

IN THE COURT OF COMMON PLEAS
COUNTY OF SUMMIT

- - -

STATE OF OHIO,) Case No. CR2020-10-2863
) C.A. No. 30799
Plaintiff,)
) TRANSCRIPT OF
vs.) PROCEEDINGS
) (WITH EXHIBITS)
JOSEPH SENK,)
) Volume 1 (of 4 Volumes)
Defendant.)
- - -

APPEARANCES:

SALLY MONTELL and **MATTHEW MEYER**,
Assistant Attorneys General,
On behalf of the State of Ohio.

JOHN GREVEN, Attorney at Law,
On behalf of the Defendant.

- - -

BE IT REMEMBERED that upon the hearing of
the above-entitled matter in the Court of Common
Pleas, Summit County, Ohio, before THE HONORABLE
ALISON McCARTY, Judge Presiding, commencing on
Monday, May 1, 2023, the following proceedings
were had, being a Transcript of Proceedings:

(JURY TRIAL)

CYNTHIA S. KLINE, RPR
Official Court Reporter
Summit County Courthouse
209 South High Street
Akron, OH 44308

I N D E X

<u>Voir Dire</u>				23
 <u>Opening Statements</u>				
By Ms. Montell				158
By Mr. Greven				167
<u>STATE'S WITNESSES:</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
Richard Brownley	168	201	225	231
Julie Brown	233	246	---	---
Rebecca Bralek	248	265	266	---
Paul Maloney	268	280	285	291
Grant Rose	296	304	306	---
Jennifer Carlin	308	335	340/343	342
Matthew Whittaker	344	366	367	370
Mike Zsednay	374	380	---	---
Joseph Beltrami	384	392	397	---
Jared Prill	402	408	409	410
Jason Walters	412	441	---	---
 <u>Closing Arguments</u>				
By Mr. Meyer				469
By Mr. Greven				480
By Ms. Montell				498
<u>JURY CHARGE:</u>				453/508

M O T I O N S

Defendant Motion to appoint new counsel
 Defendant Motion to exercise inalienable rights
 protected by the Bill of Rights
 State Motion of intent to introduce other acts
 Defendant Rule 29 Motion
 State Motion to Amend Count 2

E X H I B I T SSTATE'S EXHIBITS: (Admitted Page 447)

Exhibit No. 1a-1d	Photos
Exhibit No. 2a-2h	Photos
Exhibit No. 3	Photo
Exhibit No. 4a-4e	Photos
Exhibit No. 5a-5d	Photos
Exhibit No. 6a-6b	Photos
Exhibit No. 7	Letter dated 5/2/2013
Exhibit No. 8a-8d	Photos
Exhibit No. 9	Letter dated 7/25/2017
Exhibit No. 10	Letter dated 7/16/2020
Exhibit No. 11	Letter dated 9/29/2020
Exhibit No. 12a-12e	Photos
Exhibit No. 13a-13b	Photos
Exhibit No. 14a-14x	Photos
Exhibit No. 15	All Tread Xpress Invoice

ALSO INCLUDED:

Copy of Jury Instructions

* * *

1 *****Monday May 1, 2023

2 P R O C E E D I N G S

3 - - -

4 THE COURT: All right. Good
5 morning, everybody.

6 Okay. We have a few things we have
7 to put on the record. So let's do that to
8 start.

9 This is Case No. CR2020-10-2863,
10 State of Ohio versus Joseph Senk.

11 And we do have -- we have all the
12 parties present. We have Miss Sally
13 Montell and Mr. Matthew Meyer, from the
14 Ohio State Attorney General's Office,
15 representing the State of Ohio.

16 We have Mr. John Greven here with
17 Mr. Joseph Senk. And Mr. Greven was
18 appointed to represent Mr. Senk.

19 Mr. Senk has individually filed
20 some motions that the Court needs to
21 discuss. And the State also filed a
22 couple motions that we need to discuss.

23 So we're going to talk about your
24 motion first, Mr. Senk, the one you're
25 asking to have new counsel appointed.

1 THE DEFENDANT: Yes.

2 THE COURT: Okay. So did you want
3 to speak to that?

4 THE DEFENDANT: Yes. I would like
5 new counsel, yes.

6 THE COURT: Can you get a little
7 closer? I'm going to turn on all these
8 microphones.

9 THE DEFENDANT: This is a court of
10 record, right?

11 THE COURT: Yes, everything's on
12 record.

13 THE DEFENDANT: I would like to
14 talk on getting a motion -- getting a -- I
15 thought it was to get new counsel
16 appointed is what I thought I was coming
17 for this morning because I missed the Zoom
18 thing on Thursday.

19 THE COURT: Right. That was a --
20 kind of -- you filed that motion, and so
21 that was the last minute hearing we set
22 up.

23 And I understand you did try to
24 contact the Court. I know my bailiff
25 spoke with you. So obviously, that didn't

1 happen then. So I just said: Well, we'll
2 handle it this morning.

3 But can you explain to me what the
4 problem is because we're going to go to
5 trial today.

6 THE DEFENDANT: Yes. I feel that
7 Mr. Greven's advice, I think he's not
8 working for me.

9 He's mentioned to me if I take this
10 to trial that I'm going to be convicted,
11 and I don't like that.

12 And I don't think he's working for
13 me. I think he's working for the
14 Plaintiff. That's the way I feel.

15 And I do not want him to represent
16 me. I would like a new attorney appointed
17 to me.

18 THE COURT: All right. Well, you
19 filed this motion, what, a couple weeks
20 ago? Yeah.

21 This case has been pending since
22 2020.

23 So the Court's not inclined, based
24 on what you've just told me, to give you
25 new counsel.

1 So you have to decide whether you
2 want to stick with Mr. Greven, who I can
3 assure you, is not working for the State
4 of Ohio; or you want to represent
5 yourself?

6 And if you do want to represent
7 yourself, we can proceed in that fashion.
8 You have that right.

9 And I can appoint Mr. Greven to
10 just simply sit as your standby counsel,
11 but that would mean that he would not
12 speak. He would only be there, answer
13 questions if you had any questions about
14 procedure or evidence.

15 You would be deciding everything
16 that happened, and you would be the one
17 that would be speaking to the Court and to
18 the jury.

19 THE DEFENDANT: Well, I'm not
20 prepared to go to -- I can't see to read.
21 I'm legally blind, visually impaired.

22 And I'm not prepared to go to
23 trial, Judge. I need some time.

24 THE COURT: Well, no. We are going
25 forward today. So you have to make a

1 decision whether you want to stay with the
2 lawyer the Court gave you quite a long
3 time ago.

4 THE DEFENDANT: Well, I'm
5 underdressed. And I have to move forward,
6 I guess, with the present counsel, I
7 guess.

8 THE COURT: Okay.

9 THE DEFENDANT: I'm not -- I don't
10 want to though.

11 THE COURT: You can note your
12 objection for the record, if you want to.

13 THE DEFENDANT: Yes. I would
14 object to him, but I don't know.

15 THE COURT: Okay. Objection noted.

16 There was also another motion that
17 you filed, I think, Friday.

18 Normally, when you're represented
19 by counsel, the Court doesn't -- you know,
20 it's not a hybrid representation. So
21 motions filed by the defense -- Defendant,
22 generally, are not considered by the
23 Court, and they're stricken.

24 Obviously, when your motion was to
25 get rid of our lawyer, I had to hear that

1 one.

2 You also filed a motion to claim to
3 exercise unalienable rights protected by
4 the Bill of Rights. Not exactly sure what
5 this means.

6 Is there something, while we're
7 talking about it, that you wanted to
8 express?

9 The Court, obviously, understands
10 my oath and that I have to make sure that
11 you have a fair trial, according to the
12 constitution; and I will certainly do
13 that.

14 THE DEFENDANT: And I believe my
15 rights -- the legal -- I guess -- he's
16 close and contentious.

17 I'm a man of honor. I'm a human
18 being, flesh and blood. And I want to go
19 by God's law, which is lawful law.

20 Again, who did I harm and who did I
21 trespass against?

22 THE COURT: Okay. Well, the State
23 has to prove your guilt beyond a
24 reasonable doubt. That's the burden
25 they're held to.

1 It's not God's law. It's the Ohio
2 law. That's what I have jurisdiction
3 over.

4 THE DEFENDANT: Well, I have a
5 right to meet my accuser. Who did I harm?
6 Who did I harm?

7 THE COURT: I'm unaware of the
8 facts of this case, other than what's
9 alleged in the indictment; so I don't know
10 if proving harm is one of the elements.
11 So that's up to the State.

12 If they have to prove that as one
13 of the elements, then you know, you can
14 certainly argue, as a part of your
15 defense, that they didn't prove that.

16 THE DEFENDANT: Well, I can't cause
17 harm against a piece of paper, which is
18 a -- the -- it's a -- the State's a corporation.

19 THE COURT: No, no, not a
20 corporation.

21 THE DEFENDANT: It's got a
22 registration number. It's registered.

23 THE COURT: It's just a
24 governmental entity.

25 THE DEFENDANT: It says it's for

1 profit. Anyway --

2 THE COURT: All right. Well, I
3 understand what you indicated.

4 The Court's overruling your motion,
5 for the record; but I will affirmatively
6 tell you I understand my duty to make sure
7 you have a fair trial.

8 And Mr. Greven understands his
9 duty, as your lawyer, to zealously
10 represent you; and I'm sure he will do so.

11 And obviously, the State has the
12 burden of proving your guilt beyond a
13 reasonable doubt. And they will be held
14 to that burden, okay?

15 So I think we're ready, at this
16 point, to hear the other motions, which
17 I'm going to let Mr. Greven argue, unless
18 there's something else you wanted to say.

19 MR. GREVEN: Two things I want to
20 put on the record, just before we get
21 started.

22 First thing is, just kind of in
23 response to what he just said. The
24 conversations that I've had with Joe are
25 that if he wanted to go to trial, I will

1 do my best job at trial.

2 I've been doing this for 28 years.
3 I've done about 320 of them at this point.
4 I know how to try a case.

5 But I also think that it is the job
6 of the defense attorney to have an honest
7 conversation with his client and say:
8 Despite what you say, client, I've looked
9 at the evidence, and here is what the
10 evidence says.

11 So what I've told Joe is if he
12 wants his trial, I'll do my best; however,
13 the evidence, to me, does seem pretty
14 strong in this case. I want to make sure
15 that he understands it's an uphill battle.

16 The second thing I want to put on
17 the record, frankly, for my protection, is
18 I've talked with Joe a couple times in
19 court. I think we've had two or three
20 pretrials. I think he's been to my office
21 twice.

22 The first time, it was kind of an
23 introduction meeting kind of thing.

24 The second time, we briefly went
25 over what the evidence -- after I got the

1 discovery -- was.

2 Last Monday, I spoke with Joe. And
3 I said: Joe, we have a trial in a week.
4 I have nothing. My calendar is clear
5 Tuesday afternoon, Wednesday afternoon.
6 You need to come down here so we can
7 really go over everything because I need
8 to know what our defense is going to be.

9 He informed me at that time that he
10 would not be coming because he is going to
11 get a new lawyer appointed.

12 I told him that it's probably not
13 going to happen; that he can go out and
14 hire an attorney. But if he does not do
15 that, then we need to prepare for trial.
16 So I need you to come to my office, so we
17 can sit down for an hour or two hours or
18 three hours -- because there's a lot of
19 discovery -- and go over everything.

20 He said: Well, I don't think I
21 have to. But let me see if I can get a
22 ride. I'll call you back.

23 We're now a week later. I have
24 received no phone calls from Joe Senk. I
25 have not met with Joe Senk to really -- to

1 go over the evidence with a fine tooth
2 comb.

3 So what I would tell the Court is,
4 I went over the discovery, so I'm as
5 prepared I can be, given that.

6 But I just want to make it clear
7 that Joe has refused to cooperate with me,
8 come to my office, so that we can try to
9 find a possible defense to these charges.

10 Thank you.

11 THE COURT: And then while we're
12 talking about it, does the State wish to
13 put any sort of an offer on the record
14 before we go forward?

15 MS. MONTELL: Yeah, Judge. The
16 offers remain the same throughout the
17 trial. We're just asking for him to
18 accept responsibility by pleading guilty
19 or no contest to one count. We'll dismiss
20 the second count.

21 And our main focus, in this case,
22 is to get some term of community control
23 and ask that Mr. Senk abide by the scrap
24 tire laws in the future.

25 The mandatory fine is at least

1 \$10,000. We're okay if, you know, doing
2 an evaluation to see if he has the funds
3 to pay that and suspending some of that
4 fine for the term of community control to
5 see if he complies.

6 That's been our offer, and it's our
7 offer again today.

8 THE COURT: Okay.

9 MR. GREVEN: Just for the record,
10 before you go, I went back a second time
11 with Joe in the jury room and explained to
12 him that this Court is not usually one of
13 the courts that takes a lot of no contest
14 pleas.

15 However, I explained to him that he
16 could enter a plea of no contest, which
17 one, would give him a right to appeal. If
18 he feels that his rights are being
19 violated, he can do that, which is vastly
20 different than from a guilty plea.

21 Frankly, Judge, he's looking at two
22 to four years of prison.

23 I explained to him that the odds of
24 him going to prison, based on these
25 charges, were slim and none.

1 However, the Court does have the
2 ability to fine him a substantial amount
3 of money. I explained all that to him.

4 He understands what the offer is, I
5 think. And he still wants his trial.

6 Is that correct, Joe?

7 THE DEFENDANT: Yes. Trial by
8 jury, yes.

9 MR. GREVEN: Jury trial.

10 THE DEFENDANT: Trial by jury.

11 MR. GREVEN: What's the difference
12 between a jury trial and a trial by jury,
13 Joe?

14 THE DEFENDANT: That's what I
15 asked.

16 THE COURT: We'll do a trial by
17 jury.

18 THE DEFENDANT: I want -- I'm able
19 to pick my own jurors?

20 THE COURT: Pardon?

21 THE DEFENDANT: I'm able to
22 interview my own jurors?

23 THE COURT: Well, Mr. Greven is
24 your lawyer, and your lawyer does the
25 speaking. We don't have you talk a little

1 and him talk a little. It doesn't work
2 that way in Ohio.

3 Either you have a lawyer who does
4 all the speaking for you, or you represent
5 yourself and you do all the speaking for
6 you.

7 THE DEFENDANT: Well, can I --

8 THE COURT: What I will tell you
9 is, he will question the jurors, and you
10 will then be able to consult with him on
11 who you like and who you don't like. Or
12 you can write a note and say: Ask this
13 question.

14 You can certainly consult with him.

15 But if you want to question the
16 jurors, then you're telling me you want to
17 represent yourself; and then you will be
18 doing the entire trial. So you need to
19 decide.

20 THE DEFENDANT: Well, can I have a
21 friend of the Court assist me because I
22 can't see to read or write or write
23 nothing down to make notes. And you know,
24 I can -- I can't --

25 THE COURT: I'm not sure what

1 you're asking.

2 THE DEFENDANT: I'm asking to have
3 to -- a friend of the Court would help me
4 do my trial.

5 If I defend myself, I need a friend
6 of the Court to help me.

7 THE COURT: Well, Mr. Greven would
8 be your standby counsel. That would be
9 the friend of the Court.

10 THE DEFENDANT: Okay. See, I can't
11 get -- well, what --

12 THE COURT: Unless your friend of
13 the Court is a lawyer.

14 THE DEFENDANT: Does he have to be
15 a lawyer?

16 THE COURT: Yeah. We don't allow
17 non-lawyers to come in and practice law.
18 There's -- it's a crime. I'm not allowed
19 to do that.

20 THE DEFENDANT: Okay.

21 THE COURT: All right? But
22 certainly, you can consult with your
23 lawyer along the way. That's all
24 permissible, okay?

25 THE DEFENDANT: And by the way, you

1 left a voicemail on my phone on Monday. I
2 don't know how to work my phone.

