

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

United States of America,)
)
 Plaintiff,) 2:17-cr-00585-GMS-1
)
 vs.) Phoenix, Arizona
) March 20, 2018
Thomas Mario Costanzo,) 9:03 a.m.
)
)
 Defendant.)

)

BEFORE: THE HONORABLE G. MURRAY SNOW, JUDGE

REPORTER'S TRANSCRIPT OF PROCEEDINGS

JURY TRAIL - DAY 1

(Pages 1 - 217)

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P R O C E E D I N G S

(Proceedings resume at 9:03 a.m.)

THE COURT: Please be seated.

COURTROOM DEPUTY: This is CR17-585, United States of America versus Thomas Mario Costanzo, on for jury trial.

MR. RESTAINO: Good morning, Your Honor.

Gary Restaino, Matt Binford, and Carolina Escalante for the United States, along with Task Force Officer Chad Morton at counsel table.

THE COURT: Good morning.

MS. WEIDNER: Good morning, Your Honor.

Maria Weidner and Zachary Cain for Mr. Costanzo.

We also are joined by Linda Ondrovic, our paralegal.

THE COURT: All right. Good morning.

What can we -- what do we need to take care of before we bring the jury up -- jury panel up?

MS. WEIDNER: Well, Your Honor, the supplemental motion in limine that the defense filed on Sunday, and I guess the government responded yesterday.

THE COURT: Yes. I knew that we'd have to take care of that. I must confess to you, though, Ms. Weidner, I have not yet had a chance to read the government's response. I figured I could do that this morning in the breaks in between jury selection, and we can take it up at the noon break or when we -- if we don't get down to finally selecting the jury,

1 whenever we do that long break when we're selecting the jury, I
2 can address the motions in limine as well. But I'm not quite
3 ready because I haven't yet read the government's response.

4 MS. WEIDNER: And, Your Honor, there was just one
5 other issue that I raised with government counsel this morning.
6 That is, defense reviewed Government Exhibit 78, which is
7 intended to be a demonstrative video, featuring SA Ellsworth
8 and SA Klepper doing a demonstration of a Bitcoin exchange with
9 two side-by-side phones --

10 THE COURT: Yes.

11 MS. WEIDNER: -- that is introduced with --

12 THE COURT: Is this when they do the dollar for the 85
13 cents exchange?

14 MS. WEIDNER: About. It starts off with SA Klepper
15 saying: Okay, he's going to be the UC and I'll be the bad guy,
16 which is problematic.

17 I also believe, Your Honor, that in this day and age,
18 a demonstration -- a little movie demonstration explaining how
19 one purchases something using their phone is completely
20 unnecessary. It's -- it's -- iPhones are everywhere. People
21 purchase things with their iPhones all the time. I pay my
22 mortgage on my phone and get a confirmation. So I -- I -- this
23 is not -- it's not brain surgery, and I don't think that the
24 proposed exhibit does anything but -- but attempt to bolster
25 the government's witnesses by showing something that is already

1 pretty well common knowledge as to the way that phones work and
2 how we buy and receive confirmation about things we buy with
3 our phones.

4 THE COURT: Mr. Restaino?

5 MR. RESTAINO: Your Honor, the -- the exhibit
6 technically is 123 that we'd be using, because that's the first
7 redacted version that the government redacted to take out some
8 drug talk between the UC agents at --

9 THE COURT: Is this the same one that was shown -- do
10 you know if it's the same one that was shown at the district
11 conference a couple of weeks ago?

12 MR. RESTAINO: Oh. I anticipate that it was then,
13 Your Honor.

14 THE COURT: All right. So I've seen it, for whatever
15 that's worth. So, go ahead.

16 MR. RESTAINO: So we've taken out the drug chatter.
17 Ms. Weidner makes a fair point about the initial reference as
18 well. The government's intent has only been to use this as a
19 demonstrative evidence, that it wouldn't come into evidence, to
20 the extent the Court permits that after we lay the foundation
21 with Agent Fleischmann, we would simply start it after the talk
22 about which Ms. Weidner objected most substantively.

23 THE COURT: And the - and the nature of your
24 objection, Ms. Weidner, is what?

25 MS. WEIDNER: Your Honor, I think it is cumulative,

1 given that the -- given that it is -- there is no need to show
2 someone how to conduct a purchase and receive confirmation of
3 that purchase with a phone, given how basically everyone these
4 days has an iPhone. For that reason, I think it is a waste of
5 time, and it's also just -- its relevance is really
6 superfluous, given -- they're trying to show us something so
7 basic. It's like, these are -- this is how somebody has a
8 conversation: First, someone talks to someone else.

9 THE COURT: Okay. I think I -- so if I can state your
10 objections, your objection is relevance and cumulative; 401 and
11 403?

12 MS. WEIDNER: Yes, 403, and also a waste of time.

13 THE COURT: Okay. I'm going to overrule the objection
14 without prejudice because I, of course, can't determine the
15 cumulative nature of the evidence when I haven't heard any
16 evidence. I don't know whether it will be cumulative or not.
17 To the extent that it is the same video that I -- that I saw --
18 and Ms. Weidner, if it isn't, please let know -- I thought it
19 was helpful to -- I think that it's not unhelpful, and I think
20 that the jury is going to be required here to understand both
21 for purposes of the prosecution and the defense what Bitcoin is
22 and how it works.

23 If this is the same video that I saw, it's a video
24 where they basically set up a wallet, touch cell phones, and
25 then determine that the transaction is not confirmed until

1 three -- a minimum of three independent, apparently, voluntary
2 computers in the world have verified the transaction, at which
3 point it becomes irrevocable. Because that is what is
4 demonstrated, as I recall, on the video, I do believe that it
5 demonstrates facts pertaining to Bitcoin transactions that are
6 slightly different from the payment of your mortgage on it, in
7 terms of the need to have verification from this outlying
8 computer network, the fact that it cannot then be revoked or
9 adjusted.

10 I also seem to recall that it started off with a rate
11 of exchange given the fees charged on the top that would have
12 resulted in 85 cents for a dollar, and then by the time the
13 transactions were verified, the rate of exchange had exchanged
14 because so they got 86 cents. Is this the same video?

15 MR. RESTAINO: That is. That's the version we're
16 showing, yes, Your Honor. That's the video.

17 THE COURT: I do think that all of those things --
18 again, I'm not preventing you from raising the objection again
19 if you believe there remains a cumulative objection. But to
20 the extent that you have a relevance objection, I think all of
21 those things are help -- would and will be helpful to the jury
22 in understanding what a Bitcoin transaction is, and how it is
23 at least in certain aspects a little bit more complicated than
24 a regular transaction.

25 Anything else, or can we bring up the jury pool?

1 MR. RESTAINO: Your Honor, just two brief issues from
2 the government's perspective.

3 I hadn't intended to raise evidence this morning, but
4 there is another video that we are planning to get in through
5 an agent, which is a short one-and-a-half-minute cartoon that
6 describes Bitcoin. We'll continue to have discussions with
7 Ms. Weidner and Mr. Cain about that, if we can do anything to
8 ameliorate their concerns.

9 THE COURT: All right.

10 MR. RESTAINO: And then secondly, Your Honor, we --
11 there was an issue on the jury instructions, even with respect
12 to the preliminary instruction on what the elements are of
13 money laundering. And I'm not asking to argue that now, I just
14 was wondering if you were going to provide us that at some
15 point this morning.

16 THE COURT: I had forgotten that that went to the
17 preliminary instructions. I had taken a look at it as it
18 pertained to the final instructions. And I -- we can take it
19 up again before we do the preliminary instructions, but it
20 seemed to me that your instruction -- that Nelson -- your
21 argument about Nelson is correct mostly. But I do think that
22 there's some language that Ms. Weidner proposes that needs to
23 go in to part of what you've said on the mens rea, although I
24 mostly am accepting -- or I am mostly inclined to accept the
25 government's version.

1 I'll reconstruct that and tell both parties what it
2 is, and give you a chance to present your -- your viewpoints on
3 that, because I am not prepared -- although I have reviewed it,
4 I'm not prepared to tell you right now, and we are still
5 several hours away from giving preliminary instructions. I'll
6 make sure that I do that.

7 MR. RESTAINO: Great.

8 Thank you, Your Honor.

9 THE COURT: Do you know what I'm talking about when I
10 talk about the Nelson case? Am I on point about what your
11 concern was?

12 MR. RESTAINO: Yes, Your Honor.

13 THE COURT: Do you know what I'm talking about?

14 MS. WEIDNER: Yes, Your Honor. I'm -- I'm aware.

15 THE COURT: All right. Anything else, or can we bring
16 up the jury panel?

17 MR. RESTAINO: Nothing from the government.

18 MS. WEIDNER: Nothing from the defense, Your Honor.

19 THE COURT: All right. Thank you.

20 (Discussion was had off the record.)

21 THE COURT: We are going to have 67 jurors. I know I
22 said we're only going to have 60. We're going to have 67 on
23 the jury panel. The reason we're going to do that is we've had
24 a number of jury trials in the building today. They've all
25 canceled except for us. There are a few extra jurors, and I

1 figured we might as well bring them up so we don't run short,
2 because we are looking at a three-week trial.

3 Oh. I do want to remind folks, when we deal with the
4 jury materials that you'll be receiving that identify names and
5 cities, that's not to be shared. We've had a little bit of a
6 problem with counsel sharing that with other people. It's not
7 to be shared, and it's to be turned back in at the end of jury
8 selection to make sure that our jurors remain -- their
9 identities remain protected.

10 Thank you.

11 (Proceedings in recess at 9:16 a.m.)

12 (Jury panel enters the courtroom at 9:28 a.m.)

13 (Proceedings resume at 9:33 a.m.)

14 THE COURT: Please be seated.

15 COURTROOM DEPUTY: This is criminal case number
16 17-585, United States of America versus Thomas Mario Costanzo,
17 on for jury trial.

18 Counsel, please announce your appearance.

19 MR. RESTAINO: Good morning, Your Honor.

20 Gary Restaino, Matt Binford, and Catalina Escalante
21 for the United States. And seated with us at counsel table is
22 Task Force Officer Chad Morton with the DEA.

23 THE COURT: Good morning.

24 MS. WEIDNER: Good morning, Your Honor.

25 Maria Weidner and Zachary Cain for Mr. Costanzo.

1 Seated with us at counsel table is Linda Ondrovic, our
2 paralegal.

3 THE COURT: Good morning.

4 Good morning to you, ladies and gentlemen, and we
5 welcome you to the United States District Court for the
6 District of Arizona.

7 This a federal court, but it is a federal court for
8 the District of Arizona, meaning that what we do is take up
9 federal matters that arise within the state of Arizona. And
10 this morning -- probably part of this afternoon, at least -- we
11 will be choosing a jury for a federal criminal trial.

12 We do appreciate each of you being here. We do
13 recognize that it is an inconvenience for you, that it takes
14 you away from your jobs, your homes, your families, and
15 disrupts your daily routine.

16 However, one of the great protections provided by the
17 United States Constitution is a right to the -- to a jury
18 trial.

19 I tell every jury that I seat that on the 4th of July
20 every year, I make my kids read the entire Declaration of
21 Independence before they get their breakfast. And one of the
22 things that you will find if you ever bother to read the entire
23 Declaration of Independence is that one of the reasons the
24 colonists agreed that they should -- they were entitled to
25 declare their independence from Great Britain is the King of

1 England had deprived them of the right to a jury trial.

2 The right to a jury trial is also contained in the
3 body of the United States Constitution, as well as in the
4 amendments to the United States Constitution. And so it is an
5 extremely important right, and that is why the law gives us the
6 authority to summon you, to make you come, to inconvenience
7 your life, so that you can fulfill a very basic obligation of
8 citizenship which provides a great protection for all of us.

9 I will talk to you a little later this morning about
10 the schedule of this trial, and I will give you an opportunity
11 to explain whether that schedule would create undue hardship
12 for you. As I will explain at that time, "undue hardship"
13 means real, significant hardship, not merely inconvenience.
14 But we can take that up at a later date -- later date.

15 Let me just tell you how we're going to proceed.

16 As you can understand, it is very important that we
17 seat jurors in this case who can be fair and impartial to both
18 sides. Now, what do I mean by being "fair and impartial"?
19 What I really mean is being neutral, coming into this case
20 recognizing that the government has the burden of proof. It is
21 the government's obligation to prove the guilt of the
22 defendant. And if they fall short by -- beyond a reasonable
23 doubt standard, and if they fall short of that standard, the
24 defendant is innocent.

25 In evaluating the government's case and any defense

1 the defense puts on, we want to have jurors who can be neutral
2 and fair, both to the government in evaluating whether it's met
3 its burden, and to the defendant in making that same
4 evaluation. We don't want people with us who are already going
5 to assume things before they've heard any part of the evidence.

6 And to assist us in arriving at that conclusion, I am
7 going to ask a number of questions to the entire jury panel
8 this morning. Please understand that the questions I will ask,
9 although sometimes they involve quite personal information, are
10 not to embarrass you or to pry into your personal life. They
11 are to find out if you have had any contact with or familiarity
12 with what may be some of the facts in this case; and if you do,
13 whether that predisposes you in one way or another that would
14 make it impossible for you to be a fair juror in this trial.

15 Really, we're going to depend on you to be honest and
16 truthful in making that assessment, and we are going to do our
17 best to help you do that courteously, but we must be -- we must
18 sometimes ask some direct -- direct questions.

19 Now, as I said, I will begin by asking all of the
20 questions. If, when I ask a question, you have a response, you
21 should raise your hand, and my law clerk, Carmel Dooling, will
22 bring to you the microphone, and then I may have a few
23 follow-up questions for you.

24 After I am -- I will ask questions to the entire jury
25 panel. And after I am through asking my questions, I will

1 allow the attorneys for each side to ask a few follow-up
2 questions to individual jurors that I may not have covered that
3 they have some concerns about.

4 Before I ask you the questions or the attorneys ask
5 you the questions, we're going to place you under oath to tell
6 the truth. If you do not tell the truth when you are under
7 oath, you will have committed a federal crime. The reason why
8 we put you under oath is this is a very important undertaking
9 and you must tell the truth, just as if you were a witness in
10 this action.

11 Now, I do recognize there are some realities about
12 being called to jury service. Usually when people are called
13 in, most everybody comes in with the attitude of, I hope I'm
14 not picked. I understand that. But as I've said, this is a
15 very important obligation of citizenship, and you must not
16 attempt to manufacture or answer -- or answer the questions in
17 a way to avoid jury service that would be untruthful. Nor --
18 and I also recognize that sometimes you might think it would be
19 nice to take a break from work or do something different, or
20 fulfill your jury service, and you -- you might want to be on
21 the jury. It is just as important for you to answer the
22 questions truthfully as it is for someone who doesn't want to
23 be on the jury. You both -- all of you have to answer the
24 questions truthfully, honestly, and completely. And that is
25 just your obligation.

1 If you were one of the parties in this case, you would
2 want jurors who are capable of deciding the case fairly,
3 neutrally, honestly, and completely.

4 Now, I do recognize that even though many -- very few
5 of you will have known each other before this morning, if any
6 of you, that it may be difficult to answer personal questions
7 in front of a crowd that you're in. Please realize that
8 everybody is in the same boat. They all -- you're all going to
9 have to answer the same questions. But if there's just a
10 question that you just can't answer in front of this big group,
11 please indicate that to me when I'm asking the questions, and
12 what I will do is ask you to remain behind during one of the
13 breaks, and then I will ask you the question and you can answer
14 it with the other jurors gone. The lawyers still have a right
15 to be here and hear the answers to your questions, and so they
16 will not be excused, but everybody else will be.

17 Are there any questions about how we're about to
18 proceed?

19 I realize that I might not have offered the clearest
20 of explanations.

21 All right. Then will the entire jury panel please
22 stand to be sworn in.

23 (Jury panel sworn.)

24 THE COURT: All right. Now, I have a couple
25 preliminary questions.

1 First, do any of you have any difficulty hearing me?

2 All right. Kathleen? I think we had four.

3 What we're doing is we have little sets that you --
4 you just put in your ears. They really work quite remarkably
5 to assist in being able to hear what -- what is being said. So
6 we're just making sure that we have working sets that are
7 clean, and we'll distribute them to you as soon as we make sure
8 that they're all on the right channel.

9 We will ask you, if you take one and use it, that when
10 we go on the break and you leave the courtroom, if you will
11 just leave your own set on your chair. We are going to ask you
12 when you come back from break to sit in the very same chairs
13 that you're in now so that we can keep track of you
14 appropriately.

15 Was there anybody else who wanted one of these sets?

16 Well, he can have one anyway. We'll ask you as --
17 we'll ask you to leave it in your chair when you leave too.

18 All right. I'm giving you a test. Can you all hear
19 better now with them?

20 Okay. Good.

21 The very first substantive question I'm going to ask
22 you all is whether any of you who are on the jury panel who did
23 not take the oath?

24 All right. I see no responses.

25 Let me read to you a statement of what this case is

1 about, as agreed to by the parties:

2 This is a criminal case brought by the United States
3 of America government. The government charges the defendant
4 with five counts of money laundering. Specifically, the
5 government alleges that on five occasions, Mr. Costanzo
6 accepted money represented by undercover agents to be proceeds
7 of drug transactions, and exchanged that money for Bitcoin.
8 The government further alleges that Mr. Costanzo intended to
9 avoid federal currency transaction reporting requirements and
10 to conceal and disguise the nature of the money when he
11 exchanged the money for Bitcoin.

12 This is a sting case, which means that the money
13 provided to Mr. Costanzo was not actually drug proceeds, and
14 the undercover agents involved were not actually drug dealers.

15 The charges against Mr. Costanzo are contained in the
16 first superseding indictment. The first superseding indictment
17 simply describes the charges made by the government against the
18 defendant and does not constitute evidence.

19 Mr. Costanzo denies that he intended to evade federal
20 currency transaction reporting requirements when he exchanged
21 the Bitcoins for money. Mr. Costanzo asserts that he did not
22 rely on representations made by the undercover agents that the
23 money involved was drug trafficking proceeds.

24 Have any of you read or heard anything about this case
25 from any source whatsoever?

1 All right. I see no responses.

2 Given this brief description of the facts, is there
3 anything about this case that would cause you to believe that
4 you could not consider the evidence fairly and impartially,
5 according to the law?

6 All right. Carmel?

7 Would you please stand, sir, and identify yourself by
8 the number on your front.

9 PROSPECTIVE JUROR 17: Number 17.

10 THE COURT: All right, sir.

11 What is it that gives you a concern about your
12 inability to consider the case fairly and impartially?

13 PROSPECTIVE JUROR 17: I've -- was just involved in a
14 two-year legal case where my business partner sued me, claiming
15 I mis -- misappropriated funds from our business accounts.

16 THE COURT: Yes?

17 PROSPECTIVE JUROR 17: And, you know, I'm not sure I'd
18 be fully objective.

19 THE COURT: You understand that -- well, there isn't
20 anything about the facts of this case, as I understand it, that
21 cause you concern. It's your own experience; is that right?

22 PROSPECTIVE JUROR 17: Excuse me?

23 THE COURT: Well, there isn't -- if I understood you
24 correctly -- and I do not want to put words in your mouth, so
25 if I say something that's wrong, correct me -- but from what

1 I've understood, there isn't anything about the facts in this
2 case that cause you concern about your ability to be fair;
3 rather, it is your own recent experience; is that correct?

4 PROSPECTIVE JUROR 17: Correct.

5 THE COURT: And if I were -- well, what is it about
6 your recent experience, if I can explore it a little bit with
7 you, that makes you think you would not be able to serve as an
8 impartial juror, or as a neutral juror in this case?

9 PROSPECTIVE JUROR 17: I -- it would probably depend
10 on how the case unfolds, I suppose. I mean, I'm just, you
11 know, a little disgruntled, I suppose, with the system as far
12 as, you know, some of the process goes with the way my case
13 transpired.

14 THE COURT: All right. So because of your own
15 experience with the system, you don't -- you have doubts about
16 its efficacy and fairness?

17 PROSPECTIVE JUROR 17: Correct.

18 THE COURT: And as a result, you don't know that you
19 could serve as an objective and fair juror?

20 PROSPECTIVE JUROR 17: Correct.

21 THE COURT: You will hear, likely, me tell other
22 jurors -- jury panel members what I am about now to tell you.

23 I'm going to instruct every juror in this case who
24 might have a reason why they -- they have doubts about their
25 own ability to be fair, that if they're selected to be jurors

1 in this case, I would instruct them that they have to put their
2 own feelings aside and try this case based only on the facts
3 and the evidence that they hear in this courtroom.

4 Now, I do recognize that I could well tell you you've
5 got to put something aside, and even though you might try your
6 very best to do it, you can't do it. So I guess what I'm
7 asking you is, if I were to instruct you that you have to put
8 your own feelings aside that arise from your own experience and
9 try this case fairly based on only what you'll hear in this
10 courtroom, is that something you think you can do?

11 PROSPECTIVE JUROR 17: It is something I would do to
12 the best of my ability.

13 THE COURT: Okay. And I think you indicated that just
14 depends a little bit on how the facts play out?

15 PROSPECTIVE JUROR 17: Correct.

16 THE COURT: Okay. Is there any -- based on --
17 before -- and I realize you don't know anything yet -- but is
18 there anything about what you've heard so far that makes you
19 think you couldn't do that?

20 PROSPECTIVE JUROR 17: Not at this time, no.

21 THE COURT: All right. Thank you very much, sir.

22 Anyone else?

23 Let me introduce myself to you. My name is Murray
24 Snow. I'm a Federal District Court judge. You may have
25 guessed that. And I'm going to be the judge who tries this

1 case.

2 Down to my immediate right is my court reporter, and
3 her name is Charlotte Powers. I'm not going to have her stand
4 or wave or anything else because it is her job to record
5 simultaneously everything that I say, everything that you say,
6 everything that anybody says in this trial. And so you will
7 see her very busily tapping away during the entirety of the
8 trial. It may be that on occasion I will ask a witness to slow
9 down because sometimes we talk too quickly, and she does an
10 amazing job recording everything everybody says as it is. I've
11 also given her license to tell people to slow down herself, is
12 if I'm missing that. So you may hear her speak up
13 occasionally. But otherwise, she's too busy to speak.

14 To my left -- Kathleen, please stand -- is Kathleen
15 Zoratti. Kathleen is my courtroom deputy clerk. Kathleen will
16 handle all of the evidence during trial, she will swear in the
17 witnesses, and she will take the jury back and forth from the
18 jury room each day.

19 In the middle of trial, in addition to handling all
20 the evidence and exhibits for this trial, Kathleen is in charge
21 of dealing with about 250 to 300 other criminal cases that I
22 have on my docket. And so she will be -- if you wonder what
23 she's doing when she's tapping away during trial, it may be
24 handling my other criminal docket. But she will be here
25 throughout trial.

1 Carmel Dooling.

2 Carmel, would you please stand?

3 Carmel is a recent law school graduate from the
4 University of Chicago. I have the good fortune of having
5 Carmel work for me this year. It's something like a judicial
6 internship before she begins her law practice on her own. And
7 she has a compatriot, Jason Despain, who you may be exposed to
8 throughout trial, who graduated recently from Stanford Law
9 School.

10 If you're on the jury, you will also certainly have
11 interaction with my judicial assistant, whose name is Armie
12 Gonzales. You will interact with her when you call my chambers
13 to let me know -- at a minimum, you will interact with her on
14 those occasions to call me to let me know that you're ready to
15 go.

16 Do any of you know me or any member of my staff that
17 I've just introduced to you on any basis; social, professional,
18 or otherwise?

19 Carmel?

20 PROSPECTIVE JUROR 49: I know Carmel dated my son.

21 (Laughter in the courtroom.)

22 THE COURT: Well --

23 PROSPECTIVE JUROR 49: Congratulations on your
24 graduation.

25 (Laughter in the courtroom.)

1 THE COURT: Does that cause you any concern about your
2 ability to be a neutral and a fair juror if you're seated as a
3 juror in this matter?

4 PROSPECTIVE JUROR 49: No.

5 THE COURT: All right. Carmel will likely be
6 designated as the bailiff in this matter. So after your --
7 after the jury is allowed to deliberate in this case, Carmel
8 would bring you back and forth, and she's principally
9 responsible to make sure nobody bothers the jury. But I can
10 promise you that Carmel will not be speaking with you. Even
11 though she doesn't want to be unfriendly, she won't be speaking
12 with you or anybody else about this case, and I can give you
13 that assurance. And with that assurance and a little piece of
14 instruction, is there any -- do you have any concern about
15 knowing Carmel?

16 PROSPECTIVE JUROR 49: No.

17 THE COURT: Thank you very much.

18 Anyone else?

19 All right. The United States is represented in
20 this -- in this action by Gary Restaino, Matthew Binford, and
21 Carolina Escalante.

22 Counsel, please stand.

23 They are all Assistant United States Attorneys. The
24 Acting United States Attorney is Elizabeth A. Strange.

25 Do any of you know these counsel, or the Acting United

1 States Attorney, or any of the employee in their office on any
2 basis; social, professional, or otherwise?

3 I see no responses.

4 Mr. Restaino, please introduce your investigator or
5 client representative.

6 MR. RESTAINO: Thank you, Your Honor.

7 Members of the jury, this is Chad Morton. Officer
8 Morton is employed by the Scottsdale Police Department, and
9 he's currently tasked or assigned the DEA.

10 THE COURT: When you say "DEA," Mr. Restaino --

11 MR. RESTAINO: I mean, Your Honor, the Drug
12 Enforcement Administration. Thank you.

13 THE COURT: All right. Thank you.

14 Do any of you know -- I'm sorry, I've forgotten his
15 name already -- Agent?

16 MR. RESTAINO: Chad Morton, Your Honor.

17 THE COURT: Agent Martin, or any of the employees of
18 the Scottsdale Police Department or the Drug Enforcement
19 Administration on any basis; social, professional, or
20 otherwise?

21 All right. I see no responses.

22 Thank you. Please be seated.

23 The defendant is represented by Maria Weidner and
24 Zachary Cain.

25 Please stand.

1 Do any of you know either Ms. Weidner or Mr. Cain, or
2 any of the employees of their office, on any basis; social,
3 professional, or otherwise?

4 Do you want to introduce your investigator,
5 Ms. Weidner?

6 MS. WEIDNER: Yes, Your Honor.

7 Our investigator is actually seated in the back of the
8 courtroom. Tony Dunbar.

9 And our paralegal is seated with us at counsel table,
10 Linda Ondrovic.

11 THE COURT: All right. Do any of you know Mr. Dunbar
12 or Ms. Ondrovic on any basis at all?

13 All right. I see no responses.

14 Please introduce your client, Ms. Weidner.

15 MS. WEIDNER: Our client is Mr. Thomas Costanzo.

16 THE COURT: Do any of you know Mr. Costanzo on any
17 basis whatsoever?

18 All right. Thank you. Please be seated.

19 There are a number of witnesses who may be called in
20 this matter. I am now going to read their names slowly and,
21 hopefully, correctly.

22 If I mispronounce a name of any of the witnesses,
23 please correct my pronunciation.

24 If you know or think you may know the names of any of
25 these witnesses as I read them, please raise your hand.

1 Michael Fleischmann, who is a Special Agent for the
2 Internal -- Internal Revenue Service.

3 Sergei Kushner, who is similarly a Special Agent for
4 the Internal Revenue Service.

5 Thomas Klepper, also a Special Agent for the Internal
6 Revenue Service.

7 Chad Martin, who you've already met.

8 Aric Manore, a task officer for the Drug Enforcement
9 Administration.

10 John Nelson, a Special Agent for the Drug Enforcement
11 Administration.

12 Keith Landa, a Special Agent for the Drug Enforcement
13 Administration.

14 Schuyler Kennedy -- or Schuyler Kenny, a Special Agent
15 for the Drug Enforcement Administration.

16 William Green, a special agent for Homeland Security
17 Investigations.

18 Don Ellsworth, a Special Agent for the Internal
19 Revenue Service.

20 Marcus Hernandez, a task officer for the Drug
21 Enforcement Administration.

22 David Alvarado, a task officer for the Drug
23 Enforcement Administration.

24 Ed Goodyear, a Special Agent for Homeland Security.

25 Chris Hemerka, a Special Agent for Homeland Security.

1 Erin McLoughlin, a Special Agent for Homeland
2 Security.

3 Brandon Lopez, a Special Agent for the IRS.

4 Justin Owens, a Special Agent for the IRS.

5 Alicia Aldecoa, a Special Agent for the IRS.

6 David Votaw, a Special Agent for the IRS.

7 Robin Newgren, a Special Agent for the IRS.

8 Sergeant Dietrich, from the MCSO S.W.A.T. team.

9 Jason L. -- "MCSO" meaning Maricopa County Sheriff's
10 office, I'm sorry -- S.W.A.T. team.

11 Jason L. Shadle, a forensic computer analyst, senior,
12 from the United States Postal Service.

13 Marcella Preciado, custodian of records.

14 Aaron Medina.

15 Nolan Sperling.

16 Kelly Westbrook.

17 Michael Baysek.

18 Todd Kandaris.

19 Michael Shoen.

20 Tom Westbrook.

21 I didn't see anybody indicate that they thought they
22 might have known any of those witnesses. Did I miss anybody
23 who was trying to indicate to me that they might -- they
24 thought they might have known any of those witnesses?

25 All right.

1 Have you or any members of your family ever been
2 convicted of a felony? And when I ask about members of your
3 family, let me define that term for you because I'm going to be
4 using it throughout the morning.

5 I don't mean distant cousins or distant relatives, or
6 even close -- closely related relatives who you never know or
7 never speak to. I'm talking about people in your family who
8 are close to you. Your sons, your brothers, your sisters, your
9 daughters, your mothers or fathers, or even a member of your
10 family who may be very close to you that doesn't fall into that
11 category.

12 I would also include in that category a close personal
13 friend. But we're really not concerned about relatives that
14 you don't have an interaction with and might not affect your
15 viewpoints.

