BEFORE THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA, Plaintiff, vs. GUY WESLEY REFFITT, Defendant.	Case Number 21-cr-32 February 28, 2022 9:07 a.m.

TRANSCRIPT OF JURY TRIAL
(MORNING SESSION)
BEFORE THE HONORABLE DABNEY L. FRIEDRICH
UNITED STATES DISTRICT JUDGE

APPEARANCES:

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P R O C E E D I N G S

(Jury venire not present.)

COURTROOM DEPUTY: Your Honor, calling Criminal Action 21-32, the United States of America versus Guy Reffitt.

Actually, if I could have the parties identify themselves for the record, beginning with the United States.

MR. NESTLER: Good morning, Your Honor. Jeff Nestler, on behalf of the United States.

THE COURT: Good morning.

MR. WELCH: Good morning, Your Honor. William Welch on behalf of Mr. Reffitt.

THE COURT: Good morning.

Good morning, Ms. Berkower.

MS. BERKOWER: Good morning, Your Honor.

THE COURT: And Mr. Reffitt, are you ready to go?

So we have a couple of unexpected matters. But first, let me go through some logistics. Mr. Hopkins has handed me the alternates. Thank you for that, and I understand that you all will ask me to ask a question if you all have an agreement that someone should be stricken for cause.

I want you to know I have added a question to the voir dire general questions. I've added a new question number 24, which would ask the jurors if they would be uncomfortable with the attorneys and with me taking our masks off when we're speaking for a long period of time. I just want to get a sense whether

that makes them uncomfortable.

Also, I won't give the law clerks' names in voir dire. Is there any objection to that? They will be present so the jurors can see them. Do you have a strong feeling that I say their names on the record?

MS. BERKOWER: No objection, Your Honor.

THE COURT: All right.

MR. WELCH: No objection to not saying their names, but I would ask Your Honor to call the venire's attention to them so they focus on them.

THE COURT: Of course. I will -- in terms of the government's opening statement and the demonstrative exhibits, I did see the photographs, Mr. Nestler. I know we have copies of the videos.

I take it you're showing excerpts?

MR. NESTLER: Yes, Your Honor.

THE COURT: One is an eight-second video. I have no idea which eight seconds you're talking about showing.

MR. NESTLER: Did Your Honor get a copy of the PowerPoint?

THE COURT: We did, but it won't play video. Maybe later today, at the close of today, you can show it to me.

MR. NESTLER: Sure. I have it.

THE COURT: I don't want to do that now, but Mr. Welch, do you have any authority you want me to consider in

deciding whether to permit that? I think it's pretty clear under 401 and 403 if there's a good-faith basis for believing this evidence is going to come in, courts have let it in in the opening as a demonstrative exhibit.

MR. WELCH: I understand that, Your Honor. I don't have any specific authority. It just is inappropriate to be showing the jury evidence before it is formally admitted in evidence.

THE COURT: But there are a lot of cases that permit that, assuming there's a good-faith basis for believing that it's going to come in and that it's not unduly prejudicial.

MR. WELCH: Well, if -- the undue prejudice would be that if for some reason -- even though they have a good-faith basis for believing it's going to come in, if it doesn't, then I have no remedy.

THE COURT: Later today when I see the PowerPoint, I want Mr. Nestler to explain exactly who is going to introduce it, and we will both feel comfortable whether that's likely to come in. All right?

The defense witness list, do you have one for me to have you read for voir dire, or do you want me just to ask the jurors to listen to the government witnesses?

MR. WELCH: Just the government witnesses.

THE COURT: Okay. So you have no witness list at this point?

MR. WELCH: I don't intend to call any witnesses at this point.

THE COURT: Okay. Mr. Reffitt, during the general voir dire, would you like to have your wife present? There have been a number of requests for more access to the courtroom. I've reduced the number of jurors who are going to come in in this first round to 47 so that there can be three members of the public in the Ceremonial Courtroom for the general voir dire. And if you wanted a family member to be present in one of those seats, I would accommodate that.

Is that something you would like?

THE DEFENDANT: Yes, Your Honor.

THE COURT: And that, I assume, would be your wife?

THE DEFENDANT: That would be correct.

THE COURT: Yes?

THE DEFENDANT: Yes, ma'am.

THE COURT: So we will make sure she has one of those three seats for the general voir dire.

THE DEFENDANT: Thank you.

THE COURT: I've been advised by the jury office not to release the jurors. I think I talked to you all about maybe sending half of them away until later in the afternoon. I think there is some concern that if they go away, we might not get them all back, and we might need them all.

So folks are just going to stay either in this room, or we

will take a one-hour break for lunch and they will be in the cafeteria. So I'm not going to be releasing any of the first 47. The rest will be told to call back at the end of the day about coming back tomorrow if that's necessary.

Any questions there?

MR. NESTLER: Can we just ask that they be told that they will likely have to come back tomorrow?

THE COURT: Yes. I think they will be. I said that differently. I think in all likelihood they will need to come back.

Mr. Welch, anything else from you?

MR. WELCH: No, Your Honor.

THE COURT: I don't know if this motion from the Press Coalition actually hit the docket. Did you all see this motion?

MR. NESTLER: Yes, Your Honor.

THE COURT: You did? All right. I received a courtesy copy yesterday afternoon, and I am going to rule on that now.

So before the Court is the Press Coalition's motion for access during trial. The Court has also received informal requests from the defendant, from other defense attorneys in the January 6 investigation, and other media organizations for public access to the trial courtroom or the live broadcast of this trial over the public telephone line.

Before I address all of these requests together, I want to

note that I have repeatedly stated during the hearings over the course of the last several months that the public line would not be open for this trial, and on February 15, nearly two weeks ago, I issued a pretrial order making clear that Courtroom 14, the trial courtroom, would be closed to members of the public, and that includes the press. Yet, the Press Coalition waited until yesterday afternoon to file a motion.

Because the press has had ample time to voice its objections to this District's public access plan and this Court's pretrial order, the Court will not keep jurors waiting in order to hear argument on this motion. But I will rule promptly now on the motion as the Press Coalition has requested.

As set forth on the website for the U.S. District Court for the District of Columbia, this court has made changes to standard operating procedures for criminal jury trials due to the ongoing COVID-19 pandemic.

These changes strike a balance between three goals. First, they seek to ensure the safety of the defendant, the jurors, the witnesses, the attorneys, the marshals, and court staff. Second, they seek to minimize the risks of this trial resulting in a spread of COVID-19. And finally, they seek to preserve the constitutional guarantee of an open court proceeding.

The Court has endeavored to strike an appropriate balance in consultation with a wide range of experts and court personnel. Here are the considerations that have gone into that

balance.

First, the District Court has responded to COVID-19 safety concerns. Most recently, the Court suspended jury trials altogether from December 30 of 2021 to February 7, 2022, in response to the omicron variant. On January 20 of this year, the Court found that jury trials could resume on February 7, with continued precautions to protect the health of the trial participants and courthouse staff.

In consultation with experts, the Court has limited the number of people in a given courtroom at one time to ensure that they are socially distanced. This has required reconfiguring all courtrooms to retrofit them with plexiglass separators and to space out jurors and other trial participants. And it has required juries to deliberate in a courtroom as opposed to the traditional smaller jury room to allow for social distancing.

Court staff designed the above protocols after consulting with experts on disease transmission in air flow, and court staff consulted with experts as recently as last week about these protocols.

Although the CDC and the District of Columbia have recently loosened COVID guidelines and mandates, experts have urged this Court to keep the current restrictions in place for the time being. The changes this court has made during the pandemic have helped minimize the risk of mistrial due to insufficient jurors or unavailable witnesses.

A trial in the Southern District of New York was able to proceed despite a juror testing positive for COVID because the jurors were socially distanced, masked, and had minimal contact with each other, and therefore, the rest of the jury did not test positive. See *United States versus Weigand*. That's 20-cr-188.

But a COVID outbreak in an Eastern District of Texas trial led to a mistrial when there was insufficient jurors to proceed. See *ResMan, LLC*. That's Number 4-19-cv-402.

Against this backdrop, the Court finds that the costs of these precautionary measures are justified to minimize the more costly possibility of a mistrial.

One cost of those precautionary measures is limiting the number of people who can be present in the trial courtroom. To comply with this court's social distancing guidelines, jurors and alternates must sit in the courtroom gallery six feet apart. This typically is a place where the public and the media would sit. In addition, witnesses now testify from the jury box instead of the witness stand.

In addition to social distancing limitations, the Marshals Service has expressed safety concerns about nonparticipants sitting in the courtroom well during the trial.

With these changes to the courtroom configuration, and a total of 12 jurors and four alternates as the parties have requested, the Court is unable to accommodate any member of the

public, including a member of the defendant's family or the press, inside Courtroom 14 where the trial will occur.

But the Court has taken steps to ensure that members of the public and the media have access to the trial. First, for general voir dire, it has reserved three spaces in the Ceremonial Courtroom for the public, including the media and Mr. Reffitt's wife. Second, during individual voir dire, there will be public seating in the gallery of the courtroom for approximately 15 people. Finally, throughout all stages of the trial, there will be at least one overflow courtroom and at least two media rooms, which will each have multiple realtime video feeds of the trial courtroom.

My understanding is that the overflow courtroom can accommodate approximately 16 members of the public, while the overflow and media rooms together can accommodate approximately 50 people.

Furthermore, I will follow the practice of Judge Moss in *United States versus El-Saadi*, 19-cr-374, which the Press Coalition cited approvingly. And I will allow a member of the press to sit in the jury box for opening statements. If that practice goes smoothly, I will consider doing the same for closing arguments.

The Court will not permit members of the public or the press to sit in the jury box during the evidentiary portion of the trial, because the jury box is where the witness -- all the

witnesses will sit. Having an extra person in the jury box to the right of the witness, even at a safe distance, would be potentially distracting to the jury and the witnesses and could be prejudicial to the parties.

The Court considered but rejected using this courtroom, the Ceremonial Courtroom, for trial, because it is equipped with only one camera which faces the bench. This setup is ill-suited for a trial, because unlike with Courtroom 14, it would be impossible to provide live feeds of the witnesses, evidence, and attorneys who will be questioning the witnesses.

Moreover, the Ceremonial Courtroom would only be able to hold about 16 members of the public or the media. That is far fewer than the approximately 50 who will be able to view this trial in realtime from the overflow courtroom and two media rooms. Thus, using 14 -- Courtroom 14 for trial will provide greater public access than would this courtroom.

The Press Coalition has raised concerns about technical glitches that interrupted the live feed in *El-Saadi*. The Court takes these concerns seriously, and court IT staff will be monitoring the video and audio feeds. The Court is prepared to pause the proceeding if at any point problems surface with the technology during trial.

As I've explained in multiple hearings, the public line will be closed during trial under Federal Rule of Evidence 615. Witnesses are excluded from the courtroom so that they cannot

hear other witnesses' testimony. This rule serves to prevent one witness from shaping his testimony to match that given by another witness at the trial. *Tasty Baking Company v. NLRB*, 254 F.3d at 122 to 23.

If the public line were to be open, there would be no way to monitor whether trial witnesses were listening by phone. The public line will also be closed during voir dire to respect the privacy of the venire members whose presence is compelled and who must answer questions about their personal lives and views.

The Court concludes that the access outlined above is more than sufficient to qualify this trial as an open and public proceeding, particularly given the conditions of the pandemic.

The Court further concludes that it has met its obligations under *Presley v. Georgia* to take every reasonable measure to accommodate public attendance at criminal trials. 558 U.S. at 215.

The right to a public trial, one, ensures that the judge and prosecutor carry out their duties responsibly; two, it encourages witnesses to come forward; and three, discourages perjury. *U.S. v. Perry*, 479 F.3d at 889.

As the D.C. Circuit explained in *Perry*, the public trial right is not implicated if a courtroom closing is trivial such that it does not impact these concerns. Here, the courtroom will remain open throughout trial via live video feeds to multiple other rooms in the courthouse. The viewing available

from the overflow rooms fulfill the goals of a public trial.

At least one other District Court who has faced this problem has concluded similarly. See *United States v. Babichenko*, 508 F.Supp.3d 774, a District of Indiana case. And even during normal operating procedures, courtroom space limits do not mandate the use of a public telephone line.

The Court does not find the Press Coalition's citation to *United States v. Alimehmeti*, 284 F.Supp.3d 477, particularly relevant, because that case did not face a problem of arranging a courtroom to comply with appropriate health and safety precautions during a pandemic. *Presley* requires taking every reasonable measure, not every possible measure, and reasonableness is measured against all the competing concerns.

COVID-19 is one of those concerns today, and it was not a concern in *Alimehmeti*.

For all these reasons, the Press Coalition's motion is granted in part to allow a pool reporter in the trial room during opening and potentially closing arguments. It has been denied as to the rest of the Coalition's request.

All right. Before we bring the jury in, is there anything else from either side? Mr. Nestler?

MR. NESTLER: Just briefly, Your Honor. When Your Honor introduces the prosecution team, we ask the Court to also introduce our paralegal, Amanda Rohde, and our FBI agent, Thomas Ryan, or would Your Honor like us to do that ourselves?

THE COURT: That's fine. I'll try to remember, but if not, you're welcome to do that.

Mr. Welch, anything else for you and Mr. Reffitt?

MR. WELCH: No, thank you.

THE COURT: I will take a brief break while we bring the jury in. I think until I ask them the question about the mask, I will keep my mask on for this part of the voir dire.

(Recess taken from 9:27 a.m. to 9:45 a.m.)

(Jury venire present.)

THE COURT: Good morning, ladies and gentlemen. Welcome to the U.S. District Court for the District of Columbia. My name is Dabney Friedrich, and I will be presiding over the case for which you have been called as a potential juror. I want to thank you for taking time out of your busy lives to come here to participate in this process.

As you know, jurors play a critical role in our justice system. The Constitution guarantees every citizen a right to a jury trial by a jury composed of one's peers, and this is a very important civic duty you have been called upon to perform today.

The goal today and probably tomorrow, too, will be to select a neutral panel of jurors who will hear the evidence in this case and be fair and impartial in their decisionmaking.

This is a criminal case that relates to the events that occurred at the Capitol on January 6 of 2021. The defendant in this case, Guy Wesley Reffitt, is charged with four crimes

relating to Congress's meeting at the United States Capitol on January 6, 2021, to certify the Electoral College vote for president.

First, he is charged with obstructing an official proceeding for allegedly interfering with Congress's meeting. Second, he is charged with being unlawfully present on Capitol grounds while using or carrying a firearm. Third, he is charged with transporting firearms, knowing or intending that they will be used unlawfully in furtherance of a civil disorder. Fourth, he is charged with interfering with law enforcement officers during a civil disorder. The government has also charged Mr. Reffitt with obstructing justice based on statements he made to his children while at home in Wylie, Texas.

Excuse me just a moment. We need to connect the public line. I hate to do this to all of you, but I think we're going to have to start over. All of our proceedings are open to the public, and even though there are not very many members of the public here in the courtroom right now, only in the jury box because of the social distancing concerns, you should know that there are individuals in other parts of the courthouse that will be listening and viewing this trial in overflow courtrooms.

So apologies again, but I will have to start again.

Okay. Here we go. Round 2.

Good morning, ladies and gentlemen, and welcome to the U.S. District Court for the District of Columbia. My name is Dabney

Friedrich, and I will be presiding over the case in which you've been called to serve as a potential juror. I want to thank you for taking time out of your busy schedules to assist the Court by coming here today to participate in this process.

As you know, jurors play a critical role in our justice system. The Constitution guarantees every citizen a right to a jury trial by a jury of one's peers, and this is a very important civic duty that you've been called to perform here today.

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officers during a civil disorder. The government has also charged Mr. Reffitt with obstructing justice based on statements he allegedly made to his children while at home in Wylie, Texas, around January 7th, 2021.

Mr. Reffitt has pleaded not guilty to all charges.

In a moment, you will be sworn in. What that means is you will be bound to answer the questions that you're asked truthfully, and that is essential to this process.

Before we start, let me explain how this process will work. This will take several stages. First, I will ask all of you in the group a series of questions, of general questions. Once we finish those questions, each one of you will be brought to another courtroom one at a time where you will be asked some follow-up questions based on the responses you give to questions you're asked here.

You will be called in the order that you're seated, and given the large number of people in this room, this process is likely to take some time. We will try very hard to move things along, but please understand that some amount of waiting is unavoidable.

While you're waiting in this courtroom for your turn to be called, please feel free, if you wish, to talk quietly with one another or to read, but I ask that you not talk to each other or communicate outside the courtroom about anything at all relating to this case or the January 6 events or the parties in this

case.

