



Sturm College of Law

UNIVERSITY OF DENVER

Animal Law Program

Sonoma Trial Juror Interviews

Continuing with its goal of documenting the animal rescue trials, the University of Denver Animal Law Program took up the project of formally interviewing jurors from a September 2023 Sonoma County trial in Northern California. The defendants faced trespass charges for providing medical care and removing 70 chickens and ducks from three different factory farms: Reichardt Duck Farm, Sunrise Farms, and Petaluma Poultry.

With the assistance of Program Manager Jess Beaulieu, Professor Justin Marceau formally interviewed each juror who volunteered within six weeks of the trial. They attempted to contact every juror; however, only two agreed to be interviewed. What follows are the transcripts of these interviews. The project fully complied with the IRB process at the University of Denver. The interviews have been anonymized and slightly modified to remove any identifying information and to improve readability, but they otherwise reflect a verbatim transcription.

Juror #1

Justin: When did you first have a sense of what this trial was about?

Juror: We really didn't know much during jury selection. So we just knew that it had to do with an organization called Direct Action Everywhere. The prosecutor – and actually the defense also – asked the jurors if they were familiar with that organization, if they had heard about it before. Everybody was asked if they were vegan. Everyone was asked if they had family in law enforcement – [since this was] basically a case where the police were the plaintiffs, I think. So a lot of people were dismissed because of that – they had strong sentiments about animal mistreatment or something that would bias them that they couldn't overcome. So I think I first started to know what it was about [by] opening statements. Opening statements, I had a pretty clear picture because during opening statements, as you know if you were following it, they showed the whole video of the Sunrise incident, and they showed some video of the Reichardt incident.

Justin: Just a step back in the jury selection, so everyone was asked if they were vegan. And was it your impression that they were trying to figure out – so if the prosecution was asking if they were vegan they might be biased in favor of Direct Action, or really biased in favor of Wayne in this case?

Juror: I actually think it was more than that. One of the prosecution's strategies was, near the end of the trial, they were trying to establish a conspiracy. So they got news articles, photographs of the co-conspirators doing various things that were various levels of appropriateness and propriety. And basically created a smear campaign against his co-conspirators and said Mr. Hsiung is friends with these people, he associates with them, and tried to paint a picture of them as extremists.

Justin: So it seems like from the very beginning the prosecutor had that in mind, where they were going, are there any vegans here, and then tied it up with the kind of conspiracy.

Juror: Yeah, there were vegans. Exactly. They asked all the witnesses that the defense brought forward if they were vegan. Every witness they asked if they were vegan. And that was used to show that, well, they're also a vegan, so they are motivated to agree with DxE on these things. Like the legal opinion from Dr. Aviram – if she had not been vegan, that would have been a strong – that may have changed things. That may have changed the outcome if she had not been vegan or had not been questioned if she was vegan.

Justin: So it sounds like in your assessment, it was a pretty effective strategy by the prosecutor to sort of target –

Juror: It absolutely was.

Justin: And so, they were sort of able to make the people associating with Wayne and the people who had these views look just not as credible. They were all on the same team, is that right? Like Dr. Aviram.

Juror: Yeah. I mean everyone on the jury thought very highly of Dr. Aviram. But the question on all our minds was – so Wayne’s opinion as a lawyer was worth something. He’s also motivated by what he’s motivated by. So he needs a second opinion. And I can tell you what the jury asked each other; if he wanted a truly unbiased opinion, he would not have asked another vegan. He would have asked some random law professor he didn’t know.

Justin: And the prosecutor sort of did a good job of making that clear – that this was kind of a vegan cabal.

Juror: Yeah. Something else the prosecutor did – he started off by being very polite. He is a polite person – I think that Waner is a good guy. But he also brought some charges against Wayne that I don’t think were fair. And used some strategies that probably weren’t fair. Like he started off calling him a very distinguished lawyer, impeccably credentialed – and then turned that around in closing arguments to say if he was impeccably credentialed it would be impossible to make a mistake of law.

Justin: Great. So that’s where I wanted to go, to talk about the defense and prosecution and the judge. Did you have any early opinions about how the judge was handling the case? What was your impression?

Juror: My impression was that Mr. Waner was very put together. He knew exactly what protocol was. Mr. Hsiung did not know what the protocol was. So there was a little bit of learning the rules of the courthouse there. And the judge was very patient. She never held it against Mr. Hsiung that he didn’t know what has to be labelled and things like that. I did notice that the judge was very strict on what could and could not be allowed as evidence, including testimony. The prosecution objected a lot. Even with things that I thought were extremely relevant.

Although once the case was over, I thought that most of her decisions were right. The stuff I wanted to know like asking the Reichardts where their property line is – no, they did ask that. And one of the DxE members had actually done research to find out where the property line actually ended, and that information was suppressed – was not allowed in to be evidence, because the relevant question wasn’t where did the line end, it was where did Mr. Hsiung think the line ended. So I can see why she did that. What I failed to see the judge’s wisdom in was not allowing – was sustaining the prosecution’s objections of hearsay whenever Mr. Hsiung asked a witness “do you have any sense of my intention, did I ever say what my intentions were.” Because what the case came down to was what were his intentions. And that evidence wasn’t allowed to be presented so we had much less insight into Mr. Hsiung’s head, which is already a tough thing to do anyway. You never know what is in someone’s head.

Justin: So overall you thought the judge was fair and patient –

Juror: I do, however she was also, to me, clearly on the side of the prosecution. I could tell that by her face. And maybe by some side comments she had made. But in her rulings, that was the ruling that I thought was unfair, sustaining the objections on the basis of hearsay. Because when Mr. Hsiung would ask “did you know what my intentions were, did I say what my intentions were” they would object hearsay.

Justin: So for the most part, when you say you were able to see that she was maybe, from your vantage point, in favor of the prosecution, you were picking up nonverbal cues. You were sort of watching the way –

Juror: I think so.

Justin: What about how Wayne did as his own lawyer – what did you think?

Juror: I thought he did great given what the charges were and what evidence was allowed to be presented. I thought they argued the case well and I felt that the – I actually wrote him a letter. I don't know if it ever got through, but I said I thought that his case was very well put together, but I voted the way that I did because the prosecution's case was stronger. There were a lot of us who did not want to convict on certain counts but felt that we had to because of what the evidence showed and what the rules to the jury were. So we can consider this, we can't consider that.

Justin: Is there anything you thought was not effective that Wayne was doing? Or a set of witnesses that he called that maybe didn't sit well with the jurors?

Juror: For me it was a very strong case. For the others – what I could tell from the others – okay so we took an initial vote before discussing anything at all. The initial vote was six guilty on all counts, three not guilty on all counts, and the other three were some mixed.

Justin: Three were not guilty on all counts.

Juror: Two or three – I can't remember if it was two or three. So before we even began discussion, the jury was already against him. It seems to me that they were going based on the idea of, "well obviously he's guilty, just look at the evidence." And I would try to go methodically through the evidence and say, "is this piece of evidence – what does this piece of evidence show us?" And I would isolate each piece of evidence and they would say, "no we have to look at everything all together." Which, honestly, you have to do both. So what could he have done – to answer your question, I can't think of anything he could have done better.

