

M6eWschVDF

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

3 UNITED STATES OF AMERICA,

4 v.

17 Cr. 548 (JMF)

5 JOSHUA ADAM SCHULTE,

6 Defendant.

Voir Dire

7
8 New York, N.Y.
9 June 14, 2022
9:15 a.m.

10 Before:

11 HON. JESSE M. FURMAN,

12 District Judge

13
14 APPEARANCES

15 DAMIAN WILLIAMS

16 United States Attorney for the
17 Southern District of New York

18 BY: DAVID W. DENTON JR.

19 MICHAEL D. LOCKARD

20 Assistant United States Attorneys

21 JOSHUA A. SCHULTE, Defendant *Pro Se*

22 SABRINA P. SHROFF

23 DEBORAH A. COLSON

24 Standby Attorneys for Defendant

25 Also Present: Charlotte Cooper, Paralegal Specialist

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1 (Jury selection resumed; prospective jurors present)

2 THE COURT: Good morning, ladies and gentlemen.

3 Welcome back, and my sincere thanks to those of you who were
4 here on time. We're getting started a little after nine, but I
5 very much appreciate your being here by nine. And there's one
6 more straggler that we were waiting for. Hopefully, they will
7 appear, but in the meantime, I didn't want to keep you waiting.
8 So we'll pick up where we left off. I will begin by filling
9 seat 19, since I had excused one juror just before we left.

10 With that, I'll ask Mary Halland to please take seat
11 No. 19, which is the seat in the front row all the way on the
12 far side, please.

13 And let me start by asking, particularly for those
14 jurors I have not yet questioned, were you able to find your
15 questionnaire? Anyone not have your questionnaire; please
16 raise your hand.

17 New juror 19, any "yes" answers to the questions?

18 JUROR: Yes.

19 THE COURT: What numbers, please?

20 JUROR: One, eight, 13, 14, 16, 18, 35, 37, 40, 42,
21 and 44.

22 THE COURT: All right.

23 Why don't you start with No. 1, and we'll go from
24 there.

25 JUROR: I'm the only employee of my association.

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1 There's no one to cover for me. When I did jury duty four
2 years ago for ten days for Judge Rakoff, I had to go into the
3 office every night after we were dismissed, and I also went in
4 on Saturdays to make up the work.

5 THE COURT: And what do you do?

6 JUROR: I run a global nonprofit for chemistry.

7 THE COURT: For chemistry?

8 JUROR: Chemistry. For chemists.

9 THE COURT: OK. And given the schedule that I keep,
10 where we end at 3:00 -- Judge Rakoff doesn't, I think, keep
11 that schedule -- would you not be able to manage for trial in
12 this case?

13 JUROR: I would have to go into the office -- last
14 night I worked until 10:15, and I would probably work three or
15 four hours every night and then go in on Saturdays for five to
16 six weeks.

17 THE COURT: OK. Let's just talk about some of the
18 other things here. Tell me about Nos., I guess, 16 and 18. Is
19 that something that you feel you can discuss openly, or is that
20 something you feel you would need to approach for?

21 JUROR: Similar to other people, I have -- yeah, I
22 have -- I have ideas on these, like --

23 THE COURT: All right. I think I need a better sense
24 of what those ideas are, but maybe we can do those at sidebar.

25 JUROR: Yeah.

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1 THE COURT: You have had dealings with the U.S.
2 Attorney's Office. Can you tell me about that?

3 JUROR: With the FBI?

4 THE COURT: Can you tell me about that?

5 JUROR: A very good friend was chief counsel for a
6 company that the FBI came in and confiscated all their
7 computers, all their files, shut them down. The company went
8 bankrupt, and no charges were ever filed.

9 THE COURT: And this is a good friend of yours, you
10 said?

11 JUROR: Yes.

12 THE COURT: What was the nature of the company? What
13 was the nature of the investigation?

14 JUROR: Well, they were listed on the New York Stock
15 Exchange.

16 THE COURT: All right. Was that in this district?

17 JUROR: Yes.

18 THE COURT: And is there anything about that incident
19 that would make it difficult for you to be fair and impartial
20 in this case? It does involve the FBI.

21 JUROR: No, but it does involve government agencies
22 with a lot of power.

23 THE COURT: No. I'm saying it does involve the FBI.

24 JUROR: Oh, it does. Yes. Certainly gives me reason
25 to doubt --

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1 THE COURT: All right. I think the combination of
2 various things, I will excuse you and see if there's a
3 different, shorter case, perhaps, that might be more
4 appropriate.

5 JUROR: Thank you.

6 THE COURT: Theresa Emerson, can you please take seat
7 19.

8 If you can slide over a little to your left so I can
9 see you, that would be great.

10 Any "yes" answers, please?

11 JUROR: Yes. One, eight, nine, ten, and 44.

12 THE COURT: All right. Tell me about one, please.

13 JUROR: I am scheduled to be in St. Louis the 3rd
14 through the 10th of July, and also from the 14th to the 20th
15 I'm going to be in D.C.

16 THE COURT: And what's the nature of those trips?

17 JUROR: The first one is -- I'm involved with a
18 nonprofit in southern Illinois, and I do their fund-raising for
19 them, and that's the week that we plan our fund-raiser for next
20 year.

21 THE COURT: Can you just speak a little more loudly,
22 please. Sorry. It was what dates, you said?

23 JUROR: That is July 3rd through the 10th, and then
24 the 14th through the 20th I'm scheduled to be in D.C. area to
25 house hunt because I'm moving there.

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1 THE COURT: You're what?

2 JUROR: I'm moving to D.C., so I'm supposed to be
3 house hunting from the 14th to the 20th.

4 THE COURT: All right. Tell you what, I'm not going
5 to excuse you just yet, but if you can take a seat in the back.

6 Would Zarvan Khambatta please take seat 19.

7 Any "yes" answers, please?

8 JUROR: Yes.

9 THE COURT: What numbers?

10 JUROR: Eight, 24, and 44.

11 THE COURT: All right. Tell me about eight, please.

12 JUROR: Shouldn't have any bearing, but I just have
13 some friends who are lawyers, corporate law.

14 THE COURT: All right. And nothing about your
15 relationship with them or what they do would affect your
16 ability to be fair and impartial in this case?