I also ask that you don't use the Internet to read or research anything about this case or the parties, nor should you make any telephone calls or send any e-mails, texts, tweets, blog, instant message, Snapchat, or use any other form of communication to tell a friend or family member or your followers about this case or the fact that you're a potential juror in this case. Any juror who violates these restrictions jeopardizes the process and possibly the trial, which could require the entire trial process to start over.

Finally, I ask that you not use your mobile devices at any point during the jury selection process or during the trial if you're selected as a juror. You can tell close friends and family members or your employer that you've been called to court to serve on a jury in a criminal case, but that is all.

From this point on, you must not read anything about this case, and you should also try to avoid receiving any information about the case from news media. If it comes to your attention inadvertently, please ignore it, even the headlines.

If you receive automatic alerts from any source, you may need to change your push notifications, your news subscriptions or RSS or Twitter feeds. And if you happen to hear the case being discussed, you should walk away from the conversation or change the channel on the TV.

Please know that when you're called into the separate

courtroom for follow-up questioning, it's not my intention, nor is it the lawyers', to invade your privacy or to embarrass you in any way. Our sole goal is to select a fair and impartial jury that is composed of jurors who are not biased and who will return a verdict based solely on the evidence and the legal instructions that I provide.

As I mentioned at the outset, courtrooms and trials are open to the public. So throughout jury selection and during the trial, members of the public and the media will be watching and listening to these proceedings in other courtrooms here in the courthouse. Usually, members of the public and the media are present in the courtroom itself, but due to social distancing and other health and safety protocols that this courthouse has implemented to minimize the spread of infection from the coronavirus, only a few members of the public and the media are in this courtroom and will be in the courtroom where we do the follow-up questioning. No members of the public or the media will be in the trial courtroom except for opening statements and possibly closing arguments.

During the follow-up questions, please know if there are any questions that raise sensitive or personal issues to you, you can ask permission to give your answers to me and to the lawyers through a headset with the husher on, which makes a noise, and that will ensure that only the parties and the court staff can hear your answer.

Please understand that in the end we might not need to talk to all of you, but we likely will, but we will likely end up excusing some of you. If that happens to you, please understand that it's not because we don't like you or because we think you said something improper or inappropriate. It's just because we will probably have more jurors than we will need, and there may be a reason why you are not one of the people who is selected to serve as a juror in this case.

Before we proceed, I need you to make sure that you have a note card and a pencil at your seat, and if you don't, please raise your hand. Also, can you take a look at your juror badge and make sure that the digits on your badge match those in the upper right-hand corner of the note card.

Are there numbers on your note cards that match your badge? There are no numbers? Okay. Then first step, I want you to write on the note card -- in the right-hand corner, could you please write your juror badge number.

All right. During this first stage of the process, I am going to read to you 27 questions. You should be able to answer each of these questions with a simple yes or no. This is very important. If your answer to any question is a yes, all I want you to do is to write down the number of the question that I asked you. So don't write down yes; don't write down no. Simply write down the number of the question that I asked you, but only write that down if your answer is a yes. If your

answer is a no to my question, don't write anything down.

Anyone have any questions?

Okay. So for example, if your answer to question number 1 is yes, you need to write down number 1 on your note card. If your answer to the question number 1 I'm going to ask you is no, don't write anything down.

Once I've gone through all the questions, I will go to the other courtroom, and I will speak to each one of you, even if you don't answer yes to any of the questions I'm going to ask you here in a moment. After I've asked you some follow-up questions, please understand that the attorneys might ask you some questions as well about your responses.

Once we've qualified the number of people who are needed to select a jury, we will bring all of the qualified jurors back into this courtroom to finish the selection process. In all likelihood, that part of the process will happen some time tomorrow, but at this point, it's really hard to say how long the entire process will last.

Before I begin with the questions, I want to introduce my court staff. I think you've already met Mr. Hopkins here sitting right in front of me. He is the courtroom deputy. He makes sure that the trains run on time and that I don't do anything that I'm not supposed to do.

Seated next to him is Ms. Wick. She is our courtroom reporter, and she is taking down everything that is said in this

courtroom.

To my left and my right, you see my law clerks who work for me.

I will now ask that all of you please stand up and raise your right hand so that you may be sworn in.

(Jury venire sworn.)

THE COURT: Thank you. You may be seated.

Now for the questions. With your pencil and note card in hand, please listen to the 27 questions I'm going to ask you, and please remember if the answer to the question is yes, you simply write down that number.

All right. The first question, do any of you live or work at or near the U.S. Capitol? That's question number 1. If your answer is yes to that question, write the number 1 on your note card. If it's no, write nothing.

PROSPECTIVE JUROR: Do you mean near the Capitol here?

THE COURT: Near the U.S. Capitol building, yes.

All right. Question 2, do you or someone you know have a direct or indirect connection to the events that occurred at the U.S. Capitol on January 6, 2021? If the answer to that question is yes, please write down the number 2.

Question number 3, have you followed the news about the events that took place at the U.S. Capitol on January 6, 2021? If the answer is yes, please write the number 3 on your card. If the answer is no, you don't need to write anything.

Question number 4, have you heard or seen anything in the news or elsewhere about Guy Wesley Reffitt, the defendant in this case, or about anyone else who was present at the Capitol on January 6, 2021? If the answer is yes, write down number 4.

Question number 5, does anyone have such strong feelings or opinions about the events that took place at the U.S. Capitol on January 6, 2021, that it would make it difficult for you to serve as a fair and impartial juror in this case? If the answer is yes to that question, please write down the number 5.

Question number 6, as you sit here, do you have an opinion about Mr. Reffitt's guilt or innocence in this case? If the answer is yes, write down the number 6. If the answer is no, don't write anything.

Question number 7, do you no longer live in the District of Columbia? That's question number 7.

Question number 8, the government in this case is represented by Assistant United States Attorneys Jeffrey Nestler and Risa Berkower. I would like them to stand up and introduce members of their trial team, please, Mr. Nestler or Ms. Berkower.

MS. BERKOWER: Good morning, everyone. My name is Risa Berkower. I'm an Assistant United States Attorney here in the District of Columbia. With me is Jeffrey Nestler, also an Assistant United States Attorney. And we have Amanda Rohde, our paralegal, at the table with us and also Special Agent Thomas

Ryan of the FBI.

THE COURT: All right. Do any of you know any of these people? If you do, write the number 8 on your card.

The defendant, Guy Wesley Reffitt, is represented by William Welch. With him is Mr. Reffitt. Mr. Reffitt resides in Wylie, Texas. Do you know either Mr. Welch or Mr. Reffitt? If so, again, I would ask you to write down the number 8 on your card. This is the same question.

Question number 9, I will have the government now introduce its witnesses by name, with a general area of residence and employment.

MS. BERKOWER: Good morning. During this trial, in the government's case, you may hear from or about a number of people, including from the United States Capitol Police, Inspector Monique Moore, Sergeant Adam DesCamp, Sergeant Matthew Flood, Officer Shauni Kerkhoff; from the United States Secret Service, Special Agent Paul Wade; from the Federal Bureau of Investigation, the FBI, Special Agent Thomas Ryan from Washington, D.C., Special Agent Stacy Shahrani from Washington, D.C., Special Agent Laird Hightower from Dallas, Texas, and Karla Kennedy, a nurse and photographer from Dallas, Texas; from the United States Senate, you will hear from Daniel Schwager, counsel to the Secretary of the Senate; from Wylie, Texas, which is near Dallas, Texas, Jackson Reffitt and Peyton Reffitt; and from Austin, Texas, Rocky Hardy.

Thank you, Your Honor.

THE COURT: Thank you.

If you know any of the witnesses who have been introduced to you, please write down the number 9 on your card.

All right. Question number 10, I ask that you take a look around you and look at the other potential jurors, and let us know if you recognize or think that you know any of the other potential jurors in the panel. If you do, please write down the number 10.

So question number 11, as I mentioned, the courtroom deputy is sitting in front of me. This is Jonathan Hopkins, and the court reporter to his left is Sara Wick. Again, my law clerks are sitting on either side of me.

Do you know me or any member of my staff? If so, please write the number 11 on your card.

Question number 12, the government bears the burden of proving Mr. Reffitt guilty beyond a reasonable doubt. And Mr. Reffitt is presumed innocent unless and until the government meets that burden. This burden of proof never shifts to Mr. Reffitt, and he has no obligation to offer his own evidence.

Would you have any difficulty or hesitation with respecting this allocation of the burden of proof? If the answer is yes, please write the number 12.

Question number 13, a defendant has a constitutional right not to testify, and if Mr. Reffitt decides not to testify, I

will instruct you that you cannot hold his silence against him in any way.

Would you have any difficulty following that instruction? If the answer is yes, please write number 13 on your card.

Question number 14, jurors are the sole judges of the facts, but they must follow the principles of law as I instruct. The jury may not follow some rules of law and ignore others, and even if the jury disagrees or dislikes a rule of law or does not understand the reasons for some of the rules, it is the jury's duty to follow those rules.

Do you have any personal beliefs that would make it difficult to follow my legal instructions, whatever they may be? If the answer is yes, please write the number 14 on your card.

Question number 15, if you are selected as a juror in this case, I will continue to instruct you to avoid all media coverage relating to this case, including radio, television, podcasts, social media, and other Internet sources. That is, you will be forbidden from reading any newspaper articles about this case, listening to any radio or podcast stories about this case, or watching any TV news about this case. You will also be forbidden from Googling this case or blogging, tweeting, reading, or posting comments about this case on social media sites or anywhere else on the Internet.

Do you have any reservations or concerns about your ability or your willingness to follow this instruction? If the answer

is yes, please write down the number 15.

Question 16, I will be instructing the jury at the end of the trial that the testimony of a police officer should be treated the same as the testimony of any other witness and that the jury should not give either greater or lesser weight to the testimony of a witness simply because that witness is a police officer.

Does anyone have such strong feelings or opinions about the police, either positive or negative, that would make it difficult for you to be a fair and impartial juror in this case? If the answer is yes, please write the number 16.

Question 17, this case involves allegations about the possession of a handgun and rifles, none of which were fired.

Does anyone have such strong feelings or opinions about firearms that you cannot put them aside and serve as a fair and impartial juror in this case? If the answer is yes, please write down the number 17.

So the next three questions I'm going to ask you relate to you, members of your immediate family, and close personal friends.

So the first question is, does anyone in this group now work for or previously worked for any law enforcement agency?

This includes any police department in or outside the District, and it includes special police officers, as well as prosecutor's offices, such as the U.S. Attorney's Office or a

State Attorney's Office. It also includes federal law enforcement agencies like the Department of Justice, the FBI, the Secret Service, the Department of Homeland Security, and the U.S. Park Police, and it includes any local police or sheriff's department.

If you or any member of your immediate family or any close personal friend falls into that category, please write down the number 18 on your card.

Question 19, again, it applies to the same group of people. Has any member of that group ever attended law school, worked as a lawyer, or worked in a law office? If the answer is yes, please write down the number 19.

Question 20, again, it applies to the same group. Has any member of that group ever been arrested for, charged with, or convicted of a crime or been a victim of or a witness to a crime? If the answer is yes to that question, please write down the number 20.

Question 21, have any of you had an experience as a juror that would affect your ability to be a fair and impartial juror in this trial? If the answer is yes, please write down the number 21 on your card.

Question 22, we expect the presentation of evidence in this case to conclude early next week. After the close of the evidence, the jury will deliberate until it reaches a decision.

Would serving as a juror in this case be an extreme

hardship to you? And by this, I mean extreme. Serving on a jury is often inconvenient. What I'm asking is whether serving on this jury would be very difficult for you. If the answer is yes, please write down the number 22.

Question 23, do you have any health or physical problems that would make it difficult to serve on this jury? If the answer is yes, please write down the number 23.

Number 24, the witnesses in this case will be testifying behind plexiglass like you see here in front of me. They will be testifying, the witnesses, without their masks on, so that the attorneys can address their demeanor and credibility.

Would any of you be uncomfortable with the attorneys and myself not wearing masks when we are speaking for long periods of time? All of us are vaccinated. If the answer to that question is yes, please write down the number 24.

Question 25, do you have any difficulty reading, speaking, or understanding the English language? If the answer is yes, please write 25 on your card.

Question number 26, I've been told that someone outside was handing out a pamphlet to jurors. Did you read a pamphlet? If the answer is yes, please write down the number 26.

Question number 27, my final question is what I call my catchall question. This asks whether there's any other reason that I've not asked about that might make it difficult for you to sit fairly, impartially, and attentively as a juror in this

case. Perhaps you have a religious, a moral, or a philosophical reason or strong personal or political beliefs that you believe would make it hard for you to be a fair and impartial juror.

In sum, is there some reason that I have not already mentioned that would make it difficult for you to sit as a fair and impartial juror in this case? If so, please write down the number 27.

All right. So now that we've completed this part of the jury selection process, we're going to take a short break in just a minute, a ten-minute break. But first, before you take that break, I will ask Mr. Hopkins to collect all of your note cards.

As I said before, I'm going to leave this courtroom with the parties to this case, and we're going to go to another courtroom, Courtroom 16. Each one of you will be brought to that courtroom one by one in the order that you're seated.

Again, with this size group, it's likely to take a while. I'm certain that we won't get to all of you this morning, and it's possible we don't get to some of you until tomorrow. It really depends upon your answers to the questions that I've asked you this morning.

So I am going to excuse you all for about 10 minutes, but let's wait until Mr. Hopkins gets the note cards, and then I will ask you to -- once you've given him your note card, you can take a brief break, and then you're going to come back.

Mr. Hopkins, do you want them back in this courtroom?

COURTROOM DEPUTY: Yes.

THE COURT: So you will come back to this courtroom, and you will sit in the same seat as you are. So take a look at who is on either side of you to make sure you end up in the same spot. And I will see each of you individually in Courtroom 16, I hope, in a short while. Thank you for your attention.

(Recess taken from 10:18 a.m. to 10:34 a.m.)

THE COURT: Before we bring in the jurors one by one, I want to just give you all a heads-up about two things. One is, you've been given a copy of this pamphlet that was apparently distributed outside the courthouse to some individuals, I don't know everybody, but there was someone handing them out. So that's why I asked the additional question, and we will follow up, if necessary, with them about that.

Two, I wanted to preview how I'm looking at strikes for cause. Virtually every potential juror who we will question today will have seen or read something about the January 6 events, perhaps even about Mr. Reffitt himself, and virtually every juror will have some view about the January 6 events, and that likely holds true of most Americans, not just those who have been summoned here as jurors in this case.

The critical question that I will be asking myself in deciding whether to strike someone for cause is whether the

potential juror has such fixed opinions about January 6 or about those who participated in the events of that day that he or she cannot impartially judge the innocence or guilt of Mr. Reffitt. And I'm citing *Patton v. Yount*, 467 U.S. at 1035.

This Circuit's case law makes clear that jurors are not required to guarantee their impartiality. They have to express, though, in a manner that's credible to the Court a clear intent to try to be open-minded. See *U.S. versus Gabriel*, 365 F.3d at 31, vacated on other grounds.

I appreciate that a heightened standard may also apply in higher profile cases like this one. So in addition to each juror's intent, I will closely consider how closely they followed the events of January 6. I will be considering their sources of information. And I will pay close attention to their candor and their demeanor. See *U.S. v. Haldeman*, 559 F.2d at 67, Note 51.

This list I'm about to give you isn't an exhaustive list by any means, but you should know that I will be inclined to strike jurors who have formed an opinion about Mr. Reffitt's guilt or innocence. I will also be inclined to strike those who are familiar with specific facts related to Mr. Reffitt's case and those who followed individual January 6 prosecutions very closely.

Those who are closely associated with or have been similarly situated to law enforcement officers who engaged with

Mr. Reffitt also are likely to be stricken, and I will strike those who express reluctance in following my legal instructions, as well as those who demonstrate undue hardship.

As I've already mentioned, I'm not inclined to strike everyone who has an opinion about the January 6 events so long as they credibly show a clear intent to be open-minded. They will not have to guarantee their impartiality. They will just have to show that their opinion isn't fixed.

I also will not automatically strike anyone who is related to a law enforcement officer, nor will I automatically strike anyone who lives or works near the Capitol. See *Gabriel*, 365 F.3d at 30. But I will be sure to follow up with those who do to make sure that they can judge the evidence based upon what's in the courtroom presented.

Any questions about that before we get started?

MS. BERKOWER: No, Your Honor.

THE COURT: Okay. So unless you all have an objection, I would be inclined to start the questioning for those jurors who have indicated some sort of hardship up front in the event there's some obvious hardship that would cause me to strike them for cause.

