

1 UNITED STATES DISTRICT COURT
2 FOR THE MIDDLE DISTRICT OF TENNESSEE
3 NASHVILLE DIVISION

4
5 UNITED STATES OF AMERICA)
6)
7 vs.) CASE NO. 3:05-00185
8)
9 TIMOTHY RYAN RICHARDS)
10

11 EXCERPT OF PROCEEDINGS
12 JURY VOIR DIRE
13

14
15 BEFORE: THE HONORABLE ALETA A. TRAUGER
16 DATE: OCTOBER 10, 2006
17 TIME: 9:00 A.M.
18

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21 REPORTED BY: BEVERLY E. "BECKY" COLE, RPR CCR
22 OFFICIAL COURT REPORTER
23 A-837 U.S. COURTHOUSE
24 NASHVILLE, TN 37203
25 (615) 254-6727
BECKY_COLE@TNMD.USCOURTS.GOV

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APPEARANCES

FOR THE GOVERNMENT:

CARRIE DAUGHTREY
U.S. Attorney's Office
Nashville, Tennessee

KAYLA BAKSHI
U.S. Department of Justice
Washington, D.C.

FOR THE DEFENDANT:

PETER STRIANSE
Tune, Entekin & White
Nashville, Tennessee

KIMBERLY HODDE
Hodde & Associates
Nashville, Tennessee

1 JURY VOIR DIRE EXAMINATION

2 BY THE COURT:

3 Q Okay. Does anyone have trouble understanding English
4 or reading or speaking the English language?5 Can everyone hear well; everybody hear what I'm
6 saying? Okay.7 This case is one of our longer cases. It will take --
8 it might take three weeks to try.9 This is a multi-count indictment concerning child
10 pornography. Now, I know that there is somewhere else that
11 all of you would perhaps like to be or feel you absolutely
12 must be, and the courts are very sensitive to the fact that
13 all of the citizens that we bring in here to be our jurors
14 have -- many of them work outside the home, many of them
15 have serious home responsibilities for children or elderly
16 parents or relatives.17 We know that you are very busy people and you all have
18 lots to do, but our system of criminal justice depends upon
19 people like you coming in and listening to the proof and
20 making a determination as to whether or not somebody is
21 guilty of what they're charged with.22 So -- and this is one of the longer cases you would
23 ever be summoned to serve on. We are setting aside about
24 three weeks. It may not go three weeks, the lawyers are the
25 ones telling me it's going to take three weeks. I do move

1 things along quite well in my court, and so it's possible it
2 will take quite a bit less than three weeks. But at this
3 point, we are estimating that.

4 And so my question is, is there any serious conflict
5 in your schedule that you think would make it impossible for
6 you to serve for about three weeks, if that's what we need,
7 of your time?

8 And I'm talking about things like chemotherapy
9 treatments or prepaid trips that are nonrefundable. I'm
10 talking about very serious commitments.

11 All of your employers have an obligation to allow you
12 to serve on a jury. And they are obligated to let you do
13 that.

14 So let me just ask these three rows over here, is
15 there anyone that feels they have some very, very serious
16 conflict that would not allow them to serve for this trial?
17 Let me start with the first row. [REDACTED]?

18 A I'm moving out of state.

19 Q When?

20 A Next weekend.

21 Q Next weekend?

22 A Yes.

23 Q You are leaving the state permanently?

24 A Yes.

25 Q Well, I would say that should allow you to be excused

1 for cause. We will not keep you in the state longer than
2 you intended to be here. So thank you, [REDACTED]. If
3 you would report to the jury coordinator?

4 Anybody else in the top row, anybody in the front row
5 of the jury box. [REDACTED]?

6 A I have prepaid vacation plans that start on the
7 27th.

8 Q That's the end of the three weeks. You are leaving on
9 that day?

10 A Uh-huh.

11 Q Friday the 27th?

12 A Uh-huh.

13 Q I don't know if there's been any reevaluation of the
14 time frame for the trial. We are not holding court on the
15 27th; you all will remember. Would this be risky or not?
16 We are going to have several alternates, remember.

17 MS. DAUGHTREY: The government believes that it
18 probably will be done by then.

19 THE COURT: Mr. Strianse?

20 MR. STRIANSE: Your Honor, I agree. It may be
21 more like two weeks or less. I only notice 24 names on the
22 government's witness list.

23 THE COURT: Okay. We don't know how many --
24 okay. All right. I think we'll -- we will have some
25 alternates if it ends up going a lot longer.

1 Okay. Anybody else in that row? [REDACTED]?

2 A I have an interview scheduled for the 18th, which is
3 Wednesday of next week.

4 Q I'm sorry. Could you give us a little more
5 information. What kind of interview?

6 A I have been unemployed since January, and I am
7 actively seeking employment out of state. This is a job
8 interview in Kansas City for Russell Stover candy.

9 Q Could you bring us some samples if we let you go?

10 (Laughter.)

11 A Certainly, as many as you like.

12 Q I don't think we will be done by the 18th. Do you
13 think it could be rescheduled if you told these people that
14 you are on a jury? Could you reschedule it for the next
15 week perhaps, do you think?

16 A That's possible. They have paid the airfare already.
17 I don't know that -- that's not a big deal to me. It's
18 their money.

19 Q Yeah, yeah.

20 A But --

21 Q Why don't we leave you for now, and perhaps when we
22 take a break do you think perhaps -- would you have access
23 to someone that you could call and ask about this?

24 A Sure.

25 Q Okay. Let's do that.

1 A Absolutely. All right.

2 Q Let's do that. All right. Anybody in the front row?

3 [REDACTED]?

4 A Yes, ma'am. I have got a scheduled vacation starting
5 the 20th through the 27th of October.

6 Q And is this -- you have scheduled this with your
7 employer?

8 A I'm not employed, but, I mean, this is a timeshare.
9 It's already paid for.

10 Q Oh, I see. Okay. Well, I don't think we will be done
11 by then. Does anybody object to excusing Mr. Rhule?

12 MR. STRIANSE: No objection.

13 BY THE COURT:

14 Q I mean, [REDACTED]. All right. [REDACTED], if you
15 would report back to the jury coordinator?

16 A Thank you ma'am.

17 Q All right. Anybody else in the front row [REDACTED]?

18 A Yes, ma'am. I have to drive 75 miles to get here, and
19 I have to leave before 5:00 in the morning to get here and I
20 don't drive well in the dark no more than I have to.

21 Q Where are you coming from?

22 A Dover, Tennessee.

23 Q Where?

24 A Dover, Tennessee.

25 Q Well, Mr. Mathis, we have a lot of people who live a

1 long way away because of the size of our district. Dover,
2 and in order to get here by 9:00, you have to leave at 5:00
3 in the morning?

4 A I do to find my way here. I left this morning at
5 quarter until and just barely made it.

6 Q I think you probably know the route by now, it's --
7 once you have made the trip. I wouldn't think you would
8 have to leave at 5:00?

9 A I know, but it's the driving at night that affects me,
10 though, I mean, as far as -- it's not the mileage, it's the
11 driving at night, glare off lights, and stuff, I don't drive
12 no more in night than I have to.

13 Q We'll be finishing court in time for you to get home
14 before dark. We'll be finishing probably at 4:30, so we'll
15 hope that's not a problem.

16 Anybody else in the front row? [REDACTED]?

17 No, [REDACTED].

18 A [REDACTED]. Yes, I have an appointment with DHS this
19 Friday, and they contacted me. I guess I could get it
20 rescheduled. I don't know how long would it take.

21 Q What time is your appointment?

22 A This Friday, the 13th.

23 Q What time?

24 A I have no idea.

25 Q We may not be holding court all day this coming

1 Friday.

2 A Okay.

3 Q And I suspect they could reschedule it a little bit
4 knowing you are on a jury.

5 A Okay.

6 Q So thank you for letting us know that. Anybody else
7 in the front row? All right. Anybody in the last row of
8 the audience? Is that [REDACTED]?

9 A Yes.

10 Q All right.

11 A I leave for a trip for work on the 25th, two weeks
12 from tomorrow.

13 Q This is some kind of training?

14 A It's an event that my company is put on. We have been
15 planning it. It's on the 26th, but we leave the Wednesday
16 before.

17 Q And it's out of town?

18 A In Los Angeles.

19 Q Excuse me?

20 A Los Angeles.

21 Q And do you have major responsibilities for this?

22 A I do.

23 Q You do. If -- so you need to fly out on the 25th?

24 A Uh-huh.

25 Q Okay. We might well be done by then. And, as I say,

1 we will have some alternates, but thank you for letting us
2 know that.

3 All right. Anybody else in that row?

4 A I'm [REDACTED].

5 Q I'm sorry. Your name?

6 A [REDACTED]. Excuse me [REDACTED].

7 Q Now, [REDACTED], if you don't even know your name --

8 A I just changed my name. I'm sorry.

9 Q -- I may have to reverse myself what I said about
10 everybody being qualified on the jury.

11 A I believe it.

12 (Laughter.)

13 Q I'm teasing. Yes, [REDACTED]?

14 A I have a vacation scheduled on October 18th for three
15 days. It is -- we pick our vacation a year in advance, and
16 there are no other days available for the rest of the year,
17 so I would lose those three days.

18 Q Okay. Anybody object to dismissing [REDACTED] or
19 [REDACTED], as the case may be? Government?

20 MS. DAUGHTREY: (Moves head from side to side.)

21 MR. STRIANSE: (Moves head from side to side.)

22 BY THE COURT:

23 Q [REDACTED], if you will report back to the jury
24 coordinator, they will bring you in at another time. Thank
25 you.

1 Anybody else in that row? Anybody in the row in front
2 of that, second to the last row? Okay, that's [REDACTED].

3 A Yes. I have a two year old daughter that has an
4 upcoming heart surgery, and she has a doctor's appointment
5 on 2nd -- I mean, the 16th that she has to have. It's a
6 preop for her surgery.

7 Q When is the surgery?

8 A November the 9th.

9 Q What time is her appointment?

10 A 11:30.

11 Q And is there anyone else that could take her to this?

12 A No. My father-in-law will be going with me, but he
13 also keeps another child that he will have to take.

14 Q Okay. Anyone object to dismissing --

15 MR. STRIANSE: No, Judge.

16 THE COURT: -- [REDACTED]. All right.

17 [REDACTED], you may be excused. If you will report back
18 to the jury coordinator, and good luck with the surgery.

19 Anybody else in that row? [REDACTED].

20 A Yes, I'm a self-employed insurance agent. I get paid
21 on commission. If I sell, I get paid. If I don't, I don't.

22 Q You know we often have this problem with self-employed
23 people, and it's a tough one. And it's a large sacrifice to
24 ask people to make, but we also can't simply excuse from our
25 jurors all people who are self-employed.

1 So I can't excuse you for that, [REDACTED]. And I'll
2 just hope that the evenings and breaks and lunches and
3 things can be utilized well by you, but we simply can't
4 excuse all self-employed people, so --

5 A Okay. Lunches and breaks would not work for me.

6 Q Excuse me. I can't hear you?

7 A Lunches and breaks would not help me, to do that. We
8 do all of it out of the office, so it's not like over the
9 phone stuff.

10 Q Okay. Well, it's going to be difficult. But anyone
11 else in that row, [REDACTED]?

12 A Yes, I have a dental appointment on the 19th at 11:00
13 for a crown, root canal.

14 Q Okay. The 19th is a Thursday. I'm going to ask you
15 in the break to see if perhaps that might be rescheduled.
16 It's not an emergency if it's the 19th, I guess. Okay.
17 Anyone else in that row? [REDACTED]?

18 A [REDACTED].

19 Q I'm sorry. Could you stand up, please? [REDACTED],
20 yes?

21 A My five year old son has a Vanderbilt appointment on
22 Tuesday of next week.

23 Q Has a what appointment?

24 A Vanderbilt pulmonary. And I just need that day, if
25 possible.

1 Q We can't sort of let you come and go. You have to
2 hear all the proof. Is this an emergency appointment of
3 some sort?

4 A He has to be checked every three months.

5 Q What time is the appointment?

6 A His appointment is at 3:00.

7 Q Is there anyone else that might take him to that?

8 A I could see. I don't know if his daddy will be home
9 from work at that time or not, but I can check.

10 Q Okay. I'll ask you to check into that. Anybody else?
11 [REDACTED]?

12 A Yes.

13 Q Could you stand up? It's easier to hear you.

14 A Yes, I'm the only employee for my parents' business
15 that -- and they are elderly. It's a farm market, and we do
16 a lot of lifting. And, for instance, this week I have a big
17 load of pumpkins and mums, and stuff, coming in, that I'm
18 the sole person that keeps them alive, I unload the trucks,
19 blah, blah, blah, and it would be very difficult for my
20 parents to be doing this by themselves.

21 Q This is a farmers market booth, is that what you say?

22 A It's a business. It's a seasonal farmers market kind
23 of thing outside, and we sell pumpkins, and all that stuff.

24 Q So it's seasonal for this season?

25 A Yes, this is the big season for us right now.

1 Q And if you were ill, who would do this for them?

2 A They would just have to do whatever they could do, but
3 it's very difficult for them. I keep all the plants alive.
4 I wait on everybody. I unload the trucks. I mean, they
5 would do whatever they could do, but it would be very
6 difficult on a three-week basis or a two-week basis.

7 Q And this is basically the season that this business
8 goes on?

9 A This is a big season right now.

10 Q Where is this located?

11 A In Fairview.

12 Q Any problem dismissing [REDACTED]?

13 MR. STRIANSE: (Moves head from side to side.)

14 BY THE COURT:

15 Q All right. [REDACTED], if you would report back to
16 the jury coordinator?

17 A Okay. Thank you.

18 Q Anybody in the row in front of that row?

19 MS. DAUGHTREY: I'm sorry. Was that --

20 BY THE COURT:

21 Q That was [REDACTED], correct?

22 A Yes.

23 Q Yes. All right -- [REDACTED]?

24 A [REDACTED].

25 Q [REDACTED]?

1 A [REDACTED]. I own a emergency restoration service. I get
2 calls throughout the night, throughout the day, water
3 damage, fire and smoke damage calls.

4 During the day my calls can be covered, but if in the
5 middle of the night, being the only employee, I'm always on
6 call, so there could be times where I could work all night
7 and then be here in the morning.

8 Q We'll give you lots of coffee.

9 A That's fine with me.

10 (Laughter.)

11 Q Anybody else in that row? Anybody in the front row?
12 [REDACTED]?

13 A Yes, ma'am. I have already purchased some air fares
14 for me and my family to go on vacation, and we would be
15 leaving out on the 15th.

16 Q On the 15th?

17 A That's next Sunday.

18 Q Yeah, next Sunday. Okay. [REDACTED] -- anybody object
19 to excusing [REDACTED]? [REDACTED], if you would report back
20 to the jury coordinator.

21 Okay. Believe me the court is very sensitive to these
22 issues, folks, and I know it's really asking a lot to take
23 two or three weeks out of your lives to do something like
24 this.

25 Now, let me tell you basically our schedule, and then

1 I'm going to ask if anybody has any special physical problem
2 or disability or something that would make this difficult
3 for you.

4 We will basically go from 9:00 to 12:00 with one break
5 in the morning of about 20 minutes. Then we will take
6 typically an hour for lunch, and then we will go until 1:00
7 -- from 1:00 until about 4:30, probably, again with one
8 break or 20 minutes or so. And we're going to have so many
9 people, we may have to extend the break a little bit so
10 everybody has a chance to do what they need to do.

11 But that's basically the court's schedule. And as I
12 say, we are not going to be holding court on Friday, the
13 27th or on Friday, the 20th, and this coming Friday, the
14 13th, we may not be holding court or we may be holding
15 court just either in morning or afternoon. We are
16 determining that one right now.

17 If you have some kind of back issue where you can't be
18 seated for two hours at a time, that's not a problem because
19 you can get up where you are and walk back and forth or do
20 whatever you need to do if you have some kind of a back
21 issue.

22 But are there any other health issues of any sort that
23 anybody thinks I need to know about in terms of that kind of
24 a court schedule?

25 Okay. Now I'm going to ask you if you have previously

1 served on a jury of any kind before either in state court or
2 federal court, including a grand jury, I'm going to ask you
3 to raise your hand and be prepared to tell us about when
4 this was, where it was, what county it was in or if it was
5 in federal court, and if so, where, and I'll ask you a few
6 more questions.

7 But we're looking for prior jury service, civil or
8 criminal cases or grand jury service any time in the past.
9 So anybody in the back row of the jury box? Anybody in the
10 front row of the jury box? [REDACTED]?

11 A Do I need to stand?

12 Q We'll get the mic to you, okay?

13 A Year before last I served on a murder trial.

14 Q What county?

15 A Stewart County. And this past year I sat on a assault
16 charge.

17 Q An assault charge?

18 A Yes, ma'am.

19 Q So those were both criminal cases?

20 A Yes, ma'am.

21 Q Was the jury able to reach a verdict in both cases?

22 A Yes, ma'am.

23 Q Were you the foreman of the jury in either case?

24 A In the assault charge, I was.

25 Q The assault charge, you were the foreman?

1 A Yes, ma'am.

2 Q Was there anything about the service on either of
3 those cases that would make it difficult for you to serve in
4 this case?

5 A Would you repeat that question?

6 Q Was there anything about those trials that you think
7 might carry over, if it was a particularly unpleasant
8 experience, people started screaming and yelling at each
9 other or something like that and you just --

10 A No, ma'am.

11 Q Nothing about that service?

12 A No, ma'am.

13 Q Okay, very good. Anybody else in the front row?

14 [REDACTED]?

15 A Twice Judge Hamilton Gayden, about 12 years ago, and
16 then also in Wilson County, I was foreman of the grand jury.

17 Q Of grand jury, where you were determining whether
18 there was probable cause to indict people?

19 A Really, I was foreman of the jury.

20 Q Foreman of a jury trying a criminal case?

21 A Yes.

22 Q Okay. And in the Gayden cases, those were civil
23 cases?

24 A That's correct.

25 Q Okay. And in all those cases, was the jury able to

1 arrive at a verdict?

2 A Yes.

3 Q And you were foreman of the jury in the criminal case?

4 A In Wilson County.

5 Q In Wilson County. And what kind of case was that?

6 A Glass explosion, a trailer exploded, and we had to
7 determine compensation.

8 Q Okay.

9 A So it was --

10 Q So that really was civil then?

11 A It really was, yeah.

12 Q Okay. All right. I am just going to ask you to bear
13 in mind that the burden of proof in a civil case is proof by
14 a preponderance of the evidence. This is a criminal case.
15 It has a stricter standard of proof, proof beyond a
16 reasonable doubt. So I'll just ask you to keep that in
17 mind.

18 A I understand.

19 Q Anything about any of that service other than perhaps
20 feeling you have done your duty that would make it difficult
21 for you to serve in this case?

