

# THE JOSHUA SCHULTE JURY IS FALLING APART

Even before Judge Paul Crotty dismissed a juror today for reading outside information and sharing it with another juror, it was clear that the jury was a mess. Going all the way back to February 13, a juror had said something to another juror that concerned him.

THE COURT: Okay. I got a note from a juror, and it deals with an incident that occurred on Thursday late in the day. He then left the courthouse. We asked him to put the report that he made to David on Thursday in writing, which he did on Tuesday morning. This is the note. I'm going to mark it as Court Exhibit 1. I made copies. So I don't think we can resolve this now. But I wanted to call it to your attention right away.

[snip]

MS. SHROFF: It's her belief. She's not saying she can't be impartial. She's not deliberated. She's voicing an opinion. And she also notes that that was a different – I mean, she's saying she is a different kind of citizen. That's what we want. A jury of peers.

Judge Crotty discussed that incident with the two sides on February 19.

Then, on the first day of deliberations Tuesday, the jurors sent a bunch of notes, including one with seven questions, several of them (the questions about the DevLAN outage, drugs, and Aspergers) entirely unrelated to Schulte's guilt or innocence:

Message: What is included in Count Three? We aren't sure what the purview is – articles, search warrants, tweets?

(2) In 2015, when DevLAN went down, was Schulte called to fix the problem? How did he fix it? (3) Can you please reread what was found on Schulte's home computer? (4) Did GX 809 reference Schulte's taking a drug ("took my last piece")? If so, what was it? Was it regular use? (5) Is it confirmed that Schulte's been diagnosed with Aspergers Syndrome? (6) For Count One, is Altabackups inclusive of Brutal Kangaroo? Is it inclusive of OSB libraries? (7) Where were OSB libraries housed/where did they live?

While a number of the questions made sense, it was also clear that the jurors are confused about the forensic evidence, including multiple threads of evidence that show Schulte was at his computer typing in the commands that reverted the backup on the date the files were stolen.

But today, according to a note from Schulte's lawyers, Juror 1 told the Court that Juror 5 had shared outside information with him.

The defense respectfully requests that the Court halt jury deliberations temporarily and conduct an individual voir dire of jurors 2-11 to ensure that they were not exposed to prejudicial extra-record information from former Juror 5. Such an inquiry is necessary because the Court currently only has the information received in the robing room from Juror 1 and former Juror 5.

The juror who got booted spoke to the press. She seems to believe Schulte did restore his own access to certain files (given her description, she seems focused on Brutal Kangaroo), but does not believe he is guilty of the most serious charges.

"Was he a naughty boy? Yes," Wiesenberg said. "But did he do the final click? I

don't have evidence. I want solid proof that I wasn't given by the parties. I don't think he did it – the most serious charges.”

[snip]

The five-week trial established that Schulte improperly reinstated his administrative privileges to access secret information he'd been told to stay away from, according to Wiesenberg, who lives in the West Village.

“He felt entitled. This was his tool – he created it,” Wiesenberg said, referring to some of the hacking tools. But that didn't make Schulte guilty of the most serious of 11 charged counts, she added.

Note that, given how little coverage of this case there has been, she probably would have had to go looking for outside information.

In their close, prosecutors didn't point jurors to where, in the pile of evidence they've been presented over the last month, the details are that might prove each of the charges against Schulte (the evidence is there, but it's highly technical). It's unsurprising they're confused. And now Schulte's lawyers want to know what other outside information on the trial has gotten into jurors.

Update: The booted juror told they Post there are others who doubt Schulte's guilt on the most serious charges.

Wiesenberg said the Schulte jury is divided, with people like her who believe the former CIA programmer to be not guilty of the worst leak in the spy agency's history.