Any disagreement with doing that?

MS. BERKOWER: That's fine, Your Honor.

MR. WELCH: No problem, Your Honor.

THE COURT: In terms of those who have, you know, say,

for example, a trip or something like that, I may not -- if it's a personal trip, I may not strike them for cause, but without your objection, I would be inclined to move them to the bottom, and if we don't need them, we won't use them. I'd rather not have someone distracted about the fun trip they're missing, but I don't want to end up short on jurors because we've struck someone.

Any objection to sort of moving them to the bottom of the list? None from Mr. Welch. How about from the government?

MS. BERKOWER: That's fine, Your Honor.

THE COURT: All right, then. So what I will do, when I call the juror in, I will state the numbers that they've answered yes to so that you all know. Again, I will begin with the ones that are hardship-related first.

So according to my stack, the first juror I have is 0587. So we're going to be referring to them by number, not by name. And at some point -- I'm having issues with my feed to the transcript. So at some point, I may need to take a break when the IT person comes so that I can get this up and running. I may need to consult the answers that jurors have given, and right now, my feed's not running.

(Pause.)

THE COURT: All right. I'm still having problems with the feed to my computer. If there's a motion to strike a juror for cause and I think it's a close call and I want to review the

transcript, I'm just going to have to hold off on making a decision as to that juror until I can do so. All right?

So I will put on my mask. And I will let you know ahead of time, there are some jurors who said they would have an issue with us taking our mask off when we're talking for a long time. I think it makes sense -- you all can follow my lead. If I have my mask off, we can assume that that juror's comfortable, and you can do your follow-up questions with your mask off. But if I have mine on, that means that that juror is uncomfortable, and I'm going to keep it on. All right?

So the first juror to come in will be 0587. And this juror has answered yes to question number 3 and question number 4.

(Prospective juror steps up.)

THE COURT: Good morning, sir.

PROSPECTIVE JUROR: Good morning.

THE COURT: Sorry to move you from courtroom to courtroom. It looks challenging.

PROSPECTIVE JUROR: It's fine.

THE COURT: If you're comfortable taking your mask off, you may do so.

So I just want to confirm that you're number 0587.

PROSPECTIVE JUROR: Yes.

THE COURT: And you have answered yes to question number 3, which means that you have followed the news about the January 6 events at the Capitol; is that right?

PROSPECTIVE JUROR: Yes.

THE COURT: I'm wondering, have you followed news of specific individuals, Mr. Reffitt or anyone else, or have you just generally read articles?

PROSPECTIVE JUROR: Just generally read articles.

THE COURT: Can you tell us something about what you've read and what you remember?

PROSPECTIVE JUROR: There's a lot of people. I know there's a lot of different sides to the story. I've tried to get all sides, different news sources to tell me what happened that day. But I don't have any recollection about, like, any individuals. I tried to read CNN and Fox News and that kind of thing to see what they were saying about that day to try to get a better picture about it, but that's it.

THE COURT: Tell me the kinds of things you've reviewed.

PROSPECTIVE JUROR: Just some news sources were saying there was more violence than other news sources potentially. I feel like there's a lot of people trying to spin it different ways.

THE COURT: I'm sorry. You're speaking really quickly. I'm having a hard time hearing you. You said some newspapers; is that right?

PROSPECTIVE JUROR: News sources, stuff online. I've been -- I've tried, just like I do for anything that's going on,

just to try to get a broader picture of what happened that day, like I do for anything that I'm interested in that's going on in the world.

THE COURT: And how closely have you followed this since January 6? Is it a daily sort of thing?

PROSPECTIVE JUROR: No, not recently. Right after, I did, like most people, for the first couple of days, and then if something came up in my news feed, I would read it, but that's it.

THE COURT: Have you read anything about Mr. Reffitt?

PROSPECTIVE JUROR: No.

THE COURT: I think he's been in the newspaper on occasion. You haven't read anything at all about him?

PROSPECTIVE JUROR: No.

THE COURT: Are you certain about that?

PROSPECTIVE JUROR: Yes.

THE COURT: Do you remember anyone that you've read anything about?

PROSPECTIVE JUROR: The QAnon Shaman, he's the guy I remember, but in terms of any names, I can't think of anybody.

THE COURT: It sounds like you've sort of sought out information relating to the January 6 events. Is that correct? Or do you just read about it when you see a headline?

PROSPECTIVE JUROR: Initially, I did. I mean, I live in the city. I wanted to know what happened, but recently, no.

THE COURT: Based upon what you've read, have you formed any opinion about the guilt of people involved in the events of January 6?

PROSPECTIVE JUROR: No. That's your job, and this is -- I don't know their entire story. So I would say I don't know.

THE COURT: All right. And you haven't heard anything, not only about Mr. Reffitt but about the allegations in this case?

PROSPECTIVE JUROR: No.

THE COURT: All right. So you've answered yes to question 4, which is the question I asked about have you seen news about Mr. Reffitt or other individuals. And you're talking about the Shaman. Who else?

PROSPECTIVE JUROR: Ashley Babbitt, I think, that lady.

THE COURT: All right. Do you come into this courtroom -- I'm wondering whether you come in here knowing a lot of details about the events of that day.

PROSPECTIVE JUROR: I really don't. I know what was big on the news right at the time, and that was -- if it's happened recently, I don't really know the details, no. I haven't been following it.

THE COURT: We really want to -- obviously, no one can come into this courtroom, very few, I think, with a completely

clean slate about the events of January 6, because it was reported so widely. And yet, we don't want jurors who have formed an opinion about what happened that day.

So I'm wondering whether, based on the volume or the nature of the material that you've read, whether you've formed any opinions about any individuals or any actions that individuals have taken such that it would make it difficult for you to judge this case based solely on what you hear in this courtroom.

PROSPECTIVE JUROR: No, I don't think so.

THE COURT: You think you could put aside everything you've read --

PROSPECTIVE JUROR: Yeah.

THE COURT: And even if you heard something in this courtroom that was inconsistent with what you read, would you be willing to base any decision based on what you've heard in this courtroom, assuming you found it credible?

PROSPECTIVE JUROR: Yes.

THE COURT: All right. These are the only questions that you've answered yes to. There's no hardship for you to serve on this jury if you were selected?

PROSPECTIVE JUROR: No.

THE COURT: You work in consulting. What kind of consulting?

PROSPECTIVE JUROR: I'm a program analyst.

THE COURT: Oh, wait. I'm sorry. I have the wrong --

PROSPECTIVE JUROR: Yeah, that's not me.

THE COURT: This is in the wrong order. And where do you work?

PROSPECTIVE JUROR: Department of Defense Education Authority.

THE COURT: Sorry?

PROSPECTIVE JUROR: Department of Defense Education Authority.

THE COURT: So you work for DoD?

PROSPECTIVE JUROR: Yes.

THE COURT: Based on the fact that you work for DoD, would you be predisposed to the government's side of the case in this case?

PROSPECTIVE JUROR: No. I just joined that job two weeks ago. It is a brand-new job.

THE COURT: What did you do before that?

PROSPECTIVE JUROR: I had a similar job with Army National Guard for child and youth programs. I was a program analyst for all of their child and youth programs.

THE COURT: All right. Mr. Welch or Ms. Berkower, do you have any follow-up?

MS. BERKOWER: Only briefly, Your Honor.

THE COURT: Okay.

MS. BERKOWER: Good morning. I'm Assistant United States Attorney Risa Berkower. Nice to meet you, sir.

Just a brief follow-up about when you said you were looking for all the different sides and you looked at many different sources of news concerning January 6. Can you just explain what some of those sources were that you were referring to?

PROSPECTIVE JUROR: CNN, NBC, Fox News, the big ones that are on TV.

MS. BERKOWER: So you were referring to TV broadcasts rather than online sources?

PROSPECTIVE JUROR: Mostly, yeah.

MS. BERKOWER: Were you also looking at online news sources as well?

PROSPECTIVE JUROR: I was. Yahoo! is what I use, so anything that pops up there.

MS. BERKOWER: Any news publications other than Yahoo! online?

PROSPECTIVE JUROR: No.

THE COURT: Any questions, Mr. Welch?

MR. WELCH: No questions. Thank you.

THE COURT: Thank you, sir. You may be excused, not completely, but from this room.

PROSPECTIVE JUROR: Okay. Thank you.

(Prospective juror steps down.)

THE COURT: Any motion with respect to that -- I mean that juror?

MS. BERKOWER: Not from the government, Your Honor.

THE COURT: Mr. Welch?

MR. WELCH: No, thank you.

THE COURT: The next juror is juror 1386. This juror also has answered yes to question 3, question 4, question 19, and question 20.

MR. WELCH: Excuse me, Your Honor. I have a different name with that number. I think 1386 is the next one.

THE COURT: Yes.

MR. WELCH: That should be a woman.

THE COURT: Why do you think it's not a female?

MR. WELCH: I thought you said Mister --

THE COURT: Oh, I did? The next juror is 1386, who does appear to be a woman.

(Prospective juror steps up.)

THE COURT: Good morning, ma'am. If you're comfortable taking your mask off, please do.

PROSPECTIVE JUROR: Thank you.

THE COURT: So you have answered yes to four questions. The first one you've said yes to is following the news about the January 6 events at the Capitol.

Can you describe what sort of news that you followed?

PROSPECTIVE JUROR: TV, newspaper, some Apple news on my phone.

THE COURT: Is this consistently since January 6?

PROSPECTIVE JUROR: Yeah, I do that every day.

THE COURT: Are you reviewing kind of the headline news, or are you actually looking for articles relating to the January 6 events or information on the Internet?

PROSPECTIVE JUROR: I wouldn't say I'm specifically looking for it, but if it comes up as I'm reading my -- the sites that I read, I will read the headlines and start to read some of the introductory paragraphs, and if it's interesting to me, I will read the rest. But I don't specifically seek it out.

THE COURT: All right. And do you know whether you've read anything specifically about Mr. Reffitt, the defendant in this case?

PROSPECTIVE JUROR: The name's not familiar to me. So I don't think I've read anything specifically about him. I don't remember his name. I could have read something, but I don't recall his name.

THE COURT: Are there other individuals who you can recall having read about?

PROSPECTIVE JUROR: In general, the Proud Boys, QAnon, and people more related to organizing the event before that, Giuliani, but that's about it, just in general.

THE COURT: Do you think, based upon what you've read, would you be able to set that information aside if you were selected as a juror in this case and decide this case based only on what you hear in this courtroom?

PROSPECTIVE JUROR: Yes, I think I could.

THE COURT: Even if that evidence, that testimony, exhibits, even if it conflicted with something you might have read or seen previously?

PROSPECTIVE JUROR: I think I could. I understand the obligation to put that aside.

THE COURT: And you think you could do that?

PROSPECTIVE JUROR: Yeah.

THE COURT: Based upon what you've heard, have you formed any opinions about the individuals who were involved in the events of January 6?

PROSPECTIVE JUROR: I feel strongly about the event itself. I don't know if I've formed specific opinions about any specific individuals.

THE COURT: Can you share with us what your general opinion about the January 6 events is.

PROSPECTIVE JUROR: That it was pretty atrocious, the violent part of it, and frightening. I'm a native D.C. person, and it was hard to see that.

THE COURT: Do you live near the Capitol?

PROSPECTIVE JUROR: No. I live near the Cathedral.

THE COURT: Were you affected in any way, inconvenienced based upon the events of January 6?

PROSPECTIVE JUROR: No, not in any big way. I actually had COVID then, and I was isolating.

THE COURT: Oh, I'm sorry. So you were stuck watching

TV at the time?

PROSPECTIVE JUROR: Unfortunately, yes.

THE COURT: Given that you have strong sort of negative feelings about the event itself, do you think that you would be able to put those strong feelings aside and come into this courtroom and decide this case in a fair and impartial way?

PROSPECTIVE JUROR: I would really hope I can. I'm an attorney, and I understand the obligation, and I have been on a jury before, and I've had to do that.

THE COURT: All right. Tell me, what type of attorney are you?

PROSPECTIVE JUROR: So I'm a former attorney, but I practiced mostly transactional law, real estate law. So I was here in D.C. at Arent, Fox, Kintner, Plotkin and Kahn -- now it's Arent, Fox -- representing mostly developers in the real estate world, and then moved up to New York and I was with Milbank Tweed on the lender side, so mostly big banks who were lending on real estate deals, securitized real estate.

And my husband is an attorney as well.

THE COURT: What kind of attorney is he?

PROSPECTIVE JUROR: He's retired from Arent, Fox, and he represented mostly the developers on the real estate side, and he's now working as -- for one of those developer clients outside of the firm.

THE COURT: All right. So based on your knowledge of

the law, whether it goes all the way back to law school or discussions with criminal defense lawyers or prosecutors, I'm wondering whether you would be able to put aside what you think you may know about the criminal law and follow any instructions that you're given in this courtroom, even if those instructions conflict with what you thought you knew as a lawyer?

PROSPECTIVE JUROR: I believe I could do that, and I was on a criminal case before as a juror, and I remember going through that process in my head of -- frankly, I didn't remember very much about criminal law. So it was sort of as if I was hearing it for the first time.

THE COURT: All right. And there's nothing about your experience as a lawyer that makes you question whether you could be fair and impartial in this case?

PROSPECTIVE JUROR: No, not -- no. I understand the obligation, and I think I really could be fair and impartial.

THE COURT: You've also mentioned that you have perhaps family members or close friends or yourself in law enforcement at one time, is that right, question number 19? Am I remembering that correctly?

PROSPECTIVE JUROR: I think that was close family member --

THE COURT: Oh, sorry. So 19 is the lawyer one. Okay. I'm going to get to question 20. I'm sorry. I had -- that was question 18. Let me back up before I get to

question 20.

I just want to drill down a little bit more on your views about January 6. Our goal here is to try to select jurors who come to the courtroom without any preconceived notions about the guilt or innocence of a defendant, as you know. And understanding that you have a negative view about those events, I just want to follow up with you a little bit more about whether you think that you could follow the instructions, including the instruction that I've already explained in the Ceremonial Courtroom, that Mr. Reffitt sits here presumed innocent unless and until the government proves his guilt beyond a reasonable doubt.

Is there anything about the views you hold that would make you lean, perhaps, towards the government's side at the start of this case, which is really not what we want?

PROSPECTIVE JUROR: I know; I know. It's a hard task for you.

I think I haven't seen anything on TV -- there's been so much video with different faces, and the defendant's not familiar to me. So I don't -- honestly, I think if I had seen something and I recognized the defendant, I think it would be really hard for me, just the presence there on the Capitol. I think that would be hard to overcome. But that's not the case.

So honestly, I think I can look at this fresh, but I do feel like if it was somebody that I had seen and seen do

something, then it would be really hard.

THE COURT: And so far as you know -- Mr. Reffitt just took his mask down. You don't recognize him from the TV?

PROSPECTIVE JUROR: No; huh-uh.

THE COURT: So you've answered yes to question number 20, and that means you know someone -- you or someone you know has been arrested, charged, convicted of a crime or been a victim or a witness to a crime.

Before you answer my questions, I want to know whether you would feel more comfortable talking about the answer to that question privately with the husher on.

PROSPECTIVE JUROR: No. It involves -- our house was robbed a couple of times, and our car was robbed. That's the extent of it.

THE COURT: Okay. Anything about the way the judicial system operated in those cases that make you question it?

PROSPECTIVE JUROR: No.

THE COURT: Okay. Ms. Berkower, any follow-up questions?

MS. BERKOWER: None from the government, Your Honor.

THE COURT: Mr. Welch?

MR. WELCH: No, thank you.

THE COURT: All right. Thank you, ma'am. You're excused.

PROSPECTIVE JUROR: I feel I should be obligated to

tell you that when I was at Milbank, we represented lenders, and some of that involved Trump bankruptcies, and I also lived for a period of time in a Trump building.

THE COURT: You did what?

PROSPECTIVE JUROR: I lived for a period -- rented an apartment in a Trump building.

THE COURT: Do you have especially strong feelings one way or the other about Former President Trump?

PROSPECTIVE JUROR: Not because of living in the building or being a part of Milbank.

THE COURT: But generally?

PROSPECTIVE JUROR: Yeah. I mean, I have strong feelings about him.

THE COURT: All right. Is there anything about those feelings that would make you not give both sides a fair trial here?

PROSPECTIVE JUROR: No. I think this has to be looked at individually.

THE COURT: All right. Thank you, ma'am.

Any follow-up before I release this juror?

MS. BERKOWER: Not from the government, Your Honor.

MR. WELCH: No, thank you, Your Honor.

(Prospective juror steps down.)

