

O7CVGUOT

1 UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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3 UNITED STATES OF AMERICA,

4 v.

23 Cr. 118 (AT)

5 MILES GUO,

6 Defendant.

Trial

7 -----x

New York, N.Y.  
July 12, 2024  
9:25 a.m.

8 Before:

9  
10 HON. ANALISA TORRES,

District Judge  
-and a Jury-

11 APPEARANCES

12  
13 DAMIAN WILLIAMS  
14 United States Attorney for the  
Southern District of New York  
15 BY: MICAH F. FERGENSON  
RYAN B. FINKEL  
16 JUSTIN HORTON  
JULIANA N. MURRAY  
17 Assistant United States Attorneys

18 SABRINA P. SHROFF  
Attorney for Defendant

19 PRYOR CASHMAN LLP  
20 Attorneys for Defendant  
21 BY: SIDHARDHA KAMARAJU  
MATTHEW BARKAN  
JOHN KILGARD

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23 ALSTON & BIRD LLP  
Attorneys for Defendant  
24 BY: E. SCOTT SCHIRICK

25

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1 Also Present:

2 Isabel Loftus, Paralegal Specialist, USAO

Robert Stout, Special Agent, FBI

3 Jorge Salazar, Defense Paralegal

Tuo Huang, Interpreter (Mandarin)

4 Shi Feng, Interpreter (Mandarin)

Barbara Robertson, Interpreter (Mandarin)

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1 (Trial resumed; jury not present)

2 THE COURT: Good morning.

3 Please make your appearances.

4 MS. MURRAY: Good morning, your Honor.

5 Juliana Murray, Ryan Finkel, and Justin Horton, on  
6 behalf of the United States.

7 We're jointed by Paralegal Specialist Isabel Loftus  
8 and Special Agent Robert Stout.

9 MR. KAMARAJU: Good morning, your Honor.

10 Sidhardha Kamaraju, Sabrina Shroff, Scott Schirick,  
11 and Matthew Barkan, on behalf of Mr. Guo.

12 And Mr. Guo is with us at counsel table.

13 THE COURT: Please be seated.

14 I received a second note from the jurors at 9:19; it's  
15 dated today's date. It's signed by the foreperson. I'm making  
16 it Court Exhibit No. 2.

17 It states: We, the jury, request the hard copies of  
18 GX 79 we received in the black binders early in this trial.  
19 Also, a hard copy of GX 417-T.

20 I'm sorry, GX Z-9 is the first item.

21 So GX Z-9 is one item. But the transcript of GX  
22 417-T, that has -- that's a binder that has other items in it.

23 And so my question is would you want me to send back  
24 the whole binder or just GX 417-T?

25 MR. KAMARAJU: I think we should send back what they

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1 ask for, your Honor.

2 MR. FINKEL: Your Honor, these are transcripts they  
3 have electronically; so sending them more of them in a hard  
4 copy I think would just make things easier for the jury. It  
5 would be easier for the parties and your Honor's staff as well,  
6 since they're already put together in a binder, which they've  
7 already been provided.

8 So the government's view would be to just send back  
9 both sets of the binders, the Z-9 binder, which I understand  
10 your court staff has, and the 400 series binder, which includes  
11 417-T.

12 THE COURT: So the one that contains GX 417-T, also  
13 contains GX 404-T, GX 405-T, GX 406-T, GX 408-T, GX 409-T, GX  
14 411-T, and GX 412-T and GX 413A-T.

15 MR. FINKEL: Your Honor, on further reflection,  
16 hearing all those, if the Court's preference is to just send  
17 back 417-T, it won't take us very long to print those off and  
18 we can do that instead, just to avoid an issue, frankly.

19 THE COURT: Understood.

20 Yes, it would be simple just to send back the GX  
21 417-T.

22 MR. FINKEL: Your Honor, we're going to print them  
23 right now, bring them up, so we don't have to break apart the  
24 binders, which would take more time actually, I think. We'll  
25 just print 417-T, bring them up.

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1 THE COURT: All righty. Go ahead.

2 MR. FINKEL: We're doing that now. It will take a few  
3 minutes.

4 One other item, your Honor, that came to our attention  
5 last night, if your Honor is ready for a different issue.

6 I don't know if this is really an issue, I guess it's  
7 really more for the defense. But in an abundance of caution, I  
8 just wanted to raise it with your Honor and the Court -- with  
9 your Honor and the defense.

10 Upon reviewing the transcript last night, during the  
11 charge - this is at page 5787, and I have hard copies, if the  
12 Court would like - when discussing the government's burden and  
13 what is reasonable doubt, your Honor, according to the  
14 transcript, said: If you have reasonable doubt as to the  
15 defendant's guilt, you should not hesitate to find the  
16 defendant not guilty. But on the other hand, if you find that  
17 the defendant has met its burden of proving the defendant's  
18 guilt beyond a reasonable doubt, you should not hesitate to  
19 find the defendant guilty.

20 THE COURT: So I specifically remember that  
21 misstatement and then going back and saying "government."

22 Does the defense concede that that is what I said?

23 MR. KAMARAJU: Yes, your Honor. We're fine.

24 THE COURT: Okay.

25 MR. FINKEL: Thank you.

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1 THE COURT: So I will ask that the transcript be  
2 corrected.

