

5/13/2015 Minute Order (print)

Event ID: 000799 E-Filed: N

JURY TRIAL- DAY 67

MAY 13, 2015

JUDGE SAMOUR

REPORTER: FIKANY ALL DAY

DEFENDANT APPEARS IN CUSTODY WITH HIS ATTORNEYS TAMARA BRADY, DAN KING, REBEKKA HIGGS, KATHERINE SPENGLER, AND KRISTEN NELSON. THE PEOPLE ARE REPRESENTED BY GEORGE BRAUCHLER, JACOB EDSON, KAREN PEARSON, RICH ORMAN, AND LISA TEESCH MAGUIRE.

MORNING SESSION:

THE PEOPLE HAVE MARKED AS EXHIBIT C-TR-17 THE PARTS THAT WERE ORIGINALLY ATTACHED TO P-TR-359 AND P-TR-360 AND WERE NOT ADMITTED.

THE PROSECUTION CALLS WITNESSES TO TESTIFY AND THE FOLLOWING EXHIBITS ARE ADMITTED: P-TR-465, P-TR-466, P-TR-467, P-TR-468, P-TR-469, P-TR-470, P-TR-471, P-TR-472, P-TR-473, P-TR-474, P-TR-475, P-TR-476, P-TR-4111, P-TR-4117, AND P-TR-1158.

AFTERNOON SESSION:

JUROR 901 REQUESTS TO SPEAK WITH THE COURT OUTSIDE THE PRESENCE OF THE OTHER JURORS. JUROR 901 STATES THAT SHE WAS INTERVIEWED FOR A POSITION AT THE FBI BY AN FBI SPECIAL AGENT WHOSE NAME WAS RECENTLY MENTIONED BY ANOTHER WITNESS. OUTSIDE THE PRESENCE OF JUROR 901, THE PEOPLE INFORM THE COURT THAT THE SPECIAL AGENT INVOLVED MAY TESTIFY IN THIS CASE. BASED ON THE SUBSEQUENT RECORD MADE WITH JUROR 901, NO ACTION IS REQUESTED OR TAKEN WITH RESPECT TO JUROR 901 AT THIS TIME.

THE PROSECUTION CALLS WITNESSES TO TESTIFY AND THE FOLLOWING EXHIBITS ARE ADMITTED: P-TR-1136, P-TR-1209, P-TR-4131, P-TR-4132, P-TR-2972, P-TR-2988, P-TR-2983, P-TR-2889, P-TR-2890, P-TR-2893, P-TR-2892, P-TR-540, P-TR-541, P-TR-542, P-TR-543, P-TR-544, P-TR-545, P-TR-546, P-TR-547, P-TR-548, P-TR-549, P-TR-550, P-TR-551, P-TR-552, P-TR-2897, P-TR-2898, P-TR-2899, P-TR-2900, P-TR-2902, P-TR-2903, P-TR-2904, P-TR-2905, P-TR-2812, P-TR-553, P-TR-554, P-TR-555, P-TR-2895, P-TR-2896, P-TR-2906, P-TR-557, P-TR-2818, P-TR-2914, P-TR-558, P-TR-559, P-TR-560, P-TR-561, P-TR-562, P-TR-563, P-TR-2915, P-TR-2913, P-TR-2912, P-TR-2911, P-TR-2910, P-TR-2909, P-TR-564, P-TR-565, P-TR-566, P-TR-567, P-TR-568, P-TR-569, P-TR-570, P-TR-571, P-TR-572, P-TR-573, P-TR-574, P-TR-575, P-TR-576, P-TR-577, P-TR-2907, P-TR-2825, P-TR-2917, P-TR-2919, P-TR-2920, P-TR-2921, P-TR-2923, P-TR-2924, P-TR-2927, P-TR-2928, P-TR-2850, P-TR-578, P-TR-579, P-TR-580, P-TR-581, P-TR-2929, P-TR-2930, P-TR-2931, P-TR-582, P-TR-583, P-TR-584, P-TR-585, P-TR-586, P-TR-587, P-TR-588, P-TR-589, P-TR-590, P-TR-591, P-TR-592, P-TR-593, P-TR-2932, P-TR-2934, P-TR-2937, P-TR-2938, P-TR-2942, P-TR-2944, P-TR-2945, P-TR-2894, P-TR-619, P-TR-620, P-TR-3089, P-TR-3090, P-TR-3091, P-TR-3092, P-TR-3093, P-TR-3094, P-TR-3095, P-TR-3096, P-TR-3098, P-TR-3099, P-TR-3101, P-TR-3102, P-TR-3103, P-TR-3105, P-TR-3106, P-TR-3107, P-TR-3109, P-TR-3111, P-TR-3113, P-TR-3114, P-TR-3115, P-TR-3116, P-TR-3117, P-TR-3118, P-TR-3119, P-TR-3120, P-TR-3122, P-TR-3123, P-TR-3124, P-TR-3125, P-TR-3126, P-TR-3128, P-TR-3129, P-TR-3130, P-TR-3131, P-TR-3132, P-TR-3133, P-TR-3134, P-TR-3136, P-TR-3137, P-TR-3138, P-TR-3141, P-TR-3142, P-TR-3144, P-TR-3145, P-TR-3148, P-TR-3149, P-TR-3150, P-TR-3151, P-TR-3152, P-TR-3156, P-TR-3157, P-TR-3160, P-TR-3161, P-TR-3164, P-TR-3165, P-TR-3166, P-TR-3167, P-TR-3168, P-TR-3169, P-TR-3171, P-TR-3172, P-TR-3173, P-TR-3174, P-TR-3175, P-TR-3176, P-TR-3177, P-TR-3178, P-TR-3179, P-TR-3180, P-TR-3181, P-TR-3182, P-TR-3185, P-TR-3186, P-TR-3187, P-TR-3188, P-TR-3189, P-TR-3190, P-TR-3191, P-TR-3192, P-TR-3194, P-TR-3202, P-TR-3203, P-TR-3204, P-TR-3206, P-TR-3207, P-TR-

