

UNITED STATES DISTRICT COURT FOR  
THE DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA : Criminal No. 17-00532-RBK  
:   
v. :   
:   
FRANK NUCERA, JR. : **JUROR AFFIFAVIT**  
: **[REDACTED]** **[REDACTED]**  
:

I, **[REDACTED]** **[REDACTED]** (**Juror 3**), having been duly sworn, hereby state:

1. I was one of the Jurors (**Juror 3**) in the above-captioned case. I was present at and participated in all deliberations of the jury.
2. After the jury was discharged, I contacted counsel for Mr. Nucera to present concerns I had about the nature of the jury deliberations including matters addressed below.
3. I am concerned about public backlash and safety issues for myself and my family. I have several children, including an African American child (I consider her my child although she is not my

biological child or legally adopted, as my husband and I were granted Kinship Legal Guardianship when she was 15 years old. She is now 20 years old). I have seen unnerving comments on the trial by the public (which I looked at only after the trial). In light of the sensitive nature of the issues, and because of a (now sealed) note I sent to the Court on the day we were discharged, I am requesting that the form of affidavit referencing my name be sealed, and that a redacted version referencing only my Juror number be made public.

4. I have requested that Mr. Nucera's attorney file just the redacted affidavit publicly until the Court decides the request to seal any version of the affidavit referencing my name.
5. I was very concerned by statements made by certain Jurors during the deliberations which infected the deliberation process, including my own vote for guilty on Count 3 because of bullying, racial

tension, and unfounded accusations directed at me that resolute not guilty vote (prior to the verdict) was based on racism on my part.

6. As the deliberations progressed, I felt like I was being labelled as a racist if I did not find Frank Nucera guilty beyond a reasonable doubt. I became hesitant to speak up because I did not want such inappropriate comments continued to be directed toward me. I was made to feel that if I did not vote for conviction, I was insensitive to the experiences suffered by people because of their race such as those recounted by Juror [REDACTED] [REDACTED] (Juror 12) as mentioned throughout this Affidavit.
7. I was very distraught by the comments referenced below and the demeanor of certain Jurors that I sent a now sealed note to the Court just before the final hung jury note was sent to the Court.

8. Originally, on all three counts, the jury vote was 10 to 2 in favor of acquittal. Later in the day Juror [REDACTED] (Juror 1) changed her vote to guilty, making it 9 to 3 in favor of acquittal. The three guilty votes were by Juror [REDACTED] (Juror 1), Juror [REDACTED] (Juror 9), and Juror [REDACTED] (Juror 12).
9. Early in case, Juror [REDACTED] (Juror 12) stated words to the effect that her vote was for guilty on all three counts and that she has "all the time in the world" to wait out deliberations.
10. Another juror asked if perhaps the jurors who were voting guilty were looking at things through a different lens, and Juror [REDACTED] (Juror 12) responded words to the effect "no shit Sherlock, we're black".
11. During the deliberations, I did not see Juror [REDACTED] (Juror 12) review any evidence on the Ipad (on which the evidence was available to us)

despite requests that she look at specific evidence to consider alternative points of view that were being presented.

12. Juror [REDACTED] (Juror 12) stated that the only thing she was writing in her juror notebook during deliberations was a list of states to which she has traveled or planned to travel.

13. At times, jurors who stated that the government did not prove its case often were met with hostile reactions from Juror [REDACTED] (Juror 12).

Although not at first, Juror [REDACTED] (Juror 1) and Juror [REDACTED] (Juror 9) also variably pointed only to racist comments made by Mr. Nucera, and demeaned and reflexively dismissed any contrary view of the evidence mentioned by other jurors regarding the alleged physical actions by Frank Nucera.

14. Very early on during deliberations, Juror [REDACTED] (Juror 12) yelled at Juror [REDACTED] (Juror 2) that Juror [REDACTED] (Juror 2) "can't

understand because you are not black". Juror

(Juror 2) had said nothing to state that she was attempting to put herself in the shoes of a black person. Because of incidents like this, I became increasingly hesitant to share with my fellow jurors my reasonable doubt as to guilt.

15. During deliberations, before the guilty vote on Count 3, as I expressed my view of the evidence and my not guilty vote, Juror [REDACTED] (Juror 12) stated to me words to the effect that "You would only be happy with a jury of 12 white people".

16. Rather than being open to the evidence, Juror [REDACTED] (Juror 12), Juror [REDACTED] (Juror 1) and Juror [REDACTED] (Juror 9), began to make statements that those jurors (which included me) who were voting not guilty were looking for ways to help Frank Nucera get away with the alleged crime. I was made to feel as though anyone who did not find Frank

Nucera guilty was condoning his racially charged words.

17. Juror [REDACTED] (Juror 12) continued to make similar allegations of racism, also presenting to the jury adverse personal experiences she and her family had endured.
18. During deliberations, before the conviction on Count 3, Juror [REDACTED] (Juror 12) told us that her sons experienced racial profiling. Juror [REDACTED] (Juror 12) recounted that one of her sons (who is a pharmacist) was pulled over by different police three times in one day. Juror [REDACTED] (Juror 12) told us that these stops were solely because her son was "driving while black". In this same discussion, Juror [REDACTED] (Juror 12) also recounted a story that her son also was in his own back yard at night and was approached by the police.

19. In the same context of the two stories above regarding her son(s), Juror [REDACTED] (Juror 12) also stated in substance that when you are raising black sons, you have to teach them from when they are young boys, to submit to the demands of police officers.
20. Juror [REDACTED] (Juror 12) stated during the deliberations words to the effect that she would be hard-pressed to return to her sons and her community without a conviction or jail time for Frank Nucera.
21. During deliberations, Juror [REDACTED] (Juror 1) directed to me, words to the effect that "you would not find Frank Nucera guilty even if he shot Stroye in the face." I found her comments insensitive, inappropriate, and repressive of my true views of the evidence. Those comments caused me to retreat into the restroom and cry. I became physically upset by her comments and other jurors requested a



"smoke break." Even though I do not smoke, I joined them on the outing where I began to cry for the duration of the break. We decided to end deliberations for that day shortly after our return from the break.

22. During deliberations some jurors shifted their votes. When the jurors were discussing that we were hung on all counts (after several days of deliberations), Juror [REDACTED] (Juror 5) pounded the table and said words to the effect "mother F\_ \_ \_ \_ er, I'll be damned if we let this guy walk. I'll sit another three weeks until we can convict this guy". Juror [REDACTED] (Juror 12) added in substance "I'm retired, this is \$50 more per day than I am making at home, I have all the time in the world".

23. Juror [REDACTED]'s (Juror 5's) table pounding created more reticence on my part to share my true thoughts on the evidence. His comments and those of Juror

██████████ (Juror 12) -- and others as addressed elsewhere in this Affidavit -- convinced me that I would have to change my not guilty vote on at least one count to avoid any stigma publicly that would align me with Frank Nucera's racist rants. I compromised my vote to guilty on Count 3 to dispel any impression that I am a racist, not because I thought that the government proved its case beyond a reasonable doubt. In fact, I thought then, and still do now think, that the government did not prove its case.

24. To this day I continue to believe that Mr. Nucera did not willfully make a false statement to the FBI. I continue to experience substantial guilt over my vote for conviction on Count 3 because it was not my true vote.

25. I also recall Juror ██████████ ██████████ (Juror 4), the morning following the guilty verdict on Count 3,

expressing and immediate regret of changing her vote to guilty and that she had a sleepless night.

26. During deliberations, Juror [REDACTED] (Juror 12) presented to us a tearful recollection of racial inequality she was subjected to as a child. She told us how she was unable to use a "whites only" restroom while traveling, and how her mother kept mayonnaise jars in her car into which Juror [REDACTED] (Juror 12) would have to relieve herself. She recounted being asked to leave places due to her skin color.
27. At one point, Juror [REDACTED] (Juror 6) physically embraced Juror [REDACTED] (Juror 12) and said words to the effect "I'm sorry, I'm so sorry, I remember those days".
28. Also, at one point, Juror [REDACTED] (Juror 5) embraced Juror [REDACTED] (Juror 12) after she recounted stories of racial discrimination suffered

by her and her family, and he was tearful while doing so.

29. At one point, Juror [REDACTED] (Juror 12) stated words to the effect that "Every time I hear someone in this room say 'I'm not prejudiced, I have a black friend', if I had a gun, I would shoot each one of you." After a period of silence in the jury room after that was said, Juror [REDACTED] (Juror 11) said "who can follow that". Those comments by Juror [REDACTED] (Juror 12) also further repressed my ability to continue to speak my genuine view of the evidence.

30. Juror [REDACTED] (Juror 12) also stated during deliberations in substance that when you are a mom and you are raising black boys, from the day they are born you have to teach them how to answer to a cop, how to put their hands up and concede.

31. I was further troubled by Juror [REDACTED]'s comments, the accusations of racism toward white

jurors who were voting not guilty, and particularly the accusations of racism directed at me.

32. I remain concerned about the fact that these statements were made during deliberations and that I was essentially shamed into voting guilty regarding Count 3, despite that I did not want to do so. Indeed, I felt that way when I voted, when the verdict was delivered, and immediately after the verdict was delivered regarding Count 3. The referenced comments impacted my ability to stand strong on my individual not guilty vote.
33. Juror [REDACTED] (Juror 6) told us Jurors that he has been around a long time, and if we do not convict, these things will continue to happen, and he was tearing up.
34. Also, during deliberations there was a debate about the meaning of "unreasonable" and "unnecessary" relating to certain counts of the indictment. Juror [REDACTED] (Juror 6) one day brought into the

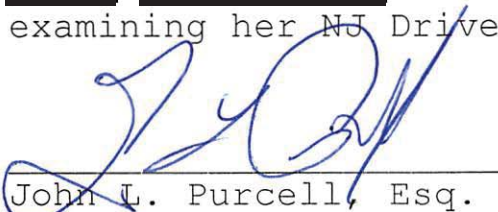
jury deliberations, handwritten definitions he had written down and he stated he looked them up the night before. He presented the definitions he had written down to the jury.

35. This Affidavit does not include all of the statements or occurrences made during jury deliberations, and there is additional information I can provide if and when asked.

[REDACTED]

JUROR 3

Sworn to and Subscribed before me on this **3rd<sup>th</sup>** day of **December**, 2019 at Haddon Heights, Camden County, NJ by [REDACTED] whose identity I verified by examining her NJ Driver's License.



John L. Purcell, Esq.

Attorney at Law, State of New Jersey

Authorized to administer oaths, affirmations and affidavits pursuant to NJSA § 41:2-1

UNITED STATES DISTRICT COURT FOR  
THE DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA : Criminal No. 17-00532-RBK  
:   
v. :   
:   
FRANK NUCERA, JR. : **JUROR AFFIDAVIT**  
: **[REDACTED]** **[REDACTED]**  
:

I, **[REDACTED]** (**Juror 4**), having been duly sworn, hereby state:

1. I was one of the Jurors (**Juror 4**) in the above-entitled and numbered case, and I was present at and participated in all deliberations of the jury.
2. After the jury was discharged, I contacted the defense investigator working with Mr. Nucera's attorney (another juror had given me the number when I asked) regarding concerns I had about the jury deliberations and my vote on Count 3. I wanted to meet with Mr. Nucera's attorney, so a meeting was established.

3. I am concerned about public backlash and safety issues for myself and my family (I have very young children). I am requesting that the form of affidavit referencing my name be sealed, and that only a redacted version referencing my Juror number be made public. I have requested that Mr. Nucera's attorney file just the redacted affidavit publicly until the Court decides the request to seal any version of the affidavit referencing my name.
4. I have continuously thought about my guilty verdict regarding Count 3 and that it was not a product of my true thoughts about the evidence. I felt pressured into the guilty verdict even though I believed the government did not prove the case. Even when I voted guilty I did not believe that Mr. Nucera was guilty. I also felt pressure from the jury instructions given to us (and other jurors stated so) that we could not have a hung jury, that we had to reach some verdict. I just voted that



way because every time I tried to express my thoughts on the evidence and the proofs (or the failures) I was shut down by Juror [REDACTED] [REDACTED] (Juror 12) or Juror [REDACTED] (Juror 9) even in the face of clear evidence to which I was referring and actually bringing up on the Ipad provided. I felt too alone and the responses to me from some other jurors were nasty each time.

5. Juror [REDACTED] (Juror 12) during trial said words to the effect that she could be here forever because she is retired and is only missing television shows.
6. At one point during deliberations, a fellow juror (I vaguely recollect that it was Juror [REDACTED] - Juror 12 - but I am not positive) said that she does not know how Frank Nucera III can still be employed as a cop as he also must be racist to grow up with a father like the defendant. Juror [REDACTED] [REDACTED] (Juror 2) disputed that saying that someone

could grow up with a racist parent and not be racist.

