

108:25:45

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA - WESTERN DIVISION

HONORABLE MICHAEL W. FITZGERALD, U.S. DISTRICT JUDGE

UNITED STATES OF AMERICA,)

Plaintiff,)

vs.)

DEANDRE DONTRELL WILSON,)

DAVID BRIAN LINDSEY,)

DURK BANKS,)

Defendants.)

2:24-CR-621-MWF

REPORTER'S TRANSCRIPT OF JURY TRIAL

VOLUME XI

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108:25:45 THE COURT: Two points I would like to raise with
208:25:50 you outside the presence of the jury -- the last I checked,
308:25:54 there were seven of the jurors here -- and whatever it is you
408:25:56 would like to raise with me.

508:25:57 Those two points are Mr. Harbaugh's *Brady* motion,
608:26:02 which I have really just had a chance to skim -- I can't say
708:26:05 that I have really read it -- and then the issue of the
808:26:10 witnesses whom Mr. Banks is intending to call.

908:26:13 Mr. Harbaugh, it seems to me, in regard to your
1008:26:16 motion, that there is two separate things here:

1108:26:19 One is you want to make sure the jury knows of the
1208:26:24 information which you view as giving rise to the alternative
1308:26:29 explanation. I take it -- so that is something that you want
1408:26:32 at a minimum, correct?

1508:26:34 MR. HARBAUGH: I apologize. I just want to clarify.
1608:26:37 So I have the *Cui* grounds, the false testimony with
1708:26:42 Mr. Hester, and then the exhibit --

1808:26:43 THE COURT: Yeah. But right now I'm just talking
1908:26:44 about the exhibit. I mean, what you want is that the
2008:26:48 additional stream, which you believe gives rise to the -- a
2108:26:52 more compelling interpretation of the phrase, you want that
2208:26:57 in front of the jury, correct?

2308:26:58 MR. HARBAUGH: Actually, no, Your Honor. I am
2408:27:00 asking for a jury instruction --

2508:27:02 THE COURT: No, I realize you are asking that -- for

108:27:05 that, and I'll get to that. But what I am also trying to
208:27:07 determine is: Do you want the information which you view as
308:27:12 being exculpatory and tardily provided in front of the jury
408:27:18 or not?

508:27:18 MR. HARBAUGH: No, Your Honor, because it
608:27:21 exacerbates the prejudice.

708:27:22 THE COURT: Then that is fine. In that case, we
808:27:24 will deal with your -- that is the issue which would require
908:27:28 me to do something right now. So you will have plenty of
1008:27:31 time to argue for what it is that you want, and I did read
1108:27:34 your motion enough to have an understanding of that, but we
1208:27:37 can deal with that this evening; we can deal with it
1308:27:40 tomorrow.

1408:27:41 MR. HARBAUGH: Understood, Your Honor.

1508:27:41 THE COURT: We'll just deal with it then. I want
1608:27:44 you to know that I got it. But if you had wanted to include
1708:27:46 that, and -- I would then ask the Government whether there
1808:27:49 was some basis not to do so. If you don't want to do it,
1908:27:52 then we won't do it; so that is done. So that is -- point
2008:27:55 number one is taken care of for now. You will be able to
2108:27:58 argue everything.

2208:27:58 In regard to the defense witnesses, yesterday I --
2308:28:07 we were left with a record which consists of two things: One
2408:28:10 is the representation of Mr. Morse, which I believe to be
2508:28:14 correct, that there are other judges in this court who, at

108:28:18 this point at the end of the Government's case, would want to
208:28:21 get the names and some light proffer as to why -- what it is
308:28:27 that the defense expects from their testimony.

408:28:29 The second is the case to which I cryptically
508:28:33 referenced, which is *United States vs. Seymour*, 576 F.2d,
608:28:39 1345, 1978, in which the Ninth Circuit disapproved of a
708:28:46 standing order by a district judge that required the defense
808:28:50 a week before trial to provide the names of witnesses, and
908:28:55 their address, and a summary of their testimony upon pain of
1008:29:01 being able to call that witness.

1108:29:02 And while the court said that it was not a
1208:29:07 constitutional violation, and there had been no showing of
1308:29:09 prejudice in this particular case, that it did not approve of
1408:29:15 the entry of that subject order, and was not sanctioning that
1508:29:20 practice.

1608:29:21 Here, I think we have something that is very
1708:29:24 different. What I intend to do is, after the Government has
1808:29:29 rested, we'll take a break with the jurors -- and the jurors
1908:29:32 will be happy because they will know the case is going along
2008:29:35 quickly -- and we'll deal with some of the other things that
2108:29:39 we have to deal with.

2208:29:41 But I will ask the defense to list those names in
2308:29:45 the order in which they intend to be called, and then just --
2408:29:48 and we can do this at sidebar. We can clear the courtroom
2508:29:51 for their privacy -- but then just very, very lightly, like

108:29:56 just a sentence, saying, "We expect this witness to talk
208:29:59 about X," or "We expect this witness to be an opinion or
308:30:03 reputation witness about this other witness."

408:30:07 And the reason why that is necessary is essentially
508:30:09 what the Government was alluding to. In the absence of that,
608:30:13 it's just going to be this impossible proceeding where
708:30:20 everyone will be running over to sidebar. The people in the
808:30:24 audience will have no idea what is going on. The jurors will
908:30:27 be sitting there. We'll be arguing in haste about whether --
1008:30:32 what topics might be not -- appropriate to inquire, what
1108:30:36 won't be appropriate to inquire, whether the witness should
1208:30:39 be called at all, as opposed to doing that in a sensible,
1308:30:44 orderly way.

1408:30:44 So I do think that that falls within my authority at
1508:30:49 this very late date where the Government -- the defense has
1608:30:52 had any advantage of surprise that it deserves to have, and
1708:31:00 conduct the trial in a way which is fair to the public and
1808:31:02 fair to the jurors.

1908:31:04 And I'll note that although Rule 16 doesn't require
2008:31:10 this, the Government has been giving much more substantial
2108:31:13 notice to the defense as to who was being called, and
2208:31:20 therefore, the idea that the order of the witnesses would be
2308:31:24 disclosed is not really prejudicial, and it's also consistent
2408:31:31 with what has been happening in this case.

2508:31:34 And again, I'm not going to ask for a real summary

108:31:38 the way Judge Orrick had in the *Seymour* case, but rather,
208:31:42 just an idea of why the witness is here, because then that
308:31:46 will either let us identify whether there is a real problem
408:31:52 with that witness, as we did with the other witness who I
508:31:56 recognized was an issue just looking at the names on a list
608:32:02 on this.

708:32:03 And also, then, if there is an objection, I'll have
808:32:06 an idea of the context of the witness's testimony, so I'll be
908:32:10 able to make a much more intelligent ruling.

1008:32:12 So that is how I propose to proceed after the
1108:32:20 Government has rested.

1208:32:21 So if counsel -- if defense counsel wish to comment
1308:32:25 on this, then they may.

1408:32:28 MS. O'CONNOR: No.

1508:32:29 MR. STEEL: Your Honor, yesterday morning before
1608:32:33 this ever was brought up, I discussed with the Government
1708:32:36 five, maybe six --

1808:32:38 THE COURT: All right.

1908:32:39 MR. STEEL: -- of the witnesses and what they would
2008:32:40 testify about, and I have been open. There are additional
2108:32:43 witnesses that we need to do that, but we have been doing
2208:32:45 that. The Government's been nothing but professional; they
2308:32:49 have been giving us their witnesses in order, and we just did
2408:32:52 the same.

2508:32:52 THE COURT: Okay. Then what I like to do, so at

108:32:55 least I know as much as the Government does, and for the
208:32:59 reasons I said. And again, we can do this at sidebar, or we
308:33:02 can do it outside the presence of the public.

408:33:06 And again, ladies and gentlemen, those of you who
508:33:08 are here, you obviously have an interest in this case. The
608:33:12 First Amendment says that there must be public members here
708:33:16 in the courtroom to observe the trial for a lot of reasons,
808:33:19 and if that is not going to happen, then I have to state on
908:33:23 the record why.

1008:33:24 The only thing I would be doing here is, I think,
1108:33:28 just -- for the -- to keep the witnesses from being annoyed
1208:33:31 or bothered until they have testified, it would be
1308:33:34 appropriate to just have me know their names. In that sense,
1408:33:38 I would like to be as well informed as the Government is at
1508:33:41 this point, Mr. Steel, so we will do that.

1608:33:43 But I appreciate that this is not the issue that I
1708:33:47 thought that it might be.

1808:33:48 Okay. That is all I had for you.

1908:33:50 Does the Government have anything else for me before
2008:33:53 the jury comes in?

2108:33:55 MR. MORSE: Just to add to what Mr. Steel said, and
2208:33:58 he -- Mr. Steel very graciously shared with us information
2308:34:01 about, I think, four or five witnesses. Our understanding is
2408:34:05 that there are additional ones. So we'll talk with counsel
2508:34:07 off line. It sounds like they are amenable to sharing

108:34:11 additional information about those witnesses.

208:34:12 So thank you, Your Honor, for raising that. Thank
308:34:14 you, counsel.

408:34:14 THE COURT: All right. Mr. Findling, Mr. Steel,
508:34:18 Ms. O'Connor, anything else for Mr. Banks before we start?

608:34:22 MS. O'CONNOR: I don't believe so. Thank you, Your
708:34:23 Honor.

808:34:23 THE COURT: All right. Mr. Harbaugh, with the
908:34:24 understanding that you are going to have every opportunity to
1008:34:27 argue your motion, is there anything else for me right now?

1108:34:32 MR. HARBAUGH: No, Your Honor.

1208:34:33 THE COURT: All right. Mr. Mills, anything from
1308:34:36 Mr. Lindsey?

1408:34:37 MR. MILLS: Not at this time, Your Honor.

1508:34:38 THE COURT: Ms. Sanchez, where are we on the jurors?

1608:34:40 THE CLERK: We are missing two jurors.

1708:34:42 THE COURT: All right. In that case, I will leave
1808:34:43 the bench, so we'll be off the record and the public can
1908:34:47 stretch, counsel can chat amongst themselves, and we will get
2008:34:52 started as soon as all of the jurors are here.

2108:34:54 MR. STEEL: Your Honor, can I just give the Court a
2208:34:57 heads-up?

2308:34:58 THE COURT: Sure.

2408:34:59 MR. STEEL: I'm going to have a motion based upon
2508:35:01 the Government was kind enough to share with me a photograph

108:35:04 in anticipation of a cross-examination. I would like to take
208:35:07 up with the Court. So --

308:35:08 THE COURT: Well, we'll have -- again, I don't mind
408:35:11 taking a break, even if it becomes a lengthy break, after the
508:35:15 Government rests, and that would be an appropriate time to
608:35:18 address that. Again, the jurors will understand, then, that
708:35:20 the trial is going more quickly than was anticipated, so they
808:35:24 aren't going to get grumpy if they are kept waiting for a
908:35:29 bit.

1008:35:30 You will have the opportunity to do that, Mr. Steel.
1108:35:31 Mr. Mills, I see you standing up.

1208:35:33 MR. MILLS: No --

1308:35:34 THE COURT: Is that out of courtesy?

1408:35:35 All right. You are anticipating. Great. Okay.
1508:35:38 Thank you.

1608:35:38 (Thereupon, there was a brief recess.)

1708:44:35 THE COURT: Ladies and gentlemen, you may sit or
1808:44:36 stand, as you wish, while we are waiting for the jury.

1908:44:42 MR. STEEL: Your Honor, could I just ask a question
2008:44:45 while the jurors are coming in, sir?

2108:44:47 Could we have a -- would it be appropriate to have
2208:44:49 witnesses here 10:45? 10:30? Does that sound --

2308:44:53 THE COURT: It sounds sensible to me, but it's
2408:44:55 really, I think, what the Government, you know, suggests. If
2508:44:59 there is a -- Mr. Yanniello, any suggestion of how long this

108:45:02 is going to take this morning?

208:45:04 MR. YANNIELLO: Could be finished by the first
308:45:08 break, Your Honor, maybe a little bit later.

408:45:10 THE COURT: All right. In that case, it sounds --
508:45:12 10:30 sounds like a good time, Mr. Steel.

608:45:14 MR. STEEL: Thank you.

708:46:02 (Thereupon, the jury returned to the courtroom.)

808:46:40 THE COURT: Members of the jury, good morning. All
908:46:48 15 of you are here.

1008:46:49 I've got good news for you. The trial is going very
1108:46:56 smoothly, and you will receive the case for your
1208:47:00 deliberations next Tuesday, the day after Labor Day.

1308:47:06 I'll give you my final instructions, which you will
1408:47:10 also have in writing in the jury room, and you will hear the
1508:47:14 closing arguments of the parties. That will take a lot of
1608:47:18 time, but it won't take all day, so you will be able to start
1708:47:22 deliberating sometime on Tuesday afternoon.

1808:47:25 We will likely not need all of today and tomorrow to
1908:47:31 complete the testimony and the introduction of evidence. I
2008:47:36 can't predict exactly how long it will take, but I don't
2108:47:38 think it's going to take the full two days.

2208:47:40 So tomorrow, both for practical reasons and also
2308:47:47 recognizing it's the Friday before the three-day weekend,
2408:47:49 whenever we finish with the evidence, then you will be
2508:47:53 excused. And maybe it will be in the morning, maybe it will

108:47:56 be in the afternoon, whenever it is.

208:47:59 There is a small chance -- I think a very small
308:48:03 chance it might even happen today, in which case we'll know,
408:48:07 and you won't even come in tomorrow. And I don't mean to be
508:48:11 disrespectful of your time, but it just takes time for the
608:48:15 lawyers and I to make sure that the jury instructions are
708:48:20 correct and helpful to you, and the lawyers need to prepare
808:48:25 their closing arguments.

908:48:27 So even if we finish with the testimony and exhibits
1008:48:32 today, it's simply not possible to go right into all of that
1108:48:35 tomorrow. And there is also some legal things that I need to
1208:48:38 discuss with the lawyers.

1308:48:40 So that is the schedule. We'll have instruction and
1408:48:45 arguments on Tuesday, and whenever it happens, possibly
1508:48:50 today, much more likely sometime tomorrow, then you will be
1608:48:54 excused and you can enjoy your weekend.

1708:48:57 As I mentioned to you earlier, the reason the
1808:48:59 instructions are a fair amount of work is because I'm not
1908:49:04 making up the law just for this case. I'm as bound to obey
2008:49:09 the law as all of you are. So what I have to do is make sure
2108:49:15 both that the language of the instructions is helpful to you,
2208:49:20 intelligible to you. As intelligent as all of you are, you
2308:49:23 aren't lawyers, so -- but also that it is legally accurate,
2408:49:29 and the lawyers will assist me in doing that.

2508:49:31 So it just takes a fair amount of time. So that is

108:49:34 why we won't have argument tomorrow, even if it turns out
208:49:38 that the case has concluded as to the evidence.

308:49:42 For now, the Government may call its next witness.

408:49:45 MR. MORSE: Thank you, Your Honor.

508:49:47 The United States calls FBI Special Agent Conor
608:49:50 Goepel to the stand.

708:49:57 THE CLERK: Good morning. Please raise your right
808:50:00 hand.

908:50:02 THEREUPON:

1008:50:02 SPECIAL AGENT CONOR GOEPEL,
1108:50:02 Called in these proceedings, and after having been first duly
1208:50:09 sworn, testifies as follows:

1308:50:09 THE CLERK: Thank you. Please be seated.

1408:50:17 Please state and spell your name for the record.

1508:50:21 THE WITNESS: Connor Goepel, C-O-N-O-R, last name
1608:50:26 G-O-E-P-E-L.

1708:50:30 THE COURT: Mr. Morse, you may proceed.

1808:50:32 MR. MORSE: Thank you, Your Honor.

1908:50:32 DIRECT EXAMINATION

2008:50:33 BY MR. MORSE:

2108:50:33 Q. Good morning, Special Agent Goepel.

2208:50:36 A. Good morning.

2308:50:36 Q. What do you do for a living, sir?

2408:50:38 A. I'm a special agent with the FBI out of the Miami field
2508:50:41 office.

108:50:41 Q. How long have you been a special agent with the FBI?

208:50:43 A. Since 2021.

308:50:45 Q. Do you have any particular assignment within the FBI's
408:50:49 Miami field office?

508:50:49 A. Yes. I'm an agent on the violent crime and fugitive task
608:50:53 force.

708:50:54 Q. Can you briefly describe what your duties are as an agent
808:50:58 on the violent crime and fugitive task force?

908:51:01 A. I investigate violent criminal activity and fugitives as
1008:51:05 they pertain to any violation of Federal law. It usually
1108:51:10 consists of Hobbs Act robberies, Bank Act robberies,
1208:51:17 carjackings, murder-for-hire, kidnapping, things of that
1308:51:21 nature.

1408:51:21 Q. Is a part of your duties locating individuals who have
1508:51:24 been charged or otherwise where there is PC for an arrest?

1608:51:27 A. Yes.

1708:51:27 Q. "PC" meaning probable cause?

1808:51:29 A. Yes.

1908:51:30 Q. I want to direct you -- or let me ask you this, excuse
2008:51:33 me: In the process of completing your duties of locating
2108:51:36 individuals for the purpose of arresting them, do you
2208:51:39 sometimes utilize alerts that notify you of flights that are
2308:51:45 booked by potential targets that you are looking for?

2408:51:48 A. Yes, we do that sometimes.

2508:51:49 Q. Can you briefly describe how that works?

108:51:51 A. There is different types of systems that a flagged
208:51:56 individual can be input into. One of those systems will
308:52:03 detect any reservation or manifest on an international
408:52:07 flight; it's called TECS.

508:52:09 Q. Thank you very much. I want to direct your attention to
608:52:12 October 24, 2024. Were you working on that evening, sir?

708:52:15 A. Yes.

808:52:16 Q. Okay. And were you assigned to assist in the location
908:52:20 and arrest of a Durk Banks?

1008:52:22 A. Yes.

1108:52:23 Q. Okay. And can you please tell us what -- tell us about
1208:52:28 your involvement on that October 24th day.

1308:52:30 A. Well, going into October 24th, I was aware that a series
1408:52:37 of arrests were going to occur in the early morning hours,
1508:52:41 not in Miami, outside of Miami, and that as a result of those
1608:52:45 arrests, I may be asked to locate and arrest Durk Banks.

1708:52:50 Q. Okay. So on October 24, 2024, were you asked to locate
1808:52:55 and arrest Durk Banks?

1908:52:56 A. Yes, sometime in the late afternoon or early evening.

2008:53:00 Q. Okay. So tell us about that, please.

2108:53:03 A. I received a phone call authorizing the arrest of
2208:53:10 Mr. Banks. And sometime thereafter, or maybe in conjunction
2308:53:15 with that phone call, I received a text notification that
2408:53:20 Mr. Banks had been manifested on a Qatar Airways flight out
2508:53:24 of Miami International Airport destined to Dubai.

108:53:29 Q. And once you received that alert that Mr. Banks was
208:53:32 manifested on an international flight, what did you do?

308:53:35 A. I responded to Miami International Airport to the
408:53:40 international terminal.

508:53:41 Q. Why?

608:53:42 A. To intercept Mr. Banks at the airport.

708:53:47 Q. And tell us what happened once you got there.

808:53:49 A. Once I arrived, I made contact with the Qatar Airways
908:53:56 booking desk, and they informed me that Mr. Banks and one
1008:54:03 companion had been manifested -- or created a reservation for
1108:54:08 the flight, but had not been issued a ticket for the flight.
1208:54:13 This was maybe two hours or so, hour and a half, before the
1308:54:17 flight was due to take off.

1408:54:19 Q. Do you remember about what time the flight was due to
1508:54:22 take off, as far as you knew?

1608:54:24 A. It was sometime between like 7:30, 7:40 PM Eastern
1708:54:29 Standard Time.

1808:54:29 Q. And around what time did you get to the Miami
1908:54:34 International Airport?

2008:54:34 A. Like I said, it would have been about an hour and a half,
2108:54:39 to two hours before that, so maybe 5:30, 5:45, something like
2208:54:44 that.

2308:54:45 Q. What happened next?

2408:54:45 A. I waited at the airport until what I deemed as, like, a
2508:54:50 logical time that someone would have to check in for an

108:54:52 international flight, and at that point came to, like, a
208:54:59 reasonable conclusion that Mr. Banks and his unknown
308:55:05 companion would not be boarding that flight. And I tasked --
408:55:10 started tasking other agents on my task force to respond to
508:55:14 various other airports in South Florida.

608:55:18 Q. Why did you task other agents to respond to various
708:55:21 airports in South Florida?

808:55:23 A. I had learned that it was in the realm of possibility or,
908:55:29 you know, through historical travel that Mr. Banks -- it was
1008:55:35 possible for Mr. Banks to take a private flight. And I -- I
1108:55:40 identified likely airports that a private flight would fly
1208:55:44 out of.

1308:55:45 Q. Which airports did you identify and ask agents to respond
1408:55:49 to?

1508:55:49 A. Fort Lauderdale Executive Airport; the Fort Lauderdale
1608:55:59 airport, the main airport; Opa-Locka Executive Airport. And
1708:56:04 then I stayed, like, in the vicinity of the Miami
1808:56:08 International Airport, which would also encompass Miami
1908:56:11 Signature, which is a, like, private terminal that shares
2008:56:16 runways with Miami International Airport.

2108:56:18 Q. Is there a particular reason why you stayed between those
2208:56:21 airports?

2308:56:22 A. It was still possible for Mr. Banks to get to this flight
2408:56:32 at Miami International and, you know, still possible to get
2508:56:36 manifested on a private flight out of Miami Signature, so I

108:56:39 wanted to kind of split the difference between the two. We
208:56:42 didn't have that many people to cover each airport.

308:56:46 Q. Did you have any experience with the nature of private
408:56:51 jet bookings in terms of the timing that could be unique to
508:56:56 private jet bookings?

608:56:57 A. Yes. I'm sure it varies, but in my experience with
708:57:03 dealing with it, they can manifest, you know, as little as
808:57:09 40 minutes out. So it can go from having no manifest to
908:57:13 40 minutes from take off, get manifested, and it's a short
1008:57:18 turnaround, relative to if you juxtapose that to commercial
1108:57:25 travel.

1208:57:25 Q. When you say get "manifested," are you saying that
1308:57:27 because the Federal Government would be notified of such a
1408:57:30 manifest?

1508:57:30 A. Eventually, yes, but it's not as, like, clinical or
1608:57:35 automatic as if you were to take a Delta flight or something
1708:57:38 like that.

1808:57:38 Q. Understood.

1908:57:40 What happened next?

2008:57:40 A. Like, sometime thereafter, maybe 30 minutes, an hour,
2108:57:49 goes by, and I learned that the defendant had been manifested
2208:57:55 or booked on a private flight out of Miami Signature airport.

2308:58:01 Q. And did you respond to the -- that particular terminal,
2408:58:06 Miami Signature?

2508:58:07 A. Yes, I did.

108:58:07 Q. Did you -- you drove there?

208:58:10 A. I did.

308:58:10 Q. And around what time did you arrive?

408:58:14 A. Probably 7:45.

508:58:21 Q. When you got notification that Mr. Banks may be -- may

608:58:25 have a flight scheduled at Signature airlines, did you get

708:58:29 information in terms of what time that flight was?

808:58:31 A. Yeah, I believe it was 9:00 it was due to depart.

908:58:36 Q. Okay. And you said you then responded to that Signature

1008:58:39 airlines terminal?

1108:58:40 A. That's correct.

1208:58:41 Q. Were you in an FBI Government vehicle?

1308:58:44 A. Yes.

1408:58:44 Q. Can you describe that vehicle?

1508:58:46 A. It was a dark-blue Chevy Tahoe.

1608:58:51 Q. And was that a marked vehicle?

1708:58:52 A. It was unmarked.

1808:58:53 Q. Was that equipped with forward-facing blue and red lights

1908:58:58 for, like, traffic stops?

2008:58:59 A. Yes.

2108:59:00 Q. But those were not visible?

2208:59:01 A. No.

2308:59:02 Q. Okay. And were you alone, or were you with a partner

2408:59:06 agent?

2508:59:06 A. I was alone in my vehicle.

108:59:08 Q. When you responded to the terminal?

208:59:10 A. That's correct.

308:59:10 Q. Okay. So once you got to the terminal, tell us what
408:59:13 happened.

508:59:13 A. I pulled into the terminal, like, entry-exit way, drove
608:59:22 towards the, like, roundabout that you would see at a hotel
708:59:26 where you pull in, like, a valet area. It was dark out, but
808:59:30 that area was well lit. And I immediately saw a black SUV
908:59:38 with an Illinois license plate, and two individuals standing,
1008:59:44 like, in the vicinity of or next to the SUV, with bags.

1108:59:50 Q. Did you suspect that that was Mr. Banks?

1208:59:52 A. Yes, I did.

1308:59:53 Q. Okay. What happened next?

1408:59:55 A. I slowed down almost to a stop and had to lower my window
1509:00:01 to try to identify the license plate number, as well as
1609:00:06 positively identify the two individuals. I was able to make
1709:00:10 out the license plate; I was not able to, like, 100 percent
1809:00:16 identify the two individuals.

1909:00:18 And after that, I noticed that one of the
2009:00:21 individuals standing next to the vehicle, like, turned their
2109:00:26 gaze towards me. I believe that they noticed me, and I
2209:00:32 continued to drive through the parking lot. And by the time
2309:00:35 I made a U-turn to try to observe the vehicle from a static
2409:00:41 position, the two individuals that I previously saw next to
2509:00:49 the vehicle were no longer standing there, and the vehicle

109:00:52 began to drive out of the parking lot.

209:00:56 Q. What happened next?

309:00:57 A. I pursued the vehicle.

409:01:01 Q. Have you reviewed surveillance footage of that vehicle
509:01:06 that you saw that night in front of the Signature airlines
609:01:09 terminal that shows that vehicle at the terminal and also
709:01:13 leaving?

809:01:13 A. Yes, I have.

909:01:14 Q. And does that video also show you in pursuit of that
1009:01:17 vehicle?

1109:01:17 A. Yes, it does.

1209:01:18 Q. Okay. And just so we are clear: When that vehicle left,
1309:01:22 can you describe how it left? Was it tires screeching? Was
1409:01:26 it going fast? Was it going slow? Can you explain that to
1509:01:28 the jury?

1609:01:29 A. It wasn't tires screeching, peeling out of the parking
1709:01:32 lot, but it was driving noticeably irregular to how a normal
1809:01:40 vehicle would drive, you know, in a parking lot.

1909:01:43 MR. MORSE: Your Honor, the Government offers
2009:01:46 Exhibit 471 into evidence.

2109:01:46 THE COURT: 471 is admitted.

2209:01:46 (Exhibit No. 471 admitted.)

2309:01:52 MR. MORSE: Publish 471. All right.

2409:01:57 Q. 471 is on the screen, sir. Before we play it, do you
2509:02:00 recognize what is being shown in Exhibit 471?

109:02:04 A. Yes.

209:02:05 Q. What are we looking at here?

309:02:07 A. This is the scene I just described at the, like,

409:02:11 roundabout area of the terminal, and that is the black SUV

509:02:18 that I previously stated.

609:02:20 Q. All right. Does this surveillance that we are about to

709:02:23 see start about a minute before you showed up, approximately?

809:02:26 A. Yeah, the date stamp is correct. The time on the video

909:02:31 is off by about three hours, but, yes.

1009:02:36 Q. All right. You indicated that you arrived at the

1109:02:39 terminal around 7:45; is that correct?

1209:02:45 A. Yes.

1309:02:45 Q. Okay.

1409:02:46 MR. MORSE: If we could play the exhibit.

1509:02:48 (Thereupon, the video was played.)

1609:02:49 Q. And Agent Goepel, this video appears to be -- the frame

1709:02:53 appears to be slow, kind of not a natural frame of a video.

1809:02:57 Do you agree with that?

1909:02:58 A. You mean, like, it's lagging a little bit?

2009:03:01 Q. Yes.

2109:03:01 A. Yes.

2209:03:01 Q. So right now we see this SUV that you said that you saw

2309:03:04 at the terminal. There is an individual. Appears that he's

2409:03:08 standing next to it. Did you later identify that person or

2509:03:12 figure out who he was?

109:03:13 A. Yes, I did.

209:03:14 Q. Was that the driver?

309:03:15 A. Yes, last name Moore.

409:03:18 Q. And there is another individual next to the driver. Do
509:03:21 you see that person?

609:03:22 A. Yes, I do.

709:03:23 Q. Did you later identify that person?

809:03:24 A. Yes, I did.

909:03:25 Q. Who is that?

1009:03:26 A. Last name was Voccer.

1109:04:02 Q. Do you remember which individual that you thought was
1209:04:04 tracking you as you drove? Was it one of the individuals we
1309:04:07 just saw?

1409:04:08 A. Yes.

1509:04:09 Q. Mr. Voccer?

1609:04:11 A. Yes.

1709:05:09 MR. MORSE: You can pause it.

1809:05:10 Q. Okay. We just saw some individuals. It looked like
1909:05:14 Mr. Voccer came back to the vehicle?

2009:05:15 A. Yes.

2109:05:16 Q. And there was an individual dressed in all black --
2209:05:19 appeared to be dressed in all black, by this video. Did you
2309:05:22 see that?

2409:05:22 A. Yes.

2509:05:22 Q. Is that the individual that you later identified as

109:05:25 Mr. Banks?

209:05:25 A. Yes.

309:05:26 Q. Would this be the point where you said that they got in
409:05:28 the car and drove away?

509:05:29 A. Yes.

609:05:30 Q. Okay.

709:05:32 MR. MORSE: Play.

809:05:33 (Thereupon, the video was played.)

909:05:51 MR. MORSE: Pause it.

1009:05:51 Q. Okay. We see a vehicle in the second frame, if you will.
1109:05:56 We saw on the right-hand side of the screen a black SUV
1209:06:00 appearing to start to exit. Is that the SUV you saw?

1309:06:03 A. Yes.

1409:06:04 Q. Okay. And then we are seeing a second SUV coming on the
1509:06:08 left-hand side of the screen. Is that you?

1609:06:09 A. Yes, it is.

1709:06:10 Q. All right.

1809:06:12 (Thereupon, the video was played.)

1909:06:32 MR. MORSE: You can take it down.

2009:06:33 Q. All right. Was that you following the -- Mr. Banks'
2109:06:39 vehicle?

2209:06:39 A. Yes.

2309:06:39 Q. And tell us what happened after the video.

2409:06:44 A. So the black SUV turned eastbound, a right-hand turn on
2509:06:55 Northwest 36th Street, and I followed in suit. I continued

109:07:01 to follow the vehicle as it drove eastward -- eastbound on
209:07:06 Northwest 36th Street. It changed lanes a couple of times.
309:07:10 I changed lanes with it.

409:07:16 Eventually we got to a street that had a designated
509:07:21 left-hand turn or U-turn. I believe it was Manola. And the
609:07:28 vehicle made a relatively abrupt U-turn at speed. It cut off
709:07:36 some traffic. I had to let the traffic go by, and then
809:07:40 eventually made the U-turn with it. And as I made the
909:07:46 U-turn, I observed the vehicle make a right-hand -- or a
1009:07:50 northbound turn into a hotel parking lot.

1109:07:53 Q. Okay. I'm going to take you back to when you initially
1209:07:57 made that right turn.

1309:07:58 You said that you were following that vehicle and it
1409:08:00 was changing lanes multiple times?

1509:08:02 A. Yes, that's correct.

1609:08:03 Q. Okay. So do you turn on your red and blue lights at that
1709:08:07 point?

1809:08:07 A. No, I did not.

1909:08:08 Q. Can you describe the vehicle's general driving pattern in
2009:08:12 terms of its speed and its movements?

2109:08:15 A. Yes. It was traveling quickly. I wouldn't go as far to
2209:08:20 say erratically. But again, much like as it drove out of the
2309:08:25 parking lot, it was abnormal driving behavior in the multiple
2409:08:30 lane changes, the speed in which it was traveling, even by
2509:08:35 Miami standards. And especially the U-turn was done

109:08:41 seemingly, like, last second and at speed.

209:08:46 Q. Did you -- by the way, while you were following this
309:08:49 vehicle, are you following this vehicle covertly? In other
409:08:53 words, are you trying to ensure that the vehicle doesn't know
509:08:56 you are following it, or are you unconcerned with that?

609:08:59 A. Well, I didn't activate my red and blue lights or my
709:09:05 siren at that point. So I wouldn't say covertly. I'm
809:09:10 definitely following it lane change by lane change, not in a
909:09:15 way that you would conduct surveillance to try to avoid
1009:09:18 detection, but I had not identified myself as a law
1109:09:23 enforcement officer yet.

1209:09:24 Q. And at this point is there a team of folks trying to
1309:09:27 locate Mr. Banks?

1409:09:28 A. There is a team, the same individuals, as well as others
1509:09:35 converging on that location as I was pushing out the
1609:09:39 information on -- over the radio, but I was, at that point,
1709:09:43 by myself.

1809:09:44 Q. Understood.

1909:09:45 Tell us what information you were pushing out over
2009:09:47 the radio.

2109:09:47 A. I initially, at the airport, at the terminal, pushed out
2209:09:53 that I identified a vehicle with an Illinois license plate,
2309:09:57 and that I believed it was Mr. Banks inside the vehicle.

2409:10:03 And then I called out the cardinal directions of
2509:10:06 travel as we drove on Northwest 36th Street, and I also

109:10:14 pushed out over the radio that once we -- once I activated my
209:10:20 red and blues, that we might be looking at a vehicle pursuit
309:10:24 based on the driving pattern.

409:10:25 Q. All right. So as you were following the vehicle, as you
509:10:30 described, and it turned into the -- the hotel parking lot?

609:10:33 A. Yes.

709:10:34 Q. Okay. Had you turned on your red and blues at any point
809:10:38 at that point?

909:10:38 A. No.

1009:10:38 Q. And had you radioed to your colleagues that you thought
1109:10:43 this could be a pursuit?

1209:10:44 A. Yes.

1309:10:44 Q. Okay. So we are clear: As you are following the vehicle
1409:10:48 before the red and blue lights come on, you are indicating to
1509:10:51 your colleagues that you think this is a pursuit,
1609:10:53 potentially?

1709:10:54 A. That's correct. And I didn't turn my lights and sirens
1809:10:56 on at that point as I did not want to induce a vehicle
1909:11:00 pursuit by myself.

2009:11:02 Q. Okay. Is that for safety reasons?

2109:11:04 A. Yeah, for safety reasons for myself, for the public, as
2209:11:09 well as, like, general success. The more officers I had with
2309:11:13 me, the more likely we would be successful in stopping the
2409:11:16 vehicle.

2509:11:16 Q. Why did you push out over the radio that you thought this

109:11:20 would be a pursuit?

209:11:21 A. Like I said, based off of the driving patterns combined
309:11:25 with the severity of the alleged criminal activity at that
409:11:28 point.

509:11:29 Q. In preparation for your testimony, have you reviewed
609:11:33 Exhibit 468, which shows a map of the -- of the street that
709:11:37 you were driving on as you pursued this vehicle as well as
809:11:40 photographs of that hotel parking lot?

909:11:42 A. Yes, I have.

1009:11:43 MR. MORSE: Your Honor, the Government moves 468
1109:11:45 into evidence.

1209:11:45 THE COURT: 468 is admitted.

1309:11:45 (Exhibit No. 468 received.)

1409:11:47 MR. MORSE: If we could publish page 1, please.

1509:11:55 Q. All right. Showing you page 1 of Exhibit 468, Agent, do
1609:12:01 you recognize what I'm showing you?

1709:12:03 A. Yes. That is Northwest 36th Street in Miami, Florida.

1809:12:07 Q. Okay. Does this -- is there an indicator on this map
1909:12:11 that indicates the Signature Aviation terminal?

2009:12:15 A. Yes. Is this touch screen, I can touch it?

2109:12:18 Q. Yes.

2209:12:18 THE COURT: Yes, you can.

2309:12:21 THE WITNESS: Thank you, Your Honor.

2409:12:21 MR. MORSE: Thank you, Your Honor.

2509:12:24 A. So Signature Aviation here is in the southwest corner of

109:12:31 the map.

209:12:31 Q. Got it.

309:12:32 And can you indicate for us -- as we saw at the end
409:12:35 of that video, it looked like you and that vehicle that you
509:12:39 were following made a right turn, you said?

609:12:42 A. That's correct.

709:12:42 Q. Can you show us the direction of travel that you took in
809:12:45 following that vehicle?

909:12:46 A. (Indicating.)

1009:12:49 Q. All right. Thank you.

1109:12:50 So you were going east on Northwest 36th Street?

1209:12:52 A. That is correct.

1309:12:53 Q. Okay. And can you -- do you see on this map the ultimate
1409:12:59 destination where this -- where you followed this vehicle
1509:13:03 into the hotel parking lot?

1609:13:04 A. Yes.

1709:13:04 Q. Can you please circle that?

1809:13:05 A. (Witness complies.)

1909:13:09 Q. Okay. And do you see on this map where you said the
2009:13:14 vehicle made a U-turn?

2109:13:17 A. Yes.

2209:13:17 Q. Can you show us that street?

2309:13:18 A. (Indicating.)

2409:13:22 Q. And you highlighted Manola?

2509:13:25 A. That is correct.

109:13:26 Q. Okay. Can you give us a sense of -- understanding this
209:13:30 may have been a little more quickly than the speed limit, but
309:13:32 how long did it take to get from this point to the hotel?

409:13:35 A. I wouldn't say more than five minutes.

509:13:40 Q. Okay. And you have indicated that the vehicle made a
609:13:44 U-turn here and ended up at the Wyndham Garden parking lot?

709:13:50 A. That's correct.

809:13:50 Q. Okay. Thank you.

909:13:51 MR. MORSE: If we could just go to page 4.

1009:13:56 Actually, sorry, go to page --

1109:13:59 A. Do I clear this or...

1209:14:00 Q. I can clear it for you.

1309:14:01 A. Thanks.

1409:14:02 Q. All right. Showing you page 2 of Exhibit 468, what are
1509:14:05 we looking at here?

1609:14:06 A. That is the entry-exit way to the hotel.

1709:14:09 Q. All right. Is this when you would have already made a
1809:14:12 U-turn?

1909:14:13 A. As the vehicle that I was tracking, the black SUV, pulled
2009:14:19 into the parking lot, I was just completing my U-turn, and I
2109:14:24 caught the tail end of the vehicle pulling in there.

2209:14:27 Q. Understood.

2309:14:29 When you saw that vehicle make that U-turn, did you
2409:14:31 notice anything about the vehicle that was significant to
2509:14:33 you?

109:14:33 A. Yes. I had a suspicion when I initially saw the vehicle,
209:14:39 but when the vehicle made the U-turn, I became fairly
309:14:45 confident that it was an armored vehicle.

409:14:46 Q. Why?

509:14:47 A. The weight distribution on the vehicle in general, and
609:14:52 then when it made a hard U-turn -- I have driven in armored
709:14:56 convoys and armored SUVs before. I know what they look like
809:15:00 when they are driving. And I wasn't 100 percent sure, but I
909:15:04 was fairly confident.

1009:15:05 Q. Did you later learn that it was an armored vehicle?

1109:15:08 A. Yes.

1209:15:09 MS. O'CONNOR: I'm going to object to relevance on
1309:15:12 this, Your Honor.

1409:15:13 THE COURT: Overruled.

1509:15:14 Q. Was that a yes?

1609:15:14 A. Yes.

1709:15:15 Q. All right. So we are looking at page 2 of Exhibit 468.
1809:15:18 From this perspective, indicating on the touch screen here,
1909:15:21 is this where you saw the vehicle make a right turn into that
2009:15:27 parking lot?

2109:15:28 A. That's correct.

2209:15:29 Q. Okay.

2309:15:30 MR. MORSE: If we could go to page 4.

2409:15:34 Q. Okay. What are we looking at on page 4 of 468?

2509:15:38 A. That is just another angle facing north of that same

109:15:41 entry-exit way.

209:15:42 Q. All right. I'll call this a concourse. Is that okay?

309:15:45 A. Sure.

409:15:45 Q. And is this the path that you took as you attempted to
509:15:48 follow that vehicle?

609:15:49 A. Yes.

709:15:49 Q. Now, you said that it made a U-turn, and you were delayed
809:15:55 a little bit?

909:15:56 A. That's correct.

1009:15:56 Q. So when it made a right turn into this parking lot, did
1109:16:00 you have eyes on?

1209:16:02 A. I had eyes on it as it made the turn, and then there was
1309:16:07 probably a 20-second-or-so gap where I didn't know where it
1409:16:12 parked or settled in the parking lot.

1509:16:14 Q. Okay.

1609:16:14 MR. MORSE: If we go to page 5, please.

1709:16:19 Q. All right. Is page 5 just further down the path that you
1809:16:22 took in following this vehicle?

1909:16:23 A. That's correct. This is still facing north.

2009:16:27 Q. Okay. This is inside the hotel parking lot?

2109:16:28 A. Yes.

2209:16:29 Q. All right. And what did you do once you reached this
2309:16:31 point?

2409:16:31 A. I drove into the parking lot and made this first right
2509:16:41 there (indicating). It's a standard parking lot where there

109:16:43 is different rows. And not knowing exactly where the vehicle
209:16:47 ended up, I was just going to systematically canvass the
309:16:53 parking lot.

409:16:53 Q. All right. And where did you go after you made that
509:16:58 right?

609:16:58 A. I went right there (indicating), as the arrow indicates,
709:17:01 and then I made a northbound turn at the end of the parking
809:17:05 lot. And after I did so, I noticed the vehicle parked
909:17:10 somewhere over here (indicating).

1009:17:12 Q. All right. And where is your vehicle facing as you are
1109:17:16 noticing that that vehicle is parked where you circled?

1209:17:18 A. I'm at the end of the row over here (indicating) facing
1309:17:21 this way, and then I eventually drove up to the back of the
1409:17:25 parking lot and went, like, nose-to-nose with the vehicle at
1509:17:29 a distance.

1609:17:30 Q. Okay. So at that point it sounds like the vehicle -- the
1709:17:36 vehicle you were tracking is facing in the same direction
1809:17:38 that you were facing at some point?

1909:17:40 A. We are facing each other at this point, yes.

2009:17:43 Q. Understood.

2109:17:45 What happens next?

2209:17:45 A. I observed the vehicle, parked my car in a manner that I
2309:17:58 believed I would be able to beat the vehicle to the street if
2409:18:02 it tried to exit, and I activated my red and blue emergency
2509:18:09 lights and intermittently activated my siren.

109:18:12 Q. This is why your vehicles are facing each other?

209:18:15 A. Yes.

309:18:15 Q. Why did you decide to activate your siren and red and
409:18:19 blues at that point?

509:18:20 A. As we were driving out of the Miami Signature airport, I
609:18:25 was fairly sure that the occupants of that vehicle were
709:18:28 aware -- at the very least, they were aware that I was
809:18:32 following them.

909:18:32 MS. O'CONNOR: Objection, Your Honor. Speculation
1009:18:34 and personal knowledge.

1109:18:35 THE COURT: Overruled.

1209:18:36 A. At the very least a reasonable driver or occupants of
1309:18:40 that vehicle would be aware I was following them. On top of
1409:18:43 that --

1509:18:44 MS. O'CONNOR: Objection to relevance.

1609:18:46 THE COURT: Overruled.

1709:18:47 A. On top of that, I was unsure if they knew I was a police
1809:18:52 officer. And at this point I was attempting to bide my time
1909:18:58 for backup to arrive, but at this point I felt the safest
2009:19:01 thing for myself, as well as for the occupants of that
2109:19:03 vehicle, was for me to, like, officially identify myself as
2209:19:08 law enforcement.

2309:19:08 Q. You turned on your red and blue lights. You said
2409:19:12 intermittent siren?

2509:19:14 A. Yes, I would turn the siren off -- excuse me, turn the

109:19:18 siren on, turn it off, listen to hear if I'm getting a
209:19:21 response. I issued some commands over my PA system once I
309:19:26 identified myself as law enforcement, and went through
409:19:30 that -- repeated that cycle.

509:19:33 Q. And what happened as you were identifying yourself as law
609:19:37 enforcement over your PA system?

709:19:37 A. So I was given pretty standard lawful commands of
809:19:44 identify myself, order the occupants of the vehicle outside
909:19:48 of the vehicle. And at some point one of the occupants, who
1009:19:55 was later identified as Voccer, exited the vehicle and at
1109:20:00 first, stood next to the vehicle. And I now instructed just
1209:20:04 that individual to tell the other occupants to get out of the
1309:20:09 vehicle and to turn the vehicle off.

1409:20:11 And at some point that individual began walking
1509:20:14 towards me at my -- where I was -- where my vehicle was
1609:20:19 placed, and I started speaking directly to that individual to
1709:20:22 stop walking towards me, to remain in place, things of that
1809:20:28 nature.

1909:20:28 Q. And where was the -- I'll call it the suspect vehicle.
2009:20:32 Where was the suspect vehicle as Mr. Voccer is outside of the
2109:20:36 vehicle, it sounds like, and you are communicating with him?

2209:20:40 A. So the suspect vehicle eventually placed itself in the
2309:20:45 rear of the hotel, seemingly in park with the lights off.
2409:20:53 And then Mr. Voccer exited the vehicle and began walking
2509:20:57 towards me to the point where he was in between me and the

109:21:02 black SUV, the subject's vehicle.

209:21:04 Q. All right. Have you reviewed surveillance footage that
309:21:08 captures you, as well as the suspect vehicle, traveling down
409:21:13 the path that we see on page 5 of Exhibit 468?

509:21:17 A. Yes.

609:21:18 Q. And have you also reviewed surveillance footage that
709:21:22 shows what you described in terms of those two vehicles
809:21:25 facing each other and you giving commands?

909:21:27 A. Yes.

1009:21:27 Q. Okay. Is that Exhibit 344?

1109:21:30 A. I would have to see it first to know exactly the exhibit
1209:21:35 number.

1309:21:36 Q. Okay.

1409:21:36 MR. MORSE: Your Honor, may we move to admit 344?

1509:21:39 THE COURT: Assuming that it is in fact what it is
1609:21:42 represented to be, 344 is admitted.

1709:21:44 (Exhibit No. 344 admitted.)

1809:21:44 MR. MORSE: Thank you, Your Honor.

1909:21:50 All right. Keep it paused here.

2009:21:52 Q. Okay. I'm showing you -- we have Exhibit 344 paused.
2109:21:59 There appears to be a date and a time stamp. Do you see that
2209:22:02 on the right-hand side?

2309:22:02 A. Yes, I do. The date stamp and, yeah, the time stamp's
2409:22:07 roughly accurate.

2509:22:09 Q. You said you got to the terminal around 7:45?

109:22:12 A. Yeah, 7:40, 7:45.

209:22:16 Q. Understood.

309:22:16 And are we about to see a vehicle pass the camera
409:22:21 here?

509:22:21 A. Yes.

609:22:22 Q. Okay. Is that the suspect vehicle you were following?

709:22:25 A. I believe so. It would be easier if I saw it in motion.

809:22:28 Q. Yup. Understood.

909:22:29 And is this the concourse that we were looking at
1009:22:32 before, the path where you have drawn all the arrows?

1109:22:34 A. Yes.

1209:22:35 Q. Okay.

1309:22:35 MR. MORSE: If we could play this.

1409:22:39 (Thereupon, the video was played.)

1509:22:39 Q. Is that the vehicle?

1609:22:40 A. Yes.

1709:22:40 Q. Okay. And at this point, you said you lost sight of it,
1809:22:45 and you were kind of looking for it; is that correct?

1909:22:47 A. That's correct.

2009:22:48 Q. There appears to be another vehicle coming into view;
2109:22:52 it's going slowly. Is that you?

2209:22:53 A. Yes, it is.

2309:22:55 Q. Okay. Is that you making the right turn that you
2409:22:59 described?

2509:22:59 A. Yes.

109:23:04 MR. MORSE: Let's pause it here.

209:23:11 Q. Okay. There is another video now on the screen on the
309:23:17 right-hand side. Do you see that?

409:23:18 A. Yes, I do.

509:23:19 Q. Okay. What are we seeing on the right-hand side?

609:23:22 A. That is the rear of the hotel. It's facing, like,
709:23:28 northeast, mostly east, and you will see the black SUV parked
809:23:34 somewhere around here (indicating), and then you will see me
909:23:37 facing it somewhere over there(indicating).

1009:23:40 Q. All right.

1109:23:41 THE COURT: I'm sorry, Special Agent. Do you mean
1209:23:43 when the video is played that is what we are going to see or
1309:23:46 are you --

1409:23:46 THE WITNESS: That's correct, Your Honor.

1509:23:47 THE COURT: Go ahead.

1609:23:47 MR. MORSE: Thank you, Your Honor.

1709:23:48 Q. Okay. And before we play this video, do you see the time
1809:23:52 stamp appears to be 6:49?

