

6/11/2015 Minute Order (print)
JURY TRIAL - DAY 85
JUNE 11, 2015

Event ID: 000831 E-Filed: N

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 COURT HAS RECEIVED A SECOND NOTE FROM JUROR 901 REGARDING THE EMERGENCY SITUATION YESTERDAY INVOLVING HER BROTHER IN LAW. AT THE REQUEST OF THE DEFENSE, THE COURT SPEAKS WITH JUROR 901 OUTSIDE THE PRESENCE OF THE OTHER MEMBERS OF THE JURY. AFTER THE DISCUSSION WITH JUROR 901, THE PARTIES DO NOT REQUEST ANY FURTHER ACTION BY THE COURT. THE COURT INFORMS THE PARTIES THAT IT HAS REVIEWED THE CRIME SCENE VIDEO (EXHIBIT P-TR-1000) AGAIN IN LIGHT OF THE COMMENTS MADE BY THE DEFENSE ON THE RECORD YESTERDAY. FOR THE REASONS ARTICULATED ON THE RECORD AND IN AMENDED ORDER D-98-B, THE COURT FINDS THAT THE VIDEO IS RELEVANT AND ADMISSIBLE UNDER CRE 401 AND 402, AND THAT THE PROBATIVE VALUE OF THE VIDEO IS NOT SUBSTANTIALLY OUTWEIGHED BY ANY OF THE CONCERNS LISTED IN RULE 403. A WITNESS TESTIFIES. WITH THE AGREEMENT OF THE PARTIES AND CONSISTENT WITH A PREVIOUS LIMITING INSTRUCTION GIVEN REGARDING DETACHED-FROM-REALITY QUESTIONS POSED TO LAY WITNESSES, THE COURT INSTRUCTS THE JURY THAT THE WITNESS HAS NOT BEEN QUALIFIED TO GIVE OPINION TESTIMONY RELATED TO THE DEFENDANT'S SANITY; RATHER, HER TESTIMONY IS LIMITED TO HER OBSERVATIONS OF THE DEFENDANT'S Demeanor OR BEHAVIOR. THE INSTRUCTION IS PROVIDED AFTER THE DIRECT EXAMINATION, BUT BEFORE THE CROSS-EXAMINATION. WITNESSES TESTIFY AND THE FOLLOWING EXHIBITS ARE ADMITTED: D-TR-58, P-TR-1142, P-TR-1127, P-TR-2119, P-TR-4537, P-TR-2120, P-TR-2121, P-TR-4532, P-TR-4533, P-TR-4534, P-TR-4535, P-TR-4536, P-TR-1138, P-TR-2115, P-TR-2116, P-TR-1170, P-TR-2123, P-TR-2124, P-TR-2125, AND P-TR-2126.

AFTERNOON SESSION:

AFTER LUNCH, THE COURT ADDRESSES A QUESTION FROM JUROR 640 REGARDING A TRIP THE JUROR HAS PLANNED IN SEPTEMBER. THE COURT LABELS THE JUROR'S QUESTION AS C-TR-55. WITHOUT OBJECTION, THE COURT TELLS THE JURY THAT THE PARTIES ANTICIPATE THAT THE TRIAL WILL BE DONE BY SEPTEMBER 16. WITNESSES TESTIFY AND THE FOLLOWING EXHIBITS ARE ADMITTED: P-TR-1244, P-TR-2003, P-TR-2005, P-TR-4621, P-TR-2004, P-TR-4617, P-TR-4622, P-TR-1141, P-TR-2575, P-TR-2576, P-TR-4525, P-TR-710, P-TR-2101, P-TR-2072, P-TR-2073, P-TR-2096, P-TR-1000, P-TR-1132, P-TR-4547, P-TR-4549, P-TR-4948, P-TR-1130, P-TR-2014, P-TR-2015, AND P-TR-1245.

THE DEFENSE INFORMS THE COURT THAT THE PARTIES HAVE AGREED TO SOME REDACTIONS MADE TO P-TR-1127 (WHICH WAS RECENTLY INTRODUCED). THOSE REDACTIONS WILL BE MADE BY THE PARTIES ON THE ADMITTED EXHIBIT.

