

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

UNITED STATES OF AMERICA

*

v.

*

Criminal No. ABA-25-0143

PATRICK BRITTON-HARR

*

Defendant,

*

* * * * *

DEFENDANT PATRICK BRITTON-HARR'S MOTION FOR NEW TRIAL

Defendant Patrick Britton-Harr, by and through his undersigned counsel, Law Offices of Gerald C. Ruter P.C., respectfully requests this Honorable Court Order a new trial due to the misconduct that occurred at his trial between jurors and the deputy courtroom clerk. In the interest of justice, a new trial is necessary due to the misconduct of court personnel and jurors. In support of this motion, Mr. Britton-Harr states as follows:

RELEVANT FACTS

Mr. Britton-Harr's trial was severely impacted by the actions of the courtroom deputy clerk who is no longer employed by the U.S. District Court for the District of Maryland for unknown reasons to counsel. Ex. 1, ¶ 1. Court staff shared multiple incidents of improper conduct by the courtroom deputy clerk and jurors. **Exhibit 1** is a letter from Chief Deputy David E. Ciambruschini that outlines his understanding of "the conduct of the assigned courtroom deputy clerk during the jury trial. . ." written to Judge Adam B. Abelson dated July 2, 2026. *Also see* ECF 133-1. Upon receipt of this letter, Judge Abelson immediately placed that letter on the docket and wrote a letter to counsel to advise them of the filing. ECF 133. *See* **Exhibit 2**.

The first incident included communication between the courtroom deputy and the Defendant's father, who regularly attended trial and observed the proceedings from the courtroom gallery. Ex. 1, ¶ 2. The Defendant's father would speak with the courtroom deputy during breaks, and during one interaction the Defendant's father told the courtroom deputy that she was the best "cattle herder" that he ever saw. *Id.* The courtroom deputy apparently took offense and shared it with court staff, further stating that she would not speak to the Defendant's father anymore. *Id.* On or about that same day, jurors spoke to the courtroom deputy and told her that they almost shared an elevator with the Defendant's father. Ex. 1, ¶ 3. The courtroom deputy then shared with jurors the incident she experienced with the Defendant's father when he called her a "cattle herder." *Id.* The courtroom deputy later shared this incident with court staff. *Id.* In the letter from the Chief Deputy, it is stated that "court staff felt it was apparent the courtroom deputy took offense to the comment, and [they] felt that sentiment may have been conveyed to the jurors, too." *Id.*

In another incident, the courtroom deputy relayed to the Court a question by a juror about the definition of wire fraud. Ex. 1, ¶ 4. Prior to sharing this with the Court, the courtroom deputy reported the interaction to court staff. *Id.* When discussing this incident, she further shared that a juror informed her that the jury was not talking about the case in the deliberation room, and she responded to the juror in the effect of "[n]o one will know what goes on behind these four walls." *Id.* The courtroom deputy then reported the juror's wire fraud question to the Court, but when parties discussed the incident on record and the courtroom deputy recited the interaction on record, some of her comments that she relayed to court room staff were noticeably missing from the recitation. Ex. 1, ¶ 5.

In another incident during this trial, on or about day seven, court staff observed the courtroom deputy leaving the jury room with a piece of paper in her hand containing names, phone numbers, and email addresses in different colored pen marks. Ex. 1, ¶ 6. The courtroom deputy then remarked to the court staff “[t]hey’re done,” in reference to the jurors. *Id.* Then the courtroom deputy shared with court staff that the jurors had asked her if they were allowed to “attend the sentencing if they found the Defendant guilty.” *Id.* The courtroom deputy reportedly responded in the affirmative, but that it would not be for a few months. *Id.* Then the courtroom deputy informed court staff that she had told the jurors she would contact them, and the jurors provided their contact information. *Id.* The contact information included all fifteen jurors and alternates, and this is reportedly what the courtroom deputy was holding when she exited the jury room. *Id.*

In yet another incident, “two jurors told the courtroom deputy that they had a ‘crush’ on one of the Government’s witnesses.” Ex. 1, ¶ 7. The courtroom deputy shared this with court staff, but she did not mention if she responded to the jurors. *Id.* Court staff reported another incident where the courtroom deputy told court staff the jurors were “complimenting her figure,” and the courtroom deputy responded to jurors that “she engages in intermittent fasting, and that she wrote a book on the topic.” Ex. 1, ¶ 8. Court staff does not know if the courtroom deputy further encouraged the jurors to purchase her book. *Id.*