THE COURT: All right. This next juror is juror 0328. The juror has marked a lot, including the hardship question,

which I'm inclined to start with. The juror has also marked 3, 4, 5, 6, 12, and 13. So I will start with the hardship question, and if you all at any point agree that it's appropriate to strike this juror for cause, you're going to ask to ask a question? Is that what you've decided? All right, then.

(Prospective juror steps up.)

THE COURT: Good morning.

PROSPECTIVE JUROR: Hello.

THE COURT: Would you be comfortable taking off your mask?

PROSPECTIVE JUROR: I can do that.

THE COURT: If I can ask you to sort of lean forward, because the microphone is in front of you, and it's hard for the court reporter to pick up your voice and for us to hear as well as the other courtrooms.

PROSPECTIVE JUROR: All right. Just let me know if you need me to speak louder.

THE COURT: You've answered yes to a number of the questions, and I want to start with question 22, which you stated that serving as a juror would be an extreme hardship.

Can you explain why that would be the case?

PROSPECTIVE JUROR: I wasn't sure of the definition of an extreme hardship. I have a trip planned to see family.

THE COURT: And when is that trip?

PROSPECTIVE JUROR: Starting the 12th, March 12th through the 17th.

THE COURT: So I don't think that this trial is expected to last that long. You never know, of course. But is this a trip that you could delay if the jury were still deliberating? I hope the evidence is not still going at that point. I will be very frustrated if it is.

PROSPECTIVE JUROR: If necessary, yes.

THE COURT: You could? All right. I appreciate your willingness to serve. I know it's inconvenient.

So moving on to some of the other questions you've said yes to, you said you have followed the news about the January 6 events at the Capitol. Can you tell us more about that?

PROSPECTIVE JUROR: I feel pretty invested in the events that happened. I follow the news fairly closely, especially podcasts. So I subscribe to several podcasts to listen to them daily.

THE COURT: What podcasts are you listening to daily?

PROSPECTIVE JUROR: Rachel Maddow, several of the Pod Save America kind of family of podcasts.

THE COURT: And you say you're "pretty invested." What do you mean by that? You're invested in following the news of the Capitol events in particular?

PROSPECTIVE JUROR: I think so, and have strong feelings about it.

THE COURT: All right. Tell us about those feelings.

PROSPECTIVE JUROR: I think it didn't feel safe, and I think maybe some personal reservations around the reasons why people came and the events that occurred.

THE COURT: Do you think that you would be able to put those strong -- I take it these are negative feelings?

PROSPECTIVE JUROR: (Nodded head.)

THE COURT: All right. Do you think you would be able to put those strong negative feelings aside and judge the guilt or innocence of Mr. Reffitt based solely on the evidence here, or do you feel that you have such strong opinions about it that he would not receive a fair trial?

PROSPECTIVE JUROR: I think it would be difficult. I think everyone deserves a fair trial. But I think given my experience and the information I already have, I have some strong thoughts that would be hard to change.

THE COURT: Do you have information about him in particular?

PROSPECTIVE JUROR: I don't.

THE COURT: All right. Do you have -- you've learned information about other individuals, though -- you answered that question as well -- specific individuals who have been charged in connection with the January 6 events?

PROSPECTIVE JUROR: General news coverage, so people who have already been charged.

THE COURT: Do you remember in particular?

PROSPECTIVE JUROR: Not names.

THE COURT: All right. You answered yes to the question that you do have such strong feelings or opinions that you can't put them aside and serve as a fair and impartial juror in this case.

And here, I sense a little hesitancy, like you might be able to, but we really appreciate your candor and do want to try to have a set of jurors deciding this case who are neutral when they come in. So if you're walking into this courtroom kind of leaning towards the government, that's something we want to know. It sounds like based on your answers here, you might feel you are.

PROSPECTIVE JUROR: I don't think I can be 100 percent impartial.

THE COURT: You don't think you can?

PROSPECTIVE JUROR: I don't.

THE COURT: Okay. And you also said that you do have an opinion about Mr. Reffitt's guilt or innocence.

I assume that you think he's guilty?

PROSPECTIVE JUROR: I think that's a hard statement to make, but I think to assume innocence until proven guilty, that is a hard stance to take.

THE COURT: Because you understand an instruction that I've given already and would continue to give throughout this

trial is that Mr. Reffitt's innocent unless and until the government proves his guilt beyond a reasonable doubt.

But it sounds like you might struggle applying that instruction?

PROSPECTIVE JUROR: I think so.

THE COURT: Okay. Any follow-up?

MS. BERKOWER: Not from the government, Your Honor.

THE COURT: Mr. Welch?

MR. WELCH: No, Your Honor, and I have a question for the Court.

THE COURT: Okay. All right, ma'am. Thank you so much. You can step out.

(Prospective juror steps down.)

THE COURT: Is there a motion?

MR. WELCH: Your Honor, I have a motion for cause.

THE COURT: Any objection?

MS. BERKOWER: Not from the government, Your Honor.

THE COURT: All right. So juror number 0328 will be stricken for cause.

All right. The next juror is 1419. This juror has also answered yes to 3, 4, 6, 19, and 22. Again, I will start with the hardship question.

(Prospective juror steps up.)

THE COURT: Good morning, ma'am.

PROSPECTIVE JUROR: Good morning.

THE COURT: If you're comfortable taking your mask off, you may do so.

All right. So I have your card here before me, and I see that you have answered yes to the question that serving as a juror would be an extreme hardship to you.

PROSPECTIVE JUROR: Going to the end first.

THE COURT: Yes, because I want to hear what this is before we go through all the other questions.

PROSPECTIVE JUROR: Well, for me, these are hardships. It's Ash Wednesday this week, Wednesday. I'm newly converted to the Episcopal faith. I have, however, been a member of a church that my husband and I have attended for a couple years. This would be my first Ash Wednesday service since I've been a member of the choir. It's a small but very serious choir, and they are counting on me because I'm the only alto, too. That may sound ridiculous to many people, but that's a hardship to me, and it would be a hardship to them to give them last-minute notice that I have to miss Wednesday.

That's one thing. The other thing is the last two days of the period on my summons, next Thursday and Friday, my husband and I have a long-time plan to be with our daughter and son-in-law in New Orleans. We haven't seen them in ages, and we don't know when the next time we see them will be.

THE COURT: Is this still Mardi Gras then?

PROSPECTIVE JUROR: No, Mardi Gras is tomorrow. Mardi

Gras is Tuesday and then comes Ash Wednesday.

THE COURT: Is this just a weekend trip?

PROSPECTIVE JUROR: It's a couple-day trip because I want to come back to be with the choir on Sunday. So it's a couple days, Thursday and Friday trip, and we're coming back on Saturday.

THE COURT: Tell me about the time of the service in the church where --

PROSPECTIVE JUROR: It's at 12:10, and we have to be there for rehearsal by 11:00.

THE COURT: Let me ask you about some of your other answers to questions. It sounds like you've heard news about the Capitol events, and you've also heard or seen news about Mr. Reffitt or others, individuals.

Can you tell us about that?

PROSPECTIVE JUROR: Yes. The defendant's name did seem somewhat familiar, but I couldn't remember anything specific I had read. I follow news voraciously, and I've read everything, although not -- not on social media but on Washington Post, but I read that voraciously on this and many subjects that people send me, and I watch the news almost constantly. So --

THE COURT: Do you just -- with respect to the Capitol events, do you just watch and read what comes to you, or do you actually seek out articles and stories and whatever else about

those events?

PROSPECTIVE JUROR: I don't know that I seek it out, because I feel like I'm getting it constantly. When I say "constantly," I'm one of those people who whatever I'm doing, I have the news on. So I don't seek it out beyond that. But if people send me things, I read them.

THE COURT: All right. But as you sit here now, you don't think you've heard -- you think you've read or seen something about Mr. Reffitt, but you can't remember the specifics; is that right?

PROSPECTIVE JUROR: That's correct.

THE COURT: And I assume that means you don't know about the specific allegations in this case until today?

PROSPECTIVE JUROR: No, not the specifics. Certainly, I know these kinds of allegations are at issue in many cases, but not this particular case.

THE COURT: All right. You've -- it's interesting to me that you said yes to you have an opinion about Mr. Reffitt's guilt or innocence, but you didn't say you have such strong feelings or opinions about the Capitol events that it would be difficult for you to be a fair and impartial juror.

PROSPECTIVE JUROR: Right.

THE COURT: So of course, to be a fair and impartial juror, you can't have a view on Mr. Reffitt's guilt or innocence. So should you have answered yes to 5 as well?

PROSPECTIVE JUROR: (Nodded head.)

THE COURT: All right. Tell us about that.

PROSPECTIVE JUROR: There is a tension. In answering each question, I hesitated what to answer. I have very strong political beliefs. I have very strong views in general about the events of that day. So I thought that I should indicate that in the response to the question about the defendant, although I don't -- as I say, the name sounds vaguely familiar, but I can't attribute particular actions to a particular defendant or another. So I felt I should indicate that I have strong views.

However, I am an attorney. I believe in the system, and I believe very strongly that I can be impartial.

THE COURT: You do? You feel strongly that you can be impartial?

PROSPECTIVE JUROR: Yes.

THE COURT: So I'm confused. Maybe you meant to answer yes to a different question, because you said that you do have an opinion about Mr. Reffitt's guilt --

PROSPECTIVE JUROR: I thought I'd better be honest by -- no, I tried to be careful about it. Everything I have read and heard about this and what I went through that day thinking about it, watching it on the news happen, I know that I have opinions. I think most people in this world do, whether they want to admit it or not. I believe I have opinions.

However, I believe that our system only works if people of good faith try to consume the evidence and follow the legal instructions that are given and go with the evidence, and I think I could do that.

But I felt I'd better indicate my view on the earlier question so that people can -- y'all may think something different when you hear me.

THE COURT: I appreciate your honesty. That's exactly what we want you to do, and we appreciate you being forthcoming about that.

Tell me, what kind of attorney are you?

PROSPECTIVE JUROR: Oh, I have been retired for ages. I went to law school when I was fairly young, and I practiced for eight years. Some of that was part-time after I had my children. I was in private practice at Wilmer Cutler Pickering, and now it's WilmerHale.

My husband is an attorney. He's just gone on senior status. He was for a long time a member of the D.C. ACLU board, and then he was on the national board, and now he's going to be chair, I believe, of the board of the International Senior Lawyers Project, ISLP.

My son's a lawyer in Boston.

THE COURT: So have either of you practiced criminal law when you were practicing?

PROSPECTIVE JUROR: No. My husband did some work on

pro bono cases, and years ago, he was on a death penalty case in that capacity, but that was not his --

THE COURT: Based on anything you may know about the criminal law from your conversations with other lawyers or your studies in law school, is there anything about that that makes you think it might be difficult for you to follow the instructions I give you, even if they're inconsistent with what you remember or were told?

PROSPECTIVE JUROR: No.

THE COURT: All right. So I just want to circle back to this strong opinion and just make sure that I understand where you're coming from. It sounds like you're saying that although you have strong, I take it, negative views about the events of the Capitol on January 6 of 2021, you think you can put those strong views aside and come into this courtroom and judge this case fairly and impartially based on the evidence that's presented in this court?

PROSPECTIVE JUROR: I think I could. I would do my best to. I believe I could.

THE COURT: And you would also follow this Court's instructions?

PROSPECTIVE JUROR: Oh, absolutely.

THE COURT: All right. Okay. Any questions, Ms. Berkower?

MS. BERKOWER: Not from the government, Your Honor.

THE COURT: Mr. Welch?

MR. WELCH: Yes, please, Your Honor.

Ma'am, you mentioned something about what you went through that day. What did you mean by that?

PROSPECTIVE JUROR: I didn't go through anything different than most people who were just watching it unfold. I was at home. I was watching TV coverage. That's all I mean, that I was actively focused on it from that moment on.

MR. WELCH: Thank you.

THE COURT: Anything else?

All right. Thank you so much.

PROSPECTIVE JUROR: Okay.

(Prospective juror steps down.)

THE COURT: Any motion?

MR. WELCH: No, Your Honor.

THE COURT: All right. Before we bring in the next juror, let me review the questions. This is juror 1541. This juror has marked questions 1, 2, 3, 4, 5, 6, as well as 18 and 19.

(Prospective juror steps up.)

THE COURT: Good morning, sir.

PROSPECTIVE JUROR: Good morning.

THE COURT: If you're comfortable taking your mask off, could you, please?

PROSPECTIVE JUROR: Sure.

THE COURT: All right. So you've answered yes to all of the questions relating to the Capitol events, the first being, "Do you live or work at or near the U.S. Capitol?"

PROSPECTIVE JUROR: Yes.

THE COURT: Which is it?

PROSPECTIVE JUROR: I live on Capitol hill.

THE COURT: How close to the Capitol do you live?

PROSPECTIVE JUROR: About a mile.

THE COURT: Were you at your home on January 6 of 2021?

PROSPECTIVE JUROR: Yes.

THE COURT: You were?

PROSPECTIVE JUROR: Yes.

THE COURT: Were you inconvenienced that day by the events of the Capitol?

PROSPECTIVE JUROR: Not physically, you know.

THE COURT: Were you at home that day watching the TV?

PROSPECTIVE JUROR: Yes.

THE COURT: You also mentioned that you or someone you know has a direct or indirect connection to the January 6 events at the Capitol. What is that?

PROSPECTIVE JUROR: A close friend of mine at the time was Chief of Staff to the Deputy Secretary of Homeland Security and so dealt with a lot of the, you know, actions on that day and the aftermath.

THE COURT: Was he or she at the Capitol that day?

PROSPECTIVE JUROR: No, not at the Capitol.

THE COURT: Have you had a lot of conversations with that person about the events?

PROSPECTIVE JUROR: I would say so, yes.

THE COURT: And what kinds of conversations? Specifics about what happened?

PROSPECTIVE JUROR: Less specifics and more about just sort of the general, you know, everything that happened that day, how it happened, why it happened, that sort of thing.

THE COURT: Did you hear a lot of information about individuals who were injured that day from that friend?

PROSPECTIVE JUROR: Not from that person.

THE COURT: All right. Tell us about the news that you've read related to the -- read or seen related to the Capitol events.

PROSPECTIVE JUROR: I would say just a lot of the general coverage that's been in The Washington Post, New York Times, CNN, MSNBC, for, you know, the last year.

THE COURT: And you've tracked it consistently since January 6?

PROSPECTIVE JUROR: I wouldn't say I've made a point to track it, but it's just -- I consume a lot of news, and that's been a part of it.

THE COURT: What sources have you seen information

about it in?

PROSPECTIVE JUROR: Washington Post, New York Times, MSNBC, CNN, various sources on Twitter, BuzzFeed, and other things like that, yeah.

THE COURT: All right. You've also answered yes to the question that you've heard or seen news about Mr. Reffitt or others who were at the Capitol on January 6.

Can you tell us about that?

PROSPECTIVE JUROR: Yes. I do recall seeing one story about the defendant, you know. I can't say exactly when, but I know that name's been familiar. And then actually just this morning before I came into court, I saw a story about how jury selection was --

THE COURT: Little did you know.

PROSPECTIVE JUROR: Yeah.

THE COURT: All right. Do you remember any specifics about the articles you've read about -- not the one today, but the one earlier?

PROSPECTIVE JUROR: Just that it involved a firearm at the Capitol, yeah.

THE COURT: You've stated that you have such strong feelings or opinions about the Capitol events that you feel it would be difficult for you to be a fair and impartial juror.

Can you elaborate on that, please?

PROSPECTIVE JUROR: Sure. This is not me trying to

get out of jury service. I do view it as a civic responsibility. But just being so close to it that day and in general, I view it as so beyond the pale of anything that was acceptable behavior, that I would like to think I could be impartial, but I think that would be difficult.

THE COURT: You think that would be difficult for you?

PROSPECTIVE JUROR: Yes.

THE COURT: Even though, as I've already instructed you, you would have to assume -- if you were selected as a juror, you have to come into this courtroom, you know, in the position that the defendant is innocent until proven guilty beyond a reasonable doubt. You think that would be difficult for you to do?

PROSPECTIVE JUROR: I understand that, and if selected, I would absolutely strive to do my best, but I do believe that would be difficult.

THE COURT: All right. So when you say you have an opinion about Mr. Reffitt's guilt or innocence, as you sit here now, you would be leaning towards the prosecution?

PROSPECTIVE JUROR: Again, I hate to prejudge anything, but if you're asking me that question and based upon everything I know so far, I think that's a fair assumption, yes.

THE COURT: All right. You also mentioned that you have some family members, close friends who work in law enforcement?

