

O5OVGUOVD1

1 UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

2 -----x
3 UNITED STATES OF AMERICA,

4 v.

23 Cr. 118 (AT)

5 MILES GUO,

6 Defendant.

Voir Dire

7 -----x

New York, N.Y.

May 24, 2024

9:00 a.m.

8 Before:

9
10 HON. ANALISA TORRES,

11 District Judge

12 APPEARANCES

13 DAMIAN WILLIAMS

United States Attorney for the
Southern District of New York

14 BY: MICAH F. FERGENSON

15 RYAN B. FINKEL

JUSTIN HORTON

16 JULIANA N. MURRAY

Assistant United States Attorneys

17 SABRINA P. SHROFF

18 Attorney for Defendant

19 PRYOR CASHMAN LLP

Attorneys for Defendant

20 BY: SIDHARDHA KAMARAJU

MATTHEW BARKAN

21 ALSTON & BIRD LLP

22 Attorneys for Defendant

23 BY: E. SCOTT SCHIRICK

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1 ALSO PRESENT:
Isabel Loftus, Paralegal Specialist, USAO
2 Michael Gartland, Paralegal Specialist, USAO
Geoffrey Mearns, Paralegal Specialist, USAO
3 Robert Stout, Special Agent, FBI
Ruben Montilla, Defense Paralegal
4 Tuo Huang, Interpreter (Mandarin)
Shi Feng, Interpreter (Mandarin)
5 Victor Chang, Interpreter (Mandarin)

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1 THE COURT: Good morning.

2 Please state your appearances.

3 MR. FINKEL: Good morning, your Honor.

4 Ryan Finkel, Juliana Murray, Micah Fergenson, Justin
5 Horton will be joining us in a minute, for the United States.

6 We're joined by Isabel Loftus, who is a paralegal with
7 our office, and Special Agent Robert Stout.

8 MR. KAMARAJU: Good morning, your Honor.

9 Sidhardha Kamaraju, Sabrina Shroff, Scott Schirick,
10 and Matthew Barkan on behalf of Mr. Guo. And Mr. Guo is with
11 us at counsel table.

12 THE COURT: Please be seated.

13 There's an update on our jurors. 73 did not come to
14 court this morning, complaining of gastrointestinal problems.
15 I understand that the defense would like me to question No.
16 107.

17 But before I get to that, I've just received a note
18 that 173 wants to speak with me concerning her commute. So if
19 you'd get 173, please.

20 While we're waiting for 173, I'd like to address the
21 letter from the defense that came in yesterday.

22 MS. SHROFF: Your Honor?

23 THE COURT: Oh, I'm sorry. Excuse me?

24 MS. SHROFF: I think Rego is trying to get the Court's
25 attention.

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1 THE COURT: Oh.

2 With respect to Juror No. 107, my understanding is the
3 concern is that the individual may have spoken with number 108,
4 whose father worked at the Sherry-Netherland Hotel, and who had
5 made comments concerning the defendant and the fire. And
6 they've asked that I pose four questions.

7 Is there any objection from the prosecution?

8 MR. FINKEL: Government has no objection to general
9 questions about whether she spoke with Juror 108 about this
10 case, the defendant, or what her father does.

11 THE COURT: All righty. And if you would bring the
12 microphone closer to you, please.

13 MR. FINKEL: Sure.

14 THE COURT: So let's have -- do we have any of the
15 jurors ready who wanted to speak with me?

16 Juror No. 173.

17 (Juror present)

18 THE COURT: Good morning. What is your number,
19 please?

20 JUROR: 173.

21 THE COURT: And what is your concern?

22 JUROR: My concern is the commute. I -- it's like too
23 much traffic. I'm -- like, I reached home yesterday at 7:45.
24 I did dinner. I also have to work for my work stuff. And I
25 left today morning at 7:15. For seven weeks I don't think I

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1 can physically do it.

2 THE COURT: Do you suffer from some sort of a health
3 condition?

4 JUROR: It's not health condition. I think I will be
5 so, like, stressed out and anxious about the whole thing. And,
6 you know, I can do it for one week, two weeks also, but seven
7 continuous weeks, I don't think I can sustain that.

8 THE COURT: Do you suffer from a mental --

9 JUROR: No, I don't, I don't.

10 THE COURT: You're saying that you find the demands of
11 being a juror to be stressful?

12 JUROR: Very, very stressful. And, like, I cannot
13 tell you -- I couldn't sleep last night. Whole last night I
14 was awake and I could not sleep. I'm very, very stressed out
15 with the whole thing. It's a commitment, right. And I don't
16 think, you know, with traveling every day back and forth, two,
17 two and a half hours driving, then parking, then walking, I
18 cannot do this for seven full weeks. I mean, that's my
19 concern.

20 THE COURT: And where do you live?

21 JUROR: Nanuet, Rockland County.

22 THE COURT: Okay. So many people who live in your
23 area commute to New York City every single day to Lower
24 Manhattan.

25 JUROR: I know. But I never chose a job here. I work

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1 in that side. And I'm never used to this kind of commute ever.

2 THE COURT: Have you ever suffered from any kind of
3 mental breakdown?

4 JUROR: No, no, no, no.

5 THE COURT: You've coped with stress; is that correct?

6 JUROR: Of course I do, yeah. I mean, I do that.

7 But, you know, it's like very -- I mean, if I cannot rationally
8 think and calm down and participate, I don't think I will be
9 able to contribute at all.

