

STATE OF MICHIGAN

IN THE 77th DISTRICT COURT FOR THE COUNTY OF MECOSTA

PEOPLE OF THE STATE OF MICHIGAN,

v

File No. 15-45978-FY

KEITH ERIC WOOD,

Defendant.

JURY TRIAL

VOLUME I OF II

BEFORE THE HONORABLE KIMBERLY L. BOOHER, ACTING DISTRICT JUDGE

Big Rapids, Michigan - Wednesday, May 31, 2017

APPEARANCES:

For the People:

Nathan L. Hull (P-72265)
Assistant Prosecuting Attorney
400 Elm Street
Big Rapids, Michigan, 49307
(231) 592-0141

For the Defendant:

David A. Kallman (P-34200)
KALLMAN LEGAL GROUP, PLLC
5600 West Mount Hope Highway
Lansing, Michigan, 48917
(517) 322-3207

For the Defendant:
Co-Counsel

Stephen P. Kallman (P-75622)
KALLMAN LEGAL GROUP, PLLC
5600 West Mount Hope Highway
Lansing, Michigan, 48917
(517) 322-3207

RECORDED BY:

Sabrina M. Marlette, CER 8103
Certified Electronic Reporter
(231) 592-8303

TABLE OF CONTENTS

WITNESSES:	PAGE
THOMAS LYONS	
Direct Examination by Mr. Hull	122
Cross-Examination by Mr. Kallman	136
Redirect Examination by Mr. Hull	148
Recross Examination by Mr. Kallman	150
JENNIFER JOHNSON	
Direct Examination by Mr. Hull	151
Cross-Examination by Mr. Kallman	157
Redirect Examination by Mr. Hull	159
THERESA DEVRIES	
Direct Examination by Mr. Hull	161
Cross-Examination by Mr. Kallman	165
Redirect Examination by Mr. Hull	167
JAMES VANDERWOUDE	
Direct Examination by Mr. Hull	168
Cross-Examination by Mr. Kallman	173
Redirect Examination by Mr. Hull	175
THERESE BECHLER	
Direct Examination by Mr. Hull	177
Cross-Examination by Mr. Kallman	184
Redirect Examination by Mr. Hull	185
Further Redirect Examination by Mr. Hull	187
DEPUTY JEFFREY ROBERTS	
Direct Examination by Mr. Hull	188
Cross-Examination by Mr. Kallman	200
Redirect Examination by Mr. Hull	210
Recross Examination by Mr. Kallman	211
DETECTIVE JANET ERLANDSON	
Direct Examination by Mr. Hull	213
Cross-Examination by Mr. Kallman	224
Redirect Examination by Mr. Hull	245

TABLE OF CONTENTS CONTINUED

WITNESSES:	PAGE	
EMILY GROVE		
Direct Examination by Mr. Hull	253	
Cross-Examination by Mr. Kallman	261	
Redirect Examination by Mr. Hull	263	
JUDGE PETER JAKLEVIC		
Direct Examination by Mr. Hull	265	
Cross-Examination by Mr. Kallman	298	
WILLIAM ALLERS		
Direct Examination by Mr. Hull	312	
Cross-Examination by Mr. Kallman	317	
Redirect Examination by Mr. Hull	317	
Recross Examination by Mr. Kallman	318	
JOSEPH BENTLEY		
Direct Examination by Mr. Hull	319	
Cross-Examination by Mr. Kallman	321	
Redirect Examination by Mr. Hull	323	
CHARLES SPRIK		
Direct Examination by Mr. Hull	324	
EXHIBITS:		
PX 1: Pamphlet "Your Jury Rights: True or False?"	130	131
PX 2: DVD of District Courtroom on November 4, 2015	---	198
OTHER RELATED MATERIALS:		
Jury Impaneled		89
Opening Statements by Mr. Hull		108
Opening Statements by Mr. Kallman		116

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Big Rapids, Michigan

Wednesday, May 31, 2017 - 9:13 a.m.

(People's Proposed Exhibits 1 and 2 marked on
Tuesday, May 30, 2017, at 4:30 p.m.)

THE COURT: We're here this morning in a
district court case of the People of the State of Michigan
versus Keith Eric Wood, being file number 1545978FY.

Appearing for the prosecutor's office, please.

MR. HULL: Thank you, your Honor. Nathan Hull,
on behalf of the People.

THE COURT: Thank you.

And for the defendant.

MR. KALLMAN: Good morning, your Honor. May it
please the Court, David Kallman and Stephen Kallman, on
behalf of Mr. Wood.

THE COURT: Thank you.

Today is the time and date set for a jury trial.
Mr. Hull, are you ready to proceed?

MR. HULL: I am, your Honor.

THE COURT: Mr. Kallman.

MR. KALLMAN: Yes, your Honor.

THE COURT: All right.

Good morning, ladies and gentlemen. I know
we're a bit tight in this room. However, I'm going to ask
that you bear with me. I have a couple of preliminary

1 things that I need to take care of. Initially, this court
2 -- I -- I want to reiterate; this court has a policy and
3 there is a court rule, MCR 8.115, has to do with
4 electronic communication devices in a courtroom. So I'm
5 going to read to you our court policy regarding electronic
6 communication devices for the 49th Judicial Circuit Court:

7 Electronic communication devices include
8 cellphones, pagers, two-way portable radios, laptop
9 computers, and any other electronic device that
10 possess the capability of communicating information
11 from one person to another.

12 Our policy is as follows -- and please pay
13 attention to this --

14 Electronic communication devices must be turned
15 off or set to a silent mode prior to entering a
16 courtroom.

17 I have also indicated that cellphones are not to
18 be out at all in this courtroom due to the fact that I do
19 not want any -- anything being transferred, any audio,
20 photos, anything through your cellphones. So I
21 specifically indicated that I don't want them out to be
22 seen at all. And I have included that in all my staff and
23 members of the court.

24 Jurors are not permitted to use electronic
25 communication devices while in attendance at trial or

1 during deliberation.

2 No photographs may be taken of any jurors or any
3 witnesses in this case. No photographs may be taken
4 inside any courtroom without permission of the Court,
5 nor shall any recordings be made without the
6 permission of this Court.

7 Failure to comply with this policy may result in
8 a fine, including confiscation of your device,
9 incarceration and both for contempt of court.

10 So, if you have any of those devices that I have
11 indicated; cellphones, pagers, two-way portable radios,
12 laptop computers, or any other electronic device that
13 possess the capability of communicating information from
14 one person to another, I'm going to give you the
15 opportunity to put that away right now.

16 So, please make sure that they are not seen in
17 this courtroom.

18 Thank you.

19 Now, ladies and gentlemen of the -- that are
20 here today, I am Judge Kimberly L. Booher, and it is
21 my pleasure and privilege to welcome you to the 77th
22 District Court for Mecosta County.

23 It may appear to you that I am reading these
24 instructions to you, it is -- that is because I have to
25 read them verbatim. So, if it appears that I am reading

1 them, I am reading them, word-for-word, because that is
2 required of me.

3 I know that jury duty may be a new experience
4 for some of you. Jury duty is one of the most serious
5 duties that members of a free society are asked to
6 perform. Our system of self-government could not
7 exist without it.

8 The jury is an important part of this court. The
9 right to a jury trial is an ancient tradition and
10 part of our heritage. The lawyers say that both a
11 person -- or -- I'm sorry -- the law says that both a
12 person who is accused of a crime and the prosecution
13 have a right to a trial, not by one person, but by a
14 jury of six impartial persons.

15 Jurors must be as free as humanly possible from
16 bias, prejudice, or sympathy for either side. Each
17 side in a trial is entitled to jurors who keep open
18 minds until the next -- until the time comes to
19 decide the case.

20 A trial begins with jury selection. The purpose
21 of this process is to obtain information about you
22 that will help us choose a fair and impartial jury to
23 hear this case.

24 During jury selection, the lawyers and I will
25 ask you questions. This is called the voir dire. The

1 questions are meant to find out if you know anything
2 about this case. Also, we need to find out if you
3 have any opinions or personal experiences that might
4 influence you or -- for or against the prosecution,
5 the defendant, or any witness. One or more of these
6 things could cause you to be excused in this
7 particular case, even you may -- even though you may
8 otherwise be qualified to be a juror.

9 The questions may probe deeply into your
10 attitudes, beliefs, and experiences. They are not
11 meant to be an unreasonable prying into your private
12 life. The law requires that we get this information
13 so that an impartial jury can be chosen.

14 If you do not hear or understand a question you
15 should say so. If you do understand it, you should
16 answer it truthfully and completely. Please do not
17 hesitate to speak freely about anything you believe
18 we should know.

19 During jury selection, you may be excused from
20 serving on the jury in one of two ways. First, I may
21 excuse you for cause; that is, I may decide that
22 there is a valid reason why you cannot or should not
23 serve in this case. Or, a lawyer from one side or the
24 other may excuse you without giving any reason for
25 doing so. This is called a peremptory challenge. The

1 law gives each side the right to excuse a certain
2 number of jurors in this way. If you are excused, you
3 should not feel bad or take it personally. As I
4 explained before, there simply may be something that
5 causes you to be excused from this particular case.

6 I will now ask you to stand and swear to answer
7 truthfully, honestly, and fully all the questions
8 that you will be asked about your qualifications to
9 serve as this juror -- I'm sorry -- to serve as a
10 juror in this case. If you have religious beliefs
11 against taking an oath, you may affirm that you will
12 answer all the questions truthfully, fully, and
13 honestly.

14 People that are here that are jurors, please
15 rise. Raise your right hand. And when I'm done, I would
16 ask that you answer I will.

17 Do you solemnly swear that you will truthfully
18 and completely answer all questions about your
19 qualifications to serve as jurors in this case?

20 If true, answer I will.

21 PROSPECTIVE JURORS: I will.

22 (At 9:21 a.m., Prospective jurors sworn in by
23 the Court)

24 THE COURT: Thank you.

25 You may be seated.

1 I'd like to introduce you to a few members of my
2 staff. My court reporter is Sabrina Marlette. She is up
3 here taking down all of -- everything that's being said in
4 the courtroom today.

5 My bailiffs are Jeremy Tollenaar; is that
6 correct?

7 BAILIFF TOLLENAAR: Yes, it is.

8 THE COURT: All right.

9 Ken Holloway, and I believe you were being
10 checked in today by Bryan Arnold, and he may be in and out
11 this morning, from the Mecosta County Sheriff's
12 Department.

13 This is a criminal case involving the charge of
14 Attempting to Influence a Juror, which I will explain
15 more fully later. This charge is made against the
16 defendant, who is Keith Eric Wood. The defendant's
17 lawyer is Mr. Kallman.

18 The lawyer for the State of Michigan is
19 Assistant Prosecuting Attorney Nathan Hull.

20 Mr. Hull, I would ask that you stand, please,
21 and read your list of witnesses.

22 MR. HULL: Thank you, your Honor.

23 Good morning.

24 PROSPECTIVE JURORS: Good morning.

25 MR. HULL: As the Judge said, my name is Nathan

1 Hull. I'm the Assistant Prosecutor here in Mecosta County.
2 I'm about to read a list of witnesses that I may be
3 calling for the trial; Magistrate Thomas Lyons, Jennifer
4 Johnson, Theresa DeVries, James Vanderwoude, Therese
5 Bechler, Deputy Jeff Roberts, who is sitting right here,
6 Janet Erlandson, Emily Grove, Judge Peter Jaklevic, Joseph
7 Bentley, William Allers, Charles Sprik, Lisa Lenahan, and
8 Randy Errige. There are four other people that I may
9 call, though, I probably won't in the end; Josh Reed;
10 Deputy Josh Reed, Janet Langell, Trooper Matt Nobliski,
11 and Sergeant Michael Mohr.

12 THE COURT: Thank you, Mr. Hull.

13 Mr. Kallman, would you please stand, introduce
14 yourself, and the members at the table with you, including
15 the defendant, please, and then list -- read your list of
16 witnesses.

17 MR. KALLMAN: Thank you, your Honor.

18 Good morning. My name is Dave Kallman. I'm
19 representing Mr. Keith Wood, who is here at the table with
20 us, and also my son, Stephen, is an attorney, and so we
21 will be representing Mr. Wood in this matter.

22 Did you want me to read our potential witnesses,
23 your Honor?

24 THE COURT: Please.

25 MR. KALLMAN: Our potential witnesses at this

1 point would be Mr. Wood, Randall Vetter, and Darren
2 Nichols.

3 THE COURT: Thank you, Mr. Kallman.

4 Does any one of you know the defendant? Any --
5 by a raise of hand -- I -- I'm sorry. If you do know the
6 defendant, please raise your hands.

7 All right.

8 Do any of you know any of the lawyers in this
9 case; raise your hands?

10 We're off to a good start.

11 Now do any of you know any of the potentially
12 named witnesses?

13 All right. Let's start in the back, to the
14 left, in the back row; ma'am, I'll need to have you state
15 your name, please, and who you know and how you know them.

16 JUROR KANE: My name is Irene Kane. I just know
17 the name Janet Langell --

18 THE COURT: All --

19 JUROR KANE: -- from Chippewa Lake.

20 THE COURT: All right.

21 Anything in that knowledge that would make you
22 --

23 JUROR KANE: No.

24 THE COURT: -- be an issue being a juror today?

25 JUROR KANE: No.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

THE COURT: All right.

Back row; next person. I'll have to have you stand so I can hear you all the way here. State your full name, please.

JUROR BOWEN: Kimberly Bowen.

THE COURT: And who do you know?

JUROR BOWEN: Jennifer Johnson.

THE COURT: All right.

And how do you know her?

JUROR BOWEN: Her daughter and my son are friends and we know each other from church.

THE COURT: All right.

I will allow the attorneys to inquire further.
Thank you.

Anybody else in the back row? Ma'am, stand up, please. Say your full name, please.

JUROR RUFFNER: Jodie Ruffner.

THE COURT: And --

JUROR RUFFNER: And I know Tom.

THE COURT: Tom Lyons.

JUROR RUFFNER: Yes.

THE COURT: All right.

And how do you know him?

JUROR RUFFNER: I worked for his sister-in-law.

THE COURT: All right.

1 JUROR RUFFNER: Years ago.

2 THE COURT: All right.

3 I will allow the attorneys to inquire further
4 regarding that.

5 Anybody else in the back row; please stand.
6 Your full name?

7 JUROR MACK: David Mack. I know Sergeant Mohr.
8 I'm also a police officer in a neighboring county. I
9 worked with him on a few different things in the past.

10 THE COURT: All right.

11 Thank you. And I will let the attorneys inquire
12 more regarding that.

13 Anybody else know any of -- sir, stand, please.

14 JUROR SMITH: My name is Vernon Smith. I know a
15 Darren Nichols. I'm not sure if it's the same one;
16 Morley, approximately 30-ish I would say.

17 THE COURT: All right.

18 Do either one of you -- was that -- I'm sorry.
19 Mr. Kallman, was that on your --

20 MR. KALLMAN: That was on our list, yes, your
21 Honor.

22 THE COURT: All right.

23 I will allow you to -- the attorneys to inquire
24 further.

25 Thank you.

1 Anyone else?

2 Sir, stand, please. Full name.

3 JUROR CRAMER: Charles Cramer.

4 THE COURT: And who do you know?

5 JUROR CRAMER: Darren Nichols as well.

6 THE COURT: All right.

7 And how do you know him?

8 JUROR CRAMER: I went to high school with him.

9 I played sports with him. He is probably 26 years old,

10 actually.

11 THE COURT: All right.

12 Thank you.

13 JUROR CRAMER: Yep.

14 THE COURT: Anybody else?

15 We think this trial will last two days. If you

16 believe the length of this trial will be a real

17 hardship for you, please let me know right now.

18 Sir, stand and say your full name.

19 JUROR POWERS: Corey Powers.

20 I'm working in Lansing and I -- I'm two days

21 without pay; they told me they won't refund me for my

22 mileage. I work in Lansing all week.

23 THE COURT: All right.

24 Gentlemen, I'll let you inquire further

25 regarding that.

1 Sir, we'll see how things go regarding the jury
2 selection, all right.

3 Anybody else?

4 Ma'am, stand and say your full name.

5 JUROR HANSEN: Sandra Hansen.

6 I'm hearing impaired. I'm missing 68 percent of
7 what you guys are saying. I'm trying to use my
8 microphone, but you're too far away. I can't hear people.
9 If you don't have an FM system in the room --

10 THE COURT: A couple of things -- let me just
11 ask -- did you let the court know that prior to coming
12 here today?

13 JUROR HANSEN: Yes. I put it on my form that
14 I'm -- that I'm hearing impaired. And --

15 THE COURT: All right.

16 JUROR HANSEN: -- they keep calling me.

17 THE COURT: Okay. No, let me -- well, let me
18 just tell you this, last night in the mail I got my third
19 jury questionnaire in three years so -- or --
20 qualification form.

21 JUROR HANSEN: You're talking too fast. I'm a
22 little --

23 THE COURT: I said I got my third jury
24 qualification in three years yesterday, too. So I don't
25 know how they -- how -- it's a random system. But, the

1 fact of the matter is, we do have in this courtroom; we
2 have equipment for people to make accommodations. And --

3 JUROR HANSEN: That would be nice.

4 THE COURT: -- we can do that.

5 Mr. Kallman and Mr. Hull, would you like me to
6 take a break and do -- set that equipment -- have somebody
7 --

8 MR. KALLMAN: Sure.

9 MR. HULL: I would be fine with that, your
10 Honor.

11 MR. KALLMAN: That would be great, Judge.
12 Thank you.

13 THE COURT: All right.

14 Then this Court will take a brief recess. I
15 will -- Ms. Marlette, you let me know when it's working.

16 THE RECORDER: Yes.

17 THE COURT: Thank you.

18 (At 9:29 a.m., court in recess)

19 (At 9:35 a.m., court reconvenes)

20 All right.

21 We're back on the record in the case of the
22 People of the State of Michigan versus Keith Eric Wood,
23 being file number 1545978FY.

24 We took a brief recess to try to make some
25 accommodations. Unfortunately, due to the fact that we did

1 not have prior knowledge that we were going to need the
2 equipment, apparently, it is not in working order today.

3 So, Mr. Hull and Mr. Kallman, do you have
4 additional questions for this witness -- or -- I -- I'm
5 sorry -- this juror?

6 Ma'am, can you hear what I'm saying?

7 JUROR HANSEN: I'm sorry. You'll have to repeat
8 that, please.

9 THE COURT: Any --

10 MR. HULL: Your Honor, I would have no objection
11 to a for cause exclusion.

12 MR. KALLMAN: Same here, Judge.

13 THE COURT: All right.

14 Ma'am, we are going to excuse you from service.
15 But, please know that if you are called as a juror again,
16 please call the courthouse, let us know that you have been
17 called as a juror, and we will make sure that before we
18 get in here, that the equipment is working properly.
19 Because we do have equipment to accommodate people with
20 hearing issues.

21 JUROR HANSEN: Okay. So just filling it out on
22 that form doesn't mean anything?

23 THE COURT: It does not, because the jury clerks
24 don't always look through those completely to make an
25 accommodation.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

JUROR HANSEN: Okay.

THE COURT: All right.

JUROR HANSEN: All right.

THE COURT: So, please call us and we will make the accommodations for you.

JUROR HANSEN: All right.

Thank you.

THE COURT: Thank you.

And if you need a note for work --

JUROR HANSEN: No.

THE COURT: -- I don't have your questionnaire, so I -- if you need a note for work, you can get one from the district court window.

JUROR HANSEN: All right.

Thank you.

THE COURT: Thank you.

(At 9:37 a.m., Juror Hansen excused)

Anybody else with the length of the trial being a hardship?

Sir, state your full name, please.

JUROR HARROLD: Michael Harrold.

You said two days; it would be today and tomorrow?

THE COURT: That is correct.

JUROR HARROLD: Okay.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

THE COURT: Thank you.

Anybody else?

Some of you may have health problems that would prevent you from serving on a jury. For example, does anyone have a medical problem that makes you unable to sit for two or three hours at a time?

Sir, your name, please.

JUROR STEVENS: Bert Stevens.

THE COURT: Yes.

JUROR STEVENS: And I have diabetes and I have to use the restroom quite often.

THE COURT: All right.

Would you -- I will let the attorneys inquire further -- but, if you are chosen on this jury, would you have any problems just raising your hand and letting me know, and we can take a break?

JUROR STEVENS: No.

THE COURT: All right.

Thank you.

JUROR STEVENS: Thank you.

Anybody else; health problems?

All right.

Any -- does anybody else have a sight or a hearing issue?

Sir.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

JUROR MACKERSIE: Bryce Mackersie.

I don't hear high pitches. So people have to speak up.

THE COURT: All right.

Can you hear me okay?

JUROR MACKERSIE: I can just make you out.

THE COURT: All right.

Do you have -- I'll let the attorneys inquire further -- but, do you have any problems just raising your hand and saying --

JUROR MACKERSIE: No.

THE COURT: -- speak louder?

JUROR MACKERSIE: No.

THE COURT: All right.

Then we'll go ahead.

Anybody else?

This is a criminal case. A paper used to charge the defendant with a crime is called a complaint. The complaint in this case charges the defendant, Keith Eric Wood, with the crime of Attempting to Influence a Juror and reads as follows:

COUNT 1: JURORS - ATTEMPTING TO INFLUENCE

Did willfully attempt to influence the decision of a juror in a case by argument or persuasion that was not a part of the proceedings in open court in

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

the trial of the case, contrary to MCL 750.120a(1).

The defendant has pled not guilty to this charge. You should clearly understand that the complaint I have just read is not evidence. The complaint is read in every criminal trial so that the defendant and jury can hear the charges. You must not think it is evidence of his guilt or that he must be guilty because he has been charged.

A person accused of a crime is presumed to be innocent. This means that you must start with the presumption that the defendant is innocent. This presumption continues throughout the trial and entitles the defendant to a verdict of not guilty unless you are satisfied beyond a reasonable doubt that he is guilty.

Every crime is made up of parts called elements. The prosecutor must prove each element of the crime beyond a reasonable doubt. The defendant is not required to prove his innocence or to do anything. If you find that the prosecutor has not proven every element beyond a reasonable doubt, then you must find the defendant not guilty.

A reasonable doubt is a fair, honest doubt rising out -- I'm sorry -- doubt growing out of the evidence or lack of evidence. It is not merely an

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

imaginary or possible doubt, but a doubt based on reason and common sense. A reasonable doubt is just that - a doubt that is reasonable, after a careful and considered examination of the facts and circumstances in this case.

We will now pick eight names out of the prospective jurors that are here. How -- if your name is called, I would ask that you come forward. We will start seating people the farthest -- bottom row -- farthest seat away from me will be seat 1 and then just seat all the way down to seat number 8. We'll only be using the bottom row of the jury box today.

So I would ask that the first name be called, please.

THE RECORDER: Juror Number 48, Irene Kane.

THE COURT: Ms. Kane, come up and -- in seat 1, please.

THE RECORDER: Juror Number 26, Ronald Smania.

Juror Number 16, Jordan Yarrington.

Juror Number 31, Denise Webb.

Juror Number 9, David Burns.

Juror Number 25, Gizell Young.

Juror Number 2, Robert Patterson.

Juror Number 37, Jimmy Curtis.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

THE COURT: All right.

Ladies and gentlemen, you are not yet the jury. What we do now is, the prosecutor and the defense will ask you questions. I'm going to indicate to those of you who have not been selected, you're not off the hook. You need to listen to all of the questions that are being asked of the people in the jury box. If for some reason they are removed -- and as I indicated earlier, there are different reasons that these people could be removed from the jury box -- if they are removed, then we will be calling another name and you will be asked the same questions. And sometimes that's easier for us if they say; did you hear all the questions that have been asked; do you have any responses; things along those lines. It will make things go a little quicker if you're all paying attention to the questions that are being asked, although they're not being asked of you directly, right now, they could be in a few moments.

So, Mr. Hull, go ahead.

(At 9:45 a.m., voir dire begins)

MR. HULL: Thank you, your Honor.

What I like to do at the very beginning of voir dire is start off by basically apologizing to the jury. And this is one of the few things that I think myself and Mr. Kallman might agree on; if you see us out in the

1 hallway and kind of wave and say hello or something, and
2 we do something like this and don't look at you and kind
3 of walk away, we're not trying to be rude. It's because
4 as attorneys in this case, we're not allowed to talk to
5 you, we're not allowed to communicate with you, even about
6 the weather, or about where the bathroom is, outside of
7 this courtroom, when it's not on the record. And I think
8 you understand why that is; you don't want to have any
9 outside influences in this case. So, if you see me in the
10 hallway and I kind of quickly turn away and -- or I'm
11 talking to someone and I walk away, I'm not trying to be
12 rude. And I apologize. And I believe Mr. Kallman would
13 say the same thing. We just want to make sure that
14 everything that you hear about in this case happens in
15 this courtroom. Does that make sense to everyone?

16 THE JURORS: (No verbal response).

17 MR. HULL: What I'd like to start off first with
18 in this case is -- and some of you might know -- this
19 trial has had some media attention. This was back in
20 2015. And this is not the point for us to start getting
21 into the details of the case, but I have to give a few
22 facts out to see if it sparks any memory. This case began
23 back in 2015 and it involved the defendant; a person
24 handing out pamphlets outside the courthouse on the date
25 of a jury trial. Does that spark anyone's memory; has

1 anyone seen any media reports on that?

2 THE JURORS: (No verbal response).

3 MR. HULL: Mr. Patterson.

4 JUROR PATTERSON: Yes.

5 MR. HULL: You've seen some media reports on
6 that?

7 JUROR PATTERSON: Just headlines in the local
8 paper.

9 MR. HULL: Okay. Did you -- did you read the
10 articles or just kind of see the headlines and --

11 JUROR PATTERSON: I honestly did not read the
12 articles.

13 MR. HULL: Okay. Now was there anything about
14 that -- have you had any friends or family members talk
15 about it or anything like that?

16 JUROR PATTERSON: No.

17 MR. HULL: No.

18 Did -- just from reading the headlines; did you
19 form any kind of opinion about the case?

20 JUROR PATTERSON: I did not because I did not
21 read the articles.

22 MR. HULL: Okay. Did -- did you look at the
23 headline and say, oh, what's going on now or having any
24 opinions based on the headline?

25 JUROR PATTERSON: Nope.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

MR. HULL: No. Okay.

JUROR PATTERSON: Just skimming the paper.

MR. HULL: Just skimming the paper. All right.

And so, in this case, you understand that all the facts you're supposed to receive are going to be received here in the courtroom; is that fair to say?

JUROR PATTERSON: Yes.

MR. HULL: Do you agree with that. So, if there is anything that you read in a headline or something like that, you're to put that aside and think about only the evidence that you see in the courtroom.

JUROR PATTERSON: Uh-huh.

MR. HULL: Do you agree with that?

JUROR PATTERSON: Yes.

MR. HULL: Is there anyone else that saw any headlines or had anyone talking about the guy handing out pamphlets outside the courthouse in 2015?

No one.

The other thing I'd like to discuss is -- and the Judge had already touched on this -- in a criminal case, it's my duty as the prosecutor to prove to you the defendant committed a crime. And the burden of proof is beyond a reasonable doubt. And the Judge has already said -- and I'm going to say this again -- that's my duty to prove that he committed the crime. So for instance, if I

1 stand up -- the trial starts -- and I stand up and I say I
2 have no evidence. And the defense attorney stands up and
3 says, your Honor, I don't have any evidence either. How
4 do you find the defendant?

5 JUROR KANE: Not guilty.

6 JUROR BURNS: Not guilty.

7 MR. HULL: Not guilty.

8 Does everyone agree that the defendant, Mr.
9 Wood, is innocent until I have proven him guilty beyond a
10 reasonable doubt; does everyone agree with that?

11 THE JURORS: (No verbal response).

12 MR. HULL: Now beyond a reasonable doubt; the
13 Judge has already instructed you there is a way that we
14 define beyond a reasonable doubt, it's not just an
15 imaginary or possible doubt. So can everyone here
16 differentiate between -- well, let me ask this
17 differently; Mr. Curtis, do you agree that there's a
18 difference between something that is reasonable and
19 something that is possible?

20 JUROR CURTIS: Yes.

21 MR. HULL: Okay. And could -- would you, as a
22 juror, be able to kind of look at, okay, that might be
23 possible, but it's not reasonable to suspect that? Would
24 you be able to separate the two?

25 JUROR CURTIS: Yes.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

MR. HULL: Would everyone here be able to separate the difference between a reasonable doubt and something that's just possible?

Am I getting nods from everyone? Okay. Thank you.

The charge is Attempting to Influence a Juror. Sometimes people refer to it as Juror -- Jury Tampering. That's not the official title. It's Attempting to Influence a Juror. In this case, the defendant has been charged with that crime. And one of the questions to be decided is whether the defendant attempted to influence the decision of a juror outside the courtroom. You will learn that for this particular charge there is no need for me to prove that he tried to bribe someone, or intimidate someone, or scare someone. Only that he attempted to influence a juror's decision outside the courtroom.

Raise of hands, is there anyone here that thinks, you know, that's unfair, unless the defendant is shown to try to bribe or intimidate someone, I don't think there should be a law against that?

No one.

Ms. Kane. In this particular case, like I said, if I prove beyond a reasonable doubt the elements of the offense --

JUROR KANE: Uh-huh.

1 MR. HULL: -- and I prove that the defendant did
2 intend and acted on that intent to influence the decision
3 of a jury, but you go back in the courtroom (sic) and the
4 juror sitting next to you says, yeah, the prosecutor
5 proved it beyond a reasonable doubt but, you know what,
6 the defendant seems like a pretty nice guy, let's just let
7 him go. What do you say to that?

8 JUROR KANE: No.

9 MR. HULL: Why now?

10 JUROR KANE: Well, it's not that he's a nice
11 guy. It's what he did or what we decided he's going to --
12 that we decide he did.

13 MR. HULL: So what you're saying; will you base
14 your decision only on the evidence provided and whether or
15 not -- the law that's provided by the Judge -- and whether
16 or not he's guilty of the crime?

17 JUROR KANE: By --

18 MR. HULL: Is that fair to say?

19 JUROR KANE: -- the evidence, that's how I would
20 --

21 MR. HULL: Okay.

22 JUROR KANE: -- make my decision.

23 MR. HULL: And Mr. -- I apologize -- Smania.

24 How do you --

25 JUROR SMANIA: Yep, Smania.

1 MR. HULL: Smania. I apologize for that.

2 Same question for you; let's say I prove beyond
3 a reasonable doubt the defendant attempted to influence
4 the decision of a jury. Someone is back there saying, you
5 know, but what's the big deal; he didn't -- he didn't
6 intimidate anyone, he didn't try to bribe anyone, he was
7 just -- he was just out there. I mean, the prosecutor
8 proved it, but what's the big deal. What do you say to
9 that?

10 JUROR SMANIA: To me, whether by state or
11 federal law, if he's guilty of a charge, and it's proven,
12 then --

13 MR. HULL: Does everyone agree with that?

14 THE JURORS: (No verbal response).

15 MR. HULL: What I would like to -- to kind of
16 give you an idea here, as the jurors in this case, it's
17 your jobs to decide the facts. The two attorneys will be
18 -- well, I'll be providing witnesses, the defense can
19 provide witnesses if they want; they don't have to, but
20 there will be witnesses that you will hear. We'll -- and
21 you decide what the facts of the case are. The Judge will
22 tell you what the law is. If the Judge tells you that the
23 law is one thing and myself or Mr. Kallman, or a witness
24 tries to tell you the law is something else, who do you
25 think you're going to listen to?

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

JUROR YOUNG: The Judge.

JUROR PATTERSON: The Judge.

MR. HULL: Does everyone agree to listen to the Judge when the Judge tells you what the law is?

JUROR WEBB: Yes.

MR. HULL: How many people, raise of hands, watch those Law and Order-type shows; CSI, Law and Order, any of those? Got -- we got a few people who have seen them in the past. Have you ever seen the scene in the courtroom where an attorney is banging on -- their fist on the table and they're like, that's just circumstantial evidence, your Honor, and they're -- they're all upset? You -- you guys have seen that scene, right? Do you know what I'm talking about?

THE JURORS: (No verbal response).

MR. HULL: Does anyone here know what circumstantial evidence is?

THE JURORS: (No verbal response).

MR. HULL: What circumstantial evidence is -- and I expect the Judge will give you an instruction on this -- and it's best to explain it this way; let's say you're in your house and you open up the door, and you look outside, and you see that it's raining. That is direct evidence from what you saw that it is raining outside. But let's say, instead, you're sitting in your

1 house, the windows are closed, the door is closed, and you
2 hear a tat, tat, tat, tat on the -- on the roof. And the
3 neighbor walks into the house and they're wearing a
4 rainslicker, and boots, and they're all wet, and they've
5 got an umbrella, and they're shaking water off of the
6 umbrella. Did you see it raining outside?

7 JUROR WEBB: No.

8 MR. HULL: Based on what you saw and what you
9 heard; would you be able to say it was raining outside?

10 JUROR WEBB: Yes.

11 MR. HULL: That's the difference between
12 circumstantial and direct evidence.

13 Does anyone here -- and I'm going to -- Mr.
14 Burns, I'm going to pick on you. The -- I expect the
15 Judge is going to tell you that you're allowed to look at
16 circumstantial evidence and you're allowed to use that
17 along with direct evidence in order to make your decision
18 as to whether or not the defendant is guilty. Do you have
19 any problem or -- using circumstantial evidence to decide
20 on a case?

21 JUROR BURNS: No.

22 MR. HULL: Does anyone here have any problem if
23 -- if a witness didn't see it themselves or -- then I'm
24 not going to do it unless the -- someone saw it for
25 themselves. Is everyone here okay with using

1 circumstantial evidence the way I just described it?

2 JUROR BURNS: Yes.

3 MR. HULL: Is that nods from everyone.

4 Raise of hands, has anyone here ever been a
5 victim of a crime?

6 Anyone have any close friends or family members
7 who have been victims of crimes?

8 Anyone here ever been a witness to a crime?
9 Close friends or family members who have witnessed a
10 crime?

11 Anyone here ever been on a jury before?

12 Ms. Kane, how long ago was that?

13 JUROR KANE: Oh, probably about three years.

14 MR. HULL: Three years ago.

15 JUROR KANE: Probably even longer than that;
16 five years.

17 MR. HULL: Was it here in Mecosta County?

18 JUROR KANE: Uh-huh.

19 MR. HULL: Was it a -- do you know if it was a
20 criminal case or a civil case; was someone being charged
21 with a crime or were there two --

22 JUROR KANE: Yeah, criminal.

23 MR. HULL: Someone was being charged with a
24 crime. And do you know if it was -- what was the case
25 about?

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

JUROR KANE: It was murder.

MR. HULL: It was a murder case. Okay. And that was about five years ago or something to that affect?

JUROR KANE: Yes, it was.

MR. HULL: Now, without telling us what the --

JUROR KANE: No, it was longer than that even.

MR. HULL: It was a while ago?

JUROR KANE: Uh-huh.

MR. HULL: And how long was that trial?

JUROR KANE: It was probably three days.

MR. HULL: Probably three days?

JUROR KANE: Yep.

MR. HULL: Now in that case -- don't tell me what the verdict was -- but did the jury get together and come up with a verdict; together as a jury?

JUROR KANE: Yes.

MR. HULL: Was there anything about that process that made you dislike attorneys, either prosecutors or defense attorneys, or anything like that?

JUROR KANE: No.

MR. HULL: Did you just look at either -- are -- are the attorneys handling the case and say, I just don't like what they were doing?

JUROR KANE: No.

MR. HULL: What about the court system in

1 general; anything about that process that made you think,
2 you know, I don't think I trust the court system based on
3 --

4 JUROR KANE: No.

5 MR. HULL: -- what was going on?

6 Do you think that the trial went smoothly and
7 fairly?

8 JUROR KANE: Yes.

9 MR. HULL: Did you have any issues of how that
10 trial came out?

11 JUROR KANE: No.

12 MR. HULL: And is it, Ms. Webb?

13 JUROR WEBB: Yes.

14 MR. HULL: Did you raise your hand as well?

15 JUROR WEBB: Yes.

16 MR. HULL: How long ago was that?

17 JUROR WEBB: About 12 years ago.

18 MR. HULL: And was that here in Mecosta County?

19 JUROR WEBB: No, it was in the State of Indiana.

20 MR. HULL: In the State of Indiana. Okay. How
21 long was that trial?

22 JUROR WEBB: Five days.

23 MR. HULL: And what was that over?

24 JUROR WEBB: Murder.

25 MR. HULL: It was a murder trial as well. Okay.

1 And did the jury come up with a verdict in the end?

2 JUROR WEBB: In the end, yes.

3 MR. HULL: And --

4 JUROR WEBB: It was almost hung, but we did in
5 the end.

6 MR. HULL: How long -- how long were you out
7 before?

8 JUROR WEBB: About six or seven hours.

9 MR. HULL: Six or seven hours. Okay. But, in
10 the end, the jury did come up with a verdict?

11 JUROR WEBB: Yes.

12 MR. HULL: Were you satisfied with the verdict?

13 JUROR WEBB: No.

14 MR. HULL: So you were not satisfied with the
15 outcome, but --

16 JUROR WEBB: No.

17 MR. HULL: -- in the end you --

18 JUROR WEBB: It was -- I don't think that -- I
19 think he was guilty, but they didn't.

20 MR. HULL: Okay. So in that -- in that
21 particular case, you thought that he was guilty, but you
22 just didn't think there was enough --

23 JUROR WEBB: But there --

24 MR. HULL: -- to show --

25 JUROR WEBB: -- was no --

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

MR. HULL: -- it?

JUROR WEBB: There wasn't a -- yeah, they didn't do it beyond a reasonable doubt.

MR. HULL: Okay.

All right. And was that -- was that one of the arguments that was going on back there?

JUROR WEBB: Right.

MR. HULL: Well, don't talk about that.

JUROR WEBB: Yes.

MR. HULL: In -- in the end, I asked if you had --

JUROR WEBB: And we had to do a lot of videotaping and listen to phones and you know.

MR. HULL: Okay.

So in the end, I asked if you were satisfied with that verdict and you really weren't too satisfied with it. Is -- was there anything about what happened there that makes you not trust the court system in general?

JUROR WEBB: No, I trust the court system. But it was just a bad situation.

MR. HULL: Anything about that; you didn't think that the prosecutor handled it right, or the defense attorney handled it right, or anything about that? I understand it's in Indiana, so completely different

1 people.

2 JUROR WEBB: Yeah. No, I just -- I mean, I just
3 wish the evidence would have been better, you know. But
4 there was a lot of gunshots and you know; the state police
5 scene, and getting it cleaned up, and it was -- yeah --
6 like I said, it was a bad situation.

7 MR. HULL: Okay.

8 JUROR WEBB: It was a bad one.

9 MR. HULL: So -- so -- so in the end, was there
10 anything about how the judge handled the case or --

11 JUROR WEBB: No, the --

12 MR. HULL: -- any of that?

13 JUROR WEBB: -- judge, all -- they were awesome.

14 MR. HULL: Okay.

15 JUROR WEBB: I mean, they walked us out every
16 night -- you know -- because we were there until midnight
17 almost every night -- you know --

18 MR. HULL: Okay.

19 JUROR WEBB: -- walking in downtown. But, yeah.

20 MR. HULL: So you --

21 JUROR WEBB: The system works. I just -- yeah.

22 MR. HULL: You just kind of feel a little
23 anxiety about how that went?

24 JUROR WEBB: Yeah.

25 MR. HULL: Now is there anything about that

1 that's going to affect -- now obviously, this is not a
2 murder case.

3 JUROR WEBB: No. No.

4 MR. HULL: This is an Attempting to Influence a
5 Juror case. But is there anything about that that might
6 affect how you look at this case?

7 JUROR WEBB: No.

8 MR. HULL: Okay.

9 JUROR WEBB: I mean, you have -- you got a job
10 to do and he's got his. And, hopefully, you're going to
11 do it.

12 MR. HULL: Now one of the -- the concerns the
13 defense might have is that you're -- you had this one
14 person that you thought was guilty and you found not
15 guilty, and you don't feel good about that.

16 JUROR WEBB: Right.

17 MR. HULL: Is that going to affect your decision
18 in this case?

19 JUROR WEBB: No.

20 MR. HULL: Okay. So you're going to be able to
21 look at this case separately?

22 JUROR WEBB: Separately, yes.

23 MR. HULL: That was another case and another
24 time.

25 And, Mr. Burns, did you also have your hand up?

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

JUROR BURNS: I did.

MR. HULL: And how long ago was that?

JUROR BURNS: About seven years.

MR. HULL: And was that here in Mecosta County?

JUROR BURNS: It was.

MR. HULL: And what was the trial?

JUROR BURNS: Not murder, just a driving
incident.

MR. HULL: Okay. Just a driving incident.
Okay. So -- So not murder. We have one non-murder here.
Okay. And that was about seven years ago?

JUROR BURNS: Yes.

MR. HULL: And when you say driving incident,
was it drunk driving or what was it?

JUROR BURNS: Yes.

MR. HULL: It was a drunk driving incident. Did
the -- did the jury come up with a verdict?

JUROR BURNS: They did.

MR. HULL: Did they all agree on the verdict?

JUROR BURNS: Yes.

MR. HULL: What -- were you satisfied with the
verdict?

JUROR BURNS: I was.