BASED ON THE NATURE OF THE INCIDENT WITH JUROR 901'S FAMILY MEMBER EARLY YESTERDAY MORNING, THE DEFENSE NOW ASKS THE COURT TO RELEASE JUROR 901. ADDITIONALLY, THE DEFENSE ASKS THE COURT TO QUESTION JUROR 901 FURTHER ABOUT WHAT SHE MAY HAVE SAID TO OTHER JURORS ABOUT THE INCIDENT AND WHICH JURORS WERE PRESENT WHEN SHE DISCUSSED THE INCIDENT. THE PEOPLE DO NOT OBJECT TO JUROR 901 BEING RELEASED. THE COURT ASKS JUROR 901 SOME ADDITIONAL QUESTIONS ABOUT THE INCIDENT OUTSIDE THE PRESENCE OF THE OTHER JURORS. THE COURT TAKES UNDER ADVISEMENT THE REQUEST TO RELEASE JUROR 901. THE COURT MAKES A RECORD THAT IT HAS BEEN WATCHING JUROR 378 THROUGHOUT THE

TRIAL AFTER THE PRIOR ONE-ON-ONE CONVERSATION WITH HER. SHE HAS BEEN ALERT AND VERY ATTENTIVE. THE PEOPLE INFORM THE COURT THAT THEY ARE STILL ON TRACK TO FINISH THEIR CASE ON JUNE 19 OR 23. THE PEOPLE ADVISE THE COURT THAT A WITNESS FROM MICROSOFT WILL BE TESTIFYING ON MONDAY TO LAY THE FOUNDATION FOR HOTMAIL EMAILS WHICH THE PEOPLE WILL ASK TO BE ADMITTED LATER NEXT WEEK. CONSISTENT WITH PREVIOUS ORDERS, THE PEOPLE REPRESENT THAT THEY ARE NOT SEEKING TO INTRODUCE ALL OF THE EMAILS AVAILABLE. RATHER, THEY ARE ONLY INTENDING TO INTRODUCE THE EMAILS THEY BELIEVE ARE RELEVANT. THE PEOPLE GIVE THE DEFENSE A COPY OF THE EMAILS THIS AFTERNOON IN COURT AND APOLOGIZE FOR THE LATENESS OF THE COPY OF THE EMAILS. THE COURT ASKS THE DEFENSE TO REVIEW THE EMAILS AND TO INFORM THE COURT ON MONDAY WHICH EMAILS IN THE EXHIBIT, IF ANY, IT OBJECTS TO. REJECTED EXHIBITS P-TR-2093 AND P-TR-4789 ARE RELABELED AS COURT EXHIBITS C-TR-58 AND C-TR-59 RESPECTIVELY. THE UNREDACTED VERSION OF P-TR-1127 THAT WAS ORIGINALLY ADMITTED IS RELABELED AS C-TR-57. THE COURT FOLLOWS UP WITH THE PROSECUTION ABOUT EXHIBIT P-TR-800, WHICH WAS PREVIOUSLY PUBLISHED TO THE JURY, EVEN THOUGH IT WAS NOT ADMITTED. MR. ORMAN INDICATES THAT HE WAS UNABLE TO LAY THE FOUNDATION FOR THE EXHIBIT THROUGH THE LAST WITNESS WHO TESTIFIED TODAY, AND AT THIS POINT THE PEOPLE DO NOT KNOW IF THEY WILL HAVE ANOTHER WITNESS WHO CAN LAY THE FOUNDATION. FOR NOW, THE EXHIBIT REMAINS EXCLUDED. /CMR

6/12/2015 Order Event ID: 000829 E-Filed: N
THE COURT ENTERS ORDER REGARDING RECORD MADE DURING BENCH CONFERENCE AFTER THE LUNCH HOUR ON JUNE 11, 2015 (C-205). 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. SUPPRESSED ENVELOPE #216 /AG

6/12/2015 Order Event ID: 000830 E-Filed: N
THE COURT ENTERS ORDER SUPPLEMENTING JUNE 3, 2015 RECORD ON SECOND MOTION FOR A MISTRIAL (C-206). 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. /AG