3 And I get -- I get a message
4 Wednesday, when I play back my messages to
5 me, that's how I got your messages that
6 there was going to be a hearing on
7 Thursday at 2:30. And that's why I -- I
8 couldn't -- I finally found out at -- on
9 Thursday at 12:30 to be on Zoom. I didn't
10 know I could possibly do that. But I
11 didn't go to your office and I didn't tell
12 you that. Just so you note for the
13 record.

14 THE COURT: Well, and the Court
15 understands you tried to come in on the
16 Zoom hearing. There's -- you know, I
17 understand that.

18 The Court's not holding that
19 against you, that you weren't able to do
20 that, okay?

21 Also, the State has filed a motion
22 that we need to address, which is a notice
23 of intent to introduce other acts.

24 And you have seen that motion,
25 Mr. Greven?

1 MR. GREVEN: I have, Your Honor.
2 It got filed, I want to say, week or two
3 ago?

4 THE COURT: Do you want to be heard
5 on that?

6 And do you prefer me to call you
7 Miss Smetzer Montell or Miss Montell?

8 MS. MONTELL: Miss Montell is fine.

9 THE COURT: Would you like to be
10 heard on that, Mr. Meyer or Miss Montell?

11 MR. MEYER: Thank you, Your Honor.
12 Matthew Meyer on behalf of the State of
13 Ohio, for the record.

14 Just very briefly, we filed this
15 notice of intent to introduce other acts
16 in anticipation of Mr. Senk testifying
17 primarily.

18 If he were to testify, we believe
19 these facts that we've attached to the
20 notice would be relevant in cross-examination.

21 I won't go through them in detailed
22 fashion, other than to say there was a
23 recent incident in Portage County with
24 Mr. Senk leaving behind a quantity of
25 tires, approximately -- would amount to

1 roughly 40,000 tires in an abandoned space
2 that he had rented. It was an old
3 warehouse.

4 We believe these facts would be
5 appropriate for cross-examination, and
6 we've given notice, as the evidence rule
7 requires that.

8 We also believe that there's a
9 common plan or scheme here involving
10 Mr. Senk improperly disposing of scrap
11 tires against the regulations and laws of
12 the State of Ohio. That's the basis for
13 our notice.

14 But as the evidence rule requires,
15 we did want that to be on the record and
16 provided the defense counsel in advance of
17 trial.

18 THE COURT: Mr. Greven.

19 MR. GREVEN: We object.

20 THE COURT: Sure. Well, your
21 objection's noted.

22 But it does appear that the request
23 does fall within the purview of Evidence
24 Rule 404; that the evidence of other
25 crimes may be admissible for other

1 purposes, such as proof of motive,
2 opportunity, intent, preparation, plan,
3 knowledge, identity, or absence of mistake
4 or accident.

5 The fact that, apparently, Mr. Senk
6 was allegedly caught doing the same thing
7 he's charged with doing in this case may
8 have some bearing on some of those
9 factors.

10 So the Court's going to overrule
11 your objection and permit that, permit
12 that evidence, all right?

13 I think we're going to bring up the
14 jury now.

15 And I'm going to order a motion of
16 a separation of witnesses. So if there's
17 anyone in the back that has been
18 subpoenaed or anticipates they will
19 testify, whether they're subpoenaed or
20 not, unfortunately, you're going to have
21 to step out of the courtroom and have a
22 seat out there.

23 But if you are not, all I ask is
24 that you move to the back row because
25 we're going to have jurors in the front

1 two rows. We're going to have jurors over
2 here, and we will have jurors in the first
3 two rows.

4 So if you're not a witness and you
5 just want to watch, you need to move to
6 the back row.

7 We will break for about ten
8 minutes.

9 MS. MONTELL: Judge, before we
10 break, we have a representative here, a
11 retired BCI agent is the case agent that
12 would like to sit with us today.

13 THE COURT: That's fine. Why don't
14 you give me your name.

15 MS. MONTELL: Richard Brownley.

16 THE COURT: Richard?

17 MR. MEYER: L-E-Y.

18 THE COURT: Brownley. Richard
19 Brownley.

20 MS. MONTELL: Thanks, Judge.

21 - - -

22 (Whereupon, a recess was had.)

23 - - -

24 (Whereupon, the prospective jurors
25 entered the courtroom.)

1 THE COURT: Thank you. Be seated,
2 everyone.

3 Good morning. How's everyone
4 doing? Everyone happy to be here on a
5 Monday?

6 Yeah, I know. I never get a
7 rousing happy response on that, but I
8 don't take offense.

9 You have been summoned as jurors
10 for the Summit County Court of Common
11 Pleas.

12 Jury service is a legal obligation
13 as well as a civic duty.

14 In my opinion, short of military
15 service, there is no higher civic service
16 that a citizen can perform.

17 Very few countries afford the right
18 to a jury trial to their litigants, but it
19 is a foundation of principle of our
20 country, as you all, I'm sure, are aware.

21 Many men and women have fought and
22 even died for the right for you to sit in
23 those chairs.

24 This is one of those foundational
25 rights we have here in this country. So

1 please do not underestimate the importance
2 of the duty that you are about to
3 undertake.

4 I know that jury service is not
5 always convenient; but without those of
6 you that are willing to sacrifice your
7 time and serve, our system of justice,
8 civil or criminal, could not function.

9 There is a famous saying that's
10 thought to be a blessing, but actually,
11 was meant as a curse. May you live in
12 interesting times. And we certainly live
13 in interesting times, ladies and
14 gentlemen.

15 Our court has been through a lot in
16 the last few years, as have we all. We've
17 come out of it. We're now, you know, back
18 full throttle, handling a lot of cases;
19 and so we're busy.

20 And so we appreciate that you're
21 busy too, and we thank you for being here.

22 So I will indicate that, as far as
23 the Court is concerned, you see there's
24 some remnants with the Plexiglas in the
25 back. We, for awhile there, had Plexiglas

1 all throughout the entire courtroom,
2 surrounding the witness, everywhere, on
3 the bench, everywhere. That has been
4 removed.

5 And now, you know, we are following
6 any CDC guidelines, which, basically,
7 don't require masks. Any of you that
8 wish to wear a mask, because you're
9 immunosuppressed or lives with someone
10 who is immunosuppressed, at any time is
11 completely up to you. So do that at your
12 leisure. Okay.

13 Obviously, all the witnesses are
14 going to be unmasked when they speak. And
15 the only issue is, if we have trouble
16 hearing you, we may ask you to pull your
17 mask down when you're speaking. But other
18 than that, feel free to do so.

19 As prospective jurors, the Court
20 and then the attorneys are going to be
21 asking you some questions. And these
22 questions will determine your ability to
23 be fair and impartial in this case.

24 Before the questioning begins,
25 however, you must be sworn. So is there

1 anyone who prefers to affirm rather than
2 swear an oath?

3 All right. I'm going to ask you
4 then to stand up and raise your right
5 hand.

6 (Whereupon, 36 prospective jurors
7 were placed under oath.)

8 THE COURT: All right. Thank you.

9 So now I'm going to introduce you
10 to the individuals that you'll hear from
11 or that you're going to deal with or see
12 that are part of this case or part of the
13 court staff.

14 So you've already met my bailiff,
15 Shay. Shay's smiling because she knows
16 that on Sunday of this coming week, she
17 gets to leave for a European trip with her
18 daughter. So imagine -- I'm not sure how
19 much she's concentrating, other than
20 making her packing list. But I'm glad
21 she's here.

22 So Shay's the bailiff. If you have
23 any questions, Shay is the one that you
24 would look for first.

25 Okay. And I have two other staff

1 members in the back too that are at their
2 desk. So if you can't find Shay, you can
3 always ask them something.

4 And seated here, directly
5 underneath me to my left, is Cindy Kline;
6 and she's the court reporter that's
7 handling this case today. She'll be with
8 us this week.

9 Cindy has -- my job, as a judge, is
10 to make a record of everything that
11 happens in court; and the court reporter
12 is my main tool for doing that. And so
13 she has to take down every single word,
14 every syllable that is spoken, which is
15 part of the reason we don't let people say
16 uh-huh or huh-uh or hm-m, um-m or nod. It
17 has to be verbal and has to be a word.

18 And so I may chastise you if you
19 don't answer in a word; but that's just
20 because we have to keep a record, all
21 right?

22 The other thing is, this courtroom
23 is a challenge when it comes to acoustics,
24 if you haven't figured that out already.
25 25-foot ceilings will do that.

1 We do have -- if you will, the
2 silver lining from COVID is that we do
3 have upgraded, much-upgraded technology
4 and sound system. So hopefully, it's not
5 a problem.

6 If any of you do have issues with
7 hearing, we actually do have some
8 headphones that you can wear that actually
9 even magnify the sound more, that would
10 help you. So just let us know if that's a
11 problem.

12 Part of my job is to make sure
13 everybody constantly speaks up. So you'll
14 hear me -- if you're on this case, you'll
15 hear me nagging people to speak up.

16 And during jury selection also,
17 you're going to have to remember to
18 project when you speak. So harken back to
19 high school speech class, right? Project
20 when you speak, all right?

21 So you've met Shay, I have
22 introduced Cindy, and now I'm going to
23 introduce the attorneys and parties that
24 are involved in this case.

25 Seated in the first chair is

1 Assistant Attorney General Sally Montell,
2 and behind her is Assistant Attorney
3 General Matthew Meyer. And then seated
4 behind them -- as is permitted, they're
5 permitted to have a law enforcement
6 officer sit with them -- probably the
7 happiest man in the room because he's
8 actually retired -- but BCI Special Agent
9 Richard Brownley.

10 Then on the other side, in the
11 first chair, is the defense attorney,
12 Mr. John Greven.

13 MR. GREVEN: Good morning, everyone.

14 THE COURT: And next to him is the
15 Defendant in this matter, Joseph Senk.

16 THE DEFENDANT: Good morning.

17 THE COURT: So seeing all of us --
18 I'm Alison McCarty, if I didn't mention my
19 name.

20 Seeing all of us, hearing our
21 names, any of you feel like you know any
22 of us? Raise your hand.

23 Okay. Well, let's start. I know
24 Mr. Cardew. He works for the Beacon
25 Journal. He's a photographer. We know

1 each other personally from family members.

2 You also probably are familiar with
3 Mr. Greven. Do you know anybody else over
4 there?

5 PROSPECTIVE JUROR NO. 16: I
6 recognize the prosecutor. I don't recall
7 names. That's about it. Including Shay.

8 THE COURT: Okay. So knowing some
9 of us, not knowing the parties, if you
10 will, is there anything about the fact
11 that you -- it doesn't get you out free if
12 you know the judge. Sorry. Because I've
13 got a lot of friends ask me that. It's
14 like: Nope, I'm just a referee.

15 Is there anything about the fact
16 that you know some of the individuals,
17 either personally, professionally, that
18 might affect your ability to be fair in
19 this case?

20 PROSPECTIVE JUROR NO. 16: No.

21 THE COURT: All right. And then
22 also Mr. Mullaly.

23 PROSPECTIVE JUROR NO. 15: Yes.

24 THE COURT: Who do you know here?

25 PROSPECTIVE JUROR NO. 15: Well, I

1 haven't met you yet; but I'm Nate's dad.

2 THE COURT: Yes. Okay. I
3 recognize the last name. We haven't
4 actually met face to face. Okay.

5 Full disclosure, his son's dating
6 my daughter. And it's relatively new, so
7 I haven't met him yet. I have to be on my
8 best behavior.

9 All right. Is there anything about
10 that fact -- actually, we don't really
11 know each other. Hopefully, you've only
12 heard good things.

13 Is there anything about that fact
14 that might cause you to feel that you
15 could not be fair in this case?

16 PROSPECTIVE JUROR NO. 15: No.

17 THE COURT: Okay. Anybody else?
18 Yes.

19 PROSPECTIVE JUROR NO. 17: I know
20 Shay.

21 THE COURT: Who do you know?

22 PROSPECTIVE JUROR NO. 17: Shay.

23 THE COURT: Really? You know each
24 other?

25 Hold on. What number do you have?

1 PROSPECTIVE JUROR NO. 17: 17.

2 THE COURT: 17. Okay. And you
3 know which juror?

4 PROSPECTIVE JUROR NO. 17: I know
5 Shay, your bailiff.

6 THE COURT: Oh, Shay. Oh, okay.
7 You know each other. How do you know
8 Shay?

9 PROSPECTIVE JUROR NO. 17: We
10 worked together.

11 THE COURT: Pardon?

12 PROSPECTIVE JUROR NO. 17: We
13 worked together.

14 THE COURT: Okay. Previously?

15 PROSPECTIVE JUROR NO. 17: At
16 Target.

17 THE COURT: Oh, okay, okay. So
18 you're in the courthouse?

19 THE BAILIFF: Target.

20 THE COURT: Target. I'm sorry.
21 I'm getting old, and my hearing is not as
22 good as it used to be. Yes.

23 Now, Shay will say we don't pay her
24 enough because she also works at Target
25 occasionally. She always tells me about

1 when they have all these cool things
2 they're doing for the employees; and I'm
3 wondering, is this a hint that I'm not a
4 good enough boss?

5 So is there anything about the fact
6 that you know Shay that would cause you to
7 feel that you could not be a fair juror in
8 this case?

9 PROSPECTIVE JUROR NO. 17: No.

10 THE COURT: Now, you're going to
11 tell everybody how cool she is that she
12 has this cool job.

13 PROSPECTIVE JUROR NO. 17: No, I
14 am. I did not know that.

15 THE COURT: She's on the down low
16 there, I see.

17 Anybody else?

18 Okay. All right. Well, the State
19 of Ohio and the Defendant are each
20 entitled to jurors who will approach this
21 case with open minds and who will agree to
22 keep their minds open until such time a
23 verdict is reached.

24 Jurors must be as free, as humanly
25 possible, from any preconceived ideas as

1 to the facts or the law.

2 You are, undoubtedly, qualified to
3 serve as a juror; however, there may be
4 something about this case that could
5 disqualify you. Or I prefer to use the
6 phrase: It would make you feel
7 uncomfortable, feeling like you couldn't
8 be fair.

9 I understand that walking into this
10 courtroom has been uncomfortable for some
11 of you because you've never come to a
12 courtroom before. And so that's not the
13 discomfort I'm talking about.

14 I'm talking about when you're
15 asking yourself about your ability to keep
16 an open mind and be a fair juror, there's
17 something about this case that you decide
18 prevents you from doing that, okay?

19 At this time, the Court and then
20 the attorneys are going to be asking you
21 some questions.

22 These questions are not designed to
23 offend you or pry into your personal
24 affairs; but to discover if you have any
25 preconceived opinion that you cannot lay

1 aside.

2 And when I say, "Opinion," I mean,
3 very-closely-held opinion, generally, not
4 a lightly-held opinion.

5 So I think, obviously, in the
6 United States of America, everybody has
7 opinions. We pride ourselves on our
8 ability to express those opinions.
9 Sometimes, you know, more than some of us
10 want to hear. But that's the way it is in
11 the US of A.

12 But it's just some of those
13 opinions might be educated opinions, and
14 some of them are just opinions that you've
15 made based on very little information.
16 And it still happens.

17 But those are the type of opinions
18 I call lightly-held opinions. But you
19 could change that opinion upon further
20 information, education, et cetera.

21 Those closely-held opinions are
22 usually those based on personal
23 experience, specific education, and
24 training, like, you know, like, things
25 that happened to you; and that might be a

1 more difficult opinion to change.

2 And so that's why we're going to
3 just ask you some questions and see what
4 your thoughts are on matters.

5 It may be that you have had an
6 experience that may cause you to identify
7 yourself with either side, either party,
8 or their counsel. So the question is, in
9 doing so, are you still going to be able
10 to be fair?

11 And so these questions are
12 necessary to ensure that each party has
13 an impartial jury.

14 If there is a question that is
15 posed that you wish not to answer in front
16 of us, you would prefer to answer that
17 privately, we can do that. It's all
18 relative, meaning, it still has to be on
19 the record with the court reporter; but we
20 would call you either over to sidebar or
21 back to my chambers and ask you those
22 questions, not in front of the entire
23 group, all right? And that's fine. You
24 just -- all you do is say: Can I answer
25 that privately? Okay? It's not -- it's

1 not a big deal, all right?