1909:23:56 A. Yeah, I believe that time stamp is about one hour off.

2009:23:59 Q. All right. Is it your understanding that the footage we
2109:24:01 are about to see stops at some point before the end of the
2209:24:04 interaction?

2309:24:05 A. Yes, that's correct.

2409:24:06 Q. Okay. So I'll ask you what happens after the video
2509:24:08 stops.

109:24:08 MR. MORSE: But let's go ahead and play it.

209:24:11 (Thereupon, the video was played.)

309:25:25 MR. MORSE: Let's pause it here. Okay. Did that --
409:25:29 is that the period where you were giving commands?

509:25:32 A. Yes.

609:25:32 Q. We only heard a bit of what you said. Can you tell us
709:25:35 what you were communicating to the occupants of that vehicle?

809:25:37 A. I believe you can hear me say, "Come here." Like, "Don't
909:25:42 get back into the vehicle," and then I think I started out
1009:25:47 just screaming at them, and then I switched to the PA system
1109:25:50 after that, if I recall correctly.

1209:25:52 Q. Okay. And when the video stopped, we saw?

1309:25:57 MR. MORSE: Actually just rewind it a little bit
1409:26:00 further so we can watch it with the context you just added.
1509:26:04 Just a little bit further back. Back. Back. Right there.

1609:26:13 (Thereupon, the video was played.)

1709:26:42 Q. Okay. Were you able to see it looked like the back door
1809:26:45 opened for a second?

1909:26:46 A. Yes.

2009:26:46 Q. And then closed?

2109:26:47 A. Yes.

2209:26:47 Q. Okay. And you could be heard saying, "Get away from the
2309:26:51 vehicle. Come here"?

2409:26:51 A. Yes.

2509:26:52 Q. Are you talking to the individual who is standing outside

109:26:54 of the vehicle?

209:26:55 A. Yes.

309:26:55 Q. Okay. And what happens next?

409:26:58 A. Like I said, I continued giving that individual commands,
509:27:05 and that individual walked between me and the black SUV, and
609:27:13 the black SUV began exiting the parking lot.

709:27:18 Q. Okay. So the black SUV began exiting the parking lot,
809:27:24 sort of leaving behind the occupant who got out?

909:27:27 A. That's correct.

1009:27:27 Q. And what happened next?

1109:27:28 A. I had to -- I continued the verbal exchange with the
1209:27:35 individual that exited the vehicle, and then had to, like,
1309:27:41 deal with that initially, as that individual was blocking my
1409:27:45 vehicle's path to the other vehicle. And then at a safe time
1509:27:50 to do so, I bypassed that individual and continued to pursue
1609:27:54 the black SUV as it fled the parking lot.

1709:27:58 Q. On the left-hand side of this video, are we going to
1809:28:08 see --

1909:28:09 MR. MORSE: Excuse me, Your Honor.

2009:28:10 Q. On the left-hand side of this video, are we going to see
2109:28:13 the suspect vehicle drive past the camera?

2209:28:16 A. Yes.

2309:28:17 Q. Okay. Are we going to see your vehicle as well?

2409:28:19 A. Yes.

2509:28:20 MR. MORSE: Play it.

109:28:21 (Thereupon, the video was played.)

209:28:31 Q. Is that the suspect vehicle?

309:28:33 A. Yes.

409:28:33 Q. Is that your vehicle?

509:28:34 A. Yes.

609:28:45 Q. And the --

709:28:47 MR. MORSE: Pause it.

809:28:47 Q. The individual we see walking here, who is that?

909:28:49 A. That is the same individual that exited the passenger's
1009:28:54 side of the vehicle earlier.

1109:28:55 Q. All right. So he's walking towards where you are
1209:28:59 driving?

1309:28:59 A. Yes.

1409:28:59 Q. What happened after -- after we saw the suspect vehicle
1509:29:04 pass and you follow?

1609:29:05 A. The suspect vehicle, off camera here, stopped at
1709:29:10 Northwest 36th Street, and it would be -- would have been, I
1809:29:17 believe, a westbound-only turn but never made the turn. At
1909:29:23 this point, I am still intermittently putting my siren on,
2009:29:29 the lights are still on. And shortly thereafter, Special
2109:29:33 Agent Batista, who had responded to one of the airports
2209:29:37 earlier, finally arrived on-scene, and was able to assist me
2309:29:44 with boxing the vehicle in.

2409:29:47 Q. All right.

2509:29:47 MR. MORSE: If we could publish 468, page 7, please.

109:29:56 Q. All right. I'm showing you page 7 of 468. What are we
209:30:00 looking at here?

309:30:01 A. That is the southbound look at the same entry-exit point
409:30:06 to the hotel parking lot.

509:30:08 Q. All right. So is this where you would have been now
609:30:12 following the vehicle now as it heads towards the exit of the
709:30:15 hotel parking lot?

809:30:16 A. That's correct.

909:30:16 Q. That is the video we just saw with the two vehicles
1009:30:19 passing in it and the person walking?

1109:30:21 A. Yes.

1209:30:21 Q. Okay.

1309:30:23 MR. MORSE: If you go to page 8, please.

1409:30:26 Q. And what are we looking at in page 8?

1509:30:30 A. That is a more close-up view of the exit-entry way onto
1609:30:35 Northwest 36 from the parking lot.

1709:30:37 Q. All right. Now, you indicated that the suspect vehicle
1809:30:40 eventually stopped?

1909:30:41 A. Yes, right at the stop sign or close to it.

2009:30:44 Q. Can you put an X where it stopped?

2109:30:46 A. (Witness complies.)

2209:30:49 Q. Okay. And can you put a circle where -- did your vehicle
2309:30:54 stop behind it?

2409:30:54 A. Yes, directly behind it.

2509:30:55 Q. With the sirens on or the red and blues flashing?

109:30:58 A. Red and blues continuously, yeah.

209:31:00 Q. Okay. And can you circle the approximate position of
309:31:05 your vehicle?

409:31:06 A. (Witness complies.)

509:31:10 Q. And you have put a circle kind of in the foreground
609:31:14 behind the X near the stop sign, or maybe that is wrong?

709:31:18 A. I'm sorry. Say that again.

809:31:19 Q. I was just describing what you did. Did you just
909:31:22 indicate where your vehicle was positioned behind the X that
1009:31:24 you indicated was the suspect vehicle?

1109:31:26 A. Yes, that's correct.

1209:31:26 Q. And so take us to the point when you stopped. You get
1309:31:29 out of your vehicle?

1409:31:30 A. I exited my vehicle once Special Agent Batista's vehicle
1509:31:36 arrived and served as a, like, front containment of the
1609:31:41 subject vehicle. He pulled off of Northwest 36th, and was
1709:31:46 generally here (indicating). And I exited my vehicle and ran
1809:31:53 around the subject vehicle to avoid any, like, cross fire
1909:32:00 issues, and helped Special Agent Batista call out the
2009:32:08 occupants of the vehicle, now at gunpoint.

2109:32:11 Q. Okay. When you stopped and you were behind the vehicle
2209:32:14 initially -- it sounds like waiting for backup?

2309:32:17 A. Yes.

2409:32:17 Q. Did you -- why were you doing that? Why didn't you just
2509:32:21 get out of the car and try to effect the --

109:32:24 MS. O'CONNOR: Objection to relevance, Your Honor.

209:32:26 403.

309:32:26 THE COURT: Yeah, sustained.

409:32:27 MS. O'CONNOR: Yeah.

509:32:27 Q. Were you communicating with the occupants of the vehicle
609:32:31 as you were behind them with your red and blue lights on?

709:32:33 A. At this point, no, I wasn't.

809:32:35 Q. How long did it take for backup to arrive?

909:32:37 A. It was almost simultaneous. Maybe a few seconds after
1009:32:42 the subject vehicle approached that stop sign.

1109:32:46 Q. And you indicated you walked around, as you have drawn on
1209:32:49 this map -- or on this photograph. You said you had your
1309:32:53 firearm at that point?

1409:32:53 A. Yes. Both myself and Special Agent Batista had the
1509:32:58 vehicle at gun point.

1609:32:59 Q. Why?

1709:33:00 A. At this point, although it had only been several minutes
1809:33:08 since the initial encounter, like I've stated a few times,
1909:33:13 the occupants -- or at least the driver --

2009:33:15 MS. O'CONNOR: Objection, Your Honor. 403 at this
2109:33:17 point.

2209:33:17 THE COURT: Counsel, that objection should have
2309:33:18 occurred when the question was asked, but nonetheless, I will
2409:33:21 grant it. The reasoning here is not necessary for the jury.

2509:33:27 Mr. Morse, ask your next question.

109:33:29 But Counsel, next time make the objection in a
209:33:33 timely fashion instead of waiting to see what the answer is
309:33:36 going to be.

409:33:36 Go ahead, Mr. Morse.

509:33:37 MR. MORSE: Yes, Your Honor.

609:33:38 Q. So are you-all -- as you have the vehicle at gunpoint,
709:33:41 are you ordering the occupants out at this point?

809:33:44 A. Yes.

909:33:44 Q. Special Agent Batista, does he have his red and blues on?

1009:33:54 A. I don't think I can specifically recall whether he did or
1109:33:58 did not.

1209:33:58 Q. Was there any other law enforcement present, or was it
1309:34:01 just you and Special Agent Batista at that point?

1409:34:03 A. Briefly, it was just myself and Special Agent Batista.
1509:34:07 And, again, within several seconds, two other law enforcement
1609:34:14 vehicles showed up on-scene as well.

1709:34:18 Q. Okay. As you are ordering the occupants out, do they
1809:34:21 immediately get out?

1909:34:22 A. No.

2009:34:23 Q. Tell us about that, please.

2109:34:25 A. After several -- well, at this point, the individual who
2209:34:31 had originally exited the vehicle actually got back into the
2309:34:35 vehicle. And after several rounds of, you know, issuing
2409:34:41 lawful orders to exit the vehicle, three occupants eventually
2509:34:46 exited the vehicle.

109:34:47 Q. And what happened next?

209:34:48 THE COURT: Excuse me. Special Agent, when you said
309:34:50 "the individual," are you referring to the individual who we
409:34:53 saw walking in the earlier video?

509:34:57 THE WITNESS: That's correct, Your Honor.

609:34:58 THE COURT: All right. And how did that individual
709:35:00 get back to the SUV? Did he walk by your car or what was
809:35:05 happening?

909:35:06 THE WITNESS: Yes, Your Honor, he walked right by my
1009:35:08 car.

1109:35:08 THE COURT: Go ahead, Mr. Morse.

1209:35:09 Q. And at that point, you weren't by your car anymore, you
1309:35:12 were in front of the suspect vehicle with Special Agent
1409:35:14 Batista, just for clarity. Is that right?

1509:35:16 A. Yes. I remember as I approached the black SUV at the
1609:35:21 stop sign, I could see that individual in my rearview mirror
1709:35:25 approaching my car, which drew some of my attention because
1809:35:28 now I had individuals in front of me and kind of over my
1909:35:31 shoulder as well.

2009:35:32 And I got out of my vehicle slightly before he would
2109:35:39 have crossed my path and as Special Agent Batista arrived.

2209:35:44 Q. Understood.

2309:35:45 So you said they eventually got out of the car?

2409:35:48 A. Yes, all three occupants of the vehicle exited the
2509:35:50 vehicle.

109:35:51 Q. What happened next?

209:35:52 A. I approached one of the occupants on the rear passenger
309:36:04 side door and placed that person in handcuffs.

409:36:09 Q. And who was that person?

509:36:10 A. Eventually, I -- the person identified himself as
609:36:18 Mr. Banks.

709:36:18 Q. Can you tell us how that identification occurred?

809:36:20 A. Yes. Once Mr. Banks exited the vehicle, I believe the
909:36:27 first thing he said was something to the effect of "Don't say
1009:36:30 anything --

1109:36:33 MS. O'CONNOR: Objection. Fifth Amendment, Your
1209:36:35 Honor.

1309:36:35 THE COURT: All right. For the moment, Mr. Morse,
1409:36:40 proceed on what occurred without eliciting this testimony.

1509:36:46 MS. O'CONNOR: And reserving a motion on that.

1609:36:48 THE COURT: All right. Go ahead, Mr. Morse.

1709:36:50 MR. MORSE: Yes, Your Honor.

1809:36:50 Q. Did you ask Mr. Banks for his name?

1909:36:52 A. Yes, I did.

2009:36:53 Q. What did he say?

2109:36:54 A. He said, "You know my name."

2209:36:56 Q. Did you respond?

2309:36:57 THE COURT: Counsel, I said to move off this topic.
2409:37:01 Ask -- if there is nothing else with this witness, then say
2509:37:05 so.

109:37:05 MR. MORSE: Well, Your Honor, he's identifying
209:37:07 Mr. Banks.

309:37:08 THE COURT: And he has done so.

409:37:10 MR. MORSE: Okay. Thank you, Your Honor. Nothing
509:37:12 further.

609:37:12 THE COURT: All right. Ladies and gentlemen, you
709:37:13 may stand and stretch while the defense gets ready for
809:37:18 cross-examination.

909:37:18 (Pause in proceedings.)

1009:37:51 THE COURT: Ladies and gentlemen, you may be seated.
1109:37:53 Ms. O'Connor, you may begin when you are ready.

1209:37:57 MS. O'CONNOR: Thank you.

1309:37:57 CROSS-EXAMINATION

1409:37:59 BY MS. O'CONNOR:

1509:37:59 Q. Good morning, Special Agent Goepel.

1609:38:00 A. Good morning.

1709:38:01 Q. Okay. So you just talked on direct about the events that
1809:38:06 happened on October 24, 2024, correct?

1909:38:10 A. That's correct.

2009:38:11 Q. But that wasn't your first day that you were involved in
2109:38:15 this investigation or this potential arrest of Mr. Banks,
2209:38:19 correct?

2309:38:19 A. As far as the potential arrest, yes, but involvement in
2409:38:26 the investigation, no.

2509:38:27 Q. Exactly. Because you are part of a task force, correct?

109:38:31 A. I am a part of a task force.

209:38:33 Q. And that task force was on the job for a couple of weeks
309:38:38 before this arrest, right?

409:38:40 A. I believe it was, like, a week and a half or two weeks,
509:38:44 yeah.

609:38:44 Q. Yeah. And let me be more specific about that.

709:38:48 You know that on October 16th, Mr. Banks was also
809:38:53 stopped -- not arrested, but detained at the Miami airport,
909:38:58 and his phones were seized, correct?

1009:39:00 A. Yes, that's correct.

1109:39:01 Q. Okay. So that is October 16th when his phones were
1209:39:07 seized, right?

1309:39:08 A. Yes.

1409:39:08 Q. And October 24th when you effected this arrest, right?

1509:39:15 A. Yes.

1609:39:15 Q. So that is -- let's -- how many days? October 16th,
1709:39:20 October 17th, October 18th, 19th, 20th, 21, 22, 23, 24.

1809:39:27 That is nine days?

1909:39:29 A. Yes.

2009:39:29 Q. Okay. And during those -- and would you agree with me
2109:39:34 that when a person is detained and their phones are seized by
2209:39:39 law enforcement, that puts them on notice that law
2309:39:43 enforcement is watching them, correct?

2409:39:46 A. I would generally agree with that, yes.

2509:39:48 Q. They are on the radar, right?

109:39:50 A. Sure.

209:39:51 MR. MORSE: Object to outside the scope.

309:39:53 THE COURT: Overruled.

409:39:54 Q. Something is going on with that person and law
509:39:57 enforcement if they are stopped at the airport and their
609:39:59 phones are seized, right?

709:40:01 A. Yes.

809:40:01 Q. And I want to talk about what happened in those nine days
909:40:06 before Mr. Banks is placed on notice that he's on the law
1009:40:11 enforcement radar and this arrest we are talking about today.
1109:40:16 Okay?

1209:40:16 A. Okay.

1309:40:18 THE COURT: And you will get the chance to do that,
1409:40:20 Ms. O'Connor, but for now, if counsel could briefly approach.

1509:40:23 Ladies and gentlemen, you may stand and stretch and
1609:40:26 chat quietly amongst yourselves while we are chatting over
1709:40:29 here.

1809:40:30 (At the bench:)

1909:40:41 THE COURT: Mr. Morse, yes, of course it's beyond
2009:40:44 the scope. However, it's not beyond the scope of the case.
2109:40:47 Obviously, the -- what we just heard is relevant to whether
2209:40:51 the actions that occurred on the 24th should be construed as
2309:40:54 consciousness of guilt.

2409:40:56 So if I started sustaining those objections, all we
2509:40:59 would do is have this agent come back in the case in chief,

109:41:02 and he could be called again, and it seems to me that is a
209:41:05 big waste of everybody's time.

309:41:07 On the other hand, if you believe there is something
409:41:10 that occurred in those nine days which the jury would never
509:41:13 hear about either in the defendant's case or on
609:41:16 cross-examination, then let me know now, and we'll deal with
709:41:19 it. But if it's just a matter of the timing, then it's just
809:41:22 not helpful to the jury to have the testimony broken up in
909:41:26 that fashion.

1009:41:28 MR. MORSE: My objection was it sounded like -- and
1109:41:29 maybe I'm wrong -- it sounded like Counsel was going to start
1209:41:32 eliciting opinions about if someone is on notice, does that
1309:41:35 mean they should run or not? I don't think this is the
1409:41:37 proper witness for that. I think her point is well taken,
1509:41:40 but this is not the witness to opine as to whether someone
1609:41:43 who has their phone seized -- which he was not personally
1709:41:47 involved with. He was involved up at the team, but he wasn't
1809:41:49 there for the seizure of the phone -- whether that person
1909:41:52 would naturally --

2009:41:52 THE COURT: All right. First of all, given the use
2109:41:54 that you have made of summary witnesses, that ship has sailed
2209:41:58 two weeks ago. If he was aware that the things were sailed,
2309:42:01 then certainly he can just testify to it just to save us a
2409:42:05 bunch of time.

2509:42:06 But my question, then, is -- I don't think

109:42:07 Ms. O'Connor is going to do this. It seems to me she's
209:42:10 eliciting facts from which, in argument, that the defense can
309:42:14 reasonably suggest to the jury that any inference of
409:42:17 consciousness of guilt was mistaken because there were other
509:42:19 reasons for him to do what he did.

609:42:21 MR. MORSE: Understood, Your Honor. And I want to
709:42:24 flag this. I'm not sure if Ms. O'Connor is going here, but I
809:42:27 think if there was any discussion of what Mr. Banks was doing
909:42:30 between the phone seizure and when he was arrested --

1009:42:32 THE COURT: It sounds like she intends to exactly
1109:42:34 ask that, which is why I'm asking you: Is there something in
1209:42:37 those nine days of which you are aware which the jury will
1309:42:40 never hear about, regardless of whether it's now or in the
1409:42:42 case in chief, that you believe under Rule -- either it's
1509:42:46 irrelevant, it's hearsay, it's Rule 403, then tell me now, so
1609:42:50 I can deal with it.

1709:42:51 MR. MORSE: The only thing I think might come up --
1809:42:53 you are shaking your head -- is that he went to a concert or
1909:42:55 something in the interim. I don't know if Counsel is going
2009:42:59 to go there. This witness doesn't know.

2109:43:02 MS. O'CONNOR: To address Mr. Morse's previous
2209:43:04 point, I'm not interested in this witness's opinion about
2309:43:07 anything.

2409:43:07 THE COURT: I didn't think so.

2509:43:09 MS. O'CONNOR: So what I am going to talk about --

109:43:11 and the Government is making much about Mr. Banks'
209:43:15 consciousness of guilt and his flight, so my point is that he
309:43:19 was conducting his normal life during those nine days --

409:43:23 THE COURT: So to the extent this witness knows. I
509:43:24 mean, the problem is you can't say, "Oh, and he had a
609:43:26 beautiful dinner with his wife" when it's just ludicrous -- I
709:43:29 mean, when it just would be -- there is just no possible way
809:43:32 that this witness could answer that.

909:43:34 MS. O'CONNOR: He's a member of a task force that
1009:43:36 was surveilling Mr. Banks. They were on a surveillance team.
1109:43:39 So I do think I get to ask whether he was conducting his
1209:43:42 regular business, whether they were aware he was in Miami to
1309:43:45 conduct his regular business, he was filming a music video.
1409:43:48 These are all things that contradict the consciousness of
1509:43:51 guilt, and I think we are entitled to do it. They are making
1609:43:54 a big deal out of his consciousness of guilt, and those
1709:43:57 things speak to the opposite.

1809:43:59 THE COURT: Well, there is two issues here. One is,
1909:44:02 is this witness competent to answer those questions? The
2009:44:04 second is whether those answers are relevant. What does the
2109:44:07 Government have to say about that?

2209:44:08 MR. MORSE: I don't think he is going to say he knew
2309:44:10 he was filming a video in Miami or any of that. I think this
2409:44:14 is just an effort to get the information before the jury.

2509:44:16 MS. O'CONNOR: This is a member of a task force that

109:44:18 was conducting surveillance on Mr. Banks.

209:44:20 THE COURT: Right. But we don't know whether he was
309:44:22 a member. It doesn't say he was a chief; it wasn't saying he
409:44:26 tasked people; it wasn't saying he read all the reports,
509:44:29 unlike the other witnesses whom the Government has put up.

609:44:32 So it seems to me here, if you want to address in
709:44:35 the case -- your case in chief through a competent witness,
809:44:39 then you are perfectly free to do that. I'm not denying the
909:44:41 relevance of this, as long as it doesn't go over into Rule
1009:44:45 403 or go into jury nullification. That was addressed in the
1109:44:48 Government's Motion in Limine Number 2.

1209:44:50 But as long as it stays away from that, I'll allow
1309:44:53 it. I'm just not really seeing that this witness is likely
1409:44:55 to be the right witness to whom to be addressing those
1509:44:59 questions. But the questions that you've asked so far, of
1609:45:01 course, are fine.

1709:45:02 MS. O'CONNOR: I think what I'm hearing is a concern
1809:45:05 about personal knowledge, and that is something I would
1909:45:07 establish. I'm not going to just go on a list of things I
2009:45:10 know that he doesn't know about.

2109:45:10 THE COURT: All right. In that --

2209:45:13 MS. O'CONNOR: Can we just touch on the Fifth
2309:45:15 Amendment issue, Your Honor, that just happened?

2409:45:16 THE COURT: Go ahead.

2509:45:17 MS. O'CONNOR: So, you know, I was aware that that

109:45:19 was in the report. I would have assumed that the Government
209:45:23 would have structured their questions and worked with their
309:45:25 witness to avoid that. That is a comment on somebody's
409:45:28 silence when he's saying "invoke the Fifth Amendment," and
509:45:33 I'm -- I would like a curative instruction.

609:45:35 THE COURT: Well, I'm not sure what the -- frankly,
709:45:37 it seems the opposite. I mean, it seems that he just said,
809:45:40 you know, "Are you objecting to the comment? Like, you know
909:45:42 who I am?" Or objecting that --

1009:45:44 MS. O'CONNOR: "Don't say anything," I think is what
1109:45:46 the testimony was.

1209:45:48 MR. MORSE: Yeah, I think the testimony was that
1309:45:50 this witness overheard Mr. Banks telling people not to say
1409:45:52 anything. That is not an invocation of the Fifth Amendment,
1509:45:57 Your Honor. With respect to the identification, the fact
1609:45:58 that he tells this agent, "You know who I am," that indicates
1709:46:00 he --

1809:46:01 THE COURT: Well, we are going to have -- I can't
1909:46:03 just deal with this at sidebar right now. I understand where
2009:46:05 you are coming from, Ms. O'Connor, but the point is made
2109:46:07 that -- you know, it wasn't like Mr. Banks was the lawyer for
2209:46:11 any of these people, you know. And so it's -- I don't see
2309:46:15 where it's privileged for him to say it wasn't his own
2409:46:18 invocation. He didn't invoke; he actually said something,
2509:46:22 which, of course, I have to say, it's so innocuous. Of

109:46:24 course they knew exactly who he was.

209:46:26 Apparently everyone in Chicago and Miami knows who
309:46:28 he was. Apparently the whole world except for me knew who he
409:46:32 was before his arrest. I had never heard of him, but
509:46:37 obviously I'm not the target audience for his music.

609:46:41 The thing is, it just seems to me very innocuous.
709:46:42 But if you feel it should stay out, we'll discuss that, but
809:46:45 we don't have to deal with it right now. If it should be
909:46:48 stricken, it will be stricken.

1009:46:49 MS. O'CONNOR: Understood. Thank you.

1109:46:51 (In open court:)

1209:47:05 THE COURT: Ms. O'Connor, you may continue.

1309:47:07 MS. O'CONNOR: Thank you.

1409:47:07 Q. Okay, Special Agent, so first I want to establish you are
1509:47:18 an FBI agent, correct?

1609:47:19 A. That's correct.

1709:47:19 Q. And as an FBI agent working on something like this, you
1809:47:23 are not just, like, a lone wolf. You are not the only agent
1909:47:28 working on this matter, correct?

2009:47:29 A. No.

2109:47:30 Q. You are part of a team, right?

2209:47:31 A. Sure.

2309:47:33 Q. And you have FBI agents you communicate with in Miami;
2409:47:37 you might communicate with agents in Los Angeles, right?

2509:47:40 A. That's correct.

109:47:41 Q. And it's important for the whole team to stay in
209:47:45 communication with one another, right?

309:47:47 A. Yeah, I would say it's necessary.

409:47:51 Q. It's necessary. Exactly.

509:47:53 And so -- and especially when you are preparing to
609:47:58 arrest somebody, right?

709:47:59 A. Generally, yes.

809:48:01 Q. Yeah. And one of the things your team, not just you, but
909:48:06 your whole team was doing was attempting to surveil Mr. Banks
1009:48:10 during that time period. Those nine days we talked about,
1109:48:12 right?

1209:48:13 A. Yes. I had very little involvement with the surveillance
1309:48:20 during that period. But I know that surveillance was
1409:48:24 occurring.

1509:48:24 Q. You and some of the other members of the task force
1609:48:38 completed a spot check and/or surveillance approximately
1709:48:42 every day for a one-week period before a lead was sent to
1809:48:47 seize Mr. Banks' phone, right?

1909:48:49 A. I would have to review the report that you are looking
2009:48:52 at.

2109:48:52 Q. Yeah --

2209:48:53 A. Who authored it.

2309:48:55 THE COURT: Excuse me, Ms. O'Connor. Special Agent,
2409:48:59 at the time were you getting any reports or any updates from
2509:49:02 other team members? Or would your only knowledge of what

109:49:05 occurred during those nine days be from reports that were
209:49:08 prepared after the fact?

309:49:09 THE WITNESS: In reports prepared after the fact. I
409:49:11 conducted one spot check myself, but I was not the lead agent
509:49:15 on this lead when it initially came in. I was -- really only
609:49:20 got involved on October 24th in any significant capacity.

709:49:24 THE COURT: All right. Ms. O'Connor, you may
809:49:26 inquire about that spot check.

909:49:28 MS. O'CONNOR: Sure.

1009:49:29 Q. So you first became involved in the Durk Banks
1109:49:41 investigation approximately a few weeks before the
1209:49:46 October 2024 arrest, right?

1309:49:47 A. I believe we established nine days.

1409:49:50 Q. And you received a call from the LA field office, who
1509:49:55 explained the investigation and asked for help with
1609:49:57 surveillance that might lead to Mr. Banks' arrest, right?

1709:50:00 A. Not myself personally right off the bat.

1809:50:04 Q. You didn't receive a call from the field office?

1909:50:06 A. I was not the initial, like, intake of this case, no. It
2009:50:12 was assigned to somebody else originally.

2109:50:14 Q. That was not my question. You received a call from the
2209:50:18 LA field office; is that correct?

2309:50:20 A. Yes.

2409:50:20 Q. Thank you.

2509:50:22 Okay. So during these nine days -- and only tell me

109:50:29 if you know, okay?

209:50:31 A. Sure.

309:50:31 Q. Your personal knowledge based on your membership in this
409:50:35 task force, okay? And again, you are not a lone wolf; you
509:50:38 are working with other people, right?

609:50:39 A. Okay.

709:50:39 Q. During those nine days --

809:50:43 MR. MORSE: Your Honor, I'm going to object -- renew
909:50:45 the objection at sidebar. This witness's personal knowledge
1009:50:48 is --

1109:50:48 THE COURT: The objection is sustained.

1209:50:50 Ms. O'Connor, establish what the witness personally
1309:50:52 knew and then ask questions about that.

1409:50:54 MS. O'CONNOR: Okay.

1509:50:55 Q. Well, let me ask you this: Before you arrested
1609:51:01 Mr. Banks, did you know what he looked like?

1709:51:03 A. Yes.

1809:51:03 Q. You were shown pictures of him?

1909:51:05 A. Yes.

2009:51:05 Q. Did you google him?

2109:51:08 A. I don't remember if I googled him before that date of the
2209:51:16 arrest. I may have.

2309:51:17 Q. Okay. And he's here today with short dark hair, right?

2409:51:24 A. That's correct.

2509:51:25 Q. But at the time of his arrest, he had long block -- blond

109:51:30 locks; is that correct?

209:51:31 A. That's correct.

309:51:32 Q. Okay. And you know, I'm sure, because you did your
409:51:37 homework, that that is kind of his signature look at the
509:51:40 time, right, the blond locks?

609:51:42 A. I have been told that. I didn't know that at the time.

709:51:44 Q. And it was a distinctive look. Sometimes they are locks,
809:51:47 sometimes they are braids, but it's kind of his trademark and
909:51:50 his signature, right?

1009:51:52 A. If you say so.

1109:51:53 Q. Okay. And I guess my point is, at the time of his
1209:51:56 arrest, he still had those very distinctive signature locks,
1309:52:00 correct?

1409:52:01 A. They were blond locks, yes.

1509:52:04 Q. Okay. He hadn't shaved them off before he went to take
1609:52:09 this flight?

1709:52:10 A. No.

1809:52:10 Q. You saw no other evidence he tried to change his
1909:52:14 appearance before taking this flight? And I want to talk to
2009:52:18 you again about -- just, actually, answer the question. You
2109:52:21 saw no other evidence he attempted to change his appearance,
2209:52:24 right?

2309:52:24 A. Yeah, excepting the fact that I had very little
2409:52:30 experience of what his historical appearance looked like,
2509:52:34 based off of the pictures that I had received to the time

109:52:38 that I saw him, there was no significant change in
209:52:41 appearance.

309:52:41 Q. Okay. And you also did a quick search of the car we
409:52:48 talked about a little bit earlier, correct?

509:52:52 A. That's correct.

609:52:52 Q. Okay. You didn't find any false passports, right?

709:52:57 A. I didn't find any passports.

809:52:59 Q. You didn't find any fake IDs, right?

909:53:03 A. No.

1009:53:04 Q. Okay. You didn't -- I mean, and you work in Miami. You
1109:53:09 know that there is a robust market for the trafficking of
1209:53:14 fake IDs and false identities, correct?

1309:53:19 A. I don't know how to define "robust," but it does exist in
1409:53:25 Miami.

1509:53:25 Q. Especially in Miami, right?

1609:53:27 A. I don't know if I would be able to say especially.

1709:53:30 Q. But it's possible. And of course in your line of work,
1809:53:33 you know that sometimes people acquire fake IDs and fake
1909:53:39 identities in order to flee, right?

2009:53:41 A. That does happen from time to time.

2109:53:43 Q. No evidence Mr. Banks did any of that, right?

2209:53:46 A. Not to my knowledge.

2309:53:48 Q. And in fact Mr. Banks also -- what he didn't do is get in
2409:53:53 a car and drive up the Florida Peninsula and down into
2509:54:01 Mexico, right?

109:54:01 A. Not on that day, no.

209:54:05 Q. Or any day that you know of in this investigation, right?

309:54:07 A. As far as I know.

409:54:08 Q. Yeah. And fugitives do that, don't they?

509:54:11 A. Sometimes.

609:54:11 Q. People disappear into Mexico, right?

709:54:15 A. The fugitives flee the country in a variety of ways,
809:54:20 sometimes through Mexico, sometimes on private planes at
909:54:25 Miami Signature airport.

1009:54:28 Q. Yeah, sometimes on private planes that the FBI got the
1109:54:31 alert for that he had made that plane reservation, right?

1209:54:35 A. Well, in this case -- I was just providing that as an
1309:54:39 example. In this particular case, that did not happen.

1409:54:42 Q. You received the alert that he made a reservation for a
1509:54:47 private plane flight, correct?

1609:54:48 A. That's correct. I meant the fleeing part out of the
1709:54:52 country.

1809:54:52 Q. Yeah, I'm not asking for your opinion on Mr. Banks' state
1909:54:55 of mind, okay? I'm asking you about facts. Is that okay,
2009:54:59 Special Agent?

2109:54:59 A. I believe I answered the question with a fact.

2209:55:04 Q. You received an alert as an FBI agent that Mr. Banks made
2309:55:10 a reservation for a private plane flight, correct?

2409:55:13 A. That's correct.

2509:55:14 Q. It was under his true name, correct?

109:55:17 A. I only learned of the alert from another agent, so I
209:55:24 wouldn't be able to say one way or another whether it was
309:55:27 made in his true name or he was just a passenger manifested
409:55:32 on that reservation.

509:55:34 Q. He was listed on that flight, correct?

609:55:37 A. Yes.

709:55:37 Q. Under his true name, Special Agent, right?

809:55:40 A. That's correct.

909:55:41 Q. Okay. That was my question. Thank you.

1009:55:51 So he didn't try to disappear into Mexico, right?

1109:55:56 A. As far as I know.

1209:55:58 Q. He -- his true name was listed on the flight manifest,
1309:56:02 correct?

1409:56:02 A. Yes.

1509:56:02 Q. And the FBI, as it always does, received an alert about
1609:56:07 that, right?

1709:56:08 A. We did receive an alert about that, yes.

1809:56:10 Q. Okay. And during those nine days between when Mr. Banks
1909:56:16 was on notice that law enforcement was looking at him, and
2009:56:19 this arrest, there was a task force surveilling him, correct?

2109:56:29 A. I would have to review a report for how many times or the
2209:56:34 duration during those nine days. I know that there was
2309:56:38 various surveillance done, but I don't know if it was every
2409:56:42 day, every other day, a spot check a day. I don't know to
2509:56:46 what degree the surveillance was.

109:56:48 Q. Some sort of surveillance, right?

209:56:50 A. Yes.

309:56:50 Q. As one would expect with the FBI, correct?

409:57:00 Does the FBI do a good job of investigating people
509:57:02 that they want to arrest?

609:57:04 A. I hope so.

709:57:05 Q. Me too.

809:57:08 So during those nine days, are you aware that he was
909:57:13 just living his normal life?

1009:57:17 MR. MORSE: Your Honor, objection again.

1109:57:18 THE COURT: Sustained. There hasn't been a
1209:57:21 foundation here, Ms. O'Connor.

1309:57:25 Q. Okay. On October 24th, Special Agent Goepel, the time of
1409:57:30 Mr. Banks' arrest, there was no charges filed against him,
1509:57:33 right?

1609:57:35 A. At the time of his arrest?

1709:57:38 Q. Correct.

1809:57:39 A. To my knowledge, no.

1909:57:40 Q. Okay. And nobody had told him he wasn't allowed to
2009:57:44 travel, to your knowledge?

2109:57:46 A. Again, to my knowledge, no.

2209:57:47 Q. Okay. And the FBI or the U.S. Attorney's Office
2309:57:52 sometimes does that. They might communicate with the person
2409:57:55 or a person's attorney and tell them, "We would appreciate if
2509:57:59 your client didn't travel at this point." Right?

109:58:01 A. I don't think I have any personal experience with that.
209:58:08 I'm sure it does happen, but I have never experienced it.

309:58:11 Q. And if you know, only if you know, are you aware about
409:58:19 whether Mr. Banks ran this trip by a lawyer before he took
509:58:25 it?

609:58:26 MR. MORSE: Your Honor, objection.

709:58:27 THE COURT: Sustained.

809:58:40 Q. So how long have you been an FBI agent?

909:58:43 A. Since 2021.

1009:58:46 Q. Okay. And how many arrests have you participated in?

1109:58:49 A. Hundreds.

1209:58:53 Q. Hundreds.

1309:58:54 And in your experience, does anybody like to be
1409:58:58 arrested?

1509:59:01 MR. MORSE: Your Honor, objection. Relevance. 403.

1609:59:05 THE COURT: Overruled.

1709:59:08 A. I don't know. I mean, an easy answer is no, but I
1809:59:13 haven't polled every person that I have arrested and asked
1909:59:15 them if they enjoyed the experience.

2009:59:18 Q. But you -- you can tell, right?

2109:59:23 A. Most people who are subject to Federal arrest have a
2209:59:28 negative experience with it, I'm sure, or reaction.

2309:59:37 MS. O'CONNOR: May I have a moment, Your Honor?

2409:59:39 THE COURT: You may.

2509:59:39 (Pause in proceedings.)

109:59:44 MS. O'CONNOR: That's all. Thank you, Your Honor.

209:59:50 THE COURT: Mr. Harbaugh?

309:59:53 MR. HARBAUGH: No questions, Your Honor.

409:59:54 THE COURT: Mr. Mills?

509:59:55 MR. MILLS: No questions, Your Honor.

609:59:56 THE COURT: All right. Redirect.

709:59:58 MR. MORSE: No further questions for this witness,
809:59:59 Your Honor. Thank you.

910:00:00 THE COURT: Special Agent, you are excused. Thank
1010:00:03 you.

1110:00:03 THE WITNESS: Thank you.

1210:00:04 THE COURT: Ladies and gentlemen, you may stand and
1310:00:06 stretch. The Government may call its next witness.

1410:00:09 MR. MORSE: Your Honor, the United States calls --

1510:00:10 THE COURT: Let's take our morning break.

1610:00:13 Ladies and gentlemen, we will start again at 10:20.
1710:00:17 Remember what I told you: Don't discuss or investigate the
1810:00:21 case.

1910:00:22 (Thereupon, the jury retired from the courtroom.)

2010:00:51 THE COURT: Counsel, other than the matters that we
2110:00:54 have discussed already and I'm aware of, is there anything
2210:00:58 else before the next witness?

2310:01:02 MR. MORSE: Not from the Government.

2410:01:03 THE COURT: All right. And will this witness -- who
2510:01:06 is the next witness?

110:01:07 MR. MORSE: The next witness is Special Agent
210:01:11 Freddie Batista. He participated in the search of the
310:01:14 vehicle.

410:01:14 THE COURT: About whom we just heard?

510:01:15 MR. MORSE: Yes.

610:01:16 THE COURT: And is there going to be any of the
710:01:17 issues that were raised at sidebar raised with this witness?

810:01:22 MR. MORSE: With respect to the period between
910:01:24 October 16th and October 24th, Your Honor?

1010:01:25 THE COURT: Yes, now that you have raised it, but I
1110:01:30 also meant the issue in regard to what happened at the actual
1210:01:32 time of the approach to the SUV.

1310:01:36 MR. MORSE: He's going to testify that he assisted
1410:01:37 in the arrest and then later conducted a search of the
1510:01:40 vehicle at the FBI field office.

1610:01:43 THE COURT: Is he or is he not going to testify, or
1710:01:45 is it your desire that he testify to the remarks that were
1810:01:47 made or -- did he overhear the remarks?

1910:01:50 MR. MORSE: No, we are not going to elicit any
2010:01:52 statements.

2110:01:53 THE COURT: Okay. Thank you.

2210:01:54 (Thereupon, there was a brief recess.)

2310:22:37 THE COURT: Counsel, who is going to cross-examine
2410:22:39 Special Agent Batista?

2510:22:40 MS. O'CONNOR: I will, Your Honor.

110:22:41 THE COURT: Ms. O'Connor, I'm going to share with
210:22:44 you something that Judge Burns said to me in 1988 at my first
310:22:48 trial, my first cross-examination. I said thank you to the
410:22:51 witness after he gave me what I wanted, and he called us to
510:22:55 sidebar and said, "Mr. Fitzgerald, by saying thank you to the
610:22:58 witness, you mean no courtesy. You are commenting on the
710:23:01 witness's testimony, that you got what you wanted. That is a
810:23:04 very bad habit of which I break you now."

910:23:09 So in cross-examining of Mr. Batista, please refrain
1010:23:17 from saying thank you to the witness, unless it's an obvious
1110:23:18 genuine courtesy on this, but not to signal that you got what
1210:23:20 you wanted. I mean, you did get what you wanted. You don't
1310:23:23 need us to tell that to the jury.

1410:23:24 MS. O'CONNOR: Thank you. I mean, that was a
1510:23:25 genuine thank you. Yes.

1610:23:27 THE COURT: I understand.

1710:23:28 All right. Ms. Sanchez, would you please get the
1810:23:31 jury.

1910:23:31 THE CLERK: Yes, Your Honor.

2010:24:48 (Thereupon, the jury returned to the courtroom.)

2110:25:18 THE COURT: Welcome back, members of the jury. All
2210:25:22 15 of you are here.

2310:25:24 The Government may call its next witness.

2410:25:26 MR. MORSE: Thank you, Your Honor.

2510:25:26 Your Honor, the United States calls FBI Special

110:25:29 Agent Freddie Batista to the stand.

210:25:57 THE CLERK: Good morning. Please raise your right
310:26:00 hand.

410:26:00 THEREUPON:

510:26:00 SPECIAL AGENT FREDDIE BATISTA,
610:26:00 Called in these proceedings, and after having been first duly
710:26:08 sworn, testifies as follows:

810:26:08 THE CLERK: Thank you. Please be seated.

910:26:10 Please state and spell your name for the record.

1010:26:23 THE WITNESS: My name is Freddie Batista, and last
1110:26:26 name spelled B-a-t-i-s-t-a.

1210:26:29 THE CLERK: Thank you.

1310:26:30 THE COURT: Mr. Morse, you may proceed.

1410:26:32 MR. MORSE: Thank you, Your Honor.

1510:26:32 DIRECT EXAMINATION

1610:26:34 BY MR. MORSE:

1710:26:34 Q. Good morning, Special Agent Batista.

1810:26:36 A. Good morning.

1910:26:36 Q. What do you do for a living, sir?

2010:26:38 A. I am a Federal agent with the Federal Bureau of
2110:26:42 Investigation, FBI.

2210:26:42 Q. And how long have you been with the FBI?

2310:26:44 A. I will make nine years now in January.

2410:26:48 Q. And what was your assignment back in October of 2024?

2510:26:52 A. I was assigned to the Violent Crime and Fugitive Task

110:26:56 Force.

210:26:56 Q. On October 24, 2024, did you assist Special Agent Conor
310:27:02 Goepel in the arrest of Durk Banks?

410:27:03 A. I did, yes.

510:27:04 Q. Did that occur at the Wyndham Garden hotel in Miami?

610:27:08 A. Yes.

710:27:08 Q. All right. And after that arrest, did you participate in
810:27:12 the search of the vehicle that Mr. Banks was inside of?

910:27:15 A. Yes.

1010:27:15 Q. Okay. Are photographs of that vehicle contained in
1110:27:20 Exhibit 338, which you reviewed?

1210:27:21 A. Yes.

1310:27:22 Q. Okay.

1410:27:23 MR. MORSE: Your Honor, the Government moves 338
1510:27:24 into evidence.

1610:27:25 THE COURT: 338 is admitted.

1710:27:25 (Exhibit No. 338 received.)

1810:27:26 MR. MORSE: Thank you.

1910:27:26 If we could publish page 1.

2010:27:30 Q. Okay. Showing you page 1 of Exhibit 338. Is this the
2110:27:33 vehicle that you participated in the search of?

2210:27:37 A. Yes, sir.

2310:27:38 MR. MORSE: Let's go to page 7.

2410:27:40 Q. All right. Showing you page 7. Does this show some of
2510:27:42 the interior of the vehicle?

110:27:43 A. Yes, sir.

210:27:43 Q. Okay.

310:27:44 MR. MORSE: Go to page 9.

410:27:47 Q. Were there any digital devices seized when you conducted
510:27:51 the search?

610:27:52 A. Yes, I believe a total of four.

710:27:53 Q. Okay. Were these two of those digital devices?

810:27:56 A. Yes. Correct.

910:27:57 Q. Okay.

1010:27:58 MR. MORSE: Go to page 13, please.

1110:28:01 Q. Okay. Showing you page 13 of this exhibit. Did you --
1210:28:05 did you locate luggage inside of this vehicle?

1310:28:08 A. Correct. All the luggage reflected in the photograph.

1410:28:11 Q. Okay.

1510:28:11 MR. MORSE: Page 14.

1610:28:14 Q. Is this another photograph showing a different angle of
1710:28:17 the luggage?

1810:28:18 A. Yes, sir.

1910:28:19 MR. MORSE: Page 17.

2010:28:22 Q. Okay. Is this another photograph showing another angle
2110:28:24 of some of the items inside of the vehicle?

2210:28:26 A. Yes, sir.

2310:28:27 Q. Okay.

2410:28:27 MR. MORSE: Go to page 18.

2510:28:31 Q. What are we seeing on page 18?

110:28:32 A. Those were two additional cellphones that were also
210:28:35 recovered from the vehicle.

310:28:37 MR. MORSE: I have nothing further, Your Honor.

410:28:39 THE COURT: Ms. O'Connor?

510:28:40 MS. O'CONNOR: No questions, Your Honor.

610:28:41 THE COURT: Okay. Mr. Harbaugh?

710:28:45 MR. HARBAUGH: None, Your Honor.

810:28:46 THE COURT: Mr. Mills?

910:28:47 MR. MILLS: None either, Your Honor.

1010:28:48 THE COURT: Special Agent Batista, you are excused.

1110:28:50 Thank you.

1210:28:50 THE WITNESS: Thank you.

1310:28:52 THE COURT: The Government may call its next
1410:28:54 witness.

1510:28:55 MR. MORSE: Your Honor, before the Government rests,
1610:28:58 we have spoken with defense counsel regarding some exhibits
1710:29:00 that we didn't move in that we would like to move in at this
1810:29:03 point, Your Honor.

1910:29:03 THE COURT: You may.

2010:29:04 MR. MORSE: Those are Exhibits 85 through 93; 115-B,
2110:29:09 like boy; 158-A, like apple; 160-A --

2210:29:14 THE COURT: I'm sorry, 115-A?

2310:29:17 MR. MORSE: 115-B, like boy, Your Honor.

2410:29:19 THE COURT: Oh, B. Excuse me. And then what was
2510:29:21 after that?

110:29:21 MR. MORSE: 158-A, like apple.

210:29:23 THE COURT: 158-A. Got it. Go ahead.

310:29:26 MR. MORSE: 160-A, like apple, Your Honor.

410:29:28 THE COURT: 160-A.

510:29:30 MR. MORSE: And then 161-A, like apple.

610:29:31 THE COURT: 161-A.

710:29:33 All right. Those exhibits are admitted.

810:29:33 (Exhibit Nos. 85 through 93, 115-B, 158-A, 160-A,
910:29:38 161-A received.)

1010:29:38 MR. MORSE: Your Honor, pending admission of the
1110:29:41 exhibits that we have submitted, the Government rests at this
1210:29:43 time.

1310:29:43 THE COURT: Ladies and gentlemen, I'm going to send
1410:29:47 you out again briefly because there is some things to talk
1510:29:51 about before the -- we proceed with the trial, the Government
1610:29:57 having rested.

1710:29:58 So I know you just took a break. If we can get
1810:30:02 started again in 15 minutes, then we'll do that. And if it's
1910:30:07 going to be longer than that, then I'll let you know.

2010:30:10 All right. Don't discuss or investigate the case.
2110:30:12 Thank you.

2210:30:13 (Thereupon, the jury retired from the courtroom.)

2310:30:40 THE COURT: Please be seated.

2410:30:42 As I discussed yesterday, the motions pursuant to
2510:30:50 Rule 29 and the two severance motions are deemed made and

110:30:55 renewed. They will address the state of the evidence as it
210:31:00 exists at the time, even if additional evidence is elicited
310:31:04 before the argument, and that has already been on the record.

410:31:11 Before we start, what I would like -- and again, we
510:31:16 can do this at sidebar if defense counsel thinks it's
610:31:19 appropriate -- is to have -- be told what the Government was
710:31:24 told about these witnesses so I can make -- have a better
810:31:30 chance of making legally correct rulings.

910:31:34 But putting that aside, is there anything else that
1010:31:37 counsel want to raise with me before the defense case?

1110:31:43 MR. YANNIELLO: Your Honor, only that we haven't
1210:31:45 received information about certain witnesses, and so I'm sure
1310:31:50 the defense is going to be providing that to us, so if they
1410:31:54 want to do that now at sidebar or during the break.

1510:31:56 THE COURT: Mr. Steel, is the list here roughly what
1610:31:59 you anticipate now as being the order in which these
1710:32:01 witnesses are being called?

1810:32:03 MR. STEEL: Yes.

1910:32:03 THE COURT: All right. Then let's approach sidebar,
2010:32:06 and just be prepared to give me -- just tell me whatever it
2110:32:10 is you've told the Government so I understand what the
2210:32:13 situation is.

