

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

SUPERIOR COURT DEPARTMENT
OF THE TRIAL COURT
SUCR 2000-10975
SUCR 2000-10777

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COMMONWEALTH OF MASSACHUSETTS

-vs-

JURY TRIAL
DAY ONE

JASON ROBINSON
TANZERIOUS ANDERSON

* * * * *

TRANSCRIPT OF PROCEEDINGS

BEFORE: ROUSE, J

APPEARANCES:

ROBERT TOCHKA, Esquire, Assistant
District Attorney, for the Commonwealth

MICHAEL DOOLIN, Esquire, for Defendant Robinson

TIMOTHY FLAHERTY, Esquire, for Defendant Anderson

March 19, 2002
Boston, Massachusetts

Mary M. Wrighton
Official Court Reporter

1 (Whereupon, the proceedings were
2 convened at 10:10 o'clock a.m.)

3 THE CLERK: Your Honor, now before the
4 Court is the case of Commonwealth versus
5 Tanzerius Anderson, indictment number 2000-10777.
6 Mr. Anderson is present with Attorney Flaherty,
7 and the Commonwealth versus Jason Robinson 2000-
8 10975. Mr. Robinson is present with Attorney
9 Doolin. Mr. Tochka is present for the
10 Commonwealth.

11 The case is here today for trial.
12 There are some pretrial matters.

13 THE COURT: Good morning. What we are
14 going to do is address the pretrial matters that
15 relate only to impanelment so that we can get a
16 jury as soon as possible and we'll take up
17 whatever pending motions there are after that.

18 Let's start with the Commonwealth. I
19 have a statement of the case which I've altered
20 slightly in this way. The Commonwealth alleges
21 that on or about March 28, 2000, the defendants,
22 Jason Robinson and Tanzerius Anderson, shot and
23 killed a person by the name of Iman Yazbek of
24 Watertown during the course of an armed robbery.

1 This incident took place in the Fanueil
2 Developments in Brighton, in the Brighton section
3 of Boston. The Commonwealth has charged each
4 defendant with first degree murder of Iman Yazbek
5 as well as with two counts of armed robbery.

6 Any comments about that?

7 MR. DOOLIN: No, Your Honor.

8 MR. FLAHERTY: Nothing on behalf of
9 Tanzerius Anderson.

10 THE COURT: Alright. We will use that
11 then. I have an amended witness list with some
12 handwritten additions. Do I now have all of the
13 proposed witnesses?

14 MR. DOOLIN: Yes, Your Honor.

15 MR. FLAHERTY: I believe you do, Your
16 Honor.

17 THE COURT: And are there any names on
18 this list which will not be necessary to read to
19 the jury because we definitely know that
20 individual will not be called?

21 MR. FLAHERTY: On behalf of Mr.
22 Anderson, Your Honor, I would suggest that the
23 Court read the entire list in an over abundance
24 of caution.

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THE COURT: Alright. The additions I have are police officer Tim Stanton, Peter Harris or Haries --

MR. TOCHKA: It's Harris, Your Honor.

MR. DOOLIN: Harris.

THE COURT: Michael LaRocca, Arnold Abelow and William Duane from the FBI. Is that yours, Mr. Tochka?

MR. TOCHKA: Yes, Your Honor.

THE COURT: I take it this is apropos of another motion which we discussed last week but I take it that the defendants do not have on their list any proposed handwriting expert. Is that correct?

MR. FLAHERTY: Presently, Your Honor, Mr. Anderson has not placed a handwriting expert on the witness list. We have contacted one and I suppose I should probably mention to the Court, it depends upon your ruling on the motion in limine and the testimony of Mr. Duane as to whether or not Mr. Anderson would elect to call a handwriting expert on his behalf. That person's name is Joan McCann. If you'd like to read the name to the jury, I don't object to it, Your

1 Honor, but at this stage I don't anticipate Ms.
2 McCann taking the stand.

3 THE COURT: Let's examine what you have
4 given me, Mr. Flaherty. You gave me a motion in
5 limine to exclude evidence concerning expert
6 testimony relating to handwriting comparisons and
7 the only thing you gave me in this motion was to
8 say that you expected that there would be a
9 witness produced, expert witness produced by the
10 Commonwealth to testify concerning a signature
11 that appears on a New Hampshire hotel receipt and
12 you anticipated that the testimony would compare
13 the handwriting of your client, Mr. Anderson, to
14 that on the hotel receipt. Is that correct?

15 MR. FLAHERTY: Correct.

16 THE COURT: And then the only thing in
17 the motion is that you attached a decision from
18 the Federal District here in Massachusetts that
19 Judge Gertner wrote back in June of 1999 which I
20 have read. I have also read the Judge Pollack
21 case on fingerprint experts. Now, in this
22 motion, you ask the Court to exclude that
23 testimony from Mr. Duane because you say it does
24 not or will not meet the test for admissibility

1 under the Dauber case.

2 Let me just explain why I don't think
3 this is sufficient to raise the issue. You did
4 not give me anything other than the motion. You
5 don't proffer any expert to challenge or raise
6 any of the factors that Dauber lays out in order
7 for the Court to exercise its gate keeping
8 function. You did not give me any expert
9 excerpts from any deposition transcripts, any
10 affidavits, or anything essentially which joined
11 the issue, and furthermore, if I recall
12 correctly, you did not request that the Court
13 conduct an evidentiary hearing. Is that right,
14 sir?

15 MR. FLAHERTY: Well, subsequent to the
16 filing of the motion, Your Honor, I received a
17 report from a William Duane in the FBI. I have a
18 copy for the Court if the Court would like to
19 examine it, and in Mr. Duane's report, he
20 suggests that he made comparisons of a
21 handwriting exemplar that was performed on Mr.
22 Anderson at which I was present. That's the
23 reason which prompted me on behalf of Mr.
24 Anderson to file the motion in limine. His

1 report of the handwriting exemplar states that he
2 believes the author of the signature which
3 appears on a Yankee Clipper Hotel receipt is the
4 defendant, Tanzerius Anderson's.

5 So at the time that I had filed the
6 motion in limine, discovery to the defendant, Mr.
7 Anderson, on that issue was not entirely
8 complete. It's complete by now and I would
9 suggest, Your Honor, that under the Hines case,
10 under Dauber, under Corother (phonetic spelling)
11 and also along with the Plaza case, it is the
12 Commonwealth's burden to show that the proffered
13 expert testimony meets the four factors outlined
14 by Dauber in order for this Court to exercise its
15 gate keeping function as was done in Plaza and as
16 was done in Hines.

17 THE COURT: Let me just say, this is
18 not Hines, sir, and the reason it is not Hines is
19 because it was the defendant who put the expert
20 on the stand and that expert was cross examined
21 by the Commonwealth and I just want to make sure
22 you understand that I do not think this is
23 sufficient to raise a Dauber issue and I don't
24 want to get into that any more now because we are

1 ready to impanel the jury, but what I will do is
2 if, at some point you amend your motion, then
3 certainly we will -- so that we don't
4 inconvenience the jurors because we have to
5 conduct some sort of a hearing, and this really
6 should have been raised in a more complete way at
7 the latest last week when we had conferences on
8 pretrial matters.

9 What I'm saying, sir, is this doesn't
10 go to who has the burden once the hearing is
11 underway. Initially there has to be something
12 more than somebody whispering Dauber in the
13 judge's ear and I'm -- I don't mean that in a
14 facetious way but I'm just saying basically
15 that's all that the motion has. Whatever Judge
16 Gertner did in the Hines case, she had before her
17 more than I have now which was the proffer of an
18 expert to say that handwriting is not an accepted
19 science and so forth. It was something for the
20 Court to evaluate. I don't have that here and
21 I'm not going to rule finally on your motions.

22 I just wanted to alert you that I'll
23 give you the opportunity -- now you say you've
24 got everything you need to amend it, but I

1 suggest you do it as promptly as possible so I
2 can review it. If necessary, if I have to
3 consider this motion further, then I will have
4 whatever you want me to have in order to consider
5 it, but I have read the cases and at this point I
6 don't think there is enough before me to raise it
7 and I'll just leave it at that right now. Okay?

8 So when did you expect to put Mr. Duane
9 on, sir?

10 MR. TOCHKA: Your Honor, I expect
11 either Thursday or Friday. He is coming in
12 tomorrow so I expect I'd get to him Thursday.

13 THE COURT: Today is Tuesday. Mr.
14 Flaherty, the latest you're going to have
15 something to me is tomorrow morning.

16 MR. DOOLIN: I'll have something for
17 you, Your Honor.

18 THE COURT: Alright. Thank you. Okay.
19 We have the list of witnesses, we have the
20 statement. Expected length of your case in
21 chief?

22 MR. TOCHKA: Your Honor, I would
23 suggest, if we start with the evidence tomorrow,
24 Wednesday, I would hope to finish my case in

1 chief by the end of Friday or Monday at the
2 outside.

3 THE COURT: Alright. From the
4 defendants' point of view, when do you think you
5 will be resting?

6 MR. FLAHERTY: I would expect, Your
7 Honor, if Mr. Tochka finishes by Friday, the case
8 should go to the jury sometime Tuesday.

9 THE COURT: Alright. So I'll tell the
10 jurors that they need to be available Wednesday
11 or Thursday of next week. I have a motion for
12 proposed voir dire from Mr. Doolin. Was there
13 one from you, Mr. Flaherty?

14 MR. FLAHERTY: I joined in Mr. Doolin's
15 motion. Thank you.

16 THE COURT: Mr. Tochka, did you have
17 any motions, sir?

18 MR. TOCHKA: No, Your Honor, I did not.

19 THE COURT: Alright. My proposal is
20 that, because there is an interracial aspect to
21 the murder, that I will ask the ordinary and
22 standard questions of the venire as a group
23 including the proposed one by Mr. Doolin about
24 the testimony of police officers, and then I will

1 ask individually a question about race and it
2 will be along these lines. The defendants, Jason
3 Robinson and Tanzerius Anderson, are black, Iman
4 Yazbek is white -- additionally, I think he was
5 identified as a Lebanese. Is that significant?

6 MR. TOCHKA: Yes, Lebanese.

7 THE COURT: Is that significant?
8 Should that be revealed to the jury?

9 MR. TOCHKA: I would, Your Honor. I'd
10 ask the Court to alert the jurors to that.

11 THE COURT: Alright. It's Lebanese,
12 sir?

13 MR. TOCHKA: Yes, it is.

14 THE COURT: Okay. Iman Yazbek, the
15 victim, is Lebanese. That is Caucasian, is that
16 correct?

17 MR. TOCHKA: That's correct.

18 THE COURT: Is there anything about the
19 race or ethnicity of these individuals which
20 would in any way interfere with your ability to
21 be a fair and impartial juror? That is the
22 question I propose I ask individually at side
23 bar.

24 Any other questions about the

1 impanelment? What we'll do, we'll impanel
2 fifteen jurors. You will each have fifteen
3 challenges, the defendants, and then the
4 Commonwealth would have thirty. Ordinarily I get
5 a group of indifferent jurors before I require
6 counsel to exercise a peremptory. However, if
7 you could exercise a peremptory immediately after
8 the jurors are inquired of at side bar, that
9 would probably make for a more efficient
10 impanelment. Does anyone have an objection to
11 that?

12 MR. TOCHKA: No, Your Honor.

13 MR. FLAHERTY: No objection, Your
14 Honor. I would expect on behalf of Mr. Anderson
15 that I'd wait until the entire box is full before
16 any exercise.

17 THE COURT: Alright. So you do have an
18 objection. In other words, what I'm saying, Mr.
19 Flaherty, is that my ordinary practice is to get
20 a group but if counsel were willing to exercise
21 peremptories immediately after we saw the person
22 at side bar, then I would entertain doing it that
23 way as well. I think it's more efficient but I
24 am not going to require you to do it if you don't

1 want to do it that way.

2 MR. FLAHERTY: I'd rather do it in the
3 ordinary fashion, Your Honor. As to the
4 individual voir dire questions, Your Honor --

5 THE COURT: Yes, sir.

6 MR. FLAHERTY: I think Mr. Doolin had
7 requested a question along the lines suggesting
8 language to the effect of, do any of the jurors
9 believe that blacks are more likely to commit
10 crimes simply because they are black and I would
11 urge the Court to ask a question along those
12 lines. I think it alerts the individual voir
13 dire's to ferret out any juror who may harbor any
14 type of bias, prejudice or impartiality based on
15 race. In my experience, trying interracial
16 trials, I think that's a question that has been
17 drafted in the past. It works quite well in
18 eliminating any jurors who may harbor some of
19 those biases and I would urge the Court to ask a
20 question along those lines.

21 THE COURT: Is there some reason why
22 you think the first question wouldn't encompass
23 or subsume that one, sir?

24 MR. FLAHERTY: Well, the first

1 question, Your Honor, I would suggest raises the
2 issue but the second question is more pointedly
3 placed to the jurors and may, I think, cause the
4 jurors to reflect on the reason for their bias
5 rather than whether or not they have any bias
6 whatsoever and I think that it makes -- it puts
7 the issue squarely before the jurors in their
8 minds, gives them an opportunity to reflect and
9 gives them an opportunity to have an honest
10 discourse with the Court as to whether or not
11 they may, in their private minds, harbor any type
12 of bias or prejudice along those lines, and I
13 think it just makes it more pointed, more square.
14 In an over abundance of caution in this case with
15 these two defendants, I would suggest it might be
16 better practice to have the Court to ask a
17 question along those lines.

18 THE COURT: Thank you. Mr. Tochka?

19 MR. TOCHKA: I suggest, as Mr. Flaherty
20 said, the question that the Court had originally
21 said they were going to ask the jurors
22 encompasses the second part of that question so I
23 suggest the first one is a general question
24 rather than going into specific areas where the

1 jurors, whether they would be biased or not
2 because of the race in this particular case. I
3 suggest that they will need to be honest to the
4 Court. With the second question, where now
5 you're probing into a particular race --

6 MR. FLAHERTY: Well, just to follow up,
7 Your Honor, the reason why it might be more
8 relevant in this case or more probative of the
9 jurors' minds, my expectation is that the three
10 significant witnesses, including the cooperating
11 witness that the government relies upon to meet
12 its burden in its case in chief are all Caucasian
13 and there is some suggestion that those three
14 civilian witnesses were present at the time of
15 the homicide and if we ask the question that I
16 suggest, then it may ferret out any jurors who
17 may later on place the blame squarely on these
18 defendants rather than the cooperating witness.

19 MR. TOCHKA: Your Honor, that's in part
20 why I would object to that question because
21 really what it goes into is defense counsel's
22 strategy in connection with this case and not
23 really any attempt to ferret out any prejudice or
24 the like.

1 THE COURT: The problem is that, by
2 asking the question in as pointed fashion as this
3 one is framed sometimes suggests racial issues
4 where there really should be none and I'll give
5 it a little more consideration as we move through
6 the few other matters but that's a concern that I
7 have, that by asking the question, you suggest
8 that there should be and that there is a general
9 likelihood that blacks are in the criminal
10 justice system more than whites and that's the
11 last thing that we want to suggest.

12 Okay. Were there any other, other than
13 that question which I am still mulling, any other
14 questions that you wanted to ask about the
15 proposed voir dire?

16 MR. DOOLIN: No, Your Honor.

17 MR. TOCHKA: Your Honor, my only
18 question is on the police officer question that
19 Mr. Doolin proposed --

20 THE COURT: I'll tell you how I give
21 it. I'm not going to give it that way. I'll
22 tell you how I give it, then you can comment.
23 Would you tend to believe the testimony of a
24 police or law enforcement officer more or less

1 merely because that person is a police or law
2 enforcement officer.

3 MR. TOCHKA: Thank you. That was my
4 point. Thank you.

5 THE COURT: Alright. What we'll do is
6 this, we'll bring the jurors in and --

7 MR. TOCHKA: Could I just, while we're
8 waiting for the jurors, if I could, have
9 permission of the Court to have Sergeant Coleman
10 second seat me during the trial?

11 THE COURT: I'm sorry?

12 MR. TOCHKA: I would ask the Court
13 permission to have Sergeant Coleman, who is the
14 chief investigating officer in the case, second
15 seat me during the trial.

16 THE COURT: Will he be testifying?

17 MR. TOCHKA: Yes, I believe he would.

18 THE COURT: On what issues?

19 MR. TOCHKA: On statements made by the
20 defendant and his investigation in terms of at
21 the crime scene and the like.

22 MR. FLAHERTY: I think, respectfully,
23 Your Honor, Sergeant Detective Coleman should be
24 subject to the same sequestration order of every

1 other witness on the witness list.

2 MR. DOOLIN: Especially when he is
3 testifying, Judge, respectfully.

4 THE COURT: Well, he can certainly be
5 here during impanelment and I'll think about it.
6 Otherwise, I think we did allow a motion for
7 sequestration last week, did we not?

8 MR. DOOLIN: Yes, Your Honor.

9 THE COURT: Okay. We'll ask the
10 questions of the venire, we'll note simply the
11 numbers of jurors who raise hands. Then we'll
12 bring them to side bar individually for the
13 questions and then -- where are we going to put
14 the jurors?

15 COURT OFFICER: In the jury room on
16 this side.

17 THE COURT: So when we get whatever
18 seems like a good number, I think thirty-five or
19 forty initially, see if we can get a jury, hold
20 the rest of the jurors, see what we can do with
21 that. Then we'll have your challenges when the
22 jurors are in the box.

23 MR. FLAHERTY: Your Honor, prior to the
24 jurors entering, may I request that both my

1 client and Mr. Robinson have their shackles
2 removed?

3 THE COURT: Of course.

4 MR. FLAHERTY: Thank you. I just
5 wanted to remind the Court.

6 THE COURT: I don't think you have to
7 remind these experienced court officers.

8 MR. FLAHERTY: I get nervous all the
9 time, Your Honor.

10 THE COURT: I'll see you at side bar
11 while that's being done.

12 (Whereupon, a discussion occurred off
13 the record at side bar.)

14 (Whereupon, the proceedings were
15 recessed at 9:26 o'clock a.m., and reconvened at
16 10:44 o'clock a.m.)

17 THE COURT: Ladies and gentlemen, I'd
18 like to welcome you to the courtroom. My name is
19 Judge Rouse and I am a justice of the Superior
20 Court. I am pleased to see all of you here
21 today. What we are about to do is to select a
22 jury to hear and decide this criminal case.

23 Now, in a moment I'll be back with you
24 to explain how we go about selecting a jury in a

1 case of this kind, what the charges are, and who
2 the trial participants will be so that, based on
3 that information, I can ask you some questions
4 but I'll explain that to you in more detail in a
5 moment.

6 The first thing that is going to happen
7 is that the clerk is going to call the case. He
8 will then place the defendants at the bar, as we
9 say, and after that he will ask you to rise and
10 raise your right hand so that he can swear you in
11 and the reason we swear you in is because during
12 the impanelment procedure we'll be asking you
13 questions to which we will need a candid answer.

14 So I will be back with you in a moment.
15 We thank you very much for your anticipated
16 cooperation. Mr. Parsons?

17 THE CLERK: Your Honor, now before the
18 Court are the cases of the Commonwealth versus
19 Tanzerius Anderson, it is indictment number 2000-
20 10777. Offense 001 of that indictment charges
21 Mr. Anderson with murder in the first degree,
22 offense 002 charges armed robbery, offense 003
23 charges possession of a firearm not being at home
24 or work and without a license, offense 004

1 charges intimidation of a witness, and offense
2 005 charges armed robbery. Mr. Anderson is
3 present in court this morning with Attorney
4 Flaherty.

5 And the case of the Commonwealth versus
6 Jason Robinson, indictment number 2000-10975.
7 Offense 001 of that indictment charges Mr.
8 Robinson with murder in the first degree, 002 and
9 003 charge armed robbery, 004 charges possession
10 of a firearm not being at home or work and
11 without a license. Mr. Robinson is present in
12 court this morning with Attorney Doolin. Mr.
13 Robert Tochka is present for the Commonwealth and
14 the cases are here for trial this morning.

15 Mr. Tochka?

16 MR. TOCHKA: Good morning, Your Honor,
17 Robert Tochka for the Commonwealth. The
18 Commonwealth now moves for trial as to both
19 defendants.

20 THE COURT: Thank you. May the
21 defendants be set at the bar, Your Honor?

22 THE COURT: Yes.

23 THE CLERK: Tanzerius Anderson and
24 Jason Robinson, please rise. You are each now

1 set at the bar to be tried and the good men and
2 women whom I shall call are to pass between the
3 Commonwealth and you upon your trial. You each
4 have a right to challenge fifteen of their number
5 without assigning a reason therefor. If you do
6 so, or if you object to others for cause, you
7 must do so as they are called and before they are
8 sworn. Please be seated, gentlemen.

9 Jurors, please rise and raise your
10 right hand.

11 (Whereupon, the venire was sworn
12 collectively at 10:47 o'clock a.m.)

13 THE CLERK: I'd ask you please be
14 seated and pay close attention to the questions
15 Judge Rouse will now address to you.

16 THE COURT: Ladies and gentlemen, I am
17 going to take a few moments to explain to you how
18 we select a jury in a case of this kind and I'll
19 be giving you some information about the case,
20 the trial participants, the proposed witnesses,
21 the lawyers, the defendants and so forth. As we
22 proceed through the impanelment, I will be
23 pausing to ask questions based on the information
24 I'm giving you. If at any time you have a yes

1 answer to a question, then please raise your hand
2 and I will note at that time the numbers that
3 appear on your yellow card. So the first thing
4 I'd like you to do is take out the card and make
5 it available so we can facilitate the
6 impanelment.

7 After I've completed my questions of
8 you as a group, we then need to ask a few
9 questions individually, that is, after the
10 questions have been asked of what we call the
11 venire, the group of jurors, then I will be
12 having you come over here to the side of this
13 bench with the attorneys present so that I can
14 ask you a few more questions individually, and
15 that will be the second part of the impanelment.
16 And then after we have questioned you
17 individually, we will have you all return to the
18 courtroom for the final phase of the impanelment.
19 So we are going to be going in stages.

20 Let me explain at the outset that in
21 this criminal trial, as in every criminal trial,
22 it is the Commonwealth of Massachusetts which
23 prosecutes the case. That means that it is the
24 Commonwealth's job to charge a person or persons

1 with the commission of crimes and then to prove
2 the guilt of that person beyond a reasonable
3 doubt during the course of the trial.

4 Now, in this case the Commonwealth has
5 charged each of these two defendants with various
6 crimes and essentially the allegations are that
7 on or about March 29 of the year 2000, these
8 defendants, Jason Robinson and Tanzerius
9 Anderson, shot and killed a person by the name of
10 Iman Yazbek, Y-a-z-b-e-k, of Watertown during the
11 course of an armed robbery. The incident took
12 place in the Fanueil Developments in the Brighton
13 section of the City of Boston. Consequently, the
14 Commonwealth has charged each of these
15 defendants, Jason Robinson and Tanzerius
16 Anderson, with the commission of the crime of
17 first degree murder of Iman Yazbek as well as
18 with two counts of armed robbery.

19 Now, the defendants have pled not
20 guilty to these charges and, in the course of the
21 trial, the Commonwealth's job is to prove their
22 guilt beyond a reasonable doubt. These
23 defendants, like anyone charged with a crime, are
24 presumed innocent until proven guilty and they

1 are under no obligation at any time to prove
2 anything, to put on any evidence, to testify, to
3 take the stand.

4 Now, the first part of the impanelment
5 as I indicated, is going to consist of my asking
6 questions of you as a group after I have given
7 you information about the case and the general
8 purpose of these questions is to determine
9 whether there is any reason why you cannot sit as
10 a juror on this case, decide it based only on the
11 evidence given to you in the courtroom, and to do
12 so on a fair and impartial basis. So please
13 listen carefully to the information as well as
14 the questions.

15 If you have any doubts about whether or
16 not you should respond to a question, err on the
17 side of caution, raise your hand, because I will
18 be talking to you over here at side bar
19 individually to follow through on why you raised
20 your hand.

21 I'm going to begin with seeing if you
22 know the defendants in the case and I will start
23 first with Jason Robinson.

24 So, Mr. Robinson, would you rise,

1 please, and turn around and face the venire so
2 they can see you?

3 THE DEFENDANT: (Complying)

4 THE COURT: This is Jason Robinson.
5 Alright, sir. Do you want to face the venire
6 over here?

7 THE DEFENDANT: Good morning.

8 THE COURT: Thank you very much, sir.
9 You may be seated. The question is this - if you
10 have a yes answer please raise your hand - do you
11 or any member of your family know the defendant,
12 Jason Robinson?

13 (No response.)

14 THE COURT: Thank you very much.
15 Seeing no hand raised, I'm going to move on and
16 we'll now have Tanzerius Anderson rise, please,
17 and turn around, sir, if you would.

18 THE DEFENDANT: (Complying.)

19 THE COURT: This is Tanzerius Anderson,
20 and then, if you'd face this side over here, sir.

21 THE DEFENDANT: (Complying.)

22 THE COURT: Thank you very much. You
23 may be seated. The question is this, do you or
24 any member of your family know the defendant,

1 Tanzerius Anderson?

2 (No response.)

3 THE COURT: Thank you. Seeing no hand
4 raised, I'm next going to have the lawyers who
5 represent the Commonwealth and each of these two
6 defendants introduce themselves to you and we'll
7 start first with the assistant district attorney
8 for the Commonwealth.

9 MR. TOCHKA: Thank you. Good morning,
10 ladies and gentlemen. My name is Robert Tochka
11 and I am an assistant district attorney in
12 Suffolk County. With me is Sergeant Detective
13 Daniel Coleman from the Boston Police homicide
14 unit.

15 THE COURT: Thank you very much. I
16 don't know who'd like to start. Mr. Flaherty?

17 MR. FLAHERTY: Good morning, ladies and
18 gentlemen. My name is Timothy Flaherty. I'm an
19 attorney here in Boston. My law offices are
20 located on Bowdoin Street and I represent Mr.
21 Anderson from Dorchester.

22 THE COURT: Thank you very much. Mr.
23 Doolin?

24 MR. DOOLIN: Thank you, Your Honor.

1 Good morning. My name is Michael Doolin. My
2 office is at 512 Gallivan Boulevard in
3 Dorchester. I represent Jason Robinson.

4 THE COURT: Thank you very much. The
5 question, ladies and gentlemen, is this, do you
6 or any member of your family know any of these
7 attorneys who just introduced themselves to you?
8 The numbers in the back, please. Your numbers,
9 please?

10 THE JUROR: 2-9.

11 THE COURT: Thank you very much. Yes,
12 ma'am?

13 THE JUROR: 6-5.

14 THE COURT: 6-5. Anyone else know any
15 of these three lawyers? Thank you very much.
16 Ladies and gentlemen, I am next going to turn to
17 reading the list of proposed witnesses. These
18 are people who may come to give testimony at
19 trial. Now, please understand that not everyone
20 whose name I read may actually appear. We're
21 giving you all the names in the event that they
22 do. It's a long list, I'll advise you.

23 I'm going to read through the list. I
24 will give you the name, the town or city where

1 the person resides, or the organization with
2 which the person is affiliated. When I've
3 completed reading the names, I'll ask if anyone
4 whose name I read is a person you know or for
5 whatever reason are familiar with.

6 The list of prospective witnesses is as
7 follows: Detective Paul McLaughlin, Boston
8 Police, Sergeant Detective Daniel Coleman, Boston
9 Police, the individual whom Mr. Tochka introduced
10 at counsel table, Detective Juan Torres, Boston
11 Police, Detective Thomas Traylor, Boston Police,
12 Detective Joseph Scaringello, Boston Police,
13 Officer Mary Christofi, Boston Police, Detective
14 Sharon Wong, Boston Police, Christine Stevens,
15 Boston Police, Susan Coyne, Boston Police,
16 Officer Martin Lydon, Boston Police, Detective
17 Wayne Rock, Boston Police.

18 Detective Joe Kelly, Watertown Police,
19 Sergeant Detective Thomas Creavon, Boston Police,
20 Lieutenant Vincent Donohue, Boston Police,
21 Detective Paul Mahoney, Boston Police, Officer
22 Robert Sheets, Boston Police, Officer Tony
23 Pettus, Boston Police, Officer Arthur Whitkens,
24 Boston Police, Officer William Kelley, Boston

1 Police, Captain William Evans, Boston Police,
2 Sergeant John McDonough, Boston Police, Detective
3 Joseph Ceaser, Boston Police, Officer John
4 McNulty, Boston Police, Officer John Rouvalis,
5 Boston Police, Officer John Ford, Boston Police.

6 Emergency Medical Technician Athas from
7 the Boston Health and Hospitals, Emergency
8 Medical Technician Reardon from Boston Health and
9 Hospitals, George Wahbeh from Waltham, Antrki
10 Helvadjian, Watertown, Roletta Helvadjian,
11 Watertown, Jamie LeClair, Boston, Mary Coady,
12 Brighton, Officer Timothy Kelly, Boston Police,
13 Sergeant Brian Riley, Boston Police, Detective
14 Arthur O'Connell, Boston Police, Dr. Alexander
15 Chirkov from the office of the Medical Examiner,
16 Detective Gerald Abban, Boston Police, Officer
17 Darius Johnson, Boston Police.

18 Veronica Blyakhman, Newton, Jonathon
19 Simms, Boston, Erica Butler, Roxbury, Alan Tate,
20 Conway, New Hampshire, Edward Gauthier, Brighton,
21 Susan Gauthier, Brighton, Joleena Tate, Brighton,
22 Heather Coady, Brighton, Jeffrey Fitzgerald,
23 Boston, Brian Wilson, Dorchester, Donna Anderson,
24 Brighton, Officer Ted Colby from the Conway, New

1 Hampshire Police Department, Sergeant Detective
2 Jeffrey Dicey from the Conway, New Hampshire
3 Police Department, Cynthia McInerney, North
4 Conway, New Hampshire, Alexandra Perry, North
5 Conway, New Hampshire.

6 Thong Dam, Brighton, Yolanni Laine,
7 Brighton, Larry Laine, Brighton, Maria Ortega,
8 Brighton, Luz Bermudes, Brighton, Abboud Yazbek,
9 Watertown, Riad Yazbek, Watertown, Ricardo
10 Rousaleh, Watertown, Pierre Nassif, Brighton,
11 Jennifer Stacey, Newton, Oscar Vega, Brighton,
12 Joanne Constable, Brighton, Edwin Laureano,
13 Roslindale, Amy Harr, Brighton, Ana Culgini,
14 Brighton, Joseph Lutz, Dorchester, Police Officer
15 Tim Stanton, Boston Police, Peter Harris from
16 Dorchester, Michael Larocca from Worcester,
17 Arnold Abelow, an attorney from Everett, William
18 Duane of the Federal Bureau of Investigation from
19 Washington, D.C., Mark Vickers, Boston Police,
20 and Riad Yazbek, Watertown.

21 Those are the names of the proposed
22 witnesses. My question to you is this, do you
23 know or are you familiar with any of these
24 individuals whose names I just read?

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Kirk, why don't you read the numbers for me, please?

COURT OFFICER: Panel 1, seat 9, panel 2, seat 12, panel 4, seat 11, panel 4, seat 14, panel 4, seat 10, panel 5, seat 11, panel 7, seat 3. Ma'am, could you call your number out?

THE JUROR: 6-5.

THE COURT: Do I have the numbers of all individuals who know any of the prospective witnesses?

COURT OFFICER: Also, Your Honor, panel 1, seat 16.

THE COURT: Thank you. Do I now have all the numbers? Alright. Thank you very much.

Ladies and gentlemen, I am going to move on to my other questions and again if, for whatever reason, you have a yes answer, please raise your hand. The next question is this, are you aware of having any bias or any prejudice for or against the Commonwealth of Massachusetts?

(No response.)

THE COURT: Thank you very much. Seeing no hand raised, I'm going to move on. Are you aware of having any bias or any prejudice for

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or against either one of these two defendants?

(No response.)

THE COURT: Thank you. Seeing no hands raised, I'm going to move on. Have any of you expressed or formed any opinions about this case or the nature of the case?

(No response.)

THE COURT: Thank you. Seeing no hands raised, I'm going to move on. Do any of you have any personal interest in the outcome of the case?

(No response.)

THE COURT: Thank you. Seeing no hands raised, I'm going to move on. Is there anything about the nature of the case, the type of charges involved here, which would interfere with your ability to be a fair and impartial juror? Your numbers, please?

COURT OFFICER: 3-12.