10 THE COURT: You're saying you would not be in a
11 rational state?

12 JUROR: I mean, yes, if I'm stressed out with driving
13 all the day, after one week I will be stressed out, yes. I
14 mean, I'm not used to this city driving at all. I drive in,
15 you know, Nanuet, Tarrytown, where there's hardly any traffic.

16 THE COURT: So you have the option of taking a bus
17 from Nanuet.

18 JUROR: I have tried that. Actually, I didn't try it
19 myself, but I looked at that option. That's even longer
20 because you have to take the bus from Nanuet, come to, you
21 know --

22 THE COURT: Port Authority.

23 JUROR: Yeah. And then from there you have to take
24 two more buses to come here.

25 THE COURT: Well, you can take the subway.

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1 JUROR: You can take the subway.

2 I even explored going to Hoboken, parking there, and
3 taking the water ferry and coming here. But, as I said, like,
4 you know, I want like a smooth transition.

5 As I mentioned yesterday, my husband has a kidney
6 transplant. My daughter is ten years old. If something
7 happens and I'm, like, stressed out, it will be a disaster.

8 And it's a commitment you want from us, right? So
9 that's why seven weeks' commitment is very hard for me. I
10 mean, if it was seriously -- if it was one week -- I mean, it's
11 an honor. And if it is one week, I'll do it; I'll still work
12 it out. But seven continuous week, I don't think I will be
13 physically or mentally there.

14 THE COURT: So are you saying that you would not be
15 able to listen to the witnesses?

16 JUROR: I will listen, I mean definitely I will be
17 able to listen to the witness -- I mean, you know, of course I
18 will do that. But to think it through rationally and
19 understand -- you want 100 percent participation from each one
20 of the juror, that's where I'm kind of disconnected on finding
21 that, you know, I won't be able to commit myself.

22 THE COURT: So you have an advanced degree in science;
23 isn't that correct?

24 JUROR: Yeah, I have a Ph.D., yes, yeah.

25 THE COURT: And so perhaps 75 percent of you is better

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1 than 100 percent of most other people, wouldn't you make that
2 argument?

3 JUROR: No. I mean, I didn't even discuss my other
4 part, which is my work. So I'm just frankly telling you -- I
5 mean, my work -- my company, they do give you time for jury
6 duty, that's not a concern. But I have an entire group under
7 me. And the place where I work in the company, I handle
8 research, you know, information all the time, it goes for
9 regulatory filing. And I have to review, approve, make sure
10 those things.

11 So with this commute and everything, I also have to
12 think it through. And in the evening when I go back, I have to
13 tell my, you know, group people to make sure that things are
14 smoothly operating there, because those things are not going to
15 stop because I'm coming here. And all of a sudden I -- seven
16 weeks, I have to unplug myself, everything together, it's very
17 overwhelming for me.

18 THE COURT: All righty, ma'am. You may step out.

19 (Juror not present)

20 THE COURT: Do I have an application from either side?

21 MR. FINKEL: Your Honor, I think ultimately the
22 Court -- excuse me. Ultimately, the government defers to the
23 Court's judgment on this one. It seems as though she's going
24 to be quite distracted, to a point where it might interfere
25 with her --

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1 THE COURT: Go ahead.

2 MR. FINKEL: It seems as though she's going to be
3 quite distracted, to the point where it might interfere with
4 her juror service, which I think is an important consideration,
5 balancing all of the various factors.

6 The Court has more experience on these matters than
7 the government does. And if the Court feels that she would be
8 an appropriate juror to continue in the process, then the
9 government would have no objection to leaving her in; but also
10 defers to the Court more generally, given your interactions
11 with her.

12 MR. KAMARAJU: I'm not sure exactly what the
13 government's position is. But I think from the defense
14 perspective, your Honor, we do think that between the fact that
15 she may come in late, given her commute, and then she appears
16 to be very distracted and distraught, we think it's appropriate
17 to dismiss her. We understand a lot of people have that
18 commute, but this juror in particular is displaying
19 considerable stress about it.

20 THE COURT: I believe we need to raise the volume on
21 your microphone.

22 Do I understand you to say that you believe that her
23 level of stress will somehow compromise her ability to serve as
24 a juror?

25 MR. KAMARAJU: I think there's two issues, your Honor.

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1 One is I think, given the commute, I do think there's
2 a risk of that her continued commute will lead to disruption of
3 the court proceedings. But, two, yes, I think that the level
4 of stress that this juror displayed in discussing with your
5 Honor suggests that she may have trouble participating fully in
6 the proceedings.

7 THE COURT: And so your application is that I excuse
8 her; correct?

9 MR. KAMARAJU: Yes, your Honor.

10 THE COURT: All right. The application is granted.

11 I'm told that No. 14 is not here and my staff will
12 place a call to him.

13 MR. KAMARAJU: Your Honor, could we have a very brief
14 sidebar?

15 THE COURT: Yes.

16 MR. KAMARAJU: Thank you.

17 (At sidebar)

18 THE COURT: One moment.

19 Go ahead.

20 MR. KAMARAJU: I'm sure your Honor took note of it,
21 but we just noticed obviously a number of people from the
22 public filed into the courtroom.

