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Transcription
Street,
629-9285

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14684

1 APPEARANCES
2 PATRICK RYAN, United States Attorney for the
Western
3 District of Oklahoma, 210 West Park Avenue, Suite 400,
Oklahoma
4 City, Oklahoma, 73102, appearing for the plaintiff.
5 LARRY MACKEY, BETH WILKINSON, GEOFFREY MEARNES,
JAMIE
6 ORENSTEIN, and AITAN GOELMAN, Special Attorneys to the
U.S.
7 Attorney General, 1961 Stout Street, Suite 1200,
Denver,
8 Colorado, 80294, appearing for the plaintiff.
9 MICHAEL TIGAR, RONALD WOODS, ADAM THURSCHELL,
and
10 JANE TIGAR, Attorneys at Law, 1120 Lincoln Street,
Suite 1308,
11 Denver, Colorado, 80203, appearing for Defendant
Nichols.

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13

PROCEEDINGS

14

(In open court at 5:00 p.m.)

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THE COURT: Be seated, please.

16

We'll return the jury and see if they want to recess.

17

I suspect they do.

18

(Jury in at 5:00 p.m.)

19

THE COURT: Members of the jury, good afternoon.

20

JURORS: Good afternoon.

21

THE COURT: I've asked you to return to the courtroom

22

at this time because this has been the time when we usually

23

recess. And I've assumed that you want to recess at this time

24

and rest a bit before continuing your deliberations, so that's

25

what we'll do.

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1

Now, speaking of scheduling, as I mentioned, of

2

course, I want to repeat what I said in the instructions; and

3

that is that you, as the jury, are not to reveal to this court

4 or any person how the jury stands numerically or
otherwise on
5 the issues before you until after you have reached a
unanimous
6 verdict, and nothing that I say to you is in any way
asking you
7 to suggest or in any way reveal to us the status of
your
8 deliberations. I'm not asking about that at all. And
of
9 course, the timing of your deliberations is entirely a
matter
10 for the 12 of you, and nothing that I say to you should
in any
11 way be interpreted by you as suggesting that I have any
12 opinions as to what time it should take you to decide
the case
13 or anything like that. I want to be clear about that.

14 But I also want to address what our usual
schedule has
15 been throughout the trial. Tomorrow is Friday. Our
regular
16 schedule throughout the trial has been that on Fridays,
we have
17 simply gone straight through till 1:00 and then
recessed and
18 have provided then a long weekend recess.

19 Now, there were reasons for doing that, not
just to
20 assist in accommodating anything that any of you had,
you know,
21 with respect to child care or other obligations with
your

22 family and likewise, but it also assisted us in
presenting the
23 case, because it gave the lawyers and the people
working with
24 them some time to contact the witnesses, arrange for
the
25 travel, bring them in, and so forth. So early recess
on Friday

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1 afternoon was particularly helpful to us in keeping the
trial
2 going according to the schedule.

3 That, of course, is no longer the case; and
4 accordingly, it is not something that we require of you
that

5 you recess at 1:00 tomorrow. As a matter of fact, I
would

6 suggest that if need be that you work longer than that.
But it

7 could well be also that because I told you that we were
not

8 going to sequester you as a deliberating jury that some
of you

9 made some commitments or something that -- anticipating
that if

10 you were still deliberating you would recess. And if
that is

11 true, I want you to advise Mr. Manspeaker about it when
we do

12 recess. But we have the support staff available here;
and we
13 can work with you, you know, as you choose. And that
can
14 include into the weekend, if you were to choose to do
that.
15 I'm not going to tell you that you have to and I'm not
in any
16 way suggesting to you, you know, we think you ought to
get this
17 job done within a certain time or anything like that.
Please
18 understand that.

19 We know that you've been given a lot of
evidence and
20 it's been a long trial. And we certainly expect that
you will
21 take whatever time is necessary to take to analyze that
22 evidence and come to a reasoned, rational decision
about it.
23 And there is no one who can suggest what time that
would be.
24 So please understand that.

25 But I would again suggest if it does not
inconvenience

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1 anyone and if the time is necessary that we do a
regular

2 workday tomorrow. But again, if some of you have a
problem
3 with that because you have done something or made some
4 commitments in reliance on the old schedule, you tell
us.

5 Now, of course, we are going to recess for
this day
6 and send you home for, I hope, some relaxation and
opportunity
7 to, you know, get away from this for a while. And
that's what
8 we hope you will do during this time. But again, of
course,
9 just as I always repeated the cautionary instructions
that were
10 then applicable throughout the course of the trial, I
do again
11 repeat what I told you since you've been a deliberating
jury:
12 to remember that each one of you is 1/12 of the jury;
that you
13 work together as a jury, and that you should not
therefore do
14 anything on your own with respect to the case or --
and, of
15 course, not discuss it with anyone else, not any other
members
16 of the jury or anyone else, of course, and to again
continue to
17 be extremely careful during the time that you're away
from us
18 to avoid anything in any form of communication or
publication

19 that could in any manner interfere with your solemn
obligation
20 and sworn obligation to decide this case according to
the law
21 and the evidence.

22 So again, put the matter to rest until you're
23 reconvened in the morning.

24 So members of the jury, you're now recessed in
your
25 deliberations and free to go, and we'll expect you here
at

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1 8:30, about, in the morning to resume when you're all
together
2 and your foreperson is presiding. And as I say, if any
of you
3 have a conflict problem with respect to scheduling
tomorrow,
4 let Mr. Manspeaker know.

5 We hope you have a pleasant and restful
evening.

6 You're excused for now.

7 (Jury out at 5:07 p.m.)

8 THE COURT: We'll keep in touch.

9 MR. MACKEY: Your Honor, may I approach about
10 scheduling?

11 THE COURT: Yes.

12 (At the bench:)

13 (Bench Conference 134B1 is not herein transcribed
by court
14 order. It is transcribed as a separate sealed
transcript.)

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1 (In open court:)

2 THE COURT: All right. We'll be in recess
subject to

3 call.

4 (Recess at 5:08 p.m.)

5 * * * * *

6 REPORTER'S CERTIFICATE

7
transcript from

I certify that the foregoing is a correct

8
Dated

the record of proceedings in the above-entitled matter.

9 at Denver, Colorado, this 18th day of December, 1997.

10

11

Paul Zuckerman

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