THE COURT: Thank you very much. I will move on to my next question. Do any of you have any physical or medical problems, hearing impairment or language difficulties, which would interfere with your ability to sit as a juror on this case?

1 We have 1-16. Who else? I have 1-16.
2 Thank you.

3 COURT OFFICER: Panel 4, seat 4, panel
4 4, seat 1, panel 5, seat 13, panel, 3, seat 4,
5 panel 3, seat 7, panel 4, seat 13, panel 2, seat
6 2, panel 5, seat 5, panel 3, seat 9.

7 THE COURT: Thanks very much. We move
8 on to my next question. As you have learned from
9 my reading the list of names of the proposed
10 witnesses, there will be testimony offered in the
11 case from various police and law enforcement
12 officers. The question is this, would you tend
13 to believe the testimony of a police or law
14 enforcement officer more or less merely because
15 that person is a police or law enforcement
16 officer?

17 Your numbers, please?

18 COURT OFFICER: Panel 1, seat 9.

19 THE COURT: Thank you very much.
20 Seeing no other hands raised, I'm going to move
21 on. Now, ladies and gentlemen, before I ask
22 three questions, I want to make sure that all of
23 us understand the principles of law under which
24 criminal cases are tried.

1 Now, these defendants, like anyone
2 charged with a crime, are presumed innocent until
3 proven guilty. At no time are they under any
4 obligation to do anything, prove anything in this
5 case. That means, of course, they're not
6 required to put in any evidence, to say anything,
7 to testify. The burden at all times remains with
8 the Commonwealth to prove their guilt beyond a
9 reasonable doubt and the defendants enjoy the
10 presumption of innocence until that happens.

11 Now, keeping those principles of law in
12 mind, I'm going to ask you three questions and
13 for these three questions if, for any reason, you
14 have a no answer, please raise your hand.
15 Previously I had wanted to see it if it was a yes
16 but the next three questions if, for any reason,
17 it is a no, raise your hand.

18 Do you understand and accept that under
19 our system of law these defendants are presumed
20 innocent until proven guilty?

21 (No response.)

22 THE COURT: Thank you. Seeing no hands
23 raised, I'll move on. Do you understand and
24 accept that under our system of law it is the

1 Commonwealth's responsibility to prove the guilt
2 of each defendant beyond a reasonable doubt?

3 (No response.)

4 THE COURT: Thank you very much.

5 Seeing no hands raised, I'm going to move on. Do
6 you understand and accept that under our system
7 of law these defendants are under no obligation
8 whatsoever to produce any evidence on their
9 behalf?

10 (No response.)

11 THE COURT: Thank you very much.

12 Seeing no hands raised, I believe we have now
13 come to the end of the first part of the
14 impanelment where I ask questions of all of you
15 as a group. The next part of the impanelment
16 will consist of my seeing each of you over here
17 at side bar. I have a few questions for you.
18 The lawyers will be present and it's going to
19 take some time to do this so I would appreciate
20 your patience, and after you have seen me, we are
21 going to return you to the jury room to wait for
22 us until we have asked the questions of the other
23 jurors. Thank you in advance.

24 THE CLERK: We will start with panel

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six, seven, then panel fifteen.

THE COURT: May I see the attorneys first, please?

(Whereupon, the following discussion occurred at side bar:)

MR. FLAHERTY: Your Honor, Mr. Anderson submitted a list of witnesses. I don't know if any of them were read. I don't know that --

THE COURT: I thought I had one consolidated list. That's what I was doing this morning.

MR. FLAHERTY: Let me just double check. Your Honor, I think we are satisfied with the witness list that has been read.

THE COURT: Any person who is called as a witness whose name has not been identified to the jury, then before the witness comes, I will ask the impaneled jury whether they are familiar with that witness. Okay?

MR. FLAHERTY: Okay.

THE COURT: Now, for purposes of the record, Mr. Flaherty, on behalf of Mr. Anderson, do you waive his right to be present at side bar?

MR. FLAHERTY: I have discussed it with

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Mr. Anderson. He understands fully and he waives his right to be present at side bar for purposes of impanelment.

THE COURT: For purposes of impanelment and at all times?

MR. FLAHERTY: And at all times throughout the trial.

THE COURT: Thank you. Mr. Doolin, same question?

MR. DOOLIN: Yes, Your Honor. Mr. Robinson waives his presence at side bar.

THE COURT: Thank you very much.

(Whereupon, the discussion at side bar was concluded.)

THE CLERK: Juror 6-1.

(Whereupon, the following discussion occurred at side bar:)

THE COURT: The questions are these, sir. First, the race of the defendants is black, the victim is white, a Lebanese man. Is there anything about the race and ethnicity of any of these individuals which would interfere with your ability to give -- to be a fair and impartial juror?

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THE JUROR: No.

THE COURT: Okay. Secondly, the proposed schedule for the trial is that we expect we will be -- it will be every day this week, nine to four. Looking forward to next week, we expect to get the case to the jury sometime on Tuesday or Wednesday. How long it would take the jury to decide the case is entirely up to the jury, but I think you should plan on being here obviously this week and into the end of next week.

Is there anything about that schedule which would create a hardship for you?

THE JUROR: Yes.

THE COURT: What is that?

THE JUROR: I'm a student and I have midterms this week.

THE COURT: Where are you a student, sir?

THE JUROR: Boston University.

THE COURT: When are your midterms?

THE JUROR: I'm sorry?

THE COURT: What days?

THE JUROR: Wednesday and Friday.

1 THE COURT: Okay. Are these exams
2 which could be rescheduled?

3 THE JUROR: I honestly don't know.

4 THE COURT: What year are you?

5 THE JUROR: Freshman.

6 THE COURT: Okay. And what time of
7 day?

8 THE JUROR: What time of day?

9 THE COURT: During the day or evening?

10 THE JUROR: Oh, they're during the day.

11 THE COURT: Okay. What's your schedule
12 next week? Classes?

13 THE JUROR: I have classes, yes.

14 THE COURT: Okay. I'm going to excuse
15 you from service, sir. You may go back to the
16 jury pool.

17 (Whereupon, the juror left side bar.)

18 THE COURT: If there is any information
19 that's not completed by a juror you may ask me
20 and I will have them do it as we're here.

21 (Whereupon, the discussion at side bar
22 was concluded.)

23 THE CLERK: Juror 6-2.

24 (Whereupon, the following discussion

1 occurred at side bar:)

2 THE COURT: How are you, sir? I'm
3 asking everyone the same questions. The
4 defendants are both black, the victim is white, a
5 Lebanese man. Is there anything about the race
6 and ethnicity of these individuals which would
7 interfere with your ability to be a fair and
8 impartial juror?

9 THE JUROR: No.

10 THE COURT: Okay. The schedule for the
11 trial is going to be every day this week, about
12 nine to four, and into next week. We expect the
13 middle of the week to get the case to the jury
14 but you should expect to stay for as long as you
15 need to decide the case.

16 Is there anything about that schedule,
17 sir, which would create a hardship for you with
18 respect to sitting?

19 THE JUROR: One of my jobs.

20 THE COURT: Which is that?

21 THE JUROR: School teacher.

22 THE COURT: Okay. You're an elementary
23 school teacher?

24 THE JUROR: Yes.

1 THE COURT: Is that right?

2 THE JUROR: Yes.

3 THE COURT: For the record, you have to
4 say yes or no. Who is taking your class now?

5 THE JUROR: I have no idea.

6 THE COURT: Okay. But someone is?

7 THE JUROR: Yes.

8 THE COURT: I appreciate that you are a
9 teacher, sir, and you have to understand that
10 everybody here is either employed or has other
11 responsibilities. Is there anything else about
12 the schedule that would create a hardship for
13 you?

14 THE JUROR: No.

15 THE COURT: Okay. And finally, sir,
16 let me ask you this, is there any reason
17 whatsoever why you could not fairly and
18 impartially assess the evidence in this case,
19 base your verdict solely on the evidence?

20 THE JUROR: No.

21 THE COURT: Okay. Thank you. Would
22 you go with the officers? They will show you
23 where to go next.

24 (Whereupon, the discussion at side bar

1 was concluded.)

2 THE CLERK: Juror 6-3.

3 (Whereupon, the following discussion
4 occurred at side bar:)

5 THE COURT: How are you?

6 THE JUROR: Good.

7 THE COURT: I'm asking everyone the
8 same questions. The defendants are black, the
9 victim is white, a Lebanese man. Is there
10 anything about the race and ethnicity of these
11 individuals which would affect, would interfere
12 with your ability to be a fair and impartial
13 juror?

14 THE JUROR: No.

15 THE COURT: The schedule for the trial,
16 it will be going this week nine to four and into
17 next week. The jury is expected to get the case
18 sometime midweek next week, but you would
19 obviously be required to stay for however long it
20 takes the jury to decide the case.

21 Is there anything in that schedule that
22 would create a hardship for you?

23 THE JUROR: No. I have a six-month-old
24 daughter.

1 THE COURT: Do you normally work
2 outside the home?

3 THE JUROR: Yes.

4 THE COURT: And then who cares for your
5 daughter?

6 THE JUROR: Her grandfather.

7 THE COURT: Okay. So that would
8 continue. What are your normal working hours?

9 THE JUROR: Eight to five.

10 THE COURT: Our schedule will be nine
11 to four.

12 THE JUROR: Okay.

13 THE COURT: So less than your work
14 commitment.

15 THE JUROR: Okay.

16 THE COURT: And was there any reason
17 whatsoever why you could not sit on this jury as
18 a fair and impartial person, evaluate the
19 evidence in that manner, and decide the case
20 solely on the evidence?

21 THE JUROR: No.

22 THE COURT: Thank you very much.

23 (Whereupon, the discussion at side bar
24 was concluded.)

1 THE CLERK: She remains. Juror 6-5.

2 (Whereupon, the following discussion
3 occurred at side bar:)

4 THE COURT: How are you? You raised
5 your hand in connection with knowing one of these
6 attorneys?

7 THE JUROR: I used to work with Timmy.
8 I worked at the U.S. Attorney's office. I know
9 half the people you called on the witness list
10 and his sister works for the Brighton Police
11 Department.

12 THE COURT: I think I will return you
13 to the jury pool.

14 (Whereupon, the discussion at side bar
15 was concluded.)

16 THE CLERK: Excused. Juror 6-6.

17 (Whereupon, the following discussion
18 occurred at side bar:)

19 THE COURT: Ms. Richardson, how are
20 you? I'm asking everyone the same questions.
21 The race of the defendants is black, the victim
22 is white, a Lebanese man. Is there anything
23 about the race and ethnicity of these individuals
24 which would interfere with your ability to be a

1 fair and impartial juror?

2 THE JUROR: I don't know if that has
3 anything to do with it.

4 THE COURT: I'm asking you --

5 THE JUROR: No.

6 THE COURT: -- whether any of the race
7 or ethnicity that I identified of the defendants
8 or the victim would interfere with your ability
9 to --

10 THE JUROR: No.

11 THE COURT: -- judge this case on the
12 evidence and the law and do so fairly and
13 impartially. Would you be able to do that?

14 THE JUROR: Yes.

15 THE COURT: Okay. The schedule for the
16 trial will be this week, nine to four, and into
17 next week. We expect to get the case about
18 midweek to the jurors but you, of course, would
19 be required to stay until the case was decided.

20 Is there anything in that schedule that
21 would create a hardship for you?

22 THE JUROR: Just missing classes. I'd
23 just like to go to all my classes.

24 THE COURT: What year are you?

1 THE JUROR: A senior.

2 THE COURT: Okay. And this is a little
3 longer than usual trial so I'm going to excuse
4 you from service. You may go.

5 THE JUROR: Okay. Thank you.

6 (Whereupon, the discussion at side bar
7 was concluded.)

8 THE CLERK: Excused. 6-7.

9 (Whereupon, the following discussion
10 occurred at side bar:)

11 THE COURT: Mr. Thorpe, how are you.
12 I'm asking everyone the same questions, sir. The
13 defendants are black, the victim is white, a
14 Lebanese individual. Is there anything about the
15 race and ethnicity of these individuals which
16 would interfere with your ability to be a fair
17 and impartial juror?

18 THE JUROR: No, Your Honor.

19 THE COURT: The proposed schedule of
20 the trial is this week, nine to four, and the
21 same thing into next week. We expect to get the
22 case to the jurors midweek for decision but you
23 would have to stay obviously until the case was
24 decided. That's entirely up to the jurors, how

1 long that would take.

2 Is there anything in that schedule that
3 would create a hardship for you, sir?

4 THE JUROR: Well, a hardship for my
5 employer possibly but I guess they'd have to work
6 around it. I'm in a start-up operation right now
7 so --

8 THE COURT: You're a librarian?

9 THE JUROR: Yes. We're not open yet.
10 We are just in the phase of putting it together.

11 THE COURT: You can appreciate that
12 most everybody here has similar employment
13 responsibilities?

14 THE JUROR: Yes.

15 THE COURT: Let me ask you another
16 question, sir. Is there any reason why you could
17 not judge this case fairly and impartially,
18 solely on the evidence and the law?

19 THE JUROR: No, Your Honor.

20 THE COURT: Okay. Let me just ask
21 this. Pardon me. You just kind of leaned toward
22 me. Do you have any kind of hearing -- your
23 hearing is fine?

24 THE JUROR: Yes, it is.

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THE COURT: Okay. We're just
whispering here. Obviously we want to do this on
an individual basis so I want to thank you very
much, sir. I'm going to ask that you wait for us
for the second phase of impanelment.

(Whereupon, the discussion at side bar
was concluded.)

THE CLERK: He may remain. Juror 6-9.

(Whereupon, the following discussion
occurred at side bar:)

THE COURT: How are you?

THE JUROR: Good. How are you?

THE COURT: Fine. Thank you. I'm
asking everyone the same questions. The
defendants are black and the victim is white, a
Lebanese man. Is there anything about the race
and ethnicity of these individuals which would
interfere with your ability to be a fair and
impartial juror?

THE JUROR: No.

THE COURT: Okay. I see here on your
questionnaire that you say you believe in a fair
trial. Is that right?

THE JUROR: Yes.

1 THE COURT: Have you ever served as a
2 juror before?

3 THE JUROR: No.

4 THE COURT: Okay. Can you tell me a
5 little bit about what you mean by that, you
6 believe in a fair trial?

7 THE JUROR: What I meant by that is, in
8 common, your goal is, you prove beyond a
9 reasonable doubt, so that's what I mean by a fair
10 trial, you prove.

11 THE COURT: Who has to prove that?

12 THE JUROR: Whoever makes the, the --
13 the jury, the people who make the decision.

14 THE COURT: Who would make this
15 decision in this case about whether or not the
16 defendants were guilty?

17 THE JUROR: The judge --

18 THE COURT: No.

19 THE JUROR: No?

20 THE COURT: It's for the jurors alone
21 to decide whether the defendants are guilty and
22 it's up to the Commonwealth alone to prove the
23 guilt of these defendants beyond a reasonable
24 doubt. The juror's job is to assess the case,

1 assess all of the evidence fairly and impartially
2 and come to a decision, all members of the jury,
3 as to whether the Commonwealth has proven the
4 guilt of these defendants. It's entirely up to
5 the jury. Do you understand that?

6 THE JUROR: I do.

7 THE COURT: If you were selected as a
8 juror, would you be able to discharge your
9 responsibilities in that way?

10 THE JUROR: Yes, I would.

11 THE COURT: Okay.

12 THE JUROR: Now that I understand.

13 THE COURT: Okay. You are currently
14 unemployed?

15 THE JUROR: Yes. I go to Northeastern
16 University. I'm a student.

17 THE COURT: Oh, okay.

18 THE JUROR: I will be a senior after
19 this quarter.

20 THE COURT: Okay. Let me ask you this
21 question. The proposed schedule is all this
22 week, nine to four, and into next week. We
23 expect the case to get to the jurors sometime
24 next week. You would be required to stay

1 obviously until the case was decided.

2 Is there anything about that schedule
3 that would create a hardship for you?

4 THE JUROR: The quarter starts next
5 week, Monday actually school starts.

6 THE COURT: Is this week an interim
7 week?

8 THE JUROR: This week is okay, we have
9 a break, but next week school starts and I'm a
10 day student, an undergrad.

11 THE COURT: You are what year?

12 THE JUROR: A senior.

13 THE COURT: So this is your last
14 quarter or semester?

15 THE JUROR: I still have more actually.
16 I finish in the fall.

17 THE COURT: Okay. If you missed a few
18 days next week, would that create a hardship for
19 you for your classes?

20 THE JUROR: I don't think so.

21 THE COURT: Alright. I'm going to ask
22 that you stay for the second part of the
23 impanelment. Thank you.

24 THE JUROR: Oh.

1 (Whereupon, the discussion at side bar
2 was concluded.)

3 THE CLERK: Remains.

4 (Whereupon, the following discussion
5 occurred at side bar:)

6 MR. FLAHERTY: I'm sure it's
7 inadvertent but when you described the fair trial
8 with that last prospective juror, I think you
9 only gave the option that the jury has to find
10 beyond a reasonable doubt the guilt of the
11 defendants. If we get into a colloquy with any
12 others, would you just suggest guilty or not
13 guilty?

14 THE COURT: Just feel free to assist me
15 any time. Thank you.

16 (Whereupon, the discussion at side bar
17 was concluded.)

18 THE CLERK: Juror 6-11.

19 (Whereupon, the following discussion
20 occurred at side bar:)

21 THE COURT: Hello. How are you? I'm
22 asking the same questions of everyone. The race
23 of the defendants are black and the victim is
24 white, a Lebanese man. Is there anything about

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the race and ethnicity of these individuals which would interfere with your ability to be a fair and impartial juror?

THE JUROR: No.

THE COURT: The schedule is as follows. We will be here this week, nine to four, and into next week. The jury will get the case sometime midweek for decision. You would have to stay for however long it takes the jury to decide the case.

Is there anything about that schedule which would make it difficult or impossible for you to serve or a hardship?

THE JUROR: Yes.

THE COURT: What's that?

THE JUROR: I'm missing midterms today. I'm a student and this is my week for midterms.

THE COURT: Where are you a student?

THE JUROR: At Boston University.

THE COURT: The midterms are this week?

THE JUROR: Yes.

THE COURT: You're going to be missing them today anyway.

THE JUROR: Yes.

1 THE COURT: Do you have any other
2 midterms this week?

3 THE JUROR: We are getting a midterm
4 that's due next week.

5 THE COURT: I'm sorry?

6 THE JUROR: We are getting a midterm
7 essay that's due next week as well.

8 THE COURT: Would you be able to do
9 that nights and weekends?

10 THE JUROR: I'm not sure when I can
11 reschedule. I already tried to reschedule for
12 this week.

13 THE COURT: You already missed the ones
14 today and there is no other scheduled one except
15 for your take home?

16 THE JUROR: Right.

17 THE COURT: When is it due next week?

18 THE JUROR: I think it's Thursday.

19 THE COURT: So a week from Thursday?

20 THE JUROR: Um-hum.

21 THE COURT: Okay. Other than that, is
22 there any other reason you can't serve as a
23 juror?

24 THE JUROR: No.

1 THE COURT: Is there any reason why you
2 could not, if selected as a juror, be fair and
3 impartial in judging the evidence and base your
4 verdict solely on the evidence and the law?

5 THE JUROR: No, Your Honor.

6 THE COURT: Okay. I'm going to ask you
7 to remain for the second phase.

8 (Whereupon, the discussion at side bar
9 was concluded.)

10 THE CLERK: She remains. Juror 6-12.

11 (Whereupon, the following discussion
12 occurred at side bar:)

13 THE COURT: Hello, Ms. Johnson. Let me
14 ask you the same questions I have asked
15 everybody. The race of the defendants is black,
16 the victim is white, a Lebanese man. Is there
17 anything about the race and ethnicity of these
18 individuals which would interfere with your
19 ability to be a fair and impartial juror?

20 THE JUROR: No.

21 THE COURT: The schedule for the trial
22 is this week, you will be here nine to four, and
23 into next week, the same. We expect the jury to
24 get the case sometime next week about midweek.

1 However long it would take the jurors to decide
2 the case, you'd have to be here.

3 Is there anything in that schedule that
4 creates a hardship for you?

5 THE JUROR: The only thing is, I only
6 get paid for three days.

7 THE COURT: You only get paid by your
8 employer for three days. Thereafter, the
9 Commonwealth pays at a rate of fifty dollars a
10 day. If you can demonstrate for me a financial
11 hardship, I can consider an application to
12 increase that payment.

13 THE JUROR: I have to pay my rent and
14 I'm the only person in the household.

15 THE COURT: Who brings in income?

16 THE JUROR: Yeah. I'm the only one.
17 That wouldn't even pay my rent.

18 THE COURT: Okay. I'm going to excuse
19 you from service. You may go back to the jury
20 pool.

21 (Whereupon, the discussion at side bar
22 was concluded.)

23 THE CLERK: Excused. 6-13.

24 (Whereupon, the following discussion

1 occurred at side bar:)

2 THE COURT: I'm asking everyone the
3 same questions. The race of the defendants is
4 black, the victim is white, a Lebanese man. Is
5 there anything about the race and ethnicity of
6 these individuals which would interfere with your
7 ability to be a fair and impartial juror?

8 THE JUROR: Well, I have a question to
9 ask. Is this person -- is the person Lebanese?

10 THE COURT: Yes, the victim, the
11 decedent.

12 THE JUROR: No, I don't.

13 THE COURT: Did you ask that, sir,
14 because -- are you biased?

15 THE JUROR: No, I'm not but I'm
16 actually from Arab descent so it might a little
17 bit interfere with my decision.

18 THE COURT: Okay. I'll return you to
19 the jury pool for impanelment on another case.
20 You may go.

21 (Whereupon, the discussion at side bar
22 was concluded.)

23 THE CLERK: Excused. 6-14.

24 (Whereupon, the following discussion

1 occurred at side bar:)

2 THE COURT: How are you, Ms. Ford. Let
3 me ask you the same questions I'm asking
4 everybody. The race of the defendants is black,
5 the victim is white of Lebanese origin. Is there
6 anything about the race and ethnicity of these
7 individuals which would interfere with your
8 ability to be --

9 THE JUROR: No.

10 THE COURT: -- a fair and impartial
11 juror?

12 THE JUROR: No.

13 THE COURT: The schedule for the trial
14 is as follows. We will be going nine to four
15 this week and into next week with the same. We
16 expect the case to be given to the jurors
17 sometime midweek for decision. You would have to
18 stay, of course, for however long it takes to
19 decide the case but that's up to the jurors.

20 Is there anything about that schedule
21 that creates a hardship for you?

22 THE JUROR: No.

23 THE COURT: And finally, is there any
24 reason whatsoever why you could not be a fair and

1 impartial juror, judge the evidence accordingly
2 and decide it solely on the evidence and the law?

3 THE JUROR: No.

4 THE COURT: Thank you very much. You
5 may stay.

6 (Whereupon, the discussion at side bar
7 was concluded.)

8 THE CLERK: She remains. Juror 6-16.

9 (Whereupon, the following discussion
10 occurred at side bar:)

11 THE COURT: I'm asking everyone the
12 same questions. The race of the defendants is
13 black, the victim is white of Lebanese origin.
14 Is there anything about the race and ethnicity of
15 these individuals which would interfere with your
16 ability to be a fair and impartial juror?

17 THE JUROR: No.

18 THE COURT: The schedule of the trial
19 will be nine to four every day this week as well
20 as into next week. We expect the case to get to
21 the jurors sometime midweek. However long you
22 take to decide the case is up to the jurors.

23 Is there anything in that schedule,
24 sir, that would create a hardship for you?

1 THE JUROR: No.

2 THE COURT: Okay. Thank you very much.

3 The final question is this, is there any reason
4 whatsoever why you could not be a fair and
5 impartial juror, assess the evidence in that
6 manner, and decide it solely on the evidence and
7 the law?

8 THE JUROR: No.

9 THE COURT: Thank you very much.

10 (Whereupon, the discussion at side bar
11 was concluded.)

12 THE CLERK: He remains. Juror 7-2.

13 (Whereupon, the following discussion
14 occurred at side bar:)

15 THE COURT: Hello, Ms. Batchelder. I'm
16 asking everyone the same questions. The race of
17 the defendants is black, the victim is white of
18 Lebanese origin. Is there anything that would
19 interfere with your ability to be a fair and
20 impartial juror based on the race and ethnicity
21 of these individuals?

22 THE JUROR: No.

23 THE COURT: The schedule of the trial
24 will be every day this week about nine to four

1 and into next week. We expect the case to get to
2 the jurors sometime midweek next week. However
3 long the jurors would have it you'd be required
4 to stay.

5 Is there anything about that schedule
6 that would create a hardship for you?

7 THE JUROR: No.

8 THE COURT: The final question, is
9 there any reason whatsoever why you could not be
10 a fair and impartial juror, assess the evidence
11 in that manner and then decide the case solely on
12 the evidence and the law?

13 THE JUROR: No.

14 THE COURT: Thank you very much. You
15 may remain.

16 (Whereupon, the discussion at side bar
17 was concluded.)

18 THE CLERK: Remains. Juror 7-3.

19 (Whereupon, the following discussion
20 occurred at side bar:)

21 THE JUROR: Good morning, Your Honor.

22 THE COURT: You raised your hand in
23 connection with knowing one or more witnesses?
24 Try to keep your voice down.

1 THE JUROR: I don't know if it's the
2 same but Detective Paul Mahoney, is he originally
3 from Charlestown?

4 THE COURT: I have no idea.

5 THE JUROR: I know a Paul Mahoney.

6 THE COURT: How old is he?

7 THE JUROR: I'd say he's about
8 thirty's, late or middle thirty's.

9 MR. TOCHKA: I would say mid to late
10 forty's.

11 THE COURT: How do you know him?

12 THE JUROR: At my sister's son's
13 wedding, I met him.

14 THE COURT: Just on that one occasion?

15 THE JUROR: Right.

16 THE COURT: You think he was a relative
17 of the young man?

18 THE JUROR: Yes. He's probably about
19 my stepson's age, forty or thirty-nine. I'm not
20 good with ages. I just wanted to bring that up
21 to you.

22 THE COURT: That was the only name on
23 the witness list you recognized?

24 THE JUROR: That's the only name I know

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of.

THE COURT: You met him on one occasion?

THE JUROR: One occasion at a wedding.

THE COURT: Did you talk to him?

THE JUROR: Not really a lot. I was introduced to him by my son.

THE COURT: I'm not sure this is the same person, sir, but if it is and if he does appear, is there any reason why you could not judge his testimony solely on what he said in the courtroom and your assessment of how he said it?

THE JUROR: No. It will be exactly the way he pronounces it, however listening to all the evidence would be.

THE COURT: You would listen to all the testimony?

THE JUROR: Absolutely.

THE COURT: Was there any other question, sir, to which you raised your hand or wanted to raise your hand?

THE JUROR: No, not at all.

THE COURT: Let me ask you the same questions I have for everybody. The race of the

1 defendants is black, the victim is white, a
2 Lebanese man. Is there anything about the race
3 and ethnicity of these individuals which would
4 interfere with your ability to be a fair and
5 impartial juror?

6 THE JUROR: Not really, no.

7 THE COURT: When you say not really,
8 does that mean?

9 THE JUROR: No. Exactly, no.

10 THE COURT: The schedule for the trial
11 is nine to four every day this week and then
12 we're into next week. We expect the case to get
13 to the jurors sometime Wednesday for decision.

14 Is there anything in that schedule
15 which would create a hardship for you, sir?

16 THE JUROR: No.

17 THE COURT: Is there any reason why you
18 could not sit as a juror on the case, be fair and
19 impartial, judging the evidence that way, and
20 decide the case solely on the evidence and the
21 law?

22 THE JUROR: No.

23 THE COURT: Thank you very much. You
24 may remain.

1 (Whereupon, the discussion at side bar
2 was concluded.)

3 THE CLERK: He remains. 7-4.

4 (Whereupon, the following discussion
5 occurred at side bar:)

6 THE COURT: How are you, Ms. Pappas.

7 THE JUROR: Fine.

8 THE COURT: The first thing I'm going
9 to ask you, you did not complete these questions
10 down here. Did you know that?

11 THE JUROR: Well, I don't know too
12 much.

13 THE COURT: Is English not your first
14 language?

15 THE JUROR: My English is not very
16 good. I understand something, some things not.
17 This case is a little bit heavy for me.

18 THE COURT: This case?

19 THE JUROR: This case is criminal case,
20 is little bit overdue for me.

21 THE COURT: Did you understand all my
22 questions?

23 THE JUROR: Yes, I understand your
24 questions and I hear you say something for the

1 cases and a little bit, I didn't raise my hand.

2 THE COURT: You did not raise your
3 hand?

4 THE JUROR: No.

5 THE COURT: Did you want to raise your
6 hand?

7 THE JUROR: Well --

8 THE COURT: How long have you been in
9 this country, Ms. Pappas?

10 THE JUROR: No, I be juror already
11 before. I like to do it, don't get me wrong. I
12 did it before.

13 THE COURT: Sure.

14 THE JUROR: I don't know if I can
15 handle it, criminal case.

16 THE COURT: Why?

17 THE JUROR: Because two teenagers
18 there.

19 THE COURT: Two what?

20 THE JUROR: Two young people there.

21 THE COURT: Yes, it's true. Would that
22 affect the way you'd think about the case?

23 THE JUROR: Yes, I think it's going to
24 be a little bit --

1 THE COURT: Okay, Ms. Pappas. I'm
2 going to excuse you from service on this jury.

3 THE JUROR: Thank you very much.

4 (Whereupon, the discussion at side bar
5 was concluded.)

6 THE CLERK: Excused. Juror 7-7, Linda
7 Almeida.

8 (Whereupon, the following discussion
9 occurred at side bar:)

10 THE COURT: Step right up here. I'm
11 asking everyone the same questions. The race of
12 the defendants is black, the victim is white, a
13 Lebanese man. Is there anything in the race and
14 ethnicity of these individuals which would
15 interfere with your ability to be a fair and
16 impartial juror?

17 THE JUROR: No.

18 THE COURT: Okay. You hesitated a
19 minute.

20 THE JUROR: Well, I know this sounds
21 crazy but I've lived in Dorchester for some time
22 and I think my greatest fear is retribution.

23 THE COURT: Does that mean that you
24 would fear what might happen as a result --

1 THE JUROR: Right.

2 THE COURT: -- of rendering your
3 verdict?

4 THE JUROR: Yes.

5 THE COURT: In other words, if you
6 rendered a guilty verdict, you are afraid that
7 you might be harmed in some way?

8 THE JUROR: Yes.

9 THE COURT: I'll excuse you from
10 service. You may go.

11 (Whereupon, the discussion at side bar
12 was concluded.)

13 THE CLERK: Excused. Juror 7-12.

14 (Whereupon, the following discussion
15 occurred at side bar:)

16 THE COURT: How are you, sir?

17 THE JUROR: Fine.

18 THE COURT: I'm asking everyone the
19 same questions. The race of the defendants is
20 black and the victim is white of Lebanese origin.
21 Is there anything about the race and ethnicity of
22 those individuals which would interfere with your
23 ability to be a fair and impartial juror?

24 THE JUROR: Just that the gentleman in

1 the right, I think he looks familiar to me for
2 some reason.

3 THE COURT: The gentleman, you mean the
4 defendant?

5 THE JUROR: Right.

6 THE COURT: What do you mean he looks
7 familiar to you?

8 THE JUROR: I've seen him around, I
9 think.

10 THE COURT: Where do you think you
11 would have seen him?

12 THE JUROR: In Roxbury. I work in
13 Brighton also so --

14 THE COURT: You deliver oil?

15 THE JUROR: Yeah.

16 THE COURT: Okay. In Roxbury?

17 THE JUROR: Right.

18 THE COURT: You don't know what his
19 name is?

20 THE JUROR: I don't know his name, no.

21 THE COURT: Have you had any contact
22 with him?

23 THE JUROR: No, I haven't.

24 THE COURT: But you think he looks

1 familiar to you?

2 THE JUROR: Right.

3 THE COURT: Have you made any
4 observations about him at any time during the
5 course of your work as a truck driver?

6 THE JUROR: No, I don't think I have.

7 THE COURT: Is there anything about him
8 that would affect your ability, interfere with
9 your ability to be fair in judging this case?