22 A No.

23 Q Okay. Anybody else in this area? Yes, [REDACTED]

24 [REDACTED]?

25 A [REDACTED].

1 Q [REDACTED]?

2 A I've served on two murder trials but it's been about
3 15 years ago.

4 Q Was that in Davidson County?

5 A Yes, ma'am.

6 Q Okay. And was the jury able to reach a verdict in
7 both of those cases?

8 A Yes, ma'am.

9 Q Were you the foreperson of the jury?

10 A No, I was not.

11 Q Anything about that service that would make it
12 difficult for you to serve here?

13 A No, ma'am.

14 Q Okay. Thank you. All right. Anybody in the back
15 row? The row in front of that? Could you stand and give me
16 your name. Is that [REDACTED]?

17 A Yes, ma'am.

18 Q Okay.

19 A I was on one approximately 15 years ago, something
20 like that, in Lawrence County.

21 Q No Knox County?

22 A Lawrence County, Lawrenceburg.

23 Q Lawrence County. Civil or criminal case?

24 A Criminal. It was a murder case.

25 Q Okay.

1 A I was on it for one day, and it got a mistrial, so
2 that's all it was to it.

3 Q Okay. Anything about that service that would make it
4 difficult for you to serve?

5 A No, ma'am.

6 Q Anybody else in that back row? The next row forward?
7 The row in front of that? That is [REDACTED].?

8 A [REDACTED].

9 Q [REDACTED], okay. Oh, sorry, I missed [REDACTED]
10 [REDACTED]?

11 A Yes, ma'am.

12 Q Yes?

13 A Yes, ma'am. It's probably been about 35, 36 years ago
14 I served on a jury in Williamson County.

15 Q Was it civil?

16 A Drug case.

17 Q Drug case, criminal case. Was the jury able to reach
18 a verdict?

19 A Yes, ma'am.

20 Q Were you the foreperson?

21 A No, ma'am.

22 Q Anything about that service that would make it
23 difficult for you to serve today?

24 A I don't think so, no.

25 Q Okay. All right. Now, [REDACTED]? Oh, [REDACTED]?

1 A Yes, ma'am. In Humphreys County, I was involved in
2 three different cases. One was a murder trial, one was a
3 child abuse case and one was a -- correction -- where there
4 was a person injured and seeking compensation.

5 Q So that was civil case?

6 A Yes, ma'am.

7 Q Two criminal cases and a civil case?

8 A Yes, ma'am.

9 Q Did all those juries reach verdicts?

10 A Yes, ma'am. But on the civil case, I was an
11 alternate, and I didn't have -- I wasn't involved in the
12 decision in that.

13 Q Okay.

14 A But on the murder trial and the other one, I was.

15 Q Were you the foreperson in the --

16 A No, ma'am.

17 Q -- two criminal cases? Okay. All right. Thank you
18 for letting us know that. Anything about that service that
19 would make it difficult for you to serve?

20 A No, ma'am.

21 Q Now, [REDACTED]?

22 A Yes, Your Honor. I was on a murder trial in
23 Williamson County approximately 17, 18 years ago.

24 Q Okay.

25 A I was foreman.

1 Q You were the foreman?

2 A Yes.

3 Q And the jury reached a verdict?

4 A We did.

5 Q Anything about that service that would make it
6 difficult for you to serve?

7 A No, no.

8 Q Okay. All right. Anybody else in that row?

9 [REDACTED]?

10 A Yes, ma'am. I did federal jury duty probably about
11 eight or nine years ago here in the court.

12 Q And was it a civil case or criminal?

13 A It was three different ones. I -- was a hate crime,
14 bank robbery and selling -- and drug cases.

15 Q So all were criminal?

16 A Yes, ma'am.

17 Q Did all those juries reach verdicts?

18 A Yes, ma'am.

19 Q Were you the foreperson?

20 A No, ma'am.

21 Q Anything about that service that would make it
22 difficult for you to serve?

23 A No, ma'am.

24 Q Okay. Very good. Anybody in the front row? Okay.
25 Got everybody? Okay.

1 Has -- I want to ask if any of you or any member of
2 your family or any close friend has ever been employed by a
3 law enforcement agency on any level, federal, state, county,
4 anything? All right. Let's start back here. [REDACTED]?

5 A My husband is presently employed as a dispatcher with
6 the local police department, Mount Juliet Police Department.

7 Q Mount Juliet Police Department. And how long has he
8 held that position?

9 A Almost three years.

10 Q Okay. [REDACTED], what did he do before that?

11 A He was a radio announcer.

12 Q Okay. So people like to hear him on the radio, I
13 guess?

14 (Laughter.)

15 Q [REDACTED], this is a criminal case, obviously. And
16 law enforcement has investigated it, and there will be, I'm
17 sure, some law enforcement agents that will be testifying in
18 this trial.

19 Do you think that you can put aside your exposure to
20 what your husband does and listen to the proof and both
21 sides of this case and the instructions that I give you and
22 be fair to the defendant and not give the edge to the
23 government in this case?

24 A I think I can do that.

25 Q Do you believe that sometimes people are indicted and

1 they are not guilty?

2 A That's what the premise of the courts is.

3 Q And you believe in that?

4 A I do believe in it.

5 Q Okay. Very good. Thank you. Anybody else? [REDACTED]

6 is there someone else in the back row? [REDACTED]?

7 A My daughter, she works for a law firm in Cincinnati,
8 Ohio.

9 Q She works for a law firm?

10 A Yes, she's a legal secretary.

11 Q Is it a firm that does criminal work?

12 A I have no idea.

13 Q You don't know what they do?

14 A No, we don't talk about work. We talk about family.

15 Q Okay. Thank you. Anybody else? [REDACTED]?

16 A My father was a patrolman in Ohio, been years ago
17 because he's been passed away for a long time, but I have a
18 good friend that was patrolman in Spring Hill.

19 Q Still?

20 A Uh-huh. Well, he is EMS now, but he was there for a
21 long time as a policeman.

22 Q Okay. Do you feel that -- was your father a patrolman
23 when were you growing up?

24 A Yes.

25 Q Okay. Do you feel that you can kind of put those

1 relationships aside and listen to the proof and the
2 instructions and be fair to both sides in this case; you
3 think you can do that?

4 A Yes, yes.

5 Q All right. Thank you. Yes, [REDACTED], you have
6 thought of something else?

7 A Yes.

8 Q Okay.

9 A Yeah, I have a brother-in-law that's a Paris township
10 policeman in Ohio.

11 Q In Ohio?

12 A Uh-huh.

13 Q And do you talk about his work with him?

14 A No.

15 Q All right. You think that that would cause you to
16 give the edge to the government here or do you think you can
17 be fair to both sides?

18 A Yeah.

19 Q Okay. Very good. Anybody else in the front row of
20 the jury box? And if the front row, [REDACTED]?

21 A Yes, ma'am. My son-in-law is deputy sheriff in
22 Stewart County, and, also, two of my best friends are deputy
23 sheriffs.

24 Q You are have not been in law enforcement?

25 A No, ma'am.

1 Q [REDACTED], can you put those relationships aside and
2 listen to the proof in this case and the instructions that I
3 give you and not give the edge to the government just
4 because you have some relatives and good friends that are in
5 law enforcement?

6 A Yes, ma'am.

7 Q All right. Thank you. Anybody else in the front row?
8 Okay. Anybody in the other rows? All right. In the back
9 row? Let's see. Is that [REDACTED]? No? Would you stand
10 and give me your name, please?

11 A [REDACTED].

12 Q [REDACTED]?

13 A My wife is a dispatcher for Robertson County Sheriff's
14 Department.

15 Q Okay. How long has she been doing that, [REDACTED]?

16 A About three years.

17 Q Three years?

18 A Yes, ma'am.

19 Q Okay. [REDACTED], can you not let that relationship
20 affect you? Can you listen to the proof and instructions
21 and be fair to both sides?

22 A Yes, ma'am.

23 Q Thank you. Anybody else in that row? Is that
24 [REDACTED]?

25 A Yes.

1 Q Okay?

2 A My husband is currently a sheriff's deputy in
3 Clarksville.

4 Q Clarksville?

5 A Yes.

6 Q Okay. And, [REDACTED], how long has he been a deputy?

7 A Two and a half years.

8 Q Now, does he investigate crimes or work at the jail or
9 what exactly?

10 A He's at the jail currently.

11 Q He's at the jail, okay. [REDACTED], can you put that
12 relationship aside and listen to the proof in this case and
13 be fair to both sides?

14 A Most definitely.

15 Q Okay. Thank you. Anybody else in that back row?
16 Anybody in the row in front of that? If you could stand?
17 Is that [REDACTED]?

18 A [REDACTED].

19 Q [REDACTED]?

20 A My husband just currently retired from Metro Police
21 Department after 32 years.

22 Q Okay. [REDACTED], what divisions was he assigned to?

23 A He was a detective.

24 Q A detective?

25 A Yes.

1 Q Okay. [REDACTED], do you believe in the proposition
2 that not everyone who is indicted is necessarily guilty?

3 A I can't say that, no. I think if you're arrested, you
4 are usually guilty.

5 Q That's your attitude?

6 A That's my attitude.

7 Q So you don't believe in the system of criminal justice
8 that we have in the United States that you're innocent until
9 proven guilty?

10 A Not entirely.

11 Q You don't?

12 A No.

13 Q You don't feel that you could be fair to the defendant
14 in this case?

15 A No, I don't.

16 Q I'm going to excuse [REDACTED]. Any objection to my
17 excusing [REDACTED]?

18 MR. STRIANSE: No objection.

19 THE COURT: Okay. [REDACTED], I'm going to assign
20 you to read a civics book.

21 (Laughter.)

22 BY THE COURT:

23 Q If you would go back and report to the jury
24 coordinator? Anybody else? Let's see. This is?

25 A [REDACTED].

1 Q [REDACTED], yes?

2 A Ma'am, I was a security guard with TVA.

3 Q With Tennessee Valley Authority?

4 A Yes, ma'am, from 1985 until 1998, and then they did
5 away with the security guards at the steam plants and formed
6 the TVA police. And at that time I became a employee inside
7 the plant as a laborer, and that's what I do now.

8 Q Okay. So when you were a security guard, were you at
9 any time investigating crimes, [REDACTED]?

10 A No, ma'am, but just basically the security of the
11 steam plants.

12 Q Okay. [REDACTED], do you think you can listen to the
13 proof and the instruction in this case and be fair to both
14 sides?

15 A Yes, ma'am.

16 Q Thank you. Anybody else in that row? [REDACTED],
17 right next to [REDACTED]?

18 A Yes, I have a son in Jackson, Tennessee, who's a
19 criminal lawyer.

20 Q He's a criminal lawyer?

21 A Yes.

22 Q Okay. And do you talk to him about his work?

23 A Occasionally.

24 Q Okay. And, [REDACTED], do you believe that some of
25 the people he represents are guilty and some of them are

1 innocent?

2 A Yes, I believe there are -- some is innocent and some
3 is guilty.

4 Q Do you think you can listen to the proof in this case
5 and the instructions and be fair to both sides?

6 A Yes, I can.

7 Q All right. Thank you. Anybody else? [REDACTED]?
8 No?

9 A [REDACTED].

10 Q [REDACTED]?

11 A Yes, ma'am. My oldest brother is a prison guard in
12 Illinois, maximum security prison.

13 Q Okay. All right. [REDACTED], do you think -- do
14 you talk to him about his work?

15 A No, ma'am.

16 Q Okay. Do you think you could be fair to both sides in
17 this case?

18 A Yes, ma'am.

19 Q Thank you. Anybody else in that row? Somebody
20 behind, is that -- could you stand? Is that [REDACTED]?

21 A Yes, I'm sorry. My sister is a security guard
22 currently in Ohio, and then she was also dispatcher for a
23 year at the University in Ohio.

24 Q [REDACTED], do you think you can listen to the proof
25 from both sides here and be fair to both sides?

1 A Yes, she doesn't talk to me about her work.

2 Q Okay. Very good. Thank you. Anybody else? Anybody
3 in the front row? [REDACTED]?

4 A [REDACTED], yeah. My nephew is a corrections officer
5 up in Michigan.

6 Q Yes.

7 A My wife works for an attorney at Baker Donelson.

8 Q Your wife works for?

9 A Baker, Donelson, Berkowitz.

10 Q That long name?

11 A Yeah.

12 Q Okay. And what do the lawyers she works for
13 specialize in or is she a lawyer?

14 A No, she's not a lawyer. She's just billing clerk.
15 They are just like patent pending, all that.

16 Q Civil kinds of cases?

17 A Yes.

18 Q And, [REDACTED], do you think you can listen to
19 the proof and the instructions and be fair to both sides?

20 A Yes.

21 Q Okay. Thank you. Anybody else? Have we gotten
22 everybody. Somebody in the second to the last row, could
23 you stand up, please? Is that --

24 A [REDACTED].

25 Q [REDACTED]?

1 A Yes.

2 Q Yes?

3 A I would like to let you know I'm a firefighter and
4 half my friends are cops.

5 Q I can't hear you?

6 A I'm a firefighter with Robertson and Sumner County,
7 and I had a previous brother-in-law that was a Metro
8 officer, and half of my friends are officers are in
9 different counties, Robertson, Sumner, Goodlettsville and
10 Millersville.

11 Q Okay. So you have -- as a firefighter, you have had
12 lots of contact with and formed relationships with
13 policemen --

14 A Yes, ma'am, quite a bit.

15 Q -- and law enforcement? [REDACTED], do you feel
16 that you can do your civic duty here and put aside those
17 relationships and listen to the proof in this case and the
18 instructions and be fair to both sides?

19 A All I can say is I can try.

20 Q Okay. All right. Well, that's what we're going to
21 ask you to do. Anybody else? Okay.

22 Has anyone ever been involved in a criminal case in
23 any way, you or any member of your family or close friend,
24 as a defendant charged with any kind of a crime or a witness
25 to a crime, and then I'm also going to ask if you have been

1 a victim of a crime.

2 So if you have ever -- you or any member of your
3 family or a close friend been charged with a crime and a
4 witness in a criminal case or let's save the victim for
5 later. We'll just do those first two first. We have got to
6 many people. All right. Yes, in the back row? [REDACTED]

7 [REDACTED].?

8 A [REDACTED].

9 Q [REDACTED]?

10 A Yes. My mother was charged with a DUI.

11 Q Your mother was charged with a DUI?

12 A Uh-huh.

13 Q Anything else?

14 A My brother got in trouble for vandalism, but that was
15 a long time ago, just little stuff he did.

16 Q Okay. And has that caused you to have any kind of
17 prejudice against law enforcement in any way?

18 A No, ma'am.

19 Q All right. Anybody else in that back row?

20 [REDACTED]?

21 A Yeah, my son has spent two years in a Ohio prison for
22 graft theft auto.

23 Q Okay. And, [REDACTED], has that caused you to have
24 any kind of strong feelings for or against law enforcement?

25 A No, I think it was good for him. You should pay for

1 what you do.

2 (Laughter.)

3 Q Okay. Anybody in the front row of the jury box?

4 [REDACTED]?

5 A Yeah, my brother is doing two life sentences.

6 Q Two life sentences for what?

7 A For my father and sister-in-law, doing two life
8 sentences in Tiptonville.

9 Q And what did that have to do with your father and
10 sister-in-law?

11 A He murdered them.

12 Q He murdered them, I see.

13 A Yeah.

14 Q Okay. [REDACTED], is there anything about that
15 situation that you think would make you favor one side or
16 the other in this case?

17 A I don't know. I don't think so. I don't -- I
18 honestly don't know. It's been -- 1983.

19 Q Were you a witness in any way?

20 A Yes.

21 Q Did you testify?

22 A Yeah.

23 Q You testified?

24 A Yes.

25 Q And this was in what court? Could you hold the mic up

1 so I can hear you? What county?

2 A In Davidson County.

3 Q It was in Davidson County?

4 A Yes.

5 Q All right. And so you testified at that trial?

6 A Yes.

7 Q Okay. Well, your responsibility here is to listen to
8 the proof --

9 A Right.

10 Q -- and my instructions and make your verdict based
11 upon that and not --

12 A Okay.

13 Q -- without -- putting out of your mind, as much as you
14 can, any feelings you have for or against law enforcement or
15 for or against people charged of a crime, do you think you
16 can do that?

17 A I can try, yeah.

18 Q Okay. Anybody else in that row? [REDACTED]?

19 A Yes, my wife was charged with a domestic assault last
20 year.

21 Q Did it go to trial?

22 A No, it didn't go to trial. It was settled out of
23 court.

24 Q Was it assault on you?

25 A No.

1 Q Okay.

2 A My daughter assaulted her, but whoever calls 911 first
3 the other person gets arrested.

4 Q I see. Does that situation cause you to have feelings
5 for or against law enforcement or victims that you couldn't
6 put aside and just listen to the proof and instructions in
7 this case and make a decision based on that?

8 A Yes, I do.

9 Q You can do that, okay. Thank you. Anybody else in
10 that row? [REDACTED]?

11 A About 20 years ago, I was arrested for and pled guilty
12 to a DUI. Before that I was a little bit wild.

13 Q A little bit what?

14 A Little bit wild. I have a list here.

15 Q You have a list of convictions?

16 A They are all like high school stuff.

17 Q Okay.

18 A It's misdemeanor, reckless driving.

19 Q Okay. [REDACTED], can you put all that aside and not
20 favor or oppose the government in this case?

21 A Absolutely, Your Honor.

22 Q You think you can decide it based on the proof and the
23 instructions?

24 A Yes, Your Honor.

25 Q We appreciate your honesty.

1 A No problem.

2 Q Anybody in the front row? Okay. Anybody back here?

3 No witnesses? Okay?

4 A [REDACTED]. I was a witness for a DUI case in Hickman
5 County where a truck driver hit a family and killed four of
6 them.

7 Q Okay. You had to testify at the trial?

8 A Yes, ma'am.

9 Q Okay. Thank you for letting us know that. Okay.

10 Anything else from people in the benches? [REDACTED]?

11 A Yes, ma'am. It was about eight years ago, I worked
12 with a guy in Virginia, and after I left Virginia, he
13 murdered a lady, and I didn't -- I didn't testify or
14 anything.

15 Q You didn't know anything about the facts of that
16 situation? You don't have to answer that.

17 A The lawyers contacted me, and I was going to up there,
18 and -- but I was never called again.

19 Q You were a potential witness then?

20 A Yes.

21 Q Okay. All right. Anybody else? Okay -- yes.

22 [REDACTED], is it?

