

4/27/2015 Minute Order (print)
JURY TRIAL - DAY 56
APRIL 27, 2015

Event ID: 000777 E-Filed: N

JUDGE SAMOUR

REPORTERS: 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.

THE PARTIES HAVE REVIEWED THE NOTEBOOKS THAT WILL BE GIVEN TO JURORS AND HAVE NO OBJECTIONS. THE COURT GRANTS THE PEOPLE'S REQUEST TO MAKE A COPY OF THE NOTEBOOK A COURT EXHIBIT. THE COPY OF THE NOTEBOOK WILL BE LABELED EXHIBIT C-TR-7.

THE COURT REMINDS THE PARTIES TO SUBMIT ELECTRONIC COPIES OF ALL EXHIBITS WITHIN 14 DAYS OF THE END OF TRIAL PURSUANT TO ORDER C-32.

THE COURT REVIEWS PROCEDURES WITH THE PARTIES FOR MICROPHONES AND EXHIBITS. THE COURT GRANTS THE PEOPLE'S REQUEST FOR THE FOLLOWING ADVISORY WITNESSES TO BE PRESENT DURING TRIAL: DETECTIVE APPEL, SERGEANT FYLES, SPECIAL AGENT PHELPS, INVESTIGATORS HEYLIN AND ELIASSEN. THE DEFENSE'S ADVISORY WITNESSES ARE MR. GONGLACH, MR. COHEN, MR. BISHOP, MS. CRANDALL, MS. WHORTON, AND MS. KOSLOSKY.

THE COURT REVIEWS TRIAL LOGISTICS AND PROCEDURES. THE COURT GIVES THE PARTIES TWO HOURS EACH FOR OPENING STATEMENTS.

THE COURT ADDRESSES MOTION D-288, WHICH WAS FILED BY THE DEFENSE LAST WEEK AND WAS STUCK BY THE COURT. THE COURT DENIES THE DEFENSE'S REQUEST TO RE-FILE A WRITTEN MOTION AND SETS THE MATTER FOR ORAL ARGUMENT AT 3:00 P.M. ON THURSDAY, APRIL 30TH.

THE DEFENSE OBJECTS TO THE PEOPLE'S REQUEST FOR RECORDS FROM THE SHERIFF'S OFFICE REGARDING THE DEFENDANT'S VISITATION LOGS FROM NON-LEGAL PROFESSIONALS.

ALTHOUGH THE PARTIES DISCUSSED THE REQUEST PRIOR TO THIS MORNING, THE DEFENSE WAS UNAWARE OF THE SCOPE OF THE REQUEST. THE COURT GIVES THE DEFENSE TIME TO THINK ABOUT THE REQUEST AND WILL HEAR FURTHER ARGUMENT LATER.

IN THE AFTERNOON THE PARTIES MAKE THEIR OPENING STATEMENTS. JURORS ARE RELEASED AT 5:30 P.M. AND ASKED TO RETURN AT 8:15 TOMORROW MORNING. THE PARTIES WILL RETURN AT 8:30 TOMORROW MORNING.

/CMR

4/28/2015 Minute Order (print)
JURY TRIAL - DAY 57
APRIL 28, 2015

Event ID: 000779 E-Filed: N

JUDGE SAMOUR

REPORTERS: 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.

THE PROSECUTION CALLS WITNESSES TO TESTIFY AND THE FOLLOWING EXHIBITS ARE ADMITTED: P-TR-1145, P-TR-4670, P-TR-2117, P-TR-2118, P-TR-4569 (OVER DEFENSE OBJECTION), P-TR-2540 (OVER DEFENSE OBJECTION), P-TR-1194, P-TR-1129, P-TR-2571, P-TR-2572, P-TR-2573, P-TR-2574, P-TR-4726, P-TR-1168, P-TR-1167 (OVER DEFENSE OBJECTION), AND P-TR-1037 (OVER DEFENSE OBJECTION).

