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Appendix A

**UNITED STATES COURT OF APPEALS
FOR THE SEVENTH CIRCUIT**

Nos. 19-2209, 19-3408

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

v.

ROBERT NIETO and DARRICK P. VALLODOLID,

Defendants-Appellants.

Appeals from the United States District Court for the
Northern District of Indiana, Hammond Division.

No. 2:15-cr-00072 – **Philip P. Simon**, *Judge*.

Argued: Sept. 13, 2021 Decided: Mar. 28, 2022

Before: RIPPLE, ROVNER, and SCUDDER, *Circuit Judges*.

OPINION

SCUDDER, *Circuit Judge*. Robert Nieto and Darrick Vallodolid once led chapters of the Latin Kings gang in northwest Indiana. Both received life sentences following a jury trial resulting in convictions for violating federal racketeering and narcotics laws, with the jury also finding that Nieto and Vallodolid participated in murders to further the gang's activities. Nieto and Vallodolid raise a host of issues on appeal, ranging from a contention that the

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prosecution committed a *Batson* violation by striking two prospective Hispanic jurors from the venire, to challenges to the sufficiency of the evidence and to aspects of their sentencing. We see no errors and affirm.

I.

A federal investigation of the Latin Kings in Chicago and northwest Indiana uncovered evidence of the gang's wide-spread drug trafficking and violence, including several murders. In time a grand jury charged multiple members with participating in racketeering and narcotics conspiracies from 2003 through 2017. Of the many individuals indicted, most pled guilty. The two defendants before us on appeal, Nieto and Vallodolid, chose to go to trial in May 2018.

The jury heard considerable evidence about the Latin Kings' organizational structure at the national, regional, and local levels. Suffice it to say that the gang organized itself like a corporation, with roles and responsibilities assigned to various members—all to further the gang's unity of purpose, including its lucrative and expansive drug trafficking activities.

The trial evidence showed that Nieto and Vallodolid held leadership positions in the northwest Indiana chapters of the Latin Kings. Nieto joined the Kings in 1986 and founded the gang's chapter in Gary. For several years, he served as "Inca," the chapter's highest leadership role. After a period of incarceration from 2001 to 2007, Nieto returned to holding leadership positions through at least 2013. At one point, he served as the King's regional Enforcer—a position, as its name implies, in which Nieto enlisted other members to impose discipline on Kings who stepped

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out of line by violating one or another of the gang's rules. For his part, Vallodolid belonged to the 148th Street Indiana Latin Kings chapter from 2008 until at least 2012. Like Nieto, Vallodolid held various leadership positions, including for a time as Inca in the chapter in Hammond.

The trial also focused on the Latin Kings' drug business in northwest Indiana. For now all we need to say is that the business was substantial, profitable, and conducted with sophistication and persistence. The Kings had a stable stream of reliable suppliers of large quantities of marijuana and cocaine. At other times, the gang would acquire drugs by robbing rivals on the streets. The evidence showed that Nieto and Vallodolid were meaningful and active players in the gang's drug trade.

The government also presented evidence of the violence that accompanied the affairs of the Latin Kings. By way of example, witnesses testified that initiation into the Kings brought with it violence, with new members having to endure beatings. Harsh physical discipline also befell a King who violated the gang's rules or made a costly mistake like losing a gun. Gang members further testified that individual chapters would respond to interference by or unwanted competition from rival gangs with targeted shootings or other acts of violence.

The trial focused on two specific murders—one from 2009 and another from 2013:

The 2009 murder of Victor Lusinski. While riding his bicycle along a Hammond alleyway in the spring of 2009, 16-year-old Victor Lusinski was shot in the head at point-blank range with a .22-caliber gun. The

physical evidence recovered by the police was thin, but witnesses, including many Kings, testified that Vallodolid had bragged about his role in the murder. Keith Manuel, for example, testified that he heard Vallodolid, a fellow King, boast about using a .22-caliber revolver to shoot a kid on a bike that he believed was a member of a rival gang. Manuel recalled Vallodolid saying that he “took care” of gang business.

The 2013 murder of Rolando Correa. On December 2, 2013, a group of five men—including Nieto and at least one other man affiliated with the Latin Kings—planned and executed a drug robbery at the home of Anthony Martinez, who they suspected had ties to a rival organization. The jury learned that on the night of the robbery, Nieto stayed home and played the role of a lookout by listening to a police scanner while four others forced their way into Martinez’s home to steal a drug stash. A fight ensued and ended with Rolando Correa, a neighbor who had gone to Martinez’s house to deter the robbers, being shot and killed. After the murder, Nieto admitted to his role in the robbery and told investigators that he knew the hit had “something to do with gang bang” to protect Latin King territory from a rival competitor.

After an 11-day trial, a jury convicted Nieto and Vallodolid on both the RICO (18 U.S.C. §1962(d)) and drug conspiracy (21 U.S.C. §846) counts. In returning this verdict, the jury made four special findings—that Vallodolid participated in the 2009 murder of Victor Lusinski, that Nieto played a role in the 2013 murder of Rolando Correa, and that each defendant was responsible for distributing more than five kilograms

of cocaine and 100 kilograms of marijuana. In the end, and relying on the jury's special findings, the district court sentenced both Nieto and Vallodolid to life—the maximum penalty available under 18 U.S.C. §1963(a).

Nieto and Vallodolid now appeal their convictions and sentences.

II.

A.

We begin with Nieto's and Vallodolid's challenge to the district court's denial of their *Batson* motion. They claim the government violated the equal protection-based rule announced in *Batson v. Kentucky*, 476 U.S. 79, 85-86 (1986), including its inherent fair cross-section requirement, by exercising peremptory strikes to remove nearly all Hispanic members from the venire.

Here is what happened during jury selection: Both defendants are Hispanic, and the venire included five Hispanics. One of those five (Ms. Mariscal) ultimately sat as a juror. The government used peremptory strikes against three of the others—Mr. Acosta, Ms. Gonzalez, and Mr. Garcia. Nieto and Vallodolid objected, claiming that the government struck Ms. Gonzalez and Mr. Garcia based on their ethnicity. The prosecutors disagreed, explaining that their strikes reflected the “disdain” and “distaste and dismay” Ms. Gonzalez and Mr. Garcia expressed for the government during jury selection.

As to Ms. Gonzalez, the government stated that the disapproval she expressed of the government's immigration policies could affect her impartiality. What concerned the government was Ms. Gonzalez

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confirming her own “preconceived attitudes about the American legal system and the courts or lawyers,” including that she was upset with many government actions taken as to “immigration, mental health ... knowing that I have family or relatives that may have gone through certain things.” The government explained that even though Ms. Gonzalez swore she could set aside those views, it struck her from the venire out of concern that her displeasure with national immigration policy could spill over and prejudice her or the broader jury against the United States and its prosecutors.

The government voiced a similar concern with Mr. Garcia. It noted that he had expressed contempt for police and courts by saying that “the justice system is flawed and biased against people who don’t have means.” Even more, the government continued, Mr. Garcia admitted that he had preconceived notions about the criminal justice system but “suppose[d]” he could listen to the evidence of the case and decide the case based on the law. The prosecutors heard these answers as indicative of an anti-government bias and therefore exercised a peremptory strike against Mr. Garcia.

In assessing Nieto’s and Valladolid’s objections, the district court employed the familiar three-step framework from in *Batson* and its progeny. See *Miller-El v. Cockrell*, 537 U.S. 322, 328-29 (2003) (citing *Batson*, 476 U.S. at 96-98). At step one, the defendant must present a prima facie case that ethnicity motivated the peremptory strike in question. At step two, the government must respond with an ethnicity-neutral reason for the strike. If the government does

so, step three requires the court to determine whether the defendant has carried the burden of showing that the government engaged in purposeful discrimination. See *id.*

Applying this framework, the district court found the government's ethnicity-neutral justifications as "entirely believable and acceptable" and therefore rejected Nieto and Vallodolid's *Batson* challenge.

B.

We see no error in the findings underpinning the district court's *Batson* ruling. See *United States v. Cruse*, 805 F.3d 795, 806 (7th Cir. 2015) ("We review the district court's *Batson* findings for clear error.").

Because the government offered neutral justifications for the challenged strikes, the *Batson* step-one question whether Nieto and Vallodolid presented a prima facie case of impermissible discrimination is moot. See *Hernandez v. New York*, 500 U.S. 352, 359 (1991) ("Once a prosecutor has offered a race-neutral explanation for the peremptory challenges and the trial court has ruled on the ultimate question of intentional discrimination, the preliminary issue of whether the defendant had made a prima facie showing becomes moot.").

Turning to *Batson*'s second prong, Nieto and Vallodolid argue that the government's proffered reason for striking Ms. Gonzalez—because her disagreement with U.S. immigration policy reflected anti-government bias—was not neutral. They claim that because Ms. Gonzalez's views on immigration were the product of her experience as a Hispanic woman, the government's justification necessarily rooted itself in her ethnicity. We are not persuaded.

The district court committed no clear error in finding that the government's reason for striking Ms. Gonzalez was not "expressly predicated on her ethnicity." Rather, the government struck Ms. Gonzalez because of its concern that her disagreement with U.S. immigration policy would result in bias against the government at trial. And so, too, did the district court reasonably conclude that the government would have struck a non-Hispanic prospective juror that expressed the same policy views. Disagreeing with U.S. immigration policy, in short, is not dependent on ethnicity.

We reach the same conclusion when considering the government's strike of Mr. Garcia. When asked if he had views of the criminal justice system, he said yes, explaining that he saw the system as biased against people of lesser means. Nothing about that explanation, the district court rightly concluded, rooted itself exclusively in Mr. Garcia's Hispanic heritage.

Moving to *Batson's* third step, we see no error there either. In attempting to show purposeful discrimination, Nieto and Valladolid contended that (1) the government's peremptory strikes removed 60% of the prospective Hispanic jurors but only 11% of the prospective non-Hispanic jurors, (2) its justifications disparately impacted Hispanic individuals, and (3) it did not use peremptory strikes on similarly situated non-Hispanic individuals. The district court reasonably found that each contention fell short.

Although the government struck a greater proportion of Hispanic than non-Hispanic prospective jurors, the statistical disparity alone is not enough in

these circumstances to show purposeful discrimination at *Batson*'s third step. Our prior cases have cautioned against finding intentional discrimination from statistical analysis rooted in a small data set. See, e.g., *Bennett v. Gaetz*, 592 F.3d 786, 791 (7th Cir. 2010) (determining that although the government struck two of five African American prospective jurors, “the relatively small numbers of African American prospective jurors and peremptory challenges” made it difficult to draw any inferences of discrimination). Striking only three of five Hispanic jurors here— a small number to begin with—similarly makes it “difficult to draw significance from th[e] disparity.” *Id.* The district court committed no error in declining at step three to find purposeful discrimination from the statistical disparity urged by the defendants. Compare *Miller-El*, 537 U.S. at 342 (holding that the government’s exclusion of 10 out of 14, or 91%, of Black prospective jurors—along with the state’s unreliable justifications—showed purposeful discrimination).

We also reject Nieto’s and Valladolid’s argument that the disparate effect of the government’s peremptory strikes on prospective Hispanic jurors shows purposeful discrimination. Nobody questions that Ms. Gonzalez’s experience as a Hispanic woman influenced her views on immigration policy, at least at some level. And perhaps Mr. Garcia’s experience as a Hispanic man affected his views toward the criminal justice system. At step three of the *Batson* inquiry, however, the Supreme Court has observed that disparate impact alone cannot be enough to show intentional government discrimination. See *Hernandez*, 500 U.S. at 361 (explaining that “dis-

proportionate impact does not turn the prosecutor's actions into a *per se* violation of the Equal Protection Clause"). The district court's acceptance of the government's ethnicity-neutral explanation resulted in a finding of no intentional discrimination. We see no clear error in the district court's factual analysis.

Finally, Nieto and Vallodolid more generally insist that the government engaged in discrimination by not exercising peremptory strikes against non-Hispanic members who had expressed anti-government bias during jury selection. The premise does not hold: the voir dire transcript shows many prospective jurors discussing their experiences with the criminal justice system, but we see not a single instance of a non-Hispanic individual expressing anti-government bias—at least not to any degree close to what the district court heard from Ms. Gonzalez and Mr. Garcia. Like the district court, we do not see differential treatment between Hispanic and other members of the venire.

In all, the district court took great care in handling and resolving the defendants' *Batson* challenge. The court applied the correct legal standards, reasonably accepted the government's ethnicity-neutral justifications, and adequately supported its finding of no intentional government discrimination. We will not upset the district court's ruling.

III.

We turn next to Nieto's and Vallodolid's challenges to the sufficiency of the trial evidence. Our review is highly deferential, as the law affords great respect to a jury's weighing and assessment of the

evidence. See *Jackson v. Virginia*, 443 U.S. 307, 318-19 (1979). “[W]e review the evidence in the light most favorable to the Government and will overturn a verdict only when the record contains no evidence, regardless of how it is weighed, from which the jury could have found guilt beyond a reasonable doubt.” *United States v. Norwood*, 982 F.3d 1032, 1039 (7th Cir. 2020).

And where, as here with Nieto, a defendant invokes Federal Rule of Criminal Procedure 29 and moves for a judgment of acquittal at the close of the government’s case but fails to renew that motion following an adverse verdict at the end of the trial, we extend even greater deference to the jury’s ultimate determination of guilt. See *id.* In these circumstances, we will upset the jury’s verdict only upon Nieto showing that leaving the conviction in place would amount to a “manifest miscarriage of justice.” *Id.*

A.

We begin with Vallodolid’s challenge to the sufficiency of the evidence for his involvement in the 2009 murder of Victor Lusinski.

Vallodolid first challenges various witness testimony. For starters, he claims the testimony of co-conspirators, including Josh Roberts and Keith Manuel, was too unreliable to sustain a conviction for murder. The jury could have found otherwise, though.

Josh Roberts testified that on the day of the Lusinski murder, Vallodolid called him to ask for help disassembling a .22-caliber revolver—the same type of weapon used to kill Lusinski. Keith Manuel corroborated Roberts’s account by explaining that Vallodolid told him he had shot a kid and then took

the gun to Roberts's house afterward. Roberts also testified, as did other gang members, that Vallodolid had bragged to him about shooting a kid on a bike who wore his hat in the style of a rival gang. After the murder, Vallodolid even began referring to himself as "deuce"—an apparent reference to the weapon (the .22) used to shoot Lusinski.

Vallodolid further claims the testimony of eyewitnesses to the Lusinski murder proves he could not have been the killer. On the day of the Lusinski murder, Vallodolid underscores, four eyewitnesses to the shooting—all 10- or 11-year-old boys—reported that the shooter was Black. Vallodolid sees this testimony as exonerating because he has light skin.

But Vallodolid fails to account for the evidence that called into question the accuracy of the eyewitnesses' accounts. The witnesses saw the shooting from across the street—a point they acknowledged in their trial testimony. Even more, the witnesses confused other important details, including the direction from which the shooter came and later escaped to, how many people were with the shooter, whether Lusinski was on a bicycle, and the distance from which the shooter killed Lusinski.

In short, the district court reasonably observed that the eyewitness testimony "was riddled with inconsistencies, and [the jury] was entitled to either credit or discredit it." And unless a witness provides testimony that would have been physically impossible for them to see or "impossible under the laws of nature"—which did not happen here—the jury makes the ultimate credibility determinations. See *United States v. Al-cantar*, 83 F.3d 185, 189 (7th Cir. 1996).

On this record, we owe respect to the jury's credibility determinations.

Vallodolid argues that the lack of physical and forensic evidence tying him to the crime also helps establish his insufficiency claim. But the law is clear that a circumstantial case can be enough. See *United States v. Garcia*, 754 F.3d 460, 470 (7th Cir. 2014); *United States v. Ray*, 238 F.3d 828, 833-34 (7th Cir. 2001). And considered altogether, the record provided a sufficient basis for the jury to conclude that Vallodolid murdered Lusinski to help defend Latin King territory.

B.

That brings us to Nieto's challenge to his conviction for the 2013 murder of Rolando Correa. We conclude here, too, that a rational jury could have found beyond a reasonable doubt that Nieto shouldered responsibility for Correa's murder.

Nieto does not contest the jury's finding that he participated in the offense. He instead claims that the evidence did not show that the robbery and murder bore any connection to the affairs of the alleged RICO enterprise, the Gary, Indiana Latin Kings. Indeed, Nieto contends that the evidence demonstrated that he was no longer even affiliated with the Kings at the time of the Correa robbery and murder. And of the four men who committed the robbery, he adds, only Bruce Hendry was a Latin King. The other two participants, Nieto urges, were unaffiliated with the gang. On this score, Nieto points to the testimony of Mark Cherry, a member of the Black P. Stones gang, who told the jury that the Correa robbery had no connection to the Latin Kings.

But our review shows that the evidence was not that one-sided. To the contrary, the government presented ample proof that the robbery and Correa murder related to and furthered the activities of the northwest Indiana Latin Kings. Perhaps most damaging to Nieto's contention is a statement he made to the FBI following the murder: he admitted that he and others planned the robbery at Martinez's house to protect Latin King territory from a rival gang, the Latin Dragons. To put the point in Nieto's own words, he believed the robbery "was something to do with a gang bang" because "[t]here was a Dragon moved in the hood."

The jury also heard testimony that Nieto, while leading the Kings' Gary chapter, had arranged drug-related robberies. This testimony, combined with the other evidence, was enough for the jury to find that Nieto planned and participated in both the robbery and Correa murder. When he learned that Martinez's house was full of marijuana, Nieto called fellow gang member Bruce Hendry to help execute a robbery, just as Kings had done in the past. The duo then enlisted Mark Cherry's help with the job. To be sure, Cherry testified that he was a member of the Stones gang, not the Latin Kings. But the jury was entitled to credit evidence that the Latin Kings and the Stones were both part of an alliance of gangs called the People Nation and thus that the robbery and murder furthered the activities of the Kings, at least to some extent.

We see no merit to Nieto's contention that the district court improperly admitted certain testimonial evidence relating to the robbery and Correa murder.

He argues, for example, that the district court should have excluded Mark Cherry's testimony because it was conditional co-conspirator evidence unsupported by the record. See *United States v. Davis*, 845 F.3d 282, 286 (7th Cir. 2016) (allowing the government to present co-conspirator statements so long as there is sufficient evidence showing a conspiracy, that the defendant and the declarant were part of the conspiracy, and that the proffered statement was made in furtherance of the conspiracy).

We see the evidence another way, however. In the testimony at issue, Cherry told the jury about a conversation he had with Nieto and Hendry leading up to the robbery and murder. He testified that just before the December 2 robbery, Nieto and Hendry planned the job, including by discussing how much money and marijuana to expect in Martinez's house. There was no abuse of discretion in admitting Cherry's testimony. That evidence, and, in the end, the remainder of the trial evidence was sufficient to support Cherry's testimony and the jury could rely on it in reaching its special verdict as to the Correa murder.

Nor do we see any error in the district court's admission of Arturo Lizardi's testimony. Lizardi told the jury that on the day of the robbery, Martinez had told him and Nieto's stepson, Erik Brink, that there was a lot of marijuana in his house. The government used that testimony to show that Nieto learned about Martinez's marijuana stash from his stepson and from there planned the robbery. The district court admitted Martinez's statement not for its truth, but for its effect

on Brink—to show that Brink had reason to believe Martinez had a sizeable marijuana stash.

On the stand, Lizardi testified that Brink stood only a few feet away from him when Martinez referenced the amount of marijuana in his house, and that he believed Brink had been listening. The testimony that Brink was nearby and listening allowed a finding that the statement, regardless of its truth, had an effect on Brink. And Nieto did nothing to impeach this testimony. In these circumstances, we see no abuse of discretion in the admission of Lizardi's testimony. This testimony only added to the basis on which the jury could have concluded the Martinez robbery and Correa murder were connected to the affairs of the Latin Kings.

All of this evidence, considered collectively, supported the jury's special finding that Nieto participated in the drug robbery and the related murder of Mr. Correa to further the affairs of the Latin Kings.

C.

We likewise reject Nieto and Vallodolid's challenge to the sufficiency of the evidence supporting the drug conspiracy conviction under 21 U.S.C. §846.

To prove the alleged conspiracy, the government had to show that two or more people agreed to distribute narcotics and that the defendant in question knowingly and intentionally joined in the agreement. See *United States v. Maldonado*, 893 F.3d 480, 484 (7th Cir. 2018). It is also essential that the government prove the existence of a distinct agreement to distribute drugs and not just mere buying and selling. See *id.*

Nieto and Vallodolid posit that the government's circumstantial evidence fell short because "it cannot be said that the members acted in concert to further each other's drug distribution effort." The record shows otherwise.

As for the existence of an agreement to distribute cocaine and marijuana, we start with the observation that Nieto and Vallodolid were members and leaders of Latin Kings chapters. That fact alone makes conspiracy more likely. See *United States v. Alviar*, 573 F.3d 526, 537 (7th Cir. 2009) ("The fact that [the defendants] were bound together by their gang membership made it more likely that they participated in a conspiracy."). But the government also presented more specific evidence—most of which came from Nieto's and Vallodolid's fellow gang members—showing the Latin Kings, including both defendants here, profited from drug distribution.

For example, Indiana Latin King Alexander Vargas testified that for almost a decade he received substantial amounts of cocaine—up to a half a kilogram a week—from gang superiors that he would then sell or front to other Latin Kings in Indiana. He also explained that sometimes drugs were given to King chapters to help with gang fundraising and that he sold drugs so that his local chapter could "keep up" financially with rivals. The practice of sending drugs down the chain of command to benefit the organization, Vargas explained, was commonplace for the Kings.

Several other witnesses, including Latin Kings members, similarly described how individual members or regions of the gang would receive

substantial quantities of drugs from superiors to then sell or front to other members. Keith Manuel, for instance, testified that one leader, Hector Pelon, provided Latin Kings, including Vallodolid, with cocaine and marijuana once or twice a week for many years. All this evidence, we think, could lead a reasonable jury to find that the Latin Kings had a common goal of distributing narcotics for the benefit of the organization.

Next, we look to the second prong of the statute and assess whether the jury could have properly concluded that Nieto and Vallodolid knowingly participated in the conspiracy. Here too we have no doubt a rational jury could have found as much.

The government presented evidence that Nieto received drugs through a chain of Latin King leaders. On this score, consider the testimony of Alexander Vargas. He testified to selling drugs to another Latin King who, in turn, sold to Nieto. And the jury also heard the testimony of several witnesses who stated that, more than once, they had purchased drugs from Nieto and had seen him sell to others. Jason Brown, for example, told the jury that as a Latin King, he regularly bought marijuana from Nieto and saw him “move[] pounds” of drugs at a time. Another Latin King, Raphael Cancel, testified that he got “maybe about a half—maybe a kilo” of cocaine from Nieto and that he had seen him in possession of significant weights of the drug. And former Latin King Jose Sanchez offered similar testimony. And Joshua Roberts—yet another Latin King—testified that Nieto often gave him and other Kings cocaine over the course of five years.

All of this evidence was enough to lead a reasonable juror to the conclusion that Nieto's drug business was, in fact, part of the larger Latin Kings' drug distribution conspiracy.

Likewise with Vallodolid. For his part, Keith Manuel testified (like several other witnesses) that he saw Vallodolid sell at least four kilograms of cocaine that he received from Latin Kings leader, Hector Pelon. Joshua Roberts similarly testified that Vallodolid "was getting [marijuana] from another Latin King" to, in turn, provide to other members. Even Vallodolid himself admitted that he "purchased drugs from an ILK [Indiana Latin King] and sold drugs to other ILKs." Based on the evidence of receiving drugs from gang members and selling to both Kings and non-Kings, a reasonable juror could have concluded Vallodolid, like Nieto, played a role in the drug distribution chain of the Latin Kings organization.

Much of the same evidence supports the jury's determination that, over the lifetime of the decade-long conspiracy, Nieto and Vallodolid were responsible for the requisite amount of drugs to justify an increased sentence. Recall that the jury determined that both Nieto and Vallodolid were guilty of participating in a RICO conspiracy, in violation of 18 U.S.C. §1962(d). The provision ordinarily carries a maximum sentence of twenty years. See 18 U.S.C. §1963(a). But Congress created an exception to that maximum where "the violation [of §1962(d)] is based on a racketeering activity for which the maximum penalty includes life imprisonment." *Id.* That is what happened here.

Under §1963(a), the jury could (and did) find each defendant was eligible for a life sentence if each defendant conspired to distribute or possess with intent to distribute at least 5 kilograms of cocaine or 100 kilograms of marijuana—an offense that qualifies as “racketeering activity” (see 18 U.S.C. §1961(1)(D)) and that is itself eligible for a life sentence (see 21 U.S.C. §841(b)(1)(A)).

We begin with Nieto. Again, several witnesses testified that they regularly purchased drugs from Nieto for individual use. But beyond those frequent but small amounts, witnesses like Jose Sanchez and Raphael Cancel testified that Nieto sold four or five ounces of cocaine a week during a two-year period and that he sold at least one individual up to a full kilogram of cocaine. Assuming the jury believed all that to be true, those amounts would have totaled more than thirteen kilograms—much more than the requisite five kilograms.

Even more, there was sufficient evidence for jury to conclude that Nieto was responsible for distributing five kilograms of cocaine because of the reasonably foreseeable amounts in the transactions of co-conspirators. See *United States v. McLee*, 436 F.3d 751, 765 (7th Cir. 2006). Nieto was a major participant and leader in the Indiana Latin Kings—an organization that profited from a large drug distribution conspiracy. Witnesses’ testimony confirmed that Latin King peers of Nieto sold at least a combined 12 kilograms in just one year. Consequently, it would not have been irrational for the jury to find that Nieto was responsible for at least five kilograms of cocaine through either his own

possession or the reasonably foreseeable distribution of his co-conspirators.

As to Vallodolid, the government presented similarly strong testimonial evidence. Keith Manuel, for one, testified that he saw Vallodolid buy “four bricks” over the course of two years. And he was not the only Latin King to testify as to quantities: Jose Sanchez told the jury he bought at least a gram and a half of cocaine from Vallodolid, while Raphael Cancel testified Vallodolid sold him cocaine 20 or 25 times, giving him approximately three grams of cocaine each time. Plus, the jury again could consider the evidence of Vallodolid’s peers’ drug distribution. In all, a reasonable jury could have concluded that Vallodolid too was responsible for distributing at least five kilograms of cocaine.

We affirm Nieto and Vallodolid’s drug conspiracy convictions.

IV.

We come, then, to Nieto’s and Vallodolid’s sentencing challenge. They contend that the district court lacked the legal authority under the applicable provision of RICO, 18 U.S.C. §1963, to impose a life sentence without first complying with certain procedural requirements imposed by state law. Their position requires some unpacking.

Remember that the jury, in returning guilty verdicts against both defendants, made special findings pursuant to 18 U.S.C. §1963(a) that increased Nieto’s and Vallodolid’s maximum sentence to life. In addition to finding that the defendants distributed a sufficient quantity of drugs to justify a life sentence under federal law, the jury also found each played a

role in a murder to further the activities of the Latin Kings—a crime also punishable by life in prison under Indiana law. See Ind. Code §35-50-2-9(b)(1)(I). Even more specifically, the jury found that Nieto served as lookout during the robbery that led to the murder of Rolando Correa and that Vallodolid shot and killed 16-year-old Victor Lusinski. These express findings—by operation of §1963(a)—allowed the district court to increase both defendants’ punishment to life imprisonment.

Both defendants challenge the sentencing enhancement based on the special verdicts for murder. Under Indiana law, Nieto and Vallodolid observe, a defendant must be given a separate proceeding before receiving a life sentence for murder. See Ind. Code §35-50-2-9(d) (“If the defendant was convicted of murder in a jury trial, the jury shall reconvene for the sentencing hearing.”). The purpose of the separate proceeding is to allow the jury to consider mitigating circumstances and, in the end, to determine whether the government has carried its evidentiary burden of showing that the murder in question involved aggravating circumstances—here, that the murders furthered the affairs of the Latin Kings. See *id.* The district court did not hold a separate hearing before imposing the life sentences, an error both defendants contend renders their life sentences procedurally invalid under Indiana law and, by extension, under §1963(a).

It is the last link in the chain—the extension from Indiana law to RICO—where the defendants falter in their reasoning. Put simply, the defendants misinterpret the requirements and operation of

§1963(a). No doubt Congress incorporated certain state offenses—those “for which the maximum penalty includes life imprisonment”—into RICO. 18 U.S.C. §1963(a). But substantive incorporation and procedural incorporation are not one and the same. We made this observation in *United States v. Muskovsky*, explaining that the enhancement in §1963(a) is not concerned with state procedures—like additional hearings—but focuses on what constitutes a crime under state law. See 863 F.2d 1319, 1330-31 (7th Cir. 1988). Federal law supplies the procedures that district courts must follow in imposing federal sentences.

All other circuits to have considered the question have reached the same conclusion. See, e.g., *United States v. Paone*, 782 F.2d 386, 393 (2d Cir. 1986) (“Congress did not intend to incorporate the various states’ procedural and evidentiary rules into the RICO statute. The statute is meant to define, in a more generic sense, the wrongful conduct that constitutes the predicates for a federal racketeering charge.”); *United States v. Licavoli*, 725 F.2d 1040, 1046 (6th Cir. 1984) (“The reference to state law in the statute is simply to define the wrongful conduct, and is not meant to incorporate state procedural law.”); *United States v. Frumento*, 563 F.2d 1083, 1087 (3d Cir. 1977) (specifying that RICO’s “reference to state law is necessary only to identify the type of unlawful activity in which the defendant intended to engage”).

Because the jury found beyond a reasonable doubt that each defendant committed murder (as defined under Indiana law), while also committing criminal organizational activity, the district court properly

incorporated the substance of the predicate offense. No bifurcated proceeding was necessary. Consequently, the district court committed no legal error, substantive or procedural, in imposing life sentences on Nieto and Vallodolid.

V.

Nieto and Vallodolid raise a host of other issues. For example, they claim the evidence presented against them—including testimony of Latin Kings members and evidence of the gang’s violent acts—was unnecessary, cumulative, and shocking and that the district court impermissibly allowed the testimony of several witnesses. Having carefully reviewed the record, we find no merit in these additional contentions.

Both Nieto and Vallodolid were well represented on appeal but because there are no errors, we are left to AFFIRM.

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Appendix B

**UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF INDIANA**

No. 2:15-CR-72

UNITED STATES OF AMERICA,
Plaintiff,

v.

ROBERT NIETO,
Defendant.

Filed: June 17, 2019

JUDGMENT IN A CRIMINAL CASE

THE DEFENDANT was found guilty on May 29, 2018 on counts 1 and 2 of the Superseding Indictment after a plea of not guilty.

ACCORDINGLY, the court has adjudicated that the defendant is guilty of the following offenses:

<u>Title, Section & Nature of Offense</u>	<u>Date Offense Ended</u>	<u>Count Number(s)</u>
18:1962(d) CONSPIRACY TO PARTICIPATE IN RACKETEERING ACTIVITY WITH NOTICE OF ENHANCED SENTENCING and FORFEITURE ALLEGATIONS RICO FORFEITURE	December 2013	1ss
21:846 CONSPIRACY TO POSSESS WITH INTENT TO DISTRIBUTE AND DISTRIBUTE MARIJUANA AND NARCOTICS and NARCOTICS TRAFFICKING FORFEITURE	December 2013	2ss

The defendant is sentenced as provided in pages 2 through 6 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

IT IS ORDERED that the defendant must notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must

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notify the court and United States Attorney of any material change in economic circumstances

June 13, 2019

Date of Imposition of Judgment

s/ Philip P. Simon

Signature of Judge

Philip P. Simon, United States
District Judge

Name of Title of Judge

June 17, 2019

Date

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IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of **LIFE**.

The defendant is REMANDED to the custody of the United States Marshal.

RETURN

I have executed this judgment as follows:

Defendant delivered _____
to _____ at _____, with a
certified copy of this judgment.

UNITED STATES MARSHAL

By: _____
DEPUTY UNITED STATES
MARSHAL

SUPERVISED RELEASE

If the defendant is released from imprisonment, the defendant shall be on supervised release for a term of **5 years on each count, to be served concurrently.**

MANDATORY CONDITIONS OF SUPERVISION

Within 72 hours of the judgment or after the defendant's release from the custody of the Bureau of Prisons, defendant shall report in person to the nearest United States Probation Office for this district between the hours of 8:00 a.m. and 4:30 p.m. While the defendant is on supervision pursuant to this judgment, the defendant shall comply with the following conditions:

1. Defendant shall not commit another federal, state or local crime.
2. Defendant shall not unlawfully use, possess, or distribute a controlled substance.
3. The defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic tests thereafter for use of a controlled substance.
4. Defendant shall cooperate in the collection of DNA as directed by the probation officer.

DISCRETIONARY CONDITIONS OF SUPERVISION

While on supervision, the defendant shall comply with the following discretionary conditions:

1. The defendant shall not knowingly leave the judicial district without the permission of the court or probation officer. The probation office will provide a

map or verbally describe the boundaries of the judicial district at the start of supervision.

2. The defendant shall report to the probation officer in the manner and as frequently as reasonably directed by the court or probation officer during normal business hours.

3. The defendant shall not knowingly answer falsely any inquiries by the probation officer. However, the defendant may refuse to answer any question if the defendant believes that a truthful answer may incriminate him.

4. The defendant shall follow the instructions of the probation officer as they relate to the conditions as imposed by the court. The defendant may petition the Court to seek relief or clarification regarding a condition if he believes it is unreasonable.

5. The defendant shall make reasonable effort to obtain and maintain employment at a lawful occupation unless he is excused by the probation officer for schooling, training, or other acceptable reasons such as child care, elder care, disability, age or serious health condition.

6. The defendant shall notify the probation officer at least ten days prior to any change in residence or any time the defendant leaves a job or accepts a job. In the event that a defendant is involuntarily terminated from employment or evicted from a residence, the offender must notify the Probation Officer within forty-eight (48) hours.

7. The defendant shall not knowingly and intentionally be in the presence of anyone who is illegally selling, using or distributing a controlled

substance and if such activity commences when he is present, the defendant must immediately leave the location.

8. The defendant shall not meet, communicate, or otherwise interact with a person whom he knows to be engaged or planning to be engaged in criminal activity.

9. The defendant shall permit a probation officer to visit him at any time at home or any other reasonable location between the hours of 8:00 a.m. and 10:00 p.m. and shall permit confiscation of any contraband observed in plain view by the probation officer.

10. The defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer.

11. The defendant shall not enter into any agreement to act as an informant for a law enforcement agency without the permission of the court.

12. The defendant shall refrain from possessing a firearm, destructive device, or other dangerous weapon.

13. The defendant shall participate in a program approved by the United States Probation Office for substance abuse, which may include testing for the detection of alcohol, controlled substances, or illegal mood-altering substance, if necessary after evaluation at the time of release. The defendant shall pay all or part of the costs for participation in the ordered program not to exceed his ability to pay for it. Failure

to pay due to financial inability to pay shall not be grounds for revocation.

14. Defendant shall not knowingly consume alcohol and shall submit to random blood-alcohol or breathalyzer testing. The defendant shall pay the costs of this testing if financially able to do so.

CRIMINAL MONETARY PENALTIES

The defendant shall pay the following total criminal monetary penalties in accordance with the schedule of payments set forth in this judgment.

<u>Total</u>		<u>Total</u>
<u>Assessment</u>	<u>Total Fine</u>	<u>Restitution</u>
\$200.00	NONE	NONE

The defendant shall make the special assessment payment payable to Clerk, U.S. District Court, 5400 Federal Plaza, Suite 2300, Hammond, IN 46320. The special assessment payment shall be due immediately.

FINE

No fine imposed.

RESTITUTION

No restitution imposed.

**ACKNOWLEDGMENT OF SUPERVISION
CONDITIONS**

Upon a finding of a violation of probation or supervised release, I understand that the Court may (1) revoke supervision, (2) extend the term of supervision, and/or (3) modify the conditions of supervision.

I have reviewed the Judgment and Commitment Order in my case and the supervision conditions therein. These conditions have been read to me. I fully understand the conditions and have been provided a copy of them.

(Signed)

Defendant

Date

U.S. Probation
Officer/Designated
Witness

Date

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Appendix C

**UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF INDIANA**

No. 2:15-CR-72

UNITED STATES OF AMERICA,
Plaintiff,

v.

DARRICK ROBERT VALLODOLID,
Defendant.

Filed: Dec. 4, 2019

JUDGMENT IN A CRIMINAL CASE

THE DEFENDANT was found guilty by a jury on counts 1 and 2 of the Fourth Superseding Indictment on May 29, 2018 after a plea of not guilty,

ACCORDINGLY, the court has adjudicated that the defendant is guilty of the following offenses:

<u>Title, Section & Nature of Offense</u>	<u>Date Offense Ended</u>	<u>Count Number(s)</u>
18:1962(d) CONSPIRACY TO PARTICIPATE IN RACKETEERING ACTIVITY WITH NOTICE OF ENHANCED SENTENCING and FORFEITURE ALLEGATIONS RICO FORFEITURE	7/26/2016	1ss
21:846 CONSPIRACY TO POSSESS WITH INTENT TO DISTRIBUTE AND DISTRIBUTE MARIJUANA AND NARCOTICS and NARCOTICS TRAFFICKING FORFEITURE	7/26/2016	2ss

The defendant is sentenced as provided in pages 2 through 5 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

IT IS ORDERED that the defendant must notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must

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notify the court and United States Attorney of any material change in economic circumstances.

November 25, 2019
Date of Imposition of Judgment

s/ Philip P. Simon
Signature of Judge

Philip P. Simon, United States
District Judge
Name of Title of Judge

December 4, 2019
Date

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of **LIFE on each of counts 1 and 2, terms to be served concurrently.**

The Court makes the following recommendations to the Bureau of Prisons:

That the defendant be permitted to participate in the Residential Drug and Alcohol Program offered by the Bureau of Prisons.

That the defendant be incarcerated in a federal facility as close to Ocala, Florida as possible.

The defendant is REMANDED to the custody of the United States Marshal.

RETURN

I have executed this judgment as follows:

Defendant delivered _____ to
_____ at _____, with a
certified copy of this judgment.

UNITED STATES MARSHAL

By: _____
DEPUTY UNITED STATES
MARSHAL

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of **5 years** on each count, terms to be served concurrently.

Within 72 hours of the judgment or after the defendant's release from the custody of the Bureau of Prisons, defendant shall report in person to the nearest United States Probation Office for this district between the hours of 8:00 a.m. and 4:30 p.m. While the defendant is on supervision pursuant to this judgment, the defendant shall comply with the following conditions:

MANDATORY CONDITIONS OF SUPERVISION

1. Defendant shall not commit another federal, state or local crime.
2. Defendant shall not unlawfully use, possess, or distribute a controlled substance.
3. The defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic tests thereafter for use of a controlled substance.
4. Defendant shall cooperate in the collection of DNA as directed by the probation officer.

DISCRETIONARY CONDITIONS OF SUPERVISION

While on supervision, the defendant shall comply with the following discretionary conditions:

1. The defendant shall not knowingly leave the federal judicial district without the permission of the court or probation officer. The probation office will

provide a map or verbally describe the boundaries of the federal judicial district at the start of supervision.

2. The defendant shall report to the probation officer in the manner and as frequently as reasonably directed by the court or probation officer during normal business hours.

3. The defendant shall not knowingly answer falsely any inquiries by the probation officer. However, the defendant may refuse to answer any question if the defendant believes that a truthful answer may incriminate him.

4. The defendant shall follow the instructions of the probation officer as they relate to the conditions as imposed by the court. The defendant may petition the Court to seek relief or clarification regarding a condition if he believes it is unreasonable.

5. The defendant shall make reasonable effort to obtain and maintain employment at a lawful occupation unless he is excused by the probation officer for schooling, training, or other acceptable reasons such as child care, elder care, disability, age or serious health condition.

6. The defendant shall notify the probation officer at least ten days prior to any change in residence or any time the defendant leaves a job or accepts a job. In the event that a defendant is involuntarily terminated from employment or evicted from a residence, the offender must notify the Probation Officer within forty-eight (48) hours.

7. The defendant shall not knowingly and intentionally be in the presence of anyone who is illegally selling, using or distributing a controlled

substance and if such activity commences when he is present, the defendant must immediately leave the location.

8. The defendant shall not meet, communicate, or otherwise interact with a person whom he knows to be engaged or planning to be engaged in criminal activity.

9. The defendant shall permit a probation officer to visit him at any time at home or any other reasonable location between the hours of 8:00 a.m. and 10:00 p.m. and shall permit confiscation of any contraband observed in plain view by the probation officer.

10. The defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer.

11. The defendant shall not enter into any agreement to act as an informant for a law enforcement agency without the permission of the court.

12. The defendant shall refrain from possessing a firearm, destructive device, or other dangerous weapon.

13. The defendant shall participate in a program approved by the United States Probation Office for substance abuse, which may include testing for the detection of alcohol, controlled substances, or illegal mood-altering substance, if necessary after evaluation at the time of release. The defendant shall pay all or part of the costs for participation in the ordered program not to exceed his ability to pay for it. Failure

to pay due to financial inability to pay shall not be grounds for revocation.

Based on a thorough review of the defendant's financial condition as detailed in the presentence report, the Court finds that the defendant does not have the ability to pay a fine. The Court will waive the fine in this case.

The defendant shall pay to the United States a total special assessment of \$200.00, which shall be due immediately. (18 U.S.C. §§3013.)

CRIMINAL MONETARY PENALTIES

The defendant shall pay the following total criminal monetary penalties in accordance with the schedule of payments set forth in this judgment.

<u>Total</u>	<u>Total</u>	<u>Total</u>
<u>Assessment</u>	<u>Fine</u>	<u>Restitution</u>
\$200	NONE	NONE

The defendant shall make the special assessment payment payable to Clerk, U.S. District Court, 5400 Federal Plaza, Suite 2300, Hammond, IN 46320. The special assessment payment shall be due immediately.

FINE

No fine imposed.

RESTITUTION

No restitution imposed.

**ACKNOWLEDGMENT OF SUPERVISION
CONDITIONS**

Upon a finding of a violation of probation or supervised release, I understand that the Court may (1) revoke supervision, (2) extend the term of supervision, and/or (3) modify the conditions of supervision.

I have reviewed the Judgment and Commitment Order in my case and the supervision conditions therein. These conditions have been read to me. I fully understand the conditions and have been provided a copy of them.

(Signed)

Defendant

Date

U.S. Probation Officer/Designated
Witness

Date

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Appendix D

**UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF INDIANA**

No. 2:15-CR-72

UNITED STATES OF AMERICA,
Plaintiff,

v.

DARRICK VALLODOLID,
Defendant.

Date: May 29, 2018

VERDICT FORM FOR DARRICK VALLODOLID

COUNT 1 (Racketeering Conspiracy)

As to the charge in Count One, we, the jury, find the Defendant DARRICK VALLODOLID:

Not Guilty _____ Guilty X

If you found the Defendant not guilty of Count One, proceed directly to Count Two.

If you found the Defendant guilty of Count One, you will need to answer the following questions.

1. If you found the Defendant DARRICK VALLODOLID guilty of Count One, do you also unanimously find beyond a reasonable doubt that Defendant DARRICK

VALLODOLID committed the murder of Victor Lusinski while committing or attempting to commit criminal gang activity?

No _____ Yes X

2. If you found the Defendant DARRICK VALLODOLID guilty of Count One, do you also unanimously find beyond a reasonable doubt that Defendant DARRICK VALLODOLID conspired to distribute or possess with intent to distribute 5 kilograms or more of cocaine?

Yes X No _____

<u>[handwritten: signature]</u>	<u>handwritten: 5/29/18]</u>
Foreperson	Date

<u>[handwritten: signature]</u>	<u>handwritten: 5/29/18]</u>
Juror	Date

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Juror	Date

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Juror	Date

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Juror	Date

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Juror	Date

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Juror	Date

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Juror	Date

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Juror	Date

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Juror	Date

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Juror	Date

<u>[handwritten: signature]</u>	<u>handwritten: 5/29/18]</u>
Juror	Date

COUNT 2 (Drug Conspiracy)

As to the charge in Count Two we, the jury, find the Defendant, DARRICK VALLODOLID:

Not Guilty _____ Guilty X

If you found the Defendant DARRICK VALLODOLID not guilty of Count Two, do not answer the following questions for Defendant DARRICK VALLODOLID and proceed to the next verdict form for the next defendant.

If you found the Defendant DARRICK VALLODOLID guilty of Count Two, you will need to answer the following questions.

1. If you found the Defendant DARRICK VALLODOLID guilty of Count Two, do you unanimously find beyond a reasonable doubt that the offense involved the distribution of cocaine or the possession with intent to distribute cocaine?

Yes X No _____

If you answered Question 1 “Yes,” proceed to Question 2. If you answered Question 1 “No,” proceed to Question 4 and do not answer Question 2 or Question 3.

2. If you found that the offense involved the distribution of cocaine or the possession with intent to distribute cocaine, do you unanimously find beyond a reasonable doubt that the offense involved 5 kilograms or more of cocaine?

Yes X No _____

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If you answered Question 2 “Yes,” proceed to Question 4 and do not Answer Question 3. If you answered Question 2 “No,” proceed to Question 3.

3. If you found that the offense involved the distribution of cocaine or the possession with intent to distribute cocaine, do you unanimously find beyond a reasonable doubt that the offense involved 500 grams or more of cocaine?

Yes _____ No _____

Proceed to Question 4.

4. If you found the Defendant DARRICK VALLODOLID guilty of Count Two, do you unanimously find beyond a reasonable doubt that the offense involved the distribution of marijuana or the possession with intent to distribute marijuana?

Yes X No _____

If you answered Question 4 “Yes,” proceed to Question 5. If you answered Question 4 “No,” do not answer Question 5 or Question 6 and proceed to the next verdict form for the next defendant.

5. If you found that the offense involved the distribution of marijuana or the possession with intent to distribute marijuana, do you unanimously find beyond a reasonable doubt that the offense involved 100 kilograms or more of marijuana?

Yes X No _____

If you answered Question 5 “Yes,” do not Answer Question 6 and proceed to the next verdict form for the

next defendant. If you answered Question 5 “No,” proceed to Question 6.

6. If you found that the offense involved the distribution of marijuana or the possession with intent to distribute marijuana, do you unanimously find beyond a reasonable doubt that the offense involved 50 kilograms or more of marijuana?

Yes _____

No _____

[handwritten: signature] handwritten: 5/29/18]_____

Foreperson Date

[handwritten: signature] handwritten: 5/29/18]_____

Juror Date

[handwritten: signature] handwritten: 5/29/18]_____

Juror Date

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Juror Date

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Juror Date

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Juror Date

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Juror	Date

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Juror	Date

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Juror	Date

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Appendix E

**UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF INDIANA**

No. 2:15-CR-72

UNITED STATES OF AMERICA,
Plaintiff,

v.

ROBERT NIETO,
Defendant.

Date: May 29, 2018

VERDICT FORM FOR ROBERT NIETO

COUNT 1 (Racketeering Conspiracy)

As to the charge in Count One, we, the jury, find the Defendant ROBERT NIETO:

Not Guilty _____ Guilty X

If you found the Defendant not guilty of Count One, proceed directly to Count Two.

If you found the Defendant guilty of Count One, you will need to answer the following questions.

1. If you found the Defendant ROBERT NIETO guilty of Count One, do you also unanimously find beyond a reasonable doubt that Defendant ROBERT NIETO committed the murder of

Rolando Correa while committing or attempting to commit criminal gang activity?

No _____ Yes X

2. If you found the Defendant ROBERT NIETO guilty of Count One, do you also unanimously find beyond a reasonable doubt that Defendant ROBERT NIETO conspired to distribute or possess with intent to distribute 5 kilograms or more of a mixture or substance containing a detectable amount of cocaine?

Yes X No _____

<u>[handwritten: signature]</u>	<u>handwritten: 5/29/18]</u>
Foreperson	Date

<u>[handwritten: signature]</u>	<u>handwritten: 5/29/18]</u>
Juror	Date

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Juror	Date

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Juror	Date

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Juror	Date

<u>[handwritten: signature]</u>	<u>handwritten: 5/29/18]</u>
Juror	Date

<u>[handwritten: signature]</u>	<u>handwritten: 5/29/18]</u>
Juror	Date

<u>[handwritten: signature]</u>	<u>handwritten: 5/29/18]</u>
Juror	Date

<u>[handwritten: signature]</u>	<u>handwritten: 5/29/18]</u>
Juror	Date

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<u>[handwritten: signature]</u>	<u>handwritten: 5/29/18]</u>
Juror	Date

<u>[handwritten: signature]</u>	<u>handwritten: 5/29/18]</u>
Juror	Date

<u>[handwritten: signature]</u>	<u>handwritten: 5/29/18]</u>
Juror	Date

COUNT 2 (Drug Conspiracy)

As to the charge in Count Two we, the jury, find the Defendant, ROBERT NIETO:

Not Guilty _____ Guilty X

If you found the Defendant ROBERT NIETO not guilty of Count Two, do not answer the following questions for Defendant ROBERT NIETO and proceed to the next verdict form for the next defendant.

If you found the Defendant ROBERT NIETO guilty of Count Two, you will need to answer the following questions.

1. If you found the Defendant ROBERT NIETO guilty of Count Two, do you unanimously find beyond a reasonable doubt that the offense involved the distribution of cocaine or the possession with intent to distribute cocaine?

Yes X No _____

If you answered Question 1 “Yes,” proceed to Question 2. If you answered Question 1 “No,” proceed to Question 4 and do not answer Question 2 or Question 3.

2. If you found that the offense involved the distribution of cocaine or the possession with intent to distribute cocaine, do you unanimously find beyond a reasonable doubt that the offense involved 5 kilograms or more of cocaine?

Yes X No _____

If you answered Question 2 “Yes,” proceed to Question 4 and do not Answer Question 3. If you answered Question 2 “No,” proceed to Question 3.

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3. If you found that the offense involved the distribution of cocaine or the possession with intent to distribute cocaine, do you unanimously find beyond a reasonable doubt that the offense involved 500 grams or more of cocaine?

Yes _____ No _____

Proceed to Question 4.

4. If you found the Defendant ROBERT NIETO guilty of Count Two, do you unanimously find beyond a reasonable doubt that the offense involved the distribution of marijuana or the possession with intent to distribute marijuana?

Yes X No _____

If you answered Question 4 "Yes," proceed to Question 5. If you answered Question 4 "No," do not answer Question 5 or Question 6 and proceed to the next verdict form for the next defendant.

5. If you found that the offense involved the distribution of marijuana or the possession with intent to distribute marijuana, do you unanimously find beyond a reasonable doubt that the offense involved 100 kilograms or more of marijuana?

Yes X No _____

If you answered Question 5 "Yes," do not Answer Question 6 and proceed to the next verdict form for the next defendant. If you answered Question 5 "No," proceed to Question 6.

6. If you found that the offense involved the distribution of marijuana or the possession with intent to distribute marijuana, do you unanimously find beyond a reasonable doubt that the offense involved 50 kilograms or more of marijuana?

Yes _____

No _____

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Appendix F

**UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF INDIANA**

No. 2:15-CR-72

UNITED STATES OF AMERICA,
Plaintiff,

v.

DARRICK VALLODOLID AND ROBERT NIETO,
Defendants.

Date: May 29, 2018

**EXCERPTS OF COURT'S FINAL JURY
INSTRUCTIONS**

* * *

INSTRUCTION NO. 31

For Count One, the government must prove beyond a reasonable doubt that each defendant agreed that a conspirator, who could be the defendant himself, did or would intentionally commit, or cause, or aid and abet the commission of, two or more of the racketeering acts of the type or types alleged in the fourth superseding indictment. Your verdict must be unanimous as to which type or types of racketeering activity you find that the defendant you are

considering agreed was or would be committed, caused, or aided and abetted.

For purposes of Counts One, the law defines “racketeering activity” as acts involving murder, attempted murder and robbery, as those offenses are defined under Indiana State law, and acts constituting Federal Robbery, and Narcotics Distribution, as those offenses are defined under federal law.

I will now instruct you on the elements of the offenses listed in the fourth superseding indictment as racketeering activity.

Murder

Under Indiana law, a person commits the offense of murder when he:

1. knowingly or intentionally,
2. killed,
3. a victim.

Felony Murder

Under Indiana law, a person also commits the offense of murder when he:

1. killed,
2. a victim,
3. while committing or attempting to commit burglary, robbery, or dealing in a controlled substance.

A felony murder conviction requires proof of intent to commit the underlying felony (e.g., robbery), but not of intent to kill.

Attempted Murder

Under Indiana law, a person commits the crime of attempted murder when the person:

1. acting with the specific intent to kill the victim,
2. did aim a firearm at the victim and shoot,
3. which was conduct constituting a substantial step toward the commission of the intended crime of killing the victim.

Aiding, Inducing or Causing Attempted Murder

Under Indiana law, a person aids, induces, or causes attempted murder when the person:

1. knowingly or intentionally,
2. aided or induced or caused another person to engage,
3. in conduct that constituted a substantial step toward killing a victim,
4. and both the defendant and the other person acted with the specific intent to kill the victim.

Robbery

Under Indiana law, a person commits the offense of robbery when the person:

1. knowingly or intentionally,
2. takes property from another person or takes property from the presence of another person,

3. by using or threatening the use of force on another person or by putting another person in fear.

Aiding, Inducing or Causing an Offense

Under Indiana law, a person who knowingly or intentionally aids, induces, or causes another person to commit an offense commits that offense. A person aids, induces, or causes a specified offense when the person:

- knowingly or intentionally,
- aided or induced or caused,
- another person to commit the offense, as that offense is defined by statute,
- by assisting in, bringing about, or ordering the commission of the offense.

A person is subject to conviction for felony murder based on aiding and abetting the underlying offense.

The accomplice is criminally responsible for everything which follows incidentally in the execution of the common design, as one of its natural and probable consequences, even though it was not intended as part of the original design or common plan.

Federal Robbery

A person commits robbery under federal law when:

1. he knowingly obtains money or property from or in the presence of a victim;
2. he does so by means of robbery, that is, by unlawfully taking or obtaining of personal property from the person or in the presence of

another, against his will, by means of actual or threatened force, or violence;

3. he believes that the victim parted with the money or property because of the robbery; and
4. his conduct affects interstate commerce.

Federal Aiding and Abetting

Any person who knowingly aids, counsels, commands, induces, or procures the commission of an offense may be found guilty of that offense if he knowingly participated in the criminal activity and tried to make it succeed.

Narcotics Trafficking - Distribution and Possession with Intent to Distribute a Controlled Substance and Conspiracy to Distribute and Possess with Intent to Distribute a Controlled Substance

I will be instructing you on the elements of distribution, possession with intent to distribute, and conspiracy to distribute and possess with intent to distribute a controlled substance when I give you the instructions for Count Two. Those instructions should be applied here.

* * *

INSTRUCTION NO. 46

If you find a defendant guilty of the offense charged in Count One of the fourth superseding indictment, there are additional questions that you will need to consider and indicate your response on the verdict form for the questions relating to Count One for that defendant.

The fourth superseding indictment alleges that the pattern of racketeering activity includes acts involving murder while committing or attempting to commit criminal gang activity under Indiana law. You will see on the verdict form a question concerning whether you have unanimously found beyond a reasonable doubt that the defendant you are considering, as part of the pattern of racketeering activity, committed the murder he is alleged to have committed while committing or attempting to commit criminal gang activity under Indiana law. You should consider this question only if you have found that the government has proven the defendant guilty of the offense charged in Count One of the fourth superseding indictment.

If you find that the government has proven beyond a reasonable doubt that the defendant you are considering, as part of the pattern of racketeering activity, committed the murder he is alleged to have committed while committing or attempting to commit criminal gang activity under Indiana law, you should answer this question “Yes.”

If you find that the government has not proven beyond a reasonable doubt that the defendant you are considering, as part of the pattern of racketeering activity, committed the murder he is alleged to have

committed while committing or attempting to commit criminal gang activity under Indiana law, you should answer this question “No.”

To assist you in determining whether a defendant committed murder while committing or attempting to commit criminal gang activity, the Court instructs you that a person commits criminal gang activity when the person knowingly or intentionally commits an offense (1) with the intent to benefit, promote, or further the interests of a criminal organization; or (2) for the purpose of increasing the person’s own standing or position within a criminal organization. The phrase “criminal gang” means a group with at least three members that specifically promotes, sponsors, assists in, participates in, or requires as a condition of membership or continued membership the commission of a felony or an act that would be a felony if committed by an adult.

The fourth superseding indictment further alleges that the pattern of racketeering activity includes acts involving distribution of cocaine and possession with intent to distribute cocaine. You will see on the verdict form a question concerning whether you have unanimously found beyond a reasonable doubt that the defendant you are considering, as part of the pattern of racketeering activity, conspired to distribute or possess with intent to distribute 5 kilograms or more of cocaine. You should answer this question only if you have found that the government has proven the defendant guilty of the offense charged in Count One of the fourth superseding indictment.

If you find that the government has proven beyond a reasonable doubt that the defendant you are

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considering, as part of the pattern of racketeering activity, conspired to distribute or possess with intent to distribute 5 kilograms or more of cocaine, then you should answer this question “Yes.”

If you find that the government has not proven beyond a reasonable doubt that the defendant you are considering, as part of the pattern of racketeering activity, conspired to distribute or possess with intent to distribute 5 kilograms or more of cocaine, then you should answer this question “No.”

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Appendix G

**UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF INDIANA**

No. 2:15-CR-72

UNITED STATES OF AMERICA,
Plaintiff,

v.

REYNALDO ROBLES a/k/a “Sneaky”; EFREN
DELANGEL a/k/a “Payoso”; MARK ANTHONY TONEY
a/k/a “Slim”; DARRICK ROBERT VALLODOLID a/k/a
“Deuce”; ROBERT NIETO a/k/a “Cowboy”; PETER
SALINAS a/k/a “Pudge”; JEREMIAH SHANE FARMER;
SEAN MICHAEL PENA a/k/a “Big Body”; DAVID
ULMENSTINE a/k/a “Silent”; JORGE ESQUEDA a/k/a
“Silent”; and MIGUEL ANGEL MARINES a/k/a “Egg”,
Defendants.

Date: May 14, 2018

FOURTH SUPERSEDING INDICTMENT

THE GRAND JURY CHARGES:

COUNT 1

**(Conspiracy to Participate in
Racketeering Activity)**

Introduction

1. At various times relevant to this Fourth Superseding Indictment, the following defendants, and others known and unknown, were members of the “Almighty LATIN KING Nation” (hereinafter the “LATIN KINGS”), a criminal organization whose members and associates engaged in acts of violence, including murder, attempted murder, robbery, aggravated battery, aggravated assault, intimidation, witness retaliation and witness tampering, sex trafficking and narcotics distribution, and which operated in the Northwest Indiana area, the Northern District of Indiana, Hammond Division, and elsewhere: **REYNALDO ROBLES a/k/a “Sneaky,” EFREN DELANGEL a/k/a “Payoso,” MARK ANTHONY TONEY a/k/a “Slim,” DARRICK ROBERT VALLODOLID a/k/a “Deuce,” ROBERT NIETO a/k/a “Cowboy,” PETER SALINAS a/k/a “Pudge,” JEREMIAH SHANE FARMER, SEAN MICHAEL PENA a/k/a “Big Body,” DAVID ULMENSTINE a/k/a “Silent,” JORGE ESQUEDA a/k/a “Silent” and MIGUEL ANGEL MARINES a/k/a “Egg.”**

**General Background and Structure of
the Enterprise**

2. The structure of the LATIN KINGS included, but was not limited to, the following:

a. The LATIN KINGS were a violent street gang with thousands of members across the United States and overseas.

b. The traditional power centers of the LATIN KINGS, and members of the gang's national leadership structure, were predominately located in the Chicago (known as "KMC" or the "Motherland") and New York (referred to as the "Bloodline") metropolitan areas.

c. The LATIN KINGS had a detailed and uniform organizational structure, which is outlined—along with various prayers, codes of behavior, and rituals—in a written "manifesto" widely distributed to members throughout the country.

d. The Chicago area LATIN KINGS are divided by the North and South Sides of Chicago, each led by the "Corona," the highest ranking LATIN KING member. Both Coronas would report to the overall LATIN KING leader. The LATIN KINGS were further organized by geographic locations into "Regions." Generally, each Region had a rank structure that included a "Regional Officer" or "Regional Inca," one or more "Regional Enforcers," and a "Regional Treasurer." The Regional Officer was the highest authority within the Region. Regional Enforcers served to support the Regional Officer, and enforce discipline and adherence by gang members to established LATIN KING rules and by-laws. The Regional Officers reported to an individual known as the "Supreme Regional Officer," who was sometimes known as the "Supreme Regional Inca."

e. The Supreme Regional Officer was the second highest ranking LATIN KING on the South Side of

Chicago. In turn, the Supreme Regional Officer reported to the "Corona," the highest ranking LATIN KING gang member on the South side of the Chicago area.

f. Each Region was comprised of "Branches," "Chapters," or "Sections," hereinafter referred to as "Chapters." Each chapter was typically named after a street or streets that ran through the chapter. Each chapter had its own rank structure, a leader or "Inca," a second in command or "Cacique," an "Enforcer," a "Treasurer" and "Crown Council" members, all of whom were in charge of the non-ranking gang members or "Soldiers" within the chapter.

g. There were several Regions of LATIN KINGS operating throughout the Chicago, Suburban and Northwest Indiana areas. One such Region was known as the Southeast Chicago Region, which included parts of Chicago's South and East sides, and Chicago South Suburban. At various times during the course of the conspiracy, the Southeast Chicago Region included the Hammond, Gary, East Chicago and Lake Station, Indiana areas. From approximately March 2015 on, the Indiana chapters made up their own region, referred to as the Indiana Region, and were not part of the Southeast Chicago Region.

h. At various times during the course of the conspiracy, the Indiana chapters of the LATIN KINGS included but were not limited to the Waco, Hessville, Gostlin Street and 148th Street Chapters in Hammond, the 142nd, 143rd, 145th and 138th Street Chapters in East Chicago, the 24th Avenue Black Oak Chapter in Gary, and the Lake Station Chapter.

i. LATIN KINGS leaders had the authority within the gang to order “missions” and mete out punishment. A “mission” was an assignment given to a subordinate LATIN KING member that would serve a purpose for the LATIN KING nation. The “missions” could range from a leader ordering a “B.O.S.” (beat down on sight), meaning the assault of a rival gang member or a LATIN KING member who had committed a violation of the LATIN KING rules, to a “green light” or “K.O.S.” (kill on sight), meaning the murder of a rival gang member or of a LATIN KING member who may have committed an egregious violation of the gang’s rules. Failure to perform a “mission” resulted in the assigned member being in violation of the rules. Punishment for failing to complete the “mission” could range anywhere from a beating to death.

j. Members of the LATIN KINGS greeted each other, and showed their membership in the gang, using a set of hand-gang signs, each intended to evoke the shape of a crown. In addition, LATIN KINGS often greeted one another, demonstrated their allegiance to the gang, or simply announced their arrival or presence in a particular area by exclaiming “ADR” or “Amor De Rey,” which means “King’s Love” in Spanish. Other phrases unique to the LATIN KING lexicon included “360,” “ALKN,” “ALKQN,” “Crown,” “Lion,” “Lion Tribe,” “Motherland,” “KMC,” “Kingism,” and “Bloodline.” The LATIN KINGS employed a robust symbology as well, often using depictions of five-pointed crowns, lions, and Inca or Aztec-inspired artwork to demonstrate their affiliation. Members often had tattoos incorporating one or more of the aforementioned phrases or symbols, the crown and the

lion being the most prominent. The gang also incorporated these phrases and symbols into graffiti, which they used to mark their territory or announce their presence in a particular area. The colors associated with the LATIN KINGS were black and gold, and members of the LATIN KINGS often demonstrated their affiliation with the LATIN KINGS by wearing clothing containing the colors black and gold or incorporating some of the gang's other symbols or phrases.

3. The LATIN KINGS are affiliated with the "People Nation" of gangs. Rival street gangs of the Indiana Chapters of the LATIN KINGS have included but are not limited to the Latin Counts, the Gangster Disciples, the Two Six Nation, the Latin Dragons, the Aztec Souls and the Imperial Gangsters.

The Racketeering Enterprise

4. The LATIN KINGS, including its leadership, membership, and associates, constituted an enterprise as defined in 18 U.S.C. §1961(4), that is, a group of individuals associated in fact. The enterprise constituted an ongoing organization whose members, prospects and associates functioned as a continuing unit for a common purpose of achieving the objectives of the enterprise. This enterprise was engaged in, and its activities affected, interstate and foreign commerce.

Purposes of the Enterprise

5. The purposes of the enterprise included, but were not limited to, the following:

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a. Enriching the leaders, members, and associates of the enterprise through, among other things, the illegal trafficking of controlled substances.

b. Preserving and protecting the power, territory, operations, and proceeds of the enterprise through the use of threats, intimidation, violence and destruction including, but not limited to, acts of murder, attempted murder, assault with a dangerous weapon and other acts of violence.

c. Promoting and enhancing the enterprise and its members' and associates' activities.

d. Keeping victims in fear of the enterprise and in fear of its leaders, members, and associates through threats of violence and violence. The leaders, members, and associates of the enterprise undertook all steps necessary to prevent the detection of their criminal activities, and sought to prevent and resolve the imposition of any criminal liabilities upon their leaders, members, and associates, by the use of murder, violence, and intimidation directed against witnesses, victims, and others. As part of this practice, the enterprise enforced what it referred to as an "SOS" or shoot on sight order, or also known as "KOS" or, kill on sight, against LATIN KINGS members who were suspected of having cooperated with law enforcement.

e. Providing support to gang members who were charged with, or incarcerated for, gang-related activities.