3208, P-TR-3209, P-TR-3210, P-TR-3211, P-TR-3212, P-TR-3213, P-TR-3214, P-TR-3215, P-TR-3218, P-TR-3219, P-TR-3220, P-TR-3221, P-TR-3222, P-TR-3224, P-TR-3225, P-TR-3226, P-TR-3228, P-TR-3229, P-TR-3230, P-TR-3231, P-TR-3232, P-TR-3233, AND P-TR-3234.

THE COURT SUPPLEMENTS THE RECORD ON RULE 403 OBJECTIONS MADE TO PHOTOGRAPHS THAT WERE ADMITTED THIS AFTERNOON. /JRZ

5/14/2015 Minute Order (print)

Event ID: 000800 E-Filed: N

JURY TRIAL DAY 68

MAY 14, 2015

JUDGE SAMOUR

REPORTER: MARTIN ALL DAY

DEFENDANT APPEARS IN CUSTODY WITH HIS ATTORNEYS TAMARA BRADY, DAN KING, REBEKKA HIGGS, KATHERINE SPENGLER, AND KRISTEN NELSON. THE PEOPLE ARE REPRESENTED BY GEORGE BRAUCHLER, JACOB EDSON, KAREN PEARSON, RICH ORMAN, AND LISA TEESCH MAGUIRE.

MORNING SESSION:

THE PROSECUTION CALLS WITNESSES TO TESTIFY AND THE FOLLOWING EXHIBITS ARE ADMITTED: P-TR-3235, P-TR-3236, P-TR-3237, P-TR-3238, P-TR-3239, P-TR-3240, P-TR-3241, P-TR-3242, P-TR-3243, P-TR-3244, P-TR-3246, P-TR-3247, P-TR-3248, P-R- 3249, P-TR-3250, P-TR-3251, P-TR-3252, P-TR-3254, P-TR-3255, P-TR-3256, P-TR-3257, P-TR-3258, P-TR-3261, P-TR-3262, P-TR-3264, P-TR-3265, P-TR-3266, P-TR-3268, P-TR-3270, P-TR-3271, P-TR-3275, P-TR-3276, P-TR-3277, P-TR-3278, P-TR-3282, P-TR-3283, P-TR-3284, P-TR-3285, P-TR-3286, P-TR-3287, P-TR-3288, P-TR-3291, P-TR-3292, P-TR-3293, P-TR-3297, P-TR-3298, P-TR-3299, P-TR-3300, P-TR-3301, P-TR-3302, P-TR-3303, P-TR-3304, P-TR-3305, P-TR-3306, P-TR-3307, P-TR-3308, P-TR-3309, P-TR-3310, P-TR-3311, P-TR-3314, P-TR-3318, P-TR-3319, P-TR-3320, P-TR-3321, P-TR-3322, P-TR-3323, P-TR-3324, P-TR-3325, P-TR-3326, P-TR-3327, P-TR-3328, P-TR-3329, P-TR-3330, P-TR-3332, P-TR-3334, P-TR-3335, P-TR-3336, P-TR-3337, P-TR-3338, P-TR-3339, P-TR-3340, P-TR-3341, P-TR-3342, P-TR-3344, P-TR-3345, P-TR-3346, P-TR-3347, P-TR-3348, P-TR-3349, P-TR-3350, P-TR-3351, P-TR-3352, P-TR-3353, P-TR-3354, P-TR-3355, P-TR-3356, P-TR-3357, P-TR-3358, P-TR-3359, P-TR-3361, P-TR-3362, P-TR-3363, P-TR-3364, P-TR-3365, P-TR-3366, P-TR-3367, P-TR-3368, P-TR-3369, P-TR-3370, P-TR-3371, P-TR-3372, P-TR-3373, P-TR-3374, P-TR-3375, P-TR-3376, P-TR-3377, P-TR-3378, P-TR-3379, P-TR-3380, P-TR-3381, P-TR-3382, P-TR-3383, P-TR-3384, P-TR-3385, P-TR-3386, P-TR-3387, P-TR-3388, P-TR-3389, P-TR-3390, P-TR-3391, P-TR-3392, P-TR-3393, P-TR-3394, P-TR-3395, P-TR-3396, P-TR-3544, P-TR-3545, P-TR-3546, P-TR-3547, P-TR-3548, P-TR-3397, P-TR-3398, P-TR-3399, P-TR-3400, P-TR-3401, P-TR-3402, P-TR-3403, P-TR-3404, P-TR-3405, P-TR-3406, P-TR-3407, P-TR-3408, P-TR-3409, P-TR-3414, P-TR-3415, P-TR-3417, P-TR-3462, P-TR-3463, P-TR-3464, P-TR-3465, P-TR-3466, P-TR-3467, P-TR-3468, P-TR-3470, P-TR-3471, P-TR-3472, P-TR-3473, P-TR-3474, P-TR-3460, P-TR-3461, P-TR-3481, P-TR-3482, P-TR-3483, P-TR-3484, P-TR-3486, P-TR-3487, P-TR-3488, P-TR-3491, P-TR-3493, P-TR-3494, P-TR-3496, P-TR-3497, P-TR-3498, P-TR-3500, P-TR-3503, P-TR-3504, P-TR-3505, P-TR-3506, P-TR-3507, P-TR-3508, P-TR-3509, P-TR-3510, P-TR-3512, P-TR-3513, P-TR-3514, P-TR-3515, P-TR-3516, P-TR-3517, P-TR-3520, P-TR-3521, P-TR-3522, P-TR-3523, P-TR-3524, P-TR-3525, P-TR-3526, P-TR-3527, P-TR-3528, P-TR-3529, P-TR-3530, P-TR-3532, P-TR-3533, P-TR-3536, P-TR-3537, P-TR-3538, P-TR-3549, P-TR-3550, P-TR-3551, P-TR-3552, P-TR-3553, P-TR-3477, P-TR-3478, P-TR-621, P-TR-3563, P-TR-3567, P-TR-3677, P-TR-3568, P-TR-3565, P-TR-3566, P-TR-3570, P-TR-3571, P-TR-3782, P-TR-3580, P-TR-3581, P-TR-3608, P-TR-3612, P-TR-3613, P-TR-3616, P-TR-3617, P-TR-3783, P-TR-3784, P-TR-3786, P-TR-3787, P-TR-3797, P-TR-

