

No. _____

IN THE SUPREME COURT OF THE UNITED STATES

CHARLES REDDICKS, PETITIONER

V.

COMMONWEALTH OF MASSACHUSETTS

PETITIONER'S RECORD APPENDIX

PETITION FOR A WRIT OF CERTIORARI

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Unpublished Disposition

NOTICE: THIS IS AN UNPUBLISHED OPINION.

NOTICE: Summary decisions issued by the Appeals Court pursuant to M.A.C. Rule 23.0, as appearing in 97 Mass. App. Ct. 1017 (2020) (formerly known as rule 1:28, as amended by 73 Mass. App. Ct. 1001 [2009]), are primarily directed to the parties and, therefore, may not fully address the facts of the case or the panel's decisional rationale. Moreover, such decisions are not circulated to the entire court and, therefore, represent only the views of the panel that decided the case. A summary decision pursuant to rule 23.0 or rule 1:28 issued after February 25, 2008, may be cited for its persuasive value but, because of the limitations noted above, not as binding precedent. See Chace v. Curran, 71 Mass. App. Ct. 258, 260 n.4 (2008).

Appeals Court of Massachusetts.

COMMONWEALTH

v.

Charles REDDICKS.

19-P-71

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Entered: April 8, 2021.

By the Court (Neyman, Henry & [Desmond](#), JJ. ¹)

MEMORANDUM AND ORDER

PURSUANT TO RULE 23.0

*1 Following a jury trial, the defendant, Charles Reddicks, was convicted of murder in the second degree, carrying a firearm without a license, and carrying a loaded firearm without a license.² On appeal, the defendant argues that permitting the Commonwealth to conduct an inquiry into the criminal offender record information (CORI) of prospective jurors violated the equal protection clause of the United States Constitution. He further argues that the Commonwealth improperly exercised peremptory challenges based on the results of the CORI inquiry, and that the trial judge erred in failing to conduct an analysis pursuant to [Batson v.](#)

[Kentucky](#), 476 U.S. 79, 95 (1986), and [Commonwealth v. Soares](#), 377 Mass. 461, 486, cert. denied, 444 U.S. 881 (1979).

In addition, the defendant claims error in the admission of certain firearm evidence, purported identification testimony by Sergeant Detective Richard Daley, and statements made by the defendant during an interview with Detective John Callahan and Sergeant Detective Daley. Finally, the defendant contends that his ability to cross-examine a witness for the Commonwealth was impermissibly restricted. For the reasons that follow, we affirm.

Background. We briefly summarize the facts underlying the defendant's convictions, reserving certain details for our discussion. The defendant and the victim, Mariano Malave, did not know each other but both sold marijuana. In April of 2012, the defendant asked Ian Follette, who had previously purchased marijuana from both the defendant and the victim, if he knew "any connects that sold large quantities of marijuana." In response, Follette provided the defendant with the victim's name and contact information.

On the morning of April 27, 2012, the defendant sent a text message to the victim, identifying himself as "Jonathan," and inquired about purchasing a pound of marijuana. The purchase was arranged via text messages, and that evening, the defendant drove to the victim's home located in the Jamaica Plain section of Boston. At 6:20 P.M., a call from the defendant's cell phone was placed to the victim's cell phone. Around the same time, the victim's girlfriend overheard the victim providing directions to the victim's apartment to an individual over the phone.³ Upon ending the call, the victim "grabbed a sample of the marijuana," and exited his kitchen into the back hallway of his apartment building. After a brief period of time, the victim returned inside the apartment to retrieve additional marijuana, and then went back to the back hallway area. At this point, three shots were fired at the victim, one of which struck the victim in the head, and another of which struck the victim in the back.

*2 A 911 call was placed, and police reported to the scene shortly thereafter. That same evening, police conducted interviews of nearby witnesses, and obtained a partial license plate number of a blue vehicle that was parked outside the victim's home at the time of the homicide. One witness, Leanne Parker, informed police that shortly before the homicide, while sitting in her vehicle, she observed a black

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man, with “long dreads” or curls, exit a blue vehicle while talking on the phone and walking toward the victim's home. After a few moments, the witness heard the sound of gunshots and observed the same man run from the house, get into the driver's seat of the blue car, and drive away.

The police traced the partial license plate number that Parker had provided to a 1992 blue Ford Escort registered to the defendant's grandmother, Catherine Reddicks, at 116 Millet Street. There were six registered drivers who lived at that residence, and of those six individuals, police determined that the defendant was the only one to fit the description given by Parker. The defendant was interviewed by Detective Callahan and Sergeant Detective Daley, and admitted to driving the Ford Escort on April 27, 2012. In his interview, the defendant admitted to sending text messages to the victim to purchase marijuana, but stated that he had never met the victim in person, and denied involvement in the homicide. The defendant was ultimately indicted by a grand jury for murder, armed robbery, carrying a firearm without a license, carrying a loaded firearm without a license, and possession of ammunition without a license.

Discussion. 1. Inquiry into jurors’ criminal records. Prior to trial, the Commonwealth filed a motion in limine seeking to conduct a CORI inquiry of the prospective jurors, pursuant to [Commonwealth v. Cousin, 449 Mass. 809, 815-820 \(2007\)](#). The defendant filed a corresponding motion to preclude the Commonwealth from accessing such information, but requested in the alternative that the Commonwealth also run the prospective jurors’ information through the victim/witness database.⁴ The judge allowed the Commonwealth's motion, and as requested by the defendant, ordered the Commonwealth to check the prospective jurors’ information in both the CORI database and the victim/witness database.

During jury empanelment, a CORI inquiry was conducted of each prospective juror, and the inquiry revealed that six jurors failed to disclose all or part of their criminal record on the juror questionnaire. Of those six jurors, one had a restraining order against her and three had relatively minor offenses on their record.⁵ Both defense counsel and the prosecutor agreed that there was no need to inquire further of those four jurors and they were seated in the jury box.

However, although juror no. 47 indicated on the questionnaire that she had no prior record, her CORI revealed a number of “innocuous motor vehicle offenses,” as well as a dismissed charge for possession of a Class B substance sixteen years earlier. The Commonwealth then requested that the judge conduct a voir dire of juror no. 47. During the voir dire, juror no. 47 informed the judge that all of her charges had been dismissed, and that she did not recognize that she was required to disclose dismissed charges when filling out her questionnaire. The judge credited the juror's explanation and informed counsel that she encountered this scenario “quite often” and “[saw] no reason to excuse [juror no. 47] for cause.” The Commonwealth then exercised a peremptory challenge, and defense counsel objected stating, “I objected to the Commonwealth's ability to run the records, and I just want to preserve that objection.” Over that objection, the judge excused juror no. 47.

*3 Later during empanelment, it was discovered that juror no. 122, who had disclosed on his questionnaire that he had been convicted of assault and battery, had not disclosed a number of additional charges and convictions that occurred over a fourteen-year period, including violation of an abuse prevention order, resisting arrest, malicious destruction of property, possession of marijuana, forgery, trespassing, disorderly conduct, and multiple assault and battery charges. Sua sponte, the judge conducted a voir dire of juror no. 122, and the juror explained that all of his charges, except the one that he disclosed on his questionnaire, had been sealed. The juror expressed that he was not aware that he had to disclose sealed charges and convictions. The judge credited the juror's explanation, stating that she had “heard this before,” and believed it to be “absolutely reasonable” for the juror to think that he was not required to disclose charges and convictions that had been sealed. The judge declined to excuse the juror for cause, and the Commonwealth again exercised a peremptory challenge.

At this point, the defendant objected and raised for the first time that the Suffolk County District Attorney's office's practice of conducting an inquiry into the prospective jurors’ criminal records resulted in the systematic exclusion of prospective African-American jurors from the jury. Specifically, defense counsel stated,

“Just so the record is clear, Judge, everyone so far that [the prosecutor] has run, and I'm not blaming him, that's

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come back with a record has been African-American, and so it appears to me that the running of records of potential jurors, in Suffolk County, anyhow, leads to the disclosure of criminal records and exclusion of African-American individuals or potential jurors. My client is an African-American. I would object at this point, Judge.”

The judge noted defense counsel's objection but responded that “in the two instances that [the prosecutor] has done that, I've accepted the jurors' explanations, but that doesn't excuse them from fully revealing their criminal history, and in both of those situations, neither juror faithfully disclosed their criminal history.” The judge then excused juror no. 122. When jury empanelment concluded, the judge commented on the record that the jury “consist[ed] of at least five African-Americans.”

a. Constitutionality of CORI inquiry of prospective jurors.

The defendant argues that allowing the Commonwealth to conduct a CORI inquiry of prospective jurors was itself a violation of the equal protection clause and the defendant's right to a jury of his peers. The crux of the defendant's argument is that such a practice disproportionately impacts African-American jurors who are “more likely to face discrimination during every single phase of our criminal justice system.”⁶ The argument is unavailing.

In  [Cousin](#), 449 Mass. at 817-819, the Supreme Judicial Court (SJC) held that the CORI statute,  G. L. c. 6, § 172, permits prosecutors to access prospective jurors' CORI as part of their “criminal justice duties.” In so holding, the court recognized that a criminal justice function of prosecutors is “the selection of a qualified and impartial jury,” and that “[i]nquiring into the criminal records of jurors in a criminal case” assists in serving that function.  [Id.](#) at 816. In addition, the court noted that “the prosecution has a legitimate interest in securing ‘a jury not unfairly biased in favor of acquittal,’ ” and that as a result, the Commonwealth, even before the advent of CORI, had often been permitted to check the criminal histories of prospective jurors. [Id.](#), quoting  [Soares](#), 377 Mass. at 483.

The defendant now asks us to hold otherwise and determine that the practice of running prospective jurors' CORI is

unconstitutional.⁷ The defendant, however, has failed to provide us with the factual basis or the constitutional standard to do so. In supporting his claim, the defendant has done no more than argue that prospective jurors who are African-American are more likely to have a criminal record, and as such, are more likely to be excluded from jury service for that reason.⁸ In doing so, he cites law review articles that assert this very proposition. To be sure, the SJC, in recent decisions, has acknowledged that there is systemic racism present in the Commonwealth's criminal justice system that leads to disproportionate stops, frisks, searches, and in turn, arrests of people of color. See [Commonwealth v. Long](#), 485 Mass. 711, 717-718 (2020); [id.](#) at 740 (Budd, J., concurring); [Commonwealth v. Evelyn](#), 485 Mass. 691, 701 (2020). However, this observation, alone, does not provide us with a basis for declaring unconstitutional a practice specifically sanctioned by the SJC.

*4 To begin with, the defendant has not set forth the standard to be applied to his claim. See [Commonwealth v. Cassidy](#), 470 Mass. 201, 209 n.9 (2014) (defendant's burden to cite relevant legal authority). The Commonwealth argues that, to show systemic discrimination in jury selection, the defendant must demonstrate that

“(1) the group allegedly discriminated against is a ‘distinctive’ group in the community, (2) that the group is not fairly and reasonably represented in the venires in relation to its proportion of the community, and (3) that underrepresentation is due to systematic exclusion of the group in the jury selection process.”

[Commonwealth v. Tolentino](#), 422 Mass. 515, 519 (1996), quoting  [Commonwealth v. Bastarache](#), 382 Mass. 86, 96-97 (1980). We agree.⁹

It is undisputed that African-American jurors are a distinctive group in the community, and specifically that the two jurors who were ultimately excluded in this case as a result of the CORI inquiry were African-American. The defendant, however, has not provided us with sufficient information regarding the number of African-American jurors in his venire or in past Suffolk County venires. Nor is there any information in the record about the racial composition of the community from which the venire was drawn. Accordingly, the defendant has failed to carry his burden. While “[a]

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criminal defendant is constitutionally entitled to a jury selection process free of systematic discrimination against his grouping in the community,” on this record, we cannot conclude that permitting the Commonwealth to check the CORI of prospective jurors is inconsistent with that right.

 [Commonwealth v. Fryar](#), 425 Mass. 237, 241 (1997).

Moreover, we note that, contrary to the defendant's contentions, the CORI inquiry conducted by the Commonwealth did not result in the exclusion of jurors simply for having a criminal record. In fact, the judge did not excuse for cause any of the jurors who had a criminal record but failed to disclose it, and perhaps more significantly, the majority of the jurors who failed to make the requisite disclosure, all of whom were African-American,¹⁰ were seated on the jury without a voir dire being conducted. Only juror no. 47 and juror no. 122, who arguably had more significant charges on their record, were questioned by the judge about their lack of disclosure. Though the judge recognized that individuals with dismissed charges or sealed records often misinterpret their obligation with regard to disclosure,¹¹ and found that both jurors' omissions were inadvertent, the prosecutor had an independent duty to ensure that “a qualified and impartial jury” was selected.  [Cousin](#), 449 Mass. at 816. A properly exercised peremptory challenge serves that purpose. See   [Commonwealth v. Wood](#), 389 Mass. 552, 560 (1983) (“The purpose of the properly exercised peremptory challenge is to aid the constitutional right to a fair and impartial jury”). See also [Cousin](#), *supra* at 822 (even inadvertent failure to disclose criminal record deprives parties of right to make intelligent decision whether to exercise peremptory challenge).

*5 b. Peremptory challenges exercised after CORI inquiry.¹² The defendant further argues that the peremptory challenges to juror no. 47 and juror no. 122 as a result of their CORI were improperly exercised for a discriminatory purpose, and therefore, the judge abused her discretion in failing to conduct a Batson-Soares inquiry.

“The Fourteenth Amendment to the United States Constitution and art. 12 of the Massachusetts Declaration of Rights prohibit a party from exercising a peremptory challenge on the basis of race.” [Commonwealth v. Sanchez](#),

485 Mass. 491, 493 (2020), quoting  [Commonwealth v. Jones](#), 477 Mass. 307, 319 (2017). When the defendant makes a Batson-Soares objection, it “triggers a three-step process.” [Commonwealth v. Henderson](#), 486 Mass. 296, 311 (2020). In the first step, the defendant bears the burden of rebutting the presumption that the peremptory challenge was proper. See [Commonwealth v. Jackson](#), 486 Mass. 763, 768 (2021). To do so, he “ ‘must make out a prima facie case’ that [the challenge] was impermissibly based on race or other protected status ‘by showing that the totality of the relevant facts gives rise to an inference of discriminatory purpose.’ ” *Id.*, quoting  [Johnson v. California](#), 545 U.S. 162, 168 (2005). Second, if such a showing is made, “the burden shifts to the party exercising the challenge to provide a ‘group-neutral’ explanation for it.” [Jackson](#), *supra*, quoting [Sanchez](#), *supra* at 493. “Third and finally, the judge must then determine whether the explanation is both ‘adequate’ and ‘genuine’ ” (quotation and citation omitted). [Jackson](#), *supra*.

First, when the prosecutor exercised a peremptory challenge to juror no. 47, the defendant objected, but not on the ground of discriminatory exclusion. Rather, defense counsel stated that she was preserving her objection to the Commonwealth conducting a CORI inquiry in the first place. At this point, no mention of discriminatory purpose had been made, and accordingly, the defendant's objection failed to “trigger an obligation on the judge's part to make a finding whether the presumption of propriety was rebutted.”  [Commonwealth v. Smith](#), 450 Mass. 395, 406 (2008). While a trial judge may raise a Batson-Soares violation sua sponte, see *id.*, the judge here did not abuse her discretion in failing to do so where the challenge was in direct response to the juror failing to disclose her criminal record. See  [Commonwealth v. LeClair](#), 429 Mass. 313, 321 (1999) (“A trial judge is in the best position to decide if a peremptory challenge appears improper and requires an explanation by the party exercising it”). Cf.  [Jones](#), 477 Mass. at 324 (“the possibility that [juror] was struck because of her race is heightened by the fact that the record reveals no race-neutral reason that might have justified the strike”).

Secondly, after it was learned that juror no. 122 had an extensive and undisclosed criminal record, the prosecutor exercised a peremptory challenge, and the defendant objected raising the issue of race for the first time. However, in his

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objection, the defendant did not argue that the prosecutor was improperly challenging the juror based on the juror's race, nor did he specifically raise a Batson-Soares objection.¹³ Instead, he argued that the practice of checking prospective jurors' CORI, in Suffolk County, leads to the exclusion of African-American jurors from the jury. It is the defendant's burden to not only state his objection to the Commonwealth's peremptory challenge, but also to state the grounds for that objection. See Smith, 450 Mass. at 406. Although we agree with the defendant that he need not specifically cite Batson-Soares, a general objection is likely insufficient to preserve such a challenge. See *id.* See also Commonwealth v. Lopes, 478 Mass. 593, 600 (2018).

*6 Moreover, even if we were to determine that the defendant properly raised a Batson-Soares objection to the strike of prospective juror no. 122, a conclusion we do not reach, “[w]e will not overturn the judge's ruling if there is a sound basis in the record for her ruling.” Commonwealth v. Suarez, 59 Mass. App. Ct. 111, 114 (2003). The judge, in her response to defense counsel's objection, implicitly determined that the requisite showing of impropriety had not been made. See *id.* While rebutting the presumption of propriety is “not an onerous task,” Jones, 477 Mass. at 321, the defendant must show “that the totality of the relevant facts gives rise to an inference of discriminatory purpose.” Jackson, 486 Mass. at 768, quoting Johnson, 545 U.S. at 168.

Here, the strike exercised by the Commonwealth against juror no. 122 “appeared to be made for obvious reasons that did not raise any inference of bias.” Jackson, 486 Mass. at 775. Initially, juror no. 122 was seated on the jury and the Commonwealth expressed contentment with the juror. It was only after the CORI inquiry revealed that juror no. 122 failed to “faithfully disclose [his] criminal history” that the Commonwealth exercised a peremptory challenge. The judge, accordingly, determined that the Commonwealth was entitled to exercise such a challenge at that point because the juror's CORI was “a piece of information that was not available to [the prosecutor] at the time of his vetting.”¹⁴ Though the defendant is also African-American, there were, in total, five African-American jurors seated on the sixteen-person jury. See Henderson, 486 Mass. at 313 (considering number of black jurors seated on jury as

one factor in assessment of “whether the prosecutor had challenged a disproportionate number of black jurors”). Cf. Commonwealth v. Ortega, 480 Mass. 603, 607 (2018). Based on the totality of the facts and circumstances here, the judge did not abuse her discretion in concluding that the defendant failed to meet his burden of showing the impropriety of the prosecutor's peremptory challenge to prospective juror no. 122. See Jackson, 486 Mass. at 776.

2. Evidentiary issues. a. Prior bad act evidence. The defendant next claims that he was prejudiced by the admission of improper prior bad act evidence. At trial, Thomas Washington, a friend of the defendant, testified that four months before the murder he observed the defendant in possession of a silver revolver with a black handle.¹⁵ In addition, the Commonwealth introduced two photographs, recovered from the defendant's cell phone, of the defendant holding a silver revolver with a black handle. The defendant objected to the admission of this evidence at trial, and thus we review its admission for prejudicial error. See Commonwealth v. Montez, 450 Mass. 736, 744 (2008).

Although the prosecution may not introduce evidence of the defendant's prior bad acts to show that he has a propensity to commit such acts, this evidence may be otherwise admissible “if relevant for another purpose, ‘such as to show a common scheme, pattern of operation, absence of accident or mistake, identity, intent, motive, or state of mind.’” Commonwealth v. Philbrook, 475 Mass. 20, 25-26 (2016), quoting Commonwealth v. Howard, 469 Mass. 721, 738 (2014). Specifically, evidence that the defendant possessed a weapon prior to the commission of a weapons-related crime may be admissible “to show that the defendant had access to or knowledge of firearms and bullets.” Commonwealth v. McGee, 467 Mass. 141, 157 (2014). “The critical questions are whether the weapons-related evidence is relevant and, if so, whether the probative value of the evidence is substantially outweighed by its prejudicial effect.” Commonwealth v. Valentin, 474 Mass. 301, 306 (2016). The decision to admit such evidence is left to the sound discretion of the trial judge, and we will not disturb that decision “absent palpable error.” McGee, 467 Mass. at 156.

*7 Here, the Commonwealth introduced the two photographs of the defendant holding a silver revolver, as

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well as the testimony of Washington, to demonstrate that the defendant had access to firearms, and more specifically revolvers, just four months prior to the homicide. There was testimony before the jury that, of the possible seventeen firearms that could have been used as the murder weapon, fifteen of those firearms were in fact revolvers. Accordingly, the challenged firearm evidence was relevant, and we discern no abuse of discretion in the judge's determination that the probative value of this evidence was not substantially outweighed by its prejudicial effect.¹⁶ Further, immediately following Washington's testimony, the judge provided a limiting instruction to the jury cautioning them that they were only permitted to consider the defendant's prior possession of a firearm as evidence that the defendant had "familiarity with or access to firearms." The judge specifically instructed the jurors that there was no evidence that the firearm, testified to by Washington, was the same firearm used during the homicide. We presume the jury followed these instructions, see [Commonwealth v. Ridge, 455 Mass. 307, 323 \(2009\)](#), and perceive no prejudicial error by the admission of this evidence.

b. Motion to exclude photographs. Prior to trial, the defendant moved to exclude the photographs depicting him holding the silver revolver arguing, that they were obtained in an unrelated prior case without a valid search warrant. In his prior case, the defendant moved to suppress evidence obtained from his cell phone arguing that the search warrant lacked probable cause. The judge in the prior case found that the search of the cell phone was conducted pursuant to a valid warrant, and accordingly, denied the defendant's motion. The defendant then pleaded guilty to the charges in that case. See note 14, *supra*. The Commonwealth argues that because the defendant already litigated the validity of the search warrant, he is estopped from relitigating the issue in this case. We agree.

There are five requirements that must be satisfied in order for collateral estoppel, or issue preclusion, to apply in the context of a suppression motion:

- "(1) the issues in the two proceedings must be identical;
- (2) the party estopped must have had sufficient incentive to litigate the issue fully and vigorously;
- (3) the party estopped must have been a party to the previous litigation;
- (4) the applicable law must be identical in

both proceedings; and (5) the first proceeding must have resulted in a final judgment on the merits such that the defendant had sufficient incentive and an opportunity to appeal."

[Commonwealth v. Cabrera, 449 Mass. 825, 829 \(2007\)](#).

Here, there is no dispute that the parties, legal issues, and applicable law were the same in both proceedings. The defendant argues however that he did not have sufficient incentive to litigate the issues in the prior case "fully and vigorously," nor did he have the incentive or opportunity to appeal. This argument is belied by the nature of the significant charges against the defendant in the prior case. See note 14, *supra*. Furthermore, "[b]y pleading guilty, the defendant gave up his right to pursue a challenge to the denial of his suppression motion, and therefore his plea generated a judgment that is final, at least in regard to the suppression issue." [Cabrera, 449 Mass. at 831](#). See [id.](#) at 830 ("a plea of guilty by its terms waives all nonjurisdictional defects").

Though the defendant contends that his guilty plea was tendered "before the advent of conditional pleas, where a defendant was forced to face trial in order to preserve his appellate rights on a motion to suppress decision," the opportunity to appeal is the focus of the inquiry. See [Cabrera, 449 Mass. at 831](#). A trial and opportunity to appeal from that trial was available to the defendant, and in deciding to forego those options, "the defendant also gave up any right to relitigate the suppression issue." *Id.* The defendant was therefore estopped from raising the search warrant's validity in the present case, and his motion to exclude was properly denied.

*8 c. "Identification" testimony. The defendant next claims that the testimony of Sergeant Detective Daley was improper lay opinion and impermissibly constituted an in-court identification by an eyewitness, Leanne Parker, who had never formally participated in an identification procedure. We disagree.

At trial, Sergeant Detective Daley testified that, upon interviewing Parker on the date of the murder, he obtained a partial license plate number and a physical description of the defendant and the vehicle he was operating. Another detective

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conducted a query of the partial license plate number in the Registry of Motor Vehicles database and discovered that the vehicle was a 1992 blue Ford Escort registered to Catherine Reddicks at 116 Millet Street. The detective then conducted a search of that address in the Registry of Motor Vehicles database and learned that three males and three females were registered drivers at that location. At this point, Sergeant Detective Daley testified that only one of those registered drivers looked similar to the physical description provided by Parker; that individual was the defendant.¹⁷ Sergeant Detective Daley then identified the defendant in court.¹⁸ Contemporaneously, the judge instructed the jury that they were not to consider Sergeant Detective Daley's testimony as an identification of the defendant by Parker.¹⁹

The defendant is correct that “[m]aking a determination of the identity of a person from a photograph or video image is an expression of an opinion,” [Commonwealth v. Wardsworth](#), 482 Mass. 454, 475 (2019), quoting [Commonwealth v. Pina](#), 481 Mass. 413, 429 (2019), and that such an identification by a lay witness is admissible only “when the witness possesses sufficiently relevant familiarity with the defendant that the jury cannot also possess.” *Id.*, quoting [Commonwealth v. Yacher](#), 469 Mass. 425, 441 (2014). However, the defendant is incorrect in his assertion that this is what occurred here.

Sergeant Detective Daley was not shown a photograph of the defendant to identify at trial. Rather, the detective merely testified that he obtained a photograph of the defendant from the Registry of Motor Vehicles database,²⁰ and connected the defendant to the crime based on the physical description provided by Parker as well as the partial license plate number that led him to the defendant's address. Contrary to the defendant's claim, at trial there was no lay opinion identification made by Sergeant Detective Daley based on a photograph of the defendant. Cf. [Commonwealth v. Yang](#), 98 Mass. App. Ct. 446, 452-453 (2020) (improper for detective to testify at trial “that the man depicted in the photograph appeared to be the defendant”).

*9 Additionally, there was no “back-door” admission of an in-court identification of the defendant by Parker. While [Commonwealth v. Crayton](#), 470 Mass. 228, 241-242 (2014), prohibits the admission of an in-court identification, absent “good reason,” when an eyewitness

has not participated in a prior out-of-court identification, Parker did not identify the defendant in-court, and Sergeant Detective Daley did not testify that she had. Instead, Daley merely testified to the steps taken by the detectives during the course of the investigation that ultimately led them to narrow their focus on the defendant. This was permissible in light of the fact that, in his defense, the defendant attacked the nature and quality of the police investigation.

See [Commonwealth v. Avila](#), 454 Mass. 744, 755 (2009) (where defendant attacks police investigation, “the Commonwealth was entitled to elicit testimony about why the investigators chose the particular investigative path they did”).

The defendant also claims that Sergeant Detective Daley improperly identified Catherine Reddicks's vehicle from Massachusetts Bay Transportation Authority surveillance footage presented at trial.²¹ However, contrary to the defendant's contentions, Sergeant Detective Daley did not identify at trial the blue Ford Escort from video surveillance footage. Daley testified only to the steps he took in locating the vehicle and connecting it to the crime based on the partial license plate number he obtained from a witness on the date of the murder. As previously stated, such testimony was permissible. See [Avila](#), 454 Mass. at 755.

d. Voluntariness of defendant's statements. The defendant next claims that statements made by him during an interview with Detective Callahan and Sergeant Detective Daley were not voluntary and should have been suppressed. “[I]n reviewing a ruling on a motion to suppress, we accept the judge's subsidiary findings of fact absent clear error but conduct an independent review of his ultimate findings and conclusions of law.” [Commonwealth v. Tremblay](#), 480 Mass. 645, 652 (2018), quoting [Commonwealth v. Clarke](#), 461 Mass. 336, 340 (2012). “[W]e ‘review de novo any findings of the motion judge that were based entirely on the documentary evidence.’ ” [Commonwealth v. Monroe](#), 472 Mass. 461, 464 (2015), quoting [Commonwealth v. Thomas](#), 469 Mass. 531, 539 (2014).

“A voluntary statement is one that is ‘the product of a rational intellect and a free will,’ and not induced by physical or psychological coercion.” [Monroe](#), 472 Mass.

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at 468, quoting [Tremblay](#), 460 Mass. at 207. “The test for voluntariness is ‘whether, in light of the totality of the circumstances surrounding the making of the statement, the will of the defendant was overborne to the extent that the statement was not the result of a free and voluntary act.’” [Commonwealth v. Durand](#), 457 Mass. 574, 595-596 (2010), quoting [Commonwealth v. Souza](#), 428 Mass. 478, 483-484 (1998). “Factors relevant to the totality of the circumstances include whether promises or other inducements were made to the defendant by the police, as well as the defendant’s age, education, and intelligence; experience with the criminal justice system; and his physical and mental condition, including whether the defendant was under the influence of drugs or alcohol.” [Durand](#), *supra* at 596. In addition, “the ‘use of false information by police during an interrogation is deceptive and is a relevant factor indicating a possibility that the defendant’s statements were made involuntarily.’” [Commonwealth v. Novo](#), 442 Mass. 262, 267 (2004), quoting [Commonwealth v. Selby](#), 420 Mass. 656, 664 (1995).

*10 During the interview, Detective Callahan made statements to the defendant suggesting that the defendant’s silence and denial could be used against him in court. Specifically, Detective Callahan stated,

“[T]his is a golden opportunity to give your version of the story because a year down the road, two years down the road we’re going to be in a courtroom and I’m going to be sitting across from you, maybe both, or Rich Daley and if I’m there, it’s me, I’m going to be looking at you. I’m going to be sitting up there in a suit and tie. I’m going to be looking at you, and I’m going to be saying I gave him, Sergeant Daley gave him, the opportunity to offer a reason as to why he did what he did, as opposed to not saying anything and me looking over at the jury as I’m looking back to you and everything that is going to come out of our investigation to the jury is going to be that Charles Reddicks is a cold-blooded killer. That he robbed dude, shot dude over nothing.

As opposed to you telling us, there’s got to be a viable reason you do what you did. You can -- Charles you can deny it all you want but you’re there, we’ve got you there.”

We agree with the motion judge that these statements were improper and were akin to the “now-or-never” language that was deemed impermissible in [Novo](#), 442 Mass. at 267-269.²² In an attempt to get the defendant to confess his motive for the murder, the detective improperly suggested to the defendant that his failure to provide that information, and his denial of committing the murder, could be used against him in court, which is “plainly untrue.” [Id.](#) at 268. See [Commonwealth v. Spencer](#), 465 Mass. 32, 46 (2013) (defendant’s denial of accusation, similar to his silence, is inadmissible). We, however, also agree with the motion judge that the Commonwealth met its burden of proving that the defendant’s statements were nevertheless voluntary.

On the date of the interview, the defendant was eighteen years old, and was a student at the Community Academy.²³ During the interview, the defendant admitted to knowing someone by the name of “Mario,”²⁴ admitted to sending him text messages on the date of the homicide to purchase marijuana, and further admitted to knowing the difference between an automatic weapon and a revolver. However, none of the incriminating statements made by the defendant were tied to “or otherwise made in response to the pressure tactics employed by the officers.” [Durand](#), 457 Mass. at 596-597. The improper statements made by Detective Callahan were designed to elicit a motive for the murder, or put another way, a confession. Throughout the interview, however, the defendant never wavered in denying his involvement in the murder. In short, the detective’s improper tactics were unsuccessful. As the motion judge concluded, the defendant’s behavior during the interview reflects “a young man who made limited, carefully chosen responses.” The defendant remained calm during the interview, and acted in a manner that revealed that he was not “at the mercy of the interrogating officers.” [Id.](#) at 597. Based on the totality of the circumstances here, the defendant’s will was not overborne by the improper statements made by the detective. There was no error in the denial of the motion to suppress.

*11 3. Cross-examination. Finally, the defendant argues that he was impermissibly restricted from cross-examining a witness for the Commonwealth, namely Thomas Washington. “Both the Sixth Amendment and art. 12 guarantee a criminal defendant’s right to confront the witnesses against him

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through cross-examination.”  [Commonwealth v. Miles](#), 420 Mass. 67, 71 (1995). “However, a criminal defendant’s confrontation right is not absolute,” and “the scope of cross-examination rests largely in the sound discretion of the trial judge.” *Id.* In determining whether the trial judge unreasonably limited cross-examination, “we weigh the materiality of the witness’s direct testimony and the degree of the restriction on cross-examination.”  *Id.* at 72. We will not disturb a “trial judge’s determination as to the proper scope of cross-examination unless the defendant demonstrates that the judge abused [her] discretion and that the defendant was prejudiced thereby.” *Id.*

During a motion in limine and at trial, the judge informed defense counsel that if, on cross-examination, she attempted to suggest that Washington was lying about observing the defendant with a gun, there was a possibility that counsel might open the door to the defendant’s conviction for possessing that weapon. As a result of that exchange, the defendant decided to forego cross-examining Washington altogether. The defendant now claims that the judge erred in

limiting his cross-examination in this manner. The claim is without merit.

While Washington’s testimony was material in proving that the defendant had access to and familiarity with weapons, specifically revolvers, the judge did not wholly restrict the defendant from cross-examining him. Rather, the judge merely warned the defendant that, if he sought to introduce a false narrative and argue that Washington was not telling the truth about observing him with a weapon, the Commonwealth would likely be entitled to rebut that evidence with the defendant’s prior conviction related to that gun. We discern no abuse of discretion in this ruling. See [Commonwealth v. Oliveira](#), 74 Mass. App. Ct. 49, 53 (2009) (where defendant unfairly depicts himself, Commonwealth entitled to rebut with evidence of prior convictions).

Judgments affirmed.

All Citations

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Footnotes

- 1 The panelists are listed in order of seniority.
- 2 The defendant was acquitted of armed robbery, and his conviction for possession of ammunition without a license was dismissed as duplicative of his conviction of carrying a loaded firearm.
- 3 At around 6 P.M. that evening, the defendant communicated with Follette, and notified him that he was going to the victim’s home.
- 4 As grounds for the motion, the defendant claimed that allowing the prosecution to access the CORI of prospective jurors violated his rights to a trial “drawn from a representative cross-section of the community” and to due process.
- 5 Juror no. 5 had a restraining order against her. Juror no. 28, who was later excused for cause for unrelated reasons, was charged with “failure to use a stolen Registry of Motor Vehicle’s signature.” Juror no. 29 had a charge for operating to endanger that was dismissed. Finally, juror no. 102 was charged with driving with a suspended license, which was later dismissed upon the payment of court costs.
- 6 As noted, the defendant’s motion in limine raised different grounds to assert that the Commonwealth should not be permitted to access prospective jurors’ CORI. The argument he advances on appeal was raised for the first time during his objection to the peremptory challenge exercised to exclude juror no. 122.
- 7 The defendant argues that “[t]he SJC’s approval of running jurors’ records in [Cousin](#) simply runs afoul of the principles set forth in [Batson](#) and [Soares](#), and its recent progeny in [ [Commonwealth v. Robertson](#),

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480 Mass. 383 (2018)], [[Commonwealth v. Jones](#), 477 Mass. 307 (2017)], [[Commonwealth v. Ortega](#), 480 Mass. 603 (2018)], and [[Flowers v. Mississippi](#), 139 S. Ct. 2228 (2019)].” We, however, “have no power to alter, overrule or decline to follow the holding of cases the Supreme Judicial Court has decided.”
[Commonwealth v. Dube](#), 59 Mass. App. Ct. 476, 485 (2003).

8 The defendant also contends that the practice is particularly unfair because a prospective juror's answer regarding the juror's interactions with law enforcement is the only part of the questionnaire that is “checked” to determine if it is fully complete. In this case, however, upon request, the judge ordered the Commonwealth to also check the prospective jurors' information in the victim/witness database. In any event, both parties are free to take reasonable steps, using public sources, to check other information provided on the jury questionnaire. We likewise discern no abuse of discretion by a trial judge in compelling the prosecution to check the prospective jurors' information in the victim/witness database, as was done in the present case.

9 Though this is the test applied to a Sixth Amendment to the United States Constitution challenge to the fair cross section requirement, and the defendant contends that this is not the precise challenge he is making, “[u]nder art. 12 [of the Massachusetts Declaration of Rights] there is no distinction between the equal protection analysis ... and the Sixth Amendment analysis,” and “art. 12 affords a defendant at least as much protection as the Sixth and the Fourteenth Amendment [to the United States Constitution].” [Commonwealth v. Fryar](#), 425 Mass. 237, 241-242, 244 (1997).

10 Defense counsel stated on the record that each of the jurors who failed to make the requisite disclosure was African-American. Nobody disagreed.

11 The juror questionnaire at issue was not included in the record on appeal. Assuming without deciding that it is not uncommon for jurors to misinterpret the disclosure required by the questionnaire when it comes to jurors' “experience with the law,” [Commonwealth v. Carnes](#), 457 Mass. 812, 832 (2010), it might be wise for the jury commissioner to consider revising the questionnaire's language to expressly state that jurors must disclose all charges and convictions whether dismissed or sealed. Likewise, it may be prudent for judges to caution or remind jurors appearing in their venires of their obligation to disclose all charges and convictions including those sealed or dismissed. An example of such a cautionary instruction is present in [Carnes](#), where the judge “emphasized [to the jurors] that some people do not answer the questions accurately, perhaps because they are embarrassed about a crime in which they were involved or may have forgotten a minor offense that occurred a long time ago.... He stated that every juror's record was checked on the computer. When he finished, the judge asked jurors to raise their hands if they had not ‘fully, accurately and completely answered the questions contained in the section ... entitled, ‘Your experience with the law,’ ” so that they could have an opportunity to ‘add to the detail as ... necessary.’ ... [N]ineteen jurors raised their hands.” [Id.](#) at 832.

12 We deny the Commonwealth's motion to strike this portion of the defendant's brief.

13 Defense counsel, in her objection, specifically stated that she was “not blaming [the prosecutor].”

14 Juror no. 47 was excused under the very same circumstances. See [Jackson](#), 486 Mass. at 773 (considering “similarities and differences between excluded jurors” [quotation and citation omitted]).

15 In relation to the defendant's possession of that weapon, the defendant was charged with and pleaded guilty to assault and battery by means of a dangerous weapon and carrying a firearm without a license. The gun, however, was never recovered in that case.

16 While the defendant argues that the judge abused her discretion in admitting this evidence because the SJC has cautioned against admitting firearm evidence “[w]here a weapon definitively could not have been used in the commission of the crime,” [Commonwealth v. Barbosa](#), 463 Mass. 116, 122 (2012), that is not the case here. The revolver testified to by Washington was never recovered by the police, the photographs both depict

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a revolver, and the murder weapon in this case was, statistically speaking, most likely a revolver. Evidence of “[a] weapon that could have been used in the course of a crime is admissible, in the judge's discretion.” *Id.*

17 The defendant objected to this testimony and requested a limiting instruction.

18 On appeal, the defendant does not challenge the in-court identification made by Sergeant Detective Daley.

19 Specifically, the judge instructed the jury: “Members of the jury, you're not to construe the testimony just now of Sergeant Detective Daley as any identification of the defendant by Ms. Parker. It is offered merely for the limited purpose of helping you understand what steps the police took in this investigation and why they took them, and for no other reason.”

20 There is no real dispute that the photograph, taken from the Registry of Motor Vehicle database, was of the defendant.

21 It is unclear whether the rule against lay witness identifications is applicable to inanimate objects. See [Wardsworth](#), 482 Mass. at 475 (“Making a determination of the identity of a person from a photograph or video image is an expression of an opinion” [emphasis added]). We, however, assume otherwise for the purpose of the defendant's claim.

22 The statements at issue here were not quite as egregious as those in [Novo](#), 442 Mass. at 267-269.

23 Community Academy is a high school in the Jamaica Plain section of Boston.

24 The detective explained to the defendant that the victim went by “Mario.”

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Constitutional Implications

The Supreme Court determined that the Sixth Amendment right to a jury trial is fundamental to the American scheme of justice and hence applicable to the states through the Fourteenth Amendment. Duncan v. Louisiana, 391 U.S. 145, 149 (1968). This right, necessarily, offers defendants protection from oppressive governmental action and prosecutorial misconduct. Under the Sixth Amendment, a defendant has a constitutional right to a jury drawn from a representative cross-section of the community.

The central principals embodied in the right to a representative jury are random selection and objectivity. These elements are negated where the District Attorney's office has access to information not available to the defendant because the danger of improper influence or intimidation exists, as well as the possibility that the Commonwealth will skew the jury pool in their favor. Contrast Commonwealth v. Dougherty, 343 Mass 299 (1961) (holding that there is no improper influence or intimidation of prospective jurors where matters of personal history was made available to all counsel) (emphasis added).

Additionally, the due process clause ensures fundamental fairness in all court proceedings. It is clear that "[a] defendant in a criminal case has a right to be tried according to the substantive and procedural due process requirements of the Fourteenth Amendment." Rogers v. Richmond, 365 U.S. 532, 544-45 (1961); Newhall v. Boyle, 366 F. Supp. 871, 872 (D. Mass. 1973). "The Constitution guarantees a fair trial through Due Process Clauses." United States v. Olano, 507 U.S. 25, 28 (1993); Strickland v. Washington, 466 U.S. 668, 684-85 (1984). The guarantees of due process and a fair trial are also contained in Article I, X, XI, XII of the Massachusetts Declaration of rights.

Moe v. Secretary of Administration and Finance, 382 Mass. 629, 633 n.4 (1981);
Commonwealth v. Geagan, 339 Mass. 487 (1959). Thus, due process mandates that the
District Attorney's Office not gain an unfair advantage, and not disturb the right to a fair
jury made up of a true cross-section of the community.

As such, Reddicks requests that this Honorable Court prohibit the Commonwealth
from accessing juror CORI records at any time during this trial.

Alternative Requests

In the alternative, without waiving his objection, Reddicks requests that if this
Court allows the Commonwealth to access the prospective jurors' criminal records, then
this Court should order the Commonwealth to immediately provide these records to
defense counsel. The Commonwealth should also provide any other juror information
obtained from the police department as a result of the initial CORI records. See
Commonwealth v. Joseph Cousin, 449 Mass. 809, 818 (2007)"information about
prospective jurors . . . should be as available to the defendant as to the district attorney").

Failure to provide this data to the defense would result in an unfair advantage for
the prosecutor and a violation of Reddicks' constitutional rights to due process and a fair
jury trial pursuant to the Sixth and Fourteenth Amendments. This Court has the authority
to grant this request. Commonwealth v. Joseph Cousin, 449 Mass. 809, 818 (2007)
("[W]e do not set forth a comprehensive set of procedures to be followed in all cases in
which criminal record checks of jurors are requested...Rather, we believe it is most
sensible at this point to leave the matter to the sound discretion of the trial judge...").

Further, if this Court does allow the Commonwealth to access the CORI records of prospective jurors, then Reddicks requests that this Court order the Commonwealth to also run the jurors' names through the District Attorney's Victim/Witness database.

Right now, the Commonwealth only runs the juror names through a database that will produce information favorable to the Commonwealth, namely which jurors lied about having criminal records. The Commonwealth then uses this information to strike prospective jurors from the pool.

However, the right to due process is at its core a right to fundamental fairness in court proceedings. As such, if juror CORI records are to be run, then due process requires that the names of the prospective jurors also be run through the District Attorney's Victim/Witness database. This information would allow all parties to confirm whether prospective jurors were truthful in responding to inquiries regarding whether they or their family members were ever the victims of a crime. On information and belief, the District Attorney's office has the capability to retrieve this information with ease, and similar orders have been issued by the Superior Court in the past.

If it is somehow relevant to jury selection to confirm that all the jurors were truthful when they answered the inquiry about whether they had ever been arrested for a crime, then it must also be relevant to confirm whether these same jurors were truthful when they answered the inquiry about whether they were ever the victims of a crime.

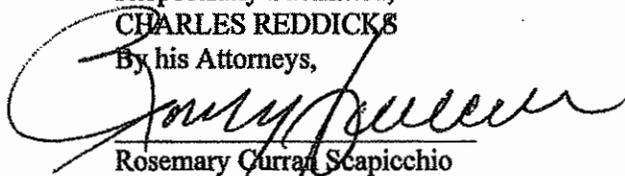
A trial, where the end result could possibly be incarceration in state prison, is a fight for a defendant's liberty. Hicks v. Oklahoma, 447 U.S. 343 (1980). Both the state and federal constitutions were designed to protect citizen defendants from the government, not the other way around. As such, it is constitutionally imperative that the

district attorney's office not be given any unfair advantages in its attempt to take away a citizen's freedom at trial.

Finally, Reddicks objects to the prosecutor reviewing any juror CORI records after the jurors are already sworn in and the trial has begun. Such prosecutorial conduct would violate due process and is not allowed under the laws of the Commonwealth. See Commonwealth v. Lord Hampton, 457 Mass. 152 (2010)(The prosecutor's independent authority to run juror CORI records ends once the jury are sworn). See also Gomez v. United States, 490 U.S. 858, 876 (1989); Mass.R.Crim.P.20 (peremptory challenges of jurors can only occur before jury is sworn).

WHEREFORE, Reddicks requests that this Court preclude the Commonwealth from running the CORI records of prospective jurors, or alternatively, that the Commonwealth be ordered to provide defense counsel with copies of all documents and information obtained from the police department or probation as a result of the CORI records.

Respectfully Submitted,
CHARLES REDDICKS
By his Attorneys,



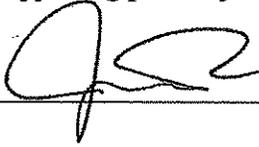
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CERTIFICATE OF SERVICE

I hereby certify that a true copy of the above document was served upon the attorney of record for each party and upon any party appearing pro se by first class mail, postage prepaid or by hand delivery.

Dated: 1/12/16 Signed: 

VOLUME: I
PAGES: 319
EXHIBITS: ID: B-F

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, SS.

SUPERIOR COURT DEPARTMENT
Of THE TRIAL COURT

* * * * *
COMMONWEALTH OF MASSACHUSETTS *
*
-v- * SUCR 2012-10714
*
CHARLES REDDICKS *
* * * * *

JURY TRIAL
(DAY 1)

BEFORE: HONORABLE LINDA E. GILES
Suffolk Superior Courthouse
Courtroom 907
Boston, Massachusetts
Wednesday, January 13, 2016

Gregory Henning, Assistant District Attorney
For the Commonwealth of Massachusetts

Rosemary Scapicchio and Jillese McDonough
On behalf of Charles Reddicks

NANCY MCCANN, CVR-C.M.
OFFICIAL COURT REPORTER
SUFFOLK SUPERIOR COURT

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EXHIBITS MARKED FOR IDENTIFICATION

<u>EXHIBIT</u>	<u>DESCRIPTION</u>	<u>PAGE</u>
B - ID	Board of Probation Records of Accepted Jurors	219
C - ID	Board of Probation Record, Juror Number 5, Seat Number 1	220
D - ID	Board of Probation Record of Juror Number 28, Seat Number 2	221
E - ID	Board of Probation Record of Juror Number 29, Seat Number 3	221
F - ID	Board of Probation Records of Juror Number 47	225

P R O C E E D I N G S

Wednesday, January 13, 2016

(Court in session at 9:15 a.m.)

(Defendant present.)

THE CLERK: Your Honor, for the record, before the Court, Commonwealth versus Charles Reddicks, 2012-10714. Mr. Reddicks is present with his attorneys, Rosemary Scapicchio and Jillise McDonough. For the Commonwealth, Assistant District Attorney Gregory Henning.

THE COURT: Mr. Henning, Ms. Scapicchio, Mr. Reddicks, Ms. McDonough, good morning to all of you. What do we need to address before impanelment?

MS. SCAPICCHIO: Do you want to do yours first? Because there's witnesses here. I will wait.

MR. HENNING: There are some witnesses in the courtroom who I believe will be, and correct me if I'm wrong, John Hyman, Javeon Hyman, and Terri Hyman. Could you just raise your hands as I call your name?

So those witnesses, Your Honor, the Commonwealth may be calling. Obviously, the sequestration order would apply. As you know, we

1 are not going to need them today, but I do want
2 them to be recognized and then I'm happy to
3 contact them in advance of when we would need to
4 do that. I would just ask for contact information
5 for them so that we can reach out. Alternatively,
6 if they don't want to provide contact information,
7 I assume we'd have to go day to day with these
8 witnesses; but right now, I'm happy to leave them
9 on call so I can reach out to them.

10 THE COURT: All right, let's address
11 that order of business first. Who are these three
12 witnesses?

13 COURT OFFICER: Stand up, please.

14 THE COURT: From my left to right, sir,
15 what is your name?

16 MR. HYMAN: John Hyman.

17 THE COURT: H-Y-M-A-N?

18 MR. HYMAN: Yes.

19 THE COURT: Next to you, sir, is?

20 MR. HYMAN: Javeon Hyman.

21 MR. HENNING: Javeon is J-A-V-E-O-N.

22 MS. HYMAN: Terri Hyman. Terri.

23 THE COURT: What is your last name,
24 ma'am?

25 MS. HYMAN: Hyman.

1 THE COURT: You all have the same last
2 name, okay.

3 Mr. Kalell, can you recognize them.

4 THE CLERK: As to all three parties who
5 are present here today, the Court recognizes you
6 that you must appear. If you do not give contact
7 information to the DA, you must appear daily at
8 9 AM. Is that I understood by all parties?
9 Please answer yes.

10 (All three parties respond in the
11 affirmative.)

12 THE COURT: Let me explain what
13 Mr. Kalell, our Clerk just told you. You have
14 been summonsed to be witnesses at this trial.
15 That's a Court order. That means you have to
16 comply with it or suffer the consequences of not
17 complying with it. Mr. Henning, the District
18 Attorney, has indicated that he doesn't need your
19 presence today. We're impaneling today, so the
20 trial is definitely not going to start today.

21 What he needs from you is contact
22 information because then he can call you and let
23 you know when you have to be here. It may be a
24 question of being here tomorrow or Friday or
25 sometime next week, but you need to give him

1 contact information. If you don't give him
2 contact information, then you have to be here
3 every day of trial. So I'm assuming you'll
4 appreciate that it would be better for your
5 purposes to give him that contact information.
6 All right?

7 Do all three of you understand that?

8 (All three parties respond in the
9 affirmative.)

10 THE COURT: So you have been what we
11 call recognized. That means you are ordered to
12 attend this trial. That's a Court order, that's
13 coming straight from me, all right? And if you
14 don't show up, please understand that I could
15 issue what we call a *capias*, it's a civil arrest
16 warrant for your arrest. I'm assuming you don't
17 want that to happen. So you need to be present
18 when this District Attorney tells you to be
19 present at this trial here in Courtroom 907.

20 Do all three of you understand that?

21 (All three parties respond in the
22 affirmative.)

23 THE COURT: And are you willing to give
24 him your contact information?

25 (All three parties respond in the

1 affirmative.)

2 THE COURT: All three of you, all
3 right. If you could have a seat for a second, the
4 three of you, when Mr. Henning, the DA, gets a
5 moment, he will get your contact information, and
6 as soon as he or his representative --

7 MR. HENNING: Your Honor, Ms. Sears is
8 able to do that, I think.

9 THE COURT: All right. Before you go,
10 please make sure you await Mr. Henning's phone
11 call or a phone call from his representative.
12 That phone call will tell you when you have to be
13 here. Do all of you understand that?

14 (All three parties respond in the
15 affirmative.)

16 THE COURT: Once Ms. Sears has gotten
17 your contact information, you are free to go and
18 you will be contacted as to when to reappear.
19 All right? Do you all understand that?

20 (All three parties respond in the
21 affirmative.)

22 THE COURT: Thank you so much for your
23 cooperation. You're free to go.

24 MR. HENNING: Thank you, Your Honor.
25 Your Honor, the Commonwealth had to

1 address three things from yesterday and I'm
2 prepared to do that.

3 THE COURT: Yes, please.

4 MR. HENNING: The first was regarding
5 the medical examiner. I spoke with Dr. Lindstrom
6 last night, again using the parameters that the
7 doctor would be testifying to a reasonable medical
8 certainty. There is not going to be any
9 supplemental report, and therefore, we are not
10 going to be offering as part of our examination an
11 opinion about the wound trajectory, so to speak,
12 that we discussed yesterday. When I found that
13 out, I called Ms. Scapicchio last night.

14 THE COURT: All right, so it sounds as
15 if that issue has become moot now.

16 MS. SCAPICCHIO: I believe it is, Judge.
17 My only issue is that I have spent some time with
18 the medical examiner trying to solve this issue.
19 I did have a motion for funds, I just want to make
20 sure she gets paid. That's all.

21 THE COURT: I will, at an appropriate
22 time, no question -- you're talking about your
23 expert.

24 MS. SCAPICCHIO: Right, my expert.

25 THE COURT: Absolutely.

1 MS. SCAPICCHIO: Assuming the
2 Commonwealth already paid theirs.

3 THE COURT: I think the ME is on salary.
4 But in any event, at an appropriate time, I will
5 absolutely allow your motion for funds. Anything
6 else?

7 MR. HENNING: The second issue was with
8 regard to the ballistician. The Court had said
9 that if the ballistician was going to testify
10 about the firearm that was used in this case most
11 likely being a revolver, that he produce a report.

12 I spoke with the ballistician last
13 night. The basis of his opinion is in the notes
14 that he has provided and that we provided to
15 counsel. Producing a different report is
16 something that he needs to go through his quality
17 control managers in the forensic laboratory,
18 meaning it's something that they check because
19 it's not the protocol that they typically have.
20 I've asked him to do that and to get back to me,
21 and I anticipate reaching out to him at lunchtime.

22 I've also talked with him about the
23 characteristics of the bullets that Ms. Scapicchio
24 inquired about yesterday, and again, I would say
25 that the basis of his opinion is in the report and

1 also the notes that accompany it. I think it's
2 ripe for cross-examination if Ms. Scapicchio wants
3 to do it, but that is the basis of his opinion
4 that's already been provided.

5 THE COURT: Ms. Scapicchio.

6 MS. SCAPICCHIO: Judge, it's not, and
7 I can't cross-examine his telling me what the
8 ballisticsian said. Just produce a report, it's
9 not that difficult. It happens every single day
10 in every single homicide. In fact, this is the
11 only homicide I've ever had that I haven't gotten
12 a single report from the Commonwealth with respect
13 to any of their witnesses, the only one in 26
14 years.

15 THE COURT: Mr. Henning, by tomorrow,
16 can't Detective Camper just issue a very short
17 report?

18 MR. HENNING: There is a report that
19 we've already turned over where he describes the
20 ammunition as being --

21 MS. SCAPICCHIO: He doesn't give his
22 opinion. It's his opinion that I want.

23 MR. HENNING: He does.

24 MS. SCAPICCHIO: No, he doesn't. He
25 doesn't say anything about what you said in your

1 disclosure, he doesn't say anything about that.
2 That it's a revolver? Where does he say that?

3 MR. HENNING: May have a moment, Your
4 Honor? So we can solve the issue right now,
5 I just have to pull the file.

6 THE COURT: All right.

7 (Pause.)

8 MS. SCAPICCHIO: He gives me a list
9 17 guns. He wants me to then infer that I'm
10 supposed to say more likely than not. More
11 likely than not is not a scientific decision or
12 acceptance in this community. More likely than
13 not gets you nowhere.

14 THE COURT: Well, I disagree with that.
15 You're talking about 15 of the 17 possible
16 firearms from which these bullets could come are
17 revolvers, not semiautomatics.

18 MS. SCAPICCHIO: Right.

19 THE COURT: I think it's a reasonable
20 and fair inference that this was a revolver then.

21 MS. SCAPICCHIO: So put it in a report
22 so I can cross-examine. That's all I'm asking
23 for. It's not that difficult.

24 MR. HENNING: May I just hand it up to
25 the Court?

1 THE COURT: Sure.

2 MR. HENNING: There's a column there and
3 it's about two over from the left after the list
4 of the weapons, the column has PERSON and PI.
5 Most of them are PERSON. PERSON stands for
6 pistol revolver, PI stands for pistol
7 semiautomatic.

8 MS. SCAPICCHIO: And we're supposed to
9 know that how? Are we just supposed to guess it?

10 MR. HENNING: I'm happy to provide --

11 THE COURT: Well, at some point,
12 Ms. Scapicchio, I understand you want to, you
13 know, make a record, but if you understand that
14 PERSON is a revolver, I can see that 15 of the 17
15 listed here are revolvers.

16 MS. SCAPICCHIO: And they told me last
17 night at 4 o'clock that PERSON was a revolver.

18 THE COURT: Okay.

19 MS. SCAPICCHIO: I just want a report.
20 It's not that difficult.

21 THE COURT: Ms. Scapicchio, I really --

22 MS. SCAPICCHIO: You ordered them to
23 produce a report.

24 THE COURT: Ms. Scapicchio, at this
25 point, now that I've seen this page, if I'm

1 hearing correctly from Mr. Henning, the sum basis
2 of Detective Camper's opinion is that 15 out of
3 17 are revolvers, so the odds are that it's a
4 revolver. You don't need a report,
5 Ms. Scapicchio.

6 MS. SCAPICCHIO: I don't know if that's
7 the sum total of his opinion, Judge. I have no
8 idea if that's the sum total of his opinion.

9 MR. HENNING: I spoke to him yesterday
10 and what I'm asking is to have him bring it to
11 lunch so he can speak to a quality control
12 manager. If there's additional material, I do
13 believe he has to produce a report. If there's
14 not, I believe that that report is sufficient.

15 THE COURT: Ms. Scapicchio, this is my
16 ruling. If the sum total of Detective Camper's
17 report is that this ammunition, these bullets,
18 these spent bullets -- am I misspeaking?

19 MR. HENNING: Projectiles, yes.

20 THE COURT: Projectiles. If these
21 projectiles as identified are one of 17 types of
22 ammunition --

23 MR. HENNING: If the projectiles from
24 one of these were likely to come from one of these
25 17 firearms.

1 THE COURT: Firearms, I'm sorry,
2 I misspoke. And 15 of them are revolvers, and
3 therefore, the probability is that this is a
4 revolver, you don't need an additional report.
5 Anybody can get that, Ms. Scapicchio, so I think
6 you're taking this a little out in this regard.

7 MS. SCAPICCHIO: Judge, that's not all
8 he said in his disclosure.

9 THE COURT: Okay. If that's the sum of
10 his opinion, we don't need an additional written
11 report. This is very rudimentary. That's the sum
12 of it. Speak with him again, make sure that he's
13 basing it only on the fact that according to his
14 findings, 15 out of 17 are revolvers. Ergo, it
15 probably is a revolver.

16 If that's it, Ms. Scapicchio, you are an
17 extremely bright, skilled attorney, you get it,
18 you don't need a written report on this.

19 MS. SCAPICCHIO: Judge, my concern is if
20 there's any mention of weights of the bullets, any
21 type of striation on the bullets that make it more
22 likely it's a revolver? I don't know that.

23 MR. HENNING: The weights on the bullets
24 are on the previous page.

25 THE COURT: Okay, but it's just based on

1 weights of the bullets.

2 MR. HENNING: The chart you have in
3 front of you --

4 MS. SCAPICCHIO: Why don't we have a
5 report so we know? Why are we guessing the day
6 before trial, the day of trial? Why can't he just
7 produce a report?

8 MR. HENNING: A report has been produced
9 which is his conclusion about, if you look on the
10 front two pages, that he believes these are all
11 fired from the same weapon.

12 MS. SCAPICCHIO: Right, I get that
13 conclusion. I'm not -- I'm disputing that, but
14 I've been aware of that conclusion. It's all of
15 the other stuff that you put in your disclosure
16 that you said he was going to testify to that we
17 still don't have a report. It's my job now to go
18 through his report and figure out what he might
19 conclude because he can't write a report that says
20 what his opinion is? Really? In a homicide?

21 MR. HENNING: Judge, I asked him to take
22 a look at it and I will speak with him during the
23 lunch break after he has spoken to the folks that
24 he talked about.

25 THE COURT: I'm going to look at the

1 report and determine whether or not --

2 MS. SCAPICCHIO: And the disclosure,
3 Judge. And their disclosure. Because the
4 disclosure is different from the report, that's
5 the point.

6 THE COURT: All right. Let me take a
7 look at the disclosure, and I'll see whether
8 Detective Camper needs to give you another written
9 report.

10 MS. SCAPICCHIO: And if you look, Judge,
11 at my motion, I spell out what I don't understand
12 from the report.

13 THE COURT: Okay. And whether that's
14 reasonable or unreasonable will be my
15 determination. Okay?

16 MS. SCAPICCHIO: Thank you.

17 THE COURT: What else?

18 MR. HENNING: The third topic was the
19 T-Mobile engineer. The Commonwealth spoke with
20 him this morning. I believe he will be producing
21 something by the end of the day.

22 What I explained was it should be a
23 report that outlines what he would testify to as
24 to his conclusions regarding the cell towers and
25 what the basis of that conclusion is. He said

1 he'll try to get it to me by the end of the day.

2 THE COURT: I'm going to reserve on
3 this one. I want to see that report and how
4 complicated it is. Unlike Detective Camper's
5 conclusion, which I perceive at least initially
6 without having looked at his old report, to be
7 fairly rudimentary in its conclusion. This may be
8 much more complicated, and if so and you're just
9 giving it to Ms. Scapicchio, I may consider
10 excluding it.

11 MS. SCAPICCHIO: Judge, just to be safe
12 in the event it comes in, I think I should
13 probably -- I've used Steve Verneau as a cell
14 tower expert before. I've not consulted him on
15 this case. I did call him last night. I haven't
16 received a phone call from him back. I'd like to
17 add him to the witness list just in case there is
18 an issue.

19 THE COURT: Sure.

20 MS. SCAPICCHIO: He took over his
21 company from his brother, it used to be Mike
22 Verneau who did all this, but he had a stroke and
23 died, and now Steve Verneau, the brother, is
24 taking over.

25 THE COURT: Would it be Stephen with a

1 P-H?

2 MS. SCAPICCHIO: I don't know, Judge,
3 I'm sorry. I should know that, and I don't.

4 THE COURT: Spell his last name.

5 MS. SCAPICCHIO: I think it's V-E-R-N-E-
6 A-U.

7 THE COURT: Oh, I'm sorry, I thought you
8 said Renault.

9 MS. SCAPICCHIO: No, V-E-R-N-E-A-U,
10 Verneau. And like I said, I don't know if he's
11 available, I nothing about him, but I just --

12 THE COURT: Do you know what community
13 in which he works?

14 MS. SCAPICCHIO: I think it's on the
15 North Shore, Judge, I want to say I think it's up
16 in Essex.

17 THE COURT: Essex County?

18 MS. SCAPICCHIO: Yes.

19 THE COURT: Well, there's a town of
20 Essex. You think it's Essex?

21 MS. SCAPICCHIO: I don't know, Judge.
22 I don't know if he's still in the same building
23 that his brother was in, I just don't know.

24 THE CLERK: Judge, I can Google it for
25 you. Spell the last name again?

1 THE COURT: V-E-R-N-E-A-U?

2 MS. SCAPICCHIO: I believe that's it.

3 THE CLERK: First name?

4 MS. SCAPICCHIO: Stephen. And it used
5 to be, the guy that used to own the company was
6 Michael Verneau.

7 THE CLERK: Okay, I'll Google it.

8 THE COURT: Great.

9 MR. HENNING: Your Honor, just to
10 clarify what you're saying, Counsel has been on
11 notice about the cell towers, themselves, for
12 quite some time. What we're talking about
13 excluding is the vicinity within a one mile
14 portion which is what we were covering yesterday.

15 THE COURT: Yes.

16 MR. HENNING: But not excluding the
17 witness.

18 THE COURT: No, no, just that portion of
19 it that may be new to Ms. Scapicchio and/or may be
20 so complicated that it is unduly prejudicial to
21 her to come up to speed.

22 MR. HENNING: Understood.

23 THE COURT: So I'm going to reserve on
24 that until I see the new report, then we'll have
25 another discussion.

1 MR. HENNING: And then the last open
2 issue from yesterday was we had a motion of the
3 Commonwealth, prior and subsequent bad acts. The
4 McGee case was one of the --

5 THE COURT: Why do we need to do this
6 before impanelment? We've got jurors waiting
7 downstairs. Is there something that we need to
8 address before impanelment?

9 MS. SCAPICCHIO: I have something,
10 Judge.

11 THE COURT: Yes.

12 MS. SCAPICCHIO: I'm moving to dismiss
13 again for prosecutorial misconduct and late
14 discovery. I'm not going to go over all the
15 things of yesterday. I'll just give you the
16 highlights.

17 The lack of reports on any scientific
18 expert, the new information on the pathologist,
19 the new information on the ballistics, the new
20 information on the cell tower, the new information
21 on the MBTA.

22 There are four new witnesses that
23 they've just disclosed to me, the information
24 regarding Ian Follette that they didn't disclose
25 to me till yesterday regarding his prior or his

1 open and pending case, the information regarding
2 Lucky's conviction which they just disclosed to me
3 last week.

4 I have been asking, Judge, just so the
5 record is clear, for almost two and a half years
6 why it was that the Commonwealth didn't run the
7 victim's cell phone. We had texts that were
8 allegedly from my client to the victim, and that's
9 all we had in this case.

10 And I've been asking, I've filed motions
11 looking for disclosure of the victim's cell phone
12 because I think that's one of the first things
13 that they would do.

14 Yesterday, Mr. Henning handed me a disc
15 that is a dump of the victim's cell phone and a
16 report -- I think there's two reports on there,
17 from their police department that they dumped it
18 on January 11th of 2016.

19 It's about 4,000 pages of information,
20 some documents I can't even open. I was looking
21 at it until well after midnight last night. I do
22 not have a good handle on it. There is absolutely
23 no excuse whatsoever that this should be so late
24 in the game.

25 I don't know, the Commonwealth has

1 said they're not using it, and that's great, but
2 I don't know if there's anything exculpatory on
3 there. I have to look at every single document
4 and every single page.

5 And the way it's set up, if there are 50
6 photos, you have to click on every single photo.
7 That's what I was doing last night, looking at
8 photos. There are photos, there are emails, there
9 are texts, there are cell call detail, none of
10 which was turned over until last night.

11 I can't possibly be able to look at
12 4,000 pages and digest it while I'm still on
13 trial. It's outrageous conduct on behalf of the
14 District Attorney's Office. There's no excuse for
15 it whatsoever.

16 It could contain exculpatory evidence
17 for my client which they've withheld till the day
18 of trial, and I say that under all the
19 circumstances, it's a violation of his Sixth
20 Amendment right to be able to prepare a defense.

21 I don't know how this is going to fit
22 into any of the witnesses in this case. And I
23 can't stay up till midnight every night trying to
24 catch up on stuff they should have given me three
25 years ago.

1 THE COURT: Mr. Henning?

2 MR. HENNING: The phone that the
3 Commonwealth had from the victim, the defense has
4 known that we've had it for quite some time,
5 obviously since the beginning of the case.

6 When the inspection of the phone was
7 done originally there was no software that he had
8 that could give the equivalent of a phone dump.

9 Ms. Scapicchio mentioned to me, perhaps
10 a week ago or five days ago, that she wanted to
11 look at the text messages and communications from
12 his phone, she said is that all there is. I said
13 that's all I have. I can ask them if there's
14 something else they can do with the phone.

15 I went to my inspector or the detective,
16 he brought the phone to our forensic examiner.
17 They now have software to do it. He asked me
18 whether or not I wanted to have it done.

19 Rather than not having it done, I said
20 put the phone on a disc like we would typically
21 do, and I gave it to counsel.

22 I realize that we're giving that to her
23 late. I understand that. The material that we
24 have that we're using from the victim's phone,
25 counsel has known about. I have not had and did

1 not know about until counsel mentioned to me, the
2 ability for us to do the subsequent follow-up on
3 the phone to search it.

4 THE COURT: Well, was the request
5 recent? Ms. Scapicchio, did you just request it?

6 MS. SCAPICCHIO: No, I've been
7 requesting it for two and a half years, Judge.
8 It's just when he took over the case, I said
9 I can't believe that you didn't dump the victim's
10 phone.

11 I've been asking -- I asked Joe Janezic
12 for it. I even asked the first district attorney
13 who was on the case, Dan Mulhern, where is the
14 dump from the victim's phone. I've been asking
15 for three years.

16 It just so happened that he took over
17 the case. We were talking about the text messages
18 and I said I can't believe you guys didn't dump
19 it. He's telling me he didn't know we had the
20 technology.

21 I told him I've tried a number of cases
22 in Suffolk County. Of course you have the
23 technology to dump the phone. It's been happening
24 for years you've been dumping phones.

25 MR. HENNING: It's not the technology

1 for phones. It's this particular phone. It's an
2 older model, a non-regular touchscreen.

3 So I spoke with Sergeant Detective
4 Witherspoon, and he said he thought we may have
5 the technology to do it now, which is why I asked
6 him to do it.

7 THE COURT: Thank you, both, very much.
8 I'm going to note your objection for the record,
9 Ms. Scapicchio, but I'm not allowing your oral
10 motion to dismiss.

11 MS. SCAPICCHIO: Then I need to move to
12 continue, Judge. I need time to look at 4,000
13 pages and figure out in that 4000 pages, whether
14 or not there's anything in there that I can use
15 to cross-examine the Commonwealth's witnesses.
16 I need to understand how that works with respect
17 to all of these witnesses. It's not my client's
18 fault, it's not my fault that they waited until
19 the day before trial to dump the victim's phone.
20 They've been on notice since the beginning of time
21 that I was looking for this information. The idea
22 that they're saying here now that they just got
23 the technology, I think, is ludicrous. They've
24 had this technology forever, Judge. It's unfair.

25 At some point, you have to say that it's

1 unfair to Mr. Reddicks that they're dumping this
2 stuff on us at the last minute. I'm very good at
3 what I do, but I'm not a miracle worker. I can't
4 look at 4000 pages. And now I need a cell phone
5 expert to tell me whether or not he can delete
6 these undeleted files that are on the cell phone.
7 When am I going to do that?

8 THE COURT: Thank you, Ms. Scapicchio.
9 Again, I will note your objection for the record,
10 but I'm not going to continue the trial, either.
11 What you're engaging in is pure speculation. The
12 fact that something on the victim, the alleged
13 victim's phone is going to be at all probative of
14 anything in this case is pure speculation on your
15 part.

16 MS. SCAPICCHIO: But I'm not supposed
17 to have to speculate at this point, Judge. I'm
18 supposed to know. It's my job to know. It was
19 their job to give it to me so I do know. So yes,
20 it speculation because they gave it to me last
21 night. I need time to be able to make a coherent
22 argument to you as to what's on that phone and why
23 it's important. I can't do that now because they
24 handed it to me last night and I didn't even put
25 the disk into my computer until 6 o'clock last

1 night.

2 THE COURT: Ms. Scapicchio, if before
3 the end of this trial, you find something of a
4 material nature, I'll consider a mistrial. If
5 your client is convicted, I'll consider setting
6 aside the verdict. Believe me, there are remedies
7 that I can take. But at this point, you are
8 engaging in utter speculation. All right? In any
9 event --

10 MS. SCAPICCHIO: Because of the
11 Commonwealth's conduct.

12 THE COURT: It's still speculation.

13 MS. SCAPICCHIO: But Judge, that's not
14 fair. Because I'm not ready to make an argument
15 because they just gave it to me? That's a
16 circular argument, how am I supposed to do that?
17 If they had given it to me in time to actually
18 look at it, I could make a coherent argument as
19 to whether or not there's anything on it that's
20 exculpatory and an argument that they should have
21 turned it over earlier and therefore my client
22 should not have to stand trial. You're saying
23 it's only speculative, so we can't do anything
24 about it. It's only because I don't have it.

25 THE COURT: Ms. Scapicchio, again,

1 I will clearly note your objection for the record.
2 If at some point, and we have a holiday weekend
3 coming up, you look at that disk and something
4 exculpatory comes out to you and you persuade me
5 that you needed this in advance and you are
6 prejudiced somehow by the late, the allegedly late
7 disclosure of this, I'll --

8 MS. SCAPICCHIO: There's no allegedly
9 about it, Judge, it was yesterday.

10 THE COURT: All right, thank you, I will
11 consider ordering a mistrial, but until such time,
12 I'm not going to go to that drastic -- I'm not
13 going to resort to that drastic measure.

14 MS. SCAPICCHIO: So I can't get a
15 continuance you look at 4000 pages of discovery.

16 THE COURT: That is correct.

17 MS. SCAPICCHIO: Because the
18 Commonwealth decided to handed to me yesterday.
19 Because I can't tell you what it said because
20 I don't have time to look at it. Is that what
21 you're saying?

22 THE COURT: No, Ms. Scapicchio, that's
23 not what I'm saying. I'm saying that if and when
24 you find something exculpatory on that --

25 MS. SCAPICCHIO: When am I supposed to

1 do that, Judge? I'm trying a case. When am I
2 supposed to look at 4000 pages? And it's not just
3 looking at it, Judge. It's looking at it and
4 comparing it to all of the other evidence in the
5 case. When am I supposed to do that?

6 THE COURT: Ms. Scapicchio, I also have
7 to put this into a broader context --

8 MS. SCAPICCHIO: The broader context is
9 the violation of my client's rights.

10 THE COURT: May I speak? I've allowed
11 you to speak ad infinitum, Ms. Scapicchio.
12 Given the essential defense in your case which if
13 I understand correctly is misidentification --

14 MS. SCAPICCHIO: Right.

15 THE COURT: -- the chances of finding
16 something exculpatory or even material in the
17 alleged victim's cell phone records is remote, to
18 say the least.

19 MS. SCAPICCHIO: I don't believe that,
20 Judge.

21 THE COURT: Well, I do, Ms. Scapicchio,
22 and when and if you can prove me incorrect, I'll
23 be the first one to respond. All right? So at
24 this point --

25 MS. SCAPICCHIO: So my client might have

1 to stand trial twice because the Commonwealth was
2 late with discovery.

3 THE COURT: Thank you, Ms. Scapicchio.
4 I have noted your objection, but respectfully,
5 I am going to deny your request.

6 Is there anything else we need to talk
7 about before impanelment?

8 MS. SCAPICCHIO: No, Your Honor, note my
9 objection.

10 THE COURT: Clearly noted, clearly
11 noted.

12 In preparation for impanelment, we have,
13 of course, the indictments. I've got
14 Commonwealth's witness list, as well as your 31
15 witnesses now.

16 MS. SCAPICCHIO: Right, and I could cull
17 it down if they would stop giving me discovery,
18 but they won't. And you won't do anything about
19 it, so there's nothing I can do about it.

20 THE COURT: Without the gratuitous
21 remarks, Ms. Scapicchio, that would be very
22 appreciated, I am going to read all of the
23 witnesses on the witness list.

24 There was also presented to me a
25 proposed statement of the case. Is this by

1 agreement?

2 MR. HENNING: If I could just see it?

3 MS. SCAPICCHIO: I actually want to see
4 it, as well, how it ended up, because I was too
5 busy doing other things.

6 (Pause.)

7 MS. SCAPICCHIO: It's fine with me.

8 MR. HENNING: No objection from the
9 Commonwealth.

10 THE COURT: I've also handed out to you
11 my proposed voir dire questions. I gave each of
12 the attorneys a copy. Does anybody have any
13 problem with the proposed questions? The first
14 portion, the first four, I'm going to add to the
15 collective questions. The latter four are for
16 individual voir dire. Anybody have any concern
17 about the wording of those questions?

18 MS. SCAPICCHIO: Judge, I would ask, and
19 I don't know if you'll do it, on number three of
20 the second set?

21 THE COURT: Yes.

22 MS. SCAPICCHIO: Where you say the
23 defendant in a criminal case has an absolute right
24 not to testify, I'd ask you to ask if Mr. Reddicks
25 chose not to testify, would you hold that against

1 him in any way.

2 THE COURT: Sure. Anything else?

3 Mr. Henning, Ms. Scapicchio?

4 MS. SCAPICCHIO: Not for me, Your Honor.

5 THE COURT: Again, to, I think it's
6 Mr. Reddicks' mom and his other relatives, we may
7 need to -- if you want to stay for this
8 preliminary portion of impanelment, we're going to
9 bring in about 70 potential jurors, you're going
10 to need to be put somewhere away from these jurors
11 if you want to stay in the courtroom. We welcome
12 your presence, it's an open courtroom, but please
13 understand that after the initial portion of
14 impanelment, those 70 jurors are going to be taken
15 to another courtroom and then there will be plenty
16 of room in the back on those benches for you to
17 return and be more comfortable.

18 But during the initial portion when we
19 have 70 potential jurors, the Court Officers may
20 have to put you over in the corner or someplace
21 slightly away, so if you could comply with their
22 wishes, I very much appreciate it.

23 MS. SCAPICCHIO: Could I just have a
24 minute to speak to the family just to explain?

25 THE COURT: Of course. It's going to

1 take a moment to bring all 70 in, so you have
2 plenty of time.

3 And as I've already explained to the
4 attorneys off record, we're going to be sitting at
5 that table back there. Mr. Henning, I think you
6 agreed to sit at that table. Ms. Scapicchio, you
7 may want to change seats with Ms. McDonough.

8 MS. SCAPICCHIO: I will, yes.

9 THE COURT: I'll be sitting at the end
10 of the table, Mr. Kalell will be to my left, and
11 the jurors are going to be brought down there.
12 I'll be asking my questions and then if the
13 attorneys have follow-up, you may not, but you
14 may, we'll take it, we will see how it goes, and
15 once we have finished that process, I'll ask the
16 juror to step outside, I will declare him or her
17 to be indifferent, and you'll have to exercise
18 your peremptories at that time, Commonwealth
19 always going first.

20 Any questions about the impanelment
21 process?

22 MS. SCAPICCHIO: Not about the
23 impanelment process, Judge, no.

24 THE COURT: Is there anything else we
25 need to talk about before impanelment?

1 MR. HENNING: May I just step out into
2 the hallway for a moment?

3 THE COURT: Sure.

4 MS. SCAPICCHIO: The other thing that
5 I would ask, I don't know if it has to do with
6 impanelment, but if we need to approach sidebar
7 for any reason, I'd request that my client be
8 allowed to approach sidebar with me for the
9 duration of the trial.

10 THE COURT: He has the absolute right
11 to do that. He will be accompanied by a Court
12 Officer, of course.

13 MS. SCAPICCHIO: Absolutely.

14 THE COURT: He's got the absolute right.

15 MS. SCAPICCHIO: I just wanted
16 permission because some judges say no. They do,
17 they do.

18 THE COURT: Really?

19 MS. SCAPICCHIO: Really. I know.

20 THE COURT: I won't say anything more.
21 He has the absolute right under the case law to
22 join us at sidebar.

23 MS. SCAPICCHIO: Thank you, Your Honor.

24 THE COURT: One last thing. I'm going
25 to say it's going to be about nine days. I know

1 you said 10, but it's important because I think
2 how many hands go up or how many people ask for an
3 excuse is a direct function of how long we tell
4 them. Two days this week if we're lucky, four
5 days next week, that six days. If I say nine
6 days, we're still talking about another three days
7 into the following week. So I'm going to say it's
8 going to be approximately nine days. It could be
9 less than that, it could be more than that, but
10 nine seems more accurate, in my opinion.

11 MS. SCAPICCHIO: I think it's going to
12 be 10, but whatever the Court thinks.

13 THE COURT: Anything else before
14 impanelment? Because we do have jurors outside.

15 MS. SCAPICCHIO: Judge, the only other
16 thing is I still don't have the NCIC reports for
17 the witnesses.

18 MR. HENNING: They were run last night,
19 the detective is bringing them in this morning.

20 THE COURT: Okay, let's that get through
21 impanelment and we will clear up any unfinished
22 business after impanelment, all right?

23 Thanks, everybody.

24 (Venire entering at 9:50 a.m.)

25 IMPANELMENT:

1 THE CLERK: Your Honor, before the
2 Court, Commonwealth versus Charles Reddicks,
3 2012-10714. Mr. Reddicks is present with his
4 attorneys, Rosemary Scapicchio and Jillise
5 McDonough. For the Commonwealth, Assistant
6 District Attorney Gregory Henning.