23 A Yes, ma'am. My niece was murdered, but it hasn't went
24 to court yet.

25 Q Your niece was murdered?

1 A Yes, ma'am.

2 Q Where was that?

3 A Robertson County.

4 Q Robertson County. And -- but it hasn't gone to trial?

5 A No, ma'am, it hasn't.

6 Q They have charged one?

7 A Yes, ma'am.

8 Q They have, okay. Are you going to be a witness?

9 A No, ma'am, I will not participate in it.

10 Q Is there anything about that situation that you think
11 would spill over here in any way?

12 A No, ma'am.

13 Q All right. Thank you for letting us know that. I'm
14 sorry for your loss. Anybody else?

15 A Yeah, I was a witness in a murder trial.

16 Q [REDACTED], when was that?

17 A About 17 years ago in Michigan.

18 Q In Michigan?

19 A Yeah.

20 Q Okay. Any spillover to this case from that situation?

21 A No, ma'am.

22 Q Al right. Thank you. Anybody else? Okay. Now,
23 anybody in this section ever been a victim of a crime?

24 Well, that's good to hear. Who? [REDACTED]?

25 A Yeah, just automobile burglary.

1 Q Okay.

2 A Just broke into my car.

3 Q Okay. [REDACTED]?

4 A About five or six months ago I was a victim of
5 identity theft.

6 Q Identity theft?

7 A I had my checks stolen.

8 Q Okay. Thank you. Anybody else? Okay. Anybody back
9 here been a victim of a crime? Okay.

10 Okay. Anyone have a lawyer in their immediate family?
11 And if you have already told us about that person, we don't
12 need to hear it again, but anybody else who hasn't said
13 anything have a lawyer in their immediate family?

14 [REDACTED]? Oh, sorry. Go ahead. Sorry.

15 A I don't know if you consider it immediate, but my
16 sister is an attorney.

17 Q [REDACTED]?

18 A Yes.

19 Q And where is your sister a lawyer?

20 A In Little Rock, Arkansas.

21 Q Do you know what kind of work she does?

22 A She works with the highway department.

23 Q Highway department?

24 A Uh-huh.

25 Q Just doesn't have anything to do with criminal cases?

1 A No.

2 Q Okay. Very good. Thank you. Anybody else?

3 [REDACTED]?

4 A My brother is an attorney.

5 Q And what kind of work does he do?

6 A But he's a judge.

7 Q He's a judge?

8 A Court of Appeals judge.

9 Q And before he went on the bench, what kind of work did
10 he do?

11 A He had his own practice of law.

12 Q And he did civil work?

13 A Yes. Yes, Judge.

14 Q Thank you.

15 A Thank you.

16 Q Anybody else? [REDACTED]?

17 A [REDACTED]. My brother-in-law is an attorney in
18 Boston, Massachusetts.

19 Q Do you know what kind of work he does?

20 A He's one of the lawyers on the Big Dig.

21 Q On the Big Dig? Well, he's very busy then, isn't he?

22 A Yes.

23 Q He doesn't do criminal work?

24 A No.

25 Q All right. Thank you. Anybody else. Anybody in the

1 back rows, the benches? [REDACTED]?

2 A [REDACTED].

3 Q Sorry. [REDACTED]?

4 A My father was an attorney. He's deceased. Then I
5 have a brother that's an attorney in Atlanta.

6 Q Okay. And what kind of work did your father do?

7 A My father did OSHA and -- cases and TOSHA cases, and
8 stuff.

9 Q And what about the other person?

10 A My brother does basically real estate leases and
11 everything for parking companies.

12 Q Okay. All right. Thank you. Anybody else? Okay.
13 I'm going to now summarize the charges in this case. You
14 should understand that I'm just summarizing the counts of
15 the indictment.

16 I want you to understand that an indictment is simply
17 an accusation, a formal charge. It is not evidence of
18 anything. The defendant has pled not guilty and is presumed
19 innocent unless and until he is proved guilty beyond a
20 reasonable doubt.

21 And the defendant in this case is Timothy Ryan
22 Richards. And he is charged with four counts of
23 distributing child pornography, five counts of advertising
24 child pornography, four counts of producing child
25 pornography, four counts of possessing child pornography,

1 three counts of record-keeping infractions in connection
2 with child pornography, two counts of conspiracy to
3 advertise child pornography, one count of conspiracy to
4 distribute child pornography, and then a forfeiture count.

5 So those are the charges that will be tried in this
6 case. And let me just ask, has anyone heard anything about
7 this case, a child pornography case against Timothy Ryan
8 Richards?

9 Okay. Let me ask if any of you have had any contact
10 whatsoever with child pornography, any connection
11 whatsoever, you had a relative who got charged with it or
12 you had a child that the principal said the child was
13 looking at it on the internet, or just any connection
14 whatsoever to child pornography? Okay. [REDACTED]?

15 A If I could approach, Your Honor?

16 THE COURT: Yes, you may.

17 (Bench conference begins.)

18 THE JUROR: When I was a child there, I was
19 around between six or eight years old, this neighbor of mine
20 provided pornography pictures and magazines to some of our
21 friends, and myself included. I later learned that this guy
22 had molested a couple of them.

23 THE COURT: These were minors?

24 THE WITNESS: Yes, all of those were around the
25 ages of six, not older than ten. I learned -- that was --

1 is when I was in Mexico. I learned from my mother within
2 the past eight months that this person married, got kids, he
3 molested his two kids, and was sent to jail, and he was
4 killed while in jail.

5 THE COURT: Okay. The pornography that he
6 furnished to you and your friends, was it child pornography
7 or adult pornography?

8 THE JUROR: No, it was mainly adult explicit
9 pornography.

10 THE COURT: [REDACTED], do you feel that you can
11 put that experience out of your head and listen to the
12 charges against this person and be fair and decide whether
13 or not this person is guilty of what he's charged with?

14 THE JUROR: I can try. In all honesty, I'm very
15 against that.

16 THE COURT: In all honesty what?

17 THE JUROR: In all honesty, I'm very against
18 anything pertaining to exposing children to pornography, so
19 I don't know. I can try.

20 THE COURT: Does anybody want to ask [REDACTED] a
21 question further question?

22 MR. STRIANSE: No.

23 MS. DAUGHTREY: (Moves head from side to side.)

24 THE COURT: Well, the job of the jury is to
25 listen to the proof that's against this particular person.

1 You know, we have laws against child pornography, so it's
2 illegal, and so it's -- you're not unusual to say you are
3 against child pornography.

4 But what we have here is specific child pornography
5 crimes that are charged, and the government must prove all
6 the elements of these crimes beyond a reasonable doubt. And
7 the jury has to decide whether -- I mean, I'm sure if I
8 asked any of these jurors, they would say I'm against child
9 pornography, but you have a little personal experience.

10 THE JUROR: I don't want to sound like the lady
11 that was sitting next to me that she said, no, I believe
12 everyone is guilty, I don't. But I feel that I could not in
13 all honesty tell you that I could be 100 percent impartial.
14 I can try my best.

15 THE COURT: Okay. All right. [REDACTED], you
16 can sit down. Thank you. I'm going to ask the lawyers to
17 stay here a second.

18 THE JUROR: Thank you.

19 THE COURT: What do you think?

20 MR. STRIANSE: Your Honor, I would ask that he be
21 excused for cause. I think the subject matter is going to
22 be a little too close to home because he really was a victim
23 of potential sexual abuse involving pornography. I don't
24 know how he's going to be able to divorce that from his
25 objectivity in this case.

1 THE COURT: Government object?

2 MR. STRIANSE: I don't -- go ahead.

3 MS. HODDE: Seems like the defense is going to
4 make it a point that there's a quality of difference between
5 child pornography involving young children and adults and
6 adolescents, and beyond that adult pornography not adult
7 pornography that he was shown. He's had exposure to
8 molestation, that's true.

9 THE COURT: Does the government object to
10 excusing him for cause?

11 MS. DAUGHTREY: No, I don't.

12 THE COURT: Can --

13 MS. DAUGHTREY: I apologize. It's been a long
14 time since I tried this case. You may have said this in
15 front of the jurors. Are we to question all the panel
16 together, all 57, or what?

17 THE COURT: Together, yes.

18 MS. DAUGHTREY: How many strikes does each side
19 have?

20 THE COURT: You have peremptory challenge sheets.

21 MR. STRIANSE: Six and three.

22 THE COURT: And they have ten and three.

23 MS. DAUGHTREY: Thank you. I apologize.

24 MR. STRIANSE: One other housekeeping matter.

25 When we begin making strikes, we strike in the box first,

1 then you start filling in with other jurors?

2 THE COURT: You can strike anywhere, but to
3 strike number 56 doesn't make much sense because I move them
4 up numerically.

5 MS. DAUGHTREY: Right.

6 MR. STRIANSE: That's what I wanted to
7 double-check.

8 MS. DAUGHTREY: Thank you. But Mr. Strianse --

9 MR. STRIANSE: Pardon me?

10 THE COURT: But there's no back-striking.

11 MR. STRIANSE: Right.

12 THE COURT: For alternates, if you have allowed
13 someone to stay with your first series of peremptories, then
14 you can't strike that person as alternate.

15 MS. DAUGHTREY: Once you fill in 12 seats, that's
16 it?

17 THE COURT: Yeah.

18 MR. STRIANSE: Yeah.

19 (Bench conference concludes.)

20 THE COURT: [REDACTED], we are going to excuse
21 you and ask that you report to the jury coordinator. Thank
22 you.

23 BY THE COURT:

24 Q Anybody else? Is there anybody else -- if you feel
25 it's something private, we can certainly have you up here.

1 If it's not, it saves time if you don't need to come up
2 here. If you need to come up here, we'll have you come up
3 here. [REDACTED]?

4 A May I come?

5 THE COURT: You need approach the bench, all
6 right.

7 (Bench conference begins.)

8 THE COURT: Okay, [REDACTED]?

9 THE JUROR: I don't think I can be a juror on
10 this case.

11 THE COURT: Why?

12 THE JUROR: My wife was molested by her father
13 for years. Then like six years ago, my brother-in-law was
14 accused of molesting his daughter, and we haven't spoken to
15 him in like six years.

16 THE COURT: Just too close?

17 THE JUROR: If it's child pornography, then child
18 molestation goes right with it.

19 THE COURT: In your mind?

20 THE JUROR: Yeah. And with the number of counts
21 they have got, the guy is guilty.

22 THE COURT: You can't come to that conclusion
23 under our system now.

24 THE JUROR: I know.

25 THE COURT: All right. Thank you, [REDACTED].

1 Anybody want to ask [REDACTED] a question?

2 MR. STRIANSE: No thank you.

3 MS. DAUGHTREY: No, thank you.

4 THE JUROR: May I go ahead and leave?

5 THE COURT: No, just sit down for right now. I
6 hope we are not starting an avalanche here. What's the
7 defense's feeling?

8 MR. STRIANSE: I think he's needs to be excused
9 for cause. He indicated he can't be fair and impartial.
10 He's already formed the judgment that the client is guilty
11 based on the number of counts.

12 MS. DAUGHTREY: And I have no objection.

13 THE COURT: All right. Why don't you stay up
14 here and we'll see?

15 (Bench conference pauses.)

16 THE COURT: All right. Is there any one else who
17 feels they need to come to the bench and we'll deal with
18 that since we have the lawyers up here? Okay. [REDACTED] or
19 [REDACTED]? Is this [REDACTED]?

20 THE JUROR: [REDACTED].

21 THE COURT: [REDACTED]. Well, I'm totally wrong
22 here. Okay, [REDACTED].

23 (Bench conference resumes.)

24 THE COURT: All right. [REDACTED], move in here
25 a little bit.

1 THE JUROR: I'm a victim of child molestation by
2 my father, and both my daughters were molested by him, and I
3 have really strong feelings about sexual issues, and I work
4 with Focus On The Family against child pornography.

5 THE COURT: Okay. All right. Thank you. Just
6 take your seat. Thank you.

7 Well, any objection to excusing her for cause?

8 MS. DAUGHTREY: No.

9 MR. STRIANSE: No. What was the last thing she
10 said she was a member of?

11 THE COURT: She works for Focus On The Family,
12 which is against child pornography?

13 (Bench conference pauses.)

14 THE COURT: Anyone else who feels they need to
15 approach the bench? If you can say it from where you are,
16 that's fine. If you feel you need to approach the bench,
17 you may do so. Okay. Thank you.

18 All right. [REDACTED] and [REDACTED], we're going
19 to excuse you. And if you would report to the jury
20 coordinator, please, and thank you for coming in today.

21 BY THE COURT:

22 Q Yes? And this -- would you give me your name, please?

23 A [REDACTED].

24 Q [REDACTED]?

25 A I was a school counselor last year and had to report

1 child pornography to DCS.

2 Q Okay. Child pornography that was found in the school,
3 is that what you're --

4 A No, a student. It's confidential in a counseling
5 session.

6 Q Oh, in a counseling session, okay. So the child was
7 exposed to child pornography?

8 A Yes.

9 Q Okay. And you had to report it to DHS?

10 A Yes.

11 Q All right. Now, this case involves lots of counts
12 involving child pornography, and it's the government's
13 burden to prove each and every element of these offenses
14 beyond a reasonable doubt against Mr. Richards before he can
15 be found guilty of any of these charges.

16 Do you think that you can listen to the proof and the
17 instructions and be fair to both sides here?

18 A Yes, I do.

19 Q All right. Thank you. Thank you for letting us know
20 that. Anybody else?

21 We're going to take a break pretty soon. Now I want
22 introduce to you the people in the courtroom and the people
23 that might be called as witnesses to see if anybody has any
24 familiarity with any of these people that would have any
25 bearing.

1 My name is Aleta Trauger. I'm a U.S. District Court
2 Judge, and I'll be trying this case with you all.

3 My courtroom deputy is Betty Briggs-Jones, sitting
4 here in the violet suit. My court reporter is Becky Cole.
5 The court security officers for this trial are Mr. Terry
6 Thompson and Mr. J.D. Simpson, back there.

7 The government prosecutors presenting the government's
8 case are Carrie Daughtrey and Kayla Bakshi. Ms. Daughtrey
9 is in the U.S. Attorney's Office here in Nashville in this
10 building. Ms. Bakshi is with the U.S. Department of Justice
11 Washington D.C.

12 The defendant in this case is Timothy Ryan Richards.
13 He's sitting here on the end in the blue shirt. His lawyers
14 are Peter Strianse --

15 MR. STRIANSE: Good morning.

16 THE COURT: -- and Kimberly Hodde. Peter
17 Strianse is with the law firm of Tune, Entrekin and White in
18 Nashville, Tennessee. And Kimberly Hodde is with the law
19 firm of Hodde and Associates in Nashville, Tennessee.

20 And sitting behind them is Ms. Hodde's assistant,
21 Nicole Earl. Okay.

22 Of these people I have mentioned, does anybody have
23 any familiarity with them or any familiarity with the law
24 firms of Tune, Entrekin and White or Hodde and Associates,
25 ever have any connection with those law firms or employers

1 represented by those law firms or know people represented by
2 those law firms?

3 I'm going to disclose that I know [REDACTED] in a
4 social way, I guess. I can tell you that. Probably several
5 of you know [REDACTED] as well. So all right.

6 Here is the list of witnesses who may be called in
7 this case. Not all of these people will be called, and
8 there probably will be other witnesses called that the names
9 I don't have right now.

10 If a name rings a bell and you want to know a little
11 more about that person, is that the person that lives on
12 Monarch Street, we'll get you that further information. So
13 Justin Berry; [REDACTED]; Kevin Bonner,
14 B-o-n-n-e-r; Jermaine Boyd; Teresa Brown; David Condo,
15 C-o-n-d-o; Craig Dickhaus; Jay Brook Donahue; Sherry
16 England; James M. Fottrell, F-o-t-t-r-e-l-l; Charles Foulk,
17 F-o-u-l-k; Brandon Harcum; Douglas Hunt; Kent Kobliska,
18 K-o-b-l-i-s-k-a; Missy Ledson, L-e-d-s-o-n-e; Kyle Lewison,
19 L-e-w-i-s-o-n; Patrick Lombardy; Nicholas Lydon, L-y-d-o-n;
20 Jeremy Moeder, M-o-e-d-e-r; Howard Patterson, Bernard
21 Riedel, R-i-e-d-e-l; John Stephens; Charles Warner; Kristi
22 Whitsman, W-h-i-t-s-m-a-n. Any of those names ring a bell?
23 You need to know more information about them to see if you
24 know them. Yes, [REDACTED]?

25 A Patrick Lombardy.

1 Q Ms. Wade?

2 A Patrick Lombardy.

3 Q Patrick Lombardy, somebody, Ms. Daughtrey, or someone,
4 give me a little more information about -- where does
5 Patrick Lombardy live? How old is he?

6 MS. DAUGHTREY: He currently lives in
7 Massachusetts. He's 20 years old.

8 THE JUROR: (Moves head from side to side.)

9 BY THE COURT:

10 Q Okay, not the right Patrick Lombardy. Anybody else
11 have any other questions to see if you know somebody? Okay.
12 All right.

13 If you are selected to sit on this case, will you be
14 able to render a verdict solely on the evidence presented at
15 trial and in the context of the law as I will give it to you
16 in my instructions disregarding any other ideas, notions or
17 beliefs about the law that you may have encountered in
18 reaching your verdict? Can everybody do that?

19 We're going to take at this time a 20-minute break.
20 We will come back and the lawyers will have some questions
21 -- additional questions for you or maybe some follow-up
22 questions from questions that have already been asked.

23 So we will be in recess for 20 minutes. When we come
24 back, please take the same seat you are in. We are in
25 recess.

1 (Break.)

2 THE COURT: Okay. Does the government wish to
3 ask some questions?

4 MS. DAUGHTREY: Yes, Your Honor.

5 JURY VOIR DIRE EXAMINATION

6 BY MS. DAUGHTREY:

7 Q Hello. As the judge told you earlier, my name is
8 Carrie Daughtrey, and I'm one of the attorneys that's
9 representing the United States in this case. My co-counsel
10 is Kayla Bakshi, and she and I will be representing the
11 government in this particular case.

12 We are going to be asking you or I'm going to be
13 asking you questions on behalf of the government and then
14 the defense counsel will also come up and ask you questions.
15 They are going to be similar along the lines of what the
16 judge has been asking you already, but we are probably going
17 to get into a little bit more detail about it.

18 And, really, the point of these questions is to make
19 sure that both the government and the defendant in this case
20 get a fair trial. We want to make sure that everybody can
21 start out with a clean slate in their mind and understand
22 that the defendant is innocent until the government bears
23 its burden of proving that he's guilty. And I will talk to
24 you a little bit later about what's required for that, but
25 it's proof beyond a reasonable doubt.

1 And so in asking these questions, it's not that we're
2 trying to embarrass anybody or prior into any of your
3 personal life, but we are trying to make sure that you can
4 be a fair and impartial juror and that you can consider all
5 the facts in this case and all the evidence in this case
6 before making up your mind about whether or not this
7 defendant is guilty of the crimes charged.

