

1 (The interpreter was duly sworn.)

2 (The defendant was duly sworn.)

3 THE COURT: We're here for the
4 pretrial conference on Commonwealth versus Weiwu
5 Zhao. We're going to talk about what we need to
6 do for the trial, and we're going to address the
7 defendant's latest pretrial motion.

8 So first of all, the trial is
9 scheduled for October 30th. Is that everyone's
10 understanding?

11 MS. MAJEWSKI: Yes.

12 THE COURT: Do you understand that,
13 Mr. Zhao?

14 THE DEFENDANT: Yes.

15 THE COURT: And how many days do we
16 anticipate that will be?

17 MS. MAJEWSKI: The Commonwealth has
18 three witnesses. I anticipate to conclude by
19 Tuesday.

20 THE COURT: Mr. Zhao, how many
21 witnesses do you -- well, how long do you think
22 you need? I see you have a motion for a ten-day
23 trial, which we're not doing. Do you have any
24 idea how much time your side of the case will
25 take?

1 THE DEFENDANT: Ten days.

2 THE COURT: Well, we're not doing a
3 ten-day trial. We'll look at the crimes charged
4 on the jury chart for how many jurors we need.
5 Do you know how many you would request?

6 MS. MAJEWSKI: I believe a panel of
7 36 would be sufficient.

8 THE COURT: Mr. Zhao, do you have
9 any thoughts on the number of the jurors for the
10 voir dire panel?

11 THE INTERPRETER: Excuse me, Your
12 Honor, would you repeat that?

13 THE COURT: Does he have any
14 thoughts on the number of jurors that would be
15 appropriate for his voir dire panel?

16 THE DEFENDANT: 36 is fine.

17 THE COURT: Courtroom technology,
18 this is not a smart courtroom. There's minimal
19 technology available in this courtroom. The
20 parties are to bring their own technology, to
21 the extent they need it, for the display of
22 exhibits to the jurors.

23 Also, every criminal case in
24 Northampton County is governed by an
25 administrative order from President Judge

1 Baratta concerning the sharing of courtroom
2 technology and that will govern this trial as
3 well. Counsel, do you understand?

4 MS. MAJEWSKI: Yes, Your Honor.

5 THE COURT: Mr. Zhao, do you
6 understand, sir?

7 THE DEFENDANT: Yes, I understand.

8 THE COURT: Do you have a copy of
9 Judge Baratta's administrative order?

10 THE INTERPRETER: I'm sorry, your
11 Honor. Mr. Zhao does not understand.

12 THE COURT: There is a court order
13 from President Judge Baratta that applies to
14 every criminal case that's tried in this county
15 concerning courtroom technology and exhibits.

16 It's Mr. Zhao's responsibility to
17 obtain a copy of that from court administration
18 because he's bound by it for purposes of his
19 trial.

20 THE DEFENDANT: Understood.

21 THE COURT: Just let the record
22 reflect that Mr. Karam is here as stand-by
23 counsel for Mr. Zhao. Are there any other
24 issues that we need to address in terms of the
25 logistics of the trial before we address the

1 motion?

2 MS. MAJEWSKI: Your Honor, I have
3 one printout. It was provided on a CD format.
4 This is going to be used as an exhibit. I want
5 to present it to Mr. Zhao.

6 THE COURT: Can you specify for the
7 record what it is.

8 MS. MAJEWSKI: The examiners -- the
9 forensic analyst forensic report.

10 THE COURT: Very good.

11 MS. MAJEWSKI: I'm going to hand a
12 copy --

13 THE COURT: Is there anything else?

14 MS. MAJEWSKI: Not from the
15 Commonwealth's side.

16 THE COURT: Mr. Zhao, aside from
17 the motions that you have filed at the latest
18 round of motions that you filed, do you have any
19 issues that you need to discuss with me
20 concerning your trial?