On the morning before closing, a juror informed the courtroom deputy that she told her husband: “[W]hen we’re done today, I’m not going back to work until Monday.” Ex. 1, ¶ 9. The courtroom deputy again shared this with court staff, and court staff understood this to mean the juror believed a verdict would be reached shortly after closings. *Id.* Later, a juror purportedly informed the courtroom deputy that she wanted to hold up a sign that said “we’re done” during

the Defendant's closing argument, and the courtroom deputy shared this with court staff. *Id.* The courtroom deputy did not state whether or not she replied to either of those comments. *Id.*

Finally, after the trial, "the courtroom deputy reportedly told court staff that she permitted each juror to take their notebooks home at the end of deliberations in violation of court policy" and the Court's specific instructions. Ex. 1, ¶ 9; Trial Tr. 8:18-21 of **Exhibit 3**.

This marks approximately eight incidents of misconduct by the former courtroom deputy that were reported by court staff. There can be no definitive answer how many more incidents occurred that were not shared with court staff or observed by court staff, and therefore not reported as an incident.

LEGAL STANDARD

1. Standard for Defendant's Motion for New Trial

Mr. Britton-Harr's motion for a new trial is warranted as his constitutional right to a fair and impartial jury, as guaranteed by the Sixth Amendment, was violated. U.S. Const. amend. VI. Under Rule 33 of the Federal Rules of Criminal Procedure, "[u]pon the defendant's motion, the court may vacate any judgment and grant a new trial if the interest of justice so requires." Fed. R. Crim. P. 33(a). In the case of newly discovered evidence, a motion for a new trial "must be filed within 3 years after the verdict or finding of guilty." *Id.* at 33(b)(1). For any other reason, a motion for a new trial "must be filed within 14 days after the verdict or finding of guilty." *Id.* at 33(b)(2).

However, improper juror contact that is discovered post-verdict qualifies as newly discovered evidence. *See United States v. Endicott*, 869 F.2d 452, 457 (9th Cir. 1989) (holding that alleged improper juror contact constituted newly discovered evidence for Rule 33 purposes

because neither the defendant nor the court was previously aware of the conduct). Further, the Court has nonetheless set a schedule for motions involving a new trial request.

2. *Standard for New Trial Due to Improper Conduct Between Juror and Court Personnel*

A defendant may seek a new trial when improper conduct threatens the integrity of the verdict as rooted in the Sixth Amendment’s guarantee of an impartial jury. In *Remmer v. United States*, the Supreme Court held that the defendant was entitled to a new trial due to extraneous communications with a juror. 350 U.S. 377, 382 (1956). The Court stated that “[i]n a criminal case, any private communication, contact, or tampering directly or indirectly, with a juror during a trial about the matter pending before the jury is, for obvious reasons, deemed presumptively prejudicial, if not made in pursuance of known rules of the court with full knowledge of the parties.” *Id.* at 379 (quoting *Remmer v. United States*, 347 U.S. 227, 229 (1954)). Further, the Court held that “the burden rests heavily upon the Government to establish, after notice to and hearing of the defendant, that such contact with the juror was harmless to the defendant.” *Remmer v. United States*, 347 U.S. 227, 229 (1954). Later, in *Smith v. Phillips*, the Supreme Court clarified that the inquiry is whether the juror was biased against the defendant, which may be examined through a post-verdict hearing in which all parties may participate. 455 U.S. 209, 221 (1982).

The Fourth Circuit has articulated a three-part framework in determining whether a defendant has been prejudiced: (1) the moving party must provide evidence of extrajudicial communication that was “more than innocuous interventions”; (2) if satisfied, a presumption of prejudice arises; and (3) the burden shifts to the non-moving party to show “no reasonable possibility that the jury’s verdict was influenced by an improper communication.” *United States*

v. Cheek, 94 F.3d 136, 141 (4th Cir. 1996); *United States v. Blauvelt*, No. CRIM. WDQ-08-0269, 2009 WL 1230264, 3-4 (D. Md. May 1, 2009).

