

**STATE OF NEW YORK
COMMISSION ON JUDICIAL CONDUCT**

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In the Matter of an Investigation :
Pursuant to Section 44, subdivision 4, :
of the Judiciary Law in Relation to :

WALTER W. JONES, :

a Judge of the Canandaigua Town Court, :
Ontario County. :

-----X

Hall of Justice, Courtroom 527
99 Exchange Boulevard
Rochester, New York 14614

August 21, 2025
9:30 a.m.

B e f o r e:

DAVID M. GARBER, ESQ.
Referee

P r e s e n t:

For the Commission
CASSIE M. KOCHER, ESQ., Senior Attorney

For the Respondent
CHARLES D. STEINMAN, ESQ., Attorney for Respondent

A l s o P r e s e n t:

- HON. WALTER W. JONES, Respondent
- DAVID P. STROMES, ESQ., Senior Litigation Counsel
- BETSY J. SAMPSON, Senior Investigator
- ALEXIS WENTWORTH, Investigator
- KATHRYN TRAPANI, Executive Assistant to the Deputy Administrator and FTR Operator

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MS. TRAPANI: The recorder's on.

THE REFEREE: Okay. Good morning.

JUDGE JONES: Good morning.

THE REFEREE: This is a hearing in the matter of Walter W. Jones, Canandaigua Town Court, Ontario County, pursuant to Section 44, subdivision 4 of the Judiciary Law.

My name is David Garber. And I have been appointed by the Commission on Judicial Conduct as a Referee to hear and report proposed findings of fact and the conclusions of law in this matter.

(Counsel confer)

THE REFEREE: I'll now take the appearances of Counsel.

First, the Commission, please?

MS. KOCHER: Good morning. My name is Cassie Kocher. It's K-O-C-H-E-R. I would also note the presence of David Stromes, S-T-R-O-M-E-S, an attorney with the Commission; as well as Senior Investigator Betsy Sampson, S-A-M-P-S-O-N; Investigator Alexis Wentworth, W-E-N-T-W-O-R-T-H; and Kate Trapani, T-R-A-P-A-N-I. Ms. Trapani is our FTR -- keeper of the recording equipment.

THE REFEREE: All right.

MR. STEINMAN: Good morning. Charles

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Steinman, S-T-E-I-N-M-A-N, Attorney for the Hon. Walter W. Jones, Jr., Judge of Canandaigua Town Court. I'm present with Judge Jones, who sits with me at counsel table.

THE REFEREE: Okay.

JUDGE JONES: And good morning. I'm Walter W. Jones, Jr., Town Court Justice in town of -- in the town of Canandaigua, Ontario County.

THE REFEREE: These proceedings are being digitally recorded by Ms. Trapani, who will go on and off the record at my direction. The recording will be transcribed.

In order to facilitate a clear and accurate record, please speak slowly, clearly, and directly into the microphone. Refrain from moving away from the microphone and talking over other speakers. Please refrain from creating any excessive background noise, as it becomes amplified on the recording.

No one may take any photographic images or electronic recordings of any portion of this proceeding, such as tape recordings, video recordings, digital, audio, or visual recordings.

Please turn off all cellphones and any other electronic equipment now.

I believe Ms. Trapani will keep a running list of exhibits, which will be provided to the transcriber for

1 inclusion in the appendix to the transcript. Commission
2 Counsel will use numbers. Respondent's exhibits, if any,
3 will be marked with letters. It is my function to indicate
4 clearly for the record whether or not each exhibit has been
5 received into evidence.

6 I believe Ms. Trapani will mark the stickers on
7 the exhibits; is that correct?

8 MS. KOCHER: We actually have the exhibits
9 electronically, and they already have the stickers on them,
10 so you can see the screen to --

11 THE REFEREE: Oh, okay.

12 MS. KOCHER: -- Mr. Garber, your right, and
13 everyone's left.

14 THE REFEREE: Um-hum.

15 MS. KOCHER: So the exhibits will be up there
16 with the exception of one.

17 I did provide an exhibit list to you, Mr. Garber --

18 THE REFEREE: Yes.

19 MS. KOCHER: -- as well as Counsel and Judge
20 Jones. I know there's a few that we want to address before
21 we start with the hearing. I don't know if this is the time, or
22 if you want to address them additionally.

23 THE REFEREE: Well, why don't I finished
24 this --

25 MS. KOCHER: Sure.

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THE REFEREE: -- statement first.

At the conclusion of the hearing, the original exhibits will be forwarded to the Clerk of the Commission, and the audio recording will be provided to the administrative staff for transcribing. When the transcripts are prepared, they will be distributed with copies of the admitted exhibits to the Counsel for Respondent, Commission Counsel, and me.

At the end of the hearing, we will discuss a schedule for submitting briefs with proposed findings of fact and conclusions of law. The Rules of Evidence apply -- to a non-jury trial will apply, and I will administer an oath to each witness.

Excuse me, do we have any preliminary matters?

Ms. Kocher, which you raised earlier?

MS. KOCHER: Yes. So as I mentioned, I did provide an exhibit list to all parties. This is a little bit different than the exhibit list that was previously sent.

There is Exhibit 2, that is listed and described in an Ontario County Jail surveillance footage. The hours are 17:55 hours to 19:03 hours. We will not be seeking to admit that exhibit.

THE REFEREE: Okay.

MS. KOCHER: So in our pre-hearing phone

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call, I know that was an issue we discussed, but --

THE REFEREE: Yeah.

MS. KOCHER: -- I think that's moot at this point, as we will --

THE REFEREE: Okay.

MS. KOCHER: -- not be seeking to admit Exhibit 2.

I do believe that Mr. Steinman has objections on hearsay grounds for Exhibits 3 and 4. Those are both text messages that Cali Anne Valenti sent shortly after the conversation with Judge Jones where the N-word was used.

As you can see, Exhibit 3 is identified as one sent at about 6:24 p.m. That is immediately after the conversation occurred. I believe that Ms. Valenti will testify she actually got in her car after the conversation and sent that text message, so I would submit that is admissible as an excited utterance, a present sense impression. As well as Exhibit 4, the time stamp on that is about an hour later at 7:24 p.m. Although, it's an hour later, I think those hearsay exceptions still apply.

Additionally, I believe that both exhibits would be admissible because they're not being offered for the truth of the matter, rather the effect on the listener and that she did report the conversation that she had with Judge Jones where he used the N-word.

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So I believe that they are admissible. We do have them electronically, as I mentioned before if you would like to see them, but I'm sure Mr. Steinman has some words he would like to say regarding them.

(Commission Exhibits 3, 4 were marked for identification)

THE REFEREE: Mr. Steinman?

MR. STEINMAN: Thank you.

I think Ms. Kocher acknowledges they are purely hearsay. So the issue is, do they fall within one of the recognized exceptions to the hearsay rule? I would respectfully disagree with the notion that they're excited utterances.

That's, "Wow, that car just ran the red light." While you're right there, it has to be -- the rules say it has to be contemporaneous with a -- with the event or very, very shortly thereafter, almost immediately thereafter, which would preclude her reflection.

Certainly, an hour afterwards does not preclude reflection, so I think that one's out.

I fail to see the relevance of the present -- of the effect upon the listener exception that Ms. Kocher relies upon. The issue is what was said by Judge Jones, not how it impacted -- he's not being charged with having upset any of the witnesses. I don't think any of that -- and there's no element of any of the charges here, that that tends to prove

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or disprove.

So for those reasons, I don't think that either of the texts are: A, relevant on the grounds of the -- for the purpose of indicating what the present sense of mind of the recipient of the information is. Secondly, I think because of the time, it's clearly not --

THE REFEREE: Um-hum.

MR. STEINMAN: -- an excited utterance, which has to be contemporaneous with the event.

THE REFEREE: Um-hum.

MR. STEINMAN: And secondly, and I just want to make sure -- this may be a non-issue, Ms. Kocher.

In reading over the texts as I have them, which may not be exactly as you have them. There are responses by non-witnesses to what was texted by the witness. And those, I think, clearly, are inadmissible for any purpose whatsoever.

THE REFEREE: Well --

MR. STEINMAN: I don't think you took out the one, but I -- at least what I see has other responses by non-witnesses.

MS. KOCHER: So you had previously raised an issue with Exhibit 4. There is a response in Exhibit 4. A text message response that we have redacted at Mr. Steinman's request. I had no objection to that, but this is

1 the first time you're referring to Exhibit 3.

2 MR. STEINMAN: Well, this is 4, as I am to be
3 corrected.

4 MS. KOCHER: Okay. So --

5 MR. STEINMAN: And this has this other
6 response in it.

7 MS. KOCHER: -- if maybe if we can pull up
8 Exhibit 4 --

9 MR. STEINMAN: And we have responses
10 from --

11 MS. KOCHER: -- because the Exhibit 4 that we
12 have marked is actually scrolled done a bit more, so one of
13 the responses, I don't think, is as visible.

14 So we have Exhibit 4 on the monitor here.

15 MR. STEINMAN: Yeah, that looks fine.

16 MS. KOCHER: So the Exhibit 4 that we have
17 marked, there's a response at the bottom in a gray bubble.
18 It's just the first sentence, "Hello, could you please send
19 me -- Anne". Are you okay with that?

20 MR. STEINMAN: I am, but --

21 MS. KOCHER: Okay.

22 MR. STEINMAN: -- it's the substance of the
23 blue portion with which I have a -- with which I have an
24 issue with.

25 Can you scroll it down just a little more, if I

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she wrote.

THE REFEREE: -- that you object to to this proposed exhibit?

MR. STEINMAN: Well, let's start with -- the exhibit says, "He thought it was fine." If she were to say that on the stand, I would object to that.

THE REFEREE: Yeah.

MR. STEINMAN: For example.

THE REFEREE: Well, she could expound upon that.

MR. STEINMAN: If the Court -- if you permit her to do so, but --

THE REFEREE: Yeah. Oh, yeah --

MR. STEINMAN: -- I would say she -- that's not common in testimony.

THE REFEREE: Well, I'm going to reserve on that until Ms. Valenti testifies.

MS. KOCHER: Okay.

MR. STEINMAN: If it makes life any simpler, there is no question that Judge Jones said the word that is the core of this conversation, so that's not an issue. And Ms. Valenti, no doubt, will testify to that, as well another witness, and indeed, as will Judge Jones. But it's the other extraneous matters which I --

THE REFEREE: Well, the part that you object

1 to is, let's say, "He thought it was fine." In which she's
2 reflecting on his state of mind; is that correct?

3 MR. STEINMAN: Correct.

4 THE REFEREE: Well, do you have any --
5 except for that sentence, do you have objection to Exhibit
6 4?

7 MR. STEINMAN: Well, I'm going to -- I'm
8 going to stand on just my general objection on the grounds
9 of hearsay, and it not falling within any recognized
10 exceptions --

11 THE REFEREE: Um-hum.

12 MR. STEINMAN: -- to the hearsay rule.

13 The witness is here --

14 THE REFEREE: Yeah.

15 MR. STEINMAN: -- and can testify freely
16 about what's in there.

17 THE REFEREE: Um-hum. Um-hum.

18 MR. STEINMAN: And that's why I submit this
19 is bolstering, which is --

20 THE REFEREE: Yeah.

21 MR. STEINMAN: -- one of the other words
22 for --

23 THE REFEREE: Yeah.

24 MR. STEINMAN: -- that particular form of
25 hearsay. It's true now because I wrote it before.

1 THE REFEREE: Well --
2 MR. STEINMAN: It's not admissible.
3 MS. KOCHER: Well, I --
4 THE REFEREE: Yeah. Oh --
5 MS. KOCHER: -- I would just argue what -- as
6 I did earlier.
7 THE REFEREE: Yeah.
8 MS. KOCHER: It's also not being offered for
9 the truth of the matter, which would make it hearsay.
10 THE REFEREE: Yeah, yeah.
11 MS. KOCHER: It's being offered for the effect
12 on Ms. Valenti. Mr. Steinman will have the opportunity to
13 cross-examine her --
14 THE REFEREE: Um-hum.
15 MS. KOCHER: -- about the contents of the text
16 message, if he wishes.
17 THE REFEREE: Well, when you bring in Ms.
18 Valenti to testify, is she going to -- are you going to refer to
19 Exhibit 4?
20 MS. KOCHER: Yes, I was going to, and I
21 believe there's a stipulation for the foundation of it. I
22 mean --
23 THE REFEREE: Um-hum.
24 MS. KOCHER: -- she will say that, "I got in my
25 car. I sent a text message" --

(Matter of Walter W. Jones)

1 THE REFEREE: Um-hum.

2 MS. KOCHER: -- "immediately." Which is
3 Exhibit 3, which -- and then, later she sent this, what we
4 have as Exhibit 4. So she can identify the text messages --

5 THE REFEREE: Yeah.

6 MS. KOCHER: -- and the time stamp, and the
7 accuracy of their contents, but he will also have the
8 opportunity to cross-examine her.

9 THE REFEREE: Yeah. I will reserve on that
10 until Ms. Valenti appears and testifies.

11 MS. KOCHER: Okay. And will -- are you also
12 reserving on Exhibit 3?

13 THE REFEREE: Well --

14 MS. KOCHER: Or would you like to see
15 Exhibit 3 as well?

16 THE REFEREE: Yeah. Can we see Exhibit 3,
17 please?

18 MS. KOCHER: Sure.

19 THE REFEREE: Okay. I'll reserve on that as
20 well.

21 MR. STEINMAN: And may I ask about the
22 gray bubble? Because, again, that's from a non-declarant.

23 MS. KOCHER: I would have no objection to
24 redacting that. I'm not sure --

25 THE REFEREE: Okay.

1 MS. KOCHER: -- that we can do that.

2 Ms. Trapani, we can redact it? Okay. Thank
3 you.

4 THE REFEREE: Um-hum.

5 MR. STEINMAN: Just a housekeeping matter,
6 if I may? There are microphones in this Court, but I don't
7 think anything is coming out of the speakers. And Judge
8 Jones wears hearing aids, so the sound bouncing around
9 this room may be difficult without the speakers being on.
10 May I ask that those be turned on?

11 MS. KOCHER: I think the speakers are for the
12 monitor.

13 MR. STEINMAN: Well, there's microphones
14 all over.

15 MS. KOCHER: Those microphones are for our
16 recording equipment. It's not linked to the court.

17 THE REFEREE: Well --

18 MS. KOCHER: Because this is a confidential
19 proceeding, we can't link into the court equipment. Is
20 Judge Jones having issues hearing right now?

21 MR. STEINMAN: Yes.

22 JUDGE JONES: Yes.

23 MS. KOCHER: Okay. Maybe -- I know -- I
24 believe in the Hall of Justice, they have headphones that
25 can be worn.

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MR. STEINMAN: Well, he's got hearing aids now, so if we're not -- if we're not linked into that system, I don't know that it's going to do any good. If what you're receiving on your headphones can't be played on any other headphones, then I don't think it makes any difference.

MS. TRAPANI: I only have the one headphone jack. And to be honest, it's a very quiet recording. Even with the volume turned all the way up, it's difficult for me to hear it. Just because you aren't speaking right into the microphone, so I don't know that that would help either. So I don't know how to remedy this situation.

MS. KOCHER: Do you want -- I mean, I'm not familiar with the court equipment here. I can step out and ask the IT people. I mean, they have people come for jury duty all the time that have hearing issues, and I know they accommodate them. So maybe if we just take a brief recess, and we can contact them.

THE REFEREE: Well, why don't we do that, and see if we can accommodate the Judge.

MS. KOCHER: Okay. Sure.

MR. STEINMAN: Thank you very much.

MS. KOCHER: It's important that he hears, so yeah. Okay. Thank you. We'll go off the record.

THE REFEREE: We're off the record.

MS. KOCHER: Thank you.

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Sure.

(Recess from 9:48 a.m. until 9:54 a.m.)

MS. TRAPANI: We're back on the record.

THE REFEREE: Let the record show that Judge Jones has been given a hearing amplifier, so that he can hear the testimony of the witnesses, and that the device is working.

MS. KOCHER: Judge Jones, are you able to hear THE REFEREE?

MR. STEINMAN: No.

MS. KOCHER: I'm seeing some headshaking. No?

THE REFEREE: Well, Judge --

JUDGE JONES: Judge -- I'm sorry, Judge.

THE REFEREE: Can you hear me now?

JUDGE JONES: A little better.

THE REFEREE: Hello?

MR. STEINMAN: You're supposed to point that.

THE REFEREE: Let's go off the record for a moment.

JUDGE JONES: I tried that.

MR. STEINMAN: Oh.

THE REFEREE: Can you hear me?

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(Recess from 9:55 a.m. until 9:55 a.m.)

THE REFEREE: Ms. Kocher, do you want to make an opening statement?

MS. TRAPANI: One moment. I just want to make sure that we're recording.

THE REFEREE: Oh, okay.

MS. TRAPANI: If you could start a little bit --

THE REFEREE: Oh.

Ms. Kocher, do you want to make an -- is it recording?

MS. KOCHER: Are we on?

MS. TRAPANI: Yeah.

THE REFEREE: Yeah.

Do you want to make an opening statement?

MS. KOCHER: I spoke with Mr. Steinman earlier. I believe we're willing to waive openings and go right into the proof.

MR. STEINMAN: That's correct. We'll waive opening, reserving the right to provide written submissions to you following close and proofs.

THE REFEREE: Sure.

MS. KOCHER: Actually, I'm sorry. Mr. Garber, before we do call the first witness.

Just as far as the exhibits go, so it's my understanding, Mr. Steinman, you have no objection to

(Matter of Walter W. Jones)

1 Exhibit 1, and that can be marked received?

2 MR. STEINMAN: Correct.

3 (Commission Exhibit 1 was marked for identification)

4 (Commission Exhibit 1 was admitted into evidence)

5 MS. KOCHER: As I mentioned earlier, Exhibit
6 2 will not be offered.

7 Do you have any objections to Exhibit 5, 6, 7, 8,
8 9 or 10 being received?

9 MR. STEINMAN: No.

10 (Commission Exhibits 5, 6, 7, 8, 9, 10 were marked for
11 identification)

12 THE REFEREE: Then they are received.
13 (Commission Exhibits 5, 6, 7, 8, 9, 10 were admitted into
14 evidence)

15 MS. KOCHER: Thank you. I don't believe I
16 have anything else.

17 THE REFEREE: Any other preliminary
18 matters?

19 MS. KOCHER: No.

20 Mr. Steinman?

21 THE REFEREE: Well, why don't you begin.

22 MS. KOCHER: Okay. The Commission will
23 call Cali Anne Valenti.

24 THE REFEREE: Sure.

25 (Counsel confer)

(Matter of Walter W. Jones)

1 THE REFEREE: Good morning.

2 MS. VALENTI: Good morning.

3 THE REFEREE: Now, Ms. Valenti, before we
4 begin, please sit down.

5 This proceeding is being digitally recorded, so
6 it's very important that you speak into the microphone and
7 that you refrain from moving away from the microphone.

8 And I will now swear you in.

9 Oh, well, I moved away from the microphone.
10 Let me swear you in.

11 MS. VALENTI: Okay.

12 THE REFEREE: Do you swear or affirm under
13 the penalty of perjury that your testimony here today will
14 be the truth, the whole truth, and nothing but the truth?

15 MS. VALENTI: Yes.

16 THE REFEREE: Okay.

17 MS. KOCHER: May I?

18 THE REFEREE: Please.

19 MS. KOCHER: Thank you.

20

21 MS. CALI ANNE VALENTI,

22 having been duly sworn, was examined and testified as follows:

23

24 DIRECT EXAMINATION

25 BY MS. KOCHER:

(Cali Anne Valenti - Direct)

1 Q. Good morning.

2 A. Good morning.

3 Q. Could you please state and spell your name for the record?

4 A. Cali Anne Valenti. My first name is two parts, C-A-L-I, space,
5 A-N-N-E; Valenti, V-A-L-E-N-T-I.

6 Q. And is Valenti your married name?

7 A. Yes, it is.

8 Q. [REDACTED]?

9 A. [REDACTED].

10 Q. And Ms. Valenti, are you here pursuant to a subpoena?

11 A. Yes.

12 Q. Could you tell us a little bit about your educational background?

13 A. I went to St. John Fisher College. I graduated from there for undergrad.
14 Then, I went to the University of Dayton for law school.

15 Q. When did you graduate from St. John Fisher?

16 A. In 2018.

17 Q. And what did you study there?

18 A. I studied Criminal Justice and Pre-Law.

19 Q. And then, you did end up going on to law school?

20 A. Yes.

21 Q. What year did you graduate from the University of Dayton Law School?

22 A. 2021.

23 Q. And are you admitted to practice law in any states?

24 A. Just New York.

25 Q. About when were you admitted to the New York Bar?

(Cali Anne Valenti - Direct)

1 A. In February of '22.

2 Q. Are you currently employed?

3 A. Yes.

4 Q. Where do you work?

5 A. The Ontario County Public Defender's Office as an Assistant Public
6 Defender.

7 Q. And how long have you been an Assistant Public Defender with the
8 Ontario County Public Defender's Office?

9 A. I started in October 2021 as just like a Junior Attorney. Once I was
10 sworn in in February, that's when I became an Assistant Public Defender.

11 Q. And is that a full-time job?

12 A. Yes.

13 Q. What are some of your duties as an Assistant Public Defender?

14 A. I work in Canandaigua Town Court, as well as our Treatment Court,
15 which is a Mental Health Court and Drug Court. And then, I'm also on
16 call a few times a month to handle arraignments at the jail.

17 Q. What type of cases are you handling, misdemeanors, felonies?

18 A. I handle misdemeanor offenses. And then in Treatment Court, I courtesy
19 supervise felonies and misdemeanors.

20 Q. Now, you mentioned you're assigned to Canandaigua Town Court?

21 A. Yes.

22 Q. How long have you been assigned there?

23 A. I believe somewhere in '22, '23, there was another Attorney before me,
24 and I took over when she left.

25 Q. Okay. And how many Judges are there in Canandaigua Town Court?

(Cali Anne Valenti - Direct)

1 A. Two.

2 Q. Who are those Judges?

3 A. There is Judge Walter Jones and Judge Prull. I believe it's David Prull. I
4 just call them "Judge" with their last names, so --

5 Q. Sure. Is Prull, P-R-U-L-L-?

6 A. Yes.

7 Q. And do you see Judge Jones in the courtroom?

8 A. Yes, I do.

9 Q. Could you identify him?

10 A. He is sitting with a blue and green tie and a dark navy blue jacket.

11 MS. KOCHER: All right. Mr. Garber, could
12 you let the record reflect that Judge Jones has been
13 identified by the witness?

14 THE REFEREE: Yes.

15 MS. KOCHER: Thank you.

16 BY MS. KOCHER:

17 Q. All right. Now, Ms. Valenti, you mentioned that you also are on call for
18 arraignments?

19 A. Yes.

20 Q. Is that what's commonly referred to as a Centralized Arraignment Part?

21 A. Yes, sorry. We call it CAP for short.

22 Q. Sure. C-A-P?

23 A. Yes.

24 Q. And how often are you assigned to the CAP arraignments?

25 A. Typically, anywhere from three to six times a month, depending on

(Cali Anne Valenti - Direct)

1 people's schedules.

2 Q. And when do those occur in the day?

3 A. Every morning at 7:30 a.m. and 5:30 p.m.

4 Q. Where do they take place?

5 A. At the Ontario County Jail right in the entrance way.

6 Q. Are those arraignments recorded in any way?

7 A. Yes.

8 Q. How so?

9 A. It's audio recorded.

10 Q. And is there one Judge assigned to all these arraignments, or do they
11 rotate?

12 A. They rotate.

13 Q. Are there occasions where Judge Jones has presided over the CAP Court?

14 A. Yes.

15 Q. Now, is there anyone from the District Attorney's Office typically there
16 for those arraignments?

17 A. They appear by telephone.

18 Q. And now, Ms. Valenti, I'd like to take you back to May 10th of 2024.

19 Were you covering the CAP Court that day?

20 A. Yes.

21 Q. And do you recall if it was the morning or the afternoon session?

22 A. It was the afternoon session.

23 Q. So that would have started around 5:30 p.m.?

24 A. Yes.

25 Q. And what Judge was assigned to arraignments that day on May 10, 2024?

(Cali Anne Valenti - Direct)

1 A. It was Judge Jones.

2 MS. KOCHER: If you could pull up Exhibit 9,
3 please? It's been received into evidence.

4 BY MS. KOCHER:

5 Q. All right. Ms. Valenti, we have Exhibit 9 on the monitor to your right.
6 It's a one-page document that lists out the months of 2024 with the days
7 of the month and the days of the week. What day of the week was May
8 10, 2024?

9 A. It was a Friday.

10 Q. And typically, how would you get to the Ontario County Jail for the CAP
11 Court?

12 A. I'd drive my car to the jail.

13 Q. And what kind of car did you have back in May of 2024?

14 A. It was a [REDACTED]. [REDACTED], I believe.

15 Q. Okay. Is that a sedan, SUV, van?

16 A. SUV.

17 Q. All right. Now, after CAP Court was over, did you leave the Ontario
18 County Jail?

19 A. Yes.

20 Q. Who, if anyone, did you leave with?

21 A. I left with Judge Jones and Kristen Bartolotta, who is the Clerk for
22 Canandaigua Town Court.

23 Q. Had she also been present for the CAP arraignments that evening?

24 A. Yes.

25 Q. Does she typically go when Judge Jones is the assigned Judge?

(Cali Anne Valenti - Direct)

1 A. Yes.

2 Q. And as you -- you mentioned that the CAP arraignments happen right in
3 the lobby of the jail?

4 A. Yes.

5 Q. You walk out the front door of the jail?

6 A. Yes.

7 Q. And you left with Ms. Bartolotta and Judge Jones?

8 A. Yes.

9 Q. And where did you go?

10 A. We went to Judge Jones' vehicle in the parking lot.

11 Q. Could you, kind of, describe the parking lot?

12 A. So when you're -- if you're walking out of the jail, like, looking at the
13 parking lot. On the right side, there are a few reserved spots. One for the
14 Public Defender that's on call for the jail, one for the District Attorney's
15 Office, one for the Judge, and one for the Police Department.

16 Q. And was the Judge parked in one of those assigned spots?

17 A. Yes.

18 Q. Is the parking lot for the jail a public parking lot?

19 A. Yes, it is.

20 Q. You don't need a pass card to get in?

21 A. No.

22 Q. Okay. There's like no gates that close it off or anything?

23 A. No.

24 Q. And as you left the jail that evening and walked towards the Judge's car,
25 what happened?

(Cali Anne Valenti - Direct)

1 A. So when we were walking, it's because Judge Jones -- it was right before
2 Mother's Day, and he had a gift for his wife that he wanted to show us.
3 He had also said that he had a few books to give me.

4 Q. Now you mentioned a Mother's Day gift. We still have Exhibit 9 up on
5 the monitor. Do you know what day Mother's Day was on in 2024?

6 A. I believe it was the 12th. I believe Mother's Day is usually on the
7 Sunday, so it was the 11th or 12th.

8 Q. Okay. So just a few days later. This was May 10th?

9 A. Yes.

10 Q. Okay. And did you go to the Judge's car?

11 A. Yes.

12 Q. And what happened next?

13 A. So the gift for his wife was in the trunk. It was a bouquet of wooden
14 flowers. He showed us that, and then he gave me two or three books.

15 Q. And what happened after you saw the gift?

16 A. So after I saw it, he handed me the books, and we started to have a
17 conversation about the books. They were murder-mystery-type books
18 from -- located in the south, and Judge Jones had indicated that he's from
19 the south, so they were interesting to him, and he wanted to share them
20 with me.

21 Q. Did you ask him for the books?

22 A. I did not.

23 Q. Okay. How did you feel when he was giving you the books?

24 A. I am someone who gets very nervous about how I appear, just in the
25 public with my peers, with other Attorneys, with Judges. And so, you

(Cali Anne Valenti - Direct)

1 know, I'm always a little worried about who might have been around,
2 who saw that and might think that, you know, there's some kind of bias
3 or, you know, a different kind of relationship with the Judge that might
4 impact, you know, how cases --

5 MR. STEINMAN: I'm going to object. I fail to
6 see the relevance of her view of what other people might
7 think about her relationship between herself and Judge
8 Jones.