8 You have heard from the judge that this is a case
9 about child pornography, so you can well imagine that
10 there's going to be some sensitive issues. And I'm going to
11 wait a few minute before I start getting into some of those
12 questions. I think the judge asked a few already.

13 If you're embarrassed by any of the questions that I
14 ask or wish to go up to the podium as the judge did before
15 with others, please let me know or let the defense know when
16 they ask questions, and we'll do that.

17 I want to get a little bit -- I'm probably going to
18 ask you a few questions more about each of you and what kind
19 of work you do and particularly with regard to whether or
20 not you are using computers, so I'll get to that
21 momentarily.

22 I wanted to first start with -- there were several of
23 you who talked about having experience or family members
24 that were in law enforcement. I'm wondering if there's
25 anyone who has had any contact with the FBI, has any family

1 members or friends that are involved in the FBI, or the
2 Federal Bureau of Investigation?

3 Yes, [REDACTED], what is your connection with that?

4 A My daughter works for the FBI.

5 Q What is it that she does?

6 A She's an analyst in Washington, D.C.

7 Q Okay.

8 A And my father years ago was with the FBI.

9 Q And do you have any preconceived notions about the FBI
10 that would prevent you from being fair and impartial in this
11 case and considering those witnesses the same as you would
12 any other witnesses?

13 A No.

14 Q Is there anybody else who has any experience with the
15 FBI or friends or family that are involved?

16 A Yes. TBI.

17 Q Well, the TBI, tell us about your involvement with the
18 TBI. There's going to be a witness from Tennessee Bureau of
19 Investigation.

20 A One of my best friends works for TBI here in
21 Nashville.

22 Q Who is that person?

23 A [REDACTED].

24 Q And would that -- the fact that you have a close
25 friend working for TBI, would that prevent you from being

1 fair and impartial in this case?

2 A Shouldn't.

3 Q Okay. Are you sure about that or, I mean, this is
4 going to be a computer evidence case involving child
5 pornography. With that --

6 A I'm not too keen on child pornography.

7 Q Well, it certainly is illegal, and I will get into
8 more detail about that, but will you be able to consider the
9 witness from the TBI, the Tennessee Bureau of Investigation,
10 the same as you will consider any witness in this case and
11 not necessarily give them more credentials just because they
12 work for the TBI?

13 A Yes, ma'am.

14 Q Okay. Anybody else have any experience with the
15 Tennessee Bureau of Investigation or the FBI? Yes,
16 [REDACTED]?

17 A My friend --

18 Q Just a minute?

19 A My friend and neighbor, former Stewart County sheriff,
20 David Hicks, he's now with TBI, FBI.

21 Q Okay. Great. Anybody else? Anybody have any idea
22 that the FBI should be held in some great esteem or we
23 should think more highly of the FBI, or in the reverse, that
24 we should think any less of the FBI; is there anyone who has
25 any grudge against the FBI or any law enforcement at all?

1 Okay.

2 The judge has talked to you a little bit about whether
3 or not you have had any family members who that involved in
4 any criminal trials or witnesses or victims of crimes. Is
5 there anyone in this group of people that has been involved
6 in a court case or a party to litigation that we haven't
7 talked about already, somebody like a civil case that's been
8 filed or somebody whose been sued, or any of that? Yes? I
9 believe your name is [REDACTED]. Is that right?

10 A Yes. Several years ago, I was involved with my
11 employer in investigating and supporting the investigation
12 of the TBI and the district attorney in an embezzlement
13 case.

14 Q And so when you say that -- was the TBI and DA's
15 office, were they investigating the company or?

16 A They were investigating a former employee of the
17 company.

18 Q A former employee of the company, okay. And did that
19 end up resulting in any kind of charges being filed or any
20 kind of lawsuits being filed?

21 A Yes, there were charges that were filed, and the
22 employee pled guilty, so we did not actually go to court.

23 Q Okay. Did you feel that the criminal justice system
24 was fair and the legal system was fair in that case?

25 A Yes.

1 Q Okay. Is there anyone else? [REDACTED]?

2 A Yes, worker's compensation court in 1984, in Oklahoma.

3 Q And were you a party to that?

4 A Yes, I was.

5 Q And were you the one who was asking for the worker's
6 compensation?

7 A That's correct.

8 Q Okay. And did you feel like your dealings with the
9 court system at that time were fair and --

10 A Yes, very straightforward.

11 Q Okay. Great. Anybody else have any experience with
12 the justice system or civil system?

13 Is there anyone in this group of people who feels that
14 the criminal justice system is not a fair system? What
15 makes it fair is having you all be here and be impartial.

16 I'm going to turn my attention and ask the same
17 questions of the group of you. Unfortunately, you're not as
18 easy for me to identify because you're not sitting in seats
19 and I have had my back to you the whole time, so I apologize
20 that I won't be able to identify your names, but is there
21 anyone that's sitting in the back here who has had any kind
22 of experience with litigation either through family, friends
23 employers that -- where they were involved in some way or
24 another with litigation or a court case? Okay.

25 And anybody have any bad experiences or bad feelings

1 about the court system or how our system works? Okay.

2 [REDACTED]? I don't mean to pick on you but I noticed that
3 you work for Aim Healthcare?

4 A I do.

5 Q And could somebody -- can you tell us what it is that
6 you do with Aim?

7 A We audit providers assistance for insurance companies.

8 Q When you say "providers" do you mean healthcare
9 providers?

10 A Hospitals.

11 Q Hospitals?

12 A Uh-huh.

13 Q Were you involved at all in the litigation that was
14 surrounding Aim Healthcare in the last several years or know
15 anything about that at all?

16 A No.

17 Q All right. Great. Thank you very much. I'm sorry.
18 It's very difficult to keep 50 some odd people straight.

19 [REDACTED], I wanted to ask you a couple of questions. You
20 had indicated that your family was involved in a horrendous
21 crime back in 1983 and that your -- you went to court.

22 Did you feel like during that period of time that --
23 you clearly had family members who were victims of a crime
24 as well as a family member who was subsequently
25 incarcerated, do you feel like the criminal justice system

1 was fair with regard to all the people involved in that
2 case?

3 A I don't -- I'm not real sure. I don't think about it
4 that much anymore, but -- I have got mixed feelings about
5 it.

6 Q Okay. Do you feel like you can be fair to both the
7 government and the defense in this case? Are you coming in
8 with any preconceived notions that might arise from that
9 experience that you had with your brother?

10 A Like I told the Judge, I can try, but that's all. I
11 don't know. I have got some mixed emotions about that.

12 Q And can you -- do you feel comfortable elaborating or
13 talking a little bit more about what those mixed emotions
14 are?

15 A Not at this time.

16 BY THE COURT:

17 Q [REDACTED], is it feelings that cause you to be
18 prejudiced or think ill of the government or feelings that
19 cause you to be prejudiced or think ill of a criminal
20 defendant or both?

21 A A little of both.

22 Q Little of both?

23 A Yeah.

24 Q Okay.

25 A Some things I didn't feel like went right with the

1 trial. At the same time, you know, a crime had been
2 committed, it shouldn't have been committed but, you know,
3 things happen the way they happen.

4 Q Maybe have a little bad feelings about lawyers, maybe?

5 A Yeah, lawyers, prosecutors.

6 Q Okay.

7 A Everything didn't go the way I thought it should have.

8 THE COURT: Okay.

9 BY MS. DAUGHTREY:

10 Q Thank you for your candidness. Is there anyone else
11 who has a feeling about prosecutors or government attorneys
12 that would make them feel like they would not be fair in
13 this case to either side?

14 I know several of you talked about having some
15 experience with the criminal justice system in other ways.
16 Is there anyone who is -- anyone who has any personal
17 feelings against the Federal Government at all? Okay.

18 Has anyone had any unfair dealings with the Federal
19 Government? I'll ask this group first. Is there anyone
20 here whose had unfair dealings or dealings with the
21 government that they thought weren't right or weren't fair?

22 How about in the back group, is there anyone who's not
23 happy with the government or had any bad experiences?

24 All right. The judge -- did somebody say something?
25 I'm sorry. The judge touched on whether or not you all had

1 any discomfort or any issues with sitting through the trial
2 which we do expect to last between two and three weeks.

3 Is there anyone who has any physical difficulties that
4 might prevent you from seeing or hearing or reading any
5 exhibits that either the government or the defense might
6 have, anybody who's hard of hearing or has difficulty
7 seeing?

8 We're probably going to be putting up on a big screen
9 right here both imaging and text, and that sort of thing,
10 and will probably be providing copies of that as well. Is
11 there anyone who will have difficulty with that at all?

12 Is there anyone who has any sort of moral or political
13 or philosophical reason why they feel they can't be fair and
14 impartial in this case or anything that would make it
15 difficult for you to sit in judgment of somebody else? All
16 right. Any religious beliefs or -- that would make it
17 difficult for you to sit in judgment of somebody?

18 Is there anyone here who believes that nobody should
19 be convicted of a crime?

20 Okay. I think the judge is going to instruct you
21 about the government's proof being beyond a reasonable
22 doubt, and until the government meets that burden you need
23 to consider that this defendant is innocent. Do you
24 understand that that's the way that our system works? All
25 right. Despite what some of the earlier or what one of the

1 earlier jurors said, is there anybody who has any question
2 about that?

3 Are there any of you who believe that Mr. Richards is
4 guilty just simply because he's here in court today?

5 Is there anyone who feels that the criminal justice
6 system is treating people who are accused of crimes either
7 too leniently or too harshly?

8 The reason I ask these questions, and I think the
9 defense will probably ask you the same sorts of questions,
10 again, is to make sure that we have a jury, group of people,
11 who can be fair and impartial. And that we are asking you
12 to do is to decide the case solely according to the evidence
13 that's admitted in this courtroom.

14 And you will hear evidence from witnesses. You will
15 also have some physical evidence or things that you can
16 touch that will be admitted. And you will need to make a
17 decision based on the evidence, the court's instructions of
18 law, and you need to do that without any regard to any bias
19 or sympathy or prejudice or public opinion for either the
20 government or the defendant in this case. Does everybody
21 think they can do that in this case?

22 Is there anybody in this group of people here that
23 feels that they -- if they were the government or if they
24 were the defense that they would not -- is there some reason
25 why you shouldn't be on the jury for either the government

1 or defense? Anybody who feels they wouldn't be a good juror
2 for the government? Is there anybody who feels that they
3 wouldn't be a good juror for the defendant?

4 How about back here?

5 THE COURT: Is this [REDACTED].

6 A PROSPECTIVE JUROR: [REDACTED].

7 THE COURT: [REDACTED]?

8 A PROSPECTIVE JUROR: [REDACTED].

9 THE COURT: Okay.

10 A PROSPECTIVE JUROR: I don't know that I -- I
11 would try to give a fair verdict, but I have children of my
12 own, and ever since I sat down here, it's just not anything
13 to deal with children, I'm a child care provider and I'm all
14 about children, so I would try, but I don't know that I
15 could give a fair verdict.

16 BY THE COURT:

17 Q You are a child care provider in what sense?

18 A Day-care.

19 Q You have a day-care.

20 A Yes.

21 Q Okay. And you have children of your own?

22 A Yes, ma'am.

23 Q Yeah. Well, the -- this subject matter is --

24 A Children.

25 Q -- not going to be comfortable for anyone, I think

1 that's fair to say. But the job of the jurors here is to
2 see if the government has proved this person guilty of what
3 he's been charged with. I'm sure if I asked any of you are
4 you going to be real comfortable seeing images of child
5 pornography, there would not be one hand that came up.

6 But there's a job to be done here, and we need all
7 sorts of people to do that job. We need people who have
8 children, who don't have children. We need the whole
9 spectrum of our society in here trying criminal cases
10 because that's when we get just verdicts is when we have the
11 whole spectrum of people that live in our society.

12 And so your job is to listen to the proof against this
13 person, and what the government must prove, which I will
14 give you in my instructions, and then decide if the
15 government proved that case against this person. So that's
16 the job.

17 As I say, you know, this particular subject matter is
18 more sensitive. It's harder for everyone than whether a
19 felon possessed a gun or whether even somebody robbed a
20 bank. It's just harder subject matter for everybody.

21 But I have explained to you what your job is. Do you
22 think you can do that job?

23 A I don't know.

24 Q Okay. All right.

25 BY MS. DAUGHTREY:

1 Q [REDACTED], can you tell me how many children you do
2 have?

3 A I have three.

4 Q And how old are those children?

5 A My children are five and eight.

6 Q And are you -- do you work at the day-care or are you
7 actually the person who runs the day-care?

8 A I work there.

9 Q Okay. And what age are the children that are there?

10 A From kindergarten to fourth grade.

11 Q Okay. I'm going to now turn to asking some more
12 specific questions that will be related to this case. As
13 the judge has indicated to you, this defendant, Mr. Timothy
14 Ryan Richards, is charged with federal offenses that make it
15 unlawful to produce, distribute, advertise and possess
16 images or videos that depict minors engaged in sexually
17 explicit conduct or to conspire to distribute or advertise
18 these things.

19 The judge is going to instruct you that a minor is any
20 person who is under the age of 18, and I use that term
21 "sexually explicit conduct" because that's sort of a legal
22 term that has a very specific meaning. It's something that
23 the judge will instruct you at the end of the trial.

24 For the purposes of continuing through the voir dire
25 and probably throughout the trial as well, we're going to be

1 referring to these offenses that are charged with a more
2 familiar shorthand version of child pornography.

3 The government in this case is alleging that the
4 defendant had created, operated and maintained several child
5 pornography web sites on the internet.

6 These images and videos involved adolescent boys that
7 were between the age of 14 and 17 and they were either
8 masturbating or engaging in sexual activity with others.

9 The defendant was then providing child pornography to
10 people who paid to join these web sites, and he was
11 advertising and encouraging people to join -- to buy these
12 subscriptions.

13 He also produced child pornography, most of which
14 included him engaged in sexual activity or directing the
15 camera. This is what the government is intending on
16 proving. This is what the government has alleged. These
17 are allegations. These are what are charged in the
18 indictment. It's a 23 count indictment, and the indictment
19 itself is not evidence.

20 It is the government's proof again to prove beyond a
21 reasonable doubt that this defendant is guilty of these
22 charges.

23 Do any of you recognize or know any of the facts about
24 this case that you know of?

25 THE COURT: And let's just make sure because I

1 meant to cover this, and I don't think I did, but this is a
2 child pornography case with these specific charges, but
3 there will be no images of young children, no images of
4 girls. Is that correct? It's entirely boys?

5 MS. DAUGHTREY: That is correct.

6 THE COURT: It's entirely boys between the ages
7 of 14 and 18. So we have no children under 14 represented
8 in these images, and we have no little girls represented in
9 these images. So you can sort of factor that in to the rest
10 of the questions.

11 BY MS. DAUGHTREY:

12 Q So has anybody heard anything about the facts of this
13 case?

14 I'm going to talk to you for a while about computers
15 then I'm going to come back to the issue of child
16 pornography. And, [REDACTED], you are the first person who
17 is still remaining on the jury, so I'm going to start with
18 you and ask you, I understand that -- well, let me tell you
19 this first.

20 When you all fill out a form that's sent to you about
21 becoming a juror, you put down information about whether or
22 not you are married, whether or not you have children, where
23 you live, and your occupation, your employer, and your
24 spouse's occupation or employer.

25 And that is given to us in this kind of a format here

1 at the beginning of the trial, so a lot -- some of this
2 information we have some very basic idea about, but I just
3 want you to know all of this is private information, nothing
4 that we will do anything with, but that's -- sometimes I may
5 be asking you questions that come off this sheet. Those
6 things may have changed, but I just want you to understand
7 that that's where I'm getting some of the information that I
8 have. And so I will start with that.

9 [REDACTED], I understand that you're a dietary aide,
10 is that correct?

11 A Yes, ma'am.

12 Q And where is it that you work?

13 A Hillcrest Nursing Home, in Ashland City, Tennessee.

14 Q And as a dietary aide, what kind of access or work do
15 you do with computers, if any?

16 A None.

17 Q Okay. And what kind of work does that involve? Is it
18 helping to make sure that the patients get good nutrition?

19 A It's like doing desserts and just gettings things
20 ready for breakfast, getting things ready for lunch and
21 sending them out to the lunchroom or the dining room so they
22 can pass them out.

23 Q Gotcha?

24 A It's more or less feeding the residents.

25 Q And do you have any access to a computer at all at

1 your workplace?

2 A No, ma'am. I can truthfully say I don't even know how
3 to turn one on.

4 Q All right. Well, that was going to answer my next
5 question, which is whether or not you have one at home?

6 A No, I don't.

7 Q Do you have any experience using a computer at all?

8 A No, ma'am, I don't.

9 Q Okay. All right. If you could pass the microphone to
10 [REDACTED] is that the right way?

11 A [REDACTED] yes.

12 Q [REDACTED], do you -- your husband works for TVA. Is
13 that correct?

14 A Yes.

15 Q And you work out of the home?

16 A Well, yeah.

17 Q Or you're a homemaker?

18 A Homemaker.

19 Q Yes, there's plenty of work to be done in the home, so
20 --

21 A Okay, thank you.

22 Q Do you have a computer in your home?

23 A Yes.

24 Q And do you use that computer on a regular basis?

25 A About every day.

1 Q Okay. And what kind of things do you do with a
2 computer? Do you talk to people using e-mail or --

3 A I do e-mail. I search the web for information, that
4 kind of thing.

5 Q Okay. And when you say "the web", do you mean the
6 internet, worldwide web?

7 A Right, internet.

8 Q Okay, great. And have you ever -- you said you do
9 searches. Have you ever made any purchases on the internet
10 at all? Have you ever bought anything like from Amazon.com,
11 which is one of my favorite places?

12 A Yes. Yes, I have.

13 Q In doing that how would you go about paying for the
14 product that you bought on the --

15 A I usually use a credit card.

16 Q A credit card, okay. Have you ever used any other
17 types of payment at all?

18 A No.

19 Q Okay. All right. And have you ever subscribed to a
20 web site that has, like, news or any kind of special -- I
21 know some of the newspapers now are starting to make us buy
22 subscriptions in order to have access to the stories or any
23 kind of subscription like that online?

24 A I don't pay, but I look at the New York Times and the
25 Washington Post.

1 Q Okay. And are you familiar with the fact that some of
2 their archives or their old stories are not available unless
3 you pay for them?

4 A Yes.

5 Q Okay. Sometimes frustrating, isn't it?

6 A Yes, a select service.

7 Q Yes. You've got to read it quicker or pay money for
8 it, so --

9 (Laughter.)