7. Before the guilty verdict on Count 3, Juror [REDACTED] (Juror 12) told two stories about her son(s). She told a story about a son doing work in his yard, being approached by a police officer and then made to go to the police station despite that he said it was his house, but he could not produce a key. Juror [REDACTED] (Juror 12) said words to the effect that the reason that happened must have been because her son was black. The other story was that her son, a pharmacist, was pulled over by 3 different police officers in one night and accused by each of looking for drugs. She said that the third time, her son called her so she could overhear the interaction. Juror [REDACTED] (Juror 12) also said that her son said sarcastically to the officer that he was a pharmacist so if he wanted to get drugs, he could

get them himself. Juror [REDACTED] (Juror 12) said that her son had done nothing wrong and the only reason he was pulled over was because he was "driving while black".

8. Juror [REDACTED] (Juror 12) also told us other jurors that as a mother of black sons she had to teach them to go with what the cops say and not talk back. This was before the guilty verdict on Count 3.
9. At some point during deliberations Juror [REDACTED] (Juror 12) told us other jurors about her childhood experience and it being difficult growing up black. What I remember most about the story was she said that when she was young, they were in the car and she had to urinate, so her mother pulled over on the side of the road and Juror [REDACTED] (Juror 12) had to "pee in a mayonnaise jar" because they could not go into a restaurant or some establishment because they were black.

10. Juror [REDACTED] (Juror 12) also stated during deliberations that people who say they understand because they have a black friend or know one black person, do not understand what it was like to grow up how she did. Juror [REDACTED] (Juror 12) said words like "you just don't know. I could shoot you all".
11. As a result of that story and those comments by Juror [REDACTED] (Juror 12), several jurors were tearing up, and Juror [REDACTED] (Juror 6) hugged Juror [REDACTED] (Juror 12).
12. During deliberations when we were going out for a break, Juror [REDACTED] (Juror 5) said (when we could not reach a unanimous verdict on Counts 1 & 2) that he felt like ripping the sink off the wall in the bathroom. He said that to a court security officer, and I overheard it.
13. During deliberations, Juror [REDACTED] (Juror 1) said to me "If you were in a room with Frank Nucera

and he was talking to you like he did, how would you react", to which I responded that it had nothing to do with anything and I was not going to answer. However, her comment (and those of Juror [REDACTED] - Juror 12) made me feel like I was being racist to vote not guilty, even though not guilty was my true belief from the evidence.

14. Before the verdict of guilty on Count 3, other jurors were saying that "we have to get something out of this ... we have to get him on something". It was said by several jurors but I cannot recall specifically which jurors. Jurors also said words to the effect "there is no way the Judge is going to let this go without a verdict one way or the other, this case is too serious." That was my impression also because of the jury instructions and re-instructions to return to deliberate when we said we were hung on all counts the first time.

15. At another time during deliberations, I heard another juror -- Juror [REDACTED] (Juror 1) -- say words along the lines that "If Frank Nucera had a gun to someone's head or had shot him in the head, you would still say not guilty."
16. During deliberations there was a question about the meaning of "unreasonable" and "unnecessary" relating to counts of the indictment. Juror [REDACTED] (Juror 6) one day brought into the jury deliberations definitions which he stated he looked up the night before. He read the definitions to us jurors.
17. This Affidavit does not include all of the statements or occurrences made during jury deliberations, and there is additional information

I can provide if and when asked.

[REDACTED]

[REDACTED]

JUROR 4

Sworn to and Subscribed before me on this **12<sup>th</sup>** day of **November**, 2019 at Haddon Heights, Camden County, NJ by [REDACTED], whose identity I verified by examining her NJ Driver's License.

 *Margaret M. Chapman*  
Margaret Chapman

Notary Public, State of NJ

MARGARET M. CHAPMAN  
A Notary Public Of New Jersey  
My Commission Expires July 22, 2012

*M. Chapman*

UNITED STATES DISTRICT COURT FOR  
THE DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA	:	Criminal No. 17-00532-RBK
	:	
v.	:	
	:	
FRANK NUCERA, JR.	:	<b>JUROR AFFIDAVIT</b>
	:	<b>[REDACTED]</b>

I, **[REDACTED]** (**Juror 2**), having been duly sworn, hereby state:

1. I was one of the Jurors (Juror 2) in the above-entitled and numbered case, and I was present at and participated in all deliberations of the jury.
2. After the jury was discharged, I contacted counsel for Mr. Nucera regarding concerns I had about the jury deliberations.
3. I am concerned about public backlash and safety issues for myself and my family. I work in a public forum and anyone can approach me at any time. I am requesting that the form of affidavit referencing my name be sealed, and that only a



redacted version referencing my Juror number be made public. I have requested that Mr. Nucera's attorney file just the redacted affidavit publicly until the Court decides the request to seal any version of the affidavit referencing my name.

4. The nature of the deliberations in this case did at the time they were occurring, and still, cause me concerns. Indeed, I felt compelled to contact defense counsel after the trial, especially after I read an Inquirer article quoting [REDACTED], Juror 12.
5. During the trial (while the case was still in the trial phase) Juror [REDACTED] (Juror 12) told us other jurors that she had previously sat on a jury and told that prior jury "Hope you are all thinking guilty, I can be here all day, I have f\_ \_ \_king no where to be." Later actually during our deliberations, another juror (Juror [REDACTED], Juror 5) made a joking refence to that statement

and said "It doesn't matter anyway, we all have to vote the way [REDACTED], Juror 12] votes".

6. On the second day (Thursday) of deliberations, Juror [REDACTED] (Juror 12) yelled at me in substance "you don't know what its like to be a black person". I responded that she should not put words in my mouth and I had said nothing like that.
7. At some point during deliberations, before the guilty verdict on Count 3, Juror [REDACTED] (Juror 12) told us jurors one of her sons was pulled over by police in three separate towns (as best I recall she said Medford, Marlton and Mount Laurel) around 11 pm and was asked "what he was doing out so late, was he out looking for drugs" or words to that effect. Juror [REDACTED] (Juror 12) stated that "This is what happens when you drive black." In response I said in substance "if you are trying to say all cops are bad I am not going to hear that right now, I am not going to have anyone say that."

8. To my recollection around this same time, Juror [REDACTED] (Juror 12) also stated in substance that as a mom raising black boys, from the day they are born you have to teach them how to answer a cop, how to put their hands up and concede.
9. At another point during deliberations, again before the verdict on Count 3, Juror [REDACTED] (Juror 12) told us jurors a story that her other son was approached by police while he was doing work in her yard and brought to the police station because the police did not believe he lived there and was later released with an apology. Juror [REDACTED] (Juror 12) told us jurors that such occurred because her son "was black, a black man doing yard work".
10. During deliberations, Juror [REDACTED] (Juror 5) pounded the table and said in substance "mother F\_ \_ \_ er, I'll be damned if we let this guy walk. I'll sit another three weeks until we can convict this guy". Juror [REDACTED] (Juror 12) chimed in

that "I'm retired, this is \$50 more per day than I am making at home, I have all the time in the world".

11. During deliberations on October 8, 2019, Juror [REDACTED] [REDACTED] (Juror 1, the foreperson) stated words to the effect "You would find him not guilty if he put a gun to Stroye's head and shot him". There were several not guilty votes in the room on all counts at that point.
12. In addition, on that same date (10-08-19) as Juror [REDACTED] [REDACTED] (Juror 3) was discussing her view of the evidence during deliberations, Juror [REDACTED] (Juror 12) arrogantly stated words to the effect "You just want 12 white jurors". Juror [REDACTED] (Juror 3) had said nothing race-based or inappropriate to prompt that comment. I spoke up and said that comment by Juror [REDACTED] (Juror 12) was uncalled for, that no one in the jury room was saying anything close to wanting all white

jurors, and that Juror [REDACTED] (Juror 3) had said nothing like that.

13. Shortly after those comments by Juror [REDACTED] (Juror 1) and Juror [REDACTED] (Juror 12), I also heard Juror [REDACTED] (Juror 3) ask Juror [REDACTED] (Juror 1) words to the effect "Do you really think that about me?", although I did not hear the comment by Juror [REDACTED] (Juror 1) that precipitated the inquiry by Juror [REDACTED] (Juror 3). In response to that inquiry by Juror [REDACTED] (Juror 3), I heard Juror [REDACTED] (Juror 1) say "yes".

14. Juror [REDACTED] (Juror 3) got very emotionally visibly upset at the comments by Juror [REDACTED] (Juror 1) and Juror [REDACTED] (Juror 12) which I recounted above. Juror [REDACTED] (Juror 3) was crying, excused herself to the bathroom.

15. While Juror [REDACTED] (Juror 3) was in the bathroom, Juror [REDACTED] [REDACTED] (Juror 5) told the

remaining jurors in substance that "In case you were not aware, [REDACTED] (Juror 1) has an adopted black daughter." Shortly thereafter deliberations ended for the day.

16. I was so concerned by improper statements made by certain Jurors during the deliberations on October 8, 2019, that on October 9, 2019, first thing in the morning before we resumed deliberations and before the unanimous guilty verdict on Count 3 was reached that day, I notified the Deputy Clerk that I was concerned with disrespect and racial comments that were being made in the jury room during deliberations. I stated in essence that some of us jurors were being called racists by other jurors. The Deputy Clerk responded that if I had any further issues, I should write a note to the Judge. I did not do so however because there was only paper and no envelopes provided at that point in the jury room, and the foreperson would read all

notes before being sent out, and I was not comfortable doing so.

17. Deliberations continued on October 9<sup>th</sup>, but really in the form of negotiations for compromising verdicts versus deliberations. There was a clear consensus that we had to reach at least one unanimous verdict based on the Court's instructions, including after we indicated previously that we were deadlocked on all counts. In fact Juror [REDACTED] (Juror 1) stated words to the effect "I feel he's not going to just let us leave without a decision on one of these counts", which also was my impression from the instructions and re-instruction by the Court.
18. Ultimately, on October 9<sup>th</sup>, affected by all of the foregoing, I regrettably compromised my prior Not Guilty vote on Count 3 and changed it to Guilty. Other jurors also changed their prior Not Guilty votes.

19. The next day (10-10-19) three other jurors expressed their dissatisfaction and upsettedness that they engaged in a compromised verdict as well. They were Juror [REDACTED] (Juror 3), Juror [REDACTED] (Juror 11), and Juror [REDACTED] (Juror 4).

20. Deliberations continued and there still were discussions about ongoing potential for compromised verdicts, and Juror [REDACTED] (Juror 4) stated in substance that she refused to compromise again because she did not feel right about having compromised her vote regarding Count 3 previously.

21. During deliberations, I never saw Juror [REDACTED] (Juror 12) review any evidence on the Ipad (on which the evidence was available to us), and indeed Juror [REDACTED] (Juror 12) made mention that (in substance) "all I am doing is making entries in my notebook about you SOB's".



22. On October 10, 2019, Juror [REDACTED] (Juror 12) started to tell us about her growing up black in the South. She told us (while crying) about how she had to urinate on the side of the road in a mayonnaise jar when traveling with her parents because she was not allowed to use the "whites only" restroom. She also told us about having been made to leave places as a child because of her skin color. During this, I saw Juror [REDACTED] (Juror 5) become tearful.

23. Also during deliberations when we could not reach a unanimous verdict on either Count 1 or Count 2, Juror [REDACTED] (Juror 12) said "You are lucky I don't have a gun because I would shoot some of you". After that comment several jurors (including me) took a break, and while returning Juror [REDACTED] (Juror 3) was crying, visibly shaking and even asked the court security officer if she could just leave because she did not want even to

get off the elevator and go back to deliberate further.

24. On return from that break, I asked the court security officer to contact the Deputy Clerk and tell him that in reference to the conversation we had a few days ago about what was happening in the jury room, it had gotten worse. The court security officer came back and said the Deputy Clerk advised that Court is giving us a 30 minute break and we could leave the building and have our cellular telephones during the break.

25. After the break was over, the Deputy Clerk asked us if we wanted the Judge to come in (to the jury assembly room where we gathered), and a few of us said yes. When the Judge came in and others were asking him questions that had nothing to do with what had happened, I began crying and told the Judge that there was serious disrespect going on in the jury room. I may have even said there were

threats, but I am not 100% sure if I specifically said threats were made. The Judge advised us in essence that that personal feelings have to be left out of the deliberation room, to go back into the deliberation room and to decide if we want to continue (or words to that effect).

26. All the jurors then went back to the deliberation room. Juror [REDACTED] (Juror 9) said words to the effect that "It seems like some people need to clear the air." I then asked "Am I the only one who thinks that what [REDACTED] [Juror 12] said is unacceptable; am I being too sensitive, is it me?", to which all jurors except for Juror [REDACTED] (Juror 12) were shaking their heads no. I then looked at Juror [REDACTED] (Juror 12) and asked "Do you have anything to say, you are looking at me with contempt and disdain" to which Juror [REDACTED] (Juror 12) responded in effect "No, I am just looking at you".


27. Also, during deliberations there was a discussion about the meaning of "unreasonable" and "unnecessary" relating to certain counts of the indictment. Juror [REDACTED] (Juror 6) one day brought into the jury deliberations handwritten definitions he had written down and he stated he looked them up the night before. He showed the definitions to us jurors.

28. This Affidavit does not include all of the statements or occurrences made during jury deliberations, and there is additional information I can provide if and when asked.