9 MS. KOCHER: Well, I think she was
10 explaining how she feels, and --

11 MR. STEINMAN: And I --

12 MS. KOCHER: -- why she was concerned.

13 THE REFEREE: Yeah.

14 MR. STEINMAN: And I don't see the relevance
15 of it.

16 THE REFEREE: Yeah. Overruled.

17 BY MS. KOCHER:

18 Q. Ms. Valenti, I'm sorry. You were saying --

19 A. You're okay.

20 Q. -- you had some concerns.

21 A. Yeah. I mean, in this job, I hear a lot of being called, you know, public
22 pretenders. That we work with the court. That we work with the DA's
23 office, and so I try very hard to separate myself and not do anything that
24 could potentially feed into those stereotypes and stay very independent
25 from it all.

(Cali Anne Valenti - Direct)

1 Q. You mentioned the books were set in the south?

2 A. Yes.

3 Q. And did the Judge explain that to you?

4 A. Yes. He had told us he lived in the south a bit. That his grandpa and dad
5 lived in the south, and he then shared a story with us about that time.

6 Q. Okay. What's the story that he shared with you?

7 A. Do I say the word? There --

8 Q. So during the conversation --

9 A. There --

10 Q. -- there was a word used there?

11 A. Yeah, so the N-word was used during the story. And so I just don't know
12 if I should say that word, or can say the N-word.

13 Q. So when you say "the N-word", are you referring to the word that's
14 spelled N-I-G-G-E-R?

15 A. Yes.

16 MR. STEINMAN: Okay. I think, Mr. Garber,
17 unless you have a concern if -- as long as with the
18 understanding that when Ms. Valenti says "N-word", she's
19 referring to that word without actually saying that?

20 THE REFEREE: That's fine.

21 MS. KOCHER: Okay. Thank you.

22 THE WITNESS: Thank you, Judge. Thank
23 you.

24 THE REFEREE: Um-hum.

25 A. So the story was that when Judge Jones' grandfather and dad lived in the

(Cali Anne Valenti - Direct)

1 south for many years. And that Judge Jones' grandfather had, you know,
2 a farm -- had a property of land. I believe it was a cotton field. And he
3 would have -- he had workers, black workers, on the field. And Judge
4 Jones' dad would work on the field during the day with his -- with his
5 father, Judge Jones' grandfather's workers. And one of the rules that had
6 been set up is that if Judge Jones' dad was slower than the workers that
7 day, that he would be punished. There's usually some kind of corporal
8 punishment with that. So one of the workers, who was referred as "N-
9 word Harry" (phonetic) figured that out and told all the rest of the
10 workers to let Judge Jones' father be ahead of everyone, so that he
11 wouldn't get those consequences.

12 Judge Jones then went on to say that his father and, again, N-word Harry
13 became friends, would go hunting together, spend time together, and they
14 had really a friendship that blossomed. At some point, they separated.
15 Kind of, life happened. They no longer really spent time together.
16 When Judge Jones was young, he moved to the south, and he was
17 surprised to see that there was segregation. The example he used was
18 with the water fountains, but that when he was there, he was in the car
19 with his dad one time, and they happened to see, all grown up, Harry.
20 And his dad yelled out of the car, "N-word Harry, N-word Harry" to get
21 his attention. And they then offered Harry a ride in the car and brought
22 him to a building.

23 BY MS. KOCHER:

24 Q. I'm going to back you up just a bit. So you said Judge Jones' grandfather
25 and father lived on a farm?

(Cali Anne Valenti - Direct)

1 A. Yeah, I don't know that it was really a farm, but they had land, and they
2 had crops on the land.

3 Q. Okay. And do you know where in the south? Did he mention that?

4 A. I don't recall him saying where exactly it was in the south.

5 Q. Okay. You said there was a rule established. Who did the Judge tell you
6 established that rule?

7 A. So it would have been his grandfather set it up for his father.

8 Q. Okay. So if Judge Jones' father was too slow in the fields or slower than
9 the other workers, he would be punished.

10 A. Yes.

11 Q. And it was Harry who, kind of, got quick to that rule?

12 A. Yes.

13 MR. STEINMAN: Objection. State of mind of
14 Harry. How is it possible for this witness to define that
15 from what Judge Jones was saying whether or not he got
16 quick to that rule?

17 MS. KOCHER: I'm just asking her to clarify
18 her story on what she heard.

19 THE REFEREE: Well, what was the question
20 again, please?

21 MS. KOCHER: I believe I asked, and it was
22 Harry who got quick to the rule or learned that that rule was
23 in place.

24 THE REFEREE: Overruled.

25 BY MS. KOCHER:

(Cali Anne Valenti - Direct)

1 Q. So Harry came to understand that if the Judge's father worked too slow,
2 he would get punished?

3 A. Correct.

4 Q. Was Harry a black man?

5 A. Yes.

6 Q. Now, when the Judge was telling the story, did he say N-word Harry?

7 A. Yes. He said the full word.

8 Q. But he didn't say just N-word, he actually said the full word, spelled
9 N-I-G-G-E-R?

10 A. Correct.

11 Q. About how many times do you think the Judge said the N-word during
12 the story?

13 A. So I know he said at the beginning of the story in kind of introducing the
14 players, he said the -- he said it about twice. And then towards the end of
15 the story when they were reuniting in the vehicle, he said it another two
16 times.

17 Q. Now when he was introducing the characters to the story, did he say, "My
18 father called him N-word Harry", or did he just say, "N-word Harry"?

19 A. He was saying that his father called him that and introduced him that
20 way.

21 Q. Okay. And throughout the telling of this story, he -- when he referred to
22 Harry, it was always N-word Harry?

23 A. Yes.

24 Q. Can you describe what the Judge's volume was like as he told the story?

25 A. So it started out pretty reasonable. As the story went on, his volume

(Cali Anne Valenti - Direct)

1 increased. Especially at the end, he seemed to be, you know, really
2 acting out the story with his words. So when he was explaining that his
3 father had yelled out the car, his voice increased, and he also yelled what
4 his -- he said his father did.

5 Q. Okay. So he was yelling the N-word?

6 A. Yes.

7 Q. The full word?

8 A. Yes.

9 Q. Now when the Judge first said the N-word, what did you think?

10 A. I didn't really know what to think. I was very surprised. It's not
11 something that you really hear anymore, especially in public settings.

12 Q. As he continued to use the N-word, how did you feel?

13 A. The whole time I was standing there, I was just thinking, "How do I get
14 out of this conversation? And how quickly can I text my boss about this
15 to see what to do?" I also was very concerned about who may be around,
16 and who was listening, so that -- I was, kind of, all over the place with
17 my feelings.

18 Q. Okay. You mentioned that you were thinking, "How can I get out of here
19 as quickly as possible?"

20 A. Um-hum.

21 Q. Why did you feel that way?

22 A. Just because I, kind of out of the corner of my eye, had seen other people
23 walking around. I had seen another vehicle where I was standing to the --
24 kind of to the left, behind a little bit. And there was someone in the car,
25 and the window was down. So you know, I was concerned that that

(Cali Anne Valenti - Direct)

1 person might have been hearing what was going on. And we just -- in the
2 County, especially, you know, we have a diverse population, and you
3 know, I'm a regular at the jail, so I was, you know, worried that clients
4 might see me. Other, you know, Officers might see me for part of that
5 conversation.

6 Q. And you mentioned that there was a car, kind of, behind you or off to
7 your left?

8 A. Yes.

9 Q. About far away was that car?

10 A. Within four or five parking spaces.

11 Q. And those are standard parking spaces?

12 A. Yes.

13 Q. So would you say a parking space is maybe, like, eight to ten-feet wide?

14 A. Yes.

15 Q. And the window was down in that car?

16 A. Yes.

17 Q. You thought you saw someone in the car?

18 A. Yes.

19 Q. Where was that person seated?

20 A. It appeared they were sitting in the driver's seat, and the -- I believe the
21 car was backed into the spot.

22 Q. So would the driver's side have been closest to you?

23 A. Yes.

24 Q. Was there anything blocking your view of that car, any other cars parked?

25 A. No.

(Cali Anne Valenti - Direct)

1 Q. Could you tell if that car had music on, or there was some other noise
2 coming from it?

3 A. It did not.

4 Q. Did you also notice people walking around in the parking lot?

5 A. Yes, I did.

6 Q. Do you know about how many?

7 A. At least, there were three or four people coming out of the jail.

8 Q. Okay. All right. Ms. Valenti, I'd like to pull up Exhibit 1 on the monitor
9 to your left. Or I'm sorry, your right.

10 [Video was played]

11 MS. KOCHER: Okay. If we could pause it?

12 Let me grab my glasses here.

13 [Video was paused]

14 BY MS. KOCHER:

15 Q. All right. Ms. Valenti, we have Exhibit 1 that's been received into
16 evidence on the monitor. We have it paused right at the beginning. You
17 see the time stamp in yellow. It's 5/10/2024; and then, the time is
18 18:11:27; is that correct?

19 A. Yes.

20 Q. Okay. Do you recognize what is in this still image right now?

21 A. Yeah, so I'm in the orange shirt, and I'm walking out of the jail. Then
22 there's Kristen Bartolotta behind me, and Judge Jones behind her. And
23 then, in front of us is the parking lot.

24 Q. Okay. So is this an image of the Ontario County Jail parking lot?

25 A. Yes.

(Cali Anne Valenti - Direct)

1 Q. And was this about the time that you left the CAP arraignments on May
2 10, 2024?

3 A. Yes.

4 Q. Okay. And this image shows you walking out with Ms. Bartolotta and
5 Judge Jones?

6 A. Yes.

7 Q. Okay. Now, you mentioned you see yourself in the image?

8 A. Yes.

9 Q. Are you in, like, the orangey, kind of, pink shirt?

10 A. Yes. And the long hair.

11 Q. Okay.

12 THE REFEREE: Excuse me. On the far left?

13 THE WITNESS: Yes.

14 THE REFEREE: Okay.

15 BY MS. KOCHER:

16 Q. And to your right, kind of, in the middle there, you just see a brown head.
17 Is that Ms. Bartolotta?

18 A. Yes.

19 Q. And then off to the right of Ms. Bartolotta, you can see the top of the
20 Judge's head?

21 A. Yes.

22 Q. Okay. Do you recognize any of the vehicles in the parking lot?

23 A. Yes. So my vehicle, actually, is the only darker vehicle in the -- kind of
24 off to the left center. It's backed into a spot. It's the [REDACTED] [REDACTED]. And
25 then Kristen Bartolotta's vehicle is the [REDACTED] [REDACTED] kind of, just behind it,

(Cali Anne Valenti - Direct)

1 off to the right. And then, Judge Jones' vehicle is the, like, [REDACTED]
2 car to the far right. Kind of, in front of that SUV that I saw the person in.

3 Q. Okay. So it's fair to say that your vehicle and Ms. Bartolotta's vehicles
4 are -- they're not exactly trunk to trunk, but the trunks are facing each
5 other --

6 A. Yes.

7 Q. -- in the middle of the frame?

8 A. Yes.

9 Q. And yours is the darker vehicle?

10 A. Yes.

11 Q. And Judge Jones' car is the one off to the right, closest to the jail?

12 A. Yes.

13 Q. Okay.

14 MS. KOCHER: If we could let this play?

15 [Video was played]

16 BY MS. KOCHER:

17 Q. Right now as we let Exhibit 1 play, Ms. Valenti, does this appear that
18 you, Ms. Bartolotta, and Judge Jones are walking towards Judge Jones'
19 car?

20 A. Yes.

21 Q. All right. And the video continues to play. We're about at 18:12:25. It
22 appears that the three of you went to the trunk of the Judge's car; is that
23 correct?

24 A. Yes.

25 Q. And what was happening as you were at the trunk of the car?

(Cali Anne Valenti - Direct)

- 1 A. So that is where the gift for his wife was, as well as the books he had to
2 give me.
- 3 Q. Okay. So that's what you were discussing as you stood at the trunk of the
4 car?
- 5 A. Yes.
- 6 Q. All right. Now, we're -- just saw somebody walk out of the jail. It's
7 about 18:12:45 or so?
- 8 A. Yes. Oh, I'm sorry. That was you saying that.
- 9 Q. No.
- 10 A. Yes.
- 11 Q. Now, that person that exited the jail went off to the left of the screen; is
12 that correct?
- 13 A. Correct.
- 14 Q. And there's a car parked over to the far left, correct?
- 15 A. Yes.
- 16 Q. A white car?
- 17 A. Yes.
- 18 Q. All right. So now we're at about the time stamp 18:13:50. Does it appear
19 that you, Ms. Bartolotta, and Judge Jones are walking back to the front of
20 his car?
- 21 A. Yes.
- 22 Q. And what were -- what were you talking about at this point?
- 23 A. So at this point, Kristen was -- started to take pictures of Judge Jones'
24 vehicle because of how it was parked.
- 25 Q. And how was it parked?

(Cali Anne Valenti - Direct)

1 A. So it was parked in two different spots. It's why I parked off to the side.
2 Usually, I'd park on that side, but I couldn't quite do that because of how
3 his car was parked.

4 Q. Okay. So the Judge was parked in the assigned Judge's parking spot?

5 A. The back of the car, yes. The front of the car was off, kind of, at an angle
6 to the right.

7 Q. Okay. And would that have been impeding on the spot for the Assistant
8 Public Defenders?

9 A. Yes.

10 (Counsel confer)

11 BY MS. KOCHER:

12 Q. Okay. And what happened next as you watched the video play?

13 A. So after that conversation, that's when he gave me the books, and the
14 story started about his dad and grandfather.

15 Q. Okay. So you're towards the front of his car?

16 A. Yes.

17 Q. And you had mentioned that there was a car nearby with someone in the
18 driver's seat. Do you see that car in this image?

19 A. Yes, I do.

20 Q. What car is that?

21 A. It looks like -- I don't know the specific car, but it's behind his -- to the
22 right of his vehicle. Kind of behind in this video. And it looks like it's a
23 white SUV, maybe sedan-type of car.

24 Q. Okay. So when you say you don't know the specific vehicle, you don't
25 know the make or model of it?

(Cali Anne Valenti - Direct)

1 A. Correct.

2 Q. But there's a car parked next to Judge Jones' car that's further away from
3 the jail?

4 A. Yes.

5 Q. It's in the same row as Judge Jones' car; is that fair to say?

6 A. Yes.

7 Q. Okay. And it's white -- whitish in color?

8 A. Yes.

9 Q. And that was the vehicle where you saw someone in the driver's seat.

10 A. Yes.

11 Q. And you were able to tell that the window was down?

12 A. Yes.

13 Q. About how long did the story take Judge Jones to tell?

14 A. I'm not the best with time. It was at least, I believe, a five-minute story
15 because it wasn't just a story there. It's, kind of, the part leading up to it.
16 I'm not the best gauger of time though.

17 Q. Okay. Now, here we're at about 8:16 and 20 seconds in the time stamp.

18 Are you still able to see someone off to the left of the screen?

19 A. Yes.

20 Q. Okay. And were you aware that that person was also in the parking lot
21 while the story was being told?

22 A. Yes.

23 Q. About how far away do you think that individual was from you?

24 A. Oh, golly. I don't know that I can say. I'm not great with distances.

25 Q. Okay. Would you say it was more than 50 feet?

(Cali Anne Valenti - Direct)

1 A. I know that -- yeah, it had to be more than at least a 100 feet. Just given,
2 kind of, my judgment with how the distance between the two cars, and
3 how much bigger the parking lot is.

4 Q. Sure. All right. So now we're about 16:18 minutes.

5 MS. KOCHER: Ms. Trapani, if we could
6 maybe fast-forward a bit to about 18:21 and 30 seconds?
7 Okay.

8 BY MS. KOCHER:

9 Q. So here we are at about 18:21:30. Are you still out in front of Judge
10 Jones' car with the Judge and Ms. Bartolotta?

11 A. Yes.

12 Q. And do you see two individuals walk out of the jail --

13 A. Yes. Oh, sorry.

14 Q. -- as we're continuing to let it play?

15 A. Yes.

16 (Counsel confer)

17 BY MS. KOCHER:

18 Q. And now we're at -- as this continues to play, the time stamp is about
19 18:22:40, do you see an individual in front of the jail again here?

20 A. Yes.

21 Q. And what are you and Ms. Bartolotta doing at this point in the video?

22 A. We are walking back to our cars.

23 Q. Okay. So at this point, the story's over. You've stopped talking to the
24 Judge?

25 A. Yes.

(Cali Anne Valenti - Direct)

1 Q. And as you walked back to your car with Ms. Bartolotta, what, if any,
2 conversation did you have?

3 A. We started, just kind of, talking about our reactions to the story, and the
4 story itself. And you know, I was just telling her, you know, that I think I
5 need to go to my boss and just let her know, so she can decide if anything
6 needs to be done.

7 Q. Okay. And here at about 18:23 and 30 seconds, does it appear the Judge
8 is leaving, driving away out of the parking lot?

9 A. Yes.

10 Q. And are you in your car at this point?

11 A. Yes.

12 Q. What, if anything, did you do when you got in the car?

13 A. I immediately sent a text to the group chat that all of the Attorneys from
14 my office are a part of, as well as -- yeah, just to everyone.

15 Q. Okay. And why did you do that?

16 A. Because I really needed someone to, kind of, process what just happened
17 with, and -- I mean, everyone in my office has an experience with every
18 Judge in here, and so they would kind of know what to do with that story
19 and --

20 Q. Okay.

21 A. -- kind of go through it with me.

22 MS. KOCHER: Okay. If we could pause
23 Exhibit 1, and I'd like to pull up Exhibit 3 that's been
24 marked for identification purposes.

25 BY MS. KOCHER:

(Cali Anne Valenti - Direct)

1 Q. All right. Ms. Valenti, this is a -- oh, sorry. Okay. This is a -- Exhibit 3
2 is a one-page document Commission Exhibit 3, in the lower right corner.

3 Do you recognize this text message?

4 A. Yes.

5 Q. And how do you recognize this text?

6 A. Because that's the text message that I sent to my boss, Leanne Lapp.

7 Q. Okay. Now, this was sent at -- this was Friday, May 10th at 6:24 p.m.?

8 A. Yes.

9 Q. Is this the message that you sent to your boss, or the group chat that you
10 just described?

11 A. That is the one -- I believe, I sent it to the group chat. I sent a lot of text
12 messages at that point.

13 Q. Okay.

14 A. But I believe -- yeah, I just don't remember. Yeah.

15 Q. Sure.

16 MS. KOCHER: If we go back to Exhibit 1?

17 BY MS. KOCHER:

18 Q. Okay. You see the time stamp here. It's about 18:24 --

19 A. Yes.

20 Q. -- and 19 seconds.

21 A. Yes.

22 Q. And you were in your car at that point?

23 A. Yes.

24 Q. Was the first text message that you sent --

25 A. That was --

(Cali Anne Valenti - Direct)

1 Q. -- to the group chat?

2 A. Yes. My boss texted me separately later. I think a little after seven
3 o'clock, so -- or closer to there. So this one would have been to the group
4 text.

5 Q. Okay.

6 MS. KOCHER: So if we could pull up Exhibit
7 3 again?

8 BY MS. KOCHER:

9 Q. So Exhibit 3 is the text message that you sent to the group as you got in
10 your car?

11 A. Yes.

12 Q. Is this a fair and accurate depiction of the text message that you sent?

13 A. Yes.

14 Q. Other than the redaction there on the gray bubble at the bottom of the
15 page, do you notice any changes or deletions to it?

16 A. No.

17 MS. KOCHER: Mr. Garber, I'd like to offer
18 Exhibit 3.

19 THE REFEREE: Yeah.

20 MR. STEINMAN: The same objection that I
21 expounded upon before.

22 THE REFEREE: All right. Excuse me. Who is
23 Leanne Lapp?

24 THE WITNESS: That is my boss. She is the
25 Public Defender for Ontario County.

(Cali Anne Valenti - Direct)

1 THE REFEREE: Um-hum. Okay. I'm going to
2 receive it. It's submitted.

3 (Commission Exhibit 3 was admitted into evidence)

4 MS. KOCHER: Thank you.

5 BY MS. KOCHER:

6 Q. And Ms. Valenti, Leanne Lapp was a part of the group text thread?

7 A. Yes.

8 Q. Okay. Did it include other Assistant Public Defenders that you work
9 with?

10 A. Yes. Every Attorney in my office is part of it.

11 Q. Okay. Now, you mentioned earlier you sent another message to Ms.
12 Lapp?

13 A. Yes.

14 MS. KOCHER: If we could pull up Exhibit 4,
15 please?

16 BY MS. KOCHER:

17 Q. Okay. Now, Exhibit 4 is a one-page document. Just scroll down to the
18 bottom slowly here, so you have a chance to review it. Okay. We've
19 reached the bottom of Exhibit 4 that has the Commission exhibit sticker
20 in the bottom right corner. Do you recognize Commission Exhibit 4?

21 A. Yes.

22 Q. And how do you recognize that document?

23 A. Because those are the text messages I sent to my boss. I remember her
24 texting me separately after the group chat asking me to provide --

25 MR. STEINMAN: Objection.

(Cali Anne Valenti - Direct)

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THE REFEREE: On what basis?

MR. STEINMAN: What her boss told her to do.

The boss is not a witness. I fail to see the relevance of that.

THE REFEREE: Well, I'll sustain that part.

BY MS. KOCHER:

Q. Okay. I believe -- so you recognize this text message?

A. Yes. I do recognize it because I sent that text message.

Q. Okay.

MS. KOCHER: If we could scroll --

A. Or the series of them.

MS. KOCHER: If we could scroll back to the

top?

BY MS. KOCHER:

Q. Now, there's a time stamp at the top, May 10, 2024 at 7:24 p.m. Is that fair to say?

A. Yes.

Q. And is that about the time that you sent these text messages to Ms. Lapp?

A. Yes.

Q. Do these text messages fairly and accurately depict what you sent that evening?

A. Yes.

Q. And other than the redaction at the bottom of the page and the exhibit sticker, do you notice anything different?

A. No.

MS. KOCHER: Mr. Garber, I'd like to offer

(Cali Anne Valenti - Direct)

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Exhibit 4.

MR. STEINMAN: Same objection, with emphasis now. This is no way an excited utterance. It's an hour afterwards.

MS. KOCHER: And I don't know if Mr. Steinman has any case law saying an hour is not -- is too late for an excited utterance to occur?

MR. STEINMAN: If necessary, I'd be happy to provide it.

THE REFEREE: Well, Ms. Valenti, referring you to the fifth -- I can't count now. The line that begins with "He thought".

THE WITNESS: Yes.

THE REFEREE: What conduct of Mr. -- of Judge Jones lead you to write that particular sentence?

THE WITNESS: Simply because he was using the word, and he was talking a lot about his dad, and his dad's relationship with black people during the Jim Crow era. And so to me that made me think he was -- it was okay to use that word because he was telling the story that he had heard from someone else.

THE REFEREE: I'm going to receive that with the exception of the sentence, "He thought it was fine to use the N-word." Because that calls for Ms. Valenti describing the state of mind of Judge Jones, but --

(Cali Anne Valenti - Direct)

1 MS. KOCHER: He just -- no, I object. I --
2 because I believe it's Ms. Valenti expressing how she took
3 the story, and it's her explanation of --

4 THE REFEREE: Right. But it's --

5 MS. KOCHER: -- how -- her reaction to it.

6 THE REFEREE: It's the expression and the
7 words that are used that are relevant. She can't testify as to
8 whether Judge Jones thought it was fine or not.

9 MS. KOCHER: Okay.

10 THE REFEREE: So with that exception, I'll
11 admit it.

12 MS. KOCHER: So if we could scroll down a
13 bit? Just -- the whole sentence, "He thought it was fine to
14 use the N-word because he was just quoting things his dad
15 would say." The whole sentence or --

16 THE REFEREE: Well, let's see. "He thought it
17 was fine --" I think he --

18 MR. STEINMAN: I have no problem with the
19 part coming in that says, "He was just quoting things his
20 dad would say." I have no problem with that.

21 MS. KOCHER: So I don't understand how that
22 would be okay.

23 MR. STEINMAN: Because that's --

24 MS. KOCHER: It's the same thing, her
25 expressing how she took the story.

(Cali Anne Valenti - Direct)

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MR. STEINMAN: By no means. The part that says, "He was just quoting." is a fact. And she testified to it --

THE REFEREE: Um-hum.

MR. STEINMAN: -- that he was quoting his father. The other part is, as the Judge mentioned, and her attempting to operate -- attempting to describe the operation of Judge Jones' mind are two completely different things.

THE REFEREE: Um-hum.

MR. STEINMAN: The one is admissible, and I have no objection to it, --

THE REFEREE: Um-hum.

MR. STEINMAN: -- and the other part is not.

THE REFEREE: Well, look. It's received with the exception of "He thought it was fine to use the N-word."

MS. KOCHER: Okay.

THE REFEREE: With that exception, we'll receive it.

MS. KOCHER: Thank you. And we'll have Ms. Trapani redact that portion of -- maybe on a -- I don't know how speedy quick you can be. Okay.

(Counsel confer)

MS. KOCHER: While Ms. Trapani makes these redactions, Mr. Garber, I almost would rather just the whole sentence come out. Taking half of it out of context could

(Cali Anne Valenti - Direct)

1 be misconstrued. Saying he was just quoting his dad alone
2 without the beginning of the sentence --

3 MR. STEINMAN: She's already --

4 MS. KOCHER: -- isn't her -- I mean, she was
5 expressing how she took the story to be, but I think the
6 whole sentence should come out if the first half is coming
7 out.

8 MR. STEINMAN: I go along with the Judge's
9 ruling so far. She's already testified. "He was just quoting
10 his father." That's in there. I don't think that the other part
11 removes the meaning of the sentence.

12 THE REFEREE: Um-hum.

13 MR. STEINMAN: I would ask the Court --

14 THE REFEREE: Yeah, I --

15 MR. STEINMAN: -- to leave it to its prior
16 ruling.

17 THE REFEREE: I think you can -- I think we
18 can leave because he was quoting his dad. That's what she
19 testified to. The remainder calls for her statement as to the
20 Judge's state of mind, and I don't believe that's admissible.

21 You know, let me go back. I think we should
22 delete also the word "just". He was quoting things his dad
23 would say.

24 MS. KOCHER: Okay. Okay. So Exhibit 4 has
25 been redacted.

(Cali Anne Valenti - Direct)

1 Mr. Steinman, are you satisfied with those
2 redactions?

3 MR. STEINMAN: Yes.

4 MS. KOCHER: So --

5 THE REFEREE: Yeah.

6 MS. KOCHER: -- with those redactions,
7 Exhibit 4 is received?

8 THE REFEREE: Correct.

9 MS. KOCHER: Thank you.

10 (Commission Exhibit 4 was admitted into evidence)

11 BY MS. KOCHER:

12 Q. Ms. Valenti, the story that the Judge told you about Harry and his father,
13 was that relevant to any proceedings that occurred in CAP Court that
14 evening?

15 A. No.

16 Q. Did you ask him to tell you a story about his childhood?

17 A. No.

18 Q. Thank you, Ms. Valenti. I don't have any further questions.

19 CROSS-EXAMINATION

20 BY MR. STEINMAN:

21 Q. Ms. Valenti, my name is Charles Steinman. I'm the Attorney for Judge
22 Jones. We've never met before today, have we?

23 A. We have not.

24 Q. And we've never spoken or communicated in any way about this case or
25 any other case; is that true?

(Cali Anne Valenti - Cross)

1 A. Correct.

2 Q. Okay. Are you still the Assistant Public Defender assigned to Judge
3 Jones' court?

4 A. Yes.

5 Q. Okay. And with respect to Judge Jones, he's never tried to speak with
6 you about this incident, or the charges that've been brought against him;
7 is that true?

8 A. Correct.

9 Q. Okay. He's never tried to influence your testimony in any manner.
10 Would that be fair to say?

11 MS. KOCHER: Objection.

12 THE REFEREE: Overruled.

13 A. Correct.

14 BY MR. STEINMAN:

15 Q. Have you discussed the testimony that you've given today with anyone
16 prior to today?

17 A. No.

18 Q. Have you discussed the matter with any representatives of the
19 Commission?

20 A. Yes.

21 Q. Who did you speak with and when?

22 A. I spoke with Betsy and Cassie, and I am blanking. Alexis. I believe it
23 was last week. And then prior to that, at some time last year, I believe it
24 was.

25 Q. And that was to prepare you for your testimony today. Would that be fair

(Cali Anne Valenti - Cross)

1 to say at those meetings?