AFTER THE MORNING BREAK, THE COURT SUPPLEMENTS THE RECORD IT MADE EARLIER REGARDING THE DEFENDANT'S OBJECTIONS TO EXHIBITS CONTAINING GRAPHIC IMAGES. THE COURT ISSUED A PRELIMINARY RULING IN ORDER D-98-B THAT SUCH PHOTOGRAPHS ARE RELEVANT AND ADMISSIBLE. HOWEVER, THE COURT INDICATED THAT IT COULD NOT ADDRESS CERTAIN CONCERNS IDENTIFIED IN RULE 403, SUCH AS CUMULATIVE OR

WHETHER THERE IS AN ALTERNATIVE PHOTOGRAPH THAT IS LESS GRUESOME. WITHOUT OBJECTION BY THE PEOPLE, THE COURT GRANTS THE DEFENDANT A STANDING OBJECTION TO THE ADMISSION OF ANY GRAPHIC EVIDENCE SO LONG AS IT IS ONE OF THE PHOTOGRAPHS THE COURT ADDRESSED IN ORDER D-98-B AND SO LONG AS THE OBJECTION IS SOLELY BASED ON THE GROUND ADDRESSED IN ORDER D-98-B (THAT ITS PROBATIVE VALUE IS SUBSTANTIALLY OUTWEIGHED BY THE DANGER FOR UNFAIR PREJUDICE UNDER RULE 403 BASED ON THE GRAPHIC NATURE OF THE IMAGE). IF THE DEFENSE BELIEVES AN EXHIBIT IS CUMULATIVE, THAT THERE IS AN ALTERNATIVE PHOTOGRAPH THAT IS LESS GRAPHIC, OR THAT SOME OTHER CONCERN UNDER RULE 403 APPLIES, THEN THE DEFENSE MUST MAKE AN OBJECTION BECAUSE THE COURT HAS NOT YET RULED ON THOSE ISSUES. THE DEFENSE HAS A 403 (CUMULATIVE AND INFLAMMATORY) OBJECTION TO P-TR- 1037, A 911 CALL OFFERED THE PEOPLE. THE COURT LISTENS TO THE CALL OUTSIDE THE PRESENCE OF THE JURY AND THE PARTIES. THE COURT FINDS THE CALL IS PROBATIVE AND ADMISSIBLE AS RELEVANT UNDER RULES 401 AND 402. THE COURT FURTHER FINDS THE PROBATIVE VALUE IS NOT OUTWEIGHED BY DANGER FOR UNFAIR PREJUDICE AND IS ADMISSIBLE UNDER RULE 403.

AFTER LUNCH, THE COURT ADDRESSES TWO HOUSEKEEPING MATTERS. FIRST, JURORS 737 AND 706 HAVE SWITCHED WHERE THEY SIT IN THE JURY BOX, BUT THEIR SEAT NUMBERS REMAIN UNCHANGED. (THIS IS TO ACCOMMODATE JUROR 706). SECOND, THE JUROR QUESTION FORM HAS BEEN AMENDED AND COPIES ARE GIVEN TO THE PARTIES. THE NEW JUROR QUESTION FORM IS LABELED C-TR-8.

AFTER LISTENING TO TWO ADDITIONAL 911 CALLS DURING THE LUNCH BREAK, THE COURT OVERRULES THE DEFENSE'S OBJECTIONS TO P-TR-1036 AND P-TR-1024.

THE PROSECUTION CALLS WITNESSES TO TESTIFY AND THE FOLLOWING EXHIBITS ARE ADMITTED: P-TR-4613, P-TR-4614, P-TR-1147, P-TR-2559, P-TR-2962, P-TR-1154 (OVER DEFENSE OBJECTION), P-TR-2963, P-TR-4592, P-TR-4596, P-TR-4598, P-TR-4599, P-PT-4741, P-TR-1109, P-TR-4731, P-TR-1103, AND P-TR-1036.

THE JURORS ARE EXCUSED AT 4:57 P.M. AND ASKED TO RETURN AT 8:15 A.M. TOMORROW MORNING.

THE PARTIES WILL PROVIDE AUTHORITY TO THE COURT ON THE ADMISSIBILITY OF TESTIMONY RELATED TO A VICTIM WHO WAS PREGNANT AND HAD A MISCARRIAGE AS A RESULT OF THE SHOOTING.

THE FBI MODEL OF THE THEATRE IS MARKED AS P-TR-1087; THIS IS A DEMONSTRATIVE EXHIBIT.