10 THE JUROR: I believe not.

11 THE COURT: Okay. You have to be
12 certain, sir.

13 THE JUROR: Okay.

14 THE COURT: I'm asking if you are, sir?

15 THE JUROR: No, I guess I would.

16 THE COURT: You have to be certain,
17 sir. A guess is not sufficient.

18 THE JUROR: Alright.

19 THE COURT: The question is this, sir.
20 I asked you first whether there is anything about
21 the race and ethnicity of the individuals that
22 would interfere with your ability to be fair and
23 impartial.

24 THE JUROR: I think I might be.

1 THE COURT: I'm going to excuse you
2 from service for impanelment on another case.

3 (Whereupon, the discussion at side bar
4 was concluded.)

5 THE CLERK: Excused. Juror 2-2.

6 (Whereupon, the following discussion
7 occurred at side bar:)

8 THE COURT: Yes, sir?

9 THE JUROR: I'm just rather sick.

10 THE COURT: Right now, this minute?

11 THE JUROR: Right now, this minute.

12 THE COURT: Okay. You may go.

13 (Whereupon, the discussion at side bar
14 was concluded.)

15 THE CLERK: Excused. Juror 7-13.

16 (Whereupon, the following discussion
17 occurred at side bar:)

18 THE COURT: I'm asking everyone the
19 same questions. The race of the defendants is
20 black and the victim is white of Lebanese origin.
21 Is there anything about the race and ethnicity of
22 any of these individuals which would interfere
23 with your ability to be a fair and impartial
24 juror?

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THE JUROR: No.

THE COURT: The schedule for the trial will be every day this week from nine to four and into next week. We expect the case to get to the jurors sometime midweek and, of course, as long as it takes to decide the case, you would have to be here.

Is there anything about that schedule that would create a hardship for you, sir?

THE JUROR: No.

THE COURT: Fine. Is there any reason you couldn't be a fair and impartial juror, assess the evidence in that manner, and decide the case only on the evidence and the law?

THE JUROR: No.

THE COURT: Thank you, sir. You may remain.

(Whereupon, the discussion at side bar was concluded.)

THE CLERK: He'll remain. Juror 7-15.

(Whereupon, the following discussion occurred at side bar:)

THE COURT: Step right up here, sir. How are you?

1 THE JUROR: Fine.

2 THE COURT: I'm asking everyone the
3 same questions, Mr. Lai. The race of the
4 defendants is black, the victim is white of
5 Lebanese origin. Is there anything about the
6 race and ethnicity of those individuals which
7 would interfere with your ability to be a fair
8 and impartial juror?

9 THE JUROR: I'm sorry. I don't
10 understand.

11 THE COURT: Okay. What's your first
12 language?

13 THE JUROR: Vietnamese.

14 THE COURT: How long have you been in
15 this country?

16 THE JUROR: I be about nineteen years.

17 THE COURT: Nineteen years?

18 THE JUROR: Yes, and go to work.

19 THE COURT: And work?

20 THE JUROR: Yes.

21 THE COURT: What do you do for a
22 living?

23 THE JUROR: Do marble stonework.

24 THE COURT: Stonework. Do you speak

1 English on the job?

2 THE JUROR: I speak English for what I
3 do.

4 THE COURT: Have you gone to school in
5 this country, sir?

6 THE JUROR: No, I come little, never go
7 to school here.

8 THE COURT: I'll excuse you from
9 service. You may go.

10 (Whereupon, the discussion at side bar
11 was concluded.)

12 THE CLERK: Excused. Juror 7-16.

13 (Whereupon, the following discussion
14 occurred at side bar:)

15 THE COURT: Ms. Baillie, how are you?
16 I'm asking everyone the same questions. The race
17 of the defendants is black and the victim is
18 white of Lebanese origin. Is there anything
19 about the race and ethnicity of these individuals
20 which would interfere with your ability to be a
21 fair and impartial juror?

22 THE JUROR: No.

23 THE COURT: The proposed schedule for
24 the trial is every day this week from nine to

1 four and then into next week. We expect the jury
2 to get the case sometime midweek next week for
3 decision. However long it will take the jurors
4 to decide the case you would, of course, be
5 required to be here.

6 Is there anything about that schedule
7 that would create a hardship for you?

8 THE JUROR: No.

9 THE COURT: Finally, is there any
10 reason why you could not be a fair and impartial
11 juror and assess the evidence in that way and
12 decide the case solely on the evidence and the
13 law?

14 THE JUROR: No.

15 THE COURT: Thank you very much. Would
16 you wait for us, please?

17 (Whereupon, the discussion at side bar
18 was concluded.)

19 THE CLERK: She remains. Juror 15-1.

20 (Whereupon, the following discussion
21 occurred at side bar:)

22 THE COURT: Hello, Ms. Moyer. I'm
23 asking everyone the same questions. The race of
24 the defendants is black, the victim is white of

1 Lebanese origin. Is there anything in the race
2 and ethnicity of those individuals which would
3 interfere with your ability to be a fair and
4 impartial juror?

5 THE JUROR: No.

6 THE COURT: The proposed schedule for
7 the trial is as follows, every day this week from
8 nine to four. We would be going into next week.
9 The case would be given to the jury sometime
10 midweek for decision. Of course, you would have
11 to be here for as long as it took the jury to
12 decide the case. That's entirely up to the
13 jurors.

14 Is there anything in that schedule that
15 would create a hardship for you?

16 THE JUROR: I work for a start-up.
17 We're at the end of our quarter and I'm a
18 director there and I have very important client
19 meetings scheduled the rest of this week because
20 we're -- I mean, the timing is just really bad
21 for me from a business perspective.

22 THE COURT: Okay. Would you prefer to
23 defer your service to some other day?

24 THE JUROR: I would be happy to if I

1 could do it, if I could do a day, and I know I
2 could be -- if I could reschedule it.

3 THE COURT: You've just been here for a
4 day. If you get impaneled, you have to sit for
5 the length of the trial.

6 THE JUROR: That's right.

7 THE COURT: So that's what we mean by
8 one day or one trial.

9 THE JUROR: Right.

10 THE COURT: It means if you come and
11 you're selected, you have to be here for the
12 duration of the trial.

13 THE JUROR: Right.

14 THE COURT: If you're not selected,
15 then you're discharged. So I would leave it up
16 to you with respect to whether or not you want to
17 defer it, but I'm not going to excuse you because
18 everybody here has an employment problem.

19 THE JUROR: I understand. What does
20 deferred mean?

21 THE COURT: Choose another day to come
22 back.

23 THE JUROR: I can't predict it's going
24 to be any better another time so --

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THE COURT: Alright. I'll ask you my final question then.

THE JUROR: Sure.

THE COURT: Is there any reason why you could not be a fair and impartial juror, assess the evidence in that manner, and base your verdict solely on the testimony and the law?

THE JUROR: No reason.

THE COURT: Okay. Now, I am going to ask you to stay for the second part of the impanelment process if you would, please.

THE JUROR: Sure.

(Whereupon, the discussion at side bar was concluded.)

THE CLERK: She will remain. Juror 15-2.

(Whereupon, the following discussion occurred at side bar:)

THE COURT: How are you?

THE JUROR: Fine.

THE COURT: Good. I'm asking everyone the same questions. The race of the defendants is black and the victim is white of Lebanese origin. Is there anything about the race and

1 ethnicity of those individuals which would
2 interfere with your ability to be a fair and
3 impartial juror?

4 THE JUROR: No.

5 THE COURT: Okay. The second, the
6 length of the trial, we are going to be going
7 every day this week from nine to four and into
8 next week. We expect the jury to get the case
9 for decision sometime midweek. However long the
10 jury takes to decide the case, you would, of
11 course, be required to be here. It's entirely up
12 to them.

13 Is there anything about that schedule
14 that would create a hardship for you?

15 THE JUROR: No.

16 THE COURT: Okay. You said that a
17 little tentatively.

18 THE JUROR: I'm sorry?

19 THE COURT: You said that a little
20 tentatively. Is there something --

21 THE JUROR: I just don't want to sit.
22 I think I remember the case. I remember --

23 THE COURT: What is it you remember
24 about the case?

1 THE JUROR: Well, I remember the name,
2 Yazbek, and I remember the first kid. I don't
3 remember the whole incident.
4 THE COURT: You think this was in the
5 papers?
6 THE JUROR: Oh, it must have been and
7 it was on TV.
8 THE COURT: When?
9 THE JUROR: Sometime back a couple
10 years ago or so.
11 THE COURT: And is there anything about
12 the case that you recall from whatever media
13 coverage you think there was that I didn't tell
14 you today in the courtroom?
15 THE JUROR: I'm not sure but I do
16 remember Yazbek's name.
17 THE COURT: You remember what?
18 THE JUROR: I remember Yazbek and I
19 remember the first kid.
20 THE COURT: The first kid?
21 THE JUROR: The kid with the white
22 shirt on, but I don't remember --
23 THE COURT: What do you mean, the white
24 kid?

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1 THE JUROR: The young man with the
2 white shirt on.

3 THE COURT: One of the defendants?

4 THE JUROR: Yes.

5 THE COURT: What is it you remember
6 about him?

7 THE JUROR: I don't know. It could be
8 his face. I don't remember.

9 THE COURT: Where do you live?

10 THE JUROR: In Dorchester.

11 THE COURT: Okay. Have you seen either
12 one of these individuals before today?

13 THE JUROR: I've seen the kid with the
14 white shirt on before.

15 THE COURT: Where do you believe you've
16 seen him?

17 THE JUROR: Probably in my
18 neighborhood. We have a lot of young kids, young
19 men in my neighborhood.

20 THE COURT: What street do you live on?

21 THE JUROR: Shafter.

22 THE COURT: Um-hum, and you think
23 you've seen the man in the white shirt before?

24 THE JUROR: I know I've seen him

1 before.

2 THE COURT: What's his name?

3 THE JUROR: I don't know what his name
4 is.

5 THE COURT: Where have you seen him in
6 the neighborhood?

7 THE JUROR: In my neighborhood we have
8 a lot of young men about that age and the kids
9 across the street, they're like into different
10 things and I mean, as far as any of them, I don't
11 know their names.

12 THE COURT: Are you positive you know
13 the man in the white shirt?

14 THE JUROR: I don't know him
15 personally.

16 THE COURT: Are you positive he lives
17 in Dorchester?

18 THE JUROR: I know he lives in
19 Dorchester.

20 THE COURT: Do you know his family, any
21 member of his family?

22 THE JUROR: Do I what?

23 THE COURT: Any member of his family?

24 THE JUROR: No, I don't think so.

1 THE COURT: Why is it you don't want to
2 sit on this case?

3 THE JUROR: Oh, a number of reasons. I
4 know when I get there I'm going to remember the
5 issues again as to what happened. Number two, I
6 have a son about that age. My son is thirty-one
7 and I don't think I could be fair so I just -- I
8 don't think I could do that.

9 THE COURT: You're excused.

10 (Whereupon, the discussion at side bar
11 was concluded.)

12 THE CLERK: Excused. Juror 15-3.

13 (Whereupon, the following discussion
14 occurred at side bar:)

15 THE COURT: Ms. Fernandes, how are you?
16 I'm asking everyone the same questions. The race
17 of the defendants is black and the victim is
18 white of Lebanese origin. Is there anything
19 about the race and ethnicity of these individuals
20 which would interfere with your ability to be a
21 fair and impartial juror?

22 THE JUROR: No.

23 THE COURT: The proposed schedule for
24 the case is as follows, every day this week from

1 nine to four and into next week. We expect the
2 case to get to the jury sometime around midweek
3 and then however long the jury has it is entirely
4 up to the jury to decide.

5 Is there anything in that schedule that
6 would create a hardship for you?

7 THE JUROR: Just work. I would be
8 working but --

9 THE COURT: You are a consultant for a
10 banking company?

11 THE JUROR: Yes.

12 THE COURT: You understand that most
13 everyone here has got some work problems?

14 THE JUROR: Right.

15 THE COURT: Now, the final question for
16 you is this, would you be able to be a fair -- is
17 there any reason whatsoever any you could not be
18 a fair and impartial juror?

19 THE JUROR: No.

20 THE COURT: Assess the evidence in that
21 manner and decide it solely on the evidence and
22 the law?

23 THE JUROR: No, there is no reason why.

24 THE COURT: No reason. Okay. Thank

1 you. You may remain.

2 (Whereupon, the discussion at side bar
3 was concluded.)

4 THE CLERK: She remains. Juror 1-1.

5 (Whereupon, the following discussion
6 occurred at side bar:)

7 THE COURT: I'm asking everyone the
8 same questions. The race of the defendants is
9 black, the victim is white of Lebanese origin.
10 Is there anything about the race and ethnicity of
11 these individuals which would interfere with your
12 ability to be a fair and impartial juror?

13 THE JUROR: No.

14 THE COURT: The schedule for the trial
15 is every day this week from nine to four, and
16 into next week. We expect the case to get to the
17 jury midweek next week. However long the jury
18 would have it is up to them.

19 Is there anything in that schedule that
20 would create a hardship for you?

21 THE JUROR: No. I'm a student but i
22 don't think it's a problem.

23 THE COURT: Where are you a student?

24 THE JUROR: New England School of Law.

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THE COURT: Do you go at night or during the day?

THE JUROR: I have classes at night and during the day. I have classes Monday through Wednesday.

THE COURT: You don't have classes Thursday and Friday?

THE JUROR: No.

THE COURT: If you were selected as a juror, you understand that during the day you would be here?

THE JUROR: Right.

THE COURT: And not at school?

THE JUROR: I think that's fine.

THE COURT: Okay. Is there any reason whatsoever why you could not be a fair and impartial juror, decide the case in that manner, and decide the case solely on the evidence and the law?

THE JUROR: No.

THE COURT: Okay. Just to ask you a further question, I note on your questionnaire that your brother and sister have been arrested for assault, is that right?

1 THE JUROR: Yes.

2 THE COURT: What was the disposition of
3 that?

4 THE JUROR: My brother, I think he was
5 on probation for some fight and my sister also.

6 THE COURT: Okay. And how long ago was
7 that?

8 THE JUROR: Two years ago for my
9 brother and five or six years ago for my sister.

10 THE COURT: Is there anything in the
11 experience of either one of your siblings that
12 would interfere with your ability to judge this
13 case fairly and impartially?

14 THE JUROR: No.

15 THE COURT: Okay. Thank you. You may
16 remain.

17 (Whereupon, the discussion at side bar
18 was concluded.)

19 THE CLERK: Remains. Juror 1-6.

20 (Whereupon, the following discussion
21 occurred at side bar:)

22 THE COURT: How are you, Ms. Brooks?
23 I'm asking everyone the same questions. First
24 let me ask you this, is there any reason why you

1 didn't complete the questionnaire?

2 THE JUROR: No. I just didn't -- I
3 didn't think it applied.

4 THE COURT: Pardon?

5 THE JUROR: I didn't think it applied.

6 THE COURT: It does apply and I'm going
7 to ask you to do so. I'm going to question the
8 next juror while you complete the questionnaire,
9 so would you be good enough -- do you have a pen?

10 (Whereupon, the discussion at side bar
11 was concluded and juror 1-6 left side bar.)

12 THE CLERK: Juror 1-7.

13 (Whereupon, the following discussion
14 occurred at side bar:)

15 THE COURT: Mr. Jackson, how are you
16 today? I'm asking everyone the same questions.
17 The race of the defendants is black, the victim
18 is white of Lebanese origin. Is there anything
19 about the race and ethnicity of these individuals
20 that would interfere with your ability to be a
21 fair and impartial juror?

22 THE JUROR: Yes, color.

23 THE COURT: Color?

24 THE JUROR: Color, yes.

1 THE COURT: Can you explain that to me?

2 THE JUROR: They are black, as a black
3 juror, just being colored and going up against
4 the defendant, putting him on trial.

5 THE COURT: You would be biased in
6 favor of them, sir?

7 THE JUROR: Yes.

8 THE COURT: Okay. I'm going to excuse
9 you from service. You may go back to the jury
10 pool.

11 (Whereupon, the discussion at side bar
12 was concluded.)

13 THE CLERK: Excused.

14 (Whereupon, juror 1-6 returned to side
15 bar and the following discussion occurred at side
16 bar:)

17 THE COURT: You have completed the
18 questionnaire?

19 THE JUROR: Yes.

20 THE COURT: The race of the defendants
21 is black, the race of the victim is white of
22 Lebanese origin. Is there anything about the
23 race and ethnicity of these individuals which
24 would interfere with your ability to be a fair

1 and impartial juror?

2 THE JUROR: No.

3 THE COURT: The schedule is as follows:
4 every day this week from nine to four, into next
5 week. We will be getting the case to the jurors
6 sometime midweek. However long it would take the
7 jurors to decide the case, you would have to be
8 here obviously.

9 Is there anything in that schedule that
10 would create a hardship for you?

11 THE JUROR: I have a nonrefundable trip
12 on Friday, actually through the weekend.

13 THE COURT: Just for the weekend?

14 THE JUROR: Friday, Saturday and
15 Sunday.

16 THE COURT: When are you leaving
17 Friday?

18 THE JUROR: Early morning.

19 THE COURT: A flight?

20 THE JUROR: Yes.

21 THE COURT: Okay. You are a student at
22 Northeastern?

23 THE JUROR: Yes.

24 THE COURT: What year are you?

1 THE JUROR: I'm a sophomore.

2 THE COURT: You don't have midterms
3 this week?

4 THE JUROR: This is spring break
5 actually.

6 THE COURT: Spring break. Okay.
7 You're excused from service. You may go.

8 (Whereupon, the discussion at side bar
9 was concluded.)

10 THE CLERK: Excused. Juror 1-9.

11 (Whereupon, the following discussion
12 occurred at side bar:)

13 THE COURT: Ms. Phinney, you raised
14 your hand first in connection with the witnesses.
15 Who do you know?

16 THE JUROR: Paul Mahoney, I went to
17 high school with him. He lived in West Roxbury,
18 I lived the next street over when I was younger.
19 He is a detective, right? I may know Paul
20 McLaughlin but I don't think it's the same one.
21 It's the one that got murdered so it's not the
22 same --

23 THE COURT: Paul McLaughlin was not a
24 police officer, he was an assistant attorney

1 general, but Paul Mahoney you know?

2 THE JUROR: I know Paul Mahoney.

3 THE COURT: How old is he?

4 THE JUROR: Same age as me. I went to
5 high school with him.

6 THE COURT: Around fifty-two or so?

7 THE JUROR: Yes, Your Honor.

8 THE COURT: Alright. Thank you.

9 You're excused from service.

10 (Whereupon, the discussion at side bar
11 was concluded.)

12 THE CLERK: Excused. Juror 1-10.

13 (Whereupon, the following discussion
14 occurred at side bar:)

15 THE COURT: How are you, sir? I'm
16 asking you the same questions I've asked
17 everybody. The defendants are black and the
18 victim is white of Lebanese origin. Is there
19 anything about the race and ethnicity of these
20 individuals which would interfere with your
21 ability to be a fair and impartial juror?

22 THE JUROR: No.

23 THE COURT: The schedule for the trial
24 would be every day this week from nine to four

1 and into next week. We expect the case to be
2 given to the jurors for decision sometime
3 midweek. However long the jurors would have it
4 is entirely up to them.

5 Is there anything about that schedule
6 that would create a hardship for you, sir?

7 THE JUROR: Well, the first thing comes
8 to mind, March 30 I have a planned vacation for a
9 week. It starts the thirtieth.

10 THE COURT: That's a Thursday?

11 THE JUROR: But also my daughter, she
12 was paralyzed, she had a stroke at birth so she
13 requires constant physical attention.

14 THE COURT: So you normally are home
15 for her during the day?

16 THE JUROR: My wife does. She goes
17 into work one day a week and I stay home with
18 her.

19 THE COURT: Okay. I'm going to excuse
20 you from service, sir.

21 (Whereupon, the discussion at side bar
22 was concluded.)

23 THE CLERK: Excused. Juror 1-11.

24 (Whereupon, the following discussion

1 occurred at side bar:)

2 THE COURT: Mr. Rottenberg, I'm asking
3 everyone the same questions. First of all, let
4 me ask you about the questionnaire. I see here
5 you had a number of charges, two were dismissed,
6 against you, embezzlement and no finding, meaning
7 what?

8 THE JUROR: Never went to trial.

9 THE COURT: Okay. Is there anything
10 about your -- I take it you were a defendant in
11 each one of these cases?

12 THE JUROR: Um-hum.

13 THE COURT: Is there anything about
14 your experience in the criminal justice system
15 which would interfere with your ability to fairly
16 and impartially judge this case?

17 THE JUROR: No, but I just wanted to
18 let you know, I'm going to St. Martin on Saturday
19 and I can fax you the reservations.

20 THE COURT: Okay. Have a good trip.

21 THE JUROR: Thank you.

22 (Whereupon, the discussion at side bar
23 was concluded.)

24 THE CLERK: Excused. 1-13.

1 (Whereupon, the following discussion
2 occurred at side bar:)

3 THE COURT: Good morning, Mr. Cooper.
4 I'm asking everyone the same questions, sir. The
5 defendants are black and the victim is white of
6 Lebanese origin. Is there anything about the
7 race and ethnicity of these individuals which
8 would interfere with your ability to be a fair
9 and impartial juror?

10 THE JUROR: No.

11 THE COURT: The schedule for the trial
12 is as follows: we will be here nine to four
13 every day this week into next week. We expect
14 the case to get to the jurors for decision
15 sometime midweek. However long the jurors would
16 have it is entirely up to the jurors.

17 Is there anything about that schedule,
18 sir, that would create a hardship for you?

19 THE JUROR: Yes. Presently I'm working
20 at the Foxboro stadium, building a new stadium
21 there and I work with a contractor who is
22 handling a lot of the finishing work and Mr.
23 Kraft has made it clear that he would love to
24 have the stadium open within the next few weeks.

1 Part of those duties and responsibilities lie
2 with me. I would be unfocused in here.

3 THE COURT: You would be unfocused.
4 I'm going to excuse you from service.

5 THE JUROR: Okay.

6 (Whereupon, the discussion at side bar
7 was concluded.)

8 THE CLERK: Excused. 1-14.

9 (Whereupon, the following discussion
10 occurred at side bar:)

11 THE COURT: How are you, sir? I'm
12 asking everyone the same questions. The race of
13 the defendants is black, the victim is white of
14 Lebanese origin. Is there anything about the
15 race and ethnicity of these individuals which
16 would interfere with your ability to be a fair
17 and impartial juror?

18 THE JUROR: No.

19 THE COURT: The schedule for the trial
20 is every day this week, nine to four, and into
21 next week. We expect the case to get to the
22 jurors sometime midweek. However long the jurors
23 have it is up to them. You would, of course, be
24 required to stay for whatever period of time it

1 took.

2 Is there anything about that schedule
3 that would create a hardship for you?

4 THE JUROR: Physical problem. I have
5 to go to physical therapy.

6 THE COURT: When?

7 THE JUROR: I'm supposed to go today
8 but -- and so I have to reschedule this week and
9 next week.

10 THE COURT: You haven't rescheduled
11 today's yet?

12 THE JUROR: No.

13 THE COURT: Would you be able to
14 reschedule pretty much within a reasonable time
15 frame if you miss an appointment? You've missed
16 today's?

17 THE JUROR: Yes.

18 THE COURT: We expect to be in session
19 next Tuesday as well. Is that your usual time?

20 THE JUROR: Yes.

21 THE COURT: What time of day do you
22 take your therapy?

23 THE JUROR: Nine o'clock.

24 THE COURT: Where is it?

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THE JUROR: Brigham and Women's.

THE COURT: Okay. If you had to miss next week, would that create a difficulty for you, sir, with respect to your hand?

THE JUROR: I guess. I think so. I'm supposed to get strong in my tendons so --

THE COURT: How long have you had that on, sir?

THE JUROR: A week.

THE COURT: Just a week?

THE JUROR: Yes.

THE COURT: Okay. I'm going to excuse you from service.

(Whereupon, the discussion at side bar was concluded.)

THE CLERK: Excused. Juror 1-16.

(Whereupon, the following discussion occurred at side bar:)

THE COURT: How are you, sir? You raised your hand a couple times. The first time had to do with knowing --

THE JUROR: My main thing is, I have a handicap. I can't read and write and I have felt embarrassed because I was picked once before but

1 the -- the defendants and stuff had me removed
2 from the panel and then I found out as the trial
3 went on, there was paperwork you had to fill out
4 and stuff and I couldn't do that and I just -- it
5 would be -- I don't want to take the Court's
6 time.

7 THE COURT: Sure.

8 THE JUROR: And I don't want to get any
9 more embarrassed than I am now.

10 THE COURT: Okay. I appreciate that.

11 THE JUROR: But I also, I believe I
12 know several of the police officers.

13 THE COURT: Okay. How do you know
14 them, sir?

15 THE JUROR: I used to be quite heavily
16 involved with the auxiliary police and I have met
17 them at different funerals and different
18 occasions and what have you.

19 THE COURT: Okay. Alright, sir. Thank
20 you very much. I'm going to excuse you from
21 service. You may go back to the jury pool.

22 THE JUROR: Thank you.

23 (Whereupon, the discussion at side bar
24 was concluded.)

1 THE CLERK: Excused. Juror 2-1.

2 (Whereupon, the following discussion
3 occurred at side bar:)

4 THE COURT: I'm asking everyone the
5 same questions. The defendants are black and the
6 victim is white of Lebanese origin. Is there
7 anything about the race and ethnicity of these
8 individuals which would interfere with your
9 ability to be a fair and impartial juror?

10 THE JUROR: No.

11 THE COURT: The schedule for the trial
12 will be every day this week from nine to four and
13 then into next week. We expect the case to get
14 to the jurors sometime the middle of next week.
15 You would stay, however, as long as it would take
16 to decide the case. That's up to the jurors.

17 Is there anything in that schedule that
18 would create a hardship for you?

19 THE JUROR: Other than it would create
20 a hardship for my employment.

21 THE COURT: For your employer?

22 THE JUROR: Yes.

23 THE COURT: At Boston College?

24 THE JUROR: Yes.

1 THE COURT: What do you do there?

2 THE JUROR: I'm the prep technician for
3 the teaching laboratories.

4 THE COURT: If you don't do that, does
5 somebody else?

6 THE JUROR: Yes, and I will be going in
7 the weekends to help them.

8 THE COURT: Okay. You can appreciate
9 that everyone has some job or home
10 responsibilities. Let me ask you the next
11 question. Is there any reason why you would not
12 be a fair and impartial juror if selected, decide
13 the case in that manner, and decide the case
14 solely on the evidence and the law?

15 THE JUROR: No, there is no reason.

16 THE COURT: Okay. Thank you. Would be
17 you be good enough to wait for us for the second
18 round? Thank you.

19 (Whereupon, the discussion at side bar
20 was concluded.)

21 THE CLERK: He'll remain. Juror 2-4.

22 (Whereupon, the following discussion
23 occurred at side bar:)

24 THE COURT: Is it Ms. Kehoe?

1 THE JUROR: Kehoe.

2 THE COURT: Ms. Kehoe, I'm asking
3 everyone the same questions. The race of the
4 defendants is black and the victim is white of
5 Lebanese origin. Is there anything about the
6 race and ethnicity of these individuals which
7 would interfere with your ability to be a fair
8 and impartial juror?

9 THE JUROR: No.

10 THE COURT: The schedule for the trial
11 will be as follows, all this week nine to four
12 and into next week. We expect the case to get to
13 the jury by sometime midweek and, of course,
14 however long it takes the jurors to decide.

15 THE JUROR: That's my only concern
16 about the case. I'm a nurse at the Dana Farber.
17 I'm the only nurse in the department.

18 THE COURT: What department is it?

19 THE JUROR: Nuclear medicine. I'm in
20 charge of the protocols and the patients' care.
21 I have trained one person who covered for me
22 today. Obviously, if it goes beyond today, the
23 entire department would be left uncovered.

24 THE COURT: What does that mean for the

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Farber that you're not there?

THE JUROR: Oh, it means --

THE COURT: What are the consequences?

THE JUROR: The patients would be at risk.

THE COURT: Okay. You're excused.

THE JUROR: Thank you. I'm sorry. It's very frustrating.

(Whereupon, the discussion at side bar was concluded.)

THE CLERK: Excused. Juror 2-5.

(Whereupon, the following discussion occurred at side bar:)

THE COURT: I'm asking everyone the same questions. The race of the defendants is black, the victim is white of Lebanese origin. Is there anything about the race and ethnicity of those individuals which would interfere with your ability to be a fair and impartial juror?

THE JUROR: No.

THE COURT: The schedule for the trial is every day this week from nine to four and into next week. We expect the case to get to the jury sometime midweek and you will be here for as long

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1 as it takes the jurors to decide the case. It's
2 up to the jurors.

3 Is there anything in that schedule that
4 would create a hardship for you?

5 THE JUROR: I have midterms all next
6 week. I'm a college student.

7 THE COURT: Have you asked for a
8 deferment?

9 THE JUROR: No.

10 THE COURT: You have not?

11 THE JUROR: No.

12 THE COURT: When are your midterms?

13 THE JUROR: I have one today. I have
14 one every day this week pretty much.

15 THE COURT: What is happening to the
16 one you have today?

17 THE JUROR: Well, I was just going to
18 reschedule it because I wouldn't be able to make
19 it.

20 THE COURT: I'll excuse you from
21 service. You may go.

22 (Whereupon, the discussion at side bar
23 was concluded.)

24 THE CLERK: Excused. Juror 2-6.

1 (Whereupon, the following discussion
2 occurred at side bar:)

3 THE COURT: How are you, sir?

4 THE JUROR: I'm good.

5 THE COURT: I'm asking everyone the
6 same questions. The defendants are black, the
7 victim is white of Lebanese origin. Is there
8 anything about the race and ethnicity of those
9 individuals which would interfere with your
10 ability to be a fair and impartial juror?

11 THE JUROR: (Shook head.)

12 THE COURT: I'm sorry. You must --

13 THE JUROR: No.

14 THE COURT: Okay. Thank you. The
15 schedule for the trial will be every day this
16 week from nine to four and into next week. We
17 expect the case to get to the jury sometime
18 midweek, however long the jurors would take is up
19 to them.

20 Is there anything in that schedule that
21 would create a hardship for you?

22 THE JUROR: I have school.

23 THE COURT: You have school. What
24 school do you have?

1 THE JUROR: I attend Wentworth but I
2 also own my own business.

3 THE COURT: You attend Wentworth. When
4 do you go to classes?

5 THE JUROR: Early morning most of the
6 time.

7 THE COURT: What about this week? Are
8 you in class this week?

9 THE JUROR: Tomorrow it's my only day
10 that I don't have class until two and then
11 Thursday and Friday I have eight o'clock classes.

12 THE COURT: What about your business?

13 THE JUROR: It does require me there.

14 THE COURT: What do you do?

15 THE JUROR: I'm a computer -- we build
16 computer systems.

17 THE COURT: And you do that when you're
18 not in class?

19 THE JUROR: Yes.

20 THE COURT: What happens when you can't
21 work?

22 THE JUROR: My partner usually takes
23 over.

24 THE COURT: Would he be able to do that

1 this week and next?

2 THE JUROR: Probably.

3 THE COURT: Okay. And if you were to
4 miss class this week and next, what would that
5 mean for you?

6 THE JUROR: I have no idea. There's an
7 attendance policy.

8 THE COURT: Okay. I'm going to excuse
9 you from service, sir. You may go.

10 (Whereupon, the discussion at side bar
11 was concluded.)

12 THE CLERK: Excused. Juror 2-7.

13 (Whereupon, the following discussion
14 occurred at side bar:)

15 THE COURT: I'm asking the same
16 questions of everyone, Mr. Pride.

17 THE JUROR: Okay.

18 THE COURT: The defendants are black,
19 the victim is white of Lebanese origin. Is there
20 anything about the race and ethnicity of these
21 individuals which would interfere with your
22 ability to be a fair and impartial juror?

23 THE JUROR: No.

24 THE COURT: The schedule of the trial

1 is every day this week from nine to four and into
2 next week. We expect the case to get to the jury
3 around midweek and it would be up to the jurors
4 to decide how long they would need to decide the
5 case.

6 Is there anything in that schedule that
7 would create a hardship for you, sir?

8 THE JUROR: Other than being out of
9 work, no.

10 THE COURT: You do research for the
11 firm?

12 THE JUROR: Yes.

13 THE COURT: What does that mean?

14 THE JUROR: I'm a research technician
15 and so I do performance studies on chronic
16 leukemia.

17 THE COURT: When you're not there, what
18 happens?

19 THE JUROR: There is somebody who can
20 take care of what I do.

21 THE COURT: You understand that
22 everyone is missing work or home
23 responsibilities?

24 THE JUROR: No, I understand.

1 THE COURT: Let me ask you the next
2 question, sir. Is there any reason why you could
3 not be a fair and impartial juror, decide the
4 evidence in that manner, and decide the case
5 solely on the evidence and the law?