2 A. Yes.

3 Q. Okay. You've also previously given a deposition in this matter under
4 oath; is that true?

5 A. And sorry. That was the second meeting I was talking about last year, so
6 I only had one meeting with them prior to this.

7 Q. Okay. And that was a couple weeks ago, I think you said?

8 A. Yes, last week.

9 Q. And during that meeting, did you go over your prior deposition
10 testimony?

11 A. Yes.

12 Q. Do you have a transcript of that, and you reviewed it prior to testifying
13 today?

14 A. I wasn't given one; but yes, I was allowed to read it.

15 Q. Okay. I'd like to talk a little bit about Judge Jones' court. You've been
16 assigned there now for how long? Two years? I'm sorry.

17 A. Around that. Yeah, two or three years.

18 Q. Okay. And so how often would you appear before Judge Jones?

19 A. Once a month.

20 Q. Okay. So give or take a couple of a dozen appearances before him?

21 A. Yes.

22 Q. Would it be fair to say that you represent a number of individuals who are
23 of minority racial backgrounds?

24 A. Yes.

25 Q. Okay. Has Judge Jones ever discriminated against any of those clients

(Cali Anne Valenti - Cross)

- 1 who are of a minority background?
- 2 A. I don't know if I can say that. I don't know how he makes decisions --
- 3 Q. Okay.
- 4 A. -- when he does, so I don't think that's fair for me to answer.
- 5 Q. Okay. Have you ever seen him on the bench discriminate against anyone
- 6 on the basis of race -- based on things that he has said or done?
- 7 A. I mean, there will be jokes and general comments made. Like, there was
- 8 one recently about minority groups, but I don't know if I recall off the top
- 9 of my head about a specific person.
- 10 Q. And that joke was made by Judge Jones --
- 11 A. Yes.
- 12 Q. -- on the bench?
- 13 A. Yes.
- 14 Q. Okay. But you don't remember what it was?
- 15 A. I do remember what it was because it was just last week.
- 16 Q. Okay. Would it be correct in assuming that he's never used any
- 17 derogatory racial epithets to anyone, either in or out of court, other than
- 18 what you're talking about on May 10th that you have heard -- that you've
- 19 heard?
- 20 A. I don't know that I recall specific ones. I know there are general -- I
- 21 mean, general conversations about minorities, and the state of politics
- 22 that occur, but I don't believe -- I've never heard that word used before.
- 23 Q. Any other racially derogatory terms?
- 24 A. Not that I can recall specifically.
- 25 Q. Okay. In other words, other than this conversation that we're talking

(Cali Anne Valenti - Cross)

1 about that occurred on May 10th, you've never heard Judge Jones use the
2 N-word?

3 A. Correct.

4 Q. And in the context of this particular conversation, I want to make sure
5 we're clear about this, you testified that Judge Jones used the N-word
6 quoting his father, that that's what his father referred to this individual as;
7 am I correct?

8 A. Correct.

9 Q. Okay. He didn't say, "Oh, I think that person's an N-word something."?

10 A. No.

11 Q. Never, right?

12 A. Correct.

13 Q. Okay. Now, you testified -- okay. You testified on direct examination
14 that you were, I think you said, nervous about going to Judge Jones'
15 vehicle; is that right? Because of appearances?

16 A. I don't know that I was nervous about actually going to his vehicle. It's
17 very common for Attorneys to talk with Judges. I was more nervous
18 about if he was, you know, going to be giving me books.

19 Q. Okay. But you enjoy reading, right?

20 A. Yes.

21 Q. And Judge Jones knew that, didn't he? Because you talked about books
22 with him, right?

23 A. Correct.

24 Q. Okay. So you told him you're a big reader, and he thought he would give
25 you some books to read, correct?

(Cali Anne Valenti - Cross)

- 1 A. I mean, he gave them to me. I can't say what he was thinking.
- 2 Q. Oh, okay. But in other words, this didn't come out of the blue that of all
- 3 the gifts in the world he could have given you, he gave you books. You
- 4 and he had talked about books, and that you're an avid reader; isn't that
- 5 true?
- 6 A. I mean, yes. We've talked about that. I --
- 7 Q. All right. And you said that -- well, we'll look at this later. I'm sorry.
- 8 You testified that the window of the vehicle that was parked a distance
- 9 from Judge Jones' vehicle, you said the window was all the way down,
- 10 correct?
- 11 A. I didn't say it was all the way down.
- 12 Q. Okay.
- 13 A. I just said it was -- I could see that it was down at least a bit.
- 14 Q. Okay. Would it be fair to say that the window was rolled down a little?
- 15 A. Yes.
- 16 Q. Okay. It doesn't roll down the whole way, right?
- 17 A. Correct.
- 18 Q. Okay. You said there was no noise in the vehicle, correct?
- 19 A. Correct.
- 20 Q. Okay. Isn't it true that the individual was on a cell phone?
- 21 A. I couldn't see her holding a cell phone.
- 22 Q. Okay.
- 23 A. If she was talking on speaker or something, I -- that part I couldn't tell.
- 24 Q. Okay.
- 25 A. And also, I was asked about music. I wasn't asked about her talking.

(Cali Anne Valenti - Cross)

1 Q. All right. That's fine, but was she talking on a cell phone?

2 A. It appeared that she may have been for part of it, but I know that she
3 looked over to us a few times because I was keeping -- I was watching
4 her, and so I know that she looked over to us a few times during the story.

5 Q. Was that concurrent with the use of the N-word?

6 A. Yes, it was during the story.

7 Q. That's not what I asked.

8 A. Oh.

9 Q. When the N-word was used that three or four times, is that when she
10 turned around at that instant?

11 A. I can't say if she did or not --

12 Q. Okay.

13 A. -- because I wasn't watching her every second of him telling the story.

14 Q. Okay. Okay. So you don't know for a fact whether or not she heard that
15 word. As you testified here today --

16 A. Correct.

17 Q. -- under oath, you can't say she heard that word?

18 A. Correct, but I also can't say she didn't.

19 Q. I didn't ask you that, ma'am.

20 A. Okay. I know. I'm just saying. I cannot say for sure.

21 Q. Now, you said that the story in this conversation, this particular use of
22 this word put you at unease. You said you were trying to figure a way to
23 get of here. How about walking away, did you try that?

24 A. I did not.

25 Q. Okay. How about saying to Judge Jones, "Hey, I'm uncomfortable with

(Cali Anne Valenti - Cross)

1 that word. Please don't use it again." Did you try that?

2 A. I did not.

3 Q. Okay. You could have, right?

4 A. Yes.

5 Q. Okay.

6 MR. STEINMAN: Now, could we pull up the
7 video by any chance?

8 MS. KOCHER: Sure. Exhibit 1?

9 MR. STEINMAN: Yeah, if you would, please?
10 Is that right at the beginning? Yes?

11 MS. KOCHER: No. I think that's at the end.

12 MR. STEINMAN: Okay. Would you mind
13 rolling it back? Okay. I'm sorry. I don't know who's in
14 charge.

15 MS. KOCHER: Yeah. Ms. Trapani's got that
16 under control.

17 MR. STEINMAN: I'd like to get to the point of
18 where the gentleman -- the single, sole gentleman's walking
19 out and talking on his phone, okay?

20 MS. TRAPANI: Do you have a time?

21 MR. STEINMAN: (Unintelligible) --

22 MS. SAMPSON: Excuse me, Kate. Can you
23 hear him. Do you want me to move the microphone?

24 MS. TRAPANI: Thank you.

25 MS. KOCHER: Mr. Steinman, if you could

(Cali Anne Valenti - Cross)

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just -- when you ask a question --

MR. STEINMAN: I'm sorry.

MS. KOCHER: -- be close to the microphone behind you?

MR. STEINMAN: Thank you. There we go.

Okay.

[Video was played]

BY MR. STEINMAN:

Q. And that time marker is 12:56; is that correct? When a figure -- person wearing a gray t-shirt and a backwards baseball cap appears in the front of the picture; is that correct?

A. It's 12:43, not 56.

MS. KOCHER: I'm sorry. Can you -- there are several numbers on the screen. I was going by the yellow numbers in the right -- lower right corner --

MR. STEINMAN: Thank you.

MS. KOCHER: -- of the video.

MR. STEINMAN: Thank you. Thank you.

12:43.

BY MR. STEINMAN:

Q. And that's the gentleman you described before, correct?

THE REFEREE: Mr. Steinman, will you please use your microphone?

MS. KOCHER: And I'm sorry, Mr. Steinman.

It would be 18:12:43 for the hour?

(Cali Anne Valenti - Cross)

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MR. STEINMAN: 18:12:43.

MS. KOCHER: Okay. Thank you.

MR. STEINMAN: Thank you.

BY MR. STEINMAN:

Q. And that's the gentleman that you described before wearing, I think, a gray t-shirt and a backwards baseball cap; is that right?

A. I don't recall describing him; but yes, he's the person --

Q. Okay.

A. -- I did say that there was someone.

Q. Okay. And I'm assuming that he's walking out of the front doors of the jail; is that correct?

A. Yes.

Q. Okay.

MR. STEINMAN: Would you roll that forward, please?

BY MR. STEINMAN:

Q. So --

MR. STEINMAN: You can stop, if you would, please.

[Video was paused]

BY MR. STEINMAN:

Q. So am I correct in describing what I'm seeing is, he's walking to the left of the parking lot, and you are off to the extreme right of the parking lot; is that correct?

A. Correct.

(Cali Anne Valenti - Cross)

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Q. Okay.

MR. STEINMAN: Would you roll that forward,
please?

[Video was played]

BY MR. STEINMAN:

Q. So the further he walks actually, the more distance he's putting between
you and Judge Jones, yourself, and Ms. Bartolotta; is that correct?

A. Correct.

Q. Okay. And again, you have no idea as you sit here today under oath
whether or not that individual heard the words that were being spoken by
Judge Jones, do you?

A. So he wasn't the telling the story at that point, he was giving me the
books.

Q. Okay.

A. Which he could have seen from over there.

Q. Okay. That fine. All right. So then --

MR. STEINMAN: Roll forward, if you would,
please?

BY MR. STEINMAN:

Q. It's hard to see, but does he get into his car and then leave?

A. He's not in his car right now.

Q. Okay.

MR. STEINMAN: If you would play it
forward, please?

A. I do believe he smokes a cigarette, or kind of stands around for a minute.

(Cali Anne Valenti - Cross)

1 BY MR. STEINMAN:

2 Q. Okay.

3 MR. STEINMAN: Is that playing forward?

4 Thank you.

5 BY MR. STEINMAN:

6 Q. Well, rather than wait this out, I'm assuming at some point in time, he got
7 into his vehicle, started it up, and left the parking lot, correct?

8 A. I don't know that he does because the story is going on, and his --

9 Q. Okay.

10 A. -- and his car is still there.

11 Q. Okay. All right. But you do not know, a personal knowledge under oath,
12 whether or not that individual heard the N-word being spoken by Judge
13 Jones; is that correct?

14 A. Correct.

15 Q. Okay.

16 MR. STEINMAN: If we can go forward again?
17 I'm sorry I don't know the number, but when the next
18 individuals come out of the jail.

19 MS. KOCHER: I think that's going to be at
20 about 18:21 and 30 seconds.

21 MR. STEINMAN: Okay. And I think -- if
22 you'd hold that. Thank you very much.

23 [Video was paused]

24 BY MR. STEINMAN:

25 Q. Okay. We see two individuals walking out of the jail; is that correct?

(Cali Anne Valenti - Cross)

1 A. Correct.

2 MR. STEINMAN: Can you play that forward,
3 please?

4 [Video was played]

5 BY MR. STEINMAN:

6 Q. Am I correct that neither of these individuals ever stepped into the
7 parking lot, and they remained on the sidewalk in front of the jail?

8 A. Correct.

9 Q. Do you have any knowledge, personal knowledge under oath, that these
10 individuals heard the words that were spoken by Judge Jones?

11 A. I do not.

12 Q. Okay.

13 MR. STEINMAN: I think there was one more
14 individual appearing on screen.

15 MS. KOCHER: I think that might be at about
16 18:22 and 35 seconds.

17 MR. STEINMAN: Okay. Let that play through.

18 BY MR. STEINMAN:

19 Q. Okay. Now, this individual --

20 MR. STEINMAN: If you'd stop that, please,
21 Ms. Trapani?

22 [Video was paused]

23 MS. KOCHER: I'm sorry, Mr. Steinman, if you
24 could just -- I don't know -- I can't tell what the time stamp
25 is here, but -- so we know --

(Cali Anne Valenti - Cross)

1 MR. STEINMAN: Oh.

2 MS. KOCHER: -- later on what individual
3 you're referring to.

4 MR. STEINMAN: Ms. Valenti is closer than
5 me. My eyes aren't good enough to read that.

6 THE WITNESS: 18:22:57.

7 MR. STEINMAN: Thank you.

8 BY MR. STEINMAN:

9 Q. Now, it would appear, and you tell me if I'm wrong, that this individual
10 appears while you and Ms. Bartolotta are walking away from Judge
11 Jones' car; is that correct?

12 A. Correct.

13 Q. So the conversation with him had ended, right?

14 A. Yeah. He may have been the same person in the other group, but I'm not
15 sure about that.

16 Q. Okay. You don't know for a fact. So it would not be possible for this
17 individual in this sequence to have heard the words that you testified to.
18 Would that be true?

19 A. Correct.

20 Q. Okay. Thank you.

21 MR. STEINMAN: That's all I got with this
22 exhibit. Thank you, Ms. Trapani.

23 If I could just have a moment, Your Honor?

24 (Counsel confer)

25 MR. STEINMAN: Just one more moment,

(Cali Anne Valenti - Cross)

1 please, Your Honor?

2 BY MR. STEINMAN:

3 Q. You testified before about, and please correct my phrasing if it's wrong,
4 trying to maintain a healthy, professional relationship and distance with
5 the Judges before whom you appear. Is that fair to say?

6 A. Yes.

7 Q. But at the same time, it's not all business, is it?

8 A. Correct.

9 Q. Okay. And you engage in lighthearted banter with Judges and Judge
10 Jones included. Would that be fair to say?

11 A. Correct.

12 Q. Doesn't Judge Jones provide a pizza during a break in his courtroom that
13 everybody -- all the court staff and the Attorneys sit around and have
14 pizza and talk about things?

15 MS. KOCHER: Objection.

16 THE REFEREE: Overruled.

17 A. So yes and no. It's for the court staff.

18 BY MR. STEINMAN:

19 Q. Um-hum.

20 A. Sometimes I go early, and I'll be offered a piece. I don't always accept it,
21 but that's -- I mean, it's not, like, purchased for me with a formal invite.

22 Q. No, I'm sorry. I didn't mean to imply --

23 A. Yeah.

24 Q. -- that it was purchased for you.

25 A. And the District Attorney's Office is there as well.

(Cali Anne Valenti - Cross)

1 Q. Right.

2 A. Sometimes if we go, if we're there early.

3 Q. So there's a bit of a personal relationship aspect beyond the merely
4 professional?

5 A. Correct.

6 Q. Okay.

7 MR. STEINMAN: I have nothing further.

8 Thank you. Hang on. I'm sorry.

9 THE REFEREE: Oh.

10 MR. STEINMAN: Just one second. Please
11 forgive me. I'm sorry. One other thing.

12 BY MR. STEINMAN:

13 Q. You said you were not great with distances. What would you say the
14 distance would be between Judge Jones' car and the sidewalk of the jail
15 where those individuals were standing?

16 A. Like you said, I'm not great with distances. Maybe 50 feet?

17 Q. 50 feet.

18 A. It could -- 50 something --

19 Q. Okay.

20 A. I'm not good with distances.

21 Q. That's fine. That's fine. Thank you. Nothing further.

22 THE REFEREE: Ms. Kocher, redirect?

23 MS. KOCHER: Yes. Just a few, please?

24 REDIRECT EXAMINATION

25 BY MS. KOCHER:

(Cali Anne Valenti – Redirect)

1 Q. Ms. Valenti, the car that was parked near Judge Jones' car, you mentioned
2 the window was down?

3 A. Um-hum.

4 Q. Yes?

5 A. Yes, sorry.

6 Q. No problem.

7 (Counsel confer)

8 BY MS. KOCHER:

9 Q. How far down was it?

10 A. It appeared to be maybe about halfway. Definitely it wasn't all the way
11 down, but it was enough for me to be able to notice, and to be able to see,
12 you know, that there was a person in the vehicle by not looking through a
13 window, if that makes sense?

14 Q. Do you know at what points in the story that individual looked over at
15 you all?

16 A. I don't know specifics. I was doing a lot of looking around, kind of
17 seeing what the environment was during the story.

18 Q. Okay. And you mentioned -- was it a female?

19 A. I believe so, yes.

20 Q. And she appeared to have a phone at one point?

21 A. I could see, like, her lips moving for a little bit. But like, I don't
22 remember, like, actually seeing a phone in her hand. I don't know if it
23 took place through the whole story.

24 Q. All right. You're not sure how long she was on her phone?

25 A. No.

(Cali Anne Valenti – Redirect)

1 Q. Mr. Steinman asked you why -- or asked you if you told the Judge to stop
2 using the N-word, and you could have walked away.

3 A. Um-hum.

4 Q. Do you recall him asking you those questions?

5 A. Yes.

6 Q. Why didn't you tell the Judge to stop using the N-word?

7 A. Because I feel that I have a very delicate professional relationship with
8 Judge Jones. Often time when I go into court, I kind of gauge how I'm
9 going to proceed that night based on if he appears to be frustrated, if he
10 appears to be more impatient, you know, in a happier mood. And so for
11 my clients, I'm constantly trying to balance. I don't want to upset him. I
12 don't want to, kind of, hinder that relationship at all. So if he was --
13 appeared to be happy telling a story, I was kind of thinking I don't want to
14 upset him by getting him to stop, and it was, kind of, a balancing act in
15 my head of that, of the people around, and trying to figure out what to do
16 with it all.

17 Q. Is that the same reason you didn't just walk away --

18 A. Correct.

19 Q. -- from the conversation? You see Judge Jones pretty regularly as being
20 assigned to his court?

21 A. Correct.

22 Q. You mentioned last week Judge Jones told a joke about a minority group?

23 A. Correct.

24 Q. What was that joke?

25 A. There was a joke made about 911. I had made a comment where I had

(Cali Anne Valenti – Redirect)

1 missed communication with a client, and said, you know, next month,
2 you know, I'm not going to make that mistake again. I'll be good. And
3 he made a comment of, you know, as long as you don't, you know, crash
4 your plane into a building.

5 (Counsel confer)

6 BY MS. KOCHER:

7 Q. Why was that significant? When was the adjourn date?

8 A. 9/11.

9 Q. Okay. And was your client there when Judge Jones made that comment?

10 A. Yes, and he's a younger black man, so I was extra, kind of, nervous about
11 it all.

12 Q. Who else was in the court?

13 A. The Deputy, Dan, I believe, Feldman; Nate Lent, who is the Assistant
14 District Attorney in that court; and then, I believe, one of the Clerks may
15 have been in here. I believe it was Kristen Bartolotta.

16 Q. Okay. And you mentioned the Assistant District Attorney, it was Nate.
17 What was his last name?

18 A. Lent, L-E-N-T.

19 Q. Okay.

20 MS. KOCHER: If I could just have a moment?

21 (Counsel confer)

22 MS. KOCHER: All right. Thank you, Ms.
23 Valenti. I have no further questions. Thank you.

24 THE REFEREE: Mr. Steinman?

25 MR. STEINMAN: Nothing further.

(Cali Anne Valenti – Redirect)

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THE REFEREE: Ms. Valenti, you mentioned during cross-examination, and again on direct, re-direct, about the joke. You also mentioned that you, during cross-examination, you had conversations with the Judge about minorities. Can you tell us what those conversations were?

THE WITNESS: So they're more conversations about, kind of, the state of politics right now. And just with the ever-changing laws, again, because he's from the south, he'll sometimes tie in his experience to what, you know, during the Jim Crow era to, kind of, the state of politics now. And so they're typically more general conversations.

THE REFEREE: Was there anything in those conversations which were derogatory to a particular race or group?

THE WITNESS: I don't know that it was. I mean, he didn't say anything like the N-word or any other, like, derogatory phrases necessarily. I don't know that I can put one way or the other. I mean, I think politically, we're very different, so I don't know that it might be a little biased. Or like, I don't know. It just might be to speak on his thoughts about -- or his intentions with the political conversations are a bit challenging, just because we are very politically different.

THE REFEREE: Okay.

Counsel, anything further?

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MR. STEINMAN: No.

MS. KOCHER: No, thank you.

THE REFEREE: Thank you for coming today,
Ms. Valenti.

THE WITNESS: Okay, Judge. Yes. Yeah.

THE REFEREE: Can we take a five-minute
recess?

MS. KOCHER: Sure.

THE REFEREE: We can go --
(Recess from 11:09 a.m. until 11:16 a.m.)

THE REFEREE: -- Ms. Kocher?

MS. KOCHER: Are we on?

MS. TRAPANI: One moment.

MS. KOCHER: Okay.

MS. TRAPANI: We're on the record.

THE REFEREE: All right. Your next witness?

MS. KOCHER: Yes. The Commission calls
Kristen Bartolotta.

Judge, do you want some more water?

MR. STEINMAN: Oh, thank you.

MS. KOCHER: Hang on. There's a little stash
up here.

THE REFEREE: Good morning.

MS. BARTOLOTTA: Hi.

THE REFEREE: This proceeding is being

1 digitally recorded, so would you please speak slowly and
2 directly into the microphone. I will now, Ms. Bartolotta,
3 swear you in as a witness.

4 MS. BARTOLOTTA: Okay.

5 THE REFEREE: Do you swear
6 or affirm under the penalty of perjury that the testimony
7 you are about to give is the truth, whole truth, and nothing
8 but the truth?

9 MS. BARTOLOTTA: Yes. Yes.

10 THE REFEREE: And thank you.

11 Ms. Kocher?

12 MS. KOCHER: Thank you.

13

14 MS. KRISTEN BARTOLOTTA,

15 having been duly sworn, was examined and testified as follows:

16

17 DIRECT EXAMINATION

18 BY MS. KOCHER:

19 Q. Good morning.

20 A. Hi.

21 Q. Could you please state and spell your name for the record.

22 A. I'm Kristen Bartolotta; K-R-I-S-T-E-N, B-A-R-T-O-L-O-T-T-A.

23 Q. And Ms. Bartolotta, are you here pursuant to a subpoena?

24 A. Yes.

25 Q. Where do you work?

(Kristen Bartolotta - Direct)

1 A. Canandaigua Town Court.

2 Q. And what are --

3 MS. TRAPANI: Excuse me just a moment.

4 MS. KOCHER: Sure.

5 MS. TRAPANI: You're a little too close. It's
6 better if you back away a little --

7 MS. KOCHER: That's never happened before,
8 right?

9 BY MS. KOCHER:

10 Q. You work at the Canandaigua Town Court?

11 A. Yes.

12 Q. And what is your position there?

13 A. Court Clerk.

14 Q. How long have you been a Court Clerk at Canandaigua Town Court?

15 A. Since March of 2019.

16 Q. So a little over five years?

17 A. Yes.

18 Q. Six years.

19 A. Or six years.

20 Q. I guess, yeah.

21 A. Um-hum.

22 Q. And is that a full-time position?

23 A. Yes.

24 Q. What's your typical work schedule of the hours?

25 A. We have varying hours. Mondays and Tuesday, it's 8:00 to 4:00.

(Kristen Bartolotta - Direct)

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MS. KOCHER: Thank you.

BY MS. KOCHER:

Q. And now, Ms. Bartolotta, as a part of your work as the Court Clerk with the Canandaigua Town Court, do you also assist with the Centralized Arraignment Part?

A. Yes.

Q. And what is the Centralized Arraignment Part?

A. We go to the jail for arraignments in the morning and afternoon for people that were arrested throughout the day.

Q. And is it commonly referred to as CAP, C-A-P?

A. Yes. Am I able to take this?

Q. Oh, yes. That's for you.

A. Okay. Thank you. Thank you.

Q. All right. Now, you mentioned you go to the jail, is that the Ontario County Jail?

A. Yes.

Q. And what is your role at the CAP arraignments?

A. Just to get paperwork ready and you know, securing order, CAP cover sheets, stuff like that. Make copies of the paperwork for the arraignment and just prep stuff for the Judge.

Q. Do you go with, both, Judge Jones and Judge Prull?

A. Yes.

Q. And can you describe the layout of where the arraignments happen?

A. Well, it's -- you know, you walk into the jail, and it's to the right. And it's like a -- kind of like this, like, how this is set up. And the Judge sits in

(Kristen Bartolotta - Direct)

1 the middle, and I sit to the left of him.

2 Q. Okay. So there's, kind of, a long desk set up?

3 A. Yes, um-hum.

4 Q. About how far away do you sit from the Judge?

5 A. I'm so bad with length and numbers.

6 Q. Sure.

7 A. I would say maybe myself to this person.

8 Q. Where Ms. Trapani is sitting.

9 A. Yeah, maybe. Maybe a little bit closer.

10 Q. Okay. So maybe about six or eight feet?

11 A. Sure.

12 Q. Give or take?

13 A. Yeah.

14 Q. Where do the defendants that are being arraigned stand?

15 A. Right in front of the desk, the CAP desk. They are brought out from the
16 jail -- from the holding area and stand right in front.

17 Q. About how close are they to the Judge?

18 A. I would say the length between you two.

19 Q. Between me and Ms. Trapani?

20 A. Yeah.

21 Q. So just a few feet?

22 A. Um-hum.

23 Q. Yes?

24 A. Yes, sorry.

25 Q. No problem. And how often do you have CAP Court?

(Kristen Bartolotta - Direct)

1 A. I believe each Judge has 12 shifts every 6 months, 12 or 13 shifts every 6
2 months.

3 Q. Okay. So if you're going with both Judges, you go about 24 times every
4 six months?

5 A. Well, we don't necessarily go 24 times. It's if they have people there.
6 There's some days that we don't have to go because they don't have
7 anyone.

8 Q. Sure. And is one shift -- does the morning count as one shift, and the
9 afternoon would be a second shift?

10 A. Yes.

11 Q. How are the arraignments recorded?

12 A. There's a digital recorder on the laptop.

13 Q. And when you're there, who runs the recording equipment?

14 A. If I'm there, I normally turn it on and turn it off.

15 Q. Okay.

16 A. Or I believe the Judges may have occasionally turned it off. But I think,
17 primarily, I turn it on and off.

18 Q. Now Ms. Bartolotta, I'd like to take you back to May 10, 2024. Were you
19 assisting with CAP Court that evening -- that afternoon?

20 A. I think that might have been a morning CAP.

21 Q. Okay.

22 A. Or wait, I'm sorry. No, that was evening CAP. Sorry.

23 Q. Okay.

24 A. Sorry.

25 Q. So that would have started around 5:30?

(Kristen Bartolotta - Direct)

1 A. Yes.

2 Q. And what Judge was there that evening?

3 A. Judge Jones.

4 Q. Do you recall any Attorneys that were there?

5 A. Oh, it was Cali. Oh, the Public Defender?

6 Q. Sure.

7 A. I believe it was Cali.

8 Q. That'd be Cali Anne Valenti?

9 A. Yes.

10 Q. All right. Now, after the arraignments were completed that day, did you
11 leave the jail?

12 A. Yes.

13 Q. And where did you go?

14 A. I believe, the three of us walked to the parking lot.

15 Q. And when you say, "The three of us", you mean --

16 A. Sorry.

17 Q. -- who do you mean?

18 A. Judge Jones and Cali Valenti.

19 Q. And what, if any, conversation did you have as you walked out of the jail
20 into the parking lot?

21 A. I don't recall our exact conversation as we're walking out to the parking
22 lot, you know, and exiting the building, but soon after we left, Cali, I
23 believe, had a book in her hand that she was talking about.

24 Q. Okay. And what happened next?

25 A. And then, Judge Jones started telling us a story about his father growing

(Kristen Bartolotta - Direct)

1 up in -- I think, it was Kansas or Texas. About a friend that he had.

2 Q. And what do you recall about that story?

3 A. You know, it was -- he was telling us a story about his dad growing up in
4 the south, and he had this friend that he was friends with, and I don't
5 remember the -- like, the whole context of the story.