6/15/2015 Minute Order (print) Event ID: 000839 E-Filed: N
JURY TRIAL - DAY 86
JUNE 15, 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.
OUTSIDE THE PRESENCE OF THE JURY, THE COURT ADDRESSES TWO EXHIBITS THAT IT RESERVED RULING ON LAST WEEK: P-TR-2074 AND P-TR-2075. THE COURT OVERRULES THE DEFENSE'S CUMULATIVE OBJECTION TO P-TR-2074. THE DEFENSE'S CUMULATIVE OBJECTION TO P-TR-2075 IS SUSTAINED. REJECTED EXHIBIT P-TR-2075 IS MARKED AS COURT EXHIBIT C-TR-60. THE COURT ASKS THE PARTIES IF THEY WANT THE COURT TO GIVE A LIMITING INSTRUCTION REGARDING REDACTIONS TO EXHIBIT P-TR-1227 AND PROVIDES THE PARTIES WITH A PROPOSED LIMITING INSTRUCTION REGARDING REDACTIONS. THE DEFENSE WILL THINK ABOUT THE COURT'S PROPOSED INSTRUCTION AND WILL LET THE COURT KNOW ITS POSITION BEFORE THE

EXHIBIT IS OFFERED. THE PEOPLE INFORM THE COURT THAT THERE WILL BE A WITNESS HERE TOMORROW MORNING THROUGH WHOM THEY WILL ATTEMPT TO ADMIT P-TR-800, WHICH WAS INADVERTENTLY PUBLISHED TO THE JURY WITHOUT BEING ADMITTED. A RECORD IS MADE AT THE BENCH REGARDING ORDER C-205, WHICH WAS SUPPRESSED. WITHOUT OBJECTION FROM THE PEOPLE, THE COURT GRANTS THE DEFENSE'S REQUEST TO RELEASE JUROR 901. AT THE JUROR'S REQUEST, THE COURT SPEAKS TO JUROR 155 OUTSIDE THE PRESENCE OF THE OTHER JURORS. THE JUROR TELLS THE COURT THAT LAST FRIDAY HE WAS AT A LOCATION MENTIONED IN THE TRIAL FOR A DOCTOR'S APPOINTMENT AND HE HAS ANOTHER APPOINTMENT THERE IN FOUR WEEKS. THE JUROR DID NOT DO ANY INVESTIGATION OR MAKE ANY OBSERVATIONS RELATED TO THIS CASE WHILE HE WAS AT THE LOCATION. NO ACTION IS REQUESTED OR TAKEN. THE COURT INSTRUCTS JUROR 155 THAT HE MAY NOT DO ANY INVESTIGATION RELATED TO THIS CASE WHEN HE ATTENDS HIS APPOINTMENT FOUR WEEKS FROM NOW. WITNESSES TESTIFY AND THE FOLLOWING EXHIBITS ARE ADMITTED: P-TR-1151, P-TR-2541, P-TR-2543, P-TR-4587, P-TR-4591, P-TR-1115, P-TR-2012, P-TR-2013, AND P-TR-650. THE PARTIES PRESENT ARGUMENT REGARDING ANTICIPATED EXHIBIT P-TR-1089, WHICH IS THE SUBJECT OF ORDER D-275A, A VIDEO OF THE DEFENDANT IN THE JAIL. THE PARTIES ALSO PRESENT ARGUMENT REGARDING ANTICIPATED EXHIBIT P-TR-1088, SOME JAIL RECORDS RELATED TO THE DEFENDANT. EXHIBIT P-TR-1088 IS SUBMITTED TO THE COURT FOR ITS REVIEW DURING THE LUNCH BREAK. AFTER LUNCH, THE DEFENSE ASKS THE COURT TO READ A LIMITING INSTRUCTION TO THE JURY REGARDING REDACTIONS TO P-TR-1227. SPECIFICALLY, THE DEFENSE ASKS THE COURT TO READ ONLY THE FIRST TWO SENTENCES OF THE PROPOSED INSTRUCTION THE COURT PROVIDED TO THE PARTIES THIS MORNING. THAT REQUEST IS GRANTED WITHOUT OBJECTION. AT THE REQUEST OF THE DEFENSE, AND WITHOUT OBJECTION FROM THE PEOPLE, THE COURT STRIKES THE TESTIMONY BEFORE LUNCH REGARDING EXHIBIT P-TR-532, WHICH WAS NOT OFFERED AS EVIDENCE THIS MORNING. THE PEOPLE WILL SEEK TO ADMIT P-TR-532 THROUGH A DIFFERENT WITNESS. FOR THE REASONS STATED ON THE RECORD, THE COURT OVERRULES THE DEFENDANT'S OBJECTION TO P-TR-1089. THE PEOPLE AGREE NOT TO ELICIT ANY TESTIMONY THAT THE VIDEO WAS BEING RETAINED FOR OFFICER SAFETY PURPOSES. FOR THE REASONS STATED ON THE RECORD, THE COURT ALSO DENIES THE DEFENDANT'S OBJECTION TO P-TR-1088. WITNESSES TESTIFY AND THE FOLLOWING EXHIBITS ARE ADMITTED: P-TR-1102, P-TR-358, P-TR-357, AND P-TR-1246. THE COURT MAKES A FURTHER RECORD REGARDING ITS RULING SUSTAINING THE DEFENSE'S OBJECTION TO P-TR-352, P-TR-361, AND P-TR-1100. THE COURT MAKES A FURTHER RECORD REGARDING THE DEFENSE'S REQUEST AT THE BENCH TO STRIKE PORTIONS OF WITNESS BARBORAK'S TESTIMONY RELATED TO P-TR-358. THE COURT FINDS THERE WAS NO RULE 16 VIOLATION. ACCORDINGLY, THE MOTION TO STRIKE IS DENIED. THE DEFENSE ADVISES THE COURT THAT DR. FENTON WILL TESTIFY LATER THIS WEEK AND THE DEFENSE ANTICIPATES THE PROSECUTION WILL OBJECT TO SOME OF THE EXHIBITS THE DEFENSE WILL SEEK TO INTRODUCE. THE DEFENSE TENDERS COPIES OF THE EXHIBITS TO THE PEOPLE AND TO THE COURT. THE PEOPLE OBJECT TO THE EXHIBITS, ASSERTING THAT THEY ARE HEARSAY AND WILL BE CUMULATIVE OF THE WITNESS'S TESTIMONY. THE DEFENSE RESPONDS THAT THESE ARE BUSINESS RECORDS AND WILL NOT BE CUMULATIVE OF DR. FENTON'S TESTIMONY, EXCEPT AS NEEDED TO LAY THE NECESSARY FOUNDATION. THE COURT TAKES THE MATTER UNDER ADVISEMENT. THE PARTIES MAKE A RECORD AT THE BENCH REGARDING AN ISSUE RAISED AT THE BENCH EARLIER THIS MORNING.

