

OTTAWA COUNTY PROSECUTOR MEMO TO POLICE AGENCY

DEPARTMENT: Michigan State Police, Lakeview Post. Attention D/Sgt. Raymond Sowa

SUSPECT: Robert Zabriske

COMPLAINT NUMBER: 064-0009905-19

NATURE OF COMPLAINT: Jury Tampering Investigation

WARRANT NOT AUTHORIZED

FURTHER INVESTIGATION

OTHER

NOTES: I do not believe that it can be proven that Detective Zabriske intended to commit the offense of Jury Tampering or any other associated type of offense. Several factors lead me to this conclusion:

1. The juror in question, a personal friend of Mr. Zabriske, initiated the contact between herself and Zabriske. If not for her initiating this contact, there would have been no reason for Zabriske to contact her about this particular trial, as he was not involved in the case.
2. There is no evidence that Zabriske had any particular interest or involvement in the case, professionally or privately, where his friend was sitting as a juror. He had no knowledge of the facts of the case.
3. The nature of the questions the juror was asking him did not go to the subject matter or facts of the case. The evidence shows the juror contacted him via text him to ask advice concerning a difficult juror that was on the panel.
4. It is apparent from the text messages that Zabriske did not believe the juror was serious about this at first when he initially attempted to answer her questions. Once he learned that she was actually on a jury and was serious, he told her he could not discuss the case with her any further.
5. Zabriske, realizing the possible implications of this contact with the juror, immediately brought it to the attention of the Assistant Prosecutor trying the case. This was the proper action to take on his part and is indicative of lack of intent on his part to influence this juror in any way.
6. The juror stated to the Court that there was no attempt by Zabriske to persuade her in any way about her decision in the case.
7. Any fault here lies with the juror who violated the Court's instructions about discussing the case with anyone outside of the jury deliberations.

In light of the above, it is my opinion that Zabriske was not attempting to influence the juror's decision through argument or persuasion as is required to convict per the relevant statute. It also does not appear to me that the juror's position about the case was influenced in any way by her contact with Zabriske. Therefore, I do not believe that it could be proven to any evidentiary standard that Zabriske committed a crime. Thank you.

Dated 1-15-2020

LF Fisher P42384

Lee F. Fisher, CAPA

Ottawa County Prosecutor's Office