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IN THE CIRCUIT COURT OF THE  
FOURTH JUDICIAL CIRCUIT, IN  
AND FOR DUVAL COUNTY, FLORIDA.

CASE NO: 16-2012-CF-011572-AXXX-MA

DIVISION: CR-I

STATE OF FLORIDA

-vs-

MICHAEL DAVID DUNN,

Defendant.

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STATE OF FLORIDA )

COUNTY OF DUVAL )

Excerpt of trial before the Honorable RUSSELL L.  
HEALEY, Judge of the Circuit Court, Division CR-I, as  
cause in this matter came to be heard on the 27th of  
September, 2014, before Karen Waugerman, a Notary  
Public in and for the State of Florida at Large and  
Registered Professional Reporter.

OFFICIAL REPORTERS, INC.  
201 EAST ADAMS STREET  
JACKSONVILLE, FL 32202  
(904) 358-2090

1 APPEARANCES:

2

3 ANGELA B. COREY, Esquire, State Attorney, JOHN I.  
4 GUY and ERIN J. WOLFSON, Esquires, Assistant State  
5 Attorneys, appearing on behalf of the State of Florida.

6

7 WAFFA JAMAL HANANIA, KEVIN D. CARLISLE and JANET L.  
8 ABEL, Esquires, Office of Regional Conflict Counsel,  
9 appearing on behalf of the Defendant.

10

11 ALSO PRESENT:

12 MIKE SMITH, IT for the Courthouse.

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1           (The following is an excerpt of these  
2 proceedings:)

3                                   \* \* \* \* \*

4           MR. GUY: Judge, we have a matter to  
5 discuss at sidebar whenever the Court has an  
6 opportunity.

7           THE COURT: All right. Come on over.

8           (The following sidebar conference was had out  
9 of the hearing of the jury:)

10          THE COURT: Yes, sir.

11          MR. GUY: Judge, last evening, late in  
12 the day, I was made aware of a story that had  
13 appeared, I think, online in a tabloid called  
14 the "Folio." It's a Jacksonville tabloid.  
15 And it purports to quote a person who was on  
16 the jury pool who was brought into the  
17 courtroom for Monday, Tuesday and Wednesday  
18 but did not ultimately make the jury.

19                 And that is not as much the concern as  
20 is that potential juror quoting someone who  
21 is on the jury, making what I would  
22 characterize as a very derogatory comment  
23 about Miss Corey, who not only is the State  
24 Attorney in our circuit but is actually one  
25 of the three lawyers assigned to this

1 particular case. And it wasn't derogatory in  
2 the sense that it was a comment on her  
3 appearance or voice or dress. It was a  
4 direct comment. I would characterize it on  
5 her competence to prosecute cases.

6 And, of course, I can make that article  
7 part of the record, but for those reasons, I  
8 would ask that the juror, who is identified  
9 in the article not by name but by  
10 description - [REDACTED]  
11 [REDACTED]  
12 [REDACTED] -- that we inquire  
13 of that juror as to whether or not he made  
14 that statement. Because if he did, certainly  
15 we would want to excuse him and seat an  
16 alternate.

17 THE COURT: Mr. Carlisle?

18 MR. CARLISLE: Your Honor, we would have  
19 no objection to the inquiry, but our argument  
20 would be that based on the Rules of Criminal  
21 Procedure and the case law that even if this  
22 juror admits to saying it that the Court  
23 would have to make a finding that he  
24 committed some form of misconduct. And a  
25 finding of misconduct requires evidence that

1 the juror violated an order or instruction by  
2 the Court.

3 Even if he did say it prior to the  
4 selection of the jury, he did not violate a  
5 Court order or a Court instruction by making  
6 that comment.

7 THE COURT: Well, misconduct is also not  
8 revealing information pursuant to  
9 questioning, withholding information, things  
10 of that nature. There were questions asked  
11 about whether or not anybody had any bias for  
12 or against the defense, the defendant, the  
13 State, the State Attorney's Office, things of  
14 that nature.

15 So if he made that comment, I think it  
16 would be misconduct in that sense, not that  
17 it was a direct violation of a Court order,  
18 but it was either withholding information or  
19 not revealing information pursuant to  
20 questioning. So -- but we'll see. Let's see  
21 what we've got first.

22 We need Mr. Dunn to be with us while I  
23 inquire. So, Mr. Dunn, come on over here.

24 (Defendant present at sidebar.)

25 MR. CARLISLE: Your Honor, where would

1 you like to put the juror?

2 THE COURT: We'll bring him right there.

3 MR. GUY: Well, Kevin, why don't you  
4 switch over and put Mr. Dunn in the corner?

5 THE COURT: Well, actually why don't you  
6 and Mr. Dunn stand there, and I'm going to  
7 bring the juror over here on this side.

8 You're good there, John.

9 MR. GUY: Okay.

10 THE COURT: You stand next to your  
11 client.

12 MR. GUY: Judge, there's no cameras  
13 rolling.

14 THE COURT: Nothing's on, right?

15 MR. SMITH: Nothing is on.

16 THE COURT: I need Juror No. 4.

17 Actually I'm going to put a couple  
18 things on the record. Just give me one  
19 second.

20 I have reviewed the article that Mr. Guy  
21 is referencing. I have copies that we can  
22 put into the court file. And -- so it will  
23 speak for itself.

24 But the prospective juror was Juror  
25 No. 30. The juror that we're about to speak

1 to was Juror No. 32. Juror No. 31 was  
2 excused after we reviewed that person's  
3 questionnaire, so when we pared the large  
4 group down to our group of 66, Juror No. 30  
5 and Juror No. 32 were actually sitting next  
6 to one another.

7 Juror No. 30 was the one who asked for a  
8 sidebar. He indicated that he was a  
9 freelance journalist and, I guess, wanted to  
10 be candid about it, although we knew it. And  
11 he had some comments that he made at sidebar  
12 which, again, are part of the record. I  
13 don't know if he approached the Folio or if  
14 they approached him. For the record, I have,  
15 this morning, checked to see the author of  
16 this article is a member, a credentialed  
17 member of the media in this case. Because if  
18 so, they're subject to certain rules and  
19 regulations.

20 I've by informed by Mr. Wax, through our  
21 court administrator Mr. Stelma, that this  
22 person who wrote the article is not a  
23 credentialed media member. So -- and that  
24 while folks know the person, they don't  
25 really have any way of being in touch with

1           them. The potential juror, Juror No. 30, is  
2           actually named in the article. I don't know  
3           if he authorized his name to be revealed or  
4           what. No telling. But certainly he makes  
5           these comments that have been referenced, so  
6           that gives a little bit of background.

7           Yes, sir?

8           MR. CARLISLE: Your Honor, if I can ask,  
9           before you bring him out, if you ask him if  
10          he made the comments and he denies making  
11          them, do you plan on inquiring further?

12          THE COURT: Well, it depends. I  
13          think -- I believe, in my quick review of the  
14          case law, I have pretty wide discretion in  
15          removing a juror. So it kind of depends on  
16          what he says, how he says it, how candid he  
17          is or how evasive he might be. It's kind of  
18          a read situation.

19          MR. CARLISLE: Yes, sir.

20          THE COURT: If he denies it, it's kind  
21          of a read situation.

22          There is a potential that I could  
23          inquire of the person who wrote the article,  
24          and there's a potential that I could inquire  
25          of Juror No. 30. I have already looked to



1 see on the questionnaire, some information  
2 about Juror No. 30. I know where Juror  
3 No. 30 works. I had someone go by his place  
4 of employment [REDACTED] He  
5 is not there and is not scheduled to come  
6 back to work, from what I was told -- this is  
7 all secondhand -- until Sunday or Monday.