2310:32:14 (At the bench:)

2410:32:27 MS. GOLDBERG: Your Honor, hopefully, we did switch
2510:32:29 a few things around.

110:32:29 THE COURT: Okay.

210:32:30 MS. GOLDBERG: In terms of the order, not in terms
310:32:33 of the names. Our first witness we intend to call is Tonya
410:32:37 Johnican, and she is -- who has been referred to in this case
510:32:40 as Big Kountry, his sister.

610:32:42 THE COURT: I see.

710:32:43 MS. GOLDBERG: So she can explain --

810:32:44 THE COURT: Is -- is he still alive or is --

910:32:49 MS. GOLDBERG: He's deceased.

1010:32:50 THE COURT: He's deceased. All right. Got it. Go
1110:32:54 ahead. And then -- go ahead.

1210:32:55 MS. GOLDBERG: And we anticipate that she will talk
1310:32:58 about her brother and his business and the legitimacy
1410:33:01 surrounding that business.

1510:33:02 THE COURT: All right. And I assume you will lay a
1610:33:04 foundation. I mean, that they weren't estranged. She had no
1710:33:07 idea what he was doing. You know, she doesn't automatically
1810:33:09 get to testify just because she's his sister.

1910:33:12 Thank you, Mr. Steel, not perhaps in the best of
2010:33:15 taste, but I understand that.

2110:33:18 But I assume -- you will say basis that she not -- I
2210:33:22 mean, this can't be hearsay. She obviously would observe
2310:33:24 what he was doing and have a general sense. Okay. That is
2410:33:28 fine.

2510:33:28 So tell me who is next.

110:33:29 MS. GOLDBERG: The next one is Sanchay Jain.

210:33:36 THE COURT: Okay.

310:33:39 MS. O'CONNOR: Your Honor, this is a gentleman who
410:33:42 worked for Alamo Records, and he worked with Mr. Banks doing
510:33:49 media and essentially whittling out new songs and videos by
610:33:56 Mr. Banks. He's going to speak on several topics: One is
710:34:01 the circumstances surrounding the "Redman" video, which was a
810:34:04 Government exhibit.

910:34:05 THE COURT: I'm familiar, to put it mildly.

1010:34:08 MS. O'CONNOR: As we all know, yes.

1110:34:09 Number two, he's going to discuss why famous artists
1210:34:14 change phone numbers frequently, in his experience and based
1310:34:17 on his personal knowledge working with famous artists.

1410:34:20 THE COURT: Okay.

1510:34:21 MS. O'CONNOR: He's going to discuss the Alamo
1610:34:28 policy on overt violence and guns in videos, of which he has
1710:34:35 personal knowledge, and those are the topics.

1810:34:36 THE COURT: All right. Thank you. And then after
1910:34:38 Mr. Jain? And I don't see -- it seems to me that there is
2010:34:43 both a foundation, relevance. Yeah, I don't see a problem
2110:34:47 with this.

2210:34:47 Who is next?

2310:34:49 MR. STEEL: Your Honor, it's going to be Mr. Kevin
2410:34:51 Freeman.

2510:34:52 THE COURT: Um-hum.

110:34:53 MR. STEEL: And he is a very well-known person.
210:34:57 He's with the health care industry in multiple states, and he
310:35:03 knows Mr. Banks for about eight years. He knows him through
410:35:10 Neighborhood Heroes, which the Court has heard about. He is
510:35:14 a promoter of Neighborhood Heroes; he's a promoter of things
610:35:17 that help communities.

710:35:19 He speaks -- he was with Mr. Banks and others on the
810:35:26 October 16th, October 16th date. October -- it's really
910:35:31 October 13th, but they returned to America from London on
1010:35:35 October 16th. Mr. Banks' phone is seized, which you heard
1110:35:38 some small testimony. And they were in London. They were at
1210:35:42 a Chicago Bear-Jacksonville Jaguar game. That is why they
1310:35:47 were there. They came back.

1410:35:48 THE COURT: Okay. Two things here: That -- there
1510:35:53 just -- there just can't be a bunch of trying to get in
1610:35:56 hearsay, and he said this or that.

1710:35:58 MR. STEEL: There is no hearsay.

1810:35:59 THE COURT: Okay. The other thing is you can very
1910:36:01 briefly -- it's fortuitous for you -- but to say -- in saying
2010:36:06 how he knows Mr. Banks, he can just say "in a project called
2110:36:09 Neighborhood Heroes," but you can't build that into --

2210:36:11 MR. STEEL: I instructed him that the Court doesn't
2310:36:14 want it to be into --

2410:36:16 THE COURT: The fact that it's fortuitous, you know,
2510:36:18 the fact "Oh, I was him and saved Mother Teresa from getting

110:36:22 hit by a car." It's like it's --

210:36:24 MR. STEEL: How did you know what he was doing?

310:36:26 THE COURT: It's great if it happens, but just touch
410:36:27 on it lightly. You can do that --

510:36:30 MR. STEEL: I will.

610:36:30 THE COURT: -- because it does say how he knows him.
710:36:32 And I see the relevance of that. So that is fine.

810:36:35 MR. STEEL: And I actually told him don't define
910:36:37 Neighborhood Heroes, just nonprofit. That is what he called
1010:36:41 it.

1110:36:41 THE COURT: The Government have any comments about
1210:36:42 Mr. Freeman?

1310:36:44 MR. STEEL: I have more, though.

1410:36:45 THE COURT: I'm sorry. Go ahead.

1510:36:46 MR. STEEL: I just want to be complete, and I told
1610:36:48 the Government all this. Then you fast -- I think it's eight
1710:36:52 days. I heard the Honorable Ms. O'Connor say it's nine days,
1810:36:58 but it's October 24th?

1910:36:58 THE COURT: Yes.

2010:36:59 MR. STEEL: There are Jason Smith. You saw the
2110:37:01 video?

2210:37:01 THE COURT: Yes.

2310:37:04 MR. STEEL: And it's on jail records -- I mean phone
2410:37:06 records as well. Jason Smith calls then the Honorable
2510:37:10 Attorney Brayman, who is before your honorable Court,

110:37:15 representing Mr. Banks. Kevin Freeman is on that call.

210:37:19 Kevin Freeman gets phone calls from Mr. Banks; it's on the
310:37:21 phone record. And Mr. Banks is saying, "If I don't have a
410:37:23 warrant, I want to go to Dubai. I want to leave."

510:37:27 Mr. Freeman tells Mr. Banks, "You need to get out of
610:37:31 your house, because if they come, you have young children and
710:37:33 your wife, it's going to be traumatic." He deals in health
810:37:37 care. "You've just got to lay low" is his word, and there
910:37:41 was a discussion.

1010:37:42 He won't say anything Mr. Banks said, but it was his
1110:37:45 advice to him to get out of that house and then "If there is
1210:37:47 a warrant, you've got to turn yourself in." And there was no
1310:37:49 warrant for -- it's about 12 hours later is the flight which
1410:37:53 you hear about. That is pretty much his testimony.

1510:37:55 THE COURT: All right. So, but he himself --
1610:37:58 obviously Mr. Freeman isn't the lawyer, so he's saying, "I
1710:38:01 heard the lawyer give this advice."

1810:38:03 MR. STEEL: No. No, I'm not going to get into
1910:38:05 anything anyone said. He's going to say, based upon -- I'm
2010:38:08 going to say, "Don't tell me what anyone said. What did you
2110:38:10 tell Mr. Banks directly?" And he's going to say, "I told
2210:38:13 him, 'You've got to get out of the house.'"

2310:38:15 THE COURT: Mr. Freeman said this.

2410:38:16 MR. STEEL: Mr. Freeman's advice.

2510:38:17 THE COURT: Mr. Freeman, he's not a lawyer.

110:38:19 MR. STEEL: No.

210:38:20 THE COURT: It's relevant that if it goes to his
310:38:22 consciousness of guilt.

410:38:24 MR. STEEL: Exactly.

510:38:25 THE COURT: All right.

610:38:25 MR. YANNIELLO: Your Honor, one thing: Ms. O'Connor
710:38:27 asked a question. Clearly the FBI witness had no knowledge
810:38:30 about whether or not Mr. Banks sought advice from a lawyer
910:38:33 before leaving. We think that is entirely improper to get
1010:38:36 into. The relevance of Mr. Brayman being on the phone seems
1110:38:42 to be to backdoor exactly what Ms. O'Connor suggested in her
1210:38:46 questioning.

1310:38:49 THE COURT: But the point here is -- look, if
1410:38:51 someone was masquerading as a lawyer, was -- but if a
1510:38:55 witness -- if the defendant believed that this person was in
1610:39:00 a position to say something -- the point is anything that
1710:39:05 goes to the state of mind of the defendant to dispel the idea
1810:39:09 that this is consciousness of guilt is legitimate.

1910:39:12 So, and it just so -- it's unfortunate for the
2010:39:16 Government that there was a lawyer on there. But the
2110:39:18 inference then that -- which could be frankly argued in
2210:39:21 closing argument that Mr. Banks therefore would have taken it
2310:39:25 all the more serious if there is a lawyer there who doesn't
2410:39:28 object. It is a perfectly reasonable argument to make. From
2510:39:32 the Government's point of view, it's unfortunate, but it's

110:39:34 just something on which he fortuitously gets to rely. So --

210:39:38 MR. YANNIELLO: Your Honor, he sought advice from
310:39:41 Mr. Smith's attorney.

410:39:42 THE COURT: But the point isn't whether there is an
510:39:45 advice of counsel defense in a formal sense. It's rather
610:39:48 dispelling the inference on whether the -- his -- what he was
710:39:53 doing is -- just shows consciousness of guilt, or that he
810:39:57 thought he got to do it.

910:39:58 I mean, I don't -- if the crime was leaving the
1010:40:03 country and the only reason he would not be guilty under the
1110:40:06 elements is because a lawyer told him to do it, that would be
1210:40:09 one thing. But here, it's just this very nebulous thing of
1310:40:12 "What are we going to make of these ambiguous circumstances?"
1410:40:15 So it's a perfectly legitimate point to make.

1510:40:18 And again, especially if the lawyer is not saying
1610:40:21 anything, then there would be waiver of the privilege. It's
1710:40:24 just like I said, a fortuitous happenstance that Mr. Banks
1810:40:29 get -- you can say in cross-examining him, like, "The lawyer
1910:40:32 never said you got to do it; the lawyer didn't say this." I
2010:40:34 mean, is that -- and that is fine as well. But it's a matter
2110:40:38 to be dealt with on cross-examination.

2210:40:40 MR. YANNIELLO: Well, Your Honor, the last point I
2310:40:42 just make on that: We don't know what the lawyer said,
2410:40:44 because it's never been disclosed to us until just now that
2510:40:49 he was even on the phone call.

110:40:49 MR. STEEL: I know it's not attorney-client
210:40:51 privilege, because there are multiple people. But I'm
310:40:53 telling you in good faith I spoke with Attorney Brayman. I
410:40:56 would not put up the witness if it was wrong.

510:40:59 THE COURT: Okay. Then what is -- who is next?

610:41:01 MR. STEEL: Jay Marcano. Jay Marcano is like this
710:41:06 self-made promoter, branding person. He's known Mr. Banks
810:41:10 since about 2008 before he was ever anything. The
910:41:14 relationship to this case is all business.

1010:41:16 But, Your Honor, he's the person on -- and I think
1110:41:18 it's Government 118 -- we have seen it four times -- but
1210:41:24 "Don't book no flights under my name." There is two more
1310:41:27 text messages after that, and it says, "Tell Jay happy, the
1410:41:31 wedding" --

1510:41:32 THE COURT: I remember.

1610:41:33 MR. STEEL: So I saw that, and the team saw that,
1710:41:36 and we reached out to Mr. Marcano. He's getting married in
1810:41:40 Cabo. I gave the Government -- we'll mark it as exhibits.
1910:41:44 We gave the Government the invitation. We have more things
2010:41:46 if they want to see any receipts, but I don't know if it's
2110:41:49 going to be challenged.

2210:41:49 Mr. Banks was invited to the wedding. He travels
2310:41:52 with an entourage, and Mr. Banks told Mr. Marcano around that
2410:41:56 time -- he does not know the exact date. He's going to say
2510:42:00 between August 16th and August 19th that he is not coming.

110:42:03 It goes in with "Don't book no flights." It's our opinion --
210:42:07 he is not on that text chain. I'm not going to show him
310:42:11 that. But it's our opinion that we have good faith belief
410:42:14 that that is what he was talking about. It's an alternative.

510:42:17 THE COURT: The Government's response.

610:42:18 MR. MORSE: Your Honor, it's hearsay, if he's going
710:42:21 to be relaying what the defendant told him and offering for
810:42:24 its truth.

910:42:24 THE COURT: The hearsay isn't that, but the fact
1010:42:26 that he was -- and again, you can't get into the hearsay.
1110:42:28 But the fact that he was invited to the wedding and then --
1210:42:30 the fact that he's not coming isn't hearsay. It's a verbal
1310:42:33 act, and in fact he didn't know. I assume he knows he was at
1410:42:36 the wedding, especially if it's a famous person was showing
1510:42:39 up with an entourage.

1610:42:41 So the fact is he wasn't going. It's offered for
1710:42:43 the purpose that there was a banal explanation for a comment
1810:42:47 to which the Government is giving a sinister connotation. So
1910:42:51 it's a legitimate thing to do. So Mr. Marcano will be able
2010:42:54 to testify to that. But he can't testify to anything that
2110:42:56 Mr. Banks said other than just say, "He told me that he
2210:43:00 wasn't coming." But again, that is arguably a verbal act,
2310:43:03 and in any event, it's supported by the actual circumstances.

2410:43:07 MR. STEEL: Understood.

2510:43:08 THE COURT: Who next?

110:43:10 MR. STEEL: It's Ms. Dangerfield.

210:43:12 THE COURT: Um-hum.

310:43:13 MR. STEEL: You may remember I mentioned her with
410:43:15 Mr. Hester. She is a person who -- Mr. Hester paroled out to
510:43:20 her home on February 28th of 2022. That is after spending
610:43:26 about 12 years in custody. She lived with Mr. Hester for --
710:43:31 excuse me, Mr. Hester lived with her a very short period of
810:43:34 time. She kicked him out.

910:43:35 She will testify that she would not believe -- it's
1010:43:38 her opinion she would not believe Mr. Hester under oath.
1110:43:41 He's not an honest man. And Mr. Hester also called Mr. Banks
1210:43:44 -- that he -- Mr. Hester owns Mr. Banks. Mr. Banks made all
1310:43:48 of his money because he used Mr. Hester's real-life stories
1410:43:52 in his songs. He used Mr. Hester's names in his songs.
1510:43:56 Mr. Banks is a ho. Mr. Banks is weak. Mr. Banks works for
1610:44:00 him. That is basically -- and that all came from Mr. Hester,
1710:44:04 and I asked Mr. Hester about all that.

1810:44:05 THE COURT: All right. Then what is the
1910:44:07 Government's response as to Ms. Dangerfield? The opinion and
2010:44:11 reputation, remember, that cannot be based on -- from -- the
2110:44:16 Government can cross-examine about specific acts, but you
2210:44:19 can't bolster her opinion --

2310:44:22 MR. STEEL: Just her opinion.

2410:44:23 THE COURT: All right. And under 608, that is
2510:44:24 clearly allowed.

110:44:26 MR. MORSE: We understand her opinion.

210:44:27 THE COURT: It's the first time I have seen it in
310:44:30 30 years, but it's --

410:44:30 MR. MORSE: We understand the 608 purpose, Your
510:44:32 Honor. But the other purpose, which is it sounds like just
610:44:35 impeaching Mr. Hester's testimony, and my recollection is
710:44:38 that Mr. Steel asked Mr. Hester if he made these statements
810:44:42 to Ms. Dangerfield. He denied them. I don't think he's
910:44:45 entitled to prove that impeachment up through extrinsic
1010:44:49 evidence --

1110:44:49 THE COURT: Then the problem is there is a
1210:44:51 difference, as I said, between the point now that it was a
1310:44:56 thing. It wasn't stricken. I don't believe there was an
1410:44:59 objection. If it did, it was overruled. So it's before the
1510:45:01 jury.

1610:45:02 The purpose here is to show that Mr. Hester was
1710:45:04 willing to lie to their face, and that is something -- and,
1810:45:08 you know, this isn't some -- this isn't something that is so
1910:45:10 trivial that it could be argued that it's immaterial, so --

2010:45:15 MR. MORSE: There's no extrinsic evidence, Your
2110:45:16 Honor --

2210:45:16 THE COURT: Yeah, but they get extrinsic evidence
2310:45:18 not to prove the truth of what was said, but to show that he
2410:45:22 lied. I mean, that is the point here on the stand. It's not
2510:45:25 saying, "Oh, did you lie to your wife five years ago?" I

110:45:27 mean -- or "Did you cheat on your taxes five years ago?"

210:45:30 The point here is that he was asked on cross
310:45:34 something, he made an assertion, that that assertion itself
410:45:37 is perjurious, and then it plays into whether they could --
510:45:42 in theory, they could reject his whole testimony.

610:45:45 So yes. But, again, you've got to make sure she --
710:45:48 you've just got to ask her opinion on the truthfulness and
810:45:53 then move on --

910:45:53 MR. STEEL: I will.

1010:45:54 THE COURT: -- and not get into why she kicked him
1110:45:56 out.

1210:45:57 MR. STEEL: No, I hope the Government asks those
1310:45:59 questions, but I will not ask them.

1410:46:00 THE COURT: All right. And then next?

1510:46:02 MR. STEEL: So it's Ms. Springfield that cannot
1610:46:05 speak about it.

1710:46:09 MR. FINDLING: Your Honor, Shekema Springfield is a
1810:46:12 captain in the United States Army. She is the mother of the
1910:46:16 7-year-old son of Dayvon Bennett. She will address some of
2010:46:18 the things that were specifically spoken about by Mr. Grant.
2110:46:23 She will paint the picture of the -- of Mr. Grant and herself
2210:46:28 actually coming to Atlanta, which he testified about moving
2310:46:31 from Chicago here. She'll talk about, you know, the move-in.

2410:46:35 And she will then, more specifically, talk about how
2510:46:42 she found out that in fact Dayvon was killed, and that she

110:46:47 communicated with Mr. Grant, and that conversation which he
210:46:52 confirmed with her he was dead.

310:46:54 And I will say that she is going to say that he
410:46:56 said, "Don't worry about it. I'm going to handle it."

510:46:59 Because she said, "Who did this?"

610:47:00 And he said, "Just some guys. But don't worry. I'm
710:47:04 going to handle it."

810:47:05 She will then paint the picture of --

910:47:07 THE COURT: Again, if he were being prosecuted in
1010:47:10 Fulton County Superior Court, that would be -- that would be
1110:47:14 something which could be brought out. But here, the fact is
1210:47:17 it still is hearsay, and I also don't recall him being
1310:47:20 cross-examined on whether he made that statement.

1410:47:24 MS. GOLDBERG: State of mind.

1510:47:26 MR. FINDLING: Yeah, it's clearly state of mind of
1610:47:28 him at the time he's communicating. This is absolute state
1710:47:30 of mind.

1810:47:32 THE COURT: Still, it's a prior statement which is
1910:47:34 being offered for the truth of the matter asserted, and there
2010:47:38 is plenty of other evidence from which the jury could
2110:47:41 conclude how close they were and that he would have a motive
2210:47:44 for revenge.

2310:47:46 So on that, my inclination is not to allow that.
2410:47:52 But if she's testifying, there might be some time for us to
2510:47:54 try to find some case law in between as to whether it would

110:47:58 either -- because of the circumstances of doing it, it was an
210:48:02 excited utterance. I mean, there could be a hearsay
310:48:05 exception.

410:48:06 MR. FINDLING: And I would like to add, because the
510:48:07 next part of her testimony, which is what I think makes it
610:48:10 relevant, is this is all within, like, hours, right?

710:48:13 THE COURT: I understand.

810:48:14 MR. FINDLING: And she's going to get to the home --
910:48:16 because she's not living there anymore. They are not
1010:48:18 together. She's going to get to the home in Georgia that he
1110:48:20 specifically testified about -- that being Mr. Grant --

1210:48:23 THE COURT: I recall.

1310:48:24 MR. FINDLING: -- that everybody was there, and that
1410:48:25 he had a conversation with a group of people. And according
1510:48:29 to his testimony, Mr. Banks said, you know, "Okay. We've got
1610:48:33 to come up with a plan to, you know, get revenge."

1710:48:36 THE COURT: I'm sorry, Mr. Banks or Mr. Grant?

1810:48:39 MR. FINDLING: No, Mr. -- according to Mr. Grant,
1910:48:41 Mr. Banks was hatching a plan, you know, at the time they
2010:48:44 were mourning -- immediately mourning the loss because
2110:48:49 everybody was coming to pay their respects to King Von.

2210:48:51 THE COURT: I'm sorry, I thought you were saying
2310:48:52 that Captain Springfield was going to testify to that, so
2410:48:55 that struck me as unlikely.

2510:48:56 Okay. Go ahead.

110:48:56 MR. FINDLING: No, not at all.

210:48:58 So in that same vein, she's going to say -- well, at
310:49:01 least when she was there -- everybody was mourning the loss,
410:49:06 paying their tributes to King Von's mom. She did not hear or
510:49:09 see --

610:49:09 THE COURT: She's allowed to testify to that.

710:49:12 That's not the same as saying that she can testify to the
810:49:14 earlier statement. But yeah, I mean, if she was there, she
910:49:17 didn't hear it -- I mean, the Government can say, "But were
1010:49:18 you there? Was there -- did people go off? Were you aware
1110:49:21 something was said?" You certainly may elicit that
1210:49:24 testimony, obviously.

1310:49:24 MR. FINDLING: To me, that, because of the nexus in
1410:49:27 time, goes hand in hand with -- you know, Mr. Grant comes in
1510:49:31 and testifies that it is our client that is talking about
1610:49:36 hatching the plan, but yet, literally within a day, she is on
1710:49:39 the phone with him -- going back to what we talked about a
1810:49:42 few minutes ago -- and he says, "Don't worry. I'm going to
1910:49:45 handle it."

2010:49:46 THE COURT: All right. It's hearsay. There's
2110:49:48 either a hearsay exception or there isn't.

2210:49:50 MR. FINDLING: And then she's going to be his
2310:49:52 reputation for -- you know, we can get a thousand people that
2410:49:53 the Government knows. She's going to talk about his
2510:49:55 reputation for being deceitful, a liar.

110:49:58 THE COURT: This is Kavon Grant?

210:50:00 MR. FINDLING: Correct.

310:50:01 THE COURT: All right. Again, just the same rules.

410:50:02 She elicits that that is based on her thing, but you can't
510:50:06 get into the specifics about why she feels that way.

610:50:09 MR. FINDLING: Understood, Your Honor.

710:50:10 THE COURT: All right.

810:50:10 MS. O'CONNOR: Sorry, Your Honor, just so the Court
910:50:10 knows, the hearsay exception we are invoking is 803(3), which
1010:50:15 is a current statement of an intent or plan.

1110:50:17 THE COURT: All right.

1210:50:18 MS. O'CONNOR: Yes.

1310:50:20 THE COURT: There is that case in law school where
1410:50:22 the guy said that he was planning to go out prospecting, and
1510:50:25 then he was never found and all that -- yeah, whatever --

1610:50:29 MS. O'CONNOR: Yes. I read that back in the day.

1710:50:32 THE COURT: Okay. Yeah.

1810:50:33 All right. So what is the story about Mr. Green?

1910:50:38 MR. STEEL: Ryan Green grew up in the same area as
2010:50:43 most of these people. He knows Mr. Hester, Mr. Grant,
2110:50:45 Mr. Banks. He's friends with everyone. To this day, he
2210:50:54 knows Dayvon Bennett and he was murdered, and he was at the
2310:51:02 funeral in Dayvon Grant's grandmother's home in Chicago. And
2410:51:09 Mr. Grant was there with Vonni, as they have been called
2510:51:17 here, or Cuz, and told him specifically that he will cure and

110:51:23 kill Quando Rondo. He's going to do it himself.

210:51:26 THE COURT: All right. So then the question here
310:51:27 is, again, whether that is hearsay --

410:51:27 MR. STEEL: (Indiscernible.)

510:51:31 THE COURT: It's whether there is a hearsay
610:51:32 exception or not, so we'll figure that out the same time that
710:51:35 we figure out the comment to Captain Springfield.

810:51:40 I'm sorry, what else? Anything else --

910:51:42 MR. STEEL: I just want to give you more
1010:51:43 information.

1110:51:44 THE COURT: Yeah.

1210:51:44 MR. STEEL: He has put money on Mr. Hester's books.
1310:51:49 There is a Government exhibit, but I don't recall the
1410:51:51 number --

1510:51:51 THE COURT: I'm sorry, Mr. Green has put money on
1610:51:54 Hester's --

1710:51:55 MR. STEEL: Yeah.

1810:51:55 THE COURT: Okay.

1910:51:55 MR. STEEL: And he will explain that he did that
2010:51:57 because, you know, when people get arrested, they are in bad
2110:51:58 shape. They don't have money. He helps out people's
2210:52:02 families too. He has money. He has made a business out
2310:52:05 of -- he's a haircutter.

2410:52:06 THE COURT: I mean, it's very -- it's one of the
2510:52:09 traditional seven corporal acts of mercy to assist people who

110:52:14 are in custody, but I -- I'm not saying it's not a worthy
210:52:17 thing, but I'm not seeing -- so if the implication is, by
310:52:20 this example, to show that people do good things for good
410:52:23 reasons as opposed to the implication here that it was being
510:52:28 done for a bad thing, I don't think it's admissible at all.
610:52:30 If it were otherwise admissible, it's excludable under Rule
710:52:34 403 because it's just that -- you know, they saw that he
810:52:37 wasn't the only person who was putting money on his books.
910:52:41 So I just think that that is unnecessary.

1010:52:43 MR. STEEL: What I would like the Court to consider,
1110:52:46 though, is -- you know, it comes out here if Mr. Banks
1210:52:48 says -- this is my word -- "grooming" Mr. Hester, all of a
1310:52:51 sudden you are going to get out, which is really not true
1410:52:55 because he didn't give any money after 2000.

1510:52:57 THE COURT: I understood what the arguments were
1610:53:00 going to be, but again --

1710:53:00 MR. STEEL: (Indiscernible crosstalk.)

1810:53:02 THE COURT: -- a common one. This example is --
1910:53:04 it's just -- it's just kind of picking out this one thing as
2010:53:07 a way of focusing on it. You are perfectly free to say, "You
2110:53:09 saw the commissary list. It's like there were other people
2210:53:13 who were putting money on his books." You know, it's not --
2310:53:16 the idea that it would just be done for this sinister
2410:53:20 purpose, you know, you are already perfectly free to argue
2510:53:23 that.

110:53:23 As to that, I will exclude that under Rule 403,
210:53:26 assuming it's relevant at all, but then the other testimony
310:53:29 you are proposing is permissible. Again, assuming that there
410:53:33 is a hearsay exception to the comment.

510:53:36 And then --

610:53:38 MR. STEEL: Multiple times, by the way --

710:53:40 THE COURT: If anything, that cuts -- I'm not sure
810:53:42 which way that cuts, frankly, on the --

910:53:44 MR. STEEL: I'm just telling you.

1010:53:45 THE COURT: -- on the exception, but I appreciate
1110:53:47 your sharing that.

1210:53:49 Lashawntay Hester.

1310:53:51 MR. STEEL: That is the wife of Mr. Hester. She is
1410:53:53 the mother of two of his children. Both children were
1510:53:56 born -- one is born when Mr. Hester is going into custody the
1610:54:02 first time for 12 years, and then one is born, I think, in
1710:54:05 June. He's arrested again May 2nd or 3rd of 2023.

1810:54:10 She's on the jail calls. I would say, "That is your
1910:54:14 wife?" He said "yes." He identified the voice. I'm going
2010:54:17 to have her identify the voice, if the Government wants to
2110:54:20 challenge it's a different wife for whatever reason.

2210:54:22 THE COURT: First of all, does Ms. Hester aware that
2310:54:27 she has the right to refuse to testify as his wife?

2410:54:30 MR. STEEL: Yes.

2510:54:31 THE COURT: All right. And then the second thing is

110:54:32 here, it's one thing for the call to be used where I guess --
210:54:39 and was she -- I suppose, then, there isn't a -- the same way
310:54:42 there isn't a privilege as to him -- we raised this at
410:54:44 sidebar. If she -- they knew they were being taped and it's
510:54:48 not --

610:54:48 MR. STEEL: Yes, it's recorded.

710:54:49 THE COURT: -- then there there isn't a marital
810:54:58 privilege, because he could invoke that, not her.

910:54:58 Does the Government have any comments on Ms. Hester?

1010:55:00 MR. MORSE: I want to know the nature of the call
1110:55:02 that's going to be played.

1210:55:02 MR. STEEL: I already played the call, just to
1310:55:04 orient --

1410:55:05 THE COURT: Yeah, okay. Got it.

1510:55:06 MR. STEEL: -- in case the jury says maybe there is
1610:55:09 a different wife or something. There is more to her.

1710:55:11 THE COURT: I'm sorry. Go ahead.

1810:55:12 MR. STEEL: That's okay. I appreciate it.

1910:55:14 Ms. Hester said that and will testify, I believe, that if you
2010:55:20 remember this buildup -- and I asked about it as well as the
2110:55:24 Government -- that Boonie Moe and Mr. Banks are on a
2210:55:31 Bluetooth in a car with Ms. Hester -- Ms. Hester, his wife,
2310:55:36 who is going to be the witness, and the child. And the child
2410:55:38 at that point is 14 years -- 10 years old.

2510:55:40 And over the speaker phone, his wife -- I asked him

110:55:46 twice -- his wife can hear everything that is being said. He
210:55:49 spoke with his wife about what is being said, and what was
310:55:53 said was "Mr. Banks and Mr. Antonio Jones, Boonie Moe, you've
410:55:56 got to come to Los Angeles right away." Didn't know what it
510:55:59 was about.

610:56:00 The wife is going to say that is just not true.
710:56:03 That it never happened. "He never told me he's going to Los
810:56:06 Angeles. He never told me why he's going there. And I never
910:56:09 had a conversation where Durk Banks said or Boonie Moe said,
1010:56:13 "Immediately come today to Los Angeles." I'm using that to
1110:56:17 impeach him. I have the transcript pages, if you want to see
1210:56:20 them, where I asked him those specific questions. And he
1310:56:23 said "yes" the wife was there, wife heard it. We discuss it:
1410:56:26 "I told my wife everything." She's pretty much it.

1510:56:28 THE COURT: All right. Any response?

1610:56:29 MR. YANNIELLO: The potential cross-examination
1710:56:34 and --

1810:56:35 MR. MORSE: No issues with that testimony, Your
1910:56:36 Honor. We are just flagging for the Court we produced this
2010:56:40 defense. Ms. Hester was being located by the -- relocated by
2110:56:47 the FBI over a period of time that Mr. Hester was
2210:56:49 cooperating. She was very frustrated with that process.

2310:56:52 THE COURT: Which she could take out on you. She
2410:56:55 could do this. She could try to find somebody else. Yeah,
2510:56:57 that is perfectly fine.

110:56:58 MR. MORSE: Also she has apparently told Mr. Hester
210:57:00 that he should not be snitching, he should not be cooperating
310:57:03 with law enforcement. Your Honor, we have a text message
410:57:05 from --

510:57:06 THE COURT: It shows bias. That is fine.

610:57:07 MR. MORSE: Yeah, exactly. Additionally, she is
710:57:10 highly connected to the Black Disciples. Her cousin is Lil
810:57:14 Law, which is, we believe, how they met, Mr. Hester. She's
910:57:19 also -- her brother is also a high ranking member in a
1010:57:22 different criminal street gang, Black Disciple --

1110:57:23 THE COURT: It's a basis for bias. You are going to
1210:57:26 bring it up.

1310:57:27 MR. MORSE: That's correct.

1410:57:27 THE COURT: And again, I'll remind the jury they are
1510:57:29 hearing about the alleged gang activity solely to show
1610:57:32 relationships among people. And again, as I said earlier, it
1710:57:35 could be they all belong to the Altar Guild at Saint
1810:57:40 Scholastica or whatever. It doesn't matter, but that does
1910:57:41 show potential bias, and it also shows a reason why she would
2010:57:44 be against his cooperation. So you may elicit that.

2110:57:46 MR. STEEL: Can I voice on that, the last part?

2210:57:48 THE COURT: Yes.

2310:57:49 MR. STEEL: I disagree, respectfully, because --
2410:57:52 just because, according to the Government -- I'm not saying
2510:57:55 they are wrong; I'm not saying they are right.

110:57:58 THE COURT: She might deny it. She might say, "I
210:58:00 don't know who the Black Disciples are. What are you talking
310:58:03 about?" But I assume there is a good faith basis for raising
410:58:05 this.

510:58:05 MR. STEEL: The problem I have is I don't see any
610:58:07 good faith basis -- I don't have any good faith basis that
710:58:09 the Government has told me anyway when we have been free to
810:58:13 exchange information, that there was pressure put on her.
910:58:16 That the high ranking member of a gang did in fact tell her,
1010:58:21 "Hey, you are going to go in there and smash it for the
1110:58:23 gang." All they are doing is saying that "You are a bad
1210:58:26 person or your family is a bad person."

1310:58:28 THE COURT: It's just showing that she's -- it's
1410:58:29 just this thing -- and you are perfectly free to elicit that
1510:58:33 on your redirect. But it's something that the Government
1610:58:36 gets to bring out to show that she is not coming -- the jury
1710:58:38 may rationally -- whether they do or not, I have no idea --
1810:58:42 but the jury may rationally use that knowledge in deciding
1910:58:45 whether she has a bias against one or the other parties in
2010:58:48 this case. So that -- it will be allowed.

2110:58:50 MR. STEEL: And the last -- go ahead.

2210:58:52 MR. MORSE: I just wanted to add to that. Sorry,
2310:58:54 Mr. Steel. Just so we are all clear, in Mr. Hester's 302s,
2410:58:58 he's long discussed that his wife has bemoaned the fact that
2510:59:02 she was receiving threats as a result of his cooperation, and

110:59:05 that she got a note on her car that said, "Rats die."

210:59:08 THE COURT: That, you can't bring in, because it's
310:59:10 unduly prejudicial under Rule 403.

410:59:16 MR. MORSE: But shows bias as to why she would not
510:59:18 want Mr. Hester to be testifying because --

610:59:19 THE COURT: But it also is going -- as that may be,
710:59:22 it is also excludable under Rule 403, because this whole
810:59:25 thing of the threats. I mean, it's -- the jury could
910:59:27 reasonably conclude, perhaps erroneously -- if you could
1010:59:31 prove they were tied to Mr. Banks, of course you could use
1110:59:35 it. But you would have already used it. But that is the
1210:59:37 point. I don't think that is appropriate. He didn't testify
1310:59:39 to it. She'll say this -- it's just, look, just take what
1410:59:42 I'm giving you and don't be greedy.

1510:59:46 MR. STEEL: She has one other issue.

1610:59:48 THE COURT: What is that?

1710:59:48 MR. STEEL: And I asked Mr. Hester about it, and I'm
1810:59:54 going to ask her whether any law enforcement officer with
1910:59:58 whomever ever reach out to her to ask her about this call and
2011:00:02 whether she had knowledge of it or after the fact if he
2111:00:04 corroborated. So that was my last point, and her answer will
2211:00:07 be "no."

2311:00:07 THE COURT: All right. And that goes to the idea of
2411:00:10 the jury grading the investigation. And then Mr. Gibson.

2511:00:18 MS. GOLDBERG: Your Honor, Justin Gibson, we've

111:00:21 already seen his name in the exhibit. He was on the private
211:00:24 jet to Miami with Mr. Grant and Mr. Banks. He was basically
311:00:31 a sound engineer. He was on salary for Mr. Banks starting in
411:00:36 2022; he's known him since 2020. He was with Mr. Banks
511:00:39 almost every day.

611:00:39 He can testify to what Mr. Banks was doing during
711:00:42 this time period, how he was living in Atlanta. He can talk
811:00:45 about the production of some of the songs that the Government
911:00:49 has already elicited. Specifically, he did "Pissed Me Off";
1011:00:52 he did "Ahhh Ha." He can talk about the Slide for Von
1111:00:55 movement and the reason for those song productions and the
1211:00:58 corporate conversations surrounding those song productions.
1311:01:02 He also was living with Mr. Banks in Encino during the
1411:01:07 relevant time period. He was living in the home; we have
1511:01:10 seen the Valley Vista home.

1611:01:11 THE COURT: We heard that there was a music
1711:01:12 executive there.

1811:01:13 MS. GOLDBERG: That was him, and he was present
1911:01:17 during that entire time. He's a percipient witness.

2011:01:21 THE COURT: All right. You may.

2111:01:36 MR. YANNIELLO: Your Honor, we would ask for a
2211:01:37 proffer of what the percipient witness testimony would be in
2311:01:39 terms of the specific time frame here, the 18th and the 19th
2411:01:42 of August. We would also ask that the Court order the
2511:01:45 defense to now give us any exhibits they plan to admit

111:01:47 through these witnesses.

211:01:49 THE COURT: Well, I think that was supposed to have
311:01:52 happened two weeks ago or so ago.

411:01:54 MS. GOLDBERG: I have no exhibits for him.

511:01:55 THE COURT: I said then that either it's produced or
611:01:57 it's not. You should have gotten that well before now. I
711:02:00 won't allow them to be used unless somebody can plausibly say
811:02:04 it was found last night, which I think would be a difficult
911:02:06 argument to make. But I made that clear on the record
1011:02:08 previously.

1111:02:09 MR. YANNIELLO: We would object to photographs that
1211:02:11 were sent to us, which appear to look like -- I believe they
1311:02:15 are coming in through the first witness about Big Kountry.
1411:02:18 They just look like a family photo. There is no relevance to
1511:02:22 those photos coming in.

1611:02:23 THE COURT: You know who she is now. The only
1711:02:27 reason that would have been hidden would be so that you
1811:02:29 didn't know who she was or what she was going to say. I
1911:02:32 mean, you can use one photo.

2011:02:33 MS. GOLDBERG: Sure.

2111:02:34 THE COURT: Of her and her brother, and then that is
2211:02:36 it.

2311:02:36 MS. O'CONNOR: Thank you.

2411:02:37 THE COURT: Anything else in regard to Mr. Gibson?

2511:02:40 MR. YANNIELLO: Just in terms of the requests for --

111:02:42 THE COURT: All right. The other thing I want to
211:02:44 say, then, is -- is pursuant to Rule 26.2 of the Federal
311:02:49 Rules of Criminal Procedure, are there any formally defined
411:02:52 statements of any of these witnesses in the possession of the
511:02:56 defendants?

611:02:57 MS. GOLDBERG: No.

711:02:57 MS. O'CONNOR: No.

811:02:58 THE COURT: All right. Mr. Harbaugh?

911:03:01 MR. HARBAUGH: No, Your Honor.

1011:03:03 MR. MILLS: Your Honor.

1111:03:03 THE COURT: Mr. Mills.

1211:03:04 MR. MILLS: I plan on calling Mr. Hester himself
1311:03:08 for -- it's a very narrowly tailored. It's just for my
1411:03:12 client specifically. I produced it to the Government. It
1511:03:15 was a call that occurred on August 24th after trial had
1611:03:19 commenced. We sent out a subpoena for it, I believe, on the
1711:03:24 25th, and we received it, not last night but the night
1811:03:27 before. As soon as I received it, I provided to the
1911:03:29 Government.

2011:03:30 The contents of the call that I intend to play, a
2111:03:33 girlfriend of his says "Browneyez" -- obviously my client is
2211:03:38 going out there, because I think it's her friend's baby's
2311:03:42 father, and she says he had nothing to do with it. And
2411:03:45 Mr. Hester says, "No, he doesn't."

2511:03:49 THE COURT: What is the Government's?

111:03:52 MR. YANNIELLO: To the extent Mr. Tillet (sic) wants
211:03:55 to recall Mr. Hester, we feel that he can do that.
311:04:01 Mr. Hester could provide an explanation for what he -- why he
411:04:04 said what he said. And to be honest, given that there is
511:04:08 several witnesses that may open the door to additional
611:04:11 testimony by Mr. Hester, we will reserve the right to call.

711:04:14 THE COURT: Correct. All right.

811:04:15 Okay. What we'll do is get started, go until noon,
911:04:19 and then take --

1011:04:21 MR. MORSE: I apologize. Before we move off of
1111:04:23 Mr. Gibson, we had an additional request. We were requesting
1211:04:27 a proffer as to what he would testify to during August 18th
1311:04:31 and August 19th. This sounds like that is going to be some
1411:04:34 testimony, percipient witness testimony. We would ask what
1511:04:36 that is.

1611:04:37 THE COURT: I mean, he can't do any hearsay, so
1711:04:41 what's he going to say?

1811:04:42 MS. GOLDBERG: First off, he was present on the jet
1911:04:44 back with Mr. Grant.

2011:04:44 THE COURT: Yeah, I understand that.

2111:04:46 MS. GOLDBERG: There wasn't a plan -- he said there
2211:04:47 was no plan; there was nothing that he heard. He was in the
2311:04:50 car with him on the way back to the Valley Vista home, again,
2411:04:52 same thing. And that, you know, those days, there was
2511:04:56 nothing out of the ordinary that he saw or witnessed or

111:04:58 heard. He can talk about the security that lived at the
211:05:01 home, the other people living at the home. The children, the
311:05:04 mother-in-law, everybody was there.

411:05:05 He will say that Mr. Grant did go to the home, that
511:05:08 he was there frequently, and everything was, like, basically
611:05:12 normal. He did not notice anything. Did not overhear or see
711:05:17 anything during those days that Mr. Grant --

811:05:19 THE COURT: As long as he isn't repeating what
911:05:22 people said, but just what he observed, then he's allowed to
1011:05:25 do that.

1111:05:25 MS. GOLDBERG: Yes.

1211:05:26 THE COURT: All right.

1311:05:27 MS. O'CONNOR: As to witness order, Mr. Jain will go
1411:05:31 after lunch, so he might not go second. The timing was --

1511:05:35 THE COURT: All right. Looks like we have gone
1611:05:37 through this. Anything before we bring the jury back?

1711:05:40 MS. O'CONNOR: Yes, Your Honor. And Mr. Mills is
1811:05:41 going to call Mr. Hester to talk about his client's lack of
1911:05:46 involvement in this, according to Mr. Hester's prior
2011:05:48 statement. We are not going to question him. Nobody is
2111:05:51 going to open the door for Mr. Hester to rehash anything
2211:05:54 about our client's involvement, and so we would like --

2311:05:56 THE COURT: We will have heard the testimony at that
2411:05:58 point. Obviously this is -- he would be the final defense
2511:06:01 witness. We'll have heard everything. If the Government

111:06:03 thinks there is something else other than that, then they
211:06:05 will raise it. You can object, and then we'll sort it out.

311:06:08 MS. O'CONNOR: Okay.

411:06:09 MR. MILLS: Your Honor, for what it's worth, I'm not
511:06:11 wasting the jury or the Court's time. It's going to be about
611:06:13 four questions.

711:06:14 THE COURT: You've got it. You have not -- at no
811:06:17 time have you wasted anybody's time here.

911:06:20 MR. STEEL: Your Honor, can I just tell you one
1011:06:21 other thing?

1111:06:21 THE COURT: Yes.

1211:06:22 MR. STEEL: I heard what the Government said about
1311:06:29 Ms. Dangerfield. If it matters, she put money on
1411:06:32 Mr. Hester's books too. And if you want, it's Exhibit 317,
1511:06:36 page 11. I could write this down for you.

1611:06:39 Jay Marcano. It's Exhibit 118, page 4. "Congrats
1711:06:43 on the wedding," which I mentioned, Your Honor.

1811:06:43 THE COURT: Yes.

1911:06:44 MR. STEEL: I'm just trying to move this along
2011:06:46 because they asked for it.

2111:06:48 640 is a document we gave you before trial, and that
2211:06:52 is the invitation to his wedding. It will be Mr. Banks
2311:06:55 Number 640, if that is okay, Your Honor.

2411:06:57 Ms. Hester -- I already played it, but it's Defense
2511:07:00 Exhibit 1103. It's the May 5, 2023, conversation between the

111:07:06 two of them at 2200 hours -- 22 minutes. So just to orient
211:07:11 her that she's the same person he's talking about.

311:07:14 And then for Mr. Freeman on Government Exhibit 379,
411:07:19 that is a phone records. It's on page 2. And it's a 7:13 AM
511:07:23 call. But there is several calls. I just wanted it to be
611:07:26 smoother because you asked for it and they asked for it.

711:07:28 THE COURT: Okay. Anything else, counsel?

811:07:31 MR. MORSE: Is it possible to take five minutes
911:07:33 before we bring the jury back in?

1011:07:35 THE COURT: You may. We'll be off the record. I'll
1111:07:38 stay on the bench. Get back as quickly as you can, and then
1211:07:40 we'll bring the jury in.

1311:07:42 MR. MORSE: Thank you.

1411:07:42 (In open court:)

1511:07:57 THE COURT: I'm going to stay on the bench, but we
1611:07:59 will be off the record for about five minutes or so before we
1711:08:01 bring the jury back in. Counsel requested some time before
1811:08:06 that happens. So just try to get back -- get ready as
1911:08:11 quickly as you can.

2011:12:29 Counsel, are we ready?

2111:12:33 MS. O'CONNOR: We are missing Mr. Steel.

2211:12:35 THE COURT: I see that.

2311:14:32 MS. O'CONNOR: Okay.

2411:14:33 We are all present, Your Honor.

2511:14:43 MR. STEEL: Your Honor, are you still breaking at

111:14:48 noon?

211:14:48 THE COURT: Yes.

311:17:39 (Thereupon, the jury returned to the courtroom.)

411:18:08 THE COURT: Welcome back, members of the jury. All
511:18:10 15 of you are here.

611:18:12 As I told you, defendants are not required to put on
711:18:17 any sort of case or do anything because the burden is always
811:18:20 on the Government.

911:18:23 I now understand that one or two defendants might
1011:18:32 wish to call witnesses, although they are not required to do
1111:18:34 so. Those witnesses are evaluated the same way as the
1211:18:37 witnesses who are called by the Government.

1311:18:41 At the beginning of the case, I gave you eight
1411:18:43 commonsense factors that you might wish to consider in
1511:18:46 evaluating the credibility of the witnesses, and that applies
1611:18:50 just as much to these witnesses.

1711:18:54 If it should turn out that one or two defendants
1811:18:59 call witnesses and another defendant chooses not to call
1911:19:02 witnesses, again, you should not use that decision against a
2011:19:08 defendant who might choose not to call any witnesses. There
2111:19:11 is absolutely no obligation to do so.

2211:19:15 Ms. O'Connor?

2311:19:17 MS. O'CONNOR: Thank you, Your Honor.

2411:19:17 On behalf of Mr. Banks, we call our first witness,
2511:19:21 Tonya Johnican.

111:19:31 THE CLERK: This way, please. Please raise your
211:19:40 right hand.

311:19:41 THEREUPON:

411:19:41 TONYA JOHNICAN,

511:19:41 Called in these proceedings, and after having been first duly
611:19:50 sworn, testifies as follows:

711:19:50 THE CLERK: Thank you. Please be seated.

811:19:53 Please state and spell your name for the record.

911:20:06 THE WITNESS: Tonya Johnican. That is T-o-n-y-a,
1011:20:12 J-o-h-n-i-c-a-n.

1111:20:14 THE CLERK: Thank you.

1211:20:15 THE COURT: All right. Ms. O'Connor, you may
1311:20:16 proceed.

1411:20:17 MS. O'CONNOR: Thank you.

1511:20:17 DIRECT EXAMINATION

1611:20:18 BY MS. O'CONNOR:

1711:20:18 Q. Good morning, Ms. Johnican.

1811:20:20 A. Good morning.

1911:20:21 Q. First, a little bit of background. Are you currently
2011:20:24 employed?

2111:20:24 A. I'm a retired Lieutenant Commander. I served 27 years in
2211:20:29 the U.S. Navy and the U.S. Public Health Service Commission
2311:20:34 Corps. combined.

2411:20:35 During my career, I served in leadership roles,
2511:20:40 senior leadership roles, with the Department of Homeland

111:20:46 Security and Human Resources, chief of human resource, and
211:20:51 senior program manager at the Department of Defense, or
311:20:54 Department of War, formerly the Department of Defense.

411:20:57 Q. Thank you. And -- I withdraw the "thank you."

511:21:02 Did you during your time -- 27 years working for the
611:21:06 Federal Government, did you receive any commendations or
711:21:09 awards?