23 THE COURT: Yes.

24 MR. KAMARAJU: Previously jury selection had been done
25 - I don't know closed courtroom, but with the courtroom

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1 cleared. I wasn't sure if your Honor intended to do that or
2 they are going to remain. That's it. I didn't want to raise
3 it in front of them.

4 THE COURT: Understood.

5 I wasn't expecting that group, and I think that they
6 should step out.

7 MS. SHROFF: Thank you.

8 MR. KAMARAJU: That's fine with us.

9 MR. FINKEL: May I just note for the record that the
10 press was here for parts of the day yesterday. And there's
11 also an overflow room in which the public is attending. I just
12 want to make sure that public access is not an issue for the
13 defense, that's all.

14 MS. SHROFF: Your Honor, we're only raising this
15 because of jury selection. And this morning, earlier, there
16 was no such concern because the juror was here. And
17 obviously -- we don't want anything attributed to the defense,
18 so we're not making any such argument. We're just being
19 cautious, that's all.

20 THE COURT: So I received a letter from the government
21 last night and a response from the defense today, ECFs 350 and
22 351. And the government is asking that I preclude the defense
23 from making certain arguments.

24 First, the government asked that I bar Mr. Guo from
25 stating that his alleged criminal organization was a structure

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1 designed to frustrate a Chinese government campaign to stifle,
2 kidnap, or kill him. The government contends that this is an
3 improper attempt to advance a defense of duress or
4 justification.

5 Mr. Guo has said before that he will not offer such a
6 defense and, again, he says he does not -- he will not offer
7 this defense. However, he does seek to argue that the
8 targeting by the Chinese Communist Party is relevant to his
9 intent to defraud, which is an element of the fraud charges.

10 So I want to understand what the government's position
11 is with respect to this.

12 MR. FERGENSON: Yes, your Honor.

13 So we understand the Court's prior rulings. We're not
14 seeking for any reconsideration of them, meaning we understand
15 that this evidence is admissible, right. What they can't do is
16 admit this evidence and then make improper arguments about it.

17 So as I understand the Court's rulings, the essence of
18 this evidence is that when the defendant was hiding things, he
19 was hiding it from the CCP not out of any intent to defraud,
20 right. But they in these articles have said, Well, the fact
21 that he was targeted and was a victim, that tells you he
22 couldn't have victimized anybody else. That is improper. They
23 cannot do that. And we are deeply concerned that they are
24 going to use your Honor's ruling on admissibility to then make
25 improper arguments.

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1 THE COURT: All right. So let's assume that his
2 argument is: I am the Martin Luther King of Chinese people;
3 and I am known in the community for my probity and my devotion
4 to a righteous cause. Therefore, I could never commit a crime.

5 Is that what you're looking for me to preclude?

6 MR. FERGENSON: No, your Honor. That's different.
7 That's different, right.

8 Because what your Honor suggested is closer to a
9 pertinent trait, which the defendant is allowed to offer,
10 right. That's different than saying I was a victim. Being a
11 victim is not a pertinent trait; and saying they were trying to
12 kidnap and kill me, so I'm innocent, you can't do that. You
13 cannot do that, your Honor.

14 THE COURT: Okay. So is that an argument that you
15 intend to advance?

16 MR. KAMARAJU: No, your Honor.

17 The argument which we actually laid out in our
18 original motion papers is that the government has made an
19 argument that Mr. Guo has a motive to commit fraud, and that
20 motive is that he needs the money. They've said that over and
21 over again.

22 And so our position is, is that his -- the things that
23 he endured as part of the targeting showed his commitment to
24 the movement. The commitment to the movement is relative to
25 the motive question, because the jury is entitled to balance

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1 that commitment against the idea he would truly throw that all
2 away for the money. It's not a question of "I'm an honest man
3 before, so I'll always be an honest man"; it's not a question
4 of "I'm a victim so therefore you should take pity on me."

5 It's very simply that we are allowed to argue -- we've
6 made this point before. We are allowed to argue that the
7 defendant does not have the motive that the government ascribes
8 to him, and does not have the intent that the government
9 ascribes to him because he has been faithful to the movement.

10 MR. FERGENSON: Respectfully, your Honor, this motive
11 argument is not one they have pressed. They have pressed the
12 consciousness of guilt argument. The only thing your Honor has
13 ruled on before is consciousness of guilt and the GTV thing
14 about GTV's value. That's fair game. The consciousness of
15 guilt like hiding things, fair game. The GTV's value based on
16 being censored, fair game. This motive argument is new.

17 THE COURT: Okay. So if it's new, they could make new
18 arguments throughout the trial. So what is your stance with
19 respect to the new argument?

20 MR. FERGENSON: The new argument is that improper
21 argument that I was just explaining.

22 In the press, your Honor, they argued that him being a
23 victim is a sign -- direct quote, is a sign that he would not
24 victimize others. They should not be allowed to make that
25 argument your Honor. It is clearly impermissible.

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1 MR. KAMARAJU: First of all, that's not a direct
2 quote. That's not the quote at all. Having given the quote, I
3 know that's not the quote.

4 Second of all, if the government would like to review
5 our opposition papers to their motion *in limine*, we have a
6 whole section on this motive argument.