The Racketeering Conspiracy

6. Beginning on a date unknown to the Grand Jury, but at least as of in or about 2003, and continuing through on or about the date of this Fourth

Superseding Indictment, in the Northern District of Indiana and elsewhere, the defendants,

REYNALDO ROBLES a/k/a “Sneaky,”
EFREN DELANGEL a/k/a “Payoso,”
MARK ANTHONY TONEY a/k/a “Slim,”
DARRICK ROBERT VALLODOLID a/k/a
“Deuce,” ROBERT NIETO a/k/a “Cowboy,”
PETER SALINAS a/k/a “Pudge,”
JEREMIAH SHANE FARMER,
SEAN MICHAEL PENA a/k/a “Big Body,”
DAVID ULMENSTINE a/k/a “Silent,”
JORGE ESQUEDA a/k/a “Silent”
and
MIGUEL ANGEL MARINES a/k/a “Egg,”

each being a person employed by and associated with the LATIN KINGS, an enterprise engaged in, and the activities of which affected, interstate and foreign commerce, together with Anton Lamont James, Jr., Jason Christerpher Brown a/k/a “Midnight,” Javier Castillo, Rodolfo Carlos Flores a/k/a “Big Head,” Francisco Gamez a/k/a “Frank Nitti,” Alexis Santos, Joseph Uvalle a/k/a “Little Foot,” Pierre Java Forest a/k/a “Joker,” Keith Trevor Manuel a/k/a “Smiley,” Aldon Perez a/k/a “Spooky,” Jose Antonio Sanchez a/k/a “Sly,” Julian Robert Rebeles a/k/a “King Porky,” Mario Resendiz a/k/a “Rio,” Alberto Tirado a/k/a “B Murda,” Raymond Fazekas a/k/a “Pirate,” Nicholas Baez a/k/a “Cali,” Antonio Gamino a/k/a “Stacks,” William Dennis Salazar, Lazaro Francisco Delgado-Gonzalez, Jr. a/k/a “Polio Loco,” Timothy Maurice Diaz a/k/a “Slice,” Marquis Sean Medellin a/k/a “Kilo,” Juan Alcaraz a/k/a “Silent,” Rafael Cancel, Eduardo Ivel a/k/a “Little Smiley,” Claudio Tino Martinez a/k/a

“CK,” Anthony Manuel Flores, John Joseph Castillo a/k/a “Tio,” Bruce Hendry a/k/a “Casper,” Luis Rivera a/k/a “Loony,” Francisco Gamez a/k/a “Vino” and others known and unknown to the Grand Jury, did knowingly and intentionally conspire to conduct and participate, directly and indirectly, in the conduct of the affairs of the enterprise through a pattern of racketeering activity, as defined in Sections 1961(1) and (5) of Title 18, United States Code, consisting of multiple acts involving murder in violation of Indiana Code 35-42-1-1, 35-41-2-4, 35-41-5-1, 35-41-5-2(a)(1), and 35-41-52(a)(2), multiple acts involving robbery in violation of Indiana Code 35-42-5-1, 35-41-2-4, 35-41-5-1, 35-41-5-2(a)(1), and 35-41-5-2(a)(2), multiple acts indictable under 18 United States Code Section 1951 (Hobbs Act Robbery), multiple acts indictable under 18 United States Code Section 1591 (Sex Trafficking by Force, Fraud, or Coercion) and multiple acts involving narcotics trafficking in violation of 21 United States Code Sections 841(a)(1) (distribution and possession with the intent to distribute a controlled substance) and Section 846 (conspiracy to distribute and possess with the intent to distribute a controlled substance). It was part of this conspiracy that each defendant agreed that a conspirator would commit at least two acts of racketeering in the conduct of the affairs of the enterprise.

Means and Methods of the Enterprise

7. Each member of the enterprise agreed to facilitate a scheme that included the operation and management of the enterprise by a conspirator. Members of the enterprise and their associates operated and conducted their affairs through a series

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of laws and policies, some of which were codified in a constitution and a series of laws.

8. The members of the enterprise and their associates attended regular meetings at which they discussed, planned, and otherwise engaged in criminal activity, including murder, attempted murder, robberies, narcotics distribution, and obstruction of justice.

9. Members of the enterprise and their associates initiated new members through the practice of causing them to endure physical assaults conducted by members of the enterprise at various gang-related gatherings.

10. To enforce discipline and the rules of the enterprise, members of the enterprise and their associates engaged in a system of "violations," in which members of the enterprise attempted to murder, conspired to murder, and physically beat and threatened those members of the enterprise who violated rules, questioned authority, or posed a threat to the leaders or purposes of the enterprise.

11. Members of the enterprise and their associates employed and used gang-related terminology, symbols, gestures, and color schemes.

12. To perpetuate the enterprise and maintain and extend their power, members of the enterprise and their associates committed illegal acts, including murder, attempted murder, aggravated battery, intimidation, and aggravated assault against individuals who posed a threat to the enterprise or jeopardized its operations, including rival gang members and witnesses to the illegal activities of the enterprise. Pursuant to gang policy, members of the

enterprise and their associates were required to participate in such acts, received standing orders to shoot rival gang members, and were instructed to retaliate for gang-related attacks upon the members and associates of the enterprise.

13. Members of the enterprise and their associates were required to “post up” and patrol in their neighborhood. This entailed standing guard in their neighborhood and shooting at any rival gang member they saw and also at any individual in their neighborhood who was selling drugs without their permission. A member or associate of the enterprise would be violated if they did not “post up” in their LATIN KING neighborhood.

14. Members of the enterprise and their associates obtained, used, carried, possessed, brandished, and discharged firearms in connection with the enterprise’s illegal activities, including, but not limited to, murder, robbery, and the illegal trafficking of controlled substances.

15. Members of the enterprise and their associates managed the procurement, transfer, use, concealment, and disposal of firearms and dangerous weapons within the enterprise to protect gang-related territory, personnel, and operations, and to deter, eliminate, and retaliate against competitors and other rival criminal organizations and persons.

16. Members of the enterprise and their associates used multiple cellular telephones, disposable cellular telephones, and social media to communicate with one another concerning and during the commission of the enterprise’s illegal activities.

17. Members of the enterprise and their associates earned money for their members and regularly financed their activities through funds obtained in the illegal trafficking of controlled substances, including the distribution and possession with intent to distribute marijuana, synthetic marijuana, cocaine and Alprazolam (Xanax). An integral part of this drug trafficking entailed committing armed robberies and burglarizing the stash houses of rival drug dealers.

18. Members of the enterprise and their associates earned money for their members and regularly financed their activities through funds obtained through the commission of burglaries of residences and armed robbery of citizens in the Northern District of Indiana.

19. Members of the enterprise and their associates operated and conducted their affairs, in part, through a financial system in which the leadership of the LATIN KINGS and others possessed, controlled, and otherwise maintained a monetary stash on behalf of the enterprise. As part of this practice, members of the enterprise and their associates paid requisite weekly or bi-weekly dues into the pot, which, in turn, the enterprise used to bail gang members out of jail, to help pay for the defense attorneys of gang members who had been charged with crimes, to send to commissary accounts of incarcerated gang members, and to purchase and sell firearms and controlled substances. At times, the members of the enterprise and their associates paid money into the pot by selling narcotics supplied by members of the gang.

20. Members of the enterprise and their associates hid, misrepresented, concealed and caused to be misrepresented, concealed, and hidden, the objectives of acts done in furtherance of the conspiracy, and used coded language and other means to avoid detection and apprehension by law enforcement authorities.

21. Members of the enterprise recruited and used juveniles to commit acts for the benefit of the enterprise.

22. In order to join the LATIN KINGS prospective members or "futures" are given a "violation," of a certain number of minutes, which entails the prospective member standing in the middle of a circle and getting beaten by multiple members of the LATIN KINGS. While a "future" is attempting to join the gang his conduct is observed by the members of the LATIN KINGS. While a "future" is attempting to join the gang, he is considered a part of the LATIN KING family and entitled to the full protection of the enterprise. The "future" is also subject to the rules and orders of the enterprise.

23. When a LATIN KING goes to prison, they must report to any LATIN KING and identify themselves as a LATIN KING, and which hood or set they come from. The LATIN KING who has just arrived in prison must turn over a set of his legal documents to the LATIN KINGS in prison, to prove to them that he did not cooperate with law enforcement. Once it is determined that the newly arrived LATIN KING did not cooperate in his case, he is "put on count" in the prison. LATIN KINGS, while in prison, must attend meetings once a week, on average. They

must also pay dues to the “caja” or box, which go towards buying hygiene products for newly arrived LATIN KINGS. Each cell block or section of the prison has an Inca, Casique and an Enforcer. Members have to be on watch, or post up, while in the recreation yard. Each LATIN KING must also be on watch and protect fellow LATIN KINGS in the dormitory, and while a fellow LATIN KING is in the shower. During time periods that the LATIN KINGS are “at war” with another gang in the prison, the soldiers in the LATIN KINGS must take turns standing guard at the Inca’s cell through the night.

Overt Acts

24. In furtherance of the conspiracy and to achieve the objects thereof, the defendants and others performed or caused to be performed the following overt acts, among others, in the Northern District of Indiana and elsewhere:

a. On September 17, 2003, Francisco Gamez a/k/a “Frank Nitti” shot at an individual and unintentionally hit another individual in the head.

b. On May 20, 2008, **DARRICK ROBERT VALLODOLID** possessed a firearm.

c. On an unknown date in approximately 2008, **JEREMIAH SHANE FARMER** shot at an individual who he believed to be a member of the rival Latin Counts street gang, striking his car.

d. On April 12, 2009, **DARRICK ROBERT VALLODOLID** shot and killed Victor Lusinski, who he believed to be a rival gang member.

e. On an unknown date in approximately 2009, Keith Trevor Manuel and other members of the

LATIN KINGS beat an individual with their fists who claimed to be a member of the rival Spanish Vice Lords gang while **JEREMIAH SHANE FARMER** repeatedly struck the victim with a pistol.

f. On August 3, 2009, **JORGE ESQUEDA** shot an individual who he believed to be a rival gang member.

g. On December 21, 2009, Jason Christerpher Brown shot an individual, who he believed to be a rival gang member.

h. On September 21, 2010, **REYNALDO ROBLES** possessed a firearm.

i. On an unknown date in 2010, **DARRICK ROBERT VALLODOLID** ordered members of the LATIN KINGS to shoot at a residence in North Hammond that he believed to be occupied by rival gang members. Acting at **VALLODOLID's** direction, Jason Christerpher Brown and another member of the LATIN KINGS fired multiple shots at the residence.

j. On December 13, 2010, Keith Trevor Manuel instructed **EFREN DELANGEL** to shoot an individual who they believed to be a rival gang member. **DELANGEL** fired at the victim multiple times, striking him in the back.

k. On an unknown date in 2010-2011, **DARRICK ROBERT VALLODOLID** shot at the residence of who he believed to be a member of the rival Latin Counts street gang on Logan Street in Hammond, Indiana.

l. In April or May of 2011, **DARRICK ROBERT VALLODOLID** and Keith Manuel were in the vicinity of Walter and Thornton Street in

Hammond, Indiana when they saw a purple-colored Ford Expedition sport-utility vehicle being driven by members of the rival Latin Counts street gang. **VALLODOLID** shot multiple times at this vehicle with a 9mm pistol.

m. On July 18, 2011, **REYNALDO ROBLES** shot and killed Travis Nash, who he believed to be a rival gang member, while aided and abetted by Aldon Perez.

n. On November 21, 2011, Keith Trevor Manuel and other members of the LATIN KINGS beat an individual with their fists while **DARRICK ROBERT VALLODOLID** stabbed the victim with a small knife that **VALLODOLID** kept on his keychain.

o. On November 26, 2011, **EFREN DELANGEL** possessed a firearm.

p. On an unknown date in 2011, **DARRICK ROBERT VALLODOLID** and Keith Trevor Manuel ordered LATIN KINGS to shoot at the residence of a leader of the rival Latin Counts street gang. This was in retaliation for the breaking of Jason Christerpher Brown's jaw.

q. On an unknown date in 2011, **DARRICK ROBERT VALLODOLID** and Keith Manuel drove around looking for a member of the Latin Counts to shoot in retaliation for the shooting of **MARK ANTHONY TONEY**. When they could not locate one, **VALLODOLID**, armed with a .45 Caliber Taurus Millennium pistol and Manuel, armed with a .45 caliber Glock pistol fired multiple shots at the residence of an individual who they believed to be the leader of the Latin Counts.

r. On an unknown date in 2011, **DARRICK ROBERT VALLODOLID** saw a member of the rival Imperial Gangsters street gang driving a white Pontiac Bonneville automobile in the vicinity of 49th Avenue and Hickory Street in Hammond, Indiana. When this individual made gang hand signs disrespecting the LATIN KINGS, **VALLODOLID** shot at him multiple times with a .380 caliber pistol.

s. From approximately 2010 to approximately 2012, **DARRICK ROBERT VALLODOLID** served as the Inca of the 148th Street LATIN KINGS in Hammond, Indiana. In his capacity as Inca of this set, **VALLODOLID** ordered “violations,” or beatings of Jason Christerpher Brown, Pierre Java Forest, Nicholas Baez, Timothy Maurice Diaz and other members of the LATIN KINGS for violations of various LATIN KING rules.

t. On June 20, 2012, **MIGUEL MARINES** and Nestor Sanzon shot an individual who they believed to be a rival gang member.

u. From approximately 2012 to approximately 2013, **MARK ANTHONY TONEY** served as the Inca of the 148th Street LATIN KINGS in Hammond, Indiana. In his capacity as Inca of this set, **TONEY** ordered “violations,” or beatings of Aldon Perez and other members of the LATIN KINGS for violations of various LATIN KING rules.

v. At various times during the course of the conspiracy, **MARK ANTHONY TONEY** would tattoo members of the LATIN KINGS with gang-related tattoos.

w. On December 17, 2012, **MARK ANTHONY TONEY** possessed a firearm.

x. On July 24, 2013, **DARRICK ROBERT VALLODOLID** and Timothy Maurice Diaz sold a firearm with an obliterated serial number to a confidential informant who was working in an undercover capacity with the DEA.

y. From approximately 2011 to 2014, **ROBERT NIETO** served as a regional officer for Indiana while Indiana was still under the Southeast Chicago Region of the LATIN KINGS. In this capacity, **NIETO** collected dues from John Joseph Castillo, the Inca of the Lake Station LATIN KINGS, Keith Manuel, the Inca of the 24th Avenue LATIN KINGS, as well as from the Incas of other Indiana chapters to pay to the Southeast Chicago Region.

z. On multiple dates during the course of the conspiracy, in his capacity as Inca of the 24th Avenue set of the LATIN KINGS and then as Regional Officer of the LATIN KINGS, **ROBERT NIETO** ordered “violations,” or beatings of Jose Sanchez, Keith Trevor Manuel, Raymond Fazekas and other members of the LATIN KINGS for violations of various LATIN KING rules.

aa. On multiple dates during the course of the conspiracy, **ROBERT NIETO** ordered other members of the LATIN KINGS to commit arsons on the residences of rival gang members, people who owed **NIETO** a drug debt, and for the purpose of defrauding insurance companies.

bb. On July 29, 2013, **MIGUEL ANGEL MARINES** possessed a firearm.

cc. On December 2, 2013, **ROBERT NIETO** instructed Bruce Hendry, Mark Cherry, James Landrum and Lajuan Fitzpatrick to do a home

invasion robbery at a residence on West 29th Avenue in Gary, Indiana, as **NIETO** believed there to be narcotics present in this residence. **NIETO** stayed at his own residence and monitored a police radio frequency while his associates committed the home invasion robbery. During the course of committing the home invasion robbery Hendry, Cherry, Landrum and Fitzpatrick shot and killed Rolando Correa, before fleeing to **NIETO's** residence.

dd. On an unknown date in 2014, **REYNALDO ROBLES**, Pierre Java Forest, Luis Rivera and Antonio Gamino were driving in Hammond in the vicinity of the home of a member of the LATIN KINGS who was suspected of cooperating with law enforcement. **ROBLES** handed Gamino a 9mm pistol, and instructed him to shoot at the residence of the suspected cooperating LATIN KING. Gamino and Rivera got out of the car they were riding in, and Gamino fired multiple shots at the residence.

ee. On August 14, 2014, Keith Trevor Manuel and Joseph Uvalle demanded that members of the LATIN KINGS take action against Estrella's Bar in Hammond, Indiana, as the owner of Estrella's Bar was allowing rival gang members to patronize the bar. Joseph Uvalle drove Nicholas Baez and Antonio Gamino to the bar and handed Baez a firearm. Baez shot into the bar, striking and killing Raudel Contreras, while Gamino served as a lookout.

ff. On October 28, 2014, Anton Lamont James, Jr. shot Martin Hurtado, Sr., killing him. James had believed that he was firing at Hurtado, Sr.'s son, who he believed to be a member of the Latin Counts street gang.

gg. On an unknown date in approximately 2014, members of a rival gang drove by and fired shots at members of the LATIN KINGS, who were holding a “Nation Party” at a bar on 100th Street in Chicago, Illinois. **ROBERT NIETO** ordered members of the LATIN KINGS to shoot back at the rival gang members.

hh. On an unknown date in approximately 2014-2015, William Dennis Salazar ordered a “violation,” or beating of Jose Antonio Sanchez for repeatedly saying the phrase EBK,” the letters of which stand for “Everybody Killa.” **REYNALDO ROBLES** and Luis Rivera beat Jose Antonio Sanchez for saying this phrase, which Salazar believed to be disrespectful to the LATIN KINGS.

ii. From approximately 2014 to approximately 2015, **JORGE ESQUEDA** served as the Inca of the 142nd Street LATIN KINGS in East Chicago, Indiana. In his capacity as Inca of this set, **ESQUEDA** ordered the “violation,” (beating) of LATIN KING Nestor Sanzon for not shooting back at rival gang members who had shot at his house.

jj. In or about March 2015, John Joseph Castillo asked permission of the leaders of the LATIN KING Southeast Chicago Region for Indiana to become its own region. This request was granted, and John Joseph Castillo became the Regional Inca for the Indiana region. Upon becoming Regional Inca for the Indiana region, John Joseph Castillo appointed regional officers to serve under him.

kk. In 2015, **PETER SALINAS** became the Regional Enforcer for the Indiana Region, under Regional Inca John Joseph Castillo. As Regional

Enforcer, **SALINAS** had Marquis Medellin violated (beaten) by **EFREN DELANGEL, REYNALDO ROBLES**, Eduardo Ivel, Mario Resendiz, Pierre Java Forest and other members of the LATIN KINGS, for not paying a drug debt to another member of the LATIN KINGS.

ll. On June 29, 2015, **REYNALDO ROBLES** and Sean Yancey picked up a LATIN KING from a location in East Chicago and drove him to St. Margaret's Hospital in Hammond, Indiana, because he had just been shot in a -shootout with a rival gang member. Prior to arriving at the hospital, **ROBLES** and Yancey drove the LATIN KING to another LATIN KING member's house to drop off the firearm that he had just used.

mm. On an unknown date in approximately 2015 **JORGE ESQUEDA** shot multiple times at rival gang members in the Marktown neighborhood of East Chicago, Indiana. **ESQUEDA** utilized an AK-47 — style gun which had been provided to the 142nd Street LATIN KINGS by John Joseph Castillo.

Notice of Enhanced Sentencing

25. On or about April 12, 2009, in the Northern District of Indiana, **DARRICK ROBERT VALLODOLID** knowingly and intentionally killed Victor Lusinski in violation of Indiana Penal Code Sections 35-42-1-1 and 35-41-2-4, under the aggravating circumstance of intentionally killing the victim while committing or attempting to commit Criminal Gang Activity, as defined in Indiana Penal Code Section 35-45-9-3, in violation of Indiana Penal Code Section 35-50-2-9(b)(I) (1997).

26. On or about July 18, 2011, in the Northern District of Indiana, **REYNALDO ROBLES** knowingly and intentionally killed Travis Nash in violation of Indiana Penal Code Sections 35-42-1-1 and 35-41-2-4, under the aggravating circumstance of intentionally killing the victim while committing or attempting to commit Criminal Gang Activity, as defined in Indiana Penal Code Section 35-45-9-3, in violation of Indiana Penal Code Section 35-50-2-9(b)(I) (1997).

27. On or about December 2, 2013, in the Northern District of Indiana, **ROBERT NIETO** knowingly and intentionally killed Rolando Correa in violation of Indiana Penal Code Sections 35-42-1-1 and 35-41-2-4, under the aggravating circumstance of intentionally killing the victim while committing or attempting to commit Criminal Gang Activity, as defined in Indiana Penal Code Section 35-45-9-3, in violation of Indiana Penal Code Section 35-50-2-9(b)(I) (1997).

28. From in or about 2003, and continuing through on or about the date of this Fourth Superseding Indictment, in the Northern District of Indiana and elsewhere, **REYNALDO ROBLES a/k/a “Sneaky,” EFREN DELANGEL a/k/a “Payoso,” MARK ANTHONY TONEY a/k/a “Slim,” DARRICK ROBERT VALLODOLID, ROBERT NIETO a/k/a “Cowboy,” PETER SALINAS a/k/a “Pudge,” JEREMIAH SHANE FARMER, SEAN MICHAEL PENA a/k/a “Big Body,” DAVID ULMENSTINE a/k/a “Silent,” JORGE ESQUEDA a/k/a “Silent” and MIGUEL ANGEL MARINES a/k/a “Egg,** “ knowingly and intentionally conspired

to possess with intent to distribute and distribute five (5) kilograms or more of cocaine and one hundred (100) kilograms or more of marijuana, in violation of Title 21 United States Code Section 846.

All in violation of Title 18 United States Code Section 1962(d).

THE GRAND JURY FURTHER CHARGES:

COUNT 2

**(Conspiracy to Possess with Intent to
Distribute and Distribute**

Cocaine, Marijuana and Alprazolam)

Beginning on a date unknown to the Grand Jury, but at least as of in or about 2003, and continuing through on or about the date of this Fourth Superseding Indictment, in the Northern District of Indiana and elsewhere, the defendants,

**REYNALDO ROBLES a/k/a “Sneaky,”
EFREN DELANGEL a/k/a “Payoso,”
MARK ANTHONY TONEY a/k/a “Slim,”
DARRICK ROBERT VALLODOLID a/k/a
“Deuce,” ROBERT NIETO a/k/a “Cowboy,”
PETER SALINAS a/k/a “Pudge,”
JEREMIAH SHANE FARMER
SEAN MICHAEL PENA a/k/a “Big Body,”
DAVID ULMENSTINE a/k/a “Silent,”
JORGE ESQUEDA a/k/a “Silent,”
and
MIGUEL ANGEL MARINES a/k/a “Egg,”**

defendants herein, did knowingly and intentionally combine, conspire, confederate and agree one with another together with Anton Lamont James, Jr.,

Jason Christerpher Brown a/k/a "Midnight," Javier Castillo, Rodolfo Carlos Flores a/k/a "Big Head," Francisco Gamez a/k/a "Frank Nitti," Alexis Santos, Joseph Uvalle a/k/a "Little Foot," Pierre Java Forest a/k/a "Joker," Keith Trevor Manuel a/k/a "Smiley," Aldon Perez a/k/a "Spooky," Jose Antonio Sanchez a/k/a "Sly," Julian Robert Rebeles a/k/a "King Porky," Mario Resendiz a/k/a "Rio," Alberto Tirado a/k/a "B Murda," Raymond Fazekas a/k/a "Pirate," Sean Yancey, Nicholas Baez a/k/a "Cali," Antonio Gamino a/k/a "Stacks," William Dennis Salazar, Lazaro Francisco Delgado-Gonzalez, Jr. a/k/a "Pollo Loco," Timothy Maurice Diaz a/k/a "Slice," Marquis Sean Medellin a/k/a "Kilo," Juan Alcaraz a/k/a "Silent," Rafael Cancel, Kash Lee Kelly, Eduardo Ivel a/k/a "Little Smiley," Claudio Tino Martinez a/k/a "CK," Anthony Manuel Flores, John Joseph Castillo a/k/a "Tio," Bruce Hendry a/k/a "Casper," Luis Rivera a/k/a "Loony," Francisco Gamez a/k/a "Vino" and others known and unknown to the Grand Jury, to commit the following offense against the United States: to knowingly and intentionally possess with intent to distribute and distribute one hundred (100) kilograms or more of a mixture and substance containing a detectable amount of marijuana, a schedule **I** controlled substance, five (5) kilograms or more of a mixture and substance containing a detectable amount of cocaine, a schedule **II** controlled substance, **and a quantity of Alprazolam (Xanax), a schedule IV controlled substance;**

All in violation of 21 U.S.C. §846.

FORFEITURE ALLEGATIONS
RICO FORFEITURE

1. The allegations contained in Count One of this Fourth Superseding Indictment are hereby repeated, realleged, and incorporated by reference herein as though fully set forth at length for the purpose of alleging forfeiture pursuant to the provisions of Title 18, United States Code, Section 1963 and Title 28, United States Code, Section 2461(c). Pursuant to Rule 32.2, Fed. R. Crim. P., notice is hereby given to the defendants that the United States will seek forfeiture as part of any sentence in accordance with Title 18, United States Code, Section 1963 in the event of any defendant's conviction under Count One of this Fourth Superseding Indictment.

2. The defendants,

REYNALDO ROBLES a/k/a "Sneaky,"
EFREN DELANGEL a/k/a "Payoso,"
MARK ANTHONY TONEY a/k/a "Slim,"
DARRICK ROBERT VALLODOLID a/k/a
"Deuce," ROBERT NIETO a/k/a "Cowboy,"
PETER SALINAS a/k/a "Pudge,"
JEREMIAH SHANE FARMER
SEAN MICHAEL PENA a/k/a "Big Body,"
DAVID ULMENSTINE a/k/a "Silent,"
JORGE ESQUEDA a/k/a "Silent,"
and
MIGUEL ANGEL MARINES a/k/a "Egg,"

i. have acquired and maintained interests in violation of Title 18, United States Code, Section 1962, which interests are subject to forfeiture to the United States pursuant to Title 18, United States Code, Section 1963(a)(1);

ii. have an interest in, security of, claims against, and property and contractual rights which afford a source of influence over, the enterprise named and described herein which the defendants established, operated, controlled, conducted, and participated in the conduct of, in violation of Title 18, United States Code, Section 1962, which interests, securities, claims, and rights are subject to forfeiture to the United States pursuant to Title 18, United States Code, Section 1963 (a)(2);

iii. have property constituting and derived from proceeds obtained, directly and indirectly, from racketeering activity, in violation of Title 18, United States Code, Section 1962, which property is subject to forfeiture to the United States pursuant to Title 18, United States Code, Section 1963(a)(3).

3. The interest of the defendants subject to forfeiture to the United States pursuant to Title 18, United States Code, Section 1963(a)(1), (a)(2), and (a)(3), include but are not limited to:

11,045.00;

a. One (1) Taurus, .45 caliber pistol, bearing serial number NCS98752;

b. One (1) Para-Ordnance, .45 caliber pistol, bearing serial number HM8474;

c. One (1) Taurus, nine millimeter pistol, bearing serial number TTF27423;

d. One (1) Hi Point rifle, bearing serial number R15717;

e. One (1) Smith & Wesson, .40 caliber pistol, bearing serial number HEY2051;

f. One (1) Canik 55, nine millimeter pistol, bearing serial number 13A107076;

g. Ammunition, including .40 caliber ammunition and nine millimeter ammunition; and

h. One (1) Kahr firearm, bearing serial number EE6019;

4. The above-named defendants, and each of them, are jointly and severally liable for the forfeiture obligations as alleged above.

All pursuant to Title 18, United States Code, Section 1963.

NARCOTICS TRAFFICKING FORFEITURE

1. The allegations of Count Two of the Fourth Superseding Indictment are re-alleged and by this reference fully incorporated herein for the purpose of alleging forfeitures to the United States of America pursuant to the provisions of Title 21, United States Code, Section 853. Upon conviction of the offense alleged in Count Two of the Fourth Superseding Indictment, defendants herein,

**REYNALDO ROBLES a/k/a “Sneaky,”
EFREN DELANGEL a/k/a “Payoso,”
MARK ANTHONY TONEY a/k/a “Slim,”
DARRICK ROBERT VALLODOLID a/k/a
“Deuce,” ROBERT NIETO a/k/a “Cowboy,”
PETER SALINAS a/k/a “Pudge,”
JEREMIAH SHANE FARMER
SEAN MICHAEL PENA a/k/a “Big Body,”
DAVID ULMENSTINE a/k/a “Silent,”
JORGE ESQUEDA a/k/a “Silent,”
and
MIGUEL ANGEL MARINES a/k/a “Egg,”**

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defendants herein, shall forfeit to the United States of America pursuant to Title 21, United States Code, Section 853, any and all property used and intended to be used, in any manner or part to commit or to facilitate the commission of such offense, and any and all property constituting or derived from proceeds the defendant obtained directly or indirectly as a result of said violations, including but not limited to:

- a. \$11,045.00 in U.S. Currency;
 - b. One (1) Taurus, .45 caliber pistol, bearing serial number NCS98752;
 - c. One (1) Para-Ordnance, .45 caliber pistol, bearing serial number HM8474;
 - d. One (1) Taurus, nine millimeter pistol, bearing serial number TTF27423;
 - e. One (1) Hi Point rifle, bearing serial number R15717;
 - f. One (1) Smith & Wesson, .40 caliber pistol, bearing serial number HEY2051;
 - g. One (1) Canik 55, nine millimeter pistol, bearing serial number 13A107076;
 - h. Ammunition, including .40 caliber ammunition and nine millimeter ammunition; and
 - i. One (1) Kahr firearm, bearing serial number EE6019.
2. If any of the property described above, as a result of any act or omission of any of the defendants:
 - a. cannot be located upon the exercise of due diligence;
 - b. has been transferred or sold to, or deposited with, a third party;

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c. has been placed beyond the jurisdiction of the court;

d. has substantially diminished in value; or

e. has been commingled with other property which cannot be divided without difficulty,

the United States of America shall be entitled to forfeiture of substitute property pursuant to Title 21, United States Code, Section 853(p).

A TRUE BILL:

/s/ Foreperson

FOREPERSON

THOMAS L. KIRSCH II

UNITED STATES ATTORNEY

By: /s/ David J. Nozick

David J. Nozick

Assistant United States Attorney

By: /s/ Dean R. Lanter

Dean Lanter

Assistant United States Attorney

Appendix H

RELEVANT STATUTORY PROVISIONS

18 U.S.C. §1961. Definitions

As used in this chapter—

1. “racketeering activity” means (A) any act or threat involving murder, kidnapping, gambling, arson, robbery, bribery, extortion, dealing in obscene matter, or dealing in a controlled substance or listed chemical (as defined in section 102 of the Controlled Substances Act), which is chargeable under State law and punishable by imprisonment for more than one year; (B) any act which is indictable under any of the following provisions of title 18, United States Code: Section 201 (relating to bribery), section 224 (relating to sports bribery), sections 471, 472, and 473 (relating to counterfeiting), section 659 (relating to theft from interstate shipment) if the act indictable under section 659 is felonious, section 664 (relating to embezzlement from pension and welfare funds), sections 891-894 (relating to extortionate credit transactions), section 1028 (relating to fraud and related activity in connection with identification documents), section 1029 (relating to fraud and related activity in connection with access devices), section 1084 (relating to the transmission of gambling information), section 1341 (relating to mail fraud), section 1343 (relating to wire fraud), section 1344 (relating to financial institution fraud), section 1425 (relating to the procurement of citizenship or nationalization unlawfully), section 1426 (relating to the reproduction of naturalization or citizenship papers), section 1427 (relating to the sale of naturalization or citizenship

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papers), sections 1461-1465 (relating to obscene matter), section 1503 (relating to obstruction of justice), section 1510 (relating to obstruction of criminal investigations), section 1511 (relating to the obstruction of State or local law enforcement), section 1512 (relating to tampering with a witness, victim, or an informant), section 1513 (relating to retaliating against a witness, victim, or an informant), section 1542 (relating to false statement in application and use of passport), section 1543 (relating to forgery or false use of passport), section 1544 (relating to misuse of passport), section 1546 (relating to fraud and misuse of visas, permits, and other documents), sections 1581-1592 (relating to peonage, slavery, and trafficking in persons).¹ section 1951 (relating to interference with commerce, robbery, or extortion), section 1952 (relating to racketeering), section 1953 (relating to interstate transportation of wagering paraphernalia), section 1954 (relating to unlawful welfare fund payments), section 1955 (relating to the prohibition of illegal gambling businesses), section 1956 (relating to the laundering of monetary instruments), section 1957 (relating to engaging in monetary transactions in property derived from specified unlawful activity), section 1958 (relating to use of interstate commerce facilities in the commission of murder-for-hire), section 1960 (relating to illegal money transmitters), sections 2251, 2251A, 2252, and 2260 (relating to sexual exploitation of children), sections 2312 and 2313 (relating to interstate transportation of stolen motor vehicles), sections 2314 and 2315 (relating to interstate transportation of stolen property), section 2318 (relating to trafficking in counterfeit labels for phonorecords, computer

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programs or computer program documentation or packaging and copies of motion pictures or other audiovisual works), section 2319 (relating to criminal infringement of a copyright), section 2319A (relating to unauthorized fixation of and trafficking in sound recordings and music videos of live musical performances), section 2320 (relating to trafficking in goods or services bearing counterfeit marks), section 2321 (relating to trafficking in certain motor vehicles or motor vehicle parts), sections 2341-2346 (relating to trafficking in contraband cigarettes), sections 2421-24 (relating to white slave traffic), sections 175-178 (relating to biological weapons), sections 229-229F (relating to chemical weapons), section 831 (relating to nuclear materials), (C) any act which is indictable under title 29, United States Code, section 186 (dealing with restrictions on payments and loans to labor organizations) or section 501(c) (relating to embezzlement from union funds), (D) any offense involving fraud connected with a case under title 11 (except a case under section 157 of this title), fraud in the sale of securities, or the felonious manufacture, importation, receiving, concealment, buying, selling, or otherwise dealing in a controlled substance or listed chemical (as defined in section 102 of the Controlled Substances Act), punishable under any law of the United States, (E) any act which is indictable under the Currency and Foreign Transactions Reporting Act, (F) any act which is indictable under the Immigration and Nationality Act, section 274 (relating to bringing in and harboring certain aliens), section 277 (relating to aiding or assisting certain aliens to enter the United States), or section 278 (relating to importation of alien for immoral purpose) if the act indictable under such

section of such Act was committed for the purpose of financial gain, or (G) any act that is indictable under any provision listed in section 2332b(g)(5)(B);

2. “State” means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, any political subdivision, or any department, agency, or instrumentality thereof;

3. “person” includes any individual or entity capable of holding a legal or beneficial interest in property;

4. “enterprise” includes any individual, partnership, corporation, association, or other legal entity, and any union or group of individuals associated in fact although not a legal entity;

5. “pattern of racketeering activity” requires at least two acts of racketeering activity, one of which occurred after the effective date of this chapter and the last of which occurred within ten years (excluding any period of imprisonment) after the commission of a prior act of racketeering activity;

6. “unlawful debt” means a debt (A) incurred or contracted in gambling activity which was in violation of the law of the United States, a State or political subdivision thereof, or which is unenforceable under State or Federal law in whole or in part as to principal or interest because of the laws relating to usury, and (B) which was incurred in connection with the business of gambling in violation of the law of the United States, a State or political subdivision thereof, or the business of lending money or a thing of value at a rate usurious under State or Federal law, where the usurious rate is at least twice the enforceable rate;

7. “racketeering investigator” means any attorney or investigator so designated by the Attorney General and charged with the duty of enforcing or carrying into effect this chapter;

8. “racketeering investigation” means any inquiry conducted by any racketeering investigator for the purpose of ascertaining whether any person has been involved in any violation of this chapter or of any final order, judgment, or decree of any court of the United States, duly entered in any case or proceeding arising under this chapter;

9. “documentary material” includes any book, paper, document, record, recording, or other material; and

10. “Attorney General” includes the Attorney General of the United States, the Deputy Attorney General of the United States, the Associate Attorney General of the United States, any Assistant Attorney General of the United States, or any employee of the Department of Justice or any employee of any department or agency of the United States so designated by the Attorney General to carry out the powers conferred on the Attorney General by this chapter. Any department or agency so designated may use in investigations authorized by this chapter either the investigative provisions of this chapter or the investigative power of such department or agency otherwise conferred by law.

18 U.S.C. §1962. Prohibited activities.

a. It shall be unlawful for any person who has received any income derived, directly or indirectly, from a pattern of racketeering activity or through collection of an unlawful debt in which such person has participated as a principal within the meaning of

section 2, title 18, United States Code, to use or invest, directly or indirectly, any part of such income, or the proceeds of such income, in acquisition of any interest in, or the establishment or operation of, any enterprise which is engaged in, or the activities of which affect, interstate or foreign commerce. A purchase of securities on the open market for purposes of investment, and without the intention of controlling or participating in the control of the issuer, or of assisting another to do so, shall not be unlawful under this subsection if the securities of the issuer held by the purchaser, the members of his immediate family, and his or their accomplices in any pattern or racketeering activity or the collection of an unlawful debt after such purchase do not amount in the aggregate to one percent of the outstanding securities of any one class, and do not confer, either in law or in fact, the power to elect one or more directors of the issuer.

b. It shall be unlawful for any person through a pattern of racketeering activity or through collection of an unlawful debt to acquire or maintain, directly or indirectly, any interest in or control of any enterprise which is engaged in, or the activities of which affect, interstate or foreign commerce.

c. It shall be unlawful for any person employed by or associated with any enterprise engaged in, or the activities of which affect, interstate or foreign commerce, to conduct or participate, directly or indirectly, in the conduct of such enterprise's affairs through a pattern of racketeering activity or collection of unlawful debt.

d. It shall be unlawful for any person to conspire to violate any of the provisions of subsection (a), (b), or (c) of this section.

18 U.S.C. §1963. Criminal penalties.

a. Whoever violates any provision of section 1962 of this chapter shall be fined under this title or imprisoned not more than 20 years (or for life if the violation is based on a racketeering activity for which the maximum penalty includes life imprisonment), or both, and shall forfeit to the United States, irrespective of any provision of State law—

1. any interest the person has acquired or maintained in violation of section 1962;

2. any—

A. interest in;

B. security of;

C. claim against; or

D. property or contractual right of any kind affording a source of influence over;

any enterprise which the person has established, operated, controlled, conducted, or participated in the conduct of, in violation of section 1962; and

3. any property constituting, or derived from, any proceeds which the person obtained, directly or indirectly, from racketeering activity or unlawful debt collection in violation of section 1962.

The court, in imposing sentence on such person shall order, in addition to any other sentence imposed pursuant to this section, that the person

forfeit to the United States all property described in this subsection. In lieu of a fine otherwise authorized by this section, a defendant who derives profits or other proceeds from an offense may be fined not more than twice the gross profits or other proceeds.

* * *

Ind. Code §35-42-1-1. Murder.

Sec. 1. A person who:

1. knowingly or intentionally kills another human being;
2. kills another human being while committing or attempting to commit arson, burglary, child molesting, consumer product tampering, criminal deviate conduct (under IC 35-42-4-2 before its repeal), kidnapping, rape, robbery, human trafficking, promotion of human labor trafficking, promotion of human sexual trafficking, promotion of child sexual trafficking, promotion of sexual trafficking of a younger child, child sexual trafficking, or carjacking (before its repeal);
3. kills another human being while committing or attempting to commit:
 - a. dealing in or manufacturing cocaine or a narcotic drug (IC 35-48-4-1);
 - b. dealing in methamphetamine (IC 35-48-4-1.1);
 - c. manufacturing methamphetamine (IC 35-48-4-1.2);
 - d. dealing in a schedule I, II, or III controlled substance (IC 35-48-4-2);

- e. dealing in a schedule IV controlled substance (IC 35-48-4-3); or
 - f. dealing in a schedule V controlled substance; or
4. except as provided in section 6.5 of this chapter, knowingly or intentionally kills a fetus in any stage of development;
- commits murder, a felony.

Ind. Code §35-50-2-3. Murder.

Sec. 3. a. A person who commits murder shall be imprisoned for a fixed term of between forty-five (45) and sixty-five (65) years, with the advisory sentence being fifty-five (55) years. In addition, the person may be fined not more than ten thousand dollars (\$10,000).

b. Notwithstanding subsection (a), a person who was:

- 1. at least eighteen (18) years of age at the time the murder was committed may be sentenced to:
 - A. death; or
 - B. life imprisonment without parole; and
- 2. at least sixteen (16) years of age but less than eighteen (18) years of age at the time the murder was committed may be sentenced to life imprisonment without parole;

under section 9 of this chapter unless a court determines under IC 35-36-9 that the person is an individual with an intellectual disability.

**Ind. Code §35-50-2-9. Death penalty
sentencing procedure.**

Sec. 9. a. The state may seek either a death sentence or a sentence of life imprisonment without parole for murder by alleging, on a page separate from the rest of the charging instrument, the existence of at least one (1) of the aggravating circumstances listed in subsection (b). In the sentencing hearing after a person is convicted of murder, the state must prove beyond a reasonable doubt the existence of at least one (1) of the aggravating circumstances alleged. However, the state may not proceed against a defendant under this section if a court determines at a pretrial hearing under IC 35-36-9 that the defendant is an individual with an intellectual disability.

- b. The aggravating circumstances are as follows:
 - 1. The defendant committed the murder by intentionally killing the victim while committing or attempting to commit any of the following:
 - A. Arson (IC 35-43-1-1).
 - B. Burglary (IC 35-43-2-1).
 - C. Child molesting (IC 35-42-4-3).
 - D. Criminal deviate conduct (IC 35-42-4-2) (before its repeal).
 - E. Kidnapping (IC 35-42-3-2).
 - F. Rape (IC 35-42-4-1).
 - G. Robbery (IC 35-42-5-1).
 - H. Carjacking (IC 35-42-5-2) (before its repeal).
 - I. Criminal organization activity (IC 35-45-9-3).

J. Dealing in cocaine or a narcotic drug (IC 35-48-4-1).

K. Criminal confinement (IC 35-42-3-3).

2. The defendant committed the murder by the unlawful detonation of an explosive with intent to injure a person or damage property.

3. The defendant committed the murder by lying in wait.

4. The defendant who committed the murder was hired to kill.

5. The defendant committed the murder by hiring another person to kill.

6. The victim of the murder was a corrections employee, probation officer, parole officer, community corrections worker, home detention officer, fireman, judge, or law enforcement officer, and either:

A. the victim was acting in the course of duty; or

B. the murder was motivated by an act the victim performed while acting in the course of duty.

7. The defendant has been convicted of another murder.

8. The defendant has committed another murder, at any time, regardless of whether the defendant has been convicted of that other murder.

9. The defendant was:

A. under the custody of the department of correction;

- B. under the custody of a county sheriff;
- C. on probation after receiving a sentence for the commission of a felony; or
- D. on parole;

at the time the murder was committed.

10. The defendant dismembered the victim.

11. The defendant:

- A. burned, mutilated, or tortured the victim;
or
- B. decapitated or attempted to decapitate the victim;

while the victim was alive.

12. The victim of the murder was less than twelve (12) years of age.

13. The victim was a victim of any of the following offenses for which the defendant was convicted:

- A. A battery offense included in IC 35-42-2 committed before July 1, 2014, as a Class D felony or as a Class C felony, or a battery offense included in IC 35-42-2 committed after June 30, 2014, as a Level 6 felony, a Level 5 felony, a Level 4 felony, or a Level 3 felony.
- B. Kidnapping (IC 35-42-3-2).
- C. Criminal confinement (IC 35-42-3-3).
- D. A sex crime under IC 35-42-4.

14. The victim of the murder was listed by the state or known by the defendant to be a witness against the defendant and the defendant

committed the murder with the intent to prevent the person from testifying.

15. The defendant committed the murder by intentionally discharging a firearm (as defined in IC 35-47-1-5):

- A. into an inhabited dwelling; or
- B. from a vehicle.

16. The victim of the murder was pregnant and the murder resulted in the intentional killing of a fetus that has attained viability (as defined in IC 16-18-2-365).

17. The defendant knowingly or intentionally:

- A. committed the murder:
 - i. in a building primarily used for an educational purpose;
 - ii. on school property; and
 - iii. when students are present; or
- B. committed the murder:
 - i. in a building or other structure owned or rented by a state educational institution or any other public or private postsecondary educational institution and primarily used for an educational purpose; and
 - ii. at a time when classes are in session.

18. The murder is committed:

- A. in a building that is primarily used for religious worship; and
- B. at a time when persons are present for religious worship or education.

c. The mitigating circumstances that may be considered under this section are as follows:

1. The defendant has no significant history of prior criminal conduct.
2. The defendant was under the influence of extreme mental or emotional disturbance when the murder was committed.
3. The victim was a participant in or consented to the defendant's conduct.
4. The defendant was an accomplice in a murder committed by another person, and the defendant's participation was relatively minor.
5. The defendant acted under the substantial domination of another person.
6. The defendant's capacity to appreciate the criminality of the defendant's conduct or to conform that conduct to the requirements of law was substantially impaired as a result of mental disease or defect or of intoxication.
7. The defendant was less than eighteen (18) years of age at the time the murder was committed.
8. Any other circumstances appropriate for consideration.

d. If the defendant was convicted of murder in a jury trial, the jury shall reconvene for the sentencing hearing. If the trial was to the court, or the judgment was entered on a guilty plea, the court alone shall conduct the sentencing hearing. The jury or the court may consider all the evidence introduced at the trial stage of the proceedings, together with new evidence

presented at the sentencing hearing. The court shall instruct the jury concerning the statutory penalties for murder and any other offenses for which the defendant was convicted, the potential for consecutive or concurrent sentencing, and the availability of educational credit, good time credit, and clemency. The court shall instruct the jury that, in order for the jury to recommend to the court that the death penalty or life imprisonment without parole should be imposed, the jury must find at least one (1) aggravating circumstance beyond a reasonable doubt as described in subsection (l) and shall provide a special verdict form for each aggravating circumstance alleged. The defendant may present any additional evidence relevant to:

1. the aggravating circumstances alleged; or
 2. any of the mitigating circumstances listed in subsection (c).
- e. For a defendant sentenced after June 30, 2002, except as provided by IC 35-36-9, if the hearing is by jury, the jury shall recommend to the court whether the death penalty or life imprisonment without parole, or neither, should be imposed. The jury may recommend:

1. the death penalty; or
 2. life imprisonment without parole;
- only if it makes the findings described in subsection (l). If the jury reaches a sentencing recommendation, the court shall sentence the defendant accordingly. After a court pronounces sentence, a representative of the victim's family and friends may present a statement regarding

the impact of the crime on family and friends. The impact statement may be submitted in writing or given orally by the representative. The statement shall be given in the presence of the defendant.

f. If a jury is unable to agree on a sentence recommendation after reasonable deliberations, the court shall discharge the jury and proceed as if the hearing had been to the court alone.

g. If the hearing is to the court alone, except as provided by IC 35-36-9, the court shall:

1. sentence the defendant to death; or
2. impose a term of life imprisonment without parole;

only if it makes the findings described in subsection (l).

* * *

Ind. Code §35-45-9-3. Participation in criminal organization; offense.

Sec. 3. a. As used in this section, “benefit, promote, or further the interests of a criminal organization” means to commit a felony or misdemeanor that would cause a reasonable person to believe results in:

1. a benefit to a criminal organization or a member of a criminal organization;
2. the promotion of a criminal organization; or
3. furthering the interests of a criminal organization.

b. As used in this section, “purpose of increasing a person’s own standing or position within a criminal organization” means committing a felony or misdemeanor that would cause a reasonable person to

believe results in increasing the person's standing or position within a criminal organization.

c. A person who knowingly or intentionally commits an offense:

1. with the intent to benefit, promote, or further the interests of a criminal organization; or
2. for the purpose of increasing the person's own standing or position within a criminal organization;

commits criminal organization activity, a Level 6 felony. However, the offense is a Level 5 felony if the offense involves, directly or indirectly, the unlawful use of a firearm (including assisting a criminal (IC 35-44.1-2-5) if the offense committed by the person assisted involves the unlawful use of a firearm).

d. In determining whether a person committed an offense under this section, the trier of fact may consider a person's association with a criminal organization, including:

1. an admission of criminal organization membership by the person;
2. a statement by:
 - A. a member of the person's family;
 - B. the person's guardian; or
 - C. a reliable member of the criminal organization;stating the person is a member of a criminal organization;
3. the person having tattoos identifying the person as a member of a criminal organization;

4. the person having a style of dress that is particular to members of a criminal organization;
5. the person associating with one (1) or more members of a criminal organization;
6. physical evidence indicating the person is a member of a criminal organization;
7. an observation of the person in the company of a known criminal organization member on at least three (3) occasions;
8. communications authored by the person indicating criminal organization membership, promotion of the membership in a criminal organization, or responsibility for an offense committed by a criminal organization;
9. the person's use of the hand signs of a criminal organization; and
10. the person's involvement in recruiting criminal organization members.

App-113

Appendix I

**UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF INDIANA**

No. 2:15-CR-72

UNITED STATES OF AMERICA,
Plaintiff,

v.

DARRICK VALLODOLID AND ROBERT NIETO,
Defendants.

Date: May 14, 2018

TRANSCRIPT OF JURY TRIAL

[8] I'm an attorney from Valparaiso. Seated behind us is our paralegal Jocelyn Rogers, also my wife.

MR. VANZANT: Good morning, ladies and gentlemen. My name is James Vanzant. I represent Darrick Vallodolid, and I'm joined by Mr. Jonathan Bedi, my co-counsel, and Amanda Wood, our paralegal.

THE COURT: Just so that you all understand who else is in the courtroom, I have already introduced myself, I'm Phil Simon. And so we have our court reporter here who takes down everything that we say, and so all of the answers to the questions that I'm

going to ask you have to be out loud and verbal so that she can take those down.

And then these ladies sitting over to my left, the one to the far left is a lawyer who works with me, her name is Meredith; and Noel is my courtroom deputy who also helps us out and makes sure things run smoothly.

And then these gentlemen back here are Lenny and Clarence, and they are the court security guys that help us sort of make -- also help things run smoothly during the trial. You will get familiar with those guys as we go.

So, ladies and gentlemen, both the government and these defendants, they have a right to have this case tried by qualified, fair, and impartial jurors. And a qualified and impartial jury is one which is responsible and capable and which will without fear, favor, bias, prejudice, sympathy, or [9] passion objectively hear and decide the issues to be tried and render its verdict solely based on the evidence that's presented in this courtroom and on the law that's applicable to the case that I will give to you throughout the trial and at the conclusion of the trial.

Now, a juror's qualification and your impartiality can't just be assumed without some inquiry, and the inquiry which we are about to undertake is known as the voir dire examination. And that's just a fancy legal term to describe a process by which we're going to ask you a number of questions to determine your qualifications and your impartiality to serve on the jury.

The purpose of this questioning is to develop the truth about your competency to sit as a juror, to also

inquire about what your frame of mind might be and your ability to do your sworn duty in accordance with the oath that you will take.

The answers to the questions that I'm about to ask you will enable us to decide whether you should be dismissed from the case for cause or it will allow the lawyers to make intelligent use of what are known as peremptory challenges. And a peremptory challenge is simply a challenge to a juror that the law affords the parties that they can exercise in the striking of a juror without giving any reasons whatsoever.

So it's extremely important that the answers to the questions that you give be as complete and truthful as you can reasonably make them. Each of you is under an obligation to [10] disclose even upon a general question any and all matters which might tend to disqualify you for any reason from sitting as a juror in this case.

Now, the sweep of the questions may be very broad, but it is your affirmative duty to honestly and conscientiously answer the real import or implication of the questions that are being asked of you and to make your answers as full and as complete as you can possibly make them.

Any false or misleading answers could result in the seating of a juror who would have been discharged by the Court for cause or stricken through the exercise of these peremptory challenges that I described to you. And what could result is a miscarriage of justice, and I know that's the last thing any of you all want or anybody participating in this trial wants.

So please consider every question very carefully and don't wait until after you have been selected and

sworn as a juror to disclose something that ought to have been made known at the time the question was asked of you or when one question suggests another reason for disqualification.

Now, most of the questions that I'm going to ask of you will be asked to you as a group. There'll be some individual questions so we get to hear a little bit about you and how you present, and we'll get a little bit of biographical data on each of you individually. But by and large, most of the questioning is to you as a panel; and so this is not the time [11] to be bashful. So if you have information that is responsive to the question, we obviously can't read your mind. You have to raise your hand so that we can follow up with you and inquire about whatever the subject matter may be.

So with all those preliminaries out of the way, what I'm going to do is ask that you all stand up and raise your right hand, and Noel is going to swear you in.

(Prospective jurors sworn and collectively say, "I do.")

THE COURT: You may be seated. Noel is going to randomly select names. If your name is called, you can come forward; and Lenny will show -- there's a very specific order in which you have to be seated. So they'll help you identify the chair. With that, Noel, if you would, please, call 12 names.

DEPUTY CLERK: Annette Ball, Erica Lynn Tempco, Garrett Mensing, Lisa Schara, Courtney Michelle Losiniecki, Daniel Vandenburg, Jiori Orfanos, Alice Mueller, Kathy Bassetto, Christine Monanteras, Michael Atwood, Victoria Mariscal.

THE COURT: All right. Lenny is going to hand you the microphone. As I mentioned -- you can go ahead and give it to Ms. Ball.

So you need to speak up and speak into the microphone so everybody can hear you.

If you would, please state your full name, and tell us [12] what city or town you reside in, Ms. Ball.

PROSPECTIVE JUROR: My name is Annette Ball. I live in Hobart.

THE COURT: And how long have you lived over in Hobart?

PROSPECTIVE JUROR: Most of my life.

THE COURT: Do you work?

PROSPECTIVE JUROR: I do not.

THE COURT: Are you married?

PROSPECTIVE JUROR: Yes, I am.

THE COURT: Does your husband work?

PROSPECTIVE JUROR: Yes, he does.

THE COURT: Where does he work at?

PROSPECTIVE JUROR: Aim Nation Lease in South Holland.

THE COURT: What do they do? What is that?

PROSPECTIVE JUROR: It's a trucking company.

THE COURT: How is he employed there?

PROSPECTIVE JUROR: He's a diesel mechanic.

THE COURT: How long has he been there?

PROSPECTIVE JUROR: Almost a year.

THE COURT: Okay. What is the extent of your education?

PROSPECTIVE JUROR: High school.

THE COURT: Do you have children?

[13] **PROSPECTIVE JUROR:** I do not.

THE COURT: Do you own your own home in Hobart?

PROSPECTIVE JUROR: I do.

THE COURT: How long -- you said -- you have been there for how long?

PROSPECTIVE JUROR: In my home, I've been there 14 years.

THE COURT: Okay. Do you belong to any clubs or organizations?

PROSPECTIVE JUROR: No.

THE COURT: What kind of things do you like to watch on TV?

PROSPECTIVE JUROR: Home improvement shows, cooking shows.

THE COURT: Food Network, HGTV kind of thing?

PROSPECTIVE JUROR: Yeah, sure.

THE COURT: You ever serve on a jury before?

PROSPECTIVE JUROR: No, I have not.

THE COURT: Did you ever hear about this case or know anything about it at all?

PROSPECTIVE JUROR: No, I have not.

THE COURT: Have you formed or expressed an opinion about the merits of the case at all?

PROSPECTIVE JUROR: No, I have not.

THE COURT: Okay. Thank you, ma'am.

[14] **PROSPECTIVE JUROR:** Sure.

THE COURT: Let's talk to Ms. Tempco.

PROSPECTIVE JUROR: Yes.

THE COURT: Good morning.

PROSPECTIVE JUROR: Good morning.

THE COURT: What city or town do you reside in?

PROSPECTIVE JUROR: Chesterton.

THE COURT: How long have you lived out in Chesterton?

PROSPECTIVE JUROR: Seven years.

THE COURT: Where did you live before that?

PROSPECTIVE JUROR: Villa Park, Illinois.

THE COURT: What brought you over to Chesterton?

PROSPECTIVE JUROR: I was Illinoised [verbatim].

THE COURT: Yeah, that happens. I'm seeing a lot of that. You had had enough of it over there?

PROSPECTIVE JUROR: Yes.

THE COURT: Okay. Fair enough.

Do you work?

PROSPECTIVE JUROR: I do.

THE COURT: Where do you work at?

PROSPECTIVE JUROR: Massage Envy as an esthetician.

THE COURT: Can you move that a little bit away from you. We are getting feedback. So you're an esthetician?

PROSPECTIVE JUROR: Yes.

[15] **THE COURT:** Tell me what that is.

PROSPECTIVE JUROR: Skincare.

THE COURT: Got it. Are you married?

PROSPECTIVE JUROR: Yes.

THE COURT: Does your husband work?

PROSPECTIVE JUROR: Yes.

THE COURT: And where does he work at?

PROSPECTIVE JUROR: Bank of America.

THE COURT: What does he do there?

PROSPECTIVE JUROR: Systems analysis.

THE COURT: Sort of an IT person or more financial analysis?

PROSPECTIVE JUROR: Both.

THE COURT: Okay.

PROSPECTIVE JUROR: Yeah. Writes programs to support bankers.

THE COURT: Got it. Do you guys have children?

PROSPECTIVE JUROR: Yes.

THE COURT: How many kids do you have?

PROSPECTIVE JUROR: I have three.

THE COURT: Are these -- that is suggesting to me those are from some prior relationship?

PROSPECTIVE JUROR: My current marriage is one child.

THE COURT: Got it. Okay. How old are your kids?

PROSPECTIVE JUROR: 27, 21, and 9.

[16] **THE COURT:** Okay. What's the 27-year-old do?

PROSPECTIVE JUROR: Travels the world.

THE COURT: What's that mean?

PROSPECTIVE JUROR: She just travels the world. That's it. Just has fun.

THE COURT: Wow. Where do you sign up for that?

PROSPECTIVE JUROR: Right.

THE COURT: How about your 19-year-old?

PROSPECTIVE JUROR: She's 21.

THE COURT: I'm sorry, 21.

PROSPECTIVE JUROR: And a 9-year-old.

THE COURT: Yeah. Tell me what the 21-year-old does.

PROSPECTIVE JUROR: She has two children.

THE COURT: Okay. Is she married?

PROSPECTIVE JUROR: No.

THE COURT: Okay. What's the extent of your education?

PROSPECTIVE JUROR: Some college.

THE COURT: Were you working towards a particular area of interest in college?

PROSPECTIVE JUROR: Yes.

THE COURT: What was that?

PROSPECTIVE JUROR: Court reporting.

THE COURT: Okay. What do you like to do in your spare time?

[17] **PROSPECTIVE JUROR:** Listen to music, hang out with friends, read.

THE COURT: What kind of things are you interested in reading, and just sort of very generally?

PROSPECTIVE JUROR: Nothing important. Just fiction.

THE COURT: Okay. Did you ever hear about this case or know anything about it at all?

PROSPECTIVE JUROR: No.

THE COURT: Have you formed or expressed an opinion about the case?

PROSPECTIVE JUROR: No.

THE COURT: Okay. Thank you, ma'am.

PROSPECTIVE JUROR: You're welcome.

THE COURT: Let's talk to -- Mr. Mensing it is?

PROSPECTIVE JUROR: Yes.

THE COURT: Good morning, sir.

PROSPECTIVE JUROR: Good morning.

THE COURT: What city or town do you reside in?

PROSPECTIVE JUROR: Hobart.

THE COURT: How long have you lived in Hobart?

PROSPECTIVE JUROR: About three years.

THE COURT: Do you know Ms. Ball at all?

PROSPECTIVE JUROR: No.

THE COURT: Okay. Where did you live before Hobart?

PROSPECTIVE JUROR: Gary.

[18] **THE COURT:** Do you work, sir?

PROSPECTIVE JUROR: I do not.

THE COURT: When was the last time you worked outside the home?

PROSPECTIVE JUROR: About two months.

THE COURT: Two months ago?

PROSPECTIVE JUROR: Uh-huh.

THE COURT: What did you do?

PROSPECTIVE JUROR: I was working at a glass and tobacco shop in Indianapolis.

THE COURT: Okay. So you were driving down to Indianapolis?

PROSPECTIVE JUROR: Weekly, yeah.

THE COURT: Wow. Okay. Are you married?

PROSPECTIVE JUROR: No.

THE COURT: Have you ever been married?

PROSPECTIVE JUROR: No.

THE COURT: Do you have any children?

PROSPECTIVE JUROR: I do not.

THE COURT: What's the extent of your education?

PROSPECTIVE JUROR: High school.

THE COURT: Where did you go to high school at?

PROSPECTIVE JUROR: Morton Senior High School in Hammond.

THE COURT: In Hammond. Okay. Do you have family in [19] the area?

PROSPECTIVE JUROR: I do.

THE COURT: Mom and dad still alive?

PROSPECTIVE JUROR: Mom and dad and a brother.

THE COURT: What's your dad do for a living, or is he retired?

PROSPECTIVE JUROR: He's retired, and he works part time with my brother as a mechanic.

THE COURT: On cars or --

PROSPECTIVE JUROR: On equipment. My brother is a mason. He works for a masonry company, and my father works in the shop.

THE COURT: Okay. Do you own your own home, or do you rent?

PROSPECTIVE JUROR: I do not. I live with my parents currently.

THE COURT: You live with your folks. Okay. What do you like to do in your spare time?

PROSPECTIVE JUROR: Road trips, hiking, not a whole lot of TV; but if it's TV, it's mostly maybe news or cartoons.

THE COURT: Okay.

PROSPECTIVE JUROR: Nothing too crazy.

THE COURT: Did you ever hear about this case or know anything about it at all?

PROSPECTIVE JUROR: No.

[20] **THE COURT:** Have you formed an opinion about the merits of the case at all?

PROSPECTIVE JUROR: No.

THE COURT: Okay. Thank you, sir.

Let's talk to Ms. Schara, is it?

PROSPECTIVE JUROR: Schara.

THE COURT: Schara. Good morning. What city or town do you reside in?

PROSPECTIVE JUROR: I'm from Valparaiso.

THE COURT: How long have you lived out in Valpo?

PROSPECTIVE JUROR: Almost 10 years.

THE COURT: Are you married?

PROSPECTIVE JUROR: Yes.

THE COURT: Does your husband work?

PROSPECTIVE JUROR: Yes. He's in the Local 150, heavy equipment operator.

THE COURT: Operator's union.

PROSPECTIVE JUROR: Operator's union.

THE COURT: Yeah. And does he work at a particular location, or does he move jobs?

PROSPECTIVE JUROR: He moves jobs. He's been with the same company, though, for, like, 14 years.

THE COURT: What company does he work for?

PROSPECTIVE JUROR: Grimmer Construction.

THE COURT: Okay. Do you work, ma'am?

[21] **PROSPECTIVE JUROR:** Yes. I work at Wheeler High School in the cafeteria.

THE COURT: Okay. How long have you done that for?

PROSPECTIVE JUROR: At Wheeler High School I worked for about a year, little over a year; but before that, I was at the elementary school doing the same thing.

THE COURT: Okay. Do you have children?

PROSPECTIVE JUROR: Yes, three.

THE COURT: I'm sorry?

PROSPECTIVE JUROR: Three.

THE COURT: How old are your kids?

PROSPECTIVE JUROR: 16, 14, and 10.

THE COURT: What's the extent of your education, ma'am?

PROSPECTIVE JUROR: I have an associate's degree, and I was about three classes from a bachelor's degree in business administration.

THE COURT: Are you still pursuing that, or have you -- sort of with your kids --

PROSPECTIVE JUROR: No. No, yeah.

THE COURT: Okay. What do you like to do in your spare time?

PROSPECTIVE JUROR: Spend time with the family, watch TV.

THE COURT: What kind of things are you interested in [22] when you watch TV? Are you sort of a news junkie? Do you like --

PROSPECTIVE JUROR: I watch a lot of news, and I like the Hallmark channel.

THE COURT: Fair enough.

Did you ever hear about this case or know anything about it at all?

PROSPECTIVE JUROR: No.

THE COURT: Have you formed an opinion about the case at all?

PROSPECTIVE JUROR: No.

THE COURT: Okay. Thank you, ma'am.

Ms. -- can you help me out with that? Losiniecki?

PROSPECTIVE JUROR: Losiniecki.

THE COURT: Losiniecki. Where do you reside at, ma'am?

PROSPECTIVE JUROR: Valparaiso.

THE COURT: How long have you lived out in Valpo?

PROSPECTIVE JUROR: 18 years.

THE COURT: Do you work?

PROSPECTIVE JUROR: Yes.

THE COURT: Where?

PROSPECTIVE JUROR: Four Winds Casino.

THE COURT: What do you do at Four Winds?

PROSPECTIVE JUROR: Hotel housekeeping.

[23] **THE COURT:** How long have you worked there?

PROSPECTIVE JUROR: Six years.

THE COURT: Four Winds is over in New Buffalo?

PROSPECTIVE JUROR: New Buffalo, yeah.

THE COURT: You commute out there?

PROSPECTIVE JUROR: Uh-huh.

THE COURT: Are you married?

PROSPECTIVE JUROR: No.

THE COURT: Have you ever been married?

PROSPECTIVE JUROR: No.

THE COURT: Do you have any children?

PROSPECTIVE JUROR: No.

THE COURT: What's the extent of your education?

PROSPECTIVE JUROR: GED. Currently enrolled in college.

THE COURT: And where are you enrolled?

PROSPECTIVE JUROR: Ivy Tech.

THE COURT: Are you pursuing a particular discipline?

PROSPECTIVE JUROR: Associate's degree in accounting.

THE COURT: Accounting?

PROSPECTIVE JUROR: Yes.

THE COURT: Good. Like bookkeeping, accounting, et cetera?

PROSPECTIVE JUROR: Yes.

THE COURT: Great. Do you own your own home, or do [24] you live in an apartment?

PROSPECTIVE JUROR: I live with my parents.

THE COURT: You live with your folks.

And do you have siblings that live in the home with you?

PROSPECTIVE JUROR: Yes.

THE COURT: What's your dad do for a living?

PROSPECTIVE JUROR: He is a welder for a pipeline company.

THE COURT: Okay. What do you like to do in your spare time?

PROSPECTIVE JUROR: I like to do crafts like sewing and such.

THE COURT: Do you belong to any clubs or organizations?

PROSPECTIVE JUROR: No.

THE COURT: Did you ever hear about this case or know anything about it at all?

PROSPECTIVE JUROR: No.

THE COURT: Thank you, ma'am.

Mr. Vandenburg?

PROSPECTIVE JUROR: Yes, sir.

THE COURT: Good morning. What city or town do you reside in?

PROSPECTIVE JUROR: Schererville.

THE COURT: Do you work, sir?

[25] PROSPECTIVE JUROR: Yes.

THE COURT: Where do you work at?

PROSPECTIVE JUROR: I'm a locksmith with my civil job. I am also in the Air National Guard as security forces.

THE COURT: Great. Are you sort of trained as a locksmith? Do you have to go through some kind of training?

PROSPECTIVE JUROR: Yes, sir.

THE COURT: Is that like an apprentice program?

PROSPECTIVE JUROR: Basically, yes.

THE COURT: Who do you work for?

PROSPECTIVE JUROR: My father, Lockout Express. It's a family-owned business.

THE COURT: Okay. And are you and your dad the only two, sort of, locksmiths that work for them?

PROSPECTIVE JUROR: No.

THE COURT: How many do you guys have?

PROSPECTIVE JUROR: Six technicians and two secretaries.

THE COURT: Okay. And you mentioned you are also in the National Guard?

PROSPECTIVE JUROR: Yes, sir.

THE COURT: How long have you done that for?

PROSPECTIVE JUROR: About five years now.

THE COURT: Right out of high school?

PROSPECTIVE JUROR: Yes, sir.

[26] **THE COURT:** And tell me about that. Are you an Army --

PROSPECTIVE JUROR: Air Force, Air National Guard. Security forces.

THE COURT: What's that mean, security forces?

PROSPECTIVE JUROR: We basically act as patrolmen; law enforcement, military law enforcement, and entry controllers.

THE COURT: For, like, the Air Force Base down at Grissom, is that --

PROSPECTIVE JUROR: I'm actually out of Terre Haute with the 181st.

THE COURT: Okay. So do you go down there once a month for weekends?