7 Mr. Reddicks, you are now set at the bar
8 to be tried, and these good people whom I shall
9 call are to pass between the Commonwealth and you
10 upon your trial. You have a right to challenge 16
11 of their number without assigning a reason
12 therefor. If you do so or if you object to others
13 for cause, you must do so as they are called and
14 before they are sworn.

15 You may be seated.

16 THE COURT: Well, good morning, ladies
17 and gentlemen. My name is Judge Linda Giles,
18 that's spelled G-I-L-E-S, and I'm a justice of the
19 Superior Court in whose courthouse you find
20 yourselves here today for a very important public
21 duty which, of course, is jury service.

22 First of all, I want to apologize for
23 the delay in bringing you up here. As you've
24 already encountered, you needed to go through an
25 orientation process, there is a considerable

1 amount of paperwork that needs to be accomplished
2 before we can bring you up here, and very
3 typically on the first day of any trial, I needed
4 to confer with the attorneys to ready the case for
5 this important stage in the proceedings.

6 You've been brought up here, ladies and
7 gentlemen, for an important stage in this trial
8 which we call impanelment, and in just a moment,
9 I'm going to explain to you this process which we
10 call impanelment, and after that, I'm going to
11 give you a brief overview of what this case is all
12 about, and finally, I'm going to introduce you to
13 the participants in this trial.

14 Now, in just a moment, I'm going to ask
15 you a series of questions that will assure that
16 you can be a fair and impartial juror in this
17 case. As I'm asking these questions, if you
18 answer yes to one or more of my questions, please
19 raise that white juror card high until one of the
20 Court Officers has made note of your number.

21 After I've asked that series of
22 questions, a few things are going to happen.
23 First of all, for your convenience, you're going
24 to be brought, most of you are going to be brought
25 to another empty courtroom elsewhere on this

1 floor. Some of you are going to be asked to be in
2 the hallway, and you're going to be brought in one
3 at a time. You're going to be brought in through
4 that side door, you're going to be asked to sit at
5 the end of this back table here. The attorneys
6 and Mr. Reddicks, the defendant, are going to be
7 seated at that long table. I'm going to have some
8 additional questions that I need to ask you
9 privately, in other words, out of the hearing of
10 the other ladies and gentlemen in this courtroom,
11 and the attorneys may also have some questions
12 that they may want to ask of you. All right?

13 During this process, the attorneys may
14 have excuses of you for any reason or no reason at
15 all. So if you are excused by one of the
16 attorneys from being a juror on this case, first
17 of all, please don't take that personally. As
18 I've just indicated, the attorneys have the
19 absolute right and prerogative to excuse a certain
20 number of you for absolutely no reason at all.
21 But I do have to tell you that if you are excused
22 from being on this jury today, please do not think
23 you are wiggling off the proverbial hook of jury
24 service. If you're excused from being on this
25 jury today, you will be sent right back down to

1 the second floor jury pool room for possible
2 impanelment on another trial elsewhere in the
3 building.

4 This building, by the way, houses the
5 Suffolk County Superior Court. The Superior Court
6 is the major trial court here in Massachusetts,
7 its jurisdiction is statewide. You happen to be
8 in the Suffolk County Division of the Superior
9 Court. This building houses something like 16
10 active hungry trial sessions, as we call our
11 courtrooms. On any day, up to 16 trial sessions
12 are in need of your services. Those sessions hear
13 either criminal cases or civil cases, in other
14 words, noncriminal cases.

15 So if you are excused from being on this
16 jury today, you're going to be directed back to
17 the second floor jury pool room for possible
18 impanelment elsewhere in the building on another
19 unrelated case. And as with everything else in
20 your life, you won't know what will lie around the
21 corner of your existence in this building today.
22 Those other cases that may be awaiting you
23 elsewhere in the building may not be as
24 interesting as this case, and those other cases
25 may not involve attorneys of the caliber that

1 I have before me today, and I have three great
2 attorneys on this case. This is going to be a
3 very, very interesting trial, I assure you. So
4 please understand that, that if you are excused
5 from being on this jury, you may be impaneled on
6 another unrelated case elsewhere in the building.
7 All right?

8 So we're going to proceed in this
9 fashion. I'm going to have some questions of
10 you as a group, after which the Court Officers
11 are going to take you to another courtroom where
12 you're going to spend some time. Now, I
13 appreciate that this may take a while. Please
14 understand that yes, this may not be an exciting
15 portion of the day for you, but please understand
16 how important and vital this process called
17 impanelment is for the parties and the attorneys.
18 So when you are in that other courtroom, it's an
19 empty courtroom, you'll be permitted to use your
20 cell phones or reading matter to while away the
21 time. I'm just going to ask that you don't use
22 those electronic items to do any research or to
23 communicate about any aspect of this case. I'm
24 also going to admonish you not to communicate with
25 any other potential jurors about any aspect of

1 this case, nor allow any other potential juror to
2 communicate with you about any aspect of this
3 case.

4 So we're going to proceed in this
5 fashion. You're going to be complying with the
6 Court Officer's rules, you're going to be brought
7 as a group, a few at a time, you're going to be
8 sitting out in the corridor outside this
9 courtroom. You're going to be brought in one at
10 a time. As you come in, please sit at the chair
11 that's going to be placed at the end of this back
12 table, please have a seat, and I will have a few
13 additional questions of you and the attorneys may
14 also have some additional questions of you. All
15 right?

16 We're going to proceed in this fashion,
17 and finally when we have 16 good citizens
18 impaneled as jurors in this case, the rest of you
19 will be excused with our thanks for your
20 participation in these proceedings, but you may be
21 again, depending on the time of day, be directed
22 back downstairs to the second floor jury pool room
23 for possible impanelment. And I'm hearing that
24 other sessions are patiently or perhaps not so
25 patiently awaiting your return. We got first dibs

1 on you, apparently, so I'm very happy to hear
2 that, but there are other judges in the building
3 who are waiting for your return. So if you are
4 excused from this trial, you may be impaneled in
5 another case, and let me tell you, this is going
6 to be an interesting case and I have three great
7 attorneys here. So I think you're going to find
8 that this is, if you want to be on a jury, this is
9 the jury to be on. All right?

10 So that's the process that we call
11 impanelment. Again, thank you for your patience
12 in this regard. We'll get through it as soon as
13 we can, but please appreciate how vital this stage
14 in the proceedings is. All right?

15 Now, let me tell you a little bit about
16 what this case is all about. This, as I had
17 mentioned earlier, is a criminal trial. It's the
18 case of the Commonwealth versus Charles Reddicks.
19 Mr. Reddicks spells his last name R-E-D-D-I-C-K-S.
20 Mr. Reddicks is facing five indictments.
21 Mr. Reddicks is charged by the Commonwealth with
22 murder in the first degree, with armed robbery of
23 one Mario Malave. Mr. Malave spelled his name
24 M-A-L-A-V-E. Mr. Malave is also the alleged
25 victim in the murder case, as well.

1 In addition, in a third indictment, the
2 Commonwealth is charging that Mr. Reddicks was in
3 the unlawful possession of a firearm. The
4 Commonwealth is also charging Mr. Reddicks with
5 the unlawful possession of ammunition, and
6 finally, he's also charged in a fifth indictment
7 with a different offense called carrying a loaded
8 firearm, in other words, one containing
9 ammunition.

10 So, in sum, Mr. Reddicks is charged in
11 five indictments, murder in the first degree,
12 armed robbery. In those two indictments, the
13 alleged victim is Mariano Malave. He's also
14 charged with the unlawful possession of a firearm,
15 the unlawful possession of ammunition, and
16 carrying a loaded firearm.

17 To each and every one of these five
18 indictments, Mr. Reddicks has pled not guilty, and
19 that's why we are all assembled in this room, for
20 the parties to pick a jury to hear evidence to
21 determine whether or not the Commonwealth can
22 prove any or all of these indictments against the
23 defendant beyond a reasonable doubt.

24 Let me give you a little bit more
25 information about what the Commonwealth alleges in

1 this case. The Commonwealth alleges that Charles
2 Reddicks, the defendant in this case, arranged to
3 purchase marijuana from the alleged victim,
4 Mariano Malave -- again, Mr. Malave spells his
5 name M-A-L-A-V-E -- at 132 Hyde Park Avenue in the
6 Jamaica Plain section of Boston on April 27th,
7 2012. The Commonwealth further alleges that
8 during the transaction, Mr. Reddicks robbed, shot,
9 and killed Mr. Malave. Mr. Reddicks denies each
10 and every one of these allegations. So that is a
11 brief overview of what this case is all about.

12 Now, ladies and gentlemen, let me
13 introduce you to the participants in this trial.

14 Mr. Henning, could you introduce
15 yourself and who you represent.

16 MR. HENNING: Thank you, Your Honor.

17 Good morning, ladies and gentlemen. My
18 name is Gregory Henning, I work for the Suffolk
19 County District Attorney's Office, and I live in
20 Dorchester.

21 THE COURT: Thank you, Mr. Henning.

22 Ms. Scapicchio, could you introduce
23 yourself, your colleague, and your client.

24 MS. SCAPICCHIO: Thank you.

25 Good morning, ladies and gentlemen. My

1 name is Rosemary Scapicchio. I have a law office
2 here in Boston. I represent Charles Reddicks.

3 MR. REDDICKS: Good morning.

4 MS. SCAPICCHIO: He's the defendant in
5 this case. And with me is Attorney Jillise
6 McDonough.

7 MS. McDONOUGH: Good morning, ladies and
8 gentlemen.

9 THE COURT: Thank you all.

10 Now, ladies and gentlemen, I'm going to
11 list for you the potential witnesses in this case.
12 Not all these individuals may be called, but their
13 names could come up and we want to make sure that
14 you're not familiar with any of these potential
15 witnesses in this case.

16 Leanne Parker of Maine; Rod Meneide,
17 that's M-E-N-E-I-D-E, of Boston; Ronald Theodat,
18 T-H-E-O-D-A-T, of Boston; Officer Robert Cordasco
19 of the Boston Police Department; Paramedic Joe
20 Amaral of Boston EMS; Detective Bernadette
21 Sullivan of the Boston Police Department; Ruth
22 Camille, C-A-M-I-L-L-E, of Boston; Elissa Dennehy
23 of Boston; Edwin Lockhart of Boston; Julio Alex
24 Balbuena, B-A-L-B-U-E-N-A, of Brockton; Pamela
25 Arthur of Boston; Ian Follette, F-O-L-L-E-T-T-E,

1 of Boston; Sean Warfield of Boston; Detective
2 Andrew Gambon, G-A-M-B-O-N, of the Boston Police
3 Department; Thomas Washington of Boston; Sergeant
4 Detective Kevin Witherspoon of the Boston Police
5 Department; Raymond McDonald of Boston; Patrick
6 Quinn of Norton; Catherine Reddicks of Boston;
7 Khadijah Warren, Mr. Warren spells his first name
8 K-H-A-D-I-J-A-H, of Boston.

9 Khadijah, is that a man or a woman?

10 I'm sorry, I misspoke, it's a female.

11 Ms. Warren spells her first name K-H-A-D-I-J-A-H.
12 Detective Tyrone Camper of the Boston Police
13 Department; Robert Creedon of Norwell; Detective
14 Bruce Dolloff, D-O-L-L-O-F-F, of the MBTA;
15 Sergeant Detective Richard Daley of the Boston
16 Police Department; Dr. Katherine Lindstrom of the
17 Office of the Chief Medical Examiner; Ioan Truta,
18 T-R-U-T-A, of the Boston Police Department Latent
19 Print Unit; John Biello, B-I-E-L-L-O, of the Mass.
20 State Police Crime Laboratory; Detective John
21 Callahan of the Boston Police Department; Terri
22 Hyman, H-Y-M-A-N, of Boston; Javeon, J-A-V-E-O-N,
23 Hyman of Boston; John Hyman of Boston; as well as
24 Stephen Verneau, that's V-E-R-N-E-A-U -- is that
25 of Essex?

1 We believe it's of Essex, Mr. Verneau
2 is a business person up in the Essex, at least in
3 Essex County, possibly from Essex, Massachusetts,
4 and that's spelled V-E-R-N-E-A-U, we believe.

5 The rest of these witnesses are all
6 Boston Police Officers. Cesar Abreu, A-B-R-E-U;
7 Kenneth Autio, A-U-T-I-O; Robert Boyle; Oscar
8 Calderon; Franklyn Centeio, C-E-N-T-E-I-O; Paul
9 Coffey; Tabatha Coleman; Luis Cruz; Massachusetts
10 State Trooper Duane. Again Boston Police,
11 Sergeant Detective Daniel Duff; Angel Figueoria;
12 Korey Franklin; Jamila Gales; Officer Giraldo;
13 Officer Haley; Officer Harrigan; Officer Hebard,
14 H-E-B-A-R-D; Wayne Hester; Patrick Rogers; William
15 Moran; Mario Lozano; Robert LaColla, L-A-C-O-L-L-
16 A; Patrick Layden; Christopher MacNeil; Detective
17 Jose Marichal, M-A-R-I-C-H-A-L; Richard Moriarty;
18 John Noberini; N-O-B-E-R-I-N-I; Stephen Parenteau,
19 P-A-R-E-N-T-E-A-U; Sergeant Santry; and Sean
20 Scannell.

21 Counsel, did I miss anybody?

22 MS. SCAPICCHIO: I don't believe so,
23 Your Honor.

24 THE COURT: I'm sorry, I apologize.
25 Also continuing with Boston Police Officers,

1 Christopher Ross; Molwyn Shaw; Sean Smith; Daniel
2 Sparrow; Jose Texeira; Officer Walsh.

3 The following are civilian witnesses:
4 Valerie Basnight, B-A-S-N-I-G-H-T, of Jamaica
5 Plain; Brendan Deady, D-E-A-D-Y, of Jamaica Plain;
6 Renea Jones of Jamaica Plain; Johnson Laurore,
7 L-A-U-R-O-R-E, of Dorchester; Sam Steeves of
8 Jamaica Plain; Justin Young of Jamaica Plain;
9 Investigator Oneil LeBlanc; and Dr. Jennifer
10 Lipman of Melrose.

11 Now, ladies and gentlemen, I've
12 explained to you this process that we call
13 impanelment. I've given you a brief overview of
14 what this case is all about, and finally, I've
15 introduced you to the participants in this trial.
16 At this time, our Clerk, Mr. Kalell, is going to
17 ask you to stand so that he can swear you in so
18 that I can ask you this series of questions.

19 THE CLERK: Jurors, please rise. Raise
20 your right hands.

21 Do you solemnly swear that you will make
22 true answers to such questions as shall be put to
23 you by the Court in the matter now in hearing, so
24 help you God?

25 (Jurors respond in the affirmative.)

1 THE CLERK: You may be seated.

2 THE COURT: First, I'm going to ask
3 whether you or any member of your immediate family
4 or a close personal friend know or are you related
5 to any of the attorneys in this case or anyone who
6 works for his or her office?

7 I see no affirmative responses.

8 Do you or any member of your immediate
9 family or a close personal friend know or are you
10 related to the defendant, Mr. Reddicks, or any
11 member of his family?

12 Again, I see no affirmative responses.

13 Do you or any member of your immediate
14 family or a close personal friend know or are you
15 related to the alleged victim in this case, Mario
16 Malave, or any member of his family?

17 I think I misspoke, Mariano Malave.

18 First name is M-A-R-I-A-N-O; second name, M-A-L-A-
19 V-E.

20 I see no affirmative responses.

21 Do you or any member of your immediate
22 family or a close personal friend know or are you
23 related to any of the potential witnesses in this
24 case or any member of a witness's family?

25 COURT OFFICER: If you would be kind

1 enough to have a seat, sir. Juror 32, 3-2.

2 THE COURT: Anybody else?

3 I see no further responses.

4 Do you have an interest or stake of any
5 kind in this case?

6 I see no affirmative responses.

7 Do you have any knowledge of this case
8 gained from any source?

9 COURT OFFICER: Please keep your card
10 up, ma'am, so I can come to you. Could I see your
11 card, please? Juror 25, 2-5.

12 THE COURT: Anybody else?

13 I see no further responses.

14 To the extent that you've heard anything
15 about this case, have you formed or expressed any
16 opinions about it?

17 I see no affirmative responses.

18 Are any of you aware of any bias or
19 prejudice that you may have toward either the
20 prosecution or the defendant?

21 COURT OFFICER: Are you raising your
22 card, ma'am?

23 JUROR: Yes.

24 COURT OFFICER: Juror 32, 3-2. Juror
25 84, 8-4. Juror 93, 9-3.

1 THE COURT: Anybody else?

2 I see no further responses.

3 Are any of you an active member of any
4 community crime prevention organization?

5 I see no affirmative responses.

6 Are any of you an active member of any
7 organization whose purpose is to prevent drug
8 dealing or to promote drug education or
9 counseling?

10 COURT OFFICER: Juror Number 78, 7-8;
11 Juror Number 7, 7.

12 THE COURT: Anybody else?

13 I see no further responses.

14 Would any of you have the tendency to
15 believe the testimony of a police officer witness
16 over the testimony of a civilian witness just
17 because he or she were a police officer?

18 COURT OFFICER: Juror Number 125, 1-2-5;
19 Juror Number 37, 3-7.

20 COURT OFFICER: Juror Number 134, 1-3-4.

21 COURT OFFICER: Juror Number 52, 5-2.

22 COURT OFFICER: Juror 55, 5-5; Juror
23 Number 82, 8-2.

24 THE COURT: Anybody else?

25 I see no further responses.

1 Would any of you have the tendency to
2 believe the testimony of a civilian witness over
3 the testimony of a police officer witness just
4 because he or she were a civilian?

5 COURT OFFICER: Juror 32, 3-2. Juror
6 130, 1-3-0. Juror 37, 3-7. Juror 84, 8-4.

7 THE COURT: I'm sorry, 37?

8 COURT OFFICER: 37.

9 THE COURT: Didn't you also answer the
10 previous question, you'd have the tendency to
11 believe the testimony of a police officer?

12 COURT OFFICER: She raised her hand.

13 THE COURT: You answered both.

14 JUROR: Yes. I --

15 THE COURT: No, no, thank you, don't say
16 anything. We'll talk about it when you come back
17 into the courtroom. You answered both of those
18 questions.

19 JUROR: Yes.

20 COURT OFFICER: Juror Number 93, 9-3.
21 Juror Number 95, 9-5.

22 THE COURT: Anybody else?

23 I see no further responses.

24 Do any of you not understand that in a
25 criminal case, the defendant is presumed innocent

1 until proven guilty?

2 I see no affirmative responses.

3 Do any of you not understand that in a
4 criminal case, the prosecution has the burden of
5 proving the defendant is guilty beyond a
6 reasonable doubt?

7 Again, I see no affirmative responses.

8 Do any of you not understand that in a
9 criminal case, the defendant does not have to
10 present any evidence in his own behalf?

11 Again, I see no affirmative responses.

12 Is there any reason, such as a physical
13 or medical disability or problem, language
14 difficulties, religious beliefs, hearing
15 impairments or the like, that might make it
16 difficult for you to sit as a juror in this case?

17 COURT OFFICER: Please hold your cards
18 up till we get to you. Juror 37, 3-7. Juror 61,
19 6-1. Juror 52, 5-2. Juror 32, 3-2. Juror 123,
20 1-2-3.

21 THE COURT: I'm sorry?

22 COURT OFFICER: 123. Juror 137. Juror
23 126. Juror 117.

24 COURT OFFICER: Juror Number 43, 4-3.
25 Juror Number 26, 2-6. Juror Number 25, 2-5.

1 Juror Number 39, 3-9.

2 THE COURT: Anybody else?

3 I see no further responses.

4 Finally, do you know of any other reason
5 why you would not be fair and impartial in this
6 case and be able to render a true and just verdict
7 based solely on the evidence and the law presented
8 in the trial of this case?

9 I see no affirmative responses.

10 Now, ladies and gentlemen, before the
11 Court Officers take you to the empty courtroom
12 elsewhere on this building, let me explain to you
13 the scheduling of this trial and its expected
14 duration. First of all, as I told you earlier, we
15 get a late start, very typically, on the first day
16 of any trial, but from hereon in, we're going to
17 start promptly at 9 o'clock. I'm known around
18 here for my punctuality because the more punctual
19 we are, the sooner the case will be over and in
20 your hands. So we'll start from hereon in every
21 morning at 9 AM, we go till 1 o'clock in the
22 afternoon, taking a midmorning recess at about
23 11 of about 20, 25 minutes in duration. We
24 typically take our lunch hour around here from
25 1 to 2, and then we'll resume the trial from 2 to

1 4 o'clock in the afternoon.

2 I promise you, I will never keep you
3 past 4 o'clock on any day of this trial because
4 I know two things very well: number one, that's a
5 long enough day for any juror to be listening and
6 watching evidence in a trial, and ultimately, to
7 be deliberating on that evidence. Secondly,
8 I also know that some of you may have child care
9 and other commitments that you need to get to.
10 So, I promise you, I will never keep you past 4
11 o'clock on any day of this trial.

12 We expect to be impaneling today. So
13 the trial, if we get a jury today, will begin
14 tomorrow, Thursday. We will continue Thursday,
15 Friday, understanding that Monday is the holiday,
16 we'll continue through next week, the four days
17 next week, and probably spilling over into the
18 following week. Roughly about, I'm going to say
19 roughly about nine days. It could be less than
20 that, it could be more than that. We can never
21 predict with any kind of mathematical precision
22 how long a trial is going to last, because a lot
23 of things can happen, a witness may not be called
24 at all, a witness may testify longer or shorter
25 than expected, I may need to confer with the

1 attorneys and the like, but we're expecting it's
2 going to go through this week, through next week,
3 and into part of the following week, roughly about
4 nine days.

5 As the case evolves, I will give you
6 updates as to the expected duration of the trial
7 because as the trial evolves, I'll get a better
8 sense of that, and I promise you, I will give you
9 updates. But that's our good faith estimate at
10 this time.

11 Also, I want to add at this time
12 something that I'm hoping you learned through your
13 orientation process downstairs and possibly
14 through service on a jury in the past, that you
15 good citizens are the cornerstone of our justice
16 system here in the Commonwealth of Massachusetts.
17 As you can see, here in the third co-equal branch
18 of government which, of course, is the judiciary,
19 we just don't function without your participation.
20 In my opinion, being here on jury service is
21 probably one of the most important public services
22 that you can perform on behalf of your
23 Commonwealth. Being here on jury service is both
24 one of the burdens of citizenship, but
25 undoubtedly, it's one of its benefits. I hear

1 from the jurors in every one of my cases, and I've
2 been a judge for almost 24 years now, I hear on a
3 regular basis from those real life jurors how
4 pleasantly surprised they were at how interesting
5 the experience proved to be, and in many
6 instances, they tell me that it proved to be an
7 outright rewarding life experience. So I tell you
8 from the lips of those real life jurors in my past
9 trials to your ears that you're going to find this
10 to be at least an extremely interesting
11 experience, and perhaps, a truly rewarding life
12 experience.

13 So I hope you can take that all to
14 heart. First, how important you are here to our
15 justice system here in the Commonwealth of
16 Massachusetts, and secondly, how personally
17 interesting this trial is going to prove to you.
18 Take that all to heart and further appreciate that
19 I cannot and I will not excuse you from being on
20 this jury today except on account of a truly
21 compelling hardship, and I don't define that as
22 missing time from home, work, or school, because
23 of course, that would apply to everyone in this
24 room. Nor do I define it as missing a
25 nonessential event in your life. So I hope you

1 can appreciate that and take that all to heart.

2 Now, ladies and gentlemen, in just a
3 moment, the Court Officers are going to take you
4 to an empty courtroom. I appreciate that you are
5 going to have to while away some time. Please
6 feel free to use your reading matter, cell phones,
7 and the like, if you wish, in that empty
8 courtroom, but please don't use those items to
9 communicate to you or from you about any aspect of
10 this case or to do any outside research about any
11 aspect of this case. Please follow the directions
12 of the Court Officers and we will get through this
13 process as expeditiously as we possibly can.

14 Thank you so much, ladies and gentlemen,
15 for your cooperation.

16 (Court in recess at 10:20 a.m.)

17
18 (Court in session at 10:30 a.m.)

19 (Defendant present.)

20 INDIVIDUAL JUROR VOIR DIRE:

21 THE CLERK: Juror Number 3.

22 (Juror Number 3 enters courtroom.)

23 THE CLERK: Juror Number 3, Raymond
24 Levasseur.

25 JUROR: Yes.

1 THE COURT: Good morning, sir.

2 JUROR: Good morning.

3 THE COURT: Sir, is there anything about
4 the nature of these charges or any of the
5 allegations you've heard that might affect your
6 ability to be fair and impartial?

7 JUROR: Citing constant media saturation
8 as far as black on black killing each other and
9 hurting each other, that would probably be about
10 the only thing that would -- I realize that a lot
11 of black people are using marijuana to obtain
12 money, food, clothes, life. But the fact that
13 they're killing each other to get it is very
14 disturbing.

15 THE COURT: I guess I'm going to put the
16 question to you again. Is there anything that
17 you've learned about this case --

18 JUROR: No.

19 THE COURT: Let me finish the question.
20 -- that is causing you to question your ability to
21 be fair and impartial in this case?

22 JUROR: Not really. I don't think so.

23 THE COURT: It sounds as if you have
24 some feelings about what you've heard in the
25 media.

1 JUROR: Right, that would be the only
2 thing that would, not cloud my judgment, but maybe
3 lean my judgment towards --

4 THE COURT: Towards what?

5 JUROR: Making a decision that -- I
6 understand why it's being used and why it happens,
7 but like anyone else, don't really like that.
8 I don't think that that's standing in the way.

9 THE COURT: Sir, could you stand outside
10 for just a second, please.

11 (Juror Number 3 exits courtroom.)

12 THE COURT: Does anybody have any
13 objection to my excusing him for cause?

14 MS. SCAPICCHIO: None, Your Honor.

15 MR. HENNING: None, Your Honor.

16 THE COURT: Bring him back in.

17 (Juror Number 3 enters courtroom.)

18 THE COURT: Thank you, sir, you are
19 excused.

20 THE CLERK: Excused.

21 (Juror Number 3, excused.)

22 THE CLERK: Juror 5, Franki Natasha
23 Turner?

24 JUROR: Yes.

25 THE COURT: Hi, Ms. Turner, how are you,

1 ma'am?

2 JUROR: Good, how are you?

3 THE COURT: Very fine, thank you.

4 Ma'am, is there anything about the nature of these
5 charges or any of the allegations you've heard
6 that might affect your ability to be fair and
7 impartial?

8 JUROR: No.

9 THE COURT: You may hear alleged
10 evidence that the defendant, the alleged victim,
11 and some witnesses were involved in selling
12 marijuana. Would that evidence affect your
13 ability to be fair and impartial?

14 JUROR: No.

15 THE COURT: The defendant in a criminal
16 trial has the absolute right not to testify. If
17 Mr. Reddicks chose not to testify at this trial,
18 would you hold that against him in any way?

19 JUROR: No.

20 THE COURT: Is there anything about the
21 length of the trial that poses a hardship for you?

22 JUROR: Other than something going on in
23 my personal life, no.

24 THE COURT: Okay, well is this something
25 going on in your personal life that would

1 constitute a hardship?

2 JUROR: Of me coming, yeah. I do
3 visits -- currently, my daughter is involved in
4 the system, so I do visits with her on Thursdays
5 at a certain time.

6 THE COURT: And what time of day would
7 that be.

8 JUROR: 2:30 to 3:30.

9 THE COURT: And where are those visits,
10 are they nearby?

11 JUROR: In Hyde Park.

12 THE COURT: Would it be possible to
13 change them until after 4 o'clock? You'll be out
14 of here at 4 o'clock every day.

15 JUROR: I can see if I can change it.

16 THE COURT: Is that a possibility?

17 JUROR: Yes.

18 THE COURT: If that's not a possibility,
19 because I consider visitation and child care very,
20 very important, would you let me know if you can't
21 change that?

22 JUROR: I will.

23 THE COURT: Any follow-up questions,
24 Counsel? Mr. Henning, you go first.

25 MR. HENNING: None, Your Honor.

1 THE COURT: Ms. Scapicchio.

2 MS. SCAPICCHIO: Hi.

3 JUROR: Hi.

4 MS. SCAPICCHIO: I saw on your
5 questionnaire that you work for the Mass. General
6 Hospital as a medical assistant?

7 JUROR: Yes.

8 MS. SCAPICCHIO: Do you work in a
9 certain unit or do you work in an outpatient unit?

10 JUROR: Cancer center.

11 MS. SCAPICCHIO: The cancer center,
12 okay. And how long have you done that?

13 JUROR: Six months.

14 MS. SCAPICCHIO: Great. That's all the
15 questions I have, thanks.

16 JUROR: No problem.

17 THE COURT: Ma'am, would you step
18 outside for just a second.

19 JUROR: Sure.

20 (Juror Number 5 exits courtroom.)

21 THE COURT: This juror stands
22 indifferent.

23 MS. SCAPICCHIO: Judge, the only reason
24 I asked is because I thought she looked familiar,
25 and all of my kids and my husband and I get

1 treated at the Mass General.

2 THE COURT: Oh, sure.

3 MS. SCAPICCHIO: My husband has treated
4 at the cancer center there, but before this.

5 THE COURT: Regardless, I thought that
6 was an appropriate question. Again, anything you
7 see on the questionnaire that you just want to
8 understand better, that's perfectly proper.

9 Mr. Henning?

10 MR. HENNING: The Commonwealth's only
11 question is when she would find out about the
12 visitation.

13 THE COURT: Well, if we keep her on the
14 jury, I'm going to say why don't you make a phone
15 call now and let us know if you can't change it.

16 MS. SCAPICCHIO: I think, Judge, if we
17 keep her on the jury, if the Court made a phone
18 call to wherever the visitation is, I'm sure they
19 would change it.

20 THE COURT: I'm hearing that both of you
21 are content with this juror?

22 MS. SCAPICCHIO: Can I speak to
23 Mr. Reddicks?

24 THE COURT: Absolutely.

25 MS. SCAPICCHIO: Mr. Reddicks is

1 content.

2 THE COURT: All right, will you bring
3 her back.

4 (Juror Number 5 enters courtroom.)

5 THE COURT: Ms. Turner, both sides want
6 you to be a juror on this case. Are you able to
7 make a phone call now and let us know if you can
8 change that?

9 JUROR: Yes, I can make a phone call.

10 THE COURT: Is this a court ordered
11 visitation?

12 JUROR: It is.

13 THE COURT: Because if you get any
14 resistance, I can get involved, if you wish.
15 I don't want to do anything that you don't want me
16 to, but I can also talk to the powers that be.
17 Being a juror on this case is extremely important.
18 If they give you any resistance, I can get
19 involved if you so desire.

20 JUROR: Yes, that would be great.

21 THE COURT: Well, you're going to go up
22 into the jury room that is affiliated with this
23 courtroom, you are a juror on this case. If you
24 could make that phone call now and let me know
25 that you can change that time?

1 JUROR: Okay, I will.

2 THE COURT: Excellent, thank you, ma'am.

3 THE CLERK: Seat 1.

4 (Juror Number 5 exits courtroom.)

5 (Juror Number 7 enters courtroom.)

6 THE CLERK: Juror Number 7, Hugo Soto.

7 JUROR: Yes, sir.

8 THE COURT: Good morning, Mr. Soto.

9 JUROR: Good morning.

10 THE COURT: You indicated that you're an
11 active member of a group dealing with or addresses
12 the problem of drug dealing and counseling and
13 education.

14 JUROR: It's at the health center in
15 East Boston.

16 THE COURT: Oh, I see, that's where you
17 work, I see. And you're a patient access
18 representative. What does that mean, sir?

19 JUROR: It means basically explaining
20 to the patients the different departments and
21 facilities that the clinic offers to the patients,
22 and at the same time, you know, helping them with
23 anything that they need from seeing a doctor to
24 filling out insurance.

25 THE COURT: Let me ask you this,

1 Mr. Soto. You may hear alleged evidence that the
2 defendant, the alleged victim, and some witnesses
3 were involved in selling marijuana. Would that
4 evidence affect your ability to be fair and
5 impartial in this case?

6 JUROR: No.

7 THE COURT: Great. Is there anything
8 about the nature of these charges or any of the
9 allegations you've heard that might affect your
10 ability to be fair and impartial?

11 JUROR: No.

12 THE COURT: The defendant in a criminal
13 trial has the absolute right not to testify. If
14 Mr. Reddicks chose not to testify at this trial,
15 would you hold that against him in any way?

16 JUROR: No.

17 THE COURT: Is there anything about the
18 length of the trial that poses a hardship for you?

19 JUROR: I have a coming appointment with
20 the immigration service. That's the only thing
21 that I see --

22 THE COURT: And when is that
23 appointment, sir?

24 JUROR: It's in February and they can't
25 change it, I'm not sure.

1 THE COURT: Trust me, you will make that
2 appointment in February, I guarantee you, sir.
3 This trial is going to be finished in January.
4 All right? Rest assured, you will be at that
5 appointment.

6 Any follow-up questions, Counsel?

7 MR. HENNING: I have no questions for
8 you, sir.

9 MS. SCAPICCHIO: Hi, I have a couple.
10 The immigration services, what do you need to do
11 for immigration?

12 JUROR: My wife, we married, so we're
13 going to get her --

14 MS. SCAPICCHIO: To get her citizenship.

15 JUROR: Yeah.

16 MS. SCAPICCHIO: In terms of your
17 questionnaire, you put on the bottom of your
18 questionnaire when it asked you to describe any
19 training, education, knowledge or beliefs that
20 might affect your ability to be fair and
21 impartial, you wrote, "I believe in the death
22 penalty." Can you tell me how that would affect
23 your ability to be fair and impartial?

24 JUROR: I put that because when they
25 came from that, I don't know, that case with the

1 Boston bombing, a lot of people were conflicted
2 whether or not they should give him the death
3 penalty or keep him in jail.

4 MS. SCAPICCHIO: The marathon bombing
5 case?

6 JUROR: Yeah, that's why I put that.

7 THE COURT: Sir, please understand,
8 first of all, the so-called marathon bombing case
9 was a federal case with federal laws and
10 jurisdiction. Here in the state courts of
11 Massachusetts, we do not have the death penalty.

12 JUROR: Okay.

13 MS. SCAPICCHIO: Do you have some
14 feeling that if somebody has been accused of
15 taking a life, that you should take their life?

16 JUROR: No.

17 MS. SCAPICCHIO: So what did you mean by
18 I believe in the death penalty?

19 JUROR: By what I just explained to you.

20 MS. SCAPICCHIO: The marathon bombing
21 thing.

22 JUROR: Um-hmm.

23 THE COURT: You were being specific just
24 to the Boston Marathon case?

25 JUROR: Yeah, that's what I had in mind

1 when I answered that question.

2 THE COURT: Please understand, though,
3 Mr. Soto, the death penalty is not an issue in
4 this case. Do you understand that?

5 JUROR: No, I understand.

6 MS. SCAPICCHIO: Will the fact that it's
7 not an issue, would that affect your ability to be
8 fair and impartial?

9 JUROR: No.

10 MS. SCAPICCHIO: Thank you.

11 THE COURT: Sir, would you step outside
12 for just a second.

13 (Juror Number 7 exits courtroom.)

14 THE COURT: This juror stands
15 indifferent.

16 MR. HENNING: Commonwealth is content.

17 MS. SCAPICCHIO: May I just have a
18 moment, Your Honor?

19 THE COURT: Yes.

20 JUROR: Defendant will challenge.

21 (Juror Number 7 enters courtroom.)

22 THE COURT: Thank you, sir, you are
23 excused.

24 THE CLERK: Excused.

25 (Juror Number 7 exits courtroom.)

1 (Juror Number 11 enters courtroom.)

2 THE CLERK: Juror Number 11, Kevin
3 Mitchell.

4 JUROR: Yes.

5 THE COURT: Hi, Mr. Mitchell. Sir, is
6 there anything about the nature of these charges
7 or any of the allegations you've heard that might
8 affect your ability to be fair and impartial?

9 JUROR: I don't think so.

10 THE COURT: Now, you may hear evidence,
11 alleged evidence that the defendant, the alleged
12 victim, and some witnesses were involved in
13 selling marijuana. Would that evidence affect
14 your ability to be fair and impartial?

15 JUROR: Possibly.

16 THE COURT: Possibly? How so?

17 JUROR: They're selling marijuana?
18 I mean, that is a criminal act, so I don't know.

19 THE COURT: Selling marijuana is a
20 criminal act to be sure. Would that alleged
21 evidence affect your ability to be fair and
22 impartial?

23 JUROR: About murder?

24 THE COURT: Yes, anything about this
25 case.

1 JUROR: No, I guess not. I mean, the
2 only reason I said yes is because it's a criminal
3 act and it leads to that kind of behavior,
4 criminal behavior. But based on the evidence,
5 I wouldn't be, I wouldn't be biased or anything.

6 THE COURT: I'm not sure I understand
7 what you're saying.

8 JUROR: I would have to hear the
9 evidence. I don't know. So I guess not.

10 THE COURT: It's not clear to me.
11 You're going to have this alleged evidence that
12 allegedly, Mr. Reddicks, the alleged victim,
13 Mr. Malave, and some other witnesses may have been
14 involved in drug dealing, marijuana dealing.
15 That's going to be part of this evidence. Knowing
16 that, sir, do you question your ability to be a
17 fair and impartial juror in this case?

18 JUROR: No.

19 THE COURT: The defendant in a criminal
20 trial has the absolute right not to testify. If
21 Mr. Reddicks chose not to testify at this trial,
22 would you hold that against him in any way?

23 JUROR: No.

24 THE COURT: Is there anything about the
25 length of the trial that poses a hardship for you?

1 JUROR: Yeah, because of work.

2 THE COURT: Sir, I can't excuse you
3 because of work, and understand that there is a
4 statute on the books that says that no employer
5 can interfere with any term or condition of your
6 employment because of your service on a jury.
7 Okay, do you understand that, sir?

8 JUROR: Yeah.

9 THE COURT: Great. Any follow-up
10 questions?

11 MR. HENNING: I have no questions for
12 you, sir.

13 MS. SCAPICCHIO: Good morning, I have a
14 few questions. When you said that marijuana or
15 dealing marijuana leads to that behavior, do you
16 think it's, in your mind, anyhow, do you think
17 it's more likely that if you sell marijuana,
18 you're more likely to have been involved with guns
19 or a robbery or anything like that?

20 JUROR: Guns, possibly, just because if
21 you're dealing marijuana, you might want to
22 protect it, project your marijuana with a gun,
23 but that's about it.

24 MS. SCAPICCHIO: Thank you.

25 THE COURT: Sir, would you step outside

1 for a second, please.

2 (Juror Number 11 exits courtroom.)

3 THE COURT: This juror stands
4 indifferent.

5 MS. SCAPICCHIO: Judge, he said he'd be
6 more likely to.

7 THE COURT: It's not an unreasonable
8 belief, Ms. Scapicchio.

9 MS. SCAPICCHIO: But my client is
10 charged with possession of a firearm.

11 THE COURT: I know.

12 MS. SCAPICCHIO: He just said he'd be
13 more likely to convict him because of the
14 marijuana.

15 THE COURT: I don't think he said that.
16 He said that people who deal in marijuana may be
17 more likely, perhaps, to have guns. That doesn't
18 necessarily mean that he's unfair or biased.

19 MS. SCAPICCHIO: Well, then I'm going to
20 question him further, I thought I had it.

21 THE COURT: Okay, sure. Bring him back
22 in.

23 (Juror Number 11 enters courtroom.)

24 MS. SCAPICCHIO: So I guess I have a few
25 follow-up questions. Sorry to make you go back

1 and forth.

2 JUROR: That's all right.

3 MS. SCAPICCHIO: But when you said that
4 you think that people that deal marijuana are more
5 likely to have guns, does that mean you're more
6 likely to find somebody guilty of a gun possession
7 if they also were dealing marijuana?

8 JUROR: I guess so, but I mean, I would
9 have to -- I wouldn't just assume that they had a
10 gun, there would have to be evidence.

11 MS. SCAPICCHIO: If all the evidence was
12 equal, would you side on the part of finding him
13 guilty because of the marijuana?

14 JUROR: Just the gun thing?

15 MS. SCAPICCHIO: Yes.

16 JUROR: I guess so.

17 MS. SCAPICCHIO: Thank you.

18 THE COURT: Thank you, sir, if you could
19 step outside.

20 (Juror Number 11 exits courtroom.)

21 THE COURT: Now I'm excusing him for
22 cause.

23 MS. SCAPICCHIO: Thank you.

24 (Juror Number 11 enters courtroom.)

25 THE COURT: Thank you, sir, you are

1 excused.

2 THE CLERK: Excused.

3 (Juror Number 11 exits courtroom.)

4 (Juror Number 18 enters courtroom.)

5 THE CLERK: Juror 18, Tracylynn Pagan.

6 JUROR: Yes.

7 THE COURT: Hi, Ms. Pagan.

8 JUROR: Hi.

9 THE COURT: Ma'am, is there anything
10 about the nature of these charges or any of the
11 allegations you've heard that might affect your
12 ability to be fair and impartial?

13 JUROR: No.

14 THE COURT: You may hear alleged
15 evidence that the defendant, the alleged victim,
16 and some witnesses were involved in selling
17 marijuana. Would that evidence affect your
18 ability to be a fair and impartial juror in this
19 case?

20 JUROR: Maybe.

21 THE COURT: How so?

22 JUROR: I'm against marijuana. I don't
23 know, it depends on the debate in the case.

24 THE COURT: Are you saying that you
25 might question your ability to be fair and

1 impartial hearing such evidence?

2 JUROR: Yes.

3 THE COURT: All right, thank you, ma'am,
4 you are excused.

5 (Juror Number 18, excused.)

6 (Juror Number 25 enters courtroom.)

7 THE CLERK: Juror 25, Yinette Fuertes.

8 JUROR: Yes.

9 THE COURT: Good morning, ma'am. You
10 answered two of my earlier questions. You have
11 some knowledge about this case?

12 JUROR: I heard about it online, but not
13 much.

14 THE COURT: Do you remember what you
15 heard?

16 JUROR: I remember there was a murder,
17 but I don't remember anything else.

18 THE COURT: That's all you remember is
19 something online that it was a murder. Do you
20 remember anything else that you may have heard or
21 read?

22 JUROR: No.

23 THE COURT: Is there anything about what
24 you heard or read that would cause you to question
25 your ability to be fair and impartial in this

1 case?

2 JUROR: No.

3 THE COURT: You also answered another
4 question about whether you have a health or
5 language problem that might interfere with your
6 being a juror in this case?

7 JUROR: Right. I have type I diabetes,
8 so it's just a little difficult to be, you know,
9 I would have to check my blood sugar every certain
10 amount of time, and if it goes low, I would have
11 to eat something.

12 THE COURT: Ms. Fuertes-Garcia, I've had
13 a number of diabetics on my jury. So first of
14 all, you have my permission to snack. Unlike the
15 other jurors who are only allowed to drink water
16 during the trial, you have my special permission,
17 if you are a juror on this case, to snack as you
18 see fit. We'll be taking breaks at 11 o'clock,
19 from 1 to 2, you'll be out of here at 4. But if
20 you need to take more frequent breaks, I'm happy
21 to accommodate you.

22 JUROR: Okay.

23 THE COURT: Understanding that, can you
24 sit on this jury?

25 JUROR: Yes.

1 THE COURT: Great. Then let me ask you
2 this. Is there anything about the nature of these
3 charges or any of the allegations you've heard
4 that might affect your ability to be fair and
5 impartial?

6 JUROR: I mean, I do have a relative
7 that was not exactly a murder case, but was in a
8 similar case.

9 THE COURT: And that relative, was that
10 a person who was the victim of a murder or charged
11 with the murder?

12 JUROR: No, no, they weren't a victim of
13 a murder, they were shot.

14 THE COURT: He was shot.

15 JUROR: Yes.

16 THE COURT: Would the life experience of
17 your relative, would that affect your ability to
18 be a fair and impartial juror in this case?

19 JUROR: I would say yes just because of
20 the way that it happened to him, it might affect
21 me to not be impartial in this case.

22 THE COURT: I perfectly understand.
23 Thank you, ma'am, you are excused.

24 THE CLERK: Excused.

25 (Juror Number 25, excused.)

1 (Juror Number 26 enters courtroom.)

2 THE CLERK: Juror 26, Asha Howell.

3 JUROR: Yes.

4 THE COURT: Hi, Ms. Howell.

5 JUROR: Hi.

6 THE COURT: You answered one of my
7 earlier questions. Do you have some health or
8 other issue that might make it difficult for you
9 to sit as a juror?

10 JUROR: Well, my son.

11 THE COURT: How old is your son?

12 JUROR: He's 18.

13 THE COURT: And what is it about your
14 son?

15 JUROR: He just had surgery. He had an
16 ACTUALLY and meniscus surgery, so we just started
17 therapy. He just got out of the hospital two
18 weeks ago, so we just started therapy on Tuesday.
19 So we have a lot of therapy sessions that we have
20 to get to, and because he's on crutches and he
21 can't get around, you know, I have to take him
22 around and I'm responsible for that.

23 THE COURT: And you're the only person
24 who can do that?

25 JUROR: Yes.

1 THE COURT: Thank you, ma'am, you're
2 excused.

3 JUROR: Thank you.

4 (Juror Number 26, excused.)

5 (Juror Number 27 enters courtroom.)

6 THE CLERK: Juror 27, Richard McFeeters.

7 THE COURT: Hi, Mr. McFeeters. First of
8 all, you didn't put, I'm sorry to ask you this,
9 but you didn't put how old you are.

10 JUROR: 68.

11 THE COURT: Thank you, sir. Let me ask
12 you this, sir. Is there anything about the nature
13 of these charges or any of the allegations you've
14 heard that might affect your ability to be fair
15 and impartial?

16 JUROR: No, ma'am.

17 THE COURT: Now, you may hear alleged
18 evidence that the defendant, the alleged victim,
19 and some witnesses were involved in selling
20 marijuana. Would that evidence affect your
21 ability to be fair and impartial?

22 JUROR: No, ma'am.

23 THE COURT: The defendant in a criminal
24 trial has the absolute right not to testify. If
25 Mr. Reddicks chose not to testify at this trial,

1 would you hold that against him in any way?

2 JUROR: No, ma'am.

3 THE COURT: Is there anything about the
4 length of the trial that poses a hardship for you?

5 JUROR: Well, I'm on a very short
6 income, but I'll manage.

7 THE COURT: Understand that we provide a
8 \$50 per day stipend. If you have some special
9 financial hardship, I can start the running of
10 that \$50 per day stipend from today. Typically,
11 it starts after the third day.

12 JUROR: I understand that, but I could
13 use all the help I've got if possible.

14 THE COURT: If you remain a juror on
15 this case, just tell one of the court officers and
16 I'll be happy to provide you that.

17 JUROR: I'm sorry, ma'am, what was that?

18 THE COURT: If you are a juror on this
19 case, just let one of the court officers know that
20 you have that financial hardship and I'll be happy
21 to authorize the starting of that \$50 per day
22 stipend from today.

23 JUROR: Thank you very much.

24 THE COURT: Any follow-up questions?

25 MR. HENNING: Sir, you put on your jury

1 questionnaire --

2 JUROR: Could you speak up, please?

3 MR. HENNING: Certainly. You put on
4 your jury questionnaire that you're retired.

5 JUROR: Yes.

6 MR. HENNING: Can you just describe what
7 you're retired from?

8 JUROR: I've been in the manufacturing
9 industry and I've been in the restaurant business.
10 Not the business, but I was a cook for many years.

11 MR. HENNING: You listed Dorothy Dryden
12 McFeeters as your spouse or partner?

13 JUROR: Spouse. We separated.

14 MR. HENNING: What was she retired from,
15 what was her employment?

16 JUROR: She never had to work a day in
17 her life.

18 THE COURT: Ms. Scapicchio?

19 MS. SCAPICCHIO: Hi. Did you have any
20 children?

21 JUROR: I have three boys.

22 MS. SCAPICCHIO: Three boys. How old
23 are your boys?

24 JUROR: One is 37, one is 30, and one is
25 27.

1 MS SCAPICCHIO: Did they all grow up in
2 Brighton or is that somewhere you moved down
3 there?

4 JUROR: No, they all grew up there.

5 MS. SCAPICCHIO: They all grew up in
6 Brighton.

7 JUROR: Right.

8 MS. SCAPICCHIO: Did they go to public
9 school or private school in Brighton?

10 JUROR: Public.

11 MS. SCAPICCHIO: In your questionnaire,
12 you had initially made some sort of notation you
13 had been a witness in a case and then you crossed
14 it out? Am I reading that right?

15 JUROR: That was a mistake on my part.

16 MS. SCAPICCHIO: The other one is, "have
17 been seated on a jury." Is that right?

18 JUROR: Yes, in a civil case.

19 MS. SCAPICCHIO: How long ago?

20 JUROR: About five years ago, tops.

21 MS. SCAPICCHIO: The experience you had
22 in sitting on a jury, was it a positive experience
23 or a negative experience for you?

24 JUROR: Positive, absolutely.

25 MS. SCAPICCHIO: And it was a civil

1 case?

2 JUROR: Yes, it was.

3 MS. SCAPICCHIO: Here in Suffolk
4 Superior Court or in District Court?

5 JUROR: It was here in this building.

6 MS. SCAPICCHIO: In Suffolk Superior.

7 JUROR: It was a traffic violation type
8 of thing.

9 MS. SCAPICCHIO: Okay, so that's a
10 traffic violation, that's not you with a traffic
11 violation, that's the type of case that you sat
12 on.

13 JUROR: Right.

14 MS. SCAPICCHIO: Do you remember what
15 type of traffic violation it was? Was it a
16 homicide, a vehicular homicide?

17 THE COURT: Was it a motor vehicle
18 personal injury case?

19 JUROR: I believe it may have been
20 personal injury things brought up. It's been a
21 long time now, my memory is not as sharp as it
22 used to be, but the people couldn't prove
23 themselves not guilty.

24 THE COURT: Thank you.

25 MS. SCAPICCHIO: I don't have any

1 further questions. Thank you so much, sir.

2 THE COURT: Thank you, sir, if you could
3 step outside for a moment.

4 JUROR: Sure.

5 (Juror Number 27 exits courtroom.)

6 THE COURT: This juror stands
7 indifferent.

8 MR. HENNING: May I have one moment,
9 Your Honor?

10 THE COURT: Of course.

11 MS. SCAPICCHIO: I'm sorry, I didn't
12 hear that, I was speaking to my client.

13 THE CLERK: He just asked for one
14 moment.

15 MS. SCAPICCHIO: Oh, sure, sorry,
16 I didn't hear it.

17 MR. HENNING: I'm going to exercise a
18 peremptory.

19 (Juror Number 27 enters courtroom.)

20 THE COURT: Thank you, sir, you are
21 excused.

22 THE CLERK: Excused.

23 JUROR: I'm sorry?

24 THE COURT: You're excused, sir, thank
25 you.

1 (Juror Number 27, excused.)

2 (Juror Number 28 enters courtroom.)

3 THE CLERK: Juror 28, Dania Constant.

4 THE COURT: Good morning, ma'am.

5 JUROR: Good morning.

6 THE COURT: Ma'am, is there anything
7 about the nature of these charges or any of the
8 allegations that you've heard that might affect
9 your ability to be fair and impartial?

10 JUROR: No.

11 THE COURT: You may hear alleged
12 evidence that the defendant, the alleged victim,
13 and some witnesses were involved in selling
14 marijuana. Would that evidence affect your
15 ability to be fair and impartial?

16 JUROR: No.

17 THE COURT: The defendant in a criminal
18 trial has the absolute right not to testify. If
19 Mr. Reddicks chose not to testify at this trial,
20 would you hold that against him in any way?

21 JUROR: No.

22 THE COURT: Is there anything about the
23 length of the trial that poses a hardship for you?

24 JUROR: No.

25 THE COURT: Any follow-up questions,

1 Counsel?

2 MR. HENNING: Ma'am, you listed for
3 current employer, N/A, that you're unemployed now.
4 What was the last type of employment that you had?

5 JUROR: Working with the elderly.

6 MR. HENNING: With the elderly?

7 JUROR: Um-hmm.

8 MR. HENNING: Where was that you were
9 doing that?

10 JUROR: Quincy.

11 MR. HENNING: Was it in a home care
12 center?

13 JUROR: Nursing home.

14 MR. HENNING: Nursing home? And you
15 listed here that your place of birth is in
16 Florida.

17 JUROR: Yes.

18 MR. HENNING: When did you come to
19 Massachusetts?

20 JUROR: Seven years ago.

21 MR. HENNING: I have nothing further,
22 Your Honor.

23 MS. SCAPICCHIO: You have four children?

24 JUROR: Yes.

25 MS. SCAPICCHIO: Your youngest is seven,

1 your oldest is 16; is that right?

2 (No audible response.)

3 MS. SCAPICCHIO: And they're able to get
4 to school and back on their own?

5 JUROR: Yes, my mother and my boyfriend
6 is there.

7 MS. SCAPICCHIO: Okay, great. I have no
8 further questions.

9 THE COURT: Ma'am, if you could step
10 outside for just a second, please.

11 Juror Number 28 exits courtroom.)

12 THE COURT: This juror stands
13 indifferent.

14 MR. HENNING: Commonwealth is content.

15 MS. SCAPICCHIO: Just one minute, Your
16 Honor.

17 Defendant is content.

18 THE COURT: Number two.

19 THE CLERK: Seat 2.

20 (Juror Number 28 enters courtroom.)

21 THE COURT: Ma'am, you have been
22 selected to be a juror on this case. You're going
23 to go upstairs to the jury room to join the other
24 juror who has been impaneled already. Please
25 don't discuss this case or any aspect of this case

1 between the two of you and among any other future
2 jurors. All right? Please, if you could go
3 upstairs, ma'am.

4 THE CLERK: Seat 2. 29 is next.

5 (Juror Number 28 exits courtroom.)

6 (Juror Number 29 enters courtroom.)

7 THE CLERK: Juror 29, Robert Perryman.

8 JUROR: How are you doing?

9 THE COURT: Hi, Mr. Perryman. Sir, is
10 there anything about the nature of these charges
11 or any of the allegations you've heard that might
12 affect your ability to be fair and impartial?

13 JUROR: No.

14 THE COURT: You may hear alleged
15 evidence that the defendant, the alleged victim,
16 and some witnesses were involved in selling
17 marijuana. Would that evidence affect your
18 ability to be fair and impartial?

19 JUROR: No.

20 THE COURT: The defendant in a criminal
21 trial has the absolute right not to testify. If
22 Mr. Reddicks chose not to testify at this trial,
23 would you hold that against him in any way?

24 JUROR: No.

25 THE COURT: Is there anything about the

1 length of the trial that poses a hardship for you?

2 JUROR: No.

3 THE COURT: Any follow-up questions,
4 Counsel?

5 MR. HENNING: Sir, on the questionnaire,
6 you list that you work for Chestnut Hill Realty;
7 is that right.

8 JUROR: Right.

9 MR. HENNING: It says maintenance. Do
10 you work in commercial buildings, residential
11 buildings?

12 JUROR: Residential homes.

13 MR. HENNING: I have no further
14 questions.

15 THE COURT: Ms. Scapicchio?

16 MS. SCAPICCHIO: I don't have anything
17 further.

18 THE COURT: Sir, can you step outside
19 for just a second.

20 (Juror Number 29 exits courtroom.)

21 THE COURT: This juror stands
22 indifferent.

23 MR. HENNING: Commonwealth is content.

24 MS. SCAPICCHIO: One minute, Your Honor.
25 Defendant is content.

1 THE COURT: Before you bring him back
2 in, Ms. Scapicchio, for future reference, you
3 don't have to ask permission to step aside and
4 discuss this with your client.

5 MS. SCAPICCHIO: Thank you, Your Honor.
6 (Juror Number 29 enters courtroom.)

7 THE COURT: Mr. Perryman, you've been
8 selected to be a juror on this case. You're going
9 to be taken upstairs to the jury room affiliated
10 with this courtroom to join the other jurors
11 already impaneled. Please don't discuss this case
12 with them or any other jurors who may be impaneled
13 today. All right?

14 JUROR: Okay.

15 THE COURT: Thank you, sir, if you could
16 go upstairs.

17 THE CLERK: Seat 3. Juror Number 30 is
18 next.

19 (Juror Number 29 exits courtroom.)

20 THE COURT: Yes, bring her down.

21 MS. SCAPICCHIO: What's up?

22 THE COURT: Number 1 says she can't get
23 it changed at all. I may have to get involved.

24 MS. SCAPICCHIO: I'm doubting they would
25 change it for her, anyhow.

1 THE COURT: What?

2 MS. SCAPICCHIO: I said I'm doubting
3 they'll change it just because she asked.

4 THE COURT: Right.

5 (Juror Number 5 in Seat Number 1, enters courtroom.)

6 THE COURT: Hi, Ms. Turner. What was
7 the result of your call?

8 JUROR: I called, and she told me that
9 she won't be able to change it tomorrow or the
10 following one because she has a visit right after
11 my visit with me and my daughter, and then the
12 following week, she has an appointment. But the
13 week after that, she says she can do.

14 THE COURT: If you don't mind, can we
15 call her?

16 JUROR: Sure, that's fine.

17 THE COURT: I think perhaps coming from
18 me through Mr. Kalell might have more of an
19 influence. Do you mind?

20 JUROR: No, I don't mind at all.

21 THE COURT: If you could just be so kind
22 as to give the information to one of the court
23 officers, and as soon as we can, Mr. Kalell or
24 myself will get involved in this. Tell me, what
25 kind of arrangement is this? You're visiting with

1 your daughter with whom?

2 JUROR: A DCF worker.

3 THE COURT: And where would the visit
4 take place?

5 JUROR: In Hyde Park, 1530 River Street.

6 THE COURT: Is that a DCF office?

7 JUROR: Yes.

8 THE COURT: So we would be talking to a
9 DCF worker.

10 JUROR: Yes.

11 THE COURT: With your permission, ma'am,
12 we're going to call that DCF worker, and I think
13 coming from us directly as opposed to you, might
14 move that person a little bit more than you may be
15 able to, okay?

16 JUROR: That's fine.

17 THE COURT: That would be agreeable with
18 you if we could just change it till later in the
19 afternoon?

20 JUROR: That's perfect with me.

21 THE COURT: Is this DCF worker just a
22 chaperone at the visitation, is that all this is?

23 JUROR: I have to have supervised
24 visits.

25 THE COURT: I'm sorry, say that again?

1 JUROR: I would have to have supervised
2 visits, so as like a chaperone, per se, yeah.

3 THE COURT: Right, she's supervising the
4 visitation, correct?

5 JUROR: Yes, correct.

6 THE COURT: We would get involved, if
7 you don't mind.

8 JUROR: Okay, I'll give the information.

9 THE COURT: If you would go back to the
10 jury room, I'm hopeful that we can make this work.

11 JUROR: All right, thank you so much.

12 THE COURT: Thank you.

13 (Juror Number 5 in Seat Number 1 exits courtroom.)

14 (Juror Number 30 enters courtroom.)

15 THE CLERK: Juror 30, Eric McKenzie.

16 JUROR: Yes.

17 THE COURT: Hi, Mr. McKenzie. Sir, is
18 there anything about the nature of these charges
19 or any of the allegations you've heard that might
20 affect your ability to be fair and impartial?

21 JUROR: No.

22 THE COURT: You may hear alleged
23 evidence that the defendant, the alleged victim,
24 and some witnesses were involved in selling
25 marijuana. Would that evidence affect your

1 ability to be fair and impartial?

2 JUROR: No.

3 THE COURT: The defendant in a criminal
4 trial has the absolute right not to testify. If
5 Mr. Reddicks chose not to testify at this trial,
6 would you hold that against him in any way?

7 JUROR: No, I wouldn't.

8 THE COURT: Is there anything about the
9 length of the trial that poses a hardship for you?

10 JUROR: No.

11 THE COURT: Any follow-up questions,
12 Counsel?

13 MR. HENNING: Sir, I have no questions
14 for you.

15 MS. SCAPICCHIO: I have a few. You
16 indicated on your grand jury, I mean on your jury
17 questionnaire, that you served on a grand jury
18 four years ago?

19 JUROR: Yes.

20 THE COURT: Was that here in Suffolk
21 County?

22 JUROR: Yes, this building.

23 MS. SCAPICCHIO: And so as part of your
24 duties, you would come in on Wednesdays and you
25 will listen to the district attorneys present

1 evidence?

2 JUROR: Correct.

3 MS. SCAPICCHIO: Approximately that was
4 in 2012, you did that?

5 JUROR: That was when it ended. I think
6 it started in 2011. Like a year, it ended up
7 being about.

8 MS. SCAPICCHIO: Okay, so sometime in
9 2012, it ended.

10 JUROR: Yes.

11 MS. SCAPICCHIO: Did you get to know the
12 district attorneys in Suffolk County as a result
13 of your grand jury service?

14 JUROR: By sight, I guess.

15 MS. SCAPICCHIO: By sight. Did you form
16 any opinions about them?

17 JUROR: No.

18 MS. SCAPICCHIO: In terms of what you
19 knew?

20 JUROR: No.

21 MS. SCAPICCHIO: And you also indicated
22 that your brother-in-law is a court officer?

23 JUROR: Yes.

24 MS. SCAPICCHIO: In what court?

25 JUROR: In this building right here.

1 MS. SCAPICCHIO: In this building, okay.
2 Do you think the fact that you have a brother-in-
3 law that's a court officer would affect your
4 ability to be fair and impartial?

5 JUROR: No.

6 MS. SCAPICCHIO: Judge, could I just ask
7 you a question if the juror could step out for one
8 minute?

9 THE COURT: Of course.
10 (Juror Number 30 exits courtroom.)

11 MS. SCAPICCHIO: The concern I have is
12 it's a 2012 homicide that I think was indicted in
13 2012, but I'm not sure if he was sitting on the
14 grand jury.

15 THE COURT: Why don't we just ask him
16 directly?

17 MS. SCAPICCHIO: I didn't want to put
18 him in the mix like that.

19 THE COURT: Well, I would excuse him if
20 he were a grand juror hearing evidence that may
21 not be adduced at trial.

22 MS. SCAPICCHIO: That's my concern,
23 Judge. So if he was a sitting grand juror in
24 2012, this indictment came from 2012 in Suffolk
25 County.

1 THE COURT: Right, but only if he were
2 sitting on that grand jury that returned the true
3 bill would that be a problem.

4 MS. SCAPICCHIO: Okay, so do you want to
5 ask the follow-up questions?

6 THE COURT: I'm going to ask them. It's
7 better coming from me.

8 THE CLERK: And that was also July 31st,
9 2012. When it was returned now.

10 THE COURT: Bring him back in.

11 (Juror Number 30 enters courtroom.)

12 THE COURT: Mr. McKenzie, were you
13 serving in July 2012 on the grand jury? What time
14 of the year was it, if you can recall?

15 JUROR: I think we finished in March.

16 THE COURT: March, okay. So it was the
17 early part of the year.

18 JUROR: That's when it was finished,
19 yes.

20 THE COURT: And at no time did you -- is
21 Mr. Reddicks' name familiar to you, Charles
22 Reddicks?

23 JUROR: No.

24 THE COURT: So you were not a grand
25 juror in the presentation regarding his case.

1 JUROR: No.

2 THE COURT: Mr. McKenzie, I'm assuming
3 you appreciate, but I want to make sure for the
4 record, the standard of proof before a grand jury
5 is essentially merely probable cause. You
6 understand that, sir.

7 JUROR: Yes.

8 THE COURT: The standard here at trial
9 is the highest standard of proof in the world,
10 it's proof beyond a reasonable doubt. Do you
11 understand that, sir?

12 JUROR: Yes, ma'am.

13 THE COURT: And you understand the vast
14 difference in that standard of proof between what
15 is presented to a grand jury and what is presented
16 to, actually, it's called the petit jury, which is
17 the 16 people who are going to hear this case.
18 You appreciate that, sir.

19 JUROR: Yes.

20 THE COURT: What is the name of your
21 brother? Is it your brother is a court officer?

22 JUROR: Yes, Mark Wedgeworth.

23 THE COURT: Brother-in-law.

24 JUROR: Brother-in-law.

25 THE COURT: What's his name?

1 JUROR: Mark Wedgeworth.

2 THE COURT: You understand, sir, that
3 I'm going to be admonishing all jurors who get
4 impaneled in this case that they at no time can be
5 discussing the case even among themselves, but
6 certainly not with anybody else, including
7 friends, relatives, and loves ones, and that would
8 include Officer Wedgeworth. You understand that,
9 sir.

10 JUROR: Yes.

11 THE COURT: And you would be able to
12 comply with that admonition?

13 JUROR: Yes.

14 THE COURT: Okay, if you could step
15 out --

16 MS. SCAPICCHIO: I have a few follow-up
17 from those, Judge.

18 THE COURT: Oh, of course.

19 MS. SCAPICCHIO: Thank you. Sorry,
20 I don't mean to keep asking you questions.

21 JUROR: That's all right.

22 MS. SCAPICCHIO: Again, back to your
23 grand jury, and I don't mean to harp on it, but
24 I still have some questions. Do you remember
25 whether or not ADA Henning ever appeared before

1 you?

2 JUROR: I don't believe so.

3 MS. SCAPICCHIO: Doesn't look familiar?

4 JUROR: No.

5 MS. SCAPICCHIO: Okay, and in terms of
6 returning true bills for the Commonwealth as part
7 of your grand jury duty, do you have any feelings
8 about once there's an indictment, whether or not
9 that would sway you one way or another as far as
10 guilt or innocence at a trial?

11 JUROR: Well, I think it's a different
12 process. We were just looking at the evidence
13 that they have and saying whether it's enough or
14 not, and this is without a shadow of a doubt, and
15 it's just different.

16 THE COURT: Again, going back,
17 Mr. McKenzie, you appreciate, I know you sat as a
18 grand juror, only the prosecution presents
19 evidence, the defense never gets to respond. You
20 understand that, correct?

21 JUROR: Yes.

22 MS. SCAPICCHIO: Thank you.

23 THE COURT: Thank you, sir, if you could
24 step outside.

25 (Juror 30 exits courtroom.)

1 THE COURT: This juror stands
2 indifferent.

3 MR. HENNING: And just to verify,
4 I wasn't employed in the office, I quit the job
5 and went on to do something else.

6 MS. SCAPICCHIO: I know you were here
7 and back, I just didn't keep track of which days
8 were which.

9 MR. HENNING: 2012, I wasn't there.

10 THE COURT: And the incident was in
11 April, so even the incident was past his service
12 as a grand juror. But in any event, the juror
13 stands indifferent.

14 MR. HENNING: Commonwealth is content.

15 MS. SCAPICCHIO: Defendant would
16 exercise a challenge.

17 (Juror Number 30 enters courtroom.)

18 THE COURT: Thank you, sir, you are
19 excused.

20 THE CLERK: Excused.

21 (Juror Number 30, excused.)

22 (Juror Number 31 enters courtroom.)

23 THE CLERK: Juror 31, Jennifer Anstead.

24 JUROR: Anstead.

25 THE COURT: Good morning, ma'am. Is

1 there anything about the nature of these charges
2 or any of the allegations that you've heard that
3 might affect your ability to be fair and
4 impartial?

5 JUROR: No.

6 THE COURT: You may hear alleged
7 evidence that the defendant, the alleged victim,
8 and some witnesses were involved in selling
9 marijuana. Would that evidence affect your
10 ability to be fair and impartial?

11 JUROR: No.

12 THE COURT: The defendant in a criminal
13 trial has the absolute right not to testify. If
14 Mr. Reddicks chose not to testify at this trial,
15 would you hold that against him in any way?

16 JUROR: No.

17 THE COURT: Is there anything about the
18 length of the trial that poses a hardship for you?

19 JUROR: No.

20 THE COURT: Any follow-up questions,
21 Counsel?

22 MR. HENNING: Ma'am, in the
23 questionnaire, it says that you work at Mass.
24 General Hospital as an RN.

25 JUROR: Correct.

1 MR. HENNING: Can you describe what unit
2 or division you work in?

3 JUROR: I work in the cardiac cath lab.
4 I used to work in the cardiac surgery OR, so about
5 two months ago, I switched to the cath lab.

6 MR. HENNING: It says you completed a
7 bachelors degree. Where was that?

8 JUROR: University of New Hampshire.

9 MR. HENNING: In the household section,
10 it says single, married, partner, domestic,
11 separated, you can look at the form if you want,
12 but --

13 JUROR: I did. I'm engaged. He's not
14 a spouse, I chose not to -- but I'm engaged to
15 another man who lives in the same house that
16 I live in, but I just chose not to fill that out
17 because the questionnaire was about me, not about
18 my partner.

19 MR. HENNING: Understood. I have
20 nothing further.

21 MS. SCAPICCHIO: Hi.

22 JUROR: Hi, how are you?

23 MS. SCAPICCHIO: Good. You said you
24 were seated on a jury on a civil case in 2008 or
25 9?

1 JUROR: It was either 2008 or 2009 when
2 I was living in San Francisco.

3 MS. SCAPICCHIO: Was that a positive
4 experience for you?

5 JUROR: It was a very positive
6 experience. I actually was surprised that I was
7 chosen.

8 MS. SCAPICCHIO: What surprised you
9 about being chosen?

10 JUROR: Well, it was a mesothelioma
11 case, and being a nurse, I thought that they
12 probably would not have wanted me. It was
13 actually really, a really interesting trial
14 because it went through the beginning of like OSHA
15 and regulatory standards for hospitals, and this
16 gentleman happened to be in the Navy, so it was a
17 really, quite historic event in my life, like
18 I learned a lot when I was on the jury.

19 MS. SCAPICCHIO: And then also, at Mass.
20 General, you said you worked in the cardiac --

21 JUROR: I work in the cardiac cath lab
22 right now.

23 MS. SCAPICCHIO: And you previously
24 worked in the cardiac OR?

25 JUROR: Yes.

1 MS. SCAPICCHIO: How long did you do
2 that in the cardiac OR?

3 JUROR: I was at Mass. General in the
4 cardiac OR for about six years, and I've been at
5 my new job for about two months.

6 MS. SCAPICCHIO: Okay, so on your feet
7 all day in the OR.

8 JUROR: Yes.

9 MS. SCAPICCHIO: Thanks.

10 THE COURT: Ma'am, can you step outside
11 for just a second, please.

12 JUROR: Sure.

13 (Juror Number 31 exits courtroom.)

14 THE COURT: That's stamina for you.

15 MS. SCAPICCHIO: That's why I asked.

16 THE COURT: This juror stands
17 indifferent. And durable.

18 MR. HENNING: Commonwealth exercises a
19 peremptory.

20 (Juror Number 31 enters courtroom.)

21 THE COURT: Thank you, ma'am, you are
22 excused.

23 THE CLERK: Excused.

24 (Juror Number 31 exits courtroom.)

25 (Juror Number 32 enters courtroom.)

1 THE CLERK: Juror 32, Elena White.

2 JUROR: Yes.

3 THE COURT: Hi, Ms. White. You answered
4 four of my earlier questions. Can you tell me
5 what your concerns are about being on this jury?

6 JUROR: Well, in order of the questions
7 that you asked earlier, Thomas --

8 THE COURT: Do you know one of the
9 witnesses?

10 JUROR: Maybe. Thomas Washington is a
11 professional colleague, potentially, but there's a
12 lot of people named Thomas Washington, I presume.

13 THE COURT: You also said that you would
14 tend to believe the testimony of a civilian
15 witness over the testimony of a police officer
16 witness just because he or she were a civilian.

17 JUROR: Yeah, I tend to have a bias
18 against the police.

19 THE COURT: Okay, thank you, ma'am,
20 you're excused.

21 (Juror Number 32, excused.)

22 (Juror Number 36 enters courtroom.)

23 THE CLERK: Juror 36, Kyle Johnson.

24 JUROR: Yes.

25 THE COURT: Hi, Mr. Johnson. Sir, is

1 there anything about the nature of these charges
2 or any of the allegations you've heard that might
3 affect your ability to be fair and impartial?

4 JUROR: No.

5 THE COURT: You may hear alleged
6 evidence that the defendant, the alleged victim,
7 and some witnesses were involved in selling
8 marijuana. Would that evidence affect your
9 ability to be fair and impartial?

10 JUROR: No.

11 THE COURT: The defendant in a criminal
12 trial has the absolute right not to testify. If
13 Mr. Reddicks chose not to testify at this trial,
14 would you hold that against him in any way?

15 JUROR: No.

16 THE COURT: Is there anything about the
17 length of the trial that poses a hardship for you?

18 JUROR: Yes.

19 THE COURT: What is that?

20 JUROR: I'm a full-time student at
21 Northeastern. I just started my second semester
22 of college, and I can't really afford to miss any
23 more days of school, let alone nine days of
24 school.

25 THE COURT: Well, did you know that you

1 could defer your service for up to a year?

2 JUROR: Yes, but the only time -- the
3 court is only open on weekdays, so I'll either be
4 in school or back home in Pennsylvania and won't
5 be able to serve.

6 THE COURT: Have you deferred it in the
7 past?

8 JUROR: No.

9 THE COURT: You just called up and you
10 said, and you were given this date, is that what
11 happened?

12 JUROR: Yes.

13 THE COURT: You got summonsed and you
14 were given this date.

15 JUROR: Um-hmm.

16 THE COURT: And you didn't know you
17 could call up -- do you have a co-op program?

18 JUROR: Um-hmm.

19 THE COURT: Yes?

20 JUROR: Yes, but I don't start that till
21 next year.

22 THE COURT: I see, so if you're not in
23 classes, you are back at home.

24 JUROR: Yeah, or it's the weekend.

25 THE COURT: All right, you're excused,

1 sir, thank you.

2 THE CLERK: Excused.

3 (Juror Number 36, excused.)

4 (Juror Number 37 enters courtroom.)

5 THE CLERK: Juror 37, Irina Holmes.

6 JUROR: Yes.

7 THE COURT: Good morning, Ms. Holmes.

8 You answered three of my earlier questions. Do
9 you have a language difficulty, ma'am?

10 JUROR: No, I have hearing difficulty.

11 THE COURT: Would your hearing
12 impairment make it difficult for you to hear
13 everything in the courtroom?

14 JUROR: Well, no, it's not that I'm
15 deaf, but I'm experiencing increasing difficulty
16 hearing, and it's also my foreign language.

17 THE COURT: And it would be difficult in
18 this courtroom to hear everything?

19 JUROR: It might. Not necessarily
20 everything, maybe five percent.

21 THE COURT: Well, five percent is more
22 than I would --

23 JUROR: Yeah, you know, the tone,
24 something like that.

25 THE COURT: I understand, ma'am, you are

1 excused.

2 JUROR: Thank you.

3 THE CLERK: Excused.

4 (Juror Number 37, excused.)

5 THE COURT: I just wanted to say for
6 the record, she's the one who answered both the
7 police officer question and the civilian question.
8 I think there's also a language problem going on
9 there, too, besides the hearing problem. I was
10 dying to find out how she could answer both in the
11 affirmative.

12 MS. SCAPICCHIO: I think she was just a
13 little confused, I don't think she heard very
14 well.

15 THE COURT: It may have been the hearing
16 or the language difficulty. But in any event, she
17 is excused.

18 (Juror Number 39 enters courtroom.)

19 THE CLERK: Juror 39, Jeanmarie Metelus.

20 JUROR: Yes.

21 THE COURT: Sir, you answered one of my
22 earlier questions.

23 JUROR: I did.

24 THE COURT: What is your concern about
25 being on the jury?

1 JUROR: I have a very short attention
2 span and I don't think -- for instance, when you
3 were saying the names, I blanked out quite a few
4 times. I'm not sure that's a good thing.

5 THE COURT: You're in college, sir.

6 JUROR: I am, yes.

7 THE COURT: Are you blanking out with
8 your professors?

9 JUROR: I do, yeah. I got through high
10 school, unbelievably, but --

11 THE COURT: I'm sorry, I didn't hear the
12 last part, you got through high school?

13 JUROR: I got through high school,
14 thankfully, but it's a concern, yeah.

15 THE COURT: All right, so do you think
16 you're going to have attention problems at this
17 trial?

18 JUROR: I do, yes.

19 THE COURT: All right, you're excused,
20 sir, thank you.

21 JUROR: Thank you, have a good one.

22 THE CLERK: Excused.

23 (Juror Number 39, excused.)

24 (Juror Number 41 enters courtroom.)

25 THE CLERK: Juror 41, Laura Masur.

1 JUROR: Yes.

2 THE COURT: Hi, Ms. Masur. Ma'am, is
3 there anything about the nature of these charges
4 or any of the allegations you've heard that might
5 affect your ability to be fair and impartial?

6 JUROR: I do not think so.

7 THE COURT: Great. Now, you may hear
8 alleged evidence that the defendant, the alleged
9 victim, and some witnesses were involved in
10 selling marijuana. Would that evidence affect
11 your ability to be fair and impartial?

12 JUROR: I don't think so.

13 THE COURT: The defendant in a criminal
14 trial has the absolute right not to testify. If
15 Mr. Reddicks chose not to testify at this trial,
16 would you hold that against him in any way?

17 JUROR: I would not.

18 THE COURT: Is there anything about the
19 length of the trial that poses a hardship for you?

20 JUROR: I'm concerned, because I'm
21 involved in teaching at the university level, that
22 it would be difficult for me to fulfill my
23 obligations.

24 THE COURT: Well, that's a concern to
25 anybody who's working. You're working for Boston

1 University which is a big institution.

2 JUROR: Yes.

3 THE COURT: And you're teaching in the
4 education department?

5 JUROR: No, I'm in the archaeology
6 department.

7 THE COURT: But there are other
8 professors who could cover for you?

9 JUROR: It's something that we can
10 probably work out a situation.

11 THE COURT: I appreciate it might be a
12 big inconvenience, but you can also appreciate
13 that everybody has the same inconvenience relative
14 to jury service, and I'm confident that Boston
15 University can step up to the plate and help you
16 out performing this important public service.
17 Any follow-up questions, Counsel?

18 MR. HENNING: Yes. You indicated that
19 you do archaeology. Can you just describe what
20 your job is or what your field is?

21 JUROR: I work on historical sites in
22 Eastern North America involved in excavation and
23 analyzing the results. Specifically, I look at
24 animal bones.

25 THE COURT: Cool. Like old animals,

1 like dinosaurs?

2 JUROR: No, not that old. The past 500
3 years or so.

4 MS. SCAPICCHIO: So you're actually the
5 one that goes out and does the helping with the
6 dig?

7 JUROR: Yes.

8 MS. SCAPICCHIO: So where have you dug?

9 JUROR: I've mostly worked in Virginia
10 before, I worked in Western Massachusetts.

11 MS. SCAPICCHIO: What kind of
12 archaeology things do you find in Virginia and
13 Western Massachusetts?

14 THE COURT: Jamestown?

15 JUROR: Jamestown kind of stuff. I've
16 never worked at Jamestown, but sites nearby.

17 MS. SCAPICCHIO: All right, and then you
18 indicated that your partner or husband works for
19 the government in the US Patent and Trademark
20 office?

21 JUROR: Um-hmm.

22 MS. SCAPICCHIO: Is he a patent
23 examiner?

24 JUROR: Yes.

25 MS. SCAPICCHIO: How long has he had

1 that job?

2 JUROR: Seven years.

3 MS. SCAPICCHIO: And then in terms of
4 your work at Boston University, did you get your
5 undergraduate at BASED UPON, as well?

6 JUROR: No, I did not.

7 MS. SCAPICCHIO: Where did you go
8 undergrad?

9 JUROR: William and Mary in Virginia.

10 MS. SCAPICCHIO: When you say your job
11 as a graduate student and teaching fellow, do you
12 actually teach classes on behalf of professors?
13 Is that what you do?

