

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

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UNITED STATES OF AMERICA,)	Docket No. 03 CR 11
)	
Plaintiff,)	
)	
vs.)	Chicago, Illinois
)	April 26, 2004
MATTHEW HALE,)	10:00 o'clock a.m.
)	
Defendant.)	

VOLUME 14
TRANSCRIPT OF PROCEEDINGS - TRIAL
BEFORE THE HON. JAMES T. MOODY, and a jury

APPEARANCES:

For the Plaintiff:	HON. PATRICK J. FITZGERALD
	United States Attorney
	BY: MR. M. DAVID WEISMAN
	Assistant United States Attorney
	219 South Dearborn Street
	Suite 500
	Chicago, Illinois 60604

For the Defendant:	DURKIN & ROBERTS
	BY: MR. THOMAS ANTHONY DURKIN
	MR. PATRICK W. BLEGEN
	53 West Jackson Boulevard
	Suite 615
	Chicago, Illinois 60604

Court Reporter:	ALEXANDRA ROTH, CSR, RPR
	219 South Dearborn Street
	Room 1744-A
	Chicago, Illinois 60604
	(312) 294-0134

1 (Proceedings had outside the presence of the jury:)

2 THE COURT: Okay. The jury has sent us another
3 question and it reads as follows:

4 "We need clarification regarding Count No. 4: 1,
5 regarding the use of the word murder and proposition; No. 2,
6 what is the legal definition of murder.

7 Two: We notice that Count 4 is the first time that
8 murder is not found in the relevant portions of Title 18,
9 Section 1503(a) or Section 373, both Title 18, which are
10 described on page 16 of the Court's instructions. Why is the
11 term murder used in prop No. 2 of Count No. 4 but not found on
12 page 16 of Court's instructions?"

13 Well, the main reason is that the word "murder" was
14 used in an agreed instruction submitted by the parties and is
15 not consistent with the other counts. That's how I view it,
16 anyway.

17 But anyway, here's my proposed response: The phrase
18 -- and I quote -- felony that involved the use, attempted use
19 or threatened use of physical force against Judge Joan H.
20 Lefkow in violation of laws of the United States, end of
21 quote, as used in the first proposition of both of Court's
22 Instruction Nos. 18 and 19, includes the word murder as used
23 in the second proposition of Court's Instruction No. 25, with
24 my normal language to follow.

25 Anybody object to that?

1 MR. DURKIN: Can I see the question itself, Judge?

2 THE COURT: Yes. I did it verbatim.

3 MR. WEISMAN: I just need a minute to look through
4 this.

5 THE COURT: Sure.

6 (Brief pause.)

7 MR. WEISMAN: Judge, can I just ask for a point of
8 clarification?

9 THE COURT: From me?

10 MR. WEISMAN: Yes.

11 It says page 16 of the Court's instructions --

12 THE COURT: I'm assuming that they mean Court's
13 Instruction 16.

14 MR. WEISMAN: Okay.

15 THE COURT: I don't know any other way to read it
16 because the Court's instructions are not numbered. It's the
17 only way that makes sense, sir. And the language -- and 16 is
18 the one that has 1503 and 373 of Title 18.

19 Doesn't that make sense to you?

20 MR. WEISMAN: Yes, it does.

21 MR. DURKIN: That's fine with us, Judge.

22 MR. WEISMAN: That's fine with the government, your
23 Honor.

24 THE COURT: Okay. We'll give this instruction.

25 You have a copy of the Court's response, correct?

1 MR. DURKIN: Yes.

2 THE COURT: And do you both agree in total as to --
3 because I didn't read everything into the record.

4 MR. DURKIN: Yes, that's fine.

5 THE COURT: Thank you very much.

6 MR. WEISMAN: Yes, thank you.

7 (Recess taken.)
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1 (The following proceedings were had in open court outside
2 the presence of the jury at 11:15 o'clock a.m.):

3 THE COURT: I have been informed by the court security
4 people that the jury has notified them that they have reached
5 verdicts on all five counts. Everybody is present.

6 After the verdicts are read, those in the audience, if
7 you would just be courteous enough to remain seated and quiet
8 until after I release the jury and they are out of the
9 courtroom. Then you can go about your business. Please just
10 sort of be quiet until it's all over.

11 Are you ready?

12 MR. DURKIN: Sure.

13 THE COURT: Are you ready?

14 MR. WEISMAN: Yes, your Honor.

15 THE COURT: Get the jury.

16 (Jury entered the courtroom.)

17 THE COURT: Good morning. Please be seated.

18 I would ask the foreperson to please stand and state
19 his or her name.

20 THE FOREPERSON: My name is Mark Hoffman.

21 THE COURT: Okay. Mr. Hoffman, has this jury agreed
22 upon verdicts in this case?

23 THE FOREPERSON: Yes, we have.

24 THE COURT: Would you please hand the form of verdicts
25 to the marshal.

1 I would ask that you bring it to me so that it might
2 be published by reading. Thank you, sir.

3 Just for the record, I do notice that all jurors are
4 present.

5 (Document tendered.)

6 THE COURT: Gladys, would you please publish these
7 verdicts by reading?

8 THE CLERK: We, the jury, find the defendant Matthew
9 Hale guilty of the charge contained in Count 1 of the
10 indictment filed in this case, guilty of the charge contained
11 in Count 2 of the indictment filed in this case; not guilty of
12 the charge contained in Count 3 of the indictment filed in this
13 case; and guilty of the charge contained in Count 4 of the
14 indictment filed in this case, and guilty of the charge
15 contained in Count 5 of the indictment filed in this case.

