

United States District Court

Northern District Of California

Before The Honorable Charles R. Breyer

United States of America,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	NO. CR 02-0053 CRB
	)	
Edward Rosenthal,	)	
	)	
Defendant.	)	Jury Trial
_____	)	

San Francisco, California  
Monday, May 14, 2007

Reporter's Transcript of Proceedings

Appearances:

For Plaintiff:	Scott N. Schools United States Attorney 450 Golden Gate Avenue, Box 36055 San Francisco, California 94102
By:	George Bevan, Esquire Assistant United States Attorney
For Defendant:	Pier 5 Law Offices 506 Broadway San Francisco, California 94133
By:	Shari Greenberger, Esquire Robert AmparC!n, Esquire Omar Figueroa, Esquire

(Appearances continued on next page.)

Reported By:	Sahar McVickar, RPR, CSR 12963 Official Reporter, U.S. District Court for the Northern District of California
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5                   Appearances.

6                   MR. BEVAN: George Bevan for the United States.

7                   MS. GREENBERGER: Good morning, Your Honor, Shari  
8 Greenberger on behalf of Mr. Rosenthal.

9                   MR. AMPARCON: Robert Amparcon.

10                  MR. FIGUEROA: Omar Figueroa on behalf of  
11 Mr. Rosenthal. He is present and out of custody.

12                  THE COURT: Are we all set to proceed?

13                  MR. BEVAN: We are. I would simply ask the Court  
14 for permission to have two agents at the table, Juan Saavedra  
15 and Dave Mateer. Neither one I anticipate calling as a  
16 witness.

17                  The third agent, Justin Fletcher, is my witness  
18 coordinator, I would ask he sit during the jury selection but  
19 not the trial.

20                  THE COURT: Okay.

21                  MS. GREENBERGER: I want to introduce Karen Jo  
22 Koonan who will be joining us.

23                  THE COURT: Ready.

24                  MR. BEVAN: Your Honor, if there is no objection,  
25 since Agent Fletcher is the witness coordinator, from time to

1 time may he sit at the end of the table?

2                  THE COURT: Yeah, it's not a big secret case, is it?  
3 I would not think anybody cares who is in the courtroom.

4                  MS. GREENBERGER: I just want to ask you about  
5 alternate jurors with regard to peremptory challenges.

6                  THE COURT: Each side has one peremptory challenge  
7 for an alternate, so the way the -- the way we are going to  
8 simplify it; the Government gets 6, the defendant gets 10. You

9 each get a sheet of paper and you just exercise your challenges  
10 on your sheet of paper. And then after the jury is impanelled,  
11 we pick two alternates and so you each get one challenge per  
12 alternate.

13 MR. BEVAN: Your Honor, I would -- I think what Your  
14 Honor is explaining is, in effect, dilutes potentially the  
15 challenges, the number of challenges, because to an extent you  
16 are challenging the same person, and I would ask that it go in  
17 the order that it goes.

18 THE COURT: Okay. I'll do it the other way. The  
19 other way is there is a system where it goes back and forth,  
20 the only thing is I want it to move quickly.

21 MR. BEVAN: Fine.

22 THE COURT: Fine. I don't care. One saves a little  
23 bit of time.

24 MS. GREENBERGER: And opening statements will be  
25 given.

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1 THE COURT: Tomorrow, provided we get the jury  
2 today.

3 MR. FIGUEROA: With regard to the law enforcement  
4 officers who are present, we would ask that they be admonished  
5 not to discuss the testimony.

6 THE COURT: So admonished.

7 MR. BEVAN: I talked to them about that this  
8 morning.

9 THE COURT: Okay.

10 MS. GREENBERGER: And, Your Honor, you don't have a  
11 problem with our seating arrangement so we can face the jury?

12 THE COURT: No, no, of course not. Okay.  
13 (Awaiting jury panel.)  
14 (Jury panel enters courtroom/sworn at 9:04  
15 a.m.)

16 THE CLERK: Ninety prospective jurors have been  
17 sworn and seated, Your Honor.

18 THE COURT: Okay.

19 THE CLERK: Calling case 02-0053, the United States  
20 of America versus Ed Rosenthal.

21 MR. BEVAN: George Bevan for the United States.

22 THE COURT: Good morning.

23 MS. GREENBERGER: Good morning, Your Honor. Good  
24 morning, ladies and gentlemen, and welcome.

25 Shari Greenberger appearing on behalf of Ed

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1 Rosenthal.

2 MR. AMPARCON: Robert Amparcon.

3 MR. FIGUEROA: Good morning, Your Honor, Omar  
4 Figueroa also appearing on behalf of Ed Rosenthal.

5 THE COURT: Good morning, ladies and gentlemen.

6 Well, first of all, let me thank you for being here  
7 this morning. I usually say thank you for volunteering, but of  
8 course, I know none of you, I think volunteered. You are here  
9 because of a jury summons and I want you to know how much the  
10 Court appreciates your coming in this morning.

11 I want to take a few minutes at the outset to sort  
12 of explain to you a little bit about what the case is,  
13 concerns, and what will be asked of you as jurors.

14 I would say at the outset, though, that I understand  
15 that very few people want to serve on a jury. It's a

16 sacrifice. You all have other things that I'm sure are, in  
17 your own minds and quite properly so, more important, whether  
18 they be work obligations or family obligations, social  
19 requirements and so forth. That this will take some sacrifice  
20 on your part.

21           It's a sacrifice that, perhaps one of the few  
22 sacrifices, that is asked of you, by -- by our country's  
23 Constitution. Paying taxes, I suppose is one. This is  
24 another, and it is a sacrifice that is made in light of the  
25 fact that our founding fathers when they drafted the

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1 Constitution realized that it was important to have  
2 participation for members of the community in issues that are  
3 as consequential as the administration of the justice system.  
4 And so that's why we turn to you to sit as a jury in  
5 determining the guilt or innocence of an individual.

6           This is a case that -- in which the Government has  
7 charged the defendant with the crime of -- or crimes involving  
8 the cultivation or growing of marijuana. It is the  
9 Government's theory of the case that the defendant on occasions  
10 prior to the year 2002, cultivated, which is another word for  
11 grew, distributed marijuana with the intent that that marijuana  
12 be distributed to others as well.

13           And under our law, our federal law, that is a crime.

14           So, what do we do about what is going to be asked of  
15 you? Well, let me tell you, first of all, that we anticipate,  
16 and, as a matter of fact, I can give you a firm commitment that  
17 this case will terminate not later than the week of June 4th.  
18 That's number one.

19                   Number two is, of course, we will have the normal --  
20 I think Memorial Day falls within that period of time. We meet  
21 Monday through Thursday, you will not be required to meet on  
22 Friday. So Friday is an off day.

23                   And Wednesday is actually a half day. We meet from  
24 8:30 -- every day we start at 8:30 and we go to about  
25 4:00 o'clock in the afternoon except on Wednesday when on

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1 Wednesday I have my criminal calendar in the afternoon, so we  
2 conclude Wednesday's session at 1:30 in the afternoon.

3                   In the day we take, of course, what I would say are  
4 normal breaks and we have a luncheon break of about an hour for  
5 you to try some of the very fine restaurants that may not  
6 necessarily include the federal cafeteria, but that is  
7 available as well in the building.

8                   So the schedule is pretty simple. And we move on  
9 that schedule because we want to take as little time, little of  
10 your time as possible. When you are here in court, no matter  
11 what your prior experiences have been, when you are summoned to  
12 jury duty, you will find that you spend almost all your time in  
13 the courtroom hearing testimony, listening to instructions of  
14 the Court or argument of counsel. And that we spend very  
15 little time in the jury room.

16                   The reason -- unless you commence your  
17 deliberations. The reason is that the attorneys have followed  
18 a procedure where there are matters involving legal issues and  
19 so forth that would not be of direct concern to the jurors, we  
20 have taken those matters up outside your presence, even now, in  
21 this case before the trial even commenced. And we will  
22 continue to do that, probably on Friday.

23                   When you are not in session, if legal matters come  
24 up, I'll discuss those with the jurors. I'll either do it on  
25 Friday or some other day that I'll assign to that. So, that is

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1 the procedure that we are going to follow.

2                   The first thing that we do today is to question you.  
3 I'm going to question you first collectively and then question  
4 each of you individually in a process called voir dire. Voir  
5 dire which simply means to see and to say is a process well  
6 recognized in our legal system for making a single  
7 determination which is whether you can sit in this case and be  
8 fair to both sides. Be an impartial juror.

9                   Now, I think that as a group I'm quite sure that  
10 most of you could be impartial, fair in any situation. You  
11 haven't heard the facts of this particular case and you don't  
12 know -- we'll find out if you do, but you probably don't know  
13 the parties. And you are prepared to sit and listen to  
14 testimony and then make up your mind.

15                   So why do we go through this process? Well, the  
16 answer is that we have found over experience that because of  
17 the particular experiences that individual jurors have, there  
18 may be cases that they ought not to sit as a juror, because, in  
19 fact, they have strong views -- you want to get a glass of  
20 water, Barbara, please.

21                   They have views about the issues, some of the issues  
22 that will be tried that will affect their ability to be  
23 impartial. And that happens.

24                   Now, what can I say about that? Well, I could say a  
25 couple of things. First of all, it's entirely proper for

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1 jurors to have views on any situation. There is nothing wrong  
2 with that. Our form of Government, encourages that. And it's  
3 important to have views. Some views you may strongly hold and  
4 some views may be contrary to -- well, let me give you an  
5 example. You may have a view that is contrary to the law.  
6 That is that you think the law is wrong. That it's a silly law  
7 and a wrong-headed law, that it's a law that was a great  
8 mistake to enact. You may hold those views. And that is fine,  
9 there is nothing wrong with that.

10           And this is not a trial about trying to change your  
11 views. This is not the legislature and this is not Congress.  
12 This is a court of law. And so that you hold a view contrary  
13 to the law or about some of the issues that we may address in  
14 the next couple of weeks is perfectly all right. And nobody is  
15 going to ask you to change your views.

16           So then why do we ask about your views? We ask  
17 about your views because it may be that you hold these views in  
18 such a way that really, you can't be impartial to both sides.  
19 And if that is the case, we need to know that now. We can't  
20 wait until the trial is under way or you're in deliberations  
21 and you say, you know, that law, I can't follow that law. I  
22 think it's a silly law. Or it's an unfair law or an unjust  
23 law. No, you have to tell us now.

24           And the reason is because once we begin -- once we  
25 begin the presentation of evidence, both sides have the right

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1 to know that as you sit there you'll be perfectly fair to both  
2 sides and that you hold no views such that those views would

3 affect your ability to be an impartial juror in this case, so  
4 that's why we ask or I ask these questions of you, but I want  
5 you to -- I want you to feel free, especially this morning and  
6 especially through this process, not to hesitate to express  
7 views, to tell me you have views.

8 I doubt very much I'll ask you what your particular  
9 views are, but I think it's somewhat obvious, may or may not  
10 be, I don't know, but if you hold certain views and those views  
11 would affect your ability to be fair and impartial, I need to  
12 know it now. And that is what is going to be asked of you.

13 And I want you to be reassured, there is nothing --  
14 and I say it again because people, you know, the judge is  
15 saying this is what the law is, and I disagree with what the  
16 judge has said, but I don't think I ought to say anything  
17 because that guy is the judge and I'm not, that's not what's  
18 going on here.

19 I encourage you -- I encourage you to speak your  
20 mind when I ask you these individual questions. I will ask  
21 them collectively and then individually.

22 At the end of the day, which is during the course of  
23 deliberations, you want to be sure that whatever verdict you  
24 arrive at was not influenced by views that you held at the  
25 outset of the proceedings. But was influenced solely by the

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1 evidence that is presented to you and by the law as I give it  
2 to you. So that's the point of this process.

3 So, let me start out with some general questions,  
4 and what I've done because there's so many of you and we'll see  
5 if this works, I've never done this before. I've asked the  
6 jury commissioner to give you each a card with a number on it

7 and that number corresponds, one hopes, with your juror number.

8           You were placed in a random order by a computer, to  
9 sort of organize things. So what we're going to do is we are  
10 going to go through this, it's going to take some time, you  
11 know. I mean, it's going to take, I would -- I would be  
12 surprised if it didn't take most of the day. So we are going  
13 to take breaks, and I just have to ask your patience in that  
14 regard.

15           But I'm going to start and then I'll finish the  
16 questions, I'll ask you to raise your number and then I'll  
17 write it down, if, in fact, your answer would be to the  
18 affirmative.

19           Now, as I said to you before, this is a case in  
20 which the defendant is accused of offenses involving marijuana.  
21 So, obviously, marijuana, as we know, is a subject of some  
22 controversy in this country. It's also the subject of laws in  
23 this country. Maybe that causes the controversy, I don't know.  
24 But, I'm going to ask you some general questions about  
25 marijuana, then move on.

13

1           Now, in this case, the defendant is charged with the  
2 federal drug offenses concerning marijuana, which include the  
3 growing and distribution of marijuana. Federal law, and this  
4 is a Federal Court. Federal law prohibits anyone from growing  
5 or possessing marijuana.

6           Do you hold views on this subject that may affect  
7 your ability to apply the law which makes these activities  
8 illegal? And if you do, raise your number so I can write it  
9 down. And I'll start at the back row.

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(Cards raised.)

THE COURT: If I -- I'm going to recite your number, and then after I recite it, you can put down your number.

Number 2. Okay, number 6, number 8, number 9, number 10, number 11, number 12, number 14.

THE CLERK: Number 3 as well.

THE COURT: I'm sorry. I missed you. You had your number up? Number 3.

Moving ahead, number 16, number 18, number 20, number 22. If I go by and miss the number, bring that to my attention.

Number 25, 26, 27, 28, 30, 31, 36, 37, 41, 45, 46, 48, 49, 50, 53, 54, 55, 56, 57, 58, 60, 61, 62, 63, 65, 66.

When we come back, we will do it differently. Sixty-nine -- makes my life a little complicated. Seventy, 71, 72, 74, 75, 78, 79, 80, 84 -- sorry, did I miss somebody?

14

THE CLERK: Eighty-three.

THE COURT: Thank you very much. Eighty-three. Is 84 up or not?

PROSPECTIVE JUROR NO. 84: It was.

THE COURT: Thank you. 84. Eighty-six, 87, 88, and 89.

Okay. Thank you.

Next question -- and by the way, these questions can be duplicative, in other words, you may answer yes as to one and yes as to two or yes as to one and no as to two and no as to one and yes as to two. I haven't worked it out, but treat each question on its own individual merits. When you hear it, pretend that is the only question you were asked and don't be

14 troubled if you answer another question.

15           Question number 2: There may be evidence in this  
16 case that the defendant grew marijuana for medical purposes or  
17 distributed it to clubs for the purpose of giving it to others  
18 who would use it for medical purposes. Federal law, not  
19 California state law, is applicable to this case. Federal law  
20 prohibits the manufacture and distribution of marijuana  
21 regardless of the purpose for which the marijuana is to be  
22 used. In other words, federal law does not allow you to  
23 consider whether the marijuana is to be used for medical  
24 purposes. Do you hold views on the medical aspects of  
25 marijuana?

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1           (Cards raised.)

2           THE COURT: Well, this may just be everybody. Let's  
3 see. I'm going to -- because of the number, I'll do it in  
4 reverse.

5           (Laughter.)

6           THE COURT: I'm going to ask it a different way,  
7 does anybody not hold views? Just trying to save a little  
8 time. Does anybody not hold views on the medical aspects of  
9 marijuana? And I've -- I'm going to instruct you what the law  
10 is. I have instructed you, anybody not hold views?

11           (Cards raised.)

12           THE COURT: Okay. Number 35, 36, 43, 68, 40.

13           I'm having a little trouble in the back row -- okay,  
14 73. Seventy-two. And I think that's it.

15           THE CLERK: Twenty-four.

16           THE COURT: Twenty-four? Okay. Thank you very

17 much.

18 Thank you, Barbara.

19 Okay, I'm going to return, and I hope you understand  
20 and then I'm going to ask you individually about some of these  
21 things.

22 Okay, next question.

23 This is a case, as I said, in which the United  
24 States Government is the prosecutors, the prosecution. The  
25 defendant is Ed Rosenthal, a resident of the East Bay. Have

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1 any of you heard or read anything about this case that would  
2 include television, news reports, anything of that nature?  
3 Have you heard or read anything about this case? If you have,  
4 raise your cards up.

5 (Cards raised.)

6 THE COURT: Okay. Number 6, number 8, number 16,  
7 number 21, number 26, number 33, 48, 49, 62, 65, 73, 74, 75,  
8 77, 79, 85, 86. Thank you.

9 Okay, next question: Do any of you have any moral,  
10 religious, or ethical beliefs that would make it difficult for  
11 you to sit as a juror in this case, given that this trial  
12 involves alleged drug offenses?

13 And by the way, that also means another thing. Some  
14 people feel that they ought not to pass judgment on others.  
15 They have a religious view or an ethical view that says that  
16 you should not be judges or that an individual should not judge  
17 some other person.

18 If you sit as a juror, you become judges. You are  
19 the judges of the facts. You are the people who listen to the  
20 evidence, weigh the evidence, follow the law, and come up with

21 a judgment. That's your job.

22 Now, some people feel, I'm sorry that's not for me.

23 And again, if that's the case, obviously, you ought not to sit

24 as a juror.

25 So I need to know, do any of you hold such an

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1 opinion, and in particular, you may feel, well, I can judge one

2 type of case, I ought not to judge or pass judgment in a case

3 involving alleged drug offenses? Okay, are any of you of that

4 persuasion? If so, raise your card.

5 (Cards raised.)

6 THE COURT: Number 2, number 8, number 16, number

7 20, number 35, number 53, number 55, number 63, number 65,

8 number 71, number 69, number 82.

9 Next question: Have any of you or any member of

10 your family or any of your close friends had any experience

11 with drugs that would affect your ability to be fair and

12 impartial towards both sides in this case?

13 (Cards raised.)

14 THE COURT: Number 1, number 2, number 6, number 8,

15 number 10, number 13, number 18, number 20, number 22, number

16 23, number 30 -- I'll go again. Number 30, 31, 32, 34, 35, 36,

17 37, 38, 46, 47, 48, 49, 50, 53, 55, 61, 62, 63, 65, 69, 71, 75,

18 81, 82, 84, 86, 87, 88. Thank you.

19 Have you or any member of your family or any of your

20 close friends ever been accused of, arrested for or convicted

21 of any offense involving drugs?

22 (Cards raised.)

23 THE COURT: Number 2, number 16, 18, 22, 26, 34, 42,

24 45, 48, 53, 55 -- sorry, 50, 56, 60, 63, 64, 65, 40 -- I don't  
25 know how you got all the way over there.

18

1 Seventy-eight, 84, 88, 90.

2 I feel like I'm sort of in a church bingo without  
3 the payoff.

4 (Laughter.)

5 THE COURT: Okay. Next question. There's probably  
6 a few responses to this one: Have you or any member of your  
7 family made any claim against the United States Government or  
8 had a dispute or contested matter with any federal agency?

9 I'll read it again: Have you or any member of your  
10 family made any claim against the United States Government or  
11 had a dispute or contested matter with any federal agency?

12 (No response.)

13 THE COURT: No responses.

14 Do you have any close friend or relative who works  
15 in law enforcement?

16 (Cards raised.)

17 THE COURT: Number 1, number 2, number 5, number 9,  
18 number 10, number 11, number 12, number 22, number 30, number  
19 33, 34, 35, 37, 38, 42 -- oh, I'm going to do 40 while I'm  
20 there. Forty-two, 46, 47, 50, 59, 60, 63, 65, 75, 78, 80, 81,  
21 83, 84, 85.

22 Have you or any member of your immediate family ever  
23 had any experience with law enforcement which would affect your  
24 ability to be fair and impartial to both sides?

25 (Cards raised.)

19

1 THE COURT: Number 8, number 26, number 40, number  
2 47, number 53, number 60, number 63, number 75, number 81, and  
3 number 85.

4 Law enforcement personnel, including agents from the  
5 Drug Enforcement Administration, commonly known as the DEA, the  
6 Internal Revenue Service, the IRS, and the San Francisco Police  
7 Department will be witnesses in this case.

8 When a law enforcement officer testifies I will  
9 instruct you that his or her testimony is to be judged  
10 according to the same standard you would apply to any witness  
11 who testifies in the case.

12 Is there anyone here who would have any difficulty  
13 following that instruction? That is, by giving it either more  
14 credibility or less credibility solely by virtue of the fact  
15 that the person is introduced to you as a police officer?

16 Do you understand the question?

17 (Cards raised.)

18 THE COURT: Raise your hand if you would have some  
19 difficulty in following that instruction.

20 Okay, number 65, number 71 -- oh, 47, thank you very  
21 much. Number 47. Number 60, number 81, and 85 and 31.

22 Have any of you had any contact with or do you know  
23 anyone associated with this particular case, including the  
24 parties?

25 You've introduced the people at your tables.

20

1 MR. BEVAN: I have not.

2 THE COURT: Both counsel introduce everybody who is  
3 sitting at the table.

4 MR. BEVAN: My name, again, is George Bevan, and I'm

5 an assistant United States attorney and the prosecutor in the  
6 case.

7 Next to me is Special Agent Juan Saavedra. He is a  
8 criminal investigator with the Internal Revenue Service.

9 Next to Agent Saavedra is Agent David Mateer, a  
10 special agent with the Drug Enforcement Administration. And  
11 finally, Justin Fletcher at the end of the table. He is our  
12 witness coordinator. You may be seeing him from time to time  
13 as he is here this morning. And he is also a special agent  
14 with the Internal Revenue Service.

15 THE COURT: Thank you.

16 Mr. AmparC!n?

17 MR. AMPARC!N: Good morning, my name is Robert  
18 AmparC!n, one of Mr. Rosenthal's lawyers, assisted by Omar  
19 Figueroa. This is Ed Rosenthal. We are also assisted by Karen  
20 Jo Koonan of the National Jury Project. And my colleague,  
21 Shari Greenberger.

22 THE COURT: So my question is: Have any of you had  
23 any contact or do you know anyone associated with this case  
24 including the parties in the case and their attorneys, the  
25 United States Attorney's Office for the Northern District of

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1 California, the DEA or IRS or any other law enforcement agency  
2 in connection with this case?

3 (No response.)

4 THE COURT: Now, I want to ask a general question.  
5 After hearing -- well, I think I'll save that question because  
6 I think I've done enough talking and I think now we do the part  
7 where we are going to pass out a separate sheet of paper. Is

8 that right?

9 We are going to question you individually. So in  
10 questioning you individually, each of you will get a piece of  
11 paper with a series of questions on it. And I would ask that  
12 you respond to those questions when we come to them.

13 So, ladies and gentlemen, what we are going to do, I  
14 don't know what time you got here, probably pretty early. I'm  
15 going to take a break now, and before we go into the individual  
16 questioning, it's not going to be a long one because I really  
17 want to move this ahead. I'm sure you appreciate that. So  
18 we're going to resume in about 12 minutes.

19 I want to caution you to two things. Number one, of  
20 course, don't discuss the case with anyone. You haven't heard  
21 anything about it so I appreciate your not discussing the case.

22 Secondly, when you come back, please, sit next to  
23 the person that you are presently seated next to. And I think  
24 the numbers will be of some assistance. Take your number with  
25 you. And you might as well leave your script on your chair.

22

1 Makes no difference whether you take it or not, I don't really  
2 care. But the numbers be sure to take with you so when you  
3 come back, you will be seated in the same place.

4 Thank you very much, we'll start at 10 of -- I mean,  
5 10:00 o'clock.

6 (Recess taken at 9:50 a.m.)

7 (Proceedings resumed at 10:00 a.m.)