17 JUROR: No.

18 THE COURT: OK. And tell me about 24.

19 JUROR: I've taken some undergraduate classes in
20 programming languages, and I use statistical software as part
21 of my occupation.

22 THE COURT: And what do you do?

23 JUROR: Financial research.

24 THE COURT: And how long ago did you take those
25 software courses?

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1 JUROR: More than 20 years ago.

2 THE COURT: And anything about your experience or
3 education on these issues that would interfere with your
4 ability to be fair and impartial in this case given what I've
5 described?

6 JUROR: No.

7 THE COURT: All right. And finally, 44, tell me about
8 that.

9 JUROR: Just a couple of incidents. I had my
10 possessions -- wallet, keys, everything -- stolen here on a
11 soccer pitch in the city.

12 THE COURT: How long ago was that?

13 JUROR: About ten years ago.

14 THE COURT: And did you report it to the police?

15 JUROR: Yes, it was reported. It was never found.

16 THE COURT: And anything about your dealings with the
17 police or the incident at all that would affect your ability to
18 be fair and impartial?

19 JUROR: Nope. Also just add there was another
20 incident. I was in a -- I was a passenger in a livery cab
21 that -- we were in an accident, and the other person driving
22 the other car was not -- not arrested or identified.

23 THE COURT: All right. Anything about that incident
24 that would affect your ability --

25 JUROR: No.

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1 THE COURT: All right. Any other "yes" answers?

2 JUROR: No, sir.

3 THE COURT: All right. Turning to the individual
4 questions, your full name, please.

5 JUROR: Zarvan Khambatta.

6 THE COURT: And county or counties the last five
7 years?

8 JUROR: New York.

9 THE COURT: How old are you?

10 JUROR: 42.

11 THE COURT: How far did you go in school?

12 JUROR: Master's degree.

13 THE COURT: In what?

14 JUROR: Business.

15 THE COURT: And, sorry. You mentioned what you did,
16 but can you tell me again what you do for a living?

17 JUROR: Sure. It's quantitative financial research.

18 THE COURT: Meaning for, like, a trading-type entity?

19 JUROR: I work at Bloomberg now. It is a financial
20 data firm.

21 THE COURT: OK. And who do you live with, and if
22 so --

23 JUROR: Yes. I live with my wife and our baby. She
24 works at the Wildlife Conservation Society.

25 THE COURT: Any grown children?

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1 JUROR: No.

2 THE COURT: Are you fully vaccinated?

3 JUROR: Yes.

4 THE COURT: Boosted?

5 JUROR: Yes.

6 THE COURT: And how do you get your news?

7 JUROR: Variety of sources. On television, number of
8 networks, many international -- BW, BBC, NS Sky. I look at
9 news aggregator; read Bloomberg, New York Times frequently.

10 THE COURT: All right. And criminal justice-type
11 shows?

12 JUROR: I don't watch those.

13 THE COURT: Clubs, associations, organizations?

14 JUROR: No.

15 THE COURT: And what do you like to do in your spare
16 time?

17 JUROR: I like to play and watch sports.

18 THE COURT: And have you ever served on a jury?

19 JUROR: No.

20 THE COURT: All right. I may circle back to you, but
21 for now, you're out of the hot seat. Can you pass the
22 microphone down to juror No. 33.

23 Juror No. 33, I had not gotten to the individual
24 questions with you, so can you start with your name, please?

25 JUROR: Atiyah Gaye.

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1 THE COURT: And county or counties the last five
2 years?

3 JUROR: New York.

4 THE COURT: How old are you?

5 JUROR: 47.

6 THE COURT: How far did you go in school?

7 JUROR: Bachelor's.

8 THE COURT: And what do you do for a living?

9 JUROR: I'm an insurance risk manager for a financial
10 institution.

11 THE COURT: What financial institution?

12 JUROR: Morgan Stanley.

13 THE COURT: Do you live with anyone, and if so, what
14 do they do?

15 JUROR: I live with the boyfriend. He's a structure
16 maintainer of the MTA.

17 THE COURT: All right. Any grown children?

18 JUROR: I have one son, who is currently a probation
19 officer.

20 THE COURT: Right. You told me about that yesterday.
21 And are you fully vaccinated?

22 JUROR: Yes.

23 THE COURT: Boosted?

24 JUROR: Yes.

25 THE COURT: And how do you get your news?

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1 JUROR: CNN, local TV stations, and anything that may
2 pop up during my limited social media.

3 THE COURT: All right. And by social media, you're
4 talking Twitter, Instagram, that kind of thing?

5 JUROR: Instagram, Facebook.

6 THE COURT: And anything about your followings that
7 would suggest that news, if there is any, relating to this case
8 would pop up?

9 JUROR: No.

10 THE COURT: And criminal justice-type shows?

11 JUROR: I like Law & Order. Goal.

12 THE COURT: And any trouble distinguishing that that's
13 drama, this is a real --

14 JUROR: No.

15 THE COURT: -- trial?

16 JUROR: No.

17 THE COURT: Clubs, associations, organizations,
18 unions, anything of that sort?

19 JUROR: I am the treasurer of a small nonprofit.

20 THE COURT: That does what?

21 JUROR: I'm sorry. Children's education.

22 THE COURT: All right. And what do you like to do in
23 your spare time?

24 JUROR: Travel.

25 THE COURT: And have you ever served on a jury?

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1 JUROR: Yes, twice.

2 THE COURT: All right. Go through those. The first
3 time was how long ago?

4 JUROR: First time was 2010, and that was a state
5 civil.

6 THE COURT: Did the jury reach a verdict?

7 JUROR: The parties settled.

8 THE COURT: All right. And what about the second
9 time?

10 JUROR: 2017, state, criminal.

11 THE COURT: Did the jury reach a verdict?

12 JUROR: Yes.

13 THE COURT: And as I said yesterday with a couple
14 people who had served on a civil jury, do you understand that
15 the standard here is different, proof beyond a reasonable
16 doubt?