PROSPECTIVE JUROR: Once a month. Normally the first weekend every month and then a two week AT, which is an annual training.

THE COURT: Sure. Okay. So when you work security, that's your principal job in the military?

PROSPECTIVE JUROR: Yes, sir.

THE COURT: Okay. Do you handle firearms in that regard?

PROSPECTIVE JUROR: Yes, sir.

THE COURT: You are armed at the gate?

PROSPECTIVE JUROR: Yes, sir.

[27] **THE COURT:** What do you like to do in your spare time?

PROSPECTIVE JUROR: I like to hike and spend time with my family.

THE COURT: Are you married, sir?

PROSPECTIVE JUROR: No, sir.

THE COURT: Do you have any children?

PROSPECTIVE JUROR: Yes, sir.

THE COURT: How many kids do you have?

PROSPECTIVE JUROR: I have one child, and he is a couple days over a month.

THE COURT: Oh, okay. What's the extent of your education beyond high school? This apprentice program, essentially, was that it?

PROSPECTIVE JUROR: It's mostly on-the-job training with the civilian locksmith job and then a couple of dual-credit courses with the military.

THE COURT: Okay. But no sort of --

PROSPECTIVE JUROR: No formal education.

THE COURT: -- official college?

PROSPECTIVE JUROR: No, sir.

THE COURT: Did you ever hear about this case or know anything about it at all?

PROSPECTIVE JUROR: No, sir.

THE COURT: Thank you, sir.

[28] **PROSPECTIVE JUROR:** Yes, sir.

THE COURT: You can give the mic here to Lenny. We are going to go back here and talk to Ms. Orfanos. Good morning, ma'am.

PROSPECTIVE JUROR: Good morning.

THE COURT: What city or town do you reside in?

PROSPECTIVE JUROR: Crown Point.

THE COURT: How long have you been down in Crown Point?

PROSPECTIVE JUROR: Grew up there, then left a little bit, then back again. So a year, maybe, I'll say this time.

THE COURT: All right. How long were you away for?

PROSPECTIVE JUROR: Four years.

THE COURT: Where were you during that interim?

PROSPECTIVE JUROR: San Francisco and then Massachusetts.

THE COURT: Okay. Are you employed?

PROSPECTIVE JUROR: Yeah.

THE COURT: Where do you work at?

PROSPECTIVE JUROR: I work for a private wellness practice out of Massachusetts.

THE COURT: Okay. So you telecommute, essentially?

PROSPECTIVE JUROR: Yes.

THE COURT: What in particular do you do there?

PROSPECTIVE JUROR: I'm a nurse.

[29] **THE COURT:** You are a what?

PROSPECTIVE JUROR: I'm a nurse. I know.

THE COURT: I'm really confused. You are a nurse for a private wealth company? That's interesting. Tell me about that.

PROSPECTIVE JUROR: Yeah. So our practice is -- we get people from all over the world, so we do over the phone a lot anyway. So when I moved, they just asked me to stay on; so I chat with my patients over the phone.

THE COURT: Okay. I was understanding your answer to the earlier question that you are in, like, investment management, private wealth management.

PROSPECTIVE JUROR: No, wellness.

THE COURT: Okay.

PROSPECTIVE JUROR: It's a medical practice.

THE COURT: That's why I had the surprised look on my face.

PROSPECTIVE JUROR: Yeah, yeah, yeah. No, no, no.

THE COURT: Okay. That's interesting. I never heard of such a thing.

PROSPECTIVE JUROR: I know. I'm probably the only one.

THE COURT: So are you an RN?

PROSPECTIVE JUROR: Yes. Bachelor's.

THE COURT: Where did you get your nursing degree [30] from?

PROSPECTIVE JUROR: IU.

THE COURT: Down in Bloomington?

PROSPECTIVE JUROR: Yeah.

THE COURT: Great. Are you married?

PROSPECTIVE JUROR: No.

THE COURT: Have you ever been married?

PROSPECTIVE JUROR: No.

THE COURT: Do you have any children?

PROSPECTIVE JUROR: No.

THE COURT: Do you own your own home down in Crown Point?

PROSPECTIVE JUROR: No.

THE COURT: Do you live on your own, or do you

--

PROSPECTIVE JUROR: I live with my parents; transitioning to Chicago.

THE COURT: Got it. So what prompted the move back to the Midwest?

PROSPECTIVE JUROR: I'm Greek; nieces and nephews, the family is big, traveling home all the time got old, so I'm back.

THE COURT: Great.

PROSPECTIVE JUROR: Yeah.

THE COURT: What do you like to do in your spare time?

[31] **PROSPECTIVE JUROR:** Music and dancing.

THE COURT: Okay. Did you ever hear about this case

or know anything about it at all?

PROSPECTIVE JUROR: Nope.

THE COURT: Okay. Thank you, ma'am.

PROSPECTIVE JUROR: Uh-huh.

THE COURT: Let's talk to Ms. Mueller.

PROSPECTIVE JUROR: Right. Alice Mueller, yes.

THE COURT: Good morning.

PROSPECTIVE JUROR: Good morning.

THE COURT: What city or town do you reside in?

PROSPECTIVE JUROR: Munster.

THE COURT: How long have you lived down in Munster?

PROSPECTIVE JUROR: About forty years.

THE COURT: Four?

PROSPECTIVE JUROR: Forty.

THE COURT: Oh, forty. I'm sorry. Do you work, ma'am?

PROSPECTIVE JUROR: I'm a substitute teacher.

THE COURT: And how long have you done that for?

PROSPECTIVE JUROR: Oh, 20 years.

THE COURT: Did you ever work, sort of, full time as an educator?

PROSPECTIVE JUROR: Yes, I did. Yeah.

THE COURT: Okay. Are you married?

[32] **PROSPECTIVE JUROR:** Yes.

THE COURT: Does your husband work?

PROSPECTIVE JUROR: Yes, he does.

THE COURT: What does he do?

PROSPECTIVE JUROR: He's a safety supervisor.

THE COURT: For who?

PROSPECTIVE JUROR: For One Oak. They are out of -- actually Oklahoma, but he works in Illinois; Morris, Illinois.

THE COURT: What do they do, One Oak? Is that what you said, One Oak?

PROSPECTIVE JUROR: He's a safety supervisor.

THE COURT: What does the company do? I've never heard of it.

PROSPECTIVE JUROR: It -- oh, my God. I'm sorry. I'm drawing a blank.

THE COURT: That's okay. Do you guys have children?

PROSPECTIVE JUROR: Yeah, three.

THE COURT: How old are your kids?

PROSPECTIVE JUROR: Oldest is 36, middle is 32, and youngest is 23.

THE COURT: Can you give me a little bit of a flavor for sort of what they are up to in life?

PROSPECTIVE JUROR: Yeah. My son, he's 23. He just got a job at United at Willis Tower in Chicago in aviation management. My middle daughter -- well, both my daughters were [33] teachers, but they both quit. And my middle daughter is -- she is actually -- she flips houses with her husband in Indianapolis now, and she's in real estate. And my oldest daughter, she's a manager of a trucking company.

THE COURT: Great. What's the extent of your education?

PROSPECTIVE JUROR: Bachelor's degree.

THE COURT: What do you like to do in your spare time?

PROSPECTIVE JUROR: Oh, like, walk -- walk and read, watch TV.

THE COURT: Did you ever hear about this case or know anything about it at all?

PROSPECTIVE JUROR: No.

THE COURT: Thank you, ma'am.

PROSPECTIVE JUROR: Sure.

THE COURT: Ms. Bassetto?

PROSPECTIVE JUROR: Yes.

THE COURT: What city or town do you reside in?

PROSPECTIVE JUROR: Munster.

THE COURT: How long have you lived in Munster?

PROSPECTIVE JUROR: Twenty-five years.

THE COURT: Do you work, ma'am?

PROSPECTIVE JUROR: Yes, I do.

THE COURT: Where do you work?

[34] **PROSPECTIVE JUROR:** I work at an elementary school in Flossmoor.

THE COURT: What do you do there?

PROSPECTIVE JUROR: Well, currently I'm a one-on-one aid.

THE COURT: And how long have you done that for?

PROSPECTIVE JUROR: Just one year.

THE COURT: What did you do before that?

PROSPECTIVE JUROR: I worked for NISEC in Indiana as a paraprofessional.

THE COURT: What's NISEC?

PROSPECTIVE JUROR: NISEC is a co-op for special ed.

THE COURT: Oh, sure. Okay. What's the extent of your education?

PROSPECTIVE JUROR: Bachelor's.

THE COURT: In what discipline?

PROSPECTIVE JUROR: Well, I have, like, two classes left for my master's in special ed.

THE COURT: Okay. Have you ever been a, kind of, full-time special ed teacher?

PROSPECTIVE JUROR: One year, yes.

THE COURT: Okay. Are you married?

PROSPECTIVE JUROR: Yes.

THE COURT: Does your husband work?

PROSPECTIVE JUROR: Yes, he does.

[35] **THE COURT:** Where does he work at?

PROSPECTIVE JUROR: He's self-employed. He has a carry-out business in catering.

THE COURT: Food business?

PROSPECTIVE JUROR: Yes.

THE COURT: And where is that out of?

PROSPECTIVE JUROR: Munster.

THE COURT: In Munster?

PROSPECTIVE JUROR: Uh-huh.

THE COURT: What's the name of it? Get a lot of free advertising here.

PROSPECTIVE JUROR: It's called Lee's at Avia.

THE COURT: Okay. Do you guys have children?

PROSPECTIVE JUROR: Yes.

THE COURT: How many kids do you have?

PROSPECTIVE JUROR: Three.

THE COURT: Tell me about them.

PROSPECTIVE JUROR: Okay. Both my daughters are speech pathologists, and my son is an optometrist.

THE COURT: Great.

PROSPECTIVE JUROR: Yeah.

THE COURT: Did you ever hear about this case, or do you know anything about it at all?

PROSPECTIVE JUROR: No.

THE COURT: Have you formed an opinion about the case [36] at all?

PROSPECTIVE JUROR: No.

THE COURT: Okay. Thank you, ma'am.

We'll talk to -- can you help me with that last name?

PROSPECTIVE JUROR: Monanteras.

THE COURT: Monanteras, is that right?

PROSPECTIVE JUROR: Yes. Greek.

THE COURT: Got it. You can pal around with Ms. Orfanos there.

What city or town do you reside in?

PROSPECTIVE JUROR: Valparaiso.

THE COURT: How long have you been out in Valpo?

PROSPECTIVE JUROR: Almost 40 years.

THE COURT: Do you work?

PROSPECTIVE JUROR: Yes.

THE COURT: Where do you work at?

PROSPECTIVE JUROR: CVS inside Target in Valparaiso. I'm a pharmacist.

THE COURT: Okay. How long have you been a pharmacist?

PROSPECTIVE JUROR: Almost 40 years. I graduated in 1979.

THE COURT: Can I ask where you went?

PROSPECTIVE JUROR: Purdue.

THE COURT: That was back when pharmacy was a [37] five-year program?

PROSPECTIVE JUROR: Five years, yes.

THE COURT: Now they are getting six and seven years out of them, right?

PROSPECTIVE JUROR: Correct.

THE COURT: Are you married?

PROSPECTIVE JUROR: No.

THE COURT: Have you ever been married?

PROSPECTIVE JUROR: No.

THE COURT: Do you have any children?

PROSPECTIVE JUROR: No.

THE COURT: Do you own your own home out in Valpo, or do you rent?

PROSPECTIVE JUROR: Yes, I do.

THE COURT: Okay. Do you have other family that's in the area?

PROSPECTIVE JUROR: Not any longer. My siblings have all moved away, and my father is deceased now. My mother died when I was 21 years old.

THE COURT: Got it. What do you like to do in your spare time?

PROSPECTIVE JUROR: I like to hike, tennis, pickle ball, mountain climb, and stain glass is my hobby.

THE COURT: Very cool. So kind of outdoorsy, I take it? It sounds like it.

[38] **PROSPECTIVE JUROR:** Yes. I climbed mountains on all seven continents when I was in my 30s.

THE COURT: Oh, that's cool.

PROSPECTIVE JUROR: Yes. Where in Africa did you do that?

THE COURT: Did you do Mount Kilimanjaro?

PROSPECTIVE JUROR: Yeah, Kilimanjaro. That's just a hike. That's really not climbing.

THE COURT: Right. How strenuous was that?

PROSPECTIVE JUROR: Extremely strenuous -- it's the altitude issues that are difficult. I trained -- they would always ask me, where does a girl from Indiana train to climb mountains? And I would go to the Dunes and put I would put 100 pounds of sand on my back and go up and down Mount Baldy.

THE COURT: Wow. I'm not going to mess with you. That's impressive.

Did you ever hear about this case or you know anything about it at all?

PROSPECTIVE JUROR: No, Your Honor.

THE COURT: Okay. Have you formed an opinion about the case at all?

PROSPECTIVE JUROR: No.

THE COURT: Thank you so much.

PROSPECTIVE JUROR: Thank you.

THE COURT: Mr. Chopra --

[39] **PROSPECTIVE JUROR:** No.

THE COURT: Did I miss somebody here? I'm sorry. Mr. Atwood, I apologize.

PROSPECTIVE JUROR: Right. Right.

THE COURT: Where do you reside at?

PROSPECTIVE JUROR: Lowell.

THE COURT: How long have you lived down in Lowell?

PROSPECTIVE JUROR: Twelve years.

THE COURT: Are you employed?

PROSPECTIVE JUROR: Yes.

THE COURT: And in what capacity?

PROSPECTIVE JUROR: I work full time at Panduit in Tinley Park. They make network solutions. And then I work part time at an elementary school in Lynwood.

THE COURT: And what do you do at each of those locations?

PROSPECTIVE JUROR: IT. I work in IT.

THE COURT: Okay. What's your schedule, generally? How does that work where you work at the school plus work at the other place?

PROSPECTIVE JUROR: I work -- usually in the mornings I work at Panduit and then in the evenings I go over to the school.

THE COURT: What's the extent of your education?

PROSPECTIVE JUROR: College, certifications.

[40] **THE COURT:** Okay. Where did you go to school?

PROSPECTIVE JUROR: Prairie State.

THE COURT: Are you married?

PROSPECTIVE JUROR: Yes.

THE COURT: Does your wife work?

PROSPECTIVE JUROR: Yes.

THE COURT: And where does she work at?

PROSPECTIVE JUROR: She works at Advocate Health, and she's a billing analyst.

THE COURT: Okay. Do you guys have children?

PROSPECTIVE JUROR: No.

THE COURT: What do you like to do in your spare time?

PROSPECTIVE JUROR: Usually movies or some racing, car racing.

THE COURT: Okay. You personally do the car racing, or do you like to go?

PROSPECTIVE JUROR: I'm a spectator. Can't afford to be --

THE COURT: NASCAR person?

PROSPECTIVE JUROR: More Indy cars, Formula, drag racing.

THE COURT: Great. Okay. Did you ever hear about this case or know anything about it at all?

PROSPECTIVE JUROR: No.

[41] **THE COURT:** Have you formed an opinion about the case at all?

PROSPECTIVE JUROR: No.

THE COURT: Okay. Thank you, sir.

All right. Ms. Mariscal? Good morning.

PROSPECTIVE JUROR: Good morning.

THE COURT: What city or town do you reside in?

PROSPECTIVE JUROR: Schererville.

THE COURT: How long have you lived over in Schererville?

PROSPECTIVE JUROR: Probably around 21 years.

THE COURT: Are you married?

PROSPECTIVE JUROR: Yes.

THE COURT: Does your husband work?

PROSPECTIVE JUROR: Yes.

THE COURT: Where does he work?

PROSPECTIVE JUROR: He is a letter carrier in South Holland.

THE COURT: He's with the postal service. How long has he been with the postal service?

PROSPECTIVE JUROR: Going on 38 years.

THE COURT: Are you employed?

PROSPECTIVE JUROR: Not currently.

THE COURT: Okay. When was the last time you worked outside the home?

[42] **PROSPECTIVE JUROR:** May 2nd years ago.

THE COURT: In what capacity?

PROSPECTIVE JUROR: I'm a phlebotomist.

THE COURT: Okay. So you work in a hospital lab?

PROSPECTIVE JUROR: Right. Draw blood.

THE COURT: Drawing blood. Got it. If I may ask, where did you work last at?

PROSPECTIVE JUROR: St. Mary's in Hobart.

THE COURT: So how did that come to an end?

PROSPECTIVE JUROR: They got a new boss, and he started laying off a lot of the lab that had a lot of seniority. I think kind of all about the budget.

THE COURT: Trying to save money? Sounds that way.

PROSPECTIVE JUROR: Right.

THE COURT: Do you guys have children?

PROSPECTIVE JUROR: Yes.

THE COURT: How many kids do you have?

PROSPECTIVE JUROR: Three.

THE COURT: How old are your kids?

PROSPECTIVE JUROR: The oldest one is 42, the next one is 37, and then my son is 35.

THE COURT: Can you tell me what -- give me a little sense for what they are up to in life?

PROSPECTIVE JUROR: My son is a chef. He runs like 10 different restaurants. My next daughter does nails at a [43] health spa in Schererville, and my oldest one is a special ed teacher also in Schererville.

THE COURT: Okay. What do you like to do in your spare time?

PROSPECTIVE JUROR: I go on mission trips and work -- I just came back from 10 days in Haiti.

THE COURT: Oh, wonderful. Are you -- is that through some church?

PROSPECTIVE JUROR: Yes.

THE COURT: What church are you actively involved in?

PROSPECTIVE JUROR: I went to Haiti with my own church, which is in Hammond.

THE COURT: Okay.

PROSPECTIVE JUROR: But I usually go to the Katrina area and work with a church from Illinois.

THE COURT: When you say "the Katrina area" you mean --

PROSPECTIVE JUROR: Louisiana.

THE COURT: Where the catastrophe was?

PROSPECTIVE JUROR: Yes.

THE COURT: So they're still doing mission trips for the Katrina --

PROSPECTIVE JUROR: Yes, but most of the ones I do now are through the church that we've worked through since Katrina happened. And the preacher there kind of knows who [44] still needs help; so it's not, like, really Katrina work so say, but it's the people that still have things that need to be done.

THE COURT: Understood. Wow. Wonderful.

Did you ever hear about this case or know anything about it at all?

PROSPECTIVE JUROR: No.

THE COURT: Thank you, ma'am.

You could pass the microphone back down to Lenny here.

All right. Remember I told you earlier that I'm going to have a whole series of questions for you collectively, and this is now the time where you can't be bashful. If you have information to share, just raise your hand.

I'm going to ask everybody who is sitting in the audience section of the courtroom to make a mental note of these questions that I'm about to ask, because if you are called upon to replace any of these people -- I may go through this litany one more time, but I'm not apt to do it any more than that. So just kind of make a mental checklist of the things that, oh, I better

raise that with the judge or the parties, if you are brought into the box, okay.

The trial of this case is going to take somewhere between two and three weeks, and there's going to be many, many witnesses that will be called. And in any jury trial, evidence is introduced in a piecemeal fashion. Obviously, it doesn't [45] just appear before you in one fell swoop. It occurs over several days, several witnesses, several pieces of evidence.

Here is the question: Can all of you agree to keep an open mind until you have heard all of the evidence that can be introduced in the trial and you've heard the rules of law that apply to the case? Is there anybody who is unable or unwilling to do that?

(No response.)

THE COURT: Now, during your deliberations, you are going to be required to listen to and to consider the opinions of your fellow jurors and perhaps reassess your own opinions about what the appropriate verdict should be. But your vote, ultimately, has to be based on your own good-faith opinion on what the proper result should be and not merely just to reach a verdict. In other words, you can't just vote to go along with the crowd because you want to get out of here. Does anybody take any issue with that concept?

(No response.)

THE COURT: Has anyone talked with any of you about this case or discussed the case in your presence other than what we've briefly talked about here in court?

(No response.)

THE COURT: Have any of you formed or expressed an opinion about the merits of the case? I already asked most of you that question.

[46] (No response.)

THE COURT: Are any of you familiar with the particular facts of this case?

(No response.)

THE COURT: Do any of you know the defendants in this case, Mr. Nieto or Mr. Vallodolid? Do any of you know either of those gentlemen?

(No response.)

THE COURT: Do any of you know any of the lawyers that were introduced to you or the case agent that's working on the case, Mr. Gootee? Do any of you know any of those people, associate with them, neighbors, acquaintances in any way?

(No response.)

THE COURT: Is there anyone here who cannot read, write, or speak the English language?

(No response.)

THE COURT: Is there anyone who cannot hear or see well?

(No response.)

THE COURT: Is there anyone here who has any health problem that's going to interfere with your ability to serve as a juror?

(No response.)

THE COURT: Is there any juror who is going to be unduly burdened with financial, business, family, or medical [47] problems if the trial of this case

requires, as I mentioned, somewhere between two and three weeks?

Let's follow up with Ms. Orfanos first.

PROSPECTIVE JUROR: So I work hourly, and I'm not -- I would not get paid for not being at work. I would just be not paid for that time because I'm less than part time, so if I was off that time, it would just be not good.

THE COURT: Yeah, I appreciate that. What I want you to understand, and everybody to understand, is that I fully recognize that serving on a jury is a hardship. There's no question about that. We ask a lot of jurors. But on the other hand, it's your civic responsibility to serve on a jury.

There's very few things that are asked of citizens; pay your taxes, maybe once or twice in a lifetime serve on a jury. And so I want to just say that at the outset so that everybody understands that things like, gee, I'm going to miss a lot of work, or my boss might be angry with me, that doesn't cut it. I'm not saying I'm not going to dismiss you, but I just want to -

PROSPECTIVE JUROR: Yeah, I wasn't trying to be -

THE COURT: I just want everybody to understand how I view the importance of this undertaking.

So you're an hourly employee and part time, is that what you are telling me, Ms. Orfanos?

PROSPECTIVE JUROR: Yeah, just that I wouldn't be [48] paid for that time that I was gone.

THE COURT: I understand that. Okay. Thank you.

PROSPECTIVE JUROR: Yep.

THE COURT: I think Mr. Atwood had his hand up as well.

PROSPECTIVE JUROR: I don't know if this falls underneath that same question, and you might be getting to it later, but I apologize.

THE COURT: No, no, no, that's fine.

PROSPECTIVE JUROR: Next week I have a business trip, and then I'm back for four days and then I will have another business trip.

THE COURT: When is your business trip next week?

PROSPECTIVE JUROR: Sunday night -- well, actually, I'm flying out Sunday morning for all of next week.

THE COURT: Got it. Can you tell me what the nature of that is?

PROSPECTIVE JUROR: We are a global company, so we actually have a business in Folsom, California. So I have to actually fly out there and support the company with IT.

THE COURT: And have you prepurchased tickets for that travel?

PROSPECTIVE JUROR: They already prepurchased my tickets, yes.

THE COURT: Okay.

[49] **PROSPECTIVE JUROR:** And the hotel and the rental car?

THE COURT: Okay. Thank you, sir.

PROSPECTIVE JUROR: Okay.

THE COURT: Okay. Have any of you ever -

Yes. I'm sorry, ma'am. Tell me what your name is again.

PROSPECTIVE JUROR: Lisa Schara.

THE COURT: Ms. Schara, I'm sorry.

PROSPECTIVE JUROR: I have my kids at home, and -- well, my older ones aren't as much of the problem, but my 10-year-old, I need to -- I need to get her on the bus. This morning was hard enough trying to find someone to get her on the bus, and even if it lasts for three weeks, she's -- they're out of school, but then my one son starts summer school and there's no way for them -- you know what I'm saying? I have to drive them -- him, and I'm sorry. Not sure.

THE COURT: What time does your younger one get on the bus?

PROSPECTIVE JUROR: Eight o'clock.

THE COURT: You live out in Valpo you said?

PROSPECTIVE JUROR: Uh-huh.

THE COURT: Okay. Not to be too difficult about it; but if you got really, really sick, what would you do?

PROSPECTIVE JUROR: I would probably call my in-laws.

THE COURT: Do they live local here?

PROSPECTIVE JUROR: They live about 25 minutes away [50] from my house.

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

Ms. -- did somebody else have --

PROSPECTIVE JUROR: Losiniecki.

THE COURT: Losiniecki. Thank you.

PROSPECTIVE JUROR: I'm of the Islamic faith, and Ramadan starts within the next few days. So I will have to be fasting and praying at certain times of the day.

THE COURT: Okay. And that's -- obviously you have to fast from sun up to sun down?

PROSPECTIVE JUROR: Dust to dawn.

THE COURT: Is that correct?

PROSPECTIVE JUROR: Yes.

THE COURT: And, boy, I hate to get too personal about this, but your prayer obligations, can you tell me -- 'cause I'm unfamiliar with that -- how does that work?

PROSPECTIVE JUROR: You pray five times a day. The time will change throughout each -- each day the time will be different.

THE COURT: As --

PROSPECTIVE JUROR: Yes, there is a morning prayer, two afternoon prayers, an evening prayer.

THE COURT: Okay. Thank you, ma'am.

Okay. Have any of you ever served on a jury before? No prior jury? State court, federal court, grand jury, [51] trial jury? Nothing?

PROSPECTIVE JUROR: (Garrett Mensing) I've been called through the county but never served.

THE COURT: I appreciate that comment, but I'm actually talking serving on the jury?

(No response.)

THE COURT: Do any of you have any family -- member of your family or anything sort of going on in your life at home that's going to prevent you from having your full attention on the matters here?

We talked to Ms. Schara about that type of thing. Does anybody else fall into that kind of category dealing with a sick child or an aged parent or anything like that?

Yeah, Ms. Monanteras -- no, I keep getting my notes -- Ms. Bassetto. I'm sorry.

PROSPECTIVE JUROR: My mom's 92. So I'm kind of the one that goes there whenever she has any kind of issues, and she's always got something going on. That's the only thing.

THE COURT: Is she in a home now, or does she live on her own?

PROSPECTIVE JUROR: No, she lives by herself.

THE COURT: She still lives on her own?

PROSPECTIVE JUROR: Uh-huh.

THE COURT: Wow, good for her.

PROSPECTIVE JUROR: Yeah.

[52] **THE COURT:** Thank you, ma'am.

Do any of you have any members of your family that have special legal training, lawyers, in your immediate family or close to you? Yeah, Mr. Vandenburg.

PROSPECTIVE JUROR: My father was a law enforcement officer for 23 years, and I believe 14 of those years he was a detective.

THE COURT: Okay. That's getting a little ahead of me on my list, but let's just talk about that now. I was speaking about lawyers, but law enforcement --

PROSPECTIVE JUROR: I apologize.

THE COURT: Where was your dad in law enforcement?

PROSPECTIVE JUROR: Schererville P.D.

THE COURT: Is he retired now?

PROSPECTIVE JUROR: Yes.

THE COURT: So this locksmith business is kind of a second career for him?

PROSPECTIVE JUROR: Yes. He had started it while he was on the police department, and it has just continued from there.

THE COURT: And what rank did he rise to before he retired?

PROSPECTIVE JUROR: He was deputy chief of police.

THE COURT: Okay. Now, do you understand that [53] throughout the trial you are not going to be able to -- I assume you will see your dad, but you can't talk to him or ask him questions about what's going on here in court. You have to keep these matters to yourself. Do you understand that?

PROSPECTIVE JUROR: Yes, sir.

THE COURT: In fact, you're going to be instructed you can't talk to anybody about the case;

and, in fact, you can't even talk to one another about the case until it's finally been submitted to you. Do you think you will be able to adhere to that instruction?

PROSPECTIVE JUROR: Yes, sir.

THE COURT: Okay. Is there anything about the fact that your dad is a retired law enforcement officer that's going to in any way prevent you from being fair and impartial in this case?

PROSPECTIVE JUROR: No, sir.

THE COURT: Do any of you know of any reason why you would be bias or prejudice for or against the government or for or against the defendants simply because of the nature of this particular case?

(No response.)

THE COURT: There's a lengthy witness list. I'm going to read to you the names of the potential witnesses in this case, and I want you to listen very closely. If you know any of these people or recognize the names or associate with [54] them at all or are neighbors, or anything, we'll follow up with you. So just listen closely.

And, again, I'm going to ask everybody out in the audience section to also listen very closely to see if you know any of these names.

Chris Gootee, who you've been introduced to; Jose Sanchez; Jeff Miller; Raymond Finley; Jason Schafbuch; Jason Quick; Sean Ford; Eric Wesley; Felipe Hernandez; Carlos Hernandez; Fernando Romero; Luis Romero; Mark Detterline; Ryan Orr; Myron Retske, Rob Vaught; Jay Cruz; Josh Roberts; Keith Manuel; Raphael Cancel; Francisco Vino Gamez; Jason Brown; Marquis Medellin; Juan

Alcaraz; Claudio Martinez; Deena Renteria; Mitra Kalelkar; Timothy Diaz; Scott Musgrove; Jason Fisher; Christopher Kinney; Arturo Lizardi; Anthony Martinez; Mary Hensley; Emmanuel Figueroa; Richard Scott; Michael Barnes; Mark Cherry; James Landrum; John Joseph Castillo; Efren Delangel; Monica Nieto; Aldon Perez; Adam Pohl; Lourdes Mejias; Jason Gore; Kevin Holland; Francisco Carrillo; Alexander Vargas; Adam Willis; Chauncey Morris; Corporal Warren Fryer; DEA Legal Counsel Daniel Mahoney; Francisco Gamez; Officers Ramirez and Schmidt of the Hammond Police Department; Juan de la Cruz; Kelly Roberts; Lieutenant Ralph Bogie of the Hammond Police Department; Marisa Quiroga; Officer Campos of the Hammond Police Department; Paul Camarena; [55] Richard Castro; Ron Winters; Special Agent Kevin Whitaker; Rick Schauer; Johnnie Tsui, T-S-U-I; and Joseph Chico. That's the universe of potential witnesses. It's very unlikely that all of those people will be called, but we like to give you the potential universe of witnesses so that we can inquire about whether you know any of those people, have associated with them, friends with them, neighbors, anything like that. Do any of those names ring a bell?

(No response.)

THE COURT: Now, there may be -- in fact, as you heard, there likely will be law enforcement agents who are going to testify in the case, whether they be local law enforcement or federal agents. Would any of you have any difficulty giving or treating the testimony of a law enforcement officer in the same weight -- or give that testimony the same consideration that you would

give the testimony of any other witness? Anybody have any difficulty doing that?

(No response.)

THE COURT: Now, we talked already to Mr. Vandenburg a little bit about this, but do any of you have any law enforcement officers that are in your immediate family or really close friends? Anybody? No?

(No response.)

THE COURT: Have any of you had anyone that's close [56] to you, either in your immediate family or, again, a close friend, who has had difficulties with the law? Okay. Why don't we start down here with Mr. Mensing.

PROSPECTIVE JUROR: My oldest brother.

THE COURT: He had some run-ins with the law?

PROSPECTIVE JUROR: When he was 19, yeah, he had a run-in with -- he was stealing cars and transporting them over state lines, so the FBI showed up at our house.

THE COURT: Was he charged federally with that interstate transportation of stolen vehicles?

PROSPECTIVE JUROR: He was, uh-huh.

THE COURT: Was he prosecuted in this federal building or Illinois?

PROSPECTIVE JUROR: It was Illinois; Chicago.

THE COURT: Did he go to trial, or what happened to the case?

PROSPECTIVE JUROR: I don't know the full details. I was younger. I was kind of somewhat shielded from it, but I know he was charged with a felony.

THE COURT: Have you ever talked to your brother about it?

PROSPECTIVE JUROR: Not in great detail, no.

THE COURT: Okay. Is there anything about that fact that you think is going to prevent you from being fair and impartial in this case one way or the other?

[57] **PROSPECTIVE JUROR:** No.

THE COURT: Do you have any reason to believe -- or do you believe that your brother was somehow treated unfairly in the process?

PROSPECTIVE JUROR: Not that I believe, no.

THE COURT: Okay. Anything else, sir?

PROSPECTIVE JUROR: Uh-uh.

THE COURT: Okay. If you don't mind handing the microphone, I saw -- Ms. Bassetto had her hand up, so, ma'am.

PROSPECTIVE JUROR: My niece, but she lives in Florida.

THE COURT: Can you give me a little flavor of what kind of problems she had?

PROSPECTIVE JUROR: She had a lot of issues with drugs.

THE COURT: Okay. And has she been sort of in and out of the system, rehab, that sort of thing?

PROSPECTIVE JUROR: Yes, and she eventually died from an overdose.

THE COURT: Oh, I'm so sorry. Is this one of your siblings' children.

PROSPECTIVE JUROR: It is my sister's daughter.

THE COURT: Very difficult thing for a family to go through.

PROSPECTIVE JUROR: Right.

[58] **THE COURT:** Is there anything about that fact, as difficult as it is, of course, to deal with, but is there anything about it that's going to prevent you from being fair and impartial in this case?

PROSPECTIVE JUROR: I don't think so, no.

THE COURT: Thank you, ma'am.

PROSPECTIVE JUROR: You're welcome.

THE COURT: Now, this case is being prosecuted by the United States Attorney's Office for the Northern District of Indiana as well as one of the gentlemen, Mr. Cooley, is from the Department of Justice. The United States Attorney in this district is a man named Tom Kirsch. Have any of you had any prior dealings with the United States Attorney's Office or the federal government in general that's going to in some way prevent you from being fair and impartial in this case?

(No response.)

THE COURT: If you are selected to sit as a juror in this case, you are going to be required to set aside any feelings of passion or prejudice and decide this case solely based on the evidence that's presented in

this courtroom and on the law as I give it to you, disregarding any idea or notion on what you think the law should be. In other words -- that's a bad way of putting it. Let me say it this way. I'm going to instruct you on what the rules of law are that apply to the case. Your obligation [59] as a juror is to decide what the facts are and then to take those facts and apply them to the rules of law as I give them to you. And you have to follow the law even if you personally disagree with it.

Does anybody take issue with that concept or have any difficulty doing that?

(No response.)

THE COURT: Is there anything about the criminal charges at issue in this case dealing with a conspiracy to engage in racketeering, conspiracy to distribute large quantities of cocaine and marijuana, is there anything about just the charges themselves that would make you prejudice against someone who is merely accused of having engaged in those activities?

(No response.)

THE COURT: There are some fundamental propositions that I want to talk about and get your views on. There are some bedrock principles of criminal jurisprudence. One is that the defendants are presumed innocent, and that presumption stays with them throughout this trial, and it continues during your deliberation. And it can only be overcome if the government proves its case beyond a reasonable doubt. Very important fundamental principles. The defendants are presumed innocent and their guilt has to be proven beyond a reasonable doubt. Does anybody

take any issue with those fundamental [60] propositions?

(No response.)

THE COURT: If you're selected as a juror in this case, you are going to be required to set aside any feelings of passion or prejudice and decide this case, again, solely based on the evidence that's presented in this courtroom and on the law as I give it to you. Are any of you unable or unwilling to do those things?

(No response.)

THE COURT: Now, there may be evidence in this case of a rap video, rap music. Do any of you feel strongly about that genre of music that would in any way prevent you from being fair and impartial in this case?

(No response.)

THE COURT: Now, there may be some witnesses who testify -- I'm not certain on this, but there may be some witnesses who testify who are not lawfully in the United States, they're here illegally. And are there any of you that are going to have difficulty evaluating the credibility of such a witness just based on that fact, or will that so cloud your judgment as to not make it easy for you to fully evaluate their credibility? Does anybody fall into that category?

(No response.)

THE COURT: One of the things that's important is, obviously, that you hear everything that's in the courtroom. [61] So if at any time something is going on in the courtroom and you can't hear what's going on, will all of you agree to raise your hand and let me

know, Judge, I can't hear or I can't see what's being displayed. Is everybody willing to do that?

(Collectively nod heads affirmatively.)

THE COURT: Let me ask you one last general question. It is important because it is sort of almost metaphysical, so here is what I want you to ask yourself: If you were the Assistant U.S. Attorneys charged with the important responsibility of prosecuting this case or if you were the defendants who are charged in this case, would you be content to have somebody who is in your frame of mind try this case? Is there anybody who is not?

(No response.)

THE COURT: Counsel, approach the bench.

(Bench conference.)

THE COURT: Mr. Nozick, do you have any follow-up questions you want me to ask?

MR. NOZICK: I do, Judge. I had filed under Document 1451 some proposed selection questions.

THE COURT: I did not get that.

MR. VANZANT: I don't think I saw those either.

MR. NOZICK: It was filed -- it was Document No. 1451. Filed on --

THE COURT: Can you just give me that --

[62] **MR. NOZICK:** Of course.

THE COURT: -- and I will take a look at it?

MR. NOZICK: Of course.

There's one or two that you did hit sort of on your own, how do you feel about cops. But there's some crucial ones about, you know, who watches shows like

crime scene, CSI, do you expect that? We are going to hear from an informant. Does anyone, sort of, have any problem about informants?

THE COURT: All right.

MR. NOZICK: Cooperating defendants is the important one. You are going to have people cooperating. That's sort of the key one.

THE COURT: Sure. Okay.

Anything else in particular relating to any of these?

MR. NOZICK: Juror No. 4, the one who has to observe -- or observes Ramadan had checked the box - - do you have religious or moral issues to prevent -- she checked yes on that.

THE COURT: This is Ms. Losiniecki --

MR. NOZICK: Yeah.

THE COURT: -- in Seat No. 5. My intention is to dismiss her. I cannot see how we can accommodate her religious practice with the conduct of the trial.

Does anybody disagree with me on that?

MR. ROGERS: No.

[63] **MR. BEDI:** I disagree with that. I mean, it's a set schedule. She has as much of a right to serve on a jury as anybody else.

THE COURT: I'll follow up with her.

MR. VANZANT: It usually only takes about 10 minutes.

THE COURT: Is that it? Okay.

MR. BEDI: If she knows, there's a chart she can print out. She can -- Your Honor can easily accommodate the schedule.

THE COURT: Okay. Fair enough. I thought everybody would be in agreement, but I don't take issue with that.

MR. NOZICK: So follow up?

THE COURT: Yeah. I will bring her up to the bench just to make sure that I'm comfortable that she's comfortable that we can accommodate her religious practice, so that's fine.

MR. NOZICK: But in addition to that, let's ask her why she checked yes for does she have any religious --

THE COURT: Sure. Yeah. Okay.

Mr. Vanzant?

MR. VANZANT: We have a couple of specific follow-ups, Your Honor.

THE COURT: Sure.

MR. VANZANT: And I would like the Court to ask -- or we can ask, however you want to do it -- the more open-ended questions that I submitted to the Court.

[64] **THE COURT:** I asked many of them in different ways, but -- so --

MR. VANZANT: I understand, Your Honor.

THE COURT: Tell me your specific ones you want me to follow up on.

MR. VANZANT: Okay. So Mr. Mensing, No. 3.

THE COURT: Yeah.

MR. VANZANT: He marked a lawsuit on his questionnaire. We would like to know more about that.

THE COURT: Okay.

MR. VANZANT: Ms. Mueller. It's --

THE COURT: I can't hear you. I can't hear you.

MR. VANZANT: I'm sorry. Ms. Mueller, on her questionnaire, she marked that she thinks defendants are guilty before they even go to trial.

THE COURT: Okay.

MR. BEDI: She actually said she served on a jury; and when you asked if anybody served on a jury, she -
-

THE COURT: Okay. I'll follow up with her.

MR. ROGERS: With a guilty verdict rendered.

THE COURT: Okay.

MR. VANZANT: That's all the specific ones, Your Honor.

The issue with the more general questions and more open-ended is for people like Ms. Mueller. They're not apt to [65] speak up when the questions are simply do you think you can be fair or something like that, so that's why I'm asking for individual follow up to explain their feelings on those questions.

THE COURT: What particular ones are you saying I didn't cover?

MR. VANZANT: I know you covered several of them, Your Honor. What I'm more interested in is I want them to specifically talk about their attitudes towards these principles, not just do you think you can follow it. Particularly Ms. Mueller, she kept her mouth

shut when you asked her about jury service, and we know she did.

THE COURT: If I did that with every juror, we wouldn't get the jury selected in a week.

MR. VANZANT: I certainly understand that.

THE COURT: I'll ask in particular with Ms. Mueller, but I'm not going to go any further than that.

MR. VANZANT: Understood, Your Honor.

MR. BEDI: Judge, I just have one other. When you were doing the venire questions, I didn't know if you asked if the defendant doesn't testify if they're going to hold that against them.

THE COURT: Yeah, I purposely don't ask that unless you guys ask me to ask that, so I'm happy to ask that.

MR. BEDI: We'd request it, please, Your Honor.

[66] **THE COURT:** Okay. Yeah, for sure.

MR. BEDI: Daniel Vandenburg, I know I'm not pronouncing his last name right, the guy who is in the Air National Guard. He talked about how he was security, and I would just like to know if that's a security guard at the door, does he have arrest powers, does he work with law enforcement.

MR. ROGERS: He said he was in a law enforcement capacity.

MR. NOZICK: I think he said more training.

THE COURT: I get the distinct impression that he's, essentially, a security guard at the front gate, but I'll follow up.

MR. BEDI: I think we are on the same page.

THE COURT: Fair enough.

MR. ROGERS: Judge, can you talk about the presumption of innocence, if someone would give each defendant presumption of innocence.

THE COURT: I thought I did that. I said repeatedly that these --

MR. NOZICK: (Indiscernible.)

THE REPORTER: Mr. Nozick, I can't hear you. I'm sorry. Can you please speak into the microphone.

MR. NOZICK: Sorry.

MR. ROGERS: I must have missed that.

THE COURT: I thought I very clearly asked that.

[67] **MR. NOZICK:** Okay.

MR. ROGERS: Okay.

THE COURT: Let me ask these follow-up questions.

MR. BEDI: Thank you, Judge.

(End of bench conference.)

THE COURT: I have some follow-up questions based on my discussion with the lawyers in the case.

I'm going to start with you, Mr. Mensing. You had mentioned in your juror questionnaire that you had filed a lawsuit, I guess, against General Motors, is that right?

PROSPECTIVE JUROR: Correct.

THE COURT: Why don't you tell me a little about that.

PROSPECTIVE JUROR: It was 2014, 2013. I am in a nondisclosure agreement at the conclusion.

Beyond that -- I suffered an injury from a new car, and then I proceeded to seek damages for the injury.

THE COURT: Were you in an accident in a General Motors car?

PROSPECTIVE JUROR: No --

THE COURT: Put a little meat on the bone for me. I can order you to violate the nondisclosure for purposes of litigation.

PROSPECTIVE JUROR: That's fine. The radiator

coolant came into the cabin and burned my leg.

[68] **THE COURT:** Oh, wow. Okay. And as a result of that, you filed a products liability lawsuit against General Motors?

PROSPECTIVE JUROR: Essentially, yeah.

THE COURT: Okay. Did that lawsuit go to trial, or did it settle?

PROSPECTIVE JUROR: It did not. It settled.

THE COURT: And you don't need to tell us the amount,

but you arrived at a settlement agreement with General Motors?

PROSPECTIVE JUROR: Correct.

THE COURT: Okay. Was there anything about that process that in any way would affect your ability to be fair and impartial in this case?

PROSPECTIVE JUROR: No.

THE COURT: Did you feel like you were treated fairly by the system?

PROSPECTIVE JUROR: Uh-huh.

THE COURT: Yes.

PROSPECTIVE JUROR: Yeah. Yes.

THE COURT: Okay. All right. I'm going to talk with Ms. Mueller now.

Okay. Right behind you.

I had asked whether any of you had ever served on a jury before; and nobody, I think, raised their hand. But I did notice on the questionnaire that you did say that you, in fact, did serve on a jury back in 2005, is that right?

[69] **PROSPECTIVE JUROR:** Right. Yeah, right.

THE COURT: Where was that jury service at?

PROSPECTIVE JUROR: It was in Crown Point.

THE COURT: Was it a criminal case or a civil case?

PROSPECTIVE JUROR: Criminal.

THE COURT: What was the nature of the case?

PROSPECTIVE JUROR: A murder. Murder.

THE COURT: Did you find the defendant guilty or not guilty?

PROSPECTIVE JUROR: Guilty.

THE COURT: Were you the foreperson in the case?

PROSPECTIVE JUROR: Was I a what? I'm sorry.

THE COURT: Foreman, foreperson, sort of the leader of the jury.

PROSPECTIVE JUROR: Oh, no.

THE COURT: Okay. But you did preside in the deliberations and render a verdict of guilty?

PROSPECTIVE JUROR: Yes, we did. Yeah.

THE COURT: Was there anything about that experience that you think in any way is going to prevent you from being fair and impartial in this case?

PROSPECTIVE JUROR: No, I wouldn't think so. I hope not.

THE COURT: I mean, obviously, that was a different set of facts, a different set of circumstances, governed by [70] different rules of law. And so what I have to ask you to do, and you tell me if you think you can do it, is you have to set aside what you may have learned about the process from that prior experience and decide this case, obviously, based upon the evidence that's presented in this courtroom and on the law as I give it to you.

Do you think you will be able to do that?

PROSPECTIVE JUROR: I think so. I hope so.

THE COURT: Okay. Any doubt about that?

PROSPECTIVE JUROR: No.

THE COURT: Okay.

PROSPECTIVE JUROR: No.

THE COURT: There's one other thing I want to follow up with you on, but I want to do it up here at the bench. So would you mind joining me up here.

Counsel.

(Bench conference.)

MR. NOZICK: Judge, just a housekeeping matter. Did you still want one attorney per side? If my other guys are standing right there, should I -- I don't want it to get too crowded.

THE COURT: When we're dealing with evidentiary matters; but if they want to come up, that's fine.

Ms. Mueller, I don't mean to be picking on you, but something that you said in your jury questionnaire I think it [71] is important for me to follow up on. One of the things that you said here is that -- there's a question whether you have any preconceived notions about the criminal justice system, and you said yes. And then you explained that you think most defendants are guilty before they even go to trial.

PROSPECTIVE JUROR: Right.

THE COURT: Tell me what you mean by that? Where does that come from?

PROSPECTIVE JUROR: Well, um -- um -- what can I say? I just -- I am getting a little nervous. I'm sorry. Could you --

THE COURT: Yeah. You basically said, hey, you think everybody is guilty before they go to trial.

PROSPECTIVE JUROR: Okay.

THE COURT: And I want to know where does that opinion come from?

PROSPECTIVE JUROR: Yeah.

THE COURT: I mean, as I explained earlier, and I mean this as serious as I can possibly be, these men are presumed innocent.

PROSPECTIVE JUROR: Right.

THE COURT: And that presumption stays with them throughout the trial.

PROSPECTIVE JUROR: Right.

THE COURT: And it is only until the government [72] proves its case beyond a reasonable doubt --

PROSPECTIVE JUROR: Uh-huh.

THE COURT: -- that you can render a guilty verdict.

PROSPECTIVE JUROR: Right.

THE COURT: Do you take issue with that concept?

PROSPECTIVE JUROR: I feel that if they have come this far then they're most likely guilty.

THE COURT: Okay. Okay. Thank you.

PROSPECTIVE JUROR: Okay. Sorry.

MR. VANZANT: Your Honor, if I may, just based on how she --

THE COURT: I'm going to strike here.

MR. VANZANT: No, no, no, not her. I'm a little concerned about everybody else who didn't speak up. If we could, I would like you to follow up in that fashion with the others individually.

THE COURT: I'm not asking every single juror. I've asked general questions, and we've had people raise their hand. I'm not doing that. That's the last time I'm going to tell you that.

MR. VANZANT: Understood, Your Honor.

THE COURT: We'll take a break here in a couple of minutes. But let me just follow up with a little bit more questioning here, and then I promise you we'll take a break. Ladies and gentlemen, one of the things that is another, [73] sort of, fundamental proposition in criminal jurisprudence is that the defendants are under no obligation to present any evidence. And the defendants have no obligation to testify. They can reserve the right under the Fifth Amendment to remain silent and to not testify, and that can absolutely never be held against them by anyone, including the jurors. In fact, it is not something you can even discuss during your deliberations. Does anybody take issue at all with that concept?

(No response.)

THE COURT: Okay. We're going to take a 10-minute recess at this time so everybody can use the facilities.

And during that time, counsel can consult with one another.

I have a few more questions that I have to ask, and then we'll do our strikes. But I'm being told there are some people who need to use the facilities.

So I'm going to ask the 12 of you that are in the box -- you can follow Lenny back into the jury room. We have facilities back there. For everybody else in the audience section, there's bathrooms outside. Please be back in here no later than five minutes to eleven. I ask people to be very prompt.

(A recess was had at 10:37 a.m.)

(The following proceedings were held in open court [74] beginning at 10:55 a.m., reported as follows:)

DEPUTY CLERK: All rise.

THE COURT: All right. You can be seated. I have a couple more follow-up questions for you.

As you heard me allude to earlier in the morning, this case has -- one of the two conspiracies deals with a narcotics conspiracy. So do any of you believe that the improper distribution of drugs such as marijuana and cocaine should not be illegal or that the laws governing those crimes should not be enforced? Does anybody have an opinion about that?

(No response.)

THE COURT: Do any of you believe that this country's laws regarding firearms are in any way unfair or unconstitutional or should not be enforced? Does anybody have strong opinions about that subject?

Yes, Mr. Atwood.

PROSPECTIVE JUROR: I actually think they should be a little stricter but not to the point of invading your First Amendment. I think that it should be the same laws apply to Illinois to Indiana to Ohio so that there's less confusion.

THE COURT: I appreciate that.

So you would like more uniformity across --

PROSPECTIVE JUROR: A national --

THE COURT: National approach.

PROSPECTIVE JUROR: National approach.

[75] **THE COURT:** And this is a perfectly permissible point of view. Are you someone who believes that unfettered possession of firearms should be lawful without any other kind of qualification?

PROSPECTIVE JUROR: (No response.)

THE COURT: Do you understand what I'm getting at? There are some people that feel so strongly about the Second Amendment that there should be no restrictions in any way, shape, or form about --

PROSPECTIVE JUROR: No, I believe there has to be some guidelines.

THE COURT: Okay. Thank you, sir.

Do any of you live in an area affected by gang violence?

(No response.)

THE COURT: Do any of you feel that because of television shows like CSI or Law and Order that you would need to see forensic evidence such as DNA or fingerprint evidence before you could vote to convict a defendant of a crime?

In other words, through the watching of that type of programming, have you come up with some sort of conception on the type of evidence that you would need in order -- you know, for you to make a decision in the case? Anybody feel strongly about that?

(No response.)

THE COURT: You are going to hear evidence that the [76] government has utilized persons that are referred to as confidential informants in this investigation. And confidential informants are people who are not trained as law enforcement officers but

who cooperate with law enforcement under their direction.

Do any of you have any feelings, be they positive or negative, regarding the government's use of confidential informants in criminal investigations? Anybody feel strongly about that subject?

(No response.)

THE COURT: You are going to hear testimony that some witnesses may have criminal records. Would any of you automatically disbelieve a witness just based upon that fact, or would you be willing to take the totality of the witness's testimony and evaluate it with that fact in mind? Is there anybody who thinks they couldn't do that?

(No response.)

THE COURT: You are going to hear testimony likely from some witnesses who have pleaded guilty in this case and are cooperating with the government in the hopes of receiving, perhaps, a more lenient sentence. I will instruct you, if you are selected to sit as a juror in this case, that you should view such witnesses' testimony with great caution; but with that in mind, would any of you be unable or not be able to evaluate such a witness's testimony in total, or would you be [77] clouded by that fact? Anybody who would be concerned about that?

(No response.)

THE COURT: Do any of you have any problem with the fact that you might hear evidence that federal or state local governments, they record inmate phone calls as a matter of course that are made from the jail or prison? Do any of you take issue with that?

(No response.)

THE COURT: All right.

Mr. Vandenburg, I wanted to follow up with you on a matter. You had mentioned that you're kind of -- serve as a security role when you do your guard duties.

PROSPECTIVE JUROR: Yes.

THE COURT: Can you sort of describe what that means? I mean, do you have, for example, arrest powers?

PROSPECTIVE JUROR: Detain powers, not arrest powers.

THE COURT: So if you feel like something is amiss, you can detain someone and then call military police to come?

PROSPECTIVE JUROR: With the way the Guard base works, we would actually call the Terre Haute Police Department to come.

THE COURT: I see. But you don't have the ability to effectuate the arrest yourself?

PROSPECTIVE JUROR: No.

[78] **THE COURT:** Okay. And what kind of training did you have to go through to occupy that position?

PROSPECTIVE JUROR: It is a -- I believe it's a four-month training school with the Air Force in Texas; first responder training, domestic dispute training, patrol training, things along those lines.

THE COURT: Okay. And so would you consider that to be law enforcement training specific?

PROSPECTIVE JUROR: I believe so, yes.

THE COURT: Okay. Okay. Is there anything about that or anything that you have learned through that process that causes you to be unable to be fair and impartial in this case to either side?

PROSPECTIVE JUROR: I don't believe so.

THE COURT: Okay. All right. Ms. Losiniecki, is that right, ma'am?

PROSPECTIVE JUROR: Uh-huh.

THE COURT: Can I speak with you at the bench.
(Bench conference.)

THE COURT: I wanted to talk to you about this issue about your religious convictions and your need to do daily prayer. I'm totally respectful of that, of course. So can you give me some sense on what the schedule of those prayers are and how that works so that we can accommodate that.

PROSPECTIVE JUROR: Well, it changes daily, but the [79] afternoon ones are around twelve; and I want to say like between three and four o'clock is the second afternoon one.

THE COURT: Okay. And I can tell you that we take a lunch recess usually right at the noon hour, or thereabout, and then we take a midafternoon recess for 15 or 20 minutes around 2:30 -- depending upon when a witness ends, around quarter to three to three o'clock. Given those parameters, would that give you the ability to exercise your --

PROSPECTIVE JUROR: I could. When you perform prayer, you have to wash -- you have to go to bathroom and wash, and then the prayer is like a set of -- there's a whole process which is, like, three, four

sets. So I don't know if it would be within -- it should be within 15 minutes, I would say; but I couldn't guarantee how long that would take to go to the bathroom and wash and --

THE COURT: Sure. Sure. Can you estimate it for me?

PROSPECTIVE JUROR: I want to say it wouldn't be more than 15, but I'm not --

THE COURT: Okay. Do you feel like there's anything about that that's going to prevent you from being fair and impartial in this case?

PROSPECTIVE JUROR: No. Not in the case, no.

THE COURT: As long as we accommodate that concern --

PROSPECTIVE JUROR: I would need somewhere to pray privately as well.

[80] **THE COURT:** Okay. Okay. Just trying to think logistically where we can accommodate that.

Let me talk to the lawyers and then get back to you. Yeah, Mr. Nozick?

MR. NOZICK: Just one follow up.

Ma'am, there's a fasting element to it as well, isn't there?

PROSPECTIVE JUROR: Yeah, I would be fasting all day. I can't have food or water.

MR. NOZICK: Do you think that that might make you either lightheaded or distracted? Is it tougher to concentrate when you're fasting all day?

PROSPECTIVE JUROR: Yeah. It just depends on my body and the day. I can get lightheaded as well.

THE COURT: Does it prevent you from keeping focus and paying attention, or are you able to function?

PROSPECTIVE JUROR: I am able to function. I work while I fast and everything, but it just depends. It can happen. I can get ill from it.

THE COURT: If that was happening, would you be willing to let me know that?

PROSPECTIVE JUROR: Uh-huh.

THE COURT: Yes?

PROSPECTIVE JUROR: Uh-huh.

THE COURT: You have to answer with words --

[81] **PROSPECTIVE JUROR:** Yes. I'm sorry, yes.

THE COURT: -- because she's taking down what we're saying.

Do you have any follow-up questions, Mr. Vanzant?

MR. VANZANT: Nothing based on that, Your Honor.

MR. BEDI: There's no issue about willing to breakfast or anything like that?

PROSPECTIVE JUROR: Willing to break it?

MR. BEDI: Like when you have to break it at the end of the day. You'll be long gone from here before you have to break fast, right?

PROSPECTIVE JUROR: What time does it end for the day?

THE COURT: We leave at five o'clock.

PROSPECTIVE JUROR: Yes, breaking fast is around seven, eight o'clock.

MR. BEDI: Thank you.

MR. NOZICK: Your Honor, there's also the issue as far as the questionnaire, that thing that she marked yes, while we have her.

THE COURT: Yes. So you had answered your questionnaire that --

PROSPECTIVE JUROR: The religion thing?

THE COURT: Yes.

PROSPECTIVE JUROR: Yes.

[82] **THE COURT:** Can you tell me about that?

PROSPECTIVE JUROR: Well, as a Muslim, you shouldn't, like, sit in judgment of someone in the court that isn't based off of Islamic law, it is based off the U.S. law. But I did think about it, and I could end up in court one day on the other side and have jurors, you know, so --

THE COURT: So do you feel like you could -- as difficult as this is to do -- set aside your religion for purposes of the case and listen to the evidence and listen to the rules of law that apply to the case and ultimately make a fair and impartial decision on whether or not the government has proved its case beyond a reasonable doubt?

PROSPECTIVE JUROR: Yes.

THE COURT: Is there any doubt about that?

PROSPECTIVE JUROR: No.

THE COURT: Okay. Okay. Let me ask you to -- you can go back to your chair. I want to talk to the lawyers about one other thing.

(Prospective juror exits the bench.)

THE COURT: My concern here is finding a place for her to do this in private. That presents a real logistical problem for the Court. So does anybody want to weigh in on that?

MR. ROGERS: The conference rooms in the back.

THE COURT: But that's going to bring her into the [83] public space that I think is going to be difficult.

MR. ROGERS: Okay.

MR. NOZICK: And we will have witnesses in those rooms waiting.

THE COURT: So I think --

MR. BEDI: Your Honor, I have some experience with accommodating this very situation with another jury that I did, and they were able to just go outside the juror room in the hallway by themselves. And it was about 15 or 20 minutes, you know, and they brought their prayer rug, they came outside, they came back, and it was a very small disruption of the flow of the jury.

THE COURT: That's fair enough. Okay. I think that's helpful. Okay.

Anything else you want to follow up on, Mr. Nozick?

MR. NOZICK: No.

THE COURT: Okay.

Mr. Vanzant?

MR. VANZANT: No, Judge.

THE COURT: Okay. You guys can consult and approach the bench when you are ready to do your strikes.

(End of bench conference.)

THE COURT: Ladies and gentlemen, the lawyers are going to consult with one another and approach the bench and make their strikes. If you would, please be patient.

[84] (Bench conference.)

THE COURT: Okay. Challenges for cause?

(Document tendered.)

MR. VANZANT: We have them on the same paper.

THE COURT: We'll just do it like this.

Any challenges for cause?

(Document tendered.)

THE COURT: Moderately from the government, and defense has two. One I'm inclined to agree. Mr. Atwood has a preplanned business trip where he has paid for the travel.

MR. NOZICK: That's fine.

THE COURT: I'm going to grant that challenge for cause.

I think we were all kind of in agreement as it relates to Ms. Mueller, that we were going to dismiss her for cause.

MR. NOZICK: No objection.

THE COURT: No objection to that. So those two will be struck for cause.

I did have one question: What do you want to do about Ms. Schara who has the problems getting her kids on the bus?

MR. NOZICK: Judge, I don't think it rises to the level of cause. She has in-laws. I know it is 20 minutes away, but there are plenty of people with that issue, Judge. And I fear that we're going to lose half the panel with that.

THE COURT: Yeah, I fear the same thing.

[85] Okay. Let's have peremptories.

(Documents tendered.)

THE COURT: You guys exercising these together?

MR. VANZANT: Yes.

THE COURT: So the government's struck Ms. Losiniecki, and the defense has struck Mr. Vandenburg and Ms. Ball.

Okay. Any objection to any of those -- either of those strikes?

MR. NOZICK: I'm sorry, Judge. I was writing them. Could you repeat the two names? I didn't catch them.

THE COURT: Yes. Mr. Vandenburg, the security guard for the military, in Seat No. 6, and Ms. Ball in Seat No. 1.

MR. NOZICK: No objections.

MR. BEDI: Judge, we actually had one other one, Ms. Bassetto.

THE COURT: You need to speak into the microphone.

MR. VANZANT: Sorry, Your Honor. We had one more, Ms. Bassetto. I thought it was written down.

THE COURT: Don't do that again.

MR. VANZANT: I'm sorry. I messed that up. That's my fault, Judge.

THE COURT: So we're going to strike Ms. Bassetto as well. Because I exercise these simultaneously.

MR. BEDI: That's my fault.

[86] **THE COURT:** No worries. You at least understand where I'm coming from here.

MR. BEDI: Of course.

THE COURT: So we're going to keep Ms. Tempco. We're going to keep Mr. Mensing. We are going to keep Ms. Schara. We're going to keep Ms. Orfanos. We're going to keep Ms. Monanteras, the mountain climber, and we're going to keep Ms. Mariscal.

MR. NOZICK: Judge, maybe I'm going crazy? I thought that Mensing was one of their strikes that you announced. Did I mishear you?

THE COURT: You did mishear me.

MR. NOZICK: I'm sorry. Okay.

MR. ROGERS: It was Mueller.

THE COURT: It was Mueller.

MR. NOZICK: Okay. All right.

THE COURT: Okay. Is everybody in agreement with that?

MR. NOZICK: Yes.

MR. VANZANT: Yes.

(End of bench conference.)

THE COURT: All right. I'm going to dismiss the following people, and with my thanks. Thank you for being here, answering the questions, being willing to serve. It is no reflection, of course, on you.

[87] Lawyers make their best judgments on who might be the best fit for the case. So with that being said, I'm going to excuse Ms. Ball, Ms. Losiniecki, Mr. Vandenburg, Ms. Mueller, Ms. Bassetto, and Mr. Atwood.

You are all excused.

Noel, if you would, please call six more names.

DEPUTY CLERK: Harish Chopra, Brian Acosta, Whitcomb Roe, Margaret Kowalski, Samantha Pardinek, Jolynn Ellis.

THE COURT: All right. While Ms. Ellis is taking her seat, we're going to start right here with Mr. Chopra.

Good morning, sir.

PROSPECTIVE JUROR: Good morning.

THE COURT: Would you tell us what city or town you reside in?

PROSPECTIVE JUROR: I live in Schererville.

THE COURT: How long have you lived over in Schererville?

PROSPECTIVE JUROR: Thirteen years.

THE COURT: Do you work, sir?

PROSPECTIVE JUROR: Yes, I do.

THE COURT: Where do you work at?

PROSPECTIVE JUROR: I work in Chicago for a consulting engineering firm.

THE COURT: What kind of -- oh, consulting [88] engineering?

PROSPECTIVE JUROR: Yes, I'm a professional engineer.

THE COURT: Okay. What type of engineer are you?

PROSPECTIVE JUROR: Mechanical engineering.

THE COURT: Right. What's the name of the firm that you work for?

PROSPECTIVE JUROR: Syska Hennessy Group; it is a national firm.

THE COURT: Okay. And how long have you been there?

PROSPECTIVE JUROR: I've been there for almost four years now.

THE COURT: Great. What's the extent of your education?

PROSPECTIVE JUROR: I have a master's degree in mechanical engineering.

THE COURT: Where did you get that from?

PROSPECTIVE JUROR: University of Maryland in College Park.

THE COURT: Sure. Are you married?

PROSPECTIVE JUROR: Yes, I am.

THE COURT: Does your spouse work?

PROSPECTIVE JUROR: Yes, she does.

THE COURT: Where?

PROSPECTIVE JUROR: She's a physical therapist at Methodist Hospital in Gary.

[89] **THE COURT:** Right. Do you guys have children?

PROSPECTIVE JUROR: Yes, two kids. My son, he's 19 years old in college. My daughter is 17 and in high school right now.

THE COURT: Where does your son in college go to school?

PROSPECTIVE JUROR: Indiana University of Bloomington.

THE COURT: Great. What's he studying down there?

PROSPECTIVE JUROR: He's doing computer science and biochemistry major.

THE COURT: Terrific.

What do you like to do in your spare time, sir?

PROSPECTIVE JUROR: Movies and, if I get an opportunity, travel.

THE COURT: Okay. Do you belong to any clubs or organizations?

PROSPECTIVE JUROR: No, I do not.

THE COURT: Okay. What kind of things do you like to read, like outside reading?

PROSPECTIVE JUROR: Just fiction.

THE COURT: Mostly fiction?

PROSPECTIVE JUROR: Fiction, yes.

THE COURT: Did you ever hear about this case or know anything about it at all?

[90] **PROSPECTIVE JUROR:** No, I have not.

THE COURT: Have you formed or expressed an opinion about the merits of the case at all?

PROSPECTIVE JUROR: No.

THE COURT: Thank you, sir.

I'm going to talk to Mr. Acosta. Good morning, sir.

PROSPECTIVE JUROR: Good morning.

THE COURT: Where do you live at, sir?

PROSPECTIVE JUROR: I live in Merrillville.

THE COURT: How long have you lived in Merrillville?

PROSPECTIVE JUROR: I have lived in Merrillville for 10 years now.

THE COURT: Great. Do you work, sir?

PROSPECTIVE JUROR: I work at Purdue University.

THE COURT: What do you do there?

PROSPECTIVE JUROR: It is a mouthful, but I am Central Desktop Administration Engineer.

THE COURT: So does -- that sounds like something in IT?

PROSPECTIVE JUROR: Correct.

THE COURT: Okay. And how long have you done that for, 10 years you said?

PROSPECTIVE JUROR: No, I live in Merrillville for 10 years.

THE COURT: Oh, I'm sorry.

[91] **PROSPECTIVE JUROR:** But I have had this position for about a year now in July.

THE COURT: Great. What's the extent of your education?

PROSPECTIVE JUROR: I graduated from Purdue University, a bachelor's of science.

THE COURT: Okay. In what particular discipline?

PROSPECTIVE JUROR: Computer science.

THE COURT: Great. Did you go down to Lafayette or locally here?

PROSPECTIVE JUROR: I stayed here, Calumet now known as Purdue Northwest.

THE COURT: Sure. So do you work at both campuses out in Westville and here?

PROSPECTIVE JUROR: Correct.

THE COURT: Okay. Are you married?

PROSPECTIVE JUROR: No.

THE COURT: Have you ever been married?

PROSPECTIVE JUROR: No.

THE COURT: Do you have any children?

PROSPECTIVE JUROR: I do not.

THE COURT: Okay. Do you own your own home out in Merrillville?

PROSPECTIVE JUROR: I currently rent.

THE COURT: Great. And do you have family in the [92] area here?

PROSPECTIVE JUROR: Yes. I have my parents and two siblings.

THE COURT: Did you grow up here in Northwest Indiana?

PROSPECTIVE JUROR: No, I actually grew up in the south side of Chicago.

THE COURT: Okay. And did they all move over to Indiana here, or when you say they are in the area, they are over in Chicago, your family?

PROSPECTIVE JUROR: No, we all moved to Merrillville when I started high school.

THE COURT: Got it. Okay. What kind of things do you like to do in your spare time?

PROSPECTIVE JUROR: I like painting -- well, landscape painting and kendo.

THE COURT: What's that?

PROSPECTIVE JUROR: Kendo would be, I believe, swordsmanship I guess you would call it.