PROSPECTIVE JUROR: My sister-in-law formerly worked at the Department of Justice, although that was years ago, and then as I mentioned, my close friend works at DHS.

THE COURT: And you have -- did you answer the next question, having family members or close friends as lawyers or students? Is that from your sister?

PROSPECTIVE JUROR: My sister-in-law, she's an attorney, and also, I have another -- two close friends that are attorneys.

THE COURT: All right, sir. We do appreciate your candor.

Are there any follow-up questions? Ms. Berkower?

MS. BERKOWER: Good morning.

PROSPECTIVE JUROR: Good morning.

MS. BERKOWER: I just wanted to follow up on the response you gave to Judge Friedrich a moment ago. She noted to you that she's going to instruct you -- you will be required, if you are seated as a juror, to set aside the opinions that you have, and you said that you would do your best, it would be difficult.

Do you believe that you could do it?

PROSPECTIVE JUROR: I believe I could, yes, and again, I will do my best, but I do have strong opinions about the events of that day.

MS. BERKOWER: So you're confident you could set aside

those opinions if seated as a juror?

PROSPECTIVE JUROR: I would strive to, yes.

THE COURT: And I think you said you think that you could and you would strive to, but how confident are you that you would, in fact, be able to follow the Judge's instructions to set aside those opinions and judge the case just on the evidence in the courtroom and the law as she gives it to you?

PROSPECTIVE JUROR: I believe I could, yes.

MS. BERKOWER: All right. Thank you.

THE COURT: Mr. Welch?

MR. WELCH: Please.

You also indicated, when Judge Friedrich asked, that you would hate to prejudge anything but that you would be leaning toward the prosecution; is that fair to say?

PROSPECTIVE JUROR: I believe that's what I said, yes.

MR. WELCH: Nothing else, Your Honor. Question for the Court.

THE COURT: All right. Okay. Thank you, sir. We appreciate you coming in.

PROSPECTIVE JUROR: Thank you.

(Prospective juror steps down.)

THE COURT: All right. Is there a motion?

MR. WELCH: There's a motion for cause, Your Honor.

THE COURT: Government's position?

MS. BERKOWER: Your Honor, I apologize. I don't think

I have a microphone at our table. The government would --

THE COURT: Can you speak into the microphone?

MS. BERKOWER: The government would oppose striking for cause. The juror initially did give statements that he thought it might be hard for him to set aside his opinions, but upon further questioning just a moment ago, he said he believed he could, and he said he was confident that he would follow Your Honor's instructions and that he would -- that he understood the significance, the importance of doing so, and that he would be able to set aside those opinions.

And so I know Mr. Welch did just ask him if he would be leaning toward the government upon coming into the case, but I think the more pertinent inquiry here is, can he set that aside, and he said he was confident that he could. And so we believe this juror should not be stricken for cause.

THE COURT: All right. Again, I don't have the feed in front of me right now, but I do think the last thing he said to Mr. Welch was that he would come in predisposed towards the government, and I think that's a problem. We want people coming in here neutral. I think he would strive really hard to set aside his strong opinions about the case and he thought he could do it, but I think -- my recollection of all the questions that I asked him suggested that this was going to be really, really difficult for him to do.

So I am -- I will grant the motion to strike for cause.

All right. The next juror, number 31, has only listed one question, and that's question number 18.

(Prospective juror steps up.)

THE COURT: Good morning, ma'am.

PROSPECTIVE JUROR: Good morning.

THE COURT: It's nice to have you here today.

You have answered yes to just one question, and that is, "Do you, family members, or close friends work in law enforcement?" You answered yes to that?

PROSPECTIVE JUROR: I did.

THE COURT: Why is that?

PROSPECTIVE JUROR: You mentioned law enforcement. My daughter works for Homeland Security.

THE COURT: What does she do for Homeland Security?

PROSPECTIVE JUROR: She's deputy staff assistant in the headquarters.

THE COURT: Was she involved at all in January 6?

PROSPECTIVE JUROR: She wasn't in that office at the time. She's always worked in Homeland. So she was at, I think, S&T at the time, but no involvement that I know of, no.

THE COURT: All right. So have you talked to her about the Capitol events and found out information she knows based on her job?

PROSPECTIVE JUROR: No. She doesn't share a lot with me about her job.

THE COURT: All right. And how long has she worked for Homeland Security?

PROSPECTIVE JUROR: It's been, I think, four or five years, I think, now.

THE COURT: All right. Is there anyone else in your family who currently works or previously worked in the government?

PROSPECTIVE JUROR: My son works for Arlington Fire Department. He's a marshal.

THE COURT: Given that you have close family members who work for the federal government, does that make you think you would be more inclined to the government's side of the case here simply by virtue of those relationships?

PROSPECTIVE JUROR: I probably would, yes.

THE COURT: I'm sorry?

PROSPECTIVE JUROR: I probably would, yes.

THE COURT: You would?

PROSPECTIVE JUROR: Yes.

THE COURT: And given that you have these close relationships with people in law enforcement, you're saying that you would come in here leaning towards the government's side before the case started?

PROSPECTIVE JUROR: When you spoke about the case, I was leaning towards the government's side.

THE COURT: Tell us about that. Why is that?

PROSPECTIVE JUROR: I just think the acts were just wrong against the government. It was dangerous for everyone who lives in the city, you know. It was horrifying when I watched it.

THE COURT: You didn't answer yes to the question about seeing news about the Capitol events, but it does sound like you have seen news about them.

PROSPECTIVE JUROR: Well, I saw the news when it was occurring. So that bothered me. I mean, since it happened, I feel a little better about, you know, what happened, and now that things are being handled, per se. But yeah, when I saw it, when it was taking place, yes, it was a little horrifying for me.

THE COURT: Do you live near the Capitol?

PROSPECTIVE JUROR: Not near. Maybe 20 minutes from the Capitol.

THE COURT: All right. Well, you understand that our goal here is to try to identify people who are going to come in and be neutral. Of course, many Americans have views about the Capitol events, but what we're looking for are jurors who can put those views, even strong views, about the Capitol aside and decide the guilt or innocence of this defendant based solely on the evidence that's presented in court and the instructions that I give.

And I'm wondering whether you think you would be able to do

that, given your views.

PROSPECTIVE JUROR: Maybe not. I would say no, probably no.

THE COURT: Even though I would instruct you, as I have already, that you're to presume that the defendant is innocent unless and until he's proven guilty beyond a reasonable doubt? You would have a hard time following that instruction?

PROSPECTIVE JUROR: No, I wouldn't have a hard time following it, no. I've sat on juries before, criminal trials before, and I don't have a problem with it at all. It's just that I am a little -- I was at the time -- I'm not as uneasy about it as I was when I was actually witnessing it happen, and it was just a little struggle.

But no, following your orders, I wouldn't have a problem doing that, no.

THE COURT: But earlier, it seemed like you suggested that you would be leaning towards the government's side of the case based on two things, your relationships with your family members and then what you observed at the Capitol.

Did I hear you correctly?

PROSPECTIVE JUROR: Yes, you did; you did.

THE COURT: So again, you understand what we're looking for are people who can come in and kind of wipe the slate clean and not be predisposed towards one side or the other when the case starts.

And I appreciate your honesty here. These are hard questions to answer.

PROSPECTIVE JUROR: I understand. I mean, like you said, following your orders, I could do, but there is a but.

THE COURT: There's a what?

PROSPECTIVE JUROR: There is a but. The but is, I was uncomfortable with that situation. So maybe this isn't the trial for me because I was uncomfortable with the situation at that time. I'm not as uncomfortable, but I was uncomfortable at the time.

THE COURT: All right. Ms. Berkower?

PROSPECTIVE JUROR: I wouldn't want to just blatantly not follow your orders. So I guess that is a no, maybe I should not sit on this trial.

THE COURT: I'm wondering how much of a struggle it would be for you to do that. I appreciate that you would try your very best because you understand your duty.

PROSPECTIVE JUROR: I honestly don't know.

THE COURT: It's hard to know?

PROSPECTIVE JUROR: I honestly can't tell you because I don't know if sitting in the court listening to whatever I would hear -- I don't know how I would react to it. I really don't.

THE COURT: All right. Ms. Berkower?

MS. BERKOWER: Good morning, ma'am.

PROSPECTIVE JUROR: Good morning.

MS. BERKOWER: Just a few follow-up questions on some of the things Judge Friedrich was just asking you. It sounds like you just said that you don't know how you would feel listening to the evidence in court. Is that right?

PROSPECTIVE JUROR: That's right.

MS. BERKOWER: And you believed you could follow the Judge's instructions; right? You've said that.

PROSPECTIVE JUROR: Yes.

MS. BERKOWER: And you've been on juries before where you've also been given the instructions?

PROSPECTIVE JUROR: Yes.

MS. BERKOWER: If the Judge instructed you you could only decide the case based upon the evidence you're hearing, is that an instruction you could follow?

PROSPECTIVE JUROR: Yes. I have followed that before. Yes, I can do that.

MS. BERKOWER: I think what the Judge was trying to get at and what we would like to know a little bit more about is, can you set aside what you feel coming into the room to judge the case just on the evidence that you're hearing?

PROSPECTIVE JUROR: Yes, I could do that, yes.

MS. BERKOWER: How confident are you you can do that?

PROSPECTIVE JUROR: I'm very confident I can do that, yeah.

MS. BERKOWER: Okay. Thank you.

THE COURT: Mr. Welch?

MR. WELCH: So would it be fair to say, ma'am, that you're already leaning toward the prosecution's case?

PROSPECTIVE JUROR: No, I'm not leaning towards the prosecution's case. I can only go by what I saw that day. I don't know the defendant from anyone else that I saw that day. So I'm just saying it was uncomfortable then, that day and a few days after that.

But if I had to sit in here and go by what I'm hearing and what the Judge is telling -- the rules the Judge is telling me to follow, then yeah, I can do that.

MR. WELCH: Would you be affected by what you personally remember from that day?

PROSPECTIVE JUROR: No, no, no, I wouldn't.

MR. WELCH: Previously, you said that the acts that day were just wrong. Is that how you still feel?

PROSPECTIVE JUROR: Some of what I saw, yes.

MR. WELCH: And would you be able to set that aside?

PROSPECTIVE JUROR: In this case, yes.

MR. WELCH: You said, "Maybe this isn't the case for me." Why did you say that?

PROSPECTIVE JUROR: Well, based on what I was hearing the Judge say to me, it's because I was so uncomfortable watching it that day, I thought maybe because of that, that's

maybe why this was not -- is not a good case for me.

MR. WELCH: Thank you.

THE COURT: A couple more questions.

PROSPECTIVE JUROR: Uh-huh.

THE COURT: So one is, I just realized that you, given your age, have the choice whether or not to serve, and we think you can be a terrific juror here. But I want to make sure I am pointing out for those who are 70 and over that you do have the option, and I take it by you being here you do want to serve.

PROSPECTIVE JUROR: Yes.

THE COURT: So just circling back to the conversation we had earlier, I guess the one question I have is whether you have kind of a formed opinion right now, a formed view.

PROSPECTIVE JUROR: No, I don't. I don't have a formed opinion, no, I don't. I don't know why they did what they did. So I don't have an opinion about it at all.

THE COURT: And at the beginning when I was questioning you about your relationships with your children who are in law enforcement and you said that you might be leaning towards the government's side, do you understand now what I'm getting at? When you come to the courtroom --

PROSPECTIVE JUROR: I think I --

THE COURT: -- you have to put any tendency to lean one way or the other aside.

PROSPECTIVE JUROR: I think I understand what you're

saying. I think my uncomfortableness is the fact that my daughter works for Homeland Security, and it worries me sometimes. So that's really my concern. That's basically all it is.

THE COURT: So the concern you expressed earlier wasn't a concern about being impartial, but a concern about what?

PROSPECTIVE JUROR: Basically because of where my daughter works, what she comes in contact with, you know, things that are going on in the world. I know she has a lot to -- her job comes in contact with a lot of that. So my fears are that, basically.

That, of course, has nothing to do with judging someone in a courtroom. It has nothing to do with that, because again, I can't physically judge anyone until I hear some evidence.

THE COURT: But your fears about her serving for the government, how does that relate to you serving as a juror here in this case? Are you concerned about her security?

PROSPECTIVE JUROR: I don't think I'm concerned about her security. I think it's just a concern, period. I don't think I'm concerned about her security.

THE COURT: I'm trying to understand why initially you had said that you would be leaning a little towards the government. I can't remember exactly how you put it. But --

PROSPECTIVE JUROR: It's because I think the events

were towards the government. So I assume that -- my mind would lean towards the government.

But I've sat in criminal cases before, and sitting on a trial, all kinds of things run through your head, even though you see the evidence, you hear the evidence. But when it comes down to making a decision off of what the judge is telling us to make our decisions of, I never had a problem with that. I never had a problem with it. Whether a person was guilty, not, whether they had evidence, I went by the rules that the judge told us to go by.

THE COURT: So as you sit here now, you have no formed opinion as to Mr. Reffitt's guilt or innocence?

PROSPECTIVE JUROR: No; no.

THE COURT: And you would be able to -- if chosen to serve on this jury, you would be able to decide this case only on the evidence that's presented in this courtroom and the instructions that I would provide?

PROSPECTIVE JUROR: Yes; that's all I can go by, yes.

THE COURT: And what about the events that you saw on TV or read about in the newspaper? Would those -- would you be able to put that information out of your mind in judging the evidence in this case?

PROSPECTIVE JUROR: Basically, yes, yeah.

THE COURT: Okay. All right. Any further follow-up?

MS. BERKOWER: Not from the government, Your Honor.

THE COURT: Mr. Welch?

MR. WELCH: No, thank you.

THE COURT: All right. Thank you, ma'am. I appreciate it.

(Prospective juror steps down.)

THE COURT: Any motion?

MR. WELCH: No, thank you.

THE COURT: All right. So the next juror is 1120, and this juror has answered yes to number 18, number 19, and number 2.

(Prospective juror steps up.)

THE COURT: Good morning, sir.

PROSPECTIVE JUROR: Good morning, ma'am.

THE COURT: Are you comfortable taking off your mask?

PROSPECTIVE JUROR: Yes, ma'am.

THE COURT: You are juror 1120?

PROSPECTIVE JUROR: Yes, ma'am.

THE COURT: All right. So you have answered yes to question number 2, which is that you know -- you or someone you know has a direct or indirect connection to the January 6 Capitol events.

PROSPECTIVE JUROR: I must have put the wrong -- I was thinking the question was the one had I heard anything.

THE COURT: Yes, in the news. Question number 3.

PROSPECTIVE JUROR: Then it should be 3.

THE COURT: And I see that's the last number you wrote down. So did you think about later you should have answered that one correctly? Is that what happened?

PROSPECTIVE JUROR: After it was over, I wanted to ask you to repeat that question, but I didn't know if I could or not.

THE COURT: Sorry about that. Of course you could have.

So you wanted to answer yes to the question, "Have you heard news about the January 6 Capitol events?"

PROSPECTIVE JUROR: Yes.

THE COURT: Can you tell us what you've heard in the news about them?

PROSPECTIVE JUROR: Probably very minimal. I'm not really a news guy, and we probably haven't been in country -- we are out of country a lot. So no, I haven't really picked up -- at night, you know, you see the news, and clips come in. I just basically have been ignoring a lot of that, in all honesty.

THE COURT: Were you here on January 6, 2021? Were you in the country then?

PROSPECTIVE JUROR: Yes, ma'am.

THE COURT: Do you live near the Capitol?

PROSPECTIVE JUROR: Yes, ma'am. We live up on Fourth Street Northwest.

THE COURT: All right. Were you at home that day?

PROSPECTIVE JUROR: Yes, ma'am.

THE COURT: Were you inconvenienced at all by the events of that day?

PROSPECTIVE JUROR: No, ma'am.

THE COURT: All right. Do you recall whether you've seen any news about Mr. Reffitt, the defendant in this case?

PROSPECTIVE JUROR: No, I can't say I have. I don't recognize the gentleman if he's here. No, I'm sorry. I don't recognize him. So, no.

THE COURT: Any specific news you recall about any individual involved in the January 6 events?

PROSPECTIVE JUROR: The only one I can really recall is the guy with the horns on. I guess you see -- that popped up in the news originally, but other than that, no.

THE COURT: Tell me -- so you're in and out of the country? Are you retired?

PROSPECTIVE JUROR: Yes, ma'am.

THE COURT: How often are you here in the country?

PROSPECTIVE JUROR: We have a home out of country. So what we try -- since then, we probably have been out of country maybe four or five months and in and out of D.C., just visiting and traveling.