MR. HULL: Were you satisfied with how the
process worked out?

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

JUROR BURNS: Yes.

MR. HULL: Is there anything about that process that makes you think, you know, I don't trust prosecutors, or defense attorneys, or anything like that?

JUROR BURNS: No.

MR. HULL: Anyone seem like they were acting shady or anything in that process that scared you away?

JUROR BURNS: No.

MR. HULL: What about the court system in general; anything about that process --

JUROR BURNS: No --

MR. HULL: -- that you could not --

JUROR BURNS: -- complaints.

MR. HULL: -- trust?

I'm sorry. What was that?

JUROR BURNS: No complaints.

MR. HULL: No complaints. Okay. Now in -- in the end of that case; did you walk away satisfied with the verdict that -- that took place?

JUROR BURNS: Yes.

MR. HULL: Okay.

Now in this case it's kind of interesting; we have a case within a case, because obviously in order to attempt to influence a juror, you have to have a prior case that was going on. That prior case involved the

1 Department of Environmental Quality or the DEQ. Raise of
2 hands who's here -- who's heard of the DEQ?

3 Now the DEQ sometimes in some areas, is popular
4 and in some areas, is not very popular based on the laws
5 they have. Is there anyone here that has had run-ins with
6 the DEQ or -- or concerns or anything like that?

7 THE JURORS: (No verbal response).

8 MR. HULL: Is there anyone here who does not
9 like how the DEQ -- the kind of laws they have or anything
10 like that; any bias against the DEQ?

11 THE JURORS: (No verbal response).

12 MR. HULL: How about bias toward the DEQ? Those
13 -- I apologize, those of you who raised your hands, could
14 you raise them again -- I apologize -- that know what the
15 DEQ is. Okay. And, Mr. Patterson, have you -- you've not
16 had any contact with the DEQ or anything like that?

17 JUROR PATTERSON: No, I haven't.

18 MR. HULL: Have you had to get permits or
19 anything like that for land in -- with the DEQ?

20 JUROR PATTERSON: For a volunteer organization.

21 MR. HULL: All right.

22 JUROR PATTERSON: To build a new facility, we
23 had to get some permits --

24 MR. HULL: Okay.

25 JUROR PATTERSON: Yes.

1 MR. HULL: And was the -- the DEQ involved in
2 that?

3 JUROR PATTERSON: No, not directly.

4 MR. HULL: Okay. So not directly.

5 JUROR PATTERSON: It was a county.

6 MR. HULL. It was a county issue?

7 JUROR PATTERSON: Yes.

8 MR. HULL: So the DEQ was involved; that was
9 kind of county permits?

10 JUROR PATTERSON: Yes.

11 MR. HULL: Anything about that process you
12 think, you know, that it was just unfair or you didn't
13 like how --

14 JUROR PATTERSON: No.

15 MR. HULL: -- it was run?

16 JUROR PATTERSON: Very smooth, easy. Yep.

17 MR. HULL: Is -- and Mr. Smania.

18 JUROR SMANIA: Yes.

19 MR. HULL: You've mentioned you also know who
20 the -- the --

21 JUROR SMANIA: I'm familiar with it.

22 MR. HULL: Just familiar with it. Okay. You
23 haven't had any run-ins with it or anything like that?

24 JUROR SMANIA: No.

25 MR. HULL: Never been charged with anything like

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

that?

JUROR SMANIA: No.

MR. HULL: Okay.

The -- the other person that was involved in that case, was an Amish gentleman, by the name of Andy Yoder. Does anyone here have any friends or family members who live near Amish or know anyone in the Amish community; raise of hands?

Mr. Smania -- I -- I apologize. You -- do -- do you know anyone of -- in the Amish community?

JUROR SMANIA: Yeah. Oh, they live around where I'm at --

MR. HULL: Okay.

JUROR SMANIA: -- out in Morley/Stanwood area.

MR. HULL: Okay. Do you know the name Andy Yoder?

JUROR SMANIA: No.

MR. HULL: Okay.

JUROR SMANIA: Never heard of him.

MR. HULL: You never heard of him?

JUROR SMANIA: No.

MR. HULL: Okay.

And is -- obviously for both sides of the attorney -- or -- both sides of the case, we're looking for people that don't have any bias either for or against.

1 Is there anything about -- is there anyone in the Amish
2 community that wronged you that --

3 JUROR SMANIA: No.

4 MR. HULL: -- makes you think, I just don't like
5 them?

6 JUROR SMANIA: No.

7 MR. HULL: At the same time, is there anything
8 about the people of the Amish community; do you think
9 they're all saints and nothing they do is wrong, or
10 anything like that?

11 JUROR SMANIA: I -- I don't have any bias
12 towards them.

13 MR. HULL: Okay. And one way or another --

14 JUROR SMANIA: No.

15 MR. HULL: -- they're just people.

16 Okay.

17 Does anyone else have any friends or family
18 members that know people in the Amish community?

19 THE JURORS: (No verbal response).

20 MR. HULL: Obviously, one of the other questions
21 you have to ask is -- is anyone here who has close friends
22 or family members who have been charged with a crime?

23 THE JURORS: (No verbal response).

24 MR. HULL: Anyone here who has had any run-ins
25 with the prosecutor's office, or police officers, or

1 anything like that; outside of speeding tickets?

2 THE JURORS: (No verbal response).

3 MR. HULL: Okay.

4 Is there anyone here that harbors any -- every
5 once in a while you have some people that -- that don't
6 trust the government in general, and whether the
7 government is -- you know -- the local prosecutor's
8 office, the court system, the federal government. Is
9 there anyone here that just has some anti-government
10 sentiment; you know, I just don't trust the government,
11 they screw up everything they touch, anything like that?

12 JUROR SMANIA: I feel like the state as a whole
13 is sound. I trust them. As far as maybe upper levels of
14 federal government; I question it. May not a --

15 MR. HULL: Okay.

16 JUROR SMANIA: -- super anti -- I don't trust
17 them at all, but --

18 MR. HULL: So as far as the state level, you're
19 -- you're fine.

20 JUROR SMANIA: Yeah.

21 MR. HULL: Luckily I work for the county and the
22 state. So I'm glad to hear that. But as far as the
23 federal level of the government you might have some
24 concerns?

25 JUROR SMANIA: Exactly.

1 MR. HULL: Anyone else?

2 JUROR KANE: I'll -- I'll agree on that. I
3 don't know.

4 MR. HULL: Okay.

5 JUROR KANE: I don't like the way it's being
6 run.

7 MR. HULL: Okay. And is that --

8 JUROR SMANIA: Exactly.

9 MR. HULL: -- general or is that --

10 JUROR KANE: Yes.

11 MR. HULL: That's general. Okay. And you're
12 talking about the federal government?

13 JUROR KANE: Yeah.

14 MR. HULL: Okay.

15 All right. Anyone else?

16 THE JURORS: (No verbal response).

17 MR. HULL: Anyone else have any friends or
18 family members who are -- have been law enforcement or
19 police officers?

20 Is it Ms. Young, Gizell Young?

21 JUROR YOUNG: Uh-huh.

22 MR. HULL: Who was your family member that was a
23 police officer?

24 JUROR YOUNG: My grandpa, Gary Lough, used to be
25 a magistrate here.

1 MR. HULL: Oh, okay. So he was -- Gary -- okay.

2 All right. So your grandpa --

3 JUROR YOUNG: Uh-huh.

4 MR. HULL: -- used to work as the magistrate
5 here?

6 JUROR YOUNG: Yep.

7 MR. HULL: Okay. Now the new magistrate is a
8 gentleman by the name of Tom Lyons. Do you know him at
9 all?

10 JUROR YOUNG: No.

11 MR. HULL: You don't. Okay.

12 Is the fact that -- that your grandpa used to be
13 the magistrate in Mecosta County going to affect you and
14 your ability to be fair and impartial in this trial?

15 JUROR YOUNG: It won't affect me.

16 MR. HULL: You don't have any connection with
17 anyone who's currently in the courthouse?

18 JUROR YOUNG: No.

19 MR. HULL: Okay.

20 And -- and the fact that he's your grandpa,
21 that's -- that's not going to make you want to trust the
22 current magistrate more or less than anyone else that --
23 that testifies?

24 JUROR YOUNG: Maybe a little bit.

25 MR. HULL: Okay. All right. So let's -- let's

1 get into that because we want to make sure that if the
2 current magistrate testifies, and his name is Thomas
3 Lyons, are you going to be looking at him and saying, you
4 know what, I might trust him a little bit more than other
5 witnesses?

6 JUROR YOUNG: Probably.

7 MR. HULL: Okay. Now, I -- the Judge is going
8 to give you -- I expect that she's going to give you
9 instruction that you must weigh each witnesses' testimony
10 exactly the same as you would any other witness. Would
11 you be able to follow that instruction?

12 JUROR YOUNG: I think so.

13 MR. HULL: Okay. So, if the Judge says just
14 because he's a magistrate or for instance, a police
15 officer, or anything like that, you're supposed to take
16 that aside and you'll weigh his evidence the same as you
17 would anyone else. Would you be able to follow that
18 instruction?

19 JUROR YOUNG: Uh-huh.

20 MR. HULL: Is that a yes?

21 JUROR YOUNG: Yes.

22 MR. HULL: And I apologize -- I should have said
23 this in the very beginning -- answers have to be yes and
24 no because the court recorders are taking it in and uh-huh
25 and uh-uh sound very similar when you're trying to replay

1 it later on. So that was my fault. I apologize for not
2 telling you.

3 There were a couple other hands in the air;
4 anyone know any law enforcement?

5 Go ahead.

6 JUROR SMANIA: Not in the State of Michigan, but
7 in Illinois.

8 MR. HULL: Okay. Police officers?

9 JUROR SMANIA: Yes. I mean, I have a friend who
10 -- Ron Nichols is a friend of mine who was the Judge for
11 --

12 MR. HULL: Judge Nichols is a friend of yours?

13 JUROR SMANIA: Yeah.

14 MR. HULL: Okay. And he's the retired circuit
15 court Judge.

16 JUROR SMANIA: Correct. Correct.

17 MR. HULL: And he was a defense attorney for
18 several years --

19 JUROR SMANIA: Yes.

20 MR. HULL: -- before that. And I think he's a
21 visiting Judge now as well; is that correct?

22 JUROR SMANIA: Yeah.

23 MR. HULL: Now anything about -- obviously,
24 Judge Nichols is not involved in this case, but is there
25 anything about being friends with -- with Judge Nichols

1 that makes you feel like you wouldn't be able to be fair
2 and impartial in this case?

3 JUROR SMANIA: No.

4 MR. HULL: Would you be able to separate the
5 fact that you happened to know a judge and -- and --

6 JUROR SMANIA: No, I mean, he's really a
7 character. But, I mean, I still trust the system.

8 MR. HULL: I think anyone that knows him would
9 agree with that. Now is there anything about knowing him
10 that would make you lean one way or another in this case?

11 JUROR SMANIA: No.

12 MR. HULL: Okay. And you mentioned there was
13 some law enforcement in another state; police officers?

14 JUROR SMANIA: Yeah, a cousin.

15 MR. HULL: Okay. We will be having some -- some
16 law enforcement; Deputy Roberts will probably be
17 testifying, and he also is a corrections officer here. He
18 works in the court system. Is there anything about having
19 friends that are in law enforcement that would make you
20 trust the word of a law enforcement official more than
21 anyone else?

22 JUROR SMANIA: To a certain degree, yeah.

23 MR. HULL: Now would you be able to -- if the
24 Judge gives you instructions saying that you are required
25 to weigh the evidence of each person's testimony the same

1 as anyone else's -- would you be able to follow that
2 instruction?

3 JUROR SMANIA: Yes.

4 MR. HULL: Okay. So you would be able to put
5 aside the fact that you know some police officers and just
6 base the testimony on -- on the witness testifying
7 themselves; taken aside with what they have?

8 JUROR SMANIA: Yeah.

9 MR. HULL: Okay.

10 All right. Anyone else; did anyone else raise
11 their hands?

12 Ms. Kane.

13 JUROR KANE: I have a nephew that's a retired
14 police officer.

15 MR. HULL: Okay. And --

16 JUROR KANE: In Northville.

17 MR. HULL: And what; I'm sorry?

18 JUROR KANE: In Northville.

19 MR. HULL: In Northville. Okay. Is there
20 anything about having a nephew who is a retired police
21 officer that might make you say, you know what, I trust
22 law enforcement more than anyone else?

23 JUROR KANE: No.

24 MR. HULL: Or, maybe if you don't like your
25 nephew; I trust law enforcement less than anyone else

1 because of that?

2 JUROR KANE: No.

3 MR. HULL: No. Okay.

4 All right. So there's nothing about having a
5 nephew that would affect your ability to weigh the
6 evidence in this case?

7 JUROR KANE: No.

8 MR. HULL: Okay.

9 Now, Ms. Kane, you mentioned at the very
10 beginning that you know Janet Langell and you know her
11 from -- from living over in Chippewa Lake.

12 JUROR KANE: I don't know her, personally. I
13 just know the name.

14 MR. HULL: You just know the name. Okay.

15 JUROR KANE: Yeah.

16 MR. HULL: I don't expect that Ms. Langell will
17 be a major witness in here. I might or might not even
18 need to call her.

19 JUROR KANE: Uh-huh.

20 MR. HULL: But, if she does end up testifying,
21 is there anything about knowing her name and knowing that
22 she lives in the community that would make you weigh her
23 -- or -- weigh her testimony more than you would anyone
24 else's?

25 JUROR KANE: No.

1 MR. HULL: Okay. You'd be able to separate the
2 fact that you know of her --

3 JUROR KANE: Uh-huh.

4 MR. HULL: -- from anything else?

5 JUROR KANE: Uh-huh.

6 MR. HULL: Is there anyone else here who knows
7 -- I don't -- I think that was the only one. Anyone else
8 who knows any of the witnesses that were named, or the
9 attorneys, or people involved?

10 THE JURORS: (No verbal response).

11 MR. HULL: Anyone know anyone from the
12 prosecutor's office?

13 THE JURORS: (No verbal response).

14 MR. HULL: From the court system; anything like
15 that?

16 THE JURORS: (No verbal response).

17 MR. HULL: All right.

18 Is there anything else that someone might be
19 thinking; you know, this is something that either the
20 prosecution or the defense should know; that maybe I
21 shouldn't -- I wouldn't be fit for this jury; is there
22 anyone else that has that kind of thought that maybe
23 either attorney should know?

24 THE JURORS: (No verbal response).

25 MR. HULL: No. Is that a no from everyone?

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

JUROR WEBB: Yes.

MR. HULL: I have no further questions.

Thank you.

THE COURT: Thank you.

Mr. Kallman.

MR. KALLMAN: Thank you, your Honor.

Ladies and gentlemen, again, my name is Dave Kallman. I'm the attorney for Mr. Wood. And so, I just have a few questions. Mr. Hull covered quite a few of them already. So I would like to talk a little bit about the beyond a reasonable doubt standard that he touched on. And he read the definition that -- that the Judge is going to give you. She's going to give you an instruction that it's a fair, honest doubt, that sort of thing. It's supposed to be based on the facts and circumstances of this case. So is there anything in your experience or your background or knowing folks, you know, things like that that might cause you to say, well, a police officer said this, or -- you know -- a magistrate said this, so okay, I'm just going to go with them. Anybody feel like that; that they really could not set aside those kinds of honest feelings that you would have? Anybody have that problem?

THE JURORS: (No verbal response).

MR. KALLMAN: Okay. Great.

1 You know, when we think about beyond a
2 reasonable doubt, I like to try to give examples
3 sometimes. And attorneys are terrible at this I know; at
4 trying different types of examples, but I think an easy
5 one to think of is just think of a chain link, okay. A
6 chain with many links, right. And as you've heard already
7 from the Judge, and from Mr. Hull, there are many elements
8 to this crime. The Judge read them to you briefly. You're
9 going to be hearing them over and over as we go through
10 the case here of what the elements are of this alleged
11 offense that they're, the State, is claiming that Mr. Wood
12 committed. And do all of you agree and commit to
13 understand that each and every element has to be proven
14 beyond a reasonable doubt?

15 THE JURORS: (No verbal response).

16 MR. KALLMAN: Do you understand what I'm saying
17 here? So in other words, there's three basic elements and
18 there are some subsets within these elements of words and
19 things like that. But let's say Mr. Hull proved to you
20 number 1, and number 2, and most of number 3. But, man,
21 there's one part here in number 3; I don't really think he
22 proved that. Would you all agree then that -- well, what
23 do you think the verdict should be at that point?

24 JUROR BURNS: Not guilty.

25 MR. KALLMAN: Not guilty. Does everybody agree

1 with that?

2 THE JURORS: (No verbal response).

3 MR. KALLMAN: And so, if you think of it like a
4 chain with a bunch of links, if just one of those links
5 breaks; what happens to the chain? It falls apart doesn't
6 it? So everybody okay with that concept; that idea, as
7 you're talking about reasonable doubt and looking at each
8 and every element here in this case, everybody okay with
9 that?

10 THE JURORS: (No verbal response).

11 MR. KALLMAN: Do any of you have any training in
12 law enforcement or a criminal justice background; any of
13 you personally?

14 THE JURORS: (No verbal response).

15 MR. KALLMAN: No.

16 All right. See great minds think alike. A lot
17 of my questions Mr. Hull stole already. So, I'll be a
18 little more brief.

19 And I would ask everybody in the jury pool also,
20 if people are taken off of the jury, you're going to be
21 brought up here, so please pay attention to both of us
22 because we're going to be asking you; did you hear all of
23 the questions, and would you answer differently. So I
24 appreciate everybody paying attention to this. It can get
25 tedious sometimes and we understand that.

1 Any of you think Mr. Wood is guilty just because
2 he's sitting here right now?

3 THE JURORS: (No verbal response).

4 MR. KALLMAN: I mean, he's the defendant. The
5 government has charged him. Where there's smoke there's
6 fire, right? Anybody think like that?

7 JUROR BURNS: No.

8 MR. KALLMAN: Okay. As we're sitting here right
9 now, Mr. Wood is not guilty. Is everybody okay with
10 committing to that?

11 JUROR WEBB: Yes.

12 MR. KALLMAN: Okay.

13 Do any of you think that -- well, let me preface
14 this; you heard us list our witnesses that we might call.
15 And Mr. Hull had a pretty lengthy list of witnesses. And,
16 as he said, he's probably not intending to call every one
17 of them, but there's a number of people on his list. We
18 had three people on our list. Any of you think; well, you
19 know what, they've got ten witnesses, they've only got
20 three. Okay. The prosecutor wins. Anybody think that's
21 the standard that should be used?

22 JUROR BURNS: No.

23 JUROR WEBB: No.

24 MR. KALLMAN: No. Okay.

25 Do all of you agree that we have the right to

1 speak freely in our country?

2 JUROR WEBB: Yes.

3 MR. KALLMAN: Would all of you agree with that?

4 JUROR BURNS: Yes.

5 JUROR SMANIA: Yes.

6 MR. KALLMAN: Okay.

7 And ladies and gentlemen, you're going to be
8 hearing a lot of evidence. And if you serve on this or if
9 other people are serving on this, we're here today because
10 of this, a piece of paper. And you're going to be seeing
11 it and you're going to be able to look at it. That's
12 what this case is about. You heard the prosecutor talk
13 about circumstantial versus direct evidence. Everybody
14 agree this is direct evidence, right? I think the
15 evidence will be clear. This is what Mr. Wood was handing
16 out. So this is the direct evidence, right? Now, if
17 somebody asks you to infer something or guess or well, you
18 know, I think maybe Mr. Wood meant to do this or that; do
19 you think that's a fair thing versus what he actually did?
20 Would you --

21 MR. HULL: Your Honor, I'm going to object. It
22 looks like we're getting a little bit into argument here,
23 especially when we're throwing evidence and --

24 THE COURT: May I see --

25 MR. KALLMAN: Well --

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

THE COURT: May I see the two of you.

(At 10:15 a.m., bench conference held)

(At 10:16 a.m., bench conference concluded)

MR. KALLMAN: Would everybody agree that direct evidence is more compelling and stronger than inferring something from other information you might receive?

JUROR WEBB: Yes.

JUROR YOUNG: Yes.

MR. KALLMAN: Does everybody agree with that?

THE JURORS: (No verbal response).

MR. KALLMAN: Okay. Thank you.

Thank you. I don't have anything else.

Thanks, Judge.

THE COURT: Thank you.

Mr. Hull, challenges for cause.

MR. HULL: None for cause, your Honor.

THE COURT: Mr. Kallman.

MR. KALLMAN: None for cause, your Honor.

THE COURT: Peremptory is to the People then.

MR. HULL: Your Honor, the People would like to thank and excuse Jimmy Curtis.

THE COURT: Mr. Curtis, you are excused. If you did need a note for an employer, district court.

Thank you.

(At 10:17 a.m., Juror Curtis excused)

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

THE COURT: Please call another name.

THE RECORDER: Juror Number 29, Corey Powers.

THE COURT: Mr. Powers, have a seat. I know that you did indicate some issues with work schedules and I will allow the attorneys to inquire regarding that.

Thank you.

Mr. Hull.

MR. HULL: Thank you, your Honor.

Mr. Powers, you mentioned that your work schedule makes it difficult for you to be here?

JUROR POWERS: Yes.

MR. HULL: What's -- what makes it difficult about that?

JUROR POWERS: Well, because I live in Lansing all week long and that's where I work. So then I come up here. I own a house in this county so --

MR. HULL: Okay.

Are you -- I guess I should have asked this to everyone. Is that why -- you're a resident of Mecosta County -- sometimes people move.

JUROR POWERS: (No verbal response).

MR. HULL: Okay. So you still are a resident of Mecosta County, though, but you --

JUROR POWERS: It's where my --

MR. HULL: -- have a house --

1 JUROR POWERS: -- permanent address is, yes.

2 MR. HULL: Okay.

3 Okay. And you have the job in Lansing; is that
4 correct?

5 JUROR POWERS: (No verbal response).

6 MR. HULL: Okay.

7 And you're missing days of work. Do you get
8 salary or anything like that?

9 JUROR POWERS: No, it's hourly so -- I'm in the
10 union -- so if I miss a day of work, I don't get paid for
11 it.

12 MR. HULL: Okay.

13 Your Honor, if we may approach briefly, I would
14 like to --

15 THE COURT: Mr. Kallman.

16 MR. KALLMAN: Sure, your Honor.

17 (At 10:18 a.m., bench conference held)

18 (At 10:19 a.m., bench conference concluded)

19 MR. HULL: Mr. Powers, you filled out a jury
20 questionnaire; is that correct?

21 JUROR POWERS: Yes.

22 MR. HULL: And in your jury questionnaire, you
23 stated, "I'm antigovernment. Do not wish to participate
24 in any of your government activities. Thank you."

25 JUROR POWERS: Yes.

1 MR. HULL: Okay. So you have -- you have a
2 problem with the federal -- or -- the government?

3 JUROR POWERS: I don't believe that the
4 government always tells the truth.

5 MR. HULL: Okay. And so, is that going to
6 affect your opinion in this case?

7 JUROR POWERS: Yeah. I mean, I don't
8 necessarily believe that the law is always correct.

9 MR. HULL: Okay. And if the Judge gives you a
10 statement saying that this is the law; you have to follow
11 the law. Would you be able to do that?

12 JUROR POWERS: Sure. I mean, if it's --

13 MR. HULL: As far as issues with the government;
14 just standing here, just looking at me, I'm the assistant
15 prosecutor here, do you just like of look at me and see
16 this is a person I'm not going to trust?

17 JUROR POWERS: Not necessarily. But, I mean,
18 I've been accused of a crime myself before and had to
19 prove that I was innocent -- it didn't go to trial -- but
20 they treated me like a criminal. It was a -- for an
21 assault case that I was attacked and I had to prove that I
22 was in self-defense, although, they treated me like a
23 criminal. I was very upset about that.

24 MR. HULL: Okay. So and is that going -- and --
25 and that was here in Mecosta County?

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

JUROR POWERS: Uh-huh.

MR. HULL: Okay. Now is that going to affect your ability to sit in this case and be fair and unbiased?

JUROR POWERS: It depends on what -- what the evidence is in front of me to read and understand.

MR. HULL: Okay. Is it fair to say that if I -- if my witnesses are going to be judges, magistrates, police officers, are -- are you going to look at them the same way you would any other witness or would you --

JUROR POWERS: I just know police officers lie like everybody else. I mean, we're human beings, right?

MR. HULL: So, basically, no more or less than anybody else; just people -- some people lie --

JUROR POWERS: Yes.

MR. HULL: -- or just because they have a uniform on doesn't mean I necessarily trust them?

JUROR POWERS: (No verbal response).

MR. HULL: Okay. And just because they have a uniform on; does that mean you don't trust them?

JUROR POWERS: No. I mean, it doesn't mean I don't trust them. I don't know them personally. But, I do know cops persuade people into telling them stuff that's -- you know -- to -- to think otherwise.

MR. HULL: Okay.

Your Honor, I have no further questions.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Thank you.

THE COURT: All right.

Mr. Kallman.

MR. KALLMAN: No questions, your Honor.

THE COURT: All right.

Challenges for cause, Mr. Hull?

MR. HULL: Your Honor, I would challenge Corey Powers for cause.

THE COURT: And your response, Mr. Kallman.

MR. KALLMAN: Well, I don't believe it's for cause, your Honor. I think he testified truthfully about his past. But, he said very clearly, I'll look at the evidence in front of me. I don't think that it would sway me one way or the other. He said I don't know whether or not someone -- somebody's not more trustworthy just because they're wearing a uniform. I think it's pretty much the jury instruction, you know, to be treated like anybody else. So I don't think there has been enough here for cause at all.

THE COURT: All right.

Mr. -- a couple of questions, Mr. Powers; if I instruct you on the law, are you going to have any problems following what I tell you the law is?

JUROR POWERS: No.

THE COURT: Okay. Are you going to have any

1 problems -- do you believe that you could be a fair and
2 impartial juror?

3 JUROR POWERS: It depends on what the evidence
4 is, I suppose.

5 THE COURT: I -- I guess, I'll -- I need a
6 little bit further information.

7 JUROR POWERS: Well, your -- your Honor, the --
8 allegedly you're charging this man with something, but I
9 haven't physically seen the paper; what was handed out.
10 So as of now, no.

11 THE COURT: Well, right. You are in the same
12 boat as all of us in this room right now.

13 JUROR POWERS: Uh-huh.

14 THE COURT: So do you believe you can sit and
15 listen to the evidence and make a decision based on what's
16 been presented to you?

17 JUROR POWERS: Sure.

18 THE COURT: All right.

19 Then I -- I will not excuse him for cause.

20 And, obviously, Mr. Kallman, you don't have an
21 objection to -- for cause to him.

22 MR. KALLMAN: That's correct, your Honor.

23 THE COURT: Peremptory is to the defense.

24 MR. KALLMAN: Thank you, your Honor.

25 We would like to thank and excuse Ms. Young.

1 THE COURT: Ms. Young, you are excused. Do you
2 need a note for an employer?

3 JUROR YOUNG: No.

4 THE COURT: All right. Then thank you for
5 coming today.

6 (At 10:23 a.m., Juror Young excused)

7 I guess I need to just -- I'll just indicate
8 too, as well, so that all of you know before we excuse too
9 many people that there is a possibility that some people
10 did not appear today for jury duty. And as you're sitting
11 here and I -- we don't know how long that you'll be here
12 today, there were people that may not have shown up today.
13 They will receive a special invitation from me and they
14 will appear here in front of me, and I do have the ability
15 to hold them in contempt for not coming. So I want to
16 thank you for being here today. However, there are people
17 -- understand that if you did not show up, there are some
18 implications to the people that did not appear here today.

19 So let's call another juror, please.

20 THE RECORDER: Juror Number 6, Melanie
21 Mondrella.

22 THE COURT: Mr. Hull.

23 MR. HULL: Thank you, your Honor.

24 Is it Ms. Mon -- Mondrella?

25 JUROR MONDRELLA: Correct.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

MR. HULL: All right.

Ms. Mondrella, you've heard all of the questions that were asked?

JUROR MONDRELLA: Yes.

MR. HULL: Was there any of those questions that kind of stuck out in your mind about oh, maybe they should know about this?

JUROR MONDRELLA: No.

MR. HULL: Have you heard any media accounts based on this case?

JUROR MONDRELLA: No.

MR. HULL: Okay.
Have you heard anyone talking about it; Facebook, or anything like that?

JUROR MONDRELLA: No.

MR. HULL: So you -- you have no idea what this case is about and never seen it on -- on the news or anything like that?

JUROR MONDRELLA: Correct.

MR. HULL: Okay.

And as far as proven -- innocent until proven guilty; you understand the defendant, as he stands right now, is innocent. It's on me to prove that he is guilty of a crime?

JUROR MONDRELLA: Yes.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

MR. HULL: Okay.

And do you have any family members who are in law enforcement?

JUROR MONDRELLA: No.

MR. HULL: Do you have any concerns with the government in general?

JUROR MONDRELLA: No.

MR. HULL: Do you have any concern -- have you had any family members or friends that have been arrested or charged with a crime?

JUROR MONDRELLA: No.

MR. HULL: Okay.

Any family member or friends who are in law enforcement?

JUROR MONDRELLA: No.

MR. HULL: Any family member or friends who -- or -- know anyone from the Amish community?

JUROR MONDRELLA: No.

MR. HULL: Okay.

Do you know anything about the Department of Environmental Quality; have any concerns or issues with them, or anything like that?

JUROR MONDRELLA: No.

MR. HULL: Okay.

I have no further questions.

1 Thank you.

2 THE COURT: Mr. Kallman.

3 MR. KALLMAN: Thank you, your Honor.

4 Ma'am, you were able to hear the questions I

5 asked?

6 JUROR MONDRELLA: Yes.

7 MR. KALLMAN: Anything you would have answered

8 differently or you have a question on?

9 JUROR MONDRELLA: No.

10 MR. KALLMAN: Okay.

11 Thank you.

12 THE COURT: Mr. Hull, challenge for cause.

13 MR. HULL: None for cause, your Honor.

14 THE COURT: Mr. Kallman.

15 MR. KALLMAN: No, your Honor.

16 THE COURT: We're back to peremptories to the

17 People, please.

18 MR. HULL: Thank you, your Honor.

19 The People would like to thank and excuse Corey

20 Powers.

21 THE COURT: Mr. Powers, you are excused.

22 Do you need a note for work?

23 JUROR POWERS: No. Thank you.

24 THE COURT: All right.

25 (At 10:26 a.m., Juror Powers excused)

1 Let's pick another juror, please.

2 THE RECORDER: Juror Number 24, Carla Sims.

3 THE COURT: Good morning.

4 Mr. Hull.

5 MR. HULL: Thank you, your Honor.

6 Good morning, Ms. Sims.

7 JUROR SIMS: Good morning.

8 MR. HULL: Have you heard all the questions that

9 were asked?

10 JUROR SIMS: Yes.

11 MR. HULL: Anything that stuck out you think

12 maybe the parties should know about, or you would have

13 answered differently, or anything like that?

14 JUROR SIMS: No.

15 MR. HULL: Had -- have you heard any media news

16 accounts on this case?

17 JUROR SIMS: Just headlines a couple years ago

18 and that was it. I don't remember reading the articles

19 even.

20 MR. HULL: You just remember seeing the

21 headlines?

22 JUROR SIMS: Uh-huh.

23 MR. HULL: Did you form any opinion just by

24 looking at the headline?

25 JUROR SIMS: No.

1 MR. HULL: Did -- have you heard any family
2 members talking about it, or Facebook, or anything like
3 that?
4 JUROR SIMS: No.
5 MR. HULL: When you read the headlines; what was
6 your first thought?
7 JUROR SIMS: I really don't remember.
8 MR. HULL: Okay. All right. So there is
9 nothing about this case that kind of stuck out for you?
10 JUROR SIMS: No.
11 MR. HULL: Okay.
12 Do you have any family member in law
13 enforcement; any friends or family members in law
14 enforcement?
15 JUROR SIMS: I do not.
16 MR. HULL: Okay.
17 Do you have any friends or family members that
18 have been arrested or charged with a crime?
19 JUROR SIMS: I do not.
20 MR. HULL: Any connections or know any people of
21 the Amish community?
22 JUROR SIMS: No.
23 MR. HULL: Do you know anyone or have you ever
24 had any issues with the Department of Environmental
25 Quality --

1 JUROR SIMS: No.

2 MR. HULL: -- the DEQ? No. Okay.

3 Thank you.

4 JUROR SIMS: Uh-huh.

5 THE COURT: Mr. Kallman.

6 MR. KALLMAN: Thank you.

7 Again, ma'am, the same question; you've heard

8 the questions I've asked, right?

9 JUROR SIMS: Yes.

10 MR. KALLMAN: And anything you would have

11 answered differently or you need to let me know?

12 JUROR SIMS: No.

13 MR. KALLMAN: Okay.

14 Thank you very much.

15 THE COURT: Challenges for cause, Mr. Hull.

16 MR. HULL: None for cause, your Honor.

17 THE COURT: Mr. Kallman.

18 MR. KALLMAN: None, your Honor.

19 THE COURT: We are at peremptories to the

20 defense.

21 MR. KALLMAN: One moment, your Honor.

22 Thank you, your Honor.

23 We would like to thank and excuse Mr. Smania.

24 Thank you.

25 THE COURT: Thank you.

1 Sir, you are excused. Thank you for coming here
2 today. Do you need a note for work?

3 JUROR SMANIA: No.

4 THE COURT: All right.

5 Thank you.

6 (At 10:28 a.m., Juror Smania excused)

7 Call another name, please.

8 THE RECORDER: Juror Number 40, Tiffanie
9 Shearer.

10 THE COURT: Good morning, ma'am.

11 Mr. Hull.

12 MR. HULL: Thank you, your Honor.

13 Ms. Shearer.

14 JUROR SHEARER: Yes.

15 MR. HULL: You've heard all the questions that
16 were asked?

17 JUROR SHEARER: Yes.

18 MR. HULL: Anything that sticks out that you'd
19 think answer-- you think the -- either party should know
20 about?

21 JUROR SHEARER: No.

22 MR. HULL: Have you had any contact with the
23 Mecosta County Prosecutor's Office?

24 JUROR SHEARER: No.

25 MR. HULL: Any contact with any of the court

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

systems?

JUROR SHEARER: Just some family members with like -- when my sister and brother-in-law -- but that was with their child.

MR. HULL: Okay.

JUROR SHEARER: But other than that -- and then some family members with just some speeding tickets or something like that -- other than that, no.

MR. HULL: And with regard to your sister and brother-in-law for their child, was it -- was it a custody case between the two of them or was it --

JUROR SHEARER: It was --

MR. HULL: -- a case where the government got involved?

JUROR SHEARER: It was a case where the government got involved.

MR. HULL: Okay. How long ago was that?

JUROR SHEARER: At least five years ago.

MR. HULL: Was there anything about that case that makes you distrust the government?

JUROR SHEARER: No.

MR. HULL: Did you think that the right thing happened at the end of that case?

JUROR SHEARER: Yes.

MR. HULL: Were you satisfied with the outcome

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

--

JUROR SHEARER: Yes.

MR. HULL: -- of that case? Okay.

Any family members or friends that are in police
-- or -- in law enforcement?

JUROR SHEARER: I have some friends -- or --
some -- I went to school with her and now she's married to
a police officer. But other than that --

MR. HULL: Okay.

And so we have a once removed -- you know a
person who is --

JUROR SHEARER: Yeah.

MR. HULL: -- married to a police officer?

JUROR SHEARER: Yeah.

MR. HULL: Anything about that that would lead
you to --

JUROR SHEARER: No.

MR. HULL: -- to hold police officers in higher
esteem or anything like that?

JUROR SHEARER: No.

MR. HULL: Have you heard any media coverage on
this; any news stories?

JUROR SHEARER: No, I have not.

MR. HULL: Okay.

And do you have -- is there anything that kind

1 of pops out that -- you know -- maybe either attorney
2 should know; a reason why you might not be ready for --
3 JUROR SHEARER: I don't think so. No.
4 MR. HULL: Okay.
5 All right.
6 Thank you.
7 THE COURT: Thank you.
8 Mr. Kallman.
9 MR. KALLMAN: Thank you.
10 Ms. Shearer, again, you heard my questions,
11 correct?
12 JUROR SHEARER: Yeah.
13 MR. KALLMAN: Any -- anything different or
14 anything you think we should know?
15 JUROR SHEARER: No.
16 MR. KALLMAN: Okay.
17 Thank you.
18 THE COURT: Challenges for cause, Mr. Hull.
19 MR. HULL: None for cause.
20 THE COURT: Mr. Kallman.
21 MR. KALLMAN: None, your Honor.
22 THE COURT: All right.
23 We are back to peremptories to the People.
24 MR. HULL: One second, your Honor.
25 THE COURT: Sure.

1 MR. HULL: Your Honor, the People are satisfied
2 with this jury.
3 THE COURT: Thank you.
4 Mr. Kallman.
5 MR. KALLMAN: Thank you, your Honor.
6 One moment.
7 Thank you, your Honor.
8 THE COURT: It's all right.
9 MR. KALLMAN: I appreciate the time to discuss.
10 We would like to thank and excuse Juror Kane.
11 Thank you, ma'am.
12 THE COURT: Ms. Kane, you are excused. Do you
13 need a note?
14 JUROR KANE: (No verbal response).
15 THE COURT: Ma'am, do you need a note?
16 JUROR KANE: No.
17 THE COURT: All right.
18 Then thank you for coming in today.
19 (At 10:33 a.m., Juror Kane excused)
20 Choose another name, please.
21 THE RECORDER: Juror Number 35, Richard Jaskot.
22 THE COURT: Mr. Hull.
23 MR. HULL: Thank you, your Honor.
24 Mr. Jaskot, have you heard all the questions
25 that were asked?

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

JUROR JASKOT: Yes.

MR. HULL: Anything stick out that you think we should know about?

JUROR JASKOT: No.

MR. HULL: Know any -- have any friends or family members in law enforcement or anything like that?

JUROR JASKOT: No, no I do not.

MR. HULL: Any -- any connections with the Amish community?

JUROR JASKOT: I know a few of them.

MR. HULL: Anything about those connections that would -- this isn't a case about anyone in the Amish community, but the case that will be discussed involves an Amish member of the community -- is there anything about knowing some -- some Amish people that may give you some extra sympathy in that kind of case?

JUROR JASKOT: I'm really not sure on that. I -- I know how they act and the way -- the way they treat people and all that. I might have some feelings about that, but --

MR. HULL: Okay.

And by the way, they are generally very nice people -- or -- what do you mean by that; I don't want to put words in your mouth?

JUROR JASKOT: Well, yeah, they're very nice.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Yeah.

MR. HULL: Okay.

Do you -- do you have any bias when it comes -- do you see them acting improperly or anything like that --

JUROR JASKOT: No, I haven't.

MR. HULL: -- to other people that you know or anything like that?

JUROR JASKOT: No.

MR. HULL: Okay.

Now like I said, this case involves, originally, a charge against an Amish member of the community; do you know Andy Yoder or anyone in the Yoder family?

JUROR JASKOT: I may have come across somebody with the Yoder name. I'm not -- because I live near -- near a lot of Amish families.

MR. HULL: Okay.

JUROR JASKOT: I know that I have seen signs with the names -- the Yoder name on it.

MR. HULL: Okay.

And so living in a community where you have a lot of Amish people living around you; in this case, are you going to feel more inclined to have sympathy for an Amish member of the community than you -- than you otherwise would?

JUROR JASKOT: I'm not really sure on that. I'm

1 not --

2 MR. HULL: Okay.

3 JUROR JASKOT: I'd have to look at the facts, I
4 guess.

5 MR. HULL: Kind of a tough question to ask --

6 JUROR JASKOT: Yeah.

7 MR. HULL: -- is that -- yeah.

8 I -- I -- I guess my question is; the fact that
9 this case began with a charge on an Amish individual, is
10 that going to sway your opinion; are you going to think
11 well, the government shouldn't be charging Amish people
12 with crimes or anything like that?

13 JUROR JASKOT: I think I would try to be fair to
14 everyone. That's the way I'm built.

15 MR. HULL: Okay.

16 So being -- by being fair do you mean that if a
17 person is breaking the law, no matter who they are, they
18 should be --

19 JUROR JASKOT: Yeah.

20 MR. HULL: -- charged?

21 JUROR JASKOT: Yes.

22 MR. HULL: Now this is going to involve the case
23 -- and we won't be getting into too many details about
24 that case --

25 JUROR JASKOT: Okay.

1 MR. HULL: -- but it does involve a wetlands
2 violation; draining wetlands that are protected. Is there
3 anything about that that -- you know -- maybe the
4 government shouldn't interfere when it comes to draining
5 wetlands or anything like that?

6 JUROR JASKOT: No.

7 MR. HULL: Okay. Do you -- are you -- do you
8 have a farm?

9 JUROR JASKOT: I do have a relative that lives
10 right next to some wetlands; a sister and brother-in-law.

11 MR. HULL: Do you have -- have you had any
12 interactions with the Department of Environmental Quality
13 or any family members?