THE COURT: Got it. Yeah. Did you ever hear about this case or know anything about it at all?

PROSPECTIVE JUROR: I did not.

THE COURT: Okay. Have you formed an opinion about the case at all?

PROSPECTIVE JUROR: No.

[93] **THE COURT:** Okay. Thank you, sir.

Ms. Roe.

PROSPECTIVE JUROR: Yes, good morning.

THE COURT: Good morning. What city or town do you reside in?

PROSPECTIVE JUROR: I live in Dyer.

THE COURT: How long have you lived down in Dyer?

PROSPECTIVE JUROR: Four years.

THE COURT: Do you work, ma'am?

PROSPECTIVE JUROR: I do.

THE COURT: Where at?

PROSPECTIVE JUROR: I am a partner at the accounting firm Ernst and Young.

THE COURT: And how long have you been at Ernst and Young?

PROSPECTIVE JUROR: Fifteen years.

THE COURT: Where did you do your undergraduate at?

PROSPECTIVE JUROR: Purdue.

THE COURT: Is it Krannert School?

PROSPECTIVE JUROR: Krannert, yep.

THE COURT: You're, I assume, an accounting major?

PROSPECTIVE JUROR: I was, yes.

THE COURT: Okay. Are you a certified public accountant?

PROSPECTIVE JUROR: I am.

[94] **THE COURT:** What kind of clients do you work on for Ernst and Young?

PROSPECTIVE JUROR: I audit exclusively healthcare clients, and I'm also our firm's technical healthcare leader.

THE COURT: What's that mean?

PROSPECTIVE JUROR: It means I do a bunch of boring reading about technical publications related to accounting and share with everybody what that means specifically to them.

THE COURT: You are a partner at the firm?

PROSPECTIVE JUROR: I am.

THE COURT: And are you married?

PROSPECTIVE JUROR: Yes.

THE COURT: Does your spouse work?

PROSPECTIVE JUROR: No.

THE COURT: He's sort of a stay-home dad type?

PROSPECTIVE JUROR: He is, yes.

THE COURT: Do you guys have children?

PROSPECTIVE JUROR: We have five.

THE COURT: Wow. How old are your children?

PROSPECTIVE JUROR: They are -- I have two 7-year-olds, a 2-year-old and two 1-year-olds.

THE COURT: Holy moly. Wow. I'm not going to ask what you do in your spare time. Wow.

So do you belong to any clubs or organizations, is it all pretty much family and work?

[95] **PROSPECTIVE JUROR:** I mean, I'm part of some accounting organizations. I'm on the board of trustees for my children's school.

THE COURT: Okay. Where do they go to school, if I may ask?

PROSPECTIVE JUROR: Forest Ridge Academy.

THE COURT: Okay. That's the school in Highland or --

PROSPECTIVE JUROR: It's in Schererville.

THE COURT: Schererville, yeah. Great. Did you ever hear about this case, or do you know anything about it at all?

PROSPECTIVE JUROR: No.

THE COURT: Have you formed or expressed an opinion about the merits of the case?

PROSPECTIVE JUROR: No.

THE COURT: Okay. Thank you, ma'am.

So we're going to go back to Ms. Kowalski here in seat number 7 -- or 8 I guess. Good morning, ma'am.

PROSPECTIVE JUROR: Good morning, Your Honor.

THE COURT: Where do you live at?

PROSPECTIVE JUROR: Hammond, Indiana.

THE COURT: How long have you lived here?

PROSPECTIVE JUROR: Twenty-three years.

THE COURT: Are you married?

PROSPECTIVE JUROR: Yes, I am.

[96] **THE COURT:** Does your husband work?

PROSPECTIVE JUROR: He works part time, however he's not working right now.

THE COURT: Okay. Is he retired from some other job?

PROSPECTIVE JUROR: He's retired from the mills, right.

THE COURT: How many years did he have in at the mills?

PROSPECTIVE JUROR: Oh, I'd say about 27, 29.

THE COURT: Great. Do you work outside the home?

PROSPECTIVE JUROR: No, I'm retired.

THE COURT: From what?

PROSPECTIVE JUROR: Well, actually working as the nutritionist with the WIC program in Illinois, and that's --

THE COURT: The WIC program is sort of for food stamps, is that --

PROSPECTIVE JUROR: Women, Infants and Children Supplementary Food Program.

THE COURT: Yeah, that's right. Food and nutrition, yes. How many years did you have in at that?

PROSPECTIVE JUROR: About 15 years.

THE COURT: Is that sort of a government position, or is it a private social --

PROSPECTIVE JUROR: I think federal program, but the funds are given out to the local health departments, whatever, [97] or federally-funded clinics.

THE COURT: I see. What's the extent of your education?

PROSPECTIVE JUROR: Master's degree in education.

THE COURT: Great. Did you ever teach school?

PROSPECTIVE JUROR: Oh, yes, about 10 years, 12 years.

THE COURT: And you had enough of it, huh?

PROSPECTIVE JUROR: No, I really enjoyed it. I had done some volunteer at the Salvation Army in East Chicago teaching English as a second language. I enjoyed doing that too.

THE COURT: Wonderful. I have been -- in a lot of juries I have been selecting, I have had people dropping out of the teaching profession, which is -- I thought that's what you might have been referencing. Do you guys have any children?

PROSPECTIVE JUROR: We were foster parents, and we did adopt one son who is now 24.

THE COURT: Wonderful. What does that man do?

PROSPECTIVE JUROR: That young man, hopefully today, is doing his paperwork for Taco Bell today. He has some special needs, so we're very happy that he's there. **THE COURT:** Wonderful. Good for you. Did you ever hear about this case or know anything about it at all?

[98] **PROSPECTIVE JUROR:** No, not at all.

THE COURT: Have you formed or expressed an opinion about the case?

PROSPECTIVE JUROR: No.

THE COURT: Thanks so much.

Talk to Ms. Pardinek. Is that how you pronounce it?

PROSPECTIVE JUROR: Pardinek.

THE COURT: Oh, Pardinek, okay. Where do you live at, ma'am?

PROSPECTIVE JUROR: Whiting.

THE COURT: How long have you lived up in Whiting?

PROSPECTIVE JUROR: Twenty-two years. However, the last four years I have been away at college.

THE COURT: Where did you go to school?

PROSPECTIVE JUROR: So I started out in Indianapolis for about a year and a half, and then I transferred to West Lafayette at Purdue.

THE COURT: Okay. Where were you at down in Indy? Oh, at IUPUI?

PROSPECTIVE JUROR: IUPUI.

THE COURT: Got it. Okay. I didn't know if you were at University of Indianapolis or whatever. Okay. Are you graduated now, or are you still working on it?

PROSPECTIVE JUROR: Just graduated.

THE COURT: Oh, congratulations. What was your [99] degree in?

PROSPECTIVE JUROR: Supply chain operations management.

THE COURT: Terrific. Are you just sort of in the process of looking for a job now?

PROSPECTIVE JUROR: I do have a job lined up, so I'm just back at home until that begins.

THE COURT: Wow. May I ask who you will be working with?

PROSPECTIVE JUROR: Amazon.

THE COURT: Good for you.

PROSPECTIVE JUROR: Thank you.

THE COURT: Will you be moving out of the area or --

PROSPECTIVE JUROR: Yes, actually in a week I will be moving to Illinois.

THE COURT: Okay. And when do you actually start your job at Amazon?

PROSPECTIVE JUROR: July 2nd.

THE COURT: Okay. Right now you are living with your folks?

PROSPECTIVE JUROR: Yes.

THE COURT: Okay. And you're set -- have you signed a lease in Illinois or something, is that what the reference to Illinois is?

PROSPECTIVE JUROR: Yes. I had just signed a lease, [100] so I will be moving on the 21st.

THE COURT: Okay. I assume you are not married, or maybe I shouldn't assume anything?

PROSPECTIVE JUROR: No.

THE COURT: And no children, I take it?

PROSPECTIVE JUROR: No.

THE COURT: Okay. Did you ever hear about this case or know anything about it at all?

PROSPECTIVE JUROR: No.

THE COURT: Have you formed or expressed an opinion about the merits of the case?

PROSPECTIVE JUROR: No.

THE COURT: Okay. Thank you, ma'am. You can just hold onto the microphone. I'm going to ask the new folks that are in the box here, the six of you that we've just been introduced to --

THE MARSHAL: Your Honor.

THE COURT: Oh, I'm sorry. Did I miss someone? Oh, Ms. Ellis, I'm so sorry. My eye was glancing across my page here, so I apologize.

PROSPECTIVE JUROR: That's okay.

THE COURT: Where are you from, ma'am?

PROSPECTIVE JUROR: I'm from Crown Point.

THE COURT: How long have you been down in Crown Point?

[101] **PROSPECTIVE JUROR:** Fourteen years.

THE COURT: Do you work?

PROSPECTIVE JUROR: Yes, I do.

THE COURT: Where do you work at?

PROSPECTIVE JUROR: I work for a credit union in Merrillville.

THE COURT: What credit union?

PROSPECTIVE JUROR: Member Source.

THE COURT: And how long have you work there?

PROSPECTIVE JUROR: I have been back since 2006, and I worked there from '92 to '97 as well.

THE COURT: Sort of back in -- were you raising children in between or --

PROSPECTIVE JUROR: I have no children.

THE COURT: Okay. Are you married?

PROSPECTIVE JUROR: I have been separated for five weeks.

THE COURT: Okay. If I may ask, the husband that you are now separated from, what does he do for a living?

PROSPECTIVE JUROR: He's a sheet metal worker.

THE COURT: Okay. And no children?

PROSPECTIVE JUROR: He has a -- she'll be 17 in July.

THE COURT: Okay.

PROSPECTIVE JUROR: A daughter.

THE COURT: What's the extent of your education?

[102] **PROSPECTIVE JUROR:** High school.

THE COURT: Okay. And did I ask, where do you work? Do you work?

PROSPECTIVE JUROR: I work for Member Source Credit Union.

THE COURT: Oh, yeah, I'm sorry.

PROSPECTIVE JUROR: That's okay.

THE COURT: I'm getting confused. And you've worked there for a long time, but some gaps in the service. What in particular do you do there?

PROSPECTIVE JUROR: I'm a compliance officer and security manager.

THE COURT: So that's sort of dealing with regulators?

PROSPECTIVE JUROR: Yes.

THE COURT: From the NCUA?

PROSPECTIVE JUROR: Actually, we are a state-chartered credit union, so it's more DFI.

THE COURT: Okay. What do you like to do in your spare time?

PROSPECTIVE JUROR: I like to golf.

THE COURT: Great.

PROSPECTIVE JUROR: I would like to learn to work out a little bit more.

THE COURT: Okay. I think we all would.

[103] **PROSPECTIVE JUROR:** I like to volunteer. I haven't been very active lately, but I volunteer for the Relay for Life.

THE COURT: Great. Are you sort of an avid-reader type or --

PROSPECTIVE JUROR: Like, maybe when I go on vacation, whatever is on the best seller list.

THE COURT: What kind of things do you like to watch on TV, to the extent you watch much at all.

PROSPECTIVE JUROR: Bravo.

THE COURT: I'm sorry?

PROSPECTIVE JUROR: Bravo.

THE COURT: Oh, Bravo.

PROSPECTIVE JUROR: The Housewives.

THE COURT: Got it.

Have you ever heard about this case or know anything about it at all?

PROSPECTIVE JUROR: No.

THE COURT: Have you formed or expressed an opinion about the merits of the case?

PROSPECTIVE JUROR: No.

THE COURT: Okay. Again, I will just have you hang onto the microphone, and if somebody raises their hand, we can pass the microphone. But let me ask all of you, the new folks in the box, this series of questions that I asked the prior [104] folks.

As I mentioned, this is probably the last time I will do this. So for the folks out in the audience section, just be making mental notes as we go here, because if you are called in the box, I'll follow up with you.

So as I told the others, you know, this trial is going to happen over the course of several days; and the question that I want to ask of you is can all of you agree to keep an open mind until you have heard all of the evidence that can be presented in the court as well as the rules of law that apply to the case?

Is everybody able and willing do that, keep an open mind, until you have heard everything? Anybody that is unable to do that?

(No response.)

THE COURT: Now, as I said, you are going to be required to consult with one another when you deliberate towards a verdict, and you have to listen to other people's opinions. And perhaps you might change your own views of the case along the way.

But, ultimately, you cannot surrender your own good faith belief about what the appropriate result should be just to kind of go along with the crowd or to get out of here. Does everybody understand where I'm

coming from? Does anybody take any issue with that concept or think they would be unable to do [105] that?

(No response.)

THE COURT: Has anyone talked with any of you about the case or discussed the case in your presence, other than what we did here in court?

(No response.)

THE COURT: Have any of you formed or expressed an opinion about the merits of the case?

(No response.)

THE COURT: Are any of you familiar with the particular facts of this case?

(No response.)

THE COURT: Any of you read any newspaper articles or listened to any broadcast reports that sort of might jog your memory that somehow relate to this case?

(No response.)

THE COURT: Do any of you know the defendants that I introduced earlier, Mr. Nieto or Mr. Valladolid?

(No response.)

THE COURT: Do any of you know any of those lawyers who have been introduced earlier who are involved in the case or associate with them at all, familiar with them in any way?

(No response.)

THE COURT: Is there anyone who cannot read, write, or speak the English language?

[106] (No response.)

THE COURT: Can any of you not hear or see well?

(No response.)

THE COURT: Do any of you have any health problems that would prevent you from serving as a juror in this case?

(No response.)

THE COURT: Are any of you going to be unduly burdened by financial, business, family or medical problems if the trial of this case will take, as I mentioned, somewhere between two and three weeks?

Okay. Ms. Roe.

PROSPECTIVE JUROR: I mentioned I have five children, five young children at home. My job affords me the flexibility to stay home three days a week and work from home to assist my husband with transporting to school and taking care of them on a daily basis.

My kindergartners are graduating from kindergarten next Friday, and professionally I have a lot of responsibilities as an audit partner. There's really no one that can fulfill those for me. So if I were to serve on the jury, I would be working, you know, every night from bedtime until one or two in the morning to also do my day job.

THE COURT: Thank you, ma'am.

Anybody else? Yeah, Ms. Pardinek.

Yeah, if you would hand the microphone back to [107] Ms. Pardinek.

PROSPECTIVE JUROR: Well, I just no longer will be a resident here, so I just won't be able to serve.

THE COURT: Well, it seems like you are in transition, that you're kind of living with your parents now and a week from now you'll be kind of moving into a new apartment in Illinois. Is that what I'm understanding?

PROSPECTIVE JUROR: Right, so --

THE COURT: Where at in Illinois?

PROSPECTIVE JUROR: Naperville.

THE COURT: Okay. So if I could be so bold as to ask, what's the urgency to get over to Naperville when you don't start your job until July 2nd?

PROSPECTIVE JUROR: It's just I signed a lease already, and it was the latest that I could sign on so that I have a place of residence in that area. I just -- it was in my plans to just move there as late as I can, and that is as late as I can.

THE COURT: Okay. I understand. Thank you.

Yeah, Mr. Acosta.

PROSPECTIVE JUROR: I do apologize, because I'm usually always walking around and I'm never usually sitting down at a desk -- even at work, I usually have a stand-up desk -- I do tend to have issues with anxiety if I need to sit down for long periods of time, so more than an hour or so and I [108] usually want to get up or stand up and do something.

THE COURT: Yeah, it's actually a good point you are raising, because I have this come up frequently in trials. So what I will tell you is that I have -- I take no issue at all with periodically if you want to stand up and stretch and get on your feet during the trial, you can feel free to do that, you know, within reason. So

with that accommodation, does that sort of address the concern that you are raising?

PROSPECTIVE JUROR: That should be fine.

THE COURT: Great. Thank you, sir.

Okay. Have any of you ever served on a jury before?

(No response.)

THE COURT: State court, federal court, grand jury, any kind of prior jury service?

(No response.)

THE COURT: Have any of you ever had to testify as a witness in a court?

(No response.)

THE COURT: Do any of you have immediate family members or very close friends who are lawyers?

(No response.)

THE COURT: Do any of you know of any reason why you may be prejudice for or against the government, or for or against the defendant, simply because of the nature of the case?

[109] (No response.)

THE COURT: Did all of you hear me read that exhaustive list of potential witnesses who might testify in the case? Do any of you know any of those individuals, associate with them, neighbors, friends, colleagues, whatever, any of those people?

PROSPECTIVE JUROR: I have a question.

THE COURT: Yeah, Ms. --

PROSPECTIVE JUROR: Monanteras.

THE COURT: -- Monanteras. Yeah.

PROSPECTIVE JUROR: In my 40 years as a pharmacist, I have got a very large clientele.

THE COURT: I'm sure.

PROSPECTIVE JUROR: And if by chance I recognize somebody when they go up -- those names were very common names.

THE COURT: Sure.

PROSPECTIVE JUROR: So I just --

THE COURT: Well, let me ask it this way. It is a good point you are raising. If, in the off chance, one of the witnesses happens to be someone that you recognize, oh, I think I've seen them at CVS -- is that where you work?

PROSPECTIVE JUROR: Correct.

THE COURT: Do you feel like you would be able to set aside whatever personal relationship you may have developed with that person and simply evaluate their testimony in the [110] same way as you would try to evaluate the testimony of any other witness?

PROSPECTIVE JUROR: Yes.

THE COURT: Okay. Thank you.

I appreciate you raising that.

Now, as I mentioned before, there's going to be probably a lot of law enforcement officers or federal agents who might testify in the case. Would any of you have difficulty treating the testimony of a law enforcement officer in the same way as you would treat the testimony of any other witness?

(No response.)

THE COURT: You know, there's some people who have had overridingly positive experiences with law enforcement, and there's some people who have had negative experiences with law enforcement. That might affect how they view any particular witness. Do any of you fall into those categories?

(No response.)

THE COURT: Do any of you have any law enforcement officers in your family or close friends? Yeah, Ms. Roe.

PROSPECTIVE JUROR: My uncle is a sergeant and a detective on the Michigan City Police Department.

THE COURT: Great. And do you have a close relationship with your uncle?

PROSPECTIVE JUROR: Yeah.

[111] **THE COURT:** Do you talk to him about the ins and outs of his job or --

PROSPECTIVE JUROR: We share stories over Christmas and Thanksgiving about what's going on, sure.

THE COURT: Sure. Is there anything about that relationship, just the nature of the relationship, that you think is going to prevent you from being fair and impartial in this case?

PROSPECTIVE JUROR: No.

THE COURT: Anybody else?

(No response.)

THE COURT: As I mentioned, the case is being prosecuted by the U.S. Attorney's office. Have any of you had any dealings with the United States

Attorney's office, either super positive or decidedly negative, that in some way is going to prevent you from being fair and impartial in this case?

(No response.)

THE COURT: Recall that I mentioned that there's these fundamental principles in criminal law. One is that the defendants are presumed innocent, and as they sit in this courtroom, and that's throughout this trial and continuing into your deliberations, they are presumed innocent. And that presumption can only be overcome if the government proves its case beyond a reasonable doubt.

Does anybody take any issue, any issue at all with those [112] rather fundamental principles?

(No response.)

THE COURT: Now, you heard me say also that the defendants, if they choose, have an absolute right to not testify and an absolute right to not put on any evidence at all because they don't have to do anything. They have no burden at all. They don't have to prove their innocence. It is the government that has the burden of proof, proof beyond a reasonable doubt.

So if they exercise their rights, does everybody understand that that cannot be held against them and, in fact, it can't even be discussed during your deliberations? Anybody take any issue with that fundamental principle?

(No response.)

THE COURT: Have any of you -- again, we're talking to the six new folks here -- have any of you had anybody that's close to you that's had difficulties with the law?

(No response.)

THE COURT: Do any of you know of any reason why -- is there anything about the criminal charges that are at issue in this case, racketeering conspiracy and a drug conspiracy, just based on the nature of the offenses that are alleged, is there something about that that would make you prejudice against somebody who is simply accused of having done those things?

[113] (No response.)

THE COURT: Do any of you take issue with the idea that it's your obligation to follow the law that I give to you? You'll find the facts. You'll decide what took place, but you have to follow the rules of law, even if you personally disagree with them. Do any of you take issue with that concept or would be unable or unwilling to do that?

(No response.)

THE COURT: You heard me mention that there may be a video that's played that comes from sort of the rap genre. Does anybody have some, you know, inherent feelings about that genre of music that's going to immediately prevent them from being fair and impartial?

(No response.)

THE COURT: As I mentioned, there may be witnesses who testify who are unlawfully in the country. Is there anything about that fact, that fact alone, that would prevent you from evaluating that witness's testimony, taking that into consideration, but all of the other factors that I will give you, in evaluating the credibility of a witness, or -- what I'm getting at is would somebody be so dissuaded by that

as to set aside anything that somebody who would fall in that category, you know -- anybody have any concern about that, have strong opinions about that?

(No response.)

[114] **THE COURT:** Do any of you believe that improper or illegal distribution of drugs, such as marijuana or cocaine, should, in fact, be legal?

Okay. Ms. Roe, let's talk to you about that.

PROSPECTIVE JUROR: Yep.

THE COURT: Tell me about that.

PROSPECTIVE JUROR: Marijuana specifically, probably not the other drugs that you mentioned, I don't believe is a truly harmful substance, no different than alcohol. And from a pure accounting perspective, I think it is a missed opportunity to raise additional tax dollars.

THE COURT: Fair enough. Mr. Acosta, how about you; do you feel the same way?

PROSPECTIVE JUROR: I pretty much have the same belief, in which I believe that it should be only for marijuana that should be legal in our state -- or in the country because then we can tax on it instead of having to deal with the fact it is just nontaxable or just distribution of money around that --

THE COURT: Fair enough. It is a burgeoning debate that we are having in this country on that subject. But let me ask you this: As it stands right now, for better or worse, the distribution of marijuana is unlawful; and so would you, speaking in the plural, would you be able to follow the rules of law that I give

to you, notwithstanding that personal [115] opinion, which is, you know, perfectly legitimate, Mr. Acosta?

PROSPECTIVE JUROR: I would be fine with it. It's just my personal belief that it should be legalized.

THE COURT: I understand.

Ms. Roe, how about you?

PROSPECTIVE JUROR: Yes, I could do that.

THE COURT: Thank you.

How about does anybody feel like the manner in which we regulate the use and possession of firearms is unfair or unconstitutional; in other words, that have strong beliefs that the Second Amendment should prohibit any kind of regulation of firearm use or possession? Anybody feel that way?

(No response.)

THE COURT: Have any of you lived or currently live or in the past in an area where there's a significant gang problem that you are aware of?

Yeah, Ms. Kowalski.

PROSPECTIVE JUROR: I live in Hammond, and I guess you hear of different gangs in East Chicago and Hammond. But other than that, I don't know of anything specific.

THE COURT: Sure. Do you feel like you've been personally affected by, you know, gang violence or gang problems in your neighborhood?

PROSPECTIVE JUROR: No.

THE COURT: To the extent that -- you know, the issue [116] raised by your comment, do you feel like

you would be able to set aside any preconceived notions you might have and listen to the evidence?

PROSPECTIVE JUROR: Definitely.

THE COURT: And make a decision based on the evidence and the law as I give it to you?

PROSPECTIVE JUROR: Yes.

THE COURT: Any question about that?

PROSPECTIVE JUROR: No.

THE COURT: Thank you, ma'am.

Do any of you feel, again, that because of television shows, such as *CSI* and *Law and Order*, and all that stuff, that you would feel that you would absolutely need to see some kind of forensic evidence in order for you to make a decision on this case? Does anybody sort of feel that way?

(No response.)

THE COURT: As I mentioned to the earlier panel, you'll hear evidence that the government utilized confidential informants in this case. Do any of you have any feelings, positive or negative, regarding the government's use of confidential informants in criminal investigations?

(No response.)

THE COURT: You'll hear testimony that some witnesses have criminal records. Would any of you automatically disbelieve a witness or what a witness has to say simply [117] because he or she may have a criminal record or would you be able to evaluate the totality of their testimony, perhaps, in light of that fact? Is there anybody who is unable or unwilling to do that?

(No response.)

THE COURT: If you were the prosecutors charged with the responsibility of prosecuting this case, or if you were the defendants being tried in this case, would all of you be comfortable having this case decided by someone in your frame of mind? Is there anybody who wouldn't be comfortable?

Counsel, approach the bench.

(Bench conference.)

THE COURT: Mr. Nozick, do you have any follow-up questions?

MR. NOZICK: No.

THE COURT: Mr. Vanzant?

MR. VANZANT: Your Honor, there's one thing Mr. Bedi brought up that I didn't think about until now.

THE COURT: I've been saying Bedi. I'm sorry, it's Bedi. I'm sorry.

MR. VANZANT: I realized that we haven't said the names of the murder victims in this case at all. And that would be what I think everybody would have realized, as opposed to saying racketeering or conspiracy. I didn't even think about it until now. I think that's something we probably need [118] to ask about.

THE COURT: Sure. And in what way do you want me to ask it? Just say, Do you know these victims?

MR. VANZANT: I think we definitely need to say the names, is anybody aware of these particular murders, something like that.

THE COURT: Sure.

MR. VANZANT: I'm kind of open to interpretation on that. I didn't think about it until now.

THE COURT: What are the victim's names?

MR. NOZICK: Rolando Correa, C-O-R-R-E-A, and Victor Lusinski, L-U-S-I-N-S-K-I.

MR. BEDI: And, Judge, in that vein, Your Honor is asking appropriately if anybody has read any media coverage. There was media coverage of these two instances.

THE COURT: I will make sure I ask specifically about that. Is it okay if I ask it along the lines of: You may hear evidence about the homicide of two people, one being Rolando Correa, the other being Victor Lusinski. Do any of you know either of those individuals or know anything about -- read anything about those incidents, something along those lines?

MR. VANZANT: That would be fine, Your Honor.

THE COURT: Any objection, Mr. Rogers?

MR. ROGERS: No.

MR. VANZANT: The only thing I was going to point out [119] is I think are going to get into the Nash murder as well, is that right?

MR. NOZICK: Just by reference. I mean, just in passing, we're going to talk about two other murders. One, is Travis Nash and One, at Estrella's Bar. I have a mental block on the victim.

MR. VANZANT: Is it Contreras?

MR. NOZICK: Yeah. Raudel, R-A-U-D-E-L, Contreras.

Judge, on the same note, there's been mention, just the way we've done it, that this is a Latin King RICO Indictment.

THE COURT: I don't understand -- I was --

MR. NOZICK: So anyone who says I haven't read about the case, would you be willing to say, oh, this a case against the Latin Kings. There has been media, so there's a chance that --

THE COURT: I was surprised, frankly, by your joint statement of the case with how plain vanilla it was, and so I read the statement as it was written and given to me. There wasn't a single reference to the Latin Kings, which I didn't know if that was by design, so I did what you guys asked of me. So I will --

MR. NOZICK: Yeah, if we could read it now, that would be good. I didn't write that, but, yes, if we could read it now, that would be good to let them know it is a Latin King case.

[120] **THE COURT:** I already read it.

MR. NOZICK: No, no. If we could read that it's a Latin King.

THE COURT: Just that this relates to the Latin Kings.

MR. VANZANT: I agree with that.

THE COURT: I think that is a good idea too.

MR. VANZANT: Sorry, Your Honor, there's one other one. Sorry.

THE COURT: Do you have a question?

MR. BEDI: As to Ms. Roe, she said she was on the board of trustees. I would like to know if she has a leadership position on that board.

THE COURT: Sure. At Forest Ridge?

MR. BEDI: Right. And then I guess the woman that's moving to Naperville. I know Your Honor attempted to, but to kind of dig into that a little bit about why she said she can't -- if she isn't a resident of the Northern District of Indiana.

THE COURT: I don't think I've ever had -- I'm sorry to cut you off. I don't think I've ever had this situation where somebody is moving in the middle of the trial.

MR. NOZICK: I think she's -- Sorry.

THE COURT: I'm inclined to dismiss her for cause because she's got plans to move. I don't want to interrupt her [121] moving plans. It seems like a --

MR. ROGERS: She's 22 years old, and she just wants to get the heck out of here.

THE COURT: She get on with her life.

MR. ROGERS: Yeah.

THE COURT: I just feel like --

MR. NOZICK: No objection, Judge.

THE COURT: -- it's a cause challenge.

MR. NOZICK: No objection.

MR. BEDI: No objection.

MR. ROGERS: I have no objection to that.

THE COURT: Okay.

MR. VANZANT: Did you have anymore?

MR. BEDI: I mean, Jolynn Ellis, she said she was a compliance and security manager. In terms of the security managing, I mean, does she manage people?

If so, how many? And does she have any interaction with law enforcement or anything with HR? She's reporting people for security violations, anything along those lines.

THE COURT: I'll just have her flesh out a little bit more what the nature of her job is.

MR. ROGERS: On her questionnaire she indicated that she was a victim of a robbery in Illinois at the credit union. So I would assume the guy was (indiscernible.)

THE COURT: Okay. I will ask her about that as well.

[122] **MR. VANZANT:** Sorry. The only other one I had, Your Honor, Mr. Acosta, mentioning he moved from the south side of Chicago. I just wanted to know why they moved.

THE COURT: Okay.

MR. NOZICK: If you get more, can you just ask what neighborhood on the south side, more specific?

THE COURT: Yeah.

MR. NOZICK: Some of these gang neighborhoods are tied in.

THE COURT: Yeah.

(End of bench conference.)

THE COURT: I have a number of follow-up questions based on my discussion with the lawyers. Who's got the microphone? Okay. Can you hand it down to Mr. Acosta. We'll start with him. I think you mentioned that you moved over here from the south side of Chicago just before you entered high school in Merrillville --

PROSPECTIVE JUROR: Correct.

THE COURT: -- is that right?

What neighborhood did you live in over in the south suburbs or south side?

PROSPECTIVE JUROR: That, unfortunately, I do not know. I do know that it was Wolcott. But I did move almost every two years, but it all was within the south side of [123] Chicago. So I was never really in an exact neighborhood.

THE COURT: Do you know why your mom and dad -- was it your mom and dad moved over here to Indiana?

PROSPECTIVE JUROR: Correct. I really don't know for sure.

THE COURT: So you were 12, 13, or 14 years old at the time that you moved over here?

PROSPECTIVE JUROR: I believe I was 15, I think, 15, 16.

THE COURT: But what in particular prompted their move; you just don't know?

PROSPECTIVE JUROR: I think it might have been because of a money issue. It was cheaper when we came over here to Merrillville compared to taxes and I think the school

as well was better.

THE COURT: Understood. Okay. Thank you.

You can give the microphone to Ms. Roe.

Ms. Roe, you mentioned that you are on the board at Forest Ridge?

PROSPECTIVE JUROR: That's right.

THE COURT: In what capacity? Do you have like a leadership position on the board?

PROSPECTIVE JUROR: No, I'm not on the executive group.

THE COURT: So you are not like an officer or [124] anything?

PROSPECTIVE JUROR: Right, just a board member.

THE COURT: Do they have, I assume, a president, a vice president, treasurer and then board members?

PROSPECTIVE JUROR: Yep, and board members.

THE COURT: You are one of the board members.

PROSPECTIVE JUROR: That's right.

THE COURT: Okay. Okay. Thank you.

Now, Ms. Ellis -- Can you hand it right behind you there to Ms. Ellis? I want to follow up about your work at the credit union. Just flesh out for me exactly what the nature of the job is.

PROSPECTIVE JUROR: Just making sure we're meeting the regulations so that we can continue to be insured by the NCUA.

THE COURT: Okay. And do you work with -- do you ever work with law enforcement in that capacity?

PROSPECTIVE JUROR: No.

THE COURT: Okay. This is mostly making sure that the people at the credit union are crossing their T's and dotting their I's, so that the NCUA, the

National Credit Union Association, will continue to insure the institution?

PROSPECTIVE JUROR: Correct.

THE COURT: Is that right? Do you have any HR function on your job?

[125] **PROSPECTIVE JUROR:** No. No.

THE COURT: Do you have people reporting to you?

PROSPECTIVE JUROR: I'm executive management, but nobody reports directly to me.

THE COURT: So do you do any performance reviews at all?

PROSPECTIVE JUROR: No.

THE COURT: Okay. Now, you had mentioned in your questionnaire that you were the victim of a robbery at some point?

PROSPECTIVE JUROR: Yes.

THE COURT: Do you mind talking about that in open court?

PROSPECTIVE JUROR: When I worked in Chicago Heights, one of the tellers was leaving a little bit early, and a man grabbed her and brought her back in after closing.

THE COURT: Were you at the institution at the time?

PROSPECTIVE JUROR: Yes, I was the branch manager.

THE COURT: Okay. And did he do any harm, other than the trauma, obviously?

PROSPECTIVE JUROR: Thank goodness, no.

THE COURT: Okay. Do you know if the suspect was apprehended?

PROSPECTIVE JUROR: He never has been.

THE COURT: And how long ago was that?

[126] **PROSPECTIVE JUROR:** That was in January of 2006.

THE COURT: Okay. Is there anything about that that in any way is going to prevent you from being fair and impartial in this case?

PROSPECTIVE JUROR: No.

THE COURT: Okay. Now, we have been talking throughout the morning here about -- one of the charges in the case is a conspiracy to commit racketeering. And in this case, the allegations of the complaint -- and I want to warn you, again, that these are mere allegations -- that this racketeering enterprise involved the Latin King street gang; that's the racketeering enterprise that's alleged in the Indictment. And there are -- you may hear evidence of a number of homicides that were committed allegedly in furtherance of that racketeering enterprise. And the victims of those homicides are an individual named Rolando Correa, Victor Lusinski.

What's Mr. Nash's name?

MR. NOZICK: Travis.

THE COURT: Travis Nash and a Mr. Contreras. You may hear evidence about those murders. And my question to you is: Have any of you read anything about or heard anything about those subject matters, read them in the newspapers, listened to any

broadcast reports, know anything about any of those incidents in any way, shape, or form?

[127] (No response.)

THE COURT: Okay. Counsel, you can consult and approach the bench when you are prepared. Does that cover all of the follow-up, Mr. Nozick?

MR. NOZICK: It did, Your Honor.

THE COURT: Mr. Vanzant?

MR. VANZANT: Yes, Your Honor.

THE COURT: Mr. Rogers?

MR. ROGERS: Yes.

(Bench conference.)

THE COURT: Mr. Nozick, do you have any challenges for cause?

MR. NOZICK: No.

THE COURT: Mr. Rogers or Mr. Vanzant?

MR. ROGERS: I join in the challenges.

MR. VANZANT: There's Pardinek, Your Honor.

THE COURT: Okay.

MR. VANZANT: She was the young --

THE COURT: Yeah. You're in agreement on Pardinek, is that right?

MR. NOZICK: Right.

MR. VANZANT: Ms. Roe. Go ahead, Mr. Rogers.

THE COURT: Mr. Rogers, did you want to speak to that?

MR. VANZANT: Roe.

[128] **MR. ROGERS:** Just the fact that she -- I think she would be overburdened with being a juror with five kids and then saying that she would have to work until early morning hours would, I think, leave her exhausted, to say the least, and not able to fulfill her functions.

THE COURT: Yeah, I have a lot of concerns about her too. I feel like she's got -- to say lightly, she has a full plate.

MR. ROGERS: Sounds like she has two sets of twins.

MR. NOZICK: I have no objection.

THE COURT: Okay. I'm going to grant that. Okay. Peremptories.

MR. ROGERS: And we join in.

THE COURT: I crossed Roe off.

MR. VANZANT: Yes.

THE COURT: So the defense has challenged Mr. Acosta.

MR. NOZICK: That's the government, Judge.

THE COURT: Oh, I'm sorry. I apologize. The government has challenged Mr. Acosta, and the defense has challenged -

Is it Kowalski.

MR. ROGERS: Uh-huh.

THE COURT: Is that right?

MR. BEDI: Correct. It's Kowalski, Ellis, and Chopra.

[129] **THE COURT:** Ellis and Chopra.

Any objection to those strikes?

Mr. Nozick, any objection to the defendant's strikes?

MR. NOZICK: No.

THE COURT: Mr. Vanzant or Mr. Rogers, any objections to the government's strike?

MR. ROGERS: No.

MR. VANZANT: No.

THE COURT: Okay. We are losing Mr. Acosta, that's the government. And then we're losing Kowalski, which is the defense. We're losing Ellis, which is the defense, and Mr. Chopra.

So we will be keeping precisely no one, right?

MR. ROGERS: No one. Correct.

Excuse me, is it your intention to break for lunch?

THE COURT: Yeah, we're going to break. I'm going to break for lunch. I might do one more round here and then we'll break.

MR. ROGERS: All right.

THE COURT: Okay.

(End of bench conference.)

THE COURT: All right. I'm going to excuse the following people: Mr. Chopra, Mr. Acosta, Ms. Roe, Ms. Kowalski, Ms. Pardinek and Ms. Ellis. You are all excused. Thank you very much for your willingness to serve.

[130] Noel, if you would please call six more names.

We're going to do one more round and then we will be breaking for lunch.

DEPUTY CLERK: Deonna Rochelle Peterson, Christina Towry, Charles Ireland, Jenny Rynberk, Jane Huttler, Kimberly Ann Gonzalez.

THE COURT: Okay. While Ms. Gonzalez is coming forward, we'll get started with you, Ms. Peterson.

Good afternoon. What city or town do you reside in?

PROSPECTIVE JUROR: Gary.

THE COURT: How long have you lived in Gary?

PROSPECTIVE JUROR: All my life.

THE COURT: Do you work, ma'am?

PROSPECTIVE JUROR: Yes.

THE COURT: Where do you work at?

PROSPECTIVE JUROR: Majestic Casino.

THE COURT: What do you do there?

PROSPECTIVE JUROR: Casino service rep.

THE COURT: What's that mean?

PROSPECTIVE JUROR: I sign up guests, let them know what they have available on their accounts.

THE COURT: Kind of customer service essentially?

PROSPECTIVE JUROR: Exactly, yes.

THE COURT: How long have you worked there?

PROSPECTIVE JUROR: Three years.

[131] **THE COURT:** Three?

PROSPECTIVE JUROR: Yes.

THE COURT: Okay. Are you married?

PROSPECTIVE JUROR: No.

THE COURT: Have you ever been married?

PROSPECTIVE JUROR: No.

THE COURT: Do you have any children?

PROSPECTIVE JUROR: No.

THE COURT: What's the extent of your education?

PROSPECTIVE JUROR: High school.

THE COURT: Okay. What kind of things do you like to do in your spare time?

PROSPECTIVE JUROR: Read, look at Netflix, HGTV, YouTube.

THE COURT: Great. Did you ever hear about this case or know anything about it at all?

PROSPECTIVE JUROR: No.

THE COURT: Have you formed or expressed an opinion about the merits of the case?

PROSPECTIVE JUROR: No.

THE COURT: Now, did you hear me ask that whole range of other questions that I asked a couple of times now to the earlier panels, did you hear those questions?

PROSPECTIVE JUROR: Yes.

THE COURT: Would you have answered yes to any of [132] those questions, or is there anything that I have raised that sort of sets a flag off in your mind to

say, gee, I should share that with the Court and with the parties?

PROSPECTIVE JUROR: Such as?

THE COURT: Well, any of those questions, you know, you ever serve on a jury before; do you have law enforcement in your family; do you have lawyers in your family; do you take issue with these fundamental rules of law that I have talked about, the presumption of innocence, the defendant has to be proven guilty beyond a reasonable doubt, that the defendants have a right to remain silent, all of those other questions I asked. All I'm getting at, is there anything that we have talked about this morning where you thought, well, that could bear on my ability to be fair and impartial, I should share it with the Court?

PROSPECTIVE JUROR: No.

THE COURT: Nothing at all?

PROSPECTIVE JUROR: No.

THE COURT: Okay. Did you ever hear about this case or know anything about it at all?

PROSPECTIVE JUROR: No.

THE COURT: So do you know of any reason, any reason whatsoever, why you can't be a fair and impartial juror in this case?

PROSPECTIVE JUROR: No.

[133] **THE COURT:** Thank you, ma'am.

PROSPECTIVE JUROR: You're welcome.

THE COURT: We're going to go down here to Ms. Towry.

PROSPECTIVE JUROR: Yes.

THE COURT: Good morning -- or good afternoon.
Where do you reside at, ma'am?

PROSPECTIVE JUROR: Crown Point.

THE COURT: How long have you lived down in
Crown Point?

PROSPECTIVE JUROR: About five years.

THE COURT: Do you work?

PROSPECTIVE JUROR: I do.

THE COURT: Where do you work at?

PROSPECTIVE JUROR: I do insurance sales
for a State Farm agent.

THE COURT: So you work for a particular
agent?

PROSPECTIVE JUROR: Correct.

THE COURT: What town is that in?

PROSPECTIVE JUROR: Highland.

THE COURT: Okay. How long have you done
that for?

PROSPECTIVE JUROR: About five years.

THE COURT: Great. Are you married?

PROSPECTIVE JUROR: No.

THE COURT: Have you ever been married?

PROSPECTIVE JUROR: No.

[134]

THE COURT: Any children?

PROSPECTIVE JUROR: No.

THE COURT: What's the extent of your
education?

PROSPECTIVE JUROR: Associate's degree.

THE COURT: Where did you get that from?

PROSPECTIVE JUROR: Ivy Tech.

THE COURT: Was there a particular area of interest?

PROSPECTIVE JUROR: Marketing and management.

THE COURT: All right. Do you own your own home or do you rent your place?

PROSPECTIVE JUROR: Rent an apartment with my boyfriend.

THE COURT: Okay. Is this -- not to get too personal, is this a long-time partner that you have had?

PROSPECTIVE JUROR: A year.

THE COURT: Okay. What kind of things do you like to do in your spare time?

PROSPECTIVE JUROR: Watch sports, go to concerts, I don't know.

THE COURT: Great. Is your family from Northwest Indiana?

PROSPECTIVE JUROR: Yep, from Merrillville.

THE COURT: Did you go to high school in Merrillville?

PROSPECTIVE JUROR: I did.

[135] **THE COURT:** Did you ever hear about this case or know anything about it at all?

PROSPECTIVE JUROR: No.

THE COURT: You heard me give some descriptions and discuss the case involving the Latin Kings and it is a racketeering conspiracy relating to the Latin Kings and it is a drug conspiracy. You know anything about the case at all, read anything about it, anything like that?

PROSPECTIVE JUROR: No.

THE COURT: Did you hear that whole range of other questions that I asked a couple of times now? Would you have answered yes to any of those questions?

PROSPECTIVE JUROR: No.

THE COURT: So do you know of any reason, any reason whatsoever, why you can't be a fair and impartial juror in this case?

PROSPECTIVE JUROR: No.

THE COURT: Thank you, ma'am.

Mr. Ireland.

PROSPECTIVE JUROR: Yes.

THE COURT: Good afternoon, sir. Where do you live at?

PROSPECTIVE JUROR: Valparaiso.

THE COURT: How long have you been out in Valpo?

PROSPECTIVE JUROR: Forty-four years.

[136] **THE COURT:** Do you work?

PROSPECTIVE JUROR: No, I'm retired.

THE COURT: From what?

PROSPECTIVE JUROR: Steel mill; I was a machinist.

THE COURT: Which mill did you work at?

PROSPECTIVE JUROR: ArcelorMittal.

THE COURT: How long did you work at ArcelorMittal or their predecessor companies?

PROSPECTIVE JUROR: Forty-two years.

THE COURT: Forty-two years, wow. How long have you been retired now?

PROSPECTIVE JUROR: Four years.

THE COURT: Good for you.

Are you married?

PROSPECTIVE JUROR: Yes.

THE COURT: Does your wife work or retired?

PROSPECTIVE JUROR: She's retired too.

THE COURT: From what?

PROSPECTIVE JUROR: She used to teach at Head Start.

THE COURT: Great. Do you guys have children?

PROSPECTIVE JUROR: Yes.

THE COURT: How many kids?

PROSPECTIVE JUROR: Two daughters.

THE COURT: What do they do?

PROSPECTIVE JUROR: One works at a credit union; the [137] other works at the hospital for the doctor up in Illinois.

THE COURT: Okay. Did you ever hear about this case or did you know anything about it at all?

PROSPECTIVE JUROR: No.

THE COURT: Have you formed an opinion about the merits of the case?

PROSPECTIVE JUROR: No.

THE COURT: Did you hear me ask that whole range of other questions that I asked the other jurors?

PROSPECTIVE JUROR: Yes.

THE COURT: Would you have answered yes to any of those questions?

PROSPECTIVE JUROR: Just my daughter's ex-husband was -- is in law enforcement.

THE COURT: Okay. Who did he work for -- or who does he work for?

PROSPECTIVE JUROR: State Police, Indiana.

THE COURT: Is he at the Lowell post, or do you know where?

PROSPECTIVE JUROR: I think he is at the Lowell post.

THE COURT: Mr. Nozick, is the State Police involved in this case at all?

MR. NOZICK: There are some, Judge, on the task forces, but I don't think we're going to call any of the witnesses. But they were somewhat involved in the case, but [138] we're not calling any of them.

THE COURT: Is there anything about that relationship that -- your former son-in-law who is in law enforcement -- is there anything about that relationship that's going to prevent you from being fair and impartial in this case?

PROSPECTIVE JUROR: No.

THE COURT: Anything else? Did you ever have somebody close to you that's had difficulties with the law, for example?

PROSPECTIVE JUROR: Well, my nephew has had some trouble with the law.

THE COURT: What's been the nature of that?

PROSPECTIVE JUROR: He got in a bar fight one time, but --

THE COURT: Okay. Anything about that experience -- I mean, did you feel like he was treated unfairly or anything like that?

PROSPECTIVE JUROR: No.

THE COURT: Okay. Is there anything about the fact that this case involves allegations of racketeering involving the Latin Kings or large-scale drug dealing or the allegations of the conspiracy, anything about that, just those facts alone that's going to prevent you from being fair and impartial?

PROSPECTIVE JUROR: No.

THE COURT: So if you were the prosecutors on this [139] case or if you were the defendants, would you be comfortable having this case decided by someone in your frame of mind?

PROSPECTIVE JUROR: I guess so.

THE COURT: Okay. Thank you, sir.

We'll go back here and talk to Ms. -- is it Rynberk or Rynberk?

PROSPECTIVE JUROR: Rynberk.

THE COURT: Rynberk. Where do you live at, ma'am?

PROSPECTIVE JUROR: Schererville.

THE COURT: How long have you been in Schererville?

PROSPECTIVE JUROR: Twenty-seven years.

THE COURT: Are you married?

PROSPECTIVE JUROR: Yes, I am.

THE COURT: What does your spouse do?

PROSPECTIVE JUROR: Self-employed residential painting.

THE COURT: Painting contractor?

PROSPECTIVE JUROR: Yes.

THE COURT: And how long has he had that business?

PROSPECTIVE JUROR: He's painted since high school, but his own business maybe 10 years.

THE COURT: Okay. Do you work?

PROSPECTIVE JUROR: I do.

THE COURT: Where do you work at?

PROSPECTIVE JUROR: Dyer Auto Auction.

[140] **THE COURT:** Sure. What do you do there?

PROSPECTIVE JUROR: Title clerk; fill out titles, accept payment for vehicles sold.

THE COURT: You do title histories of cars that come into the auction and that kind of thing?

PROSPECTIVE JUROR: I do not personally, but someone has that position.

THE COURT: Okay. How long have you worked at the Dyer Auto Auction?

PROSPECTIVE JUROR: Three years. I was home for 18 years. I worked there from '89 to '97.

THE COURT: Okay. And then you have now returned there?

PROSPECTIVE JUROR: Correct.

THE COURT: Do you have children?

PROSPECTIVE JUROR: I do.

THE COURT: How many kids?

PROSPECTIVE JUROR: Two boys; 21 and 19.

THE COURT: Are they both in school or what are they doing?

PROSPECTIVE JUROR: Twenty-one-year-old is a forklift driver at Buddig Meats in Munster, and the 19-year-old works at Taco Bell.

THE COURT: Okay. Did you ever hear about this case or know anything about it at all?

[141] **PROSPECTIVE JUROR:** No, sir.

THE COURT: Have you formed an opinion about the merits of the case?

PROSPECTIVE JUROR: No, sir.

THE COURT: Did you hear me ask all of those other questions of the other earlier panels?

PROSPECTIVE JUROR: Yes, sir.

THE COURT: Any of those questions, would you have felt compelled to share information or answer in the affirmative as it relates to any of that?

PROSPECTIVE JUROR: No, sir.

THE COURT: Do you know any of those witnesses that I listed?

PROSPECTIVE JUROR: No, sir.

THE COURT: Did you recognize the names of any of these alleged homicide victims?

PROSPECTIVE JUROR: No, I did not.

THE COURT: Do you have anybody in law enforcement in your family?

PROSPECTIVE JUROR: No.

THE COURT: Any lawyers in your family?

PROSPECTIVE JUROR: No.

THE COURT: Do you take issue at all with those fundamental principles that I have talked about ad nauseum at this point?

[142] **PROSPECTIVE JUROR:** No, sir.

THE COURT: Do you know of any reason why you can't be a fair and impartial juror in this case?

PROSPECTIVE JUROR: No, sir.

THE COURT: Thank you, ma'am.

Let's go down and talk -- I'm sorry, right next to you, Ms. Huttle.

PROSPECTIVE JUROR: Yes.

THE COURT: Where do you live at, ma'am?

PROSPECTIVE JUROR: In Munster.

THE COURT: And how long have you been in Munster?

PROSPECTIVE JUROR: Pretty much all my life.

THE COURT: Do you work?

PROSPECTIVE JUROR: Yes, I do.

THE COURT: Where do you work at?

PROSPECTIVE JUROR: The Times Media Company.

THE COURT: What do you do for The Times?

PROSPECTIVE JUROR: I'm in the sales department; I'm a support staff.

THE COURT: Okay. In sort of administrative-assistant type?

PROSPECTIVE JUROR: Yes, correct.

THE COURT: How long have you worked for The Times?

PROSPECTIVE JUROR: Thirty years.

THE COURT: And are you married?

[143] **PROSPECTIVE JUROR:** No.

THE COURT: Have you ever been married?

PROSPECTIVE JUROR: No.

THE COURT: Do you have any children?

PROSPECTIVE JUROR: No.

THE COURT: What's the extent of your education?

PROSPECTIVE JUROR: High school.

THE COURT: And have you pretty much held the same position in The Times throughout your tenure there?

PROSPECTIVE JUROR: No, I've kind of moved around a little bit.

THE COURT: Okay. It's now owned by, is it, Lee Enterprises?

PROSPECTIVE JUROR: Correct, yes.

THE COURT: And that's, what, in like the last decade or so?

PROSPECTIVE JUROR: Yes.

THE COURT: Did you ever hear about this case or know anything about it at all?

PROSPECTIVE JUROR: I don't believe so, no.

THE COURT: What do you like to do in your spare time?

PROSPECTIVE JUROR: Garden, bike ride, watch TV.

THE COURT: Okay. Do you have family in the area?

PROSPECTIVE JUROR: Yes, I do. I have a sister.

[144] **THE COURT:** Okay. And does your sister have children?

PROSPECTIVE JUROR: Yes.

THE COURT: Where do they reside, what city or town?

PROSPECTIVE JUROR: Highland.

THE COURT: Do you have a close relationship with her?

PROSPECTIVE JUROR: Yes.

THE COURT: Relatively?

PROSPECTIVE JUROR: Yes.

THE COURT: Did you hear me ask that whole range of other questions? Would you have answered in the affirmative as it relates to any of that stuff?

PROSPECTIVE JUROR: I did serve on two other trials.

THE COURT: Great. Where were you a juror?

PROSPECTIVE JUROR: In Lake County; one was criminal, and one was civil.

THE COURT: On the civil one, did you arrive at a verdict?

PROSPECTIVE JUROR: Yes.

THE COURT: Did you find in favor of the plaintiff or in favor of the defendant?

PROSPECTIVE JUROR: The defendant. We didn't --

THE COURT: What was the nature of the case, just briefly?

[145] **PROSPECTIVE JUROR:** It was a work-related injury, back injury.

THE COURT: Okay. And you found in favor of the defendant, is that right, the person who was being sued?

PROSPECTIVE JUROR: No.

THE COURT: Oh, you found in favor of the plaintiff?

PROSPECTIVE JUROR: Yes.

THE COURT: And you awarded damages?

PROSPECTIVE JUROR: Oh, I'm sorry, the opposite way.

I'm sorry, yes.

THE COURT: Okay. That's what I thought you had said. Okay. This is at the risk of stating the

obvious, but I want to make sure we're on the same page here.

PROSPECTIVE JUROR: Yes.

THE COURT: You know, in a civil case, the burden of proof by the person who is bringing the lawsuit, they have to prove their case by what is known as a preponderance of the evidence, meaning something is more likely true than not true.

But in a criminal case, the proof is beyond a reasonable doubt, a totally different and higher standard of proof.

Do you understand that distinction?

PROSPECTIVE JUROR: Yes.

THE COURT: Okay. So talk to me about the criminal trial that you served on.

PROSPECTIVE JUROR: It was a rape and robbery of an [146] elderly woman.

THE COURT: And was it in Crown Point?

PROSPECTIVE JUROR: Yes.

THE COURT: And did you actually deliberate toward a verdict?

PROSPECTIVE JUROR: Yes.

THE COURT: And what was the verdict?

PROSPECTIVE JUROR: Guilty.

THE COURT: And were you the foreperson on the jury?

PROSPECTIVE JUROR: No, I was not.

THE COURT: How long ago was that service?

PROSPECTIVE JUROR: I want to say about 15 years ago.

THE COURT: Is there anything about either of those services as a juror that in some way left a bad taste in your mouth or left you a sense that you didn't like how the system worked or anything like that?

PROSPECTIVE JUROR: No.

THE COURT: Would you agree or be able to set aside whatever you may have learned about the process through those earlier experiences and decide this case based on the facts and evidence involved that's presented here and on the law as I give it to you; will you be able to do that?

PROSPECTIVE JUROR: Yes.

THE COURT: Any question about that?

PROSPECTIVE JUROR: No.

[147] **THE COURT:** Any other question that you would have answered yes to?

PROSPECTIVE JUROR: No.

THE COURT: That whole range of other questions?

So do you know of any reason why you can't be a fair and impartial juror in this case?

PROSPECTIVE JUROR: No.

THE COURT: If you were the prosecutors charged with the responsibility of bringing this case or if you were the defendants who stand charged, would you be comfortable having this case decided by someone in your frame of mind?

PROSPECTIVE JUROR: Yes.

THE COURT: Thank you, ma'am.

Ms. Gonzalez.

PROSPECTIVE JUROR: Yes.

THE COURT: Where do you reside at?

PROSPECTIVE JUROR: I live in Hammond.

THE COURT: How long have you lived here?

PROSPECTIVE JUROR: Since November 2003.

THE COURT: Are you married?

PROSPECTIVE JUROR: Yes, I am.

THE COURT: Does your husband work?

PROSPECTIVE JUROR: Yes, he does.

THE COURT: Where does he work at?

PROSPECTIVE JUROR: He works in Chicago.

[148] **THE COURT:** And what does he do?

PROSPECTIVE JUROR: He's a sewer foreman.

THE COURT: Does he work for the city?

PROSPECTIVE JUROR: No, it is a private, but kind of federal job.

THE COURT: Okay. Do you work?

PROSPECTIVE JUROR: Yes, I do.

THE COURT: Where do you work at?

PROSPECTIVE JUROR: I work for a media information company in Chicago.

THE COURT: May I ask the name of that company.

PROSPECTIVE JUROR: It is Informa.

THE COURT: And what, in particular, do you do there?

PROSPECTIVE JUROR: I manage the Chicago office, and I'm an executive assistant to the president of our Lifestyle Division.

THE COURT: What do they do? Like, can you give -- I'm not sure I understand.

PROSPECTIVE JUROR: Right. We produce a lot of very niche market publications, live events, trade shows.

THE COURT: So content, you are creating content?

PROSPECTIVE JUROR: Content, yes, digital and print.

THE COURT: How many people report to you in your job?

PROSPECTIVE JUROR: I don't have any direct reports.

[149] **THE COURT:** You don't have direct reports?

PROSPECTIVE JUROR: No.

THE COURT: How many are located in the Chicago office?

PROSPECTIVE JUROR: About 25.

THE COURT: Okay. And you are sort of the administrator of the office?

PROSPECTIVE JUROR: Right, I make sure all operations and facilities are running and then, of course, provide administrative support to the president.

THE COURT: Sure. And where is the main office at?

PROSPECTIVE JUROR: In the UK.

THE COURT: Oh, it is in England. Okay.

Do you have children?

PROSPECTIVE JUROR: No, I do not.

THE COURT: What's the extent of your education?

PROSPECTIVE JUROR: Some college.

THE COURT: Okay. Did you ever hear about this case or know anything about it at all?

PROSPECTIVE JUROR: No, not to my knowledge.

THE COURT: Have you formed an opinion about the merits of the case?

PROSPECTIVE JUROR: No.

THE COURT: Do you know any of the participants that we have introduced a couple of times, know them at all?

PROSPECTIVE JUROR: No.

THE COURT: Know any of those witnesses that I read the names of?

PROSPECTIVE JUROR: The names sound familiar but -- like last names sound familiar, but not off the bat, no.

THE COURT: Okay. Did you ever serve on a jury before?

PROSPECTIVE JUROR: No.

THE COURT: Do you take issue at all with those rules of law that I have talked about a number of times, you know, proof beyond a reasonable doubt, the burden of proof is with the government, the defendants have an absolute right not to testify and they don't have to present any evidence at all, all the burden is on the government; do you take issue with any of those fundamental principles?

PROSPECTIVE JUROR: No.

THE COURT: If you were, again, the prosecutors or the defendants sitting in those chairs, would you be comfortable with somebody in your state of mind deciding the important issues in this case?

PROSPECTIVE JUROR: I think so.

THE COURT: Do you know of any reason why you can't be fair and impartial in this case?

PROSPECTIVE JUROR: I don't think so.

THE COURT: Okay. Mr. Nozick, do you have any [151] follow-up questions for any of these individuals?

MR. NOZICK: I do, Your Honor. Can we approach?

THE COURT: Sure, we can approach. Yeah.

(Bench conference.)

THE COURT: Mr. Nozick.

MR. NOZICK: Your Honor, Mr. Ireland, question 28, do you have any religious convictions that will affect you, he said, "yes." I would like to hear some on that. And --

THE COURT: I'm sorry, I didn't hear you.

MR. NOZICK: Should I go to the next defendant [verbatim]?

THE COURT: Yes, please.

MR. NOZICK: Kimberly Ann Gonzalez also answered "yes." And in other spots -- in 26, if you could look at 26 and then 28 and then 31, 32.

MR. BEDI: Basically the whole second page.

THE COURT: Okay. I mean -- okay. I'll follow up on that.

Anything else?

MR. NOZICK: No.

MR. BEDI: Judge, on Towry, she says she has a live-in boyfriend for a year. I would like to know what he does.

THE COURT: Okay. Good question.

MR. BEDI: That's it, Judge.

[152] **THE COURT:** Okay. Let me ask those questions and then we'll do one more strike and then we'll take a break for lunch.

Mr. Rogers?

MR. ROGERS: Perhaps somehow mention the Latin Kings again.

THE COURT: I thought I did.

MR. ROGERS: You did. Was it on this panel or was it --

THE COURT: Yeah.

MR. ROGERS: Oh. I must be asleep. Okay.

THE COURT: Boy, that's not a -- I know you are just teasing.

MR. ROGERS: All right. Thank you.

(End of bench conference.)

THE COURT: All right. I just have a couple follow-up questions.

I'm going to start with you, Mr. Ireland.

Who's got the microphone? It is right behind you, sir.

There's a question on the juror questionnaire that you kindly filled out, Question No. 28. And what that says is: "Do you have any religious convictions which you believe would affect your ability to sit in judgment of another person?" And you answered the question "yes." Do you remember that question?

[153] **PROSPECTIVE JUROR:** Yeah.

THE COURT: Do you know kind of what were you getting at or thinking about when you answered the question in that way?

PROSPECTIVE JUROR: Just you are not supposed to judge people unless you actually saw them do something.

THE COURT: So do you understand, of course, our system works on independent jurors who have no understanding about the facts are presented evidence so that they can make a reasoned judgment about whether or not the government has proved its case beyond a reasonable doubt?

Do you feel like you would be able to do that?

PROSPECTIVE JUROR: Yeah, I think I could.

THE COURT: Okay. Anything else, Mr. Nozick, about that?

MR. NOZICK: No, Your Honor.

THE COURT: Ms. Gonzalez, I want to follow up with you as well.

You had -- there's a number of questions that you answered -- and I'm not trying to at all embarrass you on this, but I do think it is important to follow up. There's a question asked: Do you have any preconceived attitudes about the American legal system and the courts or lawyers which might affect your ability to serve as a juror. And you answered the question "yes."

[154] And then the follow-up is, you know, flesh that out for us, explain it. And you said, "With all that is happening in the media from the president to politicians to lawyers, I'm very disappointed with the state of the United States. I also don't agree with many of the current orders relating to immigration, mental health..." et cetera.

PROSPECTIVE JUROR: Uh-huh.

THE COURT: I don't want to put words in your mouth, but that strikes me as sort of a very fair comment, a reasonable opinion as to the current, sort of, leadership in our country. Is that what you are getting at there or maybe you just explain it to me.

PROSPECTIVE JUROR: Well, I just -- some of the issues that are at hand, I mean, considering that we come from a country of all immigrants, my family included, you know, how could things change so drastically here in the 21st century knowing that we have come from immigrants from day one and how, you know, that can be, you know -- a change of life for many individuals, without even giving them the

opportunity to even, you know, hear their side of the story or to seek help or assistance. And we don't know what other people's stories are, you know, so, yes, that is one of my biggest.

THE COURT: I totally appreciate that. And it is a perfectly fair and permissible opinion, and it sounds like in some ways you are offended by some of the rhetoric, is that [155] what I'm hearing?

PROSPECTIVE JUROR: Yes, I can be. I can take offense to it, knowing that I have family or relatives that may have gone through certain things, so --

THE COURT: Fair enough. Here is the question I have to ask you -- and nobody walks into this courtroom a clean slate. No one -- we all have lived a life. We all experience -- have the American experience, and we have come from different walks of life, so we bring something into this courtroom by way of opinions and by way of how we approach issues, so, of course. The question is: Do you feel like you would be able to set aside any views that you might have and really just listen to the evidence, listen to the witnesses, make some determinations on what you think happened, what are the facts, and then to apply those facts to the rules of law as I will give them to you? Do you think you will be able to do that in a fair and unbiased way?

PROSPECTIVE JUROR: I think so.

THE COURT: Okay. Thank you, ma'am.

Can you hand the microphone up to Ms. Towry. I have one other follow up for you. Your boyfriend, what does he do for a living?

PROSPECTIVE JUROR: He is a painter at a body shop, collision, car industry.

THE COURT: Got it. How long has he been doing that [156] for?

PROSPECTIVE JUROR: Forever.

THE COURT: Okay. Thank you, ma'am.

Counsel, you can consult and approach the bench when you are ready.

Just stand up when you are ready so the other side knows that you are ready to go.

(Bench conference.)

THE COURT: All right. Challenges for cause. Government has none and defense has none.

Peremptories. So you guys are exercising these together?

MR. VANZANT: Yes, Your Honor.

MR. ROGERS: Yeah.

THE COURT: Okay. So the government strikes Ireland and Gonzalez, and the defense strikes Towry and Rynberk. So we will keep Ms. Peterson and we'll keep Ms. Huttie and that's it.

So two strikes for the defendant and one -- for defendants and one for the government. So you guys have four left and --

MR. ROGERS: The government struck two.

THE COURT: The government struck two? I --

MR. ROGERS: Yeah, Ireland and --

THE COURT: Yeah, I'm sorry. So the government has three strikes left, and you guys have -- it would be, four strikes left for the defense.

DEPUTY CLERK: Judge, can you repeat the ones for the [157] defense?

THE COURT: Yeah. It was Rynberk and Towry. Seat number five is Towry; seat number eight is Rynberk.

DEPUTY CLERK: Thank you.

THE COURT: So we'll break for lunch now, and we'll pick back up at, say, quarter to two.

MR. BEDI: Judge, can you also give an admonishment that you if you see the lawyers walking around I instruct them --

THE COURT: Yeah. Yeah. I do that as a matter of course. I will do it right now.

(End of bench conference.)

THE COURT: I'm going to excuse the following people: Ms. Towry, Mr. Ireland, Ms. Rynberk, and Ms. Gonzalez. You are all excused.

All right. Ladies and gentlemen, for the eight of you that are in the box, I'm going to send you back into the jury room, because we have lunch brought in for the people who have been selected. So lunch will be served to you back in the jury room.

For everybody else, we're going to take our lunch. You're on your own for that. And I ask you to be back here by no later than a quarter to two.

Now, this is important, these instructions I want to give you. Do not discuss the case at all with one another, anybody, [158] over this lunch recess. And for

the people who are going out into the public area, I have instructed the lawyers and the defendants that they should have no interaction with the jurors or prospective jurors at all. So if you see them in the elevator and they are ignoring you, they are not being rude. They are doing it on my instruction, because if somebody were to witness that kind of interaction from afar, even if you were just talking about yesterday's Cubs/Sox game and it was totally innocuous, somebody might take it the wrong way. So just have no interaction with any of the participants whatsoever over this lunch recess.

So we will pick back up with jury selection in one hour. Thank you.

(Prospective jurors exit courtroom.)

MR. TRUITT: Judge, can Mr. Nozick and I have a second up there?

THE COURT: Does it need to be on the record?

MR. TRUITT: Yeah. If I could approach.

I just wanted the Court to know and counsel to know, one of the prospective jurors is Rich Spicer.

THE COURT: Yeah, I saw that.

MR. TRUITT: Obviously, he knows Larry and I really well. I was walking out, he was walking in. He reached his hand out, said, "Hey, how are you doing, Bryan?"

I don't think any of the jurors saw it, but I just wanted [159] to make sure Mr. Nozick knew it more so than the Court or anybody else.

THE COURT: Fair enough. I mean, I know Rich myself. I have several acquaintances with him out in

Valparaiso. If he gets selected, we'll have a dialogue with him about all that.

MR. TRUITT: I just wanted to let you know I did shake his hand.

THE COURT: I appreciate you letting me know.

MR. NOZICK: While we're doing that, I know him also. While we are walking in, there was no contact, but we caught eyes and sort of, what's up nod. No contact but I also personally know him.

MR. ROGERS: Is that Spicer?

MR. NOZICK: Yeah.

MR. ROGERS: I also worked with him and his brother.

THE COURT: Let me ask you this: Does anybody have any objection to me sending Spicer home so he doesn't have to sit here?

MR. TRUITT: No, Your Honor.

MR. VANZANT: No, Your Honor.

MR. NOZICK: No.

MR. ROGERS: No, Your Honor.

THE COURT: Because he's going to be struck for cause anyway.

Lenny, would you -

[160] Keep this on the record.

There's a potential juror, his name is Rich Spicer. He is about 5'8", completely bald. Would you see if you can locate him. Tell him that everybody has agreed that he can be sent home because he would otherwise be dismissed.