17 JUROR: Yes.

18 THE COURT: And would you have any trouble following
19 my instructions on that?

20 JUROR: No.

21 THE COURT: All right. Thank you.

22 If you can pass the microphone to 36, please, we'll
23 pick up where we left off.

24 You had given me your list of questions for which you
25 had "yes" answers, so I'll go through those, beginning with

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1 question No. 1. Can you tell me what your issue is about
2 there?

3 JUROR: Yes. I have a vacation planned to the Outer
4 Banks, North Carolina, on July 5th through 13th.

5 THE COURT: Already purchased and --

6 JUROR: Yes.

7 THE COURT: Nonrefundable?

8 JUROR: Nonrefundable.

9 THE COURT: All right. Tell you what. You can just
10 take a seat in the back as well for a moment. I may circle
11 back to you, but for now I'll let you go to the back.

12 I'll ask Janine Greto --

13 Are you Ms. Karapetyan?

14 JUROR: Yes, I am.

15 THE COURT: Let Ms. Greto take that seat, please. You
16 can step to the back and let Ms. Greto take the seat.

17 JUROR: Here?

18 THE COURT: Yes, please.

19 Ms. Karapetyan, you can give Ms. Greto --

20 JUROR: Oh.

21 THE COURT: Thank you.

22 All right. Ms. Greto, any "yes" answers?

23 JUROR: Yes.

24 THE COURT: What numbers, please?

25 JUROR: One, eight, nine, 42, 44, and -- I think

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1 that's it.

2 THE COURT: OK. Tell me about No. 1, please.

3 JUROR: So, personally and professionally. First,
4 personally, the issue is specifically a July 1st very important
5 medical appointment. If you want me to speak of the details, I
6 will, but it involves my husband and his primary caregiver,
7 after a Covid diagnosis ended up with blood clots in his lungs
8 and his legs.

9 THE COURT: And what time is that on July 1?

10 JUROR: 9 a.m., and it's with a hematologist
11 oncologist that we've been waiting to see for several months.

12 THE COURT: OK. What is the other issue?

13 JUROR: I'm also the primary caregiver to my
14 90-year-old mother. To be away for five weeks without being
15 able to take her to whatever appointments she may have during
16 that time would be very difficult.

17 I also work full time for -- I'm not a clinician, but
18 I do work for a medical center, and I manage a team of
19 approximately 20 people. And between payroll and other things
20 that need to be done for them, including scheduling, it is very
21 difficult to be away for that amount of time.

22 THE COURT: OK. Tell me a little bit about your
23 mother's situation, just whether there's anybody else who
24 could --

25 JUROR: I mean, you know, if I had to, I could search

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1 around and pay people to take her to her appointments. You
2 know, it's just a, a basic dementia situation. She doesn't
3 drive. She never has, and she is alone. So I am it for her.
4 I can't have my husband do it because he has no sick time or
5 personal time or vacation time due to his three months of not
6 working because of his Covid diagnosis back in January. So
7 kind of -- kind of me.

8 THE COURT: All right. Let me have you sit in the
9 back too, and I'll ask Ms. Karapetyan to take your place after
10 all.

11 Ms. Karapetyan, any "yes" answers?

12 JUROR: Yes, only No. 8.

13 THE COURT: OK. And tell me about that, please?

14 JUROR: My daughter's attorney, my son-in-law's
15 attorney.

16 THE COURT: Just keep your voice up, if you can.

17 What kind of law do they practice?

18 JUROR: Oh, corporate law.

19 THE COURT: Is there anything about that or your
20 relationship with them that would affect your ability to be
21 fair and impartial in this case?

22 JUROR: No.

23 THE COURT: OK. Let's turn to the individual
24 questions. Start with your name, please?

25 JUROR: Nella Karapetyan.

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1 THE COURT: And what county or counties have you lived
2 in for the last five years?

3 JUROR: Manhattan.

4 THE COURT: How old are you?

5 JUROR: 70.

6 THE COURT: How far did you go in school?

7 JUROR: Bachelor degree.

8 THE COURT: And what do you do for a living?

9 JUROR: I'm retired. I used to work for a financial
10 institution, Lehman Brothers.

11 THE COURT: Sorry. Worked for a financial
12 institution, what?

13 JUROR: Lehman Brothers.

14 THE COURT: Lehman Brothers?

15 JUROR: Yes. And after I -- you know, I lost my job I
16 start working at UNICEF, United Nations.

17 THE COURT: So after Lehman Brothers collapsed, you
18 started working at UNICEF?

19 JUROR: UNICEF, yes.

20 THE COURT: And do you live with anyone, and if so,
21 what do they do?

22 JUROR: Yes, I live with my husband.

23 THE COURT: What does he do?

24 JUROR: He has his own business.

25 THE COURT: What's the nature of his business?

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1 JUROR: Supplies steel pipes.

2 THE COURT: Pipes?

3 JUROR: Pipes.

4 THE COURT: Pipes?

5 JUROR: Metal pipes.

6 THE COURT: Gotcha.

7 OK. Do you have any grown children?

8 JUROR: Yes, I do.

9 THE COURT: And what do they do?

10 JUROR: One is attorney and one is a banker.

11 THE COURT: All right. And the attorney, you said,

12 does corporate law?

13 JUROR: Corporate lawyer.

14 THE COURT: And are you fully vaccinated?

15 JUROR: Yes, fully vaccinated and boosted.

16 THE COURT: And how do you get your news?

17 JUROR: From CNN, CBS, NBC, from New York Times.

18 THE COURT: And do you watch any criminal justice-type

19 shows?

20 JUROR: Yes, I like to watch Law & Order, read John

21 Grisham books. Yeah.

22 THE COURT: And you understand that real trials don't

23 necessarily go the same way as on Law & Order?

