Seven, Government Exhibits 401, 402, 403, 404, 405,
11 and 406, and this stipulation, marked as Government
12 Exhibit 101, are admissible in evidence.

13 The stipulation is dated January 18th, 2023, signed
14 by counsel for the government and counsel for Defendant Oneil
15 Allen and counsel for Defendant Keith Wyche.

16 And, your Honor, on the basis of this stipulation,
17 the government moves to admit Government's Exhibits 401, 402,
18 403, 404, 405, and 406, and the stipulation itself, which is
19 Exhibit 101.

20 THE COURT: Based on the stipulation entered into by
21 the parties, both the stipulation, which is Government
22 Exhibit 101 and Government Exhibits 401 through 406, are
23 admitted.

24 And so, ladies and gentlemen, the evidence in this
25 case now includes facts to which the parties have agreed or

PROCEEDINGS

1 stipulated. A stipulation means simply that the government
2 and the defendants accept the truth of a particular
3 proposition or fact. As there is no disagreement, there is no
4 need for evidence apart from the stipulation. You must accept
5 the stipulation as evidence and regard that fact and give it
6 whatever weight you chose.

7 And at the end of the case when we then give you
8 further instructions, I will discuss with you how you will be
9 able to take a look at certain exhibits and so on during your
10 deliberations.

11 (Government Exhibit 10, was received in evidence.)

12 (Government Exhibits 401, 402, 403, 404, 405, and
13 406, were received in evidence.)

14 THE COURT: You may call your next witness.

15 MR. REIN: Thank you, Judge. The government calls
16 Investigator Leashawn Peaks.

17 THE COURTROOM DEPUTY: You may step up. Please
18 raise your right hand.

19 (Continued on next page.)
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PEAKS - DIRECT - MR. REIN

1 (Witness takes the witness stand.)

2 **LEASHAWN PEAKS**, called as a witness, having been first duly
3 sworn/affirmed, was examined and testified as follows:

4 THE COURTROOM DEPUTY: Please be seated. Please
5 state and spell your name.

6 THE WITNESS: Leashawn Peaks. L-E-A-S-H-A-W-N.
7 P-E-A-K-S.

8 THE COURTROOM DEPUTY: Thank you.

9 THE COURT: And good afternoon, ma'am. You can keep
10 the mask on or take it off, however you feel most comfortable.
11 I leave that decision up to you. Okay?

12 THE WITNESS: Okay.

13 THE COURT: Just keep your voice up nice and loud.
14 You can adjust the mic to make yourself comfortable.

15 THE WITNESS: Thank you.

16 THE COURT: You may inquire when you're ready.

17 MR. REIN: Thank you, Judge.

18 DIRECT EXAMINATION

19 BY MR. REIN:

20 Q Good afternoon.

21 A Good afternoon.

22 Q Investigator Peaks, are you currently employed?

23 A Yes.

24 Q Where do you work?

25 A The Office of Chief Medical Examiner.

PEAKS - DIRECT - MR. REIN

1 Q Is that for the City of New York?

2 A Yes.

3 Q What is the Office of Chief Medical Examiner for the City
4 of New York?

5 A The medical examiner's office.

6 THE COURT: I'm sorry. Can I ask you to keep your
7 voice up a little bit louder? Thank you.

8 A The medical examiner office conducts independent
9 investigation to establish cause and manner of death.

10 Q Is it also known as OCME?

11 A Yes.

12 Q What is your position with OCME?

13 A I am a medical legal investigator.

14 Q What is your highest level of education?

15 A I have a bachelor's degree in psychology and a bachelor's
16 degree in health science.

17 Q And prior to joining the Office of Chief Medical Examiner
18 were you previously employed?

19 A Yes.

20 Q What did you do for a living?

21 A I'm a physician assistant.

22 Q Can you explain to us what is a physician's assistant?

23 A I'm a clinician who diagnose and treat patients under the
24 supervision of a physician.

25 Q How long have you held the position of medical legal

PEAKS - DIRECT - MR. REIN

1 investigator with OCME?

2 A Twenty-two years.

3 Q Can you describe for us what your duties and
4 responsibilities are in that role?

5 A I investigate death of unusual or suspicious
6 circumstances and death that occur, sudden and unexpected.

7 Q And how do you actually go about investigating deaths
8 that occur?

9 A A call is placed to our communication center, and a
10 notice of death is generated with a case number, and then the
11 case is assigned to an investigator.

12 Q When you first joined the Office of Chief Medical
13 Examiner, what type of training did you receive?

14 A I had six months' training shadowing a senior
15 investigator.

16 Q Can you describe for us during that training what types
17 of things would you do?

18 A Go out to scene investigations and take telephone calls,
19 consultations.

20 Q Do you continue to receive training?

21 A Yes.

22 Q What does that training consist of?

23 A It is lectures, continuing medical education lectures on
24 topics of blunt injury, sharp injury, gunshot wound,
25 environmental exposure, just to name a few.

PEAKS - DIRECT - MR. REIN

1 Q How do you as an investigator actually become involved in
2 an investigation?

3 A The case is assigned by a supervisor.

4 Q And once a case is assigned to you -- well, once a case
5 is assigned to you, what steps will you take at first?

6 A On the notice of death, there is a reporter, and I will
7 return the call to the reporter to find out the circumstances
8 of the death.

9 Q After you -- who is the reporter that you're referring to
10 on a notice of death?

11 A More than likely the police.

12 Q After you confer with the reporter listed on a notice of
13 death, what will you do in furtherance of your investigation?

14 A After our conversation, I will determine if a scene
15 investigation is warranted, and if so, I respond to the scene.

16 Q When you say a scene investigation, what does that mean?

17 A I will arrive to the location of death and start an
18 investigation by initially introducing myself to the police
19 once I arrive on scene and to witnesses, and then I conduct my
20 investigation with photo documentation, written documentation,
21 and examination of the body, followed by an identification of
22 the body and autopsy wishes from the family.

23 Q You mentioned that when you first arrive at a scene
24 you'll confer with the police. Why do you do that?

25 A I introduce myself and to see if there's any new

PEAKS - DIRECT - MR. REIN

1 information that became available since we last spoke.