2 So we are now giving you a piece of
3 paper, just to give you kind of a heads-up
4 on the questions we're going to be asking,
5 the questions; and we're going to actually
6 have you go down the line and do it
7 without much prompting, starting with
8 Juror No. 1.

9 We'd like to know your name, proper
10 pronunciation. I like to try to do that
11 if I can.

12 Marital status.

13 Whether you have any children, the
14 number of children; and if they're still
15 living in the home, what their ages are.
16 If they're grown and out of the home, you
17 can say: I have three grown children.

18 If your child is grown and still
19 living in the home, you have permission to
20 complain about that fact.

21 Employment and job duties. So are
22 you employed? If so, where and what do
23 you do there?

24 If you have a spouse or significant
25 other, we would want to know that same

1 information about that person, as if he or
2 she lived with you or not, doesn't matter.
3 If it's a long-term relationship, we would
4 still want to know that same information.
5 If that person was your spouse, his or her
6 employment, job duties.

7 Military service, if any. If you
8 don't have any, you can just skip that.
9 But if do you, we'd like to know where you
10 served, which branch, and how long.

11 And then hobbies. What do you do
12 with your free time? Which many of you
13 maybe don't have much.

14 But if you do, do you have certain
15 causes that you follow, either give money
16 to, give time to, or give your attention
17 to, meaning, sometimes it's just something
18 where you pay attention; and you might say
19 you have, you know, a lot of interest in
20 environmental issues.

21 So when there's something on TV or
22 in the news, you take care to watch it,
23 educate yourself on it; or you might have
24 certain causes that you financially
25 support or volunteer for.

1 And leisure-time activities, what
2 do you like to do for fun? And so just
3 give us an idea of those issues, those
4 things you like to do.

5 And then have you ever served as a
6 juror before?

7 And if so, how far along in the
8 process did you go? Did you get past the
9 initial questioning phase? Were you
10 actually selected for a panel for a
11 specific trial?

12 Did you hear evidence?

13 Did you get back into a jury room
14 and deliberate; and did you come out and
15 give the verdict in open court, which we
16 call rendering a verdict? Did the case go
17 to verdict?

18 If you can remember, what kind of
19 case it was, that would be helpful, civil
20 or criminal.

21 All right. So you have been
22 summoned for a criminal case in which the
23 Defendant, Mr. Senk, has been charged with
24 one count of illegal transportation of
25 scrap tires and one count of open dumping,

1 all right?

2 You'll hear more from the attorneys
3 about those charges, what the allegations
4 are, and what the elements are.

5 And so the lawyers will maybe ask
6 you some questions about your experience
7 in that realm, if you have any, okay?

8 So at this point, I don't have any
9 other questions.

10 We're going to start down the line
11 with Juror No. 1.

12 Shay's going to bring you a little
13 microphone, and hopefully, it will work.

14 And then why don't you just go
15 ahead?

16 PROSPECTIVE JUROR NO. 1: My name
17 is Rosalie Groh. I am married.

18 I have 11 children. Seven that are
19 grown and out of the home; three, two
20 teenagers and one 10-year old. Of the 11,
21 two are adopted.

22 I work at Children's Hospital. I'm
23 a radiologist technologist.

24 And my husband is Robert. He works
25 as a printing -- print runner at a company

1 we share.

2 Never been in the service.

3 Hobbies? Well, we have chickens.

4 That's a big hobby in our yard.

5 Charitable causes, we are very
6 involved in the Autism Society because our
7 youngest that was adopted, our 10-year
8 old, is autistic.

9 Leisure activities, we like to camp
10 in the summer.

11 I volunteer at his school, Julie
12 Billiard; and on their PAC's committee.

13 I have been called on jury one
14 time. I'm going to guess it was probably
15 30 years ago. And I did not get called in
16 for anything. So that was that.

17 I was summoned for jury duty a
18 couple months ago, and my manager at work
19 sent in a letter asking that I not serve
20 because we're shorthanded and staffing is
21 limited.

22 This time I told them I would come
23 ahead in and see whether I needed to stay
24 or whether I could go back to work.

25 And that's about it.

1 THE COURT: All right. Thank you,
2 Miss Groh.

3 Can you give it to Mr. Dinkins
4 then?

5 PROSPECTIVE JUROR NO. 2: My name
6 is Michael Dinkins.

7 Marital status, I'm divorced, no
8 children.

9 I work at Country Pure Foods. I'm
10 a Tetra operator.

11 I haven't served in the military.

12 Hobbies, through my job I do
13 contribute to St. Jude's.

14 No leisure activities.

15 And I volunteered for Boys and
16 Girls Club years ago. It's been awhile.

17 And I have been selected jury duty
18 a couple times but never been called. My
19 number never been called like that or
20 anything like that. So that's about it.

21 THE COURT: All right. Thank you.

22 Mr. -- is it Cottos?

23 PROSPECTIVE JUROR NO. 3: Yes,
24 close enough.

25 THE COURT: Go ahead.

1 PROSPECTIVE JUROR NO. 3: My name
2 is Kyle Cottos. I am married to my wife
3 Ashley. I have a 3-year-old and one on
4 the way, due in June.

5 I am the automation engineering
6 manager for a pharmaceutical company. And
7 my wife has been an accounting manager.

8 Charitable causes, I like to do
9 something different every month, whether
10 it's donating money or volunteering for a
11 walk. I also like to volunteer my time as
12 a sports coach. Right now I'm doing 3-
13 and 4-year-old T-ball.

14 I was selected for a jury several
15 years ago; but there was a security
16 breach, so I never made it in the
17 courtroom.

18 THE COURT: Thank you.

19 PROSPECTIVE JUROR NO. 4: My name
20 is Rosemary. I am married. My kids are
21 all grown. I have 14 grandchildren and
22 one great grandchild coming.

23 Retired. My husband's retired.

24 THE COURT: All right. You have to
25 tell us what you're retired from.

1 PROSPECTIVE JUROR NO. 4: Oh.

2 THE COURT: Just put it totally out
3 of your mind?

4 PROSPECTIVE JUROR NO. 4: I used to
5 work at Roadway Express, when they were
6 big, here in Akron.

7 Mostly, I've been a mom and grandma
8 and watching little kids.

9 Charitable causes would be my
10 church. And I don't volunteer as much now
11 in church, as I've gotten older; but I did
12 do a lot then.

13 I've served two other juries. One
14 was a murder case, and the other I -- it
15 must have been -- maybe it was a civil.
16 I'm not really sure.

17 I served three times. And the
18 fourth time I was called, I didn't -- I
19 didn't get out of that room down there,
20 the jury room.

21 And a verdict on the one, one
22 murder case, was guilty.

23 THE COURT: And what was the
24 charge, do you remember?

25 PROSPECTIVE JUROR NO. 4: Murder.

1 THE COURT: Murder. Okay.

2 Was there anything about your prior
3 jury service that would cause you not to
4 want to serve as a juror again?

5 PROSPECTIVE JUROR NO. 4: Just
6 being older, I kind of, you know, get
7 certain -- so it's, like, yeah, I don't
8 feel as comfortable being here.

9 Driving up here was a nightmare.
10 You know, like when you get older, you
11 don't drive as much. Oh, my gosh. So
12 yeah. It was crazy.

13 THE COURT: All right. Thank you.

14 PROSPECTIVE JUROR NO. 5: Hi. My
15 name's Jessica Dillon.

16 I'm married.

17 I have four children, two are still
18 at home, the 24-year-old, 22-year-old; a
19 19 and 21-year-old are out of the home.

20 I work for Huntington National Bank
21 I'm a bankruptcy specialist.

22 My husband Robert is unemployed at
23 this time.

24 Was not in the military; but my
25 son, he does serve.

1 Charitable causes, I do work with
2 Family Promise a lot, volunteering my time
3 with them.

4 I was on a prior criminal case.
5 But it was plea bargained, so we really --
6 we heard a little bit. But then they
7 stopped in the middle, and we didn't get a
8 verdict.

9 THE COURT: All right. Thank you.

10 PROSPECTIVE JUROR NO. 6: Hi. Name
11 is Michael Doane.

12 I'm married; have two children, 19
13 and 17. 19-year-old is -- technically,
14 lives at home, except when she's away at
15 college. She started college in the fall.

16 I am general counsel for Kent
17 Displays, a small company in Kent, Ohio.

18 And I also teach as an adjunct
19 professor at the University of Akron
20 School of Law, just teaching -- I teach a
21 class there.

22 And my wife is a media planner for
23 Associated General Contractors of America.

24 Hobbies, we volunteer for a cancer
25 foundation, which is an organization set

1 up by friends of ours to support causes of
2 cancer.

3 And recently got -- for leisure
4 activities, I recently got a black belt in
5 Taekwondo with my younger daughter.

6 And I've never served on a jury.

7 THE COURT: So you're an attorney.
8 Can you just explain -- you said general
9 counsel -- just for the record, a little
10 bit about what kind of law you practice?

11 PROSPECTIVE JUROR NO. 6: I've been
12 a general counsel for about two years.
13 And kind of like what the title says,
14 general, I do a little bit of everything.

15 Big part of my job is dealing with
16 IP, dealing with foreign competition and
17 fair imports there. But also just labor
18 law, whatever issues face the company.
19 I'm the company's primary attorney.

20 THE COURT: What do you teach at
21 Akron U?

22 PROSPECTIVE JUROR NO. 6: Before I
23 went to Kent Displays, I was -- for
24 25 years, I was in Washington D.C., I
25 specialized in something called -- well,

1 it's called Unfair Trade Practices,
2 implication of articles into the United
3 States which is a lot cooler than it
4 sounds. But that's for the IP program.

5 THE COURT: Okay. Thank you.

6 We're going to pass it back, in
7 numerical order, we're going to go to
8 Number 7, Miss Walder.

9 PROSPECTIVE JUROR NO. 7: My name
10 is Joanne Walder. I'm married. I have --
11 between my husband and I, we have three
12 children. They are grown, but they dip
13 back into the nest every now and then.

14 I am a project coordinator, office
15 coordinator at Burns & McDonnell, an
16 engineering firm.

17 My husband is DC technician, help
18 desk person at his job. Do you need his
19 employer? Step 2 in Hudson.

20 No military service.

21 Lots of charitable causes.

22 Glamping for leisure time, and we
23 like to play cards and games.

24 Lots of volunteering.

25 No previous jury service.

1 THE COURT: Thank you. All right.
2 Miss Kramer, 8.

3 PROSPECTIVE JUROR NO. 8: My name
4 is Sherrie Kramer. I am married, and I
5 have two grown children. They're both not
6 at home. One's in college; one works full
7 time.

8 I work for the City of Akron. I'm
9 management for the Water Department.

10 My husband works -- his name's
11 Eric -- he works for Valtris Chemicals as
12 a chemical operator.

13 I have no military service.

14 Leisure time, hiking, camping,
15 visiting wineries.

16 And volunteering, food bank and dog
17 pound.

18 And I've had jury service before.
19 I've been seated like this, but I haven't
20 served on a trial.

21 THE COURT: Okay. All right.
22 Thank you.

23 PROSPECTIVE JUROR NO. 9: My name's
24 Tris Ulrich.

25 I'm married. No children.

1 I work at Akron Children's Hospital
2 in the microbiology lab.

3 My husband is retired.

4 No military experience.

5 My hobbies is bike riding and
6 working on my gardens.

7 And I have previous jury service,
8 long time ago. It was a civil trial, and
9 it was plea bargained.

10 THE COURT: What do you do in the
11 microbiology lab?

12 PROSPECTIVE JUROR NO. 9: I grow
13 microorganisms. I identify them.

14 We do sensitivity testing for the
15 physicians.

16 THE COURT: Are you a physician or
17 are you --

18 PROSPECTIVE JUROR NO. 9: I'm a lab
19 technician.

20 THE COURT: A lab technician.
21 Okay. Sounds like you're really smart, so
22 thank you.

23 PROSPECTIVE JUROR NO. 10: Rebecca
24 James.

25 I'm single. I have one grown

1 daughter.

2 I'm a nurse at the Crystal Clinic
3 Orthopedic Center reviewing charts after
4 surgery.

5 No military service.

6 In my free time, I participate in
7 dog agility classes, sewing, gardening.

8 I volunteer once a month at Haven
9 of Rest, as well as the Akron Zoo.

10 I have -- I did sit on a jury once
11 about 35 years ago. I think it was
12 breaking and entering, and I do not
13 remember what the verdict was.

14 THE COURT: That's all right.
15 Thank you.

16 PROSPECTIVE JUROR NO. 11: My name
17 is Kristian Hyde.

18 I'm not married but practically.

19 We have two children, 4 and 8.

20 I work at Joann Fabrics
21 headquarters. I'm in accounts payable and
22 I'm a correspondent.

23 He works at A. Crano Excavating.

24 He's a driver operator.

25 We don't have much free time. But

1 on weekends, we like to do homesteading.
2 We grow a garden and bake bread and doing
3 things like that and canning and things
4 like that. We go to church on Sundays.

5 And I have never been called to
6 serve prior.

7 THE COURT: Thank you.

8 PROSPECTIVE JUROR NO. 12: Hi. My
9 name's --

10 THE COURT: That's all right. We
11 like that.

12 PROSPECTIVE JUROR NO. 12: My
13 name's Holly Lee. Well, I go by Holly
14 because it's easier to remember.

15 I'm divorced. No children.

16 I worked at a nursing home, area
17 for aging, as an RN care manager for
18 caregivers.

19 No military.

20 Hobbies. I just binge watch movies
21 on my time off, and walk.

22 I have one jury duty and went
23 through the whole process. It was a civil
24 case.

25 THE COURT: Okay. All right.

1 Thank you.

2 Can you pass it to Juror No. 13 in
3 the front there? Thank you.

4 Go ahead.

5 PROSPECTIVE JUROR NO. 13: Hi. My
6 name is Kristin Norton.

7 I am single. No children.

8 I work as a crisis counsellor for
9 the Trevor Project.

10 Not married.

11 I have no military service, but I'm
12 a Navy brat.

13 Charitable causes, I donate to
14 various LGBTQ charities, wildlife fund,
15 animal rescue. I volunteer at One of a
16 Kind Pets.

17 And I have no prior jury service.

18 THE COURT: All right. Thank you.
19 Behind you.

20 PROSPECTIVE JUROR NO. 14: Okay.
21 My name's Ben Knorr.

22 I am married.

23 I have two kids, age 7 and 10.

24 I'm employed by the City of
25 Barberton as a police officer. Currently

1 assigned to the detective bureau with just
2 general investigations.

3 My wife works for the City of
4 Wadsworth Schools as the school nurse in
5 high school.

6 No military.

7 My hobbies are more outdoor
8 activities, hiking, kayaking, camping.

9 As far as volunteering, I
10 occasionally help out with my kids' sports
11 teams and school classroom activities.

12 And no prior jury service.

13 THE COURT: All right. Thank you.

14 PROSPECTIVE JUROR NO. 15: Hi. I'm
15 Michael Mullaly.

16 And I'm divorced.

17 I have four adult children no
18 longer living at home.

19 I am an IT manager for Progressive
20 Insurance.

21 Charitable causes, I'm on several
22 committees for promoting diversity,
23 inclusion, and accessibility. Also
24 volunteer with Habitat for Humanity and
25 the humane society.

1 Leisure activities, I like to
2 travel. I enjoy life, music, and outdoor
3 activities.

4 And this will be my first time on a
5 jury.

6 THE COURT: All right. Thank you.

7 PROSPECTIVE JUROR NO. 16: Hi. My
8 name's Mike Cardew.

9 I have two children; they're
10 adults.

11 I am married.

12 My wife is a retired teacher from
13 Tallmadge.

14 I work for the Akron Beacon Journal
15 as a photographer.

16 I served in the Army Reserves from
17 '83 to '87 as a Military Policeman.

18 My hobbies are paddle boarding,
19 bicycling, walking.

20 Charitable contributions are show
21 causes, Summit Chorale Society, my church,
22 and One of a Kind Pets.

23 Leisure time activities are -- I
24 think I said that already -- but paddle
25 boarding, biking.

1 Volunteering for my church.

2 Prior jury service, about little
3 over ten years ago. It was a criminal
4 trial. We did deliberate. We did come up
5 with a verdict. The verdict was guilty.