6 Q. Okay.

7 A. It was just -- you know, he -- it was just about his dad.

8 Q. Okay. About the Judge's dad?

9 A. Yeah.

10 Q. And one of the Judge's friends?

11 A. Yeah, so a friend growing up that he was friends with and --

12 Q. What did the Judge tell you about his father's friend?

13 A. I mean, the only thing I can really remember was he said, you know, that
14 they were friends, and they were good friends. And something -- there
15 was -- you know, I don't remember the exact context of the story. I just
16 remember, you know, it was about his dad growing up in the south, and
17 something about the use of the N-word towards this friend, but they were
18 friends, and it wasn't in, like, a derogatory way.

19 Q. Okay. So when the Judge was telling the story, how did he identify the
20 friend? And I guess, if there's a word that you're uncomfortable saying, if
21 you could spell it?

22 A. I mean, he referred to him using the N-word. But again, it wasn't in a
23 derogatory -- the story was not in a derogatory way.

24 Q. Okay.

25 A. It was just him --

(Kristen Bartolotta - Direct)

1 Q. So I can see you're getting a little emotional. Do you need a moment?

2 A. No, I'm okay.

3 Q. Okay. So when the Judge was telling the story, he identified his father's
4 friend using the N-word; is that correct?

5 A. Well, I believe he -- the way I remember is he -- his dad had referred to
6 this person as that.

7 Q. Okay. And when we say the N-word, do you take that to mean the word
8 that's spelled N-I-G-G-E-R?

9 A. Yeah.

10 Q. Okay. When he referred to his father's friend, did he say the N-word and
11 then the person's name?

12 A. I don't recall the person's name. I don't remember the -- I don't know if
13 he said the person's name or not.

14 Q. Okay. And how many times during the story did the Judge say the N-
15 word?

16 A. I think like two or three.

17 Q. When he first said the N-word, how did you feel?

18 A. Well, you know, he did refer to -- it was in the context of a story with his
19 dad and you know, it wasn't -- I mean, I guess I -- you know, it was -- I
20 was taken aback at first, I guess.

21 Q. Okay. And you were out in the parking lot at this point?

22 A. Yeah.

23 Q. Is that a public parking lot?

24 A. Yes.

25 Q. About where were you standing, if you recall?

(Kristen Bartolotta - Direct)

1 A. I believe the three of us were standing in between Judge Jones' car and
2 then a car with someone sitting in the car.

3 Q. About how far away was that other car from --

4 A. Not far.

5 Q. -- where you were? I'm sorry?

6 A. Not far.

7 Q. Okay. Do you know about how many parking spaces it was away?

8 A. I think it was maybe one in between, maybe one or two.

9 Q. And you observed somebody in that car?

10 A. Yes.

11 Q. Do you know where they were seated in the car?

12 A. In the driver's seat.

13 Q. And was the driver's side of the car closest to you, or was--

14 A. Yes.

15 Q. -- the passenger side?

16 A. No, I was closer to -- I think I was closest to the driver's side.

17 Q. Okay. Could you tell if the window was down?

18 A. I don't know if the window was entirely down. If it wasn't entirely down,
19 it was halfway down.

20 Q. Could you hear any loud music coming from the car?

21 A. No.

22 Q. Was there anything blocking your view of the car?

23 A. No.

24 Q. Could you tell -- did the person in the car ever look towards your
25 direction?

(Kristen Bartolotta - Direct)

1 A. Not that I remember. From what I recall, she was just -- like, her phone
2 in her hand and was just looking down at the phone.

3 Q. Okay. When you say, "looking down at the phone", like, kind of like
4 scrolling through, or did it look like she was actually talking to someone?

5 A. I don't think she was talking to someone. It looked like she was just
6 either texting or scrolling. I don't know what she was doing.

7 Q. Okay. And as the Judge was telling the story, can you describe what his
8 volume was like?

9 A. Normal.

10 Q. Approximately, how long did the story last?

11 A. I don't know. Five or ten minutes, I would say.

12 Q. Okay. Ms. Bartolotta, I'd like to pull up what's been received as Exhibit
13 1. And there's a monitor to your right, if you could take a look at that,
14 and we can take it back to the beginning and just let it play for a little bit.

15 [Video was played]

16 MS. KOCHER: Okay. If we could pause the
17 video, please?

18 [Video was paused]

19 BY MS. KOCHER:

20 Q. So do you see it in the lower right corner, there's yellow numbers --

21 A. Um-hum.

22 Q. -- that say 5/10/2024; is that correct?

23 A. Yep.

24 Q. And the time stamp below that is 18:11:30?

25 A. Um-hum.

(Kristen Bartolotta - Direct)

1 Q. Yes?

2 A. Yes. I'm sorry.

3 Q. Okay. Now, in this freeze frame, we have it paused. Do you recognize
4 any individuals?

5 A. Yes.

6 Q. Who do you recognize?

7 A. Myself, Judge Jones, and Cali Valenti.

8 Q. Okay. And what color shirt do you have on?

9 A. The white shirt.

10 Q. And you're in the middle there?

11 A. Um-hum. Yes, sorry.

12 Q. Thank you. What color shirt does the Judge have on?

13 A. Blue, it looks like.

14 Q. And he would be closest to the camera?

15 A. Yes. Um-hum.

16 Q. And how about Cali Anne? Which color shirt does she have on?

17 A. I believe it to be orange.

18 Q. Okay. Do you notice any -- or recognize any vehicles in the parking lot?

19 A. Yes. There's Judge Jones' car to the right, my [REDACTED] in the middle, and
20 I believe that to be Cali's car off to the left.

21 Q. Okay. So you said Judge Jones' car off to the right. Is that the car closest
22 to the jail?

23 A. Yes.

24 Q. And your [REDACTED], is that the [REDACTED] one in the middle of the screen?

25 A. Yes.

(Kristen Bartolotta - Direct)

1 Q. And you also think you recognize Cali Anne's car?

2 A. Yes.

3 Q. Is that just to the left of your car?

4 A. Yes.

5 Q. And it's a [REDACTED] SUV?

6 A. Yes.

7 Q. Okay.

8 MS. KOCHER: If we could fast forward to
9 about 18:15 hours? Okay. Great.

10 [Video was played]

11 [Video was paused]

12 BY MS. KOCHER:

13 Q. So now we have it at about 18:15 and 20 seconds. We have the video
14 paused. Ms. Bartolotta, do you still see yourself in this video?

15 A. Yes.

16 Q. And where are you standing at this point?

17 A. I believe I'm in the middle of Judge Jones and Cali Valenti.

18 Q. Okay. And are you in front of Judge Jones' car?

19 A. Yes.

20 Q. You mentioned earlier the car where there was somebody seated in it. Do
21 you see that car in this freeze frame?

22 A. Yes.

23 Q. And which car is that?

24 A. The one just to the right of Judge Jones' car.

25 Q. Okay. So there -- where Judge Jones's car is parked, there's a car in the

(Kristen Bartolotta - Direct)

1 same row; is that correct?

2 A. Yes.

3 Q. So it would be the car farthest away from the jail?

4 A. Yes.

5 Q. And you saw someone in the driver's seat of the car; is that correct?

6 A. Yes.

7 Q. Okay. Now, where you're standing in this location -- or I'm sorry. In this
8 freeze frame, where you're standing, is that about where you were
9 standing when the Judge was telling the story and said the N-word?

10 A. I believe so, yes.

11 Q. Okay. You said the conversation was about five or ten minutes?

12 A. I think so, yeah.

13 MS. KOCHER: If we could fast forward to
14 about 18:22:35? Okay. Great.

15 [Video was played]

16 [Video was paused]

17 BY MS. KOCHER:

18 Q. We now have fast-forwarded the video, and we have it paused at the time
19 stamp 18:22:35. Ms. Bartolotta, here does it appear that you're moving
20 closer to your car?

21 A. Yes.

22 MS. KOCHER: Okay. If we could let the video
23 play for just a bit?

24 [Video was played]

25 BY MS. KOCHER:

(Kristen Bartolotta - Direct)

1 Q. And as the video plays on, are you walking to your vehicle at this point?

2 A. Yes.

3 Q. Okay. Who, if anyone, are you walking away from Judge Jones with?

4 A. Cali Valenti.

5 Q. All right. And as you and Ms. Valenti walked away, did you have any
6 conversation about the story the Judge told you?

7 A. I believe we did, and I think, you know, it was -- I believe we did. Yeah.

8 Q. Okay. And what did you talk about?

9 A. I think it was -- we were both -- were not shocked, but just -- or you
10 know, we weren't -- you know, I was kind of concerned because of the
11 person in the car, to be honest.

12 Q. Why were you concerned about that person?

13 A. Because I didn't know what she was doing with the phone.

14 Q. Oh.

15 A. So --

16 Q. What did you think she could have been doing with her phone?

17 A. I mean, I don't --

18 MR. STEINMAN: Objection.

19 MS. KOCHER: I believe I asked, what did you
20 think she could have been doing, and there was an objection
21 to that question.

22 THE REFEREE: Well, what did you observe?

23 THE WITNESS: I observed someone sitting in
24 their vehicle.

25 BY MS. KOCHER:

(Kristen Bartolotta - Direct)

1 Q. And she had a phone in her possession?

2 A. Yeah.

3 Q. Okay. Are you familiar with the fact that phones can record?

4 A. Yes.

5 Q. Okay. Were you concerned that -- she was potentially recording the
6 conversation?

7 A. Yes.

8 MS. KOCHER: All right. Now, if we could
9 pause the video?

10 [Video was paused]

11 BY MS. KOCHER:

12 Q. Now, we're at 18:24:06. Is that what that time stamp says?

13 A. Yes.

14 Q. Okay. Thank you. At this point, your vehicle is gone?

15 A. Yes.

16 Q. Okay. After this incident, did you report it to anyone?

17 A. I believe a few days later, I was just a little bit concerned about things,
18 and so I did mention it to Jared Simpson.

19 Q. Who is Jared Simpson?

20 A. Our Town Supervisor.

21 Q. And you said it was just a few days later?

22 A. I believe so. I'm not sure.

23 Q. Within a week?

24 A. Yeah, I think so.

25 Q. How did you report it to Mr. Simpson?

(Kristen Bartolotta - Direct)

1 A. We just spoke in his office.

2 Q. And why did you report it to him?

3 A. Well, honestly, I was a bit concerned that -- I mean, Cali was pretty
4 shocked by it, and I was concerned --

5 MR. STEINMAN: Objection.

6 THE REFEREE: Overruled.

7 A. Just because Cali -- you know, I think the reaction to that and maybe the
8 person in the car.

9 BY MS. KOCHER:

10 Q. All right. Now, I'd like to fast-forward a few days to May 15, 2024.

11 Were you again assisting Judge Jones with CAP Court that day?

12 A. Yes.

13 MS. KOCHER: If we could pull up Exhibit 9,
14 please?

15 BY MS. KOCHER:

16 Q. All right. Ms. Bartolotta, we have Exhibit 9 on the monitor. This is a
17 one-page document. Do you see the month of May 2024 on this exhibit?

18 A. Yes.

19 Q. And was May 15th -- what day of the week was that?

20 A. Wednesday.

21 Q. Okay. And do you recall what time the arraignments were that day,
22 morning or evening?

23 A. Morning.

24 Q. And typically, when you arrive at CAP Court, what do you do?

25 A. Just prep the paperwork, make copies of all the accusatories [sic], get

(Kristen Bartolotta - Direct)

1 2024?

2 A. Yes.

3 Q. Okay.

4 A. Was it May 15th or 14th? Sorry.

5 Q. I'm sorry?

6 A. Was it May 15th or 14th?

7 Q. Is there a document here that might refresh your recollection of the date?

8 A. Yeah, I just -- sorry.

9 Q. Sure.

10 A. May 15th. Okay.

11 Q. Okay. May 15, 2024?

12 A. Yes.

13 Q. Okay. And was the top charge, attempted assault in the second degree?

14 A. Yes.

15 Q. What else was she charged with?

16 A. It looks like criminal tampering, third; criminal mischief; harassment,
17 second; resisting arrest; and obstructing government administration.

18 Q. Okay. And was she, in fact, arraigned on those charges that morning?

19 A. Yes.

20 Q. Do you recall seeing Ms. D [REDACTED] that day --

21 A. Yes.

22 Q. -- during her arraignment?

23 A. Um-hum.

24 Q. Can you describe what she looked like?

25 A. Her physical appearance?

(Kristen Bartolotta - Direct)

1 Q. Sure.

2 A. An African-American woman.

3 Q. Did you notice any injuries to her face?

4 A. Yeah, she had a significant injury to her eye.

5 MS. KOCHER: If we could pull up Exhibit 8,
6 please?

7 BY MS. KOCHER:

8 Q. All right. We have Exhibit 8 that's been received into evidence. Do you
9 recognize the individual in this photograph?

10 A. Yes.

11 Q. And who is that?

12 A. S█████ D█████.

13 Q. And that's how she appeared on May 15, 2024 with the injury to her eye?

14 A. Yes. I remember it being a little bit worse than that, to be honest.

15 Q. Okay. All right.

16 A. It was pretty bad.

17 Q. And what happened, just generally, during the arraignment of Ms. D█████
18 that morning?

19 A. She was very agitated, making comments about what happened during
20 her arrest, that she was in need of medical care, and just quite -- a little bit
21 angry.

22 Q. Okay. Do you recall hearing Judge Jones make any comment about Ms.
23 D█████' race that morning?

24 A. I do not.

25 Q. And typically during arraignments, what are you doing?

(Kristen Bartolotta - Cross)

1 A. When the Judges are doing the actual arraignments, I'm usually sitting off
2 to the left of the Judge, but I don't -- I can't recall if there was one after
3 her or before her, if I was prepping the next case, but I did not hear him
4 say that.

5 Q. Okay. And there's paperwork that you do as the arraignment's going on?

6 A. Yes. If there's another case, yes. If not, I'm just sitting off to the left.

7 Q. Okay.

8 MS. KOCHER: Can I just have a moment,
9 please?

10 BY MS. KOCHER:

11 Q. Sorry to jump around here, Ms. Bartolotta. Taking you back to the
12 parking lot on May 10th of 2024.

13 A. Um-hum.

14 Q. You said you were concerned that person may have been recording?

15 A. Yes.

16 Q. And why were you concerned about that?

17 A. Well, her window was down, and she was sitting at her phone. I don't
18 know if she was scrolling, texting, or what she was doing. So that's why I
19 thought maybe --

20 Q. Okay. Thank you. I don't have any more questions.

21 A. Okay. Thanks.

22 CROSS-EXAMINATION

23 BY MR. STEINMAN:

24 Q. Ms. Bartolotta, my name is Charles Steinman. I'm Judge Jones' Attorney.
25 We've never met before, have we?

(Kristen Bartolotta - Cross)

1 A. I believe we did when you were newly on the bench for Perinton.

2 Q. In 2021?

3 A. You came in -- and came in and watched court. I think we met briefly
4 that evening.

5 Q. Okay. But we've -- obviously, that was four years --

6 A. Yes.

7 Q. -- before the events that you're testifying about today, correct?

8 A. Yes.

9 Q. And we've never spoken since that one night that I accompanied Judge
10 Jones on the bench; is that right?

11 A. No.

12 Q. Okay. Never spoken about -- you and I have never spoken or
13 communicated in any manner about the facts that you're testifying to
14 today, correct?

15 A. No.

16 Q. And Judge Jones has never communicated with you about the facts you're
17 testifying to today, right?

18 A. No.

19 Q. He's never tried to alter your testimony in any manner, correct?

20 A. Never.

21 Q. Okay. Have you spoken with anyone from the Commission about your
22 testimony today? Have you spoken with any of them, prepared yourself
23 for the deposition -- prepared yourself by reviewing your prior
24 deposition? Any of those things?

25 A. Yes.

(Kristen Bartolotta - Cross)

1 Q. What have you spoken -- you've spoken with Commission representatives
2 prior to today?

3 A. We met, or they came to the office on -- what day is today? Thursday?
4 Tuesday.

5 Q. "They" being who?

6 A. Ms. Sampson --

7 MS. KOCHER: Ms. Kocher?

8 THE WITNESS: Kocher.

9 And I don't remember your name, I'm sorry.

10 MS. WENTWORTH: Alexis.

11 THE WITNESS: Yeah.

12 BY MR. STEINMAN:

13 Q. And did they go over the transcript of the deposition that you previously
14 gave in this matter?

15 A. Yes.

16 Q. Told you what questions you would be being asked, and what answers
17 they anticipate you'd be giving?

18 A. I believe --

19 MS. KOCHER: Objection. Told what answers
20 you'd be giving.

21 MR. STEINMAN: Sorry.

22 MS. KOCHER: Yeah.

23 BY MR. STEINMAN:

24 Q. They told you what questions would be asked?

25 A. Not exact questions, I don't think.

(Kristen Bartolotta - Cross)

1 Q. No, of course. But general areas that they'd be getting into?

2 A. Yes. Um-hum.

3 Q. And you told them what your testimony to those areas might be?

4 A. Yes.

5 MR. STEINMAN: Excuse me just a second.

6 BY MR. STEINMAN:

7 Q. Okay. Ms. Bartolotta, you've been Judge Jones' Court Clerk now for how
8 long?

9 A. Since March of 2019.

10 Q. Okay. So six --

11 A. Six years.

12 Q. -- years, give or take?

13 A. Yes.

14 Q. And you had an opportunity, I would imagine, to observe Judge Jones'
15 courtroom demeanor?

16 A. Yes.

17 Q. Is that fair to say?

18 A. Um-hum.

19 Q. Okay. Would it be fair to say that he's always friendly to the people who
20 appear before him?

21 A. Yes.

22 Q. Would it be fair to say that he's always polite to the people who appear
23 before him?

24 MS. KOCHER: Objection.

25 THE REFEREE: Overruled.

(Kristen Bartolotta - Cross)

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BY MR. STEINMAN:

Q. Would it be fair to say that he roots for people who he sends to jail?

A. Definitely.

Q. In the course of your six -- so based on those questions and answers, would it be fair to say that he treats the people who appear before him, both defendants and counsel, with dignity and with respect. Would that be fair to say?

A. Yes, definitely.

Q. Okay. And I'm assuming that would include individuals who appear before him who are racial minorities. Would that be fair to say?

A. Yes.

Q. Okay. Would I be correct in assuming that he's never used any derogatory racial epithets towards anyone who's ever appeared in front of his court?

A. Never.

Q. Okay. So the only time that you ever heard Judge Jones using the N-word was on May 10th of 2024; is that correct?

A. That's the parking lot.

Q. In the parking lot.

A. Yes.

Q. Okay.

A. Um-hum.

Q. And just pardon me if I'm kicking a dead horse, but that was never him saying, "Oh, that guy is an N-person." He was only quoting what his father said, using his father's words; is that correct?

(Kristen Bartolotta - Cross)

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MS. KOCHER: Objection.

MR. STEINMAN: She's testified to that.

THE REFEREE: Well, why don't you ask her, Mr. Steinman, if you want the substance of the conversation that took place, if that's what you're getting at. Rather than you testifying as it --

MR. STEINMAN: Well, this is, with all respect --

THE REFEREE: I know it's cross-examination.

MR. STEINMAN: -- this is cross. She's testified about the conversation to the best of her recollection, but I want to clarify that it was Judge Jones quoting his father, right?

THE WITNESS: Yes.

THE REFEREE: Thank you.

MR. STEINMAN: Now, could we pull up, please, just any video of the parking lot?

MS. KOCHER: So that would be Exhibit 1 and --

MR. STEINMAN: Is it 1 or 3?

MS. KOCHER: 1, 3 were the --

MR. STEINMAN: There we go.

MS. KOCHER: Yeah.

MR. STEINMAN: Okay.

You can stop that, if you want to.

(Kristen Bartolotta - Cross)

1 [Video was played]

2 [Video was paused]

3 BY MR. STEINMAN:

4 Q. Okay. Ms. Bartolotta --

5 MS. KOCHER: Mr. --

6 MR. STEINMAN: Oh, I'm sorry.

7 MS. TRAPANI: You need to be by the
8 microphone.

9 MR. STEINMAN: I tried raising my voice.
10 Apparently, that didn't work this time.

11 BY MR. STEINMAN:

12 Q. Okay. Ms. Bartolotta, directing your attention to Exhibit 1, which is on
13 the video screen. Off to the righthand side, the car that's closest to us,
14 you in that video, it would be Judge Jones' car; is that correct?

15 A. Yes.

16 Q. Okay. Then the car that you're referring to that had the individual -- the
17 lady who was on her cell phone, or using her cell phone, is the vehicle
18 further away, correct?

19 A. Yes.

20 Q. Did you testify that that was in the parking spot next door to Judge Jones'
21 car?

22 A. I believe I stated one or two spaces next to it.

23 Q. Okay. All right. Looking at that video now --

24 A. Um-hum.

25 Q. -- what is your -- do you think it's in the space next door?

(Kristen Bartolotta - Cross)

1 A. No.

2 Q. Okay. Do you think it's two spaces away or three spaces away?

3 A. I would say probably --

4 Q. Or more?

5 A. -- three.

6 Q. So it's at least three spaces away. Is that fair to say?

7 A. Yeah.

8 Q. Okay. When you are having this conversation with Judge Jones, if you
9 know, did you observe any reaction from the individual in that car on her
10 cell phone to anything that Judge Jones said?

11 A. No.

12 Q. So as you sit here today, you have no knowledge as to whether or not that
13 individual heard anything that was being said in that conversation.

14 A. No.

15 Q. Okay. You said you were concerned, perhaps, that this individual might
16 be recording. Did you say to Judge Jones, "Hey, watch it. There's
17 somebody in a car a few spots away"?

18 A. I did not. Can I say something?

19 Q. Just --

20 A. Okay.

21 Q. I'm sure Ms. Kocher will ask you some questions too.

22 A. Okay.

23 Q. Hang on just a second.

24 (Counsel confer)

25 BY MR. STEINMAN:

(Kristen Bartolotta - Cross)

1 Q. And I believe you testified that Judge Jones was speaking in a normal
2 volume; is that right?

3

4 A. Yeah.

5 Q. And you were and Ms. Valenti were as well, I'm assuming?

6 A. Yes.

7 Q. Okay. So nobody was yelling?

8 A. No.

9 Q. Okay. Or being loud, right?

10 A. No.

11 Q. Okay.

12 MR. STEINMAN: Thank you. Nothing further.

13 MS. KOCHER: May I just ask a few follow

14 up --

15 THE REFEREE: Oh, I'm sorry.

16 MS. KOCHER: Thank you.

17 THE REFEREE: Thinking. Redirect, Ms.

18 Kocher?

19 MS. KOCHER: Thank you.

20 REDIRECT EXAMINATION

21 BY MS. KOCHER:

22 Q. Ms. Bartolotta, why didn't you caution the Judge that there was someone
23 in the car nearby?

24 A. Well, to be honest, I didn't -- I didn't even notice it, I don't think, until --
25 you know, until, I think, right before we were walking away because I

(Kristen Bartolotta - Redirect)

1 believe I was getting text messages from my son about getting him to
2 soccer on time, so I kept looking at my phone. So I don't know at what
3 point I recalled her or saw her sitting there. So no, I didn't. But I also -- I
4 believe I testified I think I was, you know, looking at my phone. My son
5 was texting me about getting him to soccer on time, so I don't know at
6 what point I noticed her.

7 Q. Okay.

8 A. I don't believe it to be at the beginning of the conversation.

9 Q. Okay. You had a lot going on that night, then?

10 A. Yeah, I have a lot -- yeah.

11 Q. Yeah.

12 A. Yeah.

13 Q. Okay. Thank you. I have no further questions.

14 A. Okay.

15 THE REFEREE: Mr. Steinman?

16 MR. STEINMAN: No. Thank you, Judge.

17 THE REFEREE: Ms. Bartolotta, you were
18 concerned about the person in the adjacent car recording the
19 conversation. Was that because of the Judge's use of the N-
20 word?

21 THE WITNESS: I mean, I think it was to -- it
22 was because of the entire conversation. And I didn't know
23 if maybe she was waiting for someone from the jail. You
24 know, I didn't know the situation.

25 THE REFEREE: Um-hum.

(Kristen Bartolotta - Redirect)

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THE WITNESS: So --

THE REFEREE: Well, did the use of the N-word bother you?

THE WITNESS: I mean, it was -- I was a little taken aback --

THE REFEREE: Um-hum.

THE WITNESS: -- by it.

THE REFEREE: And did Judge Jones tell that story in a very casual manner, conversational manner?

THE WITNESS: Yeah, it was -- you know, he was telling us a story about his dad and his dad's friend --

THE REFEREE: Um-hum.

THE WITNESS: -- and that they were good friends. And the way he referenced it, it wasn't -- he was saying, you know, his dad used that word.

THE REFEREE: Okay.

THE WITNESS: Okay.

THE REFEREE: Anything further, Ms. Kocher?

MS. KOCHER: If I could maybe ask a follow-up to that?

THE REFEREE: Sure.

FURTHER REDIRECT EXAMINATION

BY MS. KOCHER:

Q. Ms. Bartolotta, did you report to your supervisor because the Judge used

(Kristen Bartolotta - Redirect)

1 the N-word?

2 A. I think it was the entire situation that I was concerned. And I can't speak
3 for Cali, but I had a feeling --

4 MR. STEINMAN: Objection.

5 THE REFEREE: Well, you can -- why don't
6 you describe -- instead of talking about Ms. Valenti's state
7 of mind, did you observe anything about her as the story
8 was told or shortly thereafter?

9 THE WITNESS: Not during the story, no.

10 THE REFEREE: Um-hum.

11 Ms. Kocher?

12 BY MS. KOCHER:

13 Q. Okay. How about after the story?

14 A. Yeah. I mean, she was -- had the same concern, I believe.

15 THE REFEREE: By the concern, do you mean
16 about the use of the N-word?

17 THE WITNESS: Yes.

18 MS. KOCHER: Thank you.

19 THE REFEREE: Mr. Steinman?

20 MR. STEINMAN: No, thank you.

21 THE REFEREE: Okay.

22 Thank you coming today.

23 THE WITNESS: Thank you.

24 THE REFEREE: And you're excused.

25 MS. KOCHER: May I call our next witness?

(Kristen Bartolotta - Redirect)

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THE REFEREE: Yes.

MS. KOCHER: Patrick Conklin. I believe Ms. Sampson just stepped out to get him.

(Counsel confer)

MS. KOCHER: Thank you, Kate.

Oh, thank you.

THE REFEREE: Good morning.

MR. CONKLIN: Good morning or afternoon, I don't know what time it is.

MS. KOCHER: Yeah, afternoon.

THE REFEREE: Mr. Conklin, this proceeding is being digitally recorded, so will you try to speak directly into the microphone?

MR. CONKLIN: Yes, sir.

THE REFEREE: And do you swear or affirm under the penalty of perjury that the testimony you are about to give will be the truth, the whole truth, and nothing but the truth?

MR. CONKLIN: Yes, sir.

THE REFEREE: Ms. Kocher, please proceed.

MS. KOCHER: Thank you.

MR. PATRICK CONKLIN,
having been duly sworn, was examined and testified as follows:

(Patrick Conklin - Direct)

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DIRECT EXAMINATION

BY MS. KOCHER:

Q. Good afternoon.

A. Good afternoon.

Q. Could you please state and spell your name for the record?

A. My name is Patrick, P-A-T-R-I-C-K; Conklin, C-O-N-K-L-I-N.

Q. And Mr. Conklin, are you here pursuant to a subpoena?

A. I am.

Q. Could you tell us a little bit about your educational background?

A. How far back would you like me to go?

Q. College.

A. I went to Nazareth. I have a History degree at Nazareth. From Nazareth, I went to law school where I attended Stetson University in St. Petersburg, Florida.

Q. Okay. When did you graduate from Nazareth?

A. 2001.

Q. And how about law school, when did you graduate?

A. 2004.

Q. Are you admitted to practice law in any states?

A. New York.

Q. Any other states?

A. No.

Q. And are you currently employed?

A. I am.

Q. Where do you work?

(Patrick Conklin - Direct)

1 A. The Ontario County Public Defender's office.

2 Q. In what capacity do you work there?

3 A. I'm an Assistant Public Defender.

4 Q. How long have you been so employed?

5 A. In January, it'll be 15 years.

6 Q. Okay. And that's a full-time position?

7 A. It is.

8 Q. And what are some of your duties as an Assistant Public Defender?

9 A. Currently, I handle all aspects of criminal cases. Mainly, the types of
10 cases that I do currently are violent felonies and sex cases.