THE COURT: You also said that you, family members, or close friends work in law enforcement.

PROSPECTIVE JUROR: My wife is retired. She, I think,

back in the mid-'90s -- I think put '96 down, but I wasn't real positive -- she wrote presentencing reports for CSOSA, I think, which is a part of the D.C. court system. That was when we first met.

THE COURT: This is your wife?

PROSPECTIVE JUROR: Yes, ma'am.

THE COURT: Did you have conversations about her job, I assume, with her back then?

PROSPECTIVE JUROR: Oh, gosh, probably, you know, like why didn't you get here for happy hour or something. Not really. I was working full-time doing engineering and science work, and she was doing what she did.

THE COURT: All right. Do you have any -- based on your relationship with her, any other lawyers, any views of the criminal law, any knowledge?

PROSPECTIVE JUROR: No. My brother-in-law, he's a retired attorney. I think he dealt with social issues, non-profit up in Massachusetts, but he's been retired about ten years, I think, now.

THE COURT: Anybody else in the family or close friends who is a lawyer?

PROSPECTIVE JUROR: Not really.

THE COURT: Anything about your relationships with those who are lawyers or in government jobs that would impact your ability to judge this case fairly to both sides?

PROSPECTIVE JUROR: No, ma'am. I was in the nuclear industry. I don't think anyone would be --

THE COURT: All right. Ms. Berkower?

MS. BERKOWER: Just very briefly.

Good morning, sir.

PROSPECTIVE JUROR: Hi. How are you?

MS. BERKOWER: May I ask, what country is your other home in?

PROSPECTIVE JUROR: Aruba.

MS. BERKOWER: Thank you.

THE COURT: Mr. Welch, any questions?

MR. WELCH: No, thank you.

THE COURT: All right. Thank you, sir. I appreciate your time.

(Prospective juror steps down.)

THE COURT: So the next juror is 0168, and this juror has said yes to questions 3 and 4.

(Pause.)

THE COURT: All right. That card was out of order. Sorry. The next juror is juror number 1332, and that juror said yes to 1, 2, 3, 4, and 5.

(Prospective juror steps up.)

THE COURT: Good morning, sir. Almost afternoon. If you're comfortable taking your mask off, please do.

You are juror number 1332?

PROSPECTIVE JUROR: Yes.

THE COURT: So you answered yes to question number 1. That is, you say that -- I think that's a question that you live or work near the U.S. Capitol.

PROSPECTIVE JUROR: I have and I continue to work as a lobbyist. I visit the Hill quite a bit. I used to live on the Hill. I don't anymore.

THE COURT: All right. Where do you work on the Hill roughly? Not address, but are you close to the Capitol?

PROSPECTIVE JUROR: My office is 1800 M Street, but I frequently go to meetings on the Hill, including the Capitol.

THE COURT: All right. Were you on the Capitol, near the Capitol on January 6?

PROSPECTIVE JUROR: No, I was not.

THE COURT: All right. You also mentioned that you or someone you know has a direct or indirect connection to the events at the Capitol.

PROSPECTIVE JUROR: I had a number of friends that still work on the Hill who were Hill staffers or reporters who were in the building at the time.

THE COURT: And have you discussed the January 6 events with them?

PROSPECTIVE JUROR: I have.

THE COURT: And based on those discussions, have you formed any opinions about this defendant or any other individual

at the Capitol that day?

PROSPECTIVE JUROR: I'm not familiar with the defendant. I'm familiar with the events that occurred and some of the violence that happened.

THE COURT: Some of the what that happened?

PROSPECTIVE JUROR: Some of the violence.

THE COURT: Have you formed any opinions about the people who committed the violence that day?

PROSPECTIVE JUROR: I think there were a number of different people there for a number of different reasons. So I don't have an opinion about everyone that was there that day.

THE COURT: Do you have opinions about some of them?

PROSPECTIVE JUROR: Not specific individuals.

THE COURT: All right. So what kind of information did you receive from the folks you knew on the Hill? Is this the kind of information that was reported in the newspaper, or was it more specific information?

PROSPECTIVE JUROR: My former boss, congressman Brad Schneider, was there. He has moved around several times. I talked to him about his experience being huddled with Capitol security and being moved around the building. So he was the main person that I talked to about that day rather than taking just blanket information from the media.

THE COURT: So this was -- your former boss was a member of Congress?

PROSPECTIVE JUROR: Yes.

THE COURT: All right. Given the relationship you have with him, do you think that you could put the discussions you had with him aside and judge this case fairly based on the evidence presented in this courtroom?

PROSPECTIVE JUROR: Yes, I believe I could.

THE COURT: So simply because you have this relationship with the congressman and others on the Hill, would that -- based on that, would you tend to view this case favorably for one side or the other?

PROSPECTIVE JUROR: No. I would be open to the evidence that was given and make a judgment as to what actions were taken on that day.

THE COURT: Aside from what you've heard from the individuals you've just mentioned, can you tell us what you've heard in the news and how closely you've tracked the events of January 6?

PROSPECTIVE JUROR: I can't say I've tracked it very closely as of late. The days around then, I was pretty horrified at some of the violence that happened.

I've worked in and out of the Capitol. I used to give tours of the Capitol building back when I was a congressional page. So I know the building very well. I have a lot of reverence for it. I didn't like what I saw, and I was pretty upset that people would take the building by force.

THE COURT: I appreciate that you were horrified by the events. Given that, can you still judge this case fairly and impartially? Would you be able to put aside those strong views about what happened that day?

PROSPECTIVE JUROR: I would have to see evidence of why someone would go there and the actions they took while they were there, and I would judge it on that.

THE COURT: So you wouldn't come in with any sort of preconceived notions about what the evidence in this case will show?

PROSPECTIVE JUROR: I want to see the evidence and judge it on that.

THE COURT: And you understand, as I've instructed you already, that the defendant who sits here, Mr. Reffitt, he's presumed innocent unless and until the government proves him guilty beyond a reasonable doubt?

PROSPECTIVE JUROR: Yes.

THE COURT: Would you have any trouble applying that instruction?

PROSPECTIVE JUROR: No, I would not.

THE COURT: So you did say yes to having such strong feelings or opinions about the Capitol events that it would make it difficult for you to be a fair and impartial juror.

Are you saying it would be difficult, but you're comfortable you could do it, that you could follow the Court's

instructions?

PROSPECTIVE JUROR: Yes.

THE COURT: Do you have any hesitation about being able to do that?

PROSPECTIVE JUROR: No.

THE COURT: All right. Ms. Berkower?

MS. BERKOWER: Nothing from the government, Your Honor. Thank you.

THE COURT: Mr. Welch?

MR. WELCH: No questions. Thank you.

THE COURT: All right. Thank you, sir. I appreciate your time.

(Prospective juror steps down.)

THE COURT: All right. Now to juror 0168, the one I called out before, who answered yes to question 3 and question 4.

(Prospective juror steps up.)

THE COURT: Good morning, ma'am.

PROSPECTIVE JUROR: Good morning.

THE COURT: If you're comfortable taking your mask off, please do.

All right. So you've answered yes to two questions. The first, you say that you followed the news about the January 6 events at the Capitol. Can you tell us what you know, what you've read, what you've heard?

PROSPECTIVE JUROR: I followed the news of the January 6 events probably closest to the time that it occurred, those few weeks after, just kind of the headlines in terms of sort of replaying what happened that day and the impact of safety and security concerns of Capitol Police stories and the like.

THE COURT: Have you continued to track it to current day?

PROSPECTIVE JUROR: Not closely.

THE COURT: All right. I take it you've read some articles or seen some things in the news since January 6?

PROSPECTIVE JUROR: Probably more personal stories of Capitol Police officers or persons who were directly affected by the events.

THE COURT: Is there anything about those stories that you've heard that would make it difficult for you to be a fair and impartial juror in this case?

PROSPECTIVE JUROR: I certainly have feelings about what happened. I don't think it would affect my impartiality.

THE COURT: All right. So you're saying despite those feelings, you could put them aside and kind of wipe the slate clean and come in here and decide this case based solely on the evidence that's presented in this courtroom --

PROSPECTIVE JUROR: I believe so.

THE COURT: -- and the instructions that I give you?

PROSPECTIVE JUROR: Yes.

THE COURT: Have you -- do you recall whether you've seen anything in the news about Mr. Reffitt, the defendant in this case?

PROSPECTIVE JUROR: No.

THE COURT: Anything specific about anybody else that you recall, any other individuals who were involved in January 6 events?

PROSPECTIVE JUROR: I don't remember names. I do remember a few individuals.

THE COURT: Can you tell us about those?

PROSPECTIVE JUROR: I remember the case of a woman who was a part of the January 6 protesting group who lost her life that day. I don't have specific memories at this time, but I just remember certain individuals who were seen engaging in certain behaviors that day, just in terms of interrupting or running about or looting or that kind of thing.

THE COURT: As you sit here now, have you formed any opinions about the guilt or innocence of any of those people, including Mr. Reffitt?

PROSPECTIVE JUROR: Today?

THE COURT: As you sit here now.

PROSPECTIVE JUROR: I probably have previously felt one way or the other based on the coverage that I watched or read.

THE COURT: And aside from the woman you described -- is this the woman who was shot?

PROSPECTIVE JUROR: (Nodded head.)

THE COURT: Aside from her, can you recall any coverage specific about any individual?

PROSPECTIVE JUROR: I couldn't recount specific details. I just kind of in general remember that there were certain individuals who were identified having done something that was possibly illegal and disruptive that day.

THE COURT: Do you recognize Mr. Reffitt here in the courtroom?

PROSPECTIVE JUROR: No.

THE COURT: All right. You understand, ma'am, that what we want are jurors who will come in here and be neutral to start, not leaning to one side or the other.

And recognizing what you've said so far, I'm just curious, do you think that you could put aside all of what you've seen on TV or read in the newspaper and be a neutral juror, an impartial juror, when this case begins?

PROSPECTIVE JUROR: I believe so.

THE COURT: All right. Ms. Berkower?

MS. BERKOWER: No questions from the government, Your Honor.

THE COURT: Mr. Welch?

MR. WELCH: No questions. Thank you.

THE COURT: All right. Thank you, ma'am.

(Prospective juror steps down.)

THE COURT: All right. This next juror is juror number 0457. This juror has answered yes to 3, 4, 5, 17, 18, and 19.

(Prospective juror steps up.)

THE COURT: Good morning, ma'am.

PROSPECTIVE JUROR: Good morning, Judge.

THE COURT: If you feel comfortable taking your mask off, could you please?

PROSPECTIVE JUROR: I'm happy to.

THE COURT: Just to confirm, you're juror number 0457.

PROSPECTIVE JUROR: Yes.

THE COURT: So you've answered yes to the question that you've heard news about the January 6 Capitol events; is that correct?

PROSPECTIVE JUROR: Yes.

THE COURT: Can you tell us generally what news you've heard?

PROSPECTIVE JUROR: I've followed it since it started on the 6th of January, and I follow Julie Kelly and podcasts with Lee Smith and one other journalist. I can't think of the name.

THE COURT: If I can ask you to keep your voice up a little bit. The microphone is in front of you, and we want to

make sure that the court reporter and the overflow rooms can hear you clearly.

So you say you've followed this consistently since January 6?

PROSPECTIVE JUROR: Pretty consistently. Last summer, I wasn't anywhere near any kind of news or TV, et cetera.

THE COURT: And do you seek out this news, or do you just listen and read what comes across the normal news sources that you always read?

PROSPECTIVE JUROR: No, I seek it out, mostly on podcasts.

THE COURT: And tell us what you've heard on these podcasts that you've listened to.

PROSPECTIVE JUROR: Well, the most recent one was by Julie Kelly. I don't remember who interviewed her. And she was talking about the fact that the National Guard had been called in early -- or was available, I guess is the term, early that morning, but they were never called in. That stuck in my brain.

THE COURT: All right. Aside from that, do you recall specifics about any individuals who were involved in January 6, including Mr. Reffitt, the defendant in this case?

PROSPECTIVE JUROR: I do not recall his name. The other name I heard recently was a man who was back on his farm or ranch in Texas. I don't remember his last -- his name.

THE COURT: You mean somebody who served a sentence

and is now --

PROSPECTIVE JUROR: No. And again, I didn't follow it closely. There was one gentleman who was at the forefront of the investigation, and nobody seemed to be able to find him. And then I read a clip where he was actually back at his residence someplace in Texas.

THE COURT: Do you recognize Mr. Reffitt here in the courtroom?

PROSPECTIVE JUROR: I do not.

THE COURT: All right. Have you formed an opinion about the guilt or innocence of any of the individuals involved in the Capitol events?

PROSPECTIVE JUROR: No, because I don't have all the information.

THE COURT: You did state that you have strong feelings about the events of January 6 such that you're concerned that you can't put them aside and serve as a fair and impartial juror in this case.

Is that because you are leaning one side or the other?

PROSPECTIVE JUROR: Judge, I came here thinking it was probably going to be another fender-bender. So when you told me -- when you said what the case was, I immediately became very upset, because I have read both sides but I lean towards one as more than the other. So I'm not sure if I could be fair and impartial. I've never been put in that position.

THE COURT: So you heard me already say that one of the instructions that would be given again in this case is the instruction that the defendant is presumed innocent as he sits here now, and he cannot be convicted at trial unless and until the government proves its case beyond a reasonable doubt.

PROSPECTIVE JUROR: Yes.

THE COURT: Would you have difficulty applying those instructions?

PROSPECTIVE JUROR: I'm sure I can move forward with that -- yes, I could move forward with that decision.

THE COURT: Yes, you would have difficulty, or yes --

PROSPECTIVE JUROR: Yes, I would not have any difficulty considering him innocent until he's proven guilty otherwise.

THE COURT: So you could put your strong feelings aside and come in here and be neutral and not be influenced by what you've seen before coming to this courtroom?

PROSPECTIVE JUROR: Certainly.

THE COURT: You also said yes to the question about firearms, that you have strong feelings about firearms, that you're concerned you might not be able to be fair for that reason.

PROSPECTIVE JUROR: Well, I've been trained to use a firearm. I don't own a firearm. I live in the District. But I have family members who have several firearms, and we have been

at firing ranges. So I'm very familiar.

THE COURT: And does your experience with firearms or your knowledge of firearms make you concerned that you couldn't be fair in evaluating the evidence in this case during a trial?

PROSPECTIVE JUROR: I don't believe it can. Again, it's the first time ever I've thought about it, because of this situation.

THE COURT: When you say "I don't believe it can," what do you mean?

PROSPECTIVE JUROR: I mean, I answered the question in the sense that I am familiar with firearms.

THE COURT: I see; I see. But not that you feel so strongly one way or the other about firearms that you couldn't be fair to Mr. Reffitt in this case; is that right?

PROSPECTIVE JUROR: Yes, Judge.

THE COURT: You also said that you have family members in law enforcement; is that right?

PROSPECTIVE JUROR: My brother was a FBI agent. He's retired.

THE COURT: All right. So there may be FBI agents testifying in this case. Would you be more likely to believe them simply because your brother is a former FBI agent?

PROSPECTIVE JUROR: No, I would not.

THE COURT: Would you assess their credibility and bias just like every other witness in this case?

PROSPECTIVE JUROR: I would indeed.
THE COURT: And then the other question you answered yes to was family member as a lawyer.
PROSPECTIVE JUROR: My brother.
THE COURT: Same brother?
PROSPECTIVE JUROR: Sorry, not a lawyer. I thought your question was working in a law office.
THE COURT: That, too.
PROSPECTIVE JUROR: He also worked in the court system here in D.C.
THE COURT: Where does he work exactly?
PROSPECTIVE JUROR: Where did he work?
THE COURT: Or did he work, yeah.
PROSPECTIVE JUROR: He worked -- you know what? I'm not certain where it was.
THE COURT: But he was in one of the courthouses?
PROSPECTIVE JUROR: Yes.
THE COURT: This courthouse or the one across the street, Superior Court?
PROSPECTIVE JUROR: Superior Court, I believe.
THE COURT: And what did he do in that court?
PROSPECTIVE JUROR: He clerked for a judge, and then went on to become an FBI agent.
THE COURT: So same brother?
PROSPECTIVE JUROR: Yes.

THE COURT: Okay. Anything about your conversations with your brother make you concerned about following my instructions in this case?

PROSPECTIVE JUROR: Not at all. As I've said, he knows the rules, and I do, too.

THE COURT: So [redacted], you are over 70, and I think you can serve as a qualified juror here, but I want to ask everyone who is that age that you do have a choice if you want to serve.

PROSPECTIVE JUROR: I had that choice when I filled out the form. I am happy to do it.