24 JUROR: Yes, they -- I understand.

25 THE COURT: Clubs, associations, organizations,

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1 unions, anything of that sort?

2 JUROR: No.

3 THE COURT: And what do you like to do in your spare
4 time?

5 JUROR: Well, I like to travel. I like to read books
6 and exercise, swimming a lot.

7 THE COURT: And have you ever served as a juror?

8 JUROR: A long time ago. It was in Brooklyn civil
9 court. It was settled out of court.

10 THE COURT: It was settled?

11 JUROR: Yes, settled. And few times I was called in
12 Manhattan, but there was -- for two days, and it was dismissed.

13 THE COURT: And you were not selected as a juror?

14 JUROR: No, no. Two days.

15 THE COURT: And again, to the extent that you served
16 on a civil jury, you understand that the standard in a criminal
17 case is higher and different?

18 JUROR: Yes, I understand.

19 THE COURT: OK. And you would have no trouble
20 understanding and following my instructions on that?

21 JUROR: Yes, yes. I don't.

22 THE COURT: All right. Thank you very much.

23 Mr. Lee, could you pick up the microphone and give it
24 to juror No. 23, please.

25 My understanding from Mr. Lee is that you have some

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1 sort of issue with this Thursday. Is that correct?

2 JUROR: Yes. Our live-in nanny has been out for
3 surgery. My husband's traveling for business, and he doesn't
4 have control of his travel schedule, and I was not able to find
5 a ride for my two daughters to get to school.

6 THE COURT: And this is just for Thursday, is that
7 correct?

8 JUROR: It's just for this Thursday, but also, if our
9 nanny is not back yet, starting on the 27th, I have no way to
10 get my children home from camp. And carpooling, I'm supposed
11 to pick them up at four in Mamaroneck. It depends on whether
12 our nanny is back or not. She was anticipated to be back by
13 now, and unfortunately, her recovery has taken longer than
14 expected.

15 THE COURT: Sorry. That would begin what date?

16 JUROR: June 27.

17 THE COURT: All right. Thank you for letting me know.
18 If you can't sort it out, we'll figure out something.

19 JUROR: Thank you.

20 THE COURT: Thank you for letting me know.

21 If you can pass the microphone back one row to juror
22 No. 31, Mr. Stillman.

23 My understanding is that you have something you
24 neglected to say yesterday as well. Is that correct?

25 JUROR: Yes. I have a vacation planned for the two

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1 days before -- before the July 4th weekend.

2 THE COURT: And can you tell me a little bit more
3 about that and also why you didn't remember that yesterday?

4 JUROR: I just completely forgot. I'm going to visit
5 my parents on Cape Cod, flying out Thursday.

6 THE COURT: What time were you supposed to leave on
7 Thursday?

8 JUROR: I think the flight's at, like, noon.

9 THE COURT: And do you know if that would be
10 changeable, if need be?

11 JUROR: I'm not sure.

12 THE COURT: OK. All right. Thanks for letting me
13 know, and hopefully, we will be able to sort that out as well.
14 Can I see the parties at sidebar, please.

15 (At sidebar)

16 THE COURT: All right. First of all, I wanted to
17 raise the Bloomberg question, since Mr. Schulte, I understand,
18 worked at Bloomberg after he left the CIA. I don't know
19 whether and to what extent the parties think I should follow up
20 with that juror, and if so, what I should ask.

21 MR. DENTON: I think we think a couple of questions is
22 probably appropriate, your Honor. It sounded like that was a
23 relatively new thing. I may have misinterpreted, but it may be
24 worth asking when he started just to find out whether there was
25 any overlap; confirm that he does not, in fact, know the

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1 defendant, and you know, just ask a, you know, a question about
2 the fact that whether the defendant worked for a period of time
3 at Bloomberg would affect his ability to be impartial,
4 something to that effect.

5 THE COURT: OK. Can one or the other of you tell me
6 what period of time Mr. Schulte was there? From sometime in
7 2016 until November of 2017?

8 MR. SCHULTE: November 2016 all the way until August
9 2017.

10 THE COURT: OK. And do you have any follow-up
11 questions with respect to that issue?

12 MR. SCHULTE: A couple questions. One is he didn't
13 say he recognized any of the names or addresses on the paper,
14 which listed Bloomberg, so double-checking with him about that.
15 And then seeing, you know, what division he worked in and the
16 overlap, like you were just saying about the years and stuff.

17 (Defendant conferred with standby counsel)

18 MR. SCHULTE: Oh, OK.

19 Yeah. And then -- so, the other thing is, this may be
20 a sidebar question, but whether Bloomberg issued any notices to
21 its employees about the case or if they would have done
22 anything about that or -- I don't know exactly what happened
23 after -- I didn't know what happened after I left.

24 THE COURT: OK. I'll follow up on that. I might even
25 just bring him up here while we're all here. But any other

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1 follow-up on anyone else?

2 Mr. Denton.

3 MR. DENTON: Not from the government, your Honor.

4 THE COURT: Mr. Schulte.

5 (Standby counsel conferred with defendant)

6 MR. SCHULTE: Yeah, I guess we wanted to ask the Court
7 about juror No. 24. I think he was the one who -- he had
8 problems with English, and I think there was some confusion as
9 to what he was saying back and forth. So maybe some follow-ups
10 on his ability to understand English and make sure, you know,
11 he can properly be able to understand as the trial goes on.

12 THE COURT: All right. No. 1, I think I did ask him.
13 I think it was more an accent issue than an understanding
14 issue.

15 MR. SCHULTE: OK.

16 THE COURT: He has a Ph.D. in chemistry, I think, from
17 a United States educational institution. I'm pretty confident
18 that his English is up to speed.

19 MR. SCHULTE: OK.

20 THE COURT: Any other follow-up?

21 MR. SCHULTE: I don't think so.

22 THE COURT: Any motions to strike anyone?

23 From the government.

24 MR. DENTON: No, your Honor.

25 THE COURT: Mr. Schulte.

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1 MR. SCHULTE: No.