14 JUROR: I mostly work as a teaching
15 assistant, so I'm involved in some aspects of
16 teaching and then lab, you know, lab aspects of
17 teaching.

18 MS. SCAPICCHIO: So you run the labs for
19 the students or for the professors because the
20 students need to be there.

21 JUROR: Um-hmm.

22 MS. SCAPICCHIO: You also have to have
23 office hours, as well.

24 JUROR: Yes.

25 MS. SCAPICCHIO: Okay, and how often do

1 you have to have office hours a week?

2 JUROR: Usually three days a week.

3 MS. SCAPICCHIO: Is that a requirement
4 for your job that you have to have office hours
5 three days a week?

6 JUROR: Yes.

7 MS. SCAPICCHIO: And could somebody else
8 sort of pick up and have those office hours or
9 would you just have to do them after, after court?

10 JUROR: I can do some after if need be.
11 It's the beginning of the semester, so everything
12 is a little different, you know, right now.

13 MS. SCAPICCHIO: Okay, and then the last
14 question I have is you indicated your father was
15 an expert witness in a federal civil case.

16 JUROR: Yes.

17 MS. SCAPICCHIO: An expert in what?

18 JUROR: Accounting, financial things.
19 He's a professor of accounting.

20 MS. SCAPICCHIO: Was that here in
21 Massachusetts?

22 JUROR: No.

23 MS. SCAPICCHIO: Where was that?

24 JUROR: The DECIDE area.

25 MS. SCAPICCHIO: The DECIDE area.

1 JUROR: I'm not sure where exactly.

2 MS. SCAPICCHIO: I have no further
3 questions, thank you.

4 THE COURT: Thank you, ma'am, if you
5 could step outside for one second, please.

6 JUROR: Sure.

7 (Juror Number 41 exits courtroom.)

8 THE COURT: This juror stands
9 indifferent.

10 MR. HENNING: Commonwealth is content.

11 MS. SCAPICCHIO: Defendant would
12 challenge.

13 (Juror Number 41 enters courtroom.)

14 THE COURT: Thank you, ma'am, you are
15 excused.

16 THE CLERK: Excused.

17 (Juror Number 41 exits courtroom.)

18 (Juror Number 42 enters courtroom.)

19 THE CLERK: Juror 42, Charles
20 Luckenbill.

21 JUROR: Yes.

22 THE COURT: Good morning, sir.

23 JUROR: Good morning.

24 THE COURT: Is there anything about the
25 nature of these charges or any of the allegations

1 you've heard that might affect your ability to be
2 fair and impartial?

3 JUROR: I don't think so.

4 THE COURT: You may hear alleged
5 evidence that the defendant, the alleged victim,
6 and some of the witnesses were involved in selling
7 marijuana. Would that evidence affect your
8 ability to be fair and impartial?

9 JUROR: No.

10 THE COURT: The defendant in a criminal
11 trial has the absolute right not to testify. If
12 Mr. Reddicks chose not to testify at this trial,
13 would you hold that against him in any way?

14 JUROR: No.

15 THE COURT: Is there anything about the
16 length of the trial that poses a hardship for you?

17 JUROR: No.

18 THE COURT: Inconvenience, yes.

19 JUROR: Yes.

20 THE COURT: Hardship, no.

21 JUROR: No.

22 THE COURT: I love hearing that.

23 Mr. Henning, Ms. Scapicchio?

24 MR. HENNING: The Boylston Restaurant
25 Group, can you describe what restaurants they're

1 in charge of or what they are?

2 JUROR: Pour House Bar and Grill,
3 Whiskeys, and T-bones in Plymouth.

4 MR. HENNING: Do you manage a particular
5 restaurant or the whole --

6 JUROR: Pour House.

7 MR. HENNING: The Pour House? When did
8 you move from Indianapolis to Massachusetts?

9 JUROR: 1981.

10 MR. HENNING: Was it for school?

11 JUROR: Yes.

12 MR. HENNING: Your bachelor's degree,
13 where is that from?

14 JUROR: Berklee College.

15 MR. HENNING: Did you play an
16 instrument?

17 JUROR: I play multiple instruments.

18 MR. HENNING: You completed your degree
19 at Berklee.

20 JUROR: I did.

21 MR. HENNING: I have nothing further,
22 Your Honor.

23 THE COURT: Ms. Scapicchio?

24 MS. SCAPICCHIO: So now I have to know,
25 what do you play?

1 JUROR: Primarily, guitar.

2 MS. SCAPICCHIO: Guitar, okay.

3 JUROR: Strings.

4 MS. SCAPICCHIO: What other instruments,
5 other than guitar, do you play?

6 JUROR: Banjo, piano.

7 MS. SCAPICCHIO: As you're working for
8 the Boston Restaurant Group, you manage the Pour
9 House Bar and Grill?

10 JUROR: I do.

11 MS. SCAPICCHIO: So you're there as the
12 manager every day or?

13 JUROR: Bartender, manager.

14 MS. SCAPICCHIO: Whatever needs to get
15 done.

16 JUROR: Yes.

17 MS. SCAPICCHIO: And then you indicated
18 on your jury questionnaire that you were a special
19 grant juror for nine months in 2007?

20 JUROR: I believe it was '07, yes.

21 MS. SCAPICCHIO: Was that here in
22 Suffolk County?

23 JUROR: Yes.

24 MS. SCAPICCHIO: With the Suffolk County
25 District Attorney's Office or with the Attorney

1 General's Office?

2 JUROR: Attorney General's Office.

3 MS. SCAPICCHIO: The Attorney General's
4 Office.

5 JUROR: Martha Coakley.

6 MS. SCAPICCHIO: When you say you were a
7 special grand juror, were you investigating just
8 one case?

9 JUROR: Multiple cases.

10 MS. SCAPICCHIO: Multiple cases from the
11 Attorney General's Office.

12 JUROR: Yes.

13 MS. SCAPICCHIO: Was that experience as
14 a special grand juror, was that a positive or
15 negative experience for you?

16 JUROR: I would say it was positive, but
17 it was an awful long time commitment.

18 MS. SCAPICCHIO: How long did you have
19 to sit?

20 JUROR: Well, for like, I think eight or
21 nine months.

22 MS. SCAPICCHIO: Every day or just one
23 day a week?

24 JUROR: About three days a week, give or
25 take, sometimes you would get called off.

1 MS. SCAPICCHIO: Because you sat as a
2 special grand juror, do you think that if
3 everything were equal, that your relationship and
4 knowledge of the District Attorney's Office would
5 sway you one way or the other?

6 THE COURT: It wasn't the District
7 Attorney's Office.

8 MS. SCAPICCHIO: I'm sorry, the Attorney
9 General's Office, would sway you one way or the
10 other in terms of deciding a criminal case here?

11 JUROR: I don't think so.

12 MS. SCAPICCHIO: When you say you don't
13 think so, what do you mean?

14 JUROR: I don't even understand the
15 question, really.

16 MS. SCAPICCHIO: Okay, so it was a bad
17 question then. Let me ask you another one. So
18 because you sat with the prosecutorial arm of the
19 Commonwealth for a period of time, would they get
20 an edge here anywhere in terms of deciding this
21 case because of the way that you had to interact
22 with them as a grand juror?

23 JUROR: No.

24 MS. SCAPICCHIO: Great, thank you.

25 THE COURT: And I just want to make sure

1 you understand, I'm not telling you anything you
2 don't know, the grand jury presented evidence only
3 from the prosecution side. You know the defendant
4 doesn't participate in a grand jury. You
5 understand that.

6 JUROR: Sure, yes.

7 THE COURT: You also understand that
8 the standard of proof before a grand jury is one
9 of the lowest, it's basically probable cause.
10 Whereas here at trial, it's the highest standard
11 of proof in the world, proof beyond a reasonable
12 doubt.

13 JUROR: Okay.

14 THE COURT: You understand and can
15 appreciate that difference?

16 JUROR: I think I can now that you've
17 explained it that way, yes.

18 THE COURT: This is the trial, this is
19 not grand jury.

20 JUROR: Sure, sure.

21 THE COURT: You understand that.

22 JUROR: Yes.

23 THE COURT: There's a vast difference in
24 the standard of proof between one and the other.

25 JUROR: Okay.

1 THE COURT: And the grand jury is
2 one-sided. In other words, it's just a prosecutor
3 who is presenting evidence.

4 JUROR: Okay.

5 THE COURT: Defendant doesn't even
6 participate. You understand that.

7 JUROR: Right, sure.

8 THE COURT: Great. If you could step
9 outside, please, sir, for a second.

10 (Juror Number 42 exits courtroom.)

11 THE COURT: This juror stands
12 indifferent.

13 MR. HENNING: Commonwealth is content.

14 MS. SCAPICCHIO: Defendant is content.

15 (Juror Number 42 enters courtroom.)

16 THE COURT: Mr. Luckenbill, you have
17 been chosen to be a juror on this case. I can
18 assure you, however, this trial is going to last
19 a lot less time than you served on a grand jury,
20 I assure you that, so thank you again for your
21 willingness to serve. You're going to join the
22 other impaneled jurors upstairs. Please don't
23 discuss the case with them or allow them to
24 discuss the case with you.

25 JUROR: Okay.

1 THE COURT: Thank you, sir.

2 THE CLERK: Seat 4.

3 (Juror Number 42 exits courtroom.)

4 (Juror Number 43 enters courtroom.)

5 THE CLERK: Juror 43, David Tierney.

6 THE COURT: Mr. Tierney, first and
7 foremost, you indicated you're 72.

8 JUROR: Yes, I'm 72.

9 THE COURT: By law in Massachusetts, you
10 cannot serve on a jury in Massachusetts past the
11 age of 70 unless you agree to. Do you want to
12 serve on this jury?

13 JUROR: And I agreed to.

14 THE COURT: Great, then let me ask you
15 this, sir. Well, you did answer one of my earlier
16 questions. Do you have some concern about being
17 on this jury?

18 JUROR: Not really. The one where
19 I answered was you asked about hearing.

20 THE COURT: Yes.

21 JUROR: When the clerk was speaking and
22 the defendants were standing, that was garbled.

23 THE COURT: Because their back was to
24 you?

25 JUROR: Because I was sitting behind

1 them. And when you were speaking, it was just
2 barely into my hearing range.

3 THE COURT: So you could barely hear me?

4 JUROR: I could barely hear you.

5 THE COURT: I'm going to have to excuse
6 you, Mr. Tierney, because I think I speak pretty
7 loudly, and the acoustics in this room, I grant
8 you, are not very good, but if you couldn't hear
9 me when I was facing you and speaking fairly
10 loudly, you may have problems hearing this trial.
11 So I'm going to have to excuse you, sir.

12 JUROR: Okay.

13 THE COURT: Thank you for your
14 willingness to serve.

15 THE CLERK: Excused.

16 (Juror Number 43, excused.)

17 (Juror Number 47 enters courtroom.)

18 THE CLERK: Juror 47, Denise Jawando.

19 JUROR: Yes.

20 THE COURT: Good morning, ma'am.

21 JUROR: Good morning.

22 THE COURT: Ma'am, is there anything
23 about the nature of these charges or any of the
24 allegations you've heard that might affect your
25 ability to be fair and impartial?

1 JUROR: No, ma'am.

2 THE COURT: You may hear alleged
3 evidence that the defendant, the alleged victim,
4 and some of the witnesses were involved in selling
5 marijuana. Would that evidence affect your
6 ability to be fair and impartial?

7 JUROR: No, ma'am.

8 THE COURT: The defendant in a criminal
9 trial has the absolute right not to testify. If
10 Mr. Reddicks chose not to testify at this trial,
11 would you hold that against him in any way?

12 JUROR: No, I would not.

13 THE COURT: Is there anything about the
14 length of the trial that poses a hardship for you?

15 JUROR: No.

16 THE COURT: Any follow-up questions,
17 Counsel?

18 MR. HENNING: Ma'am, there's a couple of
19 spots here that ask for your place of birth. Are
20 you originally from here?

21 JUROR: No, Bronx, New York.

22 MR. HENNING: Bronx, New York. The
23 Presentation Rehab facility, it says -- I can't
24 quite read what you do for a job.

25 JUROR: A nurse.

1 MR. HENNING: A nurse?

2 JUROR: Um-hmm.

3 MR. HENNING: Is there a particular type
4 of patient that you work with or a particular
5 unit?

6 JUROR: Rehab.

7 MR. HENNING: Is it rehab for traumatic
8 injuries or?

9 JUROR: Traumatic, hip surgeries, knee
10 surgeries, yeah. Strokes.

11 MR. HENNING: And it lists that you have
12 an 11-year-old child.

13 JUROR: Yes.

14 MR. HENNING: Is it a boy or a girl?

15 JUROR: Girl.

16 MR. HENNING: Is she able to take care
17 of herself if you were doing jury duty?

18 JUROR: My 24-year-old and my boyfriend
19 help.

20 MR. HENNING: Nothing further.

21 THE COURT: Ms. Scapicchio?

22 MS. SCAPICCHIO: You indicated that
23 you're divorced?

24 JUROR: Yes.

25 MS. SCAPICCHIO: What did your spouse

1 do when you were married?

2 JUROR: Navy.

3 MS. SCAPICCHIO: He was in the Navy.

4 JUROR: Navy, just retired, yes.

5 MR. HENNING: So were you stationed like
6 all over the place traveling around?

7 JUROR: Except for out of the country.
8 The last place we were stationed in Georgia and
9 Yuma, Arizona.

10 MS. SCAPICCHIO: And those are all three
11 or four month commitments and then you moved on?

12 JUROR: Well, a year to two years.

13 MS. SCAPICCHIO: A year to two years,
14 okay. I don't have any further questions, thank
15 you.

16 THE COURT: Ma'am, if you could step
17 outside for just a moment, please.

18 (Juror Number 47 exits courtroom.)

19 THE COURT: This juror stands
20 indifferent.

21 MR. HENNING: Commonwealth is content.

22 MS. SCAPICCHIO: Defendant is content.

23 THE CLERK: Seat 5.

24 (Juror Number 47 enters courtroom.)

25 THE COURT: Ma'am, you've been chosen

1 to be a juror on this case. You're going to go
2 upstairs and join the other impaneled jurors.
3 Please don't discuss this case among yourselves or
4 allow anyone to discuss it with you, all right?

5 JUROR: Okay.

6 THE COURT: Thank you, ma'am.

7 Juror Number 47 exits courtroom.)

8 THE COURT: Do you want to take a break,
9 five-minute break? Five-minute humanitarian
10 break?

11 Five-minute humanitarian break.

12 (Court in recess at 11:30 a.m.)

13 (Court in session at 11:40 a.m.)

14 THE COURT: All right, we're up to
15 number 50.

16 COURT OFFICER: 5-0?

17 THE COURT: 5-0.

18 (Juror Number 50 enters courtroom.)

19 THE CLERK: Juror 50, Christopher
20 Cintron.

21 JUROR: Present.

22 THE COURT: Hi, Mr. Cintron.

23 JUROR: How are you doing?

24 THE COURT: Sir, is there anything about
25 the nature of these charges or any of the

1 allegations you've heard that might affect your
2 ability to be fair and impartial?

3 JUROR: No.

4 THE COURT: You may hear alleged
5 evidence that the defendant, the alleged victim,
6 and some of the witnesses were involved in selling
7 marijuana. Would that evidence affect your
8 ability to be fair and impartial?

9 JUROR: No.

10 THE COURT: The defendant in a criminal
11 trial has the absolute right not to testify. If
12 Mr. Reddicks chose not to testify at this trial,
13 would you hold that against him in any way?

14 JUROR: No, I wouldn't.

15 THE COURT: Is there anything about the
16 length of the trial that poses a hardship for you?

17 JUROR: No.

18 THE COURT: Any follow-up questions,
19 Counsel?

20 MR. HENNING: It says student here and
21 the last grade you finished was 12th grade.

22 JUROR: Yes.

23 MR. HENNING: Where was that?

24 JUROR: North Cambridge Catholic High
25 School.

1 MR. HENNING: North Cambridge Catholic
2 High School?

3 JUROR: Yeah.

4 MR. HENNING: And have you ever worked
5 anyplace prior to Enterprise since you've
6 graduated from high school?

7 JUROR: Yeah, Price Rite.

8 MR. HENNING: Price Rite?

9 JUROR: Yeah.

10 MR. HENNING: Nothing further.

11 MS. SCAPICCHIO: When you worked for
12 Price Rite, what did you do for them?

13 JUROR: Worked in the meat department.

14 MS. SCAPICCHIO: In the meat department.
15 Like in the meat room cutting meat and stuff?

16 JUROR: No, I just stocked the shelves.

17 MS. SCAPICCHIO: When you went to school
18 at North Cambridge Catholic High School?

19 JUROR: Yes.

20 MS. SCAPICCHIO: Did you play any sports
21 while you were there?

22 JUROR: Yes, I played basketball.

23 MS. SCAPICCHIO: Basketball. And how
24 did your team do?

25 JUROR: We did, we had good and bad

1 years, both sides of the --

2 MS. SCAPICCHIO: And you played all four
3 years?

4 JUROR: I played three.

5 MS. SCAPICCHIO: Okay, great. Thank
6 you.

7 THE COURT: Sir, if you could step
8 outside for just a second, please.

9 (Juror Number 50 exits courtroom.)

10 THE COURT: This juror stands
11 indifferent.

12 MR. HENNING: Commonwealth is going to
13 exercise a peremptory.

14 (Juror Number 50 enters courtroom.)

15 THE COURT: Thank you, sir, you are
16 excused.

17 THE CLERK: Excused.

18 (Juror Number 50, excused.)

19 (Juror Number 52 enters courtroom.)

20 THE CLERK: 52, Matthew Fillion.

21 THE COURT: Hi, Mr. Fillion.

22 JUROR: Hi.

23 THE COURT: You answered two of my
24 earlier questions. Would you have the tendency to
25 believe the testimony of a police officer witness

1 over that of a civilian witness just because he or
2 she were a police officer?

3 JUROR: Yes.

4 THE COURT: Thank you, sir, you are
5 excused.

6 THE CLERK: Excused.

7 (Juror Number 52, excused.)

8 (Juror Number 54 enters courtroom.)

9 THE CLERK: 54. Juror 54, Meaghan Lyon.

10 JUROR: Yes.

11 THE COURT: Hi, Ms. Lyon.

12 JUROR: Hi.

13 THE COURT: Ma'am, is there anything
14 about the nature of these charges or any of the
15 allegations you've heard that might affect your
16 ability to be fair and impartial?

17 JUROR: I don't think so, no.

18 THE COURT: Great. You may hear alleged
19 evidence that the defendant, the alleged victim,
20 and some of the witnesses were involved in selling
21 marijuana. Would that evidence affect your
22 ability to be fair and impartial?

23 JUROR: No.

24 THE COURT: The defendant in a criminal
25 trial has the absolute right not to testify. If

1 Mr. Reddicks chose not to testify at this trial,
2 would you hold that against him in any way?

3 JUROR: No.

4 THE COURT: Is there anything about the
5 length of the trial that poses a hardship for you?

6 JUROR: A little bit, yes.

7 THE COURT: What is that?

8 JUROR: I have a business trip.

9 THE COURT: What kind of business trip
10 are we talking about?

11 JUROR: A partnership dealing with my
12 company.

13 THE COURT: You're the director of
14 marketing, yes?

15 JUROR: Yes.

16 THE COURT: When is this business trip?

17 JUROR: Tonight through Friday.

18 THE COURT: Of next week.

19 JUROR: Of this week.

20 THE COURT: Oh, so it's just a three day
21 business -- is it something that can be postponed
22 or is it something that somebody else can cover
23 for you?

24 JUROR: I would just have to be absent.

25 THE COURT: From the meeting.

1 JUROR: Yes.

2 THE COURT: So other people from your
3 company could attend?

4 JUROR: Yes.

5 THE COURT: And the meeting could go on
6 in your absence?

7 JUROR: Yes, I think so.

8 THE COURT: Without any detriment to
9 your employer, it could go on?

10 JUROR: I guess so, kind of.

11 THE COURT: Please understand, I don't
12 want to make life hard for you, but I can't
13 necessarily assess that as a hardship. All right?

14 JUROR: Okay.

15 THE COURT: If you can say that the
16 meeting can go on without you, then I can't excuse
17 you because of that. All right? I hope you
18 understand.

19 JUROR: I do.

20 THE COURT: That's my decision. Any
21 follow-up questions?

22 MR. HENNING: You got a BUSINESS in
23 marketing, it says. Where was that?

24 JUROR: Bentley.

25 MR. HENNING: And you were born in

1 Maine?

2 JUROR: Yes.

3 MR. HENNING: When did you come to
4 Massachusetts?

5 JUROR: When I went to Bentley, so 2007.

6 MR. HENNING: I have nothing further.

7 MS. SCAPICCHIO: I have a few questions.
8 You indicated that your half-brother is a police
9 officer?

10 JUROR: Um-hmm.

11 MS. SCAPICCHIO: Where does he work?

12 JUROR: In Oregon.

13 MS. SCAPICCHIO: In Oregon, okay. Does
14 the fact that your brother is a police officer,
15 when you're evaluating a police officer's
16 testimony, would that give an edge to the police
17 officers because of your brother's job?

18 JUROR: I don't think so, I don't know
19 him that well.

20 MS. SCAPICCHIO: You say you don't think
21 so. Do you discuss cases with him at all? How
22 often do you see him?

23 JUROR: Very rarely, twice ever.

24 MS. SCAPICCHIO: Okay, and then you said
25 you uncle is a lawyer in real estate?

1 JUROR: Yes.

2 MS. SCAPICCHIO: Is that here in
3 Massachusetts or somewhere else?

4 JUROR: Also in Oregon.

5 MS. SCAPICCHIO: Also in Oregon, okay.
6 And then you indicated at some point that you have
7 this meeting that's supposed to go from today
8 through Friday, and you've indicated -- is there
9 someone that's directly under you that you could
10 call and make sure that the meeting is going to go
11 off without a hitch or is it something that would
12 ultimately, if you don't show up, the partners are
13 going to notice?

14 THE COURT: Can you step outside for
15 just a second, please?

16 (Juror Number 54 exits courtroom.)

17 THE COURT: Ms. Scapicchio, this is
18 where I'm going to have to draw the line.
19 Hardship determination is my province. You're
20 handing her up on a silver platter a reason to
21 weasel out of jury service just because of the way
22 you're putting it.

23 MS. SCAPICCHIO: I'm not looking for her
24 to weasel out of anything, Judge. What I'm doing
25 is she said things that were very unequivocal or

1 equivocal in terms of, "I think so, I hope so,
2 I guess so." I'm trying to get her to say yes,
3 it would, because --

4 THE COURT: Yes, it would what?

5 MS. SCAPICCHIO: Yes, it would or no, it
6 -- yes, somebody could take over and it wouldn't
7 be a problem.

8 THE COURT: She told me that she could,
9 that's why I follow up. Hardship determination is
10 my province. And may I also point out, women do
11 that all the time, they put qualifiers on, and
12 that's a very honest answer, "I think, I believe."
13 They do it a lot more than men. Lots of studies
14 show that. That doesn't make it an equivocal
15 answer, it's just the way women talk, "I believe,
16 I think." So is there some concern you have?
17 I mean, all the answers she gave me about
18 hardship, that's why I follow up on it.

19 MS. SCAPICCHIO: I was just trying to
20 get her to say yes or no, Judge, so the record is
21 clear.

22 THE COURT: Yes or no to what?

23 MS. SCAPICCHIO: Yes or no as to whether
24 or not this is going to affect her ability to be
25 able to sit here and listen to the evidence.

1 THE COURT: That's the kind of question
2 where she's going to say, you're giving her a
3 perfect out, and that's not fair that you're
4 handing her up a way to say, oh, yeah, it's going
5 to bother me. I've asked her, can somebody take
6 over for her, and she said yes. I'll put that
7 question to her again if you want me to.

8 MS. SCAPICCHIO: I just want to make
9 sure it's not going to be distracting. She
10 brought a giant suitcase in for jury duty?
11 I don't know what she's doing with the giant
12 suitcase, but it seems like she's got a lot going
13 on. I'm just trying to make sure that once, if
14 we're going to put her in that box, that she's
15 going to be able to concentrate on this case,
16 Judge, and not be worried about someone trying to
17 take her place for three days in a conference with
18 partners.

19 THE COURT: All right.

20 MS. SCAPICCHIO: That's what I'm worried
21 about.

22 THE COURT: Bring her back in.

23 (Juror Number 54 enters courtroom.)

24 THE COURT: Hi, Ms. Lyon. I just want
25 to put it to you again -- have a seat, please.

1 How many people from your firm are going to go to
2 this conference?

3 JUROR: Five to ten. I'm not sure of
4 the number.

5 THE COURT: Will other people from the
6 marketing department go?

7 JUROR: My subordinates will go.

8 THE COURT: So it is something that can
9 go on in your absence?

10 JUROR: Yeah, we just won't have the
11 head of marketing, that's the only difference.

12 THE COURT: Which would be preferable,
13 I understand, but that conference can continue and
14 take place in your absence.

15 JUROR: Yes.

16 THE COURT: Anything else,
17 Ms. Scapicchio?

18 MS. SCAPICCHIO: There was one more
19 indication on your jury questionnaire that
20 I wanted to ask you a question about, and it's
21 certainly not to embarrass you, but you indicate
22 you got a citation for underage drinking in 2009?

23 JUROR: Um-hmm.

24 MS. SCAPICCHIO: Is that when you were
25 at Bentley?

1 JUROR: It was in the state of Maine,
2 but yes, I was attending Bentley.

3 MS. SCAPICCHIO: Were you treated fairly
4 by the District Attorney's Office and by whatever
5 lawyer represented you at the time during that?

6 JUROR: It was just a civil citation, so
7 I didn't have, I had like a public defender or
8 something, I didn't have a lawyer.

9 MS. SCAPICCHIO: But you were treated
10 fairly by the public defender and fairly by the
11 District Attorney's Office?

12 JUROR: I think so, yes.

13 MS. SCAPICCHIO: Okay, and the case got
14 resolved.

15 JUROR: Yes.

16 MS. SCAPICCHIO: Great, thank you.

17 THE COURT: Ma'am, if you could step
18 outside for just a second.

19 (Juror Number 54 exits courtroom.)

20 THE COURT: This juror stands
21 indifferent.

22 MR. HENNING: Commonwealth is content.

23 MS. SCAPICCHIO: Defendant would
24 challenge.

25 (Juror Number 54 enters courtroom.)

1 THE COURT: Thank you, ma'am, you are
2 excused.

3 THE CLERK: Excused.

4 (Juror Number 54, excused.)

5 (Juror Number 55 enters courtroom.)

6 THE CLERK: Juror 55, Robert Diaz.

7 JUROR: Yes.

8 THE COURT: Hi, Mr. Diaz. You answered
9 one of my earlier questions. Would you have the
10 tendency to believe the testimony of a police
11 officer witness over that of a civilian witness
12 just because he or she were a police officer?

13 JUROR: Yes.

14 THE COURT: Thank you, sir, you are
15 excused.

16 THE CLERK: Excused.

17 (Juror Number 55, excused.)

18 (Juror Number 56 enters courtroom.)

19 THE CLERK: Juror 56, Mangel Zhu.

20 THE COURT: Hi, Mr. Zhu. Sir, is there
21 anything about the nature of these charges or any
22 of the allegations you've heard that might affect
23 your ability to be fair and impartial?

24 JUROR: Not particularly.

25 THE COURT: Not particularly?

1 JUROR: No.

2 THE COURT: Now, you may hear alleged
3 evidence that the defendant, the alleged victim,
4 and some of the witnesses were involved in selling
5 marijuana. Would that evidence affect your
6 ability to be fair and impartial?

7 JUROR: No.

8 THE COURT: The defendant in a criminal
9 trial has the absolute right not to testify. If
10 Mr. Reddicks decided not to testify at this trial,
11 would you hold that against him in any way?

12 JUROR: Would you repeat that? Sorry.

13 THE COURT: Sure, of course. The
14 defendant in a criminal trial has the absolute
15 right not to testify. If Mr. Reddicks chose not
16 to testify at this trial, would you hold that
17 against him in any way?

18 JUROR: No.

19 THE COURT: Is there anything about the
20 length of the trial that poses a hardship for you?

21 JUROR: You said nine days, about?

22 THE COURT: Approximately. It could be
23 less than that, it could be more than that.

24 JUROR: No.

25 THE COURT: Any follow-up questions?

1 MR. HENNING: No, I have no follow-up
2 questions.

3 MS. SCAPICCHIO: I have a few. How are
4 you doing? Where did you go to college?

5 JUROR: BASED UPON.

6 MS. SCAPICCHIO: And what year did you
7 graduate?

8 JUROR: 2014.

9 MS. SCAPICCHIO: 2014, okay. What did
10 you major in?

11 JUROR: Information systems and
12 operations.

13 MS. SCAPICCHIO: I'm sorry, say that
14 again?

15 JUROR: Information systems and
16 operations.

17 MS. SCAPICCHIO: You've indicated when
18 the Judge asked you whether or not there was
19 anything about the charges that would concern you,
20 you said not particularly. What did you mean by
21 that?

22 JUROR: Was that question two?

23 MS. SCAPICCHIO: I'm sorry?

24 JUROR: What question number was that
25 when she asked me that?

1 MS. SCAPICCHIO: That was the very first
2 question that she asked you.

3 THE COURT: I asked is there anything
4 about the nature of these charges or any of the
5 allegations that you've heard that might affect
6 your ability to be fair and impartial.

7 MS. SCAPICCHIO: And you said not
8 particularly. I'm just trying to follow up, what
9 does that mean, not particularly? Is there one
10 charge that you might be more concerned about than
11 the other?

12 JUROR: No.

13 MS. SCAPICCHIO: So why did you answer
14 not particularly?

15 JUROR: I feel really indifferent.

16 MS. SCAPICCHIO: You feel really
17 indifferent.

18 JUROR: Yeah.

19 MS. SCAPICCHIO: And then the other
20 concern I had is that when the Judge asked you
21 about Mr. Reddicks not testifying, you hesitated a
22 minute. Were you just thinking about your answer
23 or do have some concern in your head?

24 JUROR: I wasn't really paying
25 attention, to be honest.

1 MS. SCAPICCHIO: You weren't paying
2 attention.

3 THE COURT: Let me put the question to
4 you again. This is a very important issue. The
5 defendant in a criminal trial has the absolute
6 right not to testify because the entire burden of
7 proof in this case is on the prosecution. The
8 defendant doesn't have to say a word.

9 JUROR: Right.

10 THE COURT: If Mr. Reddicks chose not to
11 testify at this trial, would you hold that against
12 him in any way?

13 JUROR: No, since he doesn't have to.

14 THE COURT: What?

15 JUROR: No, since he doesn't have to.

16 THE COURT: Exactly. He has no
17 obligation. Everything is on the shoulders of
18 the prosecution, the entire burden of proof is on
19 them. Do you understand that bedrock
20 constitutional principle?

21 JUROR: Yeah.

22 THE COURT: Is that a yes?

23 JUROR: Yeah.

24 THE COURT: Ms. Scapicchio, anything
25 further?

1 MS. SCAPICCHIO: I don't have any
2 follow-up, thank you, Your Honor.

3 THE COURT: Thank you, sir, if you could
4 step out, please, for a second.

5 (Juror Number 56 exits courtroom.)

6 THE COURT: This juror stands
7 indifferent.

8 MR. HENNING: Judge, the Commonwealth is
9 going to ask you to excuse the juror for cause.
10 Since he came into the room, he was in here
11 probably four minutes, he was laughing the whole
12 time, which I understand sometimes is a reaction
13 to nervousness, but he did admit that he wasn't
14 paying attention to at least two of the questions.

15 And I do have concerns about whether or
16 not he'd be able to pay attention as a juror,
17 either because he doesn't understand the value of
18 the case or because he doesn't understand what's
19 going on. So I'm going to ask you to reconsider.

20 MS. SCAPICCHIO: Judge, I would join
21 because I have some serious concerns about him not
22 paying attention to four questions.

23 THE COURT: I'm going to bring him back
24 in and put it to him.

25 (Juror Number 56 enters courtroom.)

1 THE COURT: Mr. Zhu, when you came in
2 before, you had a smile on your face from time to
3 time and you also said to me you weren't paying
4 attention to some of my questions. Are you having
5 a hard time focusing on this?

6 JUROR: No.

7 THE COURT: Can you explain to me, you
8 know, why you're smiling? Is it from nervousness
9 or what is it from?

10 JUROR: I couldn't tell you.

11 THE COURT: Are you taking this
12 seriously, sir?

13 JUROR: Not really.

14 THE COURT: Why not, sir?

15 JUROR: I really don't want to be here
16 to be honest.

17 THE COURT: Mr. Zhu, that's one of the
18 most disheartening things I've heard coming out of
19 a potential juror's mouth. I'm ashamed of you to
20 come in here and make a laughing stock of this?
21 This man is on trial for murder and you come in
22 here with a smile on your face and telling me, oh,
23 I just don't want to? I don't appreciate your
24 attitude, I don't appreciate your unwillingness to
25 focus on this important task. You are excused,

1 sir, but please have those words ringing in your
2 ears, how ashamed I am of you and how you have
3 approached this important civic duty. Next time
4 maybe, sir, you can take this a little bit more
5 seriously. Get out of here, please.

6 (Juror Number 56, excused.)

7 (Juror Number 60 enters courtroom.)

8 THE CLERK: Juror 60, Paul Langat.

9 THE COURT: Good morning, sir.

10 JUROR: Good morning.

11 THE COURT: Sir, is there anything about
12 the nature of these charges or any of the
13 allegations you've heard that might affect your
14 ability to be fair and impartial?

15 JUROR: No.

16 THE COURT: You may hear alleged
17 evidence that the defendant, the alleged victim,
18 and some of the witnesses were involved in selling
19 marijuana. Would that evidence affect your
20 ability to be fair and impartial?

21 JUROR: No.

22 THE COURT: The defendant in a criminal
23 trial has the absolute right not to testify. If
24 Mr. Reddicks chose not to testify at this trial,
25 would you hold that against him in any way?

1 JUROR: No.

2 THE COURT: Is there anything about the
3 length of the trial that poses a hardship for you?

4 JUROR: No.

5 THE COURT: Any follow-up questions,
6 Counsel?

7 MR. HENNING: Sir, the questionnaire
8 asks you for your place of birth. Where were you
9 born?

10 JUROR: I was born in Kenya.

11 MR. HENNING: When did you come to the
12 United States?

13 JUROR: 2007, around September, 2007.

14 MR. HENNING: It says that you completed
15 college; is that right?

16 JUROR: Correct.

17 MR. HENNING: Was that in the United
18 States or in Kenya?

19 JUROR: Bunker Hill.

20 MR. HENNING: Bunker Hill? How long
21 have you been working for Secure America?

22 JUROR: I have been with Secure America
23 immediately when I got to this country, 2007,
24 around October, but also now, I'm working as an
25 RN.

1 MR. HENNING: As an RN?

2 JUROR: Correct.

3 MR. HENNING: Can you tell us a little
4 bit about the RN job?

5 JUROR: I work with a Jewish foundation
6 where I take care of long-term patients.

7 MR. HENNING: Long-term health care
8 patients?

9 JUROR: Long-term health care patients,
10 correct.

11 MR. HENNING: Does that mean older
12 patients?

13 JUROR: Yeah, older patients and
14 patients with dementia and Alzheimer's.

15 MR. HENNING: I have nothing further.

16 MS. SCAPICCHIO: Hi, how are you? When
17 you worked as a security officer for Secure
18 America, what types of things did you do?

19 JUROR: Access control.

20 MS. SCAPICCHIO: What does that mean?

21 JUROR: I usually make sure that the
22 people who come to the building are authorized to
23 be in the building. If they are not authorized,
24 I have to call the tenant or the clients to make
25 sure that they are all set to proceed.

1 MS. SCAPICCHIO: So they would have to
2 pass by you in order to get access to the
3 building.

4 JUROR: Correct.

5 MS. SCAPICCHIO: If somebody didn't have
6 authority and they didn't want to leave, would you
7 be the person who would call the police?

8 JUROR: I usually call my manager. I'm
9 not the final person who can --

10 MS. SCAPICCHIO: So the manager then
11 would call the police.

12 JUROR: Yeah, yeah.

13 MS. SCAPICCHIO: How many times do you
14 think in the course since 2007 -- when did you
15 leave that job or are you still there?

16 JUROR: I'm still there.

17 MS. SCAPICCHIO: Okay, from 2007 to now,
18 how many times do you think you needed to call the
19 police to assist in removing someone who didn't
20 belong there?

21 JUROR: Around five percent. The
22 incidents that I've seen is very minimal.

23 MS. SCAPICCHIO: Okay, and then when the
24 police come, do you have interaction with them
25 where you give them a statement about what

1 happened?

2 JUROR: No, I usually call -- if I am
3 the person who faced the incident, just like if
4 I was there when that incident happened and I'm
5 the witness, yeah, I have to give them a report.
6 But in most cases, the manager usually is with me.

7 MS. SCAPICCHIO: And that interaction
8 that you had with the police, what police
9 department is that?

10 JUROR: I'm actually at 11 Federal
11 Street in Boston.

12 MS. SCAPICCHIO: So would it be the
13 Boston Police Department that you would call?

14 JUROR: It would be Boston.

15 MS. SCAPICCHIO: And they would come and
16 respond?

17 JUROR: Yeah.

18 MS. SCAPICCHIO: Given that you have
19 this interaction through your job with the Boston
20 Police Department, if a police officer was
21 testifying and a civilian witness testified to
22 something different, would you give the edge to
23 the police officer because of your job and your
24 interaction with them in terms of calling them?

25 JUROR: No.

1 MS. SCAPICCHIO: Thank you.

2 THE COURT: Sir, if you could step
3 outside for just a second, please.

4 (Juror Number 60 exits courtroom.)

5 THE COURT: This juror stands
6 indifferent.

7 MR. HENNING: Commonwealth is content.

8 MS. SCAPICCHIO: Defendant is content.

9 (Juror Number 60 enters courtroom.)

10 THE COURT: Sir, you've been chosen to
11 be a juror on this case. You're going to be taken
12 upstairs and join the other jurors who have been
13 impaneled. I'm just going to ask that you not
14 discuss this case among yourselves or allow anyone
15 to discuss any aspect of this case with you.

16 Thank you, sir, if you could go with the
17 Court Officer, please.

18 THE CLERK: Seat 6.

19 (Juror Number 60 exits courtroom.)

20 (Juror Number 61 enters courtroom.)

21 THE CLERK: Juror 61, Christopher
22 Freire.

23 THE COURT: Mr. Freire, you answered one
24 of my earlier questions, and I believe it's
25 reflected in your response at the bottom of the

1 questionnaire, "my religious belief as a Christian
2 of not putting judgment on others." So you
3 cannot, because of your religious beliefs, you
4 are not allowed to sit in judgment on others.

5 JUROR: Yes.

6 THE COURT: Thank you, sir, you are
7 excused.

8 THE CLERK: Excused.

9 (Juror Number 61, excused.)

10 (Juror Number 62 enters courtroom.)

11 THE CLERK: Juror 62, Wilgie Augustin?

12 JUROR: Yes, sir.

13 THE COURT: Good morning, sir.

14 JUROR: Good morning, Your Honor.

15 THE COURT: Is there anything about the
16 nature of these charges or any of the allegations
17 you've heard that might affect your ability to be
18 fair and impartial?

19 JUROR: Can you repeat that question,
20 please?

21 THE COURT: Of course. Is there
22 anything about the nature of the charges against
23 Mr. Reddicks or any of the allegations you've
24 heard so far today that might affect your ability
25 to be fair and impartial in this case?

1 JUROR: No, Your Honor.

2 THE COURT: You may hear alleged
3 evidence that the defendant, the alleged victim,
4 and some of the witnesses were involved in selling
5 marijuana. Would that evidence affect your
6 ability to be fair and impartial?

7 JUROR: No, Your Honor.

8 THE COURT: The defendant in a criminal
9 trial has the absolute right not to testify. If
10 Mr. Reddicks chose not to testify at this trial,
11 would you hold that against him in any way?

12 JUROR: Can you please -- I'm trying to
13 perceive that.

14 THE COURT: That's quite all right. The
15 defendant in a criminal trial has the absolute
16 right not to testify because the entire burden of
17 proof is on the Commonwealth. He doesn't have to
18 say a word. If Mr. Reddicks chose not to testify
19 at this trial, would you hold that against him in
20 any way?

21 JUROR: No, Your Honor.

22 THE COURT: Is there anything about the
23 length of the trial that poses a hardship for you?

24 JUROR: Repeat that again, Your Honor,
25 please?

1 THE COURT: Sure. The acoustics in this
2 room are such and the wind is howling out there,
3 so I'll speak up. Is there anything about the
4 length of the trial that poses a hardship for you?

5 JUROR: No, Your Honor.

6 THE COURT: Any follow-up questions,
7 Counsel?

8 MR. HENNING: Good morning, sir.

9 JUROR: Good morning, Counsel.

10 MR. HENNING: It says you got an
11 associate's degree. Where did you get the
12 associate's degree?

13 JUROR: Roxbury Community College.

14 MR. HENNING: Is there a particular
15 focus of the degree?

16 JUROR: Yes, musical arts.

17 MR. HENNING: Musical arts?

18 JUROR: Yes.

19 MR. HENNING: Do you play an instrument?

20 JUROR: Yes.

21 MR. HENNING: Which instrument do you
22 play?

23 JUROR: Piano and keyboard.

24 MR. HENNING: Do you still play?

25 JUROR: Yes, I do.

1 MR. HENNING: The security job that you
2 have here, how long have you been working at it?

3 JUROR: More than five months.

4 MR. HENNING: More than five months?

5 JUROR: Yes, Counsel.

6 MR. HENNING: And the three-year-old
7 child that you have, is it a boy or a girl?

8 JUROR: Boy, Counsel.

9 MR. HENNING: Are you responsible for
10 the child primarily?

11 JUROR: The child does not live with
12 father, Counsel.

13 MR. HENNING: I have nothing further.

14 THE COURT: Ms. Scapicchio.

15 MS. SCAPICCHIO: How are you?

16 JUROR: Good morning, ma'am.

17 MS. SCAPICCHIO: It indicates that you
18 work as a security officer?

19 JUROR: Yes, ma'am.

20 MS. SCAPICCHIO: What specifically do
21 you do? Is it a building, is it a store?

22 JUROR: Over at Walgreens.

23 MS. SCAPICCHIO: Over at Walgreens.

24 JUROR: Yes.

25 MS. SCAPICCHIO: So are you a person who

1 would look for people that might be shoplifting or
2 anything like that?

3 JUROR: Possibly, but only just to make
4 sure that safety and public safety matters are
5 safely measured in the facility of Walgreens,
6 making sure people don't slip and fall, that's a
7 public safety issue, and we're making sure that
8 shelves are not too empty, although I don't work
9 for Walgreens, but I work in Walgreens.

10 MS. SCAPICCHIO: So you're a private
11 security company that Walgreens hired to --

12 JUROR: Yes.

13 MS. SCAPICCHIO: You're not an employee
14 of Walgreens, you're an employee of the security
15 company.

16 JUROR: Yes, correct, yes.

17 MS. SCAPICCHIO: Is one of your jobs to
18 watch people to see whether or not they're taking
19 items without paying for them?

20 JUROR: Yes.

21 MS. SCAPICCHIO: How often do you engage
22 in that type of activity?

23 JUROR: I engage in it at the moment
24 that I step in, the moment that I clock in.

25 MS. SCAPICCHIO: And when you find

1 somebody who may have taken something or you think
2 someone has taken something without paying for it,
3 do you detain them in some way?

4 JUROR: To professionally answer that
5 question, ma'am, I don't have the right to
6 approach someone say, are you stealing. I have
7 just the right to observe and do, to the best of
8 my knowledge, the best that I can. If any other
9 thing furthers that Walgreens would like to take
10 kind of verbally, I would be pulled to the side
11 and possibly write a report or possibly not write
12 a report.

13 MS. SCAPICCHIO: But you wouldn't
14 actually stop the customer from leaving the store.

15 JUROR: No, because that is currently
16 not my job to stop.

17 MS. SCAPICCHIO: So there are other
18 people who actually stop the customer.

19 JUROR: Well, to professionally answer
20 that question, from the time that I've worked at
21 Walgreens, it's only about people coming in and
22 people buying. The other hand is that, you know,
23 when someone steals, your job is to observe them,
24 you know, to watch what they take and so forth.

25 MS. SCAPICCHIO: Okay, so --

1 JUROR: But, you know, correct. Go
2 ahead, please, I'm sorry.

3 MS. SCAPICCHIO: Are you done? I'm
4 sorry, I didn't mean to interrupt.

5 JUROR: Yes, I am, yes.

6 MS. SCAPICCHIO: So is part of your job,
7 when you say you write a report, do you turn that
8 over to the police department?

9 JUROR: No.

10 MS. SCAPICCHIO: Where does that report
11 go, just to Walgreens?

12 JUROR: Yes.

13 MS. SCAPICCHIO: And as part of your
14 job, did you ever have to go to court and be a
15 witness to testify against anyone that you may
16 have stopped or --

17 JUROR: No, ma'am.

18 MS. SCAPICCHIO: Did you have to
19 interact with the police at all in terms of what
20 your observations were?

21 JUROR: No, ma'am.

22 MS. SCAPICCHIO: Okay, and how many
23 times would you say you had to write reports about
24 people that you thought were, in your opinion,
25 based on your profession, that you thought were

1 taking things that they weren't paying for?

2 JUROR: Zero.

3 MS. SCAPICCHIO: None.

4 JUROR: Yes.

5 MS. SCAPICCHIO: And then is there any
6 other job that you do in terms of any type of
7 credit card fraud or anything like that?

8 JUROR: No, ma'am.

9 MS. SCAPICCHIO: Okay, so it's just
10 observations.

11 JUROR: Yes.

12 MS. SCAPICCHIO: Thank you.

13 THE COURT: Sir, could you step outside
14 for just a second, please.

15 JUROR: Yes, Your Honor.

16 (Juror Number 62 exits courtroom.)

17 THE COURT: This juror stands
18 indifferent.

19 MR. HENNING: Commonwealth is content.

20 MS. SCAPICCHIO: Defendant is content.

21 THE CLERK: Seat 7, Your Honor.

22 Juror Number 62 enters courtroom.)

23 THE COURT: Sir, you have been chosen to
24 be a juror on this case and you're going to be
25 taken upstairs to join your fellow jurors. I'm

1 just going to ask that you not discuss any aspect
2 of this case with them, nor allow anyone to
3 discuss any aspect of this case with you.

4 Thank you, sir, if you'll go with one of
5 the Court Officers, please.

6 (Juror Number 62 exits courtroom.)

7 (Juror Number 66 enters courtroom.)

8 THE CLERK: 66, Gerard Tice?

9 JUROR: Yes.

10 THE COURT: Good morning, Mr. Tice.

11 JUROR: Good morning, Your Honor.

12 THE COURT: Sir, is there anything about
13 the nature of these charges or any of the
14 allegations you've heard that might affect your
15 ability to be fair and impartial?

16 JUROR: No.

17 THE COURT: You may hear alleged
18 evidence that the defendant, the alleged victim,
19 and some of the witnesses were involved in selling
20 marijuana. Would that evidence affect your
21 ability to be fair and impartial?

22 JUROR: No.

23 THE COURT: The defendant in a criminal
24 trial has the absolute right not to testify. If
25 Mr. Reddicks chose not to testify at this trial,

1 would you hold that against him in any way?

2 JUROR: No.

3 THE COURT: And finally, sir, is there
4 anything about the length of the trial that poses
5 a hardship for you?

6 JUROR: No.

7 THE COURT: And finally, Mr. Tice, you
8 forgot to put how old you were on your
9 questionnaire.

10 JUROR: I'm sorry, 53.

11 THE COURT: Great. Any follow-up
12 questions, Counsel?

13 MR. HENNING: I have no questions for
14 you, sir.

15 MS. SCAPICCHIO: I have a few.

16 JUROR: Sure.

17 MS. SCAPICCHIO: So you are an executive
18 chef for Omni Hotels?

19 JUROR: Yes.

20 MS. SCAPICCHIO: Do you work in just one
21 specific restaurant?

22 JUROR: The Parker House across the
23 street.

24 MS. SCAPICCHIO: The Parker House, okay,
25 and how long have you worked for the Parker House?

1 JUROR: 15 years.

2 MS. SCAPICCHIO: Always in the position
3 of executive chef?

4 JUROR: Yes.

5 MS. SCAPICCHIO: It also indicates that
6 your father was a policeman?

7 JUROR: My father was a policeman, yeah,
8 Boston Police.

9 MS. SCAPICCHIO: Can you tell me which
10 Police Department he worked for?

11 JUROR: He worked at Headquarters for
12 36 years.

13 MS. SCAPICCHIO: Boston Police
14 Department?

15 JUROR: Yes, he's deceased.

16 MS. SCAPICCHIO: I'm sorry to hear that,
17 sir. Your father, did you ever have the occasion
18 to discuss with him what was going on with his job
19 or anything like that?

20 JUROR: No, he always left work at work
21 and home at home.

22 MS. SCAPICCHIO: Okay. Your brother was
23 an immigration officer?

24 JUROR: Yes.

25 MS. SCAPICCHIO: The fact that your

1 father was a police officer for 37 years, all
2 things being equal, if a police officer testified
3 and a civilian witness testified, because of your
4 father's commitment to the Boston Police for 37
5 years, would you give the edge to the police
6 officer?

7 JUROR: No, not necessarily, no.

8 MS. SCAPICCHIO: Thank you, sir.

9 JUROR: You're welcome.

10 THE COURT: Sir, could you step outside
11 for just a moment, please.

12 JUROR: Sure.

13 (Juror Number 66 exits courtroom.)

14 THE COURT: This juror stands
15 indifferent.

16 MR. HENNING: Commonwealth is content.

17 MS. SCAPICCHIO: Defendant would
18 challenge.

19 (Juror Number 66 enters courtroom.)

20 THE COURT: Thank you, sir, you are
21 excused.

22 THE CLERK: Excused.

23 (Juror Number 66, excused.)

24 (Juror 74 enters courtroom.)

25 THE CLERK: Juror 74, Cathy Burger.

1 JUROR: Here.

2 THE COURT: Hi, Ms. Burger. Ma'am, is
3 there anything about the nature of these charges
4 or any of the allegations you've heard that might
5 affect your ability to be fair and impartial?

6 JUROR: No.

7 THE COURT: You may hear alleged
8 evidence that the defendant, the alleged victim,
9 and some witnesses were involved in selling
10 marijuana. Would that evidence affect your
11 ability to be fair and impartial?

12 JUROR: No.

13 THE COURT: The defendant in a criminal
14 trial has the absolute right not to testify. If
15 Mr. Reddicks chose not to testify at that trial,
16 would you hold that against him in any way?

17 JUROR: No.

18 THE COURT: Is there anything about the
19 length of the trial that poses a hardship for you?

20 JUROR: You said it was through next
21 week and into the following?

22 THE COURT: And into the following week,
23 so roughly nine days. It could be less than that,
24 it could be more than that. I can't predict with
25 any kind of mathematical precision how long it's

1 going to be. That's a rough estimation.

2 JUROR: It would impact my work
3 schedule, obviously, but is it really a hardship?
4 No.

5 THE COURT: I love hearing that. Thank
6 you. Any follow-up questions?

7 MR. HENNING: It lists here that you're
8 self-employed?

9 JUROR: Yes.

10 MR. HENNING: Can you describe the type
11 of work that you do?

12 JUROR: I do consulting and I'm an
13 independent contractor.

14 MR. HENNING: Are there particular types
15 of companies that you consult for or a specific
16 type of industry?

17 JUROR: Any, really, but primarily, I've
18 been working with healthcare pairs. Tufts Health
19 Plan is my client right now.

20 MR. HENNING: The college that you went
21 to, where did you go?

22 JUROR: Northeastern University.

23 MR. HENNING: Did you graduate from
24 there?

25 JUROR: Yes.

1 MR. HENNING: What was the degree in?

2 JUROR: It was a bachelor of science in
3 management information systems.

4 MR. HENNING: Down in the section here
5 for your husband, it says he works at Verite; is
6 that right?

7 JUROR: Yes.

8 MR. HENNING: What is that exactly?

9 JUROR: They're a distribution company,
10 they are a subsidiary -- well, they're not a
11 subsidiary anymore, they're a separate company,
12 but work with International Paper, and they
13 deliver paper products around to companies.

14 MR. HENNING: Thank you very much.

15 MS. SCAPICCHIO: Hi, how are you?

16 JUROR: Good.

17 MS. SCAPICCHIO: It indicates you have
18 two children, 12 and 14?

19 JUROR: Yes.

20 MS. SCAPICCHIO: Are they able to get to
21 school and from school on their own --

22 JUROR: Yes.

23 MS. SCAPICCHIO: -- and you don't have
24 to worry about them not being able to get home on
25 their own.

1 JUROR: That is correct, they come home
2 themselves, yes.

3 MS. SCAPICCHIO: Great. And then it
4 also indicates that your husband had been on a
5 jury a couple of times. Is that regarding a theft
6 of a laptop or is that separate that you also
7 experienced a theft of a laptop?

8 JUROR: Oh, yeah, our house, we were
9 doing a construction project, and while the
10 construction project was going on, we had some
11 laptop and jewelry stolen during that. But his,
12 the jury thing, had nothing to do with that.

13 MS. SCAPICCHIO: I just wasn't sure
14 because it seemed like it was two separate things,
15 but I just wanted to make sure.

16 JUROR: It was two separate things, yes.

17 MS. SCAPICCHIO: So when your laptop and
18 jewelry got stolen from your home in 2001, did you
19 fill out a police report?

20 JUROR: Yes.

21 MS. SCAPICCHIO: And contact the
22 insurance company?

23 JUROR: Yes.

24 MS. SCAPICCHIO: Did you ever figure
25 out -- did anyone ever get arrested?

1 JUROR: No.

2 MS. SCAPICCHIO: Did you ever get the
3 laptop back?

4 JUROR: No.

5 MS. SCAPICCHIO: Or the jewelry?

6 JUROR: No. And the laptop was more
7 important because it had all my pictures.

8 MS. SCAPICCHIO: All right, and then you
9 also indicated that your nephew is a policeman in
10 Plymouth?

11 JUROR: Um-hmm.

12 MS. SCAPICCHIO: How long has he been a
13 policeman?

14 JUROR: Just a couple of years.

15 MS. SCAPICCHIO: Are you close to him?
16 Do you talk to him on a regular basis?

17 JUROR: Now, family, holiday.

18 MS. SCAPICCHIO: Christmas, Thanksgiving
19 type thing?

20 JUROR: Yeah.

21 MS. SCAPICCHIO: The fact that he is a
22 police officer, if all things were equal in terms
23 of testimony and there was a police officer that
24 said one thing and a civilian witness that said
25 another, because of your relationship with your

1 nephew and the fact that he was a police officer,
2 would you give the edge to the police officer?

3 JUROR: No.

4 MS. SCAPICCHIO: And then you said your
5 sister works for the Federal Courthouse in Boston.
6 What does she do?

7 JUROR: She's in, I think, their IT
8 department. She's in administration of the court.
9 She's not a legal person or anything.

10 MS. SCAPICCHIO: Okay, great. Thank you
11 so much.

12 THE COURT: Ma'am, could you step
13 outside for just a second, please.

14 JUROR: Sure.

15 (Juror Number 74 exits courtroom.)

16 THE COURT: This juror stands
17 indifferent.

18 MR. HENNING: Commonwealth is content.

19 MS. SCAPICCHIO: Defendant is content.

20 THE CLERK: Seat 8.

21 (Juror Number 74 enters courtroom.)

22 THE COURT: Ms. Burger, You have been
23 chosen to be on this jury.

24 JUROR: Oh, great.

25 THE COURT: You're going to be taken

1 upstairs to join your fellow jurors. I'm going to
2 ask you not to discuss this case with anyone,
3 including them, nor should you allow anyone,
4 including them, to discuss the case with you.
5 I also am going to release the impaneled jurors a
6 little early for lunch because there's no reason
7 that you guys have to sit up there. So go with
8 the Court Officer. If you're released for lunch,
9 though, they'll explain to you you need to be back
10 in that jury room by 2 o'clock.

11 JUROR: All right, thank you.

12 THE COURT: Thank you so much, ma'am.

13 THE CLERK: Seat 8.

14 (Juror Number 74 exits courtroom.)

15 (Juror Number 75 enters courtroom.)

16 THE CLERK: Juror 75, Ryan Higgins.

17 THE COURT: Hi, Mr. Higgins. Sir, is
18 there anything about the nature of these charges
19 or any of the allegations you've heard that might
20 affect your ability to be fair and impartial?

21 JUROR: My only concerns -- well,
22 I actually have a couple of concerns, Your Honor,
23 I didn't know when the right time to bring it up
24 was. I do have actually travel plans, I don't
25 know if that has anything to do with this or if

1 that comes afterwards.

2 THE COURT: When are your travel plans?

3 JUROR: Actually, January 27th, I'm
4 actually flying out. So it's right around the
5 timing. I'm also supposed to be traveling on
6 Friday.

7 THE COURT: Your flight plans, are they
8 nonrefundable tickets?

9 JUROR: Yes, ma'am.

10 THE COURT: You're excused, sir.

11 JUROR: Thank you.

12 THE CLERK: Excused.

13 (Juror Number 75, excused.)

14 (Juror Number 77 enters courtroom.)

15 THE CLERK: Juror 77, Karen Oldoni.

16 JUROR: Yes.

17 THE COURT: Hi, Ms. Oldoni.

18 JUROR: Hi.

19 THE COURT: Ma'am, is there anything
20 about the nature of these charges or any of the
21 allegations you've heard that might affect your
22 ability to be fair and impartial?

23 JUROR: No.

24 THE COURT: You may hear alleged
25 evidence that the defendant, the alleged victim,

1 and some of the witnesses were involved in selling
2 marijuana. Would that evidence affect your
3 ability to be fair and impartial?

4 JUROR: No.

5 THE COURT: The defendant in a criminal
6 trial has the absolute right not to testify. If
7 Mr. Reddicks chose not to testify at this trial,
8 would you hold that against him in any way?

9 JUROR: No.

10 THE COURT: Is there anything about the
11 length of the trial that poses a hardship for you?

12 JUROR: I work with learning disabled
13 young adults, I go and visit them in their homes,
14 so I would not be able to see them next week, and
15 that, not for me, but I think it might be hard for
16 them.

17 THE COURT: You do this through Lesley
18 University.

19 JUROR: Lesley University.

20 THE COURT: Are there other instructors
21 there who could take over for you?

22 JUROR: There is one other instructor,
23 so it would double what she would need to do. So
24 there is one.

25 THE COURT: But she is available to do

1 that?

2 JUROR: I don't know, I would ask her.
3 I've never been in this situation before.

4 THE COURT: If you asked her and she
5 could cover for you through the end of the trial,
6 then you could serve?

7 JUROR: Yes, there's no other reason.

8 THE COURT: Well, I'll give you that
9 opportunity to call her at some point.

10 JUROR: Okay.

11 THE COURT: Any follow-up questions,
12 counsel?

13 MR. HENNING: This says you were born
14 in New York?

15 JUROR: Yes.

16 MR. HENNING: Whereabouts?

17 JUROR: Long Island, Roslyn.

18 MR. HENNING: When did you come to
19 Massachusetts?

20 JUROR: Well, I lived here in high
21 school, '80 to '84, and then in college, after
22 college, I moved here in 1990.

23 MR. HENNING: Where did you live here
24 when you were in high school?

25 JUROR: Plymouth.

1 MR. HENNING: And when you came back --
2 sorry. It says you got a BACKGROUND. Where did
3 you get that degree?

4 JUROR: Colgate University, Upstate New
5 York.

6 MR. HENNING: What was the degree in?

7 JUROR: English and political science.

8 MR. HENNING: Then you came here after
9 college to work?

10 JUROR: Yes.

11 MR. HENNING: What was the last job you
12 had before you were working as the instructor with
13 Lesley?

14 JUROR: I worked at the New England
15 Legal Foundation.

16 MR. HENNING: What is the New England
17 Legal Foundation?

18 JUROR: It's a nonprofit law firm that
19 does work for -- the attorneys primarily do friend
20 of the court briefs for like the Supreme Court on
21 land cases and things like that, and I helped them
22 do development fund raising.

23 MR. HENNING: Thank you, I have nothing
24 further.

25 THE COURT: Ms. Scapicchio.

1 MS. SCAPICCHIO: So your job at Lesley
2 University, is there a specific grant or a program
3 that allows you to go out into the community?

4 JUROR: Yes, it's called the Threshold
5 Program.

6 MS. SCAPICCHIO: Can you tell me a
7 little bit about that?

8 JUROR: It's a program for highly
9 motivated young adults with learning and physical
10 challenges. They do two years on campus at Lesley
11 in their own dorms where they will learn life
12 skills, and then if they are a candidate in the
13 third year, I work with them, it's called the
14 transition year where they actually get their own
15 apartments and get jobs and learn how to cook and
16 do their, you know, checkbooks and all of those
17 kinds of things.

18 MS. SCAPICCHIO: And you help them try
19 to get from their apartment to school? Is that
20 something that --

21 JUROR: No, I don't. No, we teach them
22 how to use the T and how to get to and from where
23 they need to go.

24 MS. SCAPICCHIO: And about how many
25 clients do you have at one given time?

1 JUROR: Well, right now, it's about
2 16 people.

3 MS. SCAPICCHIO: So you're out every
4 day.

5 JUROR: Every day.

6 MS. SCAPICCHIO: Okay, five days a week.

7 JUROR: Some days, I schedule around so
8 I can have a day if I need to go to the doctors or
9 something, but I make the schedule based on their
10 schedules so that I can see them. So sometimes it
11 works out that I'm seeing a lot of people on
12 Monday, Tuesday, Wednesday, and not many people on
13 Thursday, Friday. So it kind of varies a little
14 bit, but it's not consistent.

15 MS. SCAPICCHIO: And how many clients
16 have you helped graduate?

17 JUROR: Probably 200. I've been there
18 for like almost 15 years.

19 MS. SCAPICCHIO: And then you also
20 indicated prior to working for 15 years at this
21 foundation, you worked for New England Legal
22 Foundation.

23 JUROR: Yes.

24 MS. SCAPICCHIO: And you said it had to
25 do with land disputes?

1 JUROR: Yeah, land rights. I didn't
2 really pay too much attention to what they did
3 because I was just kind of doing fund raising for
4 them, but the people or different law firms would
5 contact them to help them prepare, and they did
6 send a lot of their briefs to the Supreme Court
7 and things.

8 MS. SCAPICCHIO: Were the lawyers good
9 to you?

10 JUROR: Yeah.

11 MS. SCAPICCHIO: No bias against lawyers
12 for working for lawyers?

13 JUROR: No.

14 MS. SCAPICCHIO: Thank you.

15 THE COURT: Ma'am, could you step
16 outside for just a second, please.

17 (Juror Number 77 exits courtroom.)

18 THE COURT: This juror stands
19 indifferent.

20 MR. HENNING: The Commonwealth exercises
21 a peremptory.

22 (Juror Number 77 enters courtroom.)

23 THE COURT: Thank you, ma'am, you are
24 excused.

25 THE CLERK: Excused.

1 (Juror Number 77, excused.)

2 (Juror Number 78 enters courtroom.)

3 THE CLERK: Juror 78, Thomas Weihing?

4 JUROR: Correct.

5 THE COURT: Sir, you answered one of my
6 earlier questions. Have you been active in some
7 organization that deals with drug prevention or
8 drug counseling or education?

9 JUROR: I work for a vendor agency of
10 the Department of Mental Health, and many of our
11 clients have addiction problems, so frequently
12 we'll be --

13 THE COURT: Oh, you work with Vinfen.

14 JUROR: Yeah, collaborating with
15 detoxes, things like that.

16 THE COURT: Well, you may hear alleged
17 evidence that the defendant, the alleged victim,
18 and some of the witnesses were involved in selling
19 marijuana. Would that evidence affect your
20 ability to be fair and impartial?

21 JUROR: No.

22 THE COURT: Is there anything about the
23 nature of these charges or any of the allegations
24 you've heard so far that might affect your ability
25 to be fair and impartial?

1 JUROR: No, I don't think so. I was a
2 long time employee of Common Purpose, it's a
3 certified virus intervention program. I mean,
4 you know, I'm trained to kind of look for victim
5 blaming, minimization, denial, but you know,
6 that's mostly in domestic context, so I don't
7 think so.

8 THE COURT: The defendant in a criminal
9 trial has the absolute right not to testify.

10 JUROR: Sure.

11 THE COURT: If Mr. Reddicks chose not to
12 testify at this trial, would you hold that against
13 him in any way?

14 (No audible response.)

15 THE COURT: You have to say yes or no.

16 JUROR: No, no, I'm sorry.

17 THE COURT: That's all right. And
18 finally, sir, is there anything about the length
19 of the trial that poses a hardship for you?

20 JUROR: Not any more than for anybody.

21 THE COURT: I never get tired of that
22 response. Thank you, sir.

23 Any follow-up questions, Counsel?

24 MR. HENNING: Where did you get your
25 bachelor's degree?

1 JUROR: Boston College.

2 MR. HENNING: And it says you were born,
3 is that --

4 JUROR: Bridgeport, Connecticut.

5 MR. HENNING: Oh, Bridgeport, okay.

6 When did you come from Connecticut to
7 Massachusetts?

8 JUROR: I came for school in 1990 and
9 I've lived here since.

10 MR. HENNING: Down at the bottom here,
11 you said you're unable to be impartial in cases
12 involving domestic violence, and then you said,
13 comma, or violence.

14 JUROR: Yeah, I mean I think, I think
15 particularly domestic violence. I think I'm able
16 to be impartial about, you know, if somebody says
17 something happened and someone else said it
18 didn't, but if people look to explain violence, it
19 happened because of this reason or I was provoked,
20 things like that, I don't think I -- you know,
21 we're trained there's no excuse for violence, but
22 I think whether or not it occurred is not
23 something I would be biased against.

24 MR. HENNING: Okay, you don't have a
25 question about your impartiality -- do you have

1 any question about your impartiality in a case
2 where there will be allegations of violence?

3 JUROR: I don't think so, no, no.

4 THE COURT: Well, you've heard the
5 allegations in this case and you know what the
6 charges are.

7 JUROR: Correct, yes.

8 THE COURT: Bearing in mind they are
9 mere allegations now --

10 JUROR: Right.

11 THE COURT: -- until the Commonwealth
12 proves them beyond a reasonable doubt.

13 JUROR: Yes.

14 THE COURT: But is there anything you've
15 heard about the case so far that would cause you
16 to question your ability to be fair and impartial?

17 JUROR: I don't think so, no.

18 THE COURT: Anything else, Mr. Henning?

19 MR. HENNING: No.

20 THE COURT: Ms. Scapicchio.

21 MS. SCAPICCHIO: I have a few follow-ups
22 from some of the questions Mr. Henning asked you.

23 JUROR: Sure.

24 MS. SCAPICCHIO: You had indicated on
25 your questionnaire about the violence, and I think

1 you said that you were trained to recognize victim
2 blaming?

3 JUROR: Yes.

4 MS. SCAPICCHIO: What does that mean?
5 I don't know what that means.

6 JUROR: So, you know, I did X, Y, or Z,
7 but it was because I was provoked in this other
8 way, so therefore, it was excused or even caused
9 by the other person.

10 MS. SCAPICCHIO: So if there was a
11 question of self-defense or if there was a
12 question -- you don't believe in that?

13 JUROR: Well, I mean, it would depend on
14 the circumstances, but I think on a gut emotional
15 level, I feel like there isn't, no, you're
16 responsible for your actions.

17 MS. SCAPICCHIO: So if the Commonwealth
18 alleged that there was a robbery in this case, you
19 would tend to believe that there is no excuse for
20 that?

21 JUROR: For a robbery?

22 MS. SCAPICCHIO: Yes.

23 JUROR: If it was, if people -- yes,
24 I mean, if someone is saying I did this but it was
25 for this reason --

1 MS. SCAPICCHIO: What if they didn't say
2 anything at all?

3 JUROR: Well, no, I wouldn't assume it
4 had occurred if there was no kind of --

5 MS. SCAPICCHIO: So I guess my question
6 is what did you mean when the question was is
7 there anything else in your background or
8 experience, employment, training, education,
9 knowledge, or beliefs that might affect your
10 ability to be fair and impartial, and you said,
11 "unable to be impartial on violence cases." And
12 I'm not suggesting you did anything wrong, I'm
13 just trying to figure out what you meant when you
14 wrote that down.

15 JUROR: What I meant is that I think
16 that, you know, what we saw were people who would
17 say, well, you know, I'm here for this reason,
18 but, you know, I shouldn't be here because it
19 wasn't my fault, this whole other thing happened
20 that led me to do this. Or that people would say,
21 you know, people who kind of would own up to
22 things that, you know, took several weeks in the
23 program to kind of own up to. So I think, you
24 know, if people say, well, this happened, but it
25 was for this reason, you know, I would try to be

1 impartial, I'm just saying that this is kind of my
2 orientation that if people say that this happened,
3 but it was for this reason, you know, my
4 inclination is to hold people responsible for
5 their behavior. But not to assume there was
6 behavior if people say that there wasn't, if that
7 makes sense.

8 MS. SCAPICCHIO: It does and it doesn't.
9 So in terms of allegations, if you were involved
10 in a group therapy, whatever you do --

11 JUROR: Yes, yes.

12 MS. SCAPICCHIO: -- and someone was
13 saying, you know, I used drugs, but it wasn't my
14 fault because my mother didn't like me, or
15 whatever the situation is, you try to make that
16 person take accountability for their actions; is
17 that what you're saying?

18 JUROR: Yes.

19 MS. SCAPICCHIO: And if that person
20 didn't take accountability for their actions, you
21 would think that they would be less credible; is
22 that right?

23 JUROR: Would I think? I would ask, you
24 know, sometimes we would say, well, geez, there's
25 this other, how do you explain this, you know, and

1 kind of ask people to kind of expand on kind of,
2 you know, why other people might be thinking other
3 things. But I understand that there's always,
4 I mean, it's hard to know, you know, what
5 occurred.

6 MS. SCAPICCHIO: I'm not asking you to
7 know, I'm just saying would you give an edge to
8 somebody if they didn't come forward and give you
9 an explanation and there's an allegation out there
10 of whatever it is, X, Y, and Z.

11 JUROR: No, I don't have an assumption
12 that something happened.

13 MS. SCAPICCHIO: And then you had
14 indicated that you work in a psychiatric rehab in
15 Cambridge?

16 JUROR: Correct.

17 MS. SCAPICCHIO: And that's mainly
18 focused on addiction; is that right?

19 JUROR: Well, no, it's primarily for
20 individuals with psychiatric disabilities, but
21 I mean, there's a huge overlap between that
22 population and people who struggle with addiction.

23 MS. SCAPICCHIO: So you're interacting
24 with people who struggle with addiction on a daily
25 basis.

1 JUROR: Yes.

2 MS. SCAPICCHIO: So would, in this case,
3 allegations of drug dealing, would that cause you
4 any concern in terms of your ability to be fair
5 and impartial when you interact with addicts -- I
6 don't know if that's the right word --

7 JUROR: Right, no.

8 MS. SCAPICCHIO: -- addicts on a daily
9 basis or people who have substance abuse problems.

10 JUROR: No, I mean we try to get people
11 help, people that need it.

12 MS. SCAPICCHIO: And then you indicated
13 on your questionnaire, was it you or somebody in
14 your family was a victim of an assault and
15 battery, breaking and entering?

16 JUROR: Two separate instances, but
17 yeah.

18 MS. SCAPICCHIO: Was that you?

19 JUROR: Yes.

20 MS. SCAPICCHIO: Both times?

21 JUROR: Yes.

22 MS. SCAPICCHIO: Okay, so the assault
23 and battery, can you tell me a little bit about
24 that?

25 JUROR: I was at a party in college and

1 I was assaulted for essentially no reason. There
2 was no argument or anything.

3 MS. SCAPICCHIO: A bunch of drunk
4 people?

5 JUROR: Um-hmm, yeah.

6 MS. SCAPICCHIO: And did you report that
7 to the police?

8 JUROR: Campus police, but I didn't
9 press charges or anything like that, no.

10 MS. SCAPICCHIO: Okay, so they didn't
11 get expelled or suspended or anything.

12 JUROR: No.

13 MS. SCAPICCHIO: And as far as the
14 breaking and entering is concerned, was that in
15 college, as well?

16 JUROR: No, that was, my apartment was
17 just broken into.

18 MS. SCAPICCHIO: And how long ago was
19 that?

20 JUROR: 2007 or 8.

21 MS. SCAPICCHIO: Is that when you lived
22 in Jamaica Plain?

23 JUROR: Yup.

24 MS. SCAPICCHIO: And did you report that
25 to the police?

1 JUROR: Yes.

2 MS. SCAPICCHIO: Were the police
3 responsive, did they come and take a report?

4 JUROR: Yup.

5 MS. SCAPICCHIO: Was anything stolen
6 from you?

7 JUROR: Lots was stolen, yup.

8 MS. SCAPICCHIO: What was stolen from
9 you?

10 JUROR: Jewelry, computers, some other
11 miscellaneous items.

12 MS. SCAPICCHIO: Was anyone ever
13 arrested as a result --

14 JUROR: No.

15 MS. SCAPICCHIO: -- or did they find out
16 who did it?

17 JUROR: No.

18 MS. SCAPICCHIO: Did you ever get your
19 stuff back?

20 JUROR: No.

21 MS. SCAPICCHIO: And then you had
22 indicated that your father was an attorney?

23 JUROR: Yes.

24 MS. SCAPICCHIO: I'm not sure, law
25 something in Connecticut? Oh, Bridgeport,

1 Connecticut.

2 JUROR: Yeah, sorry.

3 MS. SCAPICCHIO: I'm sorry, I didn't
4 understand the abbreviation for Bridgeport.

5 THE COURT: BPT, is that the way people
6 refer to Bridgeport?

7 JUROR: It's just the abbreviation,
8 yeah, sorry.

9 MS. SCAPICCHIO: What type of law did he
10 practice?

11 JUROR: He does still, but general
12 practice.

13 MS. SCAPICCHIO: General practice.

14 JUROR: Um-hmm.

15 MS. SCAPICCHIO: So does he do any
16 criminal cases?

17 JUROR: Yes.

18 MS. SCAPICCHIO: Does he ever discuss
19 them with you?

20 JUROR: Not really, not in depth.

21 MS. SCAPICCHIO: Have you ever gone to
22 watch him?

23 JUROR: I think once when I was like 10
24 or something like that.

25 MS. SCAPICCHIO: I don't think that

1 counts. Okay, and then in terms of former
2 employee and board member of --

3 JUROR: Oh, it's the batterer's
4 intervention program, Common Purpose.

5 MS. SCAPICCHIO: Common Purpose.

6 JUROR: Um-hmm.

7 MS. SCAPICCHIO: So you're not just an
8 employee, you're a board member.

9 JUROR: Well, I was for a brief period
10 of time after I was no longer an employee, but not
11 since 2008 or 9.

12 MS. SCAPICCHIO: And Common Purpose
13 deals with offenders who are sent there through
14 the court --

15 JUROR: Primarily, yeah.

16 MS. SCAPICCHIO: -- to complete the
17 batterers program as a condition of probation?

18 JUROR: Correct, almost exclusively.
19 I mean, occasionally, there are volunteers, but --

20 MS. SCAPICCHIO: So did you run groups
21 or you just --

22 JUROR: Um-hmm.

23 MS. SCAPICCHIO: You did.

24 JUROR: Yup.

25 MS. SCAPICCHIO: You ran batterers

1 groups.

2 JUROR: I ran batterers groups, yes.

3 MS. SCAPICCHIO: Oh, okay, I didn't
4 realize that. How often did you do that, you ran
5 batterers groups?

6 JUROR: I was doing it anywhere from 15
7 to almost 40 hours a week for about eight years.

8 MS. SCAPICCHIO: Wow. So would you have
9 to report back to the court, this one finished,
10 this one didn't?

11 JUROR: Yeah, I was the program director
12 for a period of time. I mean, I was regularly in
13 contact with probation officers.

14 MS. SCAPICCHIO: And were there people
15 who got kicked out of your group that you had to
16 notify the court?

17 JUROR: Yes.

18 MS. SCAPICCHIO: Do you know what
19 happened to them?

20 JUROR: I mean, any variety of things.
21 I mean, some people serve sentences, some people
22 are ordered back to the program.

23 MS. SCAPICCHIO: Thank you very much.

24 JUROR: Sure.

25 THE COURT: Sir, if you could step out

1 for a second, please.

2 (Juror Number 78 exits courtroom.)

3 THE COURT: This juror stands
4 indifferent.

5 MR. HENNING: Commonwealth exercises a
6 peremptory.

7 (Juror Number 78 enters courtroom.)

8 THE COURT: Thank you, sir, you are
9 excused.

10 THE CLERK: Excused.

11 (Juror Number 78, excused.)

12 (Juror Number 79 enters courtroom.)

13 THE CLERK: Juror 79, Kathryn Canavan.

14 JUROR: Yes.

15 THE COURT: Good afternoon, ma'am. Is
16 there anything about the nature of these charges
17 or any of the allegations you've heard that might
18 affect your ability to be fair and impartial?

19 JUROR: No.

20 THE COURT: You may hear alleged
21 evidence that the defendant, the alleged victim,
22 and some of the witnesses were involved in selling
23 marijuana. Would that evidence affect your
24 ability to be fair and impartial?

25 JUROR: Yes.

1 THE COURT: It would. Thank you, ma'am,
2 you are excused.

3 THE CLERK: Excused.

4 (Juror Number 79, excused.)

5 (Juror Number 80 enters courtroom.)

6 THE CLERK: Juror 80, Carolyn Hodges.

7 JUROR: Yes.

8 THE COURT: Hi, Ms. Hodges.

9 JUROR: Hi.

10 THE COURT: Ma'am, is there anything
11 about the nature of these charges or any of the
12 allegations you've heard that might affect your
13 ability to be fair and impartial?

14 JUROR: I don't think so.

15 THE COURT: You may hear alleged
16 evidence that the defendant, the alleged victim,
17 and some of the witnesses were involved in selling
18 marijuana. Would that evidence affect your
19 ability to be fair and impartial?

20 JUROR: I don't think so.

21 THE COURT: The defendant in a criminal
22 trial has the absolute right not to testify. If
23 Mr. Reddicks chose not to testify at this trial,
24 would you hold that against him in any way?

25 JUROR: No.

1 THE COURT: Is there anything about the
2 length of the trial that poses a hardship for you?

3 JUROR: No.

4 THE COURT: Any follow-up questions,
5 Counsel?

6 MR. HENNING: Good afternoon, ma'am.
7 You got a PhD is your highest level of education.
8 Can you just explain a little bit about your
9 educational background?

10 JUROR: I don't know what level of
11 detail, I have a masters in psychology, a PhD in
12 biological anthropology. I'm a professor at your
13 Boston University in anthropology.

14 MR. HENNING: Can you talk to me a
15 little bit about the masters in psychology? Is
16 there a particular focus on that? Did you get to
17 do clinical work for it?