6 THE JUROR: Absolutely not.

7 THE COURT: Okay. Thank you.

8 (Whereupon, the discussion at side bar
9 was concluded.)

10 THE CLERK: He'll remain. Juror 2-8.

11 (Whereupon, the following discussion
12 occurred at side bar:)

13 THE COURT: Good morning. I'm asking
14 everyone the same questions. The race of the
15 defendants is black, the victim is white of
16 Lebanese origin. Is there anything about the
17 race and ethnicity of these individuals which
18 would interfere with your ability --

19 THE JUROR: No.

20 THE COURT: -- to be a fair and
21 impartial juror?

22 THE JUROR: No.

23 THE COURT: The schedule for the trial
24 will be every day this week from nine to four and

1 into next week. We expect the case to get to the
2 jurors sometime midweek and it will be for the
3 jurors to decide how long they will be here just
4 getting the verdict.

5 Is there anything in that schedule that
6 would create a hardship for you?

7 THE JUROR: No.

8 THE COURT: And finally, is there any
9 reason whatsoever why you could not be a fair and
10 impartial juror, decide the case in that manner,
11 and decide it based solely on the evidence and
12 the law?

13 THE JUROR: No.

14 THE COURT: Okay. I do note here that
15 you have an infant. You have child care?

16 THE JUROR: Yes.

17 THE COURT: Fine. Thank you. You may
18 wait for us.

19 THE JUROR: Excuse me. The fact is, I
20 know one of the lawyers from Bowdoin Street. I
21 also work there and I live in Dorchester.

22 THE COURT: I'm sorry. You know who?

23 THE JUROR: Well, I don't know him but
24 one of the lawyers, I believe --

1 THE COURT: One of the lawyers right
2 here?

3 THE JUROR: -- has an office on Bowdoin
4 Street.

5 THE COURT: Do you know Mr. Doolin?

6 THE JUROR: No.

7 THE COURT: Do you know Mr. Flaherty
8 who's standing behind you?

9 THE JUROR: No.

10 THE COURT: Have you ever seen him?

11 THE JUROR: I don't think so.

12 THE COURT: Okay. You live on Bowdoin
13 Street as well?

14 THE JUROR: I work there. I live on
15 Glenapple Street.

16 THE COURT: You work on Bowdoin Street?

17 THE JUROR: Yes.

18 THE COURT: You don't know any of the
19 other -- what's the second thing you said?

20 THE JUROR: No, just that.

21 THE COURT: Okay. Thank you. You may
22 remain.

23 (Whereupon, the discussion at side bar
24 was concluded.)

1 THE CLERK: She'll remain.

2 (Whereupon, the following discussion
3 occurred at side bar:)

4 MR. FLAHERTY: I don't know where she
5 heard Bowdoin Street. There will be evidence
6 that Mr. Anderson was staying with his girlfriend
7 on Bowdoin Street.

8 THE COURT: Is there any other question
9 you want me to ask?

10 MR. FLAHERTY: No. I just wanted to
11 let the Court know. It might have been in the
12 witness list that you were just provided

13 THE COURT: Didn't you say your office
14 was on Bowdoin?

15 MR. FLAHERTY: Bowdoin Street on Beacon
16 Hill -- oh, you said Bowdoin. Bowdoin on Beacon
17 Hill, Your Honor.

18 THE COURT: Okay.

19 (Whereupon, the discussion at side bar
20 was concluded.)

21 THE CLERK: Juror 2-9.

22 (Whereupon, the following discussion
23 occurred at side bar:)

24 THE COURT: Which one of these

1 gentlemen do you know?

2 THE JUROR: Michael Doolin.

3 THE COURT: How?

4 THE JUROR: His family grew up near my
5 ex-husband's family and I worked with his mother
6 from the school department and he represented my
7 ex-husband in a case.

8 THE COURT: Thank you. You're excused
9 from service.

10 THE JUROR: Thank you.

11 (Whereupon, the discussion at side bar
12 was concluded.)

13 THE CLERK: Excused. 2-10.

14 (Whereupon, the following discussion
15 occurred at side bar:)

16 THE COURT: How are you?

17 THE JUROR: Fine.

18 THE COURT: Sir, is there any reason
19 why you did not fill out this questionnaire?

20 THE JUROR: These questions?

21 THE COURT: Yes, sir.

22 THE JUROR: No.

23 THE COURT: Okay. I'm going to ask

24 that you stand over there by the officer and fill

1 this out while I talk to the next juror. Then
2 I'll ask you back. Just read that and fill it
3 out.

4 (Whereupon, the discussion at side bar
5 was concluded.)

6 THE CLERK: 2-12.

7 (Whereupon, the following discussion
8 occurred at side bar:)

9 THE COURT: How are you, sir?

10 THE JUROR: Good.

11 THE COURT: I'm asking everyone the
12 same questions. The race of the defendants is
13 black and the victim is white of Lebanese origin.
14 Is there anything about the race and ethnicity of
15 these individuals which would interfere with your
16 ability to be --

17 THE JUROR: No.

18 THE COURT: -- a fair and impartial
19 juror?

20 THE JUROR: No.

21 THE COURT: The schedule for the trial
22 is as follows, every day this week from nine to
23 four and into next week. We expect the case to
24 get to the jurors sometime midweek. However, it

1 is up to the jurors to decide how long it takes
2 to render a verdict.

3 Was there anything in the schedule,
4 sir, that would create a hardship for you?

5 THE JUROR: The only hardship is my
6 wife is pregnant.

7 THE COURT: Your who is pregnant?

8 THE JUROR: My wife is pregnant and she
9 has doctor's appointments.

10 THE COURT: When?

11 THE JUROR: I believe she has one next
12 week.

13 THE COURT: Do you know when it is?

14 THE JUROR: I don't know offhand, no.

15 THE COURT: Well, do you want to be
16 with her? Do you ordinarily go with her?

17 THE JUROR: Yes. I do, yes.

18 THE COURT: You don't have any idea
19 whether it's the beginning or end of the week?

20 THE JUROR: I don't know offhand.

21 THE COURT: What I'm going to ask you
22 to do is, you can call -- is there a place where
23 you could reach her?

24 THE JUROR: Yes.

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THE COURT: Okay. Well, I'm going to ask -- the court officer will show you where there is a phone outside.

THE JUROR: Okay.

THE COURT: And then when you come back, I'll talk to you. Okay? I'm sorry, sir. Did you raise a hand?

THE JUROR: Yes, I did.

THE COURT: I'm sorry. To what question?

THE JUROR: I know one of the officers.

THE COURT: Who is that?

THE JUROR: Juan Torres.

THE COURT: How do you know him?

THE JUROR: He graduated before me in high school and I also know the members of his family. One of them graduated also with me, one of his brothers.

THE COURT: Do we expect Officer Torres to testify?

MR. TOCHKA: There's a possibility, Your Honor.

THE COURT: And so you went to school with him?

1 THE JUROR: No, I went to school with
2 his brother but he graduated maybe two years
3 ahead of me.

4 THE COURT: Okay. Have you socialized
5 with Officer Torres?

6 THE JUROR: Not recently, no.

7 THE COURT: You did in the past?

8 THE JUROR: Well, from high school.

9 THE COURT: Several years ago, sir?

10 THE JUROR: Yes.

11 THE COURT: Okay. But you haven't --

12 THE JUROR: I just wanted to let you
13 know that.

14 THE COURT: No, it's important, but
15 have you seen Officer Torres, talked to him?

16 THE JUROR: No, I haven't recently, no.

17 THE COURT: Have you talked or
18 socialized with his brother?

19 THE JUROR: No.

20 THE COURT: Since that time?

21 THE JUROR: No.

22 THE COURT: So really this goes back to
23 high school?

24 THE JUROR: Yes.

1 THE COURT: If Officer Torres were to
2 testify, would you be able to judge his testimony
3 only on what he said in the courtroom and how he
4 said it?

5 THE JUROR: Could you repeat that
6 again? I'm sorry.

7 THE COURT: If he were to testify,
8 could you judge his testimony only on how he was
9 as a witness here in the courtroom, not on
10 anything you knew about him or his family before?

11 THE JUROR: Well, it would be part of
12 my thinking as far as knowing his family.

13 THE COURT: Okay. I'm going to excuse
14 you from service.

15 (Whereupon, the discussion at side bar
16 was concluded.)

17 THE CLERK: Juror 2-10.

18 (Whereupon, juror 2-10 returned to side
19 bar and the following discussion occurred:)

20 THE COURT: Thank you very much, sir.
21 It's none all the way across. I'm asking the
22 same questions of everyone. The race of the
23 defendants is black and the victim is white of
24 Lebanese origin. Is there anything about the

1 race and ethnicity of these individuals that
2 would interfere with your ability to be a fair
3 and impartial juror?

4 THE JUROR: No.

5 THE COURT: The schedule for the trial
6 is as follows, every day this week from nine to
7 four and into next week. We expect the case to
8 go to the jurors midweek. However, long the jury
9 takes to decide the case is up to the jury.

10 Is there anything about that schedule
11 that would create a hardship for you, sir?

12 THE JUROR: Yes. I'm a full time
13 student at Boston University.

14 THE COURT: And do you have midterms?

15 THE JUROR: Nothing too much coming up.

16 THE COURT: What year are you?

17 THE JUROR: A junior.

18 THE COURT: Okay. I'll excuse you from
19 service. You may go.

20 THE JUROR: Thanks.

21 (Whereupon, the discussion at side bar
22 was concluded.)

23 THE CLERK: Excused. Juror 2-14.

24 (Whereupon, the following discussion

1 occurred at side bar:)

2 THE COURT: How are you?

3 THE JUROR: Good.

4 THE COURT: I'm asking everyone the
5 same questions. The race of the defendants is
6 black, the victim is white of Lebanese origin.
7 Is there anything about the race and ethnicity of
8 these individuals which would interfere with your
9 ability to be a fair and impartial juror?

10 MR. DOOLIN: No.

11 THE COURT: The schedule for the trial
12 is every day this week from nine to four and into
13 next week. We expect to get the case to the
14 jurors sometime midweek and then it's up to the
15 jury to decide how long it takes to render a
16 verdict.

17 Is there anything in that schedule that
18 would create a hardship for you?

19 THE JUROR: No.

20 THE COURT: And finally, is there any
21 reason whatsoever why you could not be a fair and
22 impartial juror, decide the case in that manner,
23 and decide the case solely on the evidence and
24 the law?

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THE JUROR: No.

THE COURT: Thank you very much. You may remain.

(Whereupon, the discussion at side bar was concluded.)

THE CLERK: She'll remain. Juror 2-15.

(Whereupon, the following discussion occurred at side bar:)

THE COURT: How are you, Ms. Knox? I'm asking everyone the same questions. Where are you at college?

THE JUROR: Smith College.

THE COURT: That's a very good school. What year are you?

THE JUROR: I'm a sophomore.

THE COURT: Okay. What are you doing here in Boston?

THE JUROR: I'm on spring break for two weeks.

THE COURT: This week and next? So you don't have any conflict?

THE JUROR: No.

THE COURT: Okay. Let me ask you this, the race of the defendants is black and the

1 victim is white of Lebanese origin. Is there
2 anything about the race and ethnicity of these
3 individuals which would interfere with your
4 ability to be a fair and impartial juror?

5 THE JUROR: No.

6 THE COURT: The schedule for the trial
7 will be nine to four this week and into next
8 week. We expect the case to get to the jury
9 sometime midweek. However long it would take the
10 jurors to decide the case is up to them.

11 Is there anything in that schedule that
12 would create a hardship for you?

13 THE JUROR: I don't think so.

14 THE COURT: Is your family in Boston?

15 THE JUROR: Yes.

16 THE COURT: So you have a place to
17 stay?

18 THE JUROR: Yes. I live in Dorchester.

19 THE COURT: Okay. Is there anything,
20 any reason whatsoever why you could not be a fair
21 and impartial juror, decide the case solely on
22 the basis of the evidence and the law?

23 THE JUROR: No, no reason.

24 THE COURT: Okay. We have to have a

1 more certain --

2 THE JUROR: No. I'm absolutely sure.

3 THE COURT: Alright. Fine. She may
4 remain.

5 (Whereupon, the discussion at side bar
6 was concluded.)

7 THE CLERK: She remains. Juror 3-2.

8 (Whereupon, the following discussion
9 occurred at side bar:)

10 THE COURT: Hello, sir. How are you?
11 I'm asking everyone the same questions, Mr.
12 Caprio. Is it Caprio?

13 THE JUROR: Caprio.

14 THE COURT: The race of the defendants
15 is black, the victim is white of Lebanese origin.
16 Is there anything about the race and ethnicity of
17 these individuals which would interfere with your
18 ability to be a fair and impartial juror?

19 THE JUROR: I don't believe so.

20 THE COURT: Can I take that as a no?

21 THE JUROR: No.

22 THE COURT: Okay. Thank you. The
23 schedule for the trial is as follows, every day
24 this week from nine to four and into next week.

1 We expect the case to get to the jurors sometime
2 midweek and it's up to the jurors after that to
3 take whatever time they need to decide the case.

4 Is there anything in that schedule,
5 sir, that would create a hardship for you?

6 THE JUROR: I'd have to check just to
7 make sure. I'm not sure right now. I don't
8 believe so.

9 THE COURT: In terms of your job?

10 THE JUROR: No, not in terms of my job.

11 THE COURT: What were you thinking of?

12 THE JUROR: Any commitments that I may
13 have.

14 THE COURT: Do you have any medical
15 appointments? Any surgery scheduled?

16 THE JUROR: No, no surgery.

17 THE COURT: And you don't have any
18 medical appointments this week or next?

19 THE JUROR: No.

20 THE COURT: Okay. Let me ask a final
21 question, sir. Actually, I have two questions
22 for you. I note here that your son has been
23 involved in both the civil and criminal justice
24 system.

1 THE JUROR: When I wrote that down,
2 civil in Peabody, it's been dismissed because he
3 did some work down in one of the programs in
4 Louisiana.

5 THE COURT: You say it's a civil -- are
6 these criminal charges, sir?

7 THE JUROR: No. I probably wrote it
8 down incorrectly.

9 THE COURT: These are criminal --

10 THE JUROR: Can I ask you a question?
11 He was driving, drinking and many infractions on
12 the driving sheet so --

13 THE COURT: If you could talk to me,
14 sir.

15 THE JUROR: Okay. I'm sorry. They
16 were all dismissed by the judge in the Peabody
17 court because he did his community service hours
18 and worked in the programs and went to Louisiana.

19 THE COURT: Is there anything about
20 your son's experience with those cases, sir, that
21 would affect the way you would judge this case?

22 THE JUROR: I don't believe so, no.

23 THE COURT: Okay. Is there any reason,
24 sir, why you could not be a fair and impartial

1 juror and decide the case in that manner and
2 decide it only on the evidence and the law?

3 THE JUROR: No.

4 THE COURT: Okay, Mr. Caprio. Would
5 you wait for us, please?? Thank you.

6 (Whereupon, the discussion at side bar
7 was concluded.)

8 THE CLERK: He remains. 3-3.

9 (Whereupon, the following discussion
10 occurred at side bar:)

11 THE JUROR: Could I just say something?
12 I think I should have raised my card as far as
13 the attorney. I think I know this attorney.

14 THE COURT: You have got to talk to me.
15 You know Mr. Flaherty?

16 THE JUROR: I think we know a mutual
17 friend.

18 THE COURT: I'm sorry. You're pointing
19 towards Mr. Flaherty?

20 THE JUROR: Oh, yes. I don't know his
21 name.

22 THE COURT: You don't know his name?

23 THE JUROR: Right.

24 THE COURT: But you think you have a

1 mutual friend. Who would that be?

2 THE JUROR: Sharon Patrillo (phonetic
3 spelling).

4 THE COURT: Okay.

5 THE JUROR: I have met him once before.
6 I didn't recognize him at first.

7 THE COURT: You have met Mr. Flaherty
8 once before?

9 THE JUROR: Yes.

10 THE COURT: In a social setting?

11 THE JUROR: Yes.

12 THE COURT: How long ago?

13 THE JUROR: Four or five months ago,
14 something like that.

15 THE COURT: Did you talk to him then?

16 THE JUROR: Yes.

17 THE COURT: Do you have any opinions
18 about Mr. Flaherty?

19 THE JUROR: No.

20 THE COURT: Okay. This mutual friend,
21 is she a good friend of yours?

22 THE JUROR: We work together at the
23 Attorney General's office.

24 THE COURT: Okay. And this is one

1 contact with Mr. Flaherty?

2 THE JUROR: Yes.

3 THE COURT: Okay. Has your mutual
4 friend expressed any opinions about Mr. Flaherty?

5 THE JUROR: No, no.

6 THE COURT: Okay. He represents one of
7 the defendants in the case.

8 THE JUROR: Right.

9 THE COURT: And you would be asked as a
10 juror to fairly and impartially judge the
11 evidence.

12 THE JUROR: Right.

13 THE COURT: And would you be able to do
14 that --

15 THE JUROR: Yes.

16 THE COURT: -- having met Mr. Flaherty
17 on one occasion?

18 THE JUROR: Yes.

19 THE COURT: Okay. Let me ask you the
20 other questions I have. The defendants are
21 black, the victim is white of Lebanese origin.
22 Is there anything about the race and ethnicity of
23 these individuals which would interfere with your
24 ability to be a fair and impartial juror?

1 THE JUROR: No.

2 THE COURT: The schedule for the trial
3 is every day this week from nine to four and into
4 next week. We expect to get the case to the
5 jurors sometime midweek. However long it would
6 take the jurors to decide the case is up to them.

7 Is there anything in that schedule that
8 would create a hardship for you?

9 THE JUROR: No. Easter I would be
10 going home to New Jersey.

11 THE COURT: When?

12 THE JUROR: Thursday night, Thursday
13 before Easter and coming back on Monday after
14 Easter.

15 THE COURT: Okay. But you would be
16 here on Monday?

17 THE JUROR: I'm leaving Thursday. I
18 could be here if I had to be on the jury.

19 THE COURT: Okay. I'm going to excuse
20 you from service. You may go.

21 THE JUROR: Thanks.

22 (Whereupon, the discussion at side bar
23 was concluded.)

24 THE CLERK: Excused. Juror 3-4.

1 (Whereupon, the following discussion
2 occurred at side bar:)

3 THE COURT: Hi. You raised your hand
4 in connection with having some kind of a medical
5 problem?

6 THE JUROR: I have HIV and I just lost
7 my teeth.

8 THE COURT: Okay. I'm going to excuse
9 you from service, sir.

10 THE JUROR: Where do I go?

11 THE COURT: The court officers will
12 show you.

13 (Whereupon, the discussion at side bar
14 was concluded.)

15 THE CLERK: Excused. 3-5.

16 (Whereupon, the following discussion
17 occurred at side bar:)

18 THE COURT: How are you, sir?

19 THE JUROR: Good. How are you?

20 THE COURT: I'm asking everyone the
21 same questions, Doctor. The defendants are
22 black, the victim is white of Lebanese origin.
23 Is there anything about the race and ethnicity of
24 these individuals which would interfere with your

1 ability to be a fair and impartial juror?

2 THE JUROR: No, Your Honor.

3 THE COURT: The schedule is as follows,
4 every day this week from nine to four and into
5 next week. We expect the case to get to the
6 jurors sometime midweek. How long it would take
7 the jury to decide the case is up to them.

8 Is there anything in that schedule that
9 would make it difficult or impossible for you to
10 serve?

11 THE JUROR: No.

12 THE COURT: And two questions. Is
13 there any reason whatsoever why you could not be
14 a fair and impartial juror, decide the case in
15 that manner, and base your verdict only on the
16 evidence and the law?

17 THE JUROR: No.

18 THE COURT: Okay. And I see here that
19 you once had a traffic violation?

20 THE JUROR: Yes.

21 THE COURT: But it was dismissed.

22 Anything in your experience there that would
23 affect your ability to be a fair and impartial
24 juror?

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THE JUROR: No.

THE COURT: Thank you very much. You may wait for us.

(Whereupon, the discussion at side bar was concluded.)

THE CLERK: He'll remain. 3-6.

(Whereupon, the following discussion occurred at side bar:)

THE COURT: How are you, Mr. Sechrist? I'm asking everyone the same questions. The defendants are black and the victim is white of Lebanese origin. Is there anything about the race and ethnicity of these individuals which would interfere with your ability to be a fair and impartial juror?

THE JUROR: No.

THE COURT: The schedule for the trial is every day this week from nine to four and into next week. We expect the case to get to the jurors sometime midweek. Is there anything -- however long it would take the jurors to decide the case is up to them.

Is there anything in that schedule, sir, that would create a hardship for you?

1 THE JUROR: The only thing is that I go
2 to Northeastern University and I --

3 THE COURT: When? At night?

4 THE JUROR: No. I'm a student there.
5 I'm on break right now but the only thing is, I
6 am the chair of justice for the hearing board
7 there and they need -- they have meetings to
8 decide cases and one of these meetings is next
9 week and there's hearings next week so that I
10 need to sit on those. I don't know how they'd
11 get around it if I wasn't there. That will be
12 starting next week.

13 THE COURT: Um-hum. I'm going to
14 excuse you from service. You may go.

15 (Whereupon, the discussion at side bar
16 was concluded.)

17 THE CLERK: Excused. 3-7.

18 (Whereupon, the following discussion
19 occurred at side bar:)

20 THE COURT: Hello, Mr. Santana. You
21 raised your hand in connection with having some
22 physical or medical or language impairment?

23 THE JUROR: No.

24 THE COURT: What is it, sir?

1 THE JUROR: What?

2 THE COURT: What is your first
3 language?

4 THE JUROR: Spanish.

5 THE COURT: Okay. And how long have
6 you been in this country?

7 THE JUROR: Thirty years.

8 THE COURT: Thirty years. Do you
9 understand English?

10 THE JUROR: Yes, but I still have
11 difficulty to it, understand words and speak
12 words.

13 THE COURT: Did you understand the
14 questions I asked?

15 THE JUROR: Yes, um-hum.

16 THE COURT: Okay. But you raised your
17 hand in connection with that question. Is that
18 because you think you have a problem with
19 understanding English?

20 THE JUROR: Um-hum. Some words, yes,
21 some words.

22 THE COURT: Some words. Okay. What do
23 you do for a living, sir?

24 THE JUROR: I'm mail distribution,

1 customer service.

2 THE COURT: In connection with your
3 job, sir, do you have to speak English?

4 THE JUROR: Yes, I have to, sometimes.

5 THE COURT: You have to speak English?

6 THE JUROR: Um-hum.

7 THE COURT: Is that right?

8 THE JUROR: Not all the time but, yes,
9 I do have to speak English some.

10 THE COURT: Okay. Have you gone to
11 school in this country?

12 THE JUROR: Yes, until eleventh grade.

13 THE COURT: Okay. So you were a high
14 school student here?

15 THE JUROR: Um-hum.

16 THE COURT: Okay. I haven't found you
17 have any difficulty with the language, sir, so I
18 just want to assure you, I understand that the
19 courtroom is -- there may be some words but
20 everyone is going to explain any words that are
21 unusual. Alright?

22 THE JUROR: Um-hum.

23 THE COURT: For the record you must say
24 yes or no.

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THE JUROR: Okay.

THE COURT: Now, let me ask you this, sir. The defendants are black and the alleged victim is white of Lebanese origin. Is there anything about the race of those individuals which would interfere with your ability to be a fair and impartial juror?

THE JUROR: No, no.

THE COURT: The schedule for the trial is as follows. Every day this week from nine to four and into next week. We expect to get the case to the jurors sometime midweek of next week. However long the jurors would take to decide the case is up to them.

THE JUROR: Okay.

THE COURT: Is there anything about that schedule that would create a hardship for you, sir?

THE JUROR: No.

THE COURT: Is there any reason whatsoever why you could not be a fair and impartial juror in the case and decide the case solely on the evidence and the law?

THE JUROR: No, no.

1 THE COURT: Okay. Thank you very much.
2 You may remain. You may wait for us.

3 (Whereupon, the discussion at side bar
4 was concluded.)

5 THE CLERK: He'll remain. 3-8.

6 (Whereupon, the following discussion
7 occurred at side bar:)

8 THE COURT: How are you, sir?

9 THE JUROR: Good.

10 THE COURT: I'm asking everyone the
11 same questions. The defendants are black, the
12 victim is white of Lebanese origin. Is there
13 anything about the race and ethnicity of those
14 individuals which would interfere with your
15 ability to be a fair and impartial juror?

16 THE JUROR: No, but it's more than the
17 one thing, I would say. I don't know these
18 people at all. The actual crime, though, and
19 again I just heard the introduction, it's -- I
20 don't have much tolerance for it so I don't know
21 if it --

22 THE COURT: What do you mean, you don't
23 have any tolerance for it, sir?

24 THE JUROR: I don't want to say a

1 preconceived judgment but pretty -- I don't know.
2 It's one of those things.

3 THE COURT: You think that because they
4 have been charged with this crime that they're
5 more probably than not guilty?

6 THE JUROR: Possibly.

7 THE COURT: You're excused from
8 service.

9 (Whereupon, the discussion at side bar
10 was concluded.)

11 THE CLERK: Excused. 3-9.

12 (Whereupon, the following discussion
13 occurred at side bar:)

14 THE COURT: Hello, sir. How are you?
15 Can you tell me why you raised your hand?

16 THE JUROR: I'm -- my English not too
17 good.

18 THE COURT: How long have you been in
19 this country?

20 THE JUROR: Seventeen years.

21 THE COURT: What's your first language?
22 What's your first language?

23 THE JUROR: Spanish.

24 THE COURT: Do you work?

1 THE JUROR: Yes.

2 THE COURT: How long have you been
3 working?

4 THE JUROR: In the USA?

5 THE COURT: Pardon?

6 THE JUROR: In the USA?

7 THE COURT: How long have you been
8 working?

9 THE JUROR: In Cambridge it's thirteen
10 years.

11 THE COURT: Okay. You speak English on
12 the job?

13 THE JUROR: Yes, half and half.

14 THE COURT: Have you gone to school in
15 this country?

16 THE JUROR: I have tried to go to
17 school. I just tried to speak English by myself.

18 THE COURT: Did you understand the
19 questions I asked?

20 THE JUROR: I don't understand a lot.

21 THE COURT: Okay. I'm going to excuse
22 you from service. You may go.

23 (Whereupon, the discussion at side bar
24 was concluded.)

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THE CLERK: Excused. 3-10.

(Whereupon, the following discussion occurred at side bar:)

THE COURT: Ms. Best, how are you?

THE JUROR: Fine.

THE COURT: Where are you a student?

THE JUROR: At B.U.

THE COURT: Okay. Let me ask you this, the defendants are black, the victim is white of Lebanese origin. Is there anything about the race and ethnicity of those individuals that would interfere with your ability to be a fair and impartial juror?

THE JUROR: No.

THE COURT: The schedule for the trial is every day this week from nine to four and into next week. We expect the jurors to get the case sometime midweek. However, it is up to them how long it takes them to decide the case.

Is there anything in that schedule that would create a hardship for you?

THE JUROR: I'm doing a criminal clinic program so I have cases on Friday this week and next week.

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1 THE COURT: Could you think of any
2 better education than being a juror in a criminal
3 case? Are you doing a co-op at this time?

4 THE JUROR: I'm doing the B.U. defender
5 program.

6 THE COURT: You represent defendants in
7 a third year program?

8 THE JUROR: Yes.

9 THE COURT: Have you ever appeared in
10 court on behalf of a defendant?

11 THE JUROR: Yes.

12 THE COURT: Okay. Would you have a
13 bias in favor of these defendants?

14 THE JUROR: No.

15 THE COURT: How long have you been in
16 this program?

17 THE JUROR: This is my second semester
18 so since September.

19 THE COURT: Is this something you need
20 for credit for graduation?

21 THE JUROR: Yes.

22 THE COURT: Okay. What happens if
23 you're not able to do it this week and next?

24 THE JUROR: Well, I'm sure that they

1 would understand that I have jury duty so I can
2 probably get a continuance.

3 THE COURT: You'll probably get credit
4 for that?

5 THE JUROR: Yes.

6 THE COURT: Okay. Alright. Let me ask
7 you this question in as clear a fashion as I can.
8 Is there anything about your participation in
9 this clinic at Boston University Law School
10 representing defendants that would in any way
11 influence the way that you would think about this
12 case?

13 THE JUROR: No.

14 THE COURT: The last question is this,
15 is there any reason whatsoever why you could not
16 be a juror on this case, decide it fairly and
17 impartially, and solely on the evidence and the
18 law?

19 THE JUROR: No.

20 THE COURT: Thank you very much.

21 (Whereupon, the discussion at side bar
22 was concluded.)

23 THE CLERK: She remains. Juror 3-12.

24 (Whereupon, the following discussion

1 occurred at side bar:)

2 THE COURT: Okay, Mr. McCabe. I'm
3 going to start with your questionnaire. I see
4 here you have recently been mugged by knifepoint.

5 THE JUROR: Um-hum.

6 THE COURT: When was that?

7 THE JUROR: Two months ago.

8 THE COURT: One of the counts is armed
9 robbery. It's alleged that a knife was used.

10 THE JUROR: Um-hum.

11 THE COURT: And these obviously are
12 criminal cases, the defendants are charged with
13 first degree murder that occurred during the
14 course of an armed robbery.

15 THE JUROR: Um-hum.

16 THE COURT: Is there anything, sir,
17 about your recent experience as a victim that
18 would influence the way you'd think about this
19 case?

20 THE JUROR: Yes.

21 THE COURT: Okay. I'm going to excuse
22 you from service. Thank you.

23 (Whereupon, the discussion at side bar
24 was concluded.)

1 THE CLERK: Excused.

2 (Whereupon, the following discussion
3 occurred at side bar:)

4 THE COURT: Let's go off the record for
5 a minute.

6 (Whereupon, a discussion occurred off
7 the record at side bar.)

8 THE CLERK: Juror 4-1.

9 (Whereupon, the following discussion
10 occurred at side bar:)

11 THE COURT: You raised your hand in
12 connection with having some medical problems?

13 THE JUROR: I have stress induced
14 cardiac arrhythmia.

15 THE COURT: Do you have a doctor's
16 certificate?

17 THE JUROR: I don't have it with me,
18 no. I didn't know what type of cases that was
19 going to go on but anything violent or any
20 testimony that's so violent would be upsetting to
21 me.

22 THE COURT: Are you under the care of a
23 physician?

24 THE JUROR: Yes.

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THE COURT: Who is that?

THE JUROR: Dr. Erlich at Mass.

General.

THE COURT: Okay. And you take medication for this?

THE JUROR: Yes.

THE COURT: I'm going to excuse you from service. Thank you.

THE JUROR: Thanks.

(Whereupon, the discussion at side bar was concluded.)

THE CLERK: Excused. Juror 4-3.

(Whereupon, the following discussion occurred at side bar:)

THE COURT: Hello, sir. How are you? I'm asking everyone the same questions. The defendants are black, the victim is white of Lebanese origin. Is there anything about the race and ethnicity of these individuals which would interfere with your ability to be a fair and impartial juror?

THE JUROR: No.

THE COURT: The schedule for the trial is as follows. This week, nine to four, then

1 next week we will continue. We expect to get the
2 case to the jurors sometime midweek for decision.
3 However long the jurors would take to decide the
4 case is up to them.

5 Is there anything in that schedule,
6 sir, that would create a hardship for you?

7 THE JUROR: I'm supposed to be in New
8 York on Thursday and Friday for work.

9 THE COURT: If you're not there -- this
10 Thursday or a week from --

11 THE JUROR: This Thursday.

12 THE COURT: What happens if you're not
13 there?

14 THE JUROR: I just have to rearrange my
15 plans and speak with my boss but --

16 THE COURT: Okay. You appreciate that
17 almost everyone here has job responsibilities --

18 THE JUROR: Sure.

19 THE COURT: Anything else, sir, about
20 the schedule?

21 THE JUROR: No.

22 THE COURT: The final question, is
23 there any reason whatsoever why you could not be
24 a fair and impartial juror and decide this case

1 in that manner, based solely on the evidence and
2 the law?