8 THE COURT: Okay. Mr. Bartoli, you're first. And  
9 you don't have to stand. You want to just keep your voice up.

10 PROSPECTIVE JUROR BARTOLI: Okay. I can speak up.

11 My name is Roberto Bartoli. I'm born and raised in

12 South San Francisco, California for 51 years. I've lived there  
13 my entire life.

14 I work for what is now AT&T. I am married 24 years  
15 today. My wife works for the Pacifica Police Department.

16 We have a 20-year-old son in college.

17 I have not served in the military and I have never  
18 served on a jury before.

19 There are no reasons that I could think of that I  
20 couldn't be fair.

21 THE COURT: Okay. You, along with almost everybody  
22 else in the room, stated that you have views on the subject of  
23 medical marijuana. The question I would ask you, and I will  
24 ask everybody when we get to this point, can you set --  
25 whatever views you have about medical marijuana, can you set

23

1 these views aside in arriving at a verdict?

2 PROSPECTIVE JUROR BARTOLI: Would say yes.

3 THE COURT: In other words, do you believe that the  
4 views you have on the medical purpose of marijuana would not  
5 impair your ability to serve impartially?

6 PROSPECTIVE JUROR BARTOLI: Yes.

7 THE COURT: Okay. Thank you.

8 Now, let me see. You indicated you or some member  
9 of your family or close friends had an experience with drugs.

10 PROSPECTIVE JUROR BARTOLI: Yes.

11 THE COURT: And the question is, knowing what you  
12 know about the case, that it's a case involving the cultivation  
13 and distribution of marijuana that is an allegation -- by the  
14 way, let me make something perfectly clear, I was -- I'm always

15 concerned about using words like perfectly clear, but let me  
16 emphasize a point, which is this: The Government has brought  
17 charges against the defendant, the Government -- to which the  
18 defendant has pled not guilty.

19 The Government has the burden of proof of  
20 establishing the guilt, according to the standard that I will  
21 give you. If the Government fails to meet its burden, it would  
22 be your duty to acquit the defendant. The defendant in a  
23 criminal case does not have to prove anything at all, does not  
24 have to testify, doesn't have to say anything about the state  
25 of the evidence, doesn't have to call any witnesses. And those

24

1 facts cannot be used against a defendant.

2 Okay. So when I say that this is a case about  
3 marijuana, not medical marijuana in the sense that the purpose  
4 to which the marijuana was being devoted is not going to be an  
5 issue for you to consider, but when I say that this is a case  
6 about marijuana, what I'm saying is that the Government has  
7 alleged that the defendant grew, cultivated or distributed  
8 marijuana. That's an allegation. That remains to be seen  
9 whether or not the Government will be able to prove its  
10 allegations.

11 Okay, so the question now, finally getting back to  
12 you, sir, the question is whether your experience or member of  
13 your family's experience with marijuana, if that's what the  
14 drug that was involved here, whether that would affect your  
15 ability to be fair and impartial in this case.

16 PROSPECTIVE JUROR BARTOLI: No.

17 THE COURT: Okay.

18 And you say that you have a close friend involved in

19 law enforcement, that would be --

20 PROSPECTIVE JUROR BARTOLI: Well, my wife, for one.

21 THE COURT: Right. I assumed this is a  
22 long-standing marriage. My guess is that she is a very good  
23 friend of yours.

24 Okay. Now there will be some witnesses in law  
25 enforcement, the question always is with somebody who has

25

1 relatives or close friends in law enforcement, was -- is  
2 that -- couple of questions. Number one, just because somebody  
3 is a peace officer, if you say, well, I have friends who are  
4 peace officers, this is a peace officer. I'm going to believe  
5 them, I'm not even going to listen to the evidence or I'm going  
6 to use a different standard, would you be able to judge him  
7 according to the same standard?

8 PROSPECTIVE JUROR BARTOLI: Yes.

9 THE COURT: Okay. And the other question is, if you  
10 voted to acquit in this case, do you feel you would have some  
11 obligation to explain to those people who are associated with  
12 law enforcement why you came to this particular verdict?

13 PROSPECTIVE JUROR BARTOLI: No.

14 THE COURT: Okay. Thank you very much. Pass the  
15 microphone over to Juror No. 2.

16 PROSPECTIVE JUROR BOGUE: Okay. My name is  
17 Christine Bogue. I live in Windsor, lived there for 8 years.  
18 I have a lived in California my whole life, 36 years.

19 I'm a waitress. I'm divorced, one child, 13 and a  
20 half.

21 I've never been in the military. I did get called

22 to jury duty in Sonoma County, but they let me go on hardship.

23 I don't know -- does that answer that question?

24 THE COURT: Well, I don't know. Is the hardship  
25 that you were released from in Sonoma County one that we would

26

1 have to consider in this case?

2 PROSPECTIVE JUROR BOGUE: I would hope -- they just  
3 let me go. They said, oh, we don't need you, you can go.

4 THE COURT: We need everybody so the question is,  
5 you know --

6 PROSPECTIVE JUROR BOGUE: I haven't claimed  
7 hardship.

8 THE COURT: Sorry?

9 PROSPECTIVE JUROR BOGUE: I haven't claimed it. I  
10 would like to.

11 THE COURT: No, no, no -- I should say not so fast.

12 Ladies and gentlemen, this is a hardship on  
13 everybody in a sense. Everybody is giving up something, and we  
14 all appreciate that, we understand that. But if people were  
15 simply released because, you know, there were things that set  
16 out in their schedule and so forth that they had to do, we have  
17 to evaluate it on a case-by-case basis. So I'm sure you  
18 understand that, otherwise we would never have any jurors. We  
19 would have jurors of essentially people who absolutely had  
20 nothing else to do.

21 This is my job, I'm here because it is my job. But  
22 it's not your job. And I know that your job is important. My  
23 job is important to me, your job is important to you. Your  
24 family is important to you and your obligations are important  
25 to you and I appreciate that and understand that. And I'm not

1 trying to minimize it.

2 But on the other hand, I hope you understand that  
3 this is an important process of our way of living in this  
4 country under this constitution, if you can appreciate that.

5 I also will say another thing, and I may be proven  
6 to be wrong, is that if you decide the case based upon the  
7 evidence and sit here, you will believe at the end of your jury  
8 service that it was a worthwhile experience. I think you will  
9 take that back. It is an enormous civics lesson and we are all  
10 too old for civics lessons, but we don't just stop learning in  
11 school, we actually learn through life. This is one of those  
12 opportunities to take advantage of this.

13 Now, I don't want to be too preachy about it but I  
14 do want to tell you that we, one, appreciate your sacrifices;  
15 and two, I hope at the end of the day when that day comes, you  
16 will have appreciated this experience.

17 Okay. Go ahead.

18 PROSPECTIVE JUROR BOGUE: Now, to the last question,  
19 I'm kind of confused. I don't think there is any problem with  
20 weed, recreationally or medicinally.

21 THE COURT: Okay. So the question is whether these  
22 views that you hold, would -- can be set aside in arriving at a  
23 verdict?

24 PROSPECTIVE JUROR BOGUE: I'm all for it.

25 THE COURT: You're all for it.

1 PROSPECTIVE JUROR BOGUE: Either way, medicinally or  
2 recreational.

3 THE COURT: You feel it would create a problem, you  
4 could not be impartial?

5 PROSPECTIVE JUROR BOGUE: I couldn't.

6 THE COURT: Okay. Thank you very much.  
7 Number 3.

8 PROSPECTIVE JUROR MURPHY: My name is Suzanne  
9 Murphy. I have -- I live in San Anselmo for two years. I've  
10 lived in California for 34.

11 I'm a retired registered nurse anesthetist. I'm  
12 single. No children.

13 Never been in the military. I served on a jury in  
14 Marin County many years ago. It was about 15 or 20 years ago.  
15 A civil case. And a verdict was -- there was a verdict.

16 Concerning the last question, I strongly believe in  
17 the use of medical marijuana and think that it really should be  
18 legalized and controlled as other drugs are.

19 THE COURT: Okay.

20 Now, here is the question as to that, and you  
21 indicated your views are strongly held, which is that you  
22 strongly believe that the law should be changed. And in  
23 California actually that law was changed. California state  
24 law, by referendum, not in the federal system.

25 So the question is, is your view so strongly held

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1 that you feel in a case in which there may -- one can't predict  
2 with certainty -- there may be evidence that the defendant, if  
3 other things are shown, intended the use for medical purposes,  
4 whether you could still be impartial, that is, you could follow  
5 the law, if the law is, and I expect it will be, that you

6 cannot consider the purpose for which the marijuana was  
7 distributed or grown? Can you follow that law or do you feel  
8 you couldn't follow that law?

9 PROSPECTIVE JUROR MURPHY: Well, because it is the  
10 law, I would like to -- I mean, I would like to say that I  
11 would follow the law, but it would be very difficult.

12 THE COURT: Okay. Now, I have to explore a little  
13 bit about the difficulty. And I understand part of the  
14 difficulty is, again, you haven't heard the evidence, but let's  
15 assume that the evidence is as simple as I've just described  
16 it. And you have to decide whether or not the person is to be  
17 convicted based upon the evidence that's presented to you, and  
18 you're told that you cannot consider the fact that the  
19 marijuana was grown for medical purposes or distributed for  
20 medical purposes; can you, given your state of mind as it  
21 exists now, do you feel you can set aside your views about  
22 medical marijuana in arriving at a verdict?

23 PROSPECTIVE JUROR MURPHY: I don't think I could.

24 THE COURT: Okay. Thank you.

25 PROSPECTIVE JUROR DOUGLASS: My name is Barbara

30

1 Douglass. I live in Oakland and I've lived there for 19 and a  
2 half years. And that's how long I've lived in California.

3 I'm a certified nurse midwife. I am single, I have  
4 one son, 41 years old. He is an attorney at law.

5 I have no military service. I have served  
6 previously on a jury in Alameda County. And the jury did -- it  
7 was a criminal case and we did come to a verdict.

8 Question number 10, I, as a medical person, I do  
9 believe in the use of medical marijuana.

10 THE COURT: Yeah, well, again, you fall within the  
11 vast majority of people here in this courtroom, but the  
12 question is, and I asked Ms. Murphy this question, but  
13 everybody's answer is individual, I hope you all appreciate  
14 that, not because somebody said something you say, well, I  
15 think I may agree with that person or disagree with that  
16 person. It's not whether you agree or not agree with a person  
17 who has already spoken on the issue, it's your own personal  
18 views.

19 Now, you say that you would favor medical marijuana,  
20 as I understand it, the question is, whether or not you could  
21 decide this case -- well, let me ask it this way, whether or  
22 not you could set those views aside in arriving at your verdict  
23 if I instruct you that the law is that you can't consider it?

24 PROSPECTIVE JUROR DOUGLASS: I would try. I can't  
25 say -- I don't know if I would be able to.

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1 THE COURT: Let me ask it this way: Do you believe  
2 that the views that you hold on the medical purpose of  
3 marijuana may impair your ability to serve impartially? Do you  
4 believe that?

5 PROSPECTIVE JUROR DOUGLASS: I would have to answer  
6 I -- I don't know. I -- I had not thought about it.

7 THE COURT: Okay. Thank you very much.

8 Mr. Spagnoli.

9 PROSPECTIVE JUROR SPAGNOLI: Yes, I'm Roger  
10 Spagnoli. I have lived at my current address for ten-plus  
11 years. I have a lived in California all my life, 56 years.

12 I'm a CalTrans equipment operator. I'm married. My

13 wife is a CalTrans supervisor. We don't have any children.

14 I haven't served in the armed forces. And haven't  
15 been selected for jury duty before.

16 And I don't think there is any reason I couldn't be  
17 impartial.

18 THE COURT: You indicated that you had a friend in  
19 law enforcement?

20 PROSPECTIVE JUROR SPAGNOLI: Yes. My nephew and his  
21 wife.

22 THE COURT: Are they with the San Francisco Police  
23 Department or another department?

24 PROSPECTIVE JUROR SPAGNOLI: Different departments.

25 THE COURT: What departments?

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1 PROSPECTIVE JUROR SPAGNOLI: San Jose and Benicia.

2 THE COURT: Okay. Again, my question as I asked the  
3 first juror whether or not because a peace officer testifies  
4 you would immediately or you wouldn't follow the same standard  
5 that I give you in addressing any other witness. You feel you  
6 could follow the standard in judging witnesses who are police  
7 officers the same way that you would with other people?

8 PROSPECTIVE JUROR SPAGNOLI: My -- I feel I could be  
9 impartial.

10 THE COURT: Okay. Thank you very much.

11 Yes, please, sorry.

12 PROSPECTIVE JUROR BILICH: My name is Michele  
13 Bilich. I live in Belmont. I've lived there most of my life  
14 which is 31 years.

15 I am a mechanical engineer. I am married. My  
16 spouse is an IT manager. We have no children.

17 I have never served in the military. I've never  
18 served on a jury.

19 I believe that -- in the use of marijuana for  
20 medical purposes I would hope that it wouldn't impact my  
21 decision, but I can't say for sure.

22 THE COURT: Okay. Some people may have such firmly  
23 held views that they know that they couldn't be impartial in  
24 this case, other people may not be so certain of whether those  
25 views are so strongly held.

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1 I -- where do you think you fall in that general  
2 category? You couldn't be affected by it? You're not sure?

3 PROSPECTIVE JUROR BILICH: Right.

4 THE COURT: Which, of course, suggests a view that  
5 you might have a view but you don't know how -- whether that  
6 view would control in --

7 PROSPECTIVE JUROR BILICH: Correct.

8 THE COURT: -- this particular case?

9 Well, I would just tell you this case is about  
10 someone who is accused of growing, in this case, substantial  
11 quantities of marijuana. We are not talking about one or two  
12 marijuana cigarettes, I mean, we are talking about substantial  
13 quantities. That is what the evidence, according to the  
14 prosecution, would show in this case.

15 So that is the question. The question is given  
16 those circumstances, your views about medical marijuana such  
17 that you feel it would impact your ability to be impartial?

18 PROSPECTIVE JUROR BILICH: I would say that it would  
19 probably impact it to be impartial more than it would not, but

20 I'm not sure.

21 THE COURT: Okay. Thank you very much.

22 PROSPECTIVE JUROR LLERENA: I'm Anthony Llerena.

23 Call me Tony. I live in Santa Rosa. I have lived there 39  
24 years.

25 Retired from State Farm as a computer operator. And

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1 I'm divorced. I have a 38-year-old son in the restaurant  
2 business.

3 And I've been in the Navy, spent four years in the  
4 Navy. And I have had previous jury in Sonoma County, three  
5 trials. One was civil, two criminal. We returned a verdict  
6 all three times.

7 And I see no reason why I can't be fair about this.

8 THE COURT: Thank you very much.

9 Okay. Let's pass it on to Mr. Sanders now.

10 PROSPECTIVE JUROR SANDERS: My name is Rick Sanders.

11 I live in Castro Valley, California for the last 28 years and  
12 lived in California my whole life, 51 years.

13 Self-employed, general contractor. And I'm  
14 divorced. I have two daughters, 21 and 18, which are full-time  
15 students, college students.

16 No military experience. No jury, no previous jury  
17 experience.

18 And I think I would have trouble being impartial.

19 THE COURT: Okay. Well, you answered these  
20 questions, first question about marijuana and the question  
21 about marijuana is the views that you hold about marijuana, do  
22 you believe that they will impair your ability to serve  
23 impartially in this case?

24 PROSPECTIVE JUROR SANDERS: I believe they will.

25 THE COURT: Thank you very much.

35

1 Who's next?

2 PROSPECTIVE JUROR NG: Me.

3 I'm Christina Ng. And I live in Daly City for 12  
4 years. Next door to two prominent San Francisco police  
5 officers. And I have lived in California my whole life for 38  
6 years.

7 I'm a family physician and I work in Oakland in a  
8 nonprofit clinic.

9 I am married and my husband is an attorney. And I  
10 have a six-and-a-half-year-old daughter.

11 I have never served in the military. I've never  
12 been called to be on a jury.

13 And I do feel that I would not be able to be  
14 impartial in this case because I did my training at San  
15 Francisco General Hospital and I have had experience with the  
16 use of medicinal marijuana and it was very effective as a  
17 treatment for anorexia and nausea. And I feel that in some  
18 cases, it can be the only treatment to relieve suffering.

19 THE COURT: Okay. Thank you very much, Ms. Ng.  
20 Ms. Moneymaker.

21 PROSPECTIVE JUROR MONEYMAKER: My name is Sadie  
22 Moneymaker. Born and raised in Santa Rosa, California, and  
23 still live there 23 years.

24 I'm currently unemployed, just finished my education  
25 at Santa Rosa Junior College. I'm single. No children.

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1 I've never served in the military. I've never  
2 served a jury.

3 And I don't think that there is any reason why I  
4 can't be impartial.

5 THE COURT: Okay. Ms. Moneymaker, you did indicate  
6 that you have views on marijuana, but you have also indicated  
7 that you can be impartial. What I think that means is you, and  
8 correct me if I'm wrong, you believe that your views, whatever  
9 views you have, wouldn't impair your ability to be an impartial  
10 juror?

11 PROSPECTIVE JUROR MONEYMAKER: Yes, sir. I think I  
12 can put them aside.

13 THE COURT: Thank you very much.

14 You also indicated a few other questions, if I  
15 might.

16 You did indicate that some member of your family may  
17 have had some experience with drugs; is that correct?

18 PROSPECTIVE JUROR MONEYMAKER: Yes.

19 THE COURT: Okay. But that experience won't affect  
20 your ability to be fair in this case?

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

22 THE COURT: Okay. And you also indicated that you  
23 had a close friend or relative who works in law enforcement?

24 PROSPECTIVE JUROR MONEYMAKER: Yes, a couple of  
25 close family friends. One is a police officer in Rohnert Park

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1 and the other is retired police chief.

2 THE COURT: Of where?

3 PROSPECTIVE JUROR MONEYMAKER: Cotati.

4 THE COURT: Would you be willing to judge the  
5 credibility of peace officers according to the standard that I  
6 give you to judge every other witness?

7 PROSPECTIVE JUROR MONEYMAKER: Yes.

8 THE COURT: Thank you very much.

9 PROSPECTIVE JUROR DAVIS: My name is Peter Davis. I  
10 live in Santa Rosa, California, and I've lived there for 20  
11 years. I've been -- I'm a native of California and only  
12 resided outside of California for a short time while in the  
13 service.

14 I'm currently a retired insurance adjuster. And  
15 trying to become a millionaire real estate agent.

16 THE COURT: You stand a better chance in California,  
17 I think, than most other places.

18 PROSPECTIVE JUROR DAVIS: I'm married to a CPS  
19 worker, that was my law enforcement answer. I have two  
20 children. And they are grown and one is a real estate person  
21 and the other one I'm not sure.

22 I spent three years and four months in the Navy as a  
23 corpsman. Long time ago. No jury duty service in the past.

24 I don't know if there is any reason that I would not  
25 be fair or impartial in this case. I do have opinions on the

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1 laws regarding marijuana.

2 THE COURT: Let me explore those for a moment.

3 The question about your views on marijuana, again,  
4 are whether you would be able to set aside those views in  
5 arriving at a verdict. In other words, whatever views you have  
6 that it ought to be legalized or ought not to be legalized, the  
7 question, of course, is, when you have to decide the case, can

8 you take whatever your views about whether you agree or  
9 disagree with the law, you can say, I set those aside and I  
10 will follow the law when -- whatever -- when the judge says  
11 this type of conduct is what the law does not permit, in other  
12 words, it is illegal. Can you do that?

13 PROSPECTIVE JUROR DAVIS: Unfortunately, the answer  
14 is yes.

15 THE COURT: Okay. You indicated something about, is  
16 it your wife that's in law enforcement?

17 PROSPECTIVE JUROR DAVIS: She is a CPS worker, child  
18 protective search and seizure.

19 THE COURT: Okay. Is that going to make any  
20 difference to you in this case?

21 PROSPECTIVE JUROR DAVIS: Unfortunately, no.

22 (Laughter.)

23 THE COURT: Mr. Hart.

24 PROSPECTIVE JUROR HART: My name is Reece Hart. I  
25 live in San Francisco and have lived here for six years. I was

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1 born in California and have lived around the U.S. and  
2 elsewhere.

3 I am currently a scientist at Genentech. Been there  
4 for six years. Married with three kids, ages four and a half,  
5 two and a half, and a year.

6 I have not had any military experience. I am a  
7 serial reject from jury service.

8 And then regarding impartiality, I guess I have two  
9 problems with marijuana laws. One is basically I'm surprised  
10 we spend as much time enforcing marijuana laws. I think it's a

11 bad way to spend our resources. I'm sure I could set that  
12 aside for any case.

13 The, I think, more difficult question for me is that  
14 California state allows the use of marijuana for medical  
15 purposes and I have trouble reconciling federal law with state  
16 law, especially since I think in the case of medical use it has  
17 profound advantages.

18 So for me, I think my impartiality would amount to  
19 additional burden of proof that this was used for something  
20 other than medical purposes. If that's the case, I have no  
21 trouble, I think, applying laws as you prescribe them. If it's  
22 only for medical use, I think I would have a hard time applying  
23 the law.

24 THE COURT: Okay. Thank you.

25 PROSPECTIVE JUROR HART: You also asked earlier

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1 about --

2 THE COURT: That's okay.

3 PROSPECTIVE JUROR HART: Okay.

4 THE COURT: Thank you very much, Mr. Hart. Not that  
5 I'm not interested but --

6 PROSPECTIVE JUROR HART: I have a lot to say.

7 THE COURT: Talk about it later, okay.

8 PROSPECTIVE JUROR PATRICK: My name is Linda  
9 Patrick. I live in the City of South San Francisco and lived  
10 there for approximately 34 years. I've lived in California all  
11 my life, which is 61.

12 I'm semi-retired and work as an office manager. I  
13 am single. Have three children; a 40-year-old, who is a crane  
14 operator, a 38-year-old, who is a field operator coordinator,

15 and 36, who is a park maintenance worker.

16 Not been in the military. Not served on a jury.

17 And I think I could be fair and impartial in this  
18 case.

19 THE COURT: Okay. You indicated that you had had a  
20 member of your family who had some experience with drugs, and  
21 the question is whether that experience would in some manner  
22 affect your ability to be fair and impartial in this case?

23 PROSPECTIVE JUROR PATRICK: No, it would not affect  
24 me.

25 THE COURT: Thank you very much.

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1 Mr. Hopkins.

2 PROSPECTIVE JUROR HOPKINS: My name is Henry  
3 Hopkins. I live in Richmond. And I've lived there for five  
4 years. I've been in California 37 years. Having lived most of  
5 the time in San Francisco.

6 I'm a retired elementary school teacher and  
7 elementary school principal. I'm divorced. I have one  
8 daughter, who is 34 and a couple of grandchildren. She is an  
9 attorney by education, however, she is -- my daughter is a  
10 housewife at the moment.

11 No military service. I was in the peace corps. I  
12 have been called for jury duty, but I have never been on a  
13 jury.

14 On the impartiality, personally, I do have views  
15 that, like one previous person said, that we spend an awful lot  
16 of time going after marijuana when there are other things that  
17 I think are more important; however, as you say, it's a civic

18 duty and I would have to say it wouldn't be so easy for me, but  
19 I would -- I would say I will be impartial and follow the law.

20 THE COURT: Okay. Thank you very much.

21 Would you pass the microphone to the jury on the  
22 end, Number 15.

23 PROSPECTIVE JUROR LLAGAS: My name is Leticia Llagas  
24 and I live in Hayward. I have lived in that residence for 20  
25 years. And lived in California for 25 years.

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1 I am an operation manager with a major bank. I am  
2 divorced. And I have one daughter, 27 years old, who is  
3 actually -- has a severe learning disability.

4 I don't have previous military service. I have  
5 served as a juror in a criminal case and we, as a jury,  
6 returned a verdict.

7 And I don't see any reason that I could not be fair  
8 and impartial, although I believe in medicinal purpose.

9 THE COURT: Okay. Now, as to your view about the  
10 medical purposes of marijuana, can you set aside any views in  
11 arriving at your verdict?

12 PROSPECTIVE JUROR LLAGAS: I believe so.

13 THE COURT: Okay. Thank you very much.

14 Yes, Ms. Boccabella.

15 PROSPECTIVE JUROR BOCCABELLA: My name is Bridget  
16 Boccabella. I live in Rohnert Park and have lived there for  
17 three years. I've lived in California for 23 years.