8 [REDACTED]  
9 [REDACTED]  
10 [REDACTED] But, again, I could be wrong  
11 about that. We do know where the person  
12 lives. Whether we could get ahold of him or  
13 not I don't know.

14 So let's see -- the first step would be  
15 let's see what Juror No. 4 says.

16 MR. CARLISLE: Yes, sir.

17 MR. STELMA: I just spoke to the  
18 reporter. He'll be here at 9:00 o'clock.

19 THE COURT: Okay. Well, then we've got  
20 the reporter anyway.

21 All right. Juror No. 4.

22 THE BAILIFF: You want him right here?

23 THE COURT: No, I want him to come  
24 around this way.

25 MR. GUY: And, Judge, I don't know if it

1 would help to clarify the record, but Juror  
2 No. 4 is who you previously referenced as  
3 Juror No. 32.

4 THE COURT: Correct. Juror No. 32 is  
5 the person in question. He's now Juror No. 4  
6 on the panel.

7 (Juror 4 present at sidebar.)

8 THE COURT: Good morning.

9 JUROR 4: Yes, sir. Good morning.

10 THE COURT: How are you this morning?  
11 Couple things we need to inquire about.  
12 If I could get you to raise your right hand.

13 (Juror sworn by the Court.)

14 THE COURT: Originally you were Juror  
15 No. 32. We're now calling you Juror No. 4,  
16 and that's just for the record purposes.

17 JUROR 4: Yes, sir.

18 THE COURT: Last night, probably around  
19 7:00 o'clock, it was brought to my attention  
20 that there may have been a conversation  
21 between you and another potential juror, not  
22 one of the jurors here. This would have been  
23 a gentleman who was seated to your right. It  
24 was then Juror No. 30 and that the  
25 conversation went to the point of indicating

1 that you did not believe that Miss Corey  
2 could prove much of anything to a jury. In  
3 fact, it's --

4 JUROR 4: I never talked to No. 30. I  
5 don't even know who he is.

6 THE COURT: Let me finish.

7 JUROR 4: Yes, sir.

8 THE COURT: In fact, he references --  
9 and I'm going to show you this in a minute --  
10 that you had a conversation with him and said  
11 that -- and I don't mean to be --

12 JUROR 4: Yes, sir.

13 THE COURT: -- impolite.

14 JUROR 4: Yes, sir.

15 THE COURT: -- but that Miss Corey could  
16 not prove to a jury that you were -- and he  
17 uses a term. [REDACTED]

18 JUROR 4: Sure.

19 THE COURT: And that even given [REDACTED]  
20 [REDACTED] there would still be reasonable doubt  
21 if she were the prosecutor trying to prove  
22 that.

23 JUROR 4: I don't remember saying that,  
24 Your Honor. I don't know who 30 is. I don't  
25 know how to get ahold of him.

1 THE COURT: Well, I do.

2 JUROR 4: Well, I know you do. I don't  
3 know him.

4 THE COURT: He was sitting right next to  
5 you. He was the freelance journalist. He  
6 was kind of a balding man. He had glasses.

7 JUROR 4: Yeah, the dude that fell  
8 asleep.

9 THE COURT: Bingo.

10 JUROR 4: Yeah.

11 THE COURT: So as to not misquote him --  
12 and this is what's in an article.

13 JUROR 4: Do you think -- Your Honor,  
14 you're thinking this conversation took place  
15 last night?

16 THE COURT: No, no, no, no, no. This  
17 took place days ago.

18 JUROR 4: Oh.

19 THE COURT: The article is quoting that  
20 gentleman and quoting by name.

21 JUROR 4: Uh-huh.

22 THE COURT: And then it goes on and  
23 says: An interesting side note. According  
24 to [REDACTED] -- and I apologize for that -- [REDACTED]  
25 [REDACTED] was sitting by

1 me, really hated Corey's humor and made the  
2 joke that she would have a hard time proving  
3 to a court [REDACTED] There would still  
4 be reasonable doubt. That guy made it onto  
5 the jury.

6 JUROR 4: I don't remember saying  
7 that -- [REDACTED] but I didn't like  
8 the humor in the court. That part is true.  
9 I thought she was having humor with the  
10 microphone and all that, and I thought that  
11 was unprofessional, given the seriousness of  
12 this trial and the stakes for Mr. Dunn and  
13 for the defendant's -- or the victim's  
14 family.

15 THE COURT: Do you remember if you said  
16 that you thought she would have a hard time  
17 proving to the jury [REDACTED]

18 JUROR 4: No, I don't remember that. I  
19 really don't. I'm being honest.

20 THE COURT: Okay. That's fine. I  
21 understand.

22 Anybody want to ask any questions?

23 MR. GUY: Yes, sir. I do.

24 Did you know Juror No. 30 before --

25 JUROR 4: No, sir.

1 MR. GUY: -- the case?

2 JUROR 4: Never met him.

3 MR. GUY: Did you have conversations  
4 with him?

5 JUROR 4: We might have chitchatted in  
6 the jury room or something but I don't  
7 remember -- I don't know. We all talked  
8 about all kinds of stuff. I don't remember  
9 saying anything like that.

10 MR. GUY: Okay. But you do remember  
11 making some reference to --

12 JUROR 4: [REDACTED] I make  
13 reference to that daily.

14 MR. GUY: No. I wasn't going to say  
15 that. Some reference to Miss Corey's  
16 inappropriate use of humor.

17 JUROR 4: I -- I remember not being too  
18 happy about the laughter about the microphone  
19 because I take this serious. And I thought  
20 that a little bit of banter with, you know,  
21 his situation and the victim's family --  
22 there's a lot of humor going on, and that  
23 struck me as being not the kind of levity in  
24 this court for such a serious case that I  
25 take serious.

1 MR. GUY: And what -- what -- do you  
2 remember what it was she said about the  
3 microphone that led you to feel that way?

4 JUROR 4: Something about being -- kind  
5 of smiling at the judge and saying, hey, I'm  
6 being tethered to the mic or something,  
7 giggling about it. And I'm like -- I don't  
8 know. It just kind of struck me as --

9 MR. GUY: Was it something about her  
10 breaking out into song? She might break out  
11 into song or something?

12 JUROR 4: No, sir. I didn't say  
13 anything like that.

14 MR. GUY: No, no, no. Is that what she  
15 said? Do you remember her saying something?

16 JUROR 4: I don't remember exactly.

17 I just remember the giggling about --  
18 you remember, Your Honor, about the giggling  
19 with about the mic not working or making her  
20 wear the mic or whatever.

21 MR. GUY: During jury selection.

22 JUROR 4: Yes, sir.

23 MR. GUY: Right. And do you recall how  
24 many days you were seated next to the  
25 gentleman that you said was sleeping?

1 JUROR 4: Well, obviously each day we  
2 were in here, the three days, but as far  
3 as -- are you talking about the staging area?

4 MR. GUY: Well, I'm talking about here  
5 first.

6 JUROR 4: I guess we sat by each other  
7 pretty much after they eliminated some jurors  
8 and No. 30 sat by 32. Of course, I was 32.  
9 Then we sat by each other daily, I guess,  
10 those three days.