811:21:09 A. Yes. Numerous. I received three Commendation Medals
911:21:13 from the Navy/Marine Corps; a Commendation Medal, Navy/Marine
1011:21:20 Corps Achievement Medal 3; three Good Conduct Medals; two
1111:21:23 Flag Letters of Commendation; a Department of Homeland
1211:21:29 Security -- the Secretary of the Homeland Security Leadership
1311:21:32 Excellence Award; and the Food and Drug Administration
1411:21:37 Leadership Excellence Award.

1511:21:38 Q. Are you familiar with a man they call Big Kountry?

1611:21:44 A. I am.

1711:21:45 Q. Okay.

1811:21:46 MS. O'CONNOR: And moving to admit Defense
1911:21:49 Exhibit 1302, Your Honor.

2011:21:51 THE COURT: What we discussed at sidebar?

2111:21:54 MS. O'CONNOR: Correct.

2211:21:54 THE COURT: 1302 is admitted.

2311:22:04 (Exhibit No. 1302 received.)

2411:22:04 Q. Okay. Can you see this, Ms. Johnican?

2511:22:07 A. Yes.

111:22:08 Q. Okay. Can you tell me who is in this picture?

211:22:11 A. That is my brother, Big Kountry, or Fabian Ford, Sr.,
311:22:18 better known as Big Kountry to most. That is my mom, and my
411:22:21 younger brother, Jaquez Ford, also known as Little Kountry, I
511:22:25 suppose.

611:22:26 Q. Okay. And which one is Big Kountry, and which one is
711:22:29 Little Kountry?

811:22:30 A. Big Kountry is with the hat in the center just behind my
911:22:34 mom, and Little Kountry is the one on the right of my mom.

1011:22:38 Q. How many siblings in your family?

1111:22:40 A. Three.

1211:22:42 Q. What is the birth order between the three of you guys?

1311:22:44 A. My brother and I are what they call Irish twins. We were
1411:22:50 born 11 months apart.

1511:22:52 Q. Who is older?

1611:22:53 A. I was older. However -- June 6th. He's May 6th. And
1711:22:59 then our youngest brother is April 18, 1990. So he's the
1811:23:06 youngest.

1911:23:06 Q. Is your family close-knit?

2011:23:08 A. Very close, very close.

2111:23:11 Q. And I understand that your brother recently passed away;
2211:23:15 is that correct?

2311:23:15 A. That's correct.

2411:23:16 Q. Okay. And I want to talk to you about your relationship
2511:23:20 with him before he passed, if that is okay.

111:23:22 A. That's okay.

211:23:23 Q. Okay. And when did he pass away?

311:23:25 A. It was August 6th of 2024.

411:23:34 THE CLERK: There is some tissue right there, ma'am.

511:23:38 THE WITNESS: Okay.

611:23:39 Okay.

711:23:39 Q. Okay. And before he passed away, were the two of you
811:23:44 close?

911:23:44 A. Very close. I would say we spoke every single day, if it
1011:23:48 wasn't multiple times a day, and -- via phone, via FaceTime.
1111:23:54 So, yes, we were very much in touch with each other. We were
1211:23:59 not only best friends, but we were business partners. So I
1311:24:02 assisted him with a lot of the businesses that he ran and the
1411:24:06 social media sites as well.

1511:24:09 Q. Okay. And we'll talk about those businesses in a second.

1611:24:11 A. Okay.

1711:24:12 Q. And you said you spoke to him multiple times a day. So
1811:24:17 is it fair to say that you pretty much knew what was going on
1911:24:21 with his life on the day-to-day?

2011:24:22 A. Absolutely. We were each other's confidant, basically.

2111:24:28 Q. Okay. And you mentioned his businesses.

2211:24:33 A. Um-hum.

2311:24:33 Q. And that is multiple businesses?

2411:24:35 A. Correct.

2511:24:36 Q. Okay. Well, first of all, let me back up.

111:24:39 What is his -- what is his Government name?

211:24:42 A. Thavian Ford, Sr.

311:24:46 Q. And how -- what did you call him when you spoke to him?

411:24:49 A. Thavian.

511:24:50 Q. Okay. Why did people call him Big Kountry?

611:24:53 A. He was a gentle giant. Every time you see him, he had a
711:24:59 smile on his face. However, he was big, big in size, big in
811:25:04 strength, but he was very caring, very peaceful.

911:25:08 Q. Okay. And you mentioned his large size. How big was he?

1011:25:13 A. About 6-5, about 400 pounds.

1111:25:18 Q. Okay.

1211:25:19 A. 390, I would say.

1311:25:21 Q. Okay. And one of his businesses, did he own a security
1411:25:28 company?

1511:25:28 A. Correct.

1611:25:28 Q. And what was --

1711:25:29 A. Carolina Transport. Did business as Carolina
1811:25:34 Transportation & Security Company.

1911:25:36 Q. Was that dually licensed with all the authorities?

2011:25:38 A. Yes.

2111:25:39 Q. He had a license to be a security guard?

2211:25:41 A. Yes.

2311:25:41 Q. And did your brother also lawfully own weapons?

2411:25:45 A. Yes.

2511:25:47 Q. And as part of his security services, was he armed when

111:25:53 he was working?

211:25:54 A. Yes.

311:25:54 Q. Okay. What kind of clientele did your brother work for?

411:25:59 A. He worked for numerous clients, Mr. Banks, as well as
511:26:07 he's done work for Floyd Mayweather. More recently it was
611:26:14 Sekyiwa Shakur, which is Tupac's sister. Rapper Yo-Yo. And
711:26:20 there is a producer, Jermaine Dupri. He's worked with him.

811:26:26 Q. And --

911:26:26 A. And some others.

1011:26:27 Q. And based on your knowledge of your brother's business,
1111:26:32 you mentioned a few noteworthy and famous people.

1211:26:35 A. Um-hum.

1311:26:36 Q. Why do famous people need armed security?

1411:26:39 A. Protect their privacy, protect their -- mainly for their
1511:26:46 safety and their protection, yes.

1611:26:47 Q. And as much as a famous person might love and appreciate
1711:26:51 their fans --

1811:26:51 A. Um-hum.

1911:26:52 Q. -- do fans sometimes interfere with their daily
2011:26:56 activities?

2111:26:56 A. Yes. Yes. He --

2211:26:58 MR. MORSE: Your Honor, I'm going to object. This
2311:26:59 is outside the scope of this witness's knowledge.

2411:27:01 THE COURT: That question and answer will stand.

2511:27:03 Ms. O'Connor, please move on.

111:27:05 MS. O'CONNOR: Sure.

211:27:06 Q. And can you tell us, if you know, the time frame of when
311:27:13 your brother provided security services for Mr. Banks?

411:27:17 A. Oh, I would say roughly 2019 through 2021 or '22, I
511:27:34 believe.

611:27:34 Q. And providing armed security for Mr. Banks, did he
711:27:39 provide any other services?

811:27:41 A. I think it was -- he did a lot of concierge-type things,
911:27:49 I believe. He was just was there for him as far as --

1011:27:54 Q. Well, let me ask you this: Did he drive him places?

1111:27:57 A. Yes, he did. Oh, transportation, yes. That was primary,
1211:28:00 yes.

1311:28:00 Q. Did providing transportation for Mr. Banks and providing
1411:28:03 armed security for Mr. Banks go hand in hand a lot of times?

1511:28:07 A. Oftentimes, yes.

1611:28:08 Q. And I want to ask you: So are you aware that Mr. Banks
1711:28:13 traveled a fair amount?

1811:28:14 A. Yes.

1911:28:15 Q. And I want to -- I'm not asking it -- well, let's
2011:28:20 distinguish. On some trips he would take airplanes, right?

2111:28:22 A. Correct.

2211:28:23 Q. And some trips Mr. Banks would take a car. If he was
2311:28:28 just driving a few hours to a concert, to your knowledge
2411:28:31 might he drive to that concert?

2511:28:33 MR. MORSE: Objection. Lacks foundation.

111:28:34 THE WITNESS: Yes, locally.

211:28:35 THE COURT: The witness has said that she was
311:28:38 involved in the business. The objection is overruled.

411:28:41 THE WITNESS: Yes.

511:28:42 Q. And when Mr. Banks went on road trips?

611:28:44 A. Um-hum.

711:28:45 Q. Would your brother go with him?

811:28:48 A. Yes.

911:28:48 Q. Would your brother drive him?

1011:28:49 A. Yes.

1111:28:50 Q. Would your brother provide armed security to Mr. Banks on
1211:28:53 those road trips?

1311:28:54 A. Yes.

1411:29:02 MS. O'CONNOR: May I have a moment, Your Honor?

1511:29:03 THE COURT: You may.

1611:29:03 (Pause in proceedings.)

1711:29:23 MS. O'CONNOR: No further questions, Your Honor.

1811:29:24 THE COURT: Anything further from the other
1911:29:29 defendants? Mr. Harbaugh?

2011:29:32 MR. HARBAUGH: No, Your Honor.

2111:29:33 THE COURT: Mr. Mills?

2211:29:34 MR. MILLS: No, Your Honor.

2311:29:35 THE COURT: All right. Cross-examination.

2411:29:37 MR. MORSE: No questions for this witness, Your
2511:29:39 Honor. Thank you.

111:29:39 THE COURT: Commander Johnican, you are excused.

211:29:42 Thank you.

311:29:42 THE WITNESS: Thank you.

411:29:43 THE COURT: Mr. Banks may call his next witness.

511:29:46 MR. STEEL: Mr. Kevin Freeman.

611:30:32 THE CLERK: This way, please. Stop right there,
711:30:43 please. Please raise your right hand.

811:30:45 THEREUPON:

911:30:45 KEVIN FREEMAN,

1011:30:45 Called in these proceedings, and after having been first duly
1111:30:52 sworn, testifies as follows:

1211:30:52 THE CLERK: Thank you. Please be seated.

1311:30:54 Please state and spell your name for the record.

1411:31:07 THE WITNESS: My name is Kevin Freeman, spelled
1511:31:11 K-E-V-I-N, last name Freeman, F-R-E-E-M-A-N.

1611:31:16 THE CLERK: Thank you.

1711:31:17 THE COURT: Mr. Steel, you may proceed.

1811:31:17 DIRECT EXAMINATION

1911:31:21 BY MR. STEEL:

2011:31:21 Q. How old are you?

2111:31:23 A. I am 52 years young.

2211:31:25 Q. And can you tell the ladies and gentlemen of the jury
2311:31:30 where you were born and raised?

2411:31:32 A. I was born and raised in East Moline, Illinois, which is
2511:31:36 called the Quad Cities. It's two and a half hours west of

111:31:40 Chicago.

211:31:40 Q. And were you raised in a house with your parents, with
311:31:45 other relatives, with friends, siblings? Can you tell the
411:31:49 jurors.

511:31:49 A. I was raised in a house with both parents, my mother and
611:31:53 my father.

711:31:53 Q. Any siblings?

811:31:54 A. Yes, I have two siblings.

911:31:56 Q. And what did your parents do when you were growing up?

1011:31:59 A. Okay. My mother was in the service field -- she
1111:32:04 retired -- and so was my father, which he was a highly
1211:32:08 respected police chief. And currently today he is the mayor
1311:32:16 in the Quad Cities.

1411:32:16 Q. Did you graduate from high school?

1511:32:20 A. I did.

1611:32:21 Q. What did you do after high school?

1711:32:22 A. After high school, I enlisted into the United States
1811:32:26 Marine Corps, where I served my four years there and was
1911:32:34 honorably discharged.

2011:32:34 Q. After -- and thank you for your service.

2111:32:36 A. Thank you.

2211:32:36 Q. After being honorably discharged, what did you do with
2311:32:41 education or occupation? Can you tell the jurors.

2411:32:43 A. I took advantage of the Montgomery GI Bill, which allowed
2511:32:47 veterans to go back to their home state, which is Illinois,

111:32:51 where I took advantage of attending Southern Illinois
211:32:54 University in Carbondale, where I earned my bachelor's degree
311:32:59 in public relations and communications and went on and earned
411:33:02 my master's degree from Roosevelt University in Chicago,
511:33:05 where I resided for the past 34 years.

611:33:08 Q. And what was your master's degree in that you use in your
711:33:12 occupation?

811:33:12 A. Health care administration.

911:33:14 Q. Can you just explain briefly what you do, if you do it to
1011:33:17 this day, in health care administration.

1111:33:19 A. Okay. Well, they consider me as a seasoned health care
1211:33:22 professional, where I have designed and orchestrated
1311:33:26 programmatic activities and initiatives for major health care
1411:33:30 systems and hospitals and nonprofits across the country.

1511:33:32 Q. And when you say "across the country," what cities or
1611:33:37 city?

1711:33:37 A. Oh, footprint goes across the whole United States, of
1811:33:41 course, Illinois, here in California, Texas, to the great
1911:33:44 state of Maine to New York.

2011:33:45 Q. Have you ever been recognized in your field and, if yes,
2111:33:53 by whom?

2211:33:53 A. I have. Very honored to have a laundry list of
2311:33:59 recognitions and awards and accolades and proclamations. But
2411:34:04 I guess one that would stand out to most, in 2023, I received
2511:34:07 the Presidential Lifetime Achievement Award from President

111:34:11 Joe Biden.

211:34:12 Q. Mr. Freeman, have you ever been convicted of a crime?

311:34:16 A. I have not.

411:34:16 Q. Have you ever been arrested for a crime?

511:34:18 A. I have not.

611:34:19 Q. I would like to know whether you know the gentleman who
711:34:24 is seated to my left.

811:34:25 A. I do.

911:34:26 Q. And who is that person?

1011:34:27 A. That is Durk Banks.

1111:34:28 Q. And how long have you known Mr. Banks?

1211:34:31 A. A good eight and a half, maybe nine years.

1311:34:34 Q. And how do you know Mr. Banks?

1411:34:35 A. We -- I supported him in launching his nonprofit,
1511:34:39 Neighborhood Heroes.

1611:34:39 Q. I would like to talk with you about whether Mr. Banks is
1711:34:50 your employer or he's your financial support or he has -- you
1811:34:56 are indebted to him in any way. Just explain to the jurors
1911:35:00 whether that relationship --

2011:35:00 A. The relationship, he's not an employer. I was fortunate
2111:35:06 to be able to assist him in designing --

2211:35:11 Q. Let me stop you there.

2311:35:12 A. Yes.

2411:35:12 Q. This Honorable Court makes certain rulings.

2511:35:14 A. Okay. No, he was not a -- no, didn't profit off Durk

111:35:20 Banks.

211:35:20 Q. My point is you are not indebted to him. Is that fair to
311:35:24 say?

411:35:24 A. I am not.

511:35:25 Q. I would like to talk with you about Sunday, October 13,
611:35:33 2024, those days through Wednesday, October 16, 2024, those
711:35:39 general days.

811:35:40 A. Okay.

911:35:40 Q. Were you in the presence of Mr. Banks during that time?

1011:35:42 A. I was.

1111:35:43 Q. And can you tell the ladies and gentlemen of the jury
1211:35:45 where you were?

1311:35:45 A. We were very fortunate to be in London, where we were
1411:35:49 invited through the NFL as the Chicago Bears and the
1511:35:53 Jacksonville Jaguars played internationally over there. And
1611:35:57 we had some meetings set up with the NFL and some of the
1711:36:01 dignitaries there in London.

1811:36:03 Q. Upon return, did something happen that you are aware of
1911:36:08 with law enforcement and Mr. Banks?

2011:36:10 A. That is correct. I am aware.

2111:36:12 Q. Okay. And that would be, if you know -- and if you don't
2211:36:15 know the date, just say, "I don't know" -- Wednesday,
2311:36:17 October 16, 2024?

2411:36:18 A. That is correct.

2511:36:19 Q. And tell the ladies and gentlemen of the jury what

111:36:21 happened with law enforcement and Mr. Banks, if anything, to
211:36:24 your knowledge was seized from Mr. Banks?

311:36:26 A. From my knowledge, he was stopped coming through customs,
411:36:30 and they took his cellphone.

511:36:31 Q. Okay. I just want to stop there, because they -- I think
611:36:35 it's clear, but who is "they"?

711:36:36 A. Law enforcement.

811:36:37 Q. Okay. And was Mr. Banks to your knowledge arrested at
911:36:43 that time? I'm not saying -- was he arrested?

1011:36:45 A. No, he was not.

1111:36:45 Q. Okay. But his property, his cellphone, was taken from
1211:36:49 his person?

1311:36:49 A. That is correct.

1411:36:49 Q. All right. I want to now move forward -- the Honorable
1511:36:54 Attorney O'Connor says nine days. I'm going to say eight
1611:36:58 days, but I'm sure she's right. I want to go to Thursday,
1711:37:01 October 24, 2024, okay?

1811:37:02 A. Okay.

1911:37:02 Q. Does that day stand out in your mind?

2011:37:05 A. It does.

2111:37:05 Q. All right. I would like to talk about early that
2211:37:08 morning. Tell the ladies and gentlemen of the jury whether
2311:37:11 you had any conversation with anyone concerning the
2411:37:16 authorities serving a search warrant or serving some sort of
2511:37:21 process that day?

111:37:22 A. I did.

211:37:22 Q. Who were you speaking with, and was it in person or by
311:37:27 telephone?

411:37:27 A. It was by telephone.

511:37:28 Q. All right. And who were you speaking with?

611:37:30 A. I spoke with Durk Banks and an attorney.

711:37:33 Q. Do you know the lawyer's name?

811:37:34 A. Yes, Jonathan Brayman.

911:37:36 Q. And the Honorable Attorney Brayman, where does he
1011:37:39 practice out of? I'm not saying he doesn't go all over, but
1111:37:41 where is his home?

1211:37:42 A. Out of Chicago, Illinois.

1311:37:44 Q. All right. Did you speak with a Jason Smith?

1411:37:48 A. I did.

1511:37:49 Q. All right. Don't tell me what anyone else said for this.
1611:37:53 I'm going to ask you a series of questions.

1711:37:54 A. Okay.

1811:37:54 Q. I just want to know what you said --

1911:37:58 A. Um-hum.

2011:37:58 Q. -- to Mr. Banks, okay?

2111:37:59 A. Okay.

2211:38:00 Q. And if other people on the phone, just say it was during
2311:38:03 a joint conversation.

2411:38:04 A. Okay.

2511:38:04 Q. Or telephone conversation.

111:38:07 All right. That morning, what did you tell -- well,
211:38:13 who is Jason Smith? At that time, who was Jason Smith, if
311:38:16 you know?

411:38:16 A. He is part of management.

511:38:18 Q. And when you say "management," for whom?

611:38:21 A. For Durk Banks.

711:38:22 Q. Was he affiliated with you in any way, management?

811:38:25 A. No.

911:38:25 Q. Okay. And when you are on the phone with Durk, and Jason
1011:38:31 Smith, and Attorney Brayman, what did you tell Mr. Banks, if
1111:38:36 anything, during that conversation with those other parties?

1211:38:39 A. Well, I'm the one that told Durk to lay low. I told him
1311:38:43 to lay low.

1411:38:43 Q. So that is maybe common, some parlance, but what does
1511:38:47 "lay low" mean?

1611:38:48 A. Well, I define "lay low" by staying low profile and
1711:38:53 waiting for clarity to find out what the attorneys have
1811:38:56 discovered.

1911:38:57 Q. Why did you tell Mr. Banks to lay low?

2011:39:00 A. Well, I know that when most feds do come to one's house,
2111:39:06 they are going to kick in doors, bust out windows, loud
2211:39:11 noises. And I know he had his children there, so I said,
2311:39:13 "For the sake of the kids, just go somewhere. Lay low."

2411:39:16 Q. Okay. Did you know whether there was a warrant for
2511:39:21 Mr. Banks on October 24, 2024?

111:39:25 A. Wasn't aware if there was a warrant. That is why we got
211:39:28 the attorney, Jonathan Brayman, involved.

311:39:30 Q. All right. And was Mr. Brayman already involved because
411:39:33 of what happened earlier?

511:39:35 A. That is correct.

611:39:36 Q. All right. I want to ask you: When -- why don't you --
711:39:43 what were you concerned about when you told Mr. Banks to lay
811:39:47 low? What was your thought?

911:39:48 A. The concern is the obvious. I mean, he has small kids in
1011:39:51 a house, and I didn't want these small kids to have to be
1111:39:56 traumatized from the theatrics of the feds coming through the
1211:40:02 way they come and ambushing the home. So I did not want his
1311:40:05 children exposed to that.

1411:40:07 THE COURT: The word "ambush" is stricken. The jury
1511:40:10 will disregard it.

1611:40:11 Q. Yeah, just what did you believe, and what was the basis
1711:40:15 of your belief that it could be traumatic to a child?

1811:40:18 THE COURT: Counsel, that is irrelevant.

1911:40:20 Ladies and gentlemen, the only reason you are
2011:40:22 hearing this is so the defense can make the argument, if they
2111:40:26 wish, that Mr. Banks -- and if you believe the testimony,
2211:40:30 that Mr. Banks had certain thoughts in his mind, having heard
2311:40:33 from this witness.

2411:40:34 Why the witness said it is irrelevant. Whether the
2511:40:37 witness has a basis to say it is irrelevant. The only thing

111:40:40 that matters is what he said to Mr. Banks at that time to
211:40:44 allow his lawyers, in closing argument, to make a certain
311:40:49 argument to you. You will either accept or reject that
411:40:52 argument, and you will either believe or disbelieve this
511:40:55 testimony, and if you believe it, you will decide if it
611:40:58 matters.

711:40:58 Ask your next question, Mr. Steel.

811:41:00 Q. When you were giving this information to Mr. Banks when
911:41:03 the others were on the phone, were you aware that there were
1011:41:07 Federal agents earlier -- a short time earlier at Jason
1111:41:10 Smith's house?

1211:41:10 A. Yes.

1311:41:11 Q. All right. With regards to Durk Banks, were you
1411:41:17 encouraging him to obstruct justice or flee the jurisdiction
1511:41:24 from a lawful warrant?

1611:41:25 A. Absolutely not.

1711:41:26 Q. Did you have any conversation with Mr. Banks, or Durk,
1811:41:32 about leaving the country?

1911:41:34 A. We did discuss that. We discussed --

2011:41:38 Q. What did you tell him?

2111:41:39 A. I told him -- actually, I didn't care where he went, just
2211:41:42 don't be in the house with the kids there. "And if there is
2311:41:46 a warrant, then we are going to go ahead and make sure you
2411:41:49 turn yourself in."

2511:41:49 Q. Okay. And a lawyer was involved in that phone call?

111:41:56 A. He was.

211:41:58 Q. Did you -- were you -- if there was no warrant for Durk
311:42:06 Banks that day, when you were speaking with him that morning,
411:42:11 to your knowledge, could Mr. Banks leave the country?

511:42:15 THE COURT: That is a legal question on which this
611:42:18 witness has nothing to offer. If Mr. Freeman has nothing
711:42:20 else to tell us about what he said to Mr. Banks at that time,
811:42:24 then I believe there is nothing else to ask this witness.
911:42:28 But if you believe there is something else, then ask your
1011:42:30 next question.

1111:42:31 Q. Did you explain?

1211:42:32 MR. STEEL: -- thank you, sir.

1311:42:33 Q. Did you explain to Mr. Banks that if a warrant was
1411:42:37 discovered for his arrest, then he would turn himself in?

1511:42:39 A. Absolutely.

1611:42:41 Q. Was there any belief, in your mind, that you were
1711:42:45 assisting Mr. Banks to flee?

1811:42:47 A. No, absolutely not.

1911:42:50 Q. All right. What was -- you don't -- do not give out your
2011:42:54 phone number in October 2024, but what were the last four
2111:42:58 digits, if you don't mind?

2211:43:00 A. 8448.

2311:43:02 Q. And I would like to show you --

2411:43:05 MR. STEEL: It's already in evidence, Your Honor.
2511:43:07 It's Government Exhibit Number 379, page 2.

111:43:13 Q. Do you know anything about phone records or UTC time
211:43:15 and -- do you know what I'm talking about?

311:43:16 A. I'm familiar. I know UTC -- UTC time is U.K., London, I
411:43:23 want to say.

511:43:23 Q. Okay.

611:43:25 All right. I'm just going to show you a couple of
711:43:27 records, and I'm just going to highlight -- and I apologize,
811:43:31 I'm not going to say it in the record, for your phone number,
911:43:35 but I'm just going to show you a couple of phone calls.

1011:43:37 MR. STEEL: And by the way, Your Honor, this is
1111:43:39 already in evidence. This is Government Exhibit Number 379.
1211:43:43 This is Mr. Banks' phone records, sir.

1311:43:46 Q. Do you see what Ms. Bly just highlighted?

1411:43:49 A. I do.

1511:43:50 Q. All right. That is the 8448 number?

1611:43:52 A. That's correct.

1711:43:53 Q. And if you look to the left, we are talking about
1811:43:57 October 24th, the same day that you have been talking about
1911:43:59 with the jurors?

2011:44:00 A. Yes.

2111:44:00 Q. And do you see where it says 12:13?

2211:44:03 A. I do.

2311:44:04 Q. And I'm not asking you to convert it. The jurors know
2411:44:08 it's in UTC time. But do you understand that there are calls
2511:44:12 there?

111:44:13 A. I do.

211:44:13 Q. All right. And did you have other calls with Mr. Banks?

311:44:16 A. Several.

411:44:17 Q. That day?

511:44:18 And then were you joined --

611:44:20 MR. STEEL: You can take it down, if you don't mind.

711:44:23 Thank you very much.

811:44:24 Q. Were you joined in on calls as well, so it wasn't you

911:44:28 communicating with Mr. Banks, but there are other calls that

1011:44:30 may not be listed on the call records because it's a joint

1111:44:33 call?

1211:44:33 A. Yes.

1311:44:34 Q. All right. Mr. Freeman, I want to thank you for coming
1411:44:38 today.

1511:44:39 MR. STEEL: Your Honor, thank you.

1611:44:39 THE COURT: All right. Mr. Harbaugh?

1711:44:41 MR. HARBAUGH: No questions, Your Honor.

1811:44:42 THE COURT: Mr. Mills?

1911:44:43 MR. MILLS: No questions, Your Honor.

2011:44:44 THE COURT: Cross-examination.

2111:44:47 MR. MORSE: No questions for this witness, Your
2211:44:48 Honor. Thank you.

2311:44:48 THE COURT: Mr. Freeman, you are excused. Thank
2411:44:50 you.

2511:44:50 THE WITNESS: Thank you, Your Honor.

111:44:51 MR. STEEL: Can we call Mr. Jay Marcano, if you
211:44:54 don't mind?

311:44:55 THE COURT: You may.

411:44:56 MR. STEEL: Thank you, sir.

511:45:03 And Your Honor, can Mr. Freeman stay in your
611:45:06 courtroom?

711:45:06 THE COURT: He won't be allowed to testify again.
811:45:09 You understand that.

911:45:09 MR. STEEL: That is fine with me.

1011:45:10 THE COURT: Otherwise, if -- if Mr. Freeman
1111:45:14 understands that to be the case, then he's allowed to stay.

1211:45:16 MR. STEEL: Thank you, sir.

1311:45:31 THE CLERK: This way, please.

1411:45:41 Please raise your right hand.

1511:45:43 THEREUPON:

1611:45:43 JEREMAS MARCANO,
1711:45:43 Called in these proceedings, and after having been first duly
1811:45:52 sworn, testifies as follows:

1911:45:52 THE CLERK: Thank you. Please be seated.

2011:46:05 Please state and spell your name for the record.

2111:46:09 THE WITNESS: Sure. Jeremais Marcano,
2211:46:13 J-e-r-e-m-a-i-s. Last name Marcano, M-a-r-c-a-n-o.

2311:46:17 THE CLERK: Thank you.

2411:46:18 THE COURT: Mr. Steel, you may proceed.

2511:46:18 DIRECT EXAMINATION

111:46:21 BY MR. STEEL:

211:46:21 Q. Good morning, sir. I heard your given name. Do you
311:46:25 commonly go by a different first name?

411:46:26 A. Just Jay.

511:46:27 Q. And can you do me a courtesy, introduce yourself to the
611:46:31 ladies and gentlemen of the jury on where you were born and
711:46:33 raised?

811:46:33 A. Sure. I was born in Derry, New Hampshire; raised in
911:46:38 Boston, Mass.

1011:46:39 Q. And how old are you?

1111:46:40 A. I'm 46.

1211:46:42 Q. And were you raised by a family member? Parents? Aunt?

1311:46:47 A. Single mom, mostly.

1411:46:49 Q. And what did your mother do?

1511:46:52 A. Cosmetologist and worked in retail as well.

1611:46:55 Q. Do you have any brothers or sisters?

1711:46:56 A. One sister.

1811:46:57 Q. Where do you currently live? And I don't need an
1911:47:01 address, just the location.

2011:47:02 A. Sure. Orlando, Florida.

2111:47:03 Q. And who do you live with?

2211:47:04 A. My wife and my 3-year-old son.

2311:47:07 Q. Can you tell the jurors about your education?

2411:47:10 A. Sure. I graduated with my master's in entertainment
2511:47:15 business at a college, Full Sail University, specialized in

111:47:20 music business, entertainment, and digital media.

211:47:25 Q. What do you do for your occupation?

311:47:26 A. I'm a talent agent for the most part. Sometimes I dabble
411:47:26 in management and things like that, but mostly talent agent
511:47:30 and touring.

611:47:30 Q. And who do you work with -- or for?

711:47:32 A. A lot of Chicago-based artists, some Atlanta-based
811:47:38 artists. Are you asking for names specifically?

911:47:40 Q. I was actually asking: Are you self-employed? Do you
1011:47:43 work for a company? Is it your own firm?

1111:47:45 A. Oh, sure. Sure. Yeah, no, I'm self-employed. It was a
1211:47:49 company I started right out of college. It was actually a
1311:47:52 college project, and I made it into a company.

1411:47:54 Q. So how many years would you estimate that you have been
1511:47:57 self-employed?

1611:47:57 A. Since 2009.

1711:47:59 Q. Okay. And what type of individuals -- and if you
1811:48:04 don't -- you don't need to say the names, for privacy, but
1911:48:08 what type of fields of individuals do you work with?

2011:48:11 A. It's mostly in the urban space. I've dabbled in other
2111:48:14 genres, some rock and some country. But I have done artists
2211:48:18 that fill small nightclubs all the way up to full stadiums,
2311:48:22 anywhere around the world. I've been lucky.

2411:48:25 Q. What are full stadiums? What size --

2511:48:27 A. About 75,000.

111:48:29 Q. Have you ever been convicted of a crime?

211:48:31 A. No.

311:48:32 Q. Have you ever been arrested?

411:48:33 A. No.

511:48:33 Q. Do you know the gentleman who is sitting to my left?

611:48:39 A. Yes.

711:48:40 Q. And who is that person?

811:48:41 A. That is Durk Banks.

911:48:43 Q. And how long have you known him?

1011:48:44 A. 13 years.

1111:48:47 Q. And how do you know him?

1211:48:49 A. Well, he's one of my clients and we're good friends.

1311:48:52 Q. When you talked about clients and touring, do you do
1411:49:01 other things, like branding, for clients?

1511:49:03 A. Absolutely.

1611:49:04 Q. Can you explain what that means?

1711:49:05 A. So part of the touring process is also expanding on the
1811:49:11 brand recognition for your artists. That goes hand in hand
1911:49:14 with how successful your tour is. So working on everything
2011:49:17 from brand partnerships to just how the message gets relayed
2111:49:23 to a fan base is pretty much your brand. It's what you are
2211:49:27 known for.

2311:49:28 Q. Have you ever taken Mr. Banks, or Durk, on tour or live
2411:49:34 shows?

2511:49:34 A. Yes.

111:49:34 Q. I want to talk with you about -- did a special event
211:49:40 occur in your life on Saturday, August 20th of 2022?

311:49:45 A. Yeah. That is my marriage.

411:49:48 Q. And where were you married?

511:49:50 A. Cabo, Mexico.

611:49:53 Q. And is that on the east coast of Mexico? West coast of
711:49:58 Mexico?

811:49:58 A. It's -- it's west coast. It's, like, kind of directly
911:50:03 south from Cali. So it's mostly west coast. You've got to
1011:50:08 go -- so from where I'm from, it's about a
1111:50:11 six-and-a-half-hour flight.

1211:50:13 Q. Did you invite Durk to your wedding?

1311:50:16 A. Yes.

1411:50:17 Q. Did you invite Durk alone? Was he invited with a
1511:50:22 significant other? A plus one? His wife?

1611:50:25 A. Yeah, no, his wife. He comes with a lot, so I leave it
1711:50:30 open to his discretion.

1811:50:32 Q. Explain that to the jurors, what you mean.

1911:50:34 A. So, you know, with a lot of high-level talent, there are
2011:50:39 certain measures you've got to take, assistance, security,
2111:50:43 management, things that are relevant to his day-to-day needs.
2211:50:47 So when we look at -- you know, myself, my wife, when we
2311:50:51 think about all that, we have to take it into account, you
2411:50:55 know, with guest counts and stuff like that. So we kind of
2511:50:57 have to have it a little bit more open.

111:50:59 Q. And was Durk invited with those other persons -- other
211:51:03 needed persons to the wedding?

311:51:05 A. Yeah, you know, the general -- you know, when I invite,
411:51:07 you know, Durk, I want you to come for sure, but you know --
511:51:11 and understanding his circumstance, sure, yeah.

611:51:13 Q. Did Durk come to your wedding?

711:51:19 A. No, he didn't.

811:51:20 Q. When did you find out that he was not coming to your
911:51:23 wedding?

1011:51:23 A. Specifically? It wasn't -- I don't know the exact time
1111:51:27 or anything, but it was somewhere -- I was already in Cabo.
1211:51:30 So I came in from the 16th through the 20th. So it was
1311:51:33 probably around the 18th or 19th, in that area.

1411:51:37 Q. We are talking -- I'm sorry if I interrupted you --

1511:51:39 A. Um-hum.

1611:51:39 Q. -- I wasn't trying to.

1711:51:41 A. Oh, yeah. So, no. So it was just around that time
1811:51:44 frame. It was kind of one of those things where -- and I
1911:51:47 kind of had a feeling because it's a lot. It's a wide-open
2011:51:49 resort, so I could understand how, you know, it can get
2111:51:53 tricky. We literally got married at the beach, so -- right
2211:51:57 by a big pool, and there were people, so you can't really
2311:52:00 tell them what to do so much, so it's -- you got to take that
2411:52:04 into account.

2511:52:06 Q. So just to ensure, you find out somewhere -- and you are

111:52:11 estimating, but --

211:52:12 A. Um-hum.

311:52:13 Q. -- after you arrive in Cabo on the 16th of August -- so
411:52:17 you are guessing, you learned the 18th of August or the 19th
511:52:22 of August that --

611:52:22 A. Yeah, it was right around there, because I remember,
711:52:24 like, rehearsals and things like that. Like, we had a day
811:52:26 for fun, and then we had to get serious.

911:52:31 Q. I would like to show you an exhibit that is already in
1011:52:36 evidence.

1111:52:36 MR. STEEL: It's Government Exhibit Number 118, Your
1211:52:38 Honor, page 4.

1311:52:42 Q. It should come up on your screen to your left. And we'll
1411:53:03 blow it up, so you are not going to have to --

1511:53:04 A. Yeah, because these are my old glasses, so...

1611:53:09 MR. STEEL: Page 4, if you don't mind.

1711:53:14 Q. Do you see --

1811:53:15 MR. STEEL: And this is on page 4, Your Honor, on
1911:53:17 Government Exhibit Number 118.

2011:53:19 Q. Do you see this text message -- it is already in
2111:53:24 evidence. Can you see it's on green on the right-hand side?

2211:53:27 A. Yeah, I see it.

2311:53:27 Q. Okay.

2411:53:28 MR. STEEL: And, Avery, I'm just going to read it.

2511:53:32 Q. "Tell Jay congrats on the wedding"?

111:53:34 A. Yup. Yup. I see that.

211:53:36 Q. Do you see it's August 19, 2022? I'm looking at the very
311:53:40 bottom right-hand side.

411:53:42 A. Okay. Yup.

511:53:42 Q. Is that the day before you get married?

611:53:45 A. Um-hum.

711:53:46 Q. Are you, as far as you know, named Jay and you are
811:53:48 getting married the next day?

911:53:49 A. Yes. Yeah.

1011:53:52 MR. STEEL: I would like you to go up, if you don't
1111:53:53 mind, to -- I believe two pages before, but I may be wrong.
1211:53:58 I think it's on page 2.

1311:54:12 Your Honor, it's on page 3, the very top one, 3 of
1411:54:16 6.

1511:54:16 Q. Do you see on the very top, "Don't book no flights under
1611:54:19 no names involved with me"?

1711:54:20 A. Yeah.

1811:54:20 MR. MORSE: Objection, foundation. Outside the
1911:54:22 scope.

2011:54:22 THE COURT: Sustained. You can make an argument in
2111:54:24 closing argument, Mr. Steel.

2211:54:26 MR. STEEL: Okay. That's fine.

2311:54:29 Can you take that down.

2411:54:30 Q. I'm going to show you Mr. Banks Exhibit Number 640, if
2511:54:34 it's okay, and it should pop on your screen in a moment.

111:54:45 And just tell me whether you recognize this
211:54:47 document.

311:54:48 A. Yes. That is my invite, one of them. I had a couple,
411:54:52 um-hum.

511:54:53 Q. Okay. And when you say "the invite," who is in the
611:54:55 photographs?

711:54:56 A. That is me and my wife.

811:54:57 Q. And do you see what is in the center of this honorable
911:55:00 Court's screen, "Saturday, August 20, 2022"?

1011:55:04 A. Yup.

1111:55:04 Q. Do you see the resort?

1211:55:06 A. Yup.

1311:55:06 Q. Okay. That is the wedding you are referring to?

1411:55:09 A. Yeah, that is mine.

1511:55:10 Q. That is the wedding that Durk was invited to?

1611:55:12 A. Yes.

1711:55:13 Q. Okay. I would like to talk with you --

1811:55:17 MR. STEEL: Thank you. If you could take that down.

1911:55:19 Thank you, Your Honor.

2011:55:23 Q. Artists that you -- if you know this. The artists that
2111:55:28 you have worked with, are you privy to the fact, or the not
2211:55:33 fact, that they change their phone numbers or cellphones
2311:55:37 often?

2411:55:37 A. Yeah, like, for --

2511:55:39 MR. MORSE: Objection. Foundation. Speculation.

111:55:41 THE COURT: Overruled.

211:55:42 Q. Can you explain to the jury?

311:55:43 A. So basically with a lot of artists, especially high-level
411:55:48 talent, they are known to change their phone numbers a lot.
511:55:52 A lot of times it's something -- for something simple, like
611:55:56 forgetfulness. Like, if they, you know, lose a phone or if,
711:56:01 you know, fans grab ahold of the number or somebody shares a
811:56:04 number to another number, then it just gets out of control.
911:56:07 So a lot of artists do that. It's pretty normal.

1011:56:11 Q. All right.

1111:56:13 MR. STEEL: Your Honor, I don't have any other
1211:56:14 questions.

1311:56:14 Thank you, sir.

1411:56:15 THE COURT: Mr. Harbaugh?

1511:56:17 MR. HARBAUGH: None, Your Honor.

1611:56:18 THE COURT: Mr. Mills?

1711:56:19 MR. MILLS: None, Your Honor.

1811:56:20 THE COURT: Cross-examination.

1911:56:21 MR. MORSE: No questions for this witness. Thank
2011:56:24 you.

2111:56:24 THE COURT: All right.

2211:56:26 THE WITNESS: Thanks.

2311:56:26 THE COURT: Mr. Marciano, you are excused. Thank
2411:56:26 you.

2511:56:30 THE WITNESS: Thanks.

111:56:30 MR. STEEL: Your Honor, if Mr. Marcano understands
211:56:31 he can't testify again, can he stay in your courtroom?

311:56:35 THE COURT: Yes, he may. But for now, we are going
411:56:37 to break for lunch.

511:56:39 Ladies and gentlemen, let's be prepared to start
611:56:42 again at 1:00. Don't investigate the case and don't discuss
711:56:45 the case. Thank you.

811:56:46 (Thereupon, the jury retired from the courtroom.)

911:57:18 THE COURT: Counsel, anything before we break?

1011:57:21 MR. STEEL: Your Honor, I left out one question. I
1111:57:24 apologize. So if Mr. Marcano can still be under the
1211:57:27 subpoena, and I won't talk with him or anything during the
1311:57:29 break.

1411:57:29 THE COURT: All right. Then just make sure that you
1511:57:31 don't share with him what any other witness has said.

1611:57:33 MR. STEEL: I will not do that.

1711:57:34 Mr. Marcano, you will come back after lunch. You
1811:57:37 will be testifying. Okay.

1911:57:39 THE COURT: Anything else from any other defendant?

2011:57:43 (Thereupon, there was a lunch recess.)

2113:06:16 THE COURT: Again, ladies and gentlemen, if you wish
2213:06:18 to sit and then rise for the jury, you may.

2313:06:57 Mr. Steel, does the Government know what the
2413:07:01 additional topic is going to be.

2513:07:02 MR. STEEL: One question I was going to ask -- do

113:07:03 you mind if I just say it?

213:07:05 THE COURT: No, because the jury is about to come
313:07:07 in. But as long as the Government knows --

413:07:07 MR. STEEL: I didn't tell them.

513:07:08 THE COURT: Okay. Then go let them know.

613:07:09 MR. STEEL: Then can I stay at the podium, Your
713:07:12 Honor?

813:07:12 THE COURT: You may. If the jury is not walking in,
913:07:15 you can just --

1013:08:27 (Thereupon, the jury returned to the courtroom.)

1113:08:58 THE COURT: Welcome back, members of the jury. All
1213:09:01 15 of you are here.

1313:09:03 After you had left the courtroom, Mr. Steel asked
1413:09:06 permission to recall Mr. Marcano for just one or two more
1513:09:10 questions. I granted that request.

1613:09:13 Mr. Marcano, you understand, sir, that you are still
1713:09:16 under oath?

1813:09:17 THE WITNESS: Yes.

1913:09:18 THE COURT: All right. Mr. Steel.

2013:09:21 MR. STEEL: Thank you, sir.

2113:09:21 Thank you, Your Honor.

2213:09:22 BY MR. STEEL:

2313:09:22 Q. Mr. Marcano, during the break, did I or anyone speak with
2413:09:28 you about your testimony?

2513:09:31 A. No.

113:09:31 Q. Can you tell the ladies and gentlemen of the jury whether
213:09:33 at any time during the inception of this case has law
313:09:37 enforcement officers ever come to you to ask you about
413:09:40 anything involved in this case?

513:09:42 A. No.

613:09:43 MR. STEEL: Thank you, sir.

713:09:44 THE COURT: All right. Cross-examination -- I'm
813:09:46 sorry, Mr. Harbaugh, Mr. Mills, any follow-up?

913:09:50 MR. HARBAUGH: Nothing, Your Honor.

1013:09:51 MR. MILLS: Nothing from us, Your Honor.

1113:09:53 THE COURT: Cross-examination.

1213:09:54 MR. MORSE: Your Honor, we have no questions for
1313:09:55 this witness. Thank you.

1413:09:56 THE COURT: Mr. Marcano, you are, again, excused.
1513:09:58 Thank you.

1613:09:58 MR. STEEL: Your Honor, can we call Ms. Brianna
1713:10:00 Dangerfield?

1813:10:01 THE COURT: Yes.

1913:10:34 THE CLERK: This way, please. Please raise your
2013:10:45 right hand.

2113:10:46 THEREUPON:

2213:10:46 BRIANNA DANGERFIELD,

2313:10:46 Called in these proceedings, and after having been first duly
2413:10:54 sworn, testifies as follows:

2513:10:54 THE CLERK: Thank you. Please be seated. Watch

113:10:56 your step.

213:10:57 Please state and spell your name for the record.

313:11:09 THE WITNESS: Brianna, B-r-i-a-n-n-a; Dangerfield,
413:11:14 D-a-n-g-e-r-f-i-e-l-d.

513:11:17 THE CLERK: Thank you.

613:11:17 THE COURT: Mr. Steel, you may proceed.

713:11:17 DIRECT EXAMINATION

813:11:19 BY MR. STEEL:

913:11:19 Q. Good afternoon, ma'am. Can you tell the ladies and
1013:11:23 gentlemen of the jury where you were born and raised?

1113:11:24 A. Chicago, Illinois.

1213:11:26 Q. And I apologize for asking you this: How old are you?

1313:11:30 A. 33.

1413:11:31 Q. And can you tell the ladies and gentlemen about your
1513:11:34 education?

1613:11:34 A. Yes. I went to private school the majority of my whole
1713:11:39 life, graduated out of high school, went for college, had an
1813:11:43 associates degree in science.

1913:11:45 Q. And were you raised by your parents? One parent? A
2013:11:50 friend? Family member?

2113:11:51 A. No, I was raised by my aunt and uncle. My mom got
2213:11:56 pregnant at 11, had me at 12, and she got incarcerated.

2313:12:00 Q. Did you -- your aunt that raised you, what did she do for
2413:12:04 a living?

2513:12:04 A. Retired nurse.

113:12:05 Q. And your uncle?

213:12:08 A. Retired engineer.

313:12:10 Q. Do you know the gentleman who is -- I'm pointing at, who
413:12:16 is seated to my left?

513:12:18 A. Yes, I do.

613:12:18 Q. And who is that person?

713:12:19 A. Durk Banks.

813:12:21 Q. And do you have any relationship with Mr. Banks?

913:12:24 A. No.

1013:12:26 Q. How do you know him?

1113:12:27 A. Through one of my best friends that are currently
1213:12:31 deceased.

1313:12:31 Q. Have you ever spoken with Durk Banks?

1413:12:36 A. Years ago when we were like 17, 18.

1513:12:39 Q. How about since then?

1613:12:42 A. No.

1713:12:43 Q. Have you ever been convicted of a crime?

1813:12:46 A. No.

1913:12:46 Q. Have you ever been arrested for a crime?

2013:12:49 A. No.

2113:12:49 Q. Can you tell the ladies and gentlemen of the jury about
2213:12:55 your employment?

2313:12:56 A. Yes. Right now, I work for DCFS. I'm a counselor and I
2413:13:01 work with kids that suffer mental illness and behavioral
2513:13:04 health issues.

113:13:05 Q. And what does that stand for, who you work with?

213:13:07 A. Department of Children and Family Services.

313:13:09 Q. Okay. And is that also in the Chicago, Illinois, area?

413:13:13 A. Yes.

513:13:14 Q. Thank you for doing that.

613:13:20 What is your exact position?

713:13:20 A. I'm a counselor.

813:13:21 Q. Do you have any children?

913:13:23 A. I have three.

1013:13:24 Q. And what are their ages?

1113:13:26 A. I have a 14-year-old, a 13-year-old, and a 9-month-old.

1213:13:30 Q. Do you know a person -- an individual by the name of

1313:13:34 Kacey Hester, also known as Jam?

1413:13:36 A. Yes.

1513:13:36 Q. Can you tell the ladies and gentlemen of the jury how you
1613:13:40 got to know that person?

1713:13:41 A. Through my cousin.

1813:13:43 Q. Do you remember approximately how long ago or what year?

1913:13:46 A. 2009.

2013:13:48 Q. Okay. Did there ever come a time that you developed
2113:13:54 somewhat of a relationship with Mr. Hester?

2213:13:56 A. Yes.

2313:13:56 Q. Can you tell the ladies and gentlemen the year?

2413:13:59 A. 2016.

2513:14:00 Q. And where was Mr. Hester in 2016, if you know?

113:14:03 A. Incarcerated.

213:14:04 Q. All right. And how did you develop a relationship --
313:14:09 what was the relationship consisting of?

413:14:11 A. We were in a relationship.

513:14:13 Q. And how did that work?

613:14:15 A. My friend reached out to me, said that he was looking for
713:14:19 me, and gave her my number.

813:14:21 Q. Okay. And did you visit Mr. Hester?

913:14:23 A. Plenty of times.

1013:14:24 Q. Okay. And when I say "visit," at the prison?

1113:14:26 A. Yes.

1213:14:28 Q. And did you help him with money on his books, et cetera?

1313:14:33 A. Yes.

1413:14:34 Q. All right. I want to take you to a date. Does
1513:14:38 February 28th of 2022 mean anything to you?

1613:14:40 A. Yes. That was the day he was released from jail.

1713:14:43 Q. When you say -- I'm just very formal. When you say "he
1813:14:47 was released from jail," who is "he"?

1913:14:47 A. Kacey Hester.

2013:14:49 Q. All right. And what would you call him? How would you
2113:14:55 refer to Mr. Hester?

2213:14:56 A. Jam.

2313:14:56 Q. When he was released from custody, when is the first time
2413:14:59 you saw him? February 28, 2022, is what I'm focused on.

2513:15:04 A. Yes. When I picked him up from the train station.

113:15:07 Q. And who were you with?

213:15:08 A. His mom.

313:15:08 Q. Okay. Where did Mr. Hester live, if you know, once he
413:15:14 was released from custody on February 28, 2022?