/CMR

6/16/2015 Notice Filed Event ID: 000832 E-Filed: N
THE COURT ENTERS NOTICE TO THE PARTIES (C-207). 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. SUPPRESSED ENVELOPE #217 /CMR

6/16/2015 Minute Order (print) Event ID: 000840 E-Filed: N
JURY TRIAL - DAY 87
JUNE 16, 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:

WITNESSES TESTIFY AND THE FOLLOWING EXHIBITS ARE ADMITTED: P-TR-2037,
P-TR-2038, P-TR-2039, P-TR-1247, P-TR-4874, P-TR-2022, P-TR-2023, P-TR-
4875, AND P-TR-800. AFTER ARGUMENT ON THE RECORD, EXHIBIT P-TR-795 IS
ADMITTED OVER THE DEFENDANT'S OBJECTION. THE PEOPLE AGREE TO REDACT THE
EXHIBIT TO REMOVE IDENTIFYING INFORMATION FOR THE DEFENDANT AND HIS
PARENTS, AS WELL AS THE MEMORANDUM LINE OF ONE CHECK CONTAINED IN THE
EXHIBIT. FURTHER, THE COURT LIMITS THE RECORDS CONTAINED IN P-TR-795 TO
RECORDS FROM MAY 2011 THROUGH JULY, 2012, WITH THE EXCEPTION OF THE LAST
TWO PAGES OF THE EXHIBIT, WHICH SHOW A PAYMENT IN SEPTEMBER 2012.