3799, P-TR-3604, P-TR-595, P-TR-596, P-TR-597, P-TR-598, P-TR-599, P-TR-600, P-TR-601, P-TR-602, P-TR-603, P-TR-604, P-TR-605, P-TR-606, P-TR-607, P-TR-608, P-TR-609, P-TR-610, P-TR-611, P-TR-612, P-TR-613, P-TR-614, P-TR-615, P-TR-616, P-TR-617, P-TR-618, P-TR-644, P-TR-632, P-TR-3807, P-TR-633, P-TR-639, P-TR-640, P-TR-635, P-TR-636, P-TR-637, P-TR-642, AND P-TR-647.

THE PEOPLE HAVE TWO OUT-OF-STATE WITNESSES WHO ARE ONLY IN COLORADO TODAY. WITHOUT OBJECTION, THE PEOPLE WILL BE ALLOWED INTERRUPT THE CURRENT WITNESS'S DIRECT-EXAMINATION SO THAT THESE TWO WITNESSES MAY TESTIFY THIS AFTERNOON. WITHOUT OBJECTION, LATER TODAY THE PEOPLE WILL PHOTOGRAPH THE MODEL OF THE THEATER (P-TR-1087) TO CAPTURE THE MARKS DRAWN ON THE MODEL BY THE CRIME SCENE INVESTIGATOR WHOSE TESTIMONY WAS INTERRUPTED EARLIER TODAY. THE MARKS WERE MADE ON THE MODEL DURING THE TESTIMONY. THE PEOPLE WILL TENDER THE PHOTOGRAPHS AS COURT EXHIBITS.

AFTERNOON SESSION:

JUROR 535 IS BROUGHT INTO THE COURTROOM OUTSIDE THE PRESENCE OF THE OTHER JURORS. JUROR 535 INFORMED ONE OF THE COURT'S BAILIFFS DURING THE LUNCH BREAK THAT SHE RECOGNIZED SOMEBODY SEATED IN THE GALLERY. JUROR 535 DOES NOT KNOW THE PERSON'S LAST NAME, BUT SAYS THAT THE FIRST NAME IS JOY. THE PROSECUTION ADVISED THE COURT THAT THERE IS A WOMAN NAMED JOY IN THE GALLERY, AND THAT WOMAN IS A FRIEND OF SOMEONE WHO WAS PRESENT IN THE THEATER. HOWEVER, NEITHER SHE NOR HER FRIEND FROM THE THEATER WILL TESTIFY IN THIS CASE. JOY DOES NOT KNOW THE JUROR; SHE ONLY KNOWS AN ACQUAINTANCE OF THE JUROR. AFTER THE RECORD MADE WITH THE JUROR, NO ACTION IS REQUESTED OR TAKEN WITH RESPECT TO JUROR 535. JUROR 872 IS ALSO BROUGHT INTO THE COURTROOM OUTSIDE THE PRESENCE OF THE OTHER JURORS TO SPEAK TO THE COURT ABOUT A POSSIBLE ISSUE RELATED TO CHILDCARE FOR HER CHILDREN. THE JUROR STATES THAT SHE IS NOT ASKING FOR ANY RELIEF AT THIS TIME AND NO ACTION IS REQUESTED OR TAKEN. THE PROSECUTION CALLS WITNESSES TO TESTIFY AND THE FOLLOWING EXHIBITS ARE ADMITTED: P-TR-1210C, P-TR-1211C, P-TR-307, P-TR-1160, P-TR-2000, P-TR-2001, P-TR-2002, P-TR-1165, P-TR-2027, P-TR-2028, P-TR-2009, P-TR-1213, P-TR-2566, AND D-TR-17.