513:15:17 A. We were living together.

613:15:18 Q. At whose home?

713:15:20 A. My home.

813:15:21 Q. You allowed him to live in your home?

913:15:24 A. Yes.

1013:15:24 Q. Did there come a time that he no longer lived at your
1113:15:27 home?

1213:15:28 A. Yes.

1313:15:28 Q. When was that, approximately?

1413:15:29 A. I think I put him out in April.

1513:15:31 Q. I couldn't hear you.

1613:15:32 A. April.

1713:15:33 Q. Of the same year, 2022?

1813:15:35 A. Yes.

1913:15:35 Q. Okay. And you said something, "I put him out"?

2013:15:39 A. Yes.

2113:15:39 Q. Okay. What does "put him out" mean?

2213:15:42 A. I told him he had to leave due to him thinking my house
2313:15:45 was like a revolving door. And I had a son and a daughter,
2413:15:48 and I don't want my daughter to think that was okay.

2513:15:50 Q. Okay. I want you to tell the ladies and gentlemen of the

113:15:56 jury if you ever had conversations with Mr. Hester, or Jam,
213:16:00 or if you've heard him discuss Durk.

313:16:03 A. Yes.

413:16:03 Q. Can you tell the ladies and gentlemen of the jury what
513:16:06 Mr. Hester told you about Durk?

613:16:08 A. I guess it was the time when I picked him up from the
713:16:13 train station when he got released. Durk had bought him
813:16:15 clothes and shoes, but to him, he was thinking he was going
913:16:19 to get some type of payment that same day he was released,
1013:16:24 since he didn't have anything.

1113:16:25 When he found out that he didn't get any money, his
1213:16:27 words, excuse my language, "That nigger is a" -- you know,
1313:16:32 "is a bitch, a hoe-ass nigger."

1413:16:34 Q. Did Mr. Hester ever tell you that Durk Banks was indebted
1513:16:42 to him?

1613:16:42 A. Yes.

1713:16:43 Q. Tell the ladies and gentlemen of the jury what he said
1813:16:45 and why.

1913:16:45 A. He felt like due to Durk saying his names in songs, he
2013:16:50 felt like he was indebted to a payment.

2113:16:52 Q. Okay. And I'm just going to ask you this question: When
2213:16:56 you say because Durk used Mr. Hester's name in songs --

2313:17:00 A. Um-hum.

2413:17:01 Q. -- you said "he."

2513:17:02 A. Um-hum.

113:17:03 Q. Then Durk was indebted to Mr. Hester. But if that is
213:17:06 wrong, correct it.

313:17:07 A. That's correct.

413:17:08 Q. Okay. And Mr. Hester told you that?

513:17:10 A. Correct.

613:17:11 Q. Okay. Did Mr. Hester tell you anything about all of
713:17:16 Durk's success and money was because of him?

813:17:18 A. Yes.

913:17:19 Q. Tell the ladies and gentlemen of the jury what he said.

1013:17:21 A. He felt like due to his name being mentioned, that he
1113:17:26 felt like he was -- you know, he needed a payment. He felt
1213:17:29 like he wouldn't be this big rapper if his name wasn't
1313:17:33 getting mentioned in the song, due to his criminal history.

1413:17:37 Q. How about -- when you say "his criminal history,"
1513:17:39 Mr. Hester's?

1613:17:39 A. Correct.

1713:17:40 Q. Did Mr. Hester ever tell you whether he would -- whether
1813:17:49 Durk Banks was afraid of him or not?

1913:17:51 A. Yes.

2013:17:52 Q. Tell the ladies and gentlemen of the jury what Mr. Hester
2113:17:54 said.

2213:17:54 A. Per Jam's words, Durk was a goofy from Chicago. A goofy
2313:18:01 is a person that's not a threat, that won't do anything, a
2413:18:06 lame. Also that Durk had just jumped off the porch, so he's
2513:18:10 not about that life. So that he would make Durk do anything

113:18:14 that he wanted Durk to do.

213:18:15 Q. Okay. All right. Did Mr. Hester ever tell you anything
313:18:23 about being -- him being a rapper -- "him" being Mr. Hester,
413:18:27 being a rapper?

513:18:28 A. Yes. He talked about in jail that when he came home, he
613:18:31 was going to try to rap.

713:18:32 Q. All right. Do you still speak with Mr. Hester?

813:18:37 A. I haven't spoke with him in the last few years.

913:18:40 Q. Do you remember when the last time you spoke with
1013:18:42 Mr. Hester?

1113:18:42 A. When he got arrested for this gun case in '23, he tried
1213:18:49 to reach out to me, but prior to that, no.

1313:18:52 Q. Did you -- did you -- when Mr. Hester tried to reach out
1413:18:56 to you when he was in custody in the year 2023, did you speak
1513:19:01 with him?

1613:19:01 A. No, I did not.

1713:19:02 Q. All right. I would like to ask you: Do you know a
1813:19:08 person named Kavon Grant?

1913:19:10 I'm going to give you two other names, okay?

2013:19:10 A. No, I do not know him.

2113:19:14 Q. Kavon Grant or Vonni or Cuz, do you know that person?

2213:19:17 A. No.

2313:19:17 Q. Do you know a person named Dayvon Bennett, also known as
2413:19:21 Von or King Von?

2513:19:22 A. No.

113:19:22 Q. Ms. Dangerfield, from your personal opinion, have you
213:19:44 formed an opinion on whether Mr. Hester is a truthful person?

313:19:48 A. Yes, I have.

413:19:48 Q. What is your opinion?

513:19:49 A. He's not truthful at all. He's a manipulator.

613:19:53 Q. With regards to Mr. Hester, did he ever tell you anything
713:19:58 about if he's ever put in a position to go back to prison,
813:20:04 what he would do?

913:20:05 A. Yes. Per his words, if he ever --

1013:20:07 MR. MORSE: Your Honor, objection. This is outside
1113:20:08 the scope.

1213:20:08 THE COURT: Sustained.

1313:20:12 MR. STEEL: Okay. Understood. Then I don't have
1413:20:13 any other questions, sir.

1513:20:14 THE COURT: Thank you.

1613:20:16 Counsel, anything? Mr. Harbaugh? Mr. Mills?

1713:20:21 MR. HARBAUGH: No, Your Honor.

1813:20:21 MR. MILLS: No, Your Honor.

1913:20:22 THE COURT: Cross-examination.

2013:20:25 MR. WEINER: May we approach, briefly, about this?

2113:20:27 THE COURT: You may.

2213:20:29 Ladies and gentlemen, ma'am, you can stand and
2313:20:33 stretch, while you like, while we are over here.

2413:20:36 (At the bench:)

2513:20:42 MR. MILLS: Can I move the chair, Your Honor?

113:20:44 THE COURT: You may.

213:20:49 MR. WEINER: So the witness testified that she has
313:20:53 no convictions, and then she explicitly said she has no
413:20:58 arrests. I'll just show you what we have found, and I want
513:21:01 to flag for the Court.

613:21:02 And I don't know if you guys know about any of this.

713:21:05 We have not shared this with them. We just --

813:21:07 THE COURT: Nor need you. All right.

913:21:09 MR. WEINER: Brianna Dangerfield, date of birth
1013:21:12 September 5, 1992, that is her -- that is her driver's
1113:21:18 license. I believe that is the same individual.

1213:21:21 THE COURT: A rational jury could make that
1313:21:22 conclusion.

1413:21:23 MR. WEINER: Brianna Dangerfield, September 5, 1992,
1513:21:30 has arrests for -- again, September 5, 1992. Chicago,
1613:21:35 Illinois, forgery, no convictions but arrests; theft;
1713:21:41 shoplifting; theft; theft.

1813:21:41 MR. STEEL: 1992?

1913:21:48 MR. WEINER: Is that not her birth date? That is
2013:21:51 her date of birth. These are from 2006.

2113:21:54 THE COURT: Counsel, please, we are still on -- the
2213:21:57 Court is in session over here.

2313:21:58 The point is that you didn't need to ask her if she
2413:22:02 had -- she had never had any arrests.

2513:22:04 MR. STEEL: I didn't know she did have any arrests.

113:22:06 THE COURT: I'm not blaming you, but I'm saying you
213:22:08 chose to do it. And now, as is true with the witnesses the
313:22:12 Government called, they have the right to show that she lied
413:22:14 before the jury. You can ask her -- if you had asked her
513:22:17 whether she ever owned a pink blouse and they had a picture
613:22:20 of her wearing a pink blouse, I would allow the same thing.

713:22:23 I'm not going to give an instruction, obviously,
813:22:26 about the felony and any of that.

913:22:27 MR. STEEL: Can you make it clear it's an arrest and
1013:22:29 not a conviction?

1113:22:29 THE COURT: No. She -- well, I'm sure the
1213:22:31 Government will do that.

1313:22:31 MR. STEEL: I mean, it seems important.

1413:22:33 THE COURT: I'm sure the Government will do that.

1513:22:35 MR. STEEL: Because, I don't know, people get
1613:22:37 arrested and then it gets dismissed.

1713:22:39 THE COURT: That is not the point. The point is you
1813:22:40 asked her a question when she was under oath, and she chose
1913:22:43 to give a certain answer. And the Government has the right
2013:22:45 to show that answer was perjurious, the same way they are
2113:22:49 doing with Mr. Hester.

2213:22:50 MR. STEEL: No, I understand. I'm just saying --
2313:22:53 clarify copy of a citation that may have come up in an
2413:22:55 arrest.

2513:22:55 THE COURT: Then she can explain that however she

113:22:57 wants.

213:22:57 MR. STEEL: Well, I don't know.

313:22:58 THE COURT: Mr. Steel, I realize that. I'm just
413:23:00 saying the Government has the right to ask these questions as
513:23:03 long as you make it clear that it's arrests and not
613:23:06 convictions.

713:23:06 MS. O'CONNOR: And is -- may the Government just
813:23:09 elicit that she's been arrested before, but not list the
913:23:12 charges?

1013:23:15 (Cross talk.)

1113:23:15 MR. MORSE: I think it's extremely probative.

1213:23:17 THE COURT: No, because it goes to the -- at least
1313:23:18 as to the ones for forgery. And also it makes it clear that
1413:23:20 she wouldn't have forgotten about it.

1513:23:22 And these things are not so inherently prejudicial,
1613:23:26 such as, you know, child molestation or something like that,
1713:23:29 where in fact they are probative because they're -- at least
1813:23:32 the forgery ones are, arguably, and petty theft. I mean,
1913:23:36 petty theft may not be an act of dishonesty, but certainly
2013:23:41 the forgery is.

2113:23:43 MS. O'CONNOR: May Mr. Steel -- just in case the
2213:23:44 witness misunderstood, may Mr. Steel ask her to clarify that
2313:23:46 answer?

2413:23:46 THE COURT: No. He can do it on redirect, but the
2513:23:50 Government gets to cross.

113:23:51 MR. STEEL: I'm not trying to steal their thunder.

213:23:55 (In open court:)

313:24:14 MR. WEINER: Your Honor, may we just have one minute
413:24:16 to confer amongst ourselves?

513:24:17 THE COURT: You may.

613:24:19 MR. WEINER: Thank you.

713:24:21 (Pause in proceedings.)

813:25:32 MR. MORSE: May I proceed Your Honor?

913:25:33 THE COURT: You may.

1013:25:33 CROSS-EXAMINATION

1113:25:34 BY MR. MORSE:

1213:25:34 Q. Good afternoon, Ms. Dangerfield.

1313:25:37 A. Good afternoon.

1413:25:38 Q. You said you grew up in Chicago?

1513:25:41 A. Yes.

1613:25:41 Q. Okay. And you began developing a relationship with
1713:25:45 Mr. Hester while he was still in custody?

1813:25:47 A. Correct.

1913:25:48 Q. Romantic relationship?

2013:25:49 A. Yes.

2113:25:50 Q. Okay. And then you picked him up when he got out of
2213:25:54 prison?

2313:25:54 A. Yes.

2413:25:54 Q. Okay. And he began to live with you?

2513:25:56 A. Correct.

113:25:56 Q. All right. I'm not asking why.

213:25:58 A. Okay.

313:25:58 Q. Fair to say it didn't end well?

413:26:00 A. No.

513:26:01 Q. Okay. That's a yes, it did not end well?

613:26:04 A. No, it did not end well.

713:26:05 Q. Okay. Now, you just testified on direct examination --
813:26:10 by the way, when is your birthday?

913:26:12 A. September 5th.

1013:26:13 Q. 1992?

1113:26:14 A. Correct.

1213:26:15 Q. Okay. You just testified on direct examination that you
1313:26:18 never have been arrested?

1413:26:19 A. I have never been arrested but for, like, a traffic stop.

1513:26:22 Q. Okay. Ma'am, isn't it true you have been arrested for
1613:26:26 forgery?

1713:26:27 A. No.

1813:26:28 Q. It's your testimony you have never been arrested for
1913:26:33 forgery --

2013:26:33 A. Never.

2113:26:33 Q. -- on October 12, 2016?

2213:26:35 A. Never.

2313:26:35 Q. Okay. Haven't you also been arrested for a theft-related
2413:26:38 crime?

2513:26:39 A. So I was arrested for a theft-related crime that -- it

113:26:42 had nothing to do with me.

213:26:42 Q. Okay. So you have been arrested before?

313:26:44 A. Yes.

413:26:45 Q. So when you testified in front of this jury and told them
513:26:50 you had never been arrested, that is not true, is it?

613:26:52 A. But I have never been convicted. That was, like, a
713:26:55 mistake.

813:26:55 Q. Okay. Let me just ask my question again: When you told
913:26:58 this jury that you had never been arrested, that wasn't true,
1013:27:01 was it?

1113:27:01 A. No, it was not.

1213:27:02 Q. Okay.

1313:27:03 MR. MORSE: I have nothing further, Your Honor.

1413:27:06 THE COURT: Redirect?

1513:27:09 MR. STEEL: No, sir. Thank you.

1613:27:11 THE COURT: Ms. Dangerfield, you are excused. Thank
1713:27:13 you.

1813:27:13 THE WITNESS: Thank you.

1913:27:17 THE COURT: Mr. Banks may call his next witness.

2013:27:34 MS. O'CONNOR: Thank you, Your Honor.

2113:27:34 On behalf of Mr. Banks, we call Sanchay Dharmic
2213:27:44 Jain.

2313:27:44 THE CLERK: This way, please. Stop right here.
2413:27:58 Raise your right hand.

2513:27:59 THEREUPON:

113:27:59 SANCHAY JAIN,

213:27:59 Called in these proceedings, and after having been first duly
313:28:05 sworn, testifies as follows:

413:28:05 THE CLERK: Thank you. Please be seated.

513:28:06 Please state and spell your name for the record.

613:28:18 THE WITNESS: My name is Sanchay Jain;

713:28:22 S-a-n-c-h-a-y. Last name is Jain, J-a-i-n.

813:28:26 THE CLERK: Thank you.

913:28:26 DIRECT EXAMINATION

1013:28:26 BY MS. O'CONNOR:

1113:28:26 Q. Good afternoon, Mr. Jain.

1213:28:28 A. Good afternoon.

1313:28:29 Q. Can you -- we are going to start by having you tell us a
1413:28:34 little bit about yourself.

1513:28:35 What is your educational background?

1613:28:36 A. So I went to NYU, and I dropped out midway through.

1713:28:40 Q. Is that because you already knew what you wanted to do?

1813:28:43 A. Yes. I knew I wanted to pursue music and be in the music
1913:28:46 industry, and so I started networking and left college as a
2013:28:50 result.

2113:28:50 Q. And so that brings us to your work history.

2213:28:55 What is your current job?

2313:28:57 A. I'm currently the general manager of an independent
2413:29:00 record label, Mainstay Music.

2513:29:01 Q. And how long have you worked at Mainstay Music?

113:29:06 A. Since January of this year.

213:29:07 Q. Before that, where did you work?

313:29:10 A. I worked at Alamo Records as the SVP head of marketing.

413:29:14 Q. When did you start working at Alamo Records?

513:29:18 A. I started in August of 2018.

613:29:20 Q. What was your title when you first started?

713:29:22 A. When I first started, my title was vice president of
813:29:26 marketing.

913:29:26 Q. And then did that title change at some point?

1013:29:29 A. Yes, it changed a few years into being at Alamo.

1113:29:33 Q. And what was your next title?

1213:29:35 A. From VP to SVP.

1313:29:38 THE COURT: And by that, you mean senior vice
1413:29:41 president?

1513:29:41 THE WITNESS: Senior vice president, yes.

1613:29:43 THE COURT: Go ahead.

1713:29:45 MS. O'CONNOR: I'm sorry, Your Honor, did you have
1813:29:47 some --

1913:29:47 THE COURT: No, I said, "Go ahead."

2013:29:49 MS. O'CONNOR: Oh, okay.

2113:29:50 Q. So as the VP of marketing at Alamo Records, what were
2213:29:54 your job responsibilities?

2313:29:57 A. My job responsibilities were to be the product manager
2413:29:59 for a roster of artists and help them organize their music
2513:30:03 releases and promote them and maximize their reach and

113:30:07 streams.

213:30:08 Q. And let's talk about Alamo Records for a moment.

313:30:15 Can you tell me a little bit about Alamo Records'
413:30:17 corporate structure?

513:30:18 A. So Alamo initially was -- when I joined, was a joint
613:30:24 venture owned partially by Todd Moscovitz and Universal Music
713:30:29 Group. In 2021, it was acquired by Sony Music.

813:30:32 Q. And it's now -- is it a subsidiary of Sony Music now?

913:30:38 A. Yes, it's part of Sony Music.

1013:30:41 Q. And did there come a time when you became acquainted with
1113:30:44 Mr. Durk Banks?

1213:30:44 A. Yes. I actually started working with Mr. Banks before I
1313:30:49 joined Alamo and before he was signed to Alamo. My previous
1413:30:53 job before Alamo, I was a publicist at an independent
1513:30:58 publicity company, and I was the publicist for Mr. Banks'
1613:31:00 release "Just Cause Y'all Waited."

1713:31:02 Q. What is "Just Cause Y'all Waited"?

1813:31:04 A. It was a mixed tape he released when he was a free agent
1913:31:07 between labels.

2013:31:08 Q. And you said you helped market that mixed tape?

2113:31:11 A. I was the publicist for it, so I set up interviews and
2213:31:15 promo around that release.

2313:31:16 Q. And what is the purpose of setting up interviews and
2413:31:19 promos around a release of music?

2513:31:21 A. To get people talking about an artist and the music

113:31:26 before it comes out and after it comes out, so that people
213:31:29 would go and listen to the music.

313:31:30 Q. Was Mr. Banks signed at Alamo Records at that time?

413:31:35 A. No, Mr. Banks wasn't signed yet to Alamo.

513:31:38 Q. Where was he signed?

613:31:39 A. At the time, he had just left a previous contract with
713:31:44 Def Jam Records, and then he signed with Alamo in the summer
813:31:48 of 2018, before I joined Alamo.

913:31:50 Q. So did there come a time where you were working at Alamo,
1013:31:55 and Mr. Banks was also signed to Alamo?

1113:31:58 A. Yes.

1213:31:59 Q. And did the two of you work together?

1313:32:00 A. Yes. Starting in 2019, I was the product manager for
1413:32:04 Mr. Banks' music.

1513:32:05 Q. What does that mean to be a product manager?

1613:32:07 A. So that means to be the main point person between artist
1713:32:13 and his team and the label in terms of the marketing
1813:32:17 initiatives for his music and his albums, and organizing the
1913:32:22 release of the music, the release of the promotional
2013:32:25 material, the release of the music videos, so on and so
2113:32:28 forth.

2213:32:28 Q. Does that mean you helped attract more attention to
2313:32:31 Mr. Banks' music releases?

2413:32:33 A. Absolutely.

2513:32:34 Q. Songs and videos?

113:32:35 A. Songs and videos, yes.

213:32:35 Q. And as part of that, would you and other people you
313:32:38 worked with set up interviews and podcasts and things like
413:32:42 that for Mr. Banks?

513:32:42 A. Yes, we set up interviews and podcast appearances.

613:32:46 Q. So I would imagine in your line of work, you've worked
713:32:50 with quite a number of famous or noteworthy musical artists.
813:32:55 Is that true?

913:32:55 A. Absolutely, yes.

1013:32:56 Q. Okay. So I want to ask you a little bit about famous
1113:33:00 musical artists and cellphones, okay?

1213:33:02 A. Okay.

1313:33:03 Q. How many cellphones do you have?

1413:33:05 A. I have one cellphone.

1513:33:06 Q. Okay. In your experience, is that the case with famous
1613:33:10 musical artists?

1713:33:11 A. Not all the time, no.

1813:33:12 Q. And tell me about that.

1913:33:14 Do artists sometimes have multiple phones?

2013:33:16 A. Yes, artists sometimes have multiple phones to allow
2113:33:19 friends and family a more immediate access to them through a
2213:33:23 second phone that fewer people have access to or have the
2313:33:26 number of.

2413:33:26 Q. And is the general idea to keep your circle tight with
2513:33:30 respect to one phone?

113:33:31 A. Yes, so that that way that phone is more accessible.

213:33:35 Q. And with respect to the second phone, who has access to
313:33:39 that phone?

413:33:40 A. Well, artists are networking -- you know, interfacing
513:33:42 with the label, interfacing with promoters, interfacing with
613:33:45 other artists, producers, creatives, directors, just, you
713:33:50 know, working their way through the industry and connecting
813:33:52 and networking with people.

913:33:53 Q. And you mentioned artists often have one phone where they
1013:33:56 try to keep their circle tight, and only certain people have
1113:33:59 that phone number?

1213:34:00 A. Um-hum.

1313:34:00 Q. Does it ever happen where more people get that phone
1413:34:04 number than the artists would like?

1513:34:06 A. Over time, yes, that can happen.

1613:34:07 Q. And what do artists typically do when that happens?

1713:34:11 A. Oftentimes an artist will change their phone number when
1813:34:14 they feel like too many people have access to that number and
1913:34:17 too many people can get a hold of them through that number.

2013:34:20 Q. Okay. So I want to bring you back specifically to
2113:34:23 Mr. Banks --

2213:34:24 A. Um-hum.

2313:34:25 Q. -- and the work you did with him when you were both at
2413:34:29 Alamo. And you have been in the music industry since you
2513:34:33 left NYU; is that right?

113:34:35 A. Basically, yeah, since 2016.

213:34:37 Q. Is music art?

313:34:40 A. Yes, music is art and entertainment.

413:34:42 Q. What does that mean?

513:34:43 A. Music is a creative endeavor, and it's meant for the
613:34:49 audience to feel emotion and relate to, you know, the
713:34:54 emotions.

813:34:55 Q. And is it also meant for an artist to express his
913:34:59 feelings?

1013:34:59 A. Absolutely, just like a painter expresses their emotions
1113:35:03 through painting.

1213:35:03 Q. Or a screenwriter?

1313:35:07 A. Yes, absolutely.

1413:35:08 Q. Okay. Are movies also a form of art?

1513:35:11 A. Yes.

1613:35:13 MR. YANNIELLO: Objection. Relevance.

1713:35:14 THE COURT: Sustained.

1813:35:15 Q. And so music is art, but as of course you are aware, you
1913:35:21 work in marketing --

2013:35:22 A. Um-hum.

2113:35:22 Q. -- is music also a business?

2213:35:24 A. Music is definitely a business.

2313:35:26 Q. Does it make people money?

2413:35:27 A. Yes, music makes a lot of people money.

2513:35:29 Q. Who?

113:35:30 A. It makes the artist money, it makes the artist's
213:35:34 management money, their lawyers, business managers, the
313:35:37 record label that releases the music, the promoter that books
413:35:41 the artist to perform at a show, the concert venues, a lot of
513:35:45 people.

613:35:45 Q. And is it part of your job to make sure that music makes
713:35:50 more money?

813:35:51 A. Yes, it's definitely part of my job to -- as a marketing
913:35:54 lead, to make sure that the music makes as much money as
1013:35:57 possible for everybody involved.

1113:35:58 Q. And are you familiar with the concept of getting clicks?

1213:36:03 A. Yes.

1313:36:03 Q. What does that mean?

1413:36:04 A. Getting clicks means to drive up views, which in turn
1513:36:10 leads to more streaming revenue.

1613:36:11 Q. And "drive up views," what kind of views?

1713:36:15 A. Views on YouTube and other social media platforms with
1813:36:19 video content.

1913:36:20 Q. Is that what you have in mind when you set up podcasts?

2013:36:24 A. Yes.

2113:36:25 Q. And is that what you have in mind when you set up
2213:36:27 interviews for artists?

2313:36:29 A. Yes, definitely.

2413:36:29 Q. And in that way, does it sometimes pay to be provocative?

2513:36:35 A. Yes, it pays to be provocative.

113:36:39 Q. How so?

213:36:39 A. At the end of the day, being provocative creates
313:36:44 headlines. The more headlines that are out there, the more
413:36:47 people share news. The more people have -- are exposed to
513:36:51 headlines, the more people will listen to music or anything
613:36:53 else that you are promoting.

713:36:55 Q. And does provocative sometimes mean controversial?

813:36:59 A. Yes, it oftentimes does.

913:37:01 Q. All news is good news?

1013:37:03 A. Yes, all news is good news when it comes to creating
1113:37:06 interest.

1213:37:06 Q. And does Alamo share that -- that sentiment that you just
1313:37:13 expressed?

1413:37:14 A. Absolutely. Alamo definitely is in the business of
1513:37:17 promoting provocativeness in order to drive engagement and
1613:37:22 drive streams.

1713:37:23 Q. Okay. Can you give an example of how that would work
1813:37:25 with Alamo and Mr. Banks?

1913:37:27 A. So for example, when there was a video of Mr. Banks
2013:37:33 playing basketball and that went viral, the label set up --
2113:37:38 promoted play where we got this platform called Overtime to
2213:37:44 announce that Mr. Banks had a 10-day contract with the
2313:37:48 Chicago Bulls, when he did not in fact have a contract to
2413:37:51 play for the Chicago Bulls.

2513:37:52 Q. So there was a headline that was false?

113:37:55 A. Yes, that is correct.

213:37:56 Q. But was it designed to sell music?

313:38:00 A. Yes. Thousands of people shared it, and it drove streams
413:38:03 up.

513:38:04 Q. Okay. Let's talk about Mr. Banks' music in particular.

613:38:09 How would you describe it? What genre is it a part
713:38:12 of?

813:38:12 A. Mr. Banks' music takes multiple forms. The two main
913:38:18 forms are melodic rap and street rap.

1013:38:21 Q. What is melodic rap?

1113:38:24 A. Melodic rap is pretty self-explanatory. It's rap with
1213:38:28 melodies attached to them.

1313:38:30 Q. And how about street rap? Because that is a little less
1413:38:33 self-explanatory.

1513:38:34 A. Street rap is a darker, sort of more aggressive style of
1613:38:39 music that speaks to the trials and tribulations of the
1713:38:44 everyman from the inner city.

1813:38:46 Q. What is Mr. Banks' nickname?

1913:38:49 A. The Voice.

2013:38:50 Q. What does that mean?

2113:38:52 A. The Voice is the voice of the underrepresented.

2213:38:56 Q. And where does Mr. Banks come from?

2313:38:58 A. Chicago. The south side of Chicago.

2413:39:02 Q. Is -- I mean, somebody who grew up in Malibu, would they
2513:39:08 necessarily understand the experiences of somebody who grew

113:39:10 up on the south side of Chicago?

213:39:12 A. Not -- not necessarily. Although there are some parts of
313:39:16 Mr. Banks' music that are relatable to any person from any
413:39:21 neighborhood. That is why he was as big as he is.

513:39:23 Q. Okay. So not all of his music is violent?

613:39:26 A. No, not all of his music is violent.

713:39:28 Q. What other themes, just generally, without getting to
813:39:31 words --

913:39:31 MR. YANNIELLO: Objection. Relevance.

1013:39:32 THE COURT: Sustained.

1113:39:37 Q. In your experience in marketing and selling a project,
1213:39:44 does violence sell?

1313:39:46 A. Yes, violence sells in entertainment.

1413:39:48 Q. Across genres?

1513:39:50 A. Across genres and across mediums.

1613:39:53 Q. What do you mean by "across mediums"?

1713:39:57 A. The biggest video game right now is "Grand Theft Auto,"
1813:40:01 promotes violence. The biggest movie of the summer is "The
1913:40:04 Odyssey." It promotes violence.

2013:40:07 Q. Does that make money?

2113:40:08 A. Absolutely.

2213:40:08 Q. Does Alamo know that?

2313:40:09 A. Absolutely.

2413:40:10 Q. What is Alamo's -- I want to talk to you about Alamo's
2513:40:17 policies, because you worked there for a number of years.

113:40:19 What is Alamo's policy about censoring the lyrics of
213:40:25 its musical artists?

313:40:25 A. Alamo generally did not censor the lyrics of artists, and
413:40:30 allowed artists full creative expression in their lyrics.

513:40:33 Q. How about videos, did Alamo have a policy about the
613:40:39 display of overt violence or guns in its videos?

713:40:43 A. Yes, Alamo generally forbids artists from having overt
813:40:48 acts of violence or guns in their music video releases.

913:40:52 Q. And as an artist with Alamo Records, was Mr. Banks aware
1013:40:56 of that?

1113:40:56 A. Yes, Mr. Banks and his team was aware of that.

1213:40:58 Q. How do you know that?

1313:40:59 A. Conversations were had between myself and others at the
1413:41:03 label with Mr. Banks and his team.

1513:41:04 Q. So they knew that any video with overt violence and guns
1613:41:10 in it would never be released?

1713:41:11 A. Yes, that's correct.

1813:41:12 Q. So I want to talk -- bring you back in time a little bit
1913:41:18 to the end of 2020.

2013:41:22 A. Um-hum.

2113:41:22 Q. And you were working with Mr. Banks at that time?

2213:41:24 A. Yes, I was.

2313:41:26 Q. And were you working with him on rolling out a new
2413:41:28 project?

2513:41:28 A. Yes. In the second half of 2020, we were working on the

113:41:31 release of his album "The Voice."

213:41:34 Q. And are you familiar with the song called "Redman"?

313:41:38 A. Yes, I'm familiar with "Redman."

413:41:40 Q. Was "Redman" a song on that album "The Voice"?

513:41:43 A. Yes, "Redman" was on "The Voice."

613:41:45 Q. What was your planned release date for that album?

713:41:48 A. Initially we were planning to release the album in --
813:41:53 sometime in 2020, and then in early November when King Von
913:41:58 passed away, we suspended the release plans and anticipated
1013:42:03 that it would come out in 2021 at some point.

1113:42:06 Q. Okay. So I want to take you back a little bit. You are
1213:42:09 planning on releasing an album with Mr. Banks?

1313:42:13 A. Yes.

1413:42:13 Q. Does the release of an album require participation of an
1513:42:17 artist?

1613:42:17 A. Yes. It requires the artist to promote the music, post
1713:42:21 on social media, do interviews, the whole thing, yes.

1813:42:24 Q. Can you effectively release an album if an artist can't
1913:42:27 or is unable to participate?

2013:42:29 A. An artist being unable to participate makes it very
2113:42:32 difficult to maximize the sales for an album.

2213:42:36 Q. And then we talked about the death of King Von. Did
2313:42:39 you -- were you aware when King Von died?

2413:42:41 A. Yes, I was aware when he passed away, yes.

2513:42:43 Q. Did you see the video of his murder?

113:42:46 A. Yes, I saw the video.

213:42:48 Q. How would you describe that?

313:42:49 A. It was a tragedy. It was terrible.

413:42:54 Q. It was a violent murder?

513:42:55 A. Definitely a violent murder.

613:42:57 Q. And are you aware of Mr. Banks' relationship with King
713:43:01 Von?

813:43:01 A. Yes. They had a close relationship, from what I knew.

913:43:03 Q. And so when King Von was murdered and the video of his
1013:43:10 murder was online for everyone to see, what was Mr. Banks'
1113:43:16 reaction to that?

1213:43:16 A. Management informed us that Mr. Banks was going to
1313:43:22 deactivate his Instagram, which he did deactivate all his
1413:43:25 social media profiles, and he was not going to post or
1513:43:28 promote anything indefinitely.

1613:43:31 Q. Why was that?

1713:43:32 A. To mourn and grieve, essentially, is what we were told.

1813:43:37 Q. Were you able to reach Mr. Banks during this period of
1913:43:40 time?

2013:43:40 A. No, I did not have direct contact with Mr. Banks at this
2113:43:43 time.

2213:43:43 Q. And Mr. Banks was unable to participate in the rollout of
2313:43:51 his new album as planned?

2413:43:53 A. Yes. We stopped rolling out the music at that point.

2513:43:56 Q. And you say that Mr. Banks went dark. About how long did

113:44:02 that last?

213:44:03 A. Roughly four weeks.

313:44:05 Q. Okay. And then at a certain point did it become evident
413:44:11 that he kind of had to come out of this dark period for
513:44:15 reasons related to his business?

613:44:17 A. Yes. So in early December, management reached out to the
713:44:23 label, to myself and others, and said that -- informed us
813:44:26 that the album had prematurely leaked on third-party
913:44:32 websites. And so because of the leaking of the music, Durk
1013:44:36 and his team -- and we agreed -- wanted to move up the
1113:44:40 release of this album.

1213:44:41 Q. Okay. Why would the fact that music leaks ahead of its
1313:44:48 release, why would that move up the official release date for
1413:44:52 music?

1513:44:53 A. When music leaks, that means people can consume it for
1613:44:56 free, which means fewer people are going to be listening for
1713:45:00 the first time when it's commercially released. With fewer
1813:45:03 people listening for the first time, that creates fewer
1913:45:07 streams and brings down the sales of an album.

2013:45:09 Q. And was the decision made that despite Mr. Banks being in
2113:45:14 this mourning period, he had no choice but to start getting
2213:45:19 with it again and get involved in the release of this album?

2313:45:23 A. Yes. Yes. He prematurely had to get back online and
2413:45:27 start promoting.

2513:45:28 Q. Okay. And I want to talk about -- you said you know the

113:45:33 song "Redman"?

213:45:35 A. Um-hum.

313:45:35 Q. Are you also familiar with the video for "Redman"?

413:45:38 A. Yes, I'm familiar with the video for "Redman."

513:45:41 Q. Okay. And by "video" --

613:45:42 A. Um-hum.

713:45:43 Q. -- I'm talking about a video that was never officially
813:45:46 released, right?

913:45:47 A. Yes. The music video never officially released to the
1013:45:50 public.

1113:45:50 Q. Okay. And so as Mr. Banks was coming out of this dark
1213:45:54 period, tell me about when the video for "Redman" came across
1313:45:59 your proverbial desk.

1413:46:01 A. Yes. So first, before the video was made, I received a
1513:46:05 treatment for the video, outlining what the video was going
1613:46:09 to look like. When I received the treatment, I informed
1713:46:14 Durk's management team that there was a scene in the video
1813:46:18 that I thought would violate Alamo's policies, and so they
1913:46:22 would have to remove that scene when they made the video in
2013:46:26 order for it to be released.

2113:46:27 Q. And that policy, is that the one we were talking about
2213:46:32 earlier, where it was the well-known policy of Alamo that
2313:46:36 overt violence and guns, that was not allowed?

2413:46:39 A. Right. It's that policy, yes.

2513:46:41 Q. Yet you received this treatment where there was overt

113:46:47 violence and guns?

213:46:48 A. Yes, that's correct.

313:46:48 Q. And do you remember what that "Redman" video showed?

413:46:51 A. The "Redman" video showed Mr. Banks holding a gun and
513:46:58 shooting somebody in it.

613:47:00 Q. So is it fair to say that anyone who is familiar with
713:47:06 Alamo's policy would know that this video is not going to see
813:47:10 the light of day?

913:47:11 A. Yes. Anyone familiar with the policy would know that we
1013:47:14 were never going to release that video to the public.

1113:47:16 Q. Did the CEO of Alamo have strong feelings about explicit
1213:47:22 violence and guns in videos?

1313:47:24 A. Yes.

1413:47:27 Q. And so did you see a video made for "Redman" at a certain
1513:47:33 point?

1613:47:33 A. Yes. At a certain point the videographer for that video,
1713:47:38 the director, sent a draft of the music video to myself.

1813:47:43 Q. Okay. And who was that director?

1913:47:45 A. JerryPHD is the name he goes by.

2013:47:49 Q. Okay. Were you -- were you privy to how that video got
2113:47:54 made, whose idea the imagery was, or what the creative
2213:47:59 process was?

2313:48:00 A. No, I was not aware of the specifics of the creative
2413:48:03 process behind that video.

2513:48:05 Q. Is that your job?

113:48:05 A. No, I'm not necessarily always in the weeds of the
213:48:10 creation of the videos.

313:48:11 Q. But you are involved in making sure that, you know,
413:48:19 nothing gets by you, nothing gets released that shouldn't be
513:48:21 released?

613:48:22 A. Yes, that's correct.

713:48:22 Q. And so you testified that you told Mr. Banks' team that
813:48:27 this video is not going anywhere?

913:48:29 A. Yes. So when I received the draft, I then reached back
1013:48:34 out to Mr. Banks' manager and informed him that we weren't
1113:48:39 going to be able to release the video with that scene still
1213:48:41 in there, yes.

1313:48:42 Q. And that was, again, because of Alamo's policy?

1413:48:46 A. Yes. Yes, because of Alamo's policy against guns and
1513:48:49 violence in the videos.

1613:48:50 Q. And when Mr. Banks made this video, just coming out of a
1713:48:55 period of mourning for his friend's death, you already said
1813:48:59 he was aware of that policy?

1913:49:01 A. Yes, that's correct.

2013:49:02 Q. And anyone aware of that policy would know that this
2113:49:04 video is never going to see the light of day?

2213:49:06 A. Correct.

2313:49:10 MS. O'CONNOR: May I have a moment?

2413:49:11 THE COURT: You may.

2513:49:11 (Pause in proceedings.)

113:49:34 MS. O'CONNOR: Pardon me, Your Honor.

213:49:47 Q. Okay. Mr. Jain, to your knowledge, has law enforcement
313:49:53 or the FBI ever contacted either you or anyone at Sony or
413:49:59 anyone at Alamo about the creation of this "Redman" video?

513:50:03 A. No.

613:50:06 MS. O'CONNOR: Nothing further.

713:50:08 THE COURT: Thank you.

813:50:09 Mr. Harbaugh and Mr. Mills?

913:50:10 MR. HARBAUGH: None, Your Honor.

1013:50:12 MR. MILLS: Nothing from us, Your Honor.

1113:50:13 THE COURT: Cross-examination.

1213:50:17 MR. YANNIELLO: Just briefly, Your Honor.

1313:50:22 Please put up 24 at 2.

1413:50:22 CROSS-EXAMINATION

1513:50:19 BY MR. YANNIELLO:

1613:50:19 Q. Good morning, sir.

1713:50:23 A. Good afternoon.

1813:50:24 Q. So it sounds like you have some knowledge about King
1913:50:28 Von's passing in November of 2022?

2013:50:29 A. Yes.

2113:50:30 Q. You saw the video?

2213:50:32 A. Yes.

2313:50:32 Q. He was involved in a fight with Quando Rondo before being
2413:50:36 shot and killed?

2513:50:36 A. I -- based on what the video shows.

113:50:41 Q. Based on what you've seen?

213:50:43 A. Sure.

313:50:44 Q. So you testified that Mr. Banks went dark for about four
413:50:49 weeks after King Von's death?

513:50:50 A. Yes.

613:50:50 Q. Are you aware that Mr. Banks discussed get back for that
713:50:57 killing in private messages?

813:50:59 MS. O'CONNOR: Yeah, I'm going to object to personal
913:51:01 knowledge.

1013:51:01 THE COURT: On that basis, and also it was the --
1113:51:05 the thrust of the question and the thrust of the answer was
1213:51:08 from a business point of view, so I don't think -- this
1313:51:12 witness has no ability to answer that question.

1413:51:15 MR. YANNIELLO: I'm asking his awareness, Your
1513:51:17 Honor.

1613:51:17 THE COURT: Again, I don't see where this would be
1713:51:21 relevant, so ask your next question, Mr. Yanniello.

1813:51:24 Q. Okay. Sir, you discussed the "Redman" video; is that
1913:51:27 correct?

2013:51:27 A. Um-hum. Yes, I did.

2113:51:29 Q. So you saw the -- you saw the video?

2213:51:31 A. Yes, I saw the video.

2313:51:32 Q. It shows Mr. Banks essentially tracking and attempting to
2413:51:38 execute -- actually, executing someone who appears to be
2513:51:41 Quando Rondo. Is that right?

113:51:42 A. Yes, I saw the video. Yeah.

213:51:43 Q. And so it sounds like Alamo -- that was too violent for
313:51:49 Alamo; it violated policies?

413:51:51 A. Yes. That is why it never was released.

513:51:53 Q. Are you aware that parts of that video were used at
613:51:57 Mr. Banks' rap shows?

713:51:58 A. No. I was not involved in his concerts, so I'm not aware
813:52:02 of that.

913:52:03 Q. Okay. You are not aware of that?

1013:52:04 A. No.

1113:52:05 Q. Are you aware that Quando Rondo was shot at in Los
1213:52:08 Angeles in August of 2022?

1313:52:10 A. Yes, I'm aware.

1413:52:11 Q. And you are aware that Saviay'a Robinson was murdered in
1513:52:15 that shooting?

1613:52:16 A. Yes, I'm aware.

1713:52:17 MR. YANNIELLO: No further questions.

1813:52:19 THE COURT: Any redirect?

1913:52:20 MS. O'CONNOR: No thank you, Your Honor.

2013:52:21 THE COURT: Mr. Jain, you are excused. Thank you.

2113:52:26 Counsel, if you could approach so we could discuss
2213:52:29 some other things for this afternoon.

2313:52:31 Ladies and gentlemen, the time saved by having this
2413:52:32 brief conference will be greater than your inconvenience, but
2513:52:35 for now, feel free to stand, stretch, chat amongst

113:52:38 yourselves.

213:52:39 (At the bench:)

313:52:53 THE COURT: Okay. Counsel, it looks like we might
413:52:55 be getting to Ms. Springfield today, and the reason I want to
513:52:59 raise this is that -- I'm just going to be really blunt with
613:53:02 you. My law clerk looked at the issue of whether the proffer
713:53:06 that was made could constitute a statement of future
813:53:10 intention, and it was his tentative view, based on looking at
913:53:14 this for not that long over lunch, that that could very well
1013:53:17 be the case. Obviously, I have to confirm that for myself.

1113:53:21 My concern is, if we get to Ms. Springfield, how is
1213:53:23 the Government going to rebut this, how -- I mean, I just --
1313:53:27 I'm not going to make a decision about this just based -- as
1413:53:30 much trust as I have in my law clerk about what -- his
1513:53:34 opinion after looking after lunch when I haven't even talked
1613:53:37 to him about the case law. But on the other hand, where --
1713:53:40 it doesn't seem that we have that much time left before it
1813:53:43 would become --

1913:53:44 MR. FINDLING: She's our next witness.

2013:53:45 THE COURT: She's the next witness. That is what I
2113:53:48 thought. How can we -- even if it's 15 minutes, 20 minutes,
2213:53:51 I need to read at least the commentary to it. I mean, it's
2313:53:54 just how can we -- or do we want to put her over -- it would
2413:53:59 be odd to put her over as the only witness tomorrow and make
2513:54:01 the jury come in solely for that purpose.

113:54:04 MR. FINDLING: It would throw our presentation off.

213:54:06 THE COURT: Okay. Then I think we are going to need
313:54:08 to take a 20-minute break or a half hour and let you give me
413:54:16 whatever your best cases or your best legal argument, and
513:54:19 I'll go look at it. Ms. O'Connor, give me your best
613:54:23 argument.

713:54:23 And the other thing is whether in addition to that
813:54:26 is -- tell me, as to that statement, how -- where did that
913:54:32 alleged statement of future intention relate to the other
1013:54:37 emotional conversation in which Mr. Grant allegedly shared
1113:54:41 with Ms. Springfield what had happened? I understand it's a
1213:54:47 separate conversation, correct?

1313:54:48 MR. FINDLING: It is. Can I just give you a kind
1413:54:50 of --

1513:54:50 THE COURT: Please.

1613:54:51 MR. FINDLING: So the murder happens on
1713:54:56 November 6th. Everybody in the -- everybody is contacted,
1813:55:00 the Chicago family, including her. Everybody jumps on
1913:55:04 planes, gets down on the 7th, and they go and pay their
2013:55:07 respects, which we heard about. She paints a little bit of a
2113:55:09 different picture of who is present, and then she leaves and
2213:55:13 reaches out to -- within a day, to Kavon Grant and says,
2313:55:19 "Kavon, who did this? Like, what happened?"

2413:55:21 And he said, "Just some guys. But don't worry, I'm
2513:55:26 going to handle it." That is what he says -- something to

113:55:29 that effect, "I'm going to handle it."

213:55:30 And I will say, she's a Captain in the military.

313:55:33 She is not worried. I mean, everything she says is crisp, in
413:55:37 my opinion. She just doesn't talk a lot, so you are not
513:55:41 going to get a big expansion.

613:55:43 THE COURT: But the thing is if it was any later
713:55:46 than that, I would say the idea that it was some sort of
813:55:48 emotional utterance would be -- I don't think would be very
913:55:52 plausible. But here, at least it could possibly be a second
1013:55:55 basis for this to come in. But again, I need to think about
1113:56:00 this a bit. I need to really focus on this for a minute.

1213:56:04 So I think if she's going to be your next witness,
1313:56:06 what I'm going to do is tell the jury that unavoidably we are
1413:56:10 going to have a half-hour break. And you will come back in
1513:56:12 20 minutes, and the Government will come back in 20 minutes,
1613:56:14 and if you found a case, then summarize it for me, and I'll
1713:56:18 read the commentary and look at whatever the Ninth Circuit
1813:56:21 authority is, and I'll make up my mind. She'll either be
1913:56:24 allowed to testify to that conversation or not.

2013:56:28 MR. FINDLING: It all happens very quickly. I will
2113:56:30 assure the Court of that.

2213:56:31 THE COURT: Yes.

2313:56:32 MR. YANNIELLO: There is one more issue with this
2413:56:33 witness, Your Honor.

2513:56:33 THE COURT: What's that?

113:56:34 MR. YANNIELLO: The defense has attempted to invoke
213:56:36 quite a bit of sympathy using Your Honor's gang rulings
313:56:40 essentially as a shield. Here, this witness, the Government
413:56:44 should be permitted to cross-examine her about her knowledge
513:56:46 of King Von's involvement in the Black Disciples. There are
613:56:49 many members of the Black Disciples that were there present
713:56:52 not only when he was shot and killed, but when -- the next
813:56:56 day when he was -- the memorial we are talking about, and
913:56:59 that he's a prominent Black Disciples member.

1013:57:02 MR. FINDLING: Can I respond to that?

1113:57:03 THE COURT: You may.

1213:57:04 MR. FINDLING: Because I did -- she was there -- and
1313:57:09 I actually don't think you are going to end up crossing her
1413:57:12 because she's going to be candid. When she was there, Kavon
1513:57:17 was there. None of the other friends were there. They were
1613:57:19 in the bedroom with the mom, and it was really more familial.
1713:57:23 Kavon was there. Durk Banks was not there. She didn't see
1813:57:27 anybody. So she never saw him. She's going to say there was
1913:57:30 no conversation. But really barely anybody was there but
2013:57:33 family. So if there was a time when tons of people were
2113:57:36 there, she was not there during that.

2213:57:39 MR. YANNIELLO: We still think it opens the door
2313:57:42 for, again, her knowledge of King Von's involvement --

2413:57:44 THE COURT: I don't think there is a single person
2513:57:45 in the courtroom who doubts that either Mr. Banks or

113:57:53 Mr. Bennett were Black Disciples. But to the extent -- and
213:58:00 she isn't going to be denying that, that was the case, so I'm
313:58:03 not really sure what -- why it's -- it seems to me almost
413:58:08 inherently beyond the scope --

513:58:10 MR. MORSE: Can I offer something?

613:58:11 MR. FINDLING: One second.

713:58:13 Again, I'm just telling you as, she's never had a
813:58:17 conversation with our client in her life. She's seen him at
913:58:21 two birthday parties since. Never talked to him. This is
1013:58:24 the third time she has been in his presence. She doesn't
1113:58:26 really know these people. I mean, she just doesn't.

1213:58:30 So you can try, but good luck because she's a
1313:58:33 military person through and through.

1413:58:34 THE COURT: All right. So you said if the defense's
1513:58:37 view is that you can try, then try, but I'm not sure where
1613:58:40 this is --

1713:58:41 MR. FINDLING: No, I don't want you to try.

1813:58:42 MR. MORSE: The defense has gone out of its way to
1913:58:44 really get into something that is irrelevant, which is to
2013:58:47 play King Von up as this hero in Chicago that LeBron James
2113:58:53 and everybody was heartbroken about.