18 I'm a service manager for a commercial landscaper.  
19 I'm single. No children.

20 No military. No jury service.

21 And I don't believe in this law at all. And I would

22 find it very difficult to be impartial.

23 THE COURT: Okay. You feel you can't set aside your  
24 views?

25 PROSPECTIVE JUROR BOCCABELLA: No, absolutely not.

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1 THE COURT: Absolutely not? Okay. Thank you very  
2 much.

3 PROSPECTIVE JUROR LEE: My name is Da Lee. I live  
4 in Walnut Creek for 20 years. I live in California 23 years.

5 I'm a professional engineer as mechanical engineer.  
6 I'm divorced. I have two children, one is 28, and one is 26.  
7 One is teacher, one is an engineer.

8 I have -- before I have service as naval reserve CB  
9 for six years. I never served jury duty before.

10 I don't see any reason I could not be fair and  
11 impartial in this case of this nature.

12 THE COURT: Thank you very much.

13 Mr. Carson.

14 PROSPECTIVE JUROR CARSON: My name is Thomas Carson.  
15 I reside in Forestville, California. I've lived there 30  
16 years. I've lived in California 58, that's how old I am.

17 I'm divorced. I have two children, 25 and 27.

18 I have a conscientious objector status for the  
19 military and worked two years in Minquan (phonetic) Children's  
20 Center.

21 No jury service.

22 And I believe in smoking marijuana.

23 THE COURT: Okay. Now, are your views about  
24 marijuana such that you feel you can't set aside those views in

25 arriving at a verdict? In other words, you disagree with the

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1 law, and I understand that, and I appreciate your candor, the  
2 question is whether you can set aside those views, even though  
3 you, yourself, disagree with the law?

4 PROSPECTIVE JUROR CARSON: No, sir. No, Your Honor.

5 THE COURT: Thank you very much.

6 PROSPECTIVE JUROR LEUNG: Hi. My name is Agnes  
7 Leung. I live in San Francisco for three years. I've lived in  
8 California for 20.

9 I'm an attorney, I'm single. I don't have children.  
10 No previous military service, no jury service and no  
11 bias.

12 THE COURT: Not so fast. You are a lawyer.

13 (Laughter.)

14 THE COURT: We can't let a lawyer just go by so  
15 quickly.

16 What kind of law do you practice?

17 PROSPECTIVE JUROR LEUNG: Real estate.

18 THE COURT: And have you ever practiced any criminal  
19 law?

20 PROSPECTIVE JUROR LEUNG: No.

21 THE COURT: Okay. The question always with lawyers  
22 is since they are experts in the law whether they can, whatever  
23 their expertise is, they can defer to the Court in the  
24 instructions that I give you; do you have any problem with  
25 that?

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1 PROSPECTIVE JUROR LEUNG: No.

2 THE COURT: Okay. So even though you may disagree  
3 with my interpretation of the law, I do state what the law is  
4 and are you prepared to follow it?

5 PROSPECTIVE JUROR LEUNG: Sure.

6 THE COURT: Okay. Thank you very much.

7 Yes, sir?

8 PROSPECTIVE JUROR FRANCO: I'm Ed Franco. I have  
9 lived in El Cerrito, California for 26 years, lived in  
10 California my entire 67 years.

11 I'm retired as a claims adjuster from -- from AIG.  
12 Single, no children.

13 No military and no jury service.

14 I believe in both recreational use of marijuana, and  
15 the laws are stupid and arbitrary. I am strongly prejudiced in  
16 favor of medical use because I have a slight cancer and if it  
17 progresses to that point, I will hope that the laws will have  
18 changed, and if not, I will seek it out. I will knock on  
19 Mr. Rosenthal's door to get it.

20 THE COURT: Mr. Franco.

21 PROSPECTIVE JUROR FRANCO: Yes, sir?

22 THE COURT: I'm hearing what you are saying. Are  
23 you saying that your views are so strongly held that you can't  
24 set aside those views in arriving at a verdict here?

25 PROSPECTIVE JUROR FRANCO: That's correct, Your

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1 Honor.

2 THE COURT: Okay. Thank you very much.

3 PROSPECTIVE JUROR LAMARRE: My name is Judith  
4 Lamarre. I live in Burlingame, 20 years. The entire time I've  
5 been in California. I'm a banker. I'm divorced. I have a

6 21-year-old college son.

7 I've never served in the military or on a jury.

8 I've never served on a jury.

9 And my views on medical use of marijuana would most  
10 definitely impact my ability to be impartial.

11 THE COURT: When you say "impact," you believe that  
12 you can't set aside those views in arriving at a verdict; is  
13 that correct?

14 PROSPECTIVE JUROR LAMARRE: Yes.

15 THE COURT: You can't be impartial?

16 PROSPECTIVE JUROR LAMARRE: Right.

17 THE COURT: Thank you very much.

18 PROSPECTIVE JUROR BRIGANCE: My name is Ryan  
19 Brigance. Martinez, California. I have lived there for five  
20 years.

21 I am MIS at Long's Drugstores. I'm not married, no  
22 children.

23 No military service and I have not served.

24 And I cannot be impartial.

25 THE COURT: So in other words, you feel that you --

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1 you have views about marijuana?

2 PROSPECTIVE JUROR BRIGANCE: Yes.

3 THE COURT: Okay. Are those views such that you  
4 feel you cannot be impartial in this case? You cannot be  
5 impartial? Are you saying you can be fair or that you feel --  
6 and fair is almost a pejorative term -- let me try -- well, let  
7 me put it in your own words.

8 You say that you feel that it might influence your

9 decision in the case, your views?

10 PROSPECTIVE JUROR BRIGANCE: It would influence my  
11 decision.

12 THE COURT: And you feel that you can't set aside  
13 those views; is that correct?

14 PROSPECTIVE JUROR BRIGANCE: It would depend on the  
15 evidence.

16 THE COURT: Okay. Well, let me try to ask it this  
17 way: Are you -- are your views about marijuana in general or  
18 are they views as they relate to the medicinal use of  
19 marijuana?

20 PROSPECTIVE JUROR BRIGANCE: In general.

21 THE COURT: Okay. And do you agree or do you  
22 disagree with the law that says it is illegal to possess or  
23 grow or distribute marijuana? Do you agree with those laws or  
24 do you disagree with those laws?

25 PROSPECTIVE JUROR BRIGANCE: I disagree.

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1 THE COURT: Okay. And if -- is your disagreement so  
2 firmly held that it may affect your ability to serve as a  
3 juror?

4 PROSPECTIVE JUROR BRIGANCE: Yes.

5 THE COURT: Thank you.

6 PROSPECTIVE JUROR VOSE: My name is Linda Vose. I  
7 live in San Ramon, have lived there for 27 years, have lived in  
8 California for 29 years.

9 I'm currently a supervisor with AT&T. I am married.  
10 My husband is in sales. I have three children, age 39, in the  
11 construction industry; age 37, in the telecommunications  
12 industry; and age 34, working in the school system.

13                   I have not had previous military experience. I have  
14 served previously on a jury. It was a criminal case and it did  
15 return a verdict.

16                   In this case, I could set aside my views on  
17 marijuana, however, I do not believe that I could convict  
18 somebody of a federal crime that was legal in the state.

19                   THE COURT: Okay. Thank you very much.

20                   Let me add something to that statement, just so you  
21 put it in the context.

22                   There is a law called the compassionate use of  
23 marijuana in California. And that law is -- is defined a  
24 particular way. I don't want to leave a suggestion in  
25 anybody's mind that the conduct that is alleged here would fall

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1 as an exception or fall within the compassionate use of  
2 marijuana under state law. I have no opinion on that subject.

3                   That law is one law and this is a different law, and  
4 the facts of this case may or may not bring the conduct that is  
5 alleged here under the, quote, "protection" of the California  
6 law.

7                   Do you understand what I have said? I'll try to  
8 explain it somewhat less like a lawyer or a judge.

9                   There is a law, as we said, in California the allows  
10 certain usage of marijuana. I'm not going to give an opinion  
11 nor would I want you to consider whether the conduct here that  
12 is -- that is at issue would come within that law or would not.  
13 It's defined a particular way. There are courts of appeal that  
14 have reviewed it and said what's within it and what's not  
15 within it.

16                   That whole subject won't be for your consideration.  
17   You could sit there as a juror and you think, you know, maybe  
18   this is -- this would have been all right in State Court, or in  
19   a state proceeding, and maybe it wouldn't have been, depending  
20   on what the conduct is. I don't know. And a jury would not  
21   consider that.

22                   The real question is, as you sit there as a juror,  
23   if you hold a view that, gee, I think this would be legal, what  
24   he is accused of doing, legal under California law, but illegal  
25   under federal law. I can't vote for conviction based upon that

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1   theory and based upon that understanding.

2                   And all I want you to do is understand this, that  
3   whatever the views are of California law, whether or not it  
4   would be included or not, that would not be something at all  
5   that you could consider in this particular case, you just can't  
6   take it into consideration.

7                   If you think you might, even though I would tell you  
8   that you can't, but, in fact, you would think you might, then  
9   that may affect your ability to serve on this jury. Do you  
10   understand that?

11                   So having that bit of background in mind, do you  
12   feel you can set aside your views on the subject of marijuana  
13   and the laws, the state laws on marijuana in arriving at a  
14   judgment in this case under the federal law?

15                   PROSPECTIVE JUROR VOSE: I could possibly do that.

16                   THE COURT: You could possibly do that? I think I  
17   need a bit more assurance than that. But I don't want to  
18   encourage you to give an answer one way or the other, I just  
19   want you to think about the answer that you are giving because

20 I want it to be your answer, not what the judge thinks you  
21 ought to say, okay. That's the way we are doing this. You  
22 know?

23 I'm not picking the jury, I'm letting the jurors  
24 express their views. Okay.

25 So the question is, you do have to assure me of this

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1 and maybe we can do it this way: You have to assure me that  
2 even though you may have a disagreement with the law, you may  
3 think it an unwise law, an unjust law, a law that you don't  
4 think ought to be applied, even though you may have a  
5 disagreement, you have to give me your assurance that you will  
6 set aside that disagreement and follow the federal law even  
7 though you might disagree with it. And state law may disagree  
8 with it, but you have to follow the federal law. You have to  
9 give me that assurance. Can you give me that assurance?

10 PROSPECTIVE JUROR VOSE: No.

11 THE COURT: Okay. Thank you very much.

12 I think we are at number 25; is that right?

13 PROSPECTIVE JUROR DEWITT: Twenty-four.

14 THE COURT: Five?

15 PROSPECTIVE JUROR DEWITT: Twenty-four.

16 THE COURT: Sorry? Okay. Twenty-four.

17 PROSPECTIVE JUROR DEWITT: My name is Elena Dewitt.

18 I live in Dublin for seven years. Been in California for 12  
19 years.

20 I work for United Airlines. I'm married, and my  
21 husband also works for United Airlines. No children.

22 Never served in the military, never been on a jury.

23 And there is no reason why I cannot be impartial.

24 THE COURT: Thank you very much.

25 Number 25.

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1 PROSPECTIVE JUROR STRAIGHT: My name is Vivian  
2 Straight, a resident of California for 23 years. I've lived  
3 here for 59.

4 I'm a teacher, married. My husband is a furniture  
5 and carpet cleaner. Two children, 25 and 27.

6 No military service. I've not been on a jury.

7 And I don't think I can be impartial.

8 THE COURT: And is that as a result of your views  
9 about marijuana?

10 PROSPECTIVE JUROR STRAIGHT: And drug dealers.

11 THE COURT: And drug dealers? And so is your  
12 view -- are your views such that you feel you can't set those  
13 views aside in arriving at a verdict?

14 PROSPECTIVE JUROR STRAIGHT: Correct.

15 THE COURT: Okay. Thank you very much.

16 PROSPECTIVE JUROR DU BOIS: My name is Leon Du Bois.  
17 I live in Forestville, lived there for 17 years.

18 THE COURT: I have to go back to Ms. Straight for a  
19 moment, and I apologize for that. Because the two answers  
20 suggest a possible contradiction, so I need to know a little  
21 bit more about your views of marijuana. You -- is it that you  
22 disagree with the laws on marijuana?

23 PROSPECTIVE JUROR STRAIGHT: Yeah, I disagree with  
24 the law. But I agree with convicting drug dealers.

25 THE COURT: Okay. But you disagree -- let's deal

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1 with the marijuana for a moment. I'll get to drug dealers.

2 As to marijuana, you disagree with the law which  
3 makes it illegal to grow and distribute marijuana?

4 PROSPECTIVE JUROR STRAIGHT: Correct.

5 THE COURT: And is your view on that law so strongly  
6 held that it would affect your ability to be an impartial  
7 juror?

8 PROSPECTIVE JUROR STRAIGHT: Yes.

9 THE COURT: Thank you very much. That's all I  
10 needed to know.

11 Mr. Du Bois.

12 PROSPECTIVE JUROR DU BOIS: Okay. Starting again.

13 Leon Du Bois. I live in Forestville. And actually,  
14 I made a mistake, I have only lived there 11 years. I have  
15 lived in Sonoma County since 1991, and in California for 36  
16 years.

17 I'm a retired registered nurse from Kaiser Hospital.  
18 I'm single. I have no children.

19 I've never been in the military. I have served on a  
20 jury. I don't know -- I assume it was criminal and we did  
21 arrive at a verdict. I was foreman of that jury, by the way.

22 And I cannot be impartial in this case. You asked  
23 about if anyone has been arrested for alleged drug possession.  
24 And I have had a bad experience with law enforcement around  
25 that. I was an employee at a 24-hour establishment on

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1 Clementina Street here in San Francisco --

2 THE COURT: Well, Mr. Du Bois, you actually don't  
3 have to go into the details, although I appreciate what you are

4 saying. I just need to know, for whatever reason, I need to  
5 know whether you have some strongly-held views that may very  
6 well affect your ability to be impartial. You say you do as a  
7 result of that experience.

8           You also indicated, if I recall correctly, that you  
9 had some views about marijuana. My question about your views  
10 on marijuana is, are your views so strongly held on the issue  
11 of -- by the way, I could ask you this: Do you agree or  
12 disagree with the laws on marijuana?

13           PROSPECTIVE JUROR DU BOIS: I disagree.

14           THE COURT: Is that disagreement so strongly held  
15 that you feel it would affect your ability to be a fair and  
16 impartial juror in this case?

17           PROSPECTIVE JUROR DU BOIS: If this did not involve  
18 medical marijuana, I would be impartial and fair. I cannot be  
19 with medical marijuana.

20           THE COURT: Okay. Thank you very much.

21           Mr. Fletcher.

22           PROSPECTIVE JUROR FLETCHER: I am Robert Fletcher,  
23 and I have lived in San Ramon for six and a half years, in  
24 California for 35 years.

25           I'm a retired banker and I own restaurants now. I'm

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1 married and my wife is a psychiatric nurse with Kaiser  
2 Permanente. We have two daughters, 29 and 27. The younger is  
3 a teacher in Arizona. Our oldest just graduated from law  
4 school and is working for a big corporation.

5           I was radar man in the U.S. Navy. I've been  
6 summoned to jury duty many times but never had the privilege to

7 serve.

8 I am a fair and impartial person, so I don't have  
9 any problem with the issue.

10 THE COURT: Okay. So you feel that whatever your  
11 views are about marijuana, you can set aside those views in  
12 arriving at a verdict? That is to say, it wouldn't affect your  
13 ability to be fair?

14 PROSPECTIVE JUROR FLETCHER: That's correct.

15 THE COURT: Okay. Thank you very much.

16 Mr. Harris.

17 PROSPECTIVE JUROR HARRIS: My name is Richard  
18 Harris. I live in Berkeley where I've been since 1995. I'm a  
19 California native for 46 years.

20 A water utility manager. I am married. My wife is  
21 an associate with a landscape architecture firm. Two  
22 daughters, age 5 and 7.

23 No previous military service. I did serve in San  
24 Francisco as a juror approximately 15 years ago on a criminal  
25 case where a verdict was returned.

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1 And I believe I could be fair and impartial in this  
2 case.

3 THE COURT: Thank you very much.

4 Ms. Schulmeister.

5 PROSPECTIVE JUROR SCHULMEISTER: My name is Wendy  
6 Schulmeister. I live in El Sobrante, ten years. Been living  
7 in California all my life, 27 years.

8 I'm a teacher assistant for a preschool. Head Start  
9 for the district. I'm not married.

10 Never served in the military or been selected for

11 jury -- for jury.

12           And I have strong views against marijuana use  
13 despite the medical or whatever. And so I'm not sure I could  
14 be impartial and fair.

15           THE COURT: Well, let's talk about that because you  
16 represent the other side of the debate. And as the law stands,  
17 the law prohibits the use, growth, distribution of marijuana,  
18 that is what the law of the United States is in dealing with  
19 all 50 states, or the citizens or the people who are here in  
20 the United States, that's what the law is.

21           If you agree with that law that does not disqualify  
22 you as a juror. I mean, taking -- I could take hundreds of  
23 examples, but most people most of the time in criminal cases,  
24 agree that whatever the conduct is, it should be the subject of  
25 a criminal charge. So that doesn't put you out of that,

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1 doesn't mean you can't be fair and impartial.

2           The question, though, with somebody who has strong  
3 views about marijuana or about any other drug or about the  
4 criminal offense would be whether or not they would listen to  
5 the evidence, as to whether or not the defendant did the things  
6 that the defendant is accused of having done. You see?

7           It's not just -- you could have strong views about  
8 marijuana, but the question in this case would be not just  
9 marijuana, but did the defendant do the things that he is  
10 accused of doing?

11           So, in other words, the question is whether you  
12 would listen and be able to listen to the evidence in deciding  
13 whether or not the defendant did what the Government

14 establishes -- that the defendant did the things that the  
15 defendant is accused of having done. That's my question. Can  
16 you do that?

17 PROSPECTIVE JUROR SCHULMEISTER: Yes.

18 THE COURT: Okay. So the fact that he is accused of  
19 marijuana, sales or distribution or growth or maintaining a  
20 place where marijuana is being grown, cultivated or  
21 distributed, those facts alone, you understand, would not  
22 warrant a conviction. It would have to be that -- putting it  
23 another way, I didn't say it right.

24 The fact that it's marijuana doesn't warrant a  
25 conviction. The fact is that the Government has to establish

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1 that, number one, it was marijuana; and number two, that the  
2 defendant did the things that are accused here.

3 Do you believe you could follow the law in that  
4 regard?

5 PROSPECTIVE JUROR SCHULMEISTER: Yes.

6 THE COURT: Okay. Thank you very much.

7 PROSPECTIVE JUROR ENGELMANN: My name is Darla  
8 Christiansen Englemann.

9 THE COURT: Oh, sorry -- no, that's right. Thank  
10 you very much.

11 PROSPECTIVE JUROR ENGELMANN: I am a resident of  
12 Richmond, California. I've lived there for nine years and in  
13 California for 38 -- 37 years.

14 I'm a clairvoyant counselor. I'm married. My  
15 husband is the director of operations for a shipping company.  
16 I have no children.

17 No military experience. And never been selected for

18 a jury.

19                   And having suffered pain myself and watched others,  
20 I do not believe that I could send to jail anyone who is  
21 instrumental in relieving suffering.

22                   THE COURT: Okay. Now, let me address another  
23 subject, which is the question of punishment. The jury makes  
24 no decision on the issue of punishment. Their sole decision is  
25 whether or not the evidence establishes guilt or does not

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1 establish guilt. Obviously, decisions have consequences, but  
2 it's not a consequence that the jury could even consider in  
3 arriving at a judgment in this case. Is that clear?

4                   However, it may be that you have some views and you  
5 think your views about punishment and so forth would influence  
6 or affect your ability to be fair and impartial. Do you think  
7 that that's the case here?

8                   PROSPECTIVE JUROR ENGELMANN: I don't believe that I  
9 could be impartial about someone --

10                   THE COURT: -- accused of this crime?

11                   PROSPECTIVE JUROR ENGELMANN: Accused of having  
12 medical marijuana.

13                   THE COURT: Okay. Thank you very much.

14                   Mr. Scott -- Ms. Scott.

15                   PROSPECTIVE JUROR SCOTT: Karen Scott, I live in San  
16 Rafael, California, for about 8 years. Lived in the State of  
17 California for 17 years.

18                   I work for Cisco Systems in marketing management.  
19 I'm divorced. Two children, two boys, ages 7 and 10.

20                   Not been in the military. Never been selected for a

21 jury.

22                   And, you know, on this issue of impartiality as it  
23 relates to medicinal marijuana, I would have an issue  
24 convicting somebody of providing medicinal marijuana to relieve  
25 suffering and pain.

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1                   THE COURT: And let me -- when somebody says they  
2 have an issue, generally, it's -- it means that it's a strong  
3 view, and my question is, whether your views are such that you  
4 believe as you sit there now, it would affect your ability to  
5 be fair and impartial in this case.

6                   PROSPECTIVE JUROR SCOTT: I believe it would.

7                   THE COURT: Thank you very much.

8                   PROSPECTIVE JUROR MARTINEZ: My name is Olivia  
9 Martinez. I live in Pittsburg for five years. I have lived in  
10 California for 28 years.

11                   I'm a caregiver. I'm married. My husband is a  
12 driver. I have two kids, one is 13, the other one is 4.

13                   I never been in the military. I've never been in  
14 the jury.

15                   And I think I could not be fair or impartial in this  
16 case.

17                   THE COURT: You think you could or could not?

18                   PROSPECTIVE JUROR MARTINEZ: Could not.

19                   THE COURT: And is that because you have views on  
20 the subject of marijuana or medical marijuana or what? In  
21 other words, why do you think you couldn't be fair?

22                   PROSPECTIVE JUROR MARTINEZ: I'm against marijuana  
23 unless it's for medical.

24                   THE COURT: Okay. Now, if there is evidence, and

25 there might be or there might not be evidence that the purpose

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1 of the marijuana growth or distribution was for medical  
2 purposes, if that's what the evidence is or you believe that  
3 that's what the evidence is, the question is whether or not you  
4 can set aside -- oh, let me tell you another thing.

5 The Court instructs you, you cannot consider the  
6 purpose for which the marijuana was sold or distributed or  
7 given away. You can't consider that purpose. Are you advising  
8 me that you think that you would not be able to set aside that  
9 view in arriving at a verdict?

10 PROSPECTIVE JUROR MARTINEZ: No.

11 THE COURT: You think you would be able to set it  
12 aside or would not be able to set it aside?

13 PROSPECTIVE JUROR MARTINEZ: I wouldn't be able.

14 THE COURT: Okay. And so your views are strongly  
15 held that you feel because it may relate to medical marijuana,  
16 you could not be impartial; is that correct or is that  
17 incorrect?

18 PROSPECTIVE JUROR MARTINEZ: Correct.

19 THE COURT: Okay. Thank you very much.

20 Okay. Mr. Rudd? We are with you, sir.

21 PROSPECTIVE JUROR RUDD: My name is Brian Rudd. I  
22 live in the City of Brentwood, I have been there for eight  
23 years and California for nine years.

24 I'm a sales department manager for an insurance  
25 company. I'm married. My wife is a homemaker. I have six

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1 children. Want their ages and occupation? Thirty-two, 29,

2 27 -- help me -- 24, 20, and 17.

3 THE COURT: I guess your wife is the one that keeps  
4 track of their ages?

5 PROSPECTIVE JUROR RUDD: No. It's the 17-year-old,  
6 she is making me forget all the rest of them.

7 THE COURT: Right. Seventeen is the perfect 13, I  
8 think that's the way it is.

9 PROSPECTIVE JUROR RUDD: Their occupations in that  
10 same order would be a homemaker, another homemaker, a school  
11 teacher, an accountant, graduate student. My next son is  
12 serving a religious mission in Mexico, and my last one is a  
13 high school student.