11 MR. GUY: Did you sit near that juror  
12 while y'all were in other areas, like  
13 Courtroom 405?

14 JUROR 4: Maybe. I don't remember. I  
15 mean, we moved around and I think when we  
16 would get mock lineup, we would all sit  
17 together over in the -- like, getting us  
18 ready to come in in our rows.

19 MR. GUY: Staging?

20 JUROR 4: Of course, we sat by each  
21 other at that point.

22 MR. GUY: And you did have some  
23 conversations, regardless of content, with  
24 that juror?

25 JUROR 4: I'm sure I did, just chatting



1 and stuff, waiting, killing time.

2 MR. GUY: Judge, I think that's all I  
3 have.

4 JUROR 4: If you're asking my opinion on  
5 whether I think Miss Corey could try a case,  
6 I don't have any doubt that she could. I'm  
7 sure she's been put in this position because  
8 she's competent.

9 THE COURT: Okay. Well, it's not  
10 really -- well --

11 JUROR 4: You're thinking of public  
12 perception?

13 THE COURT: I'm thinking about everybody  
14 going into a trial, thinking they knew what  
15 they had, and they made their selections  
16 based on what they thought they knew.

17 JUROR 4: From -- before the evidence?

18 THE COURT: Yeah. And if they -- for  
19 instance, if this had come to light and they  
20 knew it, they might not have selected you or  
21 they might --

22 JUROR 4: Oh, yeah, yeah.

23 THE COURT: You see what I'm saying?

24 JUROR 4: Sure. Yeah, I understand.

25 THE COURT: So that's not -- that's not

1 the issue.

2 MR. CARLISLE: If I may briefly, Your  
3 Honor?

4 JUROR 4: Yes, sir.

5 MR. CARLISLE: You swore that you could  
6 be a fair and impartial juror --

7 JUROR 4: Yes, sir.

8 MR. CARLISLE: -- prior to being  
9 empaneled as a juror.

10 JUROR 4: Yes, sir.

11 MR. CARLISLE: And do you still take  
12 that same position that you can be fair and  
13 impartial?

14 JUROR 4: 100 percent. I take this  
15 serious. I'm a joking kind of guy, but I  
16 take this 100 percent serious. This is --  
17 this is life and death, and this is justice  
18 on the other side. And I think 100 percent  
19 that this needs to be --

20 MR. CARLISLE: Thank you.

21 JUROR 4: And I've formed no opinion one  
22 way or another because I haven't heard all  
23 the evidence.

24 THE COURT: Thank you, sir. I  
25 appreciate it.

1           Let me -- I'm going to let him sit  
2 separately for now. Can you put him in the  
3 405 jury room?

4           THE BAILIFF: Yes, sir.

5           THE COURT: Thanks. And I'll be back  
6 with you shortly.

7           JUROR 4: Okay. Thank you.

8           (Juror 4 excused.)

9           THE COURT: Mr. Guy, what do you say?

10          MR. GUY: Judge, I --

11          THE COURT: Further inquiry of the  
12 reporter and/or of Juror No. 30?

13          MR. GUY: Yes, sir. But at this point,  
14 I would move to strike Juror No. 32/Juror  
15 No. 4. I would characterize his presentation  
16 as falling off. He -- the first words out of  
17 his mouth was, I don't know who this person  
18 is. And by the end of it, he was, oh, yeah,  
19 we sat together and talked all the time. He  
20 did admit making some of the comments  
21 attributed to him in that article, so there  
22 is some credibility, I would say, at this  
23 point already towards statements of that  
24 nature being made.

25          The comment that he attributed -- or his

1 feelings that he attributed to Miss Corey  
2 were not positive, that she was joking about  
3 it, and I think his words were, I didn't  
4 appreciate it, or I didn't think it was  
5 appropriate.

6 And just -- you know, it's hard to put  
7 on the record what we just observed, but I --  
8 I think he was coming from a very defensive  
9 standpoint at first to one of partial  
10 admission. And I think the ultimate issue is  
11 whether or not there is a doubt, as there is  
12 in every trial, as to whether or not a juror  
13 can be completely fair and impartial, and  
14 based on his admissions at this inquiry  
15 alone, I think that is now in doubt.

16 And so we would move to remove him. We  
17 do have four alternates. I would submit to  
18 the Court that's what alternates are for.  
19 And so I would ask that he be excused and the  
20 next -- first alternate be seated in his  
21 place. If the Court does not feel that  
22 that's yet appropriate, then I would ask for  
23 further inquiry into the reporter, but more  
24 importantly, I think Juror No. 30.

25 But I think we have a sufficient record

1 right now for this Court to call his  
2 impartiality into doubt despite other things  
3 that he said this morning and excuse him.

4 THE COURT: Additional information for  
5 the record, Juror No. 32 was the only one of  
6 the seated 12 that -- he had an opinion about  
7 the case. Others knew about the case. Most  
8 everybody did. But none of the other 12 had  
9 an opinion about the case. He is the only  
10 one who did. He did say that he could -- he  
11 thought he could set it aside.

12 He also indicated that he had what he  
13 called a maybe hardship in that he had  
14 [REDACTED] -- [REDACTED]  
15 [REDACTED] And it  
16 would be difficult if he weren't there. They  
17 would have to try and find somebody else from  
18 this other company that he works for. But  
19 ultimately that didn't cause anybody to  
20 challenge him.

21 I'll say for the record that the  
22 alternate who would be seated is a white  
23 male, as is, Juror No. 32. And this  
24 gentleman, Juror No. 71, said that he did  
25 know about the case, but he had not formed

1 any opinion whatsoever. So if he were to be  
2 seated, we would then have 12 jurors who had  
3 formed no opinion whatsoever about the case  
4 according to their questionnaires. And...

5 MR. GUY: Judge, can I put one more  
6 thing on the record?

7 MR. CARLISLE: If I may, Your Honor.

8 THE COURT: One second.

9 Yes.

10 MR. CARLISLE: Your Honor, the standard  
11 Washington v. State, First DCA case,  
12 955 So. 2d 1165, says a finding of  
13 misconduct, which is required to remove a  
14 juror after the jury has been seated and  
15 evidence has been heard, requires evidence  
16 that the juror violated an order or  
17 instruction by the Court.

18 If he got a negative impression of  
19 Miss Corey during jury selection, she's  
20 created that on her own, and that's just the  
21 risk of going to trial that you create a  
22 negative impression of yourself as an  
23 attorney. There's been no evidence created  
24 at all -- and we would disagree with  
25 Mr. Guy's observations of this juror. The

1 Court can make the finding that the juror was  
2 completely honest when he was answering the  
3 questions. We don't feel he was being  
4 defensive. Maybe at first because he's being  
5 accused of misconduct but --

6 THE COURT: What case are you citing?

7 MR. CARLISLE: Washington v. State,  
8 955 --

9 THE COURT: And how about Wilson v.  
10 State, at 608 So. 2d 842, a Third DCA case  
11 from 1992 indicating that the trial court did  
12 not abuse its discretion in removing a juror  
13 who failed to disclose her ill feelings  
14 toward the State Attorney's Office during  
15 voir dire?

16 Additionally, it seems like the case law  
17 is that even if the dismissal were improper,  
18 it's harmless error when that juror was  
19 replaced by an alternate who obviously had  
20 been present for all of the trial.

21 MR. CARLISLE: That's correct, Your  
22 Honor. And the Washington case discusses a  
23 little bit about when you take a juror off  
24 and replace with an alternate. In the  
25 Washington case, the Court determined that

1 was reversible error to reconfigure the jury  
2 based on --

3 THE COURT: That's because the jury had  
4 already begun deliberations, big difference,  
5 if I remember reading Washington last night,  
6 after the game. Am I correct?