18 JUROR: No, it was not clinical, it's
19 evolutionary psychology.

20 MR. HENNING: Evolutionary, okay, as
21 part of the program that you do now.

22 JUROR: Yes.

23 MR. HENNING: So you teach anthropology
24 now?

25 JUROR: Yes.

1 MR. HENNING: To undergraduate or
2 graduate students?

3 JUROR: Both.

4 MR. HENNING: Where did you go for
5 undergraduate?

6 JUROR: Colorado College.

7 MR. HENNING: And then for graduate
8 school?

9 JUROR: And then University of
10 California, Santa Barbara.

11 MR. HENNING: How long have you been in
12 Massachusetts?

13 JUROR: A year and a half.

14 MR. HENNING: I have nothing further.

15 MS. SCAPICCHIO: So you came to Boston
16 and work for BASED UPON.

17 JUROR: Um-hmm.

18 MS. SCAPICCHIO: How many classes do
19 have a week?

20 JUROR: It depends, usually six, four to
21 six.

22 MS. SCAPICCHIO: Four to six classes and
23 you have office hours after that?

24 JUROR: Right.

25 MS. SCAPICCHIO: And is it a requirement

1 that you're available for office hours a certain
2 number of hours a week?

3 JUROR: Um-hmm, two hours.

4 MS. SCAPICCHIO: Do you have teaching
5 assistants that can fill in for you?

6 JUROR: Not at the moment, no, but
7 I suppose I could -- I'm not sure yet.

8 MS. SCAPICCHIO: You teach everything
9 yourself, you have no teaching assistants?

10 JUROR: I have teaching assistants, but
11 they're assigned from a different area, so they're
12 not really capable of teaching. They grade my
13 multiple-choice exams for this class in
14 particular. Normally, actually, I have teaching
15 assistants from my department, but not for this
16 semester.

17 MS. SCAPICCHIO: Okay, and this semester
18 just started?

19 JUROR: It starts on Wednesday.

20 MS. SCAPICCHIO: It hasn't even started
21 yet.

22 JUROR: No.

23 MS. SCAPICCHIO: Okay. In terms of your
24 masters, you said you got it in evolutionary
25 psychology.

1 JUROR: Um-hmm.

2 MS. SCAPICCHIO: Help me understand what
3 that is, I have no idea.

4 JUROR: It's a field of study trying to
5 figure out how our minds were shaped by evolution
6 by natural selection. So our mating behavior, who
7 we like and why we like them or don't like them,
8 you know, why we form friendships, why we
9 cooperate.

10 MS. SCAPICCHIO: Did you do a thesis?

11 JUROR: Yes.

12 MS. SCAPICCHIO: What did you do it on?

13 JUROR: I did it on the evolution of sex
14 differences or differences between men and women
15 and the voice, so why men have lower voices than
16 women.

17 MS. SCAPICCHIO: And I'll have to ask
18 why.

19 JUROR: Well, we did some studies on a
20 attractiveness, ratings of voices, and obviously,
21 women find lower voices more attractive, but only
22 to a certain point. But when it comes to ratings
23 of dominance and physical size, men find other men
24 who have lower voices as very intimidating and
25 give them deference. And so we hypothesize that

1 lower voices in men evolve by natural selection,
2 by sexual selection, that men with lower voices
3 were selected because they were able to attain
4 higher status, and therefore, have more matings
5 and have more children as a result.

6 MS. SCAPICCHIO: That's interesting.
7 Thank you. I don't have any further questions.

8 THE COURT: Ma'am, if you could step
9 outside, please.

10 (Juror Number 80 exits courtroom.)

11 THE COURT: We learn so much in this
12 process.

13 MS. SCAPICCHIO: I had no idea what it
14 was.

15 THE COURT: Fascinating. Anyway, this
16 juror stands indifferent and interesting.

17 MR. HENNING: Commonwealth is content.

18 MS. SCAPICCHIO: Defendant is content.
19 Just because she's interesting, I like the
20 interesting nature of her.

21 (Juror Number 80 enters courtroom.)

22 THE COURT: Hi, Ms. Hodges, you have
23 been chosen to be a juror on this case.

24 JUROR: Oh, really? Okay.

25 THE COURT: You're going to be going

1 with the Court Officer. You may be allowed to go
2 to lunch now. Please be back -- they're going to
3 show you where to return which is the jury room
4 one flight up. Please be back by 2 o'clock. And
5 at that time, you're going to join your other
6 impaneled jurors. Please don't discuss any aspect
7 of this case with them, nor allow them to discuss
8 any aspect with you, all right?

9 JUROR: Okay.

10 THE COURT: Have a good lunch hour, see
11 you back here at two. Go with the Court Officer.

12 THE CLERK: Seat 9.

13 (Juror Number 80 exits courtroom.)

14 (Juror Number 81 enters courtroom.)

15 THE CLERK: 81, Adrienne Turnbull-
16 Reilly?

17 JUROR: Yes.

18 THE COURT: Good afternoon, ma'am.
19 Ma'am, is there anything about the nature of these
20 charges or any of the allegations you've heard
21 that might affect your ability to be fair and
22 impartial?

23 JUROR: No, nothing I've heard so far.

24 THE COURT: You may hear alleged
25 evidence that the defendant, the alleged victim,

1 and some of the witnesses were involved in selling
2 marijuana. Would that evidence affect your
3 ability to be fair and impartial?

4 JUROR: No, I don't think so.

5 THE COURT: The defendant in a criminal
6 trial has the absolute right not to testify. If
7 Mr. Reddicks chose not to testify, would you hold
8 that against him in any way?

9 JUROR: No.

10 THE COURT: Is there anything about the
11 length of the trial that poses a hardship for you?

12 JUROR: Not undue hardship, no.

13 THE COURT: No more than anybody else.

14 JUROR: Not other than this, yeah.

15 THE COURT: I love hearing that.

16 Any follow-up questions, Counsel?

17 MR. HENNING: It says here that you're a
18 museum teacher?

19 JUROR: Yes.

20 MR. HENNING: What does that mean
21 exactly?

22 JUROR: That means I work at a historic
23 house museum, so when school groups come for field
24 trips, I'm the one who's teaching.

25 THE COURT: What house?

1 JUROR: It's called the Pierce House,
2 it's in Dorchester.

3 THE COURT: What is it famous for?

4 JUROR: Well, it's not famous.

5 THE COURT: It's just a historic house.

6 JUROR: It is, yeah, it was lived in
7 for over 300 years by the Pierce family, so lots
8 of long history.

9 THE COURT: Interesting.

10 MR. HENNING: You're originally from
11 Missouri?

12 JUROR: Yes.

13 MR. HENNING: Whereabouts in Missouri?

14 JUROR: Springfield, Missouri.

15 MR. HENNING: When did you come to
16 Massachusetts?

17 JUROR: I came to an Massachusetts in
18 April of 2014.

19 MR. HENNING: Did you move to Dorchester
20 when you got here?

21 JUROR: Yes.

22 MR. HENNING: So you've been in
23 Dorchester the whole time.

24 JUROR: Yes.

25 MR. HENNING: Where did you get your

1 masters degree?

2 JUROR: University of Denver.

3 MR. HENNING: And did you get an
4 undergraduate degree before that?

5 JUROR: Yes.

6 MR. HENNING: Where was that?

7 JUROR: It was in Wheaton, Illinois,
8 Wheaton College.

9 MR. HENNING: I have nothing further.

10 THE COURT: Ms. Scapicchio?

11 MS. SCAPICCHIO: So now I have to ask,
12 who is the Pierce family, who are they?

13 JUROR: Like I said, they're not
14 particularly famous, but they've lived, they moved
15 to Dorchester in the 1640's and lived in the
16 Pierce house, which is where I work, since 1690.
17 So they were just colonial people living in
18 Dorchester and they moved out of the house in
19 1968.

20 MS. SCAPICCHIO: So it's been a museum
21 since 1968?

22 JUROR: It's been a museum since,
23 I believe, 2001, but my organization has owned it
24 since 1968.

25 MS. SCAPICCHIO: You indicated that you

1 did your masters at the University of Denver; is
2 that right?

3 JUROR: Yes.

4 MS. SCAPICCHIO: In what?

5 JUROR: Anthropology and museum studies.

6 MS. SCAPICCHIO: So was it a dual major?

7 JUROR: Um-hmm.

8 MS. SCAPICCHIO: In terms of your
9 husband, he works for -- I don't even how to say
10 the name.

11 JUROR: Woostier (phonetically).

12 MS. SCAPICCHIO: What does he do for
13 them?

14 JUROR: He's a software engineer for
15 them.

16 MS. SCAPICCHIO: Does he design
17 software?

18 JUROR: Yes, that's correct.

19 MS. SCAPICCHIO: And how long has he
20 worked there?

21 JUROR: He's worked there for about a
22 year and a half, since April of 2014 when we moved
23 here.

24 MS. SCAPICCHIO: And did you move here
25 because you got the job at the museum or he got

1 the job at the software company?

2 JUROR: Both, we got our jobs at the
3 same time.

4 MS. SCAPICCHIO: Oh, that's lucky.

5 JUROR: Yeah, it was.

6 MS. SCAPICCHIO: I have no further
7 questions.

8 THE COURT: Ma'am, if you could step
9 outside for just a moment, please.

10 (Juror Number 81 exits courtroom.)

11 THE COURT: This juror stands
12 indifferent.

13 MR. HENNING: The Commonwealth is
14 content.

15 MS. SCAPICCHIO: Defendant would
16 challenge.

17 (Juror Number 81 enters courtroom.)

18 THE COURT: Thank you, ma'am, you are
19 excused. You're free to go.

20 THE CLERK: Excused.

21 (Juror Number 81, excused.)

22 (Juror Number 82 enters courtroom.)

23 THE CLERK: 82, Thomas Courteau.

24 JUROR: Correct.

25 THE COURT: Mr. Courteau, you answered

1 one of my earlier questions. Would you have the
2 tendency to believe the testimony of a police
3 officer witness over that of a civilian witness
4 just because he or she were a police officer?

5 JUROR: I did.

6 THE COURT: Thank you, sir, you are
7 excused.

8 THE CLERK: Excused.

9 (Juror Number 82, excused.)

10 (Juror Number 83 enters courtroom.)

11 THE CLERK: 83, Thomas Avery.

12 THE COURT: Hi, Mr. Avery.

13 JUROR: Hello.

14 THE COURT: Sir, is there anything about
15 the nature of these charges or any of the
16 allegations you've heard that might affect your
17 ability to be fair and impartial?

18 JUROR: I don't think so, no.

19 THE COURT: You may hear alleged
20 evidence that the defendant, the alleged victim,
21 and some of the witnesses were involved in selling
22 marijuana. Would that evidence affect your
23 ability to be fair and impartial?

24 JUROR: No, it wouldn't.

25 THE COURT: The defendant in a criminal

1 trial has the absolute right not to testify. If
2 Mr. Reddicks chose not to testify at this trial,
3 would you hold that against him in any way?

4 JUROR: No.

5 THE COURT: Is there anything about the
6 length of the trial that poses a hardship for you?

7 JUROR: No.

8 THE COURT: Any follow-up questions,
9 Counsel?

10 MR. HENNING: It says here you work for
11 the Department of Developmental Services as an
12 occupational therapist?

13 JUROR: Um-hmm.

14 MR. HENNING: What type of therapy do
15 you do?

16 JUROR: I work with people with
17 intellectual disabilities and provide services for
18 them.

19 MR. HENNING: Is it an adult population?

20 JUROR: It's an adult population, yes.

21 MR. HENNING: Is it people who get it
22 through government assistance only?

23 JUROR: They live in group homes that
24 are run by the state, yeah, so it's through
25 Medicaid, Medicare.

1 MR. HENNING: What type of developmental
2 disabilities do you usually deal with?

3 JUROR: Well, it's intellectual
4 disabilities, but they also have a lot of physical
5 disabilities, as well, they tend to.

6 MR. HENNING: It says you were born in
7 Wilmington, Indiana?

8 JUROR: Um-hmm.

9 MR. HENNING: When did you come to
10 Massachusetts?

11 JUROR: 1985.

12 MR. HENNING: And where have you lived
13 in terms of the neighborhoods since you got here?

14 JUROR: Well, I live, the past 20 years,
15 I've lived in Back Bay, I lived in Dorchester for
16 a part of the time, I've lived in Brighton.

17 MR. HENNING: It says 25 years ago, you
18 were held up at gunpoint.

19 JUROR: Yes.

20 MR. HENNING: Can you tell us where that
21 was?

22 JUROR: That was in Indiana.

23 MR. HENNING: Was someone charged in
24 that case?

25 JUROR: No.

1 MR. HENNING: Did you call the police
2 when it happened?

3 JUROR: No.

4 MR. HENNING: Without getting into the
5 details of it, did you know the person that held
6 you up?

7 JUROR: No.

8 MR. HENNING: But you chose not to
9 report it.

10 JUROR: That's correct.

11 THE COURT: Ms. Scapicchio?

12 MS. SCAPICCHIO: I'm going to need a
13 little bit more information about the 25 years
14 ago. You were held up at gunpoint by one or more
15 than one person?

16 JUROR: One person.

17 MS. SCAPICCHIO: Was that person of the
18 same race as you or a different race?

19 JUROR: The same race.

20 MS. SCAPICCHIO: Same race, okay. Did
21 they take anything from you?

22 JUROR: Yeah, they took -- I can't
23 remember how much money it was, but I had money in
24 my wallet and they took the money in my wallet.

25 MS. SCAPICCHIO: Did they take your

1 identification, too?

2 JUROR: No, just the money.

3 MS. SCAPICCHIO: Was this like on the
4 street or was it in your apartment building?

5 JUROR: I was in a car with a friend, we
6 were sitting in the car, the car was parked, and
7 the person came up to the car window and the
8 window was down and approached us in that way.

9 MS. SCAPICCHIO: And in terms of your
10 work as an occupational therapist, you had
11 indicated, I think, that your clients are
12 developmentally disabled and live in group homes?

13 JUROR: That's right, yes.

14 MS. SCAPICCHIO: Is that because their
15 disability is so great that they are not able to
16 live independently?

17 JUROR: That's correct.

18 MS. SCAPICCHIO: Are they long-term
19 residents? Is it like a short-term place or a
20 long-term place?

21 JUROR: Long-term.

22 MS. SCAPICCHIO: So their group home is
23 sort of their home.

24 JUROR: Exactly.

25 MS. SCAPICCHIO: And you help them

1 figure out how to get through the day. Are they
2 able to get employment and attend school or are
3 they too disabled --

4 JUROR: It runs the gamut. It's folks
5 that a very, very, intellectually very low-level
6 and aren't employed, they may go to day programs.
7 Some of the people actually do have employment.
8 But in general, it's mostly folks that are not
9 employed that go to day habs.

10 MS. SCAPICCHIO: The fact that you were
11 held up at gunpoint 25 years ago and this case
12 involves an allegation that there was a robbery
13 with a gun, do you think given your personal
14 circumstances 25 years ago, you would be able to
15 put that aside and remain fair and impartial or do
16 you think you would associate more with the person
17 who got robbed?

18 JUROR: I think I could be impartial.

19 MS. SCAPICCHIO: When you say you think,
20 what is the hesitation there?

21 JUROR: I don't know that I have a big
22 hesitation.

23 MS. SCAPICCHIO: Do you have any
24 hesitation?

25 JUROR: I don't think so. I mean, no.

1 MS. SCAPICCHIO: So the answer is you
2 wouldn't necessarily associate with the victim in
3 this case if there was evidence that there was
4 actually a robbery. You wouldn't feel sorry for
5 him, you wouldn't relate it back to your own
6 personal circumstances, you wouldn't give that any
7 more credibility because of your own personal
8 circumstances.

9 JUROR: I don't think I would give that
10 any more credibility because of what happened to
11 me, no.

12 MS. SCAPICCHIO: Thank you.

13 THE COURT: Sir, could you step outside
14 for just a second, please.

15 JUROR: Sure.

16 (Juror Number 83 exits courtroom.)

17 THE COURT: This juror stands
18 indifferent.

19 MR. HENNING: I'm going to exercise a
20 peremptory.

21 (Juror Number 83 enters courtroom.)

22 THE COURT: Thank you, sir, you are
23 excused.

24 THE CLERK: Excused.

25 (Juror Number 83, excused.)

1 THE COURT: The next guy answered a
2 question which I think is going to disqualify him,
3 and then we'll stop for lunch.

4 (Juror Number 84 enters courtroom.)

5 THE CLERK: Juror 84, David Charnuska.

6 THE COURT: Sir, good afternoon. You
7 answered one of my earlier questions. Can you
8 tell me what your concern is about being on this
9 jury?

10 JUROR: Well, I think I said yes to two
11 questions and they were kind of related, and
12 actually, I was hesitant to say yes to some other
13 questions because I didn't have a hundred percent
14 confidence in them, and it all kind of ties
15 together. But a few years ago, I had an incident
16 where I was charged with a crime and I was in a
17 very lengthy process that was pretty burdensome,
18 and it sort of diminished my feelings about the
19 court system and whatnot.

20 THE COURT: Are you saying that because
21 of this life experience of yours --

22 JUROR: Yes.

23 THE COURT: -- that you would question
24 your ability to be fair and impartial in this
25 case?

1 JUROR: Yes.

2 THE COURT: Thank you for your candor,
3 sir, you are excused.

4 JUROR: Thank you.

5 THE CLERK: Excused.

6 (Juror Number 84, excused.)

7 THE COURT: All right, let's suspend at
8 this time and we'll return at 2 o'clock. Thanks,
9 everybody.

10 (Court in recess at 1:00 p.m.)

11

12 A F T E R N O O N S E S S I O N

13 (Court in session at 2:00 p.m.)

14 (Defendant present.)

15 CONTINUED INDIVIDUAL VOIR DIRE:

16 THE COURT: Welcome back, everybody. We
17 have some CORI results from the impaneled jurors.
18 There were reported back no hits on Juror Hodges,
19 Juror Burger, Juror Augustin, Juror Langat, L-A-N-
20 G-A-T, and Juror Luckenbill, and that group will
21 be marked for identification.

22 (Exhibit B was marked for
23 Identification, Board of Probation Records of
24 Impaneled Jurors.)

25 THE COURT: There were hits on four of

1 the other jurors. It is my understanding that as
2 to the first three, the parties don't have any
3 concern about that. First of all, Juror Turner
4 reported having a restraining order against her,
5 and I understand the parties have no issue with
6 this. Is that my understanding?

7 MS. SCAPICCHIO: None for the defendant.

8 MR. HENNING: None for the Commonwealth.

9 THE COURT: That also will be marked for
10 identification, however.

11 (Exhibit C was marked for
12 identification, Board of Probation Record, Juror
13 Number 5, Seat Number 1.)

14 THE COURT: Jurors Perryman and
15 Constant, C-O-N-S-T-A-N-T, came back with
16 relatively innocuous matters, at least with
17 Ms. Constant. It's arguable that she said nothing
18 wrong on her questionnaire because it's merely a
19 failure to use, failure to use a stolen Registry
20 of Motor Vehicle's signature, whatever the heck
21 that is.

22 MR. HENNING: It's usually a charge for
23 either having a fake ID if the person is a minor
24 or a charge for operating a car that has an
25 inspection or a registration the belongs to

1 another car. Without knowing more, there's
2 nothing to really glean.

3 THE COURT: Does anybody want me to
4 inquire of her?

5 MS. SCAPICCHIO: No, Your Honor.

6 MR. HENNING: No, Your Honor.

7 THE COURT: All right, that also will be
8 marked for identification.

9 (Exhibit D was marked for
10 identification, Board of Probation Record of
11 Juror Number 28, Seat Number 2.)

12 THE COURT: And then finally, Juror
13 Perryman has an operating to endanger that was
14 dismissed. Does anybody want me to inquire of
15 him?

16 MR. HENNING: No, Your Honor.

17 MS. SCAPICCHIO: We're fine.

18 THE COURT: All of those will be marked
19 for identification.

20 (Exhibit E was marked for
21 identification, Board of Probation Record of
22 Juror Number 29, Seat Number 3.)

23 THE COURT: There is, though, Juror
24 Denise Jawando, J-A-W-A-N-D-O, who presented,
25 although on her questionnaire as saying she had no

1 prior charges or convictions, et cetera, she does
2 present with a two-page record, most of which are
3 relatively innocuous motor vehicle offenses,
4 operating without a license, insurance violation,
5 attaching wrong plates, operating after
6 suspension. But she does have a possession of
7 Class B which was dismissed back in the year 2000.
8 Does anybody want me to inquire of her about that?

9 MR. HENNING: The Commonwealth would
10 request that you inquire.

11 THE COURT: Officer Loperari, bring down
12 Ms. Jawando.

13 Also for the benefit of Counsel, that
14 issue that the juror in Seat Number 1 had,
15 Mr. Kalell has used his magic, it's all been
16 settled, it's all been resolved, and he has
17 already talked to the juror and she's happy about
18 it.

19 MR. HENNING: Great.

20 THE COURT: That was the woman who had
21 visitation through DCF.

22 MS. SCAPICCHIO: Yes.

23 THE COURT: And again, he used his magic
24 and it's all settled.

25 (Juror Number 47 enters courtroom.)

1 THE CLERK: Juror 47 in Seat 5, Denise
2 Jawando.

3 THE COURT: Hi, Ms. Jawando. Sorry to
4 bring you back again, but it's come to my
5 attention that even though on your questionnaire,
6 you indicated that you had never been convicted or
7 charged with any crime, you do have some criminal
8 matters.

9 JUROR: I wasn't convicted, I was
10 arrested.

11 THE COURT: Yes, one of the questions on
12 the questionnaire is have you ever been charged
13 with anything. The first set of cases were in
14 South Boston District Court back in 2001, they're
15 all motor vehicle related, operating without a
16 license, insurance violation, attaching wrong
17 plates, and operating after suspension. Those
18 matters basically were dismissed or filed. Is
19 there some reason that you didn't put them on the
20 questionnaire?

21 JUROR: I forgot about that one.
22 I never attached, I don't remember that, but no,
23 if it was dismissed, I didn't feel it was
24 important.

25 THE COURT: All right.

1 JUROR: It was dismissed.

2 THE COURT: You also had another matter
3 in Roxbury District Court in the year 2000, and
4 that was possession of a Class B controlled
5 substance.

6 JUROR: Right.

7 THE COURT: Do you remember that one?

8 JUROR: I do, but it was dismissed, and
9 again --

10 THE COURT: You thought you didn't have
11 to put it because it was dismissed.

12 JUROR: Right.

13 THE COURT: Well, for future reference,
14 on the questionnaire, it actually asks you have
15 you ever been charged with a crime, and also, have
16 you ever been arrested. Arrested, charged, or
17 convicted. Now, granted, you weren't convicted of
18 that, but the other two questions asked you if you
19 were arrested or charged with a crime. So,
20 technically, you probably should have answered
21 that.

22 JUROR: I should have answer that.

23 THE COURT: Does anybody want to ask
24 any follow-up questions, Mr. Henning or
25 Ms. Scapicchio?

1 MR. HENNING: No.

2 MS. SCAPICCHIO: No, Your Honor.

3 THE COURT: Ma'am, could you just step
4 right outside and wait for just a second?

5 JUROR: Sure.

6 (Juror Number 47 exits courtroom.)

7 THE COURT: Counsel, I see no reason to
8 excuse her for cause. I encounter this quite
9 often, they think a dismissal means that they
10 don't have to put it down, and it was dismissed.
11 But does anybody want to exercise a peremptory
12 challenge on her?

13 MR. HENNING: Can I have 30 seconds?

14 THE COURT: Of course.

15 MR. HENNING: Commonwealth is going to
16 exercise a peremptory challenge.

17 MS. SCAPICCHIO: Just note my objection,
18 Judge. I objected to the Commonwealth's ability
19 to run the records, and I just want to preserve
20 that objection.

21 THE COURT: Sure.

22 (Juror Number 47 enters courtroom.)

23 THE COURT: Thank you, ma'am, you are
24 excused. You're free to go.

25 COURT OFFICER: No, she has things

1 upstairs.

2 THE CLERK: Excused.

3 (Juror Number 47, excused.)

4 THE COURT: That one will also be marked
5 for identification.

6 (Exhibit F was marked for
7 Identification, Board of Probation Records,
8 Juror Number 47.)

9 THE COURT: I want to wait for Officer
10 Loperari to come back relative to the next one.

11 (Pause.)

12 Counsel, I've been alerted to a
13 situation with Juror Number 62.

14 THE CLERK: In Seat 7.

15 THE COURT: His name is Mr. Augustin,
16 A-U-G-U-S-T-I-N. Officer Loperari, can you
17 explain to me your experience with him this
18 morning and then recently.

19 COURT OFFICER: This morning while
20 giving instructions to other jurors, he constantly
21 interrupted me. He was concerned about losing his
22 headphones. Several times, I tried to give other
23 jurors instructions on putting their contact
24 information on our sheets, and he just
25 continuously interrupted me several times on that

1 issue.

2 The second issue was lunch, asking for
3 free lunch, and then turning to the rest of the
4 jurors trying to elicit a response from them when
5 I told him we didn't give them free lunch, just
6 being really interruptive. I was unable to give
7 instructions on exiting and entering the building,
8 which we have the jurors do by the back stairway.
9 I had to repeat myself between four or five times
10 to get the message across.

11 THE COURT: Have you have encounters
12 with him recently after lunch?

13 COURT OFFICER: Since, he hasn't said
14 anything since.

15 THE COURT: Counsel, does anybody want
16 me to bring him down and inquire of him, and if
17 so, what do you want me to ask him?

18 MR. HENNING: The Commonwealth's request
19 earlier, just to put it on the record, I think if
20 you ask him if since he's been seated, if he's
21 felt that this has caused him any anxiety or
22 stress. I think based on the descriptions of what
23 we heard from his actions before lunch, I'm just
24 concerned about general affect and demeanor as a
25 juror.

1 THE COURT: Ms. Scapicchio?

2 MS. SCAPICCHIO: I don't have any
3 objection to inquiring.

4 THE COURT: Bring him down, please.

5 MR. HENNING: May I also ask Your Honor
6 if you can perhaps inquire with him about
7 understanding that the court staff and --

8 THE COURT: I'll ask him about his
9 ability to comply with orders of the Court
10 Officers.

11 (Juror Number 62 enters courtroom.)

12 THE CLERK: Juror 62 in Seat 7,
13 Mr. Augustin.

14 THE COURT: Hi, Mr. Augustin.

15 JUROR: Good evening, Your Honor.

16 THE COURT: I just wanted to ask you,
17 has your experience here this morning, and
18 especially after you were impaneled on this case,
19 has that caused you any kind of anxiety or stress?

20 JUROR: Repeat that question? I'm
21 trying to perceive that, Your Honor.

22 THE COURT: Has any part of your
23 experience here today in court, especially after
24 you were impaneled as a juror on this case, has
25 that caused you any kind of stress or anxiety?

1 JUROR: Yes, Your Honor.

2 THE COURT: Can you explain that to me?

3 JUROR: A little lightheaded,
4 understanding I had to get up early and stuff like
5 that to come to jury duty.

6 THE COURT: There's quite a wind
7 outside, sir, if you could keep your voice up.

8 JUROR: Understanding that I had to get
9 up early, although I felt lightheaded, you know.

10 THE COURT: Is it because today you're
11 lacking in sleep?

12 JUROR: Yes, Your Honor.

13 THE COURT: Did you have to work last
14 night, sir?

15 JUROR: Yes, Your Honor.

16 THE COURT: Do you understand that as an
17 impaneled juror, you can't work nights. Do you
18 understand that, sir?

19 JUROR: Um-hmm.

20 THE COURT: In other words, you need to
21 get a full night's sleep. Do you understand that,
22 sir?

23 JUROR: Yes.

24 THE COURT: Are you typically working
25 the night shift?

1 JUROR: I work evenings.

2 THE COURT: What does that mean,
3 evenings?

4 JUROR: 6:30 to 12:30.

5 THE COURT: You can't do that, sir,
6 while you're a juror on this case. Do you
7 appreciate that? You're going to have to tell
8 your employer, because that would interfere with
9 your ability to get enough rest to show up in
10 court every day at 9 o'clock fresh and alert. Do
11 you understand that, sir?

12 JUROR: Yes, Your Honor.

13 THE COURT: And are you going to be able
14 to do that?

15 JUROR: Yes, Your Honor.

16 THE COURT: Am I hearing that any
17 emotions that you've manifested today are because
18 you worked last night and you feel sleepy today?

19 JUROR: Repeat that again?

20 THE COURT: Maybe I worded that
21 terribly. It sounds as if you're a little sleep
22 deprived today.

23 JUROR: Yes.

24 THE COURT: Is it your expectation that
25 if you get a full night's sleep, you won't be

1 exhibiting any signs of anxiety or stress as a
2 juror?

3 JUROR: If I get a full night's sleep,
4 I'll be awesome, Your Honor.

5 THE COURT: You'll be fine.

6 JUROR: Yes, Your Honor.

7 THE COURT: All right, I just want to
8 understand that any issues that you may have had
9 after you were impaneled, you think are coming
10 from your lack of sleep.

11 JUROR: Repeat that again, Your Honor?

12 THE COURT: Do you think that any
13 anxiety or stress that you may have experienced
14 today comes from a lack of sleep last night?

15 JUROR: I don't understand. I'm trying
16 to find a way to understand, Your Honor, although
17 I know it's a question you asked.

18 THE COURT: Sir, it's been reported to
19 me that you've been exhibiting symptoms of stress
20 and anxiety as a juror. And you admitted to that,
21 correct?

22 JUROR: Yes.

23 THE COURT: All right. Are you anxious
24 and stressed because you were impaneled as a
25 juror, generally, or is it coming from the lack of

1 sleep that you had last night?

2 JUROR: I would say the lack of sleep,
3 Your Honor.

4 THE COURT: Well, I guess the other way
5 of putting it, if you get a full night's sleep,
6 because I'm ordering you, you can't go to work
7 tonight, you understand that, sir. You can't work
8 till 12:30. Do you appreciate that, sir?

9 JUROR: Yes.

10 THE COURT: And your employer, by the
11 way, cannot interfere with any term and condition
12 of your employment, and if your employer gives you
13 a hassle, you come to me. You understand that?

14 JUROR: Yes, Your Honor.

15 THE COURT: But with a full night's
16 sleep, will you be able to fully perform your
17 functions as a juror in this case?

18 JUROR: Yes, Your Honor.

19 THE COURT: Does anybody have any
20 follow-up questions?

21 MR. HENNING: Sir, when the Judge asked
22 you in the beginning if being impaneled on a jury
23 had caused you stress, the impanelment process is
24 what we've been through this morning. Is the fact
25 that you got selected for this jury, has that

1 cause you any anxiety or stress?

2 JUROR: Well, I'm trying to find a way
3 to understand that question. Can you break that
4 word impanel down?

5 THE COURT: Chosen as a juror on the
6 case.

7 JUROR: Okay, okay.

8 MR. HENNING: After you were chosen as a
9 juror and you went up to the jury room with your
10 fellow jurors, did you feel anxiety or stress as a
11 result of being chosen for the jury?

12 JUROR: I did, sir. Yes, Counselor.

13 MR. HENNING: Has that anxiety or stress
14 made it difficult at all to pay attention and to
15 focus on things?

16 JUROR: Yes, Counselor.

17 MR. HENNING: Is the prospect or the
18 idea of being a juror on this case something that
19 causes you continued anxiety?

20 JUROR: Yes, Counselor.

21 THE COURT: So when I asked you about
22 lack of sleep, you're saying that you're going to
23 be anxious and distressed, no matter what. Is
24 that what you're telling me, Mr. Augustin?

25 JUROR: I'm trying to understand, Your

1 Honor.

2 THE COURT: I'm trying to understand
3 you, sir. Are you telling me that you can't be a
4 juror because you're experiencing too much stress
5 and anxiety and it doesn't matter how much sleep
6 you get?

7 JUROR: Yes, Your Honor.

8 THE COURT: You're excused, thank you.

9 THE CLERK: Excused.

10 (Juror Number 62, excused.)

11 THE COURT: All right, let's start with
12 Number 85.

13 MS. SCAPICCHIO: The last juror wants to
14 see us, Seat 9, Carolyn Hodges.

15 THE COURT: All right, bring her in.

16 (Juror Number 80 enters courtroom.)

17 THE CLERK: Juror in Seat 9, Juror
18 Number 80, Carolyn Hodges.

19 THE COURT: Ms. Hodges, did you want to
20 say something else to me?

21 JUROR: Yes, I have remembered something
22 at lunch and I don't know if it's important. The
23 fact that I forgot about it may say that it's not,
24 but I had a friend, a good friend in middle
25 school, we were not friends as adults, but she was

1 murdered in a drug deal. So I thought that that
2 was relevant, obviously, so I thought you might
3 want to know about it.

4 THE COURT: It's relevant if you examine
5 your head and your heart and you tell me because
6 of your friend's experience -- I'm assuming this
7 was some years ago.

8 JUROR: It was two years ago.

9 THE COURT: I'm sorry, I apologize, it
10 was two years ago. If your friend's experience
11 would affect your ability to be a fair and
12 impartial juror in this case.

13 JUROR: I don't think so. I can't think
14 of a reason why it would.

15 THE COURT: Counsel, do you want any
16 follow-up with that?

17 MR. HENNING: I have no follow-up.

18 THE COURT: Ms. Scapicchio?

19 MS. SCAPICCHIO: So you were at lunch
20 and you just remembered that you should probably
21 bring it to our attention and that's why you
22 notified the Court Officer.

23 JUROR: Um-hmm.

24 MS. SCAPICCHIO: Was it one of your good
25 friends?

1 JUROR: We were good friends in middle
2 school, but we drifted apart and then we weren't
3 friends as -- I mean, Facebook friends, but not
4 after that.

5 MS. SCAPICCHIO: Where did this homicide
6 take place?

7 JUROR: Baltimore.

8 MS. SCAPICCHIO: And you said it was
9 regarding drugs? Do you know anything more about
10 it? I'm not trying to pry, I'm just trying to get
11 a sense.

12 JUROR: No, no. Well, actually, it
13 wasn't reported that it was a drug deal, but those
14 who knew her assumed that that was the case
15 because she had dealt drugs for most of her young
16 life and she had also been severely beaten in a
17 drug deal earlier, like two or three years before
18 that. So I assumed that in that situation, she
19 was found in a car, she and her boyfriend were
20 shot in the head and the car was burned, and it
21 was in an alleyway in Baltimore. So, I mean,
22 those of us who knew her assumed that that was
23 the case.

24 MS. SCAPICCHIO: Do you know if anyone
25 was ever charged with --

1 JUROR: I don't think they ever found
2 anyone, no. Not that I've heard.

3 MS. SCAPICCHIO: And the idea that you
4 had a good friend that was the victim of a
5 homicide involving drugs, this case involves
6 allegations of a homicide and drugs, do you think
7 that experience, your personal experience with
8 your friend, would cause you to sympathize more
9 with the victim in this case?

10 JUROR: I don't think so because it was
11 a completely different situation, different
12 people.

13 MS. SCAPICCHIO: Do you have any
14 hesitation when you say you don't think so or are
15 you just saying that because that's the way you
16 want to word it?

17 JUROR: No, I can't think of any reason.
18 Maybe something subconsciously that I'm not aware
19 of, but no, I don't think so.

20 MS. SCAPICCHIO: Thank you.

21 THE COURT: Ma'am, could you just step
22 outside for one second, please.

23 JUROR: Sure.

24 (Juror Number 80 exits courtroom.)

25 THE COURT: I think this juror is being

1 scrupulously honest. I think she just remembered
2 this, and I think she prefaced it by saying, well,
3 that probably suggests that it wasn't an important
4 issue for her. I trust her answers. She's told
5 me it won't affect her ability to be fair and
6 impartial, so I won't excuse her for cause.
7 Nevertheless, this is new information that just
8 got revealed, so if either side wants to exercise
9 a peremptory challenge, you're entitled to do
10 that.

11 MR. HENNING: Commonwealth is content.

12 MS. McDONOUGH: May I speak to my
13 client?

14 THE COURT: Of course.

15 MS. SCAPICCHIO: Defendant is content,
16 Your Honor.

17 THE COURT: All right, let me bring her
18 back in and advise her of a few things.

19 (Juror Number 80 enters courtroom.)

20 THE COURT: Ms. Hodges, thank you so
21 much for being so candid. Both sides want to
22 continue to keep you on this jury. I'm just going
23 to ask that you not share this conversation with
24 any of your fellow jurors, all right?

25 JUROR: Okay.

1 THE COURT: Thank you for your candor
2 and your scrupulousness.

3 THE CLERK: Still Seat 9.
4 (Juror Number 80 exits courtroom.)

5 INDIVIDUAL JURY VOIR DIRE: (Resumed)
6 (Juror Number 85 enters courtroom.)

7 THE CLERK: Juror 85, Kathleen Geigley.

8 THE COURT: How do you pronounce it,
9 ma'am?

10 JUROR: Geigley.

11 THE COURT: Ms. Geigley, is there
12 anything about the nature of these charges or any
13 of the allegations that might affect your ability
14 to be fair and impartial?

15 JUROR: No.

16 THE COURT: You may hear alleged
17 evidence that the defendant, the alleged victim,
18 and some of the witnesses were involved in selling
19 marijuana. Would that evidence affect your
20 ability to be fair and impartial?

21 JUROR: No.

22 THE COURT: The defendant in a criminal
23 trial has the absolute right not to testify. If
24 Mr. Reddicks chose not to testify at this trial,
25 would you hold that against him in any way?

1 JUROR: No.

2 THE COURT: Is there anything about the
3 length of the trial that poses a hardship?

4 JUROR: Just for school.

5 THE COURT: All right, and what school
6 are you going to?

7 JUROR: Northeastern University.

8 THE COURT: Are you on a co-op right
9 now?

10 JUROR: No.

11 THE COURT: When do classes start?

12 JUROR: Monday.

13 THE COURT: If that was a concern of
14 yours, did you know you could defer your service
15 to another time?

16 JUROR: Yes, but I didn't expect to be
17 on one that was going to be this long, and I'm not
18 sure of my schedule.

19 THE COURT: So you don't know yet. When
20 do classes start?

21 JUROR: Monday.

22 THE COURT: Not Monday, Monday is a
23 holiday, I'm assuming.

24 JUROR: This Monday, they started.

25 THE COURT: Oh, this past Monday.

1 JUROR: This past Monday, I'm sorry.

2 THE COURT: But you don't know your
3 classes yet, you don't know your schedule?

4 JUROR: I don't know them for the
5 future, so I didn't know when I could defer it in
6 the next couple of months. This would be the
7 easiest time this semester to have done jury duty,
8 but I'm not sure what I'm doing over the summer or
9 next.

10 THE COURT: I'm sorry, I don't
11 understand. Have you deferred your service in the
12 past?

13 JUROR: No.

14 THE COURT: You just got assigned to
15 this date.

16 JUROR: Yes.

17 THE COURT: But your classes started --

18 JUROR: The 11th.

19 THE COURT: On the 11th.

20 JUROR: Yes.

21 THE COURT: Two days ago.

22 JUROR: Yes.

23 THE COURT: So you're saying you could
24 serve, just not for such a long trial; is that
25 what you're saying?

1 JUROR: Yes.

2 THE COURT: All right, you're excused,
3 ma'am.

4 THE CLERK: Excused.

5 (Juror Number 85, excused.)

6 (Juror Number 88 enters courtroom.)

7 THE CLERK: Juror 88, Sara Lashway.

8 THE COURT: Hi, Ms. Lashway.

9 JUROR: Hi.

10 THE COURT: Ma'am, is there anything
11 about the nature of these charges or any of the
12 allegations that might affect your ability to be
13 fair and impartial?

14 JUROR: No, besides -- well, I live in
15 Dorchester.

16 THE COURT: Is there anything -- why do
17 you -- this alleged --

18 JUROR: It's in Jamaica Plain, just as
19 close, similar neighborhoods.

20 THE COURT: Well, is there anything
21 about you living in Dorchester, which is another
22 section of Boston, that means that you can't be
23 fair and impartial?

24 JUROR: No, it's just I see a lot of the
25 same stories in the news in Dorchester, as well.

1 THE COURT: And what have you read about
2 Dorchester that might affect your ability to be
3 fair and impartial?

4 JUROR: There's just a lot of gun
5 violence in Dorchester, as well. So I see a lot
6 of it in my neighborhood, as well.

7 THE COURT: And is there anything that
8 you've seen about this gun violence around where
9 you live that would cause you to question your
10 ability to be a fair and impartial juror in this
11 case?

12 JUROR: Not unfair, just nervous.

13 THE COURT: Okay, well is there
14 something about your being nervous that might
15 cause you to question your ability to be fair and
16 impartial?

17 JUROR: Not yet.

18 THE COURT: When you say nervous, why
19 are you nervous?

20 JUROR: I don't know, just gun violence
21 in my neighborhood and this is a gun violence
22 case, it makes me nervous.

23 THE COURT: Ma'am, would you step
24 outside, please.

25 (Juror Number 88 exits courtroom.)

1 THE COURT: Any problem with my excusing
2 her for cause?

3 MR. HENNING: None, Your Honor.

4 MS. SCAPICCHIO: No.

5 THE COURT: Excused for cause.

6 (Juror Number 88 enters courtroom.)

7 THE COURT: Thank you, ma'am, you are
8 excused.

9 THE CLERK: Excused.

10 (Juror Number 88, excused.)

11 (Juror Number 89 enters courtroom.)

12 THE CLERK: Juror 89, Abraham Colb.

13 THE COURT: Is it Dr. Colb?

14 JUROR: Yes.

15 THE COURT: Sir, is there anything about
16 the nature of these charges or any of the
17 allegations that might affect your ability to be
18 fair and impartial?

19 JUROR: No.

20 THE COURT: You may hear alleged
21 evidence that the defendant, the alleged victim,
22 and some of the witnesses were involved in selling
23 marijuana. Would that evidence affect your
24 ability to be fair and impartial?

25 JUROR: No.

1 THE COURT: The defendant in a criminal
2 trial has the absolute right not to testify. If
3 Mr. Reddicks chose not to testify at this trial,
4 would you hold that against him in any way?

5 JUROR: No.

6 THE COURT: Is there anything about the
7 length of the trial that poses a hardship for you?

8 JUROR: Not an extreme hardship.

9 THE COURT: You've made my day, thank
10 you. You've made my afternoon, anyway. Thank
11 you, sir.

12 JUROR: Oh, there are other questioners.

13 THE COURT: There's still more. The
14 attorneys may have some follow-up questions.

15 MR. HENNING: Doctor, it says for type
16 of business, something of SSA and I just can't
17 read the handwriting.

18 JUROR: That's the Quality Assurance
19 Branch of the Social Security Administration.

20 MR. HENNING: Okay, so when it says
21 medical consultant, what is it exactly that you do
22 for work?

23 JUROR: These are adjudications of
24 medical disability cases, so I review medical
25 histories and make judgments based on that and

1 according to the rules of the program.

2 MR. HENNING: Before you were a medical
3 consultant with SSA, did you practice any other
4 type of medicine.

5 JUROR: Yeah. Well, I trained in
6 hematology, oncology, I did that, and I also did
7 molecular biology for a few years at Tufts
8 University Medical Center.

9 MR. HENNING: That was my next question.
10 The medical work that you've done in the past,
11 that's in Boston?

12 JUROR: Yes.

13 MR. HENNING: Which hospitals have you
14 worked at in Boston?

15 JUROR: I did my residency at Brigham
16 and Women's Hospital and I did my fellowship at
17 Tufts New England Medical Center, and I was on
18 staff there for a few years.

19 MR. HENNING: Have you ever worked in
20 any other parts of medicine other than the
21 oncology and hematology, have you done any
22 rotations in other sections?

23 JUROR: In clinical medicine, you mean.

24 MR. HENNING: Yes.

25 JUROR: No.

1 MR. HENNING: And you were born in New
2 York City, correct?

3 JUROR: Yes.

4 MR. HENNING: Which medical school did
5 you go to?

6 JUROR: Albert Einstein College of
7 Medicine.

8 MR. HENNING: I have nothing further.
9 Thank you, Doctor.

10 MS. SCAPICCHIO: Hi, Doctor, good
11 afternoon. It looks like you have five children?

12 JUROR: Yes.

13 MS. SCAPICCHIO: Did you raise them all
14 here in Boston or in New York?

15 JUROR: Well, we moved into Boston when
16 my eldest was two years old, and the others were
17 born here and we've been here continuously since
18 then.

19 MS. SCAPICCHIO: And have you always
20 lived in -- is there a certain section of the city
21 that you live in?

22 JUROR: We live in West Roxbury. We've
23 lived there since 1980. My first year, we lived
24 in Brookline.

25 MS. SCAPICCHIO: Did your children go to

1 the public school in West Roxbury, whatever that
2 was?

3 JUROR: No, they went to Boston Latin.

4 MS. SCAPICCHIO: Boston Latin, okay,
5 great. I don't have any further questions,
6 thanks.

7 THE COURT: Sir, could you step outside
8 for just a second, please.

9 JUROR: Of course.

10 (Juror Number 89 exits courtroom.)

11 THE COURT: This juror stands
12 indifferent.

13 MR. HENNING: The Commonwealth is
14 content.

15 MS. SCAPICCHIO: Defendant will
16 challenge.

17 (Juror Number 89 enters courtroom.)

18 THE COURT: Thank you, Doctor, you are
19 excused.

20 JUROR: Oh, okay.

21 THE CLERK: Excused.

22 (Juror Number 89, excused.)

23 (Juror Number 90 enters courtroom.)

24 THE CLERK: Juror 90, Cornelia Sullivan.

25 THE COURT: Hi, Ms. Sullivan.

1 JUROR: Hi, how are you?

2 THE COURT: Ma'am, is there anything
3 about the nature of these charges or any of the
4 allegations you've heard that might affect your
5 ability to be fair and impartial?

6 JUROR: I don't think so.

7 THE COURT: You may hear alleged
8 evidence that the defendant, the alleged victim,
9 and some of the witnesses were involved in selling
10 marijuana. Would that evidence affect your
11 ability to be fair and impartial?

12 JUROR: I don't think so.

13 THE COURT: Are you sure about that?

14 JUROR: Just selling marijuana, no.

15 THE COURT: It is. Would anything about
16 that alleged evidence cause you to question your
17 ability to be fair and impartial?

18 JUROR: I don't think so, no. No, it
19 wouldn't.

20 THE COURT: The defendant in a criminal
21 trial has the absolute right not to testify. If
22 Mr. Reddicks chose not to testify at this trial,
23 would you hold that against him in any way?

24 JUROR: No.

25 THE COURT: Is there anything about the

1 length of the trial that poses a hardship for you?

2 JUROR: Yes.

3 THE COURT: What is that?

4 JUROR: I have a six month old daughter
5 and I'm her primary care given, so I'm a little
6 bit concerned about that, and I have been
7 experiencing some postpartum anxiety, so I'm not
8 sure, I mean I'm not sure if that would get in the
9 way at all.

10 THE COURT: And your daughter was born
11 six months ago. Has that interfered with your
12 ability to work?

13 JUROR: I have an at-home business and
14 I'm a stay-at-home mom.

15 THE COURT: You're excused, ma'am.

16 THE CLERK: Excused.

17 (Juror Number 90, excused.)

18 (Juror Number 93 enters courtroom.)

19 THE CLERK: 93, Joel Sanchez.

20 THE COURT: Mr. Sanchez, is there
21 anything about the nature -- oh, I take that back,
22 I'm sorry. You answered two of my earlier
23 questions, including the question about tending to
24 believe the testimony of a civilian witness over
25 the testimony of a police officer witness just

1 because he or she were a civilian. Is that true?

2 JUROR: Um-hmm.

3 THE COURT: You have to say yes or no.

4 JUROR: Yes. Yes, ma'am.

5 THE COURT: Thank you, sir, you are
6 excused.

7 THE CLERK: Excused.

8 (Juror Number 93, excused.)

9 (Juror Number 94 enters courtroom.)

10 THE CLERK: Juror 94, Dayana Valerio.

11 THE COURT: Hi, Ms. Valerio.

12 JUROR: Hi, how are you?

13 THE COURT: Ma'am, is there anything
14 about the nature of these charges or any of the
15 allegations that might affect your ability to be
16 fair and impartial?

17 JUROR: No.

18 THE COURT: You may hear alleged
19 evidence that the defendant, the alleged victim,
20 and some of the witnesses were involved in selling
21 marijuana. Would that evidence affect your
22 ability to be fair and impartial?

23 JUROR: No.

24 THE COURT: The defendant in a criminal
25 trial has the absolute right not to testify. If

1 Mr. Reddicks chose not to testify at this trial,
2 would you hold that against him in any way?

3 JUROR: Somewhat.

4 THE COURT: Somewhat? You're excused,
5 ma'am.

6 THE CLERK: Excused.

7 (Juror Number 94, excused.)

8 (Juror Number 95 enters courtroom.)

9 THE CLERK: 95, Jacob Rump.

10 THE COURT: Mr. Rump, you answered one
11 of my earlier questions. Would you have the
12 tendency to believe a civilian witness, the
13 testimony of a civilian witness over the testimony
14 of a police officer witness just because he or she
15 were a civilian?

16 JUROR: Yes.

17 THE COURT: Thank you, sir, you are
18 excused.

19 THE CLERK: Excused.

20 (Juror Number 95, excused.)

21 (Juror Number 96 enters courtroom.)

22 THE CLERK: 96, Jennifer Bolivar.

23 THE COURT: Good afternoon, ma'am. Is
24 there anything about the nature of these charges
25 or any of the allegations you've heard that might

1 affect your ability to be fair and impartial?

2 JUROR: Kind of. I get anxious very
3 easily, so I don't know if --

4 THE COURT: Are you anxious now?

5 JUROR: Yeah.

6 THE COURT: You think you're going to be
7 anxious being a juror on this case?

8 JUROR: I could, possibly.

9 THE COURT: I can't hear you, ma'am.

10 JUROR: Possibly.

11 THE COURT: Thank you, ma'am, you're
12 excused.

13 THE CLERK: Excused.

14 (Juror Number 96, excused.)

15 (Juror Number 97 enters courtroom.)

16 THE CLERK: Juror 97, Amber Weigel.

17 THE COURT: Good afternoon, ma'am. Is
18 there anything about the nature of these charges
19 or any of the allegations you've heard that might
20 affect your ability to be fair and impartial?

21 JUROR: No.

22 THE COURT: You may hear alleged
23 evidence that the defendant, the alleged victim,
24 and some of the witnesses may have been involved
25 in selling marijuana. Would that evidence affect

1 your ability to be fair and impartial?

2 JUROR: No.

3 THE COURT: The defendant in a criminal
4 trial has the absolute right not to testify. If
5 Mr. Reddicks chose not to testify at this trial,
6 would you hold that against him in any way?

7 JUROR: I might.

8 THE COURT: You're excused, ma'am.

9 THE CLERK: Excused.

10 (Juror Number 97, excused.)

11 (Juror Number 102 enters courtroom.)

12 THE CLERK: Juror 102, Katherine
13 Abgrego?

14 JUROR: Yes.

15 THE COURT: Ms. Abgrego, good afternoon.

16 JUROR: Good afternoon.

17 THE COURT: You didn't answer any of my
18 questions, but on the bottom of your
19 questionnaire, you say, "I have strong Christian
20 beliefs; however, this might not affect my ability
21 to serve."

22 JUROR: Correct.

23 THE COURT: Is there anything about your
24 beliefs or your religious principles that would
25 prevent you from sitting as a juror in this case?

1 JUROR: No. I was brought up Christian,
2 but I haven't practiced for a couple of years.

3 THE COURT: All right, but you mentioned
4 it down below, so you have strong Christian
5 beliefs. Would anything about your strong
6 Christian beliefs affect your ability to be a fair
7 and impartial juror in this case?

8 JUROR: No, it should not affect my
9 ability.

10 THE COURT: Is there anything about the
11 nature of these charges or any of the allegations
12 you've heard so far that might affect your ability
13 to be fair and impartial?

14 JUROR: No, ma'am.

15 THE COURT: Now, you may hear alleged
16 evidence that the defendant, the alleged victim,
17 and some of the witnesses were involved in selling
18 marijuana. Would that evidence affect your
19 ability to be fair and impartial?

20 JUROR: No, ma'am.

21 THE COURT: The defendant in a criminal
22 trial has the absolute right not to testify. If
23 Mr. Reddicks chose not to testify at this trial,
24 would you hold that against him in any way?

25 JUROR: No.

1 THE COURT: Is there anything about the
2 length of the trial that poses a hardship for you?

3 JUROR: Other than not going to work,
4 no.

5 THE COURT: Understand, there's a
6 statute on the books that protects jurors.

7 JUROR: Yes.

8 THE COURT: Your employer can't give you
9 any kind of hassle. If you get a hassle, you come
10 to me.

11 JUROR: Okay.

12 THE COURT: Any follow-up questions,
13 Counsel?

14 MR. HENNING: I'm just going to ask you
15 about, looking at the bottom of the questionnaire,
16 the question was is there anything in your
17 background, experience, employment, training,
18 education or knowledge that might affect your
19 ability to be a fair and impartial juror, and you
20 did say it may not affect, but when you put down
21 you have strong Christian beliefs, are there
22 particular beliefs or things about your beliefs
23 that made you think of that when you were reading
24 that answer?

25 JUROR: Well, there's a part there that

1 says religion, no?

2 MR. HENNING: No, it's experience,
3 employment, background, training --

4 JUROR: Well, in my background --

5 THE COURT: Or beliefs.

6 JUROR: Well, in my background, so
7 I took it as beliefs, so I thought I should
8 mention it because it did ask it. Other than
9 that, I don't think, like I said, I don't think it
10 should affect me in any way because I was brought
11 up Christian, but I haven't practiced for about
12 six years now.

13 MR. HENNING: Where in Boston, just
14 which neighborhood, not the address.

15 JUROR: East Boston.

16 MR. HENNING: How long have you lived in
17 East Boston? Were you born there?

18 JUROR: I lived there when I was
19 younger, moved to Lynn, came back when I was 14,
20 been there since then.

21 MR. HENNING: You have a five-year-old
22 child now?

23 JUROR: I do.

24 MR. HENNING: Would being seated on a
25 jury in any way cause problems with --

1 JUROR: No, she'd be fine.

2 MR. HENNING: Nothing further, Your
3 Honor.

4 THE COURT: Ms. Scapicchio?

5 MS. SCAPICCHIO: I noticed on your
6 questionnaire that you work for City Dental.

7 JUROR: Yeah.

8 MS. SCAPICCHIO: You work at the front
9 desk?

10 JUROR: Um-hmm.

11 MS. SCAPICCHIO: And how long have you
12 had that job?

13 JUROR: Well, I've been working with
14 City Dental for two years. Previously, I was
15 working for Doctor Dental, same location, for
16 three.

17 MS. SCAPICCHIO: Okay, so they just
18 changed the name and you stayed there.

19 JUROR: Yes, it was just a management
20 change.

21 MS. SCAPICCHIO: You indicated that
22 your, either partner or significant other works in
23 construction?

24 JUROR: Yes.

25 MS. SCAPICCHIO: Is there a specific

1 company that he works for.

2 JUROR: No, it's just whatever comes up,
3 basically.

4 MS. SCAPICCHIO: So whatever they need
5 him, he'll go and do.

6 JUROR: Whatever, like, painting,
7 drywall, roofing, whatever it is, he's there.

8 MS. SCAPICCHIO: In terms of your
9 Christian belief, are you able to sit in judgment
10 of someone even though you have these strong
11 Christian beliefs?

12 JUROR: I believe I could because
13 there's one thing judging somebody with evidence
14 and all that and then there's another thing in my
15 personal beliefs or how I grew up that shouldn't
16 have anything to do.

17 MS. SCAPICCHIO: Is there something
18 about your personal beliefs, the way that you grew
19 up, that prevented you from judging people? That
20 you've sort of just put it to the side because you
21 don't accept it, is that what it is?

22 JUROR: I was brought up Christian, and
23 sometimes they tend to be a little more judgmental
24 of people, and I don't think that's correct. It's
25 basically I was brought up that way, but I'm not

1 completely involved in that situation because
2 it's been six years without practicing it, so it's
3 like -- how can I explain this? Yes, I was
4 brought up Christian, but no, I don't completely
5 believe in everything that is done in
6 Christianity.

7 MS. SCAPICCHIO: So you would describe
8 yourself as more independent.

9 JUROR: Correct.

10 MS. SCAPICCHIO: So you'd more
11 independent than whatever the Christian beliefs
12 are. That religion wasn't more dependent.

13 JUROR: Correct, in the judgmental way
14 that they have, I don't have that.

15 MS. SCAPICCHIO: I don't have any
16 further questions.

17 THE COURT: Ma'am, could you step
18 outside for just a second, please.

19 (Juror Number 102 exits courtroom.)

20 THE COURT: This juror stands
21 indifferent.

22 MR. HENNING: Commonwealth is content.

23 MS. SCAPICCHIO: The defendant is
24 content.

25 THE CLERK: That would be Seat 5, Your

1 Honor.

2 (Juror Number 102 enters courtroom.)

3 THE COURT: Ms. Abrego, you've been
4 chosen to be on this jury, so you're going to be
5 taken upstairs to join your fellow jurors. Please
6 don't discuss any aspect of this case with them
7 and please don't allow them to discuss any aspect
8 of this case with you.

9 Thank you, ma'am, please go with the
10 Court Officer.

11 THE CLERK: Seat 5.

12 (Juror Number 102 exits courtroom.)

13 (Juror Number 103 enters courtroom.)

14 THE CLERK: 103, Damean Vlasak.

15 THE COURT: Hi, Mr. Vlasak.

16 JUROR: Hello.

17 THE COURT: Sir, is there anything about
18 the nature of these charges or any of the
19 allegations you've heard so far that might affect
20 your ability to be fair and impartial?

21 JUROR: No.

22 THE COURT: You may hear alleged
23 evidence that the defendant, the alleged victim,
24 and some of the witnesses may have been involved
25 in selling marijuana. Would that evidence affect

1 your ability to be fair and impartial?

2 JUROR: No.

3 THE COURT: The defendant in a criminal
4 trial has the absolute right not to testify. If
5 Mr. Reddicks chose not to testify at this trial,
6 would you hold that against him in any way?

7 JUROR: No.

8 THE COURT: Is there anything about the
9 length of the trial that poses a hardship for you?

10 JUROR: No.

11 THE COURT: Counsel, any follow-up?

12 MR. HENNING: I have no follow-up.

13 MS. SCAPICCHIO: You've indicated that
14 you work for Boston University?

15 JUROR: Yes.

16 MS. SCAPICCHIO: And you're a systems
17 analyst?

18 JUROR: Systems administrator.

19 MS. SCAPICCHIO: What does that mean?

20 JUROR: IT.

21 MS. SCAPICCHIO: IT, okay. Did you,
22 when you came into the courtroom today, did you
23 recognize anyone else from BASED UPON?

24 JUROR: No. It's a very large
25 organization.

1 MS. SCAPICCHIO: I know it's huge,
2 I just want to make sure. You got your bachelor
3 of science, was that at BASED UPON or somewhere
4 else?

5 JUROR: UMass Boston.

6 MS. SCAPICCHIO: UMass Boston, okay. In
7 terms of the IT, is it your job if a professor has
8 some problem with their computer, that you just go
9 and fix it?

10 JUROR: Amongst other things, yeah.
11 I maintain a number of systems, I help the
12 professors with their computers, students with
13 their computers, a variety of servers. Anything
14 the astronomy department needs, I do, basically.

15 MS. SCAPICCHIO: So you're the go-to guy
16 if anything is wrong with the computers.

17 JUROR: Um-hmm.

18 MS. SCAPICCHIO: I don't have any
19 further questions.

20 THE COURT: You're a very desired guy,
21 I guess. Sir, could you step outside for just a
22 second.

23 (Juror Number 103 exits courtroom.)

24 MS. SCAPICCHIO: May I say something
25 before you --

1 THE COURT: Of course.

2 MS. SCAPICCHIO: My only concern is we
3 have that other professor from BASED UPON that he
4 says he doesn't know, but when they get in the
5 jury room, I'm just concerned that somebody might
6 know somebody, or that he might have worked on a
7 computer for the guy.

8 THE COURT: Well, let's see if he's
9 impaneled and then you can let me know what you
10 want me to say to him if he's impaneled.

11 MS. SCAPICCHIO: I just think it's --

12 THE COURT: It's a huge university.

13 MS. SCAPICCHIO: I understand that, but
14 if his job is to go fix professor's computers and
15 we have a professor from BASED UPON on the jury.

16 THE COURT: I can ask him if he's
17 impaneled on this jury, to go up and see if he
18 recognizes any of the other jurors, and if he
19 does, tell the Court Officer.

20 MS. SCAPICCHIO: That's fine.

21 THE COURT: This juror stands
22 indifferent.

23 MR. HENNING: Commonwealth is content.

24 MS. SCAPICCHIO: Defendant will
25 challenge.

1 THE CLERK: That's eight.

2 MS. SCAPICCHIO: Yes, thank you.

3 (Juror Number 103 enters courtroom.)

4 THE COURT: Thank you, sir, you are
5 excused.

6 THE CLERK: Excused.

7 (Juror Number 103, excused.)

8 (Juror Number 104 enters courtroom.)

9 THE CLERK: 104, Evan Dean.

10 THE COURT: Hi, Mr. Dean.

11 JUROR: Hello.

12 THE COURT: Sir, is there anything about
13 the nature of these charges or any of the
14 allegations you've heard that might affect your
15 ability to be fair and impartial?

16 JUROR: No, ma'am.

17 THE COURT: You may hear alleged
18 evidence that the defendant, the alleged victim,
19 and some of the witnesses were involved in selling
20 marijuana. Would that evidence affect your
21 ability to be fair and impartial?

22 JUROR: No, ma'am.

23 THE COURT: The defendant in a criminal
24 trial has the absolute right not to testify. If
25 Mr. Reddicks chose not to testify, would you hold

1 that against him in any way?

2 JUROR: No.

3 THE COURT: Is there anything about the
4 length of the trial that poses a hardship for you?

5 JUROR: Yes.

6 THE COURT: What is that?

7 JUROR: I have the intention of closing
8 on a house this Friday, my first home.

9 THE COURT: And when is the closing?

10 JUROR: This Friday at 1 PM.

11 THE COURT: You're excused, sir.

12 JUROR: Thank you.

13 THE CLERK: Excused.

14 (Juror Number 104, excused.)

15 (Juror Number 106 enters courtroom.)

16 THE CLERK: Juror 106, Shannon Zolper.

17 JUROR: Yes.

18 THE COURT: Good afternoon, ma'am. Is
19 there anything about the nature of these charges
20 or any of the allegations you've heard that might
21 affect your ability to be fair and impartial?

22 JUROR: No, I don't think so.

23 THE COURT: Now, you may hear alleged
24 evidence that the defendant, the alleged victim,
25 and some of the witnesses were involved in selling

1 marijuana. Would that evidence affect your
2 ability to be fair and impartial?

3 JUROR: I don't think so.

4 THE COURT: The defendant in a criminal
5 trial has the absolute right not to testify. If
6 Mr. Reddicks chose not to testify at this trial,
7 would you hold that against him in any way?

8 JUROR: Possibly.

9 THE COURT: Thank you, ma'am, you are
10 excused.

11 THE CLERK: Excused.

12 (Juror Number 106, excused.)

13 (Juror Number 107 enters courtroom.)

14 THE CLERK: 107, Alyssa Yogel?

15 JUROR: Yes.

16 THE CLERK: Have a seat, please.

17 THE COURT: Hi, Ms. Yogel.

18 JUROR: Hi.

19 THE COURT: Ma'am, is there anything
20 about the nature of these charges or any of the
21 allegations you've heard that might affect your
22 ability to be fair and impartial?

23 JUROR: No.

24 THE COURT: You may hear alleged
25 evidence that the defendant, the alleged victim,

1 and some witnesses were involved in selling
2 marijuana. Would that evidence affect your
3 ability to be fair and impartial?

4 JUROR: I don't think so.

5 THE COURT: The defendant in a criminal
6 trial has the absolute right not to testify. If
7 Mr. Reddicks chose not to testify at this trial,
8 would you hold that against him in any way?

9 JUROR: I guess it would depend on what
10 the case, how it goes. I don't know if that's a
11 proper answer. I guess it depends upon the
12 information provided.

13 THE COURT: So it might?

14 JUROR: Perhaps if I want to know what
15 he would say?

16 THE COURT: Thank you, ma'am, you are
17 excused.

18 THE CLERK: Excused.

19 (Juror Number 107, excused.)

20 (Juror Number 108 enters courtroom.)

21 THE CLERK: 108, Carl Purdy.

22 THE COURT: Hi, Mr. Purdy.

23 JUROR: Hello.

24 THE COURT: Sir, is there anything about
25 the nature of these charges or any of the

1 allegations you've heard that might affect your
2 ability to be fair and impartial?

3 JUROR: No.

4 THE COURT: You may hear alleged
5 evidence that the defendant, the alleged victim,
6 and some of the witnesses were involved in selling
7 marijuana. Would that evidence affect your
8 ability to be fair and impartial?

9 JUROR: No.

10 THE COURT: The defendant in a criminal
11 trial has the absolute right not to testify. If
12 Mr. Reddicks chose not to testify at this trial,
13 would you hold that against him in any way?

14 JUROR: No.

15 THE COURT: Is there anything about the
16 length of the trial that poses a hardship for you?

17 JUROR: No.

18 THE COURT: Any follow-up, Counsel?

19 MR. HENNING: Good afternoon, sir, how
20 you?

21 JUROR: Good afternoon.

22 MR. HENNING: On the jury questionnaire,
23 there's a section up top where it lists the
24 employment, and you have self-employed. Can you
25 just describe what you do for work?

1 JUROR: I'm a landscaper, but I just had
2 knee surgery, so I'm out for a while.

3 MR. HENNING: Do you do commercial
4 buildings, residential?

5 JUROR: Residential.

6 MR. HENNING: Do you run a business,
7 yourself, or do you work with somebody?

8 JUROR: I work with someone.

9 MR. HENNING: Where is the business
10 located?

11 JUROR: It's located at 270 Huntington
12 Avenue, my home. I do a lot of houses in Weston.

13 MR. HENNING: In Weston?

14 JUROR: Yeah.

15 MR. HENNING: The five children that you
16 have listed, how many of them are you responsible
17 for in the house now?

18 JUROR: None of my children are with me
19 right now, they're with their mothers, I pay child
20 support.

21 MR. HENNING: There's the experience
22 with the law section.

23 JUROR: Yes.

24 MR. HENNING: You have some of them
25 checked off, and then there's a section that says

1 just to describe. I can give you the sheet if you
2 want, but can you just describe, you checked off
3 that you or someone in your household or family
4 had been arrested, charged with a crime,
5 convicted, and been a crime victim. Can you just
6 give us a little more information on those?

7 JUROR: Yeah, I was arrested, I was
8 charged with a crime. I was convicted of
9 possession of Class D when I was 19 years old.
10 Also I had a -- well, it was a continuance without
11 a finding in 2001 for possession of Class B, but
12 something happened with my probation, so it was a
13 time served with that. And I've also had to
14 witness, but it wasn't in a criminal case, just
15 like with my building because I've been there for
16 15 years, incident happened, I had to show up in
17 court, but it didn't even go to trial, so I never
18 had to testify.

19 MR. HENNING: You said it wasn't
20 criminal. Was it a civil case over money or was
21 it where you were a witness to something?

22 JUROR: I was a witness to an action
23 that happened with property damage.

24 MR. HENNING: Then there's something
25 here where it's checked off that you're a crime

1 victim, you or someone in your family has been a
2 victim of a crime?

3 JUROR: Yeah, I've been a victim of a
4 crime, I've had my bike stolen before. I live on
5 Huntington Ave. by Northeastern, so that's common,
6 you know?

7 MR. HENNING: Other than the bike theft,
8 are there other instances where --

9 JUROR: No.

10 MR. HENNING: And other than the
11 possession of Class D and the possession of Class
12 B, are there any other instances of things that
13 would trigger you to check the box?

14 JUROR: No.

15 MR. HENNING: Prior to being involved in
16 landscaping, what was the last job that you had
17 before that?

18 JUROR: I was a chef, cook.

19 MR. HENNING: In the city?

20 JUROR: Yeah.

21 MR. HENNING: I have nothing further,
22 Your Honor.

23 MS. SCAPICCHIO: Where did you cook?

24 JUROR: I cooked at the Top of the Hub
25 in Boston, I cooked for Sudexo up at the Federal

1 Reserve Bank. I've cooked at the Museum of
2 Science. I was also, like, did a lot of road work
3 out on the 128 belt for Sodexo.

4 THE COURT: Nice places.

5 MS. SCAPICCHIO: Nice place.

6 THE COURT: Top of the Hub.

7 MS. SCAPICCHIO: You indicated that you
8 have five children?

9 JUROR: Um-hmm.

10 MS. SCAPICCHIO: Were they all raised in
11 Boston?

12 JUROR: One was raised in South
13 Carolina. The oldest is in South Carolina, all
14 the rest were raised in Boston.

15 MS. SCAPICCHIO: Do they go to Boston
16 Public Schools?

17 JUROR: No, no. The youngest one does,
18 the other ones, they're out of school now.
19 They're in college, and one's in the military, the
20 22-year-old.

21 MS. SCAPICCHIO: And in terms of your
22 spouse or partner, what did she do?

23 JUROR: I don't have one, I'm single.
24 I'm single right now, that's why I left that
25 blank.

1 MS. SCAPICCHIO: So the mother of your
2 children --

3 JUROR: Oh, the mother of my children?

4 MS. SCAPICCHIO: Yes.

5 JUROR: She was a homemaker, she stayed
6 at home.

7 MS. SCAPICCHIO: Okay, she stayed home
8 and then you worked.

9 JUROR: Right.

10 MS. SCAPICCHIO: You were the chef, you
11 were the one making money and bring it home.

12 JUROR: Um-hmm.

13 MS. SCAPICCHIO: I don't have any
14 further questions.

15 THE COURT: Sir, would you stand outside
16 for just a moment, please.

17 JUROR: Thank you.

18 (Juror Number 108 exits courtroom.)

19 THE COURT: This juror stands
20 indifferent.

21 MR. HENNING: Judge, I'd just ask -- my
22 issue is with the prior charges and who the
23 organizations are that he was charged by.

24 I didn't ask the follow-up, perhaps I should.

25 I thought that you may excuse based on what he

1 described.

2 THE COURT: I don't understand what you
3 just said.

4 MR. HENNING: I'd ask to inquire again
5 if he was arrested by the Boston Police.

6 THE COURT: Oh, sure. Do you want to
7 inquire more? That's perfectly fine.

8 (Juror Number 108 enters courtroom.)

9 THE COURT: Mr. Purdy, The attorneys may
10 have some additional questions of you.

11 JUROR: Okay.

12 MR. HENNING: Sorry, just a couple of
13 questions. On the prior instances where you were
14 involved in the system, even when you were 19, do
15 you remember where it took place?

16 JUROR: The original case was in
17 Dorchester District Court, and the other case was
18 in West Roxbury.

19 MR. HENNING: Do you remember which
20 police department was involved.

21 JUROR: Dorchester District Court would
22 have been B-2 and West Roxbury would have been
23 D-4.

24 MR. HENNING: Based on your experiences
25 with the criminal justice system in those two

1 cases, do you have any feelings one way or another
2 towards the Boston Police Department?

3 JUROR: I got a fair trial. I got a
4 fair trial.

5 MR. HENNING: Thank you.

6 THE COURT: Ms. Scapicchio, anything
7 further?

8 MS. SCAPICCHIO: I don't have anything.

9 THE COURT: Sir, if you could step
10 outside one more time, please.

11 JUROR: All right, thank you.

12 (Juror Number 108 exits courtroom.)

13 THE COURT: This juror stands
14 indifferent

15 MR. HENNING: I'm going to exercise a
16 peremptory.

17 (Juror Number 108 enters courtroom.)

18 THE COURT: Thank you, sir, you are
19 excused.

20 THE CLERK: Excused.

21 (Juror Number 108, excused.)

22 (Juror Number 109 enters courtroom.)

23 THE CLERK: 109, Nicholas McKiel?

24 JUROR: Correct.

25 THE COURT: Mr. McKiel, is there

1 anything about the nature of these charges or any
2 of the allegations you've heard that might affect
3 your ability to be fair and impartial?

4 JUROR: No.

5 THE COURT: You may hear alleged
6 evidence that the defendant, the alleged victim,
7 and some of the witnesses may have been involved
8 in selling marijuana. Would that evidence affect
9 your ability to be fair and impartial?

10 JUROR: It might.

11 THE COURT: Thank you, sir, you're
12 excused.

13 THE CLERK: Excused.

14 (Juror Number 109, excused.)

15 (Juror Number 110 enters courtroom.)

16 THE CLERK: 110, Michael Coffey.

17 THE COURT: Hi, Mr. Coffey. Sir, is
18 there anything about the nature of these charges
19 or any of the allegations you've heard that might
20 affect your ability to be fair and impartial?

21 JUROR: I don't think so.

22 THE COURT: You may hear alleged
23 evidence that the defendant, the alleged victim,
24 and some of the witnesses may have been involved
25 in selling marijuana. Would that evidence affect

1 your ability to be fair and impartial?

2 JUROR: No.

3 THE COURT: The defendant in a criminal
4 trial has the absolute right not to testify. If
5 Mr. Reddicks chose not to testify at this trial,
6 would you hold that against him in any way?

7 JUROR: I think he should testify.

8 THE COURT: Thank you, sir, you are
9 excused.

10 THE CLERK: Excused.

11 (Juror Number 110, excused.)

12 (Juror Number 111 enters courtroom.)

13 THE CLERK: Juror 111, Vanessa Neves.

14 JUROR: Yes.

15 THE COURT: Are we pronouncing that
16 correctly?

17 JUROR: Neves.

18 THE COURT: Ms. Neves, is there anything
19 about the nature of these charges or any of the
20 allegations you've heard that might affect your
21 ability to be fair and impartial?

22 JUROR: No.

23 THE COURT: You may hear alleged
24 evidence that the defendant, the alleged victim,
25 and some of the witnesses were involved in selling

1 marijuana. Would that evidence affect your
2 ability to be fair and impartial?

3 JUROR: No.

4 THE COURT: The defendant in a criminal
5 trial has the absolute right not to testify. If
6 Mr. Reddicks chose not to testify at this trial,
7 would you hold that against him in any way?

8 JUROR: No.

9 THE COURT: Is there anything about the
10 length of the trial that poses a hardship for you?

11 JUROR: Kind of, yes.

12 THE COURT: I'm sorry?

13 JUROR: Yes.

14 THE COURT: What is that?

15 JUROR: Just it being, you said about
16 nine days, right?

17 THE COURT: Approximately, it could be
18 less than that, it could be more than that.

19 JUROR: Somewhat, yes.

20 THE COURT: What?

21 JUROR: Just being long.

22 THE COURT: Ma'am, I can't consider that
23 a hardship.

24 JUROR: Oh, no, no, I'm sorry, then
25 there isn't any.

1 THE COURT: It's not the shortest of
2 trials, but it certainly not the longest of
3 trials.

4 JUROR: Yes.

5 THE COURT: Is there anything that poses
6 a hardship for you?

7 JUROR: No.

8 THE COURT: So you can serve.

9 JUROR: Yes.

10 THE COURT: I'll give the jury updates,
11 but it's going to be approximately nine days.

12 JUROR: Okay.

13 THE COURT: The rest of this week, all
14 of next week, there are four days next week,
15 Monday being a holiday, and it's going to spill
16 over into the following week. Okay?

17 JUROR: Yes.

18 THE COURT: Great. Any follow-up
19 questions, counsel?

20 MR. HENNING: Hi, how you?

21 JUROR: Good.

22 MR. HENNING: Where did you go to high
23 school?

24 JUROR: I went to East Boston High.

25 MR. HENNING: Did you graduate from East

1 Boston?

2 JUROR: Yes.

3 MR. HENNING: Do you have any siblings?

4 JUROR: Yes.

5 MR. HENNING: How old are they?

6 JUROR: I have a brother that's 23 and a
7 sister that's 29.

8 MR. HENNING: Where do they live?

9 JUROR: In Roxbury, Dorchester.

10 MR. HENNING: How long have you been
11 working at Bank of America?

12 JUROR: Eight months now.

13 MR. HENNING: Did you have any other
14 jobs after you finished high school before you
15 went to Bank of America?

16 JUROR: Yes.

17 MR. HENNING: Where did you work before?

18 JUROR: I used to work at Legal Seafood
19 and I used to work at Stop and Shop.

20 MR. HENNING: I have nothing further at
21 this point.

22 THE COURT: Ms. Scapicchio?

23 MS. SCAPICCHIO: Hi, how are you?

24 JUROR: Good.

25 MS. SCAPICCHIO: It indicates on your

1 juror questionnaire that you also checked the box
2 for student?

3 JUROR: Yes.

4 MS. SCAPICCHIO: Are you a student right
5 now?

6 JUROR: Yes.

7 MS. SCAPICCHIO: Where do you go to
8 school?

9 JUROR: RCC.

10 MS. SCAPICCHIO: Roxbury Community
11 College?

12 JUROR: Yes.

13 MS. SCAPICCHIO: So do you do that days,
14 nights?

15 JUROR: Nights.

16 MS. SCAPICCHIO: Okay, so you're a full-
17 time teller during the day?

18 JUROR: Um-hmm.

19 MS. SCAPICCHIO: And then you go to
20 class at night.

21 JUROR: Yes.

22 MS. SCAPICCHIO: How many nights a week
23 do you do that?

24 JUROR: School starts on Monday, so
25 I still have to pick my classes and see what could

1 work around my schedule.

2 MS. SCAPICCHIO: So you haven't even
3 been to your first class yet.

4 JUROR: Well, I have -- not this
5 semester, but this will be my third semester
6 there.

7 MS. SCAPICCHIO: But for this semester,
8 you haven't even been to your classes.

9 JUROR: No.

10 MS. SCAPICCHIO: So what happens if you
11 don't show up for two weeks?

12 JUROR: To school?

13 MS. SCAPICCHIO: Right.

14 JUROR: They'll probably take me out.

15 THE COURT: But these are night classes,
16 correct?

17 JUROR: Yeah.

18 MS. SCAPICCHIO: From what time to what
19 time?

20 JUROR: They usually start around like
21 5:30 to 8.

22 MS. SCAPICCHIO: Okay, so you usually
23 work during the day, go to school from 5:30 to 8,
24 and then when do you do your homework?

25 JUROR: The school, the one I'm going to

1 set up is two days a week, so it would be Mondays
2 and Wednesdays or I could pick Tuesdays and
3 Thursdays.

4 MS. SCAPICCHIO: You have other days
5 that you won't be in school and you could get your
6 homework done.

7 JUROR: Yes.

8 MS. SCAPICCHIO: It's not going to be
9 too stressful to be here all day, going to school,
10 doing your homework.

11 JUROR: It could be a challenge, yes.

12 MS. SCAPICCHIO: But you could do it.

13 JUROR: Yeah.

14 MS. SCAPICCHIO: I don't have anything
15 further.

16 THE COURT: Ms. Neves, would you step
17 outside for just a second, please.

18 JUROR: Sure.

19 (Juror Number 111 exits courtroom.)

20 THE COURT: Again, Ms. Scapicchio, the
21 hardship determinations are mine. Of course, it's
22 going to be a challenge to her. I don't think
23 that that's an appropriate inquiry for you. I've
24 been extremely generous to you two asking
25 questions about things like siblings and things

1 that I don't think are terribly relevant, but this
2 is my call, and of course, it's going to be a
3 challenge to her, but she does it throughout her
4 life. She's a teller during the day, she goes to
5 school at night. All she's going to change is
6 she's going to be a juror during the day and she's
7 going to go to school at night. So please don't
8 give her the ability to find an excuse. That's
9 the only line that I'm drawing. I've been
10 extremely generous and charitable otherwise.