[REDACTED]

JUROR 2

Sworn to and Subscribed before me on this 6<sup>th</sup> day of **November**, 2019 at Haddon Heights, Camden County, NJ by [REDACTED], whose identity I verified by examining her NJ Driver's License.

  
*Margaret M. Chapman*  
Margaret Chapman  
Notary Public, State of NJ

MARGARET M. CHAPMAN  
A Notary Public Of New Jersey  
My Commission Expires July 22, 2012  
*M. Chapman*

UNITED STATES DISTRICT COURT FOR  
THE DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA	:	Criminal No. 17-00532-RBK
	:	
v.	:	
	:	
FRANK NUCERA, JR.	:	<b>JUROR AFFIDAVIT</b>
	:	<b>[REDACTED]</b>

I, [REDACTED], having been duly sworn, hereby state:

1. I was one of the Jurors (Juror 11) in the above-referenced case. I was present at and participated in all deliberations of the jury.
2. I am concerned about safety issues for myself and my family (I have young children), and the media attention this case has garnered (I am a school teacher), especially after I have seen polarizing and indeed disturbing commentary on the trial by the public (which I looked at only after we were discharged from jury service). I am requesting that the form of affidavit referencing my name be

sealed, and that only a redacted version referencing my Juror number be made public. I have requested that Mr. Nucera's counsel file only the redacted affidavit publicly until the Court makes a determination on the sealing request.

3. Early on in the deliberations, the jury was split 9 to 3 in favor of not guilty on all counts. During the discussions, I stated that I wanted to point out the "elephant in the room". I stated that the three Jurors who were voting guilty were perhaps looking at things through a "different lens".

Juror [REDACTED] (Juror 12) made a statement in response to me "no shit Sherlock, we're black", and that she has a "problem with cops".

4. Juror [REDACTED] (Juror 12) also stated that she did not know why she was selected for the jury because she "told them out there [meaning the Court and the attorneys] that she has a "problem with cops".

5. Very early on in deliberations, Juror [REDACTED] (Juror 12) yelled at Juror [REDACTED] (Juror 3) that [REDACTED] (Juror 3) did know what it is like to be a black person, in response to [REDACTED] having expressed empathy for Juror [REDACTED] (Juror 12) having to have heard the "N" word on the recordings during the trial.
6. During deliberations, before the guilty verdict on Count 3, Juror [REDACTED] (Juror 12) stated to Juror [REDACTED] [REDACTED] (Juror 3) words to the effect that "you [Juror 3] would prefer to have 12 white Jurors". Juror [REDACTED] (Juror 3) had said nothing to precipitate such a statement.
7. Throughout deliberations, Juror [REDACTED] (Juror 12) continued to make statements injecting into the deliberations her race and experiences related to race.
8. During deliberations, Juror [REDACTED] (Juror 12) also presented to the jury adverse personal

experiences she stated that she and her family suffered because of their race.

9. At one point, Juror [REDACTED] (Juror 12) stated words to the effect that when she hears other jurors express that they are not racist and that they have black friends or relatives, "if [she] had a gun, [she] would shoot some of you people". That statement silenced deliberations, and I even noted something like "who could speak after statements like that", to which Juror [REDACTED] (Juror 12) stated "I am sure you have gone about your day before when other racist things happened and it was no big deal to you".
10. Juror [REDACTED] (Juror 12) also stated during deliberations in substance that every black female with a male child, from the moment they learned that their child was a boy, has to worry about cops mistreating her child.



11. Juror [REDACTED] (Juror 12) also stated during the deliberations that her sons were approached/stopped by police officers including in the town in which she lives. Juror [REDACTED] (Juror 12) told the jury that one of her sons who is a pharmacist, was stopped by police three times in one night for nothing other than "driving while black".
12. In the same context, Juror [REDACTED] (Juror 12) also stated during deliberations that one of her sons was doing work in her back yard and was approached by police and required to prove he lived there, and was followed by the police for weeks afterward in the town where they lived. Juror [REDACTED] (Juror 12) said that her son was approached solely because he was a black man working in the back yard.
13. During the deliberations, Juror [REDACTED] (Juror 12) told the jury that during her youth growing up in the South, she and her family could not use

public restrooms due to segregation, and told the jury that there were times that she had to urinate in a glass jar on the side of the road because of such.

14. During the deliberations one of the other Jurors, Juror [REDACTED] (Juror 6) became very upset for Juror [REDACTED] (Juror 12), and physically embraced her.

15. Juror [REDACTED] (Juror 6) one day started off the day with a speech to the jury that he has been around a long time, and if we do not convict, these things will continue to happen, and he was crying.

16. Juror [REDACTED] (Juror 1) during deliberations often stated words to the effect that "this poor boy [referring to Timothy Stroye] is sitting at home wondering when we are going to get him justice."

17. Juror [REDACTED] (Juror 6) at one point during deliberations said (I cannot recall if it was to

just me, as we sat next to each other in the deliberation room, or if others heard it) that he felt the need to make "reparations" (his word) because of the overall treatment of African Americans and because of some past bad behavior in which he had engaged while he was growing up. He made similar statements several times during deliberations. He was emotional and tearful at times when he made these statements.

18. Juror [REDACTED] (Juror 5) also physically embraced Juror [REDACTED] (Juror 12) after her speech about her childhood experiences in the South, and he cried several times during deliberations especially when he shared some of his personal experiences about having adopted children and fostering children of color.

19. Juror [REDACTED] [REDACTED] (Juror 5) on one occasion, when I was still expressing a not guilty vote on Count 3, literally stood up and said

"mother F\_ \_ \_ \_ er", pounded the table and walked into the restroom. I found that conduct intimidating and it made me more reserved in my willingness to continue to express my true positions on the evidence/lack of evidence. This conduct and the comments by some other jurors described elsewhere in this Affidavit, among others, increasingly made me feel that the other jurors were perceiving me as a racist simply because I was voting not guilty.

20. At another point in time during deliberations before the guilty verdict on Count 3, Juror [REDACTED] (Juror 5) stated to me in substance "I am not going to let you hang this jury, I don't care if it takes three weeks".

21. During deliberations, before the guilty verdict on Count 3, Juror [REDACTED] (Juror 1) directed to me and another Juror [REDACTED] [REDACTED] (Juror 3), and others who were presenting a position of not

guilty, words to the effect that "some people in here would think it is perfectly acceptable for the police chief to pull out a gun and shoot this boy in the head".

22. Before the guilty verdict on Count 3, after we sent a note to the Court that we were deadlocked on all counts of the indictment and while we were waiting for the Court to respond, Juror [REDACTED] (Juror 1) told the jurors words to the effect "this is how come people take abuse of power because some of us will vote not guilty and let this man walk off scott free". [REDACTED] also stated words to the effect "It is for reasons like this, people that look for the small things that get cops off, that cops can continue to abuse their power over young black men." Juror [REDACTED] (Juror 9) also stated words to the effect "this is why they walk free, this is going to keep happening".

23. During deliberations there was a debate about the meaning of the definition of certain terms. Juror [REDACTED] (Juror 6) one day brought in a definitions of unnecessary and "unreasonable" from three different sources which definitions he had written down after looking them up the night before and presented them to the jury.

24. This Affidavit does not include all of the statements or occurrences made during jury deliberations, and there is additional information I can provide if and when asked.

[REDACTED]

JUROR 11

Sworn to and Subscribed before me on this **9th<sup>th</sup>** day of **December**, 2019 at Haddon Heights, Camden County, NJ by [REDACTED] whose identity I verified by examining his NJ Driver's License.

  
\_\_\_\_\_  
John L. Purcell, Esq.

Attorney at Law, State of New Jersey  
Authorized to administer oaths, affirmations and affidavits pursuant to NJSA § 41:2-1



### Jury Questionnaire

*United States v. Frank Nucera, Jr.* – Crim. No. 17-532 (RBK)

#### Instructions:

You are being considered for jury service on a criminal case involving charges against defendant Frank Nucera, Jr. The Defendant is charged with assault, in violation of the Hate Crimes Prevention Act, 18 U.S.C. § 249(a)(1); deprivation of rights under color of law, in violation of 18 U.S.C. § 242; and making false statements to the FBI, in violation of 18 U.S.C. § 1001(a)(2). At the time of the events at issue, the Defendant was the Chief of the Bordentown Township Police Department. The charges are based on the Defendant's alleged use of excessive force during the arrest of a young African American man, as well as various statements about the victim and other African Americans he is alleged to have made.

It is important to remember that the Defendant has denied these charges and has pleaded not guilty. The Defendant, like all defendants in this county, is presumed to be innocent of all charges made against him unless and until the Government proves his guilt beyond a reasonable doubt. It is the law of this country that no defendant needs to testify at trial.

In order to save time, the Court has decided to submit certain questions to you in the form of a questionnaire, rather than asking you these questions in open court. The questions are designed only to aid the Court and the lawyers in selecting a fair and impartial jury and not to pry unnecessarily into your personal life. Your answers must be true and complete and will be used only for purposes of selecting a jury in this action.

Do not discuss the questions or answers to these questions with your fellow jurors; it is very important that your answers be your own individual answers. Do not discuss this case with any of your fellow jurors or with anyone else. That means that you should not talk about this case with your friends, family, and co-workers; nor should you communicate about this case through social networking sites, such as Facebook, LinkedIn, Twitter, Tumblr, Instagram, or any other communication source. Do not read anything about the case, watch anything on television about the case, or listen to anything on the radio about the case should it be covered by any media. Do not conduct any research about this case or the participants in this trial, including through the use of the internet. What you learn about the case you will learn in court only.

Where indicated, check the line for "Yes" or "No." Provide answers, explanations, or details in the spaces provided. If you need additional space to answer any question, use the last page of the questionnaire, and state the question number. Do not write on the back of any page.



**I. BACKGROUND**

1. Name: [REDACTED]

2. Age: 63

3. Gender: Female

4. Place of birth: Phila, PA

5. County of residence: Burlington

6. Your town or neighborhood: Mar/Hom

7. Which of the following applies to your primary residence?

- Own
- Rent
- Live in parents'/family home
- Other

8. What is your current employment status?

- Working full-time
  - Working part-time
  - Unemployed
  - Homemaker
  - Retired
  - Disabled
  - Student
- } on long term Disability

9. If employed, what is your primary occupation or employment? \_\_\_\_\_

Pharmaceutical Rep

10. What is the name of your employer? Merk & Co. Inc

11. How long have you worked for that employer or been in that occupation? 23 years

12. What are your job responsibilities? selling drugs

Juror No. 0105

13. Please list any other jobs you have held in the past 10 years: NA

14. Do you now, or have you previously, supervised other individuals?  YES  NO

If YES, how many other individuals do you, or did you, supervise? 10

15. Please indicate your level of education (check all that apply)

Did not graduate from high school (highest grade completed: \_\_\_\_\_ )

High school diploma or GED

Vocational or trade school

Some college classes

Two year (Associate) degree

College graduate (Bachelor degree)

Some graduate school

Graduate degree

16. If you attended school beyond high school (college, graduate school, technical education),

what school did you attend and what did you study? Penn State University  
Science

17. Have you ever served in the military?  YES  NO

If YES,

a. When? \_\_\_\_\_

b. In what branch did you serve? \_\_\_\_\_

c. What was your rank? \_\_\_\_\_

d. Were you honorably discharged?  YES  NO

Juror No. 0105

18. Are you married, living with a partner, or in a relationship?  YES  NO

If YES, please answer:

a. What is his/her primary occupation or employment? \_\_\_\_\_

b. What is the name of his/her employer? \_\_\_\_\_

c. How long has he/she worked for that employer or been in that occupation? \_\_\_\_\_

\_\_\_\_\_

d. What are his/her job responsibilities? \_\_\_\_\_

\_\_\_\_\_

19. Do you have any children? If YES, please provide their ages, schools, and/or employers:

Evan - 31, Rutgers University - self employed.