7 MR. CARLISLE: It -- it was a different  
8 factual issue, yes, sir.

9 THE COURT: Am I correct that the  
10 reconfiguration of the jury -- they had begun  
11 their deliberations. They removed somebody  
12 and put somebody else in there.

13 MR. CARLISLE: It was based on that  
14 juror asking questions.

15 THE COURT: Right. I understand. But  
16 you can't -- once deliberations begin, you  
17 can't substitute at that point. This is  
18 totally different. I mean, the reporter's  
19 coming at 9:00. I don't really know, you  
20 know -- the best person to speak to obviously  
21 would be Juror No. 30.

22 MR. GUY: That's right.

23 THE COURT: But all it's going to do --  
24 I suspect all it's going to do, unless they  
25 back off and say, oh, I made all that up,



1       it's just going to call into question. We're  
2       going to have two people saying two different  
3       things, which, again, gets you to a  
4       reasonable doubt as to whether or not a juror  
5       could properly perform their duties.

6               I'll tell you this: I'm extremely  
7       concerned about it already. I figured this  
8       juror was going to be something that the  
9       defense might argue about later on because  
10      he's the one that had formed an opinion, even  
11      though he said he could set it aside. I,  
12      quite frankly, at the point thought everybody  
13      was going to agree to excuse him because of  
14      his hardship, albeit not a terrible hardship  
15      but it was one. So I was kind of surprised  
16      he was there to begin with.

17             Seems like a very nice man, for the  
18      record, but nice man isn't the standard, and  
19      given the severity, you know, of the case,  
20      I'm just very concerned about leaving him on.

21             MR. GUY: Judge, I have a couple things.

22             THE COURT: I'm leaning towards letting  
23      him go at this point but, you know, I don't  
24      mind trying to find this juror to get him in  
25      here to make record a little bit more strong

1           one way or another or allay the whole issue,  
2           depending on what the guy says.

3           MR. CARLISLE: Your Honor, do we know if  
4           it's the reporter who wrote the article  
5           that's coming in or the juror?

6           THE COURT: Yes. That's who I know -- I  
7           know that person could be here. We found  
8           that person.

9           MR. GUY: Judge, I did have a couple  
10          things, when I can have an opportunity.

11          THE COURT: Give me a second.

12          MR. GUY: Yes, sir.

13          THE COURT: I'm sorry. Go ahead,  
14          Mr. Guy.

15          MR. GUY: Judge, just a couple  
16          additional things. I would note, although I  
17          think it may be evident in the record  
18          already, he didn't flat out deny making the  
19          statement.

20          THE COURT: I know.

21          MR. GUY: I think his statement was I  
22          don't recall. And, again, I think that lends  
23          toward --

24          THE COURT: Well -- and for the record,  
25          he did initially deny even knowing the man.

1 I had to explain to him that he had been  
2 sitting next to the guy for quite a while and  
3 you're right. He then opened up a little bit  
4 and said, well, yes, we were sitting next to  
5 one another. Yes, we did have some  
6 conversations. Yes, I did say I wasn't  
7 pleased with her humor. I thought this is  
8 serious or more serious than that or  
9 whatever.

10 Basically the only thing he denied was  
11 that she couldn't prove to a jury that [REDACTED]  
12 [REDACTED] beyond a reasonable doubt. The  
13 rest of it all rang kind of true.

14 MR. GUY: Judge, I did have one more  
15 thing.

16 THE COURT: Uh-huh.

17 MR. GUY: Regarding the first alternate,  
18 in this Court's procedures -- and I think its  
19 consistent with other Court's -- each side  
20 has one peremptory strike per alternate, so  
21 if you use your strike, then you're kind of  
22 stuck with your opponent's decision. I would  
23 note that the first alternate was not struck  
24 by the defense, nor was any juror before him.  
25 He was accepted by the defense, and they did

1 not use their peremptory for that alternate  
2 on any other juror. So at the time, they  
3 accepted him wholeheartedly and did not leave  
4 it to us to kind of pick the first alternate,  
5 if you will, if that makes sense.

6 THE COURT: Right. You're correct.  
7 Now, there was a defense conference, if you  
8 will, on whether they were going to use their  
9 last strike on Juror No. 70, which they did  
10 not.

11 MR. GUY: That's right.

12 THE COURT: And then we went to Juror  
13 No. 71, and I started with the defense  
14 because I'd started with you to begin the  
15 whole selection. And they accepted 71, as  
16 did you. Then we went on for Alternate  
17 No. 2. So you're correct.

18 MR. CARLISLE: Your Honor, just briefly,  
19 Juror No. 32 had no reason to know who Juror  
20 No. 30 was until the Court gave the  
21 description of who he was. Then he admitted  
22 knowing who he was. And he was also confused  
23 about -- he thought the conversation took  
24 place last night, so once the details were  
25 explained to him, then he was forthcoming

1 with the information. And we believe he was  
2 honest in that information.

3 THE COURT: Well, they're looking to see  
4 if the reporter's here.

5 And I'm sending somebody by Juror  
6 No. 30's home, see if he's at home.

7 THE BAILIFF: He's here.

8 THE COURT: The reporter's here so let's  
9 bring him on out.

10 (Reporter present at sidebar.)

11 THE COURT: Around this way, sir.

12 If you'd stand right here for me. Good  
13 morning, sir.

14 THE WITNESS: Good morning.

15 THE COURT: I appreciate you being here.  
16 If you'll raise your right hand for me.

17 (Witness sworn by the Court.)

18 THE COURT: And you are A. J. Gancarski?

19 THE WITNESS: A. G. Gancarski.

20 THE COURT: A. G. Sorry.

21 THE WITNESS: Yes, sir. It's all good.

22 THE COURT: I apologize for asking you  
23 to come down here but it's kind of important.

24 THE WITNESS: I understand.

25 THE COURT: It came to my attention last

1 night that you had written an article for  
2 Folio Weekly, which is one of our local  
3 publications. I assume you work for those  
4 folks.

5 THE WITNESS: Yes. I've been a  
6 freelancer there since 2003, I believe.

7 THE COURT: Okay. And there's an  
8 article entitled "An Interview With a Dunn  
9 Jury Reject."

10 THE WITNESS: Correct.

11 THE COURT: And you authored that.

12 THE WITNESS: Correct.

13 THE COURT: And in that article, you  
14 reference a person by name who you indicate  
15 was a potential juror in the case.

16 THE WITNESS: Yes.

17 THE COURT: Did that person approach you  
18 about being interviewed or did you happen to  
19 approach them? How did it come to pass that  
20 this began, this article?

21 THE WITNESS: He posted on Facebook. We  
22 had a chat on Facebook Messenger.

23 THE COURT: Okay. And --

24 THE WITNESS: I've known him for a long  
25 time.

1 THE COURT: You have known the man.

2 THE WITNESS: Yeah.

3 THE COURT: And did the article ensue  
4 because of Facebook postings, or did you-all  
5 actually meet to talk?

6 THE WITNESS: No. We just talked on  
7 Messenger. I've known [REDACTED] for a long  
8 time, and, you know, I trust his word. And I  
9 was just kind of giving his account of  
10 things.