2213:58:55 If this witness is going to be testifying similarly
2313:58:56 about how tragic and how he was murdered unjustly, it doesn't
2413:59:00 seem like a full picture of who King Von was. They are
2513:59:05 associating King Von's prominence in the tragedy of his death

113:59:08 as a way to kind of justify why Mr. Banks would be so
213:59:11 disappointed he passed away, which we get. But that is not
313:59:14 the full story about this individual, and for them to use
413:59:16 that as a sword to show what a hero Mr. King Von was, that is
513:59:21 just not the case.

613:59:22 THE COURT: Whatever that has been the case, I doubt
713:59:23 very much this witness, who, of course, it's sufficient that
813:59:27 it's her brother. And also to the extent that it shows that
913:59:30 -- to a certain extent that all of that is also motive,
1013:59:33 frankly. I mean, I think it plays into your motive theory.
1113:59:36 And the thing is there is no one -- no one in this courtroom
1213:59:40 doubts that Mr. Bennett was in the Black Disciples. I'm not
1313:59:45 sure -- the only thing -- I haven't given any -- all I have
1413:59:49 said is it has to be used for its proper purpose, which is
1513:59:53 the purpose for which you have consistently wanted to use it.
1613:59:55 I just really don't know what this witness has to do with
1713:59:58 that.

1813:59:58 MR. FINDLING: I'm trying to make it clear. So
1914:00:00 respectfully, Mr. Morse, number one, I don't want you to try.
2014:00:04 Let me make that clear. But let me explain this: This
2114:00:07 witness is not here to address King Von. This witness is
2214:00:10 here to talk about Kavon Grant. That is the sole focus of
2314:00:14 this person.

2414:00:14 THE COURT: That is my understanding. What we are
2514:00:16 going to do, then -- it's 2:00. I'll say we are going to

114:00:19 come back at -- tell them 2:30. We are going to be back here
214:00:22 at 2:20, and you will give me your best shot very quickly,
314:00:24 and I'll make my ruling.

414:00:29 MR. STEEL: Your Honor, don't forget, this is also
514:00:31 Ryan Green. Similar. He made the same statement. It's
614:00:35 going to be the same.

714:00:36 THE COURT: So the ruling, unless there is some --
814:00:39 something that would make a big difference here, is going to
914:00:43 be the same.

1014:00:44 MR. STEEL: I understand. I just wanted you to --

1114:00:46 MR. MORSE: Can I raise one thing for the Court and
1214:00:48 counsel? So this witness just perjured herself by saying she
1314:00:51 was never arrested for forgery. We don't want to have to put
1414:00:54 up a rebuttal case just to prove that. We're going to talk
1514:00:58 to counsel to see if --

1614:00:58 THE COURT: She admitted it.

1714:00:59 MR. MORSE: Not the forgery, though. She admitted
1814:01:02 to the theft. She denied the forgery arrest. She lied to
1914:01:03 the jury. And so we don't want to have to put on a rebuttal
2014:01:06 case just to show that. We are going to talk to counsel and
2114:01:08 stipulate to --

2214:01:08 THE COURT: You might very well want to do exactly
2314:01:10 that, but I'll leave that up to you. If you can find a way
2414:01:13 to stipulate to something -- but you have the right, because
2514:01:17 it's perjury and not just an act of dishonesty, you have the

114:01:21 right to collaterally prove it up just the same way --

214:01:25 MR. FINDLING: And let me be candid, because we have
314:01:27 been on fire since yesterday. The summary FBI agent lied and
414:01:30 said that the two other people on the plane -- when he was
514:01:32 asked by Ms. Goldberg, "Did you interview them?" he said they
614:01:35 were out of the country. That was fiction. We don't even
714:01:37 know what he's talking about.

814:01:38 THE COURT: Well, he could also be -- what are you
914:01:40 talking about? He could be mistaken. I mean, comparing that
1014:01:43 to what we just heard, that is absurd. So anyway.

1114:01:46 But in any event, we will deal with that -- we will
1214:01:50 deal with that later. The Government has every right to
1314:01:52 prove it up. If there is a way of stipulating to things that
1414:01:56 that is unnecessary, then that would be preferable.

1514:01:58 Yes, Ms. O'Connor?

1614:01:58 MS. O'CONNOR: I was just going to say that -- and
1714:02:01 I'm going to double-check I'm right on this, but my initial
1814:02:04 instinct is that would be what we have been talking about
1914:02:07 this whole trial, which is extrinsic proof, right, on a
2014:02:10 collateral matter?

2114:02:11 THE COURT: No, it's not a collateral matter.
2214:02:12 Because she said -- she said, twice, that she had never been
2314:02:17 arrested. Okay? And now that was just a lie. It was a
2414:02:20 flat-out lie.

2514:02:21 MS. O'CONNOR: Okay.

114:02:22 THE COURT: So --

214:02:23 MS. O'CONNOR: Understood.

314:02:23 THE COURT: And it's been -- the whole purpose --
414:02:25 she would never have been allowed to have been called anyway,
514:02:28 except -- unless -- that was your precise argument with
614:02:30 Mr. Hester, with the case law that you gave me. So really,
714:02:33 you are being -- you are being quite inconsistent, to put it
814:02:38 charitably, to make that statement to me now.

914:02:41 (In open court:)

1014:02:45 THE COURT: Ladies and gentlemen, another break. It
1114:02:48 will be 2:35 when -- and I believe that it is likely that the
1214:02:55 receipt of evidence will end today, and if that is the case,
1314:02:59 then you will get tomorrow off. And that is what I'm aiming
1414:03:02 for here. No guarantees. Even with this break, I believe
1514:03:07 that is what is going to happen.

1614:03:09 All right. Don't discuss or investigate the case.
1714:03:11 Thank you.

1814:03:11 (Thereupon, the jury retired from the courtroom.)

1914:27:59 THE COURT: All right. What is the Government's
2014:28:08 argument in regard to the statement and hearsay exception
2114:28:12 803(3)?

2214:28:17 MR. WEINER: We think the exception applies. We
2314:28:19 don't believe the excited utterance exception applies.

2414:28:22 THE COURT: And that is my conclusion. I looked at
2514:28:25 what -- I looked at the text, I looked at the commentary, I

114:28:30 looked at McCormick on Evidence on the commentary. I
214:28:34 actually went back for the first time since law school and
314:28:36 looked at *Mutual Life Insurance vs. Hillmon*.

414:28:39 And then in addition to the case that was found by
514:28:42 the defense, there is a more recent case, and actually,
614:28:45 frankly, a case that is even more favorable, and that is
714:28:48 *United States vs. Shen Zhen New World*, which arose out of
814:28:52 Council Member Huizar's bribery case where the statements
914:28:57 were very vague, and the Ninth Circuit approved letting them
1014:29:01 in.

1114:29:01 That being said, it's -- given that the jury already
1214:29:06 knows about Blackshear, I don't know -- it isn't even so much
1314:29:10 that it's, I think, going to change where the evidence
1414:29:14 stands. It's more just -- and especially given to whom the
1514:29:17 statement was made and the use of the word "I," it no doubt
1614:29:21 will be useful as a symbol or an organizing tool in closing
1714:29:25 argument. But it's really not going to change the case very
1814:29:30 much. The jury is still going to have to determine whether,
1914:29:32 in its view, Kavon Grant would have -- would have or could
2014:29:36 have organized Los Angeles without the involvement of the
2114:29:42 defendants.

2214:29:43 So it's -- you know, nonetheless, the defense wants
2314:29:47 it in, they have the right to get it in, so they will get it
2414:29:50 in. So that is where we are.

2514:29:53 Is there anything else that the defense now would

114:29:56 like to raise?

214:29:58 MR. FINDLING: No, Your Honor.

314:29:59 THE COURT: Is there anything that the Government
414:30:00 would like to raise?

514:30:02 MR. YANNIELLO: No, Your Honor.

614:30:02 THE COURT: Ms. Christy, I saw you standing --
714:30:06 excuse me, Ms. O'Connor. I didn't mean to address you by
814:30:10 your first name. Was there something else that you wanted
914:30:12 to --

1014:30:12 MS. O'CONNOR: Thank you.

1114:30:13 I think we are in the process of coming to a
1214:30:15 stipulation about that extrinsic evidence, yes.

1314:30:17 THE COURT: All right. Good. So I'll leave the
1414:30:18 bench so you can follow through on that, and then when the
1514:30:20 jury is ready in five minutes, I'll retake the bench.

1614:30:24 Thank you.

1714:30:25 (Thereupon, there was a brief recess.)

1814:39:51 (Thereupon, the jury returned to the courtroom.)

1914:40:23 THE COURT: All 15 members of the jury are here.

2014:40:26 Mr. Banks may call his next witness.

2114:40:28 MR. FINDLING: Yes, Your Honor, at this time we call
2214:40:31 Shekema Springfield.

2314:40:57 THE CLERK: This way, please. Please raise your
2414:41:09 right hand.

2514:41:09 THEREUPON:

114:41:09 SHEKEMA SPRINGFIELD,

214:41:09 Called in these proceedings, and after having been first duly
314:41:18 sworn, testifies as follows:

414:41:18 THE CLERK: Thank you. Please state and spell your
514:41:30 name for the record.

614:41:31 THE WITNESS: Shekema Springfield. Spelling is
714:41:35 S-h-e-k-e-m-a. Last name Springfield, S-p-r-i-n-g-f-i-e-l-d.

814:41:43 THE CLERK: Thank you.

914:41:43 THE COURT: Mr. Findling, you may proceed.

1014:41:44 MR. FINDLING: Thank you.

1114:41:44 DIRECT EXAMINATION

1214:41:44 BY MR. FINDLING:

1314:41:44 Q. Ms. Springfield, how old are you, ma'am?

1414:41:46 A. 31 years old.

1514:41:48 Q. Ms. Springfield, without giving your address, where do
1614:41:51 you currently reside in the United States?

1714:41:52 A. Metro Atlanta.

1814:41:54 Q. And Ms. Springfield, what is your current profession?

1914:41:57 A. I'm a U.S. Army officer.

2014:42:00 Q. And how long have you been in the United States Army?

2114:42:03 A. 10 years.

2214:42:04 Q. And what is your rank?

2314:42:05 A. Captain.

2414:42:06 Q. Ma'am, if we can go back, what is your educational
2514:42:11 background?

114:42:12 A. Yes. I have a bachelor's degree in law enforcement and a
214:42:16 master's degree in business administration.

314:42:17 Q. Okay. And where did you get those respective degrees?

414:42:20 A. My bachelor's degree is from Western Illinois University.
514:42:24 My master's degree is from Mercer University in Atlanta.

614:42:28 Q. And, ma'am, do you know a gentleman that has since passed
714:42:34 by the name of Dayvon Bennett?

814:42:36 A. Yes.

914:42:36 Q. And how did you know Dayvon Bennett?

1014:42:39 A. Yes. I dated Dayvon Bennett. We also have a child
1114:42:43 together.

1214:42:43 Q. And just so there is no confusion: Did you understand a
1314:42:50 moniker that he went by, King Von?

1414:42:52 A. Yes.

1514:42:52 Q. Okay. And what is "King Von," as far as you know, as
1614:42:57 opposed "Dayvon Bennett"?

1714:42:59 A. Yes. King Von is Dayvon Bennett's stage name.

1814:43:02 Q. Now, ma'am, we have been in a trial for a couple of
1914:43:05 weeks, and he has really mostly been referred to as King Von.
2014:43:09 Is that how you referred to him?

2114:43:10 A. No.

2214:43:10 Q. From time to time in my questioning so that it can be
2314:43:12 clear for all of us in the courtroom, I may refer to him as
2414:43:15 King Von. Is that okay with you?

2514:43:16 A. Yes.

114:43:18 Q. Okay. I'm going to say that because there is another
214:43:20 gentlemen that we'll talk about in a few minutes that has a
314:43:23 somewhat similar name, Kavon Grant, and I don't want there to
414:43:26 be any confusion. Is that okay?

514:43:27 A. Yes.

614:43:28 Q. All right. Can you tell us how you got to meet Dayvon
714:43:31 Bennett, or King Von?

814:43:32 A. Yes. I met Dayvon through his sister Kayla. Me and her
914:43:37 is best friends, and so she introduced me to him.

1014:43:39 Q. And what year would that have been?

1114:43:42 A. In 2017, December.

1214:43:43 Q. And can you tell us just how your relationship
1314:43:47 progressed, ma'am?

1414:43:47 A. Yes. So after I met Von -- or King Von, we started
1514:43:53 dating very shortly after, and we started living together
1614:43:57 very shortly after.

1714:43:58 Q. And when you started living together shortly thereafter,
1814:44:02 what part of the United States did you-all live in?

1914:44:04 A. Chicago, Illinois.

2014:44:05 Q. Okay. And at some point during that period of time, did
2114:44:09 he start getting involved in the -- in the musical arts?

2214:44:14 A. Yes. The music industry, yes.

2314:44:16 Q. Okay. And what did he start doing as far as his musical
2414:44:19 involvement?

2514:44:20 A. Yes. Von started to -- he expressed that he wanted to

114:44:25 start rapping, so he started rapping.

214:44:28 Q. And as a result of that musical ambition, did he at some
314:44:33 point in that period of time move to another part of the
414:44:35 United States?

514:44:36 A. Yes. Atlanta.

614:44:37 Q. Okay. Can you tell us how that came about?

714:44:39 A. Yes. So Von expressed that he wanted to further his rap
814:44:46 career, and he understood that going to Atlanta would further
914:44:49 his rap career, so eventually we moved to Atlanta, Georgia.

1014:44:53 Q. And so when you say "we moved," you had indicated shortly
1114:44:55 after meeting him, you both started living together in
1214:44:58 Chicago, correct?

1314:44:59 A. Yes.

1414:44:59 Q. But you moved with him to Atlanta?

1514:45:02 A. Yes.

1614:45:03 Q. Now, when you were in Chicago, were you part of a
1714:45:07 military base there, an Army base there?

1814:45:09 A. Yes.

1914:45:09 Q. When you moved to Atlanta, did you switch bases at first?

2014:45:13 A. No, I continued -- I stayed with the Army base in
2114:45:17 Illinois.

2214:45:17 Q. And so did you travel back and forth?

2314:45:19 A. Yes, I traveled back and forth.

2414:45:20 Q. When -- and what is the time period that you moved to
2514:45:23 Atlanta with King Von?

114:45:26 A. Yes. It was -- it was September of 2018.

214:45:29 Q. Okay. When you moved there, did you -- who did you move
314:45:35 in with, or how did you find a place to live in Atlanta,
414:45:38 Georgia?

514:45:38 A. Yes. So Kavon -- Dayvon introduced me to his cousin
614:45:44 Kavon, and we lived with Kavon very sparingly until I got an
714:45:50 apartment of my own that we moved into.

814:45:51 Q. Now, when you say "Kavon," are you talking about Kavon
914:45:54 Grant?

1014:45:54 A. Yes, Kavon Grant.

1114:45:56 Q. Okay. And do you know Kavon Grant by any other nicknames
1214:45:59 other than Kavon?

1314:46:00 A. Cuz.

1414:46:01 Q. Okay. And when you -- when you met him, what was your
1514:46:06 understanding of the familial relationship between Kavon and
1614:46:11 King Von -- I mean, sorry, between Kavon and King Von?

1714:46:14 A. Yes. When Von introduced me to him, he introduced me as
1814:46:20 his cousin, and they were cousins.

1914:46:21 Q. And to this day -- we obviously know the passing of King
2014:46:25 Von -- is it your understanding that they were first cousins?

2114:46:27 A. Yes, first cousins.

2214:46:29 Q. Okay. And you've never learned anything differently,
2314:46:31 correct?

2414:46:32 A. Correct.

2514:46:32 Q. And at some point after moving to Atlanta -- how long

114:46:37 were you with King Von in Atlanta?

214:46:40 A. Yes, so when we initially got our apartment we moved into
314:46:45 around 2018 of September, and then me and Von was together
414:46:51 until around February of 2019.

514:46:53 Q. Okay. And when you say until February 2019, did your
614:46:58 romantic relationship end at that point in time?

714:47:00 A. Yes, our romantic relationship.

814:47:02 Q. Okay. Before we get to the end of that: At some point
914:47:06 during that period of time, did Dayvon, that is King Von's,
1014:47:11 musical career start really taking off?

1114:47:13 A. Yes. So as we were in Atlanta, Von started to go to the
1214:47:18 studio more often and started recording a lot of music. And
1314:47:22 one of his musical songs started getting really popular, in
1414:47:28 which he started gaining a lot of traction in the music
1514:47:32 industry.

1614:47:32 Q. And I don't want to talk about the music. I want to talk
1714:47:35 about the finances.

1814:47:35 What was his relationship, during that period of
1914:47:39 time, like with who you called Cuz, Kavon Grant?

2014:47:43 A. Yes. So Kavon and Von was, like, together every single
2114:47:47 day. They would go out together every single day, spending a
2214:47:53 lot of time together. And eventually Kavon would assist Von
2314:47:56 with anything that he may need, or provide him, like,
2414:48:02 information that he needed in and around Atlanta, as well as
2514:48:05 he was, like, an authorized user on his bank accounts.

114:48:09 Q. Okay. So financially, if you could be more specific,
214:48:12 what -- as he's getting wealthier, so to speak, what is the
314:48:18 financial relationship between the two of them, and how much
414:48:20 authority did Kavon have over King Von's finances?

514:48:22 A. Yes. So Kavon had the same authority as Von over his
614:48:29 financials. He was the authorized user on his accounts and
714:48:33 was able to withdraw money, send money, and -- yeah, all of
814:48:40 that.

914:48:40 Q. And during that period of time, if there was -- let me be
1014:48:44 really clear: He wasn't running errands for King Von or
1114:48:47 anything like that, was he?

1214:48:48 A. No.

1314:48:48 Q. Was his responsibility or -- responsibility greater than
1414:48:52 that?

1514:48:52 A. Yes.

1614:48:53 Q. Okay. Did there -- you had indicated earlier that at
1714:48:57 some point your romantic relationship came to an end with
1814:49:02 King Von. When -- again, when did that take place?

1914:49:04 A. Yes. It was February of 2019.

2014:49:07 Q. Okay. And at some point did you all have a son together?

2114:49:12 A. Yes, in August of 2019.

2214:49:14 Q. Okay. And so you had a child together. Did you stay in
2314:49:18 Atlanta or did you move?

2414:49:19 A. I moved back to Chicago.

2514:49:22 Q. Okay. And regardless of the romantic relationship

114:49:27 ending, now that you had a son together, did King Von
214:49:31 continue to have a friendly and supportive relationship with
314:49:34 you?

414:49:34 A. Yes.

514:49:35 Q. So there was no animosity between the two of you?

614:49:38 A. There was -- so we continued to talk every single day
714:49:43 throughout my pregnancy, and just throughout the time frame
814:49:47 after I've had my son, he was supporting me. He supported
914:49:51 with, you know, providing money for daycare and just
1014:49:55 providing assistance that I would need for my son, yes.

1114:49:58 Q. Okay.

1214:50:00 MR. WEINER: Your Honor, we would object to scope,
1314:50:01 as discussed.

1414:50:03 MR. FINDLING: I'm going to move on, Your Honor.

1514:50:05 THE COURT: Thus far, overruled.

1614:50:06 Q. In November of 2020, did you learn about the murder of
1714:50:14 King Von?

1814:50:16 A. Yes. I learned it from the Internet.

1914:50:17 Q. Okay. And would that have been approximately November
2014:50:21 6th of 2020?

2114:50:22 A. Yes.

2214:50:22 Q. And so when you say "from the Internet," do you mean like
2314:50:25 you looked at social media and --

2414:50:27 A. Yes.

2514:50:28 Q. -- the father of your child had been murdered?

114:50:30 A. Yes.

214:50:30 Q. Within the next 24 hours or so, did you leave Chicago?

314:50:37 A. Yes. I left Chicago and went to Atlanta.

414:50:39 Q. Okay. Did anybody else that you know in the family of
514:50:43 King Von, that lived in Chicago, do the same thing?

614:50:46 A. Yes. Me, his mother, his sisters, his aunt, his other
714:50:52 child mother came as well.

814:50:53 Q. Okay. And where did you all go when you -- and that
914:50:57 would have been -- that would have been on November 7th,
1014:50:59 correct?

1114:50:59 A. Yes, November 7th.

1214:51:00 Q. And where did you all go at that point in time?

1314:51:03 A. We all went to Atlanta, to the house with Kavon.

1414:51:10 Q. Okay. And so that would be Cuz, or Vonni, Kavon Grant,
1514:51:14 correct?

1614:51:14 A. Yes, Kavon Grant.

1714:51:15 Q. And so were people there paying their respects to the
1814:51:18 mother of Dayvon Bennett, King Von?

1914:51:22 A. Yes, it was people that came to pay respects. For
2014:51:25 instance, Von's ex-girlfriend came, and Von's uncle came and
2114:51:30 pay respects, yes.

2214:51:31 Q. Okay. And how long were you at the house that day, or
2314:51:35 what period of time were you there?

2414:51:37 A. Yes, we were there all day.

2514:51:41 Q. And when did you leave after that?

114:51:43 A. We left about -- we left three days later.

214:51:48 Q. Okay. During the period of time that you were at the
314:51:51 house, did you ever see Durk Banks?

414:51:55 A. No.

514:51:56 Q. Okay. And I want to just stop for a second.

614:51:59 Have you ever had a conversation, in your life, with
714:52:01 Durk Banks?

814:52:01 A. No.

914:52:02 Q. When are the only physical -- this would be the third
1014:52:07 time you've seen him in your life; is that correct?

1114:52:09 A. Yes.

1214:52:10 Q. And were the other two times at just children's birthday
1314:52:13 parties that he was coincidentally at?

1414:52:15 A. Yes.

1514:52:15 Q. Okay. So you've never had a conversation, never spoke a
1614:52:19 word to this gentleman Durk Banks --

1714:52:21 A. No.

1814:52:22 Q. -- correct? Okay.

1914:52:23 When you were paying your respects at the -- and
2014:52:28 that was the house of King Von, correct?

2114:52:31 A. Yes, that they were staying at, him and Kavon, together.

2214:52:33 Q. Okay. And where were you staying during that period of
2314:52:37 time?

2414:52:37 A. Well, we all were staying inside the house.

2514:52:42 Q. And when you were at the house, where did you primarily

114:52:46 stay?

214:52:47 A. I was in the front room.

314:52:49 Q. Okay. And when you were spending time with his --

414:52:52 obviously, his mother was grieving. Is that fair to say?

514:52:55 A. Yes.

614:52:56 Q. And so when you were spending time with the mom, what

714:53:00 part of the house would you stay in?

814:53:01 A. In the front room. We all were gathered in the front

914:53:05 room for days.

1014:53:05 Q. During the period of time that you were at the house, did

1114:53:08 you ever see -- because you told us this is the third

1214:53:11 physical time you've seen Durk Banks. During that period of

1314:53:14 time, did you ever see Durk Banks?

1414:53:17 A. No.

1514:53:17 Q. Okay. Obviously you know that -- you have never met him,

1614:53:21 but he's a famous person. Was there any scuttlebutt or

1714:53:25 conversation like, "Oh, my gosh, Durk is coming in the

1814:53:28 house." Did you hear anything like that?

1914:53:29 A. No.

2014:53:29 Q. During the time that you were there -- and I'm not saying

2114:53:34 you are walking around inspecting the house, but during the

2214:53:37 time you were there, did you hear any conversation about

2314:53:41 anybody making any plans to seek revenge for the death of

2414:53:47 King Von?

2514:53:47 A. No.

114:53:48 Q. You indicated a few days later that you left; is that
214:53:52 correct?

314:53:52 A. Yes.

414:53:53 Q. And where did you go?

514:53:54 A. I went back home to Chicago.

614:53:57 Q. Okay. After getting to Chicago, at some point shortly
714:54:02 thereafter, did you reach out to Dayvon -- excuse me, to
814:54:07 Kavon Grant?

914:54:07 A. Yes.

1014:54:08 Q. And what was the person -- purpose of reaching out to
1114:54:11 him?

1214:54:11 A. I reached out to Kavon Grant just to follow up with him.
1314:54:17 I initially called him and just asked him questions like what
1414:54:21 happened that night. I just wanted to know what happened the
1514:54:24 night that Von was shot, and so I just reached out to him to
1614:54:28 talk to him about that.

1714:54:29 Q. And what was his response?

1814:54:30 A. He eventually told me what happened, about them being at
1914:54:37 the -- the -- about them being at the club, and how it was an
2014:54:46 altercation. Eventually I asked him who was the -- who was
2114:54:49 the guys who shot King Von, or Von, and he told me not to
2214:54:54 worry about it, and he was going to take care of it.

2314:54:57 Q. Now, I want to talk to you about Kavon Grant. Do you
2414:55:05 have an opinion about his reputation at all?

2514:55:09 A. Yes.

114:55:10 Q. And what would that be, ma'am?

214:55:12 THE COURT: I'm sorry, Counsel, the law requires you
314:55:14 to ask the reputation as to particular traits.

414:55:17 MR. FINDLING: Yes, I apologize, Your Honor.

514:55:19 Q. Ma'am, do you have a particular opinion as to the
614:55:25 character -- the reputation, the character of Mr. Grant for
714:55:29 truthfulness?

814:55:30 A. Yes.

914:55:30 Q. Can you tell us what that would be?

1014:55:31 A. That he's a liar and a thief.

1114:55:34 Q. Okay. Now, upon the passing, you -- at this point, your
1214:55:41 son is 7 years old, correct?

1314:55:42 A. At the passing of Von?

1414:55:44 Q. Right now, your son is 7?

1514:55:46 A. Yes, he is 7.

1614:55:47 Q. Going back to late 2020, early 2021, was it your
1714:55:54 understanding from your relationship with Dayvon, King Von,
1814:56:01 that he had set up a \$300,000 trust fund for your son?

1914:56:05 A. Yes.

2014:56:05 Q. Okay. And did you check with -- did you check with
2114:56:09 Mr. Grant to see the status of that?

2214:56:11 A. Yes. So I text Kavon and asked him about the trust
2314:56:15 fund --

2414:56:16 MR. WEINER: Objection, Your Honor.

2514:56:17 THE COURT: The objection is sustained.

114:56:21 MR. FINDLING: One second, Your Honor.

214:56:31 (Pause in proceedings.)

314:56:38 MR. FINDLING: One second, Your Honor.

414:56:41 THE COURT: You have it.

514:56:42 (Pause in proceedings.)

614:56:51 Q. Did you -- did you learn about whether or not what you
714:56:55 thought from King Von was \$300,000 had been taken by
814:57:00 Mr. Grant?

914:57:01 THE COURT: All right. I have already sustained the
1014:57:03 objection to that question, Counsel, and we have already
1114:57:05 discussed why I'm doing so. So please --

1214:57:07 MR. FINDLING: No other questions, Your Honor.

1314:57:09 THE COURT: Mr. Harbaugh?

1414:57:11 MR. HARBAUGH: None, Your Honor.

1514:57:12 THE COURT: Mr. Mills?

1614:57:13 MR. MILLS: None, Your Honor.

1714:57:15 THE COURT: Cross-examination.

1814:57:17 MR. WEINER: No, thank you, Your Honor.

1914:57:18 THE COURT: Captain Springfield, you are excused.
2014:57:20 Thank you.

2114:57:20 THE WITNESS: Thank you.

2214:57:22 THE COURT: Ladies and gentlemen, you may stand and
2314:57:24 stretch.

2414:57:26 Mr. Banks may call his next witness.

2514:57:31 MR. STEEL: Ms. Hester.

114:58:57 THE CLERK: This way, please.

214:59:05 MR. STEEL: It's Ms. Hester. I don't think that was
314:59:13 Ms. Hester.

414:59:15 THE COURT: I will say that we were previously told
514:59:19 that Ryan Green would be the next witness. Was that
614:59:22 Mr. Green?

714:59:23 MS. GOLDBERG: It is, Your Honor.

814:59:24 THE COURT: Then we will await Mr. Green, and for
914:59:26 now we will --

1014:59:26 MR. STEEL: He will be next. I was told that there
1114:59:28 was a change.

1214:59:43 THE CLERK: This way, please. Raise your right
1314:59:57 hand.

1414:59:58 THEREUPON:

1514:59:58 LASHAWNTAY HESTER,
1614:59:58 Called in these proceedings, and after having been first duly
1715:00:06 sworn, testifies as follows:

1815:00:06 THE CLERK: Thank you. Please be seated.

1915:00:11 Please state and spell your name for the record.

2015:00:20 THE WITNESS: Lashawntay Hester.

2115:00:25 L-a-s-h-a-w-n-t-a-y; Hester, H-e-s-t-e-r.

2215:00:28 THE COURT: Thank you.

2315:00:29 Mr. Steel, you may proceed.

2415:00:29 DIRECT EXAMINATION

2515:00:31 BY MR. STEEL:

115:00:31 Q. Ms. Hester, where were you born and raised?

215:00:35 A. Chicago, Illinois.

315:00:36 Q. And who were you raised by?

415:00:39 A. My mother and father.

515:00:40 Q. And can you tell the ladies and gentlemen of the jury
615:00:43 about your educational background?

715:00:44 A. I completed all through high school.

815:00:49 Q. And do you have any children?

915:00:51 A. Three.

1015:00:51 Q. And is -- do you know a gentleman -- excuse me. I
1115:00:56 apologize. Do you know an individual named Kacey Hester,
1215:01:00 also known as Jam?

1315:01:01 A. Yes.

1415:01:01 Q. And is he related to you through your children in any
1515:01:05 way?

1615:01:05 A. Yes.

1715:01:06 Q. Tell the ladies and gentlemen what your relationship is
1815:01:09 with Mr. Hester.

1915:01:10 A. He's my kids' father, two of them.

2015:01:13 Q. Okay. And what are the ages of those two children?

2115:01:16 A. 15 and 3.

2215:01:17 Q. And who is your husband?

2315:01:20 A. Kacey Hester.

2415:01:22 Q. All right. And your current relationship with Mr. Hester
2515:01:28 is?

115:01:29 A. Still married.

215:01:30 Q. And is he the same Mr. Hester who is in custody, if you
315:01:36 know he's in custody?

415:01:36 A. Yes.

515:01:37 Q. And did he plead guilty to three murders?

615:01:39 A. I don't know. Did he?

715:01:43 Q. Did he plead guilty to anything?

815:01:45 A. I wouldn't know.

915:01:46 Q. Okay. That is fine.

1015:01:50 How long have you known Mr. Hester?

1115:01:51 A. Since I was 13.

1215:01:53 Q. And is Mr. Hester -- in relation to you, is he older?

1315:01:58 Younger? Same age --

1415:01:59 A. He's a year younger than me.

1515:02:01 Q. All right. Based upon the age of your child, your oldest
1615:02:11 child, Mr. Hester, was he in custody when you had that child?

1715:02:14 A. Yes.

1815:02:15 Q. And based upon the age of your youngest child, was
1915:02:19 Mr. Hester in custody when you gave birth to your youngest
2015:02:22 child?

2115:02:22 A. Yes.

2215:02:22 Q. Do you remember the date that Mr. Hester was released
2315:02:26 from custody in the year 2022?

2415:02:33 A. I think it was February. I don't know the exact date,
2515:02:36 though.

115:02:36 Q. Okay. That is fine.

215:02:37 Did you say February?

315:02:38 A. Yeah.

415:02:39 Q. 2022?

515:02:41 A. Yeah.

615:02:42 Q. All right. And did Mr. Hester -- was he paroled out of
715:02:48 custody to you? Do you know what he did?

815:02:50 A. No, he wasn't paroled to me.

915:02:52 Q. And do you know who he was paroled to?

1015:02:53 A. I don't remember.

1115:02:55 Q. Do you know the name Ms. Dangerfield, Brianna
1215:02:58 Dangerfield?

1315:02:59 A. Oh, yes. Yes.

1415:02:59 Q. Is that who he went to, if you know?

1515:03:02 A. No.

1615:03:03 Q. You don't know?

1715:03:03 A. No.

1815:03:04 Q. Okay. Are you saying that he did not parole to her or
1915:03:07 you are saying you don't know?

2015:03:08 A. I don't know.

2115:03:09 Q. Okay.

2215:03:10 All right. Was there a time that you and Mr. Hester
2315:03:17 started to live together again --

2415:03:18 A. Yes.

2515:03:19 Q. -- after he was released from custody in February 2022?

115:03:21 A. Yes.

215:03:21 Q. All right. I want to take you to August of 2022, if I
315:03:31 can. Okay?

415:03:31 A. Um-hum.

515:03:32 Q. Or at any time. I mean any time. Did there ever come a
615:03:41 time that you were in a vehicle with Mr. Hester. You are
715:03:47 driving the vehicle. Your son was in the car -- your older
815:03:51 son was in the car -- and do you know a man named Boonie Moe?

915:03:58 A. Yes.

1015:03:58 Q. Would you know his Government name?

1115:04:00 A. I forgot.

1215:04:01 Q. Okay. Does the name Antonio Jones sound right? If it
1315:04:05 doesn't, just...

1415:04:06 A. Yeah, it does.

1515:04:06 Q. All right. Did there ever come a time that while
1615:04:09 driving, on the Bluetooth or speakerphone, with Mr. Hester in
1715:04:14 the passenger seat next to you and your son with you, that
1815:04:17 you heard Boonie Moe call Mr. Hester and tell him he needs to
1915:04:22 come out to California immediately?

2015:04:24 A. No.

2115:04:24 Q. Is there any time that without your son in the car that
2215:04:30 you were with Mr. Hester when Boonie Moe -- you heard a
2315:04:33 conversation between Boonie Moe and your husband, Mr. Hester,
2415:04:36 that Boonie Moe stated anything to the effect of, "Come out
2515:04:41 to California, Los Angeles, San Diego" -- anything like

115:04:44 that -- "right away"?

215:04:45 A. No.

315:04:45 Q. Forget about the car. Is there any time anywhere, in any
415:04:52 type of location, that you were present where there was a
515:04:56 phone call, and you were hearing Boonie Moe and Mr. Hester,
615:04:59 your husband, discuss anything about, "Come out to
715:05:03 California" or "Take a plane ticket that day"? Did that ever
815:05:06 happen?

915:05:06 A. No.

1015:05:07 Q. That never happened?

1115:05:08 A. No.

1215:05:08 Q. Am I correct or am I wrong? Did it happen?

1315:05:11 A. No, it didn't happen.

1415:05:13 Q. Okay. Was there ever a time that you heard Durk Banks --
1515:05:19 do you know Durk Banks?

1615:05:20 A. Yes.

1715:05:20 Q. Okay. And are you friends with Durk?

1815:05:23 A. No.

1915:05:26 Q. Was there ever a time that you heard Durk Banks on a
2015:05:29 telephone call when your husband was discussing, "Come out
2115:05:32 immediately to California" or anywhere? Did you ever hear
2215:05:36 that?

2315:05:36 A. No.

2415:05:36 Q. Did Mr. Hester ever tell you at any time that Boonie Moe
2515:05:57 or Durk Banks ever called him to say, "Come to Los Angeles or

115:06:03 San Diego or California immediately"?

215:06:04 A. No.

315:06:07 Q. Ma'am, prior to -- or at any time, did anyone from the
415:06:24 Los Angeles Homicide Department, officers, the Los Angeles
515:06:31 Police Department, the FBI, the U.S. Attorney's Office,
615:06:35 anyone from the Department of Justice, anybody in Parole,
715:06:39 Probation, anybody reach out to you and ever ask you the type
815:06:42 of questions I'm asking you today?

915:06:43 A. No.

1015:06:55 Q. Did you have contact with the authorities? By "the
1115:06:58 authorities," I mean people with the U.S. Attorney's
1215:07:01 Office -- all the things I named: the detectives, homicide
1315:07:04 detective, police officers, FBI agent. Did you have contact
1415:07:07 with them because of Mr. Hester while he has been in custody
1515:07:10 since May 2nd of 2023?

1615:07:12 A. Yes.

1715:07:13 Q. All right. And they never asked you about what I just
1815:07:16 asked you?

1915:07:16 A. No.

2015:07:22 Q. During this trial, just a few days ago, do you remember
2115:07:26 receiving any type of communication from someone saying that
2215:07:30 they are with the authorities, the FBI, a text message?

2315:07:35 A. Yes.

2415:07:38 MR. STEEL: Your Honor, I would like to introduce --
2515:07:40 jointly. It's the Government's exhibit. But Government

115:07:43 Exhibit Number 473. It's two pages.

215:07:46 THE COURT: All right. Based on the joint agreement
315:07:49 of the parties, Exhibit 473 is admitted.

415:07:53 (Exhibit No. 473 received.)

515:07:53 MR. STEEL: And it should be two pages, Your Honor.
615:07:54 If we could show page 1.

715:07:56 Q. Ms. Hester, would you do me a courtesy and take a look at
815:08:01 this and just tell me whether you recognize this?

915:08:05 A. Um-hum. Yes.

1015:08:06 Q. And you read it to yourself?

1115:08:07 A. Yes.

1215:08:08 Q. Okay. And then just look at page 2, if you don't mind.

1315:08:10 MR. STEEL: And it should be 2 of 2, Your Honor.

1415:08:13 Q. If I went too fast -- you read the first page, didn't
1515:08:16 you?

1615:08:16 A. Yes.

1715:08:17 Q. Okay. And then can you read the second page?

1815:08:19 A. It says, "He can't thinking about --

1915:08:23 Q. Well, we are going to go back to it. I'm just saying for
2015:08:26 you.

2115:08:26 A. Okay. Yes.

2215:08:26 MR. STEEL: If you go to page 2 again.

2315:08:28 Q. Just read it to yourself, just for a minute.

2415:08:33 Okay. Whenever you are done, just say, "I've read
2515:08:35 it."

115:08:36 A. I've read it.

215:08:37 Q. And is that a complete text message on or about just a
315:08:40 few days ago?

415:08:41 A. Yes.

515:08:42 Q. Okay.

615:08:42 MR. STEEL: If you go to page 1.

715:08:47 Q. In this bubble that is on this honorable Court's screen
815:08:50 at Government Exhibit 473, page 1, is this the agent or
915:08:56 somebody you believe to be in law enforcement reaching out to
1015:08:58 you?

1115:08:58 A. Yes.

1215:08:58 Q. And it reads -- I'm just going to read it into the
1315:09:03 record. "Good morning, Ms. Hester. I just wanted to check
1415:09:05 in and make sure you and your family are okay. I talked with
1515:09:08 Kacey this morning."

1615:09:10 Do you know who Kacey is?

1715:09:11 A. Yes.

1815:09:11 Q. Who is that?

1915:09:12 A. My kids' father.

2015:09:15 Q. Okay. "He is thinking of you and his kids. If you need
2115:09:18 anything at all, please don't hesitate to reach out."

2215:09:21 Is that fair to say?

2315:09:22 A. Yes.

2415:09:22 MR. STEEL: And if you go to page 2, if you don't
2515:09:25 mind, sir.

115:09:25 Q. And then your response -- is this your response on the
215:09:27 left in kind of the darker two bubbles?

315:09:30 A. Yes.

415:09:30 Q. And you wrote, "He can't thinking about us on that
515:09:35 standing" -- excuse me, I said it wrong -- "on at that stand
615:09:39 telling all them people business that" -- I'm not going to
715:09:42 say -- "the s-h-blank-t ain't okay, exclamation point. Y'all
815:09:47 don't have to call or contact me ever again, with a period
915:09:50 and exclamation point."

1015:09:51 Is that what you wrote back?

1115:09:54 A. Yes.

1215:09:54 Q. And then it says, "Okay. Understood," from the agent.

1315:09:57 Fair to say?

1415:09:57 A. Um-hum.

1515:09:58 Q. What -- when this --

1615:10:00 MR. STEEL: Thank you very much. You can remove it,
1715:10:02 if you don't mind.

1815:10:03 Your Honor, 473 is off your screen.

1915:10:05 Q. If you can explain what you meant by that communication
2015:10:13 with the agent just a few days -- and that was just a couple
2115:10:17 of days ago, true?

2215:10:18 A. Um-hum.

2315:10:18 Q. Yes?

2415:10:19 A. Yes.

2515:10:19 Q. Okay. Tell the ladies and gentlemen of the jury what --

115:10:21 after reading what the agent said to you, what you wrote
215:10:23 back, why did you write that?

315:10:25 A. Because I don't agree with what he's doing.

415:10:27 Q. Okay. And when you say you "don't agree with what he's
515:10:29 doing," explain to the jurors what you are talking about.

615:10:31 A. I don't feel it is right what he's doing.

715:10:38 Q. In what manner?

815:10:39 A. Just period. I just don't feel it's okay what he's
915:10:48 doing.

1015:10:49 Q. Let me ask you a question: Is it truthful what
1115:10:53 Mr. Hester said about you and your son or you --

1215:10:56 A. No, that's not the truth.

1315:10:58 Q. That is a lie?

1415:10:59 A. That is a lie.

1515:11:00 Q. Okay. Do you want to be here testifying --

1615:11:03 A. No. No.

1715:11:04 Q. I interrupted you. I apologize. Let me finish my
1815:11:08 question.

1915:11:08 A. Um-hum.

2015:11:08 Q. Do you want to be here before this jury and this
2115:11:11 honorable Court to testify?

2215:11:12 A. No.

2315:11:18 MR. MORSE: Your Honor, may we approach?

2415:11:19 THE COURT: Just let's finish the examination, and
2515:11:23 then you may approach.

115:11:25 MR. STEEL: I don't have any other questions, sir.

215:11:26 THE COURT: Are you finished, Mr. Steel?

315:11:28 MR. STEEL: Yes, sir.

415:11:28 THE COURT: All right. Mr. Harbaugh? Mr. Mills?

515:11:31 MR. HARBAUGH: No, Your Honor.

615:11:32 THE COURT: Please approach.

715:11:33 We'll be quick, ladies and gentlemen.

815:11:35 (At the bench:)

915:11:52 THE COURT: Mr. Morse.

1015:11:53 MR. MORSE: Yes, Your Honor. I just need some
1115:11:56 clarity here. I believe this Court raised the issue of
1215:11:58 spousal privilege, and counsel represented that she was aware
1315:12:01 that she didn't need to testify. The testimony he just
1415:12:03 elicited runs counter to that, so I'm curious as to what is
1515:12:07 going on.

1615:12:08 MR. STEEL: I don't know what you're talking about.
1715:12:09 I apologize.

1815:12:10 THE COURT: I raised the issue of whether she was
1915:12:12 aware that --

2015:12:13 MR. STEEL: I remember that.

2115:12:14 THE COURT: -- if she is his legal wife, she cannot
2215:12:16 be called to testify in a way that might -- well, really,
2315:12:20 concerning him in a way that could be seen as damaging to his
2415:12:23 interests. She's free to waive that part of the marital
2515:12:26 privilege, as hers. So she's free to waive that. But the --

115:12:34 but my understanding was, is that she was aware that she
215:12:37 could invoke that and refuse to testify on that basis.

315:12:41 MR. STEEL: I told her that she could -- I told her
415:12:42 she has a privilege.

515:12:43 THE COURT: If you represent that, then --

615:12:44 MR. STEEL: Yes.

715:12:44 THE COURT: -- then we'll represent that.

815:12:46 The more interesting and important thing is I do
915:12:48 think this has opened the door to the threats, because --

1015:12:51 MR. MORSE: I think so too.

1115:12:52 THE COURT: -- my understanding was you would elicit
1215:12:55 that -- information showing that he lied on very specific
1315:12:57 things, the Government would attempt to show that she was
1415:13:00 biased against the Government, and that would include
1515:13:03 threats.

1615:13:03 I said, "Elicit the bias, don't include the
1715:13:06 threats." And now you have raised this issue of --
1815:13:08 especially with that text. It makes sense someone would
1915:13:11 reach out to her if they were aware that in a recorded phone
2015:13:13 call she had been talking about threats.

2115:13:15 So as far as I'm concerned, the door is opened to
2215:13:18 that.

2315:13:18 MR. MORSE: Thank you, Your Honor.

2415:13:19 MR. STEEL: As long as it's made clear that there is
2515:13:21 no connection to Durk Banks that the Government has. I'm

115:13:23 confident they wouldn't do that, but I just want it to be
215:13:25 clear.

315:13:25 THE COURT: Yeah. I'll tell the jury that the
415:13:27 reason they are hearing this is to evaluate her testimony.
515:13:29 It's not meant to be evidence -- it's not -- there is no
615:13:33 suggestion that that was -- any of the defendants were tied
715:13:37 to the threats.

815:13:37 MR. STEEL: And I'm not saying the Government would
915:13:39 do that. I just want to be clear.

1015:13:40 THE COURT: Okay.

1115:13:41 (In open court:)

1215:13:41 CROSS-EXAMINATION

1315:14:18 BY MR. MORSE:

1415:14:18 Q. Good afternoon, Ms. Hester.

1515:14:25 A. Hi.

1615:14:25 Q. So you indicated that you are married to Mr. Hester,
1715:14:32 correct?

1815:14:32 A. Um-hum.

1915:14:32 Q. Is that a "yes"?

2015:14:34 A. Yes.

2115:14:34 Q. Sorry. You have to answer yes or no, because someone is
2215:14:37 taking down our --

2315:14:38 A. I'm sorry, yes.

2415:14:40 Q. -- our question and answer here.

2515:14:41 How long have you been married to Mr. Hester?

115:14:42 A. Four years.

215:14:44 Q. Four years. Okay. And you have two children with him?

315:14:47 A. Um-hum, yes.

415:14:48 Q. Okay. And the oldest is 15?

515:14:50 A. Yes.

615:14:50 Q. And the youngest is 3 years old?

715:14:52 A. Yes.

815:14:53 Q. Okay. He was born in 2023?

915:14:55 A. Yes.

1015:14:55 Q. All right. You also have another child; is that correct?

1115:14:58 A. Yes.

1215:14:58 Q. Not with Mr. Hester?

1315:14:59 A. No.

1415:15:00 Q. All right. Do you -- you still live in the Chicago area?

1515:15:05 A. I don't want to answer that.

1615:15:06 Q. Okay. Are you in Chicago, ma'am? Is that where you
1715:15:12 live?

1815:15:13 A. I don't want to answer that neither.

1915:15:16 THE COURT: I will not -- I will not force the
2015:15:22 witness to answer that particular question, but the jury may
2115:15:25 draw inferences from her refusal to answer it.

2215:15:27 Go ahead, Counsel.

2315:15:28 MR. MORSE: Sure.

2415:15:30 Q. You talked a little bit on direct examination about
2515:15:35 Mr. Banks. You know Mr. Banks; is that right?

115:15:36 A. Yes.

215:15:37 Q. Okay. When was the first time you met Mr. Banks?

315:15:39 A. I want to say like '07 or '08 or '9, one of those.

415:15:49 Q. Okay. And at that -- at some point did you become good
515:15:53 friends with one of the mothers of his children?

615:15:56 A. Yes.

715:15:56 Q. Best friends, right?

815:15:58 A. Yes.

915:15:58 Q. Her name is Nikki?

1015:15:59 A. Yes.

1115:16:00 Q. Okay. Is that how you met Mr. Banks?

1215:16:03 A. No.

1315:16:03 Q. Okay. How did you meet Mr. Banks?

1415:16:05 A. We all grew up around the same area at some point.

1515:16:09 Q. All right. And are you still good friends with Nikki?

1615:16:12 A. No.

1715:16:12 Q. Okay. When did that end?

1815:16:17 A. I don't know the exact date, but it ended. I don't know
1915:16:22 the exact date.

2015:16:23 Q. Okay. So growing up together and being best friends at
2115:16:28 some point with Nikki, you must have interacted with
2215:16:31 Mr. Banks then, right?

2315:16:32 A. No, not really.

2415:16:34 Q. Never spent any time with him? Is that your testimony?

2515:16:40 A. When you say "spend time," what do you mean?

115:16:42 Q. Were you ever in his presence socially?

215:16:45 A. Yes.

315:16:45 Q. Okay. And what about through the years, were you ever in
415:16:48 his presence socially when you would hang out with Nikki?

515:16:51 A. No, not really.

615:16:53 Q. What does that mean, "not really"?

715:16:55 A. I'm trying to understand what you saying. Can you
815:16:58 elaborate what you saying?

915:17:00 Q. Well, can you give us an example of how often you would
1015:17:02 see Mr. Banks over the years?

1115:17:03 A. Not a lot.

1215:17:05 Q. Would you see Nikki a lot?

1315:17:06 A. Yes.

1415:17:07 Q. Because that was your best friend?

1515:17:09 A. Yes.

1615:17:09 Q. Okay. You have been interviewed by the defense before in
1715:17:13 this case? Have you talked to the defense previously, before
1815:17:17 today?

1915:17:17 A. Like who?

2015:17:19 Q. Any of Mr. Banks' lawyers or any of the lawyers that are
2115:17:22 on this side that I'm pointing at here (indicating).

2215:17:24 A. Yeah.