Justin: And in part the prosecution's case was so strong because – and this was just the perspective of the other jurors I spoke to – if you don't believe people as much because they are in the same camp, because they are vegan, and the prosecution went through all that. A juror had mentioned to me this is just how I was viewing these people. It sounds like Waner was very effective on the factual points that may have been up for grabs – this kind of look, here are these people, here are their campaigns, here are all the people you associate with. That had some real effect I think – is that fair to say?

Juror: Yes. Half the people just didn't believe Wayne from the get-go. They did not believe him – that he had an honest and good faith mistake about the law. Half of us thought – the other six thought – that it was quite likely or is possible. And then that number got dwindled down finally to two. And in the end, they convinced me at Sunrise – they convinced all of us, we all agreed on Sunrise that he may have had an honest mistake about the law, but it was not good faith because he did not seek out enough – he only sought out one second opinion and that was Dr. Aviram who was a vegan, and he knew would agree with him. So on the Reichardt, he

had a third legal opinion which was [Klapper's] opinion. For me that showed that he had done his homework and got a third opinion. So for me that was enough to show that he may have had good faith at Reichardt.

Justin: So just the quantitative number – the difference between seeking out one more person at Reichardt was material for you –

Juror: For me that was enough.

Justin: For most of the jurors there was just a sense that like he probably sought out Dr. Aviram and she's vegan and – what's interesting is when I sit back and look at this from the privileged vantagepoint that I'm in, and I know Hadar personally, she wouldn't sign her name to something she didn't believe –

Juror: I thought she was very credible. She was also very smart and that can go both ways. Mr. Hsiung is extremely smart as well. And it seems that when he was at Reichardt, we were trying to establish is he connected to the group – is he in conspiracy with the group on the farm or not. Is he leading a separate vigil. Are they connected or separate, are they showing support – you know, kind of parallel goals and different paths. And we would listen to the same statements and make different judgements on it. But I thought that he knew very well what he could say and what he couldn't say. And I did not hear him say anything to indicate that he was connected with them on what they were doing. Even if I had thought he had bad intent, he didn't say anything in the videos. And we watched the videos a lot.

Justin: What convinced you of the trespass at Reichardt? So the conspiracy count hung but the trespass – if I understand right, you all ultimately concluded on a theory of complicity. That he was aiding or encouraging or promoting the others – am I correct on that?

Juror: Yes, it was the aiding and abetting clause, which many of us thought was a real low blow by the prosecution. And we did not want to convict on that, but it did seem that going by the letter of the law, what he did was he said – and this is one place he may have slipped up – after Tom [Chiang] got taken away in the ambulance, Wayne spoke to the crowd and said, "I know what [Tom Chiang] would want if he were here, and what he would want is for us to continue the work. So please everybody give food and water to the people who are sitting down at the gates, give them shelter, help them." So, by saying those two things in succession, he was saying that his goal was to help them in their sit in. And even though I didn't like it and several jurors didn't like it, that did look like aiding and abetting.

Justin: He was facilitating the act of trespass.

Juror: Aid and abet means aid, facilitate, promote, or – I don't remember what the fourth one is. We got into like a day long conversation about promote because some said well, he's promoting it on social media and other people said well, he has the same motive as them, he has the same goal, so he's supporting them. But it didn't say "support" it said "promote." So that's what a lot of discussion was like. Just talking about word meanings and the judge would not clarify what ordinary words meant.

So we had to go at it on our own. But for me it ended up not being about promotion, it was about facilitating – specifically by providing food and water – with that statement. If he hadn't said that thing about [Tom Chiang], then my argument was he was providing food and water to the police, the bystanders, to the sit in people – everyone. So that's not targeting one specific group, but with that statement that what [Tom Chiang] would want us to do is to continue the work so please everybody give the sit in people food and water, that connected the statement – that established intention for me.

Justin: If I changed the hypothetical, would the jury still have convicted on an aiding and abetting theory if Wayne was across the street leading a rally, and he was effectively – because as you said aiding and abetting the language is slightly different across states, but it's basically defined as promoting, encouraging, helping, you know in all these different ways you're providing some assistance. What if he was just leading a cheering squad for them? So he's clapping and congratulating them from across the street and leading a big round of applause. Do you think that could have still – because it's interesting as you said it's an interesting decision by Waner, he chose to charge aiding and abetting for trespass. You know they didn't go with any of the big charges for reasons – because other jurors had been turned on that – there were bigger charges in Utah and that means the jury sees different evidence.

And when the jury sees different evidence of what's going on it changes what you see. Then the jury was not happy with the prosecutor – and then they were acquitting. And so Waner had studied those trials carefully and he made a very specific decision to charge misdemeanor trespass, someone walking in your yard. And I said to somebody this is like the frat kids who sometimes walk through my yard. I would be prosecuting them and prosecuting the one who threw his beer can in my yard and told somebody to go get it because he's an accomplice, he's an aider and abettor. And by the way, if two of them talked about it then we have a conspiracy to engage in this. That's all they charged for this whole fiasco is somebody conspiring. But when you think about how broad aiding and abetting can be it's possible that you all might have found encouraging through something like him cheering them on from across the street at a fully lawful rally, right? It's not your fault, that's what Waner was pushing.

Juror: I can tell you that about half of us would have convicted if he stayed on the other side of the street the whole time, and half would not.

Justin: What about the prosecution a little bit – you said good guy, a couple of the charges you weren't happy with, what did you think about the case in general and how it unfolded, anything that stood out to you.

Juror: At the beginning, I thought his case was rather weak. There's no way he can get Wayne at Reichardt. And it was obvious during the proceeding – but then during deliberation when we started looking at aiding and abetting then it added up. We didn't have access to what the law said until we got into deliberation. So we couldn't look at the law. The law was confusing in many places.

Justin: It looked weak and then you were like well, I guess if his theory is aiding and abetting then maybe he meets the letter of the law –

Juror: And he even said aiding and abetting during the proceeding. And I rolled my eyes and said to myself, I'm not going to convict him on aiding and abetting, that's ridiculous. And a couple of the other jurors said that too. But then going by the letter of the law, which is what we did, he did do that.

Justin: Was there any point do you think during the trial –

Juror: And one more thing actually – if it had not been aiding and abetting and it had been simple trespass by being on their driveway, which I think technically is their property, but we weren't allowed that evidence – many people on the jury argued that it's common law that the driveway is your property. Everyone should know that. And other people said well, it's different in different states and different counties, and several of the jurors said judging by intention, it was not his intention to trespass. And other jurors said well, it was his intention to go where he went and where he went was on private property. So it's very hard to dialogue because we had different readings of the same sentence in law. It's hard to understand law and the jury had a hard time understanding [what was meant by] “did he intend to trespass.” And I was like, “no he thought he had the right because of [California Penal Code] 597(e), that's not trespass” and the others were like, “if he goes past, it's trespass.”

Justin: Was there any point during the trial where you thought the defense was ahead? Before instruction, before that first poll that you took – were you like, you know this is not going well for Waner –

Juror: Pretty much all of Reichardt. I thought why are we even talking about this, he wasn't on the premises, he told the people not to do it, he didn't join them – I thought Reichardt was going to be a slam dunk on all counts. And I thought Sunrise was 50/50.

Justin: Okay about 50/50 throughout and you weren't sure.

Juror: Yeah.

Justin: Any defense witnesses you thought were bad or unhelpful? Or prosecution?