AT THE PEOPLE'S REQUEST, REJECTED PROSECUTION EXHIBITS P-TR-1210B AND P-TR-1211B ARE MARKED AS COURT EXHIBITS C-TR-18 AND C-TR-19. REJECTED EXHIBIT P-TR-3097 (FROM YESTERDAY) IS MARKED AS C-TR-20. THE PEOPLE HAVE HAD A CHANCE TO PHOTOGRAPH THE MODEL OF THE THEATER. THE PEOPLE HAVE TAKEN SEVEN PHOTOGRAPHS OF THE THEATER, WHICH ARE STAPLED TOGETHER AND MARKED AS C-TR-21. THE PEOPLE INFORM THE COURT THAT THEY MAY SEEK TO INTRODUCE EXHIBIT P-TR-999 NEXT WEEK, WHICH IS A SURVEILLANCE VIDEO FROM UNIVERSITY HOSPITAL. THE PEOPLE RAISE THIS ISSUE NOW BECAUSE THEY ANTICIPATE THE DEFENSE WILL OBJECT TO IT. IF THE COURT SUSTAINS THE OBJECTION, THEY WOULD RATHER NOT FLY IN FROM OUT OF STATE THE WITNESS NEEDED TO LAY THE NECESSARY FOUNDATION TO ADMIT THE VIDEO. THE DEFENSE WOULD LIKE TO ARGUE THIS ISSUE NEXT WEEK. WITHOUT OBJECTION THE PEOPLE TENDER A COPY OF P-TR-999 FOR THE COURT TO REVIEW OVER THE WEEKEND.

/JRZ

5/18/2015 Minute Order (print)

Event ID: 000801 E-Filed: N

JURY TRIAL DAY 69

MAY 18, 2015

JUDGE SAMOUR

REPORTER: MARTIN ALL DAY

DEFENDANT APPEARS IN CUSTODY WITH HIS ATTORNEYS TAMARA BRADY, DAN KING, REBEKKA HIGGS, KATHERINE SPENGLER, AND KRISTEN NELSON. THE PEOPLE ARE REPRESENTED BY GEORGE BRAUCHLER, JACOB EDSON, KAREN PEARSON, RICH ORMAN, AND LISA TEESCH MAGUIRE.

MORNING SESSION:

THE DEFENSE MAKES A RECORD THAT ON FRIDAY, MAY 15, 2015 THE JURY IN THE BOSTON MARATHON BOMBING CASE REACHED A DEATH PENALTY VERDICT. THE DEFENSE ASKS THE COURT TO POLL THE JURORS REGARDING WHETHER THEY FOLLOWED THE COVERAGE OF THE VERDICT AND WHETHER EXPOSURE TO THAT MEDIA COVERAGE HAS HAD ANY EFFECT ON THEIR ABILITY TO BE FAIR AND IMPARTIAL IN THIS CASE. THE DEFENSE CITES PARALLELS BETWEEN THE CASES AS REASONS THE POLL IS NECESSARY, INCLUDING SIGNIFICANT MEDIA COVERAGE, THE PROSECUTION SEEKING DEATH PENALTY, THE NUMBER OF DECEASED AND INJURED VICTIMS, AND THE DEATH OF A CHILD. THE DEFENSE OFFERS THE FRONT PAGE OF THE DENVER POST ON SATURDAY, MAY 16, 2015 AS A COURT EXHIBIT; IT WILL BE LABELED C-TR-22. THE PEOPLE OBJECT TO THE COURT POLLING THE JURY. THE COURT DISAGREES THAT THE MEDIA COVERAGE OF THE BOSTON MARATHON BOMBING HAS A POTENTIAL TO PREJUDICE THE JURORS IN THIS CASE. OUT OF AN ABUNDANCE OF CAUTION, HOWEVER, THE COURT WILL POLL THE JURORS AND ASK THE FOLLOWING: THERE WAS SOME MEDIA COVERAGE OF THE BOSTON MARATHON TRIAL THIS WEEKEND; TO THE EXTENT ANY JUROR HAD ANY EXPOSURE TO THAT MEDIA COVERAGE, DOES ANYONE BELIEVE THAT IT WOULD AFFECT HIS/HER ABILITY TO BE A FAIR AND IMPARTIAL JUROR IN THIS TRIAL? THE COURT POLLS THE JURY. ALL OF THE JURORS ANSWER "NO."

THE PROSECUTION CALLS WITNESSES TO TESTIFY AND THE FOLLOWING EXHIBITS ARE ADMITTED: P-TR-3818, P-TR-3819, P-TR-3420, P-TR-3421, P-TR-3422, P-TR-3423, P-TR-3424, P-TR-3425, P-TR-3428, P-TR-3429, P-TR-3430, P-TR-3431, P-TR-3432, P-TR-3433, P-TR-3434, P-TR-3435, P-TR-3436, P-TR-3437, P-TR-3438, P-TR-3439, P-TR-3440, P-TR-3441, P-TR-3442, P-TR-3444, P-TR-3445, P-TR-3446, P-TR-3447, P-TR-3448, P-TR-3449, P-TR-3541, P-TR-3542, P-TR-3543, P-TR-3554, P-TR-3582, P-TR-3584, P-TR-3822, P-TR-3824, P-TR-3826, P-TR-623, P-TR-624, P-TR-625, P-TR-626, P-TR-627, P-TR-630, P-TR-631, P-TR-631A, P-TR-634, P-TR-643, P-TR-1121, P-TR-2042, P-TR-2043, P-TR-2044, P-TR-2045, P-TR-2046, P-TR-2047, P-TR-2048, P-TR-4561, P-TR-4562, P-TR-2114, P-TR-404, P-TR-4737, AND P-TR-4738.