10 Q Have you ever saved any pictures or files or anything
11 from the internet or uploaded them to the internet, pictures
12 of family or --

13 A Oh, my family. I'm not very good at that, though.
14 You know, my husband does that stuff.

15 Q Okay.

16 A I'm -- just search, you know.

17 Q And does your husband -- what kind of work does he do
18 with TVA?

19 A He's in communications.

20 Q So he does a lot of work with computers?

21 A Yes.

22 Q Okay. What kind of -- how does he use his computer at
23 work, do you know?

24 A He uses it all the time. He's the communications
25 manager. He has to write proposals and reports and e-mails,

1 that kind of thing.

2 Q Okay. Great.

3 THE COURT: Ms. Daughtrey, I hate to interrupt
4 you, but I'm not going to allow you to question each of
5 these people at this length.

6 MS. DAUGHTREY: Okay.

7 THE COURT: You are going to have to focus in on
8 what you really need to know.

9 MS. DAUGHTREY: Okay.

10 BY MS. DAUGHTREY:

11 Q If you could pass the microphone to [REDACTED]?

12 [REDACTED], tell us where you work and whether or not you
13 have access to a computer.

14 A I work at the shoe department in Bellevue Center. We
15 use one as a register there, but I have two computers at
16 home.

17 Q And do you use those computers regularly?

18 A Yes, ma'am.

19 Q What do you do with those computers?

20 A E-mail, play video games, my bills and things like
21 that.

22 Q Okay. Do you -- have you ever heard of instant
23 messaging?

24 A Yes.

25 Q Do you use instant messaging?

1 A Yes.

2 Q And what is instant messaging?

3 A It's where you can pretty much talk to someone live
4 time using your -- just typing instead of calling.

5 Q So you can talk back and forth on the internet?

6 A Uh-huh.

7 Q And do you use that regularly?

8 A Yes, ma'am.

9 Q Okay. [REDACTED], I'm not sure if I'm pronouncing
10 your name right?

11 A Yeah, that's right.

12 Q You appear to also work in retail. Is that correct?

13 A Yes, ma'am.

14 Q And do you use a computer as part of your work?

15 A It's just an intranet, like it's not -- I don't have
16 access to the internet.

17 Q How about at home, do you --

18 A Uh-huh.

19 Q Do you use the internet on a regular basis?

20 A Yes, ma'am.

21 Q All right. And what kind of activities do you use --
22 do with the internet?

23 A Just e-mail and basic bills, and that kind of thing.

24 Q Are you subscribed to any web sites at all?

25 A New York Times.

1 Q New York Times, okay. And when you are subscribed to
2 the New York Times what extra things do you get?

3 A I just read the news.

4 Q You just read the news, okay, great. All right. If
5 you could pass the microphone to [REDACTED]?

6 A That's right.

7 Q [REDACTED], how about you, do you use a computer as
8 part of the your work or at home?

9 A No, ma'am, we have a computer at home, but I don't
10 have access at work to one.

11 Q Okay. And do you have access to the internet at home?

12 A Yes, ma'am.

13 Q And do you work with the internet or get on the
14 internet?

15 A My wife gets on it quite a bit, but I don't -- I work
16 nights, so when I come home, I usually go to bed.

17 Q You don't feel like messing around with a computer?

18 A No.

19 Q Do you use e-mail at all?

20 A My wife -- I know she e-mails family and does online
21 banking, and stuff like that, but other than that, my kids
22 play online and stuff, but that's about it.

23 Q Okay. Yeah, the kids are usually better than we are
24 online?

25 A Yeah, exactly.

1 Q [REDACTED], how about yourself? I see you are an
2 accountant. I bet you use a computer at work?

3 A Yes, I do --

4 Q How about at home?

5 A -- and at home, yes.

6 Q What do you use the computers to do?

7 A E-mail a lot. Well, mostly e-mail, online banking at
8 work and at home. We do a lot with EFT, electronic funds
9 transfers. And the communication now with our company and
10 Chrysler Corporation is all done on the internet, so I use
11 it frequently.

12 Q Okay. And when you say EFT or electronic funds
13 transfer, can you explain what that is?

14 A Oftentimes today instead of a person writing a check
15 or a bank writing a check to a company to pay for services,
16 they will electronically transfer those funds. And that is
17 what an EFT is.

18 They're initiated at -- I work at a car dealership.
19 They are initiated at the time of the purchase of the
20 vehicle. We go in, send contracts to the banks, and when
21 they're approved they will approve the funding, which is
22 done electronically instead of mailing checks.

23 Q Okay. And so it's like just giving somebody
24 permission to take money out of a bank account. Is that
25 essentially what it is?

1 A That's correct.

2 Q So another way to pay for something online other than
3 a credit card?

4 A That's correct.

5 Q Okay. All right. If you would hand that down to
6 [REDACTED]?

7 THE COURT: Ms. Daughtrey, if you can ask any of
8 these questions collectively, it would certainly save us a
9 lot of time.

10 MS. DAUGHTREY: Okay. I am interested to know
11 whether or not individuals have access to the computer and,
12 that's the reason why.

13 THE COURT: You can ask that collectively. You
14 could ask, is there anybody that doesn't have access to a
15 computer, for instance.

16 BY MS. DAUGHTREY:

17 Q I would be glad to do that. Is there anyone here on
18 the middle row that does not have access to a computer or
19 does not use a computer regularly?

20 Okay. [REDACTED], do you -- you don't have a computer
21 in your home. Is that correct?

22 A No, ma'am.

23 Q Okay.

24 A Since I retired, I became computer illiterate, and I
25 am proud of it. I have no need for a computer.

1 Q And before you retired were you computer literate?

2 A I didn't have one at home. I worked on one at work.

3 Q And what kind of work did you do with a computer?

4 A I did accounting basically.

5 Q Okay. Did you use e-mail and the internet and that
6 sort of thing?

7 A No.

8 Q Okay. And, [REDACTED], did you also raise your hand?
9 Is that right?

10 A Yeah.

11 Q And do you have any regular access at all to the
12 computer?

13 A No, none whatsoever.

14 Q Have you ever been on the internet before?

15 A No.

16 Q Okay. Are -- any of you on the back row or middle
17 row, do any of you have any specialized training in
18 computers, any kind of IT technical training, computer
19 science? Yes, could I speak with [REDACTED]?

20 A Yes.

21 Q What kind of training do you have?

22 A I went to Nashville Tech, and one of my semesters was
23 basically just how to run a computer, how to run programs on
24 a computer, how to access the internet. It was just basic
25 computer training.

1 Q Okay. Is there anyone else -- yes, [REDACTED]?

2 A I have HTML training and little bit of C++ training as
3 well.

4 Q Okay.

5 THE COURT: Please don't ask her what that is
6 since most of us won't understand it anyway.

7 BY MS. DAUGHTREY:

8 Q Well, HTML is something that is going to be coming up
9 in court. Can you explain just very quickly what HTML is?

10 A Programming language for the internet, how the pages
11 are set up, and that sort of thing, just the code behind
12 everything.

13 Q So it's what creates the web pages essentially?

14 A Right.

15 Q And do you actively make web pages or use your
16 knowledge to make web pages?

17 A I used to, not anymore. I don't have time.

18 Q It's a time-consuming endeavor?

19 A Yes.

20 Q All right. Anybody else on this -- in the box? How
21 about down here on the front row, is there anybody who has
22 any -- who -- is there anyone here whose never used a
23 computer? How about anyone whose never been on the internet
24 before? Is there anyone who doesn't have a computer at
25 their home? Okay. All eight of you have computers at home,

1 okay.

2 How about have any of you had any specialized training
3 in computer technology or computer programming or HTML
4 programming or whatnot? Actually, there's a hand back
5 there. How do you know pronounce your last name?

6 A [REDACTED].

7 Q [REDACTED]

8 A [REDACTED], right. I have been in the computer business
9 for 35 years.

10 Q Oh, okay.

11 A Programming, and I still do that. I have a company
12 here in Nashville that does software development.

13 Q Okay. And what kind of products do you all make?

14 A I work with banks and work on their data basis to do
15 statistical modeling.

16 Q Okay. And you actually do the -- or have in the past
17 done programming?

18 A Part of it, right. I do part of it, right.

19 Q And what's the name of your company?

20 A Financial Matrix.

21 Q And you are the president currently. Is that correct?

22 A Yes.

23 Q And how long have you owned that company?

24 A About four years.

25 Q Okay. And how many employees do you have for that?

1 A Everybody is contract, so it varies. It can be up to
2 eight people and down to myself.

3 Q Okay.

4 A And I work with the universities around here to do a
5 lot of work with the kids that are going to computer science
6 school.

7 Q Gotcha. What kind of languages do you program in?

8 A C.

9 Q C, okay. Anyone else have any special training in
10 computers? Is there anyone in this group over here who --
11 oh, I'm sorry. I didn't see your hand. Thank you.

12 [REDACTED] ?

13 A I just had some college computer classes.

14 Q Okay. And what kind of things did you learn in those?
15 Was it how to program or how to use a computer or word
16 processing?

17 A Word processing.

18 Q Okay. All right. And is there anyone, any of you who
19 believe that the internet should be completely unregulated,
20 that there should be absolutely no regulation on the
21 internet at all such that anything you say or do on the
22 internet is considered private and should remain private?

23 [REDACTED], you are shaking your head?

24 A Dead private.

25 Q So you think anybody should be able to do anything

1 they want to on the internet?

2 A That's right.

3 Q Do you think that's -- that even somebody who wants to
4 hack into a bank should be allowed to do that?

5 A No, no, no. I think it has to be above -- it has to
6 be not illegal.

7 Q So you do think it's appropriate to make some things
8 on the internet illegal?

9 A Pardon me?

10 Q You do think it's appropriate to make some things on
11 the internet illegal?

12 A No.

13 Q No. Okay.

14 A No, nothing illegal on the internet.

15 Q I'm not sure -- you believe that it's appropriate for
16 some things to be outlawed on the internet?

17 A Yes.

18 Q Such as hacking or child pornography?

19 A Absolutely, absolutely.

20 Q Is there anyone who -- in this group who disagrees
21 with that, who thinks we shouldn't outlaw anything on the
22 internet, that anything you do on a computer or the internet
23 should be fair game and should be legalized?

24 Okay. All right. I'm going to turn my attention to
25 this group back here, and I guess I'll start -- I'll start

1 backwards. I'll start with the front row of you and ask if
2 there's anyone of the five of you who have no experience
3 with a computer? Okay. And tell me what your name is,
4 please?

5 A [REDACTED].

6 Q Okay. [REDACTED], have you ever been on a computer
7 before?

8 A No, ma'am.

9 Q Okay. And what kind of work do you?

10 A I work in the automotive business.

11 Q Automotive business. And what do you do as part of
12 that?

13 A I actually work on an assembly line.

14 Q On the assembly line, okay. All right. And so you
15 don't have a computer at your home?

16 A No, ma'am.

17 Q All right. Any of the other four of you -- have the
18 other four of you -- do you have regular access to the
19 internet? No? Okay. Have you ever been on the internet
20 before?

21 A Once or twice.

22 Q Once or twice, okay. Are you [REDACTED]?

23 A Yes, ma'am.

24 Q What were you doing when you did get on the internet,
25 do you recall?

1 A I ended up looking at information on fishing, hunting
2 or something like that. I had to have help.

3 Q Did a little research?

4 A Yeah.

5 Q How about the other three of you, are you all
6 regularly on the internet?

7 A (Moves head up and down.)

8 Q [REDACTED], what do you do with your computer and
9 on the internet?

10 A I'm an amateur graphic artist. I design web pages?

11 Q Okay. And what kind of clients do you have for
12 designing web pages?

13 A As of now, mostly just friends, family.

14 Q Okay. Is that your full time business?

15 A No. Just --

16 Q A hobby?

17 A Yeah.

18 Q Okay. And what do you do for -- what kind of work do
19 you do for a living?

20 A Sam's Club, stocking.

21 Q Okay. And what is your opinion about regulating the
22 internet as somebody who programs and designs web pages?

23 A It should be regulated.

24 Q It should be regulated? Why is that?

25 A Well, I believe people are entitled to privacy, but

1 illegal content should be kept to a minimum.

2 Q Okay. Do you have specialized training that -- or are
3 you a self-taught person?

4 A A little of both.

5 Q Okay. Having had a little training myself, I think
6 sometimes self-taught people are the ones who are really the
7 best experts at this kind of work.

8 All right. Any of the other of you on the front row
9 have any specialized training or anything in computers.
10 Yes? And are you --

11 A My name is [REDACTED]. I'm currently enrolled in
12 Ashworth College, computer information management. I have
13 C++, Visual Basic, Access Data Basing, do, as a hobby, some
14 web page design, software programs and building computers,
15 things of that nature.

16 I work for Verizon Wireless as a financial service
17 representative, so I do a lot of financial training and
18 budgeting things, of that nature.

19 Q Tell me the college you are at again?

20 A Ashworth College.

21 Q Is that here in Nashville?

22 A No, ma'am, located in Northcross, Georgia.

23 Q Okay. That's a heavy load to be working and traveling
24 to college?

25 A No, it's all online.

1 Q Oh, it is. Okay. So you are online quite a bit, I
2 would expect?

3 A Yes, ma'am.

4 Q You know about e-mails and --

5 A E-mail, instant messaging, text messaging, you know,
6 video conferencing, web cams, just the whole nine yards
7 really.

8 Q And do you subscribe to any web sites at all or --

9 A No, not really. The only one I really kind of
10 subscribe to is The Palm, which is like for a lot of handset
11 device, portable PDAs, things of that nature.

12 I currently own a Trio 700. They send out weekly
13 newsletters and things of that nature in regards to new
14 technology coming out.

15 Q Is there anyone on the front row or in this group,
16 that actually pays for any kind of services on the internet
17 other than the New York Times? Yes?

18 A Well, since I'm unemployed, I spent a lot of time on,
19 like, resume type places that -- job board. I subscribe to
20 several of those.

21 Q And do they provide you assistance with creating a
22 resume?

23 A Well, there's some of that, like Gray Hair Management,
24 I know I have gray hair and I belong there, but they are
25 really good about job leads and just ways to manage the

1 transitions. I mean, there's a lot of great information out
2 there.

3 Q And do you pay for those services?

4 A Yes, I do. It's a one time lifetime membership type
5 thing.

6 Q How did you pay for that?

7 A Credit card, I believe.

8 Q Okay. Great. Anybody else subscribe to anything on
9 the internet? All right. Oh, I'm sorry.

10 A That's all right. [REDACTED] is the last name.

11 Q Thank you.

12 A Gymroam.com, which is sports radio program.

13 Q Okay.

14 A But then also through my company, we use Yahoo Hot
15 Jobs, and we pay for that service.

16 Q Okay. Is that a monthly fee?

17 A It's quarterly.

18 Q Quarterly, okay. And can you unsubscribe any time you
19 want to?

20 A Yes.

21 Q Do they remind you of the payment or do you just set
22 up quarterly payment plan?

23 A Yes, quarterly payment plan is set up, but they do
24 call and remind. Oftentimes we call. You can get a wider
25 data base if you call and pay more money, so sometimes we do

1 that search.

2 Q So they have sort of a premium type of service?

3 A Yes.

4 Q Have you elected to do the premium service?

5 A Yes, ma'am.

6 Q And how much do you pay on a quarterly basis for that?

7 A Quarterly, it's around \$1,300, I believe.

8 Q Okay. All right. Anybody else that -- yes? You
9 remembered something?

10 A Yes. I do have a subscription to Rhapsody Music,
11 which is done by credit card or PayPal. I pay on a
12 quarterly basis and buy songs. So if you download a
13 particular song just that day, you pay 89 cents for that
14 song. Quarterly membership is 26.99 for each quarter.

15 Q And how do you -- you said you made payments through
16 PayPal. Is that right?

17 A Yes, ma'am, PayPal and through my debit card.

18 Q Okay. And the PayPal, is that like a --

19 A PayPal is kind of like a online banking account, just
20 kind of like money that's just there already online that you
21 can transfer from that account to a vendor or someone else's
22 account if you are purchasing something through E-Bay or
23 something of that nature.

24 Q So it's an online bank account, essentially?

25 A Yes, ma'am.

1 Q Thank you. Anybody else? All right. Why don't I go
2 to the second row here and ask if anybody has not had
3 experience with a computer and proclaims himself to be a
4 computer illiterate person proudly?

5 All right. Is there anyone who doesn't get on the
6 internet regularly that's on this row? How many of those of
7 you sitting on the second row actually have a computer in
8 your home? Could you raise your hand?

9 All right. And how many of you have a computer at
10 work? Okay. Most of you do, all right.

11 Do all of you use the internet on a regular basis?
12 Okay. E-mail? Have you purchased any subscriptions or any
13 other products on the internet? What kind of subscriptions
14 have you purchased?

15 A Satellite radio. I use it on the internet as well.
16 E-Bay, I-tunes, stuff like that.

17 Q And tell me your name?

18 A [REDACTED].

19 Q All right. Thank you. All right. Anybody else?

20 A I'm [REDACTED]. I'm a realtor, and I subscribe
21 off and on to things like Loopnet.com, which gives me
22 commercial real estate listings, and do that through PayPal.

23 Q All right. And do you use the computer a lot for your
24 real estate business?

25 A Yes.

1 Q Is that something that's fairly new in the real estate
2 industry?

3 A No.

4 Q No? Been using the internet a long time?

5 A I have been in business three years. I have been
6 using it all that time.

7 Q Yeah, okay. And it probably helps to sell houses
8 pretty quickly?

9 A Absolutely.

10 Q Yeah. All right. Anybody else subscribe to any --
11 [REDACTED]?

12 A Not subscribe, but I have purchased various components
13 on the computer.

14 Q Components for?

15 A Oh, computer chips, hard drives, things of this
16 nature.

17 Q Does that mean that you sort of build computers
18 yourself or --

19 A More as a hobby. I work for a web-based building
20 automation system, and we -- that's more my exposure to the
21 computer than when we use it on the job.

22 Q As part of your hobby, what kind of work stuff do you
23 -- or excuse me, as part of your hobby what do you do with
24 your computer at home?

25 A It's handy for the job. I can communicate with our

1 dealer and our various vendors and stay in tune with what's
2 going on.

3 Q Are you the person that everybody comes to to get
4 their computers fixed when it's broken?

5 A Oh, no, no, not at all.

6 Q Okay. Anybody else that -- all right. Anybody have
7 any special training? Yes?

8 A Recording music, programming lighting systems,
9 universal remote controls.

10 Q All right.

11 A That's probably it.

12 Q And is that something that you do for part of your
13 work or --

14 A I used to, not any more.

15 Q Okay. And do you use the computer as part of your
16 work, the work that you do now?

17 A Record-keeping and accounting, stuff like that.

18 Q Okay. How much time would you estimate that you spend
19 on your computer at home per week?

20 A I work out of the house a couple of hours a day easy.

21 Q And what are you doing generally?

22 A I'm restoration, water damage restoration.

23 Q Okay. All right. Anybody else with any specialized
24 training or specialized knowledge computer use?

25 And I'm going to touch the two back rows all at once.

1 Is there anyone on the two back rows that has never had --
2 or hasn't had much experience with computers? Could you
3 raise your hand? Could you hand the microphone to her?
4 Tell us your name, please.