Juror: Paul Picklesimer, oh my gosh. He was playing word games all the time with the prosecution. I did not see him as genuine at all. None of us did, really. And Matt Johnson was another one who – he came off to me like a frat boy. He's intent on doing what he wants, pulling these pranks, and he doesn't care what the consequences are. He's willing to break the law and he admitted it clearly. They were not credible to us.

Justin: And prosecution witnesses, anybody stand out – good or bad?

Juror: Deputy Fomasi also seems to be a little disingenuous. He would say one thing on video in private with his fellow officers and then another thing to Mr. Hsiung. And then when asked about it during testimony would say “yeah, when I said that, that's not what I meant,” and wouldn't really elaborate. He was hedging a lot.

Justin: What about – I don't have very much information about this – but shortly after you all began deliberating, a Facebook drama or something, a Facebook post was liked or something like this – what happened and how did that affect the jury?

Juror: Well, we were all prohibited from looking into the case and the witnesses were prohibited from looking into it, they were subpoenaed until they gave their testimony. And yet, Mr. Waner would say, "Mr. Picklesimer have you been following the Sonoma Rescue Trial Twitter account?" "Uh no, I haven't." "Okay, well on such and such a date you liked this post of theirs and you shared this post of theirs." "Oh, well I was going through Twitter, and you can't help seeing them sometimes, maybe I liked it without even thinking." So that did show to me that he was either careless or willful in defying him.

Justin: Got it. But did it come up that, like somebody liked a Facebook post –

Juror: Yeah, what did you hear about that?

Justin: I mean basically that – I've heard that maybe the jurors are scandalized by that. The person who did it said that it was a genuine accident, like I don't know much about it. I'm curious how it came up to you guys and how it was discussed.

Juror: Can you tell me one more thing then – I'm very curious as well. Did this person talk to you herself about it? How did you even come to hear about it?

Justin: I'm trying to remember. I don't think I talked to that person; her name was Priya. I don't think I've talk to Priya since before the trial. I had been on a call with her before the trial. So it must have been someone else who was relaying to me what she said or something like that.

Juror: Fascinating. The only person that could have been would have been Wayne himself.

Justin: No, it was somebody in the court, it could have even been Steffen.

Juror: Okay.

Justin: Because I haven't talked to Wayne – well he called me one day from jail. So it couldn't have been Wayne.

Juror: Because that – that session that we had where the judge talked to everyone was a closed session. So the only people in the courtroom were the three attorneys – because the prosecution had two – the three attorneys, the judge, the recorder, the clerk, and the jury. There were no other witnesses. So it was either Priya herself or Wayne – unless maybe you were in contact with the court.

Justin: Well, I wasn't in contact with people, but it could have been Priya told Steffen, or Priya told –

Juror: Could be, yes.

Justin: I think it may have even ended up on Twitter, there was a hearing about it or something. It's out there but I would have to think about it. I didn't really think about it as a big secret. That hasn't come up with Wayne, but like other lawyers looking at the appeal and things have asked me about it.

Juror: Yeah, well we were all kind of like up in – not up in arms – but we were all very concerned, upset because you know it's a high-profile case and so there are people who have strong opinions about this and if they're looking you up on Facebook, they've obviously found your profile. They know a lot about you now. And we don't know what their intentions were – they say they're non-violent – I believe they're non-violent, but you still don't know what might happen. I mean they sprayed pig feces all over somebody's house. Matt Johnson did.

Justin: So it was kind of like the jurors became a little afraid then. Like what's happening, kind of colored the way you were thinking, like these people are looking at us.

Juror: Yeah, so they're looking for us and we don't know how many other people they found and just didn't make a mistake, like Priya did liking the post.

Justin: Did you guys talk about that as a jury?

Juror: Oh yeah, we did, yeah.

Justin: What came of that? Because it's hard not to take that out in some ways on Wayne, right? Like if I was a juror, I'd be like what the heck?

Juror: For sure, yeah, it's a breach of privacy. It's a breach of anonymity. There's only two ways it could have happened, really. Wayne was careless or malicious with his access to the juror names. Because we know that he had access to the juror names. I don't think anybody else did. Priya certainly wouldn't have. So if he . . . left his notes open and Priya came and walked by and looked and saw something, that would still be on Wayne for carelessness.

But if it was a different case like – you know like they were out in front of the courthouse every day, the whole day. And they would watch the cars we got into. And it's not out of question that they might write down our license plate number and then look up our license plate to get information. So that's the other way it could have happened.

Justin: I wanted to walk through the deliberation. You talked about the first vote, six guilty on all and then three or so not guilty. How did it evolve, how did it unfold? It sounds like for Reichardt trespass got there through aiding and abetting – how did the subsequent votes go and what were the turning points in that?

Juror: Well, we had to be strategic about what we tackled first. The prosecution recommended we start with count number two, and I was [taking it with a grain of salt]. The foreman proposed it, and really, I didn't have any reason not to. So we looked at number two. And count two, we agreed that even though Wayne had acquired consent within fifteen minutes, at the moment when he first walked past Mr. Weber and took his followers with him, that was the moment of trespass because he was told to leave and he didn't. So even if he later obtained consent, he had

trespassed first. We didn't spend more than an hour on count two. We spent the next three days trying to understand the law, what did the law say, what did the law mean.

And our juror instruction packet, which was twenty-two pages, said you can consider this evidence, you can consider this defense here but not there. I've taken several philosophy classes, and I could tell that a lot of the jurors were getting hung up on conflating similar ideas, like you can't use 597(e) as a defense, but you can use a belief in 597(e) as a defense. And if he believes he wasn't trespassing because he believed that he had a defense, but he didn't have the defense, so he was trespassing, you see how that goes? Three days trying to understand the law.

And then three days trying to figure out what the evidence says in light of how we understood the law. And actually, once the case is published and you can look through it, look through the judge's notes to the jury because we submitted a lot of letters to her, a lot of questions to her. She responded to all of them, but she only answered about half of them and only when we kept asking.

Justin: Is there anything that you think would have changed the outcome in the charges that resulted in guilty? What would have been different – what would have been a slight tweak in the facts? You all came to agree that he believed he was – essentially you agreed on the conspiracy for both Sunrise and Reichardt and the – oh no sorry, just on the Sunrise. So you seem to believe that he was not mistaken there, that he did intend to break the law. You didn't believe that he was acting in good faith there, in his mistake. Did it really come down to we have [Klapper] and Aviram – it was kind of three versus two, or was it a compromise – how do you explain that split?

Juror: For me it was three versus two. There was one juror who has worked with clients in some sort of therapy work and said that in her experience, when people get really passionate, they can believe things that are unreasonable. So she felt that Wayne was passionate enough to have made a good faith mistake of law even being a lawyer. But she voted to convict based on aiding and abetting the conspiracy for the other people. Which – I do not understand her thinking on that. But that's how she voted because you can aid and abet a trespass, [you can] conspire to trespass – can you aid and abet a conspiracy to trespass? And that's when it just got too deep for me.

Justin: So her theory to get to the conviction was that Wayne was aiding and abetting, like he was essentially an accomplice to conspiracy and that was enough to get her to convict.

Juror: I guess, I don't know.

Justin: Is there anything else you think was notable about the trial?