14 I have not served in the military. I have been  
15 summoned for jury but not picked.

16 And I do not think I would have a problem being  
17 impartial.

18 THE COURT: Yeah. You indicated, Mr. Rudd, that you  
19 had heard something about the case. I don't want to explore  
20 with you what you heard about the case, because the case had  
21 received or has received a certain amount of publicity. The  
22 question is, if you serve as a juror, it's very important that  
23 the only thing you consider is the evidence that is presented  
24 to you in this courtroom, and the law as the Court gives it to  
25 you.

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1 It is important for you not to consider anything you  
2 may have seen or heard in newspapers, news reports, TV, and so  
3 forth. And I'm going to instruct you on that. But sometimes,  
4 people have heard so much about something they form very strong

5 opinions and they say that's going to influence me.

6 Can you -- can you advise the Court whether or not  
7 you can set aside whatever you read or heard about the case or  
8 saw about the case in arriving at your verdict?

9 PROSPECTIVE JUROR RUDD: Yeah, I can go one better.  
10 I don't even remember other than the name.

11 THE COURT: Okay. Thank you very much.

12 PROSPECTIVE JUROR LANE: My name is Robert Lane. I  
13 live in Brentwood, California. I've lived there for 22 years.

14 My occupation is, I'm a fiber optic technician. I'm  
15 single. Not married. No children.

16 Never been in the military. I served as a -- on a  
17 jury for a criminal case and we did come to a verdict.

18 And I feel that I cannot set aside my views on this  
19 subject.

20 THE COURT: Okay. So you feel that you could not be  
21 fair and impartial?

22 PROSPECTIVE JUROR LANE: Yes.

23 THE COURT: Okay. Thank you very much.

24 PROSPECTIVE JUROR MCDONOUGH: My name is Richard  
25 McDonough. I live in Larkspur. I have lived there for 15

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1 years and 18 years in California.

2 I'm an insurance broker. Married. My wife is a  
3 stay-at-home mom, attorney by trade. I have two children, one  
4 11, and one 8.

5 No military service. No jury service.

6 And I would not be fair and impartial in this case.  
7 And as my position as a father, telling my school-aged children  
8 about drugs.

9 THE COURT: Well, again, I think I asked this of  
10 another juror, in other words, you do not have a disagreement  
11 with the law; is that correct, on drugs?

12 PROSPECTIVE JUROR MCDONOUGH: I do have a  
13 disagreement with the law.

14 THE COURT: Okay. So that doesn't disqualify you as  
15 I'm sure you appreciate. The question is whether you would  
16 tend to convict somebody because the accusation is that they  
17 were involved in drugs as distinct from listening to what the  
18 evidence is as to their connection with the purported illegal  
19 activity. That's the question.

20 PROSPECTIVE JUROR MCDONOUGH: Well, as a father and  
21 as a brother of two siblings who have substance abuse issues, I  
22 would have a difficult time making an impartial decision. I'm  
23 sorry.

24 THE COURT: Okay. Thank you very much.

25 Mr. Long.

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1 PROSPECTIVE JUROR LONG: Yes, my name is Paul Long.  
2 I live in San Francisco. Have lived here for 30 years at the  
3 same address.

4 My occupation, I'm vice president of a wireless  
5 telecommunications company. I'm married. My wife is a retired  
6 school teacher. I have one child, 18.

7 I've had no military service. I've never  
8 successfully served on a jury.

9 And I can be impartial.

10 THE COURT: You can be impartial.

11 PROSPECTIVE JUROR LONG: I can be impartial.

12 THE COURT: Okay. Let me ask you, Mr. Long, you  
13 indicated -- one minute.

14 You have views about marijuana; I take it whatever  
15 your views are you feel you could follow the law in the case;  
16 is that correct, as I give it to you?

17 PROSPECTIVE JUROR LONG: That's correct.

18 THE COURT: And you also indicated that you do have  
19 some family or friends or close relatives who had some  
20 experience with drugs; and are you telling me that that  
21 experience, whatever it was, would not affect your ability to  
22 be fair and impartial in this case?

23 PROSPECTIVE JUROR LONG: It would not.

24 THE COURT: Thank you very much.

25 Ms. Kenzler.

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1 PROSPECTIVE JUROR KENZLER: I'm Karen Kenzler. I  
2 live in Concord now for four years, before that in Antioch for  
3 20. I've been living in California most of my life.

4 My occupation was data security, which is computer  
5 security. I'm retired from PacBell, years ago, and went on to  
6 other companies doing -- doing the same type of thing, computer  
7 security.

8 I'm married. My husband is a retired machinist. I  
9 have three children, 35, she works as an assistant manager in a  
10 grocery store. My 30-year-old is a meteorologist, looking for  
11 a job. And my 28-year-old works for a power company.

12 I've never been in the military. I've served on a  
13 jury twice and it was criminal and we had -- we came to a  
14 verdict both times.

15 As far as people I know in law enforcement, my best

16 friend's son is a highway patrolman. Another friend, her  
17 daughter is a highway patrolman and my neighbor is a retired  
18 policeman.

19 As far as drug, family and friends or whatever, I  
20 have -- my niece's husband is in jail right now for drug  
21 possession. And I do agree with the law as far as the federal  
22 law. I guess I could be impartial. I'm probably more -- I'm  
23 really anti-drug because I have a nephew, it took us 12 years  
24 to get him off marijuana and back in school, he is now  
25 successful but it took 12 years to do it.

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1 That's all.

2 THE COURT: Let me ask about -- and I've asked it of  
3 several other jurors who indicated that they are in favor of  
4 the law as it presently is written.

5 Whether they will listen to the evidence to  
6 determine according to the standard that the Court will give  
7 whether or not the defendant is responsible for the conduct  
8 that is alleged here. Would you be able to do that?

9 PROSPECTIVE JUROR KENZLER: I think so.

10 THE COURT: You have indicated you have associations  
11 with people who are in law enforcement. You understand the  
12 testimony of a police officer or a peace officer has to be  
13 judged according to the same standard you would apply to any  
14 other witness; are you able to do that?

15 PROSPECTIVE JUROR KENZLER: Yes.

16 THE COURT: And the experience of this close friend  
17 or associate that had a drug problem, you understand that that  
18 is a factor that could not be considered by you in arriving at

19 a verdict. Would you be able to not consider it in arriving at  
20 a verdict?

21 PROSPECTIVE JUROR KENZLER: I think so.

22 THE COURT: Okay. Thank you.

23 PROSPECTIVE JUROR LUM: My name is Linnette Lum.  
24 I've lived in Pacifica for approximately 19 years. I'm a  
25 California native.

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1 I am an executive recruiter. My husband works for  
2 the San Francisco Police Department. I have one child, age  
3 three and a half.

4 I have no military service or jury service.

5 I have a close relative who is HIV positive who uses  
6 marijuana for medicinal purposes. However, given on the other  
7 side, you know, obviously, I'm opposed to anyone using it  
8 outside of medicinal purposes. So it's a catch-22 for me.

9 THE COURT: Okay. Ms. Lum, let me ask you, in light  
10 of these experiences, the question is whether your views on  
11 medical marijuana are such that you would be able or would not  
12 be able to set those views aside in arriving at a verdict?

13 PROSPECTIVE JUROR LUM: I would not.

14 THE COURT: You would not? In other words, you  
15 believe that the views that you have on the medical purpose of  
16 marijuana may impair your ability to serve impartially; is that  
17 correct?

18 PROSPECTIVE JUROR LUM: Yes.

19 THE COURT: Okay. Thank you very much.

20 PROSPECTIVE JUROR BYNUM: My name is Bobby Bynum. I  
21 live in the City of El Cerrito. And I've lived there for 19  
22 years. I've lived in the State of California for 27 years.

23 I'm a production worker. I'm married. My wife is a  
24 senior clerk. I have two stepsons, both in construction.

25 I served six years in the United States Navy as a

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1 machinist's mate. And I've had two previous jury services.  
2 They were both criminal cases. And we did arrive at verdicts.

3 And I have no reason that I could not be fair and  
4 impartial.

5 THE COURT: Thank you very much, Mr. Bynum.

6 Ms. Young?

7 PROSPECTIVE JUROR YOUNG: My name is Brandy Young.

8 I was born and raised in Alameda. Been there for 27 years.

9 I'm unemployed right now. I'm single. I have no  
10 children.

11 No military service. And no jury duty.

12 And the last question, I have no opinion on the  
13 matter.

14 THE COURT: Okay. Well, you have no opinion on  
15 medical marijuana or marijuana; is that correct?

16 PROSPECTIVE JUROR YOUNG: That's right.

17 THE COURT: But the question is a little bit  
18 broader. Well, let me ask you some other questions since  
19 you've responded to some particular questions.

20 You were asked the question have you or any member  
21 of your family or any close friends either been accused or  
22 arrested or convicted of any offense involving drugs? I think  
23 you answered in the affirmative.

24 PROSPECTIVE JUROR YOUNG: Yes.

25 THE COURT: Okay. Were those experiences or that

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1 experience such that it might influence you in this particular  
2 case?

3 PROSPECTIVE JUROR YOUNG: No.

4 THE COURT: Okay. You also indicated that a close  
5 friend or relative works in law enforcement.

6 PROSPECTIVE JUROR YOUNG: My aunt is a Colorado  
7 police officer.

8 THE COURT: And I take it that you would be willing  
9 to judge a peace officer's testimony according to the same  
10 standard that you would anybody else; is that correct?

11 PROSPECTIVE JUROR YOUNG: Correct.

12 THE COURT: Okay. Was this -- basically, in answer  
13 to the question, experience with law enforcement, have you or  
14 any member of your family or close friend had experience with  
15 law enforcement -- I think I asked that question --

16 PROSPECTIVE JUROR YOUNG: I have myself.

17 THE COURT: You have? Was the experience -- what  
18 was the --

19 PROSPECTIVE JUROR YOUNG: Drug related.

20 THE COURT: Pardon?

21 PROSPECTIVE JUROR YOUNG: Drug related.

22 THE COURT: Drug related?

23 PROSPECTIVE JUROR YOUNG: Yes.

24 THE COURT: And was that experience such that you --  
25 that it would affect your ability to be fair to one side or the

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1 other in this case?

2 PROSPECTIVE JUROR YOUNG: No.

3 THE COURT: Okay. Thank you very much.

4 So on balance -- again, I'm going to ask the  
5 question again, on balance you feel you could give both sides  
6 in this case, both the prosecution and the defense, a fair  
7 trial?

8 PROSPECTIVE JUROR YOUNG: Correct.

9 THE COURT: Okay. Thank you very much.

10 Okay. We have Ms. Dagragnano.

11 PROSPECTIVE JUROR DAGRAGNANO: Close enough.

12 THE COURT: What is it?

13 (Laughter.)

14 PROSPECTIVE JUROR DAGRAGNANO: Denise. Unless you  
15 speak Italian --

16 THE COURT: I would like to hear you pronounce it.

17 PROSPECTIVE JUROR DAGRAGNANO: Dagragnano.

18 THE COURT: Perfect.

19 PROSPECTIVE JUROR DAGRAGNANO: I currently live in  
20 San Francisco, and I'm 36. I've lived in California all my  
21 life.

22 I am a registered nurse. I'm married and my husband  
23 is a product designer for a San Francisco based bag company.  
24 We don't have any children.

25 I have never served in the military, nor have I done

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1 jury service.

2 And as a health care worker, it would be difficult  
3 for me to be impartial knowing the benefits of marijuana.

4 THE COURT: Again, the question is whether your  
5 views of medical -- medical marijuana are such that it would  
6 impair your ability to serve as a juror in this case?

7 PROSPECTIVE JUROR DAGRAGNANO: Yes. It would not.

8 THE COURT: Would or would not?

9 PROSPECTIVE JUROR DAGRAGNANO: I would not be able  
10 to remain impartial.

11 THE COURT: Okay. Thank you very much.

12 MR. AMPARCON: Your Honor? Would it be possible to  
13 have --

14 THE COURT: Let's do this. Let's again take one of  
15 these famous ten-minute breaks, if that is all right with you,  
16 ladies and gentlemen.

17 Remember, don't discuss the case or form or express  
18 any opinion. We'll resume here at 11:30.

19 (Recess taken at 11:20 a.m.)

20 (Proceedings resumed at 11:31 a.m.)

21 THE COURT: Okay, welcome back, ladies and  
22 gentlemen.

23 Mr. Noda, we're up to you.

24 PROSPECTIVE JUROR NODA: Hi. My name is Jon Noda.  
25 I live in Fremont, and have lived in California all my life.

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1 I am a quality engineer. Married. My wife works in  
2 project management. I have no children.

3 I have not been in the military. I have not served  
4 on a jury duty.

5 And I don't believe there is any reason why I could  
6 not be fair.

7 THE COURT: You indicated that you did have a  
8 friend or family member that had some involvement with drugs;  
9 is that correct?

10 PROSPECTIVE JUROR NODA: Yes.

11 THE COURT: Was that experience such that you feel  
12 it might affect your ability to be fair and impartial in this  
13 case?

14 PROSPECTIVE JUROR NODA: It will not.

15 THE COURT: Okay. And the other question was you --  
16 do you have any close friends or relatives who works in law  
17 enforcement?

18 PROSPECTIVE JUROR NODA: Yes.

19 THE COURT: And what type of law enforcement?

20 PROSPECTIVE JUROR NODA: Sunnyvale Police  
21 Department, retired.

22 THE COURT: Okay. And how is this person --

23 PROSPECTIVE JUROR NODA: Close friend.

24 THE COURT: Would you be able to judge the testimony  
25 of a police officer who testifies in this case according to the

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1 same standard that you would use in applying it towards any  
2 other witness?

3 PROSPECTIVE JUROR NODA: Yes, I will.

4 THE COURT: Okay. Thank you very much.

5 Ms. Foreman?

6 PROSPECTIVE JUROR FOREMAN: My name is Patricia  
7 Foreman. I have lived in Danville for almost five years.

8 Previously my husband and I had lived in California many years  
9 ago for about two years.

10 I am a receptionist in an assisted living facility.  
11 My husband is a business consultant. We have three grown  
12 children. Our son is 33 years old. He just had a birthday.  
13 He is an insurance adjuster and is attending graduate school as

14 well. Our oldest daughter is 30, a market analyst and just  
15 received her Realtor's license. Our youngest just turned 26  
16 years old today and she is an artist.

17 I have never served in the military, never served on  
18 a jury previously.

19 And I can think of no reason why I would have a  
20 problem being fair and impartial in this case.

21 THE COURT: Okay. Thank you very much.

22 PROSPECTIVE JUROR HAYASHI: I'm Kaoru Hayashi. I  
23 live in El Sobrante for four years. Immigrant to California  
24 ten years ago.

25 I'm an assistant. I'm divorced. Have a daughter 24

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1 year old. She is biotech company.

2 And I have no record of military or jury service.

3 I try my best to understand English, but I'm sorry  
4 to say, I'm not complete understand the whole state here.

5 THE COURT: Have you understood all the questions  
6 that I have asked this morning?

7 PROSPECTIVE JUROR HAYASHI: Not really.

8 THE COURT: Okay. Thank you very much.

9 Ms. Cantrell.

10 PROSPECTIVE JUROR CANTRELL: I'm Michelle Cantrell.  
11 I live in Fremont, California for ten years, in the state of  
12 California since 1992.

13 I'm a registered nurse. I am divorced without  
14 children.

15 I have never been in the military or served on a  
16 jury.

17                   And I could not be fair or impartial in this case.

18                   THE COURT:   So your view is that because of your  
19 views concerning marijuana?

20                   PROSPECTIVE JUROR CANTRELL:   Yes.

21                   THE COURT:   And they are so strongly held you could  
22 not set them aside in arriving at a verdict?

23                   PROSPECTIVE JUROR CANTRELL:   Since childhood.

24                   THE COURT:   Sorry.

25                   PROSPECTIVE JUROR CANTRELL:   Since childhood.   They

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1   are very deeply ingrained.

2                   THE COURT:   And you could not set them aside?

3                   PROSPECTIVE JUROR CANTRELL:   No.

4                   THE COURT:   Thank you very much.

5                   Ms. McMillon.

6                   PROSPECTIVE JUROR MCMILLON:   Yes.   My name is Mary  
7 McMillon, and I've lived in California 37 years at the same  
8 address.

9                   I'm a teacher.   I'm married.   My husband is also a  
10 teacher.   I have two natural children and a stepdaughter.   My  
11 stepdaughter is 45 and she is a nurse.   My son is 35 and he is  
12 a computer security person.   My youngest son is 24, and he is  
13 enrolled in graduate school.

14                   I have not been in the military.   I have been seated  
15 on a jury once, but it was settled out of court the next day  
16 and so no verdict was reached.

17                   And I have a lot of conflict about state's rights  
18 and laws that I voted for in the State of California.   After a  
19 fair amount of deliberation and the federal prosecution against  
20 the law in this state although I appreciate very much the

21 people and the Court who do the work of the Court.

22 THE COURT: So do you feel your views about the  
23 marijuana laws, in particular, and maybe the laws of the State  
24 of California and the federal Government laws, you -- do you  
25 feel that you could not set aside those views in arriving at a

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1 verdict?

2 PROSPECTIVE JUROR MCMILLON: They would influence  
3 them very much, I'm afraid, yes.

4 THE COURT: They would influence you very much?

5 PROSPECTIVE JUROR MCMILLON: Yes.

6 THE COURT: So do you feel you could not sit in the  
7 federal case as a fair and impartial juror?

8 PROSPECTIVE JUROR MCMILLON: That's true.

9 THE COURT: Okay. Thank you very much.

10 PROSPECTIVE JUROR NUYNH: My name is Steven Nuyh.  
11 I'm a resident of Fremont, California, for 26 years.

12 A sales marketing consultant. Single, no children.  
13 No military service. And no jury service.

14 And I feel that I cannot be fair and impartial on  
15 this case.

16 THE COURT: Because of your views on marijuana?

17 PROSPECTIVE JUROR NUYNH: That's correct, sir.

18 THE COURT: And they are so strongly held that you  
19 could not set them aside in arriving at a verdict and be fair  
20 and impartial?

21 PROSPECTIVE JUROR NUYNH: That is correct. That is  
22 correct, sir.

23 THE COURT: Thank you very much.

24

Mr. Jones.

25

PROSPECTIVE JUROR JONES: Hello. My name is Sam

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1 Jones. I live in Bay Point for 15 years. I've been a  
2 California resident for 40 years.

3 I work at San Francisco State University as an  
4 educational opportunity program academic advisor. I am not  
5 married, nor do I have any children.

6 And I'm never been in the military nor have I been  
7 on a jury before.

8 As for the last question, I see this more of a  
9 political question or political struggle than a legal one. I  
10 feel that -- that basically this is a case of civil  
11 disobedience, and I strongly support all forms of nonviolent  
12 civil disobedience, and I feel that the defendant is basically  
13 heroic in his actions.

14 THE COURT: When you say you support all forms of  
15 nonviolent civil disobedience, are you saying that regardless  
16 of what the law may say, you feel that you cannot follow the  
17 law in that regard?

18 PROSPECTIVE JUROR JONES: This is correct.

19 THE COURT: Thank you very much.

20 Mr. Gough.

21 PROSPECTIVE JUROR GOUGH: Gabriel Gough, I live in  
22 Lafayette. I've lived there a year. Lived in California for  
23 about 25 years.

24 I'm a territory manager for a corporation. I'm  
25 married. My wife is a human resource manager. I have two

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1 children, 7-week-old and two-month-old -- or two year old, what  
2 am I saying?

3 (Laughter.)

4 PROSPECTIVE JUROR GOUGH: I can't even remember what  
5 is going on.

6 THE COURT: In either case, you are not getting any  
7 sleep.

8 (Laughter.)

9 PROSPECTIVE JUROR GOUGH: No sleep.  
10 Let's see, no military service. No previous jury  
11 service.

12 And I do not think I could be impartial in this case  
13 because I could believe that Mr. Rosenthal is correct in  
14 growing medical marijuana.

15 THE COURT: Okay. Thank you very much.

16 PROSPECTIVE JUROR ARMAS: My name is Eileen Armas.  
17 I live in Hayward. I've been there for 31 years. I lived in  
18 California for 41.

19 I work for Kaiser Permanente as an admin assistant.  
20 I am married. My husband works for the United States Postal  
21 Service. I have three children, a daughter who is 25 who works  
22 also at Kaiser. I have a 21 year old who is a student and a  
23 17-year-old who is a student.

24 I don't have any military service. I have not  
25 served on a jury.

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1 And as for being fair and impartial, I believe I can  
2 other than medicinal purposes for marijuana. I cannot be fair  
3 and impartial.

4 THE COURT: Well, let me ask it perhaps a different

5 way.

6 Do you have some views on the medical aspects of  
7 marijuana?

8 PROSPECTIVE JUROR ARMAS: Correct.

9 THE COURT: And are those views strongly held?

10 PROSPECTIVE JUROR ARMAS: Yes.

11 THE COURT: And do you believe that those view would  
12 affect your ability -- they are strongly held; can you set  
13 those views aside in arriving at a verdict?

14 PROSPECTIVE JUROR ARMAS: For medical purposes, no,  
15 I do not think I can set those aside.

16 THE COURT: Okay. So you feel that you might not be  
17 fair or impartial -- that you would not be fair and impartial  
18 in this case; is that correct?

19 PROSPECTIVE JUROR ARMAS: No, I cannot be impartial  
20 and fair.

21 THE COURT: Okay. Thank you very much.

22 PROSPECTIVE JUROR HING-MAN MOY: My name is Hing-Man  
23 Moy. I moved to California ten years ago. Have been in San  
24 Francisco ever since.

25 I just graduated from pharmacy school, currently not

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1 have a job. Single, no children.

2 No military services, no prior jury experience.

3 I believe this is some medical value of marijuana,  
4 but I don't believe that will impair my judgment.

5 THE COURT: Okay. So you feel that you can set  
6 aside your views, whatever your views are about medical  
7 marijuana in arriving at a decision in the case; is that

8 correct?

9 PROSPECTIVE JUROR HING-MAN MOY: Yes. But I want to  
10 tell you that I have plans to go out of this country by the end  
11 of May.

12 THE COURT: Plans to leave on the end of May. When  
13 is that?

14 PROSPECTIVE JUROR HING-MAN MOY: Huh?

15 THE COURT: What are your plans?

16 PROSPECTIVE JUROR HING-MAN MOY: I've actually  
17 purchased ticket already. Leaving on Memorial Day.

18 THE COURT: Leaving on Memorial Day? Okay. Thank  
19 you very much.

20 PROSPECTIVE JUROR LIN: My name is Joyce Lin. I  
21 live in San Leandro about 16 years.

22 I work in accounting at Best Transportation. I'm  
23 married, my husband is in sales. I have the two daughters and  
24 one son.

25 No jury service past.

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1 Regarding No. 10, could not be here because this  
2 first time I hear marijuana. I try my best to listen, but  
3 language skill not enough so I cannot really understand.

4 THE COURT: You have difficulty with the language;  
5 is that correct?

6 PROSPECTIVE JUROR LIN: Right.

7 THE COURT: Okay. Thank you very much.

8 PROSPECTIVE JUROR PAYNE: I'm Jennifer Payne. I  
9 have lived in Napa most of my life; California my entire life.

10 I'm a registered nurse on an oncology floor. My  
11 husband is an accountant at a CPA firm. I have two children,

12 four and six months.

13 I have had no military experience and I have never  
14 been picked for a jury.

15 And I cannot be impartial and fair in this case.

16 THE COURT: That because of issues with marijuana?

17 PROSPECTIVE JUROR PAYNE: Correct.

18 THE COURT: Thank you very much.

19 Ms. Leong.

20 PROSPECTIVE JUROR LEONG: My name is Helen Leong. I  
21 live in California for about 30 years. I live in my current  
22 residence for about 20.

23 Occupation is accountant. My husband works for --  
24 he is an IT. I have three children. Twenty-eight, 24 and 18,  
25 two in college, one kind of a consultant.

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1 Never been in the military service. I've been  
2 summoned almost every year but never served.