3 MR. FINKEL: Thank you, your Honor.

4 THE COURT: So we still have the issue of the first  
5 note. My sense is that the second note is a clarification of  
6 the first item requested in the first note. Do you agree?

7 MR. KAMARAJU: That was my impression, your Honor.

8 MR. FINKEL: Government agrees.

9 THE COURT: Okay. So then the issue becomes then what  
10 about this restatement of the limiting instruction?

11 MR. KAMARAJU: I think we should ask them. Because I  
12 think there are a number of limiting instructions that your  
13 Honor gave over the course of the trial. I think some of them  
14 were different, and I think they have different import. So I  
15 think we should just ask the jury to be clear as to what they  
16 mean by it.

17 THE COURT: Okay. Let's have the jurors brought in.  
18 (Jury present)

19 THE COURT: Please be seated.

20 Good morning, jurors.

21 THE JURY: Good morning.

22 THE COURT: When we stopped yesterday, I read out loud  
23 the note that I had received from you; it contained two  
24 requests. The first request was physical copies of  
25 transcripts. Then this morning at 9:19 a.m., I received a note

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1 stating: We, the jury, request the hard copies of GX Z-9 we  
2 received in the black binders early in this trial. Also a hard  
3 copy of GX 417-T.

4 Those, I believe, are the transcripts that you were  
5 referring to in the first note. If I'm wrong, then you'll send  
6 me another note.

7 With regard to the second request from yesterday,  
8 restatement of limiting instruction, I need more details about  
9 what it is that you're requesting because I don't entirely  
10 understand the request. I will need that in a note.

11 So you'll go back to the jury room.

12 (Jury not present)

13 THE COURT: You maybe seated.

14 So I'll let you know when the second note of today  
15 comes.

16 MR. KAMARAJU: Thank you, your Honor.

17 (Recess pending verdict)

18 THE COURT: Please be seated.

19 I received a third note from the jury at 10:49 a.m.  
20 I'm making it Court Exhibit No. 3. It's signed by the  
21 foreperson. It has today's date.

22 It states: We, the jury, one of the jurors disclosed  
23 they had Googled William Je this morning.

24 How would you like me to handle this?

25 MR. KAMARAJU: Could we just have a moment, your

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1 Honor, to confer.

2 (Counsel conferred)

3 MS. SHROFF: Your Honor, I apologize.

4 Could the Court reread the note, please?

5 THE COURT: Sure.

6 MS. SHROFF: Thank you.

7 THE COURT: It states: We, the jury, one of the  
8 jurors disclosed they had Googled William Je this morning.

9 MS. SHROFF: Thank you, your Honor.

10 (Counsel conferred)

11 THE COURT: The most recent case that we've found on  
12 replacing a juror for good cause because of juror misconduct is  
13 *United States v. David Delva*, 858 F.3d 135.

14 MR. KAMARAJU: Your Honor -- I'm sorry. I wasn't sure  
15 if you were done.

16 Ms. Shroff and I actually dealt with this in *U.S. v.*  
17 *Schulte*. And the way that we handled it there -- or Judge  
18 Crotty handled it there was I believe the Court made an inquiry  
19 of the foreperson as to what was the sort of disclosure, you  
20 know, whether the person told any of the jurors what they found  
21 on Google, and which juror it was, since we obviously don't  
22 know strictly from the note.

23 So I think that be would the next step, would be to  
24 have an inquiry on the record with the foreperson to see what  
25 information the parties can get, obviously cautioning the



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1 foreperson not to disclose anything about deliberations that  
2 the jury is having.

3 MR. FINKEL: Can we have one moment to review the case  
4 and want to respond.

5 MS. SHROFF: Your Honor, the note says that the  
6 juror -- one juror informed that they had Googled William Je.

7 THE COURT: Correct.

8 MS. SHROFF: So it's unclear if there was any  
9 followup, right.

10 THE COURT: Correct.

11 MS. SHROFF: I just can't tell from the note how far  
12 the taint into the jury venire -- I mean the jury -- the 12  
13 jurors has gone.

14 May we just have a slight break so we can figure out  
15 how --

16 MR. KAMARAJU: I think we should ask the foreperson.

17 THE COURT: I'm sorry?

18 MR. KAMARAJU: Could we just have two minutes?

19 THE COURT: A couple of minutes.

20 (Counsel conferred)

21 THE COURT: Please be seated.

22 I'm going to hear first from the defense.

23 MR. KAMARAJU: Your Honor, I think we would adhere to  
24 our proposal that I think your Honor should question the  
25 foreperson first to, one, identify which juror made this

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1 disclosure; and, two, understand what the extent of the  
2 disclosure is.

3           During that inquiry I think your Honor, as naturally  
4 would, should at the beginning caution the juror to not  
5 disclose anything about the deliberations, and limit their  
6 answers to specifically the disclosure about the Google.

7           And I would propose that inquiry should happen not in  
8 the box, but in the robing room.

9           MR. FINDEL: So, your Honor, obviously it's unclear  
10 exactly what the information is. They have the indictment,  
11 right, which names William Je. They've obviously heard about  
12 him. So if it's -- well, we don't necessarily oppose what  
13 defense counsel has proposed. We certainly agree that any  
14 inquiry the Court -- seems to be another note?