7 THE COURT: All right. But we're here now. And is
8 your argument "I'm an oppressed individual, therefore, I would
9 never be an oppressor"?

10 MR. KAMARAJU: No, your Honor. Our argument would
11 not -- that would be closer to the victimhood argument that
12 they are trying paint.

13 Our argument is simply this: If a person devotes
14 significant resources and significant effort to an endeavor,
15 that defendant is entitled to argue "Look at everything that I
16 put into this; why would I destroy it." Especially when their
17 argument is he would destroy it because it's about money.

18 So we're allowed to say those two things do not
19 balance out. That's all we're saying, your Honor.

20 MR. FERGENSON: If I could read the direct quote, your
21 Honor. It's --

22 THE COURT: From where?

23 MR. FERGENSON: This is from *The New York Times*
24 article.

25 THE COURT: Yes.

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1 MR. FERGENSON: It's a quote of Mr. Kamaraju. The
2 article says: The campaign he endured "is a sign that he would
3 never victimize anybody," Mr. Kamaraju said in an interview.

4 MS. SHROFF: I think his name is Kamaraju.

5 MR. FERGENSON: I'm sorry. Not intentional.

6 That is impermissible, your Honor.

7 THE COURT: Okay. So are you moving away from your
8 quote?

9 MR. KAMARAJU: So, first of all, that's the way they
10 quoted me in the article. A sign is no different than
11 evidence, your Honor. So even if you want to take that quote,
12 sign and evidence, we are not going to argue that because he's
13 a victim, there's no way he could ever victimize anybody else.
14 We are saying very specifically with respect to the
15 government's charges in this case, they are alleging that he
16 harmed his movement. He's entitled to say, No, I would not
17 harm my movement by stealing money. That's all. And he's
18 allowed to present evidence that would support that.

19 THE COURT: So essentially his devotion to the cause
20 should be considered by the jurors in evaluating whether he
21 could form criminal intent.

22 MS. SHROFF: Exactly.

23 MR. KAMARAJU: And whether he'd have the motive that
24 the government ascribes to.

25 MR. FERGENSON: But your characterization, your Honor,

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1 is different from what they have set forth in the press and in
2 their papers, which is being targeted, attempted to be
3 kidnapped and killed is why. That's different than devotion to
4 the cause.

5 THE COURT: So we've got a New York jury. Because I
6 was targeted by the communist party, therefore, I could steal
7 from all of these people. It's an absurd argument and it's
8 never going to be bought, even if they make it.

9 MR. KAMARAJU: We're not making it.

10 THE COURT: They don't plan to make that.

11 MS. SHROFF: You know, your Honor, they can always
12 stand up --

13 MR. FERGENSON: I think that is exactly what they've
14 been saying.

15 MR. KAMARAJU: I'm sitting here on the record right
16 now saying what our argument is.

17 (Indiscernible crosstalk)

18 MR. FERGENSON: -- paraphrasing it. It's the same
19 argument.

20 THE COURT: No, it's one thing to say: Because I am a
21 victim, I cannot victimize. It's another thing to say:
22 Consider my devotion to this cause in assessing whether I had
23 the motive to steal.

24 MS. SHROFF: Exactly.

25 THE COURT: I think it's different.

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1 MR. KAMARAJU: It's no different than a business, your
2 Honor. If a founder of a business said, I built this business
3 from scratch, I would not harm it by stealing from its coffers,
4 that's the exact same argument. And that gets made in
5 white-collar cases all the time.

6 MR. FERGENSON: That is fair, your Honor.

7 What is different is arguing one step removed, which
8 is, Because I was a victim, I would never commit this crime.

9 THE COURT: Right. Well, even if they argue that --
10 even if they try that, it's totally ineffective.

11 MR. FERGENSON: That is what the quote says, your
12 Honor.

13 THE COURT: I understand. But he's not talking to *The*
14 *New York Times*, he's now talking to the Court and to the jury.
15 And I would not permit him to say "Because I'm a victim, I
16 cannot victimize." That is a silly argument. He says he's not
17 going to make it.

18 MR. FERGENSON: Okay. As long as your Honor is going
19 to -- we may need to object. We'll deal with it, as they say.

20 THE COURT: Absolutely. Absolutely.

21 The government also seeks to preclude Mr. Guo from
22 arguing that the prosecution team is the result of a malign CCP
23 influence, lobbying, or corruption. But Mr. Guo says that he
24 will not make that argument and so that's denied as moot.

25 The government requests that the Court remind defense

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1 counsel of their obligations pursuant to Local Criminal Rule
2 23.1. And the defense states that they are aware of their
3 obligations.

4 Anything else?

5 MR. KAMARAJU: Not from us, your Honor.

6 THE COURT: Are they gone?

7 MS. SHROFF: Yes.

8 THE COURT: Okay. All right. Let's continue.

9 MR. KAMARAJU: Thank you, your Honor.

10 (In open court)

11 THE COURT: All righty. Please have No. 107 come into
12 the courtroom.

13 (Juror present)

14 THE COURT: Good morning.

15 JUROR: Good morning.

16 THE COURT: What number are you?

17 JUROR: 107.

18 THE COURT: Yesterday there was an individual seated
19 to your left who is No. 108.

20 JUROR: Yes.

21 THE COURT: Did you speak with that person?

22 JUROR: Yes.

23 THE COURT: Did she mention to you anything about the
24 Sherry-Netherland Hotel?

25 JUROR: Yes, she did. But I really didn't understand

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1 what she was saying.