THE COURT: Great. I just wanted to make sure you didn't miss that.

All right. Thank you very much for your time and your service.

Ms. Berkower?

MS. BERKOWER: Good morning, ma'am.

PROSPECTIVE JUROR: Good morning.

MS. BERKOWER: Just a few follow-up questions for you.

You mentioned that you seek out information about January 6. I understand you write about that through news and podcasts?

PROSPECTIVE JUROR: Primarily through podcasts, yes.

MS. BERKOWER: And the podcast you listen to, is it one podcast or more than one?

PROSPECTIVE JUROR: Many.

MS. BERKOWER: Is it less than five? Between five and ten? More than ten?

PROSPECTIVE JUROR: More than -- maybe ten.

MS. BERKOWER: And how often do you listen to these? Are they like daily podcasts? Weekly podcasts?

PROSPECTIVE JUROR: The people that I listen to primarily don't have daily podcasts. So perhaps one of them is twice a week, three times a week. And I'm not consistent, because it's -- sometimes the topic is not of interest. So it's somewhat sporadic on any particular podcast.

MS. BERKOWER: I see. But when those podcasts have information about January 6, are those episodes that you do seek out and listen to?

PROSPECTIVE JUROR: I have, except there hasn't been a lot of information. As I mentioned, Julie Kelly, who I don't know if she's an independent journalist, has been on recently. So that's why I was, quote, updated on recent -- new information.

MS. BERKOWER: What is the most recent time that you listened to a podcast about January 6?

PROSPECTIVE JUROR: I would say within the last two weeks.

MS. BERKOWER: And how many podcasts have you listened to in the last two weeks that touched on January 6?

PROSPECTIVE JUROR: Well, it was primarily hers, because she has focused on it. And then after the question was brought up initially, I was trying to remember what other podcasts I had listened to which was a response to some of the things she had said, a positive response. I don't recall the name, the date.

MS. BERKOWER: And other than these podcasts that you mentioned, do you seek out news from other sources about January 6 as well?

PROSPECTIVE JUROR: No; not really, no.

MS. BERKOWER: And I think -- I know you said, when Judge Friedrich questioned you, that you have strong feelings about the events of January 6.

Did I understand that correctly?

PROSPECTIVE JUROR: I do indeed have strong feelings.

MS. BERKOWER: And have you formed opinions about what happened there?

PROSPECTIVE JUROR: To a degree, based upon again what I've read. I was traveling back from out of state. I was in Georgia for the runoff election when all this was taking place. So I was in the city when all this chaos was going on.

MS. BERKOWER: Were you affected by the chaos as you traveled home?

PROSPECTIVE JUROR: No. I managed to circumvent it.

MS. BERKOWER: And based on your experiences and these

opinions that you have about the events, have you also formed an opinion about whether or not the people involved in January 6 are guilty of crimes?

PROSPECTIVE JUROR: I am somewhat one-sided in terms of the news that I get. So far, I haven't had anything pointed out that -- because whatever this commission that Speaker Pelosi is putting together, I haven't followed that. So I don't know what the status is of anything right now.

MS. BERKOWER: And I think my question maybe wasn't a very good one. What I was trying to get at, based on the information that you have about January 6, you said you formed some strong feelings; right?

PROSPECTIVE JUROR: I have.

MS. BERKOWER: And do you also have opinions about whether the people involved in the events are guilty of crimes or innocent of crimes?

PROSPECTIVE JUROR: At this point, I would say innocent, because this is the idea of why we're having a trial. The person on trial is innocent until proven guilty.

MS. BERKOWER: Of course, ma'am, and I wasn't trying to imply otherwise.

PROSPECTIVE JUROR: I understand.

MS. BERKOWER: I mean just generally, based on the information that you have learned from all of the news sources and podcasts that you've listened to, have you formed an opinion

about the guilt of people involved with January 6?

PROSPECTIVE JUROR: Yes; I think I have, yes.

MS. BERKOWER: And how strongly do you hold those opinions?

PROSPECTIVE JUROR: Well, because I only know so much, I can't really measure that at this point in time.

MS. BERKOWER: And do you think that you will be able to set aside those opinions when you come to court, or will that be hard for you to do?

PROSPECTIVE JUROR: It won't be hard, because that's the question that was posed, and I didn't respond a yes on that.

As I said in the beginning, this was completely a huge surprise. The last time I was on, it was for a traffic accident, and to come and find out what this is all about has been shocking -- surprising and semi-shocking for me.

MS. BERKOWER: I don't want to belabor the point, but you did say you were upset when you learned the subject matter of this case?

PROSPECTIVE JUROR: Maybe the word "upset" is not the right word. Just completely taken off guard, again thinking about hopefully what I was going to be doing on Wednesday, which was not going to be in court.

MS. BERKOWER: So it would be your preference you were not selected?

PROSPECTIVE JUROR: No. Again, I'm basing it upon the

history of when I have been in the court. It's just been in and out on the same day.

MS. BERKOWER: Oh, I understand. All right.

And going on to a different topic, you mentioned your brother is a former -- a retired FBI agent?

PROSPECTIVE JUROR: Correct.

MS. BERKOWER: May I ask how close you are with this brother?

PROSPECTIVE JUROR: Very.

MS. BERKOWER: Have you spoken with him about his work at the FBI?

PROSPECTIVE JUROR: Oh, yes. He had an interesting job. He worked in the Mafia division.

MS. BERKOWER: Do you have opinions generally about the FBI?

PROSPECTIVE JUROR: I have wonderful stories that he told me. I mean, he's not telling me anything that you wouldn't read in a book. But yes, I think they're a wonderful organization.

MS. BERKOWER: Just one moment.

THE COURT: Mr. Welch?

MR. WELCH: I don't think Ms. Berkower is done.

THE COURT: Oh, I'm sorry. Are you done?

MS. BERKOWER: I was just consulting co-counsel. I am finished.

MR. WELCH: And now I don't have any questions.

THE COURT: I want to follow up. I don't know if I heard you correctly.

You stated, I thought, that you had formed an opinion about the guilt of individuals, and I was confused by that answer because I thought we had discussed earlier that question.

As you sit here now, do you have an opinion as to whether Mr. Reffitt or anyone else involved in the January 6 events is guilty or not guilty?

PROSPECTIVE JUROR: As I stated, Judge, when that question was posed, I did not answer yes because, in spite of my shock finding out what the case was about, finding out that it was about something that I knew something about, and actually just your instructions that from here forward we're going to have to remove ourselves from any visual, reading, et cetera, which that's a huge part of my life, all that is cycling through. But I feel I'm capable of sitting in a court and listening and making a decision upon the evidence that's presented.

THE COURT: Do you think that it's going to be a struggle for you to follow the instruction that you're not allowed to read about this case or talk about this case if you're selected as a juror?

PROSPECTIVE JUROR: No, Judge. I don't get the newspaper daily. I can, obviously, turn off a TV or radio at

any time.

THE COURT: And what about any notices you might get on your phone? Can you stop those?

PROSPECTIVE JUROR: Of course, I can.

THE COURT: Anything else, Counsel?

MS. BERKOWER: Your Honor, may we approach for a bench conference briefly?

(Bench conference.)

MS. BERKOWER: So the concern that the government has here, Your Honor, is we're familiar with the podcast that Julie Kelly produces, and the prospective juror said she had listened to recent episodes in the last two weeks. And that podcaster talked about this case specifically in some of her recent episodes and also has tweeted about this case in recent days.

Our concern is, I know we're not supposed to get into the -- we're not trying to get into the content of the news she's consumed. We have concerns she may be familiar --

THE COURT: I think it's fair to follow up if you have that concern.

Any objection, Mr. Welch?

MR. WELCH: No objection to a follow-up.

THE COURT: I think you can drill down more on whether in that podcast she's heard anything about Mr. Reffitt.

MS. BERKOWER: Thank you, Your Honor.

(End of bench conference.)

THE COURT: Just a few more questions, ma'am.

MS. BERKOWER: Hello again. Ma'am, we wanted to follow up just briefly. In the podcasts you've listened to recently, including Ms. Kelly's podcast, have you heard information about this case?

PROSPECTIVE JUROR: No.

MS. BERKOWER: Do you follow Ms. Kelly on Twitter?

PROSPECTIVE JUROR: No.

MS. BERKOWER: Are you familiar with anything that she's posted online about Mr. Reffitt in particular?

PROSPECTIVE JUROR: I don't see any of her postings. She was a guest on a podcast, which I don't remember the name of, and this was again in the last three weeks or so.

MS. BERKOWER: Thank you, ma'am.

THE COURT: Anything else?

MR. WELCH: No, thank you.

THE COURT: All right. You're excused. Thank you. Not to go home, but --

PROSPECTIVE JUROR: Thank you, Judge.

(Prospective juror steps down.)

THE COURT: So the next juror is 0155. He has answered -- or she, I'm not sure, yes to 3, 4, 8, 18, and 19.

(Prospective juror steps up.)

THE COURT: Good morning. I want to confirm you are juror 0155?

PROSPECTIVE JUROR: Yes; that's right.

THE COURT: All right. You have answered yes to question number 3, which is, you say that you followed the news about the January 6 events at the Capitol.

PROSPECTIVE JUROR: Yes.

THE COURT: Can you tell us a little bit about that?

PROSPECTIVE JUROR: I haven't followed it in great detail, because since the pandemic began I've tried to avoid news to some degree just to reduce anxiety in general. But I do usually check the news every, you know, day, twice a day, three times a day, and living in D.C., you read the headlines of what happened at the Capitol. I haven't followed it closely, but have generally read the news daily to see kind of major headlines.

THE COURT: Is your main source of that news about the Capitol the newspaper articles that you've seen headlines about?

PROSPECTIVE JUROR: Yes, CNN, New York Times, Washington Post online, things like that, usually online newspapers, not TV so much.

THE COURT: Are you seeking out information about the Capitol events?

PROSPECTIVE JUROR: No; not actively seeking it out, no.

THE COURT: Have you followed news accounts about specific individuals, the defendant in this case, Mr. Reffitt,

or anyone else?

PROSPECTIVE JUROR: I can't say that I've followed anyone specifically. When it first happened, some of the specific news stories, not about defendants but about a few of the Capitol officers whose names are escaping me at the moment, I've read a couple close stories about that. And I had not heard the defendant's name actually until this morning.

THE COURT: All right. Have you formed any opinion about the guilt of those who were involved in the events at the Capitol on January 6?

PROSPECTIVE JUROR: Not the guilt, per se. I think I've certainly formed an opinion when I've seen video of people storming the Capitol, that I think that was inappropriate, but I haven't really thought about guilt or innocence or the legal dynamics of it so much.

THE COURT: So you're an attorney yourself; right?

PROSPECTIVE JUROR: I am.

THE COURT: Where do you work?

PROSPECTIVE JUROR: I'm currently employed at Amazon as corporate counsel.

THE COURT: Have you done any criminal law in your background?

PROSPECTIVE JUROR: No. I did a little -- at a law firm, I did a little FCPA work that touched -- with some criminal issues to it, and I did clerk for a judge prior to

joining a law firm. We had a few criminal cases that I was somewhat involved with, but not really that involved.

THE COURT: Did you clerk here in D.C.?

PROSPECTIVE JUROR: No. I interned as a 1L for Judge Walton here in D.C., but I clerked for the District of New Hampshire Court Judge Barbadoro.

THE COURT: So did you know this was his courtroom?

PROSPECTIVE JUROR: I didn't recognize the courtroom. I saw his name on the wall there. I understand he's maybe taken senior status.

THE COURT: Despite what you know as a lawyer or remember from law school about criminal law, would you be able to set aside your knowledge and your experience as a lawyer and follow my instructions, even if they conflicted with what you thought you knew?

PROSPECTIVE JUROR: Yes, I believe so.

THE COURT: And to the extent you've formed any sort of opinions about any of the Capitol defendants based on what you've seen on television or in the paper, would you be able to set those aside and come in here and decide this case solely based on the evidence that's presented in this courtroom and the instructions that I provide?

PROSPECTIVE JUROR: I believe so.

THE COURT: Do you have any hesitancy in doing that?

PROSPECTIVE JUROR: No.

THE COURT: You understand that Mr. Reffitt is presumed innocent as he sits here?

PROSPECTIVE JUROR: Yes. I take that very seriously.

THE COURT: And he can't be convicted unless and until the government proves its case beyond a reasonable doubt. Would you have any problem whatsoever following those instructions?

PROSPECTIVE JUROR: No.

THE COURT: You said that you have family members in law enforcement?

PROSPECTIVE JUROR: I think -- well, I have an uncle who is a retired police officer. And I think that question encompassed also people who worked at the DOJ who were close friends.

THE COURT: Yes.

PROSPECTIVE JUROR: I do have a number of former colleagues that I worked at a law firm at who I am friendly with who work at DOJ.

And I also wanted to mark off that question to disclose because I actually have a tentative offer for a Civil Division post at the Department of Justice that I'm going through a security clearance check on right now. So I wanted to disclose that to the Court.

THE COURT: Congratulations.

PROSPECTIVE JUROR: Thank you.

THE COURT: To your knowledge, are any of your friends

working on the Capitol cases?

PROSPECTIVE JUROR: Not to my knowledge, no. I haven't heard anything about them. I don't think they work in the Criminal Division; most of them work in the Civil Division.

THE COURT: Given that you have an offer with the Department of Justice and you hope to pass the clearance, would that make you more inclined to favor the government in this case, given that the U.S. Attorney's Office in D.C. is a part of the Department of Justice?

PROSPECTIVE JUROR: I don't believe so.

THE COURT: Is there any hesitation about that?

PROSPECTIVE JUROR: No.

THE COURT: We've covered, I think, the lawyer question you also answered yes to. Aside from what you've mentioned already, is there anyone else who is also a lawyer or worked in an office?

PROSPECTIVE JUROR: Myself, I'm a lawyer, and I have lots of friends from law school and working at law firms in D.C. who have gone on to different government attorney jobs, but no one that I'm aware of that works on criminal matters in D.C.

THE COURT: Thank you.

Ms. Berkower, any follow-up?

MS. BERKOWER: Not from the government, Your Honor.

THE COURT: Mr. Welch?

MR. WELCH: No, thank you.

THE COURT: All right. Thank you, ma'am.

(Prospective juror steps down.)

THE COURT: Before we bring in the next juror, let me ask counsel, I'm kind of inclined to push through to 1:00. Can you all wait, or is anyone really hungry or needs a break or a bathroom break? You all right, Mr. Reffitt?

MR. WELCH: If we could use the restroom, Your Honor, we could continue.

THE COURT: If we're going to do that, I might go ahead and just take our break now.

MR. WELCH: We can wait.

THE COURT: Are you sure?

MR. WELCH: Yes.

THE COURT: We will take a couple more, and then we will take a break. We'll take about an hour for lunch. Does that work for everyone?

The next juror is juror number 1046. This juror has answered yes to questions 3, 4, and 5.

(Prospective juror steps up.)

THE COURT: Good afternoon, sir. You may take off your mask if you're comfortable doing so.

All right. So you are juror 1046?

PROSPECTIVE JUROR: That's correct.

THE COURT: And you've answered yes to seeing news about the January 6 events at the Capitol; is that right?

PROSPECTIVE JUROR: I have.

THE COURT: Can you describe generally what you've seen or heard?

PROSPECTIVE JUROR: Well, I watched the events live on CNN and the news and things the day, on January 6, and there have been articles I've read in the weeks and months after that. Very hard to avoid, I guess.

THE COURT: Can you keep your voice up a little bit?

PROSPECTIVE JUROR: In addition to watching the live coverage, I also read articles and heard things on the radio in the months following January 6 as well.

THE COURT: Have you continued to follow those events up to the current day?

PROSPECTIVE JUROR: I wouldn't say I followed it religiously, but it's hard to avoid those articles in the newspapers and on the radio.

THE COURT: So you're not looking for the information, but when you see a headline, you're reviewing it?

PROSPECTIVE JUROR: Yes, definitely.

THE COURT: Have you read any information about Mr. Reffitt or any other individuals involved in the events of January 6 who you remember as you sit here now?

PROSPECTIVE JUROR: I can't remember any of their names. To the best of my knowledge, I don't remember the defendant.

THE COURT: Do you recognize him based on --

PROSPECTIVE JUROR: I don't, no. No, I don't.

THE COURT: Have you formed an opinion about the guilt or innocence of the individuals who were involved in the January 6 events?

PROSPECTIVE JUROR: I mean, I was shocked by what I saw. I don't know what the defendant did or did not do that day, but I was very uncomfortable with what I did see.