5 A [REDACTED].

6 Q Okay. And, [REDACTED], have you ever been on a
7 computer before?

8 A I have but usually I get my younger son to operate it
9 for me if I want to get something.

10 Q And what kind of things do you ask him to do for you
11 on the computer?

12 A Well, we don't have one -- we have one at our garden
13 center. So if I need to do anything, I go there just to
14 look up, well, you know, whatever I want to find as far as
15 sometimes maybe buy a vehicle, see the value of it or
16 something of that nature.

17 Q Okay. And you work at a gardening center. Is that
18 right?

19 A We have a garden center, yes.

20 Q Where that is located?

21 A Murfreesboro.

22 Q Does it sell -- is it a retail center?

23 A Yes, it is.

24 Q What kind of things do you sell there?

25 A We sell lots of plants and shrubbery, and we also do

1 mini barns and gazebos and play-sets, and all that kind of
2 thing.

3 Q Is that a family business?

4 A Yes, it is.

5 Q How long have you all had the family business?

6 A We have been in Tennessee for nearly -- it will be 25
7 years until February, so that's how long we have been here,
8 then in Pennsylvania, a couple of years.

9 Q Okay. Thank you. Anybody else on these back two rows
10 that has not used the computer very much?

11 All right. How about anybody who has not had access
12 other than [REDACTED] to the internet very much? All right.

13 How about how many of you in the back two rows do not
14 have a computer at home? Could you raise your hand? Okay.
15 If I could -- could you tell me your name, sir?

16 A [REDACTED].

17 Q And, [REDACTED], do you have a computer at work?

18 A Yes.

19 Q Okay. And what kind of work do you do?

20 A Forklift operator, material handler.

21 Q I'm sorry. I didn't hear that last?

22 A Forklift operator.

23 Q And what kind of things do you use the computer for?

24 Is that to help you with the forklift or are there other
25 things that you do with computers?

1 A We do other things, like look up lost cartons, lost
2 pallets. It tells us where our next job is.

3 Q All right. And I assume that you're needing to use
4 the internet in order to look for that kind of thing?

5 A No.

6 Q No, okay. Are you familiar with the internet?

7 A Yes.

8 Q Okay. What kind of stuff have you done on the?

9 A Just looking up scooter parts, car parts, things like
10 that.

11 Q Okay. And I believe there was a woman behind you that
12 also raised her hand? You do not have a computer at home
13 but you have got one at work?

14 A Correct.

15 Q And what do you do at work?

16 A I work in artist management, so marketing, things like
17 that.

18 Q And do you use a computer pretty regularly as part of
19 your work?

20 A Yes, all day.

21 Q Do you do internet access?

22 A Yes, ma'am.

23 Q Okay. All right.

24 A Yes, ma'am.

25 Q Anyone else that does not have a computer at home or

1 does not use the internet regularly?

2 A [REDACTED]. I do not have one at home.

3 Q Okay. Do you use one at work?

4 A No. Well, I used to, but I'm retired now.

5 Q Okay. All right. Anyone else? Hands don't go up
6 very high, so it's hard for me to see. Anybody in the back
7 two rows who has any special experience or special knowledge
8 about computers? Any training in school or self-taught web
9 site creator or family expert? Okay.

10 Is there anyone that's sitting on the back three rows
11 who believes that the internet should be completely
12 unregulated, that there should be no laws or regulations
13 that limit what can be done on the internet? Okay.

14 THE COURT: Are you about finished, Ms.
15 Daughtrey?

16 MS. DAUGHTREY: I'm about finished with the
17 computer questions. I do have some other questions I would
18 like to ask.

19 THE COURT: I don't want our jurors to starve to
20 death, so we may interrupt your questioning.

21 MS. DAUGHTREY: Well, I am finished with the
22 questions about the computers. This would be a good
23 breaking point if you would like to.

24 THE COURT: Okay. All right. I think what we'll
25 do, because some of you will be excused, do you think you

1 can have lunch in 45 minutes and get back? I mean, we have
2 a cafeteria in the building, we have a snack bar down below.
3 Let's try to do 45 minutes.

4 And then those of you who are not selected for the
5 jury will have that much more time when you can be excused.
6 So we'll come back in 45 minutes, which according to that
7 clock would be about 10 after 1:00.

8 COURT SECURITY OFFICER: You want to us pick them
9 up in jury room or have them come right back here?

10 THE COURT: What do you think?

11 COURT SECURITY OFFICER: Doesn't matter to me,
12 Judge.

13 THE COURT: Jury room or back here?

14 COURT SECURITY OFFICER: Jury room.

15 THE COURT: Report back to the jury room and
16 we'll try to get you back in here by shortly after or ten
17 after 1:00, then you will take your same seats. Okay. We
18 are in recess.

19 You all are excused. I'm going to talk to the lawyers
20 for a minute.

21 (Prospective jurors exit.)

22 THE COURT: Sit down. I just wanted to tell you
23 for purposes of your opening statements my ruling on this --
24 the business of whether or not this behavior was compelled
25 in any way. The 2251 makes it a crime to employ or use or

1 persuade or induce or entice or coerce any minor, and I
2 believe all those words are used in the indictment.

3 The defendant wants to introduce proof that at least
4 some -- and I don't know what form that proof will take, but
5 the defendant wants to introduce proof that this behavior
6 was consensual.

7 Consent is not a defense to the crime. However, it
8 certainly rebuts a charge of coercing, among other things.
9 So the defendant will be allowed to introduce that proof
10 because it rebuts a charge that he coerced minors to do
11 something.

12 That doesn't mean he can't be convicted of 2251
13 because he can be convicted of 2251 if he employs or uses or
14 persuades, et cetera.

15 So the instructions will just be very clear on that
16 point that it is a violation of the statute if he does any
17 of these things, and I don't believe that it is asking a
18 jury to nullify to introduce proof that shows that the
19 defendant did not coerce.

20 It is proof that rebuts that particular charge of the
21 indictment, so -- and an alternative ground would be that it
22 would be part of the res gestae of the underlying facts, but
23 I really think more appropriately it is proof that rebuts
24 committing this offense in this particular way, the coercion
25 part.

1 So that's my ruling on that. And we'll just have to
2 make sure that the -- and I will make sure that the
3 instructions are very clear on that point.

4 And if I feel that in the midst of any proof I need to
5 give an interim instruction, I'll do that. And if anybody
6 feels that we are at a point where I really ought to do
7 that, you are certainly free to request it.

8 Mr. Strianse, I was alerted you had something you
9 wanted to bring to my attention?

10 MR. STRIANSE: Yes, Your Honor. It's a very
11 minor point. I just wanted to disclose to the court and to
12 the government that our law firm, Tune, Entrekin and White,
13 hosted a little campaign gathering for [REDACTED], and that
14 was within the last six weeks or so.

15 THE COURT: All right. Thank you for that. I
16 intend to ask [REDACTED], the one who said she was all about
17 children, I intend to ask her whether the information that
18 this case does not involve any children under 14 makes a
19 difference in her mind.

20 If it doesn't, then probably we will need to dismiss
21 her for -- excuse her for cause, but I'm going to ask that
22 question of her when we get back.

23 Ms. Daughtrey, how much longer are you going to be?

24 MS. DAUGHTREY: I would say that I'm probably
25 three quarters of the way through at this point.

1 THE COURT: Okay. And I would ask you to try to
2 word as many of these collectively to sort of weed out the
3 people you really need to zero in on, if you can.

4 MS. DAUGHTREY: Yeah, I will do that. Your
5 Honor, I would also, while we are before Your Honor, ask to
6 strike [REDACTED] for cause.

7 He indicated that he's the person who -- whose brother
8 is serving two life sentences for murdering his father and
9 perhaps his wife, I'm not sure, but a sister-in-law.

10 He had stated that he really had some bias against
11 both parties, but then was very specific about the fact that
12 he has bias against the prosecution and specifically said,
13 when you asked him about attorneys, that it was specifically
14 prosecutors that he was biased against.

15 THE COURT: I'm not sure I heard that, but I
16 might have missed it, that it was one sided in that way.
17 Does the defense object?

18 MR. STRIANSE: I don't have any objection to
19 [REDACTED] being stricken for cause.

20 THE COURT: Okay.

21 MR. STRIANSE: But I would also put [REDACTED]
22 in that same category. He's on the third bench, juror 35 --
23 seat 35, juror 52. He is the man who is a firefighter who
24 indicated that more than half of his friends were in law
25 enforcement, and he gave sort of a tepid I will try to be

1 fair to both sides, and I sort of put him in the same
2 category of [REDACTED]. They were saying they could try to
3 be fair, but they didn't seem very enthusiastic about it.

4 THE COURT: What's the government's position on
5 that one?

6 MS. DAUGHTREY: Your Honor, the government -- I
7 certainly think Mr. Strianse has a right to ask him further
8 questions, but at this time the government would oppose
9 striking him for cause.

10 I didn't get the impression that he was not going to
11 be impartial and unfair, and I don't think those questions
12 have been asked of him at this point.

13 THE COURT: That's my feeling. I thought he
14 answered my questions appropriately, so if you want to
15 question him further, that's fine.

16 MR. STRIANSE: Yes.

17 THE COURT: Anything else?

18 MS. DAUGHTREY: Yes, I would also ask that if we
19 could ask those questions of [REDACTED] at the bench rather
20 than in front of everybody about whether or not that would
21 make a difference, the government would request that.

22 THE COURT: Okay. All right. Okay. Very good.
23 We are in recess.

24 (Break.)

25 THE COURT: All right, Ms. Daughtrey?

1 MS. DAUGHTREY: Thank you.

2 BY MS. DAUGHTREY:

3 Q All right. I'm going to turn to a few questions now
4 about some of the difficult parts of this case. I'm glad
5 that you all have had lunch and I'm not having to talk to
6 you about this before lunch.

7 And this is -- I mean, as you have heard, this is a
8 case about an individual who is charged with operating,
9 managing, web sites that involve child pornography, and the
10 child pornography in this case involved adolescent boys
11 basically between the ages of 15 and 17 who are engaged in
12 masturbation or other sexual activity.

13 Does the fact -- and I'll turn my attention to this
14 group first. Does the fact that this case involves
15 production, distribution, advertising, possession of images
16 depicting adolescent boys engaging in sex, does that
17 knowledge prevent you from being -- rendering a fair and
18 impartial verdict?

19 Can everyone here, even knowing that that's what this
20 case is about, render a fair and impartial verdict? Is
21 there anybody who has any problem right off the bat knowing
22 what this is about that would prevent them from being fair
23 to both sides?

24 How about in the group back here? Is there anybody
25 who feels like this topic matter is just something that they

1 can't be fair about to either side, either the government or
2 the defense?

3 THE COURT: Ms. Daughtrey, let me interrupt you
4 here. There was one other juror that was to be excused, and
5 I should have done that before I let you get started.

6 MS. DAUGHTREY: Yes.

7 THE COURT: [REDACTED], we're going to excuse
8 you. If you would report back to the jury coordinator?
9 Thank you very much for coming in today.

10 A PROSPECTIVE JUROR: Thank you very much.

11 THE COURT: Okay.

12 BY MS. DAUGHTREY:

13 Q Thank you. Directing my attention to this group
14 again, do any of you all feel that these kind of laws about
15 child pornography involving adolescents shouldn't be
16 enforced?

17 Do you think that the government has gone too far by
18 prohibiting production of child pornography involving
19 adolescent boys? [REDACTED], what is your thought on that?

20 A I'm curious about the context that we're talking
21 about. First of all, I think we would have to define
22 pornography, okay? It appeals to the prurient interest, or
23 something like that the Supreme Court said something like
24 that.

25 I have to know exactly what that means, and if this is

1 intending to -- it doesn't really matter. Intent doesn't
2 matter. It's what is the law that prohibits this activity,
3 first of all. What's the definition of that activity?

4 Q Right. And the judge is going to instruct you on
5 that. I can summarize for you that child pornography is
6 regulated differently than adult pornography.

7 And when you're talking about adult pornography, you
8 get into questions about whether it appears to the prurient
9 interest.

10 The laws in our country now make it illegal to have
11 any child pornography where there is a minor, somebody under
12 the age of 18, who is engaged in any sexual activity.

13 That would include masturbation. That would include
14 sexual intercourse. It would include oral sex, anything
15 like that.

16 And that just as a rule, as a law, is considered to be
17 illegal. Do you have a problem with that?

18 A Not at all.

19 Q We are not talking about -- there's no charges in this
20 case charging Mr. Richards with any sort of adult
21 pornography at all. The charges are all about child
22 pornography.

23 It has to be -- the government has to show that the
24 individual depicted is a child, that is under the age of 18,
25 and that they were engaged in some sort of sexual conduct?

1 A That was my question, was the definition basically of
2 the law in regards to that.

3 THE COURT: And you will get lots of instructions
4 about that.

5 BY MS. DAUGHTREY:

6 Q Do you have any problem with that being the law, do
7 you think that's an appropriate law?

8 A Absolutely.

9 Q Do you think it makes any difference whether or not
10 the child is 15, 16, 17, is it still okay for that law to be
11 in place?

12 A It's the law.

13 Q Does anybody have any problem with that? Anybody
14 think that we should not have a law that says that
15 production of child pornography or distribution of child of
16 anybody under the age of 18?

17 How about in this group back here; does anybody have
18 any problems with that? Okay.

19 You bring a up a good point, [REDACTED], when you
20 asked the question about the adult pornography, and I want
21 to talk to you just a little bit about that.

22 The United States Supreme Court has held that the
23 First Amendment, our right to speech and freely speak, does
24 not cover child pornography. Would anybody have any
25 problems with that type of a rule in understanding that the

1 First Amendment doesn't cover child pornography?

2 Is there anybody who thinks that the First Amendment
3 should cover child pornography? Should it cover pornography
4 that involves 15, 16, and 17 year olds that are engaging in
5 sex? Should the First Amendment protect that?

6 I realize that some of this material that we're going
7 to be putting into evidence in this case is going to be a
8 little bit uncomfortable. I think it's uncomfortable for
9 any of us to talk about sexual activity in public and
10 certainly among strangers.

11 Is there anyone who is going to have any difficulty
12 paying attention and giving full consideration to the
13 evidence because it's going to involve sexual activity
14 with 15, 16 and 17 year old boys?

15 Is there anybody who can't be fair and impartial about
16 the fact that these 17 year old boys may be having sexual
17 intercourse with other males?

18 Is there anyone who feels that they are going to have
19 difficulty viewing this sexually explicit material or that
20 can't be impartial and fair about viewing this kind of
21 material? Yes, [REDACTED]?

22 A The answer to your question is yes, I feel that I will
23 have a problem being impartial.

24 Q Okay. You understand that the defendant is entitled
25 to an impartial jury?

1 A Yes, I do.

2 Q And that he is innocent as he stands right now?

3 A Which is why I would speak up at this point.

4 Q And you think that you are not capable of setting
5 aside any distaste you might have for pornography, for child
6 pornography, and be fair to both sides in this case?

7 A I think that my religious background would not allow
8 me to do that.

9 Q Okay. Is there anyone else who has any really strong
10 feelings about that? [REDACTED]?

11 A Yes, ma'am. I don't feel that I could sit here and
12 watch that because I was not raised that way. I wasn't
13 taught that way and to my, as she said, my religious
14 background, I don't feel that I need to sit here and see
15 that even though you may say it's my job. I have no desire
16 to see it.

17 BY THE COURT:

18 Q Well, [REDACTED], no one has any desire to see it, and
19 no one has any desire to see any kind of sexual activity in
20 a public setting.

21 But Congress has passed laws against this activity,
22 and we have to have trials about it. So is there -- can you
23 tell me what religion you are a member of and what
24 particular religious tenants this would violate?

25 A I am a Southern Baptist. And as I said, I was not

1 raised that way. And where I come from, people that done
2 that kind of thing is usually shot or hung.

3 Q Usually what?

4 A Shot or hung.

5 Q Shot or hung?

6 A Yes, ma'am.

7 Q Let me ask [REDACTED], can you tell us about what
8 religious tenant you're talking about that would prevent you
9 from even watching this proof?

10 A I was raised in the Methodist church but was raised to
11 believe that sex -- same sex is unacceptable. In fairness
12 to the defendant and to the Federal Court, I feel like that
13 I would be prejudiced and I would not be able to put aside
14 those beliefs in viewing these things; that I believe it's
15 wrong, and I do not want to be here as a prejudiced juror.

16 Q Even though the government must prove this defendant's
17 connection with this material you are going to look at?

18 A Yes, ma'am. But I'm afraid that the very nature would
19 prejudice me in that way.

20 Q Okay.

21 A He he's entitled to a fair trial, and I would not want
22 to believe -- well, this activity would prejudice any
23 objectivity that I would have.

24 Q Okay. Thank you.

25 BY MS. DAUGHTREY:

1 Q And I just would like to follow up with this group. I
2 mean, do you all understand that it's not against the law to
3 have sex with a same sex partner?

4 Is there anybody who disagrees with that law other
5 than [REDACTED]? I don't know that you disagree with the
6 law, but you have a moral disagreement with that.

7 THE COURT: You mean adult sex?

8 MS. DAUGHTREY: Adult sex.

9 THE COURT: Adult sex with the same gender.

10 BY MS. DAUGHTREY:

11 Q This case is not about whether or not there's
12 homosexual sex in this situation but whether or not there's
13 sex between an adult and child or any sort of exploitation
14 of a child engaged in sexual activity.

15 Does anybody other than [REDACTED] or [REDACTED] have
16 any problem with the fact that there may be some homosexual
17 activity that's depicted in this or do you feel like there's
18 any moral or religious belief that prevents you from being
19 fair to either side? Okay.

20 There will also -- obviously, there already has been
21 some explicit language in the case. Do you feel like
22 explicit language about the child pornography and the nature
23 of the sexual conduct, will that make it difficult for you
24 to listen and later discuss the evidence with your fellow
25 jurors?

1 Is that going to be a problem for you to talk about
2 what the facts are in this case when you go back to
3 deliberate in this case?

4 Is there anybody who would have a problem discussing
5 that? I realize this is not something everybody wants to
6 do, but as the judge has instructed before, it's something
7 that is your duty as a juror to enforce -- or to determine
8 what the facts are.

9 Does anybody have any problems back here with the idea
10 of having to talk about these facts in a jury room? Okay.

11 Is there anyone here today who thinks it is acceptable
12 for minors, for people who are under the age of 18, for
13 children, to look at any kind of pornography at all? Is
14 there anyone that thinks that's okay for a minor to do that?