THE MARSHAL: Oh, okay. Rich Spicer.

THE COURT: Rich Spicer.

MR. NOZICK: He has like a white plaid with --

THE MARSHAL: Okay.

On the lunch, the lunches are downstairs. Did you say you want them to eat up here, those jurors?

THE COURT: We have box lunches coming up.

THE MARSHAL: Yeah, they are downstairs in the cafeteria.

THE COURT: I want them up here because I don't want them to be intermingling with these folks.

THE MARSHAL: Okay.

MR. NOZICK: They are not going to bring him back in, Spicer, you are just sending him --

THE COURT: I don't think we need to do anything else.

(A recess was had at 12:41 p.m.)

(The following proceedings were held in open court beginning at 1:54 p.m., reported as follows:)

THE COURT: We're back on the record, 2:15-CR-72, [161] United States versus Vallodolid and Nieto.

Is everybody ready to proceed?

MR. NOZICK: Yes, Your Honor.

THE COURT: So you can call the jurors back in. Clarence, would you make sure Lenny is calling the other folks back in. You can be seated.

(Prospective jurors entered the courtroom.)

THE COURT: You can be seated.

Ms. Huttie is in the third seat. That's correct. You have to remember the seat that you are in because we have to keep a record of it.

So, Noel, if you would, please call four new names.

DEPUTY CLERK: Robert Clayton Cobb, Guillermo Garcia, Christina Kolb, Kristy Lynne Steiner.

THE COURT: All right. So we're going to start -- pick up with Mr. Cobb. You have the microphone, sir?

PROSPECTIVE JUROR: Yes.

THE COURT: Good afternoon. Would you tell us what city or town you reside in?

PROSPECTIVE JUROR: I live in Highland, Indiana.

THE COURT: Okay. How long have you lived down in Highland?

PROSPECTIVE JUROR: Just over 21 years.

THE COURT: Great. Do you work, sir?

[162] **PROSPECTIVE JUROR:** Yes, I do.

THE COURT: Where do you work at?

PROSPECTIVE JUROR: I work in Schererville at a small machine shop, Progress Pump and Turbine Service.

THE COURT: What in particular do you do there?

PROSPECTIVE JUROR: I was a welder and did several things in there, but I drive the truck, pick up stuff at the steel mills, the places, make deliveries and stuff like that.

THE COURT: Sure. How long have you had that job?

PROSPECTIVE JUROR: Fifteen years now.

THE COURT: Great. Are you married?

PROSPECTIVE JUROR: Yes, sir, I am.

THE COURT: Does your spouse work?

PROSPECTIVE JUROR: Yes, she does.

THE COURT: Where does she work at?

PROSPECTIVE JUROR: Compton and Broomhead Dental in Munster.

THE COURT: And what does she do there?

PROSPECTIVE JUROR: She's just a receptionist.

THE COURT: Okay. Do you have guys have children?

PROSPECTIVE JUROR: Yes, we do.

THE COURT: How many kids?

PROSPECTIVE JUROR: I have one 21-year-old son.

THE COURT: And what does your boy do?

PROSPECTIVE JUROR: He's a student at Purdue Cal, and [163] he works part time at Enterprise Rent-A-Car.

THE COURT: What's the extent of your education, sir?

PROSPECTIVE JUROR: High school, and then I have an associate's degree in welding from Ivy Tech in Valparaiso.

THE COURT: Great. What kind of things do you like to do in your spare time?

PROSPECTIVE JUROR: I love to fish. I play softball, golf, a lot of outdoors stuff, sports basically.

THE COURT: Great. Have you ever heard about this case or do you know anything about it at all?

PROSPECTIVE JUROR: No. No, not at all.

THE COURT: Have you read anything about it in the newspaper, listened to any broadcast reports about the case?

PROSPECTIVE JUROR: No. No, not at all.

THE COURT: You heard us talk generally in open court, you know, broad contours of what the case is about. Have you heard anything about it at all?

PROSPECTIVE JUROR: None, not at all.

THE COURT: Okay. Have you ever served on a jury before?

PROSPECTIVE JUROR: No, sir, I have not.

THE COURT: Did you know any of the witnesses that I read out loud, the names?

PROSPECTIVE JUROR: None of the names sound familiar.

THE COURT: Okay. Do you know any of the lawyers or [164] either of the parties involved in the case?

PROSPECTIVE JUROR: My wife's cousin is a lawyer, and his dad was a lawyer, so some of them look vaguely familiar from family gatherings and maybe a wedding or something like that. But as far as pointing

them out saying, hey, I know you or I know your name, no.

THE COURT: What's that lawyer's name?

PROSPECTIVE JUROR: John Reed and his father, Ken Reed.

THE COURT: Okay. Anything about those relationships that's going to prevent you from being fair and impartial in this case?

PROSPECTIVE JUROR: No.

THE COURT: And, again, you understand that during the trial, if you are selected as a juror, you can't pick up the phone and call them and say I didn't really understand something or what have you.

PROSPECTIVE JUROR: Right.

THE COURT: You cannot have any contact with anybody about the contents of the trial?

PROSPECTIVE JUROR: Right.

THE COURT: You understand that?

PROSPECTIVE JUROR: (Nodding.)

THE COURT: Okay. Would you have answered yes to any of those other questions that I previously raised with the [165] other panels?

PROSPECTIVE JUROR: None that I can remember. There were so many, and it's been such a long day. I don't recall everything, but none that I can think of.

THE COURT: Well, let me ask you this: Do you take at all issue with those fundamental principles of criminal law that I have talked about that these defendants are presumed innocent and the

government has to prove its case beyond a reasonable doubt? Do you understand that?

PROSPECTIVE JUROR: Yes, I do.

THE COURT: Do you take issue with that at all?

PROSPECTIVE JUROR: No, I do not.

THE COURT: Okay. So do you know of any reason, anything at all that is bothering you or that's sort of itching at you that might 'cause you to think, I don't know if I could be fair and impartial here, anything like that?

PROSPECTIVE JUROR: Earlier you mentioned the Latin Kings. I don't know which side or the involvement. I grew up in Hammond. I lived in Hammond for over 25 years. I went to high school and middle school in Hammond, so I have had altercations. I have been around them. I known people that have had problems with the Latin Kings in the past, and I don't know -- like I said, I don't know which way it is involved or the involvement, but I might have an issue with that.

THE COURT: Okay. I mean, you have had some [166] interaction with -- and maybe potential gang members at some time during your --

PROSPECTIVE JUROR: Yeah.

THE COURT: -- being raised in Northwest Indiana?

PROSPECTIVE JUROR: Right.

THE COURT: Of course, in this case, all we're talking about are allegations.

PROSPECTIVE JUROR: Right.

THE COURT: These defendants deny the allegations, and that's what we're here at trial to decide, whether the government can prove its case beyond a reasonable doubt. And so the question for you is: Will you be able to set aside any involvement or knowledge you might have, set that aside, and decide this case based upon what you hear from the witness stand and the evidence that's presented and on the law as I give it to you? Do you think you will be able to do that?

PROSPECTIVE JUROR: Yeah.

THE COURT: Any question about that?

PROSPECTIVE JUROR: No.

THE COURT: If you were the prosecutors charged with the responsibility of bringing this case or you were the defendants who are accused of these crimes, would you be comfortable having this case decided by someone in your frame of mind?

PROSPECTIVE JUROR: Yeah.

[167] **THE COURT:** Thank you, sir.

So we'll talk to Mr. Garcia now. Good afternoon.

PROSPECTIVE JUROR: Good afternoon.

THE COURT: Where do you reside at, sir?

PROSPECTIVE JUROR: Whiting; Robertsdale area.

THE COURT: All right. Do you work, sir?

PROSPECTIVE JUROR: Yes.

THE COURT: Where do you work at?

PROSPECTIVE JUROR: Midwestern Electric in East Chicago.

THE COURT: What do you do there?

PROSPECTIVE JUROR: Lighting technician/
underground locator.

THE COURT: How long have you done that for?

PROSPECTIVE JUROR: About four years.

THE COURT: Are you married?

PROSPECTIVE JUROR: Yes.

THE COURT: Do you have children?

PROSPECTIVE JUROR: Yes.

THE COURT: How many kids do you have?

PROSPECTIVE JUROR: Three kids.

THE COURT: And are they still sort of --

PROSPECTIVE JUROR: I have twin 10 year-
olds and a six-year-old.

THE COURT: And does your wife work?

[168] **PROSPECTIVE JUROR:** Yes.

THE COURT: What does she do?

PROSPECTIVE JUROR: She's a pharmacy
technician in one of the Franciscan places over there
in Munster.

THE COURT: Sure. Sure. What's the extent of
your education, sir?

PROSPECTIVE JUROR: High school.

THE COURT: And where did you go to school?

PROSPECTIVE JUROR: St. Francis De Sales
in Chicago.

THE COURT: Sure. Did you grow up on the
south side over there?

PROSPECTIVE JUROR: Yeah, southeast side, south side of Chicago.

THE COURT: Yeah. And when did you move over to Northwest Indiana?

PROSPECTIVE JUROR: I moved over here about 13 years ago.

THE COURT: Okay. What kind of things do you and your family like to do, you know, in your spare time?

PROSPECTIVE JUROR: Just hang out, ride bikes. I play in a band, music stuff, concerts, whatever.

THE COURT: Do you play an instrument?

PROSPECTIVE JUROR: Yeah, I play an instrument.

THE COURT: What do you play?

PROSPECTIVE JUROR: I play base.

[169] **THE COURT:** Great. Have you ever heard about this case, or do you know anything about it at all?

PROSPECTIVE JUROR: No.

THE COURT: Have you formed or expressed an opinion about the merits of the case?

PROSPECTIVE JUROR: No.

THE COURT: You read anything about it in the paper, know anything about it at all?

PROSPECTIVE JUROR: No.

THE COURT: Would you have answered yes to any of those other questions that I previously raised?

PROSPECTIVE JUROR: As far as the marijuana thing and the drug thing, I believe all drugs should be legal because we spend so many billions of dollars on the war on drugs and it hasn't done anything, so as far as that aspect -- yeah, I do have a couple uncles in law enforcement in Chicago.

THE COURT: Okay.

PROSPECTIVE JUROR: And I think a cousin. Other than that, that's pretty much what I have.

THE COURT: All right. Let me follow up with a little bit of that. I'm glad you raised them. Fair points. As I think I discussed this morning with another couple of folks, there's a robust debate going on in this country about, you know, whether or not certain drugs should be legalized or decriminalized, and those are all fair positions.

[170] The question is: As it stands now, we have laws that make it unlawful to distribute controlled substances, and even if you personally disagree with those laws -- and I respect that -- would you be able to follow the law even though you personally disagree with it?

PROSPECTIVE JUROR: Yeah, I guess so.

THE COURT: Okay. You mentioned you have some family members who are in law enforcement up in Chicago?

PROSPECTIVE JUROR: Yes.

THE COURT: The Chicago Police Department?

PROSPECTIVE JUROR: Yes.

THE COURT: All right. Anything about those relationships that you think would prevent you from being fair and impartial in this case?

PROSPECTIVE JUROR: No.

THE COURT: Anything else that you can think of?

PROSPECTIVE JUROR: Not off the top of my head, no.

THE COURT: Okay. Again, let me ask you the question: If you were either side to this case, would you be comfortable with somebody in your frame of mind deciding this case? In other words, do you feel like you have a fair state of mind that's, you know, sort of in equilibrium subject to being persuaded one way or the other?

PROSPECTIVE JUROR: Yeah, I assume so.

THE COURT: Thank you, sir.

[171] So we'll go back here to Ms. Kolb it is?

PROSPECTIVE JUROR: Yes.

THE COURT: Where do you reside at, ma'am?

PROSPECTIVE JUROR: Valpo, Chesterton.

THE COURT: How long have you lived out that way?

PROSPECTIVE JUROR: Twenty-eight years.

THE COURT: Do you work?

PROSPECTIVE JUROR: I do.

THE COURT: Where do you work at?

PROSPECTIVE JUROR: I work at an Ameriprise Financial office.

THE COURT: What, in particular, do you do there?

PROSPECTIVE JUROR: Financial planning assistant.

THE COURT: So you work for some of the certified financial planners?

PROSPECTIVE JUROR: Absolutely.

THE COURT: Helping them dealing with clients, et cetera?

PROSPECTIVE JUROR: Yes.

THE COURT: How long have you done that for?

PROSPECTIVE JUROR: Ten years.

THE COURT: What is the extent of your education?

PROSPECTIVE JUROR: I have a college degree.

THE COURT: In what discipline?

PROSPECTIVE JUROR: Engineering.

[172] **THE COURT:** Have you ever been a practicing engineer?

PROSPECTIVE JUROR: Yes.

THE COURT: What got you out of that?

PROSPECTIVE JUROR: The plant I worked at closed.

THE COURT: Okay. Which plant did you work at?

PROSPECTIVE JUROR: It was MB Bearings in Valpo.

THE COURT: Okay. So were you an industrial engineer?

PROSPECTIVE JUROR: Yes.

THE COURT: Okay. And how long did you practice engineering?

PROSPECTIVE JUROR: About 15 years.

THE COURT: Where did you go to college?

PROSPECTIVE JUROR: Purdue.

THE COURT: Down in Lafayette or local?

PROSPECTIVE JUROR: Yeah.

THE COURT: Are you married?

PROSPECTIVE JUROR: Yes.

THE COURT: Does your spouse work?

PROSPECTIVE JUROR: He does.

THE COURT: Where does he work at?

PROSPECTIVE JUROR: He is safety director for Union Tank Car Company in Chicago.

THE COURT: Do you guys have children?

PROSPECTIVE JUROR: Yes.

[173] **THE COURT:** How many kids?

PROSPECTIVE JUROR: I have two. I have a son and I have a daughter.

THE COURT: How old are they?

PROSPECTIVE JUROR: My son is 28 and my daughter is 26.

THE COURT: And can you give me just a little sense of what they are up to in life?

PROSPECTIVE JUROR: My son is an electrician at ArcelorMittal, and my daughter is a emergency room nurse in Indianapolis and dancer for the Indiana Pacers.

THE COURT: Oh, that's interesting. Good for her.

Did you ever hear about this case, or do you know anything about it at all?

PROSPECTIVE JUROR: I do not.

THE COURT: Did you ever read about it in the newspaper or heard anything from any other sources about the case?

PROSPECTIVE JUROR: No.

THE COURT: Okay. Have you formed an opinion about the merits of the case at all?

PROSPECTIVE JUROR: No.

THE COURT: Would you have answered yes to any of those other questions that I raised that I read two or three times at least?

[174] **PROSPECTIVE JUROR:** Yes. I actually know Attorney Rogers and his paralegal, Jocelyn Rogers. My son played high school football with their son, and we also hired Attorney Rogers for my son's MCA charge.

THE COURT: What's MCA?

PROSPECTIVE JUROR: Minor consuming alcohol.

THE COURT: So how long ago was that relationship or engagement, whatever?

PROSPECTIVE JUROR: For my son?

THE COURT: Yeah.

PROSPECTIVE JUROR: That was probably seven or eight years ago.

THE COURT: Your son's twenty-six now?

PROSPECTIVE JUROR: Twenty-eight.

THE COURT: Or twenty-eight. It's the older one.

PROSPECTIVE JUROR: Uh-huh.

THE COURT: Okay. Do you have a sort of personal relationship with Mr. Rogers -- And is that your wife, Mr. Rogers?

MR. ROGERS: Yes.

THE COURT: Are you friends? I mean, do you socialize?

PROSPECTIVE JUROR: I knew them when we were in high school football together.

THE COURT: And when is the last time you talked to [175] them, if you could guess?

PROSPECTIVE JUROR: Oh, I mean, years ago, eight years ago.

THE COURT: Well, let me ask you this: If you were chosen to be on the jury and you were persuaded beyond a reasonable doubt that the government has proved its case against Mr. Nieto, Mr. Rogers' client, would you have any qualms in rendering a verdict of guilty? Would there be anything about that relationship that would prevent you from doing that?

PROSPECTIVE JUROR: No.

THE COURT: Okay. Any other questions that you would have answered yes to?

PROSPECTIVE JUROR: Yes. I have a vacation in two weeks that's been planned for 10 months, so, yeah, I would have some objections.

THE COURT: Okay. Fair enough.

Where are you going?

PROSPECTIVE JUROR: I'm going to St. George Island in Florida.

THE COURT: Okay. I assume you have prepaid for tickets and those sorts of things?

PROSPECTIVE JUROR: Yes.

THE COURT: And so that is two weeks from today?

PROSPECTIVE JUROR: June 2nd.

[176] **THE COURT:** Yeah. That's three weeks, right?

MR. TRUITT: Three weeks.

PROSPECTIVE JUROR: That's three weeks? I feel like it is two. I really need a vacation.

THE COURT: Okay. Here is what I can tell you - are you leaving on that weekend prior to that week?

PROSPECTIVE JUROR: Yes, on the second.

THE COURT: Yeah, I can assure you we'll be done by then, okay? Is there anything else that you would have answered yes to?

PROSPECTIVE JUROR: No.

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

Let's talk to Ms. Steiner. Good afternoon.

PROSPECTIVE JUROR: Hi.

THE COURT: Where do you live at, ma'am?

PROSPECTIVE JUROR: Chesterton.

THE COURT: How long have you lived out in Chesterton?

PROSPECTIVE JUROR: For four years.

THE COURT: Do you work?

PROSPECTIVE JUROR: I do.

THE COURT: Where do you work at?

PROSPECTIVE JUROR: Purdue Northwest.

THE COURT: What do you do for the university?

PROSPECTIVE JUROR: I am a career advisor and a [177] counselor, and I'm a licensed therapist of Indiana.

THE COURT: So do you do -- do you have therapy for the students or --

PROSPECTIVE JUROR: It is an interesting niche. So I primarily do work with students on advising, making career decisions; and that tends to include mental health counseling, if they have social anxiety or any other mental health struggles that may be blockading their decision-making process. And I also recruit with employers, work with them to recruit students, and then put on career events like networking night career fairs.

THE COURT: How long have you done that for?

PROSPECTIVE JUROR: A long time. Probably officially eight years.

THE COURT: Okay. What's the extent of your education?

PROSPECTIVE JUROR: I have a master's degree.

THE COURT: In some kind of counseling or --

PROSPECTIVE JUROR: Clinical mental health counseling, yes.

THE COURT: Are you married?

PROSPECTIVE JUROR: I am.

THE COURT: Does your husband work?

PROSPECTIVE JUROR: He does.

THE COURT: Where does he work at?

[178] **PROSPECTIVE JUROR:** He works at Chesterton Middle School as a special education teacher.

THE COURT: Do you guys have children?

PROSPECTIVE JUROR: We do not.

THE COURT: Have you ever heard about this case or know anything about it at all?

PROSPECTIVE JUROR: No.

THE COURT: Have you formed an opinion about the merits of the case at all?

PROSPECTIVE JUROR: No.

THE COURT: Would you have answered yes to any of those other questions that I have asked, you know, a number of times?

PROSPECTIVE JUROR: Yes. My mother has had some legal issues in the past.

THE COURT: Okay. If you don't mind sort of vaguely describing them.

PROSPECTIVE JUROR: They were all in Kosciuszko County, as far as I know, but operating while intoxicated, driving with a suspended license.

THE COURT: Okay. Do you feel like she was treated unfairly by the system?

PROSPECTIVE JUROR: No.

THE COURT: Or do you at all take issue with how she was treated?

[179] **PROSPECTIVE JUROR:** Uh-uh.

THE COURT: Is there anything about that that's going to prevent you from being fair and impartial to the government really?

PROSPECTIVE JUROR: No.

THE COURT: Anything else?

PROSPECTIVE JUROR: Yes. Though I do not work directly in law enforcement, I do work with any body of government or law enforcement that wants to recruit students. So I work on the recruitment end of things.

THE COURT: Sure. If the State Police or local police departments are recruiting, they might come on campus?

PROSPECTIVE JUROR: Yes.

THE COURT: And you help coordinate that process?

PROSPECTIVE JUROR: Yes.

THE COURT: Okay. So do you have interaction with law enforcement through those activities?

PROSPECTIVE JUROR: Yes.

THE COURT: All right. Is there anything about that that you think is going to prevent you from being fair and impartial in this case?

PROSPECTIVE JUROR: No, sir.

THE COURT: Okay. Anything else?

PROSPECTIVE JUROR: No.

THE COURT: So would you be comfortable having this [180] case decided, whether you were for the prosecution or the defense, with somebody in your frame of mind?

PROSPECTIVE JUROR: Yes.

THE COURT: Thank you.

Do you have any follow-up questions, Mr. Nozick?

MR. NOZICK: I do, Your Honor. Should we approach?

THE COURT: Why don't we approach then, yeah.

(Bench conference.)

MR. NOZICK: Judge, Mr. Garcia, if you can look at your questionnaire. I refer you to questions 25, 26, 27.

THE COURT: Okay. I'll follow up about that.

MR. NOZICK: Okay.

THE COURT: Anything else?

MR. NOZICK: That's it. Thank you.

MR. BEDI: Yes, Judge.

THE COURT: Mr. Bedi.

MR. BEDI: I guess it depends what you are doing with Christina Kolb, I don't know, but her husband is a safety director. So I want to know what that is, is that connected to law enforcement.

THE COURT: Okay. I'll follow up on that.

MR. BEDI: And, also, she listed on her question -
- yeah, Christina Kolb listed on her questionnaire she
is the treasurer of Kappa, Kappa, Kappa. I want to
know if that's current, does she still have that, how
long she had that, if [181] she managed any other
people involved in that.

THE COURT: Okay.

MR. BEDI: And Steiner, Steiner used to work at
Applebee's as a manager. I would like to know a little
bit more about her managing at Applebee's.

THE COURT: I will follow up on those. Let me
ask you about Kolb.

Listen, I don't think it is a cause challenge quite
yet to me. It sounds to me like she had a relationship
seven or eight years ago in a very tangential way and
that she is going to call it how she sees it. That's my
assessment of her at this point. It is mostly an issue
for the government.

Do you want to talk about it?

MR. ROGERS: To be honest, I don't have a clue.
I don't remember her.

THE COURT: You don't remember her?

MR. ROGERS: No, I'm guessing that our kids
were on the same football team, and then we worked
together for a pancake breakfast or something like
that. I don't have a clue.

THE COURT: Okay.

MR. NOZICK: I'll take him at his word. There's
an individual that who knows John Reed and Ken
Reed. I know both of them and have been to social
events with them. And he mentioned where his wife

works, for a dental office. That's my -- The guy he works for is my neighbor and I know him. And [182] my wife has been to stuff at their house. I don't think I have ever been. I don't recognize the guy. I don't think he recognizes me. I just wanted to get it on the record. He said some of us looked familiar. It may have been social events but, you know --

THE COURT: I will follow up. It's Mr. Cobb. I'll just ask whether, you know, he knows you or recognizes you or ever socialized, those sorts of things.

MR. NOZICK: Okay.

MR. BEDI: Judge, I guess since we're all here, I would just like to clarify that you did say that you guarantee this is done by June 2nd. This is a 50-witness trial.

THE COURT: Yeah, I understand. But that's why we are selecting four alternates. I really think it will be done by then.

MR. BEDI: Okay. Well, I just wanted to --

THE COURT: If it's not, I'm going to send her on her way --

MR. BEDI: Okay.

THE COURT: -- and use an alternate.

MR. BEDI: We're all on the same page.

THE COURT: Let me ask those follow-ups and then you can consult.

(End of bench conference.)

THE COURT: Ms. Kolb, let me start with you if I [183] could. Do you have the microphone? Here we go.

Your husband's a safety director, is that what you said?

PROSPECTIVE JUROR: Correct.

THE COURT: For Union Tank?

PROSPECTIVE JUROR: Correct.

THE COURT: What does that entail, do you know?

PROSPECTIVE JUROR: He does accident investigations, fatality investigations, audits of his manufacturing facilities, works with OSHA, that type of thing.

THE COURT: Is Union Tank -- what's the nature of that business, is it a railroad?

PROSPECTIVE JUROR: Railroad tank cars.

THE COURT: Railroad.

PROSPECTIVE JUROR: Right.

THE COURT: Okay. So he does for Federal Employer Liability Act, FELA cases?

PROSPECTIVE JUROR: Right.

THE COURT: He does that sort of investigation.

Okay. You are a member of Tri-Kappa out in Porter County?

PROSPECTIVE JUROR: I am.

THE COURT: And is that the one in Chesterton or in Valparaiso?

PROSPECTIVE JUROR: I'm in the one in Chesterton.

THE COURT: Because there's two, right?

PROSPECTIVE JUROR: Right, every town has their own.

[184] **THE COURT:** Okay. You are the treasurer, currently the treasurer?

PROSPECTIVE JUROR: Yeah.

THE COURT: What does that entail?

PROSPECTIVE JUROR: Keeping the books for fundraisers that we do and then disbursing the checks to all the charities that we give to.

THE COURT: And have you done that for a long time, or is it a --

PROSPECTIVE JUROR: It is a two-year term.

THE COURT: And then you hand it over to someone else?

PROSPECTIVE JUROR: Correct.

THE COURT: Okay. Thank you, ma'am.

I want to talk to Ms. Steiner for a second as well.

Ms. Steiner, in your questionnaire, you had mentioned at some point back in time you worked as a manager at Applebee's, is that right?

PROSPECTIVE JUROR: That is correct.

THE COURT: Which location did you work at?

PROSPECTIVE JUROR: Michigan City, and occasionally I would fill in shifts at the Chesterton location.

THE COURT: Okay. And what did that involve; were you sort of in charge of the whole restaurant when you were on duty?

[185] **PROSPECTIVE JUROR:** Yeah, I was trained in both front and back of the house, so I did have experience overseeing the dining room, the staff, making sure the customers were happy, making sure that we weren't out of things. I'd have to do a lot of damage control if we were. And then in the kitchen part of things, I oversaw the kitchen staff, anywhere from the prep cooks to the dishwashers to the actual cooks, and mainly worked what they call the expo line where you are pulling the food out of the windows and sending it out to tables.

THE COURT: Okay. How long did you do that for?

PROSPECTIVE JUROR: I worked at Applebee's for a total of eight years, and I think I was a manager for about six.

THE COURT: Okay. Thank you.

Mr. Bedi, does that answer the questions that you need?

MR. BEDI: It does, Judge, thank you.

THE COURT: Would you mind handing the microphone up to Mr. Cobb. I have one more follow up for you.

So you had mentioned you have a -- I want to get this right, a cousin --

PROSPECTIVE JUROR: My wife's cousin.

THE COURT: Your wife's cousin. Tell me that again, like what's the connection?

PROSPECTIVE JUROR: My wife's cousin is a local lawyer, John Reed.

[186] **THE COURT:** I see. And have you gone to social events with your wife and your wife's cousin where there may have been other lawyers present?

PROSPECTIVE JUROR: Yes, sir.

THE COURT: So Mr. Nozick, do you know Mr. Nozick?

PROSPECTIVE JUROR: Which one is Mr. Nozick? No. No. I don't personally -- I couldn't pick any of these guys out. The faces just look familiar.

THE COURT: That's fine. Here's what I want to know: If at the end of the trial you're not convinced that the government has met its burden to prove its case beyond a reasonable doubt, would you be able to render a verdict in favor of the defendants?

PROSPECTIVE JUROR: Yes, it wouldn't matter.

THE COURT: Okay. Okay.

So, counsel, why don't you consult, approach the bench when you are ready to do your strikes.

MR. NOZICK: Your Honor, there was another person you were going to follow up with.

THE COURT: Oh, did I miss something?

MR. NOZICK: Mr. Garcia, you had questions about his questionnaire.

THE COURT: Oh, yes, yes. Thank you. Oh, yeah, it's right here. I'm sorry.

So, Mr. Garcia, let me ask you -- so getting back to some [187] of those questions in the questionnaire, there's a question I think we talked about with somebody else, it says, do you have any preconceptions about the American legal system, essentially; and you

said, "yes." And then when you were asked to explain, you said, you know, from your perspective the system is flawed because it is biased against people who don't have means or, you know, not wealthy and you're concerned with unwanted harassment by law enforcement.

You recall giving those answers?

PROSPECTIVE JUROR: Well, yeah. When I was growing up in Chicago, we got messed with by the cops all the time. We were pulled over for no reason, searched, all that stuff. And then with the whole court thing and the legal system, I believe that wealthy people have a much better advantage as does a poor person because they never go to jail for anything.

THE COURT: Fair enough. That's a fair opinion that you are, of course, entitled to. Let me ask you, are you able to set aside whatever views about the criminal justice system you may have, flaws and all, and be able to listen to the evidence in this case?

PROSPECTIVE JUROR: Yes, I suppose so.

THE COURT: Make a decision based upon the evidence and the law as I give it to you in a fair and impartial way?

PROSPECTIVE JUROR: Yeah, I can do that.

THE COURT: So whatever concerns you might have about [188] the criminal justice system as a juror, you'll have an opportunity to maybe improve upon it. Fair enough?

PROSPECTIVE JUROR: That's fair.

THE COURT: Okay. Anything else?

MR. NOZICK: No, Your Honor.

THE COURT: Okay. So you can approach the bench when you are ready.

(Bench conference.)

THE COURT: Mr. Nozick, do you have any challenges for cause?

MR. NOZICK: I do.

THE COURT: All right.

Any challenges for cause?

(Document tendered.)

THE COURT: Okay. Government's moved on Garcia. Do you want to be heard?

MR. NOZICK: I do, Judge. I don't know that we got to the extent that he was rehabilitated and he gave the right answers today. I am concerned about not his statements in the questionnaire where it says that the system is flawed when people are not wealthy but where he says, "As a person who has been subjected on several occasions to unwarranted harassment by law enforcement for looking a certain way, I cannot erase the justice system." I think what he's saying -- and, of course, maybe those are his experiences.

[189] When you asked him: Would you have answered yes to any other questions -- like, can you treat law enforcement testimony the same way as, has anyone had negative experience with law enforcement, he didn't say yes, Judge. He was going to make no mention of this until I asked him to be questioned on it. I think he hasn't been candid with the Court today.

This isn't something you forget saying. He says, "I've been harassed by law enforcement and I can't

trust them and I can't erase the justice system. And, Your Honor, he doesn't answer truthfully and candidly when you asked, would you have answered yes to any of the questions that you have heard all day. I don't think he can be fair and impartial, Your Honor.

THE COURT: I'm not sure he's misled the Court at all. What I said -- what I asked him is: Do you think you would be able to treat the testimony of a law enforcement officer in the same way as you would treat the testimony of any other witness? That's the general question.

I don't know if I can take what he wrote on his questionnaire to be contrary to that. You know, he's had bad -- negative experiences with law enforcement. That doesn't mean that he can't set those aside and decide the case based on the evidence and treat cops the same way he would treat any other witness, so --

MR. NOZICK: Respectfully, Judge, I think "I cannot erase the justice system," that's exactly what he's saying. It [190] means that he can't, sort of -- he's had such negative experiences that he can't weigh their testimony and treat it like any other victim.

THE COURT: I disagree. I'm going to overrule the cause challenge. You want to strike him, you have to use a peremptory.

And the defense has struck Cobb. And so what's the basis of that?

MR. VANZANT: Two reasons on the cause challenge, Your Honor. One, Mr. Nozick did mention he knows him or --

THE COURT: I don't believe that's what he said.

MR. VANZANT: I'm sorry, he may have seen him or something like that.

MR. NOZICK: Just to make sure the record is clear, the person that he says he knows, John Reed --

MR. VANZANT: Right. Right.

MR. NOZICK: -- I know very well. I have never seen -- I have no recollection of seeing him. I should also add, for the record, that John Reed's mom works in our office, (indiscernible), is John Reed's mother-in-law. And his wife works for (indiscernible) and we may have been to social events. But, no, I do not recognize him or think that I know him at all.

MR. VANZANT: Okay. It is basically the same with that clarification. The second reason is he did mention that [191] he grew up in Hammond and has had some very bad experiences with the Latin Kings, and that's pretty significant in this case.

THE COURT: Yeah. Again, there's a reason I follow up with these people. And I asked them -- and I'm not trying to force them to answer it a certain way. I'm trying to be as neutral as I can, but I have no question in my mind as I read -- evaluate the credibility and evaluate the demeanor of Mr. Cobb that he's going to have no qualms in acquitting these fellas if he thinks the government hasn't proved its case. Period. So I'm going to overrule that challenge for cause.

MR. VANZANT: Understood, Your Honor.

THE COURT: Peremptories. Gee, what a shock. So the government has struck Ms. Kolb and Mr. Garcia, and the defense has struck Mr. Cobb.

So you've used five of your seven.

And you guys have used nine of your 12.

MR. VANZANT: Yes, Your Honor.

THE COURT: Okay.

MR. VANZANT: Your Honor, if I can, I would like to make a Batson objection as to Mr. Garcia. This is the second Hispanic juror we have had and the second one that has been struck. The first was Ms. Gonzalez.

THE COURT: Do you want to respond to that?

MR. NOZICK: I do, Judge. The government has a valid [192] reason on Mr. Garcia. I -- to be candid, as I said a second ago, I think we raised to the level of cause. Whether I have a reason for a peremptory, he misstated that the justice system was flawed and biased against people who are not wealthy. "As a person who has been subjected on several occasions to unwanted harassment by law enforcement for looking a certain way, I cannot erase the justice system."

There is no one who is similarly situated, no other witness [verbatim] who has expressed such disdain for the police and the justice system that the government has left on.

Regarding Ms. Gonzalez, she expressed distaste and dismay, and -- I don't know if I would say anger - - with the current, sort of, tenor in the country as far as immigration goes.

Now, this is not an immigration case. However, it is going to come up. For example, one, the Attorney General of the United States, Mr. Sessions, in addition the President, has been vocal about immigration issues, and that is, technically, my boss. I work for the same Department of Justice as Mr. Sessions, and obviously we do handle criminal immigration cases.

Furthermore, one of our witnesses, Aldon Perez, is a Peruvian national, who is on overstay or at this point here illegally. And he will testify he expects to be deported afterwards.

I talked with them. There are three or four known boys at [193] the time who they are going to call to testify who saw one of the murders, and all of -- I think all four of them -- three or four of them are on DACA status; and we've been trying to, one, make sure they don't get deported at any point in time, certainly that nothing happens to them until afterwards. And immigration is going to come up. We are going to hear that, you know, these kids are on DACA, that we have had to do material witness warrants to keep them here.

I believe that some -- unfortunately, someone who has anger towards the U.S. government over immigration issues could take that out on the Department of Justice.

THE COURT: Any response?

MR. VANZANT: Yes, Your Honor. As to Mr. Garcia, I think the problem is with his articulation of why he felt that he was being targeted is strictly because of his race. He said, you know, this is because I look a certain way and have been targeted by that. So the question of race is exactly right in what he's talking about.

And as to Ms. Gonzalez, it is the same thing, because we have two Hispanic voir dire members here who have both been struck; and there are going to be, you know, immigration and Hispanic-related issues. This is, after all, the Latin Kings case.

THE COURT: Yeah, I'm going to overrule the Batson challenge. I believe that the government has prevailed on [194] race-neutral reasons for their cause to strike of Mr. Garcia and Ms. Gonzalez. And I, in evaluating the credibility of the prosecutor, which I'm required to do, I do find that his reasoning for those strikes are entirely believable and acceptable. Both Ms. Garcia and -- Mr. Garcia and Ms. Gonzalez were very close to being cause challenges.

It was a close call on Mr. Garcia because there is quite a bit of invective in his questionnaire about his real distaste of the criminal justice system, and that is a race-neutral reason to remove him or strike him by the government.

And the same goes for Ms. Gonzalez who -- I had an extended dialogue with her. And it is pretty clear, and it was pretty clear to me, that what is offending her -- I think she said it offended her -- was the current climate in the country about immigration and how immigrants are being treated; and those policies come directly from the Justice Department.

And it is very well that she might take that out on the government. And so those are residual reasons, and I accept the position of the government as the truthful reason why they are striking them, so it is overruled.

MR. VANZANT: Understood, Your Honor. Thank you.

(End of bench conference.)

THE COURT: All right. I'm going to excuse the following people: Ms. Kolb, Mr. Cobb, and Mr. Garcia. You are all excused.

[195] Thank you very much for your willingness to serve. Enjoy your trip, ma'am.

Okay. Please call three new names.

DEPUTY CLERK: Edward Popovich, Brooke Janowski, Kelly Climack.

THE COURT: Okay. So we're going to start in the front row with Mr. Popovich?

PROSPECTIVE JUROR: Yes.

THE COURT: What city or town do you reside in, sir?

PROSPECTIVE JUROR: Highland.

THE COURT: How long have you lived in Highland?

PROSPECTIVE JUROR: About ten years.

THE COURT: Do you work, sir?

PROSPECTIVE JUROR: Yes.

THE COURT: Where at?

PROSPECTIVE JUROR: The Town of Dyer.

THE COURT: What do you do for the town?

PROSPECTIVE JUROR: Maintenance mechanic.

THE COURT: How long have you done that for?

PROSPECTIVE JUROR: Sixteen years.

THE COURT: And do you hold like a supervisory position there at all?

PROSPECTIVE JUROR: Lead mechanic.

THE COURT: Okay. Is that a union shop or nonunion?

PROSPECTIVE JUROR: Nonunion.

[196] **THE COURT:** Are you married?

PROSPECTIVE JUROR: No.

THE COURT: Have you ever been married?

PROSPECTIVE JUROR: No.

THE COURT: Do you have any children?

PROSPECTIVE JUROR: Yes.

THE COURT: How many kids do you have?

PROSPECTIVE JUROR: One.

THE COURT: And old is your child?

PROSPECTIVE JUROR: Four, daughter.

THE COURT: What is the extent of your education, sir?

PROSPECTIVE JUROR: High school and some college.

THE COURT: Where did you go for the little bit or some part of college?

PROSPECTIVE JUROR: Ivy Tech.

THE COURT: Okay. And was that to get some kind of technical --

PROSPECTIVE JUROR: HVAC, heating and air.

THE COURT: Okay. What do you like to do in your spare time?

PROSPECTIVE JUROR: Golf.

THE COURT: Do you belong to any clubs or organizations?

PROSPECTIVE JUROR: No.

[197] **THE COURT:** Okay. Did you ever hear about this case or know anything about it at all?

PROSPECTIVE JUROR: No.

THE COURT: Have you formed an opinion about the merits of the case at all?

PROSPECTIVE JUROR: No.

THE COURT: Have you listened to all of the questions that I have asked the other jurors throughout the day.

PROSPECTIVE JUROR: Yes.

THE COURT: Would you have answered yes to any of those questions?

PROSPECTIVE JUROR: Know law enforcement.

THE COURT: Okay. Obviously, you work for the town of Highland [verbatim], right?

PROSPECTIVE JUROR: Yes.

THE COURT: You know some of the police officers in the town of Highland?

PROSPECTIVE JUROR: Yes, but some of my closest friends are Hammond detectives.

THE COURT: Okay. Who might that be?

PROSPECTIVE JUROR: Mike Nemcek, Chris Matonovich, Steve Guernsey, Ron Hill.

THE COURT: And how are you friendly with them; what were the circumstances?

PROSPECTIVE JUROR: Well, Chris I have known for [198] probably 30 some years, grew up. Me and Mike, real close friends; played softball together, 15 years. Still get together, golf as much as we can.

THE COURT: Sure. Are any of those folks going to be testifying that he just identified, Mr. Nozick?

MR. NOZICK: No, Your Honor.

THE COURT: Okay. Any other questions that you would have answered yes to?

PROSPECTIVE JUROR: Not offhand, no.

THE COURT: So those relationships, it is a lot of relationships with folks in the law enforcement.

PROSPECTIVE JUROR: Yeah.

THE COURT: Are those relationships going to prevent you from being fair and impartial in this case?

PROSPECTIVE JUROR: No, I can't say they would.

THE COURT: Do you think that you would be able to listen to the evidence in an objective way, evaluate it?

PROSPECTIVE JUROR: Yes.

THE COURT: If you agree with the government, if they proved their case beyond a reasonable doubt --

PROSPECTIVE JUROR: Yes.

THE COURT: -- go one way; if they don't, you go the other way. Do you think you will be able to do that?

PROSPECTIVE JUROR: Uh-huh.

THE COURT: In a fair and impartial way?

[199] **PROSPECTIVE JUROR:** Yes.

THE COURT: So if you were the prosecutors in this case or you were the defendants in this case, would you be comfortable with someone in your frame of mind deciding the important issues in this case?

PROSPECTIVE JUROR: Yes.

THE COURT: Do you know of any reason why you can't be fair and impartial?

PROSPECTIVE JUROR: No.

THE COURT: Thank you, Mr. Popovich.

PROSPECTIVE JUROR: Thank you.

THE COURT: Let's talk to Ms. -- is it Janowski?

PROSPECTIVE JUROR: Yes.

THE COURT: Okay. Good afternoon. Where do you live at, ma'am?

PROSPECTIVE JUROR: I live in Crown Point.

THE COURT: How long have you lived down in Crown Point?

PROSPECTIVE JUROR: Sixteen years.

THE COURT: Do you work?

PROSPECTIVE JUROR: I do.

THE COURT: Where at?

PROSPECTIVE JUROR: I am employed at Crown Counseling in Crown Point.

THE COURT: And what is that?

[200] **PROSPECTIVE JUROR:** It is a DCS provider.

THE COURT: What is "DCS"?

PROSPECTIVE JUROR: Department of Child Services; they do counseling.

THE COURT: Sure. So are you a counselor?

PROSPECTIVE JUROR: No, I am just a transporter there, but I interned as case management as well.

THE COURT: Okay. And how long have you done that for?

PROSPECTIVE JUROR: Interning for case management, the past six months; and transportation, the past two.

THE COURT: Okay. And that's sort of transporting clients to and from services?

PROSPECTIVE JUROR: Correct.

THE COURT: Do you deal with little kids or the whole range?

PROSPECTIVE JUROR: Everything.

THE COURT: Yeah. Are you married?

PROSPECTIVE JUROR: I am not.

THE COURT: Have you ever been married?

PROSPECTIVE JUROR: I have not.

THE COURT: Do you have any children?

PROSPECTIVE JUROR: I do not.

THE COURT: Okay. What's the extent of your education?

[201] **PROSPECTIVE JUROR:** I received my bachelor's in social work this past Thursday, and I am now enrolled for the master's of social work at Indiana University.

THE COURT: Good for you. Where did you get your bachelor's from?

PROSPECTIVE JUROR: Indiana University.

THE COURT: Down at Bloomington or local?

PROSPECTIVE JUROR: No, Northwest.

THE COURT: Okay. And how long did it take for you to get the bachelor's degree?

PROSPECTIVE JUROR: Four years.

THE COURT: So you are sort of right out of high school into --

PROSPECTIVE JUROR: Correct.

THE COURT: Good for you.

Have you ever heard about this case, or do you know anything about it at all?

PROSPECTIVE JUROR: No.

THE COURT: Have you formed an opinion about the merits of the case at all?

PROSPECTIVE JUROR: No.

THE COURT: Do you know any of those witnesses that I read into the record?

PROSPECTIVE JUROR: No.

THE COURT: Do you know any of the lawyers or either [202] of the defendants?

PROSPECTIVE JUROR: No.

THE COURT: Did you grow up in an area, or have had involvement or contact with, you know, people who were affiliated with gangs?

PROSPECTIVE JUROR: No.

THE COURT: Would you have answered yes to any of those other questions, that whole range of other questions that I asked?

PROSPECTIVE JUROR: My uncle is a conservation officer for the State of Indiana.

THE COURT: Okay. So he works for IDEM maybe, Indiana Department of Environmental Management?

PROSPECTIVE JUROR: Yeah.

THE COURT: Is he in law enforcement?

PROSPECTIVE JUROR: I'm really not sure.

THE COURT: Okay. Is there anything about that relationship --

PROSPECTIVE JUROR: No.

THE COURT: -- that would prevent you from being fair and impartial in this case?

PROSPECTIVE JUROR: No.

THE COURT: Would you be comfortable having this case decided, whether you were -- either side of the case here with somebody in your frame of mind?

[203] **PROSPECTIVE JUROR:** Yes.

THE COURT: You feel like you could be fair and impartial and listen to the evidence and give a fair shake to both sides in the case?

PROSPECTIVE JUROR: Yes.

THE COURT: Any doubt about that at all?

PROSPECTIVE JUROR: No.

THE COURT: Okay. Thank you, ma'am.

So we're going to go back here and talk to Ms. -- I didn't get your name written down. Could you tell me --

PROSPECTIVE JUROR: Kelli Climack.

THE COURT: Climack?

PROSPECTIVE JUROR: Yes.

THE COURT: Okay. Ms. Climack, where are you from?

PROSPECTIVE JUROR: Crown Point.

THE COURT: And how long have you been down there?

PROSPECTIVE JUROR: For 10 years.

THE COURT: Do you work?

PROSPECTIVE JUROR: Yes.

THE COURT: Where at?

PROSPECTIVE JUROR: I am a manager at the Rosati's there in Crown Point.

THE COURT: Sure. How long have you done that?

PROSPECTIVE JUROR: Two years.

THE COURT: What did you do before that?

[204] **PROSPECTIVE JUROR:** I was a manager at Designer Deserts in Valpo.

THE COURT: Okay. Are you married?

PROSPECTIVE JUROR: No.

THE COURT: Have you ever been married?

PROSPECTIVE JUROR: No.

THE COURT: Do you have any children?

PROSPECTIVE JUROR: No.

THE COURT: What's the extent of your education?

PROSPECTIVE JUROR: Some college. I was going to nursing school at ITT, and then they closed down.

THE COURT: Okay. How far along did you get?

PROSPECTIVE JUROR: I was a year in.

THE COURT: Okay. Any intention of going back

--

PROSPECTIVE JUROR: A situation with the credits not transferring and finding a school to accept the classes.

THE COURT: Understood. That's very unfortunate.

Do you own a home down there or do you rent or -

-

PROSPECTIVE JUROR: I rent; I have two roommates.

THE COURT: Okay. Did you grow up here in the area?

PROSPECTIVE JUROR: I grew up in Dyer.

THE COURT: Okay. And go to Lake Central?

PROSPECTIVE JUROR: I did.

THE COURT: Have you ever heard about this case or know anything about it at all?

[205] **PROSPECTIVE JUROR:** No.

THE COURT: Have you formed any opinion about the merits of the case?

PROSPECTIVE JUROR: No.

THE COURT: Did you hear me ask all of those other questions of the other jurors?

PROSPECTIVE JUROR: Yes.

THE COURT: And would you have responded in the affirmative to any of those?

PROSPECTIVE JUROR: The only thing was when I was maybe 14, I was an eyewitness to a holdup at the Summer Apartments, Summer Wood Apartments.

THE COURT: Okay.

PROSPECTIVE JUROR: I just had to identify the guy.

THE COURT: So did you have to go to the police station, or did they show you a lineup?

PROSPECTIVE JUROR: No. So it was my -- we were at my brother's apartment there, and my brother is the one who got held up when we were outside, so I was an eyewitness.

THE COURT: Okay. Did you ever have to go and testify?

PROSPECTIVE JUROR: Yes.

THE COURT: In a courtroom?

PROSPECTIVE JUROR: Yes.

THE COURT: During a trial?

[206] **PROSPECTIVE JUROR:** It was more of a smaller court trial.

THE COURT: Maybe it was a preliminary hearing?

PROSPECTIVE JUROR: I think so, yes.

THE COURT: Do you know what happened to that case?

PROSPECTIVE JUROR: I don't.

THE COURT: Okay. Was there anything about that that, you know, left a bad taste in your mouth or a bad sort of feeling about the criminal justice system or anything like that?

PROSPECTIVE JUROR: No.

THE COURT: Did you feel as if you were treated fairly as a witness?

PROSPECTIVE JUROR: Yes.

THE COURT: So is there anything about that that's going to prevent you from being fair and impartial?

PROSPECTIVE JUROR: No.

THE COURT: Anything else that you can think of, anything that's gnawing at you or thinking, boy, I should share this? Anything about your background or your associations or experiences that would make you think, well, they should know about this, anything like that?

PROSPECTIVE JUROR: No.

THE COURT: Okay. So you would be comfortable with somebody in your frame of mind deciding the issues in this case [207] if you were either side of this case?

PROSPECTIVE JUROR: Yes.

THE COURT: Okay. Thank you, ma'am.

Mr. Nozick, do you have any follow-up questions?

MR. NOZICK: No, Your Honor.

THE COURT: Mr. Truitt or Mr. Rogers, do you have follow-up questions?

MR. ROGERS: Yes.

THE COURT: Why don't you come up here.

(Bench Conference.)

MR. ROGERS: Regarding Mr. Popovich, the Hammond Police, are an integral part of this case. I mean, he says he is close friends with several of them.

MR. VANZANT: I don't -- crime scenes.

THE COURT: Let him finish.

MR. ROGERS: And that concerns me. He identifies one detective as one of his best friends, I think, growing up; and my concern is that he might be inclined to help his buddies out.

THE COURT: All I can do is ask him --

MR. ROGERS: Sure.

THE COURT: -- you know. And, I mean, if you want to inquire further of him, I'll let you do that.

MR. ROGERS: That's fine.

MR. TRUITT: Just playing golf a lot -- you know, [208] sometimes you talk shop. Sometimes if there's an interesting case or somebody else, you know, screws up or does -- just that the people -- the Hammond Police Department people, some names may have come up in those golf games, and they will be testifying.

THE COURT: Let me do this. Let me get Mr. Popovich up here, and we'll talk to him about it.

MR. TRUITT: Sure.

THE COURT: That's the best I can do.

MR. BEDI: I don't mean to interrupt, Your Honor.

COURT REPORTER: Please speak up. I can't hear what you are --

MR. BEDI: I wanted to add to the Popovich thing. He said he has religious convictions which will affect his abilities. If we look at 28 --

THE COURT: I will follow up with that as well.
(End of bench conference.)

THE COURT: Mr. Popovich, can you come up here, please, sir.

(Bench Conference.)

THE COURT: You have to talk right into this, because that white noise is on, so Stacy can hear you.

PROSPECTIVE JUROR: Yes.

THE COURT: I'm not trying to pick on you. I want to follow up because there's some concern. And, obviously, you [209] rattled off a whole list of law enforcement officers that you are good friends with.

PROSPECTIVE JUROR: Yes.

THE COURT: That you grew up with.

PROSPECTIVE JUROR: Yes, sir. And I believe I know Lenny, too. He is a detective. He retired. I've been invited to detectives Christmas parties and everything.

THE COURT: Okay.

PROSPECTIVE JUROR: To me, those are my main friends, but (indiscernible) all the time.

COURT REPORTER: I'm sorry. Can you back off the microphone a little bit. I'm sorry.

PROSPECTIVE JUROR: So, yes, I have made quite a bit.

THE COURT: Okay. So the only thing I can do is ask you, and ask for as straight and honest an answer as you can possibly give me, so looking inward -- there's a lot of connection with law enforcement. But, you know, do you feel like you can set aside those relationships and decide the case in a way as fairly and honestly as you can, listen to the evidence, and if the government doesn't prove its case, find in favor of the defendants? Do you think you would be able to do that?

PROSPECTIVE JUROR: It would be hard. I just feel -- I lived in Hammond my whole life, so I know what a lot of gang stuff is. You know, obviously I'm against it.

[210] **THE COURT:** Sure.

PROSPECTIVE JUROR: Tired of hearing this stuff. It wouldn't -- I'm being honest. I just don't want to be here.

THE COURT: I'm going to excuse you, okay. I appreciate your candor. That's what we want to get at.

PROSPECTIVE JUROR: Okay.

THE COURT: Is you feel like you are leaning one way or the other, and I'm convinced -- I'm sure you can be fair, but --

PROSPECTIVE JUROR: It is hard though, I mean.

THE COURT: -- with those relationships -- So I'm going to excuse Mr. Popovich on the defense motion.

PROSPECTIVE JUROR: Just walk out now?

THE COURT: Yeah, you can. Thank you, sir.

PROSPECTIVE JUROR: Thank you, Your Honor.

(Bench conference continues as follows:)

THE COURT: So I'll call somebody else to fill that seat, and then do your strikes.

MR. BEDI: Not to jump ahead. I do have follow-up questions on Brooke.

THE COURT: Which one?

MR. BEDI: Brooke Janowski.

THE COURT: Janowski. Got it.

MR. BEDI: I'm sorry. She is working at DCFS. Oftentimes, there's a criminal component to some of the DCFS [211] cases. Law enforcement are often involved, so I would just like to explore that a little bit more.

THE COURT: Sure.

MR. BEDI: See what kind of relationships she has.

THE COURT: It sounds like she has -- not to be demeaning of her -- but a somewhat administrative job with transporting people to services, but I'll definitely follow up.

MR. BEDI: A lot of times those transports go from the police station and pick up a child.

THE COURT: Sure.

MR. BEDI: Also, on Kelli Climack, she talked a little bit about she was an eyewitness to her brother's (indiscernible), explore what happened to the case in the end. She said she testified at a preliminary hearing, but --

THE COURT: Sure. Okay. I'll follow up.

MR. ROGERS: Excuse me. If I can interject.

THE COURT: You want some water?

MR. ROGERS: No. Crown Counseling I think also does (indiscernible) counseling for some of the Lake County courts, unless they changed. I think it is like a full service, but they're --

THE COURT: I think she said she works exclusively with juveniles.

MR. ROGERS: What I gathered from her is that she just graduated, she was doing an internship there. Now she's [212] doing transportation trying to get -- probably trying to get a job.

THE COURT: I'm going to ask her.

MR. ROGERS: I'm just bringing that to light.

THE COURT: Okay.

(End of bench conference.)

THE COURT: Let me do a couple follow-up questions. Let me start with you, Ms. Climack. Do you know what happened to that case that you were a witness of? I think you testified -- or you stated here in court that you testified in some -- maybe preliminary hearing. Do you know whatever happened to the case?

PROSPECTIVE JUROR: No. Pretty much, I just had to go. I sat with the lawyer. The lawyer said he's going to ask me a few questions, yes or no, just to identify that person, and that was it. I had no other communication or anything else there.

THE COURT: No understanding of whether or not that person was acquitted, found guilty, or no disposition?

PROSPECTIVE JUROR: No. Because the accident happened to me [verbatim]. I just seen him.

THE COURT: Okay. Fair enough.

Would you pass the microphone back down to Ms. Janowski real quick?

Ms. Janowski, can you give me a little bit more [213] information about what precisely you do for that agency that you work for; and, in particular, do you have interaction with law enforcement in that capacity?

PROSPECTIVE JUROR: I'm strictly transportation at this time, so it is just transporting kids and adults to and from their services. I haven't had any contact with law enforcement through the transportation, but back as a case manager, occasionally I did.

THE COURT: And what would be the nature of that interaction?

PROSPECTIVE JUROR: Just going to court with the clients.

THE COURT: And are these clients that are in trouble with the juvenile justice system, or are these where the parents are in trouble and you are sort of an advocate for the juvenile?

PROSPECTIVE JUROR: It was kind of both. It was more so -- it was all through the Department of Child Services, so it was mostly the parents that I got to witness.

THE COURT: What agencies do you recall working with?

PROSPECTIVE JUROR: Department of Child Services. We get referrals from Choices.

THE COURT: No, I mean police departments. I'm sorry.

PROSPECTIVE JUROR: Oh, I'm not sure. They were just [214] kind of there with the clients. I never really had interaction with them; they were just there.

THE COURT: All right. Is there anything about those interactions that you think is going to prevent you from being fair and impartial in this case?

PROSPECTIVE JUROR: No.

THE COURT: Okay. Mr. Bedi, does that answer your questions?

MR. BEDI: It does.

THE COURT: Thank you. Noel, call another name please.

DEPUTY CLERK: Jillian Moench.

THE COURT: Is it Moench?

PROSPECTIVE JUROR: Moench.

THE COURT: Moench. Okay. What city or town do you reside in?

PROSPECTIVE JUROR: Kouts.

THE COURT: How long have you lived down in Kouts?

PROSPECTIVE JUROR: Ten years.

THE COURT: Do you work?

PROSPECTIVE JUROR: I do not. No, after my son, I stayed home.

THE COURT: How old is your son?

PROSPECTIVE JUROR: Two and a half.

THE COURT: Is that your only child?

[215] **PROSPECTIVE JUROR:** No, my daughter is going to be five.

THE COURT: Oh, great. You married?

PROSPECTIVE JUROR: Yes.

THE COURT: Does your husband work?

PROSPECTIVE JUROR: Yes.

THE COURT: Where does he work at?

PROSPECTIVE JUROR: NIPSCO; he's been there about 12 years. He's a station mechanic down at the gen station in Wheatfield.

THE COURT: Got it. Down 49 there?

PROSPECTIVE JUROR: Yep.

THE COURT: And what's the extent of your education?

PROSPECTIVE JUROR: I have an associate's in criminal justice from South Suburban College.

THE COURT: Were you ever employed in the criminal justice system?

PROSPECTIVE JUROR: I was a dispatcher for a year.

THE COURT: For one of the sheriff's departments or police departments?

PROSPECTIVE JUROR: Lynwood, Thornton and East Hazel Crest in Illinois.

THE COURT: How long ago was that?

PROSPECTIVE JUROR: Oh, I think I was 22 at the time.

THE COURT: I'm not going to ask how old you are now.

[216] **PROSPECTIVE JUROR:** That's okay. It's eighteen years ago.

THE COURT: Okay. Long time ago?

PROSPECTIVE JUROR: Yes.

THE COURT: Is there anything about that experience that you think is going to prevent you from being fair and impartial in this case?

PROSPECTIVE JUROR: No, I wouldn't say anything about that experience. I did date a fellow, or I should say an officer, who subsequently years later was arrested for the honeybee killer case. I was not dating him at the time. We were still friends. Brian Dorian, he's a the Lynwood police officer still, and I was not directly involved with the case. But per my knowledge, they did go and subsequently search his computer, and he was released due to that information.

THE COURT: Okay. I'm not familiar with that particular case, this honeybee.

PROSPECTIVE JUROR: It was -- I think it was 2010 or 2011 there was a gentleman that killed a man in Beecher and shot another one and then killed a man in Lowell. Indiana didn't have enough evidence to bring any charges against him, but Will County did.

THE COURT: Okay. And so what is it about -- is there anything about that fact that you dated this

person maybe a decade and a half ago, is there anything about that that [217] causes you to be concerned about your ability to be fair and impartial in this case?

PROSPECTIVE JUROR: Honestly, no.

THE COURT: Okay. You have been out of law enforcement for how long now, 15 years or so?

PROSPECTIVE JUROR: Yes.

THE COURT: Okay. Would you be able to set aside whatever you may have learned about law enforcement through schooling or on-the-job training and really just decide this case based on the evidence and on the law as I give it to you?

PROSPECTIVE JUROR: Yes.

THE COURT: Is there any question about that?

PROSPECTIVE JUROR: No. And also my father is a deputy sheriff.

THE COURT: Okay.

PROSPECTIVE JUROR: Or was. He is retired. Retired December 29th.

THE COURT: From what department?

PROSPECTIVE JUROR: Cook County.

THE COURT: Okay. And is there anything about that relationship that is going to prevent you from being fair and impartial in this case?

PROSPECTIVE JUROR: Not at all.

THE COURT: Okay. Would you have answered yes to any other questions?

[218] **PROSPECTIVE JUROR:** No.

THE COURT: So just kind of being as self-reflective as you can possibly be, and sort of really looking inward, is there anything that you can think of that you think you should bring to our attention that might bear on your ability to be fair one way or the other in this case?

PROSPECTIVE JUROR: No.

THE COURT: Do you know of any reason then why you can't be a fair and impartial juror in this case?

PROSPECTIVE JUROR: No.

THE COURT: Okay. Do you have any follow-up questions, Mr. Nozick?

MR. NOZICK: No, Your Honor.

THE COURT: Counsel over here, any follow up?

MR. VANZANT: No, Your Honor.

MR. BEDI: No, Judge.

MR. ROGERS: No.

THE COURT: Okay. You can consult and then approach the bench when you are ready to make your strikes.

(Bench conference.)

THE COURT: Mr. Nozick, do you have any challenges for cause?

MR. NOZICK: No, Your Honor.

THE COURT: Mr. Vanzant, for cause?

MR. VANZANT: None for cause, Your Honor.

[219] **THE COURT:** Peremptories.

All right. So the government struck none. The defense has struck Ms. Janowski in seat number six.

Okay. So we need to fill the last seat.

MR. BEDI: Everybody has two left?

THE COURT: Yeah, each side has two, that's correct.

MR. BEDI: Thank you.

MR. NOZICK: We have two also?

THE COURT: Yes.

(End of bench conference.)

THE COURT: Ms. Janowski, I'm going to send you home. Thanks so much for being here and your willingness to serve. Good luck to you.

Noel, call another name.

DEPUTY CLERK: Rosemary Koziol.

THE COURT: Good afternoon, ma'am.

PROSPECTIVE JUROR: Hello.

THE COURT: Would you please state your name, tell us what city or town you reside in?

PROSPECTIVE JUROR: Rosemary Koziol, and I live in Hammond.

THE COURT: How long have you lived here?

PROSPECTIVE JUROR: Eight years.

THE COURT: Do you work?

PROSPECTIVE JUROR: No, I do not.

[220] **THE COURT:** When was the last time you worked outside the home?

PROSPECTIVE JUROR: About five years, six years.

THE COURT: Okay. What did you do on that occasion?

PROSPECTIVE JUROR: I worked in retail.

THE COURT: Okay. Are you married?

PROSPECTIVE JUROR: No. Long-term relationship, I guess you would say.

THE COURT: Okay. Your, I'll call it significant other, what do they do?

PROSPECTIVE JUROR: He works at a meat factory.

THE COURT: Okay. Where at?

PROSPECTIVE JUROR: In South Holland.

THE COURT: Okay. And do you have any children?

PROSPECTIVE JUROR: Yes, two.

THE COURT: How old are your kids?

PROSPECTIVE JUROR: Fourteen. She'll be graduating eighth grade next week.

THE COURT: Great.

PROSPECTIVE JUROR: And she's nine, the second one is nine.

THE COURT: Okay. A 9- and 14-year-old?

PROSPECTIVE JUROR: Uh-huh.

THE COURT: If I may be so personal, are they with your significant other?

[221] **PROSPECTIVE JUROR:** Yes.

THE COURT: Well, let me ask you this, what's the extent of your education?

PROSPECTIVE JUROR: High school.

THE COURT: Where did you go to high school?

PROSPECTIVE JUROR: Hillcrest.

THE COURT: Over in Illinois?

PROSPECTIVE JUROR: Uh-huh.

THE COURT: When did you move this way?

PROSPECTIVE JUROR: Eight years ago.

THE COURT: Okay. You mentioned that. What prompted your move over the border?

PROSPECTIVE JUROR: We were just looking for a house to get to move out of my parents' house.

THE COURT: Okay. So did you buy a home here in Hammond?

PROSPECTIVE JUROR: Yes, my boyfriend did.

THE COURT: Great. What do you like to do in your spare time?

PROSPECTIVE JUROR: I volunteer a lot at my daughter's school, and I run three Girl Scout troops.

THE COURT: Great. Did you ever hear about this case or know anything about it at all?

PROSPECTIVE JUROR: No.

THE COURT: Have you formed or expressed an opinion [222] about the merits of the case?

PROSPECTIVE JUROR: No.

THE COURT: Would you have answered yes to any of those other questions that I asked a number of times?

PROSPECTIVE JUROR: I don't think so. I just have really bad anxiety, so this is like --

THE COURT: This makes you nervous?

PROSPECTIVE JUROR: Very, very, very. I'm trying not to break down.

THE COURT: Okay. You know, for anybody who has never served -- we do this all the time. This is what the job is. But people who have never been on a jury before, it can lead to some anxiety. I fully appreciate that. It is a new experience and so I understand.

What I want to know is is the anxiety that you are suffering from so great such that it is going to interfere with your ability to sit as a fair and impartial juror?

PROSPECTIVE JUROR: Well, my mind is going a mile a minute. I'm not keeping it together very -- just --

THE COURT: Okay. Counsel, would you approach the bench?

(Bench conference.)

THE COURT: Does anybody have any objection to me dismissing this juror?

MR. NOZICK: No objection.

[223] **MR. ROGERS:** No.

MR. VANZANT: No, Your Honor.

THE COURT: I mean, this woman is obviously having, I think, some kind of episode right here in court that I'm witnessing.

MR. BEDI: Judge, we don't have any objection. Just so the record is clear, on her jury questionnaire she does write the judicial system is unfair, so I think there's probably an uphill battle to try to keep her as it is.

THE COURT: She's got just a very odd affect and somebody who is extremely nervous as sitting here in

court, and I think she's got some probably mental health issues, quite frankly. So any disagreement then?

MR. NOZICK: No objection.

MR. VANZANT: No, Judge.

THE COURT: Okay.

MR. TRUITT: Your Honor, do we get extra strikes for the alternates?

THE COURT: We'll talk about that.

MR. TRUITT: As far as using those last two.

THE COURT: Those you forfeit by the rules. Because we are selecting four alternates, you get two assigned to you.

(End of bench conference.)

THE COURT: Ms. Koziol, I'm going to send you home. Good luck to you, ma'am.

[224] Noel, would you call another name, please.

DEPUTY CLERK: Matthew Artist.

THE COURT: Good afternoon, sir.

PROSPECTIVE JUROR: Hello.

THE COURT: Where do you live at, what city or town?

PROSPECTIVE JUROR: Whiting.

THE COURT: How long have you lived over in Whiting?

PROSPECTIVE JUROR: Pretty much my whole life.

THE COURT: Do you work?

PROSPECTIVE JUROR: Yes.

THE COURT: Where do you work at?

PROSPECTIVE JUROR: I'm a machine operator at PolyJohn.

THE COURT: How long have you done that?

PROSPECTIVE JUROR: Little over a year.

THE COURT: Is that a union shop or a nonunion shop?

PROSPECTIVE JUROR: Nonunion.

THE COURT: Did you have to get some training prior to getting that job, or is it on-the-job kind of --

PROSPECTIVE JUROR: Just on-the-job.

THE COURT: Okay. And what's the extent of your education?

PROSPECTIVE JUROR: High school.

THE COURT: Are you married?

PROSPECTIVE JUROR: No.

[225] **THE COURT:** Do you have any children?

PROSPECTIVE JUROR: No.

THE COURT: Okay. Did you ever hear about this case, or do you know anything about it at all?

PROSPECTIVE JUROR: No.

THE COURT: Where did you go to high school, Whiting High School?

PROSPECTIVE JUROR: (Nodding.)

THE COURT: And what year did you graduate?

PROSPECTIVE JUROR: 2012.

THE COURT: Okay. Have you formed or expressed an opinion about the merits of the case at all?

PROSPECTIVE JUROR: No.

THE COURT: Did you hear me ask all those other questions?

PROSPECTIVE JUROR: Yes.

THE COURT: And would you have answered yes to any of those questions?

PROSPECTIVE JUROR: No.

