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SUPERIOR COURT OF NEW JERSEY
BERGEN COUNTY
LAW DIVISION, CRIMINAL PART
INDICTMENT NO.: 09-08-1485
A.D. # _____

STATE OF NEW JERSEY,)
) TRANSCRIPT
 vs.) OF
) TRIAL
STEPHEN F. SCHARF,)
)
 Defendant.)

Place: Bergen County Justice Center
10 Main Street
Hackensack, NJ 07601

Date: April 12, 2011

BEFORE:

HONORABLE PATRICK J. ROMA, J.S.C. and JURY

TRANSCRIPT ORDERED BY:

HELEN C. GODBY, ESQ. (Assistant Deputy Public
Defender)
Office of the Public Defender, Appellate Section

APPEARANCES:

WAYNE L. MELLO, ESQ. (Assistant Prosecutor)
Attorney for the State

EDWARD J. BILINKAS, ESQ. (Law Offices of Edward J.
Bilinkas)
SARA SENCER McARDLE, ESQ. (Law Office of Sara
Sencer McArdle, LLC)
JASON ALTERBAUM, ESQ.
Attorneys for the Defendant

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1 (The prospective jurors entered the
2 courtroom.)

3 THE COURT: Okay. I would ask that you take
4 a few moments to read through it. I will again read
5 through it. But I -- I'd like you to be extremely
6 familiar with that questionnaire. Do not lose it.
7 Don't leave it on the bench. Keep it with you at all
8 times.

9 (Pause)

10 THE COURT: All right. I think we'll get
11 started. All right. My name is Patrick J. Roma. And
12 I'm a Judge in the Superior Court of the State of New
13 Jersey.

14 Ladies and gentlemen, you have been brought
15 here today so that we may select a jury for this case,
16 which is entitled the State of New Jersey versus
17 Stephen Scharf.

18 We are about to begin a process called a voir
19 dire. And the purpose of the voir dire is very simple.
20 It is to obtain a jury which is able to hear this case
21 without any bias, prejudice, or preconceived ideas. In
22 short, the idea is to select a fair jury. That is the
23 bottom line. You'll be asked questions. We will go
24 over this again and again.

25 At the outset, let me tell you this is a

1 criminal courtroom. And the things that you will hear
2 about in a courtroom are not pleasant. We can all
3 agree upon that. That's not the issue. After you've
4 listened to something unpleasant, can you be fair and
5 impartial?

6 All right. We hear about these things.
7 We've seen things in the newspaper. We see things on
8 the news. We're constantly bombarded. But what we're
9 looking for are 12 people who will be able to fairly
10 judge this case. We'll ask it different ways, but
11 that's really what we're looking for. Okay?

12 Now my understanding is that you have been
13 prescreened. You've been made aware of the fact that
14 this is a case that will last six weeks, three days a
15 week, Tuesday, Wednesday, and Thursday. It comes to
16 18 days. I -- I realize that it's a long time, but at
17 the same time let me make some observations. All
18 right?

19 Number one, we have the greatest system in
20 all of the world. Okay? You -- you read about how
21 things are handled in other countries. It's -- it's
22 not very pleasant.

23 We have a system here where there are checks
24 and balances. A defendant has the opportunity to be
25 heard or not to be heard. It's -- it's a system that

1 has survived centuries.

2 You have to look at this from the standpoint
3 that you are the cornerstone of democracy. There is no
4 other time in your life that you sit in judgment and
5 determine the facts of a case. I determine the law.
6 So you have an awesome responsibility. This is serious
7 business to serious people.

8 So I know that the question was read to you.
9 You've been prescreened for a reason so that we could
10 move ahead with this and -- and get into other areas in
11 order to select a jury for this case. All right?

12 You may be interested in knowing that voir
13 dire is an Anglo-French term meaning to speak the
14 truth. The purpose of the system is to obtain a jury
15 which is able to hear this case without any bias,
16 prejudice, or preconceived ideas. In short, the idea
17 is to select a fair jury.

18 Members of the panel, we are here to try the
19 matter in dispute between the State of New Jersey and
20 Stephen Scharf. This is a criminal case and the charge
21 is as follows.

22 That Stephen Scharf, on or about December --
23 September 20, 1992, in the Borough of Englewood Cliffs
24 in the County of Bergen, and within the jurisdiction of
25 this Court, did purposely and/or knowingly cause the

1 death or serious bodily injury resulting in the death
2 of Jody Ann Scharf contrary to the provisions of
3 N.J.S.A. 2C:11-3(a) (1) and N.J.S.A. 2C:11-3(a) (2) and
4 against the peace of this State, the government, and
5 dignity of the same.

6 I realize that jury service may be new to
7 some of you so a few preliminary remarks may prove to
8 be helpful.

9 The first step in the jury trial is the
10 selection of the jury. This process is important
11 because both the State and the defendant are entitled
12 to jurors who are impartial and agree to keep their
13 minds open until a verdict is reached.

14 Jurors must be as free as humanly possible
15 from bias, prejudice, or sympathy and must not be
16 influenced by preconceived ideas.

17 Those of you selected as jurors on this case
18 shall serve as judges of the facts. In other words,
19 you will listen to the testimony of witnesses, examine
20 any physical evidence introduced, and thereafter
21 determine the facts.

22 I am the judge of the law. At the conclusion
23 of this matter, after the evidence has been presented
24 and counsel have made their closing arguments, I will
25 tell you what the law is. And you must apply that law

1 to the facts in order to reach a fair and impartial
2 verdict.

3 Although you may be qualified to serve as a
4 juror in most cases, there may be something that could
5 disqualify you in this case or make it embarrassing for
6 you to serve.

