

10 (In-chambers conference.)

11 THE COURT: All right.

12 Juror Number 16, alternate juror
13 Number 4 has indicated that she will no
14 longer agree to serve on this jury due to
15 the media's involvement and threat of
16 releasing information about these jurors'
17 personal information. Regardless of the
18 fact that some of the media has withdrawn
19 their request, there is still a pending
20 request from WCPO for the completed juror
21 questionnaires. And this jury does not
22 want their information or their
23 questionnaires released during or after
24 this trial. So she has refused to
25 continue serving. I am going to release

1 her.

2 Does the state have anything to say
3 on that?

4 MR. DETERS: No objection.

5 THE COURT: Very good.

6 The defense.

7 MR. MATHEWS: Judge, I have nothing
8 to say with reference to alternate Number
9 4. But I would move for mistrial on the
10 basis that in light of what occurred last
11 Friday wherein you came out onto the
12 bench, read a statement about what the
13 Enquirer was up to and put on the record
14 in front of the jury what you intended to
15 do. And as I -- I was shocked by what I
16 heard the Enquirer was up to. I think
17 the jury was horrified when you notified
18 them of what was going on. And in
19 observing their demeanor, I became very
20 concerned.

21 Rather than take any break after
22 your statement to them, we proceeded with
23 two witnesses. We took a break at about
24 11:20, and during the break your bailiff,
25 Tim, indicated to us that the jury was

1 basically in revolt and very upset about
2 what had occurred.

3 We learned that the
4 questionnaires -- the redacted
5 questionnaires had been posted to -- on
6 the Clerk's website for approximately
7 one hour 40 minutes, if my memory is
8 correct. You had those removed during
9 that break.

10 The jury was furnished with copies
11 of the redacted questionnaires. They
12 continued to object to the information
13 that -- some of them apparently continued
14 to be bothered by information that was
15 not redacted from the questionnaires.
16 And at that point it was determined -- or
17 at some point Friday it was determined to
18 send them home for the weekend to
19 consider whether or not they wish to
20 continue serving on this jury.

21 It concerns me greatly that the
22 jury may not have heard or paid any
23 attention to the testimony and evidence
24 that was elicited for the reason that
25 they were more concerned about the issue

1 of their personal identifying information
2 being made available to the press. And
3 for that reason and reasons that after
4 seeing their faces when you announced
5 that the information would be posted on
6 the website, concerns me about their
7 ability to be fair and impartial and
8 unbiased.

9 Further, they went home for the
10 weekend and presumably have discussed the
11 issue with families, or whatever, and
12 somehow they have made the decision or
13 thought about the decision. And it
14 concerns me that they're more concerned
15 with their safety or with their
16 information -- identifying information
17 being made public to the point where our
18 client is going to receive -- cannot
19 receive a fair trial.

20 THE COURT: Very good.

21 On Friday, I did notify the jury
22 about these pending requests for their
23 questionnaires. It is my duty to fully
24 inform them. It was upon agreement by
25 both parties that I go and speak with

1 them on the break because they did
2 express concern and outrage to my
3 bailiff. I did that. And after a
4 discussion with them, at that point most
5 agreed that they would continue service.
6 Some asked for the weekend to think the
7 matter over.

8 I allowed them the weekend to think
9 the matter over, and as a result only one
10 of those who had requested thinking the
11 matter over has refused to continue
12 serving.

13 There is nothing that would
14 indicate either during my conversation
15 with them or anything that they have said
16 to my bailiff that would indicate that
17 they did not pay attention to the
18 testimony on Friday morning. I think
19 that this jury has been so conscientious
20 they certainly would have said that they
21 were distracted. If nothing else, it
22 would have given them the opportunity,
23 frankly, to be removed from this jury.
24 And there has been no indication of that
25 whatsoever. They want to continue

1 serving.

2 what has been brought about by the
3 media inserting itself into this trial
4 does not rise to the level of a mistrial.
5 And so your motion is overruled.

6 MR. MATHEWS: Thank you, Your
7 Honor.

8 THE COURT: Thank you. Now, I
9 will, for the record, be putting on this
10 morning the fact that we have lost one
11 juror as a result of the media's
12 insertion.

13 MR. PIEPMEIER: Okay. Thank you.
14 (In-chambers conference concluded.)

15 THE COURT: All rise.

16 (The jurors entered at 9:18 a.m.)

17 THE COURT: You may be seated.

18 Welcome back, ladies and gentlemen.
19 Were there any problems over the weekend?
20 Could you simply not resist the urge to
21 discuss the case with anyone or among
22 yourselves? Did you inadvertently or
23 intentionally receive any information
24 from the media regarding this case in any
25 form, whether that's online, social

1 posting, anything like that?

2 THE JURORS: No.

3 THE COURT: Very good.

4 Before we resume testimony this
5 morning, I have to put on the record in
6 the presence of the jury there have been
7 several inaccurate news media reports
8 about what happened Friday during the
9 court recess.

10 I will not waste the time of
11 everyone here today to correct them.
12 However, I will commend this jury for its
13 courage and sense of civic duty for doing
14 the job they were selected to do.

15 Jury duty is a thankless job. And
16 jury duty in a high-profile case that is
17 being covered by the news media on a
18 daily basis is even more difficult.

19 Ladies and gentlemen of the jury, I
20 want you to be able to do your job in
21 this trial with the least amount of
22 distraction possible. And I want you to
23 feel safe.

24 While the original request was
25 withdrawn, there is one outstanding

1 request by WCPO for redacted juror
2 questionnaires. As a result of the
3 media's requests during the course of
4 this trial, we have lost a juror.

5 Alternate Juror Number 4 has opted
6 to remove herself from service due to
7 this distraction. I have decided to
8 amend my previous order and direct the
9 court administrator to not release
10 questionnaires, redacted or not, during
11 this trial.

12 I will instruct and have already
13 instructed the lawyer representing the
14 Court to research and recommend to me
15 ways to provide the fullest protection to
16 you and your personal information even
17 when this trial is over.

18 Let's get back to the important
19 work we were called to do here today.
20 And I want to thank you again.

21 Also on behalf of the parties, both
22 the state of Ohio and the defense, they
23 feel the exact same. They've relayed to
24 me that they are so thankful for you
25 agreeing to come back here and serve

1 faced with the position you've been put
2 in. Thank you.