14 JUROR JASKOT: No.

15 MR. HULL: Okay.

16 Any issues with the government or anything like
17 that?

18 JUROR JASKOT: No.

19 MR. HULL: Okay.

20 All right. No further questions.

21 Thank you.

22 THE COURT: Mr. Kallman.

23 MR. KALLMAN: I'm sorry, is -- sir, is your name
24 pronounced Jaskot?

25 JUROR JASKOT: Jaskot.

1 MR. KALLMAN: Jaskot. Okay. I want to make
2 sure I'm saying it right. Thank you.
3 You heard all the questions I asked, correct?
4 JUROR JASKOT: Yes, I did.
5 MR. KALLMAN: Anything that you would answer
6 differently or that you think we need to know about?
7 JUROR JASKOT: No.
8 MR. KALLMAN: Okay.
9 Thank you.
10 THE COURT: Challenge for cause, Mr. Hull.
11 MR. HULL: None for cause, your Honor.
12 THE COURT: Mr. Kallman.
13 MR. KALLMAN: None, your Honor.
14 THE COURT: MR. Hull, I think we're at
15 peremptories to you.
16 MR. HULL: Your Honor, the People are satisfied
17 with the jury.
18 THE COURT: Thank you.
19 Mr. Kallman.
20 MR. KALLMAN: One moment, your Honor.
21 THE COURT: Sure.
22 MR. HULL: Your Honor.
23 THE COURT: Yes.
24 MR. HULL: You've used three.
25 MR. KALLMAN: Oh, that's right. We've used

1 three. No, we get five don't we?

2 MR. HULL: In a misdemeanor case, your Honor, we
3 get three.

4 MR. KALLMAN: Oh, it's a misdemeanor.

5 THE COURT: Would -- would the two of you
6 approach --

7 MR. KALLMAN: Well --

8 THE COURT: -- please?

9 (At 10:38 a.m., bench conference held)

10 (At 10:39 a.m., bench conference concluded)

11 All right.

12 Ladies and gentlemen, we are going to take our
13 morning recess. I was hoping to get the jury picked, but
14 we're going to take a morning recess. What I'm going to
15 do is the people that are in the jury box, please go with
16 the bailiff. You will go into the jury room. There are
17 two restrooms located inside the jury room. The rest of
18 you; if you are potential -- still potential jurors, I'm
19 going to allow you to leave first. There are two
20 restrooms here in the hallway. If you are spectators and
21 you need to use the restroom, there are restrooms located
22 out by the clerk's office and there are also restrooms
23 located upstairs on the second floor. I'm trying to, as
24 easily as possible, keep people from comingling in this
25 case. So I would ask if you are a spectator, please, to

1 go out and go through security and use the restrooms out
2 there, please. So, if you're a spectator, please clear
3 the courtroom.

4 Bailiff, you may take the people that are in the
5 jury box into the jury room.

6 (At 10:41 a.m., prospective jury exit courtroom)

7 Is everyone through security?

8 BAILIFF HOLLOWAY: Yes.

9 THE COURT: I would ask my bailiff, please, that
10 they all stay out until I have my jurors back in the --
11 the jury room.

12 BAILIFF HOLLOWAY: Okay.

13 THE COURT: Any of you that are potential jurors
14 then, please do not go back through security. Please stay
15 in this hallway and use the restrooms that are located
16 here in the hallway.

17 You may now go out.

18 (At 10:42 a.m., remaining prospective jurors
19 exit courtroom)

20 We're off the record.

21 (At 10:44 a.m., court in recess)

22 (At 11:06 a.m., court reconvenes)

23 You may be seated.

24 One moment.

25 Let's bring the other jurors back in.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

(At 11:07 a.m., prospective jurors enter courtroom)

You may be seated.

All right.

The court is back in session in the case of the People of the State of Michigan versus Eric Keith (sic) Wood, being file number 1545978FY.

We took a recess in the middle of jury selection. And I had asked Mr. Kallman if he had additional challenges, but it is my understanding that there are only three per side and those have been used.

So, Mr. Kallman --

MR. KALLMAN: Right. Thank you, your Honor.

Yeah, we were discussing -- we were about to stand and say we were satisfied with the jury, but then that issue came up about whether it was three or five, and all that. But, in any event, we're satisfied with the jury and I wanted that to be clear on the record.

Thank you.

THE COURT: Thank you.

Then we have a jury.

So ladies and gentlemen; all of that, leaving and using the restroom -- sorry -- we may have been able to avoid. However, you have -- those of you that are

1 still out in the gallery do not have to worry any longer.
2 We now have a jury. Both sides are satisfied. So all of
3 you that did show up, I want to thank you for appearing
4 here this morning. And now that we have selected a jury,
5 all of you are free to leave. And if you need a work -- a
6 letter for work; although we are in the circuit court, I
7 am a Circuit Court Judge who is sitting on a District
8 Court case, so this is technically a district court case.
9 So anything that you need, like a letter for your
10 employer, must come from the district court window. That
11 is not the window on this side of the hall. It is the
12 window on the opposite side. The big window, glass
13 window, on the opposite side of the hallway, past the
14 restrooms. If you need a letter, please proceed down
15 there. You are free to go.

16 (At 11:09 a.m., jury impaneled)

17 (At 11:09 a.m., prospective jurors excused)

18 Mr. Hull and Mr. Kallman, will you approach?

19 (At 11:10 a.m., bench conference held)

20 (At 11:11 a.m., bench conference concluded)

21 At this point, I have to apologize. We need to
22 take another brief recess. I'm going to ask that the
23 people that are in the jury box need to go back into the
24 jury room.

25 So would you please take them back to the jury

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

room.

(At 11:12 a.m., jury exits courtroom)

All right.

Now that the jurors are back to the jury room --

MR. KALLMAN: That is one slow door.

THE COURT: Yeah.

There were requests from press members to be able to have cameras for these proceedings. That was granted. I indicated that I would take a break and allow the cameras to now be brought in. I will just indicate that for the people that are going to bring cameras back in; first off, those are the people -- I'm speaking to the people who have gotten prior permission from this Court -- you may bring them back in. You may not film any jurors or any witnesses in this case. You should be familiar with the law in that regard. So please make sure that witnesses or the jurors are not filmed.

MR. HOGAN: Now, when you say witnesses; people that are testifying?

THE COURT: That would be correct.

If you -- if you have an issue with it, take it up with district court and I will -- I will deal with it. I will take --

MR. HOGAN: Okay.

THE COURT: We'll take a brief recess.

1 MR. HOGAN: Where do you want us to set up? I
2 guess the jury box is out of the question.

3 THE COURT: Absolutely.

4 I'm not sure where the plug-ins are and that's
5 my problem.

6 BAILIFF HOLLOWAY: There's one right here.

7 MR. HOGAN: You mean plugs for electronics or
8 something like that?

9 THE COURT: Yeah. Do you need those?

10 MR. HOGAN: No.

11 MS. CHICKLAS: No.

12 MR. HOGAN: No. So one, two, three. There's
13 three so --

14 THE COURT: I have two requests for media.

15 MR. HOGAN: Okay. You've got WZZM.

16 THE COURT: Yes.

17 MS. CHICKLAS: Fox 17.

18 MR. HENDRIX: And Wood TV 8.

19 THE COURT: I don't have one from Fox 17.

20 MS. CHICKLAS: We had faxed that in yesterday.

21 THE COURT: Okay.

22 MS. CHICKLAS: I do have a hardcopy.

23 THE COURT: Go to the -- go to district court
24 and ask them about that. I do not have anything from
25 yesterday. Okay.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

MS. CHICKLAS: All right.

THE COURT: So we're going to take another short recess.

MR. KALLMAN: May we approach, your Honor, just --

THE COURT: You may.

MR. KALLMAN: -- briefly?

(At 11:13 a.m., bench conference held)

(At 11:16 a.m., bench conference concluded)

THE COURT: All right.

So we're going to take a brief recess. I'm going to see the -- see counsel in chambers.

I guess the -- where I'm going to indicate is the cameras get set behind the last row, nearest to the door, for now. In that back corner.

MR. HENDRIX: Are you guys going to be discussing whether we can --

THE COURT: We are.

MR. HENDRIX: -- shoot the witnesses? So we don't need to ask anyone else about that, right?

THE COURT: That's correct.

MR. HOGAN: And the only other question I would have is does the prosecution and defense qualify as witnesses for openers?

THE COURT: We will -- I will let you know when

1 we come back in --

2 MR. HOGAN: All right. Very good.

3 Thank you.

4 THE COURT: -- what the -- what my guidelines
5 will be.

6 Thank you.

7 MR. HOGAN: Thank you.

8 (At 11:17 a.m., court in recess)

9 (At 11:32 a.m., court reconvenes)

10 THE COURT: All right.

11 We are back on the record in the case of the
12 People of the State of Michigan versus Keith Eric Wood,
13 being file number 1545978FY.

14 After taking a short recess to allow the cameras
15 to be set up in the courtroom, I will indicate after doing
16 some research during the break, I will be indicating from
17 the bench that I will be allowing film of the witnesses in
18 this case, but not of any of the jurors.

19 Mr. Hull, is there anything else that we need to
20 take up before I bring the jurors back?

21 MR. HULL: No, your Honor.

22 THE COURT: Mr. Kallman.

23 MR. KALLMAN: No, your Honor.

24 THE COURT: All right.

25 Then I would ask that the jurors be brought

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

back.

All rise for the jury.

(At 11:33 a.m., jury enters courtroom)

You may be seated.

Ladies and gentlemen of the jury, you have been chosen to decide a criminal case made by the State of Michigan against one of your fellow citizens. I will now ask you to stand and swear to perform your duties to try the case justly and reach a true verdict. If your religious beliefs do not permit you to take an oath, you may instead affirm to try the case justly and reach a true verdict.

Would you please stand.

Raise your right hands, please.

Do each of you solemnly swear or affirm that in this action now before this court, you will justly decide the questions submitted to you, that, unless you are discharge by this court from further deliberation, you will render a true verdict, and that you will render your verdict only in the -- only on the evidence introduced and in accordance with the instructions of the Court, so help you God?

If so, answer I will.

JUROR JASKOT: I will.

JUROR SHEARER: I will.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

JUROR YARRINGTON: I will.

JUROR WEBB: I will.

JUROR BURNS: I will.

JUROR MONDRELLA: I will.

JUROR PATTERSON: I will.

JUROR SIMS: I will.

(At 11:34 a.m., jury sworn by the Court)

THE COURT: All right.

Then you may have -- may have a seat.

Now -- now I will explain some of the legal principles that you will need to know and the procedure we will follow in this trial.

A trial follows this procedure:

First, the prosecutor makes an opening statement, where he gives his theories about the case. The defendant's lawyer does not have to make an opening statement, but he may make an opening statement after the prosecutor makes his, or he may wait until later. These statements are not evidence. They are only meant to help you understand how each side views the case.

To prove the charge the prosecutor must prove the following beyond a reasonable doubt:

First, that Jennifer Johnson and/or Theresa DeVries was or were jurors in the case of *People*

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

versus Yoder.

Second, that the defendant willfully attempted to influence that juror by the use of argument or persuasion.

Third, that the defendant's conduct took place outside of proceedings in open court in the trial of the case.

A person acts willfully when he or she knowing -- a person acts willfully when she or she -- he or she acts knowingly and purposefully.

The word "juror" includes a person who has been summoned to appear in court to decide the facts in a specific case.

An "argument or persuasion" can be oral or written.

Next, the prosecutor presents his evidence. The prosecutor may call witnesses to testify and may show you exhibits like documents or objects. The defendant's lawyer has the right to cross-examine the prosecutor's witnesses.

After the prosecutor has presented all of his evidence, the defendant's attorney may also offer evidence, but it does not have to. By law, the defendant does not have to prove his innocence or produce any evidence. If the defense does call any

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

witness, the prosecutor has the right to cross-examine them. The prosecutor may also call witnesses to contradict the testimony of the defense witnesses.

After all the evidence has been presented, the prosecutor and the defendant's lawyer will make their closing arguments. Like the opening statements, these are not evidence. They are only meant to help you understand the evidence and the way each side sees the case. You must base your verdict only on the evidence.

You will be given a written copy of the instructions I have just read to you. You may refer to them during the trial. Since no one can predict the course of a trial, these instructions may change at the end of the trial. At the close of trial, I will provide you a copy of my final instructions for your use during deliberations.

My responsibilities as the judge in this trial are to make sure the trial is run fairly and efficiently, to make decisions about evidence, and instruct you -- and to instruct you about the law that applies to this case. You must take the law as I give it to you. Nothing I say is meant to reflect my own opinions about the facts of this case. As jurors, you are the ones who will decide this case.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Your responsibility as jurors is to decide what the facts of the case are. This is your job and no one else's. You must think about all the evidence and all the testimony and then decide which piece of evidence means and how -- decide what each piece of evidence means and how important you think that it is. This includes how much you believe each -- what each witness said.

What you decide about any fact of the case is final.

When it is time for you to decide the case, you are only allowed to consider the evidence that was admitted in this case. Evidence includes only the sworn testimony of witnesses, the exhibits admitted into evidence, and anything else I tell you to consider as evidence.

It is your job to decide what the facts of this case are. You must decide which witnesses you believe and how important you think their testimony is. You do not have to accept or reject everything a witness says. You are free to believe all, part -- I'm sorry -- all, none, or part of any person's testimony.

In deciding which testimony you believe, you should rely on your own common sense and every day

1 experience. However, in deciding whether you believe
2 a witness's testimony, you must set aside any bias or
3 prejudice you have based on race, gender, or national
4 origin of the witness.

5 There is no fixed rules for judging whether you
6 believe a witness, but it may help you to think about
7 these questions:

8 Was the witness able to see or hear clearly?
9 How long was the witness watching or listening? Was
10 anything else going on that might have distracted the
11 witness?

12 Does the witness seem to have a good memory?

13 Does the witness look and act -- or -- how does
14 the witness look and act while testifying? Does the
15 witness seem to be making an honest effort to tell
16 the truth, or does the witness seem to evade the
17 questions or argue with the lawyers?

18 Does the witness's age or maturity affect how
19 you judge his or her testimony?

20 Does the witness have any bias or prejudice or
21 any personal interest in how this case is decided?

22 Have there been any promises, threats,
23 suggestions or other influences that affect how the
24 witness testifies?

25 In general, does the witness have any special

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

reason to tell the truth, or any special reason to lie?

All in all, how reasonable does the witness's testimony seem when you think about all the other evidence in the case?

The questions the lawyers ask the witnesses are not evidence. Only the answers are evidence. You should not -- you should not think that something is true just because one of the lawyers asked questions that assume or suggest that it is.

I may ask some of the witnesses' questions myself. These questions are not to -- not meant to reflect my opinion about the evidence. If I ask questions, my only reason would be to ask about things that may not have been fully explored.

During the trial, you may think of an important question that would help you to understand these facts. You are allowed to ask such questions.

You should wait to ask questions until after the witness has finished testifying and both sides have finished their questioning. If you still have a question important -- or -- an important question after this, do not ask it yourself. Raise your hand, write the question down, and pass it to the bailiff, who will give it to me. Do not show your questions

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

to other jurors.

And did -- have you been provided with paper and pencils?

JUROR WEBB: No.

THE COURT: All right.

Are those in the hallway?

I'll have those provided to you before we have witnesses called.

If the question is not asked, it is because I determined under the law that the question should not be asked. Do not speculate about why the question was not asked. If other -- in other words, you should draw no conclusions or inferences about the facts of the case, nor should you speculate about what the answer might have been. Also, in considering the evidence, you should not give greater weight to testimony merely because it was given in answer to questions submitted by members of the jury.

On the other hand, if you cannot hear what the witness or lawyer says, please raise your hand immediately and ask to have the question or answer repeated.

During the trial the lawyers may object to certain questions or statements made by the other lawyers or witnesses. I will rule on these

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

objections according to the law. My rulings for or against one side or the other are not meant to reflect my opinions about the facts of this case.

Sometimes the lawyer and I -- lawyers and I will have discussions out of your hearing. Also, while you are in the jury room, I may have to take care of other matters that have nothing to do with this case. Pay no attention to these interruptions.

You are not to discuss the case with anyone, including your family or friends. You must not even discuss it with the other jurors until the time comes for you to decide the case. When it is time for you to decide the case, I will send you to the jury room for that purpose. Then you should discuss the case amongst yourselves, but only in the jury room and only when all the jurors are here. When the trial is over, you may, if you wish, discuss the case with anyone.

If I call a witness -- or -- a recess during the trial, I will either send you back to the jury room or allow you to leave the courtroom for your own good and go about your business. But -- I'm sorry -- I will allow you to leave the courtroom on your own and go about your business. But you must not discuss the case with anyone or let anyone discuss it with you or

1 in your presence. If someone tries to do that, tell
2 him or her to stop, explain that as a juror you are
3 not allowed to discuss the case. If he or she
4 continues, leave and report the incident to me as
5 soon as you return to the court.

6 You must not talk to the defendant, the lawyers,
7 or witnesses about anything at all, even if it has
8 nothing to do with the case.

9 It is very important that you only get
10 information about the case in court, where you are
11 acting as the juror and when the defendant, the
12 lawyers, and I are here.

13 During the trial, do not read, listen to, or
14 watch any news reports about the case. Under the
15 law, the evidence you consider -- consider to decide
16 the case must meet certain standards. For example,
17 witnesses must swear to tell the truth, and lawyers
18 must be able to cross-examine them. Because news
19 reports do not meet these standards, they could give
20 you incorrect or misleading information that may
21 unfairly favor one side. So, to be fair to both
22 sides, you must follow this instruction.

23 The restrictions I'm about to describe are meant
24 to ensure that the parties get a fair trial. In our
25 judicial system, it is crucial that jurors are not

1 influenced by anything or anyone outside the
2 courtroom. Now that many jurors have easy access to
3 information through handheld devices and other
4 technology jurors may be tempted to use these devices
5 to learn more about some aspect of this case. But if
6 a juror were to do this, it would harm the parties.
7 The parties' attorneys would have no way of knowing
8 what a juror has -- knowing that a juror had gotten
9 outside information and would be -- have no chance to
10 object if that information were false, untrustworthy,
11 or irrelevant.

12 Remember, no matter how careful and
13 conscientious news reporters, family members,
14 friends, and other people outside the courtroom may
15 be, information about this case from television,
16 radio, the internet, and social media may inevitably
17 be incomplete and could be incorrect.

18 Please bear these things in mind as I read the
19 following instructions. These restrictions apply
20 from this moment until I discharge you from jury
21 service:

22 You must decide this case based solely on the
23 evidence you see and hear in this courtroom. You
24 must not consider evidence -- or -- information that
25 comes from anywhere else.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

This means that during the trial, you must not read, watch, or listen to news reports about this case, whether in newspapers, on television, on the radio, or on the internet.

You must not research any aspect of this case during the trial. This means research doing -- using a cellular phone, computer, or other electronic device to search the internet, as well as research from traditional sources like dictionaries, reference manuals, newspapers, or magazines.

You must not investigate the case on your own or conduct any experiments using -- concerning the case, including investigation or experiments using the internet, computers, cellular phones, or other electronic devices.

You must not visit the scene of any event at issue in this trial. If it is necessary for you to visit -- or -- view or visit the scene, court staff will take you there as a group, under court supervision. You must not consider as evidence any personal knowledge you have of the scene.

Before your deliberations, you must not discuss this case with anyone, even your fellow jurors. After you begin deliberations, you should discuss the case with your fellow jurors, but you still must not

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

discuss the case with anyone else until I discharge you from jury service.

Until I have discharged you from your jury service, you must not share any information about this case by any means, including cellular phones or social media.

If you have discovered that a juror has violated my instructions, please report it to the bailiff.

You may take notes during the trial if you wish, but of course you don't have to. If you do take notes, you should be careful that it does not distract you from paying attention to all the evidence. When you go to the jury room to decide your verdict, you may use your notes to help you remember what happened in the courtroom. If you take notes, do not let anyone except the other jurors see them during deliberations.

Your notes will not be examined by anyone, and when your trial -- jury service concludes, your notes will be collected and destroyed.

You can see that we have chosen a jury of eight. After you have heard all the evidence and my instructions, we will draw lots to decide which two of you will be dismissed in order to form a jury of six.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Possible punishment should not influence your decision. It is the duty of the judge to fix the penalty within the limits provided by law.

I may give you more instructions during the trial. And at the end of the trial, I will give you detailed instructions about the law in this case. You should consider all of my instructions as a connected series. Taken all together, they are the law that you must follow.

After all the evidence has been presented and the lawyers have given their arguments, I will give you detailed instructions about the rules of law that apply to this case. Then you will go to the jury room to decide your verdict. A verdict must be unanimous. That means that every juror must agree on it, and it must reflect the individual decision of each juror.

It is important for you to keep an open mind and not make a decision about anything in this case until you go to the jury room to decide this case.

Mr. Hull, any objections to the instructions?

MR. HULL: None, your Honor.

THE COURT: Mr. Kallman.

MR. KALLMAN: No, your Honor.

THE COURT: Thank you.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Then, Mr. Hull, opening statements.

MR. HULL: Thank you.

THE COURT: I -- I guess I should say, any preliminary motions prior to opening statements?

MR. KALLMAN: None, your Honor.

MR. HULL: I have none, your Honor.

THE COURT: All right.

Then, Mr. Hull, opening statements.

MR. HULL: Thank you, your Honor.

As the Judge has said, the opening statements are the opportunity for the attorneys to kind of give you an idea of what we intend to prove throughout this case. Specifically, for the prosecuting attorney, it's my job to use my opening statement to tell you why we are here and what I intend to prove as far as the defendant's guilt. So one of the things I like to do is begin my opening statement by reading the complaint. Now, as the Judge has already said, the complaint is not evidence of the defendant's guilt. What I am reading is not evidence of the defendant's guilt. It is simply a framework that you can use so you know exactly why we're here and what I intend to prove. According to the complaint:

On 11/24 -- November 24th, 2015, in the City of Big Rapids, County of Mecosta, the defendant did willfully attempt to influence the decision of a

1 juror in a case by argument or persuasion that was
2 not part of the proceedings in open court in the
3 trial of that case.

4 What the Judge has already told you is that
5 that's the law. That's the law. That's the crime. And
6 what the Judge has told is that in -- what I need to do is
7 prove the elements to that crime. And the Judge has
8 broken down that law to what the elements are.

9 First, that Jennifer Johnson and/or Theresa
10 DeVries were jurors in the case.

11 So either of them was a juror in the case.

12 Second, that the defendant willfully attempted
13 to influence one or both of those jurors by use of an
14 argument and persuasion.

15 And third, that the defendant's conduct took
16 place outside the proceedings.

17 So the defendant wasn't -- or -- outside the
18 proceedings, in open court, as part of the trial in that
19 matter. Basically, meaning the defendant wasn't one of
20 the attorneys or witnesses in the case. He was doing it
21 outside of the trial.

22 This case began back in 2015, when an Amish
23 member of our community by the name of Anthony (sic) Yoder
24 was charged with a DEQ violation. Specifically, the
25 violation was illegally draining wetlands. Now somehow

1 Mr. Wood became involved in this case. I don't know how.
2 I won't be able to tell you how because, frankly, I just
3 don't know. But somehow he decided to become involved and
4 he did become involved.

5 A pretrial motion was scheduled and a pretrial
6 motion hearing was scheduled on November 4th of 2015, in
7 the *Yoder* case. Now you'll see from the evidence that
8 several people showed up to that pretrial motion. One of
9 the people was Mr. Wood. He showed up, he sat down, and he
10 listened. Now what a pretrial is is an opportunity for two
11 attorneys to get together and decide whether or not there
12 is going to be a resolution to a case or whether or not
13 it's going to end up going to trial. A motion hearing is
14 basically where the attorneys get in front of the judge
15 and the judge makes a ruling about maybe some evidence can
16 come in, what the law is, basically makes rulings like
17 that. At this particular hearing, several people did
18 appear. Mr. Wood was one of them.

19 More importantly to show his interest in the
20 case; however, Mr. Wood also contacted Emily Grove, who is
21 a reporter with the local newspaper; the *Pioneer*. He --
22 he called her on November 4th, 2015, and was very
23 interested in the *Yoder* case, and thought it was something
24 that she needed to report on. It was something that upset
25 him greatly and he thought the community should know about

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

it.

Now before we go any further, I want to take a step back. I want to make it crystal clear, there is nothing wrong with a person who shows an interest in a case. There is nothing illegal about people showing up to pretrial conferences or motions hearing or showing up to trials. These cases are open to the public, the public can appear, and either if they want to support a defendant, or support a victim, or if they're just curious as the law. There's nothing wrong with people who want to come and hear a particular case. Likewise, there is absolutely nothing wrong with calling a reporter and saying hey, this is a case that I'm interested in. The reason why I tell you that Mr. Wood appeared for the pretrial conference and the reason that I tell you that Mr. Wood called a reporter, specifically in regard to the *Yoder* case, is because it gives you a better understanding and framework for what happened next.

You see, at that November 4th pretrial conference for the *Yoder* case, many things were discussed. One of those things was the date of the trial for *People versus Yoder*. And the trial date was November 24th, 2015. The defendant was there and he heard that.

Several weeks later, on the date of the *Yoder* trial, November 24th, the defendant appeared again at this

1 courthouse, early in the morning, before the trial was to
2 begin. No other trials were going on that date. There was
3 no other trial in the district court, there were no trials
4 in the circuit court, and there were no trials in the
5 probate/family court. *People versus Yoder* was the only
6 trial scheduled to begin that day. The defendant came to
7 the sidewalk outside the north entrance; this entrance
8 right here, one of the only two entrances that people can
9 come in. He positioned himself between the parking lot and
10 the courthouse. And he began handing out pamphlets
11 entitled, "Your Jury Rights; True or False?" And under
12 the title was a caption reading, "What rights do you have
13 as a juror that THE JUDGE WON'T TELL YOU?" The pamphlet
14 he handed out is directed to jurors. As it implies and
15 sometimes flat out says that "judges and courts cannot be
16 trusted." It tells jurors that they cannot be forced to
17 obey their juror oath; that oath that you were just
18 provided. And states that "prisons are filling up with
19 people whose only crime is to displease their government
20 master," referring to some convicted defendants as
21 "political prisoners."

22 From the testimony and evidence, you will learn
23 that the language within those pamphlets urges jurors to
24 ignore the standard jury instructions. The very
25 instructions that you just heard. It attempts to persuade

1 judges that their judges can't be trusted, that the judges
2 and the prosecutors are working together against the
3 people. It, by means of propaganda and argument, is
4 designed to drive a wedge between jurors and the judges
5 and courts who are doing their jobs, by attempting to
6 instruct the jurors on the laws.

7 The defendant did not choose to hand out this
8 pamphlet the day of the pretrial. He did not choose to
9 hand out this pamphlet any other date between the pretrial
10 and the trial date. He did not choose to hand out this
11 pamphlet in any other location in town. You will learn
12 that he handed out those flyers -- or -- he chose
13 specifically the date and time of the *Yoder* trial. He
14 chose specifically the area where the jurors would be
15 walking in and he chose specifically a time when jurors
16 would be coming in to hear that case. He had a plan. He
17 didn't like what was going on in the *Yoder* case. He wanted
18 to persuade the jurors. He wanted to affect the outcome
19 of the case.

20 You will learn that he handed out those flyers
21 to anyone who would take them. His goal was not to inform
22 the public of a particular political viewpoint. It wasn't
23 just to educate people regarding his general principles.
24 His goal that day was specifically to influence the
25 decisions of jurors in a specific case.

1 You will learn that the defendant targeted
2 jurors in the *Yoder* matter by telling people that the
3 pamphlet he was handing out contained important
4 information for jurors or information that jurors needed
5 or should hear.

6 I will be calling Theresa DeVries and Jennifer
7 Johnson. Both of them were jurors who appeared that day.
8 They will tell you that they were jurors summoned to
9 appear. They weren't court officials or court employees;
10 they weren't police officers. They were just citizens who
11 were appearing for jury duty. These two people will
12 testify the defendant approached them outside the
13 courthouse, made comments regarding their juror rights.
14 And it's very important, we're talking about juror rights.
15 Those are the comments he made. And then he handed them a
16 copy of the pamphlet.

17 Now we will be talking about the contents of
18 that pamphlet and we will be talking about how the
19 contents are used to persuade jurors. But in the end
20 what's important to know is it doesn't matter what the
21 pamphlet says, as long as the pamphlet is trying to
22 persuade jurors. For instance, if it was an
23 environmentalist pamphlet trying to say that a person
24 should be found guilty no matter what when it comes to
25 draining wetlands because it -- to not drain the wetlands

1 would be to harm and endanger species. That's a person
2 who is trying to persuade the jury. When they direct
3 those pamphlets at the jurors in a case. Even if
4 everything in the pamphlet was accurate -- you're going to
5 find it's not -- even if everything in that pamphlet were
6 true -- and you will find that it directly contradicts the
7 jury instructions you were just provided -- you will still
8 learn that the defendant acted with an intent to sway the
9 opinions of the jurors in that case.

10 Though we do talk about the pamphlet, this case
11 is not about whether or not a juror has the right to
12 nullify a criminal charge. It's not about jurors'
13 responsibilities and duties. The Judge in this case will
14 instruct you and has already begun to instruct you on your
15 responsibilities and duties. And she will do so according
16 to the law.

17 This is not a case about the *Yoder* trial, about
18 the Amish community, or about wetlands violations, or the
19 Department of Environmental Quality, or any of the facts
20 surrounding this case. This is a trial about whether the
21 defendant, Mr. Wood, broke the law by attempting to
22 influence the decisions of jurors in a specific case.
23 It's about whether he attempted to out -- or -- to affect
24 the outcome of that case by means of persuasion outside
25 the courtroom. In the end, the facts of this case are

1 simple and straightforward. And after all the evidence
2 has been presented, I will ask that you find the defendant
3 guilty for attempting to influence a jury.

4 Thank you.

5 THE COURT: Thank you, Mr. Hull.

6 Mr. Kallman, do you intend to make an open --
7 opening statement at this time?

8 MR. KALLMAN: I do, your Honor.

9 THE COURT: All right.

10 Then please do.

11 MR. KALLMAN: Okay.

12 Thank you, your Honor. May it please the Court,
13 Mr. Hull, everyone here in the courtroom, ladies and
14 gentlemen. You have a very important duty here and we
15 appreciate your taking the time to do this. And, again, I
16 think this -- this is a very important case. This comes
17 down to what does it really mean to try to influence a
18 juror in the sense that you're violating the law. And Mr.
19 Hull just said it's their opinion that Mr. Wood was trying
20 to affect the outcome of the case. Well, you're going to
21 hear an awful lot about this brochure. And I defy you to
22 find anything in this brochure that talks about the *Yoder*
23 case, about wetlands, about his dissatisfaction with
24 anything to do with that case. And remember the elements;
25 we've talked about those, right? You've now heard them a

1 couple times. And Mr. Hull has just read them to you.
2 The elements are what are important here.

3 What's really going on here; ladies and
4 gentlemen, this has got information in it that the
5 Prosecutor didn't like. And you'll -- if you hear from
6 Judge Jaklevic -- that he didn't like. He was the
7 District Judge at the time. And they felt this was an
8 attack on the system. An attack on the system; not trying
9 to influence anything on the *Yoder* case.

10 Mr. Wood is a bad actor. He's a bad guy. He's
11 in here trying to do something nefarious. That's what
12 they're going to try to convince you that he's done. And
13 I dare say you will find, by the time this evidence is all
14 presented to you, you're going to find exactly the
15 opposite.

16 We're here because of this; handed out on a
17 public sidewalk, right in front of this courtroom.
18 Nothing about the *Yoder* case in it. You've all agreed and
19 committed to both Mr. Hull and I that he has to prove --
20 he has the burden of proof -- to show beyond a reasonable
21 doubt that Mr. Wood committed this offense; that it was
22 criminal what he did in handing out this brochure.

23 And, again, the elements; that Ms. Johnson and
24 Ms. DeVries were jurors in the case of *People versus*
25 *Yoder*. I'm not so sure they can prove that. Second, that

1 he willfully attempted to influence the jurors. And then,
2 as you heard the Judge instruct, the instructions say a
3 person acts willfully when he acts knowingly and
4 purposefully. So knowingly and purposefully to try to
5 impact the Yoder case. Not knowingly and purposefully to
6 hand out a brochure; that whether Mr. Wood likes the jury
7 system or not is not the issue. And that's not what he's
8 on trial for here. At least he shouldn't be. He
9 shouldn't be on trial for that, but he really is. Did Mr.
10 Wood knowingly and purposefully hand out this brochure, as
11 the element reads, in an attempt to influence a juror by
12 argument and persuasion. To do something improper with
13 that juror. To try to get them to agree to a certain
14 outcome.

15 And, again, this will be in evidence. You'll be
16 able to read it word for word. But you'll see in here
17 where it talks about juries might convict, juries might
18 acquit. That's the two choices you have. That's the two
19 choices you have here today and this week in this trial.
20 It doesn't say hey, find defendants not guilty, you know,
21 it -- that's the only thing that matters. It talks in
22 context of finding people guilty sometimes, finding them
23 not guilty other times. The pamphlet talks about both
24 sides of the issue is what I'm trying to say. And you're
25 going to find throughout this brochure words like "follow

1 your conscience," things like that. Well, of course, you
2 can follow your conscience. In fact, one of the
3 instructions you'll be given toward the end of the case is
4 that you're supposed to do just that; vote your conscience
5 in a case.

6 And so did Mr. Wood act willfully, knowingly,
7 purposefully to try to somehow in the *Yoder* case impact
8 the decision one way or the other? I don't believe that
9 evidence will be -- will be shown to you.

10 And third, the conduct took place outside of
11 proceedings in open court in the trial of the case. I
12 don't think the Prosecutor is going to be able to prove
13 that.

14 So, ladies and gentlemen, you're going to have
15 to look at the elements. Beyond a reasonable doubt is a
16 very important thing. And really, again, it's only one of
17 these; one part of these elements, that if you find not --
18 it's just not there, that chain falls apart and the
19 Prosecutor has not proven his case. And that's what we
20 think you'll see in the evidence that's produced in this
21 -- in this matter.

22 Bottom line, ladies and gentlemen, it's not
23 enough to hand out a general information pamphlet with
24 somebody's perspective, right or wrong, on what juror
25 rights are. Do we have the right to speak freely and

1 express our opinions when it's not directed at a specific
2 case? That's what this is about; that's what this case is
3 about. You know, the Book of Proverbs says the first to
4 state their case sound right until the other side tells
5 its side and sets the record straight. Ladies and
6 gentlemen, one of the instructions you heard is to wait
7 and not talk about this case among yourselves, wait until
8 all the evidence is in, and then discuss it, and then come
9 to your conclusion. The Prosecutor has the burden of
10 proof. He has to go forward first. He has to put on his
11 witnesses first. But, remember, there are always two
12 sides to a tale. And I think you'll see, once all the
13 evidence is in and you've had a chance to review that
14 evidence, that our client did not do anything in a
15 specific case to try to influence the outcome one way or
16 the other. And we would ask that you find him not guilty.

17 Thank you.

18 THE COURT: Thank you, Mr. Kallman.

19 Gentlemen, due to the time, Mr. Hull, would you
20 like to call a witness or shall we take a lunch recess,
21 gentlemen?

22 MR. HULL: Your Honor, I'm fine with either.

23 THE COURT: Mr. Kallman.

24 MR. KALLMAN: Whatever the Court decides, your
25 Honor, is fine with us. I know it is generally lunch.

1 THE COURT: Mr. Hull, do you have witnesses here
2 that are prepared?

3 MR. HULL: I have witnesses here who are
4 prepared.

5 THE COURT: All right.
6 Then let's call your first witness.

7 MR. HULL: Thank you, your Honor.
8 Your Honor, I'd like to call Thomas Lyons to the
9 stand.

10 (At 12:08 p.m., cameraman adjusts microphone)

11 THE COURT: One moment. Mr. Kallman and Mr.
12 Hull come to the -- come forward I guess.

13 (At 12:08 p.m., bench conference held)

14 (At 12:09 p.m., bench conference concluded)

15 Before this witness testifies; Mr. Kallman, do
16 you have a request.

17 MR. KALLMAN: Yes, your Honor. We've had
18 discussions off the record, Mr. Hull and myself and -- and
19 your Honor, about sequestering all the witnesses and we
20 would request that be done.

21 THE COURT: And that will be granted.

22 Thank you.

23 MR. HULL: Thank you, your Honor.

24 MR. KALLMAN: Thank you.

25 MR. HULL: Just for the record, I do have one

1 witness sitting at the table, Deputy Roberts, who may --

2 MR. KALLMAN: Oh, of --

3 MR. HULL: -- be in and --

4 MR. KALLMAN: -- course.

5 MR. HULL: -- out of the courthouse -- or --
6 courtroom. But, other than that, the witnesses have all
7 been sequestered.

8 THE COURT: All right.

9 Thank you.

10 Mr. Lyons, come up here to the witness box.

11 Before you have a seat, raise your right hand.

12 Do you swear or affirm to tell the truth, the
13 whole truth, and nothing but the truth?

14 MR. LYONS: I do.

15 THE COURT: All right.

16 Please have a seat.

17 THE COURT: Mr. Hull, go ahead.

18 THOMAS LYONS

19 (At 12:09 p.m., called by the People, sworn by
20 the Court, testified as follows)

21 DIRECT EXAMINATION

22 BY MR. HULL:

23 Q Thank you. Could you please state your full name and spell
24 your last for the record?

25 A My full name is Thomas G. Lyons, L-Y-O-N-S.

1 Q And what do you do for a living, Mr. Lyons?

2 A I am currently the Magistrate/Administrator for the
3 District Court here in Mecosta County.

4 Q What does it mean to be a magistrate?

5 A What does it mean to be a magistrate? I have -- would you
6 like to know what I do --

7 Q Yeah, what --

8 A -- as a --

9 Q -- do you --

10 A -- magistrate?

11 Q -- do?

12 A Well, I -- I do arraignments, I issue arrest warrants,
13 search warrants, I take misdemeanor pleas that are 90-day
14 misdemeanors and sentence, I do informal hearings on
15 traffic tickets, I do mediations for small claims cases
16 and landlord/tenant cases.

17 Q So you handle a lot of the district court issues; is that
18 --

19 A Yes, sir, I do.

20 Q And -- and you are an employee of the district court; is
21 that correct?

22 A I am.

23 Q Does that mean you are an employee of the district court
24 judge?

25 A I am. My supervisor is Judge Peter Jaklevic.

1 Q You -- how long have you been a magistrate?

2 A Since March of 2015.

3 Q And before you were a magistrate; what did you do?

4 A I sat at that table, behind it, and I was a court reporter
5 in this room for one month shy of 38 years.

6 Q One month shy of 38 years.

7 A One month shy, because my birthday happened to be one
8 month shy of 38 years.

9 Q Okay. And so, in total, how long have you worked in this
10 county courthouse?

11 A Over 40 years.

12 Q I'd like to take you back to November 24th, 2015. You were
13 a magistrate with the district court at that point?

14 A I was.

15 Q Were you working that day?

16 A I was working that day.

17 Q And was that here in this courthouse?

18 A It was.

19 Q And I have to get this out; is it in the City of Big
20 Rapids?

21 A It is in the City of Big Rapids in --

22 Q And the --

23 A -- Mecosta County.

24 Q -- county? Okay. Thank you.

25 A You're welcome.

1 Q Tell me what was going on in the district court at that
2 time?

3 A On the 24th of November of 2015, we had a jury trial that
4 was scheduled in the case of, I believe, it was *People*
5 *versus Yoder*. That morning there were motions scheduled.
6 We usually start jury trials at 9:15, jurors usually show
7 up at 8:45. That morning we had a motion that had to be
8 heard so we all showed up at 8:00 o'clock in the morning
9 to -- so the judge could hear that motion before the trial
10 started and the jurors got here.

11 Q Were there any other jury trials scheduled for that date
12 to your knowledge?

13 A I don't believe so.

14 Q Were there -- and to you knowledge, any trial scheduled in
15 the circuit court, other than the *Yoder* trial?

16 A No. I don't --

17 Q Any -- any --

18 A -- think so.

19 Q -- trials in the family or the probate court?

20 A No other trials that I can remember.

21 Q And you had mentioned; what time are jurors instructed to
22 appear?

23 A They're instructed to appear on their summons by 8:45.

24 Q So you said that in that particular case, on that day,
25 there were some motions to be heard before the jurors

1 appeared?

2 A Yes.

3 Q Okay. And so what time did -- did we go on the record in
4 regard to the *Yoder* trial?

5 A I think it was close to 8:00 o'clock, give or take five
6 minutes. Probably around the 8:00 o'clock hour, maybe
7 8:05.

8 Q Okay. And around 8:00 or 8:05, had any jurors arrived
9 yet?

10 A Actually before we started motions that morning there was
11 one person that was in the hallway sort of wandering
12 around. And I asked him if he was a juror and he said he
13 was. So I told him to go down across from the district
14 court window and to sit there until we had completed the
15 motions and then I would come back and get him, and take
16 him down to the courtroom.

17 Q And that person that was there really early around 8:05;
18 did you see him holding anything peculiar or anything like
19 that?

20 A No.

21 Q Okay. So how long did the -- the motion hearing go?

22 A It lasted, I'm going to say, about 25, 30 minutes.

23 Q And when the hearing was over; did you leave the -- the
24 courtroom?

25 A I waited until the courtroom was cleared. When everyone

1 cleared the courtroom, I went down where I told the juror
2 to sit and, at that time, not only was he there, but there
3 were probably four or five other jurors that had come in,
4 I assume, while we were in the courtroom. And I -- I
5 would assume that Court Officer Roberts probably sent them
6 down to be with the other juror. So, when I came out,
7 there were four, five, six people that were jurors that I
8 then told to go down and to get checked in and go into the
9 courtroom.