6 THE COURT: Do you remember what
7 the charge was?

8 PROSPECTIVE JUROR NO. 16: It was a
9 child homicide.

10 THE COURT: All right. Anything
11 about that prior jury service that would
12 cause you not to want to serve again?

13 PROSPECTIVE JUROR NO. 16: The
14 gruesomeness of the pictures I had to look
15 at.

16 THE COURT: Well, this isn't that
17 kind of case, so --

18 All right. Thank you.

19 PROSPECTIVE JUROR NO. 17: My name
20 is Tabitha Coates.

21 I am engaged.

22 I do have one child. She is 16 and
23 lives at home.

24 I'm a team leader at Target.

25 My fiancé is a retired military,

1 Army.

2 We spend a lot of time with doing
3 charity and volunteering for, like,
4 veteran stuff and working with Army Navy
5 club.

6 And I have never served on a jury.

7 THE COURT: All right. Thank you.

8 PROSPECTIVE JUROR NO. 18: My name
9 is Michele Turnbull.

10 I'm single.

11 I have no children.

12 I'm a car detailer for a dealership
13 in the Falls.

14 I have no military service.

15 My hobbies are hanging out with my
16 family and nephew, going to the gym, and
17 hanging out with friends.

18 I have no charitable causes.

19 Leisure time, I like to go camping,
20 gym, hang out with friends.

21 And this is my first time on a
22 jury.

23 THE COURT: All right. Thank you.

24 PROSPECTIVE JUROR NO. 19: My name
25 is Ryan Weeden.

1 I am married to my wife, Mallory.

2 No children.

3 Grocery team leader for Giant

4 Eagle.

5 My wife is a speech therapist for

6 Hudson City Schools.

7 I donate to United Way and Boys and

8 Girls Club.

9 We like to travel. We like to play
10 cards, things like that.

11 I have been through a jury
12 selection before, but my number was low
13 enough that they didn't need me. And that
14 is it.

15 THE COURT: All right. Thank you.

16 I'm going to ask you, if you would,
17 to have Mr. -- let's see, Miss Hammond,
18 sorry. I didn't see you over there.

19 PROSPECTIVE JUROR NO. 20: Would
20 you like me to stand?

21 THE COURT: If you want to. It's
22 not required, as long as you keep your
23 voice up.

24 PROSPECTIVE JUROR NO. 20: Okay.
25 My name is Angela Hammond.

1 I am married to my husband, David
2 Hammond, who is a detective, lieutenant
3 for Akron. And he is in the Major Crimes
4 Unit for that, just next door.

5 We have four adult children, one of
6 which still lives in the home. He is 32
7 years old.

8 My employment, I am a teaching
9 professor for Xavier University's College
10 of Nursing, the ABSN Program. Job duties
11 is to help encourage and teach new nurses
12 to take care of our population.

13 THE COURT: Is there a branch of
14 Xavier up here? Are you remote?

15 PROSPECTIVE JUROR NO. 20: What
16 everyone doesn't know, main campus is down
17 in Cincinnati. We, just for nursing,
18 have -- and this is just recent. We
19 have -- I helped open the Cleveland
20 campus, which is in Independence, Ohio.
21 And then there is the Columbus campus.

22 THE COURT: Okay.

23 PROSPECTIVE JUROR NO. 20: Just for
24 nursing though.

25 THE COURT: Oh, okay.

1 PROSPECTIVE JUROR NO. 20: Okay?
2 ABSN so -- they have a non-nursing degree,
3 Bachelor's degree, and then they can
4 enroll.

5 My spouse is -- I already shared
6 that. His job duties is to -- in which he
7 has continued to -- the City of Akron
8 Major Crimes being solved at above
9 90 percent, which is unheard of until he
10 took his position.

11 Military service, I have none.

12 Hobbies. Anything to do with
13 nursing. And I also hold a Certified
14 Diversity Executive designation in which I
15 make projects; and then within our
16 institution, work with our Department of
17 Diversity, Equity, and Inclusion. And I
18 also serve on the DEI faculty advisory
19 board.

20 Leisure time activities,
21 grandchildren. We have seven. And I'll
22 do anything for them, and I do all things
23 with them.

24 Volunteering. Nursing, anything to
25 do with nursing, health care. I have a

1 heart for infants and mothers, so I've
2 served on task force related to infant
3 mortality and child mortality.

4 Prior jury service, I've been on
5 call, and I've come in; but never selected
6 for a jury, to serve on a jury.

7 THE COURT: All right. Thanks,
8 Miss Hammond.

9 We don't have a Juror No. 21. I
10 believe that person was excused.

11 So you're Number 22, correct?

12 PROSPECTIVE JUROR NO. 22: Yes.

13 THE COURT: Okay. Go ahead.

14 PROSPECTIVE JUROR NO. 22: My name
15 is Mark Wysocki.

16 I am married. No kids.

17 I work for Goodyear as a tire
18 engineer.

19 My wife works at Akron General, a
20 nurse.

21 We also live with my sister, who
22 works also at Akron General in addictions
23 counselling.

24 No military service.

25 Charitable causes, we give to One

1 of a Kind Pets and another local animal
2 sanctuary.

3 Leisure time activities, we do
4 outdoor stuff, play baseball and
5 basketball.

6 No volunteering.

7 No prior jury service.

8 THE COURT: All right. Thank you.

9 PROSPECTIVE JUROR NO. 23: Good
10 morning. My name's Tim Falconbery.

11 I'm married.

12 I have three children.

13 I work at Hamrick Packaging
14 Systems. I'm a welder.

15 My wife, Adelle, she is a paralegal
16 up in Cleveland.

17 No military.

18 My hobbies are baseball, anything
19 outdoor.

20 No charitable.

21 Pleasure time, outdoor activities,
22 camping, kayaking, golfing.

23 No volunteer.

24 And I've been called up for jury
25 two other times, but I've never served on

1 a jury.

2 THE COURT: And your wife, you said
3 she's a paralegal. Does she work for a
4 civil firm, I assume?

5 PROSPECTIVE JUROR NO. 23: She's --
6 it's for, like, wills and trusts.

7 THE COURT: Probate, estate
8 planning, things like that?

9 PROSPECTIVE JUROR NO. 23: Yes,
10 yes.

11 THE COURT: Okay. All right.
12 Thank you.

13 PROSPECTIVE JUROR NO. 24: My name
14 is Josiah Doles.

15 I'm married.

16 I have two children.

17 I'm an x-ray CT tech at the Green
18 Emergency Department, which is Summa
19 Health.

20 My wife is a nurse. She's a
21 hospice nurse with Summa as well.

22 I served four years in the Navy.

23 My charitable causes, we give to
24 St. Jude Research Hospital.

25 Leisure time, anything outdoors.

1 We like hiking, camping.

2 We lived in Arizona, so kind of
3 miss all that, in the mountains.

4 No volunteering.

5 And I have been called for jury
6 duty once before, when I lived in Arizona;
7 but I was never selected for anything.

8 THE COURT: All right. Thank you.

9 PROSPECTIVE JUROR NO. 25: Good
10 morning. My name's Jacqueline Gwinnup.

11 I am married.

12 I have four adult children, none
13 living at home.

14 My job is at Akron Children's, and
15 I work in the medical billing department.

16 My husband is Jason Gwinnup, and he
17 is the advertising director of the Medina
18 Gazette.

19 I have not served in the military.

20 My hobbies are following my -- one
21 of my children, my adult son around. He's
22 the Number 1 World Axe thrower.

23 My leisure time is going out and
24 kayaking, spending time with my
25 grandchildren. I have four of them.

1 And we give to causes such as
2 cerebral palsy because I do have an
3 11-year-old grandson who has cerebral
4 palsy. We volunteer at his school. He's
5 in the Springfield Arts School, which is
6 an all inclusion. They have multiple
7 children on there that have disabilities,
8 so we go and help with that.

9 And I have been called for jury
10 duty before but was never actually picked
11 for it.

12 THE COURT: All right. Thank you.

13 PROSPECTIVE JUROR NO. 26: My
14 name's Steven Hilbert.

15 I am married. No children.

16 I work at Granger as a quality
17 assurance inventory specialist.

18 My wife recently retired last year.
19 She worked for Valtris Chemical as a lab
20 technician.

21 I have no military service.

22 My charitable causes, I do donate
23 about 150 to 200 toys every year for Toys
24 for Tots. And I do support St. Jude.

25 My leisure time, I like to collect

1 coins. I like to invest in stocks.

2 And I have had prior jury duty. It
3 was a civil case that we did deliberate,
4 and we did render a verdict.

5 THE COURT: Okay. Thank you.

6 PROSPECTIVE JUROR NO. 27: Hello.
7 I am Zachary Lazoran.

8 I am not married. I have no
9 children.

10 My employment is a team manager at
11 Rubbermaid Newell brands.

12 No military prior service.

13 Hobbies, pretty much anything
14 outdoors; indoors, games, hanging out with
15 family, stuff like that.

16 And no prior jury service.

17 THE COURT: All right. Thank you.

18 PROSPECTIVE JUROR NO. 28: Hi. I'm
19 Ruthann Hanna.

20 I'm married. No children.

21 My husband and I both retired from
22 First Energy.

23 I donate to several charitable
24 causes.

25 Leisure time activities are

1 reading, koi ponding, and cruising.

2 And I have served on two jury
3 trials, both rendered verdicts.

4 THE COURT: All right. Thanks.

5 PROSPECTIVE JUROR NO. 29: Hello,
6 everyone. My name is Jonathon Howard.

7 I'm married.

8 Currently, we don't have any
9 children yet, possibly one on the way.

10 My employment, I am an inside
11 property adjuster for Erie Insurance. Job
12 title, adjusting work, as well as training
13 new adjusters that come in the office.

14 My wife currently is unemployed.

15 We donate countlessly to various
16 charities. Essence is one, Toys For Tots.

17 We're very active in our church,
18 which is local here in the community.

19 I have different community ties,
20 just -- we do food bank food giveaways,
21 clothing giveaways with the church as
22 well.

23 I have been called several times
24 for jury service, as far as, you know,
25 having called in. I was never selected.

1 One time, years ago, we -- I was
2 selected once, like, maybe ten years ago.
3 But it was dismissed that same day, so we
4 didn't even get to this process.

5 THE COURT: Okay. All right.
6 Thank you.

7 We need to pass that over to
8 Mr. George. Thank you.

9 PROSPECTIVE JUROR NO. 30: My name
10 is Mark George.

11 My marital status is married,
12 35 years.

13 I have two 24-year-old daughters
14 living at home, diligently trying to
15 emancipate themselves.

16 I'm a custodian with the Kent State
17 University at the Kent Campus.

18 My wife works as a driver for
19 People First Program and Transportation in
20 Stow.

21 No prior military service.

22 My hobbies include history and East
23 German military collecting.

24 And we contribute to Haven of Rest.

25 And I've had prior jury service

1 with no trials.

2 THE COURT: All right. Thank you.

3 PROSPECTIVE JUROR NO. 31: Hello.

4 My name is John Green.

5 I'm married.

6 I have four kids; two are in

7 college, two are in high school.

8 I have a couple jobs and the owner

9 of Cafe' O'Play in Stow. It's an indoor

10 play cafe' for families and kids under

11 ten.

12 I also work for an organization

13 called The Evangelical Catholic working

14 with churches around the country.

15 My wife is employed by BBS and

16 Associates, which is a consulting firm for

17 nonprofit organizations around the world.

18 I do not have any military service.

19 I do have a son who's in the Marine Corps.

20 Hobbies, charitable causes mostly

21 revolve around our church.

22 I'm an ordained permanent deacon in

23 the Catholic church, serving in Holy

24 Family.

25 So I do a lot of things with Scouts

1 and Knights of Columbus and other stuff.

2 Volunteer activities, I'm a
3 horrible gardener, trying to get better.

4 I have never served in a jury
5 trial. I think I've been called twice.

6 THE COURT: Thank you.

7 PROSPECTIVE JUROR NO. 32: My name
8 is Carlysa Williams.

9 I'm divorced. I have no children.

10 I am unemployed right now due to
11 health issues.

12 I've never served in the military.

13 Charities, I donate to St. Jude's
14 and to -- that's about it, St. Jude's.

15 My leisure time, I like skating,
16 shopping, going to the movies,
17 volunteering.

18 I volunteer at my church, Macedonia
19 Baptist Church.

20 I have been on a jury before. We
21 went all the way to the verdict.

22 THE COURT: Okay. Thank you.

23 PROSPECTIVE JUROR NO. 33: Good
24 morning. My name is John A. Jameson.

25 I'm currently married and with no

1 children.

2 My wife and I work at a Wal-Mart in
3 Stow. And I've been currently there for
4 25 years.

5 And have no prior military
6 experience.

7 My current hobbies are I like to
8 shop and do hiking, anything outdoors.

9 And I have been on a jury service
10 before on a criminal case and where we
11 actually reached a verdict.

12 THE COURT: All right. Thank you.

13 PROSPECTIVE JUROR NO. 34: My name
14 is Angela Jodon.

15 I'm married.

16 I have six children between my
17 husband and myself.

18 I work at Firestone Country Club in
19 the accounting office.

20 My husband is a superintendent for
21 Drake Construction.

22 I have no military service.

23 My hobbies, I love to be in the
24 garden, hike outside.

25 I volunteer at the kids' schools,

1 grandchildren's school.

2 I was on the jury service one time,
3 but we were dismissed before we went.

4 THE COURT: Okay.

5 And your pronunciation, you said,
6 it's Jodon?

7 PROSPECTIVE JUROR NO. 34: Jodon.

8 THE COURT: Jodon. Okay. Just
9 like it looks. Okay. Thank you.

10 PROSPECTIVE JUROR NO. 35: My
11 name's Andrew Roach.

12 Divorced.

13 Two kids, 16 and 14.

14 I am a scheduled maintenance
15 controller for Flexjet, which is a
16 corporate airline.

17 I was in the Marine Corps for five
18 years as a helicopter mechanic.

19 No charitable causes.

20 I like cooking and gardening.

21 No volunteering.

22 And no prior jury service.

23 THE COURT: All right. Thank you.

24 PROSPECTIVE JUROR NO. 36: My
25 name's Kelly Lopp.

1 I'm married.

2 Three children, grown, out of the
3 house; two stepdaughters, teenagers.
4 Four-year-old grandson.

5 I am a Registered Nurse. I'm
6 currently working for Saber Healthcare as
7 a mobile DON, Director of Nursing.

8 I'm also back in school to get my
9 Master's to become a healthcare nurse
10 practitioner.

11 My husband, he's self-employed,
12 drives a tow truck.

13 No military service.

14 I like to be outside and travel.

15 And no prior jury service.

16 THE COURT: Okay. Sir, if you're
17 not a juror, it might be a little
18 confusing to the lawyers. They have a
19 list they have to follow. I'm going to
20 ask you to step in the back row, if that's
21 okay. Thank you.

22 I don't want to say it's that easy
23 to confuse lawyers, but you'd be
24 surprised.

25 Okay. I'm just going to tell you a

1 little bit about the schedule.

2 We had some other matters we had to
3 handle this morning, which is why we
4 didn't start right at 8:30 or 9.

5 Normally, once we select a jury, we
6 start the trials at 9 o'clock. We take a
7 midmorning break.

8 We take a one-hour break,
9 approximately, at lunchtime. It depends
10 on if I have a meeting or something, it
11 might be a little longer.

12 We'll take a midafternoon break,
13 and then we usually go to, approximately,
14 4:30 or 5.

15 We don't, generally, go later
16 unless, say, for instance, we're in the
17 middle of a witness, you know. I don't
18 like to stop in the middle of a witness.
19 I like to finish the witness and not make
20 them come back, if it's feasible. That
21 would be really the only circumstance.