2 THE COURT: Why don't we get juror No. 19 up here and
3 do some follow-up here.

4 Mr. Lee, could you get juror No. 19 up here.

5 (Juror present)

6 THE COURT: Sir.

7 JUROR: Yes, sir.

8 THE COURT: Thank you for coming up here. I just
9 wanted to ask you a couple of follow-up questions about your
10 employment with Bloomberg.

11 JUROR: Sure.

12 THE COURT: Can you tell me how long you've worked
13 there?

14 JUROR: Six years, almost six years.

15 THE COURT: So since 2016, thereabouts?

16 JUROR: Yeah.

17 THE COURT: And you said you're a quantitative
18 financial researcher; is that what you do?

19 JUROR: Yes.

20 THE COURT: Do you have anything to do with people who
21 do coding and computer stuff there?

22 JUROR: Like I said, I use statistical software myself
23 and I do work with people that write code and build software,
24 and implement and install.

25 THE COURT: OK. And let me just ask you again. Are

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1 you sure you don't know Mr. Schulte?

2 JUROR: I do not, no.

3 THE COURT: I think if you were seated as a juror, you
4 would hear testimony that he worked at Bloomberg from sometime
5 in 2016 to sometime in 2017. Would that ring a bell or bring
6 anything back?

7 JUROR: No.

8 THE COURT: OK. And I take it from that answer, is it
9 true that Bloomberg didn't communicate anything to its
10 employees when Mr. Schulte was arrested in connection with
11 these charges?

12 JUROR: Not to my recollection.

13 THE COURT: OK. And is there anything about his
14 association with Bloomberg, which you now know of, that would
15 affect your ability to be fair and impartial in this case?

16 JUROR: I don't know.

17 THE COURT: OK. Tell me more about that. He's not
18 charged with doing anything --

19 JUROR: Sure.

20 THE COURT: Hold on one second.

21 JUROR: Right.

22 THE COURT: He's not charged with doing anything to
23 harm Bloomberg, but some of the testimony may concern the
24 period of time where he was working at Bloomberg, and he was
25 arrested on these charges when he was working at Bloomberg.

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1 So --

2 JUROR: I don't think I should be affected by it.
3 Without seeing any of the evidence and knowing what it relates
4 to, I can't be sure.

5 THE COURT: OK.

6 JUROR: But certainly I would expect myself to be
7 unaffected and impartial.

8 THE COURT: OK. And I guess my question for you is,
9 your hesitation, is that just because it's hard to predict
10 something in the future without knowing what you're --

11 JUROR: Yes.

12 THE COURT: All right. If you could just step back,
13 right in front of this table over there, that would be great.

14 JUROR: Sure.

15 (Juror not present)

16 THE COURT: Mr. Denton, anything further on that?

17 MR. DENTON: I think, your Honor, it might be worth
18 asking a question similar to what you've asked other people
19 just to the effect of, you know, would you be sure to bring it
20 to my attention if anything caused you any hesitation. I don't
21 expect there's going to be very much about Bloomberg other than
22 as a location, so I don't anticipate it being an issue, but it
23 may be worth just asking a variant of that question.

24 THE COURT: OK. I also meant to show him the list of
25 names and places again, just to make sure he reviewed that, so

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1 I'll do that. Yes.

2 Mr. Schulte, anything further?

3 (Standby counsel conferred with defendant)

4 MR. SCHULTE: Yeah, I guess, you know, like the
5 government said about the following up, I think, you know, with
6 his hesitancy, it would be nice to get an unqualified answer as
7 to, you know, his ability to look at the evidence without bias.
8 I think the Court has asked other jurors to be, you know, to be
9 sure before, so I -- I'm not sure what his bias -- I mean, just
10 his hesitation. Right? His hesitation, he wasn't really able
11 to give an unqualified answer, expecting him to be fair in the
12 case. So that's the only issue.

13 THE COURT: And can I ask the government what you
14 expect the evidence at trial to be about Bloomberg? Is it
15 going to be much beyond just the mere fact that he went there
16 after he left the CIA?

17 MR. DENTON: There may be some testimony about the
18 fact that he was interviewed in the vicinity of the office, and
19 I think that, you know, agents searched his desk area there,
20 but I don't expect there to be any testimony about the
21 substance of his work or interactions with anyone else at
22 Bloomberg.

23 THE COURT: And would you expect any as part of the
24 defense case?

25 MR. SCHULTE: Probably not.

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1 What I would say, the other thing, the first witness,
2 actually, will testify about the passports, just my passport,
3 seizing it from Bloomberg, going through security, Bloomberg
4 security, revoking my access to the building. So I'd expect --
5 I think the FBI agent testified about that at the first trial,
6 so I expect, you know -- the fact that Bloomberg went so far as
7 to revoke my access to the building and security accesses, I
8 think that may play in his mind, especially if he has positive
9 feelings for Bloomberg.

10 THE COURT: All right. Let's get him back.

11 Sir, can you step forward again.

12 (Juror present)

13 THE COURT: First of all, if I could ask you to just
14 read through the list of names and places that you had
15 yesterday.

16 JUROR: Yes.

17 THE COURT: It does list Bloomberg on the bottom,
18 which you may have just overlooked.

19 JUROR: No. I did -- know Bloomberg. I know where
20 Pershing Square is.

21 THE COURT: Just take a look at that for a moment.

22 JUROR: Yeah.

23 THE COURT: Just read through all the names. There
24 are a lot of them. I just want to make sure you don't know any
25 of the people listed there.

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1 JUROR: No, I don't know these people.

2 THE COURT: And the places on the bottom, including
3 Bloomberg and Pershing Square, is there anything about your
4 familiarity with those places that you think would affect your
5 ability to be fair and impartial here?