2 THE COURT: Did she say anything about a relative of
3 hers?

4 JUROR: She said her -- her stepfather worked there as
5 a houseman.

6 THE COURT: And did she say whether the stepfather
7 expressed any opinions concerning his work?

8 JUROR: Not at all, no.

9 THE COURT: Any opinions concerning any party in this
10 case?

11 JUROR: No.

12 THE COURT: Did she say whether she was aware of
13 anything that may have happened at the Sherry-Netherland Hotel?

14 JUROR: No.

15 THE COURT: Did she discuss with you this case in
16 general?

17 JUROR: No.

18 THE COURT: All righty. You may step out.

19 (Juror not present)

20 THE COURT: So what 107 just said about 108,
21 mentioning that the stepfather worked as a houseman, is
22 something that was on the record; it was not part of a private
23 conversation. And I see, in my opinion, there's no evidence
24 that she's been in any way compromised.

25 Do I have the agreement of both sides?

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1 MR. FINKEL: You do from the government, your Honor.

2 MR. KAMARAJU: That's fine, your Honor.

3 THE COURT: All right, then. Let's have No. 191 come
4 in. That was an individual who was checking on getting paid
5 for jury service. I'm also told that the jury department has
6 said -- never mind. If you'll come in, sir.

7 (Juror present)

8 THE COURT: Good morning.

9 JUROR: Good morning.

10 THE COURT: What is your number?

11 JUROR: 191.

12 THE COURT: And have you gotten any further
13 information?

14 JUROR: I did. Two weeks. And I have a letter.

15 THE COURT: It's two weeks.

16 JUROR: Yes.

17 THE COURT: Let me see your letter, please.

18 So this is a letter from Cassandra Wetzel, PE, who is
19 a principal of GZA GeoEnvironmental of New York. It's
20 addressed to the Court.

21 It states that: Paid time off for jury duty is for a
22 maximum period of up to two weeks.

23 All righty, sir. You may step out.

24 (Juror not present)

25 THE COURT: Do the parties have any objection to my

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1 excusing him on the basis of the financial hardship?

2 MR. FINKEL: Government has no position.

3 MR. KAMARAJU: We don't have an objection to you
4 excusing.

5 THE COURT: All right. So 191 is excused.

6 Let's have 163.

7 (Juror present)

8 THE COURT: Good morning.

9 If you'll tell me your number, please.

10 JUROR: 163.

11 THE COURT: And what have you found out?

12 JUROR: So including holidays, there's only a one-day
13 discrepancy in which I may or may not get compensated. I sent
14 an email; I emphasized that you wanted an answer as well; and
15 by this morning, when I checked, I didn't get a response. But
16 I can check during lunchtime.

17 THE COURT: So if it turns out that they will not
18 compensate you for one day --

19 JUROR: I don't care. That's fine.

20 THE COURT: -- you still feel that you could serve as
21 a juror?

22 JUROR: Yeah, if it's -- however, if the case gets
23 extended beyond July 12th, then it might be an issue.

24 THE COURT: Okay. But if we stop at July 12th,
25 then --

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1 JUROR: I'll be fine.

2 THE COURT: -- you'll be fine.

3 JUROR: Yes.

4 THE COURT: All righty. Thank you.

5 If you'll step out, please.

6 (Juror not present)

7 THE COURT: All right. I see no reason to excuse No.

8 163. Is that agreed?

9 MR. FINKEL: Yes, your Honor.

10 MR. KAMARAJU: Yes, your Honor.

11 THE COURT: The jury department has said -- and I quote
12 -- that they have given up on No. 14, who has not appeared.

13 Any objection to my excusing No. 14?

14 MR. FINKEL: No, your Honor.

15 THE COURT: I'm sorry?

16 THE LAW CLERK: I think he just showed up.

17 THE COURT: Oh, he did? Okay.

18 14 has arrived.

19 So let's review where we are with the peremptories.

20 MS. SHROFF: Your Honor, may we have two minutes with
21 Mr. Guo? He has some issue he wants to raise.

22 THE COURT: You can, yes.

23 MS. SHROFF: Thank you. We did speak to him this
24 morning, but it seems to be a new issue, so that's why I ask.

25 THE COURT: Okay.

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1 MS. SHROFF: Thank you.

2 (Counsel conferred with defendant)

3 MS. SHROFF: Thank you, your Honor.

4 THE COURT: All right. So let's just go over where we
5 stand. The defense has used --

6 THE INTERPRETER: Excuse me, your Honor. Let me get
7 back to my station. I'm sorry.

8 THE COURT: The defense has used five peremptory
9 strikes: Juror No. 4, Juror No. 5, Juror No. 7, Juror No. 11,
10 and --

11 MR. KAMARAJU: I think it's No. 15, your Honor.

12 THE COURT: And No. 15. That is correct.

13 Prosecution has not used any peremptories; am I
14 correct?

15 MR. FINKEL: No, your Honor, we used three.

16 THE COURT: They used three?

17 MR. KAMARAJU: Yes, your Honor.

18 THE COURT: Okay. So let us go over those three.

19 MR. FINKEL: It was, if my records are correct, your
20 Honor, 49, 69, and 70.

21 THE COURT: Yes, 49, 69, and 70. And we've determined
22 that Juror No. 1 will be the old Juror No. 10; correct?

23 MR. FINKEL: Yes, your Honor.

24 THE COURT: And that Juror No. 2 will be the old Juror
25 No. 34; correct?

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1 MR. FINKEL: Yes, your Honor.