11 That being said, I declare her to be
12 indifferent.

13 MR. HENNING: Commonwealth is content.

14 MS. SCAPICCHIO: Defendant is content.

15 THE COURT: Okay, bring her back in.

16 (Juror Number 111 enters courtroom.)

17 THE COURT: Ms. Neves, You have been
18 chosen to be on this jury.

19 JUROR: Okay.

20 THE COURT: You're going to go upstairs
21 and join the other jurors who have been impaneled
22 during the day.

23 JUROR: All right.

24 THE COURT: I want to remind you, please
25 don't discuss this case in any way with anyone,

1 including them, nor allow anyone, including them,
2 to discuss anything about the case with you. All
3 right?

4 JUROR: Okay.

5 THE COURT: Thank you, go with the
6 Court Officer.

7 THE CLERK: Seat 7.

8 (Juror Number 111 exits courtroom.)

9 (Juror Number 116 enters courtroom.)

10 THE CLERK: Juror 116, Joshua Steiner.

11 JUROR: Yes.

12 THE COURT: Hi, Mr. Steiner. Sir, is
13 there anything about the nature of these charges
14 or any of the allegations that might affect your
15 ability to be fair and impartial?

16 JUROR: No.

17 THE COURT: You may hear alleged
18 evidence that the defendant, the alleged victim,
19 and some witnesses were involved in selling
20 marijuana. Would that evidence affect your
21 ability to be fair and impartial?

22 JUROR: No.

23 THE COURT: The defendant in a criminal
24 trial has the absolute right not to testify. If
25 Mr. Reddicks chose not to testify at this trial,

1 would you hold that against him in any way?

2 JUROR: No.

3 THE COURT: Is there anything about the
4 length of the trial that poses a hardship for you?

5 JUROR: No.

6 THE COURT: Counsel?

7 MR. HENNING: Thank you. Can you
8 explain what Thoughtbot, Inc. is and what you do
9 with them?

10 JUROR: We're a software consultancy.
11 We develop apps for other companies.

12 MR. HENNING: Do you do programming?

13 JUROR: Yes.

14 MR. HENNING: You do, okay. When did
15 you come from Connecticut to Boston?

16 JUROR: Oh, that's where I was born.
17 I only lived there for like a month.

18 MR. HENNING: You grew up in Boston?

19 JUROR: No, upstate New York.

20 MR. HENNING: And then did you come to
21 Boston for college?

22 JUROR: No, for this job.

23 MR. HENNING: For this job, okay.
24 Where did you go to college?

25 JUROR: RPI.

1 MR. HENNING: Nothing further.

2 MS. SCAPICCHIO: When you indicated that
3 you develop apps, any good ones we know?

4 JUROR: No, probably not.

5 MS. SCAPICCHIO: Just curious. I have
6 no further questions.

7 THE COURT: Sir, could you step outside
8 for just a second, please.

9 JUROR: Sure.

10 (Juror Number 116 exits courtroom.)

11 THE COURT: This juror stands
12 indifferent.

13 MR. HENNING: Content.

14 MS. SCAPICCHIO: Defendant is content,
15 Your Honor.

16 THE CLERK: That will be Seat 10, Your
17 Honor.

18 (Juror Number 116 enters courtroom.)

19 THE COURT: Hi, Mr. Steiner. You've
20 been chosen to be on this jury. You're going to
21 go upstairs in a moment to join the other
22 impaneled jurors. I'm going to ask you not to
23 discuss this case in any way with anyone,
24 including them, nor allow anyone to discuss any
25 part of the case with you. All right?

1 JUROR: Okay.

2 THE COURT: Thank you, sir, if you could
3 go with the Court Officer, please.

4 THE CLERK: Seat 10.

5 (Juror Number 116 exits courtroom.)

6 (Juror Number 117 enters courtroom.)

7 THE CLERK: Juror 117, Yudi Quintero.

8 THE COURT: Ms. Quintero, you answered
9 one of my earlier questions. Can you tell me what
10 your concern is about being on this jury?

11 JUROR: I don't speak English very well,
12 so when you speak --

13 THE COURT: You're from Columbia.

14 JUROR: Correct.

15 THE COURT: How long have you been in
16 the United States?

17 JUROR: Six years.

18 THE COURT: Do you think that you're
19 going to have trouble understanding everything
20 that's said at this trial?

21 JUROR: Correct.

22 THE COURT: All right, thank you, ma'am,
23 for bringing this to our attention. Because of
24 that, I'm going to excuse you. Thank you, ma'am,
25 you're free to go.

1 THE CLERK: Excused.

2 (Juror Number 117, excused.)

3 (Juror Number 118 enters courtroom.)

4 THE CLERK: Juror 118, Yuan Lin?

5 JUROR: Yes.

6 THE COURT: Hi, Mr. Lin. Sir, is there
7 anything about the nature of these charges or any
8 of the allegations you've heard that might affect
9 your ability to be fair and impartial?

10 JUROR: No.

11 THE COURT: You may hear alleged
12 evidence that the defendant, the alleged victim,
13 and some of the witnesses were involved in selling
14 marijuana. Would that evidence affect your
15 ability to be fair and impartial?

16 JUROR: No.

17 THE COURT: The defendant in a criminal
18 trial has the absolute right not to testify. If
19 Mr. Reddicks chose not to testify at this trial,
20 would you hold that against him in any way?

21 JUROR: No.

22 THE COURT: Is there anything about the
23 length of the trial that poses a hardship for you?

24 JUROR: Yes.

25 THE COURT: What is that?

1 JUROR: I'm actually scheduled to sell
2 my house and move out of Massachusetts in the next
3 two weeks. I have a wife and eight month old
4 baby, so we are scheduled to close selling my
5 house on the 22nd, and my wife and the kids and
6 I are flying out to California.

7 THE COURT: You've got a lot on your
8 plate, Mr. Lin, you're excused. Good luck.

9 JUROR: Thank you.

10 THE CLERK: Excused.

11 (Juror Number 118, excused.)

12 (Juror Number 119 enters courtroom.)

13 THE CLERK: Juror 119, John Maynard.

14 THE COURT: Good afternoon, Mr. Maynard.

15 JUROR: Good afternoon.

16 THE COURT: Sir, I notice that you're
17 72. By law in Massachusetts, I can't force you to
18 be on a jury unless you agree to be on a jury.

19 JUROR: I'm here by choice.

20 THE COURT: You're here by choice?

21 JUROR: I'm here by choice.

22 THE COURT: That's great, Mr. Maynard.
23 Sir, is there anything about the nature of these
24 charges or any of the allegations you've heard
25 that might affect your ability to be fair and

1 impartial?

2 JUROR: Not at all, no.

3 THE COURT: You may hear alleged
4 evidence that the defendant, the alleged victim,
5 and some of the witnesses were involved in selling
6 marijuana. Would that evidence affect your
7 ability to be fair and impartial?

8 JUROR: No.

9 THE COURT: The defendant in a criminal
10 trial has the absolute right not to testify. If
11 Mr. Reddicks chose not to testify at this trial,
12 would you hold that against him in any way?

13 JUROR: That's his right.

14 THE COURT: I love to hear that, thank
15 you. That's his absolute right.

16 Finally, sir, is there anything about
17 the length of the trial that poses a hardship for
18 you?

19 JUROR: I have a couple of doctor's
20 appointments, but they're easily postponed.

21 THE COURT: More music to my ears,
22 thank you, sir. Any follow-up?

23 MR. HENNING: I don't have any
24 questions.

25 MS. SCAPICCHIO: Hi, sir.

1 JUROR: Hi.

2 MS. SCAPICCHIO: You worked for Delta
3 Airlines?

4 JUROR: I did.

5 MS. SCAPICCHIO: How long did you work
6 for Delta?

7 JUROR: Well, I'm actually still a
8 contractor with them, so 47 years.

9 MS. SCAPICCHIO: You had checked
10 retired.

11 JUROR: I am retired. I am retired as
12 an employee, I'm a contractor.

13 MS. SCAPICCHIO: Okay, so what do you
14 do --

15 JUROR: I just do charity work now.

16 MS. SCAPICCHIO: What do you do as a
17 contractor?

18 JUROR: Charity work. I work with an
19 organization which is a 501(c)(3) which assists
20 employees that have problems with hurricanes,
21 tornadoes, floods, cancer, if they can't make
22 their payments, we're there to assist them.

23 MS. SCAPICCHIO: Employees of Delta
24 Airlines.

25 JUROR: All retirees or employees of

1 Delta Airlines, yes.

2 MS. SCAPICCHIO: So you're like the
3 squad that goes in to help them if there's --

4 JUROR: You got it, yeah.

5 MS. SCAPICCHIO: -- something going on.
6 So you're like right there with the Red Cross?

7 JUROR: Not like the Red Cross, but
8 we're there for them.

9 MS. SCAPICCHIO: Is there a certain
10 program that's run by Delta?

11 JUROR: It's not run by Delta, we're
12 totally independent. We are 501(c)(3), as I said.
13 We are totally separate from Delta, but we're made
14 up by 13 Delta employees and retirees.

15 MS. SCAPICCHIO: Okay, so you guys
16 decided to try to help each other out after you
17 retired.

18 JUROR: Exactly, yes.

19 MS. SCAPICCHIO: And so there's a team
20 of you who go in and try to help people out if
21 there's tornadoes or fires or anything like that.

22 JUROR: Exactly, world-wide, yeah.

23 MS. SCAPICCHIO: How long have you done
24 that type of charity work?

25 JUROR: Since I retired in 2002.

1 I really don't want to give up, you know. I want
2 to keep busy.

3 MS. SCAPICCHIO: I don't blame you.

4 THE COURT: I don't blame you, sir.

5 MS. SCAPICCHIO: Thank you very much.

6 I have no further questions.

7 THE COURT: Would you step outside for
8 just a second, sir.

9 JUROR: Yes.

10 (Juror Number 119 exits courtroom.)

11 THE COURT: This juror stands
12 indifferent.

13 MR. HENNING: Commonwealth is going to
14 exercise a peremptory.

15 (Juror Number 119 enters courtroom.)

16 THE COURT: Thank you, sir, you are
17 excused.

18 THE CLERK: Excused.

19 JUROR: Excused?

20 THE COURT: You are. Go figure, sir.
21 I don't get it, either.

22 JUROR: Thank you, all.

23 (Juror Number 119, excused.)

24 (Juror Number 122 enters courtroom.)

25 THE CLERK: 122, Dexter Taylor.

1 JUROR: Correct.

2 THE COURT: Hi, Mr. Taylor. Sir, is
3 there anything about the nature of these charges
4 or any of the allegations you've heard that might
5 affect your ability to be fair and impartial?

6 JUROR: No.

7 THE COURT: You may hear alleged
8 evidence that the defendant, the alleged victim,
9 and some of the witnesses were involved in selling
10 marijuana. Would that evidence affect your
11 ability to be fair and impartial?

12 JUROR: No.

13 THE COURT: The defendant in a criminal
14 trial has the absolute right not to testify. If
15 Mr. Reddicks chose not to testify at this trial,
16 would you hold that against him in any way?

17 JUROR: No, I would not.

18 THE COURT: Is there anything about the
19 length of the trial that poses a hardship for you?

20 JUROR: No.

21 THE COURT: Counsel, any follow-up?

22 MR. HENNING: Good afternoon, sir, how
23 are you?

24 JUROR: Good afternoon, sir.

25 MR. HENNING: The place of birth on your

1 sheet here wasn't listed. Are you born in Boston?

2 JUROR: Oh, yes, I forgot to mark that,
3 my apologies.

4 MR. HENNING: That's okay, no big deal.
5 So you were born in Boston.

6 JUROR: Yes.

7 MR. HENNING: Where did you go to high
8 school?

9 JUROR: Dorchester High.

10 MR. HENNING: Dorchester High, okay.
11 Were your children raised in the city?

12 JUROR: Yes, they were.

13 MR. HENNING: Down in the experience
14 with the law section, it says were you or anyone
15 in your household ever arrested, charged with a
16 crime, or convicted of a crime. Can you identify
17 who the person was that you listed the assault and
18 battery for?

19 JUROR: That's for myself.

20 MR. HENNING: Can you just explain what
21 you remember about the case?

22 JUROR: That case was back in 2009.
23 I had a stepson that swung one of them old iron
24 snow shovels at me, and I basically defended
25 myself, but I still caught a charge for defending

1 myself at the time, so I said whatever's whatever.
2 And then down the road, I ended up getting rid of
3 the ex-wife, too, along with him. Canned them
4 both. Hey, you know what they say, the first one
5 to put his cards on the table, like Kenny Loggins.
6 Know when to fold them, get rid of them.

7 THE COURT: Can we move this on, please?
8 Thank you.

9 MR. HENNING: In that particular
10 incident, do you remember what the result of the
11 case was?

12 JUROR: I caught a one year probation,
13 I had to go through a domestic violence batterers
14 program which was for nine months out of Roxbury
15 District Court.

16 MR. HENNING: Was that by Boston Police,
17 was it an arrest by Boston Police?

18 JUROR: Boston Police.

19 MR. HENNING: The experience that you
20 had through that case, does that make you have any
21 feelings toward the Boston Police Department or
22 the Suffolk County District Attorney's Office?

23 JUROR: I don't so much as blame them
24 for that because I had a house that was completely
25 out of control. So, basically, it's a two-sided

1 coin. The police came there to deal with a
2 situation that was already out of control, so
3 I basically had to rectify to say look, I'll take
4 the hit and go on about my business and file for
5 the divorce and leave it at that.

6 MR. HENNING: Nothing further, Your
7 Honor.

8 THE COURT: Ms. Scapicchio?

9 MS. SCAPICCHIO: I hate to bring up the
10 subject, but what did your ex-wife do for a living
11 before you got rid of her?

12 JUROR: Oh, she works right down the
13 street at Mass General Hospital down there in the
14 admin department.

15 MS. SCAPICCHIO: Okay, and that's where
16 she worked when you were married?

17 JUROR: Yes.

18 MS. SCAPICCHIO: I think you told the
19 prosecutor you have two kids that you raised in
20 the city; is that right?

21 JUROR: I have a daughter that is 26 and
22 I have a son that is 22 going to Northeastern
23 University, whom will graduate next year for
24 engineering.

25 MS. SCAPICCHIO: What is he studying?

1 JUROR: He's going to be an engineer.

2 MS. SCAPICCHIO: Great. That's all.

3 JUROR: And my daughter is a school
4 teacher in the Walpole School System.

5 MS. SCAPICCHIO: Perfect. I don't have
6 any further questions.

7 THE COURT: Sir, would you mind stepping
8 outside for just a moment, please.

9 JUROR: Sure.

10 (Juror Number 122 exits courtroom.)

11 THE COURT: This juror stands
12 indifferent.

13 MR. HENNING: Commonwealth is content.

14 MS. SCAPICCHIO: Defendant is content.

15 (Juror Number 122 enters courtroom.)

16 THE COURT: Mr. Taylor, you've been
17 chosen to be on this jury. You're going to be
18 taken up to join the other jurors who have been
19 impaneled. Please don't discuss anything about
20 this case with them, nor allow them to discuss
21 anything about the case with you. All right?

22 JUROR: Thank you, ma'am.

23 THE COURT: Thank you, sir. Go with
24 the Court Officer.

25 THE CLERK: Seat 11.

1 JUROR: This is the first time I've ever
2 been picked for a panel in all my years of coming
3 for jury service, no matter where it is in the
4 city, sent home after lunch.

5 THE COURT: Well, you are not being sent
6 home, sir, you are on this jury. Congratulations.

7 (Juror Number 122 exits courtroom.)

8 (Juror Number 123 enters courtroom.)

9 THE CLERK: 123, Natividad Figueroa.

10 JUROR: Yes, sir.

11 THE COURT: Ms. Figueroa, you answered
12 one of my earlier questions. Can you tell me what
13 your concern is? Is it a language problem?

14 JUROR: Not really. English is my
15 second language.

16 THE COURT: Okay, so why did you raise
17 your hand, is it because of a language problem?

18 JUROR: Yeah.

19 THE COURT: Where were you born?

20 JUROR: Puerto Rico.

21 THE COURT: Do you think you might have
22 problems understanding everything that's said at
23 this trial?

24 JUROR: Yes.

25 THE COURT: Thank you, ma'am, you are

1 excused.

2 JUROR: Thank you.

3 THE CLERK: Excused.

4 (Juror Number 123, excused.)

5 (Juror Number 125 enters courtroom.)

6 THE CLERK: 125, Robert Mullally.

7 THE COURT: Good afternoon,
8 Mr. Mullally. Would you have the tendency to
9 believe the testimony of a police officer over
10 that of a civilian just because he was a police
11 officer?

12 JUROR: Yes.

13 THE COURT: Thank you, sir, you are
14 excused.

15 THE CLERK: Excused.

16 (Juror Number 125, excused.)

17 (Juror Number 126 enters courtroom.)

18 THE CLERK: 126, Walter Rincon.

19 JUROR: Yes, sir.

20 THE COURT: Mr. Rincon, you answered one
21 of my earlier questions. Can you tell me what
22 your concern is about being on this jury?

23 JUROR: The thing is that I'm not very
24 fluid in my English.

25 THE COURT: You're from Columbia,

1 correct?

2 JUROR: Yes, ma'am.

3 THE COURT: But you also indicated
4 you've been seated as a juror before.

5 JUROR: I did, but that's why I raised
6 my --

7 THE COURT: You had trouble at the last
8 trial?

9 JUROR: Yeah, the last.

10 THE COURT: All right, thank you, sir,
11 you are excused.

12 THE CLERK: Excused.

13 (Juror Number 126, excused.)

14 (Juror Number 127 enters courtroom.)

15 THE CLERK: 127, Gisell Delacruz.

16 THE COURT: Hi, Ms. Delacruz.

17 JUROR: Hi.

18 THE COURT: Ma'am, is there anything
19 about the nature of these charges or any of the
20 allegations you've heard that might affect your
21 ability to be fair and impartial?

22 JUROR: No.

23 THE COURT: You may hear alleged
24 evidence that the defendant, the alleged victim,
25 and some of the witnesses were involved in selling

1 marijuana. Would that evidence affect your
2 ability to be fair and impartial?

3 JUROR: No.

4 THE COURT: The defendant in a criminal
5 trial has the absolute right not to testify. If
6 Mr. Reddicks chose not to testify at this trial,
7 would you hold that against him in any way?

8 JUROR: No.

9 THE COURT: Is there anything about the
10 length of the trial that poses a hardship for you?

11 JUROR: It's just I have two little
12 ones.

13 THE COURT: Well, you work at Boston
14 Children's Hospital.

15 JUROR: Yes, I do.

16 THE COURT: What hours do you work
17 there?

18 JUROR: I work there from 8:30 to 5.

19 THE COURT: Well, you'd be here from 9
20 to 4 which is fewer hours. Who takes care of your
21 babies when you're at work?

22 JUROR: I work three days a week. I'm a
23 part-time person.

24 THE COURT: I see. Would you not have
25 daycare for the other two days?

1 JUROR: No, I do, I do, I can get
2 daycare.

3 THE COURT: You can do this?

4 JUROR: Um-hmm.

5 THE COURT: All right, great. So you
6 would be willing to get daycare for the other two
7 days?

8 JUROR: I can try, yes.

9 THE COURT: Excellent. Any follow-up
10 questions?

11 MR. HENNING: I don't have any follow-up
12 questions. Thank you.

13 THE COURT: Ms. Scapicchio?

14 MS. SCAPICCHIO: I have a few. You said
15 Boston Children's Hospital and then?

16 JUROR: Nephrology.

17 MS. SCAPICCHIO: Can you tell me what
18 that is?

19 JUROR: Sure, it's the kidney
20 department, deal with kidneys.

21 MS. SCAPICCHIO: So kidney problems.

22 JUROR: Yes.

23 MS. SCAPICCHIO: And in terms of your
24 job at Boston Children's Hospital, how long have
25 you worked for them?

1 JUROR: Eight years.

2 MS. SCAPICCHIO: Eight years, okay.

3 You went to college?

4 JUROR: Some college.

5 MS. SCAPICCHIO: Where did you go to
6 college?

7 JUROR: I went to Bunker Hill.

8 MS. SCAPICCHIO: And how long ago was
9 that?

10 JUROR: A couple of years ago.

11 MS. SCAPICCHIO: Okay, you're not still
12 trying to go to Bunker Hill and work and take care
13 of kids.

14 JUROR: I try, yeah. I want to, yeah.
15 That's my plans right now.

16 MS. SCAPICCHIO: All right, thank you.

17 THE COURT: Ma'am, could you step
18 outside for just a second, please.

19 JUROR: Sure.

20 (Juror Number 127 exits courtroom.)

21 THE COURT: This juror stands
22 indifferent.

23 MR. HENNING: Commonwealth is going to
24 exercise a peremptory.

25 (Juror Number 127 enters courtroom.)

1 THE COURT: Thank you, ma'am, you are
2 excused.

3 THE CLERK: Excused.

4 (Juror Number 127, excused.)

5 (Juror Number 130 enters courtroom.)

6 THE CLERK: 130, Brian Donnelly.

7 THE COURT: Mr. Donnelly, would you have
8 the tendency to believe the testimony of a
9 civilian witness over a police officer witness
10 just because he or she were a civilian?

11 JUROR: Yes.

12 THE COURT: Thank you, sir, you are
13 excused.

14 THE CLERK: Excused.

15 (Juror Number 130, excused.)

16 (Juror Number 134 enters courtroom.)

17 THE CLERK: 134, Keva Phillips.

18 THE COURT: Hi, Ms. Phillips.

19 JUROR: Hi.

20 THE COURT: You answered one of my
21 earlier questions. Would you have the tendency to
22 believe the testimony of a police officer witness
23 over the testimony of a civilian witness just
24 because he or she were a police officer?

25 JUROR: Yes.

1 THE COURT: Thank you, ma'am, you are
2 excused.

3 THE CLERK: Excused.

4 (Juror Number 134, excused.)

5 (Juror Number 135 enters courtroom.)

6 THE CLERK: 135, Brian Quinn.

7 THE COURT: Hi, Mr. Quinn.

8 JUROR: Hi, how are you?

9 THE COURT: Sir, is there anything about
10 the nature of these charges or any of the
11 allegations you've heard that might affect your
12 ability to be fair and impartial?

13 JUROR: No.

14 THE COURT: You may hear alleged
15 evidence that the defendant, the alleged victim,
16 and some of the witnesses were involved in selling
17 marijuana. Would that evidence affect your
18 ability to be fair and impartial?

19 JUROR: No.

20 THE COURT: The defendant in a criminal
21 trial has the absolute right not to testify. If
22 Mr. Reddicks chose not to testify at this trial,
23 would you hold that against him in any way?

24 JUROR: No.

25 THE COURT: Is there anything about the

1 length of the trial that poses a hardship for you?

2 JUROR: No.

3 THE COURT: Any follow-up, Counsel?

4 MR. HENNING: Sir, you were born in
5 Ireland?

6 JUROR: Yes.

7 MR. HENNING: When did you come to the
8 United States?

9 JUROR: In '85, I think it was. '84,
10 '85.

11 MR. HENNING: Did you come right to
12 Boston after that?

13 JUROR: No, I was in Seattle first and
14 then Holyoke and then here.

15 MR. HENNING: How long have you lived in
16 Boston?

17 JUROR: I think about 22 years or so.

18 MR. HENNING: Nothing further.

19 THE COURT: Ms. Scapicchio?

20 MS. SCAPICCHIO: You indicated that you
21 worked at a capital management firm as a
22 treasurer?

23 JUROR: Yes.

24 MS. SCAPICCHIO: What do you do for them
25 exactly?

1 JUROR: I manage their money.

2 MS. SCAPICCHIO: You manage their money?

3 JUROR: Yes.

4 MS. SCAPICCHIO: And how long have you
5 done that?

6 JUROR: 17 years. Before that, I was at
7 Harvard.

8 MS. SCAPICCHIO: I'm sorry?

9 JUROR: Before that, I was at Harvard
10 Management.

11 MS. SCAPICCHIO: Harvard University?

12 JUROR: No, the management company.

13 MS. SCAPICCHIO: Harvard Management
14 Company, okay. And then you indicated that you
15 were married and you have a stay-at-home wife; is
16 that right?

17 JUROR: Yes.

18 MS. SCAPICCHIO: And she attended
19 college. What college did she attend?

20 JUROR: College in Ireland.

21 MS. SCAPICCHIO: Oh, she went to school
22 in Ireland.

23 JUROR: Yes.

24 MS. SCAPICCHIO: And you both came over
25 together.

1 JUROR: No, she just recently came over.

2 MS. SCAPICCHIO: And then you indicated
3 you had served on a jury before?

4 JUROR: Yeah, I can't remember how many
5 years ago, it could have been two, time seems to
6 slip by. It was in Dorchester and it makes me
7 feel like -- I felt like it was yesterday.

8 MS. SCAPICCHIO: Does that mean it was
9 not a good experience, was it a bad experience, or
10 you didn't really take it either way?

11 JUROR: It was three days. This one
12 seems like it's going to go for a little bit
13 longer.

14 THE COURT: Oh, yes.

15 MS. SCAPICCHIO: But the experience that
16 you had on the three day trial in Dorchester --

17 JUROR: Well, it's an inconvenience,
18 right? But not a hardship.

19 THE COURT: But was it a good experience
20 for a bad experience for you?

21 JUROR: It was a different experience,
22 I wouldn't rank it as one of the top experiences
23 of my life.

24 MS. SCAPICCHIO: Did you come away with
25 a feeling that it was a waste of time or that --

1 JUROR: It wasn't a waste of time for
2 the people there, but I felt like it could have
3 been a waste of time for me. I mean, it was a
4 petty, stupid situation that I don't think they
5 should have wasted anyone's time with. That was
6 the situation of that trial. Plus, it was around
7 the holiday, so I thought, why are they here?

8 MS. SCAPICCHIO: Thank you, I have
9 nothing further.

10 THE COURT: Sir, could you step outside
11 for just a second.

12 (Juror Number 135 exits courtroom.)

13 THE COURT: This juror stands
14 indifferent.

15 MR. HENNING: Commonwealth is content.

16 MS. SCAPICCHIO: Defendant would
17 challenge.

18 (Juror Number 135 enters courtroom.)

19 THE COURT: Thank you, sir, you are
20 excused.

21 THE CLERK: Excused.

22 (Juror Number 135, excused.)

23 (Juror Number 137 enters courtroom.)

24 THE CLERK: 137, Entela Arapi.

25 JUROR: Yes.

1 THE COURT: Ma'am, you answered one of
2 my earlier questions. Do you have some concern
3 about health or language difficulties?

4 JUROR: Language.

5 THE COURT: Are you from Albania? Is
6 that a yes?

7 JUROR: Yes.

8 THE COURT: And would you have trouble
9 understanding everything that's said at this
10 trial?

11 JUROR: A lot.

12 THE COURT: Okay, thank you, ma'am, you
13 are excused.

14 JUROR: I can say I don't understand
15 anything.

16 THE COURT: I understand. Thank you,
17 ma'am.

18 THE CLERK: You're excused.

19 JUROR: So am I all set?

20 THE COURT: You're all set.

21 JUROR: Free to go home?

22 THE COURT: You are.

23 JUROR: Thank you.

24 (Juror Number 137, excused.)

25 THE COURT: We have 11, we need five.

1 I have to get going very quickly to get to my
2 dental appointment. I need to bring the jury
3 down. When should we tell these jurors to come
4 back, what time in the morning, 10:30?

5 THE CLERK: I would say 10:30.

6 MS. SCAPICCHIO: I would say 11 because
7 we probably have a half hour after we impanel the
8 jury to deal with all the issues. I think 11.
9 Just so they're not sitting.

10 THE COURT: All right, let's tell them
11 to come back at 11. Hand in your jury
12 questionnaires, please.

13 Bring them right down, Michael.

14 COURT OFFICER: I will.

15 (Jurors entering.)

16 COURT OFFICER: This Honorable Court is
17 now back in session, you may be seated.

18 THE COURT: Well, members of the jury,
19 I know it's been a long day, especially from right
20 to left in the back row and right to left in the
21 front row, you can tell how long you've been here.
22 Number one has been here the longest and the
23 gentleman on the far left in the front row has
24 been here the least. But it's been a long day for
25 all of you.

1 We have exhausted the jury pool this
2 afternoon and we have not yet impaneled the
3 requisite number of 16 jurors. So we're going to
4 do this again tomorrow and get the last five. We
5 have 11 of you, so you can do the math, we're
6 going to do the five in a lot less time tomorrow.
7 But I don't want to inconvenience you more than
8 I have to, so I'm going to ask that you report
9 back here, report directly to that jury room which
10 is your home away from home for the next little
11 while, at 11 o'clock in the morning. So you get
12 to sleep in or do whatever you want to do, but
13 I don't want to inconvenience you. By 11 o'clock,
14 we expect that we will be able to hit the ground
15 and start the trial at 11 o'clock tomorrow
16 morning, but I don't want you to be sitting up
17 there unnecessarily.

18 So please report by 11 o'clock right to
19 that jury room. If you're delayed, you're going
20 to delay the trial, so please try to be here on
21 time. If we're delayed down here, you'll know
22 why, because we haven't finished getting the last
23 five jurors.

24 Before I let you go, members of the
25 jury, I'm going to ask you for a few things.

1 Number one, we're going to start the trial
2 tomorrow. I don't impose any dress code on my
3 jurors, but I just want you to think about coming
4 back for the rest of this trial dressed as if
5 you're going to court, however you define that.

6 Number two, and more importantly, as
7 I've been telling you along the way, please do not
8 communicate with anyone, including yourselves,
9 about any aspect of this trial, nor allow anyone
10 to communicate with you about any aspect of this
11 trial. And I mean no verbal, written, or
12 electronic communication to you or from you about
13 the trial.

14 In addition, please don't engage in any
15 outside research about the case, so no legal or
16 medical research, Internet or web surfing,
17 Googling or the like. Please have no contact with
18 any of these trial participants or anyone
19 associated with either side. They're under strict
20 orders that they can't approach you in any way,
21 shape or form, but we try to avoid inadvertent
22 overhearing of conversations in the elevators,
23 lunch line downstairs, corridors, and the like.
24 Please don't visit any locations that have been
25 mentioned very briefly at the outset of this

1 proceeding, and please, of course, always continue
2 to keep an open mind.

3 With that being said, members of the
4 jury, you are impaneled members of the jury,
5 I just want to let you know that. Please be back
6 here by 11 o'clock tomorrow morning, report
7 directly to that jury room, not to the second
8 floor, not to this courtroom, to the jury room,
9 and we expect that we're going to start the trial
10 around 11 o'clock.

11 Yes, sir?

12 JUROR: That's the one marked 907,
13 correct?

14 THE COURT: Officer Loperari will give
15 you all that information, okay? So if you need to
16 write down the name of the room, this is courtroom
17 907, but you're going to report up one floor, the
18 mezzanine floor, to the jury room affiliated with
19 this courtroom. Okay?

20 JUROR: Thank you.

21 THE COURT: Thank you so much, ladies
22 and gentlemen. I know it's been a long slog for
23 you, but please understand how important this part
24 of the proceeding is to the parties involved.
25 Have a lovely afternoon, we'll see you back here

1 by 11 o'clock tomorrow morning.

2 COURT OFFICER: All rise. Jurors, step
3 down and follow me, please.

4 (Jury excused.)

5 THE COURT: Thanks, everybody. I'll see
6 you all back here at 9 o'clock tomorrow morning.

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9 (Court adjourned at 3:45 p.m.)

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C E R T I F I C A T E

I, Nancy McCann, do hereby certify that the foregoing 318 pages is a complete, accurate and true recording of the proceedings held before the Honorable Linda E. Giles in the aforesaid matter on Wednesday, January 13, 2016 to the best of my knowledge, skill and ability.

Nancy McCann, CVR-C.M.

Official Court Reporter

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ID: G-K

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, SS.

SUPERIOR COURT DEPARTMENT
Of THE TRIAL COURT

* * * * *
COMMONWEALTH OF MASSACHUSETTS *
*
-v- * SUCR 2012-10714
*
CHARLES REDDICKS *
* * * * *

JURY TRIAL
(DAY 2)

BEFORE: HONORABLE LINDA E. GILES
Suffolk Superior Courthouse
Courtroom 907
Boston, Massachusetts
Thursday, January 14, 2016

Gregory Henning, Assistant District Attorney
For the Commonwealth of Massachusetts

Rosemary Scapicchio, Esquire
Jillese McDonough, Esquire
On behalf of the defendant Charles Reddicks.

NANCY MCCANN, CVR-C.M.
OFFICIAL COURT REPORTER
SUFFOLK SUPERIOR COURT

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P R O C E E D I N G S

Thursday, January 14, 2016

(Court in session at 9:25 a.m.)

(Defendant is present.)

THE CLERK: Your Honor, once again before the Court, Commonwealth versus Charles Reddicks, 2012-10714. Defendant is present with his attorneys, Ms. Scapicchio and Ms. McDonough. For the Commonwealth, ADA Henning.

THE COURT: Good morning, everybody. We got a couple of hits on jurors that were seated yesterday. The first one is Katherine Abrego, A-B-R-E-G-O. I'm assuming both of you have seen the response? It seems like a suspended license that was dismissed upon the payment of court costs. Does anybody have any concerns about Ms. Abrego and the response that came back on her CORI record?

MR. HENNING: No, Your Honor.

MS. SCAPICCHIO: No, Your Honor.

THE COURT: That may be marked for identification.

(Exhibit G was marked for Identification, Board of Probation Record, Juror Number 102, Seat Number 5.)

1 THE COURT: There was no hit on Joshua
2 Steiner, but that may be marked for
3 identification.

4 (Exhibit H was marked for
5 Identification, Board of Probation Record, Juror
6 Number 116, Seat Number 10.)

7 THE COURT: However, we may have a
8 problem with the last juror seated in Seat 11.

9 MS. SCAPICCHIO: Who was so glad to
10 serve.

11 THE COURT: Who was very glad to serve
12 and he was very amusing, as I recall. Dexter
13 Taylor comes back with a three-page record, and on
14 his questionnaire, he only put down assault and
15 battery. The jurors impaneled yesterday aren't
16 coming in till 11, so we're going to proceed.
17 Unfortunately, because we're competing with
18 another session, we're only getting 45 venire
19 people today. So I'm going to press on, we're
20 going to impanel, if we can, we're going to
21 impanel six. We only need five today, but I have
22 a concern that once we talked to Mr. Taylor, there
23 may be an exercise of a peremptory by either one
24 of you.

25 MS. SCAPICCHIO: Not by me.

1 THE COURT: I'm anticipating that
2 Mr. Henning may want to exercise a peremptory when
3 you see that it's a three-page record.

4 MS. SCAPICCHIO: Judge, I just want to
5 inquire, I haven't gotten anything back from the
6 victim database, I just want to make sure it's
7 already been run and nothing came back.

8 MR. HENNING: No, I have it here, it was
9 run, the only thing that came back is a defendant
10 situation, so people who come back as defendants,
11 but nothing has been listed as a victim or a
12 witness.

13 MS. SCAPICCHIO: Okay, I just wanted to
14 make sure.

15 THE COURT: So let's press on. As
16 I say, we only have the 45 today, but I'm going to
17 impanel, if we can, six, by 11 o'clock. But at
18 some point when Mr. Taylor comes in, we will bring
19 him down and have an inquiry of him and then we'll
20 know whether we need to go forward with six today.

21 Just for your edification, if we get 15
22 with or without the challenge to Mr. Taylor, I'm
23 going to be happy to go forward with 15 and we
24 will go forward with 15. We're not going to
25 impanel again on Friday. All right? I just want

1 to let you all know that.

2 (Exhibit I was marked for
3 identification, Board of Probation Record, Juror
4 Number 122, Seat Number 11.)

5 COURT OFFICER: Jurors are on the way
6 up, Your Honor.

7 THE COURT: Okay, everybody is lined up,
8 ready to come in. Anything we need to talk about?

9 MS. SCAPICCHIO: Not right now, but at
10 the end of the day, if I could have a few minutes
11 of your time.

12 THE COURT: Absolutely.

13 All right, thanks, everybody.

14 (Venire entering at 9:40 a.m.)

15 THE CLERK: Your Honor, before the
16 Court, Commonwealth versus Charles Reddicks,
17 2012-10714. Mr. Reddicks is present with his
18 attorneys, Rosemary Scapicchio and Jillise
19 McDonough. For the Commonwealth, Assistant
20 District Attorney Gregory Henning.

21 IMPANELMENT (Continued)

22 THE COURT: Good morning, ladies and
23 gentlemen. My name is Judge Linda Giles, that's
24 spelled G-I-L-E-S, and I'm a justice of the
25 Superior Court in whose courthouse you find

1 yourselves here today for a very important public
2 service which, of course, is jury service.

3 First of all, I want to apologize for
4 the delay in bringing you up here. We've all been
5 here since first thing this morning, but as you
6 might imagine, you had to go through an
7 orientation process, plus there's a considerable
8 amount of paperwork that needs to be accomplished
9 before we can bring you up here. But we are ready
10 to proceed with a very important stage in these
11 proceedings which is called impanelment, and in
12 just a moment, I'm going to explain to you that
13 procedure in which you're going to participate.
14 After that, I'm going to give you a brief overview
15 of what this case is all about, and finally, I'm
16 going to introduce you to the participants in this
17 particular trial.

18 Now, let me explain to you the
19 impanelment process in case none of you has been
20 involved in one in the past. In just a moment,
21 I'm going to ask you a series of questions that
22 will assure that you can be a fair and impartial
23 juror in this case. As I'm asking these
24 questions, if you answer yes to one or more of my
25 questions, please raise that white juror card high

1 until one of the court officers has made note of
2 your number.

3 After I've asked that series of
4 questions, a few things are going to happen.
5 First of all, the Court Officers are going to take
6 you to an empty courtroom elsewhere in the
7 building and you're going to be brought in here,
8 back into the courtroom through that side door,
9 and the attorneys and the defendant and I are all
10 going to be sitting at that back table there.
11 You're going to come in through that side door and
12 sit at that chair right at the end of the table.
13 I'm going to have a few additional questions to
14 ask you privately, in other words, out of the
15 hearing of the other ladies and gentlemen in the
16 courtroom now, and the attorneys may have some
17 follow-up questions of you, too.

18 Now, along the way, during this process,
19 the attorneys have the right to exercise a certain
20 number of excuses of you for any reason or no
21 reason at all. And let me say at this juncture
22 that if you are excused from being on this jury
23 today, please don't take it personally. As I just
24 indicated, the attorneys have the absolute right
25 and prerogative to excuse a certain number of you

1 for no reason at all.

2 But I also have to add that if you are
3 excused from being on this jury today, please
4 don't think you're wiggling off the proverbial
5 hook of jury service. If you're excused from
6 being on this jury today, you're going to be
7 directed right back down to the second floor jury
8 pool room for possible impanelment on another
9 trial, another unrelated trial elsewhere in the
10 building.

11 This building, by the way, is the home
12 to the Suffolk County Superior Court. The
13 Superior Court is the major trial court here in
14 Massachusetts. Its jurisdiction is statewide.
15 You are in the Suffolk County Division of the
16 Superior Court. This building houses something
17 like 16 active trial sessions, as we call our
18 courtrooms, hearing either civil, that is
19 noncriminal cases, or criminal cases on a daily
20 basis. So every day that this building is open,
21 up to 16 active hungry trial sessions could be in
22 need of your services. So if you are excused
23 from being on this jury today, you're going to be
24 directed back down to the second floor jury pool
25 room for possible impanelment elsewhere in the

1 building.

2 And as with everything else in your
3 life, you will not know what will lie around the
4 corner of your existence in this building if
5 you're excused from this trial. Those other
6 trials that may be waiting you elsewhere in the
7 building may not involve, may not be as
8 interesting as this case is, and I can assure you
9 that this is a very interesting case for a juror
10 to be observing. And plus, those other cases may
11 not involve attorneys of the caliber that I have
12 before me today, and I have three great attorneys.
13 This is going to be a great trial and a wonderful
14 one for any juror to want to observe, I can assure
15 you that. So I just want to let you know that if
16 you are excused from this jury, you may be
17 impaneled elsewhere on another unrelated case
18 elsewhere in the building.

19 We're going to proceed in this
20 fashion. As I said, I have some questions of you
21 initially as a group, then we're going to bring
22 you in one at a time and I have couple of
23 additional questions of you and the attorneys also
24 may have some additional questions of you. The
25 attorneys will exercise whatever excuses they have

1 of you, and once we have the number of required
2 jurors for this trial, the rest of you will be
3 excused with our thanks for your participation in
4 these proceedings, but of course, you'll be
5 directed right back down to the jury pool room
6 for possible impanelment elsewhere on another
7 unrelated trial going on in this building.

8 So now, let me explain to you what
9 this case is all about. This is the trial of a
10 criminal case. Specifically, it's the trial of
11 the Commonwealth versus Charles Reddicks.
12 Mr. Reddicks spells his last name R-E-D-D-I-C-K-S.
13 Mr. Reddicks is facing five indictments, in
14 other words, five charges. First of all, the
15 Commonwealth is charging him with the crime of
16 murder in the first degree. The alleged victim
17 in that indictment is one Mariano Malave.
18 Mr. Malave spells his name M-A-L-A-V-E.

19 In addition to murder in the first
20 degree, Mr. Reddicks is also charged with armed
21 robbery, also of Mr. Malave. He's charged in
22 addition with the unlawful possession of a
23 firearm, the unlawful possession of ammunition,
24 and finally, a separate charge of the carrying of
25 a loaded firearm. All of these charges alleged

1 to have occurred on April 27, 2012 in the Jamaica
2 Plain section of Boston.

3 Let me give you a further idea of what
4 the allegations are in this case. The
5 Commonwealth alleges that the defendant,
6 Mr. Reddicks, arranged to purchase marijuana from
7 the alleged victim, Mariano Malave, at 132 Hyde
8 Park Avenue in the Jamaica Plain section of Boston
9 on April 27th, 2012. The Commonwealth alleges
10 that during the transaction, Mr. Reddicks robbed,
11 shot, and killed Mr. Malave. Mr. Reddicks denies
12 each and every one of these allegations and has
13 pled guilty to each of these five indictments,
14 and that's why we're all assembled in this
15 courtroom --

16 MS. SCAPICCHIO: Objection, Your Honor.
17 You just said the defendant pled guilty to each
18 and every one of these indictments.

19 THE COURT: Oh, I apologize, please.
20 Thank you, Ms. Scapicchio, I absolutely misspoke
21 in that regard. Let me make it perfectly clear.
22 I apologize. I apologize, Mr. Reddicks.

23 Mr. Reddicks has pled not guilty, not
24 guilty to each and every one of these five
25 indictments, and he denies each and every one of

1 these allegations. So let me make that perfectly
2 clear again. Mr. Reddicks has pled not guilty to
3 each of these five charges and denies each and
4 every one of these allegations, and that, in turn,
5 is why we're all assembled in this room, for the
6 parties to pick a jury, to hear evidence, to
7 determine whether or not the Commonwealth can
8 prove any or all of these charges against
9 Mr. Reddicks beyond a reasonable doubt.

10 Thank you, Ms. Scapicchio, for
11 correcting me in that regard.

12 Now, let me introduce you now to the
13 participants in this trial. Ms. Henning, could
14 you introduce yourself and who you represent.

15 MR. HENNING: Thank you, Your Honor.

16 Good morning, ladies and gentlemen. My
17 name is Gregory Henning, I'm a prosecutor in the
18 Suffolk County District Attorney's Office, and
19 I live in Dorchester. Thank you for being here.

20 THE COURT: Ms. Scapicchio, could you
21 introduce yourself, your colleague, and your
22 client, please.

23 MS. SCAPICCHIO: Thank you very much,
24 Your Honor.

25 Good morning, ladies and gentlemen. My

1 name is Rosemary Scapicchio, I have a law office
2 here in Boston. I represent Charles Reddicks.

3 MR. REDDICKS: Good morning.

4 MS. SCAPICCHIO: He's the defendant in
5 the case. And with me is Attorney Jillise
6 McDonough.

7 MS. McDONOUGH: Good morning, ladies
8 and gentlemen.

9 THE COURT: Thank you, all.

10 Now, ladies and gentlemen, I'm going to
11 list for you the potential witnesses in this case.
12 Not all these individuals may be called, but their
13 names could come up, and we want to make sure that
14 you're not associated with any of these
15 participants, the attorneys, the defendant, or
16 any of the potential witnesses in this case.

17 Leanne Parker of Maine; Rod Meneide,
18 M-E-N-E-I-D-E, of Boston; Ronald Theodat, T-H-E-O-
19 D-A-T, of Boston; Boston Police Officer Robert
20 Cordasco; Boston EMS Paramedic Joe Amaral; Boston
21 Police Detective Bernadette Sullivan; Ruth Camille
22 of Boston; Elissa Dennehy of Boston; Edwin
23 Lockhart of Boston; Julio Alex Balbuena, B-A-L-B-
24 U-E-N-A, of Brockton; Pamela Arthur of Boston;
25 Ian Follette, F-O-L-L-E-T-T-E, of Boston; Sean

1 Warfield of Boston; Boston Police Detective Andrew
2 Gambon; Thomas Washington of Boston; Boston Police
3 Sergeant Detective Kevin Witherspoon; Raymond
4 McDonald of Boston; Patrick Quinn of Norton.

5 Except where otherwise indicated, these
6 are all Boston Police Officers: Cesar Abreu;
7 Kenneth Autio, A-U-T-I-O; Robert Boyle; Oscar
8 Calderon; Franklyn Centeio, C-E-N-T-E-I-O; Paul
9 Coffey; Tabatha Coleman; Detective Luis Cruz;
10 State Police Trooper Duane; Sergeant Detective
11 Daniel Duff; Angel Figueoria; Korey Franklin;
12 Jamila Gales; Officer Giraldo; Officer Haley;
13 Officer Harrigan; Officer Hebard, H-E-B-A-R-D.

14 Again, all these are officers at the
15 Boston Police Department: Wayne Hester; Patrick
16 Rogers; William Moran; Mario Lozano; Robert
17 LaColla; Patrick Layden; Christopher MacNeil;
18 Detective Jose Marichal; Richard Moriarty; John
19 Noberini; N-O-B-E-R-I-N-I; Stephen Parenteau, P-A-
20 R-E-N-T-E-A-U; Sergeant Santry; and Officer Sean
21 Scannell.

22 In addition, a civilian witness by the
23 name of Steven Verneau, V-E-R-N-E-A-U, of Essex,
24 Massachusetts.

25 My second mistake and hopefully my last

1 mistake, ladies and gentlemen, today. I wasn't
2 looking on the back side. Thank you for bringing
3 that to my attention.

4 In addition, Catherine Reddicks of
5 Boston; Khadijah, K-H-A-D-I-J-A-H, Warren of
6 Boston; Boston Police Detective Tyrone Camper;
7 Robert Creedon of Norwell; MBTA Detective Bruce
8 Dolloff, D-O-L-L-O-F-F; Boston Police Sergeant
9 Detective Richard Daley; Dr. Katherine Lindstrom
10 of the Office of the Chief Medical Examiner; Ioan
11 Truta, T-R-U-T-A, of the Boston Police Latent
12 Print Unit; Massachusetts State Police Crime
13 Laboratory employee, John Biello, B-I-E-L-L-O;
14 Boston Police Detective John Callahan; Terri Hyman
15 of Boston; Javeon, J-A-V-E-O-N, Hyman of Boston;
16 John Hyman of Boston.

17 As well as the following Boston Police
18 Officers: Christopher Ross; Detective Molwyn
19 Shaw; Sergeant Sean Smith; Daniel Sparrow; Jose
20 Texeira; Officer Walsh, and Officer Paul Wright.

21 In addition, the following civilians:
22 Valerie Basnight, B-A-S-N-I-G-H-T, of Jamaica
23 Plain; Brendan Deady, D-E-A-D-Y, of Jamaica Plain;
24 Renea Jones of Jamaica Plain; Johnson Laurore,
25 L-A-U-R-O-R-E, of Dorchester; Sam Steeves of

1 Jamaica Plain; Justin Young of Jamaica Plain;
2 Investigator Oneil LeBlanc; and Dr. Jennifer
3 Lipman of Melrose.

4 Counsel, have I missed anybody now?

5 MS. SCAPICCHIO: I don't believe so, no,
6 Your Honor.

7 THE COURT: Great, thank you.

8 Now, ladies and gentlemen, I've
9 explained to you the process which we call
10 impanelment, I've given you a brief overview of
11 what this case is all about, and finally, I've
12 introduced you to the trial participants in this
13 case.

14 At this point, Mr. Kalell, our Clerk,
15 who's seated in front of me, is going to ask you
16 to stand so that he can swear you in so that I can
17 ask you that series of questions.

18 THE CLERK: Jurors, please rise. Please
19 raise your right hand.

20 Do you solemnly swear that you will make
21 true answers to such questions as shall be put to
22 you by the Court in the matter now in hearing, so
23 help you God?

24 (Jurors respond affirmatively.)

25 THE CLERK: You may be seated.

1 THE COURT: First, I'm going to ask
2 whether you or any member of your immediate family
3 or a close personal friend know or are you related
4 to any of the attorneys in this case or anyone who
5 works for his or her office.

6 I see no affirmative responses.

7 Do you or any member of your immediate
8 family or a close personal friend know or are you
9 related to the defendant, Mr. Charles Reddicks, or
10 any member of his family?

11 I see no affirmative responses.

12 Do you or any member of your immediate
13 family or a close personal friend know or are you
14 related to the alleged victim in this case,
15 Mariano Malave, or any member of his family?

16 Again, I see no affirmative responses.

17 Do you or any member of your immediate
18 family or a close personal friend know or are you
19 related to any of the potential witnesses in this
20 case or any member of a witness's family?

21 COURT OFFICER: Juror 8, 0-8.

22 THE COURT: Anybody else? I see no
23 further responses.

24 Do you have an interest or stake of any
25 kind in this case?

1 I see no affirmative responses.

2 Do you have any knowledge of this case
3 gained from any source?

4 Again, I see no affirmative responses.

5 To the extent that you have heard
6 anything about this case, have you formed or
7 expressed any opinions about it?

8 Again, I see no affirmative responses.

9 Are any of you aware of any bias or
10 prejudice that you have toward either the
11 prosecution or the defendant?

12 COURT OFFICER: 08, 0-8.

13 THE COURT: Anybody else? I see no
14 further responses.

15 Are any of you an active member of any
16 community crime prevention organization?

17 I see no affirmative responses.

18 Are any of you an active member of any
19 organization whose purpose is to prevent drug
20 dealing or to promote drug education or
21 counseling?

22 I see no affirmative responses.

23 Would any of you have the tendency to
24 believe the testimony of a police officer witness
25 over the testimony of a civilian witness just

1 because he or she were a police officer?

2 I see no affirmative responses.

3 Would any of you have the tendency to
4 believe the testimony of a civilian witness over
5 the testimony of a police officer witness just
6 because he or she were a civilian?

7 I see no affirmative responses.

8 Do any of you not understand that in a
9 criminal case, the defendant is presumed innocent
10 until proven guilty?

11 I see no affirmative responses.

12 Do any of you not understand that in a
13 criminal case, the prosecution has the burden of
14 proving the defendant is guilty beyond a
15 reasonable doubt?

16 Again, I see no affirmative responses.

17 Do any of you not understand that in a
18 criminal case, the defendant does not have to
19 present any evidence in his or her own behalf?

20 Again, I see no affirmative responses.

21 Is there any reason, such as a physical
22 or medical problem or disability, language
23 difficulties, religious beliefs, hearing
24 impairments or the like, that might make it
25 difficult for you to sit as a juror in this case?

1 I see no affirmative responses.

2 Finally, do any of you know of any other
3 reason why you would not be fair and impartial in
4 this case and be able to render a true and just
5 verdict based solely on the evidence and the law
6 presented in the trial of this case?

7 Again, I see no affirmative responses.

8 Now, ladies and gentlemen, in just a
9 moment, the Court Officers are going to take you
10 to an empty courtroom nearby, and I just want to
11 ask you for a few things. First of all, I ask you
12 for your patience, we're going to get through this
13 process as expeditiously as we can. In addition,
14 I'm going to ask that you not communicate with
15 anybody or allow anyone to communicate with you
16 about any aspect of this case. If you have access
17 to cell phones, PDAs, and other electronic items,
18 please don't use them to research any aspect of
19 this case. All right?

20 Now, last and certainly not least,
21 you're entitled to know the scheduling of this
22 trial and its expected duration. As soon as we
23 get the required number of jurors that we need
24 today, we're going to start this trial today.
25 All right? It's going to continue -- let me just

1 explain to you that typically when we are
2 impaneling, we sometimes get a late start because
3 of the orientation process you need to go through
4 downstairs, but from hereon in, we're going to
5 start promptly at 9 AM every morning.

6 Parenthetically, I'm noted for my punctuality out
7 of respect for jurors because the more punctual we
8 are, the sooner the case will be over and the case
9 will be in your hands and you will begin your
10 deliberations.

11 So I'm noted for my punctuality, we're
12 going to start promptly at 9 o'clock every
13 morning, going to 1 o'clock in the afternoon,
14 taking a midmorning recess at about 11 of about
15 20, 25 minutes duration. We typically take our
16 lunch hour around here from 1 to 2. You'll be
17 free to go out and leave the building during that
18 hour as you see fit. Then we're going to resume
19 the trial from 2 to 4 o'clock. I promise you that
20 I will never keep you past 4 o'clock on any day
21 of this trial because I'm aware of two things:
22 number one, sitting here from 9 to 4 with two
23 breaks along the way is a long enough time for
24 jurors to be listening and watching evidence
25 intently during a trial and then finally

1 deliberating on that evidence at the conclusion of
2 the trial. Moreover, I also appreciate that some
3 of you may have child care and other commitments
4 that you may need to get to. So that will be our
5 schedule from hereon in, 9 to 4 with a break in
6 the midmorning and a lunch break from 1 to 2, and
7 I won't ever keep you past 4 o'clock, I assure
8 you.

9 Given that schedule, given the issues
10 in this case, the number of witnesses, we're
11 expecting that the trial will start today,
12 continue into tomorrow. Of course, I'm sure
13 you're aware that Monday is Martin Luther King
14 day, it's a state and federal holiday, so we're
15 going to be off on Monday. We're going to
16 continue through the following week, the four days
17 of the following week, and it's going to spill
18 over into the next week. So probably,
19 approximately, nine days. It could be less than
20 that, it could be more than that. I can never
21 predict with any kind of mathematical certainty
22 the length of any trial because lots of things can
23 happen. A witness may testify longer or shorter
24 than expected, a witness may not testify at all,
25 I may need to confer with the attorneys and the

1 like, but our good faith estimate, it's going to
2 be approximately nine days. Through the remainder
3 of this week, four days next week, and spilling
4 over into part of the following week.

5 As the trial evolves, I promise you
6 I will give you updates and give you a sense of
7 how long the trial is going to last as I get a
8 better sense of that. But we're guessing that
9 it's going to be approximately nine days, and
10 I promise you, I will give you updates when I see
11 how the trial is progressing.

12 But beyond that, I want to stress
13 something that, hopefully, you learned through
14 your orientation process, and possibly through
15 service on a jury in the past. That you good
16 citizens are the cornerstone of our justice system
17 here in the Commonwealth of Massachusetts. As
18 you can see here in the third co-equal branch of
19 government which, of course, is the judiciary,
20 without you good people, we don't function. In my
21 opinion, being here on jury service is probably
22 one of the most important public services that you
23 can perform on behalf of your Commonwealth. Being
24 here on jury service is both one of the burdens of
25 citizenship, but undoubtedly, it's also one of its

1 benefits. And I can tell you that I talk to the
2 jurors at the conclusion of every one of my
3 trials, and I've been a judge now for about 24
4 years, and I'm struck by how often I hear, truly
5 on a regular basis from those real life jurors,
6 how pleasantly surprised they were at how
7 interesting the experience proved to be, and in
8 many instances, they tell me it was a rewarding
9 life experience. So, please, with those words
10 from real life jurors, from their lips to your
11 ears, I suggest you're going to find it to be at
12 least a very interesting experience, if not an
13 outright rewarding life experience.

14 So I hope you can take that all to heart
15 and further appreciate how vital your role here is
16 in the criminal justice system of the Commonwealth
17 of Massachusetts and further appreciate that
18 I cannot and I will not excuse you from being on
19 this jury today except on account of a truly
20 compelling hardship, and I don't define that as
21 missing time from home, work, or school, because
22 of course, that would apply to everyone in this
23 room, nor do I define it as missing a nonessential
24 event in your life.

25 So, ladies and gentlemen, please comply

1 with my instructions from a moment ago, don't talk
2 to anyone or allow anyone to talk to you about
3 any aspect of this case. If you have access to
4 electronic items, please don't do any research
5 about any aspect of this case. We're going to get
6 through this as expeditiously as we possibly can,
7 so I thank you in advance for your patience and
8 understanding.

9 Please comply now with the instructions
10 of the Court Officers.

11 (Court in recess at 10:20 a.m.)

12
13 (Court in session at 10:30 a.m.)

14 (Defendant present.)

15 THE COURT: Just to recap, counsel, the
16 Commonwealth has exercised 10 peremptory
17 challenges and defense has exercised nine.

18 MS. SCAPICCHIO: Yes.

19 THE COURT: We're going to impanel, if
20 we can, even though right now on paper, we only
21 need five, I'm going to impanel six because of the
22 potential of a challenge to Mr. Taylor from the
23 Commonwealth. If we don't need that additional
24 juror, he or she will be excused. But just to be
25 safe because Mr. Taylor is not expected to be

1 here for another hour. So let's press on and
2 when and if -- by the way, Officer Loperari, when
3 Mr. Taylor comes in, we'll suspend and we'll bring
4 him down to have a conversation with him.

5 COURT OFFICER: Are we going to use
6 Seat 11 or are we going to skip it?

7 THE CLERK: Well, that's Mr. Taylor.

8 THE COURT: We're going to keep on
9 going, we're going to start with 12 through 16,
10 and then as soon as Mr. Taylor is in, we will have
11 a conversation with him.

12 INDIVIDUAL JUROR VOIR DIRE:

13 (Juror Number 1 enters courtroom.)

14 THE CLERK: Juror Number 1, William
15 Harris?

16 JUROR: Yes.

17 THE CLERK: Have a seat, please.

18 THE COURT: Good morning, Mr. Harris.

19 JUROR: Hi, how are you?

20 THE COURT: Fine, thank you, sir. Sir,
21 is there anything about the nature of these
22 charges or any of the allegations you've heard
23 that might affect your ability to be fair and
24 impartial?

25 JUROR: No, ma'am.

1 THE COURT: You may hear alleged
2 evidence that the defendant, the alleged victim,
3 and some of the witnesses may have been involved
4 in selling marijuana. Would that evidence affect
5 your ability to be fair and impartial?

6 JUROR: Maybe a little bit. I mean,
7 I'll be honest, I smoke marijuana.

8 THE COURT: So you think that that
9 would affect your ability to be fair and
10 impartial?

11 JUROR: Yes.

12 THE COURT: Thank you for your candor,
13 sir, you're excused.

14 THE CLERK: Excused.

15 (Juror Number 1, excused.)

16 (Juror Number 3 enters courtroom.)

17 THE CLERK: Juror Number 3, Vaunzella
18 Hillaire.

19 THE COURT: Good morning, Ms. Hillaire.

20 JUROR: Good morning.

21 THE COURT: Ma'am, is there anything
22 about the nature of these charges or any of the
23 allegations you've heard that might affect your
24 ability to be fair and impartial?

25 JUROR: No.

1 THE COURT: You may hear evidence,
2 alleged evidence, rather, that the defendant, the
3 alleged victim, and some of the witnesses were
4 involved in selling marijuana. Would that
5 evidence affect your ability to be fair and
6 impartial?

7 JUROR: No.

8 THE COURT: The defendant in a criminal
9 trial has the absolute right not to testify. If
10 Mr. Reddicks chose not to testify at this trial,
11 would you hold that against him in any way?

12 JUROR: No.

13 THE COURT: Is there anything about the
14 length of the trial that poses a hardship for you?

15 JUROR: The 27th of this month, I have
16 to have surgery.

17 THE COURT: That's a long way off.

18 JUROR: Okay.

19 THE CLERK: That's cutting it close.

20 MS. SCAPICCHIO: It is, yes.

21 THE CLERK: It's two weeks from
22 yesterday.

23 MS. SCAPICCHIO: Nine days of testimony,
24 Judge. There would be no time to waste.

25 THE COURT: Ms. Hillaire, is it any

1 kind of surgery that can be postponed?

2 JUROR: No.

3 THE COURT: All right, you're excused,
4 ma'am.

5 THE CLERK: Excused.

6 (Juror Number 3, excused.)

7 (Juror Number 5 enters courtroom.)

8 THE CLERK: Juror 5, Jamie Mercurio.

9 JUROR: Yes.

10 THE COURT: Hi, Ms. Mercurio.

11 JUROR: Hi.

12 THE COURT: Ma'am, is there anything
13 about the nature of these charges or any of the
14 allegations you've heard that might affect your
15 ability to be fair and impartial?

16 JUROR: No.

17 THE COURT: You may hear alleged
18 evidence that the defendant, the alleged victim,
19 and some of the witnesses were involved in selling
20 marijuana. Would that evidence affect your
21 ability to be fair and impartial?

22 JUROR: No.

23 THE COURT: The defendant in a criminal
24 trial has the absolute right not to testify. If
25 Mr. Reddicks chose not to testify at this trial,

1 would you hold that against him in any way?

2 JUROR: No.

3 THE COURT: Is there anything about the
4 length of the trial that poses a hardship for you?

5 JUROR: Yes.

6 THE COURT: What is that?

7 JUROR: I've never taken more than two
8 days off work. I run an entire team. I know
9 work is not an excuse. And I also have travel
10 booked in two weeks.

11 THE COURT: Where is the travel to?

12 JUROR: Austin, Texas.

13 THE COURT: And for what purpose?

14 JUROR: For work.

15 THE COURT: When you say for work --
16 I can't excuse you because of --

17 JUROR: I understand.

18 THE COURT: You understand that? And
19 Athena Health, I'm assuming, is a fairly large
20 organization.

21 JUROR: It is. I run our entire
22 corporate social responsibility program, so I'm
23 constantly working with nonprofits and our
24 leadership at different offices. So I have
25 meetings scheduled with about 10 nonprofits down

1 in Austin.

2 THE COURT: Can anybody take your place?

3 JUROR: Unfortunately not.

4 THE COURT: All right, you're excused,
5 ma'am.

6 JUROR: Thank you.

7 THE CLERK: Excused.

8 (Juror Number 5, excused.)

9 (Juror Number 7 enters courtroom.)

10 THE CLERK: Juror 7, Viviano Cantu.

11 THE COURT: Good morning, Mr. Cantu.

12 JUROR: Good morning.

13 THE COURT: Is there anything about the
14 nature of these charges or any of the allegations
15 that might affect your ability to be fair and
16 impartial?

17 JUROR: No.

18 THE COURT: You may hear alleged
19 evidence that the defendant, the alleged victim,
20 and some witnesses were involved in selling
21 marijuana. Would that evidence affect your
22 ability to be fair and impartial?

23 JUROR: No.

24 THE COURT: The defendant in a criminal
25 trial has the absolute right not to testify. If

1 Mr. Reddicks chose not to testify at this trial,
2 would you hold that against him in any way?

3 JUROR: No.

4 THE COURT: Is there anything about the
5 length of the trial that poses a hardship for you?

6 JUROR: Yes.

7 THE COURT: What is that?

8 JUROR: I'm a full-time student and
9 I have two jobs.

10 THE COURT: You're at Northeastern.
11 Are you on co-op right now?

12 JUROR: No.

13 THE COURT: Have your classes started?

14 JUROR: Yes.

15 THE COURT: Did you know that you could
16 defer your service until a more convenient time?

17 JUROR: I mean, I tried to reschedule,
18 but no, I didn't know that.

19 THE COURT: You tried to reschedule last
20 time?

21 JUROR: Yeah, but I mean, co-op,
22 I wouldn't be in Boston.

23 THE COURT: What do you mean, you
24 wouldn't be in Boston?

25 JUROR: There's no convenient time

1 because my permanent address isn't here.

2 THE COURT: But during co-op, aren't
3 you around for co-op?

4 MS. SCAPICCHIO: Might go out of state.

5 JUROR: I can go out of state.

6 THE COURT: All right, you're excused.

7 JUROR: Thank you.

8 THE CLERK: Excused.

9 (Juror Number 7, excused.)

10 (Juror Number 8 enters courtroom.)

11 THE CLERK: Number 8, Christopher
12 Donlon.

13 THE COURT: Mr. Donlon, you answered two
14 of my earlier questions. Would you have the
15 tendency to believe a police officer witness over
16 a civilian witness just because he or she were a
17 police officer?

18 JUROR: Yes.

19 THE COURT: And I notice that you're an
20 aspiring police officer, yourself.

21 JUROR: I am, yes. My father's been a
22 police officer in Boston.

23 THE COURT: Thank you, Mr. Donlon, you
24 are excused.

25 JUROR: Thank you.

1 THE CLERK: Excused.

2 (Juror Number 8, excused.)

3 (Juror Number 11 enters courtroom.)

4 THE CLERK: Juror Number 11, Diana Lau?

5 JUROR: Yes.

6 THE COURT: Hi, Ms. Lau.

7 JUROR: Hello.

8 THE COURT: Ma'am, is there anything
9 about the nature of these charges or any of the
10 allegations you've heard that might affect your
11 ability to be fair and impartial?

12 JUROR: No.

13 THE COURT: You may hear alleged
14 evidence that the defendant, the alleged victim,
15 and some witnesses were involved in selling
16 marijuana. Would that evidence affect your
17 ability to be fair and impartial?

18 JUROR: No.

19 THE COURT: The defendant in a criminal
20 trial has the absolute right not to testify. If
21 Mr. Reddicks chose not to testify at this trial,
22 would you hold that against him in any way?

23 JUROR: No.

24 THE COURT: Is there anything about the
25 length of the trial that poses a hardship for you?

1 JUROR: No.

2 THE COURT: Counsel, any follow-up
3 questions?

4 MR. HENNING: Good morning, ma'am, how
5 are you? It says you're a student, full time,
6 now. Have you completed high school and you're in
7 college?

8 JUROR: I'm in college.

9 MR. HENNING: Can you describe where
10 you're studying and what you're doing?

11 JUROR: I just take classes at Bunker
12 Hill, biology major.

13 MR. HENNING: Which high school did you
14 go to.

15 JUROR: Latin Academy, Boston Latin
16 Academy.

17 MR. HENNING: And you graduated from
18 Boston Latin Academy?

19 JUROR: Yes.

20 MR. HENNING: What year did you
21 graduate?

22 JUROR: 2009.

23 MR. HENNING: I have nothing further.

24 THE COURT: Ms. Scapicchio?

25 MS. SCAPICCHIO: In addition to going to

1 Bunker Hill, do you have any part-time jobs or do
2 you work anywhere else?

3 JUROR: No, just full-time student.

4 MS. SCAPICCHIO: So you go to school
5 four or five days a week.

6 JUROR: Yes.

7 MS. SCAPICCHIO: Full load.

8 JUROR: Yes, five days a week.

9 MS. SCAPICCHIO: You said you were
10 studying -- what is your focus or major at school
11 right now?

12 JUROR: Biology.

13 MS. SCAPICCHIO: Biology. Is this your
14 first year or second year?

15 JUROR: It's my first year, so I just
16 started last semester.

17 MS. SCAPICCHIO: And this would be the
18 first, first sort of time with your second
19 semester; is that what it is?

20 JUROR: Yes.

21 MS. SCAPICCHIO: Do you go days or
22 nights?

23 JUROR: Daytime.

24 THE COURT: Have classes started yet?

25 JUROR: It starts next week, actually.

1 THE COURT: But you think you can be a
2 juror on this case, notwithstanding the fact that
3 you have classes next week?

4 JUROR: Yup.

5 THE COURT: And by the way, I've called
6 professors, if any of your professors give you a
7 hard time, I'm happy to get involved.

8 JUROR: Okay, that's great.

9 THE COURT: Because this is such an
10 important public service that if you're willing to
11 serve, notwithstanding the fact that your classes
12 start next week, any of your professors give you a
13 hard time, you come to me.

14 JUROR: Okay.

15 THE COURT: Anything else,
16 Ms. Scapicchio?

17 MS. SCAPICCHIO: So what do you want to
18 do with your biology degree?

19 JUROR: I was thinking about the medical
20 field, maybe nursing.

21 MS. SCAPICCHIO: I have no further
22 questions, thanks.

23 THE COURT: Ma'am, could you step
24 outside for just a second.

25 (Juror Number 11 exits courtroom.)

1 THE COURT: This juror stands
2 indifferent.

3 MR. HENNING: May I have one moment just
4 to look at one thing?

5 THE COURT: Of course.

6 MR. HENNING: Your Honor, I know we
7 called all the witnesses' names. The only
8 question I have is there's several witnesses who
9 attended Latin Academy during the same time period
10 that she did. I know that it's not a small
11 school, but --

12 THE COURT: Are you suggesting that
13 because she went to Latin Academy, that somehow
14 she's going to be disqualified because she's going
15 to recognize a witness?

16 MR. HENNING: Because it's the same time
17 period. The year that she graduated would overlap
18 with a few of the witnesses.

19 THE COURT: If you want to exercise a
20 peremptory, you've got five left. The chances of
21 her doing that are so remote, I'm not excusing her
22 for cause --

23 MR. HENNING: I understand.

24 THE COURT: -- on the off chance that
25 she might recognize -- who's coming from Latin

1 Academy?

2 MR. HENNING: One of the witnesses
3 that the Commonwealth has, two of the witnesses,
4 would be Latin Academy former students. The
5 Commonwealth is content.

6 MS. SCAPICCHIO: Defendant is content.

7 THE COURT: Before we bring her back in,
8 just to assuage any concern you have, Mr. Henning,
9 you can remind me, and if I think of it, I tell
10 jurors, anyway, because sometimes they don't
11 recognize a witness just by name, and this happens
12 inadvertently sometimes, and I'll tell them,
13 please let us know if somebody gets on the stand
14 and all of a sudden you realize, oh, I do know
15 that person.

16 MR. HENNING: Yes.

17 THE COURT: So remind me, Mr. Henning,
18 I'll be happy to instruct the jury accordingly.

19 MR. HENNING: Thank you, Your Honor.

20 (Juror Number 11 enters courtroom.)

21 THE COURT: Ms. Lau, you've been chosen
22 to be on this jury. You're going to be taken
23 upstairs to the jury room, and others who were
24 impaneled yesterday will be joining you in a short
25 while. They were told to come back at 11. I'm

1 just going to remind you, please, at no time
2 should you be discussing this case with anyone,
3 including your fellow jurors, nor allowing them to
4 discuss the case with you.

5 JUROR: Okay.

6 THE COURT: If you'll go upstairs and be
7 patient, we'll get back to you as soon as we can.

8 THE CLERK: Seat 12.

9 (Juror Number 11 exits courtroom.)

10 (Juror Number 12 enters courtroom.)

11 THE CLERK: Juror 12, Kathleen Pedersen?

12 JUROR: Yes.

13 THE COURT: Hi, Ms. Pedersen.

14 JUROR: Hi, how are you?

15 THE COURT: Fine, thank you, ma'am. Is
16 there anything about the nature of these charges
17 or any of the allegations you've heard that might
18 affect your ability to be fair and impartial?

19 JUROR: No.

20 THE COURT: You may hear alleged
21 evidence that the defendant, the alleged victim,
22 and some witnesses were involved in selling
23 marijuana. Would that evidence affect your
24 ability to be fair and impartial?

25 JUROR: No.

1 THE COURT: The defendant in a criminal
2 trial has the absolute right not to testify. If
3 Mr. Reddicks chose not to testify at this trial,
4 would you hold that against him in any way?

5 JUROR: No.

6 THE COURT: Is there anything about the
7 length of the trial that poses a hardship for you?

8 JUROR: No.

9 THE COURT: Any follow-up questions,
10 Counsel?

11 MR. HENNING: Good morning, ma'am, how
12 are you?

13 JUROR: Good morning, I'm doing well,
14 how are you?

15 MR. HENNING: It lists that you have a
16 juris doctorate.

17 JUROR: I do.

18 MR. HENNING: Can you describe where you
19 went to school?

20 JUROR: University of Baltimore.

21 MR. HENNING: When you graduated, did
22 you practice law in any particular fields?

23 JUROR: Real estate.

24 MR. HENNING: Just real estate?

25 JUROR: Yes. I haven't passed the bar,

1 though.

2 MR. HENNING: When did you graduate from
3 law school?

4 JUROR: 2002.

5 MR. HENNING: Have you ever worked at or
6 practiced with any other type of law other than
7 real estate?

8 JUROR: No.

9 MR. HENNING: It says down at the middle
10 section, you were seated on a jury in 1992 or '93?

11 JUROR: Yes.

12 MR. HENNING: Do you remember where that
13 was?

14 JUROR: It was here.

15 MR. HENNING: In Suffolk County?

16 JUROR: Yes.

17 MR. HENNING: Was it in this courthouse?

18 JUROR: Yes.

19 MR. HENNING: Just reflecting back on
20 that, would you say that you had a positive or
21 negative experience in any way based on your jury
22 service?

23 JUROR: Positive.

24 MR. HENNING: Nothing further, Your
25 Honor.

1 THE COURT: Ms. Scapicchio?

2 MS. SCAPICCHIO: Thank you so much. Hi,
3 how are you?

4 JUROR: I'm doing well, how are you?

5 MS. SCAPICCHIO: Fine, thank you. So
6 you work for Boston Redevelopment Authority?

7 JUROR: Yes.

8 MS. SCAPICCHIO: What you do for them
9 specifically?

10 JUROR: Environmental review of
11 projects, development projects, in the City of
12 Boston.

13 MS. SCAPICCHIO: So if somebody wanted
14 to build something, you would go out and make sure
15 that --

16 JUROR: They submit all of their
17 development plans for a project, yes.

18 MS. SCAPICCHIO: So you would go out
19 and make sure environmentally it was safe for the
20 neighborhood?

21 JUROR: Yes, among other things.

22 MS. SCAPICCHIO: How long have you
23 worked for the Boston Redevelopment Association?

24 JUROR: Nine years in March.

25 MS. SCAPICCHIO: Did you grow up in

1 Boston?

2 JUROR: I did.

3 MS. SCAPICCHIO: Where did you go to
4 high school?

5 JUROR: Fontbonne.

6 MS. SCAPICCHIO: It indicated on your
7 juror questionnaire that your father was a retired
8 Suffolk County probation officer?

9 JUROR: Yes.

10 MS. SCAPICCHIO: Was that here in
11 Boston?

12 JUROR: Yes, it was.

13 MS. SCAPICCHIO: In this courthouse?

14 JUROR: No, in South Boston, Municipal
15 Court.

16 MS. SCAPICCHIO: And "my grandfather was
17 deputy superintendent of BPD"?

18 JUROR: Um-hmm.

19 MS. SCAPICCHIO: That's Boston Police
20 Department?

21 JUROR: Yes.

22 MS. SCAPICCHIO: What was your
23 grandfather's name?

24 JUROR: Joseph Rowan, R-O-W-A-N.

25 MS. SCAPICCHIO: Is he still working for

1 the BPD or did he retire?

2 JUROR: No, he died in 1977.

3 MS. SCAPICCHIO: Sorry about that. So
4 while he was working as a deputy superintendent at
5 BPD, did you ever have occasion to discuss any of
6 his cases with him or anything he was working on?

7 JUROR: He died when I was three.

8 MS. SCAPICCHIO: Okay, so you were too
9 young. The fact that your grandfather was a
10 deputy superintendent of Boston Police Department,
11 all things being equal, if there was a police
12 officer who said one thing and a civilian witness
13 who said something else, would the police officer
14 get the edge because of your grandfather?

15 JUROR: No.

16 MS. SCAPICCHIO: Thank you.

17 THE COURT: Ma'am, could you step
18 outside for just a moment, please.

19 (Juror Number 12 exits courtroom.)

20 THE COURT: This juror stands
21 indifferent.

22 MR. HENNING: Commonwealth is content.

23 MS. SCAPICCHIO: Defendant is content,
24 Your Honor.

25 (Juror Number 13 enters courtroom.)

1 THE COURT: Ms. Pedersen, you have been
2 chosen to be on this jury. You're going to be
3 going up to the jury room which is affiliated
4 with this courtroom to join another juror who was
5 just impaneled, and in the course of the next
6 35 minutes or so, jurors who were impaneled
7 yesterday will be joining you. So I'm just going
8 to ask that you not discuss any aspect of this
9 case with anyone, including your fellow jurors,
10 nor allow anybody, including your fellow jurors,
11 to discuss the case with you.

12 Thank you, ma'am, would you go with the
13 Court Officer, please.

14 THE CLERK: Seat 13.

15 (Juror Number 12 exits courtroom.)

16 (Juror Number 15 enters courtroom.)

17 THE CLERK: Juror 15, Gregory Anderson.

18 JUROR: Yes, sir.

19 THE CLERK: Have a seat, please.

20 THE COURT: Good morning, Mr. Anderson.
21 Sir, is there anything about the nature of these
22 charges or any of the allegations you've heard
23 that might affect your ability to be fair and
24 impartial?

25 JUROR: No, Your Honor.

1 THE COURT: You may hear alleged
2 evidence that the defendant, the alleged victim,
3 and some of the witnesses were involved in selling
4 marijuana. Would that evidence affect your
5 ability to be fair and impartial?

6 JUROR: No, Your Honor.

7 THE COURT: The defendant in a criminal
8 trial has the absolute right not to testify. If
9 Mr. Reddicks chose not to testify at this trial,
10 would you hold that against him in any way?

11 JUROR: No, Your Honor.

12 THE COURT: Is there anything about the
13 length of the trial that poses a hardship for you?

14 JUROR: My boss might be upset, but
15 that's not --

16 THE COURT: But that's Northeastern,
17 that's a big university, and please understand
18 that there's a law on the books that prevents any
19 employer from interfering with any term or
20 condition of your employment. So if Northeastern
21 give you a hassle, you let me know, okay?

22 JUROR: No problem.

23 THE COURT: Any follow-up questions,
24 Counsel?

25 MR. HENNING: Good morning, sir, how are

1 you doing?

2 JUROR: I'm all right, thanks.

3 MR. HENNING: Can you describe what your
4 master's degree is in?

5 JUROR: Masters degree in political
6 science.

7 MR. HENNING: Where did you get that?

8 JUROR: Binghamton University, sir.

9 MR. HENNING: Where did you go to
10 undergraduate?

11 JUROR: Colgate University.

12 MR. HENNING: When you left Binghamton,
13 did you go directly to Northeastern?

14 JUROR: No, sir.

15 MR. HENNING: How long have you been
16 working for Northeastern?

17 JUROR: Two years and about a month,
18 sir.

19 MR. HENNING: It mentions down at the
20 bottom that either you or somebody in your
21 household has had internships with certain
22 offices?

23 JUROR: Yes, sir, myself.

24 MR. HENNING: Can you describe when you
25 did those internships and what it was for?

1 JUROR: From January 2006 to August
2 2006, I was employed by the Department of
3 Justice's Office of Consumer Litigation in
4 Washington DC. I was working with attorneys in
5 that office for trial preparation. And in June
6 2006, I think, through August 2006, I was employed
7 as an intern by the King's County District
8 Attorney's Office in Brooklyn, New York. That was
9 arraignment preparation.