22 And then also, if it gets to the
23 point where you're selected and you're
24 deliberating, on the day that you're
25 deliberating, if you -- if you indicate

1 you want to stay a little bit later,
2 because you think maybe you're close, I
3 would let you stay later, as long as it's
4 okay, as long as all the lawyers and
5 everybody's available for that. But I
6 don't force that, just so you understand.

7 So we do take frequent breaks.

8 I know those chairs aren't super
9 comfortable. They're probably about
10 50 years old, quite frankly, the ones
11 you're sitting over there.

12 Is there anyone, hearing that
13 schedule, that believes -- the other thing
14 I'll say, I don't know how long this
15 trial's going to take. The lawyers are
16 much better aware of the potential
17 witnesses and how long they may take.

18 And you never really can predict,
19 you know. So you don't know how long the
20 other side's going to cross-examine. So
21 you know, I do believe it will definitely
22 go into tomorrow.

23 And then I break on Wednesdays to
24 handle all my other criminal matters, not
25 all of them, but a number of them. Takes

1 all day long. Each judge has one day to
2 break and do that.

3 And so you would only be coming in
4 on Wednesday if we had completed all the
5 evidence and the arguments and you were
6 deliberating. And I don't know if that's
7 going to happen.

8 But if it doesn't happen, then
9 you'll take a break and go back and do
10 your normal daily duties on Wednesday,
11 whatever those activities are; and then
12 you would come back on Thursday, at
13 9:00 a.m., to resume the trial.

14 But I don't believe we anticipate
15 this trial would go into next week.

16 Am I correct on that?

17 MS. MONTELL: Correct.

18 THE COURT: Okay. So hearing that
19 schedule, is there anyone that feels,
20 based on that schedule, that they would
21 not be able to fully and fairly
22 participate as a juror in this trial?

23 Okay. Just try to do it in order.
24 I'm making sure nobody here -- okay. I
25 think Mr. -- let's see.

1 Where are you? There. Mr. Howard.

2 PROSPECTIVE JUROR NO. 29: Yes.

3 THE COURT: Yes. Go ahead.

4 PROSPECTIVE JUROR NO. 29: My job,
5 my supervisor -- I do a lot of overtime,
6 especially with my spouse being out of
7 work. My supervisor told me it would mess
8 with my overtime, and I wouldn't qualify
9 for it this week for that; that I won't be
10 able to get all of my overtime if I don't,
11 like --

12 THE COURT: Right. I mean, you
13 probably have to work 40 hours in order to
14 get overtime.

15 PROSPECTIVE JUROR NO. 29: 37.

16 THE COURT: If you're on a jury,
17 you're not working, so it would mess with
18 your overtime.

19 So that being said, does that mean
20 you can't do it?

21 PROSPECTIVE JUROR NO. 29: Yes,
22 ma'am.

23 THE COURT: And why is that?
24 Because it would pose a financial hardship
25 to you?

1 PROSPECTIVE JUROR NO. 29: Hardship,
2 yes, ma'am.

3 THE COURT: I'm not meaning to put
4 words in your mouth, but all right.

5 So I'll keep that in mind; and I'll
6 talk to the lawyers about that, okay?

7 Thank you.

8 Anybody else?

9 Okay. Let's see.

10 Yes, you did make some mention to
11 this, Miss Groh.

12 PROSPECTIVE JUROR NO. 1: Yes.

13 THE COURT: Go ahead.

14 PROSPECTIVE JUROR NO. 1: With the
15 job that I'm doing, we have to block some
16 of our schedule for me to not be there.

17 THE COURT: Just remember to
18 project when you speak.

19 PROSPECTIVE JUROR NO. 1: The job
20 that I'm in radiology, he's had to block
21 some of the, like, schedule because
22 there's not enough people to cover right
23 now. We have a couple out on medical
24 leaves also.

25 That's why, a few months ago, he

1 had requested that I not do it.

2 THE COURT: And so short-staffing,
3 you're saying, is still a problem?

4 PROSPECTIVE JUROR NO. 1: It is
5 still a problem but --

6 THE COURT: All right. Just based
7 on what you heard about the length of the
8 trial, do you think that would still be an
9 issue?

10 PROSPECTIVE JUROR NO. 1: It will
11 propose a short-staffing for them.

12 THE COURT: Okay.

13 PROSPECTIVE JUROR NO. 1: I'm sure
14 they would make it through if they had to.
15 I think they would manage.

16 THE COURT: Well, I guess my
17 question is: Do you think that the
18 situation would be such that it might
19 affect your ability to fully and fairly
20 concentrate and participate, as a juror,
21 in this matter?

22 PROSPECTIVE JUROR NO. 1: It would
23 not do that.

24 THE COURT: Okay. All right.

25 Well, we'll keep it in mind though,

1 and we'll talk about that with the
2 lawyers.

3 All right. Anybody else?

4 Okay. Yes, Miss Barton.

5 PROSPECTIVE JUROR NO. 4: Yes. I
6 would just like to go back to the idea of
7 how hard it was to get here. My husband's
8 77. He drove me.

9 THE COURT: I'm sorry. You're
10 going to have to speak up.

11 PROSPECTIVE JUROR NO. 4: It's
12 just -- it was just really rough. I mean,
13 I just feel like, when I got the jury
14 summons -- I've served four other times --
15 because I really don't want to be here, to
16 be honest.

17 THE COURT: Okay. So not wanting
18 to be here is not a reason, unfortunately,
19 because I'm guessing if I took a vote, I'd
20 get 75 percent of the people would say
21 they don't want to be here.

22 PROSPECTIVE JUROR NO. 4: No. But
23 I would think that -- you're asking for an
24 honest feeling about it. You know, being
25 70 years old and having to --

1 THE COURT: I appreciate your
2 honesty. I'm just letting you know that,
3 because if I were to let you off, based on
4 that statement, I'd have ten more hands.

5 So I've done this for awhile. So
6 the -- you said it was really difficult to
7 get here because you don't drive that
8 much.

9 PROSPECTIVE JUROR NO. 4: Oh, yeah.
10 I almost never drive. My husband drives
11 for us occasionally.

12 We have not been in Akron, it was
13 maybe six years ago. We have not come
14 up here. And we did drive like that, it
15 was -- and oh, yeah, if it was like, this
16 it would be okay. This morning was like,
17 oh, my gosh. It was so much traffic and
18 so much craziness. It just was very, very
19 uncomfortable.

20 THE COURT: Did he drop you off?

21 PROSPECTIVE JUROR NO. 4: Yes, he
22 did.

23 THE COURT: And you found it
24 very --

25 PROSPECTIVE JUROR NO. 4: I tried

1 to come through all the --

2 THE COURT: Yeah. There's only one
3 entrance.

4 PROSPECTIVE JUROR NO. 4: So it
5 just -- I -- I don't know what else to
6 tell you other than --

7 THE COURT: You're saying it was
8 very stressful to come here?

9 PROSPECTIVE JUROR NO. 4: It was
10 very stressful. Neither of us slept last
11 night. It was, like, wake up going, oh,
12 my gosh. Are we going to go into --
13 should we do this?

14 THE COURT: I appreciate your
15 concerns, and we will take that into
16 account.

17 Anybody else? Okay.

18 So other than what we've already
19 talked about, do any of you feel that you
20 have any physical or medical reason,
21 hearing issues, anything that would, you
22 know, affect your ability to participate
23 as a juror?

24 Everyone hearing me all right?

25 Okay. Good.

1 And does everyone speak English?
2 Doesn't have to be your primary language,
3 but I didn't note any issues with anyone.

4 Is there anyone that English is not
5 their native language, and they're
6 concerned a little bit about that? I
7 didn't get that impression from anyone.
8 Okay.

9 All right. Well, those are all the
10 questions that I have, which means now
11 we're going to let the lawyers ask some
12 questions, okay?

13 And we will start with the State.
14 And is that you, Miss Montell?

15 MS. MONTELL: No. Mr. Meyer.

16 THE COURT: Mr. Meyer, go ahead.
17 Make sure that is blue.

18 MR. MEYER: Good morning, everyone.

19 I'm Matthew Meyer. And along with
20 Sally Smetzer Montell, we represent the
21 State of Ohio in this case.

22 I'll try to be brief and just ask a
23 few questions.

24 Both sides in this case have the
25 right to a fair trial.

1 My client, which is the State of
2 Ohio, and the Defendant, both have the
3 right to a fair trial. And so we want to
4 make sure that, as jurors, you're going to
5 listen to the evidence and follow the law,
6 that the Judge instructs you, fairly and
7 openly.

8 So that's really the only reason
9 I'm asking these questions today. And we
10 respect your time; and I will try to be as
11 brief as I can, like I said.

12 Just very quickly, the subject of
13 this case involves scrap tires.

14 Now, Akron is a rubber town. I
15 grew up here. And everyone knows a little
16 bit about, I think, the fact tires were
17 made here.

18 This case is about something
19 different though.

20 The tires were dumped, allegedly.
21 Now, the State has to prove that. The
22 evidence that you're going to hear from
23 that witness stand is going to come in;
24 and you're going to have to listen to all
25 the witnesses, gauge their testimony,

1 decide if the witnesses are credible, if
2 the evidence is believable.

3 And that is our burden, as
4 prosecutors. The State of Ohio has to
5 prove all the elements of these two
6 offenses by proof beyond a reasonable
7 doubt. Now, that's not proof beyond any
8 doubt, but reasonable doubt.

9 Now, sometimes you are going to
10 encounter, in your daily life, rules and
11 laws that you disagree with. It's
12 natural. There's a lot of laws out there
13 that may not make sense.

14 But in this case, we've got two
15 laws that we're going to ask you to apply.
16 One is the -- involves the illegal
17 transportation of scrap tires, and one is
18 called open dumping.

19 Now, we have an agency that we work
20 with, the Ohio Environmental Protection
21 Agency.

22 Now, that's an agency that is
23 involved in a lot of different areas in
24 the State of Ohio, one of which is dealing
25 with solid waste and dumping; and that

1 includes scrap tires.

2 Now, is there anyone here that has
3 strong feelings about that particular
4 agency?

5 It's natural, you know, you might
6 think: Well, the EPA, that's something I
7 disagree with or don't like. I think
8 they're meddlesome, troublesome, whatever
9 the word you want to insert is; but you
10 just don't like dealing with them. You
11 don't like what they do. And that's okay.

12 But we want to make sure that, as
13 you sit and hear the evidence, you're
14 doing so without any bias or opinions that
15 would make it hard for you to render a
16 fair verdict, either for the State of
17 Ohio, as the evidence justifies it; or if
18 the evidence does not, a not guilty
19 verdict.

20 We want to make sure that you can
21 listen without having strong opinions
22 affect what you're doing. And that's
23 fine. You can just tell me: Meyer, I
24 don't like the EPA.

25 Anyone want to let me know about

1 that? I won't take it personally.

2 All right. Thank you.

3 Another thing that you may hear
4 during this trial that may come up, you
5 might hear some testimony from witnesses,
6 maybe, about the law or what people might
7 think the law is.

8 Now, in our system, the witnesses
9 testify to facts, okay? We have to prove
10 it through their testimony.

11 The witnesses don't offer the law.
12 There's only one person in this courtroom
13 who's going to instruct you on the law,
14 and that's Judge McCarty.

15 Is there anyone here that has a
16 problem listening to the Judge's
17 instructions on the law and applying the
18 law to the facts that you hear from the
19 witnesses in that witness stand?

20 So if a witness offers you an
21 opinion about what the law might be, can
22 you say: Yeah, Meyer, I'll ignore that.
23 The witnesses are not here to tell us
24 about the law.

25 That's what we want. We want you

1 to follow the Judge's instructions of law
2 and the Judge's instructions only. Is
3 that okay? Everyone good with that?

4 We have an attorney here. Mr. --
5 I'm sorry. One moment.

6 PROSPECTIVE JUROR NO. 6: Doane.

7 MR. MEYER: Mr. Doane, you've been
8 trained in the law.

9 PROSPECTIVE JUROR NO. 6: Yes.

10 MR. MEYER: Would that be
11 difficult, putting all that training and
12 knowledge aside?

13 You know, you went through law
14 school, and you've got a career applying
15 the law.

16 Can you take all of that and put it
17 somewhere else and only apply the
18 instructions of law that Judge McCarty
19 gives you?

20 PROSPECTIVE JUROR NO. 6: I believe
21 so.

22 MR. MEYER: Even if you disagree
23 with it?

24 PROSPECTIVE JUROR NO. 6: I believe
25 so, yes.

1 MR. MEYER: And if your fellow
2 jurors were to ask you what your opinion
3 is about the law, would you feel
4 comfortable putting your role as a lawyer
5 aside and just saying: I'm going to
6 follow the Judge's instructions?

7 PROSPECTIVE JUROR NO. 6: Yes, sir.

8 THE COURT: Okay. That's what we
9 want. Thank you.

10 We have a police officer back
11 there. You are -- I'm sorry. One moment.
12 Mr. Knorr?

13 PROSPECTIVE JUROR NO. 14: Yes.

14 MR. MEYER: Detective?

15 PROSPECTIVE JUROR NO. 14: Yes.

16 MR. MEYER: How long have you been
17 a detective?

18 PROSPECTIVE JUROR NO. 14: Just
19 over a year now.

20 MR. MEYER: And before that, how
21 long were you an officer?

22 PROSPECTIVE JUROR NO. 14: 14 years.

23 MR. MEYER: 14 years. So you've
24 seen a lot in those 14 years, I would
25 imagine.

1 PROSPECTIVE JUROR NO. 14: Yes.

2 MR. MEYER: And as a juror though,
3 you'd have to do something different.
4 Basically, you'd have to listen to the
5 evidence from very different eyes and
6 apply the law that the Judge gives you.

7 Would you be able to put your
8 experience as a police officer aside and
9 follow those instructions of law?

10 PROSPECTIVE JUROR NO. 14: Yes. I
11 don't think I'd have any problem doing
12 that.

13 MR. MEYER: Any concerns you might
14 have though about -- let's say, you might
15 have dealt with a similar type of offense
16 in the past.

17 Have you ever dealt with the crime
18 of open dumping?

19 PROSPECTIVE JUROR NO. 14: I've
20 dealt with littering issues, dumping on
21 vacant property, and things of that
22 nature.

23 Never any improper hauling of
24 tires, I've never investigated anything
25 like that.

1 MR. MEYER: Okay. Well, that being
2 said, are you able to put those
3 experiences aside and not let it affect
4 your judgment and your evaluation of the
5 witnesses; and hold me, the prosecutor, to
6 my burden of proving these elements by
7 proof beyond a reasonable doubt?

8 PROSPECTIVE JUROR NO. 14: Yes.

9 MR. MEYER: Okay. Thank you.

10 Now, I don't know if any of you
11 have any personal experience with scrap
12 tires. You may have some experiences, you
13 may not.

14 But as jurors, we want you to be
15 able to put those experiences aside, both
16 from the State's perspective, as we
17 attempt to prove these charges by proof
18 beyond a reasonable doubt, but also from
19 the Defendant's perspective.

20 You have to be able to set all that
21 aside and look at the evidence with fresh
22 eyes.

23 Is there anyone here who has
24 personal experiences with dumped tires or
25 tires that are littering the neighborhood

1 or people that are doing this? That's --
2 it's okay. It happens, but we want to
3 know about it now.

4 MR. GREVEN: Hey, Matt.

5 MR. MEYER: We have a hand. Yes,
6 sir.

7 PROSPECTIVE JUROR NO. 16: Through
8 work, I've seen the effects of --

9 MR. MEYER: I'm sorry. Could you
10 speak up?

11 PROSPECTIVE JUROR NO. 16: I've
12 worked on several stories about tire
13 dumping, and seeing what the effort is to
14 clean it. And then involved with covering
15 community cleanups and seeing the effects
16 of it, tires, illegal tires.