7 In order to learn this, I will ask you
8 questions. Please understand that the questions I will
9 ask are for a legitimate purpose and not to simply pry
10 into your personal affairs.

11 Do not hesitate to speak your mind honestly
12 and plainly. It is very important that you answer each
13 question fully and truthfully. Keep in mind there are
14 no right or wrong answers. Truthful and honest answers
15 are necessary so that a fair and impartial jury can be
16 selected.

17 As we mature, we all, to some extent, develop
18 certain biases, prejudices, fixed opinions, and views.
19 We develop these from our families, others around us,
20 the media, and from our everyday experiences.

21 You are entitled to be who you are and to
22 feel and think about things as you do. It is important
23 to recognize any biases, prejudices, fixed opinions,
24 and views that you may have and to disclose them to me
25 during the jury selection process.

1 If for any reason my questions do not cover
2 why you would not be able to listen with an open mind
3 to the evidence in this case or be unable to reach a
4 fair and impartial verdict, it is necessary that you
5 volunteer this information to me when you are
6 questioned.

7 If at any time during the jury selection
8 process you wish to discuss anything with me concerning
9 your ability to serve, I will speak with you outside
10 the presence of the other jurors but in the presence of
11 the attorneys.

12 As I -- after I have questioned each of you,
13 you may be excused by me if in my opinion there is a
14 valid reason why you should not serve. Each attorney
15 may also excuse a limited number of jurors without
16 giving any reason for doing so.

17 In the event you are excused, please do not
18 consider this an insult or take it personally. It is
19 merely part of the process employed in selecting a jury
20 as permitted by our court rules.

21 As indicated, you should also have a calendar
22 attached to the questionnaire indicating the date April
23 and May. Today is our first day of jury selection. We
24 anticipate, always optimistic, but we anticipate
25 picking a jury this week and starting the case next

1 week.

2 We have very experienced attorneys involved.
3 They have saw to it that certain issues were focused so
4 that we could streamline the case to be able to move
5 this along as fairly and as expeditiously as possible.

6 Let me just digress for a moment if I can.
7 We talk about the jury system. We talk about the
8 importance of the jury system. I -- and I realize that
9 these days we have so many different responsibilities
10 and worries and now you're being entrusted with one
11 more responsibility.

12 Well, let me look at it this way. A few
13 years ago we had a system that allowed just about
14 everybody to be excused. And then the people that you
15 had left on the jury were the people who didn't know
16 somebody to be able to make an inquiry to get them
17 excused.

18 Now that's not a fair system because, quite
19 frankly, the defense attorneys, the defendant, the
20 prosecutor, they deserve better. They deserve to have
21 a jury which is fair and impartial. And you want a
22 group of people who will discharge their responsibility
23 seriously.

24 I mean it doesn't get anymore serious than
25 this. As I said before, you're in a criminal

1 courtroom. The purpose of my explaining this to you is
2 that years ago we decided to do away with a lot of the
3 exemptions.

4 Even the Chief Justice of this State was
5 called for jury duty. He didn't sit on the case
6 because he had other responsibilities. But the point
7 is -- I was even called for jury duty one day, but I
8 had a panel that was waiting for me down here. I
9 really wanted to sit on the jury.

10 In my whole life I never had that
11 opportunity. And I was looking forward to it. Anyway,
12 the assignment judge called me and told me to report
13 back to my courtroom.

14 Bottom line I'm trying to tell you that this
15 is really a part of your responsibility. This is part
16 of your responsibility for living in a free society.
17 Your contribution makes the system better.

18 And because we have such a cross section,
19 such a diverse group of people, a defendant really has
20 a jury of one's peers. And -- and that's what we're
21 trying to do. We're trying to make the system as fair
22 as possible.

23 So the system that we utilize today basically
24 is to screen out those people that may have had
25 airplane tickets, anniversaries, special events,

1 surgery, things of that nature.

2 And then now we have your group which
3 basically -- I'll go through these questions in a
4 moment, but I -- I cannot emphasize enough the
5 importance of your service.

6 I think in your entire life you -- you may
7 not experience such a responsibility as you will during
8 this trial determining what the facts are, determining
9 who is truthful, who is not truthful. It is a
10 responsibility, but it's not someone else's
11 responsibility. It is our collective responsibility.

12 And even though I'll go through certain
13 questions, maybe there's something that could affect
14 your ability to be fair and impartial, again I remind
15 you, you're in a criminal courtroom. You're not going
16 to hear pleasant things in a criminal courtroom.

17 So what I want you to do during this process
18 is to think about these questions, think about what I'm
19 saying, then ask yourself the question and do the soul
20 searching, can I be fair and impartial? That's what we
21 want to know.

22 Now you have the schedule. We -- jury
23 selection is always a little different because it's now
24 10:30. By the time you went through the question, by
25 the time you went through the process, the orientation,

1 it's -- it's later.

2 When we get started, I have much more control
3 over the trial. We start at 9:00 o'clock. We have the
4 midmorning break. We break from 12:30 to 1:30, take a
5 break in the afternoon, and we finish up at 4:00. So
6 from 9:00 to 4:00 that would be our schedule Tuesday,
7 Wednesday, and Thursday.

8 Now those are the -- the general trial days.
9 Obviously as we get to the end of the case or we get
10 into the case, I'll be able to better forecast with you
11 if we are running ahead, slightly behind, whatever.

12 But I anticipate the schedule that we have
13 right here, after speaking to the attorneys, this is a
14 good faith estimate of the amount of time that it will
15 take to complete this case.