10 Q And about time in the morning was this?

11 A I am going to say it was around 8:40, 8:45.

12 Q So just at 8:40, 8:45?

13 A Yes.

14 Q Okay.

15 A I -- I'm sorry, sir. I misunderstood your question. When
16 I went back down to tell the jurors to go in the
17 courtroom, it was more like 8:30.

18 Q Okay. So it was 8:30 when we -- when the hearing was over

19 --

20 A Yes.

21 Q -- and you went and found those other --

22 A Yes.

23 Q -- six jurors?

24 A Yes.

25 Q Did you see anything strange in their hands at that point?

1 A I did not.

2 Q So what happened next?

3 A What happened next was I went back to my office. I had
4 some work to do. I went into my office and I don't
5 remember what I did, but I know I went into my office. I
6 was in my office for ten, 15 minutes.

7 Q And so at what point did you come out of your office?

8 A At about 8:40, 8:45 I came out of my office to go down to
9 check with Court Officer Roberts to see if all the jurors
10 had checked in. And I believe he told me when I did that
11 that all but two or three had checked in.

12 Q Okay. And who is Jeff Roberts?

13 A Officer Roberts is sitting right there.

14 Q And what was his job on that day?

15 A His job on that day was to be a bailiff for the jury trial
16 I believe. He was checking in jurors at that time.

17 Q So he was standing out in this hallway here?

18 A He was standing right out -- the door right by the
19 district court doors where he had a little table set up
20 where he was checking jurors in; I believe taking their
21 mileage, and sending them into the courtroom.

22 Q So what happened next when you went to check with --

23 A When I went to check, Officer Roberts said to me that
24 someone was passing out flyers to the juror -- to the
25 jurors as they were coming in and that he couldn't figure

1 out who it was. And I believe he also said to the Judge
2 we -- they couldn't figure out where these flyers were
3 coming from.

4 Q And had you spoken directly with Judge at this point?

5 A Absolutely not.

6 Q Okay. So what happened next?

7 A I looked on the table, there were several flyers on the
8 table; 10, 15, 20, I don't know. A lot. At the point in
9 time when I was looking at the flyers and talking to Court
10 Officer Roberts, there was a lady about eight feet away
11 from us or so, who I knew to be Mrs. Garlick, who was here
12 observing -- or -- going to observe the jury trial that
13 day. She made the statement --

14 MR. KALLMAN: Objection, your Honor. It's
15 hearsay.

16 MR. HULL: Your Honor, this --

17 THE COURT: It --

18 MR. HULL: -- is only -- this is not going to be
19 used for the truth of the matter asserted, it's only going
20 to explain why he -- with what he did next; he went
21 outside, based on her statement.

22 MR. KALLMAN: Well, he can do that without
23 repeating the statement, Judge.

24 THE COURT: All right.

25 I am going to sustain the objection.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

BY MR. HULL:

Q Was something said that caused you to go outside?

A Absolutely.

Q Okay. And -- and what happened next?

A After Mrs. Garlick said what she said to me, I then -- what she said to me prompted me to go outside because without her saying -- without saying what she told me, it was outside that the person was handing out the flyers.

Q Okay. So did you end up going outside?

A I -- I did because Officer Roberts had wondered where the flyers were coming from. Apparently, the Judge had. Somebody took all those flyers away put them on the table. I assume the Judge told someone to take those flyers.

Q Yeah, don't -- don't worry about what you assume. But --

A Okay.

Q -- you did get a chance to see the flyers; is that correct?

A I did.

MR. HULL: Your Honor, may I approach the witness?

THE COURT: I have no objection.

BY MR. HULL:

Q I'm showing you what's been marked People's Proposed Exhibit Number 1. What is that?

1 A This is the flyer; one of the flyers, or a flyer that
2 resembles the flyers that were on the table where Judge --
3 Judge -- Officer Roberts was standing.

4 Q Was that one of the flyers that -- that was on that table
5 that day?

6 A Yes, I believe it was.

7 Q Okay. And is that a fair and accurate representation of
8 the flyers that you saw on the table that day?

9 A Yes, it is.

10 MR. HULL: Okay.

11 Your Honor, I would move to admit Proposed
12 Number 1.

13 THE COURT: Mr. --

14 MR. KALLMAN: No objection, Judge.

15 THE COURT: All right. Then People's Proposed --
16 People's Exhibit 1 will be admitted without objection.

17 (At 12:18 p.m., People's Exhibit Number 1 is
18 admitted)

19 MR. HULL: Your Honor, may I publish?

20 THE COURT: You may.

21 BY MR. HULL:

22 Q So you see the flyers, someone says something, you go
23 outside.

24 A I -- I did.

25 Q What happens next?

1 A I went outside and I looked around and I saw a young
2 gentleman, I believe Mr. Wood, was out on the sidewalk
3 that's parallel to the road. I believe that's Elm Street
4 out there. I saw him with the same flyers in his hand and
5 I went up to him, within ten, 15 feet or so, and I said,
6 You shouldn't be handing those out to the jurors. And, at
7 that point, he said to me, what's your name, what's your
8 title? I told him my name, I told him my title. Also, at
9 that time, after we had that exchange, I said the Judge
10 would like to see you inside.

11 Q Okay. So let's -- let's step back for a second. You said
12 you saw a person standing out there. Would you be able to
13 recognize that person if you saw him today?

14 A Oh, it's Mr. Wood.

15 MR. HULL: Okay.

16 Your Honor, may the record reflect the witness
17 identified the defendant, Mr. Wood?

18 THE COURT: It shall so reflect.

19 BY MR. HULL:

20 Q Was there anyone else handing out pamphlets that you saw?

21 A No. Actually, at this point in time, I didn't see hardly
22 anyone else out there except Mr. Wood.

23 Q Okay. So what happened then?

24 A Okay. Then I said, "The Judge would like to see you
25 inside." At that point in time, he told me if the Judge

1 would like to talk to him, he'd have to go outside to talk
2 to him.

3 Q Okay. So how did you respond when the defendant told you
4 if the Judge wanted to see him, he had to come outside?

5 A I said, okay. I just turned around and started to come
6 back in. And, at that point in time, he asked me again my
7 title and my name. And at that point in time he said,
8 "Have you ever heard of the First Amendment?"

9 Q Okay. So --

10 A And I --

11 Q -- what did --

12 A -- kept --

13 Q Oops.

14 A I just walked back inside at that point. I -- that was
15 the only exchange I had. I walked back inside, I came
16 into the building, I -- I went down by the -- I started
17 down the hallway. At that point in time, Judge Jaklevic
18 was in the threshold of his office. He had the door open.
19 And I said, "Hey, I found the person handing out the
20 flyers. He's out on the sidewalk. I told him you'd like
21 to see him. He said, If you'd like to see him, you'll have
22 to go out there to talk to him."

23 Q I'd like to back up again.

24 A Okay.

25 Q I'd like to have you kind of explain the scene outside and

1 -- let me rephrase that -- the scene within the -- the
2 courthouse; was it -- did -- were there a lot --
3 A Okay.
4 Q -- of people there?
5 A There were many, many, many people in the -- in the lobby,
6 along the walls, many from the Amish community were at the
7 courthouse that day. Many, many Amish were here.
8 Q And just for the record, the -- the case, *People versus*
9 *Yoder*, that was involving an Amish citizen; is that
10 correct?
11 A It was.
12 Q And you said there were many Amish people in the
13 courthouse that day?
14 A There -- they were full; the lobby was full of Amish, the
15 hallways were lined with Amish, down the hallway, around
16 the corner, almost down to the clerk's office. Many Amish
17 people were here.
18 Q Did you see any of the Amish people holding that flyer?
19 A When I started to look around, after I had my conversation
20 with Officer Roberts, I noticed Mrs. Garlick had one, who
21 I know. She was the lady that we had a chat, but I'm not
22 going to say what we talked about. I understand. After
23 that, I started looking around a bit and there were many
24 Amish as I said. And what I noticed was I didn't see any
25 of the Amish with a flyer in their hand. I saw Mrs.

1 Garlick had one, I believe I saw a couple other people had
2 one, but it was just a cursory view of -- of things. I
3 didn't go up and down the hallways. I just took a quick
4 check.

5 Q So what happens -- what happened next?

6 A What happened next is, after I came in and told the Judge
7 what I had mentioned previously, he instructed Officer --
8 Court Officer Roberts to go outside and to bring the
9 gentleman inside.

10 Q Okay. And did the court officer do that?

11 A He did.

12 Q Did you end up seeing inside the -- the courtroom; seeing
13 the jurors sitting inside the courtroom; the district
14 court?

15 A I never saw --

16 Q You never saw --

17 A -- any --

18 Q -- them?

19 A -- jurors. Nope.

20 Q Did you end up collecting any of the pamphlets yourself?

21 A I believe when Mr. Wood came in, someone took the
22 pamphlets he had in his hand. I believe later, I took
23 those pamphlets from someone who handed them to me and I
24 can't remember for sure who it was. I think -- I believe
25 it may have been the Judge, but I -- I'm not positive. At

1 that time, I handed those to Officer Roberts.

2 MR. HULL: All right.

3 I have no further questions.

4 Thank you.

5 THE WITNESS: Thank you.

6 THE COURT: Thank you.

7 Mr. Kallman.

8 CROSS-EXAMINATION

9 BY MR. KALLMAN:

10 Q Thank you, your Honor.

11 A Mr. Kallman.

12 Q Magistrate Lyons, good to see you.

13 A Good to see you, sir.

14 Q That wasn't the total extent of your involvement in this
15 matter was it? I mean, you had later -- contacts with Mr.
16 Wood later in the day, didn't you?

17 A Yes, sir, I did.

18 Q Okay. And -- I'm sorry. I didn't mean --

19 MR. HULL: Your Honor, I'm --

20 MR. KALLMAN: -- to cut you off.

21 MR. HULL: -- going to object to any later
22 contacts as being irrelevant to whether or not Mr. Wood
23 committed the crime in this case.

24 MR. KALLMAN: I mean, your Honor, it's directly
25 involving the crime and him being charged, and his duties

1 as magistrate. I can't imagine how that's not relevant to
2 this case.

3 THE COURT: Well, Mr. Kallman, will you -- the
4 two of you come forward, please.

5 (At 12:23 p.m., bench conference held)

6 (At 12:24 p.m., bench conference concluded)

7 I had counsel approach. In consideration of
8 maybe some issues I need to sort out and the fact that it
9 is 25 minutes after 12:00, I think that it would be
10 appropriate for us to, at this point, Deputy, I'm going to
11 take a lunchbreak.

12 BAILIFF HOLLOWAY: Oh.

13 THE COURT: So it doesn't make much sense to
14 hand those to them right now. Let's do this. Let's just
15 make sure that they get those when we come back from
16 lunch.

17 I'm going to take a lunchbreak until 1:30. So
18 let's rise for the jury. Jury members, please be back in
19 the jury room by 1:30. You'll come in, check in at the
20 door; there's going to be a side door that you'll be let
21 out, please come in that side door, go back to the jury
22 room. Don't wait outside. Go back through security, go
23 back into the jury room so that we can be started by 1:30.

24 All right. Thank you.

25 Oh. Oh, I'm sorry. One more thing. Please,

1 again, I need to caution you; do not talk to anybody,
2 anybody that's involved, any of us you see. If you see us
3 out in the hallway, if you see us in public, we cannot
4 speak to you or any of the witnesses or anybody that is
5 spectators in this case. Please speak to no one regarding
6 this case. And no newspapers, TV, anything like that
7 while you are on your lunch.

8 Thank you.

9 (At 12:26 p.m., jury exits courtroom)

10 Now that I have allowed the jury to take a
11 break, I would like to see Mr. Kallman and Mr. Hull in my
12 chambers. We will be back on the record at as close to
13 1:30 as possible.

14 We will be --

15 MR. KALLMAN: Do you want us right now, Judge?

16 THE COURT: Yes, please.

17 MR. KALLMAN: Okay.

18 THE COURT: We will be in recess.

19 Thank you.

20 (At 12:27 p.m., court in recess)

21 (At 1:32 p.m., court reconvenes)

22 We're back on the record in the case of People
23 versus Wood.

24 Prior to taking a lunchbreak, there was an
25 objection on the floor regarding some testimony. So I

1 would like to deal with that first.

2 Mr. Hull, I believe that your objection was to
3 some questions that Mr. Kallman was asking of the witness
4 that was on the stand at the time.

5 MR. HULL: That is correct, your Honor. It's my
6 understanding that Mr. Kallman wanted to bring up some
7 questions in regard to the defendant being arraigned after
8 the crime in this case was committed. I object because
9 none of that is relevant to whether or not the defendant
10 committed the crime in this case. The -- he wants to
11 bring up the issue of bond, which has nothing to do with
12 getting -- whether or not the defendant was -- had
13 committed a crime. I -- I don't know what other issues he
14 wanted to bring up, but none of those would be relevant to
15 this case as to whether or not Mr. Wood acted in the way
16 that we're alleging that he acted. The only purpose for
17 it would be to try to taint the jury and to bring in
18 irrelevant evidence in to confuse the jury. So I would ask
19 that this Court find it inadmissible.

20 In addition, your Honor, if we did bring up the
21 bond, it would lead to the requirement that I bring in
22 other evidence that I was not planning on bringing in
23 because it was inadmissible and irrelevant about the
24 defendant's behavior leading up to how he got that bond.
25 And I have not -- I have specifically not brought that up.

1 I specifically don't intend to bring that up in front of
2 the jury because it is irrelevant to whether or not he
3 committed the crime. So all it will do is create a whole
4 different issue that's not relevant to this case. And I
5 would ask that the Court exclude that evidence.

6 THE COURT: Thank you.

7 Mr. Kallman, your response.

8 MR. KALLMAN: Yes. Thank you, your Honor.

9 Again, the reasons we want to delve into the
10 post -- or -- the requirement to post a \$150,000 bond; a
11 ten percent bond, as well as other facts surrounding that
12 is because it goes to this witness's credibility and
13 possible bias. And, also, it's showing -- he has already
14 testified he was a witness in this matter and he's being
15 brought as a fact witness against our client as to facts
16 involved in their attempt to prove that he's guilty of
17 this crime. And, yet, then after that, he sat as an
18 impartial arbiter, sitting as a magistrate, setting our
19 client's bond. I think that's wholly inappropriate and
20 those are facts in evidence that the jury should be aware
21 of.

22 So just briefly, your Honor, in response to the
23 objection, MCR 6.11 -- or 611(C) -- sorry -- says that
24 we're allowed to cross-examine as to credibility and bias
25 for witnesses. And a couple cases, your Honor, *Hayes*

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

versus Coleman, 338 Michigan 371, 1953 case says this:

It is always permissible upon the cross-examination of an adverse witness to draw from him any fact or circumstance that may tend to show his relations with, feelings toward, bias or prejudice for or against either part, or that may disclose a motive to injure the party or to befriend or favor the other.

That's always permissible, Judge, under *People -- or Hayes versus Coleman.*

And then *People versus Layher* -- it's spelled a little differently, it's L-A-Y-H-E-R -- 464 Mich 756, 2001 Supreme Court case says very clearly that:

The interest or bias of a witness has never been regarded as irrelevant.

And that's a very important thing that we're allowed to delve into. That's our purpose in doing it. I understand the Court has discretion to make a ruling, but that's the reason why we're asking for it.

Thank you.

THE COURT: Tell me this, Mr. Kallman -- and I understand the argument; bias, prejudice, throwing out those words -- but, specifically, indicate to me what testimony that Mr. Lyons testified to that would indicate in any way his bias towards this defendant; based on what

1 he has already testified to?

2 MR. KALLMAN: I'm not sure I understand the
3 question, your Honor. I don't have to have something to
4 show from his -- necessarily from his testimony so far
5 he's been bias or whatever. I think that -- I mean,
6 there's going to be other evidence coming in that refutes
7 what he's saying. In fact, one of the cases we looked at
8 says when we have a situation where one witness is saying
9 one thing and another witness is saying the other, your
10 right to delve into anything that would show bias, or
11 prejudice, or credibility is of the highest order. So I
12 don't -- it doesn't have to be predicated on something
13 he's already said. I mean, these are acts he did right at
14 the same day, the same time, everything that was going on.
15 And so --

16 THE COURT: Not the --

17 MR. KALLMAN: -- it would show bias on his part;
18 that he chose to sit as the magistrate over Mr. Wood when
19 he was a witness in this case. He knew better. I think I
20 have the right to delve into that and show the jury that
21 hey, there's some potential bias here and credibility
22 issues in his testimony so beware. I mean, I have the
23 right to do that.

24 THE COURT: Mr. Hull, your response.

25 MR. HULL: Your Honor, he throws out the word

1 bias and prejudice. He used them. And he cites case laws
2 that say okay, look, where this is going to show bias and
3 prejudice and you have to be able to show it. There is
4 nothing about a magistrate setting a bond that shows bias
5 or prejudice. If there was something about a magistrate
6 setting a bond that showed bias or prejudice, they would
7 have to have a magistrate testify in every single criminal
8 case that they ever set a bond at, no matter how high or
9 low that bond was. In this particular case, it does not
10 show any kind of bias or prejudice or motive or anything
11 like that. All it was is he set a bond. He set a bond on
12 several factors, based on several situations, which might
13 be brought up in something else, but not at this trial,
14 not for this jury. It has nothing to do with this crime.

15 MR. KALLMAN: Your Honor, magistrates are not
16 normally witnesses to a crime. They're -- they're brought
17 in, they know nothing about the case, they're reading the
18 charges, they set a bond. That's not what happened here.

19 THE COURT: All right.

20 This Court understands that. But for this jury,
21 I'm concerned about the confusion to the jury in regards
22 to bringing up that particular issue that the magistrate
23 was a witness, he shouldn't have sat as a -- later,
24 sitting as a magistrate; that he shouldn't have done that.
25 I think that that is confusion -- could be confusion to

1 this jury. And, although I think there are a number of
2 questions that you could ask that -- I'm not going to
3 limit you to cross-examining him regarding bias or
4 prejudice. I think that's always open. But to
5 specifically ask him regarding the bond that he set later,
6 I don't -- I don't believe that that is appropriate under
7 the circumstances and I'm not going to allow that to
8 happen.

9 MR. KALLMAN: All right.

10 Thank you, Judge.

11 THE COURT: Thank you.

12 So let's call Mr. Lyons back to the stand,
13 please.

14 Oh, I'm sorry. We need to have the jury.

15 (At 1:39 p.m., off record conversation regarding
16 cameraman and microphones with the Court)

17 Please rise --

18 THE RECORDER: Please --

19 THE COURT: -- for the jury.

20 (At 1:40 p.m., jury enters courtroom)

21 You may be seated.

22 Mr. Lyons, please come to the -- back up to the
23 witness stand. You are still under oath.

24 THE WITNESS: Okay.

25 (At 1:40 p.m., witness returns to the witness

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

stand)

THE COURT: Mr. Kallman, go ahead.

CROSS-EXAMINATION

BY MR. KALLMAN:

Q Thank you, your Honor. Mr. Lyons, could you clear up something that was a little confusing to me in your earlier testimony before lunch; how many times did you go out of the courthouse to interact with Mr. Wood?

A One time.

Q Okay. Because you said earlier, this other person had told you -- or -- you had gotten information and then went outside and saw Mr. Wood handing out the pamphlets, right?

A I got information from Officer Roberts.

Q Okay. Then you said --

A Oh --

Q -- you came back in and you had a conversation with Judge Jaklevic and he told you to go out and get Mr. Wood --

A I'd be glad --

Q -- and for him --

A -- to clear it --

Q -- to come in.

A -- for you, Mr. Kallman, if you give --

Q Okay. That's what I'm --

A -- me a chance.

Q -- trying to get to. Thank you.

1 A Absolutely.

2 Q Yeah.

3 A I first had contact with Officer Roberts. We had a chat.
4 He told me about all the flyers. There was then the lady
5 that was on the other side of the hallway that told me
6 what she told me that made me go out --

7 Q Right.

8 A -- prompted me to go out and have a conversation with Mr.
9 Wood. Then I came -- we had our conversation, then I came
10 back in, and I went and told Judge Jaklevic what Mr. Wood
11 had told me. And that's the only time I went outside.

12 Q Okay. So, when he told -- then you testified Judge
13 Jaklevic told you to go out and have Mr. Wood brought in.
14 That's what you said earlier.

15 A Well, what I -- I believe I said, if you check my
16 testimony, I believe what I said was that he told Mr.
17 Roberts to go out and get --

18 Q Ah.

19 A -- Mr. Wood and bring him in.

20 Q That's I think what I --

21 A Okay.

22 Q -- did not understand. So it was not directed to you to
23 go out?

24 A No.

25 Q He directed Officer Roberts?

1 A Absolutely not me.

2 Q Okay.

3 A I went out once and only once and that was it for me.

4 Q Gotcha.

5 A Okay.

6 Q That clears it up. Thank you very much.

7 A Thank you.

8 Q And then did you observe Deputy Roberts then follow the
9 command from Judge Jaklevic and go outside?

10 A I saw him go out the doors. I didn't watch what he did.

11 Q Yeah. You didn't go outside and listen --

12 A No.

13 Q -- or see anything?

14 A I stayed in.

15 Q Okay. All right. Now the morning of November 24th, 2015,
16 when jurors were summoned in that day for the *Yoder* trial,
17 right?

18 A Right.

19 Q Was a jury ever selected in the *Yoder* case that day?

20 A No, they were not.

21 Q And was a jury trial ever held in the *Yoder* case that day?

22 A It was scheduled for that day.

23 Q Was a jury trial ever held that day?

24 A No. The young man took a plea.

25 Q Okay. In fact, charges were eventually dropped against

1 him, right?

2 A After nine months of delay they were dropped.

3 Q Oh.

4 A But, he had to do certain things before they would --

5 Q Sure.

6 A -- it would be dropped.

7 Q Sure. But, eventually, all charges were dropped against
8 Mr. Yoder?

9 A After he completed the -- what he was supposed to do to
10 have it dropped. That's correct.

11 MR. KALLMAN: Okay. Good.

12 One moment, your Honor.

13 THE COURT: Sure.

14 MR. KALLMAN: I have nothing else.

15 Thank you.

16 Thank you, sir.

17 THE WITNESS: Thank you, Mr. Kallman.

18 THE COURT: Thank you.

19 Redirect, Mr. Hull.

20 REDIRECT EXAMINATION

21 BY MR. HULL:

22 Q Very briefly. I just want to make sure we clear this up.
23 At the time that the jurors were coming in, there was a
24 trial going on?

25 A They were summoned to appear for a jury trial.

1 Q And they were all appearing for that jury trial for Yoder?

2 A Absolutely. That was the only trial going --

3 Q And --

4 A -- on.

5 Q -- it was after all of this happened that there was a plea
6 agreement reached in Yoder?

7 A Yes. After all this happened --

8 Q Okay.

9 A -- then the plea -- after that happened, we came in this
10 room, and a plea was taken. The jurors were still over in
11 district court waiting to see --

12 Q So the --

13 A -- what happened.

14 Q -- jurors were still waiting to --

15 A They were still --

16 Q -- have the trial?

17 A -- waiting. And after the plea here, Judge went over and
18 dismissed that jury panel.

19 Q And that was after the instance with the pamphlet being
20 held out and all of that?

21 A Absolutely.

22 MR. HULL: Okay.

23 No further questions.

24 Thank you.

25

1 MR. KALLMAN: Yes, your Honor.
2 THE COURT: All right.
3 Mr. Lyons, you are excused.
4 THE WITNESS: Thank you, your Honor.
5 (At 1:45 p.m., witness excused)
6 THE COURT: Next witness, please.
7 MR. HULL: Thank you, your Honor. Next, I would
8 like to call Jennifer Johnson.
9 THE COURT: Ma'am, come up here to the witness
10 box, please. Before you have a seat, I'm going to ask
11 that you raise your right hand.
12 Do you swear or affirm to tell the truth, the
13 whole truth, and nothing but the truth?
14 MS. JOHNSON: I do.
15 THE COURT: All right.
16 Then please have a seat.
17 Mr. Hull.
18 JENNIFER JOHNSON
19 (At 1:45 p.m., called by the People, sworn by
20 the Court, testified as follows)
21 DIRECT EXAMINATION
22 BY MR. HULL:
23 Q Thank you, your Honor. Could you please state your full
24 name and spell your last for the record?
25 A Yes. My name is Jennifer Jean Johnson, J-O-H-N-S-O-N.

1 Q And, Ms. Johnson, you are a resident of Mecosta County; is
2 that correct?

3 A I am.

4 Q I'd like to take you -- quite a ways back -- November 24th,
5 2015. Do you remember that date?

6 A Yes, I do.

7 Q What were you doing in the morning of that date?

8 A I was called for jury duty. So I -- I had never been to
9 the courthouse before and I planned to arrive here a few
10 minutes early. I think it was probably about ten minutes
11 before I was supposed to be here just to make sure I knew
12 where I was going. And came to the courthouse.

13 Q And when you say ten minutes early; do you remember what
14 time you were supposed to appear?

15 A I don't.

16 Q Okay.

17 A I can't remember if it was 8:00. I want to say it was
18 8:00 a.m., but it might have been 9:00. I just don't
19 remember.

20 Q But whatever time you were supposed to appear, you would
21 have gotten there about ten minutes early?

22 A Yes.

23 Q Okay. And which -- which parking lot did you come to; do
24 you know?

25 A I parked in the one on Elm; right across the street from

1 the entrance, outside the lobby.

2 Q Is that the entrance right --

3 A I'm sorry. This way. I'm turned around. It's on Elm --

4 Q Is it --

5 A -- Street.

6 Q Is it the entrance right in front of the metal detectors?

7 A Yes.

8 Q Okay. And did you park in the parking lot beyond the

9 street on Elm Street?

10 A Yes. Right across from the entrance.

11 Q Tell the jury what you saw as you came and parked.

12 A Okay. Well, as I was walking up to the door, I was a

13 little nervous because I didn't know if I was at the right

14 entrance, and there was a gentleman standing on the public

15 sidewalk, but right at the start of the sidewalk up to the

16 door to the courthouse. And I saw others walking up and

17 stopping to check in with this gentlemen. And so I

18 thought that maybe he was stationed there to direct

19 traffic or maybe it was a spot I was supposed to check in.

20 So I stopped and -- do you want me to just keep going --

21 Q Yep. So --

22 A -- with what happened?

23 Q -- you stopped. Did you hear him say anything as you came

24 up to him?

25 A I don't remember if I said I'm checking in for jury duty

1 or if he said, Are you here for jury duty. That was the
2 extent of it. We confirmed that I was here for jury duty.
3 He handed me a pamphlet and sort of pointed at the door.
4 And I just remember thinking good, I'm glad to know I'm in
5 the right place.

6 Q Okay.

7 A And then I went into the building.

8 Q So -- and I just want to make sure -- you don't remember
9 whether it was you told him I'm here for jury duty or he
10 asked you if you were here for jury duty?

11 A I -- I do not remember which.

12 Q Either way, was it clear to him that you were there for
13 jury duty?

14 A I believe so.

15 Q Yeah.

16 A Yeah.

17 Q And then what happened next?

18 A I came into the building and checked in with the bailiff.

19 Q Did you -- the -- the pamphlet that he handed you; did you
20 get a chance to see it?

21 A I did once I was seated in the courtroom.

22 Q And when he first handed you the pamphlet; what did you
23 think it was for?

24 A I didn't know. I was new to the whole process. I -- I
25 didn't know if it was something informational I would need

1 as I was coming in. I -- I'd never been asked to appear
2 for jury duty before so.

3 Q Did you think it was something official when you were
4 handed it or --

5 A At first. But when I started reading it, it was pretty
6 clear that it wasn't.

7 Q And what makes you say it was pretty clear that it wasn't
8 official?

9 A It said -- well, the first thing it said was that I had
10 permission to disobey the judge's orders. At that point,
11 I realized that whoever had handed it to me probably was
12 not there in any official capacity. So I rather assumed I
13 wouldn't be handed something telling me to disobey the
14 judge's orders if I saw fit.

15 Q Would you be able to recognize the pamphlet if you saw it
16 today?

17 A Would I be able to recognize the pamphlet?

18 Q Yeah.

19 A Probably.

20 Q Okay.

21 A It was yellow, a trifold.

22 MR. HULL: Your Honor, may I approach the
23 witness?

24 THE COURT: You may.

25 BY MR. HULL:

1 Q I'm showing you what's already been entered as People's
2 Exhibit Number 1. Is this the pamphlet that you were
3 handed that day?

4 A Yeah, from what I can remember.

5 Q Thank you. Now, you came into the courtroom -- or -- you
6 came into the courthouse and what did you do next?

7 A I sat down and we -- I believe we had been told not to
8 have cellphones out. So I didn't really have anything
9 else to do, so I started reading the pamphlet.

10 Q Did you -- did you see anyone else reading the pamphlet in
11 there?

12 A I think there were other people kind of flipping through
13 it. Some people had tucked it away. There were other --
14 I did definitely see other people with them.

15 Q Okay. Did you know anything about the trial that you were
16 summoned to appear for before you came?

17 A I did not.

18 Q And the person -- how many people did you see out there
19 handing pamphlets; one or more than one?

20 A I only remember seeing one.

21 Q Would you be able to recognize him if you saw him today?

22 A I'm not sure. I will be honest.

23 Q Okay.

24 A I only saw him for a few seconds and, of course, it's been
25 publicized since then. So I will be honest, I -- I

1 wouldn't be comfortable saying yes, that's definitely who
2 I saw.

3 MR. HULL: That's fine.

4 Thank you very much.

5 No further questions.

6 THE COURT: Mr. Kallman.

7 CROSS-EXAMINATION

8 BY MR. KALLMAN:

9 Q Just one moment, your Honor. Ma'am, what happened to the
10 flyers that the jurors -- some -- you said some of the
11 jurors had them in the jury room.

12 A The bailiff came into the room when I was about halfway
13 done reading it and said that the Judge had asked him to
14 collect the flyers. So we gave him the flyers.

15 Q Okay. And did anyone else come in the room while you were
16 waiting there as jurors?

17 A I --

18 Q That you recall.

19 A I don't recall anybody other than additional people
20 filtering in to be part of the jury pool.

21 Q Okay. You don't remember Judge Jaklevic coming into the
22 room?

23 A Later, I remember him coming in, after the pamphlets had
24 been collected.

25 Q Okay.

1 A Uh-huh.

2 Q Did he make any comments about Mr. Wood?

3 A He first told us a little bit about what the trial had
4 been and told us it had been settled and that we wouldn't
5 be needed. And then someone in the room raised their hand
6 and asked him to explain why they had been collected. The
7 bailiff had been questioned about why he was taking them
8 when he came in and he said --

9 Q Taking the brochures you mean?

10 A Right. And --

11 Q Okay.

12 A -- the Judge said -- he said the Judge will explain when
13 he comes into the room. So someone followed up and asked
14 the Judge to explain. And he said, I saw the pamphlets.
15 There was some information in it that was -- didn't seem
16 right; was concerning to me, that gentleman is now lodged
17 in our jail.

18 Q Okay. And you were there, summoned to be a potential
19 juror, to sit on that *Yoder* case, potentially, right?

20 A Right.

21 Q Was a jury ever selected that day for the *Yoder* trial?

22 A No.

23 MR. KALLMAN: Thank you.

24 Nothing --

25 MR. HULL: Your Honor --

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

MR. KALLMAN: -- further.

MR. HULL: -- I'm going to object. I know he's going to keep asking this. I'm going to object to relevance. We already have a definition of what a juror is based on the Court's ruling.

MR. KALLMAN: I'm just asking what occurred --

THE COURT: I -- I --

MR. KALLMAN: -- not the fact surrounding it.

THE COURT: I understand. I am going to allow -- I will allow him to ask that question as long as that's the only thing he asks.

MR. KALLMAN: I'm --

MR. HULL: Thank you.

MR. KALLMAN: -- not going any further with it.

THE COURT: Thank you.

MR. KALLMAN: Thank you.

MR. HULL: Thanks.

THE COURT: Any redirect, Mr. Hull?

REDIRECT EXAMINATION

BY MR. HULL:

Q How long -- do you remember how long did you sit in that room before the Judge came in?

A I feel like it was just a little over an hour.

MR. HULL: Thank you.

No further questions.

1 THE COURT: May this witness be excused?
2 THE RECORDER: Judge.
3 MR. HULL: She may.
4 THE COURT: Oh, I'm sorry. I always forget. I
5 get so excited about moving on. Does anybody have any
6 questions?
7 THE JURORS: (No verbal response).
8 THE COURT: No. All right.
9 Then, ma'am, thank you for coming in today.
10 THE WITNESS: Thank you.
11 THE COURT: And you may be excused.
12 THE WITNESS: Thank you.
13 THE COURT: Next witness, please.
14 MR. HULL: I'd like to call Theresa DeVries,
15 your Honor.
16 THE COURT: Ma'am, come up here to the witness
17 box, please. Before you have a seat, just raise your
18 right hand. To me.
19 MS. DEVRIES: Oh.
20 THE COURT: Do you swear or affirm to tell the
21 truth, the whole truth, and nothing but the truth?
22 MS. DEVRIES: Yes, I do.
23 THE COURT: All right.
24 Have a seat.
25 Mr. Hull.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

THERESA DEVRIES

(At 1:53 p.m., called by the People, sworn by
the Court, testified as follows)

DIRECT EXAMINATION

BY MR. HULL:

Q Thank you, your Honor. Could you please state your full
name and spell your last for the record?

A Theresa Jane DeVries, D-E-V-R-I-E-S.

Q And are you a resident of Mecosta County?

A Yes, I am.

Q Were you a resident of Mecosta County back on November
24th, 2015?

A Yes, I am.

Q I'd like to take you back to that date. Do you remember
that date?

A Mostly, yes.

Q Where were you or what were you doing in the morning of
November 24th, 2015?

A I came in for being checked to see if I was being in a
jury selection.

Q So you came in for jury selection?

A Uh-huh.

Q And -- I'm sorry -- is that a yes?

A Yes.

Q Okay. I apologize. I should have said --

1 A That's --

2 Q -- that to --

3 A -- okay.

4 Q -- you. It has to be yes or no, otherwise the court
5 recorder will not be able to pick --

6 A Yep.

7 Q -- it up. Do you remember about what time you were
8 summoned to appear?

9 A It was in the morning.

10 Q Do you remember what time you appeared in the morning?

11 A No, not offhand.

12 Q Okay. Where did you -- had you ever been in the
13 courthouse before?

14 A Yes.

15 Q And where did you park when you came here?

16 A The north end; down the street a little ways.

17 Q Okay. And is that on Elm Street?

18 A I guess that's Elm street out here by the main lobby?

19 Q Okay. And which door did you come in; was it the door
20 that's right in front of the metal detectors?

21 A The ones when you go out here, straight out.

22 Q Right straight out when you --

23 A Yep.

24 Q -- leave this courtroom? Okay. All right. So that would
25 be the -- well -- where did you park; did you park across

1 the street?

2 A Yes, and down.

3 Q Okay. And then tell the jury what you saw as you were
4 coming to the courthouse?

5 A I was coming up to the room and a gentleman approached me
6 and said, "Are you here for jury selection?" I says,
7 "Yes." And he said -- he handed me pamphlet -- and he
8 says, "Do you know what your rights are for being a jury
9 -- on jury duty?" And I says, "Oh." And I grabbed the
10 pamphlet and walked in.

11 Q So he specifically asked you if you were here for jury
12 selection?

13 A Right. Yes.

14 Q When he came up to you and handed you the pamphlet and
15 asked if you were here for jury selection; what was going
16 -- did you think that this was -- what was going through
17 your mind as part of this contact; did you think it was
18 something official or?

19 A Yes, I did. I wasn't really sure what was going on at
20 first. I was -- my mind was to try to get in so I could
21 get in there on time.

22 Q And did you take the pamphlet?

23 A Yes, I did.

24 Q Did you see anyone else except for that one gentleman
25 standing out there --

1 A Just --

2 Q -- handing out pamphlets?

3 A No, just the one.

4 Q Okay. Did you have any idea why you were receiving the
5 pamphlet when you first got it?

6 A No.

7 Q And after you got the pamphlet and you came inside, were
8 you -- what happened next?

9 A We came into the courtroom and was going to be talked to
10 about the jury, and a police officer came into the room
11 and said whoever got the pamphlet, please hand it over.

12 Q Did you see how many people in the jury room had copies of
13 the pamphlet?

14 A Almost everyone.

15 Q Did you get a chance to read the pamphlet?

16 A No.

17 Q Did you --

18 A I glanced through it and that's about it.

19 Q And did you -- did you glean anything when you glanced
20 through it or just kind of -- kind of glanced and that --

21 A Just --

22 Q -- was it?

23 A -- glanced and put it in my pocket.

24 Q Okay. And you might not be able to, and if you can't
25 that's fine, but would you be able to identify that person

1 that handed you the pamphlet if you saw him today?

2 A No, not off the top of my head.

3 MR. HULL: Thank you.

4 No further questions.

5 THE WITNESS: Okay.

6 THE COURT: Mr. Kallman.

7 CROSS-EXAMINATION

8 BY MR. KALLMAN:

9 Q Thank you. Ma'am, do you recall speaking with an officer
10 about a week or so ago?

11 A Yes.

12 Q Leading up to this trial?

13 A Yes.

14 Q And do you recall telling him that you were handed a
15 pamphlet -- the -- "the subject handing out the pamphlet
16 asked her if she knew what her rights were as a juror;" do
17 you recall telling him that last week?

18 A Yes.

19 Q Okay. So is that what Mr. Wood asked you; "Do you know
20 what your rights are as a juror?"

21 A Yes, that's what he said to me.

22 Q Okay. Okay. And then he did not say anything else to
23 you; just handed you the pamphlet?

24 A Handed me the pamphlet and said, "Do you know what your
25 rights is as to a juror?"

1 Q "Do you know what your rights are?" Thank you. And then
2 did you have your brochure confiscated later?

3 A Yes.

4 Q And do you recall whether or not -- I mean, you were there
5 summoned for a potential trial. Was a jury picked -- ever
6 picked for that *Yoder* case that day?

7 A No, it got dismissed.

8 Q Okay. And so no jury trial was held, correct?

9 A That's -- yes.

10 Q So all of the jurors were allowed to leave after an hour
11 -- well, I don't know -- do you remember how long --

12 A Yeah, I --

13 Q -- you waited?

14 A -- don't -- not really for sure how long it was there.
15 But, yes, they -- we all got to leave after the Judge
16 explained why we had to handover the pamphlet.

17 Q Okay. And did the Judge make any comment about Mr. Wood?

18 A He just said the reason why he -- we had to hand the
19 pamphlets back to police that it was not right for him to
20 be out there.

21 Q Okay. So the Judge didn't like it, obviously?

22 A Right.

23 Q Okay.

24 A Yes.

25 MR. KALLMAN: Thank you.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Nothing further.

THE COURT: Mr. Hull, any redirect?

REDIRECT EXAMINATION

BY MR. HULL:

Q I just want to clarify; did he -- did he ask you whether or not you were there for jury selection?

A Yes.

Q The defendant asked you if you were there for jury selection?

A Yes.

MR. HULL: Okay. I just wanted to make sure.

Thank you.

No further questions.

THE COURT: Is -- oh, I'm going to put a big sticky up here. Any questions from the jury?

THE JURORS: (No verbal response).

THE COURT: Now, may this witness be excused?

MR. HULL: She may.

THE COURT: Ma'am, you are excused.

Thank you for coming in today.

THE WITNESS: Thank you.

(At 1:59 p.m., witness excused)

THE COURT: Next witness.

MR. HULL: Your Honor, next I call James Vanderwoude.

1 THE COURT: Sir, come all the way up here,
2 please; up here to the witness stand. And before you
3 actually have a seat, raise your right hand.

4 Do you swear or affirm to tell the truth, the
5 whole truth, and nothing but the truth?

6 MR. VANDERWOUDE: I do.

7 THE COURT: Please have a seat.

8 Mr. Hull.

9 JAMES VANDERWOUDE

10 (At 2:00 p.m., called by the People, sworn by
11 the Court, testified as follows)

12 DIRECT EXAMINATION

13 BY MR. HULL:

14 Q Thank you, your Honor. Could you please state your full
15 name and spell your last for the record?

16 A My full name is James Knoll Vanderwoude. And you want me
17 to spell my last name?

18 Q How could you -- yeah, how would you spell Vanderwoude?

19 A V-A-N-D-E-R-W-O-U-D-E.

20 Q And, Mr. Vanderwoude, are you a resident of Mecosta
21 County?

22 A No, I'm a resident of Mecosta County.

23 Q Okay. You are a resident of Mecosta County?

24 A Yes.

25 Q Okay. Now back --

1 A I'm -- excuse me -- I -- one thing that hasn't improved
2 for me with age is my hearing.

3 Q Okay. Well, thank you for letting me know. I will try to
4 ask the questions louder. If you can't understand what
5 I'm saying, just let me know. Okay.