2 Q When you're first assigned a case, how does the Office of
3 Chief Medical Examiner keep track of your investigation?

4 A Each case has a case number. Each county has a letter
5 indicating which county the death occurred.

6 Q In the case of Staten Island, what's the letter that's
7 assigned to a case investigation number?

8 A R for Richmond.

9 Q And the case investigation number that you're referring
10 to, is that unique?

11 A Yes. To that case only.

12 Q You mentioned that when you respond to a scene you'll
13 document it with a written report and photographs. Why do you
14 do that?

15 A Policy and procedure.

16 Q When you arrive at a scene of a death, what types of
17 things will you do to the body of a decedent itself in
18 furtherance of your investigation?

19 A Perform an examination by looking for injury, bruising or
20 wounds, and take photo documentation if there are bruises and
21 wounds or tattoos.

22 Q In order to do that, do you have to move the body?

23 A Yes.

24 Q Why does the body have to be moved?

25 A It's policy and procedure to examine the anterior and

PEAKS - DIRECT - MR. REIN

1 posterior aspects of the body.

2 Q When you say the anterior aspects of the body, can you
3 describe for us what you're referring to?

4 A The front and the back.

5 Q Is the back the posterior?

6 A Yes.

7 Q When you are finished with an investigation at a scene,
8 what happens to the decedent's body?

9 A It's -- I notify the transportation team, and they
10 transport the decedent to our office, the medical examiner's
11 office.

12 Q Have you ever responded to the scene of a suspected drug
13 overdose in your career?

14 A Yes.

15 Q If you can, approximately, can you approximate for us how
16 many times you have?

17 A Several. There's no way to really generate. Our IT
18 department cannot put deaths related to drug use in a
19 category, so it's many.

20 Q Is it fair to say is it over a dozen times?

21 A Sure.

22 Q And is there anything in particular that you'll do when
23 you respond to that type of case?

24 A No.

25 Q So is it treated like any other death you're

PEAKS - DIRECT - MR. REIN

1 investigating?

2 A Yes.

3 Q I want to direct your attention now to April 18th, 2017.

4 Were you working on that day?

5 A Yes.

6 MR. REIN: At this time, can we show the witness --

7 I'm sorry. Can we publish what's in evidence as Government

8 Exhibit 404 and turn to page 18.

9 Q Investigator Peaks, are you able to see what's in front
10 of you?

11 A Yes.

12 Q We're looking at an exhibit. It says Notice of Death at

13 the top. Can you explain to us what this is that we're

14 looking at?

15 A A notice of death is a document that provides demographic

16 information of the decedent and the circumstances of the

17 death.

18 Q In looking at the exhibit, can you tell us to whom does

19 this notice of death pertain?

20 A The name is Vincent C. Price.

21 Q And how old was Vincent C. Price?

22 A Forty-three years old.

23 Q What was the place of death that is noted?

24 A 69 Carlyle Green, Staten Island, New York, 10312.

25 Q In looking at this exhibit, can you describe for us what

PEAKS - DIRECT - MR. REIN

1 was the nature of death as noted in this notice?

2 A Notes read: Found by his father face down on the
3 bathroom floor. Last seen/spoken to around 9 a.m. by his
4 father. No trauma, just a belt wrapped around the right arm.
5 Medical history, drug abuse, no doctor, no meds present.

6 Q Was there a medical legal investigator assigned to this
7 death after it was -- after this notice was received?

8 A Yes.

9 Q Who was that?

10 A Myself.

11 Q What time were you assigned this case?

12 A 13:46.

13 Q Is that 1:46 p.m.?

14 A Yes.

15 Q I'm sorry, what is the date of this notice of death?

16 A 4/18/2017.

17 Q You mentioned that there is -- I'm sorry, are you able to
18 tell us in connection with this investigation what the medical
19 examiner number was?

20 A R-17-8978.

21 Q After you received this notice of death, what steps did
22 you take -- what were the initial steps you took as part of
23 your investigation?

24 A I made a call to the reporter, which is the police
25 officer, on -- indicated here as the caller name, and get

PEAKS - DIRECT - MR. REIN

1 circumstances surrounding the death.

2 Q After you spoke with that reporter, what did you do?

3 A I responded to the scene.

4 Q So you went to 69 Carlyle Green?

5 A Yes.

6 Q How did you get there?

7 A I drove an Office of Chief Medical Examiner's vehicle.

8 Q When you receive this notice of death, where are you
9 located physically?

10 A Well, it all depends. I could be in the office, if I
11 didn't have a prior scene. If I had a prior scene, I will
12 leave from that scene to this location.

13 Q I want to turn now to --

14 MR. REIN: Can we turn to page 11 of the exhibit?

15 Q Investigator Peaks, what are we looking at on page 11 of
16 the exhibit?

17 A The investigation report.

18 Q Who completed this report?

19 A Myself.

20 Q Can you describe for us what is an investigation report?

21 A An investigation report is the information that is
22 gathered during the scene investigation and placed into a
23 report.

24 Q Describe for us when is this type of report completed in
25 relation to when your initial investigation of a death begins?

PEAKS - DIRECT - MR. REIN

1 A The report is written at the office. It could be -- I
2 can't tell you what time of the day, but I would have to refer
3 to my notes here, but it's written once I return to the
4 office.

5 Q You mentioned that you responded to 69 Carlyle Green.
6 Approximately what time did you get there?

7 A Can I refer to my scene investigation report?

8 Q Yes. One moment.

9 THE COURT: Do you have an independent recollection?

10 THE WITNESS: No, I do not.

11 THE COURT: Will this document refresh your
12 recollection?

13 THE WITNESS: Yes.

14 MR. REIN: We can -- I'm sorry, Judge. If we could
15 just turn to page 13 of the exhibit.

16 Q Investigator Peaks, what are we looking at on page 13 of
17 the exhibit?

18 A The scene investigation form.

19 Q In looking at this document, can you tell us what time
20 you arrived at 69 Carlyle Green?

21 A 3 p.m.

22 Q When you first arrived at 69 Carlyle Green on April 18th,
23 2017, what did you do first?

24 A I introduced myself to police and witnesses.

25 Q What was the purpose of that?

PEAKS - DIRECT - MR. REIN

1 A Policy and procedure.

2 Q After you introduced yourself to law enforcement and
3 witnesses, was your attention directed to anywhere in
4 particular?