16 And as I said, once we get into it, we'll
17 have a better idea as to how long certain witnesses
18 take and -- it's just something that we have to get
19 into. So the best that we can do is to provide this
20 information to you so that you can make adjustments.

21 And the schedule does have some benefit. It
22 has the benefit that you don't have trial on Monday and
23 Fridays. So you can kind of reorder certain things to
24 be able to do those things that are important on other
25 days.

1 And please understand that we are extremely
2 empathetic of all the things that you have to do. You
3 have to take care of kids. You have to take care of
4 elderly parents. You have to take care of all these
5 different things. You have to work for a living.
6 You're fortunate if you have a job. I -- and I
7 understand all of that.

8 But here's another thought that I'll leave
9 with you. Eighty percent of the businesses in America
10 are small businesses. If we allow anyone who's with a
11 small business to go home and be excused that leaves us
12 with 20 percent of the remainder. What we're trying to
13 date -- do is make this process more inclusive rather
14 than exclusive.

15 This is a criminal case. And there are
16 certain principles of law that must be accepted and
17 followed by jurors.

18 The indictment is not evidence of the
19 defendant's guilt on the charge. An indictment is a
20 step in the procedure to bring the matter before the
21 court and jury for the jury's ultimate determination as
22 to whether the defendant is guilty or not guilty on the
23 charges stated in it.

24 The defendant has pleaded not guilty to the
25 charge and is presumed to be innocent. Unless each and

1 every essential element of the offense charged is
2 proved beyond a reasonable doubt, the defendant must be
3 found not guilty of that charge.

4 The burden of proving each element of the
5 charge beyond a reasonable doubt rests upon the State.
6 And that burden never shifts to the defendant. It is
7 not the obligation or the duty of the defendant in a
8 criminal case to prove his innocence or offer any proof
9 relating to his innocence.

10 The prosecution must prove its case by more
11 than a mere preponderance of the evidence yet not
12 necessarily to an absolute certainty. The State has
13 the burden of proving a defendant guilty beyond a
14 reasonable doubt.

15 Some of you may have served as jurors in
16 civil cases where you were told that it is necessary to
17 prove only that a fact is more likely true than not
18 true. In criminal cases, the State's proof must be
19 more powerful than that. It must be beyond a
20 reasonable doubt.

21 A reasonable doubt is an honest and
22 reasonable uncertainty in your minds about the guilt of
23 the defendant after you've given full and impartial
24 consideration to all of the evidence.

25 A reasonable doubt may arise from the

1 evidence itself or from a lack of evidence. It is a
2 doubt that a reasonable person hearing the same
3 evidence would have.

4 Proof beyond a reasonable doubt is proof, for
5 example, that leaves you firmly convinced of the
6 defendant's guilt.

7 In this world we know very few things with
8 absolute certainty. In criminal cases, the law does
9 not require proof that overcomes every possible doubt.

10 If based on your consideration of the
11 evidence you are firmly convinced that the defendant is
12 guilty of the crime charged, you must find him guilty.
13 If on the other hand you are not firmly convinced of
14 the defendant's guilt, you must give the defendant the
15 benefit of the doubt and find him not guilty.

16 You will have to apply the law as I give it
17 to you regardless of your own personal feelings about
18 it.

19 As this is a criminal case, your verdict must
20 be unanimous. That is all 12 deliberating jurors must
21 agree upon the verdict.

22 I would first like to introduce to you the
23 attorneys. The State of New Jersey will be represented
24 throughout these proceedings by Assistant Prosecutor
25 Wayne Mello. I would like him to rise and introduce

1 himself.

2 MR. MELLO: Thank you, Judge. Good morning,
3 folks.

4 PROSPECTIVE JUROR: Good morning.

5 THE COURT: Thank you.

6 MR. MELLO: Thank you, sir.

7 THE COURT: The defendant will be represented
8 by Mr. Edward Bilinkas. I would like him to rise,
9 introduce the members of his team, and also the
10 defendant.

11 MR. BILINKAS: Good morning. My name is
12 Edward Bilinkas. At co-counsel table is Sara Sencer
13 McArdle.

14 MS. McARDLE: Morning.

15 MR. BILINKAS: And my associate, Jason
16 Alterbaum.

17 MR. ALTERBAUM: Good morning.

18 PROSPECTIVE JUROR: Good morning.

19 MR. BILINKAS: And my client, it's a pleasure
20 to introduce, Stephen Scharf.

21 THE DEFENDANT: Good morning.

22 THE COURT: Thank you. Now everyone has the
23 questionnaire. Correct? Let's just make sure that you
24 have everything that you will need. We have the
25 questionnaire, which is a total of 35 questions. We

1 have biographical information. We have a calendar for
2 April and Mary -- May. And then we also have a list of
3 witnesses. There are 91 witnesses.

4 But let me explain something about 91
5 witnesses. We are required to place every possible
6 name before you because we don't know how many of those
7 witnesses will be called.

8 Some or all might be called. It's very
9 possible that a lot of these people will not be called.
10 But because of the fact that they may be called, you
11 may know someone, so we have a requirement to give you
12 all of the names. Okay?

13 Now the first question, in order to be
14 qualified under New Jersey law to serve on a jury, a
15 person must have certain qualifying characteristics. A
16 juror must be age 18 or older, a citizen of the United
17 States, able to read and understand the English
18 language, a resident of Bergen County.

19 Also, a juror must not have been convicted of
20 any indictable offense in any state or Federal court
21 and must not have any physical or mental disability
22 which would prevent the person from properly serving as
23 a juror.