11 THE COURT: I got it. So there's some  
12 quotes in here. Were those quotes that you  
13 took from his Facebook postings or what --

14 THE WITNESS: These are things he said  
15 to me, you know, via the Facebook Messenger  
16 app.

17 THE COURT: Okay. And it would be  
18 directly to you?

19 THE WITNESS: Yes.

20 THE COURT: Okay. Do you have that  
21 somewhere where we could see that, by chance?

22 And the thing that I'm most interested  
23 in, while you're looking, is his -- what  
24 you've got in quotes is his saying [REDACTED]  
25 [REDACTED] and it goes on

1 from there.

2 THE WITNESS: Okay.

3 THE COURT: Now, those posts would only  
4 come directly to you, so if I were to try and  
5 look it up, I wouldn't see it. Am I right on  
6 that?

7 THE WITNESS: Right. They're Messenger  
8 quotes and there's a long conversation here.

9 THE COURT: Okay. Take your time.

10 THE WITNESS: This would be it.

11 THE COURT: Okay. And for the record,  
12 this nice gentleman is showing me his phone  
13 and it says --

14 THE WITNESS: iPhone 5.

15 THE COURT: Now, let me just ask you so  
16 I know. Blue, that's you sending to him.

17 THE WITNESS: Blue is -- yeah, blue is  
18 me. White is him.

19 THE COURT: Okay. So if you don't mind,  
20 I'll just say you messaged him and said  
21 something about what he'd said previously.

22 THE WITNESS: Yeah. I asked him about  
23 if he was at liberty to talk about the case  
24 and he said that he was. Once he was  
25 released, he was able to say whatever he



1 wanted to about it.

2 THE COURT: All right. And so you say  
3 to him you're going to write about this, and  
4 then you go on to say: This is something you  
5 could get in New York Times.

6 THE WITNESS: Yeah.

7 THE COURT: And then he says:  
8 Interesting side note, a juror who sat next  
9 to me, a probably [REDACTED]  
10 [REDACTED] really hated her humor and  
11 said she would have -- and this is in quotes  
12 from him.

13 THE WITNESS: Uh-huh.

14 THE COURT: She would have a hard time  
15 proving to a court that [REDACTED] There  
16 would still be reasonable doubt.

17 THE WITNESS: Right.

18 THE COURT: Well, he was selected as a  
19 juror. That part's not in quotes.

20 THE WITNESS: Yeah.

21 THE COURT: Okay.

22 THE WITNESS: That was [REDACTED] take on  
23 it, and, you know, this article, it should be  
24 said, was just basically giving accounts  
25 of -- in the jury selection process, one

1 person's perspective and that this is the  
2 type of thing that often comes out after  
3 trial.

4 THE COURT: Right.

5 THE WITNESS: But in this case, you  
6 know, the subject wanted to talk.

7 THE COURT: Okay.

8 THE WITNESS: Had a platform to talk.  
9 It was relevant and that --

10 THE COURT: I don't have problem with  
11 that. It's some of the other parts of it  
12 that had an issue for us. It's not the  
13 article itself, quite frankly.

14 THE WITNESS: You can ask away. I'm  
15 here.

16 THE COURT: Any questions?

17 MR. GUY: I do.

18 How long have you known, Mr. [REDACTED]

19 THE WITNESS: I've known him for  
20 probably between five years and a decade.

21 MR. GUY: And how would you characterize  
22 your relationship with him?

23 THE WITNESS: Friendly.

24 MR. GUY: You feel like you're close  
25 friends?

1 THE WITNESS: No. I mean, we are  
2 friends but we're not like "hang out"  
3 friends. We're like if I see you, I'm going  
4 to talk to you and talk on, you know, social  
5 media.

6 MR. GUY: And did you know him to be  
7 also a contributing writer to the Folio?

8 THE WITNESS: He was back in the day.  
9 He's move on. He works for [REDACTED] He  
10 works for some other publications now.

11 MR. GUY: Okay. When you received the  
12 messages, was it clear to you by their  
13 content and origin that they were from  
14 Mr. [REDACTED]

15 THE WITNESS: Yeah.

16 MR. GUY: Okay. Has he ever made up any  
17 kind of accusations similar to this in the  
18 past?

19 THE WITNESS: No. He's a very literal  
20 person. That's about the best I can put it.  
21 He's not prone to hyperbole.

22 MR. GUY: So you've never caught him  
23 exaggerating or misquoting someone in the  
24 past?

25 THE WITNESS: No.

1 MR. GUY: That's all I have, Judge.

2 THE COURT: Mr. Carlisle?

3 MR. CARLISLE: Just based on the tone of  
4 the article, would you agree that a potential  
5 juror was disgruntled because he was not  
6 selected on this jury?

7 THE WITNESS: Not necessarily. I  
8 wouldn't say disgruntled. What I would say  
9 is he had questions about the jury selection  
10 process, and those are valid questions to  
11 raise.

12 MR. CARLISLE: Well, I believe in your  
13 article, he was critical of the criminal  
14 justice system here in Florida because he was  
15 not selected.

16 THE WITNESS: Many people are critical  
17 of the criminal justice system here in  
18 Florida.

19 MR. CARLISLE: I'm asking you about this  
20 particular person.

21 THE WITNESS: Right.

22 MR. CARLISLE: Are we going to submit  
23 the article in the record?

24 THE COURT: Yeah, uh-huh.

25 MR. CARLISLE: I don't have any other

1 questions.

2 THE COURT: Anything else?

3 Thank you, sir. I appreciate you being  
4 here.

5 THE WITNESS: No problem.

6 THE COURT: Have a nice day.

7 (Witness excused.)

8 THE COURT: Well, we're still looking to  
9 see if we can find the gentleman himself, but  
10 that just further solidifies the fact that at  
11 the very best, we have a distinct difference  
12 as to who said what, which clearly would  
13 raise in my mind reasonable doubt.

14 So, again, I'm kind of leaning -- as  
15 much as I hate to do it 'cause I don't like  
16 it. I like to start things and go right on  
17 through to the end without too many little  
18 glitches and it be smooth. But I'm leaning  
19 towards excusing this gentleman.

20 MR. CARLISLE: Your Honor, I know you  
21 haven't made your ruling yet, but are you  
22 leaning towards finding that Juror 32  
23 committed a form of misconduct?

24 THE COURT: I guess it would be a form  
25 of misconduct in that he did not reveal his

1           displeasure with the State Attorney's Office  
2           and apparently particularly Miss Corey and  
3           that he is of the opinion she could not prove  
4           much of anything to a jury beyond a  
5           reasonable doubt, including his [REDACTED]

6 [REDACTED]

7           MR. CARLISLE: Yes, sir.

8           MR. GUY: And, Judge, I would note --  
9           and this is also on the record. To my  
10          memory, the last few questions Miss Corey  
11          asked included is there anything that we  
12          haven't talked about that would bear upon  
13          your ability to sit fairly and impartially as  
14          a juror, which my point is would have  
15          occurred after her moments of levity, if you  
16          will. So -- and he did not take an  
17          affirmative position on that. He sat mute,  
18          didn't raise his hand.

19          So I think that in itself is misconduct  
20          based on what we've learned now. And so we  
21          would still move that Juror No. 32 be  
22          excused.

23          THE COURT: And I know misconduct sounds  
24          like a harsh word. And maybe that's the word  
25          that's used in a lot of these cases, but it's

1 not like he violated a direct Court order.  
2 Obviously that's not the case. But it's  
3 being less than candid.