THE PEOPLE TENDER AS A COURT TRIAL EXHIBIT THE ORIGINAL EXHIBIT P-TR-306, WHICH IS THE BOMB ROBOT VIDEO CONTAINING AUDIO. THE VIDEO IS LABELED C-TR-23. P-TR-306 WAS EXCHANGED LAST WEEK FOR A VIDEO WITHOUT AUDIO, SINCE THE AUDIO WAS NOT PLAYED FOR THE JURY IN THE COURTROOM. THE COURT TELLS THE PARTIES THAT IT WOULD LIKE TO ADDRESS P-TR-999 AT THE END OF THE DAY AFTER THE JURY HAS BEEN EXCUSED.

ATERNOON SESSION:

THE COURT TALKS TO JUROR 557 OUTSIDE THE PRESENCE OF OTHER JURORS. THE JUROR KNOWS THE NEXT WITNESS, INVESTIGATOR HANS "KELLY" A. ELIASSEN, THEY ARE ACQUAINTANCES WHO ATTEND THE SAME PARTY EVERY YEAR ON CHRISTMAS EVE. JUROR 557 DOES NOT BELIEVE THAT ANYTHING ABOUT THEIR RELATIONSHIP WILL AFFECT HER ABILITY TO BE FAIR AND IMPARTIAL IN THIS CASE. NOR DOES SHE BELIEVE THAT THIS ACQUAINTANCESHIP WILL AFFECT HER ASSESSMENT OF THE CREDIBILITY

OF THE WITNESS. THE DEFENSE MAKES A RECORD THAT, SINCE INVESTIGATOR ELIASSEN IS AN AGENT OF THE DISTRICT ATTORNEY'S OFFICE, JUROR 557 SHOULD BE EXCUSED FROM THIS CASE. GIVEN THIS CONTENTION, THE COURT BRINGS JUROR 557 BACK INTO THE COURTROOM AND ASKS IF SHE KNOWS WHO INVESTIGATOR ELIASSEN IS EMPLOYED BY. SHE SAYS THAT SHE KNOWS HE IS EMPLOYED BY SOME LAW ENFORCEMENT AGENCY. THE PEOPLE OBJECT TO JUROR 557 BEING RELEASED BECAUSE THE WITNESS IS ONLY BEING CALLED FOR THE LIMITED PURPOSE OF LAYING THE FOUNDATION FOR THE NEXT EXHIBIT AT THIS TIME. THE DEFENSE HAS NO OBJECTION TO STIPULATING TO THE ADMITTANCE OF P-TR-1077, AND THE PEOPLE NO LONGER NEED TO CALL THE WITNESS AT THIS TIME. THEREFORE, THE REQUEST BY THE DEFENSE TO EXCUSE THE JUROR IS RENDERED MOOT. THE DEFENSE NOTIFIES THE COURT THAT THIS MAY NOT COMPLETELY TAKE CARE OF THE ISSUE BECAUSE INVESTIGATOR ELIASSEN IS LIKELY TO TESTIFY LATER. INVESTIGATOR ELIASSEN INTERVIEWED ONE OF THE COURT-APPOINTED SANITY EXPERTS IN THIS CASE, AND THE EXPERT AND THE DEFENSE MAY DISPUTE THE ACCURACY OF INVESTIGATOR ELIASSEN'S REPORT. THE COURT INSTRUCTS THE PARTIES THAT, IF EITHER PARTY WISHES TO CALL INVESTIGATOR ELIASSEN OR REFER TO HIM OR HIS REPORT, REFERENCE TO HIS EMPLOYER MUST BE GENERAL, SUCH AS "LAW ENFORCEMENT" OR "LAW ENFORCEMENT AGENCY." ADDITIONALLY, THE PARTIES MUST FIRST GIVE NOTICE TO THE COURT OUTSIDE THE PRESENCE OF THE JURY. THE PROSECUTION CALLS WITNESSES TO TESTIFY AND THE FOLLOWING EXHIBITS ARE ADMITTED: P-TR-1077, P-TR-1090A, P-TR-1169, P-TR-2049, P-TR-2050, P-TR-2051, P-TR-2052, P-TR-2053, P-TR-2055, P-TR-2056, P-TR-2057, P-TR-2060, P-TR-2061, P-TR-2062, P-TR-2103, AND P-TR-1212.