2315:17:25 Q. Okay. When is the first time you talked to one of these
2415:17:28 lawyers?

2515:17:28 A. I don't remember the date.

115:17:30 Q. Are we talking weeks ago? Months ago?

215:17:33 A. Months ago.

315:17:34 Q. Months ago, okay.

415:17:35 And how many times have you met and discussed your
515:17:38 testimony with the lawyers?

615:17:39 A. I didn't discuss, like -- what do you mean by
715:17:42 "testimony"?

815:17:42 Q. How many times have you met with the lawyers?

915:17:44 A. Once.

1015:17:45 Q. One time?

1115:17:45 A. Yes.

1215:17:46 Q. Does that include today? Or one time before today?

1315:17:50 A. One time before today.

1415:17:51 Q. Okay. And Mr. Hester began cooperating with the Federal
1515:17:57 Government in 2023. You know that, right?

1615:17:59 A. No, I didn't know when he first started.

1715:18:02 Q. Okay.

1815:18:02 A. No.

1915:18:03 Q. But at some point you became aware?

2015:18:04 A. Yeah.

2115:18:05 Q. Okay. And his cooperation with the Government has been
2215:18:08 pretty hard on you; would you agree with that?

2315:18:10 A. Of course.

2415:18:10 Q. Okay. What do you mean by "of course"?

2515:18:12 A. It's been pretty hard.

115:18:14 Q. How so?

215:18:14 A. With my kids. What he's doing is just like -- is
315:18:21 uprooting everything that we have going on in our life right
415:18:23 now.

515:18:23 Q. Okay. So you actually had to relocate when he became --
615:18:28 when he was cooperating with the Government; is that correct?
715:18:32 The FBI helped you relocate; is that correct?

815:18:34 A. Um-hum, yes.

915:18:34 Q. They helped you relocate twice; is that correct?

1015:18:37 A. No.

1115:18:38 Q. Well, you relocated from where you were living to an area
1215:18:41 of Chicago at one point, correct?

1315:18:43 A. No, that's not true.

1415:18:44 Q. Okay. So the FBI did not help you relocate?

1515:18:47 A. You said twice.

1615:18:48 Q. Okay. So it's one time?

1715:18:49 A. Yes.

1815:18:49 Q. Okay. And when -- was that in 2023 or 2024?

1915:18:53 A. What's this, '26? So last year.

2015:18:58 Q. Last year?

2115:18:59 A. Yeah, so 2024.

2215:19:01 Q. 2024?

2315:19:02 A. I think.

2415:19:02 Q. So your youngest would have been very, very young at that
2515:19:06 point; is that correct?

115:19:07 A. No, he's 3 now, so -- I really don't remember. I don't
215:19:13 remember what year it was.

315:19:14 Q. But fair to say that Mr. Hester's cooperation has been
415:19:17 disruptive to your life?

515:19:18 A. Yes.

615:19:19 Q. Okay. And Mr. Hester is a Black Disciple, right --

715:19:23 A. I don't want to answer that.

815:19:25 Q. -- you know that?

915:19:27 A. I wouldn't know. I don't want to answer that.

1015:19:29 Q. You don't know if he's a Black Disciple?

1115:19:31 A. Yeah.

1215:19:32 Q. Okay. You are here giving testimony to this jury. You
1315:19:34 don't want to --

1415:19:35 A. I don't want to answer it.

1515:19:36 Q. Okay. Well, you have a lot of connections to the Black
1615:19:40 Disciples, don't you, ma'am?

1715:19:41 A. No.

1815:19:42 Q. Do you know somebody named Lawrence Lee?

1915:19:44 A. That's my cousin.

2015:19:45 Q. Okay. Does he also go by Lil Law?

2115:19:47 A. That's his name, um-hum.

2215:19:51 Q. And that's his name in the Black Disciples. Isn't he a
2315:19:55 minister with the Black Disciples?

2415:19:56 A. No, that's not his name for the Black Disciples. His
2515:19:58 name is Lil Law because his name is Lawrence, and that's just

115:20:01 like a nickname.

215:20:02 Q. Okay. Is he a gang member, ma'am?

315:20:04 A. Not that I know of.

415:20:07 Q. You paused a little bit, ma'am. Is that because he is a
515:20:10 gang member?

615:20:10 A. I can pause, but not that I know of.

715:20:13 Q. What about your brother, Darius? Do you have a brother
815:20:17 named Darius?

915:20:18 A. Yes, that's my father's son.

1015:20:19 Q. Excuse me?

1115:20:20 A. That's my father's son.

1215:20:21 Q. I see. And he's from Crazyville. That is a gang in
1315:20:25 Chicago, isn't it?

1415:20:26 A. What that got to do with why I'm here?

1515:20:28 Q. My question is: Your brother Darius is in a gang, isn't
1615:20:32 he?

1715:20:32 A. Not that I know of.

1815:20:33 Q. Okay. And his father -- well, Lil Law's father was named
1915:20:39 Big Law; is that correct, your cousin?

2015:20:41 A. What do that have to do with why I'm here?

2115:20:44 Q. And he was also a gang member; isn't that right?

2215:20:46 A. Not that I know of.

2315:20:47 Q. Wasn't he murdered?

2415:20:49 A. Yes. What is going on?

2515:20:51 MR. STEEL: Your Honor, ruling over objection, but

115:20:52 this is very far --

215:20:54 THE COURT: The objection is overruled.

315:20:55 Q. Wasn't Big Law murdered?

415:20:57 A. Yes.

515:20:58 Q. And Lil Law is Big Law's son, who is a minister in the
615:21:02 Black Disciples; isn't that true, ma'am?

715:21:04 A. I don't know nothing about that.

815:21:05 Q. You know you are under oath, right?

915:21:07 A. Yeah. I still don't know nothing about it. You can't --
1015:21:10 like, I don't know nothing about that.

1115:21:11 Q. You don't know anything about it because you are not
1215:21:13 supposed to testify against people. Isn't that right?

1315:21:17 A. I'm testifying for myself because my name was brought up.

1415:21:20 Q. Okay.

1515:21:22 MR. MORSE: Let's put up Exhibit 473, please. Can
1615:21:32 we publish it, please.

1715:21:37 Q. This is a text message that you received from Special
1815:21:39 Agent Tom Callahan of FBI Chicago; isn't that correct?

1915:21:42 A. Um-hum.

2015:21:43 Q. Is that a "yes"?

2115:21:44 A. Yes.

2215:21:44 Q. Okay. You -- this isn't the first text message
2315:21:49 communication you've had with Special Agent Callahan, is it?

2415:21:51 A. No.

2515:21:51 Q. You had been communicating with Special Agent Callahan

115:21:54 for the last couple of years via text. Isn't that right?

215:21:57 A. Since he contacted us with the move --

315:22:00 Q. He contacted you to relocate you --

415:22:02 A. Yeah.

515:22:03 Q. -- right?

615:22:03 A. I don't know which day that was, but yeah.

715:22:05 Q. And he contacted you to relocate you because it's

815:22:07 dangerous cooperating with the Federal Government, isn't it?

915:22:10 A. What do you mean?

1015:22:11 Q. Isn't it dangerous to give testimony against people?

1115:22:14 Isn't that why you relocated?

1215:22:16 A. I don't even understand what you are saying. I don't

1315:22:18 know nothing about that.

1415:22:19 Q. All right. Ma'am, let's go over this text message --

1515:22:21 A. Okay. Go over it.

1615:22:22 Q. -- okay?

1715:22:23 Special Agent Callahan -- this is from Thursday,

1815:22:24 isn't it?

1915:22:25 A. I don't see the date.

2015:22:26 Q. Did you receive this last week, ma'am?

2115:22:28 A. I don't remember what date I received it last week.

2215:22:30 Q. You received it last week?

2315:22:31 A. Yeah.

2415:22:32 Q. Okay. By the way, did you -- you talked to Mr. Steel

2515:22:36 about this message today?

115:22:40 THE COURT: I'm sorry, Counsel, do you mean on the
215:22:42 stand or off the stand?

315:22:44 MR. MORSE: Off the stand.

415:22:44 Q. Before you testified today, did you talk to any member of
515:22:46 the defense about this message? Yes or no.

615:22:48 A. I don't remember.

715:22:52 Q. Okay. What time did you get to court today, ma'am?

815:22:54 A. 12:00. No, 1:00. Was it 12:00? It was almost, like,
915:23:00 1:00.

1015:23:00 Q. Okay. That was a few hours ago, right?

1115:23:02 A. Um-hum.

1215:23:03 Q. Is that a "yes"?

1315:23:04 A. Yes.

1415:23:04 Q. So your testimony is you can't remember if you -- when
1515:23:07 you got to the courthouse between 12:00 and 3:30 whether you
1615:23:11 talked to the defense about this message. Is that your
1715:23:14 testimony?

1815:23:14 A. There is a lot going on. I'm not going to remember
1915:23:16 everything. But I don't remember everything.

2015:23:17 Q. Can you repeat that, please?

2115:23:19 A. I said I don't remember.

2215:23:20 Q. Okay. Well, let's talk about this text message.

2315:23:23 Detective -- or excuse me, Special Agent Callahan
2415:23:25 text messaged you. He said, "Good morning, Ms. Hester. I
2515:23:28 just wanted to check in and make sure you and your family are

115:23:31 okay. I talked with Kacey this morning. He is thinking of
215:23:34 you and his kids. If you need anything at all, please don't
315:23:37 hesitate to reach out."

415:23:39 That is the message he sent to you on Thursday.
515:23:41 Isn't that right?

615:23:41 A. Yes.

715:23:42 Q. Okay.

815:23:43 MR. MORSE: Let's see the next page.

915:23:47 Q. On the next page, you said, "He can't thinking about us
1015:23:52 on that stand telling them people business. That shit ain't
1115:23:57 okay."

1215:23:57 You remember sending that?

1315:23:59 A. Meaning all of them people business.

1415:24:00 Q. All of them?

1515:24:01 A. Yeah.

1615:24:01 Q. Okay. Thank you for that correction.

1715:24:02 You sent that text message, right?

1815:24:03 A. Yes.

1915:24:04 Q. And Mr. Steel just asked you -- he asked you to explain
2015:24:07 this text message. Do you remember that question?

2115:24:08 A. Um-hum.

2215:24:09 Q. Is that a "yes"?

2315:24:10 A. Yes.

2415:24:10 Q. And you said you just didn't like what Mr. Hester was
2515:24:13 doing, period, right?

115:24:14 A. Yeah. I don't agree with it.

215:24:15 Q. Okay. You don't agree with him testifying in a Federal
315:24:18 jury trial about murder that he has information about. Isn't
415:24:21 that what you mean?

515:24:23 MR. STEEL: I'll object to the characterization.

615:24:25 THE COURT: The objection is overruled.

715:24:27 You may answer -- or will answer the question,
815:24:30 Ms. Hester.

915:24:31 THE WITNESS: Can you repeat what you said?

1015:24:33 Q. You don't agree with Mr. Hester testifying about a murder
1115:24:35 that he has information about. You don't agree with him
1215:24:38 doing that, do you?

1315:24:38 A. No, I don't agree with it.

1415:24:40 Q. Okay. And you say in this text message, "on that stand."
1515:24:45 You mean the witness stand, right?

1615:24:47 A. Yes.

1715:24:48 Q. Okay. "Telling all them people business." You see where
1815:24:53 you said that?

1915:24:53 A. Yes.

2015:24:54 Q. And the people that you are talking about are the
2115:24:57 defendants in this case. Isn't that correct?

2215:25:01 A. Talking about people, period. Whoever he was on the
2315:25:03 stand talking about, that is what I'm talking about. No
2415:25:06 specific person.

2515:25:07 Q. Okay. But "telling all them people business." You are

115:25:10 saying he's snitching, right?

215:25:14 A. I'm saying telling all them people business.

315:25:16 Q. Okay. And "all them people" are the defendants that he's
415:25:19 testifying against. Isn't that right?

515:25:20 A. I'm talking about whoever he was up here talking about.

615:25:22 Q. So you don't care if he's telling the truth to this jury
715:25:25 or not; you just don't want him testifying against people.
815:25:28 Isn't that right?

915:25:29 A. What do you mean?

1015:25:31 Q. Okay. You disagree with him testifying, period, no
1115:25:35 matter if it's the truth or not. Isn't that correct?

1215:25:37 A. Yes, I disagree with it.

1315:25:38 Q. Because you don't testify on the South Side of Chicago
1415:25:41 against other gang members. Isn't that right?

1515:25:43 A. Sir, I don't know what you are talking about.

1615:25:45 Q. Okay. Let me ask you a question, ma'am: Haven't you
1715:25:48 received threats as a result of Mr. Hester's cooperation?

1815:25:51 A. Yeah.

1915:25:52 Q. Okay. You received a note on your -- on your car that
2015:25:57 said "Rats gonna die"? You are under oath.

2115:26:02 A. I did not.

2215:26:03 Q. Did someone else?

2315:26:05 A. I don't know. How would I know what's on somebody else
2415:26:07 car?

2515:26:07 Q. Was there ever a note left for you on a car that you

115:26:10 controlled that said "All rats gonna die"?

215:26:13 A. No.

315:26:14 Q. Your son is 15 years old, right?

415:26:16 A. Yes.

515:26:16 Q. That is the oldest son that you share with Mr. Hester; is
615:26:19 that correct?

715:26:19 A. Um-hum.

815:26:19 Q. Is that a "yes"?

915:26:20 A. Yes.

1015:26:20 Q. Okay. Isn't it true that your son told Mr. Hester that
1115:26:24 he would never speak to Mr. Hester again if Mr. Hester
1215:26:27 testified? Isn't that right?

1315:26:29 MR. STEEL: Objection, Your Honor.

1415:26:29 THE COURT: The objection is sustained. It's
1515:26:31 outside the scope. It's beyond what we discussed at sidebar.

1615:26:34 Q. Is your -- your 15-year-old son, is he happy about
1715:26:38 Mr. Hester testifying?

1815:26:39 MR. STEEL: Same objection.

1915:26:40 THE COURT: The objection is sustained.

2015:26:43 Q. Ma'am, when you got on the stand and you testified,
2115:26:48 Mr. Steel asked you if you ever heard a conversation between
2215:26:51 Mr. Banks and Boonie Moe and Mr. Hester. Isn't it true that
2315:26:56 you said you never heard that conversation because you don't
2415:26:59 want to testify against anyone?

2515:27:01 A. I never heard the conversation, sir, period.

115:27:05 MR. MORSE: I have nothing further, Your Honor.

215:27:06 THE COURT: All right.

315:27:09 Yeah, sir.

415:27:09 REDIRECT EXAMINATION

515:27:11 BY MR. STEEL:

615:27:11 Q. Ma'am, were you willing to be a witness in this case
715:27:24 before Mr. Hester testified in this case?

815:27:26 A. No.

915:27:26 Q. And even now, you don't want to be here?

1015:27:31 A. No, I do not.

1115:27:32 Q. Did it come to your attention -- understanding you were
1215:27:37 not a witness -- that Mr. Hester stated that you were present
1315:27:40 and overheard a communication about, "Come to California
1415:27:45 immediately"? Did you hear that?

1515:27:46 A. Say it again.

1615:27:47 Q. Yes. Did you hear this past week -- you realize
1715:27:51 Mr. Hester testified this past week?

1815:27:52 A. Um-hum. Yes.

1915:27:53 Q. Did you hear -- not from -- you didn't hear it from any
2015:27:57 defense lawyer or investigator. Did you hear from someone
2115:28:01 else that Mr. Hester put you as a witness in this case?

2215:28:05 A. Yes.

2315:28:08 Q. Hearing that Mr. Hester stated that you were present and
2415:28:13 knew all about this case and this crime and this murder, is
2515:28:20 any of that true?

115:28:21 A. That's not true.

215:28:22 Q. And when you decided that you would come forward and
315:28:25 testify, you contacted me, right?

415:28:31 A. Yes.

515:28:32 Q. And the reason why is because you were being lied
615:28:36 about --

715:28:36 A. Yes.

815:28:36 Q. -- true?

915:28:36 A. Yes.

1015:28:37 Q. Did you have any reason to testify before simply because
1115:28:41 Mr. Hester was cooperating?

1215:28:42 A. No.

1315:28:43 Q. In fact, you said the opposite, right?

1415:28:45 A. Yes.

1515:28:45 Q. How hurtful is it that your husband uses your name in a
1615:28:55 lie that started before this honorable Court in testifying?
1715:29:01 How hurtful was that to you?

1815:29:02 A. It was devastating.

1915:29:05 Q. But that is your husband, right?

2015:29:07 A. Yes.

2115:29:18 Q. Did you ask to be moved by the FBI?

2215:29:24 A. Yes.

2315:29:27 Q. Was it Mr. Hester's idea to have you ask to be moved by
2415:29:30 the FBI?

2515:29:31 A. Yes.

115:29:32 Q. That wasn't your idea?

215:29:35 A. No.

315:29:39 Q. Do you want to go home?

415:29:41 A. Right now.

515:29:43 Q. To Chicago?

615:29:46 A. I would rather not say where I want to go home to.

715:29:49 Q. That is fine. I apologize for asking you.

815:29:59 Before Mr. Hester included you and your child in
915:30:04 overhearing a communication, would you have ever agreed to
1015:30:07 waive a privilege and come and testify here?

1115:30:09 A. No.

1215:30:11 MR. STEEL: Thank you.

1315:30:12 Thank you, Your Honor.

1415:30:13 THE COURT: Mr. Harbaugh, Mr. Mills?

1515:30:15 MR. HARBAUGH: None, Your Honor.

1615:30:16 MR. MILLS: Nothing, Your Honor.

1715:30:18 THE COURT: Recross.

1815:30:19 MR. MORSE: No recross. Thank you, Your Honor.

1915:30:21 THE COURT: Ms. Hester, you are free to go.

2015:30:23 THE WITNESS: Thank you.

2115:30:23 THE COURT: You are welcome.

2215:30:26 MR. STEEL: Ryan Green.

2315:30:28 THE COURT: Before doing that, I want to say
2415:30:31 something to the jury.

2515:30:32 Ladies and gentlemen, you heard the testimony here.

115:30:38 The Government asked whether there had been threats. The
215:30:40 witness said yes. You are going to hear no evidence, and I
315:30:44 repeat no evidence that any threats have been tied to anyone
415:30:48 who is involved in this case. The reason you are hearing
515:30:51 that testimony is to evaluate the mindset of this witness, to
615:30:56 decide whether she has a bias against one side or another and
715:31:01 to understand why the FBI Agent Callahan might have sent that
815:31:06 text.

915:31:07 But again, it cannot be used for the purpose of
1015:31:12 linking those threats to anyone who is involved in this case.
1115:31:15 There is simply no evidence of that.

1215:31:18 You may call -- you may now call Mr. Green.

1315:31:22 MR. STEEL: Correct.

1415:31:35 Can I just step out, Your Honor?

1515:31:37 THE COURT: You may.

1615:31:50 MR. STEEL: Thank you, sir.

1715:32:08 (Pause in proceedings.)

1815:32:08 THE CLERK: Please raise your right hand.

1915:32:10 THEREUPON:

2015:32:10 RYAN GREEN,

2115:32:10 Called in these proceedings, and after having been first duly
2215:32:19 sworn, testifies as follows:

2315:32:19 THE CLERK: Thank you. Please be seated. Watch
2415:32:21 your step.

2515:32:23 Please state and spell your name for the record.

115:32:33 THE WITNESS: Ryan Green; R-y-a-n, G-r-e-e-n.

215:32:36 THE CLERK: Thank you.

315:32:39 THE COURT: Counsel, you may proceed.

415:32:39 DIRECT EXAMINATION

515:32:42 BY MR. STEEL:

615:32:42 Q. Good afternoon, sir. Can you tell the ladies and
715:32:44 gentlemen of the jury where you were born and raised?

815:32:45 A. Yes. The south side of Chicago, Illinois.

915:32:48 Q. And how old are you currently?

1015:32:50 A. 32.

1115:32:50 Q. And can you explain, were you raised by parents, one
1215:32:55 parent, family members, friends?

1315:32:57 A. I was raised by both my parents, my mother and father.
1415:33:00 They just made 49 years.

1515:33:02 Q. Congratulations on that union.

1615:33:05 Do you have any brothers or sisters?

1715:33:06 A. Two sisters and a brother.

1815:33:07 Q. And where are you in the progression of the children?

1915:33:11 A. I'm stuck in the middle.

2015:33:13 Q. All right. Can you tell the ladies and gentlemen of the
2115:33:15 jury about your education?

2215:33:17 A. Yes. I have a degree in accounting and marketing.

2315:33:21 Q. And can you tell them about your occupation?

2415:33:23 A. Yes. I'm a personal hairstylist and I'm a personal
2515:33:28 accountant.

115:33:28 Q. And do you work for somebody? Self-employed?

215:33:33 A. I have been self-employed since 17.

315:33:36 Q. And you are 32, so that is 15 years?

415:33:39 A. Yes, sir.

515:33:39 Q. Congratulations.

615:33:41 Do you know the gentleman who is seated to my left,
715:33:46 next to the honorable Attorney O'Connor?

815:33:49 A. Yes.

915:33:49 Q. And who is that person?

1015:33:50 A. Durk Banks.

1115:33:52 Q. And can you explain to the jurors how you know Durk?

1215:33:56 A. We grew up in the same neighborhood as children.

1315:33:59 Q. Okay. And do you maintain contact with Durk?

1415:34:03 A. Yes.

1515:34:04 Q. Throughout his life?

1615:34:05 A. Yes.

1715:34:06 Q. Do you know a person named -- I'm going to give you a
1815:34:09 couple of names, okay?

1915:34:10 A. Okay.

2015:34:10 Q. Kavon Grant? I'm also referring to him as Vonni or Cuz.

2115:34:16 A. Yes, I know him.

2215:34:17 Q. And how do you know that person?

2315:34:19 A. From Dayvon Bennett.

2415:34:22 Q. Okay. How do you know Dayvon Bennett?

2515:34:26 A. We grew up down the street from one another also. We all

115:34:30 from the same neighborhood, south side of Chicago.

215:34:32 Q. And were you in walking distance from Dayvon Bennett?

315:34:39 A. We definitely walking distance from one another, yes.

415:34:41 Q. Okay. Do you call Dayvon Bennett anything else?

515:34:47 A. Yeah, call him Grandson.

615:34:52 Q. Do you have a relationship with Kavon Grant?

715:34:56 A. Yes.

815:34:57 Q. Is it a much -- big relationship? Small relationship?

915:35:01 How would you describe it?

1015:35:02 A. Pretty small of a relationship.

1115:35:05 Q. And it was through, obviously --

1215:35:07 A. It was through Dayvon.

1315:35:08 Q. Dayvon.

1415:35:10 I want to take you back to a date. Does the date
1515:35:14 November 6th of 2020 mean anything significant to you?

1615:35:17 A. Yes, it means something significant to me.

1715:35:21 Q. Can you tell the ladies and gentlemen of the jury what
1815:35:22 that date signifies for you?

1915:35:25 A. Yes. It was the day they took a friend from me, a person
2015:35:29 that meant a lot to me.

2115:35:30 Q. All right. And have you seen that video of the murder of
2215:35:37 your friend Dayvon Bennett?

2315:35:38 A. Yes, I seen it.

2415:35:39 Q. Did you ever have conversation or conversations -- and if
2515:35:48 it's more than one, we are going to break them down, okay?

115:35:51 A. Okay.

215:35:51 Q. -- with Kavon Grant, also known as Vonni -- the
315:35:57 jurors also known as Cuz. That is the only reason I'm using
415:36:00 all three names.

515:36:00 A. Okay.

615:36:01 Q. Did you ever have conversations with him about the murder
715:36:04 of Dayvon Bennett?

815:36:06 A. Yes, I have.

915:36:07 Q. Can you tell the ladies and gentlemen of the jury, in as
1015:36:11 much detail as you can, about any statement that Kavon Grant
1115:36:17 made to you about the murder of Dayvon Bennett?

1215:36:22 A. The first conversation I had with Kavon was after
1315:36:27 Dayvon's funeral, which was the Saturday after he got killed.
1415:36:31 So that had to be the 6th and the 14th of November in 2020.
1515:36:35 He told me that he had to get those bastards back no matter
1615:36:39 what.

1715:36:39 Q. I'm going to slow you down. People taking notes,
1815:36:43 potentially.

1915:36:44 Who is "he" told you? Who are you speaking of?

2015:36:47 A. "He" is Kavon.

2115:36:48 Q. Okay. Go ahead.

2215:36:49 A. Yeah, that's what he said. He said -- speaking about
2315:36:52 Kavon, "he" -- "I have to get those bastards back that did
2415:36:58 this to Dayvon."

2515:36:59 Q. Do you know specifically who Kavon Grant was referring

115:37:02 to?

215:37:02 A. I knew specifically who he was talking about, yes. He
315:37:06 was talking about Quando Rondo.

415:37:07 Q. Did he tell you that?

515:37:07 A. Yes, he told me that. We was on a FaceTime call when he
615:37:11 said it.

715:37:11 Q. Did Kavon Grant tell you anything else during that call
815:37:16 on the same -- under the same conversation, same topic?

915:37:18 A. Yes. I was --

1015:37:21 Q. Tell the ladies and gentlemen of the jury.

1115:37:21 A. I was sent to his grandmother's house to get obituaries.

1215:37:28 Q. I'm going to -- when you say "I was sent," you are
1315:37:31 talking about yourself?

1415:37:31 A. Yes, me. It was just me. I was sent to his
1515:37:36 grandmother's house to get obituaries.

1615:37:39 Q. Whose grandmother?

1715:37:40 A. Kavon.

1815:37:40 Q. Kavon Grant's grandmother?

1915:37:42 A. Yes.

2015:37:43 Q. And what happened?

2115:37:43 A. He told me to go get them. Because he doesn't know
2215:37:46 anybody that is from the same neighborhood as us, so he was
2315:37:51 like, "Could you go get these obituaries and pass them out to
2415:37:55 people who you think may need them or want them?" That's
2515:37:57 what he told me.

115:37:58 Q. Did he tell you anything else about -- these are my
215:38:02 words -- getting revenge against Quando Rondo?

315:38:05 A. Yeah, he was really animated about it. Like he really
415:38:08 wanted to get revenge for him. Really upset about it.

515:38:11 Q. What did he say, if anything, further?

615:38:13 A. Well, I could remember one night, that same night we were
715:38:18 in Saint Louis, it was May the 16th of 2021, going into May
815:38:24 the 17th of 2021. He was kind of animated then about it. "I
915:38:29 got to go do it. I got to get them. No matter what, I got
1015:38:32 to do it."

1115:38:33 Q. Who was Kavon Grant talking about?

1215:38:35 A. Quando Rondo.

1315:38:36 Q. Are you certain?

1415:38:37 A. I'm certain. He said it.

1515:38:38 Q. Did he say anything of a threat, that he was going to do
1615:38:41 something of a threatening nature or physical nature to
1715:38:44 Quando Rondo?

1815:38:44 A. He sure did.

1915:38:45 Q. Tell the jurors what exactly Mr. Kavon Grant said.

2015:38:49 A. "Pop. I'm going to pop him." Or "I'm going to be there
2115:38:53 when it happens." That's what he told me.

2215:38:54 Q. Okay. And how did you understand that, what he was
2315:38:57 telling you?

2415:38:58 A. I come from Chicago. I have seen gun violence for quite
2515:39:02 some time. When a person says that, they mean it.

115:39:04 Q. Now, you were very specific. You said -- I understand
215:39:08 the funeral. But then you said May 16, 2021, going into
315:39:13 May 17, 2021, St. Louis, Missouri.

415:39:15 A. Yes.

515:39:16 Q. That's fair to say you said that?

615:39:17 A. Yes.

715:39:18 Q. How do you remember this date, and how did you come to be
815:39:22 in St. Louis, Missouri?

915:39:24 A. One of my -- I have an accountant's degree. When my mind
1015:39:28 sees numbers, it does not forget them. I was at a show.
1115:39:32 Durk had a show, he was performing, and I was invited.

1215:39:35 Q. And who else was there when Kavon Grant stated that he
1315:39:40 would -- he would seek revenge against Quando Rondo?

1415:39:48 A. It was me -- well, Boonie, Nut. It was a few of us.

1515:39:53 Q. Okay. How about Durk?

1615:39:56 A. No, he was not in there with us. I didn't see him. He
1715:39:59 had to be, like, in another hotel room.

1815:40:01 Q. Was Durk ever present when Vonni -- or, excuse me, Kavon
1915:40:07 Grant, or Vonni, or Cuz ever made any of these statements
2015:40:09 about he was going to get revenge and -- against Quando
2115:40:13 Rondo?

2215:40:13 A. No, he was never present.

2315:40:20 Q. Have you ever been contacted by law enforcement?

2415:40:27 A. Never. I have a zero arrest history. Never been
2515:40:31 arrested.

115:40:31 Q. Okay. Okay. Let's go there. You never been arrested
215:40:36 for a crime?

315:40:37 A. No, sir.

415:40:37 Q. Never been convicted of a crime?

515:40:39 A. No, sir.

615:40:39 Q. Okay. All right. I was asking a little different
715:40:42 question, if I may.

815:40:44 Did law enforcement on this case ever come to you
915:40:47 and ask you what, if anything, Kavon Grant ever told you?

1015:40:51 A. Never.

1115:40:52 Q. Are you -- I know you said you have never been arrested,
1215:40:57 never been convicted. Are you part -- are you a member of
1315:41:00 any criminal street gang?

1415:41:01 A. No.

1515:41:03 Q. Are you an associate of any criminal street gang?

1615:41:05 A. No.

1715:41:07 Q. Do you know a person named Kacey Hester?

1815:41:13 A. Yes, I know Kacey Hester personally.

1915:41:16 Q. And do you know him by another name?

2015:41:17 A. Jam.

2115:41:18 Q. All right. And how do you know Kacey Hester, or Jam?

2215:41:22 A. We were in the same neighborhood with one another after
2315:41:25 he got dismissed from his neighborhood.

2415:41:28 Q. All right. And you are talking about as a child?

2515:41:30 A. As a child, yes. I met him when I had to be like 8th

115:41:34 grade or freshman in high school.

215:41:36 Q. And were you aware -- and if you are aware -- that

315:41:39 Mr. Hester went to prison at a young age, for about a dozen
415:41:42 years?

515:41:42 A. Yes, I remember.

615:41:43 Q. And did you ever visit Mr. Hester?

715:41:46 A. Yes, I have visited him in jail before.

815:41:49 Q. All right. And do you speak with him?

915:41:54 A. Yes.

1015:41:55 Q. And why do you communicate with him?

1115:42:00 A. We grew up with one another, and I just knew everybody in
1215:42:04 my neighborhood to be friend, not foe.

1315:42:07 Q. With Mr. Hester, did he ever recently -- when I say

1415:42:12 "recently," do you realize he got arrested again on or about
1515:42:15 May 2nd of 2023?

1615:42:16 A. Yes, I remember.

1715:42:17 Q. All right. Did you ever have a conversation with him
1815:42:21 about what his thoughts were about going back to prison?

1915:42:24 A. He told me he was never cuffing up again and going to
2015:42:28 jail.

2115:42:28 Q. And "cuffing up" meant what?

2215:42:29 A. Going back to prison. He told me he was never going to
2315:42:33 do it.

2415:42:35 MR. STEEL: I want to thank you so much.

2515:42:36 THE WITNESS: Thank you.

115:42:38 MR. STEEL: Your Honor, thank you.

215:42:39 THE COURT: Mr. Harbaugh? Mr. Mills?

315:42:40 MR. HARBAUGH: None, Your Honor.

415:42:42 THE COURT: No, sir, you've got to be
515:42:43 cross-examined. If you could please sit down for a moment.

615:42:46 THE WITNESS: Okay.

715:42:46 THE COURT: Then nothing. All right --

815:42:49 MR. MILLS: Nothing, Your Honor.

915:42:50 THE COURT: The prosecutors are now going to
1015:42:51 cross-examine you.

1115:42:52 THE WITNESS: Okay.

1215:42:52 CROSS-EXAMINATION

1315:42:55 BY MR. YANNIELLO:

1415:42:55 Q. Good afternoon, sir.

1515:42:57 A. How are you doing?

1615:42:58 Q. So how long have you known Mr. Banks?

1715:43:02 A. We were kids, really young.

1815:43:04 Q. Since you were kids?

1915:43:05 A. Grammar school, yes.

2015:43:06 Q. Do you want to see anything bad happen to him?

2115:43:12 A. Yes.

2215:43:13 Q. You do?

2315:43:13 A. Yeah.

2415:43:15 Q. Mr. Banks?

2515:43:16 A. Yes.

115:43:18 You said do I want to say anything bad happened to
215:43:20 him?

315:43:21 Q. See anything bad happen to him?

415:43:22 THE COURT: See anything bad happen to him,
515:43:25 Mr. Green?

615:43:26 THE WITNESS: No.

715:43:26 MR. YANNIELLO: Poorly --

815:43:26 THE WITNESS: Never. No.

915:43:28 Q. So I'm going to ask you: You mentioned just now that you
1015:43:31 also know Kacey Hester, who I circled in the middle?

1115:43:34 A. Yes, I know him.

1215:43:36 Q. You grew up with him?

1315:43:37 A. Yes.

1415:43:37 Q. Same neighborhood?

1515:43:38 A. Yeah.

1615:43:38 Q. Do you know Deandre Wilson?

1715:43:39 A. Yes, I do.

1815:43:40 Q. And you mentioned Boonie Moe as well?

1915:43:42 A. Yeah, I know Boonie Moe.

2015:43:44 Q. Were you ever involved in any conversations about a
2115:43:50 murder in Los Angeles with any of these individuals?

2215:43:53 A. Yes.

2315:43:56 Q. Who was that?

2415:43:57 A. Jam.

2515:43:58 Q. Okay. Other than Jam, were you involved in any private

115:44:01 messages between these individuals?

215:44:02 A. No.

315:44:06 MR. YANNIELLO: Can you publish 124 at 2.

415:44:15 Q. Were you involved in any private messages between any of
515:44:18 these individuals about get back for Quando Rondo?

615:44:20 A. Oh, get back for -- no.

715:44:23 MR. YANNIELLO: No further questions.

815:44:25 THE COURT: Any redirect?

915:44:28 MR. STEEL: No. Thank you, sir.

1015:44:29 THE COURT: All right.

1115:44:30 MR. HARBAUGH: No, Your Honor.

1215:44:31 MR. MILLS: No, Your Honor.

1315:44:31 THE COURT: All right. Now, Mr. Green, you are
1415:44:34 excused. Thank you.

1515:44:36 THE WITNESS: Okay.

1615:44:39 THE COURT: Mr. Banks may call his next witness.

1715:44:41 MS. GOLDBERG: Thank you, Your Honor. Mr. Banks
1815:44:43 calls Justin Gibson.

1915:44:44 THE COURT: Ladies and gentlemen, it's my
2015:44:45 understanding Mr. Gibson is going to be the last witness, so
2115:44:50 what I propose is that we finish with that, but if you need
2215:44:52 to take a break or you are not in a position right now to
2315:44:55 focus on the testimony, then raise your hand, and we'll take
2415:44:58 a quick break.

2515:44:59 All right. I see no hands. All right. We'll

115:45:01 proceed with Mr. Gibson.

215:45:10 THE CLERK: This way, please.

315:45:20 Please raise your right hand.

415:45:23 THEREUPON:

515:45:23 JUSTIN GIBSON,

615:45:23 Called in these proceedings, and after having been first duly
715:45:31 sworn, testifies as follows:

815:45:31 THE CLERK: Thank you. Please state and spell your
915:45:44 name for the record.

1015:45:45 THE WITNESS: Justin Gibson; J-u-s-t-i-n,
1115:45:50 G-i-b-s-o-n.

1215:45:51 THE CLERK: Thank you.

1315:45:52 THE COURT: Counsel, you may proceed.

1415:45:54 MS. GOLDBERG: Thank you, Your Honor.

1515:45:54 DIRECT EXAMINATION

1615:45:56 BY MS. GOLDBERG:

1715:45:56 Q. Good afternoon, Mr. Gibson.

1815:45:57 A. Hello.

1915:45:58 Q. If you could just tell the members of the jury a little
2015:46:00 bit about yourself.

2115:46:01 Where are you from?

2215:46:01 A. I'm from Atlanta.

2315:46:03 Q. Okay. And just give a little bit of a background on your
2415:46:07 educational background.

2515:46:08 A. I went to Morehouse for two years. I would have been

115:46:11 class of 2019. I transferred to SAE and graduated with my
215:46:16 associate's in 2018.

315:46:17 Q. Okay. And did you ever get involved in the music
415:46:19 industry?

515:46:19 A. Yes.

615:46:20 Q. What drew you into the music industry?

715:46:22 A. Engineering, producing.

815:46:25 Q. Okay. Did you ever play any instruments yourself?

915:46:28 A. Yes, I played piano.

1015:46:31 Q. When did you start playing piano?

1115:46:33 A. Around 4 or 5 years old.

1215:46:34 Q. Okay. And did you ever start -- when did you first start
1315:46:38 in the music industry?

1415:46:38 A. I first started professionally in 2018.

1515:46:41 Q. Okay. Before that, what were you doing?

1615:46:43 A. Just making beats.

1715:46:45 Q. Okay. And your educational background, was that related
1815:46:51 to what you ended up doing?

1915:46:53 A. Yes. When I went to SAE, it was.

2015:46:54 Q. What was your particular specialty?

2115:46:57 A. Engineering -- for school, it was engineering.

2215:46:59 Q. Okay. Can you explain how that pertains to what you did
2315:47:03 in the music industry for the members of the jury?

2415:47:04 A. Engineering is just piecing together songs, recording,
2515:47:10 mixing, and getting them to a refined place so that way it is

115:47:15 finished.

215:47:15 Q. And when you first started out professionally, where did
315:47:17 you start?

415:47:18 A. I started at an internship with Hitco, L.A. Reid's label,
515:47:25 and I eventually found my way to Sony in 2020.

615:47:28 Q. Okay. How long were you there for?

715:47:29 A. A few years, two years.

815:47:31 Q. Okay. And did you eventually get introduced to
915:47:36 Mr. Banks, Durk Banks?

1015:47:37 A. Yes.

1115:47:37 Q. Okay. How did you first meet Mr. Banks?

1215:47:40 A. I met him in a session when I was working with a
1315:47:42 different artist the year before we started working
1415:47:45 professionally, and then in 2021, we began to work together.

1515:47:48 Q. Okay. And can you just explain what you started doing
1615:47:52 with Mr. Banks in 2021?

1715:47:53 A. In 2021, I was assisting his sessions, and then
1815:47:57 eventually he wanted me to record one day, and he wanted to
1915:48:00 lock in, so over time, we just kept recording, kept working,
2015:48:04 and became a thing.

2115:48:05 Q. Okay. And over time, did you start spending more time
2215:48:09 with Mr. Banks, working with him more often?

2315:48:11 A. Yes. Yes.

2415:48:12 Q. Okay. Can you explain that a little bit?

2515:48:14 A. They had a schedule -- because I worked through Sony, so

115:48:19 anytime he wanted to come and record, I was there to be able
215:48:22 to work with him. So we just kept working throughout 2021,
315:48:25 and it was just about every day, honestly.

415:48:27 Q. Okay. And do you eventually work exclusively with
515:48:31 Mr. Banks?

615:48:31 A. Yes.

715:48:31 Q. When did that start?

815:48:32 A. That started at the top of 2022.

915:48:34 Q. Okay. And when did that last until?

1015:48:37 A. Until 2024.

1115:48:41 Q. Okay. And so are you currently employed by Mr. Banks?

1215:48:45 A. Yes.

1315:48:46 Q. Okay. What are you doing professionally now?

1415:48:51 A. Just mixing now. I still track and engineer.

1515:48:55 Q. I want to take you back to 2022 a little bit, okay?

1615:48:58 So you are working on a salary for Mr. Banks. How
1715:49:03 often were you around him?

1815:49:04 A. Just about every day we would record. We would take
1915:49:07 breaks every few days. But, yeah, just about every day.

2015:49:10 Q. Okay. And what would those kind of sessions entail?

2115:49:14 A. Pull up -- we would pull up some beats. We would start
2215:49:19 recording. He would write some lyrics. We would just really
2315:49:24 run through songs, like, back to back to back.

2415:49:26 Q. And you eventually spent a lot of time with him during
2515:49:29 that time period?

115:49:30 A. Yes.

215:49:30 Q. Okay. How often was Mr. Banks in the studio doing these
315:49:34 recordings at that time?

415:49:35 A. Very often.

515:49:37 Q. Okay. Can you give an estimate?

615:49:38 A. If it's a week, I would say, like, probably five days out
715:49:43 of the week.

815:49:43 Q. Okay. So he was pretty focused on his work, would you
915:49:47 agree with me, at that time?

1015:49:48 A. Yes.

1115:49:48 Q. Okay. Because you spent a lot of time with Mr. Banks,
1215:49:51 were you made aware of, you know, the people in his
1315:49:56 professional life?

1415:49:56 A. Yes.

1515:49:57 Q. Okay. And can you describe the members of Mr. Banks'
1615:50:02 management team?

1715:50:03 A. At a certain time it was Ola, it was Jason, and Dilla.

1815:50:09 Q. Okay. When you say Ola, Jason, and Dilla, would that be
1915:50:12 Jason Smith?

2015:50:12 A. Yes.

2115:50:13 Q. Okay. And then Ola, I think, Alli. It's kind of
2215:50:17 abbreviated?

2315:50:18 A. Yes.

2415:50:18 Q. And Dilla, would that be Andrew Bonsu?

2515:50:21 A. Yes.

115:50:21 Q. Okay. Were you also aware of an individual named Kavon
215:50:28 Grant, or Vonni, or Cuz?

315:50:29 A. Yes.

415:50:29 Q. Okay. And what was your understanding of his role within
515:50:33 Mr. Banks' team?

615:50:34 A. He was assistant level with everything. I mean, he
715:50:38 helped handle Durk's day-to-day, like carry his bag, stuff
815:50:43 like that.

915:50:43 Q. Okay. What about financially, was he also involved in
1015:50:46 that as well?

1115:50:46 A. Yes.

1215:50:47 Q. Okay. And what was your awareness of what he did
1315:50:50 financially with Mr. Banks?

1415:50:51 A. Financially, he would do things like book flights, he
1515:50:55 would pay for things, handle his money, handle his cards,
1615:51:00 interface for him, essentially.

1715:51:02 Q. Okay. Did you ever personally see him with Mr. Banks'
1815:51:05 credit cards?

1915:51:05 A. Yes.

2015:51:06 Q. Okay. Did he ever book flights for you?

2115:51:08 A. Yes.

2215:51:08 Q. Did you ever travel with Mr. Banks?

2315:51:12 A. Yes.

2415:51:13 Q. Okay. How often do you think you traveled with
2515:51:16 Mr. Banks?

115:51:16 A. Here and there. If he was going to a different city, I
215:51:20 might take a flight, and they would book it for me, and then
315:51:23 other times we might travel by a private jet.

415:51:25 Q. Okay. So you occasionally used a private jet with
515:51:29 Mr. Banks?

615:51:29 A. Occasionally, yes.

715:51:31 Q. Okay. Not often -- not always. Sometimes it would be
815:51:32 commercial and sometimes it would be private?

915:51:34 A. Yes.

1015:51:34 Q. Okay. And what -- did you eventually work on a
1115:51:42 particular album with Mr. Banks?

1215:51:43 A. Yes.

1315:51:44 Q. Okay. What album was that?

1415:51:45 A. It was "7220."

1515:51:47 Q. Okay. And when was that?

1615:51:49 A. That was 2022 when it was released, but we started
1715:51:53 recording through 2021.

1815:51:55 Q. Okay. And you worked on that entire album with him?

1915:51:58 A. Yes.

2015:51:58 Q. Okay. And can you, to the best of your ability, discuss
2115:52:05 kind of the thought process that came into making that album?

2215:52:08 A. He wanted to capitalize on the momentum of everything
2315:52:15 just going on with his music career. He had a lot of good
2415:52:19 features and a lot of momentum regarding that, so he wanted
2515:52:22 to make a really good, well-done album with good records that

115:52:25 resonated with his fan base.

215:52:28 Q. Okay. Was one of the songs on that album called

315:52:32 "Ahhh-ha"?

415:52:33 A. Yes.

515:52:33 Q. Was one of those songs on the album a song called "Pissed
615:52:37 Me Off"?

715:52:37 A. Yes.

815:52:38 Q. I'm going to go through each one, because I think members
915:52:40 of the jury have heard of these songs before. So I'm going
1015:52:43 to start with "Ahhh-ha."

1115:52:44 A. Um-hum.

1215:52:44 Q. Can you describe a little bit about that song? I think
1315:52:48 there is some lyrics in there that say, you know, "Don't
1415:52:52 respond to things with Von." I'm paraphrasing a little bit.

1515:52:56 Can you explain, what was the thought process behind
1615:52:58 making that song in particular?

1715:53:00 A. Yes. So there was a lot of lore surrounding just things
1815:53:06 that had happened in Durk's life and around him prior, and he
1915:53:09 just wanted to kind of address a few things using that song
2015:53:12 and using music, generally speaking, as a medium. So he just
2115:53:16 figured this would be a good time to just capitalize off the
2215:53:18 momentum of that and just be able to give the people what
2315:53:21 they wanted to hear, from a creative standpoint.

2415:53:23 Q. Okay. When you say "lore," can you be specific? What
2515:53:26 are you talking about?

115:53:27 A. Things like the death of King Von, other things that were
215:53:32 happening around his old neighborhood.

315:53:34 Q. Okay. Were you aware of the Slide for Von movement?

415:53:39 A. I was aware of it, yes.

515:53:40 Q. Okay. What was that, in your opinion?

615:53:42 A. It was more of a social media thing. It was just
715:53:48 different people, commentators wanting to troll him, and --
815:53:56 yeah, pretty much troll him, trying to get him to have a
915:53:59 reaction. Whether or not physical or not, just say something
1015:54:02 about it.

1115:54:03 Q. Okay. So say something about it. So was that something
1215:54:07 that was done in this song?

1315:54:08 A. Yes.

1415:54:09 Q. Okay. Can you explain what you mean by that?

1515:54:13 A. He just wanted to literally say something about it, speak
1615:54:20 on it. So that way, he could put some things to rest.

1715:54:23 Q. Do you believe there was an expectation that Mr. Banks
1815:54:26 say something about it?

1915:54:27 A. Yes.

2015:54:28 Q. Okay. And why do you believe that?

2115:54:30 A. The socials, the people on social media really wanted him
2215:54:34 to have a response, and he just figured because of the
2315:54:38 momentum he had from other songs and the fact that the label
2415:54:41 wanted him to put up numbers, that he ought to say something
2515:54:46 about it and it would get a good reaction.

115:54:48 Q. Was there a discussion within the label about kind of
215:54:52 that Slide for Von movement and music resulting from that?

315:54:57 A. No.

415:54:58 Q. Was there ever any conversation about potentially
515:55:02 commercializing that Slide for Von movement?

615:55:04 A. No.

715:55:06 Q. Okay. Was there discussion about what was expected or
815:55:11 what the fans maybe wanted to hear from Mr. Banks?

915:55:14 A. Not from the label. It was more so just the -- he knew
1015:55:18 the formula, and knew that the label was going to accept
1115:55:20 whatever he would present.

1215:55:22 Q. Okay. What was your understanding of what kind of music
1315:55:26 would resonate with the fans?

1415:55:28 A. Music that he had made before that kind of resonated with
1515:55:34 his background, his city, his neighborhood and everything.
1615:55:37 Like he's a Chicago rapper, therefore, he just -- that was
1715:55:42 the sound, drill music. It was just kind of what he wanted
1815:55:47 to capitalize on.

1915:55:48 Q. Were you aware of the Tekashi 6ix9ine podcast that went
2015:55:53 viral?

2115:55:54 A. Yes.

2215:55:54 Q. Okay. What was your impression of that?

2315:55:57 A. I thought it was funny.

2415:56:00 Q. Okay. Do you know if that played any part into kind of
2515:56:05 this response through music?

115:56:07 A. Yes.

215:56:07 Q. Okay. Can you explain that and elaborate on that,
315:56:10 please?

415:56:11 A. So 6ix9ine was obviously going crazy on the socials and
515:56:16 going crazy on podcasts, capitalizing off of Durk's name and
615:56:20 capitalizing off of the situation that he endured. And Durk
715:56:24 figured that it was about his time that he capitalize off the
815:56:27 situation too and begin to make money.

915:56:29 Q. And songs like "Ahhh-ha," was that what resulted from
1015:56:32 that?

1115:56:33 A. Yes.

1215:56:33 Q. Okay. And the song "Pissed Me Off," you are aware of
1315:56:41 that song, obviously?

1415:56:42 A. Yes.

1515:56:42 Q. Okay. Was that kind of in the same thought process of
1615:56:45 the other one?

1715:56:45 A. Yes.