2 THE COURT: And so in creating a new group of 12,
3 we're starting with 73; correct?

4 MR. KAMARAJU: I think your Honor mentioned this
5 morning 73 --

6 THE COURT: Oh, 73 is out. I'm sorry. I didn't mark
7 it down. 73 is out. So we're starting with 77.

8 MR. KAMARAJU: That's what we have, your Honor.

9 THE COURT: Okay. 77, then 78, 79, 81, 83, 88, 90,
10 104, 105, 106, 107, and 115. Is that right?

11 MR. FINKEL: Yes, your Honor.

12 THE COURT: Okay. So we now go back to the defense.
13 Looking at that group that I just mentioned, starting
14 with 77, are there any peremptories from the defense?

15 MR. KAMARAJU: Just one moment, your Honor.

16 Your Honor, I just want to confirm, No. 12 is 115?

17 THE COURT: No. 12 is 115; correct.

18 MR. KAMARAJU: Okay. Thank you, your Honor.

19 Then we will strike 88.

20 THE COURT: Okay. So 88 is defense peremptory number
21 six.

22 Go ahead.

23 MR. KAMARAJU: 105.

24 THE COURT: 105 is defense peremptory number seven.

25 MR. KAMARAJU: Oh, sorry, your Honor. 107.

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1 THE COURT: 107 is defense peremptory number eight.

2 MR. KAMARAJU: And then finally, 115, your Honor.

3 THE COURT: 115 is defense peremptory number nine.

4 Okay. Do we have any peremptories from the

5 prosecution?

6 MR. FINKEL: One second, your Honor.

7 (Counsel conferred)

8 MR. FINKEL: Your Honor, the government strikes 77.

9 THE COURT: Okay. So government peremptory number --
10 is that four?

11 MR. FINKEL: Yes, your Honor.

12 THE COURT: Government peremptory number four is Juror
13 77.

14 MR. FINKEL: And we also strike, your Honor, 104.

15 THE COURT: Okay. Government peremptory five is
16 number 104.

17 Okay. So as it stands right now, Juror No. 1 is
18 former Juror No. 10; Juror No. 2 is former Juror 34; Juror No.
19 3 is former Juror No. 78. Correct?

20 MR. KAMARAJU: Yes, your Honor.

21 MR. FINKEL: Yes, your Honor.

22 THE COURT: Juror No. 4 is former Juror 79; correct?

23 MR. FINKEL: Yes, your Honor.

24 MR. KAMARAJU: Yes, your Honor.

25 THE COURT: Juror No. 5 is former Juror 81; correct?

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1 MR. KAMARAJU: Yes, your Honor.

2 THE COURT: Juror No. 6 is former Juror 83, right?

3 MR. KAMARAJU: Yes, your Honor.

4 THE COURT: Juror No. 7 is former Juror 90; correct?

5 MR. KAMARAJU: Yes, your Honor.

6 THE COURT: I think that is as far as we get; is that
7 correct?

8 MR. FINKEL: Juror 106, your Honor.

9 THE COURT: Oh, 106. That's right. No. 106, former
10 106, is now Juror 8. So we now need a new group of 12.

11 All righty. So our first individual that we will be
12 considering is No. 20; correct? 120.

13 MR. FINKEL: Yes, your Honor.

14 THE COURT: The second will be 126, right?

15 MR. FINKEL: Yes, your Honor.

16 THE COURT: The third, 128, right?

17 MR. FINKEL: Yes, your Honor.

18 THE COURT: The fourth, 135, right?

19 MR. FINKEL: Yes, your Honor.

20 THE COURT: The fifth, 137, right?

21 MR. FINKEL: Yes, your Honor.

22 THE COURT: The sixth, 138, right?

23 MR. FINKEL: Correct, your Honor.

24 THE COURT: The seventh, 142; correct?

25 MR. FINKEL: Yes, your Honor.

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1 THE COURT: The eighth, 145, right?

2 MR. FINKEL: Yes, your Honor.

3 THE COURT: The ninth, 146; correct?

4 MR. FINKEL: Yes, your Honor.

5 THE COURT: The tenth, 147, right?

6 MR. FINKEL: Yes, your Honor.

7 THE COURT: The eleventh, 161; correct?

8 MR. FINKEL: Yes, your Honor.

9 THE COURT: And the twelfth, 163; correct?

10 MR. FINKEL: Yes, your Honor.

11 THE COURT: All right.

12 So we go back to the defense and we start with 120.

13 MR. KAMARAJU: Your Honor, one moment.

14 (Counsel conferred)

15 MR. KAMARAJU: 137, your Honor.

16 THE COURT: 137 is defense peremptory number seven;

17 correct?