Juror: There's a lot more I could talk about, I'm game to do another interview. I think that a better understanding of the law would have helped immensely. My first impressions were that a jury should not be composed of laymen, you kind of have to be a lawyer to even be on a jury because it's that complicated.

Justin: What if you all had known that – have you come across yet this concept of jury nullification?

Juror: No, I have not.

Justin: Basically, the supreme court held that the right to the jury existed, that it applied in states and not just federal cases. Because they wanted this lay perspective. They wanted the non-lawyer perspective. And the court explicitly said, one of the things that we teach the criminal law students, the reason for that wasn't that they were more likely to get it right, but they were more likely to be the conscious of the community and if the prosecutor was overzealous or a judge was overstepping, the jury would acquit. And so, there's this concept called jury nullification where the jury can acquit even if they think the rule of law is satisfied. Because the jury has all the power, but they don't tell you that.

Juror: Wow, that's so true. I can tell you that one of the jurors said "yes, I can see that he was on the Reichardt's property but I'm still not going to convict because anyone can walk on anyone's driveway. That's not something I in good conscience can convict him for." If it wasn't for aiding and abetting, he would have gotten off on that by at least three – well, I would say at least five jurors would have been a not guilty on that. But kind of what you said, I think that the defense did not have credibility with the other six jurors because they, from what I heard, they were kind of throwing him no bones. They were saying he knew what he was doing, he got other people to do it, he had an agenda, he wants to shut down factory farms. So this is not about saving chickens, it's about making a statement.

Justin: I mean that's why Waner was effective in kind of talking about each of them, are you vegan and that kind of thing.

Juror: Yeah, so I think what I'm calling the "smear campaign" – I think it did a lot more than I had suspected it would.

Juror #2

Justin: Have you ever been on a jury before? What did you think when you found out you were getting picked for a jury? What was your reaction?

Juror: Yeah, never been on a jury before. I've been close a couple of times. Went through a screening process about eight years ago for a U.S. district court in San Francisco but was never picked. And then was a bit surprised that I got picked for this. Was not expecting it and because I never got picked before I'd always been dismissed. It was sort of luck to get called but not be dismissed during the selection. But I will admit that I was a bit excited and grateful for the opportunity when I got picked because it's something that I have wanted to do. I mean growing up it was always that part of like our civic duty. And being responsible citizens of the country. So, it was important to me in that regard.

Justin: When did you start to figure out what the case was about or what was going on in the case? Like during jury selection.

Juror: Yeah, a little bit during jury selection because of some of the questions. You know, questions like, are you vegan or vegetarian? Now there were some questions about, you know, how did you raise the animals, particularly chickens, or do you have chickens? Those kinds of questions. There was a questionnaire they had us fill out on the first day of showing up for selection, or the first day of reporting for service. Those questions were about activists, and you know, any farm experience, those types of things. So that was kind of the first indication that it was likely somehow involved with a farm in the county, and with activists.

Justin: What were your initial reactions or impressions of the judge? What did you think of how she handled it?

Juror: Initial impressions were she was very communicative. When she spoke, she was easy to listen to or to hear what she was saying. And also seemed to be very clear about what she was saying. Didn't find anything she said ever to be unclear or question too much. And kind of over the course of the trial, that kind of stayed. I think like anybody in any situation – there was a few instances I think you could kind of see she probably was getting frustrated. But I guess that overall, she was always there at least. Yeah. Sort of negative, and I'll call it a negative response, but she had a pretty like pointed response with somebody in the gallery who happened to leave a cell phone on, and it rang during the trial. And you know you could see the tone of her voice, she was pretty upset about it like don't ever let that person back in again. And so yeah, that was the only instance, but that makes sense. I mean, that is her office. That is her domain. So, it's reasonable. I'd see myself doing the same thing if I were a judge, I think.

Justin: What about, like in presentation, you never saw her like feel frustrated with either side or rolling her eyes? Or you never gathered like a sense of exasperation from either like the judge's reaction during the presentation of the cases?

Juror: No, I don't ever recall seeing that from her. And I'll say that it felt like it was a constant repeat of instructions to witnesses particularly about slowing down. And there were three different court reporters during the trial over the two weeks we were there. And all of them had to interrupt at some point to have people slow down because you couldn't keep up. And I think that's the only frustration I ever saw by anybody. In the courtroom, like I said, that was the recorder and the judge I think would be the only sort of like – after a while it was like happening and happening and happening and that would be the only thing, I think.

Justin: Great. And what was your initial reaction to Wayne and the defense?

Juror: With Wayne – and I'll even go back to jury selection. He seemed, you know, he didn't seem nervous like I expect somebody who's defending themselves might be. He was definitely articulate, which you know as we learned more about his education. And his career. Made a lot of sense. He was able to talk clearly and convey, I feel like convey effectively what he was trying to say. I think by the end, especially by the end of jury deliberations, I kind of felt – I'm not sure what the right word is – but I felt a little bit like maybe he didn't do himself justice in the trial by defending himself. Like it may have been better for him to have an attorney. He was so connected with all the witnesses that he called. So I think, just in my own mind, I felt somewhat – I can't think of the word – but it was like, I feel like I kind of sympathized or at least was like this could maybe have gone better for him if he hadn't [defended] himself. That was kind of what my thinking was, and I can say that I know probably some of the other jurors felt about the same way. Just talking with a couple of them.

Justin: And was the sense that, you know, by representing himself and knowing the people that there was like, the problem was one of familiarity, or the problem was that he didn't see their shortcomings, or was the problem that there was some sort of like bias or oversight, or what do you think it was that made it problematic that he knew the witnesses so well?

Juror: For me, it was maybe almost too much a sense of camaraderie with him when he would ask them a question and they would respond. That familiarity in that questioning. Not that it was negative overall, but I felt like it was a little – I think testimony by some of the witnesses, it was a little bit more difficult to sympathize with them because there was that familiarity in the way they responded to him at times. I will say for a couple of the witnesses it felt like the whole thing was a joke. That's kind of how it came across to me, like some of the responses. How they reacted was like this is just a joke, but that was just sort of my impression.

Justin: And in the sense that it was a joke, in the sense that they were all on the same team or they thought the proceeding was a joke, or like in what sense?

Juror: That was what was happening. I think initially it was just kind of that a little bit too familiar like you guys are talking about something, and it feels like there's a little too much familiarity, maybe. Not everything is let me be transparent when you're talking about or answering the questions. Yeah, I think.

Justin: We got it.

Juror: I think that's part. I mean, I have sort of a little bit more informed opinion about that now based upon like starting to investigate and look into what was going on during the trial that I wasn't able to see at that time.

Justin: Hmm. And on that, are you – what are you referring to? You mean like, just the background things of the players in the organization or what kind of things?

Juror: Yeah, I think just sort of the overall take of the trial. Unfortunately, sitting in as a juror on that trial – and it was six days, and I'll say that it was six agonizing days. It wasn't easy at all. And none of us wanted it to last that long. Like again, we all felt it was our responsibility to make sure that we, you know, we did it well and effectively and that we were coming to the correct decisions. That being said, afterwards seeing one of the live streams that day after the verdict had come down and then a couple of posts as well during that time. Kind of indicating that a lot of people felt the whole trial was a joke, that it was rigged. It was conspiracy, you know. This was all done to find Wayne guilty and that definitely wasn't the case. And so you know, kind of talking about in the beginning of our conversation about how I feel like the importance of jury services. And kind of really feeling like people are like – I don't think a lot of people understand what it means. I didn't understand what it meant to be a juror until this experience. And yeah.