21 THE DEFENDANT: Yes.

22 THE COURT: what?

23 THE INTERPRETER: May the
24 interpreter ask for clarification?

25 THE DEFENDANT: Your Honor, one

1 thing is that the defendant in this case --

2 THE COURT: Tell him to put the
3 paper down. Go ahead.

4 THE DEFENDANT: Your Honor, the
5 defendant in this case -- I do have a disability
6 and I hope the Court will provide support.

7 For example, I have cataracts so
8 I'm not able to see, read the document clearly.
9 And what I have in my hand is a report from the
10 hospital supporting my statement that I do have
11 a disability.

12 THE COURT: What does he expect me
13 to do about the fact he has cataracts?

14 THE DEFENDANT: For example, Your
15 Honor, when I'm searching for the appropriate
16 exhibit or document to present to Court, I need
17 the assistance of my daughter --

18 THE COURT: No.

19 THE DEFENDANT: -- to help me find
20 it and so I can present to the Court.

21 THE COURT: No. If he's going to
22 act as his own attorney, his daughter is not
23 allowed to sit with him at counsel table. She
24 is not a lawyer. Mr. Karam can assist him in
25 that regard. What else does he need to discuss

1 with me?

2 THE DEFENDANT: Also what I'm not
3 clear at this point, what equipment that the
4 court will provide.

5 THE COURT: None. He needs to
6 provide his own, that's in Judge Baratta's
7 order. I provide no equipment. what else?

8 THE INTERPRETER: The interpreter
9 needs to ask for clarification.

10 THE DEFENDANT: So since the
11 beginning of this case, I have found some
12 evidence. Should I be presenting those
13 evidence, providing those evidence to the court
14 at this point?

15 THE COURT: No.

16 THE DEFENDANT: And when should I
17 be providing the evidence?

18 THE COURT: I'm not going to give
19 him legal advice, that is not permissible. I
20 have advised Mr. Zhao several times that if he's
21 going to act as his own counsel in this matter,
22 he's going to be held to the standard of an
23 attorney; knowing when and how to present
24 evidence is part of that. Mr. Karam is there to
25 answer any questions. What other concerns or

1 questions does he have about the trial?

2 THE DEFENDANT: And also the
3 prosecutor just provided this document to me and
4 I do not know anything about it. I don't
5 understand English. Also, because I can't see
6 due to my eye condition.

7 THE COURT: well, Mr. Zhao has been
8 provided an interpreter today and the
9 interpreter can sit and read the document to
10 him, if necessary. And I've already discussed
11 with him the vision issue. Not now. Later.

12 The interpreter can spend time with
13 you after the pretrial conference going over the
14 document.

15 Are there any other issues, Mr.
16 Zhao, concerning only the logistics of the
17 trial, which is what we're here to discuss. I
18 don't want to talk about that document anymore.
19 I want to know if there's any other concerns
20 about the length of the trial, courtroom
21 procedures, courtroom rules, anything like that
22 for the trial.

23 THE DEFENDANT: So that's why I do
24 not -- Your Honor has not given me a specific
25 duration of the trial at this point. Your

1 Honor, I have not been given a specific duration
2 of the trial. So that makes it difficult for
3 arranging for the experts to come to testify in
4 court for me because some of them come from
5 afar, so if I could be given a specific duration
6 of the trial, then I can arrange for them to
7 arrive.

8 THE COURT: No. We never give a
9 specific length of trial. That is never done.
10 His experts are to be ready and available for
11 trial just like the Commonwealth's expert.
12 Trial starts on October 30th. It's his
13 responsibility to communicate with his experts
14 about that and make them available. But we
15 never give a specific length of trial in advance
16 of trial because that would be impossible to do.

17 Ms. Majewski.

18 MS. MAJEWSKI: The Commonwealth has
19 requested the discovery of any forensic or
20 expert reports the defendant may be introducing
21 at trial and I have no reports that have been
22 provided to me by defense.