THE PEOPLE TENDER A REDACTED COPY OF P-TR-1212, WHICH WAS ADMITTED THIS AFTERNOON ON THE CONDITION THAT IT BE REDACTED. THE COURT ASKS THE PARTIES TO ADDRESS EXHIBIT P-TR-999, A SURVEILLANCE VIDEO OF THE AMBULANCE BAY AND THE AREA IMMEDIATELY INSIDE THE ENTRANCE TO UNIVERSITY HOSPITAL. THE COURT WATCHED THE VIDEO OVER THE WEEKEND AS REQUESTED. AFTER ARGUMENT, THE COURT TAKES THE MATTER UNDER ADVISEMENT. P-TR-1090B WAS NOT ADMITTED TODAY AND WILL BE RETAINED BY THE PEOPLE. THE PEOPLE MAY ATTEMPT TO ESTABLISH ADDITIONAL FOUNDATION FOR THE ADMISSION OF THIS EXHIBIT THROUGH ANOTHER WITNESS.
/JRZ

5/19/2015 Minute Order (print)

Event ID: 000803 E-Filed: N

JURY TRIAL DAY 70

MAY 19, 2015

JUDGE SAMOUR

REPORTER: TROYANEK ALL DAY

DEFENDANT APPEARS IN CUSTODY WITH HIS ATTORNEYS TAMARA BRADY, DAN KING, REBEKKA HIGGS, KATHERINE SPENGLER, AND KRISTEN NELSON. THE PEOPLE ARE REPRESENTED BY GEORGE BRAUCHLER, JACOB EDSON, KAREN PEARSON, RICH ORMAN, AND LISA TEESCH MAGUIRE.

MORNING SESSION:

THE PEOPLE TENDER REJECTED EXHIBIT P-TR-1113 TO THE COURT TO BE LABELED AS A COURT EXHIBIT, IT IS LABELED C-TR-24. THE PEOPLE ALSO TENDER AN UNREDACTED VERSION OF P-TR-1212 AS COURT EXHIBIT C-TR-25. AS THE FIRST WITNESS IS CALLED, JUROR 267 SUBMITS A NOTE INDICATING THAT SHE KNOWS THE WITNESS. JUROR 267 IS QUESTIONED OUTSIDE THE PRESENCE OF THE OTHER JURORS ABOUT HER KNOWLEDGE OF THE WITNESS. SHE INDICATES THAT THE WITNESS WORKED AS AN OFFICER AT THE SCHOOL WHERE JUROR 267 WORKS. NO ACTION IS REQUESTED AND NONE IS TAKEN.

THE PROSECUTION CALLS WITNESSES TO TESTIFY AND THE FOLLOWING EXHIBITS ARE ADMITTED: P-TR-19, P-TR-20, P-TR-21, P-TR-22, P-TR-23, P-TR-25, P-TR-30, P-TR-96, P-TR-97, P-TR-98, P-TR-99, P-TR-100, P-TR-101, P-TR-102, P-TR-103, P-TR-104, P-TR-105, P-TR-106, P-TR-109, P-TR-110, P-TR-111, P-TR-112, P-TR-113, P-TR-114, P-TR-116, P-TR-117, P-TR-118, P-TR-119, P-TR-120, P-TR-121, P-TR-122, P-TR-123, P-TR-126, P-TR-127, P-TR-128, P-TR-130, P-TR-131, P-TR-132, P-TR-133, P-TR-134, P-TR-135, P-TR-136, P-TR-137, P-TR-139, P-TR-140, P-TR-141, P-TR-142, P-TR-143, P-TR-151, P-TR-152, P-TR-154, P-TR-326, P-TR-998, P-TR-1133, P-TR-1148, P-TR-2019, P-TR-2020, P-TR-2670, P-TR-2671, P-TR-2672, P-TR-2673, P-TR-2678, P-TR-2679, P-TR-2681, P-TR-2687, P-TR-2688, P-TR-2689, AND P-TR-2693.

THE COURT MAKES A FURTHER RECORD REGARDING JUROR 557'S RELATIONSHIP WITH INVESTIGATOR HANS "KELLY" ELIASSEN. THE COURT PROPOSES THAT, TO THE EXTENT ANY EXPERT WITNESS OR OTHER WITNESS WAS INTERVIEWED BY INVESTIGATOR ELIASSEN, THE WITNESS SHOULD REFRAIN FROM MENTIONING WHO THE INVESTIGATOR IS EMPLOYED BY. DEFENSE COUNSEL DO NOT BELIEVE THE PROPOSED COURSE OF ACTION WILL BE WORKABLE BECAUSE THEY BELIEVE THEY WILL LIKELY NEED TO ATTACK THE CREDIBILITY OF INVESTIGATOR ELIASSEN, AND THEY WOULD LIKE TO BE ABLE TO POINT OUT THAT HE WORKS FOR THE DA'S OFFICE. THE COURT IS NOT CONVINCED THAT THE PROPOSED COURSE OF ACTION WILL NOT BE WORKABLE, BUT IT DEFERS RULING ON THE ISSUE AT THIS TIME BECAUSE FOR NOW IT HAS BEEN RENDERED MOOT (SEE MINUTE ORDER FROM YESTERDAY). THE DEFENSE MAY RENEW ITS REQUEST WITH RESPECT TO EXCUSING JUROR 557 OUTSIDE THE PRESENCE OF THE JURY. THE PEOPLE ARE NO LONGER SEEKING TO INTRODUCE EXHIBIT P-TR-1090B, WHICH THE PROSECUTION ATTEMPTED TO INTRODUCE YESTERDAY. AT THE PEOPLE'S REQUEST, THE RECORDS THAT ARE INCLUDED IN THAT EXHIBIT ARE LABELED AS COURT EXHIBIT C-TR-26.