3 THE JUROR: No.

4 THE COURT: Thank you, sir. You may
5 remain.

6 (Whereupon, the discussion at side bar
7 was concluded.)

8 THE CLERK: He'll remain. Juror 4-4.

9 (Whereupon, the following discussion
10 occurred at side bar:)

11 THE COURT: You raised your hand.
12 Could you explain?

13 THE JUROR: I have -- I'm dealing with
14 kidney stones and I have a fractured left hip.

15 THE COURT: You're excused from
16 service.

17 THE JUROR: Thank you.

18 (Whereupon, the discussion at side bar
19 was concluded.)

20 THE CLERK: Excused. Juror 4-5.

21 (Whereupon, the following discussion
22 occurred at side bar:)

23 THE COURT: How are you, sir? I'm
24 asking everyone the same questions, sir. The

1 defendants are black, the victim is white of
2 Lebanese origin. Is there anything about the
3 race and ethnicity of those individuals which
4 would interfere with your ability to be a fair
5 and impartial juror?

6 THE JUROR: Not really, no.

7 THE COURT: You seemed to hesitate,
8 sir.

9 THE JUROR: Can you repeat the
10 question?

11 THE COURT: Sure. The defendants are
12 black --

13 THE JUROR: Uh-huh.

14 THE COURT: The victim is white of
15 Lebanese origin.

16 THE JUROR: Uh-huh.

17 THE COURT: Is there anything about the
18 race and ethnicity of those individuals that
19 would interfere with your ability to be a fair
20 and impartial juror?

21 THE JUROR: No. Oh, no.

22 THE COURT: You did not complete the
23 questionnaire, sir, these questions, so I'm going
24 to ask that you step over there. The officers

1 will give you a pen. You complete that and I
2 will have you come back. Okay?

3 THE JUROR: Okay.

4 (Whereupon, the discussion at side bar
5 was concluded.)

6 THE CLERK: Juror 4-6.

7 (Whereupon, the following discussion
8 occurred at side bar:)

9 THE COURT: Ms. Ryan, how are you?

10 THE JUROR: Fine.

11 THE COURT: You did the same thing, you
12 didn't complete the questionnaire. I'm going to
13 ask you to step over there for a minute.

14 (Whereupon, the discussion at side bar
15 was concluded.)

16 THE CLERK: Juror 4-8.

17 (Whereupon, the following discussion
18 occurred at side bar:)

19 THE COURT: How are you, sir? Would
20 you step up here, please? The defendants are
21 black, the victim is white of Lebanese origin.
22 Is there anything about the race and ethnicity of
23 those individuals which would interfere with your
24 ability to be a fair and impartial juror?

1 THE JUROR: (Shook head.)

2 THE COURT: You have to speak out loud,
3 sir.

4 THE JUROR: No.

5 THE COURT: The schedule for the trial
6 is every day this week from nine to four and into
7 next week. We expect the case to get to the
8 jurors sometime midweek. However long it takes
9 to decide the case is up to the jury.

10 Is there anything in that schedule that
11 would create a hardship for you?

12 THE JUROR: That is bonus week for me
13 at work so I need --

14 THE COURT: What does that mean?

15 THE JUROR: Well, for work I have a
16 certain goal I have to hit for Friday to get my
17 bonus.

18 THE COURT: Do you have to be at work
19 to do that?

20 THE JUROR: Yes. It's a percentage I
21 get.

22 THE COURT: And having missed a day,
23 does that mean you can't make a percentage even
24 if you go to work the rest of the week?

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THE JUROR: One day, not -- the whole week.

THE COURT: If you were selected to sit and missed your bonus, how would you feel about that?

THE JUROR: Well, I wouldn't be that happy about it.

THE COURT: Okay. Is it a lot? Is it a significant amount of money?

THE JUROR: Well, it's a quarterly bonus so it's a decent chunk.

THE COURT: Okay. I'm going to excuse you from service.

(Whereupon, the discussion at side bar was concluded.)

THE CLERK: Excused.

(Whereupon, juror 4-5 was returned to side bar and the following discussion occurred:)

THE COURT: Okay. You checked none. Let me continue with my questions, sir. The schedule for the trial is every day this week from nine to four and into next week. We expect the case to get to the jury sometime midweek and then it will be up to the jurors how long it

1 takes to decide the case.

2 Is there anything in that schedule,
3 sir, that will create a hardship for you?

4 THE JUROR: Actually, I had an
5 interview.

6 THE COURT: When?

7 THE JUROR: Friday.

8 THE COURT: where?

9 THE JUROR: Home Depot.

10 THE COURT: Okay. You're not employed
11 currently?

12 THE JUROR: No.

13 THE COURT: Okay. I'm going to excuse
14 you from service. You may go.

15 THE JUROR: Thank you.

16 (Whereupon, the discussion at side bar
17 was concluded.)

18 THE CLERK: Excused.

19 (Whereupon, juror 4-6 was returned to
20 side bar and the following discussion occurred:)

21 THE COURT: Okay. You checked none on
22 all of them. Thank you. The question is this,
23 the defendants are black, the victim is white of
24 Lebanese origin. Is there anything about the

1 race and ethnicity of those individuals which
2 would interfere with your ability to be a fair
3 and impartial juror?

4 THE JUROR: No.

5 THE COURT: The schedule for the trial
6 is as follows, nine to four every day this week
7 and then into next week. We expect to get the
8 case to the jury sometime midweek for decision
9 and it's up to the jury to decide how long it
10 takes to render the verdict.

11 Is there anything in that schedule that
12 would create a hardship for you?

13 THE JUROR: Employment and for school.

14 THE COURT: What's your employment?

15 THE JUROR: I'm starting tomorrow part
16 time at Fidelity.

17 THE COURT: What are your hours?

18 THE JUROR: Nine to five.

19 THE COURT: Okay. Part time?

20 THE JUROR: Starting next week. I'm
21 starting tomorrow, I work one day tomorrow.

22 THE COURT: Then you start full time
23 next week?

24 THE JUROR: Part time, twenty hours a

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week.

THE COURT: When do you go to school?

THE JUROR: During the week.

THE COURT: Where?

THE JUROR: Suffolk Law.

THE COURT: At night or during the day?

THE JUROR: I'm a day student.

THE COURT: Okay. I'm going to excuse you from service. You may go.

(Whereupon, the discussion at side bar was concluded.)

THE CLERK: Excused. Juror 4-9.

(Whereupon, the following discussion occurred at side bar:)

THE COURT: Before we start, you didn't check none, but you put a line across. Does that mean none?

THE JUROR: Yes, sorry.

THE COURT: The question is this, the defendants are black and the victim is white of Lebanese origin. Is there anything about the race and ethnicity of those individuals which would interfere with your ability to be a fair and impartial juror?

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THE JUROR: No.

THE COURT: The schedule for the trial is nine to four every day this week and into next week. We expect the case to go to the jury sometime midweek. It will be up to the jury as to how long it will take to decide the case.

Anything about that schedule that would create a hardship for you?

THE JUROR: I'm taking Good Friday off so --

THE COURT: We won't be in session Good Friday.

THE JUROR: And the whole next week I will be on vacation.

THE COURT: And the Monday after Easter?

THE JUROR: Yes.

THE COURT: So you are available through Thursday?

THE JUROR: I'm available through this week, not the weekend and then --

THE COURT: Okay. I'm going to excuse you from service. You may go.

(Whereupon, the discussion at side bar

1 was concluded.)

2 THE CLERK: Excused. Juror 4-10.

3 (Whereupon, the following discussion
4 occurred at side bar:)

5 THE COURT: You raised your hand in
6 connection with knowing one of the witnesses?

7 THE JUROR: Yes, a number of the police
8 officers through work. Detective Donahue is in
9 the other office, I guess.

10 THE COURT: And your contact with them
11 has been --

12 THE JUROR: Interviews, not in relation
13 to this case but in relation to other crimes.

14 THE COURT: So you know them, you've
15 talked to them?

16 THE JUROR: Yes.

17 THE COURT: Okay. I'm going to excuse
18 you from service. You may go.

19 (Whereupon, the discussion at side bar
20 was concluded.)

21 THE CLERK: Excused. 4-11.

22 (Whereupon, the following discussion
23 occurred at side bar:)

24 THE COURT: If you would step over

1 here.

2 THE JUROR: Sure.

3 THE COURT: The question is this --
4 first, you raised your hand, you know someone on
5 the witness list?

6 THE JUROR: I know Joe Ceaser. He is
7 my best friend's dad. I just lived in their
8 house actually.

9 THE COURT: Okay.

10 THE JUROR: I will be honest. I have a
11 strong dislike for --

12 THE COURT: Who?

13 THE JUROR: Culgini, the Brighton
14 officer.

15 THE COURT: Okay. Thank you. You're
16 excused from service.

17 (Whereupon, the discussion at side bar
18 was concluded.)

19 THE CLERK: Excused. 4-12.

20 (Whereupon, the discussion at side bar
21 was concluded.)

22 THE COURT: Ms. Norman, I'm asking
23 everyone the same questions. The defendants are
24 black and the victim is white of Lebanese origin.

1 Is there anything in the race and ethnicity of
2 those individuals which would interfere with your
3 ability to be a fair and impartial juror?

4 THE JUROR: The only thing is, my
5 grandmother was just involved in an accident and
6 that person was black.

7 THE COURT: And would that affect the
8 way you'd think about these defendants?

9 THE JUROR: I believe somewhat.

10 THE COURT: Okay. I'll excuse you from
11 service.

12 (Whereupon, the discussion at side bar
13 was concluded.)

14 THE CLERK: Excused. Juror 4-13.

15 (Whereupon, the following discussion
16 occurred at side bar:)

17 THE COURT: How are you, Ms. Kelly?

18 THE JUROR: Fine, thank you.

19 THE COURT: You raised your hand in
20 connection with having --

21 THE JUROR: Yes, I am a diabetic and
22 I'm on lots of medication and I'm not able to sit
23 about so long in one place because of my sciatic
24 nerve.

1 THE COURT: Okay. You're excused from
2 service.

3 THE JUROR: Okay. Thank you.

4 (Whereupon, the discussion at side bar
5 was concluded.)

6 THE CLERK: Excused. 4-14.

7 (Whereupon, the following discussion
8 occurred at side bar:)

9 THE COURT: Hello, sir. What witnesses
10 do you know?

11 THE JUROR: Well, I know Captain Evans.
12 I think he's the guy in charge of the Allston
13 Brighton police station. I don't know if I'm
14 right. He's always in the Allston Brighton
15 Times.

16 THE COURT: You've read about him? Do
17 you know him personally?

18 THE JUROR: No. You said know of so I
19 raised my hand.

20 THE COURT: Sure.

21 THE JUROR: But, no, I've never met
22 him.

23 THE COURT: Will he be testifying?

24 MR. TOCHKA: I don't expect he will be.

1 THE COURT: Okay. If he were to
2 testify would you be able to judge his testimony
3 solely on the way he presented in the courtroom
4 and what he said here?

5 THE JUROR: Yes, Your Honor.

6 THE COURT: Any other witness that you
7 know?

8 THE JUROR: No, Your Honor.

9 THE COURT: Was there any other
10 question to which you raised your hand or wanted
11 to raise your hand?

12 THE JUROR: No, Your Honor.

13 THE COURT: Okay. And the other
14 questions I have for you that I'm asking everyone
15 are --

16 THE JUROR: Okay.

17 THE COURT: The defendants are black,
18 the victim is white of Lebanese origin. Is there
19 anything about the race and ethnicity of these
20 individuals which would interfere with your
21 ability to be a fair and impartial juror?

22 THE JUROR: No.

23 THE COURT: The schedule for the trial
24 is as follows, we will be here nine to four this

1 week and into next week. We expect the case to
2 go to the jury sometime midweek and it will be up
3 to the jurors to decide how long it will take to
4 decide the case.

5 Is there anything in that schedule that
6 would create a hardship for you?

7 THE JUROR: The only issue that I have
8 is I have a hearing for a traffic violation next
9 Tuesday in Brighton District Court so I don't
10 know if that's something that could be changed or
11 not.

12 THE COURT: Okay. Well, if you're
13 selected here, I'd have the clerk contact that
14 court. Anything else, sir?

15 THE JUROR: No, Your Honor.

16 THE COURT: Okay. A final question, is
17 there any reason whatsoever why you couldn't be a
18 fair and impartial juror and decide the case in
19 that manner and only on the evidence and the law?

20 THE JUROR: No, Your Honor.

21 THE COURT: Thank you, sir.

22 (Whereupon, the discussion at side bar
23 was concluded.)

24 THE CLERK: He'll remain. Juror 4-5.

1 (Whereupon, the following discussion
2 occurred at side bar:)

3 THE COURT: I just note on your
4 questionnaire that your son was a --

5 THE JUROR: That's my grandson.

6 THE COURT: This is not an abuse case.

7 THE JUROR: Right.

8 THE COURT: But it is a criminal case.
9 Is there any thing in your grandson's experience
10 that would influence the way you'd think about
11 this case?

12 THE JUROR: The cases aren't tried yet,
13 it's ongoing. We just actually heard all the
14 charges and we go back to court April 1 and I
15 don't know when this is going to be going on.

16 THE COURT: The question for you is
17 this, is there anything about your grandson's
18 involvement in a child abuse case which would
19 influence the way you would think about this case
20 if you were sitting as a seated juror?

21 THE JUROR: No, no.

22 THE COURT: The next question is, the
23 defendants are black and the victim is white of
24 Lebanese origin. Is there anything about the

1 race and ethnicity of those individuals which
2 would interfere with your ability to be a fair
3 and impartial juror?

4 THE JUROR: No.

5 THE COURT: The schedule for the trial
6 is every day this week, nine to four, into next
7 week. We expect to get the case to the jurors
8 sometime midweek for decision.

9 THE JUROR: Okay.

10 THE COURT: It's up to the jury to
11 decide how long they have the case.

12 THE JUROR: Okay.

13 THE COURT: Anything about that
14 schedule that would create a hardship for you?

15 THE JUROR: At this point because of my
16 grandson, there's so many issues going on at home
17 that --

18 THE COURT: Well, he doesn't live with
19 you, does he?

20 THE JUROR: No, but I have custody.

21 THE COURT: Oh, you have custody.

22 THE JUROR: He lives with my daughter
23 but I still have the custody of him.

24 THE COURT: I see. But you're not due

1 back in court until April 1?

2 THE JUROR: Right but we're still going
3 -- we thought we were going to try to get him
4 inpatient, we went through Children's Hospital, --

5 THE COURT: I'm going to excuse you
6 from service.

7 (Whereupon, the discussion at side bar
8 was concluded.)

9 THE CLERK: Excused. 4-16.

10 (Whereupon, the following discussion
11 occurred at side bar:)

12 THE COURT: Hello, how are you?

13 THE JUROR: Fine.

14 THE COURT: I'm asking everyone the
15 same questions, Ms. O'Rourke. The defendants are
16 black, the victim is white of Lebanese origin.
17 Is there anything about the race and ethnicity of
18 those individuals which would interfere with your
19 ability to be a fair and impartial juror?

20 THE JUROR: No.

21 THE COURT: Okay. The schedule for the
22 trial, we will be here every day this week from
23 nine to four and into next week. We expect to
24 get the case to the jurors sometime midweek. Is

1 there anything -- and however long the jurors
2 would have to decide the case is up to them.

3 Is there anything in that schedule that
4 would create a hardship for you?

5 THE JUROR: Well, I'm self-employed in
6 a sense and I'm also having a bone scan tomorrow.

7 THE COURT: Okay. I'm going to excuse
8 you from service.

9 THE JUROR: Thank you.

10 (Whereupon, the discussion at side bar
11 was concluded.)

12 THE CLERK: Excused. Juror 5-1.

13 (Whereupon, the following discussion
14 occurred at side bar:)

15 THE COURT: I have a couple of
16 questions for you. The defendants are black and
17 the victim is white of Lebanese origin. Is there
18 anything about the race and ethnicity of those
19 individuals which would interfere with your
20 ability to be a fair and impartial juror?

21 THE JUROR: No.

22 THE COURT: The schedule for the trial
23 is every day this week from nine to four, into
24 next week. We expect the case to get to the

1 jurors sometime midweek and it's up to the jurors
2 then to take however long they want to decide the
3 case. Anything in that schedule that would
4 create a hardship for you?

5 THE JUROR: I'm an undergraduate at
6 Northeastern. I start an internship on April 1.

7 THE COURT: That's the Monday after?

8 THE JUROR: That's the Monday after so
9 that would be the only hardship.

10 THE COURT: Where are you starting?

11 THE JUROR: It's with a radio network.

12 THE COURT: Alright. Other than that,
13 sir, is there anything else in that schedule?

14 THE JUROR: No.

15 THE COURT: Is this an interim spring
16 break?

17 THE JUROR: Right now, yes.

18 THE COURT: Okay. The final question
19 is this, is there any reason why you couldn't be
20 a fair and impartial juror, decide the case in
21 that manner based only on the evidence and the
22 law?

23 THE JUROR: No.

24 THE COURT: Thank you, sir. You may

1 remain.

2 (Whereupon, the discussion at side bar
3 was concluded.)

4 THE COURT: He stays.

5 THE CLERK: He'll remain. Juror 5-2.

6 (Whereupon, the following discussion
7 occurred at side bar:)

8 THE COURT: I'm asking everyone the
9 same questions. The defendants are black, the
10 victim is white of Lebanese origin. Is there
11 anything about the race and ethnicity of those
12 individuals which would interfere with your
13 ability to be a fair and impartial juror?

14 THE JUROR: No.

15 THE COURT: The schedule for the trial
16 is every day this week from nine to four and then
17 into next week. We expect to get the case to the
18 jury sometime midweek and it's up to the jurors
19 then to take however long they want to decide the
20 case.

21 Anything in that schedule, sir, that
22 would make it difficult or create a hardship for
23 you?

24 THE JUROR: I don't believe so.

1 THE COURT: And finally, sir, is there
2 any reason whatsoever why you couldn't be a fair
3 and impartial juror, decide the case in that
4 manner and based only on the evidence and the
5 law?

6 THE JUROR: I don't think it would be a
7 problem.

8 THE COURT: Does that mean that you
9 could be a fair and impartial juror?

10 THE JUROR: Yes, yes.

11 THE COURT: Okay. Thank you very much.

12 (Whereupon, the discussion at side bar
13 was concluded.)

14 THE CLERK: He'll remain. Juror 5-3.

15 (Whereupon, the following discussion
16 occurred at side bar:)

17 THE COURT: Good afternoon. How are
18 you, sir? Where are you at school, sir?

19 THE JUROR: Boston University.

20 THE COURT: Okay. And the schedule for
21 the trial is every day this week from nine to
22 four and into next week. I expect the case to
23 get to the jurors sometime midweek and it would
24 be up to the jurors then to take however long

1 they want to decide the case.

2 Is there anything in that schedule,
3 sir, that would create a hardship for you?

4 THE JUROR: Yes. I have midterms
5 coming up soon.

6 THE COURT: When?

7 THE JUROR: This coming week.

8 THE COURT: Next week?

9 THE JUROR: Yes.

10 THE COURT: Okay. I'll excuse you from
11 service. You may go.

12 (Whereupon, the discussion at side bar
13 was concluded.)

14 THE CLERK: Excused. 5-4.

15 (Whereupon, the following discussion
16 occurred at side bar:)

17 THE JUROR: Good morning, Your Honor.

18 THE COURT: I'm asking everyone the
19 same questions. The defendants are black, the
20 victim is white of Lebanese origin. Is there
21 anything about the race and ethnicity of those
22 individuals which would interfere with your
23 ability to be a fair and impartial juror?

24 THE JUROR: No.

1 THE COURT: The case is expected to go
2 every day this week from nine to four into next
3 week. The jurors will get the case sometime
4 midweek and it's up to them to decide how long to
5 take to render a verdict. Is there anything in
6 that schedule that would create a hardship for
7 you?

8 THE JUROR: Not so much as my court
9 being mad about it.

10 THE COURT: You're an assistant
11 registrar in the probate court?

12 THE JUROR: Yes.

13 THE COURT: The last question is this,
14 is there any reason whatsoever why you could not
15 be a fair and impartial juror, decide the case in
16 that manner and do it based solely on the
17 evidence and the law?

18 THE JUROR: No.

19 THE COURT: Thank you very much. You
20 may remain.

21 (Whereupon, the discussion at side bar
22 was concluded.)

23 THE CLERK: She'll remain. Juror 5-5.

24 (Whereupon, the following discussion

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1 occurred at side bar:)

2 THE COURT: How are you? You raised
3 your hand. Would you explain?

4 THE JUROR: Hum?

5 THE COURT: You raised your hand to one
6 of my questions. Could you explain why?

7 THE JUROR: Because I don't understand
8 too much, not too much everything.

9 THE COURT: You're excused. You may
10 go.

11 (Whereupon, the discussion at side bar
12 was concluded.)

13 THE CLERK: Excused. Juror 5-6.

14 (Whereupon, the following discussion
15 occurred at side bar:)

16 THE COURT: Hello, sir. How are you?

17 THE JUROR: Fine.

18 THE COURT: I'm asking everyone the
19 same questions. The defendants are black, the
20 verdict is white of Lebanese origin. Is there
21 anything about the race and ethnicity of those
22 individuals which would interfere with your
23 ability to be a fair and impartial juror?

24 THE JUROR: No.

1 THE COURT: The schedule for the trial
2 is every day this week from about nine to four
3 and into next week. About midweek we expect to
4 get the case to the jurors for decision. It's
5 then up to them to decide how long to take to
6 render the verdict.

7 Is there anything about that schedule,
8 sir, that creates a hardship for you?

9 THE JUROR: Nine to --

10 THE COURT: Nine to about four.

11 THE JUROR: Oh, no problem.

12 THE COURT: Okay. And the final
13 question, is there any reason whatsoever, sir,
14 why you could not be a fair and impartial juror
15 and decide the case based only on the evidence
16 and the law?

17 THE JUROR: No.

18 THE COURT: Thank you very much.

19 (Whereupon, the discussion at side bar
20 was concluded.)

21 THE CLERK: He'll remain. Juror 5-7.

22 (Whereupon, the following discussion
23 occurred at side bar:)

24 THE COURT: Hello. How are you?

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THE JUROR: Good.

THE COURT: Okay. The schedule for the trial is every day this week from nine to four and into next week. We expect to get the case to the jurors sometime midweek next week and then it's up to the jurors to take whatever time they need to render a verdict.

Is there anything in that schedule that would create a hardship for you?

THE JUROR: There is. I'm in medical school. I have an exam on Tuesday.

THE COURT: This week or next week?

THE JUROR: Actually every Tuesday starting this week for the --

THE COURT: What year are you?

THE JUROR: I'm a second year.

THE COURT: Where?

THE JUROR: B.U.

THE COURT: So you're just doing your class work? You're not doing clinical rotating now?

THE JUROR: Right but my duties are in the clinic.

THE COURT: You're missing today's

1 clinic?

2 THE JUROR: Today is my spring break.

3 THE COURT: How long is your spring
4 break?

5 THE JUROR: It's through Friday.

6 THE COURT: Okay. So it would just be
7 next week that would create a conflict for you?

8 THE JUROR: Yes.

9 THE COURT: If you were to miss that
10 one day what happens?

11 THE JUROR: I don't know. I know I
12 need to fulfill the requirements to go on to
13 third year. I haven't inquired into how, how it
14 goes.

15 THE COURT: You resume classes next
16 week?

17 THE JUROR: Monday.

18 THE COURT: What is your class
19 schedule?

20 THE JUROR: It's every day from eight
21 thirty to three thirty except sometimes it's --
22 it depends. It's variable.

23 THE COURT: Okay, Ms. Tan, I'm going to
24 excuse you from service. You may go back to the

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jury pool.

(Whereupon, the discussion at side bar was concluded.)

THE CLERK: Excused. 5-10.

(Whereupon, the following discussion occurred at side bar:)

THE COURT: Hello, Ms. Bergero, how are you?

THE JUROR: Good.

THE COURT: I'm asking everyone the same questions. The defendants are black, the victim is white of Lebanese origin. Is there anything about the race and ethnicity of those individuals which would interfere with your ability to be a fair and impartial juror?

THE JUROR: No.

THE COURT: The schedule for the trial is nine to four this week and going into next week. We expect to get the case to the jurors sometime midweek for decision. It's up to the jurors then to decide how long to take to render a verdict.

Anything in that schedule that creates a hardship for you?

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THE JUROR: Other than work, no.

THE COURT: Okay. You can appreciate everyone has job or home responsibilities. The final question is this, is there any reason whatsoever why you could not be a fair and impartial juror in this case, decide the case in that manner and based only on the evidence and the law?

THE JUROR: The only thing that concerns me is, I'm a clinical social worker. I make judgments every day and I'm also extremely religious. That's the only thing that, you know, as it's a murder trial, I'm not sure how -- I think I could but I'm not really confident.

THE COURT: Well, when you say that you make judgments every day, you are a social worker, is that right?

THE JUROR: I work for insurance companies, I put people in and out of the hospital for an HMO.

THE COURT: Okay. With respect to your being religious, is there anything about your religious views that would prohibit you or interfere with your job as a juror to listen to

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the evidence in this case and to decide the case only on that evidence?

THE JUROR: I would do my -- I would try to do that definitely.

THE COURT: Is your religion one that urges you not to make judgments about others?

THE JUROR: Well, it's in the scriptures but it's not necessarily a judgment. It's -- the judgment that's usually talked about in the scriptures is whether or not a person is going to ultimately be with God. I don't think it's whether they are going to go to jail or not, in that sense.

THE COURT: No, I'm sorry. What I want to know is this, Ms. Bergero, would you, if selected as a juror, be able to listen to the evidence and --

THE JUROR: Um-hum.

THE COURT: -- judge it fairly and impartially?

THE JUROR: Um-hum.

THE COURT: Based only on your assessment of what was presented and what you think of it and then, with other members of the

1 jury, follow the instructions I would give you on
2 the law --

3 THE JUROR: Um-hum.

4 THE COURT: -- to render a verdict only
5 on the evidence given in the courtroom as well as
6 the law?

7 THE JUROR: Yes.

8 THE COURT: Okay. Alright. Thank you.
9 I'm going to ask you to wait.

10 THE JUROR: Okay.

11 (Whereupon, the discussion at side bar
12 was concluded.)

13 THE CLERK: She'll remain. Juror 5-11.

14 (Whereupon, the following discussion
15 occurred at side bar:)

16 THE COURT: How are you? Could you
17 tell us why you raised your hand?

18 THE JUROR: The Tate family that lives
19 on Fidelis Way is related to my brother.

20 THE COURT: Joleena Tate?

21 THE JUROR: They have nicknames, the
22 Tates. I know they live in Fidelis Way Projects
23 so -- I'm not sure.

24 THE COURT: I'll excuse you from

1 service.

2 (Whereupon, the discussion at side bar
3 was concluded.)

4 THE CLERK: Excused. Juror 5-12.

5 (Whereupon, the following discussion
6 occurred at side bar:)

7 THE COURT: Hello, sir. How are you?

8 THE JUROR: Fine.

9 THE COURT: The question is this, the
10 defendants are black, the victim is white of
11 Lebanese origin. Is there anything about the
12 race and ethnicity of those individuals which
13 would interfere with your ability to be a fair
14 and impartial juror?

15 THE JUROR: No.

16 THE COURT: The case is expected to go
17 this week, nine to four, and into next week. The
18 jury will be getting the case sometime midweek
19 next week. It's up to the jurors then to take
20 however long they need to render the verdict.

21 Is there anything in that schedule that
22 creates a hardship for you?

23 THE JUROR: I don't think so.

24 THE COURT: Okay. And finally, is

1 there any reason whatsoever why you could not sit
2 as a juror in the case, be fair and impartial,
3 decide the case that way and based only on the
4 evidence and the law?

5 THE JUROR: No.

6 THE COURT: Thank you, sir. You may
7 remain.

8 (Whereupon, the discussion at side bar
9 was concluded.)

10 THE CLERK: Remains. Juror 5-13.

11 (Whereupon, the following discussion
12 occurred at side bar:)

13 THE COURT: How are you?

14 THE JUROR: Good.

15 THE COURT: You raised a hand. Could
16 you explain?

17 THE JUROR: Sure. Thursday I have a
18 medical procedure, it's a cancer detecting
19 procedure that's taking place.

20 THE COURT: You're excused from
21 service. Good luck.

22 THE JUROR: Thanks.

23 (Whereupon, the discussion at side bar
24 was concluded.)

1 THE CLERK: Excused. Juror 5-15.

2 (Whereupon, the following discussion
3 occurred at side bar:)

4 THE COURT: I'm asking everyone the
5 same questions.

6 THE JUROR: Yes.

7 THE COURT: Okay. The defendants are
8 black, the victim is white of Lebanese origin.
9 Is there anything about the race and ethnicity of
10 those individuals which would interfere with your
11 ability to be a fair and impartial juror?

12 THE JUROR: No, Your Honor.

13 THE COURT: Okay. The schedule is as
14 follows, every day this week from nine to four
15 and then going into next week. We expect the
16 case to get to the jurors midweek for decision.
17 It's up to the jurors then to decide how long to
18 take to render the verdict.

19 Anything in that schedule that would
20 create a hardship for you?

21 THE JUROR: No.

22 THE COURT: And finally, is there any
23 reason whatsoever why you couldn't sit as a juror
24 on the case, be fair and impartial, decide the

1 case that way, and based only on the evidence and
2 the law?

3 THE JUROR: No.

4 THE COURT: Thank you.

5 (Whereupon, the discussion at side bar
6 was concluded.)

7 THE CLERK: He'll remain. Juror 5-16.

8 (Whereupon, the following discussion
9 occurred at side bar:)

10 THE COURT: How are you?

11 THE JUROR: Good. Thank you.

12 THE COURT: I'm asking everyone the
13 same questions. The defendants are black, the
14 victim is white of Lebanese origin. Is there
15 anything about the race and ethnicity of those
16 individuals which would interfere with your
17 ability to be a fair and impartial juror?

18 THE JUROR: I don't think so, no.

19 THE COURT: Okay. You hesitated a
20 minute. It's important that you be able to
21 assure us that it wouldn't. I want you to take a
22 moment to think about it. Was there some reason
23 for the hesitation?

24 THE JUROR: Not really. Just, I don't

1 know any black people.

2 THE COURT: Pardon?

3 THE JUROR: I don't know any black
4 people.

5 THE COURT: You don't know any black
6 people?

7 THE JUROR: In the last case, I was on
8 a case a few years back, and it was another
9 situation with a black defendant and we found him
10 guilty.

11 THE COURT: Would that influence how
12 you viewed these defendants?

13 THE JUROR: I don't think so.

14 THE COURT: Ms. Matarazzo, I'm going to
15 excuse you from service. You may go. Thank you.

16 THE JUROR: Thank you.

17 (Whereupon, the discussion at side bar
18 was concluded.)

19 THE CLERK: Excused.

20 (Whereupon, a discussion occurred off
21 the record at side bar.)

22 THE COURT: We'll see you at two
23 fifteen.

24 (Whereupon, the proceedings were

1 recessed at 1:10 o'clock p.m., and reconvened at
2 2:25 o'clock p.m.)

3 THE COURT: Ladies and gentlemen,
4 welcome back. We are now ready to move to the
5 next phase of the impanelment and the first thing
6 that is going to happen is that the clerk is
7 going to call you and place you in the jury box.
8 That's this area over here. And then when we
9 have fifteen of you in the box, the attorneys
10 have the right to excuse a certain number of you
11 who are in the jury box or who will be called
12 into the jury box.

13 If for whatever reason you are excused,
14 please don't feel offended or embarrassed by
15 that. It is just part of the process. The
16 lawyers don't have to give me any reasons for
17 making these requests. If you are excused the
18 court officer will tell you what to do next and I
19 want to thank you very much for participating
20 today in the impanelment.

21 Mr. Parsons?

22 THE CLERK: Will the jurors please
23 answer to their names as they are called and take
24 their place in the jury box? And please answer

1 out loud either here or present as your name is
2 called.