Taylor - 20 Rutgers University

\_\_\_\_\_

\_\_\_\_\_

20. Do you have any physical or personal disability, hardship, or problem, or is there anything that would make it difficult or impossible for you to serve as a member of this jury, or that would need an accommodation by the Court?  YES  NO

If YES, please explain: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

21. Are you now, or have you recently been, under a doctor's care for mental, emotional, or substance abuse problems?  YES  NO

Juror No. 0105

22. Are you now taking, or do you anticipate taking, any medication that might, in any way, affect your attention or your ability to concentrate, understand, consider, and weigh the evidence in this case?  YES  NO

If YES, please explain: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

23. Do you have any difficulty with your sight or hearing that could affect your perception of the proceedings?  YES  NO

If YES, please explain: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

24. Do you have any difficulty understanding or reading the English language?  
 YES  NO

If YES, state whether English is your primary language, and state what is the nature of your difficulty: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

25. Do you have any religious, philosophical, or other beliefs that would make you unable to render a verdict for reasons unrelated to the law or evidence?  YES  NO

If YES, please explain: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Juror No. 0105

26. List any civic, social, religious, political, or professional organizations, clubs, or associations to which you belong or volunteer your time: suicide hotline

27. What are your hobbies or interests outside of work and family? gardening, sewing, reading

28. Please provide the names of any newspapers, magazine, online news services, websites, or other publications that you read regularly: google

29. Please provide the names of any radio, television, or internet programs, including podcasts, that you listen to or view regularly: ~~WDAZ~~ WDAZ

30. What was the last book that you read? Pentagon Papers

31. What bumper or window stickers or magnets are affixed to your personal vehicle(s)?  
Frank Underwood 2016  
Happy Dog on board

Juror No. 0105

32. Do you regularly watch, listen to, or read legal dramas/thrillers?  YES  NO

33. Have you ever served as a juror in the federal, state, or county courts?  YES  NO

If YES, please state:

a. Where, when, and what type of case? Mt Holly, 2015 or 2016, police stated that driver was trying to get away from getting ticket

b. Whether that jury reached a verdict (do not tell us what that verdict was):

YES  NO

c. Would you be able to judge the facts of this case fairly and impartially based on the evidence presented in this Court and in the context of the law as this Court instructs you without reference to anything you might have heard as a result of your past participation as a juror in another case?  YES  NO

34. Have you ever served as a grand juror?  YES  NO

If YES, do you understand that the burden of proof which the prosecution must meet at a criminal trial is higher than the burden of proof before a grand jury?  YES  NO

35. Do you understand that the burden of proof which the prosecution must meet in a criminal case is higher than the burden of proof in a civil case?  YES  NO

36. Do you have any concerns or reservations about the Judge's instruction that a defendant in a criminal case has no obligation or duty to testify or to otherwise explain his side of the case?

YES  NO

If YES, please explain: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Juror No. 0105

37. Do you have any thought that a person charged with a crime is likely guilty?

YES  NO

If YES, please explain: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**II. CASE-SPECIFIC**

38. Please describe in detail everything you believe you may have read, seen, or heard about the

incident, the case, or any of the people involved: Nothing

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

39. Which of the following sources, if any, have provided you with information about this case?

None  Television  Newspaper  Radio  Internet  Word of Mouth  Other

40. Have you ever discussed this case with friends, family, or coworkers?  YES  NO

If YES, please explain: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Juror No. 0105

41. If you are familiar with the allegations involving the Defendant, either from press reports or any other source, have you formed any opinions about the conduct described?

YES  NO

If YES, what are your opinions? \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

42. Have you heard about any other cases or events in the media that you think are similar to this case?  YES  NO

If YES,

a. Where did you hear about those other matters? \_\_\_\_\_

TV

b. What were your opinions about those other matters? \_\_\_\_\_

Each case ~~to~~ was decided the way the jurors decided

c. Do you believe that what you heard/read/saw in those cases/matters may impact the way you view evidence in this case?  YES  NO

If YES, why? \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



Juror No. 0105

43. Do you know, or have you had any dealings, personal or business, with Frank Nucera, Jr., or with any relative or friend of Nucera's?  YES  NO

If YES, please explain: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

44. Do you have any opinions about the Bordentown Township Police Department?

YES  NO

If YES, please explain: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

45. Have you or a close friend or relative had any interactions with officers from the Bordentown Township Police Department?  YES  NO

If YES, please explain: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

46. Do you believe that any experiences with or opinions of the Bordentown Township Police Department you listed above may affect your decisions in a criminal case involving Bordentown Township Police Department police officers and witnesses?  YES  NO

If YES, please explain: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Juror No. 0105

47. Frank Nucera, Jr. is represented by Attorney Rocco C. Cipparone, Jr. The government is represented by the United States Attorney for the District of New Jersey, who is Craig Carpenito. The conduct of the trial will be in the immediate charge of Assistant United States Attorneys Molly Selzer Lorber and R. Joseph Gribko. Also at the government's table during the trial will be their paralegal, David Banas, and seated behind them will be Special Agents of the Federal Bureau of Investigation, including Arthur Durrant and Vernon Addison.

a. Do you know or have you had any dealings, personal or business, with any of these individuals? \_\_\_ YES  NO

b. Have you or any relative or close friend ever been employed by or had dealings with any of the parties, entities, or individuals listed above? \_\_\_ YES  NO

If YES to either of the above questions, please explain: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Juror No. 0105

48. Do you or anyone you know have any connections with the following governmental entities, agencies, or law firms?

- United States Federal Government
- United States Attorney's Office
- Bordentown Township Police Department
- Bordentown Township
- Bordentown City Police Department
- Federal Bureau of Investigation
- United States Department of Justice
- Law Offices of Rocco C. Cipparone, Jr.

*NA*

49. The individuals or entities listed on Attachment A may be called as witnesses, or their names may come up during the trial. Please **circle** any name on Attachment A if you know, or if you have had any dealings, personal or business, with that person or entity.

**IF YOU CIRCLED ANY NAMES ON ATTACHMENT A**, please explain your

knowledge of or dealings with that person(s) or entity(ies): \_\_\_\_\_

NA

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Juror No. 0105

50. Do you know or have you had any dealings, personal or business, with any employee of the United States Department of Justice, the United States Attorney's Office for the District of New Jersey, or the Federal Bureau of Investigation?  YES  NO

If YES, please explain: \_\_\_\_\_  
\_\_\_\_\_

51. Have you, your family members, or your close friends ever worked for the government in any capacity?  YES  NO

If YES, please explain: \_\_\_\_\_  
\_\_\_\_\_

52. Are you or any member of your family related to, a close friend of, or employed by anyone in any county, state, federal, or local law enforcement agency?  YES  NO

If YES, please state:

a. What is your relationship to this person? \_\_\_\_\_

b. Have you engaged in discussions with regard to their work as a law enforcement officer?  YES  NO

c. Would your relationship or conversations with this individual in any way influence your consideration of this case so that you could not judge fairly and impartially the evidence presented to you?  YES  NO

53. Do you have any strong opinions about the FBI?  YES  NO

If YES, please explain: \_\_\_\_\_  
\_\_\_\_\_

Juror No. 0105

54. Have you ever considered a career in law enforcement?  YES  NO

If YES, please explain: \_\_\_\_\_

\_\_\_\_\_

a. What attracted you to such a career? \_\_\_\_\_

\_\_\_\_\_

b. What were your reasons for not pursuing such a career? \_\_\_\_\_

\_\_\_\_\_

55. Do you belong to, or have relatives or close friends who belong to, police auxiliary organizations or other organizations that support services for law enforcement agencies or officers?  YES  NO

If YES, please explain: \_\_\_\_\_

\_\_\_\_\_

56. Have you or any relative or close friend ever been involved in any group or organization that reviewed and investigated complaints against law enforcement officers or agencies?  YES  NO

If YES, please explain: \_\_\_\_\_

\_\_\_\_\_

Juror No. 0105

57. Have you or anyone you know ever been a member of – or had any connection with – any human rights or other social justice organization (e.g. American Civil Liberties Union (ACLU), Gay/Lesbian/Transgender rights, Prisoner rights, Women’s rights, Civil rights, Black Lives Matter, Immigrant rights, etc.)?  YES  NO

If yes, please state:

a. Was it you or someone you know? \_\_\_\_\_

\_\_\_\_\_

b. Which organizations? \_\_\_\_\_

\_\_\_\_\_

c. Please list any leadership roles you have or had in any of these organizations:

\_\_\_\_\_

\_\_\_\_\_

58. Do you have any strong opinions about human rights/social justice organizations?

YES  NO

If YES, please explain: \_\_\_\_\_

\_\_\_\_\_

59. Have you or any relative or close friend ever provided a statement to a law enforcement

officer as a witness to or victim of a crime?  YES  NO

60. Have you or any relative or close friend ever appeared as a witness in any investigation,

before any grand jury, or in any trial, whether civil or criminal, federal or state?

YES  NO

Juror No. 0105

61. Have you or any relative or close friend ever been charged with any crime or been the subject of any investigation?  YES  NO

If YES,

a. Would that experience affect your ability to be fair and impartial in this case?

YES  NO

b. Would it otherwise make it difficult for you to sit as a juror in this case?

YES  NO

62. Have you or any relative or close friend ever been a party to any lawsuit?  YES  NO

If YES, please explain: My brother has been charged with  
simple assault - case in California -  
domestic violence

63. Have you or any relative or close friend ever been the victim of a crime?  YES  NO

If YES, please explain: He was the victim in the above case.

a. Would that experience affect your ability to be fair and impartial in this case?

YES  NO

b. Would it otherwise make it difficult for you to sit as a juror in this case?

YES  NO

Juror No. 0105

64. Have you, or any of your relatives, or any close friend ever been the victim of a racially motivated crime?  YES  NO

If YES, please explain: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

a. Would that experience affect your ability to be fair and impartial in this case?  
 YES  NO

b. Would it otherwise make it difficult for you to sit as a juror in this case?  
 YES  NO

65. Have you, or any of your relatives, or any close friend ever been the victim of the excessive use of force by police?  YES  NO

If YES, please explain: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

c. Would that experience affect your ability to be fair and impartial in this case?  
 YES  NO

d. Would it otherwise make it difficult for you to sit as a juror in this case?  
 YES  NO



Juror No. 0105

66. Do you, or any of your relatives or close friends, have any legal knowledge or training in the law, including either formal education or informal experience such as working in a law firm, legal department, prosecutor's office, or in any other capacity?  YES  NO

If YES, please explain: My uncle was a judge in Philadelphia

67. Would you be inclined to give more weight to the testimony of a law enforcement officer merely because he is a law enforcement officer?  YES  NO

Please explain: \_\_\_\_\_

68. Would you be inclined to give less weight to the testimony of a law enforcement officer merely because he is a law enforcement officer?  YES  NO

Please explain: \_\_\_\_\_

69. Would you be influenced by the religion, race, color, sex, or ethnic background of a witness in considering the believability of his or her testimony?  YES  NO

Juror No. 0105

70. Do you know of any reason why you may be prejudiced for or against the government, for or against any witness, or for or against the defendant, because of the nature of the charges or otherwise? \_\_\_\_\_ YES  NO

\_\_\_\_\_ YES  NO

If YES, please explain: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

71. Have you or anyone close to you ever had a serious negative experience with a person of another race or ethnicity? \_\_\_\_\_ YES  NO

If YES, please explain: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

72. Have you or anyone close to you ever been accused of racial or ethnic discrimination?

\_\_\_\_\_ YES  NO

If YES, please explain: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

73. Have you or anyone close to you ever accused anyone of racial or ethnic discrimination?

\_\_\_\_\_ YES  NO

If YES, please explain: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Juror No. 0105

74. Have you or anyone close to you ever been the victim of discrimination?  YES  NO

If YES, who was it and please explain the nature of such: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Would this experience impact your ability to serve as a completely impartial juror on a case involving an alleged racially motivated hate crime by a police officer?  YES  NO

Please explain: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

75. Do you know anybody who has been the target of racial violence or attempted racial violence?  YES  NO

If YES, please explain: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

76. Do you have any opinions about laws that establish penalties for criminal acts that are motivated by hatred or prejudice against race, color, or ethnicity?  YES  NO

If YES, please explain: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

Juror No. 0105

77. Would you have any difficulty serving as a completely impartial juror on a case in which a white police chief is accused of using unnecessary force against a black man during the arrest of the black man?  YES  NO

If YES, please explain: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

78. Based on the brief description of the case that I provided to you, do you believe that the federal government should not be involved in cases of this nature?  YES  NO

If YES, please explain: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

79. Do you have any feelings toward any racial or ethnic group that would cause you to judge a member of the group differently than you would judge a member of your own racial or ethnic group?  YES  NO

If YES, please explain: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

80. Do you believe that discrimination against African Americans exists today in the United States?  YES  NO

81. Do you believe that discrimination against African Americans exists today in New Jersey?  YES  NO

Juror No. 0105

82. To what extent do you agree or disagree with the belief held by some people that reverse discrimination toward whites is more common today than discrimination against racial minorities:

Strongly agree  Somewhat agree  Somewhat disagree  Strongly disagree

83. Do you use slang or racial slurs to describe people of another race or ethnicity?

YES  NO

84. Does someone close to you use slang or racial slurs to describe people of another race or ethnicity?  YES  NO

85. Do you find the use of slang terms or racial slurs to describe race or ethnicity acceptable?

YES  NO

86. It is not a crime for police officers to use language that involves racial slurs/derogatory names or profanity. Do you believe that it should be a crime for police officers to use language that involves racial slurs/derogatory names or profanity?  YES  NO

If YES, please explain: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

87. Would you have difficulty being a completely impartial juror on a trial that involves rough language or profanity?  YES  NO

If YES, please explain: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Juror No. 0105

88. Would you have any difficulty being a completely impartial juror in a trial that involves words used by the person charged that are racially derogatory, such as the "N word," or other racially derogatory words?  YES  NO

89. Do you believe that if someone uses racially charged derogatory words verbally, that such person would be inclined to act with physical aggression as well?  YES  NO

Please explain your thoughts in that regard: when a person can't contain themselves from using derogatory words in a professional setting it can lead to physical aggression.