6 A Okay.

7 Q And thank --

8 A Thank you.

9 Q -- you for telling me that. Were you a resident of
10 Mecosta County on November 24th of 2015?

11 A Yes, I was.

12 Q And where were you on that date; in the morning of
13 November 24th?

14 A I was parked in front of the courthouse here.

15 Q And why were you coming to the courthouse on that date?

16 A I was selected to be part of the jury pool.

17 Q Okay. And do you remember about what time you arrived on
18 that date?

19 A I recall it was around 8:30, between 8:00 and 8:30.

20 Q And tell the jury -- and when you say it was -- was across
21 the street; was that across from the north entrance here?

22 A Yes, the main entrance.

23 Q And could you tell the jury what you saw when you came out
24 of your car and started walking towards the courthouse?

25 A There was a young gentleman standing on the sidewalk by

1 the street there and that was it. Well, I take that back.
2 Before that happened, it was probably about 8:30, a small
3 bus pulled up and a lot of Amish folks got out of the bus
4 and they were all carrying their lunch pails. I thought
5 that's strange. I didn't know the Amish worked for the
6 state or what not. I thought that they weren't primarily
7 -- were within their own community. And then they all
8 filed into the courthouse.

9 Q Did you go into the courthouse around the same time that
10 they went in or did they go in before you?

11 A When I came across the street?

12 Q Yes.

13 A They went in before I did.

14 Q Okay. And when you saw the gentleman on the street; did
15 you see him handing anything to the Amish folks that
16 walked in?

17 A Did he hand out brochures?

18 Q Did he hand out brochures to the Amish folks that walked
19 in?

20 A I did not notice him as the Amish walked in.

21 Q Okay. So, when did you notice him and what made you
22 notice him?

23 A When I -- when I walked up towards the entrance here.

24 Q And what caused you to notice him?

25 A Well, he was the only one there. Nothing -- you know --

1 that I recall that --

2 Q Did -- did he hand you anything?

3 A Yes, he did hand me a brochure.

4 Q Did he say anything as he handed you the brochure?

5 A I knew you were going to ask that question and for the
6 life of me that's probably one of the few things I don't
7 recall from that day.

8 Q Okay.

9 A That I could -- I could say this is what happened. I -- I
10 suspect he may have said something about --

11 MR. KALLMAN: Objection, your Honor.

12 THE WITNESS: -- you know --

13 MR. KALLMAN: Speculation.

14 THE WITNESS: -- are you --

15 THE COURT: Hold on.

16 MR. HULL: Hold on.

17 THE COURT: Sir, I'm sorry. If somebody says
18 object then I have to have you stop testifying --

19 THE WITNESS: Okay.

20 THE COURT: -- until we can clear it up.

21 So I -- I presume your objection --

22 MR. KALLMAN: It's speculation, Judge. If he
23 doesn't recall what was said, I don't think he can just
24 speculate --

25 THE WITNESS: Yeah.

1 MR. HULL: It's --

2 MR. KALLMAN: -- what he might have said.

3 BY MR. HULL:

4 Q It's lack of memory. It's not speculation. But, if he
5 says he doesn't remember, then he doesn't remember. So I
6 can ask him clearly; do you remember him saying anything;
7 did he say something to you?

8 A How we got on the conversation I have no idea, but he
9 mentioned that he had a large family. I think he said
10 five or six young children. And that's --

11 Q Did he --

12 A -- that's really all I recall of the --

13 Q Okay.

14 A -- conversation.

15 Q So you don't remember anything else about the
16 conversation?

17 A Not -- no.

18 Q Okay. And he did hand you a pamphlet?

19 A Yes.

20 Q Okay. But, you don't remember -- there was a longer
21 conversation, you just don't remember what it was?

22 A No, it was quite short.

23 Q Okay. Okay. And there was -- but there was a part of the
24 conversation that you don't remember; is that fair to say?

25 A That's correct.

1 MR. HULL: Okay.

2 No further questions.

3 Thank you very much.

4 THE COURT: Thank you.

5 Mr. Kallman.

6 CROSS-EXAMINATION

7 BY MR. KALLMAN:

8 Q Thank you. Mr. Vanderwoude, did you read the -- have a
9 chance to read the brochure?

10 A I'm sorry?

11 Q I'm sorry. I'll speak up. I'm sorry. Did you have a
12 chance to read that brochure?

13 A Yes, I did.

14 Q Okay. And was that when you entered the courthouse and you
15 were in the jury room?

16 A No, actually we were still waiting to go into the -- the
17 jury selection room. And I started skimming it and I
18 noticed that a number of the other folks there were also
19 reading the brochure.

20 Q Okay. And did every juror have a brochure or just some of
21 the jurors?

22 A I couldn't say.

23 Q Okay.

24 A I -- I don't know that they did.

25 Q Okay. Did there come a point where somebody confiscated

1 those flyers --

2 A Yes.

3 Q -- from you? Okay. Do you remember who that was?

4 A I don't know his name. It was, as I recall, a sheriff. He
5 came in the room after the Judge started to come in the
6 room and evidently was having a conversation and went back
7 out the door. And then about 15, 20 minutes later, the
8 sheriff came into the room and he said, "How many of you
9 received brochures?" And a fairly good number raised
10 their hands. And he said, "I need you turn those over."

11 Q Okay. And so you did?

12 A Yes, we did.

13 Q Okay. Thank you. I don't think I have -- well, I'm sorry.
14 Were -- you were there with the jury pool; was there ever
15 a jury selected that day in the *Yoder* case?

16 A No.

17 Q Okay. So no --

18 A No, there --

19 Q -- jury trial was ever held, correct?

20 A No, because when the Judge came back in, he made the
21 comment, he says, "I've got good news and bad news. The
22 good news is for those of you that wanted to get out of
23 here and not be on a jury," he says the defendant had
24 accepted a plea bargain, I believe they call it. And he
25 said, "Those of you that wanted to be on the jury, there's

1 not going to be a trial, so you're excused."

2 Q Okay. And you don't know what the ultimate outcome was of
3 the *Yoder* case or what happened to Mr. Yoder do you; do
4 you have any knowledge --

5 A To who?

6 Q -- of that?

7 A Happened to who?

8 Q To Mr. Yoder, who was the defendant in that case that day?

9 A No, I -- none of us I don't think were familiar with
10 anything that was going on in that -- in that regard.

11 MR. KALLMAN: Fair enough.

12 Thank you.

13 THE COURT: Redirect, Mr. Hull.

14 REDIRECT EXAMINATION

15 BY MR. HULL:

16 Q Thank you. You were interviewed by -- by a deputy; is that
17 -- is that correct?

18 A I'm sorry?

19 Q I'm sorry. You were interviewed a couple weeks ago by a
20 deputy?

21 A Yes.

22 Q And -- and when you spoke with the deputy; were things
23 fresher in your memory than they are now or about the same
24 as far as memory goes?

25 A Pretty much the same. The -- the -- the sheriff, I believe

1 it was, that I talked to when he called me said well, "Do
2 you recall them asking you if you were -- you know -- a
3 potential juror or going to be serving on the jury." And
4 I said, "I don't, but it's possible that he did, but I
5 just don't recall."

6 Q Okay. And when you were inside the jury room; how many
7 people had pamphlets?

8 A I would say probably at least a-third.

9 Q At least a-third. Okay. And were people reading those
10 pamphlets?

11 A A number of them -- I -- I can't tell you how many did.

12 MR. HULL: Okay.

13 Thank you.

14 No further questions.

15 THE COURT: Any questions from the jury?

16 THE JURORS: (No verbal response).

17 THE COURT: Sir, thank you for coming in today.

18 You are excused.

19 THE WITNESS: Thank you.

20 (At 2:09 p.m., witness excused)

21 THE COURT: Next witness, please.

22 MR. HULL: Thank you, your Honor.

23 Next, I'd like to call Therese Bechler.

24 Before you have a seat, raise your right hand.

25 Do you swear or affirm to tell the truth, the whole truth,

1 and nothing but the truth?

2 MS. BECHLER: I do.

3 THE COURT: Have a seat, please.

4 Mr. Hull.

5 THERESE BECHLER

6 (At 2:09 p.m., called by the People, sworn by
7 the Court, testified as follows)

8 DIRECT EXAMINATION

9 BY MR. HULL:

10 Q Thank you, your Honor. Could you please state your full
11 name and spell your last for the record?

12 A Therese Marie Bechler, B-E-C-H-L-E-R.

13 Q And, Ms. Bechler, what do you do for a living?

14 A I'm the Chief Deputy Clerk for Osceola County.

15 Q And what does it mean to be a chief deputy clerk?

16 A I'm responsible for all of the court records, I handle all
17 jury questionnaires, summon people for jury, I handle
18 elections, vital records.

19 Q So you do a lot?

20 A I do a lot, yes.

21 Q Now I'd like -- you said that you work for Osceola County
22 now?

23 A Correct.

24 Q Back in November 24th of 2015, did you work for Mecosta
25 County?

1 A I did.

2 Q And what was your job in Mecosta County?

3 A I was the Deputy Clerk for Mecosta County.

4 Q And as the Deputy Clerk in Mecosta County; what were your
5 job -- what did your job include?

6 A The same -- I had the same duties; I assisted the Clerk in
7 Mecosta County with her duties, and again I handled jury
8 questionnaires, summoning jurors for trials, vital records
9 again, elections.

10 Q So specifically when it comes to juries and when jurors
11 receive a questionnaire, you're the one that send those
12 out?

13 A I am.

14 Q And when they send them back, you're the one that receives
15 them; is that correct?

16 A That's correct.

17 Q Are -- are you the one that does -- that does this -- I
18 mean, obviously, the summonses are signed by a judge, but
19 do you do up the summonses for jurors to come in and
20 appear for trial?

21 A I do.

22 Q And is that what you did back in 2015, in Mecosta County?

23 A Correct.

24 Q I'd like to take you back to November 24th; do you remember
25 that date?

1 A I remember November. I don't know the exact date.

2 Q Well, let me -- let me put it this way; do you remember
3 the date of the Yoder trial?

4 A Yes.

5 Q Okay. And tell the jury -- well -- did you come into work
6 that day?

7 A I did.

8 Q Where did you park your car?

9 A I parked right out in front of the building where I
10 usually park.

11 Q Is that out in front of the north entrance here?

12 A Correct.

13 Q Okay. So tell the jury about what you saw when you came
14 in.

15 A I saw two people standing on the sidewalk at the entrance
16 of the building. I walked up to come into the building
17 and the gentleman stopped me and said, "Would you like one
18 of these pamphlets?" And I kind of looked at him
19 quizzically and I said, "Okay, sure." And he said, "These
20 pamphlets are regarding jury -- jurors' rights on what the
21 judges are not telling the jurors."

22 Q And that's what he told you as he handed you the pamphlet?

23 A Correct.

24 Q Now you had mentioned you saw two people. Was he standing
25 with someone else or was it just someone --

1 A It was -- there was someone else there.

2 Q Okay. Was there anyone else there handing out pamphlets?

3 A I don't remember --

4 Q Okay.

5 A -- to be perfectly honest.

6 Q I'll see -- I'll put it this way; did you see anyone else,
7 you personally see anyone else, handing out pamphlets?

8 A I did not notice anyone else.

9 Q All right. So after he handed you the pamphlet and said
10 these are regarding jurors' rights; did that -- was that a
11 concern for you given your position?

12 A It was very much a concern. I knew we had a trial going
13 on. I was concerned that -- not reading the pamphlet yet
14 -- but, I was very concerned that jurors might be
15 influenced, especially by --

16 MR. KALLMAN: Objection, your Honor. This is --
17 this is -- her concern is irrelevant to this and it has
18 nothing to do with her interaction with my client. It's
19 clearly not relevant.

20 MR. HULL: Your Honor, her concern is completely
21 irrelevant -- or -- completely relevant to what she does
22 next. It's relevant to what is going on in this case and
23 the reason why we don't have people contacting jurors
24 outside the courthouse. It's relevant to pretty much two
25 of the three elements in this case.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

THE COURT: All right.

I -- Mr. Kallman, any other response?

MR. KALLMAN: Well, again, your Honor, whether or not this witness is concerned about a flyer or something, she's not an attorney, she's not anybody who can interpret the statutory law, which is what she seems to be attempting to do. I don't think that's appropriate for her to be testifying. She can talk about what happened, what she received, what she did, but I don't think she can comment on what -- the -- the jury is supposed to be here to decide not her.

MR. HULL: Your Honor, I'm not asking her to interpret the law. I'm not asking her --

MR. KALLMAN: Well, she's doing it.

MR. HULL: -- to say whether or not a crime was committed. I'm just asking her what her personal concerns are based on her job and her duties.

MR. KALLMAN: And that's why I objected, because she does seem to say that.

THE COURT: And -- and I -- I understand your objection. I'm going to overrule your objection based on the fact that -- based on her duties at the time at this -- in the -- in the courthouse. So I will allow her to testify.

1 BY MR. HULL:

2 Q And I will make it clear. You're not testifying to the
3 law, right?

4 A No, I'm not.

5 Q Okay. And you -- you don't want to even get into that --

6 A No, I --

7 Q -- it's fair --

8 A -- don't.

9 Q -- to say? Okay. So as far as your duties as the person
10 who handles the juries; you had some concerns regarding
11 this pamphlet?

12 A Correct.

13 Q What were they?

14 A My concern was that the people that the pamphlet was being
15 handed out to were going to be influenced or misdirected
16 on -- on what jury duties could be or would be.

17 Q So what did you do next?

18 A I took the pamphlet, walked in the building, I walked into
19 my office and set my things down, I took the pamphlet and
20 went into my supervisor; the county clerk, and I showed
21 her the pamphlet and I told her my concerns. And then I
22 said I think I need to bring this to Judge's attention.

23 Q And so did you end up bringing it to the Judge's
24 attention?

25 A I did.

1 Q And when did you do that; did you do that right away, what
2 happened?

3 A I did that right away. I -- after I spoke with the county
4 clerk, I walked down to the district court and requested
5 to speak to Judge. And I showed Judge the pamphlet and
6 told him what I was told outside.

7 Q Now would you be able to recognize the pamphlet if you saw
8 it again?

9 A I would.

10 MR. HULL: Your Honor, may I approach?

11 THE COURT: You may.

12 BY MR. HULL:

13 Q I have what's been admitted as People's Exhibit Number 1.
14 Is that the pamphlet?

15 A It is.

16 Q Did you get a chance to read the pamphlet at all?

17 A I did not --

18 Q Did --

19 A -- personally.

20 Q -- you just -- so did you read the -- the -- any part of
21 it; just the face --

22 A I read -- I read the front part of it, the -- the title
23 here -- you know -- the juries' rights and stuff. I kind
24 of skimmed through it, but I didn't read the entire
25 pamphlet.

1 Q And just reading that front part, you -- you -- that's
2 what brought on your concerns?

3 A Yes.

4 Q And do you know how the Judge reacted -- or -- what the
5 Judge did after you told him or is that something outside
6 of your -- did you just tell him and kind of walk out of
7 the room or?

8 A He took the pamphlet from me and then he told me he would
9 handle it from there. And then I left --

10 Q Okay.

11 A -- and went back to my office.

12 MR. HULL: I have no further questions.

13 Thank you.

14 THE COURT: Mr. Kallman.

15 CROSS-EXAMINATION

16 BY MR. KALLMAN:

17 Q Ma'am, were you a person summoned as a prospective juror
18 that day for the *Yoder* trial?

19 A I was not.

20 Q And, Mr. Wood handed you a flyer?

21 A Correct.

22 Q Okay. And he told you essentially; I think from your
23 testimony, correct me if I'm wrong, but essentially here's
24 some information about juror rights or something to that
25 affect?

1 A He told me that juror -- jurors were not being informed by
2 the judges of all of their rights.

3 Q Okay. And at that date and time, November 24th of 2015,
4 were you aware of any policy in your clerk's office or
5 that the county had to regulate people handing out
6 pamphlets out on the public sidewalk?

7 A I'm not aware of any, sir.

8 Q Okay. So you don't know of any policy that either allowed
9 it or denied it or --

10 A I'm not --

11 Q -- any --

12 A -- sir.

13 Q -- regulations at all?

14 A No, sir.

15 Q And you'd never seen a policy like that?

16 A I have not; no, sir.

17 MR. KALLMAN: Okay.

18 Thank you.

19 I have nothing else, Judge.

20 THE COURT: Redirect, Mr. Hull.

21 REDIRECT EXAMINATION

22 BY MR. HULL:

23 Q Very briefly. Had anything like this ever happened
24 before; as far as you're aware?

25 A No, not in the 16 years I've worked for the county.

1 Q So there's never been any incident that would lead to a
2 need for a policy?

3 A No --

4 MR. KALLMAN: Well --

5 THE WITNESS: -- sir.

6 MR. KALLMAN: -- objection, your Honor. I --
7 she -- I don't know that she even sets the policy.

8 MR. HULL: I'll withdraw the question, your
9 Honor.

10 THE COURT: Thank you.

11 And --

12 MR. HULL: No further questions.

13 Thank you.

14 THE COURT: All right.

15 Any questions from the jurors?

16 All right. Hand it to the bailiff, please.

17 Mr. Hull and Mr. Kallman.

18 (At 2:19 p.m., bench conference held)

19 (At 2:19 p.m., bench conference concluded)

20 There's one question from the jury.

21 Ms. Bechler, do you recognize the person who
22 handed you the pamphlet?

23 THE WITNESS: I do.

24 THE COURT: All right.

25 Mr. Hull, does that give you additional

1 questions you'd like to ask?

2 MR. HULL: Just the standard follow up.

3 THE COURT: Yes.

4 FURTHER REDIRECT EXAMINATION

5 BY MR. HULL:

6 Q Would you be able to identify him for the Court?

7 A He's sitting right there with the tie on.

8 Q On the --

9 A Yeah.

10 MR. HULL: Okay.

11 Your Honor, may the record reflect the witness
12 identified the defendant?

13 THE COURT: It may so reflect.

14 MR. HULL: No further questions.

15 Thank you.

16 THE COURT: Any other questions from the jury?

17 THE JURORS: (No verbal response).

18 THE COURT: No.

19 All right. Then may this witness be excused?

20 MR. HULL: The witness may be excused your
21 Honor.

22 THE COURT: Ms. Bechler, thank you for appearing
23 today.

24 THE WITNESS: You're welcome, your Honor.

25 (At 2:20 p.m., witness excused)

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

THE COURT: Next witness, please.

MR. HULL: Your Honor, I would like to call Jeff Roberts to the stand.

THE COURT: All right.

Do you swear or affirm to tell the truth, the whole truth, and nothing but the truth?

DEPUTY ROBERTS: I do.

THE COURT: All right.

Go ahead and have a seat.

DEPUTY JEFFREY ROBERTS

(At 2:20 p.m., called by the People, sworn by the Court, testified as follows)

DIRECT EXAMINATION

BY MR. HULL:

Q Could you please state your full name and spell your last for the record?

A Jeffrey William Roberts, R-O-B-E-R-T-S.

Q What do you do for a living Mr. Roberts?

A I'm a Court Officer for Mecosta County Sheriff's Office.

Q What does it mean to be a Court Officer with the Mecosta County Sheriff's Office?

A Well, implied -- sorry -- I'm employed by the Sheriff's Department and my job is safety and security, court duties inside the court building.

Q When it comes specifically to jury trials --

1 A Yes.

2 Q -- do you have any general jobs?

3 A It just depends. There is four of us so we rotate.

4 Sometimes we're assigned to the jury, sometimes if it's an
5 inmate; we may be assigned doing security on the inmate.

6 It just depends on what the trial is and --

7 Q And have -- I would like to take you back to November 24th,
8 2015. Were you working on that date?

9 A Yes.

10 Q And you were working here in this courthouse?

11 A Yes.

12 Q Mecosta County, Big Rapids?

13 A Yes.

14 Q And what was your duty on that date?

15 A I was checking in jurors for the district court.

16 Q Were there -- so you mentioned you were checking in
17 jurors; do you know where there -- so there was, implied
18 by that statement, a trial going on, correct?

19 A Yes, sir.

20 Q How many trials were scheduled for that day?

21 A For that day, just the one.

22 Q And does that include all of the courts; district,
23 circuit?

24 A Yes. That was the only one in this building on that day.

25 Q Do you remember the name of that trial that was going on?

1 A It was the *People versus Yoder*.

2 Q About what time did you arrive to work?

3 A I start at 8:00, but usually I'm coming over here about
4 7:45-ish.

5 Q So your -- your shift officially starts at 8:00, but you
6 get here a little bit early?

7 A Yes, sir.

8 Q And when you come to work at the courthouse; especially
9 when you're checking in jurors, where are you stationed?

10 A Usually right at the door of whatever court the jurors are
11 going into. So on that day, I was actually holding the
12 door open to district court.

13 Q Okay. So you were stationed out near where the metal --
14 where the district court is, out near the metal detectors?

15 A Yes.

16 Q Okay.

17 A And the detectors weren't there at that time, though.

18 Q Okay. So that was before the metal detectors?

19 A Yes, sir.

20 Q Okay.

21 A Yep.

22 Q Now, when you say you check in jurors; what does that
23 mean, what does it -- what do you do when you check them
24 in?

25 A We get a list from the court; whatever court is holding a

1 trial, and that list has every juror that is supposed to
2 show up for that date. And nine out of ten times a juror
3 will come with their summons in their hand, sometimes they
4 don't, but if they don't, that's what we have our list
5 for. We check them off, we get some basic information;
6 make sure their address is correct on the sheet, and get a
7 roundtrip mileage.

8 Q So what happened, if anything, in relation to this case on
9 that morning?

10 A I'm sorry. Could you --

11 Q As far as --

12 A -- repeat that?

13 Q That's a pretty open question. Did anything strange come
14 to your attention that day?

15 A I -- I did notice a handful of folks coming in with yellow
16 pamphlets in their hand.

17 Q And when you saw the yellow pamphlets, did you think
18 anything of it at first?

19 A I, honestly, I did not at first. I thought maybe it was
20 something the courts started doing; some information
21 packet or something that would come in their summons, or
22 -- I -- I had no idea what they were from.

23 Q So, when you first saw the yellow pamphlets, you weren't
24 reading them or anything, you just --

25 A No.

1 Q Okay.

2 A I just noticed them walking in with them.

3 Q And how -- how many jurors did you notice walking in with
4 the yellow pamphlets?

5 A Between a dozen and 20.

6 Q Okay. And how -- how -- how large was the pool?

7 A It was district court so 50 to 60-ish, maybe, I think
8 total was on the list. That might be a little -- a little
9 high.

10 Q Okay. So that might be a little bit high?

11 A Yeah.

12 Q All right. So you saw about a dozen to 20 with the
13 pamphlets?

14 A Yes.

15 Q Would you be able to give a fraction; a-half, a-third,
16 anything like that, as to how many jurors?

17 A (No verbal response).

18 Q And if you can't that's fine.

19 A I -- I can't.

20 Q Okay.

21 A I can't.

22 Q So there were more than one --

23 A Yes.

24 Q -- holding the pamphlets?

25 A Yes.

1 Q And describe the scene outside the courtroom; in -- in the
2 hallway, were there a lot of people there?

3 A There was a lot of people. As was testified earlier,
4 there was -- I didn't count -- but, I -- I couldn't even
5 see outside there was so many -- there was a lot of Amish
6 folks here.

7 Q Did you notice any of the Amish folks holding any of those
8 pamphlets in their hands?

9 A I did not. But, like I said, it didn't really strike that
10 much attention to me that people were even coming in with
11 them.

12 Q Okay. So what happened next?

13 A It was brought to my attention that someone was handing
14 out pamphlets outside. And at first I was like, okay, you
15 know. It didn't really strike my attention too much, I
16 guess. Like I said, I was assigned at the door there, so
17 my job was checking in the jurors.

18 Q So your job right then was just checking in the jurors --

19 A Yes.

20 Q -- that's the only thing you wanted to do?

21 A Yes.

22 Q So what happened next?

23 A I was -- I remember being ordered by Judge Jaklevic to go
24 outside and find out who was handing out the pamphlets and
25 have him come inside.

1 Q Okay. And did you do that --

2 A I --

3 Q -- did you find --

4 A -- did.

5 Q -- the person? And the person that was handing out

6 pamphlets; when you found him -- and I -- I should -- I

7 should kind of take a step back, when you -- when someone

8 told you someone was handing out pamphlets; did you know

9 any of the details about what was in the pamphlets --

10 A Negative.

11 Q -- or anything like that? You just --

12 A Negative.

13 Q Okay. Then, later on, you spoke with Judge Jaklevic, who

14 told you to go outside and pick up the person?

15 A Yes.

16 Q Did you find the person handing out pamphlets?

17 A Yes.

18 Q Was there one or more than one people handing out

19 pamphlets?

20 A What I recall was just the one gentleman standing down by

21 the road on the sidewalk.

22 Q Would you be able to recognize the gentleman?

23 A Yes, I would.

24 Q Is it this defendant sitting right here --

25 A Yes, sir.

1 Q -- at the defense table?

2 A Yes.

3 MR. HULL: Your Honor, may the record reflect
4 the witness identified the defendant?

5 THE COURT: It shall so reflect.

6 BY MR. HULL:

7 Q Thank you, your Honor. Now you -- you went out and you
8 got him and you brought him back?

9 A Well --

10 Q Did you --

11 A -- I went to the door and got his attention and said, "The
12 Judge would like to speak with you, you need to come
13 inside." He stated, "I know what my rights are," and kind
14 of gave me hassle about coming in. And I made a comment,
15 "That's fine. We'll have a City unit come here and escort
16 you inside the building then."

17 Q So what happened after that?

18 A So I was coming inside to let the Judge know he wasn't
19 going to come inside. And at that time, by the time I got
20 down the hallway, he was -- I don't know if somebody
21 influenced him to come in or if he came in on his own, but
22 he did come inside.

23 Q Okay. So at some point he did come inside, but you're not
24 sure how he came inside?

25 A Yes, I'm not sure.

1 Q What happened next in regard to the flyers?

2 A We met the Judge in the middle of the hallway over here,
3 by the bathrooms, and they asked him if he was the one
4 handing out the pamphlets. He said, "Yes."

5 Q Well, I don't want to go --

6 A Okay.

7 Q -- into -- well, in regard to the pamphlets themselves;
8 what happened?

9 A As far as the ones the jurors --

10 Q The ones that were handed out, yes.

11 A The Judge gave me orders to go into the courtroom and
12 collect them up.

13 Q And did you do that?

14 A I did.

15 Q Okay. Now after this had happened; had it come to your
16 attention the defendant had been to the courthouse before?

17 A Could you repeat that? I'm sorry.

18 Q Yes, I apologize. After this -- did -- did you ever come
19 to find out the defendant had been in this courthouse
20 before --

21 A Yes.

22 Q -- November 24th, 2015?

23 A Yes.

24 Q And I'd like to take you back to November 4th, 2015.

25 A Yes.

1 Q Do you remember that date?

2 A Yes, sir.

3 Q What was going on, on that date?

4 A It was the pretrial for the *Yoder* case.

5 Q And when you say pretrial; just generally speaking, what
6 is -- what is a pretrial?

7 A That was the case determining whether or not it was going
8 to go to trial or if it was going to settled.

9 Q And where was that pretrial held?

10 A It was held in the district courtroom.

11 Q And were there -- do you remember what the scene was like
12 inside the district courtroom?

13 A It wasn't as busy as the trial day, but it was packed.

14 Q Okay.

15 A The -- the -- the room was full.

16 Q Do you remember whether or not the defendant was there on
17 that day?

18 A Yes, he was.

19 Q Was there anything that jogged your memory of the
20 defendant being there that day?

21 A Yes.

22 Q Let me -- let me ask you this; have you ever had a chance
23 to view a video of that pretrial?

24 A Yes, I have.

25 Q And were you in the courtroom during that pretrial?

1 A Yes, I was.

2 Q And, when you reviewed the video, was the video a fair and
3 accurate representation of what you remember from the
4 courtroom --

5 A Yes.

6 MR. HULL: -- in the pretrial? I believe we
7 would stipulate to the admission of People's Proposed
8 Exhibit Number 2, your Honor.

9 MR. KALLMAN: That's correct, your Honor.

10 THE COURT: And Exhibit Number 2 is?

11 MR. HULL: Video.

12 THE COURT: A video.

13 MR. HULL: Correct.

14 THE COURT: Then the Exhibit Number 2 will be
15 admitted without objection.

16 (At 2:30 p.m., People's Exhibit Number 2 is
17 admitted and played for the jury)

18 MR. HULL: Thank you, your Honor.

19 Are you able to see the video from there?

20 MR. KALLMAN: He's not in a good position.

21 THE WITNESS: I'll make it work.

22 BY MR. HULL:

23 Q If you could look back at the video.

24 A Sure.

25 Q What are we seeing right here?

1 A These are all the folks being shuffled in for the
2 pretrial.

3 Q Are you able to identify which one Mr. Wood is based on --

4 A Can I stand up?

5 Q Yeah, absolutely, if it helps you.

6 A There he is right there facing the wall. Now he's sitting
7 down right now.

8 Q Okay. That's the -- that's -- that's the gentleman in the
9 pretrial you saw on that day?

10 A Yes, sir.

11 Q Was there anything else about that date that kind of stuck
12 out in your memory in regard to Mr. Wood?

13 A There was. Once the room fills up, myself and the State
14 Trooper will be close to the door here, and he stood up
15 and made a comment to the Trooper, "Did you notice that
16 there was a Trooper car running outside?" And the comment
17 was made, "Yes, I know it's mine." And something along
18 the lines of, "I just want to make sure -- you know --
19 because it's wasting taxpayers' money," or something of
20 that nature. And he'll actually stand right up and --

21 Q And what was the -- what was the name of the Trooper if
22 you remember?

23 A It was Trooper Nobliski.

24 Q Okay. Do you see the Trooper enter in at this point?

25 A Yes, sir. He's standing right next to me.

1 Q And that person standing up; is that Mr. Wood?

2 A Yes, sir.

3 Q Okay. Did you think much of it at that time; that
4 conversation?

5 A Not particularly.

6 Q Okay.

7 A I didn't, I guess, I kind of just brushed it off, I guess.

8 MR. HULL: Okay.

9 No further questions.

10 THE COURT: Mr. Kallman.

11 CROSS-EXAMINATION

12 BY MR. KALLMAN:

13 Q Thank you, your Honor. Deputy Roberts, are you a Mecosta
14 County Sheriff Deputy?

15 A Yes, sir.

16 Q And what is your appointment; are you a corrections
17 officer, are you patrol, or what?

18 A Court officer.

19 Q You're a court officer.

20 A Yes, sir.

21 Q Okay. Because I have a copy of your appointment and oath
22 from January 2nd, 2013, and it says, Appointment and Oath
23 of Corrections Officer.

24 A Okay.

25 Q Have you -- may I --

1 A Well --

2 Q -- approach the witness, your Honor? Is this --

3 A We're corrections officers, but I'm assigned to the
4 courthouse. So my title is court officer.

5 Q Okay.

6 A So that's what my ID says, I guess, so.

7 Q So I'm curious because you said that when you stepped
8 outside to -- at the direction of Judge Jaklevic --

9 A Yes, sir.

10 Q -- and you talked to Mr. Wood --

11 A Yes, sir.

12 Q -- did you stay up on the landing; on top of the steps?

13 A Yes, sir.

14 Q So you were what, shouting out to him out on the street
15 because he was out by Elm Street, right?

16 A Yes, sir.

17 Q At that "T" where the --

18 A He was on the sidewalk; on this side of the road.

19 Q Okay.

20 A So between the benches and the road.

21 Q Okay. Nearer the road?

22 A Yeah, he was probably five to six feet off the road --

23 Q Okay.

24 A -- this way.

25 Q All right. So did you have to kind of raise your voice to

1 talk to him --

2 A Yes.

3 Q -- out there? All right. And you made the comment that
4 when you asked him to come in and he refused, you said you
5 told him we'll bring a City unit --

6 A Yes, sir.

7 Q -- to bring you in?

8 A Yes, sir.

9 Q Why didn't you just go bring him in?

10 A Because that is City's jurisdiction out there. And I'm
11 not -- I'm not a certified MCOLES officer, so I -- I kind
12 of know where my requirements are and that's inside this
13 building here.

14 Q Okay. Can you tell the jury what you mean by that, MCOLE
15 -- MCOLE?

16 A MCOLES.

17 Q COLES officer; what does that mean?

18 A It means I haven't -- I haven't been through an approved
19 academy to -- I'm trying to figure out how to word this --

20 MR. HULL: Your Honor, I am going to object.

21 I'm trying to figure out where we're going with this;
22 what's the relevance of this?

23 THE COURT: I was going to say --

24 MR. KALLMAN: Well --

25 THE COURT: -- Mr. --

1 MR. KALLMAN: Well, it's surrounding the
2 circumstances of why he didn't go out to arrest Mr. Wood.
3 And I'm just inquiring into that because I believe what he
4 is about to testify to is that he doesn't have arrest
5 powers outside the courthouse.

6 THE WITNESS: And I did not arrest him out
7 there.

8 MR. HULL: Again, what's the relevance.

9 THE COURT: Okay. What did -- and I guess I
10 would -- would agree with Mr. Hull; what is the relevance,
11 he did not testify that he arrested him?

12 MR. KALLMAN: Well, that's what I'm trying to
13 get to, Judge, because there's other evidence that will
14 indicate that's exactly what he said; that he didn't say,
15 "I'm going to bring a City unit." What he said was, "I'll
16 call the City and have you arrested." So, I guess, let me
17 start with that question and I'll come back.

18 MR. HULL: Your -- your Honor, again,
19 relevance.

20 MR. KALLMAN: I can cross-examine, Judge. I
21 mean, he claimed he's made the statement. I can certainly
22 inquire into that.

23 THE COURT: I'm going -- I will overrule -- I
24 will overrule the objection, but let's not go too far.

25 BY MR. KALLMAN:

1 Q All right. Thank you, Judge. In fact, Deputy Roberts,
2 didn't you threaten to call the City so that Mr. Wood
3 would be arrested?

4 A I think what I said was, "I will have a City unit come
5 here and bring you inside."

6 Q Okay. Do you know Detective Erlandson?

7 A The name does not ring a bell.

8 Q She is a detective who also filed a report regarding this
9 matter and who is another witness that the Prosecutor has
10 listed.

11 A Okay.

12 Q Who -- you don't recall her?

13 A No.

14 Q So if she said in her report --

15 THE COURT: Hold --

16 MR. HULL: Your Honor, objection.

17 THE COURT: Okay. I was going to say.

18 MR. KALLMAN: All right.

19 THE COURT: He does -- he can't --

20 MR. KALLMAN: All right. I'll --

21 THE COURT: You can't ask him questions --

22 MR. KALLMAN: -- move on.

23 THE COURT: -- if he doesn't recognize that
24 person.

25 BY MR. KALLMAN:

1 Q All right. I'll move on. Thank you, Judge. So the Judge
2 ordered you to bring Mr. Wood into the courthouse?

3 A Yes, sir.

4 Q Okay. And that was so he could talk to Mr. Wood?

5 A Yeah, that -- he just told me to go get him and bring him
6 in here; he wanted to talk to him.

7 Q And he wanted to talk to him?

8 A Yes.

9 Q Okay. So, when Mr. Wood was -- came into the courthouse;
10 wasn't there another officer escorting him from the DEQ;
11 do you recall that other officer?

12 A I do not.

13 Q Okay. And he was taken down the hallway I think you said?

14 A Like I said, when I came down the hallway, I met the
15 Judge; he was standing in the hallway, and I was telling
16 him he won't come inside. And when I turned around, he
17 was -- he was walking up towards us.

18 Q Okay. And who else -- you say "us;" it was you, the
19 Judge, who else?

20 A Me and the Judge and Prosecutor Brian Thiede was there,
21 too.

22 Q Okay. That interaction all happened in the hallway
23 outside this courtroom, right?

24 A Yes, sir.

25 Q Did the Judge order you to do anything regarding Mr. Wood

1 when you were in the hallway?

2 A He was asked if he was the one passing out the pamphlets.
3 He said, Yes. And I was told to arrest him for Jury
4 Tampering so.

5 Q Okay. And who asked Mr. Wood whether or not he was the
6 one handing out the pamphlets?

7 A I don't remember if it was the Judge or if it was the
8 Prosecutor, but it was one of those -- one of those two
9 guys.

10 Q Okay. So the Judge, Judge Jaklevic, did not bring Mr.
11 Wood into the district courtroom, or --

12 A No.

13 Q -- do anything formal along those lines --

14 A No.

15 Q -- that -- is that correct?

16 A Yes.

17 Q Okay. And you testified that there was a trial going on
18 in the *Yoder* case. But, in fact, no trial was ever held;
19 isn't that true?

20 A No trial was held, no.

21 Q Okay. No jury was picked, correct?

22 A No, sir.

23 Q Is that correct?

24 A That is correct.

25 Q I know I'm asking it in a bad way, so I'm sorry about

1 that. All right. How many times did you go outside of
2 the courthouse here to talk with Mr. Wood?

3 A Just the one time.

4 Q Just the one time. Did he ever ask you if he was being
5 detained or arrested; do you recall him asking you that?

6 A I don't recall. I just remember him saying he knows -- he
7 knew what his rights were. I remember him saying
8 something along that line, but I don't remember him asking
9 anything else.

10 Q So the fact that you had no arrest powers outside of the
11 courthouse and you were trying to get him inside the
12 courthouse at Judge's direction; was that just a rouse to
13 get him in here so he could be arrested?

14 A I think I was pretty straight with him; if he didn't come
15 in, I'd just have a City unit come over here.

16 Q To get him arrested, right?

17 A To --

18 Q Was that your intention?

19 A To bring him in as per the Judge's orders.

20 Q Okay. So that he could be arrested?

21 A I --

22 MR. HULL: Your Honor, asked and answered --

23 THE WITNESS: -- don't recall saying that.

24 MR. HULL: -- and relevance.

25 MR. KALLMAN: All right. Well, he says he

1 doesn't recall. I'll move on, Judge.

2 THE COURT: All right.

3 Thank you.

4 BY MR. KALLMAN:

5 Q Do you specifically have a recollection; once everybody is
6 the hallway here, of Mr. Wood interacting and talking to
7 Judge Jaklevic if you -- if you recall?

8 A I -- if there was any, it was very short. There -- there
9 wasn't a lot. I mean there was a couple things said, but
10 nothing that --

11 Q So you don't recall?

12 A -- made me remember what was said, no. So --

13 Q Like I said, you don't recall any specific words --

14 A No.

15 Q -- or what was said?

16 A No.

17 Q Okay. Now, Deputy Roberts, you -- let me ask you about
18 this; are you aware of any -- well, how long have you
19 worked here in the courthouse?

20 A I've been here in the courthouse for about three-and-a-
21 half years.

22 Q Okay. Are you aware of any policy that the court has or
23 the county has on this property regarding the handing out
24 of brochures or pamphlets outside the courthouse?

25 A No.

1 Q You've never seen any policy like that?

2 A No.

3 Q Okay. Is that correct?

4 A Yes.

5 Q Okay. Did the Judge indicate to you his -- any -- any

6 concern with the content of what was in the brochure that

7 --

8 A Not directly --

9 Q -- Mr. Wood was handing out?

10 A -- to me, no.

11 Q Not to you?

12 A No.

13 Q Okay. Did you ever read the brochure?

14 A I skimmed through it when I was -- after I collected them

15 up, but I didn't -- I didn't really read into it too much,

16 no.

17 Q Okay. And Judge Jaklevic ordered you to confiscate the

18 brochures from all the jurors in the --

19 A Yes.

20 Q -- jury room that had them, right?

21 A Yes.

22 Q Okay. Did he tell you why he wanted you to do that?

23 A No, not that I recall.

24 Q Were you present in the jury room when the Judge was

25 explaining at the trial was not going to happen; when that

1 was going on?

2 A Yes.

3 Q Do you recall the Judge making any statement about Mr.
4 Wood?

5 A I remember saying -- I remember him saying that a plea was
6 -- was taken and the trial wasn't going to be going on so.

7 Q Do you recall him saying anything about Mr. Wood being
8 lodged in the jail or anything along those lines --

9 A I don't --

10 Q If -- if you recall?

11 A I don't recall that.

12 MR. KALLMAN: Okay.

13 Thank you, Judge. I don't have anything
14 further.

15 THE COURT: Thank you.

16 Mr. Hull, redirect.

17 REDIRECT EXAMINATION

18 BY MR. HULL:

19 Q I just want to make sure I have the -- the timeline
20 straight; at the time Mr. Wood was handing out those
21 pamphlets and the people; the jurors, were walking in with
22 those pamphlets, the trial was still scheduled to go,
23 right?

24 A Yes.

25 Q In fact, the trial was still going on?

1 A Yes.

2 Q In fact, they were having hearings on that trial -- or --
3 we were having hearings on that trial in a separate
4 courtroom at that time?