11 Q. Do you also assist with CAP arraignments?

12 A. We do. There's a rotation in my office where every Attorney handles a
13 certain number of CAP appearances each month.

14 Q. And about how often are you on?

15 A. I'm on every Wednesday morning, typically.

16 Q. Is there a rotation through the Judges too for CAP Court?

17 A. I believe so.

18 Q. And where do the CAP arraignments take place?

19 A. The Ontario County Jail in Hopewell.

20 Q. And are they recorded by an audio system?

21 A. They are.

22 Q. Okay. There's no stenographer there?

23 A. There is not.

24 Q. And Mr. Conklin, I'd like to take you back to May 15th of 2024. Were
25 you covering CAP Court that morning?

(Patrick Conklin - Direct)

1 A. I was.

2 Q. Okay. And what Judge was assigned?

3 A. I believe Mr. Walter Jones.

4 Q. Do you see Judge Jones in the courtroom?

5 A. I do.

6 Q. Could you please identify him by an article of clothing he's wearing?

7 A. Yeah, he has a blue sport coat and a green and blue striped tie.

8 MS. KOCHER: Could the record, please, reflect
9 that the witness has identified Judge Jones?

10 THE REFEREE: Yes.

11 MS. KOCHER: Thank you.

12 All right. If we could pull up Exhibit 9, please?

13 BY MS. KOCHER:

14 Q. All right. Mr. Conklin, if you could take a look to your right at the
15 monitor, we have Exhibit 9 pulled up. You mentioned that you covered
16 CAP Court Wednesday mornings?

17 A. Correct.

18 Q. And was May 15, 2024, in fact, a Wednesday?

19 A. It was.

20 Q. And about what time do the morning arraignments occur?

21 A. I would have gotten there around 6:30 to interview people in advance of a
22 seven o'clock a.m. start.

23 Q. And do you recall if there was an Assistant District Attorney present that
24 day?

25 A. They are never -- well, since COVID, they haven't been present. They

(Patrick Conklin - Direct)

1 appeared telephonically. And when I arrived, I don't believe they were
2 on the phone as of yet.

3 Q. Okay. Any other court staff there that morning?

4 A. I believe Mr. Jones' Court Clerk, Kristen Bartolotta, was there as well.

5 Q. And do you recall representing a S [REDACTED] D [REDACTED] that morning?

6 A. I do.

7 Q. What was Ms. D [REDACTED] charged with?

8 A. I believe she was charged --

9 Q. Will looking at some records refresh your recollection?

10 A. It would.

11 Q. Sure.

12 MS. KOCHER: If we could pull up Exhibit 7,
13 please?

14 BY MS. KOCHER:

15 Q. And scroll through a few pages. Oh, if you want to go back up to page
16 four and five. Okay.

17 A. It appears that she was -- after reviewing the page -- I think it was page
18 four, you said. The misdemeanor information, it was up for a criminal
19 mischief, fourth. There may have been some other charges --

20 Q. Okay.

21 A. -- as well.

22 Q. If we could scroll to page five. Was she also charged with obstructing
23 governmental administration in the second degree?

24 A. Yes, ma'am.

25 Q. And that's a misdemeanor?

(Patrick Conklin - Direct)

1 A. It is.

2 Q. Page six? Is this another information charging harassment in the second
3 degree?

4 A. It is.

5 Q. And now, page seven is information charging criminal tampering in the
6 third degree; is that correct?

7 A. That is correct.

8 Q. Okay. Keep scrolling, please. Keep scrolling. Now, we're on page ten.
9 Is this an information charging resisting arrest?

10 A. That is correct.

11 Q. Okay. If we could keep scrolling, please? Keep going. All right. Now,
12 we're on page 12. Is this a felony complaint charging attempted assault in
13 the second degree?

14 A. It is.

15 Q. And that's in violation of section 110. I'm sorry. Sections 110 and
16 120.05, subdivision 2?

17 A. That's correct.

18 Q. Okay. And you mentioned that you get there early to interview people.

19 A. I do.

20 Q. Do you recall interviewing Ms. D■■■■?

21 A. I do.

22 Q. And can you describe her demeanor when you met with her that
23 morning?

24 A. When I arrived that morning, the Deputies that already had, what's
25 commonly referred to as, a spit hood on the counter because Ms. D■■■■

(Patrick Conklin - Direct)

1 had become agitated at some point. When I went back to interview her,
2 there's a holding area interview room with a glass partition. When I
3 interviewed her, she did not want to be represented by the Public
4 Defender. She was very animated about that, but she did agree to have
5 me stand in with her for arraignment.

6 Q. And what did Ms. D [REDACTED] look like that morning?

7 A. She had a very large swelling in her face. Her eye, I believe it was her
8 right eye, was completely swollen shut. It appeared as -- there was, the
9 best way to describe it would be, a softball-sized swelling of her face, that
10 side of her face, and her eye was completely shut.

11 Q. And what was her race?

12 A. She was African-American.

13 MS. KOCHER: If you could pull up Exhibit 8,
14 please?

15 BY MS. KOCHER:

16 Q. We now have Exhibit 8 on the monitor. Does this appear to be a fair and
17 accurate photograph of how Ms. D [REDACTED] looked the morning of May 15,
18 2024?

19 A. It does.

20 Q. And what happened -- so you did, in fact, stand in with her for the
21 arraignment?

22 A. I did.

23 Q. And what happened during the arraignment?

24 A. During the arraignment, I believe the People requested bail in the amount
25 of \$3,000 cash, \$6,000 bond, and I believe, \$12,000 partially-secured

(Patrick Conklin - Direct)

1 bond. Prior to that, we had waived the reading under a not-guilty plea on
2 Ms. D■■■■' behalf. And I believe Judge Jones indicated that he was
3 setting bail in that amount requested, and Ms. D■■■■ became agitated
4 about that amount being set. She had to go to work. That she was
5 being -- it was happening because she was African-American and that
6 Ontario County is a racist county, and she was very upset with the
7 situation. And the fact that she had claimed that people had jumped her,
8 they jumped on her. And I think she said at one point, eight people
9 jumped on her, so she was very unhappy about being held on that amount
10 of bail.

11 Q. Okay. Did you make a request for a lower bail?

12 A. I did.

13 Q. And that was denied?

14 A. It was.

15 Q. All right. Now, after the arraignment, was Ms. D■■■■ removed from the
16 area where CAP arraignments take place in the jail?

17 A. Yeah, she would have been taken back to the pod.

18 Q. Okay. And what happened after the arraignment?

19 A. Typically, after the arraignments are done, I believe Ms. D■■■■ was the
20 last arraignment, so I would have left shortly thereafter because I had
21 already interviewed everybody. And usually with arraignments,
22 especially when the defendants can be somewhat animated. In Ms.
23 D■■■■' situation, they had the spit hood out, so I believe I may have made
24 some reference to that I took it as a victory I didn't get spit at that day.

25 Q. Okay. Did you have a conversation with the Judge?

(Patrick Conklin - Direct)

1 A. Just briefly. Where I think we just -- it just was very quick afterwards. I
2 think that's when I may have mentioned I was happy I didn't get spit at,
3 and I believe Mr. Jones made a comment about S [REDACTED], Ms. D [REDACTED],
4 playing the race card.

5 Q. Okay. Was Ms. D [REDACTED] present during that conversation?

6 A. She was not.

7 Q. And how did you feel after you heard the Judge make that comment,
8 "Naturally, she played the race card"?

9 A. It's an odd situation to be in as a Defense Attorney, knowing that you'll
10 appear in front of Judges again, you'll have clients in front of Judges
11 again, whether it be your own person -- your own client, or a CAP
12 arraignment. I typically take a position where I don't make complaints,
13 and I would not -- it wouldn't have mattered how I felt at the time. I
14 wouldn't have engaged in any conversation about what had happened.

15 Q. Okay. So you said, "It's a weird situation because you're going to see the
16 Judge again, and you'll have clients in front of the Judge again." But
17 what do you mean by that?

18 A. If you call a Judge out for something they say or do, it has the potential to
19 negatively impact future clients. And doing what I do, I can't allow that
20 to happen because I wouldn't be doing my job.

21 MS. KOCHER: I'd like to pull up Exhibit 5, the
22 audio recording.

23 BY MS. KOCHER:

24 Q. Okay. Before we play, Mr. Conklin, did you learn that those comments
25 about that the Judge made, "Naturally, she plays the race card", were --

(Patrick Conklin - Direct)

1 it's still being recorded by the CAP recording?

2 A. It was close enough where Ms. D [REDACTED] had just left. The recorder wouldn't
3 have been shut off at that point. It usually takes a couple minutes. In the
4 situation when Mr. Jones is handling CAP, I believe his Court Clerk is
5 typically the one that would shut off the recorder.

6 Q. Okay. So you've had a chance to listen to the recording from the
7 arraignment of Ms. D [REDACTED]?

8 A. I have.

9 Q. Okay. So we have Exhibit 5. I'd like to play it through in its entirety.
10 And then, I may go back and ask you a few questions.

11 A. Very good.

12 MS. KOCHER: Okay. Play.

13 [Audio was played]

14 MS. KOCHER: I'm sorry. Can we pause the
15 recording?

16 [Audio was paused]

17 MS. KOCHER: I'm sorry, everyone. We also
18 have what's been received as Exhibit 6, the transcript, so I
19 can pass hard copies of that out to everyone, so you can
20 also read along while you're listening, if that might help.
21 I'm sorry. I forgot about that before hitting play.

22 THE REFEREE: Yeah. Yes, please.

23 MS. KOCHER: Okay. Thank you.

24 MR. STEINMAN: I've got it. Yes, you may --

25 MS. KOCHER: You have a copy?

(Patrick Conklin - Direct)

1 Thank you.
2 May I approach the witness and --
3 THE REFEREE: Please.
4 MS. KOCHER: -- the bench?
5 THE WITNESS: Thank you.
6 MS. KOCHER: Um-hum.
7 THE REFEREE: Thank you.
8 MS. KOCHER: You're welcome.
9 Okay. I apologize for that, so if we can continue
10 playing. I've -- we've just -- we're just a few seconds in.
11 [Audio was played]
12 MS. KOCHER: Okay. So we've played Exhibit
13 5 through its entirety. If we could start back at the
14 beginning of the recording, please?
15 BY MS. KOCHER:
16 Q. And just going to let that play for a little bit and ask you to identify some
17 of the voices.
18 [Audio was played]
19 MS. KOCHER: Okay. Could we pause it?
20 [Audio was paused]
21 MS. KOCHER: So now we've paused it at
22 about -- is it ten seconds?
23 MS. TRAPANI: 19.
24 MS. KOCHER: 19. Okay, thank you. 19
25 seconds into the clip.

(Patrick Conklin - Direct)

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BY MS. KOCHER:

Q. Mr. Conklin, do you hear a male and female voice in that 19-second clip?

A. I do.

Q. And who are the voices, the male and the female?

A. Judge Walter Jones and his Clerk, Kristen Bartolotta.

Q. Okay.

A. And I believe there's a second female. That was Jenna Markwitz, who was on the phone.

Q. Okay. So at one point, the Judge says, "Ms. Markwitz, it's Judge Jones", and she would be appearing via phone?

A. Correct.

MS. KOCHER: Okay. If we could let it play a little longer, please.

[Audio was played]

MS. KOCHER: And if we could pause?

[Audio was paused]

MS. KOCHER: And I've now paused it at -- How many seconds in?

MS. TRAPANI: 57.

MS. KOCHER: 57 seconds in. Thank you.

BY MS. KOCHER:

Q. Now, there's a different male's voice there; is that correct?

A. Correct.

Q. And on the transcript, they're identified as "Unknown Male 1"?

A. Correct.

(Patrick Conklin - Direct)

1 Q. Do you know who that person was?

2 A. Hearing now, I'm fairly certain it's Ontario County Sheriff or Corrections
3 Officer Cummings.

4 Q. Okay. Do you know how to spell that?

5 A. C-U-M-M-I-N-G-S.

6 Q. Okay. And then there was another female voice. The transcript identifies
7 it as "Court Clerk", that would be Ms. Bartolotta?

8 A. It would.

9 Q. And did you also hear your voice?

10 A. I did.

11 Q. Are you accurately identified in the transcript as "Mr. Conklin"?

12 A. Yes.

13 Q. Thank you.

14 MS. KOCHER: Now, if we could fast-forward
15 to, I believe -- it's about 10 minutes and 20 seconds into the
16 clip, and let that play.

17 [Audio was played]

18 MS. KOCHER: If we could pause?

19 [Audio was paused]

20 MS. KOCHER: All right. We've now paused it
21 at 10 minutes and 42 seconds into the clip.

22 BY MS. KOCHER:

23 Q. Mr. Conklin, is that clip that we just played, captured Judge Jones saying,
24 "Naturally, she played the race card"?

25 A. It does.

(Patrick Conklin - Direct)

1 Q. And did you ask him any questions or say anything to him to elicit that
2 response or statement?

3 A. No, I believe I said something previous to that, 3, 6, 12, which I believe
4 one of the Court Deputies -- one of the Deputies of the jail was asking
5 what bail was set at.

6 Q. Okay. So the 3, 6, 12 is --

7 A. Correct.

8 Q. -- your response to that?

9 A. It was.

10 Q. Okay. And then, after the Judge says, "Naturally, she played the race
11 card", you had some conversation with the Judge?

12 A. I did.

13 Q. Okay. And that's accurately captured by the recording?

14 A. It is.

15 Q. Now, after your appearance in CAP that morning, what did you do?

16 A. I would have went back to my office or went to my office. I reside in
17 Hopewell, so I don't go to the office before 6:30 in the morning, so I
18 would have -- I would have gone back to -- gone to the office. And
19 typically, if things happen during arraignments or a court appearance, I
20 would typically talk to my boss, Leanne Lapp.
21 Obviously, this arraignment stood out to some extent, given the eye
22 injury, whether or not she wanted the Public Defender's Office to be
23 representing her. I was upset that there was the amount of cash bail set
24 on her, given the lack of criminal history, and I believe I would have
25 probably said something about the comment that was made. I don't recall

(Patrick Conklin - Direct)

1 if I explicitly told Ms. Lapp about that, but I would have had a
2 conversation with her about the arraignment.

3 Q. Okay. So as you sit here today, do you recall if you told her about the
4 Judge saying, "Naturally, she plays the race card", and some of the other
5 comments?

6 A. I believe I did, but I'm not a 100 percent positive that I would have told
7 her. That was May of 2024, so I don't recall the exact conversation. I
8 would have had a conversation with her either that day or the next day. I
9 have to imagine it would have come up simply because there was some
10 history there with Judge Jones and my office.

11 Q. Okay. You mentioned Ms. D [REDACTED] not having a criminal history. Does
12 she have any history at all; do you recall?

13 A. I don't believe so. Or a very limited criminal history, if she had any.

14 MS. KOCHER: Okay. If we could go to
15 Exhibit 7, the court records? And page one. It's the first
16 couple of pages. Okay. If we could scroll through, I think,
17 pages one, two, and three. Okay. Just pages one and two.

18 BY MS. KOCHER:

19 Q. Does that appear to be a criminal history report for Ms. D [REDACTED]?

20 A. It is a criminal history report. And from that, it would indicate that she
21 did not have a criminal history.

22 Q. And you mentioned your boss is Leanne Lapp. Is that Lapp, L-A-P-P?

23 A. It is.

24 MS. KOCHER: Thank you, Mr. Conklin. I
25 don't have any more questions.

(Patrick Conklin - Cross)

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THE REFEREE: Mr. Steinman?

CROSS-EXAMINATION

BY MR. STEINMAN:

Q. Mr. Conklin, I'd like to -- I'm sorry. First of all, we've never met before, have we?

A. We have not.

Q. Okay. Never discussed this matter in any manner?

A. No.

Q. Okay. Have you spoke with representatives of the Commission prior to you testifying today?

A. I have.

Q. Okay. When was the last time you spoke with them?

A. I believe it was the 19th.

Q. Okay. Of this month?

A. Correct. Tuesday, I believe, when I returned from taking my daughter to college.

Q. And did you go over the transcript that's now in evidence with them?

A. I reviewed it, yes.

Q. Okay. Did you also review it independently of them, or just when they were with you?

A. I don't have a copy of it. It wasn't provided to me --

Q. Okay.

A. -- until today.

Q. You've been asked a number of questions about the bail issue. I'm assuming that as a veteran Public Defender, not all of your bail

(Patrick Conklin - Cross)

1 recommendations or thoughts on what bail might be have been accepted
2 by the courts. Would that be a fair statement? Do the Judges always
3 agree with what you want for bail?

4 A. I'm a Criminal Defense Attorney, a Public Defender --

5 Q. Right.

6 A. -- Judges rarely agree with me.

7 Q. And had you felt that Judge Jones' decision on bail was incorrect, you had
8 options, didn't you? You could have gone to Ontario County Court
9 immediately on a habeas application and had the bail reviewed, correct?

10 A. I don't see the relevance that -- at the arraignment --

11 Q. Well --

12 A. -- because we wouldn't have done a bail application at that time, and --

13 Q. I'm talking about after the arraignment.

14 A. Yeah, there's an avenue to do a bail application.

15 Q. Right, right.

16 A. But those bail applications are based upon whether or not a Judge abused
17 their discretion --

18 Q. Right.

19 A. -- and those are also very rarely granted --

20 Q. Okay.

21 A. -- in favor of the Defense Attorney.

22 Q. Right. So this whole issue about bail that was Judge Jones'
23 determination, you chose not to appeal it; fair to say?

24 A. I did appeal it, because I asked for pre-trial release, and then I asked for
25 1,000, 2,000, 4,000.

(Patrick Conklin - Cross)

1 Q. Appeal to another court?

2 A. No, because I didn't represent her.

3 Q. Okay. Did you tell her that she should get an Attorney to make a bail
4 application? At that point in time, you represented her, didn't you?

5 MS. KOCHER: I'm sorry. It's -- yeah.

6 BY MR. STEINMAN:

7 Q. During the arraignment.

8 A. I was there for the purposes of the arraignment. At that point, beyond the
9 arraignment, until the very end, she hadn't made a determination that she
10 wanted anybody from my office --

11 Q. Right.

12 A. -- to be representing her.

13 Q. Right. But you had -- but you could have said to her, "When you hire an
14 Attorney, they can make a bail application for you." She was upset about
15 the bail, wasn't she?

16 A. She was. So was I.

17 Q. Yeah, okay. So why didn't you say to her, "Hey, get an Attorney, and
18 they can -- then, they can apply for reduced bail"?

19 A. Because she wasn't my client. I'm not going to give her other legal
20 advice beyond what she wanted for the arraignment.

21 Q. Okay. Just a second. Well, you were advising her, "To get medical and
22 have them take a look at your eye", weren't you?

23 A. I was.

24 Q. Okay.

25 A. Did you see her eye?

(Patrick Conklin - Cross)

1 Q. Sir, you're a veteran. You get to ask the questions when you're the
2 questioner. I get to ask the questions.

3 A. Feel free.

4 Q. And you told her, "If you need to get to the hospital, if they need to look
5 at that because it's something that should be looked at, and we'll go from
6 there." Didn't you say that, sir, to her?

7 MS. KOCHER: Objection. Relevance to this
8 line of questioning.

9 THE REFEREE: Overruled.

10 BY MR. STEINMAN:

11 Q. Didn't you say that to her, sir?

12 A. Yes, I told her --

13 Q. Okay.

14 A. -- that she was in the care and custody of the Ontario County Sheriff --

15 Q. Okay.

16 A. -- and that if she needed medical attention, they are required to give her
17 medical attention.

18 Q. Okay. Well, that had nothing to do with arraignment, per se, did it?

19 Arraignment is you're advised of the charges, you plead not guilty, bail
20 set, right?

21 A. And she was -- indicated that she was -- obviously, you could see the
22 picture. She had a medical situation going on. Everyone was aware of
23 that. You heard the Court Deputy indicate that she -- he believed that she
24 had a broken orbital bone, so she was concerned about medical treatment
25 or her medical situation. That's not legal advice to say, "Seek medical

(Patrick Conklin - Cross)

1 attention, and they have to give it to you here."

2 Q. Well, you said, "I only represented her for arraignment. I didn't give her
3 any advice about anything." So you gave her advice on medical, but not
4 about whether or not she could go to bail review, right? Fair to say?

5 MS. KOCHER: Objection.

6 THE REFEREE: Overruled.

7 A. I didn't give her additional legal advice with regard to a bail application.

8 BY MR. STEINMAN:

9 Q. Okay.

10 A. I told her given the circumstances surrounding how her eye looked, and
11 the information that I had on hand of a broken orbital bone, that she
12 should get her eye looked at.

13 Q. Okay. Now, as I listened to the recording, and you correct me if I'm
14 wrong, I see on multiple occasions prior to Judge Jones saying anything
15 about playing the race card, she said, "This is a racist county. I'm the
16 wrong color to be here." Is that right? Is that what she said? Before
17 Judge Jones said anything, right?

18 A. I believe so.

19 Q. And didn't she also say, before Judge Jones said anything, "Like I said,
20 I'm in the wrong county. All right. It's a racist-ass county." She said
21 that, didn't she? Before Judge Jones said anything, right?

22 A. Correct.

23 Q. And then, didn't she say -- again, before Judge Jones said anything. "And
24 then he's holding me." And I'm assuming that's referring to Judge Jones.
25 "Because I'm African-American", correct?

(Patrick Conklin - Cross)

1 A. She said that?

2 Q. I'm sorry. Is that a question or is that your statement that she said that.

3 A. She said that.

4 Q. Okay. And then, just a couple lines down, "He's holding me because I'm
5 African-American." She said that before Judge Jones said anything,
6 correct?

7 A. Correct.

8 Q. Okay. And again, she repeats, "I know this is a racist-ass county."
9 Correct? Is that right?

10 A. Correct.

11 Q. Okay. So Judge Jones didn't say anything about playing the race card
12 until she repeatedly alleged that everything was being done to her in
13 terms of the legal process because she was black; fair to say?

14 A. That would be the mechanism of playing the race card. One would have
15 to have mentioned race for someone to make a statement about a race
16 card.

17 Q. Okay. So that was the mechanism by which that came out. She was
18 making all these allegations about race, correct?

19 A. She had made statements about Ontario County being a racist county, and
20 that's why she believed she was being held.

21 Q. Okay. Had you appeared before Judge Jones on any prior occasions? I'm
22 assuming --

23 A. Many times.

24 Q. -- because you've been around for a while. Okay.

25 MR. STEINMAN: Just a second.

(Patrick Conklin - Cross)

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(Counsel confer)

BY MR. STEINMAN:

Q. And now, the conversation in which the race card issue was addressed, that was -- you said -- I think you said it was after Ms. D [REDACTED] had left the courtroom; is that right?

A. Correct. I believe you can hear in there, I believe he says, "Naturally." And then I believe there's a pause and the door closes. That might have been the door right off of the right where the CAP arraignments are held, and that's when he then said, "Naturally, she played the race card."

Q. Okay. And right after that, he gave you a compliment and said, "You did the best you could, Pat," right?

A. Correct.

Q. Okay. And after that, didn't you say, "I'm taking it as a victory, she didn't spit at anybody"; is that correct?

A. I did.

Q. Okay. Why is that?

A. Because when I showed up at 6:30 in the morning for the arraignment, the Deputies had the spit hood out. Typically, the spit hood isn't out unless there's been an issue.

Q. Um-hum.

A. During the arraignment, and prior when I met with her, she was animated, but she was not volatile, and she didn't spit at anybody.

Q. Okay.

A. So when there's a spit hood out, and nobody spits on anybody, I took that as a victory.

(Patrick Conklin - Cross)

1 Q. Okay. But I mean, that comment, would that be fair to say that's, sort of,
2 a lighthearted comment, sort of, jovial in jest. That had nothing to do
3 with the arraignment, did it?

4 A. No.

5 Q. Okay. So was it, sort of, a lighthearted moment in the court?

6 A. It was flippant.

7 Q. Okay. Okay. And sort of a flippant conversation between you and Judge
8 Jones ensued after that. Is that fair to say?

9 A. I would not equate the two statements.

10 Q. No, I'm not trying to -- that's not my question. I didn't ask you about the
11 prior, okay? The question was, did the conversation that ensued after you
12 said, "I'm taking it as a victory, she didn't spit on me." Was that part of a
13 series of back and forth between you and the Judge that were, kind of,
14 flippant?

15 A. I don't believe there was a lot of back and forth between the Judge and I
16 after I said that.

17 Q. Okay. I didn't ask whether or not there was a lot. Didn't you say, "I'm
18 taking it as a victory, she didn't spit on anybody"? Judge Jones said, "She
19 was pretty well restrained, so she couldn't attack you. But she probably
20 would have if she hadn't been handcuffed." Mr. Conklin: "Well,
21 apparently, the -- some of the staff said she was a little bit (unintelligible)
22 spit." You don't think that's a little flippant? Use your words.

23 A. Some of it -- you say was unintelligible, so I'm not sure what you're
24 referencing.

25 Q. Okay. That's fine.

(Patrick Conklin - Cross)

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MR. STEINMAN: I have nothing further.

MS. KOCHER: I don't have any more questions. Thank you.

THE REFEREE: Sir, you mentioned that you have a history with Judge Jones. What is the nature of that history?

THE WITNESS: I have known Judge Jones -- I've been practicing for -- it will be 20 years in September. I've known Judge Jones the entire time I've been in practice. I was in private practice prior to being a Public Defender for about five years. I've rented office space from Mr. Jones. [REDACTED]

[REDACTED]

[REDACTED] --

[REDACTED]: [REDACTED].

[REDACTED]: [REDACTED]

[REDACTED]?

[REDACTED]: [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

THE REFEREE: Okay. We'll strike that testimony. I have nothing further.

1 MS. KOCHER: Thank you.

2 Oh, yeah. Please leave Exhibit 6.

3 THE WITNESS: Very good.

4 MS. KOCHER: Thank you.

5 THE REFEREE: Can we go off the record for a
6 moment?

7 (Recess from 12:47 p.m. until 1:50 p.m.)

8 MS. TRAPANI: We're on the record.

9 THE REFEREE: Ms. Kocher, have you rested?

10 MS. KOCHER: I don't have any more
11 witnesses. The only other matter I'd like to address is
12 Commission Exhibit 10 --

13 THE REFEREE: Oh, sure.

14 MS. KOCHER: -- which is a redacted version --

15 THE REFEREE: Yeah.

16 MS. KOCHER: -- of the Judge's prior
17 testimony. I did previously give a copy of this to Mr.
18 Steinman. I don't believe there's any objection.

19 MR. STEINMAN: That's correct.

20 MS. KOCHER: And would ask that that be
21 received and considered during your deliberations.

22 THE REFEREE: Yes, it's received.

23 MS. KOCHER: Okay. Great. Thank you. We
24 have it digitally available. I wasn't planning --

25 THE REFEREE: Um-hum.

(Matter of Walter W. Jones - Colloquy)

1 MS. KOCHER: -- on reading it and just making
2 it available to you while you --
3 THE REFEREE: Okay. That's fine.
4 MS. KOCHER: Okay. Thank you.
5 THE REFEREE: Mr. Steinman?
6 MR. STEINMAN: Thank you, Your Honor.
7 Walter W. Jones, Jr., please?
8 You may -- hold on. I think you're going to
9 have to --
10 JUDGE JONES: (Unintelligible) -- walking
11 behind you.
12 THE REFEREE: That's no problem.
13 JUDGE JONES: I solemnly swear to tell the
14 truth, the whole truth, and nothing but the truth so help me
15 God.
16 THE REFEREE: Well, let me --
17 JUDGE JONES: Is that sufficient?
18 THE REFEREE: Yeah. Well, I want to --
19 Judge, as I've told other witnesses, this is being -- this
20 proceeding is being digitally recorded, so please speak into
21 the microphone slowly and clearly as you can.
22 JUDGE JONES: At the Town Court, we have
23 lousy equipment --
24 THE REFEREE: Yeah.
25 JUDGE JONES: -- as well, and I have to tell

(Walter W. Jones, Jr. - Direct)

1 everybody get right close to the microphone if you're going
2 to talk.