1815:56:45 Q. Okay. During that time period that you were working with
1915:56:55 him, what city did Mr. Banks live in?

2015:56:59 A. In Atlanta.

2115:57:01 Q. And this was in 2022?

2215:57:03 A. Yeah, in 2022 -- at the top of 2022, we were in Atlanta,
2315:57:06 and then we moved out to LA.

2415:57:07 Q. Okay. So how long were you with Mr. Banks in Atlanta?

2515:57:12 A. From the top of 2022 up until about August.

115:57:17 Q. Okay. So Mr. Banks was not living in Chicago during that
215:57:19 time period?

315:57:20 A. No.

415:57:20 Q. Okay. And then when Mr. Banks moved to the Los Angeles
515:57:24 area, would that be kind of the Encino area?

615:57:27 A. Yes.

715:57:27 Q. Okay. And you said "we," so did you move also, along
815:57:31 with him?

915:57:31 A. Yes, I did.

1015:57:32 Q. Okay. And let me see if I can pull up Government's
1115:57:39 Exhibit 45. Do you recognize that home?

1215:57:52 A. Yes.

1315:57:52 Q. Okay. Were you living with Mr. Banks at this Valley
1415:57:56 Vista home in Encino?

1515:57:57 A. Yes.

1615:57:57 Q. Okay. And what time period did you live there?

1715:58:00 A. Throughout the month of August, essentially, yeah.

1815:58:05 Q. Anytime after that also?

1915:58:06 A. No, we moved after that.

2015:58:08 Q. Okay. And you moved with him?

2115:58:10 A. Yes.

2215:58:11 Q. Okay. Can you explain who lived at that home with you
2315:58:16 and Mr. Banks?

2415:58:17 A. Durk and I, he had security there, his wife, his two
2515:58:25 children, and his mother-in-law.

115:58:27 Q. Okay. And so you were there basically the entire time
215:58:32 that Durk Banks was there?

315:58:33 A. Yes.

415:58:33 Q. Okay. And what were you doing with Mr. Banks while you
515:58:37 were living there with him at that Valley Vista home?

615:58:39 A. Recording. We would periodically go to different
715:58:43 studios, but we also had a studio set up in the garage.

815:58:46 Q. Okay. And do you recall a specific trip in -- I believe
915:58:59 August 16th of 2022, to Miami, Florida?

1015:59:02 A. Yes.

1115:59:02 Q. Okay. And let me -- one second. I'm going to show you
1215:59:10 Government's Exhibit 47. This is an itinerary for that trip.
1315:59:23 Do you see your name --

1415:59:25 A. Yes.

1515:59:25 Q. -- on that itinerary?

1615:59:27 A. Yes, I do.

1715:59:28 Q. Okay. So you made that trip to Miami on August 16, 2022,
1815:59:34 with Mr. Banks?

1915:59:35 A. Yes.

2015:59:35 Q. And also, as you can see there, with Kavon Grant?

2115:59:38 A. Yes.

2215:59:39 Q. And Devonte Richmond, which I believe is DJ Bandz?

2315:59:44 A. Yes.

2415:59:44 Q. Okay. And what was the purpose of that trip?

2515:59:47 A. We were just going to record a DJ Khaled video.

115:59:55 Q. And did you do that?

215:59:57 A. Yes.

315:59:57 Q. Okay. And what did you do on that trip?

416:00:00 A. We went and did the video, and just turned back around.

516:00:05 Q. Okay. And you were with Mr. Banks the entire time?

616:00:07 A. Yes.

716:00:09 Q. Okay. So you flew with him, you also flew back with him.

816:00:13 And that was a private jet; am I right about that?

916:00:15 A. Yes.

1016:00:15 Q. Okay. So you were on that private jet. Would that have
1116:00:19 been August 18th of 2022?

1216:00:21 A. Yes.

1316:00:21 Q. Okay. And that -- who was on that jet with you? Was it
1416:00:25 the same people that went there the first time?

1516:00:27 A. Yes.

1616:00:27 Q. Okay. So that would be Mr. Banks, Mr. Grant, yourself,
1716:00:32 and DJ Bandz?

1816:00:34 A. Yes.

1916:00:34 Q. Okay. And can you describe the private jet? It's not
2016:00:39 like a commercial airline, correct?

2116:00:40 A. Yes, it's smaller, more compact, comfortable seats. Far
2216:00:47 more comfortable seats.

2316:00:48 Q. Okay. But you are, you know, pretty close to the other
2416:00:51 people on that. It's not a huge jet, correct?

2516:00:54 A. Yes.

116:00:54 Q. It's relatively small? Okay.

216:00:57 And on that flight back, do you recall any specific
316:01:01 conversations by either Mr. Grant or Mr. Banks about planning
416:01:08 a murder?

516:01:08 A. No.

616:01:09 Q. Do you recall any specific conversations by Mr. Grant or
716:01:13 Mr. Banks about planning the logistics for a murder?

816:01:17 A. No.

916:01:17 Q. Do you recall any specific conversations by Mr. Grant or
1016:01:21 Mr. Banks about having a location for Quando Rondo?

1116:01:24 A. No.

1216:01:25 Q. And something like that, I imagine, would be memorable to
1316:01:30 you, correct?

1416:01:30 A. Yes.

1516:01:30 Q. Okay. And when you landed in -- on August 18th of 2022,
1616:01:40 did you all take a car together?

1716:01:42 A. Yes.

1816:01:43 Q. Okay. And so you were all in the car with Mr. Grant and
1916:01:46 Mr. Banks, correct?

2016:01:47 A. Yes.

2116:01:48 Q. Okay. Do you recall in that car any conversations about
2216:01:53 having a location for Quando Rondo?

2316:01:55 A. No.

2416:01:55 Q. Do you recall any conversations about planning a murder?

2516:01:59 A. No.

116:01:59 Q. Would something like that have been very memorable to
216:02:03 you?

316:02:03 A. Yes.

416:02:03 Q. And then on August 18th, you went back to the home on
516:02:12 Valley Vista in Encino?

616:02:14 A. Yes.

716:02:14 Q. Okay. Were you there with Mr. Banks that day?

816:02:16 A. Yes, I was.

916:02:18 Q. Do you recall anything that day that was out of the
1016:02:23 ordinary?

1116:02:23 A. No.

1216:02:23 Q. Do you recall Mr. Grant coming and giving updates about a
1316:02:28 potential murder to Mr. Banks?

1416:02:30 A. No.

1516:02:30 Q. Would that have stuck out for you as something you would
1616:02:35 have remembered?

1716:02:36 A. Yes.

1816:02:36 Q. Okay. Now, just to be clear: Mr. Grant did occasionally
1916:02:42 come to that home in Valley Vista, correct?

2016:02:44 A. Yes, he did.

2116:02:45 Q. So he would be kind of back and forth?

2216:02:47 A. Yes.

2316:02:48 Q. Would he ever stay over at that house?

2416:02:51 A. Yes.

2516:02:52 Q. Okay. Would that be he had a room, or would he, like,

116:02:55 crash on the couch or something like that?

216:02:56 A. Crash on the couch.

316:02:58 Q. But that would be normal and typical, at least for the
416:03:01 time that you were there?

516:03:02 A. Yes.

616:03:02 Q. Have you been in Atlanta for the last couple of years,
716:03:13 living in the same place?

816:03:14 A. Yes.

916:03:14 Q. Okay. Have you ever spent any long periods of time out
1016:03:19 of the country during that time period?

1116:03:21 A. No.

1216:03:21 Q. Did you ever live out of the country during that time
1316:03:24 period?

1416:03:25 A. No.

1516:03:25 Q. Have you ever been interviewed by law enforcement in
1616:03:28 relation to this case whatsoever?

1716:03:29 A. No.

1816:03:32 MS. GOLDBERG: One moment, Your Honor.

1916:03:32 THE COURT: You have it.

2016:03:45 (Pause in proceedings.)

2116:03:58 MS. GOLDBERG: No further questions, Your Honor.

2216:04:00 THE COURT: Mr. Harbaugh? Mr. Mills?

2316:04:03 MR. HARBAUGH: None, Your Honor.

2416:04:04 MR. MILLS: None, Your Honor.

2516:04:06 THE COURT: Cross-examination from the Government?

116:04:07 MR. MORSE: Yes, Your Honor.

216:04:07 CROSS-EXAMINATION

316:04:09 BY MR. MORSE:

416:04:09 Q. Good afternoon, Mr. Gibson.

516:04:18 A. Hello.

616:04:18 Q. So you started working for Sony in 2020, you said?

716:04:22 A. Yes.

816:04:22 Q. Okay. And then at some point you began a working

916:04:26 relationship with Mr. Banks; is that correct?

1016:04:27 A. Yes.

1116:04:28 Q. You said that was around 2021?

1216:04:30 A. Yes.

1316:04:30 Q. Okay. And by "working relationship," were you making,
1416:04:34 like, beats for him?

1516:04:35 A. I was engineering.

1616:04:37 Q. Okay. So you weren't making the beats, but you were in
1716:04:39 the studio kind of tweaking the sound, and so on?

1816:04:41 A. Yes. So I was recording his vocals and tweaking the
1916:04:44 sound from there.

2016:04:45 Q. I see. So somebody else made the beats?

2116:04:48 A. Yes.

2216:04:48 Q. Okay. And in 2022, you began to work exclusively with
2316:04:53 Mr. Banks as his sort of personal engineer?

2416:04:55 A. Yes.

2516:04:55 Q. Okay. That is kind of a big deal. Mr. Banks was pretty

116:05:00 big in 2022. You agree?

216:05:02 A. Yes.

316:05:02 Q. Okay. So that was a huge opportunity for you?

416:05:04 A. Yes.

516:05:04 Q. All right. Was that the first time that you had this
616:05:07 kind of opportunity with a major hip-hop artist making you
716:05:10 his personal engineer?

816:05:11 A. Yes.

916:05:12 Q. Okay. And you were getting paid for that, obviously?

1016:05:15 A. Yes.

1116:05:15 Q. All right. And were you -- and you were able to travel
1216:05:19 with Mr. Banks, correct?

1316:05:19 A. Yes.

1416:05:20 Q. All right. And you were able to attend shows, I would
1516:05:23 imagine?

1616:05:23 A. Yes.

1716:05:24 Q. Okay. And you were able to spend time with him and his
1816:05:28 entourage; is that correct?

1916:05:29 A. Yes.

2016:05:29 Q. And then even now, you said you still work for him?

2116:05:32 A. Yes. Just mixing and doing things like that.

2216:05:36 Q. You still work on his music to this day?

2316:05:38 A. Yes.

2416:05:38 Q. Okay. And so you must be pretty familiar with his music?

2516:05:44 A. Yes.

116:05:44 Q. So you mentioned drill music, didn't you?

216:05:48 A. Yes.

316:05:49 Q. What is drill music?

416:05:50 A. It's a subgenre of hip-hop.

516:05:54 Q. What is talked about in drill music? What is the subject
616:05:57 matter?

716:05:57 A. Hip-hop subject matters.

816:06:05 Q. Hip-hop subject matters?

916:06:06 Well, specifically, drill music is a particularly
1016:06:09 violent kind of music, right?

1116:06:10 A. Traditionally, yes.

1216:06:11 Q. It's talking about killing people a lot of times, right?

1316:06:14 A. Yes.

1416:06:14 Q. Talking about opps, as in rivals?

1516:06:17 A. Yes.

1616:06:17 Q. Talking about enemies and killing enemies?

1716:06:20 A. Yes.

1816:06:20 Q. Sometimes it talks about gang violence?

1916:06:22 A. Sometimes.

2016:06:23 Q. Mr. Banks talked about gang violence?

2116:06:25 A. No.

2216:06:26 Q. In his music, he didn't?

2316:06:28 A. Not from him personally, no. He spoke on what was being
2416:06:32 said around him or what people would say in his
2516:06:36 neighborhoods.

116:06:36 Q. Are you aware that Mr. Banks is a -- from the South Side
216:06:39 of Chicago, a Black Disciple?

316:06:40 A. Yes.

416:06:41 Q. Okay. So you know he's a Black Disciple?

516:06:43 A. I know that he's from the South Side of Chicago.

616:06:45 Q. And a Black Disciple. You know that, right?

716:06:47 A. I wasn't aware of that.

816:06:48 Q. Have you seen his tattoos?

916:06:50 A. No.

1016:06:50 Q. Okay. Are you a Black Disciple, sir?

1116:06:53 A. No.

1216:06:54 Q. Are you a gang member of any kind?

1316:06:55 A. No.

1416:06:57 THE COURT: Just a moment.

1516:06:58 Ladies and gentlemen, you have the right -- members
1616:07:01 of the public have the right to be here. You individually do
1716:07:03 not. And I really don't want to do this, but you can't
1816:07:07 comment on the testimony of a witness. The jury will make up
1916:07:10 its own mind. If I have to proceed with this trial with
2016:07:13 having the families and Ms. Robinson and the members of the
2116:07:16 press, then I'll do that. Don't make me do that.

2216:07:18 So go ahead, counsel.

2316:07:21 MR. MORSE: All right.

2416:07:21 Q. So you said you were at Mr. Banks' home on October 18th
2516:07:25 and October 19th, right? Is that correct?

116:07:28 A. August 18th and 19th?

216:07:30 Q. Yes. I'm sorry, August 18th and August 19th?

316:07:32 A. I was there those days, yes.

416:07:33 Q. That is 2022, right?

516:07:35 A. Yes.

616:07:35 Q. And August 19th was the day that Quando Rondo was shot at
716:07:40 at a gas station. You know that, don't you?

816:07:42 A. I'm aware of that, yes.

916:07:43 Q. You are in the music industry, right?

1016:07:45 A. Yes.

1116:07:45 Q. This is your business, right, the music industry?

1216:07:49 A. The music industry is my business, yes.

1316:07:51 Q. Okay. So that was a big deal in the music industry when
1416:07:54 Quando Rondo was shot at, wasn't it?

1516:07:56 A. Yes.

1616:07:56 Q. Okay. And did you ever get any text messages from
1716:08:01 anybody associated with Mr. Banks showing Mr. Quando Rondo
1816:08:06 screaming "No, no" on TMZ? Did you ever get any messages
1916:08:10 like that, sir?

2016:08:11 A. No.

2116:08:11 Q. Did you ever -- did you ever get any messages from
2216:08:14 Mr. Banks' manager about Quando Rondo screaming "No, no"?

2316:08:18 A. No.

2416:08:18 Q. What about the "Quando Rondo Challenge," did you ever get
2516:08:20 any messages from any of Mr. Banks' associates who were

116:08:24 sending around text messages about the "Quando Rondo
216:08:26 Challenge"?

316:08:27 A. No, I'm not aware of what that is.

416:08:28 Q. You don't know what the "Quando Rondo Challenge" is?

516:08:30 A. No.

616:08:30 Q. Okay. But you know that Mr. Banks rapped about Quando
716:08:34 Rondo in his music, didn't he?

816:08:36 A. Yes.

916:08:37 Q. Okay. There is something called subliminal disses in the
1016:08:42 rap industry, right?

1116:08:43 A. Yes.

1216:08:44 Q. "Subliminal" means that you are making -- you are saying
1316:08:47 things on the record, but if -- people won't exactly know
1416:08:51 what you are saying unless they know what you are saying. Is
1516:08:53 that right?

1616:08:53 A. Yes.

1716:08:54 Q. So people -- rappers diss other rappers in a subliminal
1816:08:58 fashion; isn't that correct?

1916:08:59 A. Why.

2016:08:59 Q. Rappers make threats against other rappers in a
2116:09:03 subliminal fashion; isn't that right?

2216:09:03 A. Yes.

2316:09:04 Q. Mr. Banks made threats against Mr. Quando Rondo in a
2416:09:07 subliminal fashion, didn't he?

2516:09:09 A. Yes.

116:09:09 MR. MORSE: Let's play Exhibit 396, please.

216:09:36 (Thereupon, the audio was played.)

316:09:18 MR. MORSE: Pause it.

416:09:19 Q. You are familiar with the song that Mr. Banks was
516:09:22 featured on called "Still Runnin," aren't you?

616:09:26 A. Yes.

716:09:27 Q. That is a song that he did with Meek Mill and some
816:09:31 others, right?

916:09:31 A. Yes.

1016:09:31 Q. And he had a verse on it, correct?

1116:09:33 A. Yes.

1216:09:33 MR. MORSE: Let's play it for a second.

1316:09:36 (Thereupon, the audio was played.)

1416:10:00 Q. He says, "we spinnin his shows." You heard that, right?

1516:10:05 A. Yes.

1616:10:05 Q. You know what "spinnin" means, right?

1716:10:07 A. I do.

1816:10:08 Q. What does it mean?

1916:10:09 A. It means to spin, to slide.

2016:10:10 Q. In other words, commit a shooting, right?

2116:10:12 A. Yes.

2216:10:12 Q. Are you aware that this song came out in 2021?

2316:10:15 A. Yes.

2416:10:16 Q. Are you aware that in 2020 and 2021, someone shot at
2516:10:20 Quando Rondo after he left one of his shows?

116:10:22 A. No.

216:10:23 Q. You didn't know that?

316:10:23 A. I was not aware of that.

416:10:25 Q. Okay.

516:10:26 MR. MORSE: Continue playing.

616:10:28 (Thereupon, the audio was played.)

716:10:40 Q. You heard him say "We do it for Von, we don't wait 'til
816:10:43 the shit die down, we load up, and we do it tomorrow."

916:10:46 You heard that?

1016:10:46 A. I did.

1116:10:48 Q. He's talking about killing Quando Rondo, right?

1216:10:50 A. Possibly.

1316:10:50 Q. Possibly. He's talking about sliding for Von, isn't he?

1416:10:53 A. In a lot of his music, because they are subliminals,
1516:10:57 there are no direct people that he's talking about.

1616:10:59 Q. Okay. Let me ask you my question again: He's talking
1716:11:01 about sliding for Von when he says "We do it for Von. We
1816:11:04 don't wait 'til it die down. We load it and we do it
1916:11:07 tomorrow." He's talking about sliding for Von, isn't he?

2016:11:09 A. He's talking about sliding for Von, yes.

2116:11:11 MR. MORSE: And play the next line.

2216:11:15 (Thereupon, the audio was played.)

2316:11:17 Q. He then says, "That Rolls better be bulletproof, lil'
2416:11:23 homie." Right?

2516:11:24 A. Yes.

116:11:25 Q. He says, "You know we gon' shoot at them stars," right?

216:11:27 A. Yes.

316:11:28 MR. MORSE: Put up 389, please.

416:11:32 Q. All right. Are you aware that Mr. Bowman, a/k/a Quando

516:11:37 Rondo, did an interview about the shooting of King Von while
616:11:39 he sat in a Rolls Royce? Are you aware of that?

716:11:43 A. Yes.

816:11:43 Q. So when he said that "Rolls Royce better be bulletproof,

916:11:48 little homie, you know we going to shoot at them stars," he's

1016:11:51 sending a subliminal message about shooting at Quando Rondo,
1116:11:54 right?

1216:11:55 A. Possibly --

1316:11:56 Q. It's obvious, isn't it? In your business, you know what
1416:11:59 he's talking about?

1516:12:00 A. Possibly.

1616:12:00 Q. Why are you saying "possibly." Do you not want to say
1716:12:04 "yes," sir?

1816:12:04 A. Rappers like to use rented vehicles.

1916:12:07 Q. Okay. You yourself worked on -- well, let me ask you
2016:12:14 this.

2116:12:14 MR. MORSE: Play 125-A, please. 125-A.

2216:12:25 (Thereupon, the audio was played.)

2316:12:49 Q. All right. You hear Mr. Banks' voice, didn't you?

2416:12:52 A. Yes.

2516:12:52 Q. You heard him say, "Your homie, Quando, can die." You

116:12:56 heard that?

216:12:56 A. Yes.

316:12:57 Q. You talked about on August 18th and August 19th, you
416:12:59 didn't hear any conversations that you considered to be out
516:13:01 of the ordinary, right?

616:13:02 A. Yes, I didn't hear any of those conversations.

716:13:04 Q. Okay. Did Mr. Banks send you this voice note saying,
816:13:08 "Quando can die"? Did he send that to you, sir?

916:13:09 A. No.

1016:13:09 Q. You never received this, did you?

1116:13:11 A. No.

1216:13:11 Q. Did Mr. Banks ever tell you that Quando can die?

1316:13:14 A. No.

1416:13:15 Q. Okay. But you knew he talked about shooting Quando in
1516:13:18 his music, right?

1616:13:18 A. I knew he talked about shooting opps.

1716:13:22 Q. Okay. Well, let's hear another one of those songs. You
1816:13:25 worked on "Ahhh Ha" yourself, correct?

1916:13:27 A. Yes.

2016:13:27 MR. MORSE: Let's go to Exhibit 392, please.

2116:13:37 (Thereupon, the audio was played.)

2216:13:42 Q. You described this song, and I think "Pissed Me Off" --
2316:13:46 correct me if I'm wrong -- of Mr. Banks' opportunity to
2416:13:48 finally address Slide for Von, right?

2516:13:50 A. Yes.

116:13:50 Q. Okay. And so in this song, he's addressing the Slide for
216:13:54 Von music, correct --

316:13:54 A. Yes.

416:13:55 Q. -- movement, right?

516:13:56 A. Yes.

616:13:56 Q. And that Slide for Von music was a trolling effort from
716:14:00 his rap enemies and folks online, telling him that he should
816:14:04 get revenge for King Von, right?

916:14:05 A. Yes.

1016:14:06 Q. And when he decided to respond to it, and finally speak
1116:14:10 up on it, this is when he released "Ahhh Ha," among other
1216:14:13 songs, correct?

1316:14:14 A. Yes.

1416:14:14 Q. And he says, "Don't respond to shit from Von, I'm like
1516:14:17 'Fuck it,' you trippin' go get your gun." Right?

1616:14:19 A. Yes.

1716:14:20 Q. And he says, "They droppin' locations, I'm getting it
1816:14:22 done." Correct?

1916:14:24 A. Yes.

2016:14:24 Q. And he says, "Fuck tweeting, we sliding." Correct?

2116:14:27 A. Yes.

2216:14:27 Q. Meaning I'm not going online, I'm going to actually
2316:14:32 slide, correct?

2416:14:32 A. Yes.

2516:14:33 Q. And then he says, "The feds are comin'." Right?

116:14:35 A. Yes.

216:14:36 Q. Because he's talking about committing a murder, right?

316:14:39 A. Yes.

416:14:40 Q. And law enforcement's reaction to that, correct?

516:14:43 A. Yes.

616:14:43 MR. MORSE: Okay. Let's go to Exhibit 390, please.

716:14:52 Pause it.

816:14:53 Q. You talked about the song "Pissed Me Off," correct?

916:14:56 A. Yes.

1016:14:56 Q. Did you say you worked on this song?

1116:14:58 A. Yes.

1216:14:58 Q. Okay. And what -- explain what work you did on this
1316:15:02 song.

1416:15:03 A. I recorded, engineered, mixed it.

1516:15:06 Q. So you are right there in the studio with him while he
1616:15:09 was writing it and recording it?

1716:15:10 A. Yes.

1816:15:10 Q. Okay. And you said that this was his opportunity to
1916:15:14 finally respond to the Slide for Von movement, correct?

2016:15:16 A. Yes.

2116:15:17 Q. And in this song, he is saying that people should be
2216:15:21 sliding for Von. Not just him, others should, correct?

2316:15:24 A. Yes.

2416:15:24 Q. He's saying that you shouldn't just be in the club with
2516:15:27 your mans, you should be out sliding for Von; isn't that

116:15:30 right?

216:15:30 A. Yes.

316:15:31 MR. MORSE: Okay. Let's play the song.

416:15:33 (Thereupon, the audio was played.)

516:15:53 Q. Are you aware that in December of 2020, the defendant
616:15:59 sent a group text message telling the people in that group
716:16:02 text message that he wasn't going to be in the club partying,
816:16:04 because nobody had done anything for Von?

916:16:06 MS. GOLDBERG: Objection --

1016:16:06 Q. Are you aware of that text?

1116:16:07 MS. GOLDBERG: -- lack of personal knowledge.

1216:16:08 THE COURT: The objection is sustained.

1316:16:11 MR. MORSE: All right. Play it.

1416:16:12 (Thereupon, the audio was played.)

1516:16:23 Q. He says, in this song that you worked on, "I lost bro, I
1616:16:28 can't be happy 'til we creep up on the score." Correct?

1716:16:31 A. Yes.

1816:16:31 Q. And you -- what does that mean?

1916:16:33 A. That means he won't be happy until something is done
2016:16:37 about retribution, like revenge.

2116:16:41 Q. Until revenge, right? Like a body for a body?

2216:16:44 A. Sure.

2316:16:45 Q. In terms of the score; is that correct?

2416:16:47 A. Yes.

2516:16:47 Q. Okay. And then he says, "Why they act like they" --

116:16:54 excuse me. "I know people act like they with it, but they
216:16:58 bitches on the low." You see that?

316:17:00 A. Yes.

416:17:00 Q. Okay. And then he says, "Why you people postin' son-son,
516:17:05 why you people postin' True?" You know that line, right?

616:17:07 A. Yes.

716:17:08 Q. And he's talking about people who would prefer to post
816:17:11 online about King Von as opposed to doing something, correct?

916:17:14 A. Yes.

1016:17:14 Q. That's the thrust of that line, right?

1116:17:16 A. Yes.

1216:17:16 Q. Okay.

1316:17:17 MR. MORSE: Play it, please.

1416:17:19 (Thereupon, the audio was played.)

1516:17:35 Q. Okay. He says, "Why you act like you support us? If you
1616:17:40 do, hop in that coupe." You heard that?

1716:17:42 A. Yes.

1816:17:42 Q. What does that mean?

1916:17:44 A. I don't know.

2016:17:46 Q. Okay. How about this, he says, "Grab a gun if you ain't
2116:17:49 with it, put up money for a gun." Do you know what that
2216:17:52 means, on the song that you worked on?

2316:17:54 A. Yes, but --

2416:17:54 Q. What is he saying?

2516:17:56 A. I mean, I know that it's a lyric.

116:18:01 Q. Do you know -- do you have any interpretation of this
216:18:03 lyric, this song that you worked on yourself, sir?

316:18:05 A. A lot of the time when I recorded, I had no
416:18:07 interpretation of what he was speaking on. I wanted to
516:18:09 record the music because he wanted to record the music.

616:18:11 Q. Okay. You had no part in the creative process, in terms
716:18:15 of what he was saying, did you?

816:18:17 A. No, I did not write it.

916:18:18 Q. And he says, "Put up money for a hot car, put up money
1016:18:21 for a bond." Did you hear that?

1116:18:23 A. Yes.

1216:18:23 Q. Do you have an understanding of what a hot car is in
1316:18:27 Chicago slang, sir?

1416:18:28 A. No.

1516:18:28 Q. Did you know that it means a stolen vehicle for the
1616:18:31 purposes of committing a violent act?

1716:18:33 MS. GOLDBERG: Objection. Counsel is testifying.

1816:18:34 THE COURT: He's asking a question. Overruled.

1916:18:36 Q. Did you know that?

2016:18:37 A. No.

2116:18:37 Q. Okay. You said you've met Cuz before?

2216:18:41 A. Yes.

2316:18:41 Q. Did you know that Cuz provided hot cars to Mr. -- that --
2416:18:46 did Mr. Banks -- or did Cuz ever talk to you about the hot
2516:18:49 cars that he provided to the defendant to commit violent

116:18:51 acts?

216:18:52 MS. GOLDBERG: Objection. Hearsay.

316:18:53 THE COURT: Sustained.

416:18:53 Q. All right. You don't know anything about hot cars, do
516:18:56 you?

616:18:56 A. No.

716:18:56 Q. Okay. So you were on the music side of the house for
816:18:59 Mr. Banks; isn't that correct?

916:19:00 A. Yes.

1016:19:00 Q. You knew about the music, right?

1116:19:02 A. Yes.

1216:19:02 Q. And from the music, you know that he often talked about
1316:19:06 shooting Quando Rondo and getting revenge for him, correct?

1416:19:09 A. Yes.

1516:19:10 Q. Okay. And so when Quando Rondo was shot at on
1616:19:20 August 19th of 2022, after Mr. Banks had been rapping about
1716:19:24 shooting this guy for a good part of a year, that must have
1816:19:28 been a big deal in that house?

1916:19:29 A. Not really, no.

2016:19:30 Q. Not really. He didn't talk to you, nothing?

2116:19:32 A. No.

2216:19:33 Q. Okay. Didn't talk to you about it?

2316:19:35 A. No.

2416:19:36 MR. MORSE: I have nothing further, Your Honor.

2516:19:38 THE COURT: Redirect?

116:19:39 MS. GOLDBERG: Yes, Your Honor.

216:19:39 REDIRECT EXAMINATION

316:19:41 BY MS. GOLDBERG:

416:19:41 Q. All right. Mr. Gibson, you were just asked a lot of
516:19:51 questions about the music, correct?

616:19:52 A. Yes.

716:19:52 Q. Okay. That is music, correct?

816:19:55 A. Yes.

916:19:55 Q. Those were lyrics you were asked about?

1016:19:58 A. Yes.

1116:19:59 Q. We just talked about, on direct, that Mr. Banks wanted to
1216:20:02 respond through his music, and that is what he did; isn't
1316:20:05 that correct?

1416:20:06 A. Yes.

1516:20:06 Q. Okay. And let's just be really clear: Are you married?

1616:20:11 A. Yes, I am.

1716:20:11 Q. Do you have children?

1816:20:12 A. Yes, I do.

1916:20:13 MR. MORSE: Objection. Relevance.

2016:20:14 THE COURT: Let's see where it's going. But I'm
2116:20:18 prepared to strike it.

2216:20:19 Ms. Goldberg, if you are going somewhere, get there
2316:20:23 immediately.

2416:20:23 MS. GOLDBERG: Yes.

2516:20:24 Q. Would you get up on the stand in this case and lie for

116:20:26 Mr. Banks?

216:20:28 A. No.

316:20:28 Q. And this wasn't just music, correct, you were actually
416:20:32 physically present with Mr. Banks on August 16th,
516:20:35 August 17th, August 18th, and August 19th, correct?

616:20:37 A. Yes.

716:20:38 Q. You were physically there on the plane, correct?

816:20:40 A. Yes.

916:20:41 Q. You were physically there on the trip to Miami, correct?

1016:20:45 A. Yes.

1116:20:45 Q. You were physically there on the plane back, correct?

1216:20:47 A. Yes.

1316:20:48 Q. You were physically there in the car on the way back to
1416:20:51 the home, correct?

1516:20:52 A. Yes.

1616:20:52 Q. You lived in the home with Mr. Banks, correct?

1716:20:54 A. Yes.

1816:20:55 Q. You were able to observe and see and hear the things that
1916:20:58 were going on at that time, correct?

2016:21:00 A. Yes.

2116:21:00 Q. This is an interpretation of music, correct? This is
2216:21:06 actual facts, actual real life, correct?

2316:21:08 A. Yes.

2416:21:09 MS. GOLDBERG: Okay. No further.

2516:21:10 THE COURT: Mr. Harbaugh? Mr. Mills?

116:21:11 MR. HARBAUGH: No, Your Honor.

216:21:12 MR. MILLS: None, Your Honor.

316:21:13 THE COURT: Anything further from the Government?

416:21:16 MR. MORSE: Short recross, Your Honor.

516:21:17 THE COURT: Of course.

616:21:19 MR. MORSE: Thank you.

716:21:19 RECROSS-EXAMINATION

816:21:19 BY MR. MORSE:

916:21:19 Q. All right. Mr. Gibson, counsel said it wasn't just
1016:21:28 music. So let me ask you something: Are you familiar with a
1116:21:32 video called "Redman"?

1216:21:35 A. No.

1316:21:36 MR. MORSE: Okay. Play 141.

1416:21:39 MS. GOLDBERG: Objection. He just said he was not
1516:21:41 familiar, Your Honor.

1616:21:41 THE COURT: Counsel --

1716:21:43 MR. MORSE: I'm going to ask him a question about
1816:21:45 it, Your Honor.

1916:21:45 THE COURT: Based on -- based on the expertise and
2016:21:48 the testimony of this witness, you may play it and ask a
2116:21:51 couple of questions.

2216:21:52 MR. MORSE: Thank you.

2316:21:52 THE COURT: If he has no basis to answer, then we
2416:21:55 are done.

2516:22:02 (Thereupon, the video was played.)

116:22:27 Q. You said you have been to his shows before, correct?

216:22:29 A. Yes.

316:22:29 Q. You ever see him play this at a show?

416:22:32 A. I've heard him play the song.

516:22:35 Q. What about the video?

616:22:36 A. No.

716:22:36 Q. Okay. Counsel asked you about just music. You just
816:22:40 heard a voice note where Mr. Banks said "Quando can die,"
916:22:43 correct?

1016:22:43 A. Yes.

1116:22:44 Q. Was that music?

1216:22:45 A. No.

1316:22:46 MR. MORSE: I have nothing further, Your Honor.

1416:22:48 THE COURT: Ms. Goldberg.

1516:22:50 MS. GOLDBERG: Thank you, Your Honor.

1616:22:50 REDIRECT EXAMINATION

1716:22:51 BY MS. GOLDBERG:

1816:22:51 Q. That voice note you heard was actually talking about a
1916:23:02 boxing match, correct?

2016:23:03 MR. MORSE: Objection. Lacks foundation.

2116:23:04 THE COURT: Overruled.

2216:23:05 MS. GOLDBERG: He asked about it.

2316:23:06 A. Yes.

2416:23:07 Q. It was talking about a celebrity boxing match?

2516:23:10 A. Yes.

116:23:11 Q. And in joking, there was, like, "Oh, your homie Quando
216:23:15 can die," right?

316:23:16 MR. MORSE: Objection. Leading, Your Honor.

416:23:17 THE COURT: Sustained.

516:23:17 Q. Okay. But that was talking about a celebrity boxing
616:23:19 match, correct?

716:23:20 MR. MORSE: Objection. Asked and answered.

816:23:21 THE WITNESS: Yes.

916:23:22 THE COURT: Sustained.

1016:23:22 Q. Okay. And you were just asked again about music,
1116:23:24 correct?

1216:23:25 A. Yes.

1316:23:25 Q. You were not asked about facts?

1416:23:27 A. No.

1516:23:31 THE COURT: I assume nothing from Mr. Harbaugh or
1616:23:33 Mr. Mills.

1716:23:33 Anything further from the Government?

1816:23:35 MR. MORSE: No, Your Honor. Thank you.

1916:23:36 THE COURT: All right. Mr. Gibson, you are excused.
2016:23:38 Thank you.

2116:23:38 THE WITNESS: Thank you.

2216:23:40 THE COURT: All right. Mr. Banks may call his next
2316:23:43 witness.

2416:23:46 MR. FINDLING: We have no further witnesses, Your
2516:23:49 Honor.

116:23:49 THE COURT: Does Mr. Banks rest?

216:23:51 MR. FINDLING: He does, Your Honor.

316:23:52 THE COURT: Mr. Harbaugh?

416:23:53 MR. HARBAUGH: Your Honor, I just have a

516:23:54 housekeeping with exhibits, but I --

616:23:56 THE COURT: Then that is fine. But apart from that,
716:24:00 does Mr. Wilson rest?

816:24:01 MR. HARBAUGH: Yes, Your Honor.

916:24:02 THE COURT: Mr. Mills, same question.

1016:24:03 MR. MILLS: We rest as well, Your Honor.

1116:24:05 THE COURT: And again, the housekeeping issues on
1216:24:08 the exhibits are reserved.

1316:24:08 MR. HARBAUGH: Thank you, Your Honor.

1416:24:08 THE COURT: We will deal with those before Tuesday.

1516:24:10 Just very briefly, ladies and gentlemen, let me talk
1616:24:14 to the lawyers at sidebar, just give us a couple of minutes.

1716:24:20 (At the bench:)

1816:24:37 THE COURT: Mr. Yanniello, any rebuttal case other
1916:24:42 than the issue with the forgery arrest?

2016:24:46 MR. YANNIELLO: I don't think so. The forgery
2116:24:47 arrest --

2216:24:48 THE COURT: So what is -- I'm not going to make the
2316:24:51 jury come back just for that. So you've got two choices:
2416:24:54 You can reach a stipulation or I will have the Government
2516:24:58 prove it up the first thing on Tuesday, and after that, that

116:25:01 will be the last thing in the trial, and I will go forward
216:25:04 with my instructions.

316:25:06 So it's up to you. I mean --

416:25:11 MR. FINDLING: We need to confer about it --

516:25:16 MR. STEEL: We understand, Your Honor. We'll
616:25:17 stipulate that they put that up first.

716:25:20 THE COURT: All right. So that is the choice. So
816:25:21 get back to me in a couple of minutes because I'm not going
916:25:23 to keep the jury here --

1016:25:25 MR. HARBAUGH: Understood, Your Honor.

1116:25:26 Just for the record, presuming we -- any -- we are
1216:25:30 renewing the motions that the Court reserved --

1316:25:32 THE COURT: You will be -- the jury won't be here
1416:25:34 tomorrow, but you will be, and we will have a chance to argue
1516:25:38 this fully.

1616:25:38 MR. HARBAUGH: Understood. And the other issue is
1716:25:40 with regard to my pending motion.

1816:25:43 THE COURT: As I said, Mr. Harbaugh, I'm aware of
1916:25:47 that motion, and you will have a chance to argue it. But for
2016:25:50 what you are asking for is a matter of instruction, so we can
2116:25:53 take that up on Tuesday -- I mean, we'll take it up tomorrow,
2216:25:56 but your remedy could occur on Tuesday if I decide to grant
2316:25:59 it.

2416:26:00 MS. O'CONNOR: One more thing, Your Honor.

2516:26:01 THE COURT: I just want to say, Ms. Diaz has been

116:26:04 trying to keep up with all of us on the sidebars, and it's
216:26:06 really important that we be more formal here, that you say
316:26:10 who you are and one person speaks at a time.

416:26:12 All right. Ms. O'Connor.

516:26:13 MS. O'CONNOR: Thank you. Christy O'Connor. Just
616:26:16 making sure, we had come to an agreement with the Court and
716:26:19 with the Government about the form of that -- what was
816:26:22 Exhibit B to my 106 motion. That hasn't been moved in, but
916:26:26 it's my understanding the Government is fine with us just
1016:26:28 moving it in without a witness necessary. So we would just
1116:26:31 do that.

1216:26:31 THE COURT: All right. And I'm sure there will be
1316:26:33 some other cleanup stuff --

1416:26:35 MS. O'CONNOR: Right.

1516:26:35 THE COURT: -- first thing on Tuesday, and I'm going
1616:26:38 to tell the jury that is what I intend to do.

1716:26:40 Okay. And so you need to talk to each other for a
1816:26:42 couple of minutes?

1916:26:42 ALL ATTORNEYS: Yes.

2016:26:44 THE COURT: Should I keep the jury in the box, or
2116:26:46 should I let them go out? They are going to be grumpy if I
2216:26:50 send them out and then --

2316:26:53 MR. STEEL: I think we probably need to meet, Your
2416:26:54 Honor. I think we are going to have a stipulation.

2516:26:56 THE COURT: Again, I'm not going to keep them here

116:26:59 when they've got -- I'm not going to bring them back
216:27:02 tomorrow. So you will either quickly reach a stipulation or
316:27:05 the Government will prove it up first thing on Tuesday, and
416:27:07 you've got, like, two or three minutes to make up your mind.
516:27:10 I don't care. So you decide what you want to do, but I'm not
616:27:12 going to waste the jury's time on this.

716:27:16 MR. WEINER: I think we are going to reach a
816:27:18 stipulation, but regardless of whether we do, we'll do either
916:27:22 the stip or the extrinsic evidence on Tuesday.

1016:27:24 THE COURT: Is that possible?

1116:27:25 MS. O'CONNOR: Ms. O'Connor. That is fine.

1216:27:26 THE COURT: All right. Then I will -- so it's fine
1316:27:28 if I send the jury home?

1416:27:31 MS. O'CONNOR: Yes.

1516:27:34 (In open court:)

1616:27:39 THE COURT: Ladies and gentlemen, it's not even 4:30
1716:27:43 yet. I am pleased to say that the receipt of testimony from
1816:27:50 witnesses has concluded, and your services tomorrow will not
1916:27:55 be necessary. I explained to you this morning why we are not
2016:27:59 going to have instruction and closing arguments tomorrow.
2116:28:03 It's just not possible.

2216:28:04 Moreover, on Tuesday morning, before I start my
2316:28:08 instructions, there will be some fine-tuning of the evidence.
2416:28:12 There might be some exhibits admitted or agreements between
2516:28:15 the lawyers that don't require testimony. I might strike

116:28:20 some evidence if I decide that I -- it shouldn't have been
216:28:24 admitted in the first place. I might add a few more exhibits
316:28:27 that haven't come in yet. But we'll take care of all of that
416:28:32 very quickly. I will then give you my instructions, and then
516:28:36 there will be the closing arguments of the lawyers.

616:28:38 So as I said, that will be on Tuesday. Tomorrow,
716:28:43 there will be no trial. We are going to be here working, but
816:28:46 there will be no trial.

916:28:48 Because this is going to be four days that you are
1016:28:54 off, I'm going to read in full the instruction and admonition
1116:28:58 that I originally gave you.

1216:29:01 Because you must base your verdict only on the
1316:29:05 evidence received in the case and on these instructions, I
1416:29:08 remind you that you must not be exposed to any other
1516:29:11 information about the case or to the issues the case
1616:29:15 involves.

1716:29:16 Except for discussing the case with your fellow
1816:29:18 jurors during your deliberations, which will -- and that time
1916:29:22 will soon be here -- do not communicate with anyone in any
2016:29:26 way, and do not let anyone else communicate with you in any
2116:29:30 way about the merits of the case or anything to do with the
2216:29:33 case.

2316:29:33 This restriction includes discussing the case in
2416:29:36 person, in writing, by phone, tablet, computer, or any other
2516:29:41 means, via e-mail, text messaging, or any other Internet chat

116:29:46 room, blog, website, or any other forms of social media.

216:29:49 This restriction applies to communicating with your
316:29:51 family members, your employer, the media or press, and the
416:29:55 people involved in the trial.

516:29:57 If you are asked or approached in any way about your
616:30:00 jury service or about anything dealing with this case, you
716:30:05 must respond that you have been ordered not to discuss the
816:30:08 matter and report the contact to me through Ms. Momii or
916:30:13 Ms. Sanchez.

1016:30:13 Do not read, watch, or listen to any news or media
1116:30:18 accounts or commentary about the case or anything to do with
1216:30:22 the case.

1316:30:23 Do not do any research, such as consulting
1416:30:25 dictionaries, searching the Internet, or using other
1516:30:28 reference materials, and do not make any investigation or in
1616:30:32 any other way try to learn about the case on your own.

1716:30:35 The law requires these restrictions to ensure the
1816:30:38 parties have a fair trial based on the same evidence that
1916:30:42 each party has had an opportunity to address.

2016:30:45 A juror who violates these restrictions jeopardizes
2116:30:48 the fairness of these proceedings, and a mistrial could
2216:30:51 result that would require the entire trial process to start
2316:30:55 over.

2416:30:56 If any of you are exposed to any outside
2516:30:59 information, please notify me.

116:31:00 And, look, I get now with algorithms and feeds and
216:31:07 scrolling, something could pop up on your phone through
316:31:10 absolutely no fault of yours. I understand that. I'm not
416:31:14 saying it would necessarily be a big deal, and it probably
516:31:18 wouldn't be. All the more reason for you to just let me know
616:31:21 that that happened. If it happens, don't worry about it, but
716:31:24 don't read it, don't look about it, don't discuss it with
816:31:27 anyone. Just ignore it if that should in fact happen.

916:31:31 Let me be a bit more specific here. You've got four
1016:31:35 days. Some of you don't even live on the west side of Los
1116:31:40 Angeles. Most of you don't. There is going to be no need to
1216:31:43 drive down La Cienega Boulevard the next few days. There is
1316:31:47 going to be no need to check out a Mobil gas station. There
1416:31:50 is going to be no need to listen to anybody's music or listen
1516:31:55 to drill rap at all.

1616:31:57 You know what this case is involved, and that you
1716:32:00 might have a certain curiosity. When your time as jurors is
1816:32:04 done, you can satisfy that to your heart's content, but you
1916:32:07 absolutely cannot do it now.

2016:32:09 And I already explained to you one of the main
2116:32:13 reasons for that when you were seated. As you've seen in a
2216:32:19 very vivid way, when evidence is introduced here in court,
2316:32:24 both sides have the right to challenge it, and there is
2416:32:30 cross-examinations, and there -- and all of you were seeing
2516:32:37 that evidence at the same time, and both sides will have the

116:32:40 right in their closing arguments to address that evidence.

216:32:42 If one of you learns something, it's bad for two
316:32:46 reasons: The first, as I just suggested, is there is no
416:32:51 guarantees about anything. But beyond that, it goes against
516:32:54 the idea that we explored when you were first seated on this
616:32:57 jury, and that is there has to be 12 equal jurors in the jury
716:33:01 room. You have to be deliberating on the basis of the same
816:33:05 evidence and following the same law, and if some of you have
916:33:10 done your own research, that is no longer the case.

1016:33:13 So therefore, I am asking you not to do that, and I
1116:33:18 in fact am ordering you not to do that. And I know that you
1216:33:21 will continue to obey these instructions as you already have.

1316:33:26 With that, it's Labor Day, it's the end of summer,
1416:33:30 it's Southern California, it's a great time. Just don't
1516:33:33 worry about the trial this weekend. You are going to get the
1616:33:38 law on Tuesday. You are going to get -- hear the closing
1716:33:45 arguments. They aren't evidence, but they will be very, very
1816:33:47 helpful to you, I don't doubt, when you start your
1916:33:49 deliberations having heard those final words of the lawyers,
2016:33:53 especially in contrast to what happened on the opening
2116:33:56 statements.

2216:33:56 The lawyers are free now to say pretty much what
2316:33:59 they want. They can quote back to you the instructions that
2416:34:02 I'll give you. I'm going to give you the instructions first,
2516:34:05 precisely so the lawyers can do that. They can pull up

116:34:09 certain pieces of evidence. They can suggest to you why
216:34:15 certain circumstantial facts have been proven or not proven.
316:34:18 And they can suggest to you how you should apply my
416:34:21 instructions to the facts as you have found them.

516:34:25 So as I said, while those closing arguments will not
616:34:30 be evidence, if you remember the facts differently, your
716:34:32 memory controls. If your understanding of my instructions is
816:34:36 different, your understanding controls.

916:34:39 But I don't doubt that the instructions will be very
1016:34:42 useful to you.

1116:34:42 And after that, you will start deliberating.

1216:34:47 So enjoy this holiday weekend. I will see all of
1316:34:51 you back here at 8:30 on Tuesday.

1416:34:55 (Thereupon, the jury retired from the courtroom.)

1516:35:25 THE COURT: Please be seated.

1616:35:30 Counsel, I'll give you a break. And I need one too.
1716:35:35 So at 4:50, we will here in this courtroom off the record
1816:35:43 further discuss the jury instructions. I know that you did
1916:35:45 that amongst yourselves and with my staff on Tuesday, and now
2016:35:52 you will be doing it with me.

2116:35:54 Mr. Banks, Mr. Wilson, Mr. Lindsey, there is -- this
2216:36:01 happens in every trial, every civil trial, every criminal
2316:36:04 trial that there is this informal discussion off the bench,
2416:36:08 without the court reporter, as to what the jury instructions
2516:36:11 should look like, and part of that is so we can speak much

116:36:14 more casually, part of it is so there can be some
216:36:19 wordsmithing. I know Mr. Banks you are a poet as well as a
316:36:22 singer. It's just very difficult to negotiate the wording of
416:36:26 the instructions if we were doing it on the record.

516:36:28 But there is nothing -- but what will happen on the
616:36:33 record, and this will be tomorrow, that we'll go over
716:36:38 everything that was talked about today, make sure it's clear
816:36:42 on the record with the court reporter, and you will be here
916:36:46 for that.

1016:36:46 So it's just the way things are done, not just in
1116:36:50 this case, but in every case.

1216:36:51 So with that, we will now break and start again at
1316:36:57 4:50 off the record to further discuss the jury instructions.

1416:37:10 That's a good point. What time should we -- I don't
1516:37:15 think it has to be really 8:30, as early as that. What,
1616:37:18 9:00, shall we say, on that?

1716:37:25 MR. YANNIELLO: We defer to the Court.

1816:37:26 THE COURT: All right. Let's make it 9:00.

1916:37:27 And Deputies, if you could have the defendants back
2016:37:30 here in court at 9:00 tomorrow. Thank you.

2116:37:32 (Thereupon, the Court was in recess.)

22 *****

23

24 I certify that the foregoing is a correct transcript from the
25 record of proceedings in the above-titled matter.

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Amy C. Diaz, RPR, CRR

September 3, 2026

S/ Amy Diaz

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