Justin: That makes a lot of sense. I've heard that from other people on other juries and not this one in particular, but that it feels really kind of dismissive when you read accounts of it because you in your experience, you took it very solemnly and it was like you were really trying to do the job and then to hear it is fixed seems to diminish the kind of seriousness with which you approached it. I've seen that. Because I hear from some of these people too. I will say that the people I hear saying that sort of thing are most frustrated like you who follow the full account. I have not personally seen anyone criticize the jury, least of which Wayne, or have anything bad to say with the jury. But, you know, there's a lot of things that happen outside of the jury, of course, as you know. There are the hours where they're arguing about what you get to see and not see. And, I think that in those moments, like some people became unhappy with other actors in the process, right?

Juror: Sure. Yeah.

Justin: And so I'm not trying to rehabilitate anyone. Whatever you think is great. But I do think that there's been a, you know, people feel frustrated with different actors in the process, right?

Juror: Sure.

Justin: With and things that they tried. I mean, as you probably picked up. But it's rather odd to charge someone with a felony conspiracy for a misdemeanor crime. Doesn't happen a lot in California. So there's like a reaction to that, right?

Juror: Okay.

Justin: That those kinds of things are unique, right? Like you didn't charge the crime of taking the chickens. You charge a conspiracy to enter, you know. So usually we have felonies, we have conspiracies. In this case, we had felony charges based on conspiring to commit a misdemeanor. That's, as a criminal law professor, that's a unique circumstance.

Juror: Hmm. Okay.

Justin: That, you know, as a jury or a non-lawyer, it's kind of an interesting decision by the prosecutor, and some other things, but that's what I was going to ask you next. Is just sort of do you remember what the – so you went back to deliberate. If I'm remembering, it was an evening and then maybe there wasn't even any deliberation at first. You get the instructions and then you started deliberating the next morning. Did you have a foreperson?

Juror: Yeah.

Justin: When did you guys take your first poll or your first like quasi-vote to see where people stood?

Juror: It would have been, it definitely wasn't that night or the afternoon that we got our instructions. The next morning we came in, we reviewed the instructions provided to us. So the whole form with what conspiracy means and what trespass means and all of that. So we spent a good part of the morning going over that before we took our first vote. And it was after that, I think, to try [for] everybody [to] get a feel or better understanding of exactly what the charges were. And what the four counts meant because during the trial, we didn't really have that at all as part of the consideration. I mean, it was read to us at the very beginning, but we expressed the same – that trespassing, conspiracy trespass meant really nothing to us. In this case or as far as in the situation until we got in there and started reading it. So yeah, after that would have been our first vote that we took.

Justin: Okay, and so that's sort of second day, first morning. And do you remember what the like splits were roughly then? I mean you were looking at four counts, were they all sort of consistent?

Juror: Yeah, it was. It was consistent across the four counts. And it was pretty much split. Just about evenly on each for guilty and undecided.

Justin: Okay, so guilty you have like half and undecided about half.

Juror: Yeah.

Justin: So half have said yeah, okay on all four counts. And nobody at that point was saying I'm leaning not guilty or at least not leaning strongly enough that they were in that camp.

Juror: Correct. Yeah, nobody at that point was leaning strongly not guilty. And I would even say most people who had said guilty, myself included, it wasn't like dead certain on that. Again, only because looking at the evidence. And the reason I say that is because as – that we progressed the next couple of days, looking at the evidence. There were two counts – the ones at Reichardt Farms which I was really, as we sort of discussed, I was a little bit more uncertain about. But again, as that progressed over the next few days, I went back to guilty. Based upon as we looked

at more evidence and understood more about things like what aiding [and] abetting meant and what you know, mistake of laws as a defense meant – there were several questions for the judge about that. And as we understood that more, it really helped a lot of people decide one way or the other.

Justin: I see. So there were periods where you guys felt quite a bit of confusion, but having sent the notes out to the judge you found that the responses and that clarification helped you guys get to the resolution.

Juror: For some of the questions that we had, yeah. I will say that one of the last days we had asked for Almira Tanner's testimony to be read back or a section of it to be read back. And once that was read back, two of the people who were holding that not guilty went to guilty after hearing her testimony again. So it was things like that. You know, we'd get a question about something, then we would look at the evidence again or we'd talk about it and that would then usually make a decision for people because for some people I think certain things weren't clear. And that clarity helped.

Justin: Yeah, and the judge's answers to any of the questions about mistake of law and other things – did those help also? Solidify the verdicts?

Juror: Yes, they did. Particularly I think because they all – we were very careful with the questions that we asked. We were trying to make them as precise as possible.

Justin: And what was it, if you remember, like when everyone listened to Almira's testimony, how did that help the two who were leaning not guilty go, okay yeah, guilty? What was it that happened there?

Juror: Yeah, it was actually really interesting. It was for the Sunrise action, the conspiracy charge for that one. The two holding out on not guilty were doing so under our understanding of mistake of law as a defense, and not feeling that anybody else who was in attendance fully understood or grasped the law itself as far as trespass, and maybe fully didn't understand 597e and the legal opinion. So they were of that mindset that mistake of law applied and outside of Wayne, they didn't see anybody else who would have been, who easily could have made a mistake not understanding the law as well as Wayne did.

Hearing back Almira's testimony though in talking about the group that she led, which were just the people holding flowers and supporting, helped them to understand that. Like what she said about that was pretty clear, that they knew their role, they understood what they were supposed to do. And they stepped out and their actions were actually outside of the guidelines of 597. And so that's where they then said, okay they could see that mistake of law wouldn't really apply to her in that case. And we were able to agree with conspiracy.

Justin: Hmm. So it was because Almira had said that she – I haven't seen the transcripts.

Juror: Yeah.

Justin: So, from Almira's testimony, you were able to discern that she understood that 597 probably did not apply to their entry with flowers and then from that you can say, well, then maybe there wasn't the mistake that others were claiming or the one that Wayne was claiming. That if Almira knew that what she was doing was not considered within 597, then maybe Wayne knew that as well. Is that kind of the inferential leap?

Juror: Or it's more that Wayne already knew that what he was doing was outside of 597, what the entire group was doing was outside of 597. Their reasoning was because he knew, based upon his schooling and his career that he clearly would have known. And I think we all feel that. Why go get a legal opinion? For 597, if you already don't know that you're trespassing because you're definitely – I mean, in the live stream, it really showed on both events, you know he really pushes that as to why they're not considered to be trespassing. And so for them, that was understandable, but for the cons, and that's why they both had decided guilty on a count just for trespassing for just Wayne. They agreed with that.

Justin: Agreed with a count, agreed with guilty for trespass, but were hung up on the conspiracy counts?

Juror: Sorry. Correct. Correct. Yeah. And then they were hung up on the conspiracy because they felt mistake of law applies to everybody else that was there outside of Wayne. Because people trusted Wayne, you know, he told them that he got the legal opinion. He told them that it wasn't against the law for them to do this. And so, initially that was the thinking of Almira's testimony. Listening back to a section they both were just like immediately like, oh okay, she knew what was going on. There's no mistake that she didn't know that they were trespassing, that this was outside of 597 completely, and what they could be doing legally, you know.