THE PEOPLE MAKE AN ORAL MOTION IN LIMINE REGARDING MS. HIGGS THANKING A FIRST RESPONDER AFTER HE TESTIFIED. THE COURT AGREES THAT HER REMARKS WERE IMPROPER AND GRANTS THE MOTION. /CMR

4/29/2015 Filing Other Event ID: 000774 E-Filed: N
PEOPLE'S SUBMISSION OF UPDATED EVIDENCE LOG SUPPRESSED ENVELOPE #208 /LKO

4/29/2015 Exhibits - Trial/Hearing Event ID: 000775 E-Filed: N
EXHIBITS C-TR-7 AND C-TR-8 FOR TRIAL DATE 4-27-15 AND 4-28-15
SUPPRESSED EXHIBIT ENVELOPE #19 /LKO

4/29/2015 Motion Event ID: 000776 E-Filed: N
MOTION FOR ACCESS TO ALL NON-GRAPHIC IMAGE EXHIBITS THAT HAVE BEEN ADMITTED INTO EVIDENCE AND DISPLAYED IN OPEN COURT WHOSE CONTENTS ARE NOT VISIBLE TO THE PUBLIC OUTSIDE THE COURTROOM 201 FILED BY STEVEN ZANSBERG FOR THE MEDIA - STD 201 4 29 15 /JR

4/29/2015 Minute Order (print)
JURY TRIAL - DAY 58
APRIL 29, 2015

Event ID: 000780 E-Filed: N

JUDGE SAMOUR

REPORTERS: 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.

THE PROSECUTION CALLS WITNESSES TO TESTIFY AND THE FOLLOWING EXHIBITS ARE ADMITTED: P-TR-4740, P-TR-4739, P-TR-1198, P-TR-2592 (OVER DEFENSE OBJECTION), P-TR-4574 (OVER DEFENSE OBJECTION), P-TR-4582, P-TR-2593, P-TR-4668 (OVER DEFENSE OBJECTION), P-TR-4667 (OVER DEFENSE OBJECTION), P-TR-2663 (OVER DEFENSE OBJECTION), P-TR-2662, P-TR-1112, P-TR-4678.

AFTER LUNCH, OUTSIDE THE PRESENCE OF THE JURY, THE COURT ADDRESSES A COUPLE OF HOUSEKEEPING MATTERS. FIRST, THE COURT MAKES A RECORD THAT IT SKIPPED NUMBER 8 WHEN NUMBERING THE JUROR QUESTION FORMS WHICH CONTAIN THE QUESTIONS SUBMITTED BY THE JURY FOR WITNESSES DURING THE TRIAL. AS A RESULT, THERE IS NO JUROR QUESTION FORM 8 AND THE JUROR QUESTION FORM NUMBERS GO FROM 7 TO 9. SECOND, THE COURT ADDRESSES THE MEDIA'S MOTION FOR ACCESS TO ALL NON-GRAPHIC IMAGE EXHIBITS THAT HAVE BEEN ADMITTED INTO EVIDENCE AND PUBLISHED TO THE JURY, WHICH WAS FILED EARLIER TODAY. THE PEOPLE TAKE NO POSITION ON THE MOTION. THE COURT GRANTS THE DEFENSE'S REQUEST FOR TIME TO REVIEW THE MEDIA'S MOTION. THE COURT MAKES A FURTHER RECORD REGARDING OBJECTIONS MADE THIS MORNING TO QUESTIONS RELATED TO THE NATURE, CHARACTER, AND EXTENT OF VICTIMS INJURIES, INCLUDING QUESTIONING RELATED TO MEDICAL TREATMENT NECESSARY FOR THOSE INJURIES. THE COURT ALSO MAKES A FURTHER RECORD REGARDING TESTIMONY BY A WITNESS THAT THE DEFENDANT APPEARED TO BE LOOKING FOR MORE VICTIMS INSIDE THE THEATER. THE DEFENDANT MAKES AN ORAL MOTION IN LIMINE TO PREVENT THE PEOPLE FROM QUESTIONING WITNESSES REGARDING FOLLOW-UP MEDICAL TREATMENT FOR VICTIMS. THE DEFENDANT ALSO MOVES IN LIMINE TO PREVENT THE PEOPLE FROM QUESTIONING WITNESSES REGARDING THEIR MILITARY BACKGROUND AND FAMILIARITY WITH FIREARMS. BOTH MOTIONS ARE DENIED FOR THE REASONS STATED ON THE RECORD. THE PROSECUTION CALLS WITNESSES TO TESTIFY AND THE FOLLOWING EXHIBITS ARE ADMITTED: P-TR-1177, P-TR-2025, P-TR-2024, P-TR-2026, AND P-TR-4729. THE JURORS ARE EXCUSED AT 5:15 P.M. AND ASKED TO RETURN AT 8:15 P.M. TOMORROW MORNING.

/CMR

4/29/2015 Request Filed

Event ID: 000781 E-Filed: N

REQUEST FOR TRANSCRIPT RECEIVED FROM CHRIS TAYLOR, 720-874-8500, CTAYLOR@DA18.