24 Is there any one of you who does not meet
25 these requirements? And if so, could you please raise

1 your hand? I see no hands being raised. I'm going to
2 move on.

3 Question 2(a) -- for these questions, you
4 don't have to raise your hands. I'm just going to go
5 through them. And the process is going to be when you
6 come forward, you will be seated in the jury box. And
7 what will happen you will get up and you'll give us
8 your biographical information.

9 I would ask that you pronounce and spell your
10 last name because there are two lists. I have the
11 actual order in which you're called. The attorneys
12 have an alphabetical list. So it'll be helpful to find
13 your name if you were to pronounce it and then spell
14 it.

15 And you'll go through the biographical
16 information. Please, experience has shown that
17 sometimes this questionnaire winds up on the bench and
18 the particular juror is up here. In every single case,
19 the process is the same. Hold on to this
20 questionnaire.

21 And when you come forward -- that section
22 that I have called the biographical section that's page
23 nine. It's the type of work you do. I want you to
24 just go down that list and give us that information as
25 it appears on that biographical listing. Okay? So

1 hold on to this. You'll need it.

2 All right. Let's start with the next
3 question. Once again, you do not have to raise your
4 hands for these questions. When you come forward, the
5 process that we employ is that I will ask you whether
6 you have any questions, concerns, or yes answers.

7 And if you do, then we go over to sidebar
8 where we have some privacy. Because there may be
9 something so private that it should not be disclosed to
10 other people. We don't want the other jurors hearing
11 about it.

12 So I would ask that you not communicate this
13 information to any of the jurors. And as I said, when
14 you come forward, give us the biographical information
15 but don't -- don't go into those areas. That has to be
16 done at sidebar.

17 Another thing, you may have a yes answer.
18 And I'll -- what can I use as an example? Knowing a
19 police officer. Let's try that for a moment. We all
20 know someone involved in law enforcement.

21 The issue is not whether you know somebody in
22 law enforcement but rather whether that relationship in
23 some way affects your ability to be fair and impartial
24 or whether you would take that testimony and -- and
25 treat it more importantly than say a -- a lay witness.

1 So the -- the bottom line is you may know
2 someone who is a police officer, but it may or may not
3 affect your ability to be fair and impartial. But we
4 have to ask these questions because sometimes it does
5 and sometimes it doesn't. That's just one example.
6 But there are other examples here that we'll go
7 through.

8 All right. You've been prescreened for this
9 question. I had mentioned the projected duration of
10 the trial. Is there anything about the length or
11 scheduling of the trial that would interfere with your
12 ability to serve?

13 The whole process of reading that question
14 over in jury management was to prescreen a group that
15 would be able to stay with us for this length of time.

16 Two(b), do you have any medical, personal, or
17 financial problem that would prevent you from serving?
18 In responding, please consider that the Court will
19 provide reasonable accommodations to your special
20 needs. But I will only be aware of any such need if
21 you let the Judge know about them.

22 The Court's purpose in asking you the
23 circumstances relates to your ability to serve as a
24 juror. If you have any such requests, please raise
25 your hand and the Court will speak with you at sidebar.

1 Please consider that the judiciary will provide
2 reasonable accommodations consistent with the Americans
3 with Disabilities Act.

4 Three, you will be introduced to the lawyers
5 and the parties to this case. Do any of you know any
6 of the lawyers? Has any of them or anyone in their
7 office ever represented you or brought any action
8 against you? Do you know any of the parties?

9 Okay. Now we have a list of potential
10 witnesses. Does everyone have that information in
11 front of them? Okay. Once again, some or all of these
12 people might be called. We don't know this at this
13 point.

14 And again, as we get into the trial, I'll be
15 in a better position to forecast and tell you where we
16 are. We might be running ahead. Whatever it might be,
17 I'm better able to do that once we get involved in the
18 case.

19 From the Bergen County Prosecutor's Office,
20 Captain Joseph Hornyak, Lieutenant Terrance Alver,
21 Lieutenant Eric Baum, Lieutenant Anthony D'Augustine,
22 Lieutenant Frank Kelaher, Sergeant Russell Christiana,
23 Sergeant Sharon Malone, Sergeant Lynn Morrissey,
24 Sergeant Zaida Molina, Sergeant William Stallone,
25 Detective Gary Boesch, Detective James Bordino,

1 Detective James Krassowski (phonetic), Detective Gerard
2 Dargan, Detective Jamie Eckert, Detective John Frassa
3 (phonetic), Detective Robert Hernest, Detective Gregory
4 Kohles, Detective Cecilia Love, Detective John
5 Straniero.

6 From the Palisades Interstate Park Police,
7 Lieutenant Nelson Pagan, Lieutenant Walter Siri,
8 Sergeant Paul Abbott, Detective Ronald Karnick,
9 Detective James Lyman, Patrolman Lowell Tamayo.

10 From the Englewood Cliffs Police Department,
11 Chief Michael Cioffi and Sergeant Todd Coletta. From
12 the Bergen County Police Department, Patrolman John
13 Desimone (phonetic). From the Bergen County Sheriff's
14 Department, Sergeant William Dinella (phonetic),
15 Sergeant Stephen Stanak, Detective Edward Hauser,
16 Detective John Kennedy.

17 From the Washington Township Police
18 Department, Chief Ted Ehrenburg, Captain William
19 Gundersdorf. From the Washington State Patrol,
20 Detective John Wright. From the Bergen County Medical
21 Examiner's, Mary Ann Clayton, M.D. From the New Jersey
22 State Police Laboratory, Cynthia McSweeney and Karen
23 Menser.