5 A Yes.

6 Q Okay.

7 A Yeah, I only had maybe 15 people -- 15 to 20 people even
8 come into the -- jurors come into the courtroom --

9 Q All right.

10 A -- when all this happened so.

11 Q And the trial was called off after all of this had
12 happened?

13 A Yes.

14 MR. HULL: No further questions.

15 MR. KALLMAN: Well, your Honor, if I could
16 follow up with that.

17 THE COURT: You may because it might have been
18 his poor wording.

19 MR. KALLMAN: Yeah, I --

20 MR. HULL: I -- I -- I can --

21 RECROSS EXAMINATION

22 BY MR. KALLMAN:

23 Q Again, no trial occurred; isn't that right, Deputy?

24 A That is correct.

25 Q Okay. So people were here; they were anticipating a trial

1 might happen that day, but --

2 A Yes.

3 Q -- no trial actually occurred; is that right?

4 A That is correct.

5 MR. KALLMAN: Okay.

6 Thank you.

7 THE COURT: All right.

8 Is that --

9 MR. KALLMAN: I think --

10 THE COURT: -- cleared up?

11 MR. KALLMAN: -- that's -- yes.

12 THE COURT: All right.

13 Any further questions?

14 Any questions from the jury?

15 THE JURORS: (No verbal response).

16 THE COURT: No.

17 May this witness be excused?

18 MR. HULL: Yes, he may.

19 THE COURT: All right.

20 Sir, you may step down.

21 (At 2:44 p.m., witness excused)

22 Next witness, please.

23 MR. HULL: Your Honor, I would like to call
24 Janet Erlandson.

25 THE COURT: Ma'am, come up here, please.

1 Before you have a seat, raise your right hand.

2 Do you swear or affirm to tell the truth, the
3 whole truth, and nothing but the truth?

4 DETECTIVE ERLANDSON: I do.

5 THE COURT: All right.

6 Have a seat.

7 DETECTIVE JANET ERLANDSON

8 (At 2:44 p.m., called by the People, sworn by
9 the Court, testified as follows)

10 DIRECT EXAMINATION

11 BY MR. HULL:

12 Q Could you please state your full name and spell your last
13 for the record?

14 A I will. It is Jan -- or Janet, J-A-N-E-T, Erlandson,
15 E-R-L-A-N-D-S-O-N.

16 Q And -- well, I was just going to say, Detective Erlandson,
17 what do you do for a living?

18 A I am a detective with the State of Michigan DNR Law
19 Enforcement Division.

20 Q So a detective with the State of Michigan DNR --

21 A Law Enforcement.

22 Q -- Law Enforcement Division. That's a pretty long title.
23 Is it also part of -- what is the DEQ?

24 A Department of Environmental Quality.

25 Q Do you work with that -- or -- do you work with the DEQ?

1 A I do.

2 Q Okay. Are you a detective also -- is -- is the DEQ part
3 of the DNR?

4 A No, it's a separate division. It's a separate -- it's a
5 separate division with the State of Michigan. The DNR
6 works cases for the Department of Environmental Quality.

7 Q So, when there is a Department of Environmental Quality
8 case, the DNR will work that case with them or how does
9 that work?

10 A Yes, sir.

11 Q Okay. How long have you been a detective with the -- the
12 DNR, with the State of Michigan?

13 A Eighteen years.

14 Q Eighteen years. And I would like to take you back to
15 November 24th, 2015. Were you coming here to this
16 courthouse on that date?

17 A Yes, sir.

18 Q What was the reason why you were coming here?

19 A I was coming here on another criminal misdemeanor matter.

20 Q And what was the name of that criminal matter?

21 A Involving Mr. Yoder.

22 Q Okay. And when you say you were coming here; were you
23 coming here as a -- as a witness, as an investigator?

24 A As an investigator. We had a court case scheduled for that
25 day.

1 Q And I just want to make sure; when you say case, do you
2 mean hearing or trial?

3 A It was scheduled for a trial.

4 Q Okay. A jury trial?

5 A Yes, sir.

6 Q Okay. About what time did you get here?

7 A I believe approximately about quarter-after 8:00 in the
8 morning.

9 Q And when you came here, which -- which door did you come
10 in?

11 A In the front door here. I believe that's off of Elm
12 Street.

13 Q Yeah, this door that's closest right here --

14 A Yes.

15 Q -- to us?

16 A Yes --

17 Q Okay.

18 A -- sir.

19 Q What did you see, if anything, when you came up to that
20 door?

21 A There was a gentleman standing at the end of the sidewalk,
22 right when you come up the first two stairs, of the main
23 sidewalk entry into the front door.

24 Q And what was that gentleman doing, if anything?

25 A He was standing, handing out pamphlets.

1 Q Do you know if he was saying anything when he was handing
2 out pamphlets?

3 A He was talking to people as I came across the street.

4 Q Okay. And so what happened next; you came across the
5 street, did you -- did you approach him?

6 A As I was walking to the door; up to the front door.

7 Q Was there any way of walking through the door without
8 approaching him?

9 A No, sir.

10 Q Okay. So what happened next?

11 A He said, "You don't want one of my pamphlets, do you?"

12 Q Okay. So what -- I -- what -- what would have made him
13 say that?

14 A Well, I wasn't wearing a jacket; a winter coat, and he saw
15 that I had my duty weapon on, my badge, my extra magazine,
16 my handcuffs, my spray, and I believe Mr. Wood knew that I
17 was law enforcement so he --

18 Q So what was -- what exactly did he say to you as -- as you
19 were walking up to him; what were his words?

20 A He said, "You don't want one of my pamphlets, do you?"

21 Q Okay. And what happened next?

22 A I said, "Well, what are they?" because at that time I had
23 no idea what they were.

24 Q And did he respond?

25 A He did.

1 Q What did he say?

2 A And he says, "They are about jury rights."

3 Q And did you say anything to him at that point?

4 A I did.

5 Q What did you say to him?

6 A And I said that a judge will explain jury rights to any
7 jury that is seated; the judge will explain all the rights
8 that need to be explained.

9 Q And what happened next; did you --

10 A And --

11 Q -- say anything else; was there more of a conversation, or
12 was that it?

13 A I told him that he could not block the sidewalk.

14 Q Okay. And then did -- did -- did he respond to that or --

15 A He did. He said that he was a Christian man and a father
16 of seven.

17 Q And what happened next?

18 A And -- and then he said -- he asked -- or -- he said that
19 he believes in right and wrong. And I said, well, so do
20 I, but you need to move on.

21 Q So what happened after that?

22 A Well, then at that time, as I stepped around him because
23 he was right at the sidewalk and I had to step around him,
24 he said are you a person -- I don't know if there was
25 something before that and I kind of looked around or

1 turned around and looked at him and I said, well,
2 obviously, I'm a person, because I wasn't quite
3 understanding what he said. And then I walked into the
4 building.

5 Q Okay. Now at that point had he had -- had he actually
6 handed you a pamphlet?

7 A No.

8 Q So you didn't know what was on the pamphlet?

9 A I did not.

10 Q Okay. So what happened next?

11 A Then when I came in and kind of waiting; there was a lot
12 of people here that day for the trial, there was a
13 regulatory staff that was here and -- for the trial -- as
14 called as a witness, and she made the comment to me, she
15 said, I have -- I received a pamphlet from the guy out on
16 the sidewalk. Well, at that point then, Ms. Wood -- I'm
17 sorry -- Ms. Marshall, who worked with the Prosecutor,
18 took the pamphlet from her -- and I was standing right
19 next to the civilian witness -- and she then took it and
20 there was a conversation, and I was just standing off to
21 the side, and then there was a decision made that the
22 pamphlets would be taken from anybody that was sitted --
23 seated in the jury room. And that was done by a Mecosta
24 County Deputy. And then the actual Prosecutor and the
25 Judge were out in the hallway and the decision was made

1 that the Judge would like to speak to Mr. Wood and wanted
2 to see if he was still outside.

3 Q Okay. So I'd like to take you back before -- before we go
4 any further; first of all, at this point in time, was the
5 jury trial still scheduled to go forward in the *Yoder*
6 case?

7 A Yes.

8 Q Were jurors still sitting in the room waiting to hear the
9 case; as far as you were aware?

10 A Yes.

11 Q Okay. All right. And then, so you said that at that
12 point, a decision was made to take the pamphlets away from
13 the jurors that were sitting in that room; is that
14 correct?

15 A Yes.

16 Q Okay. And then what happened after the Judge said
17 something about getting Mr. -- or -- getting the person
18 who was handing out the pamphlets?

19 A Then Deputy Roberts was called. And so I went outside
20 with him, because I did not want him to go outside alone
21 and plus, I knew from earlier contact with Mr. Wood where
22 he -- or -- what he looked like, so I went outside and
23 Deputy Wood (sic) didn't know who he was looking for, so
24 he spoke to some people that were standing out, just
25 outside, on the steps. And I said, no, no, Mr. Wood is

1 still down at the end of the sidewalk --

2 Q Okay.

3 A -- at the end of the steps. So then the deputy and I
4 went down --

5 Q Okay.

6 A -- to the end of the sidewalk.

7 Q And what did you say to Mr. Wood when you went out down
8 there?

9 A I told him that -- well, first of all, there was a
10 conversation between the deputy and Mr. Wood. And then I
11 told him that the Judge would like to speak to him.

12 Q And when you say down there; where were they; how far from
13 the courthouse?

14 A Well, the deputy was talking to him from the steps and I
15 was --

16 Q Okay.

17 A -- down by Mr. Wood.

18 Q So the deputy was on the steps talking to him and then you
19 -- you went down there to talk -- okay.

20 A I went down there to --

21 Q I just want to make sure --

22 A -- to personally talk --

23 Q -- of that.

24 A -- to Mr. Wood, yes.

25 Q Okay. So then you went down next to Mr. Wood and you

1 spoke with him?

2 A Yes.

3 Q What happened next?

4 A Well, then I told him that the Judge would like to see him
5 -- or -- wanted to speak to him. And Mr. Wood said, "Am I
6 being detained?" And I said, "No." I said, "The Judge
7 would like to speak to you." Because, at that point, I
8 didn't know --

9 Q And just --

10 A -- what was going on.

11 Q -- just for the record, this is just a conversation
12 between you and Mr. Wood; at this point, it was just the
13 two of you talking?

14 A Yes.

15 Q Okay. So go --

16 A It was -- right.

17 Q -- ahead after that.

18 A And we were just down at the end of the sidewalk and that
19 was it. It was just him and I. And it was --

20 Q And so Deputy Roberts wasn't involved directly in that
21 conversation?

22 A No.

23 Q Okay. So what happened next?

24 A And like I said, it was just this kind of conversation.

25 And he said, "Am I being detained?" And I said, "No." I

1 said, "The Judge has asked to speak to you, so I'm asking
2 if you'll come inside with me." And he said, "Okay." So
3 we started up the stairs and we got to the first set of
4 glass doors. And there was a large, large number of people
5 in the lobby area. So, when we got through the first set
6 of doors, the deputy opened the second glass set of doors
7 and, at that point, I put my hand on his back.

8 Q When you say "his back," whose back?

9 A On Mr. Wood's back.

10 Q Okay.

11 A And I put my hand on his back. And he said very loudly,
12 "Don't manhandle me." And I said, "If I was going to
13 manhandle you, sir, I'd -- you'd be face down on the
14 ground already." And he said, "Oh, okay." And I said to
15 him also, "I'm not doing anything more than I would for my
16 89-and-a-half-year-old mother; I'm leading you through the
17 crowd, the lobby is crowded." So the people moved and at
18 that point, once we got through the crowd, I just took my
19 hand off and said, "The judge is" -- and I'm looking --
20 and I said, "Down there by the window." So the deputy led
21 the way and I followed Mr. Wood and -- and we went up to
22 where the Judge was.

23 Q Okay. Now you said there was a large number of people.
24 And the case of *People v Yoder*; that was -- was that an
25 Amish citizen?

1 A Yes.

2 Q Were there a large number of Amish people in the
3 courthouse that day?

4 A Yes, sir.

5 Q And can you say about how many?

6 A I'm estimating a minimum of 60 to 80 citizens.

7 Q Did you notice whether or not any of the Amish citizens
8 had pamphlets in their hands?

9 A I don't know, sir.

10 Q You just don't know the answer to that?

11 A I don't --

12 Q Okay.

13 A -- know the answer to that.

14 Q After the conversation that you had with the defendant;
15 would you be able to recognize him if you saw him today?

16 A Yes, sir.

17 Q And is he in this courtroom?

18 A Yes, sir.

19 Q Okay. Your Honor -- could you point him out for the
20 record?

21 A He's at the defendant's table, wearing a navy blue jacket,
22 and a blue dress shirt, and blue jeans, and tannish-brown
23 socks, and --

24 Q And that's the --

25 A -- black shoes.

1 Q -- gentleman you saw outside?

2 A Yes, sir.

3 MR. HULL: Okay.

4 Your Honor, may the record reflect the witness
5 identified the defendant?

6 THE COURT: It shall so reflect.

7 MR. HULL: Thank you.

8 I have no further questions.

9 Thank you.

10 THE WITNESS: Yes, sir.

11 THE COURT: Mr. Kallman.

12 CROSS-EXAMINATION

13 BY MR. KALLMAN:

14 Q Thank you, your Honor. Detective, you're a DNR officer
15 then?

16 A Yes, sir.

17 Q So you're -- you're not a deputy of Mecosta County?

18 A No, sir.

19 Q So you don't have any arrest powers here in Mecosta
20 County; is that --

21 A I --

22 Q -- right?

23 A Yes, sir, I absolutely do. I have statewide arrest
24 powers.

25 Q Okay. And arrest powers for what?

1 A Any law in the State of Michigan.

2 Q Okay.

3 A I am state sworn.

4 Q All right. And that's -- so anywhere in the State of
5 Michigan that a law is being violated; you have arrest
6 powers?

7 A I absolutely do, sir.

8 Q Okay. Let's go through your testimony again here.

9 A Okay.

10 Q You did a report for this matter; is that right?

11 A I did.

12 Q Okay. Did you review that before today's testimony?

13 A I did.

14 Q Okay. And you said in your report, you observed a male
15 wearing a blue jacket and jeans, with hair cut -- brown
16 hair, cut short, handing out pamphlets to everyone heading
17 into the district court, right?

18 A Yes.

19 Q Okay. So people who are not summoned as potential jurors
20 got brochures also, didn't they?

21 A Probably, yes.

22 Q Okay.

23 A I didn't know who was a juror, sir, and who was not a
24 juror so.

25 Q You've taken the question out of my mouth. There is

1 really no way to tell was there?

2 A No, sir, there -- there was not.

3 Q They weren't wearing big buttons or signs saying "I'm a
4 potential juror" or anything --

5 A No --

6 Q -- right?

7 A -- sir. No, sir, there was --

8 Q Okay.

9 A -- not.

10 Q So he's just handing them out as people are walking by;
11 some people would take a brochure, others wouldn't, right?

12 A That is correct.

13 Q Okay. And you say in your report that as you approached
14 Mr. Wood, "He observed my duty weapon, badge, handcuffs,
15 an additional magazine of duty and ammunition concealed
16 under my blazer," right?

17 A Blazer.

18 Q Okay. So if it's concealed under your blazer; how would
19 he see that?

20 A Because it was windy that day and as the wind blows, I was
21 having a hard time keeping my blazer closed. So it was --

22 Q Okay. So he would recognize --

23 A I can --

24 Q I'm sorry. I didn't mean to cut you off.

25 A I did not have a heavy winter coat on.

1 Q Gotcha.

2 A So I just had this jack -- or -- not this exact suit, but
3 --

4 Q Sure.

5 A -- I had a blazer on.

6 Q Okay. Sure. So anybody that would have observed you that
7 day would realize you had something to do with law
8 enforcement, right?

9 A Yes, sir.

10 Q Okay. I mean, you have a gun, handcuffs, that sort of
11 thing, right?

12 A Yes, I would hope so, sir.

13 Q Okay. And what he said to you was this pamphlet -- he
14 didn't expect that you would want one, right?

15 A That is correct.

16 Q And that it was simply a pamphlet that explained jury
17 rights, correct?

18 A Correct.

19 Q And I just want to make clear; he was -- was he around the
20 sidewalk where there is kind of like a "T" on the sidewalk
21 out by Elm Street; is -- that's where he was, right?

22 A Yes, sir. He was right on the sidewalk, right in front,
23 where the steps lead up. Like there's --

24 Q Where the sidewalk starts leading up to the courthouse?

25 A That is correct. Right --

1 Q Okay.

2 A -- right there.

3 Q So right at that "T" out by Elm Street; in front of the
4 courthouse here?

5 A Right. You've got the road, and you've got the grass, then
6 you've got the public sidewalk, and then you've got --

7 Q Right.

8 A -- the main set of steps leading up, and he was right
9 there.

10 Q At the public sidewalk?

11 A Yes, sir.

12 Q Okay. Thank you. Now was there somebody else with you
13 that day from the DEQ?

14 A Not with me that -- well, can you clarify that?

15 Q Yeah, maybe -- you mentioned in your report a Brandi
16 Stefanski; is that --

17 A Right. She -- she is a regulatory staff. She was not
18 with me. She was there to listen on the case. She was an
19 observer, but she was not with me.

20 Q Okay. I see. I understand.

21 A Okay.

22 Q But, you knew who she was and she was there?

23 A I did.

24 Q Okay. And she got handed a pamphlet by Mr. Wood, right?

25 A She did.

1 Q Okay. And she was clearly not a juror or summoned that
2 day to come for a trial, right?

3 A That is correct.

4 Q Okay. Now you talked earlier; you said there was some
5 discussion about going outside to bring Mr. Wood inside to
6 see the Judge. Do you recall who made the decision to go
7 out and bring Mr. Wood in?

8 A I know in my report I said that it was the Prosecutor, but
9 it was the Judge. And when I realized what I put in my
10 report, I called and I said, "I screwed up."

11 Q Yeah, it's okay.

12 A I put that it was -- because it was a shirt and a tie. So
13 after I had submitted it, I called and I talked to the
14 assistant prosecutor and I said, you know, "Do you want me
15 to resubmit that it was the Judge and not the Prosecutor?"
16 And he said, "No, just wait." And I said there was a lot
17 going on; I just knew that it was a shirt and a tie --

18 Q Okay.

19 A -- and it ended up being the Judge that had requested it.

20 Q All right. So in your report where you say it was
21 Prosecutor Brian Thiede who said to go out, it actually
22 was Judge Jaklevic?

23 A It was the Judge; yes, sir.

24 Q Okay. And then you went out with Deputy Roberts, right?

25 A That is correct.

1 Q Okay. Do you recognize him here today?

2 A Right there, sir.

3 Q Sitting next to Mr. Hull?

4 A I believe that's him, sir.

5 Q Okay.

6 A I was just with him just the one time so --

7 Q All right.

8 A -- I believe that's him.

9 Q That's fair. Thank you. And you say in your report that
10 at first Deputy Roberts thought the Amish were handing out
11 the flyers?

12 A Well, he wasn't sure.

13 Q Okay.

14 A I don't think he was sure because he had been inside. He
15 -- and he was basically brought out at the Judge's
16 request. And I don't think he -- well, in my opinion only
17 -- I don't think he knew what had been transpiring where
18 --

19 Q Okay.

20 A -- I had because I had come in from the outside. So
21 that's why I went outside. For one, with all my years of
22 police work, you never send one person out alone and two,
23 to be able to assist him to find if Mr. Wood was still
24 handing out the pamphlets since I had contact with Mr.
25 Wood.

1 Q Okay. Mr. Wood did not have any weapons or anything on
2 his person that day, did he?

3 A No, he didn't.

4 Q Okay. So you did indicate that Deputy Roberts -- "Deputy
5 Roberts yelled at a group of Amish to come forward if they
6 were handing out pamphlets," right?

7 A Right.

8 Q Okay. And that's where you corrected him and pointed out
9 Mr. Wood?

10 A Right.

11 Q Okay.

12 A I said, "No, no, there -- there's Mr. Wood."

13 Q Okay.

14 A Because, again, he wasn't sure -- you know -- who was --
15 Q Understood.

16 A -- who was doing it. And I said, "No, Mr. Wood is down
17 there." And then I walked down to where Mr. Wood was.

18 Q Understood. Okay. And I think you indicated Mr. Wood was
19 still in the same place at that "T" in the intersection on
20 the public sidewalk, out by the street, right?

21 A Yes, sir.

22 Q Okay. And you said you had told him earlier to move away.

23 A Yes, sir.

24 Q On what authority were you telling him he had to leave?

25 A Well, for one, he was blocking the sidewalk.

1 Q Mr. Wood was blocking the whole sidewalk so people could
2 not get in; that's your opinion?

3 A Well, I had to step around him on the grass.

4 Q Huh.

5 A So -- which, I had dress shoes on and it was awful wet.
6 And I was thinking well, maybe some people would not
7 especially like to get their shoes all wet -- I didn't
8 particularly care, but - and not knowing what the
9 pamphlets were, maybe people would not like being
10 approached. So I just told him to move on.

11 Q Okay. And, again, you informed Mr. Wood the Judge wanted
12 to speak with him, right?

13 A I did.

14 Q And then he said, Am I -- he'd asked -- Am I being
15 detained, right?

16 A He did.

17 Q I think you testified to that.

18 A Yes --

19 Q Okay.

20 A -- he did.

21 Q And then you say in your report, "Deputy Roberts told him,
22 Mr. Wood, if he did not come in the City Police would come
23 up and arrest him." Is that your recollection?

24 A Yes, sir.

25 Q Okay. So he was threatened with arrest?

1 A Not by me, sir.

2 Q I didn't say by you. He was threatened by arrest by
3 Deputy Roberts, right?

4 A I --

5 Q That's what you say.

6 A That's what I said in the report, sir.

7 Q Okay.

8 A That's what -- that's what was said; sir, yes.

9 Q Okay. So that's what happened, right?

10 A Yes, sir.

11 Q Okay. So, Mr. Wood, after asking, "Am I being detained,"
12 was threatened with arrest by Deputy Roberts, right?

13 A Yes, sir.

14 Q And it was either come inside, talk to Judge, or get
15 arrested; that was the choice given to Mr. Wood, right?

16 A Not by me, sir.

17 Q I didn't ask from you. That was the choice given to Mr.
18 Wood by Deputy Roberts, right?

19 A By Deputy Roberts; yes, sir.

20 Q Okay. And you personally observed this?

21 A I heard it; yes, sir.

22 Q Okay. Well, you were there, right?

23 A Yes, sir.

24 Q Okay. You personally saw it happen and you --

25 A Yes, sir.

1 Q -- heard it, right?

2 A Yes, sir.

3 Q Okay. So then you say, "Well, I asked Mr. Wood to come up
4 the sidewalk with me." Why did you leave that out of your
5 earlier testimony, because you just said well, I was
6 talking to him and told him to come in; he just came in.

7 A No, I didn't.

8 Q Well --

9 A I did --

10 Q -- you didn't --

11 A -- not.

12 Q -- mention anything about this.

13 A About what?

14 Q About getting arrested. Why not?

15 A I wasn't asked the question.

16 Q Okay. So as you're walking up the steps or walking up the
17 sidewalk, and you get to the steps, and you're coming into
18 the building; did you ask Mr. Wood if he had any weapons
19 on him?

20 A I did.

21 Q Well, what did you ask him if he had?

22 A If he had any bazookas or machetes.

23 Q So you asked Mr. Wood if he had any bazookas or machetes?

24 A That's -- I did many years on road patrol before I retired
25 out of the sheriff's department and that was a calming way

1 and usually you would get a snicker out of somebody when
2 they go, "No, I don't have anything like that," and they
3 would snicker. Obviously, you would see something like
4 that on Mr. Wood. And he says, "Oh, no." I mean --
5 Q Okay.
6 A -- and he -- I knew right away he didn't, but it was
7 trying to calm down a situation. That was it.
8 Q Okay. Well, calm down a situation. He was walking in.
9 A He was.
10 Q He wasn't resisting. He --
11 A He was --
12 Q -- wasn't --
13 A -- not.
14 Q -- yelling?
15 A He was not.
16 Q Okay. So -- well, all right.
17 A It just -- it was a little tense, you could tell.
18 Q Okay. So, when you say Mr. Wood came up the stairs
19 voluntarily; it wasn't really voluntary was it, it was
20 either come up or get arrested?
21 A In my eyes, at the time when I was talking to him and
22 asked him to come up, it was him and I. I told him what
23 the Judge had asked us to do. He came up based on, in my
24 opinion, based on what I had asked him to do. And I asked
25 him to come up because the Judge had wanted to talk to

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

him.

Q So it didn't factor in at all that Deputy Roberts threatened to have him arrested by --

MR. HULL: Your Honor --

MR. KALLMAN: -- the City Police?

MR. HULL: -- you know we've gone over this.

THE WITNESS: No, because --

MR. KALLMAN: Is --

THE WITNESS: -- Deputy Roberts was --

MR. HULL: Well, I'm going to object --

THE COURT: Hold on.

THE WITNESS: I'm -- I'm sorry.

MR. KALLMAN: It's cross-examination, Judge. I think it's --

MR. HULL: First of all, it's asked and answered. Second of all, I don't see the relevance again.

THE COURT: Your response, Mr. Kallman.

MR. KALLMAN: It's certainly relevant. It's the right for the actual facts of the incident involved where they're alleging my client committed a crime. They tried to portray to this Court and this jury that he just came in voluntarily, when he was threatened with arrest. I think that's something I can delve into --

MR. HULL: I --

MR. KALLMAN: -- and get in. I'm going through

1 her report. She brought it up more than once. I'm simply
2 going through her report and asking her about it. That's
3 all I'm doing. I'm ready to move on to --

4 MR. HULL: Your Honor --

5 MR. KALLMAN: -- other things.

6 MR. HULL: -- I don't -- I do not agree with the
7 way he is portraying the witness's testimony. Corrections
8 Officer Roberts testified already and he said he -- he
9 said he was going to call the City Police. So it's not
10 like anything was being hidden from the jury. He already
11 testified to that twice -- three times; once on direct,
12 twice on cross-examination. So it's not like there is
13 anything being hidden here. I don't like his portraying
14 that somehow that the information is being left out on
15 purpose. It's already been testified to.

16 MR. KALLMAN: Well --

17 MR. HULL: It's already asked and answered with
18 this witness.

19 MR. KALLMAN: I think Deputy Roberts' testimony
20 was pretty clear when I asked him specifically about what
21 -- his testimony is clear -- he never talked or mentioned
22 at all that he threatened to have my client arrested. He
23 never brought that up, but the jury will recall what --
24 what he --

25 MR. HULL: Your Honor --

1 MR. KALLMAN: -- testified to.

2 THE COURT: Right.

3 Do you have --

4 MR. KALLMAN: I'm ready to move on anyway,
5 Judge.

6 THE COURT: All right. Then, thank you.

7 BY MR. KALLMAN:

8 Q Thank you. So, Detective, you said you then placed your
9 hand on Mr. Wood's back to steer him through the crowd?

10 A Yes, sir.

11 Q Does that mean you were inside the building at that point?

12 A At that point, yes, sir.

13 Q Okay.

14 A Well, we were in between the two vestibules.

15 Q The door --

16 A You know, the --

17 Q -- the glass doors?

18 A Yes, sir.

19 Q Okay.

20 A I guess that's what you'd call it; the vestibule.

21 Q And then you -- you say that Mr. Wood made this statement
22 about don't manhandle me, right?

23 A Yes.

24 Q Okay. And then you say, "I told him, if I was going to
25 manhandle him that he would've already been face down on

1 the ground."

2 A Yes.

3 Q Okay.

4 A And he went, "Oh, okay." That was his response.

5 Q So --

6 A And then we --

7 Q -- do you --

8 A -- walked in.

9 Q -- think Mr. Wood would take that as a threat; that you

10 were threatening to lay him out on the ground?

11 A No.

12 Q Was he resisting you at that point?

13 A No. I don't know what he was saying -- why he -- he said

14 that.

15 Q Okay. So then you say, you took him down on the hallway.

16 Is that what happened; you came in?

17 A This hallway; yes, sir.

18 Q Okay. And where -- how far down the hallway did you go;

19 do you recall?

20 A Not --

21 Q Past this courtroom, right?

22 A Yes, not -- yes, past this door, but I don't think as far

23 as the drinking fountain.

24 Q Okay.

25 A So right --

1 Q And who was --

2 A -- right --

3 Q -- out -- I'm sorry. I thought you were done. I'm sorry.

4 A No, no, sir. Right about where the Judge's door is. So

5 maybe right directly across from this juror right here, I

6 believe.

7 Q Okay.

8 A If I'm looking through the door.

9 Q All right. And then who was waiting in the hallway to

10 meet with you and Mr. Wood and Deputy Roberts?

11 A There was the Judge and Mr. Thiede.

12 Q Mr. Thiede, the Prosecutor?

13 A The Prosecutor.

14 Q Okay.

15 A A whole bunch of other people that were here for their

16 court appearances for the afternoon, there were still 60

17 to 80 other people here for the other trial that was

18 supposed to go on. I don't know how many people were

19 still here, but there was a lot of people.

20 Q And you mention in your report Assistant Prosecutor Hull

21 was also there, right?

22 A Yes, sir. And -- yes, sir.

23 Q So Mr. Hull was sitting --

24 A He was there.

25 Q -- right here?

1 A Yes, sir. He was there --

2 Q Okay.

3 A -- also.

4 Q And then you indicated Mr. Wood was asked some questions
5 by the Prosecutor, Brian Thiede, right?

6 A Yes, sir.

7 Q Okay. Do you remember what those questions were?

8 A (No verbal response).

9 Q That's okay --

10 A Not offhand --

11 Q -- it's almost --

12 A I don't --

13 Q -- two years ago.

14 A -- sir, no.

15 Q I get it. It's okay. Okay. Then who made the decision
16 then that Mr. Wood should be arrested for Jury Tampering?

17 MR. HULL: Your Honor, again, I'm going to
18 object to relevancy. Who does -- why does it matter who
19 made the decision that Mr. Wood be arrested for Jury
20 Tampering. The question is whether or not Mr. Wood was
21 jury tampering.

22 THE COURT: All right.

23 MR. KALLMAN: Well --

24 THE COURT: Mr. Kallman.

25 MR. KALLMAN: I think it goes, your Honor, again

1 to the whole facts and circumstances. I'm entitled to
2 delve into this witness's memory and recollection, any
3 reason she would have for giving testimony that conflicts
4 with other witnesses that are still to come, and that sort
5 of thing. I think I'm entitled to a little leeway here.

6 THE COURT: Is it only that question, Mr.
7 Kallman?

8 MR. KALLMAN: Yes. I'm moving on from there.

9 THE COURT: All right.

10 Then I would -- it's fine. Let her answer it
11 then --

12 THE WITNESS: Can I --

13 THE COURT: -- and move on.

14 THE WITNESS: -- check my notes?

15 BY MR. KALLMAN:

16 Q I can repeat it if you'd like.

17 A Can I check my notes?

18 Q Certainly, yeah.

19 A Let me see if it's in there.

20 Q And when you say you're looking at your notes; are you
21 talking about your typed up report, or do you have written
22 notes?

23 A No, my -- it's my typed up report.

24 Q Okay.

25 A Mr. Thiede.

1 Q It's on -- on the second page.

2 A Yeah, Mr. Thiede.

3 Q I'm sorry.

4 A Yeah, Mr. Thiede, the --

5 Q Mr. Thiede.

6 A -- Prosecutor.

7 Q Okay.

8 A Yes, sir.

9 Q All right. Do you recall seeing Mr. Wood out here in the
10 hallway having any kind of conversation with Judge
11 Jaklevic after he was brought in?

12 A I know that the Judge was there, but I don't know if there
13 was direct conversation.

14 Q Because you were right there too, right?

15 A Yes.

16 Q Okay.

17 A But --

18 Q So you don't recall any direct conversation between Judge
19 Jaklevic and Mr. Wood, right?

20 A No, sir. There was a lot going on. I don't remember.

21 Q Okay. And so whoever -- you indicate in your report, Mr.
22 Thiede, but whoever ordered the arrest of Mr. Wood; at
23 that point, Deputy Roberts placed handcuffs on him,
24 correct?

25 A Yes, sir.

1 Q All right. And then you say, "I then escorted Deputy
2 Roberts down the hall to the jail that adjoins the court
3 building."

4 A Yes, sir.

5 Q So did Deputy Roberts need your assistance to walk Mr.
6 Wood down the hallway?

7 A It's better with two. I'm not saying he did and I'm not
8 saying he didn't, but it's better with two.

9 Q Okay.

10 A Too many years of training, sir.

11 Q And, again, just so we're clear; Mr. Wood did not resist
12 arrest, he wasn't yelling, he wasn't causing a scene in
13 the hallway here, was he?

14 A No, sir.

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

16 THE COURT: Sure.

17 BY MR. KALLMAN:

18 Q Yeah. Thank you. I just want to make sure I'm clear
19 because earlier you said in -- in your report that you had
20 indicated it was Brian Thiede who -- "A decision was made
21 by Brian Thiede to bring Mr. Wood inside to see the
22 Judge." But then you corrected that to say that was Judge
23 Jaklevic?

24 A That is correct, sir.

25 Q Okay. But this time, where the question was Mr. Wood

1 being arrested, you again say Brian Thiede. Are you sure
2 about that or was it the Judge?

3 A No, sir. I'm --

4 Q I know they are two different things, but I -- I just want
5 to make sure we're clear on the record.

6 A I -- I am pretty sure that it was Mr. Thiede that made the
7 decision and not -- not the Judge.

8 Q Okay.

9 A No, not his Honor, no.

10 MR. KALLMAN: Thank you very much.

11 I have no other questions.

12 THE WITNESS: It's okay.

13 THE COURT: Thank you.

14 Redirect, Mr. Hull.

15 REDIRECT EXAMINATION

16 BY MR. HULL:

17 Q Thank you, your Honor. When you asked the defendant if he
18 had any bazookas or machetes; what was the purpose in
19 asking that question?

20 A To lighten -- I guess to lighten the mood. And I knew
21 that he wasn't carrying anything, but I guess from years
22 of training and being on road patrol, I'd always asked
23 that before I pat somebody down. And not -- you know,
24 knowing that they did not, it was just -- like I say, just
25 trying -- a calming situation. I knew that he was going

1 to be walking in through a crowd of people; not knowing if
2 they were going to be friendly or not friendly, knowing
3 that tensions were high from -- you know, what basically
4 had been transpiring, and knowing that the Judge had
5 wanted to see him. Just -- I don't know -- too many years
6 of police experience I guess is why I asked him that so.

7 Q And in regard; the Judge had asked Roberts to go out and
8 get --

9 A Yes, sir.

10 Q -- him? Okay. So Roberts is acting on -- Judge asked him
11 to go get him and you came -- and you came with Roberts?

12 A Yes, sir.

13 Q And Roberts was standing on the stairwell by the door?

14 A (No verbal response).

15 Q I just want to make sure I understand where everyone was
16 standing. You went further down to the sidewalk where --
17 where the defendant was standing; is that fair to say?

18 A I did, because I don't -- didn't know if Deputy Roberts --
19 because there were quite a few people at -- at the top of
20 the stairs when Deputy Roberts went out. And I don't --
21 didn't think he even could see where Mr. Wood was
22 standing. So I went through the crowd and went down to
23 where Mr. Wood was and I said, "Here's Mr. Wood."

24 Q Okay.

25 A So that he knew exactly what was going on. And that's

1 when he spoke to -- down -- down the sidewalk to Mr. Wood.

2 MR. HULL: No further questions.

3 Thank you.

4 MR. KALLMAN: Nothing further, Judge.

5 Thanks.

6 THE COURT: Any questions from the jury?

7 THE JURORS: (No verbal response).

8 THE COURT: No questions.

9 May this witness be excused?

10 MR. HULL: She may, your Honor.

11 THE COURT: Ma'am, thank you for coming in

12 today.

13 THE WITNESS: Oh --

14 THE COURT: You are excused.

15 THE WITNESS: -- thank you very much, your

16 Honor.

17 THE COURT: Any objections to an afternoon

18 break?

19 MR. KALLMAN: Not at all, Judge.

20 MR. HULL: No.

21 MR. KALLMAN: I could use one.

22 THE COURT: All right.

23 So what we will do is we'll take our afternoon

24 break. We will be back on the record at 3:30. So please

25 rise for the jury.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

(At 3:17 p.m., jury exits courtroom)

THE COURT: Mr. Hull and Mr. Kallman --

MR. KALLMAN: Yeah.

THE COURT: -- during the lunchbreak, I had my law clerk provide you with final jury instructions.

MR. KALLMAN: Yes.

Mr. Hull: Yes.

THE COURT: Mr. Hull, how many additional witnesses do you have?

MR. HULL: I have seven additional witnesses, your Honor. I believe Judge Jaklevic will probably take a while, I presume, with cross-examination. The others will be Emily Grove and additional jurors who were ordered to appear.

THE COURT: All right.

So let's take our -- I guess, let's take our afternoon break and then we'll see where we get from --

MR. HULL: Okay.

THE COURT: -- there. But I want to make -- just make sure that you both got your copies. Those are draft copies only. Obviously, things could be changed.

MR. KALLMAN: Right.

THE COURT: But I would like you to take the opportunity to look through those so that we don't have to -- I don't have to wait for you to review those prior to

1 us coming in and talking about them.

2 MR. HULL: Okay.

3 Thank you.

4 THE COURT: Thank you.

5 MR. HULL: And you think we'll be talking about
6 those today?

7 THE COURT: I'm hoping to.

8 MR. HULL: Thank you.

9 THE COURT: We'll be off the record.

10 Thank you.

11 (At 3:19 p.m., court in recess)

12 (At 3:34 p.m., court reconvenes)

13 We're back on the record in the case of the
14 People of the State of Michigan versus -- excuse me --

15 (At 3:35 p.m., talking in the gallery)

16 We're back on the record in the case of the
17 People of the State of Michigan versus Keith Eric Wood,
18 being file number 1545978FY.

19 Before I bring the jury back; are there any
20 matters that we need to take up outside the jury?

21 MR. HULL: Your Honor, I do have a continuing
22 objection to I -- where I see a lot of this testimony is
23 heading. Your Honor, I understand the -- the right to
24 cross-examine witnesses; however, there is a lot in cross-
25 examination that has been going to the nature of the

1 arrest, the type of arrest, things like that that are
2 absolutely not relevant to a jury in the case. They might
3 be relevant in a motion hearing or something like that,
4 but not relevant to a jury in the case now. I'd ask the
5 Court to restrict the defense's examination when it comes
6 to the arrest, the nature of the arrest, and all of those
7 other circumstances that have nothing to do with whether
8 or not the defendant committed a crime.

9 THE COURT: Thank you.

10 Mr. Kallman.

11 MR. KALLMAN: Your Honor, the testimony is in.
12 It was unobjected to. It's part of the facts of what
13 occurred in this case. This whole process of coming in --
14 I don't think the Prosecutor can pick and choose which
15 evidence gets in front of the jury. These are just simple
16 facts that I think go to credibility; go to things that
17 the jury can assess. And I have to be able to question on
18 these things. For example, I understand why the
19 Prosecutor is upset that when I questioned Deputy Roberts
20 his memory is one way and then Detective Erlandson
21 remembers something else about what was said to my client.
22 Absolutely the jury is entitled to hear that. So I think
23 most of these witnesses are done at this point regarding
24 --

25 THE COURT: That was --

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

MR. KALLMAN: -- the situation --

THE COURT: -- going to be my --

MR. KALLMAN: -- anyway.

THE COURT: That was going to be my observation. I'm presuming that these witnesses -- there aren't any other witnesses that we need to worry about. I will also indicate that my observation was the same that whether or not a crime was committed and what the jury needs to determine; in my opinion, doesn't have anything to do with who made the arrest. However, I do understand being able to cross-examine them in regards to their memory and it goes to their credibility.

So with that being said, though, I presume, Mr. Hull, that there aren't any additional witnesses that we need to worry about in that regard.

MR. HULL: Your Honor, I will be calling Judge Jaklevic to the stand.

THE COURT: All right.

MR. HULL: So I anticipate he'll probably be trying the same kinds of irrelevant evidence that obviously is not admissible under MRE 403.

THE COURT: All right.

But, again, I'm going to indicate that you didn't object to it on the record --

MR. HULL: I -- I did, your Honor, and it was

1 overruled. I believe the objection was -- I objected in
2 regard to who made the call for the arrest. I finally got
3 to the point where I objected at that and it was
4 overruled.

5 THE COURT: All right.

6 MR. KALLMAN: Your Honor, at best, I might have
7 one or two questions on that by simply asking the Judge;
8 did you order his arrest. I mean, I think there's so much
9 testimony on it at this point, I think I'm entitled to ask
10 that.

11 THE COURT: Right.

12 And I -- I think that I have to allow it. It
13 goes to the credibility of the witnesses and the -- the
14 differing --

15 MR. KALLMAN: Accounts.

16 THE COURT: Right -- accounts. That's not
17 really the word that I wanted, but we've already -- I've
18 already allowed the other witnesses to testify. Whether
19 or not that really is going to make a difference to this
20 jury; who's to say.

21 So with that being said, anything further before
22 we have the jury brought in?

23 MR. HULL: No, your Honor.

24 Thank you.

25 MR. KALLMAN: No, your Honor.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

(At 3:38 p.m., jury enters courtroom)

THE COURT: You may be seated.

Next witness, Mr. Hull.

MR. HULL: Thank you, your Honor.

Next I will call Emily Grove.

THE COURT: Ms. Grove, please come up here to
the witness stand.

Before you have a seat, please raise your right
hand.

Do you swear or affirm to tell the truth, the
whole truth, and nothing but the truth?

MS. GROVE: I do.

THE COURT: Go ahead and have a seat.