When court personnel communicate improperly with the jury, courts have consistently treated the conduct as presumptively prejudicial. In *Parker v. Gladden*, the Supreme Court held that an improper communication by a court official to members of the jury required an order granting a new trial. 385 U.S. 363, 365 (1966). The court further emphasized that communications from officers of the court carry special weight precisely because jurors may view such individuals as extensions of judicial authority. *Id.* at 365. The Second Circuit, in *United States v. Brasco*, held that where an unauthorized private communication “did in fact relate to a matter pending before the jury, the communication is presumed prejudicial, and a new trial must be granted unless the Government can establish at a hearing ‘that such contact with the juror was harmless.’” 516 F.2d 816, 819 (2nd Cir. 1975) (quoting *Remmer v. United States*, 347 U.S. 227, 229 (1954)).

If the contact does not relate to a pending matter, there must be a showing of actual prejudice. Courts will frequently ask about “the nature of what has been infiltrated and the probability of prejudice.” *Manley v. AmBase Corp.*, 337 F.3d 237, 251 (2nd Cir. 2003). In *United States v. Brande*, a juror was overheard saying he could not find anyone guilty due to his religious beliefs and two other jurors reported this to a court clerk who approached the juror on the question. 329 F.3d 1173, 1175 (9th Cir. 2003). This contact only came to light after the trial and the Ninth Circuit held that an evidentiary hearing was required to determine whether the incident affected the defendants’ substantial rights, and if it did to grant a new trial. *Id.* at 1178. Further the court identified three aggravating factors: (1) the contact was between a juror and court personnel, making the juror more susceptible to improper influence than if the contact had

come from a spectator or party; (2) the communication concerned the central duty of a juror and may have influenced that duty; and (3) as the contact surfaced only post-verdict, no instruction to cure was possible. *Id.* at 1177. The court emphasized that “this duty is heightened when a potential breach of impartiality may have resulted from the act of a court employee.” *Id.* at 1178. In *United States v. Calderon*, a court security officer told a juror, in reference to the defendants, “these people are all pigs” or “they’re all pigs” and “they must be like this at home,” which was overheard by defendant’s relatives who alerted defense counsel. 127 F.3d 1314, 1349 (11th Cir. 1997). As counsel knew of this contact prior to the verdict and failed to raise an objection or move for mistrial, the claim was waived. *Id.* at 1334. Similarly, in *United States v. Jordan*, the court found that a court personnel’s statements to a juror and their conversations had outside influence on the verdict, requiring a new trial. 384 F. Supp. 3d 707, 722 (E.D. Tex. 2019). Further, the court concluded that “the legitimacy of the criminal justice system depends on the public’s faith that, if they are charged with a criminal offense, they will be deprived of their freedoms only after a jury finds them guilty beyond a reasonable doubt, based solely on the evidence before them” and “[i]f the Court’s role as a defender of the judicial process is to have any meaning, the Court cannot find that the verdicts reflect the jury’s unanimous decision, free from outside influence.” *Id.*

ANALYSIS

In the interest of justice, Mr. Britton-Harr requires a new trial to alleviate the misconduct of court personnel in his trial that caused prejudice towards him due to the actions of the former courtroom deputy, Ms. Herndon. In *United States v. Brande*, where the court required a new trial when conversations discussed the question of guilt, the court set out three aggravating factors: (1) the contact was between a juror and court personnel; (2) the communication concerned the

central duty of a juror and may have influenced that duty; and (3) as the contact surfaced only post-verdict, no instruction to cure was possible. 329 F.3d 1173, 1177 (9th Cir. 2003). In the case herein, the conversations were between a juror and court personnel, specifically the courtroom deputy. The conversations may have involved opinions on guilt as jurors stated their thoughts on the verdict in multiple instances to the courtroom deputy, which affirmatively concerns the central duty of a juror in determining guilt. Additionally, the courtroom deputy's actions and sentiments may have influenced jurors' decisions through statements regarding the Defendant's father; a statement to the effect of "no one will know what goes on behind these four walls;" a response to a question of attendance at sentencing if the jury found the Defendant guilty along with a seeming presumption of guilt by acquiring juror's contact information for sentencing prior to the verdict; and expostulations of opinion of guilt that jurors felt comfortable expressing to the courtroom deputy due to the flourished relationship built between them. Ex. 1. Lastly, all but one of the communicative instances between Ms. Herndon and jurors were not revealed until the conclusion of the Defendant's trial. Besides the instance involving the definition of wire fraud that counsel for the defendant objected to, these incidents were not disclosed to the Court nor to the parties to provide any chance of curing this misconduct without necessitating a new trial.