15           THE COURT: Yes. If you'll just finish your sentence.

16           MR. FINDEL: I was going to say, we agree the inquiry  
17 should be limited. We provided a case cite to your clerks and  
18 to defense counsel, *U.S. v. Farhane*, 634 F.3d 127. And it  
19 describes about the court's broad discretion in how to handle  
20 these sorts of issues.

21           And so largely this is within your Honor's discretion.  
22 Certainly there does not seem to be any taint, based on the  
23 content of the letter. They seem to be very specific about it.

24           THE COURT: So I've received another note from the  
25 jury. It's from 11:16 a.m. I am making it Court Exhibit No.

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1 4. It's dated today's date and signed by the foreperson.

2 It states: We, the jury, per the last -- no, per last  
3 note, we have stopped deliberations pending instruction.

4 Should we continue to pause or may we resume while you review?

5 So I'd like to call the foreperson into the robing  
6 room, along with counsel.

7 MR. KAMARAJU: Thank you, your Honor.

8 Your Honor? Did you want Mr. Guo to be back there?

9 THE COURT: Are you making that request?

10 MR. KAMARAJU: No, your Honor, we weren't. We  
11 weren't. The marshals just asked. We're not making a request.

12 THE COURT: Okay.

13 (In the robing room)

14 (Foreperson present)

15 THE COURT: At 10:49, I received a note from the jury.  
16 It says: We, the jury, one of the jurors disclosed they had  
17 Googled William Je this morning. And it's signed by the  
18 foreperson and dated today's date. And I made it Court Exhibit  
19 No. 3. We have with us the foreperson of the jury, Juror No.  
20 1.

21 I received another note at 11:16 a.m.; it is Court  
22 Exhibit No. 4, also signed by the foreperson, dated today's  
23 date. It states: We, the jury, per last note, we have stopped  
24 deliberations pending instruction. Should we continue to pause  
25 or may we resume while you review?

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1           So first I want you to listen to my questions very,  
2 very carefully and only answer what I'm asking. Above all, I  
3 don't want you to state anything about the deliberations; where  
4 you stand, for example, as to whether or not the defendant is  
5 guilty or not guilty. You understand?

6           FOREPERSON: Yes.

7           THE COURT: All right.

8           My first question is which juror?

9           FOREPERSON: No. 2.

10          THE COURT: Okay. And you say that he stated that he  
11 had Googled William Je.

12          Did he state anything further, for example, about what  
13 he had found out?

14          FOREPERSON: No.

15          THE COURT: Did he state anything beyond the fact that  
16 he had Googled William Je?

17          FOREPERSON: She stated why she did it, and that was  
18 it.

19          THE COURT: Was everyone -- were all the jurors in the  
20 room at that time?

21          FOREPERSON: Yes.

22          THE COURT: And from your observation, do you think  
23 that everyone heard that? I know it's impossible for you to  
24 say what someone else heard, but based on your observation?

25          FOREPERSON: Yes.

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1 THE COURT: Okay. I'm going to excuse you for now. I  
2 don't want you to discuss what we have discussed.

3 FOREPERSON: Okay.

4 THE COURT: All righty.

5 (Foreperson not present)

6 MR. FINKEL: Your Honor, you should instruct the  
7 foreperson to not continue deliberations while we continue  
8 this.

9 THE COURT: I think that they have said they've  
10 paused.

11 MS. SHROFF: Right.

12 THE COURT: So I propose bringing in No. 2 at this  
13 time.

14 MR. FINKEL: Your Honor, to the extent I may, to the  
15 extent your Honor feels it appropriate, obviously it's within  
16 your Honor's discretion, I think one question for Juror No.  
17 2 -- back to it.

18 To the extent your Honor feels it appropriate to ask,  
19 whatever Juror 2 may have seen, obviously could be any number  
20 of things. The question is whether that juror can place  
21 whatever they saw out of their mind and just focus on what is  
22 evidence at the trial, just consistent, of course, with your  
23 Honor's general instructions. The government thinks that would  
24 be an appropriate inquiry at this point.

25 MS. SHROFF: No.

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1 MR. KAMARAJU: So obviously --

2 MS. SHROFF: That's not the --

3 MR. KAMARAJU: Sorry.

4 Obviously it will depend on what is said. But there  
5 is a more fundamental question of the juror disregarding the  
6 Court's instruction not to Google or do any outside research,  
7 which is independent from their ability to set aside -- sorry,  
8 which is independent from their ability to set aside whatever  
9 they found. So I'm not proposing any course of action now, but  
10 I am saying there are two distinct issues here that we're going  
11 to have to deal with.

12 MS. SHROFF: Actually, I think there are three, your  
13 Honor.

14 THE COURT: I see a third issue.

15 MS. SHROFF: Right.

16 THE COURT: A third issue is --

17 MS. SHROFF: What she said to the jury about why she  
18 Googled William Je. That's the biggest question.

19 The question is how far the taint goes into the jury.  
20 This should be very -- I'm sure the Court knows this. The  
21 first step is just to ask her what is it that she said to the  
22 entire jury pool, and stop there. Because I personally, given  
23 her answer, would like to talk to an appeals lawyer before I  
24 take the next -- I think the most important question isn't what  
25 she did, the first question is what she said to the jury about

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1 what she did. This isn't just about what -- that particular  
2 juror.