THE COURT: Do you know any of the parties to this case, any of the lawyers or the clients or the witnesses that I read, any of that ring a bell to you?

PROSPECTIVE JUROR: No.

THE COURT: Is there anything that's sort of, you know, gnawing at you or that you are thinking, boy, this is [226] something I should maybe share about myself that these people should know about that might bear on your ability to be fair and impartial; anything like that?

PROSPECTIVE JUROR: No.

THE COURT: So would you be comfortable with somebody in your frame of mind deciding the issues in this case if you were the folks sitting at the tables here?

PROSPECTIVE JUROR: I would prefer it.

THE COURT: Okay. What do you mean "I would prefer it"?

PROSPECTIVE JUROR: I would want to judge me.

THE COURT: Okay. I see what you are saying. What I'm asking is: Do you feel like you have a state of mind such that it's kind of in equilibrium and you are able to be persuaded one way or the other, depending upon what the evidence is?

PROSPECTIVE JUROR: Yeah.

THE COURT: Okay. So do you know of any reason why you can't be a fair and impartial juror in this case?

PROSPECTIVE JUROR: No.

THE COURT: Okay. Mr. Nozick, do you have any follow-up questions?

MR. NOZICK: No, Your Honor.

THE COURT: Mr. Rogers or Mr. Vanzant or any of you?

MR. BEDI: No, Judge.

[227] **THE COURT:** All right. You can consult and then approach the bench when you are ready.

(Bench conference.)

THE COURT: So I wanted to notify you that I was incorrect. The government has used six strikes.

MR. NOZICK: So I have one left.

THE COURT: You have one left, if that matters to you. So any challenge for cause?

MR. NOZICK: No.

THE COURT: Cause from you?

MR. VANZANT: No.

THE COURT: Peremptories.

MR. VANZANT: We're fine, Your Honor.

MR. NOZICK: No.

THE COURT: So we are accepting Mr. Artist. And we are going to select four alternates. Each side gets, under the rule, two strikes to the four.

The way the jurors -- the alternates get selected, first in the box is the first alternate. It is not the seat. So if you strike the first person that is placed in the box, the next person will be the fourth alternate if that --

MR. ROGERS: The fourth alternate or the first alternate?

THE COURT: No. So I'm going to put four in the box, and you guys are going to exercise your strikes. Whoever is [228] called first, is the first alternate. Whoever is called second is the second alternate, et cetera. When you do your strikes, the lowest number is the first alternate.

MR. ROGERS: Oh.

MR. VANZANT: That's fine.

THE COURT: That's how we fill those seats, okay.

MR. BEDI: Your Honor, is it not two per side? Are you giving the defense more since --

THE COURT: No, two is enough. You are each getting two, that's it. I'm using my discretion.

MR. TRUITT: Your Honor, will the alternates know that they are going to be alternates?

THE COURT: They will probably figure it out, but I don't tell them.

MR. TRUITT: Okay. Great.

(End of bench conference.)

THE COURT: All right. Noel, if you would, please call four more names.

DEPUTY CLERK: Jose Cisneros, Karina Perez, Marianna Pazik, John Booker.

THE COURT: Mr. Cisneros, we're going to start with you, sir.

PROSPECTIVE JUROR: Good afternoon, Your Honor.

THE COURT: Good afternoon. Where do you reside at?

PROSPECTIVE JUROR: I moved to Griffith, Indiana, [229] about 25 years ago.

THE COURT: Great. Do you work?

PROSPECTIVE JUROR: Yes, sir.

THE COURT: Where do you work at?

PROSPECTIVE JUROR: I work for ArcelorMittal.

THE COURT: How long have you been out there or their predecessor companies?

PROSPECTIVE JUROR: With the predecessor companies, 41 years this May.

THE COURT: Wow, that is a long service. Are you close to retiring or --

PROSPECTIVE JUROR: I would like to think so.

THE COURT: I hope so too for you.

PROSPECTIVE JUROR: Thank you.

THE COURT: What do you do there?

PROSPECTIVE JUROR: I manage the trading customs

matter for the organization.

THE COURT: Okay. Are you married?

PROSPECTIVE JUROR: Yes, sir.

THE COURT: Does your spouse work?

PROSPECTIVE JUROR: No, sir.

THE COURT: Do you have children?

PROSPECTIVE JUROR: Yes, sir.

THE COURT: How many kids?

PROSPECTIVE JUROR: I have a son and a daughter.

[230] **THE COURT:** And tell me what they do.

PROSPECTIVE JUROR: My daughter just finished studying for the MCAT. And she did well on the MCAT, and she's applying for medical school.

THE COURT: Oh, that's terrific.

PROSPECTIVE JUROR: I appreciate that, Your Honor. And my son is working for ArcelorMittal; he's an electrician in the Burns Harbor operations.

THE COURT: Great. What is the extent of your education?

PROSPECTIVE JUROR: I went to law school, couple years in law school, and wasn't able to finish because of, as you mentioned, the predecessor companies were in trouble. And I was going to Washington D.C. to file trade suits against the world; I was part of that initiative.

THE COURT: Okay. That's where there were trade disputes going on?

PROSPECTIVE JUROR: Yes, sir, Your Honor.

THE COURT: Did you go to law school as a way to sort of help you in managing the job that you do at ArcelorMittal?

PROSPECTIVE JUROR: In a nutshell, yes, sir, Your Honor.

THE COURT: Where did you do your undergrad at?

PROSPECTIVE JUROR: I went to Bloomington, and then I finished up at Calumet College.

[231] **THE COURT:** Okay. And what is your degree in as an undergrad?

PROSPECTIVE JUROR: I have a degree in chemistry and degree in business management.

THE COURT: How far did you get through law school?

PROSPECTIVE JUROR: About the second semester.

THE COURT: So just through the first year, and were you going to Valpo or somewhere in Chicago?

PROSPECTIVE JUROR: John Marshall.

THE COURT: Oh, John Marshall. Okay. What year were you there?

PROSPECTIVE JUROR: Oh, you're trying me now, Your Honor. I would say about -- my son must have been about two years old, so about 20 years ago.

THE COURT: The reason I ask, I think --

Mr. Cooley, did you go to John Marshall?

MR. COOLEY: Yes, I did, Your Honor.

THE COURT: Do you know this gentleman or recognize him?

MR. COOLEY: I don't believe so.

PROSPECTIVE JUROR: I have never seen him before.

THE COURT: Just to make sure. It has been a long time since you have been in law school, that fair to say?

PROSPECTIVE JUROR: Yes, but I work for the law department, so I'm in the law department today.

[232] **THE COURT:** Understood. I remember reading that. And sort of regulatory affairs?

PROSPECTIVE JUROR: Yes, Your Honor.

THE COURT: So do you feel like -- obviously, in law school you started the process of learning and working towards a law degree. The question I have to ask you is: Would you be able to fairly set aside what you may have learned, albeit a number of years ago, and really decide this case based on the law as I give it to you and on the evidence as you find it? Do you think you will be able to do that?

PROSPECTIVE JUROR: Of course, Your Honor.

THE COURT: Did I ask, does your wife work?

PROSPECTIVE JUROR: She stayed home.

THE COURT: Stay-at-home mom or was?

PROSPECTIVE JUROR: Yes.

THE COURT: Did you hear me ask that whole range of other questions?

PROSPECTIVE JUROR: Yes, Your Honor.

THE COURT: Would you have answered yes to any of those?

PROSPECTIVE JUROR: Well, yes, sir, Your Honor, in a nutshell. Would you like more details?

THE COURT: Yes, sir.

PROSPECTIVE JUROR: Some of the surnames that you mentioned: Hernandez, Castillo, Sanchez, Nieto, I may have [233] dealt with over the past. I may be familiar with some of the potential witnesses. I don't know. It is a common surname in the Hispanic community.

THE COURT: Yeah, that is a problem, of course, because these are, you know, very common names and --

PROSPECTIVE JUROR: Of course.

THE COURT: Let me ask you this way: Do you feel like in the off chance that a witness comes in here and then you suddenly realize, oh, I think I know that person, would you be able to -- and this is very hypothetical and it is a difficult question to ask and answer -- but would you -- do you think you have it within you to set aside whatever relationship that you might have with the witness and evaluate them as best you can in the same way as you would evaluate a witness you don't know?

PROSPECTIVE JUROR: Well, I would have some apprehension, to be honest with you, Your Honor, if somebody was to walk in and I would be

familiar with; and I would feel that I would be dishonest or disloyal to the process.

Furthermore, I take issue, Your Honor, as you mentioned earlier about there may be some witnesses that are illegal immigrants, I take issue with the word "illegal."

THE COURT: Fair enough. Yeah, maybe that's probably a poor choice of terms by me, undocumented, or however you want to characterize it, but I take the point.

[234] Okay. Any other questions that you would have answered yes to?

PROSPECTIVE JUROR: Well, I just wanted to make mention, I work every day with a number of lawyers. I also have -- from a business perspective, just to mention, Your Honor, I'm on call as we speak, because I mentioned I do trade matters. I'm working on the NAFTA renegotiations on the Section 232 that is protecting the steel industry, and I'm working closely with the Mexican government as we speak in order to find resolution with respect to triangulation, which is a trade issue within the territory.

THE COURT: Is that a way of saying that you feel like being here is going to be a substantial hardship?

PROSPECTIVE JUROR: I would have to be honest and say that at any moment, Your Honor, within the next few days, I may have to fly to Mexico City.

THE COURT: Okay. Thank you, sir.

PROSPECTIVE JUROR: You're welcome, Your Honor.

THE COURT: Can we talk to Ms. Perez. Where do you reside at, ma'am?

PROSPECTIVE JUROR: Munster.

THE COURT: How long have you lived down in Munster?

PROSPECTIVE JUROR: Most of my life.

THE COURT: Do you work?

PROSPECTIVE JUROR: I do. I work downtown Chicago at [235] a software company named Cision.

THE COURT: What do they do, what kind of software?

PROSPECTIVE JUROR: They sell software to marketing and public relation professionals.

THE COURT: What, in particular, do you do there?

PROSPECTIVE JUROR: I manage the office; I'm the office manager.

THE COURT: How long have you worked there for?

PROSPECTIVE JUROR: A little over three years.

THE COURT: Okay. What's the extent of your education?

PROSPECTIVE JUROR: Bachelor's degree.

THE COURT: From where?

PROSPECTIVE JUROR: Columbia College, Chicago.

THE COURT: In Chicago. And what was your degree in?

PROSPECTIVE JUROR: My major was in television producing and directing, and my minor was in marketing.

THE COURT: Okay. Are you married?

PROSPECTIVE JUROR: No.

THE COURT: Do you have any children?

PROSPECTIVE JUROR: No.

THE COURT: Have you ever heard about this case or know anything about it at all?

PROSPECTIVE JUROR: No.

THE COURT: Have you formed or expressed an opinion [236] about the merits of the case at all?

PROSPECTIVE JUROR: No.

THE COURT: Is there any question that I asked -- did you hear all those questions?

PROSPECTIVE JUROR: I did.

THE COURT: Is there any of those that you sort of set a red flag off in your mind that, oh, that's something I need to share with the Court or anything that is gnawing at you that you think, wow, this is an important thing that the parties ought to know?

PROSPECTIVE JUROR: Yes.

THE COURT: Okay. Tell me about that.

PROSPECTIVE JUROR: My brother was convicted of a federal crime.

THE COURT: Okay. How long ago was that?

PROSPECTIVE JUROR: I want to say 2010.

THE COURT: Can I ask what was the nature of his offense?

PROSPECTIVE JUROR: I don't have too much detail because I was in college and my family didn't give me too much information, but I think it was fraud. But I don't know like specifics.

THE COURT: Have you ever talked to your brother personally about it?

PROSPECTIVE JUROR: No, I haven't spoken to him in [237] years.

THE COURT: Okay. Do you not have a close relationship with him, am I taking that from your comments?

PROSPECTIVE JUROR: Correct.

THE COURT: Okay. To the extent you know, do you feel as if your brother was treated unfairly in any way, such that you might hold that against the government or the process?

PROSPECTIVE JUROR: I don't think so. I wasn't really involved or had much information, because I was in college at the time.

THE COURT: Okay. Is there anything about that situation that's going to prevent you from being fair and impartial in this case?

PROSPECTIVE JUROR: No.

THE COURT: Anything else? Things like that, I appreciate you raising. Anything that you think might bear on your ability to be fair and impartial, any of those questions

that I asked?

PROSPECTIVE JUROR: That was the only one that stuck out to me that I could say yes to.

THE COURT: Do you know of any reason why you can't be a fair and impartial juror in this case?

PROSPECTIVE JUROR: No.

THE COURT: Thank you, ma'am.

Can you hand that back to Ms. -- is it Pazik?

[238] **PROSPECTIVE JUROR:** Pazik.

THE COURT: Pazik, yeah. Good afternoon, ma'am.

PROSPECTIVE JUROR: Good afternoon.

THE COURT: Where do you reside at?

PROSPECTIVE JUROR: Munster.

THE COURT: And how long have you lived in Munster?

PROSPECTIVE JUROR: Let's see, about 13 years.

THE COURT: Do you work?

PROSPECTIVE JUROR: I do not.

THE COURT: Are you married?

PROSPECTIVE JUROR: Yes, I am.

THE COURT: Does your spouse work?

PROSPECTIVE JUROR: Yes, he does.

THE COURT: What does he do?

PROSPECTIVE JUROR: He is a production supervisor of a manufacturing company in South Chicago Heights, Illinois.

THE COURT: Okay. And do you guys have children?

PROSPECTIVE JUROR: We do.

THE COURT: How many kids do you have?

PROSPECTIVE JUROR: We have two daughters.

THE COURT: How old are they?

PROSPECTIVE JUROR: One is 26 and one is 19.

THE COURT: What do they do?

PROSPECTIVE JUROR: My 26-year-old just graduated this past Saturday from Purdue West Lafayette Veterinary [239] School.

THE COURT: Oh, that's awesome.

PROSPECTIVE JUROR: Thank you.

THE COURT: Very fun.

PROSPECTIVE JUROR: Thank you.

THE COURT: She got a job lined up?

PROSPECTIVE JUROR: She does.

THE COURT: Good for her.

PROSPECTIVE JUROR: Thank you.

THE COURT: That's quite an accomplishment.

PROSPECTIVE JUROR: And my 19-year-old just finished her second year of college at Purdue Northwest.

THE COURT: Okay. When was the last time you worked outside the home?

PROSPECTIVE JUROR: I had a cleaning job for about eight years, and I've been done with that for about two years. I left due to it was just too much for me physically.

THE COURT: Sure. Have you ever heard about this case or do you know anything about it at all?

PROSPECTIVE JUROR: I have not.

THE COURT: Have you ever read about it, anything rings a bell about the Latin King Indictment or anything like that that makes something go off in your mind.

PROSPECTIVE JUROR: No, but when you say "Latin King," that makes me nervous.

[240] **THE COURT:** Well, that's not my intention. I mean, you are going to hear evidence that there's allegations in the case that may involve that entity. So my intentions are not to make you nervous. I appreciate what you are saying.

What I'm trying to get at is do you have any outside reading that would have biased or prejudiced you in any way, you know, prior to you sitting here?

PROSPECTIVE JUROR: No.

THE COURT: Did you listen to those other questions that I have asked a number of times?

PROSPECTIVE JUROR: Yes.

THE COURT: Would you have answered yes to any of those?

PROSPECTIVE JUROR: Yes.

THE COURT: Tell me those.

PROSPECTIVE JUROR: I'm kind of embarrassed to say, but I really don't understand some of the stuff that's going on. I don't get racketeering, and I don't -- like, the presumed innocent. I don't pay attention to any of that. I don't watch those shows. I don't really have any experience

pertaining to any of that, so I really don't understand it.

THE COURT: Have you ever served on a jury before?

PROSPECTIVE JUROR: I have not.

THE COURT: Okay. So that's not anything to be embarrassed at all. It is a new thing for you, and I [241] appreciate that.

But you understand what the terms "presumed innocent" means I presume. I mean, you're an intelligent person, and you can understand what that means I take it.

THE COURT: Just because somebody has been charged with a crime doesn't mean anything. And under our system, they are presumed innocent throughout the process, and it is only until the government proves its case beyond a reasonable doubt that they can be found guilty. Is there anything about that that you don't understand?

PROSPECTIVE JUROR: Yeah, I kind of don't get "beyond a reasonable doubt."

THE COURT: Well, that will be up to you decide what that means. Anything else that we've talked about here that causes you concern or questions that you would have answered yes to?

PROSPECTIVE JUROR: Just like not understanding and kind of being nervous about having to be involved in making a decision -- it's a huge decision. I would be afraid to make the wrong decision and cause repercussions for either side, either party, and their lives and their families and things like that.

THE COURT: I fully appreciate that sentiment. What I want you to understand is that under our system of justice, [242] we call upon citizens from the community, cross-section, just a variety of people to listen to the evidence and make those determinations every day. And are you suggesting to me that you are not going to be able to do that?

PROSPECTIVE JUROR: I'm not sure. To be honest, I'm not sure.

THE COURT: Okay. Thank you, ma'am.

Let's talk to Mr. Booker.

PROSPECTIVE JUROR: Hi.

THE COURT: Where are you from, sir?

PROSPECTIVE JUROR: Crown Point.

THE COURT: What do you do for a living?

PROSPECTIVE JUROR: I just retired a couple of years ago.

THE COURT: Where from?

PROSPECTIVE JUROR: A place called Midwest Pipe and Rebar Coating in Schererville.

THE COURT: Sure. What did you do there?

PROSPECTIVE JUROR: I was the coordinator for the rebar department.

THE COURT: Okay. How long did you work there for?

PROSPECTIVE JUROR: Forty-six years.

THE COURT: Are you married?

PROSPECTIVE JUROR: Yes.

THE COURT: Does your wife work?

[243] **PROSPECTIVE JUROR:** Yes, she does.

THE COURT: What does she do?

PROSPECTIVE JUROR: She's Internal Revenue Service.

THE COURT: What does she do for the IRS?

PROSPECTIVE JUROR: She does audits.

THE COURT: So is she a revenue officer?

PROSPECTIVE JUROR: She's a revenue officer, yeah.

THE COURT: How long has she done that for?

PROSPECTIVE JUROR: Thirty-one years.

THE COURT: She's obviously she's employed by the United States government?

PROSPECTIVE JUROR: Right.

THE COURT: In the same way that many of these gentlemen, all of them, are employed by the United States government. And so let me ask you: Would you be able to set aside your wife's affiliation with the IRS; and if you think the government hasn't proved its case beyond a reasonable doubt, would you be able to look them in the eye and tell them that?

PROSPECTIVE JUROR: I would like to think I could, yes. I mean, to be honest, it is a hard one to answer, you know.

THE COURT: Sure. I mean --

PROSPECTIVE JUROR: I'm not going to say a hundred percent. Yeah, I mean, that's -- yeah.

[244] **THE COURT:** Okay. Did you ever hear about this case or know anything about it at all?

PROSPECTIVE JUROR: No.

THE COURT: Have you formed or expressed an opinion about the merits of the case?

PROSPECTIVE JUROR: No.

THE COURT: Anything else that you would have answered yes to in the whole range of other questions that I asked?

PROSPECTIVE JUROR: Yeah. Well, I don't remember a lot of the questions, of course, but that's one of my faults. I have a bad memory. But the one thing I will say, I do not believe in legalizing any drug or any -- you know, like marijuana or cocaine, I don't believe in -- maybe old hat, but I don't believe in legalizing.

THE COURT: No, there are people who disagree and people who agree, and that's what makes the world go around. Is your feelings about illegal drugs, is that in any way going to infect you to the point you don't think you can treat people fairly when they've merely been accused of having been involved in that activity?

PROSPECTIVE JUROR: Yeah, there again, I would like to think I could do that. I just am not hundred percent positive, but I would like to think I could do that, yeah.

THE COURT: Okay. Anything else that you would [245] have -- you feel the need and important to share with the Court as it relates to your ability to be fair and impartial?

PROSPECTIVE JUROR: No, I don't believe so, no.

THE COURT: Counsel approach the bench.

(Bench conference.)

THE COURT: Mr. Nozick, do you have any follow-up questions?

MR. NOZICK: Well, Judge, the individual, Mr. Cisneros, you (indiscernible) him when he said he might be called to Mexico City any day.

THE COURT: I'm leaning towards dismissing him for cause, but I wanted to hear from you all and if you wanted me to do anymore follow up. It does seem like he could at any moment be called away, and that --

MR. NOZICK: Well, if you are not dismissing him for cause for that, there are things that I need you or would like you to ask.

THE COURT: Well, let me get your position on that.

MR. BEDI: We have no objection to that.

THE COURT: Okay. So it sounds like -- Do you have any objection to that?

MR. NOZICK: No.

THE COURT: How about you, Mr. Rogers?

MR. ROGERS: I have none.

THE COURT: Okay. So we will be dismissing Cisneros [246] for cause.

Any other follow-up questions?

MR. NOZICK: Judge, are you intending -- with the girl in the back row, are you intending to dismiss her because she doesn't believe she understands.

MR. VANZANT: We would make a motion on that one, Your Honor.

THE COURT: Yeah, I just think we're going to have to dismiss her. I don't know if she's just trying to get out of jury duty or she's legitimately concerned. I tend to think the latter, frankly.

MR. ROGERS: One of the things she said about her not being a juror, I couldn't figure out if she was -
-

MR. NOZICK: I have no objection to cause.

THE COURT: Yeah, I'm going to dismiss her for cause.

As it relates to the other two, any follow-up questions?

MR. NOZICK: No.

MR. BEDI: As to Booker, yes. I mean, he is, you know, kind of passive light. He says I would like to think I could be fair and impartial, but he's not giving an affirmative yes, I could.

And he said -- and then you did try to rehabilitate him, and he said it again. He said, I would like to think I could. Also --

THE COURT: I'm not arguing with you right now. What [247] I'm asking is: Do you have any additional questions you wish me to ask him?

MR. BEDI: Well, I guess the other one is he says he has a bad memory. This is a very fact-specific, intensive --

THE COURT: You are not listening to me right now. You are going to have a full opportunity to

entertain your objection to him, and I would tend to agree with it.

What I'm asking is: Do you want me to ask him any additional questions that flesh this out?

MR. BEDI: No.

MR. VANZANT: No further questions, Your Honor.

MR. ROGERS: I do.

THE COURT: Okay.

MR. ROGERS: I would ask you --

COURT REPORTER: Mr. Rogers, could you move into the mic.

MR. ROGERS: Sure.

I would ask you to, perhaps, explore the fact that his wife's a revenue agent and does she have any contact with the law enforcement side of the IRS, ever worked with them.

THE COURT: I'm inclined to dismiss her -- that man for cause because of his ambiguous questions --

MR. ROGERS: Okay.

THE COURT: -- and his relationship with his wife. And so I don't want to waste any time. [248] Does anybody have any objection to that?

MR. NOZICK: No.

MR. VANZANT: No.

MR. BEDI: No.

MR. ROGERS: No objection. No.

THE COURT: So I'm going to dismiss those three, refill the box, and then we'll do the strikes, okay?

MR. NOZICK: Yes.

MR. VANZANT: Yes, Judge.

MR. ROGERS: Fine.

(End of bench conference.)

THE COURT: Okay. Mr. Cisneros, I'm going to excuse you, sir. Thank you.

PROSPECTIVE JUROR: Thank you, Your Honor.

THE COURT: Ms. Pazik, I'm going to excuse you as well, and you, as well, Mr. Booker. You guys, you're all excused. Thank you very much for your willingness to serve. So why don't you just give that to Ms. Perez, the microphone, right in front of you, the lady, and she can hold onto it.

Noel, would you call three more names, please.

DEPUTY CLERK: Samuel Wilson, Sheena Sutsh, Linda Susan Perry.

THE COURT: Mr. Wilson, can we start with you, sir?

PROSPECTIVE JUROR: Sure.

THE COURT: Why don't you tell us where you reside [249] at.

PROSPECTIVE JUROR: I live in Hebron.

THE COURT: How long have you lived down in Hebron?

PROSPECTIVE JUROR: About ten years.

THE COURT: Do you work, sir?

PROSPECTIVE JUROR: I do. I work for Republic Services.

THE COURT: That's trash hauler?

PROSPECTIVE JUROR: Yep, about 13 years now.

THE COURT: I'm sorry, how long?

PROSPECTIVE JUROR: Thirteen years.

THE COURT: What do you do for them?

PROSPECTIVE JUROR: I just drive a truck, commercial truck.

THE COURT: Great. Are you married?

PROSPECTIVE JUROR: I am.

THE COURT: Does your spouse work?

PROSPECTIVE JUROR: Yeah, she works for Menards.

THE COURT: And what does she do for Menards?

PROSPECTIVE JUROR: She's a cashier.

THE COURT: She work at the Valpo store?

PROSPECTIVE JUROR: Yep.

THE COURT: Do you guys have children?

PROSPECTIVE JUROR: We have three; two girls and a boy.

[250] **THE COURT:** Are they still at home with you or are they --

PROSPECTIVE JUROR: Yeah, my middle daughter is 19, and she's going to college at Ivy Tech;

and my son is 14. My youngest is freshman in high school.

THE COURT: Okay. And what's the extent of your education?

PROSPECTIVE JUROR: Just high school.

THE COURT: Okay. Have you ever heard about this case --

PROSPECTIVE JUROR: Nope.

THE COURT: -- or do you know anything about it at all?

PROSPECTIVE JUROR: Nope.

THE COURT: Have you formed or expressed an opinion about the merits of the case?

PROSPECTIVE JUROR: No.

THE COURT: Would you have answered any of those other questions that I asked, you know, in the affirmative?

PROSPECTIVE JUROR: I did know one of the officers involved.

THE COURT: Okay. Who was that?

PROSPECTIVE JUROR: I think it was -- he mentioned Warren Fryer.

THE COURT: Okay.

[251] **PROSPECTIVE JUROR:** He sold me a used car, so --

THE COURT: Okay. Did it work out all right or --

PROSPECTIVE JUROR: Not really. Not really.

THE COURT: How long ago was that?

PROSPECTIVE JUROR: About a year and a half ago.

THE COURT: Okay. Refresh my memory, is Fryer with one of the departments?

MR. NOZICK: I don't think the government is calling him.

THE COURT: Mr. Vanzant?

MR. VANZANT: I think he is on the witness list, Your Honor.

THE COURT: Do you know what department he works for?

MR. BEDI: I want to say Hammond.

THE MARSHAL: He's Hammond.

THE COURT: Okay. So it's Hammond. You had this experience with him where you bought a used car; that's the extent of your experience with him?

PROSPECTIVE JUROR: Yeah, he told me this and that. And then the car didn't last me very long, tell you that much, so --

THE COURT: What kind of car was it?

PROSPECTIVE JUROR: It was a Ford Focus.

THE COURT: And was it an older car or a newer car?

PROSPECTIVE JUROR: Little bit, 2007.

[252] **THE COURT:** Okay. It sounds like you maybe were a little bit unhappy with the transaction, is that --

PROSPECTIVE JUROR: Little bit. Little bit.

THE COURT: Okay. Well, if he's called to testify, you're going to be asked to evaluate his credibility, you know, do you believe him, do you not believe him.

And in doing that, to the extent it is possible, you have to set aside the experience, this rather limited experience, that you had with him and evaluate his credibility based upon the examination and the cross-examination and all the other factors and evidence that comes into court.

Do you think you will be able to do that?

PROSPECTIVE JUROR: Might be kind of tough. You know, you learn by example, so --

THE COURT: Okay. Okay. Any other questions that you would have answered yes to?

PROSPECTIVE JUROR: No.

THE COURT: Setting aside that, you know, issue we just talked about, do you know of any reason, any reason whatsoever, why you can't be a fair and impartial juror in this case?

PROSPECTIVE JUROR: Not really.

THE COURT: Okay.

PROSPECTIVE JUROR: I'm pretty fair I think.

THE COURT: Okay.

[253] **PROSPECTIVE JUROR:** Try to be.

THE COURT: Thank you, sir.

Would you pass the mic back to Ms. Sutsh?

PROSPECTIVE JUROR: Sutsh.

THE COURT: Sutsh, yeah. Where do you reside at?

PROSPECTIVE JUROR: Valparaiso.

THE COURT: How long have you lived down in Valpo?

PROSPECTIVE JUROR: Little over 10 years.

THE COURT: Do you work?

PROSPECTIVE JUROR: I do.

THE COURT: Where do you work?

PROSPECTIVE JUROR: I work at a home decor store called Sandpaper.

THE COURT: Where is that at?

PROSPECTIVE JUROR: We have one in Schererville and one in Valpo downtown.

THE COURT: Do you own the store?

PROSPECTIVE JUROR: No.

THE COURT: Oh, when you were saying “we have” --

PROSPECTIVE JUROR: Well, I’ve worked there for a while, so it’s --

THE COURT: Got it. Okay. Taking ownership?

PROSPECTIVE JUROR: Yeah.

THE COURT: And what do you do there?

PROSPECTIVE JUROR: I run the store, and we paint and [254] sell furniture.

THE COURT: Okay. Are you married?

PROSPECTIVE JUROR: I am.

THE COURT: And does your spouse work?

PROSPECTIVE JUROR: Yes.

THE COURT: Where at?

PROSPECTIVE JUROR: He's a union carpenter.

THE COURT: Does he, you know, work at different jobs that he's assigned to?

PROSPECTIVE JUROR: He does scaffolding and he also teaches at the apprenticeship.

THE COURT: Okay. Do you guys have kids?

PROSPECTIVE JUROR: We're expecting.

THE COURT: Oh, congratulations. When are you due?

PROSPECTIVE JUROR: October.

THE COURT: Okay. A little ways off.

PROSPECTIVE JUROR: Yeah.

THE COURT: If I can ask, be personal about it, are you having morning sickness? Are you experiencing that?

PROSPECTIVE JUROR: I am, yes.

THE COURT: Is it -- you are getting towards the second trimester. Is it getting better?

PROSPECTIVE JUROR: It is not, no.

THE COURT: Is that difficult for you to manage?

PROSPECTIVE JUROR: It is. We -- and it took us 10 [255] years to conceive, so we have frequent doctors' appointments with all the two surgeries I had and just to make sure everything is okay.

THE COURT: Has this morning sickness -- is it -

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PROSPECTIVE JUROR: It's more related -- I need to eat frequently, so if I don't, that's when I get sick.

THE COURT: Okay. Do you think that this trial is going to make it -- is it going to be difficult for you to serve on --

PROSPECTIVE JUROR: Yes.

THE COURT: -- for that reason?

PROSPECTIVE JUROR: Uh-huh.

THE COURT: Okay. We'll come back to you in a second.

PROSPECTIVE JUROR: Okay.

THE COURT: Let me go talk -- because I want to talk to the lawyers about your situation. Ms. Perry, can I follow up with you. Tell us what city or town you reside in?

PROSPECTIVE JUROR: Chesterton.

THE COURT: And how long have you lived out in Chesterton?

PROSPECTIVE JUROR: Twelve years.

THE COURT: Do you work?

PROSPECTIVE JUROR: No, I'm a retired middle school [256] teacher.

THE COURT: What school did you teach at?

PROSPECTIVE JUROR: Chesterton Middle School; before that in Portage.

THE COURT: Okay. Are you married?

PROSPECTIVE JUROR: I am.

THE COURT: Does your spouse work?

PROSPECTIVE JUROR: He's a retired banker.

THE COURT: Okay. And do you guys have children?

PROSPECTIVE JUROR: We do. I have two, and they are 35 and 34. One is a financial trader, and my daughter is a nurse anesthetist. And then I have three stepsons.

THE COURT: Did you raise those step kids or --

PROSPECTIVE JUROR: No, I did not.

THE COURT: They were grown by the time you --

PROSPECTIVE JUROR: We've only been married 12 years, so they were grown and gone.

THE COURT: Got it.

PROSPECTIVE JUROR: All five of them.

THE COURT: Great. What's the extent of your education?

PROSPECTIVE JUROR: A master's degree in education.

THE COURT: Have you ever heard about this case?

PROSPECTIVE JUROR: No.

THE COURT: Do you know anything about it at all?

[257] **PROSPECTIVE JUROR:** No.

THE COURT: Have you formed or expressed an opinion about the merits of the case?

PROSPECTIVE JUROR: No.

THE COURT: Okay. Would you have answered yes to any of those questions that I --

PROSPECTIVE JUROR: Yes, my son-in-law is an attorney, as is my niece.

THE COURT: Okay. Where does your son-in-law work?

PROSPECTIVE JUROR: New York City.

THE COURT: He works for a big law firm there or --

PROSPECTIVE JUROR: Yep.

THE COURT: Do you know what law firm?

PROSPECTIVE JUROR: Paul Hastings.

THE COURT: Sure. That's sort of a multinational, giant law firm.

PROSPECTIVE JUROR: Right.

THE COURT: And how about your niece, where does she work at?

PROSPECTIVE JUROR: She works for various firms doing mainly research. And truthfully, at this point, I'm not sure what kind of law she's doing.

THE COURT: You understand you can't talk to them --

PROSPECTIVE JUROR: Right.

THE COURT: -- during the trial about the trial. You [258] can talk to them, but you can't just ask them about what's going on here.

PROSPECTIVE JUROR: My son-in-law does mergers and acquisitions, so he wouldn't be any help I don't think.

THE COURT: Fair enough.

Is there anything about those relationships that is going to prevent you from being fair and impartial here?

PROSPECTIVE JUROR: No.

THE COURT: Any other things? You were about to say something else.

PROSPECTIVE JUROR: Yes. I know two of the attorneys. Mr. Truitt did some minor law work for me, 15, 20 years ago, a will.

THE COURT: Okay.

PROSPECTIVE JUROR: It was a very positive experience. And the Rogers are dear friends of my daughter-in-law. I don't know them personally, but they are very good friends of hers.

THE COURT: Your daughter-in-law. Okay. And have you ever met Mr. and Mrs. Rogers?

PROSPECTIVE JUROR: I have met Mrs. Rogers; I have not met Mr. Rogers.

THE COURT: Is it fair to say that it was in passing?

PROSPECTIVE JUROR: Right. Right.

THE COURT: Do you feel -- I mean, only you can [259] answer this. Do you feel like if, at the end of the day, the government proves its case beyond a reasonable doubt, would you be able to render a verdict in the government's favor?

PROSPECTIVE JUROR: I believe so.

THE COURT: Okay. It is a difficult thing to do. Would you be able to look them in the eye and say, hey, I think the government met its burden?

PROSPECTIVE JUROR: I believe so.

THE COURT: By the same token, if the government doesn't meet its burden, would you be able to render a verdict in favor of the defense?

PROSPECTIVE JUROR: Yes.

THE COURT: Any other questions you would have answered yes to or felt the need to share information with the Court?

PROSPECTIVE JUROR: No, those were the only two.

THE COURT: Okay. So do you know of any reason why you can't be a fair and impartial juror in this case?

PROSPECTIVE JUROR: No.

THE COURT: Will you be comfortable having this case decided by somebody in your frame of mind?

PROSPECTIVE JUROR: I believe so.

THE COURT: Okay. Thank you, ma'am.

Counsel, approach the bench.

(Bench conference.)

[260] **THE COURT:** Is this cop really going to testify?

MR. VANZANT: I can't say for sure, Your Honor, but if he does, it is probably important. So -- sorry.

THE COURT: No, that's all right.

MR. NOZICK: You are going to call him?

MR. VANZANT: He's on the main call list. I mean, everybody on the defense lists is a main call, but it really depends on what happens with the government's case.

THE COURT: All right. Fair enough. That's the way it goes. Any follow-up questions?

MR. NOZICK: No.

THE COURT: How about from you all?

MR. VANZANT: You had a couple.

MR. BEDI: I didn't hear it. Sam Wilson, his 22-year-old, I didn't hear what she did, he did.

THE COURT: I'm inclined to dismiss Mr. Wilson because --

MR. VANZANT: I would make a motion.

THE COURT: -- your witness sold him a dud. He's got a very negative feeling about that witness, and I tried to rehabilitate him and, you know -

Okay. You can consider and do your strikes when you are ready to do them.

MR. ROGERS: Judge, for the record, as far as Ms. Perry is concerned, I have no idea who she is.

[261] **THE COURT:** Okay.

MR. ROGERS: My wife just whispered as I went by, I don't have a clue.

THE COURT: Fair enough.

MR. BEDI: Judge, I think you wanted to talk about Sheena Sutsh. Correct me if --

THE COURT: Yeah. Thank you.

Did you have anymore follow up? This lady has been trying to get pregnant for 10 years. I'm not going to make her be here when she's --

MR. NOZICK: No objection.

MR. ROGERS: No objection.

MR. VANZANT: No objection.

THE COURT: So I will strike her for cause.

We will be striking as against Perez and Perry and then we'll go through another round.

MR. VANZANT: Okay.

(End of bench conference.)

THE COURT: Approach the bench when you are ready.

(Bench conference.)

THE COURT: All right. So we are in agreement we are going to strike Wilson and Sutsh for cause, correct, Mr. Nozick?

MR. NOZICK: Yes.

THE COURT: Mr. Vanzant, I assume there's no [262] additional cause strikes, is that right?

MR. VANZANT: Correct.

THE COURT: Mr. Nozick?

MR. NOZICK: No.

THE COURT: Okay. So peremptories.

MR. VANZANT: We have none.

MR. ROGERS: None.

MR. NOZICK: None.

THE COURT: So Ms. Perez will be the first alternate. She was the first seated. Ms. Perry will be the second alternate as the second person seated. And so we need -- you guys think we need four alternates or three?

MR. ROGERS: I would think three would be enough.

MR. NOZICK: Three should be enough.

THE COURT: You guys comfortable with that?

MR. TRUITT: My question, Your Honor, would be the uncertainty of, again, I can't remember her name, but her vacation started June 2nd.

THE COURT: No, she was dismissed.

MR. TRUITT: Oh, that's right. That's right. Sorry.

THE COURT: Let's just select one more.

MR. VANZANT: Okay.

THE COURT: I think it will be enough. You guys in agreement?

MR. VANZANT: Yeah.

[263] **MR. NOZICK:** Yes.

MR. ROGERS: Yeah.

THE COURT: Okay.

(End of bench conference.)

THE COURT: I'm going to excuse you, Mr. Wilson and Ms. Sutsh.

PROSPECTIVE JUROR: Sutsh.

THE COURT: Sutsh. I'm sorry. Good luck to you, ma'am, with the new one.

PROSPECTIVE JUROR: Thank you.

THE COURT: I wish you well.

Okay. Noel, if you would, call one more name, please.

And here is what I'm going to ask you to do, before you do that. Ms. Perez, could you move over one seat to your left, and, Ms. Perry, if you could move one seat to your left. No, just one seat to your left. There you go.

And so, Lenny, you can put the next person next to Ms. Perez. So call another name, please.

DEPUTY CLERK: John Sokit.

THE COURT: Good afternoon, Mr. Sokit.

PROSPECTIVE JUROR: Sokit.

THE COURT: Sokit. I'm sorry. I know it's been a long day. Let me just ask you, what city or town do you reside in?

[264] **PROSPECTIVE JUROR:** Crown Point.

THE COURT: How long have you lived down in Crown Point?

PROSPECTIVE JUROR: Forty years.

THE COURT: Do you work, sir?

PROSPECTIVE JUROR: I'm retired.

THE COURT: From what?

PROSPECTIVE JUROR: LTV.

THE COURT: And how long -- boy, I don't have many people from LTV. How long ago was that?

PROSPECTIVE JUROR: I've been retired for eight years.

THE COURT: Okay. What did you do for LTV before you retired?

PROSPECTIVE JUROR: I was a maintenance supervisor.

THE COURT: Okay. And you a member of the union?

PROSPECTIVE JUROR: I was at one time.

THE COURT: Okay. Did you hold any supervisory --

PROSPECTIVE JUROR: Oh, yes. Yeah, I was salaried.

THE COURT: Oh, you retired as a salary worker?

PROSPECTIVE JUROR: Right.

THE COURT: Okay. Are you married, sir?

PROSPECTIVE JUROR: Yes.

THE COURT: Does your wife work still?

PROSPECTIVE JUROR: She's retired.

[265]

THE COURT: From what?

PROSPECTIVE JUROR: She was a nurse at Community, Munster.

THE COURT: Over in Munster?

PROSPECTIVE JUROR: Right.

THE COURT: A registered nurse?

PROSPECTIVE JUROR: Right.

THE COURT: Okay. Do you guys have children?

PROSPECTIVE JUROR: One son.

THE COURT: How old is your son?

PROSPECTIVE JUROR: Forty-five.

THE COURT: And what's he do for a living?

PROSPECTIVE JUROR: He works for an insurance company.

THE COURT: Okay. Do you have grandchildren?

PROSPECTIVE JUROR: Yes.

THE COURT: How many grandkids?

PROSPECTIVE JUROR: Two.

THE COURT: Great. What's the extent of your education, sir?

PROSPECTIVE JUROR: I have a bachelor's degree from Indiana.

THE COURT: Down in Bloomington.

PROSPECTIVE JUROR: Northwest.

THE COURT: Local here. Great. Did you ever hear [266] about this case or know anything about it at all?

PROSPECTIVE JUROR: No, nothing.

THE COURT: Have you formed or expressed any opinion about --

PROSPECTIVE JUROR: None.

THE COURT: -- the merits of the case?

PROSPECTIVE JUROR: No.

THE COURT: Would you have answered yes to any of those other questions that I asked?

PROSPECTIVE JUROR: No.

THE COURT: Did you do any reading about the case, or does any of it ring any bells to you?

PROSPECTIVE JUROR: A couple of the names might have sounded familiar, but that's about it, you know. They are common names.

THE COURT: Sure. Do you know any of the lawyers that are involved in this case?

PROSPECTIVE JUROR: No, no.

THE COURT: So just sort of looking inward and asking yourself, you know, is this a case where I feel like I'm a clean slate here and I can weigh the evidence and do my level best to arrive at a verdict that's just and fair, free from any partiality, do you think you will be able to do that?

PROSPECTIVE JUROR: Oh, yes.

THE COURT: Would you be content if you were the [267] prosecutors in the case or you were the defendants if you were -- if the case was being decided by someone in your frame of mind? Would you be content with that?

PROSPECTIVE JUROR: Yes.

THE COURT: So do you know of any reason whatsoever why you can't be a fair and impartial juror in this case?

PROSPECTIVE JUROR: No, no.

THE COURT: Thank you, Mr. Sokit.

Are there any follow-up questions?

MR. NOZICK: No, Your Honor.

THE COURT: How about you, Mr. Vanzant or Mr. Rogers?

MR. BEDI: No.

MR. VANZANT: No, Your Honor.

MR. TRUITT: No.

THE COURT: Okay. If you could consult with one another, approach the bench when you are ready.

Did you want to raise something?

PROSPECTIVE JUROR: I've got one question.

THE COURT: Sure.

PROSPECTIVE JUROR: I do have a problem at home, though. My wife is about to have open-heart surgery.

THE COURT: That's something I want to talk about.

PROSPECTIVE JUROR: Yes.

THE COURT: Tell me about that.

PROSPECTIVE JUROR: She just had the tests last week. [268] We see the doctor on Thursday, and she definitely needs a, you know, repair for a valve, so that's open-heart surgery, so --

THE COURT: And is it --

PROSPECTIVE JUROR: As soon as possible probably.

THE COURT: It's sort of an emergency nature?

PROSPECTIVE JUROR: Yeah, it's kind of -- yeah. It's been going on for a while.

THE COURT: Can I -- is it fair to say that you want to be there with her when you go to the appointment?

PROSPECTIVE JUROR: Not that I want to be. I will be.

THE COURT: Yeah, I understand. I fully understand that. My powers are limited.

Okay. I appreciate that.

Does anybody have any objection to me excusing this man?

MR. NOZICK: No objection.

MR. VANZANT: No objection.

MR. BEDI: No objection.

MR. TRUITT: No objection.

MR. ROGERS: No.

THE COURT: Mr. Sokit, thank you so much. I appreciate it. Good luck to your wife, okay.

PROSPECTIVE JUROR: Thank you.

THE COURT: Yeah.

Noel, will you call another name, please.

[269] **DEPUTY CLERK:** Brandiline Hoover.

THE COURT: Hello, Ms. Hoover.

PROSPECTIVE JUROR: Hi.

THE COURT: Where do you reside at?

PROSPECTIVE JUROR: Munster.

THE COURT: How long have you lived down in Munster?

PROSPECTIVE JUROR: Basically my whole life, like 16 years.

THE COURT: Do you work?

PROSPECTIVE JUROR: I do, yes. I have two jobs.

THE COURT: What are those jobs?

PROSPECTIVE JUROR: One of them is a bridal consultant. I work at Something Blue Bridal in Schererville.

THE COURT: Okay.

PROSPECTIVE JUROR: And so I sell wedding dresses. And then my other job is a nanny. I babysit two kids before and after school.

THE COURT: Okay. And how long have you been doing that for?

PROSPECTIVE JUROR: I've been a bridal consultant for a little over three years, and I just started being a nanny probably like six months ago.

THE COURT: Okay. Are you married?

PROSPECTIVE JUROR: I am not, no.

THE COURT: Do you have any children?

[270] **PROSPECTIVE JUROR:** No.

THE COURT: What's the extent of your education?

PROSPECTIVE JUROR: I'm in college right now. I go to Purdue Northwest. I'm majoring in accounting.

THE COURT: Great. Are you done with the semester?

PROSPECTIVE JUROR: Yes, I am.

THE COURT: Because I don't want to interfere with that. So how far along are you in school now?

PROSPECTIVE JUROR: This is my -- I finished my first year.

THE COURT: Okay. And you want to be an accountant?

PROSPECTIVE JUROR: Yes.

THE COURT: Great. You ever hear about this case or know anything about it at all?

PROSPECTIVE JUROR: No.

THE COURT: Have you formed or expressed an opinion about the merits of the case?

PROSPECTIVE JUROR: Nope.

THE COURT: Did you know any of those witnesses that I read, their names?

PROSPECTIVE JUROR: I did not, no.

THE COURT: Know any of the participants in the trial here?

PROSPECTIVE JUROR: Nope.

THE COURT: Would you have answered yes to any of [271] those other questions?

PROSPECTIVE JUROR: I did have three.

THE COURT: Okay.

PROSPECTIVE JUROR: For one, I'm really good friends with a Munster police officer, James Ghrist.

THE COURT: Okay. James --

PROSPECTIVE JUROR: Ghrist.

THE COURT: Okay.

PROSPECTIVE JUROR: G-H-R-I-S-T.

THE COURT: Oh, Ghrist, okay.

PROSPECTIVE JUROR: Yeah. Also, I shadowed a lawyer for two years. Her name is Sharon Stanzione. She's a malpractice attorney.

THE COURT: Okay.

PROSPECTIVE JUROR: I shadowed her for a little while because I wanted to be a lawyer when I was still in high school, so I shadowed her for a little while. So I do have some background of that.

And my third one was that also I was supposed to be going out of town next Thursday.

THE COURT: Where are you going?

PROSPECTIVE JUROR: My cousin's graduation.

THE COURT: Okay. And where is the graduation at?

PROSPECTIVE JUROR: It is in Ohio. So we did like book the hotels and everything already.

[272] **THE COURT:** Okay. Anything else that you would have answered, you know, yes to or things you want to share with the Court that bear on your -- well, whether it be things in your life or things that would bear on your ability to be fair and impartial?

PROSPECTIVE JUROR: I will say that I do, like my sister, she is going back to school possibly to be a nurse, so I do have some background in, like, the idea of medical marijuana being legalized. And I do think that that's something that should occur because of, like, the things that -- medical problems that people have been benefited from that. So I do strongly believe that it should be legalized.

THE COURT: Okay. That's fair enough.

Counsel, approach the bench.

(Bench conference.)

THE COURT: Do you want me to do any further follow-up with this young lady? She's got prepaid, booked -- that's where I usually draw the line.

MR. TRUITT: Just so the record is clear, my partner does probably 200 medical review panels as a panel chairman each year, and Stanzione has got -- I couldn't tell you the number right now off the top of my head -- but probably has dozens of pending -- she would have known Tony Bertig if she shadowed her for over a year.

THE COURT: Okay. I'm inclined to dismiss her.

[273] **MR. NOZICK:** No objection.

MR. TRUITT: No objection.

MR. VANZANT: No objection.

MR. BEDI: No objection.

THE COURT: Okay.

(End of bench conference.)

THE COURT: Ms. Hoover, I'm going to send you on your way. Good luck in school.

PROSPECTIVE JUROR: Thank you for the opportunity.

THE COURT: You bet.

Noel, if you wouldn't mind please, calling another name.

DEPUTY CLERK: Wayne Lewis, Sr.

THE COURT: Good afternoon, sir.

PROSPECTIVE JUROR: Good afternoon.

THE COURT: Where do you reside at?

PROSPECTIVE JUROR: In the car business.

THE COURT: No, where do you live, sir?

PROSPECTIVE JUROR: Oh, Hebron.

THE COURT: Oh, okay. Are you in the car business?

PROSPECTIVE JUROR: Yeah, I retired.

THE COURT: Okay. What did you do in the car business?

PROSPECTIVE JUROR: Used car manager.

THE COURT: Okay. Where did you work at?

PROSPECTIVE JUROR: Wiers Chevrolet in Demotte.

[274] **THE COURT:** Sure. Are you married, sir?

PROSPECTIVE JUROR: Yes.

THE COURT: Does your wife work?

PROSPECTIVE JUROR: Yes.

THE COURT: Where does she work at?

PROSPECTIVE JUROR: At Wiers Chevrolet.

THE COURT: Okay. Do you guys have children?

PROSPECTIVE JUROR: Two.

THE COURT: How old are your kids?

PROSPECTIVE JUROR: Fifty-two and 51.

THE COURT: Wow. What do they do?

PROSPECTIVE JUROR: One works for the Humane Society of Northwest Indiana, and the other one is a blackjack dealer at casino up in Wisconsin.

THE COURT: Great. What's the extent of your education, sir?

PROSPECTIVE JUROR: High school.

THE COURT: Have you ever heard about this case, or do you know anything about it at all?

PROSPECTIVE JUROR: No.

THE COURT: Have you formed or expressed an opinion about the merits of the case at all?

PROSPECTIVE JUROR: No.

THE COURT: Did you hear those questions that I asked the other panels?

[275] **PROSPECTIVE JUROR:** Yes.

THE COURT: Would you have answered yes to any of those questions?

PROSPECTIVE JUROR: A couple.

THE COURT: Okay. Let's talk about those.

PROSPECTIVE JUROR: I've served on a jury before.

THE COURT: Great. Where did you do that?

PROSPECTIVE JUROR: Porter County.

THE COURT: What kind of case was it?

PROSPECTIVE JUROR: It was a criminal case, felony DUI.

THE COURT: Okay. Somebody was charged with, essentially, driving while intoxicated?

PROSPECTIVE JUROR: Yeah, numerous times.

THE COURT: Okay. Did you find in favor of the government, the prosecution, or -- did you find him guilty or not guilty?

PROSPECTIVE JUROR: Guilty.

THE COURT: Okay. How long ago was that?

PROSPECTIVE JUROR: I think it was in 2010.

THE COURT: About seven, eight years ago, something like that?

PROSPECTIVE JUROR: Yeah, something like that.

THE COURT: All right. Is there anything about that process that in any way is going to prevent you from being fair [276] and impartial in this case?

PROSPECTIVE JUROR: No.

THE COURT: Will you be able to set aside what you may have learned about, you know, trials and the legal process, set that aside and decide this case based on the evidence that's presented in this courtroom and on the law as I give it to you?

PROSPECTIVE JUROR: Yes.

THE COURT: Any question about that?

PROSPECTIVE JUROR: No.

THE COURT: Okay. You've served on another jury too, is that right?

PROSPECTIVE JUROR: Yeah, my granddaughter a couple months ago was convicted of obtaining controlled substance by fraud.

THE COURT: Okay. Where was that at?

PROSPECTIVE JUROR: It was in -- she lived up here, but it happened in Jacksonville, Florida.

THE COURT: And so is that where she was prosecuted, down in Florida?

PROSPECTIVE JUROR: Yes.

THE COURT: And did you go down to watch the trial at all?

PROSPECTIVE JUROR: No.

THE COURT: Is there anything about that -- I mean, [277] it is very difficult, obviously, to have a loved one, you know have difficulties with the law. Is there anything about that that's going to prevent you from being fair and impartial in this case?

PROSPECTIVE JUROR: No.

THE COURT: Do you feel at all that she was treated unfairly or anything like that?

PROSPECTIVE JUROR: No.

THE COURT: Okay. Anything else?

PROSPECTIVE JUROR: No, that's it.

THE COURT: So do you feel as if you can be a fair and impartial juror in this case?

PROSPECTIVE JUROR: Yes.

THE COURT: Would you be content having this case tried by somebody in your frame of mind?

PROSPECTIVE JUROR: Yes.

THE COURT: Thank you, sir.

Mr. Nozick, do you have any follow up?

MR. NOZICK: Nothing.

THE COURT: How about Mr. Truitt or Mr. Rogers or Mr. Vanzant?

MR. VANZANT: No, Your Honor.

THE COURT: Well, you can consult with one another, and then approach the bench when you are ready.

(Bench conference.)

[278] **THE COURT:** Any challenges to Mr. Lewis for cause?

MR. NOZICK: No.

MR. VANZANT: Not for cause.

THE COURT: Peremptories?

MR. NOZICK: No.

THE COURT: Peremptories.

MR. VANZANT: Yes.

THE COURT: So the defense has struck Mr. Lewis.

All right. So we'll march on.

(End of bench conference.)

THE COURT: Mr. Lewis, I'm going to send you home, sir. Thank you so much for your willingness to serve.

Call another name, please.

DEPUTY CLERK: Jeremy Carnell.

THE COURT: Mr. Carnell, what city or town do you reside in?

PROSPECTIVE JUROR: Cedar Lake.

THE COURT: How long have you lived down in Cedar Lake?

PROSPECTIVE JUROR: I've been back there for about five years.

THE COURT: Now, did you move away at some point and then move back?

PROSPECTIVE JUROR: I moved out to Hebron for about eight years, and then when I divorced, I moved back out to [279] Cedar Lake.

THE COURT: Okay. Do you work, sir?

PROSPECTIVE JUROR: Yes.

THE COURT: Where do you work at?

PROSPECTIVE JUROR: Alta Equipment Company in Cal City.

THE COURT: What do you do there?

PROSPECTIVE JUROR: I am a heavy equipment mechanic.

THE COURT: What is the nature of that business?

PROSPECTIVE JUROR: We work -- it is a Hyster dealership, so we work on Hyster forklifts and anything Hyster related.

THE COURT: And you repair the vehicles when they are brought in, or regular service on the vehicles?

PROSPECTIVE JUROR: Yes, I am a field mechanic, so I'm out and about.

THE COURT: Out in construction sites or what have you?

PROSPECTIVE JUROR: Correct.

THE COURT: Do you have formal training in that?

PROSPECTIVE JUROR: I have a degree in auto diesel technology.

THE COURT: Okay. And where did you get that from?

PROSPECTIVE JUROR: Nashville Auto Diesel College.

THE COURT: Great. How long have you been a diesel [280] mechanic?

PROSPECTIVE JUROR: I've been doing that since 2001.

THE COURT: You mention you are divorced, is that right?

PROSPECTIVE JUROR: Yes.

THE COURT: Are you remarried now?

PROSPECTIVE JUROR: No.

THE COURT: Your former wife, what does she do?

PROSPECTIVE JUROR: She is a medical assistant for a dermatologist.

THE COURT: Okay. Did you guys have any children from that marriage?

PROSPECTIVE JUROR: Two; a 16-year-old and a 10-year-old.

THE COURT: And do you share custody of those children?

PROSPECTIVE JUROR: Yes.

THE COURT: Okay. Did you ever hear about this case or know anything about it at all?

PROSPECTIVE JUROR: No.

THE COURT: Have you formed or expressed an opinion about the merits of the case?

PROSPECTIVE JUROR: No.

THE COURT: Would you have answered yes to any of those questions that I asked?

[281] **PROSPECTIVE JUROR:** The only one would be the witness.

THE COURT: Okay.

PROSPECTIVE JUROR: There's one of the witnesses that was named that potentially is somebody that I grew up with.

THE COURT: Who is that person?

PROSPECTIVE JUROR: The name was Jason Gore.

THE COURT: Okay. Gore is a special agent with ATF, is that right?

MR. NOZICK: Correct.

THE COURT: Is that the same person?

PROSPECTIVE JUROR: That's not the same one.

THE COURT: Different Jason Gore. Okay. Yeah, Agent Gore works with the Bureau of Alcohol, Tobacco and Firearms.

PROSPECTIVE JUROR: Okay.

THE COURT: He's a special agent. So it sounds like your Jason Gore is someone different.

PROSPECTIVE JUROR: Different guy.

THE COURT: Okay. Anything else, from the whole battery of questioning, that sort of sent off a red flag in your mind that I should share this with the Court?

PROSPECTIVE JUROR: No.

THE COURT: You know of any reason whatsoever why you can't be a fair and impartial juror in this case?

PROSPECTIVE JUROR: No.

[282] **THE COURT:** Would you be content having this case tried by someone in your frame of mind if you were in these people's positions?

PROSPECTIVE JUROR: Yes, sir.

THE COURT: Okay. Mr. Nozick, do you have any follow-up questions?

MR. NOZICK: No, Your Honor.

THE COURT: Mr. Vanzant or Mr. Truitt, Mr. Rogers, any follow-up questions of this gentleman?

MR. VANZANT: No.

MR. ROGERS: No, Your Honor.

MR. TRUITT: No, Your Honor.

THE COURT: All right. You can consult and approach the bench when you are ready.

(Bench conference.)

THE COURT: Any challenges for cause?

MR. NOZICK: No.

THE COURT: Do you have any challenges for cause?

MR. VANZANT: No, Your Honor.

THE COURT: Any peremptories?

MR. NOZICK: No.

THE COURT: Peremptories?

MR. VANZANT: No.

THE COURT: Okay. So I'm running out of room.

I'm sorry, Mr. Rogers, did you have any peremptories?

[283] **MR. VANZANT:** No.

THE COURT: Okay. So does the government accept this jury?

MR. NOZICK: Yes.

THE COURT: Mr. Rogers, do you accept this jury on behalf of Mr. Nieto?

MR. ROGERS: We do.

THE COURT: Mr. Vanzant?

MR. VANZANT: Accepted, Your Honor.

THE COURT: Okay. So we'll swear the jury in. I'm going to send them home, and then we'll talk about the motions in limine so we can hit the ground running tomorrow morning.

MR. VANZANT: Sure.

THE COURT: I'm going to ask Rich Spicer to come up here, too, just so I can apologize to him, because I don't know what the hell happened. Maybe he wanted to sit through this.

MR. ROGERS: He might have. Because we saw him in the cafeteria, talked to him for 15 minutes, and told him he was out of here.

(End of bench conference.)

THE COURT: All right. Ladies and gentlemen, both sides have now accepted the jury, and I'm going to ask you all to please stand up and raise your right hand to be sworn in to try the issues in this case.

Noel.

[284] (The jury was sworn and collectively say, “I will.”)

THE COURT: All right. You can be seated just for a second. I’m going to get you on your way home here in a minute, because I know it’s been a long day and it can be tedious. I appreciate that.

So we’ll start fresh tomorrow morning. I just want to give you a little bit of a sense about sort of how we’ll proceed here.

You’ve been given the general time frames of how long the case may take to try. Basically we run from 9:00 to 5:00, and we -- it is a full trial day. So we’re going to use your time as efficiently as we possibly can.

There is one exception. On Friday of this week, we will recess at 1:00 o’clock on Friday, just for your own planning purposes. But other than that, that’s the general time frame that you will be expected to be here.

So I would ask that you be here tomorrow morning at about 8:30, and we will try to start as promptly as we can at about quarter to 9:00, and we’ll be ready to go at that time.

You are instructed to not read about this case or study the Internet or go on the Internet searching for any information about the case. So avoid any outside reading in newspapers or listening to any broadcast reports about the case, to the extent any of that exists. And don’t go home tonight and get on the Internet sort of Googling people’s names [285] or looking for information about the case. You are prohibited from doing that. Because the only way you can learn about

this case is what you learn about it from this courtroom from that witness stand with witnesses who are under oath. So I ask that you adhere to that.

Now, if somebody asks you if you were selected for the jury, of course you can tell people that I have been selected for the jury; but you can't talk about the substance of the case at all. But if you need to notify an employer or that sort of thing, that's perfectly permissible.

Don't go home, to the extent you are social media people, and announce to the world that you have been selected for this jury, because invariably -- and I have had this happen -- it draws people into conversations about, oh, gee, what was it about, that's interesting, tell me about it. Avoid that if you would.

Tomorrow morning I'm going to have much more comprehensive instructions for you about the progress of the case. But for now, that's suitable enough to get us to tomorrow morning.

So with my great thanks, I'm going to excuse you. I'm going to ask you to follow Lenny back into the jury room, and we'll see you here tomorrow morning.

(Jury out at 4:09 p.m.)

THE COURT: All right. You can be seated. For everybody else in the audience section, as you can see, we [286] never know how many people we are going to need. And so we have to have additional people here, because if we run out, we have to adjourn for the day, and that's very problematic for the process.

So your work is done. I know it has been an exceedingly long day, and it can be very tedious. But I

appreciate your patience. I sincerely do. You are helping the judicial branch of government to function.

But you are excused, and your work is done. If you need any work slips, just talk to Clarence on your way out, okay. Thank you.

Rich, can I talk to you for a second? Come on up here.

(Discussion held off the record.)

THE COURT: Okay. I just wanted to tell that prospective juror that he is somebody who knows almost everybody in the courtroom here, to include me, and I wanted to -- I thought we excused him in the morning here, but there must have been some snafu in the communication, because when I asked him here, he said he was never told.

So anyway, I wanted to apologize for him having to sit through the process all day. So that's what my interaction was with that prospective juror.

All right. Let's take about a 15-minute recess, and we'll come back out and talk about the motions in limine, and then we'll get you out of here, okay.

[287] (A recess was had at 4:12 p.m.)

(The following proceedings were held in open court beginning at 4:32 p.m., reported as follows:)

DEPUTY CLERK: All rise.

THE COURT: You can be seated. All right. The government's filed a proffer regarding the admissibility of certain co-conspirator statements which it intends to offer into evidence at the trial.

The admissibility of that evidence is governed by *United States v. Santiago*, 582 F.2d 1128 at 1130. It

is a Seventh Circuit case from 1978 and the cases that have followed after that.

Under that rule, the Court can conditionally admit statements of co-conspirators before the existence of the criminal conspiracy has been established by the government's evidence. Such statements are admitted, subject to the condition that existence of the conspiracy has been established by a preponderance of the evidence by the close of the government's case in chief.

In the event that this critical condition is not fulfilled, the Court can declare a mistrial or it can instruct the jury to disregard the statements conditionally admitted.

This is a, you know, problematic approach to take. And so in order to avoid that potentially error-prone course of action, the government, who is aware of my usual practice, has, [288] in fact, provided a pretrial proffer of the evidence that it expects to introduce to satisfy the *Santiago* requirements.

The Court has carefully reviewed this proffer and the response to it filed by the defendant, at least filed by Mr. Vallodolid. And I am satisfied that if the evidence materializes as the government expects that it will the co-conspirator statements are, in fact, admissible.

So I do order that the statements of co-conspirators, which the government seeks to introduce, will be admitted subjected to the *Santiago* condition, that is, these statements will be admitted into evidence, if at the close of the government's case in chief the existence of the conspiracy alleged is established by a preponderance of the evidence.

In other words, the statements will be admitted if at the close of the government's evidence the Court finds that the evidence presented establishes that it is more likely than not that a criminal conspiracy existed and that the statements in question were made in furtherance of the conspiracy and that the defendant was a member of the conspiracy at the time the statements were made.

So I'm satisfied that the government's proffer establishes -- if the evidence materializes the way they predict that it establishes a criminal conspiracy.

There are some of the statements that I think I have questions about as to whether or not they were, in fact, in [289] furtherance of the conspiracy. And on those questions, I'm going to reserve judgment until I actually hear the evidence at trial. And it is incumbent upon the defendants to object; and, Mr. Nozick, or Mr. Cooley, Mr. Lanter, I'm going to instruct when you are leading up to that kind of co-conspirator hearsay, I'm going to ask that you lead the witness to that point before you actually elicit the hearsay statement to give them an opportunity to object so I can at that point make some determination with better context whether the statements that are about to be elicited are, in fact, in furtherance of the conspiracy that I have just found preliminarily exists.

So do you understand where I'm coming from, Mr. Nozick?

MR. NOZICK: I do, but just to be clear sort of how to do it, I will ask the witness: Did you have conversations with co-defendant or Latin King X about this, without saying what they were, when were they, et cetera.

THE COURT: Who else was there?

MR. NOZICK: Who else was there, and then I'll sort of pause a little bit and they have the chance.

THE COURT: And at that point you can say, what did they tell you, and then the burden is on you all to object. We'll have a sidebar, and you can proffer to me what you anticipate the testimony to be.

There are some of these statements which may just kind of be idle chitchat, not necessarily in furtherance of the [290] conspiracy, I don't know. I need context in which to make those individual determinations.

Generally speaking, I tend to think these statements are going to be admissible as co-conspirator hearsay, all of them that are detailed in the government's memorandum. But out of an abundance of caution, I want to see how this plays out.

Are you understanding where I'm coming from?

MR. NOZICK: I am, Judge. In fact, if I could follow up on one thing?

THE COURT: Sure.

MR. NOZICK: Is it the Court's position that only statements that are outlined in this are admissible, because as you know, invariably, you know, they're talking and they remember some conversation and they start saying something; and of course, I have prepped them multiple times, however, every time you meet with them, there's some other conversation that comes up.

Different judges have different sort of practices on whether every single statement has to be in the *Santiago* proffer in order to be admissible.

THE COURT: No, my view of this proffer is you have to establish to me preliminarily that there is, in fact, a conspiracy. Whether the statements are in furtherance of the conspiracy, that's a decision I'll make on an ongoing basis, and I don't view it as necessary -- I mean, I would hope that [291] the bulk of the purported statements are contained in the proffer, but I don't think you are limited to that.

MR. NOZICK: Okay.

THE COURT: Does anybody want to be heard on that, or do you understand where I'm coming from?

MR. VANZANT: No, as to Mr. Vallodolid, Your Honor, I understand what the Court wants. I think I can talk to Mr. Nozick prior to the witnesses and make sure we kind of have a head's up on when it will happen.

THE COURT: Yeah. Some of these are plainly admissible. Others, I need a little bit more context about whether these are just -- you know, it is a fine line I'm walking here, whether or not these are just kind of idle chitchat about something that took place 10 years ago versus statements that really are trying to keep co-conspirators in the loop, as it were. And so these are decisions I have to make as we go. So that's the best I can do at this point.

Does everybody at least generally understand where I'm coming from, Mr. Nozick?

MR. NOZICK: Yes, Your Honor.

THE COURT: Mr. Vanzant, Mr. Rogers?

MR. VANZANT: Understood, Your Honor.

MR. ROGERS: Yes.