EMILY GROVE

(At 3:39 p.m., called by the People, sworn by
the Court, testified as follows)

DIRECT EXAMINATION

BY MR. HULL:

Q Could you please state your full name and spell your last
for the record?

A Sure. Emily Grove, last name Grove is G-R-O-V-E.

Q Ms. Grove, what do you do for a living?

A I'm a reporter with the Pioneer in Big --

Q And --

A -- Rapids.

1 Q And that's the Pioneer in Big Rapids here?

2 A Yes.

3 Q Is that the local newspaper?

4 A Right.

5 Q How long have you been a reporter with the Pioneer?

6 A Three years.

7 Q What areas do you cover as a journalist with the Pioneer?

8 A Normally public safety, the courts, law enforcement.

9 Q Now I'd like to make clear; you were not present at the
10 courthouse on November 24th, 2015?

11 A No.

12 Q Is that correct?

13 A Right.

14 Q Okay.

15 A I was not here.

16 Q So you don't have any evidence as to what happened on that
17 day --

18 A No.

19 Q -- is that correct? Okay.

20 A Not at all.

21 Q I'd like to take you to 20 days before that on November
22 4th, 2015. Do you remember that day?

23 A Vaguely.

24 Q Where were you on that date?

25 A I was in the office at the Pioneer.

1 Q Did you have any conversations related to this case with
2 the defendant?

3 A I guess tied to this case, yes. I received a phone call
4 about another case that someone wanted us to take an
5 interest in and thought we should possibly send a reporter
6 to. It was involving wetland violations, I think, or some
7 -- I feel like it was agricultural. I'm not sure.

8 Q Okay. So it was a case involving a wetlands violations?

9 A Right.

10 Q And the person who called you; did they identify
11 themselves or were you able to identify who they were?

12 A I know that they identified themselves. It was Keith
13 Wood. And then I saw that name also on my caller ID when I
14 went back later to look at it after I heard the name and
15 --

16 Q And what was -- what did -- what did he say to you when he
17 gave you a call?

18 A He just basically had described the case. Not that I
19 remember the description, but I remember the call, and him
20 talking about the case and why he felt it was important
21 and deserved some attention, and wondered if it would be
22 something we would be interested in covering. I -- we
23 don't generally cover stuff like that, but I just -- I
24 think that I said I would talk with my editor. And I took
25 down his name and phone number.

1 Q Okay. And you took down the name and that was the name,
2 Keith Wood?

3 A Right.

4 Q Okay. And so, when he spoke with you, you said that he
5 thought that a wetlands violation case; that he thought it
6 was something important?

7 A Yeah, I'm not sure exact wording. It was just that he was
8 kind of asking us if it was something we would be
9 interested in.

10 Q Based on what he was saying to you and how he was talking;
11 did you come to any conclusion that he had any feelings in
12 regard to the case?

13 MR. KALLMAN: Objection, your Honor. That's
14 sounds like speculation to me.

15 MR. HULL: That -- that's based on --

16 MR. KALLMAN: She can't read my client's mind.
17 Only what he said.

18 MR. HULL: MRE 701, your Honor, she's allowed to
19 make observations in regards to things like this.

20 MR. KALLMAN: But there was no observation. He
21 was on the phone.

22 MR. HULL: I asked in regard to the --

23 THE COURT: Hold on.

24 MR. HULL: -- statements that were made and the
25 emotions that he presented if she was able to come up with

1 any --

2 MR. KALLMAN: But she didn't see my client. It
3 was only over the phone.

4 THE COURT: Hold on.

5 MR. HULL: Your Honor, you're able to pick up
6 emotions on the phone. I think that you don't need an
7 expert to testify to that.

8 THE COURT: Mr. -- I'm sorry. Mr. Hull, your
9 basis for her being able to testify?

10 MR. HULL: MRE 701; Opinion Testimony by Lay
11 Witness:

12 If the witness is not testifying as an expert,
13 the witness may testify in the form of opinions or
14 inferences, but is limited to those opinions or
15 inferences which are rationally based on their
16 perception and helpful to a clearer understanding of
17 the witness's testimony.

18 So that's why I asked her, based on her
19 perceptions.

20 MR. KALLMAN: Well, but this is going further
21 than that, Judge. This is asking this witness to
22 speculate what my client is thinking. That was the tone
23 of the question.

24 MR. HULL: And I did not --

25 MR. KALLMAN: It's inferring -- you know -- he's

1 trying to make this sound as bad as we can.

2 MR. HULL: Your -- your Honor, at no point did I
3 ask her if she knew what he was thinking. I asked her if
4 he had -- based on what he was saying and how he was
5 saying it, if she inferred whether or not he had any
6 strong opinions in relation to the case. I think anyone
7 that's talking to someone on the phone can say whether or
8 not maybe they -- maybe she can, maybe she can't.

9 THE COURT: All right.

10 So your question to her is whether or not, based
11 on their conversation, she believed he had a strong
12 opinion on a case, not what was his opinion was. Is that
13 what you're saying?

14 MR. HULL: Not what is it -- yeah, whether or
15 not he had a strong opinion and whether she was able to
16 find -- to -- to discern what the opinion was.

17 MR. KALLMAN: Well, that's --

18 MR. HULL: It -- it depends on what he said to
19 her, your Honor. So allow me to lay a different
20 foundation.

21 THE COURT: I was going to say maybe you should
22 lay some --

23 MR. HULL: Okay.

24 THE COURT: -- a proper foundation.

25 BY MR. HULL:

1 Q Do you remember what he said to you specifically?

2 A No, this was nearly two years ago --

3 Q Okay.

4 A -- or more. I don't remember specifics.

5 Q Do you remember -- okay. So going back, he thought it was
6 something important; is that correct?

7 A Right.

8 Q And he thought it was something that deserved the media
9 attention?

10 A I -- I know that the phone call last a while; like I was
11 on that phone -- it wasn't like a short, two minute,
12 conversation where it was like could you please cover this
13 and this was done. It was kind of a lengthier
14 conversation.

15 Q So this conversation lasted longer than the hey, I think
16 this is important, you should cover it --

17 A Right.

18 Q -- okay. Thanks. And how much longer did the phone
19 conversation last?

20 A Like I would say it was probably ten to 15 minutes, which
21 is typical when someone calls, I guess, and really wants
22 us to pay attention to something. I -- kind of -- you're
23 listening for a long time and you're not really sure if
24 it's going to go anywhere. So you just want to be polite.
25 But -- I don't know how to explain it.

1 Q Were you able, based on what he was saying over the ten or
2 15 minutes, to -- to discern what his opinion was in
3 regard to that case?

4 A No, I don't --

5 Q Okay.

6 A I don't think so. I just felt like he was very interested
7 in the case.

8 Q Okay. So you felt like he was very interested in that
9 case?

10 A Right. He thought it was newsworthy I think is --

11 Q And it was -- if you remember; do you remember whether or
12 not it was a criminal charge that he thought was
13 newsworthy? It was a wetlands violation?

14 A Yeah, I don't even know if it was criminal or not.

15 Q Okay. And just so we know, that would have been November
16 4th?

17 A Right.

18 Q Okay. And that phone conversation; do you remember if it
19 would've been in the morning or afternoon?

20 A I don't.

21 Q You don't remember?

22 A Nope.

23 Q Okay. And after you hung up the phone, you were able to
24 identify from the caller ID that -- and confirm the name
25 of the person?

1 A Right. Yeah.

2 Q And the name was?

3 A Keith Wood.

4 MR. HULL: Okay.

5 Thank you.

6 No further questions.

7 THE COURT: Mr. Kallman.

8 CROSS-EXAMINATION

9 BY MR. KALLMAN:

10 Q Thank you. Ms. Grove, do you recall sending an email?

11 A I do. Yeah.

12 Q Who did you send that to?

13 A Deputy -- or -- Detective Nielsen.

14 Q And how did this come up that they became aware of this
15 phone call that you had?

16 A The phone call?

17 Q Yeah.

18 A I just -- I'm here pretty much every day looking at court
19 files. And when the incident came up, I overheard, and I
20 said, "Oh, that name sounds familiar," and I mentioned
21 that he had called to somebody. I can't even remember who
22 I mentioned it to just in passing with court staff or
23 somebody.

24 Q Okay.

25 A And then they followed up.

1 Q I always thought reporters were a little tighter with
2 their sources, but --

3 A Well, it's a small -- it's a small town and I know people.
4 And it wasn't really anything that I thought was going to
5 come of anything. It was kind of just like if I would
6 have ran into somebody on the street and said, "Oh, yeah,
7 I ran into him."

8 Q Okay.

9 A Now he's in the court reports.

10 Q That -- that's fine. I'm just teasing a bit. That's all
11 right.

12 A Okay.

13 Q Now you say today -- this is the first time I've heard in
14 any reports or anything I've looked at -- that you thought
15 it was a ten to 15 minute conversation. Are you sure
16 about that?

17 A I'm fairly certain about that. I --

18 Q Well --

19 A -- just know that it -- it seemed really lengthy.

20 Q Well, because that's not what you said in your email.
21 Because you said in your email, "I let him talk for a few
22 minutes. I told him I'd look into it." A few minutes
23 doesn't conjure up to me ten or 15 minutes. I mean, do --
24 you wrote this back December 9th of 2015.

25 A Right.

1 Q So do you think your memory would've been better at that
2 time than it is today --

3 A Sure.

4 Q -- about how long the call lasted?

5 A I guess, few and ten are relative to me. I don't know.

6 Q Okay. But that is what you said in the email; that it was
7 just a few minutes, right?

8 A Sure.

9 MR. KALLMAN: Okay.

10 Thank you.

11 THE COURT: Any redirect, Mr. Hull?

12 REDIRECT EXAMINATION

13 BY MR. HULL:

14 Q I just want to make sure; in the email, did you say just a
15 few minutes or did you say a few minutes?

16 A I said a few -- I -- I actually don't know. Whatever is
17 in the email.

18 Q But your memory was that it was a fairly long
19 conversation?

20 A Right. My -- it -- yeah.

21 Q Okay. Any reason why -- oh, well, no. We'll just leave
22 it at that. Thank you.

23 A Okay.

24 THE COURT: Questions from the jury?

25 THE JURY: (No verbal response).

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

THE COURT: May this witness be excused?

MR. HULL: The witness may be excused.

THE COURT: Ma'am, thank you for coming in today. You are excused.

(At 3:48 p.m., witness excused)

Next witness.

MR. HULL: Your Honor, next I'd call Peter Jaklevic.

THE COURT: All right.

MR. KALLMAN: May we approach, your Honor?

THE COURT: You may.

(At 3:49 p.m., bench conference held)

(At 3:55 p.m., bench conference concluded)

Will you come forward, please?

JUDGE JAKLEVIC: Sure.

THE COURT: Please raise your right hand.

Do you swear or affirm to tell the truth, the whole truth, and nothing but the truth?

JUDGE JAKLEVIC: I do.

THE COURT: Please have a seat.

Mr. Hull.

1 JUDGE PETER JAKLEVIC

2 (At 3:55 p.m., called by the People, sworn by
3 the Court, testified as follows)

4 DIRECT EXAMINATION

5 BY MR. HULL:

6 Q Thank you, your Honor. Could you please state your full
7 name and spell your last for the record?

8 A Peter Jaklevic. My last name is spelled
9 J-A-K-L-E-V -- as in Victor -- I-C.

10 Q And what do you do for a living?

11 A I'm the District Court Judge for Mecosta and Osceola
12 County. It's the 77th District Court. My courtroom is
13 actually right across the hall.

14 Q How long have you been in the District Court for Mecosta
15 and Osceola County?

16 A Since January 1st of 2015. So just over two years.

17 Q And that's an elected position; is that correct?

18 A It is.

19 Q Before you were the district court Judge, you were a
20 prosecutor; is that correct?

21 A Correct.

22 Q And how long were you a prosecutor?

23 A Let's see here, I became the Chief Prosecutor in 1998,
24 before that I was the Chief Assistant Prosecutor for two
25 years, and before that an Assistant Prosecutor. So I've

1 been in the Prosecutor's Office for Mecosta County, all
2 total, just over 20 years before I became a Judge.

3 Q And before that; what did you do?

4 A I was a law clerk for Judge Root; the gentleman up on the
5 wall there, I was his law clerk back in 1993.

6 Q Now were you the Judge that was presiding over the *People*
7 *versus Andy Yoder* case?

8 A I -- I was, yes.

9 Q From your memory; what did that case involve?

10 A Well, I didn't know a whole lot about the facts, but my
11 understanding was that there were three misdemeanor
12 charges against Mr. Yoder. The case, essentially,
13 involved allegations that Mr. Yoder had taken a wetland on
14 his property and was trying to convert it to farmland.
15 And there were three misdemeanor allegations against him.
16 Essentially, he was supposed to have obtained a permit
17 before he did these things and he was charged as a result
18 of that. That was my understanding of it. Again, I
19 didn't know a whole lot about the case, but --

20 Q Okay. Now I'd like to take you back to November 4th, 2015.

21 A Okay.

22 Q Was there anything going in relation to the *Yoder* case
23 then --

24 A On --

25 Q -- on that date?

1 A -- November 4th -- and, again, this is -- I just have in
2 front of me here; this is the -- the court file so there
3 might be a point in time where I need to reference this
4 and I'll ask you -- but November 4th was, I guess I would
5 refer to it as a pretrial motion day. There was a Motion
6 to Adjourn filed and heard on that day. It wasn't a day
7 that -- it was a trial day, okay. So on November 4th, the
8 defense in the case; Mr. Yoder's attorney, Mr. Andy
9 Yoder's attorney, wanted to adjourn the trial date. The
10 trial date was scheduled for November 24th. So on November
11 4th, Mr. Yoder's attorney filed a Motion to Adjourn. A
12 motion just means a request, okay. It's a fancy legal
13 word for a request. He wanted to adjourn the trial. So
14 there's a Motion to Adjourn heard that day, and there
15 might have been a couple other issues discussed as well
16 pertaining to evidence and things of that nature, but
17 primarily on November 4th, it was a Motion to Adjourn the
18 Trial. The defense wanted to adjourn the trial.

19 Q Was there anything else scheduled for that date and time
20 -- well, first of all, what time was that -- was that
21 hearing taking place in the district court?

22 A On November 4th?

23 Q Yes.

24 A I'd have to consult the file. I don't recall what time of
25 day --

1 Q Would --

2 A -- it was.

3 Q Would that refresh your memory?

4 A It would.

5 Q Go ahead.

6 A And these are -- I'm just looking at -- these are
7 transcripts of the proceedings that happened. That's what
8 that court reporter is doing; she's taking all this down,
9 and she prepares similar things. So that's what I'm
10 looking at. These are just transcripts. This says it
11 started at 11:04 a.m. on November 4th. So, Wednesday,
12 November 4th, 2015, at 11:04 a.m. And they went until
13 about 11:28, according to the file. So we were on the
14 record, in court, from 11:04 a.m. to 11:28 a.m. on
15 November 4th.

16 Q Was there anything else scheduled to go on the record at
17 that time in district court, at 11:00 a.m., from your
18 memory or was that the only scheduled for that time?

19 A Well, it was a final pretrial conference that day as well
20 and there was discussions of -- let's see -- I have the
21 final pretrial conference and a final pretrial. That's
22 what we -- we addressed.

23 Q And -- and I apologize. Let me ask it this way; was there
24 any other case going on at that time besides the *Yoder*
25 case; was there anything scheduled for 11:00 o'clock on

1 that day besides the *Yoder* pretrial and motion hearing?

2 A I'm sorry. Maybe -- maybe you could refresh my
3 recollection. I'm not sure what --

4 Q Okay.

5 A -- you're getting at. I don't know.

6 Q Okay. So you -- what -- what -- okay. Was -- were -- you
7 were discussing the *Yoder* trial at 11:00 o'clock in
8 district court, correct, at 11:04?

9 A Correct.

10 Q Okay. And you weren't discussing anything else; it was
11 the *Yoder* pretrial that you were having at that time,
12 correct?

13 A Yeah, this was --

14 Q Okay.

15 A Right. It was set for a final pretrial conference on that
16 date and a Motion to Adjourn Trial. And that's what we
17 went on the record for; to address those issues.

18 Q Okay. Thank you. And now --

19 A I could -- I mean, if there's something else I'm missing.
20 I don't -- this was a long ago. I could consult the file,
21 but I --

22 Q I just wanted --

23 A -- that's what --

24 Q -- to make sure --

25 A -- I remember.

1 Q -- there wasn't any other case being heard at that time.

2 A Oh, no. No, that was the only case. I'm sorry.

3 Q Thank you. Now at that pretrial motion hearing was -- was
4 the date and time of the trial discussed at that time?

5 A It was.

6 Q Okay. And was that something that you discussed on the
7 record?

8 A I was. And I remember it very specifically because,
9 obviously, whenever we're dealing with a motion to adjourn
10 a trial, we -- we want to know, well, how long is the
11 trial away, right. So on November 4th, we discussed, on
12 the record, the fact that it was 20 days away; it was
13 November 24th. So that was discussed on the record very
14 clearly because whenever a defense attorney wants more
15 time, as a Judge, I have to look at, well, how much time
16 do have until the trial; when did you start this case, how
17 much time do we have to get ready. And so we -- the --
18 the date of the trial was very important to me. I needed
19 to know how much time he had. So we discussed that on the
20 record at least a couple of times.

21 Q Were there any other trials scheduled in district court to
22 occur on 11/24, November 24th?

23 A Not in district court and I don't believe anywhere else in
24 this courthouse.

25 Q Okay. So none in circuit court either?

1 A No.

2 Q How does the process work when you have jurors appear for
3 trial; how are they -- first, how are they notified?

4 A Well, like the folks here were notified; you'd get a
5 summons in the mail, and it would tell you the date to
6 appear, and the time. And these would be sent out by my
7 staff well in advance of trial.

8 Q Generally, what time are jurors ordered to appear for
9 trial?

10 A I believe, 8:30 to 8:45 they show up. So -- and the --
11 the trial was actually scheduled for 9:15 a.m., according
12 to the notice in the file so -- and that's when all of our
13 trials start is at 9:15 a.m. At least that's when they're
14 scheduled to start. As you know, just because somebody
15 says it's going to start at 9:15, doesn't meant it always
16 does. But it was set for 9:15 so.

17 Q So it was scheduled for -- to begin at 9:15 in the
18 morning?

19 A Yes.

20 Q And what time were the jurors ordered to appear around; do
21 you know?

22 A I believe it was 8:45.

23 Q Okay. Now was there anything going on in the -- in regard
24 to Yoder before the 9:15 trial; where there any hearings
25 going on?

1 A Yes.

2 Q What was -- what was going on before that?

3 A Well, there was -- there had been some last minute
4 motions; requests for relief. There was some evidentiary
5 issues that had come up regarding what evidence was or was
6 not going to come in at the *Yoder* trial, okay. And I had
7 decided -- I -- I received motions from Mr. Yoder's
8 attorney and I think I received a response from the State
9 -- and I decided because I was getting these so close in
10 time to trial that I would just hear these on the morning
11 of trial. But, again, I -- I like to start on time as
12 best I can. So I actually ordered the attorneys to appear
13 at 8:00 o'clock. I told them to be there at 8:00 o'clock
14 on the 24th so we could resolve -- we could hear the motion
15 -- these other sets of motions that were being discussed,
16 so that way, again, we wouldn't delay that start time of
17 9:15. So we had some -- some motions heard on the morning
18 of the trial and I -- those were scheduled for 8:00
19 o'clock.

20 Q Was there anything resolve at that point in regard to the
21 trial; any resolutions in regard to trial?

22 A At the motion hearing?

23 Q Yeah, at the motion hearing.

24 A Well, there was some -- the trial wasn't resolved -- there
25 was some issues regarding what evidence was going to come

1 in and what wasn't. But the trial was -- was still -- was
2 still going. I know at the close of -- at the close of
3 that motion, Mr. Hull renewed his plea offer to Mr.
4 Gilbert -- or -- Mr. Gilbert was Mr. Yoder's attorney. So
5 -- I'll just back up -- so we hear the motions, okay.
6 They're resolved. We're still on the record, okay. And
7 this is right -- we're starting at 8:00 o'clock in the
8 morning -- and I made my rulings; I decided what evidence
9 was going to come in and what wasn't, and then Mr. Hull
10 renewed a plea offer to Mr. Gilbert, and we went into
11 recess at right around 8:30 so that he could discuss it
12 with his client.

13 Q Okay. Now right around 8:30, when you went into recess,
14 what happened after that; where did you go?

15 A Well, my -- my actual office -- if you -- that courtroom
16 right across the hall there; my actual office is -- is --
17 I can go right into the courtroom; I don't even need to go
18 into the hallway, so I went into my office. I walked out
19 of my courtroom -- like Judge Booher; her office goes --
20 that -- that's where the circuit court judge goes -- I
21 have a door that goes right into my chambers. So that's
22 where I went. And I was waiting to see if there was going
23 to be any resolution or if we were going to have a trial.
24 But, at that point in time, the trial was -- was still
25 going so.

1 Q Did anything happen when you were sitting in your office;
2 related to that case that we're standing here for?

3 A Yeah, no -- I don't know how much longer it was after I
4 sat down, but I was at my desk and Theresa (sic) Bechler,
5 who was then working in our clerk's office -- and I -- I --
6 -- you know what, I call her Theresa (sic) Bechler. I don't
7 know if her last name has changed.

8 Q No.

9 A I heard a no. Okay. Well, we'll go -- I'll go with that.
10 Anyway, Theresa (sic) Bechler walked in my -- into my
11 office and handed me a yellow pamphlet and said -- I don't
12 know if you want me to get into what she said, but --

13 Q What did she say at the point she handed you the pamphlet?

14 A She said, "Judge, I just thought you'd like to know that
15 someone's outside handing these pamphlets to your jurors."

16 Q Did you get a chance to look at the pamphlet immediately
17 or --

18 A I did. She handed it to me and I -- I kind of said, "Oh,
19 great." And then I think I looked at the pamphlet right
20 away and I began reading it.

21 Q What was going through your head when you first began
22 reading it?

23 A Well, honestly, I -- I thought I -- to be -- to be quite
24 candid, I honestly thought I missed -- I missed a memo
25 somewhere where we decided to give out pamphlets. It's

1 not uncommon for some counties around the State of
2 Michigan to play videos for their jurors instead of -- you
3 know -- this Judge initiated you to the juror process; she
4 probably read some initial instructions. Some -- in some
5 counties they'll do videos; they'll do little educational
6 things. So I'm thinking, I don't remember ever -- ever
7 handing out pamphlets to jurors. This must be something
8 new. I was like, this -- this -- this just didn't sound
9 right. But, I maybe -- I thought maybe I just missed the
10 memo. Maybe this was something that the State of Michigan
11 was now doing. I was like, what -- what's going on,
12 because it just didn't seem right to me. And I thought
13 maybe --

14 Q So even --

15 A -- I --

16 Q -- your first thought was that this might have been
17 something official?

18 A Well, yeah. I didn't know what to think --

19 Q Okay.

20 A -- to be honest with you. I didn't -- it was -- it was
21 unusual and I didn't expect that to happen. So I'll say
22 that.

23 Q All right. And at what point did you realize that this
24 was not something that was official?

25 A When I read the cover.

1 MR. HULL: I'm showing you -- your Honor, may I
2 approach?

3 THE COURT: You may.

4 BY MR. HULL:

5 Q I'm showing you what's been admitted as People's Exhibit
6 Number 1. Do you recognize that?

7 A I do.

8 Q Is that the pamphlet that you saw on that date that
9 Therese Bechler provided you?

10 A It -- it's -- I believe it's -- if it's -- it might not be
11 the pamphlet, but it's one just like it.

12 Q One just like it?

13 A Yep.

14 Q Okay. And what --

15 A Yes. I'm sorry.

16 Q Sorry. Go ahead.

17 A No, I said yep. Sorry. I meant yes. I'm sorry.

18 Q What went through your head when you suddenly realized
19 this was not an SCAO -- or -- when you realized this was
20 not an official pamphlet?

21 A Well, I -- I -- I read the pamphlet fairly quickly. And I
22 thought to myself, you know, "Oh, great. This is not
23 supposed to be happening." You know, as a judge, my job
24 is to make sure the playing field is level for both sides.
25 And anytime you're -- you're bringing in potentially

1 extrajudicial influences, I thought this was going to
2 trash my jury trial. Basically, this would have -- I -- I
3 thought to myself, this would probably have caused the end
4 of my jury trial.

5 Q And -- and what do you mean by cause the end of your jury
6 trial or trash your jury trial; what about that pamphlet
7 made you think that that would have done that?

8 A Well, I mean, it -- a number of things, you know. First
9 of all, anytime -- backing up a second, okay. The Sixth
10 Amendment to the Constitution -- okay -- it says that an
11 accused has a right to a fair trial by an impartial jury,
12 okay. That's the United State Constitution that says
13 that. That's what -- we've all heard that before. That
14 right to a fair trial by an impartial jury, also applies
15 to the People. So the People have a right to a fair trial
16 by an impartial jury. Impartial means free of outside
17 influence, meaning you're supposed to decide the case on
18 the facts here in the courtroom, the facts that come from
19 this witness stand, and the law that's told to you by the
20 judge. So -- you know -- from my standpoint; as soon as I
21 saw this, in my opinion, there was potentially a violation
22 of constitutional dimensions. I was --

23 MR. KALLMAN: Your Honor --

24 THE WITNESS: -- also quite concerned --

25 MR. KALLMAN: -- I'm going to have to object --

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

THE COURT: Hold on.

MR. KALLMAN: -- to this line for the reasons we discussed off the record.

THE COURT: All right.

And I guess maybe -- well, Mr. Hull, your response.

MR. HULL: Your Honor, I'm asking the witness to explain what his concerns were in regard to this pamphlet. There's been a lot of discussion and a lot of testimony that was brought on the record as to how the Judge reacted when he found the pamphlet. That opens the door to this kind of testimony as to why it is that he was so concerned in regard to the pamphlet being distributed to his jury.

THE COURT: All right.

Judge, I'm going to caution you. We -- we have had some objections and some concerns that you being allowed to make any ultimate -- stating any ultimate opinion in regards to whether or not any laws were violated. So I'm going to allow you to testify in regards to what your concerns were, but any ultimate opinions regarding any laws being violated, I would ask that you not be allowed to do that, all right.

THE WITNESS: That's fine. I do understand.

And I -- I would just say -- you know -- that, obviously, these are just my opinions, these were just my

1 concerns, and I certainly am not -- your decision is your
2 decision. You're the one -- you're the ones that have to
3 decide this case. So I'm just -- obviously, I will just
4 state my concerns as best I can. And I'll try to do my
5 best to honor your order of course, your Honor.

6 THE COURT: Thank you.

7 MR. HULL: Thank you.

8 THE COURT: Mr. -- hold on -- Mr. Kallman, does
9 that satisfy your concerns?

10 MR. KALLMAN: It does, your Honor.

11 Thank you.

12 THE COURT: All right.

13 Thank you.

14 THE WITNESS: All right.

15 BY MR. HULL:

16 Q So we'll get back to your concerns in regard to the
17 pamphlet. Let's --

18 A All right.

19 Q -- go -- so you had this pamphlet, it's been handed to
20 you, you suddenly realize -- you know -- as you said,
21 there might be an issue with the jury; what do you do
22 next?

23 A Well, I -- I didn't know -- I wanted to find out to what
24 extent -- you know -- she just said -- when Ms. Bechler
25 came in and told me what she told me; that "Hey, Judge, I

1 just want you to know, somebody's handing these pamphlets
2 to your jurors," I wanted to see to what extent; how many
3 jurors had it. I mean, if it's only one or two jurors, I
4 -- then I could have just probably sent them home and we
5 could've -- if we were going to have a trial, we would
6 have been able to do it. So I walked outside of my office
7 and I walked down and I -- I sneaked a peek into my
8 courtroom to see how many people had the yellow pamphlets
9 in their hands; how many of the jury pool that was in the
10 courtroom was holding these in their hands. So I walked
11 out my door, by the water fountain there -- and my door is
12 not the bathroom, it's the next one over -- and I walked
13 down the hallway, and I looked into my courtroom, and --
14 to see -- you know -- how many people actually had the
15 pamphlets, and I looked in and I saw a number -- I don't
16 -- I didn't count, but I would say at that point in time,
17 most of the jurors had arrived. I think we were still
18 waiting on a few others, but most of the jury pool, I
19 should say, had arrived, but not all. And what I remember
20 -- if I just had to do an estimate -- I'd say maybe half
21 of them had yellow pamphlets. I didn't count, but I saw
22 -- you know -- I remember specifically when I looked in
23 the courtroom the first two people I looked at had -- were
24 reading these yellow pamphlets; right as I look -- I peek
25 in the courtroom, there were two women seated there, right

1 on that -- the very -- right -- the door -- the seats
2 closest to the courtroom door, were reading these
3 pamphlets, and I looked around and I saw some others. I
4 didn't do a count. So this is just an estimate on my
5 part. But that's -- that's what I did. And, again, I was
6 trying to see to what extent people had these pamphlets.

7 Q And in regard to the trial that you were presiding over;
8 what -- what concerns did you have in regard to so many
9 jurors having -- have -- having those pamphlets and
10 reading them?

11 A Well -- you know -- again, my concerns; my concerns -- you
12 know -- had to do with extrajudicial information;
13 information being brought outside the courtroom, and
14 presented to these jurors. And you folks, the folks that
15 are sitting here, when you took your juror oath, you -- in
16 fact, it's on the first page of the instructions that the
17 judge read to you -- were that you're supposed to decide
18 -- this is supposed to be a true verdict; a verdict based
19 on the facts as decided inside the courtroom, and the law
20 that's instructed to you. That's the oath. That's one of
21 the very first things you're told by the judge. Those jury
22 instructions about deciding it on the facts in the
23 courtroom and the law as the judge gives it to you, and
24 only that, are repeated throughout the jury instructions.
25 You're going to hear them throughout this trial. But --

1 so my concern was that, obviously, this appeared to me;
2 appeared to me, to be an effort to bring in information to
3 the jury's attention that wasn't through the witness stand
4 and it wasn't -- it wasn't -- it was certainly beyond the
5 judge's instructions so --

6 Q Outside of the courtroom; outside the district courtroom,
7 in the hallway area, do you remember there were people
8 standing about in that area?

9 A I do.

10 Q Do you remember how many; obviously, you can't give an
11 exact number, but was the area crowded, was there only a
12 few people around?

13 A I don't know how many people were there, but I remember
14 walking -- because if you walk out -- if you walk down the
15 hallway here, and you look out the door, you can kind of
16 see out there into the -- the stairway and all that and
17 there's a lot of windows that cover, so you can kind of
18 see what's going on outside. And I remember trying to see
19 if I could see anybody handing out pamphlets and I
20 couldn't because there were so many people out there. And
21 I didn't count. I don't know how many there were. I just
22 know that there were a lot. I remembered also that the
23 majority of them appeared to be Amish or, if they weren't,
24 they were dressed like Amish people. And so I knew there
25 was enough people where I couldn't see outside. So there

1 were quite a few people.

2 Q And looking at the group of people that were Amish; did
3 you see any of them holding any of these flyers?

4 A Of the Amish; no, I didn't see anybody holding flyers. No
5 Amish people were holding flyers at all.

6 Q Okay. So you -- and I -- you kind of touched on this a
7 little bit, but putting this pamphlet aside; putting that
8 pamphlet itself aside, what concerns, if any, do you have
9 with people approaching jurors in regard to your ability
10 to handle a case and to preside over a case; people
11 approaching jurors in or around the courthouse right
12 before a trial is begun or while a trial is going on and
13 talking to them?

14 A Okay.

15 Q Just taking out this pamphlet completely; what concerns do
16 you have?

17 A Well -- you know -- again, I go back to number 1; it --
18 having -- having that information; having information
19 being brought in, could implicate the violation of the
20 Constitution in two different respects --

21 MR. KALLMAN: Well, your Honor --

22 THE WITNESS: Again, I don't know -- I'm trying
23 to -- I can try to say it a different way; the concerns I
24 had.

25 THE COURT: Mr. Kallman, why don't you make your

1 -- make a total objection on the record, please.

2 MR. KALLMAN: Well, again, your Honor, I think
3 this witness is not here to take the place of the jury or
4 supplant the jury's role. And so when he starts
5 pontificating on, I think it's this constitutional
6 violation or it's this one, or whatever, that's not his
7 role as a witness. He's here to say what he observed;
8 what he saw. I didn't see pamphlets with the Amish, I did
9 this, I did that. He's not here to tell this jury what
10 they should -- how they should decide this case because
11 that's what this is a thinly failed attempt to do.

12 THE COURT: I --

13 MR. HULL: Your Honor, he's not --

14 THE COURT: Mr. Hull.

15 MR. HULL: This is directly in response to
16 testimony that was brought up in cross-examination in --
17 in -- in regard to the defendant being arrested and
18 bringing out the stuff that wasn't relevant in the first
19 place, but it was brought out. So now we have to bring
20 up, in response to that, why it is that the judge decided
21 to do what he did next, what was going through his mind,
22 what his concerns are. And on top of that, besides the
23 fact that this is responding to evidence that was brought
24 up during cross-examination, it's also relevant in this
25 case to show exactly the kinds of issues that we have in

1 regard to jurors being influenced. It goes directly to
2 the heart of this case. And he's not attempting to tell
3 the jury -- in fact, I believe he specifically said that
4 that's not his purview. He's not talking about whether or
5 not he believes in this particular case or this particular
6 defendant violated a particular statute. He's not making
7 any testimony to that. He has not been asked that
8 question. The question is generally, how does something
9 like this; outside influence of the jury, affect his
10 ability to preside over a case.

11 MR. KALLMAN: Well, and your Honor, my client's
12 not on trial for that. My client is on trial for whether
13 or not he influenced Jennifer Johnson and Theresa DeVries.
14 Not whether Judge Jaklevic, with all respect, sir -- you
15 know -- felt he was somehow -- you know -- compromised, or
16 I didn't like what was going on, or things like that.
17 That is not the issue here. And so by simply asking
18 factual questions about who did what; who ordered my
19 client be arrested, it goes to the crime that they're
20 claiming my client committed. This goes way beyond
21 anything I asked and it's totally inappropriate and it's
22 an attempt, as I said, to try to supplant Judge Jaklevic's
23 opinion on to the jury. And that's just totally improper.
24 My client is not on trial for that. I understand the
25 judge not liking -- my dad was a judge. I get it. Okay.

1 I understand him not liking this brochure. But the fact --

2 THE WITNESS: I didn't --

3 MR. KALLMAN: -- that --

4 THE WITNESS: -- testify. I didn't --

5 MR. KALLMAN: But --

6 THE WITNESS: -- testify to that.

7 THE COURT: Hold on.

8 MR. KALLMAN: -- the fact that he was -- he's
9 concerned. Okay. I'm sorry. The fact that he's --

10 MR. HULL: Your Honor --

11 MR. KALLMAN: -- concerned with this flyer and
12 it was going to trash my jury trial, as he said or things
13 like that, is not what my client is on trial for. So I
14 object.

15 MR. HULL: Your Honor, he is giving --
16 completing the testimony that's already done. I said --
17 my next question was -- taking the flyer out of it. We
18 weren't even discussing the flyer at this point. He's
19 using this as an opportunity to create another argument
20 for himself. We said, I -- the question was, taking the
21 flyer out of it. We're not even talking about it at this
22 point.

23 MR. KALLMAN: That's exactly what they're
24 talking about. It's violations of the Constitution and
25 all -- I mean, he's exactly going into that, Judge. They

1 can try to couch it and play around it and try to do it,
2 but that's --

3 MR. HULL: Your Honor --

4 MR. KALLMAN: -- exactly what --

5 MR. HULL: -- we're arguing --

6 MR. KALLMAN: -- they're doing.

7 MR. HULL: -- the law here. We're not couching
8 and playing around with anything.

9 THE COURT: All right.

10 Again, Judge Jaklevic, I am going to caution you
11 in regards to your testimony, any opinion whether or not
12 any laws were violated that day, only your concerns
13 regarding what could have occurred if jurors got outside
14 information, outside of what was presented by witnesses or
15 law that was presented by a judge, but not any opinions
16 regarding whether or not any laws were violated that day.

17 THE WITNESS: Okay. It's a fine line --

18 THE COURT: To the best of --

19 THE WITNESS: -- but I will do my best.

20 All right.

21 So, I guess to answer your question --

22 THE COURT: Do you want him to restate the
23 question?

24 THE WITNESS: No, I -- I got it. I'm trying to
25 answer it without getting in trouble. You know, it -- in

1 the -- the concerns that I have would be -- well, let me
2 put it to you this way; the right to cross-examine the
3 witness; that's part of the Sixth Amendment, the right to
4 a fair trial by an impartial jury; that's part of our
5 Constitution; the right to cross-examine witnesses is part
6 of our Constitution, each side has that right. And so the
7 concern that I would have is that when information or
8 something else is being brought in, you've denied the --
9 outside of the trial, wherever it's occurring, is that you
10 potentially could be depriving that other side from cross-
11 examining the witness, which is a constitutional right,
12 and, again, you're essentially asking the jury to violate
13 their oath for a true verdict; the oath that you took at
14 the beginning of the trial. Whether that happened, I
15 don't know; that's not my call, that's your call. But
16 those are the concerns that I have is that the
17 Constitution and the potential to ask the jury to violate
18 the oath that they took.

19 BY MR. HULL:

20 Q Can I just ask you what are the standard criminal jury
21 instructions?

22 MR. KALLMAN: Well, your Honor, why is this
23 witness talking about jury instructions? You instruct the
24 jury, not this witness. I --

25 MR. HULL: I absolutely am not --

1 MR. KALLMAN: -- I would say that is not --

2 MR. HULL: I will not be asking him to instruct
3 the jury on anything. I'm asking him what the standard
4 jury instructions are, your Honor. The other way to do
5 this; I can ask the Court to take judicial notice the
6 standard jury instructions are something that are used in
7 every single court and every single criminal case, across
8 the state of Michigan. If you'd like to take judicial
9 notice of that, your Honor, I'm fine with it. One way or
10 another, I'd like to be -- have it brought up in evidence
11 that the standard jury instructions are standard across
12 the State of Michigan. So I either have to bring it up
13 through a witness or have this Court take judicial notice
14 over it.

15 MR. KALLMAN: Your Honor, the -- there's so many
16 problems with that I don't even know where to begin. I
17 mean, first, it calls for a narrative from this witness to
18 just pontificate on the jury instructions. Second, your
19 Honor gives the jury, just as you already have,
20 instructions. They understand that you're giving to them
21 and they -- you've already gone through all of this and
22 you'll be doing it again. This is absolutely totally
23 irrelevant to the charge against my client and it's simply
24 trying, again, to supplant this witness to try to get in
25 the head of this jury -- in the heads of this jury -- with

1 totally inappropriate testimony.

2 MR. HULL: One of the elements of the charge,
3 your Honor, is whether or not the defendant attempted to
4 persuade the opinions of the juror using argument and
5 persuasion. One of the arguments of persuasion that he
6 used through this pamphlet is having people try to ignore,
7 deny, or otherwise forget the criminal jury instructions;
8 the standard criminal jury instructions. In fact, your
9 Honor, as an offer of proof, this pamphlet talks about how
10 some judges will not tell people their entire facts. Well,
11 the fact is, your Honor, every single judge does because
12 it's the jury instructions. And I'm fine with that being
13 part of -- if you want to make a rule and order of -- of
14 -- of law, that's fine. If it's part of the law in the
15 case that the standard jury instructions are something
16 that is read through every single criminal case in the
17 State of Michigan and it's standard for every single
18 judge, every single case, I can either bring it up through
19 a witness or I can bring it up through you, Judge. But,
20 either way, that is important in order to show this jury
21 exactly what this pamphlet attempts to do.

22 MR. KALLMAN: Well, in fact, your Honor, that's
23 just not true. I mean, we've been spending time going
24 through what was the proper jury instruction for the
25 elements to give to this jury and we went back and forth

1 before finally getting agreement and your Court ruling on
2 a few aspects of that. To say that all the jury
3 instructions are just standard is not true and it's
4 totally irrelevant to the charges and elements here. If
5 he wants to argue that pamphlet, fine. I'm going to argue
6 it, too. But this -- he -- it's not what he's asking this
7 witness.

8 MR. HULL: Your Honor, you know there is a huge
9 difference between arguing over the elements of a crime
10 that doesn't have a standard jury instruction and arguing
11 the actual jury instructions that are read in every single
12 case. You know this, Judge. I'm not talking --

13 MR. KALLMAN: Not all of them are read in every
14 single case. We all know that. There are many that are
15 not read for various reasons. So, again, it's irrelevant,
16 Judge. I just don't see how this helps the jury come to
17 any fact conclusions in this case.