24 From New York, New York, Michael M. Baden,
25 M.D. From Pittsburgh, Pennsylvania, Cyril Wecht, M.D.,

1 J.D. From San Antonio, Texas, a representative of USAA
2 Life Insurance.

3 From Trenton, New Jersey, a representative of
4 the New Jersey Unclaimed Property Trust Fund. From
5 Hackensack, New Jersey, a representative of
6 Mid-Atlantic Bank. From Trexlertown, Pennsylvania, a
7 representative of Matchmaker International. From the
8 Bergen County Engineering Department, Richard Rohart
9 (phonetic) and Michael Aderinsi (phonetic).

10 From Frenchtown, New Jersey, Eileen Austra.
11 From Little Falls, New York, Lori Beam. From Bristol,
12 Virginia, Linda Graingel (phonetic). From Califon, New
13 Jersey, William Cannon. From Randolph, New Jersey,
14 Paul Connet (phonetic). From Cape Coral, Florida,
15 Colleen Davies. From Malden, Massachusetts, Jared
16 Durante.

17 From Boonton, New Jersey, Maureen Durante.
18 From Fair Lawn, New Jersey, Douglas Dystra (phonetic).
19 From Far Hills, New Jersey, Jake Field and John Field.
20 From Hackettstown, New Jersey, Maureen Glenna. From
21 Mahwah, New Jersey, Martelle Green.

22 From Jupiter, Florida, Cheryl Gwalnick
23 (phonetic). From Bellefonte, Pennsylvania, Janet
24 Houser, also Ronald Houser. From Clinton, New Jersey,
25 Marion Hilferty. From Powder Springs, Georgia, Carrie

1 Harper.

2 From Newton, New Jersey, Nancy Huizenga.

3 From Sparta, New Jersey, Henry Charles Jackson, Jr.

4 From Washington, D.C., Henry Charles Jackson, III.

5 From Pleasant Hill, California, Peggy Johnson.

6 From Vineland, New Jersey, Kathy Long. From

7 Long Valley, New Jersey, Natalie Mahoney. From

8 Millington, New Jersey, Robert Martin. From Fairfield,

9 California, John McCullough. From Morristown, New

10 Jersey, Benjamin Michel. From Bernardsville, New

11 Jersey, Anna Rawson Mola.

12 From Dover, New Jersey, Lisa Waterhouse

13 Moses. From Hackettstown, New Jersey, Brian Newell and

14 Patricia Newell. From Woodbridge, New Jersey, Ignacio

15 Ortega, Jr. From Wayne, New Jersey, Caroline Joyce

16 Peppi. From Aberdeen, New Jersey, Kathleen Scanlon.

17 From Hoboken, New Jersey, Jonathan Scharf.

18 From Hackettstown, New Jersey, Tina Scharf. From

19 Brick, New Jersey, Carmella Schiessl. From New York,

20 New York, Theresa Schofield. From Abington,

21 Pennsylvania, Steven Schorr.

22 From Summit, New Jersey, Rosemarie Silver.

23 From Cranford, New Jersey, Alla Sorkin. From

24 Cuddebackville, New York, Barbara Stanley. From

25 Bernardsville, New Jersey, Patricia Teague. From

1 Hackettstown, New Jersey, Susan Roycon (phonetic). Do
2 you know any of these potential witnesses? Okay.

3 I have already briefly described the case.
4 Do you know anything about this case from any source
5 other than what I just told you?

6 Are any of you familiar with the area or
7 address of the incident? That's another example. You
8 could be familiar with an area, for example, what comes
9 to mind might be a shoplifting case where it's Lord and
10 Taylor's and you probably have been there on one of the
11 special sale days or some other days.

12 But the bottom line is, you may know where
13 the location is, but it doesn't hold any special
14 significance for you. But we still ask these
15 questions. And if for some reason, somehow, for that
16 unique case it does affect one's ability to be fair
17 and impartial, we placed the question here. All right.

18 Seven, have you ever served on a jury before
19 today here in New Jersey or in any state court or
20 Federal court? Eight, have you ever sat as a Grand
21 Juror? Nine, do you know anyone else in the jury box
22 other than as a result of reporting here today?

23 Ten, would your verdict in this case be
24 influenced in any way by any factors other than the
25 evidence in the courtroom such as friendships, or

1 family relationships, or the type of work that you do?

2 Eleven, is there anything about the nature of
3 the charge itself that would interfere with your
4 impartiality?

5 Twelve, have you ever been a witness in a
6 criminal case regardless of whether it went to trial?

7 Thirteen, have you ever testified in any court
8 proceedings?

9 Fourteen, have you ever applied for a job as
10 a state or local police officer, or with the sheriff's
11 department, or county jail or state prison?

12 Fifteen, have you, or any family member, or
13 close friend ever worked for any agency such as a
14 police department, prosecutor's office, the FBI, the
15 DEA, or a sheriff's department, jail or prison either
16 in New Jersey or elsewhere?

17 Sixteen, as a general proposition, do you
18 think that a law enforcement officer is more likely to
19 tell the truth than a witness who is not a law
20 enforcement officer or be less likely to tell the truth
21 than a witness who is not a law enforcement officer?

22 Seventeen, would any of you give greater or
23 lesser weight to the testimony of a law enforcement
24 officer merely because of his or her status as a law
25 enforcement officer?

1 Eighteen, have you, or any family member, or
2 close friend ever been accused of committing an offense
3 other than a minor motor vehicle offense?

4 Nineteen, have you, or any family member, or
5 close friend ever been the victim of a crime whether it
6 was reported to law enforcement or not?