16 THE COURT: For the record, when I examined the form
17 of verdicts, it was signed by each juror.

18 Counsel, do either of you desire that this jury be
19 polled?

20 MR. DURKIN: Yes.

21 THE COURT: Okay. I can do it.

22 Lucy Moore, are these your verdicts? Ms. Moore, are
23 these your verdicts? The one that we just read, are these your
24 verdicts?

25 JUROR MOORE-DAVENPORT: Yes.

1 THE COURT: Mr. Hoffman, are these your verdict?

2 JUROR HOFFMAN: Yes.

3 THE COURT: Mr. Massie, are these your verdicts?

4 JUROR MASSIE: Yes.

5 THE COURT: Mr. McClellan, are these your verdicts?

6 JUROR McCLELLAN: Yes.

7 THE COURT: Robert Ruyle, are these your verdicts,

8 sir?

9 JUROR RUYLE: Yes.

10 THE COURT: Mr. Kinder, are these your verdicts?

11 JUROR KINDER: Yes.

12 THE COURT: Ms. Hemphill, are these your verdicts?

13 JUROR HEMPHILL: Yes.

14 THE COURT: Mr. Warszalek, are these your verdicts?

15 JUROR WARSZALEK: Yes.

16 THE COURT: Mr. Amador, are these your verdicts?

17 JUROR AMADOR: Yes.

18 THE COURT: Ms. Mangrum, are these your verdicts?

19 JUROR MANGRUM: Yes.

20 THE COURT: Mr. Phillips, are these your verdicts?

21 JUROR PHILLIPS: Yes.

22 THE COURT: Ms. Winge -- is that how you pronounce it?

23 JUROR WINGE: Winge.

24 THE COURT: I pronounced it wrong. I am so sorry.

25 Are these your verdicts, ma'am?

1 JUROR WINGE: Yes.

2 THE COURT: Okay. All right. I find that the
3 verdicts are unanimous. And with that, ladies and gentlemen,
4 your service in this case is complete. And I do want to thank
5 all of you on behalf of the entire court for your investment of
6 time and great amount of attention and work that you did in
7 this case.

8 And before I send you back to the jury room to collect
9 your belongs, I just want to mention a couple of things. And
10 these are a couple of things that the United States Supreme
11 Court has said, among many other things that the Supreme Court
12 has said, about the institution of the jury in this country.
13 And they said these things in a case called Powers against Ohio
14 back in the year 1991.

15 There the Court said at one point, "The opportunity
16 for ordinary citizens to participate in the administration of
17 justice has long been recognized as one of the principal
18 justifications for retaining the jury system." And elsewhere
19 the Court went on and said, "With the exception of voting, for
20 most citizens the honor and privilege of jury duty is their
21 most significant opportunity to participate in the democratic
22 process."

23 To each of you I would say that you should be proud of
24 yourself for undertaking this very significant opportunity.
25 You have, in fact, performed a very patriotic duty in helping

1 your judicial branch of government to continue to operate
2 properly. You have been very conscientious throughout this
3 case. We are all very grateful for that.

4 And with the discharge of the jury also comes your
5 freedom to talk about this case with anyone else and to read,
6 view or listen to any report regarding this case that may
7 appear in any of the news media. However, it is up to you
8 individually whether you would like to talk about the case.
9 You certainly are not required to do so. And as always, your
10 right to freedom of speech includes the right not to speak.

11 So you are excused, and if you can just follow the
12 court security officer out, and he will take you back to the
13 jury room. You can collect your belongings. Thank you very
14 much. Thank you.

15 (Jury excused.)

16 THE COURT: Please be seated.

17 The clerk is now directed to record these verdicts. I
18 order the preparation of a presentence report. The sentencing
19 date will be scheduled, and I will notify both sides by mail or
20 the appropriate way, the normal way.

21 Anything else, Mr. Durkin?

22 MR. DURKIN: Could we have 60 days to file post-trial
23 motions?

24 THE COURT: I have no problem with that. Do you?

25 MR. WEISMAN: No, your Honor.

1 THE COURT: Granted.

2 MR. WEISMAN: Judge, under our local rules we have two
3 weeks to produce a presentence report. I am wondering if we
4 could have 30 days.

5 THE COURT: Do you know at home, of course we are in
6 Podunk City in Indiana, we take normally 70 days to do that.

7 MR. DURKIN: He is talking about the government's
8 version.

9 THE COURT: The government's version? I never get
10 involved in that.

11 MR. WEISMAN: I am just wondering if I could have 30
12 days.

13 THE COURT: It's normally two weeks? You have no
14 objection?

15 MR. DURKIN: That's fine, as long as we could have a
16 couple weeks after that.

17 THE COURT: Both requests are granted.

18 Anything else?

19 MR. DURKIN: No. Thanks, Judge.

20 MR. WEISMAN: Thank you, your Honor.

21 THE COURT: Really, counsel, all four of you just did
22 a terrific job. It was a pleasure to come up here and work
23 with you. All four of you conducted yourself very
24 professionally and did great work, both of you. Okay.

25 MR. WEISMAN: Thank you.

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MR. DURKIN: Glad to be in front of you.

THE COURT: This court is now adjourned.

(Which were all the proceedings had at the hearing of the
within cause on the day and date hereof.)

CERTIFICATE

I HEREBY CERTIFY that the foregoing is a true, correct
and complete transcript of the proceedings had at the hearing
of the aforementioned cause on the day and date hereof.

Alexandre Ross

Official Court Reporter
U.S. District Court
Northern District of Illinois
Eastern Division

4-26-04

Date