16 So have any of your -- have any -- have you or any
17 members of your family ever been convicted of a felony?

18 Okay. Did we have anybody in the jury box raise their
19 hand?

20 All right.

21 Please stand, sir.

22 PROSPECTIVE JUROR 18: I'm juror 18, and -- oops.

23 Sorry.

24 THE COURT: It's all right.

25 PROSPECTIVE JUROR 18: Juror 18.

1 I have a brother-in-law that's currently in federal
2 prison in Tucson.

3 THE COURT: What was the offense for which he's been
4 incarcerated?

5 PROSPECTIVE JUROR 18: He was a prior convicted felon,
6 was caught with a weapon.

7 THE COURT: All right.

8 PROSPECTIVE JUROR 18: And he was in the import/export
9 business as well.

10 THE COURT: Did you -- did he have a trial?

11 PROSPECTIVE JUROR 18: Yes.

12 THE COURT: Were you present at the trial?

13 PROSPECTIVE JUROR 18: No, I was not.

14 THE COURT: Did you form any conclusions based on the
15 way your brother-in-law has been treated about the efficacy of
16 the justice system or its fairness?

17 PROSPECTIVE JUROR 18: Yes and no. I think he
18 received a fair trial, like, you know, but I do think that
19 there were mitigating circumstances that were not allowed,
20 but...

21 THE COURT: All right. Do you think that experience
22 or those conclusions would in any way affect your ability to be
23 a neutral juror?

24 PROSPECTIVE JUROR 18: Not in this particular case, I
25 don't think so, no.

1 THE COURT: You think you could be fair to both
2 parties?

3 PROSPECTIVE JUROR 18: I think so.

4 THE COURT: All right. Do you have any doubt about
5 that?

6 PROSPECTIVE JUROR 18: No, not really.

7 THE COURT: Thank you, sir.

8 PROSPECTIVE JUROR 30: I'm number 30. My uncle is --
9 was convicted of murder of my aunt.

10 THE COURT: How long ago, ma'am?

11 PROSPECTIVE JUROR 30: 2002.

12 THE COURT: Were you -- was he tried or did he plead
13 guilty?

14 PROSPECTIVE JUROR 30: He was tried.

15 THE COURT: Were you present at the trial?

16 PROSPECTIVE JUROR 30: Yes.

17 THE COURT: Did you form any conclusions as being --
18 in being involved in that process about the justice system?

19 PROSPECTIVE JUROR 30: Not that I know -- oh, I
20 can't -- it's hard to say. It was a while ago.

21 THE COURT: Well, let me ask a more direct question
22 then that might be easier.

23 Do you have any concern because of that experience
24 about your ability to be a neutral and fair juror to both
25 parties in this action?

1 PROSPECTIVE JUROR 30: A little bit, yeah.

2 THE COURT: Why?

3 PROSPECTIVE JUROR 30: It -- I don't -- I don't know.
4 I just form judgments on people more since that happened.

5 THE COURT: Okay. Well, let me ask you this. Would
6 you be willing to base your judgments based only on the facts
7 and evidence that you -- that are presented in this courtroom?

8 PROSPECTIVE JUROR 30: Yes.

9 THE COURT: And do you think that you could be fair to
10 the defendant in evaluating whether or not the government has
11 met its burden of proof?

12 PROSPECTIVE JUROR 30: Yes.

13 THE COURT: Do you think you could be fair to the
14 government in evaluating whether the government has met its
15 burden of proof?

16 PROSPECTIVE JUROR 30: Yes.

17 THE COURT: Thank you, ma'am.

18 PROSPECTIVE JUROR 37: Juror number 37.

19 THE COURT: Good morning, ma'am.

20 PROSPECTIVE JUROR 37: It was my son.

21 THE COURT: And what crime?

22 PROSPECTIVE JUROR 37: Identity theft.

23 THE COURT: And did he go through trial?

24 PROSPECTIVE JUROR 37: No, he did not have a trial.

25 THE COURT: What was the disposition of the charge?

1 In other words, what happened; was he found guilty?

2 PROSPECTIVE JUROR 37: He was found guilty.

3 THE COURT: Okay. How long ago was this, ma'am?

4 PROSPECTIVE JUROR 37: He was 20, so about 13 years
5 ago.

6 THE COURT: Did you form any opinions about the
7 fairness of the justice system in going through the process
8 with your son?

9 PROSPECTIVE JUROR 37: No, I thought it was a fair
10 process.

11 THE COURT: All right. Do you have any concerns about
12 your ability to be a fair and neutral juror in this case?

13 PROSPECTIVE JUROR 37: No.

14 THE COURT: Thank you, ma'am.

15 PROSPECTIVE JUROR 44: Juror number 44.

16 It is my son.

17 THE COURT: Do you know what, Juror 44? I'm afraid
18 that our battery is going out on that microphone. If you give
19 us a minute, and we'll change it.

20 Juror number 23, is that not working for you?

21 PROSPECTIVE JUROR 2: It works okay if I hold it.

22 THE COURT: Okay.

23 PROSPECTIVE JUROR 2: But for this, I don't really
24 need it.

25 THE COURT: All right. Just checking to make sure it

1 wasn't being faulty.

2 PROSPECTIVE JUROR 2: Okay.

3 (Pause in proceedings.)

4 PROSPECTIVE JUROR 44: Juror number 44, and it was my
5 son.

6 THE COURT: What was the offense?

7 PROSPECTIVE JUROR 44: Sex offender.

8 THE COURT: And what was the disposition?

9 PROSPECTIVE JUROR 44: Beg your pardon?

10 THE COURT: What happened; was he found guilty or not
11 guilty, or --

12 PROSPECTIVE JUROR 44: He was found guilty.

13 THE COURT: Was there a trial?

14 PROSPECTIVE JUROR 44: Yes.

15 THE COURT: Did you attend the trial?

16 PROSPECTIVE JUROR 44: No, sir.

17 THE COURT: Did you -- did you form any conclusions
18 about the justice system in light of your son's interaction
19 with it?

20 PROSPECTIVE JUROR 44: No, sir.

21 THE COURT: Do you think you could be a fair and a
22 neutral juror in this case if you're asked to serve as a juror?

23 PROSPECTIVE JUROR 44: Yes.

24 THE COURT: Thank you, ma'am.

25 PROSPECTIVE JUROR 45: I'm juror number 45. And --

1 excuse me -- my ex-son-in-law was charged with a felony.

2 THE COURT: And what was the nature of the felony?

3 PROSPECTIVE JUROR 45: It was a drug trafficking.

4 THE COURT: What was the disposition of the case?

5 PROSPECTIVE JUROR 45: He was found guilty and served
6 a sentence.

7 THE COURT: Did you form any conclusions in
8 conjunction with the experience he went through?

9 PROSPECTIVE JUROR 45: No. That all happened before
10 he became my son-in-law. And the marriage lasted about two
11 years, and he's not in the picture anymore.

12 THE COURT: Is there anything about any of that that
13 you think would affect your ability to be a neutral and fair
14 juror if you were selected to serve as a juror in this case?

15 PROSPECTIVE JUROR 45: No.

16 THE COURT: Thank you.

17 PROSPECTIVE JUROR 38: Hi, I'm Jury 38 -- Juror 38,
18 and it was my brother-in-law who was convicted of accomplice to
19 a murder.

20 THE COURT: How long ago?

21 PROSPECTIVE JUROR 38: Probably about 15 years ago, up
22 in Oregon.

23 THE COURT: Did you -- did you attend the trial?

24 PROSPECTIVE JUROR 38: No.

25 THE COURT: Did you form any conclusions about the

1 fairness of the proceeding?

2 PROSPECTIVE JUROR 38: No.

3 THE COURT: Do you have any concerns about your
4 ability to be a neutral and a fair juror in this case?

5 PROSPECTIVE JUROR 38: No.

6 THE COURT: Thank you, ma'am.

7 PROSPECTIVE JUROR 57: Juror number 57.

8 I was convicted of a felony for possession of
9 marijuana and para -- paraphernalia.

10 THE COURT: How many years ago?

11 PROSPECTIVE JUROR 57: 2005.

12 THE COURT: Have your civil rights been fully
13 restored?

14 PROSPECTIVE JUROR 57: Yes.

15 THE COURT: Did you go to trial; did you plead guilty?

16 PROSPECTIVE JUROR 57: Yeah.

17 THE COURT: You went to trial?

18 PROSPECTIVE JUROR 57: Well, I just saw the judge, and
19 I was guilty, and that was it.

20 THE COURT: The judge gave you your sentence, whatever
21 it was?

22 PROSPECTIVE JUROR 57: Right.

23 THE COURT: Do you have any concerns, in light of your
24 experience, about the fairness of the judicial process?

25 PROSPECTIVE JUROR 57: No.

1 THE COURT: Do you have any concerns about your
2 ability to be a neutral and a fair juror in this case, if you
3 were asked to serve?

4 PROSPECTIVE JUROR 57: No.

5 THE COURT: Do you think you could be fair to the
6 government?

7 PROSPECTIVE JUROR 57: Yeah.

8 THE COURT: Do you think you could be fair to the
9 defendant?

10 PROSPECTIVE JUROR 57: Yes.

11 THE COURT: Thank you, sir.

12 PROSPECTIVE JUROR 60: Number 60. My nephew is going
13 through the process. He has trial on the second -- July 2nd
14 for assault.

15 THE COURT: What was -- for an assault, did you say?

16 PROSPECTIVE JUROR 60: Uh-huh.

17 THE COURT: Do you know whether that's been charged as
18 a felony or a misdemeanor?

19 PROSPECTIVE JUROR 60: It's felony.

20 THE COURT: Do you -- does that experience that you're
21 aware of with your nephew cause you any concern about your
22 ability to be a neutral and a fair juror in this case, if you
23 were asked to serve?

24 PROSPECTIVE JUROR 60: No.

25 THE COURT: Thank you.

1 PROSPECTIVE JUROR 61: Juror number 61.

2 THE COURT: Yes, sir.

3 PROSPECTIVE JUROR 61: My brother -- my brother shot
4 someone at The Taste of Chicago in 2003 or '4.

5 THE COURT: And was he convicted?

6 PROSPECTIVE JUROR 61: Yes. He was found guilty. He
7 actually shot an innocent bystander.

8 THE COURT: Did you -- did he go to trial or did he --

9 PROSPECTIVE JUROR 61: Yes.

10 THE COURT: Did you attend trial?

11 PROSPECTIVE JUROR 61: Yes.

12 THE COURT: Were you a witness at trial?

13 PROSPECTIVE JUROR 61: No.

14 THE COURT: Did you form any conclusions about the
15 fairness of the law process or the legal process in conjunction
16 with what you observed?

17 PROSPECTIVE JUROR 61: He -- I felt he got a heavy
18 sentence.

19 THE COURT: Does that cause you any concern about your
20 ability to be neutral in this case, if you were selected as a
21 juror?

22 PROSPECTIVE JUROR 61: A little bit.

23 THE COURT: And is that based on your concern about
24 the fairness of the process?

25 PROSPECTIVE JUROR 61: Yes.

1 THE COURT: You've heard, as I've indicated to juror
2 number 17 and others, that if you were selected to be a juror
3 in this action, I would ask you to set aside any of your own
4 personal biases and prejudices that -- or concerns that might
5 result from your own experience. As I said, I expect
6 everybody -- everyone would do their best to do that, if I
7 instructed them to do it. But I also recognize that merely
8 because I tell you to do it doesn't mean that you'll be able
9 to, even if you try.

10 Do you have concerns that even if I gave you that
11 instruction, as to your ability to put that aside in your
12 deliberation in this case?

13 PROSPECTIVE JUROR 61: I do, because we are really
14 close, and it was just -- it -- it was hard for me to see what
15 he went through because he had three kids. And for him to be
16 put in jail for eight-and-a-half years to a decade of his life.
17 He lost a lot, and after -- after the process, he -- he was
18 completely clean and sober and actually on a different path
19 with work and everything, and they still came after him.

20 THE COURT: All right. Thank you, sir.

21 PROSPECTIVE JUROR 61: Yep.

22 PROSPECTIVE JUROR 63: Juror 63.

23 THE COURT: Yes, ma'am.

24 PROSPECTIVE JUROR 63: My brother was convicted --
25 tried and convicted of distribution. He served 15 years and

1 three years' probation.

2 THE COURT: Did you attend his trial, or did he go to
3 trial?

4 PROSPECTIVE JUROR 63: He did, and I did.

5 THE COURT: Were you a witness at trial?

6 PROSPECTIVE JUROR 63: No.

7 THE COURT: Did you form any conclusions about the
8 fairness of the judicial process?

9 PROSPECTIVE JUROR 63: No.

10 THE COURT: Do you have any concerns about your
11 ability to be neutral and fair --

12 PROSPECTIVE JUROR 63: No.

13 THE COURT: -- between the parties here if you were
14 asked to serve as a juror in this case?

15 PROSPECTIVE JUROR 63: Not at all.

16 THE COURT: Thank you, ma'am.

17 PROSPECTIVE JUROR 39: Juror 39.

18 In 2008 I was arrested for possession of a narcotic,
19 and I just was placed on Task for a year, and I had to pay
20 fines.

21 THE COURT: Do you know whether it was a misdemeanor
22 or a felony?

23 PROSPECTIVE JUROR 39: I'm not sure. It was dropped
24 after I took care of everything.

25 THE COURT: All right. So, in fact, you don't have a

1 criminal record --

2 PROSPECTIVE JUROR 39: No.

3 THE COURT: -- is that correct?

4 PROSPECTIVE JUROR 39: No, no. I just don't know if
5 being arrested counted as --

6 THE COURT: I appreciate you very much sharing with us
7 that detail.

8 Let me ask. Was there anything about that experience
9 that causes you any concern about whether or not you could be a
10 fair juror in this matter if you were asked to serve? And by
11 "fair," I mean neutral and impartial between the sides.

12 PROSPECTIVE JUROR 39: No.

13 THE COURT: In other words, you think you can be
14 neutral and impartial?

15 PROSPECTIVE JUROR 39: Yes.

16 THE COURT: Thank you, ma'am.

17 PROSPECTIVE JUROR 50: Juror 50.

18 I am not sure that this would be relevant, but my
19 father, who I haven't seen for about a decade, has a fairly
20 lengthy criminal history of mostly felony charges. But he is
21 my father, so I thought perhaps I ought to bring that up.

22 THE COURT: Yes. Thank you.

23 Is there anything about your father's experiences with
24 law enforcement and the justice system that caused you concern
25 about your ability to be a neutral and fair juror in this

1 action?

2 PROSPECTIVE JUROR 50: None whatsoever.

3 THE COURT: Thank you.

4 PROSPECTIVE JUROR 67: Juror 67.

5 It's my son. He was convicted of marijuana charges
6 back in 2008. He served probation for five years.

7 THE COURT: Did you form any conclusions about the
8 fairness of the law enforcement or judicial processes --

9 PROSPECTIVE JUROR 67: No, I thought they were
10 completely fair with him.

11 THE COURT: All right. Do you have any concerns about
12 your ability to be a neutral and fair juror in this case?

13 PROSPECTIVE JUROR 67: No, I do not.

14 THE COURT: Thank you.

15 Anyone else that we've missed?

16 PROSPECTIVE JUROR 3: Hi. Juror number 3.

17 I have close friends I grew up with, as a matter of
18 fact --

19 THE COURT: Wait one moment, please, sir.

20 Sir?

21 Do you need a break?

22 PROSPECTIVE JUROR 8: I need to go to the restroom.

23 THE COURT: Well, give me 10 minutes, and I'll give
24 everybody a break. But we all kind of need to stay together
25 when we're together so we can all hear the questions.

1 Yes, sir?

2 PROSPECTIVE JUROR 3: And they were brought up on
3 charges and had to appear for assault charges. And upon doing
4 so, they were accused of rape, and convicted, and sent to
5 prison for well over 10 years plus. And it was disturbing for
6 the fact for witnesses that were present gave testimony that
7 weren't believed by the jury panel, and they were -- they were
8 all just townspeople amongst a handful of relatives also. And
9 they actually were re-tried or appealed and brought up and
10 released, but it wasn't until the damage was done. So, you
11 know, I'm kind of -- this case involving a sting operation, I
12 just have a -- different views about being trapped in a certain
13 situation. So...

14 THE COURT: All right. So you have concerns about
15 your ability to be --

16 PROSPECTIVE JUROR 3: Well, yeah. I'll probably...

17 THE COURT: You've heard me indicate that I --

18 PROSPECTIVE JUROR 3: Sure.

19 THE COURT: -- instruct people they need to put aside
20 their own views.

21 PROSPECTIVE JUROR 3: Sure. I did.

22 THE COURT: And you've also heard me indicate that I
23 realize that people will try to do that, and if they can do it,
24 they will. But we need to know if you feel like you could do
25 it.

1 PROSPECTIVE JUROR 3: Probably not.

2 THE COURT: Thank you, sir.

3 PROSPECTIVE JUROR 3: Sure.

4 THE COURT: Anyone else?

5 Have any of you -- are any of you or any members --
6 close family members or close friends, ever served as a law
7 enforcement officer?

8 PROSPECTIVE JUROR 4: My cousin -- he's a close
9 cousin -- he served on the Phoenix Police Department and lost
10 his leg.

11 THE COURT: Do you think that relationship would
12 prevent you from being fair and impartial in this case?

13 PROSPECTIVE JUROR 4: No.

14 THE COURT: Do you think you could be neutral and fair
15 to the defendant?

16 PROSPECTIVE JUROR 4: Yes.

17 THE COURT: Neutral and fair to the government?

18 PROSPECTIVE JUROR 4: Yes.

19 THE COURT: Thank you, sir.

20 PROSPECTIVE JUROR 21: Juror 21.

21 My brother-in-law is law enforcement for Rockford,
22 Illinois. He's a career police officer.

23 THE COURT: Is he still serving?

24 PROSPECTIVE JUROR 21: He is retired.

25 THE COURT: How long has he been retired for?

1 PROSPECTIVE JUROR 21: Ten years.

2 THE COURT: Do you think your relationship with your
3 brother-in-law would prevent you from being fair and impartial
4 as a juror in this case if you were asked to serve?

5 PROSPECTIVE JUROR 21: No, it would not interfere.

6 THE COURT: All right. If -- I'm going to give you a
7 hypothetical situation.

8 If you heard all the facts and the evidence in this
9 case and ultimately determined that the government had not met
10 its burden of proof, would you have any hesitancy in telling
11 your brother-in-law that you served on a jury and found someone
12 not guilty?

13 PROSPECTIVE JUROR 21: I'm sorry. I don't quite
14 understand.

15 THE COURT: That's all right.

16 Let's say that you are seated as a juror in this case,
17 and you heard all the evidence and all the testimony. And
18 after you heard all the evidence and testimony, let's assume --
19 and I'm not saying you would -- this would be the case -- but
20 let's assume that you determined that the government did not
21 meet its burden of proving the guilt of the defendant beyond a
22 reasonable doubt.

23 If that was the case, would you have any hesitancy
24 telling your brother-in-law that you served as a juror in a
25 case in which you found the defendant not guilty?

1 PROSPECTIVE JUROR 21: I would be okay telling him.

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

3 PROSPECTIVE JUROR 24: Juror 24.

4 I have a son-in-law, as well as my son's birth father,
5 both serve on the Phoenix Police Department presently.

6 THE COURT: Do you think that that would prevent you
7 from being a fair and impartial juror in this case?

8 PROSPECTIVE JUROR 24: No, sir.

9 THE COURT: Do you think you could be fair to all
10 parties here?

11 PROSPECTIVE JUROR 24: Yes, sir.

12 THE COURT: Thank you, ma'am.

13 PROSPECTIVE JUROR 29: Juror number 29.

14 I've got a cousin that was a psychologist for the
15 Atascadero facility for the criminally insane. I've got a
16 guard -- or a cousin that's a guard at Folsom prison. I've got
17 another cousin that's a captain in the Pasco, Washington,
18 police department, and I've got a childhood friend who was part
19 of the internal affairs of the Spokane sheriff's county.

20 THE COURT: Do any of those relationships cause you
21 concern about your ability to be a neutral and fair juror, if
22 you were asked to serve as a juror in this case?

23 PROSPECTIVE JUROR 29: No.

24 THE COURT: Thank you.

25 PROSPECTIVE JUROR 46: Juror number 46.

1 I currently have a brother who is a police officer in
2 New Mexico. He also served as a detective for that same
3 agency, as well as a S.W.A.T. officer.

4 THE COURT: Does that cause you any concern about your
5 ability to be a fair, neutral juror in this case?

6 PROSPECTIVE JUROR 46: No.

7 THE COURT: Thank you.

8 PROSPECTIVE JUROR 53: Juror number 53.

9 I have a brother who is a correctional officer in the
10 Tucson Sheriff's Department.

11 THE COURT: Does that cause you any concern about your
12 ability to be fair?

13 PROSPECTIVE JUROR 53: No.

14 THE COURT: Thank you.

15 PROSPECTIVE JUROR 35: Juror number 35.

16 I have four fairly close friends that are all in law
17 enforcement, three retired and one active.

18 THE COURT: Any concern about that effect -- or any
19 effect it might have on you if you were asked to serve as a
20 juror in this matter in terms of being fair and neutral to the
21 parties in your deliberations?

22 PROSPECTIVE JUROR 35: No, sir.

23 THE COURT: Thank you.

24 PROSPECTIVE JUROR 40: Juror number 40.

25 I have a cousin that's a police officer in the town of

1 Gilbert, and then I have an uncle who retired from the U.S.
2 border patrol.

3 THE COURT: Do you think either of those relationships
4 would prevent you from being fair and impartial in this case?

5 PROSPECTIVE JUROR 40: No, Your Honor.

6 THE COURT: All right. Thank you.

7 PROSPECTIVE JUROR 58: Juror number 58.

8 My husband is a detention officer, his brother is a
9 current Phoenix police officer, his father is retired Glendale
10 officer, and a few cousins, as well.

11 THE COURT: So it's your husband that's the detention
12 officer?

13 PROSPECTIVE JUROR 58: Correct.

14 THE COURT: His brother that's the police officer?

15 PROSPECTIVE JUROR 58: Correct.

16 THE COURT: And other members of his family are
17 involved in law enforcement?

18 PROSPECTIVE JUROR 58: Correct.

19 THE COURT: Do you identify with law enforcement?

20 PROSPECTIVE JUROR 58: Yes.

21 THE COURT: Would you do so in a way that would
22 prevent you from being a neutral and fair juror in this matter?

23 PROSPECTIVE JUROR 5: I worry that I would, yes.

24 THE COURT: All right. And you've heard me indicate
25 that I would instruct you that you need to put all such

1 feelings aside.

2 PROSPECTIVE JUROR 58: Right.

3 THE COURT: Do you think you can do that?

4 PROSPECTIVE JUROR 58: I'm really not sure.

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

6 PROSPECTIVE JUROR 63: Juror 63.

7 My brother is the deputy chief probation officer for
8 the District of Arizona.

9 (Pause.)

10 (Laughter in the courtroom.)

11 THE COURT: Is there anything about your relationship
12 with your brother that you think would prevent you from being a
13 neutral and fair juror in this matter?

14 PROSPECTIVE JUROR 63: No, sir.

15 THE COURT: All right. Thank you.

16 PROSPECTIVE JUROR 65: Hi, I'm juror 65, and my uncle
17 and cousin are both retired Chicago policemen, and my husband's
18 uncle is retired FBI.

19 THE COURT: All right. You know what I'm asking. Do
20 you think -- do you have any concern --

21 PROSPECTIVE JUROR 65: No.

22 THE COURT: -- that you, if you were asked to serve,
23 would not be able to be neutral and fair because of your
24 relationships?

25 PROSPECTIVE JUROR 65: No.

1 THE COURT: All right. Thank you.

2 PROSPECTIVE JUROR 66: Juror 66.

3 I have a grandfather who was sheriff's mounted posse
4 for Scottsdale and a cousin -- and a cousin who was, I believe,
5 FBI in California, and I can't remember if she's now in Arizona
6 with FBI. Something to do with paperworks on drug raids and
7 that kind of a thing. Her husband was retired Border Patrol,
8 and a uncle who was a detective and who was in on a drug raid
9 that went wrong to where he ended up losing his badge. And I
10 can't remember if there was time served, as well. That kind of
11 a thing. But I don't believe that it would impact anything of
12 this.

13 THE COURT: Well, let me be sure I understand what
14 you're saying.

15 You've indicated a number of relationships that you
16 have, both with career police officers and police officers who
17 got in trouble, apparently.

18 JUROR 66: Yeah.

19 THE COURT: You have stated in summary, I think, that
20 you believe, regardless of all those relationships, that you
21 would be able to be a fair and neutral juror to all parties in
22 this case. Is that a correct understanding?

23 PROSPECTIVE JUROR 66: Correct.

24 THE COURT: Thank you.

25 Anyone else?

1 All right, ladies and gentlemen, I'm going to let you
2 go for a break. Some of you need it.

3 However, when you go, there are three things you need
4 to know: First, you need to line up outside in 15 minutes when
5 we're ready to let you back in. Kathleen will bring you back
6 in. You're to sit in the same chairs you're sitting in.

7 It may be that you will see attorneys or parties
8 outside in the hallway. They are not going to talk to you, so
9 don't try and talk to them. Don't be polite to them, because
10 they understand some -- and they're not trying to be rude to
11 you, but they understand something that you need to understand,
12 which is in a law case, lawyers and parties only speak to the
13 jury here in open court when I am present and court is
14 convened. Otherwise, they're not allowed to speak to you
15 because it looks like they might be -- because it gives an
16 appearance that they might be trying to influence you, and
17 they're not trying to influence you. So they're just not going
18 to speak to you, and I'll ask you not to speak to them.

19 Finally, when I seat the actual jury in this action,
20 I'm going to instruct them they shouldn't even discuss this
21 case with each other until they've heard all the evidence at
22 the end of trial. That's when they begin to discuss the case.
23 So if they can't begin to discuss the case until they've heard
24 all the evidence, you shouldn't begin to discuss this case with
25 each other when you've heard none.

1 So don't discuss this case among yourselves, do not
2 approach the parties or their attorneys. Please remember to
3 return to your seats when you come back in 15 minutes.

4 Thank you.

5 Leave your headsets, if you have one.

6 (Jury leaves the courtroom at 10:32 a.m.)

7 THE COURT: Ms. Weidner?

8 MS. WEIDNER: Yes.

9 THE COURT: Do you want to approach with your
10 investigator? With your investigator.

11 Do you want to approach too, Government, please.

12 (AT sidebar on the record.)

13 UNIDENTIFIED MAN: Good morning.

14 THE COURT: Good morning.

15 When we have a jury panel that is sitting as close to
16 the audience as they are, I cannot have discussion about this
17 case or anything else that's distracting between you, sir, or
18 anybody else in the audience.

19 UNIDENTIFIED MAN: Judge, I hear what you're saying.
20 And I think that -- I've been doing this 37 years. What she
21 thinks she heard me say, I don't know where she gets that from.
22 Some people there asked -- maybe the comment, I was talking
23 about something, but, no --

24 THE COURT: All right. Well, we're hypersensitive. I
25 admit that.

1 UNIDENTIFIED MAN: I've been doing this 37 years.

2 THE COURT: All right.

3 UNIDENTIFIED MAN: Okay. So --

4 THE COURT: I'm just indicating what the rule is, and
5 if -- if there is any, you know -- with all due respect, I've
6 got marshals in this room, and if they tell me people are
7 talking about the case, then I feel like I've got to issue a
8 warning.

9 UNIDENTIFIED MAN: Sure. I don't even know those
10 people, any of them back there. I don't even know. I never
11 met them before.

12 THE COURT: It might be better if you actually came
13 back to counsel --

14 UNIDENTIFIED MAN: I didn't come with a tie. I didn't
15 come with a tie. I was getting clothes this morning --

16 THE COURT: I appreciate your desire to be courteous
17 to the Court.

18 UNIDENTIFIED MAN: Yes, yes.

19 THE COURT: I'll make an exception today. And you can
20 put a tie on tomorrow if you're going to sit there.

21 Do we have any challenges for cause?

22 MR. RESTAINO: No.

23 THE COURT: Do you want me to go back to the bench?

24 MR. RESTAINO: Yeah.

25 (End of discussion at sidebar.)

1 THE COURT: Do we have any challenges for cause?

2 MR. RESTAINO: Yes, Your Honor.

3 THE COURT: Let's take them.

4 MR. RESTAINO: 3, Your Honor.

5 THE COURT: Ms. Weidner, any objection?

6 MS. WEIDNER: Yes, Your Honor. I think that the Court
7 rehabilitated sufficiently.

8 THE COURT: I don't think so. Juror number 3 is
9 dismissed for cause.

10 MR. RESTAINO: I don't know if we're there yet, but
11 17, Your Honor.

12 THE COURT: Ms. Weidner?

13 MS. WEIDNER: Your Honor, I -- I agree with the first
14 statement that the government made. I don't think we're there
15 yet. He -- he voiced some concerns.

16 THE COURT: I agree. So let's just wait and see.
17 Anybody else?

18 MR. RESTAINO: In fairness, Judge, we would say 29
19 might be there. I certainly wouldn't mind being overruled by
20 Ms. Weidner on that one.

21 THE COURT: Ms. Weidner?

22 MS. WEIDNER: Your Honor, I -- no objection to
23 dismissal of juror 29 for cause.

24 THE COURT: All right. Juror number 3, juror number
25 29, are dismissed for cause. Anybody else?

1 MR. RESTAINO: 61, Your Honor.

2 THE COURT: Ms. Weidner?

3 MS. WEIDNER: Your Honor, I don't -- I understand the
4 government's concern. I don't think that we're there yet.

5 THE COURT: Well, if you want to question him, I'll
6 let you question him. But I do think he said he didn't think
7 he could overcome his feelings. And that's what my note is.
8 So if you want to question him before I dismiss him, I'll let
9 you. But I do have concerns about him, as well.

10 MS. WEIDNER: Your Honor, I would like to have the
11 opportunity to question him before he's dismissed.

12 THE COURT: All right.

13 Anyone else?

14 MR. RESTAINO: Nothing from the government, Your
15 Honor.

16 THE COURT: Ms. Weidner, anyone from you at this
17 point?

18 MS. WEIDNER: Yes, Your Honor.

19 Your Honor, I think for the same reasons that 29
20 was -- that the government raised 29, we raise 58. This was
21 the juror who said that she had a brother, cousin, and husband,
22 as well as most of her husband's family, involved in law
23 enforcement, and that she identified strongly with law
24 enforcement.