23 THE COURT: If he doesn't produce
24 them in advance of trial, they will be
25 precluded.

1 MS. MAJEWSKI: Thank you.

2 THE COURT: I'm directing Mr. Karam
3 to discuss with Mr. Zhao his pretrial discovery
4 obligations.

5 Mr. Zhao, anything else before we
6 discuss your latest motions?

7 THE DEFENDANT: So Your Honor, you
8 have explained the trial duration and I
9 understand that part. The other thing is I
10 would like to understand is during the trial the
11 right for prosecutor to ask for the defense part
12 in terms of the statement in court, what is the
13 duration for that time? The hearing that held
14 September 27th, I believe that was the defense
15 right to make statement in court was not
16 protected.

17 THE COURT: Yes, I know that is his
18 opinion; it's an erroneous opinion.

19 An opening statement, the length of
20 opening statements and closing arguments are at
21 the discretion of the court. I usually give
22 ample time to all to make appropriate opening
23 statements and argument to the jury unless the
24 length of time is abused in terms of argument
25 becoming repetitive or improper. There is no

1 set time period. Does that answer his question?

2 THE DEFENDANT: Understood.

3 THE COURT: Any further questions
4 that he has about how to act as his own counsel
5 are to be directed to Mr. Karam, because the
6 questions he's asking me are not proper
7 questions for the court during a pretrial
8 conference.

9 I would emphasize again to Mr.
10 Zhao, as I have discussed with him many times
11 previously and I can't stress it enough, he
12 should hire counsel. And if he cannot afford
13 counsel, he should apply to the Public
14 Defender's office.

15 Because he does not know what he's
16 doing. And he's going to do himself an
17 incredible disservice in this matter by acting
18 as his own lawyer.

19 And he's going to cause prejudice
20 to himself from a legal standpoint, but I
21 discussed that with him at least four other
22 times. And he's fired three lawyers. With
23 that, I'm going to address his latest motions
24 filed on or about October 17th, 2017.

25 At the outset, it is appropriate to

1 deny all of the motions on the basis they are
2 untimely filed as being significantly past the
3 deadline Mr. Zhao was supposed to file.

4 THE INTERPRETER: Let me make sure
5 -- so all the motions he filed are denied at
6 this point because he filed past deadline; is
7 that correct?

8 THE COURT: Yes.

9 Mr. Zhao has filed several rounds
10 of omnibus pretrial motions, including new ones
11 every time he would fire his past lawyer. And
12 the court indulged those and ruled on the
13 substantive nature of those motions.

14 I'm not indulging these. But for
15 purposes of appellate review, a motion to have a
16 trial lasting ten days is an improper motion and
17 it is denied.

18 A motion to compel a complete copy
19 of the hard drive is an issue that has been
20 discussed at length at several other conferences
21 and hearings before this court concerning
22 discovery. Ms. Majewski, is that correct?

23 MS. MAJEWSKI: That's correct.

24 THE COURT: And as I understand it,
25 we have made a careful record of the

1 Commonwealth's efforts to provide all necessary
2 pretrial discovery to Mr. Zhao; am I correct?

3 MS. MAJEWSKI: Your Honor, that's
4 correct, at length.

5 THE COURT: The Court incorporates
6 by reference all prior transcripts relating to
7 prior defense counsel's agreements, efforts, and
8 arrangements with the Commonwealth concerning
9 the computer files. And with that, this motion
10 is denied as untimely, frivolous, and
11 duplicative.

12 The defendant's motion to obtain
13 the solutions for protecting due process is
14 nonsensical. The defendant seems to suggest that
15 at the omnibus pretrial hearing he was denied an
16 opportunity to fully and fairly cross-examine
17 witnesses. The transcript of that hearing
18 speaks for itself. The court instructed Mr.
19 Zhao several times on the nature of appropriate
20 cross-examination at that hearing, and when Mr.
21 Zhao repeatedly refused to abide by the court's
22 instructions, his right of cross-examination
23 ended.