15 Does anyone who's a member of the jury have --
16 themselves or have a spouse or close friend who regularly
17 looks at adult pornography that you know of?

18 I'll ask this group of people. Do any of you all
19 think that it is -- that a minor is capable -- that somebody
20 under the age of 18 is capable of consenting to engage in
21 sexual activity with an adult?

22 I haven't heard from you, [REDACTED]. Do you have any
23 opinions about that or whether or not it's appropriate for
24 us to allow children to have -- engage in sex with adults
25 and whether or not a consensual relationship between a child

1 and adult is appropriate?

2 A I don't think that it's appropriate, no.

3 Q Is there anyone else who has any strong feeling about
4 that? How about in the group sitting on the benches?

5 Would any of you have any difficulty following an
6 instruction from the court that consent is not a defense to
7 the charge of producing child pornography? Does anybody
8 have any problem with that? Okay.

9 Now, I want you to raise your hand if you would be
10 willing to tell me right now in front of this group of
11 people what your very first sexual experience was like? I'm
12 certainly not raising my hand.

13 Can you imagine sitting up on this witness stand and
14 talking about what your very first sexual --

15 MR. STRIANSE: Your Honor, I think we are getting
16 a little far afield.

17 THE COURT: Ms. Daughtrey, what's your question?

18 MR. STRIANSE: We are not trying the case now.

19 THE COURT: Mr. Strianse? What's your question,
20 Ms. Daughtrey? We are asking questions of the jury right
21 now.

22 BY MS. DAUGHTREY:

23 Q Okay. Can you understand how it is that a witness
24 might have difficulty getting on the stand and talking to
25 you about their first sexual experience?

1 Could you understand how a witness might get on the
2 stand and have difficulty looking at child pornography of
3 himself?

4 One of the final things I want to talk to you about is
5 what you would expect a person to look like who is engaging
6 in these kind of activities. Would you expect somebody who
7 was charged with production, distribution, advertising of
8 child pornography to look like a normal person?

9 MR. STRIANSE: Your Honor, I object to that
10 question. This doesn't touch on their qualifications.

11 THE COURT: I don't think this is a necessary
12 question, Ms. Daughtrey. Move on to something else that's
13 more pertinent.

14 MS. DAUGHTREY: If I may have just a moment?
15 (Pause.) Thank you.

16 THE COURT: All right. Lawyers would you
17 approach the bench and [REDACTED] would you also approach
18 the bench, please?

19 (Bench conference begins.)

20 THE COURT: [REDACTED], now that you know that
21 this case does not involve any children under 14, that it's
22 all boys between 14 and 18, does that make any difference in
23 your answers?

24 [REDACTED]: (Moves head from side to side.)

25 THE COURT: Okay. Thanks. You may sit down.

1 ([REDACTED] returns to her seat.)

2 (Bench conference continues.)

3 THE COURT: Okay. I think we have the two -- to
4 take off for cause [REDACTED] and [REDACTED], [REDACTED].
5 Does anybody disagree?

6 MS. DAUGHTREY: I do not disagree.

7 MR. STRIANSE: No.

8 THE COURT: I'll excuse all three of those, then
9 you can go forward.

10 (Bench conference concludes.)

11 THE COURT: All right. The following additional
12 jurors are excused with our thanks for coming in today.

13 [REDACTED]

14 [REDACTED]

15 [REDACTED] If you all would report back to the jury
16 coordinator, and thank you for coming in today.

17 A PROSPECTIVE JUROR: Report back when?

18 THE COURT: Report to the jury coordinator and
19 she'll tell you when to come back. Mr. Strianse?

20 MR. STRIANSE: Thank you, Your Honor.

21 THE COURT: Okay.

22 JURY VOIR DIRE EXAMINATION

23 BY MR. STRIANSE:

24 Q Good afternoon, ladies and gentlemen. Let me
25 reintroduce myself. My name is Peter Strianse. I'm a

1 lawyer here in Nashville. And together with Kim Hodde,
2 who's also a Nashville lawyer, we'll be representing Timothy
3 Ryan Richards.

4 MS. HODDE: Good morning, or good afternoon.

5 BY MR. STRIANSE:

6 Q I realize this is an excruciating process and this is
7 a particularly difficult case. And I appreciate your
8 patience, and I really appreciate the candor that's been
9 expressed by some of the members of the panel.

10 And we really can't get at what is going to be a fair
11 and impartial jury in this case unless we have continued
12 candor on the part of all of the prospective jurors. There
13 are no wrong answers here.

14 And I think both sides are just trying to figure out
15 who may be an appropriate juror for a case like this. The
16 difficult case, difficult subject matter, and we have talked
17 about -- we use euphemisms like we're going to be talking
18 about sensitive subject matter.

19 Let me make a few more disclosures to you because I
20 think it's going to be important in your analysis as you sit
21 there as to whether you have a bias or a prejudice or a
22 moral or religious group or belief that will keep you from
23 being a fair and impartial juror.

24 Now, Timothy Ryan Richards, my client, is a young gay
25 man. He was involved in the adult gay internet pornography

1 business. He also performed in some of these homemade
2 videos, if you will. And that's the kind of stuff that you
3 are going to be seeing over the next week or so.

4 So against that backdrop, those facts, let's sort of
5 take them one at a time, the fact that Timothy Ryan Richards
6 is admittedly a young gay man whose chosen that lifestyle,
7 now [REDACTED] was candid with us and said I can't be fair
8 and impartial in a case like this because my church teaches
9 that that's not an appropriate relationship, and I can't be
10 fair and impartial to this young man as he faces trial in
11 this case, so here's my opportunity to ask a difficult
12 question and ask for your candor.

13 Anything about his sexual orientation that's going to
14 keep anybody from being fair and impartial? [REDACTED]?

15 A I don't know that I could.

16 Q I appreciate your candor. And I'm not going to
17 embarrass you by probing that any further, but is there
18 anybody else like [REDACTED] who feels like, you know, I
19 might be a good -- [REDACTED], you have a problem, too?

20 A (Inaudible.)

21 (Court reporter indicates difficulty hearing.)

22 THE COURT: Wait. We're going to have to have
23 the microphone, please.

24 MR. STRIANSE: Sort of like the Oprah shown with
25 the microphone.

1 (Laughter.)

2 A It's just something I don't believe in. I don't know
3 if I could be partial to him, I don't want to convict him of
4 something he's not guilty of or let him go if he is guilty.

5 BY MR. STRIANSE:

6 Q This is not a referendum on the business of a gay
7 relationship. I wanted to know, like [REDACTED] and [REDACTED]
8 [REDACTED], anybody else who feels like I might be a good juror
9 in bank robbery case or drug case, but I'm not going to be
10 an appropriate juror in this kind of case?

11 BY THE COURT:

12 Q Let me just follow up with [REDACTED] and [REDACTED].
13 The question, the relevant question is not do you approve of
14 gay -- of the gay lifestyle or do you approve of male
15 homosexuality. That's not the question.

16 What Mr. Strianse is trying to get at is if you do
17 disapprove of the gay lifestyle and male homosexuality, if
18 you do disapprove of that, can you put that aside and
19 realize that this man has been charged with serious crimes,
20 and can you be fair to him and can you listen to the proof
21 and the instructions and figure out whether this man is
22 guilty of these crimes?

23 It's the same question that might be asked if we had
24 an African-American, a Hispanic or any other person that's
25 not like you sitting as a defendant. Can you put aside --

1 if you don't like black people or you don't like Hispanics
2 or you don't like Indians, can you put that aside because
3 your job is to decide this person no matter what his
4 orientation or his race or anything else, is he guilty of
5 this crime.

6 That's the question, not do you approve of the
7 homosexual lifestyle or do you really think it's bad if
8 people are gay. That's not the question. So, [REDACTED], do
9 you understand what the question is?

10 A Yes, yes, Your Honor.

11 Q And can you be fair?

12 A I don't know. I'm being honest. I have no qualms
13 against him. If that's what he chooses to be, then that's
14 what he chooses to be. I have no qualm with that, but I
15 can't say for sure. I can't say.

16 Q And, [REDACTED], what about you, can you be fair to
17 him?

18 A I'm afraid I probably wouldn't be a good juror for
19 this.

20 Q You don't think you can be fair to him?

21 A I feel like a lot of the gay people are the people
22 that are involved in this kind of stuff, that they are the
23 proponents of child pornography, I think more so than a
24 heterosexual would be. I don't think I would be a good
25 juror.

1 Q All right. Thank you, [REDACTED]. Go ahead,
2 Mr. Strianse.

3 BY MR. STRIANSE:

4 Q Yes, in the back row?

5 A My name is [REDACTED]. I don't think I would be
6 am good juror. Right now, the many charges that he has on
7 him, I would say he's guilty already.

8 Q Just by the virtue of the number of the charges?

9 A Just being honest with you.

10 Q That's why we are having this discussion. I think the
11 judge will instruct everybody that the number of charges
12 means nothing. But the purpose of this exercise, and I
13 appreciate your candor, is if there is a bias or if there is
14 a prejudice, if you sat there and formed a judgment just
15 because of the subject matter of the case or the number of
16 charges, now is the time to let us know because if we just
17 ask simple questions and put our head down and hope nobody
18 is going to respond, then we are doing everybody a
19 disservice.

20 Is there anybody else that feels like [REDACTED] or
21 [REDACTED] that they could not be a fair and impartial juror
22 with this kind of subject matter? Yes, ma'am?

23 A I probably couldn't because of my strong feelings.

24 THE COURT: I can't hear. Who's speaking?

25 A I'm [REDACTED]. I probably wouldn't be a very good

1 juror in this.

2 BY THE COURT:

3 Q Why is that?

4 A Because of my strong feeling about the same thing.

5 Q About homosexuality?

6 A Yes. I feel like that's probably -- like the other
7 one said about being guilty already because -- I would
8 probably wouldn't be a good juror.

9 Q You have such a prejudice against homosexuality that
10 you cannot set aside, is that what you're saying?

11 A Well, to be honest I'm afraid it would affect --

12 Q Excuse me?

13 A To be honest, I'm afraid it would affect my judgment.

14 THE COURT: Thank you.

15 BY MR. STRIANSE:

16 Q Anybody else feel like [REDACTED]?

17 A I don't feel like her, but I would like to say
18 something.

19 Q Yes, ma'am?

20 A I do not approve of the homosexual lifestyle, but I do
21 approve of the person. And I -- I was just sitting here
22 thinking that the faith that I have says that I am to love
23 him and forgive him for whatever because I have been
24 forgiven.

25 But bottom line is, I worked for 25 years, and my boss

1 was a homosexual guy, and I have never loved anyone more.
2 He was a very special person to me, and that's not to
3 condone his lifestyle. And I have gone to church with
4 people that have acted in ways that I didn't appreciate
5 their lifestyles either, you know.

6 But what I'm thinking here is we don't know anything
7 about Mr. Richards yet. And if these people are not willing
8 to listen and weigh this out, then if he is innocent, we're
9 letting somebody that is not innocent go free.

10 THE COURT: Thank you, [REDACTED].

11 BY MR. STRIANSE:

12 Q Does anybody agree with what [REDACTED] just said? You
13 have heard the label child pornography in this case. You --
14 consistent with what [REDACTED] said, you all have heard
15 nothing at this point in time in the case.

16 Does everybody agree that the government's shoulders
17 the burden of proof in this case, which is proof beyond a
18 reasonable doubt, proof of such a convincing character that
19 you would be willing to rely on it in the most important of
20 your own affairs?

21 There's been nothing that has happened to this point
22 in the case, I hope you will agree with me, that has done
23 anything to shift that burden of proof just because of the
24 subject matter that we have been talking about.

25 Now, there are certain elements that the government is

1 going to have to prove beyond a reasonable doubt to convict
2 Mr. Richards of this -- the charges in this case. And there
3 was all this discussion this morning about the internet and
4 computers and things like this.

5 I think you will find when the case begins it's going
6 to be a very low tech determination. One of the elements
7 that the government has to prove which is essential to this
8 case is that Mr. Richards knew that these performers were
9 minors.

10 What that means is the mere filming of somebody who
11 may turn out to be a minor is not an offense in and of
12 itself. The person who, for example, is doing the filming
13 must know that that person is a minor.

14 The government has to prove that beyond a reasonable
15 doubt. Does everybody understand the point that I'm making?
16 If I pull out a tripod and put a camera on it and film some
17 performer engaging in sexually explicit conduct which meets
18 the definition of these child pornography laws, but if I
19 have been hoodooed and I don't know this performer is not
20 18, and I believe him to be 18, and they can't prove beyond
21 a reasonable doubt that I didn't know he wasn't 18, it would
22 be your duty to acquit in this case.

23 You think you could follow the an instruction like
24 that? Because with all due respect to [REDACTED], he said,
25 well, intent doesn't matter, knowledge doesn't matter. I

1 think the judge is going to tell you we are not automatons,
2 that nothing matters more in this case than the intent of
3 the defendant and in this case the knowledge of the
4 defendant.

5 Because if these performers are 18 years of age or if
6 he didn't know they weren't 18 years of age, then it's going
7 to be your duty to acquit.

8 What I'm trying to get at is if you can keep an open
9 mind and if you can evaluate this proof, that's fine. But
10 if you're going to turn your mind off as soon as the camera
11 starts rolling and you see these images and say, well, there
12 it is on the screen, my work here is done, if anybody is
13 going to have that mind-set and is not going to hold the
14 government to its burden of proof that this man knew these
15 performers are under age, if it turns out that way, then you
16 are only doing half the job, and you would be violating your
17 oath as jurors.

18 THE COURT: Is that a question, Mr. Strianse?

19 BY MR. STRIANSE:

20 Q Yes. I want to see, do you understand what I'm
21 saying? Yes, ma'am?

22 A But wouldn't that be his job --

23 THE COURT: Wait. Wait.

24 BY MR. STRIANSE:

25 Q I think [REDACTED] is --

1 A Well, my question is you say that he doesn't -- what's
2 his responsibility to make sure these people are 18? When
3 you say he just looks at them and says, well, they look 18
4 or they say they are 18.

5 If I go into a liquor store and I want to buy liquor,
6 I have to show an ID saying I'm 21. You understand what I'm
7 saying?

8 Q I do.

9 A So that's some instruction that I'm sure we'll get.

10 BY THE COURT:

11 Q You will get an instruction. But the basic
12 instruction is that the government has the burden to prove
13 every element of the offense including the age of the
14 participants.

15 A Okay.

16 Q This is a criminal case. The government has the
17 burden to prove it. Now, whether or not you agree with
18 that, can you follow that instruction?

19 A Right.

20 A I was just agreeing with her, it's just --

21 Q All right. Can you follow the instruction if I give
22 it to you that the government must prove the age of the
23 people in the films?

24 A Yes.

25 Q Can you follow that instruction?

1 A Yes, ma'am.

2 Q Okay.

3 BY MR. STRIANSE:

4 Q If the judge was to instruct you that Mr. Richards has
5 to know that the performers are under age 18, would you
6 follow that instruction?

7 A But, I mean, if you're going to be filming somebody
8 and you already know that this could be illegal if they are
9 underage, you should make sure.

10 Q We had some discussion about adult pornography. Does
11 everybody understand that adult pornography in this country
12 is not per se illegal? This is not an adult pornography
13 case.

14 You know, it may be our insistence that many of the
15 things you see are adult pornography, but he's not charged
16 with adult pornography. Does everybody understand that
17 distinction?

18 We've sort of beat around the bush a little bit in
19 terms of these images that you are going to be seeing and it
20 will be a difficult exercise for anybody that's going to
21 serve as a juror on this case.

22 You are going to see some very explicit images, gay
23 sex images of about everything that you could imagine. I'm
24 sure the nuns that taught me are mad at me right now for
25 even talking about this.

1 But is anybody going to be so offended, so put off,
2 that they couldn't watch that material and then render a
3 fair verdict or get back in the jury room and not be able to
4 discuss it with 11 strangers?

5 Everybody thinks they can do that kind of hard work?
6 I see some of you nodding your heads that you can do it.
7 Nobody wants to do it. It's not going to be a pleasant
8 exercise, but can it be done where it will not inflame your
9 passions to the point where you won't hold the government to
10 its burden of proof and make sure that each and every
11 element has been proven beyond a reasonable doubt?

12 I take it by your nods that you can do that. And this
13 isn't like horseshoes that the government need to prove one
14 or two of the elements. Each and every element has to be
15 proved beyond a reasonable doubt, and that's why I have been
16 harping on this knowledge. Are the performers under the age
17 of 18, did he know the performers are under the age of 18.
18 That's the burden that the government has. Mr. Richards has
19 no burden in this case.

20 Does anybody think because it's a child pornography
21 case, that's the label we've put it on it, that the burden
22 of proof should be somehow less, that Mr. Richards has less
23 rights because the government has labeled this activity as
24 child pornography? That wouldn't be fair.

25 Just a few individual questions that I wanted to ask.

1 [REDACTED], you were very candid this morning. You talked
2 about your job as a firefighter and the fact that you have
3 some really close relationships with law enforcement
4 officers. I think you said more than half your friends were
5 police officers?

6 A Yeah.

7 Q There's obviously going to be some law enforcement
8 testimony. And when you are out with your buddies would it
9 cause you embarrassment to have to go back and say, yeah, I
10 sat on jury in a criminal case and I cut that guy loose in
11 federal court last week?

12 A I get the point.

13 BY THE COURT:

14 Q Can't hear you, please? Could you stand up,
15 [REDACTED]?

16 A Yeah, I got your point on that one. You are right.

17 BY MR. STRIANSE:

18 Q And all I'm asking is if that's such a problem by
19 virtue of your really a quasi law enforcement job that you
20 have and the relationships that you have, that you don't
21 think you could be fair to Mr. Richards in this case, now is
22 your time to say I don't think I can divorce what I do and
23 the people that I know from this exercise.

24 BY THE COURT:

25 Q He's not answering the question for you. The question

1 is, could you find him innocent if you found that the
2 government had not carried its burden?

3 A Can that be really a yes or no answer?

4 Q Excuse me?

5 A Could that really be a yes or no answer? That's a
6 judgment deal.

7 Q Well, you will have to make a judgment after you hear
8 the proof and the instructions. And I think what
9 Mr. Strianse is concerned about is kind of peer pressure
10 almost, that you have so many friends in law enforcement
11 would you be able to acquit him if you find that he is
12 innocent and then go and face your law enforcement friends?
13 Could you do that? I think -- isn't that your question,
14 Mr. Strianse?

15 BY MR. STRIANSE:

16 Q That's my question. You asked it better.

17 A Could I face them and tell them that I convicted him
18 or let him go and then go talk to my buddies about it and
19 say, yeah, we let him go and handling the peer pressure on
20 that, is that what you're asking?