Similarly to the incident in *United States v. Calderon* where the court security officer expressed negative sentiment towards the defendants to jurors, the courtroom deputy in this matter seemingly relayed her negative opinion of the Defendant's father to jurors. 127 F.3d 1314, 1349 (11th Cir. 1997). As Ms. Herndon expressed her offense to the Defendant's father's statement to court staff, court staff deemed that offense apparent and reported that when the courtroom deputy discussed this situation with jurors, she presumably conveyed that sentiment to the jurors as well. Ex. 2, ¶ 2. As in *Parker v. Gladden*, where the court emphasized that

communications from officers of the court carry special weight precisely because jurors may view such individuals as extensions of judicial authority, the courtroom deputy here may have influenced juror's opinions of the Defendant through negative sentiments towards the Defendant's father having come from court personnel. 385 U.S. 363, 365 (1966).

Here, the deputy courtroom clerk, Ms. Herndon, was communicative with the jury in approximately eight known incidents that court staff deemed necessary to report to the Chief Deputy. Ex. 1, ¶ 1. Similarly to the incident in *United States v. Jordan*, where court personnel's conversations with a juror deprived the defendants of a fair trial, the courtroom deputy here, in one of her eight incidents, seemingly made comments potentially influencing the deliberation process. 384 F. Supp. 3d 707, 722 (E.D. Tex. 2019). When told by a juror that the jury was not discussing the case in the deliberation room, Ms. Herndon responded to the effect of "no one will know what goes on behind these four walls." Ex. 2, ¶ 4. This statement, which was not brought to the attention of the Court, seems to evoke a seeming influential approval or laissez faire attitude towards finding a verdict in the jury's actions of not discussing the case during deliberations. Ex. 2, ¶ 5. Further, as no statement on this matter was provided to the Court during trial, only the brief summary of the courtroom deputy's conversation with court staff that was discovered post-verdict, there is no telling what else was discussed throughout the course of the trial in conversations between Ms. Herndon and the jurors that Ms. Herndon did not share with other court personnel. Ex. 1, ¶ 5.

The extent of the jurors' familiarity with the courtroom deputy is also troubling, particularly given their personal conversations and their willingness to discuss their views on the verdict with her. As Ms. Herndon is no longer employed by the U.S. District Court for the District of Maryland, there is no further evidence of her discussions with the jury or statements

to specific jurors beyond the brief comments she made to other court staff that were later reported. Ex. 1, ¶ 1. This conduct was substantially more than innocuous intervention. Accordingly, prejudice must be presumed, and the Government must show that there is “no reasonable possibility that the jury’s verdict was influenced by an improper communication.” *United States v. Cheek*, 94 F.3d 136, 141 (4th Cir. 1996); *United States v. Blauvelt*, No. CRIM. WDQ-08-0269, 2009 WL 1230264 (D. Md. May 1, 2009). This is not merely “harmless error” nor was it completely or even substantially “innocuous,” unrelated to the merits of the case, or uninfluential as stated by the known facts of the matter and the potential abundance of unknown statements. The comments made were influential and there is no substantive reasonable possibility that the jury’s verdict was not in fact influenced by the disappointing misconduct of former courtroom deputy clerk, Ms. Herndon.

The jurors’ comments to the courtroom deputy, together with the courtroom deputy’s statements to other court personnel, demonstrate prejudice against Mr. Britton-Harr. The misconduct must be considered cumulatively to appreciate its impact on the jurors. Because bias affected Mr. Britton-Harr’s trial, the interest of justice requires a new trial.

CONCLUSION

Mr. Britton-Harr requests a hearing on paper in the interest of justice as to his motion for a new trial as the evidence of misconduct is already substantial and meets the requirements for a presumption of prejudice, and there is more than a reasonable possibility that the jury’s verdict was influenced by these improper communications. Alternatively, if an evidentiary hearing is necessary, Mr. Britton-Harr requests testimony from each individual juror, all court staff that either submitted reports or overheard comments from the courtroom deputy, Ms. Herndon, the

personal notes the jurors were wrongfully permitted to leave the courthouse with and for any other relevant evidence that may exist.

Respectfully Submitted,

/s/Gerald C. Ruter

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Certificate of Service

I certify on this 30th day of July 2026, that this document was electronically sent by CM/ECF to all counsel of record.

/s/Gerald C. Ruter

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