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Rocky Road to Selection of Full Jury for Trump Trial

Manhattan Assistant DA Christopher Conroy said Donald Trump—who is barred from publicly speaking about witnesses in the case—has violated the judge’s gag order seven times since Tuesday.

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White Collar Crime



Emily Saul



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Part in Donald Trump’s Manhattan criminal case Thursday, the day ended with an entire 12-person jury selected to serve in judgment of the former president.

“We have our jury,” Acting Supreme Court Justice Merchan declared just before 4:40 p.m. The panelists were swiftly sworn in.

The new panelists include an investment banker and an e-commerce worker.

Selection followed a measure of turbulence Thursday morning, as the judge excused two previously empaneled jurors and prosecutors again accused the former president of violating the gag order.

Manhattan Assistant DA Christopher Conroy said Trump—who is barred from publicly speaking about witnesses in the case—has violated the judge’s order seven times since Tuesday.

“We are asking you to hold the defendant in contempt,” Conroy told [Acting Supreme Court Justice Juan Merchan](#), adding his team would be handing up an order to show cause.

The prosecutor said his office is considering financial penalties and “considering other options,” which could include jail time.

Conroy on Tuesday asked the judge to [fine Trump \\$3,000](#) for three social media posts the office said were in violation of the order. Merchan set a hearing on the issue for next week and indicated he would review the seven new posts in that same proceeding.

While court adjourned Tuesday with a panel of seven jurors, two were excused Thursday. One asked the judge to dismiss her over qualms she had been identified by people she knows due to details released in media accounts of the jurors.

“I definitely have concerns now,” the former Juror No. 2 told the judge and parties. “I don’t believe I can be fair and unbiased.”

She was excused. The man formerly known as Juror No. 4 was also excused after prosecutors said their office discovered he had lied about his criminal history and other personal matters.

He was brought in and questioned at sidebar and then excused. Merchan said personal information had been discussed and that portion of the transcript would be sealed.

Of the four remaining jurors Thursday afternoon, one is a corporate attorney and another is a civil litigator.

At the end of the day, a new group was sworn in as prospective alternates.

Merchan in March ruled the panel and prospective jurors would serve anonymously, ruling he found good cause to believe they could face harm if their identities were revealed.

“The Court further finds good cause, on the record before it, ‘that there is a likelihood of bribery, jury tampering, or of physical injury or harassment of juror(s),’” Merchan wrote, citing CPL §270.15(1-a).

Jury selection in the first criminal case to head to trial against the fourfold-indicted former president is playing out in front of the global media and Merchan on Thursday addressed the dozens of reporters in attendance.

“I am directing that the press refrain from writing about anything that you observe with your eyes and hear with your ears related to the jurors that’s not on the record,” the judge said. “There is case law that supports that. I have the legal authority to do it.”

Merchan also instructed the press not to report answers regarding past and present employment and said those answers would be stricken from the questionnaire.

“It’s information that both sides need to properly select the jury in this case, but it has become a problem,” he stated. “The answers to questions 3A and 3D will be redacted from all transcripts and the press is directed not to report on it.”

First Amendment lawyers questioned the directive.

“A long line of U.S. Supreme Court authorities recognize that what transpires in open court is public and that an order directing the press not to report that information is an unconstitutional prior restraint,” said Seth Berlin, senior counsel at Ballard Spahr and an adjunct media law professor at Georgetown University.

Saul Ewing litigation partner Jeffrey Robbins called the judge’s comments from the bench “extremely dubious.”

“It isn’t as though the Court would not have been well-justified in ordering that this information be kept sealed in the first place,” Robbins said. “It obviously would have been. But where material is part of the public record and where, moreover, public officials are responsible for it being there, it seems to me that this sort of Court order is highly vulnerable to legal challenge.”

Justin Nelson of Susman Godfrey said the stakes were high in what is already a historic case.

“A judge can and should have the discretion to protect personally identifying juror information,” he stated. “The sanctity and safety of the jury is paramount.”

Trump was indicted last year by the office of Manhattan District Attorney Alvin Bragg on 34 felony counts of falsifying business records relating to a scheme to suppress negative information about himself during his 2016 presidential campaign.

Trump, who is represented by Todd Blanche and Emil Bove of Blanche Law and Susan Necheles and Gedalia Stern of Necheles Law, has pleaded not guilty and denied the charges.

The trial is expected to last six to eight weeks.

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