6 JUROR: No, I don't.

7 THE COURT: I don't expect there to be much evidence
8 in this case about Mr. Schulte's time at Bloomberg. I guess my
9 question for you is recognizing that you can't tell the future
10 and don't know what's going to come in on that score, would you
11 have any trouble alerting me if, No. 1, upon hearing any of the
12 evidence, you realize that you do actually know something about
13 this case, would you have any trouble telling me if that's the
14 case?

15 JUROR: No. I would tell you that.

16 THE COURT: And similarly, if it sparks some sort of
17 feeling in you, positive or negative, that would affect your
18 ability to be fair and impartial, would you tell me that as
19 well?

20 JUROR: I would.

21 THE COURT: OK. Thank you. You can have a seat in
22 your regular seat. Thank you.

23 (Juror not present)

24 THE COURT: Any applications with respect to him?

25 (Defendant conferred with standby counsel)

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1 MR. DENTON: Not from the government, your Honor.

2 MR. SCHULTE: I think we would move to strike for
3 cause due to his familiarity with Bloomberg and the testimony
4 about, like I said, the security at Bloomberg. If someone is
5 employed somewhere and has been there for five, six years, they
6 will have strong feelings, I think, for the employer. So I
7 just think his familiarity with Bloomberg.

8 THE COURT: All right. I'm going to deny that
9 application. I find it a little hard to believe that somebody
10 who works at Bloomberg would put any weight whatsoever on
11 whatever security at Bloomberg did with respect to you when you
12 were arrested, and that's not what you're charged with. I'm
13 certainly happy to give a curative or limiting instruction on
14 that score, if it's appropriate. But it seems to me that it's
15 relatively minor testimony and issues in this case, and he was
16 quite sure that he would let me know if there was any issue
17 during trial. So that application is denied.

18 With that, we came down to the wire, but we seem to
19 have qualified 36. There are a couple of scheduling issues in
20 the jurors that remain, so depending on who is seated on the
21 jury, we may have to take some days off. Such is life. I may
22 live to regret that decision, but for the moment, that seems
23 preferable to me than asking for additional jurors and starting
24 over with them. So it's time to make your list of peremptory
25 challenges.

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1 Just a reminder, the regular jury is jurors No. 1
2 through 28. The defendant gets ten strikes with respect to
3 that grouping. The government gets six strikes. And the
4 alternates are juror Nos. 29 through 36. Each side gets two
5 strikes with respect to that. If there's any overlap, then
6 it's the lowest numbered 12 and four from each of those
7 groupings, respectively.

8 You'll make your lists. After a few minutes, I will
9 have my law clerk or Mr. Lee come get your list, give them to
10 the other side so you can review them to see if you have any
11 applications, under *Batson* or otherwise. And then they'll be
12 submitted to me, after which I will call you both up here to
13 make sure that there are no motions and everyone's satisfied
14 with and agrees on the jurors that remain, and so forth.

15 Any questions?

16 MR. DENTON: No, your Honor.

17 THE COURT: Any questions?

18 MR. SCHULTE: No.

19 THE COURT: All right. Very good. So go make your
20 lists, and we'll go from there.

21 (In open court)

22 THE COURT: All right. Thank you for your patience,
23 ladies and gentlemen. The good news is I think we're nearing
24 the end of this process. I know it has been long. I thank you
25 for your patience.

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1 I'm going to give the parties a few minutes to make a
2 list of their peremptory challenges, which I told you about
3 yesterday, so we're not quite done. Those of you who have
4 either not been questioned or questioned and put in the back,
5 you're not quite off the hook yet. The bottom line is that if
6 you can wait a few more minutes, patiently, quietly, where
7 you're seated, that would be great. You're welcome to stand
8 and stretch if you would like while we go through this. It
9 will take a few minutes just because they need a few minutes to
10 think about things and make decisions. We will be with you as
11 quickly as we can, I assure you. But if you want to just stay
12 quietly where you are, that would be great.

13 I am going to turn the white noise machine back on so
14 that the parties can speak among themselves without anyone
15 overhearing, but I'll be back with you in a few minutes. Thank
16 you.

17 Counsel, can I see you at sidebar again, please.

18 (At sidebar)

19 THE COURT: Sorry to interrupt, but juror No. 19 asked
20 to speak to me again, so we need to find out what's going on.

21 (Juror present)

22 THE COURT: Yes, sir.

23 JUROR: I'm sorry to do this. I should have said
24 something earlier, but having sat down and thought about it, I
25 think I can be unemotional and impartial, but I've already also

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1 wondered if I'm thinking of this person as a colleague, if I
2 have any -- as this case goes on, if I will remain impartial.
3 I have some reasonable doubt. I still would like to think that
4 I will be purely judging the merits of the case and the facts,
5 but I don't know if I'm going to think that this person is
6 somebody I should have some connection to.

7 THE COURT: OK. Can you elaborate on that? I mean
8 Bloomberg is --

9 JUROR: I know it's a large organization, but I'm
10 already wondering whether -- you do have some empathy with your
11 coworkers, even if you don't know all of them. Presumably,
12 we've done some similar things, gone to the same cafeteria, and
13 so forth. So it's no longer a person I would have just
14 encountered on the street.

15 THE COURT: OK.

16 JUROR: So --

17 THE COURT: All right.

18 JUROR: I'm just being frank.

19 THE COURT: Yes, and I appreciate that. That
20 definitely was what I needed. Only you can --

21 JUROR: And it didn't strike me initially. I'm
22 thinking, just thinking through this rationally, I still feel I
23 would treat this impartially, but when I went and sat down, the
24 gears started turning, and I did question if I could remain
25 impartial.

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1 THE COURT: And you think this merely from thinking
2 about the fact that --

3 JUROR: The fact that --

4 THE COURT: Hold on.

5 JUROR: I'm sorry.

6 THE COURT: Just the fact that you might have occupied
7 the same space for some period of time, that alone would
8 trigger --

9 JUROR: Not the same space, but clearly shared
10 experiences, being in the same environment.

11 THE COURT: All right. Forgive me for expressing some
12 doubt, but I think everybody shares experiences with everybody
13 in some respect, whether it's going to Starbucks or, you know,
14 going on the subway, so --

15 JUROR: Certainly.

16 Bloomberg does have a bit of a quirky corporate
17 culture, so people that work there do empathize through these
18 things, whether they're shared likes or dislikes.