10 MR. HENNING: Thank you. I have nothing
11 further.

12 THE COURT: Ms. Scapicchio?

13 MS. SCAPICCHIO: Hi, how are you? So at
14 Northeastern as an IT support person, you're the
15 one that goes in and fixes the computers.

16 JUROR: That's the basics, yeah.

17 MS. SCAPICCHIO: And you fix both
18 students' computers and professors' computers?

19 JUROR: Yes.

20 MS. SCAPICCHIO: Staff members, whoever
21 needs that.

22 JUROR: And/or back room service, all
23 of it.

24 MS. SCAPICCHIO: And you had indicated
25 your interaction with any law enforcement or law

1 related employers. Did you pick the internship at
2 the Department of Justice?

3 JUROR: Yes.

4 MS. SCAPICCHIO: Something you applied
5 for, you wanted to do?

6 JUROR: It was part of Colgate
7 University's political science study abroad
8 program. Well, not abroad, but you know, outside
9 of the University.

10 MS. SCAPICCHIO: Kind of like a co-op
11 program?

12 JUROR: Yes, exactly.

13 MS. SCAPICCHIO: And you're the one who
14 chose to work for the Department of Justice.

15 JUROR: Yes, ma'am.

16 MS. SCAPICCHIO: And then you also
17 chose the King County District Attorney's Office
18 in Brooklyn?

19 JUROR: Yes, ma'am.

20 MS. SCAPICCHIO: Why did you choose
21 that?

22 JUROR: At the time, I was still
23 undergraduate and I was preparing for a
24 possibility of attending law school when
25 I graduated. I ended up not going to law school

1 and choosing to pursue a master's in political
2 science instead.

3 MS. SCAPICCHIO: And when you worked
4 for both the Department of Justice and the King's
5 County District Attorney's Office, is it fair to
6 say you were leaning more towards the prosecution
7 than --

8 JUROR: At the time, I was mostly just
9 interested in the law and getting more experience
10 working with like-minded individuals. I wouldn't
11 necessarily say it was for one side or the other,
12 just getting experience working with folks.

13 MS. SCAPICCHIO: So when you worked for
14 King's County and you were preparing for
15 arraignments, what types of things did you do to
16 help?

17 JUROR: Mostly, we got packets of
18 information from the police officers and organized
19 it and determined what charges to recommend to the
20 on-site Assistant District Attorney who was going
21 to review each case and figure out exactly what
22 charges would be filed at arraignment.

23 MS. SCAPICCHIO: So you made
24 recommendations as to what charges should be made.

25 JUROR: Yes, we reviewed the evidence

1 packets provided from the police, interviewed
2 witnesses, and spoke with the police officer who
3 was in charge of the case, and then based on the
4 recommendations from our group, the supervising
5 Assistant District Attorney determined what
6 charges they wanted to file.

7 MS. SCAPICCHIO: But you would do all
8 the legwork, basically, in conjunction with the
9 police department; is that fair to say?

10 JUROR: That was the arrangement, yes.

11 MS. SCAPICCHIO: And so your interaction
12 with the police department for that three month
13 period during that summer, I think you said in
14 2006?

15 JUROR: I think so.

16 MS. SCAPICCHIO: Would that interaction
17 with the police department, all things being
18 equal, if a police officer testified and a
19 civilian witness testified, because of your
20 background, because of your history, because you
21 know what happens at an arraignment session, would
22 any of that affect your ability if you were going
23 to decide between a police officer and a civilian,
24 would the police officers get any edge at all
25 because of your interaction with them?

1 JUROR: No, ma'am.

2 THE COURT: Why?

3 JUROR: Because I want to judge the
4 credibility of each witness individually. If you
5 prejudge someone, that's kind of saying that your
6 judgment is better than theirs, which isn't true.
7 You want to make sure that you evaluate the facts
8 based on what's presented to you.

9 MS. SCAPICCHIO: Great, thank you.

10 THE COURT: Sir, could you step outside
11 for just a moment, please.

12 JUROR: Yes, Your Honor.

13 (Juror Number 15 exits courtroom.)

14 THE COURT: This juror stands
15 indifferent.

16 MR. HENNING: Content.

17 MS. SCAPICCHIO: Defendant will
18 challenge.

19 (Juror Number 15 enters courtroom.)

20 THE COURT: Thank you, sir, you are
21 excused.

22 (Juror Number 15, excused.)

23 (Juror Number 18 enters courtroom.)

24 THE CLERK: Juror 18, Patrick Canney.

25 JUROR: Good morning.

1 THE COURT: Good morning. Sir, is there
2 anything about the nature of these charges or any
3 of the allegations you've heard that might affect
4 your ability to be fair and impartial?

5 JUROR: I don't think so.

6 THE COURT: You may hear alleged
7 evidence that the defendant, the alleged victim,
8 and some of the witnesses were involved in selling
9 marijuana. Would that evidence affect your
10 ability to be fair and impartial?

11 JUROR: No.

12 THE COURT: The defendant in a criminal
13 trial has the absolute right not to testify. If
14 Mr. Reddicks chose not to testify at this trial,
15 would you hold that against him in any way?

16 JUROR: I don't -- no.

17 THE COURT: Well, you hesitated there.

18 JUROR: I mean, I suppose it depends on
19 what the other testimony is.

20 THE COURT: So whether you, whether
21 Mr. Reddicks testified or not and how that would
22 affect you and your view of the evidence would
23 depend on what the other evidence was? That's
24 probably terribly worded. I'm hearing you say it
25 depends.

1 JUROR: Exactly, yes.

2 THE COURT: It would depend on the
3 evidence.

4 JUROR: Yes.

5 THE COURT: All right, thank you, sir,
6 you're excused.

7 THE CLERK: Excused.

8 (Juror Number 18, excused.)

9 (Juror Number 19 enters courtroom.)

10 THE CLERK: Juror 19, Yotam Mendlinger.

11 THE COURT: How do you pronounce it,
12 sir?

13 JUROR: Yotam.

14 THE COURT: Mendlinger?

15 THE CLERK: How do you pronounce it, we
16 want to get it right.

17 JUROR: The last name is not an issue,
18 the first name, Yotam.

19 THE COURT: Sir, is there anything about
20 the nature of these charges or any of the
21 allegations you've heard that might affect your
22 ability to be fair and impartial?

23 JUROR: No.

24 THE COURT: You may hear alleged
25 evidence that the defendant, the alleged victim,

1 and some of the witnesses were involved in selling
2 marijuana. Would that evidence affect your
3 ability to be fair and impartial?

4 JUROR: Nope.

5 THE COURT: The defendant in a criminal
6 trial has the absolute right not to testify. If
7 Mr. Reddicks chose not to testify at this trial,
8 would you hold that against him in any way?

9 JUROR: No.

10 THE COURT: Is there anything about the
11 length of the trial that poses a hardship for you?

12 JUROR: Not that much.

13 THE COURT: Great. Any follow-up,
14 Counsel?

15 MR. HENNING: Good morning, sir, how are
16 you?

17 JUROR: Good, how are you doing?

18 MR. HENNING: Good, thank you. It lists
19 taxes and finance as your type of business?

20 JUROR: I do asset management, taxes,
21 and finance, basically, consulting.

22 MR. HENNING: Do you work for one
23 particular company?

24 JUROR: No.

25 MR. HENNING: You work --

1 JUROR: Myself, I'm an independent.

2 MR. HENNING: Taxes and investment, do
3 you have a background in that?

4 JUROR: Yes, I do.

5 MR. HENNING: Can you describe the
6 background related to your work?

7 JUROR: Basically, I've spent five years
8 doing taxes, consulting businesses, and I have a
9 degree in finance.

10 MR. HENNING: Where was the degree from?

11 JUROR: BU.

12 MR. HENNING: Did you do those
13 consulting jobs in Massachusetts or elsewhere?

14 JUROR: Mostly Massachusetts.

15 MR. HENNING: How long have you lived
16 in Massachusetts?

17 JUROR: Since last, I came here for
18 college in 2005, and then I lived here from 2007.

19 MR. HENNING: What part of Boston do
20 you live in now?

21 JUROR: Now, I live in Kenmore.

22 MR. HENNING: Kenmore, okay. The bottom
23 section here, it just has a section on experience
24 with the law and asks about whether anyone in your
25 household or your family has ever had any of those

1 experiences. Did anyone in your household or your
2 family ever have the experiences listed here?

3 JUROR: What was listed there again?

4 THE COURT: You forgot to answer the
5 first two questions in part three, sir.

6 THE CLERK: Below the black line there.

7 JUROR: Have you ever been arrested,
8 sued --

9 THE COURT: Sir, just read it to
10 yourself carefully and answer questions one and
11 two in part three.

12 JUROR: Nope.

13 THE COURT: Okay, check that box no
14 then. And there's another question that you
15 didn't answer about whether you or anyone in your
16 household or family has ever had any involvement
17 with law enforcement, et cetera.

18 JUROR: My sister is a lawyer.

19 THE COURT: Okay, check yes.

20 JUROR: Okay.

21 THE COURT: Where is she a lawyer?

22 JUROR: She does her own stuff, she
23 doesn't work with anybody in particular.

24 THE COURT: She's self-employed?

25 JUROR: Self-employed and, actually,

1 right after, she took time to take care of the
2 kids.

3 THE COURT: Okay, great. Anything
4 further, Mr. Henning?

5 MR. HENNING: No, Your Honor.

6 THE COURT: Ms. Scapicchio?

7 MS. SCAPICCHIO: On that second
8 question, other than your sister being a lawyer,
9 no one else has worked for any court systems,
10 police departments, anything like that?

11 JUROR: Not even close.

12 MS. SCAPICCHIO: I don't have any
13 further questions.

14 THE COURT: Sir, could you step outside
15 for just a moment, please.

16 (Juror Number 19 exits courtroom.)

17 THE COURT: This juror stands
18 indifferent.

19 MR. HENNING: Commonwealth is content.

20 MS. SCAPICCHIO: Defendant will
21 challenge.

22 (Juror Number 19 enters courtroom.)

23 THE COURT: Thank you, sir, you have
24 been excused.

25 THE CLERK: Excused.

1 (Juror Number 19, excused.)

2 (Juror Number 21 enters courtroom.)

3 THE CLERK: 21, Morgan Parmeter.

4 THE COURT: Good morning, Ms. Parmeter.

5 JUROR: Good morning.

6 THE COURT: Ma'am, is there anything
7 about the nature of these charges or any of the
8 allegations you've heard that might affect your
9 ability to be fair and impartial?

10 JUROR: No.

11 THE COURT: You may hear alleged
12 evidence that the defendant, the alleged victim,
13 and some of the witnesses were involved in selling
14 marijuana. Would that evidence affect your
15 ability to be fair and impartial?

16 JUROR: No.

17 THE COURT: The defendant in a criminal
18 trial has the absolute right not to testify. If
19 Mr. Reddicks chose not to testify at this trial,
20 would you hold that against him in any way?

21 JUROR: No.

22 THE COURT: Is there anything about the
23 length of the trial that poses a hardship for you?

24 JUROR: No.

25 THE COURT: Counsel?

1 MR. HENNING: Good morning, ma'am, how
2 are you?

3 JUROR: Good, how are you?

4 MR. HENNING: Good. I'm just looking at
5 the bottom part of your questionnaire. It asks if
6 there's anything that might affect your ability to
7 be fair and impartial, and you said, "I'm a full-
8 time college student, science major, who cannot
9 afford to miss a day of school. I also need to be
10 working."

11 JUROR: Yes, I go back on Sunday, so
12 I have school full-time next week.

13 MR. HENNING: Would you be able to miss
14 any class?

15 JUROR: No, I cannot, I have labs that
16 I need to attend to.

17 THE COURT: Did you hear me say that it
18 was going to be nine days, ma'am?

19 JUROR: Oh, yes, sorry.

20 THE COURT: You didn't get that part of
21 it?

22 JUROR: No.

23 THE COURT: It would continue through
24 next week and into the following week.

25 JUROR: Yeah, I cannot make any.

1 THE COURT: Did you know that you could
2 defer your service until some more convenient
3 time?

4 JUROR: Yes. I was scheduled for June
5 and then I delayed it till January.

6 THE COURT: Well, why did you delay it
7 to January when you're about to start classes,
8 ma'am?

9 JUROR: I wasn't aware that trials were
10 nine, approximately nine days.

11 THE COURT: If I'm hearing you
12 correctly, ma'am, you deferred it to two days
13 before your classes start.

14 JUROR: I wasn't aware of when my
15 classes started.

16 THE COURT: You didn't know that they
17 were going to start next week?

18 JUROR: Not at the time, no.

19 THE COURT: So you just picked the
20 Thursday before -- you had no idea your classes
21 were going to start the week after Martin Luther
22 King Day.

23 JUROR: No.

24 THE COURT: And what were you doing in
25 June that you needed to defer your service?

1 JUROR: I was working full-time.

2 THE COURT: Ma'am, I'm going to declare
3 you to be unavailable. Students have to serve.
4 You stay in town, you need to serve, and you can't
5 get out of jury service just because you're
6 working at one point and then you defer it to a
7 time when you're about to start classes. I'm
8 sending you down to the jury pool room, ma'am,
9 and pick a date that you can serve.

10 JUROR: Okay.

11 THE COURT: Students do not get a
12 deferral just because they're students or you're
13 working full-time. Go down and pick a date that's
14 more convenient to you. All right? I'm declaring
15 you to be unavailable. Send her down to the
16 second floor, and pick another date, ma'am.

17 JUROR: Okay.

18 (Juror Number 21, unavailable.)

19 (Juror Number 22 enters courtroom.)

20 THE CLERK: Juror 22, Darlene Savarese.

21 THE COURT: Ms. Savarese, is there
22 anything about the nature of these charges or any
23 of the allegations you've heard that might affect
24 your ability to be fair and impartial?

25 JUROR: No, nothing I can think of.

1 THE COURT: You may hear alleged
2 evidence that the defendant, the alleged victim,
3 and some of the witnesses were involved in selling
4 marijuana. Would that evidence affect your
5 ability to be fair and impartial?

6 JUROR: I think so because I've dealt
7 with children in the past who have become --

8 THE COURT: Thank you, ma'am, you are
9 excused.

10 THE CLERK: Excused.

11 (Juror Number 22, excused.)

12 (Juror Number 23 enters courtroom.)

13 THE CLERK: Juror 23, Paul Banks.

14 THE COURT: Hi, Mr. Banks.

15 JUROR: Hi.

16 THE COURT: Sir, is there anything about
17 the nature of these charges or any of the
18 allegations you've heard that might affect your
19 ability to be fair and impartial?

20 JUROR: No, ma'am.

21 THE COURT: You may hear alleged
22 evidence that the defendant, the alleged victim,
23 and some of the witnesses were involved in selling
24 marijuana. Would that evidence affect your
25 ability to be fair and impartial?

1 JUROR: No.

2 THE COURT: The defendant in a criminal
3 trial has the absolute right not to testify. If
4 Mr. Reddicks chose not to testify at this trial,
5 would you hold that against him in any way?

6 JUROR: No.

7 THE COURT: Is there anything about the
8 length of the trial that poses a hardship for you?

9 JUROR: No, ma'am.

10 THE COURT: Counsel?

11 MR. HENNING: Good morning, sir, how are
12 you?

13 JUROR: Good.

14 MR. HENNING: It says you were born in
15 Loving, Texas?

16 JUROR: Yes.

17 MR. HENNING: When did you move out of
18 Texas?

19 JUROR: In 1990.

20 MR. HENNING: Where did you move to
21 after that?

22 JUROR: To New Jersey.

23 MR. HENNING: The college, next to it
24 has the number 16.

25 JUROR: That means I graduated, sorry.

1 I'm in education business. It said grade levels.

2 MR. HENNING: What college did you go
3 to?

4 JUROR: Baylor University.

5 MR. HENNING: And then when did you come
6 to Massachusetts?

7 JUROR: A year ago for work. From New
8 York, actually.

9 MR. HENNING: From New York.

10 JUROR: Yes.

11 MR. HENNING: It says language learning
12 for some sort of public business?

13 JUROR: Yes. Cengage Learning.

14 MR. HENNING: Can you describe that?

15 JUROR: It's an educational publisher.

16 We focus on book print and technology for teaching
17 college students college courses.

18 MR. HENNING: And are you primarily
19 involved in the technology side or the development
20 of the material?

21 JUROR: Both, actually. I'm responsible
22 for print and digital products in the humanities,
23 history, philosophy, political science.

24 MR. HENNING: I have nothing further,
25 Your Honor.

1 THE COURT: Ms. Scapicchio?

2 MS. SCAPICCHIO: Hi, how are you?

3 JUROR: Hi.

4 MS. SCAPICCHIO: So you moved to Boston
5 for this job.

6 JUROR: Yes.

7 MS. SCAPICCHIO: It's something you
8 really want to do. You interact with the students
9 or you interact with other people who are trying
10 to develop this --

11 JUROR: Both. I manage a team of
12 product managers and development content
13 specialists, and I also work with authors who are
14 mostly professors, and students, as well, and
15 instructors who use the products.

16 MS. SCAPICCHIO: And they're used
17 throughout the different colleges and universities
18 in Massachusetts?

19 JUROR: All over the country.

20 MS. SCAPICCHIO: Great. And then you
21 also indicated your experience with the law, you
22 had an employment discrimination?

23 JUROR: Yes.

24 MS. SCAPICCHIO: Did you file a suit or
25 someone filed suit against you?

1 JUROR: I filed the suit.

2 MS. SCAPICCHIO: What was that all
3 about?

4 JUROR: It was based on a wrongful
5 dismissal that was related to a couple of
6 different things, not the least of which I had a
7 medical condition that wasn't considered when they
8 released me, and so because they didn't consider
9 that, I brought a lawsuit. There was also age
10 discrimination alleged, but that was secondary.

11 MS. SCAPICCHIO: Was that when you were
12 in Texas, New Jersey, New York?

13 JUROR: In New York.

14 MS. SCAPICCHIO: In New York, okay, and
15 about how long ago was that? The discrimination.

16 JUROR: It was two years ago.

17 MS. SCAPICCHIO: Were you represented by
18 an attorney at that time?

19 JUROR: Yes.

20 MS. SCAPICCHIO: The interaction that
21 you had with your attorney, did that leave you
22 with a bad feeling against attorneys for any
23 reason?

24 JUROR: No, not at all. Actually, just
25 the opposite.

1 MS. SCAPICCHIO: All right, great,
2 thanks.

3 THE COURT: Sir, could you step outside
4 for just one second, please.

5 (Juror Number 23 exits courtroom.)

6 THE COURT: This juror stands
7 indifferent.

8 MR. HENNING: Commonwealth is content.

9 MS. SCAPICCHIO: Defendant will
10 challenge.

11 (Juror Number 23 enters courtroom.)

12 THE COURT: Thank you, sir, you are
13 excused.

14 THE CLERK: Excused.

15 (Juror Number 23, excused.)

16 (Juror Number 24 enters courtroom.)

17 THE CLERK: Juror 24, Javier Heinsen.

18 JUROR: Yes.

19 THE COURT: Hi, Mr. Heinsen.

20 JUROR: Hi.

21 THE COURT: Sir, is there anything about
22 the nature of these charges or any of the
23 allegations you've heard that might affect your
24 ability to be fair and impartial?

25 JUROR: No.

1 THE COURT: You may hear alleged
2 evidence that the defendant, the alleged victim,
3 and some of the witnesses were involved in selling
4 marijuana. Would that evidence affect your
5 ability to be fair and impartial?

6 JUROR: No.

7 THE COURT: The defendant in a criminal
8 trial has the absolute right not to testify. If
9 Mr. Reddicks chose not to testify at this trial,
10 would you hold that against him in any way?

11 JUROR: No.

12 THE COURT: Is there anything about the
13 length of the trial that poses a hardship for you?

14 JUROR: Not really, just a lot of work.

15 THE COURT: I didn't hear you.

16 JUROR: Just a lot of work, basically.

17 THE COURT: You mean it's a lot of days?

18 JUROR: Yeah.

19 THE COURT: But other than that?

20 JUROR: No.

21 THE COURT: You can serve.

22 JUROR: Yes.

23 THE COURT: Great. Any questions,
24 Counsel?

25 MR. HENNING: Good morning, sir, how

1 are you?

2 JUROR: Good morning.

3 MR. HENNING: It lists here that you're
4 a current senior in college?

5 JUROR: Yes.

6 MR. HENNING: Can you tell us where you
7 go to school and what you're studying?

8 JUROR: I go to Wentworth Institute of
9 Technology and I'm studying civil engineering.

10 MR. HENNING: Have your classes started
11 yet for the semester?

12 JUROR: Yes, they have.

13 MR. HENNING: When did they start?

14 JUROR: Last Wednesday.

15 MR. HENNING: Are you a full-time
16 student?

17 JUROR: Yes, I am.

18 MR. HENNING: You go to school during
19 the day and then you work at night?

20 JUROR: I go to school during the day
21 and then I have Thursday till 8 PM. No work.

22 MR. HENNING: Do you have to do labs or
23 any sort of clinical work as part of your civil
24 engineering degree?

25 JUROR: No.

1 MR. HENNING: How many days a week do
2 you have class?

3 JUROR: All five days a week.

4 MR. HENNING: Would your class schedule
5 be affected by you being a juror?

6 JUROR: Yes. All my classes are usually
7 between 8 and 3 except for one class.

8 THE COURT: Could you step outside,
9 please.

10 (Juror Number 24 exits courtroom.)

11 THE COURT: Mr. Henning, as I've told
12 Ms. Scapicchio, it is my province to determine
13 hardship. I asked him, is there anything about
14 the length of the trial that poses a hardship.
15 He's a college student. He's able to tell me, no,
16 I've got classes. Please, Counsel, this is my
17 call.

18 MR. HENNING: Understood.

19 THE COURT: He's told me he can still
20 do it, so please. If you have other questions,
21 that's fine, but the hardship determination is
22 mine. I give them every opportunity to say to me
23 no, I can't do it. He didn't. So let's press on
24 some other area.

25 (Juror Number 24 enters courtroom.)

1 MR. HENNING: I have no further
2 questions, Your Honor.

3 THE COURT: Ms. Scapicchio?

4 MS. SCAPICCHIO: Just so I understand
5 it, you put down that you have an employer, a
6 current employer?

7 JUROR: It's not a -- when they call me
8 in, I'll go in. Like, they called me in for
9 tomorrow, but I don't really work full-time or
10 part-time for them, it's just when they need me.

11 MS. SCAPICCHIO: So it's just like a
12 per diem. When they call you, if you're
13 available, you go; if you're not available, you
14 don't go.

15 JUROR: Exactly.

16 MS. SCAPICCHIO: How long have you been
17 working in that capacity for this company?

18 JUROR: I did a co-op with them last
19 semester.

20 MS. SCAPICCHIO: Okay, so that's how
21 they have your information.

22 JUROR: Yes.

23 MS. SCAPICCHIO: And you did a good job
24 and they call you back when they need you.

25 JUROR: Exactly.

1 MS. SCAPICCHIO: What type of company
2 is it?

3 JUROR: It's interior sheetrock, so they
4 do interior divisions in buildings.

5 MS. SCAPICCHIO: Is it a like
6 demolition, construction?

7 JUROR: Construction.

8 MS. SCAPICCHIO: Construction, okay.
9 So if they need someone extra, they'll just call
10 you, and if you're available, you show up.

11 JUROR: Yeah, I'm more of an assistant
12 project manager, so I help with the data
13 management if they need help.

14 MS. SCAPICCHIO: So you work in the
15 office.

16 JUROR: Yes.

17 MS. SCAPICCHIO: And you did that for
18 co-op?

19 JUROR: Yes, I did.

20 MS. SCAPICCHIO: For how long did you do
21 your co-op?

22 JUROR: For three months.

23 MS. SCAPICCHIO: Did you like working
24 there?

25 JUROR: Yes.

1 MS. SCAPICCHIO: You said they called
2 you tomorrow. Did you tell them you weren't
3 available?

4 JUROR: I haven't told them. If I get
5 called to be on the jury, I'll tell them no.

6 MS. SCAPICCHIO: Thank you, I don't have
7 any further questions.

8 THE COURT: Sir, could you step outside
9 one more time, please. Thank you.

10 (Juror Number 24 exits courtroom.)

11 THE COURT: This juror stands
12 indifferent.

13 MR. HENNING: The Commonwealth will
14 exercise a challenge.

15 (Juror Number 24 enters courtroom.)

16 THE COURT: Thank you, sir, you are
17 excused.

18 THE CLERK: Excused.

19 (Juror Number 24, excused.)

20 (Juror Number 25 enters courtroom.)

21 THE CLERK: Juror 25, Angelo Manero.

22 JUROR: Here.

23 THE COURT: Hi, Mr. Manero. Sir, is
24 there anything about the nature of these charges
25 or any of the allegations you've heard that might

1 affect your ability to be fair and impartial?

2 THE CLERK: You have to answer yes or
3 no, we're recording.

4 THE COURT: You have to say yes or no,
5 sir.

6 JUROR: No.

7 THE COURT: Sir, you may hear alleged
8 evidence that the defendant, the alleged victim,
9 and some witnesses were involved in selling
10 marijuana. Would that evidence affect your
11 ability to be fair and impartial?

12 JUROR: No.

13 THE COURT: The defendant in a criminal
14 trial has the absolute right not to testify. If
15 Mr. Reddicks chose not to testify at this trial,
16 would you hold that against him in any way?

17 JUROR: No.

18 THE COURT: Is there anything about the
19 length of the trial that poses a hardship for you?

20 JUROR: No.

21 THE COURT: Counsel, any follow-up
22 questions?

23 MR. HENNING: Good morning, sir, how
24 are you?

25 JUROR: How are you doing?

1 MR. HENNING: It says here in the past,
2 work and school, you have, it looks like a check
3 next to employed and then unemployed.

4 JUROR: I just got laid off, but I'm
5 doing a part-time job right now, and I watch my
6 son in the morning. And I live all the way out
7 in Stoneham, I'm not in Revere anymore.

8 THE COURT: Where are you living now?

9 JUROR: In Stoneham.

10 THE COURT: You're excused, sir. You
11 have to be a Suffolk County resident to be on this
12 jury. Thank you, sir.

13 THE CLERK: Excused.

14 (Juror Number 25, excused.)

15 (Juror Number 27 enters courtroom.)

16 THE CLERK: Juror 27, Christian Chavez.

17 JUROR: Here.

18 THE COURT: Good morning, Mr. Chavez.

19 JUROR: Good morning.

20 THE COURT: Sir, is there anything
21 about the nature of these charges or any of the
22 allegations you've heard that might affect your
23 ability to be fair and impartial?

24 JUROR: No.

25 THE COURT: You may hear alleged

1 evidence that the defendant, the alleged victim,
2 and some of the witnesses were involved in selling
3 marijuana. Would that evidence affect your
4 ability to be fair and impartial?

5 JUROR: No.

6 THE COURT: The defendant in a criminal
7 trial has the absolute right not to testify. If
8 Mr. Reddicks chose not to testify at this trial,
9 would you hold that against him in any way?

10 JUROR: No.

11 THE COURT: Is there anything about the
12 length of the trial that poses a hardship for you?

13 JUROR: Well, I go to school and work.

14 THE COURT: Where do you go to school,
15 sir?

16 JUROR: JVS.

17 THE COURT: I'm sorry, where?

18 JUROR: JVS. Adult diploma program.

19 THE COURT: I'm sorry, I can't hear you.

20 MR. HENNING: JVS, adult diploma
21 program.

22 THE COURT: How often do you attend that
23 program?

24 JUROR: I go from Monday through
25 Thursday at 9 AM to 11:30.

1 THE COURT: If you are in school, did
2 you know you could defer your service to some --
3 is there a time when you're out of school?

4 JUROR: Well, I don't go to school on
5 Fridays and the weekends.

6 THE COURT: When do your classes end?

7 JUROR: Till spring.

8 THE COURT: Did you know that you could
9 have deferred your service until the spring when
10 you're out of school?

11 JUROR: No, I didn't know that.

12 THE COURT: You didn't know that?

13 JUROR: No.

14 THE COURT: Thank you, sir, you're
15 excused.

16 THE CLERK: Excused.

17 (Juror Number 27, excused.)

18 (Juror Number 28 enters courtroom.)

19 THE CLERK: Juror 28, Pamela Ross-Kung.

20 JUROR: Yes.

21 THE COURT: Good morning, ma'am. Is
22 there anything about the nature of these charges
23 or any of the allegations you've heard that might
24 affect your ability to be fair and impartial?

25 JUROR: No.

1 THE COURT: You may hear alleged
2 evidence that the defendant, the alleged victim,
3 and some of the witnesses were involved in selling
4 marijuana. Would that evidence affect your
5 ability to be fair and impartial?

6 JUROR: No.

7 THE COURT: The defendant in a criminal
8 trial has the absolute right not to testify. If
9 Mr. Reddicks chose not to testify at this trial,
10 would you hold that against him in any way?

11 JUROR: No.

12 THE COURT: You hesitated for a moment.
13 Are you sure about that?

14 JUROR: I need to think, that's all, to
15 process the question. Sorry.

16 THE COURT: Perfectly understand, and
17 I don't mean to embarrass you. Some people do
18 need to think about the question. But you're
19 saying definitively that that would not affect
20 your ability to be fair and impartial if he chose
21 not to testify.

22 JUROR: Yes.

23 THE COURT: Great. Finally, ma'am, is
24 there anything about the length of the trial that
25 poses a hardship for you?

1 JUROR: No.

2 THE COURT: Great. Any follow-up,
3 Counsel?

4 MR. HENNING: Ma'am, good morning, how
5 are you?

6 JUROR: Good morning. I'm fine.

7 MR. HENNING: This sheet here lists that
8 you've got a master's degree.

9 JUROR: Yes.

10 MR. HENNING: Can you describe where you
11 got it and what the degree was in?

12 JUROR: My degree is in training and
13 development from Lesley University.

14 MR. HENNING: Where did you go to
15 college before that?

16 JUROR: Northeastern University, and
17 before that, Essex Agee.

18 MR. HENNING: Essex what?

19 JUROR: Essex Agricultural and Technical
20 Institute.

21 MR. HENNING: Have you lived in
22 Massachusetts your whole life?

23 JUROR: Yes.

24 MR. HENNING: Down here in the
25 experience with the law section, it says that your

1 brother had some experience with the law for
2 carrying an unlicensed firearm.

3 JUROR: Correct.

4 MR. HENNING: Can you describe where
5 that was and when it was?

6 JUROR: It was here in Massachusetts.
7 When? Probably going back over 10 years, for
8 sure. What else would you like to know?

9 MR. HENNING: Do you remember which
10 location, which courthouse, or which county it
11 was in?

12 JUROR: It was definitely here in
13 Suffolk County.

14 MR. HENNING: Do you remember anything
15 else about the case and what happened with it?

16 JUROR: He was found guilty, he went to
17 prison.

18 MR. HENNING: Do you remember which
19 police department was responsible for the case?

20 JUROR: I'm thinking maybe Cambridge,
21 I'm not sure. I can't remember that far back.

22 MR. HENNING: Based on that experience
23 with your brother, does that cause you to have any
24 feeling one way or another towards law enforcement
25 or police officers?

1 JUROR: That's a -- well, yes, of
2 course, it does.

3 MR. HENNING: Can you describe or
4 elaborate on how it makes you feel in that regard?

5 JUROR: I actually felt they were pretty
6 fair to tell you the truth. You know, you have
7 mixed feelings when you sit through all of that
8 and hear it, also. I don't know what else to say.
9 It was a very emotional time, so very difficult.

10 THE COURT: Ms. Ross-Kung, let me ask a
11 question then. You understand one of the charges
12 against Mr. Reddicks is the unlawful possession
13 of a firearm. Knowing that your brother was
14 convicted of that very same charge some years ago,
15 would that cause you to question your ability to
16 be a fair and impartial juror in this case?

17 JUROR: I wouldn't like to think so,
18 but maybe, I just don't know what that would be.
19 I don't know what --

20 THE COURT: But you think it might
21 affect you.

22 JUROR: Maybe.

23 THE COURT: All right, thank you, ma'am,
24 you're excused.

25 THE CLERK: Excused.

1 (Juror Number 28, excused.)

2 (Juror Number 30 enters courtroom.)

3 THE CLERK: Juror 30, HENNING Rich.

4 THE COURT: Good morning, Mr. Rich.

5 Sir, is there anything about the nature of these
6 charges or any of the allegations you've heard
7 that might affect your ability to be fair and
8 impartial?

9 JUROR: No.

10 THE COURT: You may hear alleged
11 evidence that the defendant, the alleged victim,
12 and some witnesses were involved in selling
13 marijuana. Would that evidence affect your
14 ability to be fair and impartial?

15 JUROR: No.

16 THE COURT: The defendant in a criminal
17 trial has the absolute right not to testify. If
18 Mr. Reddicks chose not to testify at this trial,
19 would you hold that against him in any way?

20 JUROR: No.

21 THE COURT: Is there anything about the
22 length of the trial that poses a hardship for you?

23 JUROR: No.

24 THE COURT: Counsel, any follow-up?

25 MR. HENNING: Good morning, sir, how are

1 you?

2 JUROR: Good morning.

3 MR. HENNING: Can you describe where you
4 got your degree and what you studied?

5 JUROR: Ithaca College, studied
6 integrated marketing communication.

7 MR. HENNING: What does that mean
8 exactly?

9 JUROR: Business, sales, marketing,
10 advertising.

11 MR. HENNING: You grew up in Boston?

12 JUROR: I grew up north of Boston.

13 MR. HENNING: In Massachusetts.

14 JUROR: Yes.

15 MR. HENNING: Where did you go to high
16 school?

17 JUROR: Swampscott High School.

18 MR. HENNING: I have nothing further,
19 Your Honor.

20 THE COURT: Ms. Scapicchio?

21 MS. SCAPICCHIO: Hi, how are you? You
22 say you work for Harmony Healthcare --

23 JUROR: International.

24 MS. SCAPICCHIO: -- International. And
25 you're director of business development?

1 JUROR: Yes.

2 MS. SCAPICCHIO: What does that actually
3 mean? What is your job?

4 JUROR: Sales.

5 MS. SCAPICCHIO: You do sales.

6 JUROR: Yes.

7 MS. SCAPICCHIO: Okay, and how long have
8 you worked for Harmony?

9 JUROR: Just about a year.

10 MS. SCAPICCHIO: Where did you work
11 before Harmony.

12 JUROR: A company called Geriatric
13 Medical.

14 MS. SCAPICCHIO: Same thing, you did
15 sales for them?

16 JUROR: Yes.

17 MS. SCAPICCHIO: I have no further
18 questions, thank you.

19 THE COURT: Sir, could you step outside
20 for just a moment, please.

21 (Juror Number 30 exits courtroom.)

22 THE COURT: This juror stands
23 indifferent.

24 MR. HENNING: Commonwealth is content.

25 MS. SCAPICCHIO: Defendant is content.

1 THE COURT: All right, bring Mr. Rich
2 back in.

3 THE CLERK: That will be Seat 14.
4 (Juror Number 30 enters courtroom.)

5 THE COURT: Mr. Rich, you've been chosen
6 to be on this jury. You're going to be going up
7 to the jury room affiliated with this courtroom
8 and joining other people who have been impaneled
9 both yesterday and today. I'm just going to ask
10 that you not discuss any aspect of this case with
11 anyone at any time, including your fellow jurors,
12 nor allow anyone, including your fellow jurors, to
13 discuss the case with you, all right?

14 We'll be back with you in just a little
15 while. If you could go with the Court Officer,
16 sir.

17 THE CLERK: Seat 14.
18 (Juror Number 30 exits courtroom.)

19 THE CLERK: Is that Mr. Taylor?

20 COURT OFFICER: Yes.

21 THE COURT: Let's bring him in.
22 (Juror in Seat 11, Dexter Taylor, enters courtroom.)

23 THE COURT: Good morning, Mr. Taylor,
24 how are you today, sir?

25 JUROR: Pretty good. I can't complain.

1 THE COURT: Mr. Taylor, on your
2 questionnaire, you had indicated that you had been
3 either arrested, charged, or convicted of a crime,
4 and the only crime you put down was assault and
5 battery, correct?

6 JUROR: Yes, assault and battery was the
7 charge. Yeah, it was assault and battery against
8 my stepson.

9 THE COURT: Thank you, sir, that's all
10 I need to know. It has come to my attention, sir,
11 however, that you've been charged with many other
12 crimes --

13 JUROR: Which I was in the process of
14 sealing the cases.

15 THE COURT: Mr. Taylor, please listen
16 to me. In 2009, an abuse prevention act case that
17 was dismissed; in 2007, resisting arrest; 2002,
18 malicious destruction of property; in 1999, the
19 possession of marijuana, also operating to
20 endanger; in 1998, again possession of marijuana;
21 assault and battery in '97; forgery in '95, along
22 with trespassing and disorderly conduct in '95,
23 and another assault and battery on a public
24 employee, along with assault and battery by means
25 of a dangerous weapon. Are those your

1 convictions, Mr. Taylor?

2 JUROR: Basically, these are the cases
3 that I went through to get sealed. Ever since
4 then, I've been back and forth to court, and the
5 judge in each court has moved to move each case,
6 put it as, you know, pretty much seal the case,
7 but the only one have tied up is the Roxbury one
8 for assault and battery right now which I can't
9 get rid of till 2019.

10 THE COURT: I notice that your record is
11 sealed. Did you think, sir, that you didn't have
12 to put down the other offenses --

13 JUROR: I thought it --

14 THE COURT: Let me finish the question,
15 sir.

16 JUROR: Okay.

17 THE COURT: Did you think that you
18 didn't have to put these other offenses down
19 because they had been sealed?

20 JUROR: Yes, ma'am.

21 THE COURT: And the only one you put
22 down is assault and battery because it has not
23 been sealed.

24 JUROR: Correct, because the whole
25 package can't be sealed because that one is still

1 open till 2019, but the others, they sealed.
2 I really didn't recognize the fact that I had to
3 write down every charge that I ever went through
4 in life.

5 THE COURT: Thank you.

6 Any follow-up, Counsel, regarding this?

7 MR. HENNING: No.

8 THE COURT: Ms. Scapicchio?

9 MS. SCAPICCHIO: None from me.

10 THE COURT: Sir, could you step outside
11 for just a minute.

12 JUROR: Sure.

13 (Juror in Seat 11 exits courtroom.)

14 THE COURT: I accept his explanation
15 and I've heard this before, and I think it's
16 absolutely reasonable for him to think that
17 because his case was sealed, all the other
18 offenses were sealed, and note that he
19 scrupulously put the assault and battery because
20 that hadn't been sealed. So I credit what he's
21 telling me. He's incorrect in interpreting the
22 questionnaire, but I think it's a reasonable
23 interpretation. I think a layperson wouldn't
24 understand that notwithstanding the fact that it's
25 been sealed, he still has to disclose it for the

1 purposes of the questionnaire.

2 So for that reason, I'm not going to
3 excuse him for cause, but as I've indicated, if
4 the Commonwealth wants to exercise a peremptory
5 challenge, they're entitled to do that.

6 MR. HENNING: I'm going to exercise a
7 peremptory challenge.

8 MS. SCAPICCHIO: Your Honor, I would
9 object. At this point, if you've accepted the
10 explanation of this juror in terms of the sealed
11 record, allowing the Commonwealth at this point to
12 strike him from the jury based on something that
13 you found was a mistake of his that was
14 unintentional in terms of what happened.

15 THE COURT: Well, that's an excuse for
16 cause, and I clearly said I credit his
17 explanation, but that didn't mean that he
18 shouldn't have disclosed it.

19 MS. SCAPICCHIO: I'm not saying he
20 wasn't wrong, Judge, I'm not saying that at all.

21 THE COURT: Because he, I think
22 innocently, made a mistake, I'm not excusing him
23 for cause. That being said, however, this is a
24 piece of information that was not available to
25 Mr. Henning at the time of his vetting of this

1 juror. Because of that, he's entitled to exercise
2 a peremptory.

3 MS. SCAPICCHIO: Just so the record is
4 clear, Judge, everyone so far that Mr. Henning has
5 run, and I'm not blaming him, that's come back
6 with a record has been African-American, and so
7 it appears to me that the running of records of
8 potential jurors, in Suffolk County, anyhow,
9 leads to the disclosure of criminal records and
10 exclusion of African American individuals or
11 potential jurors. My client is an African-
12 American. I would object at this point, Judge.

13 THE COURT: Duly noted. Nevertheless,
14 the record is what the record is, and I think in
15 the two instances that Mr. Henning has done that,
16 I've accepted the jurors' explanations, but that
17 doesn't excuse them from fully revealing their
18 criminal history, and in both of those situations,
19 neither juror faithfully disclosed their criminal
20 history. Therefore, I'm going to allow
21 Mr. Henning to exercise a peremptory challenge.

22 MS. SCAPICCHIO: Note my objection.

23 THE COURT: Duly noted.

24 (Juror in Seat 11 enters courtroom.)

25 THE COURT: Thank you, Mr. Taylor, you

1 are excused from this jury. You're free to go.

2 THE CLERK: Excused.

3 THE COURT: In the future, sir, you need
4 to put down all of your convictions or anything
5 that you were arrested for. Even though it's
6 sealed, that means that other members of the world
7 and the public can't look at it; some can, some
8 can't, but please, for future reference, on your
9 questionnaire, you have to reveal it all. All
10 right?

11 JUROR: Okay, my apologies.

12 THE COURT: That's all right,
13 I understand.

14 JUROR: I was unaware, this was my first
15 time going through it, so I thought I had to list
16 whatever was still open that I couldn't seal yet.

17 THE COURT: Thank you, Mr. Taylor,
18 I understand.

19 THE CLERK: You're excused, sir.

20 (Juror in Seat 11, excused.)

21 (Juror Number 31 enters courtroom.)

22 THE CLERK: Juror 31, Michael Kelleher.

23 THE COURT: Good morning, Mr. Kelleher.

24 JUROR: Good morning.

25 THE COURT: Sir, is there anything about

1 the nature of these charges or any of the
2 allegations you've heard that might affect your
3 ability to be fair and impartial?

4 JUROR: No.

5 THE COURT: You may hear alleged
6 evidence that the defendant, the alleged victim,
7 and some witnesses were involved in selling
8 marijuana. Would that evidence affect your
9 ability to be fair and impartial?

10 JUROR: No.

11 THE COURT: The defendant in a criminal
12 trial has the absolute right not to testify. If
13 Mr. Reddicks chose not to testify at this trial,
14 would you hold that against him in any way?

15 JUROR: I don't think so, no.

16 THE COURT: Are you sure about that?

17 JUROR: Yeah, I'm sure.

18 THE COURT: Great. Is there anything
19 about the length of the trial that poses a
20 hardship for you?

21 JUROR: No.

22 THE COURT: Great. Counsel?

23 MR. HENNING: Good morning, sir, how
24 are you?

25 JUROR: Good morning.

1 MR. HENNING: It says you have a
2 bachelor's degree and a four-year college degree.

3 JUROR: That's correct.

4 MR. HENNING: Where did you go to
5 school?

6 JUROR: LaSalle College.

7 MR. HENNING: And what did you get a
8 degree in?

9 JUROR: Finance.

10 MR. HENNING: Did you go directly from
11 there to Brown Brothers?

12 JUROR: I did, yeah.

13 MR. HENNING: So you've been working
14 there for a total of --

15 JUROR: Almost five years.

16 MR. HENNING: What high school did you
17 go to?

18 JUROR: Weymouth High School.

19 MR. HENNING: Nothing further, Your
20 Honor.

21 THE COURT: Ms. Scapicchio?

22 MS. SCAPICCHIO: Hi, how are you?

23 JUROR: Great.

24 MS. SCAPICCHIO: It indicates on the
25 bottom, your experience with the law, disorderly

1 conduct, pretrial probation, case expunged?

2 JUROR: Yes.

3 MS. SCAPICCHIO: What was that all
4 about?

5 JUROR: I was arrested in college for
6 calling a police officer a name and I got
7 disorderly conduct, I got community service, 20
8 hours.

9 MS. SCAPICCHIO: You accepted
10 responsibility for it and it was resolved.

11 JUROR: Correct.

12 MS. SCAPICCHIO: Was it just one of
13 those college things that happen?

14 JUROR: Yes.

15 THE COURT: Was alcohol involved?

16 JUROR: Yeah, a little bit.

17 THE COURT: What a surprise.

18 MS. SCAPICCHIO: And in terms of your
19 job at Brown Brothers, what do you do specifically
20 as a supervisor of funding services?

21 JUROR: I supervise a small trades team
22 for various clients with their investments, trade
23 section of it.

24 MS. SCAPICCHIO: At some point, you said
25 you went to Weymouth High; is that right?

1 JUROR: Yes.

2 MS. SCAPICCHIO: Did you play sports for
3 them?

4 JUROR: Yeah, lacrosse and football.

5 MS. SCAPICCHIO: What year did you
6 graduate from Weymouth?

7 JUROR: 2007.

8 MS. SCAPICCHIO: '07, thank you. I have
9 no further questions.

10 THE COURT: Sir, could you step outside
11 for just a second.

12 JUROR: Sure.

13 (Juror Number 31 exits courtroom.)

14 THE COURT: This juror stands
15 indifferent.

16 MR. HENNING: The Commonwealth is
17 content.

18 MS. SCAPICCHIO: Defendant is content.

19 THE CLERK: That will be seat 11 for
20 Mr. Kelleher.

21 (Juror Number 31 enters courtroom.)

22 THE COURT: Mr. Kelleher, you've been
23 chosen to be on the jury. You're going to go
24 upstairs to the jury room affiliated with this
25 courtroom and meet other jurors who have already

1 been impaneled. Please at no time should you be
2 discussing any aspect of this case with them or
3 anyone else, nor allow them or anyone else to
4 discuss the case with you.

5 JUROR: Okay.

6 THE COURT: Thank you, sir, if you could
7 go upstairs.

8 THE CLERK: That will be Seat 11, and
9 hold off on the next one, please.

10 (Juror Number 31 exits courtroom.)

11 THE CLERK: Just for the record, both
12 counsel have used 12 challenges.

13 MR. HENNING: 14 seated?

14 THE CLERK: And now 14 seated.

15 Okay, 34, please.

16 (Juror Number 34 enters courtroom.)

17 THE CLERK: Juror 34, David Benevides.

18 JUROR: Yes.

19 THE COURT: Mr. Benevides, is there
20 anything about the nature of these charges or any
21 of the allegations you've heard so far that might
22 affect your ability to be fair and impartial?

23 JUROR: No.

24 THE COURT: You may hear alleged
25 evidence that the defendant, the alleged victim,

1 and some of the witnesses were involved in selling
2 marijuana. Would that evidence affect your
3 ability to be fair and impartial?

4 JUROR: No, Your Honor.

5 THE COURT: The defendant in a criminal
6 trial has the absolute right not to testify. If
7 Mr. Reddicks chose not to testify at this trial,
8 would you hold that against him in any way?

9 JUROR: No, Your Honor.

10 THE COURT: Is there anything about the
11 length of the trial that poses a hardship for you?

12 JUROR: No, Your Honor.

13 THE COURT: Counsel?

14 MR. HENNING: Good morning, sir, how are
15 you? You've got a bachelor's degree. Where did
16 you go to college?

17 JUROR: U-Mass Dartmouth.

18 MR. HENNING: When did you begin your
19 involvement with the armed services?

20 JUROR: During college, I joined the
21 ROTC program, graduated from Providence College
22 with an associate's in conjunction with my
23 bachelor's degree.

24 MR. HENNING: Did you go into full-time
25 active duty at any point?

1 JUROR: I did.

2 MR. HENNING: What did you do with the
3 Army at that point?

4 JUROR: I've been deployed to Cuba, to
5 Guantanamo Bay, and then I've been activated on a
6 few occasions for state and federal disaster
7 relief.

8 MR. HENNING: What does operations
9 officer do specifically?

10 JUROR: It's logistics at a battalion
11 and regimen level, so we just coordinate the
12 activity for the lower supporting units and we
13 deal with the other supporting units in a joint
14 command environment with other divisions.

15 MR. HENNING: Thank you very much.

16 MS. SCAPICCHIO: With respect to the
17 ROTC training, when you graduated from U-Mass,
18 you got commissioned?

19 JUROR: I did.

20 MS. SCAPICCHIO: And then you went to
21 officers base force?

22 JUROR: I did.

23 MS. SCAPICCHIO: Where did you do that?

24 JUROR: In Fort Leonard Wood, Missouri,
25 for engineering.

1 MS. SCAPICCHIO: And right from there,
2 you were activated and went where?

3 JUROR: I was not activated, I just
4 served in the National Guard, and I had been
5 activated four separate times. I also have a
6 civilian job, as well.

7 MS. SCAPICCHIO: What do you do for your
8 civilian job?

9 JUROR: I work for John Hancock in
10 finance.

11 MS. SCAPICCHIO: And how long have you
12 done that?

13 JUROR: For four years now.

14 MS. SCAPICCHIO: And then you said one
15 of the places that you served was in Guantanamo
16 Bay?

17 JUROR: Yes, it was.

18 MS. SCAPICCHIO: Was that as security?
19 Or what did you do for Guantanamo --

20 JUROR: That was in the prison facility.

21 MS. SCAPICCHIO: Was that Operation
22 Iraqi Freedom?

23 JUROR: Yes, it was.

24 MS. SCAPICCHIO: One, two, or three?
25 I don't know what it's up to now.

1 JUROR: I think it's Operation Enduring
2 Freedom now.

3 MS. SCAPICCHIO: It is, okay, and that's
4 what you served, under Enduring Freedom.

5 JUROR: I did.

6 MS. SCAPICCHIO: When was that?

7 JUROR: That was from September 2009 to
8 October 2010.

9 MS. SCAPICCHIO: I don't know that you
10 even answered this question, so I apologize. What
11 did you do for Guantanamo Bay specifically? Were
12 you a security officer, were you --

13 JUROR: I did oversee a platoon of
14 security officers.

15 MS. SCAPICCHIO: And what did that
16 entail, overseeing a platoon of security officers?

17 JUROR: I can't really go into it, but
18 it's basically the external/internal security for
19 what they Camp America which is the outer
20 perimeter for the detention facility and then the
21 inner perimeter for each separate detention
22 facility.

23 MS. SCAPICCHIO: In your job as managing
24 those or overseeing those security officers, did
25 you work together with any military police

1 departments?

2 MR. HENNING: No, it was all federal
3 agencies, so US Marshals, FBI, and other law
4 enforcement, but it was all at, I believe, the
5 federal level.

6 MS. SCAPICCHIO: And you interacted
7 with law enforcement on a daily basis.

8 JUROR: I did, it was a joint
9 environment.

10 MS. SCAPICCHIO: Your experience with
11 law enforcement in your service in the Army
12 National Guard, would your experience in your
13 interaction with law enforcement, if a law
14 enforcement officer testified here, whether it be
15 a police officer or somebody from the federal
16 government, if they testified to one thing and a
17 civilian testified to something else, would they
18 get the edge because of your experience and your
19 interaction with them?

20 JUROR: No, ma'am, I've seen all kinds.

21 MS. SCAPICCHIO: What do you mean by
22 that?

23 JUROR: I mean as far as you're dealing
24 with different members of the military and federal
25 as far as there's all different types of people

1 that work there. Because they're in a government
2 agency or a municipal agency doesn't immediately
3 give them, in my mind, that they're automatically
4 correct in any opinion they have.

5 MS. SCAPICCHIO: So you would wait to
6 hear the evidence and then you would make a
7 decision.

8 JUROR: Correct.

9 MS. SCAPICCHIO: Were you involved in
10 any of the interrogation or anyone in your unit
11 or that you directly supervised involved in the
12 interrogation or the gathering of information in
13 the anticipation for interrogation?

14 JUROR: No.

15 MS. SCAPICCHIO: I don't have anything
16 further.

17 THE COURT: Sir, would you step outside
18 for just a moment please.

19 (Juror Number 34 exits courtroom.)

20 THE COURT: This juror stands
21 indifferent.

22 MR. HENNING: Commonwealth is content.

23 MS. SCAPICCHIO: Defendant will
24 challenge.

25 (Juror Number 34 enters courtroom.)

1 THE COURT: Thank you, sir, you are
2 excused.

3 THE CLERK: Excused.

4 (Juror Number 34, excused.)

5 (Juror Number 37 enters courtroom.)

6 THE CLERK: 37, Renato Pisano.

7 JUROR: Here.

8 THE COURT: Hi, Mr. Pisano. Is there
9 anything about the nature of these charges or any
10 of the allegations you've heard that might affect
11 your ability to be fair and impartial?

12 JUROR: No.

13 THE COURT: You may hear alleged
14 evidence that the defendant, the alleged victim,
15 and some of the witnesses may have been involved
16 in selling marijuana. Would that evidence affect
17 your ability to be fair and impartial?

18 JUROR: I would say no.

19 THE COURT: You hesitated, though.

20 JUROR: Yeah.

21 THE COURT: Are you unsure of that
22 answer?

23 JUROR: Yeah, I'd say I'm unsure.

24 THE COURT: All right, thank you, sir,
25 you're excused.

1 THE CLERK: Excused.

2 (Juror Number 37, excused.)

3 (Juror Number 41 enters courtroom.)

4 THE CLERK: 41, Brigette Arsenault.

5 JUROR: Yes.

6 THE COURT: Good morning, ma'am. Is
7 there anything about the nature of these charges
8 or any of the allegations that might affect your
9 ability to be fair and impartial?

10 JUROR: No. The only thing is I have
11 panic disorder, I don't know if that can come into
12 play.

13 THE COURT: Sure.

14 JUROR: So I do have that, and I have an
15 upcoming knee surgery.

16 THE COURT: When is that knee surgery?

17 JUROR: I actually have the orthopedic
18 appointment next week, but I have it on March 7th.

19 THE COURT: This trial will be well over
20 by March. It's going to be over by the end of
21 January. But you have an orthopedic appointment
22 next week?

23 JUROR: Yes.

24 THE COURT: In preparation for the
25 surgery?

1 JUROR: Yes.

2 THE COURT: You're excused, ma'am.

3 THE CLERK: Excused.

4 (Juror Number 41, excused.)

5 (Juror Number 42 enters courtroom.)

6 THE CLERK: 42, Timothy, is it Teixeira?

7 JUROR: Teixeira.

8 THE COURT: Mr. Teixeira, is there
9 anything about the nature of these charges or any
10 of the allegations you've heard that might affect
11 your ability to be fair and impartial?

12 JUROR: No.

13 THE COURT: You may hear alleged
14 evidence that the defendant, the alleged victim,
15 and some of the witnesses were involved in selling
16 marijuana. Would that evidence affect your
17 ability to be fair and impartial?

18 JUROR: No.

19 THE COURT: The defendant in a criminal
20 trial has the absolute right not to testify. If
21 Mr. Reddicks chose not to testify at this trial,
22 would you hold that against him in any way?

23 JUROR: No.

24 THE COURT: Is there anything about the
25 length of the trial that poses a hardship for you?

1 JUROR: Yes, I'm actually unemployed two
2 weeks ago, so I didn't know if that was --

3 THE COURT: Why would being unemployed
4 prevent you from sitting on this jury?

5 JUROR: For the length of it?

6 THE COURT: Yes.

7 JUROR: I'm trying to, you know, get a
8 job as of, you know --

9 THE COURT: Okay, but you're not working
10 right now.

11 JUROR: Yeah, correct.

12 THE COURT: We also pay a stipend of \$50
13 a day which I can start from today, but if you're
14 unemployed, it presents even a better opportunity
15 for you to be on this jury.

16 JUROR: All right.

17 THE COURT: I mean, I understand you're
18 looking for work, but I can't excuse you because
19 you're unemployed.

20 JUROR: Okay.

21 THE COURT: That would make all the
22 employed jurors very unhappy.

23 JUROR: Absolutely.

24 THE COURT: I hope you understand.

25 JUROR: No, I understand.

1 THE COURT: And after the third day of
2 jury service, the Commonwealth pays you a \$50 a
3 day stipend. I can start that \$50 from today so
4 you'll have an extra \$150 in your pocket.

5 JUROR: Okay.

6 THE COURT: All right?

7 JUROR: Absolutely.

8 THE COURT: Any follow-up questions?

9 MR. HENNING: Sir, it says you finished
10 11th grade. What school was that in?

11 JUROR: Winthrop High School.

12 MR. HENNING: Winthrop High School?

13 JUROR: Yes.

14 MR. HENNING: Down in the bottom section
15 here, it says your uncle is what you describe as a
16 convicted felon.

17 JUROR: Yes.

18 MR. HENNING: Can you tell us what you
19 remember about the case, where it was?

20 JUROR: It was in Winthrop and I believe
21 he was caught selling prescription drugs.

22 MR. HENNING: Do you know what happened
23 in the case?

24 JUROR: No, I was young, I was high
25 school, freshman year.

1 MR. HENNING: Did you have a
2 relationship with your uncle before that happened?

3 JUROR: Yeah.

4 MR. HENNING: Were you close with him?

5 JUROR: Yeah.

6 MR. HENNING: What was the result of the
7 case?

8 JUROR: I believe he did five years in
9 prison.

10 MR. HENNING: Do you know which office
11 was responsible for prosecuting him?

12 JUROR: I don't. Like I said, I was
13 young, I wasn't told much.

14 MR. HENNING: I have nothing further.

15 THE COURT: Ms. Scapicchio?

16 MS. SCAPICCHIO: Hi, how are you?

17 JUROR: Pretty good, how are you doing?

18 MS. SCAPICCHIO: You also indicated that
19 your grandfather is a retired police officer?

20 JUROR: Yes.

21 MS. SCAPICCHIO: From which department
22 does he work?

23 JUROR: Winthrop Police Department.

24 MS. SCAPICCHIO: Winthrop. Did you have
25 discussions with your grandfather about his work

1 or any of his cases at all?

2 JUROR: No.

3 MS. SCAPICCHIO: Is your grandfather
4 currently working?

5 JUROR: No.

6 MS. SCAPICCHIO: How long ago did he
7 retire?

8 JUROR: He's 90 now, so some time.

9 MS. SCAPICCHIO: I don't have any
10 further questions.

11 THE COURT: Sir, could you step outside
12 for a second, please.

13 (Juror Number 42 exits courtroom.)

14 THE COURT: This juror stands
15 indifferent.

16 MR. HENNING: Commonwealth is content.

17 MS. SCAPICCHIO: Defendant is content.

18 Juror Number 42 enters courtroom.)

19 THE COURT: Mr. Teixeira, you've been
20 chosen to be on this jury, okay?

21 JUROR: Okay, yes.

22 THE COURT: A couple of things. You're
23 going to go up and join other jurors who have been
24 impaneled both yesterday and today.

25 JUROR: Okay.

1 THE COURT: At no time should you be
2 discussing this case with anyone, including them,
3 nor should anyone, including them, discuss any
4 aspect of this case with you.

5 Also, Mr. Teixeira, I'm happy to start
6 the \$50 per day stipend from today because of your
7 financial situation. Just tell one of the Court
8 Officers and I'll sign that authorization. Don't
9 share this information with the other jurors, if
10 you don't mind.

11 JUROR: All right.

12 THE COURT: I just want to let you know
13 that because of your situation, I can't excuse you
14 from jury service, but I can provide you with
15 another \$150 in your pocket, okay?

16 JUROR: Yes.

17 THE COURT: Employers are obligated to
18 pay you for the first three days. After that,
19 some employers do pay you for the duration of your
20 service, but in your circumstances, the best I can
21 do is give you that extra \$150. I hope that makes
22 it sound a little sweeter now.

23 JUROR: All righty, thank you.

24 THE COURT: Don't share that with
25 anybody else.

1 JUROR: I won't.

2 THE CLERK: Seat 15.

3 THE COURT: Thank you, sir.

4 (Juror Number 42 exits courtroom.)

5 (Juror Number 46 enters courtroom.)

6 THE CLERK: 46, Amelita Francois.

7 JUROR: Yes.

8 THE CLERK: Have a seat, please. Please
9 keep your voice up.

10 THE COURT: Hi, Ms. Francois.

11 JUROR: Hi.

12 THE COURT: Ma'am, is there anything
13 about the nature of these charges or any of the
14 allegations you've heard that might affect your
15 ability to be fair and impartial?

16 JUROR: No.

17 THE COURT: You may hear alleged
18 evidence that the defendant, the alleged victim,
19 and some of the witnesses were involved in selling
20 marijuana. Would that evidence affect your
21 ability to be fair and impartial?

22 JUROR: No.

23 THE COURT: No? The defendant in a
24 criminal trial has the absolute right not to
25 testify. If Mr. Reddicks chose not to testify at

1 this trial, would you hold that against him in any
2 way?

3 JUROR: No.

4 THE COURT: Is there anything about the
5 length of the trial that poses a hardship for you?

6 (No audible response.)

7 THE COURT: You have to make a verbal
8 response.

9 JUROR: Oh, no.

10 THE COURT: No, thank you, ma'am. Any
11 follow-up questions?

12 MR. HENNING: Good morning, how are you?

13 JUROR: Good.

14 MR. HENNING: It says you have a high
15 school diploma. Where did you graduate from?

16 JUROR: Brighton High School, 2013.

17 MR. HENNING: Brighton High School?

18 JUROR: Yes.

19 MR. HENNING: The work that you do, is
20 the company called Professional Profiles?

21 JUROR: Yes.

22 MR. HENNING: Can you describe what you
23 do at work on a daily basis?

24 JUROR: Yeah, I do home aid, I work with
25 people at home. I show them, like cook for them,

1 go shopping with them.

2 MR. HENNING: Nothing further, Your
3 Honor.

4 THE COURT: Ms. Scapicchio?

5 MS. SCAPICCHIO: How long have you
6 worked for home healthcare -- I'm sorry, for the
7 company that you work for right now, Professional
8 Profiles?

9 JUROR: A year.

10 MS. SCAPICCHIO: A year, okay. Do you
11 have your own client base?

12 JUROR: Yes.

13 MS. SCAPICCHIO: You see the same
14 clients all the time?

15 JUROR: Yes.

16 MS. SCAPICCHIO: And you help them on a
17 daily basis.

18 JUROR: Yes.

19 MS. SCAPICCHIO: I have no further
20 questions.

21 THE COURT: Ma'am, could you step
22 outside for just a second.

23 (Juror Number 46 exits courtroom.)

24 THE COURT: This juror stands
25 indifferent.

1 MR. HENNING: The Commonwealth exercises
2 a challenge.

3 (Juror Number 46 enters courtroom.)

4 THE COURT: Thank you, ma'am, you are
5 excused.

6 THE CLERK: Excused.

7 (Juror Number 46, excused.)

8 (Juror Number 48 enters courtroom.)

9 THE CLERK: Juror 48, Carl Richemond.

10 JUROR: Yes.

11 THE COURT: Good morning, Mr. Richemond.

12 JUROR: Good morning.

13 THE COURT: Sir, is there anything about
14 the nature of these charges or any of the
15 allegations you've heard that might affect your
16 ability to be fair and impartial?

17 JUROR: No.

18 THE COURT: You may hear alleged
19 evidence that the defendant, the alleged victim,
20 and some of the witnesses were involved in selling
21 marijuana. Would that evidence affect your
22 ability to be fair and impartial?

23 JUROR: No.

24 THE COURT: The defendant in a criminal
25 trial has the absolute right not to testify. If

1 Mr. Reddicks chose not to testify at this trial,
2 would you hold that against him in any way?

3 JUROR: No.

4 THE COURT: Is there anything about the
5 length of the trial that poses a hardship for you?

6 JUROR: No.

7 THE COURT: Counsel?

8 MR. HENNING: Good morning, sir, how are
9 you?

10 JUROR: I'm well.

11 MR. HENNING: If you can just tell me,
12 the age was left off of your --

13 JUROR: Oh, I'm sorry, 29.

14 MR. HENNING: 29. Did you go to high
15 school in Boston?

16 JUROR: Yes.

17 MR. HENNING: Where did you go?

18 JUROR: I'm sorry, I went to North
19 Cambridge Catholic High School.

20 MR. HENNING: North Cambridge Catholic.

21 JUROR: Yes.

22 MR. HENNING: Did you graduate?

23 JUROR: Yes.

24 MR. HENNING: What year did you
25 graduate?

1 JUROR: In 2005.

2 MR. HENNING: And was there any school
3 that you did after that?

4 JUROR: Yes, I'm at Quincy College now.

5 MR. HENNING: Do you have any focus or
6 major at Quincy College?

7 JUROR: Yes, in biology.

8 MR. HENNING: Biology?

9 JUROR: Yes.

10 MR. HENNING: How long have you been a
11 student at Quincy?

12 JUROR: For three years.

13 MR. HENNING: The job at Andrews
14 International, can you describe where you work and
15 what you do?

16 JUROR: I work security at a government
17 facility.

18 MR. HENNING: What facility is that?

19 JUROR: Miter.

20 MR. HENNING: Miter?

21 JUROR: Miter.

22 MR. HENNING: And then down at the
23 bottom, it says for experience with the law, has
24 anyone in your family had any of the following,
25 and you listed larceny.

1 JUROR: Yes.

2 MR. HENNING: Can you describe who that
3 was and what you remember about the case?

4 JUROR: That was my brother and myself,
5 also, in 2010, I believe.

6 MR. HENNING: Do you remember what
7 happened in the case?

8 JUROR: Well, my friends had stolen
9 goods in the vehicle that we were all in, and then
10 we were just detained for a few hours.

11 MR. HENNING: Do you remember where the
12 case happened?

13 JUROR: In Cambridge, Cambridge,
14 Massachusetts.

15 MR. HENNING: Was it the Cambridge
16 Police Department?

17 JUROR: Yes.

18 MR. HENNING: Do you remember from that
19 experience having any feelings one way or another
20 toward the Cambridge Police Department or law
21 enforcement in general as a result?

22 JUROR: No.

23 MR. HENNING: Nothing further.

24 THE COURT: Ms. Scapicchio.

25 MS. SCAPICCHIO: Hi, how are you?

1 JUROR: I'm well.

2 MS. SCAPICCHIO: As a security officer,
3 you secure a commercial building; is that what it
4 is?

5 JUROR: Yes.

6 MS. SCAPICCHIO: Are you somebody who
7 walks around and does the security or do you
8 screen people who come in?

9 JUROR: Both.

10 MS. SCAPICCHIO: You do both.

11 JUROR: Yes.

12 MS. SCAPICCHIO: When did you start that
13 job, how long ago?

14 JUROR: In 2012.

15 MS. SCAPICCHIO: So you've worked there
16 for a while?

17 JUROR: Yes.

18 MS. SCAPICCHIO: And you work days and
19 then you go to school at night.

20 JUROR: School at night, correct.

21 MS. SCAPICCHIO: How many classes are
22 you taking at Quincy?

23 JUROR: Two classes.

24 MS. SCAPICCHIO: Two classes.

25 JUROR: Yes.

1 MS. SCAPICCHIO: And what days do you
2 usually take those classes?

3 JUROR: Monday through Thursday.

4 MS. SCAPICCHIO: From when to when?

5 JUROR: From 6 to 10:30.

6 MS. SCAPICCHIO: So you work during the
7 day and then you go to school till 10:30 at night.

8 JUROR: Correct.

9 MS. SCAPICCHIO: But it's only two days
10 a week.

11 JUROR: Well, one class is for two
12 months, the next class is for two months. It's
13 from January through April.

14 MS. SCAPICCHIO: And in terms of your
15 job as a security officer, did you ever have to
16 interact with the police department as a result of
17 your job? In other words, call them because
18 there's some problem in the building?

19 JUROR: Yes.

20 MS. SCAPICCHIO: What department would
21 you call?

22 JUROR: The Bedford Police Department.

23 MS. SCAPICCHIO: The Bedford Police
24 Department. How often do you interact with the
25 Bedford Police Department?

1 JUROR: Once in a while, once or twice a
2 year.

3 MS. SCAPICCHIO: And then would you have
4 to write a report about what you saw happen?

5 JUROR: No, my supervisors do.

6 MS. SCAPICCHIO: Did you ever have to go
7 to court and testify about anything?

8 JUROR: No.

9 MS. SCAPICCHIO: I have no further
10 questions.

11 THE COURT: Sir, would you mind stepping
12 outside for just a moment, please.

13 JUROR: Sure.

14 (Juror Number 48 exits courtroom.)

15 THE COURT: This juror stands
16 indifferent.

17 MR. HENNING: Commonwealth is content.

18 MS. SCAPICCHIO: Defendant is content.

19 (Juror Number 48 enters courtroom.)

20 THE COURT: Mr. Richemond, you have been
21 chosen to be on this jury. You're going to be
22 taken up in just a moment to the jury room
23 affiliated with this courtroom and you're going to
24 meet your other fellow jurors. I'm going to ask
25 that you not discuss this case in any way with

1 anyone, including your fellow jurors, nor allow
2 anyone to discuss the case with you, including
3 your fellow jurors. All right, sir?

4 JUROR: Okay.

5 THE COURT: If you'll go up with one of
6 the Court Officers now.

7 (Juror Number 48 exits courtroom.)

8 (END OF INDIVIDUAL JURY VOIR DIRE)

9 THE COURT: Let's hold onto them right
10 now because we still need to run the last two
11 records. Apparently, everybody but the last two
12 have been run, no hits, no problems.

13 MR. HENNING: On either of the --

14 MS. SCAPICCHIO: Victim witness and
15 the --

16 MR. HENNING: Correct.

17 THE COURT: Right. Let's finish up our
18 discussion about any unfinished business, and
19 meanwhile, you'll let me know if there are any
20 hits.

21 MR. HENNING: Yes, I just need the last
22 two.

23 THE COURT: Hold onto your
24 questionnaires. I'm hoping that there are no
25 problems with the last two jurors. Hold onto them

1 for a moment in case there is. All right?

2 MR. HENNING: We just need to wait for
3 their information, so I haven't quite sent that
4 out yet.

5 THE COURT: Right, so let's discuss
6 unfinished business right now.

7 MS. SCAPICCHIO: Judge, can we take a
8 five-minute bathroom break?

9 THE COURT: Of course.

10 MS. SCAPICCHIO: Thank you.

11 COURT OFFICER: All rise, please.

12 (Court in recess at 11:30 a.m.)

13

14 (Court in session at 11:50 a.m.)

15 (Defendant present.)

16 THE COURT: Counsel.

17 MS. SCAPICCHIO: Judge, before we start,
18 *Dorelas* just came down from the SJC.

19 THE COURT: Yes, and I was just about to
20 mention it to you, you took the wind out of my
21 sails.

22 MS. SCAPICCHIO: I didn't get a chance
23 to read it, I just saw that it came down.

24 THE COURT: I'm afraid it was agin you.

25 MS. SCAPICCHIO: It was what?

1 THE COURT: It's against you.

2 MS. SCAPICCHIO: Oh, what does it say?

3 THE COURT: It's in favor of the
4 Commonwealth about photos that were seized from a
5 defendant's cell phone. It's a split decision,
6 I was just reading it on my computer because I get
7 these e-blasts from both the *SJC Reporter of*
8 *Decisions* and also the *Mass Lawyers Weekly*, and
9 *Dorelas, D-O-R-E-L-A-S*, just came down. It is a
10 split decision, four to seven, however --

11 MS. SCAPICCHIO: Four to three.

12 THE COURT: What?

13 MS. SCAPICCHIO: Four to three.

14 THE COURT: Four to three, I'm sorry,
15 I apologize. But the SJC, the majority of the SJC
16 ruled in favor of the Commonwealth and against the
17 defendant with regard to pictures found on that
18 defendant's cell phone.

19 MS. SCAPICCHIO: Judge, could I have a
20 minute to read it to be able to figure out what
21 the argument would be?

22 THE COURT: I want to proceed,
23 Ms. Scapicchio. I've read it.

24 MS. SCAPICCHIO: I understand that, but
25 I haven't, and I have a job to advocate for my

1 client.

2 THE COURT: We're going to be taking a
3 lunch recess soon. I can tell you I've read it,
4 it was found in a split decision in favor of the
5 Commonwealth and against the defendant. You'll
6 have plenty of time to look at that decision, but
7 it doesn't change my determination if we want to
8 get back to that issue.

9 But first, as to the jurors, any hits
10 that have come back as to the impaneled jurors?

11 MR. HENNING: Judge, the first
12 individual, Mr. Teixeira, there was no hit. On
13 Mr. Richemond, the individual who disclosed that
14 he had some issue with a larceny, the Board of
15 Probation record shows a continuance without a
16 finding from 2009 in the Cambridge District Court
17 with fees and a dismissal in the end.

18 THE COURT: Which is what he mentioned.

19 MS. SCAPICCHIO: He did.

20 THE COURT: He was a passenger in a car,
21 as I recall.

22 MS. SCAPICCHIO: That's what he said.

23 THE COURT: Anybody have any problem
24 with any of these recently impaneled jurors?

25 MR. HENNING: No, Your Honor.

1 MS. SCAPICCHIO: No, Your Honor.

2 THE COURT: Can you hand those to
3 Ms. McCann, and they can be mark for
4 identification.

5 MR. HENNING: Your Honor, just for the
6 record, the Teixeira Board of Probation record, we
7 didn't bring down because it doesn't exist. The
8 one from Mr. Richemond is here.

9 THE COURT: Excellent, all right.

10 (Exhibit J was marked for
11 identification, Board of Probation records,
12 Jurors 42 and 48.)

13 THE COURT: We have a few issues of
14 unfinished business. Have a seat, Mr. Reddicks.

15 MR. REDDICKS: Thank you.

16 THE COURT: In no particular order,
17 I think there was an issue with Detective Camper's
18 proposed testimony?

19 MR. HENNING: The Commonwealth reached
20 out to Detective Camper. There's not going to be
21 an additional report that he creates that talks
22 about the firearm, that the firearm in this case
23 is more likely than not to be a revolver.

24 I would still elicit testimony from him
25 about the characteristics of revolvers versus a

1 semiautomatics, but I won't be asking for him to
2 reach a conclusion or to opine on whether the gun
3 used in this case is more likely than not a
4 revolver.

5 THE COURT: So it's a moot point.

6 MS. SCAPICCHIO: It is, Your Honor.

7 THE COURT: All right, so all these
8 issues of alleged expert testimony late disclosed,
9 two have now become moot. The one about the
10 pathologist has become moot.

11 MS. SCAPICCHIO: Right.

12 THE COURT: The one about Detective
13 Camper has become moot.

14 MS. SCAPICCHIO: Right, but it hasn't
15 stopped me from having to investigate them, Judge.

16 THE COURT: I understand, thank you, but
17 it's all a moot point now. There is also an issue
18 with the MBTA timing issue, the missing two
19 minutes.

20 MS. SCAPICCHIO: Two and a half.

21 THE COURT: I stand corrected, two and
22 a half.

23 MR. HENNING: So, Your Honor, what I
24 would propose to do is Your Honor had asked be
25 able to have an expert available for a voir dire.

1 I intend to have that witness or those witnesses
2 be available for the beginning of next week.

3 What I can do is, Mr. Creedon is a
4 witness, I can just have him come in. We were
5 scheduling the view for Tuesday morning. What I
6 would intend to do is have him come in after
7 Tuesday morning and then we can have that.

8 THE COURT: All right, that issue was
9 going to be, and as I recall, I ruled, was going
10 to be resolved by way of a voir dire at which --
11 obviously, you need to give Ms. Scapicchio advance
12 notice so that she can have her witness here, too.

13 MR. HENNING: The witness I have,
14 Mr. Creedon, I haven't reached out to him yet.
15 I assume he's available, but I will let
16 Ms. Scapicchio know if that changes.

17 MS. SCAPICCHIO: I'll talk to
18 Mr. LeBlanc as soon as the break happens.

19 THE COURT: Great.

20 MS. SCAPICCHIO: Still over my
21 objection, Judge, just so it's clear.

22 THE COURT: Noted.

23 MR. HENNING: The T-Mobile expert, we'll
24 be calling Patrick Quinn, produced a report and
25 I provided it to Counsel. I just don't have an

1 extra copy because I did not print it out,
2 I apologize. I believe the Court Officer was
3 going to assist me with a copy, but I don't have
4 a copy in my hand right now.

5 THE COURT: Have you seen the report?

6 MS. SCAPICCHIO: I did. I got it
7 actually yesterday afternoon. It indicates as far
8 as the technology is concerned, something about
9 ground clutter, something about field antennas,
10 stuff I don't know about that somehow restrict
11 this coverage to less than one mile. So I've
12 sent this to my cell tower expert, I have not
13 heard back from him. I haven't even had a
14 conversation with him because I was busy reading
15 the discovery that they sent yesterday or the day
16 before. I can't say that I'm ready to cross-
17 examine on this, Judge, I can't say that.

18 THE COURT: Let's put this aside until
19 you've heard back from your fellow.

20 MR. HENNING: That witness would likely
21 not testify until the middle of next week.

22 THE COURT: Okay, and clearly, as to any
23 of these that I'm reserving on, you can't mention
24 it in an opening, obviously. And then after you
25 talk to your expert, Ms. Scapicchio, let's have

1 another conversation about this.

2 MR. HENNING: Just to clarify, in the
3 openings, Commonwealth does intend to elicit
4 testimony about what cell towers are. But the
5 vicinity issue of the towers, I'm not going to
6 say anything.

7 THE COURT: That's the part, I think,
8 that is concerning to me. That's a big issue.

9 MR. HENNING: Yes.

10 THE COURT: The technology of cell
11 towers is not new to Ms. Scapicchio and I'm sure
12 you've supplied some discovery about that. It's
13 this particular issue, under a mile, that is
14 concerning to me.

15 MR. HENNING: I'm not mentioning it.

16 THE COURT: Don't mention that at all,
17 all right? Were there any other pieces of
18 unfinished business?

19 MS. SCAPICCHIO: McGee, the photos and
20 the testimony.

21 THE COURT: Yes. Let me get the motion
22 itself.

23 Yes, it was the Commonwealth's motion in
24 limine to admit certain evidence of prior and
25 subsequent acts of the defendant to demonstrate

1 access to firearms and motive. You've now
2 reviewed McGee. Is there anything else you want
3 to say, Ms. Scapicchio?

4 MS. SCAPICCHIO: Yes, Your Honor.
5 I think in McGee, they took pains to identify
6 when, in fact, the photo had been taken, and just
7 so the Court is clear, in McGee, it was unobjected
8 to in terms of what was happening, and clearly
9 here, there's an objection. In McGee, also, there
10 wasn't an issue as to the photograph in and of
11 itself. So I'd suggest, Judge, because they were
12 able to date the photograph, I think it was within
13 a day of when it was taken, and I think the Court
14 did some sort of voir dire to try to date the
15 photograph, in this case, despite what *Dorelas*
16 says, although I don't know what it says right
17 now, if there's no ability to date the
18 photographs, we don't know from -- and there was
19 testimony that it actually was a gun. In other
20 words, people had seen the person in the photo who
21 happened to be the defendant with a gun. There
22 was no question it was a gun. In this case, we
23 don't know if it's a toy gun, we don't know if
24 it's an operating gun, we don't know what it is,
25 and we don't know when it was taken. For all we

1 know, he could have been 15 years old when it was
2 taken.

3 THE COURT: Mr. Henning, paragraphs
4 number four and five deal with photographs
5 allegedly taken from the defendant's cell phone.

6 MS. SCAPICCHIO: That's correct.

7 THE COURT: One is upon his arrest in
8 December 2011 for an offense for which he pled
9 guilty.

10 MS. SCAPICCHIO: You've made that clear,
11 Judge.

12 THE COURT: But the second one is also
13 upon his arrest in May of 2012.

14 MR. HENNING: Yes.

15 THE COURT: First of all, are either of
16 those -- can we identify either the time of the
17 photograph in either of those instances?