25 MR. RESTAINO: Judge, we didn't hear the same thing as

1 with 29 though, where there was hesitation as to whether she
2 could overcome that.

3 THE COURT: Well, my notes say that she's not sure she
4 could put her feelings aside, even if I asked her to do it. So
5 again, I'll give you the opportunity to question her, if you
6 want it, but I -- as with juror number 61, I have some doubts
7 about that.

8 MR. RESTAINO: If we can reserve that right, Your
9 Honor.

10 THE COURT: All right.

11 MS. WEIDNER: Your Honor, if I could just -- 29 -- and
12 maybe the government -- 29 was actually a male. That was the
13 gentleman who had tons of family that were involved in -- so it
14 wasn't -- the female is 58. 29 was the male who said he had,
15 you know, a family member who was a psychiatrist or
16 psychologist at the Atascadero place for the criminally insane
17 and a host of other connections. And when this Court asked him
18 if he would be able to proceed fairly, he said "yes" in a
19 very -- pretty much like that.

20 And 58 is the female that has lots of law enforcement
21 in the family, and as -- I remember it as the Court provided
22 it.

23 MR. RESTAINO: Do you want me to -- can we just take
24 29 back then if I got it wrong, Judge? We'll defer to what you
25 want to do on that.

1 THE COURT: Well, I mean, you both submitted to 29, so
2 I let 29 go. My recollection is the same as Ms. Weidner's. My
3 notes are too.

4 MR. RESTAINO: We're fine on 58, Your Honor, then.

5 THE COURT: You're fine with what?

6 MR. RESTAINO: With dismissing 58.

7 THE COURT: All right. So number 3, number 29, and
8 number 58?

9 MR. RESTAINO: Can you say that again, Your Honor?

10 THE COURT: Number 3, number 29, and number 58,
11 dismissed for cause.

12 MR. RESTAINO: Can I just have a moment to consult,
13 Your Honor?

14 (Pause in proceedings.)

15 MR. RESTAINO: Judge, I don't think we have had a
16 concern, in consulting with my colleagues, with 29. If the
17 Court had an independent concern, I obviously defer to the
18 Court.

19 THE COURT: Well, I didn't, because I recollect -- at
20 least my recollection at this point of juror 29's testimony is
21 the same as Ms. Weidner's --

22 MR. RESTAINO: Okay.

23 THE COURT: -- which he affirmatively stated he would
24 not have a problem.

25 MR. RESTAINO: Right. Then we would not like to have

1 29 dismissed for cause at this time.

2 THE COURT: Ms. Weidner?

3 MS. WEIDNER: Your Honor, I will leave that up to the
4 Court.

5 THE COURT: All right. Well, you can challenge 29
6 again, if you choose to do so. But because I believe it was an
7 error on the government's part, I'm not going to strike 29, at
8 least at this point.

9 So who we've stricken for cause at this point is
10 number 3 and number 58; correct?

11 MS. WEIDNER: That's my understanding, Your Honor. I
12 think we're letting 29 stay, and then I -- the Court is going
13 to allow me to inquire of 61 before making a final decision.

14 THE COURT: All right.

15 MS. WEIDNER: Is that correct?

16 THE COURT: Yes.

17 MR. RESTAINO: That's what I have.

18 THE COURT: And then 17, I didn't bring the challenge
19 for cause, at least at this point.

20 MS. WEIDNER: Yes.

21 MR. RESTAINO: Judge, can we be heard at sidebar again
22 to continue that discussion?

23 THE COURT: Yes.

24 (At sidebar on the record.)

25 MR. RESTAINO: Judge, this is Gary Restaino. And just

1 to -- the Court's done, I think, an admirable job of trying to
2 balance the spectators' rights to be here, as well. Is there a
3 possibility of some kind of admonition to the spectators to not
4 speak about the case to the jurors, as well?

5 MS. WEIDNER: No objection.

6 THE COURT: Okay. I'll do that.

7 MR. RESTAINO: Thank you.

8 (End of discussion at sidebar.)

9 (Proceedings in recess at 10:42 a.m.)

10 (Jury enters the courtroom at 10:52 a.m.)

11 (Proceedings resume at 10:56 a.m.)

12 THE COURT: Please be seated.

13 Just a few bookkeeping items before we resume.

14 We appreciate that when we select a jury, we have a
15 larger pool to select from than just in the jury box, and so we
16 do overflow into the audience.

17 When we overflow into the audience, it is very crucial
18 that members of the public who are here and have every right to
19 be here also not discuss this case or otherwise -- in any other
20 manner be disruptive during jury selection. So I'd just ask
21 for the cooperation of those in attendance while we are
22 involved in this very important process of serving -- or of
23 selecting neutral and fair jurors. Do not attempt in any way
24 to disrupt into that process.

25 Second. Juror number 3, we thank you for your

1 service, and excuse you. You are free to go home.

2 I do not believe we need to have him report to the
3 jury office?

4 COURTROOM DEPUTY: Correct.

5 THE COURT: Juror number 58. Similarly, we thank you
6 and excuse you at this time.

7 Some of the witnesses in this case will be employees
8 of the Drug Enforcement Agency -- otherwise known as the DEA --
9 the Scottsdale Police Department, the Department of Homeland
10 Security, or the Internal Revenue -- Revenue Service, and the
11 United States Postal Inspection Service.

12 Have any of you had any contact or experience with the
13 DEA, the Scottsdale Police Department, DHS -- meaning the
14 Department of Homeland Security -- HSI, IRS, or the United
15 States Postal Inspector, or any other law enforcement agency,
16 that would affect your ability to be a fair and impartial juror
17 in this case?

18 Okay. I see no responses.

19 There will be witnesses called during this trial who
20 are members of law enforcement and who may have been in that
21 profession for a number of years. Would any of you give
22 greater or lesser weight to their testimony solely because of
23 their employment and experience in law enforcement?

24 I see no responses.

25 Do any of you have strong feelings about the criminal

1 justice system in this country, including feelings about
2 judges, lawyers, police officers, or other law enforcement
3 agents that would prevent you from giving either the United
4 States or the defendant a fair hearing in this matter?

5 PROSPECTIVE JUROR 61: Juror 61.

6 Just from what I said earlier, Your Honor.

7 THE COURT: All right. Just that you had -- and if
8 you want to just restate that so I don't misstate it. I
9 remember about your brother and the sentence he received,
10 and --

11 PROSPECTIVE JUROR 61: Yes, yes. So after the
12 sentencing, like I said, he had three children to raise, and he
13 got eight -- eight to 10 years. And then after his case, he
14 was still on parole, and while he was on parole he was -- he
15 had two businesses and he was trying to take care of
16 everything, and they kind of still came after him a little bit.

17 THE COURT: All right. And for that reason, you do
18 not -- you have doubts about your ability to be a fair and
19 impartial juror?

20 PROSPECTIVE JUROR 61: Yes.

21 THE COURT: Thank you.

22 Anyone else?

23 Have you, a family member, or a close friend had any
24 negative experiences with the United States Government -- for
25 example, an Internal Revenues Service audit -- that would

1 affect your ability to be a fair and impartial juror in this
2 case?

3 I see no responses.

4 Have any of you or members of your family been a party
5 or a witness in any litigation, excluding divorce or child
6 custody cases, traffic cases, or will contests? Have any of
7 you been a party or witness in any other kind of lawsuit?

8 PROSPECTIVE JUROR 35: Juror number 35.

9 I've been an expert witness in a medical malpractice.

10 THE COURT: All right. So you're a healthcare
11 provider?

12 PROSPECTIVE JUROR 35: Yes, sir.

13 THE COURT: One time, or several times?

14 PROSPECTIVE JUROR 35: Once.

15 THE COURT: By that I mean, how many times have you
16 been an expert witness?

17 PROSPECTIVE JUROR 35: Oh, just once.

18 THE COURT: All right. Was there anything about that
19 experience that would prevent you from being fair and impartial
20 in this case?

21 PROSPECTIVE JUROR 35: No, sir.

22 THE COURT: Thank you.

23 Do you or any close members of your family have legal
24 training? Any lawyers?

25 Okay.

1 PROSPECTIVE JUROR 11: Juror number -- juror number
2 11.

3 I have several cousins and family members who are
4 attorneys.

5 THE COURT: All right.

6 PROSPECTIVE JUROR 11: My father-in-law was an
7 attorney.

8 THE COURT: Any of them practice in Arizona?

9 PROSPECTIVE JUROR 11: No, sir.

10 THE COURT: Any of them practice criminal law?

11 PROSPECTIVE JUROR 11: No, sir.

12 THE COURT: Do you think that anything about your
13 relationship with them would affect your ability to be fair and
14 impartial?

15 PROSPECTIVE JUROR 11: No, sir.

16 THE COURT: Thank you.

17 PROSPECTIVE JUROR 30: Juror number 30.

18 My brother is a lawyer in Chicago, and my uncle is a
19 judge in Wisconsin.

20 THE COURT: All right. Is there anything about
21 their -- your relationship with either of them that would
22 affect your ability to be fair to all the parties here?

23 PROSPECTIVE JUROR 30: No.

24 THE COURT: Thank you.

25 PROSPECTIVE JUROR 41: Juror number 41.

1 My sister is an attorney in Northern Virginia, working
2 for the CPSC.

3 THE COURT: What's the CPSC? I'm sorry.

4 PROSPECTIVE JUROR 41: Oh. Consumer Product Safety
5 Commission. Sorry.

6 THE COURT: Thank you very much.

7 Anything about that that you think would affect your
8 ability to be fair and impartial in this case?

9 PROSPECTIVE JUROR 41: No, sir.

10 THE COURT: Thank you.

11 PROSPECTIVE JUROR 55: Juror 55.

12 I am a member of the state bar of Arizona.

13 THE COURT: Do you practice law?

14 PROSPECTIVE JUROR 55: Yes.

15 THE COURT: Do you practice -- is your practice
16 criminal or civil?

17 PROSPECTIVE JUROR 55: Civil.

18 THE COURT: Is there anything about your training that
19 you think would affect your ability to be fair and impartial if
20 asked to serve as a juror in this case?

21 PROSPECTIVE JUROR 55: No.

22 THE COURT: You understand that I will instruct the
23 jury on what the law is at the end of the case.

24 PROSPECTIVE JUROR 55: Yes, Your Honor.

25 THE COURT: Would you be willing to accept that law,

1 whether you agree with it or not?

2 PROSPECTIVE JUROR 55: Yes, Your Honor.

3 THE COURT: You also understand -- I suspect you
4 understand, but I'm going to state it anyway -- that the
5 parties in this case, both parties, have a right to have this
6 case decided based only on the facts and the evidence that they
7 hear in court, and only on the law that I instruct the jurors
8 as to. So if you were to get back there, and you would
9 understand that it would be inappropriate for you to opine on
10 matters of the law that were in addition to my instructions.
11 You understand that?

12 PROSPECTIVE JUROR 55: Yes.

13 THE COURT: Or that would attempt to clarify my
14 instructions. Do you understand that?

15 PROSPECTIVE JUROR 55: Yes.

16 THE COURT: All right. Thank you.

17 Anyone else?

18 Do you own or have you ever owned or purchased a
19 virtual currency such as Bitcoin, or do you know anyone else
20 who has owned or purchased it?

21 Okay.

22 PROSPECTIVE JUROR 9: Juror number 9.

23 My son owns a lot of cryptocurrency, and I don't know
24 if in particular Bitcoin, but he does have -- and actually he
25 gave some to my other son, so they do.

1 THE COURT: Okay. Is there anything about your sons'
2 ownership of cryptocurrency that you think would have any
3 effect on your ability to be a neutral and a fair juror in this
4 matter?

5 PROSPECTIVE JUROR 9: No.

6 THE COURT: Thank you.

7 PROSPECTIVE JUROR 5: Juror number 5.

8 My son-in-law has dabbled in it. I don't know much
9 about it, but I distrust it.

10 THE COURT: All right. Well, let me ask you about
11 that. I mean, when you say you distrust it, do you mean you
12 distrust it as an investment?

13 PROSPECTIVE JUROR 5: Uh-huh.

14 THE COURT: Do you believe that because you distrust
15 it as an investment, that would affect your ability to be a
16 neutral and a fair juror in this case?

17 PROSPECTIVE JUROR 5: I have no idea. I've just
18 recently been hearing news reports and what they report about
19 it. I have no -- no in-depth knowledge at all.

20 THE COURT: All right. Well, you --

21 PROSPECTIVE JUROR 5: But I just naturally distrust
22 it.

23 THE COURT: All right. Well, let me explore that with
24 you some more.

25 You understand that when I talk about deciding the

1 case based only on facts and evidence you hear in court, one of
2 the things I mean -- and you've given me a good example to
3 instruct the rest of the jury, so thank you very much -- one of
4 the things I mean to say is, you're not to take into account
5 what you hear -- have heard from newspaper or other sources in
6 deciding this case. And so it's natural, perhaps, that after
7 you hear and read those stories, you form opinions. But to the
8 extent that they would bear on the guilt or the innocence of
9 the defendant, he is entitled to have a fair jury.

10 PROSPECTIVE JUROR 5: Yes.

11 THE COURT: And if you feel like you have formed
12 opinions about Bitcoin that might affect your view of his guilt
13 or innocence, that's kind of what I'm inquiring into.

14 Do you understand what I'm saying?

15 PROSPECTIVE JUROR 5: Yes. I would hope that I could
16 be impartial. I distrust it, just like I do the stock market,
17 so...

18 (Laughter in the courtroom.)

19 THE COURT: Okay. But you understand -- let me just
20 explore this with you a little bit further.

21 As with the stock market, you understand that it is
22 not illegal to own or even to trade in Bitcoin.

23 PROSPECTIVE JUROR 5: Correct.

24 THE COURT: All right. And so given that fact, even
25 though you distrust it, you understand that owning it is not

1 illegal.

2 PROSPECTIVE JUROR 5: I understand that.

3 THE COURT: And purchasing it is not illegal.

4 PROSPECTIVE JUROR 5: Yes.

5 THE COURT: Do you have any concern about your ability
6 to be neutral and fair to the defendant?

7 PROSPECTIVE JUROR 5: I don't think so. I hope not.

8 THE COURT: All right. Well, I'm going to ask you one
9 more question. When you say you "hope not," I'm sure that's
10 true, and we hope not too. But what we really are charged
11 doing here is -- is seating a jury that can be neutral and
12 fair. And so when I say to you, as I will, if you are selected
13 as a juror, you have to put all those other notions aside, and
14 you have to try this case based only on what you hear here.
15 Can you do that?

16 PROSPECTIVE JUROR 5: I think I can.

17 THE COURT: All right. What I'm really looking for is
18 "yes" or "no."

19 PROSPECTIVE JUROR 5: Yes.

20 THE COURT: All right. Thank you.

21 PROSPECTIVE JUROR 12: Juror number 12.

22 I own some Bitcoin now. Not a lot. I have co-workers
23 that religiously follow it ever since its inception, so I am
24 aware of the process of data mining it and the trading.

25 THE COURT: Let me ask. You understand -- or at least

1 from what I've read you of the description of the case -- you
2 understand that this involved -- this case involved Bitcoin.

3 PROSPECTIVE JUROR 12: Correct.

4 THE COURT: Does -- does your ownership of Bitcoin or
5 your awareness of friends who are very aware of Bitcoin, does
6 any of that, do you have any concern, would affect your ability
7 to a neutral and fair juror here?

8 PROSPECTIVE JUROR 12: Well, I'm pro-Bit -- virtual
9 currency, so I don't know that that plays a role in this.

10 THE COURT: Well, when you say you're pro-virtual
11 currency, let me drill down. Does that mean that you would be
12 in favor of the defendant because he traded in virtual
13 currency, or does it mean that you think that you could listen
14 fairly to determine whether or not the government meets its
15 burden of proof in the case to establish that he traded virtual
16 currency in a transaction that is otherwise illegal?

17 Now, that wasn't a super great question --

18 PROSPECTIVE JUROR 12: Right.

19 THE COURT: -- but did you understand --

20 PROSPECTIVE JUROR 12: Yeah, I -- I'd be neutral to
21 the use of how Bitcoin was used. So if it was used in an
22 illegal manner, then, yeah, then I would be neutral in hearing
23 both sides.

24 THE COURT: Yeah. But you'd be neutral, meaning
25 you're not going to presume one way or another.

1 PROSPECTIVE JUROR 12: Correct.

2 THE COURT: But just because Bitcoin is involved one
3 way or another isn't going to really affect your view about the
4 legality.

5 PROSPECTIVE JUROR 12: Yeah. To me it's just another
6 currency.

7 THE COURT: All right. Thank you, sir.

8 PROSPECTIVE JUROR 21: Juror number 21.

9 My son invested in cryptocurrency.

10 THE COURT: I'm sorry. I didn't hear you. You have a
11 very soft voice, and I don't have very good ears. So could I
12 get you to repeat that, please.

13 PROSPECTIVE JUROR 21: Juror 21, and my son is
14 investing in cryptocurrency.

15 THE COURT: All right. You've heard my discussion
16 with others.

17 PROSPECTIVE JUROR 21: It would not affect my
18 listening to evidence.

19 THE COURT: All right. You think you could be neutral
20 and fair?

21 PROSPECTIVE JUROR 21: Yes.

22 THE COURT: Thank you.

23 PROSPECTIVE JUROR 24: Juror 24, and I have a brother
24 who has been -- dabbled in some Bitcoin. And I do not believe
25 that that will affect my judgment, and I feel I could be

1 neutral.

2 THE COURT: Thank you.

3 PROSPECTIVE JUROR 37: I'm juror number 37, and I have
4 no understanding of Bitcoins. I have an aunt that's 75, and
5 she does Bitcoin mining. I have several nieces and nephews
6 that do Bitcoin, and I believe that through my aunt I may have
7 something set up as ownership. But I have no idea --

8 THE COURT: Okay. So --

9 PROSPECTIVE JUROR 37: -- yeah, what the process is.

10 THE COURT: I think if I understood what you just
11 said, you said you think that through your aunt you may
12 actually, yourself, be the owner of Bitcoin, or have the rights
13 to some Bitcoin. Is that correct?

14 PROSPECTIVE JUROR 37: Right, she -- correct.
15 Exactly. Yes.

16 THE COURT: But I think you also said you don't have
17 any understanding --

18 PROSPECTIVE JUROR 37: I have no understanding of it,
19 so ...

20 THE COURT: And do you have any concern about your
21 ability to be neutral and fair because this case involves
22 Bitcoin?

23 PROSPECTIVE JUROR 37: Yes. Because I have no
24 understanding of it. They've tried to explain. I don't get
25 it.

1 THE COURT: Well --

2 PROSPECTIVE JUROR 37: I don't understand it, so ...

3 THE COURT: All right. So if I can state your
4 concern, your concern isn't that you couldn't be neutral and
5 fair between the parties, your concern is that you don't
6 understand what Bitcoin is.

7 PROSPECTIVE JUROR 37: Right. I don't understand. I
8 can be fair, but I just don't understand. I haven't seen it as
9 a negative effect.

10 THE COURT: Right.

11 PROSPECTIVE JUROR 37: I'm not sure exactly what it is
12 or how it operates.

13 THE COURT: Well, can I share with you, ma'am, that to
14 some extent, you're no more ignorant than everybody else in the
15 jury pool about what Bitcoin is. And to the extent that it has
16 relevance to whether or not the defendant did with -- what he's
17 charged to do, it will be the government's burden to educate
18 you during the course of this trial about what it is. And to
19 some extent, should the defense choose to -- and the defense
20 doesn't have any obligation to put on any evidence -- but the
21 defense might also offer evidence about what Bitcoin is or
22 isn't.

23 So do you have any concern about your ability to
24 learn, be open-minded and learn what Bitcoin is?

25 PROSPECTIVE JUROR 37: Hopefully they can explain it

1 better than the rest of my family, because I just don't have a
2 grasp of it.

3 THE COURT: All right.

4 PROSPECTIVE JUROR 37: Unless it's tangible, I just
5 don't get it.

6 THE COURT: Well, again, I don't think you're that
7 different than probably other members of the jury pool. But --
8 but -- thank you, ma'am.

9 PROSPECTIVE JUROR 35: Juror number 35.

10 I also have a son and friends that are involved with
11 Bitcoin. I, like the others, don't have -- little to no
12 knowledge how it all works, and I feel like I can be neutral
13 and fair.

14 THE COURT: Thank you.

15 PROSPECTIVE JUROR 50: Juror number 50.

16 I own, like, 35.10 thousandths of one Bitcoin, but I'm
17 also on the board of directors for a company that's looking for
18 blockchain technology for secured voter verification and
19 election integrity technology.

20 THE COURT: Does -- do either of those things cause
21 you any concern about your ability to be a neutral juror?

22 PROSPECTIVE JUROR 50: Nope.

23 THE COURT: All right. Thank you.

24 Anyone else?

25 PROSPECTIVE JUROR 66: Juror 66.

1 I have some friends that chase a variety of the
2 cryptocurrencies. I don't -- I -- I believe that it's a
3 garbage, you know, thing, so I don't know if that would be
4 anything...

5 THE COURT: Well, you have to help us out a little bit
6 with that. So maybe -- maybe I could ask you a question or two
7 that would help you frame that.

8 PROSPECTIVE JUROR 66: Sure.

9 THE COURT: Your own view about the value of Bitcoin
10 is only relevant to the extent that you think it might unfairly
11 affect your ability -- your views about the guilt or innocence
12 of the defendant. As we've already said, it is no crime to own
13 Bitcoin.

14 PROSPECTIVE JUROR 66: I understand.

15 THE COURT: It is no crime to trade in Bitcoin. And
16 everybody, all of us, can have different views about the value
17 of Bitcoin or the advisability of investing in it.

18 What I'm trying -- and simply because you think
19 Bitcoin may be a poor investment doesn't mean you can't be a
20 fair juror in this case.

21 Do you understand the distinction?

22 PROSPECTIVE JUROR 66: Yes.

23 THE COURT: Do you have any concern that you wouldn't
24 be able to be a fair juror in this case because of your views
25 about the legitimacy of Bitcoin as an investment?

1 PROSPECTIVE JUROR 66: I -- I suppose only in how it
2 was shown in the case, that --

3 THE COURT: In other words, you'd have to rely on the
4 evidence that's shown you here in court.

5 PROSPECTIVE JUROR 66: Yes, yes.

6 THE COURT: And are you willing to do that?

7 PROSPECTIVE JUROR 66: Yes.

8 THE COURT: Thank you, sir.

9 Anyone else?

10 Have any of you ever used encrypted messaging
11 applications or software, or do you have -- do you know -- are
12 you close with someone who has used it?

13 PROSPECTIVE JUROR 5: I'm retired Department of
14 Defense, worked in IT for many years, and the data is encrypted
15 there for the medical record.

16 THE COURT: Is there anything about that that you
17 think would affect you one way or another if you were asked to
18 serve as a juror here?

19 PROSPECTIVE JUROR 5: No.

20 THE COURT: Thank you.

21 PROSPECTIVE JUROR 7: Juror 7.

22 I have an IPVanish tool and encrypted messaging
23 technology for general privacy and security from hacking. I
24 don't think it would affect me to be impartial.

25 THE COURT: In other words, you still think you can be

1 impartial?

2 PROSPECTIVE JUROR 7: Correct.

3 THE COURT: Thank you.

4 PROSPECTIVE JUROR 12: Juror 12.

5 Software engineer, so we use it for software to do
6 some data encryption.

7 THE COURT: Do you have any concern about that posing
8 any difficulty for you to be impartial?

9 PROSPECTIVE JUROR 12: No.

10 THE COURT: Thank you.

11 PROSPECTIVE JUROR 55: Juror 55.

12 I've used numerous encrypted email programs as part of
13 my practice.

14 THE COURT: Do you have any concern about that posing
15 any challenge to your impartiality in this case?

16 PROSPECTIVE JUROR 55: I do not.

17 THE COURT: Thank you.

18 PROSPECTIVE JUROR 50: Juror 50.

19 I use encryption software for data protection and
20 protection of client confidentiality and intellectual property,
21 but I don't see how that would have any impact on my ability to
22 remain impartial.

23 THE COURT: Thank you.

24 Do any of you have any experience, training, or
25 education --

1 LAW CLERK: Excuse me.

2 THE COURT: Oh, I'm sorry. Jumped the gun.

3 PROSPECTIVE JUROR 47: Juror 47.

4 Similar to the others, I use encrypted software for my
5 emails.

6 THE COURT: Anything about that that you have any
7 concern would cause you to be less than impartial?

8 PROSPECTIVE JUROR 47: No, sir.

9 THE COURT: All right.

10 Do any of you have any experience, training, or
11 education in financial regulations or financial services?

12 PROSPECTIVE JUROR 13: I'm juror number 13.

13 I'm a mortgage loan officer, so -- excuse me -- we
14 have training every year for money laundering, all the aspects
15 that go behind there of -- of lending correctly.

16 THE COURT: All right. Is there anything about that
17 you think would cause you any difficulty or would affect your
18 deliberations in this case if you were asked to serve as a
19 juror?

20 PROSPECTIVE JUROR 13: I would have to say probably
21 yes because I am upfront and honest. And even going with the
22 law, you know, I -- I try to think of the -- the logic. And if
23 I had a customer come in and --

24 THE COURT: Well, just -- just -- if I could ask you a
25 question or two.

1 PROSPECTIVE JUROR 13: Okay.

2 THE COURT: Thank you. I didn't mean to be rude, but
3 I --

4 PROSPECTIVE JUROR 13: Oh, no, it's okay.

5 THE COURT: You understand that I'll be giving the
6 legal -- the instructions as to the law at the end of the case.

7 PROSPECTIVE JUROR 13: Uh-huh.

8 THE COURT: Do you have any problem following those
9 instructions?

10 PROSPECTIVE JUROR 13: No. But, I mean, I still have
11 the stuff still in the back of my mind, all the stuff that I...

12 THE COURT: Right. And you understand that I would
13 tell you you've got to put that aside.

14 PROSPECTIVE JUROR 13: I do.

15 THE COURT: But you're just telling me you don't think
16 you could put that aside.

17 PROSPECTIVE JUROR 13: Probably not, because of doing
18 stuff day in and day out and knowing what I believe in my mind.

19 THE COURT: Okay. Thank you.

20 PROSPECTIVE JUROR 29: Juror number 29, and I received
21 regular training while I was still working on a maximum amount
22 that -- for a legal transaction before it's reported to the
23 government, specifically what it was designed to do is to make
24 sure they're notified of anything over \$10,000.

25 THE COURT: Right. But you understand that I'll give

1 instructions about what the law is.

2 PROSPECTIVE JUROR 29: So it shouldn't be an issue, I
3 don't think.

4 THE COURT: You think you can be neutral and fair?

5 PROSPECTIVE JUROR 29: Yes.

6 THE COURT: Thank you.

7 PROSPECTIVE JUROR 46: Juror number 46.

8 I am a senior underwriter for a commercial lines
9 insurance company, and it is my job to look at applications and
10 detect if they are fraudulent or not using Experian. And I
11 also have to go through fraudulent training every year. I do
12 not feel that I would be impartial.

13 THE COURT: Well, I want to understand what you just
14 said. You have training about how to detect fraud in insurance
15 applications or other applications for benefits.

16 PROSPECTIVE JUROR 46: Yes, per the state of
17 California because our company is a national underwriting
18 company.

19 THE COURT: You believe that because you have that
20 training, for some reason you would not be able to be impartial
21 in this case.

22 PROSPECTIVE JUROR 46: No.

23 THE COURT: You understand that I would instruct you
24 that you were to put that -- to the extent you felt that
25 training reflected on this lawsuit, you would be required to

1 put that aside.

2 PROSPECTIVE JUROR 46: Correct.

3 THE COURT: Do you have think you could do that?

4 PROSPECTIVE JUROR 46: I could, based on the evidence,
5 and make my decision from there.

6 THE COURT: All right. So you think you could decide
7 this case.

8 I'm not sure that I'm understanding what you're
9 telling me. Do you think you could be neutral in deciding this
10 case between the parties?

11 PROSPECTIVE JUROR 46: Yes.

12 THE COURT: And do you think you could be fair?

13 PROSPECTIVE JUROR 46: Based on the evidence?
14 Depends.

15 THE COURT: Yes. And decide the case only on evidence
16 you hear here.

17 PROSPECTIVE JUROR 46: Correct.

18 THE COURT: Thank you, ma'am.

19 PROSPECTIVE JUROR 54: I'm juror 54, and I currently
20 am employed as a financial adviser.

21 THE COURT: All right. Is there anything about that
22 that you have a concern would affect your deliberations in this
23 case in a way that wouldn't be fair to the parties?

24 PROSPECTIVE JUROR 54: No.

25 THE COURT: Thank you.

1 PROSPECTIVE JUROR 9: Juror number 9, and I'm a
2 comptroller of an engineering firm.

3 THE COURT: All right. Anything about that that you
4 think would make you be less than fair to the parties?

5 PROSPECTIVE JUROR 9: No.

6 THE COURT: Thank you.

7 Any of you ever worked at a bank?

8 PROSPECTIVE JUROR 13: Juror number 13.

9 Yes. I've worked directly in a bank and in a
10 corporate office of the bank.

11 THE COURT: In what capacity?

12 PROSPECTIVE JUROR 13: Mortgage loan officer.

13 THE COURT: Okay. So the same issues that we've
14 already talked about.

15 PROSPECTIVE JUROR 13: (Nods head in the affirmative.)

16 THE COURT: You need to answer verbally.

17 PROSPECTIVE JUROR 13: Yes, yes.

18 THE COURT: Is there anything else you wanted to add
19 to that?

20 PROSPECTIVE JUROR 13: No.

21 THE COURT: Thank you.

22 PROSPECTIVE JUROR 37: Juror number 37, and I have
23 worked at banks in the capacity of tellers and service
24 assistants.

25 THE COURT: What does a service assistant do?

1 PROSPECTIVE JUROR 37: It's customer service, doing
2 some applications for lending. Mostly helping people with
3 their initial sign-up, new sign-ups of accounts, and things
4 like that.

5 THE COURT: Is there anything about that that you
6 think --

7 PROSPECTIVE JUROR 37: No, not at all.

8 THE COURT: -- might cause you concern about your
9 ability to be fair?

10 PROSPECTIVE JUROR 37: No.

11 THE COURT: Thank you.

12 Have any of you had a negative experience with a bank
13 that would affect your ability to fairly consider evidence
14 about banking rules and regulations?