17 MR. MEYER: You've got a lot of
18 experience then.

19 PROSPECTIVE JUROR NO. 16: Too
20 much.

21 MR. MEYER: Do you think that
22 experience would prevent you from being a
23 fair juror in this case?

24 PROSPECTIVE JUROR NO. 16: I think
25 that's colored my opinion.

1 MR. MEYER: Would you have
2 difficulty putting that opinion aside and
3 following Judge McCarty's instructions?

4 PROSPECTIVE JUROR NO. 16: Speaking
5 truthfully, I think there would be a
6 better juror than me for it.

7 MR. MEYER: Okay. That's fair. I
8 appreciate you telling me that.

9 But if, let's say, we ran out of
10 jurors, and you were the last person here,
11 could you promise me that you could not
12 refer to your prior knowledge or your work
13 on those stories and only listen and
14 consider the evidence in this case and the
15 instructions of the law that the Judge
16 gives you?

17 PROSPECTIVE JUROR NO. 16: I would
18 do my best.

19 MR. MEYER: Thank you.

20 A moment, Your Honor.

21 (Pause in the proceedings.)

22 MR. MEYER: Thank you, Your Honor.

23 THE COURT: All right.

24 Mr. Greven.

25 MR. GREVEN: Thanks, Judge.

1 Good morning. Once again, my name
2 is John Greven; and I represent Joe Senk,
3 okay?

4 First question I ask people when I
5 do voir dire, is there anybody here that,
6 when they got that summons in the mail
7 that said you got jury duty, was like:
8 Yes, baby. I'm so excited to get jury
9 duty?

10 There's one in every crowd. Oh,
11 there's two in the crowd.

12 And I'm terrible with names, so
13 what is your number?

14 PROSPECTIVE JUROR NO. 32: 32.

15 MR. GREVEN: Juror No. 32, you were
16 happy that you got that summons? You
17 wanted to be here, right?

18 PROSPECTIVE JUROR NO. 32: Yeah.

19 MR. GREVEN: And juror number?

20 PROSPECTIVE JUROR NO. 28: 28.

21 MR. GREVEN: 8?

22 PROSPECTIVE JUROR NO. 28: No, 28.

23 MR. GREVEN: Same with you?

24 PROSPECTIVE JUROR NO. 28: Yeah.

25 MR. GREVEN: Okay, good.

1 Here's what I will tell you. I've
2 done a lot of these trials, probably over
3 300 of them.

4 And at the end of every trial,
5 sometimes the Judge will let the attorneys
6 go back and talk to the jurors. And you
7 know, we get constructive criticism. We
8 answer their questions. They answer our
9 questions.

10 And the first question I always ask
11 is: Who's glad that they did this? And
12 the response, 100 percent of the time,
13 everybody puts their hand up, okay?

14 If you get selected on this jury,
15 you will be glad that you did it.

16 I'm not going to tell you it's not
17 going to be fun. It might not be. I
18 don't know if it's going to be easy or
19 hard. But you will be glad you did it,
20 okay?

21 So I know that somebody here called
22 their Uncle Phil in Pittsburgh, who's a
23 lawyer and said: What can I say to get me
24 out of this jury duty tomorrow?

25 If you're that person, get rid of

1 that idea. You will be glad that you did
2 this, okay?

3 It will -- you will understand the
4 system better. You really don't
5 understand the legal system -- and trust
6 me when I say, if you watch *Law & Order*,
7 that doesn't mean that you understand the
8 system.

9 You will, frankly, be proud to be
10 an American.

11 There's an old retired judge, who
12 used to have a courtroom on the second
13 floor, that used to say: Short of
14 military duty, there are two boxes where
15 people can keep democracy going, the jury
16 box and the ballot box.

17 So like the Judge started to tell
18 you, it's important for you to be here.
19 It's a huge hardship. Nobody wants to
20 make you go through that, but it's
21 important that you are here.

22 So what do you do as a juror?
23 Pretty simple. You listen to the
24 evidence, which most evidence there's
25 going -- well, evidence can be testimony

1 or exhibits.

2 Mainly, you're going to listen to
3 testimony, okay? You listen to the
4 evidence, and then you listen to the law.

5 Now, the law's going to come from
6 the Judge.

7 At some point in time, either the
8 prosecutors or myself may talk about the
9 law. If we say something, nobody's going
10 to ever try and -- purposely try to
11 mislead you.

12 But if we say something different
13 than what she says, you go by what she
14 says.

15 Listen to the facts, apply the law.
16 Easy, right? Maybe.

17 I think, to be a good juror, it's
18 kind of hard, because to be a good juror,
19 you almost have to suspend some things
20 that I think are just basic human nature,
21 things that are inside all of us.

22 So we're going to talk about some
23 of those things over the next, probably,
24 15 or 20 minutes or so. We're going to
25 talk about some of those things, and we're

1 going to talk about how that relates to
2 some really, really, really important
3 legal concepts.

4 And I may call on you. I will do
5 it by number, not by name, because I'm not
6 good with names.

7 Let me ask you this question. Show
8 of hands. I guarantee every hand will go
9 up.

10 Who here has ever heard the phrase,
11 "Presumption of innocence"?

12 Everybody.

13 Or "Innocent until proven guilty,"
14 okay?

15 So that is not something that
16 myself and the Judge and the prosecutors
17 thought of last night, had a couple beers
18 and said: Let's talk about this
19 presumption of innocence thing, okay?

20 It is the absolute cornerstone of
21 the American system of justice.

22 There are countries in this world
23 where, if the government makes an
24 accusation against you, you are presumed
25 guilty, and you have to prove that you

1 didn't do it. That's crazy.

2 So I always tell people, every
3 night when you say your prayers, you
4 should be thankful that your dad or
5 granddad or great granddad, somebody got
6 on a boat and came over here.

7 So the cool way that lawyers say it
8 is: Right now, as Joe Senk sits here, he
9 is cloaked with a presumption of
10 innocence. He wears that cloak. He is
11 innocent.

12 Now, there may come a time, if the
13 State can do their job, where that cloak
14 will change from innocent to guilty.
15 Right now, he starts out innocent, okay?

16 Is there anybody that thinks, you
17 know: I watched the news, crime's out of
18 control, and it's crazy.

19 What do you mean? It's presumption
20 of innocence. We should get rid of that?
21 Anybody? Good.

22 Because like I said, that's direct
23 from the Founding Fathers, because that's
24 how important that is.

25 Who here has ever heard the phrase,

1 "Burden of proof"? Anybody ever hear that
2 phrase? Okay. Most of you.

3 This is a criminal case. Who has
4 the burden of proof?

5 Juror No. 5, do you know who has
6 the burden of proof?

7 PROSPECTIVE JUROR NO. 5: State,
8 the prosecutor.

9 MR. GREVEN: Juror No. 12, what do
10 you think?

11 PROSPECTIVE JUROR NO. 12: (Shaking
12 head side to side.)

13 MR. GREVEN: No idea? Okay.

14 Juror No. 3, what do you think?

15 PROSPECTIVE JUROR NO. 3: I would
16 say the State.

17 MR. GREVEN: Okay. Yes, the State
18 of Ohio has the burden of proof, okay?

19 So juror number?

20 PROSPECTIVE JUROR NO. 13: 13.

21 MR. GREVEN: 13. What's my job?
22 What am I doing? What am I here for?

23 PROSPECTIVE JUROR NO. 13: Um-m, I
24 believe to --

25 THE COURT: Keep that voice up.

1 PROSPECTIVE JUROR NO. 13: Sorry.
2 Reasonable doubt, like, just prove --

3 MR. GREVEN: You're using the right
4 phrase but --

5 All right. Juror No. 14?

6 PROSPECTIVE JUROR NO. 14: Yes.

7 MR. GREVEN: What do I have to do?

8 PROSPECTIVE JUROR NO. 14: Defend
9 your client against the allegations.

10 MR. GREVEN: How do I do that?
11 What do I have to do to do that?

12 PROSPECTIVE JUROR NO. 11: Prove
13 his innocence.

14 MR. GREVEN: Wait a minute. Who
15 said that?

16 All right. Juror number?

17 PROSPECTIVE JUROR NO. 11: 11.

18 MR. GREVEN: What did you say?

19 PROSPECTIVE JUROR NO. 11: Prove
20 his innocence.

21 MR. GREVEN: Prove his innocence.

22 Who agrees with Juror No. 11?

23 There's some of you.

24 Okay. You're shaking your head,
25 Juror Number -- don't tell me -- 15, why

1 are you shaking your head?

2 PROSPECTIVE JUROR NO. 15: I don't
3 think you have to necessarily prove he's
4 innocent, just that prove he's not guilty.

5 MR. GREVEN: Okay. Here's what I
6 have to do. Nothing. I don't have to do
7 anything, okay?

8 In fact, for the next two days, I
9 could sit in this chair, put my head down,
10 and just go to sleep.

11 THE COURT: If the Judge were to
12 let that happen.

13 MR. GREVEN: With that one caveat.

14 Okay. What I mean by that is, the
15 State has the burden of proof. They have
16 to prove, beyond a reasonable doubt -- and
17 that's going to be our next question --
18 but the State has to prove that Mr. Senk
19 is guilty.

20 I don't have to prove he's not
21 guilty. I have no burden in this case,
22 okay? So I don't have to prove he's
23 innocent. I don't have to do anything.

24 If I sleep for two days, and the
25 State still hasn't met their burden, then

1 you have to find him not guilty, okay?

2 It's so important. The burden of
3 proof is always on the State of Ohio in a
4 criminal case, all right? They have to
5 prove he's guilty. I don't have to prove
6 anything, nothing.

7 Is everybody okay with that? If
8 you're not okay with it, put your hands
9 up. Let's do it that way.

10 Okay. Will everybody accept the
11 entire burden of proof on this case is on
12 this side of the table?

13 Juror No. 4, you okay with that?

14 PROSPECTIVE JUROR NO. 4: (Nodding
15 head up and down.)

16 MR. GREVEN: Juror No. 7, you okay
17 with that?

18 PROSPECTIVE JUROR NO. 7: Yes.

19 MR. GREVEN: Okay. I told you we
20 get to -- who's heard the phrase, "Beyond
21 a reasonable doubt" before?

22 We all have. We've heard that
23 before.

24 Some of you said that you were on
25 civil trials. Let's see. Who said that?

1 Juror No. 9, you said you were on a
2 civil trial, right?

3 PROSPECTIVE JUROR NO. 9: Yes.

4 MR. GREVEN: All right. I'm going
5 to ask you a question. And if you know
6 the answer, I'm going to be shocked, in a
7 good way.

8 Do you know, do you remember what
9 the burden of proof is in a civil case?

10 PROSPECTIVE JUROR NO. 9: No.

11 MR. GREVEN: Okay. Who else has
12 done a civil trial? Let's see. I wrote
13 it down.

14 Juror No. 12, you said that you did
15 a civil trial before, right?

16 PROSPECTIVE JUROR NO. 12: It was
17 theft.

18 MR. GREVEN: Was it civil -- I
19 thought you said civil. You don't know?

20 PROSPECTIVE JUROR NO. 12: Maybe
21 criminal because it was theft.

22 MR. GREVEN: Okay. Who else has
23 done a civil trial? I thought somebody
24 else did.

25 What's your juror number?

1 PROSPECTIVE JUROR NO. 26: 26.

2 MR. GREVEN: Juror No. 26, again, I
3 would be pleasantly surprised. What's the
4 burden of proof in a civil case?

5 PROSPECTIVE JUROR NO. 26: What was
6 it that you said?

7 MR. GREVEN: What was or what is
8 the burden of proof in a civil case?

9 PROSPECTIVE JUROR NO. 26: Well,
10 the case was a DUI. That was a case.

11 MR. GREVEN: Okay.

12 PROSPECTIVE JUROR NO. 26: And the
13 prosecution had to present all the facts.

14 MR. GREVEN: Right. But if it was
15 a DUI, that's a criminal. That's criminal.

16 Slow down. That's a crime, so it's
17 probably a criminal case.

18 When I say, "Civil case," a civil
19 case is you're suing somebody for money,
20 breach of contract, car accident, you get
21 rear-ended, whatever, whatever.

22 So anybody been on a civil trial?

23 Juror No. 6, you have or you know
24 the answer?

25 PROSPECTIVE JUROR NO. 6: Well,

1 I've been on a civil trial as a litigator
2 but not as a juror.

3 MR. GREVEN: Okay. Close enough.

4 What is the burden of proof? I'm
5 not going to be as impressed that you know
6 it, frankly, but --

7 PROSPECTIVE JUROR NO. 6: I believe
8 it's preponderance of the evidence.

9 MR. GREVEN: All right. Say it
10 loud.

11 PROSPECTIVE JUROR NO. 6: Preponderance
12 of the evidence.

13 MR. GREVEN: All right. In a civil
14 case, where you were suing for money, the
15 burden of proof is the preponderance of
16 the evidence.

17 So you see those scales of justice
18 right there that the Judge has on her
19 bench? When we talk about the
20 preponderance of the evidence, what that
21 thing, scales of justice, that means 51 to
22 49, 51.1 to 49.9, okay? That's in a civil
23 case.

24 Juror No. 20, you're going to know
25 the answer. What's the burden of proof in

1 a criminal case?

2 PROSPECTIVE JUROR NO. 20: It would
3 be, like, 100 percent, correct?

4 MR. GREVEN: What's the phrase? We
5 just said it?

6 PROSPECTIVE JUROR NO. 20: Preponderance
7 of the evidence.

8 MR. GREVEN: Say it.

9 PROSPECTIVE JUROR NO. 20: Abundance
10 or --

11 MR. GREVEN: No. Juror No. 16, say
12 it.

13 PROSPECTIVE JUROR NO. 16: Beyond a
14 reasonable doubt.

15 MR. GREVEN: Beyond a reasonable
16 doubt, okay?

17 So here's what that means. In a
18 civil case, when you're suing somebody,
19 money is your dispute. You only have to
20 prove your case a very, tiny, little bit.

21 In a criminal case, it's beyond a
22 reasonable doubt.

23 Now, the Judge will never give you
24 a numerical number, you have to be
25 92 percent sure, 98 percent sure,

1 99.9 percent sure. That will never
2 happen.

3 She will give you a definition of
4 reasonable doubt, but there's no numeric
5 designation.

6 So my question to -- let's say,
7 Juror No. 2, if the burden in a civil case
8 is just a little bit, why is the burden in
9 a criminal case so much higher? What do
10 you think?

11 PROSPECTIVE JUROR NO. 2: Hm-m,
12 criminal case is more severe than a --

13 MR. GREVEN: You got the right
14 idea. Think of a good way to say it.

15 PROSPECTIVE JUROR NO. 2: Um-m --
16 I --

17 MR. GREVEN: Juror No. 8, can you
18 help him? Why is the burden so much more
19 in a criminal case than it is in a civil
20 case?

21 PROSPECTIVE JUROR NO. 8: The
22 consequences would be more severe.

23 MR. GREVEN: Bingo. Which is what
24 you -- I know that was your idea.

25 PROSPECTIVE JUROR NO. 2: Thank

1 you.

2 MR. GREVEN: What I mean by that
3 is, I don't care if you're suing somebody
4 for a billion, trillion, zillion, million,
5 quadrillion dollars. The stakes in a
6 criminal case are always bigger, so that
7 is why the government, that is why the
8 courts require a bigger burden of proof,
9 okay?

10 Let's see. Let me talk to Juror
11 No. 3. You've heard about the burden of
12 proof. You've heard about presumption of
13 innocence.

14 Are you cool with presumption of
15 innocence? Are you cool with presumption
16 of innocence?

17 PROSPECTIVE JUROR NO. 3: Yes, sir.

18 MR. GREVEN: Let me ask you this
19 question. You're driving to the
20 courthouse. I don't know where you live.
21 77, 8, 76. You're taking some highway
22 into the courthouse.

23 As you look up ahead, you see a car
24 on the side of the road with a state
25 trooper behind them with the lights

1 flashing.

2 What's the first thing that goes
3 through your mind?

4 PROSPECTIVE JUROR NO. 3: I get
5 over in the next lane.

6 MR. GREVEN: Okay. What's the
7 second thing that goes through your mind?

8 PROSPECTIVE JUROR NO. 3: I don't
9 know. I normally mind my business.

10 MR. GREVEN: So when you see that
11 over on the side of the road, there's no
12 thought that comes to your mind? Be
13 honest.