3 THE REFEREE: Oh, okay. And I'll just
4 formally administer the oath to you that -- do you swear or
5 affirm under the penalty of perjury that the testimony you're
6 about to give is the truth, whole truth, and nothing but the
7 truth?

8 JUDGE JONES: Yes, sir.

9 THE REFEREE: Please proceed, Mr. Steinman.

10 MR. STEINMAN: Thank you.

11

12 HON. WALTER W. JONES, JR.,

13 having been duly sworn, was examined and testified as follows:

14

15 DIRECT EXAMINATION

16 BY MR. STEINMAN:

17 Q. Good afternoon, sir. Would you state your full name for the record,
18 please?

19 A. Walter W. Jones, Jr.; J-O-N-E-S is the spelling of the last name.

20 Q. And what is your birthday, sir?

21 A. My profession is --

22 Q. No, your birthday.

23 A. My birthday. [REDACTED]. I'm 81-and-a-half, approximately, years
24 old.

25 Q. Where were you born?

(Walter W. Jones, Jr. - Direct)

1 A. I was born in Wichita, Kansas.

2 Q. And how long did you live in Wichita, Kansas?

3 A. 25 years.

4 Q. Okay. And -- hang on a second. What --

5 A. Let me correct something. I never lived in the south.

6 Q. Okay.

7 A. My grandparents lived in the south. My mom and dad were born and
8 raised in the south, but my parents had to leave Texas because of the
9 depression, and my father got work with Beech Aircraft in Wichita, and I
10 was born and raised there. Never lived in the south.

11 Q. Okay. Where did you graduate from college?

12 A. Wichita State University with a degree in History and minored in French
13 and English.

14 Q. What year?

15 A. 1969.

16 Q. Okay. And did you, thereafter, go to law school?

17 A. I beg your pardon, 1965. I went to law school at the University of
18 Kansas and graduated there June 1st of 1969.

19 Q. Okay. Are you admitted to practice law in any states?

20 A. I practice law in Canandaigua.

21 Q. Okay. So you're admitted to practice in the state of New York?

22 A. And I've been there for 45 years, approximately.

23 Q. So are you admitted to practice in the state of New York?

24 A. I am admitted in New York. Nowhere else.

25 Q. Okay.

(Walter W. Jones, Jr. - Direct)

1 A. When we finally graduated -- when I finally graduated from KU, we were
2 too poor to stay there.

3 Q. Okay.

4 A. And Lawyers Co-operative Publishing Company had offered me a job,
5 and they would pay all the expenses for me to drive across country.

6 Q. So when did --

7 A. So I did.

8 MS. TRAPANI: I'm sorry. You're too close to
9 the microphone.

10 THE RESPONDENT: I'm too close?

11 MS. TRAPANI: You're very staticky. Yes.

12 THE RESPONDENT: Oh, wow.

13 THE REFEREE: Okay. Were you able to --

14 THE RESPONDENT: About here?

15 THE REFEREE: Excuse me, Ms. Trapani,
16 were you able to pick up that last response?

17 MS. TRAPANI: Yes. Um-hum.

18 THE REFEREE: Okay.

19 BY MR. STEINMAN:

20 Q. When did you begin employment with Lawyers Co-operative?

21 A. 1969.

22 Q. And how long did you remain employed by them?

23 A. 1973.

24 Q. Okay. What was your next job after Lawyers Co-op?

25 A. My next job was with the State of New York. There was an organization

(Walter W. Jones, Jr. - Direct)

1 then called the Drug Abuse Control Commission, which is now known as
2 the Office of Addiction Services and something else. OASIS, O-A-S-I-S.

3 Q. Okay. And how long --

4 A. I was there for about four years.

5 Q. What was your next job after that?

6 A. I opened my law practice in 1976.

7 Q. And where was your law practice located?

8 A. My law practice then was on the corner of Atlantic Avenue and near the
9 intersection of Winton Road.

10 Q. In the city of Rochester?

11 A. In the city of Rochester.

12 Q. And how long did you maintain an office there?

13 A. I'm trying to think back. I think three or four years. I was introduced to
14 an elderly lawyer, who doesn't look so elderly now, in Canandaigua, who
15 was looking for an Associate, and I think that was 1973.

16 Q. Okay.

17 A. And I have been in Canandaigua practicing law ever since.

18 Q. Okay. And is that the law firm of Croucher & Jones?

19 A. Correct.

20 Q. Mr. Croucher is deceased, I'm assuming?

21 A. Mr. Croucher sadly is deceased.

22 Q. Okay. And how many Attorneys are in that firm?

23 A. Just me.

24 Q. Okay. And just in 15 words or less, what type of practice is Croucher &
25 Jones?

(Walter W. Jones, Jr. - Direct)

1 A. Well, we used to do a lot of matrimonial, but that got to be unpleasant.
2 Nobody wanted to pay you. And so now, we concentrate on real estate,
3 decedent's estates, and primarily on -- well, real estate, decedent's estates
4 is the primary practice these days.

5 Q. Um-hum. All right. Are you a duly-elected Judge of the Canandaigua
6 Town Court?

7 A. I am.

8 Q. Okay. And when were you first elected as Judge of the Canandaigua
9 Town Court?

10 A. Because the prior Town Court Judge had died unexpectedly in December
11 of 1998, I was appointed by the Town Board to the position in February
12 of 1999, and I had to run for office in the fall of 1999, and I have been re-
13 elected, I think, six times now.

14 THE RESPONDENT: Am I the right distance
15 from the microphone? Okay.

16 BY MR. STEINMAN:

17 Q. And you've continuously served --

18 A. And I'm still there because I was elected two years ago again.

19 Q. And you've served continuously in that role as --

20 A. Yes.

21 Q. -- the Canandaigua Town Court Judge? Okay. And for those of us,
22 perhaps, who aren't necessarily from this area, the Canandaigua Town
23 Court is to be distinguished from the Canandaigua City Court.

24 A. Indeed, and it causes a lot of confusion.

25 Q. Okay. All right. I'd like to give them some background information

(Walter W. Jones, Jr. - Direct)

1 about your upbringing, if we may. I think you've already mentioned that
2 your parents were not originally from Kansas. Where were they from?

3 A. They were born and raised in north Texas in a little bitty town, still there.
4 It's called Savoy, S-A-V-O-Y.

5 Q. Okay.

6 A. And my grandparents lived there as well.

7 Q. Okay. All right. Now, can you describe your parents, and perhaps most
8 specifically, your parents' views on racial minorities, and specifically,
9 black individuals?

10 A. It's sad to say, my parents, born and raised in the south, had rather
11 unpleasant views about racial minorities, and it wasn't just -- it wasn't just
12 blacks. It was other minorities, and unions, and so on and so forth.

13 Q. Okay.

14 A. So --

15 Q. With specific reference to the word, which is the subject to this
16 proceeding, the N-word --

17 A. I'm sorry. What specific reference?

18 Q. Referring to the word that is the subject of this proceeding, the N-word.
19 Did your parents, and specifically your father, regularly use that word
20 around you?

21 A. I would say that they did not regularly use it. It was not something I
22 heard daily, weekly, monthly, but I heard it from time to time.

23 Q. Okay. And that was the --

24 A. And so --

25 Q. Go ahead.

(Walter W. Jones, Jr. - Direct)

1 A. Go ahead.

2 Q. And that was the environment in which you were raised?

3 A. It was.

4 Q. And did you, during your young, formative years, did you adopt your
5 parents' racial views?

6 A. I was a kid. And for a number of years as a kid, probably early teenager,
7 I didn't know any better. And I didn't rail against it, but I simply had no
8 opinion one way or the other, but it was something that I heard and was
9 aware of and surrounded with from time to time.

10 Q. Okay. Did you ever attempt to correct -- now, we're talking about when
11 you were young, during these younger years. Did you ever attempt to
12 correct your parents or object to their racial epithets?

13 A. I've got to tell the story this time.

14 Q. Well, we'll get to it.

15 A. Okay.

16 Q. We'll get to it. Trust me. Did you ever --

17 A. To answer your question, my mother was a very intelligent and well-read
18 woman and rarely voiced her opinions on race, but my dad was different.
19 And I heard from him with some frequency phrases like, "Why don't they
20 just stay in their place", or "We don't need them mixing with us", or some
21 of the unpleasant words that we've been hearing here this morning.

22 Q. Okay. Did there come a time when your personal views, not your
23 parents', but your personal views on race changed?

24 A. Yes.

25 Q. Describe that process.

(Walter W. Jones, Jr. - Direct)

1 A. We were living in Wichita. And there were -- I have to say that all the
2 way through my early education, elementary school, middle school, high
3 school, there were no blacks in my classes. I simply had no contact with
4 black people or any other minority. But there came a time, and the
5 backstory would help here, if you don't want me to get into it right now.

6 Q. Well, you can talk --

7 A. If there's a continuum here.

8 Q. So let's start at the beginning then.

9 A. Okay.

10 Q. With perhaps your travels outside of the area. Things you were exposed
11 to.

12 A. My grandparents lived in north Texas. Two farms, about a half a mile
13 apart. And there were times when my dad, a rising executive at Beech
14 Aircraft in Wichita, could not get away from the factory when my mom
15 wanted to go down to Texas to visit. And so he would take us down to
16 Union Station. We would catch the Texas Chief and ride across the rest
17 of Kansas, across Oklahoma and into north Texas. It was some years,
18 and I think I was probably eight or nine. We were on the train. I was
19 sitting at the window, and we -- in Wichita, everybody sat in the same
20 benches, ate in the same restaurants, same water fountains, same
21 restrooms and everything the same.

22 There were two station stops left in Kansas, and then we crossed into
23 Oklahoma. And the first station stop was a place called Ponca City,
24 P-O-N-C-A. Named after a prominent Indian tribe. And I remember
25 sitting at the window, and there was this long, low, red brick building,

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1 which was the station. And on it, there were four doors. One said,
2 "white men", the next one said, "colored men". Across the way, there
3 was a sign that said, "white women", and the next door said, "colored
4 women". They didn't say "negro", they said "colored".
5 In between, there were two white water fountains. One said, "white
6 people only", and the other said "colored people only". I remember
7 asking my mom about that. She did not answer, but gave me an answer
8 that clearly indicated to me that I wasn't supposed to ask any more
9 questions. But I remember thinking about that and wondering what the
10 devil was going on because it was not this way just a few miles back up
11 the railroad tracks in Kansas.

12 Q. And were you exposed to other --

13 A. I was.

14 Q. -- examples of racial discrimination?

15 A. It was years, I suppose before, I realized that what I had witnessed was
16 Jim Crow in operation. A few years later, I had the opportunity to go
17 visit a cousin in North Carolina. He and his family lived in a town
18 outside Charlotte. It was called Gastonia, and I was allowed to go all by
19 myself via airplane and bus from Wichita to Gastonia. And while we
20 were there, my cousin Jay Hampton and I decided to go downtown to a
21 movie together, just the two of us. We got on the bus, which was in the
22 outskirts of Gastonia at the time. We both sat in the front because there
23 was nobody on the bus yet. It had just started its run. And so we went
24 down to the movie theater. The movie was *The Left Handed Gun*, and it
25 starred an up-and-coming young actor named Paul Newman. Anybody

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1 | heard of Paul Newman?

2 | We got back on the bus after the show was over, and again, there was
3 | nobody on the bus, and I went to the rear to sit back there at a window
4 | seat. Jay came and got me, "You can't sit there". I said, "Why not?" I
5 | said, "Nobody here, and a good window seat." He said, "Only black
6 | people get to sit back there. Come with me." And not to make a fuss
7 | about it, I did what he asked, and we rode the bus back to his family
8 | home on the outskirts of Gastonia. And once again, I caught on that this
9 | was Jim Crow in operation. And it was disturbing to me that this was
10 | going on. It didn't make any sense.

11 | At about this time, The Civil Rights Movement was in its infancy.
12 | Emmett Till had been murdered by the Ku Klux Klan in Mississippi in
13 | 1955. Rosa Parks refused to give up her seat on the Montgomery,
14 | Alabama bus in 1956. And in 1957, the incident on the roadway from the
15 | farm to Savoy took place that I told the story about. But I slowly began
16 | to realize that there was something wrong. I began to have conversations
17 | with my dad. My mom would listen and just keep her own counsel, but
18 | Dad wanted to argue. And I would say to him things like, "Dad, they're
19 | just people like us." "No, they're not." "Dad, they're really no different,
20 | just darker." "We don't want to be around them."

21 | Dad and I wound up, over the next couple of years, having some rather
22 | sharp arguments about this. And at one time, it got sharp enough that he
23 | thought, perhaps, I ought to go live someplace else right away.

24 | Q. Okay.

25 | A. In other words, I was close to being thrown out of the house.

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1 Q. So your evolving views on race caused pressure between --

2 A. I began to listen to what was going on. I realized that the Freedom Riders
3 were there to try and make a difference. And by this time, I was in
4 college. And my mom and dad didn't have the money to send me to
5 school, so I was working full time as -- on the second shift of Beech
6 Aircraft because I had to make my own money --

7 Q. Okay.

8 A. -- for tuition, books, food, and car, and so on and so forth. So I was
9 pretty busy. Sleeping when I could, carrying 18 hours at Wichita State,
10 and working 40 hours a day at Beech Aircraft.

11 Q. 40 hours a day?

12 A. And so I was peripherally aware of The Civil Rights Movements and the
13 ramp up of the Freedom Riders, and the sit-ins in the Woolworth Store in
14 Greenville, South Carolina and other places like that. And I was appalled
15 at the way black kids were being treated as opposed to the white kids who
16 were trying to make a difference and how they were being treated.
17 And there came a time when a fellow named Martin Luther King gave a
18 speech in Washington, a famous speech. And he said things like, "He
19 dreamt of a time when little black children would be treated, not because
20 of the color of their skin, but on the content of their character." It made a
21 lot of sense to me. And he also said that, "That history bends slowly
22 towards justice", and that resonated with me.

23 I remember watching the "I have a dream" speech on TV, and I had tears
24 in my eyes. And I began to realize that Martin Luther King was right.
25 That this whole nonsense of Jim Crow was terribly, terribly, terribly

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1 wrong, and so I had, I guess, a rather slow but steady epiphany from
2 about the time I was eight or ten years old until the time I was in my late
3 20s -- or early 20s because that's when I was still at Wichita State
4 struggling to get an education.

5 Q. Okay. And you have maintained your attitude about --

6 A. I have.

7 Q. -- the legitimacy of the Civil Rights Movement --

8 A. I have.

9 Q. -- and the equality of people since that time?

10 A. I have. This whole business about treating each other differently is
11 appalling. It's ghastly.

12 Q. All right. So let's get into now the point where I stopped you before
13 where you observed an incident involving your father and a man that he
14 had known for some years prior to that date.

15 A. Again, I have to go back in time. It's the depression. Try and imagine
16 this. It's the depression, and money is almost nonexistent. Men were
17 working for a nickel an hour. Grown men working in the cotton fields
18 for a nickel an hour.

19 My granddad had -- my Granddad Jones, both grandfathers had -- were
20 crop farmers. But Granddad had a large -- or one or two cotton fields.
21 And I'm guessing that this was probably about 1932. And in order for the
22 cotton to grow well, you had to keep the weeds out of it. And what you
23 did was to take a hoe, and you walked down the rows of cotton. And
24 with the hoe, you get the weeds out, so the cotton stalks can grow.
25 Granddad was always in the lead because he was the biggest and the

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1 fastest. And my dad would have been 14 or 15 at this time and almost a
2 man, but he couldn't keep up with Granddad.
3 Behind them were a group of black workers that Granddad hired -- whom
4 Granddad hired. And it happened that one of -- one or more of the black
5 workers got ahead of Dad in the field, and Granddad stopped, pulled
6 Dad's pants down and whipped his legs until his legs bled. I'm told that
7 this happened a couple of times.
8 Harry was part of the black workforce, and Harry caught on to what was
9 happening. And Harry, without any verbal communication that anybody
10 was aware of, by gestures and body language and head movements, he
11 made sure that the black workers did not catch up to or get ahead of Dad.
12 Dad knew what Harry was doing for him, and he was deeply grateful to
13 Harry that Harry was taking care of him in this way.
14 As I said, money was almost nonexistent. Somehow, my dad got a hold
15 of animal traps. And he would go out in -- and this would happen
16 primarily in the winter when the animal pelts were thickest. He would go
17 down to the creek line, and he would catch rabbits and squirrels and
18 raccoons and once in a while, a mink. And he would take them to the
19 next town over after skinning the animals, and he would sell the hides. A
20 nickel for a rabbit or a squirrel. If he caught a mink, he might get an
21 actual dollar.
22 And it so happens that Harry had managed to get ahold of some traps too.
23 And so there was, kind of, friendly competition out along the creek banks
24 for who was going to catch what in order to take it over to the guy at two
25 town's away in order to sell the pelts for a nickel a piece. And so Dad

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1 and Harry would sit out in the fields at midnight and one o'clock in the
2 morning, and they would chat, and they would talk.
3 And then, one night Dad was headed for the creek banks with his traps,
4 and he caught Harry coming out of the Jones Farm chicken house with a
5 chicken. Probably Harry's family was hungry. This was probably -- had
6 been in January or maybe February. Probably 1932 or thereabouts.
7 Dad had two choices. If he turned Harry in to the Constable, Harry
8 would be arrested, and he would be tried in a kangaroo court, and he
9 would be sent off to Huntsville, which is the main prison in Texas at the
10 time, and he would be there for five years for stealing a chicken. A white
11 boy, the Constable would say, "Well, you ought to pay the farmer ten
12 cents for the chicken." That would be all that would happen.
13 So Dad elected not to do anything. Harry knew that Dad had caught him
14 stealing the chicken, and Dad did nothing. And so now, each boy has
15 something on the other. Dad is not getting whipped because Harry is
16 keeping the workers back. Harry is not going to prison because Dad kept
17 his mouth shut about the chicken.
18 Then there came a time when Harry caught a possum. I don't know if
19 you've ever seen a possum in the wild, but they are ugly creatures. Harry
20 took the possum home to his mother and invited Dad to come along with
21 him while Harry's mother cooked the possum, and they shared a meal
22 together, probably late at night. If my grandfather had known that my
23 dad was consorting in a friendly fashion with a black kid, there would
24 have been unpleasant consequences.
25 And in fact, it could even have happened that other forces would be in

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1 play. The Ku Klux Klan was operating in Texas. I don't know if the Ku
2 Klux Klan was operating in Savoy. But were there Ku Klux Klan
3 sympathizers in Savoy, I have no doubt of it. And if they had found out
4 about it, it could have been very bad for Harry, and it could have earned
5 the Jones family a burning cross in the front yard.

6 Q. Did this friendship between your father and Harry endure over the years?

7 A. It evolved into a bond.

8 Q. Okay.

9 A. The two boys formed a friendship to the maximum extent that it was
10 possible for a white kid and a black kid in those days to form a bond of
11 friendship. They were close. Eventually, Dad graduates from high
12 school, and he goes off to college. I don't know what happened to Harry.
13 But now, I was born, and it was 1957. Why do I remember this so
14 clearly? Because my parents finally had enough money that they were
15 able to buy a brand new Ford Fairlane, white over gold. It had an
16 automatic transmission and air conditioning, which my mom loved and
17 my dad hated because he was sure it screwed up the gas mileage. And
18 we were in Texas visiting, and my dad and I were driving from the Jones
19 farm toward the little town of Savoy, which was about two miles away.
20 1957. Remember Emmett Till was murdered in 1955, Rosa Parks didn't
21 give up her seat on the bus in 1956. This was the next year. The Civil
22 Rights Movement was barely in its infancy.
23 We were driving along the road, and there was a black man walking
24 along the side of the road. We were cruising past, and Dad hit the brakes,
25 and he said to me, "That's N-word Harry." Well, I'd heard Dad tell the

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1 story about the cotton stalks, the whippings, the trappings late at night,
2 and the possum at the -- Harry's home and so on and so forth. So I knew
3 who Harry was, but I had never seen him before. But Harry walked up to
4 the passenger side of the car where I was. Dad told me to roll down the
5 window, so I did. Harry leaned in. I'm sure that Harry was not
6 comfortable at all, white man, new car, stopping alongside the road. It
7 could have been very bad for Harry. Harry leaned down, and he looked
8 in, and he saw my dad. And he exclaimed with a big smile on his face,
9 "Mr. Bill". My dad was known as "Bill" in Texas. And my dad said,
10 "Harry, how are you doing?" or words to that effect. He looked at me,
11 and he said get in the back seat. I said --

12 Q. You're talking about your father said that to you?

13 A. I'm sorry?

14 Q. Your father said that to you?

15 A. My father said to me, "Get in the back seat." And I very intelligently
16 said, "Huh?" And he said, "I said get in the backseat." Harry said, "Oh,
17 no, Mr. Bill. I can ride in the backseat." Dad said, "Get in the backseat."
18 So I got out and got in the backseat. Dad said, "Harry, get in here." So
19 Harry sat down in the front seat with Dad. Then, "Harry, where are you
20 going?", so Harry -- after I went backseat, I can't hear everything they're
21 saying, but there was an exchange of friendly talk between the two of
22 them. Big smiles on both faces.

23 I'm not kidding that my father was a racist, but he insisted on driving
24 Harry to where Harry wanted to go, which was somewhere in the black
25 part of Savoy. Dad stopped the car. He got out. He came around the

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1 front of the hood. As Harry was getting out, he and Harry shook hands
2 warmly, and Harry went his way, and Dad and I went our way.

3 MS. TRAPANI: I'm sorry to interrupt.

4 MR. STEINMAN: There's an issue with the
5 microphone. I'd like to go off the record, if I may, for a
6 moment?

7 THE REFEREE: Oh sure.

8 MS. TRAPANI: And just check that? Thank
9 you.

10 (Counsel confer)

11 (Recess from 2:19 p.m. until 2:22 p.m.)

12 MS. TRAPANI: We're back on the record.

13 MR. STEINMAN: Thank you.

14 BY MR. STEINMAN:

15 Q. Judge, I just to clarify a couple of things. I think in your narration of this
16 event with your father in the car, your father referred to the gentleman as
17 "N-word Harry"; is that right?

18 A. Correct. And I was the only one that heard it --

19 Q. That's within the car?

20 A. -- because I was in the car, and Harry was --

21 Q. Okay.

22 A. -- back down the road, if you will.

23 Q. Okay.

24 A. Yeah.

25 Q. Okay. Your father did not use that word to Harry, correct?

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1 A. Not at all.

2 Q. Just said it in the car?

3 A. In the car where I heard it.

4 Q. Okay. And your father was aware that that was a racially derogatory
5 term? Because he didn't say it to Harry.

6 A. He totally didn't say it to Harry because that would have been insulting.

7 Q. Okay. And he knew that?

8 A. And the word that we're talking about may, in those years, have been not
9 quite as awful and disgusting as it is now.

10 Q. In that place?

11 A. Because that's the way people talked in the south. But he certainly did
12 not say that word in Harry's hearing or to Harry. He said it as we were
13 stopping, and I was in the car, and I was the only one that heard him say
14 the word because Harry was about 20 yards back or something like that,
15 walking to catch up with us. And then, he bent down and saw my dad in
16 the driver's seat --

17 Q. Okay.

18 A. -- and called out "Mr. Bill".

19 Q. Okay. So --

20 A. It was such an improbable meeting because here we have an obviously
21 successful white man, new car, family, good job, and Harry was in
22 overalls and work shoes, and the social difference, the economic
23 difference between them was a gulf not to be bridged. It would never
24 happen. Nevertheless, the bond that those two had formed in the cotton
25 fields and the woods at night was still there, and it was almost magical.

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1 Q. But --

2 A. And Dad insisted on taking Harry to where he wanted to go. Now, there
3 was danger here. Danger for Harry because he could have -- if the Klan
4 sympathizers had seen him in the front seat of Dad's new car, he would
5 have been deemed "uppity", and that could have got him horsewhipped.
6 Could have got a cross burned in the Jones' front yard. I don't know if
7 they thought about that, but Harry certainly did because you could tell
8 that he was a little uncomfortable about getting in the front seat, because
9 he said, "I can ride in the back." Because that's where blacks were
10 supposed to be, in the back.

11 Q. Okay.

12 A. But that didn't happen. Dad insisted on him being up front.

13 Q. Okay.

14 A. And Dad was a complicated man. He was a -- he was a racist. There's no
15 question in my mind about it. He wouldn't use the N-word to Harry's
16 face, but for this magical 10 or 15 minutes, whatever it was, Dad did the
17 right thing. He stuck by his friendship with this black man. The two kids
18 were now grown men, but they were probably still kids together in their
19 memories. And so --

20 Q. But you would agree with me that the use of the N-word, that is an
21 odious, disgusting, horribly inappropriate term to refer to someone by?

22 A. It was a horribly inappropriate term, but Dad did not say it to Harry.

23 Q. Okay.

24 A. And so to me, it's demonstrated that there was a chance, probably
25 orchestrated, for black people and white people to come together in

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1 dignity and respect, perhaps even friendship for each other, that should
2 carry on into today.

3 Q. But you would agree with me that using the N-word is not a dignified
4 reference to anybody?

5 A. Not dignified at all. It was insulting -- it would have been insulting to
6 Harry. It was a bad term. It was a horrible term, but Dad used it.

7 Q. Right.

8 A. And I'm sorry he knew it, but he did, and he used it in this particular
9 instance.

10 Q. I'd like to direct --

11 A. And so I wanted -- when I talked with those two women in the parking
12 lot, the lesson I was trying to get across was that with tolerance, dignity,
13 and respect, we could overcome the differences between us, among us,
14 and become something else. Something better. Something that we
15 haven't had enough of yet.

16 Q. So in your mind, the central part of the story was not the N-word, it was
17 the event around it?

18 A. It was the --

19 Q. Your father picking up this gentleman?

20 A. It was the dignity, the tolerance, the respect, the friendship shared by
21 these two men from very, very, very different backgrounds.

22 Q. All right.

23 A. And it had -- it was a friendship that had existed and endured all the way
24 from the cotton fields and the creek banks of Texas to this day in 1957.

25 Q. Let's move forward now to May 10th of 2024. Now, you've told us some

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1 detail about this incident involving your father and Harry.

2 A. Yes.

3 Q. I'd like to get some details about your conversation that included Ms.

4 Bartolotta and Ms. Valenti, okay? You've seen the video tape. You've
5 exited the CAP arraignment part with these two ladies; is that correct?

6 A. I told the story to them --

7 Q. Okay.

8 A. -- Ms. Bartolotta and Ms. Valenti --

9 Q. Okay.

10 A. -- almost word for word, like I told it to you today.

11 Q. Let's --

12 A. My intent was that they could understand that there were ways that the
13 differences among us could be bridged if we were all devoted to tolerance
14 and dignity and respect and friendship.

15 Q. Okay. Let me get some details about that conversation with Ms.

16 Bartolotta and Ms. Valenti. As we saw on the video tape, you go out in
17 their company, and you proceed to your car. You show them some
18 flowers that you had gotten for your wife, correct?

19 A. Right.

20 Q. And had you and Ms. Valenti discussed books? Did you know that she
21 was a reader or anything like that?

22 A. I had noticed that when she came to CAP, that from time to time, she
23 would have a book with her. They were obviously not a law book, it was
24 something she was reading.

25 Q. Okay.

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1 A. And a couple of times, we had -- I'd talked about it very briefly about the
2 book she was reading and what its content was.

3 Q. Okay.

4 A. And I had told her about a book I was reading and its content.

5 Q. Okay.

6 A. It was a brief conversation, and I think it was only once. But I said -- I
7 recommended a book to her, and I -- the next time I saw her, I had one
8 with me, and I gave it to her.

9 Q. Okay.

10 A. I thought I was being nice. I thought I was being generous. I thought I
11 was doing her a favor.

12 Q. Okay.

13 A. It seems like maybe not.

14 Q. Well, when you had this conversation, and you've heard testimony about
15 there being another car some distance away from your car.

16 A. Yes.

17 Q. Do you remember that?

18 A. I remember the testimony.

19 Q. Okay.

20 A. I don't recall seeing another car --

21 Q. Okay.

22 A. -- three or four spaces away with the window partly open.

23 Q. Okay. That's fine. Did you observe anyone react to any part of that
24 conversation with alarm or upset or anything of that nature?