3 Juror 6-2, Roberto Swarton. Please say
4 here. 6-2, Roberto Swarton, is he present?

5 Juror 6-3, Clicia Well.

6 THE JUROR: Here.

7 THE COURT: Please take seat number
8 one. Juror 6-7, Steven Thorpe.

9 THE JUROR: Here.

10 THE COURT: Please take seat number
11 two. Juror 6-9, Adeola Aladesulu.

12 THE JUROR: Here.

13 THE CLERK: Please take seat number
14 three. Juror 6-11, Shoshann Williams-Gladin.

15 THE JUROR: Present.

16 THE CLERK: Please take seat number
17 four. Juror 6-14, Kristina Ford.

18 THE JUROR: Here.

19 THE CLERK: Please take seat number
20 five. Juror 6-16, Adam Larabee.

21 THE JUROR: Here.

22 THE CLERK: Please take seat number
23 six. Juror 7-2, K. Batchelder.

24 THE JUROR: Here.

1 THE CLERK: Please take seat number
2 seven. Juror 7-3, Thomas Halloran.
3 THE JUROR: Here.
4 THE CLERK: Please take seat number
5 eight. Juror 7-13, Mark Hartzog.
6 THE JUROR: Here.
7 THE CLERK: Please take seat number
8 nine. Juror 7-16, Kathy Baillie.
9 THE JUROR: Here.
10 THE CLERK: Please take seat number
11 ten. Juror 15-1, Kristine Moyer.
12 THE JUROR: Here.
13 THE CLERK: Please take seat number
14 eleven. Juror 15-3, Kristina Fernandes.
15 THE JUROR: Here.
16 THE CLERK: Please take seat number
17 twelve. Juror 1-1, Amy Gifford. Please say here
18 or present.
19 THE JUROR: Here.
20 THE CLERK: Please take seat number
21 thirteen. Juror 2-1, Michael Panichas.
22 THE JUROR: Here.
23 THE CLERK: Please take seat number
24 fourteen. Juror 2-7, Yuri Pride.

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THE JUROR: Here.

THE CLERK: Please take seat number fifteen.

THE COURT: Ladies and gentlemen, as I mentioned, the attorneys have the right to excuse a certain number of you without giving me any reasons for making the requests. So we give them a little time to think about it. That's why it's quiet in here, but we are making some progress and we will be back with you as soon as we can. Thank you.

THE CLERK: Counsel.

(Whereupon, the following discussion occurred at side bar:)

THE COURT: Mr. Tochka?

MR. TOCHKA: I have three challenges. It's seat number three, 6-9, seat number four, 6-11, and seat number thirteen, 1-1.

THE COURT: What was the last one, sir? I'm sorry.

MR. TOCHKA: 1-1, seat thirteen.

(Whereupon, the discussion at side bar was concluded.)

THE CLERK: Will the following jurors

1 please leave the jury box, you're excused from
2 further service on the jury. The juror in seat
3 number three, juror 6-9, Adeola Aladesulu, juror
4 in seat number four, juror 6-11, Shoshann
5 Williams-Gladin, and the juror in seat number
6 thirteen, juror 1-1, Amy Gifford. If those
7 jurors could step down, you're excused from
8 further service on this jury.

9 Juror 2-8, Ivette Morales.

10 THE JUROR: Here.

11 THE CLERK: Please take seat number
12 three. Juror 2-14, Heather Lyle-Webster.

13 THE JUROR: Here.

14 THE CLERK: Please take seat number
15 four. And juror 2-15, Elizabeth Knox.

16 THE JUROR: Here.

17 THE CLERK: Please take seat number
18 thirteen. Counsel?

19 (Whereupon, the following discussion
20 occurred at side bar:)

21 MR. TOCHKA: Seat number three, 2-8 and
22 seat number ten -- no, thirteen, 2-15.

23 (Whereupon, the discussion at side bar
24 was concluded.)

1 THE CLERK: Would the juror in seat
2 number three, juror 2-8, Ivette Morales, and the
3 juror in seat number thirteen, number 2-15,
4 Elizabeth Knox, please step down? You're excused
5 from further service on this jury.

6 Juror 3-2, Louis Caprio, Jr.

7 THE JUROR: Here.

8 THE CLERK: Please take seat number
9 three. Juror 3-5, Andrew Ross.

10 THE JUROR: Here.

11 THE CLERK: Please take seat number
12 thirteen. Counsel?

13 (Whereupon, the following discussion
14 occurred at side bar:)

15 MR. TOCHKA: The last seat, juror
16 number 3-5 in seat number thirteen.

17 (Whereupon, the discussion at side bar
18 was concluded.)

19 THE CLERK: Would the juror in seat
20 number thirteen, juror 3-5, Andrew Ross, please
21 leave the jury box. You are excused from further
22 service on this jury.

23 Juror 3-7, Rafael Santana.

24 THE JUROR: Here.

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THE CLERK: Please take seat number thirteen. Counsel?

(Whereupon, the following discussion occurred at side bar:)

MR. TOCHKA: Your Honor, with respect to the last seated juror, I'd ask you to inquire, particularly in September, it says two hundred, it should be two thousand, an offense. I don't know what offense he's referring to and I'd ask for the disposition of the 1997 case.

(Whereupon, the discussion at side bar was concluded.)

THE CLERK: Juror in seat number thirteen, Rafael Santana, could you come to side bar, please?

(Whereupon, the following discussion occurred at side bar:)

THE COURT: Mr. Santana, I neglected to ask you a question about information you provided on the questionnaire. You said you were charged with another offense in September.

THE JUROR: Um-hum.

THE COURT: What was that? Another assault and battery or something else?

1 THE JUROR: It's two trials and a
2 violation of restraining order.

3 THE COURT: Okay. Have you been
4 convicted of that, sir?

5 THE JUROR: Well, they gave me a year
6 and a half probation for that.

7 THE COURT: Okay. Did you receive any
8 sentence on the first assault and battery?

9 THE JUROR: They gave me another year
10 probation on the first one and a year and a half
11 on the second one.

12 THE COURT: Okay. So you're currently
13 on probation -- no.

14 THE JUROR: I was off probation last
15 year.

16 THE COURT: Okay. Is there anything
17 about your experience with either one of these
18 cases, sir, that would influence the way you
19 think about this case?

20 THE JUROR: You know, I don't -- I was
21 going to let you know, too, that I can't sit
22 because I have trouble with my tumor on my back.

23 THE COURT: Pardon?

24 THE JUROR: I have a tumor. I have to

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have surgery. I can't sit down too much.

THE COURT: You have a tumor on your back?

THE JUROR: Yes. You can see, I can't sit too much.

THE COURT: So you can't sit too long?

THE JUROR: Yes.

THE COURT: And how long at a time can you sit? An hour and a half? Two hours?

THE JUROR: Hour and a half, sometimes not even one hour.

THE COURT: Okay. We can accommodate that, sir, because we take recesses or you could stand in the back, we can put you in the back row and if you want to stand, if that alleviates your discomfort, you can, but my question to you, sir, was this, with respect to what you put down on your questionnaire about these charges, is there anything about those charges or your experience in the criminal justice system that would affect the way you think about this case?

THE JUROR: Yes, um-hum.

THE COURT: Okay. I'll excuse you from service.

Rafael Santana

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(Whereupon, the discussion at side bar was concluded.)

THE CLERK: You're excused. Juror 3-10, Amber Best.

THE JUROR: Here.

THE CLERK: Please take seat number thirteen.

(Whereupon, the following discussion occurred at side bar:)

MR. TOCHKA: I would like to challenge the last seated juror, 3-10, in seat number thirteen.

THE COURT: I'm sorry. What's the number, please?

MR. TOCHKA: It's 3-10 in seat number thirteen.

THE COURT: Thank you.

(Whereupon, the discussion at side bar was concluded.)

THE CLERK: The juror in seat number thirteen, juror 3-10, Amber Best, please leave the jury box. You are excused from further service on this jury.

Juror 4-3, Robert Nelson.

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THE JUROR: Here.

THE CLERK: Please take seat number
thirteen.

(Whereupon, the following discussion
occurred at side bar:)

MR. TOCHKA: The Commonwealth is
content, Your Honor.

THE COURT: What's the batting order
going to be?

MR. DOOLIN: I'll go first.

THE COURT: Generally throughout the
trial, I would like to keep the same batting
order.

MR. DOOLIN: That's fine.

THE COURT: Yes, sir? Are you ready?

MR. DOOLIN: May I just have a moment,
Your Honor?

THE COURT: Sure.

(Whereupon, the discussion at side bar
was concluded.)

THE CLERK: Counsel?

(Whereupon, the following discussion
occurred at side bar:)

THE COURT: Yes, Mr. Doolin?

1 MR. DOOLIN: Seat number one, 6-3, seat
2 number two, juror 6-7, seat number three, juror
3 3-2, seat number seven, juror 7-2, seat number
4 eight, 7-3, and seat number thirteen, 4-3.

5 THE COURT: That's six.

6 MR. DOOLIN: Yes, Your Honor.

7 (Whereupon, the discussion at side bar
8 was concluded.)

9 THE CLERK: Will the following jurors
10 please leave the jury box? You're excused from
11 further service on this jury. The juror in seat
12 number one, 6-3, Clicia Webb, the juror in seat
13 number two, juror 6-7, Steven Thorpe, the juror
14 in seat number three, juror 3-2, Louis Caprio,
15 Jr., in seat number seven, juror 7-2, K.
16 Batchelder, juror in seat number eight, juror 7-
17 3, Thomas Halloran, and the juror in seat number
18 thirteen, juror 4-3, Robert Nelson. Those
19 jurors, please step down.

20 Juror 4-14, Scott Shoreman.

21 THE JUROR: Here.

22 THE CLERK: Please take seat number
23 one. Juror 5-1, Christopher DiPerro.

24 THE JUROR: Here.

1 THE CLERK: Please take seat number
2 two. Juror 5-2, James Dixon.

3 THE JUROR: Here.

4 THE CLERK: Please take seat number
5 three. Juror 5-4, Krishna Butaney.

6 THE JUROR: Here.

7 THE CLERK: Please take seat number
8 seven. Juror 5-6, Lawrence White.

9 THE JUROR: Here.

10 THE CLERK: Please take seat number
11 eight. And juror 5-10, Mariteres Bergero.

12 THE JUROR: Here.

13 THE CLERK: Please take seat number
14 thirteen. Counsel?

15 (Whereupon, the following discussion
16 occurred at side bar:)

17 MR. DOOLIN: Seat number two, juror 5-
18 1, Your Honor.

19 (Whereupon, the discussion at side bar
20 was concluded.)

21 THE CLERK: The juror in seat number
22 two, juror 5-1, Christopher DiPerro, please leave
23 the jury box. You're excused from further
24 service on this case.

1 Juror 5-12, Peter Goddard.

2 THE JUROR: Here.

3 THE CLERK: Please take seat number
4 two, sir.

5 (Whereupon, the following discussion
6 occurred at side bar:)

7 MR. DOOLIN: I don't have any
8 challenges at this time, Your Honor.

9 THE COURT: Thank you. Mr. Flaherty?

10 MR. FLAHERTY: Judge, could I have a
11 minute?

12 THE COURT: Yes.

13 (Whereupon, the discussion at side bar
14 was concluded.)

15 THE CLERK: Counsel?

16 (Whereupon, the following discussion
17 occurred at side bar:)

18 THE COURT: Yes, sir?

19 MR. FLAHERTY: On behalf of Tanzerius
20 Anderson, juror number 5-12 in seat number two,
21 juror number 7-13 in seat number nine, juror 15-1
22 in seat number eleven, juror 15-3 in seat number
23 twelve and juror 2-7 in seat number fifteen.

24 THE COURT: Just going back now, 7-13

1 is not seat nine. I believe it's juror 5-6.

2 MR. DOOLIN: I think it's juror 7-13.

3 THE COURT: That's correct, I'm sorry.
4 Is that it? Again, so we're clear, juror 5-2 in
5 seat number two, juror 7-13 in seat number nine,
6 juror 15-1 in seat number eleven, juror 15-3 in
7 seat number twelve, and juror 2-7 in seat number
8 fifteen. That's five.

9 MR. FLAHERTY: That's five, Your Honor.

10 (Whereupon, the discussion at side bar
11 was concluded.)

12 THE CLERK: Will the following jurors
13 please leave the jury box? You're excused from
14 further service on the jury. The juror in seat
15 number two, juror 5-12, Peter Goddard, juror in
16 seat number nine, juror 7-13, Mark Hartzog, the
17 juror in seat number eleven, juror 15-1, Kristine
18 Moyer, the juror in seat number twelve, juror 15-
19 3, Kristina Fernandes, and the juror in seat
20 number fifteen, 2-7, Yuri Pride. Those five
21 jurors can step down.

22 Juror 5-15, Benjamin Flamand.

23 THE JUROR: Here.

24 THE CLERK: Please take seat number

1 two. Your Honor, that's all the jurors we have
2 available at this time.

3 THE COURT: May I see counsel, please?

4 (Whereupon, a discussion occurred off
5 the record at side bar.)

6 THE COURT: Ladies and gentlemen, as
7 you can see from the vacant seats, we need more
8 jurors. I need to bring in other jurors and
9 engage in the same impanelment process that I did
10 with you. I'm going to excuse you. You may go
11 to the jury room but we are going to ask that you
12 stay there because you will definitely be members
13 of the jury so we need to have you here when the
14 other jurors are selected so we can fill the
15 seats and then I'll explain when we finish that
16 what the schedule is for tomorrow.

17 Thank you for your attention. I'll see
18 you hopefully in about forty-five minutes. Thank
19 you.

20 (Whereupon, those members of the jury
21 selected so far were escorted from the
22 courtroom.)

23 THE COURT: Alright. You can bring the
24 other jurors in.

1 patience today in the jury room and we anticipate
2 your cooperation going forward this afternoon.

3 Mr. Parsons?

4 THE CLERK: Your Honor, now before the
5 Court are the cases of the Commonwealth versus
6 Tanzerius Anderson. It's indictment number 2000-
7 10777. Offense 001 of that indictment charges
8 Mr. Anderson with murder in the first degree.
9 Offense 002 charges armed robbery, 003 charges
10 possession of a firearm, not being at home or
11 work and without a license, 004 charges
12 intimidation of a witness, and 005 charges armed
13 robbery. Mr. Anderson is present in the court
14 today with Attorney Flaherty.

15 In the case of the Commonwealth versus
16 Jason Robinson, indictment number 2000-10975,
17 offense 001 of that indictment charges Mr.
18 Robinson with murder in the first degree, 002 and
19 003 charge armed robbery, and 004 charges
20 possession of a firearm, not being at home or
21 work and without a license. Mr. Robinson is
22 present in court this afternoon with Attorney
23 Doolin. Mr. Robert Tochka is present for the
24 Commonwealth.

1 This is a continuation of the
2 impanelment process in the trial, Your Honor.
3 May these jurors be sworn?

4 THE COURT: Yes, please.

5 THE CLERK: Jurors, please rise and
6 raise your right hand.

7 (Whereupon, the venire was sworn
8 collectively at 3:15 o'clock p.m.)

9 THE CLERK: I'd ask you please be
10 seated, pay close attention to the questions
11 Judge Rouse will now address to you.

12 THE COURT: Ladies and gentlemen, let
13 me explain how we are going to go about selecting
14 the remaining jurors that we need for this jury.
15 As you know, this is the trial of a criminal case
16 and in this, as in every criminal case, the
17 Commonwealth is the party which charges someone
18 with the commission of a crime or crimes, and in
19 the course of the trial it is the responsibility
20 of the Commonwealth to prove the guilt of the
21 defendants on those crimes beyond a reasonable
22 doubt.

23 Now, in this case we have two
24 defendants and the Commonwealth alleges that on

1 the twenty-ninth of March of the year 2000 that
2 these defendants whose names are Jason Robinson
3 and Tanzerius Anderson, shot and killed a person
4 by the name of Iman Yazbek in the Brighton
5 section of Boston during the course of an armed
6 robbery. This incident took place in the Fanueil
7 Developments in Brighton and the Commonwealth has
8 charged each defendant, Jason Robinson and
9 Tanzerius Anderson, with first degree murder of
10 Iman Yazbek, and has charged them with two counts
11 of armed robbery.

12 Now, to these charges or indictments
13 the defendants have pled not guilty and they, as
14 any person charged with the commission of a
15 crime, are presumed innocent until proven guilty
16 and they have no burden or responsibility
17 whatsoever in the course of this trial to prove
18 anything, say anything, put on any evidence. The
19 job of the Commonwealth is to prove their guilt
20 and to do so by presenting proof beyond a
21 reasonable doubt.

22 What we're going to do in the first
23 phase of impanelment, I will ask you some
24 questions and for that purpose it would be

1 helpful if you would take out your yellow jury
2 card and make it available because, after I've
3 asked the question, I'm going to ask for a yes or
4 no answer, depending on the question, and if you
5 do have a response, then please raise your hand
6 and we'll take from you at that time the two
7 numbers which appear on your card. After I've
8 asked those questions, we are then going to
9 proceed to the second phase of the impanelment
10 which is going to consist of my asking you
11 questions individually over here at side bar with
12 the attorneys present.

13 Now, I'm going to start with seeing if
14 you know any of the trial participants and we'll
15 begin with each of the defendants. We'll start
16 first with Mr. Robinson, Jason Robinson.

17 Sir, would you please stand and turn
18 around and face the venire?

19 THE DEFENDANT: (Complying)

20 THE COURT: And then if you would face
21 over here.

22 THE DEFENDANT: Good afternoon.

23 THE COURT: The question is this, and
24 if you have a yes answer please raise your hand.

1 Do you or any member of your family
2 know the defendant, Jason Robinson?

3 (No response.)

4 THE COURT: Thank you very much. The
5 record should reflect that no juror has raised a
6 hand. The second defendant, his name is
7 Tanzerius Anderson.

8 Mr. Anderson, would you rise, please,
9 sir, and turn around?

10 THE DEFENDANT: Good afternoon.

11 THE COURT: Over here.

12 THE DEFENDANT: Good afternoon.

13 THE COURT: Thank you. The question is
14 this, do you or any member of your family know
15 the defendant, Tanzerius Anderson?

16 (No response.)

17 THE COURT: Thank you. Seeing no hands
18 raised, I'll move on. I'm next going to have the
19 attorneys who represent the Commonwealth and then
20 each of these two defendants introduce themselves
21 to you to see if you know them.

22 Mr. Tochka?

23 MR. TOCHKA: Thank you, Your Honor.

24 Good afternoon, ladies and gentlemen. My name is

1 Bob Tochka and I am an assistant district
2 attorney in Suffolk County. With me is Sergeant
3 Detective Daniel Coleman from the homicide unit
4 of the Boston Police.

5 THE COURT: Thank you very much. Next,
6 Mr. Flaherty?

7 MR. FLAHERTY: Good afternoon, ladies
8 and gentlemen. My name is Timothy Flaherty. I'm
9 an attorney in Boston. My office is located on
10 Bowdoin Street and I represent Tanzerius Anderson
11 from Dorchester.

12 THE COURT: Thank you. Next, Mr.
13 Doolin?

14 MR. DOOLIN: Good afternoon. My name
15 is Michael Doolin. My office is in Dorchester at
16 512 Gallivan Boulevard and I represent Jason
17 Robinson.

18 THE COURT: Thank you. The question is
19 this, do you or any member of your family know or
20 are you familiar with any of these attorneys who
21 just introduced themselves?

22 (No response.)

23 THE COURT: Thank you very much.
24 Seeing no hand raised -- I'm sorry. Was there a

1 hand?

2 COURT OFFICER: Panel 12-12, Your
3 Honor.

4 THE COURT: Thank you very much 12-12?

5 COURT OFFICER: Yes, Your Honor.

6 THE COURT: Thank you. Ladies and
7 gentlemen, let's move on to the list of
8 prospective witnesses. These are people who may
9 come to give testimony at trial. Not everyone
10 whose name I read may actually testify and I
11 assure you that not all of them will because it's
12 a very long list, but we are giving you all the
13 names of possible witnesses in the event that
14 they do testify. I'll read the person's name,
15 the city or town where that person lives or the
16 organization with which that person is
17 affiliated. When I've completed the reading of
18 the list, I'm going to ask if you know or are
19 familiar with anyone whose name is on it. It is,
20 as I say, a long list so please listen carefully
21 to the names and then at the end I'll ask you if
22 anyone's name on it is known to you, that person
23 or his family.

24 The list of prospective witnesses is as

1 follows: Detective Paul McLaughlin, Boston
2 Police, Detective Daniel Coleman, Boston Police,
3 Detective Juan Torres, Boston Police, Detective
4 Thomas Traylor, Boston Police, Detective Joseph
5 Scaringello, Boston Police, Officer Mary
6 Christofi, Boston Police, Detective Sharon Wong,
7 Boston Police, Christine Stevens, Boston Police,
8 Susan Coyne, Boston Police, Officer Martin Lydon,
9 Boston Police, Detective Wayne Rock, Boston
10 Police.

11 Detective Joe Kelly, Watertown Police,
12 Sergeant Detective Thomas Creavon, Boston Police,
13 Lieutenant Vincent Donahue, Boston Police,
14 Detective Paul Mahoney, Boston Police, Officer
15 Robert Sheets, Boston Police, Officer Tony
16 Pettus, Boston Police, Officer Arthur Whitkens,
17 Boston Police, Officer William Kelley, Boston
18 Police, Captain William Evans, Boston Police,
19 Sergeant John McDonough, Boston Police, Detective
20 Joseph Ceaser, Boston Police, Officer John
21 McNulty, Boston Police, Officer John Rouvalis,
22 Boston Police, Officer John Ford, Boston Police.

23 Emergency Medical Technician Athas,
24 Boston Health and Hospitals, Emergency Medical

1 Technician Reardon, Boston Health and Hospitals,
2 George Wahbeh, Waltham, Antrki Helvadjian,
3 Watertown, Roletta Helvadjian, Watertown, Jamie
4 LeClair, Boston, Mary Coady, Brighton, Officer
5 Timothy Kelly, Boston Police, Sergeant Brian
6 Riley, Boston Police, Detective Arthur O'Connell,
7 Boston Police, Dr. Alexander Chirkov from the
8 office of the Medical Examiner, Detective Gerald
9 Abban, Boston Police, Officer Darius Johnson,
10 Boston Police.

11 Veronica Blyakhman from Newton,
12 Jonathon Simms, Boston, Erica Butler, Roxbury,
13 Alan Tate, North Conway, New Hampshire, Edward
14 Gauthier, Brighton, Susan Gauthier, Brighton,
15 Joleena Tate, Brighton, Heather Coady, Brighton,
16 Jeffrey Fitzgerald, South Boston, Brian Wilson,
17 Dorchester, Donna Robinson, Brighton, Officer Ted
18 Colby from the North Conway, New Hampshire police
19 department, Sergeant Detective Jeffrey Dicey of
20 the North Conway, New Hampshire police
21 department, Cynthia McInerney, North Conway, New
22 Hampshire, Alexandra Perry, North Conway, New
23 Hampshire.

24 Thong Dam, Brighton, Yolanni Laine,

1 Brighton, Larry Laine, Brighton, Maria Ortega,
2 Brighton, Luz Bermudes, Brighton, Abboud Yazbek,
3 Watertown, Riad Yazbek, Watertown, Ricardo
4 Rousaleh, Watertown, Pierre Nassif, Brighton,
5 Jennifer Stacey, Newton, Oscar Vega, Brighton,
6 Joanne Constable, Brighton, Edwin Laureano,
7 Roslindale, Amy Harr, Brighton, Ana Culgini,
8 Brighton, Joseph Lutz, Dorchester, Officer
9 Timothy Stanton, Boston Police, Peter Harris,
10 Dorchester, Michael LaRocca, Worcester, Arnold
11 Abelow, an attorney from Everett, William Duane
12 of the Federal Bureau of Investigation,
13 Washington, D.C., and finally, Mark Vickers of
14 the Boston Police.

15 The question is this, do you or any
16 member of your family know any of those
17 prospective witnesses? The numbers in the front
18 row, please.

19 THE JUROR: 6-13.

20 THE COURT: Thank you. Behind him?

21 THE JUROR: 11-13.

22 THE COURT: Anyone else?

23 COURT OFFICER: 12-12, Your Honor.

24 THE COURT: Thank you. Anyone else?

1 Thank you very much. Seeing no other hands
2 raised, I'm going to move on in my questions.
3 Again, if you have a yes answer, ladies and
4 gentlemen, please raise your hand.

5 Are you aware of having any bias or any
6 prejudice for or against the Commonwealth of
7 Massachusetts?

8 (No response.)

9 THE COURT: Thank you. Seeing no hands
10 raised, I'm going to move on. Are you aware of
11 having any bias or any prejudice for or against
12 either one of these two defendants, Jason
13 Robinson or Tanzerius Anderson?

14 (No response.)

15 THE COURT: Thank you very much.
16 Seeing no hand raised, I'm going to move on. Are
17 you aware of having any bias or prejudice in
18 connection with the type of case this is, that
19 is, the nature of the charges involved in this
20 case?

21 Your number, please, in the back?

22 COURT OFFICER: 10-13, Your Honor.

23 THE COURT: 10-13.

24 COURT OFFICER: 13-2, Your Honor.

1 THE COURT: Thank you. Anyone else?
2 Thank you very much. Seeing no hand raised, I'm
3 going to move on. There will be testimony in
4 this case offered from various police and law
5 enforcement officers.

6 The question is this, would you tend to
7 believe the testimony of a police or law
8 enforcement officer more or less merely because
9 that person is a police or law enforcement
10 officer?

11 COURT OFFICER: 12-12, Your Honor, 10-
12 16, Your Honor, 11-8, Your Honor, 12-14, 16-15.

13 THE COURT: Alright. Thank you very
14 much. I'm going now to move to my next question.

15 Do any of you have any physical or
16 medical problems, hearing impairment, or language
17 difficulty which would interfere with your
18 ability to sit as a juror on this case?

19 (No response.)

20 THE COURT: Thank you very much.
21 Seeing no hands raised, I'm going to move on.
22 Have any of you expressed or formed any opinions
23 about the case or the nature of the case?

24 (No response.)

1 THE COURT: Thank you. Seeing no hands
2 raised, I'm going to move on. Do any of you have
3 any personal interest in the outcome of this
4 case?

5 COURT OFFICER: 13-4, Your Honor.

6 THE COURT: Seeing no other hands
7 raised, I'm going to move on. Now, ladies and
8 gentlemen, before I ask the next three questions,
9 I want to make sure that all of you understand
10 the principles of law under which criminal cases
11 are tried. As I noted at the outset, these
12 defendants, like anyone charged with a crime, are
13 presumed innocent until proven guilty. At no
14 time in the course of the trial are they under
15 any obligation to prove anything or do anything
16 or put on any evidence. The burden is on the
17 Commonwealth to prove guilt beyond a reasonable
18 doubt. The defendants enjoy the presumption of
19 innocence until that proof has been presented as
20 credited by the jurors.

21 Keeping in mind those principles of
22 law, I'm going to ask you three questions. If,
23 for any reason, you have a no answer, please
24 raise your hand. Previously I wanted to see your

1 hand if it was a yes but for the next three
2 questions, only raise if you have a no response.

3 Do you understand and accept that under
4 our system of law a defendant is presumed
5 innocent until proven guilty?

6 (No response.)

7 THE COURT: Seeing no hand raised, I'm
8 going to move on. Do you understand and accept
9 that under our system of law it is the job of the
10 Commonwealth to prove a defendant's guilt beyond
11 a reasonable doubt?

12 (No response.)

13 THE COURT: Thank you. Seeing no hand
14 raised, I'll move on to the final question in
15 this series. Do you understand and accept that
16 under our system of law the defendant has no
17 responsibility whatsoever to produce any evidence
18 on his behalf?

19 (No response.)

20 THE COURT: Thank you. Seeing no hand
21 raised, I believe that brings me to the end of
22 first part of the impanelment. What we are going
23 to do now, ladies and gentlemen, is to invite you
24 to this side, this area of my bench to ask some

1 questions individually and for that purpose we do
2 need to ask those of you who are now in the box
3 to vacate it because we are going to bring the
4 other jurors out and put them in the box so we
5 can fill the other seats and when a seat becomes
6 available in the back, please take it.

7 (Whereupon, the following discussion
8 occurred at side bar:)

9 THE COURT: Counsel, I'm going to
10 require you at this time to exercise your
11 challenges immediately after I find the juror
12 indifferent, given the late hour, so that's what
13 we are going to do from now on. You may take
14 whatever time you need to consider it but I will
15 ask for the challenge.

16 (Whereupon, the discussion at side bar
17 was concluded.)

18 THE CLERK: Juror 14-1.

19 (Whereupon, the following discussion
20 occurred at side bar:)

21 THE COURT: How are you? I'm asking
22 everyone the same questions. The defendants in
23 this case are black, the victim is white and of
24 Lebanese origin. Is there anything about the

1 race and ethnicity of these individuals that
2 would interfere with your ability to be a fair
3 and impartial juror?

4 THE JUROR: No.

5 THE COURT: The schedule for the trial
6 is as follows. We will be going this week nine
7 to four and into next week. We expect to get the
8 case to jurors sometime midweek next week and how
9 long the jury has to decide the case is up to the
10 jury.

11 Is there anything in that schedule
12 which would create a hardship for you?

13 THE JUROR: No.

14 THE COURT: And finally, is there any
15 reason whatsoever why you could not sit as a
16 juror on the case and decide it fairly and
17 impartially and based only on the evidence and
18 the law?

19 THE JUROR: No.

20 THE COURT: Thank you very much.

21 (Whereupon, the discussion at side bar
22 was concluded.)

23 THE CLERK: Please take seat nine.

24 (Whereupon, the following discussion

1 occurred at side bar:)

2 MR. FLAHERTY: Your Honor, is it your
3 intention to go as we did last time, fourteen,
4 sixteen and then back to the first panel?

5 THE COURT: We won't be getting there,
6 Mr. Flaherty.

7 MR. FLAHERTY: I think I have to
8 challenge, Mr. Tochka -- I mean, Mr. Doolin has
9 it.

10 THE COURT: Let's not anticipate. Why
11 don't we just move through the impanelment and
12 see what it looks like?

13 MR. FLAHERTY: Just on behalf of Mr.
14 Anderson, I don't mean to be obstinate. I want
15 to move it along as well, but in order to make a
16 thoughtful, intelligent challenge, I think Mr.
17 Anderson has a right to know which jurors will
18 come next.

19 THE COURT: We are going fourteen and
20 sixteen, sir.

21 MR. FLAHERTY: Okay.

22 (Whereupon, the discussion at side bar
23 was concluded.)

24 THE CLERK: 14-2.

1 (Whereupon, the following discussion
2 occurred at side bar:)

3 THE COURT: I'm asking everyone the
4 same questions. The defendants in the case are
5 black and the victim is white of Lebanese origin.
6 Is there anything about the race and ethnicity of
7 these individuals which would interfere with your
8 ability to be a fair and impartial juror?

9 THE JUROR: No.

10 THE COURT: The schedule for the trial
11 is as follows. We will be going this week, nine
12 to four, into next week and we expect to get the
13 case to the jury sometime midweek and then the
14 jury will have the case for whatever time they
15 need to decide it.

16 Is there anything in that schedule,
17 sir, that would create a hardship for you?

18 THE JUROR: I have a little of it in my
19 family, somebody got shot, somebody shoot my
20 uncle, get robbed.

21 THE COURT: Try to keep your voice
22 down, okay? So that would affect the way you
23 think about it?

24 THE JUROR: I would have trouble with

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it.

THE COURT: I'm going to excuse you from service.

(Whereupon, the discussion at side bar was concluded.)

THE CLERK: Excused. Juror 14-3.

(Whereupon, the following discussion occurred at side bar:)

THE COURT: Hello, how are you, Ms. Merullo? Let me address this first. You say you have a case pending for receiving stolen property, is that right?

THE JUROR: Yes.

THE COURT: So where does the case stand?

THE JUROR: I'm going to trial next month.

THE COURT: Okay. Do you have any other convictions?

THE JUROR: No.

THE COURT: And is there anything about your being charged with this crime that would affect the way or influence the way you think about this case?

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1 THE JUROR: No.

2 THE COURT: Alright. Let me go on to
3 the other questions I have. The defendants in
4 the case are black and the victim is white of
5 Lebanese origin. Is there anything about the
6 race and ethnicity of these individuals which
7 would interfere with your ability to be a fair
8 and impartial juror?

9 THE JUROR: Yes.

10 THE COURT: And what is that?

11 THE JUROR: I'm kind of racist.

12 THE COURT: Okay. I'll excuse you.

13 THE JUROR: Thanks.

14 (Whereupon, the discussion at side bar
15 was concluded.)