3 MR. FINKEL: I understand that. Obviously we should  
4 see what she says. But the ordering is important here. She  
5 explained why she did something, not the result of what she had  
6 done.

7 MS. SHROFF: You don't know that.

8 MR. FINKEL: Can I please finish, Ms. Shroff?

9 You're right, we don't. We need to see what she says.  
10 But please just please, thank you.

11 It would be different -- and we'll see what she says.  
12 But it's obviously different if Juror No. 3 said, and  
13 apparently did not -- Juror No. 2, excuse me, said -- apparently  
14 did not -- I Googled it and, as a result of what I Googled, I  
15 believe this.

16 She said, We were discussing something in here and  
17 because of that I Googled something. And it appears the rest  
18 of the jury said, Stop. And the jury did the right thing. So  
19 I think that's important. And we'll see what she has to say  
20 and the government will evaluate.

21 THE COURT: If she said more than "I Googled William  
22 Je," then there's the question of what impact did that have on  
23 the 11 other jurors.

24 MR. FINKEL: Absolutely, your Honor.

25 But if she said --

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1 THE COURT: In other words, I don't see how I cannot  
2 interview every single juror.

3 MS. SHROFF: That's correct.

4 MR. FINKEL: We have to see what, I think, she said  
5 first. That would be the government's proposal, your Honor.

6 For example, if she says, I saw that William Je was  
7 charged in this case, they know that. He's on the indictment.  
8 So there would be no prejudice there.

9 So it depends what the information is.

10 THE COURT: So there are two pieces: What did she  
11 see, what did she learn; and number two, what did she say.

12 MR. FINKEL: The government agrees. The government  
13 agrees.

14 MS. SHROFF: I just think the order is the opposite.  
15 What she told the jury is more vital than what she saw or what  
16 she comprehended.

17 The first question, the Court is correct, is what did  
18 she say to the jury as to why she Googled William Je. And then  
19 I think every juror must be questioned. I can't imagine that  
20 that taint should not be explored.

21 THE COURT: I don't think we should assume that he has  
22 adequately characterized what happened.

23 MS. SHROFF: Oh, that's true.

24 THE COURT: I think I should first ask her whether she  
25 made any statements concerning William Je. I think that's



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1 where I have to start.

2 MR. FINKEL: It would be about the Google Search  
3 though. Of course they are talking about --

4 THE COURT: About the Google Search, yes.

5 MR. FINKEL: Thank you, your Honor.

6 (Juror present).

7 THE COURT: Hello.

8 JUROR: Hi.

9 THE COURT: You're Juror No. 2, right?

10 JUROR: Yes.

11 THE COURT: I want you to listen very, very carefully  
12 to my questions, and only answer the question that I'm asking.

13 Understood?

14 JUROR: Yes.

15 THE COURT: Did you say this morning in the jury room  
16 that you had Googled William Je?

17 JUROR: Yes.

18 THE COURT: Did you state what you had learned? This  
19 is a yes-or-no question.

20 FOREPERSON: No. I mean -- yes, yes.

21 THE COURT: And what is it that you said?

22 FOREPERSON: I just -- because the indictment  
23 mentioned also William Je and, frankly, I just wanted to know  
24 if there was also a case on William Je. So what I told them  
25 was that -- I said, Well, this case also involves William Je.

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1 So we are, you know -- it's because what we were -- there was  
2 one person --

3 THE COURT: Well, no, no, no. I can't have you  
4 discuss anything that was said by somebody else.

5 JUROR: Okay.

6 THE COURT: I am concerned about what you said to the  
7 others.

8 JUROR: I just told them that I had did -- that I  
9 wanted to know if there was also a case against William Je.  
10 And I said that I did Google his name, and that there -- you  
11 know, there was also a case against him. That's all I said.

12 THE COURT: That's it?

13 JUROR: That's it.

14 THE COURT: That you Googled William Je; there was a  
15 case against William Je.

16 JUROR: Yes.

17 THE COURT: Okay. You may step out.

18 (Juror not present)

19 THE COURT: Okay. So I did not ask whether she could  
20 put aside what she learned, because I wanted to first ask  
21 whether you want me to ask any additional questions before I go  
22 there.

23 MR. KAMARAJU: I think it would be helpful to know  
24 when she conducted this Google Search.

25 MS. SHROFF: And when she told the jurors, just so

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1 that we have that clear on the record, if the Court wants.

2 But, your Honor, I think she mentioned before the last  
3 two answers as to why she Googled William Je. So I wasn't  
4 clear if she also shared that information with the jury as to  
5 why she Googled him.

6 MR. FINKEL: So --

7 MS. SHROFF: Because we cut off the answer -- rightly  
8 so -- but maybe there is a more precise or narrow way to ask why  
9 she did it.

10 MR. FINKEL: The government has no objection to the  
11 two questions, when she Googled it and what time she told the  
12 jury approximately. I think those are fine.

13 The "why" question seems to go into their  
14 deliberations. And I think your Honor appropriately cut her  
15 off. The why seemed to be a response to something that was  
16 happening in the jury room, that's my take on it. I obviously  
17 don't know.

18 It also seems that what she learned is not anything  
19 different than information that they have. Because they have  
20 the indictment; they know William Je was charged.