18 MR. HENNING: I don't believe there's a
19 time on the photograph that he identified,
20 although I'd have to check to see if the metadata
21 shows a date. The metadata is when you click on
22 the properties of the photo. I can certainly do
23 it, but I don't believe that it's relevant for
24 admissibility, I think it's ripe for cross-
25 examination. It's certainly something Counsel can

1 inquire about, but I don't believe that the McGee
2 holding says we need to be able to identify with
3 specificity when it was taken. I think it has to
4 be when it was taken in the sense that, when it
5 was accessed.

6 THE COURT: Is this the same alleged gun
7 or they're two different guns?

8 MR. HENNING: I can show you the
9 pictures if you'd like.

10 MS. SCAPICCHIO: They can't say it's the
11 same, Judge. Or if they have, they haven't told
12 me about it yet.

13 MR. HENNING: No.

14 THE COURT: Mr. Kalell.

15 MR. HENNING: The guns on the left are
16 from 2011-2012.

17 MS. SCAPICCHIO: Can I see it?

18 THE COURT: The offense in December
19 2011, that was a revolver, correct?

20 MR. HENNING: The testimony from a
21 witness was it's a revolver. I don't believe that
22 there was any specifics on charging of the type,
23 but yes, the witness testimony was silver
24 revolver.

25 THE COURT: And that was seized upon

1 his arrest in December.

2 MR. HENNING: December 2nd, 2011.

3 MS. SCAPICCHIO: Judge, we don't know if
4 this was a picture someone sent to him and it just
5 ended up on his phone, we don't know if it's a
6 picture he took. That's the difference between
7 this case and McGee. In McGee, they were sure
8 that the defendant was standing in the room, the
9 gun was in the room, and the picture was taken.
10 In this case, for all we know, someone sent him
11 that picture and he saved it for some reason, but
12 it doesn't have anything to do with whether or not
13 he actually possessed the gun or didn't possess
14 the gun. And he was a juvenile at the time,
15 Judge.

16 THE COURT: Do you have anything to
17 support, to rebut the concern that Ms. Scapicchio
18 raises?

19 MR. HENNING: Yes, that's why we intend
20 to call a live witness for the 2011 gun because
21 the live witness will corroborate that this was a
22 gun that this defendant actually possessed. He
23 can't point at this picture and say that the gun
24 that's in this picture is the same, but he can
25 describe it, it's a silver colored revolver, and

1 say that the defendant possessed it.

2 THE COURT: Mr. Washington.

3 MR. HENNING: Correct.

4 MS. SCAPICCHIO: But Mr. Washington
5 can't say that that's the gun, the same as the
6 Collins cases and the other cases in terms of --

7 MR. HENNING: The McGee case described
8 people talking about a gun, but none of the
9 witnesses in that case pointed in the same
10 photograph that was entered into evidence and
11 said I'm saying it's the same.

12 THE COURT: Have you shown
13 Mr. Washington the pictures from 2011 and asked
14 him if it --

15 MR. HENNING: Absolutely not, because
16 I don't believe -- I can do it, but he did not
17 access the photos, himself.

18 THE COURT: No, I know, but have you
19 taken the time to show him these photographs?

20 MR. HENNING: I would assume that
21 Counsel would object to it. I'd be happy to do
22 it, but --

23 MS. SCAPICCHIO: I would, Judge.
24 I don't know how it's relevant. If he can't
25 identify that photo as the gun, how is it

1 relevant?

2 THE COURT: Because circumstantially,
3 arguably, Mr. Washington is going to say it's a
4 silver revolver. This is a silver revolver.

5 MS. SCAPICCHIO: That's my question,
6 Judge, we don't know when that picture was taken
7 or what -- we don't even know if someone sent him
8 that.

9 THE COURT: I'm going to note your
10 objection as to the 2011 picture. There's case
11 law, by the way, that says if a witness says it
12 looks like the gun, that's admissible.

13 MS. SCAPICCHIO: But that's connecting
14 the gun to the defendant. In this case, all we
15 have is a picture on a phone, we don't know how
16 old it is, of a gun that doesn't have him involved
17 in it. So we don't even know if he saw it, if he
18 possessed it, if anything happened with it.

19 THE COURT: Ms. Scapicchio, I will
20 clearly note your objection for the record, but
21 there is clear circumstantial evidence.
22 Mr. Washington was apparently with Mr. Reddicks at
23 the time that he possessed a gun for which he
24 pled guilty. That is sufficient circumstantial
25 evidence by which Mr. Washington, who is a

1 percipient witness to an offense for which your
2 client has already been convicted, can say it was
3 a silver revolver. The pictures from 2011 depict
4 a silver revolver.

5 MS. SCAPICCHIO: But, Judge, that
6 assumes that that silver revolver was in my
7 client's possession sometime after he saw him
8 with it. What if that silver revolver was in his
9 possession five years before that?

10 THE COURT: Thank you --

11 MS. SCAPICCHIO: Or the picture was in
12 his possession five years before that?

13 THE COURT: Because there's sufficient
14 circumstantial evidence. He's found with a gun,
15 Mr. Washington sees him with a gun in 2011, and
16 upon his arrest, he has a picture on his cell
17 phone of a silver revolver. That is a sufficient
18 nexus to these pictures. So I will note your
19 objection, but respectfully, I disagree with you
20 as to that picture. There's sufficient
21 circumstantial evidence to support the admission
22 of that.

23 But this 2012 picture, even if you could
24 relate it, I'm not going to allow a picture with
25 somebody pointing a gun to somebody's head.

1 MR. HENNING: That's the defendant.

2 THE COURT: I know, but still --

3 MR. HENNING: That's the defendant in --

4 MS. SCAPICCHIO: And it's not a
5 revolver, Judge, they can't tell if it's a
6 revolver, so what difference does it make?

7 MR. HENNING: Well, I think the jurors
8 could very easily infer what it looks like and
9 also witnesses can testify.

10 MS. SCAPICCHIO: It's not silver, it's
11 not the one that they say he possessed, it's not
12 even capable of saying it's a revolver.

13 THE COURT: You can only see part of the
14 gun.

15 MR. HENNING: Yes.

16 THE COURT: It kind of looks like a
17 revolver, but it's not clear, unlike these other
18 two pictures from 2011.

19 MR. HENNING: The case law on this is
20 actually stronger because of the proximity in
21 time. Also, number one, there was no gun
22 recovered in this case. Number two, this shows
23 the defendant, himself, in vivid color in
24 possession of a gun. So I respectfully -- perhaps
25 if there are any of those photos that you would

1 argue potentially could be excluded, it would be
2 the top right-hand corner one which shows an
3 object that looks like a gun in some location.
4 That was still on the defendant's phone. But the
5 photos of the gun in his hands pointing up to his
6 head, yes, they're egregious, but they're very
7 admissible under the case law.

8 THE COURT: Well, they're admissible
9 under McGee if it's potentially the murder weapon,
10 and the murder weapon by your theory is a
11 revolver.

12 MR. HENNING: Yes.

13 THE COURT: The pictures showing
14 Mr. Reddicks, and putting aside the inflammatory
15 nature of these pictures --

16 MS. SCAPICCHIO: The inflammatory nature
17 outweighing the probative value.

18 THE COURT: Thank you, Ms. Scapicchio.
19 I know Rule of Evidence 403 pretty well. It's not
20 absolutely clear to me that that's a revolver.
21 I think it's a revolver, but given the --

22 MR. HENNING: I have to confess, Your
23 Honor, I find -- I don't have that lack of
24 clarity, to the point where the lack of clarity
25 wasn't something I actually anticipated because

1 it's so obvious. What I'd like to ask of the
2 Court, on that one picture, we can do a voir dire
3 of a witness, perhaps.

4 THE COURT: No, Mr. Henning. I grant
5 you, it's Mr. Reddicks holding a gun to his head.
6 Nevertheless, the very provocative nature of this
7 makes me agree with Ms. Scapicchio. As to this
8 2012 picture, it's probative value is far
9 outweighed by its potential prejudice to
10 Mr. Reddicks. Holding a gun to somebody's head?
11 Especially considering that the alleged victim in
12 this case got shot in the head? That goes too
13 far, Mr. Henning.

14 Now, I've already put Ms. Scapicchio on
15 notice, and I'll say it again. Depending on how
16 much she cross-examines Mr. Washington could open
17 the door for rebuttal evidence, knowing that we
18 have pictures here of Mr. Reddicks, himself,
19 holding a gun.

20 MS. SCAPICCHIO: Judge, the top left-
21 hand corner, I don't know if I ever focused on
22 that photo.

23 THE COURT: Is that from the same
24 seizure?

25 MR. HENNING: Yes.

1 MS. SCAPICCHIO: I mean, how many
2 pictures of a gun do we need?

3 THE COURT: I have the two pictures on
4 the left side on the lower half of the photograph
5 depicting what appears to be the same gun, clearly
6 a revolver in profile, from 2011. The one in the
7 upper left-hand corner, 2011, is that also from
8 his cell phone at the time of arrest?

9 MR. HENNING: Same phone, same gun.

10 THE COURT: I agree with Ms. Scapicchio,
11 you don't need three photographs, you've got these
12 two right here.

13 MR. HENNING: What I'd like to do is to
14 at least have a moment. If Your Honor is saying
15 they have to knock one out, I'd like to be able to
16 choose which one goes in and and which one
17 doesn't.

18 THE COURT: Well, I'm concerned again,
19 the provocative nature of this, it's somebody with
20 a finger on the trigger.

21 MR. HENNING: Your Honor is saying
22 provocative, I'm also saying probative because
23 it's somebody's -- I understand what you're saying
24 and --

25 THE COURT: I'm not saying it's not

1 probative, sir. What I am saying, though, that
2 the potential prejudicial effect of having it in
3 somebody's hand with a finger on the trigger, the
4 prejudicial effect of that outweighs its probative
5 nature. Clearly, it's probative, but you also
6 have these two photographs.

7 MR. HENNING: What I would ask to do is
8 to remove the one on the bottom left-hand corner
9 and have the other two remain.

10 THE COURT: I don't know what you're
11 talking about.

12 MR. HENNING: If you slide over to the
13 left with the money and the phone, the one with
14 the money on it.

15 THE COURT: Yes.

16 MR. HENNING: I'd like to remove that
17 and leave the other two. It still does not have a
18 photo of Mr. Reddicks holding it, it doesn't have
19 a photo of it being held to anyone's head, but it
20 does have someone's hand there.

21 MS. SCAPICCHIO: It still has the finger
22 on the trigger, it doesn't solve that problem.

23 THE COURT: Mr. Henning, really, you're
24 trying to show that he's got access and
25 familiarity with a gun.

1 MS. SCAPICCHIO: And you have live
2 witnesses.

3 THE COURT: And you have a live witness,
4 and quite frankly, I put Ms. Scapicchio on plenty
5 of notice, he's pled guilty to this. If she
6 starts attacking Mr. Washington's credibility, she
7 knows, she's a very experienced attorney, this
8 could be opening the door to other pictures coming
9 in. You can have either of these two pictures,
10 Mr. Henning. I'll note your objection for the
11 record. You can have both or you can have one or
12 the other, but that's all, those two pictures.
13 I don't want the finger on the trigger. That, to
14 me, is over the line.

15 MS. SCAPICCHIO: Thank you, Your Honor.

16 MR. HENNING: Note the Commonwealth's
17 objection.

18 THE COURT: Clearly noted. This, if
19 you don't mind, I'm going to have this marked for
20 identification so any appellate court, if
21 necessary, can see what we were talking about.

22 (Exhibit K was marked for
23 identification, chalk/photos of revolver.)

24 MS. SCAPICCHIO: Judge, the only other
25 concern I have about -- hold on, let me think,

1 Your Honor, for a minute because I don't want to
2 say it until I look at it. Let me look at it at
3 lunch. If I have another issue, I will bring it
4 to the Court's attention.

5 THE COURT: Okay. Any other outstanding
6 business?

7 MR. HENNING: Yes. We have a question
8 about the witness coming in tomorrow?

9 MS. SCAPICCHIO: Yes, Judge. I was
10 provided with the NCIC of Ronald Theodat, the
11 individual from Maine who is coming here who
12 claims he doesn't want to testify. That NCIC
13 indicates that he's got a number of arrests and/or
14 convictions for robbery and armed robbery. I'm
15 not going to have the time to run and get
16 certified copies. I'm looking --

17 THE COURT: I'm relieving you of that.

18 MS. SCAPICCHIO: Thank you.

19 THE COURT: If it's on the NCIC, I don't
20 see any reason why we need to slavishly adhere to
21 the case law that says you've got to run out to a
22 foreign jurisdiction to get that. Just tell
23 Mr. Henning what you wish to impeach him with.

24 MS. SCAPICCHIO: I am, Judge. The
25 problem is it seems like he's been continuously in

1 trouble since 1993, so I think each one of his
2 arrests triggers a new 10 year period, although
3 I haven't had the opportunity to actually do those
4 numbers in my head. He's not testifying, my
5 understanding, till tomorrow.

6 THE COURT: Talk to Mr. Henning, and if
7 there's a disagreement as to what can be used for
8 impeachment purposes, we'll have another
9 discussion.

10 MS. SCAPICCHIO: My suggestion, Judge,
11 and I'm not looking to overstep my bounds here, is
12 that we try and do a voir dire with Mr. Theodat
13 first thing in the morning to determine what, if
14 anything, his issues are as far as testifying in
15 this case.

16 THE COURT: Well, yes, that remains to
17 be seen. Thank you for reminding me. Is a CPCS
18 attorney going to be here?

19 MR. HENNING: Yes, I've spoken with the
20 assignment attorney, who Counsel apparently knows.
21 She responded back to my email a short time ago.
22 She said that she will have somebody on board by
23 the end of today.

24 THE COURT: Okay. I just want to tell
25 you, Mr. Henning, please have other witnesses

1 ready because what's going to happen is he's going
2 to be brought in tomorrow, we hope, an attorney is
3 going to be talking to him, and then we'll get a
4 report back at some point tomorrow morning about
5 his desires regarding the Fifth Amendment. So
6 let's --

7 MR. HENNING: He also does have to be
8 transported from New Hampshire to here.

9 THE COURT: Okay, just have other
10 witnesses available.

11 MR. HENNING: Yes.

12 THE COURT: When Mr. Theodat is going to
13 be testifying remains to be seen, if at all.

14 MS. SCAPICCHIO: Judge, just for the
15 record, I'm still trying to contact his main
16 lawyer, I think her name is Churchill. I can say
17 for the record, I've placed more than 15 calls to
18 her office trying to get more information about
19 the federal case, and I'm still in the process of
20 trying to gather that. The minute I get it,
21 I will turn it over.

22 Just for the Court's information, we did
23 get certified copies of Massachusetts convictions
24 for all of the witnesses this morning. We turned
25 that over to Mr. Henning as soon as it came to the

1 courtroom. I think one of my other lawyers in the
2 office brought it up around 9:30 or 10 o'clock
3 this morning and I turned it over. I haven't read
4 it all yet, but he has what I have.

5 THE COURT: Thank you.

6 MS. SCAPICCHIO: The final issue, Judge,
7 in terms of -- we don't have to do it right this
8 second, as long as you're not calling
9 Mrs. Reddicks tomorrow?

10 MR. HENNING: No.

11 MS. SCAPICCHIO: Okay. The issue with
12 Mrs. Reddicks, as far as I understand in speaking
13 to my client's mother, is -- and I didn't
14 represent anyone at the time, so I didn't know
15 this was an issue. Apparently, last time she came
16 in to testify in front of the grand jury, on her
17 way out of the courthouse, I don't know that there
18 was a courtroom, it was a courthouse, she had
19 some sort of, I don't want to say heart attack,
20 but issue with her heart which resulted in her
21 going into the hospital and getting a pacemaker
22 put in as a result of the stress. That was the
23 concern from the family in terms of what was
24 happening to her physically as a result of coming
25 in and testifying. That was the reason that his

1 mother asked for a letter, because she was
2 concerned about the medical health because there
3 was an actual incident where she had to be taken
4 to the hospital by ambulance.

5 THE COURT: I have nothing before me to
6 prevent the Commonwealth from bringing in this
7 woman for trial. If that changes, if a doctor
8 shows up and says she can't appear, I'll
9 reconsider. But right now, she's going to be
10 subpoenaed to testify.

11 MS. SCAPICCHIO: I understand that
12 completely.

13 THE COURT: And we will keep a close
14 look on her, and if she experiences any kind of
15 difficulty, we will respond quickly accordingly.

16 MS. SCAPICCHIO: I just wanted to let
17 the Court be aware of that situation because I was
18 not aware of it.

19 THE COURT: Thank you.

20 MS. SCAPICCHIO: I didn't represent
21 Mr. Reddicks at the time, so I wasn't aware that
22 that was happening.

23 THE COURT: Then if she's experiencing
24 any kind of distress, please let Officer Loperari
25 know immediately and we will call the necessary

1 medical personnel, if necessary. All right?

2 MS. SCAPICCHIO: Thank you, Your Honor.

3 THE COURT: All right, just some final
4 housekeeping matters. There is the defendant's
5 motion to exclude firearm identification testimony
6 in evidence or alternatively for a Daubert
7 hearing. We've had several discussions about
8 this, this is Detective Camper's testimony, and
9 especially because he is not going to be
10 testifying about his opinion as to the type of
11 gun -- there was also this issue about the
12 striations, his opinion as to whether they all
13 came from the same gun.

14 MR. HENNING: Yes.

15 THE COURT: What is he going to testify
16 as to that?

17 MR. HENNING: He's going to testify as
18 to the substance of his report and he's going to
19 be using the notes as part of the basis for that,
20 and Counsel is able to cross-examine on that.

21 THE COURT: We've had this discussion
22 before, I'm going to note the defendant's
23 objection, but I'm going to deny that motion.
24 This is the subject for cross-examination. All
25 right?

1 There's a defendant's motion in limine
2 to exclude Commonwealth's experts. I think this
3 included the cell tower person.

4 MS. SCAPICCHIO: Right.

5 THE COURT: So I'm going to hold that
6 aside yet because I think that's the one open
7 issue still, and we'll have a further discussion
8 about the cell tower fellow. So that is left in
9 abeyance.

10 There was a motion to advance and
11 continue, I think that that's --

12 MS. SCAPICCHIO: Denied?

13 THE COURT: Denied.

14 MS. SCAPICCHIO: Note my objection.

15 THE COURT: Duly noted, but again --

16 MS. SCAPICCHIO: Judge, just so the
17 record is clear, I did have the opportunity to
18 print out a report, at least one of the reports in
19 the 4000 pages that I got from the Commonwealth on
20 the 12th of January. The report appears to be
21 over 500 pages long. I've had the opportunity to
22 go through about a fourth of the report at this
23 time. It doesn't include emails of the victim in
24 this case, so I haven't had the opportunity to do
25 that. It doesn't include photos on the victim's

1 phone. So I want to reserve my right to
2 introduce any of that in the event that it
3 becomes pertinent.

4 THE COURT: Absolutely. We've had this
5 discussion, I've made a ruling, I've noted your
6 objection. This is the victim's cell phone. The
7 chances of finding exculpatory evidence on the
8 victim's cell phone, especially if I understand
9 correctly, and correct me if I'm wrong,
10 Mr. Henning, Ms. Malave had never met Mr. Reddicks
11 before, correct?

12 MR. HENNING: No.

13 THE COURT: Okay, so the chances of
14 finding exculpatory evidence relative to
15 Mr. Reddicks is highly remote. But if and when
16 you find something, Ms. Scapicchio, I remain
17 open-minded about it. All right? I've noted
18 your objection.

19 The motion to continue, because almost
20 all of the issues about experts have been resolved
21 either because they've become moot or I've ruled,
22 as with regard to Detective Camper, I've ruled
23 against the defendant regarding Detective Camper's
24 disclosure, and the one remaining issue is the
25 cell tower fellow, that's being kept in abeyance,

1 there's no need to continue the trial, so that
2 motion is denied.

3 MS. SCAPICCHIO: Note my objection.

4 THE COURT: Noted.

5 And finally, I just had to look up your
6 federal cases regarding overview evidence.

7 MS. SCAPICCHIO: Yes.

8 THE COURT: And I have come to
9 appreciate it's only a concept known in federal
10 jurisprudence. No Massachusetts case has ever
11 raised this issue.

12 MS. SCAPICCHIO: I --

13 THE COURT: Let me just -- before you
14 say anything, Ms. Scapicchio, please. I've
15 endorsed the motion as follows, and I quote, "as
16 used in federal jurisprudence, overview testimony
17 is impermissible when it consists of a law
18 enforcement officer's credibility assessments,
19 inadmissible hearsay, or a preview of the
20 government's case." See U.S. versus Etienne,
21 E-T-I-E-N-N-E, and U.S. versus Brooks. Citations
22 are included for both of them. As such, the
23 motion is allowed. However, the Commonwealth is
24 entitled to elicit testimony as to how the police
25 investigation evolved and what investigative

1 techniques were used, and I rely on one of those
2 federal cases, U.S. v. Brooks.

3 So that's the parameters. I think both
4 of you know what the parameters are there. In
5 essence, based on federal jurisprudence, that
6 motion is allowed.

7 MS. SCAPICCHIO: Thank you, Your Honor.

8 THE COURT: I think that's about it.
9 I have a motion for funds, I will allow that,
10 don't worry about it.

11 MS. SCAPICCHIO: Thank you, and I have
12 one that I forgot to bring this morning for the
13 cell tower, I'll get that up this afternoon.

14 THE COURT: Just hand it to Mr. Kalell,
15 you will get that allowed. I think that's all of
16 the motions. Anything else?

17 MS. SCAPICCHIO: Not right now.

18 THE COURT: What I'm going to suggest,
19 because the jurors have been sitting up there for
20 so long and from yesterday to today, I'm going to
21 propose that we bring them down, swear them in,
22 read the indictments, and I'll just do the pre-
23 charge and then we'll go to lunch.

24 MS. SCAPICCHIO: Yes, Your Honor.

25 THE COURT: At whatever time that may

1 be, but before 1 o'clock. And then we come back
2 and we hear opening statements. How long do you
3 want for your opening statements?

4 MS. SCAPICCHIO: I can't imagine I'll be
5 more than 30 minutes, I never am.

6 THE COURT: How about 15 minutes?

7 MS. SCAPICCHIO: On a murder, Judge?

8 THE COURT: Sure.

9 MS. SCAPICCHIO: No, I can't do it in
10 15 minutes. That's crazy.

11 THE COURT: No, it's not.

12 MS. SCAPICCHIO: Judge, on a homicide?
13 I need more than 15 minutes to explain to the jury
14 what my theory is, and I'm sure the Commonwealth
15 needs more than 15 minutes.

16 THE COURT: Mr. Henning, how much do you
17 want?

18 MR. HENNING: I think I'm right around
19 the 15 minute mark.

20 THE COURT: How about 20 minutes,
21 Ms. Scapicchio?

22 MS. SCAPICCHIO: I'm asking for 30,
23 Judge.

24 THE COURT: Okay, you'll have 20.

25 MS. SCAPICCHIO: Note my objection.

1 THE COURT: Noted. It doesn't mean
2 you have to stop on a dime, but when you get to
3 20 minutes, I'll get your attention and that will
4 be your cue to start wrapping up.

5 Let's bring the jury down and at least
6 do those first steps so that the jury feels that
7 we're getting underway, then we'll take a lunch
8 hour.

9 MS. SCAPICCHIO: Is there any
10 possibility of getting a copy of *Dorelas*? I'm
11 trying to read it on my phone.

12 THE COURT: I can print it out.

13 MS. SCAPICCHIO: Thank you, Your Honor,
14 I appreciate it.

15 THE COURT: I wanted to mention to you
16 the Bob Sheketoff rule. Do you know the Bob
17 Sheketoff rule?

18 MS. SCAPICCHIO: Which one of Bob
19 Sheketoff's rules? I've tried many cases with
20 him. I have a tremendous amount of respect for
21 Mr. Sheketoff.

22 THE COURT: I have much admiration for
23 him, as I'm sure you do. Bob Sheketoff takes the
24 position that you can say everything you need in
25 a closing argument, even in a murder case, in

1 30 minutes.

2 MS. SCAPICCHIO: But you're not even
3 giving me 30, so --

4 THE COURT: We're talking a closing
5 argument.

6 MS. SCAPICCHIO: I get that, Judge.

7 THE COURT: He says that he only needs
8 30 minutes in a closing argument even in a murder
9 case. I refer to it as the Sheketoff rule, and
10 you can check with him in that regard.

11 MS. SCAPICCHIO: I don't have any doubt
12 that he can do it in 30 minutes. He's got about
13 20 years on me, Judge.

14 (Jury entering at 12:25 p.m.)

15 COURT OFFICER: This Honorable Court is
16 now in session. You may be seated.

17 THE COURT: Well, members of the jury,
18 I'm sorry for the delay in bringing you down here,
19 but I hope you understood that up until very
20 recently, we got the last of the 16 jurors. For
21 those of you who were impaneled today, we started
22 this process yesterday, got about two-thirds of
23 the necessary jurors, and we had to repeat this
24 process today. I appreciate that that can be a
25 source of frustration for jurors that we can't

1 get started right away, but please understand how
2 important the impaneling process is. So thank you
3 for your understanding.

4 At this time, Mr. Kalell is going to do
5 a couple of things. First of all, he is going to
6 ask you to stand and swear you in so that you are
7 now official members of this jury, and then he's
8 going to read the indictments in this case, as
9 he's required to do.

10 Mr. Kalell.

11 THE CLERK: Jurors, please rise, raise
12 your right hand.

13 You shall well and truly try the issues
14 between the Commonwealth and the defendant
15 according to your evidence, so help you God?

16 (Jurors collectively respond in the
17 affirmative.)

18 THE CLERK: Charles Reddicks, please
19 rise.

20 Members of the jury, hearken to these
21 indictments. Commonwealth of Massachusetts,
22 Suffolk, to wit, at the Superior Court Department
23 of the Trial Court for Criminal Business begun and
24 Holden at the City of Boston within and for the
25 County of Suffolk on the first Monday of July in

1 the year of our Lord 2012, the jurors for the
2 Commonwealth of Massachusetts on their oath
3 present that Charles Reddicks on April 27, 2012
4 did assault and beat one Mariano Malave with
5 intent to murder him, and by such assault and
6 beating, did kill and murder the said Mariano
7 Malave.

8 Furthermore, the jurors for the
9 Commonwealth of Massachusetts on their oath
10 present that Charles Reddicks on April 27, 2012,
11 being armed with a dangerous weapon, to wit, a
12 gun, did assault Mariano Malave with intent to rob
13 him and thereby did rob and steal from the person
14 of the said Mariano Malave, marijuana, the
15 property of said Mariano Malave.

16 And further, the jurors for the
17 Commonwealth of Massachusetts on their oath
18 present that Charles Reddicks on April 27, 2012
19 did unlawfully and knowingly have in his
20 possession a firearm as defined by Mass. General
21 Laws, Chapter 140, 121, that is, a weapon from
22 which a bullet could be discharged and of which
23 the length of the barrel was less than 16 inches;
24 the said Charles Reddicks not being present in his
25 residence or place of business, not having in

1 effect a license to carry firearms issued under
2 Mass. General Laws, Chapter 140, 131 or 131F, and
3 not complying with the provisions of Mass. General
4 Laws, Chapter 140, 129C and 131G.

5 And further, the jurors for the
6 Commonwealth of Massachusetts on their oath
7 present that Charles Reddicks on April 27, 2012
8 did unlawfully possess ammunition without
9 complying with the requirements relating to the
10 firearm identification card provided for in Mass.
11 General Laws, Chapter 140, Section 129C.

12 And further, the jurors for the
13 Commonwealth of Massachusetts on their oath
14 present that Charles Reddicks on April 27, 2012
15 did knowingly have in his possession or under his
16 control in a vehicle, a firearm as defined in
17 Mass. General Laws, Chapter 140, 121, or a rifle
18 or a shotgun, not then being present in his
19 residence or place of business and not having in
20 effect a license to carry firearms or otherwise
21 being authorized by law to do so as provided in
22 Mass. General Laws, Chapter 269, Section 10,
23 Subsection A, and containing ammunition in
24 violation of Mass. General Laws, Chapter 269,
25 Section 10, Subsection N.

1 To these indictments, the defendant at
2 the bar pleads not guilty and for trial places
3 himself upon the country, which country you are.
4 You are sworn to try the issues. If he is guilty,
5 you will say so; if he is not guilty, you will say
6 so and no more. Members of the jury, hearken to
7 your evidence.

8 You may be seated, sir.

9 JURY INSTRUCTIONS:

10 THE COURT: Members of the jury, at this
11 time, I'm going to make some preliminary remarks
12 to you to familiarize you with some of the legal
13 principles, procedure, and terminology that you
14 may encounter during the course of this trial.
15 But these comments are not intended to substitute
16 for the more detailed instructions on the law that
17 I'm going to give you at the conclusion of the
18 trial.

19 Now, you've already gleaned that this is
20 the trial of a criminal case. The defendant is
21 charged in five indictments that have been read to
22 you formally by Mr. Kalell, as he's required to
23 do. Let me just summarize them for you, and again
24 reminding you that I'm going to be instructing you
25 in great detail about these charges at the

1 conclusion of the trial.

2 First, Mr. Reddicks is charged with the
3 first-degree murder of Mariano Malave. You may
4 have heard in the reading of that indictment some
5 very ancient language called assaulting and
6 beating. That comes from the statute, itself.
7 In this case, the Commonwealth's theory and the
8 Commonwealth alleges that Mr. Reddicks shot
9 Mr. Malave, causing his death.

10 So the first indictment is first-degree
11 murder of Mr. Malave. The second indictment is
12 armed robbery of Mr. Malave. The third indictment
13 is the unlawful possession of a firearm. The
14 fourth indictment is the unlawful possession of
15 ammunition, and finally, there is a separate
16 offense of possession of a loaded firearm. Those
17 are the five indictments.

18 Now, you should clearly understand that
19 these pieces of paper which we call indictments
20 which Mr. Kalell just read to you formally and
21 which I've just summarized for you are not any
22 evidence, in and of themselves, of any guilt on
23 the part of Mr. Reddicks. They are merely a
24 formal manner of accusing a person of a crime in
25 order to bring him or her to trial. You must not

1 draw any inferences from these indictments or the
2 fact that the defendant has been formally charged.

3 Now, in any criminal case, the defendant
4 is presumed to be innocent unless he or she is
5 proven guilty beyond a reasonable doubt. The law
6 requires the prosecutor, whom we refer to in
7 court as the Commonwealth, and in this particular
8 case, in the form of Assistant District Attorney
9 Henning, to prove that the defendant is guilty
10 beyond a reasonable doubt. The law does not
11 require the defendant to prove his or her
12 innocence or to produce any evidence. At the end
13 of the trial, you must find the defendant not
14 guilty unless the Commonwealth has proved to you
15 beyond a reasonable doubt that he has committed
16 the offenses with which he is charged.

17 Now, let me tell you about the
18 procedure you're going to begin witnessing after
19 we recess for lunch. First, Mr. Henning for the
20 Commonwealth and then Ms. Scapicchio for the
21 defense will have their first opportunity to
22 address you directly in what we call opening
23 statements. An opening statement is a little like
24 a roadmap of what the attorney expects will lie
25 ahead in the road of the trial. Next, the

1 Commonwealth will introduce evidence in support
2 of the charges in these indictments. After that,
3 the defendant may present evidence in his behalf
4 if he wishes to do so, but he is not obliged to do
5 so. Remember, the burden of proof is always on
6 the Commonwealth to prove that the defendant is
7 guilty. The law does not require any defendant
8 to prove his or her innocence or to produce any
9 evidence at all.

10 After all the evidence, each side will
11 have another opportunity to address you directly
12 in what we call closing arguments, but like the
13 opening statements, the closing arguments are not
14 a substitute for the evidence. They are merely
15 intended to help you understand the evidence and
16 the respective contentions of these parties.
17 Finally, after all of the evidence and the
18 attorneys closing arguments, I will instruct you
19 in detail on the principles of law which you are
20 to apply in your deliberations when you retire to
21 consider your verdict. Your verdict as to each
22 of these indictments must be unanimous.

23 Now, let me speak briefly about our
24 respective functions in this trial. As the judge,
25 it's my responsibility to see that this case is

1 tried in a fair, lawful, and efficient manner.
2 It's also my function to decide any questions of
3 law that may arise during the course of the trial,
4 and finally, to instruct you on the law that
5 applies in this particular case. It's your duty
6 to accept the law as I state it to you.

7 Now, just as I'm the judge of the law,
8 you are the judges of the facts in this case.
9 Indeed, you are the sole and exclusive judges of
10 the facts, and you may notice that just as
11 everybody rises when I come into the courtroom,
12 everyone rises when you come into the courtroom
13 because you are the judges of the facts. Indeed,
14 you alone determine what evidence to believe, how
15 important any evidence is that you do believe, and
16 what conclusions all the believable evidence leads
17 you to. You'll have to consider and weigh the
18 testimony of all the witnesses who appear before
19 you, and you alone will determine whether to
20 believe any witness and the extent to which you
21 believe any witness. You can believe all of what
22 a witness tells you or only part of it or none of
23 it. It is part of your responsibility to resolve
24 any conflicts in the testimony that may arise
25 during the course of the trial. Ultimately, you

1 must determine whether or not the Commonwealth has
2 proved the charges beyond a reasonable doubt.

3 Now, you must decide this case solely on
4 the evidence presented in this courtroom. That
5 will include the sworn testimony of the witnesses,
6 it may also include exhibits that I admit into
7 evidence, any facts which may be agreed to by both
8 sides, and any facts which I may indicate that
9 you may take to be a matter of common knowledge.
10 Questions put to witnesses, no matter how artfully
11 phrased, are not evidence. Only the answers which
12 you receive from the witnesses who are testifying
13 under oath are evidence. Now, if one of the
14 attorneys or I refer to some part of the evidence
15 and that doesn't coincide with your own
16 recollection, it's your collective recollection
17 that controls when you go back to deliberate.

18 Now, during the course of the trial, the
19 attorneys may object to questions or statements
20 that may not be admissible under our rules of
21 evidence. Well, that's their duty and
22 responsibility and you shouldn't look negatively
23 in any way upon any attorney who may object during
24 the course of the trial.

25 Similarly, from time to time, we may

1 engage in what we call sidebar conferences over
2 here out of your hearing. Those conferences
3 aren't intended to keep secrets from you, they're
4 intended to allow the attorneys some extra time to
5 argue their points before me before I can rule on
6 what you may or may not consider as evidence in
7 this case based on our rules of evidence.

8 If I agree with an objection to a
9 question, and the term we use is sustained, you
10 are to disregard that question and you may not
11 speculate as to what the answer might have been.
12 In the same way, you are to disregard any evidence
13 that I tell you is struck from the record. If
14 I reject or overrule an objection, I will permit
15 the witness to answer and you may consider that
16 answer, but you're not to give that answer any
17 more weight than you would have had no objection
18 been lodged.

19 Now, members of the jury, in this case,
20 I'm going to allow you to take notes once the
21 evidence portion of the trial begins, in other
22 words, after the attorneys' opening statements.
23 Notebooks and pens are going to be supplied to you
24 at that point. Those notebooks are going to be
25 collected every day and kept under the strict

1 supervision and custody of the court officers.
2 You will have those notebooks for your use during
3 your deliberations, but after you've rendered a
4 verdict, your verdicts in this case, we're going
5 to ask that you rip those notes out and rip them
6 up so that no one, not even myself, will ever have
7 a look at your notes.

8 You're not required to take notes, of
9 course, the choice is completely up to you.
10 Some jurors may feel that notes are helpful,
11 particularly if the case involves many witnesses
12 or complicated issues. Notes can also help you
13 remember specific testimony or evidence, such as
14 times, places, dates, names, relationships,
15 events, and distances. Other jurors may feel that
16 note taking is a distraction and may interfere
17 with hearing and evaluating the evidence. If you
18 do take notes, I suggest that you keep them brief.
19 They are not and cannot be considered official or
20 even unofficial transcripts of the trial
21 testimony.

22 However, bear in mind, although our good
23 court reporter here, Ms. McCann, who, by the way,
24 is what we call a voice reporter, she's repeating
25 into that voice mask everything that's said at

1 this trial, and I add parenthetically, that's a
2 very tough job, but we just don't have the
3 capability of generating complete written
4 transcriptions of all the witnesses' testimony
5 for your use during your deliberations. So during
6 those deliberations, you're going to have to rely
7 on your own memory of the testimony, perhaps
8 supplemented by your own notes.

9 Now, regardless of whether or not you
10 take notes, remember that how a witness testifies
11 may be just as important as what he or she says.
12 Therefore, your observations of the witness's
13 appearance and demeanor on the witness stand may
14 play an important part in your evaluation of the
15 person's credibility. So don't let your note
16 taking distract you from an appreciation of all
17 the evidence.

18 Now, you as jurors must decide this case
19 based solely on the evidence presented here within
20 the four walls of this courtroom. This means that
21 during the trial, you must not conduct any
22 independent research about the case, the matters
23 in the case, and the individuals involved in the
24 case. In other words, you should not consult
25 dictionaries or reference materials, search the

1 Internet, websites, blogs, or use any other
2 electronic tools to obtain information about this
3 case or to help you decide the case. Please
4 don't try to find out information from any source
5 outside the confines of this courtroom. Until you
6 retire to deliberate, you may not discuss this
7 case with anyone, even your fellow jurors. After
8 you retire to deliberate, you may begin discussing
9 the case with your fellow jurors, but you cannot
10 discuss the case with anyone else until the case
11 is at an end after you have returned your
12 verdicts.

13 Now, I know many of you use cell phones,
14 Blackberries, the Internet and other tools of
15 technology. You must also not talk to anyone at
16 any time about this case or use these tools to
17 communicate electronically with anyone about the
18 case. This includes your family and friends. You
19 may not communicate with anyone about the case on
20 your cell phone, through email, Blackberry,
21 iPhone, text messaging, on Twitter, or through any
22 blog or website, including Facebook, Google,
23 MySpace, LinkedIn, or YouTube. You may not use
24 any similar technology of social media, even if
25 I have not specifically mentioned it here.

1 Now, finally, members of the jury, by
2 way of housekeeping instructions, I've outlined
3 for you the schedule we're going to adhere to by
4 and large. From hereon in, we are going to start
5 every day at 9 o'clock, going to 1 o'clock in the
6 afternoon, taking a midmorning recess at 11
7 o'clock of about 20, 25 minutes duration. We're
8 going to resume the trial from 2 to 4, and that's
9 going to be our schedule from hereon in.

10 If, however, you encounter any kind of
11 difficulty, for example, you need to take more
12 frequent breaks, even if you just need to run and
13 use the facilities, we try to make this a kinder
14 and gentler courtroom because we want your
15 experience to be as pleasant as we possibly can
16 make it. So if you have any difficulty, if you
17 need to take more frequent breaks, even if you
18 just need a glass of water, let me know, let one
19 of the court officers know.

20 Also, members of the jury, if you
21 encounter any kind of difficulty hearing a witness
22 or seeing a piece of evidence, in other words, an
23 exhibit, please just get my attention, I'm only
24 too happy to get a witness or an attorney to
25 repeat him or herself or to present you with an

1 exhibit in a better fashion.

2 Also, members of the jury, you may
3 remember that this is a government building. It's
4 an open courthouse, it's an open courtroom, which
5 means members of the public can come in and out of
6 the courtroom. People coming in and out of the
7 courtroom may be staff people, courtroom
8 observers, they may be observers of this trial,
9 they may be associated with one side or the other.
10 I assure you, you are going to get used to that
11 very quickly and will not be distracted by people
12 coming in and out of the courtroom.

13 Also, you may notice Mr. Kalell or
14 Officer Loperari or one of the other court
15 officers on the phone or the computer sometimes.
16 They're conducting the business of this court.
17 Again, you'll overlook it very quickly.

18 Last and certainly not least, it has
19 come to my attention that people who are sitting
20 outside of the proverbial box are confused by
21 that. Please understand that the four of you
22 sitting outside of the box are regular members of
23 this jury, you are not alternates. At the
24 conclusion of this trial, yes, we will be reducing
25 your number at random by four, because by law,

1 12 of you will retire to consider your verdict.
2 We always, and I mean always, impanel more than
3 the required number in case we lose anybody along
4 the way because of illness or family emergency and
5 the like, and dare I say it, snow emergencies.
6 Have I just jinxed us all? But, in any event, we
7 always impanel more than the required number. We
8 will reduce your number at random by four. So
9 I just want to let you know.

10 Also, finally, for those of you who were
11 impaneled today and didn't get to hear me say this
12 yesterday, I don't impose any kind of dress code
13 on my jurors, but you just might want to, those of
14 you who were impaneled today might just want to
15 consider returning to court for each day of this
16 trial as if you were coming to court, however you
17 decide, however you define that in your manner of
18 dress.

19 Now, members of the jury, it's quarter
20 to 1, and you'll recall, I know you've been up
21 there waiting for a while and I know you're
22 champing at the bit to get this trial started, but
23 please understand, we've been working nonstop,
24 basically, since 9 o'clock. Not only do the
25 attorneys have a tough job, Ms. McCann has a

1 really tough job. We all need a break right now.
2 So what I'm going to suggest, we typically take
3 our lunch recess from 1 to 2, we're going to take
4 it now from quarter to one to quarter to 2. All
5 right?

6 Every day at lunch, you're on your own
7 with lunch. Until you're a deliberating juror,
8 then we do supply you with your lunch, by the way.
9 But up until that time, unfortunately, in the days
10 of great budgetary constraints, I'm afraid you're
11 on your own when it comes to lunch. You can bring
12 your lunch, go downstairs to the second floor to
13 the canteen down there, you can go out of the
14 building. But please be back at the appointed
15 hour because anytime anybody is delayed, we are
16 all delayed. All right?

17 So, members of the jury, those
18 particularly who were impaneled yesterday, I know
19 it's been a long wait for this time to come, but
20 right now, it is quarter to 1, we can't get those
21 opening statements in at this time. You will hear
22 them as soon as we return from our lunch hour. So
23 let's take it 15 minutes early, but it also means
24 you're going to come back 15 minutes early, as
25 well. Please be back to that jury room by quarter

1 to 2 to resume the trial.

2 Another admonition I'm going to be
3 giving you throughout the trial besides the ones
4 I've already done this morning, please have no
5 contact with any of these trial participants.
6 They're under strict orders that they can't
7 approach you in any shape, way, or form. But we
8 try to avoid inadvertent overhearing of
9 conversations in the elevators, in the corridors,
10 in the coffee line downstairs and the like, so
11 please, as best as you recognize them, as best as
12 you're able, please try to avoid contact with any
13 of these trial participants or anyone associated
14 with either side.

15 Thank you so much, members of the jury,
16 for understanding. We'll see you back here
17 promptly by quarter to 2.

18 (Jury recessed.)

19 THE COURT: Just one last comment I need
20 to put on the record, apropos of an objection that
21 Ms. Scapicchio lodged during impanelment about
22 Mr. Henning challenging jurors after seeing their
23 CORI records. I just need to put on the record
24 the fact that the composition of this jury
25 consists of at least five African Americans. I

1 just wanted to let the record reflect that.

2 Have a great lunch. We'll see you at
3 quarter to 2.

4 MS. SCAPICCHIO: Thank you, Your Honor.
5 (Luncheon recess at 12:45 PM.)

6
7 A-F-T-E-R-N-O-O-N S-E-S-S-I-O-N

8 (Court in session at 1:40 p.m.)

9 (Defendant present.)

10 (Jury present.)

11 THE COURT: Members of the jury, welcome
12 back. We're ready for that first step in the
13 trial after impanelment, which, of course, is the
14 opening statements of the attorneys.

15 Opening statements and closing arguments
16 are the two times in the trial when the attorneys
17 get to talk to you directly. They are also timed
18 events, which means that they have a time limit.
19 So if they get to the end of their time limit, I
20 may need to interrupt them. It's not to be rude,
21 but it's just their queue that they have to start
22 thinking about wrapping up.

23 Mr. Henning, any time you're ready, sir.

24 MR. HENNING: Did you want to inquire of
25 the jury, Your Honor, about during the break?

1 THE COURT: Can I see you at side bar?

2 SIDEBAR CONFERENCE:

3 THE COURT: I'm sorry, Mr. Henning, I
4 didn't understand what you meant.

5 MR. HENNING: I'm sorry, Your Honor.
6 Traditionally, the Judge asks whether they were
7 able to follow your instructions and not discuss
8 the case, that sort of thing.

9 THE COURT: Mr. Henning, I don't do
10 that.

11 MR. HENNING: Okay. I didn't know that.

12 THE COURT: I don't do it every morning.
13 I think it infantilizes jurors. But at the end of
14 every day, I'm going to be repeating my major
15 instructions about not talking, not doing
16 research, not contacting anybody and keeping an
17 open mind, etcetera.

18 MR. HENNING: Thank you, Judge.

19 THE COURT: Okay.

20 END OF SIDEBAR CONFERENCE.

21 OPENING STATEMENT ON BEHALF OF THE COMMONWEALTH

22 BY MR. HENNING:

23 MR. HENNING: Good afternoon, ladies and
24 gentlemen. How are you? Charles Reddicks, the
25 defendant at the table in front of you, had

1 something in common with the man that he killed.
2 They were born six years apart on the exact, same
3 day, April 20th.

4 In this case, you are going to
5 understand that that six year difference was not
6 the only thing that they had in common, and that
7 there was an activity that they both were engaged
8 in that led them together.

9 Through the course of this trial, you
10 are going to understand that on April 27th, 2012,
11 Charles Reddicks robbed, shot and killed Mariano
12 Malave in his own home. So when Mr. Malave had
13 his birthday in 2012, one week later he ended up
14 with a bullet in his head, lying on his floor in
15 the kitchen while Mr. Reddicks fled the scene in a
16 motor vehicle.

17 Back on April 20th, 2012, Mariano Malave
18 turned 25 years old. He had his whole life ahead
19 of him. He lived in an apartment at 132 Hyde Park
20 Avenue in the Jamaica Plain section of Boston. He
21 lived with his girlfriend Ruth, his brother Rod
22 and a couple of other individuals. He had a cat
23 and a dog.

24 He went to school part-time. One of the
25 things that some of the people close to him did

1 not know is that on the side to make money he also
2 dealt marijuana, and you're going to hear about
3 that later. Mr. Malave was dealing small
4 quantities of marijuana to friends, family and
5 people that he knew.

6 His practice became communicating with
7 them on his cell phone and at times dealing out of
8 his house at the apartment at 132 Hyde Park
9 Avenue.

10 That became his routine, a routine to
11 sell small quantities and his routine to have
12 people over to his house to distribute those
13 drugs. And it is this routine that allowed
14 Charles Reddicks to enter his life and to
15 ultimately take it.

16 Back in April of 2012 Mr. Reddicks had a
17 girlfriend, access to a car and a cell phone,
18 pretty much anything a young man is looking for.
19 But the evidence in this case is also going to
20 show that he was engaged in an activity through an
21 individual named Ian Follette.

22 That individual is going to testify next
23 week, and Mr. Follette is going to tell you that
24 between the end of 2011 and the end of 2012 he
25 purchased drugs from Charles Reddicks.

1 Mr. Follette knew Charles Reddicks as a
2 classmate from school, and Mr. Follette will tell
3 you about the quantities, the times, the way that
4 they communicated and the nature of their
5 relationship.

6 Mr. Follette will testify that in
7 addition to purchasing drugs from Mr. Reddicks,
8 he, Mr. Follette, would distribute some of those
9 drugs. He is an important witness for you to pay
10 attention to, not only as you listen to the other
11 witnesses, but on Tuesday or Wednesday of next
12 week when you hear his testimony, because Mr.
13 Follette, in addition to knowing Mr. Reddicks is
14 going to be the bridge that connects the victim in
15 this case and Mr. Reddicks, because Ian Follette
16 bought drugs from both men.

17 Toward the end of 2011 into the
18 beginning of 2012, the relationship between Mr.
19 Follette and Charles Reddicks changed. Mr.
20 Reddicks began to front marijuana to Ian Follette,
21 fronting him, giving him the drugs up front and
22 allowing Mr. Follette to pay those drugs back over
23 time. And that relationship continued for several
24 months.

25 During that same time, Ian Follette was

1 purchasing drugs from the victim in this case,
2 Mariano Malave. But as that relationship between
3 Ian Follette and Charles Reddicks developed,
4 around April of 2012, Ian Follette owed the
5 defendant money.

6 And at some point during that time,
7 Charles Reddicks contacted Ian Follette and asked
8 him for information. He wanted a contact, a
9 connect, somebody that Mr. Reddicks could reach
10 out to in order to purchase drugs. And so Ian
11 Follette gave him information.

12 First, he gave him a classmate named
13 Sean Warfield. Mr. Warfield is a very important
14 witness for you to hear from because he is going
15 to establish the pattern that Mr. Reddicks was
16 using late in April of 2012 --

17 MS. SCAPICCHIO: Objection, Your Honor.
18 May we be seen?

19 THE COURT: Yes.

20 SIDEBAR CONFERENCE:

21 MS. SCAPICCHIO: Judge, I thought you
22 said the only prior bad act as far as drug dealing
23 was concerned was going to be through Ian Follette
24 and his relationship.

25 This is a completely different

1 relationship with a different person that I
2 thought was excluded.

3 THE COURT: Mr. Henning?

4 MR. HENNING: There's communication
5 between Mr. Reddicks' phone and Mr. Warfield's.
6 We disclosed that. That wasn't excluded. It was
7 the activity that Mr. Reddicks may have engaged in
8 with other parties was excluded. There's not been
9 any allegation that he actually sold drugs in this
10 case.

11 There's going to be an allegation that
12 Mr. Reddicks' phone reached out to Mr. Warfield.
13 Mr. Warfield did not do anything with the content
14 of their communications. This is relevant to Mr.
15 Follette.

16 THE COURT: I don't understand why it's
17 relevant. We're talking about communications
18 between Mr. Reddicks and --

19 MR. HENNING: And an individual named
20 Sean Warfield.

21 THE COURT: And how is that relevant?

22 MR. HENNING: One week before he reached
23 out to Mr. Malave, he reached out to this person
24 Sean Warfield. He used a fake name. He used his
25 phone number, and he asked for the same thing that

1 he asked for from Mr. Malave. To do that, it
2 establishes that number one, the phone number he's
3 using, and number two, the fake name he's using,
4 and number three, the request he makes
5 corroborates --

6 MS. SCAPICCHIO: But this individual
7 can't even say that that number that he got was my
8 client's number.

9 THE COURT: Well, that remains to be
10 seen. If that phone call can be authenticated,
11 and I'll hear from you at that time. But if
12 that's all that Mr. Warfield is being used for,
13 I'm going to overrule our objection.

14 MS. SCAPICCHIO: My understanding of
15 what Mr. Warfield was being used for, he's being
16 used to suggest that my client purchased drugs
17 from him.

18 MR. HENNING: That Mr. Reddicks reached
19 out to him for that purpose --

20 MS. SCAPICCHIO: I thought you excluded
21 everything except for Ian Follette.

22 THE COURT: Well, I excluded his dealing
23 drugs. He's reaching out to Mr. Warfield
24 allegedly in the same way that ultimately he
25 reached out to Mr. Malave. It basically shows a

1 pattern of operation that is relevant and
2 admissible.

3 MS. SCAPICCHIO: Note my objection.

4 THE COURT: Noted.

5 END OF SIDEBAR CONFERENCE.

6 MR. HENNING: Sean Warfield, you're
7 going to hear from him next week around the same
8 time you're going to hear from Mr. Follette.

9 The reason he's important is because he
10 establishes a pattern for how Mr. Reddicks
11 conducted himself in the days leading up to the
12 murder of Mariano Malave. Mr. Warfield will get
13 on the witness stand and tell you that in late
14 April of 2012 an unknown number to him reached out
15 through text and asked for drugs, and that unknown
16 number the evidence will show, belonged to Charles
17 Reddicks.

18 But the specifics of the contact are
19 really important for you to understand because
20 what Mr. Reddicks said in that communication would
21 be almost a mirror image of what he said when he
22 contacted the victim Mariano Malave. He said his
23 name was Jonathan Brown. He said that he was a
24 friend or knew friends of Mr. Warfield, and he
25 said he was looking to purchase one pound of

1 marijuana.

2 And Mr. Warfield will tell you that he
3 wasn't certain what this was, and he ended up
4 breaking off communication after about a day and a
5 half. No deal was ever done and Mr. Reddicks was
6 left empty-handed.

7 And so he went back to the person that
8 he knew, Ian Follette, and he asked for another
9 contact, someone else he could reach out to to
10 purchase drugs. And the reason that you're here is
11 Ian Follete provided that information. He gave
12 him the name and contact information for Mariano
13 Malave.

14 Now, you need to know up front that
15 nobody is going to take that witness stand and
16 point to the defendant and say that they watched
17 him pull the trigger and kill Mariano Malave.

18 But you don't only have to rely on the
19 witness testimony in this case because technology
20 is an amazing thing when it comes to criminal
21 investigations. You are going to have cell phone
22 data, communications between Mr. Reddicks and
23 Mariano Malave on the morning of the murder all
24 the way up until minutes before the murder.

25 You're going to have cell phone tower

1 data. And you will understand through the witness
2 the technology on how cell phone towers work,
3 including how you can use cell phone tower data to
4 track the movements and the phone calls being
5 bounced off those towers as they are being made.

6 You're going to have video evidence that
7 puts the defendant at the scene and driving to the
8 scene just before the murder and puts him leaving
9 the scene right after the murder.

10 You're going to have photographs that I
11 will not even explain. I will just allow you to
12 draw your own conclusions for them.

13 This technological data is going to be
14 interpreted by you and applied to the evidence
15 before you in the jury room. You're going to have
16 to use your common sense and listen and remember
17 the witness testimony when you look at this data,
18 and when it all comes together and you look at the
19 cell phone tower information and the video and
20 listen to what the witnesses said, you're not
21 going to need to have a witness standing there
22 pointing a finger at Mr. Reddicks because they
23 watched him do it, because all the pieces of the
24 puzzle are going to come together for you.

25 And this is what that puzzle will tell

1 you. Early on the morning of April 27th, 2012 an
2 unknown phone number to Mr. Malave reached out to
3 him. The phone number belonged to Mr. Reddicks.
4 That phone number contacted Mr. Malave and said
5 his name was Jonathan, just like before.

6 He said, "We had a mutual friend, Ian
7 from Jamaica Plain," in order to establish that
8 trust with communication, and he said he wanted to
9 buy a pound of marijuana.

10 Mariano Malave followed up on those
11 communications, and during the course of April
12 27th he left his house, went to Brockton, spoke to
13 some people, came back and essentially agreed to
14 the deal.

15 The terms, the amount, the quantity,
16 those were established by Mr. Reddicks. So you
17 will be able to infer and draw from the evidence
18 that the location of that deal was 132 Hyde Park
19 Avenue, where Mr. Malave and Mr. Reddicks
20 ultimately met.

21 Technology is so important in this case
22 because it will help you understand the movement
23 of Mr. Reddicks that day. And I ask you when the
24 Court Officers hand out those notebooks, open up
25 the first page and basically put a line across the

1 top. Do not use that page.

2 Because I want you to write down the
3 phone numbers and the names that you hear as
4 you're going through this case. It will aid you
5 when you get into the jury room to be able to know
6 which phone numbers go to which individuals.

7 There's about five numbers that you will
8 need to know. If you can understand those
9 numbers, when you look at the others, you will
10 know what happened that morning after Mr. Reddicks
11 and Mr. Malave agreed to that deal.

12 As day turned into night on April 27th,
13 Mr. Malave was back at home with Ediwn, his friend
14 and Ruth, his girlfriend. They were waiting for
15 another person to show up, Mr. Malave's cousin.
16 He was going to be bringing the drugs that Mr.
17 Malave would provide to the man he only knew as
18 Jonathan.

19 And as they waited there, you will be
20 able to track the movements of Mr. Reddicks and
21 the communications that Mr. Reddicks had. At
22 around the time Alex, the cousin, showed up with
23 that quantity of drugs, the communication between
24 Mr. Malave and Mr. Reddicks picks back up, and Mr.
25 Reddicks moved toward the place where this crime

1 would ultimately happen.

2 The way that he got to 132 Hyde Park
3 Avenue to kill Mariano Malave was in his
4 grandmother's car. This is not some ordinary car.
5 It is a distinctive, blue 1992 Ford Escort wagon,
6 the kind of ugly car you see on the street and
7 recognize it's pretty beat up and old right off
8 the bat. It also was missing paint chips on the
9 door. There are hub caps missing from the front
10 driver's side wheel.

11 And when you watch the video from the
12 Forest Hills T Station, you will have absolutely
13 no doubt about the car that's passing in front of
14 you. At about 6:14 p.m. on April 27th Charles
15 Reddicks car passes, heading outbound on Hyde Park
16 Avenue toward 132 Hyde Park Avenue. Less than two
17 minutes later, Mariano Malave was dead.

18 Just like Ian Follette, not realizing
19 the connection you she would have to a case like
20 this, you're going to meet somebody named Leanne
21 Parker. Leanne Parker comes from Maine. She
22 drove down that morning to drop her daughter's
23 boyfriend off in Boston, and on the way, she
24 passed and made a stop at 132 Hyde Park Ave. to
25 visit his friend, Mariano Malave.

1 Ms. Parker was in front of 132 Hyde Park
2 Avenue with her daughter's boyfriend, whose name
3 is Ronald or Lucky, got out of the car and headed
4 into a building at 132 Hyde Park Ave., and as she
5 sat in the driver's seat, Ms. Parker took note of
6 the car that was in front of her, a beat-up, blue,
7 four-door car with three people inside, and when
8 the man got out of the driver's seat, she took
9 note of him, as well, and she noticed that he was
10 on the phone and he was walking past her car,
11 behind her, in the direction of 132 Hyde Park
12 Avenue.

13 Moments later, minutes later, gunshots
14 rang out. She heard them and then watched the
15 exact same man run past her car and into the
16 driver's seat of that blue vehicle and take off.
17 And the amazing thing about Leanne Parker is that
18 with all of this going on, she took note of the
19 license plate of the car, and even though she's
20 going to testify she was scared, she provided that
21 license plate to the police, and they'll describe
22 their investigation to you.

23 The technology will also show
24 Mr. Reddicks leaving the scene, passing Forest
25 Hills T station in the exact same -- excuse me,

1 the opposite direction right after the murder.
2 You will have cell tower information to show what
3 he was doing with his phone, as well.

4 At the end of this case when you retire
5 to the jury room, it's not going to be an easy
6 job. You're going to need to remember the witness
7 testimony, you're going to need to remember or to
8 look at the physical evidence, and you're going to
9 need to go through some of those records that I've
10 just referenced. When you do, they will tell a
11 very clear unmistakable story. Mr. Reddicks
12 planned for and plotted this robbery and killing.
13 He executed it, he fled, and you will learn how he
14 tried to cover it up. And at the end of all this,
15 you will know without a doubt that Mr. Reddicks is
16 guilty of these charges.

17 Thank you.

18 THE COURT: Thank you, Mr. Henning.

19 Ms. Scapicchio.

20 MS. SCAPICCHIO: Thank you, Your Honor.

21 OPENING STATEMENT ON BEHALF OF THE DEFENDANT

22 BY MS. SCAPICCHIO:

23 MS. SCAPICCHIO: Ladies and gentlemen,
24 the Commonwealth hasn't told you the whole story
25 and it's my job to make sure you understand the

1 whole story in terms of what these allegations
2 are, and that's just it, they're just allegations.

3 What the Commonwealth didn't tell you
4 about this great witness, Leanne Parker, that they
5 just talked about, her story is this. She was
6 sitting around her house in Maine. She got a call
7 from her daughter.

8 Her daughter said you have to drive my
9 boyfriend back to Boston, only we don't have a car
10 to do that, so you're going to have to spend your
11 own money to go rent a car and drive my boyfriend
12 down to Boston so he can hang out with his
13 friends. That's the story.

14 I don't know if any of you have teenage
15 daughters, but I don't know how long you would
16 want to spend in a car with their boyfriends. But
17 in this case, Leanne Parker, within an hour of
18 having received that call, ran to the Rent-A-
19 Center, rented a car, which she says with her own
20 money. Lucky didn't give her any money to rent a
21 car at all. She spent her own money, and she said
22 she did it because she likes to drive. That's why
23 she did it.

24 And then she said the whole way down
25 Lucky was passed out in the seat next to her,

1 didn't make any phone calls, didn't receive any
2 phone calls. He was sleeping, and it was her to
3 job to drive him down.

4 And in her very first statement, she
5 says she thinks she arrives somewhere between,
6 maybe four and five, five and six. She can't
7 remember. And initially, she said she was just
8 supposed to drop Lucky off and turn around and
9 come back.

10 If that's the case, ladies and
11 gentlemen, what is she doing parked outside that
12 apartment? Why is she sitting outside that
13 apartment if all she was supposed to do was drop
14 him off and turn around and come back?

15 And then we find out Lucky gets out of
16 the car. He goes up to the apartment, and in a
17 very short period of time, shots ring out.

18 Now, Lucky will tell you he was only
19 there for two or three minutes. Other people will
20 tell you that he was there for much longer than
21 that. Although he lied to the police initially,
22 ultimately, I think the evidence will be that he
23 was there to conduct a drug transaction.

24 He says he drove from Maine, rented a
25 car, paid for the gas, drove all the way to Boston

1 to buy two ounces of marijuana. Does that make
2 sense, ladies and gentlemen? You think there
3 wasn't a spot between Maine -- Lewiston, Maine,
4 and 132 Hyde Park Ave. that he could have bought
5 two ounces of marijuana?

6 Keep that in mind when you're listening
7 to Leanne Parker, when you're listening to what
8 she said she did, and then the real story about
9 Leanne Parker is she lied to the police.

10 If her whole story was that she came
11 down just to drop her boyfriend's -- her
12 daughter's boyfriend off -- that was the story.
13 She had no problems spending money doing that, to
14 rent the car. When she initially spoke to the
15 police, she lied to them, just like Lucky did.
16 And they told almost the exact, same lie.

17 The first lie that they told was that
18 they weren't even inside the apartment. Lucky had
19 never gotten out of the car. She said she pulled
20 up to the scene, and there were already police
21 officers there. There were blue lights
22 everywhere, and she couldn't figure out what it
23 was all about. So they were trying to investigate
24 why they were there. That's what she said.

25 Now, we know that's a lie because she

1 later changes her story -- although maybe it's
2 not, and maybe her first story is a lie. But why
3 are you lying? If all you're doing is doing your
4 daughter a favor, it's just a favor, but if that's
5 all you're doing, then why are you lying to the
6 police about what you're doing?

7 Why are you saying that you never
8 dropped him off and he never got out of the car
9 and coincidentally, he's saying the same exact
10 lie? Why is that happening, ladies and gentlemen,
11 if all he was doing was going to see his friend?
12 It doesn't make any sense.

13 In addition, ladies and gentlemen, with
14 respect to one of the witnesses that you're going
15 to hear, Ian Follette, Ian Follette went to school
16 with my client at Latin. And you're going to hear
17 some other witnesses who also went to Latin, and
18 you're going to hear that Ian Follette was the
19 person who initially made contact with the victim
20 in this case.

21 And Ian Follette says that he was
22 dealing with the victim for a while in quantities
23 that he wants you to believe were very, very
24 small. And he was getting bags of marijuana and
25 he was redistributing them to his friends at

1 Latin. That's the story.

2 Then he wants you to believe for some
3 reason he then comes to my client and says he
4 wants to buy drugs off of my client. And in the
5 interim, his friends are still buying off the
6 victim. But he wants you to believe that he now
7 is fronting some marijuana off of my client.

8 Now, there's no evidence to this effect
9 whatsoever. There's nothing to suggest Mr.
10 Follette is telling the truth except for Mr.
11 Follette's own words.

12 And Mr. Follette isn't somebody who
13 says, huh, it's awfully strange, isn't it, that I
14 gave, according to me, I gave Reddicks the name
15 and number of my good drug dealer, Mr. Malave, and
16 then Mr. Malave ends up dead. I don't run to the
17 police and say, huh, this sounds a little fishy to
18 me, let me tell you what I know. I don't do that
19 at all.

20 I wait for the police to find me, and
21 when the police come and find me, I tell them it
22 wasn't me, it was him. It wasn't me, I had
23 nothing to do with it. It was him. I didn't come
24 forward in the beginning even though I knew that
25 the person who I say I introduced him to was dead.

1 Didn't do that.

2 I don't have a reason that I didn't do
3 it, just didn't. But I'm going to tell you now, I
4 had nothing to do with this. This was all because
5 I introduced Charles Reddicks to Mr. Malave.
6 That's how this happened. And in fact, I wasn't
7 even buying drugs off of Mr. Malave at the time.
8 I had already switched over to buying them off of
9 Mr. Reddicks. That's the story that they want you
10 to believe.

11 Now, ladies and gentlemen, there's also
12 a time line that's important in this case, and you
13 have to think about it. If Mr. Reddicks was
14 really going to go rob Mr. Malave, do you think he
15 would do it in his grandmother's car?

16 That's what the Commonwealth wants you
17 to believe, that he took his grandmother's car
18 over to that apartment. He parked it right out
19 front for everyone to see, and he went upstairs
20 intent on killing Mr. Malave. That's what they
21 want you to believe.

22 Only, ladies and gentlemen, there's no
23 evidence at all that there ultimately was any
24 communication that day in person between Mr.
25 Malave and Mr. Reddicks. Were they talking to

1 each other over the cell phone? That's what the
2 Commonwealth says. Were they texting back and
3 forth? That's what the Commonwealth says. Was
4 he actually in his grandmother's car that day?
5 That's what the Commonwealth says.

6 It's up to you to decide in terms of
7 what's going on. It's up to you.

8 Now, you're going to hear from the
9 victim's brother, and you're going to hear that
10 after this whole thing happened -- Lucky is a
11 friend of his. Lucky is the guy who drove down
12 from Maine for two ounces of marijuana.

13 And he called the victim's brother right
14 after the whole thing happened. And you're going
15 to ask yourself, why doesn't he call 911? If he's
16 inside an apartment and his friend just got shot
17 three times, you don't pick up your cell phone and
18 call 911?

19 Instead, you run out of the apartment --
20 well, first, you hide behind a table, and then you
21 run out of the apartment, according to you, and
22 you try to break into the second floor apartment.
23 And you can't do that, so you run down the stairs
24 and you jump into the car and you speed away
25 within seconds of the shooting. Jump into the car

1 and speed away.

2 And then the idea is somehow circle
3 back, circle back and come upon the scene again
4 and end up seeing the victim's girlfriend. Lucky
5 has got to know at that point the victim's
6 girlfriend knew he was in that apartment.

7 And so he tries to jump out of the car
8 and have a conversation with her. Nobody
9 remembers what was said, but we know for sure that
10 he didn't call 911 and nobody else in that
11 apartment called 911.

12 You'll see photos of the apartment.
13 You'll see that there appears to have been
14 something going on in that kitchen, and I can't
15 tell you what it was. It's up to you to decide.

16 But I'd ask you to pay close attention
17 to the photos of the kitchen in this case in the
18 apartment because they tell a story that's very,
19 very different from what you're going to hear from
20 the witnesses in this case.

21 Now, ladies and gentlemen, the story
22 that gets told about this alleged drug deal that's
23 supposed to happen that day, we don't know exactly
24 what happens. We have no idea who's in that
25 hallway. We have no idea what actually takes

1 place. There's not a single person who's going
2 to say I saw Charles Reddicks in the hallway of
3 132 Hyde Park Ave., I saw him. No one is going to
4 tell you that.

5 The gun that they're going to tell you
6 was used in this case, they never find with Mr.
7 Reddicks. Any physical evidence connecting him to
8 the crime? No.

9 They want you to look at a surveillance
10 photo from the Forest Hills T station of what they
11 will say is his grandmother's car and some cell
12 phone records, and they want you to convict him
13 based on that.

14 They're going to ask you to pay all this
15 attention to the texts back and forth between who
16 they will say is my client and the victim in this
17 case trying to do a drug deal.

18 And you might want to ask yourself, who
19 else was the victim talking to on that day? Who
20 else could have come to that apartment that day?

21 And you know what you're going to find
22 out about that, ladies and gentlemen? That
23 they've had the victim's phone since September
24 27th of 2012, and on January 11th, 2015, they
25 finally decided to look at it. Two days before

1 this trial, they finally decided to look at it.

2 Now, ladies and gentlemen, you're going
3 to hear evidence in this case regarding everything
4 that happened on that day. The Commonwealth is
5 going to ask you to draw inferences for what they
6 say they want the evidence to show.

7 I'm going to ask you to make up your own
8 mind, individually. Pay close attention to this
9 time line that's going on. Pay close attention to
10 the photos in this case. Pay close attention to
11 what's going on as far as that apartment is
12 concerned, because it doesn't add up and it
13 certainly doesn't corroborate what the
14 Commonwealth is trying to tell you happened in
15 this case.

16 There are too many unanswered questions
17 and too many pieces of the puzzle the Commonwealth
18 told you all about that doesn't fit. And if the
19 piece of the puzzle doesn't fit, you've got to
20 throw it aside, pretend like it doesn't exist.

21 I'm here to make sure you see the whole
22 story, that every piece of the puzzle gets before
23 you so that when you make a decision at the end of
24 this case, you will make an informed decision
25 based on all of the evidence.

1 I'm going to ask you when you get to the
2 end of this case and you realize there is no
3 physical evidence connecting Mr. Reddicks to this
4 crime, and you realize there is no physical
5 evidence that puts him in that hallway that day,
6 and you realize that the most they can do is say
7 Mr. Reddicks was dealing small quantities of
8 marijuana -- but the Judge will tell you, you
9 can't hold that against him in terms of whether or
10 not he's committed this crime.

11 When you get to the end of this case
12 after you've heard all of the evidence and seen
13 all of the photos and listened to the witnesses
14 and understand the cross-examination of these
15 witnesses so that I can test their veracity, test
16 their truthfulness, you can come to only one
17 conclusion.

18 The Commonwealth has not met their
19 burden of proof beyond a reasonable doubt, because
20 you will not have evidence connecting Mr. Reddicks
21 to that hallway that day, and the witnesses that
22 the Commonwealth will put before you have all
23 lied.

24 The witnesses who say they were there
25 that day tell inconsistent stories about what

1 actually happened. And just keep asking
2 yourselves, ladies and gentlemen, what was really
3 going on? Why would they rent a car and come all
4 the way down to Boston? What was that really all
5 about? And I suggest you're still going to have
6 that same question at the end of this trial, what
7 was that really all about and how does that fit
8 into what's going on here.

9 And I'm going to ask you at the end of
10 this trial, after you've heard all the evidence,
11 after you've listened to every cross-examination,
12 after you've looked at those photos, after you
13 understand the time line in this case and the lack
14 of physical evidence connecting Mr. Reddicks to
15 this crime, I'm going to ask you to find him not
16 guilty.

17 Thank you.

18 THE COURT: Thank you, Ms. Scapicchio.

19 Do you want to be heard?

20 THE CLERK: Sidebar, please, Counsel.

21 SIDEBAR CONFERENCE:

22 THE COURT: Yes, Mr. Henning.

23 MR. HENNING: Ms. Scapicchio, during her
24 opening, said the witnesses in this case all lied.
25 I understand that some of the witnesses have made

1 inconsistent statements, but I'd ask for an
2 instruction on what she said because to impeach
3 the credibility of the witnesses, there's many
4 witnesses here where she has zero evidence of any
5 prior statements that are inconsistent or in any
6 way inappropriate.

7 So to say the witnesses all lied is a
8 sweeping declaratory statement that attacks and is
9 an argument about all witnesses. I'd like an
10 instruction on it so that the jurors are aware.

11 THE COURT: Ms. Scapicchio?

12 MS. SCAPICCHIO: Judge, I thought
13 I corrected myself right afterwards and said the
14 witnesses who were at the scene. I'm talking
15 specifically about the witnesses who were there.
16 And, yes, they did lie. That's just a fact.

17 THE COURT: I think the more egregious
18 sin is that you started sounding like a closing
19 argument. You're not allowed to comment on the
20 evidence, especially when it hasn't even been
21 admitted.

22 That being said, Mr. Henning, her
23 reference was fleeting. You know she's attacking
24 the credibility of the witnesses.

25 MR. HENNING: Sure.

1 THE COURT: So what she said I'm sure,
2 was no surprise to the jurors. But I agree with
3 you, it was a closing argument kind of statement,
4 not appropriate for opening statements, but I'm
5 going to let it go at this time.

6 Just a couple of things I want to put
7 on the record, by the way, in light of
8 Ms. Scapicchio's objection. Your opening
9 statement, which by the way was of course very
10 effective and powerful, did have some repetition
11 at the end, it was all of 15 minutes.

12 MS. SCAPICCHIO: Well, because you told
13 me I had 15 minutes, Judge.

14 THE COURT: No, I said 20 minutes.

15 MS. SCAPICCHIO: I thought you said 15.

16 THE COURT: No.

17 MS. SCAPICCHIO: I looked right at the
18 clock because I thought you said 15.

19 THE COURT: No, no, I said to both of
20 you, 20 minutes.

21 MR. HENNING: She asked what I was going
22 to do, I said 15 minutes, and then she said 20.

23 MS. SCAPICCHIO: I wasn't paying
24 attention, apparently, Judge.

25 THE COURT: But in any event, you said

1 more than what you had to say, and as a matter of
2 fact, there was some repetition at the end. So,
3 again, I stand by my 15 minute rule, but I had
4 given you 20.

5 In any event, do I need to mark
6 Detective Camper's report for ID?

7 MR. HENNING: No.

8 MS. SCAPICCHIO: I don't think at this
9 point. If there's something that comes up in
10 terms of the testimony.

11 THE COURT: I'll give it back, thank
12 you.

13 END OF SIDEBAR CONFERENCE.

14 THE COURT: Members of the jury, you've
15 been handed out your notebooks and pens. If you
16 wish to take notes, please comply with my
17 instructions from earlier today. If you don't
18 want to take notes, you just put those notebooks
19 aside and forget about them.

20 Mr. Henning, would you call your first
21 witness, please.

22 MR. HENNING: Thank you, Your Honor.
23 Commonwealth calls Rod Meneide.

24 ROD MENEIDE, Sworn

25 DIRECT EXAMINATION

1 (BY MR. HENNING)

2 Q Good afternoon, sir, how are you?

3 A Good.

4 Q Can you introduce yourself to the members of the
5 jury?

6 A My name is Rod Meneide.

7 Q Could you spell out your last name so that woman
8 there can get the spelling?

9 A M-E-N-E-I-D-E.

10 Q Where do you live?

11 A Right at this moment?

12 Q What city do you live in?

13 A Mattapan.

14 Q Were you related to Mariano Malave?

15 A Yes, sir.

16 Q Can you describe your relationship?

17 A That was my little brother.

18 Q How many years younger than you was Mariano?

19 A 11 years.

20 Q What did you call him? What name did you use?

21 A A lot of nickname, we called him No-No, Miano,
22 Mario.

23 Q At any point in the last few years of his life,
24 did you live with Mariano?

25 A Yes.

- 1 Q Where did you live with him?
- 2 A In his apartment on Hyde Park Ave.
- 3 Q Could you tell the jurors how it was that you and
- 4 Mariano came to live together in that apartment?
- 5 A Mariano and his girl got the apartment together
- 6 and they needed a roommate, the extra help, so me
- 7 and my girl, we moved in.
- 8 Q If you would, just explain who was living in the
- 9 apartment back in April of 2012.
- 10 A It was Mariano, Ruthie, me, Renea, and Ruthie's
- 11 friend, I forgot her name, and another guy,
- 12 Justin.
- 13 Q I'm going to break down those names and just ask
- 14 you to identify them. You said Ruthie. Who is
- 15 Ruthie?
- 16 A Mariano's girlfriend.
- 17 Q And you said that you lived there with your
- 18 girlfriend, as well
- 19 A Yes.
- 20 Q What was her name?
- 21 A Renea.
- 22 Q Who were the other two people living there?
- 23 A Justin was Mariano's boy, and the other girl, she
- 24 was Mariano's -- Ruthie's friend.
- 25 Q And so that was the total group of people living

1 at the apartment.

2 A Yes, sir.

3 Q Did you have any pets?

4 A Yeah, Mariano had a dog.

5 Q What was the dog's name?

6 A Peanut.

7 Q Peanut?

8 A Yes.

9 Q I'm going to show you some pictures of the
10 building, okay?

11 MR. HENNING: May I approach, Your
12 Honor?

13 THE COURT: Yes. Neither counsel has to
14 ask permission to approach.

15 MR. HENNING: Thank you.

16 Q Sir, I'm going to show you a photograph and just
17 ask if you can take a look at it and tell me if
18 you recognize what it is.

19 A Yes, it's a picture of the apartment we live at.

20 Q Is that a picture of the apartment, itself, or the
21 whole building?

22 A The whole building.

23 MR. HENNING: I'd offer this into
24 evidence.

25 THE COURT: Any objection?

1 MS. SCAPICCHIO: No objection, Your
2 Honor.

3 MR. HENNING: May I publish, Your Honor?

4 THE COURT: Yes. Are there any
5 objections to any of these pictures of the
6 building?

7 MS. SCAPICCHIO: If I could just see the
8 whole bunch of them, I can tell you right now.

9 THE COURT: Sure.

10 MS. SCAPICCHIO: None, Your Honor.

11 THE COURT: Then they all may be marked
12 right now.

13 (Exhibit Numbers 1 through 5 were marked
14 in evidence; Photographs of building on Hyde Park
15 Ave.)

16 THE COURT: Members of the jury,
17 Mr. Henning is going to what we call in court
18 terminology publish this exhibit for you. He's
19 going to put it on the machine and show it to you
20 in that fashion. I just want to point out that
21 all of the items that are marked as exhibits in
22 this case will be brought to you for your
23 inspection and examination at your leisure during
24 your deliberations.

25 Many, if not all of them, will be shown

1 to you during the course of the trial, but suffice
2 it to say that all of the exhibits will be brought
3 up to you for your inspection during your
4 deliberations.

5 MR. HENNING: Do you need me to ask,
6 Your Honor, between each one?

7 THE COURT: You don't need to ask
8 permission, no.

9 Q Rod, if you would, just explain to us where your
10 apartment was in this building?

11 A All the way, the blue part of the building all the
12 way up top, the attic part.

13 Q So you were at the very top floor?

14 A Yes, sir.

15 Q Can you tell the members of the jury what the
16 street is that's right in front of this building?

17 A Hyde Park Ave.

18 Q How many different ways were there to get into
19 your apartment if you were on Hyde Park Avenue?

20 A Two.

21 Q Where would you go, what are the two ways you
22 could get there?

23 A You could go there through the back door or
24 through the front, but we made the back door the
25 entrance.

1 Q So the primary mode of entrance for you is the
2 back door.

3 A Yes.

4 Q Would the other members of the apartment, the
5 people who live there with you, would they
6 traditionally go through the back door?

7 A Yes, sir.

8 Q Was mail delivered to the back door?

9 A No, they had a mailbox out front.

10 MR. HENNING: I'm publishing Number 2,
11 Your Honor.

12 Q If you're standing on Hyde Park Avenue and you
13 want to get to the back of the house, can you
14 explain how you get there?

15 A You walk up them steps and you go around the back
16 and there's a door around the back, then you walk
17 up at least 15, 20 flight of steps, and we go all
18 the way up to the third floor.