3 And I cannot be partial when it deals with medical  
4 marijuana.

5 THE COURT: You feel your views about medical  
6 marijuana are such that you could not set them aside in  
7 arriving at a verdict?

8 PROSPECTIVE JUROR LEONG: That is correct.

9 THE COURT: And that as a result of being unable to  
10 set them aside, you could not be impartial in this case?

11 PROSPECTIVE JUROR LEONG: That's correct.

12 THE COURT: Okay. Thank you very much.

13 PROSPECTIVE JUROR PHILLIPS: My name is I. Micah  
14 Phillips, lived in Windsor for 14, 15 years; State of

15 California for 16.

16 I'm an executive administrator's assistant at Fotten  
17 (phonetic) Fuel Lines in Sonoma County I'm not married, no  
18 children.

19 Not served on a jury or in the military.

20 I don't believe I can be partial in the case due to  
21 the fact that I don't agree with the legislation, the  
22 difference between the federal and state. And family history  
23 and personal history.

24 THE COURT: Okay. Thank you very much.

25 Ms. Morris.

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1 PROSPECTIVE JUROR MORRIS: My name is Glenda Morris.  
2 I live in Pittsburg. I've lived there for 13 years. I've  
3 lived in California for 47 years.

4 I am a client liaison for a major corporation. I'm  
5 married. My husband is a business consultant. I have three  
6 children, a stepson, that is 20, who is a student. My  
7 daughter -- my stepdaughter is 17, student, and my son is 11  
8 years old.

9 I have no previous military service. I've been on a  
10 jury before in Los Angeles about 20 years ago. It was a  
11 criminal case and there was a verdict.

12 And I feel I can be fair and impartial in a case of  
13 this nature.

14 THE COURT: Okay. You indicated that you did have  
15 friends or relatives who had some association with drug issues;  
16 can you set aside whatever associations they were in arriving  
17 at a verdict?

18 PROSPECTIVE JUROR MORRIS: Yes, I can.

19 THE COURT: Okay. Thank you.

20 PROSPECTIVE JUROR GAPASIN: My name is Ellexis  
21 Gapasin. I live in Union City. I live in California for 20  
22 years.

23 I'm currently working as clerk in Sunnyvale. I'm in  
24 relationship, not married. No children.

25 Never been to military. No jury service.

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1 And I didn't see any reason why I could not be fair  
2 and impartial.

3 THE COURT: You indicated that you did have some  
4 views on marijuana; are you able to put those views aside in  
5 arriving at a verdict?

6 PROSPECTIVE JUROR GAPASIN: Yeah.

7 THE COURT: And you can follow the law as the Court  
8 gives it to you; is that correct?

9 PROSPECTIVE JUROR GAPASIN: Correct.

10 THE COURT: Thank you very much.

11 Next juror.

12 PROSPECTIVE JUROR MCVAY: My name is Alyce McVay. I  
13 live in Concord and have lived there for 37 years. I've lived  
14 in California for 73 years.

15 I'm an RN. Retired, but I work for the California  
16 Nurse's Association as legislative liaison. I am married. My  
17 husband works at the California Nurse's Association as a  
18 reproduction person. I have two children. 43-year-old  
19 daughter who is an interior decorator, self-employed. And a  
20 47-year-old son who lives with me. He is severe bipolar.

21 I have not had military service. I have not served

22 on a jury.

23 I could not serve on this jury because I have worked  
24 extremely hard to get 215 passed. And I have also given and  
25 procured marijuana for several of my oncology patients and

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1 given the necessity to do so again, would do so again.

2 THE COURT: Okay. Thank you very much.

3 Mr. Harman.

4 PROSPECTIVE JUROR HARMAN: My name is Randy Harman.  
5 I live in Pleasanton for the past five years and in California  
6 for the past 20 years.

7 I am a supply chain organizer for a medical device  
8 company. I'm married. My wife is a homemaker. I have two  
9 children, a son, 10, and a daughter, 7.

10 I have no previous military service, nor any prior  
11 jury service.

12 I feel like I could be fair and impartial.

13 THE COURT: Okay. You indicated that you do have a  
14 friend or relative who works in law enforcement; is that  
15 correct.

16 PROSPECTIVE JUROR HARMAN: Correct. California  
17 Highway Patrol.

18 THE COURT: Okay. And would you be willing to judge  
19 a peace officer's testimony according to the standard that I  
20 give you which would be to judge that person's testimony as you  
21 would any other witness?

22 PROSPECTIVE JUROR HARMAN: Yes, Your Honor.

23 THE COURT: Okay. Thank you.

24 Ms. Angulo.

25 PROSPECTIVE JUROR ANGULO: Yes, my name is Ofelia

1 Angulo. I reside in Millbrae, lived there 37 years. I've  
2 lived in California all my life.

3 I'm a paraprofessional. I'm married. My husband is  
4 an elevator technician. I have a stepdaughter who is 25. She  
5 works in accounting. And I have a son, 17, who goes to -- who  
6 is a student.

7 I have no military service background, and I was  
8 called on for jury service, but was not picked.

9 And I -- I feel that I could be impartial.

10 THE COURT: Okay. You have certain views on  
11 marijuana; is that correct?

12 PROSPECTIVE JUROR ANGULO: I have mixed feelings.

13 THE COURT: Mixed feelings?

14 PROSPECTIVE JUROR ANGULO: Yes.

15 THE COURT: Okay. And you are assuring us that you  
16 could set aside those feelings in arriving at a decision?

17 PROSPECTIVE JUROR ANGULO: Yes, Your Honor.

18 THE COURT: And you feel you could follow the law  
19 when I instruct you as to what the law is, even if you disagree  
20 with it, you will follow the law; is that correct?

21 PROSPECTIVE JUROR ANGULO: Yes.

22 THE COURT: Okay. You also indicated you did have  
23 some friends or relatives who had some experience with drugs.  
24 My question is whether you can set those experiences aside in  
25 arriving at a verdict?

1 PROSPECTIVE JUROR ANGULO: Yes, Your Honor.

2 THE COURT: And you do have some friends or

3 relatives who work in law enforcement; is that correct?

4 PROSPECTIVE JUROR ANGULO: Yes.

5 THE COURT: And how are you associated with that  
6 person or persons?

7 PROSPECTIVE JUROR ANGULO: Have a cousin that is a  
8 San Jose police officer.

9 THE COURT: Would you judge a peace officer's  
10 testimony according to the same standard that you would others?

11 PROSPECTIVE JUROR ANGULO: Yes, Your Honor.

12 THE COURT: Okay. And the experience that you have  
13 had with law enforcement, that would not influence you in this  
14 case; is that correct?

15 PROSPECTIVE JUROR ANGULO: No.

16 THE COURT: Okay. And I think that's fine, thank  
17 you very much.

18 PROSPECTIVE JUROR LATO: My name is Greg Lato. I  
19 live in San Ramon, lived there for three years, lived in  
20 California for five.

21 My occupation is technology sales. I am married.  
22 My wife's occupation is a floral designer. Have no children.

23 No military service. No jury service.

24 And I feel that I could not be fair and impartial  
25 due to previous experiences with medical marijuana.

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1 THE COURT: Okay. Thank you very much.

2 PROSPECTIVE JUROR SIMON: My name is Dan Simon. I  
3 live in San Francisco. I've lived here for 24 years.

4 I manage a travel management company. I'm single.  
5 No children, obviously.

6                   No military. I was on a -- I was an alternate on a  
7 case about 20 years ago and there was a verdict.

8                   I'm not sure that I could be fair. In fact, I know  
9 I couldn't be in this case.

10                  THE COURT: Okay. You could not be fair; are you  
11 saying that you have views on marijuana or --

12                  PROSPECTIVE JUROR SIMON: No, I read a lot about  
13 the -- about Mr. Rosenthal.

14                  THE COURT: Okay. You've heard a lot about him.  
15 And are you saying that what you have heard about him is  
16 something that you could not set aside in arriving at a  
17 verdict? And let me put it another way.

18                  As you know, none of you has heard the evidence in  
19 this case. If you sit as a juror, of course the Government  
20 puts on its evidence, its case. And then I would proceed  
21 through the trial. At the end of trial, I instruct you. And  
22 one of the things I tell you is you can only decide this case  
23 based upon the evidence that is permitted in the trial. Not on  
24 anything you read, saw, heard, in any other form, newspapers,  
25 television and so forth.

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1                  Now, you indicated that you have had exposure to the  
2 press. I put that in the large sense, outside media. Are you  
3 saying that you are unable to set aside what you heard in  
4 arriving at a verdict?

5                  PROSPECTIVE JUROR SIMON: Um, yes. Frankly, I don't  
6 think the Federal Government has any business in the State of  
7 California. And I think this is sour grapes.

8                  THE COURT: Okay. Thank you very much.

9                  PROSPECTIVE JUROR CHARLES: My name is

10 Joanne Charles. I reside in San Francisco for 32 years. I've  
11 been in California for 32 years.

12 I'm a pay master. I'm married. My husband is a cab  
13 driver. No children.

14 Never been in the military. Never served on a jury.

15 And my views would not allow me to be fair and  
16 impartial in this case.

17 THE COURT: They are so strongly held that you feel  
18 you could not be; is that correct?

19 PROSPECTIVE JUROR CHARLES: That's correct, Your  
20 Honor.

21 THE COURT: Thank you very much.

22 PROSPECTIVE JUROR DUDEN: Maureen Duden. Bay Point,  
23 California, for about 20 years. Native Californian.

24 I am currently in the IT department for Blue Shield  
25 of California. Divorced. No children.

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1 No military service. No jury service.

2 And I think I could be a fair and impartial juror.

3 THE COURT: Okay. You indicated that you have a  
4 friend or associate or close member of the family who had some  
5 experience with drugs. Are you able to set aside that  
6 experience in arriving at a verdict?

7 PROSPECTIVE JUROR DUDEN: Yes.

8 THE COURT: Okay. Thank you very much.

9 Ms. Diaz.

10 PROSPECTIVE JUROR DIAZ: Stacey Diaz. Live in  
11 San Ramon, California for three years. I've lived in  
12 California for about 31 years.

13 I'm a high school teacher in which we have finals  
14 given to seniors on June 1st. I am single. I do not have any  
15 children.

16 Have not been in the military. Have not been on a  
17 jury duty.

18 And I would strongly feel that my viewpoints would  
19 impede my decision to be fair.

20 THE COURT: Thank you very much.

21 PROSPECTIVE JUROR CHEN: Ellen Chen. Live in  
22 Danville for 27 years. California 29 years.

23 I just retired from AT&T. I'm married. My husband  
24 is retired as engineer. Two children, son 35, in computer.  
25 Daughter, 33, in landscaping.

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1 No military. No jury service.

2 I think I can be fair.

3 THE COURT: Okay. Whatever your views about  
4 marijuana, you believe that you can set aside those views in  
5 arriving at a decision in this case?

6 PROSPECTIVE JUROR CHEN: Yes.

7 THE COURT: Thank you very much.

8 PROSPECTIVE JUROR SUMIDA: My name is Chris Sumida.  
9 I've lived in San Francisco for 16 years and California the  
10 same.

11 I'm an art director at an advertising agency. Not  
12 married. I have no children.

13 I've not been in the military. I've served on one  
14 jury, which was a criminal case and they did -- we did return a  
15 verdict.

16 I feel as though my views on medical marijuana would

17 definitely make it difficult to be an impartial and fair juror.

18 THE COURT: So you believe your views of medical  
19 marijuana are such that you could not set aside those views in  
20 arriving at a decision in this case?

21 PROSPECTIVE JUROR SUMIDA: Yeah. I think it would  
22 be difficult.

23 THE COURT: And do you feel that that would affect  
24 your ability to be fair in this case?

25 PROSPECTIVE JUROR SUMIDA: Yes.

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1 THE COURT: Thank you very much.

2 Mr. Meyers.

3 PROSPECTIVE JUROR MEYERS: Yes, sir. I'm Don Meyers  
4 from San Ramon Valley. I actually live in San Ramon just a few  
5 months, but I was in Danville for seven years before that.  
6 Lived in California all my life.

7 I'm a licensed real estate broker. My wife is a  
8 homemaker. I have four children, ages 8 to 33. My grown  
9 children are all licensed real estate people. My son is also a  
10 law student.

11 Never been in the military. And I have served on a  
12 criminal jury many, many years ago, and I've been called to  
13 jury duty many times.

14 I don't have any strong opinions about marijuana  
15 either way. I do have strong opinions about the law, and I do  
16 have little tolerance for those who break it.

17 THE COURT: Okay. Well, it would be your decision  
18 to determine whether or not this defendant broke to law, in  
19 your words. Would you be able to be fair and impartial in that

20 regard?

21 PROSPECTIVE JUROR MEYERS: Yes, sir.

22 THE COURT: Thank you very much.

23 Mr. Smith. I think we are at Juror No. 69.

24 PROSPECTIVE JUROR SMITH: Yes. My name is Curt

25 Smith. I have lived in El Cerrito for about 13 years and lived

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1 in California for about 25.

2 I am an IT manager. I am married. My wife is in  
3 sales. We do not have any children.

4 No military service. I was on jury service once and  
5 we did return a verdict.

6 At this time, I do not feel that I could be  
7 impartial due to my beliefs about the drugs and marijuana.

8 THE COURT: And you feel that you could not set  
9 aside those views in arriving at a verdict; is that correct?

10 PROSPECTIVE JUROR SMITH: That's correct.

11 THE COURT: Therefore, you could not be an impartial  
12 juror?

13 PROSPECTIVE JUROR SMITH: I do not feel I could, no.

14 THE COURT: Thank you very much.

15 PROSPECTIVE JUROR BARBERO: My name is Henry  
16 Barbero. Live here in San Francisco and have for 13 years.  
17 Been in California for 15.

18 I do have a domestic partner, for 11 years. We have  
19 no children.

20 I lost my place, sorry.

21 I'm an artist.

22 I have no military service. Never served on a jury.

23 And I do strongly believe in the use of medical

24 marijuana, but I do think that I could set those feelings aside  
25 and be fair.

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1 THE COURT: Okay. So you -- I appreciate that you  
2 have strong views. But you feel that notwithstanding your  
3 strong views, you would follow the law, and if I instruct you  
4 that the purpose of the marijuana is not to be considered by  
5 you at all in arriving at a verdict, can you assure me that you  
6 would follow that instruction?

7 PROSPECTIVE JUROR BARBERO: Absolutely.

8 THE COURT: Thank you very much.

9 Mr. Huang.

10 PROSPECTIVE JUROR HUANG: My name is Victor Huang.  
11 Living in Lafayette for six years and 18 years in California.

12 I'm working on building construction, and I am  
13 married. My wife is a bookkeeper and I have two children, one  
14 14, and one child --

15 No military service and jury service.

16 I believe I cannot be fair on this subject into the  
17 marijuana.

18 THE COURT: The medical marijuana? You feel that  
19 that would prevent you from -- let me start again.

20 As to medical marijuana, do you believe that that  
21 may affect your view of the case? May influence you?

22 PROSPECTIVE JUROR HUANG: Yes.

23 THE COURT: Can you -- can you set aside your view  
24 in arriving at a verdict?

25 PROSPECTIVE JUROR HUANG: Yes.

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1 THE COURT: Well, maybe I'm not sure that the  
2 question was phrased properly.

3 Would your view about medical marijuana influence  
4 you in this case?

5 PROSPECTIVE JUROR HUANG: I believe those would be a  
6 fact involved in student who get into drugs, sometimes.

7 THE COURT: So you feel that medical marijuana is a  
8 bad idea; is that right? Or a good idea?

9 PROSPECTIVE JUROR HUANG: It is not a good idea.

10 THE COURT: Not a good idea? Okay.

11 Now, the question is, I will instruct the jury that  
12 you cannot consider whether or not it was going to be used for  
13 medical purposes or whether it was not going to be used for  
14 medical purposes; can you follow that instructions?

15 PROSPECTIVE JUROR HUANG: No.

16 THE COURT: You cannot? Okay. Thank you very much.

17 PROSPECTIVE JUROR NADIMPALLY: Hi. My name is  
18 Jyothi Nadimpally. I --

19 THE COURT: You have to keep your voice up, please.

20 PROSPECTIVE JUROR NADIMPALLY: After that I lived in  
21 Fremont. I lived in California for last ten years.

22 I'm an engineer. I'm married. My husband also is  
23 an engineer. I have a five-year-old son.

24 I have never served on military service. I got jury  
25 summons but was never called.

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1 And no reason why I could not be fair and partial.

2 THE COURT: You indicated you have views about  
3 marijuana. Are you able to set those views aside in arriving

4 at your verdict? In other words, not consider whatever your  
5 views about marijuana, not consider them in arriving at your  
6 verdict?

7 PROSPECTIVE JUROR NADIMPALLY: Yes.

8 THE COURT: Okay. Can you follow the law as I  
9 instruct you?

10 PROSPECTIVE JUROR NADIMPALLY: Yes.

11 THE COURT: So do you feel you could be fair in this  
12 case?

13 PROSPECTIVE JUROR NADIMPALLY: Yes.

14 THE COURT: Thank you very much.

15 PROSPECTIVE JUROR SCHIFFMAN: My name is Lolly  
16 Schiffman. I've lived in San Francisco and California 29  
17 years.

18 I'm a physician, practicing internal medicine with  
19 Kaiser Permanente. I'm divorced and have a 16-year-old high  
20 school-aged daughter.

21 No previous military service. I have served on a  
22 jury in a civil case and we did reach a verdict.

23 And I see no reason why I could not be fair and  
24 impartial in this case.

25 THE COURT: Okay. So in other words, you feel you

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1 could follow the law as I instruct you?

2 PROSPECTIVE JUROR SCHIFFMAN: Yes.

3 THE COURT: Thank you very much.

4 PROSPECTIVE JUROR LUCERO: My name is George Lucero.  
5 I live in San Leandro. Lived there in the East Bay all my  
6 life.

7 I'm a warehouseman. Married. I have two children.

8 A son 27, who is in the medical supply business, and a daughter  
9 who is a student cashier.

10 I have never served in the military. I have been on  
11 a jury before and a verdict was delivered.

12 And I don't feel I can be impartial based on this  
13 case.

14 THE COURT: You feel that you could not be  
15 impartial; is that correct?

16 PROSPECTIVE JUROR LUCERO: Correct.

17 THE COURT: Thank you very much.

18 PROSPECTIVE JUROR COFFMAN: My name is Kevin  
19 Coffman. I have lived in San Bruno for 45 years, in California  
20 for 47 years.

21 I'm an advanced dispute resolution specialist for  
22 the State of California. I'm married. My wife works in  
23 destination management. We have no children.

24 I've never served in the military. I have served on  
25 a criminal case in the County of San Mateo where a verdict was

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1 rendered.

2 I believe that the federal law is flawed since it  
3 does not allow for the compassionate use of marijuana, and so I  
4 could not be a fair and impartial juror.

5 THE COURT: Thank you.

6 Ms. Mendez.

7 PROSPECTIVE JUROR MENDEZ: My name is Aileen Mendez.  
8 I'm a native of 35 years here in San Francisco.

9 I'm a librarian technician. Single. No children.

10 Never served in the military. Never served for jury

11 duty.

12 I do believe in the use of medical marijuana, but I  
13 have no problem following the law.

14 THE COURT: Thank you very much.

15 Ms. Shepard -- before I leave you, Ms. Mendez; is  
16 that right?

17 PROSPECTIVE JUROR MENDEZ: Yes.

18 THE COURT: When you say you do believe in medical  
19 marijuana, are you saying that if I instruct you as a judge  
20 that you cannot consider the purpose for which the marijuana  
21 was being grown or distributed, you would follow that  
22 instruction?

23 PROSPECTIVE JUROR MENDEZ: I would follow that  
24 instruction.

25 THE COURT: Thank you very much. Okay.

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1 Ms. Shepard now.

2 PROSPECTIVE JUROR SHEPARD: Sonia Shepherd. I have  
3 lived in Atherton for 42 years. I have lived in California  
4 since birth.

5 I'm a community volunteer, retired. I'm married, my  
6 husband is a steel salesman, retired. I have a child, 50, who  
7 is a warehouse manager. I have a child, 49, who is a  
8 commercial real estate developer. I have a child, 47, who is a  
9 logistics manager. And one 45 who is a purchasing agent.

10 I have not served in the military. I have served in  
11 the superior court in the '80s in the County of San Mateo, and  
12 we reached a verdict in a criminal case.

13 And I feel that I could be fair and impartial and  
14 follow --

15 THE COURT: You indicated that you had heard  
16 something about this case before trial; my question is whether  
17 you can take whatever you heard and not allow it to affect you  
18 in arriving at a verdict?

19 PROSPECTIVE JUROR SHEPARD: I only heard the bare  
20 outlines of the situation.

21 THE COURT: Sorry.

22 PROSPECTIVE JUROR SHEPARD: I have only heard the  
23 bare outlines of the situation.

24 THE COURT: Could you set that aside and arrive at a  
25 verdict based solely on the evidence?

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1 PROSPECTIVE JUROR SHEPARD: Yes.

2 THE COURT: Thank you very much.

3 Ms. McGlynn.

4 PROSPECTIVE JUROR MCGLYNN: My name is Deborah  
5 McGlynn. I have lived in Half Moon Bay for the last seven  
6 years. I have lived in California for almost 53.

7 I am a 911 public safety dispatcher. I have a  
8 domestic partner. She is a director of probation in San Mateo  
9 County. I have three children; 29, and he is building and  
10 maintenance. 25-year-old who has a disability and is not  
11 employed. And a 18-year-old who is in college.

12 I have no military service. I have not served on a  
13 jury.

14 And I will not be able to be impartial due to my  
15 support of medical marijuana use.

16 THE COURT: Okay. Thank you very much.

17 PROSPECTIVE JUROR THALHEIMER: My name is Richard

18 Thalheimer. I live in Ross, California, for about 20 years.  
19 California 35 years.

20 I'm a self-employed Internet retailer of home  
21 products. I'm divorced. I have two children, 17 and 19, who  
22 are students.

23 No military service. No previous jury service.

24 Three reasons why I could not be fair and impartial.

25 First of all, my strong beliefs about medical marijuana. Two,

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1 a belief that this trial is an unfortunate scapegoating of  
2 Mr. Rosenthal by federal prosecutors who wish to act on  
3 political grounds rather than legal grounds. And three, a  
4 belief that by eliminating so many people who have strongly  
5 held beliefs, Mr. Rosenthal is being deprived of a jury by his  
6 peers.

7 So for all those reasons, I think it's tremendously  
8 unfortunate that my time is being wasted and our taxpayer's  
9 money is being wasted.

10 THE COURT: Okay. Thank you very much.

11 Ms. Lundin.

12 PROSPECTIVE JUROR LUNDIN: Yes, Kharla London. I  
13 live in Pleasanton, California. Been in California 10 years.

14 My occupation, interior designer. I'm married for  
15 18 years. He is in the food distribution business. My  
16 children are 16 and 13.

17 And no military service, no jury service.

18 And I could not be fair and impartial in this case  
19 due to I support the defendant's right to grow medical  
20 marijuana.

21 THE COURT: Thank you.

22 PROSPECTIVE JUROR MCQUIGG: My name is Dan McQuigg.  
23 I have lived in San Mateo since 1997. I've been in California  
24 since 1993.

25 I'm a high school teacher. I'm divorced. I have a

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1 nine-year-old son.

2 No military service. No jury service.

3 I feel I could not be impartial because my brother  
4 is a police officer -- I'm very close with him. He was for  
5 five years a DARE officer, where he taught against drugs and so  
6 forth in schools. And now he heads up an anti-drug task force  
7 in Delaware County, my hometown.

8 THE COURT: Well, again, I need to ask you this  
9 question, because the issue in this case will not be are you in  
10 favor of drugs or opposed to drugs, would not be are you in  
11 favor of marijuana or opposed to marijuana, will not be are you  
12 in favor of the medical aspects of marijuana or opposed to it.

13 Those are not issues, though, you could have views  
14 on those issues as a number of people do and that may affect  
15 your ability to serve as a juror. However, the question is  
16 whether or not, regardless of your views, you could listen to  
17 the evidence and make some determination as to whether or not  
18 the Government has proven its case against Mr. Rosenthal,  
19 that's the question.