25 A. Absolutely not.

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- 1 Q. Okay.
- 2 A. They both acted as if they were fascinated by the tale I was telling them.
- 3 Q. Okay. Now, how many times in telling the story did you use the N-
- 4 word?
- 5 A. Only to be -- only to introduce that because that's what my dad had said.
- 6 I was quoting him.
- 7 Q. Okay.
- 8 A. If I had said to them, "Well, Dad. Stop the car." And said, "There's N-
- 9 word Harry." or "There's euphemism Harry." The whole story kind of
- 10 breaks down.
- 11 Q. Well, hang on a second.
- 12 A. Because that's part of the story, so I was quoting him. But during the
- 13 story, I referred to him as "Harry" because that's how I knew him.
- 14 Q. Okay.
- 15 A. Harry was Harry.
- 16 Q. Okay. But to the best of your recollection as you sit here today, how
- 17 many times did you use the N-word in that conversation?
- 18 A. One time to introduce the story.
- 19 Q. Okay. All right.
- 20 A. It introduced the story that I was telling to these two women in the
- 21 parking lot.
- 22 Q. I think I cut you off when you were giving the answer because
- 23 obviously --
- 24 A. I get wrapped up. You probably did, and I ignored it. I'm sorry.
- 25 Q. That's okay. Obviously, you could have used a word other than -- in

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1 other words, you could have used the N-word instead of using the actual
2 word, right?

3 A. Yeah.

4 Q. Why did you choose to use that word?

5 A. Again, it was because it was part of the context of the story. And to do --
6 to use a substitute word, "Euphemism Harry", "N-word Harry", it would
7 have -- it would have been out of keeping with the story as it happened.
8 It would have been out of keeping with what my dad said, and I was
9 quoting him so that the whole thing became poignant. It became worth
10 listening to. And I am sorry that my dad used those words. I, as I said, I
11 had at least two really sharp arguments with Dad about race. And that's
12 while I was still living at home and in high school. Once I hit college, I
13 didn't have time to talk with anybody much at all anymore. But the other
14 time I almost got thrown out of the house was when John Kennedy was
15 running for President. Dad loathed Catholics, almost as much as he
16 loathed blacks, and I was threatened with being made homeless because I
17 had a Kennedy bumper sticker on my beat up old car.

18 Q. You say you --

19 A. Dad did not tolerate disagreement with him.

20 Q. Okay.

21 A. Okay.

22 Q. You say you observed nothing in your interaction with Ms. Valenti or
23 Ms. Bartolotta that indicated that they were upset with the use of the N-
24 word.

25 A. Not in the slightest.

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1 Q. Okay. You have heard their testimony today that this was something that
2 upset them that you used that word, correct?

3 A. Yes.

4 Q. Had you known that that word would have upset them, would you've
5 used it?

6 A. I did not know that word would upset them because I said to them in the
7 beginning, "I'm going to tell you this story, but I got to use the vernacular
8 that they used in Texas at the time." "Okay", they said.

9 Q. Okay.

10 A. And so I did.

11 Q. Okay. But now knowing what you know, do you regret that that upset
12 them?

13 A. I regret using the word, and I also regret using -- telling the story because
14 that's a story that's worth repeating and knowing. Two people of
15 improbable differences, of great differences and improbable
16 circumstances come together and in respect and tolerance and in
17 friendship, they -- the bonds between them can either form or be
18 resurrected, as what has happened in that day.

19 Q. Other than in the context of that story, in the past 30, 40, 50 years, have
20 you ever used that word to refer to someone?

21 A. Do I use that word?

22 Q. Yeah.

23 A. No.

24 Q. Okay. You were present for Ms. Bartolotta's testimony about the volume
25 at which you spoke, and she says as I recall, "That you spoke in a normal

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1 conversational tone -- or level." Is that your recollection as well?

2 A. I spoke in a normal conversational tone about like I'm speaking right

3 now.

4 Q. Okay.

5 A. We were only two or three feet apart from each other.

6 Q. Okay.

7 A. We were kind of a little three-person circle, and I didn't need to raise my

8 voice.

9 Q. Okay.

10 A. They were right there.

11 Q. Okay. All right. I'd like to move on now to the events of May 15th --

12 A. Okay.

13 Q. -- of that year, and you've heard testimony about the CAP arraignment

14 involving Ms. D■■■■, correct? Yes, you recall that?

15 A. Yes, I do.

16 Q. Okay. And the transcript is now in evidence.

17 A. Yes.

18 Q. Do you recall Ms. D■■■■ making a number of accusations that she was the

19 victim of racism in Ontario County?

20 A. I do. I think some of them were made to Mr. Conklin before she came

21 out to the bench before the arraignment. So I didn't hear all of them, but

22 when she was at the bench for arraignment, I heard two or three of them,

23 and they were delivered with vehemence.

24 Q. Okay. All right.

25 A. Sure, I made the crack about, "She played the race card." Dumb thing to

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1 say. Stupid thing to do. I shouldn't have done it. A mistake.

2 Q. Okay. All right. Did you, in any manner, treat Ms. D [REDACTED] differently
3 because she was African-American?

4 A. Absolutely not.

5 Q. Okay. The issue has been raised about bail. You've set bail, no doubt,
6 many, many, many times.

7 A. Many times.

8 Q. Over 28 years. Was the bail decision you made on that day, in
9 accordance with the District Attorney's recommendation, out of line with
10 other bail determinations you have made previously?

11 A. No.

12 Q. Okay.

13 A. No, it was not.

14 Q. Okay.

15 A. Bail is always a difficult thing to determine. The People always want a
16 very high bail. The defense always wants a low bail or none at all, and
17 we Judges have to make a decision as to go with a high mark, or the low
18 mark, or hit the middle sometimes.

19 In this particular case because we had a felony involved, and I just -- and
20 a multitude -- well, I think there were three charges. And I think she was
21 going to be showing up before the next court in very short order, either
22 the next morning or something rather quickly. Under the circumstances, I
23 decided that it was the best thing to do to continue the bail the People had
24 requested.

25 I often do something different. I often cut the bail down if the People ask

(Walter W. Jones, Jr. - Direct)

1 for it. I rarely go as low as the defense wants, but there are times when I
2 feel that the bail ought to be as the People requested. And in this
3 particular case, I did.

4 Q. And it was because: A, it was a felony; is that right?

5 A. Correct.

6 Q. Any other factors bore on your decision?

7 A. I don't think so.

8 Q. Her demeanor in court? Anything of that nature? No? Okay.

9 A. Not that I recall.

10 Q. And you've seen a picture of her having sustained significant injury to her
11 eye; is that right?

12 A. I must say she was turned in such a way that I did not have a good, clear
13 view of the injury to her eye, but I was aware that she had sustained an
14 injury of some sort.

15 Q. Okay.

16 A. It flashed through my mind that I would really like to have been able to
17 talk with her and try to -- it was clear to me that she considered herself to
18 be a victim, and I felt badly for her.

19 Q. A victim in what sense because --

20 A. I really would've liked to have a chance to talk with her and recite to her
21 examples of black people who had achieved marvelous things and urge
22 her not to let herself be considered to be a victim. Let her not consider
23 herself to be a victim.

24 Q. When you say "victim", you're aware that she alleged that she was the
25 victim of an assault.

(Walter W. Jones, Jr. - Direct)

1 A. I was --

2 Q. Is that the kind of victimhood you're talking about, or is it something
3 else?

4 A. And she also said it's a racist county.

5 Q. Right. But what victim status are we talking about? The fact that she
6 was beat up? Maybe. Or the fact that she believed that she was the
7 victim of racial bias?

8 A. In the brief time that I had her before me, it was impossible to make those
9 kinds of judgment calls. Those are factual circumstances that would
10 require more investigation, more testimony. My job was to make a bail
11 decision, a pre-trial release decision, and continue with the arraignments.

12 Q. Okay. All right.

13 A. The next one in line.

14 Q. Okay. So did you treat Ms. D [REDACTED] any differently than you would
15 anybody else who appeared in front of you?

16 A. Absolutely not. I made a decision based upon the number of offenses,
17 and the severity of the one offense.

18 Q. Okay. All right.

19 MR. STEINMAN: I have nothing further at this
20 moment. Thank you.

21 CROSS-EXAMINATION

22 BY MS. KOCHER:

23 Q. Good afternoon, Judge.

24 A. You're going to have to speak up because I left my little hearing device
25 back there.

(Walter W. Jones, Jr. - Cross)

1 Q. Sure, would you like to --

2 A. Well, I don't know. If you're going to speak loudly enough, it won't be a
3 problem.

4 Q. Okay.

5 A. Okay.

6 MR. STEINMAN: You got the option.

7 THE RESPONDENT: I may have to stop you.

8 BY MS. KOCHER:

9 Q. No problem, I want to make sure you can hear.

10 A. Thank you.

11 Q. Is that good?

12 A. That's just fine.

13 Q. Okay. Judge, I want to start asking you about the arraignment of Ms.

14 D█████.

15 A. Okay.

16 Q. You just testified that, "She played the race card" was a dumb thing to
17 say. It was a mistake.

18 A. Yep. That's what I said.

19 Q. But actually at the arraignment, you said, "Naturally, she played the race
20 card." Isn't that true?

21 A. Yes, and that naturally -- the word "naturally" because she was black.

22 Q. Okay. So because she was black, you just assumed it would be natural
23 for her to play the race card; isn't that true?

24 A. I assumed that she was going to -- well, she was obviously black, and
25 she's played the race card. And I have admitted that it was a mistake to

(Walter W. Jones, Jr. - Cross)

1 say the phrase that I did, and I'll stick by that. It was a mistake.

2 Q. Okay.

3 MS. KOCHER: Do you have Exhibit 6? Okay.

4 Thank you.

5 BY MS. KOCHER:

6 Q. And you also said after her arraignment, "She was pretty well restrained,
7 so she couldn't attack you, but she probably would have if she hadn't been
8 handcuffed." Isn't that true?

9 A. I said that. Yes. She was very, very upset.

10 Q. Okay.

11 MS. KOCHER: And if we could pull up Exhibit
12 8?

13 THE RESPONDENT: I'm sorry?

14 MS. KOCHER: I was just talking to Ms.
15 Trapani.

16 THE RESPONDENT: Oh.

17 MS. KOCHER: I asked her to pull up Exhibit 8,
18 which we have up on the monitor to your right, Judge.

19 BY MS. KOCHER:

20 Q. So you testified that you -- her head was turned in such a way you
21 couldn't see the injury to her face?

22 A. I said she was turned in such a way that I did not see clearly the injury to
23 her face.

24 Q. Okay.

25 A. I did not know how bad it was.

(Walter W. Jones, Jr. - Cross)

1 Q. And you would agree with me looking at Exhibit 8, she had a pretty
2 significant injury to her face.

3 A. It looks pretty bad.

4 Q. Kind of hard to miss that?

5 A. Not if she's turned away from me.

6 Q. Okay. At CAP Court, is she right in front of you?

7 A. She is, but sometimes people turn their heads.

8 Q. Okay.

9 A. And she did.

10 Q. All right. And you also said after her arraignment, "Do they teach you to
11 fight back at the Public Defender's Office?", didn't you?

12 A. Lighthearted bantering with Mr. Conklin. Nothing more, nothing less.

13 Q. Now, do you agree with me that it's a common racist trope that black
14 women are angry?

15 A. Say that again?

16 Q. It's a racial trope that black women are angry.

17 A. I know no such thing.

18 Q. Okay. You're not aware of that?

19 A. I've known quite a few women, black women, who were not angry.

20 Q. Okay. But do you think that your comments that day after Ms. D■■■■'
21 arraignment, "Naturally, she played the race card", talking about her
22 being --

23 A. Ms. D■■■■ did not hear that.

24 Q. And I'm sorry. If you could just let me finish my question before you
25 answer. We can only take one poise at a time, okay?

(Walter W. Jones, Jr. - Cross)

1 A. I thought you were finished.

2 Q. I was not. Do you agree with me that your statements that you made after
3 Ms. D■■■■' arraignment, the "Naturally, she played the race card", and
4 about her being handcuffed, could create the appearance of a bias?

5 A. No, I don't agree with you at all.

6 Q. Okay.

7 A. Those are two facts that were evident. That she was handcuffed, and that
8 she was -- and sure, that she was black.

9 Q. But as you testified here today, you admit that it was a mistake for you to
10 make that comment?

11 A. I shouldn't have said it. Yes. And I shouldn't have said it because it now
12 creates an impression that is not true. Not accurate.

13 Q. And that impression is what?

14 A. That impression is that I was biased in some way, which is not true.

15 Q. And do you understand that as a Judge, you're held to a high standard?

16 A. I'm sorry?

17 Q. As a Judge, you're held to a high standard of conduct.

18 A. Yes, and we all make a mistake now and then.

19 Q. Okay. But as a Judge, part of your conduct is to act in a manner that does
20 not create the appearance of bias or prejudice, correct?

21 A. There was no bias that she would have ascertained while she was before
22 me because there was none.

23 Q. But do you agree that you could have created the appearance of a bias?

24 A. I don't think that Mr. Conklin believed that I was biased. I don't think
25 anybody there thought I was biased.

(Walter W. Jones, Jr. - Cross)

1 Q. Okay. I'm not asking about what they thought, I'm asking about could
2 have created the appearance of bias?

3 A. Anything is possible, but I do not believe that what I said would have
4 created any perception of bias.

5 Q. Okay. You also previously testified that you thought Ms. D [REDACTED]
6 considered herself to be a victim?

7 A. Yes.

8 Q. And was that a victim on her race?

9 A. I'm sorry?

10 Q. A victim of what?

11 A. I was not sure what a victim -- what she thought she was a victim of.
12 Probably, she felt that she was a -- that she was victimized because of her
13 race. She may have been -- thought she was victimized because she was
14 a woman. She may have thought she was victimized because she had
15 been hit in the eye, and maybe other places, but she was clearly believing
16 that she was a victim. And she even made the accusation that it's a racist
17 county, and I felt badly for her because I don't think Ontario County is a
18 racist county. And I felt then, and feel now, that if she was believing that
19 she was a victim, that she might carry that prejudice of herself, for
20 herself, on into her later life and never recover from it, and I -- it flashed
21 through my mind for about a second that I would love to be able to talk to
22 her and try and convince her that she was not a victim.

23 Q. So --

24 A. Or that if she was a victim, that she could overcome it.

25 Q. -- what would you have said to her if you could have talked to her?

(Walter W. Jones, Jr. - Cross)

1 A. I don't know. I don't know. I might have wanted to talk with her about
2 Rosa Parks.

3 Q. Okay. So you would have talked to her about her race?

4 A. I would have talked to her about people who have overcome difficulties
5 of whatever race.

6 Q. Okay. All right Judge, I'd like to take you back to May 10th, a few days
7 earlier. May 10th of 2024.

8 A. The parking lot?

9 Q. In the parking lot.

10 A. Okay.

11 Q. So you were in the parking lot with Ms. Valenti and Ms. Bartolotta, and
12 you told a story using the N-word, correct?

13 A. That's right.

14 Q. And when I say the N-word, you understand that to be the word spelled
15 N-I-G-G-E-R, correct?

16 A. Yes, and do we think that we're making a big distinction when we spell
17 it? I don't, but go ahead.

18 Q. Well, did you say the full word, spelled N-I-G-G-E-R in the parking lot?

19 A. In quoting my father, yes, I did.

20 Q. Was your father in the parking lot that day?

21 A. My father died in 1997. Is that a serious question?

22 Q. Was your father the one telling the story that day?

23 MR. STEINMAN: I'm going to object. This is
24 argumentative. I mean, clearly, you know the facts. His
25 father is deceased. We've got the video tape, we've got the

(Walter W. Jones, Jr. - Cross)

1 testimony. No, his father wasn't there. I'll concede the
2 point. This is argumentative.

3 MS. KOCHER: Well --

4 THE REFEREE: Overruled.

5 But why don't you move on? We know his
6 father was predeceased this incident.

7 BY MS. KOCHER:

8 Q. Judge, although you're -- you say you're quoting your father, the words
9 came out of your mouth, correct?

10 A. I was quoting my father.

11 Q. The words came out of your mouth, correct?

12 A. That's my answer. I was quoting my father.

13 Q. Okay. And you said the N-word, you say, just once? One time?

14 A. As far as I know.

15 Q. You dispute the testimony that --

16 A. Let me say, there'd be no reason for me to use it again because the wrong
17 had been established. My dad was wrong to use that word. It was a
18 disgusting word. He should not have used that word, but --

19 Q. There was no reason for you --

20 A. -- the story --

21 MR. STEINMAN: Excuse me.

22 A. -- doesn't really make sense unless I introduce the story the way it started.

23 BY MS. KOCHER:

24 Q. There was no reason for you to use the word one time, was there?

25 A. I think there was because it is part of the story and demonstrates the

(Walter W. Jones, Jr. - Cross)

1 authenticity.

2 Q. Okay. So --

3 A. It was part of the authenticity.

4 Q. -- it's your testimony that you were telling the story about your father and
5 his friend, Harry, correct?

6 A. Yes.

7 Q. And Harry was a black man, correct?

8 A. Yes.

9 Q. And you didn't identify him just as "Harry", correct?

10 A. I didn't what?

11 Q. Identify him solely as "Harry"?

12 A. Not that first time, but I was not identifying him that first time when my
13 dad hit the brakes, pulled over, and spoke to me sharply.

14 Q. Okay. But you didn't identify him just as "Harry", correct? You said,
15 "N-word Harry".

16 A. My dad said it.

17 Q. Again, was your dad in the parking lot?

18 MR. STEINMAN: Objection. I think we can
19 all agree --

20 THE REFEREE: We can stipulate that his
21 father was dead and not in the parking lot.

22 MS. KOCHER: That's fine. I'm just saying my
23 question is what did you say, and he says, "My father said
24 it", and his father wasn't there.

25 MR. STEINMAN: We'll stipulate that Judge

(Walter W. Jones, Jr. - Cross)

1 Jones in the context of telling the story, the word "N-word"
2 came out of his mouth as he quoted his father.

3 MS. KOCHER: And again, I can ask the
4 question, "What did you say?", and it shouldn't be what
5 somebody else said.

6 THE REFEREE: You can ask the question.
7 Overruled.

8 MS. KOCHER: Okay. Thank you.

9 BY MS. KOCHER:

10 Q. Judge, when you're identifying Harry in the parking lot that day, you
11 didn't identify him just as Harry, correct?

12 A. I did identify him as Harry as I continued the story.

13 Q. Okay. But when you first identified him, how did you identify Harry?

14 A. I identified what my father said as we stopped beside the road that day.

15 Q. And what did your father -- when he told you the story --

16 A. We just stipulated --

17 Q. With all due respect, Judge, that was overruled. I've asked you what you
18 said and not what our father said.

19 A. And I can't say anything more. I was quoting my father.

20 Q. The words came from your mouth?

21 A. It did.

22 Q. Okay. And the word -- you said, "N-word Harry", correct?

23 A. What I said was, "My father said", and then I quoted it.

24 Q. Okay. And you said the full word, N-I-G-G-E-R, correct?

25 MR. STEINMAN: Your Honor, again, I'm

(Walter W. Jones, Jr. - Cross)

1 going to object. This is just badgering at this point. The
2 record is clear.

3 MS. KOCHER: I don't think the record is clear.

4 MR. STEINMAN: Well, I would respectfully
5 disagree.

6 THE REFEREE: Mr. Steinman, what Ms.
7 Kocher was trying to get at is did Judge Jones use, the "N-
8 word Harry"?

9 MR. STEINMAN: He just said he did.

10 THE REFEREE: Well, you know, I -- he
11 referred back to his father's use and what -- of the N-word
12 Harry. And what she's trying to establish is that the Judge
13 himself used the word.

14 MR. STEINMAN: In the context of quoting his
15 father, yeah.

16 THE REFEREE: Oh, well. Yeah.

17 MR. STEINMAN: It's what we stipulated to. I
18 mean, how else could it have -- how else could we have
19 gotten to this point in the proceedings without him having
20 said the word.

21 THE REFEREE: Well --

22 THE RESPONDENT: Yes.

23 THE REFEREE: Mr. Steinman, the Judge is
24 giving a qualifier to the question. And the question is, did
25 you or did you not use the N-word or N-word Harry on

(Walter W. Jones, Jr. - Cross)

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May 10, 1994?

MS. KOCHER: 2014.

THE REFEREE: Pardon?

MS. KOCHER: 2014.

THE REFEREE: Oh, I'm sorry.

MR. STEINMAN: 2024.

THE RESPONDENT: '24.

MS. KOCHER: We're on a few decades.

THE REFEREE: How I got 1994 out of that, I
don't know.

MR. STEINMAN: 2024, not '14.

THE REFEREE: Yeah.

MS. SAMPSON: 2024.

MS. KOCHER: 2024. Oh, we're all over the
place.

THE REFEREE: Yeah, I'm sorry.

MS. KOCHER: That's okay.

THE REFEREE: I don't know how I missed 30
years. And so --

MS. KOCHER: Okay.

THE RESPONDENT: And I can't answer the
question in any other way than giving the qualified answer
that I have given. Because that's not my word. That's a
quotation of what my father said.

BY MS. KOCHER:

(Walter W. Jones, Jr. - Cross)

1 Q. When you were telling the story, you chose what words to use, correct?

2 A. Say that again?

3 Q. When you were telling a story, you chose what words to use, correct?

4 A. Once again, you can't answer that question without saying I chose the
5 words that my father said, and I quoted him.

6 Q. Were you reading a book that day, aloud?

7 A. I'm sorry?

8 Q. Were you reading a book aloud that someone had written?

9 A. Interesting you should answer that -- ask that question because --

10 Q. No, but it's a yes or no, Judge.

11 A. -- in a sense I was.

12 Q. Judge, it's a yes or no. Were you reading a book that day when you --

13 A. Was I reading a book as I said the story? No.

14 Q. Let me answer my -- let me ask my question, please. Were you reading a
15 book aloud to Ms. Bartolotta and Ms. Valenti in the parking lot?

16 A. No, of course not.

17 Q. No, you were not?

18 A. I was not reading a book aloud.

19 Q. Okay. You chose the words you used in the parking lot, correct?

20 A. Haven't we already been over this?

21 Q. It's a yes or no answer, Judge.

22 A. But no, it's not a yes or no answer.

23 MS. KOCHER: Mr. Garber?

24 A. It's a qualified word because I was quoting my dad.

25 THE REFEREE: Yep. Judge, did you use the

(Walter W. Jones, Jr. - Cross)

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N-word Harry?

THE RESPONDENT: I said the N-word in quoting my father.

THE REFEREE: Yes or no? Well, okay. We've beaten -- I guess, we've beaten this --

MS. KOCHER: Okay. So, I mean, I --

THE REFEREE: Yeah, and I think Mr. Steinman will stipulate that the N-word Harry was used --

MR. STEINMAN: Absolutely.

THE REFEREE: -- and the issue is the context.

MR. STEINMAN: Absolutely.

MS. KOCHER: So --

THE REFEREE: So but the N-word, you will stipulate that the N-word was used -- N-word Harry was used?

MR. STEINMAN: Yes, of course.

THE REFEREE: Okay.

Does that clarify that for --

MS. KOCHER: Yes. Yes, thank you.

THE REFEREE: Well --

MS. KOCHER: No. Thank you.

THE REFEREE: -- you can go on.

MS. KOCHER: Yes. No, I will.

BY MS. KOCHER:

Q. So Judge, you chose to say -- use the word "N-word Harry" because you

(Walter W. Jones, Jr. - Cross)

1 were repeating language that your father had used, correct?

2 A. Yeah.

3 Q. And you also chose to use that word because it gave context to the story,
4 correct?

5 A. Context and color. Yes. And that's not intended as a pun.

6 Q. I'm sorry. Context and color?

7 A. Yes.

8 Q. Okay. You were trying to add some flair to the story, sensationalize it?

9 A. I would really appreciate it if you wouldn't pick apart every word and
10 every phrase I use. I was trying to explain why the story is a useful one
11 for all of us to latch onto, to understand, and to take to heart.

12 Q. Okay. Fair to say you could have told the story without saying "N-word
13 Harry"?

14 A. I could have said, "N-word Harry", or I could have said "Euphemism
15 Harry", and nobody would have understood what I was talking about.

16 Q. Well, didn't you just tell us the story here while you testified without
17 using the full N-word?

18 A. Yes, because we're not supposed to do that anymore, even here in this
19 setting.

20 Q. Okay. So you know you're not supposed to use the N-word, correct?

21 A. I don't use the N-word.

22 Q. You used it on May 10, 2024, didn't you?

23 A. I did in quoting my father and in telling the story that I still think is a very
24 good story for all of us to understand and to adopt.

25 Q. Okay.

(Walter W. Jones, Jr. - Cross)

1 A. It's a bond of friendship. The tolerance, respect, and dignity still held
2 between these two men, even though their circumstances were
3 improbable, and it's a story that we all ought to recognize and to adopt
4 into our own lives.

5 Q. And in --

6 A. That's what I was trying to get across to those two women.

7 Q. Now, in telling this story about tolerance and equality, like you just
8 described, you used a racial slur; isn't that true?

9 A. Nope. I did not. I quoted my father. I'm going to answer the same way
10 every time you ask the question.

11 Q. Okay. When you say, "I quoted my father", you said the word, correct?

12 A. I quoted my father who said that word.

13 Q. Okay. And Judge, you've testified here today that your father was a
14 racist.

15 A. He was --

16 Q. And even --

17 A. -- sadly.

18 Q. -- even knowing that your father was a racist, you chose to repeat words
19 he used?

20 A. He didn't stop being a racist except for a few minutes on that road.

21 Q. Okay. I think my question was, even though you knew your father was a
22 racist, you chose to use his words?

23 A. I chose to use the word that he used in telling the story and in talking to
24 me on the road that day.

25 Q. Okay. Even though you knew he was a racist?

(Walter W. Jones, Jr. - Cross)

1 A. Even though what?

2 Q. A racist.

3 A. Even though I knew he was a racist? Yes, I knew he was a racist. Well,
4 at 13, it was not something that I recognized completely, I suppose. The
5 depth of this feeling, and the disrespect that he was putting forth.

6 Q. Now, you also mentioned that using the full N-word, in your mind, gave
7 the story a historical context.

8 A. Yes.

9 Q. Because that's how people spoke back then.

10 A. Yes.

11 Q. And you think that using that word was relevant to the story.

12 A. I do.

13 Q. Now, when you were growing up, you said you would hear your parents
14 use the N-word?

15 A. They were nice people and good people for the most part despite their
16 prejudices. I didn't hear the word frequently. As I testified, I did not hear
17 it daily, weekly, monthly. I might hear it from time to time, but it was --
18 I heard it from time to time, maybe once or twice a year, maybe fewer
19 times than that. I had heard it at home before, but I don't recall that it was
20 a frequently-used word.

21 Q. And I believe you testified earlier that you -- back then, you didn't really
22 consider the N-word to be a bad -- a necessarily bad term.

23 A. I don't think I knew how bad it was at the time.

24 Q. Okay. About how old were you?

25 A. 13.

(Walter W. Jones, Jr. - Cross)

1 Q. Was it fair to say that the -- you considered the N-word to be more of a
2 descriptive term, like someone's blond or short?

3 A. There is something to that, yes.

4 Q. Okay. Wasn't it also pejorative?

5 A. If you call a short person "shorty"; is that pejorative? It may be a
6 nickname that is somewhat pejorative, but is not bad.

7 Q. Okay. And that was how you considered it as a white child?

8 A. I don't know that I even considered it as a white child when my father
9 said that word.

10 Q. Okay. But --

11 A. Remember, I was fairly young here at this point.

12 Q. Yeah. But back then, is it fair to say that your father didn't use that term
13 in front of Harry, correct?

14 A. He did not.

15 Q. And that's because it was a derogatory --

16 A. At least as far as I know.

17 Q. And that's because it was a derogatory term back then?

18 A. I would presume that that was the case.

19 Q. Okay. And it's --

20 A. I --

21 Q. -- derogatory now?

22 A. Harry would have been insulted.

23 Q. Okay. Harry would have been insulted by a derogatory term, right?

24 A. Yeah.

25 Q. And it's a derogatory term today too; isn't that so?

(Walter W. Jones, Jr. - Cross)

1 A. Yes, it is.

2 Q. Okay. And yet you used the word on May 10, 2024?

3 MR. STEINMAN: Asked and answered
4 multiple times.

5 THE REFEREE: Overruled.

6 MS. KOCHER: I'm not sure there was an
7 answer to the question.

8 THE RESPONDENT: I'm sorry --

9 THE REFEREE: Oh.

10 BY MS. KOCHER:

11 Q. And yet you, even knowing it was a derogatory term, you used it on May
12 10, 2024?

13 A. In quoting my father, yes.

14 Q. Now, in your mind, when you used the term on May 10, 2024, was it not
15 derogatory because you were not directing it at a particular person?