AFTERNOON SESSION:

WITNESSES TESTIFY AND EXHIBITS P-TR-1248 AND D-TR-62 ARE ADMITTED.
REJECTED EXHIBIT D-TR-63 IS MARKED AS COURT EXHIBIT C-TR-61. THE DEFENSE
OBJECTS TO ANTICIPATED TESTIMONY FROM A CUSTODIAN OF RECORDS FOR 24-HOUR
FITNESS AS WELL AS TO 24-HOUR FITNESS RECORDS THAT THE PEOPLE WILL SEEK TO
INTRODUCE. THE DEFENSE CONTENTS THAT THE PEOPLE VIOLATED RULE 16 BY
FAILING TO PRODUCE SOME OF THE RECORDS UNTIL MARCH 2015, AFTER THE TRIAL
WAS UNDERWAY. FOR THE REASONS STATED ON THE RECORD, THE COURT FINDS THAT
THE REQUESTED SANCTION OF EXCLUSION OF THE RECORDS IS UNWARRANTED. BECAUSE
THERE IS NO OBJECTION BY THE DEFENSE TO THE SUBSTITUTION OF THE CUSTODIAN
OF RECORDS, THE COURT WILL ALLOW THE TESTIMONY OF THE WITNESS THE PEOPLE
INTEND TO CALL. EXHIBIT P-TR-795 IS PUBLISHED BY DISTRIBUTING INDIVIDUAL
COPIES OF THE EXHIBIT TO THE JURORS. THE COPIES ARE COLLECTED AFTER THE
JURY HAS REVIEWED THE EXHIBIT. THE COURT MAKES A RECORD ABOUT THE FACT
THAT ON JUNE 9 AND JUNE 11, IT ADMONISHED THE JURORS THAT IF THEY HEAR (OR
HAVE EVER HEARD SINCE THE TRIAL STARTED) ANY OTHER JURORS TALK ABOUT THE
CASE OR SAY ANYTHING ABOUT THE CASE, THEY MUST REPORT IT BY TELLING A COURT
STAFF MEMBER THAT THEY NEED TO SPEAK TO THE COURT. THE COURT DOES THIS
BECAUSE, IN DENYING THE DEFENSE'S MOTION TO POLL THE JURY ON JUNE 9, 2015,
IT STATED THAT IT WOULD DO SO. THE COURT INQUIRES WHETHER THE DEFENSE CAN
BE PREPARED TO START ITS CASE EARLIER THAN JUNE 25 GIVEN THAT THE PEOPLE
EXPECT TO REST THIS FRIDAY, JUNE 19. THE DEFENSE CANNOT START EARLIER THAN
JUNE 25 DUE TO SCHEDULING ISSUES WITH WITNESSES. /CMR

6/17/2015 Filing Other Event ID: 000833 E-Filed: N
PEOPLE'S AMENDED NOTICE OF ENDORSEMENT (P-127) SUPPRESSED ENVELOPE #218
STD 201 6 17 15 /LKO

6/17/2015 Request Filed Event ID: 000834 E-Filed: N
REQUEST FOR TRANSCRIPTS RECEIVED FROM CHRIS TALOR, 720-874-8500,
CTAYLOR@DA18.STATE.CO.US, FOR 4-28-15 (JM), 4-29-15 (CT), AND 4-30-15 (CT)
TRIAL DATES. REQUEST RECEIVED BY JOYCE MARTIN AND FORWARDED TO CATHY
TROYANEK/JEM

6/17/2015 Request Filed Event ID: 000835 E-Filed: N
REQUEST FOR TRANSCRIPTS RECEIVED FROM CHRIS TAYLOR,
CTAYLOR@DA18.STATE.CO.US, 720-874-8500, FOR 5-4-15 (JM), 5-5-15 (JM), 5-6-
15 (CT), 5-7-15 (CT), AND 5-8-15 (SF). REQUEST RECEIVED BY JOYCE MARTIN
AND FORWARDED TO CATHY TROYANEK AND SUSAN FIKANY. /JEM

6/17/2015 Request Filed Event ID: 000836 E-Filed: N
REQUEST FOR TRANSCRIPTS RECEIVED FROM CHRIS TAYLOR,
CTAYLOR@DA18.STATE.CO.US, 720-874-8500, FOR 5-11-15 (CT), 5-12-15 (JM), 5-
13-15 (SF), AND 5-14-15 (JM) TRIAL DATES. REQUEST RECEIVED BY JOYCE MARTIN
AND FORWARDED TO CATHY TROYANEK AND SUSAN FIKANY. /JEM