14 PROSPECTIVE JUROR NO. 3: I keep to
15 myself.

16 MR. GREVEN: Say again?

17 PROSPECTIVE JUROR NO. 3: I worry
18 about myself. And I'm driving a car,
19 that's what I focus on.

20 MR. GREVEN: Juror No. 10, what
21 goes through your mind?

22 PROSPECTIVE JUROR NO. 10: I do the
23 same thing. I get over. I hope
24 everything's okay.

25 I don't know why they're being

1 stopped. I have no idea.

2 Is that too rose-colored glasses?

3 That's all right.

4 MR. GREVEN: Well, yes, it is.

5 Juror No. 11.

6 PROSPECTIVE JUROR NO. 11: I do the
7 same, but you probably assume they've been
8 speeding or they've done something to be
9 pulled over.

10 MR. GREVEN: Right.

11 I mean, let's be honest with
12 ourselves. If I'm driving down the
13 highway, and I see a state trooper behind
14 a person, the first thing I -- first thing
15 I think is: I'm glad he got him and not
16 me.

17 Is that what you think?

18 PROSPECTIVE JUROR NO. 29: That's
19 exactly what I think.

20 MR. GREVEN: It's human nature to
21 think: I wonder what that person did.
22 Oh, he got caught, right?

23 So we talked about the presumption
24 of innocence.

25 Well, that guy on the side of the

1 road, we never give him the presumption of
2 innocence. Think about it.

3 Is there anybody here in that
4 situation that thinks: Oh, that nice
5 young officer is helping that poor
6 stranded motorist? Anybody?

7 No. He did something.

8 We've got Joe Senk sitting in the
9 Court. We've got the Judge calling him
10 the Defendant.

11 So Juror No. 28?

12 PROSPECTIVE JUROR NO. 27: 27,
13 actually.

14 MR. GREVEN: 27. Is there a part
15 of you that, when you walked in here,
16 thought: I wonder what he did?

17 PROSPECTIVE JUROR NO. 27: Yeah.

18 MR. GREVEN: Okay. Juror No. 29,
19 you too?

20 PROSPECTIVE JUROR NO. 29: Uh-huh.

21 MR. GREVEN: What if he didn't do
22 it? You understand? It's hard. It's
23 hard.

24 Look, I've -- I've done criminal
25 defense work for 23 years, and I still do

1 it, okay?

2 I'll watch the Today Show, and they
3 will have a story about some athlete or
4 celebrity that allegedly committed some
5 crime. And I'll say: What the hell was
6 he thinking?

7 And then I'll go: Wait a minute,
8 John, you're a defense attorney. Maybe he
9 didn't do it.

10 Because it's human nature to think
11 that way. But again, you people, to be
12 fair, cannot try to jump to any conclusion
13 about what he did.

14 (Phone interruption.)

15 THE COURT: You have to turn your
16 phone off, please, not just silence it.
17 Turn it off.

18 MR. GREVEN: Two last things I want
19 to talk to you about.

20 Does anybody here know what primacy
21 means? It's actually a psychological
22 thing. Anybody ever hear of primacy?

23 All right. Here's what primacy
24 means. Again, here's human nature. We
25 tend to believe the first thing that we

1 hear. I don't know why.

2 People a lot smarter than me are
3 trying to figure it out, but that's
4 primacy.

5 We tend to believe the first thing
6 that we hear. And sometimes, if we hear
7 it first, even if we hear things later on
8 that contradict that, that we kind of
9 believe, we stick with that first thing
10 that we hear, okay?

11 Now, I told you I did criminal
12 defense for 23 years. Prior to that, I
13 used to be an Assistant Summit County
14 Prosecutor. I used to sit on this side of
15 the table, okay?

16 Now, one thing you will notice is,
17 in voir dire, they go first.

18 When it comes to opening
19 statements, they will go first.

20 When it comes to presentation of
21 evidence, they will go first.

22 So the first things you are going
23 to hear is going to come from the
24 prosecution.

25 It's important, in this case, to

1 not make your decision, to not jump to
2 that conclusion once you hear that first
3 witness and say: This case is over, boom,
4 done. You got to listen to both sides of
5 the story, okay?

6 Look, I'm not going to lie to you.
7 When I was on this side of the table, I
8 loved primacy. Now, I'm not so cool with
9 it.

10 In fact, how long your husband's
11 been a police officer? I'm going to guess
12 28 years?

13 PROSPECTIVE JUROR NO. 20: He's --

14 MR. GREVEN: How long has your
15 husband been at APD?

16 PROSPECTIVE JUROR NO. 20: It's
17 over 30. He's in semi-retirement.

18 MR. GREVEN: In the DROP unit or
19 something?

20 PROSPECTIVE JUROR NO. 20: (Nodding
21 head up and down.)

22 MR. GREVEN: I want to ask some
23 individual questions.

24 Number 6, have you done any kind of
25 criminal stuff at all?

1 PROSPECTIVE JUROR NO. 6: I've had
2 courses; but no, not in practice, no.

3 MR. GREVEN: If one of your
4 employees gets arrested, you wouldn't
5 handle the case?

6 PROSPECTIVE JUROR NO. 6: No.

7 MR. GREVEN: You farm it out to
8 somebody who does that stuff?

9 PROSPECTIVE JUROR NO. 6: They
10 would hire whoever they hire.

11 MR. GREVEN: Right.

12 Nothing about you being an attorney
13 would make it hard for you to be fair and
14 impartial?

15 PROSPECTIVE JUROR NO. 6: Not at
16 all.

17 MR. GREVEN: All right.

18 Mr. Cardew, I appreciate your
19 honesty.

20 For those of you who don't know,
21 he's a photographer for the Akron Beacon
22 Journal. He is, and his friend Phil is,
23 so I happen to be very nice to him because
24 if I'm handling a big case, I will say to
25 him: Make sure you get me on the good

1 side, make sure it ends up on the front
2 page of the paper. So I try to be nice to
3 him.

4 However, you said -- and again,
5 thank you for your honesty -- based on
6 your prior reporting of stuff and
7 everything and pictures that you've taken,
8 I think your comment was you'd be a better
9 juror for them than you would be for me.

10 PROSPECTIVE JUROR NO. 16: Yeah.

11 MR. GREVEN: Is that fair?

12 PROSPECTIVE JUROR NO. 16: Pretty
13 much exactly.

14 MR. GREVEN: We all have some kind
15 of biases into -- just based on our life.
16 But it would be hard for you to be fair
17 and impartial; is that fair?

18 PROSPECTIVE JUROR NO. 16: Being in
19 courts, usually I'm in court, I'm
20 following the logic, that's kind of where
21 I am.

22 MR. GREVEN: Okay. I'm following
23 the logic. Unfortunately, we're building
24 a record. We've got to say it.

25 Do you think it would be too hard

1 for you to be fair and impartial in this
2 case?

3 PROSPECTIVE JUROR NO. 16: Yes,
4 yes.

5 MR. GREVEN: That's all. Thank
6 you.

7 Last thing I'm going to talk to
8 juror number -- who's Juror No. 25?

9 I'm talking to you just because I
10 thought you said something that interests
11 me. Your son is the Number 1 ranked axe
12 thrower in the world?

13 PROSPECTIVE JUROR NO. 25: Yes.
14 He's done multiple ESPN tournaments.

15 MR. GREVEN: Wow. So when you say
16 you travel, you travel to his tournaments
17 with him?

18 PROSPECTIVE JUROR NO. 25: I do, as
19 many as I can.

20 MR. GREVEN: Okay.

21 PROSPECTIVE JUROR NO. 25: He also
22 does duels, knives.

23 MR. GREVEN: Because -- what was
24 the first thing?

25 PROSPECTIVE JUROR NO. 25: He does

1 knives duals and big hatchet as well.

2 MR. GREVEN: What was the last
3 thing?

4 PROSPECTIVE JUROR NO. 25: Big
5 hatchet. So that's longer axe but --

6 MR. GREVEN: He throws those?

7 PROSPECTIVE JUROR NO. 25: Yes.

8 MR. GREVEN: Look, if you're the
9 Number 1 ranked player in the world,
10 that's impressive. Good for you.

11 Last thing I'm going to talk to you
12 about -- we're almost done. It's almost
13 noon.

14 Mr. Senk may take the witness
15 stand; he may not take the witness stand.
16 I don't know. We'll wait and see.

17 So Juror No. 29, what would be a
18 reason why he wouldn't take the witness
19 stand? Can you think of one?

20 PROSPECTIVE JUROR NO. 29: Because
21 he doesn't want to incriminate himself.

22 MR. GREVEN: Doesn't want to
23 incriminate himself.

24 How about Juror No. 5, can you
25 think of one?

1 PROSPECTIVE JUROR NO. 5: No.

2 MR. GREVEN: Juror No. 6, can you
3 think of one?

4 PROSPECTIVE JUROR NO. 6: Feels no
5 need to, because maybe you feel that the
6 burden hasn't been met, there's no reason
7 to testify.

8 MR. GREVEN: You're my right-hand
9 man. You're coming up with all the
10 answers.

11 Listen to what he said. He's
12 exactly right. We talked about it before.
13 Joe doesn't have to prove that he didn't
14 do this, okay?

15 They have to prove that he did. So
16 if they haven't met their burden, why
17 testify? It's their burden. They have to
18 do it.

19 Now, the Judge is going to tell
20 you, if he doesn't take the stand, that
21 that is his constitutional Fifth Amendment
22 right, and you cannot consider that for
23 any purpose.

24 But is there anybody here who
25 thinks: Come on, somebody's accusing me

1 of something, first thing I would do would
2 be to get on that witness stand and tell
3 them I didn't do.

4 Is there anybody that thinks he
5 should be required to take the witness
6 stand? Okay. Good.

7 The Judge has talked to you.
8 State's talked to you. I've talked to
9 you.

10 Final question. Is there anybody,
11 as you're sitting here now, that is, like:
12 You know, nobody asked me about X; but I
13 think it's kind of important that they
14 know it.

15 Is there any lingering thing in the
16 back of anybody's mind you think it's
17 important for the Judge and the attorneys
18 to know?

19 You all promise me you can be fair
20 and impartial?

21 That's all I can ask for. Thank
22 you.

23 THE COURT: All right. Thank you.

24 We're going to go back, the lawyers
25 with the court reporter, and go back and

1 step into chambers in just a minute, so
2 you can take a brief stretch break.

3 Don't go anywhere. We'll be a
4 couple minutes okay?

5 (Whereupon, a discussion was held
6 between Court and Counsel in
7 chambers.)

8 THE COURT: Okay. We're on the
9 record.

10 I don't know if I told you all how
11 I do this, so I'm letting you know now.

12 We discuss all the challenges for
13 cause here, and then we do the peremptory
14 challenges out in open court.

15 So I just ask you to do -- you say,
16 when we're doing the peremptories, we
17 thank and excuse so-and-so. And we go
18 back and forth.

19 I make sure the first 12 seats are
20 excused. You can only excuse peremptorily
21 from the 12.

22 MR. MEYER: Do we need Mr. Senk?

23 MR. GREVEN: No. I waive his
24 presence.

25 MS. MONTELL: If four is excused

1 for cause or peremptory --

2 THE COURT: We're going --

3 MS. MONTELL: -- does everybody
4 move up --

5 THE COURT: No.

6 MS. MONTELL: -- or does 13 --

7 THE COURT: 13 goes into Seat No. 4.

8 MS. MONTELL: That's what I was
9 curious about. Thanks.

10 THE COURT: So I'm going to go
11 through the people who attempted to
12 indicate a reason they might not want to
13 serve, and we can discuss whether we're
14 going to let them get away with it.

15 So there was Mrs. Groh, who
16 indicated working at Children's Hospital
17 Radiology, and this is a short-staffing
18 issue. I don't know what your thoughts
19 are on that. I think it could go either
20 way but --

21 MR. MEYER: I think we'll be done
22 before it gets to be an issue.

23 MR. GREVEN: I mean, she said it's
24 not going to affect her.

25 THE COURT: Right.

1 MR. GREVEN: I mean --

2 MS. MONTELL: Figure it out.

3 THE COURT: She already put it off
4 once, so it's like --

5 All right. Mrs. Barton.
6 Apparently, it's very stressful to come to
7 Akron --

8 MS. MONTELL: I don't know if you
9 heard.

10 THE COURT: -- from Clinton.

11 MS. MONTELL: -- she said her
12 husband is 77, the one that drives.

13 THE COURT: Okay.

14 MS. MONTELL: That's the part I
15 don't think you heard. She said that.

16 THE COURT: Yeah.

17 MS. MONTELL: I think she was
18 saying because he's 77 -- she doesn't
19 drive -- he does. That's why it was so
20 stressful. So I'm like --

21 THE COURT: Well --

22 MR. GREVEN: To get to Clinton from
23 downtown Akron, from all the road
24 closures, it's stressful for me.

25 THE COURT: It's the big city and

1 that's stressful, apparently.

2 MS. MONTELL: Yes.

3 THE COURT: Anybody object to
4 excusing her?

5 MR. GREVEN: I don't object.

6 MR. MEYER: No.

7 MS. MONTELL: I don't object
8 either.

9 THE COURT: We'll let her out.
10 Okay. Mr. Cardew.

11 MR. GREVEN: Yeah. I think he said
12 he couldn't be fair and impartial. He'd
13 be a better juror for them.

14 THE COURT: Honestly, I'm
15 impressed. He's been through enough
16 trials. He knows what to say. He could
17 easily --

18 MR. MEYER: I thought he said he
19 would do his best. He didn't say he
20 couldn't.

21 THE COURT: Did he indicate he
22 couldn't?

23 MR. GREVEN: I think when he said
24 the best --

25 THE COURT: I don't think he said

1 that.

2 MR. GREVEN: The last thing I asked
3 was: Can you be fair and impartial? And
4 he said: No.

5 MS. MONTELL: He said: Would it be
6 hard to be fair and impartial?

7 And he said: Yes.

8 THE COURT: I think he's given
9 enough for cause --

10 MR. MEYER: All right.

11 MS. MONTELL: Okay.

12 THE COURT: -- for him.

13 And then Mr. Howard indicated he
14 had a financial hardship because he can't
15 work overtime and his wife's unemployed.

16 MR. MEYER: What do you think,
17 John?

18 MR. GREVEN: I doubt we're going to
19 get that far anyway.

20 THE COURT: I know but --

21 MR. GREVEN: I mean, somebody has a
22 financial hardship, I hate to keep them
23 here.

24 MR. MEYER: I agree.

25 MS. MONTELL: Yes.

1 THE COURT: He needs to get all
2 those hours in order to -- whatever.

3 MS. MONTELL: Yep.

4 THE COURT: Those are the only ones
5 I had.

6 Does anybody else have any others
7 that they want to bring up?

8 MR. MEYER: I do not.

9 MS. MONTELL: No.

10 MR. GREVEN: No.

11 THE COURT: Okay. All right. So
12 we're going to pick this jury before
13 lunch.

14 MS. MONTELL: I was going to say
15 then, are we breaking for lunch?

16 THE COURT: Yes. So we'll excuse
17 those that we're excusing, then I'll give
18 them a little talk about the musical
19 chairs, and then we'll do it.

20 And you each get four, okay?

21 MR. GREVEN: Yep.

22 (The following proceedings were had
23 in open court:)

24 THE COURT: I'm just going to go
25 ahead and let you know, there's two types

1 of challenges, challenges for cause and
2 peremptory challenges.

3 A challenge for cause is some
4 objective reason to excuse somebody.

5 So the Court is going to thank and
6 excuse Mrs. Barton. So you can leave.

7 PROSPECTIVE JUROR NO. 4: Thank
8 you.

9 THE COURT: Try not to skip as
10 you're running out.

11 PROSPECTIVE JUROR NO. 4: My
12 skipping days are over.

13 THE COURT: Because of the
14 situation, I'm going to go ahead and
15 excuse you for the week, okay?

16 PROSPECTIVE JUROR NO. 4: Thank you
17 so much.

18 THE COURT: Say nice things about
19 me.

20 PROSPECTIVE JUROR NO. 4: Okay.

21 THE COURT: We're going to
22 reluctantly thank and excuse Mr. Cardew,
23 but I'm sure we'll see you again.

24 And you do have to call back again
25 after 5 o'clock.

1 PROSPECTIVE JUROR NO. 16: Okay.

2 THE COURT: And we are going to
3 thank and excuse Mr. Howard, all right,
4 based on your work situation.

5 PROSPECTIVE JUROR NO. 29: Thank
6 you.

7 THE COURT: All right.

8 I think we now have to wait for our
9 other juror to come back, the one that's
10 not here yet.

11 (Pause in the proceedings.)