90. Do you have any strong opinions about allegations against police officers accused of engaging in racially motivated abuse of or violence against minorities?  YES  NO

If YES, please explain: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

91. To what extent do you agree or disagree with the belief held by some people that individuals of certain racial or ethnic groups are superior to individuals of other racial or ethnic groups:  
 Strongly agree  Somewhat agree  Somewhat disagree  Strongly disagree

92. Do you believe that the government has gone too far in advocating the rights of minorities in this country?  YES  NO

93. What contacts have you or your family had with the police or other law enforcement officers in which you feel the police mistreated you or your family member? \_\_\_\_\_

pulling my sons over for minor offenses or no reason to pull them over.

94. Do you have any concerns about the government prosecuting law enforcement officers?

YES  NO

If YES, please explain: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

95. Would you have any reluctance to judge the actions of an on-duty law enforcement officer?

YES  NO

If YES, please explain: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

96. Have you ever observed a police officer use force that you thought was excessive?

YES  NO

If YES, please explain the circumstances and your reaction: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

97. Do you believe that law enforcement officers generally use more physical force than

necessary?  YES  NO

If YES, please explain: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

98. Do you believe that a police officer should never use any force, regardless of the

circumstances?  YES  NO

Juror No. 0105

99. Do you believe that a police officer should always be permitted to use force, regardless of the circumstances?  YES  NO

100. If the government proves its case against the defendant beyond a reasonable doubt, would you hesitate to return a guilty verdict because he was a police chief?  YES  NO

101. If the government does not prove its case beyond a reasonable doubt, would you hesitate to return a verdict of not guilty because he was a police chief?  YES  NO

102. Do you know of any reason why you may feel bias for or against the government, for or against any witness, or for or against Frank Nucera, Jr., because of the nature of the charges or otherwise?  YES  NO

If YES, please explain: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

103. In a group situation, if your opinion differs from the opinion of others in the group, would you express your opinion?  YES  NO

104. The trial in this case is expected to last between 2-3 weeks. Do you have any substantial scheduling limitations or commitments that would cause you to be unable to serve as a fair and impartial juror in this case during that time period?  YES  NO

If YES, please explain: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_



Juror No. 0105

105. Is there anything that the court should know about that could potentially affect your ability

to be a fair or impartial juror in this case?  YES  NO

If YES, please explain: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Please make certain your juror number is printed on the front page of the questionnaire and sign

your name here:



Signature

9/16/2019  
Date





1 (Defendant Present)

2 (The following took place in open court).

3 THE DEPUTY COURT CLERK: All rise.

4 THE COURT: Have a seat, everybody.

00:01 5 MR. CIPPARONE: Good morning, your Honor.

6 MS. LORBER: Good morning, your Honor.

7 THE COURT: All right. Okay, we have a note from the  
8 jury. This jury is deadlocked and unable to come to a  
9 unanimous decision.

00:02 10 So what would counsel like to do at this point?

11 MR. CIPPARONE: My preference is to declare a  
12 mistrial, your Honor.

13 MS. LORBER: Our preference would be to give the Alan  
14 Charge, your Honor.

00:02 15 THE COURT: I don't want to give them the Alan  
16 Charge. It's just a repeat of what, you know, is in this  
17 standard charge at this point. I mean we can ask them to  
18 continue and see what happens.

19 MS. LORBER: Is it clear, do they need any further  
00:02 20 instruction? Are they deadlocked on all charges or just --

21 THE COURT: Counsel, you know as much as I do.

22 MS. LORBER: Yes.

23 THE COURT: That's all I know. I mean that's from  
24 page 37 of the instructions. I'll note in the paragraph  
00:03 25 telling them under heading fifth, talks about the case and

1 their duties.

2 MR. CIPPARONE: Yes. You know from my perspective,  
3 your Honor, they'd that charge. You read it to them. They  
4 have a copy in the jury room and they've been at this now I'd  
5 say, I'd say what, two and a half days if we add up the time?

6 So I think a mistrial is appropriate at this point in  
7 time, your Honor.

8 MR. GRIBKO: We would certainly ask that you re-read  
9 that at least.

10 THE COURT: It would just be that paragraph.

11 MR. GRIBKO: That's it.

12 THE COURT: Starting with the second sentence. In  
13 fact, it is your duty to talk with each other about the  
14 evidence.

15 MR. GRIBKO: I don't think you need the phrase "in  
16 fact".

17 THE COURT: No, I can leave that part out, sure.

18 (Brief pause)

19 MS. LORBER: Your Honor, would it be possible to also  
20 reread to them charge 42? Separate considerations, single  
21 defendant charged with multiple offenses?

22 MR. CIPPARONE: I think that unduly emphasizes it,  
23 Judge. It's pushing them in a direction. It's giving them a  
24 suggestion to find him potentially guilty or not guilty of  
25 separate offenses. They haven't asked for that to be

1 clarified. We know that when they wanted clarification,  
2 they'll ask for it. They did it Friday with respect to  
3 reasonable doubt. I think that gives undue emphasis to that  
4 charge.

00:05 5 THE COURT: I think the only thing I can do at this  
6 point is ask them to give it one more try and then see what  
7 they say. I don't think it will take them long to get back to  
8 us, but I've been surprised before. And I think I'm just  
9 going to reread them from page 37 and we'll see what happens.

00:05 10 Get them out, please.

11 (Brief pause)

12 THE DEPUTY COURT CLERK: All rise.

13 (Jury enters the courtroom at 11:20 a.m.)

00:07 14 THE COURT: Please have a seat. Obviously we got  
15 your note. I think the most appropriate response to your note  
16 at this point is to reread you part of the charge from page  
17 37.

00:07 18 It is your duty to talk with each other about the  
19 evidence and to make every reasonable effort you can to reach  
20 unanimous agreement. Talk with each other, listen carefully  
21 and respectfully to each other's views and keep an open mind  
22 as you listen to what your fellow jurors have to say. Do not  
23 hesitate to change your mind if you are convinced that the  
24 other jurors are right and that your original position was  
00:08 25 wrong, but do not ever change your mind just because other

00:08 1 jurors see things differently, or just to get the case over  
2 with. In the end, your vote must be exactly that, your own  
3 vote. It is important for you to reach unanimous agreement  
4 but only if you can do so honestly and in good conscience.  
5 Listen carefully to what the other jurors have to say and then  
6 decide for yourself if the Government has proved the defendant  
7 guilty beyond a reasonable doubt.

8 I'm going to ask you to take time and make another  
9 effort to come to unanimous agreement.

00:08 10 So I'm going to ask you to return to your deliberation  
11 room and we will await your further word. Thank you.

12 THE DEPUTY COURT CLERK: All rise.

13 (Jury leaves the courtroom at 11:22 a.m.)

00:09 14 THE COURT: I just don't think it would be  
15 appropriate for to me tell them at this time that there are  
16 circumstance under which we could accept a partial verdict.  
17 If they ask, I'll tell them, but they haven't asked. So I  
18 have to assume that they're unable to reach agreement on any  
19 of the three counts. And we'll just have to wait and see what  
00:09 20 they say.

21 All right? Thank you, everybody.

22 MR. CIPPARONE: Thank you, your Honor.

23 MS. LORBER: Thank you, your Honor.

24 (The matter was then in recess while the jury deliberated)

00:09 25 (Defendant Present)

1 (The following be took place back in open court)

2 THE DEPUTY COURT CLERK: All rise.

3 THE COURT: Okay, we're on the record. There's  
4 another question from the jury. Could we have a transcript of  
5 Office Nagle's and Pesce's testimony. I assume that that is  
6 acceptable to both sides and we'll get working on it.

7 MS. LORBER: Yes, your Honor.

8 MR. CIPPARONE: Certainly, your Honor.

9 THE COURT: All right, Mr. Nami. Do your magic,  
10 please.

11 (Recess)

12 (The trial was in recess while the jury deliberated)

13 (defendant present)

14 (The following took place in open court)

15 THE COURT: As Larry indicated in his message to you,  
16 the jury has asked to come back tomorrow morning and continue  
17 their deliberations. Of course, I said yes. They are in the  
18 process of leaving now. And they'll be back at 9:30 tomorrow.  
19 And no further word about deadlock or anything like that. So,  
20 that's all I know. We'll see you in the morning.

21 MR. GRIBKO: Have a good night, your Honor.

22 MS. LORBER: Thank you, your Honor.

23 MR. CIPPARONE: Thank you, your Honor.

24 (The matter witness stand then concluded)

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2 the record of proceedings in the above-entitled matter.

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4 /S/ Carl Nami, Official Court Reporter

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6 Court Reporter/Transcriber

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8 October 7, 2019

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UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA, CRIMINAL NUMBER:  
v. 17-532  
FRANK NUCERA, JR., TRIAL  
Defendant.

Mitchell H. Cohen Building & U.S. Courthouse  
4th & Cooper Streets  
Camden, New Jersey 08101  
October 8, 2019

B E F O R E: THE HONORABLE ROBERT B. KUGLER,  
SENIOR UNITED STATES DISTRICT JUDGE

A P P E A R A N C E S:

OFFICE OF THE UNITED STATES ATTORNEY  
BY: MOLLY S. LORBER  
R. JOSEPH GRIBKO  
ASST. UNITED STATES ATTORNEYS  
FOR THE GOVERNMENT

ROCCO C. CIPPARONE, JR., ESQUIRE  
203-205 BLACK HORSE PIKE  
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FOR THE DEFENDANT

Carl J. Nami, Official Court Reporter  
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609-439-5420

Proceedings recorded by mechanical stenography; transcript  
produced by computer-aided transcription.

1 (Jury question)

2 (Defendant present)

3 (The following took place in open court)

4 THE COURT: All right.

00:03 5 MR. GRIBKO: We're sort of prepared for this.

6 MS. LORBER: We are.

7 THE COURT: All right, let's go on the record. We  
8 have another question from the jurors. It reads: If we are  
9 unanimous on one count, but deadlocked on the other two, what  
00:04 10 is our next step.

11 So I'll give -- obviously I will not respond to this  
12 unless I heard from counsel as to what they think I should do.  
13 And, no, I don't know what count. This is all I know.

14 MS. LORBER: Your Honor, I took the liberty of  
00:04 15 printing up the partial verdict instructions from the Model  
16 Third Circuit. It's 9.08, partial verdict and I have a copy  
17 if it would be helpful.

18 THE COURT: I am familiar with it by having taken  
19 partial verdicts in the past. But thank you.

00:04 20 MS. LORBER: I would request that we give them that  
21 instruction.

22 THE COURT: Mr. Cipparone.

23 MR. CIPPARONE: I think we take the partial verdict,  
24 your Honor. They've, you know, been at this now after  
00:05 25 indicating deadlocked since yesterday. So, I say take the

1 partial verdict and declare a mistrial on the other two.

2 THE COURT: Well, 9.08 doesn't say that. It says I  
3 will tell them that we can take the partial verdict and they  
4 can return and continue deliberations if they want. They  
5 don't have to. We really leave it up to the jury as to how  
6 they want to proceed. All we're doing is telling them they  
7 have the option of returning a partial verdict and continuing  
8 with deliberations if that's what they choose or not choose.

9 MR. CIPPARONE: I understand.

10 THE COURT: And that's what I would like to do. Do  
11 you have any objection?

12 MR. CIPPARONE: My preference would be to obviously  
13 take the partial verdict, but I understand your Honor's  
14 thought on that.

15 THE COURT: Okay. Let's get the jurors out.

16 (Brief pause)

17 THE DEPUTY COURT CLERK: All rise.

18 (Jury returns to the courtroom at 3:13 p.m.)

19 THE COURT: All right, please have a seat. I have  
20 your question which is: If we are unanimous on one count but  
21 deadlocked on the other two, what is our next step.

22 Members of the jury, you do not have to reach unanimous  
23 agreement on all the charges before returning a verdict on  
24 some of them. If you have reached unanimous agreement on some  
25 of the charges, you may return a verdict on those charges and

00:08 1 then continue deliberating on the others. You do not have to  
2 do this, but you can if you wish. You should understand that  
3 if you choose to return a verdict on some of the charges now,  
4 that verdict will be final. You will not be able to change  
5 your minds about it later on. Your other option is to wait  
6 until the end of your deliberations and return all your  
7 verdicts then. The choice is yours. So I'm going to ask you  
8 to return to your deliberations and resume your work. Thank  
9 you.

00:08 10 THE DEPUTY COURT CLERK: All rise.

11 (Jury leaves the courtroom at 3:15 p.m.)

12 THE COURT: All right, I've been wrong about this  
13 before, but I would suggest that counsel may not want to  
14 wonder too far away, and we'll see what happens. Thank you.

00:09 15 MS. LORBER: Thank you, your Honor.

16 MR. CIPPARONE: Thank you, your Honor.

17 (The matter was then in recess while the jury  
18 deliberated)

19 (Defendant present).

00:49 20 (The following took place in open court)

21 THE COURT: Have a seat. We're apparently not done.  
22 Okay, we'll make this quick. The jury has asked for the two  
23 things. One, the testimony of Lieutenant Mount. Two, more  
24 note paper.

00:57 25 So we'll prepare the testimony of Lieutenant Mount as

1 we have and we'll give it to them and Larry will give them  
2 more note pads for more notes. Carl, do your thing, please.

3 (Court in recess while the jury deliberated).