7 Twenty, would you have any difficulty
8 following the principle that the defendant on trial is
9 presumed to be innocent and must be found not guilty of
10 that charge unless each and every essential element of
11 an offense charged is proved beyond a reasonable doubt?

12 Twenty-one, the indictment is not evidence of
13 guilt. It is simply a charging document. Would the
14 fact that the defendant has been arrested and indicted
15 and is here in court facing these charges cause you to
16 have preconceived opinions on the defendant's guilt or
17 innocence?

18 Twenty-two, I've already given you the
19 definition of reasonable doubt and will explain it
20 again at the end of the trial. Would any of you have
21 any difficulty in voting not guilty if the State fails
22 to prove the charge beyond a reasonable doubt?

23 Twenty-three, if the State proves each
24 element of the alleged offense beyond a reasonable
25 doubt, would you have any difficulty in returning a

1 verdict of guilty?

2 Twenty-four, the burden of proving each of --
3 element of a crime beyond a reasonable doubt rests upon
4 the prosecution. And that burden never shifts to the
5 defendant. The defendant in a criminal case has no
6 obligation or duty to prove his or her innocence or
7 offer any proof relating to his or her innocence.
8 Would any of you have any difficulty in following these
9 principles?

10 Twenty-five, would you have any difficulty or
11 reluctance in accepting the law as explained by the
12 Court and applying it to the facts regardless of your
13 personal beliefs about what the law should be or is?

14 Twenty-six -- you could see the repetitive
15 theme where once again you're being asked can you be
16 fair and impartial. Can you be fair and impartial?
17 It's -- it's the same thought that I left you with when
18 we started.

19 But we're going through this in different
20 ways because these are questions that have brought up
21 certain things from time to time. So it's a list of
22 questions that we're familiar with and sometimes have
23 caused someone to think about whether they can be fair
24 and impartial.

25 However, having said that, even if there's

1 something that's not on the list that would affect your
2 ability to be fair and impartial, you have an absolute
3 obligation to bring that to my attention when we go to
4 sidebar. Okay?

5 Is there anything about this case, based on
6 what I've told you, that would interfere with your
7 ability to be fair and impartial?

8 Twenty-seven, the purpose of questioning you
9 as prospective members of the jury is to select a jury
10 which will be fair and impartial. Is there anything
11 not covered by the previous question which would affect
12 your ability to be a fair and impartial juror or in any
13 way be a problem for you serving on this jury?

14 Twenty-eight, is there anything else that you
15 feel is important for the parties in this case to know
16 about?

17 Thirty, have any of you been divorced? Would
18 that affect your ability to be fair and impartial?

19 Thirty-one, you will hear evidence that Jody Ann Scharf
20 had filed a divorce complaint against Stephen Scharf.
21 Would that affect your ability to be fair and
22 impartial?

23 Thirty-two, you will hear evidence in this
24 case that Jody Scharf made certain statements to
25 friends and colleagues claiming that she was frightened

1 of Stephen Scharf. Would that affect your ability to
2 be fair and impartial?

3 Thirty-three, you will hear evidence of
4 extramarital affairs. Would this affect your ability
5 to be fair and impartial?

6 Thirty-four, there'll be evidence concerning
7 domestic violence. Would this affect your ability to
8 be fair and impartial?

9 Thirty-five, there'll be evidence in this
10 case that Stephen Scharf took out a life insurance
11 policy on the life of Jody Ann Scharf 16 months prior
12 to her death. Would this affect your ability to be
13 fair and impartial? All right. Madame Clerk.

14 MR. BILINKAS: Judge --

15 MR. MELLO: Judge --.

16 MR. BILINKAS: -- Judge, if I may? I believe
17 you forgot question 29.

18 THE COURT: Oh. You know you're right.
19 There's one additional question. When I flipped it
20 over -- it's on page four of four. Okay. Let me read
21 this to you.

22 It's 29. A defendant in a criminal case has
23 the absolute right to remain silent and has the
24 absolute right not to testify. If a defendant chooses
25 not to testify, the jury is prohibited from drawing any

1 negative conclusions from that choice. The defendant
2 is presumed innocent whether he testifies or not.
3 Would any of you have any difficulty in following these
4 principles? Thank you, gentlemen and gentle ladies.
5 Okay.

6 THE CLERK: Judge, you want --?

7 THE COURT: Yes.

8 THE CLERK: --. Juror number one, Carmine
9 Wilson. Juror number two, Donald Post. Juror number
10 three, Kenneth Sullivan. Juror number four, Karen
11 Fanale. Juror number five, Wilma Roberts. Juror
12 number six, Frank Chen. Juror number seven, Helga
13 Nogol.

14 MR. MELLO: I'm sorry. Could you spell it?

15 THE CLERK: N-o-g-o-l.

16 MR. MELLO: Thanks.

17 THE CLERK: Juror number eight, Margaret
18 Kidd. Juror number nine, Hilda Morfi. Juror number
19 ten, Xiaolan Zhang. Juror number 11, Bonnie Morrow.
20 Juror number 12, Hue Jeon, G-e-o-n (sic). State your
21 name.

22 MS. JEON: Hue Jeon.

23 MR. MELLO: I'm sorry, Diane. How's --?

24 THE CLERK: For juror 12, it was -- it was
25 H-y-u -- J-e-o-n.

1 MR. MELLO: J-e-o-n. Number 12?

2 THE CLERK: Yes.

3 MR. BILINKAS: And -- and on the list it's

4 H-y-u?

5 THE CLERK: Yeah.

6 MR. BILINKAS: And the correct spelling is

7 what?

8 THE CLERK: J-e-o-n for the last name.

9 MR. MELLO: Diane, can I have the spelling of

10 number ten, please?