MR. TRUITT: We do.

THE COURT: So let's talk more particularly about [292] some of the motions here. So the government did file a motion regarding Monica Nieto, sort of out of an abundance of caution. Is she, in fact, going to testify do you think?

MR. NOZICK: Yes.

THE COURT: Okay. And I didn't get a response from you all.

But, Mr. Truitt, are you going to speak to this? Do you have any objection to it?

MR. TRUITT: Your Honor, there wasn't any response because we have been in conversation multiple times. And we are clear on anytime a third party is involved or present that that breaks the marital privilege.

Now, with them not calling Mr. Hendry, some of Monica Nieto's testimony is going to be her reading communications on a text where Mr. Hendry is making representations to Mr. Nieto and she sneaks and gets his phone and looks. So there might be some objections on that.

Generally, almost everything that they are seeking to put in with Ms. Nieto has a third party of some sort or multiple parties present, which breaks privilege. We're clear on the law on that.

Some of the questions -- and this is going to have to be a case-by-case basis -- where whether her witnessing an action could be a communicative action,

because it regards communications between spouses; but generally we are in [293] agreement. We have talked about different things. I don't think there's going to be much of an issue.

I think they are being cautious to try to respect the privilege and not push the envelope, so I think we are in good shape.

THE COURT: Okay. So at that point there's nothing really for me to rule on.

MR. TRUITT: Correct.

THE COURT: At best, I'm going to defer ruling on this, but we all know the contours of the rules. There's two separate privileges: One is the husband/wife privilege that is held by both the testifying spouse and the defendant spouse.

And I take it she's waiving that, is that right?

MR. NOZICK: Correct.

THE COURT: And is willingly testifying. So that's out.

And the second privilege is the confidential communication privilege between spouses that survives a marriage. If the marriage ends, that confidential communication remains privileged provided that it's, in fact, confidential that there's not a third party present. And so it sounds like you all are on the same page; and if you need any further, you know, assistance from me in that regard, you can object. Okay?

MR. TRUITT: Yeah, I'll just make a simultaneous objection.

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Appendix J

**UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF INDIANA**

No. 2:15-CR-72

UNITED STATES OF AMERICA,
Plaintiff,

v.

DARRICK VALLODOLID AND ROBERT NIETO,
Defendants.

Date: May 15, 2018

TRANSCRIPT OF JURY TRIAL

[517]

Q. Do you see him in the courtroom right now?

A. Yes.

Q. Please point him out and describe an article of clothing he's wearing.

A. He's standing up right now with a gray shirt.

MR. NOZICK: Let the record reflect the witness has identified the defendant.

THE COURT: Yes, Mr. Nieto.

BY MR. NOZICK:

Q. Do you know why Hessville was shut down?

A. We weren't part of the region actually. We were just getting robbed for our money.

Q. What do you mean, getting robbed for your money? Was someone sticking you up?

A. No. We were paying dues every month for two years, but we weren't paying the region. We were just paying the region in Indiana, our head Inca and Cacique.

Q. Okay. But they weren't paying up to Chicago?

A. No, Chicago didn't know Hessville was open.

Q. How do you know that?

A. That's what my Inca told me when it got shut down.

Q. Okay. Do you know what was happening with the dues money you were paying? Do you know what was happening?

A. They were pocketing it.

Q. Who was pocketing it?

[518]

A. Cowboy and Pelon, Indiana basically, the region.

Q. And not paying your hood dues up to Chicago?

A. Right.

Q. After Hessville, where did you go?

A. 142nd.

Q. And was that a new set, or were there already some guys there?

A. It was an old set; it was just shut down at the time. No one was on roster.

Q. Who were the guys that had been there?

MR. NOZICK: If I could go back to 1A, please.

Q. Who were the guys that had been 142nd?

MR. VANZANT: Objection, Your Honor.
Foundation.

THE COURT: Lay some more foundation.

BY MR. NOZICK:

Q. At the time you went up to Hessville -- strike that.
At the time you went up to 142nd, you were a Latin
King, correct?

A. Right.

Q. How long had you already been a Latin King?

A. Two years.

Q. And did you ever have knowledge of -- without
saying who, did you ever have knowledge that there
were some Latin Kings one town up in East Chicago?

A. Yes, the north side.

* * *

[550]

A. Right.

Q. How many?

A. Three bars probably.

Q. Is that a lot or a little?

A. It's a decent amount, 6 grams.

Q. And does it have a stronger effect if you're taking
Xanax and also drinking at the same time?

A. Yes, it intensifies it.

Q. How much did you have to drink?

A. A fifth of tequila and two 40 ounces.

Q. So you decided not to go?

A. Right.

Q. You heard they had guns there?

A. Yes.

Q. Was he putting other Kings on licks?

A. From stories that I heard from brothers, Casper and Pirate, yeah, they robbed people for weed, guns.

Q. At some point did Cowboy lose rank in the Kings.

A. At the end of 2012, my Inca said he got stripped because the whole problem with Hessville, not paying dues, they served him and stripped him.

Q. Do you know whether or not Cowboy ever got a police scanner?

A. Yes.

Q. How do you know that?

* * *

App-389

Appendix K

**UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF INDIANA**

No. 2:15-CR-72

UNITED STATES OF AMERICA,
Plaintiff,

v.

DARRICK VALLODOLID AND ROBERT NIETO,
Defendants.

Date: May 16, 2018

TRANSCRIPT OF JURY TRIAL

[682] there?

A. He was a King. He just wasn't on roster.

Q. So in 2013 he was a regional officer; but when you went to his hood, he wasn't a Latin King?

A. It was 2012. I heard he got stripped for stealing Hessville's money from the Nation. That's what my Inca told me. He got served and then he just fell back.

Q. Okay. So when did that happen?

A. At the end of 2012, beginning of 2013, I believe.

Q. Okay. So beginning of 2013, he was a nobody or an outcast from the Latin Kings?

A. No, he was just a King. He put enough work in. He had been a regional. They said he took basically some time off.

Q. All right. Do you get vacation time with the Kings?

A. No.

Q. All right. So where were you living in the two four hood?

A. I wasn't. I lived in Hessville like two minutes away. I live right next to Gary. It was right past the viaducts, not even like a minute away from 24th.

Q. So you are the Cacique, the Inca of the 24th hood, but you don't live there?

A. Right.

Q. Okay. But Mr. Nieto did, right?

A. Right.

Q. Okay. Now, you said you had some memory problems, right?

* * *

[743]

A. It would be about eight years.

Q. And as a patrol officer, what were your basic duties?

A. To patrol the central area of Hammond for the most part.

Q. Directing your attention to April of 2009; what division were you in?

A. Patrol.

Q. And directing your attention specifically to April 12th of 2009, do you recall if you were working that day?

A. I was.

Q. Were you in uniform?

A. I was.

Q. Were you in a patrol car?

A. I was.

Q. Were you with anybody else?

A. I was working side by side with Corporal Ford.

Q. Did there come a point in time when you were dispatched to a particular location in Hammond?

A. Yes.

Q. Approximately what time of day was that?

A. Approximately five, almost six.

Q. And what location was that?

A. 1200 block of Truman.

Q. And what was the basis for the call?

A. The call was shots fired originally. When we got -- as we were responding, it turned into a man down call.

[744]

Q. Did there come a point in time when you arrived at the 1200 block at Truman in Hammond?

A. Yes.

Q. Describe for the jurors what you observed when you got there.

A. I observed a Hispanic male, late teens, early 20s, lying on his back facing upward right by the curb with bleeding from his head.

Q. I'm going to show you what have been previously marked as Government's Exhibits 3A, B, 3C, 3D, 3E, 3F, and 3L; 3A through E and 3L [verbatim]. I would like you to take a look at those and then let me know when you are done looking at them.

A. Yes.

Q. Do you recognize Government's Exhibits 3A through 3E?

A. I do.

Q. What is depicted in those photos?

A. The crime scene that happened at the time that you asked me.

Q. On April 12th of 2009?

A. Correct.

MR. LANTER: At this time the government moves for admission of Government's Exhibit 3A through 3E [verbatim].

THE COURT: As well as 3L or no?

MR. LANTER: I'm going to get to that one.

THE COURT: I'm sorry. Do you have any objection to

* * *

[760]

A. Approximately seven, maybe eight minutes, could be a little shorter, maybe a little longer or so.

MR. LANTER: Nothing further.

THE COURT: Any cross?

MR. BEDI: Very briefly, Judge.

THE COURT: Sure.

CROSS-EXAMINATION

BY MR. BEDI:

Q. From the time that you got the initial call to the time you arrived on scene, how much time would you say passed?

A. Initial call?

Q. Yes. From the time you were dispatched to the scene to the time you arrived at the scene, how much time passed?

A. Approximately maybe three to four minutes.

Q. Okay. And based on your kind of training and experience, how long would you say that the victim was laying there?

A. Have no clue.

Q. No clue?

A. No clue at all. There was a pool of blood, but that I can't tell.

Q. Okay. Had he been there for three hours?

A. I really don't think so. I'm not sure.

Q. But you don't think so?

A. I'm not sure, no.

Q. Okay.

* * *

[766]

A. That is correct.

Q. Now -- so when you were contacted, you basically didn't perform the autopsy in this particular case, is that right?

A. That is right.

Q. We're talking about the victim, Victor Lusinski.

A. Victor Lusinski, that's correct.

Q. And the autopsy that was performed was performed in April of 2009, is that correct?

A. Yes, and that was done in Cook County.

Q. So you were working there at that time?

A. I was, yes.

Q. Now, just as a matter of coincidence, while you were working there, were you contacted relating to this particular victim?

A. Yes, I was. The investigator who took in the case report -- initially, the case was called in by a nurse at Christ Hospital, and the investigator at the medical examiner's office who took in the case contacted me because I was on call that day, to get permission to hold the body over for organs that were going to be harvested from this gentleman.

Q. Is this common?

A. Yes, it is common if there is a medical case -- excuse me, a medicolegal case or medical examiner's case, the medical examiner has to give permission for any organs that can be removed from the body.

* * *

[774]

A. I do.

Q. What is 4B?

A. I recognize this to be the bullet that was recovered from his brain.

Q. From looking at this photo, how can you determine that's the bullet that was recovered from this victim's body?

A. Because it bears the case number, the date of the autopsy, there's a gray tag which is incorporated within this picture, and as I said, the case number is a unique number which will identify everything recovered from the body.

Q. Can you circle with your finger the case number, please?

A. Sure (indicating). There's the case number and the date the autopsy was done (indicating).

Q. When a bullet is recovered from a victim's body, what is done with that bullet?

A. The bullet is photographed and then it is put in an evidence envelope and handed over to an evidence technician.

Q. Okay. And the evidence technician would be from where?

A. Would be from the Chicago Police Department, or if it is a suburban case, then it would be from the suburban police department.

Q. The investigating agency actually?

A. Exactly. Yes.

Q. Now, what was the cause of death?

A. The cause of death was a gunshot wound to the head which

* * *

[793]

Q. Do you remember which school you were going to?

A. I believe it was Columbia.

Q. And without giving your exact address, do you remember what street you lived on back then?

A. Truman.

Q. Is that near the Columbia Elementary School?

A. Yes.

Q. Do you remember a day that you were at the playground and someone near you got shot?

A. Yes.

Q. If I said that was April 12, 2009, would that sound accurate or you don't know the date?

A. I wouldn't know the date.

Q. Who were you with that day?

A. My brother and two cousins.

Q. What's your brother's name?

A. Luis Romero.

Q. And who are your cousins?

A. Felipe and Carlos Hernandez.

Q. And what were you doing in the afternoon when this episode occurred?

A. We were playing in the playground.

Q. Do you remember what you were playing?

A. Just the slides and swings, whatever was there.

Q. Did something unusual happen while you were there?

[794]

A. Yes.

Q. Okay. And what is that?

A. Well, someone got shot there.

Q. Okay. I'm going to ask you to look at your screen.

MR. NOZICK: And I would like to call up on the overhead, which is exhibit, the aerial shot, Exhibit 3L, legal.

Q. Take a second to orient yourself there at the overhead. Have you ever seen an overhead like this?

A. Yes.

Q. Okay. Can you mark -- you can actually touch the screen. Can you mark with your finger where you were?

A. Right here (indicating).

Q. Okay. And you marked with a blue mark the part of the playground at the Columbia Elementary School, correct?

A. Yes.

Q. Is there one swing set or two different -- not swing set, one slide or two different slides?

A. There's two different slides on that side.

Q. And were you on or near one of the slides when this event happened?

A. Yes.

Q. Do you remember if you were at the one looking at it to the right or to the left?

A. To the right.

Q. To the right. So doing an arrow, is it that one right [795] there (indicating)?

A. Yeah.

Q. Okay. I mean, it is further down. Sorry about that. (Indicating.) Tell us what you saw.

A. Well, there was a couple people coming down from here (indicating).

Q. Okay. Now, a couple, is it two or more than two?

A. More than two.

Q. How many would you say?

A. I would say, like, four.

Q. Okay. Like four people?

A. Yes.

Q. And were they all on foot?

A. I'm not sure.

Q. Do you recall if anyone was on a bicycle?

A. No.

Q. No, no one was or no, you don't recall?

A. I don't recall.

Q. Okay. And the people -- is this where they first were where you saw them, where you marked over there?

A. Yes.

Q. What were they doing when you first saw them? **A.** I believe they were walking towards, across the street or --

* * *

[797] a spot near the corner, and what happened? What did you see and what did you hear?

A. We just seen that --

Q. Not "we." What did you see and hear?

A. Well, I saw and I heard that there was a gunshot and then someone fell to the floor.

Q. Okay. Now, did you hear the gunshot first or see someone appear to fire a gun?

A. I first heard it.

Q. Okay. Do you recall how many you heard?

A. No.

Q. Did you see anyone firing a gun?

A. Not that I remember.

Q. What happened when you looked up?

A. There was a guy just laying there on the floor.

Q. Okay. And can you describe the person laying -- when you say "on the floor," do you mean on the ground?

A. Uh-huh.

Q. You have to say yes or no.

A. Yes.

Q. The person laying on the ground, could you describe that person?

A. No.

Q. Age or race?

A. Probably late teens.

[798]

Q. Okay. And do you remember black, white, Hispanic, or Asian?

A. No.

Q. Okay. And was that person roughly where that dot is?

A. Yeah, like more towards here (indicating).

Q. Mark it.

A. That one, the last one (indicating).

Q. Did you see the person go down after being shot or were they already down when you noticed the person?

A. I noticed when they were already down.

Q. And did you see what happened with the other people?

A. Yes.

Q. Where did they go, which direction?

A. I believe they ran this way (indicating), so like down the street.

Q. Did you see anyone in the vicinity here near this tree that you recall?

A. No, not that I recall.

Q. All right. I'm just going to clear this for a second since it got all marked up. You believe the other individuals ran down Truman Street?

A. Yes.

Q. And that is from west to east?

A. Yes.

Q. Did you see which of these -- strike that.

* * *

[802]

Q. Have you had a chance to review it?

A. Yes.

Q. Do you recall telling them that you think the shooter could have been black?

A. No, I do not recall.

Q. As you sit here today, can you recall the race of the shooter?

A. No.

Q. As you sit here today, can you recall the race of the other people?

A. No.

Q. As you sit here today, do you remember which of any of those people was the shooter?

A. (No response.)

Q. You said you saw three people and another person. Did you know which one of those people was the shooter?

A. No.

Q. Do you know how far the person was from -- the person that was shooting from the person who went down?

A. Five to 10 feet probably.

Q. You think 5 to 10 feet away?

A. Yeah.

Q. As you sit here today, do you remember what any of the individuals were wearing that you saw?

A. No.

[803]

Q. When the person went down, did you know where on the body the person was hit by a shot?

A. I believe it was the head.

Q. Did you go and check the person?

A. No.

Q. Can you describe a gun?

A. No.

Q. What did you do after you saw this and heard it?

A. We ran home.

Q. Who is "we"?

A. Me, my brother, and my two cousins.

Q. I'm sorry, I know I asked this, but how many feet away did you say you thought the person who shot was from the victim?

A. Five or 10.

Q. Five to 10 feet. And you were 10 years old when all this happened, correct?

A. Yes.

MR. NOZICK: One moment. Nothing further.

THE COURT: Cross?

MR. VANZANT: Yes, Your Honor.

CROSS-EXAMINATION

BY MR. VANZANT:

Q. Hey, Fernando. My name is James. Thanks for being here today.

* * *

[807]

Q. Okay. So they ran off and you guys ran back to your house, right?

A. Yes.

Q. And what direction is your house in?

A. (Indicating.)

Q. Okay. So it is to the left, which is the west, on the other side of Columbia?

A. Yes.

Q. Okay. About how far away is it, by the way? You don't have to tell me exactly where it is, just kind of how long did it take you to get back?

A. Block or two.

Q. Sorry?

A. Block or two.

Q. So it's right there?

A. Yeah.

Q. So you guys got to your house pretty quick, right?

A. Yes.

Q. About how long would you say after the shooting happened did you get to your house?

A. Five, 10 minutes.

Q. Okay. So it is really quick?

A. Yeah.

Q. And I think you said you told your mom or your dad what had happened?

[808]

A. Yes.

Q. Okay. And if you know, did they call the cops right away?

A. Yes.

Q. Okay. And I don't know if you know this part. Do you know how soon the cops showed up?

A. No.

Q. Okay. But either way, within not more than a couple minutes after the shooting, you told your parents and they called the cops, right?

A. Yes.

Q. Okay. Now, I just want to kind of ask you some questions about, you know, how the -- how you explained this to the police later when you talked about this. I know it was a long time ago. Sorry I am even asking you these questions. You talked to a detective, like, right after the shooting, right? I think it was a couple hours later.

A. Yes.

Q. And I don't know if you remember his name, Detective Detterline?

A. No.

Q. Okay. That's fine. But you talked to a detective?

A. Yes.

Q. And I think it was over at the Hammond Police Department?

A. Yes.

Q. Like the one that's a couple blocks away?

[809]

A. Yeah.

Q. Okay. And this was only a few hours after it happened so you remembered it really well, right?

A. Yes.

Q. Not like today when it's nine years later, right?

A. Yes.

Q. So Detective Detterline talked to you and he kind of walked you through -- a lot like we are doing today -- what happened, right?

A. Yes.

Q. And you told Detterline, Detective Detterline, what you saw, what you observed, and what occurred, right?

A. Yes.

Q. And you had no reason to lie or anything like that at the time, I mean, of course not, right?

A. No.

Q. So when you met with Detective Detterline, you told him that you saw -- you were playing at the playground and you saw some men, one of whom had a bike, right?

A. I did not recall a bike.

Q. Sitting here today or at the time?

A. Right now.

Q. Okay. But at the time, that's what you told him, right?

A. Yeah.

Q. Okay. And you told Detective Detterline that one of the

* * *

[811]

Q. Okay. So I only have a couple questions about that. The one main question I have is Detective Detterline asked you to describe the man that shot the other man, right?

A. Yes.

Q. And you told him it was a black guy with a black sweater that didn't have a hat on, right?

A. Yes.

Q. Okay. I just have a couple more questions. So obviously this was a long time ago; I know it is hard to kind of remember all the details.

A couple of months ago you met with a guy named Ron Winters, he came to your house and talked to you. Do you remember that?

A. I think so.

Q. Okay. And he asked you a couple of questions about, you know, what had happened back then. This was back on September 2nd, 2017, so six months ago, something like that?

A. Yes.

Q. Okay. And he said he wanted to just kind of ask you some questions about, you know, what you remember seeing, right?

A. Yes.

Q. So on that day you told Mr. Winters that -- you know, you told him the story, you were on the playground with your brother and your cousins --

MR. NOZICK: Your Honor, at this point I'm going to

* * *

[815]

may have told you.

MR. VANZANT: That's where I was going, Your Honor.

THE COURT: It is overruled.

(End of bench conference.)

BY MR. VANZANT:

Q. Okay. Sorry. So just to get back to where I was, we were talking about Mr. Winters, right?

A. Yes.

Q. You met him about six months ago?

A. Yes.

Q. He came to your house and he asked you some questions about this whole incident, right?

A. Yes.

Q. The only question I have for you is: When you met Mr. Winters about six months ago, you told him that you witnessed a black male shoot a man that was on a bike, right?

A. Do not recall.

Q. You just don't remember. Do you remember whether you told -- well --

MR. VANZANT: Your Honor, may I come to sidebar before I do something?

THE COURT: No.

MR. VANZANT: Okay. Would seeing --

THE COURT: He has denied it. If you want to perfect the impeachment with another witness, you are free to do that.

* * *

[820]

THE WITNESS: Okay.

LUIS ROMERO, GOVERNMENT'S WITNESS,
SWORN

DIRECT EXAMINATION

BY MR. LANTER:

Q. Could you please tell the jury your name and spell your last name?

A. Luis Romero, R-O-M-E-R-O.

Q. How old are you right now?

A. I am 20.

Q. Are you currently going to school?

A. Yes.

Q. Where are you attending?

A. Purdue.

Q. What are you studying?

A. Computer graphics.

Q. What high school did you graduate from?

A. Hammond High.

Q. I'd like to talk about your immigration status for a couple of moments. Do you know what country you were born in?

A. Mexico.

Q. Do you know approximately when you came to this country?

A. 2000.

Q. That would have been when you were two years old, is that correct?

A. Yeah.

* * *

[825] left-hand side of your screen is to the west, they came from the left or the west, east on Truman Street

to the western edge of Columbia Elementary School; is that the line you drew?

A. Yes.

Q. Okay. And how many individuals did you see, if you recall?

A. I seen three.

Q. Okay. Were any of them on a bicycle?

A. Yes.

Q. How many of them?

A. Just one.

Q. Okay. Did they seem like they were all together or was one of them a little ahead of the others?

A. They were kind of together.

Q. Okay. What did you see next?

A. I seen a guy come out through the alley and then shot the guy on the bike.

Q. Okay. Now, you just drew on the ELMO here on the street or the alley south of Truman Street, is that correct?

A. Yes.

Q. And the direction that he came from would have been from the right to the left or to the west toward the north/south street that intersects with Truman Street, is that correct?

A. Yes.

Q. Had you ever seen any of these individuals before?

* * *

[827]

Q. Okay. And when he got shot, what happened?

A. He fell.

Q. About how far away was the man with the gun from the man on the bike when you heard the shot?

A. He was still standing there and the one on the bike was about right there (indicating).

Q. Okay. I'm going to clear this so we can do this again. When you heard the shot, where was the individual on the bike?

A. He was right there (indicating).

Q. Okay. And you have indicated a little east of the corner of Truman Street in that north/south street, is that correct?

A. Yes.

Q. On Truman Street, right?

A. Yeah.

Q. Okay. And the shooter, where was he located?

A. He was in the grassy area right there (indicating).

Q. Okay. You have indicated on the map that he is near the alley south of Truman Street and to the east of that north/south street, correct?

A. Yes.

Q. And that appears to be at least a full house length from the man on the bike, is that correct?

A. Yes.

Q. Could you see the face of the person that was shooting?

* * *

[830]

Q. Okay. Are they stairs that lead up to a slide?

A. Yeah.

Q. Okay. Did you hide behind anything when this is happening?

A. The stairs basically.

Q. Okay. Where were you located when you first observed -- when you first -- your attention was first caught by these events?

A. Behind the playground.

Q. Okay. And where was your brother and your cousins located?

A. They were right next to me.

Q. Okay. All on this -- all on this playground to the east or on the right-hand side of this photograph, correct?

A. Yes.

Q. After the shot was fired and the victim fell off the bike, what happened next?

A. The two guys that were with him checked on him and then ran.

Q. Okay. I'd like to put Government's Exhibit 3L back up. Indicate on this map with your finger the direction that the guys that were with the guy on the bike, the direction that they ran.

A. The direction they went?

Q. Right, after he got shot.

[831]

A. They went behind the house (indicating) to the alley.

Q. Okay. You have indicated on the map that they ran in a southeast direction in the direction from which the shooter came, is that correct?

A. Yeah.

Q. What did the shooter do?

A. He ran the same way.

Q. Was he ahead of them or running with them?

A. He was ahead of them.

Q. Did he disappear from your view before the other two individuals did?

A. Yes.

Q. And did they all disappear behind this house you've indicated which is, I guess, the first house on the south side of Truman Street to the east of where the victim was hit?

A. Yes.

Q. What did you do after they ran away?

A. I ran to my house.

Q. Okay. With your brother and your cousins?

A. Yeah.

Q. I'm going to show you what's been admitted as Government's Exhibit 3G. Do you recognize the -- I guess the location where this photo was taken from?

A. Yes.

* * *

[838]

Q. So the question I wanted to ask you was: When you talked to them in September, you told them that you had observed a black male wearing a dark-colored

hooded sweatshirt walk out of the alley between Truman and Indiana, right?

A. Yes.

Q. You told them that the black male had dark skin, but you couldn't see his face because the hood was up, right?

A. Yes.

Q. You could see his hands?

A. Yes.

Q. And all you could tell is he had dark skin?

A. Yeah.

Q. Okay. So just the last couple of questions I want to ask. After this happened, you and your cousins and your brother ran back to your house, right?

A. Yes.

Q. You don't have to tell me the address, but roughly where is your house?

A. Just across Columbia (indicating).

Q. Okay. So real close to the west, kind of out of where this map is?

A. Yes.

Q. How long did it take you to get to your house?

A. Two minutes.

Q. Really fast?

* * *

[893]

A. Yes, sir.

Q. Who else was present?

A. I believe Jesus Vasquez.

Q. Does he have a nickname?

A. Chuy.

Q. Who is Jesus Vasquez? Who is Chuy Vasquez?

A. He is a Latin King from Chicago.

Q. Do you know which hood in Chicago he is from?

A. Might have been from Pullman at the time or 97th.

Q. He was from Pullman or 97th. And did he live in Indiana?

A. Yes, sir.

Q. Was he your friend or was he Vallodolid's friend?

A. Both.

Q. Did he hang out with you guys a lot?

A. Yes, sir.

Q. What were you guys doing that day in the basement?

A. I believe I was having a party or we were drinking.

Q. Now, at that point in time -- so this is a couple days to a week later. Had you heard that someone had been killed in your neighborhood?

A. Yes, sir.

Q. How was it that you knew someone had been killed?

A. I believe there was officers coming door to door.

Q. At that point in time, before he says anything, had you

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App-415

Appendix L

**UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF INDIANA**

No. 2:15-CR-72

UNITED STATES OF AMERICA,
Plaintiff,

v.

DARRICK VALLODOLID AND ROBERT NIETO,
Defendants.

Date: May 17, 2018

TRANSCRIPT OF JURY TRIAL

[1186]

Q. Okay. And is that John Castillo?

A. Yeah.

Q. Do you know him by a nickname?

A. Tio.

Q. I'm going to put up on the screen what is in evidence as Government's 7A, alpha.

Do you recognize that guy?

A. That looks like Pelon.

Q. Pelon?

A. Yes.

Q. Have you ever met Pelon?

A. Yeah.

Q. Do you know Pelon to be a King?

A. Yes.

Q. Did Pelon hold any position you know of?

A. Not that I know of.

Q. Have you ever had any conversations with Cowboy about Pelon.

A. No, never.

MR. NOZICK: I'd like you to put up the photo of Danny Ruiz, which is in evidence, 7B, as bravo.

Q. Do you recognize that guy?

A. No, I don't know who that is.

Q. Okay. Getting back to Cowboy, what did you see him do as a regional officer?

[1187]

A. Really just sham us all out of money.

Q. I'm sorry. Just whatted you?

A. Shammed us.

Q. Shammed you?

A. Yeah.

Q. What do you mean by that?

A. He steal money.

Q. He would steal money?

A. Yeah.

Q. Tell the jury what you mean by that.

A. I don't know. I think he should tell you what he mean.

Q. He has no duty to say anything. You tell us what you mean.

A. He steal money. Like, we pay him dues and he takes it, pay his rent, take care of his kids.

Q. What makes you say he was stealing dues?

A. That's why he not -- that's why he wasn't Regional Enforcer no more, because he stole.

Q. Okay. But what makes you say -- how do you know that he stole?

A. I don't know. I don't have the proof. They have the proof he was stealing.

Q. Had you ever seen him collect any dues from other Incas?

A. Yes.

Q. What year we talking about?

[1188]

A. I guess every year.

Q. Which Incas did you see him collect dues from?

A. Him (indicating).

Q. You circled Kash Kelly.

Who else?

A. Darrick (indicating).

Q. You saw him collect from the co-defendant right here, Darrick Vallodolid?

A. Yes, sir.

Q. And go one at a time. Kash Kelly, you testified that he was the Inca of what?

A. Waco.

Q. Okay. And Darrick of which hood?

A. 148th.

Q. Okay. Who else did you see Cowboy collect dues from?

A. Him. Whenever Darrick didn't pay him, or he would pay him (indicating). I seen all type of people pay him money.

Q. Okay. Where would this occur, on the street?

A. Most of the times I seen -- yeah, on the streets, or I see him meet up with them at a bar and he'll do it, or whatever the case.

Q. Would he be by himself or with someone?

A. Every time I see him, he was by himself.

Q. Have you ever heard the term "Nation party"?

A. Yeah.

* * *

App-419

Appendix M

**UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF INDIANA**

No. 2:15-CR-72

UNITED STATES OF AMERICA,
Plaintiff,

v.

DARRICK VALLODOLID AND ROBERT NIETO,
Defendants.

Date: May 18, 2018

TRANSCRIPT OF JURY TRIAL

[1240]

you live in?

A. Lansing, Illinois.

Q. Okay. And, ma'am, are you working right now?

A. No, I'm not.

Q. Okay. Have you ever worked over your adult life?

A. Oh, yes.

Q. What sort of jobs have you held?

A. I was a manager of a chain of currency exchanges.

Q. And where were those?

A. Matteson, Chicago and LaSalle and Lansing, Illinois.

Q. And just to be clear, am I correct that you have been sitting in this courtroom for some of the proceedings?

A. Yes.

Q. Okay. How many children did you have?

A. I had five.

Q. What are their names?

A. I have Amanda, the oldest. Then I have a set of twins, Pablo and Erika. And then I have my late son, Victor. And then I have a younger son, Adam, Jr.

Q. Okay. So Victor Lusinski was your son, correct?

A. Yes, yes, he was.

Q. How old was he when he was killed?

A. Sixteen.

Q. Where were you living at the time?

A. Lansing.

[1241]

Q. Where was he living at the time? Was he in the house at the time of his death?

A. The time of his death, no.

Q. How long had he been gone for?

A. Couple of weeks, I guess. He was -- couple of weeks, yeah.

Q. During those weeks, did you know where he was?

A. Yes.

Q. Where did you think he was staying?

A. I thought he was staying with his aunt in Iowa.

Q. In Iowa?

A. In Iowa, yes, but he was transporting back and forth with his sister.

Q. Okay. Was he going to school at the time or had he dropped out?

A. No, he took a temporary leave because he was confused, and there was a lot of peer pressure at school and, you know, just different things going on.

Q. To your knowledge, during that time period that he was killed, was he getting in any trouble with the law?

A. Yeah, he had a few, like a normal child, a few different little scuffles, I guess, with the law, I guess you could say.

Q. Do you remember anything that he was charged with?

A. Yes. I remember he was charged with trying to get into the bank.

[1242]

Q. Okay. I mean, he didn't do an armed bank robbery, or did he?

A. No. No, no, no, no, no.

Q. Okay. Did you know him to have a bicycle?

A. Excuse me?

Q. Did he have a bike?

A. Yes, he did.

Q. Okay. To your knowledge, was he in a street gang?

A. Was he?

Q. In a gang.

A. No. No. He was what they called a neutron or a person in between that just hangs around with people,

you know, in general, school people, cousins and friends and, you know. He was a neutron, neutral.

Q. I would like to show you a photo which is not yet in evidence.

MR. NOZICK: Noel. Your Honor.

Q. I'd like to put on the screen 4E, as in echo. Do you recognize that photo?

A. Yes.

Q. Who is that?

A. My son Victor.

Q. Okay. And in this photo that he is deceased, that's an autopsy photo?

A. Yes.

[1243]

MR. NOZICK: At this point, the government will move into evidence 4E, or echo.

THE COURT: I thought that it was in evidence. Am I mistaken?

MR. NOZICK: No, this is a black-and-white version of a color. We are showing her a black-and-white version of the color that's in evidence.

THE COURT: Any objection?

MR. BEDI: We have no objection, Judge.

THE COURT: All right. It is admitted, 4E. I will display it.

MR. NOZICK: If we could take it down.

Q. Have you provided me a photo of your son alive?

A. Alive, no. I provided you photos that he was alive in the pictures.

Q. I'm sorry, that's what I meant.

A. Yes. Yes. Yes.

Q. Just to clarify, a photo of him back before his death?

A. Yes.

Q. I would like to show what's not in evidence as 4F, foxtrot.

THE COURT: You guys going to have any objection to this?

MR. BEDI: No, Judge, I have no objection.

THE COURT: 4F is admitted. Can I display it,

* * *

App-424

Appendix O

**UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF INDIANA**

No. 2:15-CR-72

UNITED STATES OF AMERICA,
Plaintiff,

v.

DARRICK VALLODOLID AND ROBERT NIETO,
Defendants.

Date: May 21, 2018

TRANSCRIPT OF JURY TRIAL

[1468]

A. Yes.

Q. Have you ever had any conversations with Cowboy about a home invasion in 2013 that turned into a murder?

A. Yes.

Q. How long after the home invasion/robbery/murder was this, if you know?

A. Probably four, five months.

Q. And where was this conversation?

A. 29th and King Street, the corner, Billy's house.

Q. Billy whose house?

A. Salazar.

Q. Who else is present?

A. Just me, him, and Billy.

Q. And what did Cowboy tell you?

A. He wanted Casper to get a violation for burning the whole area up and throwing something in his pool.

Q. When you say burning the whole area up, do you actually mean lighting on fire?

A. No. I mean, like, making it -- making police be out there all the time, stuff like that, burn it up.

Q. And throwing what in his pool?

A. He threw -- I believe he said it was an AK-47 in his pool.

Q. Did he say what Casper was doing that night that burned it up and why he threw the AK-47 in his pool?

A. Because he said he looked out his window, Casper's on the [1469] next street, outside, shooting up a house.

Q. Did he say anything about whether anyone was hitting a lick that night?

A. He said Casper had called him that day and asked him to be on the scanner, they got something going on that night. And so I guess at nighttime he heard the gunshots, so he went and looked out his window, and he seen Casper in the window, like, shooting. Run through his yard and throw the gun in the pool, and I guess there was someone else in front of his house that Casper was with that got caught trying to run through his yard.

Q. Did he say Casper had asked him -- you said a second ago Casper asked him to listen to the police scanner?

A. Yeah. Watching the scanner for him.

Q. And did he say that he knew what Casper was doing, why Casper asked him to listen to the scanner?

A. He said Casper said he had something going on that night.

Q. Did he say whether it was a shooting or a lick or what it was?

A. Never specified it.

Q. Okay. Did he say that he was on the scanner that night?

A. No. He said he just woke up to shooting in his backyard.

Q. Did you know Cowboy to sell any cocaine?

A. Yes.

Q. How is it that you know this?

A. Because I purchased some from him a couple times.

* * *

App-427

Appendix O

**UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF INDIANA**

No. 2:15-CR-72

UNITED STATES OF AMERICA,
Plaintiff,

v.

DARRICK VALLODOLID AND ROBERT NIETO,
Defendants.

Date: May 22, 2018

TRANSCRIPT OF JURY TRIAL

[1799]

[As read:] United States of America versus Darrick Vallodolid and Robert Nieto. Comes now United States of America by Assistant United States Attorney David J. Nozick and Defendant Robert Nieto by counsel, Bryan M. Truitt and counsel, Larry W. Rogers, and Defendant Darrick Vallodolid by counsel James Vanzant and counsel Jonathan Bedi, and stipulate to the following facts as true:

On or about December 2, 2013, in Gary, Indiana, Rolando Correa suffered a gunshot wound to the area of the chest and abdomen with the gunshot wound passing front to back through the right lung and liver exiting below the right scapula.

On or about December 2, 2013, Rolando Correa died with the proximate cause of death being this gunshot wound to the chest and abdomen and the manner of the death being homicide. A fragment of the bullet was recovered during the autopsy.

Government Exhibit 9A, a photograph of Rolando Correa during an autopsy on or about December 2, 2013, and Exhibit 9B, a photograph of fragment of the bullet recovered from Rolando Correa, and Exhibit 9C, this stipulation, are admissible without additional testimony or authentication. Signed by the parties.

THE COURT: All right. So, Mr. Truitt, is this so stipulated?

MR. TRUITT: Yes. It was negotiated with Mr. Lanter.

THE COURT: Mr. Bedi, is this so stipulated?
[1800]

MR. BEDI: So stipulated, Judge.

THE COURT: Ladies and gentlemen, you have just heard that stipulation read into the record. And as I think I have told you, a stipulation is an agreement between the parties that certain facts are true. And it is a way of expediting matters when there's nothing that's in controversy. So the parties have agreed to those facts and you must now treat those facts as having been proved for the purpose of this case.

All right.

MR. COOLEY: Your Honor, I would like to publish the two exhibits that were referenced by the stipulation.

THE COURT: Sure. I assume you're offering 9A and B at this time?

MR. COOLEY: They have already been admitted.

THE COURT: Okay. So 9A, B, and C, to the extent they weren't already admitted, are now admitted.

MR. COOLEY: Thank you, Your Honor.

For the record, 9A is the autopsy photo of Rolando Correa dated December 2, 2013. And for the record, 9B is the photograph of the bullet fragment that was recovered during the autopsy performed on December 2, 2013, from the back of the victim, Rolando Correa.

THE COURT: Very well.

Mr. Nozick, you may call your next witness.

MR. NOZICK: Government calls Lourdes Mejias.

* * *

App-430

Appendix P

**UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF INDIANA**

No. 2:15-CR-72

UNITED STATES OF AMERICA,
Plaintiff,

v.

DARRICK VALLODOLID AND ROBERT NIETO,
Defendants.

Date: May 23, 2018

TRANSCRIPT OF JURY TRIAL

[1956]

A. It was mainly Casper asking questions.

Q. What did you hear Cowboy say?

A. About what?

Q. What was the subject of the conversation?

A. That there was some people that had some marijuana and some money and stuff like that.

Q. Okay. And this discussion is between who again?

A. Casper and Cowboy.

Q. And what was said during the course of that conversation that you overheard?

A. (No response.)

Q. Let me ask a new question.

You said a second ago there's discussion about marijuana. Do you recall saying that?

A. Yes.

Q. What was said about marijuana?

A. That there should be some pounds in the house. That's it. That's it.

Q. Okay. There should be some pounds in what house?

A. The house that we invaded, the home invasion.

Q. Okay. And is Cowboy there for that conversation?

A. Yes.

Q. How many feet away is he from you?

A. Not far. I wouldn't say feet.

Q. Okay. Is there discussion -- is there any mention of how [1957] many people would be in the house?

A. No, not really. Just said it wasn't a lot of people.

Q. Is there a discussion about whether there's going to be money in the house?

A. Yes.

Q. What was said about that?

A. That there should be some money and some weed in the house. That was it.

Q. Was there any talk of how Cowboy knew there should be some weed in the house?

A. Yes.

Q. What was said?

A. He said that somebody had went in there earlier, and that's how he knew.

Q. Was there any talk about how you guys were going to split the proceeds, whatever you got out of the house?

A. No.

Q. Were you shown any marijuana that had come from that house?

A. No.

Q. Did you have any understanding of what your cut was going to be, what percentage you were going to get of the lick or robbery?

A. Yeah.

Q. What was your understanding of what percentage you were [1958] looking at?

A. Half.

Q. Half of it?

A. Yeah.

Q. How was LaJuan going to get paid?

A. Through me.

Q. Did you have an understanding of what Casper's cut would be or belief in your head at the time?

A. The other half.

Q. Okay. And did you have an understanding about how or if Cowboy was going to get paid?

A. That was going to happen through Bruce.

Q. Between you, Bruce, or Casper, and Cowboy, who do you think was in control, in your mind?

A. It's like they had a mutual thing. They, you know
- -

Q. How long in total did you stay at Cowboy's house?

A. Probably 10 minutes, max.

Q. Was there ever any discussion about a police scanner?

A. Yeah.

Q. What was said about a police scanner?

A. That someone would be listening on the scanner.

Q. Who was going to be listening?

A. Cowboy.

Q. What happened next?

A. We got into the Escalade.

[1959]

Q. What color was the Escalade?

A. Dark.

Q. Where did the Escalade pick you up?

A. At Cowboy's house.

Q. Did you know the guy that was driving the Escalade prior to that day?

A. No.

Q. Did you learn a nickname for him?

A. Dough Boy.

Q. White guy, black guy, Hispanic guy?

A. White.

Q. Okay. Did you know how he got involved in this?

A. Through Bruce.

Q. How long was the ride from Cowboy's house, when you got in the Escalade, to the place where you did the home invasion robbery?

A. A minute.

Q. Do you recall, is anything said in the car while you're driving over?

A. No.

Q. How were you feeling at that time?

A. (No response.)

Q. What were your emotions? What were you thinking?

A. I don't --

Q. Were you nervous?

[1960]

A. Yeah.

Q. Did you have a gun?

A. Yes.

Q. Which gun did you have?

A. .357.

Q. Did LaJuan Fitzpatrick have a gun?

A. Yes.

Q. Which gun did he have?

A. SK.

Q. Did Casper have a gun?

A. Yes.

Q. Which gun did he have?

A. I don't know.

Q. Did you guys do anything to conceal your identity so people couldn't see your face?

A. Yes.

Q. What did you do?

A. We wore masks.

Q. At what point in time did you put the masks on?

A. I don't remember.

Q. I mean, while you were in the car? Were you outside the car?

A. I don't remember.

Q. Okay. Who provided those masks?

A. I don't even know. I really don't. I don't remember.

* * *

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Appendix Q

**UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF INDIANA**

No. 2:15-CR-72

UNITED STATES OF AMERICA,
Plaintiff,

v.

DARRICK VALLODOLID AND ROBERT NIETO,
Defendants.

Date: May 24, 2018

TRANSCRIPT OF JURY TRIAL

[2441]

And what I want to talk to you a bit about today is what you actually did find during your investigation, okay?

A. Correct.

Q. So taking you back to April 12, 2009, that's the day that we want to talk about. If I'm not mistaken, you received a call to come to this murder scene, to respond to the scene, right?

A. That's correct.

Q. All right. What time did you arrive?

A. Sometime in the morning; I'm not sure exactly when.

Q. Would seeing a copy of the Hammond Police Department incident report refresh your recollection on that matter?

A. That would, but I was on call. It was Easter Sunday, and I was at home at the time of the call.

Q. Ah, so you mean the next day is when you arrived, correct? I'm sorry, let me rephrase that.

When we say "morning," you mean sometime after midnight?

A. Yeah, but it was -- it would be more between, I believe, 8 a.m. and probably noon.

Q. Okay. So it was fairly late the next day then, right?

A. No, it was Easter morning between 8 a.m. and 12 p.m.

Q. So you are telling me the murder occurred in the morning?

A. As I recall, if you let me see the offense report and I'll tell you specifically.

Q. Absolutely. Let me bring that back up there for you. And [2442] I'll just leave it up here. You can refer to it as we're discussing.

MR. VANZANT: For the record, I'm just leaving the file up there, if there's no objection?

MR. LANTER: No objection.

THE WITNESS: Okay. The murder occurred at -- it was reported at 6:30, so I stand to be corrected. It was sometime after 6:30 that I responded.

BY MR. VANZANT:

Q. And by "6:30," you mean in the evening, correct?

A. In the evening.

Q. I just want to make sure we are clear.

A. According to this report. I thought it was earlier.

Q. That's fine. I mean, it was a long time ago. I understand. Okay.

So you responded to the scene, and what I would kind of like to show you is Government's Exhibits 3A through 3L, which are already in evidence.

MR. VANZANT: Or Dean, can you pull those up? It might be faster.

MR. LANTER: Noel, could you --

BY MR. VANZANT:

Q. We're just going to put these up on the monitor to see them. It is faster than getting the documents.

Okay. So this is Government's Exhibit 3A. This has [2443] already been admitted as evidence, and it is a scene or picture of the scene of the murder, correct?

A. That's correct.

Q. Now, by the time you arrived there, was the victim still there?

A. No.

Q. Okay. He had already been transported to the hospital?

A. Yes.

Q. Were there still police on scene?

A. Yes, there were.

Q. About how many officers?

A. I don't recall.

Q. Do you recall if that bike was still there at the time?

A. I believe the bike was still there.

Q. Okay. So what did you do, first, when you got to the scene?

A. Obviously, I spoke to the responding officers that were there, get the information that I needed to start the investigation. I was informed that there were a couple younger individuals -- some of the officers started canvassing the neighborhood nearby, and there was a family of some young children that possibly were present in the playground across the street that might have had some information pertaining to the investigation.

Q. Okay. So just to kind of recap, you arrived at the scene, [2444] got information about what was going on and you learned there might be some witnesses?

A. Correct.

Q. Fair to say?

A. Yes.

Q. Okay. What was the next thing you did as part of your investigation?

A. We either -- I can't remember if we went to the hospital first or we actually spoke to the parents of the young children, but it would have been one of the two of those areas; either spoke to the parents of the children or went to the hospital to see what kind of condition the victim was in.

Q. Okay. So one of those two things happened: Either interviewing witnesses or collecting evidence at the hospital, correct?

A. Correct.

Q. Okay. So regardless of which happened first, did you do both of those things?

A. Yes.

Q. Okay. So let's just talk about seeing the witnesses first. How many witnesses did you identify?

A. I believe there were four, four young children.

Q. Okay. And were these eyewitnesses or just witnesses in general?

A. Well, they said that they were at the park across the [2445] street from that area. 1200 Truman is a school with playground equipment in the back of it, and they were playing on the playground equipment.

Q. Now, without getting into the content of, you know, anything they told you about, what I'm interested in is from talking to these eyewitnesses, did you develop any leads?

A. We got -- you know, we just -- solid leads?

Q. I'm just saying leads in general at this point.

A. They told us that they thought that -- they heard -- they were playing on the playground. They heard a shot fired and they noticed -- I'm sorry. They were playing on the playground. A couple individuals, who they described as African American, approached a person on a bike in the lot, and there was some type of words exchanged. And then all of a sudden, one of the two African Americans pulled out a gun and shot the kid on the bike, who fell off the bike and was lying on the ground.

Q. Okay. Did you receive any other information that helped you establish a lead at that point?

A. At that point, no.

Q. Okay. So after you talked to the witnesses, the lead that you had was there was a shooting and the

perpetrator appeared to be African American based on the information that you had at the time?

A. At the time, that's correct.

[2446]

Q. Okay. Now, at some point, was there any other leads or investigative information that you obtained at the scene?

A. At the scene, no, that was it.

Q. Okay.

A. We didn't even know who the victim was.

Q. Right. And actually I'll get to that. Yeah, that's something I want to talk about. So after you left the scene, did you go to the hospital or before or after, one of the two?

A. I'm not sure.

Q. Okay. So at some point you went to the hospital?

A. I believe so, yes.

Q. All right. Did you generate any leads, based on what you found at the hospital?

A. No, not at that time.

Q. Okay. Now -- I'm sorry. Oh, I thought you were saying something. So at this point -- and this is still April 12th, April 13th, something like that, the time frame?

A. Yes.

Q. Okay. You mentioned that you didn't know who the victim was, correct?

A. We did not know who the victim was, correct.

Q. Right. So at some point, you or another officer put

together a flyer, correct?

[2447]

A. I believe we took -- yeah, we had a photo issued, I believe, and put in the newspaper.

Q. Okay. Now, did you create that, or did someone else create that?

A. You know, that was 10 years ago, and I'm not -- it was probably somebody else that had knowledge how to do that at the time.

Q. But it was something that you saw, right?

A. Yeah, I did see it.

Q. Okay. Great. I would like to show you what I've marked as Defense Detterline 1. And I will show it to the witness and then -- okay. That should be up on your screen.

Do you see that, sir?

A. It's still the bicycle. There, it's starting up. There it goes.

Q. Okay.

MR. VANZANT: I'm sorry, Your Honor, that's not admitted yet.

THE COURT: Oh, I'm sorry.

BY MR. VANZANT:

Q. Do you recognize that, sir?

A. Yes, I do.

Q. Is this the flyer we were talking about?

A. Exactly, yes.

Q. Okay. Great. Is it in the same or substantially same [p.2448] condition as you recall it being?

A. Yes.

MR. VANZANT: Your Honor, I would move to admit

Defense Detterline 1.

THE COURT: Any objection?

MR. LANTER: Hearsay, Your Honor.

THE COURT: What's your response?

MR. VANZANT: It is not offered for the truth of the matter asserted, Your Honor. It is just the information that was created and put out to the community. And I think he has established foundation on what it is.

THE COURT: Counsel, approach the bench.

(Bench conference.)

THE COURT: I just had a chance to read that very quickly. So is that a flyer that went out to try to identify who the victim was?

MR. VANZANT: Correct, Your Honor. And I can just proffer where I'm going with it. My point is that officers canvassed the neighborhood putting this out there, so any information on the flyer became public knowledge. So that's kind of where I'm going with it. So anyone who saw the flyer would know the information contained in it.

THE COURT: Okay. I'm going to overrule the objection.

MR. LANTER: All right.

[2449]

THE COURT: You may proceed.

MR. VANZANT: Thank you, Your Honor.

(End of bench conference.)

THE COURT: Want me to display that?

MR. VANZANT: Yes, please, Your Honor.

THE COURT: Can you identify it again?

MR. VANZANT: Yes, this is Defense Detteline

1.

THE COURT: Detteline 1 is admitted.

BY MR. VANZANT:

Q. Okay. Everybody should have that on their screen now. So this is the flyer we were just discussing, correct?

A. Correct.

Q. Okay. What I want to do is, I want to blow up the text section above. To the best of your knowledge, where did this information come from?

A. I don't know who -- I don't know if I did it or Lieutenant Bogie did it, or I don't know who did it, to tell you the truth.

Q. Okay. Let me rephrase my question a bit. Did this information come from information that you or someone at the Hammond Police Department had learned at this point?

A. It had to have.

Q. Okay. Now, this flyer was created for officers to canvas the neighborhood with and pass out, right?

A. Right.

* * *

[2450]

Q. The idea being someone could step forward and identify the victim, right?

A. Right.

Q. So it had his identifying information, what he was wearing, and noted that anybody who had any information about it should contact either yourself or Detective Lieutenant Ralph Bogie, right?

A. Correct.

Q. Okay. Now, I want to switch really quick to what's already been admitted into evidence as Defense Orr 1, if I can display that, Your Honor.

And I'm going to scroll down to page 9.

Yes. Page 9 of Defense Orr 1. Detective, this is a Hammond Police Department property inventory that Officer Orr created. And what I want to bring your attention to is the list of inventory items. I'm blowing that up on the screen. If you can just take a read through that really quick.

And just let me know when you're done.

A. I'm done.

Q. Okay. Flipping back over to Defense Detterline 1, and highlighting the block of text again, does that contain substantially the same information as what was recovered at the crime scene in Officer Orr's inventory?

A. What's missing?

Q. No, I'm just asking if it's substantially --

* * *

App-446

Appendix R

**UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF INDIANA**

No. 2:15-CR-72

UNITED STATES OF AMERICA,
Plaintiff,

v.

DARRICK VALLODOLID AND ROBERT NIETO,
Defendants.

Date: May 25, 2018

TRANSCRIPT OF JURY TRIAL

* * *

[2561] **MR. NOZICK:** Yes.

THE COURT: We are not getting into the facts at all; for Roberts to establish that there was a crawlspace or is a crawlspace and this is what he was referencing.

MR. NOZICK: Yes, and I'd ask that cross be limited.

THE COURT: We'll have to see how that develops, but we're sort of honing in here on some very narrow issues.

MR. TRUITT: Your Honor, I think it goes without saying, and I'm sure the government won't, but I want to make sure that not Mr. Prince but specifically Gore and Roberts, there's no mention of Mr. Nieto or Cowboy.

MR. NOZICK: That's correct.

MR. TRUITT: Okay.

THE COURT: Okay. Let me know when they're here.

(A recess was had at 10:09 a.m.)

THE COURT: You know what, while we've got some time, there's an issue I wanted to ask you all, now that I think about it. In the proposed verdict form that you all, I guess, stipulated to, really -- Who handled those for the government? Was it you, Mr. Lanter?

MR. LANTER: Yes, Your Honor.

THE COURT: And Mr. Truitt and Mr. Vanzant. You all have proposed a special verdict form -- I totally understand it as it relates to the drugs because it triggers a [2562] mandatory minimum and there has to be a jury finding to establish that. Can you explain to me why there's a special verdict form on each of the homicides and whether or not each defendant is respectively, you know, responsible for those homicides? What is that triggering as far as it relates to the penalties?

MR. LANTER: For the racketeering conspiracy count, the statutory maximum goes from 20 years to life imprisonment if there is an underlying crime for which the maximum penalty is life imprisonment.

THE COURT: So under state law if you commit a homicide, that has some, I'm speaking colloquially here, gang affiliation or gang relationship, that under Indiana state law triggers a life sentence, and without that finding it wouldn't be a life sentence? Is that what I'm understanding?

MR. LANTER: Correct, for the homicides. It could still be for the drugs, but for the homicide, correct.

THE COURT: I'm just focusing on the homicide. So under Indiana state law, it's if you have a homicide that is not gang-related, there's not a life sentence possibility?

MR. LANTER: Correct.

THE COURT: Okay. That's really amazing to me. So you agree with that, Mr. Truitt?

MR. TRUITT: Yeah, just a garden variety murder is 45 to 65 under Indiana law. There are certain aggravating things, [2563] death and arson, death of a police officer, which there is life without parole, but you have to have a special circumstance specifically enumerating the statute.

THE COURT: And criminal organizations is one of those special circumstances such that we would need a jury to decide that issue in order to trigger the higher statutory maximum under the racketeering?

MR. TRUITT: It has been a while since I checked the statute.

MR. VANZANT: Yes, that is accurate, Your Honor.

THE COURT: That's what we're doing here?

MR. VANZANT: I double-checked that.

MR. LANTER: Yes.

THE COURT: Okay, I just wanted to make sure.

MR. LANTER: It would be much simpler if that wasn't the case, but since it is, that's why --

THE COURT: Understood, okay. Thank you. Just let me know when you guys are ready.

MR. VANZANT: Yes, Your Honor.

(A recess was had at 10:12 a.m.)

(The following proceedings were held in open court beginning at 10:19 a.m., reported as follows:)

THE COURT: Everybody ready to go?

MR. COOLEY: Yes, Your Honor.

THE COURT: All right. Clarence.

* * *

App-450

Appendix S

**UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF INDIANA**

No. 2:15-CR-72

UNITED STATES OF AMERICA,
Plaintiff,

v.

DARRICK VALLODOLID AND ROBERT NIETO,
Defendants.

Date: May 29, 2018

TRANSCRIPT OF JURY TRIAL

* * *

[2757] law are that apply to the case.

So we'll give you a chance to eat. Just as soon as you are done eating, you let Lenny know, and then we will get right back at it, and then we will be able to get the case submitted to you for your deliberations.

So you can follow Lenny back out to the jury room.

(Jury out at 1:17 p.m.)

THE COURT: All right. You can be seated.

Just very briefly, there were two slight changes in the jury instruction that I wanted to make sure that everybody knows. I think it was told to you all by way

of an e-mail. Just so it is actually official of record, we added Christopher Kinney in that long list of people that you have to deal with great caution and care. That instruction we had neglected to include Mr. Kinney's name in that list.

And then we also included the language that you all agreed to about felony murder under Indiana law. We accidentally deleted that from the instructions, so that's been also added into the instructions.

Just for the record, I overrule the objections on the shifting of the burden. I don't at all believe that's what was going on. I'd cite to *United States versus Flournoy*, F-L-O-U-R-N-O-Y, 842 F.3d 524, Seventh Circuit case from 2016, and many, many other cases that say, essentially, as long as it is clear to the jury that the government maintains the burden [2758] of proof at all times, it is entirely permissible for the government to tell the jury that the defendants have subpoena power too.

And so I did interrupt the closing at one point to remind the jury of that, and I believe that Mr. Nozick prefaced his comments with that very statement. And I believe it to be entirely permissible and not shifting the burden at all.

So be back here in, like, 45 minutes. If they happen to eat quickly, I don't want to delay them any longer. And I'll get them instructed, and we'll get it -- the case to them.

Yes?

MR. VANZANT: Just very quickly, Your Honor, for the sake of the record, I don't want to argue it or

anything, but motion for mistrial based on the burden shifting, just on the record.

THE COURT: Understood. Okay.

MR. LANTER: Your Honor, we have the redacted Fourth Superseding Indictment as well.

THE COURT: Terrific. Maybe just give it to Noel. Okay.

(A recess was had at 1:19 p.m.)

(The following proceedings were held in open court beginning at 2:14 p.m., reported as follows:)

DEPUTY CLERK: All rise.

THE COURT: All right. You can be seated. Clarence,

* * *

[2774] located, the use of interstate mail or wire facilities or the causing of any of those things.

If you find that, beyond a reasonable doubt, either, A, that the enterprise made, purchased, sold or moved goods or services that have their origin or destination outside the state in which the enterprise was located, or, B, that the actions of the enterprise affected in any degree the movement of money, goods or services across state lines, then interstate commerce was engaged in or affected. The government need only prove that the enterprise as a whole engaged in interstate commerce or that its activity affected interstate commerce to any degree, although proof that racketeering acts did affect interstate commerce meets that requirement.

The government need not prove that the defendant engaged in interstate or that the acts of the defendant affected interstate commerce.

For Count One, the government must prove beyond a reasonable doubt that each defendant agreed that a conspirator, who could be the defendant himself, did or would intentionally commit or cause or aid and abet the commission of two or more of the racketeering acts of the type or types alleged in the Fourth Superseding Indictment. Your verdict must be unanimous as to which type or types of racketeering activity you find that the defendant you are considering agreed was or would be committed, caused or aided and abetted.

[2775] For purposes of Count One, the law defines racketeering activity as acts involving murder, attempted murder and robbery as those offenses are defined under Indiana state law, and acts constituting federal robbery and narcotics distribution as those offenses are defined under federal law.

I will now instruct you on the elements of the offenses listed in the Fourth Superseding Indictment as racketeering activity.

Murder. Under Indiana law, a person commits the offense of murder when he: One, knowingly or intentionally; two, killed; three, a victim.

Felony murder. Under Indiana law, a person also commits the offense of murder when he: One, killed; two, a victim; three, while committing or attempting to commit burglary, robbery or dealing in a controlled substance.

A felony murder conviction requires proof of intent to commit the underlying felony, for example, robbery, but not of intent to kill.

Attempted murder. Under Indiana law, a person commits the crime of attempted murder when the person: One, acting with the specific intent to kill the victim; two, did aim a firearm at the victim and shoot; and three, which was conduct constituting a substantial step toward the commission of the intended crime of killing the victim.

Aiding, inducing or causing attempted murder. Under [2776] Indiana law, a person aids, induces or causes attempted murder when the person: One, knowingly or intentionally; two, aided or induced or caused another person to engage; three, in conduct that instituted a substantial step toward killing a victim; four, and both the defendant and the other person acted with the specific intent to kill the victim.

Robbery. Under Indiana law, a person commits the offense of robbery when the person: One, knowingly or intentionally; two, takes property from another person or takes property from the presence of another person; three, by using or threatening the use of force on another person or by putting another person in fear.

Aiding, inducing or causing an offense. Under Indiana law, a person who knowingly or intentionally aids, induces or causes another person to commit an offense commits that offense. A person aids, induces or causes a specified offense when the person: One, knowingly or intentionally; two, aided or induced or caused; three, another person to commit the offense as that offense is defined by statute; four, by assisting in,

bringing about or ordering the commission of the offense.

A person is subject to conviction for felony murder based on aiding and abetting the underlying offense. The accomplice is criminally responsible for everything which follows incidentally in the execution of the common design as one of

* * *

[2784] me that you are split six/six or eight/four or whatever your vote happens to be.

Verdict forms have been prepared for you. You will take these forms with you to the jury room. When you have reached unanimous agreement, your foreperson will fill in and date and sign the verdict form, and each of you will sign it.

Advise the court security officer once you have reached a verdict. When you come back to the courtroom, I will read the verdict allowed.

If you find a defendant guilty of the offense charged in Count One of the Fourth Superseding Indictment, there are additional questions that you will need to consider and indicate your response on the verdict form for the questions relating to Count One for that defendant.

The Fourth Superseding Indictment alleges that the pattern of racketeering activity includes acts involving murder while committing or attempting to commit criminal gang activity under Indiana law. You will see on the verdict form a question concerning whether you have unanimously found beyond a reasonable doubt that the defendant you are considering as part of the pattern of racketeering

activity committed the murder he is alleged to have committed while committing or attempting to commit criminal gang activity under Indiana law.

You should consider this question only if you have found that the government has proved the defendant guilty of the [2785] offense charged in Count One of the Fourth Superseding Indictment.

If you find that the government has proven beyond a reasonable doubt that the defendant you are considering as part of a pattern of racketeering activity committed the murder he is alleged to have committed while committing or attempting to commit criminal gang activity under Indiana law, you should answer this question yes.

If you find that the government has not proven beyond a reasonable doubt that the defendant you are considering as part of a pattern of racketeering activity committed the murder he is alleged to have committed while committing or attempting to commit criminal gang activity under Indiana law, you should answer this question no.

To assist you in determining whether a defendant committed murder while committing or attempting to commit criminal gang activity, the Court instructs you that a person commits criminal gang activity when the person knowingly or intentionally commits an offense, one, with the intent to benefit, promote or further the interest of a criminal organization; or, two, for the purpose of increasing the person's own standing or position within a criminal organization.

The phrase "criminal gang" means a group with at least three members that specifically promotes, sponsors, assists in, [2786] participates in or requires

as a condition of membership or continued membership the commission of a felony or an act that would be a felony if committed by an adult.

The Fourth Superseding Indictment further alleges that the pattern of racketeering activity includes acts involving the distribution of cocaine and possession with the intent to distribute cocaine. You will see on the verdict form a question concerning whether you have unanimously found beyond a reasonable doubt that the defendant you are considering as part of the pattern of racketeering activity conspired to distribute or possess with intent to distribute five kilograms or more of cocaine. You should answer this question only if you have found that the government has proven the defendant guilty of the offense charged in Count One of the Fourth Superseding Indictment.

If you find that the government has proven beyond a reasonable doubt that the defendant you are considering as part of the pattern of racketeering activity conspired to distribute or possess with the intent to distribute five kilograms or more of cocaine, then you should answer this question yes. If you find that the government has not proven beyond a reasonable doubt that the defendant you are considering as part of the pattern of racketeering activity conspired to distribute or possess with the intent to distribute five kilograms or more of cocaine, then you should answer this question no.

* * *

[2791] is to determine whether the government has proved its case beyond a reasonable doubt.

All right. Ladies and gentlemen, let me also just very quickly run through the two verdict forms so -- you heard me describing what your tasks are there. Now I'm going to show you, so we'll walk through each verdict form so you understand -- you have some concrete understanding of what you'll be doing.

So, obviously, there's two separate verdict forms: One for Defendant Vallodolid, and a second verdict form for the defendant Nieto.

So Noel has the one for Mr. Vallodolid on the screen, so we'll go through that.

You'll see Count One. That's the racketeering conspiracy count. There's an initial question, and you declare the following: As to the charge in Count One, we the jury find the defendant Darrick Vallodolid not guilty or guilty. You'll answer that question.

Now, if you find the defendant not guilty, then your work is done as to Count One, and you can proceed to Count Two.

But if you find the defendant guilty, you'll have to answer these next questions. So the first is, if you found the defendant Darrick Vallodolid guilty of Count One, do you also unanimously find beyond a reasonable doubt that the defendant committed the murder of Victor Lusinski while committing or

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[2800] (Jury in at 5:57 p.m.)

THE COURT: All right. You may be seated.

All right. Ladies and gentlemen, I have been told that you reached a verdict. Is that correct?

(Collectively respond in the affirmative.)

THE COURT: Would the foreperson please stand up and identify yourself.

JUROR: Christine Monanteras.

THE COURT: Ma'am, if you would, give the verdict to Clarence, and we'll publish them.

All right. So let me publish the verdicts. We'll start with the verdict for Mr. Vallodolid.

Count One, racketeering: "As to the charge in Count One, we the jury find the defendant, Darrick Vallodolid, guilty." They have checked in Question No. 1, as it relates to whether he is responsible for the murder of Mr. Lusinski, they have checked the box "Yes."

And as to Question No. 2, they have also checked the box "Yes" as it relates to more than 5 kilograms of cocaine.

Count Two, drug conspiracy: The jury has checked the guilty box as it relates to Count Two. "We the jury find the defendant, Darrick Vallodolid, guilty." As it relates to Question No. 1, as to whether or not they find beyond a reasonable doubt that the case involved the distribution of cocaine, they have answered the question "Yes."

[2801] They then went to Question No. 2 and answered that question "yes" that it was more than 5 kilograms of cocaine. They have also answered Question 4 "Yes." Obviously, they left Question 3 blank.

As to Question 4, they answered that question "Yes" as it relates to distribution of marijuana.

Question 5, as to whether it involved more than a hundred kilograms, they have answered that question "Yes" and then appropriately left Question 6 blank.

The verdict is signed, both Count One and Count Two, by all of the jurors and dated today's date. As it relates to Mr. Nieto: Count One. "

As to the charge in Count One, we the jury find the defendant, Robert Nieto, guilty." When asked in the first question if they unanimously find beyond a reasonable doubt that Mr. Nieto is responsible for the murder of Rolando Correa while committing or attempting to commit criminal gang activity, they have answered the question "Yes."

And as to Question No. 2, whether or not the offense involved more than 5 kilograms of cocaine, they have answered the question "Yes." The verdict is signed by all of the jurors and dated today's date.

Count Two, the drug conspiracy: "As to the charge in Count Two, we the jury find the defendant, Robert Nieto, guilty." The jury then has answered Question No. 1 that the [2802] the offense did involve more than -- did involve the distribution of cocaine as it relates to that question. They answered that question "Yes."

They then proceeded to Question 2 and have answered "Yes" to the question of whether the offense involved more than 5 kilograms of cocaine.

The jury then appropriately skipped Question 3 and then moved to Question 4. When asked if they unanimously find that the offense involved the distribution or possession with the intent to distribute marijuana, the question was answered "Yes."

And then they moved to Question 5 and answered “yes” to the question of whether it involved more than a hundred kilograms of marijuana. And then the jury left Question 6 appropriately unanswered.

That verdict is also signed by each juror and dated today’s date.

Do you guys want me to poll the jury?

Mr. Vanzant?

MR. VANZANT: Yes, Your Honor, please poll.

THE COURT: Ms. Peterson, you have heard the reading of the verdicts in open court, are these your verdicts?

JUROR: Yes.

THE COURT: Ms. Tempco, you have heard the reading of the verdicts in open court, are these your verdicts?