19 Honestly, again, I don't know if any -- none of the
20 people on the list are any names I recognize. Perhaps
21 something else comes up about a coworker that I might know. So
22 again, just putting it all out there to be transparent.

23 THE COURT: OK. I don't think there will be any
24 testimony about other people who work at Bloomberg. Does that
25 mitigate your concern?

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1 JUROR: Yes, it would.

2 THE COURT: Again, just to circle back to the question
3 I asked you earlier, recognizing that you can't tell the
4 future, if you felt some sort of feeling, favorable or
5 unfavorable, would you tell me?

6 JUROR: I would. I certainly would, yes.

7 THE COURT: OK. Why don't you step back to the deputy
8 desk, and I'll follow up with you.

9 JUROR: Thank you.

10 THE COURT: Thank you.

11 (Juror not present)

12 THE COURT: Thoughts?

13 MR. DENTON: I think, your Honor, this is going to end
14 up being vanishingly small in the scale of this trial, and it's
15 the only thing he really knows at this point, so it may be
16 occupying a larger space in his mind. I think that given where
17 we are with the jury venire as well, we'd be inclined to rely
18 on his representation that he would tell the Court if these
19 fears came to pass.

20 THE COURT: Mr. Schulte.

21 MR. SCHULTE: I mean the fact that he wanted to come
22 back and give more information, I agree that I think he would
23 tell the Court. So he seemed up front about it.

24 THE COURT: All right. I agree.

25 So carry on.

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1 (In open court)

2 THE COURT: Thank you. You can go back to your seat.

3 Counsel, can I see you at sidebar, and Mr. Schulte.

4 (At sidebar)

5 THE COURT: All right. I assume you have this, but
6 for the record, the government struck the following jurors: 2,
7 12, 14, 15, 16, and 27 from the regular jury pool; and 29 and
8 30 from the alternates.

9 The defendant struck 5, 6, 7, 13, 18, 19, 23, 24, 25,
10 and 27; and from the alternate pool, 33 and 34.

11 So there was one overlapping strike; namely, juror No.
12 27, and that means -- well, first, any motions?

13 From the government.

14 MR. DENTON: No, your Honor.

15 THE COURT: Mr. Schulte.

16 MR. SCHULTE: No.

17 THE COURT: That means that the remaining jurors are
18 the lowest 12 from the first 28, which are, by my count, juror
19 Nos. 1, 3, 4, 8, 9, 10, 11, 17, 20, 21, 22, and 26.

20 And then the alternates are the remaining four: 31,
21 32, 35, and 36.

22 First of all, any disagreement with that?

23 MR. DENTON: Not from the government.

24 THE COURT: Mr. Schulte.

25 MR. SCHULTE: No.

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1 THE COURT: And is the government satisfied with that
2 jury?

3 MR. DENTON: Yes, your Honor.

4 THE COURT: Mr. Schulte.

5 MR. SCHULTE: Yes.

6 THE COURT: OK.

7 So here's my plan. I'm going to dismiss the jurors
8 who were not selected, and then I'm going to have Mr. Lee or my
9 law clerk take the remaining jurors down to what will be their
10 jury room, to the courtroom downstairs; get contact information
11 from them, let them use the restroom, etc. What I would
12 propose is bringing them up to 15A for my preliminary
13 instructions, after which I think we will break for an extended
14 lunch for them, during which we can address any issues that we
15 need to address, whether it's the stipulations or otherwise,
16 and hopefully give Mr. Schulte an opportunity to test his
17 facility with the machine, etc., etc.

18 Does that make sense?

19 MR. DENTON: Yes, your Honor.

20 MR. SCHULTE: Yes.

21 THE COURT: OK. Bottom line is await further
22 instructions, but we'll reconvene in 15A after I excuse
23 everybody and then take it from there.

24 In the meantime, you should take the opportunity to
25 look at the stipulations that the government gave you this

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1 morning so that we're in a position to discuss whether we need
2 to discuss anything, and if so, in what setting. OK?

3 MR. SCHULTE: OK.

4 THE COURT: All right. Thank you very much.

5 (In open court)

6 THE COURT: All right. Ladies and gentlemen, thank
7 you very much for your patience.

8 As I said at the outset yesterday, I know this isn't
9 necessarily the place you'd like to be or what you'd most like
10 to be doing. But I very much appreciate it. As I said
11 yesterday morning, your involvement, role in this process is
12 really a critical one and essential to our system of justice,
13 which has now served us quite well for 230-some-odd years. So
14 I appreciate your patience and appreciate your presence.

15 With that, the moment of suspense will come to an end,
16 and I'm going to announce those jurors who have been selected
17 for our jury. Please do not go anywhere or do anything,
18 whether your name is called or otherwise. I will give further
19 instructions to those of you who will be excused. And then
20 after those have been excused, I'll give further instructions
21 to those who remain.

22 Our jury will be as follows:

23 Juror No. 1, Mr. Castro;

24 Juror No. 3, Ms. Ong;

25 Juror No. 4, Ms. Verner;

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1 Juror No. 8, Mr. Flores;
2 Juror No. 9, Ms. Rivera;
3 Juror No. 10, Ms. Ramirez;
4 Juror No. 11, Mr. Castillo;
5 Juror No. 17, Ms. Gillis;
6 Juror No. 20, Ms. Arena;
7 Juror No. 21, Ms. Arrington;
8 Juror No. 22, Mr. Williams;
9 Juror No. 26, Mr. Zablan;
10 Juror No. 31, Mr. Stillman;
11 Juror No. 32, Ms. Martin;
12 Juror No. 35, Mr. Ventura; and
13 Juror No. 6, Ms. Karapetyan.