19 Q So, Mr. Meneide, now showing you Exhibit Number 3,
20 what does that show a picture of?

21 A The back door.

22 Q And the street that's all the way in the
23 background there where the police cars are in this
24 picture, is that still Hyde Park Ave.?

25 A Yes.

1 MR. HENNING: Exhibit 4 for the record.

2 Q What are we looking at in this picture?

3 A That's where the back door, that's where we kept
4 the trash, and once trash was due, we pulled it up
5 front.

6 Q The blue part of this picture where you described
7 before as the attic, is that part of the
8 apartment, as well?

9 A Yes.

10 MR. HENNING: Finally, Your Honor,
11 Exhibit 5.

12 Q Mr. Meneide, is this the picture of the steps that
13 go into the back of that house?

14 A Yes, sir.

15 THE COURT: Members of the jury, I just
16 want to point out to you that next week, maybe
17 Tuesday, we're all going to be taking a visit to
18 this house. So I just want to let you know that,
19 that you're going to see these premises up close
20 during what we call, again in court parlance, a
21 view. I'll be explaining that to you next week.

22 Q Sir, can you tell the members of the jury how the
23 apartment was laid out, the bedrooms, the kitchen?
24 How was it laid out when you were inside?

25 A It was a two-bedroom apartment, so reason we went

1 through the back door, because we used the living
2 room, we made it a room, that was Ruthie and
3 Mariano's room, and there was two other rooms.
4 We would hang out in the kitchen.

5 Q Would that be the major social area for everybody?

6 A Yes.

7 Q If you went through these back steps and then went
8 up the flights, what room would you walk into in
9 the house?

10 A The kitchen.

11 Q I want to turn your attention to April 27th of
12 2012, okay?

13 A Yes.

14 Q Can you tell the members of the jury what you
15 remember about that morning when you got out?

16 A That morning, I got up, rent was about to be due,
17 and I went to Mattapan Square around 10 o'clock to
18 cash my check, and I remember Ruthie telling me
19 she needed --

20 MS. SCAPICCHIO: Objection.

21 Q If you remember, sir, just what you did.

22 A I went to cash my check. I went back in, I got
23 back at the house at around 11. I seen Mario,
24 gave him the rent money, then I took off to work
25 like around 1.

1 Q Where did you work?

2 A At that time, I worked in Norwood, Cort Furniture.

3 Q I want to talk a little bit about how you knew

4 your brother. During the time that you lived with

5 him, did you ever know Mariano to distribute or

6 give marijuana to people?

7 A Yes, but only people he grew up with, people he

8 went to school, people he trusted.

9 Q Did you ever have an opportunity to see him

10 distribute marijuana?

11 A No.

12 Q Did your brother go to school or work?

13 A Yes, he worked at Home Depot part-time and he went

14 to ITT Tech in Norwood.

15 Q On that particular day, April 27, 2012 when you

16 last saw him, where was your brother?

17 A He was in the house.

18 Q Who was he with?

19 A Him and his dog and his iPad.

20 Q What sort of things did your brother like to do

21 when he was some?

22 A He loved his dog, pet his dog, go out, play with

23 him, and play his PlayStation or be on the iPad.

24 Q Later on that evening on April 27th when you were

25 at work, did you receive a phone call?

1 A Yes, I did.

2 Q Without getting into the details of the phone
3 caller, what was said? Who was contacting you?

4 A My friend --

5 Q Hold on one second, sir.

6 THE COURT: Please turn off all cell
7 phones. Sir, can you go outside, please.

8 COURT OFFICER: Sir, take that phone
9 outside, please.

10 THE COURT: Go ahead, Mr. Henning.

11 MR. HENNING: Thank you, Your Honor.

12 Q Sir, at some point on the evening of the 27th of
13 April, 2012, did you get a phone call?

14 A Yes, I did.

15 Q I don't want you to talk about what was said, but
16 who was contacting you?

17 A My friend, Lucky.

18 Q Can you tell us who Lucky is?

19 A Lucky is my friend I grew up with, his name,
20 Ronald Theodat.

21 Q Can you describe how you know him?

22 A We knew each other all our lives. Our moms went
23 to the same church and we grew up together.

24 Q Would you consider Lucky to be a friend of yours?

25 A Yes.

- 1 Q And did Mariano and Lucky know each other?
- 2 A Yes.
- 3 Q What was their relationship?
- 4 A Lucky purchased some weed from Mariano.
- 5 Q Were they also friends?
- 6 A Yes, they were good friends.
- 7 Q Did Lucky know Mariano since he was younger?
- 8 A Yes.
- 9 Q And did you ever socialize with Lucky and Mariano
- 10 together?
- 11 A Yes, all the time.
- 12 Q Did you ever have Lucky over to your house?
- 13 A Yes.
- 14 Q The house that we're talking about here at 132
- 15 Hyde Park Ave.?
- 16 A Yes.
- 17 Q When he came to the house, was he ever there with
- 18 you and Mariano?
- 19 A Yes.
- 20 Q Was it odd that Lucky would be calling you on the
- 21 phone?
- 22 A No.
- 23 Q At some point a little bit later that evening, did
- 24 you actually have a conversation with Lucky?
- 25 A Yes.

1 Q And did you learn something had happened at the
2 house?

3 A Yes.

4 Q What did you do?

5 A I broke down and my boss seen me when I broke down
6 in tears, and he's like, is everything okay, and
7 I told him what happened. He got me a ride to the
8 house, he's like, I could leave.

9 Q When you got a ride to the house, did someone take
10 you to this spot in Hyde Park?

11 A Yes.

12 Q What happened when you got to the house?

13 A All I seen was yellow tape and police and
14 detectives.

15 Q Did you go into the house that evening?

16 A No.

17 Q Did you have an opportunity to go speak with
18 police that evening?

19 A Yes.

20 Q And at some point, did you learn about your
21 brother?

22 A Yes.

23 Q Can you tell the members of the jury how you
24 learned about your brother?

25 A I learned that someone came --

1 MS. SCAPICCHIO: Objection.

2 THE COURT: Sustained.

3 Q Sir, just if you would, tell us if you learned at
4 some point what happened to your brother, not
5 about the details, but what happened.

6 A Yes, he was dead, he got shot.

7 Q Where were you when you learned that for certain?

8 A When I got the phone call and when I got by the
9 house and when I went to Headquarters.

10 MR. HENNING: May I approach, Your
11 Honor?

12 THE COURT: Yes. You don't have to ask
13 permission.

14 MR. HENNING: Sorry, thank you.

15 Q Sir, at some point about a week before April 27th,
16 did your brother have a birthday?

17 A Yes.

18 Q Did you have an opportunity to go to that event?

19 A No, I didn't.

20 Q At some point that evening, did you have an
21 opportunity to speak with him?

22 A Yes, after the birthday party, he was happy, he
23 enjoyed himself.

24 Q Who else was at the party, if you know?

25 A Just family.

1 Q Sir, I'm going to show you a photograph and just
2 ask if you could take a look at it. Who is this
3 a photo of?

4 A My brother.

5 Q Is this the way that your brother looked before he
6 died?

7 A Yes.

8 THE COURT: Any objection to its
9 submission?

10 MS. SCAPICCHIO: Other than the pretrial
11 objection, no, Your Honor.

12 THE COURT: Overruled, that may be
13 marked.

14 (Exhibit Number 6 was marked in
15 evidence; Photograph of Mariano Malave.)

16 MR. HENNING: I'm publishing 6.

17 Q Sir, I'm just going to ask you a couple of more
18 questions. Did you eventually have an opportunity
19 to go back to the apartment?

20 A Yes.

21 Q Because I'm sure people are curious, what ended up
22 happening to Peanut, your brother's dog?

23 A One of his buddies came --

24 MS. SCAPICCHIO: Objection.

25 THE COURT: To the dog?

1 MR. HENNING: Yes.

2 THE COURT: I'll allow it for the time
3 being.

4 A One of his buddies came up from North Carolina and
5 he took him with him. He's in good hands.

6 MR. HENNING: May I have one moment,
7 Your Honor?

8 THE COURT: Of course.

9 Q Sir, last question. If you could, just describe
10 for the members of the jury what it's been like to
11 lose your brother.

12 MS. SCAPICCHIO: Objection.

13 THE COURT: Sustained.

14 MR. HENNING: Nothing further, Your
15 Honor.

16 THE COURT: Ms. Scapicchio.

17 MS. SCAPICCHIO: Thank you, Your Honor.

18 CROSS EXAMINATION

19 (BY MS. SCAPICCHIO)

20 Q Sir, I'm going to show you some pictures and I'm
21 going to ask you if you can help identify who
22 lived in which bedroom in that apartment.

23 MS. SCAPICCHIO: May I approach -- I
24 don't have to ask.

25 THE COURT: No.

1 Q Would you take a look at those, sir, and just tell
2 me whether or not you recognize whose bedroom that
3 is?

4 A That's my bedroom.

5 Q This is your bedroom.

6 A Yes.

7 Q So you lived here with your girlfriend.

8 A Yes.

9 MS. SCAPICCHIO: Judge, I'd like to
10 introduce both.

11 THE COURT: Any objection?

12 MR. HENNING: No objection.

13 THE COURT: Those both may be marked.

14 MS. SCAPICCHIO: Thank you.

15 (Exhibit Numbers 7 and 8 were marked in
16 evidence; Photographs of bedroom.)

17 Q Sir, what's on the overhead right now, that's a
18 picture of your apartment and your bed?

19 A Yes.

20 Q The bedroom that you had.

21 A Yes.

22 Q And this is another photo of the bedroom that you
23 had?

24 A Yes.

25 Q It looks like you guys made your bed every day

1 before you went to work, is that what happened?

2 A Yes.

3 Q Now, sir, the next bedroom in the apartment.

4 Sir, could you identify for me whose bedroom this
5 is?

6 A That's probably Ruthie's friend's bedroom, I'm not
7 too sure.

8 Q The other woman who lives in the apartment.

9 A Yes.

10 Q Okay, so it was Ruthie's friend, whatever her name
11 is?

12 A Yes.

13 MS. SCAPICCHIO: I'd move to introduce
14 these.

15 MR. HENNING: No objection.

16 THE COURT: So marked.

17 (Exhibit Numbers 9 and 10 were marked in
18 evidence; Photographs of bedroom.)

19 Q So this is what Ruthie's friend's bedroom looked
20 like.

21 A Yes.

22 Q Again, the bed being made, it looks like there's
23 some sort of suitcase on top. Do you know why
24 that suitcase was there?

25 A No.

1 Q And then this appears to be the bureau in the
2 room that appears to have a bunch of bottles on
3 it. Is that the way you remember it?

4 A I don't remember, I never went in her room.

5 Q Okay, but it was her bedroom.

6 A Yeah.

7 MR. HENNING: No objection to these,
8 either.

9 THE COURT: All right, they may be
10 marked.

11 Q Take a look at this, the three pictures here, and
12 tell me whether or not, I'll spread them out for
13 you, do you know whose bedroom that is?

14 A This bedroom was probably the other guy, Justin,
15 I'm not sure.

16 Q Okay, this is Justin's bedroom to the best of your
17 ability?

18 A Yeah.

19 MS. SCAPICCHIO: I'd move to introduce
20 those, Judge.

21 THE COURT: Those three may be marked.

22 MS. SCAPICCHIO: Thank you.

23 (Exhibit Numbers 11 through 13 were
24 marked in evidence; Photographs of bedroom.)

25 Q Sir, that would be Justin's bedroom, again with

1 the bed being made; is that right?

2 A Yes.

3 Q And a picture of Justin's closet, probably a
4 little bit messier than others, but still pretty
5 neat?

6 A Yes.

7 Q And a picture of a table that was in Justin's room
8 with, it appears to be some cups and maybe a glass
9 on top of the table? Do you want to see it again?

10 A Yeah. That's not, that's not -- this is the
11 kitchen because that's the table we bought for
12 the kitchen, this is not the room.

13 Q So this table was never in anyone's room.

14 A No, this is the exact table I think we had in the
15 kitchen. I've never been in Justin's room, so
16 I'm not too sure.

17 Q So you're not sure.

18 A Yeah, I'm not sure.

19 Q Okay, that's fine.

20 THE COURT: Any objection to those five
21 photos?

22 MR. HENNING: No, Your Honor.

23 THE COURT: Those five may be marked.

24 Q Sir, I'm going to lay these photos out and see if
25 you recognize whose bedroom this is.

1 A Yeah.

2 Q Whose bedroom is that, sir?

3 A That's Mariano and Ruthie's room.

4 Q This is your brother's bedroom.

5 A Yes.

6 Q Sir, is this the way you remember your brother and
7 Ruthie keeping their room or was it a lot neater
8 than that?

9 A No, it was always neat. The reason it's like
10 that --

11 Q No, I'm not asking. So it was always neat; is
12 that your answer?

13 A Yes.

14 MS. SCAPICCHIO: Oh, sorry, I forgot to
15 mark them.

16 (Exhibit Numbers 14 through 18 were
17 marked in evidence; Photographs of bedroom.)

18 Q Is that a picture of your brother's bedroom?

19 A Yes.

20 THE COURT: Can you cite the exhibit
21 number?

22 MS. SCAPICCHIO: Oh, I'm sorry.

23 THE COURT: Just to make the record
24 clear.

25 Q Exhibit 14, is that a picture of your brother's

1 bedroom?

2 A Yes.

3 Q It appears to show a dresser and the end of a bed;
4 is that right?

5 A Yes.

6 Q It appears to be in somewhat disarray; is that
7 right?

8 A Yes.

9 Q And then this appears to be the bed in your
10 brother's bedroom; is that right?

11 A Yes.

12 Q And again, it doesn't appear to be made like all
13 the other beds were?

14 A Yes.

15 Q And that is Exhibit 18. And this appears to be
16 another picture of the bed; is that right?

17 A Yes.

18 Q And that would be Exhibit 17. And this would be
19 a picture of entering that bedroom through the
20 bedroom door; is that right?

21 A Yes.

22 Q And a bunch of clutter here; is that right?

23 A Yes.

24 Q And that would be Exhibit 15. And then, finally,
25 this exhibit here appears to have the mattress

1 askewed in some fashion; is that fair to say, sir?

2 A Yes.

3 Q And that's not the way you remember your brother
4 keeping his room, right?

5 A No.

6 Q And that would be Exhibit 16. Now, sir, you
7 remember there being a cat and a dog in the house;
8 is that right?

9 A Yes.

10 Q Whose cat, whose kitten was it?

11 A I remember, I think the kitten was for Ruthie's
12 friend or my girlfriend, I'm not too sure.

13 Q So it could have been your girlfriend's kitten or
14 it could have been somebody else's in the house.

15 A Yeah.

16 Q Do you remember what the kitten looked like?

17 A No.

18 Q Sir, does that look like the kitten that was in
19 the apartment back on April 27th of 2012?

20 A Yes.

21 MS. SCAPICCHIO: I'd ask that be marked,
22 Judge.

23 MR. HENNING: No objection.

24 THE COURT: So marked.

25 (Exhibit Number 19 was marked in

1 evidence; Photograph of cat.)

2 Q Sir, Exhibit 19, that appears to be the kitten
3 that was in the apartment that day? It was either
4 your girlfriend's kitten or it was someone else in
5 the apartment's kitten?

6 A Yes, it was my girl's.

7 Q It was your girlfriend's kitten?

8 A Yeah.

9 Q Do you remember how long that kitten had been in
10 the apartment?

11 A Probably had it for a month.

12 Q A month, okay. Now, sir, you are asked some
13 questions on direct examination about your
14 relationship with your friend, Lucky. Do you
15 remember that?

16 A Yes.

17 Q And you knew Lucky your whole life, right?

18 A Yes.

19 Q And you knew Lucky to be somebody who dealt drugs,
20 right?

21 A Yes.

22 Q Did you know whether or not Lucky dealt drugs
23 other than marijuana?

24 A No.

25 Q You didn't know that -- did you know at all in the

1 course of your friendship with him whether or not
2 he had dealt any --

3 MR. HENNING: I object at this point.

4 THE COURT: Sustained to the form of
5 that question.

6 Q You knew him his whole life; is that right?

7 A Yes.

8 Q And in fact, your mothers went to the same church;
9 is that right?

10 A Yes.

11 Q So you'd know whether or not he was doing anything
12 other than dealing marijuana, right?

13 MR. HENNING: Objection.

14 THE COURT: Overruled. If you know.

15 Q Right?

16 A Yes, yes.

17 Q And at some point, did you learn he was doing
18 something other than marijuana?

19 A Yes.

20 Q And that was cocaine, heroin, and OxyContin,
21 right?

22 A I didn't know all that.

23 Q You didn't.

24 A No.

25 Q Well, what drugs did you know he did?

1 A Marijuana.

2 Q Other than marijuana, sir.

3 A Probably cocaine.

4 Q Cocaine.

5 A Yeah.

6 Q Crack cocaine or powder cocaine?

7 A He didn't do it, he sold it, crack cocaine.

8 Q I'm not suggesting he did it, sir. So he sold

9 crack cocaine.

10 A Yeah.

11 Q Where did he sell his crack cocaine, sir?

12 MR. HENNING: Your Honor, objection to

13 relevance.

14 THE COURT: I'll allow it.

15 Q Where did your friend, Lucky, sell his crack

16 cocaine?

17 A In Maine.

18 Q In Maine.

19 A Yeah.

20 Q Do you know whether or not he picked any of it up

21 in Boston?

22 A I don't know.

23 Q Do you know who he bought it from?

24 A I don't know.

25 Q Now, sir, you talked on direct examination about

1 at some point in time having a conversation with
2 the police right after you had learned that your
3 brother passed away. Is that right?

4 A Repeat that?

5 Q Sure. You remember telling the police right after
6 your brother passed away, you went to the house,
7 and then ultimately, they took you to the police
8 station; is that fair to say?

9 A Yes.

10 Q And you were trying to assist them in any way that
11 you could with whatever you knew at that point; is
12 that fair to say, sir?

13 A Yes.

14 Q And so you agreed to have your statement tape-
15 recorded; is that right?

16 A Yes.

17 Q And you were answering whatever questions they
18 were putting to go to the best of your ability at
19 that time; is that right, sir?

20 A Yes.

21 Q Do you remember telling the police on April 27th,
22 do you remember being interviewed about 8 o'clock
23 that night?

24 A Yes.

25 Q And that was before they ever gave you a chance

1 to even go into the apartment and find out what
2 exactly had happened to your brother; is that
3 right?

4 A Yes.

5 Q Now, before you went to the police, did you speak
6 to Lucky?

7 A Before? No.

8 Q You never spoke to him before you actually went to
9 the police.

10 A I spoke to him when he called me at work and told
11 me what had happened.

12 Q Okay, let me get there. At first, you had
13 indicated that at some point during the interview,
14 do you remember telling the police that Lucky
15 called you?

16 A Yes.

17 Q Okay, and do you remember them trying to get you
18 to describe what Lucky looked like?

19 A No.

20 Q No. Well, can you describe for the jury what
21 Lucky looks like?

22 A 5-10, low-cut.

23 Q Low-cut?

24 A Last time I seen him, 5-10, low-cut, and slim.
25 Last time I seen him.

1 Q Do you remember during the course of your speaking
2 to the police that day, did they ask you about
3 anybody, your brother having any problems with
4 anyone specifically?

5 A I don't remember.

6 MS. SCAPICCHIO: May I approach the
7 witness, Your Honor? Oh, I'm sorry.

8 THE COURT: You don't have to ask
9 permission.

10 MS. SCAPICCHIO: Some judges make you do
11 it, it's just a habit.

12 THE COURT: I know.

13 MS. SCAPICCHIO: This is page 24 of his
14 statement, lines 17 and 18.

15 Q Sir, can you read lines 17 and 18 to yourself.
16 This is line 17 and 18. And when you're done,
17 look up.

18 A He said --

19 Q No, you don't have to read that, just read it to
20 yourself.

21 A (Witness reading document.)

22 Q Did you read it?

23 A Okay, yeah.

24 Q Now, sir, when you spoke to the police that night,
25 is it fair to say that you told them that some

1 guys were trying to rob your brother or something
2 somewhere in Mattapan? Do you remember giving
3 them that information?

4 MR. HENNING: Objection, Your Honor, as
5 to the context.

6 THE COURT: I'll see you at sidebar,
7 please.

8 THE CLERK: Stand up, if you'd like.

9 THE COURT: Yes, thank you, Mr. Kalell.
10 Members of the jury, I forgot to mention
11 to you, anytime we have a sidebar conference,
12 please feel free to stand up and stretch, seventh
13 inning stretch.

14 SIDEBAR CONFERENCE:

15 THE COURT: So is the evidence that this
16 witness --

17 MR. HENNING: Who is not present. I
18 think what Ms. Scapicchio is asking about in his
19 interview, the police asked him in the end if
20 there was anybody he could think of that had
21 problems with his brother.

22 I believe the context of his answer
23 about people trying to rob him in Mattapan was
24 that months earlier, when he lived at a different
25 location, when he lived in a different part of the

1 city, he had a conflict.

2 The reason I objected for context is
3 she's asking the question as if they said to him
4 what's going on now or in this particular
5 situation. So if she wants to ask --

6 MS. SCAPICCHIO: I just asked the first
7 question, Judge. I haven't finished. I'm going
8 to clear it up that it was prior to.

9 THE COURT: Do we have some time frame
10 here as to when this allegedly happened?

11 MS. SCAPICCHIO: About a year before.

12 MR. HENNING: So I'd object to that for
13 relevance. This is saying is there anybody that
14 had a problem with your brother. He's saying a
15 year before in a different part of the city in a
16 different location, he had a problem.

17 THE COURT: I think she's going to say,
18 correct me if I'm wrong --

19 MS. SCAPICCHIO: I'm not going to say
20 anything, Judge.

21 THE COURT: Third-party culprit.

22 MR. HENNING: But she has to have some
23 showing that -- and in this case, all she has at
24 this point is a year ago, that there was some
25 incident that took place, not reported

1 necessarily. And I don't think that that's
2 appropriate at this time.

3 THE COURT: Well, how does he know about
4 this other incident?

5 MS. SCAPICCHIO: It doesn't matter if he
6 knew or not. He told the police, and whether or
7 not the police investigated it is the issue,
8 Judge.

9 THE COURT: Okay, this is a Bowden
10 thing. This isn't a third-party culprit?

11 MS. SCAPICCHIO: Right.

12 THE COURT: Okay, so just insofar as
13 it's a Bowden argument, she may have it.

14 MS. SCAPICCHIO: Thank you, Your Honor.

15 THE COURT: That they allegedly didn't
16 investigate that.

17 MR. HENNING: So there shouldn't be
18 further inquiry into the nature of the incident.

19 MS. SCAPICCHIO: Yes, whatever he told
20 the police is relevant.

21 THE COURT: As a Bowden argument.

22 MS. SCAPICCHIO: That's it.

23 THE COURT: You have no other basis
24 to --

25 MS. SCAPICCHIO: Not at this time,

1 Judge.

2 THE COURT: -- determine its
3 reliability.

4 MS. SCAPICCHIO: No, none at all.

5 MR. HENNING: I'm happy to waive any
6 objection to her asking it to the police officer,
7 but asking it to this witness, it's going to ask
8 him to tell things that he heard and found out.

9 MS. SCAPICCHIO: No, no, no. I'm just
10 asking him what he told the police.

11 MR. HENNING: We don't know what that's
12 based on. What I'm saying is that's unreliable.

13 THE COURT: Well, that's true.

14 MR. HENNING: So what we're dealing with
15 is --

16 THE COURT: Well, that's true. I mean,
17 how did he know about this incident?

18 MS. SCAPICCHIO: His brother told him.

19 MR. HENNING: Right.

20 THE COURT: So the victim told him.

21 MR. HENNING: So this is the sort of
22 thing that I think if she wants to say did the
23 victim's brother say that there had been an
24 incident, yes. Did you investigate it? That's
25 how you get in the Bowden.

1 This is trying to get in the nature of
2 the incident through hearsay, and I don't think
3 it's appropriate.

4 THE COURT: If the brother told him
5 this, I can determine reasonably that it's
6 reliable. So I'm going to let her get into it.

7 MS. SCAPICCHIO: Thank you, Your Honor.

8 THE COURT: Just as a Bowden argument.
9 END OF SIDEBAR CONFERENCE.

10 THE COURT: Is there some reason we're
11 putting this one down?

12 COURT OFFICER: Yes, Judge, apparently
13 it's reflecting off that. We just turned the
14 lights back on.

15 THE COURT: Very good.

16 Q So getting back to my question I asked you before
17 we were interrupted, do you remember back on
18 April 27th of 2012 telling the police that your
19 brother had told you he had been robbed or
20 something; is that right?

21 A Yes.

22 Q And they asked you where and you said somewhere
23 when he used to live on Almont Park, some guys
24 tried to rob him and stuff. Do you remember
25 saying that to the police?

1 A Yes.

2 Q And the police asked you some specific questions
3 about that, was it one guy or two guys that tried
4 to rob him; do you remember that?

5 A Yes.

6 Q And you said two guys tried to rob him; do you
7 remember saying that?

8 A Yes.

9 Q And you learned that from your brother; is that
10 fair to say?

11 A Yes.

12 Q You indicated to the police that they were trying
13 to take his money or something; is that right?

14 A Yes.

15 Q And that they had pulled out a gun; is that right?

16 A Yes.

17 Q And your brother was able to run away.

18 A Yes.

19 Q Do you remember whether or not the police asked
20 you if that had anything to do with drug dealing?

21 A I don't remember.

22 Q Okay. Now, sir, I'm going to focus your attention
23 on the calls from Lucky on the day that your
24 brother died. You were working at Cort Furniture
25 at the time; is that right?

1 A Yes.

2 Q And you couldn't take calls typically on your cell
3 phone while you were working; is that right?

4 A Yes.

5 THE COURT: I'm sorry to interrupt,
6 what's the name of the company?

7 MS. SCAPICCHIO: Cort Furniture,

8 THE COURT: When I see her writing,
9 I instinctively stop just because that means that
10 she has to track somebody down to get the spelling
11 of things.

12 MS. SCAPICCHIO: Just wave and I'll try
13 to help in any way I can.

14 THE COURT: I'll jump in.

15 MS. SCAPICCHIO: Thank you, Your Honor.

16 Q And so the role of your employer was that you
17 couldn't really be on the phone while you were
18 trying to work; is that right?

19 A Right.

20 Q In this particular case, you remember telling the
21 police that you got this flurry of calls from
22 Lucky, right?

23 A Yes.

24 Q And you had gotten four, did you tell them four
25 calls, at least four calls; do you remember that?

1 A I don't remember. It was a couple of calls.

2 MS. SCAPICCHIO: This is page 26 of his
3 recorded statement on the 27th. Do you want to
4 see it?

5 MR. HENNING: No, I'm good.

6 Q Sir, can you read from lines 12 to the end of the
7 page, just to yourself.

8 A (Witness reading document.)

9 Q Did you have an opportunity to read that, sir?

10 A Yes, I did.

11 Q Sir, is it fair to say that the police asked you
12 some questions about the calls from Lucky?

13 A Yes.

14 Q And you told them that you got a series of calls;
15 is that right?

16 A Yes.

17 Q And you were getting more and more concerned
18 because they were four really quick calls to your
19 cell phone?

20 A Yes.

21 Q And that to you indicated there were something
22 wrong, right?

23 A Yes.

24 Q Because everybody who knew you knew that you
25 couldn't take calls at work, right?

- 1 A Yes.
- 2 Q And at some point, did you show them your cell
3 phone to show them the calls that you had gotten?
- 4 A Yes.
- 5 Q And did they ask you specifically, sir, what the
6 first phone call you got, what time the first
7 phone call you got from Lucky was?
- 8 A Yes.
- 9 Q And what time was that, sir?
- 10 A 6:16.
- 11 Q 6:16, and there was a quick four calls, right?
- 12 A Huh?
- 13 Q Quick four calls; is that right?
- 14 A It was more than four.
- 15 Q However many there were, they started at 6:16 and
16 they kept coming until you finally were able to
17 call back; is that right?
- 18 A Yes.
- 19 Q And the number of calls, every time there was
20 another call, you got more and more anxious; is
21 that right?
- 22 A Yes.
- 23 Q Because you thought there was something wrong.
- 24 A Yes.
- 25 Q Because Lucky knew that he couldn't call you

1 during work, right?

2 MR. HENNING: Objection.

3 THE COURT: Overruled.

4 Q Right?

5 A Right.

6 Q He was your good friend, he knew that you had a
7 job and you couldn't answer your cell phone,
8 right?

9 A Yeah, but he probably didn't know I was at work.

10 Q All right, so he had called you starting at 6,
11 according to what you told the police, 6:16; is
12 that right?

13 A Yes.

14 Q And they asked you who that call was from, and you
15 said your friend, Ronald Theodat; is that right?

16 A Yes.

17 Q And then do you remember them asking you anything
18 about a conversation that you had with Lucky that
19 day?

20 A Yes.

21 Q And do you remember telling them --

22 MR. HENNING: Objection.

23 THE COURT: I think it's impeachment,
24 but rather than asking him if he remembers, just
25 ask him, did he say something, as opposed to

1 testing his recollection.

2 Q Did you tell the police that day that Lucky told
3 you that he was about to come to your house and he
4 seen your brother on the sidewalk?

5 MR. HENNING: Objection, Your Honor, as
6 to this.

7 THE COURT: I'll see you at sidebar
8 again.

9 SIDEBAR CONFERENCE:

10 THE COURT: It's not clear if this is
11 being offered for the truth of the matter
12 asserted. I don't get what the statement is.

13 MS. SCAPICCHIO: The statement is that
14 at that point --

15 THE COURT: Keep your voice down.

16 MS. SCAPICCHIO: I'm sorry, Your Honor.
17 The statement at that point was that he had
18 indicated that he had not gone in the house, that
19 he was just driving by the house and he had seen
20 the brother on the sidewalk outside.

21 THE COURT: So this is allegedly Lucky,
22 a/k/a Mr. Theodat.

23 MS. SCAPICCHIO: Yes.

24 THE COURT: Saying this to this witness.

25 MS. SCAPICCHIO: Yes.

1 THE COURT: Why isn't it being -- you're
2 offering it for the truth of the matter asserted.

3 MS. SCAPICCHIO: No, I'm not. I'm
4 offering it as to what he told the police that
5 night.

6 MR. HENNING: As to what?

7 MS. SCAPICCHIO: Because the police --
8 well, I can't give away my whole defense, Judge,
9 but it's a Bowden defense.

10 THE COURT: This is what he told the
11 police.

12 MS. SCAPICCHIO: The police, that Lucky
13 said to him. Lucky was interviewed after him.

14 THE COURT: Okay. And your argument is
15 that they didn't pursue this with Lucky?

16 MS. SCAPICCHIO: They did not.

17 MR. HENNING: This is still a hearsay
18 objection. I understand that a Bowden defense is
19 something she wants to do, but you can do that
20 through the police officer. This is eliciting
21 hearsay through this witness so she can set it up
22 for later. I don't think she gets to do that.
23 She can do this with the witness where she's going
24 to introduce the Bowden stuff.

25 THE COURT: I'm not convinced that it's

1 being offered for the truth of the matter
2 asserted.

3 MS. SCAPICCHIO: No, it's not.

4 THE COURT: I'm going to allow it.

5 MS. SCAPICCHIO: Thank you.

6 END OF SIDEBAR CONFERENCE.

7 Q Sir, did you indicate to the police on April 27th
8 of 2012 at about 8:09 that when Lucky called you,
9 he told you he was about to go to your house and
10 he saw your brother outside your house on the
11 sidewalk? Did you tell that to the police?

12 A Yes.

13 Q And that your brother had been shot outside; is
14 that right?

15 A Yes.

16 Q And at that point in time, at least as far as what
17 you told the police, you said that Lucky told you
18 he was driving by the house. Is that right?

19 A Yes.

20 Q Not that he had been in the house, not that he had
21 seen your brother, but that he had been driving by
22 the house and saw your brother get shot outside on
23 the sidewalk; is that right?

24 A Yeah.

25 Q Now, sir, do you remember giving either the police

1 or the prosecutor details of that conversation
2 that you say you had with Lucky on the 27th on the
3 phone?

4 A Yes.

5 Q And at some point in time, sir, that night, did
6 they ask you for contact information for your
7 friend, Lucky, the police, did they ask you for
8 that information?

9 A No, I don't remember.

10 Q You don't remember them ever asking you any
11 contact information for Lucky; is that right?

12 A He was at the Headquarters.

13 Q So they didn't ask you any contact information.

14 A No.

15 Q Now, sir --

16 MS. SCAPICCHIO: May I just have a
17 moment, Your Honor?

18 THE COURT: Of course.

19 Q Sir, do you remember in your conversation with the
20 police that night, did they ask you to describe
21 the two people or ask if you knew what the two
22 people were that robbed your brother before or
23 that your brother had told you had been robbed
24 before, did they ask you to describe those people
25 at all?

1 MR. HENNING: Objection, Your Honor.

2 THE COURT: I'm going to allow it.

3 A I don't remember.

4 Q You don't remember whether or not they asked you
5 or you don't remember what they looked like?

6 A I never seen them.

7 Q Okay, but I'm not asking you whether you saw them
8 or you knew them or you knew what they were, I'm
9 asking you whether or not the police, the night
10 that you were interviewed, did they ask you for a
11 description of those people who had robbed your
12 brother about a year prior?

13 A No.

14 Q Did they ask you that night whether or not you
15 even knew their names?

16 A They did, they did, but I didn't know.

17 Q You didn't know the names.

18 A I don't.

19 Q Did they ask you whether or not that robbery was
20 reported in any way?

21 A I don't remember.

22 Q Well, do you know whether or not your brother
23 reported that robbery?

24 A No.

25 Q Do you know if it was a robbery over drugs?

1 A I don't know.

2 Q Your brother didn't tell you that?

3 A No.

4 MS. SCAPICCHIO: If I could just have a
5 moment?

6 THE COURT: Of course.

7 MS. SCAPICCHIO: I don't have any
8 further questions.

9 THE COURT: Mr. Henning.

10 REDIRECT EXAMINATION

11 (BY MR. HENNING)

12 Q Sir, Ms. Scapicchio asked you a moment ago if the
13 police, when they were speaking to you, asked for
14 contact information for Lucky. Do you remember
15 that?

16 A I don't remember.

17 Q No, but do you remember her asking you that
18 question a moment ago?

19 A Yes, sir.

20 Q And you had said he was already at the
21 Headquarters. Can you explain what you mean by
22 that?

23 A Well, when they took me down to Headquarters,
24 Lucky was already there by the Roxbury
25 Headquarters by the door.

- 1 Q So you already saw Lucky speaking with police that
2 night.
- 3 A Yes.
- 4 Q That evening when you were at Headquarters, you
5 saw him several times, correct?
- 6 A Yes.
- 7 Q Now, just to clarify, the robbery that
8 Ms. Scapicchio was talking about that happened
9 with your brother, when in relation to his murder
10 did that happen? How soon before, how long
11 before?
- 12 A Probably two years ago. A year and a half, two
13 years.
- 14 Q A year or a year and a half before his murder?
- 15 A Yes.
- 16 Q Where was that, that altercation, allegedly?
- 17 A That's when he lived in Almont Park in Mattapan.
- 18 Q And this incident happened in April of 2012.
19 When did all of you guys move into the apartment?
- 20 A I don't really recall.
- 21 Q Were you in the apartment in 2011?
- 22 A No.
- 23 Q So at some point in 2012, you believe you moved
24 in.
- 25 A Yes.

1 Q And lastly, Ms. Scapicchio showed you a picture of
2 your brother's messy room and asked about that.
3 Do you remember that?

4 A Yes.

5 Q You were saying there's a reason for the mess and
6 then she asked another question. Do you remember
7 that?

8 A Yes.

9 Q Can you explain the reason for the mess?

10 A The reason for the mess is --

11 MS. SCAPICCHIO: Objection, Your Honor,
12 he said he wasn't there.

13 THE COURT: Overruled.

14 Q So what was the reason for the mess?

15 A The reason for the mess is like after Mariano got
16 shot in the apartment, the guys, his cousin who
17 was there, my friend, Lucky, and his boy, E, they
18 ran, they was trying to hide under their bed, they
19 was trying to find places to hide so they wouldn't
20 get killed.

21 Q And when you arrived --

22 MS. SCAPICCHIO: Objection, Your Honor.
23 How does he know --

24 THE COURT: Were you there at the time?

25 THE WITNESS: I was at work. Oh, I went

1 through the apartment after I got there.

2 THE COURT: Were you there when they
3 were allegedly hiding under the bed?

4 THE WITNESS: No, but they told me.

5 THE COURT: Then I am going to sustain
6 the objection. I'm striking that last answer, the
7 jury is told to disregard it.

8 Q When you went to the house that evening after you
9 had gotten the phone calls and after you arrived
10 at 132 Hyde Park Ave., did you see police at the
11 house?

12 A Yes.

13 Q Did you see a lot of police at the house?

14 A Yes, detectives, yellow tape.

15 Q What parts of the house were they going to?

16 A They was going in the back looking all around the
17 house.

18 MR. HENNING: Nothing further, Your
19 Honor.

20 THE COURT: Anything further,
21 Ms. Scapicchio?

22 RECROSS EXAMINATION

23 (BY MS. SCAPICCHIO)

24 Q Sir, you just told the prosecutor that the prior
25 robbery involving your brother that you don't know

1 whether or not it's involving drugs, you said that
2 you told the police that was a year and a half or
3 two years before he was killed; is that right?

4 A Yes.

5 Q Do you remember telling the police that night that
6 it was about a year ago? A year before he got
7 killed, not a year and a half or two years, do
8 you remember saying that to the police, sir?

9 A Yeah, I didn't remember.

10 MS. SCAPICCHIO: May I approach the
11 witness -- never mind.

12 A It's been a while, it's been three years.

13 MS. SCAPICCHIO: This is page 24, lines
14 12 through 25.

15 Q Can you read those to yourself, sir.

16 A (Witness reading document.) Yeah, I did.

17 Q Sir, does that refresh your memory as to whether
18 or not on April 27th of 2012, you had told the
19 police, when you were telling them about who might
20 want to hurt your brother, that that incident
21 where your brother was robbed at gunpoint happened
22 about a year prior to him getting shot and killed
23 on April 27th; is that right?

24 A Yes.

25 Q That's what you told the police back on April

1 27th, right?

2 A Yes.

3 Q And certainly, your memory was fresher back then
4 than it is today; is that right, sir?

5 A Yes.

6 MS. SCAPICCHIO: I don't have anything
7 further.

8 THE COURT: Thank you, sir, you may
9 step down.

10 Mr. Henning.

11 MR. HENNING: Commonwealth calls Ruth
12 Camille.

13 THE COURT: Members of the jury,
14 I neglected to mention to you at the outset of
15 the trial that if you ever see a witness take the
16 stand and you recognize that person, please let me
17 know. That can happen from time to time. Every
18 once in a while, a juror very innocently will not
19 recognize a name, but will recognize a face.
20 We've all had that experience, you don't remember
21 the name, but you remember the face. If there's
22 ever a time during this trial, and I'm expecting
23 it not to happen, but if it does, please let me
24 know. Please don't feel bad about it at all,
25 don't feel guilty, it can happen. If you

1 recognize a person's face, let me know, okay?

2 Thank you.

3 RUTH CAMILLE, Sworn

4 DIRECT EXAMINATION

5 (BY MR. HENNING)

6 Q Good afternoon, ma'am. If you could introduce
7 yourself to the jurors and spell out your last
8 name.

9 A Ruth Camille, C-A-M-I-L-L-E.

10 MR. HENNING: Just if you can, just pull
11 that microphone a little bit closer.

12 THE COURT: Just speak up.

13 Q How old are you, ma'am?

14 A 27.

15 Q Back in 2012, were you in a relationship with
16 Mariano Malave?

17 A Yes.

18 Q And what was your relationship with him?

19 A I was his girlfriend.

20 Q I'm going to cover that in a minute. I'd like to
21 just ask a couple of questions about you. What do
22 you do now?

23 A I'm a CNA.

24 Q What is that?

25 A A nurse's aide.

- 1 Q Back in 2012, what were you doing?
- 2 A I was a CNA, as well.
- 3 Q Were you going to school in 2012?
- 4 A Yes.
- 5 Q What was school for?
- 6 A Nursing.
- 7 Q Where did you go to school?
- 8 A Quincy College.
- 9 Q Now, at some point back in 2011 into 2012, did you
10 begin a relationship with Mr. Malave?
- 11 A Yes.
- 12 Q How long had you known him when you two became
13 boyfriend and girlfriend?
- 14 A About two years.
- 15 Q Please describe how you met him.
- 16 A I met him online on a website.
- 17 Q And when you met him, were you in a relationship
18 immediately?
- 19 A It took a little while before.
- 20 Q How long would you say you were circling around
21 that?
- 22 A I would say like four months, five months.
- 23 Q And eventually at some point in 2011, did you get
24 into a relationship with him?
- 25 A Yes.

1 Q Did you get to meet his family?

2 A Yes.

3 Q Who did you meet?

4 A His mom, his dad, his aunt, cousin, a lot of the
5 family. His sister, his brother.

6 Q At some point in November of 2011, did you move
7 in?

8 A Yes.

9 Q Please tell us where you moved and who lived
10 there.

11 A 132 Hyde Park Ave., and his brother, Rod, lived
12 there. I rented out a room to a girl named
13 Marcella and another guy named Justin.

14 THE COURT: Ma'am, you said 132 Hyde
15 Park Ave.?

16 THE WITNESS: Correct.

17 THE COURT: What section of Boston is
18 that in?

19 THE WITNESS: Hyde Park.

20 Q Which apartment did you live in?

21 A The second floor, the upper-level.

22 Q The upper-level?

23 A Yes.

24 Q So when you say second floor, you mean if you're
25 going in the back?

- 1 A Yes.
- 2 Q Is that the top of the building?
- 3 A Yes.
- 4 Q During the time that you knew Mariano, did you
5 know him to be involved in selling marijuana at
6 all?
- 7 A He was selling it and then he told me he stopped.
- 8 Q And when was that?
- 9 A I don't know the date I had.
- 10 Q Was it before you started dating?
- 11 A After.
- 12 Q During the time that you knew Mariano, did you
13 ever know him to carry any weapons?
- 14 A No.
- 15 Q Did you ever see any weapons in his house?
- 16 A No.
- 17 Q Did you ever see him with a gun?
- 18 A No.
- 19 Q Did you ever see him with any other sort of
20 weapon?
- 21 A No.
- 22 Q Who were the people who were close to Mariano,
23 who was his circle of friends?
- 24 A He had a friend named Edwin.
- 25 Q What was Edwin's nickname?

1 A E.

2 Q Who else?

3 A He had a cousin named Alex, I don't know his
4 nickname, and that's the only two I can remember
5 offhand.

6 Q Did you know those two?

7 A Yes.

8 Q Did you ever socialize with them?

9 A Not really, I just know them because of him.

10 Q Did Edwin and Alex ever come to the house at
11 132 Hyde Park Ave.?

12 A Yes.

13 Q How often would they come?

14 A Edwin would come frequently; his cousin, Alex, not
15 frequently.

16 Q During the time that you lived at 132 Hyde Park
17 Ave., did you ever meet a friend of Mariano named
18 Ronald or Lucky?

19 A Yes.

20 Q How many times would you say that you saw him?

21 A Probably like five times, I would say.

22 Q What was the relationship between Mariano and
23 Lucky?

24 A He said that was his friend.

25 Q And during that time when you were living at 132

1 Hyde Park Ave., did you know Mariano's phone
2 number?

3 A Yes.

4 Q Do you know it off the top of your head as you sit
5 there right now?

6 A It was 857-299-0950, I think.

7 Q Is it possible you may be off a couple of digits?

8 A Yes.

9 MR. HENNING: May I approach, Your
10 Honor?

11 THE COURT: Yes. You don't have to ask
12 permission.

13 MR. HENNING: Thank you, sorry.

14 THE COURT: Members of the jury, the
15 attorneys and I have been chuckling about it, some
16 judges impose that rule very strictly, I do not.
17 They've been trained to ask permission, so I just
18 want to let you know that's why they've been
19 correcting themselves. They don't have to ask
20 permission, but I understand that they're trained
21 to do it, so if they ask, that's why.

22 Q So, ma'am, is there something I can show you that
23 will refresh your memory about what the cell phone
24 number was?

25 A Um-hmm.

1 Q Just read that to yourself and then if you look up
2 and tell me when you're ready.

3 A Yeah, that was the number.

4 Q Can you tell me what the number was that you
5 remember his phone number being?

6 A 857-266-0950.

7 THE COURT: I'm sorry, can you repeat
8 that again a little more slowly?

9 THE WITNESS: 857-266-0950.

10 Q So the middle digits, 266-0950?

11 A Yes.

12 Q Is that the number he had during the time that you
13 were in a relationship?

14 A Yes.

15 Q Now, Ms. Camille, I want to take you back to
16 April 27th, 2012, all right? On that morning when
17 you woke up, were you with Mariano?

18 A Yes.

19 Q Can you tell the members of the jury what you did
20 that morning?

21 A I was getting ready for school.

22 Q Again, if you can just keep your voice up.

23 A I was getting ready for school.

24 Q What does it mean to get ready for school for you?

25 A I was getting dressed and he brought me to school.

1 Q How did he bring you to school?

2 A With my car.

3 Q Where did you go at the time for school?

4 A To Quincy College.

5 Q When he drove you there, he dropped you off for
6 school?

7 A Yes.

8 Q Did you make some plans for later on that
9 afternoon?

10 A No, other than for him to pick me up.

11 Q What time was he supposed to pick you up?

12 A 1 PM.

13 Q Did he show up at 1 PM?

14 A No.

15 Q Could you tell the members of the jury what was
16 happening around 1 PM when you were trying to or
17 expecting to get picked up?

18 MS. SCAPICCHIO: Objection.

19 THE COURT: Overruled. You may answer.

20 A I'll answer.

21 Q So, ma'am, if you could, what were you doing at
22 1 PM when you realized you weren't getting picked
23 up?

24 A I text him and I kept saying where are you, class
25 ended since 1.

1 Q What happened?

2 A He kept telling me he's coming, but he didn't show
3 up.

4 Q Based on your conversations with him, did you know
5 if he was with anybody?

6 A No.

7 Q Did he eventually show up?

8 A Yes.

9 Q Do you remember approximately how late he was?

10 A I think it was around 4 PM, but I'm not accurate
11 on the time.

12 Q When he showed up, was he with anyone at that
13 point?

14 A Yes.

15 Q Who was he with?

16 A Edwin.

17 Q Edwin would be his friend?

18 A Yes.

19 Q All right, and again, just project as if you're
20 speaking to the back of the room, okay?

21 A Okay.

22 Q When he picked you up, where did you go?

23 A We went to Wendy's.

24 Q Where was the Wendy's?

25 A It was down the street from the house.

1 Q Is that in the Jamaica Plain or Hyde Park section?

2 A Yes.

3 Q Now when you went there, was that -- did you go

4 anyplace else between getting picked up and going

5 to get food?

6 A No.

7 Q And after you got food, where did you go?

8 A Home.

9 Q That was to Hyde Park Ave.?

10 A Yes.

11 Q Now, if you could, tell the members of the jury,

12 when you got home, who was in the apartment?

13 A When I got home, it was me, Mariano, and Edwin,

14 and then I went to the bathroom, and when I came

15 out, his cousin, Alex, was then there.

16 Q When you first got into the house, was anyone

17 there other than you, Mariano, and Edwin?

18 A No.

19 Q Where did my Mariano and Edwin go when you got to

20 the house?

21 A They were in the kitchen.

22 Q Where did you go?

23 A In my room.

24 Q Ma'am, I'm going to approach you with a photograph

25 and just ask if you recognize this photo, Exhibit

1 18. Whose bedroom is that?

2 A That was my bedroom.

3 Q Was that the condition that the bed was in when
4 you left that day?

5 A No.

6 Q How was it different?

7 A The bed is tilted, everything is like everywhere.

8 MR. HENNING: I'm publishing 18.

9 Q You said the bed is tilted and everything is
10 everywhere?

11 A Yes.

12 Q I want to show you, as well, Exhibit Number 15 so
13 the jurors have an understanding here. Do you see
14 Exhibit 15 that's up on the projector?

15 A Yes.

16 Q I'm going to bring it to you so you can take a
17 look.

18 A Okay.

19 Q Looking at this photograph, do you see the door on
20 the right?

21 A Yes.

22 Q What is that door to, where does it go if you go
23 out that door?

24 A It leads to the stairway.

25 Q To the stairway?

1 A Um-hmm.

2 Q Is that the front of the house or the back of the
3 house?

4 A The front of the house.

5 Q So the first room you get into when you walk into
6 that door, it's your bedroom?

7 A Yes.

8 Q What was your bedroom originally?

9 A A living room.

10 Q And you lived in that room with Mariano?

11 A Yes.

12 Q So when you were in that bedroom, you said Mariano
13 and Edwin were in the kitchen, correct?

14 A Yes.

15 Q What were you doing in the room?

16 A I was getting ready to get undressed to lay down.

17 THE COURT: Ma'am, keep your voice up.
18 Some of the jurors are straining to hear you down
19 there, okay?

20 THE WITNESS: Okay.

21 THE COURT: Again, project to the back
22 of the room.

23 Again, members of the jury, anytime
24 you're having trouble hearing, just get my
25 attention, raise your hand.

1 Q Ma'am, you said you were getting ready to get
2 undressed and kind of finish the day, correct?

3 A Yes.

4 Q At the time that you were getting changed or
5 getting ready to get changed, did some other
6 person or did you notice some other person arrive
7 at the apartment?

8 A Yes.

9 Q Who was the other person that arrived?

10 A Lucky.

11 Q So at that time when Lucky arrived, how many
12 people were in the kitchen in total?

13 A It was the four of them.

14 Q So, if you can, just describe it again, who you
15 remember in the kitchen.

16 A Mariano, Edwin, Lucky, and Alex.

17 Q Did you ever have an opportunity to leave your
18 bedroom and go into the kitchen to see them?

19 A I saw them, yes.

20 Q What were you doing when you went to the kitchen
21 to see them?

22 A I went back to the bathroom and then I went to my
23 room again.

24 Q Just explain, if you can, how the bathroom and the
25 kitchen are situated.

1 A They're connected, the kitchen is here and the
2 bathroom is in the kitchen.

3 Q Ma'am, showing you this photograph, do you
4 recognize what this is?

5 A Yes.

6 Q What is that?

7 A The bathroom.

8 MR. HENNING: I would offer it, Your
9 Honor.

10 MS. SCAPICCHIO: I have no objection,
11 Your Honor.

12 THE COURT: So marked.

13 (Exhibit Number 20 was marked in
14 evidence; Photograph of bathroom.)

15 Q Ma'am, this photograph here, this shows the
16 bathroom?

17 A Yes.

18 Q If you walked toward this bathroom, would you have
19 to go through a particular room in the house in
20 order to get into the bathroom?

21 A No.

22 Q Meaning is there a room that this bathroom
23 connects to at that door?

24 A Just the kitchen.

25 Q The kitchen, okay. So the kitchen would be right

1 where the person taking the photograph is
2 standing.

3 A Yes.

4 Q When you went to the bathroom, did you have a
5 chance to see who was around the kitchen table?

6 A Yes.

7 Q Who was there?

8 A Lucky, Edwin, Alex and Mariano.

9 Q Can you describe what they were doing?

10 A They were just talking.

11 Q What was the mood like when you walked through?

12 A Just having a conversation.

13 Q Did you hear any arguing?

14 A No.

15 Q Did you hear any yelling?

16 A No.

17 Q Had you ever seen that group of people together?

18 A No.

19 Q Had you ever seen Edwin and Alex with Mariano
20 together?

21 A I think once at his party, but I'm not sure.

22 Q At some point, did Mariano come into your room?

23 A Yes.

24 Q Can you tell the members of the jury what you
25 remember about him coming into your room? What

1 he was doing and what you remember.

2 A He was walking and he was talking to somebody and
3 he was giving them directions.

4 MS. SCAPICCHIO: Objection.

5 THE COURT: Overruled.

6 Q So you said walking and talking and giving someone
7 directions?

8 A Yes, he was walking up and down and giving
9 somebody directions.

10 Q And did he go to any particular place in your
11 bedroom?

12 A After he got off the phone, he told me he was
13 going to take the dog out --

14 MS. SCAPICCHIO: Objection.

15 THE COURT: Overruled.

16 Q I'm sorry?

17 A After he was off the phone, he told me that he was
18 going to take the dog out.

19 Q At any point, did he -- when he went into your
20 bedroom, where in particular in the bedroom did he
21 go?

22 A He, like, walked out, looked in the window, then
23 he walked back in the kitchen. He was going up
24 and down talking to somebody and giving them the
25 address to the house.

1 Q And the window you said, what window is that?

2 A There's a window in the bedroom.

3 Q What does it look out onto if you look out the
4 window?

5 A The street.

6 Q The street?

7 A Um-hmm.

8 Q I'm going to show you a photograph. Tell me if
9 the bedroom window is pictured here.

10 A This one.

11 MR. HENNING: Publishing Exhibit 1.

12 Q Now, ma'am, a second ago, you pointed at one of
13 these two top windows; is that right?

14 A Yes.

15 Q Of the two top windows where the blue is, is the
16 bedroom the one on the right or the one on the
17 left?

18 A The one on the left.

19 Q So is my finger at the right spot?

20 A Yes.

21 Q Now, you said that when he came into your bedroom,
22 he was looking out that window?

23 A Yes.

24 Q And have you ever looked out that window,
25 yourself?

- 1 A Yes.
- 2 Q Are you able to see the street from that window?
- 3 A Yes.
- 4 Q After he left the bedroom, you mentioned the dog.
- 5 A Yes.
- 6 Q Did you know where Mario went, did you personally
7 observe where he went?
- 8 A He walked out of the room and went towards the
9 kitchen.
- 10 Q And did you notice anything about the dog?
- 11 A No.
- 12 Q Did you hear the dog?
- 13 A No.
- 14 Q And at some point, did you know if Mario was
15 actually gone?
- 16 A I still heard him, he was in the kitchen.
- 17 Q We heard a little bit of testimony and actually
18 seen a picture about a cat in the house. Do you
19 remember a cat?
- 20 A Yes.
- 21 Q Whose cat was it, if you know?
- 22 A I think it was Rod's girlfriend, Renea's cat.
- 23 Q When Mario left your bedroom, you said you still
24 heard sounds of him in the kitchen, correct?
- 25 A Yes.

1 Q Did you ever hear, prior to this incident that
2 you're about to talk about, did you ever hear any
3 argument in the kitchen?

4 A No.

5 Q What were the sounds coming from the kitchen like,
6 what could you hear?

7 A Just talking, they were just talking.

8 Q At some point after Mariano had left the bedroom,
9 did something happen?

10 A Yes.

11 Q Tell the members of the jury what you remember.

12 A I began just to lay down for a couple of minutes,
13 and then that's when I heard three gunshots and
14 that's when I ran.

15 Q Can you tell us what it sounded like? What could
16 you hear from your bedroom?

17 A Gunshots.

18 Q Had you ever heard gunshots before?

19 A Yes.

20 Q How many did you hear?

21 A Three.

22 Q How loud were they?

23 A Very loud.

24 Q And if you could, please tell us, either using
25 your hand or saying it out loud, how close

1 together were they?

2 A They were like one after another.

3 Q Was there any space or delay between them?

4 A No.

5 Q Could you tell where they were coming from?

6 A No, I just ran for my life.

7 Q When you say you ran for your life, when you got
8 out of your bedroom, where did you go?

9 A I ran out the door in my room.

10 Q Would that be the door that we saw a few moments
11 earlier?

12 A Yes.

13 Q Just before you heard those shots, did you hear
14 anything else?

15 A No.

16 Q Did you ever hear any argument before that?

17 A No.

18 Q Now, when you left that bedroom, you said you
19 went through the front door of the apartment.

20 A Yes.

21 Q Describe for us the route that you took.

22 A I ran out of that door in my bedroom and I ran
23 down the stairs.

24 Q Which stairs?

25 A The stairs in the house.

1 Q The rear stairs?

2 A Yes.

3 Q At some point, did you make it to the side of the
4 house that's depicted in Exhibit 1?

5 A Where?

6 Q Did you make it to the side of the house that I'm
7 pointing at here? Did you make it out of the back
8 of the house?

9 A Yes.

10 Q When you got out of the back of the house, where
11 did you go?

12 A I ran up the street.

13 Q When you say up the street, if you got to the
14 bottom of these steps, did you go to the right of
15 this picture or to the left of this picture?

16 A To the right.

17 Q Do you know what's in that direction, what's out
18 there?

19 A There was a Dunkin Donuts and a Greek pizza.

20 Q I'm just going to show you a map and ask if you
21 can locate where you were living at that time on
22 this map.

23 A Somewhere around there and the Dunkin' Donuts.

24 Q And is the house marked with any numbers or color?

25 A Yeah, the red.

1 MR. HENNING: May I offer this, Your
2 Honor.

3 MS. SCAPICCHIO: No objection, Judge.

4 THE COURT: So marked.

5 (Exhibit Number 21 was marked in
6 evidence; Map.)

7 MR. HENNING: I'm publishing 21.

8 Q Ma'am, you saw the location of your house on this
9 map?

10 A Yes.

11 Q And you said that it's where the red is; is that
12 correct?

13 A Yes.

14 Q When you took a left out of the house, you said
15 you were heading up the street. Where did you go?

16 A I took a right to Greeks pizza.

17 Q And where in relation to the Dunkin' Donuts is
18 that pizza shop?

19 A It's right across the street from it.

20 Q So across the street on Walk Hill or across the
21 street on Hyde Park Ave.?

22 A I believe it's Walk Hill.

23 Q Walk Hill would be this street, so it's right
24 across from the Dunkin' Donuts?

25 A I think so, I don't know the streets well.

- 1 Q When you were heading out the door of your
2 apartment, of apartment number three, did you see
3 anybody else running?
- 4 A I just ran, I didn't even look back.
- 5 Q Did anybody else go down the steps with you?
- 6 A No.
- 7 Q When you got to the back of the house, was anybody
8 with you?
- 9 A No.
- 10 Q When you left the back of the house to go to Hyde
11 Park Ave., was anyone with you at that point?
- 12 A No.
- 13 Q When you got to Hyde Park Ave. and you turned to
14 Dunkin Donuts, was anyone with you at that point?
- 15 A I saw his cousin, Alex.
- 16 Q So once you turned in that direction, you saw his
17 cousin, Alex?
- 18 A Well, I was at that direction and I saw him coming
19 up.
- 20 Q Where was it?
- 21 A In front of the Greek pizza.
- 22 Q In front of the Greek pizza?
- 23 A Yes.
- 24 Q So roughly where the right edge of that Dunkin'
25 Donuts sign is on the exhibit?

1 A Yes.

2 Q You said you saw his cousin, correct?

3 A Um-hmm.

4 Q Is that a yes?

5 A Yes, sorry.

6 Q What was his cousin's name?

7 A Alex.

8 Q Did you have a conversation with Alex at that
9 point?

10 A Yes.

11 Q What were you doing at the Greek pizza place?

12 A I was crying and I was asking him where's Mario.

13 Q And after that portion of the conversation, where
14 did Alex go?

15 A He went up the hill.

16 Q Up Walk Hill?

17 A Yes.

18 Q And what were you trying to do at the Greek pizza
19 place?

20 A I was trying to call the police and I was trying
21 to find out where Mario was.

22 Q Did the people at the place allow you to call the
23 police?

24 A Well, I was crying a lot and I think they end up
25 calling the police, and then as I was crying, I

1 heard the police coming, as well.

2 Q When you left the house, what were you wearing?

3 A I was wearing Levi jeans, I had no shoes on, and a
4 tank top.

5 Q You said you had no shoes on?

6 A Yes.

7 Q Did you have a phone with you at that point?

8 A No.

9 Q Other than Alex, the cousin, did you see anybody
10 else that you knew in front of the Dunkin' Donuts
11 or the Greek restaurant?

12 A No.

13 Q At some point later on that evening, did you see
14 anybody else that you recognized?

15 A When I came back to the scene with the police, I
16 saw Lucky there.

17 Q Was he with anyone else?

18 A Not that I remember.

19 Q Were you with Lucky when you left the house?

20 A No.

21 Q At any point at the Greek restaurant, did you see
22 any of the other individuals that were inside of
23 the apartment with you before?

24 A No.

25 MR. HENNING: One moment, Your Honor.

1 THE COURT: Of course.

2 Q Just a couple of more questions, ma'am. From the
3 place where you -- from your bedroom, can you hear
4 conversations going on in the kitchen?

5 A Yes.

6 Q At any point during the evening when you were
7 there, did you hear any arguments going on in the
8 kitchen?

9 A No.

10 Q Did you notice anything about Mario's demeanor
11 that would suggest he was upset?

12 A No.

13 MR. HENNING: Nothing further, Your
14 Honor.

15 THE COURT: Ms. Scapicchio.

16 MS. SCAPICCHIO: Thank you, Your Honor.

17 CROSS EXAMINATION

18 (BY MS. SCAPICCHIO)

19 Q When you saw Mario's cousin, Alex, that night, did
20 you ask him to call 911?

21 A No.

22 Q Do you remember speaking to a police officer by
23 the name of Stephen Crimmins at 132 Hyde Park Ave.
24 that night?

25 A I spoke to a police officer, but I don't know, I

1 don't remember his name.

2 Q Do you remember telling that officer that you
3 lived on the third floor with your boyfriend? Do
4 you remember saying that to the officer?

5 A I don't remember.

6 MS. SCAPICCHIO: May I approach the
7 witness, Your Honor?

8 THE COURT: Yes.

9 MS. SCAPICCHIO: This is just Crimmins'
10 report.

11 Is it okay if I take these exhibits
12 away?

13 THE COURT: Of course.

14 MS. SCAPICCHIO: Thank you.

15 Q I'm going to ask you to read from right here
16 straight through to the end of that paragraph,
17 just to yourself.

18 A (Witness reading document.) Okay.

19 Q Ma'am, after having read this report, does that
20 refresh your memory as to whether or not you spoke
21 to a police officer and you told them that you
22 lived on the third floor with your boyfriend?

23 A Yes.

24 Q Did you tell that same officer that you heard
25 three or four shots come from inside the building

1 when you were in the bedroom?

2 A I believe I told him three shots, not four. I
3 don't remember saying four.

4 Q You don't remember saying four.

5 A No.

6 Q But you remember reading that on the report, three
7 or four; is that right?

8 A Yes.

9 Q Do you remember telling the police that night that
10 you ran out and down the stairs; is that right?

11 A Yes.

12 Q And to the Big Fat Greek Pizza Shop?

13 A Yes.

14 Q And then at some point, do you remember telling
15 the police that you saw Lucky out there?

16 A Yes.

17 Q At that point, you were still trying to find out
18 what happened to Mario; is that right?

19 A Yes, but I saw Lucky --

20 Q That's the only question that I'm asking you.

21 When you were trying to find out what happened to
22 Mario, were you speaking to Lucky in Creole?

23 A Yes.

24 Q When you were speaking to Lucky in Creole, did you
25 have some conversation with him about whether or

1 not he called 911?

2 A No.

3 Q As you were speaking to Lucky in Creole, is it
4 fair to say that at some point, a police officer
5 came up and separated everybody; is that right?

6 A Yes.

7 Q And told everybody that they needed to go down to
8 the station and give statements; is that right?

9 A Yes.

10 Q And they didn't want any of the witnesses speaking
11 to each other because they wanted to interview you
12 individually; is that right?

13 MR. HENNING: Objection, Your Honor.

14 THE COURT: Sustained.

15 Q Sir, did you tell us on -- I'm sorry, ma'am, did
16 you tell us on direct examination that Mario's
17 telephone number ended in 0950; is that right?

18 A Yes.

19 Q Do you remember giving a tape recorded statement
20 to the police on April 27th of 2012?

21 A Yes.

22 Q And that would have been at about 8:05 in the
23 evening?

24 A Yes.

25 Q Shortly after this happened; is that right?

1 A Yes.

2 Q Do you remember telling the police when they asked
3 you Mario's number, you telling them it was 857-
4 258-5885?

5 A That's my number.

6 MS. SCAPICCHIO: May I approach the
7 witness?

8 THE COURT: Is it with hers?

9 MS. SCAPICCHIO: This is her statement.

10 THE COURT: Okay.

11 MS. SCAPICCHIO: This is her statement,
12 page 15, line 12.

13 Q Read line 12 to yourself, ma'am.

14 A (Witness reading document.) Okay.

15 Q Is it fair to say when the police asked you about
16 the number, Mario's number, 857-258-5885, your
17 answer was 5885, yes?

18 A Yes.

19 Q And then they asked you your number, and did you
20 tell them your number was 857-266-0950?

21 A Yes.

22 Q That's what you said to them on April 27th of
23 2012; is that right?

24 A I believe so.

25 Q Well, I don't know, I wasn't there. If you can

1 read this to yourself from lines 12 through 25.

2 A (Witness reading document.)

3 Q Ma'am, does that refresh your memory as to whether
4 or not back on April 27th, 2012, you were telling
5 them Mario's number was 857-258-5885; is that
6 right?

7 A Yes, but that's my number.

8 Q And that your number was 857-266-0950.

9 A That's Mario's number.

10 Q I'm not asking you what number is what, I'm asking
11 you whether or not you told them that back on
12 April 27th.

13 A Yes.

14 Q So on April 27th, you told them Mario's number was
15 857-258-5885; is that right?

16 A Yes.

17 Q And when you came in here today, you couldn't
18 remember what the number was; is that right?

19 A Yes.

20 Q And it wasn't until the prosecutor showed you a
21 document that you said his number was 857-266-
22 0950; is that right?

23 A Yes.

24 Q Now, you've also been asked some questions on
25 direct examination about Lucky. Do you remember

1 those questions?

2 A Yes.

3 Q Do you remember how long you told -- well, first
4 of all, there were three people in the apartment
5 before Lucky arrived other than you; is that
6 right?

7 A Yes.

8 Q Three people in the kitchen.

9 A Yes.

10 Q And Lucky coming would have been the fourth person
11 in the kitchen; is that right?

12 A Yes.

13 Q And that would have been Lucky, Edwin, his cousin,
14 Alex, and Mario; is that right?

15 A Yes.

16 Q And that's the way you explained it to the police
17 that night; is that right?

18 A Yes.

19 Q Do you remember saying that you were there for
20 about how long before Lucky showed up?

21 A I don't remember the exact time, but I would say
22 ten minutes.

23 Q Ma'am, do you remember being asked on April 27th
24 of 2012 whether or not Mario dealt drugs?

25 A Yes.

1 Q And your indication was that he did not?

2 A Yes.

3 Q Do you remember the police asking you some
4 questions about Lucky?

5 A I believe so.

6 Q Do you remember telling the police that you
7 thought Lucky was dealing in crack cocaine?

8 MR. HENNING: Objection, Your Honor.

9 THE COURT: Overruled.

10 A Yes. I don't remember exactly, but I think so.

11 Q You think you told them that --

12 A Yes.

13 Q -- that he was dealing in crack cocaine; is that
14 right?

15 A Yes.

16 Q Okay.

17 MS. SCAPICCHIO: If I could have a
18 moment, Your Honor?

19 THE COURT: Of course.

20 MS. SCAPICCHIO: I thought I had it
21 marked, and now I can find it.

22 This is page 5, line 19.

23 Q Ma'am, could you read lines 19 through 25 to
24 yourself, please.

25 A (Witness reading document.)

1 Q Having read that, ma'am, does it refresh your
2 memory as to whether or not you told the police
3 that Lucky sells crack?

4 A Yes.

5 Q Do you remember on direct examination being asked
6 how often it was that you had seen Lucky prior to
7 Mario being killed? Do you remember those
8 questions?

9 A Yes.

10 Q What was your answer again?

11 A Five times.

12 Q Five times?

13 A Yes.

14 Q Okay. Do you remember telling the police back on
15 April 27th of 2012 that Lucky came to the
16 apartment every three to four weeks?

17 A Yes.

18 Q Three to four weeks.

19 A Yeah, but like --

20 Q And how long had you lived in the apartment,
21 ma'am? When did you move in?

22 A I don't remember the exact date. I think in
23 November, I don't remember.

24 Q Okay, but Lucky was coming to your apartment every
25 three to four weeks; is that right?

1 A Yes.

2 Q And that's what you told the police, right?

3 A Yes.

4 Q And the police asked you did he come to pick
5 anything up, and you said you don't know, you
6 don't know why he's there, he just comes every
7 three to four weeks; is that right?

8 A Yes.

9 Q And they asked you whether or not he came
10 frequently or not, and do you remember what you
11 told them?

12 A Five times. I really don't remember the dates.

13 Q Do you remember you told them he came frequently?

14 A I don't remember that.

15 Q Page 13, line 20. Can you read line 20 to
16 yourself, please, ma'am.

17 A (Witness reading document.)

18 Q Ma'am, does that refresh your memory as to when
19 you were being interviewed by the police back on
20 April 27th of 2012, you told them, "he comes
21 frequently, I don't know what for?" Did you
22 say that?

23 A Yes.

24 Q Now, in this initial statement, you told us on
25 direct examination that you heard Mario on the

1 phone with somebody; is that right?

2 A Yes.

3 Q Do you remember when you finished giving your
4 statement that night, do you remember ever telling
5 the police on April 27th of 2012 that you heard
6 Mario on the phone that night?

7 A Yes.

8 Q You did.

9 A Yes.

10 Q You heard him telling someone to park?

11 A Yes.

12 Q In your initial statement.

13 A Yes.

14 Q I'd ask you to look at that statement and tell me
15 where that is.

16 A (Witness reading document.)

17 THE COURT: Ms. Scapicchio?

18 Q Did you look through the whole statement?

19 A I just read down there, I don't see that.

20 Q You don't see it anywhere in here.

21 A No.

22 Q So you didn't tell them that night anywhere about
23 the statement about you seeing Mario or hearing
24 Mario on the phone telling someone to park; is
25 that right?

1 A I did tell the police that.

2 Q Well, this is the tape recorded statement, they
3 took down everything you said, ma'am, right?

4 A Yeah.

5 Q They didn't shut off the tape recorder while you
6 were talking to them; did they?

7 A No.

8 MR. HENNING: Objection. I'd just ask
9 that the witness --

10 THE COURT: Overruled.

11 MR. HENNING: -- be able to answer the
12 question.

13 Q They didn't shut off the tape recorder when you
14 were talking to them; did they?

15 A Not that I know of, I don't know.

16 Q They took down every word you said, right?

17 A Yes.

18 Q And you told them this at 8:05 on April 27th of
19 2012, right?

20 A Yes.

21 Q And there's nothing in the statement about hearing
22 Mario on the phone telling someone to park; is
23 there?

24 A I don't know if it was that interview, the grand
25 jury, but I did tell them that he was --

1 Q I'm not asking you what happened at the grand
2 jury, I'm asking you what you told the police that
3 night on April 27th of 2012. That's all I'm
4 asking, ma'am. Do you remember telling them that
5 night anything about this idea that you heard him
6 on the phone and he was telling someone to park,
7 someone where to park?

8 A No.

9 Q You didn't say that on the 27th; did you, ma'am?

10 A No.

11 Q Now, ma'am, you had just mentioned your grand jury
12 testimony; is that right?

13 A Yes.

14 Q And is it fair to say, ma'am, that your memory
15 would have been fresher on April 27th of 2012 than
16 it is today?

17 A Yes.

18 Q Your grand jury testimony, that was in June of
19 2012; is that right?

20 A I believe so, yes.

21 Q Now, ma'am, on direct examination, you had
22 indicated when the prosecutor asked you about the
23 number of shots, you indicated there were three,
24 right?

25 A Yes.

1 Q And you didn't remember telling the first officer
2 three to four, you remember three; is that right?

3 A Yes.

4 Q And you remember them boom, boom, boom; is that
5 right?

6 A Yes.

7 Q And he asked you a question, whether or not there
8 was any pause in between, right?

9 A Yes.

10 Q And you waited for all the shots to be fired
11 before you started running; is that right?

12 A No, as I was running, the shots were going off.

13 Q As you were running, the shots were going off.

14 A Yes.

15 Q Did you hear a gunshot, another gunshot when you
16 were running down the stairs?

17 A Yes.

18 Q So the boom, boom, boom that you heard running
19 down the stairs, how many gunshots did you hear
20 before you ran?

21 A I heard one. As I was running, I heard another
22 one and then I heard another one.

23 Q Where were you when you heard the first gunshot?

24 A In my bed laying down.

25 Q And you took off running; is that right?

1 A Yes.

2 Q And then you're on the stairs; is that right?

3 A Yes.

4 Q And you heard the second one; is that right?

5 A Yeah, they was like right after each other.

6 Q Boom, boom, boom.

7 A Yes.

8 Q But you were able to get out of your bedroom,
9 right?

10 A Um-hmm.

11 Q Get onto the stairs; is that right?

12 A Yes.

13 Q And then where were you on the stairs when you
14 heard the second shot?

15 A I was still running.

16 Q Still running.

17 A I was running down the steps, yes.

18 Q Okay, and by the time you heard the third shot,
19 are you outside the house?

20 A Yes.

21 Q Where outside the house, ma'am, are you when you
22 hear the third shot?

23 A I was like by the door.

24 Q Which door?

25 A The door to the front down the steps.

1 Q But you remember them being boom, boom, boom; is
2 that right?

3 A Yes.

4 Q And no time in between; is that right?

5 A Yes.

6 Q Okay. Now, do you remember when you first gave
7 your statement to the police, whether or not you
8 ever told them you heard a gunshot while you were
9 running down the stairs?

10 A I don't remember.

11 Q Well, ma'am, do you remember describing to them
12 the gunshots that night?

13 A Yes.

14 Q And do you remember describing them as three quick
15 gunshots?

16 A Yes.

17 Q Okay. And when they asked you about the gunshots,
18 do you remember telling them there were three?

19 A Yes.

20 Q And when you told them there were three, did you
21 tell them anything about being on the stairs when
22 you heard one and being outside when you heard the
23 last one?

24 A What do you want me to read?

25 Q I'm asking you, did you remember telling them

1 anything about being on the stairs or being
2 outside in your first statement and you heard
3 those three gunshots?

4 A I was laying in my bed when I heard the first
5 gunshot. That's when I ran.

6 Q I'm not asking you what happened, I'm asking you
7 what you told the police happened. Do you
8 remember telling the police on April 27th of 2012
9 whether or not you said you were on the steps when
10 you heard the second shot and you were out front
11 when you heard the third?

12 A I don't remember what I told them exactly, I just
13 told them that there was three gunshots.

14 Q So you didn't say anything about the steps or
15 outside initially.

16 A Not that I remember.

17 Q Okay. When you got to the pizza place, you said
18 you were upset and you couldn't call 911, so you
19 think maybe somebody in the pizza place did.

20 A Yes, the pizza guy was calling 911, and then I
21 also asked him to use the phone to call Mario.
22 His phone went to voicemail.

23 Q Do you remember telling the police that you used
24 their phone to call someone by the name of John
25 Johnson?

1 A Yes.

2 Q That wasn't Mario, right?

3 A I called Mario and Johnson. I made two phone
4 calls.

5 Q Instead of calling 911, you called John Johnson;
6 is that right?

7 A The guy at the pizza shop told me he's going to
8 call 911.

9 Q That's not what I asked you, ma'am. I asked you,
10 instead of you calling 911, did you call an
11 individual by the name of John Johnson?

12 A Yes.

13 Q Who is John Johnson?

14 THE COURT: Ms. Scapicchio, it's almost
15 4 o'clock, we're going to have to suspend at this
16 time.

17 Thank you, ma'am, you're going to have
18 to step down and we'll see you back here at 9
19 o'clock tomorrow morning.

20 You can just put those notebooks back in
21 the envelopes and leave them on your seats.
22 Please, could everybody sit down, please?

23 COURT OFFICER: Folks, please sit down.
24 Thank you.

25 THE COURT: I have comments I need to

1 say to the jurors.

2 Members of the jury, true to my word,
3 it's just about 4 o'clock, so I'm going to let you
4 go at this time. We have covered some amount of
5 ground, even though we started late. But it is 4
6 o'clock, and as promised, I'm always going to let
7 you out of here by 4 o'clock. But at the end of
8 every day's business, I'm going to remind you of
9 these particularly important instructions. By the
10 end of the trial, I'm going to be sounding like a
11 broken record, but these are vitally important for
12 you to remember. Again, no verbal, written, or
13 electronic communication to you or from you about
14 any aspect of this case. Again, please no outside
15 research of any nature, no Internet or web
16 surfing, Googling, legal or medical research or
17 the like. Please don't have any contact with any
18 of these trial participants or anyone associated
19 with either side. Please don't visit any
20 locations that have been and will continue to be
21 mentioned throughout the trial. And last and
22 certainly not least, continue to keep an open
23 mind.

24 With that being said, members of the
25 jury, we're going to adhere to our regular

1 schedule tomorrow, so please all be here by 9 AM
2 tomorrow morning. If everyone is assembled by 9
3 AM, I will be out here on this bench and we will
4 resume the trial. It goes without saying, the
5 more punctual we are, the sooner the case will be
6 in your hands.

7 Have a pleasant afternoon, ladies and
8 gentlemen. We'll see you back here promptly by 9
9 AM.

10 (Jury recessed.)

11 THE COURT: Have a good evening,
12 everybody. We'll see you promptly at 9 o'clock
13 tomorrow morning.

14
15 (Court was adjourned at 4:00 p.m.)
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21 C E R T I F I C A T E
22

23 I, Nancy McCann, do hereby certify that the
24 foregoing 301 pages is a complete, accurate and true
25 recording of the proceedings held before the Honorable

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Linda E. Giles in the aforesaid matter on Thursday,
January 14, 2016 to the best of my knowledge, skill and
ability.

Nancy McCann, CVR-C.M.
Official Court Reporter

SUPREME JUDICIAL COURT
for the Commonwealth
Case Docket

COMMONWEALTH vs. CHARLES REDDICKS
THIS CASE CONTAINS IMPOUNDED MATERIAL OR PID
FAR-28231

CASE HEADER

Case Status	FAR denied; recon denied	Status Date	10/22/2021
Nature	Murder2	Entry Date	04/29/2021
Appeals Ct Number	2019-P-0071	Response Date	05/13/2021
Appellant	Defendant	Applicant	Defendant
Citation	488 Mass. 1102	Case Type	Criminal
Full Ct Number		TC Number	
Lower Court	Suffolk Superior Court	Lower Ct Judge	Linda E. Giles, J.

INVOLVED PARTY

Commonwealth
Plaintiff/Appellee

Charles Reddicks
Defendant/Appellant

ATTORNEY APPEARANCE

[Janis DiLoreto Smith, A.D.A.](#)
[Donna Jalbert Patalano, A.D.A.](#)
[Julianne Campbell, A.D.A.](#)
[John P. Zanini, A.D.A.](#) - Withdrawn
[Cailin M. Campbell, A.D.A.](#) - Withdrawn
[Rosemary Curran Scapicchio, Esquire](#)
[Jillise McDonough, Esquire](#)
[Dorothy A. Mele, Esquire](#) - Inactive

DOCKET ENTRIES

Entry Date	Paper	Entry Text
04/29/2021		Docket opened.
04/29/2021	#1	FAR APPLICATION filed for Charles Reddicks by Attorney Rosemary Scapicchio.
07/01/2021		FAR application deferred.
08/02/2021	#2	DENIAL of FAR application.
09/01/2021	#3	MOTION for Reconsideration filed for Charles Reddicks by Attorney Rosemary Scapicchio.
10/22/2021	#4	DENIAL of petition to reconsider denial of FAR application.

As of 10/22/2021 12:20pm