18 MR. KAMARAJU: Yes, your Honor. I'm sorry, number

19 seven?

20 THE COURT: No. 137 is defense peremptory number --

21 MR. KAMARAJU: I think it might be ten.

22 THE COURT: I'm sorry?

23 MR. KAMARAJU: I think it's ten.

24 MS. SHROFF: We'd like it to be seven.

25 MR. KAMARAJU: I certainly wish it was seven, your

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1 Honor.

2 THE COURT: Oh, yeah, it is ten.

3 So remind me which one you just struck.

4 MR. KAMARAJU: 137.

5 THE COURT: 137 is defense peremptory number ten.

6 Is that it?

7 MR. KAMARAJU: From us, your Honor?

8 THE COURT: Yes.

9 MR. KAMARAJU: Yes.

10 THE COURT: Okay. Very good. You've used all of your
11 ten peremptories.

12 And now from the government.

13 MR. FINKEL: Can I just have one moment with defense
14 counsel quickly?

15 THE COURT: Yes.

16 (Counsel conferred)

17 MR. FINKEL: Just one moment, your Honor.

18 Government strikes 128.

19 THE COURT: So 128 is government peremptory six;
20 correct?

21 MR. FINKEL: That's correct, your Honor.

22 THE COURT: All right. So both sides have used up
23 their peremptories.

24 So to review, Juror No. 1 is former No. 10; Juror No.
25 2 is former 34; Juror No. 3 is former 78; Juror No. 4 is former

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1 79; No. 5, former 81; No. 6, former 83; No. 7, former 90;
2 number 106 is -- former 106 is Juror No. 8; Juror No. 9 is
3 former 120; correct?

4 MR. FINKEL: Yes, your Honor.

5 THE COURT: Juror No. 10 is former 126; correct?

6 MR. FINKEL: Yes, your Honor.

7 THE COURT: Juror No. 135 is Juror No. 11; correct?

8 MR. FINKEL: Yes, your Honor.

9 THE COURT: And Juror No. 12 is former 142; correct?

10 MR. FINKEL: No, your Honor, I believe it's 138.

11 THE COURT: Oh, 138. You're correct. Yes, 138. 138.

12 So we have a jury.

13 Now we're going to pick the six alternates. And we
14 will go one-by-one. And you can exercise or not exercise your
15 peremptory for each individual.

16 MR. KAMARAJU: Can you just remind me, your Honor, how
17 many peremptories the defense has? I just want to make sure we
18 have the right number.

19 THE COURT: I think it's three, isn't it? Yeah, three
20 for each side.

21 MR. KAMARAJU: Okay. So if we could have one moment,
22 your Honor.

23 THE COURT: All right.

24 (Counsel conferred)

25 MR. FINKEL: Your Honor, just to make sure the

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1 government has it right, currently we're considering 142?

2 THE COURT: We are considering 142.

3 MR. FINKEL: So the defense has an opportunity to
4 strike, and then we would have an opportunity to strike. If
5 neither strikes, 142 is the first alternate and we continue?

6 THE COURT: If that individual is not stricken.

7 MR. FINKEL: Yes.

8 THE COURT: That person is Alternate No. 1.

9 MR. FINKEL: And we keep going till --

10 THE COURT: Yes.

11 MR. FINKEL: Thank you, your Honor.

12 MR. KAMARAJU: We're not going to strike 142, your
13 Honor.

14 MR. FINKEL: No strike from the government.

15 THE COURT: Okay. So No. 142 is Alternate 1.

16 Now we're moving on to 145.

17 MR. KAMARAJU: We don't intend to strike 145, your
18 Honor.

19 MR. FINKEL: The government strikes 145.

20 THE COURT: Okay. So this is government peremptory
21 for an alternate number one with regard to 145.

22 Now we're looking at 146.

23 Does the defense strike 146?

24 MR. KAMARAJU: Yes, your Honor.

25 THE COURT: Okay. So that is defense peremptory for

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1 an alternate number one, and 146 is stricken.

2 Now we're going to go to 147.

3 Does the defense have a strike as to 147?

4 MR. KAMARAJU: We're not going to strike 147, your
5 Honor.

6 THE COURT: And the government?

7 MR. FINKEL: The government does not strike.

8 THE COURT: All right. So No. 147 is Alternate No. 2.

9 Now we are going to 161.

10 Does the defense strike 161?

11 MR. KAMARAJU: Yes, your Honor.

12 THE COURT: And so that is defense peremptory strike
13 for an alternate number two, second strike of 161.

14 Now we're going to 163.

15 Does the defense have a strike on 163?

16 MR. KAMARAJU: No, your Honor.

17 THE COURT: And the prosecution?

18 MR. FINKEL: No.

19 THE COURT: Okay. So 163 is Alternate No. 3; correct?

20 MR. FINKEL: Alternate 4, your Honor.

21 THE COURT: Who is Alternate 3?

22 MR. FINKEL: Oh, you're right. I'm sorry, your Honor.

23 MR. KAMARAJU: That's right.

24 MR. FINKEL: My apologies.

25 THE COURT: All right. Now we are looking at 173.

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1 Does the defense --

2 MS. SHROFF: I think you excused her.

3 THE COURT: I did?

4 MS. SHROFF: Yes.

5 THE COURT: Oh, 173 I did excuse, that's right. She's
6 gone.

7 Now we are looking at 186; correct?

8 MR. FINKEL: Yes, your Honor.

9 MR. KAMARAJU: I'm sorry, your Honor, I was just
10 consulting.

11 THE COURT: Is there a strike on one --

12 MR. KAMARAJU: The defense is not going to strike him,
13 your Honor.

14 THE COURT: Okay.

15 MR. FINKEL: Nor does the government.

16 THE COURT: So 186 becomes Alternate No. 4.

17 187. Does the defense have a strike?