15 I see no responses.

16 This is a sting case in which the defendant was
17 communicating with undercover law enforcement agents. Do you
18 have any strong feelings about the use of stings or other
19 undercover activities that would prevent you from giving either
20 the United States or the defendant a fair hearing in this
21 matter?

22 All right. I see no responses.

23 You are likely to hear that the defendant used a
24 nickname or pseudonym, Morpheus Detainia, in addition to his
25 legal name. Will this information affect your ability to give

1 the defendant a fair hearing in this matter?

2 I see no responses.

3 You may have to listen to recorded statements in the
4 course of this case that include the use of profanity in
5 conversation by the defendant. Will this information affect
6 your ability to give the defendant a fair hearing in this
7 matter?

8 I see no responses.

9 You may hear evidence that the defendant is generally
10 distrustful of government entities and institutions. Will this
11 information affect your ability to give the defendant or the
12 government a fair hearing in this matter?

13 I see no responses.

14 You may hear evidence that references recreational
15 drug use in this case. Do any of you have strong feelings
16 about recreational drug use that would make you unable to sit
17 as a juror in such a case?

18 Is there anything, in short, that would affect your --
19 about that information that would affect your ability to give
20 either the United States or the defendant a fair hearing in
21 this matter?

22 I see no responses.

23 If the United States meets its burden of proof under
24 the law, would you have difficulty finding a person guilty
25 because of your own personal beliefs or attitudes about a case

1 of this nature, because of your sympathy for the defendant's
2 circumstances, or because it might otherwise be an unpleasant
3 task?

4 I see no responses.

5 If the United States does not meet its burden of proof
6 under the law, would you have difficulty finding a person not
7 guilty because of your own personal beliefs or attitudes about
8 a case of this nature, because of your sympathy for the
9 government or because it might otherwise be an unpleasant task?

10 I see no responses.

11 Do you have any other beliefs, experiences, feelings,
12 or other reasons that you feel would prevent you from fairly
13 deliberating in this case?

14 I will instruct you what the law is at the conclusion
15 of the case. If selected as a juror, you will take an oath to
16 follow the law. Does anyone think that they would have trouble
17 following the law, even if they disagree with it?

18 I see no responses.

19 In a civil case, the burden of proof is a
20 preponderance of the evidence. That is not a civil case. This
21 is a criminal case in which the government must prove guilt
22 beyond a reasonable doubt. Does anyone have any difficulty in
23 holding the government to its burden?

24 Here are some fundamental principles of law:

25 Number 1: The fact that an indictment has been filed

1 raises no presumption whatsoever about the guilt of the
2 defendant.

3 Number 2: The United States Government must satisfy
4 you beyond a reasonable doubt of the guilt of the defendant.

5 Number 3: The defendant does not have any obligation
6 to testify or to produce any evidence, and you may not draw an
7 adverse inference if the defendant chooses not to testify.

8 Number 4: The defendant is presumed to be innocent
9 unless and until his guilt is established beyond a reasonable
10 doubt.

11 Number 5: You must wait until all of the evidence has
12 been presented before making up your minds as to the innocence
13 or guilt of the defendant.

14 Does anyone believe that they would have any
15 difficulty following any of these principles of law I have just
16 outlined for you?

17 I see no responses.

18 Ladies and gentlemen, we recognize that jury service
19 is probably an inconvenience for you. It takes away from your
20 jobs and families, and disrupts your daily routine.

21 Many employers will reimburse you for your jury
22 service. If you are a government employee, they're required by
23 law to reimburse you for your jury service at your full salary.
24 Some employers, however, do not reimburse you for your jury
25 service. In those cases, this court pays the princely sum of

1 \$40 a day for jury service, as well as transportation costs.

2 Jury service is one of the most important duties that
3 the citizens of this country can perform. And for this reason,
4 from time to time, as I've told you, we ask, even require
5 citizens to make sacrifices and serve on juries even when it is
6 inconvenient to do so.

7 However, prospective jurors can be excused from jury
8 service if the length of the trial or the daily schedule would
9 impose undue hardship. By "undue" hardship, I mean more than
10 inconvenience. I mean genuine hardship that would be
11 experienced by you or by your family.

12 This case is expected to last eight days. I can
13 not -- it may last not quite that long, but I can't be sure of
14 that. Nor do I control how long you as a jury would choose to
15 deliberate on this case.

16 I do not conduct trial every day of the week. As I
17 told you, I do have other criminal matters, although I
18 overestimated that amount when I previously told you. And I
19 have other civil matters which require that I take some time
20 during the days of the week. But I expect to conduct trial on
21 these dates and at these times. We will conduct trial for the
22 rest of the day after the jury is selected. We will conduct
23 trial tomorrow, and we will conduct trial on Thursday.

24 Friday, we will not conduct trial. Saturday and
25 Sunday, of course, are the weekend. Monday, I have other

1 matters. So we will conduct trial Tuesday, Wednesday, and
2 Thursday of this week, Tuesday, Wednesday, and Thursday of next
3 week, and Tuesday and Wednesday, if necessary, of the following
4 week. That will give you two out of the five days that you can
5 resume your normal schedule. But the three days in the midst
6 of the week would be reserved for trial. So that makes
7 March 20th, 21st, and 22nd, March 27th, 28th, and 29th, and
8 April 3rd and 4th.

9 I generally begin trial at nine o'clock in the
10 morning. We go until noon, with a 15-minute break in the
11 morning; we resume about 1:15 and go until five o'clock with a
12 15-minute break in the afternoon.

13 Would this schedule create an undue hardship for any
14 of you?

15 PROSPECTIVE JUROR 1: Juror number 1.

16 I am the only licensed driver in my family, and I have
17 to take my wife and son to work and school during Tuesday,
18 Wednesday, and Thursdays.

19 THE COURT: How far away is school?

20 PROSPECTIVE JUROR 1: It is approximately two to three
21 miles away from our home, and my wife is walking distance from
22 our home.

23 THE COURT: Your wife's work is walking distance?

24 PROSPECTIVE JUROR 1: Yeah.

25 THE COURT: Could you arrange to have someone else

1 take your son to school? I mean, I think you could take your
2 son to school in the morning. We don't start until
3 nine o'clock.

4 PROSPECTIVE JUROR 1: His school starts at 9:00 a.m.
5 I can get him probably there before 8:00, but he has to be
6 picked up before five o'clock.

7 THE COURT: Well, who picks him up now?

8 PROSPECTIVE JUROR 1: I do. Well, he's on spring
9 break with his mom right now until next week, Monday.

10 THE COURT: Well, can you arrange to have someone else
11 pick him up?

12 PROSPECTIVE JUROR 1: I can look for somebody, Your
13 Honor.

14 THE COURT: Thank you, sir.

15 PROSPECTIVE JUROR 1: Thank you.

16 PROSPECTIVE JUROR 2: I'm juror number 2, and I live
17 about 200 miles from the courthouse, and it's difficult for me
18 as far as the finances to come and stay here for three days.

19 THE COURT: Well, we do recognize that in this jury
20 district, because we pull from all over the state, some people
21 live far away. We reimburse -- we would arrange for you to be
22 reimbursed for a hotel here, as well as transportation
23 expenses. So -- I didn't explain that. But you would be
24 reimbursed for your hotel.

25 Does that make it possible for you to serve?

1 PROSPECTIVE JUROR 2: Um, I mean, I'd be able to be
2 away for two to four weeks to -- for my reimbursement to pay
3 for that and then wait for the money.

4 THE COURT: I'm sorry. What?

5 PROSPECTIVE JUROR 2: I'm afraid I don't have the
6 money to cover for those expenses.

7 THE COURT: Well, we can work that out, if that's the
8 only problem.

9 Do you live in the Yuma area, sir?

10 PROSPECTIVE JUROR 2: No. Payson, Arizona.

11 THE COURT: Payson, Arizona? That's not 200 miles
12 away, sir. You'd still probably get your hotel. That's only
13 60 miles away; right?

14 PROSPECTIVE JUROR 2: Well, it's actually more than
15 that.

16 THE COURT: Well, I've driven it quite a few times.
17 It may be more than 60, but it's not 200; right?

18 PROSPECTIVE JUROR 2: Back and forth.

19 THE COURT: Thank you, sir.

20 PROSPECTIVE JUROR 2: Thank you.

21 PROSPECTIVE JUROR 4: Juror number 4.

22 I don't have a hardship, as long as we have breaks. I
23 have a bad back.

24 THE COURT: Listen, I'll tell you, I've got a bad back
25 too.

1 PROSPECTIVE JUROR 4: Okay.

2 THE COURT: And I was already going to tell you, you
3 may see me stand up and down through this trial, because I've
4 got to do it.

5 PROSPECTIVE JUROR 4: Okay.

6 THE COURT: And if I've got to do it, I let anybody
7 else who has to do it do the same. So don't -- don't hesitate.

8 PROSPECTIVE JUROR 4: Okay.

9 THE COURT: Thank you.

10 PROSPECTIVE JUROR 5: I'm struggling with this because
11 my mom is under hospice. She's 86, and I'm one of her
12 caregivers. It would be difficult, but, I mean, if -- if -- if
13 you want me anyway, then we'll -- I'm give it my best shot.

14 THE COURT: I appreciate it. Can you make other
15 arrangements, do you think, for the few --

16 PROSPECTIVE JUROR 5: We can. Care -- caregivers are
17 expensive, but I can do some switching in the schedule. It's
18 just that I won't be there with her.

19 THE COURT: Well, I understand that emotional --

20 PROSPECTIVE JUROR 5: Yeah.

21 THE COURT: -- obligation, and I do recognize that as
22 an inconvenience. But if you're willing to give it a try, we'd
23 appreciate that.

24 PROSPECTIVE JUROR 5: Okay. Thank you.

25 THE COURT: Thank you.

1 PROSPECTIVE JUROR 14: Hi. Juror 14.

2 I'm one of two people in my company that travel three
3 weeks out of the month, which is why I offered to serve this
4 week because I knew I'd be home. I have two trips booked the
5 next couple week after this. Next week would not be impossible
6 to get out of, but the week after is part of our annual
7 retailer event that I'm counted on -- excuse me -- counted on
8 to be at, and that would create a hardship just within my
9 company itself, more than for me, because they do expect me to
10 be there.

11 THE COURT: Where is that, your convention?

12 PROSPECTIVE JUROR 14: It's in Chicago.

13 THE COURT: And that's the third week?

14 PROSPECTIVE JUROR 14: That would be that first week
15 of April. Next week I'm in El Paso, but I could find a way out
16 of that.

17 THE COURT: Okay. Thank you, sir.

18 PROSPECTIVE JUROR 14: Sure.

19 PROSPECTIVE JUROR 19: Hi, I'm juror number 19, and I
20 work for a small charter school, which I can find a bus driver.
21 I'm a school bus driver for next week. We're on spring break
22 this week. But the first week in April we have AzMERITs, so we
23 have 500 kids that we're trying to get back and forth with
24 three bus drivers. I have a sub bus driver, but I'm one of the
25 main ones, and I have another main one. So we start AzMERITs

1 on April 4th and 5th and 6th.

2 THE COURT: So on the third week, you start AzMERITs?

3 PROSPECTIVE JUROR 19: Yes.

4 THE COURT: And that would be your employer's problem,
5 not your problem.

6 PROSPECTIVE JUROR 19: But I'm the bus driver, I'm the
7 head bus driver. So I --

8 THE COURT: I appreciate your sense of responsibility,
9 ma'am --

10 PROSPECTIVE JUROR 19: Yeah.

11 THE COURT: -- but it sounds to me like you would be
12 able to give them at least two weeks' warning.

13 PROSPECTIVE JUROR 19: Yes, sir.

14 THE COURT: Thank you.

15 PROSPECTIVE JUROR 19: Thanks.

16 PROSPECTIVE JUROR 22: I'm juror number 22.

17 We own a small business. I'm the only employee, so
18 I -- it would be hard for me to shut down our company a couple
19 days a week.

20 THE COURT: Thank you, sir.

21 PROSPECTIVE JUROR 24: I have two issues. One is I am
22 the main caregiver for my husband who has Alzheimer's. And so
23 for me to be away all that time would be difficult.

24 And the second piece is, I just work part time out of
25 the house, and depend -- we depend on my income for that,

1 and -- for living expenses. And so to take -- and I don't get
2 paid because I'm only working -- I'm on -- just a consultant.

3 THE COURT: You can't pay yourself, basically.

4 PROSPECTIVE JUROR 24: Unfortunately not. I wish I
5 could.

6 THE COURT: All right. Thank you.

7 PROSPECTIVE JUROR 24: Thank you.

8 PROSPECTIVE JUROR 26: I'm juror 26.

9 Right now, I'm -- got a blood vessel that's busted in
10 my nostrils, and I got a balloon that's in my nose right now
11 that's keeping the blood from flowing down. Tomorrow I go see
12 the surgeon or the specialist to find out what they're going to
13 do. And I don't know what it's going to become for the rest of
14 the week, what I have to do or where I have to go to.

15 And I'm also on, like, painkillers, so I'm kind of,
16 like, not fully --

17 THE COURT: With it?

18 PROSPECTIVE JUROR 26: -- yeah, with it. So that's my
19 point right now.

20 And it's hard to breathe, and I --

21 THE COURT: So it's a matter of cauterizing a blood
22 vessel in your nose?

23 PROSPECTIVE JUROR 26: Well, that they don't know
24 because the vessel is way back, and that's what they want to
25 look at to see if it's going to be even possible to do it.

1 THE COURT: What time is your appointment tomorrow?

2 PROSPECTIVE JUROR 26: It's at 11:00.

3 THE COURT: Okay. Thank you, sir.

4 PROSPECTIVE JUROR 28: Juror 28.

5 I have -- I'm a stay-home mom. Four kids. One of
6 the -- I had jury duty on March 7th already this month, and
7 then to have it again would be a lot for me to -- with my kids,
8 figuring that out. I have two at home, and figuring out
9 babysitters and everything. That would be a lot.

10 THE COURT: Were you selected as a juror?

11 PROSPECTIVE JUROR 28: I was not selected, but I went
12 down there for a day.

13 THE COURT: Could you -- if you were asked to, could
14 you figure out a replacement?

15 PROSPECTIVE JUROR 28: It would be really difficult.
16 My husband owns his own business, and he's helping out today.
17 He had already done that earlier this month. And to do that
18 for that long would be really hard for our family.

19 THE COURT: Really hard financially, or --

20 PROSPECTIVE JUROR 28: Financially, and just the time,
21 like driving to school, picking up, and watching them during
22 the day. It's hard finding people to be able to take them all
23 to their places.

24 THE COURT: Thank you.

25 PROSPECTIVE JUROR 32: Hi, I'm juror 32.

1 I manage a small office in San Diego, so I commute
2 back from Monday to Thursday every other week. And next week
3 I'm scheduled to be back in San Diego. But my only other
4 manager on-site is on vacation next week. So it's a work
5 issue, but it's -- I already have all my flights and travel
6 arrangements. I'd have to rearrange.

7 THE COURT: Could you rearrange them?

8 PROSPECTIVE JUROR 32: If need be, yeah, I would have
9 to. Like you said, it's the employer's problem, but it is my
10 responsibility.

11 THE COURT: Is there someone else who can manage the
12 office if you are here?

13 PROSPECTIVE JUROR 32: No one that has the knowledge
14 of all the projects that we're doing, just the only other guy
15 is the one that's on vacation. We're -- it's a start-up out
16 there, so we have limited staff out there.

17 THE COURT: All right. Thank you.

18 PROSPECTIVE JUROR 34: Juror number 34.

19 I have two kids. I have to take them to school.
20 Their mom works at night, and she can not make it in the
21 morning to drop them. I cannot substitute any person.

22 And also I work part time. The company I work is --
23 they give me a project to do, and if I miss that one, they are
24 not going to pay me or they are not going to give me any job.
25 So I have to keep in contact with them to keep working.

1 THE COURT: Thank you.

2 What's the company you work for, sir?

3 PROSPECTIVE JUROR 34: It's called PH Structure. It's
4 a structure and engineering consulting firm.

5 THE COURT: Do you work for them part time?

6 PROSPECTIVE JUROR 34: Yes.

7 THE COURT: And have you asked them if they would
8 reimburse you for jury service?

9 PROSPECTIVE JUROR 34: They don't have that benefit.
10 Yes, I do. I talked to them yesterday.

11 THE COURT: I'm sorry?

12 PROSPECTIVE JUROR 34: Yes, I did, but they said no.

13 THE COURT: And that would be the sort of financial
14 burden your family couldn't handle?

15 PROSPECTIVE JUROR 34: Sure. Yes. Absolutely.

16 THE COURT: Thank you.

17 PROSPECTIVE JUROR 33: Juror number 33.

18 I recent -- we recently had one of our employees
19 leave, and I was moved up into that position. And at the
20 present, I'm trying to learn the position and train a brand-new
21 employee for my old position. So I would have to go in after
22 the trial each day and work probably three, four, five hours in
23 the evening during those days to get caught up on those things
24 that no one else can do at this point in time. And I'm just
25 not sure how alert I would be during the trial.

1 THE COURT: Is the person who you replaced still in --
2 still in the employ of your employer?

3 PROSPECTIVE JUROR 33: No, they are not.

4 THE COURT: What's the position?

5 PROSPECTIVE JUROR 33: I'm an accountant.

6 THE COURT: Are there no other accountants that work
7 for your employer?

8 PROSPECTIVE JUROR 33: Our CFO will be out of town for
9 the next two -- actually out of the country for the next couple
10 of weeks. She could cover some of those duties, but the new
11 person is -- I'm still getting her acclimated to what the
12 duties are, so I'm spending a lot of time with her, as well as
13 learning my new, you know, my new duties.

14 THE COURT: Well, is there any immediacy to it if you
15 had to put it off for two weeks?

16 PROSPECTIVE JUROR 33: My duties?

17 THE COURT: Training.

18 PROSPECTIVE JUROR 33: Like, it's issuing checks, it's
19 working with our auditors which we have for loan requirements,
20 processing payroll, those type of things that no one else can
21 do at this point.

22 THE COURT: Thank you.

23 PROSPECTIVE JUROR 33: Thank you.

24 PROSPECTIVE JUROR 51: Juror 51.

25 I'm a student, and so to miss that much school right

1 before finals would be almost impossible.

2 THE COURT: What are you studying?

3 PROSPECTIVE JUROR 51: Nonprofit leadership and
4 management.

5 THE COURT: What institution?

6 PROSPECTIVE JUROR 51: At Arizona State.

7 THE COURT: Good luck on finals.

8 PROSPECTIVE JUROR 51: Thanks.

9 PROSPECTIVE JUROR 50: Juror 50.

10 I had a work-related crisis that requires some
11 government reporting that has deadlines coming up in the next
12 couple of weeks that I had dropped on my lap essentially last
13 week. So the number of work hours I'm putting in to try to get
14 everything taken care of while managing my typical workload is
15 pretty severe, and I -- I didn't know if this would constitute
16 a sufficient hardship or if I just have to not sleep, but that
17 is the alternative for the moment. So...

18 THE COURT: Well, what about if it got dumped on your
19 lap, can your employer dump it on somebody else's lap?

20 (Laughter in the courtroom.)

21 PROSPECTIVE JUROR 50: I cannot, actually. But if I
22 have to not sleep, I would be willing to try.

23 THE COURT: Thank you.

24 PROSPECTIVE JUROR 39: I was just recently involved in
25 a -- two car accidents in less than three months, one in

1 November and one in February. So I had my brother drive down
2 here with me because I'm not familiar with this area, and the
3 traffic is crazy. It took us an hour-and-a-half to get here,
4 which isn't bad, but I don't know if he would be willing to
5 come with me every single day just because I have anxiety
6 driving.

7 THE COURT: Do you live anywhere in the metropolitan
8 area?

9 PROSPECTIVE JUROR 39: It's in Buckeye off of Watson.
10 There's not nearly any traffic like there is over here.
11 There's not one-ways or anything like that.

12 THE COURT: Is there an express bus in from Buckeye?

13 PROSPECTIVE JUROR 39: I think there's, like, a
14 shuttle, something down there.

15 THE COURT: Are you willing to explore that and see if
16 that can get you in and out?

17 PROSPECTIVE JUROR 39: If I had to.

18 And then the other thing is, I'm also a supervisor at
19 the -- at my job. I already asked for today. They don't pay.
20 She told me they would just be able to excuse it. So I don't
21 know if \$40 a day would be enough for me.

22 THE COURT: Are you the sole income for your family?

23 PROSPECTIVE JUROR 39: Not the sole, but I'm one of
24 the incomes.

25 THE COURT: Well, let me just instruct you, and I

1 don't mean to be threatening any employers, it is true that
2 employers don't have to reimburse you, but they cannot
3 terminate you or take adverse employment action against you
4 because you're seated on a jury. It's against the law for them
5 to do that. And if you need to inform them of that, please
6 tell them that I said so.

7 (Laughter in the courtroom.)

8 THE COURT: Thank you.

9 PROSPECTIVE JUROR 39: Thank you.

10 PROSPECTIVE JUROR 25: Juror 25.

11 I am currently a student at Midwestern, a pharmacy
12 student, and then I work nights at John C. Lincoln Hospital as
13 a pharmacist intern.

14 THE COURT: Thank you.

15 PROSPECTIVE JUROR 42: Juror number 42.

16 I'm a middle school language arts teacher, and we have
17 AzMERITS testing coming up in less than two weeks, so to miss
18 the test as well as two weeks of preparation would leave my
19 students underprepared for the state testing.

20 THE COURT: What a nice example it would be about
21 fulfilling your civic responsibilities.

22 (Laughter in the courtroom.)

23 PROSPECTIVE JUROR 42: Thanks?

24 THE COURT: Thank you. Thank you.

25 PROSPECTIVE JUROR 44: Juror number 44.

1 I'm having a hard time. I have arthritis in both of
2 my knees, and sitting swells and inflame inflammation, so my
3 problem would be the sitting an extended amount of time.

4 THE COURT: Well, let me ask, is there anything we
5 could do that would make it possible for you to serve? For
6 example, you can stand anytime you want. Would that help?

7 PROSPECTIVE JUROR 44: If that's what I'd have to do,
8 I guess I'd try.

9 THE COURT: Well --

10 PROSPECTIVE JUROR 44: I use a cane.

11 THE COURT: I don't want to put you through a torture
12 test. But would it be possible and comfortable for you to
13 serve if we could -- I mean, we'd do anything we could to
14 accommodate you physically if there's anything we can do. So
15 you could stand, you could sit, you could walk around as long
16 as you felt like you could pay attention to the testimony while
17 you were doing that. Would that make it possible for you to
18 serve, or would it just still be too difficult?

19 PROSPECTIVE JUROR 44: It would be still a little
20 difficult.

21 THE COURT: All right. Thank you.

22 PROSPECTIVE JUROR 44: Thank you.

23 PROSPECTIVE JUROR 48: So this is not -- sorry. Juror
24 number 48.

25 I'm a bone marrow transplant physician at Phoenix

1 Children's, and I have responsibility --

2 THE COURT REPPORTER: You're a?

3 THE COURT: Bone marrow transplant.

4 PROSPECTIVE JUROR 48: -- physician, and I have
5 responsibility to my patients that, yes, it is a financial
6 responsibility, but they're my patients and if I'm not there
7 for them, I think this is kind of a long period of a time to be
8 without -- for them to go without care.

9 Thank you.

10 THE COURT: Well, wait a minute.

11 PROSPECTIVE JUROR 48: Oh.

12 THE COURT: You're a bone marrow transplant physician
13 at Phoenix Children's?

14 PROSPECTIVE JUROR 48: Yes.

15 THE COURT: Are you a surgeon; do you actually do the
16 surgery?

17 PROSPECTIVE JUROR 48: Well, we're not surgeons, we
18 have -- we take care of the patients after because immune
19 compromised.

20 THE COURT: Is there anyone who for those eight days
21 could take your place in rotations or rounds?

22 PROSPECTIVE JUROR 48: It would be -- it's possible,
23 but it would be extremely difficult. But it's possible.

24 THE COURT: When you say "difficult," help me
25 understand why it would be difficult.

1 PROSPECTIVE JUROR 48: It is the volume of patients
2 that we have. There are three of us, and unfortunately one of
3 us is out, so just the two of us. And so taking care of
4 patients, inpatient and outpatients. And so, yes, they can get
5 someone to see those patients, but it will be -- it will be
6 very tough on them.

7 THE COURT: What about the physician who is out; will
8 he or she be back?

9 PROSPECTIVE JUROR 48: I don't know. Within the eight
10 days? -- I'm sorry, within the three-weeks period, yeah, later
11 on, like maybe the next one -- in the next two weeks, yes,
12 they'll be back.

13 THE COURT: Okay. Thank you, sir.

14 PROSPECTIVE JUROR 48: Thank you.

15 PROSPECTIVE JUROR 47: Juror 47.

16 My wife will have cataract surgery on April 2nd. And
17 she'll be convalescing on April 3rd, and then have a follow-up
18 cornea surgery on -- the following week. But that is after the
19 period you were mentioning. But we have no family to take care
20 of her or take her to the doctor, and she won't be able to
21 drive herself. So she'd be relying on me.

22 THE COURT: Well, I -- you have two weeks to make
23 other arrangements; right?

24 PROSPECTIVE JUROR 47: We do. But it takes a long
25 time to arrange these surgeries, so this is as soon as we could

1 get it. So it would be pushed off --

2 THE COURT: I'm not suggesting you reschedule the
3 surgery, but it does seem to me that in two weeks' time you
4 could arrange to have an Uber take her there and pick her up
5 and take her back, couldn't you?

6 PROSPECTIVE JUROR 47: Yes, we could have a friend do
7 it. It is more than just driving, of course. It is
8 convalescing and helping her at home.

9 THE COURT: Let me give you a piece of advice that's
10 personal. My wife had cataract surgery. She didn't stay down
11 when the doctors told her to stay down. She stood up and broke
12 her nose. So tell your wife, stay down.

13 (Laughter in the courtroom.)

14 PROSPECTIVE JUROR 47: Thank you.

15 THE COURT: And if you're here during the jury, tell
16 her I doubly said that.

17 PROSPECTIVE JUROR 47: Thank you.

18 THE COURT: Thank you.

19 Anyone else?

20 PROSPECTIVE JUROR 59: Hi. I'm juror 59.

21 I'm a home healthcare nurse. I work six -- I think
22 about six out of the eight days, without having my phone open
23 to see the schedule. I have a lot of patients that count on
24 me. I do feel it would be a hardship for them if I'm not out
25 there because we're short-staffed at our company right now.

1 THE COURT: If need be, though --

2 PROSPECTIVE JUROR 59: If I have to. That's going to
3 be up to them, but I do feel it would be a hardship for them.

4 THE COURT: Appreciate it. Thank you.

5 PROSPECTIVE JUROR 64: Juror 64.

6 I was diagnosed with a kidney infection last week.
7 I'm supposed to be drinking lots of water. Kind of
8 uncomfortable in this situation.

9 Also, I -- I juggle quite a bit. We have a
10 family-owned business that's very shorthanded right now. I
11 also watch my granddaughter on Wednesday and Fridays, which
12 normally we have a lot of flexibility with that. It's just
13 kind of a perfect storm where things are not quite as flexible
14 as they usually are.

15 THE COURT: Well, let's see if we can address some of
16 it.

17 PROSPECTIVE JUROR 64: All right.

18 THE COURT: I get this nice little pitcher of water.
19 It gets refilled at every wake.

20 PROSPECTIVE JUROR 64: Right. Going in is not the
21 problem.

22 (Laughter in the courtroom.)

23 THE COURT: Well, I will tell you that if it would
24 help you serve, all you have to do is give me a signal and
25 we'll take a break.

1 PROSPECTIVE JUROR 64: All right.

2 THE COURT: Is there any other reason that you
3 wouldn't be able to serve?

4 I realize that you've described some things that would
5 require some adjustment. But didn't sound to me like they
6 would be -- it sounded to me kind of like an inconvenience, but
7 not necessarily undue hardship.

8 PROSPECTIVE JUROR 64: I can go deeper into it, if you
9 would -- I wouldn't call them inconveniences. We have a small
10 business. We're very shorthanded. I'm working there when I'm
11 not watching my grandchild or taking my grandchild there. It's
12 just going to throw one more, you know, problem on top of
13 another. She just started daycare about a month ago. She's
14 come home with everything in the book. She's been sick more
15 than she's been well. Her mother has taken a lot of time off
16 already. She's also -- generally can be flexible with it at
17 home and work from home. She does nursing records and things
18 like that. And until April 2nd, she's in training where she
19 can't be as flexible as she normally is. And the other grandma
20 had shoulder surgery, so she cannot take up any slack because
21 she cannot pick her up. It's just a number of things like
22 that.

23 THE COURT: Thank you.

24 He's just invoking the right to stand.

25 (Laughter in the courtroom.)

1 THE COURT: All right. Thank you, ladies and
2 gentlemen. We are --

3 LAW CLERK: Oh.

4 PROSPECTIVE JUROR 8: I'm juror number 8, and I'm from
5 Yuma. And I don't have any transportation to drive around
6 here. My wife brought me in. And I'm also diabetic, and I
7 need to go to the restroom, just like right now, again. Sorry.

8 THE COURT: That's all right. We're going to let you
9 go right now.

10 PROSPECTIVE JUROR 8: Okay.

11 THE COURT: I will tell you that we reimburse for
12 transport back and forth to Yuma when you go on the weekends,
13 and we reimburse for a hotel here.

14 PROSPECTIVE JUROR 8: Yep.

15 THE COURT: So hopefully that will take care of --

16 PROSPECTIVE JUROR 8: I also have a severe cough, and
17 I haven't been able to sleep for two nights.

18 THE COURT: Thank you, sir.

19 PROSPECTIVE JUROR 8: Okay.

20 THE COURT: We are going to take a noon break, ladies
21 and gentlemen. We will ask you -- there is -- I will just tell
22 you there is kind of a snack booth that sells sandwiches
23 downstairs in this building. There are -- most of the
24 restaurants go that way, and you don't have to go very far
25 until you run into restaurants, and you'll run into quite a few

1 of them. But if you could be back by 1:15 ready to go, we'd
2 appreciate it very much. If you would wait outside, and again
3 you'll be shown back to your same seats.