4 MR. CARLISLE: Your Honor, briefly, we'd  
5 like to point out for the record that -- and  
6 I'm sure the record's clear -- that Juror  
7 No. 91 pointed out that she thought some type  
8 of misconduct was going on prior to the jury  
9 being selected.

10 Juror No. 30 at no time made it apparent  
11 to the Court or to any of the members that  
12 Juror No. 32 had made these remarks. And we  
13 believe that this is coming from a  
14 disgruntled juror who -- potential juror who  
15 believes he's missing out on a potential book  
16 deal, potential money if he were to have been  
17 selected for this case. And I'm sure that  
18 the article will speak for itself that you  
19 can tell he's disgruntled; he didn't make it  
20 on this jury.

21 THE COURT: Well, there's nothing in  
22 there about a book deal or making money --

23 MR. CARLISLE: I'm speculating, yes,  
24 sir.

25 THE COURT: -- or anything like that.

1 You're right. It is kind of interesting.  
2 The end of the article, which, again, speaks  
3 for itself, the potential juror indicates  
4 that he felt as though he was a perfect juror  
5 for the case. Ideal was the word because  
6 he's white. His wife [REDACTED] Two sons [REDACTED]  
7 [REDACTED] He's pro Second Amendment by -- as a  
8 journalist. He's objective.

9 He's a stern believer in the presumption  
10 of innocence. He agrees with Benjamin  
11 Franklin's statement that it's better for 100  
12 guilty persons to escape than one innocent  
13 person should suffer.

14 He says the crime took place within  
15 [REDACTED] and that  
16 basically I was the perfect, quote/unquote,  
17 peer in this case yet was not selected.

18 But before that, he says he believes he  
19 would have made a solid juror even though his  
20 impression of Michael Dunn himself was that  
21 of a, quote, stoic monster with a permanent  
22 frown carved into his face like a reverse  
23 joker, close quote.

24 Now, how anyone could think that they  
25 would be a solid juror or a perfect peer with



1           those kind of remarks being made about the  
2           defendant, I have no idea. And then his  
3           displeasure about the justice system in  
4           Florida seems to me to be misplaced, at very  
5           best.

6           MR. CARLISLE: And he also slept through  
7           part of jury selection.

8           THE COURT: He did do that, as well.  
9           I'm not saying he's ideal. I'm not saying  
10          we'd want him, either. I'm just saying, you  
11          know, he's raised an issue that calls into  
12          question whether or not both sides are going  
13          to be able to move forward and get a fair  
14          shake out of whatever jury we've got, and I  
15          want to make sure everybody gets as fair a  
16          shot at whatever they want to try and do as  
17          they can. And this calls it into question.

18          And I don't have that question with the  
19          next juror. In fact, on the surface of it  
20          all, it appears to allay some other issues  
21          and, that is, Juror No. 32, the fact that he  
22          had formed an opinion, even though he said he  
23          could set it aside. Because then we're left  
24          with a jury with 12 people, none of which  
25          have indicated they've formed any opinion.

1 While they may have known about the case,  
2 they didn't form any opinions about the case,  
3 which I would think would be more ideal for  
4 everybody.

5 MR. CARLISLE: Your Honor, I believe I  
6 had in my notes that the strength of his  
7 opinion was 6 out of 10 and that his opinion  
8 was that both sides could have done things  
9 differently. I believe that's what he  
10 indicated his opinion was.

11 THE COURT: I think you might be right.

12 Yeah. He said he saw the first trial.  
13 His opinion was 6 out of 10.

14 Well, I guess we'll just wait for a few  
15 minutes and see if we can find this guy.

16 MR. GUY: Okay.

17 MR. CARLISLE: Yes, sir.

18 MS. ABEL: Put something on the record  
19 with you while we're sitting here, unrelated.  
20 The next witness is going to be Siniscal.  
21 We've agreed the State's going to lead him  
22 through some certain portions --

23 THE COURT: Okay.

24 MS. ABEL: -- to avoid him blurting out  
25 that he went there to arrest him on the

1 five-count indictment as opposed to one.

2 Just want to let you know that.

3 THE COURT: Got it.

4 MS. ABEL: Thank you.

5 (At the conclusion of the sidebar conference,  
6 the following further proceedings were had in the  
7 presence of the jury:)

8 THE COURT: They've got him.

9 (Short recess.)

10 (Defendant present.)

11 MS. COREY: Judge, I asked Miss Strollo  
12 to pull the sidebar.

13 THE COURT: Huh?

14 MS. COREY: Remember the sidebar that  
15 juror requested?

16 THE COURT: Yeah.

17 MS. COREY: I asked her to pull it in  
18 case you wanted to review it.

19 (Short recess.)

20 (Defendant present.)

21 THE COURT: Folks, I'm thinking about  
22 letting everybody come in, just telling them  
23 we've got an issue and we're not starting  
24 yet. They're going to be wondering why  
25 they're sitting out there for an hour.

1 MR. CARLISLE: You mean the jurors or  
2 the --

3 THE COURT: Everybody. No, no, no, not  
4 the jurors.

5 MS. HANANIA: Are you going to have them  
6 stay in here, Your Honor?

7 THE COURT: I don't care.

8 MS. HANANIA: I was just wondering about  
9 Mr. Dunn and having him out here if you're  
10 going to have --

11 THE COURT: Yeah, he can be out here.

12 I don't care. We'll bring him at  
13 sidebar. I don't care if they're in here.

14 MS. COREY: Judge, I think our consensus  
15 is because of that sidebar that that juror  
16 requested --

17 THE COURT: They're allowed in here  
18 during sidebars.

19 MS. COREY: No. I was talking about the  
20 one from the other day.

21 THE COURT: I don't care about the other  
22 day.

23 Bring them all in.

24 Mr. Guy?

25 MR. GUY: Judge, we do have a matter, if

1 we could approach at sidebar, we'd like to  
2 discuss with the Court.

3 THE COURT: Okay.

4 MR. GUY: And we will need the court  
5 reporter.

6 THE COURT: Yes, and Mr. Dunn.

7 (The following sidebar conference was had out  
8 of the hearing of the jury:)

9 (Defendant present at sidebar.)

10 THE COURT: He's here.

11 MR. GUY: That's right.

12 THE COURT: So are we ready to just hear  
13 from him?

14 MR. GUY: Yes, sir.

15 THE COURT: Okay.

16 (Juror 30 present at sidebar.)

17 THE COURT: Good morning. Need you to  
18 raise your right hand for me.

19 (Juror 30 sworn by the Court.)

20 THE COURT: You were previously Juror  
21 No. 30, is that correct?

22 JUROR 30: Right.

23 THE COURT: And it has been brought to  
24 my attention that you had correspondence or  
25 conversation with a gentleman who works for

1 the Folio Weekly, who has published an  
2 article, I guess, online probably. And he  
3 has quoted you in that article. Is that  
4 correct that that did take place?

5 JUROR 30: Yes.

6 THE COURT: Okay. We have actually  
7 spoken to him and he has shown us his phone,  
8 where I guess this conversation just took  
9 place not face-to-face but over -- online,  
10 however you do that.

11 JUROR 30: Right.

12 THE COURT: And in there, he  
13 indicates --

14 JUROR 30: After I was excused.

15 THE COURT: Yeah, yeah, not a problem  
16 there. I'm just saying it was after you were  
17 excused. In there, he quotes you as saying,  
18 among other things, that an interesting side  
19 note, according to you -- and he uses your  
20 name, by the way. Was that okay for him to  
21 do?