12 THE COURT: So we're now moving
13 into what I call the peremptory challenge
14 phase of jury selection.

15 And peremptory is just a big legal
16 word that means the lawyers don't have to
17 tell you a reason they're excusing you.

18 It's the part of the system that
19 allows them to play hunches and feelings,
20 instincts, where they can't probably
21 really verbalize the reason that they want
22 to pick one person over another, so they
23 don't generally have to.

24 But each side being given an equal
25 number of peremptory challenges, the idea

1 being that the end result is a very fair
2 and impartial jury.

3 That being said, we always have to
4 keep the first 12 seats filled because
5 those are the hot seats, if you will. And
6 we then move everyone up numerically. So
7 we are going to ask Ms. Norton to have a
8 seat in Seat No. 4.

9 All right. So for the State?

10 MR. MEYER: Your Honor, at this
11 time, the State would like to thank but
12 excuse Juror No. 6, Mr. Doane.

13 THE COURT: All right. Mr. Doane,
14 thank you, Mr. Doane.

15 Please call back after 5 o'clock.

16 PROSPECTIVE JUROR NO. 6: Thank
17 you.

18 THE COURT: Okay? And that means
19 Mr. Knorr, come on up and have a seat in
20 Seat No. 6.

21 All right. Mr. Greven.

22 MR. GREVEN: Every jury has a hot
23 seat, and it's going to be Number 6.
24 Thank you.

25 THE COURT: All right. Thank you,

1 Mr. Knorr.

2 And that means Mr. Mullaly, have a
3 seat in Seat No. 6.

4 All right. For the State?

5 MR. MEYER: Your Honor, the State
6 would like to thank and excuse Juror
7 No. 12, Miss Lee.

8 THE COURT: All right. Thank you,
9 Miss Lee.

10 Please call back again after
11 5 o'clock.

12 PROSPECTIVE JUROR NO. 12: Okay.
13 Thank you.

14 THE COURT: And that means we now
15 need Miss Coates, come on up and have a
16 seat up in Seat No. 12.

17 For defense?

18 MR. GREVEN: Judge, we're going to
19 thank and excuse Juror No. 3.

20 THE COURT: All right. Thank you,
21 Mr. Cottos.

22 Please call back again after
23 5 o'clock. Thank you.

24 All right. Miss Turnbull, come up
25 and have a seat in Seat No. 3.

1 For the State?

2 MR. MEYER: Your Honor, we would
3 like to thank and excuse Juror No. 4, Miss
4 Norton.

5 THE COURT: All right. Thank you,
6 Miss Norton.

7 Please call back again after
8 5 o'clock.

9 All right. Mr. Weeden, come on up
10 to Seat No. 4.

11 For the defense?

12 MR. GREVEN: Pass, Judge.

13 THE COURT: Okay. Two passes in a
14 row means we're done.

15 Mr. Meyer.

16 MR. MEYER: State would pass, Your
17 Honor. Thank you.

18 THE COURT: All right. So that
19 means we have our 12.

20 I'm going to add two alternates
21 because I was a Girl Scout, which means
22 you always have to be prepared.

23 So that means I will give each side
24 the opportunity to thank or excuse one of
25 the alternates.

1 And so our alternates, before you
2 move up, would be Juror No. 20, Miss
3 Hammond, and Juror No. 22, Mr. Wysocki.

4 For the State, would you like to
5 thank or excuse either of those?

6 MR. MEYER: One moment, you Your
7 Honor.

8 (Pause in the proceedings.)

9 MS. MONTELL: Did you say 20 and 22
10 would be alternates?

11 THE COURT: 20 and 22, both. You'd
12 end up with 23 if you excuse one, or
13 depending what the defense does.

14 MR. MEYER: Your Honor, the State
15 would thank and excuse Miss Hammond.

16 THE COURT: Miss Hammond. Okay,
17 you're excused, Miss Hammond.

18 Please call back again after
19 5 o'clock.

20 All right. The State have any
21 objection to Mr. Wysocki or Mr. Falconberry
22 as the alternates?

23 MR. GREVEN: The defense, you mean?

24 THE COURT: Did I say State? I
25 meant defense.

1 MR. GREVEN: Yeah. Judge, we would
2 thank and excuse Number 22.

3 THE COURT: Thank you, Mr. Wysocki.
4 Please call back again after
5 5 o'clock.

6 That means that our jurors, our
7 alternates, will be Mr. Falconberry and
8 Mr. Doles.

9 You'll have a seat up here,
10 Mr. Falconberry. You're going to be
11 Alternate No. 1 in Seat No. 13.

12 And Mr. Doles, you will be
13 Alternate No. 2.

14 That means from Miss Gwinnup
15 forward, depending how you look at it,
16 either you're excused or you've escaped,
17 all right?

18 And I do want to say, you know,
19 sorry, Miss Williams. I know you wanted
20 to be a juror, but maybe we'll get you
21 later this week.

22 Lots of the judges are having
23 trials, so everybody has to call back
24 again after 5 o'clock, okay?

25 But those of you that were not

1 selected, you are excused.

2 (Pause in the proceedings.)

3 THE COURT: Okay. Shay just passed
4 out some badges for you all to wear,
5 magnetic badges. You have to put those
6 on. They have to be visible at all times
7 because -- we have a few instructions then
8 we'll take a break.

9 We have a culture in the court, and
10 the culture is we run into each other, and
11 sometimes we talk about the case.

12 So I may see somebody downstairs in
13 the cafe and be like, what are you doing?
14 And if I say something about the case --
15 which we always look around for us to make
16 sure we don't see anyone with a juror
17 badge on, right?

18 Obviously, I would recognize you;
19 but two lawyers talking might not.

20 So it's also important that
21 witnesses are aware and know, and they're
22 instructed never to talk about anything
23 when we see a juror around, okay?

24 So your first test, as a juror, is
25 going to come now when you come back from

1 lunch. And that is, you have to look to
2 your left and look to your right. And
3 when you come back, you have to sit in the
4 same seat.

5 Now, Shay's going to help you with
6 that. She's going to take you back there
7 and give you some instructions about how
8 to line up because we do like to be a
9 little orderly. So she will actually line
10 you up in order and show you how to do
11 that.

12 But from here on out, you're no
13 longer going to enter the courtroom on
14 your own. You will only enter it as
15 ushered in by the bailiff, okay?

16 So every judge has a jury room
17 attached to the chambers area, as do I.
18 And so she's going to take you back there
19 now, when we break, and then she'll let
20 you go for lunch.

21 She'll have a few more instructions
22 for you back there.

23 But the most important thing for
24 you to realize is Number 1, despite, you
25 know, what would be normal, normal

1 behavior to talk about something new,
2 you're not permitted to talk about this
3 case.

4 You're not permitted to talk about
5 what just happened in the courtroom or the
6 questions that were asked. You're not
7 permitted to talk to anybody about it.
8 You're not permitted to let anyone discuss
9 it in your presence.

10 Obviously, you can notify your
11 family members, whatever: I've been
12 selected. So I'm going to be a juror on a
13 case.

14 But you're not allowed to talk
15 about the facts of the case or anything
16 because they may choose to start to try to
17 give you their opinion about it. And
18 you're deciding the case based on the
19 facts, not based on what one of your
20 family members thinks about the case.

21 You understand that? That's a very
22 strict, hard instruction, okay?

23 In addition, you're not to
24 investigate this case in any fashion.
25 That goes from now on through the end of

1 the trial.

2 You might hear some -- you might
3 hear some addresses or locations
4 discussed. And you can't, you know, take
5 a detour on the way home to go check out
6 yourself. That is totally impermissible.

7 You might think: Oh, what juror
8 would ever do that? Oh no, oh no. I've
9 had it happen, so where they decide
10 they're going to go investigate -- I'm not
11 kidding you -- with flashlights and tape
12 recorders. Yeah. No.

13 Needless to say, you're seeing the
14 nice Judge McCarty. That juror did not
15 see the nice Judge McCarty.

16 So yeah, you have to follow that
17 rule. You're not to investigate the case
18 in any fashion. And that includes going
19 on the Internet and trying to look up the
20 names of anybody. Totally impermissible.

21 And it's the honor system,
22 obviously. Now, with the Internet, you
23 know, that's a battle we fight here.

24 But the whole goal of it is that
25 I'm in charge of making sure this is fair,

1 and I can only do that here in the
2 courtroom.

3 So I can't control what you do in
4 your home, other than order you not to do
5 it and trust that you will follow your
6 oath.

7 But it's important for both sides
8 that they know, whatever evidence comes
9 in, comes in with a fair referee who's
10 making sure that both sides are playing by
11 the rules and that the evidence that you
12 hear is the properly-admitted evidence in
13 the case, not something that would
14 normally not be permitted to enter.

15 Do you understand? Everybody
16 understand the thought behind that?

17 Okay. All right. So when we come
18 back, I'll give you some more
19 instructions.

20 I'm going to give you until 1:30
21 because it's your first day here, and
22 you -- I know maybe it's not so great
23 weather out there. But you can walk
24 downtown. There are restaurants downtown.
25 You can eat downtown.

1 There's also one across the street
2 in the Polsky Building, the old -- Akron
3 U, used to be an old department store, for
4 those of you that are old. It's got a
5 Starbucks in there and Chick-fil-A, so if
6 you want to go over there.

7 But we also have a very nice cafe'
8 right down here in the basement, which is
9 where I'm going run off the bench, grab my
10 wallet, and try to beat you there, after
11 we break, which Shay will hold you in the
12 jury room so I do.

13 And then come back at 1:30, meet in
14 the jury room, and then we'll bring you in
15 to get started after that.

16 But before we go, I am going to
17 particularly swear you in as jurors for
18 this matter, okay? So it's just another
19 oath we have to give.

20 So I'll have you stand and raise
21 your right hand, please.

22 You have a question?

23 PROSPECTIVE JUROR NO. 23: Just so
24 you know, when I went out to the restroom,
25 I come back through, I noticed someone was

1 out there, and we recognized each other
2 and he --

3 THE COURT: Who's a potential
4 witness maybe?

5 Why don't you tell us about that
6 right now. Who is it?

7 Do you know the name?

8 PROSPECTIVE JUROR NO. 23: I used
9 to work with him at a previous employment.
10 And I don't remember his name, but I
11 recognized his face.

12 THE COURT: Do you have witnesses
13 out there?

14 We didn't actually go over the list
15 of witnesses, so why don't we have them
16 state them and see if you recognize one.

17 MS. MONTELL: Paul Maloney.

18 MR. MEYER: Paul Moloney is the
19 only one that's still here.

20 THE COURT: Is there anything about
21 the fact that you know him that might
22 cause you to feel that it might affect
23 your ability to be fair, if you're
24 selected as a juror in this case? Do you
25 want to go sidebar?

1 PROSPECTIVE JUROR NO. 23: I don't
2 understand what you mean.

3 THE COURT: That means not talk
4 about it in public but over in private?

5 PROSPECTIVE JUROR NO. 23: Yes.

6 THE COURT: Okay. I read your face
7 and your body language there.

8 (The following proceedings were had
9 at sidebar, outside the presence of
10 the jury:)

11 PROSPECTIVE JUROR NO. 23: Okay.
12 So I know him from previous employer.
13 He's a good man.

14 Well, so I mean, I don't know
15 if you're going to hold that -- I don't
16 think -- I'm trying to think if it's going
17 to affect my judgment on the --

18 THE COURT: Here's the question.
19 Every witness -- you'll be instructed at
20 the conclusion of the trial that every
21 witness is to -- you're to judge the
22 credibility of every witness in order to,
23 you know, basically, apply certain tests
24 for credibility that you would use in your
25 daily life, the manner of testifying, the

1 facts of the case, the ability to see,
2 hear, and feel what they talked about.

3 Another question is based on your
4 knowing him previously, would that affect
5 your ability to objectively apply those
6 tests for credibility to his testimony, or
7 would you automatically believe what he
8 said or automatically disbelieve what he
9 said because of your prior knowledge of
10 him?

11 PROSPECTIVE JUROR NO. 23: It's
12 hard to say about that decision. I mean,
13 I know him. I know him for, like, ten
14 years I worked with him, so I don't know.

15 THE COURT: So you think you might
16 afford him credibility that you wouldn't
17 afford another witness?

18 PROSPECTIVE JUROR NO. 23: Yes.

19 THE COURT: You'd be inclined to,
20 even if the evidence showed otherwise,
21 you'd be inclined to?

22 PROSPECTIVE JUROR NO. 23: It would
23 be hard for me to make a decision knowing
24 him.

25 THE COURT: All right. I

1 appreciate that.

2 Anybody want to ask anything
3 about --

4 MR. MEYER: May I inquire?

5 THE COURT: Yeah.

6 MR. MEYER: So if there was a close
7 call, would you give him the benefit of
8 the doubt, because of your work with him?

9 PROSPECTIVE JUROR NO. 23: Yeah.
10 Working with him for ten years, I probably
11 would.

12 MR. MEYER: Okay.

13 MS. MONTELL: Do you have his phone
14 number?

15 PROSPECTIVE JUROR NO. 23: No, I
16 don't.

17 MR. GREVEN: I was just curious,
18 what was the conversation out in the
19 hallway?

20 PROSPECTIVE JUROR NO. 23: I walked
21 by him. You look familiar.

22 I came back. He said: Yeah, I
23 noticed you too.

24 I go, do you work at Acme? Or did
25 you work at S & P Metal Products?

1 He said: S & P Metal Products.

2 That's what I heard but --

3 MR. GREVEN: Nothing about: What
4 are you doing here or what's your
5 involvement in the case?

6 PROSPECTIVE JUROR NO. 23: He asked
7 me, he said -- he's like: What are you
8 doing here?

9 I'm going to be on the jury.

10 And he's like: Well, I'm a
11 witness.

12 So I'm like: Okay. Well, I better
13 not talk to you anymore.

14 MR. GREVEN: Okay. That's all.

15 THE COURT: All right.

16 Well, go ahead and have a seat back
17 over there, and we'll just chat for a
18 minute.

19 (Pause in the proceedings.)

20 THE COURT: What are your thoughts?

21 This is why I get two alternates.

22 I'd be inclined to let him go,
23 based on what he said, and roll with one
24 alternate.

25 MR. MEYER: I think we'd be fine

1 with one.

2 MS. MONTELL: Yeah.

3 MR. GREVEN: I agree.

4 (The following proceedings were had
5 in open court:)

6 THE COURT: You know how they say a
7 tree falls in the forest and no one heard
8 it, did it actually happen?

9 If the Judge says something in open
10 court and the court reporter didn't write
11 it down, it's kind of like it didn't
12 happen.

13 So -- but I will let you know, we
14 thank you, Mr. Falconberry, that you
15 recognize that gentleman. And based on
16 our questioning, the Court does think you
17 should be excused for this matter.

18 So I thank you very much for your
19 honesty and bringing that up.

20 Don't take our badge, but you do
21 have to call back again after 5 o'clock,
22 okay?

23 PROSPECTIVE JUROR NO. 23: Okay.

24 THE COURT: The rest of you, I'm
25 going to swear you in as jurors on this

1 case.

2 Just give her your badge.

3 And Mr. Doles, you may move up.

4 You're now our sole, standing alternate.

5 Don't be nervous.

6 (Whereupon, 12 jurors and one

7 alternate were sworn.)

8 THE COURT: Thank you.

9 And Shay will take you back to the
10 jury room, and we're going to break until

11 1:30.

12 (Whereupon, court was adjourned.)

13 - - -

14

15

16

17

18

19

20

21

22

23

24

25