4 Thank you.

5 COURTROOM DEPUTY: All rise.

6 (Jury leaves the courtroom at 12:04 p.m.)

7 THE COURT: Do you want to go to lunch, or do you want
8 to do anything else at this time?

9 MR. RESTAINO: Whatever the Court prefers, Judge.

10 THE COURT: Well, do you have more challenges for
11 cause? Either party have challenges for cause, or do you want
12 to deal with the undue hardship cases?

13 MR. RESTAINO: I suppose it wouldn't hurt to see what
14 the Court is going to excuse on undue hardships, Judge.

15 MS. WEIDNER: I did not understand what the government
16 said.

17 MR. RESTAINO: Your Honor, if the Court were inclined
18 to strike for undue hardship, it would help us to know that
19 sooner rather than later.

20 Did you want us to be heard on those as well?

21 THE COURT: Sure.

22 I'll tell you the ones that I am inclined to consider,
23 if you're ready to review them. And then if you have
24 additional ones that you would like to excuse, I'll hear you on
25 those as well.

1 Are you ready, Ms. Weidner, or would you rather do it
2 in an hour?

3 MS. WEIDNER: Your Honor, if -- if the Court does want
4 to let us know about the hardship and -- and -- I have actually
5 a couple for cause that I wanted to bring to the Court's
6 attention. I think that for both parties to start thinking
7 about peremptories, it would probably be good to go ahead and
8 do that.

9 THE COURT: All right.

10 I'm inclined -- number 14 says he has to travel in the
11 third week in Chicago. It's a small business. There's only
12 two people. They both have to be there the third week. I'd
13 let him go.

14 Number 22 is a small business. He's the sole
15 employee. I would let him go.

16 Number 24, she has a husband who has Alzheimer's,
17 she's the sole support financially, and she is his sole
18 caregiver. I would be inclined to let her go.

19 The guy with the nose problem who's got a physician's
20 appointment tomorrow at 11:00 o'clock, he doesn't know what
21 they're going to do, I would be inclined to let him go.

22 MS. WEIDNER: What number was the gentleman with the
23 nose problem?

24 THE COURT: 26.

25 Number 34, she has two kids, part-time worker, can't

1 take the financial hit. It's number 34.

2 Number 51, getting a degree as a student, full-time
3 student, getting a degree in nonprofit leadership.

4 Number 25 is also a pharmacy student who works
5 part-time.

6 Number 44 with the arthritic knees and said there's no
7 way that we could really help her serve that would be
8 physically possible.

9 Number 68, the bone marrow physician.

10 I would also consider, but I am not convinced, but I
11 would consider number 50, who had the work-related crisis
12 dropped on his lap. He said he couldn't really reassign that
13 to somebody else, but he would be willing to try it, but he
14 wouldn't get much sleep.

15 Those would be the ones that I'd be inclined to strike
16 for hardship.

17 Any objections to those? Are there any additions to
18 those?

19 MS. WEIDNER: Your Honor, just for clarification, in
20 order, the Court said 14, 24, 25 --

21 THE COURT: No, no. 14, 22 --

22 MS. WEIDNER: Oh.

23 THE COURT: -- 24, 26, 34, 51, 25, 44, 68.

24 MS. WEIDNER: I thought we had 67 jurors, Your Honor.

25 MR. BINFORD: Judge, I believe you're referring to 48,

1 who is the physician.

2 THE COURT: Is it 48? I had "68" down.

3 MR. CAIN: It's 48.

4 MS. WEIDNER: The physician at Children's is 48.

5 THE COURT: That's the one I meant. So it would be
6 44, 48.

7 I would also consider, I said, number 50, who's
8 work-related and had a pretty severe crisis, and number 28 who
9 is the four kids stay-at-home mom.

10 Any objection? Do you want me to consider any others?

11 MR. RESTAINO: No objections, and nothing else to add
12 on those, Judge, including, I guess, 50 and 28.

13 THE COURT: All right.

14 Ms. Weidner?

15 MS. WEIDNER: Your Honor, no objection on those listed
16 by the Court.

17 I would also consider -- ask the Court to consider
18 number 64, the individual with the kidney infection.

19 THE COURT: Any objection, Mr. Restaino, to adding 64?
20 She's the one --

21 MR. RESTAINO: No, Your Honor.

22 THE COURT: Okay. So we'll add 64.

23 COURTROOM DEPUTY: So those are all stricken?

24 THE COURT: Yes.

25 COURTROOM DEPUTY: Just want to make sure.

1 THE COURT: Okay. So, I'll read them again: 14, 22,
2 24, 26, 28, 34, 51, 50, 25, 44, and 48.

3 MR. RESTAINO: And 64, Judge?

4 COURTROOM DEPUTY: 64.

5 THE COURT: And 64. Thank you.

6 MS. WEIDNER: Your Honor, I thought that 33 had been
7 on the list. She was the one -- the accountant where the CFO
8 was gone, and she was the only one who could do payroll.

9 THE COURT: I didn't put her on my list.

10 MS. WEIDNER: Oh. Okay.

11 THE COURT: Do you have any objections, Mr. --

12 MR. RESTAINO: What's that, Judge?

13 THE COURT: Well, I don't know whether you wanted 33,
14 or you just wanted clarification.

15 MS. WEIDNER: Well, Your Honor, I had done my little
16 code for that, that I would want to consider her, and possibly
17 also 32, the individual who is supposed to be in San Diego
18 where the other manager is on vacation and he's booked the
19 travel.

20 MR. RESTAINO: Neither of them from our standpoint,
21 Judge, were particularly elaborate in their rationales.

22 THE COURT: I just didn't feel like they met the
23 standard. I felt like they both could make accommodation.

24 MS. WEIDNER: And, Your Honor, I guess I share the
25 Court's concern regarding 50.

1 THE COURT: He's been dismissed.

2 MS. WEIDNER: Okay.

3 THE COURT: Correct?

4 MR. RESTAINO: Correct, Your Honor.

5 THE COURT: Any objection if we dismiss these as soon
6 as they come back from lunch?

7 MR. RESTAINO: No objection, Judge.

8 MS. WEIDNER: And, Your Honor, I apologize, but could
9 we just read through the list one more time?

10 THE COURT: Sure. I think that's a good idea.

11 COURTROOM DEPUTY: Do you want to read it off my list
12 in numerical order?

13 THE COURT: Yeah. Go ahead. You read them.

14 COURTROOM DEPUTY: Okay. So from the beginning, we
15 have 3, 14, 22, 24, 25, 26, 28, 34, 44, 48, 50, 51, 58, and 64.

16 MR. BINFORD: Just for the record, 3 and 58 were both
17 struck for cause while the remaining were hardship?

18 THE COURT: Hardship, correct.

19 Any objections to any of those at this point?

20 MR. RESTAINO: No, Your Honor.

21 MS. WEIDNER: Your Honor, the only one that the
22 defense would be interested in inquiring more of was 50.

23 MR. RESTAINO: We'd probably put 28 on the list,
24 Judge, in that case, to examine a little more.

25 THE COURT: So you don't care if she looks at 50?

1 MR. RESTAINO: Well, no. I'm saying if the defense is
2 going to pull 50, we might have some questions for 28.

3 THE COURT: Well, let's make a call right now. Do you
4 want -- do you want to question further 50 and 28? Which you
5 can do?

6 MS. WEIDNER: Your Honor, withdrawn.

7 MR. RESTAINO: Withdrawn as well.

8 THE COURT: Okay. So 50 and 28 are dismissed.

9 MR. RESTAINO: Did you want to hear cause strikes?

10 THE COURT: Sure.

11 MR. RESTAINO: Judge, I think I've got this one right
12 this time on one that is favorable to the defense. Number 13,
13 we think likely is a for-cause strike.

14 MS. WEIDNER: No objection.

15 THE COURT: Number 13 is dismissed.

16 MR. RESTAINO: And I would just re-urge 61 at this
17 point. I don't want to take away Ms. Weidner's chance at
18 possible rehabilitation. We just think it's gotten more
19 difficult.

20 THE COURT: I do think it's gotten more difficult,
21 Ms. Weidner. He made an effort to make it clear that he has an
22 anti-governmental bias.

23 MS. WEIDNER: Your Honor, I -- I understand. I -- I
24 guess my concern is I think that his experience was very
25 personal and specific to him. And I'm wondering --

1 Mr. Costanzo is not his brother. This is not an accidental
2 homicide case. This is a very, very different situation.

3 THE COURT: Well, if you want to question him, you
4 may. It is going to be a pretty high bar, I would think.

5 MS. WEIDNER: I understand.

6 Your Honor, is -- we would assert juror number 5 for
7 cause. And I -- Your Honor, she was very equivocal in her
8 responses about whether or not she thought she could be fair.
9 And then on top of that, her responses regarding hardship, I
10 think, taking those two things in combination, the concerns
11 about her mother in hospice, being her caregiver, and also just
12 her very equivocal responses to the Court about whether or not
13 she could be fair.

14 MR. RESTAINO: Judge, she distrusts the investment
15 aspect of Bitcoin. We would disagree that her answers have
16 given rise to a for-cause challenge here.

17 THE COURT: I didn't -- I didn't sense equivocation
18 about whether she could be fair. I do think she was -- she was
19 pretty affirmative about thinking Bitcoin was not a very good
20 investment, but I did -- she's the one, I believe, that I made
21 the point that it was not illegal to invest or even trade in
22 Bitcoin. And so if her concerns were about Bitcoin as an
23 investment, she understood that it was perfectly legal to make
24 bad investments. She said she did, and she wouldn't hold that
25 against the defendant in any way.

1 So I -- I mean, you can question her further, if you
2 feel like you can establish bias. I don't think it's there
3 yet.

4 Anything else?

5 MS. WEIDNER: Nothing -- oh, can we have just a
6 moment, Your Honor?

7 (Pause in proceedings.)

8 MS. WEIDNER: Nothing further, Your Honor. Defense is
9 done.

10 THE COURT: All right. See you at 1:15.

11 By the way, just to be sure, it is eight and 12. I
12 did check that. You get eight peremptories, you get 12,
13 because we're seating 15 jurors, three alternates.

14 I believe Carmel gave you both.

15 MR. BINFORD: We have copies of the jury instructions.

16 THE COURT: Take a look at it. And if you've got
17 issues, let me know.

18 MR. BINFORD: Great.

19 (Pceedings in recess at 12:18 p.m.)

20 (Pceedings resume at 1:18 p.m.)

21 THE COURT: Please be seated.

22 All right. Do we have issues?

23 MR. BINFORD: Your Honor, we had an opportunity to
24 speak with Ms. Weidner and look at the proposed jury
25 instructions, and I think we have an agreement regarding those

1 instructions.

2 THE COURT: All right.

3 MR. BINFORD: We would keep the first and second
4 sentences the same way you have them. So it would say:

5 First: The defendant conducted or attempted to
6 conduct a financial transaction.

7 Second: The property involved in the transaction was
8 represented by an undercover law enforcement officer to be the
9 proceeds of specified unlawful activity.

10 We would add a third sentence there that would say:

11 Third, the defendant believed that the property was
12 the proceeds of specified unlawful activity.

13 And then it would say:

14 Fourth: Either the defendant conducted the
15 transaction with the intent to avoid a transaction reporting
16 requirement under federal law, or the defendant conducted the
17 transaction with the intent to conceal or disguise the nature,
18 location, source, ownership, or control of the property.

19 Essentially what we did was take the bold at the end
20 and make sure that it applies to both ways of committing this
21 offense.

22 THE COURT: Read me third and fourth again.

23 MR. BINFORD: Third would say: The defendant believed
24 that the property was the proceeds of specified unlawful
25 activity.

1 THE COURT: And fourth?

2 MR. BINFORD: Fourth: Either the defendant conducted
3 the transaction with the intent to avoid a transaction
4 reporting requirement under federal law, or the defendant
5 conducted the transaction with the intent to conceal or
6 disguise the nature, location, source, ownership, or control of
7 the property.

8 THE COURT: I'll look at that. I think there may be a
9 problem with it, but I'll take a look at it.

10 MR. BINFORD: Yes, Your Honor.

11 THE COURT: It may not be a problem with it too. If
12 I'm convinced there isn't, I won't worry about it. I think
13 there may be, and I'm going to double-check it. Still, I will
14 allow the government to present its own case. I just want to
15 make sure we're not making a misstatement of law.

16 Anything else?

17 MR. RESTAINO: Nothing from the government, Your
18 Honor.

19 MS. WEIDNER: May I have just a moment, Your Honor?

20 (Pause in proceedings.)

21 MS. WEIDNER: Your Honor, after consulting with the
22 government, we have agreed to dismiss, if it is okay with the
23 Court, both jurors 61 and 8.

24 THE COURT: All right.

25 So, Kathleen, do you have those, 61 and 8?

1 COURTROOM DEPUTY: Yes, Judge.

2 THE COURT: I must confess that I read the statute
3 differently than you do, Mr. Binford. But if you want to
4 stipulate and that's the instruction you want, and you've
5 stipulated to it with the defense, I'll let you have it.

6 MR. RESTAINO: Judge, if I can, we think this is safer
7 for us on appeal on this case. I also just wanted to make sure
8 that I was reading the tea leaves right, that at the end of the
9 day the instruction likely would not have the willfulness,
10 because when we talk about scienter, it is helpful to talk
11 about both aspects.

12 THE COURT: I don't know what you mean, Mr. Restaino.
13 But it seems to me that what you've said is exactly the
14 opposite of what you've done. But that's okay. I'll let you
15 live with your own case.

16 MR. RESTAINO: No, I appreciate that, Judge, and
17 that's why I want to make -- make sure of this. We've always
18 thought of this as being two scienter requirements: The belief
19 in the -- that the property was from an SUA, and the specific
20 intent to commit the money laundering. It's the willfulness
21 instruction that most concerned us because that sets a higher
22 burden, most useful in tax cases. It seemed as though the
23 Court were inclined to not give the specific intent and
24 willfully instruction at the end of the day.

25 THE COURT: Let me tell you what my concern is here --

1 and maybe I misread the statute. But it seems to me that you
2 can -- you can violate the statute either one of two ways: Way
3 number one is to promote the carrying on of specified unlawful
4 activity and concealing or disguising the nature, location,
5 source, ownership, or control of property believed to be the
6 proceeds of specified unlawful activity. That's one way you
7 can violate the statute.

8 Way number two is to avoid a transaction reporting
9 requirement under state or federal law.

10 The way you have it now, you have melanged those in a
11 way that is completely inseparable and requires a lot more
12 elements on option number 2. But if that's the way you read
13 the statute, that's the way you read the statute.

14 MR. RESTAINO: It -- it is possible that I am reading
15 the statute wrong, as I look at it again.

16 I really had thought that that belief applied to all
17 of the prongs. But in looking at it again, I -- I -- I think
18 the Court is likely right, and I don't want to prejudice us
19 beyond proving the case.

20 THE COURT: What about I simply don't give 1.2 at all?
21 It's not required. And then that will give Ms. Weidner a
22 chance to look at what I've said, and it will give you a chance
23 to look at what I've said, and to re-read the statute.

24 MR. RESTAINO: You'll still read the presumption of
25 innocence, just not the specifics of the elements of the

1 offense.

2 THE COURT: Correct.

3 MR. RESTAINO: That would be fine with us, Judge, if
4 that's not required.

5 MS. WEIDNER: Your Honor, we wouldn't object to that
6 either. It's the position of the defense that this is a
7 specific-intent offense, and we've gone back and forth with the
8 government about how that should be incorporated in the jury
9 instructions. But the legislative history is clear, and so
10 that is what we insist on being the mens rea for the statute
11 across the board. It's what Congress said about how it wanted
12 to handle sting cases.

13 THE COURT: Well, follow me, Ms. Weidner, so that
14 we're on the same page, and so that you can respond to me if
15 you think I've got it wrong. And I'm not talking about a
16 separate mens rea requirement right now. I'm just talking
17 about the statute.

18 The statute says: Whoever with the intent, A, to
19 promote the carrying on of specified unlawful activity; B, to
20 conceal or disguise the nature, location, source, ownership, or
21 control of property believed to be the proceeds of specified
22 unlawful activity. So that strikes me as one way you can
23 commit the crime.

24 Or B, whoever with the intent to avoid a transaction
25 reporting requirement under state or federal law, that seems to

1 me to be another way to commit the crime.

2 The two ways seem to me to have separate elements that
3 do not necessarily equate with one another, although I would
4 acknowledge that they both seem to have specified intent, or at
5 least knowledge and belief requirements.

6 Now, maybe I have that wrong. I invite you to correct
7 me. But that's the way I read the statute. And maybe it's all
8 read together because of the final paragraph. But it seems to
9 me that the final paragraph does do something to keep those
10 elements separate, even under A and B and C.

11 Do you understand what I'm trying to convey here?

12 MS. WEIDNER: I do, Your Honor. And when I was
13 studying the statute and trying to prepare jury instructions, I
14 was a bit flummoxed by the first line of sub 3 where it says
15 "whoever with the intent" and it doesn't clarify, which is why
16 I tracked down the legislative history where they say expressly
17 that they're talking about specific intent, that knowingly,
18 which is the mens rea required for 1956(a), is not sufficient
19 under the sting provision of the statute. And so I attempted
20 to take that --

21 THE COURT: Well, it looks to me like the statute
22 reads -- and maybe I'm wrong -- whoever with the intent either
23 to avoid a transaction reporting requirement -- that would be
24 C -- or with the intent to promote the carrying on of specified
25 unlawful activity to conceal or disguise the nature, location,

1 source, ownership, or control of property believed to be the
2 proceeds of specified unlawful activity, seems to me like
3 there's almost a double-requirement under that one.

4 MS. WEIDNER: Your Honor, it -- it --

5 THE COURT: Well, I -- let's not wait -- make the jury
6 panel wait while we discuss what is a conundrum. We can talk
7 after we're not burning their time.

8 And -- bring them in, unless there's some reason not
9 to.

10 (Jury enters the courtroom at 1:24 p.m.)

11 THE COURT: Please be seated.

12 Welcome back. We appreciate your cooperation. We
13 shortly will have a few more questions for you. And then we
14 will shortly begin with the presentation of this case.

15 I'm going to try one more time a name just to make
16 sure it doesn't mean anything to any of you.

17 Do any of you know the name Jason Despain? He is one
18 of my law clerks.

19 Juror 28?

20 PROSPECTIVE JUROR 28: Hi. He's a family friend.

21 THE COURT: Any concern that he's my law clerk?

22 PROSPECTIVE JUROR 28: No.

23 THE COURT: Any -- does that make any difference in
24 your ability to correctly decide the case based on --

25 PROSPECTIVE JUROR 28: No.

1 THE COURT: -- based only on the facts and the
2 evidence?

3 PROSPECTIVE JUROR 28: No.

4 THE COURT: All right. Thank you.

5 During the break, the parties and I met, consulted
6 about those of you who had requested that I consider you for
7 undue hardship; and as a result, we have a number of people
8 that we are now going to dismiss. If you are dismissed, we
9 thank you for your participation here this morning. You do not
10 need to report back to the jury office. You may just go home.

11 Kathleen, are you able to read that list, please?

12 COURTROOM DEPUTY: Juror number 8, juror number 13,
13 juror number 14, juror number 22, juror number 24, juror number
14 25, juror number 26, juror number 28, juror number 34, juror
15 number 44, juror number 48, juror number 50, juror number 51,
16 juror number 61, and juror number 64.

17 THE COURT: We have a list of 10 questions. We're
18 going to give you, juror number 1, that list. When you get
19 that -- it's going to be on -- it will also be on the screens
20 that are in front of you, and it will also be on that screen up
21 there for those of you who are in the audience. But we will
22 hand the list to you as it is your turn to stand up.

23 I'll ask you, when it becomes your turn, to stand and
24 answer the questions, first identifying yourself by juror
25 number.

1 When it asks for the general location of your
2 residence, we are trying to preserve confidentiality for
3 jurors, so don't give us your address. Just tell us generally
4 where you live.

5 It does ask about education after high school, if any,
6 and state your major. Please state your major even if you
7 didn't complete a college degree.

8 And then give your marital status, the number of
9 children you have and their ages, if they are under 18.

10 And then when it talks about employment, if you are
11 married, we would like not only your current job and the types
12 of jobs you had throughout your lifetime, but your spouse's
13 current job and the types of jobs she had throughout her live
14 time.

15 Number 8 asks for your civil, social, fraternal,
16 union, or professional organizations, and if you held offices
17 in them. It's just any kind of a club, organization, or other
18 entity in which you may be involved.

19 And then just give us your hobbies or recreational
20 activities.

21 With respect to the last question, which asks about
22 prior jury service, with respect to civil cases, just tell us
23 the number of civil juries on which you've served, if you have
24 served on a civil jury; with respect to criminal cases, please
25 indicate the nature of the crime involved and the result of the

1 case, meaning guilty, not guilty, hung jury, for each of the
2 criminal juries you've served on.

3 Any questions about that?

4 PROSPECTIVE JUROR 1: No, Your Honor.

5 THE COURT: All right. Thank you, sir. Go ahead.

6 PROSPECTIVE JUROR 1: Juror number 1.

7 I stay in Chandler, Arizona. I have lived in
8 Chandler, Arizona, for five years.

9 Education, finished high school. I have an
10 associate's degree in computer science.

11 I am married. I have one child. He is nine. I am
12 currently employed as a semiconductor operator.

13 Do you need previous; how far back?

14 THE COURT: Just generally your previous employment,
15 types of employment.

16 PROSPECTIVE JUROR 1: I used to be a caregiver also
17 here in Chandler.

18 My spouse is -- used to be a semiconductor operator.
19 She is now a pre-school teacher.

20 Civil, social, fraternal, I have no connections with
21 any clubs whatsoever.

22 My hobbies are automotive, really.

23 And prior jury service, I have no prior jury service.

24 THE COURT: Thank you.

25 PROSPECTIVE JUROR 2: Juror number 2.

1 I reside in Payson, Arizona, and I've been there for
2 12 years.

3 Education, finished high school.

4 I have a wife and three children.

5 My employment is with -- truck driver, and I'm a
6 current employee for the same company. I've been there for 14
7 years.

8 And my wife, she worked for the Gila County, and she's
9 the front desk.

10 And I served as a baseball coach and play some
11 baseball.

12 And I have never served on a civil or criminal jury.

13 THE COURT: Thank you.

14 PROSPECTIVE JUROR 4: Juror number 4.

15 I live in Mesa. We moved there a year-and-a-half ago.

16 I have a master's degree in business.

17 Married. I have three children; one is seven, one is
18 13, and one is 15.

19 I'm a senior accountant for my employment.

20 My wife's employment, she -- she's the communications
21 officer for the Higley School District. Before that, she
22 worked for -- she was a journalist and an editor.

23 Social is Sigma Chi fraternity back in college.

24 Hobbies is playing with the kids.

25 Prior jury service, never was in it. Just this.

1 THE COURT: Thank you.

2 PROSPECTIVE JUROR 5: Juror number 5.

3 I live in Mesa, and moved there in 2002.

4 I have a bachelor of arts degree and a master's
5 certificate in project management.

6 I am married. I have three adult stepdaughters.

7 I spent 30 years in the Department of Veterans
8 Affairs; 24 of those were in IT.

9 My husband was also -- also retired from the
10 Department of Veterans Affairs, primarily in finance; first as
11 an accountant, and then implementing financial systems.

12 I served on a -- oh. No professional organizations.

13 And my hobbies are traveling and reading.

14 And I served on a criminal jury in Texas for a robbery
15 case.

16 THE COURT: What was the verdict?

17 PROSPECTIVE JUROR 5: I can't remember.

18 THE COURT: How long ago was it?

19 PROSPECTIVE JUROR 5: Twenty years.

20 THE COURT: Thank you.

21 PROSPECTIVE JUROR 6: Hello. Juror number 6.

22 I also live in Mesa. I've owned a home there for
23 about three-and-a-half years. Prior to that I owned a home in
24 Scottsdale for 16 or 17 years.

25 I have my associate's degree in culinary arts.

1 I am married. I have four -- four grown children.

2 I'm currently employed as a truck driver. Before that
3 I spent my entire working life in the restaurant business as a
4 cook and a chef.

5 Don't -- I'm sorry. My spouse is a registered nurse,
6 has been for about 15 years.

7 No real fraternal organizations or whatever.

8 Hobbies, I enjoy woodworking and making pottery at
9 home.

10 I did serve jury duty 17 or 18 years ago. It was a
11 criminal case, and I believe the gentleman was guilty. It was
12 a long time ago.

13 THE COURT: Do you remember what the charge was?

14 PROSPECTIVE JUROR 6: Well, specifically, no. I do
15 know there was -- there was armed robbery involved as well as
16 kidnapping. It was kind of a big deal. So...

17 THE COURT: Okay. Thank you.

18 PROSPECTIVE JUROR 7: I'm juror 7.

19 I live in Scottsdale. I've been there for
20 two-and-a-half years.

21 I have bachelor of science degrees in finance and
22 supply chain management, and an MBA and working towards a CPA.

23 I'm single, no children.

24 I work for a large technology company, mostly in
25 financial roles.

1 I'm a hockey coach, and part of a couple volunteer
2 organizations. I play hockey.

3 And I reported for jury service twice. One, I was not
4 selected; the other was settled before the trial began.

5 THE COURT: Thank you.

6 PROSPECTIVE JUROR 9: I'm juror number 9.

7 I live in Scottsdale. I've been there 25 years.

8 I have a bachelor's in chemistry.

9 I'm married. I have two adult children.

10 My husband and I have owned a company for 20 years
11 that we just sold recently to a larger engineering company, and
12 I am the comptroller of the new company and he's a senior
13 hydrogeologist with the current company.

14 We both belong to professional organizations that are
15 involved with Geo Business, and he's the current national
16 president of the American Institute of Professional Geologists.
17 And I've sat on boards and different things with -- let's see.

18 And I've been called for jury service, but never
19 served.

20 THE COURT: Thank you.

21 PROSPECTIVE JUROR 10: I'm juror number 10.

22 I live in Glendale, Arizona. I've been there for 12
23 years.

24 No education after high school.

25 Single. No kids.

1 I'm currently a janitor, slash, flunky at a helicopter
2 company.

3 No professional profession.

4 I like to play hockey, and haven't served.

5 THE COURT: Thank you.

6 PROSPECTIVE JUROR 11: Juror number 11.

7 I live on the -- just outside downtown Phoenix. I've
8 lived there for about 15 years.

9 I have a master's in international affairs.

10 I'm married with four kids; older -- the oldest is
11 more than 18, 17, 13, and 10.

12 I currently serve as the director of the Business
13 Improvement District here in downtown Phoenix.

14 My wife is in fundraising for charitable
15 organizations.

16 I recently was on the board of downtown Phoenix Public
17 Market.

18 Hobbies, taking kids to soccer games.

19 And I was a juror on a civil trial, probably 20, 22
20 years ago. It was a minor fender bender, and quite honestly I
21 don't remember the outcome of it.

22 THE COURT: Thank you.

23 PROSPECTIVE JUROR 12: Juror number 12.

24 I reside in Tempe. I've been there for eight years.
25 Bachelor's in computer science, master's in information

1 management. Single, no children.

2 Currently employed. Been in my field for 10 years.

3 No professional organization.

4 Hobbies are soccer, hiking, and dance.

5 And no prior jury service.

6 THE COURT: Thank you.

7 PROSPECTIVE JUROR 15: I'm juror number 15.

8 We live in Gilbert, for the past 28 years.

9 I have a master of science in chemistry.

10 I'm married with three children; their ages, 36, 34,
11 and 29.

12 I'm a retired engineer with -- in a semiconductor
13 industry; and my husband is the same, retired engineer in the
14 semiconductor industry. And right now, he's doing farming
15 as -- as his hobby.

16 I do not belong to any organization.

17 I like gardening, I enjoy doing that.

18 I've been called for jury service, but wasn't
19 selected.

20 THE COURT: Thank you.

21 PROSPECTIVE JUROR 16: I'm juror 16.

22 I live in north Phoenix. I lived there for 17, 18
23 years.

24 I have a bachelor degree in global business.

25 Divorced. No kids.

1 I employ in the food industry.

2 I'm not -- I like to -- traveling. That's my hobby.

3 Never been called for the criminal jury service.

4 THE COURT: Do you belong to any organizations, sir?

5 PROSPECTIVE JUROR 16: No.

6 THE COURT: Thank you.

7 PROSPECTIVE JUROR 17: Juror 17.

8 Reside in Mesa. Been there 25 years.

9 Attended college for mechanical engineering.

10 Divorced. Two children over the age of 18.

11 Currently employed as a plant manager for a
12 manufacturing company. Before that, I owned my own.

13 Not affiliated with any professional organizations.

14 Hobbies are backpacking, mountain biking, and auto
15 racing.

16 I have not served on a jury before.

17 THE COURT: Thank you.

18 PROSPECTIVE JUROR 18: I'm juror 18.

19 I live in Scottsdale. Been there 25 years.

20 I have a master's in business.

21 I am married. Four -- excuse me -- three adult
22 children. Too many grandkids.

23 My employment, I am now retired, but I spent 35 years
24 in telecom.

25 My spouse is a speech therapist for Scottsdale

1 Unified.

2 I belong to two organizations that advocate education,
3 higher education. And I was a member of CWA and United Food
4 Workers at one time.

5 My hobbies are golf, skiing, traveling.

6 I've done prior jury service. Last year was a trial
7 for criminal negligent homicide and aggravated assaults. It
8 ended up as a hung jury. The trial prior to that was for
9 possession of heroin with intent to distribute. Hung trial --
10 also hung jury.

11 THE COURT: Thank you.

12 PROSPECTIVE JUROR 19: I'm juror number 19.

13 I reside in Goodyear, Arizona. I've been at my
14 residence 13 years.

15 I have high school, and I went to cosmetology school,
16 and now I am a school bus driver.

17 I'm -- I have a fiancé. We've been together 18 years.
18 We both have grown children.

19 And I'm -- I work at a charter high school in Peoria.

20 My significant other is -- works for Pepsi-Cola for 25
21 years.

22 We don't belong to any organizations. Our hobbies are
23 traveling and spending time with our kids, and going to the
24 beach.