22 JUROR 30: That's fine, yeah.

23 THE COURT: Okay. And it's in quotes.

24 A [REDACTED] who was  
25 sitting by me, really hated Corey's humor and

1 made a joke that she would have a hard time  
2 proving to a court that [REDACTED] There  
3 would still be reasonable doubt, end of the  
4 quote.

5 JUROR 30: Yeah.

6 THE COURT: I assume he said that.

7 JUROR 30: He said --

8 THE COURT: The guy said it to you.

9 JUROR 30: He said it pretty much to  
10 everybody around him.

11 THE COURT: He did.

12 JUROR 30: Yeah. It wasn't like a  
13 private --

14 THE COURT: Do you remember when it was?  
15 Like, did --

16 JUROR 30: It was when we were, like,  
17 standing in the hallway.

18 THE COURT: Like, back here when you  
19 were getting ready to line up and come in?

20 JUROR 30: Yeah. But no one really  
21 interacted with him. He just said it, you  
22 know, as a...

23 THE COURT: Did anybody else -- did  
24 anybody comment on what he had to say?

25 JUROR 30: No. I mean, I don't think

1 anyone laughed.

2 THE COURT: He just said it!

3 JUROR 30: Yeah.

4 THE COURT: Okay. Anybody want to ask  
5 any questions?

6 MR. GUY: Yes, sir.

7 THE COURT: Go ahead.

8 MR. GUY: The juror that you're talking  
9 to was Juror No. 32?

10 JUROR 30: He was the one next to me.

11 MR. GUY: Immediately to your left --

12 JUROR 30: Yeah.

13 MR. GUY: -- when you sat in this  
14 courtroom.

15 JUROR 30: Uh-huh.

16 MR. GUY: Would he have been then next  
17 to you in line, in front of you in line?

18 JUROR 30: Uh-huh.

19 MR. GUY: Yes?

20 JUROR 30: Yes.

21 MR. GUY: You need to respond so she can  
22 hear you.

23 JUROR 30: Yes.

24 MR. GUY: Did you overhear that juror,  
25 Juror No. 32, make any other comments about



1 Miss Corey or the State or the State  
2 Attorney's Office?

3 JUROR 30: He said she needed to stop  
4 making jokes and get on with the trial.

5 MR. GUY: Okay. Anything else?

6 JUROR 30: No. That was it.

7 MR. GUY: Okay. And to be certain,  
8 we're talking about a gentleman who is a

9 [REDACTED]

10 JUROR 30: Right.

11 MR. GUY: I think the article quoted him

12 [REDACTED]

13 JUROR 30: Right.

14 MR. GUY: Was that something you  
15 characterized him as or that the author  
16 characterized him --

17 JUROR 30: That was the author, yeah.

18 MR. GUY: But you must have  
19 communicated --

20 JUROR 30: Right, yeah, yeah.

21 MR. GUY: -- to him the gentleman [REDACTED]

22 [REDACTED]

23 JUROR 30: Uh-huh.

24 THE COURT: Mr. Carlisle?

25 MR. CARLISLE: I don't have any

1 questions, Your Honor.

2 THE COURT: Okay. Thank you, sir.

3 Appreciate you being here.

4 JUROR 30: That's it? Okay.

5 THE COURT: You're excused.

6 (Juror 30 excused.)

7 THE COURT: Okay. Well, I'm going to  
8 find based on all the conversations that  
9 we've had thus far that there is reasonable  
10 doubt as to whether or not Juror No. 32 could  
11 be fair and impartial, that he did not  
12 disclose his seeming animosity for Miss Corey  
13 or her -- his belief in her lack of ability,  
14 I guess, is one way to put it, that she  
15 couldn't prove that he was -- I hate to use  
16 the term but it's in the article -- [REDACTED]

17 [REDACTED] There would still be reasonable doubt

18 [REDACTED]

19 So he's excused. And that will bring in  
20 No. 71 as Juror No. 12.

21 MR. CARLISLE: Your Honor, if I may,  
22 just for the record, that we would object to  
23 Juror No. 32 being excused, if I didn't  
24 object previously, and rely on my previous  
25 argument.

1 THE COURT: Uh-huh.

2 Does anybody want me to do anything else  
3 based on what we've heard?

4 MR. GUY: No, Judge. I think the best  
5 course of action is not to say anything to  
6 the jury panel that would -- to draw as  
7 little attention as to his absence as  
8 possible and they would just --

9 THE COURT: Well, what I'm planning on  
10 doing is tell them, I apologize for the delay  
11 but an issue came up with one of the jurors  
12 and he had to be excused. And we're going to  
13 proceed.

14 MR. GUY: That's fine with the State,  
15 Judge.

16 MR. CARLISLE: Yes, sir.

17 THE COURT: Now, the other thing that I  
18 want to do is -- and I'll go ahead and -- I  
19 thought about just doing it over there. I'm  
20 going to bring him in here and tell him here  
21 that he's excused and remind him of the  
22 confidentiality agreement.

23 MS. ABEL: Bring him here?

24 THE COURT: Why not?

25 MS. ABEL: I would just make sure the

1 cameras are off.

2 THE COURT: Right.

3 MS. COREY: Well, Judge, my only concern  
4 is the last juror who you just spoke to acted  
5 like he was excused and the confidentiality  
6 agreement didn't apply.

7 THE COURT: He didn't sign one.

8 Potential jurors did not sign one.

9 I do need to make sure that cameraman  
10 didn't take that gentleman's picture.

11 MR. GUY: Well, he's already publicized  
12 himself.

13 THE COURT: That's his business. I'm  
14 not going to have them doing it.

15 MR. GUY: Okay. Well, let me address  
16 the cameraman first, and then we'll bring the  
17 juror in in a second.

18 (At the conclusion of the sidebar conference,  
19 the following further proceedings were had in the  
20 presence of the jury:)

21 THE COURT: Ladies and gentlemen, we've  
22 had obviously a delay. We had an issue arise  
23 that needed some looking into, research and  
24 things of that nature and discussion with the  
25 gentleman here.

1           And I don't know if the photographer in  
2 the back -- is the camera on?

3           MR. SMITH: It is right now, yes, sir.

4           THE COURT: Did they catch that guy  
5 coming in here?

6           MR. SMITH: Yes, sir.

7           THE COURT: That was not good. Who told  
8 you to do that?

9           MR. SMITH: No one, sir. The media was  
10 in.

11          THE COURT: That was a potential juror  
12 whose identity, as far as I'm concerned,  
13 should not be disclosed. So to the extent  
14 his photographs have been taken, they should  
15 not be used. To the extent it went out over  
16 the airways, you guys got -- you can't turn  
17 the camera on until I tell you to turn it on.

18          MR. SMITH: Yes, sir.

19          THE COURT: That having been said, I  
20 will say that gentleman has on his own  
21 apparently disclosed to the community that he  
22 was a potential juror. That's his business  
23 to disclose, that that's what he -- that he  
24 was a potential juror. I'm not going to  
25 allow his identity to go out.

1           So as far as in here, I don't want that  
2 happening. So you're going to shut the  
3 camera off now because I'm going to bring a  
4 juror in here, and the juror's going to come  
5 over here. And nobody's going to take any  
6 pictures of him.

7           So tell me when you've got it shut off.

8           MR. SMITH: Now.

9           THE COURT: Bring the juror in.

10          Is the audio off?

11          MR. SMITH: No, sir. We can turn it  
12 off. Y'all's mics are off so audio --

13          THE COURT: There doesn't need to be any  
14 audio on.

15          MR. SMITH: They're off, Your Honor.

16          (The following sidebar conference was had out  
17 of the hearing of the jury:)

18          (Juror 30 present at sidebar.)