11 THE CLERK: The first name?

12 MR. MELLO: Number ten.

13 THE CLERK: The first name is X-i-a-o-l-a-n.

14 MR. MELLO: Got it. Thank you.

15 THE CLERK: You're welcome. Juror number 13,

16 Anna Lleras Cantel.

17 MS. McARDLE: Can you spell that, please?

18 THE CLERK: L-l-e-r-a-s.

19 MS. McARDLE: Okay. Thank you.

20 THE CLERK: You're welcome. Juror number 14,

21 Jennifer Rothschild. Juror number 15, Valerie Meis.

22 Juror 16, Joanne Hudson.

23 THE COURT: Okay. Starting with juror number

24 one and continuing to juror number 16, if you would

25 please rise and give us the information requested in

1 the biographical section. I would ask also, it's a big
2 courtroom, try to keep your voice up so that everything
3 can be heard by the attorneys. Okay.

4 MS. WILSON: Okay.

5 THE COURT: You may start.

6 (Jury voir dire started.)

7 (Jury voir dire stopped.)

8 THE COURT: Please don't get into any of the
9 questions here. We do it at sidebar. Thank you.

10 (Jury voir dire resumed.)

11 (Jury voir dire stopped.)

12 THE COURT: Oh, one other thing. I forgot to
13 mention this. You've been prescreened presumably for
14 this case. But in the courthouse, we have any number
15 of cases, medical malpractice.

16 There's a pharmaceutical case that is
17 scheduled to go about six or seven months. So you may
18 wind up being called for that case. But if you're able
19 to serve here, it would be appreciated and we would
20 like to work with you. All right.

21 (Jury voir dire resumed.)

22 (Jury voir dire stopped.)

23 THE COURT: All Right. Madame Clerk. We're
24 going to try something a little different. As you come
25 up, use this microphone (indicating). Madame Clerk.

1 THE CLERK: Juror number four, Ae Kim. Juror
2 number six, Beverly Shea.

3 MR. BILINKAS: What -- what -- well, what's
4 the count?

5 MR. MELLO: Shea, S-h-e-a.

6 MR. BILINKAS: Well -- well, what's the --?

7 MR. MELLO: Number --

8 THE CLERK: Six.

9 MR. MELLO: -- six.

10 THE CLERK: Juror number ten, Farideh
11 Farhadi. Juror number 11, Victoria Beregovsky.

12 MR. MELLO: That's 11?

13 THE CLERK: Yes. And juror number 12,
14 Michael Gomes.

15 THE COURT: Okay. Starting with juror number
16 four --.

17 THE CLERK: Juror number 15.

18 THE COURT: I'm sorry?

19 THE CLERK: Juror number 15.

20 THE COURT: Oh. Go ahead.

21 THE CLERK: Juror number 15, Arpine Cavigar
22 (phonetic).

23 THE COURT: Okay. Juror number four, your
24 personal information.

25 (Jury voir dire resumed.)

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(Jury voir dire stopped.)

THE COURT: Okay. Madame Clerk.

THE CLERK: Juror number four, Christopher Durbin. And Juror number 15, Jean Brohm.

THE COURT: And please, when you come up, step up to the microphone. All right. You may begin.

(Jury voir dire resumed.)

(Jury voir dire stopped.)

(Sidebar)

THE COURT: Prosecutor.

MR. MELLO: One second.

THE COURT: We have a full bus.

MR. MELLO: Uh-huh.

THE COURT: Ready?

MR. MELLO: Uh-huh.

THE COURT: Are you going to start?

MR. MELLO: I am.

THE COURT: Okay.

(Sidebar concluded)

MR. MELLO: Thank you, Judge. Number 14, please.

THE COURT: I'm sorry?

MR. MELLO: Number 14, please.

THE COURT: Number 14, --

MS. ROTHSCHILD: Yes.

1 THE COURT: -- you are excused with the
2 thanks of the Court.

3 (Ms. Rothschild exited the courtroom.)

4 THE COURT: Madame Clerk.

5 THE CLERK: Juror number 14, Lorraine
6 Linzenberg.

7 (Jury voir dire resumed.)

8 (Jury voir dire stopped.)

9 THE COURT: Madame Clerk.

10 THE CLERK: Juror 14, Alice Barry.

11 (Jury voir dire resumed.)

12 (Jury voir dire stopped.)

13 THE COURT: Mr. Bilinkas.

14 MR. BILINKAS: Please excuse juror number
15 ten.

16 THE COURT: Juror number ten, you are excused
17 with the thanks of the Court.

18 (Ms. Farhadi exited the courtroom.)

19 THE COURT: Madame Clerk.

20 THE CLERK: Juror number ten, Mary Stapleton.

21 (Jury voir dire resumed.)

22 (Jury voir dire stopped.)

23 THE COURT: Mr. Mello.

24 MR. MELLO: If I may just have one moment,
25 Your Honor. Ms. Hudson, please.

1 THE COURT: I'm sorry?

2 MR. MELLO: Ms. Hudson, number 16.

3 Ms. Hudson, number 16, please.

4 THE COURT: Oh. Thank you. You're excused
5 with the thanks of the Court.

6 MS. HUDSON: Thank you.

7 (Ms. Hudson exited the courtroom.)

8 THE COURT: Madame Clerk.

9 THE CLERK: Juror number 16, Neal Sexton.

10 (Jury voir dire resumed.)

11 (Jury voir dire stopped.)

12 THE COURT: Mr. Bilinkas.

13 MR. BILINKAS: Juror number 13.

14 THE COURT: Juror number 13, you are excused
15 with the thanks of the Court.

16 (Ms. Lleras Cantel exited the courtroom.)