24 He cites here to some rule of equal
25 speech time between prosecution and defense.

1 There is no such thing.

2 There's some request in here for
3 transcripts. He can request any transcripts
4 that he wants through the court reporter.
5 There's procedures for that. Those are not
6 being denied to him.

7 Therefore, the motion to obtain the
8 solutions for protecting due process is denied
9 for the reasons stated.

10 Mr. Zhao, all the things suggest in
11 this motion that he was denied time with his
12 interpreter, which is patently false. The
13 record speaks for itself. And, in fact, the
14 transcript indicates that I provided Mr. Zhao
15 with certain documents necessary to protect his
16 legal rights and gave him unlimited amount of
17 time with his interpreter to go over those
18 documents.

19 The record also reflects the
20 absence of any notification to the court by Mr.
21 Zhao or the interpreter that their time was
22 being infringed upon or there was any issue with
23 the translation. That portion of the motion is
24 denied as frivolous.

25 And we are left with a motion to

1 compel Jason Nicholas Veres' text messages. I
2 don't even know who that is. Ms. Majewski.

3 MS. MAJEWSKI: He is the ex-husband
4 of the defendant's daughter.

5 THE COURT: So it's Mr. Zhao's
6 former son-in-law?

7 MS. MAJEWSKI: Correct.

8 THE COURT: Mr. Zhao seems to
9 indicate in his motion that a police officer
10 colluded with his ex-son-in-law to fabricate
11 facts in the case. So he wants an order from
12 the court requesting Mr. Veres to provide the
13 exact names of his cell phone carriers or
14 companies between certain dates and times. The
15 motion is denied as legally improper.

16 There are appropriate mechanisms
17 for Mr. Zhao to subpoena certain records if he
18 believes them to be necessary in his case. I
19 don't have any jurisdiction over Mr. Veres.
20 Until two minutes ago, I didn't know who he was.
21 He's not a party to the case, and I cannot issue
22 that order and it would not be proper for me to
23 do so anyway.

24 Ms. Majewski, have I addressed all
25 the motions?

1 MS. MAJEWSKI: I believe you have.

2 THE COURT: Mr. Zhao, did I fail to
3 address any of your motions?

4 THE INTERPRETER: May the
5 interpreter ask for clarification?

6 THE COURT: Yes.

7 THE DEFENDANT: Regarding the
8 October motion, Your Honor?

9 THE COURT: Yes.

10 THE DEFENDANT: Now I know your
11 opinions regarding the motion.

12 THE COURT: Is there anything else
13 for the record?

14 MS. MAJEWSKI: There is not, Your
15 Honor.

16 THE COURT: Mr. Zhao, do you have
17 any other issues?

18 THE DEFENDANT: Yes.

19 THE COURT: I want to know what the
20 issues are. I don't want a lengthy argument. I
21 want a list of what they are and I'll decide if
22 they are appropriate for this conference. What
23 are they?

24 THE INTERPRETER: May the
25 interpreter ask for clarification?

1 THE COURT: Sure.

2 THE DEFENDANT: So Your Honor, I
3 believe this is for Your Honor during the
4 pretrial conference. I believe that one also
5 need to confer evidence of witnesses to be
6 presented in the trial. We'd like the knowledge
7 of that. We don't know the duration of the
8 trial.

9 THE COURT: We already discussed
10 that. Is that it?

11 THE DEFENDANT: So without the
12 knowledge of all the evidence and witnesses to
13 be presented in the trial --

14 THE COURT: If he's just going to
15 be repetitive of things we already discussed,
16 then the pretrial conference is over and I'll
17 see you all on the 30th. Thank you very much.

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CERTIFICATION

I.

I HEREBY CERTIFY that the proceedings are contained fully and accurately in the notes taken by me in the above cause, and that this is a correct transcript of the same.

Date: _____, 2017

Karen A. Mengel
Registered Professional Reporter

II.

The foregoing record of the proceedings in the within matter is directed to be filed.

Date: _____, 2017

Jennifer R. Sletvold, Judge