20 Now, do you feel you could make that determination  
21 even though you are against the use of drugs?

22 PROSPECTIVE JUROR MCQUIGG: No.

23 THE COURT: Thank you very much.

24 Ms. Quan.

25

PROSPECTIVE JUROR QUAN: My name is Evelyn Quan. I

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1 have lived in South San Francisco for the past two years.

2 Lived in California for 24 years.

3 I am a patent prosecution paralegal. My husband is  
4 an IT administrator. Two kids, ages 2 and 4.

5 Have not served in the military. I have not served  
6 on a jury in the past.

7 Based on certain moral beliefs I have about drugs, I  
8 do not believe that I could be fair in this case.

9 THE COURT: You feel that you -- your moral views  
10 are such that it would prevent you from being a fair and  
11 impartial juror in this case?

12 PROSPECTIVE JUROR QUAN: Yes.

13 THE COURT: Thank you.

14 PROSPECTIVE JUROR VUKMANIC: My name is Frank  
15 Vukmanic. I live in Brentwood for about five years, in  
16 California 17 years.

17 I'm the president of a software company that makes  
18 emergency management software for Government agencies,  
19 including a lot of law enforcement agencies and IT services  
20 company.

21 I'm married. Wife is in sales. Two children, 38  
22 and 34, both in the customer service areas.

23 Not been in the military. I have had previous jury  
24 service in Contra Costa County in a civil trial that came to a  
25 verdict.

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1 I have very strong views about the benefits of

2 medical marijuana and also the views on state versus federal  
3 rights.

4 THE COURT: And do you believe these strong views  
5 are such that you could not set them aside in arriving at your  
6 verdict?

7 PROSPECTIVE JUROR VUKMANIC: That's correct, sir.

8 THE COURT: Okay. Thank you very much.

9 I would like to go back to Ms. Quan for a minute.  
10 Ms. Quan.

11 PROSPECTIVE JUROR QUAN: Yes.

12 THE COURT: You indicated that you had -- was it  
13 ethical or religious views about drugs?

14 PROSPECTIVE JUROR QUAN: Yes.

15 THE COURT: Okay. Now, without prying too deeply,  
16 may I ask generally what are your views on that subject?

17 PROSPECTIVE JUROR QUAN: I don't really support it  
18 from a recreational perspective.

19 THE COURT: Okay. Now, the law itself agrees with  
20 that position, the federal law agrees with that position, so  
21 the question is whether because it's a case that involves  
22 drugs, whether you could not be fair, that is if you apply the  
23 law and the law is consistent with your position, then that is  
24 not a reason that you couldn't be fair. The question really is  
25 whether or not you would hold the Government to its proof, that

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1 is the burden of proof that establishes whether Mr. Rosenthal  
2 committed the offenses; do you feel you could do that?

3 PROSPECTIVE JUROR QUAN: No. Not as a parent with  
4 young children. I don't think I could put aside my feelings.

5 THE COURT: Okay. Thank you very much.

6                   Let's turn to Francis Houghtailing, is that right?

7                   PROSPECTIVE JUROR HOUGHTAILING: Okay. My name is  
8 Frances Houghtailing. And I live in Pinole and I've been  
9 living there for almost 20 years. And I've lived in California  
10 for 28 years.

11                   I drive a bus in Pinole for a transit company there.  
12 And I'm married. And my husband works at the refinery in  
13 Benicia as a technician. We have no children together.

14                   I've done six years in the Army reserves and I was a  
15 heavy equipment operator. And I have done jury service. And  
16 it was criminal and we did return a verdict.

17                   And I don't think I could be very impartial with  
18 regards to the medical marijuana.

19                   THE COURT: You feel that your views about medical  
20 marijuana would be views that you could not set aside in this  
21 case?

22                   PROSPECTIVE JUROR HOUGHTAILING: Right.

23                   THE COURT: And that they would affect your ability  
24 to be impartial in this case?

25                   PROSPECTIVE JUROR HOUGHTAILING: Yes.

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1                   THE COURT: Okay. Thank you very much.

2                   Ms. Bogdan.

3                   PROSPECTIVE JUROR BOGDAN: My name is Nina Bogdan.  
4 I live in Sonoma County and have for about ten years. I've  
5 lived in California all my life.

6                   I'm employed by the Federal Bureau of Investigation  
7 as a language analyst. I am divorced. I have no children.

8                   No military service. I have served on a jury on a

9 civil case and a verdict was returned.

10 In regards to fairness, I have some concerns because  
11 of my employment and the fact that I do, probably 90 percent of  
12 people that I know are law enforcement officers and I've worked  
13 for the Federal Government for 23 years.

14 THE COURT: Well, again, the question is whether  
15 you will judge their testimony according to the standard that I  
16 normally give that I would give in this case, which is that you  
17 can believe or disbelieve a juror based upon any -- excuse me,  
18 a witness based upon any number of factors. And I list all the  
19 factors. They are a witness like any other witness in this a  
20 case.

21 Now, could you follow that law?

22 PROSPECTIVE JUROR BOGDAN: Consciously, I could, but  
23 realistically speaking, I think I would always --

24 THE COURT: Favor law enforcement?

25 PROSPECTIVE JUROR BOGDAN: Favor law enforcement.

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1 THE COURT: Thank you very much.

2 Mr. Carlen?

3 PROSPECTIVE JUROR CARLEN: My name is Jeff Carlen.  
4 I have lived in San Lorenzo for the past nine years. Lived in  
5 California for 41.

6 Project management construction company. Married.  
7 No children.

8 No military service. Never been selected for jury  
9 service.

10 I feel I could be impartial and fair.

11 THE COURT: Okay. You indicated you did have some  
12 views about marijuana, the question is whether you could set

13     aside those views in arriving at a verdict?

14                 PROSPECTIVE JUROR CARLEN:   I believe I could.

15                 THE COURT:   And also you indicated that you might  
16     have heard something about this case, will you assure us that  
17     whatever you heard about the case will not enter in your  
18     deliberations in your judgment in this case, you'll set it  
19     aside?

20                 PROSPECTIVE JUROR CARLEN:   Yes.

21                 THE COURT:   Okay.   Finally, you indicated that you  
22     did have either relative or friend who had some experience with  
23     drugs, are you able to set aside that experience in arriving at  
24     a verdict in this case?

25                 PROSPECTIVE JUROR CARLEN:   I believe so.

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1                 THE COURT:   Thank you very much.

2                 PROSPECTIVE JUROR KLIKUNAS:   I'm Bruce Klikunas.  I  
3     live in Berkeley 18 years.  Been in California 54 years.

4                 I'm a clergyman.  Single.  No children.

5                 No previous military service.  No previous jury  
6     service.

7                 I have some deeply felt views concerning the use of  
8     medicinal marijuana for the alleviation of pain and suffering,  
9     which I feel would impair my ability to be impartial.

10                THE COURT:   Thank you.

11                PROSPECTIVE JUROR NAVA:   My name is Dan Nava.  I was  
12     born and raised in San Francisco.

13                I'm a retired truck driver from the Teamster's  
14     Union.  I'm married.  My wife is a housewife.  Two children,  
15     one 40, day care provider, and the other drug counselor.

16                   No military service, and I've never been selected  
17 for jury.

18                   And I don't know if I have any -- impartial -- or to  
19 be fair in this because I -- I feel that there is a confusion  
20 here, a division with the State that I live in and the country  
21 that I live in and it would be kind of a problem for me to --  
22 who's right, who's wrong.

23                   THE COURT: So you feel that your views of state  
24 law, of the laws that have been passed by this state, may be in  
25 conflict with the federal law and that you -- I think that's

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1 what you are saying.

2                   Are you saying that as a result of that conflict of  
3 the difference between the two if you see a difference between  
4 the two, that that may affect your ability to serve as a juror?

5                   PROSPECTIVE JUROR NAVA: Yes, maybe.

6                   THE COURT: And do you feel that you could not set  
7 aside that view in arriving at a judgment?

8                   PROSPECTIVE JUROR NAVA: And to be fair, I don't  
9 know, because I live in California, I live in San Francisco.  
10 And --

11                   THE COURT: We all do that -- well, we all don't  
12 live in San Francisco.

13                   PROSPECTIVE JUROR NAVA: And what I do here --

14                   THE COURT: Yeah.

15                   PROSPECTIVE JUROR NAVA: -- is legal, and then it's  
16 illegal. I mean, it's -- it's -- I think we are divided.

17                   THE COURT: Okay. So you feel that this division,  
18 this issue, would affect your ability to be impartial; is that  
19 correct?

20 PROSPECTIVE JUROR NAVA: Perhaps, yes.

21 THE COURT: Well, you say perhaps yes, but I mean --

22 PROSPECTIVE JUROR NAVA: Okay.

23 THE COURT: -- I need something more definite one  
24 way or the other.

25 PROSPECTIVE JUROR NAVA: Yes, it would be a problem

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1 for me.

2 THE COURT: Okay. Thank you very much.

3 PROSPECTIVE JUROR NAVA: You're welcome.

4 PROSPECTIVE JUROR JAMES: My name is Lamar James.

5 Livermore, five months. California, 37 years.

6 Business analyst. Not married. No kids.

7 United States Army, human resources. Previously on  
8 a -- served on a jury over 20 years ago, and I think it was  
9 criminal and there was a verdict.

10 Two reasons that I could not be fair. As a lot of  
11 people have said before, there is this difference between the  
12 federal and the state, and I don't think the federal should be  
13 here. And it's a waste of money and all that good stuff,  
14 however, I also have a ticket out of town on May 23rd to  
15 June 2nd.

16 THE COURT: Thank you very much.

17 Ms. Soto.

18 PROSPECTIVE JUROR SOTO: My name is a Clara Soto. I  
19 live in San Mateo for 27 years, lived in California for 27  
20 years.

21 An accounts receivable clerk for Allied Waste. I'm  
22 married. My husband is a driver for Allied Waste. I have

23 three children, ages 9, three and a half and two.

24 No military service, no jury service.

25 And could not be fair and impartial in this case.

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1 THE COURT: You say you could not?

2 PROSPECTIVE JUROR SOTO: Could not.

3 THE COURT: And what is the basis for your feelings  
4 of that?

5 PROSPECTIVE JUROR SOTO: Medical marijuana use.

6 THE COURT: So if I were to instruct you that the --  
7 that the purpose for which the marijuana was grown or  
8 distributed cannot be considered by you, you feel that even  
9 with that instruction you would consider it in arriving at a  
10 verdict?

11 PROSPECTIVE JUROR SOTO: Correct.

12 THE COURT: You could not set aside your view?

13 PROSPECTIVE JUROR SOTO: No.

14 THE COURT: Thank you very much.

15 Well, ladies and gentlemen of the jury, you might be  
16 relieved to hear that we have run out of jurors.

17 (Laughter.)

18 THE COURT: On that I'll get unanimity of response.

19 Let me thank you. Let me tell you what we are going  
20 to do. We are going to take our recess now for an hour. We  
21 will resume at 1:30. So you should be back here seated at  
22 1:30.

23 I would appreciate if you would take your number  
24 with you but leave anything you want to leave. If you want to  
25 leave things in your seat, you may do so. The courtroom will

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1 be locked for your lunch and recess.

2 Let me admonish you, please, don't discuss the case  
3 amongst yourselves. I know that is what in a sense you all  
4 have -- well, not in a sense, absolutely you have the fact in  
5 common, the fact that you are all here on this case. So that  
6 is a common ground to talk about it. Please don't talk about  
7 it.

8 I will tell that to all of you today -- well, I say  
9 that, I don't know. A lot of you we will be able to arrive at  
10 a decision today. And you'll know fairly early in the day. I  
11 can't guarantee that we'll have completed our selection, but no  
12 one will have to stay here too late today. I can give you that  
13 assurance.

14 So have a good lunch and I'll see you back here at  
15 1:30.

16 (Jury panel out at 12:27 p.m.)

17 THE COURT: Have all the jurors left? Okay -- Yes?  
18 No? Yes?

19 Okay. What I'm going to do right now, is go through  
20 a list of people that I would excuse based upon the cause and I  
21 can entertain some discussion at 1:15, and I'm not going to  
22 read their names, I'll do the number.

23 MR. BEVAN: I thought the system of using numbers  
24 was excellent.

25 THE COURT: Well, the jury is out on that. We'll

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1 see how it works.

2 Number 2, number 3, number 6, number 8, number 9,  
3 number 12, number 16, number 18, number 20, 21, 22, 23, 25, 26,

4 30, 31, 32, 34, 35, 38, 41, 44, 45, 46, 47, 48, 49, 50, 52, 53,  
5 54, 55, 58, 61, 62, 63, 65, 67, 69, 71, 74, 75, 78, 79, 80, 81,  
6 82, 83, 84, 85, 87, 88, 89, 90.

7 Take a look at those, if you have any views as to  
8 any particular one or group, please, come back and we'll  
9 discuss it.

10 We are in recess.

11 Oh, I'll ask Mr. Rudd -- number 33, I'll ask that  
12 question.

13 MR. AMPARCON: There were some people who talked and  
14 said they were married, but they didn't give the occupation of  
15 their spouse.

16 THE COURT: I'm not --

17 MR. AMPARCON: I'll look at my notes.

18 (Lunch recess taken at 12:28 p.m.)

19 (Proceedings resumed at 1:16 p.m.)

20 THE COURT: Let the record reflect that I have all  
21 parties present and all prospective jurors -- including the  
22 defendant, prospective jurors are excluded.

23 Okay. Any comment about the proposed excuses for  
24 cause?

25 MR. AMPARCON: There are some additional.

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1 THE COURT: Go up to the microphone so we are sure  
2 it's on the record.

3 MR. AMPARCON: There are two issues, one is issues  
4 about people that we think, for example --

5 THE COURT: Let's deal -- I understand, let's deal  
6 first on the challenges for cause. If you want me to ask some

7 additional questions, I'll do that, but I want to get through  
8 that first issue first.

9 MS. GREENBERGER: You forgot 29, who said he could  
10 not be fair and impartial and -- or maybe you didn't forget,  
11 but --

12 THE COURT: Well, let me take a look.

13 That's Wendy Schulmeister.

14 MS. GREENBERGER: Correct.

15 THE COURT: Okay. Let me see what happened to her.

16 I don't know -- I didn't forget her, so we'll deal  
17 with her. I purposely left her on.

18 MS. GREENBERGER: Okay.

19 THE COURT: She was the one who expressed views that  
20 she couldn't be fair because she was in favor of law --

21 MR. AMPARCON: No, she said she had a strong view  
22 against marijuana and could not be fair and impartial.

23 THE COURT: Fine. Don't have her exact words but  
24 she -- pardon me, maybe -- I think you are absolutely right.  
25 She said she was against marijuana, happens that federal law is

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1 also against marijuana. And so then I asked her whether that  
2 feeling would carry a conviction by virtue of the fact that she  
3 is against the drug. So if somebody is accused of violating  
4 the drug laws, she would simply in and of itself vote for  
5 conviction.

6 I didn't ask her quite that way, but at any rate, I  
7 appreciate what you are saying about 29, but I purposely  
8 included her.

9 MR. AMPARCON: Okay. Number 51 said she had travel  
10 plans.

11 THE COURT: She said she is leaving Memorial Day, I  
12 don't know that I would exclude her right away. I don't know  
13 where we are going to be on Memorial Day. I guess there is no  
14 chance we would be finished.

15 THE LAW CLERK: Twenty-eighth.

16 THE COURT: Yeah, she'll be excused, too.

17 MR. AMPARCION: Fifty-one is --

18 THE COURT: Off. I'll excuse 51.

19 I excused 51. Okay. Travel plans.

20 Anything else?

21 MS. GREENBERGER: There were --

22 MR. AMPARCION: These are just questions.

23 THE COURT: Okay. So now you want me to ask some  
24 follow-up questions? I will ask -- I don't know, let me hear  
25 what they are.

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1 MR. AMPARCION: As to Juror No. 1, he says his wife is  
2 an officer, he never said what her duties are, whether she  
3 talks about her work, whether his wife is involved in marijuana  
4 or drug arrests as part of her job, and ask if she is a member  
5 of the California Narcotics Association.

6 Potential Juror 5.

7 THE COURT: Wait, wait, wait.

8 MR. AMPARCION: Whether he socializes with his wife at  
9 police functions.

10 THE COURT: Okay. Thank you.

11 MR. AMPARCION: He also indicated -- raised his hand  
12 with the issues related to drug issues, family or friend, but  
13 didn't articulate whether it was family or friend or himself.

14 THE COURT: Next.

15 MR. AMPARCON: Number 5 said there was some kind of  
16 family or relative in law enforcement. I would be curious as  
17 to the amount of contact with the friend or relative.

18 THE COURT: Okay.

19 MR. AMPARCON: Again number 10, said either family or  
20 friend was law enforcement, didn't say what, did not say  
21 whether or not --

22 THE COURT: Okay. Thank you.

23 MR. AMPARCON: Okay. And also number 10 said --  
24 raised their hand in response to your question if they have had  
25 any experience with drugs, anyone in their friends or family.

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1 Same question, drug experience for number 13.

2 Potential Juror 4.

3 THE COURT: Number what?

4 MR. AMPARCON: Number 24.

5 THE COURT: Thank you. She said that both her and  
6 her husband worked for United but did say what they did.

7 All right. United Airlines?

8 MR. AMPARCON: I assumed it was United Airlines, but  
9 if you could ask what her and her husband do for United.

10 THE COURT: Okay.

11 MR. AMPARCON: Twenty-seven expressed they had views  
12 on marijuana but didn't describe what their views on marijuana  
13 were.

14 THE COURT: Okay.

15 MR. AMPARCON: There was a -- on number 33, there was  
16 the issue about his contacts with law enforcement that we  
17 brought up a little earlier, but you said you were going to hit

18 that.

19                   Number 36 indicated -- raised their hand in response  
20 to your question about whether or not they, themselves, family  
21 or friend, had any drug experience or drug issues.

22                   THE COURT: Number what?

23                   MS. GREENBERGER: Thirty-six.

24                   THE COURT: Okay.

25                   MR. AMPARCON: Number 39, didn't identify if -- oh,

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1 number 39, we have a question of -- relevant to whether or not  
2 he has family that is an officer, police officer.

3                   THE COURT: Okay.

4                   MS. GREENBERGER: I had a homicide trial --

5                   THE COURT: I don't want to hear stories. Do me a  
6 favor, no stories. I don't want to hear about your  
7 experiences.

8                   MR. AMPARCON: Forty-two mentioned something about a  
9 drug issue, wanted to see if the Court would go further into  
10 himself, family, friend drug issue.

11                   THE COURT: Okay.

12                   MR. AMPARCON: Fifty-one we have already talked  
13 about.

14                   Sixty. 60 said something about drug experience, we  
15 don't know whether it's a family, themselves or relative.

16                   THE COURT: Okay.

17                   MR. AMPARCON: Sixty-eight, number 68, the juror said  
18 that he felt he had no tolerance for law breakers. We are  
19 going to ask the Court to follow up with him and ask if he has  
20 any predisposition to find police officers or law enforcement

21 more credible.

22 THE COURT: Okay.

23 MR. AMPARCON: To have no tolerance for law breakers.

24 Potential Juror 77 said she is a volunteer now but

25 didn't say what she did prior to retiring. And she also

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1 indicated that she knew something about the case. If you could  
2 follow up with her and find out what or where her source of  
3 information.

4 And finally, the last one would be 86, Mr. Carlen  
5 indicated something about experience with drugs. Either he,  
6 himself, his family, friend, but there was no explanation of  
7 what that issue was.

8 THE COURT: Okay. Thank you.

9 Government, any further questions?

10 Okay. So what we are going to do so you understand  
11 the procedure, is bring them all in. I'm going to ask the  
12 further questions.

13 THE CLERK: Juror No. 53 would like to approach the  
14 bench.

15 THE COURT: Juror No. 53 would like to approach to  
16 bench.

17 Okay. Why don't you ask Juror No. 53 to come in.

18 Anyway, the procedure will be I'll go through the  
19 follow-up questions. I then will get everybody out and then  
20 will exercise the Court -- the Court will indicate which jurors  
21 will be excused for cause. I'll bring them back in and excuse  
22 the ones for cause and then we'll see who we have, okay? Okay.  
23 Let's see what this is. Juror No. 53.

24 THE COURT: You are Ms. Payne; is that correct?

25

PROSPECTIVE JUROR PAYNE: Yes.

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THE COURT: Did you want to speak to me privately?

2

PROSPECTIVE JUROR PAYNE: Just didn't come up

3

earlier, I have a hardship.

4

THE COURT: What is it?

5

PROSPECTIVE JUROR PAYNE: I have two children, my

6

kids, I don't have day care for them other than three days a

7

week. So there is nobody to be with them if I am here.

8

THE COURT: Well, you could make -- I mean, you have

9

day care three days a week?

10

PROSPECTIVE JUROR PAYNE: Correct. And they are not

11

available to me the other days.

12

THE COURT: Is one of the days you have day care for

13

Friday or not?

14

PROSPECTIVE JUROR PAYNE: No.

15

THE COURT: Okay. So we are really talking about

16

Wednesday. You say that you couldn't find somebody to take

17

care of them Wednesday morning?

18

It's very hard for me to get a jury.

19

PROSPECTIVE JUROR PAYNE: I understand.

20

THE COURT: And everybody makes some sacrifices.

21

But if you could find somebody to take care of your children on

22

Wednesday.

23

PROSPECTIVE JUROR PAYNE: Well, see --

24

THE COURT: Half a day.

25

PROSPECTIVE JUROR PAYNE: My schedule -- I'm a nurse

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that works on a rotating schedule, so I work -- I work three

2 days a week and those three days change each week, so it's not  
3 a matter of I work Monday, Tuesday, Wednesday, with no care on  
4 Thursday, Friday.

5 THE COURT: I see.

6 PROSPECTIVE JUROR PAYNE: It's a matter of it  
7 changes each week.

8 THE COURT: And you couldn't find anybody to take  
9 care of them?

10 PROSPECTIVE JUROR PAYNE: No, the other person is my  
11 husband would have to stay home from work, so that would be two  
12 of us out of work.

13 THE COURT: Thank you.

14 (Jury panel in at 1:24 p.m.)

15 THE COURT: Ladies and gentlemen, now that you are  
16 all well fed and I'll put that in quotes, I want to thank you  
17 very much. And we are proceeding.

18 I do have a few follow-up questions that I would  
19 like to ask some of the jurors and so don't feel offended if I  
20 don't ask you a follow-up question, but I just want to make  
21 sure that I ask all the relevant questions.

22 Sometimes in the -- when you are questioning 90  
23 jurors, I miss a few questions. Remember your numbers because  
24 that is how we are recording it all.

25 Juror No. 1, do you have the microphone for Juror

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1 No. 1?

2 State your name, please.

3 PROSPECTIVE JUROR BARTOLI: Roberto Bartoli.

4 THE COURT: You indicated that your wife is in law

5 enforcement. My question is does she, in her work in law  
6 enforcement, make arrests for marijuana?

7 PROSPECTIVE JUROR BARTOLI: No.

8 THE COURT: Okay. Does she belong, to your  
9 knowledge, to an organization called the California Narcotics  
10 Officers' Association?

11 PROSPECTIVE JUROR BARTOLI: No.

12 THE COURT: Okay. And I assume, though, that you  
13 and your wife socialize together. In doing so, I assume you  
14 see some of your wife's friends who are connected with law  
15 enforcement, and I think maybe we have covered it but that  
16 relationship won't cause you any problems; is that correct?

17 PROSPECTIVE JUROR BARTOLI: No.

18 THE COURT: Okay. Thank you very much.

19 Juror No. 5, Mr. Spagnoli, you indicated that you --  
20 sir, I think you indicated that you had a friend in law  
21 enforcement or somebody connected with law enforcement.