17 THE COURT: Madame Clerk.

18 THE CLERK: Juror number 13, Tonya

19 Singletary.

20 (Jury voir dire resumed.)

21 (Jury voir dire stopped.)

22 THE COURT: Mr. Mello.

23 MR. MELLO: Number four, please.

24 THE COURT: 14?

25 MR. MELLO: Four.

1 THE COURT: Four. Juror number four, you are
2 excused with the thanks of the Court.

3 (Mr. Durbin exited the courtroom.)

4 THE COURT: Can I see the attorneys at
5 sidebar?

6 (Sidebar)

7 THE COURT: We've exhausted the jury panel.
8 At best we'll get 15 to 16 people this afternoon
9 floating around who have been rejected or unable to
10 serve. I don't see the -- the benefit in proceeding
11 with that group.

12 MR. MELLO: Mr. Bilinkas and me discussed
13 that.

14 THE COURT: Huh?

15 MR. MELLO: We discussed that kind of
16 possibility --

17 MR. BILINKAS: Yeah.

18 MR. MELLO: -- and we agree.

19 THE COURT: I think we have people on the
20 panel that should be on the panel. I'm going to
21 suggest to jury management they may want to ask a
22 question concerning, you know, the standards 'cause we
23 had four people -- one woman was Armenia, Turkish and
24 the other three were Korean.

25 I guess even with any system you're going to

1 have some -- some problems implementing it. I think
2 overall it's probably a pretty good system.

3 MR. BILINKAS: Judge, just screening through
4 those people there could be here for an extended
5 period.

6 THE COURT: What I intend to do is to release
7 this panel, have them report back tomorrow at
8 10:00 o'clock. That would allow us to take another
9 panel, give them the explanation. There's no reason
10 for them to sit through the same thing twice.

11 I'll have them report to the jury room, go in
12 the back with this cell number. The bottom line is
13 we'll still start at 9:00, but we'll start with a new
14 group.

15 MS. McARDLE: Okay.

16 THE CLERK: -- I was thinking is they
17 screen --.

18 THE COURT: Prescreen. You know something,
19 if for some reason we're ahead of schedule -- okay.

20 THE CLERK: --.

21 MR. MELLO: She's got a good idea.

22 THE COURT: Anything else?

23 MR. MELLO: Thank you, Judge.

24 THE COURT: See what I have to put up with?
25 All right. We'll tell them 10:30.

1 MR. BILINKAS: Judge, --

2 THE COURT: Okay.

3 MR. BILINKAS: -- I have one question. As
4 far as the alternates are -- am I assuming correctly
5 that they'll be picked randomly at the end of the case
6 or are they set in the box that they're seated in?

7 MR. MELLO: Random.

8 THE COURT: They are selected randomly. And
9 what I don't -- we take their tag. We put them up on
10 the counter. You come up. You look at the tags. You
11 tell me that everything is in order. They go into a
12 rotary. And the clerk would have to -- picked at
13 random, pulled out and then marked, make sure everybody
14 understands.

15 The main thing we got to make sure that it's
16 a completely random process including the jurors
17 because there's this feeling that they've been sitting
18 and listening to the testimony. And those four people
19 that will be removed they're going to have a moment of
20 disappointment.

21 MR. BILINKAS: Sure. So --?

22 THE COURT: There's a reason for the process.
23 Agreed?

24 MR. BILINKAS: Good.

25 THE COURT: Okay.

1 MR. MELLO: Good. Good. Good.

2 (Sidebar concluded)

3 THE COURT: All right. I'm going to try to
4 give you an idea. This is a -- a fairly new system
5 that we've implemented for those types of cases that
6 take an extended period of time.

7 I think it's working out pretty well because
8 at this point with the other system we have everybody
9 coming into the courtroom, but by this point I may not
10 even have the box filled up with the number of people
11 that we now have.

12 So it would appear that this allows us to
13 move the system much more expeditiously and fairly. So
14 whenever I see something new that can help out, it's --
15 it's worth trying.

16 So that means what do we do now? We've
17 exhausted the panel. We're going to have a new panel
18 tomorrow. There's no reason for you to sit through
19 that entire explanation.

20 So what we'll do is we'll have you report
21 back at 10:30 tomorrow to the jury room in the back.
22 That will give me enough time to be able to go through
23 the explanation to the new panel. And then when I
24 finish with the new panel, then we'll bring you out and
25 you will join them. Okay?

1 Now instructions. I'll tell you this every
2 day. Do not discuss this case with anyone. Do not
3 read or listen to any media accounts. Also, don't
4 watch any law related programs. There may be some
5 subject matter that parallels this particular case.

6 We don't want anything intruding upon your
7 thinking. So no discussions of any nature. Don't do
8 any internet searches, or visit the site, or do
9 anything even similar to that. Keep an open mind.
10 That's what we've been telling you.

11 I will see you tomorrow at 10:30. I would
12 ask that the Sheriff's officers escort you into the
13 jury room where he can then take your cell number and
14 phone -- home phone number so that we can get in touch
15 with you. I'll see you tomorrow at 10:30.

16 (The prospective jurors exited the
17 courtroom.)

18 (Trial adjourned for the day.)

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Certification

I, K. Annette Higgs, the assigned transcriber, do hereby certify the foregoing transcript of proceedings on Video, from 10:05:48 a.m. to 12:07:31 p.m., is prepared in full compliance with the current Transcript Format for Judicial Proceedings and is a true and accurate non-compressed transcript of the proceedings as recorded.

K. Annette Higgs

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