5 A Yes, the location of the decedent.

6 Q What did you actually observe to be located at 69 Carlyle
7 Green?

8 A The location of the decedent?

9 Q When you got to that address, what did you observe to be
10 physically at that location at that address?

11 THE COURT: That's -- that's too vague a question.

12 Q What type of -- was it a private house?

13 A Yes.

14 Q So when you got to that house, was your attention
15 directed to anywhere in particular inside?

16 A Yes.

17 Q Where was that?

18 A The bathroom.

19 Q When you got to the bathroom, can you describe for us
20 what you observed?

21 A Can I refer to the photographs, please, or the second
22 page of this scene investigation form?

23 MR. REIN: Can we turn to page 14 of the exhibit?

24 A I observed the decedent lying face down on the
25 bathroom/hallway floor.

PEAKS - DIRECT - MR. REIN

1 Q After observing that, can you describe for us how you
2 proceeded with your investigation?

3 A I start first with photo documentation, followed by
4 written documentation.

5 MR. REIN: Turning back to page 11 of the exhibit.

6 Q Investigator, there is a heading on the page that says
7 Case Synopsis. Can you describe for us what information is
8 included under that heading?

9 A The demographics of the decedent and a summary of the
10 circumstances of death, a brief summary.

11 Q So in this document, what was the case synopsis? If you
12 could read it for us.

13 A The decedent is a 43-year-old man with drug abuse. The
14 decedent was found unresponsive in the bathroom by the father.

15 Q There's also a heading called Subjective Findings. Can
16 you describe for us what information is to be included under
17 that heading?

18 A The social and medical history and the circumstances
19 surrounding the death.

20 Q What is social history?

21 A An example would be tobacco history, alcohol history,
22 drug history.

23 Q And what is medical history?

24 A An example would be hypertension, diabetes, asthma.

25 Q Can you read for us what it says on this document under

PEAKS - DIRECT - MR. REIN

1 subjective findings?

2 A The decedent is a 43-year-old man with drug abuse,
3 heroin, in parentheses. Social drinker. The decedent lived
4 with the parents. The decedent was scheduled to work today.
5 The father noticed the bathroom door closed. The father
6 opened the door and found the decedent sitting on the commode.
7 A belt was found tied around the decedent's right arm.
8 Several glassines were found in the commode. An empty syringe
9 was on the bathroom floor. EMT pronounced without
10 intervention. The decedent was last seen alive at 9 a.m. by
11 the father.

12 Q Investigator, what is a glassine?

13 A It's a packaging that has kind of a waxy film paper for a
14 substance that's usually used.

15 Q You mentioned a syringe. Can you just describe for us
16 what's a syringe?

17 A A syringe consists of a barrel with a needle and a
18 plunger. It's used to administer a substance or extract
19 fluid.

20 Q There's also a heading on this page that says Scene
21 Investigation Details. Can you describe for us what
22 information is to be included under that heading?

23 A The information is the information obtained at the scene
24 of the surroundings and the examination of the decedent.

25 Q Can you read for us what's listed under that heading?

PEAKS - DIRECT - MR. REIN

1 A Scene investigation revealed the decedent prone on the
2 bathroom/hallway floor. Examination revealed no obvious
3 trauma. Two bundles, glassine, in parenthesis, and brown
4 grass-like substance was found in the decedent's pocket.

5 Q When the report says the examination revealed no obvious
6 trauma, can you just explain to us what that means?

7 A Well, an example would be that there was no wounds or
8 bruising found on examination, on the external examination of
9 the body.

10 Q After conducting your initial examination of the scene,
11 how do you document what you saw there?

12 A Photo documentation and written documentation.

13 Q Why do you take photos of a scene?

14 A It's policy and procedure.

15 Q Other than conferring with law enforcement at the scene,
16 who else did you confer with?

17 A Family. The father.

18 Q Why did you speak with family members?

19 A To obtain a history, social and medical history, and
20 circumstances surrounding his death, and his state of well
21 being around the time that he passed.

22 Q Why are you interested in learning about past medical
23 history?

24 A The information is important to draw a conclusion or help
25 to establish the cause of death.

PEAKS - DIRECT - MR. REIN

1 Q Once you learn that information, how is it documented?

2 A On the subjective findings, it would be listed, and in
3 the investigation scene report, there's a section there where
4 it would be listed.

5 MR. REIN: Can we turn to page 14 of the exhibit?

6 Q Investigator, in looking at this -- well, first, what is
7 this page?

8 A This is page 2 of the scene investigation form.

9 Q And in looking at this page of the exhibit, what can you
10 tell us about Vincent Price's prior medical history?

11 A It indicates social drinker.

12 MR. SCHOER: Objection.

13 Judge, this can only be --

14 THE COURT: Overruled.

15 Q You can proceed.

16 A And drug abuse.

17 Q I'd like to direct your attention now to page 8 of the
18 exhibit. And, Investigator, what are we looking at on page 8
19 of this exhibit?

20 A The identification of body form.

21 Q Can you describe for us what this form is?

22 A This form is used for a witness to confirm that he
23 recognized the decedent.

24 Q In reviewing this form first, to whom does it pertain?

25 A Vincent C. Price.

PEAKS - DIRECT - MR. REIN

1 Q And in looking at the exhibit, who identified the body of
2 Vincent C. Price?

3 A Vincent Price.

4 Q What was that person's relationship to Vincent C. Price?

5 A Father.

6 Q In looking at the form about midway down, the word
7 "remains" is circled. Do you see that?

8 A Yes.

9 Q Can you explain to what us what that means?

10 A It means that the father visualized, he looked at the
11 decedent and confirmed that that was Vincent C. Price.

12 Q And who was the body actually identified to?

13 A Myself.

14 Q I'd like to direct your attention now to page 9 of the
15 exhibit. And, Investigator, can you explain to us what we're
16 looking at on page 9?

17 A The form is the Statement of Opposition to Autopsy.

18 Q Just describe for us, what is this form?

19 A This form -- family members are asked their preference
20 regarding an autopsy. And they'll express their preference,
21 and in part two, is the family will also give a preference if
22 they are okay with the taking of fluids for examination.