AFTERNOON SESSION:

THE PROSECUTION CALLS WITNESSES TO TESTIFY AND THE FOLLOWING EXHIBITS ARE ADMITTED: P-TR-368, P-TR-372, P-TR-373, P-TR-374, P-TR-375, P-TR-430, P-TR-431, P-TR-432, P-TR-433, P-TR-437, P-TR-440, P-TR-441, P-TR-442, P-TR-446, P-TR-447, P-TR-448, P-TR-449, P-TR-534, P-TR-915, P-TR-916, P-TR-917, P-TR-1078A, P-TR-1078B, P-TR-1085, P-TR-1139, AND P-TR-1140.

THE PEOPLE TENDER REJECTED EXHIBITS TO BE LABELED AS A COURT EXHIBITS: P-TR-439 IS MARKED AS COURT EXHIBIT C-TR-27, P-TR-438 IS MARKED AS COURT EXHIBIT C-TR-28, AND P-TR-435 IS MARKED AS COURT EXHIBIT C-TR-29. THE COURT HAS CONSIDERED THE PARTIES ARGUMENTS WITH RESPECT TO P-TR-999. FOR THE REASONS STATED ON THE RECORD, THE COURT SUSTAINS THE DEFENSE'S OBJECTION TO THE EXHIBIT UNDER RULES 401, 402, AND 403. A COPY OF P-TR-999 IS MARKED AS COURT EXHIBIT C-TR-30.

THE PEOPLE INFORM THE COURT THAT COUNSEL FOR THE UNIVERSITY OF COLORADO WILL APPEAR TOMORROW TO PRODUCE EMAILS THAT HAVE PREVIOUSLY ONLY BEEN PROVIDED TO THE PROSECUTION IN REDACTED FORM. THE PEOPLE BELIEVE ANY PRIVILEGE WITH RESPECT TO THOSE EMAILS HAS BEEN WAIVED AS A RESULT OF THE DEFENDANT'S SUBSEQUENT NOT GUILTY BY REASON OF INSANITY PLEA, AND ASK THE COURT TO CONDUCT AN IN CAMERA REVIEW OF THE EMAILS. THESE EMAILS WERE NOT INCLUDED IN THE DOCUMENTS THE COURT REVIEWED IN CAMERA LAST WEEK. THE COURT GIVES THE DEFENSE UNTIL TOMORROW MORNING TO CONSIDER ITS POSITION ON THE PROSECUTION'S REQUEST.

/AG

5/20/2015 Notice Filed

Event ID: 000802 E-Filed: N

NOTICE OF REBUTTAL WITNESS (P-125) SUPPRESSED ENVELOPE #212 FILED BY THE DISTRICT ATTORNEY'S OFFICE STD 201 5 20 15 /LKO

5/20/2015 Minute Order (print)

Event ID: 000805 E-Filed: N

JURY TRIAL DAY 71

MAY 20, 2015

JUDGE SAMOUR

REPORTER: CARLIN ALL DAY

DEFENDANT APPEARS IN CUSTODY WITH HIS ATTORNEYS TAMARA BRADY, DAN KING, REBEKKA HIGGS, KATHERINE SPENGLER, AND KRISTEN NELSON. THE PEOPLE ARE REPRESENTED BY GEORGE BRAUCHLER, JACOB EDSON, KAREN PEARSON, RICH ORMAN, AND LISA TEESCH MAGUIRE.

MORNING SESSION:

THE COURT ASKS THE PARTIES WHETHER THEY HAVE RETURNED ALL THE USBS CONTAINING JUROR QUESTIONNAIRES TO THE COURT AND DESTROYED ALL ELECTRONIC COPIES OF THE JUROR QUESTIONNAIRES. THE PEOPLE CONFIRM THEY HAVE DONE SO. THE DEFENSE ATTORNEYS BELIEVE THEY HAVE AND WILL CONFIRM WITH THEIR STAFF. THE PEOPLE MAKE A RECORD THAT MR. ZWECK-BRONNER FROM THE UNIVERSITY OF COLORADO IS HERE TO PROVIDE DOCUMENTS PREVIOUSLY SUBJECT TO A SUBPOENA DUCES TECUM. THE DOCUMENTS ARE EMAILS THAT WERE REDACTED WHEN INITIALLY DISCLOSED TO THE PEOPLE. THE PEOPLE ASK THE COURT TO CONDUCT AN IN CAMERA REVIEW OF THE DOCUMENTS DUE TO THE SUBSEQUENT NOT GUILTY BY REASON OF INSANITY PLEA ENTERED BY THE DEFENDANT, WHICH MAY ENTITLE THE PEOPLE TO UNREDACTED COPIES OF THOSE EMAILS. THE DEFENSE MAINTAINS ITS PREVIOUS OBJECTIONS TO THE DOCUMENTS, BUT THE DEFENSE DOES NOT OBJECT TO AN IN CAMERA REVIEW OF THE DOCUMENTS. MR. ZWECK-BRONNER TENDERS THE DOCUMENTS TO THE COURT FOR AN IN CAMERA REVIEW.

THE PROSECUTION CALLS WITNESSES TO TESTIFY AND THE FOLLOWING EXHIBITS ARE ADMITTED: P-TR-1092, P-TR-1214, P-TR-4556, P-TR-4686, AND P-TR-308.