25 And I served on a jury. I -- it was a DUI case, and

1 we found him guilty.

2 THE COURT: Thank you.

3 PROSPECTIVE JUROR 20: I'm juror number 20.

4 And I reside in the City of Peoria. We just moved to
5 the city of Peoria. I've been in the valley for 53 years.

6 I work for the city of Phoenix. I have a
7 communications -- I was a communications major.

8 I'm married with three children.

9 My wife works for the City of Tolleson.

10 And I was actually the former vice mayor of the City
11 of Surprise. I served on the city counsel for 12 years.

12 And my hobbies are playing the piano, RV-ing, and
13 watching football.

14 And I've been called twice to serve -- for jury duty,
15 but never called.

16 THE COURT: Thank you.

17 PROSPECTIVE JUROR 21: Juror number 21.

18 I live in southeast Mesa. We moved there four years
19 ago.

20 I have a bachelor of science in general business
21 administration from Arizona State University.

22 I'm divorced for 18 years now. I have two children,
23 both in their 20s.

24 I was a planner and schedule -- scheduling person for
25 30 years. I'm retired currently.

1 I do not belong to any organizations.

2 My hobbies are reading and in-home pet care while
3 people are on vacation.

4 No prior jury service.

5 THE COURT: Thank you.

6 PROSPECTIVE JUROR 23: I'm juror number 23.

7 I live in Scottsdale. Have been for 25 years.

8 Graduated high school, and went to Phoenix Institute
9 of Technology and learned drafting. I got a drafting degree.
10 I'm a custom home designer now.

11 Married 33 years. We have three daughters, and one
12 granddaughter that's going to turn one next week.

13 Self-employed. I work at home by myself.

14 My wife works at American Family Insurance. She's a
15 claim adjuster. She's been there 15 years.

16 No professional organizations.

17 Golf.

18 And prior -- prior jury service, I served on one jury.
19 It lasted, like, six months. It was crazy. It was a capital
20 case. We found the person guilty and we had to go back and
21 serve -- do the sentence, and we voted for the death penalty.

22 THE COURT: Thank you.

23 PROSPECTIVE JUROR 27: Juror number 27.

24 I live in Ahwatukee, for about 10 years.

25 I -- no college. Just high school.

1 I am married. I have two adult children.

2 I worked for Macy's for 25 years in the fraud
3 department as a supervisor.

4 My husband works for DHL.

5 No organization.

6 Hobbies are, I collect jigsaw puzzles.

7 And I've never served on a jury.

8 THE COURT: Thank you.

9 PROSPECTIVE JUROR 29: Juror number 29.

10 I live in Yuma. Been there for five years.

11 I went to college after high school, didn't finish it.

12 My study was business and finance.

13 I'm married. I have two sons.

14 Retired from UPS nine years ago.

15 My wife's a retired teacher.

16 Really don't belong to any professional organizations.

17 I golf and travel.

18 And I've been called twice, and served on one for DWI.

19 And we didn't find out what actually happened. He -- he

20 settled it with the judge later.

21 THE COURT: Thank you.

22 PROSPECTIVE JUROR 30: I'm juror number 30.

23 I live in Gilbert. I've been there 12 years.

24 I have a master's in community counseling.

25 I'm married. I have two children, ages 3 and 6.

1 I am currently a school guidance counselor at a K
2 through -- well, at three K through 8 schools in Tempe.

3 My husband is the operations supervisor for a cargo
4 airline company.

5 No professional organizations.

6 My hobbies are running my kids around to their
7 activities, and I do CrossFit.

8 And no jury service.

9 THE COURT: Thank you.

10 PROSPECTIVE JUROR 31: I'm Judy -- juror -- juror 31.

11 I live in Central Phoenix. I've been there for about
12 10 years in the Arcadia area.

13 I have a bachelor's in humanities, and also ASN in
14 nursing.

15 Single. I have two children, 18 and 15.

16 I'm a registered nurse right now. I've also done
17 editing and writing.

18 I don't have a spouse.

19 I don't belong to any organizations.

20 I like movies.

21 And I have been called for jury duty a number of
22 times, but I've never served.

23 THE COURT: Thank you.

24 PROSPECTIVE JUROR 32: I'm juror 32.

25 I've lived in Gilbert for over 43 years. I've been at

1 my current house for about 13 years.

2 I went to college for wildlife biology.

3 I'm married. I have three adult children that are
4 over 18.

5 I am a director of service for a security and life
6 safety company in Arizona and California.

7 My wife is a surgery scheduler for an orthopedic
8 surgeon.

9 I've been sitting as chairman for a local -- for the
10 local chapter of the Mule Deer Foundation, a wildlife
11 conservation group. And I also belong to several professional
12 organizations.

13 My hobbies are hunting, fishing, hiking, fishing --
14 everything outdoors.

15 And I've had no prior -- prior jury experience.

16 THE COURT: Thank you.

17 PROSPECTIVE JUROR 33: I'm juror number 33.

18 I've lived in Phoenix for 36 years. I've been at my
19 current residence for about 30 -- 30 of those years.

20 I have a -- I have a bachelor in business, and a
21 master's in elementary education.

22 I am married. I have two adult children.

23 I'm currently employed as the accountant for a small
24 to mid-size manufacturing distribution company.

25 My spouse is a business consultant and advises on

1 start-up businesses.

2 I have no professional organizations.

3 My hobbies are reading, yardwork, and hiking.

4 I've been called to jury duty many times and have
5 served twice in criminal -- in criminal -- for criminal -- I
6 can't think of the word.

7 THE COURT: Cases?

8 PROSPECTIVE JUROR 33: So the first one was for a
9 burglary, and the person was convicted. The second one was for
10 a car theft, and it was -- it ended in a mistrial.

11 THE COURT: Thank you.

12 PROSPECTIVE JUROR 35: Hi. I'm juror number 35.

13 I live in south Tempe, been there for 30 --
14 approximately 30 years.

15 I have a degree in nursing.

16 I'm married. I have two adult children.

17 I'm currently employed at HonorHealth in the operating
18 room. I'm an operating room nurse at HonorHealth. I'm also a
19 Realtor.

20 My spouse -- I am married -- and he's a retired school
21 teacher, junior high Special Ed.

22 I belong to a couple -- operating -- or excuse me,
23 operating room nursing associations, as well as real estate
24 organization.

25 I am also very active at my local church where I do a

1 lot of volunteering there, as well as volunteering for an
2 organization for foster care children.

3 And I have never served on a jury.

4 THE COURT: Thank you.

5 PROSPECTIVE JUROR 36: I'm juror number 36.

6 I live in Casa Grande. I've lived there 51 years.

7 I have a degree in nursing.

8 I'm married. We have five children, adult children.

9 I'm currently employed as a nurse at Banner Casa
10 Grande.

11 My husband is self-employed general contractor.

12 I do not belong to any professional organizations.

13 Hobbies, I like to read and gardening.

14 And I served on one DUI case, and it was a hung jury.

15 PROSPECTIVE JUROR 37: I'm juror number 37.

16 I live in Sun City. I've been there for about six
17 months. Prior to that, we lived in California.

18 My education, I have an associate's degree in health
19 information management, a bachelor's in business
20 administration, and a master's in public health.

21 I've been married 35 years. I have two adult
22 children. "Adult" children?

23 My current employment, I am a reception tech for a
24 donation -- plasma donation center. Spent most of my time in
25 banking and finance and eligibility management for the County

1 of San Diego.

2 My spouse is a retired Army. In addition, just
3 recently retired from the San Diego Unified School District as
4 a ROTC instructor.

5 I don't belong to any professional organizations. I
6 have not held any offices.

7 Our hobbies -- my hobbies, I love to travel, reading,
8 and bicycling.

9 I have been called for service, selected once, but
10 the -- the litigants came to an agreement.

11 THE COURT: Thank you.

12 PROSPECTIVE JUROR 38: I'm juror number 38.

13 I live over in east Mesa for seven months. Prior to
14 that, in Gilbert for four years.

15 Education is nothing beyond high school.

16 Marital status is married. I have one child who is in
17 his 30s.

18 Currently I work as an ophthalmology technician. I
19 have been doing that since the '80s.

20 My husband works as an endoscopy technician. He's
21 been doing that for over 30 years.

22 I don't belong to any professional organization other
23 than church.

24 My hobbies are, I'm very heavily involved in church
25 activities, and music, and I love to go camping and traveling.

1 Prior jury service, none. I've been called, but
2 didn't have to attend.

3 THE COURT: Thank you.

4 PROSPECTIVE JUROR 39: Juror 39.

5 I live in Buckeye, Arizona. I've been there for 12
6 years.

7 Some college. I have a certificate for MA.

8 I've been with my boyfriend for four years. We have a
9 two-year-old daughter.

10 I am a supervisor at a radiology clinic called
11 SimonMed Imaging.

12 He works on Amazon warehouse. He's been there for six
13 years.

14 No professional organizations.

15 Hobbies are spending time with my daughter.

16 And this is my first jury. I've never been called.

17 THE COURT: Certificate for MA is what?

18 PROSPECTIVE JUROR 39: Medical assistant.

19 THE COURT: Thank you.

20 PROSPECTIVE JUROR 40: I'm juror number 40.

21 I live in Coolidge, Arizona, for 20 years.

22 Graduated high school.

23 Single. No kids.

24 Ranch and farm.

25 Elks member.

1 I like to be outdoors hunting and fishing, but
2 normally working all the time.

3 And I've been called for jury service but never
4 selected.

5 THE COURT: Thank you.

6 PROSPECTIVE JUROR 41: I'm juror 41.

7 I live in Fountain Hills. Been there about eight
8 years.

9 Two years of college with a major of computer science.
10 No degree.

11 Married with four kids, all adults.

12 Employment. My current job, I've been there at the
13 same company for 29 years in the IT department, designing
14 financial software.

15 My wife is a personal assistant for a rancher in
16 Scottsdale.

17 Belong to no union or professional organizations.

18 Hobbies are poker and video games.

19 And no prior jury service.

20 THE COURT: Thank you.

21 PROSPECTIVE JUROR 42: I'm juror 42.

22 I live in Chandler. I've lived there for about four
23 years.

24 I have a bachelor's in English secondary education.

25 I'm married, no kids.

1 I'm currently an English teacher. I've worked in
2 childcare before.

3 My husband is a science teacher. He's worked at a few
4 labs doing neuroscientific research.

5 I don't belong to any organizations.

6 My hobbies are teaching.

7 And I have no prior jury service.

8 THE COURT: Thank you.

9 PROSPECTIVE JUROR 43: I'm juror 43.

10 Live in east Phoenix for the past 20 years. Prior to
11 that, Scottsdale. Born here in Arizona.

12 Education. Two degrees. One in graphic art and the
13 second one, a registered nurse.

14 Married. Two adult children.

15 And I currently work for the Veterans Health
16 Administration. Endoscopy.

17 My spouse is medically retired, and he was -- worked
18 for Arizona Department of Revenue.

19 Not currently in any organizations.

20 Hobbies, I used to volunteer painting theater sets for
21 a children's youth theater. Gardening. Anything art, I love.

22 Been summonsed four or five times to jury, and never
23 served.

24 THE COURT: Thank you.

25 PROSPECTIVE JUROR 45: I'm juror number 45.

1 And I live in Surprise, Arizona. I've been there for
2 two-and-a-half years now.

3 I retired --

4 THE COURT: Hold the microphone up, sir. Sir, could
5 you hold your microphone up?

6 PROSPECTIVE JUROR 45: Oh.

7 No formal education after high school.

8 I am married. I have two children, adult children.

9 And I -- I retired from the construction industry. I
10 served on the board of directors for two different trade
11 associations and was involved in their training programs.

12 My wife, when our children were small, she was a
13 full-time homemaker. And around that she did clerical work for
14 two or three different companies during our marriage.

15 Hobbies, golf, RV-ing, boating.

16 And I've been called for jury service one other time,
17 and was not selected.

18 THE COURT: Thank you.

19 PROSPECTIVE JUROR 46: Juror number 46.

20 I currently live in Phoenix for the last 12 years.

21 I have a bachelor's degree in business management.

22 I'm married. I have an 18-year-old.

23 I am currently an underwriter at a commercial
24 underwriter company.

25 My husband is the same. Same company.

1 Only professional organizations I belong to are
2 insurance.

3 My hobbies are reading and traveling.

4 I've been called for jury service, but never served.

5 THE COURT: Thank you.

6 PROSPECTIVE JUROR 47: I'm juror 47.

7 I live in Tempe, for 33 years.

8 I have a bachelor's in chemical engineering.

9 I'm married. No children.

10 I'm employed with the Department of Environmental
11 Quality for about 35 years.

12 My wife is retired, formerly with the Department for
13 about 35 years.

14 I'm a member of the Sierra Club.

15 I hike on the weekends.

16 And I served twice on juries. First time was a
17 criminal assault, found guilty. The second time was a lawsuit,
18 civil lawsuit, and we did not hold for the sue-er.

19 THE COURT: Thank you.

20 PROSPECTIVE JUROR 49: Juror 49.

21 I live in north Phoenix. And I've lived there since
22 '69. Current residence, 13 years.

23 High school, then technical school.

24 Fiancée. Between the two of us, we have three
25 children, all over -- well, close to 30 and up.

1 I've been self-employed for 38 years as a commercial
2 photographer.

3 I'm an Elks member as well.

4 And hobbies: Mountain biking, outdoors, fishing.

5 Called for jury, but never selected.

6 THE COURT: Thank you.

7 PROSPECTIVE JUROR 52: I'm juror number 52.

8 I've lived in the Phoenix area for five years.

9 I have a bachelor in arts and a master's in
10 architecture.

11 I am single. I do not have any children.

12 I'm employed as an architect at HKS in Phoenix.

13 I do not have a spouse.

14 I belong to the American Institute of Architects, as
15 well as the evidence-based design association.

16 My hobbies are outdoor activities and sports.

17 And I've been summonsed before for jury duty, but
18 never selected.

19 THE COURT: Thank you.

20 PROSPECTIVE JUROR 53: I'm juror number 53.

21 I am located in -- just a little bit from here in
22 Phoenix. Been here for eight years. Currently at the same
23 residence for six months.

24 I have an associate's in business management.

25 I'm not married, but I am engaged. I have no

1 biological children, but we do have a six-year-old of my
2 fiancé's.

3 Currently I'm employed with a video doorbell company
4 as a billing lead.

5 And my fiancé is at the same company, but he's in a
6 chat department.

7 No civil, social organizations. Never held office.

8 My hobbies include puzzles and crafts.

9 And I've been summoned for prior jury service, but
10 I've never served.

11 THE COURT: Thank you.

12 PROSPECTIVE JUROR 54: I'm juror number 54.

13 I live in Phoenix, and have for the last 22 years.

14 I have a bachelor's degree in business with an
15 emphasis in finance.

16 I am married. I have a 17-year-old son. I'm employed
17 as a financial adviser, and prior to that worked in Human
18 Resources.

19 My spouse is currently retired, but was an independent
20 claims adjuster.

21 I don't belong to any organizations.

22 I like to travel, read, and hike.

23 And I did serve on a jury for an extreme DUI, and the
24 person was found guilty.

25 THE COURT: Thank you.

1 PROSPECTIVE JUROR 55: Juror number 55.

2 I've been in Gilbert for 12 years.

3 Education, I have a bachelor of science in economics,
4 and a juris doctorate degree.

5 I am married. I have one child that is four years
6 old.

7 My employment, I've been practicing in intellectual
8 property as a patent and trademark attorney, as well as
9 currently employed in litigation support, providing consulting
10 in ediscovery.

11 I'm a member of the state bar of Arizona, and on a
12 consulting subcommittee. I've also been in some town
13 committees in the town of Gilbert.

14 Hobbies are golf and four-year-old activities.

15 And I've never been called for jury duty.

16 THE COURT: Thank you.

17 PROSPECTIVE JUROR 56: Juror number 56.

18 I currently reside in east Mesa, for the last three
19 years.

20 What else here?

21 Length of time -- three years.

22 I currently seeking a bachelor's degree in culinary
23 arts.

24 I'm single. No children.

25 I work in the education financial aid industry.

1 I live -- belong to no organizations.

2 Hobbies are sports and traveling.

3 And I have no prior service -- jury service.

4 THE COURT: Thank you.

5 PROSPECTIVE JUROR 57: Juror number 57.

6 I currently live in east Mesa. I've had a house there
7 for four years.

8 Education is just high school diploma.

9 I'm married. I've got three kids; eight, four, and
10 two years old.

11 I am a general manager of a grocery store.

12 My wife works at a gym.

13 I'm not part of any organizations.

14 Hobbies are musician and I hike.

15 And I've never been on a jury before.

16 THE COURT: Thank you.

17 PROSPECTIVE JUROR 59: I'm juror 59.

18 I'm in east Mesa for three months; Ahwatukee before.

19 I have an RN.

20 I'm divorced. Four children, all 17 and older.

21 I'm a home healthcare nurse.

22 No professional organizations.

23 Garden and travel.

24 Been called, but never served.

25 THE COURT: Thank you.

1 PROSPECTIVE JUROR 60: Juror number 60.
2 Phoenix for four years.
3 Master's of architecture.
4 Married. I have a three-year-old and one on the way.
5 I work at a small architecture firm.
6 My spouse is working at SRP.
7 I'm part of the National Council of Architecture
8 Registration.
9 No prior jury service.
10 THE COURT: Thank you.
11 PROSPECTIVE JUROR 62: I'm juror 62.
12 I've lived in El Mirage for 48 years.
13 I didn't finish high school.
14 I'm single. I have six grown children.
15 I work as a cashier at Bealls Outlet.
16 I don't belong to any organizations.
17 My hobbies are reading and doing jigsaw puzzles.
18 I don't have any prior experience.
19 THE COURT: Thank you.
20 PROSPECTIVE JUROR 63: Juror 63.
21 I reside in Scottsdale. I've been there for 13 years.
22 I have a master's in special education.
23 I am married. We have two adult children.
24 I was an elementary Special Ed teacher.
25 My husband is a vice -- the vice president of project

1 operations for an international firm.

2 I do not belong to any organizations.

3 I like hiking and reading.

4 And I have no prior service.

5 THE COURT: Thank you.

6 PROSPECTIVE JUROR 65: I'm juror number 65.

7 I live in Surprise, Arizona, for the past 11 years.

8 Graduated high school.

9 I'm married, with three adult children.

10 I am a senior accounts payable specialist for a
11 restaurant.

12 My husband is disabled.

13 Don't belong to any organizations.

14 My hobbies are gardening and playing with my
15 grandkids.

16 And no prior jury service.

17 THE COURT: Thank you.

18 PROSPECTIVE JUROR 66: I'm juror 66.

19 Chandler. I've been there for about 10 years.
20 Arizona all my life.

21 High school education. No college.

22 Married; two children, 10 and 13.

23 My employment is I'm currently doing contract work for
24 low-income veteran housing. Previously, outreach and case
25 management for veteran -- homeless veterans and homeless

1 families.

2 My spouse, her current job is banking for about 22
3 years.

4 And civil, social fraternal, all those organization,
5 it's been pretty much within the homeless field, sitting on
6 boards and planning for different homeless get-together things.

7 Hobbies and recreational activities: Musician, arts,
8 creative stuff.

9 This is my fourth jury selection. I did serve on one
10 jury that was a criminal -- criminal one. Only me and one
11 other guy were released before the final decision as to whether
12 he was guilty or not.

13 THE COURT: Thank you.

14 PROSPECTIVE JUROR 67: I'm juror 67.

15 I live in Maricopa. I've lived there for five years.

16 Education, I have a little bit of college in business
17 and finance.

18 A widow. I have three grown children and two
19 grandchildren.

20 Currently employed as a client support manager for a
21 mortgage servicing company in Tempe.

22 I don't have a spouse, so I'm single.

23 My civil, fraternal, I have none.

24 Hobbies, I like to read, walk, and play with my
25 grandchildren.

1 And I know have -- I don't have any prior jury
2 service.

3 THE COURT: Thank you.

4 Ladies and gentlemen, did any of you know each other
5 before this morning? Do any of you know each other?

6 Does the government have any questions of the
7 individual jurors?

8 MR. BINFORD: Thank you, Your Honor.

9 THE COURT: Mr. Binford, I'll ask you to come to the
10 podium, if you will.

11 MR. BINFORD: Yes, Judge.

12 Do you want me to address you?

13 THE COURT: No. Feel free to address the individual
14 juror.

15 QUESTIONS BY THE GOVERNMENT

16 MR. BINFORD: Juror number 17, you had mentioned that
17 you were involved in some civil litigation. I was just
18 curious. During the course of that litigation, did you
19 interact with law enforcement at all?

20 PROSPECTIVE JUROR 17: No, I didn't.

21 MR. BINFORD: It seemed like -- well, do you think you
22 were treated fairly during that process?

23 PROSPECTIVE JUROR 17: Yes.

24 MR. BINFORD: Okay. Is there anything about that
25 litigation that you think would affect your ability to be fair

1 and impartial in this criminal case?

2 PROSPECTIVE JUROR 17: No.

3 MR. BINFORD: Thank you.

4 The next question I have is for juror 38.

5 You mentioned a family member that had had some legal
6 trouble, and I was wondering if you had had any interaction
7 with law enforcement during the course of that case?

8 PROSPECTIVE JUROR 38: No.

9 MR. BINFORD: Okay. Thank you.

10 Juror 39, I think you mentioned a prior arrest, but it
11 didn't result in a conviction.

12 PROSPECTIVE JUROR 39: Uh-huh.

13 MR. BINFORD: Did you feel that you were treated
14 fairly throughout that process?

15 PROSPECTIVE JUROR 39: Yeah.

16 MR. BINFORD: Do you have any negative feelings about
17 those -- that incident?

18 PROSPECTIVE JUROR 39: No.

19 MR. BINFORD: Do you think that that incident would
20 have any impact on your ability to be fair and impartial on
21 this criminal case?

22 PROSPECTIVE JUROR 39: No. I did what I was told to
23 do: I paid some fines, and I was on TASC for a year. So
24 everything was dropped after that.

25 MR. BINFORD: Thank you.

1 I believe, juror number 57, you mentioned a prior
2 conviction for possession. You mentioned earlier that your
3 rights were restored. Do you feel that you were treated fairly
4 throughout that process of restoring your rights?

5 PROSPECTIVE JUROR 57: Yes.

6 MR. BINFORD: Do you feel that you had any negative
7 experiences during that situation that would affect your
8 ability to be fair and impartial in this criminal case?

9 PROSPECTIVE JUROR 57: No.

10 MR. BINFORD: Thank you.

11 Juror number 60, I believe you mentioned your nephew
12 had an assault trial coming up.

13 PROSPECTIVE JUROR 60: Yes.

14 MR. BINFORD: Have you had any interaction with law
15 enforcement as a result of those charges or that trial?

16 PROSPECTIVE JUROR 60: No.

17 MR. BINFORD: Have you had any conversations with your
18 nephew about that trial?

19 PROSPECTIVE JUROR 60: No.

20 MR. BINFORD: Is there anything about his upcoming
21 trial that would affect your ability to be fair and impartial
22 here?

23 PROSPECTIVE JUROR 60: No.

24 MR. BINFORD: Thank you.

25 Juror number 12, you mentioned that you owned some

1 virtual currency. And you also mentioned that your co-workers
2 follow it religiously.

3 PROSPECTIVE JUROR 12: Right.

4 MR. BINFORD: In this case, you may hear evidence from
5 either a government witness or a defense witness that attempts
6 to explain or describe virtual currencies. Would what you know
7 from your friends and what you know from your ownership of
8 virtual currency have an impact or prevent you from taking the
9 evidence that they present when they're on the stand?

10 PROSPECTIVE JUROR 12: If I feel that there's
11 something that's said that kind of contradicts what I've
12 already learned about it, then I think it would have an effect.
13 So if there's something that I -- I know that I've researched
14 or that I've been spoken to about in the past and it kind of
15 contradicts what I already know about it, then I'd feel like it
16 would play a role.

17 MR. BINFORD: So you don't think that you could set
18 aside something that you may have learned from your friends or
19 read, and -- and listen to the evidence fairly from whatever
20 witness is on the stand.

21 PROSPECTIVE JUROR 12: No, because it's been years
22 that this topic has been discussed. I mean, it's something
23 that we talked about every day, so it's -- something I would
24 hear today wouldn't really change my mind if I've heard it so
25 many times in the past.

1 MR. BINFORD: And -- and you're saying you wouldn't be
2 able to set aside that past knowledge?

3 PROSPECTIVE JUROR 12: No.

4 MR. BINFORD: Thank you.

5 May I have a moment, Your Honor?

6 THE COURT: Yes.

7 MR. BINFORD: Those are all the questions from the
8 government, Your Honor.

9 THE COURT: Thank you.

10 Defense?

11 MS. WEIDNER: Your Honor, may I proceed?

12 THE COURT: You may.

13 MS. WEIDNER: Thank you.

14 QUESTIONS BY THE DEFENSE

15 MS. WEIDNER: Juror number 5, earlier today you
16 responded to Judge Snow that you hoped you could be impartial,
17 and it sounded like you might have some misgivings about that.

18 PROSPECTIVE JUROR 5: In association with the Bitcoin?

19 MS. WEIDNER: Well, in association with being able to
20 sit as a juror on this case.

21 PROSPECTIVE JUROR 5: No. I don't think I do.

22 MS. WEIDNER: And with Bitcoin, is it just linked to
23 your distrust of, I guess -- I'm not even really -- of -- of
24 Bitcoin as -- as an investment?

25 PROSPECTIVE JUROR 5: Yes.

1 MS. WEIDNER: And so you could set aside your distrust
2 and just look at the facts of this case --

3 PROSPECTIVE JUROR 5: I believe I could.

4 MS. WEIDNER: -- and follow the law?

5 PROSPECTIVE JUROR 5: Uh-huh.

6 MS. WEIDNER: Thank you.

7 Juror number 46.

8 Earlier in questioning today, you had initially said
9 that you have training in, I guess, insurance fraud, and you
10 initially said that you would not be able to be impartial.

11 What about your training that makes you think that
12 that is the case?

13 PROSPECTIVE JUROR 46: Because basically, um, the law
14 is the law, and if someone has committed fraud or done
15 something fraudulently, it is in my profession to -- to
16 basically make a decision based on just those facts.

17 MS. WEIDNER: And so you're saying that -- well, the
18 judge would instruct the jury on the law in this case, and then
19 as finders of fact, you all would weigh those facts against the
20 instruction of law. Will the -- you be able to stick with the
21 judge's instruction of what the law is, and not insert the law
22 as you understand it from your training?

23 PROSPECTIVE JUROR 46: Yes.

24 MS. WEIDNER: Juror 29, you mentioned in some of your
25 answers that you have a number of relatives that are involved

1 in law enforcement as a field. Isn't that -- is that correct?

2 PROSPECTIVE JUROR 29: Excuse me?

3 MS. WEIDNER: That you have a number of relatives
4 involved in corrections and law enforcement --

5 PROSPECTIVE JUROR 29: Yes.

6 MS. WEIDNER: Do you identify strongly with law
7 enforcement as a result of all of your family?

8 PROSPECTIVE JUROR 29: I got my own views, but I
9 couldn't say because of the family. You know, just 64 years of
10 living, is all.

11 MS. WEIDNER: Right. And so if you were to be seated
12 on a jury and you were to find the defendant not guilty, would
13 you have issues about telling your family members and law
14 enforcement about that?

15 PROSPECTIVE JUROR 29: No, I don't think so.

16 MS. WEIDNER: Okay. Thank you.

17 And last, juror number 12.

18 The information you're likely to hear is rather basic
19 as -- as far as virtual currency and Bitcoin goes. And it
20 sounds like you've had some more experience yourself with this
21 topic. Is that correct?

22 PROSPECTIVE JUROR 12: Correct.

23 MS. WEIDNER: And so if the experience that you've
24 had -- or the knowledge that you've gained is beyond what you
25 hear in trial, would you be able to set aside the additional

1 knowledge that you have and just focus on what is presented at
2 trial?

3 PROSPECTIVE JUROR 12: Yes, as long as it doesn't
4 contradict something that I already know.

5 MS. WEIDNER: So if a witness were to testify to
6 something and it was incorrect, you would be less likely to
7 believe that witness, if you knew from, basically, your
8 experience that was incorrect?

9 PROSPECTIVE JUROR 12: Correct.

10 MS. WEIDNER: So that would go to your ability to
11 assess that witness's credibility as someone testifying on a
12 particular topic.

13 PROSPECTIVE JUROR 12: Yeah. I mean, it's -- it's
14 just prior knowledge that if I have on something, and something
15 was brought up, and I knew for a fact that it was incorrect,
16 then I couldn't make a correct judgment on what they're saying.
17 I couldn't believe their testimony, because based on my
18 experience, it kind of contradicts what I've learned. So I
19 couldn't -- couldn't really validate the testimony.

20 MS. WEIDNER: Thank you.

21 THE COURT: Ladies and gentlemen, we've reached the
22 point now where the attorneys and I are going to have to do
23 some work, and we're going to select the jurors who will try
24 this case.

25 Because it's going to go over three weeks, we are

1 going to seat 15 jurors. And the reason we do that is because
2 the -- both parties are entitled to have 12 jurors decide the
3 case, no more/no less. So when a case is going to go over the
4 course of a few weeks, we seat several alternate jurors to make
5 sure we'll have 12 at the end. We don't designate who the
6 alternate jurors are until the very end of the case, so
7 everybody is presumed -- presumes that they will be a juror.

8 In order for us to do our job, though, it's going to
9 take us about an hour, and there's no reason for you to sit
10 here while we do that. So I'm going to ask you one more time
11 to give us about an hour, and to be back, ready to come in --
12 and we'll try and be ready to come in -- by 3:30 outside the
13 doors.

14 This time when you come in, please just come in and
15 take seats in the audience section, and then we will call up
16 those who are selected to try the case.

17 I thank you for your understanding, and have a nice
18 break.

19 Remember what I told you before.

20 (Jury leaves the courtroom at 2:38 p.m.)