16 THE CLERK: Excused. Juror 14-6.

17 (Whereupon, the following discussion
18 occurred at side bar:)

19 THE COURT: Hello, sir. I'm asking
20 everyone the same questions. The schedule for
21 this trial is nine to four this week and into
22 next week. We expect to get the case to the jury
23 sometime midweek next week. How long it will
24 take the jurors to decide the case is up to them.

1 Is there anything in that schedule that
2 would create a hardship for you?

3 THE JUROR: I'm an actor and I have
4 rehearsals for a show.

5 THE COURT: What's your show?

6 THE JUROR: It's called Space Hunter.

7 THE COURT: And when do you have
8 rehearsals?

9 THE JUROR: Rehearsals usually start
10 anywhere between four to seven.

11 THE COURT: You would be here nine to
12 four so you can make the rehearsals. Is there
13 any other reason, sir?

14 THE JUROR: No.

15 THE COURT: Okay. Let me ask you this.
16 The defendants are black and the victim is white
17 of Lebanese origin. Is there anything about the
18 race and ethnicity of those individuals that
19 would interfere with your ability to sit as a
20 juror on this case?

21 THE JUROR: No.

22 THE COURT: The schedule for the trial,
23 as I said, will be nine to four and I told you
24 what it is. Let me ask you this, is there

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anything whatsoever that would interfere with your ability to be a fair and impartial juror and decide the case solely on the evidence and the law?

THE JUROR: I'm not an advocate of capital punishment.

THE COURT: There is no capital punishment in the Commonwealth of Massachusetts, sir, and it's not for the jury to decide punishment at any rate, that is, what the sentence is. It's only the job of the jury to decide whether the Commonwealth has proven guilt beyond a reasonable doubt. Then it's up to the judge and the law to sentence. The jurors play no role in that, but there is no capital punishment in the Commonwealth.

THE JUROR: Okay.

THE COURT: Anything else you want to bring to my attention?

THE JUROR: No.

THE COURT: You may be seated.

(Whereupon, the discussion at side bar was concluded.)

THE CLERK: Seat number eleven, please.

1 Juror 14-7.

2 (Whereupon, the following discussion
3 occurred at side bar:)

4 THE COURT: How are you?

5 THE JUROR: Good.

6 THE COURT: I'm asking everyone the
7 same questions but before I do that, I notice you
8 didn't complete your questionnaire.

9 THE JUROR: I'm sorry.

10 THE COURT: You need to do that so I'm
11 going to ask that you step over there with the
12 officer so that you can do that, these three
13 boxes need to be filled out.

14 (Whereupon, the discussion at side bar
15 was concluded.)

16 THE CLERK: Juror 14-10.

17 (Whereupon, the following discussion
18 occurred at side bar:)

19 THE COURT: Hello, Mr. Cabral. I'm
20 asking everyone the same questions. The
21 defendants are black, the victim is white of
22 Lebanese origin. Is there anything about the
23 race and ethnicity of those individuals which
24 would interfere with your ability to be a fair

1 and impartial juror?

2 THE JUROR: No.

3 THE COURT: The schedule for the trial,
4 it will be the rest of this week, nine to four,
5 and into next week. We expect to get the case to
6 the jury around midweek and then the jury would
7 have the case for however long they need to
8 decide it.

9 Is there anything about that schedule
10 sir, that would create a hardship for you?

11 THE JUROR: Yes.

12 THE COURT: What is it?

13 THE JUROR: School.

14 THE COURT: Where do you go to school,
15 sir?

16 THE JUROR: English High School.

17 THE COURT: You're still in high
18 school?

19 THE JUROR: Yes.

20 THE COURT: What year is this?

21 THE JUROR: My junior.

22 THE COURT: Okay. I see here you're
23 employed, sir. Is that full time or part time?

24 THE JUROR: Part time.

1 THE COURT: Okay. And where are you at
2 school?

3 THE JUROR: English.

4 THE COURT: Okay. I'm going to excuse
5 you from service. You may go.

6 (Whereupon, the discussion at side bar
7 was concluded.)

8 THE CLERK: Excused. Juror 4-7.

9 (Whereupon, juror 4-7 returned to side
10 bar and the following discussion occurred:)

11 THE COURT: Thank you very much. Okay.
12 None across the board?

13 THE JUROR: Yes. Sorry about that. It
14 was early this morning.

15 THE COURT: That's alright, Ms.
16 Distasio. Let me ask you this, the defendants in
17 the case are black, the victim is white of
18 Lebanese origin. Is there anything about the
19 race and ethnicity of these individuals which
20 would interfere with your ability to be a fair
21 and impartial juror?

22 THE JUROR: No.

23 THE COURT: No?

24 THE JUROR: No.

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THE COURT: Okay. The schedule is as follows, every day will be nine to four this week and into next week. We expect by midweek we will have the case to the jury for decision. How long it takes the jury to decide is up to them.

Is there anything in that schedule that would create a hardship for you?

THE JUROR: No, not really, except for work.

THE COURT: Alright. You work as a supervisor?

THE JUROR: Data processing.

THE COURT: Other than that?

THE JUROR: No.

THE COURT: Okay. Keeping in mind everyone has job or home responsibilities, alright? The last question is this, is there any reason whatsoever why you couldn't be a fair and impartial juror in the case and decide the case solely on the evidence and the law?

THE JUROR: I can only try. I've never done it before so --

THE COURT: When you say that, you mean that you would follow the instructions I would

1 give you as a juror and do your best to decide
2 the case fairly and impartially?

3 THE JUROR: Yes. I would certainly
4 try.

5 THE COURT: Do you have any
6 reservations, when you say you would try, that
7 you would be unable to do so?

8 THE JUROR: No, I'm just -- I've never
9 sat on a criminal jury before so I don't know
10 what that's like.

11 THE COURT: Well, we instruct you on
12 everything that you need to know about it and we
13 just ask for your attention and that you listen
14 to the evidence and judge it fairly and
15 impartially without any preconceived notions or
16 biases one way or the other. Would you be able
17 to do that?

18 THE JUROR: I guess. I mean. I guess
19 I can't -- I don't know.

20 THE COURT: Your nervousness has to do
21 with, you have never been a juror before?

22 THE JUROR: I was but only in civil
23 cases. That was very many years ago.

24 THE COURT: Many years ago?

1 THE JUROR: But it was like
2 nervewracking, I don't know, so a criminal case,
3 I don't know.

4 THE COURT: But you would
5 conscientiously endeavor to discharge your oath
6 as a juror and do your job diligently?

7 THE JUROR: I would do my best.

8 THE COURT: Thank you. That's all that
9 we ask. She may be seated.

10 (Whereupon, the discussion at side bar
11 was concluded.)

12 THE CLERK: Seat twelve. Juror 14-11.

13 (Whereupon, the following discussion
14 occurred at side bar:)

15 THE COURT: Hello, Ms. Lee. Why don't
16 you come up here? Where are you at law school?

17 THE JUROR: At Northeastern University.

18 THE COURT: Okay. Is this spring
19 break?

20 THE JUROR: No. I missed class today.

21 THE COURT: Okay.

22 THE JUROR: We don't get spring break
23 because we are on the co-op system.

24 THE COURT: The trial is expected to be

1 this week and next on a nine to four basis. The
2 jury would get the case sometime in the week next
3 week and how long it would take the jury to
4 decide is up to them.

5 Is there anything in that schedule that
6 poses a hardship for you?

7 THE JUROR: I would probably have to
8 miss two weeks of class. I have an exam on
9 Friday.

10 THE COURT: I'm going to excuse you
11 from service. You may go.

12 THE JUROR: Thank you.

13 (Whereupon, the discussion at side bar
14 was concluded.)

15 THE CLERK: Excused. Juror 14-12.

16 (Whereupon, the following discussion
17 occurred at side bar:)

18 THE COURT: I'm asking everyone the
19 same questions. The defendants are black and the
20 victim is white of Lebanese origin. Is there
21 anything about the race and ethnicity of these
22 individuals which would interfere with your
23 ability to be a fair and impartial juror?

24 THE JUROR: My mom is Lebanese.

1 THE COURT: Okay. Would that affect
2 the way you think about the case, sir?

3 THE JUROR: It may.

4 THE COURT: Okay. Thank you. I'm
5 going to excuse you from service.

6 (Whereupon, the discussion at side bar
7 was concluded.)

8 THE CLERK: Excused. Juror 14-13.

9 (Whereupon, the following discussion
10 occurred at side bar:)

11 THE COURT: Good afternoon. I'm asking
12 everyone the same questions. Let me ask you
13 first about your information on your
14 questionnaire.

15 THE JUROR: Um-hum.

16 THE COURT: Is that a driving under in
17 1991? Were you convicted?

18 THE JUROR: Yes.

19 THE COURT: Okay. Did you receive any
20 kind of a sentence?

21 THE JUROR: Probation.

22 THE COURT: Is there anything in your
23 experience with that that would affect the way
24 you would think about this case?

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THE JUROR: No.

THE COURT: Okay. Let me go on to the other questions I have to ask everyone. The defendants are black and the victim is white of Lebanese origin. Is there anything about the race and ethnicity of those individuals which would interfere with your ability to be a fair and impartial juror?

THE JUROR: No.

THE COURT: The schedule for the trial, we would be going on a nine to four basis this week into next week. We expect that we will get the case to the jurors sometime during the week next week.

Is there anything about that schedule which would create a hardship for you?

THE JUROR: Do I get paid?

THE COURT: You get paid by your employer the first three days as if you were working. Thereafter the Commonwealth compensates you at the rate of fifty dollars a day. If you can demonstrate a financial hardship, then I can authorize some additional monies. Not a lot but it --

1 THE JUROR: It will be tough but I can
2 probably swing it.

3 THE COURT: Okay. You have to tell me
4 because it will probably be at least, at a
5 minimum, four or five days of fifty dollars
6 unless there is an authorization for more. If
7 you feel it's a hardship --

8 THE JUROR: It will be hard but it
9 won't be impossible.

10 THE COURT: Okay. Would that in any
11 way affect the way you would think about the
12 case?

13 THE JUROR: Possibly.

14 THE COURT: Okay. I'm going to excuse
15 you from service. You may go.

16 (Whereupon, the discussion at side bar
17 was concluded.)

18 THE CLERK: Excused. Juror 14-14.

19 (Whereupon, the following discussion
20 occurred at side bar:)

21 THE COURT: Hello, how are you?

22 THE JUROR: Fine.

23 THE COURT: I see you are a student.
24 Where are you at school?

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THE JUROR: Northeastern.

THE COURT: Okay. What are you doing this week?

THE JUROR: I actually have a reunion in the Philippines on Saturday.

THE COURT: You have a reunion?

THE JUROR: In the Philippines on Saturday.

THE COURT: High school reunion?

THE JUROR: Family reunion.

THE COURT: You shouldn't miss it then. You're excused.

(Whereupon, the discussion at side bar was concluded.)

THE CLERK: Excused. Juror 14-15.

(Whereupon, the following discussion occurred at side bar:)

THE COURT: Let me ask you the questions I've asked everyone. The defendants in the case are black and the victim is white of Lebanese origin. Is there anything about the race and ethnicity of those individuals that would interfere with your ability to be a fair and impartial juror?

1 THE JUROR: No.

2 THE COURT: The schedule for the trial
3 will be on a nine to four basis this week and
4 into next week. We expect the case to get to the
5 jury sometime midweek next week. How long the
6 jury would have it is up to them thereafter.

7 Is there anything in that schedule that
8 would create a hardship for you?

9 THE JUROR: No.

10 THE COURT: Is there any reason
11 whatsoever why you cannot sit on the jury on this
12 case --

13 THE JUROR: No.

14 THE COURT: -- and decide it fairly and
15 impartially based only on the evidence and the
16 law?

17 THE JUROR: I am able to do that.

18 THE COURT: Okay. Thank you. You may
19 be seated.

20 (Whereupon, the discussion at side bar
21 was concluded.)

22 THE CLERK: Seat fifteen, please.

23 THE COURT: For those jurors who were
24 not here -- those of you in the back may find

1 seats momentarily. For those jurors that just
2 came in this afternoon, let me explain that at
3 this time in the trial, the lawyers have a right
4 to excuse a certain number of you without giving
5 me any reasons for making the requests. If
6 you're excused, you will be discharged from your
7 jury service by virtue of being here today.

8 Please don't be offended if you are
9 asked to step down. It's part of the process.
10 If you vacate a seat, someone in the rear will be
11 called to take your place.

12 THE CLERK: Counsel.

13 (Whereupon, the following discussion
14 occurred at side bar:)

15 MR. FLAHERTY: Your Honor, on behalf of
16 Tanzerius Anderson, juror 5-15 in seat number two
17 and juror 14-7 in seat number twelve.

18 THE COURT: Is that it, sir?

19 MR. FLAHERTY: That's it.

20 THE COURT: Thank you.

21 (Whereupon, the discussion at side bar
22 was concluded.)

23 THE CLERK: Would the juror in seat
24 number two, juror 5-15, Benjamin Flamand, and the

1 juror in seat number twelve, juror 14-7, Janet
2 Distasio, if those jurors could step down. You
3 have been excused from further service on this
4 jury.

5 Juror 14-16, Vu Mylinh.

6 (Whereupon, the following discussion
7 occurred at side bar:)

8 THE COURT: I'm asking everyone the
9 same questions. The defendants in the case are
10 black, the victim is white of Lebanese origin.
11 Is there anything about the race and ethnicity of
12 these individuals which would interfere with your
13 ability to be a fair and impartial juror?

14 MR. DOOLIN: I don't know.

15 THE COURT: I'm sorry?

16 THE JUROR: I don't know.

17 THE COURT: Do you have any difficulty
18 understanding English?

19 THE JUROR: Yes.

20 THE COURT: Pardon?

21 THE JUROR: I understand but I can't --

22 THE COURT: You can't speak English?

23 THE JUROR: No, I speak it but I don't
24 speak perfectly.

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THE COURT: That's okay that you don't speak perfectly. Have you been able to understand my questions?

THE JUROR: Um-hum.

THE COURT: You have?

THE JUROR: Yes.

THE COURT: Okay. And the question I just asked you I'm going to ask you again. The defendants in the case are black, the victim is white of Lebanese origin. Is there anything about the race and ethnicity of those individuals which would interfere with your ability to be a fair and impartial juror? Did you understand my question?

THE JUROR: No.

THE COURT: Okay. I'm going to excuse you from service. You may go.

(Whereupon, the discussion at side bar was concluded.)

THE CLERK: Excused. Juror 16-1.

(Whereupon, the following discussion occurred at side bar:)

THE COURT: You did not complete your questionnaire. I'm going to ask that you go over

1 there with the court officer, he will give you a
2 pen. You need to fill in these two boxes.

3 (Whereupon, the discussion at side bar
4 was concluded.)

5 THE CLERK: Juror 16-2.

6 (Whereupon, the following discussion
7 occurred at side bar:)

8 THE COURT: How are you, Mr. Trowers.

9 THE JUROR: Fine.

10 THE COURT: I'm asking everyone the
11 same questions, sir. The schedule for the trial
12 is going to be on a nine to four basis this week
13 and next. We expect to get the case to the jury
14 sometime midweek next week. How long the jury
15 has it is up to them thereafter.

16 Is there anything about that schedule
17 that would create a hardship for you?

18 THE JUROR: I'm a student, a full time
19 student.

20 THE COURT: Where are you a student?

21 THE JUROR: Bryant College in Rhode
22 Island.

23 THE COURT: You commute?

24 THE JUROR: I live there.

1 THE COURT: Okay.

2 THE JUROR: I just came down because I
3 had to do jury duty today. They sent something
4 to my house.

5 THE COURT: Okay. I'm going to excuse
6 you from service.

7 (Whereupon, the discussion at side bar
8 was concluded.)

9 THE CLERK: Excused. Juror 16-3.

10 (Whereupon, the following discussion
11 occurred at side bar:)

12 THE COURT: Hello. I'm asking everyone
13 the same questions, sir. The defendants in the
14 case are black, the victim is white of Lebanese
15 origin. Is there anything about the race and
16 ethnicity of those individuals which would create
17 -- which would interfere with your ability to be
18 a fair and impartial juror?

19 THE JUROR: No.

20 THE COURT: Okay. The schedule for the
21 trial will be on a nine to four basis this week
22 and into next week. We expect by midweek next
23 week we would have the case to the jury for
24 decision. It would be up to the jury how long it

1 takes to decide the case.

2 Is there anything in that schedule,
3 sir, that would create a hardship?

4 THE JUROR: No.

5 THE COURT: And finally, is there any
6 reason whatsoever why you cannot be a fair and
7 impartial juror, and decide the case solely on
8 the basis of the evidence and the law?

9 THE JUROR: No.

10 THE COURT: Okay. Thank you. If you
11 will just wait over there one moment with the
12 court officer.

13 (Whereupon, the juror left side bar,
14 after which the following discussion occurred at
15 side bar:)

16 MR. FLAHERTY: Are we going to inquire
17 of juror 16-1?

18 THE COURT: Sir, you are going to
19 exercise your challenge with respect to the juror
20 I just found indifferent, 16-3.

21 MR. FLAHERTY: I am going to exercise
22 on behalf of Mr. Anderson, I will exercise a
23 peremptory challenge.

24 THE COURT: 16-3?

1 MR. FLAHERTY: Yes.

2 THE COURT: He's excused.

3 (Whereupon, the discussion at side bar
4 was concluded.)

5 THE CLERK: Excused. Juror 16-1.

6 (Whereupon, juror 16-1 was returned to
7 side bar after which the following discussion
8 occurred:)

9 THE COURT: Thank you. Okay. It's
10 none across the board. Let me ask you this, the
11 defendants are black, the victim is white of
12 Lebanese origin. Is there anything about the
13 race and ethnicity of those individuals which
14 would interfere with your ability to be a fair
15 and impartial juror?

16 THE JUROR: No.

17 THE COURT: The schedule for the trial
18 is on a nine to four basis this week and into
19 next week. We expect the case to get to the jury
20 sometime midweek next week. How long it takes
21 the jury to decide it is up to them.

22 Is there anything in that schedule that
23 would create a hardship for you?

24 THE JUROR: It's hard to schedule,

1 actually it's hard to schedule for me.

2 THE COURT: What do you do?

3 THE JUROR: Actually I'm working full
4 time and that is -- this month is very hard for
5 me and I have an operation, surgery for my eye
6 and I have a bunch of --

7 THE COURT: What do you do?

8 THE JUROR: I'm a medical assistant in
9 Harvard Pilgrim.

10 THE COURT: And you have patients
11 scheduled for next week?

12 THE JUROR: Actually I'm just working -
13 - I have scheduled for my operation besides my
14 work and I'm working full time, forty hours.

15 THE COURT: Your operation or somebody
16 else's?

17 THE JUROR: No, I have surgery on my
18 eye. I have surgery scheduled.

19 THE COURT: On you?

20 THE JUROR: On me.

21 THE COURT: When?

22 THE JUROR: April 1.

23 THE COURT: Okay. That's not next
24 week. That's the week after.

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THE JUROR: Yeah, and next week
Wednesday I have a preparation physical, March
22.

THE COURT: Alright. Thank you.
You're excused from service.

THE JUROR: Thank you.

(Whereupon, the discussion at side bar
was concluded.)

THE CLERK: Excused. Juror 16-4.

(Whereupon, the following discussion
occurred at side bar:)

THE COURT: How are you, sir?

THE JUROR: Good. Thank you.

THE COURT: I'm going to ask that you
complete this questionnaire. You did not
complete these boxes.

THE JUROR: I'm sorry.

THE COURT: You can stand over there
with the officer and he will give you a pen to do
it.

THE JUROR: Okay.

(Whereupon, the discussion at side bar
was concluded.)

THE COURT: Juror 16-5.

1 (Whereupon, the following discussion
2 occurred at side bar:)

3 THE COURT: Hello, how are you?

4 THE JUROR: Fine.

5 THE COURT: I'm asking everyone the
6 same questions. The defendants in the case are
7 black, the victim is white of Lebanese origin.
8 Is there anything about the race and ethnicity of
9 those individuals which would interfere with your
10 ability to be a fair and impartial juror?

11 THE JUROR: No, no, it wouldn't bother
12 me.

13 THE COURT: Pardon?

14 THE JUROR: I said it wouldn't bother
15 me.

16 THE COURT: The schedule for the trial
17 will be on a nine to four basis this week into
18 next week. We expect the case to get to the jury
19 sometime midweek next week. How long it will
20 take to decide it is up to them.

21 Is there anything in that schedule that
22 would create a hardship for you?

23 THE JUROR: No.

24 THE COURT: Is there any reason

1 whatsoever why you couldn't be a fair and
2 impartial juror, decide the case solely on the
3 basis of the evidence and the law?

4 THE JUROR: No.

5 THE COURT: Thank you. Would you be
6 good enough to just wait over there, please, for
7 us?

8 (Whereupon, the juror left side bar,
9 and the following discussion occurred at side
10 bar:)

11 MR. FLAHERTY: I would challenge her,
12 Your Honor, 16-5.

13 (Whereupon, the discussion at side bar
14 was concluded.)

15 THE CLERK: Juror 16-5 is excused.
16 Juror 16-4.

17 (Whereupon, juror 16-4 was returned to
18 side bar after which the following discussion
19 occurred:)

20 THE COURT: Okay, sir. None. Where
21 are you at school?

22 THE JUROR: College of Pharmacy.

23 THE COURT: What year are you?

24 THE JUROR: Fourth year.

1 THE COURT: Are you on spring break?

2 THE JUROR: No.

3 THE COURT: What's happening this week?

4 THE JUROR: I have school.

5 THE COURT: Classes?

6 THE JUROR: Classes and exams.

7 THE COURT: And exams this week?

8 THE JUROR: Yes, I do.

9 THE COURT: You're excused from
10 service. You may go.

11 THE JUROR: Thank you very much.

12 (Whereupon, the discussion at side bar
13 was concluded.)

14 THE CLERK: Excused. 16-6.

15 (Whereupon, the following discussion
16 occurred at side bar:)

17 THE COURT: Hello, sir. Let me ask you
18 this, the defendants in the case are black, the
19 victim is white of Lebanese origin. Is there
20 anything about the race and ethnicity of those
21 individuals that would interfere with your
22 ability to be a fair and impartial juror?

23 THE JUROR: I'm not sure. I worked in
24 a liquor store in California one time.

1 THE COURT: Yes?

2 THE JUROR: And there was a -- I was a
3 part owner. I was working there, there was a
4 shooting incident at the time and I --

5 THE COURT: And he told you about it?

6 THE JUROR: No, he got shot when I was
7 there so --

8 THE COURT: You were there during the
9 robbery?

10 THE JUROR: Yes.

11 THE COURT: Okay. I'm going to excuse
12 you from service on this jury, sir. You may go.

13 THE JUROR: Okay.

14 (Whereupon, the discussion at side bar
15 was concluded.)

16 THE CLERK: Excused. 16-7.

17 (Whereupon, the following discussion
18 occurred at side bar:)

19 THE COURT: Hello. How are you?

20 THE JUROR: Good.

21 THE COURT: I'm asking everyone the
22 same questions. The defendants in the case are
23 black, the victim is white of Lebanese origin.
24 Is there anything about the race and ethnicity of

1 those individuals which would interfere with your
2 ability to be a fair and impartial juror?

3 THE JUROR: No.

4 THE COURT: You're sure?

5 THE JUROR: Yes.

6 THE COURT: The schedule for the trial
7 is on a nine to four basis this week and into
8 next week, and we expect to get the case to the
9 jurors sometime midweek next week. How long the
10 jury would take to decide it is up to them.

11 Is there anything in that proposed
12 schedule that would create a hardship for you?

13 THE JUROR: Probably just the hours.

14 THE COURT: In what way? Do you work?

15 THE JUROR: I have a daughter at home.

16 THE COURT: I don't see any information
17 about her on there.

18 THE JUROR: I didn't put it on there.

19 THE COURT: Okay. They ask for
20 children.

21 THE JUROR: Oh, I didn't --

22 THE COURT: How old is your daughter?

23 THE JUROR: She's nineteen.

24 THE COURT: So what does she do? I

1 mean, she is nineteen. Is she handicapped in
2 some way?

3 THE JUROR: No. She's just looking for
4 work, that's all.

5 THE COURT: Are you normally working
6 during the day?

7 THE JUROR: I normally do, yes.

8 THE COURT: Okay. So you would be at
9 work if you weren't a juror?

10 THE JUROR: Yes, but I work sometimes
11 at night, too. I go in nights. I just worked
12 last night to ten thirty. I was supposed to go
13 today, too, in the afternoon.

14 THE COURT: If you're selected as a
15 jury, the days you're here you're not required,
16 your employer cannot make you work during the day
17 or at night.

18 THE JUROR: Um-hum, I know.

19 THE COURT: Do you understand that?

20 THE JUROR: Yes, I do.

21 THE COURT: Okay. So let me ask you
22 about the schedule again. Is there anything that
23 would create a hardship for you in that schedule?

24 THE JUROR: No -- no.

1 MR. DOOLIN: Is there any reason
2 whatsoever why you wouldn't be a fair and
3 impartial juror and decide the case solely on the
4 evidence and the law?

5 THE JUROR: I don't see why not.

6 THE COURT: Okay. Do you mind just
7 waiting for us?

8 (Whereupon, the juror left side bar
9 after which the following discussion occurred:)

10 THE COURT: Mr. Flaherty?

11 MR. FLAHERTY: She didn't fill out that
12 section and I'm wondering if you would inquire of
13 her those questions or ask she fill out the
14 second section about spouse and employment status
15 of the spouse.

16 (Whereupon, juror 16-7 was returned to
17 side bar after which the following discussion
18 occurred:)

19 THE COURT: Ms. McLean, you didn't fill
20 out any information about a spouse. Do you have
21 a spouse?

22 THE JUROR: No.

23 THE COURT: Okay. And you have one
24 daughter who is nineteen?

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THE JUROR: Um-hum.

THE COURT: Okay. And would you read this box over here?

THE JUROR: It would be none.

THE COURT: None. Okay. Is there any other information that you did not complete on the questionnaire?

THE JUROR: No.

THE COURT: Okay. Thank you. Would you wait for us over there?

(Whereupon, the juror left side bar, after which the following discussion occurred:)

MR. FLAHERTY: I'll exercise a peremptory challenge as to her, 16-7, Ms. McLean.

THE COURT: That brings it to eleven, sir.

(Whereupon, the discussion at side bar was concluded.)

THE CLERK: Excused. Juror 16-8.

(Whereupon, the following discussion occurred at side bar:)

THE COURT: I'm asking everyone the same questions, Ms. Hernandez. The defendants in the case are black, the victim is white of

1 Lebanese origin. Is there anything about the
2 race and ethnicity of those individuals which
3 would interfere with your ability to be a fair
4 and impartial juror?

5 THE JUROR: No. I don't understand too
6 much.

7 THE COURT: What's your first language?

8 THE JUROR: Hernandez.

9 THE COURT: You're excused from
10 service.

11 (Whereupon, the discussion at side bar
12 was concluded.)

13 THE CLERK: Excused. Juror 16-9.

14 (Whereupon, the following discussion
15 occurred at side bar:)

16 THE COURT: Hello, Ms. Tam, how are
17 you?

18 THE JUROR: Good.

19 THE COURT: Are you a student?

20 THE JUROR: Yes, at Boston University.

21 THE COURT: What's going on this week?

22 THE JUROR: I have a midterm on Monday
23 so the classes this week are for preparation for
24 that.

1 THE COURT: One exam next week?

2 THE JUROR: Yes.

3 THE COURT: Okay. You're excused from
4 service. You may go.

5 (Whereupon, the discussion at side bar
6 was concluded.)

7 THE CLERK: Excused.. 16-10.

8 (Whereupon, the following discussion
9 occurred at side bar:)

10 THE COURT: Hello, how are you?

11 THE JUROR: Hi.

12 THE COURT: Ms. Till, I'm asking
13 everyone the same questions. The defendants in
14 the case are black, the victim is white of
15 Lebanese origin. Is there anything about the
16 race and ethnicity of these individuals which
17 would interfere with your ability to be a fair
18 and impartial juror?

19 THE JUROR: No.

20 THE COURT: The schedule for the trial
21 will be on about a nine to four basis all this
22 week and into next week. We expect to get the
23 case to the jury sometime next week. How long
24 the jury would have it is up to them.

1 Is there anything in that schedule that
2 would create a hardship for you?

3 THE JUROR: No.

4 THE COURT: Is there any reason
5 whatsoever why you could not sit as a juror in
6 this case and decide it fairly and impartially --

7 THE JUROR: No.

8 THE COURT: -- based only on the
9 evidence and the law?

10 THE JUROR: No.

11 THE COURT: Okay. Thank you. Would
12 you be good enough to wait back with that
13 officer? We'll be right with you.

14 (Whereupon, the juror left side bar,
15 after which the following discussion occurred:)

16 MR. FLAHERTY: Your Honor, the next
17 panel?

18 THE COURT: I think we will be going to
19 panel eleven.

20 MR. FLAHERTY: As to 16-11, I'll
21 exercise a peremptory as to her.

22 THE COURT: 16-11?

23 MR. FLAHERTY: 16-10.

24 (Whereupon, the discussion at side bar

1 was concluded.)

2 THE CLERK: Juror 16-10 is excused.
3 16-11.

4 (Whereupon, the following discussion
5 occurred at side bar:)

6 THE COURT: How are you this evening?

7 THE JUROR: Fine.

8 THE COURT: I'm asking everyone the
9 same questions. The defendants in the case are
10 black, the victim is white of Lebanese origin.
11 Is there anything about the race and ethnicity of
12 these individuals which would interfere with your
13 ability to be a fair and impartial juror?

14 THE JUROR: Only in that every crime
15 that's been committed against me has been with a
16 black person or my neighbors.

17 THE COURT: You're excused from
18 service.

19 THE JUROR: Thanks.

20 (Whereupon, the discussion at side bar
21 was concluded.)

22 THE CLERK: Excused. 16-12.

23 (Whereupon, the following discussion
24 occurred at side bar:)

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THE COURT: Hello, how are you?

THE JUROR: Good, thanks.

THE COURT: Let me ask you about a comment you have on your questionnaire about judgment, judging people. What do you mean by that?

THE JUROR: Making decisions one way or another makes me a little uncomfortable.

THE COURT: Have you ever served as a juror before?

THE JUROR: Never.

THE COURT: Okay. Let me explain what we ask jurors to do and that is to listen carefully and attentively to everything in the case, the evidence, to decide the case fairly and impartially along with other members of the jury, and at the end of the case to decide whether the Commonwealth has proven the defendant's guilt beyond a reasonable doubt and to follow the instructions that I would give you at the end of the case. Would you be able to do that?

THE JUROR: Yeah. I understand those instructions. I would, I think, internally, hearing the case, it kind of, you know, makes me

1 -- I don't know.

2 THE COURT: You're excused from
3 service.

4 THE JUROR: Thank you.

5 (Whereupon, the discussion at side bar
6 was concluded.)

7 THE CLERK: Excused. Juror 16-13.

8 (Whereupon, the following discussion
9 occurred at side bar:)

10 THE COURT: Hello, sir. How are you?
11 Let me ask you about this, your house has been
12 broken into?

13 THE JUROR: Yes.

14 THE COURT: Okay. How many occasions?

15 THE JUROR: On one occasion.

16 THE COURT: How long ago was that?

17 THE JUROR: About seven years ago.

18 THE COURT: Did they ever catch anybody
19 or charge anybody?

20 THE JUROR: No.

21 THE COURT: Is there anything in your
22 experience with that, sir, that would influence
23 the way you would think about this case?

24 THE JUROR: I don't think so.

1 THE COURT: Can I take that as a no?

2 THE JUROR: Correct.

3 THE COURT: Because the record only
4 reflects words. Let me ask you this, sir. The
5 defendants in the case are black, the victim is
6 white of Lebanese origin. Is there anything
7 about the race and ethnicity of those individuals
8 which would interfere with your ability to be a
9 fair and impartial juror?

10 THE JUROR: No.

11 THE COURT: The schedule for the trial
12 is going to be on a nine to four basis every day
13 this week and into next week. We expect to get
14 the case to the jurors sometime midweek next
15 week. How long the jury takes is up to them to
16 decide.

17 Is there anything in that schedule
18 which would be a hardship for you?

19 THE JUROR: I just need to pick my wife
20 up at night over the weekend, as long as the
21 weekend is free.

22 THE COURT: We're not sequestering
23 anybody. You're free to go by four, four fifteen
24 every day.

1 THE JUROR: I have no problem.

2 THE COURT: And the final question,
3 sir, is there any reason whatsoever why you
4 cannot be a fair and impartial juror and decide
5 the case solely on the evidence and the law?