Justin: Let me ask you two questions about that. It's really interesting. So one thing that the jury didn't get to hear about – actually, the reason that some of the defendants, certainly Almira and Wayne, felt most strongly, and you may have picked up on some of this and things that were objections – [was] why it was legal and what will be raised, a very contentious issue all the way up to the California Supreme Court, is that they thought there was what's called a necessity defense.

Juror: Hmm. Yeah. Okay.

Justin: You guys weren't given that because the judge at the trial level said I'm just not going to allow that. But how different do you think it might have been if – just imagine a scenario, if you can, it's hard to counterfactual especially when you worked so hard on this – but if you had known that in fact [597], I'm not speaking for them I don't have inside knowledge of that, but let's just assume that like what you arrived at was the right conclusion.

Juror: Yeah.

Justin: And they were kind of like, maybe we have a 597. It's kind of like I don't think this applies here is what you guys discerned. But if they in their heart of hearts, like we get to inject them with truth serum and they were like, I truly believed it was legal as a matter of necessity. Necessity sort of says you could rescue a person, or you know like if there was a person in

danger you could rescue them and you could read the statue and say okay is a bird or someone or something maybe you can't rescue someone, maybe you can.

Juror: Yeah.

Justin: And in fact, you know, an amicus brief that the judge declined to include was from a Harvard law professor who said I think necessity defense applies here. The trial judge is within her authority to say I'm not going to give that defense to the jury because it's something that can be appealed. But imagine that you were absolutely convinced, or your fellow jurors, that they did think they had a necessity defense, which just imagine that world. Like you could see them, they were forced to tell the truth. Then the mistake of law defense, I'm assuming, would have seemed like much stronger to the cohort. Is that right or not?

Juror: I don't know that it would have been much stronger to everyone. I don't feel like it would have been any stronger for me.

Justin: Okay.

Juror: I'll say that, and I feel several others felt the same, was looking at 597 directly, it doesn't say anything about rescuing. It only talks about providing food and water to animals that are impounded. So that really was the big point for us in deciding.

Justin: Yep.

Juror: If them entering the facilities to do anything other than that, whether that was a mistake of law defense in part. You know, and when I said we kind of felt in several instances we felt individuals went beyond the scope of 597 and this defense of being able to go in to help the animals because then their actions did other things outside of what 597 said that they could do. The necessity defense, I don't know. I think it would, hypothetically, I think there would have been, I think there would have –

Justin: Sure, right. It's hypothetical. It's because you didn't see it.

Juror: That probably would have been one that those who were not guilty would not have moved on, if that was available. Yeah.

Justin: Right, like that might have resulted in the jury hanging because if they were truly convinced –

Juror: Yeah, possibly. Or we would have spent several other days discussing the whole necessity.

Justin: Right. Yeah, yeah, well it's interesting, right? Because I think that your reading of the statue, I mean, it shows how hard you all were working.

Juror: With what we were talking about– if the necessity defense was there, yeah, we'd probably spend a whole day just trying to hammer that one out. Yeah.

Justin: And you're sort of saying, look, I don't see this in 597. I'm not a lawyer. I don't see it. I don't see how they thought that.

Juror: Yeah.

Justin: But if you were given a defense and you said, oh, I really do see how this one could have worked – you could see how like then potentially the mistake defense would be stronger, I guess is the position.

Juror: I think so for some people, yeah.

Justin: Yeah, what about the legal opinion from Hadar [Aviram] that you had? So you said one comment, which is like why seek a legal opinion if you think that you're not trespassing.

Juror: Yeah.

Justin: What did you all make of that?

Juror: I think the best way to answer that is to look at Dr. Aviram's actual testimony and when she was asked about some specifics about what her opinion said and didn't say, her response several times was that she was silent on the matter. So, I apologize that I can't remember specifically what those instances were, but there were several that I know were mentioned, she was asked about, yeah.

Justin: And that was on cross-examination from the prosecutor. He was coming back to, and she said, I had no opinion on that, or I was silent on that matter. Is that what happened?

Juror: Right, exactly. Yeah. And I think that was sort of that big thing where them being personally related, at least to a degree, and her having, you know, a similar outlook on open rescue and I guess the tenets that DxE had, made it a little bit more difficult to see that as being, you know, a good faith reasonable opinion about the matter. Several of us had said if that opinion had come from some lawyer he didn't know that was of the level of Dr. Aviram who you know, maybe wasn't a vegan or vegetarian or had no relationship with DxE or animal rights or anything. I think a lot of us would have maybe given it more credibility.

Justin: I mean, that raises like a general question I had about the whole trial. And I think it gets to the point you made earlier about the witnesses and the familiarity and Wayne representing himself. My sense again, I wasn't there – we haven't been able to read the transcripts yet –

Juror: Yeah.

Justin: – my sense is that there was a lot of attention paid to it so it became quite relevant or significant to the jury's deliberation. Just that a lot of these people were thinking alike and that the witnesses that were being called were of a similar philosophy that they had a similar outlook on the world. They sort of believed in some form of animal liberation or something, and that the district attorney did a really powerful job of making that clear about each of the witnesses and their familiarity with Wayne and with the movement and maybe even connections to –

Juror: Yeah.

Justin: – DxE. And that was a relevant consideration – that it played into how you viewed everyone. Do you think that’s a fair characterization?

Juror: I think to a degree that would be a fair characterization. I mean, there were definitely some aspects like as I kind of mentioned earlier that definitely you know, came to mind for many of us. And I’ll say for myself personally as we were going through evidence, it was really difficult for me on the conspiracy charges to get swayed outside of guilty because these people work together, they had the same goals, the same philosophies. And I think again, I’m going to go back to Wayne being the legal expert among the group of people involved, he’s the one that should have known better than anybody. And we feel that he did know better than anybody the implications of what he was doing, and that they were definitely trespassing. Again, going why go get a legal opinion if you’re not trying to convince people that you’re not trespassing, you know what I mean? It was, it felt like it was a smoke screen. It was just a tool to try to get to their objective and to complete what they were after.

Justin: But you wouldn’t have thought that if he like, as you said, if he had gotten the opinion from a lawyer who didn’t have any eyes to movement of mechanism because then you would say, okay, this person is neutral.

Juror: I think for some people that definitely would have been the case, yes. I think it would have held more weight and been a little bit more reasonable. And, I think – so really kind of getting back to your question, gone too far off track on that – but it was, at least for me, it was definitely more difficult to.

Justin: No, great.

Juror: Let me back up and say that I think as an example, I think one of the things that convinced a lot of us, we’re talking about the Reichardt action, I believe it was Lewis Bernier. I think Matt Johnson also kind of answered this the same way when Wayne was questioning them about getting the legal opinion from Klapper, the Klapper opinion. And it was like this well, theoretically or you know we’re talking about a theoretical instance. But looking at the timeline leading up to the Animal Liberation Conference and then the action. It was, you know, just looking at that piece, I think all of us agreed that’s no coincidence, that was definitely step by step planning out what was going to happen. Whether Wayne was directly involved with obtaining the opinion or not. But at least there was discussion of it in some form. And, so there at least is some knowledge of what’s potentially going to happen. Yeah. I don’t know if that helps answer that question or not. So.