22 PROSPECTIVE JUROR SPAGNOLI: My nephew and his wife.

23 THE COURT: And where are they located, sir?

24 PROSPECTIVE JUROR SPAGNOLI: They live in San  
25 Carlos. He works out of San Jose. She works in Benicia.

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1 THE COURT: And the fact that they are involved in  
2 law enforcement, does that -- would that have any impact on  
3 your ability to sit as a jury in this case?

4 PROSPECTIVE JUROR SPAGNOLI: No.

5 THE COURT: How frequently do you see them?

6 PROSPECTIVE JUROR SPAGNOLI: Holidays.

7 THE COURT: Do you socialize with any of their  
8 friends, as distinct from friends you have in common?

9 PROSPECTIVE JUROR SPAGNOLI: No.  
10 THE COURT: Thank you very much.  
11 Juror No. 10, Ms. Moneymaker.  
12 PROSPECTIVE JUROR MONEYMAKER: Yes.  
13 THE COURT: Did you indicate that you had family in  
14 law enforcement?  
15 PROSPECTIVE JUROR MONEYMAKER: No, just some friend  
16 of the family.  
17 THE COURT: Friends of the family?  
18 PROSPECTIVE JUROR MONEYMAKER: Yes.  
19 THE COURT: So this would be like your parents'  
20 friends or --  
21 PROSPECTIVE JUROR MONEYMAKER: One a good friend of  
22 my parents and the other was actually an assistant coach to one  
23 of my sisters.  
24 THE COURT: Those relationships would have no  
25 bearing in this case as far as you are concerned?

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1 PROSPECTIVE JUROR MONEYMAKER: No.  
2 THE COURT: Okay. And you also indicated, I think,  
3 in response to an earlier question that there was -- you had  
4 had some experience with people either -- with drugs, either  
5 friends or relatives or perhaps yourself or something of that  
6 nature, I don't know what, could you tell us what that  
7 relationship was or experience.  
8 PROSPECTIVE JUROR MONEYMAKER: One of my sisters,  
9 actually, had some trouble with drugs in the past.  
10 THE COURT: Okay. And that experience, do you feel  
11 that it would influence your decision in this case?

12 PROSPECTIVE JUROR MONEYMAKER: No.

13 THE COURT: Okay. You can not consider it in  
14 arriving at a verdict; is that correct?

15 PROSPECTIVE JUROR MONEYMAKER: Correct.

16 THE COURT: Thank you very much.

17 PROSPECTIVE JUROR MONEYMAKER: You're welcome.

18 THE COURT: Juror No. 13, who is Ms. Patrick.

19 PROSPECTIVE JUROR PATRICK: Yes.

20 THE COURT: You also indicated, I think, that you  
21 had a friend or relative or someone who had had some experience  
22 with drugs?

23 PROSPECTIVE JUROR PATRICK: Yes.

24 THE COURT: Could you tell us what the nature of  
25 that was?

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1 PROSPECTIVE JUROR PATRICK: I had a sister-in-law  
2 who took marijuana because she had scleroderma.

3 THE COURT: For medical reasons?

4 PROSPECTIVE JUROR PATRICK: Correct.

5 THE COURT: And that experience, would you be able  
6 to not consider that experience in arriving at a decision in  
7 this case?

8 PROSPECTIVE JUROR PATRICK: Yes.

9 THE COURT: Okay. And you understand that the  
10 purpose under federal law, the purpose for which marijuana may  
11 be grown or distributed cannot be considered by you; can you  
12 follow that instruction?

13 PROSPECTIVE JUROR PATRICK: Yes.

14 THE COURT: Thank you.

15 Turning now to Juror No. 24, Ms. Dewitt.

16 PROSPECTIVE JUROR DEWITT: Yes.

17 THE COURT: Ms. Dewitt, I think you indicated that  
18 you or you and your husband worked for United.

19 PROSPECTIVE JUROR DEWITT: Yes.

20 THE COURT: Is it United Airlines?

21 PROSPECTIVE JUROR DEWITT: Yes.

22 THE COURT: Can you tell me what you do and what  
23 your husband does?

24 PROSPECTIVE JUROR DEWITT: I work as a logistics  
25 controller at the system aircraft maintenance center. And my

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1 husband works the material management.

2 THE COURT: Okay. Thank you very much.

3 Juror No. 27, Mr. Fletcher.

4 PROSPECTIVE JUROR FLETCHER: Yes.

5 THE COURT: Mr. Fletcher, you indicated that you had  
6 certain views about the marijuana laws; is that correct?

7 PROSPECTIVE JUROR FLETCHER: Not significant views.

8 THE COURT: Okay. So they are not views that would  
9 influence you in this case?

10 PROSPECTIVE JUROR FLETCHER: That's correct.

11 THE COURT: Thank you very much.

12 Juror No. 33, Mr. Rudd.

13 PROSPECTIVE JUROR RUDD: Yes, sir.

14 THE COURT: You, I think, indicated that you had  
15 some contact with law enforcement officers or you knew law  
16 enforcement officers?

17 PROSPECTIVE JUROR RUDD: Yeah, a guy I know works  
18 for the San Jose Police Department.

19 THE COURT: Okay. Is this a close friend or just an  
20 acquaintance?

21 PROSPECTIVE JUROR RUDD: An acquaintance.

22 THE COURT: Would that at all influence you in this  
23 case?

24 PROSPECTIVE JUROR RUDD: No.

25 THE COURT: Thank you.

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1 Juror No. 36, Mr. Long.

2 PROSPECTIVE JUROR LONG: Yes.

3 THE COURT: I think also you indicated that you had  
4 some experience with drugs, in some way, or friends associated  
5 in some manner with drugs, could you tell me a little bit about  
6 the nature of that experience?

7 PROSPECTIVE JUROR LONG: I had a brother-in-law who  
8 is just a pothead, that's all, the Grateful Dead music.

9 THE COURT: Grateful Dead music?

10 PROSPECTIVE JUROR LONG: Yeah.

11 THE COURT: I've heard of the Grateful Dead,  
12 actually. The question is whether that association would  
13 influence you in this particular case?

14 PROSPECTIVE JUROR LONG: No.

15 THE COURT: Thank you very much.

16 Juror No. 39, Mr. Bynum.

17 PROSPECTIVE JUROR BYNUM: Yes.

18 THE COURT: Did you indicate that you had friends or  
19 relatives in law enforcement?

20 PROSPECTIVE JUROR BYNUM: No.

21 THE COURT: Okay. Don't know how I got that, maybe  
22 I got that wrong.

23 Thank you.

24 Jon Noda, Juror No. 42. Are you there?

25 PROSPECTIVE JUROR NODA: Yes.

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1 THE COURT: Mr. Noda, you indicated, I think, that  
2 you had some experience or a member of your family had some  
3 experience with drugs?

4 PROSPECTIVE JUROR NODA: Yes.

5 THE COURT: What was the nature of the experience?

6 PROSPECTIVE JUROR NODA: My niece in Hawaii.

7 THE COURT: And is there anything about that  
8 experience that they had that might influence you in this  
9 particular case?

10 PROSPECTIVE JUROR NODA: No, it will not.

11 THE COURT: Sorry.

12 PROSPECTIVE JUROR NODA: No, it will not.

13 THE COURT: Thank you.

14 Number 60, that would be Ms. Angulo.

15 PROSPECTIVE JUROR ANGULO: Yes.

16 THE COURT: Angulo.

17 PROSPECTIVE JUROR ANGULO: Yes.

18 THE COURT: Sorry to mispronounce your name.

19 I think you also indicated that there was some  
20 experience with respect to drugs, could you tell us the nature  
21 of that experience.

22 PROSPECTIVE JUROR ANGULO: My ex-husband had a drug  
23 problem.

24 THE COURT: Okay.

25 Now, that problem did it involve marijuana?

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1 PROSPECTIVE JUROR ANGULO: Yes, it did.

2 THE COURT: Okay. Is there anything about the  
3 experience that he had, the problem and your experience with  
4 him that might influence you in this case?

5 PROSPECTIVE JUROR ANGULO: No.

6 THE COURT: Do you feel that whatever his  
7 experiences were, you could set them aside in arriving at a  
8 verdict in this case?

9 PROSPECTIVE JUROR ANGULO: Yes, Your Honor.

10 THE COURT: Okay. Thank you very much.

11 Juror No. 68, Mr. Meyers.

12 PROSPECTIVE JUROR MEYERS: Yes, sir.

13 THE COURT: You understand that police officers will  
14 be testifying in this case. Are you willing to apply the same  
15 standard that you use that I'm going to instruct you for all  
16 witnesses to police officers, that is, that you won't hold them  
17 to a lower standard in terms of judging their credibility just  
18 because they are police officers?

19 PROSPECTIVE JUROR MEYERS: No, I won't.

20 THE COURT: Is that correct?

21 PROSPECTIVE JUROR MEYERS: Yeah, that's correct.

22 THE COURT: Okay. Thank you.

23 Juror No. 77, Ms. Shepard.

24 PROSPECTIVE JUROR SHEPARD: Yes.

25 THE COURT: I don't -- I think you -- are you in

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1 retirement or your husband is retired?

2 PROSPECTIVE JUROR SHEPARD: Both.

3 THE COURT: Both. Could you tell us a little bit  
4 about what you did, both you and your husband, before  
5 retirement.

6 PROSPECTIVE JUROR SHEPARD: He was a steel salesman.  
7 He retired in the '80s. I have been a community volunteer and  
8 a farmer. And I'm still active in both, but essentially  
9 retired.

10 THE COURT: And -- sorry.

11 PROSPECTIVE JUROR SHEPARD: We do travel.

12 THE COURT: Okay. I think you also indicated that  
13 you had heard or read something about this case, the question  
14 is whether you are able to take that information that you read  
15 or heard about the case, and not consider it in arriving at a  
16 verdict?

17 PROSPECTIVE JUROR SHEPARD: I -- yes.

18 THE COURT: You can do that? Thank you.

19 MR. AMPARON: Your Honor? I couldn't hear what she  
20 said she did.

21 THE COURT: Would you tell us again exactly what you  
22 do.

23 PROSPECTIVE JUROR SHEPARD: I was a volunteer,  
24 community volunteer.

25 THE COURT: A volunteer in the community.

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1 Do you have particular assignments that would  
2 generically sort of describe the type of volunteer work that  
3 you did?

4 PROSPECTIVE JUROR SHEPARD: I sat on the board of  
5 Lucille Packard's Children's Hospital and was active in the  
6 construction of that, serving as treasurer and construction

7 committee.

8 I sit on a Sequoia fund board now for the Sequoia  
9 National Park. I have a sat on a fund for providing service  
10 dogs and I'm also still a practicing farmer.

11 THE COURT: Anyway.

12 Juror No. 81, Mr. McQuigg, you indicate, sir --  
13 where are you?

14 PROSPECTIVE JUROR MCQUIGG: Yes.

15 THE COURT: Your brother is a police officer?

16 PROSPECTIVE JUROR MCQUIGG: Yes.

17 THE COURT: Okay. I wanted to confirm that, thank  
18 you.

19 Juror No. 86, Mr. Carlen, I think you indicated that  
20 there was some experience that you had had with drugs or some  
21 member of your family; is that correct?

22 PROSPECTIVE JUROR CARLEN: Yes, just associates.

23 THE COURT: Sorry?

24 PROSPECTIVE JUROR CARLEN: Some musician associates.

25 THE COURT: Okay. And what was the nature of -- of

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1 that experience? Could you be a little bit more --

2 PROSPECTIVE JUROR CARLEN: They were recreational  
3 users.

4 THE COURT: And is there anything about their  
5 recreational use and your association with them that would  
6 influence you in this case?

7 PROSPECTIVE JUROR CARLEN: No.

8 THE COURT: Is there anything about those  
9 experiences that would make it difficult for you to serve as a

10 fair and impartial juror in this case?

11 PROSPECTIVE JUROR CARLEN: No.

12 THE COURT: Okay. Thank you very much.

13 Okay. Now, ladies and gentlemen, let me explain the  
14 process, which is as follows: I am, once again, going to ask  
15 you to step outside because we have completed essentially the  
16 voir dire process. And then I'm going to talk to the lawyers  
17 to see where we are, this process may take approximately 15  
18 minutes. And then I'll ask you to come back inside, so I would  
19 like you to stay on this floor.

20 And then I will excuse a number of you. And then  
21 we'll have some period of time which are devoted to further  
22 exercise of challenges. And then in my view, at least, we'll  
23 have progressed a long ways. And a lot of you will be  
24 discharged for the day.

25 So don't go home now, but please go outside, and it

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1 will be about 15 minutes. You can leave, take your numbers  
2 with you.

3 (Jury panel out at 1:45 p.m.)

4 THE COURT: Okay. Let the record reflect all jurors  
5 have been excused. Potential jurors. The parties are present.

6 The Court will excuse for cause -- well, here are  
7 the people that the Court is considering: I can just go to the  
8 parties and ask, how do you want me to proceed?

9 MR. BEVAN: Your Honor, the list.

10 THE COURT: I've already given a tentative  
11 indication, so --

12 MR. BEVAN: Your Honor, your tentative indication  
13 for cause, the United States has no objection to.

14 THE COURT: Okay. When you say you have no  
15 objection, are you moving to excuse those potential jurors?

16 MR. BEVAN: I'm moving to excuse them, for --

17 THE COURT: For cause.

18 MR. BEVAN: For cause.

19 THE COURT: All right. So I now need to turn to the  
20 defense. And we have to go through -- I've indicated that  
21 list. Is there anybody to which the defense wishes to object?

22 MR. AMPARCON: We submit.

23 THE COURT: The following jurors will be excused for  
24 cause: Juror No. 1 -- no, no, no. Got it totally wrong. Let  
25 me start again.

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1 Juror No. 2, Juror No. 3, Juror No. 6, Juror No. 8,  
2 Juror No. 9, Juror No. 12, Juror No. 16, Juror No. 18, Juror  
3 No. 20, 21, 22, 23, 25, 26, 30, 31, 32, 34, 35, 38, 41, 44, 45,  
4 46, 47, 48, 49, 50, 51, 52.

5 MR. BEVAN: Oh -- oh, 51?

6 THE COURT: Memorial Day.

7 MR. BEVAN: Pardon me?

8 THE COURT: That's the person who is leaving on  
9 Memorial Day. And that is too risky to take. The cause being  
10 that she won't be here for the verdict or for the  
11 deliberations.

12 53, 54, 55, 58, 61, 62, 63, 65, 67, 69, 71, 74, 75,  
13 78, 79, 80, 81, 82, 83, 84, 85, 87, 88, 89, 90. Okay.

14 MR. BEVAN: Your Honor?

15 THE COURT: Yes, Mr. Bevan.

16 MR. BEVAN: Just to be doubly sure, since everybody

17 is going to move up --

18 THE COURT: They're not moving up now.

19 MR. BEVAN: No, but once the others leave.

20 THE COURT: Yes.

21 MR. BEVAN: And presumably they will be renumbered.

22 THE COURT: No, they are not going to be renumbered.

23 MR. BEVAN: They would move up in sequence?

24 THE COURT: Yes -- well, we are talking about two  
25 different numerical systems. They will be sitting in the --

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1 Juror No. 48 will be before Juror No. 49 or 49 will be later  
2 than 48.

3 MR. BEVAN: That's what I mean.

4 THE COURT: No, they are not reshifted. They remain  
5 in their numerical sequence, but I'm not going to move them all  
6 up. They are going to be seated in the courtroom.

7 MR. BEVAN: Your Honor, would you mind since I  
8 couldn't --

9 THE COURT: You want me to move them all up? I  
10 mean, I could do --

11 MR. BEVAN: My request is that if you could read now  
12 the flip side of that just to confirm what numbers are still  
13 in.

14 THE COURT: Okay. Here are the people that the  
15 Court believes -- certainly, it's a reasonable request.

16 Juror No. 1, Bartoli; Juror No. 4, Douglass; 5,  
17 Spagnoli; 7, Llerena; 10, Moneymaker; 11, Davis; 13, Patrick;  
18 14, Hopkins; 15, Llagas; 17, Lee; 19, Leung; 24, Dewitt; 27,  
19 Fletcher; 28, Harris; 29, Schulmeister; 33, Rudd; 36, Long; 37,  
20 Kenzler; 39, Bynum; 40, Young; 42, Noda; 43, Foreman; 56,

21 Morris; 57, Gapasin; 59, Harman; 60, Angulo; 64, Duden; 66,  
22 Chen; 68, Meyers; 70, Barbero; 72, Nadimpally; 73, Schiffman;  
23 76, Mendez; 77, Shepard; 86, Carlen.

24 That's my list.

25 MR. BEVAN: That's my list too, Your Honor.

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1 THE COURT: Defense have a different list?

2 MS. GREENBERGER: That's my list, too.

3 THE COURT: Just out of curiosity, how many are  
4 remaining? It's not idle.

5 MR. AMPARCION: Thirty-four.

6 THE COURT: Thirty-four? Okay. Well, getting real  
7 here that means that we will get a jury out of this group even  
8 if all challenges are exercised.

9 MS. GREENBERGER: I have 35.

10 THE COURT: Thirty-five? Okay. We'll still get a  
11 list from that.

12 MS. GREENBERGER: Can I make a statement for the  
13 record?

14 THE COURT: Yes.

15 MS. GREENBERGER: I'm just concerned that because  
16 more than 60 percent have been excused for bias, that a  
17 cross-section of the community is not possible. I just wanted  
18 to raise that concern.

19 THE COURT: Okay. I think you have established your  
20 record. The legal sequences if you have cases for the  
21 proposition that under circumstances such as this, no jury  
22 should be impanelled or a different jury and so forth, I  
23 would -- I'll consider the case. I mean, I'm unaware of that

24 case in the sense -- there is no reason to believe that if we  
25 got -- we got 90 people here. If we got 180 people here, we

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1 would probably get 60 percent off and your complaint is that  
2 when 60 percent have to be recused, you can't get a  
3 cross-section.

4 You make your record. I don't think anything else  
5 could have been asked.

6 I tried to ask the questions in a legally dictated  
7 way, not trying to defend what I did, others will look at it.  
8 And decide whether I acted properly or not in the types of  
9 questions or the way I asked the questions. But you have your  
10 record. I understand that. And we'll see what happens. We'll  
11 see what happens.

12 Okay. So with that, now, do you have a piece of  
13 paper? It's -- do you understand? Take a look at the piece of  
14 paper that is being handed to you now and make sure you  
15 understand the process, how it works.

16 Mr. Bevan, why -- I know you know how it works but  
17 let them see it as well.

18 You see there is an order to it that isn't quite the  
19 order. And, of course, you don't exercise your alternate  
20 challenge until after I've impanelled the jury.

21 MR. BEVAN: But you are -- just make sure I  
22 understand what your last answer was, Your Honor.

23 You are going to move the jurors.

24 THE COURT: I'd rather not because as soon as you  
25 move people, it gets very confusing.

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1                   Can't you see somebody.

2                   MR. BEVAN: I swear to God, Your Honor, there's  
3 probably 20 jurors --

4                   THE COURT: I'll move them up.

5                   MR. BEVAN: I couldn't see their face.

6                   THE COURT: I'll move them up. I'm here to try to  
7 accommodate you guys. You do the jury selection, not me.

8                   Sure. I'll be glad to do that.

9                   Does the defense have a preference? I assume you  
10 would be glad.

11                  MR. AMPARCON: I think it's going to be a tad bit  
12 confusing.

13                  THE COURT: I think it's actually easier if I do it  
14 right. Of course, who knows whether I'll do it right.

15                  Okay, Barbara, bring them in.

16                                 (Jury panel re-enters courtroom at 1:58  
17                                 p.m.)

18                  THE COURT: Okay. Let the record reflect all  
19 parties are present. Prospective jurors are present.

20                  First, so it's not forgotten, I want to tell you how  
21 much we appreciate the fact that you have come here for jury  
22 service today. A number of you will, of course, be excused.  
23 The process works, as I'm sure you've seen it now firsthand,  
24 that we must go through this process in order to arrive at a  
25 jury.

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1                   And so the fact that you have been excused does not  
2 mean that your presence was unnecessary. It was highly  
3 necessary in order to -- in order to carry out this  
4 responsibility.

5                   So what I'm going to do is read both -- I'm going to  
6 read your juror number and probably mispronounce your name and  
7 you can mispronounce my name, but I'm doing that so if there is  
8 any question, if I read your name and number you have been  
9 excused from jury service. I would ask that you go to the jury  
10 commissioner, who is on this floor.

11                   He is on this floor, right, Barbara?

12                   THE CLERK: Yes.

13                   THE COURT: And you will get further instructions as  
14 to what to do.

15                   So, again, let me thank you.

16                   And these are the jurors who are excused: Juror No.  
17 2, Ms. Bogue; Juror No. 3, Ms. Murphy; Juror No. 6, Ms. Bilich,  
18 or Bilich; Juror No. 8, Mr. Sanders; Juror No. 9, Ms. Ng; Juror  
19 No. 12, Mr. Hart; Juror No. 16, Ms. Boccabella; Juror No. 18  
20 Mr. Carson; Juror No. 20, Mr. Franco; Juror No. 21,  
21 Ms. LaMarre; Juror No. 22, Mr. Brigance -- sorry, Brigance;  
22 Juror No. 23, Ms. Vose; Juror No. 25, Ms. Straight; Juror No.  
23 26, Mr. Du Bois; Juror No. 30, Ms. Engelmann; Juror No. 31,  
24 Ms. Scott; Juror No. 32, Ms. Martinez; Juror No. 34, Mr. Lane;  
25 Juror No. -- do we have Mr. Lane? Oh, there we are.

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1                   Juror No. 35, Mr. McDonough; Juror No. 38, Ms. Lum;  
2 Juror No. 41, Ms. Dagragnano -- still mispronouncing it, right?

3                   Juror No. 44, Ms. Hayashi; Juror No. 45,  
4 Ms. Cantrell; Ms. -- Juror No. 46, Ms. McMillon; Juror No. 47,  
5 Mr. Huynh, Steven Huynh; Juror No. 48, Mr. Jones; Juror No. 49  
6 Ms. Gough -- Mr. Gough. Excuse me.

7                   PROSPECTIVE JUROR GOUGH: No problem.

8 THE COURT: All right.

9 Just relieved to be out of here.

10 Juror No. 50, Ms. Armas; Juror No. 51, Ms. Moy;  
11 Juror No. 52, Ms. Lin; Juror No. 53, Ms. Payne; Juror No. 54,  
12 Ms. Leong; Juror No. 55, Mr. Phillips; Juror No. 58, McVay;  
13 Juror No. 61, Mr. Lato; Juror No. 62, Mr. Simon; Juror No. 63,  
14 Ms. Charles; Juror No. 65, Ms. Diaz; Juror No. 67 -- sorry --  
15 Juror 67, Ms. Sumida; Juror No. 69, Mr. Smith; Juror No. 71,  
16 Mr. Huang; Juror No. 74, Mr. Lucero; Juror 75, Mr. Coffman;  
17 Juror No. 78, Ms. McGlynn; Juror No. 79, Mr. Thalheimer; Juror  
18 No. 80, Ms. Lundin or Lundin; Juror No. 81, Mr. McQuigg; Juror  
19 No. 82, Ms. Quan; Juror No. 83, Mr. Vukmanic.

20 Eighty-four, Francis Houghtailing; No. 85,  
21 Ms. Bogdan; Juror No. 87, Mr. Klikunas; Juror No. 88, Mr. Nava;  
22 Juror No. 89, Lamar, James; Juror No. 90, Ms. Soto.

23 All right. Now we are going to do what we call  
24 choreography. I would like the first four jurors in the top  
25 row to please move in the same row but next to each other,

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1 okay. So you move down.

2 Now, 1, 2, 3 everybody except the last man, I want  
3 you to sit in this first seat and I would like you three jurors  
4 just to go behind there and sit in the seats in that same  
5 order. It's important to stay in the same order otherwise we  
6 are going to run into a real problem.

7 Okay, now, I would like the people in the front row,  
8 we have three prospective jurors; is that right? Would you  
9 three in the same order take these three seats? And you'll  
10 have to forgive me, I don't know your name or your juror number  
11 right now.