19          THE COURT: Juror No. 32/4?

20          JUROR 4: Yes, sir.

21          THE COURT: After much discussion and  
22 review of a variety of things, speaking to  
23 the reporter, speaking to the gentleman who  
24 was seated next to you, I'm going to excuse  
25 you from jury service and appreciate your

1 being here, appreciate your attention so far.

2 I want to remind you that you signed a  
3 confidentiality agreement.

4 JUROR 4: Yes, sir.

5 THE COURT: So while this case is  
6 pending and until you receive something else  
7 from me, you are not to tell anyone that you  
8 were a juror on this case --

9 JUROR 4: Yes, sir.

10 THE COURT: -- although some people may  
11 try and figure it out, I suspect, based on  
12 what's been written in this article.

13 JUROR 4: Yes, sir.

14 THE COURT: And I feel for you because  
15 I'm not sure how many -- well, I forgot what  
16 he said, if he just said [REDACTED] so  
17 maybe it will be all right.

18 In any event, you're not to disclose  
19 that you were a juror on this case. You're  
20 not to disclose the identity of any of the  
21 other jurors because I know you know their  
22 names.

23 JUROR 4: Of course.

24 THE COURT: You're not to disclose where  
25 they are staying or anything like that.

1 JUROR 4: Yes, sir.

2 THE COURT: You're not to discuss  
3 anything, not your meals, not your, you know,  
4 innocuous conversations with --

5 JUROR 4: Yes, sir.

6 THE COURT: -- those folks. Just zero.  
7 Okay? And --

8 JUROR 4: Can I make a statement?

9 THE COURT: Sure.

10 JUROR 4: If I offended Prosecutor  
11 Corey, I apologize. I don't think I said it  
12 but I might have. It's nothing personal. I  
13 promise.

14 And also I just want the Court to know  
15 that my notes, if you look over my notes at  
16 some point when this is over, you'll see that  
17 I took fair notes, just to make sure you know  
18 I was taking my job seriously.

19 THE COURT: Well, for the record, I  
20 watched you taking notes and I understand  
21 that. And we're not going to look at your  
22 notes because those are personal to you. I'm  
23 going to have them shredded, so nobody is  
24 going to review them. I appreciate what  
25 you're saying.



1 JUROR 4: It's just my character that  
2 I'm concerned about.

3 THE COURT: I understand.

4 JUROR 4: I'm a big boy. I can take it  
5 but my character --

6 THE COURT: Well, it -- I'm trying --  
7 it's just a matter of everybody being  
8 comfortable, I guess, that --

9 JUROR 4: I understand.

10 THE COURT: -- you could be completely  
11 fair and impartial, and while it -- I don't  
12 know what the context of it all was, it just  
13 raises an issue.

14 JUROR 4: It was joking, if anything.

15 THE COURT: I understand.

16 But what will happen now is the bailiffs  
17 will take you back to the hotel so you can  
18 gather your things and get you to your car so  
19 you can get home.

20 JUROR 4: Should I go to work?

21 THE COURT: You can -- well --

22 JUROR 4: Well, I don't [REDACTED]

23 [REDACTED]

24 THE COURT: Oh. Yeah. Actually you  
25 can. There's no reason that you can't do

1 that. I just wouldn't disclose --

2 JUROR 4: No, sir.

3 THE COURT: -- that you were one of the  
4 jurors.

5 JUROR 4: I completely understand.

6 THE COURT: And, you know, I don't know  
7 if people are going to try and figure it out.  
8 If people read that Folio article -- you  
9 heard what I said.

10 JUROR 4: Sure. I'm not a big fan of  
11 contempt of court.

12 THE COURT: I understand. No. I'm just  
13 saying, based on what they've written in  
14 here --

15 JUROR 4: Can I see that so I know what  
16 I'm walking into?

17 THE COURT: Yeah. In fact, I'll give it  
18 to you so you'll have an idea what it's  
19 about. I don't know if somebody can identify  
20 you from that or not.

21 JUROR 4: 

22 THE COURT: Okay.

23 JUROR 4: That's just my humor. I'm  
24 sorry.

25 THE COURT: No. I appreciate that and

1 I'm glad that you still have a sense of  
2 humor.

3 JUROR 4: Yes, sir.

4 THE COURT: I'm sorry that it went this  
5 way, but it's just out of an abundance of  
6 caution, and, again, you can understand  
7 because of the serious nature of the case.

8 JUROR 4: 100 percent.

9 THE COURT: It's just something that I  
10 feel like we've got to do.

11 JUROR 4: If there's a problem, do I  
12 contact you?

13 THE COURT: Yes, sir.

14 And write down my number for him. In  
15 case he has a problem, he can call us.

16 And then you just call and let me know.

17 JUROR 4: Let the jurors know when it's  
18 all over, God bless them, and I hope they do  
19 a good job.

20 THE COURT: Well, let me say this --

21 JUROR 4: We're pretty tight. We all  
22 got along good.

23 THE COURT: When it's all over -- you're  
24 more than welcome to be here, I suppose, when  
25 the verdict is rendered. You'll just be

1 sitting in the audience like anybody else, if  
2 you can get a seat. Maybe you won't be able  
3 to get a seat. I don't know. But maybe when  
4 it's over, I'll explain it. Right now I  
5 can't explain it to them. I'm just going to  
6 tell them something came up with you that  
7 caused us to have to let you go and that  
8 we're going to move on with the trial. So  
9 that's all --

10 JUROR 4: And I apologize.

11 MS. COREY: Please don't. Listen, it's  
12 fine. If you felt that way, it's all okay,  
13 except that there are people so willing to go  
14 out and publicize everything.

15 JUROR 4: It was just the joking matter  
16 and I was real serious.

17 MS. COREY: Of course. Of course.

18 JUROR 4: I don't think that of you.

19 MS. COREY: It's okay. It's just -- and  
20 if this had been, like, a civic speech or  
21 something and you made those comments, it's  
22 not but --

23 JUROR 4: I think I voted for you, just  
24 for the record.

25 MS. COREY: Listen, we all want -- just

1 take care and God bless you. Thank you.

2 JUROR 4: Good luck, Mr. Dunn.

3 THE COURT: Thank you, sir. I  
4 appreciate it.

5 JUROR 4: All right. Thank you.

6 MR. CARLISLE: Thank you, sir.

7 (Juror 4 excused.)

8 THE COURT: Okay.

9 MR. GUY: Your Honor, I don't know that  
10 we technically made that article part of the  
11 court file. Will you put one of those copies  
12 in the court file?

13 THE COURT: Yeah.

14 MR. GUY: Thank you.

15 THE COURT: So this will be part of the  
16 court file as -- I'll call it a court's  
17 exhibit.

18 MR. GUY: That's right.

19 THE COURT: Kim, I guess we'll call that  
20 a court exhibit.

21 \* \* \* \* \*

22 (This concludes this excerpt.)

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C E R T I F I C A T E

STATE OF FLORIDA )  
COUNTY OF DUVAL )

I, Karen Waugerman, Registered Professional Reporter, certify that I was authorized to and did stenographically report the foregoing proceedings and that the transcript is a true and complete record of my stenographic notes.

DATED this 27 day of September, 2014.

*Karen Waugerman*  
KAREN WAUGERMAN, RPR