Justin: Yes. Yeah, no that’s right. That’s very clear. Just so I’m clear on the votes as they progressed, then I just have a couple more questions, it started out with about split between undecided and guilty.

Juror: Yeah. Okay.

Justin: Did it, how did it progress through the days? Was there ever a period where there were – so you’ve also mentioned a couple who were leaning towards not guilty later, on the conspiracy accounts.

Juror: Yeah.

Justin: Was there ever anyone that was saying not guilty on trespass or was everyone in agreement sort of from the beginning like guilty on trespass?

Juror: No, the trespass at Sunrise was a pretty much everybody agreed right away. That was definitely the first count that was settled, and I think that was like within the first day or two.

Justin: Okay.

Juror: I mean, it was definitely within like the first three or four votes that we had taken. The trespass at Reichardt was definitely the one where there were a couple who were pretty solid not guilty until we started discussing what aiding and abetting meant and then looking at the live stream evidence. The [aiding and abetting] was pretty difficult to ignore and there was pretty strong evidence we all felt for that. Yeah.

Justin: And was there anyone in particular that you settled on that Wayne was aiding and abetting who did trespass? Was it the Almira group or was it like the theory that Wayne had, or who was it that Wayne was aiding and abetting you think?

Juror: So, okay, so here's how we came to the conclusion. So for aiding and abetting it talks about abetting a perpetrator. So in this case, the perpetrator of the crime was the groups that had entered the farm. And we really came to an agreement that it was those at the gate that had locked themselves to the gate. And the trespass was different than the Sunrise ones because this was listed as with the intent to interfere, obstruct, or damage a business. So the group that we, or for perpetrator, we find Wayne aiding and abetting those who are locked down. And there were some instances of that we found through the live stream that would, you know support that and were evidence of that.

Justin: What did you think was it? Is this the language of the instruction you meant? I don't have it in front of me. It was like, I think you were probably instructed something like encouraging, promoting, facilitating.

Juror: I can tell you this has stuck in my head now for quite a while because we went over it so much.

Justin: Okay, great.

Juror: Aiding and abetting basically boils down to, facilitating, promoting, or it's not encouraging, it's instigating, were the four terms and it was any one of those. There was one juror who really fought hard against the promote idea. But I will say that was because he was trying to define promote I think differently than everybody else was. He was trying to define Wayne as a newscaster . . . as opposed to an actual participant of the event. So, you know.

Justin: Okay, and so that was not wanting to convict on the trespass at Reichardt or the two conspiracy charges. The trespass on Reichardt, he was hung up because they were of the view that Wayne was not promoting it in sort of a journalistic sense. So he wasn't promoting anything, he was just documenting.

Juror: Well not even documenting, it was the manner in which he was there talking to people like Thomas and then talking to the crowd there, things they were doing like asking people to help, giving those at the gate food and water and shade would be promoting what they're doing, or even aiding what they're doing. So there were situations or those instances. I'm trying to think what else we were discussing about that. Those were the big ones. I think those were the two main points that everybody agreed on.

Justin: Just so I'm clear – the ultimate theory you think was that the trespass at Reichardt was aiding and abetting by promoting. And then what acts of promoting did Wayne do that were significant to you or the –

Juror: Yeah, and it's not just promoting. Like me personally, and I know several others were like, there were several –

Justin: Okay, you thought it was more than yeah, sure.

Juror: I mean, you can look at him. Yeah, but there were several – but I mentioned promote because that was definitely one that had the most discussion. But even in that regard, really the discussion came down to if he had simply been on the public roadway or across the way stating that they wanted to be able to exercise what they felt was their legal right to go in and help the animals. I think even if he had at that point said, look we don't, because he said several times during the course of the trial that he did not agree with Lewis and Matt as far as the action that occurred at Reichardt. And it was difficult to believe that because again, if he had simply been out on the other side leading the vigil as he claimed he was there to do. If that's all he had done and never crossed the street, never offered to give them food or water, had been like right there with Thomas at the gate talking about him being injured.

If he hadn't been talking to Sergeant – I believe it's Sergeant Lucas – that day or Tom, sorry I don't know which Thompson or Lucas that day. If you hadn't been directly talking to them about we are here to do this. You know at one point, it's just like, well that's trespassing. You're going over there and you're over on the property, that's trespass. And Wayne continued to insist that they had the right and, again it was also that very much communal, you know we're here to do this, and this is what we're doing, that really lends to the conspiracy and the aiding and abetting. Well, there were a lot of sleepless nights and there was a lot of talk about it like we talked some of this stuff to death. I mean we would talk about some of these topics for a couple of days in a row, it felt like, but yeah.

Justin: In terms of the prosecutor, just sort of like we talked about your impressions of Wayne. What was your impression of the prosecutor and how they handled the case – any like high points, low points? Things that came up with the jurors as points of concern or admiration?

Juror: Well, I will say, at least for myself, what really stuck out with the prosecution is, mister – I'll never get his name right.

Justin: Waner? Yeah.

Juror: Definitely seemed very knowledgeable. I mean, you could tell he's had a lot of practice too. Being in court speaking as a prosecutor. Miss Mills, you know, definitely was fighting a cough, which didn't help her, I'm sure. She didn't quite seem as well-spoken. Not that that was bad, but it just, that was the impression that I got. But I think overall, I felt like they narrowed in on the points of the video evidence and made the necessary connections. Between witness testimony and the video evidence and really providing I think a strong case, I felt like they did a pretty good job of putting forth their case and their views about what happened that day.

Justin: Anything that you didn't like about how they handled the case?

Juror: Let me think. Nothing, no. And that's the thing, nothing really stands out. Yeah.

Justin: Did you guys talk about the sort of consistent objections and that kind of thing when witnesses are up – did that make an impression on you? I'm sure you all noticed that on the one side at least – this is again, I'm looking at it from kind of outside-in reports and journalists but –

Juror: Yeah.

Justin: – I think if I'm correct, like Wayne almost never objected, didn't object to anything, let the prosecution bring in whatever they wanted. The prosecution was really sort of vigilant in policing what was coming in. Did that, was that something you all discussed?

Juror: Yeah. No, we didn't discuss that at all. No.

Justin: No. Yeah.

Juror: I will say, personally, I think Wayne did himself a disservice by representing himself in that regard because I think there very well may have been things that he could have fought harder for that he didn't. That would have helped them. So.

Justin: Just to make sure I get the sequence right, trespass on [Sunrise] was pretty easy and done pretty quickly.

Juror: Yeah.

Justin: Guilty trespass on Reichardt was the second point of agreement but there were a couple people who thought innocent but then when you got to the aiding and abetting theory people said okay, there was some stuff there. And then conspiracy on Reichardt was a little easier, I guess, than conspiracy on Sunrise which still remained the one that you didn't decide.

Juror: Yeah.

Justin: Is that basically the order that it went?

Juror: Correct. Yeah.

Justin: And how did you all decide that you couldn't reach a verdict on that – you reached a verdict on Reichardt, but not on Sunrise in the conspiracy charge. And what was it in your deliberation that was different and why couldn't you reach a verdict in Sunrise?

Juror: Well, we couldn't reach a verdict in the Reichardt conspiracy. Yeah, and I think it really –

Justin: Sorry, yeah.