21 THE COURT: So I did not get the impression that the  
22 reason had to do with something going on in the jury room. It  
23 seemed to me that it was her individual question about William  
24 Je. She certainly didn't identify that this was part of their  
25 discussion. And I do agree that the only question is when did

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1 she do the search and when did she tell the jurors.

2 Would you have her come back in.

3 MS. SHROFF: Your Honor, would the Court consider  
4 asking if the jurors deliberated between the first and the  
5 second note?

6 MR. SCHIRICK: In other words, is it clear that once  
7 Juror No. 2 said what she said, that they paused deliberations  
8 right away.

9 MS. SHROFF: Because there was a slight lapse.

10 THE COURT: Okay.

11 (Juror present)

12 THE COURT: So, once again, I caution you to just  
13 answer the question that I'm asking.

14 When did you do the Google Search?

15 JUROR: This morning.

16 THE COURT: What time?

17 JUROR: Six in the morning, more or less.

18 THE COURT: When did you tell the other jurors that  
19 you did the Google Search?

20 JUROR: Like half hour ago, 40 minutes ago.

21 THE COURT: So right now it's 11:33. You think that  
22 you told them around 11?

23 JUROR: I didn't look at the time, but it was right  
24 when they sent you the note.

25 THE COURT: And when you told them, did the jury

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1 continue deliberating or was there a stop at that point?

2 JUROR: They stopped.

3 THE COURT: Okay. Thank you. You can step out.

4 (Juror not present)

5 THE COURT: So I think at this point the appropriate  
6 question is whether she can set aside anything that she may  
7 have learned about William Je. Agreed?

8 MS. SHROFF: No, your Honor.

9 MR. FINKEL: Yes, your Honor.

10 MS. SHROFF: I think the fact that she has broken one  
11 of the rules imposed by the Court, and a rule that the juror is  
12 supposed to follow, I think that that necessarily means that  
13 she cannot continue as a juror. I'm happy to take some time  
14 and do the research, but I think a juror who breaks the Court's  
15 rule -- and I believe that's what happened with *Schulte*.

16 MR. KAMARAJU: That was Judge Crotty's ruling.

17 MS. SHROFF: The moment somebody breaks a rule, I  
18 don't think they can continue deliberating as part of the jury.

19 MR. FINKEL: So, your Honor, we provided a case cite  
20 to your staff and also to the defense, it's *U.S. v. Farhane*,  
21 provides that the district court has broad discretion in how to  
22 handle this matter. I just read this case, so if I have a fact  
23 wrong, please forgive me.

24 But I think what happened in that case was a juror  
25 Googled a co-defendant or a co-conspirator and found out they

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1 had pled guilty, which was information that, as it turned out,  
2 the defense had made a point of in their closing. In other  
3 words, it was information -- and again, forgive me if I have a  
4 fact wrong, I'm sorry. It was information that the jury knew;  
5 so there was no harm, no prejudice, and the conviction was  
6 upheld.

7           Given what we know, which is Juror No. 2 Googled  
8 William Je and found out that he had been charged, and that  
9 that information is known to them because the indictment was  
10 sent back to them, which lists William Je, was sent back as  
11 agreed by the parties, the jury stopped. There was no further  
12 deliberation.

13           I think the only remaining inquiry that would be  
14 appropriate, this is the government's view, is to say to Juror  
15 No. 2, Can you follow my directions, are you going to follow my  
16 directions and put out of your mind, as your Honor suggested,  
17 whatever you may have seen? And if the Court is satisfied in  
18 your Honor's discretion that Juror No. 2 can do those things,  
19 the government's view is that the Court is on firm ground to  
20 continue.

21           MS. SHROFF: Your Honor, may I?

22           So *United States v. Farhane* was an Eastern District  
23 terrorism case. In that case, the co-defendant's guilty plea  
24 was part and parcel of the record, as I recall it.

25           Here, William Je is being charged, was not front and

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1 center before the jury.

2 But put that issue aside.

3 So far the questions that have been posed to Juror No.  
4 2 do not include what else she found out during a Google  
5 search. So far the record indicates what she shared with the  
6 11 other jurors after she did the Google search.

7 So at the very least this Court would have to inquire  
8 whether or not she read anything more about William Je, then  
9 take the next step and inquire whether or not that would impact  
10 her thought process, and then do the reassurance step that the  
11 government suggests.

12 There is zero argument from the defense side that this  
13 Court does not have wide discretion. Of course it goes without  
14 saying this is all within the Court's discretion, 100 percent.  
15 How that discretion is exercised though is what we're talking  
16 about. And it would be the defense's position that the inquiry  
17 has to be a minute step-by-step. And a juror who disregards  
18 direction and conversation is curtailed by the other jurors  
19 would be a juror that should be replaced.

20 THE COURT: But is that your application? Is that the  
21 application of the defense?

22 MS. SHROFF: Actually, we haven't -- I'm just trying  
23 to think through the steps. I'm not really --

24 MR. KAMARAJU: I think before we make that  
25 application, your Honor, I think it does make sense for the

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1 Court to inquire as to what else she saw.

2 MS. SHROFF: Or read.

3 MR. KAMARAJU: Or read.

4 MS. SHROFF: And frankly, I'd like to talk to an  
5 appeals lawyer.

6 THE COURT: Well, we don't have time for that.

7 MR. KAMARAJU: I would propose, which I think the  
8 government is on board with, I would propose starting with  
9 that, is just asking her -- and I understand that if I'm going  
10 to move to replace her anyway, maybe that is -- maybe that is a  
11 pointless step. But I think for the record purpose, at least,  
12 it makes sense to get that information out.