THE COURT: You were what?

PROSPECTIVE JUROR: Uncomfortable with what I did see.

THE COURT: Understood. I'm just wondering, can you set aside that discomfort that you felt viewing the events of January 6 on TV and based on what you've read, and can you come into this courtroom kind of with the slate wiped clean and be a neutral juror in this case?

PROSPECTIVE JUROR: I believe so.

THE COURT: I sense a little bit of hesitation.

PROSPECTIVE JUROR: I do have some strong feelings. It would be hard for me to be totally neutral in this.

THE COURT: So that's the question I want to drill down on. So as I've told you already, you know, Mr. Reffitt is presumed innocent as he sits here now, and he cannot be convicted at trial unless the government proves its case beyond a reasonable doubt.

Given your strong opinions about January 6, would you have

a hard time following either of those instructions?

PROSPECTIVE JUROR: I would like to say no, but I can't guarantee 100 percent.

THE COURT: Do you have concerns about putting aside what you've, you know, seen on TV or read about and judging the case based solely on what you see in this courtroom?

PROSPECTIVE JUROR: It would be difficult for me to put aside what I have seen. I watched the events unfurl in realtime from around 12 noon well into the evening. So it would be hard for me to not take some of that into consideration, if that makes sense.

THE COURT: No, it makes total sense. It's just we want a panel of jurors who are neutral and don't come into this courtroom with any preconceived notions. I appreciate your candor. There's no wrong answer here. I just want to know whether you think you can be impartial, despite what you've seen and heard about the events, or would you favor one side coming in to this case?

PROSPECTIVE JUROR: It would be difficult for me to be neutral in dealing with a case like this. It affects me -- I live two miles from the Capitol, not close enough that I felt I needed to answer the question I live close to the Capitol. But it did sort of feel like it was an attack on my home in a sense, and it's hard to remove it from that.

THE COURT: Were you there at your home on January 6?

PROSPECTIVE JUROR: I was.

THE COURT: Were you inconvenienced by the events of January 6?

PROSPECTIVE JUROR: I didn't leave my house the day before, the day of, and the day after.

THE COURT: You were worried about things based on what you saw?

PROSPECTIVE JUROR: Yes. I have family members who live on Capitol Hill, and they had troop transports and things parked at the end of their street --

THE COURT: I'm sorry?

PROSPECTIVE JUROR: I have family that live in Capitol Hill, and they had troop transports parked at the ends of their streets, with armed people going past. It was a very scary time.

THE COURT: And you've talked to those family members about their experience on that day?

PROSPECTIVE JUROR: I have, Your Honor.

THE COURT: It sounds like it's pretty emotional memory for you.

PROSPECTIVE JUROR: It is.

THE COURT: Is there anything else you would like to add about what you've seen or heard?

PROSPECTIVE JUROR: I don't think so, Your Honor.

THE COURT: But just to be clear, your concern is not

so much about facts that you might know about this case in particular but, rather, just your strong emotional reaction about the Capitol events that make you hesitate in sitting as a juror in this case?

PROSPECTIVE JUROR: I think that's a good way to put it, Your Honor.

THE COURT: Ms. Berkower?

MS. BERKOWER: Very briefly, Your Honor.

Good afternoon.

PROSPECTIVE JUROR: Good afternoon.

MS. BERKOWER: I just wanted to follow up on some of the questions that the Judge asked you concerning the feelings that you have about the events of January 6.

Do your strong feelings concern generally the people involved and the events that happened, or do your concerns relate to specific individuals?

PROSPECTIVE JUROR: Generally about the events that happened. I can't tell you every person who went into the Capitol, committed a crime, or committed violence, but what I did see was shocking, and it's hard to separate that from the individual as well.

THE COURT: And if you were instructed to separate out your feelings about the crowd generally from the particular individual in this case, that's something that you think you could do or you couldn't do?

PROSPECTIVE JUROR: I think I would be able to do that.

MS. BERKOWER: You would?

PROSPECTIVE JUROR: Yes.

MS. BERKOWER: And how confident are you that you would be able to make that separation?

PROSPECTIVE JUROR: Very confident.

MS. BERKOWER: Thank you.

THE COURT: Mr. Welch?

MR. WELCH: No questions, but I do have a question for the Court.

THE COURT: All right. I just want to follow up on what Ms. Berkower asked you. So initially, you said you thought it would be hard to separate what you know, what you saw about the crowd and your strong feelings about the crowd, it'd be hard to separate those feelings from Mr. Reffitt, the defendant in this case. Is that fair?

PROSPECTIVE JUROR: That is fair, yes.

THE COURT: Initially. But then as you thought about it, you think you would be able to separate?

PROSPECTIVE JUROR: Yes. Because ultimately, he's just one person, and you can't judge one person based upon the actions of a group, I don't think.

THE COURT: Right. So I'm just going to circle back to the original, you know, colloquy we had about how strong

these feelings are and whether you have kind of a fixed mind-set about this case coming into this courtroom such that you would not approach the case as a neutral judge of the facts.

I'm just trying to drill down on that, because it is understandable that you and many others have strong views one way or the other about the Capitol events. I just want to make sure that the jurors who serve on a jury don't have such strong opinions that it really colors the way they view the evidence in this courtroom.

PROSPECTIVE JUROR: I would like to think I would be capable of separating the individual from the case, but it would also be hard for me to fully separate myself from what I experienced that day, what people close to me experienced that day. And there is still -- how do I put it? There's definitely some latent fear and alarm that I feel from that day, if that makes sense.

THE COURT: So you think as you -- if you were selected as a juror, you think as you would sit here and listen to the evidence, you might be thinking of those events on January 6 and what you learned that day, and you might have strong emotions? I'm not trying to put words in your mouth at all. I'm just trying to figure out whether you're going to be sitting here thinking about all of the things that upset you about that day as opposed to just the evidence that's presented here in court.

PROSPECTIVE JUROR: I can't guarantee that I would be able to separate out everything. I would do my best, and I would try, but it was a very difficult day.

THE COURT: If the government presented its case and you felt like they didn't prove their case beyond a reasonable doubt, would you be able to find Mr. Reffitt not guilty, even if you were convinced that he was present at the Capitol on that day?

PROSPECTIVE JUROR: If the evidence presented did not give me -- if the evidence provided did not meet the threshold for reasonable doubt, I don't think I would be able to convict.

THE COURT: I'm sorry? The last part, you don't think you would be able to --

PROSPECTIVE JUROR: If the evidence did not reach -- if I did not have a reasonable doubt -- I'm sorry. I'm getting confused by legal language. If there was more than a -- if I had a reasonable doubt, I would not convict.

Is that what you're asking?

THE COURT: Yes.

PROSPECTIVE JUROR: Then yes. If the evidence provided did not give me enough to firmly believe in his conviction based on the evidence, I would not vote to convict.

THE COURT: And you're certain about that?

PROSPECTIVE JUROR: Yes.

THE COURT: And as you sit here now, you don't have a

fixed view of Mr. Reffitt's guilt or innocence one way or the other?

PROSPECTIVE JUROR: No, not at this moment.

THE COURT: All right. Any follow-up, Mr. Welch?

MR. WELCH: Yes, please.

Knowing the legal standard that you would be instructed to apply, how difficult will it be for you to still set aside what you've already seen?

PROSPECTIVE JUROR: I can't say it would be easy, given the -- but ultimately, I would do my best to examine the evidence as presented and make the best decision I could with the information that's provided.

MR. WELCH: Knowing that you still have this latent fear and alarm, would you still be able to set that aside?

PROSPECTIVE JUROR: I honestly can't say that I could.

MR. WELCH: Nothing further.

THE COURT: Thank you, sir. We really appreciate your candor.

(Prospective juror steps down.)

MR. WELCH: Your Honor, I have a question for the Court.

THE COURT: Ms. Berkower?

MS. BERKOWER: Do you want Mr. Welch to go forward since its his motion?

THE COURT: Go ahead and give me your grounds.

MR. WELCH: I'm moving for cause, Your Honor, because the last thing that this venire person said was that he can't say that he would be able to set aside his latent fear and alarm over what he experienced. He felt like it was an attack on his home. He didn't leave the house for three days. He was worried about family who also live on the Hill, troop transports coming down the street.

So although he knows the legal standard and he articulated it, he ultimately said that he can't say for sure he would set his latent fear and alarm aside. So I move for cause.

THE COURT: Ms. Berkower?

MS. BERKOWER: Yes, Your Honor. We would oppose striking this juror for cause. This juror was asked a lot of questions, and we went into a lot of detail about whether he had an opinion in this case, and he repeatedly said no, he did not, he did not have an opinion about the guilt of Mr. Reffitt and that he was able to acquit Mr. Reffitt if he were not convinced the government had met its burden of proof in this case. He said he would do his best; he would make his decisions based on the evidence before the Court.

And I don't think it's necessarily determinative, Mr. Welch's last question about his latent fear and alarm, because he did say that he hasn't formed an opinion of the case and he would address the case as presented on the evidence in court.

And so we submit that simply knowing about the case, knowing some information doesn't implicitly disqualify a juror, and we believe that the -- the questions that Mr. Welch is referencing get to that and not to whether he's formed an opinion that would influence how he approached the evidence. We would submit he should not be struck.

THE COURT: I think this is a close call. I appreciate what the government's saying about many of the questions that he said he could put his feelings aside and try to decide this case fairly based on the evidence presented in court.

However, there were several times during the colloquies back and forth, both with me and even with the government and with the defense, where he was really, really struggling, and he did seem emotionally impacted by the events of that day. And I am just concerned, as he said at the end there when Mr. Welch questioned him, that he's -- he can't say whether he can set his feelings aside.

And again, I don't have the exact line in front of me because the transcript's not coming up on my computer, but it seems to me he's clearly impacted by those events, and for that reason, I think he would try very hard, and he's being sincere when he thinks he can follow the instructions and he would endeavor to do so. But it just concerns me, starting from a place where he feels so clearly, you know, visibly impacted by

the events and repeatedly hesitated at different points in the questioning.

So in an abundance of caution, I will strike this juror.

Okay. We will do one more, and then we will stop for the day. Not for the day. For lunch.

The next one is 1384. This juror said yes to questions 2, 3, 4, 19, and 23.

(Prospective juror steps up.)

THE COURT: Good afternoon, ma'am.

PROSPECTIVE JUROR: Hi.

THE COURT: So I'm going to start with question 23, which asked whether it would be an extreme hardship for you to serve on the jury in this case.

Am I correct you answered yes to that question?

PROSPECTIVE JUROR: I think I answered no, but there was a question about a medical --

THE COURT: Oh, medical issue.

PROSPECTIVE JUROR: Yeah.

THE COURT: Before I get into the answers on that -- sorry -- yes, this is whether you have a health or physical problem that would make it difficult. Before you answer that, let me offer you the opportunity, if you would like, to tell me the answer to that privately. Is that something you would prefer?

PROSPECTIVE JUROR: Yeah, that would be great.

(Sealed bench conference.)

[redacted]

(End of sealed bench conference.)

THE COURT: You also said you or someone you know have a direct or incorrect connection to the January 6 Capitol events.

Can you explain why you answered yes to that?

PROSPECTIVE JUROR: Yeah. I do know someone who is representing some of the defendants. She's a public defender.

THE COURT: Who is that?

PROSPECTIVE JUROR: Her name is Heather Shaner.

THE COURT: Which defendants is she representing?

PROSPECTIVE JUROR: I don't know.

THE COURT: Have you talked to her about her representation of her clients?

PROSPECTIVE JUROR: I did, but on a very high level,

maybe in October when I saw her at a bar mitzvah. We used to see each other a lot because her granddaughter and my daughter are friends, but it's been a while.

But anyway, she did talk to me a little bit about it.

THE COURT: All right. Is there anything about those high-level discussions you said happened that might influence you one way or the other in this case?

PROSPECTIVE JUROR: I don't think so, no.

THE COURT: All right. You also -- well, before I move on from that, she didn't mention anything about Mr. Reffitt?

PROSPECTIVE JUROR: No. I don't remember any specific names. There was an article that she was -- about her that someone else forwarded me like two months prior to that. There might have been names in there, but I don't remember what they were.

THE COURT: As you sit here now, you're not sure whether Mr. Reffitt's name was in that article?

PROSPECTIVE JUROR: I don't know, yeah.

THE COURT: As you sit here now, do you have any specific information beyond what I told you about this morning about Mr. Reffitt and the charges in this case?

PROSPECTIVE JUROR: No.

THE COURT: So you said you have reviewed news. I take it you've read articles. You've watched TV.

PROSPECTIVE JUROR: Yeah, I've read general articles, and then someone did send me an article about her, just because I know her. It was like a friend of a friend.

THE COURT: About Ms. Shaner?

PROSPECTIVE JUROR: Yes. It was in the Post.

THE COURT: Beyond kind of TV and newspaper headlines, have you followed any other news, Twitter, anything else relating to the January 6 events?

PROSPECTIVE JUROR: I'm not on Twitter.

THE COURT: All right. So as you sit here now, do you know any specifics about any individual connected to the January 6 events?

PROSPECTIVE JUROR: I mean, other than what I've read in the news.

THE COURT: Can you recall any specific information about any individual?

PROSPECTIVE JUROR: The Shaman guy. There was some prominent people, although I don't actually recall any information, but I did read articles about individuals that were involved.

THE COURT: But again, you don't think that those related to Mr. Reffitt?

PROSPECTIVE JUROR: I don't recognize that name at all.

THE COURT: All right. You also said yes to you, your

family member, or close friend being a lawyer, student, or working in a law office.

PROSPECTIVE JUROR: I'm a lawyer.

THE COURT: Where do you work?

PROSPECTIVE JUROR: At the Consumer Financial Protection Bureau.

THE COURT: How long have you been there?

PROSPECTIVE JUROR: Since 2013.

THE COURT: Have you done any criminal work --

PROSPECTIVE JUROR: No.

THE COURT: -- in your time as a lawyer?

PROSPECTIVE JUROR: No.

THE COURT: Do you know lawyers who do criminal work, aside from Ms. Shaner?

PROSPECTIVE JUROR: Actually, no.

THE COURT: Really? In D.C.?

PROSPECTIVE JUROR: Not anyone that I know well.

THE COURT: Do you talk about the law with Ms. Shaner or anyone else?

PROSPECTIVE JUROR: Certainly at work.

THE COURT: I mean about criminal law.

PROSPECTIVE JUROR: No. I don't know anything about criminal law.

THE COURT: Anything about your experience as a lawyer that might make you struggle following my instructions, even if

they seem inconsistent with what you remember?

PROSPECTIVE JUROR: No.

THE COURT: I think that's it.

Ms. Berkower?

MS. BERKOWER: Nothing from the government.

THE COURT: Wait. Sorry. We've got potential follow-up.

MS. BERKOWER: Nothing from the government.

PROSPECTIVE JUROR: Oh, I wasn't leaving.

THE COURT: We didn't want to lose you.

Mr. Welch?

MR. WELCH: No, thank you.

THE COURT: So you are excused from the room, not from the courthouse.

PROSPECTIVE JUROR: Thank you very much.

(Prospective juror steps down.)

THE COURT: All right. This seems like a good time to take a break. Before we do, just so that we're all on the same page, can we review so far the strikes and just confirm them with Mr. Hopkins? Mr. Hopkins, can you read them out?

COURTROOM DEPUTY: Absolutely, Your Honor. The strikes that I have are jurors 328 --

THE COURT: Read out their juror number if you could, please.

COURTROOM DEPUTY: Juror number 328. We struck 1541.

And we struck 1046.

Is that what everyone else has?

MS. BERKOWER: Yes.

THE COURT: Okay. And also, there was the juror -- how do you all feeling about moving the juror who really doesn't want to miss Ash Wednesday, the trip, to the bottom? Do you all object?

MR. WELCH: Without objection, Your Honor.

THE COURT: No objection to moving her to the bottom?

MR. WELCH: No objection to moving her to the bottom.

THE COURT: Was that juror number 1419? Is that correct? Yeah.

MS. BERKOWER: We'd rather not at this time, Your Honor.

THE COURT: All right. So she will stay in the line.

So let's come back at 2:00, 5 after if you need -- I'll be ready at 2:00 if you're ready.

(Recess taken at 1:05 p.m.)

(Afternoon session of this proceeding was reported by Lorraine Herman and is bound under separate cover.)

CERTIFICATE OF OFFICIAL COURT REPORTER

I, Sara A. Wick, certify that the foregoing is a correct transcript from the record of proceedings in the above-entitled matter.

/s/ Sara A. Wick — February 28, 2022

SIGNATURE OF COURT REPORTER — DATE