14 If your name was not called, that means that you are,
15 in a moment, excused from jury service. What I'm going to do
16 is have Mr. Lee give your jury cards to one of you to take down
17 to the jury assembly room, but all of you should go down to the
18 jury assembly room and tell them that you have been excused
19 from this case, and you may well be sent for jury selection in
20 a different matter.

21 Let me express my thanks to you again. It may feel as
22 if you didn't do a whole lot, although all of you, it was
23 enough to answer questions. Sometimes there are jurors left
24 over whom I don't get to question, but in this case, it came
25 down to the wire. So all of you did answer questions, and I

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1 thank you both for your patience, your honesty in answering
2 those questions, and your role in this process.

3 It is a significant process, an important process. As
4 I've said several times, it helps ensure that there's a fair
5 and impartial jury to try the issues in this case and fairly
6 for both sides. So I thank you for the role that you have
7 played, and although you will not be seated as a juror, I
8 assure you that you have played a critical role in this
9 process.

10 With that, please take all of your personal belongings
11 that you have here. Please leave your questionnaires on your
12 seats. You can leave the pen or pencil as well if you'd like
13 or keep that as a souvenir.

14 With that, you are excused and may go down to the jury
15 assembly room.

16 If your name was called, please stay where you are and
17 I will give you further instructions in a few moments.

18 All right. For those of you who remain, my
19 congratulations, or condolences, as the case may be. I never
20 quite know what word to say, but certainly I thank you for your
21 role thus far and thank you for the role that you will be
22 playing in this trial.

23 Here's our game plan. This is actually not the
24 courtroom that we are going to be trying the case in. It's a
25 slightly larger room because of the jury pool size that we had.

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1 What we're going to do is in a moment I'm going to ask my law
2 clerk and/or Mr. Lee to escort you to the jury room. That's
3 the room that you will use for your deliberations when the time
4 comes for that and basically where you will come and go in the
5 mornings, in between when we escort you to the trial room.

6 Because of Covid, every courtroom has a jury room, but
7 it's not an especially large room. So during Covid what we've
8 done is basically changed relatively smaller courtrooms to be
9 used as jury rooms so that you can socially distance as you
10 wish, particularly when you're eating, etc., etc. Bottom line
11 is that's a long way of explaining that your jury room is
12 actually not on the floor with our courtroom, and it's going to
13 require some logistics for us to get you to and from the
14 courtroom.

15 What we're going to do now is I'm going to have my
16 staff escort you down to the jury room; that is, the courtroom
17 that we have changed to be a jury room. They're going to give
18 you some information regarding how to contact us if you need
19 to, and I'll discuss later what that may entail. They'll also
20 get some contact information from each of you, give you a juror
21 placard that you'll need or want to get in and out of the
22 courthouse, and so on and so forth.

23 After, from there, I'll give you a few minutes to
24 stretch, use the restroom, etc., etc. I will have them bring
25 you to the courtroom that we will use for the trial itself,

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1 where I'm going to give you some preliminary instructions about
2 your role as the jury, my role as the judge. And then I think
3 we'll probably break for lunch before we continue with the
4 case; namely, the parties' opening statements. But I will
5 explain more about that in my preliminary instructions.

6 For now, I'm going to give you a few instructions that
7 you are going to hear many, many, many times in the coming
8 weeks. But just because I'm going to repeat them doesn't mean
9 that they are not important. Actually, quite the opposite.
10 They are very critical instructions.

11 No. 1, do not discuss the case. All right? You're
12 now all selected as jurors in this case, and you'll be spending
13 time together and certainly will hear evidence. But you have
14 not heard any evidence whatsoever in this case yet, and it is
15 critical that you keep an open mind until all of the evidence
16 is in and it's time to begin your deliberations. Until then
17 and to ensure that you keep an open mind, you may not discuss
18 the case with one another and certainly not with anyone else.
19 Do not discuss the case. Do not tell your family, friends,
20 employers, anything about the case.

21 You may tell them that you have been selected to serve
22 on a criminal jury and approximately how long I've told you the
23 trial may last, but beyond that, please don't tell them
24 anything about the case, the name of the case, the nature of
25 the case, anything. That's very important.

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1 And then lastly, do not do any research about the
2 case. Don't look up anyone in the case, anything about the
3 case, as I've told you and will tell you again.

4 Please don't leave the jury room. It's not going to
5 be an especially long break. We need to obviously pick up and
6 relocate to the trial room ourselves, so it will be a few
7 minutes. And I also want to give you a few minutes to stretch
8 and use the restroom, and so forth. But it's not going to be
9 an especially long break, so for that reason, please stay in
10 the jury room, and don't wander. Definitely don't leave that
11 floor, and we will come get you when it's time to bring you to
12 the courtroom where I will give you my preliminary
13 instructions.

14 With those instructions, with my thanks, we'll see you
15 in a few minutes. If you could follow Mr. Lee and Ms. Coco,
16 they will take you down to the -- you can ask my law clerk, and
17 she'll pass it along. Thank you.

18 (Jurors not present)

19 THE COURT: All right. I assume there's nothing we
20 need to discuss before we reconvene in 15A. Is that correct?

21 Government.

22 MR. DENTON: Just one question, your Honor, so we can
23 be sure to avoid it, what floor are they using as their jury
24 room?

25 THE COURT: 11.

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1 MR. DENTON: Thank you.

2 THE COURT: I don't see any reason why anyone involved
3 in this case would be on the 11th floor, so you're under strict
4 instructions not to go to the 11th floor.

5 Mr. Schulte, anything else from you?

6 MR. SCHULTE: No, nothing.

7 THE COURT: All right.

8 I assume that getting Mr. Schulte to 15A will take
9 longer than it takes the rest of us to get there, but why don't
10 we reconvene and plan to talk in five or seven minutes.

11 Again, Mr. Schulte, I'll want to be what sort of
12 proceeding, if any, we'll need to discuss the stipulations,
13 since that will have a bearing on how long a break I take. So
14 I will see you in a few minutes, and we can discuss any open
15 issues at that time.

16 See you in 15A.

17 (Adjourned)

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