23 Q In looking at this form, what is the name of the deceased
24 person to whom it pertains?

25 A Vincent Price.

PEAKS - DIRECT - MR. REIN

1 Q And what is the form, in your review of it, tell you
2 about the desires of Vincent Price's family regarding an
3 autopsy?

4 A The family had an objection to autopsy.

5 Q What is the reason given?

6 A The reason was, I know why he died.

7 Q Who is the person that made the -- made that objection?

8 A Vincent Price, father.

9 Q You mentioned that there is another portion of the form
10 regarding the taking of fluids. Can you just explain to us a
11 little bit more about that?

12 A In some cases, fluids are required or necessary to help
13 establish the cause of death. Fluids may be sent for
14 toxicology or other analysis.

15 Q And this form, who was it signed by at the bottom
16 indicating -- I'm sorry, withdrawn. Who is this form
17 witnessed by?

18 A Myself.

19 Q You mentioned earlier that you documented the scene by
20 taking photographs; is that right?

21 A Yes.

22 MR. REIN: Can we show the witness only what have
23 been premarked for identification as Government Exhibits 632A
24 through 632N?

25 Q Investigator, are you able to see the first exhibit in

PEAKS - DIRECT - MR. REIN

1 front of you, 632A?

2 A Yes.

3 MS. TODD: Your Honor, if I may. This might be a
4 good time for the limiting instruction, your Honor.

5 THE COURT: How about first we put this in evidence.

6 MS. TODD: Certainly.

7 THE COURT: Actually, can I see counsel at the side,
8 please.

9 (Continued on the next page.)

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SIDEBAR CONFERENCE

1 (The following occurred at sidebar.)

2 MS. TODD: I was trying to wait for the appropriate
3 time.

4 THE COURT: First they have to put it in evidence,
5 there's nothing in evidence yet.

6 Did I hear you -- Mr. Rein, did I hear you, you said
7 Government Exhibit whatever the number was A through N.

8 MR. REIN: We're not going to look at all of them
9 with her.

10 THE COURT: Why are you even identifying everything,
11 I don't understand. I thought there was an agreement that
12 there were only a few photographs that were going to be
13 admitted.

14 MR. REIN: These are included, not all of them show
15 the body, they're just photos of the scene.

16 THE COURT: Okay.

17 MR. REIN: So that's why there's that many. There
18 are only a few that show the actual body.

19 THE COURT: Okay.

20 MR. REIN: Yes.

21 THE COURT: You have the views of what, the
22 building.

23 MR. REIN: The bathroom, there is no body. There
24 are things --

25 THE COURT: How much more do you have.

SIDEBAR CONFERENCE

1 MR. REIN: After I get through the pictures, look at
2 them I'm going to be done.

3 THE COURT: It's probably going to take us to
4 5 o'clock and it is Wednesday, the Alternate 5 has the travel
5 issues.

6 I assume you're going to ask questions.

7 MS. TODD: I have no questions --

8 MR. SCHOER: I have questions --

9 MS. TODD: He's not charged --

10 THE COURT: One at a time.

11 MR. SCHOER: I have questions.

12 MS. TODD: -- with respect to the 4/18/2017
13 incident.

14 THE COURT: Right, Mr. Allen.

15 MS. TODD: Is not charged.

16 THE COURT: You're going to have questions?

17 MR. SCHOER: Yes, Judge.

18 THE COURT: About how long.

19 MR. SCHOER: Probably at least 20 minutes to half an
20 hour.

21 THE COURT: Then she'll have to come back tomorrow.
22 Don't start.

23 MR. REIN: Okay.

24 THE COURT: Move.

25 (End of sidebar conference; Continued on next page.)

PEAKS - DIRECT - MR. REIN

1 (In open court.)

2 THE COURT: Can we have the last question read back
3 please, madam reporter?

4 (Record read.)

5 MR. REIN: May I proceed, Judge?

6 THE COURT: Yes.

7 MR. REIN: If we can just flip slowly through each
8 exhibit.

9 THE COURT: Can you see the photographs, ma'am?

10 THE WITNESS: Yes.

11 THE COURT: Okay.

12 MR. REIN: Going to 632B then C, D, E, F, G, H, I,
13 J, K, L, M, and N.

14 Q Investigator, were you able to see all the exhibits?

15 A Yes.

16 Q And what are these?

17 A Glassine envelopes.

18 Q I'm sorry, what are the exhibits that you've just seen,
19 632A through N?

20 A Photographs I took at the scene.

21 Q When you say the scene, is that the scene at 69 Carlyle
22 Green?

23 A Yes.

24 Q And do these photographs fairly and accurately depict the
25 scene of your investigation at 63 Carlyle Green when you were

PEAKS - DIRECT - MR. REIN

1 there on April 18th, 2017?

2 A Yes.

3 MR. REIN: Your Honor, the government offers 632A
4 through 632N?

5 THE COURT: Are there any objections to the photos?

6 MR. SCHOER: No objection.

7 THE COURT: Ms. Todd?

8 MR. SCHOER: We would ask for a limiting
9 instruction.

10 THE COURT: I can't hear you.

11 MR. SCHOER: I'm sorry. We would ask for a limiting
12 instruction with respect to the photos of Mr. Price.

13 THE COURT: Nothing has been shown yet.

14 MR. SCHOER: No, I understand.

15 THE COURT: Relax.

16 MR. SCHOER: But I have no objection.

17 THE COURT: Answer the one question.

18 MR. SCHOER: No objection.

19 THE COURT: Do you have an objection, yes or no?

20 MR. SCHOER: No, ma'am.

21 THE COURT: Thank you. Ms. Todd?

22 MS. TODD: No, your Honor.

23 THE COURT: They are admitted.

24 (Government Exhibits 632A through 632N, were
25 received in evidence.)

PEAKS - DIRECT - MR. REIN

1 MR. REIN: Can we publish 632A, please?

2 (Exhibit published.)