18 MR. KAMARAJU: We don't have a strike, your Honor.

19 MR. FINKEL: The government strikes 187.

20 THE COURT: So is that government strike of alternate
21 number two?

22 MR. FINKEL: Yes, your Honor.

23 THE COURT: Okay. So that is government strike for an
24 alternate number two.

25 Now we are going on to No. 192.

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1 Does the defense have a strike? I'm sorry? 190.
2 You're right, it's 190. Go ahead.

3 (Counsel conferred)

4 MR. KAMARAJU: Your Honor, we'll strike 190.

5 THE COURT: So that is defense peremptory strike of an
6 alternate number three, the last one.

7 Go on to 192. So at this point there are no strikes
8 for the defense left. And so the question is whether or not
9 the prosecution wants to strike 192.

10 MS. SHROFF: They don't have a strike left.

11 THE COURT: Excuse me?

12 MR. FINKEL: We have one strike left.

13 So, your Honor, we're not going to strike 192. So I
14 think that makes them Alternate 5.

15 THE COURT: All right. So 192 is Alternate No. 5.

16 MR. FINKEL: We are going to strike 195.

17 THE COURT: All righty. The government uses its last
18 peremptory for an alternate, No. 195, which means that the
19 sixth alternate is No. 199. Agreed?

20 MR. FINKEL: Yes, your Honor.

21 MR. KAMARAJU: Yes, your Honor.

22 THE COURT: Okay.

23 MR. FINKEL: We did it.

24 THE COURT: We have a jury.

25 Are there any open issues before I have the panel

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1 sworn?

2 MR. FINKEL: Not from the government.

3 MS. SHROFF: No, your Honor.

4 THE COURT: Are you happy with where the lecturn is?

5 MR. KAMARAJU: Ms. Shroff is making argument, so it's
6 up to her.

7 MS. SHROFF: I'm a little short, but I think it's -- I
8 tested it out. I think I'm okay.

9 THE COURT: Okay.

10 MS. SHROFF: I'm not fussy.

11 MR. FERGENSON: Your Honor, if we could, if it's
12 possible to turn it.

13 THE COURT: To tilt it more at an angle?

14 MR. FERGENSON: Yes, your Honor.

15 THE COURT: I have to inquire. When I have the jurors
16 brought in and swear them, everyone is ready to start?

17 MR. FINKEL: Yes, your Honor.

18 MR. KAMARAJU: Yes, your Honor.

19 THE COURT: We're going to bring in the jurors.

20 (Venire present)

21 THE LAW CLERK: Good morning, jurors. Thank you for
22 returning this morning. You can come in. No need to sit down.
23 We'll be seating the jurors and the alternates and then
24 excusing the remainder. So once everyone is in, I will ask the
25 jurors -- the people who have been assigned to the jury to come

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1 forward, you'll be seated, so no need to take a seat in any of
2 the rows right now. We're just waiting for everyone to come
3 in. The Court greatly appreciates you being here again today.

4 The jurors can make their way in. No need to find a
5 seat, as we'll be sitting the jury in the jury box immediately.
6 Again, thank you all for being here today. We will be seating
7 the jury in the jury box and the alternates as well and then
8 excusing the remainder.

9 Will Juror 10 please come forward. Juror 10, you are
10 Juror No. 1.

11 Will Juror 34 please come forward. Juror 34, you are
12 Juror 2.

13 Will Juror 78 please come forward. Juror 78, you are
14 now Juror 3.

15 Will Juror 79 please come forward. You are now Juror
16 4.

17 Will Juror 81 please come forward. You are Juror 5.

18 Will Juror 83 please come forward. You are now Juror
19 6.

20 Will Juror 90 please come forward. You are now Juror
21 7.

22 Will Juror 106 please come forward. You are now Juror
23 8.

24 Will Juror 120 please come forward. You are now Juror
25 9.

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1 Will Juror 126 please come forward. You are Juror 10.

2 Will Juror 135 please come forward. You are Juror 11.

3 Will juror 138 please come forward. You are Juror 12.

4 Will Juror 142 please come forward. You are Alternate

5 No. 1.

6 Will Juror 147 please come forward. You are Alternate

7 2.

8 Will Juror 163 please come forward. You are Alternate

9 3.

10 Will Juror 186 please come forward. You are Alternate

11 4.

12 Will Juror 192 please come forward. You are Alternate

13 5.

14 Will Juror 199 please come forward. You are Alternate

15 6.

16 Those jurors who are still standing in the gallery,
17 the Court greatly appreciates you being here yesterday, if you
18 were here the day before as well. Thank you for your time and
19 patience and for fulfilling this civic duty of jury selection.

20 You are excused.

21 (Venire not present)

22 (Jury selection concluded)

23

24

25