16 A. It was a derogatory word, and I certainly wasn't directing it at any person.

17 Q. Okay. But you admit with me it was derogatory to use it on May 10,
18 2024?

19 A. I have told you that I believe it to be a derogatory term. A term that's
20 insulting to black people. No, a term insulting when white people use it
21 toward black people. I have heard blacks use that term among
22 themselves.

23 Q. So if there had been a black person with you, Ms. Bartolotta, and Ms.
24 Valenti that day, would you have told the story the same way?

25 A. Yes.

(Walter W. Jones, Jr. - Cross)

1 Q. You still would have used the "N-word Harry"?

2 A. Yes.

3 Q. And you would have said the full word? You're nodding "yes"?

4 A. I've already answered your question.

5 THE REFEREE: Please answer the question.

6 THE RESPONDENT: Yes.

7 BY MS. KOCHER:

8 Q. Now, if you were to tell the story again, would you use the N-word in
9 full?

10 A. Well, I suppose I would not.

11 Q. And why is that?

12 A. Because it causes so much upset and consternation and discomfort.

13 Q. Did you know the word caused discomfort and upset back in May of
14 2024?

15 A. Of course I know the meaning of those words back then. But I also said
16 to them, if I tell you the story, I need to use the vernacular that they used
17 then, and they said, "Okay, fine." And so I did. And so if I were to tell
18 the story to another person now, I would probably use an euphemism of
19 some sort.

20 Q. Okay. Now, when you told the story last May, you were in a public
21 parking lot, correct?

22 A. We were in the parking lot, yes.

23 Q. And that's a public parking lot, correct? You don't need a pass to get in,
24 right?

25 A. You asked this of Ms. Valenti, you know?

(Walter W. Jones, Jr. - Cross)

1 Q. I'm asking it of you now, Judge.

2 A. Yes, it was an open parking lot.

3 Q. Okay. And while you were talking to them, there were people coming in
4 and out of the jail?

5 A. A couple people came out of the jail, but they didn't come anywhere near
6 us.

7 Q. Okay. And there was a car parked near you, correct?

8 A. I didn't see another car parked near us.

9 Q. Okay. So you didn't recognize that there was somebody nearby?

10 A. I did not.

11 Q. Okay. Now, if you're using the N-word in a public space, don't you risk
12 somebody just overhearing you say it?

13 MR. STEINMAN: Objection.

14 THE REFEREE: Overruled.

15 MR. STEINMAN: Well, just let me, if I may,
16 place on the record. The public -- if it's empty, if it's two
17 o'clock in the morning and public, and there's nobody
18 around, under what factual scenario? If there are people
19 there? If it's empty? Which one, both?

20 MS. KOCHER: Okay. Well, at about --

21 THE REFEREE: Well, why don't you re-ask the
22 question--

23 MS. KOCHER: Sure.

24 THE REFEREE: -- to accommodate his
25 objection?

(Walter W. Jones, Jr. - Cross)

1 BY MS. KOCHER:

2 Q. Judge, at about -- it was about 6:15 in the afternoon on May 10, 2024
3 when you were out in the parking lot with Ms. Valenti and Ms.
4 Bartolotta, correct?

5 A. I haven't paid attention to the time stamps that are -- if you say so, it's
6 okay.

7 Q. Okay.

8 MS. KOCHER: Well, if we could pull up
9 Exhibit 1, please?

10 THE RESPONDENT: You don't need to be
11 precise, I said it would be okay. 6:15, whatever. 6:45.

12 BY MS. KOCHER:

13 Q. Okay. Well, but I'll --

14 A. Probably 5:45 would be more accurate.

15 Q. All right. Judge, we have Exhibit 1 on the monitor to your right. Would
16 you mind taking a look at the date, May 10, 2024, the time stamp as you
17 exit is 18:11, and I think, 30 seconds. Do you see that there?

18 A. Actually, I can't see it very well. You tell me what it says, and I'll accept
19 your statement.

20 Q. Okay. You don't dispute that it was about 6:10 or 6:11 --

21 A. No.

22 Q. -- when you left?

23 A. We would have started arraignments at about 5:30, so 6:10 was probably
24 right.

25 Q. Okay.

(Walter W. Jones, Jr. - Cross)

1 A. Close enough.

2 Q. And it's still daylight out, correct?

3 A. Yes.

4 Q. Okay. You can see other cars parked in the parking lot as you exit the
5 jail, correct?

6 A. Yes.

7 Q. Okay. And as you walk to your car, you were walking in the same
8 direction as the car parked next to your car, correct?

9 A. I saw another -- I did not see the other car there. I did not see anybody in
10 it. I was really not paying attention to it.

11 Q. Okay. But --

12 MS. KOCHER: And if we could fast-forward to
13 about 18:15? All right. Oh, you can go back a little. Okay,
14 great. Thank you.

15 BY MS. KOCHER:

16 Q. All right. Now, we have it fast-forwarded to about 18:13 hours.

17 A. It looks like it's three or four parking spaces away from me.

18 Q. Judge, I was just going to ask -- so at this point, you're at the trunk of
19 your car, correct?

20 A. Yep. Looks like it.

21 Q. All right. And you see there's a gentleman off to the left of the screen
22 that had just come out of the jail?

23 A. He just exited the jail? Yeah.

24 Q. Okay. So people were coming and going through the parking lot,
25 correct?

(Walter W. Jones, Jr. - Cross)

1 A. Ma'am, they were so far away from us, they couldn't possibly have heard.

2 Q. Judge, my question was, there were people coming and going from the
3 jail, correct?

4 A. There were coming out of the jail. People were not "coming and going",
5 as you're phrasing it. There were a few people who came out of the jail
6 and went in another direction.

7 Q. Okay. And while you're in the parking lot telling your story, don't you
8 risk people overhearing you telling the story?

9 A. Not if they're not close.

10 Q. Okay. But you didn't notice the person that was just a few parking spots
11 away from you?

12 A. I did not notice the other person in the -- I did not notice another car, and
13 I did not notice a person in that car. But I wanted -- it's been suggested
14 that I was speaking loudly. I was speaking in a conversational tone, like
15 we're speaking here now, so I was not speaking -- and we were all
16 standing very close to one another, about two or three feet apart, so I
17 didn't need to speak loudly. I don't think that the person in the other car
18 could possibly have heard me.

19 Q. Okay. So there's a point in your story where you described how your
20 family yelled to Harry at the side of the road, right?

21 A. Yelled? No. He did not yell to Harry. He just exclaimed while I was
22 beside him in the front seat.

23 Q. Okay, he exclaimed?

24 A. But that was Harry.

25 Q. He exclaimed?

(Walter W. Jones, Jr. - Cross)

- 1 A. He exclaimed.
- 2 Q. Is that another word for yell?
- 3 A. It's not the synonym for yell. He exclaimed. He spoke, he said, "That's
- 4 Harry."
- 5 Q. Oh, to you. He said that to you.
- 6 A. I was the only other person there.
- 7 Q. Okay. But when he said it, he said, "N-word Harry", correct?
- 8 A. He said it in my hearing, but Harry could not possibly have heard him
- 9 because Harry was 20 or 30 yards behind, and the door -- the windows
- 10 were rolled up.
- 11 Q. Right, but the word your father said was, "That's N-word Harry"?
- 12 A. Yes.
- 13 Q. And it was just the two of you in the car, correct?
- 14 A. That's correct.
- 15 Q. And when he said it, was he excited when he said the words?
- 16 A. There was surprise and happiness in his voice that he had identified his
- 17 childhood friend.
- 18 Q. Did he raise his voice at all?
- 19 A. Maybe a little, but not much.
- 20 Q. So when you told that part of the story, did you also raise your voice?
- 21 A. No.
- 22 Q. All right. Judge, you understand that as a Judge, there is a code of
- 23 conduct that you are to abide by.
- 24 A. Yes.
- 25 Q. And you're a Judge on and off the bench, correct?

(Walter W. Jones, Jr. - Cross)

1 A. Yes.

2 Q. Did you consider that while an ordinary citizen may say things without a
3 consequence, as a Judge, you must avoid actions which create the
4 appearance of bias?

5 A. Yes.

6 Q. And did you ever stop to consider that the appearance of your use of the
7 N-word would make it -- I'm sorry. Let me rephrase that. While you
8 were telling the story, did you ever stop to consider how a black
9 defendant might feel if they knew you had used the N-word?

10 A. I had no idea --

11 MR. STEINMAN: I'm going to object. I'm
12 going to object. We're talking, this is pure hypothesis.
13 Pure hypothetical. There were no black people there.
14 There's no testimony that anybody other than Ms.
15 Bartolotta -- he's being asked to testify as to the potential
16 state of mind of someone, A, who wasn't there; B, didn't
17 hear it; and if was said, what they might have thought.

18 THE REFEREE: Well, Mr. Steinman, I think
19 what's she's really asking is whether the use of the N-word
20 can create the appearance of racial prejudice or bias. The
21 Judge can answer that question.

22 MS. KOCHER: Yes.

23 BY MS. KOCHER:

24 Q. So Judge, do you agree that the use of the N-word could create the
25 appearance of racial bias or prejudice?

(Walter W. Jones, Jr. - Cross)

1 A. In the context that I was using it, considering the entire story, and not just
2 one tiny part of it, what I was saying was, yes, something that Judges
3 should think about and should be happy to try to pass on. That is that we
4 overcome bias, overcome prejudice, so that's my answer.

5 Q. So I'm asking not your story as a whole, I'm asking your use of the N-
6 word. Merely your use of the N-word, couldn't that create the appearance
7 of bias or prejudice?

8 A. The only --

9 MR. STEINMAN: I'm going to object.

10 MS. KOCHER: I think that's the same --

11 MR. STEINMAN: That's it's not -- you cannot
12 divorce -- you say, let me take this out of context, okay?
13 But there is context. We've been talking about this context
14 for hours now. You can't say, "If you just use that word". I
15 can think of a 100 different scenarios in which -- if Judge
16 Jones were to do a reading of Tom Sawyer or Huck Finn to
17 a group of library students and use the word that is there,
18 does that indicate that he has bias? Context is everything.
19 You cannot take it out of context and say, "Isn't this
20 indicative of bias?"

21 MS. KOCHER: Mr. Garber, he's in a public
22 parking spot -- parking lot where --

23 THE REFEREE: He's objecting --

24 MS. KOCHER: -- people are in the area.

25 Somebody is allegedly in a car nearby. They may not hear

(Walter W. Jones, Jr. - Cross)

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the whole story. They may have just heard the Judge say the N-word. That's the risk that he runs by having the story told --

THE RESPONDENT: More importantly, then they have heard absolutely nothing.

MS. KOCHER: I'm sorry, Your Honor. Mr. Garber, if I could finish my point without being interrupted?

THE REFEREE: Please, please.

MS. KOCHER: By the Judge telling the story in a public parking lot, that's the risk that he runs. That somebody may just hear a portion of the story out of context. And that, alone, is enough to create the appearance of bias.

MR. STEINMAN: It's purely speculative. And frankly, contrary to the proof. Nobody's testified that the one person who might have been within earshot ever heard anything.

THE REFEREE: Well --

THE RESPONDENT: Exactly right.

THE REFEREE: Well, let me ask the -- ask this question.

MS. KOCHER: Sure.

THE REFEREE: Putting aside context, does the use of the -- could the use of the N-word create an

(Walter W. Jones, Jr. - Cross)

1 appearance of racial bias or prejudice?

2 THE RESPONDENT: I'm not trying to be
3 disrespectful, but context is everything.

4 THE REFEREE: Um-hum.

5 THE RESPONDENT: And if one quotes the
6 word without context, yes. But if one quotes the word with
7 context, it makes all the difference in the world. So yes, if I
8 had just said the word, "nah", than without any attachments
9 of other words, then yeah, it might make -- make me appear
10 to be biased in some way. I'm sorry. I'm not trying to be
11 disrespectful, but I can't answer the question as asked.

12 THE REFEREE: Go ahead. You know, the
13 issue is going to be context, and you'll brief that. Both
14 sides will brief it.

15 MS. KOCHER: Okay.

16 BY MS. KOCHER:

17 Q. Judge, do you consider that your use of the N-word could diminish public
18 confidence and the impartiality of the judiciary?

19 A. Same answer. Context is everything, and if I'm reading Huckleberry Finn
20 out loud, then absolutely not. But to use it as an epithet or a name, a
21 derogatory name to a person, yeah. Then, yes. But in the context that I
22 used it, I don't think so because the story that's attached to it is an
23 important story.

24 Q. So the way that you used the N-word, in your view, is okay because of
25 the context of the story?

(Walter W. Jones, Jr. - Cross)

1 A. I hate to have to use the word at all, but the story is the important thing,
2 not the one word.

3 Q. You're a Judge, correct?

4 A. Yes.

5 Q. And again, you're held to a higher standard; isn't that true?

6 A. And I believe that I was upholding that standard by trying to get across
7 the context and the beauty of this event. Even though my father was
8 racist, he was a complicated man. But for this one short time, he did
9 exactly the right thing, and that's what I'm trying to get across to
10 everybody here and to anybody I would tell the story to.

11 Q. Okay. And even though you hate to use the N-word, you used it that
12 day?

13 MR. STEINMAN: Your Honor, again, haven't
14 we gone over this a 100 times?

15 THE REFEREE: Yeah. If --

16 THE RESPONDENT: I feel like I'm being
17 badgered.

18 MS. KOCHER: Okay. I --

19 THE REFEREE: This is repetitive.

20 BY MS. KOCHER:

21 Q. You mentioned Huckleberry Finn. Do you know what year that that was
22 written?

23 A. It was written, I think, in the 1880s.

24 Q. All right. By Mark Twain --

25 A. By Mark Twain.

(Walter W. Jones, Jr. - Cross)

1 Q. -- Samuel Clemens?

2 A. And yes, I've read it. I've read Tom Sawyer, and I'm fully aware of the
3 number of times that the N-word appears in Huckleberry Finn and not
4 quite so many times in Tom Sawyer, but yes --

5 Q. But --

6 A. -- still good literature.

7 Q. They were written not long after the Civil War, correct?

8 A. Probably 20 or so years, yeah.

9 Q. And the Civil War ended slavery, correct?

10 A. In 1865.

11 Q. So things have changed from 1880 when the book was read to 2024,
12 correct?

13 A. Many things have changed. Altogether, too many things have not. The
14 bias and the prejudice is still there.

15 Q. But in your mind, the way that you used the word, the context that you
16 used the word in May of 2024, would not diminish public confidence in
17 the judiciary?

18 A. I don't think so. I don't think -- do not think so because it was part of the
19 context of the story, and it was a quote of my father.

20 Q. Judge, you testified that when you -- before you told the story to Ms.
21 Bartolotta and Ms. Valenti, you said, "I'm going to use some vernacular."
22 Is that true?

23 A. That's true.

24 Q. Did you tell them what vernacular or what words you were going to use?

25 A. No, but there would have been no point in my not telling them -- well, if

(Walter W. Jones, Jr. - Cross)

1 I'm going to use the word -- the vernacular, then I might as well go ahead
2 and say it. So if I say, "Is it okay if I use the word, the vernacular, the
3 ugly vernacular?", and they say, "Yes", then why -- it's a conundrum that
4 really can't be figured out. It can't be answered. Go ahead. What's your
5 next question?

6 Q. I was just going to say -- I mean, you said, "I'm going to use a
7 vernacular". They wouldn't have necessarily known you meant the N-
8 word; is that fair to say?

9 A. I don't know what they would've known, but they would've known that
10 there were going to be some words that -- some word or words that were
11 not generally used in polite company, and there are lots of those words.

12 Q. Okay. All right. Thank you, Judge. I don't have any more questions.

13 THE REFEREE: Mr. Steinman?

14 MR. STEINMAN: Thank you. Just very, very
15 brief and forgive me if this horse has been whipped to
16 death.

17 REDIRECT EXAMINATION

18 BY MR. STEINMAN:

19 Q. Referring to the video again, when it was played before, did you see a
20 couple, two, three people, who were standing on that concrete apron,
21 never got in the parking lot? Did you see those people as that video was
22 being played that time?

23 A. Yes.

24 Q. Under any set of circumstances, would they have been within earshot of
25 where you were holding the conversation?

(Walter W. Jones, Jr. - Redirect)

1 A. Not even close.

2 Q. Okay. And the individual who was in screen and walking away, sort of,
3 in a bleak angle away from your car, would that person have been within
4 earshot?

5 A. I doubt it very seriously.

6 Q. And you never saw anybody in the car that's three or four cars away from
7 you, right?

8 A. No.

9 Q. And you were talking in a normal conversational tone and not loud?

10 A. No.

11 Q. So in --

12 A. By the way --

13 Q. -- your mind, was there any risk that anybody out in that lot was going to
14 hear what you were saying?

15 A. I think there was no risk whatever.

16 Q. Thank you, (unintelligible).

17 MS. KOCHER: I'm sorry. If I could just --

18 THE REFEREE: Um-hum.

19 RECROSS-EXAMINATION

20 BY MS. KOCHER:

21 Q. Judge, so Cali Anne or Ms. Valenti and Ms. Bartolotta were within
22 hearing distance of you, correct?

23 A. Yes, they were. They were about two feet away, maybe three.

24 Q. And so they heard the whole story, correct?

25 A. Yes.

(Walter W. Jones, Jr. - Recross)

1 Q. Do you think as a court employee and an Attorney that represents
2 defendants in front of you regularly that your use of the N-word to them
3 could impact their opinion on the impartiality of the court?

4 A. I don't think --

5 MR. STEINMAN: Objection. Beyond the
6 scope of redirect.

7 THE REFEREE: Overruled.

8 THE RESPONDENT: No, I don't think so.

9 MS. KOCHER: Okay. Thank you.

10 THE REFEREE: Judge, I have a few questions.

11 THE RESPONDENT: Sure.

12 THE REFEREE: When your father used the N-
13 word, he used it as a disparaging term.

14 THE RESPONDENT: Yes.

15 THE REFEREE: With reference to --

16 THE RESPONDENT: It was a -- it was
17 certainly disparaging. It was insulting to Harry, but he
18 only -- he did not say it to Harry, as you understand.

19 THE REFEREE: Right. But it was insensitive
20 to African-Americans?

21 THE RESPONDENT: That's right.

22 THE REFEREE: It would be disparaging to
23 African-Americans in general.

24 THE RESPONDENT: If a white man used it
25 towards blacks, yes. It would be disparaging.

(Matter of Walter W. Jones - Colloquy)

1 THE REFEREE: Yeah. And when your father
2 used it, was it insensitive to African-Americans? By "it",
3 meaning the N-word. Was it insensitive to African-
4 American people?

5 THE RESPONDENT: I think it probably was
6 insensitive, but again, we're talking about 1957 --

7 THE REFEREE: Yeah.

8 THE RESPONDENT: -- and that's the way
9 people talked in those days.

10 THE REFEREE: And it was racist for your
11 father to have used the N-word.

12 THE RESPONDENT: He was a racist --

13 THE REFEREE: Yeah.

14 THE RESPONDENT: -- sadly.

15 THE REFEREE: Do you think it was, in your
16 view, was it racist for you to have used the N-word in
17 retelling the story that you did in the parking lot?

18 THE RESPONDENT: Do I think it was racist
19 to use that word --

20 THE REFEREE: The N-word.

21 THE RESPONDENT: -- telling that story?

22 THE REFEREE: Um-hum.

23 THE RESPONDENT: No.

24 THE REFEREE: Um-hum.

25 THE RESPONDENT: And I don't because of

(Matter of Walter W. Jones - Colloquy)

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the story that is attached to it.

THE REFEREE: Um-hum. Okay.

THE RESPONDENT: That is it's not because of the context.

THE REFEREE: Okay. What does the phrase, "playing the race card" mean to you?

THE RESPONDENT: It means that she was -- that she believed that she was being treated badly because of the color of her skin. It means that she thought she was a victim, and I did not believe that she should think of herself as a victim, and I wanted to be able to tell her that. Obviously, I could not.

THE REFEREE: Well, in using the phrase -- I think, my recollection is, "Naturally, she was playing the race card." And it was said in an open courtroom.

THE RESPONDENT: She was gone by this time.

THE REFEREE: She was gone, yes.

THE RESPONDENT: Yep.

THE REFEREE: Do you think that -- do you believe that that, at least, created the appearance of bias?

THE RESPONDENT: I don't think it created the appearance of bias.

THE REFEREE: Racial bias.

THE RESPONDENT: I don't think it created

(Matter of Walter W. Jones - Colloquy)

1 the appearance of racial bias. I think it created the
2 recognition that she was feeling a victim and feeling that
3 she had been badly treated by Deputies, by Law
4 Enforcement Officers. Maybe by others, I don't know.

5 THE REFEREE: Well, in using that phrase, are
6 you saying that her -- perhaps her belief that she was being
7 treated as -- was being a victim by reason of race, do you
8 believe that that was baseless? Yeah.

9 THE RESPONDENT: Do I think that she
10 was --

11 THE REFEREE: Did you feel that claim was --

12 THE RESPONDENT: -- that she thought it was
13 baseless?

14 THE REFEREE: -- baseless?

15 THE RESPONDENT: I think she thought it
16 was very true. Is that what you're asking?

17 THE REFEREE: Well, I'm asking what you
18 thought. Did --

19 THE RESPONDENT: I thought it was possible
20 that she had been victimized.

21 THE REFEREE: Okay.

22 THE RESPONDENT: But we all have read the
23 stories about what happens when a white Police Officer
24 stops a black motorist, and is that not victimization? We all
25 know it is sometimes. At least, from time to time. And so I

1 don't know what she thought for sure, but it was -- well, I
2 do know that she thought that she was being victimized.

3 THE REFEREE: Okay.

4 THE RESPONDENT: And I don't know
5 whether she was or not. I could not tell, but --

6 THE REFEREE: But when you said to Mr.
7 Conklin, "Do they teach you to fight back at the Public
8 Defender's Office?" What did you mean by that?

9 THE RESPONDENT: I didn't really mean
10 anything at all. I was just being silly with him. Just
11 lighthearted.

12 THE REFEREE: Um-hum.

13 THE RESPONDENT: I have considered that
14 question before. I had a -- I had a client who threatened
15 bodily harm to me, and I was wondering what I would do
16 if -- I mean, the man came up to me on the sidewalk and
17 threw water in my face, and I was wondering what I would
18 have done if he had done something else, so that has
19 happened to me. Would I have fought back? I hope so, but
20 I don't know.

21 THE REFEREE: Did Counsel have any further
22 questions?

23 MR. STEINMAN: I got one, but I'll defer to
24 Ms. Kocher.

25 THE REFEREE: Ms. Kocher?

(Walter W. Jones, Jr. - Further Redirect)

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MS. KOCHER: No. I'm set.

FURTHER REDIRECT EXAMINATION

BY MR. STEINMAN:

Q. Just one, Judge. To follow up on something that Mr. Garber asked you.

In reflecting on what happened on May 15th, Ms. D■■■■' case, do you feel that you victimized her by any of your conduct at that arraignment? And I'm not talking about whether or not she got beaten up or anything else or whether or not she'd been picked on by law enforcement. Do you --

A. Did I victimize her by --

Q. Yeah. By anything you did in her presence.

A. No. Absolutely not.

Q. All right. Thank you. Nothing else.

A. In fact, I know I take pains to make sure that nobody who appears in front of me has reason to feel that they are victimized.

Q. Thank you.

MS. KOCHER: Could --

THE REFEREE: Judge --

MS. KOCHER: I'm --

THE REFEREE: I have an additional question.

Do you believe that -- that Ms. D■■■■, was using her racial identity to gain an advantage?

THE RESPONDENT: Maybe so. It's hard to say for sure. She was angry, and her anger may have made it impossible for her to think rationally. But it occurred to me that she may have been hoping for some sort of

1 advantage by making the accusation that she was being
2 victimized. It's possible.

3 THE REFEREE: Any further questions by --

4 MR. STEINMAN: No, thank you.

5 THE REFEREE: -- Counsel?

6 MS. KOCHER: No, thank you.

7 THE REFEREE: Okay. Mr. Steinman, do you
8 rest?

9 MR. STEINMAN: Yes, we do.

10 THE REFEREE: And do Counsel want to make
11 a closing argument?

12 MS. KOCHER: I think I'll rest on the record at
13 this point, and we'll submit, right, after we get the
14 transcript?

15 THE REFEREE: Okay.

16 MS. KOCHER: If that's okay?

17 THE REFEREE: Let's talk about time frames
18 for submission of briefs and proposed findings of fact and
19 conclusions of law. Does 30 days following receipt of the
20 transcript -- is reasonable to Counsel?

21 MS. KOCHER: Yes.

22 MR. STEINMAN: We do.

23 THE REFEREE: And submitted, exchange on
24 that date? Whatever the date is, and do you want to submit
25 reply briefs?

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MS. KOCHER: Yes.

THE REFEREE: Okay. 15 days following.

MS. KOCHER: Sure.

THE REFEREE: Mr. Steinman, will you email me with a copy to Ms. Kocher the date on which you receive the --

MR. STEINMAN: Of course.

THE REFEREE: -- the transcript? And then we'll fix a date for submission of briefs.

MS. KOCHER: Okay.

THE REFEREE: And the same with the receipt of briefs, so we can fix a precise date for submission of the reply briefs.

Oh, Mr. Steinman, if I -- I assume that I will receive a copy of the videos.

MS. KOCHER: Yes, the exhibits will be included with the transcript.

THE REFEREE: If I have difficulty in viewing them, do you mind if I call Commission staff to help me through it?

MR. STEINMAN: I find that Commission staff are unusually helpful in dealing with such technical issues.

THE REFEREE: And do you want to be involved in that conversation?

MR. STEINMAN: Absolutely not.

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THE REFEREE: Okay. I will make you aware of the conversation.

MR. STEINMAN: You don't even need to bother. I have the utmost confidence in Ms. Kocher's office's integrity and honorable conduct.

THE REFEREE: Okay. Then we'll -- this is the conclusion of the hearing unless Counsel have anything else to raise.

MS. KOCHER: Nothing here.

THE REFEREE: Okay. Then, thank you very much, and we are adjourned.

MS. KOCHER: Thank you.

THE RESPONDENT: With whom do I leave this?

THE REFEREE: Oh.

MS. KOCHER: Oh, we'll get that back to the --
(Proceedings concluded at 3:34 PM)

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EXHIBITS

COMMISSION

	Description	Ident.	In Evid.
1	Ontario County Jail Surveillance footage -	18	18
2	May 10, 2024 from 18:11 hours to 18:25		
3	hours.		
4			
5	3 Text messages from Cali Anne Valenti, dated	6	44
6	May 10, 2024, at 6:24pm, one page.		
7			
8	4 Text message from Cali Anne Valenti to	6	50
9	Leanne Lapp, dated May 10, 2024, at 7:24pm,		
10	one page		
11			
12	5 <i>People v S</i> [REDACTED] <i>D</i> [REDACTED], Centralized	18	18
13	Arrestment Part (CAP) audio recording from		
14	May 15, 2024.		
15			
16	6 Transcript of <i>People v S</i> [REDACTED] <i>D</i> [REDACTED],	18	18
17	dated May 15, 2024, eighteen pages.		
18			
19	/		


1	7	<i>People v S█████ D█████</i> Centralized	18	18
2		Arrest Part (CAP) Court records,		
3		twenty-one pages.		
4				
5	8	Booking photograph of S█████ D█████, one	18	18
6		page.		
7				
8	9	Blank calendar for the year 2024, one page.	18	18
9				
10	10	Redacted transcript of Witness Walter W.	18	18
11		Jones In the Matter of an Investigation		
12		Pursuant to Section 44, subdivision 3, of		
13		the Judiciary Law in Relation to Walter W.		
14		Jones, a Justice of the Canandaigua Town		
15		Court, Ontario County, dated July 15, 2024,		
16		twelve pages.		
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CERTIFICATION

I, Dani Lewter, do hereby certify that the foregoing is a true and accurate transcript of the audio recording described herein to the best of my knowledge and belief.

Dated: September 1, 2025



Dani Lewter