21 THE COURT: All right.

22 Mr. Restaino, any challenges for cause?

23 MR. RESTAINO: We'd move to strike number 12, Your
24 Honor.

25 THE COURT: Ms. Weidner?

1 MS. WEIDNER: Your Honor, I -- I guess I understand
2 the government's position, but it -- it's a bit of a conundrum.
3 If somebody testifies to something that's patently incorrect
4 about Bitcoin -- in the same way that if someone were to
5 testify as to facts that, you know, testify that the sky is
6 green, would the jurors be compelled to say, well, yes, indeed,
7 the sky is green?

8 I -- the fact that this person seems to have more
9 knowledge about Bitcoin and the elementary level of -- of
10 Bitcoin that it is my understanding is going to be presented
11 based on, you know, what we've sent seen in the government
12 exhibits, I don't think that there's -- that there's going to
13 be an issue, because ultimately this is about money laundering,
14 and Bitcoin just happens to be the medium. And so I -- I don't
15 think that goes to whether or not he can follow the law; just
16 if it gets complicated enough, can he limit his assessment of
17 facts to what is presented in court.

18 THE COURT: And the reason I'm going to grant the
19 challenge for cause is he testified he couldn't do that because
20 he couldn't and wouldn't do that. I mean, I agree with much of
21 what you said. But because he said he could not and would not
22 limit his knowledge of evaluation to what he heard in court,
23 I'm granting the government's motion. Juror number 12 is
24 excused for cause.

25 MR. RESTAINO: We have no further strikes for cause,

1 Your Honor.

2 THE COURT: Ms. Weidner?

3 MS. WEIDNER: Your Honor, we didn't have any
4 additional challenges for cause.

5 THE COURT: All right. So the government gets eight
6 peremptories, the defense gets 12. How long is it going to
7 take you to exercise them? Can you do it in a half-an-hour?

8 MR. RESTAINO: That should work, Judge.

9 MS. WEIDNER: Yes, Your Honor.

10 THE COURT: All right. So at 3:15, I'll ask you to
11 exchange your lists with each other and determine -- and
12 Kathleen is going to give you a copy.

13 COURTROOM DEPUTY: They give the list to me.

14 THE COURT: I'm sorry. You're going to give your list
15 to Kathleen, she'll make a master copy and give it back to you,
16 and then you'll determine whether or not you're going to make
17 any Batson challenges. And if you are, you'll let me know, and
18 I'll rule on those challenges. And then we'll call in and seat
19 the jury.

20 Is the government ready to present its case?

21 MS. ESCALANTE KONTI: Yes, Your Honor.

22 THE COURT: Is there going to be anything on -- I will
23 try and review the motion in limine, the supplemental motion in
24 limine in response while you're doing your challenging, and
25 then you can tell me if I need to rule. You're just going to

1 have time probably for your opening and your opening.

2 Are we going to present any witnesses today?

3 MR. RESTAINO: We're prepared to, Your Honor,
4 depending on the Court's schedule and what the Court wants to
5 do. I can tell you that I don't think we are getting into any
6 of the challenged issues on the motion in limine today.

7 THE COURT: All right. The reason -- I will tell you
8 that normally I said I'd go to five o'clock, and normally I do.
9 But I don't know that we won't have out-of-town jurors on the
10 jury. And in any event, the first time that we meet with the
11 jurors, it usually takes a few minutes extra to kind of orient
12 them to where the jury room is, what the combination access is.
13 And so we probably will not be going to five o'clock today in
14 any event. And if we go long enough -- yeah, we're not going
15 to take another afternoon break. So we're going to probably
16 end about sometime between 4:30 and 4:40.

17 Do you have a long opening, Ms. Weidner or --

18 MR. CAIN: No.

19 THE COURT: I'm sorry. Mr. Cain.

20 All right. Thank you.

21 (Proceedings in recess at 2:43 p.m.)

22 (Proceedings resume at 3:28 p.m.)

23 THE COURT: Please be seated.

24 All right. The parties have engaged in their strikes,
25 peremptory strikes. You've reviewed each other's lists.

1 Are there any Batson challenges?

2 MR. RESTAINO: Nothing from the government, Your
3 Honor.

4 THE COURT: So does the government pass the panel?

5 MR. RESTAINO: Yes, and the government passes the
6 panel, Judge.

7 THE COURT: Ms. Weidner?

8 MS. WEIDNER: No Batson challenges, Your Honor. And
9 we do pass the panel.

10 THE COURT: All right. Shall we seat the jurors then?

11 MR. BINFORD: Yes, Your Honor.

12 THE COURT: The -- there's no problem with the
13 preliminary instructions. You do want me to read 1.2; you just
14 don't want me to read after "in order to help you follow the
15 evidence"?

16 MR. RESTAINO: You're going to read up until that
17 point, Judge?

18 THE COURT: Yes.

19 MR. RESTAINO: That's fine from the government's
20 perspective, Judge.

21 THE COURT: Ms. Weidner?

22 MS. WEIDNER: Your Honor, just a moment.

23 (Pause in proceedings.)

24 MS. WEIDNER: Your Honor, we're going to -- we're
25 talking about the -- I have not seen -- which -- which document

1 are -- are --

2 THE COURT: We're talking about your modified 1.2.
3 You wanted me to go through the various elements of everything,
4 and I have declined to do it because we don't have a
5 stipulation -- well, you do have a stipulation. Then I
6 expressed some hesitancy, and then -- I mean, I'll read your
7 stipulation, if you want.

8 MR. RESTAINO: No, Judge. We want to take another
9 look at it. We're going to have our appellate folks look at it
10 as well, and we'll be back in touch with Ms. Weidner. It seems
11 like this is the type of thing we can settle in advance of
12 final instructions and get it right.

13 MS. WEIDNER: Your Honor, we would not object to the
14 Court reading the jurors modified 1.2 up to line 14.

15 THE COURT: Well, I don't have that in front of me.
16 Is it just where it starts "in order to"?

17 MS. WEIDNER: Yes. It would cut off -- "in order to"
18 is --

19 THE COURT: Yeah.

20 MS. WEIDNER: -- line 15.

21 THE COURT: That's good.

22 Okay. Let's -- we can seat the jury now, Kathleen.
23 Thank you.

24 (Jury enters the courtroom at 3:31 p.m.)

25 THE COURT: Please be seated.

1 Let the record show the presence of the defendant, the
2 presence of the jury panel with role call waived.

3 Ladies and gentlemen, let me just say we are now going
4 to call up the 15 jurors who are selected to try this case.

5 The way that the jurors are selected is a result of a
6 statutory process with the participation of the Court and the
7 attorneys for the parties. Whether or not you're selected does
8 not reflect this Court or anybody else's view about whether or
9 not you are capable of trying this case fairly and accurately.
10 We don't want you to view it as a representation if you're not
11 called that we think you weren't able to. But it is the result
12 a statutory process specified.

13 We do appreciate those of you who have been
14 participating today in the selection of this panel, and we of
15 course particularly appreciate the sacrifice of those who have
16 been selected to serve as jurors.

17 Kathleen, will you please call the numbers of those
18 selected.

19 COURTROOM DEPUTY: Juror number 4.

20 THE COURT: Please come forward.

21 COURTROOM DEPUTY: Right up here, sir. Right up.

22 PROSPECTIVE JUROR 4: Okay.

23 COURTROOM DEPUTY: Juror number 6.

24 Juror number 9. Right here. All the way down.

25 Juror number 15.

1 PROSPECTIVE JUROR 15: All the way down?

2 COURTROOM DEPUTY: That will be your seat. Don't take
3 your numbers off just yet.

4 Juror number 16.

5 Juror number 27.

6 Juror number 31.

7 Juror number 32.

8 Juror number 33. Ma'am, I'm going to have you come
9 down to this front row.

10 Juror number 35.

11 Juror number 40.

12 Juror number 42.

13 Juror number 43.

14 Juror number 45.

15 And juror number 47.

16 THE COURT: Ladies and gentlemen, before we begin this
17 trial, have any of you thought of anything that might affect
18 your ability to serve as a fair and impartial juror in this
19 case?

20 I see no responses.

21 Those members of the jury panel who are not selected
22 as trial jurors are excused. You may go home. We appreciate
23 very much your participation today.

24 (Jury panel leaves the courtroom at 3:37 p.m.)

25 THE COURT: As I've explained, ladies and gentlemen,

1 at the end of the case, three of you will be designated as
2 alternate jurors. We don't make that designation until the end
3 of the case, because, frankly, we wouldn't expect you to be
4 designated as an alternate and sit there and pay attention,
5 feeling like you weren't going and to deliberate. We
6 appreciate all of you, and your agreement to serve.

7 I am now going to give you some preliminary
8 instructions.

9 COURTROOM DEPUTY: Did you want me to swear them in?

10 THE COURT: Oh, yes, thank you, Kathleen.

11 We'd ask you now to please stand and be sworn in as
12 jurors in this case.

13 (Jury sworn.)

14 THE COURT: Now -- well, ladies and gentlemen, I have
15 made a mistake. I thought I had the preliminary instructions
16 here ready to read for you, and I must have left them back in
17 my office. So I need to go get them. Please feel free to
18 stand and stretch, and I will be right back.

19 Thank you.

20 (Proceedings in recess at 3:40 p.m.)

21 (Proceedings resume at 3:44 p.m.)

22 THE COURT: Thank you for your patience. I appreciate
23 it.

24 Please be seated.

25 Ladies and gentlemen, you are now the jury in this

1 case, and I want to take a few minutes to tell you something
2 about your duties as jurors and to give you some preliminary
3 instructions.

4 At the end of the trial, I will give you more detailed
5 written instructions that will control your deliberations.

6 When you deliberate, it will be your duty to weigh and
7 to evaluate all the evidence received in the case; and in that
8 process, to decide the facts.

9 To the facts as you find them, you will apply the law
10 as I give it to you, whether you agree with the law or not.
11 You must decide the case solely on the evidence and the law
12 before you.

13 Perform these duties fairly and impartially. Do not
14 allow personal likes or dislikes, sympathy, prejudice, fear, or
15 public opinion to influence you. You should also not be
16 influenced by any person's race, color, religion, natural
17 ancestry or gender, sexual orientation, profession, occupation,
18 celebrity, economic circumstances, or position in life or in
19 the community.

20 This is a criminal case brought by the United States
21 Government. The government charges the defendant with
22 conducting financial transactions involving property
23 represented to be the proceeds of specified unlawful activity,
24 which is a form of money laundering.

25 The charges against the defendant are contained in the

1 first superseding indictment. The first superseding indictment
2 simply describes the charges the government brought against the
3 defendant. The first superseding indictment is not evidence
4 and does not prove anything.

5 The defendant has pleaded not guilty to the charges
6 and is presumed innocent unless and until the government proves
7 the defendant guilty beyond a reasonable doubt.

8 In addition, the defendant has the right to remain
9 silent, and never has to prove innocence or present any
10 evidence.

11 The evidence you are to consider in deciding what the
12 facts are consists of:

13 One, the sworn testimony of any witness.

14 And two, the exhibits which are received in evidence.

15 And if the parties agree to any facts during the
16 course of this trial, we will so inform you.

17 The following things are not evidence, and you must
18 not consider them as evidence in deciding the facts of this
19 case.

20 1. The statements and arguments of the attorneys.

21 2. The questions and objections of the attorneys.

22 3. Any testimony that I instruct you to disregard.

23 And 4. Anything you may see or hear when the Court is
24 not in session, even if what you see or hear is done or said by
25 one of the parties or by one of the witnesses.

1 Evidence may be direct or circumstantial. Direct
2 evidence is direct proof of a fact such as testimony by a
3 witness about what that witness personally saw or heard or did.

4 Circumstantial evidence is indirect evidence; that is,
5 it is proof of one or more facts from which you can find
6 another fact.

7 You are to consider both direct and circumstantial
8 evidence. Either can be used to prove any fact. The law makes
9 no distinction between the weight to be given to either direct
10 or circumstantial evidence. It is for you to decide how much
11 weight to give to any evidence.

12 There are Rules of Evidence that control what can be
13 received in evidence. When a lawyer asks a question or offers
14 an exhibit in evidence, and the lawyer on the other side thinks
15 that it is not permitted by the Rules of Evidence, that lawyer
16 may object. If I overrule the objection, the question may be
17 answered or the exhibit received. If I sustain the objection,
18 the question cannot be answered or the exhibit cannot be
19 received.

20 Whenever I sustain an objection to a question, you
21 must ignore the question and must not guess what the answer
22 would have been.

23 Sometimes I may order that the evidence be stricken
24 from the record and that you disregard or ignore the evidence.
25 That means that when you are deciding the case, you must not

1 consider the evidence that I told you to disregard.

2 In deciding the facts of this case, you may have to
3 decide which testimony to believe and which testimony not to
4 believe. You may believe everything a witness says, or part of
5 it, or none of it.

6 In considering the testimony of any witness, you may
7 take into account:

- 8 1. The witness' opportunity and ability to see or
9 hear or know the things testified to.
- 10 2. The witness' memory.
- 11 3. The witness' manner while testifying.
- 12 4. The witness's interest in the outcome of the case,
13 if any.
- 14 5. The witness's bias or prejudice, if any.
- 15 6. Whether other evidence contradicted the witness's
16 testimony.
- 17 7. The reasonableness of the witness' testimony in
18 light of all the evidence.

19 And 8. Any other factors that bear on believability.

20 The weight of the evidence as to a fact does not
21 necessarily depend on the number of witnesses who testify about
22 it. What is important is how believable the witnesses are and
23 how much weight you think their testimony deserves.

24 I will now say a few words about your conduct as
25 jurors.

1 First, keep an open mind throughout the trial and do
2 not decide what that verdict should be until you and your
3 fellow jurors have completed your deliberations at the end of
4 the case.

5 Second, because you must not -- because you must
6 decide this case based only on the evidence received in the
7 case and on my instructions as to the law that applies, you
8 must not be exposed to any other information about the case or
9 to the issues it involves during the course of your jury duty.
10 Thus, until the end of the case, or unless I tell you
11 otherwise, do not communicate with anyone in any way, and do
12 not let anyone else communicate with you in any way about the
13 merits of the case or anything to do with it. This includes
14 discussing the case in person, in writing, by phone or
15 electronic means, via email, via text messaging or any Internet
16 chat room, blog, website, or application, including but not
17 limited to Facebook, YouTube, Twitter, Instagram, LinkedIn,
18 Snapchat, or any other form of special media.

19 This applies to communicating with your fellow jurors
20 until I give you the case for deliberation, and it applies to
21 communicating with everyone else, including your family
22 members, your employer, the media or press, and the people
23 involved in the trial, although you may notify your family and
24 your employer that you have been seated as a juror in this
25 case, and how long you expect the trial to last. But if you

1 are asked or approached in any way about your jury service or
2 anything about this case, you must respond that you've been
3 ordered not to discuss the matter, and to report the contact to
4 the Court.

5 Because you will receive all the evidence and legal
6 instruction you properly may consider to return a verdict, do
7 not read, watch, or listen to any news or media accounts or
8 commentary about the case, or anything to do with it. Do not
9 do any research such as consulting dictionaries, searching the
10 Internet, or using other reference materials, and do not make
11 any investigation or in any other way try to learn about the
12 case on your own. Do not visit or view any place discussed in
13 this case, and do not use Internet programs or other devices to
14 search for or view any place discussed during the trial.

15 Also, do not do any research about this case, the law
16 or the people involved, including the parties, the witnesses or
17 the lawyers, until you've been excused as jurors.

18 If you happen to read or hear anything touching on
19 this case in the media, turn away and report it to me as soon
20 as possible.

21 These rules protect each party's right to have this
22 case decided only on evidence that has been presented here in
23 the court. Witnesses here in court take an oath to tell the
24 truth, and the accuracy of their testimony is tested through
25 the trial process. If you do any research or investigation

1 outside the courtroom, or gain any information through improper
2 communications, then your verdict may be influenced by
3 inaccurate, incomplete, or misleading information that has not
4 been tested by the trial process.

5 Each of the parties is entitled to a fair trial by an
6 impartial jury. And if you decide the case based on
7 information not presented in court, you will have denied the
8 parties a fair trial. Remember: You have taken an oath to
9 follow the rules, and it is very important that you follow
10 those rules. A juror who violates these restrictions
11 jeopardizes the fairness of these proceedings, and a mistrial
12 could result that would require the entire trial process to
13 start over.

14 If any of you is exposed to any outside information,
15 any contact by any third party, please notify the Court
16 immediately.

17 At the end of the trial, you will have to make your
18 decision based on what you recall of the evidence. Except in
19 very unusual circumstances, you will not have a written
20 transcript of the trial. I urge you to pay close attention to
21 the testimony as it is given.

22 If you wish, you may take notes to help you remember
23 the evidence. If you do take notes, please keep them to
24 yourself until you and your fellow jurors go to the jury room
25 to decide the case. Do not let note-taking distract you from

1 being attentive. When you leave court for recess, your notes
2 should be left in the jury room. No one will read your notes.

3 Whether or not you take notes, you should rely on your
4 own memory of the evidence. Notes are only to assist your
5 memory. You should not be overly influenced by your notes or
6 those of your fellow jurors.

7 The next phase of the trial will now begin. First,
8 each side may make an opening statement. An opening statement
9 is not evidence. It will be simply an outline to help you
10 understand what that party expects the evidence will show. A
11 party is not required to make an opening statement. The
12 government will then present evidence, and counsel for the
13 defendant may cross-examine. Then if the defendant chooses to
14 offer evidence, counsel for the government may cross-examine.

15 After the evidence has been presented, I will instruct
16 you on the law that applies to the case, and the attorneys will
17 make closing arguments. After that, you will go to the jury
18 room to deliberate on your verdict.

19 Does the government have an opening statement?

20 MS. ESCALANTE KONTI: Yes, Your Honor. But could we
21 have a sidebar prior to opening?

22 THE COURT: You may.

23 Ladies and gentlemen, from time to time during the
24 trial, it may become necessary for me to take up legal matters
25 with the attorneys privately, either by having a conference at

1 the bench when the jury is present in the courtroom, which I'm
2 going to do now, or by calling a recess.

3 Please understand that while you are waiting, we are
4 working. The purposes of these conferences is not to keep
5 relevant information from you, but to decide how certain
6 evidence is to be treated under the Rules of Evidence, and to
7 avoid confusion and error. Of course, we will do what we can
8 to keep the number and length of these conferences to a
9 minimum. I may not always grant an attorney's request for a
10 conference. Do not consider my granting or denying a request
11 for a conference as any indication of my opinion of the case or
12 what your verdict should be.

13 (At sidebar on the record.)

14 THE COURT: All right. Ms. Escalante?

15 MS. ESCALANTE KONTI: Hi, Judge.

16 It came to our attention from one of the other AUSAs
17 that two of the individuals that are here for the defendant are
18 wearing shirts that say Google Jury Nullification, and that
19 they are either turned inside out or covered up with their
20 hoodies. And it's a huge concern that they would unzip them
21 and show them during opening statement.

22 THE COURT: Okay.

23 Ms. Weidner?

24 MS. WEIDNER: Your Honor, I suggested to Mr. Restaino
25 that perhaps now would be a good time to acclimate the jurors

1 to the jury room and the combination, and all that, and then do
2 openings before excusing them for the day, just so that the --
3 we can make sure that this is something that is as disturbing
4 to the defense as it is to the prosecution, because I don't
5 want this kind of stuff to inure against my client in front of
6 the jury. So it's -- it's -- we're very concerned and would
7 suggest that as a way to deal with it.

8 THE COURT: Ms. Escalante?

9 MS. ESCALANTE KONTI: That's fine, if that's the best
10 way to remedy it. Then we can go ahead and instruct the jurors
11 outside the presence, and then Ms. Weidner can maybe also speak
12 with those individuals.

13 THE COURT: Well, wait a minute. What I understand
14 Ms. Weidner to be suggesting is that we recess for the day, so
15 you won't be doing your opening.

16 MS. WEIDNER: I don't know if we would recess for the
17 day. But I was thinking that my understanding from our
18 conversation -- my conversation -- my brief conversation with
19 Mr. Restaino would be to take this opportunity to acclimate the
20 jury to the jury room and the facilities there, and the Court
21 can take the opportunity while the jury is thus engaged to
22 advise of, you know, messages to the jury are inappropriate.

23 THE COURT: Who are the AUSAs who brought this to your
24 attention?

25 MR. RESTAINO: I believe it's Ms. Klapper, Your Honor,

1 who handed me the note. I actually didn't see. I will figure
2 that out, if you want, right now.

3 THE COURT: Yes, please. I'm going to let the jury go
4 right now.

5 MR. BINFORD: Your Honor, this is AUSA Matthew
6 Binford. I did see --

7 THE COURT: You need to get up here closer.

8 MR. BINFORD: I did see part of the pink shirt, the
9 gentleman with the black hooded sweatshirt and the pink shirt
10 appear to have consistent language.

11 THE COURT: What did it say? Were you able to read
12 it?

13 MR. BINFORD: I wasn't able to read any of the words.

14 (Pause in proceedings.)

15 THE COURT: Okay. I'm going to handle it as you have
16 suggested. We will bring them back in in about 25 minutes, and
17 then -- can you do your opening in 35 minutes?

18 MS. ESCALANTE KONTI: Yes, Your Honor.

19 THE COURT: What about you?

20 MR. CAIN: That's fine, Judge. We can make it work.

21 THE COURT: All right.

22 I've been asked to remind you that one of the jurors
23 is wearing a headset. When they have the headset, unless you
24 press -- when you're conferencing at your table, unless you
25 press that little thing that turns off the green light, they'll

1 hear everything you're saying at counsel table. So please
2 remember, if you're having a consultations at counsel, because
3 we have a juror who needs a headset, you need to press that
4 button. Please.

5 All right? Thank you.

6 (End of discussion at sidebar.)

7 THE COURT: Ladies and gentlemen of the jury, a matter
8 has arisen which I need to take care of right away.

9 What I propose to do is you need to be oriented to the
10 jury room. Some of you may be from out of town, and you need
11 to be told how you can gain accommodations and transportation.
12 All those matters will need to be taken care of before the end
13 of the day anyway.

14 So we're going to take about 20 or 25 minutes and take
15 care of those matters right now, while I handle some other
16 business. And when we're through with that, we will have
17 opening statements.

18 Thank you very much.

19 COURTROOM DEPUTY: If you could just grab your
20 notebooks and follow me, please.

21 (Jury leaves the courtroom at 4:04 p.m.)

22 THE COURT: Please be seated.

23 Sir, you in the orange, would you please stand.

24 UNIDENTIFIED MAN: Sure.

25 THE COURT: And you in the jacket, would you please

1 stand.

2 Would you unzip your jacket, please.

3 SECOND UNIDENTIFIED MAN: Yes.

4 THE COURT: And would you open it up?

5 SECOND UNIDENTIFIED MAN: (Witness complies.)

6 THE COURT: Sir, does your shirt say the same thing?

7 SECOND UNIDENTIFIED MAN: It does. Underneath.

8 THE COURT: All right.

9 Let me be clear about a couple of things. I think
10 that you already know that I have been very solicitous of
11 having the right to have the public be here. And you do have
12 the right to be here. But you do not have the right to be here
13 if you're going to try to influence the jury. And if you're
14 going to try to send them messages by the T-shirts you're
15 wearing or anything else that you're doing, and if you do that,
16 and if you interfere with this jury, I will make sure that
17 actions are taken that are appropriate.

18 I do not mean in any way to threaten you. You have
19 the right to be here, and I'm going to enforce your right to be
20 here, as long as you enforce the right for this trial to be
21 fair. But if you're trying to send a message to the jury by
22 what you wear, by what you say, or anything else, I will not
23 tolerate it.

24 Is that clear?

25 UNIDENTIFIED MAN: Absolutely.

1 SECOND UNIDENTIFIED MAN: Yeah.

2 THE COURT: So, sir, you're either going to keep your
3 jacket zipped up completely and not zip it down, or if you'd
4 like, you may do what the gentleman to your left has done and
5 wear your shirt inside out so it doesn't present any threat of
6 being presented to the jury.

7 I would appreciate it, to the extent that you may have
8 colleagues or friends that are going to attend, again, I want
9 them to feel free to attend, but they need to understand they
10 can't try to influence this process in any way. So if you want
11 to share that with them, please do so. We are going to do our
12 very best to provide a fair trial here for all concerned.

13 Any questions? Anything that the prosecution or the
14 defense wants to add or have any concern about anything that
15 I've said?

16 Sir?

17 SECOND UNIDENTIFIED MAN: I --

18 THE COURT: Do you want to approach a microphone?

19 SECOND UNIDENTIFIED MAN: Sure.

20 This one?

21 THE COURT: Yes.

22 SECOND UNIDENTIFIED MAN: I respect the judge's
23 concerns, and that's why, from the get-go, the only time I've
24 unzipped my jacket was for Security briefly. Other than that,
25 the entire time I've been in this building, I've had my

1 sweatshirt opened up.

2 However, my question to the judge would be, if there
3 is any problem he has with me having my sweatshirt on outside
4 in public areas when I'm going out and getting food.

5 THE COURT: Well, I'm going to tell you, the only
6 thing that I would be concerned about is to the extent you're
7 trying to influence the jury, I would appreciate it if you
8 didn't do it. I can't -- I don't have any control over things
9 outside the courtroom, but if the juror is going to come back
10 and tell me that they saw you and they've seen you in the
11 courtroom and you're wearing that T-shirt, it -- it poses a
12 problem. Okay? So I would suggest -- I'm not going to
13 enforce -- I'm going to enforce things in this courtroom -- but
14 I would suggest that you not try to wear things that are going
15 to influence members of the jury or to send messages to the
16 jury outside this courtroom either, because I believe -- and so
17 in other words, if you're walking in the hallways, the jurors
18 sometimes walk in the hallway. And, you know, if you want to
19 stand outside the building and do that, very little I can do
20 unless a juror tells me that they've seen you and you're doing
21 that, and they wonder why you're here in the courtroom.

22 I would make a request, though, and the request would
23 be this: Come as a member of the public, and don't come trying
24 to influence the jury or the result, and don't do that by
25 anything you're wearing or anything else. That would be my

1 request. It will -- it will make the trial go much neater for
2 you and for both the defense and the prosecution, and hopefully
3 we can have a fair trial here.

4 SECOND UNIDENTIFIED MAN: I understand.

5 THE COURT: Thank you for asking.

6 SECOND UNIDENTIFIED MAN: Thank you.

7 THE COURT: Is there anything the prosecution or
8 defense wants to add to what I've said?

9 MR. RESTAINO: Yes, Your Honor, just to put on the
10 record the shirt said Google Jury Nullification.

11 We appreciate the Court's comments and efforts to both
12 respect the rights of people to be at this trial today, but
13 also to ensure a fair trial from the standpoint of the
14 government and the defense.

15 But I would also say that there are federal criminal
16 penalties that can apply in these circumstances on efforts to
17 corruptly impede a juror, and we would certainly put any of the
18 spectators that are intending to display messages like that on
19 notice.

20 THE COURT: Well, I appreciate your putting them on
21 notice.

22 I do not want to threaten anybody, but certainly what
23 Mr. Restaino said is correct, that jury tampering is, to the
24 extent it actually occurs, is a crime. And so you want to be
25 careful.

1 Ms. Weidner? Anything you want to say?

2 MS. WEIDNER: We have nothing to add, Your Honor.

3 THE COURT: All right. As long as we're here, we
4 might as well take care of a few other matters and -- while the
5 jury is getting instructed, and then we can break before
6 they're ready to come back in.

7 First off, I should have checked this. I didn't. My
8 jury instructions require you to submit full copies of the jury
9 instructions. The reason I had to go back there is you haven't
10 done that. You didn't submit any preliminary instructions or
11 any final instructions. So by the time we get to the final
12 instructions, I would ask you to print out full copies of the
13 instructions.

14 Second, to the extent that we've already taken this
15 up -- and we've gone past the point where it's going to be
16 relevant now -- but I just want to make sure that both parties
17 understand that it seems to me that the statute provides three
18 alternative ways in which the crime can be committed. The
19 government has only charged two. So the third -- the first,
20 actually -- is not relevant.

21 The paragraph below B and C seems to apply both to
22 paragraph B and to paragraph C. So: Whoever, with the intent
23 to conceal, disguise the nature, location, source, ownership,
24 or control of the property believed to be the proceeds of
25 specified unlawful activity or to avoid transaction reporting

1 requirement under state or federal law, conducts or attempts to
2 conduct a financial transaction involving property represented
3 to be the proceeds of specified unlawful activity, it seems to
4 me, if I read the statute correctly, that under either B or C,
5 the property has to be represented to be the proceeds as
6 specified, unlawful activity. It also seems to me, however,
7 that under B there may be a separate requirement that the
8 defendant believed them to be the proceeds of specified
9 unlawful activity; that something is represented to be
10 something and that something is believed to be something are
11 two, it seems to me, separate requirements. And that -- and
12 that separate requirement would apply, it seems to me, to one
13 of the subsections, but not necessarily the other. And I don't
14 know if that clarifies any what we were talking about earlier,
15 but that's what I was talking about earlier.

16 And that being said, if the government and the -- you
17 know, I'll listen to what the government and defense have to
18 say, and if they stipulate, I'll look at it pretty carefully.
19 I just want to make sure that we get this law accurately
20 delivered to the jury.

21 Do you want to take up motions in limine at this
22 point? I've read the supplemental motion in limine, and I've
23 read the response.

24 It seems to me that the government response is willing
25 to preclude Exhibit 95.

1 You're not going to introduce Exhibit 95; is that
2 correct?

3 MR. RESTAINO: That is correct, Your Honor.

4 THE COURT: You're also not -- is there any part of
5 Exhibit 96 that you're going to try to introduce? You've
6 indicated you don't want to introduce anything about money
7 laundering. Is there any part -- anything left in 96 that you
8 want to introduce?

9 MR. RESTAINO: There might be, Judge. I think it's
10 probably not going to be something that we need to introduce at
11 the end of the day, letter to Maximus. But we did want the
12 opportunity to use it when the defendant talks about the scope
13 of his Bitcoin operation. We think that that would be
14 relevant.

15 THE COURT: All right. Well, to the extent that you
16 are not going to -- you've indicated that you will not
17 introduce any -- the money laundering statements in 96, which
18 pertain to, apparently, the defendant's belief that he was
19 going to be charged for money laundering?