3 Q Investigator, can you describe for us what are we looking
4 at in 632A?

5 A The decedent lying face down on the floor of the hallway
6 and bathroom.

7 Q Can you describe for us what do you see in the top
8 portion of the exhibit on the floor next to the decedent?

9 A A belt.

10 MR. REIN: Can we turn now to 632B?

11 Q Investigator, could you describe what we're seeing in
12 this exhibit?

13 A The bathroom of the decedent's lower legs near the
14 toilet.

15 MR. REIN: If we could just turn to 632C.

16 Q Investigator, what was the purpose in taking this
17 picture?

18 A To document the syringe cap.

19 Q Can you just describe for us, where do you see the
20 syringe cap in this exhibit?

21 A It's the orange item on the floor.

22 MR. REIN: Turning now to 632F.

23 Q And, Investigator, could you describe for us what you see
24 in this exhibit?

25 A A syringe.

PEAKS - DIRECT - MR. REIN

1 Q Can you describe for us the syringe, where is it located
2 in relation to the body of the decedent?

3 A It appears that it is near an extremity, perhaps the leg.

4 MR. REIN: Turning now to 632K.

5 Q Can you describe for us what we're looking at in this
6 exhibit?

7 A A syringe.

8 MR. REIN: And turning to 632L.

9 Q Investigator, describe for us what we're looking at in
10 this exhibit.

11 A Glassine envelopes wrapped in a black band, a lighter,
12 and a plastic bag with green and brown substance.

13 Q You mentioned glassine envelopes. Could you actually
14 point out to us what you're referring to? You're able to
15 touch the screen, and actually we'll see what you're drawing.
16 If you could draw a circle around what you're referring to?

17 A A circle?

18 Q Okay.

19 A (Witness complies.)

20 MR. REIN: If we can turn to 632M?

21 THE COURT: Let the record reflect that the witness
22 has placed circles around two objects that are white in color,
23 wrapped with something black next to what appears to be a
24 green lighter around the middle of the photograph.

25 Q I'm sorry, before we go to the next exhibit.

PEAKS - DIRECT - MR. REIN

1 Investigator, why was this photo taken?

2 A Policy and procedure is to document any drug, illicit
3 drug or paraphernalia at a scene.

4 MR. REIN: Turning now to 632M.

5 Q Can you describe what we're seeing in 632M?

6 A Currency.

7 Q Why was this photograph taken?

8 A Policy and procedure is to document personal property or
9 currency at the scene.

10 Q And, lastly, looking at 632N, can you describe for us
11 what we're looking at in this exhibit?

12 A Toilet with glassine envelopes.

13 Q Could you again draw on the screen and just indicate
14 that's what you're referring to?

15 A Glassine envelopes?

16 Q Yes.

17 A (Witness complies.)

18 MR. REIN: We'll note for the record that you've
19 drawn circles around white objects which are located toward
20 the bottom of the toilet bowl as it is framed in this exhibit.

21 We can take the exhibit down.

22 Q Investigator, after you completed your examination and
23 took these photographs, did you play any other role in this
24 investigation?

25 A Yes.

PEAKS - DIRECT - MR. REIN

1 Q What was that?

2 A Speak to witnesses and family.

3 Q And after you spoke with witnesses and family and left
4 the location, did you play any other role in the
5 investigation?

6 A Prior to departing the scene, I would notify
7 transportation to -- for pickup, to transport back to our
8 office.

9 Q You're saying pick up of the body?

10 A Yes.

11 Q Where was the body of Vincent Price taken?

12 A To the medical examiner's office in Brooklyn.

13 MR. REIN: No further questions, Judge.

14 THE COURT: Any questions for the witness?

15 MR. SCHOER: Yes, Judge.

16 THE COURT: Mr. Schoer?

17 MR. SCHOER: You want me to start?

18 THE COURT: Yes, go ahead and start.

19 MR. SCHOER: Okay.

20 (Continued on the next page.)

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25

PEAKS - CROSS - MR. SCHOER

1 (Continuing.)

2 CROSS-EXAMINATION

3 BY MR. SCHOER:

4 Q Good afternoon, Ms. Peaks.

5 A Good afternoon.

6 Q My name is Gary Schoer. I represent Mr. Wyche.

7 Do you have any independent recollection of what you
8 did on April 18th, 2017?

9 A No, I do not.

10 Q So all of your testimony is based on reviewing your
11 reports and photographs, correct?

12 A Yes.

13 Q Anything else that you reviewed?

14 A No.

15 Q With respect to the photographs that you reviewed,
16 Exhibit 632, A through N, were there -- other than, perhaps,
17 other photographs of the deceased, did you take any other
18 photographs of the apartment, the home?

19 A Yes.

20 Q Now, before you took those photographs -- you arrived
21 there at approximately 3:00 p.m., correct?

22 A Yes.

23 Q And at that time, when you arrived there, there were --
24 were there EMT -- Fire Department EMT gentlemen there?

25 A Usually, they are not at the scene when I arrive.

PEAKS - CROSS - MR. SCHOER

1 Q Well, do you remember whether they were there on that
2 day?

3 A I do not recall.

4 Q Were there police detectives there?

5 A I do not recall.

6 Q Were there police officers there?

7 A Yes.

8 Q Do you know how many police officers were there?

9 A I do not recall.

10 Q When -- were there -- other than -- well, were there
11 family members there?

12 A Yes.

13 Q How many family members do you remember seeing there at
14 that time when you first arrived?

15 A I do not recall.

16 Q When you arrived -- withdrawn.

17 You looked at a notice of death and that was part of
18 the Government Exhibit that was introduced, correct?

19 A Yes.

20 Q And you spoke about the reporter. You mentioned that
21 word, the reporter, there were certain information from that
22 reporter in that notice of death, correct?

23 A Yes.

24 Q Do you know who the reporter was?

25 A I have to refer to the document, please.

PEAKS - CROSS - MR. SCHOER

1 MR. SCHOER: Can we show the witness, the notice of
2 death. Yes. Thank you very much.

3 Q Do you know who the reporter was?

4 A Caller named appears Ritchie PO.

5 Q And do you know -- PO means police officer?

6 A It can.

7 Q Okay. Well, looking at the report, do you have a feel
8 for whether or not that's a police officer named Ritchie?

9 A I would go with the last name, Ritchie.

10 Q Yes. But it's a police -- it's somebody from the police.

11 It says from police and it has a shield number,
12 collect?

13 A Yes.

14 Q Okay. And that was the reporter that called your office
15 and your office took down this information and provided it to
16 you, correct?