STATE.CO.US, FOR 4-27-15 HEARING DATE. REQUEST RECEIVED BY J. MARTIN.

/JEM

4/30/2015 Order

Event ID: 000778 E-Filed: N

THE COURT ENTERS NOTICE DESIGNATING AS C-198 MEDIA MOTION FOR ACCESS TO ALL NON-GRAPHIC IMAGE EXHIBITS THAT HAVE BEEN ADMITTED INTO EVIDENCE AND DISPLAYED IN OPEN COURT WHOSE CONTENTS ARE NOT VISIBLE TO THE PUBLIC OUTSIDE OF COURTROOM 201. 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, CHRISTINA TAYLOR, AND STEVEN ZANSBERG.

/JRZ

4/30/2015 Minute Order (print)
JURY TRIAL DAY 59
APRIL 30, 2015

Event ID: 000782 E-Filed: N

JUDGE SAMOUR

REPORTERS: 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.

THE DEFENSE HAS REVIEWED THE PLEADING FROM THE MEDIA REQUESTING COPIES OF EXHIBITS. OVER THE DEFENSE'S OBJECTION, THE COURT GRANTS THE MEDIA'S MOTION C-198 TO THE EXTENT IT REQUESTS COPIES OF EXHIBITS THAT HAVE BEEN ADMITTED THAT CANNOT BE SEEN FROM THE CCTV CAMERA (I.E., EXHIBITS THAT CONTAIN WRITING). THE COURT DENIES THE MEDIA'S MOTION C-198 TO THE EXTENT IT REQUESTS THE COURT TO RECONSIDER THE RULING IN C-193 OR TO THE EXTENT IT REQUESTS ACCESS TO ANY OTHER EXHIBITS.

THE PROSECUTION CALLS WITNESSES TO TESTIFY AND THE FOLLOWING EXHIBITS ARE ADMITTED: P-TR-2588, P-TR-2099, P-TR-2098, P-TR-2097, P-TR-2100, P-TR-2068, P-TR-2065, P-TR-2064, P-TR-2066, P-TR-2067, P-TR-2076, P-TR-2078, P-TR-2077, P-TR-2079, P-TR-2080, P-TR-2081, P-TR-2082, P-TR-2083, P-TR-2084, P-TR-2085, P-TR-2087, P-TR-2088, P-TR-2089, P-TR-2090, P-TR-2091, P-TR-2092, P-TR-2588A, P-TR-400, AND P-TR-401.

THE JURY IS EXCUSED FOR THE DAY AT 3:30 P.M. AND ASKED TO RETURN ON MONDAY, MAY 4, 2015 AT 8:15 A.M.

THE PARTIES MAKE FURTHER ORAL ARGUMENT REGARDING THREE ISSUES. FIRST, THE PARTIES ADDRESS THE VICTIM IMPACT VIDEOS THAT WERE ADDRESSED IN MOTION D-288, WHICH WAS PREVIOUSLY STRUCK BY THE COURT. THE PEOPLE HAVE AGREED TO MAKE SOME OF THE REDACTIONS REQUESTED BY THE DEFENSE AND THE COURT GRANTS THE PEOPLES REQUEST TO TENDER REDACTED COPIES OF VIDEOS A THROUGH H BY THE END OF THE DAY TOMORROW; THE PARTIES PROVIDE AUTHORITY FOR THE COURT. THE COURT TAKES THE MATTER UNDER ADVISEMENT.

SECOND, THE DEFENSE ADDRESSES THE PEOPLE'S REQUEST FOR THE JAIL RECORDS LISTING NON-PROFESSIONAL VISITORS TO THE DEFENDANT. THE COURT TAKES THE MATTER UNDER ADVISEMENT.

THIRD, THE PARTIES ADDRESS THE ADMISSIBILITY OF INFORMATION REGARDING A PARTICULAR VICTIM'S LOSS OF HER PREGNANCY AS A RESULT OF THE SHOOTING. THE COURT OVERRULES THE DEFENSE'S OBJECTION TO THIS EVIDENCE. THE PEOPLE MAY NOT PRESENT EVIDENCE OF OTHER VICTIMS' PREGNANCIES WITHOUT FIRST PROVIDING AN OFFER OF PROOF OUTSIDE THE PRESENCE OF THE JURY SO THAT THE COURT MAY CONSIDER ITS ADMISSIBILITY UNDER RULES 401, 402, AND 403. /AG

End of Case: 2012 CR 201522