6/17/2015 Request Filed Event ID: 000837 E-Filed: N
REQUEST FOR TRANSCRIPTS RECEIVED FROM CHRIS TAYLOR,
CTAYLOR@DA18.STATE.CO.US, 720-874-8500, FOR 5-18-15 (JM), 5-19-15 (CT), 5-
20-15 (KC), AND 5-21-15 (KR).
REQUEST RECEIVED BY JOYCE MARTIN AND FORWARDED TO CATHY TROYANEK, KEVIN
CARLIN, AND KERRY RINK. /JEM

6/17/2015 Request Filed Event ID: 000838 E-Filed: N
REQUEST FOR TRANSCRIPTS RECEIVED FROM CHRIS TAYLOR,
CTAYLOR@DA18.STATE.CO.US, 720-874-8500, FOR 5-26-15 (JM), 5-27-15 (JM), 5-
28-15 (CT), AND 5-29-15 (CT) TRIAL DATES. REQUEST RECEIVED BY JOYCE MARTIN
AND FORWARDED TO CATHY TROYANEK. /JEM

6/17/2015 Minute Order (print) Event ID: 000841 E-Filed: N
JURY TRIAL - DAY 88
JUNE 17, 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:
OUTSIDE THE PRESENCE OF THE JURY, THE COURT INQUIRES WHETHER THE PARTIES
WANT THE COURT TO GIVE A LIMITING INSTRUCTION REGARDING P-TR-341, THE
NOTEBOOK. THE COURT DID NOT DECIDE IF THE NOTEBOOK WAS PRIVILEGED IN
EARLIER LITIGATION BECAUSE, EVEN ASSUMING IT WAS, THE COURT FOUND THE
PRIVILEGE WAS WAIVED AS A RESULT OF THE DEFENDANT'S NOT GUILTY BY REASON OF
INSANITY PLEA. NEITHER PARTY HAS ASKED THE COURT TO GIVE A LIMITING
INSTRUCTION REGARDING THE NOTEBOOK. AT THE DEFENSE'S REQUEST, AND WITHOUT
OBJECTION BY THE PEOPLE, THE COURT WILL INSTRUCT THE JURY THAT P-TR-341 MAY
ONLY BE CONSIDERED WITH RESPECT TO THE ISSUES RAISED BY THE DEFENDANT'S NOT
GUILTY BY REASON OF INSANITY PLEA. THE COURT SUPPLEMENTS THE RECORD
REGARDING ITS RULING YESTERDAY DENYING THE DEFENSE'S REQUEST FOR SANCTIONS
BASED ON THE LATE DISCLOSURE OF ANTICIPATED EXHIBIT P-TR-1094B, BUSINESS
RECORDS FROM 24-HOUR FITNESS. THE COURT GRANTS THE DEFENSE'S REQUEST TO