6 THE JUROR: No.

7 THE COURT: Okay. One final question,
8 sir. I see that your uncle and cousin are FBI
9 agents?

10 THE JUROR: They were.

11 THE COURT: They are not currently?

12 THE JUROR: No, retired or dead.

13 THE COURT: So that was a while ago?

14 THE JUROR: Yes.

15 THE COURT: Okay. Thank you very much.
16 The question is this, one of the proposed
17 witnesses is from the FBI. Would you be able to
18 judge that witness's testimony objectively?

19 THE JUROR: Yes. One of the other
20 witnesses was Paul Evans who I do know. I do
21 know Paul Evans through the neighborhood.

22 THE COURT: How do you know Mr. Evans?

23 THE JUROR: Through our crime watch and
24 he works closely with the public safety

1 committee. We work with the police on an
2 occasional basis.

3 THE COURT: Do we expect --

4 MR. TOCHKA: No, he's not testifying.

5 THE COURT: He's not going to be a
6 witness. Were there any other police officers?

7 THE JUROR: No.

8 THE COURT: Or any other witnesses'
9 names that you recognized or are familiar with?

10 THE JUROR: No.

11 THE COURT: Okay. Fine. Thank you
12 very much. Would you just wait over there for
13 one minute?

14 (Whereupon, the juror left side bar,
15 after which the following discussion occurred at
16 side bar:)

17 MR. FLAHERTY: With respect to this
18 juror, I would ask you to excuse him for cause.
19 He says he works with the crime watch, he is
20 familiar with Paul Evans who is captain of the
21 Brighton division who was directly connected with
22 the investigation of the case. He also notes on
23 his jury questionnaire that he has an uncle and
24 cousin who are FBI agents.

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THE COURT: I just went through that with him, sir. I just asked him all those questions.

MR. FLAHERTY: And I'm asking that you excuse him for cause based upon his responses.

THE COURT: His responses were that it would not affect his decision, he would be objective and fair about the case. I credit those responses and I find no reason to excuse him for cause.

MR. FLAHERTY: I would like to exercise a peremptory as to 16-13, Mr. Greene.

(Whereupon, the discussion at side bar was concluded.)

THE CLERK: Juror 16-13 is excused. Juror 16-14.

(Whereupon, the following discussion occurred at side bar:)

THE COURT: Good afternoon. Where are you in college?

THE JUROR: I'm going to Northeastern University.

THE COURT: What's happening this week?

THE JUROR: It's spring break.

1 THE COURT: Okay. the question is
2 this, Ms. Kim. The defendants in the case are
3 black, the alleged victim is white -- I mean, the
4 victim is white and of Lebanese origin. Is there
5 anything about the race and ethnicity of those
6 individuals that would interfere with your
7 ability to be a fair and impartial juror?

8 THE JUROR: No.

9 THE COURT: And the schedule would be
10 this week about nine to four and we would also go
11 into next week. We expect the case to get to the
12 jurors sometime midweek and how long it takes the
13 jurors thereafter to decide the case is up to
14 them.

15 Is there anything in that schedule that
16 would create a hardship for you?

17 THE JUROR: Because Friday, spring
18 break started last Friday and it ends this Friday
19 and I haven't been home. I planned to go home
20 after this court and I'm suffering from a severe
21 cold.

22 THE COURT: Where is home for you?

23 THE JUROR: I'm from New York. I'm
24 going back to them after this court but it's

1 going to take more than one day to finish.

2 THE COURT: You're excused from
3 service.

4 (Whereupon, the discussion at side bar
5 was concluded.)

6 THE CLERK: Excused. ¹²⁻¹⁵ 16-15. Is juror
7 16-15 present?

8 THE JUROR: Yes.

9 (Whereupon, the following discussion
10 occurred at side bar:)

11 THE COURT: Mr. Cardinal, ¹⁶⁻¹⁵ how are you?

12 THE JUROR: Good.

13 THE COURT: Step over here. The
14 defendants in the case are black, the victim is
15 white of Lebanese origin. Is there anything
16 about the race and ethnicity of those individuals
17 that would interfere with your ability to be a
18 fair and impartial juror?

19 THE JUROR: No.

20 THE COURT: The schedule for the trial
21 is on a nine to four basis this week and we will
22 be going into next week. We expect to get the
23 case to the jury for decision sometime midweek.
24 How long the jury would have it is up to them.

1 Is there anything in that schedule,
2 sir, that would create a hardship for you?

3 THE JUROR: I do have a business
4 meeting Monday through Wednesday in Florida. My
5 girlfriend was going to meet me there Wednesday.
6 We were going to Disneyland, coming back Sunday.

7 THE COURT: . Next week?

8 THE JUROR: Next week.

9 THE COURT: You're excused from
10 service.

11 (Whereupon, the discussion at side bar
12 was concluded.)

13 THE CLERK: Excused. 6-16.

14 (Whereupon, the following discussion
15 occurred at side bar:)

16 THE COURT: How are you, sir?

17 THE JUROR: Good. How are you?

18 THE COURT: Mr. McDonough, the
19 defendants in the case are black, the victim is
20 white of Lebanese origin. Is there anything
21 about the race and ethnicity of these individuals
22 which would interfere with your ability to be a
23 fair and impartial juror?

24 THE JUROR: No.

1 THE COURT: The schedule for the trial
2 would be on about a nine to four basis every day
3 this week and into next week. We expect to get
4 the case to the jury sometime midweek next week.
5 Is there anything in that schedule, sir, that
6 would create a hardship for you?

7 THE JUROR: Just, it might be a problem
8 with missing work so much.

9 THE COURT: What would the problem be?

10 THE JUROR: Just not being able to do
11 my job.

12 THE COURT: You are a banker?

13 THE JUROR: I'm a sales person for a
14 bank.

15 THE COURT: Okay. And if you're not
16 there, someone --

17 THE JUROR: I don't have any specific
18 responsibilities that would go unfilled but it's
19 a performance issue. The amount of time I would
20 be out would probably impact my production.

21 THE COURT: Okay. You can understand
22 how most folks here have job and home
23 responsibilities?

24 THE JUROR: Of course.

1 THE COURT: I can't excuse you for that
2 reason.

3 THE JUROR: Okay.

4 THE COURT: Let me ask you this
5 question, sir. Is there any reason whatsoever
6 why you cannot be a fair and impartial juror, and
7 base your decision in the case only on the
8 evidence and the law?

9 THE JUROR: No.

10 THE COURT: Okay. Thank you, sir.
11 Would you mind waiting over there?

12 THE JUROR: Sure.

13 (Whereupon, the juror left side bar,
14 after which the following discussion occurred:)

15 MR. FLAHERTY: I would exercise a
16 peremptory as to 16-16.

17 (Whereupon, the discussion at side bar
18 was concluded.)

19 THE CLERK: Juror 16-16 is excused.
20 Panel 11, juror 11-2.

21 (Whereupon, the following discussion
22 occurred at side bar:)

23 THE COURT: Mr. Donald, I'm asking
24 everyone the same questions. The defendants in

1 the case are black, the victim is white of
2 Lebanese origin. Is there anything about the
3 race and ethnicity of these individuals which
4 would interfere with your ability to be a fair
5 and impartial juror?

6 THE JUROR: No.

7 THE COURT: The schedule for the trial
8 would be on about a nine to four basis this week
9 and into next week. We expect to get the case to
10 the jury sometime midweek next week. How long it
11 takes the jury to decide the case is up to them.

12 Is there anything in that schedule,
13 sir, that would create a hardship for you?

14 THE JUROR: I'm going out of town this
15 weekend.

16 THE COURT: Well, we won't be in
17 session on the weekend.

18 THE JUROR: No.

19 THE COURT: So you're back Monday?

20 THE JUROR: Right.

21 THE COURT: You would be here Friday?

22 THE JUROR: Yes.

23 THE COURT: Okay. The final question
24 is, sir, is there any reason whatsoever why you

1 could not be a fair and impartial juror and
2 decide the case based only on the evidence and
3 the law?

4 THE JUROR: No.

5 THE COURT: Okay, sir. Would you be
6 good enough to wait back there and we will be
7 right with you.

8 THE JUROR: Thank you.

9 (Whereupon, the juror left side bar,
10 after which the following discussion occurred:)

11 MR. FLAHERTY: Content.

12 THE COURT: Okay. I think we go back
13 to Mr. Tochka. We're exercising challenges
14 immediately after I find them indifferent so you
15 need to exercise the challenge if you are going
16 to exercise one.

17 MR. TOCHKA: It's my understanding,
18 obviously I have challenges that -- I have not
19 previously exercised challenges so do you want me
20 to exercise those challenges now that he has said
21 that he is content?

22 THE COURT: We're just exercising a
23 challenge right now to 11-2.

24 MR. TOCHKA: In that case I'm

1 challenging.

2 (Whereupon, the discussion at side bar
3 was concluded.)

4 THE CLERK: Juror 11-2 is excused.
5 Juror 11-3.

6 (Whereupon, the following discussion
7 occurred at side bar:)

8 THE JUROR: Good morning, Your Honor --
9 afternoon. Evening, almost.

10 THE COURT: This is true. I see here
11 you are insulin dependent?

12 THE JUROR: Um-hum.

13 THE COURT: I just want to make sure
14 that you are --

15 THE JUROR: It shouldn't present any
16 problem.

17 THE COURT: Okay. Fine. Let me ask
18 you this, sir. The defendants are black and the
19 victim is white of Lebanese origin. Is there
20 anything about the race and ethnicity of those
21 individuals that would interfere with your
22 ability to be a fair and impartial juror?

23 THE JUROR: No.

24 THE COURT: Again, the proposed

1 schedule is as follows, on about a nine to four
2 basis every day this week and into next week. We
3 expect sometime mid week next week to get the
4 case to the jury. How long it takes to decide is
5 up to them, but is there anything in that
6 schedule, sir, that creates a hardship for you?

7 THE JUROR: No. The only thing I did
8 mention is that just, it may become necessary for
9 me to, like, have a glass of orange juice. That
10 would be the only problem.

11 THE COURT: We do -- as we have with
12 other diabetics, you can let us know when you
13 need your breaks.

14 THE JUROR: I don't think there would
15 be any problem whatsoever.

16 THE COURT: Okay. Is there any reason
17 whatsoever why you could not sit as a juror on
18 this case --

19 THE JUROR: No.

20 THE COURT: -- be fair and impartial
21 and decide the case only on the evidence and the
22 law?

23 THE JUROR: No, not at all.

24 THE COURT: Okay. Thank you. Would

1 you wait back there for us, please?

2 THE JUROR: Sure.

3 (Whereupon, the juror left side bar
4 after which the following discussion occurred:)

5 MR. FLAHERTY: I am content with him,
6 Your Honor.

7 MR. TOCHKA: The Commonwealth is
8 content.

9 MR. DOOLIN: The defendant is content.

10 THE COURT: Alright. He may be seated.

11 (Whereupon, the discussion at side bar
12 was concluded.)

13 THE CLERK: Seat two, please. Juror
14 11-4.

15 (Whereupon, the following discussion
16 occurred at side bar:)

17 THE COURT: Ms. Goss, how are you?

18 THE JUROR: Good.

19 THE COURT: The defendants in the case
20 are black and the victim is white of Lebanese
21 origin. Is there anything about the race and
22 ethnicity of those individuals that would
23 interfere with your ability to be a fair and
24 impartial juror?

1 THE JUROR: No.

2 THE COURT: The schedule proposed for
3 the trial is on about a nine to four basis this
4 week and then into next week. We expect to get
5 the case to the jury about midweek next week. Is
6 there anything in that schedule that would create
7 a hardship for you in any way, the schedule?

8 THE JUROR: Just medical.

9 THE COURT: What is your medical?

10 THE JUROR: Well, I have to have a
11 mammogram because I'm having problems.

12 THE COURT: When is that scheduled?

13 THE JUROR: Tomorrow, matter of fact.

14 THE COURT: What time?

15 THE JUROR: In the morning, ten
16 o'clock.

17 THE COURT: Okay. When do you think
18 you would be back and available?

19 THE JUROR: I hope to be back by
20 tomorrow.

21 THE COURT: Where is that?

22 THE JUROR: It's on Beacon street at
23 1101 Beacon Street for Beth Israel, the
24 radiologist for Beth Israel.

1 THE COURT: I think I'm going to have
2 to excuse you from service, Ms. Goss. Thank you
3 very much.

4 (Whereupon, the discussion at side bar
5 was concluded.)

6 THE CLERK: Excused. 11-5.

7 (Whereupon, the following discussion
8 occurred at side bar:)

9 THE COURT: How are you, sir? Where
10 are you a student?

11 THE JUROR: Boston University.

12 THE COURT: What's happening this week?

13 THE JUROR: As far as like tests?

14 THE COURT: Yes. Are you on spring
15 break?

16 THE JUROR: No, no. We're in class.

17 THE COURT: Okay.

18 THE JUROR: And exams Thursday.

19 THE COURT: One?

20 THE JUROR: Yes.

21 THE COURT: What about next week?

22 THE JUROR: No.

23 THE COURT: Can you reschedule the one
24 on Thursday?

1 THE JUROR: Most likely.

2 THE COURT: Would you like to
3 reschedule it?

4 THE JUROR: No.

5 THE COURT: Okay. You're excused from
6 service.

7 (Whereupon, the discussion at side bar
8 was concluded.)

9 THE CLERK: Excused. 11-6.

10 (Whereupon, the following discussion
11 occurred at side bar:)

12 THE COURT: How are you, Mr. Thomas?

13 THE JUROR: Good.

14 THE COURT: The defendants in the case
15 are black and the victim is white of Lebanese
16 origin. Is there anything about the race and
17 ethnicity of these individuals that would
18 interfere with your ability to be a fair and
19 impartial juror?

20 THE JUROR: No.

21 THE COURT: The proposed schedule of
22 the trial is on about a nine to four basis every
23 day this week and then into next week. I expect
24 to get the case to the jury around midweek.

1 However long it takes the jury to decide the case
2 is up to them.

3 Is there anything in that schedule,
4 sir, that creates a hardship for you?

5 THE JUROR: I'm having blood work done
6 on the thirty-first.

7 THE COURT: That's a Friday?

8 THE JUROR: Yes.

9 THE COURT: What time?

10 THE JUROR: Any time during the day.

11 THE COURT: Okay. You could do it in
12 the afternoon?

13 THE JUROR: Yes.

14 THE COURT: Court won't be in session
15 then. Any other scheduling problems?

16 THE JUROR: No.

17 THE COURT: Okay. Is there any reason,
18 sir, why you cannot be a fair and impartial juror
19 in the case and decide it based solely on the
20 evidence and the law?

21 THE JUROR: No.

22 THE COURT: Okay. Thank you. Would
23 you wait for us back there, please? Wait, sir.
24 You said the thirty-first. That's a Sunday.

1 THE JUROR: Oh, I'm sorry. The twenty-
2 ninth.

3 THE COURT: That's the Friday?

4 THE JUROR: Yes.

5 THE COURT: Okay. That is not a
6 problem. Thank you.

7 (Whereupon, the juror left side bar,
8 and the following discussion occurred:)

9 MR. FLAHERTY: Your Honor, I'll
10 exercise a peremptory as to this juror, 11-6.

11 THE COURT: You have one remaining,
12 sir.

13 (Whereupon, the discussion at side bar
14 was concluded.)

15 THE CLERK: Juror 11-6 is excused.
16 Juror 11-7.

17 (Whereupon, the following discussion
18 occurred at side bar:)

19 THE COURT: Ms. Spillane, how are you?

20 THE JUROR: Good.

21 THE COURT: The defendants in the case
22 are black, the victim is white and of Lebanese
23 origin. Is there anything about the race and
24 ethnicity of these individuals which would

1 interfere with your ability to be a fair and
2 impartial juror?

3 THE JUROR: No.

4 THE COURT: The proposed schedule of
5 the trial is on about a nine to four basis every
6 day this week and into next week. We expect to
7 get the case to the jury around midweek and how
8 long it takes the jury to decide is up to them
9 after that.

10 Is there anything in that proposed
11 schedule that creates a hardship for you?

12 THE JUROR: No hardship, although, I
13 mean, currently my mother is hospitalized so I
14 don't anticipate but I would need to be contacted
15 if something should go wrong.

16 THE COURT: We can work that out.

17 THE JUROR: Okay.

18 THE COURT: Anything else?

19 THE JUROR: No.

20 THE COURT: Okay. Is there any reason
21 why you could not be a fair and impartial juror
22 and decide the case solely on the basis of the
23 evidence and the law?

24 THE JUROR: No.

1 THE COURT: Okay. Thank you. Would
2 you wait for us right back there, please?

3 (Whereupon, the juror left side bar and
4 the following discussion occurred at side bar:)

5 MR. TOCHKA: When did she say her
6 mother was hospitalized?

7 THE COURT: Her mother is hospitalized,
8 she wants to be able to be contacted if for some
9 reason something --

10 MR. FLAHERTY: Okay with her, Your
11 Honor.

12 THE COURT: Okay.

13 MR. TOCHKA: May I ask if the mother
14 has a really serious illness?

15 THE COURT: She said she just would
16 need to be contacted in the event something went
17 wrong. I said that would be fine, we could work
18 that out. I don't want to press her further.

19 MR. TOCHKA: Because I would be content
20 but I would just be concerned that her mother is
21 on her mind. Could I just ask the Court to
22 inquire about that? That is my only concern.

23 THE COURT: Would you have her come
24 back, please?

1 (Whereupon, juror 11-7 returned to side
2 bar, and the following discussion occurred:)

3 THE COURT: Is your mother in a
4 hospital in Boston or someplace else?

5 THE JUROR: In Boston.

6 THE COURT: And if you were selected to
7 sit as a juror, other than you indicated to me
8 you'd want to have a way to be contacted if
9 necessary to be, would there be any reason why
10 your mother's hospitalization would cause you not
11 to be able to pay attention to what was going on
12 in the case, in the trial?

13 THE JUROR: No. How could someone
14 contact me? Would I be allowed to have my cell
15 phone with me?

16 THE COURT: No, but every -- yes, you
17 may have your cell phone but you couldn't have it
18 on when we are in the courtroom. We take breaks
19 about every hour and a half or two hours.
20 Alright?

21 THE JUROR: Okay.

22 THE COURT: Thanks.

23 (Whereupon, the juror again left side
24 bar and the following discussion occurred at side

1 bar:)

2 MR. TOCHKA: The Commonwealth is
3 content, Your Honor.

4 MR. DOOLIN: The defendant is content.

5 (Whereupon, the discussion at side bar
6 was concluded.)

7 THE CLERK: Seat twelve, please.
8 Would the juror in seat seven, juror 5-4, please
9 come to side bar?

10 (Whereupon, the following discussion
11 occurred at side bar:)

12 THE COURT: Yes. You wanted to talk to
13 me?

14 THE JUROR: Yes, Your Honor. I'm not
15 sure if the victim, if he's an acquaintance of my
16 husband. My husband grew up in Watertown. I
17 just wanted to bring that to your attention. I
18 don't know.

19 THE COURT: Iman Yazbek?

20 THE JUROR: I think so and I'm not
21 sure. I don't know. I think that he may be --

22 THE COURT: The only reason you raised
23 this is because you think the victim is from
24 Watertown? I haven't said where he was from.

1 THE JUROR: I thought you said earlier
2 he was from Watertown.
3 MR. DOOLIN: I think you did.
4 MR. TOCHKA: You did.
5 THE COURT: That he is from Watertown?
6 THE JUROR: So I just wanted to raise
7 that.
8 THE COURT: You didn't know Mr. Yazbek?
9 THE JUROR: I don't.
10 THE COURT: But your husband grew up in
11 - Watertown?
12 THE JUROR: In Watertown.
13 THE COURT: How old is your husband?
14 THE JUROR: He was born in 1933, 34.
15 THE COURT: But you didn't know him?
16 THE JUROR: No.
17 THE COURT: If you were selected to sit
18 as a juror you would be asked and instructed by
19 me not to talk about it with anyone. That would
20 include your husband. Would you be able to do
21 that if selected as a juror?
22 THE JUROR: Probably. I mean, that
23 would be your instruction so I would have to do
24 it.

1 THE COURT: Well, we have to be sure
2 that you would because every morning on the
3 record, I would ask whether you have talked with
4 anyone and you would be under oath at the time.

5 THE JUROR: I'm an attorney so I would
6 have to do that, just as a member of the bar.

7 THE COURT: Fine. So you would comply
8 with that instruction?

9 THE JUROR: Of course.

10 THE COURT: Thank you. You may be
11 seated.

12 (Whereupon, juror 5-4 returned to seat
13 seven, and the following discussion occurred at
14 side bar:)

15 THE COURT: Okay. Mr. Flaherty, you
16 are now content. We are back to Mr. Tochka.

17 MR. TOCHKA: Your Honor, I have two
18 challenges, seat number eleven, 14-6 and seat
19 number fourteen, 5-10.

20 (Whereupon, the discussion at side bar
21 was concluded.)

22 THE CLERK: Will the juror in seat
23 number eleven, juror 14-6, Jason Garvett, and the
24 juror in seat number fourteen, juror 5-10,

1 Mariteres Bergero, please leave the jury box.
2 You are excused from further service on this
3 jury.

4 Juror 11-8.

5 (Whereupon, the following discussion
6 occurred at side bar:)

7 THE COURT: You raised your hand in
8 connection with my question on police officers.
9 Can you explain?

10 THE JUROR: Oh, I just feel like I'd be
11 more apt to believe a police officer than not.

12 THE COURT: Okay. You're excused from
13 service.

14 (Whereupon, the discussion at side bar
15 was concluded.)

16 THE CLERK: Excused. Juror 11-9.

17 (Whereupon, the following discussion
18 occurred at side bar:)

19 THE COURT: Hello, sir. How are you?
20 Mr. Welsh, I'm asking everyone the same
21 questions. The defendants in the case are black,
22 the victim is white of Lebanese origin. Is there
23 anything about the race and ethnicity of these
24 individuals which would interfere with your

1 ability to be a fair and impartial juror?

2 THE JUROR: I'd say yes, Your Honor.

3 THE COURT: I'll excuse you from
4 service.

5 THE JUROR: Thank you.

6 (Whereupon, the discussion at side bar
7 was concluded.)

8 THE CLERK: Excused. Juror 11-10.

9 (Whereupon, the following discussion
10 occurred at side bar:)

11 THE COURT: How are you, Mr. Lewis?

12 THE JUROR: Good.

13 THE COURT: The defendants in the case
14 are black, the victim is white of Lebanese
15 origin. Is there anything about the race and
16 ethnicity of these individuals which would
17 interfere with your ability to be a fair and
18 impartial juror?

19 THE JUROR: No.

20 THE COURT: The proposed schedule for
21 the trial is as follows, on about a nine to four
22 basis every day this week and into next week. We
23 expect to get the case to the jury sometime
24 midweek. How long the jury takes to decide the

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case is up to them.

Is there anything in that schedule that would create a hardship for you?

THE JUROR: Work.

THE COURT: You are an attorney?

THE JUROR: No, former attorney.

THE COURT: What do you do?

THE JUROR: I do contracts.

THE COURT: Keeping in mind that everybody has similar home and job responsibilities, I wouldn't be excusing you for that, sir.

THE JUROR: You said nine to four?

THE COURT: Pardon?

THE JUROR: Nine to four?

THE COURT: About. It may vary from day to day, depending on the availability of witnesses. The last question, sir, is there any reason why you cannot sit as a juror on the case, be fair and impartial, and make your decision based only on the evidence and the law?

THE JUROR: No, Your Honor.

THE COURT: Okay. Thank you. Would you wait over there for us, please?

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1 (Whereupon, the juror left side bar and
2 the following discussion occurred at side bar:)

3 THE COURT: Mr. Tochka?

4 MR. TOCHKA: I challenge him.

5 (Whereupon, the discussion at side bar
6 was concluded.)

7 THE CLERK: Juror 11-10 is excused.
8 Juror 11-12.

9 (Whereupon, the following discussion
10 occurred at side bar:)

11 THE COURT: Hello. How are you?

12 THE JUROR: Hello.

13 THE COURT: The defendants in the case
14 are black, the victim is white of Lebanese
15 origin. Is there anything in the race and
16 ethnicity of these individuals which would
17 interfere with your ability to be a fair and
18 impartial juror?

19 THE JUROR: No.

20 THE COURT: The proposed schedule for
21 the trial is about a nine to four basis every day
22 this week and into next week. We expect to get
23 the case to the jury sometime midweek. How long
24 the jury takes to decide it is up to them.

1 Is there anything in that schedule
2 which would create a hardship for you?

3 THE JUROR: No.

4 THE COURT: And finally, is there any
5 reason why you cannot be a fair and impartial
6 juror and decide the case based only on the
7 evidence and the law?

8 THE JUROR: No.

9 THE COURT: Okay. Thank you very much.
10 Would you wait over there for us?

11 (Whereupon, the juror left side bar and
12 the following discussion occurred at side bar:)

13 MR. TOCHKA: Content.

14 MR. DOOLIN: The defendant is content.

15 MR. FLAHERTY: The defendant is
16 content.

17 THE COURT: Okay.

18 (Whereupon, the discussion at side bar
19 was concluded.)

20 THE CLERK: Seat eleven, please. Juror
21 11-13.

22 (Whereupon, the following discussion
23 occurred at side bar:)

24 THE COURT: How are you, sir?

1 THE JUROR: Fine. How are you?

2 THE COURT: You raised your hand in
3 connection with knowing one or more of the
4 witnesses?

5 THE JUROR: Yes.

6 THE COURT: Who do you know?

7 THE JUROR: I know Tom Traylor plus a
8 number of other detectives. I work for the
9 electric --

10 THE COURT: I'm sorry?

11 THE JUROR: Installing electric and
12 Star Electric so we hire a lot of detectives and
13 cops on details and I have met quite a few of
14 them.

15 THE COURT: Okay. Thank you. You're
16 excused.

17 (Whereupon, the discussion at side bar
18 was concluded.)

19 THE CLERK: Excused. 11-14.

20 (Whereupon, the following discussion
21 occurred at side bar:)

22 THE COURT: Hi, Mr. Stephenson, how are
23 you?

24 THE JUROR: Good.

1 THE COURT: Sir, the question I'm
2 asking everyone is, the defendants in the case
3 are black, the victim is white of Lebanese
4 origin. Is there anything about the race and
5 ethnicity of these individuals which would
6 interfere with your ability to be a fair and
7 impartial juror?

8 THE JUROR: (Shook head.)

9 THE COURT: For the record, you must
10 speak out loud.

11 THE JUROR: No.

12 THE COURT: Thank you. The proposed
13 schedule is as follows, on about a nine to four
14 basis every day this week and into next week. By
15 midweek we expect to get the case to the jury and
16 how long the jury would have it is up to them.

17 Is there anything in that schedule,
18 sir, that would create a hardship for you?

19 THE JUROR: Okay. I'm a Jehovah's
20 Witness and March 28 we have a memorial which
21 will be a Thursday night at six. I must attend
22 that.

23 THE COURT: Okay. We are not going to
24 be in session at six so is it in Massachusetts

1 you're talking about?

2 THE JUROR: Yes.

3 THE COURT: Okay. But let me ask you
4 this, is there any reason, is there anything,
5 sir, about your being a Jehovah's Witness that
6 would interfere with your ability to discharge
7 your oath as a juror here, to listen attentively
8 to the evidence and decide the case only on the
9 evidence?

10 THE JUROR: I could pretty much do
11 that.

12 THE COURT: Okay. For the record, we'd
13 have to have a more definite statement. So you
14 could do that, sir?

15 THE JUROR: Yes, I could.

16 THE COURT: Okay. Is there any reason
17 whatsoever, sir, why you could not be a fair and
18 impartial juror and decide the case only on the
19 evidence and the law?

20 THE JUROR: I have no other reason, no
21 reason.

22 THE COURT: Alright. Thank you, sir.
23 Would you wait over there for us, please?

24 (Whereupon, the juror left side bar and

1 the following discussion occurred at side bar:)

2 MR. TOCHKA: The Commonwealth is
3 content.

4 MR. DOOLIN: The defendant is content.

5 THE JUROR: Tanzerius Anderson is
6 content, Your Honor.

7 THE COURT: He may be seated.

8 (Whereupon, the discussion at side bar
9 was concluded.)

10 THE CLERK: Seat thirteen, please, sir.

11 (Whereupon, the following discussion
12 occurred at side bar:)

13 THE COURT: For the record, the
14 Commonwealth is content. Mr. Doolin?

15 MR. DOOLIN: Mr. Robinson is content,
16 Your Honor.

17 THE COURT: Mr. Flaherty?

18 MR. FLAHERTY: And Mr. Anderson is
19 content.

20 (Whereupon, the discussion at side bar
21 was concluded.)

22 THE COURT: Ladies and gentlemen, the
23 jury has now been selected. Those of you who are
24 sitting in the jury box will be those jurors who

1 will hear and decide the case. So to the jurors
2 in the rear of the room, I want to thank you very
3 much for coming. We appreciate your patience.
4 Your jury service is now discharged at this time
5 and you're free to go. Have a good day.

6 Alright, ladies and gentlemen, let me
7 explain what's going to happen. We want to thank
8 you first for your patience with us today. We
9 have gone a little longer than we normally go in
10 order to get the jury, not to have to break it up
11 again and complete that tomorrow. So I
12 appreciate your continued attention and patience.

13 What we are going to do is to discharge
14 you for the day and then I ask tomorrow that you
15 return at nine forty-five and the reason for that
16 start tomorrow is because the attorneys and I
17 have some matters to resolve before you come, but
18 when you are all here, and we do need to wait for
19 all of you to come, we will have you out in the
20 courtroom and we'll do a few preliminaries and
21 then we are going to get on a bus to go to the
22 scene or scenes about which you'll be hearing
23 testimony in Brighton, that is where the murder
24 occurred, and other locations about which you'll

1 be hearing. The purpose for going on the view is
2 to give you a chance to observe firsthand these
3 places so that in listening to the testimony, you
4 will have a better idea of the physical environs
5 in which the offense allegedly occurred.

6 Before you go, the court officers are
7 going to show you the jury room. Some of you
8 have been there, some of you haven't. That will
9 be your home away from the courtroom. That is
10 the place tomorrow when you report to the
11 courthouse, that is the room that you go to and,
12 as I said, we all have to wait for all of you to
13 come before we have you out in the courtroom.
14 When that happens, we will then continue -- begin
15 the trial as promptly as we can.

16 The schedule tomorrow, in terms of
17 adjournment, will be until approximately four
18 o'clock and I expect that that will be more or
19 less the schedule for this week but every day
20 I'll give you some definite schedule. It might
21 change a little bit because of the availability
22 of witnesses or some other matters but that
23 generally is when we are going to ask you to be
24 available and then we do expect the trial to

1 proceed into next week, and every day we will
2 have a better sense of approximately how long it
3 will take before you get the case for your own
4 decision.

5 It is important you understand that
6 from this time forward you are under an order
7 from me not to talk about the case or let anyone
8 talk to you about it. Even the very little
9 information I have given you about the case
10 cannot be shared with others. I know it might be
11 tempting in response to questions from family
12 members or friends or anyone else with whom you
13 might come in contact about the case to answer
14 those questions, but it is very important that we
15 can count on each of you to listen to all the
16 evidence with an open mind, to base your verdict
17 solely on your collective assessment of that
18 evidence, and only on what's given to you here
19 through the witnesses and the exhibits.

20 So it is very, very important that you
21 observe this instruction. I will be asking you,
22 once the trial is underway, whether or not you
23 have complied when you come in in the morning.

24 With that instruction, thank you again

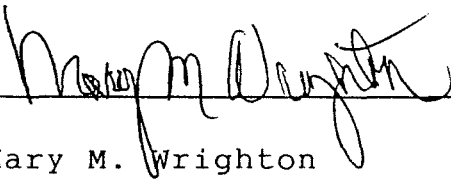
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for your attention on particularly this long day
we have had and I'll look forward to seeing you
tomorrow at nine forty-five.

(Whereupon, the proceedings were
adjourned at 4:58 o'clock p.m.)

C E R T I F I C A T E

I, Mary M. Wrighton, do hereby certify
that the foregoing transcript, pages 1 through
297, is a complete, accurate and true record of
my stenographic notes as taken by me in the
aforementioned matter to the best of my skill and
ability.



Mary M. Wrighton