21 Q That's an example of it. I guess at a baseline, I'm
22 just asking by virtue of your employment and your
23 relationships, do you feel like you could be a fair and
24 impartial juror in a criminal case or maybe --

25 A In a way, yes.

1 Q And there's no wrong answer.

2 A I think I could be a -- it could be a fair judgment
3 deal. Another thing, like you said, peer pressure thing,
4 that's a good one. Never even would have thought about it
5 until you said something about it. Well, I haven't heard
6 his story.

7 Q And let's stop right there. That's a natural thing
8 that somebody would say, I haven't heard his story. The
9 judge is going to instruct that you Mr. Richards is presumed
10 to be innocent.

11 The law places no burden on him to produce any
12 evidence. He doesn't have to prove his innocence under our
13 system of justice.

14 So I want to make sure everybody understands that.
15 It's the government's duty to prove his guilt beyond a
16 reasonable doubt. He has no burden to give anybody any
17 story. Does everybody understand that? But it's only
18 natural that you would say something like that.

19 BY THE COURT:

20 Q So do your relationships with your police friends
21 cause you to not be able to listen to the proof and the
22 instructions and be fair to both sides, can you do that?

23 A I think I could give a fair judgment.

24 Q Okay.

25 A Because.

1 Q If you could speak into the microphone, please?

2 A Which his story wouldn't never leave me as far as even
3 getting into a conversation about it, if that makes sense.

4 Q I didn't hear what you said.

5 A This conversation or even this case, even when it's
6 done and over with, either yea or nay, for me to be involved
7 in this and be able to talk to them, it would probably stay
8 with me forever, and they probably wouldn't even know I was
9 even involved in this.

10 Q Your friends wouldn't even know you were involved in
11 it, and you wouldn't have to talk about it, certainly. So
12 you're saying that leads you to think that you can be fair.
13 Is that --

14 A In a way probably, yeah.

15 THE COURT: Okay. Anything else, Mr. Strianse?

16 BY MR. STRIANSE:

17 Q You seem a little tepid about that. If you were on
18 trial, would you want somebody who had sort of your mind-set
19 as a juror?

20 A Well, it's just like this. I was lieutenant in my
21 department. We had 50 people. One person would have a
22 problem, and I would tell them, say, look, whatever problem
23 you got with them, we got 50 people, 50 different
24 personalities, live with it.

25 So, I mean, we got 50 some odd people here, and

1 everybody is going to have a different opinion about
2 something. Does that make sense?

3 Q It makes sense, and we are trying to find out if those
4 opinions are so strongly held that you couldn't be a fair
5 and impartial juror?

6 A I am headstrong. If it's the way you want to put it,
7 once I have made my mind up, and -- it's a done deal.

8 BY THE COURT:

9 Q Well, let me jump in here and say that the instruction
10 you will get at the end of the trial is that, first of all,
11 you're not to make up your mind until you have heard all the
12 proof and the arguments and the instructions, and then
13 you're not to go to the jury room and close the door and
14 say, okay, I think he's guilty or, okay, I think he's
15 innocent, and nothing anybody says is going to make any
16 difference.

17 That's not what jurors are to do. Jurors are to not
18 express an opinion --

19 A Yeah.

20 Q -- until they hear from everybody else. They are not
21 to stand for an opinion and never waver from it. That's why
22 we have jurors. That's why we have 12 people who will hear
23 the same thing, and they will go back, and they will reason
24 together.

25 They will go through the instructions. They will

1 remember the proof, and they will parse it. And they will
2 go, this was proved, this wasn't proved, this was proved,
3 this wasn't proved.

4 That's your job, and you do that together. And our
5 system is based on a belief that 12 people doing that
6 together comes out with the right result. And I have been
7 doing this a long time, and I believe it does come out with
8 the right result.

9 And I'll instruct people that are on this jury to do
10 -- to not do exactly what you said, and that is at some
11 point make up your mind, that's it, not listen to anybody
12 else, not listen to any more proof, not listening to what
13 the rest of the jurors say. That's not the way to come up
14 with the right verdict. So do you think you can do what I'm
15 going to ask you to do?

16 A Only thing I can say is I can try.

17 Q You can try.

18 A I can try.

19 Q Thank you.

20 A That's all I can say.

21 Q Okay. Thank you. All right. Mr. Strianse?

22 A I don't know what else to tell you but I can try.

23 THE COURT: Mr. Strianse, any more questions.

24 BY MR. STRIANSE:

25 Q Just a couple of more questions. [REDACTED], anything

1 about your relationship -- I think you said your best friend
2 works at TBI?

3 A Yes.

4 Q Anything about that relationship that would cause you
5 any difficulty or embarrassment if you let him know you were
6 on a criminal jury and you returned a verdict of not guilty
7 if you were not convinced beyond a reasonable doubt of the
8 guilt?

9 A I don't think so.

10 Q Let me touch on a couple of things. Mr. Krafft, you
11 were going to check and see about your ability to have a
12 little bit of flexibility with that interview?

13 A I wasn't able to get ahold of anybody.

14 Q What --

15 A If we don't have court on that Friday, I will try to
16 get it moved to that Friday, so that should not be a
17 problem.

18 Q But anything about that hanging over your head, you
19 have told us that you have been looking forward to that
20 interview and have been waiting for it that would cause you
21 to be distracted or not be able to give this case your full
22 attention?

23 A I think it would be a personal distraction, but I also
24 think that I can concentrate on this case fully without a
25 problem.

1 Q Ms. Daughtrey asked you a question about does anybody
2 think that someone who is under the age of 18 could not
3 consent to a sexual relationship with somebody over the age
4 of 18.

5 Well, I have college-aged children and little
6 children, and I saw some people nodding their heads, and
7 they must not have children. I want to make sure that we
8 discuss that for just a minute.

9 That is not an illegal relationship for somebody who
10 is 18 to have a relationship with somebody who is 16 of the
11 sexual nature.

12 THE COURT: Mr. Strianse, I'm not sure we need to
13 get into this, and I'm not sure about the accuracy of what
14 you're talking about.

15 MR. STRIANSE: Well, I wanted to get into it
16 because the government got into it, and I don't think that
17 that is a fair statement or an accurate statement of the
18 law.

19 THE COURT: Well, I think the point the
20 prosecution made was that consent to participate in these
21 events by a minor is not a defense to the criminal charge,
22 and that's an accurate statement.

23 MR. STRIANSE: That's -- I know that was one of
24 the topics they covered, but they also covered the topic of
25 a sexual relationship, that there couldn't be consent

1 between someone under the age of 18 and somebody over the
2 age of 18, and that's not a fair or accurate statement of
3 the law.

4 THE COURT: Approach the bench.

5 (Bench conference begins.)

6 THE COURT: What are you talking about? What
7 about statutory rape?

8 MR. STRIANSE: Statutory rape, there has to be --
9 is going to vary tremendously by state. What you described
10 is illegal in some states. Sixteen years isn't universal
11 state majority.

12 What she said, she talked about sort of a, per se,
13 rule that it would be impossible for anybody over the age of
14 18 and somebody under the age of 18 to engage in a
15 consensual sexual relationship. That was the statement that
16 she made.

17 MS. DAUGHTREY: That's different, though, than
18 talking about what the law is and legality of it and that
19 sort of thing. I was asking --

20 THE COURT: You were talking about it in the
21 context of these charges --

22 MS. DAUGHTREY: Right, in the context of child
23 pornography.

24 THE COURT: -- not in a broad sense --

25 MS. DAUGHTREY: Right.

1 THE COURT: -- I understood the question.

2 MR. STRIANSE: The question was put in the terms
3 in the broad sexual relationship. It was over and above any
4 consent to child pornography. It was this blanket statement
5 that you couldn't have a consensual relationship.

6 MS. BAKSHI: I don't recall it that way.

7 MS. HODDE: That's how it was characterized and
8 it is an incorrect statement of law in Tennessee. For
9 example, as long as you are within four years of each other,
10 you can -- I mean, it's considered a consensual act under
11 statutory rape law.

12 So if you're 16 and you are 19, it is not an illegal
13 act to have sex with somebody under the age of 18, if you're
14 within that time period. So I think it's appropriate that
15 we need to set the record straight with this jury panel.

16 I would hate for them to come in and hear about a
17 sexual relationship between two individuals, the defendant
18 being one of them, and think that that is illegal; that
19 conduct itself is not illegal. It's the filming that's the
20 illegal part.

21 MS. DAUGHTREY: Depends on where the sexual
22 contact was going on. We know what the law is in Tennessee
23 because we work here and have worked in the state court, but
24 there was sexual activity between an underage person and Mr.
25 Richards in various different places, including

1 Massachusetts and Maryland.

2 MS. BAKSHI: Australia.

3 MS. DAUGHTREY: And Australia.

4 MR. STRIANSE: They put it out there.

5 MS. DAUGHTREY: I didn't get into whether it was
6 illegal or not.

7 THE COURT: I'm going to instruct them that the
8 legality of sexual relationships and the age of the people
9 engaging in them is not a subject of this trial and that
10 they're not to consider that. That's just not what's on
11 trial here. Okay.

12 MS. DAUGHTREY: Yes.

13 MR. STRIANSE: All right.

14 (Bench conference concludes.)

15 THE COURT: Members of the jury, there are
16 different understandings of exactly what was asked by the
17 prosecutors in this area. But what I want to instruct you
18 is the legality of a sexual relationship between people of
19 different ages, be they 16 and 19, 14 and 18, the legality
20 of those sexual relationships is not at issue in this case.
21 And, also, those laws differ from state to state. And in
22 this case, we have more than one states' laws at issue.

23 So you will not be determining and you are not to
24 consider whether a particular sexual relationship that you
25 are presented with in the proof itself is legal or illegal.

1 That's just not relevant to these charges.

2 These charges relate to child pornography and not
3 whether the sex going on is legal or illegal under the
4 state's laws where it was taking place. Okay? All right,
5 Mr. Strianse?

6 BY MR. STRIANSE:

7 Q I just had one other question. We were having our
8 discussion about bias and prejudice and religious feelings
9 and beliefs and things, and I wanted to make sure that I
10 didn't not follow up on some something that I should have.

11 [REDACTED], you talked about your roll over at the
12 school -- is that right -- and you did some counseling and
13 it involved some allegation of child pornography. I don't
14 want to get into any of the background on it, but anything
15 about that experience, the job that you do, counseling that
16 you gave that would come to bear in this case?

17 A No. As a counselor, I have to be -- I can't make
18 judgments, and I have empathy for everyone, so that in
19 itself is not an issue.

20 Q This is my last opportunity. Do each and every one of
21 you believe that you can give a fair trial to both sides?
22 You think that you can be fair and impartial to Timothy Ryan
23 Richards and not base your verdict on the fact that he is a
24 homosexual, the fact that he was running an adult gay
25 internet web site, and the fact that you may see him in some

1 of these un-seemingly videos over the next week or so?

2 It's a tall order. Do you think you can set those
3 factors aside and decide the case on the law that the judge
4 is going to instruct you and make a very critical
5 determination about the knowledge that we talked about
6 before and not give any emotionally based verdict?

7 Thank you.

8 THE COURT: All right. Will the lawyers approach
9 the bench, please?

10 (Bench conference begins.)

11 THE COURT: Okay. Let me hear challenges for
12 cause.

13 MS. HODDE: Your Honor, [REDACTED]

14 [REDACTED].

15 MS. BAKSHI: Who's that?

16 THE COURT: [REDACTED]?

17 MS. HODDE: He has articulated to the court that
18 he has already formed an opinion about the defendant's guilt
19 in this case.

20 I believe this is the gentleman that said -- is this
21 the one that had the homosexuality referendum speech where
22 he said most of this stuff is tied to homosexuality?

23 MR. STRIANSE: That was [REDACTED].

24 THE COURT: This is the one that said based on
25 the sheer number of charges.

1 MS. HODDE: Right, number of charges.

2 MR. STRIANSE: And also had a problem with
3 homosexuality.

4 THE COURT: Any objection to [REDACTED]?

5 MS. DAUGHTREY: No, ma'am.

6 THE COURT: Skelton, okay. Next one?

7 MS. HODDE: [REDACTED].

8 THE COURT: [REDACTED].

9 MS. HODDE: She's articulated a religious problem
10 with homosexuality, and she's prejudged the defendant's
11 guilt in this case.

12 MS. DAUGHTREY: No objection.

13 MS. HODDE: [REDACTED], for cause.
14 He's -- he's the one that said he has obviously prejudged
15 defendant because of his sexuality.

16 THE COURT: Any objection?

17 MS. DAUGHTREY: No.

18 MS. HODDE: [REDACTED]. He's the
19 firefighter that we had on his feet for quite a while who
20 was very wishy-washy about whether or not he could be fair.
21 He also talked about how he was going to form an early
22 opinion in this case, and I think it's appropriate to strike
23 him for cause. He's --

24 MS. DAUGHTREY: Go ahead.

25 MS. HODDE: He's not unequivocally stated that he

1 can be fair to the defendant.

2 MS. DAUGHTREY: I think he has. I would object
3 to a for-cause strike on that. If they want to do it
4 peremptorily, that's fine, but I think he rehabilitated
5 himself when you spoke with him.

6 THE COURT: Yeah, I think he did, too.

7 MS. HODDE: [REDACTED]. He said
8 he doesn't think he can be fair, defendant is gay and he has
9 that same sexual bias.

10 THE COURT: Any objection?

11 MS. DAUGHTREY: No objection.

12 THE COURT: Okay.

13 MS. DAUGHTREY: Let me know when you're done.

14 THE COURT: Is that it? Do you have any?

15 MS. DAUGHTREY: Yeah. Go ahead.

16 MS. HODDE: [REDACTED], who said that she
17 based upon religious beliefs could forgive everybody and
18 started out with the premise that her church believes -- her
19 church issues were she should forgive everybody for whatever
20 it is they had done.

21 MS. DAUGHTREY: I couldn't hear.

22 THE COURT: I didn't interpret what she said to
23 mean she would forgive someone who had committed a crime --
24 would not be able to commit. I think she was giving a
25 lecture to other jurors who expressed bias against

1 homosexuals. So that one is denied. Any others?

2 MS. DAUGHTREY: I don't think so.

3 THE COURT: Any others?

4 MS. HODDE: Your Honor, two other issues. [REDACTED]
5 [REDACTED], she was the one that in response to
6 Mr. Strianse's question was asking about why the defendant
7 wouldn't have asked for identification.

8 Mr. Strianse and I would object to that based on
9 burden shifting, and it seems that she's putting the burden
10 on the defendant to produce some sort of --

11 THE COURT: Her initial response, as well as the
12 woman in the front row, both, they accepted the appropriate
13 premise when I followed up with them, so I would deny those
14 for cause.

15 Now, let me just point out, I don't know how many we
16 have left, but if everybody exercises all of their
17 challenges, we probably are not going to get a jury today.
18 We're going to have to get in more people tomorrow, and more
19 voir dire.

20 Of course, that's everybody's right and if -- you
21 don't have to strike, and you do not have to use all your
22 peremptories, as you all well know.

23 So you will do your peremptories for the main jury
24 first. Then we will excuse those people, and then that's
25 it. That's the jury. And then we you will exercise your

1 peremptories on the alternates, and we get the first 12.
2 Okay?

3 MS. HODDE: Thank you.

4 THE COURT: All right. Okay.

5 (Bench conference concludes.)

6 THE COURT: Okay. The following additional
7 jurors are excused to report back to the jury room to the
8 jury coordinator, and we thank you for coming in today.

9 [REDACTED]
10 [REDACTED]
11 [REDACTED]
12 [REDACTED]

13 So you people are excused and may go and report to the
14 jury coordinator. Thank you.

15 (Pause.)

16 THE COURT: Now, let me ask you all one final
17 question. Having heard all the additional questions put to
18 you, do you know of any reason why you could not sit on this
19 jury and render a fair verdict based on the evidence
20 presented to you and the law given to you by the court?

21 Can everybody do that? Very good. Counsel shall fill
22 out their challenge forms at this time.

23 (Pause.)

24 THE COURT: Government about through?

25 MS. DAUGHTREY: Yes, just a moment.

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(Pause.)

THE COURT: All right. The following jurors are excused and asked to report back to the jury coordinator, and we thank you very much for giving up almost a whole day for this process.

[Redacted]

And now we're going to do some musical chairs.

[Redacted] if you would move over and take the first seat in that row? [Redacted], if you would move over next to her? [Redacted], if you would move over -- move up and next to [Redacted]? [Redacted], if you would move up next to [Redacted]? [Redacted], if you would move up next to [Redacted] (phonetic)? Is it [Redacted] or [Redacted]?

THE JURORS: [Redacted].

1 THE COURT: [REDACTED]. I can't read my own writing
2 here. [REDACTED], if you would move up next to
3 [REDACTED]? [REDACTED], if you would move over and take
4 that first seat in the front row? [REDACTED], if you would
5 come up and sit next to [REDACTED]?

6 [REDACTED], if you would come up and sit next to
7 [REDACTED]? [REDACTED], if you would come up and sit next to
8 [REDACTED]? [REDACTED], if you would come up and sit next to
9 [REDACTED]? And [REDACTED], if you would come up and sit
10 next to [REDACTED]?

11 Okay. And now I'll ask the lawyers to exercise their
12 challenges for the alternates.

13 (Pause.)

14 THE COURT: Can I ask the lawyers to approach the
15 bench, please? Nevermind. Sorry. Hold the phone.

16 (Pause.)

17 THE COURT: All right. The following additional
18 jurors are excused.

19 [REDACTED]
20 [REDACTED]
21 [REDACTED]
22 [REDACTED]

23 Okay. [REDACTED], if you would come up and take
24 this first seat. [REDACTED], if you would come up and
25 take the next seat? [REDACTED], if you would come up

1 and take the next seat; [REDACTED], the next seat; [REDACTED]
2 [REDACTED], the next seat; and [REDACTED], the next seat.

3 And, [REDACTED] and [REDACTED] and [REDACTED], we
4 don't need you today, so you are excused as well to go back
5 to the jury coordinator. Thank you for coming in today.

6 (End of Excerpt.)

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1 REPORTER'S CERTIFICATE

2
3 I, BEVERLY E. "BECKY" COLE, Official Court
4 Reporter for the United States District Court for the Middle
5 District of Tennessee, with offices at Nashville, do hereby
6 certify:

7 That I reported on the stenotype shorthand machine
8 the proceedings held in open court on October 10, 2006 in
9 the matter of UNITED STATES OF AMERICA vs. TIMOTHY RICHARDS,
10 Case No. 3:05-00185;

11 That an excerpt of proceedings in connection with
12 the hearing was reduced to typewritten form by me;

13 That the foregoing transcript is a true and
14 accurate record of the proceedings to the best of my skills
15 and abilities;

16 This the 7th day of April, 2008.

17
18
19
20 /s/
21 BEVERLY E. COLE, RPR CCR
22
23
24
25