17 A Yes.

18 Q Now, looking at the investigative report that you
19 prepared which I believe is Page 13. The page before, I
20 guess, 12. Next page, 11. Sorry.

21 The information that's contained in this report --
22 this is your report, correct?

23 A Yes.

24 Q And the information that's contained in this report,
25 where did you get that information from?

PEAKS - CROSS - MR. SCHOER

1 A The information obtained is from police and from family.

2 Q Okay. So when you put in this report that the decedent
3 is a 43-year-old man with drug abuse, I assume you meant drug
4 abuse history, correct?

5 A Yes.

6 Q And you received that information from the family,
7 correct?

8 A Initially, it was reported by police, but then confirmed
9 by family.

10 Q Okay. And the other information that's here concerning
11 the father opening the door, this is information, again, that
12 you received from the police, and then confirmed by the
13 family?

14 A Yes.

15 Q The third paragraph down concerning scene investigation
16 details.

17 The substance that is alleged to have been found in
18 his pocket, did you find that substance in his pocket?

19 A The report does not indicate.

20 Q Would the report indicate if you were the one that found
21 it in his pocket?

22 A Sometimes.

23 Q Well, do you remember whether you were the one that found
24 it in his pocket or someone else?

25 A I do not recall.

PEAKS - CROSS - MR. SCHOER

1 Q Do you remember whether the body had been moved at the
2 time that you first arrived?

3 A The report says the decedent was sitting on the commode,
4 and when I arrived, he's on the floor.

5 Q He's on the floor and he's halfway between -- halfway
6 into the hallway; is that fair?

7 A Yes.

8 Q In the picture that you -- that was Exhibit 632A.

9 Is that fair, is that the location that you observed
10 him?

11 A Yes.

12 Q When you first observed him -- well -- withdrawn.

13 Is there anything in that picture that isn't the way
14 you first observed him?

15 A Can I see the picture?

16 MR. SCHOER: I'm sorry, make it's easier. 632A.

17 A Please repeat your question.

18 Q Is there anything in that photograph that's inconsistent
19 with the way you first observed the person?

20 A Photo documentation, this is the first picture of the
21 scene.

22 Q So when you observed him -- I guess really what I'm
23 getting to, when you observed him, there was a covering over
24 his rear end, correct?

25 A Yes.

PEAKS - CROSS - MR. SCHOER

1 Q And do you know whether or not that covering was there
2 when the first officer arrived on the scene?

3 A Based on my report, no.

4 Q Do you know whether the body had been moved in any way
5 from the place where the first officer who arrived on the
6 scene, where it was when the first officer arrived on the
7 scene?

8 A Please repeat.

9 Q I apologize.

10 Do you know whether or not the body was in the same
11 place as it was when the first officer arrived on the scene?

12 A The report indicate that the decedent was found on the
13 commode. When I arrived at the scene, he's lying on the
14 floor, facedown. So there's a change in position from the
15 commode to the floor, based on the information gathered.

16 Q Do you know whether or not he was rolled over and then
17 rolled back?

18 A I know that the position is changed. It's reported that
19 he's sitting on the toilet, and now he's on the floor.

20 Q Okay. Do you know whether or not the syringe that you
21 took photographs of, whether that had been moved at any time
22 before you took the photograph?

23 A Prior to my arrival to the scene?

24 Q Yes.

25 A My documentations only reveal what I found at the scene.

PEAKS - CROSS - MR. SCHOER

1 I'm not aware if the syringe was in a different location.

2 THE COURT: Do you know what happened in terms of
3 the position of any of those items prior to your arrival there
4 other than moving the body from the commode to the floor?

5 THE WITNESS: Usually, in cases, the items remain in
6 place until we arrive on scene.

7 Q But you don't know whether that's true in this case?

8 A No.

9 Q Now, looking back at your scene investigation form which
10 was Exhibit 404.

11 MR. REIN: Page 13.

12 MR. SCHOER: Page 13, correct. I'm sorry.

13 Q On that Page 13, down at the bottom, there's a place for
14 entry of information concerning objections as to an autopsy;
15 isn't that correct?

16 A Yes.

17 Q And you didn't fill that out, correct?

18 A No.

19 Q And then on the next page, with respect to the deceased's
20 medical history, when you checked drug abuse, did you inquire
21 as to whether or not the decedent had previously overdosed?

22 A The report does not indicate.

23 Q Do you remember whether you inquired as to whether he
24 had?

25 A Perhaps I have.

PEAKS - CROSS - MR. SCHOER

1 Q Do you have any recollection of making that inquiry?

2 A I don't have any recollection.

3 Q If you had made that inquiry, would that information be
4 contained on the medical history?

5 A It could appear if there is a history of drug overdose.

6 Q And if there's a history of drug overdose, could that
7 impact on someone's heart condition?

8 MR. REIN: Objection.

9 THE COURT: Sustained.

10 Q Well, based on your expertise as a medical legal
11 investigator --

12 MR. REIN: Objection.

13 THE COURT: Sustained.

14 Q So the only thing that you put in the deceased medical
15 history is what you're told, correct?

16 A Yes.

17 Q Now, also, on that page, it indicates that you observed
18 an empty glassine, correct?

19 A Yes.

20 Q And where was the empty glassine?

21 A Referring to the photographs?

22 Q No. I'm referring to your recollection.

23 Where was there an empty glassine?

24 A I don't recall. I would have to refer to photo
25 documentation.

PEAKS - CROSS - MR. SCHOER

1 MR. SCHOER: Judge, can we have the witness look,
2 herself, only at the photographs to see if that refreshes her
3 recollection as to where the empty glassine was and point us
4 to us which photograph?

5 THE COURT: There were, I think, two or three photos
6 that showed glassines.

7 MR. SCHOER: Yes. But the question is --

8 THE COURT: So they can be shown only to the
9 witness.

10 MR. SCHOER: Thank you.

11 THE COURT: And the Government needs to put on the
12 record which photos it is you're showing. Just the glassine
13 photos.