13 MR. FINKEL: Your Honor, just if I may make two  
14 points.

15 One, no objection to the question of what, if  
16 anything, else she learned, aside from the fact that he was  
17 charged. And two, just to note, *Farhane* is a Second Circuit  
18 case, that's what I was referring to. It was, I guess, in the  
19 Eastern District, the trial court, but it's a Second Circuit  
20 case.

21 THE COURT: Would you have her brought in again.

22 (Juror present)

23 THE COURT: So you said that when you Googled William  
24 Je, you found out that he had been charged in this case?

25 JUROR: Yes.



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1 THE COURT: Did you find out additional information  
2 about William Je?

3 JUROR: No.

4 THE COURT: There's nothing other than the fact that  
5 he was charged that you learned from your Google Search?

6 JUROR: No.

7 THE COURT: In other words, yes, there was nothing  
8 else?

9 JUROR: Yes, there was nothing else.

10 THE COURT: Okay.

11 So you know that jurors are not permitted to read,  
12 watch, or listen to anything from any source concerning  
13 anything having to do with this case; correct?

14 JUROR: Yes.

15 THE COURT: Going forward, will you be able to follow  
16 that rule?

17 JUROR: Yes.

18 THE COURT: You feel 100 percent confident about that?

19 JUROR: Yes.

20 THE COURT: Okay. You may step out.

21 (Juror not present)

22 THE COURT: So is there an application that I replace  
23 the juror?

24 MR. KAMARAJU: Can I have 30 seconds?

25 THE COURT: Okay.

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1 (Counsel conferred)

2 MR. KAMARAJU: Yes, your Honor, we move to replace the  
3 juror. I think the fact that she disregarded an instruction  
4 that you'd given repeatedly at every day of trial is a  
5 sufficient basis to dismiss her.

6 I think while the juror gave you an answer that she  
7 would not do that, that's the same answer that she would have  
8 given you during voir dire. She's already now proven that she  
9 cannot satisfy that obligation. And I think -- well, it may be  
10 credible is it seems highly -- it seems very difficult for me  
11 to believe that when you Google William Je, that the only and  
12 sole thing that comes up is the fact that he has been charged  
13 in this case. And so even if she didn't read another article,  
14 we all know how Google works, the search results from potluck.

15 And so from the defense's perspective, a juror who's  
16 now disregarding an instruction that the Court gives every day  
17 repeatedly, is one that should be excused. And the authority  
18 for that, as I said before, is *United States v. Schulte*, among  
19 other cases.

20 MS. SHROFF: Also, your Honor, imagine if you run a  
21 search, and even if you just read one article, right, would the  
22 first sentence have to say "William Je is charged in a case,"  
23 and you stop right after that. It's very hard to sort of  
24 fathom how her answer pans out in a Google search. One could  
25 run a Google search. That's what I was concerned about in the

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1 response.

2 MR. FINKEL: Your Honor, the government opposes that  
3 application, and believes you have broad discretion here to  
4 deny it, and there are a few reasons why.

5 The first is you can judge -- your Honor can judge --  
6 that juror's credibility. And what the juror told you is what  
7 she said, she said happened.

8 And if you perform a Google search, as we all, I'm  
9 sure, have, undoubtedly, that doesn't mean you click on an  
10 article; it doesn't mean you read articles. She said she  
11 Googled it. And it would be likely to Google William Je, yes.

12 And if, for example, the press release from our office  
13 comes up as the first or second or third thing or news article  
14 saying William Je was charged in this case, there is no  
15 additional information that has been introduced into Juror No.  
16 2's brain or certainly the jury overall's brain that is  
17 anything unknown to them, because they know that William Je was  
18 charged. So do they know Yvette Wang was charged, because it's  
19 on the indictment. They have the charging instrument. They  
20 have the allegations that the government has made in the  
21 indictment. The fact that they -- they also have instructions  
22 about why -- what to think about just one person being on trial  
23 as opposed to other people being on trial.

24 Your Honor is best positioned -- and the only person  
25 who is positioned -- to use your Honor's discretion, make a

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1 credibility assessment, and an assessment of this juror's  
2 ability to follow directions.

3 The government's view is that she was candid with your  
4 Honor; said she did it once this morning, learned information  
5 that the jury already knows; the jury stopped right away; they  
6 are ready to renew their deliberations, and we think we should  
7 let them.

8 MR. KAMARAJU: There is one point I would like to make  
9 about that.

10 William Je is charged in an obstruction count. That  
11 does not appear in the indictment. So we don't know what she  
12 read, but certainly if the title of an article says "William Je  
13 Charged in an Obstruction Count," that is information that she  
14 would not have. And the difficulty is I don't see how you can  
15 ask for a question that doesn't get to that.

16 So I do think that there is potential for information  
17 that could be out there that the juror does not know already,  
18 and I'm not sure that there's an easy way for the Court to get  
19 there that doesn't trip up.