4 THE COURT: Thank you.

01:16 5 MS. LORBER: We saw it, your Honor.

6 MR. CIPPARONE: Yes.

7 THE COURT: Take it back?

8 MS. LORBER: Yes, please.

9 MR. CIPPARONE: Yes.

01:17 10 (Court in recess while the jury deliberated)

11 (Back in open court)

12 THE COURT: You got the message.

13 MR. CIPPARONE: Yes.

01:42 14 THE COURT: There's sidebars. We have to weed that  
15 stuff out. But we'll get it to them.

16 (Recess)

17 (Back in open court)

02:10 18 THE COURT: I gave the jurors the transcript and  
19 they've asked to go home. We'll begin again tomorrow morning  
20 at 9:30. So, of course, I said that would be acceptable. I  
21 gave them the usual instructions about not talking about the  
22 case, not consulting any media reports, not doing any research  
23 and they could not begin deliberations until all of them are  
24 in the room at 9:30. That's all the information I have.

02:10 25 So I'll see you tomorrow morning at 9:30 then. Thank

1 you.

2 MR. CIPPARONE: Thank you, your Honor.

3 MS. LORBER: Thank you, your Honor.

4 (The matter was then concluded for the day)

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2 the record of proceedings in the above-entitled matter.

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4 /S/ Carl Nami, Official Court Reporter

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Court Reporter/Transcriber

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7 October 8, 2019

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1 (The following took place in open court)

2 THE COURT: Okay, we have a note from the jury. It  
3 says: We have come to a unanimous decision on Count Number 3.  
4 That's all it says.

00:00 5 So, the first question is, what do we do? They don't  
6 explicitly say they want to deliver this verdict. They just  
7 say they have a verdict. Assuming that they want to deliver  
8 the verdict and we take the verdict, what's next? What do we  
9 ask? What do we say?

00:00 10 MR. GRIBKO: Well, they can either deliver the  
11 verdict or continue to deliberate if they want, but that's up  
12 to them.

13 THE COURT: Well --

14 MR. GRIBKO: So --

00:00 15 THE COURT: We told them.

16 MR. GRIBKO: Right, we've already told them that is  
17 the thing. So -- and they know that.

18 THE COURT: Do we ask them if they want to continue?  
19 Do we ask each of them if there's any reasonable possibility  
00:00 20 that they'll come to a unanimous agreement on the other  
21 counts? Do we inquire or what do we do?

22 MR. CIPPARONE: My preference is to inquire, Judge.  
23 I mean I think at this point they've previously indicated  
24 deadlocked on at least two counts twice, maybe three times  
00:01 25 now, and I'm not sure from the instruction yesterday that they

1 understand they could tell us they're deadlocked. And so I  
2 think we really need to give them that option.

3 THE COURT: What does the government think about it,  
4 having me inquire of them whether there's any reasonable  
5 possibility of achieving a unanimous verdict on the other  
6 counts?

7 MR. GRIBKO: I think that, I think that's what we  
8 have to do here. As long as we're both in agreement on it.

9 MR. CIPPARONE: I certainly am.

10 THE COURT: So I'll ask them one at a time. I'll ask  
11 all 12 of them each individually whether they think that  
12 there's a reasonable possibility of reaching a unanimous  
13 verdict on the other counts. Okay?

14 MR. CIPPARONE: I'm fine with that, Judge.

15 MR. GRIBKO: One issue I guess is Count two is sort  
16 of oddly formulated for like, they may have a decision as to  
17 the first three and that's the fourth?

18 THE COURT: Well, they don't have a decision unless  
19 they have a decision on all of them.

20 MR. GRIBKO: I know. Well, I guess that's, that's  
21 true, right. I mean we all know what the distinction is, but  
22 if they have an answer on the first three, it's lesser  
23 included. But I don't think we can go there.

24 THE COURT: Counsel, I'm just asking what you suggest  
25 we do at this point.

1 MR. GRIBKO: I think --

2 THE COURT: I'm looking back at question number eight  
3 and as I thought they didn't really tell us before they had a  
4 verdict. They just said if we are unanimous on one count but  
5 deadlocked on the other two, what is our next step. This is  
6 the first time they've told us they are unanimous on a count.

7 So, okay. The first thing is I'll ask them, we'll  
8 bring them all in, I'll take attendance. I'll ask them, I'll  
9 ask the Spokesperson if they want to deliver this verdict at  
10 this time on Count three. Assuming she says yes, we'll take  
11 the verdict. Then I mean they know they can continue  
12 deliberating, but do I remind them that they can? Do I tell  
13 them to tell us what they want to do? How do you want me to  
14 approach the subject of further deliberations.

15 MR. GRIBKO: I think you remind them that they can,  
16 but tell them that if they don't want to, they can tell us  
17 they're deadlocked. I think that's --

18 MR. CIPPARONE: I think at this point we should tell  
19 them that at least that latter portion as well.

20 THE COURT: Okay, that's what we'll do.

21 MR. CIPPARONE: Thank you.

22 THE COURT: Get the jury. Is there anything else you  
23 want to put on the record before we bring the jury out?

24 MR. CIPPARONE: No, your Honor.

25 MS. LORBER: No, your Honor.

1 THE COURT: Okay.

2 (Brief pause)

3 THE DEPUTY COURT CLERK: All rise.

4 (Jury enters the courtroom at 4:25 p.m.)

00:04

5 THE COURT: Please have a seat. We have your note  
6 that says we have come to a unanimous decision on Count Number  
7 3.

8 Miss [REDACTED], is that the intention or desire of the  
9 jury to return that verdict as to Count three at this time?

00:05

10 THE JURY FOREPERSON: Yes, it is.

11 THE COURT: Let me take roll, like I promised I would  
12 take attendance. Miss [REDACTED], just tell me you're here.

13 (The Judge took attendance and all responded here)

00:06

14 THE COURT: All right. Miss [REDACTED], if you will  
15 please stand? Okay, I will read you the question and you will  
16 give me the answer on behalf of the jury, please.

17 THE JURY FOREPERSON: Okay.

00:06

18 THE COURT: Count three. With respect to Count  
19 three, which charges the defendant, Frank Nucera, Jr., on or  
20 about December 22, 2016, willfully making a statement or  
21 representation that was both material and false, fictitious or  
22 fraudulent in a matter within the jurisdiction of the  
23 government of the United States in violation of Title 18,  
24 United States Code, Section 1001, we the unanimous jury find  
25 the defendant Frank Nucera, Jr.

00:07

1 THE JURY FOREPERSON: Guilty.

2 THE COURT: Was that a unanimous decision of all  
3 jurors?

4 THE JURY FOREPERSON: Yes, it is.

00:07 5 THE COURT: All right, I'm going to poll the jury now  
6 and I'll ask each of you in turn if you agree or disagree with  
7 the verdicts as announced by Miss [REDACTED].

8 (Jury is polled and found to be unanimous)

00:07 9 THE COURT: All right. May I have that? File that,  
10 please. Have a seat. So the obvious next question, ladies  
11 and gentlemen is what's next? As I told you yesterday, you  
12 have the right and the ability to continue deliberating on the  
13 other counts. This is entirely up to you. But what I'm going  
14 to ask you to do is go back in the room and then please inform  
00:08 15 me after you've discussed it whether you would like to  
16 continue or whether or not you think there's no reasonable  
17 possibility of reaching a unanimous verdict on these two  
18 Counts. Okay? I'll ask you to return and we'll wait to hear  
19 from you. Thank you very much.

00:08 20 THE DEPUTY COURT CLERK: All rise.

21 (Jury leaves the courtroom at 4:28 p.m.)

22 THE COURT: Anything for the record, counsel?

23 MR. CIPPARONE: No, your Honor.

24 MS. LORBER: No, your Honor.

00:08 25 THE COURT: Stand adjourned until we hear back from

1 the jury. Thank you, everyone.

2 (Recess).

3 (The following took place in open court)

4 THE COURT: Have a seat. Thank you. The jurors have  
5 gone home for the evening and they will let us know in the  
6 morning how they want to proceed from here. I have nothing  
7 else to say. That's all I can tell you. Hang around for a  
8 minute. I have to give you a sentencing date. I think it's  
9 going to be February, but we'll give you that in just a  
10 minute. Okay? All right, thank you, everybody.

11 (The matter was then concluded for the day).

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2 the record of proceedings in the above-entitled matter.

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4 /S/ Carl Nami, Official Court Reporter

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6 Court Reporter/Transcriber

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8 October 9, 2019

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1 (Afternoon Session)

2 THE COURT: Come over here to sidebar.

3 MS. LORBER: Sure.

4 (The following took place at sidebar)

00:03

5 THE COURT: I have no news. Clearly you know they  
6 haven't come to a unanimous decision on anything. I don't  
7 know what to tell you, but I don't think we need to explain  
8 maybe this to them now.

9 MR. GRIBKO: Maybe we don't.

00:04

10 THE COURT: Maybe we don't. Because as you know, I'm  
11 going to be unavailable after tomorrow. Judge Bumb will take  
12 a verdict. I'll be here today and tomorrow.

13 MR. GRIBKO: You'll be here tomorrow, okay.

00:04

14 THE COURT: I'll be here tomorrow. The question is  
15 whether we should tell them that I will not be here next week  
16 and that another Judge will take the verdict. Just so they  
17 know. I think we should, but I don't want to do it.

18 MR. GRIBKO: Do we have to tell them today or can we  
19 tell them tomorrow?

00:04

20 THE COURT: I can tell them tomorrow I guess.

21 MS. LORBER: I think I would prefer to tell them  
22 tomorrow.

23 MR. CIPPARONE: Yeah, I'm fine with telling them  
24 tomorrow.

00:04

25 THE COURT: I can tell them in the morning.

1 MR. CIPPARONE: Yes, that's a good idea.

2 THE COURT: Yes.

3 THE DEPUTY COURT CLERK: They wish to come back  
4 tomorrow.

00:04

5 THE COURT: All right, so same deal, tell them they  
6 can go home and come back tomorrow. General rules, don't talk  
7 to anyone, don't read anything in the media, can't discuss the  
8 case until they all get here. All right, I'll make the  
9 announcement.

00:05

10 (The following took place back in open Court)

11 THE COURT: The jury has just informed us that they  
12 want to come back tomorrow. So they'll be back tomorrow  
13 morning at 9:30 and that's all I know. Sorry.

14 Thank you for hanging in there.

00:05

15 (The Judge then left the courtroom and the matter then  
16 concluded for the day)

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1 I certify that the foregoing is a correct transcript from the  
2 record of proceedings in the above-entitled matter.

3

4 /S/ Carl Nami, Official Court Reporter

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Court Reporter/Transcriber

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7 October 10, 2019

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1 (The following took place in open court)

2 THE COURT: Why don't we go sidebar, counsel,  
3 please.

4 (THE FOLLOWING TOOK PLACE AT SIDEBAR)

01:26 5 THE COURT: We will deal with the Juror's note in  
6 public on the record, but I got another note, which because of  
7 the nature of it, we're not going to deal with it in public.  
8 I'm going to seal it, but I want you to see it.

01:27 9 Now I intend to speak with her once I discharge the  
10 jury because we do have counseling available for jurors, but I  
11 wanted you to see it. I don't know if you have anything else  
12 to say about this or not. I mean you can have a couple  
13 minutes to speak with your client about the other note. And  
14 so I want it to be as clear as possible. I don't know if you  
01:27 15 want to make any applications made about this or not. I mean  
16 you may want to spend a few minutes thinking about it. It's  
17 entirely up to you.

18 MR. CIPPARONE: I was going to ask if I could have a  
19 couple minutes to think about it.

01:27 20 THE COURT: Yes.

21 MR. CIPPARONE: I appreciate it.

22 THE COURT: You can have a couple minutes to speak  
23 with your client about the other note. Okay?

24 MR. CIPPARONE: I will.

01:27 25 THE COURT: All right. Thank you.

1 (SIDEBAR ENDED)

2 (Brief recess)

3 (The following took place back in open court)

01:34

4 THE COURT: All right. Okay. Do you need to go to  
5 sidebar about anything?

6 MR. CIPPARONE: For a moment, Judge. If that's okay?

7 THE COURT: Sure.

8 (THE FOLLOWING TOOK PLACE AT SIDEBAR)

01:35

9 MR. CIPPARONE: Okay, thank you. Judge, this is in  
10 regards to Miss [REDACTED]. This is not just in regards to a  
11 situation that I've confronted before. So I would like to  
12 just kind of think about whether there's any potential impact  
13 on the Count 3 verdict or not. I don't know how to handle  
14 that.

01:35

15 THE COURT: Well, I've had other jurors in past cases  
16 seek counselling. We, the courts have a program whereby we  
17 make jurors temporary special employees of the United States  
18 government and it entitles them to the United States  
19 government employee benefits being that all employees of the  
20 United States government have a right to counseling sessions.  
21 It's done through the United States Public Health Services and  
22 the jurors are entitled to six free sessions and after that  
23 they can continue on their own money or through their  
24 insurance and they're told that. Why she wrote the note I  
25 don't know, but I haven't spoken to her.