14 MR. REIN: I'm sorry, this is -- the witness is
15 being shown what's in evidence as 632N, only to the witness.

16 Q Is 632N the empty glassine that you referred to in your
17 investigative report?

18 A When I observed here looking, there are empty glassines
19 in the toilet.

20 Q In your report, you did not use the plural.

21 You used singular, glassine, correct?

22 A I'd have to see the report.

23 MR. SCHOER: Can we go back now to 404.

24 MR. REIN: Page 14. 404, 14.

25 Q Is it fair to say that you used the word, empty glassine?

PEAKS - CROSS - MR. SCHOER

1 A Correct.

2 Q And in 404 -- in 632N, there are numerous glassines in
3 the toilet, correct?

4 A Yes.

5 Q Were all of them empty?

6 A Can you go back to the photograph, please.

7 MR. SCHOER: 632N.

8 A I circled what appears to be empty.

9 Q So those are the two --

10 A Well, I don't know if it's just the two, but that's what
11 I can see now. It appears to be empty.

12 Q Now, looking back again at Exhibit 404, Page 15 is the
13 page.

14 You did a physical examination of the deceased,
15 correct?

16 A Yes.

17 Q And during that physical examination, you found breakable
18 rigor, correct?

19 A Yes.

20 Q And what does that signify?

21 A After death, initially, muscles become flaccid or flabby,
22 and perhaps 30 minutes or so, it's variable, that the muscles
23 start to stiffen. I was able, with my force, to break the
24 rigor, the muscle stiffness. That's what that means.

25 Q And then you also have --

PEAKS - CROSS - MR. SCHOER

1 THE COURT: So what does that mean if you're able to
2 do that?

3 THE WITNESS: It's still variable, but it means that
4 the person was not deceased very long.

5 Q And then you have liver -- livor mortis.

6 Can you tell us what that means?

7 A Lividity is when the body -- when the heart stops, the
8 blood is no longer circulating and the blood tends to pool in
9 a dependent position. So if, for example, someone's laying on
10 their back, by gravitational forces, the blood will settle
11 there on their back.

12 Q So in this case, the lividity was to the chest, so that
13 implies, or at least you could conclude, that the person was
14 lying on his chest, correct?

15 A At some point.

16 Q At some point.

17 Well, would that be lying on his chest before death
18 or only after -- or could it be after death?

19 A Lividity patterns immediately after death, you can have
20 more than one pattern. You can have the pattern of how they
21 were found, and if they're moved shortly after death into a
22 different position, you can also get a lividity pattern.

23 Q Now, you then looked at some other things.

24 This says other post-mortem changes, correct?

25 A Yes.

PROCEEDINGS

1 Q And you didn't see any of those other post-mortem
2 changes, correct?

3 A Yes.

4 Q You didn't see any purge from the nose or the mouth,
5 correct?

6 A Correct.

7 MR. SCHOER: May I just have a second, Judge?

8 THE COURT: I second, literally. Clock is ticking.

9 MR. SCHOER: I didn't go over what I told you.

10 THE COURT: No discussion is necessary.

11 MR. SCHOER: I have no further questions, Judge.

12 THE COURT: Any redirect.

13 MR. REIN: No. Thank you, Judge.

14 THE COURT: I'm sorry, Ms. Todd, I was relying on
15 what you had said before. Any questions on behalf of
16 Mr. Allen?

17 MS. TODD: No, Your Honor.

18 THE COURT: I'm sorry, I didn't mean to go over.

19 Okay. Thank you, ma'am. You may step down.

20 (The witness steps down.)

21 THE COURT: Okay. Ladies and gentlemen, I know we
22 went a little over 5:00 o'clock, and as I'm sure, Magistrate
23 Judge Kuo said, if it looks like we can finish with a witness
24 completely, we might do that from time to time. I'm also very
25 mindful, Mr. Li, our alternate, Number Five, that you've got a

PROCEEDINGS

1 class to teach in a little bit. I understand that you can get
2 there fairly quickly, so we're going to let everybody go in a
3 minute. But before we do, just a couple of things that I do
4 want to mention.

5 It should not be a problem, Mr. Li, on Wednesdays --
6 can you get there in 15 minutes or so.

7 THE JUROR: Yes.

8 THE COURT: All right. I just want to make sure we
9 get you out of here on time.

10 And then as to Alternate Number 3, Ms. Pease, yes.
11 Okay. I know that you've got a flight tomorrow and that you
12 need to leave here at 2:00 o'clock. So we're going to have a
13 modified schedule tomorrow. I'm going to ask everybody to
14 come back at 9:30. Be mindful, please, like I said, there's a
15 problem coming in through the security. That's not your
16 fault. Everyone is trying to work very hard to try to get all
17 of this done, fixed as quickly as possible. I'm just going to
18 ask you to adjust for that, because we need to have you in
19 your jury room at 9:30 and assembled so that we can get
20 started right away. I know we're asking a lot, but the sooner
21 you arrive, the sooner we can get started.

22 So normally, I would give you a break in the morning
23 and in the afternoon, maybe 15 or 20 minutes. You have a
24 break for lunch between 1:00 and 2:00 o'clock. It makes
25 everybody comfortable. You can take your nature break. If

PROCEEDINGS

1 you have special dietary needs and you need to snack or
2 something like that, diabetics sometimes need to do that,
3 that's your opportunity to do that.

4 Tomorrow, we'll take a morning break, but we're
5 going to skip lunch, because we're going to end at 2:00. So
6 we're going to start at 9:30, end at 2:00, and that means,
7 Ms. Vitale, that means you have some extra time in the
8 afternoon to work on your school reports. Remember that we're
9 not meeting on Fridays. Okay. So you can go back to work on
10 Fridays. Do whatever it is you have to do on Fridays. That's
11 fine. If we're already deliberating, that might change. But
12 we kind of try to play things by ear a little bit as we go.

13 So keep in mind tomorrow we're going to stop at
14 2:00. I'm going to ask you all to be here at 9:30. I'm going
15 to encourage you, I think they have a refrigerator, right, in
16 their room. If you're a person who does need to have snacks
17 or you have special dietary needs, maybe you eat kosher or
18 halal or whatever, it's not so easy to find that stuff in this
19 neighborhood, so you might want to -- and it gets a little
20 pricey, too, eating out every day, so I recognize that. So if
21 you have special diets or anything like that, I encourage you
22 to bring your lunch in and keep it in the -- they have a
23 microwave too?

24 (Judge confers with the courtroom deputy.)