20 THE COURT: Which is the next alternate who's up?

21 THE LAW CLERK: Alternate No. 2.

22 THE COURT: Okay. I think that it is appropriate that  
23 she be substituted, and I am going to excuse her here.

24 We'll have to bring in Alternate No. 2.

25 Where is he coming from?

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1 THE LAW CLERK: He's on his way. He said he'll arrive  
2 at around 12:30.

3 THE COURT: My goodness. Okay.

4 So if you'll have her brought back in.

5 MR. FINKEL: Your Honor, it seems like your Honor has  
6 made its decision and so I won't go any further, unless there's  
7 one additional piece I can be heard on.

8 THE COURT: You can talk.

9 MR. FINKEL: If your Honor would do what defense  
10 counsel suggested, to the extent this is still an open issue,  
11 which is, ask whether she learned about anything other than the  
12 fact that he was charged in this case, which is to say the  
13 specifics of the obstruction count. And for what it's worth,  
14 the facts underlying that obstruction count are in the  
15 indictment; they are described in the indictment, and also were  
16 described at trial, Bo Collins testified about it. It was  
17 about him, William Je, trying to move money offshore when he  
18 found out that the money was seized.

19 So those facts are in evidence. They are known. They  
20 are known to the jury. And it's certainly known to the jury  
21 that he's a co-conspirator and was charged as a co-conspirator.  
22 So that's the government's view.

23 The government wouldn't oppose -- and since we're  
24 going to -- if we're really thinking about kicking her off and  
25 starting anew, see any harm in asking that additional question

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1 anyway. Maybe it will satisfy your Honor.

2 THE COURT: But I did ask her whether she learned  
3 anything in addition to the fact that he had been charged.

4 MR. FINKEL: Right. So that's my point, I guess,  
5 really, is sort of in response to defense counsel. There's no  
6 information to suggest that she learned about the obstruction  
7 count.

8 I don't mean to belabor this, your Honor. If your  
9 Honor has made a decision, you've made a decision; we can move  
10 on. I don't mean to intrude. Obviously the government and I'm  
11 sure all the parties don't want to have to start deliberations  
12 anew; but if that's what your Honor has decided, that's fine.

13 THE COURT: So just so you know, when I did the Google  
14 search, the first thing that comes up is the Department of  
15 Justice press release, and then is the SEC press release.  
16 So -- and then, of course, there are other -- there are  
17 other -- there's an FBI --

18 MR. KAMARAJU: They do a lot of press, your Honor.

19 MR. FINKEL: Which is all about this case, obviously.

20 But I understand your Honor's point. And if your  
21 Honor has decided to strike her, then the government  
22 understands that and we'll continue.

23 THE COURT: Okay. So let's bring her back.

24 After I excuse her, I'm going to call the jurors in  
25 just to remind them that they are not to deliberate any

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1 further.

2 MR. KAMARAJU: Yes, your Honor.

3 (Juror present)

4 THE COURT: So I want to thank you for the weeks that  
5 you have put into this process, but I'm going to have to excuse  
6 you.

7 JUROR: Okay.

8 THE COURT: Thank you.

9 JUROR: Sorry.

10 (Juror not present)

11 THE COURT: All right. Let's go back.

12 MR. KAMARAJU: Thank you, your Honor.

13 (In open court)

14 THE COURT: Please have the jurors brought in.

15 (Jury present)

16 THE COURT: Members of the jury, you must cease your  
17 deliberations till I tell you that you can begin again. I'm  
18 hoping that I will be doing that shortly.

19 You may go back.

20 (Jury not present)

21 THE COURT: You may be seated.

22 I want to know whether the attorneys would like me to  
23 retrieve any of the items that have already been delivered to  
24 the jury room?

25 MR. FINKEL: The government doesn't believe that's

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1 appropriate.

2 MR. KAMARAJU: I'm sorry, I didn't hear.

3 MR. FINKEL: I said no.

4 MR. KAMARAJU: I guess the only question would be  
5 whether the juror who was just excused left any notes on any of  
6 the documents; but other than that, we don't have an issue.

7 THE COURT: I'm going to have my staff collect various  
8 items and review them. And then if there are no notes, would  
9 you like me to have those items returned to the jury room?

10 MR. KAMARAJU: That's fine with us, your Honor.

11 MR. FINKEL: Yes. I mean -- and with respect to, for  
12 example, Z-9, the binders, I think they each have one, the  
13 government has no objection to taking her binder and, to the  
14 extent she wrote on someone else's binder, that's fine. But  
15 those materials that the other jurors have, I don't think that  
16 they should be taken away from them, that's the government's  
17 point. That's all.

18 THE COURT: I'm not sure if I'm following what you're  
19 saying.

20 MR. FINKEL: I'm sorry, your Honor.

21 So, for example, this morning the jury requested GX  
22 Z-9, which is a binder. They each had their own binder. So  
23 Juror No. 2's binder, it would make sense we can take it out of  
24 the jury room, I understand. The rest of the jurors' binders,  
25 however, I think they should be allowed to keep.



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1 THE COURT: So that assumes that they are separated.  
2 If they are, you know, if everyone has their materials at their  
3 seat, that's fine. I don't know if they are in a pile. I just  
4 don't know what state they are in.