20 MR. RESTAINO: Correct. And we agree under these
21 circumstances, that's not admissible.

22 THE COURT: All right. So that will not be admissible
23 under 96.

24 95 is not admissible.

25 The Bitcoin flyer, you've indicated you're not going

1 to seek to admit. I don't know what exhibit number that is.

2 MR. RESTAINO: It was never even exhibited, Your
3 Honor, because we did not intend to exhibit.

4 THE COURT: All right.

5 As it pertains to document 120, Ms. Weidner, I do want
6 to discuss this with you.

7 It does seem to me that I am a little concerned
8 about -- I'm not concerned about the statement being admitted
9 for the truth of the matter. It seems to me that the
10 government has a good point that what they're seeking to admit
11 it for is the idea that such transactions were conducted by
12 Mr. Costanzo secretively and with Bitcoin. It does seem to me
13 that that is fairly probative, but I am open if you have
14 suggestions about how to limit the prejudice while not
15 prohibiting the point.

16 MS. WEIDNER: Well, Your Honor, the defense's concern
17 is that, again, the charges Mr. Costanzo are facing are money
18 laundering charges. And Exhibit 20 -- Exhibit 120 is a text
19 conversation with an unknown individual who is on there as Kuro
20 Bubble, and it's -- it's about, essentially, buying a small
21 amount of -- of a hallucinogen. The fact that it's bought with
22 Bitcoin, it could have been bought with cash. It was almost
23 bought with cash.

24 THE COURT: Yeah. Well, let me be more specific then.

25 The issue here is to the extent that you intend to

1 preserve -- and you have every right to do so -- the entrapment
2 defense. So the question really is predisposition.

3 MS. WEIDNER: Your Honor, our argument there would be
4 that predisposition to purchase a recreational drug is quite
5 different than predisposition to launder the proceeds of a
6 specified unlawful activity. And, Your Honor, we could provide
7 additional briefing to the Court on this, but there is
8 definitely case law that supports such a notion, saying that,
9 you know, tax evasion and reckless driving, reckless driving
10 doesn't show predisposition for tax evasion. Likewise, I would
11 argue that perhaps having a recreational drug problem or using
12 recreational drugs from time to time does not make anyone more
13 likely to become a money launderer.

14 THE COURT: And purchasing them with Bitcoin?

15 MS. WEIDNER: Your Honor, Bitcoin can be used to
16 purchase pretty much anything. And actually in one of the
17 government's exhibits that they --

18 THE COURT: Well, I don't question that. But the
19 point is, you can't trace Bitcoin; right?

20 MS. WEIDNER: You can, but with great difficulty.

21 And if Your Honor were to review Exhibit 120, there is
22 a discussion about cash versus Bitcoin, and my client offers
23 Bitcoin because he does not have cash on hand. That does
24 not -- I don't think that that goes to the same issues that are
25 underlying the money laundering counts.

1 THE COURT: Mr. Restaino?

2 MR. RESTAINO: Judge, there's really two types of
3 tracing problems here. There's the fact that the Bitcoin is
4 going to be used, and Bitcoin is significantly more difficult
5 to trace; and that there's going to be a telegram encrypted
6 application used which the defendant says: Hey, please be way
7 more discreet when over open communications. Apprizing grams
8 is quoted over the open chat. That encryption also goes
9 towards the predisposition to conceal in this case.

10 And we believe that because entrapment is still being
11 offered as a possible element that the government needs to
12 overcome, that this Kuro chat is particularly appropriate for
13 admissibility in this case.

14 THE COURT: All right. Well, I'm going to deny the
15 motion in limine without prejudice, Ms. Weidner, to you raising
16 it again in the context in which it will be offered. And I
17 may -- may deal with limiting -- limiting that evidence at that
18 point.

19 121, is that the wife?

20 MR. RESTAINO: That's the long one, Judge, from --

21 THE COURT: Oh. I never got a copy of 121. I don't
22 even know what 121 says.

23 MR. RESTAINO: Yeah, Judge. Judge, I think we can
24 certainly -- it's a mess because is it's a super-long text.
25 There are aspects in there that could be relevant.

1 We would ask you to deny the motion in limine. And --
2 and in the event that we do intend to try these portions,
3 require us to get the redacted version to the defense in
4 advance of using it with any witness, because there -- there
5 could be some portions in there that still are made applicable
6 based on the testimony that comes out. We have no intention of
7 introducing that entire thing.

8 THE COURT: Well, how about I do this. How about I
9 just indicate that because I haven't seen a copy of 120, and I
10 don't know what's in it, that you are not allowed to introduce
11 it unless and until you've raised it with the Court and
12 received advance permission to introduce whatever portion of it
13 you want to introduce.

14 MR. RESTAINO: That would be fine, Judge. Thank you.

15 THE COURT: All right.

16 MS. WEIDNER: And, Your Honor, the Court means 121?

17 THE COURT: That is correct. Thank you for the
18 correction, Ms. Weidner.

19 Is 122 the conversation with the putative wife?

20 MR. RESTAINO: That is correct, Your Honor.

21 THE COURT: All right.

22 Ms. Weidner? It's not being offered for the truth, is
23 it?

24 MS. WEIDNER: Your Honor, it's -- I -- I think that
25 that text exchange is a bit confusing. This is -- and I think

1 one of the things that sticks out about it in particular is
2 that unlike the other texts that the government will introduce,
3 both text strings that were in connection with some of the
4 other witnesses in this case, there was some kind of a --
5 usually some kind of a moniker that would be attached: So,
6 Steve from Tempe, Miss 500, Jake, Mack D's, when the car
7 crapped out. Those are the kind of names -- this is just a
8 phone number. And it ends up being an exchange that I think
9 makes very -- I don't see how that exchange helps to prove
10 anything. And again, you have a woman or a man -- I don't
11 know -- a person saying that their husband is using Bitcoin to
12 buy drugs. You can use cash to buy drugs. You can trade
13 things for drugs. Anything can be used for some illicit
14 purpose, I guess. You know, a car. Anything. And so I don't
15 see the relevance of this exhibit, and I think it is misleading
16 and confusing.

17 THE COURT: Mr. Restaino?

18 MR. RESTAINO: Your Honor, the particular salient
19 point here is in defendant's response to that statement, which
20 is: That's none of my business.

21 That is consistent with the statements that are made
22 to the undercover law enforcement officers. But in this case,
23 it's to a conversation that is actually on his phone, helps to
24 bolster and corroborate those, and it helps to get us again
25 towards pre-disposition.

1 I will say it is a little snarky. And if there were a
2 403 objection as to the specific snarkiness at the end where
3 the defendant tells the putative wife that she should go use
4 Bitcoins to purchase marriage counseling, that might be
5 something that isn't -- that is overshadowed in terms of its
6 probative value. But that exchange in the middle really is
7 very salient to us, and we believe that that should be
8 admissible based on the entrapment instruction the defense is
9 seeking.

10 THE COURT: All right. It doesn't seem to me -- much,
11 of course, of the defendant's statements are not hearsay. The
12 statements that give context to his statements seem to me to be
13 not moved for the truth.

14 I would ask you then to omit the snarkiness, if it's
15 not necessary. And that motion in limine is denied.

16 Do we have anything else that is outstanding on the
17 supplemental motion in limine, Ms. Weidner?

18 MS. WEIDNER: Your Honor, I guess my -- my final
19 concern with these -- and with 122, for example, is it does
20 seem like what the government is doing is essentially not
21 defending against an entrapment defense, but shifting the
22 burden altogether. So not only do we have, you know, the jury
23 instruction that we haven't worked out yet for money
24 laundering, but someone who is a Bitcoin trader now has to take
25 on responsibility for somehow determining what is the purpose

1 of anyone who they purportedly sell Bitcoin to, and we don't
2 even know that he ever sold Bitcoin to this unnamed individual
3 who contacted him.

4 It -- it is far -- it is our position that it is far
5 afield. It is basically a smear to his -- to his character by
6 the government that is -- is not probative of the money
7 laundering charges.

8 THE COURT: Do you want to suggest a limiting
9 instruction?

10 MS. WEIDNER: Your Honor, I don't have a lot of faith
11 in limiting instructions.

12 Is -- did the Court deny the defense supplemental
13 motion in limine about or without prejudice as to 122?

14 THE COURT: If you have a basis for raising it again,
15 I'll hear you. So I'll deny it without prejudice.

16 (Electronic noise heard in courtroom.)

17 MS. WEIDNER: Wow.

18 THE COURT: That was bothersome.

19 MS. WEIDNER: I'm sorry?

20 THE COURT: You can raise it again if you have a
21 separate reason for wanting to keep it out. But it does seem
22 to me that it does go to predisposition. It also isn't
23 hearsay. So I'm not -- as it pertains to defendant's
24 statements themselves, and to the extent that statements are
25 being offered to provide context for the hearsay, they're not

1 being admitted for the truth of the matter. So if you want me
2 to keep it out, you're going to have to give me a reason that I
3 can keep it out under the Rules of Evidence. It doesn't seem
4 to me like we're there yet.

5 MS. WEIDNER: Yes, Your Honor. We'll revisit that
6 later.

7 MR. RESTAINO: There was one other in the motion in
8 limine, Judge. It's 97, which was the one-sentence text from
9 the defendant to Amideo, who we know to be Peter Steinmetz,
10 the, hey, this is better, it's not on the phone company's
11 servers text.

12 THE COURT: I --

13 MR. RESTAINO: And again, we -- we're just responding
14 to the motion here. But we've laid out our grounds on why we
15 think that that is relevant, both as a use of encrypted
16 technology and as a means of saying how to avoid -- how to
17 avoid information becoming public. We think that also goes
18 towards pre-disposition and is relevant separately for -- for
19 the laundering activities.

20 THE COURT: But do you have that tied to any
21 particular transaction theory or anything else?

22 MR. RESTAINO: No, Your Honor. But it is within the
23 time frame of -- of these transactions. This is in between
24 Officer Martin's November transaction and the February charged
25 transaction in early 2016. I think the timing fits pretty

1 well.

2 THE COURT: Well, I think you're getting pretty close
3 to 403 there, unless you can give me some sort of context.

4 MR. RESTAINO: Your Honor, we'll see then if we can
5 develop that with a witness. Again, the tricky thing for us is
6 to how to get this at least into a level where we can get it
7 into evidence through the computer forensic person. I
8 anticipate we will not seek then to introduce this one through
9 the computer forensic tech, but we'll lay the proper foundation
10 and then in the event that we develop the appropriate
11 predication with a particular witness, we'll try to lay that
12 foundation to satisfy the Court.

13 THE COURT: All right.

14 Anything else we need to do?

15 Do we know whether the jury is back, Kathleen, and all
16 ready?

17 COURTROOM DEPUTY: One of the jurors had to go down to
18 the jury office, so I doubt that they're back just yet, and
19 they'll call when they're ready.

20 THE COURT: All right. How long was it going to take
21 for you to do your opening, Ms. Escalante?

22 MS. ESCALANTE KONTI: About 20 minutes, Your Honor.

23 THE COURT: Mr. Cain, what do you think?

24 MR. CAIN: Ten, 15 minutes.

25 THE COURT: I'll tell you what. We have a juror who

1 resides out of the area and had to go back down to the jury
2 office to arrange --

3 COURTROOM DEPUTY: They don't reside out of the area.
4 She had a question.

5 THE COURT: Oh.

6 COURTROOM DEPUTY: But they are all back right now.

7 THE COURT: They're all back?

8 All right. Let's bring them in.

9 MR. RESTAINO: Judge, can we pull the podium up?

10 THE COURT: You may.

11 (Jury enters the courtroom at 4:29 p.m.)

12 THE COURT: Thank you. You may be seated.

13 Ms. Escalante?

14 MS. ESCALANTE KONTI: Good afternoon, ladies and
15 gentlemen.

16 This is a case about money laundering; specifically,
17 the defendant's illegal and secret conversion of what he
18 believed to be dirty drug money into a virtual currency called
19 Bitcoin.

20 Now, as you heard, Bitcoin is not illegal. The
21 defendant is not on trial for using or possessing Bitcoin. He
22 is on trial for his illegal and secret conversion of dirty drug
23 money into Bitcoin for the purposes of concealing the nature of
24 that money, hiding its owner, where it came from, and in trying
25 to circumvent federal reporting requirements.

1 Now, this case is no different than other money
2 laundering cases you may be familiar with, such as when drug
3 dealers will take a large amount of drug proceeds and purchase
4 a house, a car, or a business with them.

5 Now, purchasing a house, a car, or business isn't
6 illegal. But when it is done with drug proceeds and it's known
7 to be or believed to be drug proceeds, it's illegal, and it's
8 money laundering.

9 So, for instance, if a real estate agent accepted what
10 he or she believed to be drug proceeds to enable the
11 transaction of a house purchase, that's money laundering. And
12 this case is no different, except that the vehicle for the
13 money laundering is Bitcoin.

14 So why Bitcoin, you might wonder? Well, you're going
15 to learn a lot about Bitcoin during this trial. You're going
16 to hear that Bitcoin is not regulated by the government, and
17 that it's decentralized, meaning there's no authority managing
18 Bitcoin. You're going to hear that Bitcoin, unlike actual hard
19 cash or physical property, it's virtual, meaning it's easy to
20 conceal, it's easy to transport, you can store it on a digital
21 wallet on your phone. That's primarily how it's held.

22 Also, it's difficult to seize. It's difficult to
23 detect. Law enforcement wouldn't necessarily know that an
24 individual had a lot of Bitcoin as opposed to a lot of cash due
25 to the virtual nature. And even if it is detected, it's very

1 hard to put an identity, a first name and a last name, with the
2 Bitcoin. Because you're going to learn that Bitcoin is
3 identified by a wallet address, and that wallet address is
4 alphanumeric, meaning it's made up of a bunch of numbers and a
5 bunch of letters, and that's the Bitcoin address.

6 Typically at a bank account, for instance, you will
7 have an account number, and that's associated to your first
8 name and your last name. But a Bitcoin wallet address, it's a
9 bunch of numbers and a bunch of letters.

10 Now, you're going to learn that there are two ways,
11 two common ways to purchase Bitcoin. One is through a
12 commercial exchange, and another is through individual sellers
13 called peer-to-peer exchangers. You're going to learn about
14 differences from both.

15 Commercial exchanges require a person's identity, a
16 driver's license, first name, last name. They require
17 personally identifying factors such as a date of birth, or
18 Social Security number, a bank account. Individual
19 peer-to-peer exchangers rarely do.

20 You're going to hear how commercial exchangers comply
21 with federal reporting requirements. Individual peer-to-peer
22 exchangers rarely do.

23 You're going to hear how commercial exchanges will
24 report when a transaction of over \$10,000 has occurred.
25 Peer-to-peer exchangers rarely do.

1 You're going to also hear how commercial exchangers
2 will report if they believe that the funds or the person they
3 are doing a financial transaction with, if there's suspicious
4 activity related to that individual. For instance, if an
5 individual went to a commercial exchange and reported that his
6 money came from the selling of drugs, a commercial exchange
7 will report a suspicious activity report. Individual
8 peer-to-peer exchangers rarely do that.

9 Commercial exchanges will charge approximately a
10 1.5 percent fee to conduct a transaction. Peer-to-peer
11 exchangers go up as high as 10 percent, sometimes even higher.
12 But that's probably a fee worth the anonymity and the lack of
13 reporting.

14 The defendant was a peer-to-peer exchanger who
15 secretly converted dirty drug money -- what he believed to be
16 dirty drug money into Bitcoin. And he didn't care that it was
17 represented to be dirty drug money. The defendant stated he
18 didn't care who his customers were, where they came from, or
19 what they did. He had one rule in his business: Don't get
20 bit, don't get shot, and don't talk to the police.

21 Well, ladies and gentlemen, as you've heard, this was
22 a sting case. And unbeknownst to the defendant, three of his
23 customers were the police. Three of his customers were federal
24 undercover agents that you're going to meet who were posing as
25 drug dealers and gave the defendant large sums of cash that

1 they represented to be from drug sales. Their names -- the
2 defendant knew them as Sergei, Tom, and Jake. And you're going
3 to hear from all the undercover agents. You're going to hear
4 about their interactions with the defendant -- they were all
5 audio recorded -- and you're also going to see the text
6 messages that he exchanged with each of the undercover agents.

7 But you'll see that in every occasion when an
8 undercover agent went to the defendant, it was represented as
9 drug money, the defendant accepted it and completed a
10 transaction. Not once did he back away, not once did he get up
11 and leave. Completed the transaction.

12 Now, this investigation began in late 2014. Due to
13 the fair anonymity associated with Bitcoin, and the difficulty
14 in detecting and identifying individuals who were using Bitcoin
15 to further criminal activity, the IRS or the Internal
16 Revenue -- Revenue Service, began an undercover investigation.

17 They began by going to a website that you're going to
18 hear about called local Bitcoins dot com. And at the time,
19 that was one of the most common websites where individual
20 peer-to-peer sellers advertised the sale of Bitcoin for a
21 particular region.

22 The IRS investigators in the Phoenix area Googled who
23 was near Phoenix, and immediately the defendant popped up. He
24 advertises to sell Bitcoin under an alias, Morpheus Titania.
25 And his website had a lot of features that really piqued the

1 attention of IRS investigators. For instance, he listed that
2 he could do up to a 50,000-dollar cash transaction at a time;
3 he listed his phone number, said that he could be texted at any
4 time; that he would go anywhere to conduct a deal, and that he
5 loved working with newbies.

6 He also stated on his website that he used mycelium.
7 Now, you're going to learn that mycelium is an application that
8 you can download on your phone where you go to your app store
9 and maybe downloaded Facebook before, Instagram, that's how you
10 download mycelium. And mycelium is an application that allows
11 a sender to send Bitcoin to a recipient, but it breaks up the
12 sender's address into multiple addresses, making it harder to
13 identify the original sender. It's as if a person sent an
14 email, and the recipient received five different emails from
15 five unknown email addresses, and each email contained a piece
16 of the original email from the sender. That's sort of what
17 mycelium does. And you're going to hear a lot more about that
18 during the trial. But that's just basically what mycelium
19 does. It makes it hard to detect the original source of a
20 transaction.

21 The defendant also listed on his profile a website, a
22 website that -- a link that was basically all about him. It
23 was called Who Is Morpheus? If you clicked on that link, the
24 defendant stated that he sold Bitcoin, that he didn't need a
25 bank to do it or a license, just a phone. And that he

1 basically made a living off selling Bitcoin.

2 So based on the allure of the defendant's page, the
3 investigation or contact by the IRS agents began. And the
4 first one to contact him was IRS Agent Sergei Kushner, who used
5 the undercover name that is his true first name as Sergei, and
6 that's how the defendant knew him. He texted the defendant to
7 the phone number listed on the local Bitcoin's profile, and the
8 defendant responded. Sergei told the defendant that he wanted
9 to conduct a deal remotely because he was in New York and that
10 he would wire the cash to him for the Bitcoins. The defendant
11 didn't want to do that. He rejected and said he prefers to
12 meet in person.

13 So three months later in March 2015, Sergei meets the
14 defendant, and they conduct a 2,000-dollar transaction.

15 Now, Sergei did not introduce the fact that he was a
16 drug dealer right then and there. He didn't portray the money
17 to be from drug proceeds. But he did give enough hints to set
18 the stage for future introduction.

19 He told the defendant that he was in the import/export
20 business, and that his supplier had told him about Bitcoin.
21 They then exchanged in a communi -- had a communication, which
22 is all recorded and you will hear, and the defendant told
23 Sergei that the IRS doesn't bother him because he doesn't have
24 banks, and he also told him that he does not keep records of
25 any of his transactions. And that Bitcoin's pretty

1 untraceable.

2 They continued to talk, and Sergei gave more hints.
3 And Sergei told him that the government -- he needs to get the
4 government off of his back, and the defendant said that Bitcoin
5 is a way to do it. Sergei told him that, you know, the
6 government a lot of times doesn't know what he imports or
7 exports, and the defendant told him that also Bitcoin will be
8 really good with that because it's untraceable.

9 They also discussed how if a 10,000-dollar transaction
10 occurs at a bank, that the radar goes off.

11 And after discussing all of this and the need to want
12 to stay away from the government and not have any radars go
13 off, the defendant told Sergei to download the mycelium app,
14 and then they conducted a transaction.

15 Three -- a few months afterwards, Sergei met with the
16 defendant again in person, and they conducted a 3,000-dollar
17 transaction. But this time, Sergei told the defendant that the
18 supplier that he mentioned during their first meeting was a
19 supplier for heroin.

20 Ladies and gentlemen, the defendant didn't stop the
21 transaction there. He didn't tell Sergei that he was done. He
22 proceeded with the transaction; in fact, completed it. He told
23 the defendant that he didn't need to know or want to know that
24 stuff. But never did he stop. He went forward.

25 And after that transaction, Sergei let the defendant

1 know that they would be doing more business in the future. And
2 although Sergei couldn't meet with the defendant again, he
3 introduced another undercover agent, and that is Tom. You're
4 going to meet Tom. And Tom reached out to the defendant and
5 told him that he was Sergei's business partner.

6 The defendant already knew that Sergei was in the
7 business of heroin, and so the defendant directed Tom to use an
8 encrypted messaging system to talk about this over -- or text
9 about it. Why? You're going to learn that the encrypted
10 messaging system that the defendant recommended called Telegram
11 cannot be intercepted. Only the sender and the recipient will
12 know the communication. No one else. So as soon as Tom said
13 that he wanted to conduct a deal, the defendant instructs him
14 to use the Telegram encrypted messaging app.

15 Tom meets with the defendant, and they conduct a
16 13,000-dollar deal. And Tom tells him, it's about heroin, and
17 I need you to know that. Because equally for Tom, he wants to
18 be able to trust the defendant. He wants to gauge him. But
19 what's important, ladies and gentlemen, is that you're going to
20 hear Tom gave the defendant an opportunity to back out of the
21 deal, and the defendant didn't back out. In fact, he told him
22 he could provide the Bitcoin and that he was okay with it.

23 The few months pass by after that deal with Tom, which
24 was in October of 2015. And the IRS partners up with the DEA,
25 and they introduce yet another undercover agent. That is

1 Special Agent Chad Martin. But he was known to the defendant
2 as Jake.

3 Now, before Jake contacted the defendant, he went back
4 on the local Bitcoin's profile to see if the defendant was
5 still advertising the sale of Bitcoin. And he certainly was,
6 ladies and gentlemen. He had a hundred percent feedback. He
7 stated that -- listed the same phone number that he had listed
8 before, stated that he was, again, willing to go anywhere. But
9 his terms changed a little bit. He said that he will do
10 Bitcoin transactions discreetly and immediately, and that
11 anonymity was one of his main focuses.

12 So shortly after that -- seeing that profile, Jake
13 contacted the defendant at the same phone number that Sergei
14 contacted the defendant with. And similar to Sergei, when Jake
15 met with the defendant, he didn't immediately introduce the
16 drug talk. He set the stage. They met two times prior to
17 the -- Jake introducing the drug talk. But on those two
18 occasions, which were in September and November of 2016, Jake
19 said that he was going to come in to a large amount of cash
20 that he needed cleaned through Bitcoin, and that it was really
21 important to him that law enforcement not seize that cash. The
22 defendant said that Bitcoin was great for that.

23 Then they met again in February of 2017, and they
24 conducted a 30,000-dollar transaction. But that time, Jake
25 told the defendant that that cash was for a sale of

1 approximately 1 kilogram of cocaine.

2 Ladies and gentlemen, after Jake told the defendant
3 that that sale was -- that the cash came from the sale of
4 cocaine, he didn't stop the transaction, he didn't walk away,
5 he didn't report to anyone that Jake was a drug dealer or that
6 he believed that to be drug proceeds. He completed the
7 transaction. And Jake told the defendant that he was probably
8 going to come in to a large amount of cash in the future,
9 probably in the amount of \$100,000, representing the sale of
10 two, three kilos of cocaine. And the defendant told Jake to
11 download the Telegram app for further business communications.

12 Well, he did, and they spoke over the Telegram app.
13 And while it's pretty protected, Jake took photographs of their
14 communications, and you're going to see that in trial. And
15 you're going to see how they set up another transaction. And
16 this time, it was worth \$107,000, what was represented to be
17 the sale of two, three kilos of cocaine. And the defendant
18 conducted that transaction, gave Jake the Bitcoin, and thanked
19 him for his business, as always, but then got arrested that
20 day.

21 What you're going to see is that you heard that this
22 is a sting case, and you've heard that all the transactions
23 happened with federal agents. But you're going to hear from
24 another individual who was a customer of the defendant. His
25 name is Nolan Sperling. And he's a young drug dealer.

1 Nolan Sperling broke one of the defendant's rules
2 because he talked to the police. Remember the rule? Don't get
3 shot, don't get bit, don't talk to the police. Well, Nolan
4 talked to the police. That's because Nolan got arrested for
5 the importation of drugs into the United States, and the
6 further distribution of those drugs.

7 Nolan has pled guilty to importation, and he is on a
8 three-year probationary period wherein if he complies with all
9 the terms for the next three years, in this agreement that he
10 has with the government, which includes cooperating, the case
11 will be dismissed against him.

12 By the time you meet Nolan, he's only -- he's only
13 going to be at least nine months in to that agreement. So when
14 he leaves here, he still has to be complicit for two years.

15 But Nolan is going to tell you that he met the
16 defendant after he need to figure out a more secure and
17 anonymous way to buy Bitcoin for his drug business.

18 Nolan was about 18 years old when he met the
19 defendant, and he was buying drugs online, importing them into
20 the United States, and selling them. And he was buying his
21 Bitcoin originally from a commercial exchange. So when he
22 created the account at the commercial exchange, which you're
23 going to hear about -- it's called Coinbase -- Nolan had to
24 provide a driver's license and a bank account. And Coinbase
25 also had daily limits for how much Bitcoin Nolan could buy.

1 So his drug business was booming, and he started
2 getting concerned that the government was going to identify him
3 or detect him because he provided his -- his ID and a bank
4 account to buy his Bitcoin. So he deleted his Bitcoin account.

5 He went to the local Bitcoins profile and found the
6 defendant. He liked that the defendant marketed that he would
7 work with newbies, and had -- seemed like he had a lot of
8 knowledge about Bitcoin.

9 And so they met, and throughout the course of their
10 relationship, the defendant sold Nolan \$40,000 worth of
11 Bitcoin. And when they would talk about -- or when Nolan would
12 mention drugs, the defendant told him to download the Telegram
13 app. And you're going to see some of the text messages between
14 the defendant and Nolan.

15 So you see, ladies and gentlemen, once you hear from
16 all of the witnesses, once you hear from the three undercover
17 agents and Nolan, what you're going to see is that the
18 defendant never asked for their identification. He never
19 confirmed if their name was truly what they reported it to be.
20 He never reported any transaction that he conducted with them
21 over \$10,000. And he never reported any suspicious activity.
22 He never reported that he believed them to be drug dealers, he
23 never reported that he believed their money to be from the sale
24 of drugs.

25 And why would he do that? Why would he not ask for a

1 license? Why would he not report anything? Why would he
2 communicate with them when he knew it was about drugs? Why
3 would he direct them to download some encryptic messaging
4 system? Because, ladies and gentlemen, this is a case about
5 money laundering. This is a case about the defendant's illegal
6 and secret conversion of dirty drug proceeds, of what he
7 believed to be dirty drug proceeds, into Bitcoin.

8 And when you hear all the evidence, when you review
9 all the text messages, when you hear the audio recordings from
10 the undercover agent, the government is going to ask you to
11 find the defendant guilty.

12 THE COURT: Ladies and gentlemen, I -- I think we've
13 gone far enough into the day. I don't want to make the
14 defendant try to cram his -- or the cram his opening statement
15 because you're getting tired. So what we're going to do is go
16 home for the evening.

17 I will ask you to be back in the -- and you got
18 instructions how to get into the jury assembly room; right?
19 I'm going to ask you to be back, all ready to go at five
20 minutes to 9:00 -- I promise you we will be ready -- and we
21 will resume at nine o'clock with the defendant's chance to give
22 their opening statement. And then we will begin with the
23 testimony.

24 I just want to remind you, we are going to be having
25 trial Tuesday, Wednesday, and Thursday this week. We will not

1 be having trial Friday or the following Monday. Then the next
2 Tuesday, Wednesday, and Thursday. And then depending on how
3 long the trial lasts, we will again go the next Tuesday and
4 Wednesday. So we're not trying the case on Mondays or Fridays.
5 You'll be able to go to your regular jobs or pursue your
6 regular functions. Just Tuesdays, Wednesdays, and Thursdays.

7 Is there any question or unclarity about your
8 obligation not to discuss this case with anyone, not to attempt
9 to do any research, not to let anyone try to talk to you about
10 this case or otherwise communicate to you about this case?

11 If that happens, I ask you -- if that happens or
12 anything like that happens, and you're not sure if you should
13 communicate it to me, I'm going to ask you to communicate it to
14 me, okay? Just by a signed note through the bailiff. We want
15 to be sure that everyone has -- everyone has a fair trial here.

16 We thank you very much for your willingness to serve.

17 Drive home safely, come back safely, have a pleasant
18 evening. We'll see you tomorrow morning.

19 Thank you.

20 COURTROOM DEPUTY: All rise.

21 (Jury leaves the courtroom at 4:53 p.m.)

22 THE COURT: All right. Anything we need to raise?

23 MR. RESTAINO: Nothing from the government, Judge.

24 THE COURT: All right.

25 MR. CAIN: Nothing, Your Honor.

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Thank you.

THE COURT: We'll hear from you tomorrow, Mr. Cain,
then. Everybody be ready.

I'll see you tomorrow.

(Proceedings in recess at 4:55 p.m.)

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C E R T I F I C A T E

I, CHARLOTTE A. POWERS, do hereby certify that I am
duly appointed and qualified to act as Official Court Reporter
for the United States District Court for the District of
Arizona.

I FURTHER CERTIFY that the foregoing pages constitute
a full, true, and accurate transcript of all of that portion of
the proceedings contained herein, had in the above-entitled
cause on the date specified therein, and that said transcript
was prepared under my direction and control.

DATED at Phoenix, Arizona, this 16th day of May, 2018.

s/Charlotte A. Powers
Charlotte A. Powers, RMR, FCRR