01:35

01:36

1 MR. CIPPARONE: Right.

2 THE COURT: But I intend to speak to her in response  
3 to her request if and when we discharge the jury. Clearly  
4 it's the first indication I've had that anyone intends to use  
5 that benefit. But given the length of deliberations, I  
6 wouldn't be surprised if others do, but it's entirely  
7 confidential.

8 MR. CIPPARONE: Right.

9 THE COURT: They don't know what each other is  
10 asking. And all that I know is someone's request and set it  
11 in motion and I refer it to the Public Health Service and I  
12 have no idea what happens after that. But I did, I have had  
13 jurors in the past use the program. That's all I know.

14 MR. CIPPARONE: That's my only -- and this is, this  
15 is my personal perception, I sensed a little hesitation on her  
16 part for the jurors to be polled on the Count 3 verdict and  
17 that started my wheels spinning in that regard.

18 THE COURT: Well, frankly, my observation was she  
19 wasn't the only one. And my observation always is is that  
20 it's not unusual for jurors to have slight hesitation when I'm  
21 polling the jurors. It's a big deal asking of them. So I  
22 didn't take anything of it from anyone, but that's what I  
23 know. I mean if you have any motions to make, you'll have the  
24 opportunity to make them.

25 MR. CIPPARONE: I can preserve that for now. Thank



1 you.

2 THE COURT: Sure.

3 MR. CIPPARONE: Thank you.

4 THE COURT: Let's go on the record about what you  
5 want to do about the public note we got. Okay?

6 MR. CIPPARONE: Okay. Great. Thank you.

7 MS. LORBER: Thank you, your Honor.

8 (SIDEBAR ENDS)

9 (The following took place back in open court)

10 THE COURT: All right, we have that note from the  
11 jury signed by the Spokesperson. It says: The jury is  
12 deadlocked on Counts 1 and 2. Mr. Cipparone, any application?

13 MR. CIPPARONE: I would have an application for a  
14 mistrial at this point, your Honor. It's been seven days that  
15 the jury's been deliberating. This is, I think close, call it  
16 the third note about being deadlocked, and I think they've  
17 given it a lot of effort and it's been a long time.

18 THE COURT: Well, clearly not the first time they've  
19 indicated they're having difficulty. What's the government's  
20 position?

21 MS. LORBER: Well, your Honor, I think we should ask  
22 them whether they feel there's any reasonable probability that  
23 they can reach a unanimous verdict and then be satisfied with  
24 their answer, because I do agree with Mr. Cipparone that this  
25 jury has been incredibly conscientious.

1 THE COURT: All right, why don't we bring the jurors  
2 out and I will ask them if there's any reasonable possibility  
3 that they can reach a unanimous verdict and we'll see what  
4 they say and go from there.

01:39

5 (Pause)

6 THE DEPUTY COURT CLERK: All rise.

7 (Jury enters the courtroom at 11:00 a.m.)

01:42

8 THE COURT: Have a seat, ladies and gentlemen. We  
9 have your note which you say, the jury is deadlocked on Counts  
10 1 and 2.

11 What I'd like to do is ask you, and we'll start with  
12 Miss [REDACTED] whether you believe there's any reasonable  
13 possibility that further deliberations would yield a unanimous  
14 verdict on either of the remaining counts? Miss [REDACTED].

01:42

15 JUROR [REDACTED]: I don't.

16 THE COURT: Miss [REDACTED].

17 JUROR [REDACTED]: I do not.

01:42

18 THE COURT: Miss [REDACTED], do you think there is  
19 any chance, any reasonable chance that further deliberations  
20 would yield a unanimous verdict on the remaining count? Yes  
21 or no.

22 JUROR [REDACTED]: No.

23 THE COURT: Miss [REDACTED]?

24 JUROR : No.

01:42

25 THE COURT: Mr. [REDACTED]?

01:43

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01:43

1 JUROR [REDACTED]: I hate to say it, but no.

2 THE COURT: Mr. [REDACTED]?

3 JUROR [REDACTED]: No.

4 THE COURT: Mr. [REDACTED].

5 JUROR [REDACTED]: No.

6 THE COURT: Miss [REDACTED]?

7 JUROR [REDACTED]: No.

8 THE COURT: Miss [REDACTED]?

9 JUROR [REDACTED]: No.

10 THE COURT: Mr. [REDACTED]?

11 JUROR [REDACTED]: No, sir.

12 THE COURT: Mr. [REDACTED]?

13 JUROR [REDACTED]: No.

14 THE COURT: And Miss [REDACTED].

15 JUROR [REDACTED]: No.

16 THE COURT: All right. Counsel, sidebar? Stay  
17 there, ladies and gentlemen, if you would, please.

18 (THE FOLLOWING TOOK PLACE AT SIDEBAR)

19 THE COURT: I assume that you're going to repeat your  
20 motion for a mistrial.

21 MR. CIPPARONE: That's correct, your Honor.

22 THE COURT: What's the government's position?

23 MR. GRIBKO: No, at this point, I don't think so,  
24 your Honor.

25 THE COURT: All right, I'll grant the motion for a

01:44 1 mistrial. Clearly the jury has been very conscientious.  
2 They've worked very hard and has taken prior opportunities to  
3 continue to deliberate, even though they had indicated they  
4 had difficulty reaching a unanimous decision. I'm satisfied  
5 there is no possibility of them reaching a unanimous agreement  
6 on the remaining counts.

7 So the mistrial is granted.

01:44 8 Let me dismiss the jurors. We're going to set a status  
9 conference for November the thirteenth at 3:30, and we'll give  
10 you these dates. The sentencing date remains at which I time  
11 the government will inform me whether they will continue to  
12 and to retry this case. I assume that's okay with you?

13 MR. CIPPARONE: Sure.

14 THE COURT: We'll wait until then?

01:44 15 MR. CIPPARONE: Yes.

16 THE COURT: We'll let them go, and I'll have to go  
17 back and talk to them. I have things to say to them.

18 MR. CIPPARONE: Okay.

19 THE COURT: Thank you very much.

01:44 20 MR. GRIBKO: Thank you.

21 MS. LORBER: Thank you, your Honor.

22 (SIDEBAR ENDED)

23 (The following took place back in open court)

01:45 24 THE COURT: Ladies and gentlemen, I'm going to  
25 declare a mistrial in this case, which means that your service

01:45 1 is done. Please don't be disappointed. You have not let  
2 anyone down. We all believe that you've done your best and we  
3 all very much appreciate it. I never promised you that this  
4 was going to be easy. I hope you have found it to be  
5 interesting anyway. It's a difficult decision that needs to  
6 be made and you should be proud of the service that you've  
7 rendered to your nation. As jurors, you are the people. You  
8 speak for the people of this nation. This is how our  
9 democracy works. As powerful as my position is, I don't have  
01:46 10 authority under our Constitutional laws to make that decision.  
11 I thank you for your service, and I'm going to ask you to go  
12 back to your deliberation room. I have some other things to  
13 talk to you about. I have paperwork to give you and then  
14 you'll be free to go.

01:46 15 Please, please, don't think you've let anyone down.  
16 You have done your very best. You've been here a long time  
17 and we very much appreciate it. So thank you.

18 THE DEPUTY COURT CLERK: All rise.

19 (Jury leaves the courtroom at 11:05 a.m.)

01:47 20 THE COURT: All right, the sentencing on Count 3  
21 remains as scheduled, February 6th at 9:30. We'll have a  
22 status conference on November 13th at 3:30 p.m. in which time  
23 I will expect the Government to indicate whether they wish to  
24 retry this case. And if so, then we will schedule the trial  
01:47 25 on the remaining two Counts at that time. But I have to tell

1 you, I'm very skeptical that we'll get to it before the end of  
2 this year because of my schedule. Thank you.

3 Counsel, I say you did a wonderful, professional job on  
4 both sides. It is a difficult decision. And obviously the  
5 jury did its best and we'll have to just wait and see what  
6 happens. So thank you, everybody.

7 MR. CIPPARONE: I appreciate that. Thank you, your  
8 Honor.

9 MS. LORBER: Thank you, your Honor.

10 (The matter was then concluded)

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1 I certify that the foregoing is a correct transcript from the  
2 record of proceedings in the above-entitled matter.

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4 /S/ Carl Nami, Official Court Reporter

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Court Reporter/Transcriber

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7 October 14, 2019

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## Jury foreman in deadlocked trial of N.J. ex-police chief: 'We realized we just weren't going to get anywhere'

by [Melanie Burney](#) and [Justine McDaniel](#), Updated: October 11, 2019



ELIZABETH ROBERTSON / STAFF PHOTOGRAPHER



They yelled. They wept. They slammed doors. They took increasingly frequent smoking breaks. They struggled with issues of race.



For eight days, the jurors debated heatedly, trying to reach a verdict. But in the end, they could not agree on the two most serious charges against former Bordentown Township Police Chief Frank Nucera Jr., who was accused of using excessive force and denying the civil rights of Timothy Stroye, a black man, during a 2016 police call.

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And after deliberating for about 45 hours, the nine white and three black jurors told U.S. District Judge Robert Kugler on Friday that they could not reach a unanimous verdict in the trial, which had played out over three weeks in federal court in Camden. The judge declared a mistrial.

In interviews afterward, two African American women on the jury provided a look into the swirling emotions in the deliberation room.

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“We were all afraid that if we didn’t do something to this guy, he was just going to live a life of luxury, and maybe there wasn’t going to be a second trial,” said Pamela Richardson, 63, one of three black female jurors. “That’s something we all ... kept saying was, ‘If we don’t do it, who’s going to do it?’”

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The same panel earlier this week found Nucera guilty of lying to the FBI. Jury foreman Kia Lipscomb said jurors were split 9-3 in favor of finding Nucera guilty in the Sept. 1, 2016 incident.

All three black jurors voted to convict Nucera on both counts. But the panel was divided on the hate-crime assault count, said Lipscomb, 49, a teacher from Clementon. For some jurors, the decision “was very clear” in favor of a guilty verdict, she said.

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Ultimately, Lipscomb said, it became clear that the holdouts would not budge. “We realized we just weren’t going to get anywhere,” she said. “It was back and forth. There were some who were just not willing to change.”

The jury of seven women and five men received the case Oct. 2. From the second day of deliberation, Richardson said, she worried that the jury might deadlock.

“When I came in Thursday, I said we’re going to be a hung jury. That’s what I said to myself,” said Richardson, a retired pharmaceutical representative from Marlton. “I said, these people are not budging.”

During the testimony, jurors heard recordings secretly made of Nucera that captured the longtime law enforcement officer using slurs against blacks, Mexicans, and Asians.

Richardson said the tapes helped to convince her that Nucera was guilty of assaulting Stroye, who could not be reached for comment.

“When somebody used the racist commentary that he has used his whole life, and it’s on tape, the racist things he said, you just automatically have to assume that he would do something to somebody,” Richardson said. “I mean, it’s on tape where he said he wished the two people were still outside so that he could sic the dogs on the [N-word] because that would’ve put them down.”

Jurors also heard Nucera on tape telling a fellow officer that President Donald Trump was “the last hope for white people” and expressing concern that Democratic candidate Hillary Clinton would “give in to all the minorities.” Lipscomb said the panel was clear about the racial animus that prosecutors alleged Nucera had expressed in the predominantly white township.

“We all kind of agreed that the extensive racial piece of it was absolutely there, and that it was an atrocity,” Lipscomb said.

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The jurors were not far into deliberations when the issue of their own races came up.

“There was one gentleman who said to us in the early days, ‘The only reason you African American women are voting this way is because you’re black,’” Richardson said. “I went, ‘No s—, Sherlock.’”

The next morning, she said, one white juror who has black family members confronted that juror. On the last day of deliberations, Richardson spoke to the panel about her own experience as an African American woman, including her life in the South.



ELIZABETH ROBERTSON / STAFF PHOTOGRAPHER

Pamela Richardson was a juror in the hate-crime assault, civil rights case of former New Jersey police chief Frank Nucera. She is angry about the outcome and believed Nucera was guilty. She was photographed walking her dog Maddy near her Marlton home on October 11, 2019.

Messages left for eight jurors were not returned. Efforts to reach additional jurors were not successful. The jury issued a statement after the verdict asking for privacy.

» **READ MORE:** [Mistrial declared in hate-crime assault, civil rights case of former New Jersey police chief](#)

Besides Lipscomb and Richardson, other jurors included a nurse, another teacher, a guidance counselor, a retirement consultant, a high school secretary, a banker, a fiber optics technician, an information technology director, and a bartender. They had been selected from a pool of about 100 prospective jurors who were asked their views about police and the use of excessive force, discrimination, race relations in the United States, and the use of racial slurs.

Lipscomb said the jury struggled with the testimony of Sgt. Nathan Roohr and Detective Sgt. Salvatore Guido, the township police officers who implicated Nucera. Both cops said they saw Nucera strike Stroye. Roohr said Nucera slammed the teen's head into a doorjamb "like a basketball."

The prosecution's star witness, Roohr, a K-9 officer, had made 81 recordings of Nucera that were presented as evidence. Guido initially told FBI investigators that he did not witness the assault, but the same day changed his testimony and said he saw Nucera strike the teen.