RELEASE JUROR 267, WHICH WAS MADE AT THE BENCH YESTERDAY. THE DEFENSE'S MAY 6, 2015 REQUEST TO RELEASE JUROR 267, WHICH THE COURT DEFERRED RULING ON, IS DENIED. THE ALTERNATIVE REQUEST MADE ON MAY 6 WITH RESPECT TO JUROR 267 IS ALSO DENIED. THE DEFENSE TELLS THE COURT THAT IT WOULD PREFER THAT PROPOSED INSTRUCTION C-TR-67 NOT BE GIVEN TO THE JURY. THEREFORE, THE COURT WILL NOT GIVE THIS INSTRUCTION. WITNESSES TESTIFY AND THE FOLLOWING EXHIBITS ARE ADMITTED: P-TR-1251, P-TR-4606, P-TR-4607, P-TR-4610, P-TR-1252, P-TR-4655, P-TR-4656, P-TR-4657, P-TR-4659, P-TR-793, D-TR-64, P-TR-1227, D-TR-65, P-TR-1134, P-TR-2591, AND P-TR-2545. IN ADDITION, THE FOLLOWING REJECTED EXHIBITS ARE RELABELED: P-TR-532 AS C-TR-62, P-TR-1100 AS C-TR-63, P-TR-795 AS C-TR-64, P-TR-1173 AS C-TR-65, AND P-TR-361 AS C-TR-66. THE PEOPLE HAVE MADE THE NECESSARY REDACTIONS TO P-TR-1102. WITHOUT OBJECTION, THE PEOPLE SUBSTITUTE THE REDACTED P-TR-1102 FOR THE ONE PREVIOUSLY ADMITTED. THE COURT DENIES THE DEFENSE REQUEST TO CONTACT THE JURORS WHO HAVE BEEN RELEASED. COUNSEL AND THEIR STAFF ARE PROHIBITED FROM CONTACTING RELEASED JURORS WHILE TRIAL IS ONGOING. AFTER THE BREAK, FOR THE REASONS CITED ON THE RECORD, THE COURT OVERRULES THE DEFENSE OBJECTION TO P-TR-793. THE PEOPLE INDICATE THAT SOME REDACTIONS WILL NEED TO BE MADE TO THE EXHIBIT BEFORE IT IS PUBLISHED TO THE JURY. AT THE REQUEST OF THE DEFENSE, THE COURT WILL READ THE JURY A LIMITING INSTRUCTION REGARDING REDACTIONS WHEN P-TR-793 IS PUBLISHED TO THE JURY. WITHOUT OBJECTION, THE COURT GRANTS THE DEFENSE REQUEST TO NOT RELEASE TO THE MEDIA P-TR-795, THE POINT LOMA CREDIT UNION RECORDS THAT WERE ADMITTED YESTERDAY. THE DEFENSE LATER ASKS THE COURT NOT TO RELEASE THE BANK RECORDS IN P-TR-793 AND D-TR-64 TO THE MEDIA. THAT REQUEST IS ALSO GRANTED. THE PEOPLE MAKE A RECORD REGARDING THE VICTIMS' RIGHTS ACT. SOME OF THE VICTIMS WHO HAVE MOVED TO COLORADO FOR THE TRIAL ARE UPSET THAT THERE MAY BE A VERY SHORT DELAY IN THE TRIAL BETWEEN THE CONCLUSION OF THE PROSECUTION'S CASE AND THE BEGINNING OF THE DEFENDANT'S EVIDENCE. THE COURT POINTS OUT THAT THE TRIAL IS AHEAD OF SCHEDULE AND THIS DELAY IS UNAVOIDABLE. THE COURT SUPPLEMENTS ITS EARLIER RECORD REGARDING THE OBJECTION TO P-TR-793.

AFTERNOON SESSION:

AT THE REQUEST OF THE JUROR, THE COURT SPEAKS WITH JUROR 1009 OUTSIDE THE PRESENCE OF THE OTHER JURORS. JUROR 1009 INFORMS THE COURT SHE HAD LUNCH WITH A COWORKER WHO TOLD JUROR 1009 THAT THREE JURORS WERE RELEASED LAST WEEK BECAUSE THEY WERE TEXTING. THE JUROR STOPPED HER COWORKER FROM SAYING ANYTHING ELSE ABOUT THE CASE. NO ACTION IS REQUESTED OR TAKEN AT THIS TIME WITH RESPECT TO THIS JUROR. WITNESSES TESTIFY AND THE FOLLOWING EXHIBITS ARE ADMITTED: P-TR-12, P-TR-1249, AND P-TR-1250.

THE FOLLOWING EXHIBITS THAT WERE NOT ADMITTED INTO EVIDENCE ARE LABELED AS COURT EXHIBITS: P-TR-4658 AS C-TR-68, AND UNREDACTED P-TR-1102 AS C-TR-69. THE DEFENSE ASKS TO EXCLUDE SOME OF THE ANTICIPATED TESTIMONY FROM MS. MOSER, A VICTIM WHO WILL BE TESTIFYING LATER THIS WEEK. THE PEOPLE OPPOSE MOST OF THE ARGUMENTS BY THE DEFENSE. THE COURT TAKES THE MATTER UNDER ADVISEMENT. THE DEFENSE SUPPLEMENTS ITS OBJECTION TO TESTIMONY FROM DR. FEINSTEIN REGARDING HIS EXPERIENCE AND THE RISK ASSESSMENT HE PERFORMED ON THE DEFENDANT. FOR THE REASONS STATED ON THE RECORD, THE OBJECTION REMAINS OVERRULED.

/CMR

End of Case: 2012 CR 201522