12                   Okay. Now, I want to move to -- we have three more  
13 seats and the first three people, please -- okay. Then I would  
14 ask the juror who is sitting in the second row to please come  
15 to the first row and sit at the end. I think you all see which  
16 way this is going.

17                   So I would like the people in the next row now,  
18 please remain in the same order. So the gentleman closest to  
19 the wall will sit next to this juror and you will stay in the  
20 same order. But don't be polite like letting women or anybody  
21 in front of you. This is to stay in the same order.

22                   THE CLERK: We have number 40, your Honor.

23                   THE COURT: Number 40.

24                   THE CLERK: We'll have to move one of you down.

25                   THE COURT: Fine.

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1                   Okay, we're optimistic that this is the order in  
2 which you're in numerically. So now what we do is you will see  
3 in front of you a paper that is being passed between Government  
4 counsel and defense counsel. This is a process that takes a  
5 few minutes, it goes back and forth.

6                   During this process, feel free to talk to each  
7 other, not about the case, but anything else you'd like to talk  
8 about. The only thing I would ask is that you don't move.  
9 That is, you don't stand up and walk away. So you are free to  
10 talk. Sort of a nice thing to do in a courtroom where you are  
11 constantly being silenced.

12                   Mr. Bevan, do you have the list?

13                   MR. BEVAN: I do.

14                   THE COURT: Start.

15 MR. AMPARCON: This is to be the -- those only in the  
16 box or everyone?

17 THE COURT: I'll see.

18 (Side bar held.)

19 THE COURT: You're free to exercise your challenges  
20 to anybody.

21 MR. AMPARCON: Not just direct at the ones in the  
22 box.

23 THE COURT: No, no, no. You have ten challenges.  
24 You can exercise in any order and anybody you want it. It's up  
25 to you.

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1 MR. BEVAN: So it's the first 14 left.

2 THE COURT: First 12 left but then there will be  
3 four people left after that, maybe 5, maybe 6, maybe 7, but  
4 there will be at least 4.

5 MR. BEVAN: So you don't want --

6 THE COURT: Do -- not the alternates. Let's say you  
7 want to exercise your first challenge against 70 or 90, you are  
8 free to do that. You have no restrictions on your challenges.

9 (Side bar concludes.)

10 (Counsel exercise challenges.)

11 (Further side bar held.)

12 THE COURT: Juror No. 40, I don't know the name, she  
13 was the one who was -- she was asked by Barbara to please move  
14 over and sit, she didn't want to. Why? She said, Well, I have  
15 two reasons. One is that the person next to me was breathing  
16 heavily and I was afraid I would contract something, and the  
17 other thing is I'm a racist.

18 MR. BEVAN: I am a racist?

19 THE COURT: Yeah, that is what she said. She is  
20 seated next to an African-American. That's what she said.

21 Now that a person could be a racist could not give  
22 cause for challenge for cause, but on the other hand, I can  
23 stipulate to getting rid of her. I think she is really a  
24 problem.

25 MS. GREENBERGER: Yeah, I do.

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1 MR. BEVAN: What is the basis for saying she is a  
2 racist?

3 THE COURT: She said it.

4 MR. BEVAN: She said it?

5 THE COURT: She said that to Barbara.

6 You got to listen to me, George.

7 You'll stipulate, all right, okay?

8 You can go up to Juror No. 40 and say she is  
9 excused, okay?

10 (Side bar concludes.)

11 THE COURT: You can continue to talk. Go ahead.

12 (Counsel continues exercising challenges.)

13 THE COURT: Okay. Ladies and gentlemen, if I call  
14 out your name and number, and this may not be in any particular  
15 order, but well, maybe I'll try to get it in order, let me just  
16 take a moment. Probably be better if I do that.

17 Okay. I will read off another list of names, the  
18 number and the -- and your name. If I do, you are excused.  
19 Again, with the Court's thanks. And you may -- go to the jury  
20 commissioner's office.

21 Juror No. 1, Mr. Bartoli; No. 4, Ms. Douglass; No.

22 7, Mr. Llerena; No. 11, Mr. Davis; No. 14, Mr. Hopkins; No. 19,  
23 Ms. Leong; No. 27, Mr. Fletcher; 28, Mr. Harris; 29,  
24 Ms. Schulmeister; 33, Mr. Rudd; 36, Mr. Long; 37, Ms. Kenzler;  
25 57, Ms. Gapasin; 59, Mr. Harman; 60, Ms. Angulo; 68,

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1 Mr. Meyers.

2 Now, ladies and gentlemen, the three people in the  
3 back, please, take the far seats to the left, in other words,  
4 same row but move over to the end.

5 And the people in the front row, please, take the  
6 three seats behind you. So you are 4, 5, and 6.

7 In the order in which you are -- great. Thank you.

8 Now, the first three people in the front row, would  
9 you please take these three seats in the front row, yeah, if  
10 you would.

11 And the next three people in that row, please, take  
12 these three seats.

13 Okay. Do the parties agree that this is the jury as  
14 constituted?

15 MR. AMPARCION: Yes, Your Honor.

16 MR. BEVAN: Yes, Your Honor.

17 THE COURT: Okay. You may swear in this jury.

18 (Jury sworn.)

19 THE COURT: Okay. Now, we will proceed with the  
20 alternates.

21 Mr. Bevan?

22 THE COURT: Show it to him.

23 MR. AMPARCION: Mr. Bevan?

24 MR. BEVAN: Yes.

25 THE COURT: Okay, I'm excusing Juror No. 70, Henry

1 Barbero; Juror No. 73, Lolly Schiffman. And so would the two  
2 jurors closest to the wall come in -- up here. First one  
3 closest to the wall take the back seat.

4 (Alternate jurors sworn.)

5 THE COURT: And the other two jurors, do you agree  
6 that these are the two alternates?

7 MR. BEVAN: Yes, Your Honor.

8 MR. AMPARCON: Yes, Your Honor.

9 THE COURT: Okay. The other two jurors are excused  
10 with our thanks.

11 So ladies and gentlemen, I'm going to take about  
12 five more minutes of your time. You are then going to go back  
13 to the jury room with Barbara and she will give you  
14 instructions as to the procedure.

15 As you know we start at 8:30. We will go the full  
16 day tomorrow, 8:30 to about 4:00. On Wednesday, however, we  
17 will just go to 1:30. We will not meet on Friday, but Thursday  
18 will be a full day as well.

19 So that is the -- that's procedure. And I think  
20 I'll be able to tell you a couple of days in advance what the  
21 schedule is going to be for the week or the next day so you can  
22 do some kind of planning.

23 I would like to take this opportunity, first of all,  
24 to thank you. It's been a long day and it will be even longer  
25 for you since you are now part of the process in this case.

1 But, again, I think that if you follow the Court's  
2 instructions, and I -- you have all taken an oath to do so, we

3 will be able to proceed in an orderly fashion.

4 I want to take a few minutes to tell you something  
5 about your duties as jurors and to give you some instructions.  
6 These are preliminary instructions. At the end of the trial, I  
7 will give you more detailed instructions. Those instructions  
8 will control your deliberations.

9 And let me tell you at the end of the trial, I'll  
10 give you each the instructions in written form for you to have  
11 in the jury room during the course of your deliberations.

12 You should not take anything I may say or do during  
13 the trial as indicating what I think of the evidence or what  
14 your verdict should be.

15 This is a criminal case brought by the United States  
16 Government. The Government charges the defendant with various  
17 criminal offenses involving marijuana. The charges between the  
18 indictment -- against the defendant is contained either in an  
19 indictment or an Information.

20 The indictment is simply a description of the  
21 charges made by the Government against the defendant, it is not  
22 evidence of anything.

23 The defendant has pleaded not guilty to the charges  
24 and is presumed innocent unless and until proven guilty beyond  
25 a reasonable doubt. A defendant has the right to remain silent

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1 and never has to prove innocence or present any evidence. The  
2 evidence you are to consider in deciding what the facts are  
3 consists of the sworn testimony of any witness, the exhibits  
4 which are received into evidence and any facts to which all the  
5 lawyers stipulate.

6                   The following things are not evidence: And you must  
7 not consider them as evidence in deciding the facts of this  
8 case.

9                   Statements and arguments of the attorneys; questions  
10 and objections of the attorneys; testimony that I instruct you  
11 to disregard. And anything you may see or hear when the Court  
12 is not in session, even if what you see or hear is done or said  
13 by one of the parties or by one of the witnesses.

14                   Some evidence may be admitted for a limited purpose  
15 only. When I instruct you that an item of evidence has been  
16 admitted for a limited purpose, you must consider it only for  
17 that limited purpose and for no other.

18                   Evidence may be direct or circumstantial. Direct  
19 evidence is direct proof of a fact, such as testimony by a  
20 witness, about what the witness personally saw or heard or did.  
21 Circumstantial evidence is indirect evidence. That is, it is  
22 the proof of one or more facts from which one can find another  
23 fact. You are to consider both direct and circumstantial  
24 evidence. The law permits you to give equal weight to both.  
25 But it is for you to decide how much weight to give to any

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1 evidence.

2                   There are Rules of Evidence which control what can  
3 be received into evidence. When a lawyer asks a question, or  
4 offers an exhibit into evidence and a lawyer on the other side  
5 thinks it is not permitted by the Rules of Evidence, that  
6 lawyer may object. If I overrule the objection, the question  
7 may be answered or the exhibit received. If I sustain the  
8 objection, the question cannot be answered and the exhibit  
9 condition be received.

10                   Whenever I sustain an objection to a question, you  
11 must ignore the question and must not guess what the answer  
12 would have been.

13                   Sometimes I may order the evidence be stricken from  
14 the record and that you disregard or ignore the evidence, that  
15 means that when you are deciding the case, you must not  
16 consider the evidence which I told you to disregard.

17                   In deciding the facts of the case, you may have to  
18 decide which testimony to believe, and which testimony not to  
19 believe. You may believe everything a witness says or part of  
20 it or none of it.

21                   In considering the testimony of any witness, you may  
22 take into account the opportunity and ability of the witness to  
23 see or hear or know the things testified to; the witness'  
24 memory; the witness' manner while testifying; the witness'  
25 interest in the outcome of the case and any bias or prejudice;

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1 whether other evidence contradicted the witness' testimony; the  
2 reasonableness of the witness' testimony in light of all the  
3 evidence and any other factors that bear on believability. The  
4 weight of the evidence as to a fact does not necessarily depend  
5 on the number of witnesses who testify.

6                   I will now say a few words about your conduct as  
7 jurors.

8                   First, you are not to discuss this case with anyone,  
9 including your fellow jurors, members of your family, people  
10 involved in the trial or anyone else, nor are you allowed to  
11 permit others to discuss the case with you. If anyone  
12 approaches you and tries to talk to you about the case, please

13 let me know about it immediately.

14 Now, let me expand a bit on that. I would guess  
15 that most of you who live with somebody else, work somewhere,  
16 said you can't come in today because you are going off to jury  
17 duty. So when you get home or when you go to work or when you  
18 talk to your friends who know about this, they'll say, oh,  
19 well, what happened? And you'll say, I was selected to sit on  
20 the jury. Oh, they'll say, what kind of case is it? And  
21 you'll, say it's a criminal case.

22 Oh, they'll say. What's it about? That's where you  
23 stop. That is when you stop. And you say, the judge  
24 instructed me I can't discuss the case at all. Why do I say  
25 that? I say that because it's a really slippery slope. As

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1 soon as you say anything about the case, the case is probably  
2 involving marijuana, a case of this, a case of that, somebody  
3 will give you an opinion, oh, is that the such and such case?  
4 You know, and they may say something more about it.

5 Now, why is it important that you not allow anybody  
6 to say anything about it? It's for the following reason: You  
7 want to decide this case just on what happens in this  
8 courtroom. Not on what somebody else thinks about what  
9 happened or what somebody else thinks you should do. You want  
10 to be convinced in your own mind that you have done the fair  
11 thing.

12 How do you do that? You do that by knowing that  
13 your 11 fellow jurors, and I'll talk about the alternates in a  
14 minute, your cojurors all had heard the same evidence. All  
15 listened to the same arguments, all followed the same law.  
16 That is what you want. That is called the integrity --

17 integrity of the verdict.

18           If you are able at the conclusion of these  
19 proceedings to have confidence that you all are deciding the  
20 case based on what is presented to you rather than what  
21 somebody else said about the case, then I can tell you you can  
22 have confidence in the integrity of your verdict.

23           So that means a couple of things. It means, of  
24 course, don't discuss the case or allow anybody to discuss it  
25 with you. By the way, I followed this rule from day one and I

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1 will continue to follow it. Once this case is over, you can  
2 talk to anybody about it and about anything that happened. You  
3 are free to talk to everybody, anybody who will listen, and so  
4 it's not like I'm imposing an oath of secrecy on you. You are  
5 under oath not to discuss the case, but I'm going to relieve  
6 you of that oath once this case is over.

7           So you can be sure that that is how it will work.

8           Also, I want you to be sure that during the course  
9 of these proceedings, my guess is that it's sort of an educated  
10 guess there will be news reports about it. There may be  
11 articles about it. There may be stories about it. So what do  
12 you do? Some of you read the paper, some of you don't; some of  
13 you watch the news on television, some of you don't. What do  
14 you do?

15           Well, here is my suggestion. My suggestion is not  
16 to listen to it, to turn it off, don't read the article about  
17 it. Why do I say that? I say that because I would like to  
18 even make a bet with you and this will be my bet if I were a  
19 gambling person; my bet is that you will hear more about this

20 case in this courtroom than you ever would from reading a  
21 newspaper article or a version of what happened on an Internet  
22 or otherwise. You will actually be in a position to decide the  
23 case based upon what is presented in this courtroom, and  
24 subject to cross-examination.

25 Cross-examination is a tool that has been well

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1 recognized by our -- by the Constitution and our courts as a  
2 way of getting to the truth of the situation, where that truth  
3 is relevant to your determination.

4 You will have that opportunity. And so I'm telling  
5 you do not read any newspaper articles about it, listen to any  
6 radio or television reports or about anyone who has anything to  
7 do with it.

8 Third, do not do any research, such as consulting  
9 dictionaries, searching the Internet or using other reference  
10 materials, that is, do not make any investigation of the case  
11 on your own.

12 Now, the only thing I'm actually concerned about is,  
13 of course, the Internet. Because now we have this marvelous  
14 device, we didn't have when I was growing up, which was  
15 centuries ago, which was that you could go to this thing called  
16 a computer and you could go to Google and you could put in a  
17 name or you could put in a term, and suddenly everything pops  
18 up or a lot of things pop up.

19 That could happen, and I can tell you with some  
20 degree of certainty that if you went -- though, I've not done  
21 it myself -- that if you went to Google, you would find out  
22 information about some of the things that we are going to  
23 discuss in this courtroom.

24 I'm instructing you not to do it. And not to allow  
25 anybody to give you any information about that. It will only 155

1 have the effect of forming -- permitting you to form an opinion  
2 in this case before the case is finally submitted to you and  
3 before you have all of the evidence in this case.

4 Don't do it. Don't do it to yourself, don't do it  
5 to your fellow jurors. Don't do it to the integrity of this  
6 process.

7 When you leave, you are going to spend about two to  
8 three weeks in this case. I think when the day is over, you  
9 want to be able to say that was a worthwhile experience, it was  
10 important that I devoted this amount of time, of my own life,  
11 to doing what is essentially pro bono work. You are not  
12 getting paid or getting paid almost nothing.

13 So what is the, quote, psychic income, in all of  
14 this? What is it that will make you feel good about this  
15 experience in some sense? It will be, again, the integrity of  
16 your result, of your verdict.

17 So I, again, implore you and instruct you not to do  
18 any research in this case or allow anyone to do any with you.

19 Now, if you need to communicate with me, simply give  
20 a signed note to Barbara and she will give it to me.

21 Finally, do not make up your mind about what that  
22 verdict should be until after you have gone to the jury room to  
23 decide the case and you and your fellow jurors have discussed  
24 the evidence. Keep an open mind until then.

25 Well, ladies and gentlemen, thank you very much for 156

1 today. You will now be Barbara's guest. She'll take you back  
2 into the jury room and have a further discussion, and I'll see  
3 you at 8:30 sharp. Take everything you need to take.

4 (Jury out at 3:06 p.m.)

5 THE COURT: Okay. Let the record reflect the jurors  
6 have retired.

7 So tomorrow we start with opening statements at  
8 8:30.

9 Mr. Bevan, you have some idea of how long yours is  
10 going to be?

11 MR. BEVAN: Twenty minutes, Your Honor, at the most.  
12 Fifteen.

13 THE COURT: Will the defense be making an opening?

14 MS. GREENBERGER: Yes, Your Honor.

15 THE COURT: And about how long will yours be?

16 MS. GREENBERGER: 30 minutes.

17 THE COURT: And we'll go right into witnesses.

18 As I said, and I like to say it to the Government  
19 because it always puts them on the hot seat, but if they run  
20 out of witnesses, they rest. And, obviously, I have the same  
21 rule with the defense when we get to that.

22 I understand it is inconvenient for people just to  
23 sit around, when one has no idea, for example, how long the  
24 cross will be on a lot of these witnesses. I think it's  
25 important to just get ready to move forward, and we do move

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1 forward.

2 MR. BEVAN: And I've given them a witness list, Your  
3 Honor, that is in the approximate order -- the list I handed up

4 to the Court. It's in the approximate order that we are going  
5 to call the witnesses. I'll have a set of exhibits for Your  
6 Honor tomorrow in binders. I'll be ready to go.

7 MS. GREENBERGER: Are they in the order you intend  
8 to introduce the exhibits?

9 MR. BEVAN: No.

10 MS. GREENBERGER: Judge, do you have any  
11 restrictions with regard to how I utilize -- do you have any  
12 restrictions with where I can go regarding my opening in my  
13 physical proximity? In other words, am I restricted to the  
14 podium?

15 THE COURT: Well, practically speaking, the only  
16 thing I really care about other than sitting in the juror's  
17 laps is sound. You have to be heard, and so as a general rule,  
18 you know, I think that at a podium with the microphone. You  
19 can move the podium, so it's a little bit closer to the jury.

20 Frequently, with Government counsel, they can do it  
21 from their seat because they have a microphone right there.  
22 They can talk there. But no, I mean, I don't -- don't get in  
23 their laps, but as a general rule, you can move about. I don't  
24 like the prison -- unless I see that we can't get this in the  
25 record, I probably won't say anything.

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1 MS. GREENBERGER: All right. I won't be sitting in  
2 their laps.

3 THE COURT: Okay.

4 MR. BEVAN: That's nice.

5 THE COURT: That was the great comment made by  
6 Vincent Hallinan in a case I watched where he got up and his  
7 opening statement was, "Well, ladies and gentlemen, you see the

8 Government has decided that the only way they could win this  
9 case is for the prosecutor to sit in the laps of the jurors. I  
10 have nothing to say," and he sat down. So it was a pretty  
11 effective way to call attention to the fact that you can become  
12 ingratiating but just up to a point and then it backfires. So  
13 you ought to just think about that.

14 All right. So now let me tell you how I am about  
15 side bars, so you know about that. I don't like them. I don't  
16 have them. If you have some side bar request, I'll hear it at  
17 the end of the day. Or I may even just hear it on a Friday, I  
18 don't know. Depends on how the case goes. But I don't -- I  
19 don't like them. I think everybody knows what the issues are.  
20 I've tried to make it clear. And I'm not limiting anybody's  
21 ability to object, but side bars are a different story. They  
22 just bring the case to a crashing halt.

23 MR. BEVAN: Your Honor, you had a hearing, a  
24 proceeding with the defense about their list of witnesses. Did  
25 the Court -- I think on, what, Thursday or Friday, did Your

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1 Honor make any decisions that we would be entitled to know  
2 about?

3 THE COURT: Well, I don't think at this point. I  
4 mean, the defense is certainly -- first of all, I think the  
5 defense is entitled not to tell you who their witnesses are  
6 until, you know, a day before they call them.

7 MR. BEVAN: No, what I'm saying is they gave a list  
8 of --

9 THE COURT: They withdraw a --

10 MR. BEVAN: -- 20 people.

11 THE COURT: Would you please advise Mr. Bevan -- I  
12 think that's fair. Advise Mr. Bevan of the people that you  
13 have withdrawn or the people that I have ruled can't testify.  
14 If you do that -- you should tell him that today, okay.

15 No one is served by prolonging. The jury gets  
16 annoyed at whoever they think is prolonging it. I get annoyed  
17 too. So, therefore, I want to try to cut out the surprises. I  
18 want people to have an idea who -- what is going on in the  
19 other person's case to the extent that is permitted.

20 MR. BEVAN: And I have specified, I think, five or  
21 six custodian type people, Your Honor, that I would be  
22 interested in a stipulation about.

23 THE COURT: Yeah.

24 MR. BEVAN: So --

25 THE COURT: As far as custodians are concerned.

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1 First of all, I'm not going to force you to stipulate to a  
2 custodian, though, I'm going to be very concerned if I see  
3 somebody coming in here as a custodian of records where the  
4 only thing is to establish the genesis of the document. The  
5 custodian didn't write the document, just says this comes from  
6 the police department, this comes from here, this comes from  
7 there. To what end? To what end?

8 If you actually have a quarrel with the authenticity  
9 of the document, you can have that quarrel and I'll rule on it.  
10 But if it's just to make the other side go through with the  
11 witness, you know, and at the end of day you have no challenges  
12 to what that witness either said or did in connection with  
13 being a custodian of records, I see no point in it. I see no  
14 point at all.

15                   Everybody on the jury would know that parties all  
16 the time agree to things. But that's up to you. I'm not going  
17 to go over them. But my attitude and I've never had a case  
18 where that has made a difference where the difference was the  
19 authentication of the document. If it's a real issue, sure.  
20 If it's not, try to stipulate, okay.

21                   What else? Oh, I just want to say I did go over, of  
22 course, the jury instructions with you. That is not cast in  
23 concrete in the sense -- I'll give you one example what I  
24 thought about afterwards. The instructions which I think is a  
25 key instruction where there is a disagreement is the term

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1 "knowingly" because it's the Court's view that what knowingly  
2 means is that the defendant knew it was marijuana, not that he  
3 knew it was illegal.

4                   So I don't know how the questions are going to come  
5 up, but the Court is not precluding what I think is his duty to  
6 further define knowingly. If it becomes a fuzzy term with  
7 respect to the questioning that goes on, I think it should be  
8 absolutely clear what the lawyer requires in terms of  
9 knowledge.

10                   So I just say that because it's now the beginning of  
11 the case, and I don't know, I read through the knowingly  
12 instruction, and with great respect to the Ninth Circuit, I  
13 don't know how helpful exactly the instruction is, how full it  
14 is in the context of this case.

15                   So I don't know what I'll do about it, but I do want  
16 you to be aware that that is an issue in the Court's mind. I  
17 haven't made up my mind.

18 MS. GREENBERGER: Just to confirm, Your Honor, you  
19 are going to give the instruction, I think it's 4.9 on the  
20 credibility of witnesses?

21 MR. AMPARCIN: Preinstructions.

22 THE COURT: Are you talking about immunity and  
23 benefits and all that?

24 MS. GREENBERGER: Yeah.

25 THE COURT: Absolutely. Absolutely.

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1 MR. BEVAN: Is that it, Your Honor?

2 THE COURT: That's it for me.

3 MR. BEVAN: That's all I have, Your Honor.

4 THE COURT: Thank you very much. We are in recess.

5 (Proceedings adjourn at 3:14 p.m.)

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CERTIFICATE OF REPORTER

I, Sahar McVickar, Official Court Reporter for the United States Court, Northern District of California, hereby certify that the foregoing proceedings were reported by me, a certified shorthand reporter, and were thereafter transcribed under my direction into typewriting; that the foregoing is a full, complete and true record of said proceedings as bound by me at the time of filing. The validity of the reporter's certification of said transcript may be void upon disassembly and/or removal from the court file.

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Sahar McVickar, RPR, CSR No. 12963

May 14, 2007

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