The three holdout jurors didn't find the witness testimony credible, Lipscomb and Richardson said.

Of Roohr and Guido, Lipscomb said, those jurors "really felt that they couldn't trust their testimony."

» **READ MORE: *Jury finds former N.J. police chief guilty of lying to FBI***

The jury also wondered why Stroye, who was issued a subpoena, was not called by either side to testify, Lipscomb said. The panel was unable to agree on whether Stroye was struck in the head as described by authorities.

"They didn't quite agree that there was a hit. Some said maybe there was a push. Some said there was a hit. Some thought it was maybe a little bit of a nudge," the foreman said.

By Friday, deliberations had grown extremely tense, Richardson said. The nine jurors who believed Nucera was guilty started out the morning by trying to persuade the other three to see their side.

"When we came back to the jury room this afternoon or this morning, I looked around the room and I think three or four of the men were crying," Richardson said. "All the men who thought that he was guilty were crying."

Eventually, jurors wrote down their responses to a question from the judge on whether further deliberations would lead to a verdict. But they didn't hand it in for another hour.

"Then, finally, [we] knocked on the door to get the judge, to hand the envelope off, and then, even as that was done, people were like, 'No, don't give her the envelope, don't give her the envelope,'" Richardson said.

Late Friday morning, the solemn jurors filed into the courtroom. One white male juror, who was in favor of acquittal, stood in the jury box defiantly with his arms crossed.

"I feel like we did the absolute best we could," Lipscomb said. "You have to stand your ground, stay true to your morals whatever they might be."

Posted: October 11, 2019 - 9:08 PM

**Melanie Burney** | @mlburney | [mburney@inquirer.com](mailto:mburney@inquirer.com)


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Now that professional athletes are losing money and jobs due to their poor behavior against children and women, when are correctional officers and policemen going to be sanctioned? Does this mean that one day we are going to ask for all men to stop the violence against women and children? But can we one day get to the point there is no violence at all? Oh, I must be dreaming... but it's a great dream.

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1 MR. CIPPARONE: No questions, your Honor.

2 THE COURT: That's all we need, Mr. Rego. You may go  
3 back in your room.

4 A JUROR: Thank you.

01:20 5 THE COURT: Thank you for coming in. We'll be in  
6 touch shortly.

7 (Juror leaves the courtroom)

8 THE COURT: No applications, correct?

9 MS. LORBER: Correct.

01:20 10 MR. CIPPARONE: Correct.

11 THE COURT: Okay. [REDACTED]

12 (Juror enters the courtroom)

13 THE COURT: Ms. [REDACTED], good morning.

14 A JUROR: Good morning.

01:20 15 THE COURT: I'm Judge Kugler. Thank you for coming  
16 in. May I ask you to have a seat right here.

17 A JUROR: Okay.

18 THE COURT: How are you today?

19 A JUROR: Good.

01:20 20 THE COURT: In the questionnaire we gave you the  
21 names of the lawyers, you indicated you did not know them.  
22 But I'm going to have them introduce themselves to you because  
23 I want to make sure you don't recognize them.

24 A JUROR: Okay.

01:21 25 THE COURT: We'll start with the government. We'll

1 start with the prosecutors.

2 Ms. Lorber, will you start, please.

3 MS. LORBER: Good morning. My name is Molly Lorber,  
4 I work for the U.S. Attorney's Office.

01:21 5 MR. GRIBKO: Good morning. My name is Joe Gribko, I  
6 also work for the U.S. Attorney's Office.

7 MR. CIPPARONE: Hi. My name is Rocco Cipparone and  
8 this is my client Frank Nucera.

9 THE COURT: Do you recognize anyone?

01:21 10 A JUROR: No.

11 THE COURT: I have some questions for you.

12 BY THE COURT:

13 Q. Your brother was charged in California with a domestic  
14 violence charge at some point?

01:21 15 A. Yes.

16 Q. But in 63 you say he was the victim in the above case.  
17 So your brother was the victim, is that right?

18 A. Correct.

19 Q. So nothing happened to your brother as a result of this?

01:21 20 A. Well, the trial is still -- I mean, the situation is  
21 still going on.

22 Q. Okay. And when you answered question 61, has any  
23 relative or friend ever been charged, that's who you're  
24 referring to, that's the only one?

01:22 25 A. Yes.

1 Q. Okay. Question 89, I'm going to show it to you. And, as  
2 I said, there are no right or wrong answers, we're just  
3 interested in your response, we want to make sure we  
4 understand.

01:22 5 89: Do you believe that if someone uses racially  
6 charged derogatory words verbally, that such person would be  
7 inclined to act with physical aggression as well. Yes, when a  
8 person can't contain themselves from using derogatory words in  
9 a professional setting, it can, and you underline can, lead to  
01:22 10 physical aggression.

11 Correct?

12 A. Correct.

13 Q. Okay. In this case the jurors are going to hear  
14 testimony that the defendant Mr. Nucera used racial epithets  
01:23 15 included the N-word. There's also allegations in the case,  
16 among the allegations, among the crimes alleged, and it's just  
17 allegations, he's entitled to the presumption of innocence,  
18 that Mr. Nucera during, he was a police chief, police officer,  
19 during the course of an arrest of a young African American  
01:23 20 male, he allegedly used excessive force and the reason was a  
21 racial motivation, he was racially motivated to use excessive  
22 force.

23 Now, the reason for that question and the reason for my  
24 questions is I want to make sure you're able to separate these  
01:23 25 two concepts, the use of the language, the racial epithets,

1 that in and of itself is not a crime.

2 A. Correct.

3 Q. Anyone, as awful as it is, can say things. But there are  
4 allegations of crimes here, the excessive force, racial  
5 motivation. I want to make sure you understand that.

6 Let's assume you're a juror and let's assume he did in  
7 fact use those words, I want to make sure you understand that  
8 that does not make him guilty by itself of the physical force  
9 charged.

10 Do you understand that?

11 A. Correct.

12 Q. Do you have any difficulty understanding that?

13 A. No.

14 Q. Do you have any difficulty separating those two concepts  
15 in your mind?

16 A. No.

17 Q. Okay. 93, your sons --

18 A. Yes.

19 Q. -- how many times have they been pulled over?

20 A. My oldest on the way home from work got pulled over three  
21 times in a basically maybe five-mile period. And my youngest  
22 has gotten pulled over maybe two times.

23 Q. The oldest three times in five miles. Over what period  
24 of time?

25 A. The same night.

1 Q. Oh, the same night.

2 A. Yeah, the same night.

3 Q. Who pulled him over, do you know?

4 A. He used to work at the CVS pharmacy in Medford and he was

01:25 5 on his way home like around 11:00 at night. And when he

6 pulled out onto 70, he got pulled over immediately, they were

7 wondering why he was out so late. When he arrived in Marlton,

8 which is where we live, he got pulled over again. And then

9 when he did the jug handle to enter our development, he got

01:25 10 pulled over a third time.

11 Q. This was different jurisdictions. It wasn't the same

12 cop?

13 A. No, it wasn't the same cop.

14 Q. Two different jurisdictions, three different cops.

01:26 15 A. Three different.

16 Q. How about your youngest?

17 A. Same jurisdiction, Marlton.

18 Q. Same time or two different times?

19 A. Two different times.

01:26 20 Q. And you believe the reason they were pulled over is

21 because of race?

22 A. Not with my oldest because it was dark and my oldest is

23 very light, so he wouldn't have been able to tell if he was

24 black or white. He probably would have thought he was white.

01:26 25 I guess questioning why he was out so late.

1 Q. And your youngest? Maybe, maybe not?

2 A. Maybe, maybe not. Maybe because he's a young kid.

3 Q. Do you believe the police were wrong to do that?

4 A. I think with my oldest, I think -- who knows what was

5 going on that night, it could have been there was some

6 robberies or something going on and they were, you know,

7 checking people out on the road that late at night.

8 With my youngest I think they profiled him because he

9 is a young kid with a flashy sort of car and I'm not really

10 sure about him.

11 Q. Okay.

12 A. He gets very emotional so I'm not sure I've gotten the

13 real story.

14 Q. How old is he?

15 A. He's now 20.

16 Q. Do you hold a grudge against the police because of

17 pulling your sons over like that?

18 A. I wouldn't say a grudge. I think I -- I have to stand

19 back as a mom and say hopefully I raised my boys to do the

20 right thing. But we all know our children don't tell us the

21 whole story so I have to sometimes wonder, you know, are they

22 telling me a story that sounds good to mom or is there

23 something else going on. So I always stand back and just take

24 a breath and, you know, after everything dies down I say,

25 okay, now what part of the story haven't you told.

1 Q. I'm glad I'm not sitting where you are answering those  
2 questions about my kids.

3 A. I have good boys.

4 Q. Mine are good, too. But we have our moments, don't we?

5 A. Yes.

6 Q. I just want to make sure that these incidents involving  
7 your sons don't somehow affect the way you look at the

8 evidence in this case if you were a juror. Here we have law  
9 enforcement officers are going to be testifying on behalf of

10 the government presenting their case, of course the defendant

11 is a police officer in this case. So I want you to be able to

12 tell me, if you can, again, there's no right or wrong answer,

13 I just want to know how you feel about this, whether these

14 incidents involving your sons is going to affect the way you

15 look at the evidence in this case?

16 A. I don't think it's going to affect me. I think, like I  
17 said with my sons, I have to take the police officers at their

18 word that that's what's going on. And I know that everybody

19 fudges the answer a little bit, like in my sons' situation, as

20 to what they were doing. So I think I can separate the two

21 from what's happening with my boys to what happened in this

22 case.

23 Q. Good.

24 THE COURT: Does the government have any questions?

25 MS. LORBER: No, your Honor.

1 THE COURT: Mr. Cipparone, do you have any questions  
2 for Ms. [REDACTED]

3 MR. CIPPARONE: Thank you, your Honor, I do.

4 Good morning. With respect to question 89, that's  
5 where it asked if someone used racial profanities or slurs,  
6 would you believe they would be more inclined to act in a  
7 physical way. And your answer was, and I know the Judge asked  
8 you about this, you answered when a person can't contain  
9 themselves from using derogatory words in the professional  
10 setting, it can lead to physical aggression.

11 So my question really is Mr. Nucera, as with anyone  
12 charged with any crime, is presumed innocent, and we have to  
13 ensure that the jurors can really embrace that. If you heard  
14 evidence he used the N-word and he used it on different  
15 occasions at different times, would that lead you to at least,  
16 even ever so slightly, have some checkmark against him about  
17 whether he would act in a certain way, for example, in a  
18 manner aggressively toward an African American, which he is  
19 accused of?

20 A JUROR: No, I think now days hearing the N-word and  
21 other derogatory terms is very common. You know, you hear it  
22 in the radio station my son listens to, the music he listens  
23 to. Luckily he has a station designed for me when I get in  
24 his car. But I don't think -- and this was probably the most  
25 difficult question I had to answer to be truthful. I don't



1 think -- I think some people might act on those derogatory  
2 terms and maybe get a little violent.

3 But I think as you move up in a professional level and  
4 you've dealt with people from all different walks of life, you  
5 tend not to be as violent because you have more, what's the  
6 word, more, more that you could potentially lose. I think if  
7 you're just like cleaning the streets, you can use any words  
8 you want and you probably could potentially become violent. I  
9 think as you get up in profession, you look at where you are.

10 Maybe you've been working 20 or 30 years, you think, oh, my  
11 pension, my kids, my house, am I willing to put that on the  
12 line to become violent, and most people don't.

13 MR. CIPPARONE: Thank you. I appreciate that.

14 Question 66, you have responded that your, I think your  
15 uncle had been a judge in Philadelphia.

16 A JUROR: Right.

17 MR. CIPPARONE: What was his name?

18 A JUROR: William Akers.

19 MR. CIPPARONE: Do you know if he sat in criminal  
20 court or civil court?

21 A JUROR: I don't -- in Philadelphia I don't know  
22 what court he had. I know that he then moved to Maryland and  
23 became an immigration judge.

24 MR. CIPPARONE: Okay. Did you discuss his work with  
25 him as a lawyer or a judge?

1 A JUROR: No.

2 MR. CIPPARONE: Nothing further, your Honor. Thank  
3 you.

4 THE COURT: Thank you, Ms. [REDACTED] If you'll  
5 have a seat back in that room, we'll be with you shortly.  
6 Please don't discuss our questions and answers.

7 A JUROR: Okay.

8 THE COURT: Thank you.

9 (Juror leaves the courtroom)

10 THE COURT: Any applications?

11 MR. CIPPARONE: No, your Honor.

12 MS. LORBER: No, your Honor.

13 THE COURT: I have to go downstairs and swear in the  
14 new jurors. I'll be back in five minutes, so you may take a  
15 break.

16 (Recess)

17 THE COURT: Are we ready?

18 Let's roll.

19 MR. GRIBKO: Is that all the rest of the jurors up  
20 here now or is that just another ten?

21 THE COURT: I think we have all. 20 people showed up  
22 with questionnaires.

23 MR. GRIBKO: 20?

24 (Juror enters the courtroom)

25 THE COURT: How you doing? I'm Judge Kugler.