18 THE COURT: All right.

19 I'm going to overrule your objection. I'm going
20 to give Mr. Hull a little bit of leeway in regards to this
21 particular area. But, Mr. Hull, don't go --

22 MR. HULL: Thank you, your Honor.

23 THE COURT: -- real far.

24 MR. HULL: I just have a few questions.

25 THE COURT: Thank you.

1 BY MR. HULL:

2 Q What are the standard criminal jury instructions, your
3 Honor?

4 A The -- the standard criminal jury instructions -- you've
5 probably already heard some yourself -- but the State of
6 Michigan mandates that -- and the court rules mandate that
7 we read standard jury instructions to all jurors in all
8 criminal trials all across the State of Michigan. They
9 are very similar. Counsel is correct; Counsel -- Mr.
10 Kallman -- I'm sorry. Mr. Kallman is correct that there
11 are differences, slight differences, between jury
12 instructions, but the standard jury instructions are just
13 that. Most of them are the same and they are read to
14 every single jury in every single criminal trial all
15 across the State of Michigan. And they're supposed to be
16 that way so that all trials are conducted similarly. So
17 that's --

18 Q Okay.

19 A That's my --

20 Q Thank you.

21 A -- answer.

22 Q Thank you. That's all I needed to know.

23 A All right.

24 Q Now do you -- did I give you a copy of the -- of the
25 pamphlet; do you have Exhibit --

1 A You did.

2 Q -- Number 1?

3 A Yes.

4 Q I'd like you to open up to the first flap. On -- it looks
5 like -- the second paragraph -- no -- the third paragraph
6 down; judges only rarely fully inform jurors of their
7 rights, especially their right to judge the law itself and
8 vote on the verdict according to conscience. In regard to
9 the standard criminal jury instructions only; are there
10 any issues with that statement in the pamphlet and -- and
11 the instruction that you provide to jurors as a judge in
12 every trial?

13 A Yes.

14 MR. KALLMAN: Same objection here, Judge. Now
15 he's asking for legal opinions. This is the purview of
16 the jury. He's not here to determine whether or not my
17 client improperly influenced jurors in this case. And he
18 -- I don't see how it's relevant for him to talk on and on
19 about different aspects legally; do you think this is
20 sufficient, and all of that. That's asking for legal
21 conclusions.

22 MR. HULL: I narrowed it --

23 MR. KALMAN: And so I object.

24 MR. HULL: I narrowed it specifically to the
25 standard jury instructions. I took out any other legal --

1 and that's why I was asking him specifically in regard to
2 the standard jury instructions. And I made that very
3 clear in my question.

4 THE COURT: Restate your question, please.

5 BY MR. HULL:

6 Q Based on that -- that second reading; that paragraph, are
7 there any concerns in regard to contradictions that that
8 paragraph has with the standard jury instructions?

9 A The language -- it's -- it -- the paragraph clearly says
10 that jurors have a right to judge the law. That's what
11 the pamphlet says; that jurors have a right to judge the
12 law. That is not -- not according to the jury instructions
13 in the State of Michigan. So that -- that is contrary to
14 the jury instructions and it's contrary to the oath that
15 all jurors take.

16 Q Are there other -- and we're not going to get into each
17 one -- are there other areas in that pamphlet that -- that
18 contradict the standard jury instructions?

19 A Quite a few.

20 Q Can you point out another area in the pamphlet that would
21 contradict the standard jury instructions?

22 A Well, let me take a look at it here. That's the main one
23 is the right to judge the law. Obviously, the judge --
24 according to the jury instructions -- tells you what the
25 law is. On the back of it, it talks about "Before a jury

1 reaches a verdict, each member should consider; is this a
2 good law?" All right. You're not allowed to judge the
3 law according to the jury instructions. "If so, is the
4 law being justly applied?" I'm not sure what that means.
5 I -- I don't really have -- I don't see any issue with
6 that. "Was the Bill of Rights honored in the arrest?"
7 The -- the -- that's not contrary to the jury
8 instructions, but --

9 Q Yeah, I'm --

10 A -- that's problematic --

11 Q -- only looking for ones that are contrary --

12 A All right.

13 Q -- to the jury instructions. How about the, "Will the
14 punishment fit the crime?"

15 A "Will the punishment fit the crime?" The jury
16 instructions will clearly tell you that you're not allowed
17 to consider punishment when you decide your verdict.
18 You'll hear that if you -- if you haven't already.

19 Q And do you see, generally, throughout this pamphlet those
20 types of arguments as far as disregarding the jury
21 instructions?

22 A I -- I do. And, I mean, it's a common theme. And the
23 gist of it is this right to judge the law and things of
24 that nature.

25 Q And what is the common theme when you say -- what's the

1 term for it?

2 A Well, it's jury nullification is what they're referring
3 to.

4 Q Okay. No further question -- well, actually -- I
5 apologize. I didn't get any further. You went outside and
6 you saw the jurors were holding the pamphlets; what
7 happened after that?

8 A So -- okay. Oh, I -- you -- I'm outside the courtroom
9 now, I see the people with --

10 Q Yep, you're --

11 A -- the pamphlets?

12 Q -- outside the courtroom.

13 A Okay.

14 Q You see the -- the -- some of the jurors or many of the
15 jurors are holding the --

16 A All right.

17 Q -- pamphlets. What do you do next?

18 A So at that point in time, when I saw that there were a lot
19 of people with -- a lot of the potential jurors with the
20 pamphlets, it was around that time where I -- I was
21 walking back from my office and I saw the Magistrate,
22 Thomas Lyons, who's already testified, and he indicated to
23 me that he --

24 Q All right.

25 A I'm going to keep going, but --

1 Q Go ahead.

2 A All right.

3 MR. HULL: Is there --

4 MR. KALLMAN: I was just whispering to my --

5 THE WITNESS: All right. No, I --

6 MR. KALLMAN: I'm not objecting.

7 THE WITNESS: I'm just -- you know -- I don't
8 want to go steamrolling through here.

9 BY MR. HULL:

10 Q Go ahead.

11 A So, Mr. Lyons indicated to me that he had gone outside and
12 spoken with the gentleman who was handing out the
13 pamphlets and told him he should stop. And Mr. Lyons told
14 me that the gentleman was not going to stop in so many
15 words -- I don't remember all the -- I'm paraphrasing a
16 little bit -- I don't remember exactly what Mr. Lyons
17 said. But he said, hey -- he went out and told the guy
18 knock it off and the gentleman would not do so. So it was
19 shortly after that where I had instructed the deputy to go
20 bring the gentleman in because as far as -- well, the
21 concerns I -- I had some concerns about what was going on.
22 Okay. It appeared to me that something was wrong and so I
23 wanted that something wrong to stop. And I felt that the
24 deputy; this deputy here, Jeff -- geez, I know your last
25 name a million times, I just can't -- Roberts, Deputy

1 Roberts, I told him to go out and bring the gentleman in.
2 I went into my office -- I may have been in my office --
3 but I was in my office and then, a couple minutes later, I
4 was told that the deputy had the gentleman and -- and that
5 they were outside of my office. So I opened up the door
6 and there was Mr. Wood standing there, there was the
7 deputy, I think Mr. Lyons was standing there, and I think
8 your boss, Mr. Thiede, was also there.

9 Q Okay. And so you had -- you had not seen Deputy Roberts
10 bring the defendant in; you had gone to your office, you
11 didn't see any of that, and you just came back out after
12 --

13 A No, I -- I didn't see him bring him in, but I very clearly
14 told the deputy that I wanted him brought in because I
15 wanted the behavior to stop.

16 MR. HULL: No further questions.

17 Thank you.

18 THE COURT: Mr. Kallman.

19 CROSS-EXAMINATION

20 BY MR. KALLMAN:

21 Q Yes. Thank you, your Honor. Your Honor -- your Honor.

22 A I'm not your Honor here. So you can call me whatever you
23 want.

24 Q Judge.

25 A I --

1 Q Once a judge, always a judge. That's what I was told
2 during -- in all my life. Sir, I just want to make clear
3 on the record; I was not an attorney in any way in the
4 Yoder case was I?
5 A Not that I know of.
6 Q Okay.
7 A No, sir.
8 Q I mean, I was not representing Mr. Yoder, I never appeared
9 in that case --
10 A I --
11 Q -- I had nothing to do with it, right?
12 A If -- if you were, that's news to me.
13 Q Right. I mean, I -- I wasn't here in front of you. I had
14 nothing to do with that case as far as you know --
15 A Not --
16 Q -- that's right?
17 A Not that I know of.
18 Q Okay. Were -- did you, at any point in time, when you
19 told Deputy Roberts to go out and bring Mr. Wood in -- I
20 -- I assume you mean inside the courthouse?
21 A Yes.
22 Q Was it because you wanted to talk to him?
23 A It was because I wanted the behavior to stop, because
24 again -- well, I don't want to violate your ruling, but I
25 was very concerned about what was going on --

1 Q Okay.

2 A -- I still had --

3 Q I understand.

4 A -- jurors walking into the courthouse and --

5 Q Okay.

6 A -- I needed the behavior to stop so.

7 Q Because there has been other testimony that you told

8 various people to go out and bring Mr. Wood in so that he

9 could talk to you -- that you wanted to talk to him; is

10 that not your recollection or --

11 A I may have said that. I don't recall.

12 Q Okay. When Mr. Wood was in the hallway and you came out,

13 and you've described who was there, who ordered his

14 arrest?

15 A Mr. Thiede did.

16 Q Okay. It was not you?

17 A Well, let me -- I -- I think I need to expand on that a

18 little bit --

19 Q Sure.

20 A -- so you can understand. Is --

21 Q Yeah.

22 A -- that --

23 Q Absolutely.

24 A -- all right?

25 Q Yep. Absolutely.

1 A Okay. So I opened up the door and Mr. Thiede was standing
2 there to my left, Mr. Wood was directly in front of me,
3 the deputy was right off next to Mr. Wood. I looked over
4 at Mr. Thiede and I said, "Is he being arrested today?"
5 Mr. Thiede said, yes. So at that point in time, I'm
6 looking around the hallway and I'm not seeing a City
7 Police Officer here or any deputy except for my bailiff,
8 who had -- he was checking in jurors still. That was his
9 job. So I'm looking around for all right who's -- who's
10 going to take Mr. Wood to jail? And I didn't see any
11 other police officers, I had jurors checking in, so I
12 looked down the hallway and -- and Magistrate Lyons goes
13 down there and he said -- I remember him signaling me like
14 I'll continue to check the jurors in -- because I'm
15 looking around; who's going to take him to jail, there's
16 nobody else around. I'm not going to take him to jail,
17 Mr. Thiede is not going to take him to jail. So I told
18 the deputy to take him to jail. I said that.

19 Q Okay.

20 A But it was based on the fact that Mr. Thiede was going to
21 arrest him and we didn't have a police officer around.

22 Q Okay.

23 A So I very clearly --

24 Q Thank you.

25 A -- told this deputy to take him to jail.

1 Q Okay. Thank you. At that time that Mr. Wood was being
2 arrested and in the hallway here; did he have an attorney
3 with him?

4 A Not that --

5 MR. HULL: Your Honor --

6 THE WITNESS: -- I know of.

7 MR. HULL: -- I'm going to object to this.

8 THE COURT: I'm going to sustain the objection.

9 BY MR. KALLMAN:

10 Q Did you have any discussion with Mr. Wood in any way at
11 that time?

12 A I don't believe I did.

13 Q Okay. Do you have any personal knowledge or information
14 that Jennifer Johnson or Theresa DeVries were improperly
15 influenced by this pamphlet; do you have any personal
16 knowledge of that, sir?

17 A I -- I would -- if I were to -- I didn't see them being
18 handed the pamphlet. It's my personal --

19 Q That's my point --

20 A -- knowledge --

21 Q -- you have no personal knowledge that those two --

22 A My -- I'm going to --

23 Q -- prospective jurors, do you?

24 A Well, I'm going to condition that. I didn't see them and
25 I don't know what was in their mental state, but as far as

1 the personal knowledge I did have, is what was in this
2 pamphlet. And --

3 Q That's not my --

4 A -- if they were --

5 Q -- question, sir. I --

6 A Okay.

7 Q You know, we're all lawyers here. We're good at dodging
8 questions. I'm asking you --

9 A I'm not dodging anything.

10 MR. HULL: Your Honor, objection.

11 MR. KALLMAN: I'm asking you --

12 THE COURT: Hold on.

13 MR. KALLMAN: -- what personal knowledge you
14 have --

15 MR. HULL: Your Honor, there's an objection on
16 the table.

17 MR. KALLMAN: -- that --

18 THE COURT: Yeah, hold on. There's --

19 MR. HULL: He's being argumentative. The
20 witness is attempting to answer the question.

21 MR. KALLMAN: No, he wasn't. He's trying to get
22 around it, Judge. And it's a very simple question. He
23 either has personal knowledge that those two jurors --
24 which is what the allegation is against my client -- that
25 those jurors were improperly influenced or not. And I

1 think the answer is obvious. He doesn't want to answer
2 it. So he wants to try to get around it and infer from
3 other information or pamphlets, and things like that. I'm
4 asking what he knows personally about those two --

5 MR. HULL: Your Honor, he --

6 MR. KALLMAN: -- prospective jurors.

7 MR. HULL: -- was trying to answer. He has
8 personal knowledge about the pamphlet, he has personal
9 knowledge about what's in the pamphlet. He was answering
10 the question and --

11 MR. KALLMAN: And that's -- no, that was not the
12 --

13 MR. HULL: -- he --

14 MR. KALLMAN: -- question.

15 MR. HULL: And he doesn't like the answer that
16 he was being given.

17 MR. KALLMAN: That was not my question, Judge.
18 My question was specifically about those two individuals.

19 THE COURT: Restate your question.

20 MR. KALLMAN: Thank you.

21 THE COURT: No. Just restate your question.

22 MR. KALLMAN: Okay.

23 THE COURT: I want to hear it.

24 MR. KALLMAN: My question is -- I was going to
25 -- I'm asking this witness; do you have any information or

1 personal -- do you have any personal knowledge that
2 Jennifer Johnson or Theresa DeVries were improperly
3 influenced by this pamphlet? I think that's a very simple
4 -- practically a yes or no question. Either he does or he
5 doesn't. I think the answer is -- well, I'm not going to
6 speculate. But, I think that's a pretty easy question to
7 answer.

8 THE COURT: Okay. So it is not whether or not
9 they were --

10 MR. KALLMAN: Does he have personal knowledge
11 that those two; the two victims that have been cited in
12 the -- in this jury instruction that are -- that this
13 panel -- that this jury panel has received -- does he have
14 any information about those two prospective jurors?
15 That's any --

16 THE COURT: Why is --

17 MR. KALLMAN: -- personal knowledge as to whether
18 they were improperly influenced here.

19 THE COURT: Why is his personal knowledge
20 relevant to whether or not they were improperly
21 influenced?

22 MR. KALLMAN: Because that's what my client is
23 charged with. And he's been doing a bunch of -- you know
24 -- going on and on here about all his concerns. That's
25 fine. I understand why he has concerns with -- with the

1 pamphlet. I get it. But concerns with the pamphlet does
2 not translate into Jennifer Johnson and Theresa DeVries
3 being improperly influenced. That's the charge here. And
4 if he doesn't have any specific knowledge of how they were
5 personally impacted by this -- that's what I'm asking. I
6 think that's a very fair and simple question and it gives
7 some context to all of this testimony here.

8 THE COURT: Mr. Hull, your response.

9 MR. HULL: I don't think it's a very simple
10 question because I'm trying to figure out what he means by
11 personal knowledge. That -- that -- I mean, the Judge was
12 trying to answer him; I have personal knowledge, but. I
13 mean, he was trying to answer the question. He obviously
14 has a meaning in his head of personal knowledge. I -- and
15 the witness can try to answer the question as best as he
16 can, but that's the only thing he can do is; do you have
17 any personal knowledge? Well, okay.

18 MR. KALLMAN: Look, Judge, it's like this; if
19 I'm asked a question, do I have personal knowledge of the
20 Tiger's winning the game last night -- I don't even know
21 if they did, but okay -- do I have personal knowledge
22 about some fact. I can answer yes or no. If I don't have
23 personal knowledge; all I know is these general things,
24 the things he's been testifying to, that's fine. But, I
25 think this is a very simple question. Does this witness

1 have any personal knowledge about the two alleged victims
2 in this case? And I -- you know -- that's all I'm trying
3 to elicit. I mean, I can come at it from another way; did
4 he talk to those two prospective jurors; did he have any
5 interaction with those --

6 THE COURT: Well, I think --

7 MR. KALLMAN: -- prospective jurors? I mean, I
8 can --

9 THE COURT: I think that's a more appropriate
10 way, because I think the way that you've asked that
11 question kind of couches the issue and it sets up --

12 MR. KALLMAN: I'll come at --

13 THE COURT: So --

14 THE WITNESS: I -- I can answer your question.
15 I know what you're getting at. If you'd like.

16 MR. KALLMAN: Well, I'll rephrase the question,
17 Judge.

18 THE COURT: Rephrase --

19 THE WITNESS: All right.

20 THE COURT: -- the question.

21 THE WITNESS: That's fine.

22 BY MR. KALLMAN:

23 Q Did you -- sir, did you ever talk with Jennifer Johnson?

24 A No.

25 Q Did you ever talk with Theresa DeVries?

1 A No, I did not.

2 Q Did you ever have any personal interaction with either of
3 those summoned jurors?

4 A I don't believe so. It -- well --

5 Q I know --

6 A -- you're not going to accuse me of coaching anymore, but
7 --

8 Q No.

9 A -- they -- after -- when I sent the jurors home, I was in
10 the courtroom with them and I excused them all. But, I
11 didn't --

12 Q All the jurors at once were --

13 A Yeah, but I didn't --

14 Q -- excused?

15 A -- sit down and talk with any individual.

16 Q That -- that's what I'm asking.

17 A All right.

18 Q You didn't sit down with Jennifer Johnson; just you and
19 her, one-on-one, and have her tell you --

20 A No.

21 Q -- what she thought?

22 A I --

23 Q Or with Theresa DeVries, right?

24 A Correct.

25 Q Okay. And, Judge, I think it's fair to say that based on

1 your testimony; what you're concerned about with this
2 flyer is the content of the flyer, aren't you?

3 A Nope.

4 Q Well, you just said it says that the right to judge the
5 law itself -- you quoted it -- and you said, well, I think
6 that violates jury instructions.

7 A Well, that was --

8 Q Do you think that --

9 A -- one of my --

10 Q Isn't that the content of the pamphlet?

11 A That was one of my concerns.

12 Q Okay.

13 A The other concern was that there shouldn't be any contact,
14 period and there shouldn't be any outside information
15 being brought into the trial, period, there shouldn't be
16 any outside law being brought -- or supposed law -- being
17 brought into the trial, truth or not. I mean, my concern
18 -- if this pamphlet were totally true, which it isn't, it
19 would still be problematic. So the content, to me, had
20 nothing to do with it whatsoever in terms of -- I mean,
21 that was just one other problem. It would have been
22 objectionable and concerning to me as a judge regardless
23 of the content.

24 Q So then you don't care that the content of the pamphlet
25 says jurors have the right to judge the law itself?

1 A Well, that --

2 Q Because if it's not the content, then you don't care.

3 A That -- I -- I said the content was important, but I said
4 that any -- it was the communication that was -- any form
5 of communication is problematic.

6 MR. KALLMAN: One moment, your Honor.

7 I have nothing else.

8 Thank you, your Honor.

9 THE WITNESS: Thank you.

10 THE COURT: Mr. Hull, redirect.

11 MR. HULL: No redirect, your Honor.

12 THE COURT: Questions from the jury?

13 THE JURORS: (No verbal response).

14 THE COURT: No.

15 May this witness be excused?

16 MR. HULL: Witness may be excused, your Honor.

17 THE COURT: You may be excused.

18 THE WITNESS: Thank you.

19 (At 4:47 p.m., witness excused)

20 MR. HULL: Your Honor, I do have other witnesses
21 if you wanted to go forward.

22 THE COURT: Okay. How many witnesses do you
23 have and how much time do you think it will take?

24 MR. HULL: I have three witnesses here. They
25 should be very quick by comparison to the last one. They

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

were all jurors.

THE COURT: All right.

MR. HULL: So they have just very few areas just like the first two jurors that were -- that testified.

THE COURT: All right.

MR. HULL: So I think that should be pretty quick by comparison.

THE COURT: All right.

I realize that it is almost 5:00 o'clock. However, in an effort to not inconvenience them and the fact that they could be very short witnesses, I would like to proceed through those witnesses if there is no objection. And then --

MR. KALLMAN: Not with us, Judge.

THE COURT: -- probably break for the evening. But, I think that that would be most convenient to the --

MR. KALLMAN: Sure.

THE COURT: -- witnesses that are already here.

MR. KALLMAN: Absolutely, Judge.

THE COURT: All right.

MR. KALLMAN: It's fine with us.

MR. HULL: Thank you, your Honor.

THE COURT: So call your next witness.

MR. HULL: I'd like to call Joseph Bentley.

I apologize, your Honor. They were down the

1 hall.

2 THE COURT: It's all right.

3 Sir, come up here to the witness box, please.
4 Before you have a seat, raise your right hand.

5 MR. ALLERS: Yes, ma'am.

6 THE COURT: Before you have a seat, raise your
7 right hand.

8 MR. ALLERS: Oh, I'm sorry.

9 THE COURT: It's okay. It's been a long day.
10 Do you swear or affirm to tell the truth -- do
11 you swear or affirm to tell the truth, the whole truth,
12 and nothing but the truth?

13 MR. ALLERS: Yes, I do.

14 THE COURT: All right.

15 Go ahead and have a seat.

16 Mr. Hull.

17 WILLIAM ALLERS

18 (At 4:50 p.m., called by the People, sworn by
19 the Court, testified as follows)

20 DIRECT EXAMINATION

21 BY MR. HULL:

22 Q Thank you, your Honor. Could you please state your full
23 name and spell your last for the record?

24 A William Joseph Allers.

25 Q Oh, William Allers. I apologize, your Honor.

1 A Yes.

2 MR. HULL: I -- I -- this is William Allers not
3 Joseph Bentley.

4 THE COURT: All right.

5 BY MR. HULL:

6 Q That was my fault. I apologize. Do you remember appearing
7 for jury duty back on November 24th, 2015?

8 A I do.

9 Q And which door did you come in?

10 A Right through the front doors, right here.

11 Q That's door right here by the --

12 A Yep.

13 Q -- steps?

14 A Yes, sir.

15 Q About what time had you arrived -- did you arrive?

16 A A little before 9:00, I believe.

17 Q Did you see anyone handing out pamphlets at that time?

18 A At quite a distance. I was coming up the sidewalk here
19 and seen him and cut through the grass about 50 feet
20 before because I seen him handing pamphlets. So I -- I
21 missed the -- I missed it.

22 Q Okay. So you -- you kind of avoided him so you --

23 A I sure --

24 Q -- wouldn't have --

25 A -- did.

1 Q -- a pamphlet handed --

2 A Yes --

3 Q -- to you?

4 A -- I did.

5 Q Did you hear anything that he was saying at the time he
6 was --

7 A I did not.

8 Q -- handing those out? You didn't hear anything that he
9 was saying?

10 A I didn't hear anything.

11 Q Did you hear anything that other people had said to him as
12 they came in?

13 A Just that there was a guy handing out pamphlets and that
14 --

15 MR. KALLMAN: Objection, your Honor, to other
16 people. That would be hearsay, clearly.

17 BY MR. HULL:

18 Q And --

19 A Sure.

20 Q And I apologize. I need to ask differently. Did you hear
21 him say anything to anyone else or anyone else speaking to
22 him out there?

23 A I did not.

24 Q Okay. Now, you said you cut the grass to kind of avoid
25 him. Was he handing out the pamphlets to anyone else as

1 they were passing by?

2 A I seen someone hand the stuff to people and I didn't want
3 any part of it. I --

4 Q Okay.

5 A To be honest, I was kind of upset that day that I had to
6 come to jury duty and take off work anyways. So I was --

7 Q Okay.

8 A -- wasn't in a good mood.

9 Q So -- and when you came in, when you -- did you see anyone
10 else walking up there or past the gentleman at the time;
11 was there, for instance, a group of Amish men or anything
12 like that or Amish people walking up.

13 A Only when I came in the door I remembered that.

14 Q Okay.

15 A And it was from one end of the building to the other.

16 Q Okay.

17 A There were many.

18 Q There were many coming in through the door. Did you see
19 any of them holding pamphlets as they were walking by?

20 A I can't recall. I didn't recall any of them holding one,
21 but --

22 Q And I just want to make sure; did you see anyone walking
23 past him as you were walking into the -- into the -- the
24 courthouse?

25 A Yes.

1 Q And --

2 A People were walking past him.

3 Q And was he handing out pamphlets to people as --

4 A Yes.

5 Q -- they were walking past?

6 A Yeah, I did see him handing out pamphlets.

7 Q Okay.

8 A That's why I shied away.

9 Q And did -- you didn't hear what he was saying when he was

10 handing out those pamphlets?

11 A I did not.

12 Q All right. Did you speak with an officer in regard to

13 this case; were you recently interviewed?

14 A He called me a few weeks ago.

15 Q Yeah. And did you tell him, at the time you spoke with

16 him, that --

17 A I told him the same thing I just told you; that I veered

18 away, I was in a bad mood that day, I didn't really want

19 to be here to begin with because --

20 Q Okay.

21 A -- I had to take off work.

22 Q Thank you. I have no further questions.

23 A Sorry. I was just being honest.

24 Q And I just want to confirm --

25 A Very good.

1 Q -- would you be able to identify the person that was
2 handing out the pamphlets?

3 A No, I would not.

4 MR. HULL: Okay. Thank you.

5 No further questions.

6 THE COURT: Mr. Kallman.

7 CROSS-EXAMINATION

8 BY MR. KALLMAN:

9 Q Yes. Mr. Allers, when you saw this person handing out the
10 flyers; you said people were going by on the sidewalk,
11 right?

12 A Yes.

13 Q So you were able to get around him easily, right?

14 A There was quite a few people coming into the courthouse at
15 that time, so I -- yeah, he wasn't -- he couldn't catch
16 them all.

17 Q Right. And so people were getting by him on the sidewalk
18 with no problem at all weren't they?

19 A I -- I would say people were getting by him, yes.

20 Q Okay. Thank you.

21 A You're welcome.

22 THE COURT: Any redirect, Mr. Hull.

23 REDIRECT EXAMINATION

24 BY MR. HULL:

25 Q You said he couldn't catch them all; what did you mean by

1 that?

2 A There was a lot of -- the courtroom -- the courthouse was
3 like I'd never seen it before that day. When I came in,
4 there was people from, literally, one end of the hallway
5 all the other way to the other end, down the other
6 hallway. I'd never seen it like that. There was a lot of
7 people that day.

8 Q And was it -- when -- when he was standing in the -- where
9 was he standing when he was handing out the pamphlets?

10 A Out by the corner sidewalk.

11 Q Okay.

12 A Out by the bench.

13 Q So you actually had to go into the grass to avoid him?

14 A I cut through the grass.

15 Q Thank you.

16 A Yep.

17 MR. HULL: No further questions.

18 THE WITNESS: Yes, sir.

19 RE CROSS EXAMINATION

20 BY MR. KALLMAN:

21 Q Just -- when you say, out by there, by -- you mean out by
22 the street; by Elm Street, right?

23 A Pretty close, yeah.

24 MR. KALLMAN: Pretty close.

25 Thank you.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

THE COURT: All right.

Any questions from the jury?

THE JURORS: (No verbal response).

THE COURT: May this witness be excused?

MR. HULL: Yes, your Honor.

Thank you.

THE COURT: All right.

Mr. Allers, thank you for coming in.

THE WITNESS: Thank you very much.

(At 4:54 p.m., witness excused)

MR. HULL: Your Honor, next I'd call Joseph Bentley.

THE COURT: Mr. Bentley, come up here.

Before you have a seat, raise your right hand.

Do you swear or affirm to tell the truth, the whole truth, and nothing but the truth?

MR. BENTLEY: Yes, ma'am.

THE COURT: All right.

Go ahead and have a seat.

JOSEPH BENTLEY

(At 4:54 p.m., called by the People, sworn by the Court, testified as follows)

DIRECT EXAMINATION

BY MR. HULL:

Q Could you please state your full name and spell your last

1 for the record?

2 A Joseph Robert Bentley.

3 Q Okay. And how do you spell Bentley?

4 A B-E-N-T-L-E-Y.

5 Q Mr. Bentley, do you remember appearing for jury duty back

6 on November 24th, 2015?

7 A Yes.

8 Q Which door did you come in?

9 A The north doors.

10 Q Is that this door, right over here?

11 A (No verbal response).

12 Q And about what time did you arrive?

13 A I -- whatever they requested. It must have been 9:00

14 o'clock. I don't know.

15 Q You -- you were required to be there by a certain time --

16 A Yeah.

17 Q -- and you were there by that time --

18 A Yeah.

19 Q -- is that fair to say?

20 A Yes.

21 Q Okay. Were you early, late, or right on time?

22 A Just a little early.

23 Q Okay. Did you see anyone handing out flyers at the time?

24 A Yes.

25 Q Could you tell the jury what you saw as you came up there?

1 A There was a gentleman out front handing out flyers, asking
2 people if they wanted one.

3 Q Did he say anything to you directly; did he hand you a
4 flyer?

5 A He attempted to. I did not take one.

6 Q Did he say anything to you directly when he tried to hand
7 you the flyer?

8 A He just said it was information regarding jurors' rights.

9 Q Okay. So he told you it was information regarding jurors'
10 rights?

11 A (No verbal response).

12 MR. HULL: Okay.

13 No further questions.

14 Thank you.

15 THE COURT: Mr. Kallman.

16 CROSS-EXAMINATION

17 BY MR. KALLMAN:

18 Q You were in the jury pool that day, right, Mr. Bentley?

19 A Yes.

20 Q Okay. And do you recall the name of the case that you
21 were there for that day?

22 A No.

23 Q *People versus Yoder*; does that ring a bell?

24 A It --

25 Q Yeah?

1 A -- very well could, yes.

2 Q Okay. And no jury trial actually happened that day, did
3 it?

4 A They said it was settled and we were dismissed.

5 Q Okay. So no jury was picked, right?

6 A (No verbal response).

7 Q Is that correct?

8 A Yes.

9 Q Okay. I'm sorry. I keep asking questions like that so.
10 And you did not have a brochure, but did you see other
11 people in the jury room with the brochures?

12 A Yes.

13 Q And were they confiscated?

14 A Someone came in and took them, yes.

15 Q Okay. Did you believe this brochure was a big deal or --

16 A Not to me --

17 Q -- meant much?

18 A -- no. No. And I didn't know what was in it, but to me,
19 it was not.

20 Q It was kind of an incidental thing to you?

21 A I came for jury duty, so I was -- that was what I was
22 there for. That -- yeah -- for me, no.

23 Q Okay. You didn't give it much thought?

24 A I'd have taken one if I had thought so. So, no.

25 MR. KALLMAN: Okay.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Thank you.

THE COURT: Mr. Hull.

REDIRECT EXAMINATION

BY MR. HULL:

Q So if you thought it was something important, you would have taken one?

A Correct.

Q Okay. And how many people in that jury room did you see who took them?

A I don't know. There might have been maybe half. I don't know.

MR. HULL: Thank you.

No further questions.

THE COURT: Questions from the jury?

THE JURORS: (No verbal response).

THE COURT: Nope.

May this witness be excused?

MR. HULL: The witness may be excused, your Honor.

THE COURT: All right.

Sir, thank you for coming in today. You are excused.

THE WITNESS: Thank you.

MR. HULL: Next, I would like to call Charles Sprik, your Honor.

1 THE COURT: Sir, come up here, please.
2 Before you have a seat, raise your right hand.
3 Do you swear or affirm to tell the truth, the
4 whole truth, and nothing but the truth?
5 MR. SPRIK: Yes.
6 THE COURT: Go ahead and have a seat.
7 CHARLES SPRIK
8 (At 4:57 p.m., called by the People, sworn by
9 the Court, testified as follows)
10 DIRECT EXAMINATION
11 BY MR. HULL:
12 Q Could you please state your full name and spell your last
13 for the record?
14 A Charles Allen Sprik, Junior, S-P-R-I-K.
15 Q Mr. Sprik, are you a resident of Mecosta County?
16 A Yes, I am.
17 Q And were you a resident of Mecosta County back on November
18 24th, 2015?
19 A Yes, I was.
20 Q Do you remember appearing for jury duty back on that date?
21 A Yes, I do.
22 Q And it was here in this courthouse?
23 A Yes, sir.
24 Q In Big Rapids?
25 A Yes.

1 Q Do you remember which door you came in?

2 A I came in the door right outside here.

3 Q That front door right here?

4 A Yes.

5 Q About what time did you arrive; do you remember?

6 A About 15 minutes early --

7 Q Okay.

8 A -- from when I was supposed to be here.

9 Q So you were supposed to be there at a certain time and it

10 was about 15 minutes before that?

11 A Yes.

12 Q Did you see anyone handing out any flyers or pamphlets at

13 that time?

14 A Yes, there was somebody standing out there handing out

15 flyers.

16 Q And were they saying anything when they were handing the

17 flyers out?

18 A I don't recall.

19 Q Okay. Did -- were you handed a flyer?

20 A Yes, sir.

21 Q And was anything -- do you remember what the flyer said?

22 A It just went over about -- a little -- I just kind of

23 glanced at it -- about -- a little bit about what the

24 responsibilities were as a juror.

25 Q Okay. So they were about responsibilities for jurors?

1 A Right.

2 Q Okay. And I -- I just want to make sure; you don't recall
3 whether or not he said anything when he handed out the
4 flyers?

5 A I don't recall if he said anything or not.

6 Q Okay. So it's just -- it's not that he didn't or he did,
7 you just don't remember?

8 A Right.

9 Q Okay. And you were handed a flyer; is that correct?

10 A Yes, sir.

11 Q And did you go into the courtroom after that?

12 A Yes, sir.

13 Q And did you see how many other people in the courtroom had
14 flyers?

15 A Some of them had them in their pockets. I saw -- you know
16 -- a couple of them reading them and some of them put them
17 back in their pockets.

18 Q Did you read the flyer at all?

19 A I glanced through it.

20 Q Okay. Did you believe when you were handed the flyer that
21 it was anything official in nature?

22 A I wasn't sure. I didn't know if it was associated with
23 the court or not.

24 Q Okay. And when you said it talked about juror rights; do
25 you know what kind of juror rights it was talking about;

1 do you remember? And if you don't remember, that's fine.

2 A No, I don't.

3 Q Okay. It was a long time ago.

4 A Yeah.

5 Q Okay. Would you be able to identify the person that was
6 handing out the flyers?

7 A No.

8 MR. HULL: No. Okay.

9 No further questions.

10 Thank you.

11 THE WITNESS: All right.

12 Thank you.

13 THE COURT: Mr. Kallman.

14 MR. KALLMAN: I have no questions, Judge.

15 Thank you.

16 THE COURT: Questions from the jury.

17 THE JURORS: (No verbal response).

18 THE COURT: No.

19 Sir, thank you for coming in today.

20 THE WITNESS: Thank you.

21 THE COURT: You are excused.

22 Mr. Hull, do you have additional witnesses for
23 tomorrow?

24 MR. HULL: It's 5:00 o'clock. I will have a
25 couple more witnesses for you tomorrow.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

THE COURT: All right.

Then what I believe this Court will do is I'm going to -- I will dismiss the jury at this time. What I'm going to do, ladies and gentlemen of the jury, I am going to give you a couple of cautionary instructions again. For the reason that I explained to you earlier, you must not read, listen to, or watch any news reports about this case while you serving on a jury. You may not talk to the defendant, do not talk to the lawyers, any witnesses about anything at all, even if it has nothing to do with this case. As I indicated, you may see some of us in the hall, you may see some of the spectators in the hall, please have no conversation -- no discussions or conversations, no matter what it is about, with anyone. If somebody does approach you, please let the bailiff know and the bailiff will then let me know, whether that would be today or tomorrow when you appear.

I would like to have you back in here tomorrow at 8:45 a.m. so that we're ready to go back on the record at 9:00 o'clock.

I know that it is difficult. You may not speak to anyone, including your family members, this evening about what the facts of this case are. So you -- we all know you're going to be asked and you're going to just have to simply say the judge has instructed me that I may

1 not speak about the case until after I have made my
2 deliberations, which we obviously anticipate and hope that
3 that will be tomorrow at some point. But, until then, I
4 am ordering that you not speak to anyone, even family
5 members at home, this evening about the facts of this
6 case. You may let them know that you are a juror. That
7 is it. That you have been chosen as a juror. However, do
8 not -- please do not speak about any of the facts that
9 we've heard today.

10 Anybody have anything further before I dismiss
11 the jury?

12 MR. HULL: No, your Honor.

13 Thank you.

14 MR. KALLMAN: No, your Honor.

15 THE COURT: All right.

16 Then let -- please rise for the jury.

17 (At 5:02 p.m., jury exits courtroom)

18 THE COURT: Whose phone was that?

19 MR. HANSENS: That was mine. I was making sure
20 it was off.

21 THE COURT: Has it been on?

22 MR. HANSENS: Apparently.

23 MR. KALLMAN: Lucky it didn't go off.

24 UNIDENTIFIED WOMAN IN GALLERY: Your Honor, may
25 I speak?

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

THE COURT: No, you may not.

MR. KALLMAN: No.

THE COURT: I'm sorry.

What I -- actually, everybody can be seated.
Let's talk about, while we're on the record,
procedure for tomorrow. Mr. Hull, how many witnesses do
you have?

MR. HULL: Your Honor, at most I would have two
more witnesses tomorrow. That -- that would be -- okay.
I guess, at most, there would be three more, likely one or
two.

THE COURT: All right.

Mr. Kallman, how many witnesses do you think
that you'll have?

MR. KALLMAN: Well, we've listed three. One of
our witnesses -- this may be somewhat problematic -- he's
coming from the U.P. He's on a job up there. He lives
here. But, he is driving and leaving early tomorrow
morning. We can try to get him -- I -- I wasn't sure how
long, obviously, the Prosecutor would be going so I have
him coming at 2:00 o'clock tomorrow afternoon. But, I'll
-- given the way we're going, I'll give him a call and see
if he can get here earlier.

THE COURT: Yeah.

MR. KALLMAN: And then we have another witness

1 and, of course, our client if we decide to call him
2 tomorrow.

3 THE COURT: Sure.

4 I -- I --

5 MR. KALLMAN: I would have motions, too; the
6 normal motions in between the Prosecutor resting, and then
7 --

8 THE COURT: Right.

9 MR. KALLMAN: -- on the two issues that we --

10 THE COURT: Right.

11 MR. KALLMAN: -- talked about before.

12 THE COURT: Right.

13 MR. KALLMAN: So that will take some time.

14 THE COURT: Mr. Hull, do you think that your
15 witnesses are going to be short?

16 MR. HULL: I believe they should be brief, your
17 Honor, yes.

18 THE COURT: All right.

19 So there could be -- it could be concerning if
20 your witness is not coming in until 2:00 o'clock.

21 MR. KALLMAN: I know that would.

22 THE COURT: I intend to -- you have seen, I -- I
23 don't take very long -- very few breaks.

24 MR. KALLMAN: Right.

25 Understood, Judge. We'll give him a call

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

tonight yet.

THE COURT: All right.

So what I would like is the two of you, please, to review those final jury instructions --

MR. KALLMAN: Yes.

THE COURT: -- tonight. Be in my office at 8:30 a.m. I know they can't be totally finalized, but --

MR. KALLMAN: Right.

THE COURT: -- I would like to see the two of you at 8:30 a.m. --

MR. KALLMAN: All right.

THE COURT: -- to go over any -- go over those jury instructions and any issues that we may need to deal with before we start back up at 9:00. As I indicated, I will have the jury here at 8:45 so that at 9:00 o'clock we are ready to come back on the record and completed this.

Anything further that we need to make of record before we leave, Mr. Hull?

MR. HULL: No, your Honor.

Thank you.

Except, will the Court be keeping the exhibits or should I; how do you want that?

THE COURT: I don't have it. I can't keep it.

MR. HULL: Well, there -- there --

THE COURT: Oh.

1 MR. HULL: -- right there on the desk in front
2 of the Court.

3 THE COURT: I will then, if I have them.

4 MR. HULL: I have only the sleeve marked here.
5 The disc is still in my computer. If that will be an
6 issue, I can pull that out right now.

7 THE COURT: Mr. Kallman; issue, do you want the
8 disc put back in?

9 MR. HULL: It's probably safer if I take it out.

10 MR. KALLMAN: Yeah, okay.

11 THE COURT: How about it?

12 MR. KALLMAN: Whichever. It doesn't matter.

13 The jury has seen it.

14 Thank you.

15 But for purposes of filing, it would be a good
16 idea to have it in there.

17 THE COURT: Thank you.

18 All right.

19 Then any other issues, Mr. Hull?

20 MR. HULL: No other issues, your Honor.

21 THE COURT: Mr. Kallman.

22 MR. KALLMAN: No, your Honor.

23 Thank you.

24 THE COURT: All right.

25 Then I will see the both of you at 8:30 a.m. in

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

my office and be ready to proceed at 9:00 a.m.

MR. HULL: Thank you.

MR. KALLMAN: Thank you, Judge.

THE COURT: Thank you.

(At 5:06 p.m., proceedings adjourned)

1 STATE OF MICHIGAN)

2)

3 COUNTY OF MECOSTA)

4

5

6

7

8

9

10 I certify that this transcript, consisting of 335
11 pages, is a complete, true, and correct transcript, to the best
12 of my ability, of the proceedings and testimony taken in
13 this case on Wednesday, May 31, 2017.

14

15

16

17

18

19 July 27, 2017

20

Sabrina M. Marlette, CER 8103

21

49th Circuit Court

22

400 Elm Street

23

Big Rapids, Michigan 49307

24

(231) 592-8303

25