5 MR. FINKEL: Your Honor's point is well-taken.

6 THE COURT: Okay. All righty.

7 We'll let you know when the alternate arrives.

8 MR. FINKEL: Thank you, your Honor.

9 (Recess)

10 THE COURT: Please be seated.

11 I'm told that Alternate No. 2 has arrived.

12 The court security officer retrieved the GX Z-9 binder  
13 and the GX 417-T exhibit, neither of which had any markings.  
14 Also retrieved were Juror No. 2's two steno notebooks, as well  
15 as her copy of the indictment and the jury charge. I will  
16 provide a fresh copy of the indictment and the jury charge to  
17 the alternate who will be substituting, and will be returning  
18 to that alternate the steno notebooks that he created.

19 I'm first going to ask the alternate to come out so  
20 that I can question him as to whether he has followed my rules.

21 (Juror present)

22 THE COURT: Please be seated.

23 You're Alternate No. 2.

24 JUROR: Yes.

25 THE COURT: You may recall that I have repeated

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1 certain rules throughout the trial. One is that you are not to  
2 discuss the case with the other jurors or with anyone else;  
3 another is that you're not to permit anyone to discuss the case  
4 in your presence. Have you complied with those rules?

5 JUROR: Yes, I have.

6 THE COURT: In addition, I have instructed all of the  
7 jurors to not read, watch, or listen to anything from any  
8 source that touches on the subject matter of this trial, you  
9 remember that?

10 JUROR: Yes, I do.

11 THE COURT: Have you complied with that?

12 JUROR: Yes, I have.

13 THE COURT: All righty. I am going to be substituting  
14 you in for Juror No. 2. So you may move to the next seat over  
15 and I'll have the jurors come in.

16 (Jury present)

17 THE COURT: Please be seated.

18 Members of the jury, Alternate Juror No. 2 is now  
19 Juror No. 2. This means that you're going to have to wipe the  
20 slate clean. You are to disregard discussions that you  
21 previously had with the original Juror No. 2, and recommence  
22 anew, completely freshly. So don't refer back to things that  
23 were said when the prior Juror No. 2 was part of the jury. You  
24 must start from square one. Everybody understand?

25 THE JURY: Yes.

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1 THE COURT: Okay. Everybody says yes.

2 All right. You may commence your deliberations.

3 (At 12:40 p.m., the jury retired to deliberate)

4 THE COURT: Please be seated.

5 I will let you know if I hear from the jury.

6 Is there anything that you want to let me know?

7 MS. MURRAY: Your Honor, I just wanted to inquire  
8 whether the Court would be inclined to let the jury stay later  
9 than 5 today if they would like to continue their  
10 deliberations.

11 THE COURT: Oh, yes.

12 MS. MURRAY: Thank you.

13 THE COURT: All righty. I'll let you know.

14 (Recess pending verdict)

15 THE COURT: Please be seated.

16 Please have the jurors brought out.

17 MR. KAMARAJU: I just had a question, your Honor.

18 I was wondering if we're going to do what Judge Stein  
19 did earlier in the *Menendez* case, and just say to the jurors or  
20 send them a note that says something to the effect of, you  
21 know, we plan to break as normal at 5 o'clock. If you want to  
22 stay later than that, send us a note or something like that.

23 THE COURT: I'm going to tell them that directly.

24 MR. KAMARAJU: Okay.

25 (Jury present)

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1 THE COURT: You may be seated.

2 Members of the jury, I just wanted to let you know  
3 that if you'd like, you're welcome to stay late this evening.  
4 If that's what you'd like, you'll just send me a note to that  
5 effect.

6 All righty. If you need to ask me a question, of  
7 course you'll have to send me a note.

8 But let me tell you that, of course, I would have  
9 dinner brought in for you.

10 Okay.

11 (Jury not present)

12 THE COURT: I'll let you know if I hear from them.

13 MS. MURRAY: Thank you, your Honor.

14 (Recess pending verdict)

15 THE COURT: Could we have the jurors brought in,  
16 please.

17 (Jury present)

18 THE COURT: Please be seated.

19 Members of the jury, I received your note at 3:45  
20 p.m., which states: We, the jury, unfortunately, the jury is  
21 unable to stay past 5 p.m. for deliberations. It's signed by  
22 the foreperson and dated today's date.

23 So you've come to the end of your work for today.  
24 You'll return on Monday to continue with your deliberations.  
25 So all deliberations must cease starting now. And when you

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1 return on Monday, you'll recommence.

2 So it's the same old rules as before: Don't discuss  
3 the case amongst yourselves or with anyone else. Don't permit  
4 anyone to discuss the case in your presence. Don't read,  
5 watch, or listen to anything from any source that touches upon  
6 the subject matter of this case.

7 You will recommence deliberations when you're all in  
8 the jury room and the foreperson says it is time to recommence.

9 So thank you, and see you back on Monday.

10 Have a good weekend.

11 (Jury not present)

12 THE COURT: Please be seated.

13 Is there anything from the parties?

14 MR. KAMARAJU: Not from the defense, your Honor.

15 MS. MURRAY: I just wanted to confirm what time you  
16 would like the parties to be here on Monday morning, your  
17 Honor.

18 THE COURT: So I see no need for you to come to the  
19 courtroom at any particular time. We'll let you know when we  
20 get a note.

21 MR. KAMARAJU: Thank you, your Honor.

22 MS. MURRAY: Thank you, your Honor.

23 THE COURT: Have a good weekend.

24 (Adjourned to July 15, 2024 at 9 a.m.)

25