25 THE COURT: Okay. So we'll make sure that you have

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1 access to coffee and tea and all of those sorts of things. I
2 am just going to ask that if you want to bring some bottled
3 water into the courtroom, that's fine. Just don't bring
4 anything else into the courtroom.

5 I recommend that you bring some sweaters or some
6 layers. Everybody's body temperature is different. Like I
7 said, we do our best to control the temperature so that it's
8 comfortable. But I see some people looking like they're cold
9 and some people looking like they're warm. So layers are the
10 way to go. Okay.

11 So we're going to continue tomorrow at 9:30.

12 And one other thing. You're going to hear me say
13 this to you every time before we break, as I previously
14 instructed you, remember not to have any contact or
15 conversations with any of the parties in this case, including
16 any witnesses, the Court, or any Court staff, whether you see
17 any of us on the streets or any hallways or any other
18 location. And of course, if any attempt is made by any person
19 to converse with you about this case, or any incident occurs
20 within your knowledge involving an attempt by any person to
21 improperly influence any member of the jury, you must report
22 it promptly to the Court. Please do not discuss either the
23 incident or the fact that you feel it necessary to report the
24 incident with any or juror or anyone other than my case
25 manager, Christy Carosella or either one of my law clerks, Rae

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1 Berger or Brachah Goykadosh.

2 Remember that you may not discuss this case or any
3 aspect of this case, including jury selection, with anyone,
4 including family members, case workers, maybes neighbors or
5 friends, either in-person or any other medium such as cell
6 phones, laptops, tablets, social media or other tools of
7 technology.

8 You must keep an open mind and not form any opinion
9 about the guilty or non-guilty of either defendant on trial
10 until such time as all the evidence has been presented, you
11 have been instructed on the law by me, and you have had an
12 opportunity to deliberate with your fellow jurors.

13 You must not read, listen to or view anything at all
14 about this case or anything touching on this case over any
15 kind of media, newspaper, social media, internet, blogs,
16 radio, podcasts, television, just for example.

17 You must not conduct any research or investigation
18 about this case or any manner concerning this case on your own
19 or over any kind of media. You must decide this case only on
20 the admissible evidence presented at trial and my instructions
21 on the law.

22 You may not visit or view any location that may be
23 involved in this case or mentioned during trial.

24 Again, please be here promptly at the time directed
25 by the Court. Each of you is important and we cannot proceed

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1 until all of you are present. Get home safely, safe travels,
2 today and tomorrow.

3 THE COURTROOM DEPUTY: All rise.

4 THE COURT: Get plenty of sleep. It's tiring
5 sitting there and watching.

6 (Jury exits the courtroom.)

7 THE COURT: All right. The jury is no longer
8 present. Please have a seat, everyone.

9 Okay. So whose next on the laundry list of
10 witnesses?

11 MR. REIN: Yes, Judge. Tomorrow we intend to call
12 Sergeant Raul Irizarry, detective Dominick Libretti, and if we
13 are able to get to him, Detective Philip Vaccarino.

14 THE COURT: Sergeant Raul Irizarry, do you know
15 whether -- have you asked him whether he's related to me or
16 not? I don't know of anybody in my family by that name.

17 MR. REIN: I didn't specifically ask him, but I
18 mentioned that you share a last name and it was -- he didn't
19 remark that he knew you or was related in any way.

20 THE COURT: Okay. I don't recall of anybody being a
21 police officer of recent vintage in my family. Not on the
22 Irizarry side, any way. Okay.

23 Whose the other one?

24 MR. REIN: I'm sorry --

25 THE COURT: After Irizarry.

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1 MR. REIN: Irizarry, Libretti, and Vaccarino.

2 THE COURT: That's it? Well, tomorrow we end at
3 2:00.

4 MR. REIN: Yes. Right.

5 THE COURT: Okay. Please, this is for everyone, you
6 need to have your ducks lined up. That includes whatever
7 documents you intend to use for cross-examination or
8 impeachment or introduction into evidence. The defense has
9 all the same exhibits that the Government has been using.
10 You've had these -- the 3500 material now for two weeks. We
11 can't have all these pauses waiting for things to be put up on
12 the screens. There is the ELMO that can be used to put
13 documents on there. You need to be prepared to go. I can't
14 have these long gaps where you're just looking for documents.
15 That's going to delay us. The minutes add up. We have time
16 to make up. I want to make sure that everybody has their
17 opportunity to do the examination that you want to make, but I
18 also expect a certain level of efficiency. It is possible to
19 do. So I don't want to see people hunting around for
20 documents or anything else. Be prepared.

21 Is there anything --

22 (Judge confers with law clerk.)

23 THE COURT: The same thing that I told to the jury
24 about being mindful of the security issues that we have
25 downstairs, you lawyers also need to be mindful of that. And

PROCEEDINGS

1 I had a chat with the CSOs today. They are doing their best
2 to get this thing fixed, but you know, it's the Government.
3 What can I say? It's going to take a while to get done. And
4 there's no way to separate out the attorneys to give you
5 priorities to get through. So you need to make sure that you
6 get here early, as well, and set up, so that we're ready to
7 go.

8 Anything that you all want to raise with me today
9 before we end?

10 MS. CHEN: Your Honor, I wanted to raise one
11 housekeeping issue.

12 Yesterday, the parties executed a stipulation and
13 waiver of jury trial on forfeiture. I know different judges
14 have different procedures of when they want to handle that,
15 whether we wait until a verdict, whether a verdict was
16 reached, or if Your Honor wanted us to file the stipulation
17 and waivers now?

18 THE COURT: Do the parties have any preference?
19 Does defense have any preference?

20 MR. SCHOER: No.

21 MS. TODD: No, Judge.

22 THE COURT: I'll take a look at it.

23 Have you shown it to --

24 MS. CHEN: They signed it.

25 MR. SCHOER: We signed.

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1 THE COURT: All right. I'll take a look at this
2 tonight. And then I can go over it with you all tomorrow.
3 Anything else?

4 MS. CHEN: No, Your Honor.

5 THE COURT: Anything on behalf of the defense?

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

7 THE COURT: All right. Okay. Thank you all very
8 much. I'm glad that we're finally underway, here.

9 * * * * *

10 (Proceedings adjourned to resume on February 2, 2023
11 at 9:30 a.m.)

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