AFTERNOON SESSION:

THE PROSECUTION CALLS WITNESSES TO TESTIFY AND THE FOLLOWING EXHIBITS ARE ADMITTED: P-TR-3601, P-TR-3622, P-TR-3632, P-TR-3640, P-TR-3643, P-TR-3645, P-TR-3649, P-TR-3702, P-TR-3734, P-TR-3736, P-TR-3741, P-TR-3748, P-TR-3749, P-TR-4848, P-TR-4849, P-TR-4850, P-TR-4743, P-TR-4744, P-TR-4745, P-TR-4746, P-TR-4747, P-TR-4748, P-TR-4749, P-TR-4750, P-TR-4751, P-TR-4752, P-TR-4753, P-TR-4754, P-TR-4755, P-TR-4756, P-TR-4757, P-TR-4758, P-TR-4759, P-TR-4760, P-TR-4761, P-TR-4762, P-TR-4763, P-TR-4764, P-TR-4765, P-TR-4766, P-TR-4767, P-TR-4768, P-TR-4769, P-TR-4770, P-TR-4771, P-TR-4772, P-TR-4773, P-TR-4774, P-TR-4775, P-TR-4776, P-TR-4777, P-TR-4778, P-TR-4779, P-TR-4780, P-TR-4781, P-TR-4782, P-TR-4783, P-TR-4784, P-TR-4785, P-TR-4786, P-TR-4787, P-TR-4788, P-TR-4789, P-TR-4790, P-TR-4791, P-TR-4792, P-TR-4793, P-TR-4794, P-TR-4795, P-TR-4796, P-TR-4797, P-TR-4798, P-TR-4799, P-TR-4800, P-TR-4801, P-TR-4802, P-TR-4803, P-TR-4804, P-TR-4805, P-TR-4806, P-TR-4807, P-TR-4808, P-TR-4809, P-TR-4810, P-TR-4811, P-TR-4812, P-TR-4813, P-TR-4814, P-TR-4815, P-TR-4816, P-TR-4817, P-TR-4818, P-TR-4819, P-TR-4820, P-TR-4821, P-TR-4822, P-TR-4823, P-TR-4824, P-TR-4825, P-TR-1217, P-TR-1218A, P-TR-1218B, P-TR-1116, P-TR-4711, P-TR-1106, AND P-TR-1110.

THE COURT ASKS THE PARTIES WHETHER THEIR PRESENTATION OF EVIDENCE REMAINS ON SCHEDULE; THE PEOPLE CONFIRM THAT THEY ARE STILL ON SCHEDULE TO FINISH THEIR CASE IN TWO MONTHS. THE DEFENSE CONFIRMS FOR THE COURT THAT ALL USBS CONTAINING JUROR QUESTIONNAIRES HAVE PREVIOUSLY BEEN RETURNED TO THE COURT AND THE FEW REMAINING ELECTRONIC JUROR QUESTIONNAIRES REMAINING IN THEIR POSSESSION WERE DESTROYED AT 4 P.M. TODAY.

THE COURT MAKES A FURTHER RECORD REGARDING MS. SPENGLER'S OBJECTION TO THE USE OF DEMONSTRATIVE EXHIBIT P-TR-1087, THE MODEL OF THE THEATRE. EARLIER TODAY, THE DEFENSE ARGUED AT THE BENCH THAT THE MARKINGS OF IMPACTS ON SEATS IN THE THEATER LOOK LIKE TARGETS ON THE SEATS. FOR THE REASONS STATED ON THE RECORD, THE COURT OVERRULES THE DEFENSE'S OBJECTION TO THE USE OF THE MODEL OF THE THEATER AS WITNESSES TESTIFY. THE DEFENSE RAISES AN ADDITIONAL OBJECTION TO THE MODEL BECAUSE CSI PETTOLINA MARKED A BULLET IMPACT ON A SEAT IN THE FIRST ROW THAT INVESTIGATORS LATER LEARNED WAS A TEAR THAT WAS NOT CAUSED BY A BULLET. THE COURT ORDERS THE PEOPLE TO MODIFY THE MODEL TO REMOVE THE MARK OFFICER PETTOLINA PUT ON THAT SEAT. THE FIRST PAGE OF P-TR-1217, WHICH WAS REMOVED BEFORE IT WAS ADMITTED, IS NOW MARKED AS A COURT EXHIBIT AND LABELED C-TR-31. THE DEFENSE CONFIRMS THAT ALL USBS WERE RETURNED TO THE COURT. IT ALSO INDICATES THAT THE LAST REMAINING COPIES OF QUESTIONNAIRES WERE BEING DESTROYED THIS AFTERNOON. IT BELIEVES THAT THEY HAVE BEEN DESTROYED BY NOW. /AG

5/21/2015 Order

Event ID: 000804 E-Filed: N

THE COURT ENTERS ORDER SUPPRESSING PEOPLE'S NOTICE OF REBUTTAL WITNESS (P-125). COPIES SENT VIA EMAIL TO KAREN PEARSON, RICH ORMAN, JACOB EDSON, LISA TEESCH-MAGUIRE, GEORGE BRAUCHLER, SHERILYN KOSLOSKY, RHONDA CRANDALL, DANIEL KING, TAMARA BRADY, KRISTEN NELSON, AND CHRISTINA TAYLOR.

End of Case: 2012 CR 201522