[2802] offense did involve more than -- did involve the distribution of cocaine as it relates to that question. They answered that question “Yes.” They then proceeded to Question 2 and have answered “Yes” to the question of whether the offense involved more than 5 kilograms of cocaine. The jury then appropriately skipped Question 3 and then moved to Question 4. When asked if they unanimously find that the offense involved the distribution or possession with the intent to distribute marijuana, the question was answered “Yes.” And then they moved to Question 5 and answered “yes” to the question of whether it involved more than a hundred kilograms of marijuana. And then the jury left Question 6 appropriately unanswered. That verdict is also signed

by each juror and dated today's date. Do you guys want me to poll the jury? Mr. Vanzant?

MR. VANZANT: Yes, Your Honor, please poll.

THE COURT: Ms. Peterson, you have heard the reading of the verdicts in open court, are these your verdicts?

JUROR: Yes.

THE COURT: Ms. Tempco, you have heard the reading of the verdicts in open court, are these your verdicts?

[2803]

JUROR: Yes.

THE COURT: Mr. Mensing, you have heard the reading of the verdicts in open court, are these your verdicts?

JUROR: Yes.

THE COURT: Ms. Schara, you heard the reading of the verdicts in open court, are these your verdicts?

JUROR: Yes.

THE COURT: Ms. Moench, you have heard the reading of the verdicts in open court, are these your verdicts?

JUROR: Yes.

THE COURT: Mr. Artist, you have heard the reading of the verdicts in open court, are these your verdicts?

JUROR: Yes.

THE COURT: Ms. Orfanos, you have heard the reading of the verdicts in open court, are these your verdicts?

JUROR: Yes.

THE COURT: Ms. Climack, you have heard the reading of the verdicts in open court, are these your verdicts?

JUROR: Yes.

THE COURT: Ms. Huttie, you have heard the reading of the verdicts in open court, are these your verdicts?

JUROR: Yes.

THE COURT: Ms. Monanteras, you have heard the reading of the verdicts in open court, are these your verdicts?

JUROR: Yes. 1 2 3 4

[2804]

THE COURT: Ms. Steiner, you have heard the reading of the verdicts in open court, are these your verdicts?

JUROR: Yes.

THE COURT: Ms. Mariscal, you have heard the reading of the verdicts in open court, are these your verdicts?

JUROR: Yes.

THE COURT: All right. Ladies and gentlemen, I want to thank you for your service on this jury. It has been a long two plus weeks; and, listen, I readily understand what an imposition we ask of jurors and how we impose upon your life and jobs and your responsibilities. It is a very tough thing to do. Sitting in judgment is difficult. But we greatly appreciate your service because without good people like you to participate in the jury process, the judicial branch of government couldn't function. So I greatly appreciate your service.

I have been telling you up to this point that you can't talk about the case, but you are released from that instruction at this point. You are free to go home, talk about the case with anyone. Of course, if you don't

want to talk about it, that's your business as well. There is one local rule that prohibits you from talking about the case with any of the lawyers or the parties. So you are still prohibited from doing that; but if you want to go home and talk about the case with your neighbors, friends, co-workers, you are free to do that.

* * *

App-465

Appendix T

**UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF INDIANA**

No. 2:15-CR-72

UNITED STATES OF AMERICA,
Plaintiff,

v.

ROBERT NIETO,
Defendant.

Date: June 13, 2019

TRANSCRIPT OF SENTENCING HEARING

[18] the aggravated battery from the Indiana state court -- then he has to be assessed two points under the criminal history category, again, 4A1.1(d). And there was an abundance of testimony to establish that point from all of those witnesses that I previously identified, so that objection is overruled.

So based on all of those rulings, the guidelines in this case are as follows: There's a total offense level in this case of 47. That's the combined offense levels of all of the multiple-count adjustments. So starting on paragraph 47 of the presentence report and going all the way through paragraph 65 of the presentence report, all of the guideline computation is included in there. I have subtracted out the two-level adjustment

in paragraph 57 based on my earlier ruling. So the combined offense level is 49. But, of course, the maximum in this -- under the guidelines is a level 43. And I don't have at my disposal -- when the guidelines exceed 43, then you simply arrive at a guideline range of 43, which is what they are in this case.

The criminal history category is IV, and that leads to a suggested sentence under the guidelines of life imprisonment. The fine range is 50,000 to \$5 million. There's no restitution. There's a \$100 special assessment on each of the two counts that the defendant has been found guilty of. And supervised release is two to five years on Count 1 and five years to life on Count 2.

* * *

[29]

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THE COURT: All right. The Supreme Court has modified the Federal Sentencing Act and made the sentencing guidelines advisory. It used to be that the guidelines were mandatory, you know, I had to follow them under almost all circumstances. But about 10 years ago they were demoted, essentially, to a set of advisory documents that the Court has to look at as one factor in deciding what a reasonable sentence is in any given criminal case. The guidelines are neither more Page 30 important nor less important than a whole range of other factors I have to look at.

And so at sentencing, Mr. Nieto, what I like to do is talk to the defendant and explain why I'm doing what I'm doing and what are the standards that govern my decision-making so that you have a full

appreciation for why the sentence is being handed out as it is.

So, of course, I have to consider the sentencing guidelines. Those are one factor that I have to look at in weighing the appropriate sentence. And in this case, the guidelines are, quite literally, off the charts. You scored way above the maximum. And so by virtue of the operation of the guidelines, they slot you in at the highest level, which is a level 43, and a recommendation from the guidelines that a life sentence be handed down. So I have to take that into account. I also have to take into account a whole range of other factors that the parties have touched upon here in their discussion. So I have to look at the nature and circumstances of the offense. In other words, what did you do that brought you here? That's certainly no -- nothing surprising about that. That's what we are here to decide. So the nature and circumstances of the offense.

I also have to look at your personal history and characteristics. In other words, setting aside what did you [31] do, I have to look at who you are as a person when I decide what the appropriate sentence should be. I also have to look at the seriousness of the offense, a need to hand down sentences that are going to promote respect for the law and provide just punishment.

I have to be concerned with deterrence of criminal activity, as the parties have talked about, both specific deterrence, and that is preventing you from committing additional crime, but also general deterrence. That's the idea of sending a message to the community that certain behaviors are going to be

punished, and hopefully that will send a message to the community that people won't engage in that kind of activity. Perhaps that's a pie-in-the-sky notion of how humans behave, but it is something I have to take into account.

And I have to try to avoid unwarranted disparity among similarly situated defendants, and so that's something I have to take into account.

So all of these factors go into the calculus of what is a reasonable sentence. But, ultimately, the goal is to arrive at a sentence that is sufficient but not greater than necessary to take into account all of these various factors.

So let's just talk about the case here for a few minutes. You know, the defendant in this case has been found guilty of two counts. One is a conspiracy to participate in a lengthy racketeering conspiracy involving the Latin Kings. And the [32] jury made a specific finding in this case that, as part of that racketeering conspiracy, Mr. Correa -- I'm sorry -- Mr. Nieto was involved in the murder of Mr. Correa by ordering and participating in the robbery two blocks away from his home that led, ultimately, to the shooting of Mr. Correa. The jury also found that that conspiracy involved more than 5 kilograms of cocaine. The defendant was also found guilty of conspiracy to possess with the intent to distribute a whole slew of different types of drugs, but the jury made special findings as to his responsibility for greater than 5 kilograms of cocaine, in this case, and greater than 100 kilograms of marijuana.

So those are the charges that the defendant has been found guilty of and the special findings by the

jury. It is an extremely serious case in my way of thinking.

The defendant, first, according to the presentence report, he's -- I believe now he's about 46 years old or 47 years old. He was born in 1973. 46 years old or 45 to be 46. He's been a Latin King since 1986, almost 30 years, or more than 30 years. And he's spent a lot of time in prison already. He went to prison on a 12-year sentence. And upon his release from that sentence, he moved back to Gary and participated in starting up the Black Oak faction of the Latin Kings. So he was a member of the Latin Kings. He committed this horrible crime in the early 2000s, went to prison for an extended period of time, was released, and very quickly went right back to the [33] gang life.

According to Mr. Vargas's testimony, the defendant asked their blessing to re-open the Latin Kings in the Black Oak section of Gary and was granted it and started that faction in Gary, became the regional director of the Kings, according to the credible testimony at trial. He participated in gang meetings, assisted in collecting dues on behalf of the gang, purchased guns and drugs, was involved in ordering the beatings of would-be gang members who were being initiated into the gang, young kids, really, who are striving, for reasons only I can't ever understand, but striving to belong to something.

And in order to get into the gang, they have to submit to a really vicious beating from, usually, head-to-toe or below-the-neck, certainly, for a number of minutes. The defendant was involved in the ordering of that kind of activity. He also, as the regional person for the Latin Kings, was involved in helping to mete

out discipline to gang members who went astray. He oversaw large quantities of drugs being distributed.

As it relates to the murder of Mr. Correa, the evidence was that the defendant helped to plan this drug rip of a neighbor of his, somebody who lived a couple blocks away. He participated in that by using a police scanner, monitoring the police activity, and being in telephonic contact with the people he sent on the robbery. This is an activity that he was [34] frequently involved in, this monitoring the police scanners. It was his intention to share in the proceeds.

And I agree, frankly, with Mr. Nozick's assessment that, but for Mr. Nieto's participation, the shooting of Mr. Correa would never have occurred. He was an innocent bystander, a neighbor, who was doing his best to be a good neighbor, and he's dead and gone now because of this super violent activity.

And so, in addition to that conduct, the defendant, as I mentioned, from 2007 to 2016, had a leadership role in the Latin Kings.

So that's all of the nature and circumstances of the offense. And all of which is to say that it is quite obvious to me it's a very, very serious offense and one that the guidelines treat exceedingly harshly, with good reason.

When we look at the history and characteristics of the defendant that I have to take into account, by my count, the defendant has 15, 15, prior convictions or juvenile adjudications and 12 other arrests. His convictions range from not very serious at all, misdemeanors, to very serious, a burglary, a battery, resisting law enforcement.

According to paragraph 84 of the presentence report, there is a very serious prior that I alluded to earlier, an aggravated battery that the defendant pled guilty to, received a 12-year prison term. And according to the presentence report, the defendant, in that instance -- this was in 2001 -- [35] he became involved in an argument with the victim here in Hammond. The argument escalated, and the defendant shot that person with a handgun in the person's jaw, leading to a serious life-threatening wound and requiring that victim to be treated extensively at St. Margaret's Hospital. And, obviously, that incident created a substantial risk of death to that victim.

So the defendant is no stranger, candidly, to the criminal justice system.

As I mentioned earlier, he was released from prison and started back up with the Latin Kings very quickly thereafter.

The defendant has a personal history that is very difficult. His mom passed when she was -- he was six years old I think I recall from the presentence report. Essentially, he was raised and -- had nine siblings, raised by his dad, who seems to have been a really devoted parent under incredibly difficult circumstances. The defendant's dad passed away a number of years ago when he was in his 60s, but it does appear that the defendant had a very difficult upbringing, but a stable one, as best as a man can deal with that circumstance.

So the defendant does have a ninth grade education. He has achieved his GED, but he's had,

really, minimal employment over the years. In fact, I believe he's been on disability since 2012.

And so when I look at the aggravating and mitigating factors in this case and then I look at what the guidelines [36] suggest, I agree with a guideline sentence in this case. I think that it's appropriate under all of the -- for all of the reasons that I talked about on the record today. It's not something that I do lightly at all. But given the gravity of the case and all of the aggravating factors and, I think, frankly, very few mitigating factors in this case, a guideline sentence is appropriate; and I've arrived at that without any undue weight given to the guidelines. I just happen to think that the guidelines get it right in this circumstance.

It is certainly true that many of the defendants in this case have received more lenient sentences. But at the risk of stating the obvious, people who are gang members and who cooperate, they do so at an incredible risk to themselves for personal -- placing themselves in great danger. And, of course, they get the benefit of acceptance of responsibility. But more importantly, they are entitled to, I think, substantial consideration because of the great danger they put themselves in but also because of the good -- of the good that comes out of their cooperation. There's a sense of contrition and admitting what they have done is wrong. But, more importantly, bringing other people to justice all leads to, I think, an entitlement to a substantial consideration, which I have given to many of the other codefendants in this case. So I don't think that this sentence is unfair from a disparity

point of view or unwarranted from a disparity point of view.

[37] And I will note that it does cut both ways, I can see. I mean, the defendant was almost 40 years old when Mr. Correa was killed. He was a fully formed grown man. Whereas, you know, many of the codefendants in this case, some of them 16, 17, 18, 19 years old, doing super irrational and rash things that are more, at least, understandable from somebody so young who doesn't have a fully formed brain, is still maturing, is still probably acting on impulse. And so all of that, I think, has to be taken into consideration in comparison to the defendant.

And so let me formally state the sentence. I will give counsel one final chance to make any final comments or make any other objections.

But it is the judgment of the Court, pursuant to Title 18, United States Code, Section 3551 and 3553, it is the judgment of the Court that the defendant is hereby committed to the custody of the Bureau of Prisons for a term of life.

He will then be placed on five years of supervised release for each count. The life term -- let me just check something here -- is both for Count 1 and 2 to be served concurrent with one another. If the defendant is ever released, for whatever reason, I will set terms of supervision. The defendant will be placed on five years of supervised release on each count to be served concurrently.

Again, if the defendant is released, he will have to report within 72 hours of his release from the custody of the [38] Bureau of Prisons and shall report to the

U.S. Probation Office for this district between the hours of 8 a.m. and 4:30 p.m.

While he's on supervision, he'll have to comply with the following conditions. There's four mandatory conditions. First, he shall not commit another federal, state, or local crime. Second, he shall not unlawfully use, possess, or distribute a controlled substance. Third, he shall submit to one drug test within 15 days of release from imprisonment and at least two periodic tests thereafter for use of a controlled substance. And, fourth, he shall cooperate in the collection of DNA as directed by the probation office.

There's a number of discretionary conditions that I also intend to give. These are all detailed in the presentence report, and it's my intention to simply identify the discretionary condition by number and incorporate the actual language from that discretionary condition from the presentence report into my comments here in court, as well as the reason I'm giving each one of these is detailed in the presentence report. So if the defendant is released, these are the discretionary conditions I intend to give.

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App-475

Appendix U

**UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF INDIANA**

No. 2:15-CR-72

UNITED STATES OF AMERICA,
Plaintiff,

v.

DARRICK VALLODOLID,
Defendant.

Date: November 25, 2019

TRANSCRIPT OF SENTENCING HEARING

[2] (The following proceedings were held in open court beginning at 1:02 p.m., reported as follows:)

DEPUTY CLERK: All rise.

THE COURT: All right. You can be seated. Good afternoon, everyone. We're on the record in Cause Number 2:15-CR-72, United States versus Darrick Vallodolid. We're here for the sentencing of the defendant. He is present today with his lawyers, Mr. Bedi and Mr. Vanzant. And we have Mr. Nozick, Mr. Cooley, and Mr. Lanter here for the government.

Mr. Vallodolid was found guilty back on May 29th of 2018 to the two counts of the Superseding Indictment, and he was adjudged guilty on that date.

And then I ordered the preparation of a report, which I got back on June 20th. That's Document 2120. I have studied the report and the addendum to the report prior to the hearing today.

Let me just set forth on the record all of the other material that I have received just to make sure that I have everything that was submitted. So there was an initial sentencing memorandum filed by Mr. Vanzant, which I have reviewed. There was a series of -- or one letter that was submitted to me by Ms. Pergher. It is Document 2118-3. I have reviewed that. There was a, sort of, accumulative record of school-type records of the defendant. That was also part of 2118-2. The government submitted a sentencing memorandum. That's 2123, the docket number. Then there was a supplemental [3] sentencing memorandum filed by the defense back on -- about a week ago. That's Document 2393. And attached to that were a series of exhibits. I have reviewed that.

There was a psychological assessment that was provided by Dr. Gaskell. That's Document 2394. Then there was a substance abuse assessment. That's 2395. And then there was some certificates that the defendant has obtained while he's been incarcerated at the MCC. That's Document 2411.

And then just today I received two additional supplementary exhibits. One is a letter from Amanda Herr and another certificate from the MCC.

So from my perspective, that's the totality of the information I have before me for purposes of sentencing.

Do you agree with that, Mr. Vanzant?

MR. VANZANT: That is correct, Your Honor.

THE COURT: All right. Mr. Nozick?

MR. NOZICK: Yes, Your Honor.

THE COURT: All right. Mr. Vanzant, did you and your client have an opportunity to sit down and thoroughly review the contents of the presentence report sometime before today's date?

MR. VANZANT: Yes, Your Honor. My partner Holly Blaine spent about four hours reviewing it with Mr. Vallodolid in June.

THE COURT: Is that true, sir?

[4] **THE DEFENDANT:** Yes.

THE COURT: You had a chance to thoroughly review the contents of the report with your lawyers?

THE DEFENDANT: Yes, Your Honor.

THE COURT: Okay.

Mr. Nozick, I assume you also reviewed the report; is that true?

MR. NOZICK: Yes.

THE COURT: All right. The presentence report and the addendum to the report are placed in the record under seal. It is directed that if an appeal is taken, counsel on appeal shall be permitted access to the sealed report.

Did both parties receive the sentencing recommendation filed by the probation department?

Mr. Vanzant?

MR. VANZANT: We did, Your Honor.

THE COURT: Mr. Nozick?

MR. NOZICK: Yes, Your Honor.

THE COURT: Okay. So the addendum to the presentence report sets forth the two objections that need to be resolved at the hearing today. Does the addendum accurately identify what is in dispute?

Mr. Nozick?

MR. NOZICK: Yes.

THE COURT: Mr. Vanzant?

[5] **MR. VANZANT:** Yes, Your Honor.

THE COURT: All right. Would both of you agree that the factual statements contained in the presentence report, other than what's identified in the addendum as being in dispute, is everything else materially accurate?

Mr. Nozick?

MR. NOZICK: Yes.

THE COURT: Mr. Vanzant?

MR. VANZANT: Yes, Your Honor.

THE COURT: Okay. So I do adopt the factual statements contained in the presentence report to which there are no objections, and I will hear from the parties now as it relates to the two objections, which are really both factual and legal objections, as I see it.

Let's start with the second objection because in many ways, depending upon the finding on the second objection, that obviates any finding that would be necessary on the first objection, the drug quantity.

Does everybody agree with that?

MR. VANZANT: I agree, Your Honor.

MR. NOZICK: Yes.

THE COURT: Okay. So, Mr. Nozick, I suppose the burden is on you. So I'll hear from you first on whether -- and what facts you point to from the record that would suggest that this should be a first -- scored as a first degree as [6] opposed to a second degree under the guidelines.

MR. NOZICK: Sure. And, Judge, for the most part, I am relying on the arguments already made by Mr. Lanter starting in the addendum on page 305. That's Document 2121.

If we look at this one -- if you look at the government, it's in B. We argue, of course, that the probation department correctly calculated this as a first-degree murder as it's a premeditated killing. Section 1111 defines it as "willful, deliberate, malicious, and premeditated" with the premeditating requiring "planning and deliberation," quoting the *Bell* case.

Those murders have to have an appreciable elapse of time between the formation of a design and the failed act, but there's no specific time period required. All that is necessary is for the defendant to ponder the murder rather than it being spontaneous or nearly so. He has to have had -- or thought of another way, quoting the *Brown* case, he has to have had time for second thought.

So the Court had laid out the facts in your order denying the motion for new trial. That's the Docket 1986 at pages 9 to 11. You know, I can refer you down to, sort of, that paragraph. You held that contrary to the defendant's argument that there's no evidence of deliberation. The jury's verdict undermines that argument.

They found beyond a reasonable doubt that the defendant committed the murder while committing -- or attempting to [7] commit criminal gang activity. He committed the murder with the intent to benefit, promote, or further the interests of the gang or for the purpose of increasing his own standing or position in the gang. That shows that the jury believed that the defendant thought about what he was doing when he committed the murder. He made the conscious decision to murder the victim either to promote the gang's interest or his own interest. In either event, he planned and deliberated this not being a spontaneous act, or nearly so.

Judge, I think you nailed it in that assessment. In order for it to be a murder in aid of racketeering or to further his interest, by definition, he has to contemplate the crime. Would this act further my interest? And we already have a jury finding on that, so I would argue that it is impossible for it not to have premeditation, for them to find that he did this for the specific reason to further his interest in the gang. By definition, he had to have premeditated.

And, again, you don't need any specific period of time showing premeditation, just some premeditation or deliberation; and by definition, we have that, Judge, by the jury making that jury finding.

You know, he saw him -- the defendant saw the victim on a bike. He considered the implication of his hat, that it was tilted in the wrong way. Just that shows, to some extent, that he has to think about what he's doing; he has to think about [8] who the defendant -- strike that -- who the victim is. He believed he was a rival gang member. He was going to act in

accordance with the rules of his gang to keep rivals outside of Latin King territory. All of that shows premeditation.

Afterwards, Keith Manuel testified, that he bragged his gang "takes care of business, other gangs don't take care of business like that." That shows he was doing this crime for purpose.

For all of those reasons -- okay. And then when he was asked why he didn't just fight the victim rather than shooting him, he said, "Why would I fight him if I have a gun," showing, basically, that he had considered his options and made the choice to kill him.

Based upon all of that, Judge -- well, strike that.

He also took time to get within a fairly close range before shooting him showing that he has time to premeditate.

That is all, Judge.

THE COURT: All right.

Mr. Vanzant.

MR. VANZANT: Your Honor, a couple of points. I know we have set out most of this in the filings. I'm just referring to Document 2121, pages 3 and 4. I will go through the government's stated reasons.

The first is that the jury's verdict undermines the argument that this should be second-degree versus first-degree [9] murder. What the jury was asked to find was whether or not the murder was committed while committing or attempting to commit criminal gang activity. That's different than whether it was committed with premeditation or whether simple intent. The only question was criminal gang activity.

That's not a finding of intent that would bar the Court from re-visiting this decision.

For purposes of the sentencing guidelines, what does matter is the actual act itself and whether the homicide was premeditated versus simply an intent-based crime, which is second-degree murder.

Second, the government points to several evidentiary issues; particularly, the -- they state on page 4 of 2121 that "Defendant saw Lusinski on a bike and considered the implication of Lusinski's hat." There was significant dispute about this point at trial; and if you recall, there was no hat found at the scene, which was a point that we made as part of cross-examination.

And, in fact, there was significant evidence that the witnesses who testified about that point were conflating the Lusinski homicide with the homicide of Travis Nash, which was several years later, where there was, in fact, a hat found at the scene; and the motive, by someone entirely different, was to shoot Mr. Nash because of the tilt of his hat. That's not the case here, and the evidence indicates there was no hat [10] whatsoever at the crime scene.

Secondly, the government points out the statements that Mr. Manuel attributed to the defendant, "Why would I fight him if I have a gun?" The problem with this is it doesn't necessarily indicate premeditation. There is a significant difference, as the Seventh Circuit says, in *United States v. Bell*. There has to be an appreciable elapse of time between the formation of a design and the fatal act. It requires planning and deliberation beyond the simple conscious intent to kill.

So regardless of whether the intent to kill is formed, that's second degree versus, say, involuntary manslaughter, or something like that. What differentiates first and second degree is the premeditation which requires more than simple passage of time. The defendant must, in fact, have deliberated during that time period.

The last point is another evidentiary issue. The government points to evidence of the close firing distance, and I will point out that that was also disputed heavily at trial by the eyewitnesses, who are the only individuals who actually witnessed the homicide, who indicated that the shooting occurred, I believe, it was 10 to 15 yards away, if I recall the transcripts correctly. But it was not a close-range issue, so that was heavily in dispute as well.

So for these reasons, I don't believe that the [11] first-degree guidelines should apply here, and the Court should, instead, apply the second-degree guidelines.

THE COURT: Okay. Thank you, sir.

Mr. Nozick, do you want to respond to that?

MR. NOZICK: Judge, I stand on the arguments that I made, the arguments that Mr. Lanter made, if I missed any, and also the evidence the Court heard at trial.

THE COURT: I'm going to overrule the objection. I do think that this is -- was a first-degree murder, that it was a premeditated killing as is required under 2A1.1 of the guidelines.

Section 1111 of Title 18 defines murder as those that are "willful, deliberate, malicious, and

premeditated"; and premeditation requires planning and deliberation. But the time between the planning and the deliberation -- or the formation of the design and the actual fatal act or the shooting can be very short in time.

It is as long as somebody had an opportunity to think better of it and, nonetheless, go forward with the fatal act. That's enough to establish that there was a willful, deliberate, and premeditation involved in the murder.

I also -- I agree with the government here that -- I reviewed the verdict form in the case, and the jury was asked if they found that the defendant committed the murder of Victor Lusinski while committing or attempting to commit [12] criminal gang activity; and they answered that question yes. And by virtue of answering it yes, I think that is another way of saying that the murder was done to help benefit, promote, or further the defendant's interest in the gang and his standing in the gang and perhaps his promotion in the gang as well. And it's very hard to square that finding with a finding that the murder was not done in a premeditated way.

So I don't think it's a close call here, frankly. The evidence was that the defendant was simply walking down the street. He saw Mr. Lusinski. I admit that the issue about whether he had the hat on was a disputed fact, but there was evidence for the jury to find that the defendant believed him to be a rival gang member and he shot him by -- because of that fact.

And the evidence after the fact, and the way in which the defendant bragged about the murder, how he referred to himself in the wake of the murder, and

him telling rival -- or fellow gang members that he shot Mr. Lusinski instead of fighting him because, you know, he was in their -- he was in their area and that why would you, you know, fight somebody when you have a gun and can shoot them instead, all of which supports that this was a thought out endeavor and done with some degree of premeditation. And that's all that is required, a moment to think better of it. And, unfortunately, the defendant didn't think better of it.

[13] So I do find that the government has established that -- and the evidence at trial supports that there was premeditation in the shooting of Mr. Lusinski.

Okay. So by virtue of that finding, the second issue, which is, actually, the first objection to the presentence report, deals with the quantity of drugs that the defendant should be held accountable for in the conspiracy.

The jury found that it was greater than 5 kilograms of cocaine, and by virtue of that -- they made that finding in order to increase the -- or make the defendant eligible for a mandatory minimum and also the increased statutory maximum, I believe. But in all events, whether he's held accountable for 5 kilograms, 15 kilograms, or more than 50 kilograms, by virtue of the ruling I just made, he would still score out at a 43 under the guidelines.

Do you agree with that, Mr. Vanzant?

MR. VANZANT: I agree, Your Honor.

THE COURT: Mr. Nozick?

MR. NOZICK: I also do.

THE COURT: Okay. So I'm simply going to find on that first objection that -- I do think there's strong evidence that the defendant should be held accountable for at least 5 to 15 kilograms and perhaps even greater than that; but I don't need to make a final determination on that because I will not rely upon that in my ultimate determination on the case, the [14] differential in the disputed amount of the drugs and that it does not otherwise affect the guideline range in this case so I need not make a finding on that.

So with that being said, the guidelines are as follows: There's a total offense level of 43. The criminal history category is III. The guidelines recommend a life sentence. Supervised release is two to five years on Count One; five years on Count Two. The fine range is 50,000 to \$10 million. Restitution -- nothing has been presented to me as it relates to restitution. There's a \$100 special assessment on each of the two counts that the defendant has been found guilty on.

So without repeating any previously expressed objections, is that all accurate as it relates to the guideline computation?

Mr. Vanzant?

MR. VANZANT: That is correct, Your Honor.

THE COURT: Mr. Nozick?

MR. NOZICK: It is, Your Honor.

THE COURT: Okay. So am I going to hear witnesses today, or are you all just going to proceed by way of proffer and argument based upon what's been presented to me?

Would you give me a sense -- is there a victim that wishes --

MR. NOZICK: I have two family members, the victim's mother and sister.

[15] **THE COURT:** Okay. Why don't we hear from the victim's relatives first.

Are you going to present any witnesses, or are you just going to go by way of argument and proffer with what you have presented to me?

MR. VANZANT: No witnesses, Your Honor, but I understand there are some people here that would like to address the Court before sentencing.

THE COURT: Okay.

MR. VANZANT: On behalf of Mr. Vallodolid, I should say.

THE COURT: Okay.

MR. NOZICK: Judge, I'm going to start out with Amanda Mirelez.

THE COURT: Ma'am, if you want to come forward, please.

Are you going to ask her questions, or are you going to --

MR. NOZICK: I'm going to ask questions, sort of open-ended.

THE COURT: Okay. Fair enough.

Ma'am, raise your right hand to be sworn in.

(The oath was administered.)

THE WITNESS: I do.

THE COURT: You may be seated.

Mr. Nozick.

[16] **MR. NOZICK:** Thank you, Your Honor.

AMANDA MIRELEZ, GOVERNMENT'S WITNESS,
SWORN

DIRECT EXAMINATION

BY MR. NOZICK:

Q. Good afternoon, ma'am.

A. Good afternoon.

Q. Please state your name for the record. I'm going to ask that you speak up so we can hear you, and also the court reporter here has to get what you are saying. So pull the mic up and speak up.

State your name again.

A. Amanda Mirelez.

Q. Could you spell it for our court reporter.

A. Amanda, A-M-A-N-D-A, Mirelez, M-I-R-E-L-E-Z.

Q. Okay. And what is your relationship to Victor?

A. My brother.

Q. Okay. How old -- first of all, how old was he when he passed away?

A. Sixteen.

Q. And how old were you, if you remember? How many years apart are you guys?

A. Oh, God. We're 9, 10, 11, 12 -- about 12 years.

Q. You are his older sister?

A. I'm the oldest, yes.

Q. Was it just the two of you as far as children goes?

[17] **A.** Oh, no. I'm the oldest of five.

Q. Okay. Tell the Court a little bit about your brother. First of all, what did he like doing?

A. Everything. He liked -- he liked being with his family. He liked being silly. He liked to draw. He liked hanging with my daughter, his niece. They were very close.

Q. How was he with your kid?

A. Oh, very close. Very good. Very good.

Q. To your knowledge, was he in any gang?

A. No.

Q. Did you ever see him violent?

A. No.

Q. Did you ever know him to have any serious conflicts with

anyone else?

A. No.

Q. Did you ever hear about him getting in fights?

A. No, not nothing I can recall.

Q. Okay. Can you tell this Court a little bit about how the loss of your brother has affected you?

A. It's been a major impact. It's affected -- it's affected both my life, my daughter's life. She was only six. They were very close. She has nightmares to this day. She gained anxiety, depression. My family altogether -- he was literally -- he is our heart, through the whole family, not just with me, but my whole family. It has changed my whole [18] life.

Q. Would you like to tell the Court anything about what you believe a fair sentence to be and what sort of sentence you would like to see?

A. The maximum.

Q. I'm sorry, ma'am?

A. There's nothing that can bring him back, but it's not right.

Q. Anything else you would like to tell the Court, ma'am?

A. No.

Q. Thank you. There's some tissues in front of you.

A. Thank you.

MR. NOZICK: I'm sorry. There might be some questions by --

MR. VANZANT: No questions.

MR. NOZICK: Okay.

Thank you, ma'am.

THE COURT: Oh, I'm sorry. I didn't know you were done.

MR. NOZICK: I'm sorry.

MR. VANZANT: No questions.

THE COURT: Thank you, ma'am.

Mr. Nozick, do you have another --

MR. NOZICK: Just one more, Your Honor. The government calls Deena Lusinski Renteria.

[19] **THE COURT:** Good afternoon, ma'am.

THE WITNESS: Good afternoon, Judge.

THE COURT: Raise your right hand, please.

(The oath was administered.)

THE WITNESS: Yes, I do.

THE COURT: You may be seated.

THE WITNESS: Thank you.

THE COURT: Mr. Nozick.

MR. NOZICK: Thank you.

DEENA LUSINSKI RENTERIA, GOVERNMENT'S
WITNESS, SWORN

DIRECT EXAMINATION

BY MR. NOZICK:

Q. Good afternoon, ma'am.

A. Good afternoon.

Q. Could you please state your full name for the record?

A. My name is Deena Lusinski Renteria.

Q. Okay. And can you -- I'll wait until you sit down. Can you spell that for the court reporter?

A. Yes. D-E-E-N-A, L-U-S-I-N-S-K-I, R-E-N-T-E-R-I-A.

Q. Okay. And you pronounce it Renteria or Renteria?

A. Both ways, Renteria, Renteria.

Q. And you are Victor's mother?

A. Yes.

Q. I see you have some papers in front of you. Is that something that you've written?

[20] **A.** Yes, something that I've written that I would like to --

Q. Absolutely.

A. -- say.

Q. Go ahead. I will sit down, and you can read it to the Court.

A. Okay.

Okay. Good afternoon, Judge Simon and everyone. This is going to be hard for me, but I can do it.

First of all, I would like to make it clear my son did not know Darrick Vallodolid or did he associate with them or his gang. He was neutral. He was friends with everybody, everybody, you know.

And I beg you, please, don't let Mr. Vallodolid have the chance to hurt any more innocent people. I don't want to see any other mother, father, sister, brother, niece, nephew, or a friend go through what I -- what we did.

My son was growing up. He had problems, yeah, like any other teen. He did. But he was not into gangs. He was trying to do a better life. He started working. He started doing things, his whole life, for my family, you know. He helped with his disabled sister and his - his niece. But, anyhow, I'm getting off the subject.

My son was growing up and had no problems, what I said, but nothing that should of caused him to be murdered by Darrick. He's a pretty bad person. He shot my son to make [21] more gang points, I believe. It really hurt my family. I don't believe, really, that Darrick should ever get out of jail: Trafficking guns, marijuana, cocaine, once a murderer, always a murderer, you know. I know people get rehabilitated, yeah. But 10 out of 9, once you're in gang -- you have anything to do with the gang, you are in for life. In jail, they're in the gang. He's protected. He's blah, blah, blah, you know.

And, anyhow, being a murderer, he's a pretty bad person. Oh, I read that already. Getting confused.

I don't want him to hurt any other family. I don't believe Darrick should ever get out. The loss of my son made our whole family lose something. My granddaughter -- and I already said that. I go to a special therapist to overcome some of the problems I regained, from my job -- I quit my job 'cause that's where I got the initial phone call that Victor had an accident. I call it an accident. But -- so I quit my job, and I was a manager and there for over 12 years. And my little son stopped going out. I took him everywhere for fear that something would happen.

I didn't know until May that Darrick had murdered my son -- no, May, we started the trial -- until like October, November. I thought I was going to die without knowing who murdered my son and what happened.

So, once again -- I'm sorry. I got the phone call at my [22] job. He was flown to Christ Hospital on 95th in Oak Lawn. I had severe depression, panic attacks, along with other problems. My youngest son is -- was in his room for a maximum of so many years, and everybody has depression from it. Okay. Fine.

My son was murdered because of the wrong neighborhood, wrong time, and especially on a sacred day. It was Easter Sunday, you know. I don't know. Whatever religion you belong to, you belong to. But we're Catholics, and to us that meant a lot, you know, like, "Oh, my God," you know. And then, what? I mean, he could have done other things rather than use a bullet, you know. Anyhow. But -

Easter Sunday my son was stereotyped in the wrong neighborhood, stopped for a minute, was watching the kids play, so I hear. I don't know. He was

adjusting his PS3 player, and Mr. Vallodolid and his friends came and they shot him. They murdered him in cold blood. They murdered him. They knew what they were doing. They hit him right in the head, you know. And he was neutral, once again, neutral. I want you to understand. That's what hurts so much.

Maybe he had a big mouth, but -- he probably answered. They probably asked him something about a gang, and he probably said, you know, being a 16-year-old kid, "Oh, F you," or -- you know what I mean. Oh, (indiscernible gesture), whatever.

You didn't have to kill him though. You didn't. I [23] understand it was for your gang, your family, you know. I understand that. I forgive you, but I will never forget what you have done to our family. But my God tells me to forgive you, so I do. But I will never forget. I don't know if you are Catholic. I don't know what religion you are, you know.

But back to this. Your mom can still -- his mom can still see him, you know, as opposed to me. I can't go to the jail. I can't go somewhere to the hospital. I can't go to see my son. My son is gone. You took that away from me, you know. I will never have a grandbaby from him. I mean -- anyhow.

So I guess you did reach the level when you shot my son.

And, Your Honor, once again, it was a senseless killing to do unless -- I can understand if you were in Iran or Iraq and you wanted to kill. That's -- that's -- you know -- but they have gangs over there too, just in case you didn't know. I'm sorry. I really am. But that's my true feelings, Your Honor.

And these senseless killings go on every day. Every day you see in the newspaper and on the TV somebody got killed, and a lot of times, it is innocent people. They are in the wrong place, the wrong time, the wrong color, the wrong whatever, you know. My son did not have a hat. We already know that, you know.

I don't know what he said to you. I don't know what he said to anybody, but it still was a senseless murder. And I think that you should get a hundred years to life. You took my [24] son's life; I believe you should give up your life, you know. And it is hard out there. It is.

The only thing I -- I mean, you know -- the only thing I feel sorry about really, really, is the people you are leaving behind, the time -- you're so young -- and the time you can't spend with them, you know, even your baby growing up. And that's the stuff that makes me sad and makes me forgive you. Just that for her. But the other side is totally off, you know. And then the bad thing is it's a weird circle. It's a circle, if you don't know it. It's a circle. Crazy.

Okay, Judge, I guess I took enough of your time, but I beg of you, please, it's a life for a life, I believe. I never believed like that. I never did, you know. I always believed, oh, well, they should give him a second chance, until it happened to me, to my family, you know. Lord forbid it would be your family, his family, her family, you know. You just never know 'cause they do what they want.

Thank you.

THE COURT: Thank you.

Do you have any questions for this lady?

MR. VANZANT: No.

THE COURT: All right. Ma'am, thank you.

THE WITNESS: Thank you.

THE COURT: You may step down.

MR. NOZICK: I have no further witnesses, Your Honor.

[25] **THE COURT:** All right.

Did you want to have somebody address the Court on behalf of your client before I hear from you?

MR. VANZANT: Your Honor, it is my understanding that Marisa Quiroga would like to address the Court.

THE COURT: Do you have any objection to that, Mr. Nozick?

MR. NOZICK: Of course not.

MR. VANZANT: One second, Your Honor.

THE COURT: Sure.

MR. VANZANT: I'm sorry, Your Honor. Two.

THE COURT: Please raise your right hand to be sworn in.

(The oath was administered.)

THE WITNESS: I do.

THE COURT: You may be seated.

Mr. Vanzant.

MR. VANZANT: Thank you, Your Honor.

MARISA QUIROGA, DEFENDANT'S WITNESS,
SWORN

DIRECT EXAMINATION

BY MR. VANZANT:

Q. Could you please spell your name for the record.

A. M-A-R-I-S-A. The last name is Q-U-I-R-O-G-A.

Q. Thank you. What would you like to tell the Court, Marisa?

A. Darrick and I both know what it's like to lose a child, so [26] I understand where they're coming from, as well as he does.

Our daughter is three years old. She just turned three in November. She doesn't know her dad.

I've never known Darrick to hurt anybody. Yes, he is a gang member. Yes, he was in a gang. I've known Darrick since 2014. Yes, he hung out with them. Yes, he was around them. But when me and him got into a relationship and when he was with the girl that he was before me, for the five years that he was with her, he didn't go out. He wasn't in the streets. He didn't do any of that.

When I was with him, he worked two jobs, when he got laid off from his first one. He's a hard worker, and all he wanted to do was work and take care of his family. He did everything for his mom as much as he could. He helped her with bills. He -

Darrick has never even risen his voice to me. He's never laid a hand on me. The girl that he was with before, he helped raise her kids. He loves kids. My niece loves him. She's never even met him, but she tries to talk to him on the phone every time he calls me. She wants to tell him about her day and

everything that she does, how she gets good grades in school.

And even though my daughter doesn't know him like she should, she still asks about him. And when I ask her if she's mommy's baby or daddy's baby, she tells me that she's daddy's [27] big girl. And it hurts me to know that he will never know her the way that he should.

I don't believe he did any of this. You guys have the wrong person. I'm sorry. That's all I have to say.

THE COURT: Do you have any questions for this witness?

MR. NOZICK: No, Your Honor. Thank you.

MR. VANZANT: Thank you, Marisa.

Just one more, Your Honor.

THE COURT: Sure.

Raise your right hand, please.

(The oath was administered.)

THE WITNESS: I do.

THE COURT: Mr. Vanzant.

MR. VANZANT: Thank you, Your Honor.

KRISTYN KOK, DEFENDANT'S WITNESS,
SWORN

DIRECT EXAMINATION

BY MR. VANZANT:

Q. Could you please spell your name for the court reporter.

A. Kristyn, K-R-I-S-T-Y-N, K-O-K.

Q. What would you like to tell the Court, Kristyn?

A. Just wanted to express that Darrick is not the monster that he has been portrayed to be. I'm sorry.

He used to take my son to school. I trusted him with my baby boy. And that is not the man that he is being portrayed [28] to as today, and I think it is very unfortunate that he is missing time with his own children -- or his own child, that my son has more memories with Darrick than his own child does. I just don't think that that is right. And I just want everyone to know that he is not that monster he is being made out to be.

I, as a mother, would never have trusted him alone with my child if he was this evil person. He is not. And I would just like that to be taken into consideration for his sentencing.

My son loves him so much as an uncle that he couldn't even come today, and he really wanted to. That's it.

MR. NOZICK: No questions if that's what you are asking.

THE COURT: Mr. Nozick, do you have anything?

MR. NOZICK: Nothing.

THE COURT: Ma'am, thank you. You may step down.

MR. VANZANT: Your Honor, Mr. Vallodolid's mother was not able to be here, but she did submit a letter to the Court.

She is currently in Florida and can't travel.

THE COURT: Yes. I read the letter.

MR. VANZANT: Thank you, Your Honor. Nothing further, Your Honor.

THE COURT: Okay. Thank you.

Mr. Vanzant, as the lawyer for the defendant, is there anything you wish to say on his behalf before I sentence him?

MR. VANZANT: Thank you, Your Honor. [29]

I know you're probably tired of all the pleadings and filings we have had, Your Honor.

THE COURT: You put in a lot of hard work.

MR. VANZANT: This is a hard case, and I don't think there's a lot else that I can say that hasn't been said or that we've written over the past year and a half.

What I think this sentencing hearing is about is does Darrick deserve a second chance. The government, the guidelines, probation, they all think he doesn't. But if the seriousness of the offense was all that mattered in this case, then we wouldn't be here today.

I spent the last year gathering information about Darrick that I could present here to you so that you know something about who he is and what he has gone through in his life. And, as you know, the very first time that Darrick was involved with the criminal justice system was when he took his mom's car; and when the police brought him and the car back to her, rather than take care of it and not press charges, she told them to take him away. That was his first exposure to the criminal justice system, and what has happened again and again and what the government wants now is that same thing, to throw him away.

And that's what Darrick has experienced his entire life, growing up with a mother addicted to crack

who sold everything, including the family's refrigerator and their clothes, leaving Darrick homeless. The only people that he had were the Latin [30] Kings. And this has never been a dispute that Darrick was a Latin King. We have never disputed that.

But it was Michael Miranda, Chongo, who took Darrick in, another King, who took him off the street and brought him into his own home. And that's what Darrick grew up with. That's what he has. He's been in search of a family his entire life, and he was starting to build it.

Most of the events that we discussed at trial happened 2008, 2009, 2010, about 10 years ago. But that Darrick is not the Darrick that is sitting here today. It's not the Darrick that was sitting here in 2016 when this case began. That Darrick is the Darrick who went back to school to get his GED. You read Miss Pergher's letter. That's the Darrick who was working hard -- one, sometimes two jobs. His track record of employment goes back to 2014 and farther. It's not something you see very often. That's the Darrick who left Hammond and moved to Hobart where things started to turn around.

So leaving aside everything else that I've already said, the question is does he get a second chance. And I think the answer has to be yes because that is what this federal sentencing system is about. It's not just about retribution. It's not about the seriousness of the offense. It's not just about deterrence, but it's about a real person, that person right there, and whether or not we should throw him away. So all I'm asking is that you don't.

[31] Nothing further, Your Honor.

THE COURT: Thank you, Mr. Vanzant.

Mr. Vallodolid, is there anything that you wish to say on your own behalf before I sentence you, sir?

THE DEFENDANT: Yeah. I got something written down.

Growing up wasn't easy. Growing up wasn't easy, especially in my teens. At times, I didn't think there was even a God. I'm sorry. I was always in question about why was my family -- why was my family going through the things and why couldn't we just have a regular year.

When I was a juvenile, I constantly got in trouble with Hammond police and my mother. At times, I wanted to get away -- at times, I wanted to get away from my problems and go to jail. I remember the only thing that would cross my mind is, "Maybe when I come home" -- is, "When I come home this time, our family would be normal." Things never got normal. They got worse.

Losing my little brother -- losing my little brother, my best friend, rocked my whole world; and it turned it upside down. I used to try my best to shield him from what was going on at home, but even at times, I failed him. Our house was (indiscernible). Our dog Baby had to be put down. Darren was gone, my older brother, Darren, with his friends.

I don't know where my mom went, and that left me with Maxie. We used to sleep in the backseat of my Grand Marquee [32] together. And at night holding Maxie -- at night holding Maxie, I felt like Junior was going to come home, my mom was going to get clean,

and everything would be normal. Waking up in my car in the morning, it weighed on me all over again. I would look at Maxie, and she would be my hope.

Your Honor, when I became a Latin King, it wasn't -- it wasn't for the drugs; it wasn't for the girls. At that time and moment in my life, I thought it was for my friends, for my brothers. I felt like that was my family.

They didn't treat me like no outsider. They knew what was going on with my family. They said, "Come on." It was a big illusion. I should have knew better. I was hurting on the inside. I'm not saying that's no excuse. It was hard. It was hard.

When I met Mikey, people say he was a bad person, but I know him as a good person. He had his wrongs, but he tried his best to get me on track -- keep at work; go back to school, Darrick; do something with yourself; this ain't that; this ain't the lifestyle you want to live; you want to grow up and not grow old. He would always tell me, "Don't be like them. Don't be like them, always partying, always doing coke, don't be like them."

When he passed away, that hurt me so much 'cause I looked up to him. And I know I got my father in attendance, but I'm not trying to -- my dad was here and there, you know. He [33] wasn't around, you know. I'm not trying to disrespect him right now, but, you know, it was hard. So when I met Mikey, man, I looked up to him. Yeah, he was a King. He was a King. But I didn't look at him like that. I looked at him as someone I look up to.

I seen him take care of his kids. He was a coach of his son Mikey's -- baby Mikey's baseball team, and I

would start admiring it; and I started falling in love with his kids. So when his dad passed away, all the other Kings was like, you know, how they missed him and how they got love for him and how they do anything for him. And I would always tell them dudes, "Man, you guys don't love him, man. You guys don't even care about his damn kids. You guys don't fucking (indiscernible)." I would tell them that, "That's not no love. That ain't no family, man. You take care of his kids. You look after those kids. Just not when you get high or get drunk, that's not when you start thinking about them. What about his kids?"

I used to be over there holidays, birthdays, Thanksgivings, and they would be breaking down because they would always do something with his father, playing games, playing basketball. I was there and sometimes they would act out, and I would -- I would feel bad because their mom, Nada, she wouldn't know how to treat them or whatever. So I always try to comfort the kids, and just seeing that and seeing my supposedly friends that -- they wasn't there. This wasn't no [34] family like how it was portrayed to be -- to be when I became a Latin King.

So during this whole time, it was a process to me. And, like, 2012, 2011, that's when I really started opening up my eyes. Mikey passed away July 26th. So during that time, I started growing up instead of growing old. And my mom started getting back on track, and my father, he got out of jail. So I moved to -- back in with my mom in Hobart; got myself out of the situation.

I went back to school because my ex-girlfriend told me, Yesenia told me, "Look, you already got yourself

out the situation. Now it's time to step up. If you want to be a father of my kids, I don't want you out there in the streets." So, yes, I got back in school, and I was working. So I changed, Your Honor. I believe in my heart I changed from 2012, 2011. I was falling back.

And some of the older brothers, they honored it; some of the older brothers, they encouraged it. A lot of younger brothers, they didn't like that. They would hate on me. They would, like, talk down on me saying that I'm leaving it; but some older brothers, they understood what I went through, as far as my family; and when they knew my mom got back on track and when she got a place in Hobart, it was happy. They was happy for me. "Go ahead, Darrick. Go ahead. We understand." So when I got back with my mom, I was still bitter with her. I [35] was still -- it was hard for me 'cause of what happened, but we got through things.

So, you know, I do apologize, you know, to the city of Hammond when I was out there on the streets, you know, when I was a juvenile, you know. I was young and I wasn't thinking right. I'm not trying to say my mother and my father's -- whatever they had going on, I'm not trying to use that as no excuse. I take responsibility for what I was doing as a juvenile.

To the Lusinski family, I show empathy for you guys. To the mother, hearing you on the stand today, you know, that takes a lot. I'm not the one who hurt your son. I'm not the one who pulled the trigger, and I'm not cooperating. And I'm not no flipper, and I'm sorry. I'm going to keep fighting this charge. I'm going to keep fighting it, you know. So I don't know how you

guys feel about me, but I'm not the one who pulled the trigger.

That's it, Your Honor.

THE COURT: Thank you, sir.

Mr. Nozick, does the government have any comments or recommendations?

MR. NOZICK: I do, Judge. Briefly.

And I will tell you, there's nothing I can say that I think will be as, sort of, persuasive and moving as the words of the victim's mother and sister. I have very little to add. [36] I certainly believe that you got the full sense of the impact of this murder and the impact of the -- just, sort of, the lifetime of depression and anxiety and loss that this entire family will feel. So there's very little I can say on top of that that is persuasive.

I do want to point out a number of things, Judge. I think to some extent you are uniquely situated to hear this because you have heard so many of these gang murders, and you can, sort of, put this in, sort of, the universe of gang murders in trying to, sort of, stack up where does he compare to other defendants and where does this murder compare to other murders.

I will tell you that -- I'm also -- Mr. Cooley and I, Mr. Lanter, have handled most of those. This one is as depraved and brazen and horrific as we've seen. So many of these are gang members shooting each other. A lot of them are in the heat of the moment. We have had ones in other cases where the defendant's shot at and he drives around, catches him around the -- you know, the person who shot at him, catches him two

blocks away, or they have been shot at by the victim before.

They didn't know who this kid was. Mr. Lusinski lived in Lansing. He had been hanging out there in Hammond. They had seen him with people who they thought were Two Six. We haven't seen any evidence in this case that the victim was in a gang. No evidence of him being violent or having any confrontations [37] with the defendant or any of the Latin Kings.

What we have here is an innocent kid, a kid who - certainly, he had issues, like his mom said, like everyone, but a nonviolent, non-gang member kid who had no confrontation with anyone in Hammond, riding a bicycle, on Easter, in front of a school. You would be hard-pressed to lay out a more egregious set of facts than a kid riding his bike by a school getting shot in the head by a stranger who thought he might have been in a rival gang.

You know, the mom talked about the religious side. I'm going to stay away from that. I do want to highlight the fact that it's in front of a school. It wasn't a school day. It was a Sunday, but there are little kids there playing on the playground. We heard some of those kids testify at this trial. It is fortunate that not more than one child was shot that day. When you kill a kid in front of a playground, you could, obviously, end up with many more victims unintentionally.

We know that he bragged about it afterwards to other Latin Kings. We know that instead of, sort of, rising up and getting, sort of, street cred or props, this one was so egregious that other Latin Kings asked him, "What are you doing? Why didn't you just fight that kid? You thought he was in another gang, or his

hat's the wrong way. Why didn't you just fight that kid?"

We haven't really heard that about other murders, that the [38] defendant's own gang members are asking, "What the heck are you doing? What was that about? Why did you shoot that kid?" So this one was, sort of, repulsive and horrifying even to his own peers who questioned him afterwards.

You heard that when they did that, he was remorseless. "Why would we have these guns and not use them? That kid shouldn't have been in our neighborhood." And I understand that he has a right to trial and he has an appeal pending, but I would be remiss without pointing out his lack of remorse today.

I think, and I have said this before, there's a benefit to you having had all of these different gang cases 'cause you can see, sort of, the universe of gang murders. But there's also a danger that we in this district have just so many of these. A lot of U.S. -- obviously, a lot of districts aren't as violent and a lot of U.S. Attorneys' Offices don't take as many of these. So there can be, sort of, the effect on, and I'm not saying you suffer from it, but there can be an effect on all of us that we see so many of these that any one individual one isn't as horrifying, right.

If this case was charged in Vermont or Wyoming, it would be, sort of, the most violent, horrifying case in years. Whereas, unfortunately, in Northwest Indiana with Gary and Hammond and East Chicago, we see one after another after another, and there can be, sort of, a danger or a threat of, [39] sort of, being desensitized to them that we as prosecutors that can -
- that can suffer from.

And when we step back from it and think about it, and I've done so. Judge, I, like -- I do not come here on every case and say we have to max the person out. I don't come in here pounding the table and say everyone is the worst guy ever. But I believe to my core that the victim's mother, Deena, and sister Amanda are right, that this defendant deserves life in prison.

If this case does not -- if this criminal conduct, even with the 3553 factors, if this criminal conduct does not get you life in prison, I'm not sure why we have life sentences, and that's not hyperbole, Judge. This is as depraved as we are going to see.

I simply ask that you follow the recommendation of the victim's family and of probation and, of course, of the government and sentence him to life in prison. Thank you.

THE COURT: Okay. Thank you, Mr. Nozick.

Let's take about a 10-minute recess, and I'll come back out to announce the sentence.

(A recess was had at 2:08 p.m.)

(The following proceedings were held in open court beginning at 2:20 p.m., reported as follows:)

DEPUTY CLERK: All rise.

THE COURT: All right. You can be seated.

[40] The Court is prepared to announce its sentence. I have to take a lot of things into consideration when I sentence people under the sentencing statute, and the first thing I have to look at is what do the sentencing guidelines recommend as a sentence. And in this case, they recommend a life sentence. That's what factor that I have to look at and

take into consideration when I decide what is a reasonable sentence. But there's a number of other things I have to look at in addition to the guidelines, and each of these factors is equally important, and one is not more important than any other.

But I have to look at, in addition to the sentencing guidelines, what is the nature and circumstances of the offense. So, Mr. Vallodolid, I have to look at, obviously, what did you do and the totality of your behavior and your involvement with the Latin Kings, what was the nature of that conduct. I have to take that into consideration.

I also have to take into account your personal history and characteristics, and that's a very broad factor. It's things like your -- how were you raised, your family circumstances, any drug and alcohol problems, educational background, employment, do you have children. It's a whole range of things that I can take into account when I consider a defendant's personal history and characteristics. So I have to look at that as well.

I have to try to impose a sentence that's going to reflect [41] the seriousness of the offense, will promote respect for the law, provide just punishment for the offense.

I have to be concerned with deterrence of criminal activity. There's two types of deterrence. One is specific deterrence; that is, trying to get you from committing additional crimes. But there's also the concept of general deterrence, and that's the idea that hopefully you send a message to the community that when people engage in serious conduct and they have to be punished, that that will be heard in the

community and perhaps deter others. Whether that is effective or a kind of "pie in the sky" view of how humans act, who is to say. But it is something that I have to take into account when I sentence people.

I have to try to avoid unwarranted sentencing disparity among similarly situated defendants. That's another factor I have to take into account. And so, ultimately, I have to arrive at a sentence that's sufficient but not greater than necessary to take into account all of these varying factors, many of which, at times, conflict with one another. They are at crosscurrents with one another. So that's what I try to do in every sentence, and that's what I'll try to do here today.

Let's talk about the case. Obviously, you've been found guilty on two counts, conspiracy to participate in racketeering activity for your involvement in the Latin Kings as well as a large drug conspiracy. And you were arrested back in February, [42] I believe -- back in 2016, and you have been detained ever since.

You know, we've learned during the trial, and certainly during my sitting on this case more -- speaking more broadly, I think it involves roughly 40 to 50 defendants. But the Latin Kings are a violent street gang. When people join, they have to do things like post up in the neighborhood. They have to pay dues. They attend meetings. They get beat into the gang.

If they violate rules of behavior, they have to get - - subject themselves to "violations." They kind of get the heck beat out of them. They are usually armed when they are in the neighborhood. They shoot at rivals.

They follow rank. There's a very strict hierarchy in the gang, almost in a -- loosely speaking, almost militaristic, in the sense that, if you are higher up in the gang, you're in control. And so there's very much a hierarchy.

There's large scale drug dealing, armed robberies, drug rips; so when somebody joins an organization like that, it's serious business for sure.

You know, your particular role as it was revealed at trial, and as it's reflected in the presentence report, is consistent with what many of these gang members do. You joined as a very young -- very young individual but eventually rose to the rank of Inca of the 148th set. You held meetings. You helped to collect dues. Money was paid back to the Chicago [43] Kings prior to the split from Chicago and Northwest Indiana. You oversaw beatings of individuals who were being initiated into the gang. There were beatings of people who violated various rules.

You were regularly arming yourself, as reflected in paragraph 33 of the presentence report. You were involved in shooting prior to the incident in question. You were also involved in selling guns, illegal gun sales. That's reflected in paragraph 34 of the presentence report.

The record reflects, sort of, rampant drug dealing both by the Latin Kings, writ large, but you, in particular, on behalf of the gang or under the gang's umbrella. Jose Sanchez testified that he bought from you on a regular basis. Josh Roberts said he bought cocaine from you more than a hundred times over a four-, five-year period of time. That's reflected in paragraph 18 of the presentence report.

Jason Brown testified that he was present when you sold cocaine to a number of other people. It's all reflected in paragraph 20 of the presentence report.

Ralph Cancel similarly testified to that fact. Keith Manuel, this is paragraph 22 of the presentence report, was present when you would regularly pick up your coke from your source of supply; and so the evidence was, frankly, overwhelming about your rampant involvement in drug distribution and your rank in the gang.

[44] The murder of Victor Lusinski is just breathtaking in how it went down and the randomness of it. There was no reason for it. There's no reason for any of these. But this one, in particular, there was no reason for. You know, when one gang member shoots at another gang member in retaliation for being shot at the day before, in some bizzarro world, I understand that. These people are at war with one another, and they shoot at each other. And I have seen it for the last decade sitting here, case, after case, after case.

But this kid was not posing a risk to anybody. He is on a bike. It is Easter Sunday, and he's just out hanging around. And he is not doing anything wrong. He's 15 years old. Is that right, 15 years old?

MS. LUCINSKI RENTERIA: Yes.

THE COURT: Just going about his business. And he got shot for no reason, no reason at all, other than your perception of him as a potential rival gang member. And as it turned out, you were wrong. He was just some nice kid.

There's no expression of remorse here at all. And, indeed, there's evidence that the defendant was

bragging about it after the fact and taking joy in accepting this self-given nickname based upon the gun that was used in this shooting. It's clearly done, and as the jury found, it's done as a way of promoting one's involvement in the gang. This is how, in this depraved world of gang activity, one progresses in the gang, by [45] doing crazy, crazy things. I agree with Mr. Nozick that even -- there's evidence here that even the Latin Kings were like, this is beyond the pale. There was no point to this.

So that's the nature of the offense, and that's what I have to take into account. That's what the evidence suggested, and it's reflected in the presentence report.

You also have a substantial criminal history, a series of juvenile adjudications, which I don't normally put a lot of weight on. Those are -- people do things when they are 14, 15 years old that -- there's all sorts of reasons why those occur. But, nonetheless, it's worth noting that there's a series of juvenile adjudications.

There's also a number of adult convictions: Three that are, I would describe, as minor convictions; two other drug-related convictions as an adult. So I have taken that into consideration as part of your personal history and characteristics. When you arrive in this courtroom, that's part of your background.

I also, without question, take into account your family circumstance. It's -- unfortunately, it's not all that different from many of the defendants that I have seen in this courtroom that were in this gang and other gangs. Very frequently raised in a one-family household, one-parent household. Your dad is present here today but without any -- I don't mean any

disrespect to him -- but he seems to have been [46] pretty absent in your life. So it was really a one-parent household, and that's barely so. Without disrespecting your mom, it's very fair to say that, you know, she didn't do you right. She had a demon of a drug addiction, and that undoubtedly formed who you are; and it's part of your personal history and characteristics.

In fact, by age 18, you moved out and were living, essentially, in a car and in friends' apartments. And you eventually hooked up with this other Latin King and lived with him for a couple of years. And he was trying to get you on the right track, and I guess he ended up murdered as well. So I have taken that all into consideration.

I also understand that you suffered some head trauma as a young kid in a diving accident and maybe a barroom kind of situation where you were hit by a pool cue. You have a lengthy history of drug and alcohol abuse, to be sure.

You have very little education. You dropped out in ninth grade. You were a very, very poor student. I don't think that's not because you're not a very smart guy. I think quite to the contrary of it. I think you're probably quite capable, and that's by virtue of the fact that you went on to get a GED. It demonstrates you have the capability, but for whatever reason, likely because of a lack of parental guidance, you dropped out in ninth grade. You had, like, below a 1.0 grade point average. I have taken that all into consideration as [47] well.

I've read very closely these reports that have been submitted to me by Mr. Vanzant and Mr. Bedi, who

have done a fine job working very hard for you doing their best to represent you. I will say though that the report -- let me just grab it here. The report from Dr. Gaskell I read very closely. And in many ways it just strikes me as very similar to what I've seen from many of the defendants in this case given how they were raised, the very difficult circumstances that they face, and so I have taken that report into account in my ultimate disposition of the case as well as the substance abuse assessment.

I think that the letter from Ms. Pergher was a very sweet letter, very nice. It was obvious that you made an impression on her in some way. I think it was noteworthy, and I definitely read that.

So the question, of course, you know, you have to ask is, what is a fair sentence, taking the totality of this information and taking into account what the guidelines suggest, which is, of course, it is just a suggestion.

Let me comment on one thing though, a specific argument that was raised by counsel, and that relates to the sentence that was given to Anton James. It's always a little dangerous to compare defendants because there's always differentiators. Every case has to be evaluated on the individual facts and [48] circumstances of that person, but I have to be mindful of not giving unwarranted sentencing -- avoiding unwarranted sentencing disparity because, of course, that's one of the 3553 factors. Because that was specifically pointed out by counsel, I think it is worth addressing.

Mr. James, first of all, admitted his involvement in the Latin Kings. He pled guilty. He also admitted to

being involved in between 5 and 15 kilograms of cocaine. Mr. James, in contrast to this defendant, had no adult convictions. He held no rank in the gang. In fact, he was a future at the time he shot -

Mr. Contreras?

MR. NOZICK: Martin Hurtado, Sr.

THE COURT: I'm sorry. Yes.

Mr. Contreras is at the bar, correct?

MR. NOZICK: (Nodding head in the affirmative.)

THE COURT: I'm sorry.

In any event, he was a future at the time, not even a full-fledged member, if I remember right. And he was also found responsible for the murder under a preponderance of the evidence standard, and I made specific note of that at the sentencing. And I think that's a factor I could reasonably take into account at that sentencing, all of which is a differentiator from this case. So I do want to point that out because that specific argument was made to me by Mr. Vanzant in [49] his sentencing memo to me.

And so I have taken all of this into consideration, and I've arrived at the following sentence that I intend to give. I will give counsel one final chance to make any final comments or make any other objections.

But it is the judgment of the Court pursuant to Title 18, United States Code, Section -- just give me one second here -- it is the judgment of the Court that the defendant is hereby committed to the custody of the Bureau of Prisons for a term of life on each of Counts One and Two to be served concurrent with one another. The defendant will then be placed on five

years of supervised release, should he ever be released, and those terms are concurrent on both Counts One and Two.

While the defendant is on supervised release pursuant to this judgment, the defendant shall comply with the following mandatory conditions: The defendant shall not commit another federal, state, or local crime. The defendant shall not unlawfully use, possess, or distribute a controlled substance. The defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic tests thereafter for use of a controlled substance. And, fourth, he shall cooperate in the collection of DNA as directed by the probation office.

There's a number of discretionary conditions that I will detail on the record here.

[50] Mr. Vanzant, what my procedure has been is to simply identify the condition by number that's detailed in the presentence report, incorporate the language of the condition as well as the reasoning for each of these conditions into my comments here in open court today. Do you have any objection to that procedure?

MR. VANZANT: No objection, Your Honor.

THE COURT: All right. So I will give the following discretionary conditions. We are on page 26 of Document 2120: Number 1, Number 2, Number 3, Number 4, Number 5, Number 6, Number 7, Number 8, Number 9, Number 10, Number 11, Number 12, Number 13.

I'm going to impose no fine given the defendant's lack of assets makes it unlikely that he'll be able to

pay a fine. The fine is waived in this case. But he is ordered to pay a special assessment of \$100 on each of the two counts to which he has pled guilty for a total of \$200.

The sentence that I have just given is within the advisory guideline range. I have given a guideline sentence in this case without putting any thumb on the scale in favor of what the guidelines suggest. I just happen to think that it is the appropriate sentence given just the depravity of the shooting of Mr. Lusinski as well as all of the other involvement with the Latin Kings that I detailed at length a few minutes ago. And when you combined all of that, I think that a life sentence [51] is justified.

Counsel, do either of you know of any reasons, other than what you have already argued, why the sentence should not be imposed as stated?

Mr. Vanzant?

MR. VANZANT: No, Your Honor.

THE COURT: All right. Mr. Nozick?

MR. NOZICK: No, Your Honor.

THE COURT: Have I taken into account your principal arguments in aggravation and mitigation?

Mr. Vanzant?

MR. VANZANT: Yes, Your Honor.

THE COURT: Mr. Nozick?

MR. NOZICK: Yes, Your Honor.

THE COURT: All right. I do order the sentence imposed as stated.

Mr. Vallodolid, you have heard the judgment of the Court imposing sentence upon you. Pursuant to Rule 32(j) of the Federal Rules of Criminal Procedure, I advise you that you can appeal your conviction in this case. You also have a statutory right to appeal your sentence under certain circumstances if you think it was contrary to law.

Any notice of appeal must be filed within 14 days of the judgment being entered in your case; and if you want to file an appeal but you are unable to pay for the costs of an appeal, [52] you may apply for leave to appeal *in forma pauperis*, which means you can pursue an appeal at no cost to you.

And, Counsel, I just remind you of your duties to perfect an appeal should your client wish you to do so. You do remain responsible for his representation on appeal unless you are relieved by the Court of Appeals upon motion. Okay. Is there anything else from the defense?

MR. VANZANT: Two requests for recommendation in the judgment, Your Honor. One for RDAP. Second for a prison near Ocala, Florida, O-C-A-L-A. It is where Mr. Vallodolid's family is.

THE COURT: Okay. I will include both of those in the J and C. All right.

Anything else from you, Mr. Vanzant?

MR. VANZANT: Nothing further.

THE COURT: Mr. Nozick, anything from you?

MR. NOZICK: No, Your Honor. Thank you.

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THE COURT: All right. Thank you, Counsel. I appreciate you taking this work on. I know how far you guys come from. The Court appreciates it.

Okay. We'll be in recess.

(A recess was had at 2:44 p.m.)

* * *

(End of requested transcript.)