Juror: – I think it really comes down to there was one individual. Again, this is the individual I had mentioned earlier, the juror who had really fought with the definition of promoting and the aiding and abetting. So instructions for us were to focus on the evidence and the instructions. Not make any – we couldn't speculate about things. I'm not entirely sure, I think it might have just maybe been his thought process. Maybe the way he thought through things. But he did seem to like really try to make analogies to the situation and then explain what something meant based upon this analogy he came up with. Which really felt like he wasn't really looking at the evidence and wasn't necessarily understanding some of the instructions.

Or for the Reichardt, I think just my personal opinion about us finally coming to the agreement that we couldn't make a decision was he just kept with that sort of line of thinking and questioning. He really seemed like he wanted more. Like, he normally wanted more time, but I think he would have spent more time on it to discuss it and to debate it and to look at everything again.

But he finally said, okay, not guilty based upon mistake of law as a defense because he had agreed with the trespass at Reichardt. Okay, aiding and abetting you can see Wayne aiding and abetting. When it comes to conspiracy, with Reichardt he was of the mindset that Wayne had gotten to a point where he felt he was acting in good faith. Because he's been doing this for so long and the whole thought of 597 and he's got the right to do these things that he's convinced himself that – he's acting in good faith by doing that. So he's like, I can see where Wayne would do these things and not think about it is kind of where he settled. I think it's probably the best way to put it.

Justin: Yeah. And he was one of the two I think you said who may have been not guilty for the conspiracy also at Reichardt, but he was moved by Almira's testimony there.

Juror: And at Sunrise. He was one of the two at Sunrise on conspiracy – he was actually the one that wanted [Almira's] testimony read back.

Justin: Is that right?

Juror: And that made up his mind for him.

Justin: And that was how you were able to get the conspiracy conviction count after the Almira testimony.

Juror: Yeah.

Justin: Okay, perfect. Last thing, do you have, was there anything during the trial that stood out to you as like a key moment where you were – you know as you said you didn't know what the term trespass and conspiracy meant until you got the instructions.

Juror: Yeah.

Justin: But when you were sort of sitting there for all these days and all this time, was there a period you felt yourself turning? Like was there a period early in the trial you more inclined to say I think that what Wayne did is okay or whatever? You have some version that I'm oversimplifying. But then was there a turning point or was there a key point at the beginning where you're like all right I don't think it's going to go well. Were there any key points like that?

Juror: Not for me personally, no. I didn't really come to a decision about anything until afterwards, until we got into deliberation and were able to read the instructions and understand the actual charges. But that's just me personally.

Justin: Yeah. Yep.

Juror: I'm very much a – I went to college and got a degree. I work in employment field. So for me, everything is very much like look at all the evidence to come to a conclusion. That's the way you know even employment problems work a lot of times. It's very linear thinking and you have to look at everything and then, you know, does this support the facts or not and go on from there.

Justin: Very linear, very linear.

Juror: But of course, with the thinking that okay, he's innocent. Now let's look at the evidence. Does that actually line up with what the prosecution is saying why he would be guilty. So yeah, it was nothing before that that would have convinced me one way or the other prior to deliberation.

Justin: And have you ever heard of a concept in your studies or just in life called jury nullification? Have you ever heard of that?

Juror: I have never heard that term. No, I saw that in your questions, but I had never heard it before.

Justin: It's not something that I think most people have heard of. It's basically just a power. It has to do with like a jury – the judge doesn't tell the jury this – but the jury has the power to do whatever they want to, to buck the linear thing because there's nothing that can be done. It's in favor of acquittal. If you're going to convict somebody you have to sort of go through the steps that you described. If you wanted to acquit, there's a sort of power, it's called nullification. So if somebody was – the famous cases are from the underground railroad, right? People were smuggling people up and we still had fugitive slave laws in the South, and they'd say, okay, we're prosecuting you. And sometimes jurors would acquit. Judge, what the heck is going on instead of like sort of these famous stories and the canons of history. But it sounds like it did not come up and you had never even heard of it.

Juror: No, not at all.

Justin: And what about, one last question – were there any key witnesses for you, good or bad? Like any witnesses that moved you or left you feeling like – you’ve generalized about the witnesses . . . that really didn’t help because of familiarity, but was there anything else in your reflections or witnesses that helped or became important to the deliberation?

Juror: Yeah, I’ll say I’m not speaking fully for myself. I’ll speak as a group because there were several that stood out to all of us. The first one, the one that stuck out the most was definitely Picklesimer. He did not impress anybody. And I think he actually impacted several people negatively by his testimony. Who else?

Justin: How come?

Juror: I will say Zoe was well-received by many people. And me personally, Mr. Weber from Sunrise. Particularly when Wayne was cross-examining him. He got a bit emotional on the stand like it really felt like he opened up and was being sincere and honest about the impact that this had upon him and his family business. So he was definitely one that I feel like was – I’ll say easy to feel like – he was definitely being honest and truthful and sincere with his testimony. Yeah.

Justin: So when you listened to Mr. Weber, you felt like he was sincerely speaking to like – this was damaging to me. It’s problematic and you can sort of feel the emotion and the sincerity of him.

Juror: Oh yeah.

Justin: That he was upset about the fact that this had happened on his farm.

Juror: Oh, definitely. And you can see it in the live stream too. You know, we got to see the live stream probably more than any of us wanted to. But that same sincerity was in the live stream, and I think that it was brought up at some point – I don’t remember if it was the prosecution or the defense – about how he seemed to act calmly during this whole thing. But it struck me that watching the live stream as many times that we did was he wasn’t necessarily calm. He may have seemed that way, but you can hear it in his voice at times and really just that he was overwhelmed with what was going on. And how much it definitely had impacted him. So yeah, he really felt to me like the strongest witness, for the prosecution.

Justin: Okay, yeah, well that makes sense. He was credible to you all.

Juror: Yeah.

Justin: What about Paul? What was it that rubbed everyone wrong about Paul’s testimony?

Juror: Wow, he just seemed really like – trying to think of a good way to put it. I’ll say that he was definitely a direct opposite of how Mr. Weber had acted. You know, he was very much like, almost aggressive to me in kind of how he responded to some things. It may have been his enthusiasm or passion, but it definitely came off overall as a bit more aggressive. That made it more difficult to believe that his actions, particularly, were leaning towards the nonviolent and passive civil disobedience approach.

Justin: What about Matt Johnson?

Juror: I remember Matt too. I think overall again, like him and Lewis both seemed to kind of really laugh some of it off while there was testimony. They were actually laughing and kind of like, you know how some people will talk about something and just kind of like be somewhat offhanded about it? So you're not entirely sure how sincere or honest they are being. What do they really think about what's going on? It almost felt like, and I think I want to say it was Lewis more than Matt, but I could be mistaken. It was definitely one of them.

Definitely really felt like not being serious about the whole thing like I'd said earlier that I felt like there were some who really kind of didn't seem to be treating this as sincerely and as seriously as it was. And those two kind of stand out as being more that way, which made it a little bit more difficult. And I'll say difficult especially for Matt to feel like he was being honest about everything. Difficult to question him, especially when the prosecution brought up things like what he did on Fox News and Newsmax, where he was being very deceptive. Even though I know his intentions may not have been done well, but were in the right place, it seemed very deceptive in the approach as far as how you manage to get it. Well, you [have to] be deceptive to somebody to book an interview, but with a news station, a national news station, but yeah.