

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
HONORABLE STEPHEN V. WILSON, JUDGE PRESIDING
UNITED STATES OF AMERICA,)
)
)
)
Plaintiff,)
)
)
)
Vs.) No. CR20-00579-SVW
)
)
)
AYVAZIAN, ET AL.,)
)
)
)
Defendants.)
)
_____)

REPORTER'S TRANSCRIPT OF PROCEEDINGS

PRETRIAL CONFERENCE

LOS ANGELES, CALIFORNIA

MONDAY, JUNE 14, 2021

MIRIAM V. BAIRD, CSR 11893
OFFICIAL U.S. DISTRICT COURT REPORTER
350 WEST FIRST STREET, FOURTH FLOOR
LOS ANGELES, CALIFORNIA 90012
MVB11893@AOL.COM

A P P E A R A N C E S

**IN BEHALF OF THE PLAINTIFF,
UNITED STATES OF AMERICA:**

CATHERINE SUN AHN
SCOTT PAETTY
AUSA - OFFICE OF US
ATTORNEY
ORGANIZED CRIME DRUG
ENFORCEMENT TASK FORCE
SECTION
312 NORTH SPRING STREET
SUITE 1400
LOS ANGELES, CA 90012

CHRISTOPHER FENTON
US DEPARTMENT OF JUSTICE
1400 NEW YORK AVENUE, NW
WASHINGTON, DC 20530

**IN BEHALF OF THE DEFENDANTS,
AYVAZYAN, ET AL., :**

FRED MINASSIAN
KAPLAN KENEGOS AND KADIN
9150 WILSHIRE BOULEVARD
SUITE 175
BEVERLY HILLS, CA 90212

ASHWIN J. RAM
STEPTOE AND JOHNSON LLP
633 WEST 5TH STREET SUITE
1900
LOS ANGELES, CA 90071

JOHN LEWIS LITTRELL
RYAN FRAZER
BIENERT KATZMAN LITTRELL
WILLIAMS LLP
903 CALLE AMANECER, SUITE
350
SAN CLEMENTE, CA 92673

JENNIFER J. WIRSCHING
ATTORNEY AT LAW
1935 ALPHA ROAD, SUITE 216
GLENDALE, CA 91208

THOMAS A. MESEREAU, JR.
MESEREAU LAW GROUP
10100 SANTA MONICA

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

BOULEVARD SUITE 300
LOS ANGELES, CA 90067

PETER JOHNSON
LAW OFFICE OF PETER JOHNSON
409 NORTH PACIFIC COAST
HIGHWAY SUITE 651
REDONDO BEACH, CA 90277

ALSO APPEARING: LAURA CRAWFORD

1 LOS ANGELES, CALIFORNIA; MONDAY, JUNE 14, 2021; 1:30 P.M.

2 ---

3
4 THE CLERK: Calling case CR20-00579-SVW, USA vs.
5 Ricahrd Ayvazyan.

6 Counsel, please state your appearance for the
7 record.

8 MR. PAETTY: Good afternoon, Your Honor.

9 Scott Paetty for the United States, joined at
10 counsel table with me are trial attorney Chris Fenton and the
11 Assistant United States Attorney Catherine Ahn and Special
12 Agent Jeffrey Clark from the IRS.

13 MR. RAHM: Good afternoon, Your Honor.

14 Ashwin Ram on behalf of Richard Ayvazyan. I'm
15 joined currently not at counsel table with Michael Keogh,
16 Megan Newcomers, Nicholas Silverman. Would it please the
17 Court if at least one co-counsel could join me within one of
18 these three empty seats?

19 THE COURT: Yes.

20 MR. RAHM: Thank you, Your Honor.

21 MR. LITTREL: Good afternoon, Your Honor.

22 John Littrell, also Ryan Frazer is with me. I
23 would also ask that he be invited to join me at counsel
24 table. We represent Mary Terabelian. Thank you, Your Honor.

25 MS. WIRSCHING: Jennifer Wirsching for Artur

1 Ayvazyan, who is also represented by Tom Mesereau. We would
2 request that Mr. Mesereau be able to be seated at the table
3 with us.

4 THE COURT: Absolutely.

5 MR. MINASSIAN: Good afternoon, Your Honor.

6 Fred Minassian on behalf of Tamara Dadyan who is
7 present in the court this afternoon.

8 MR. JOHNSON: Peter Johnson on behalf of Vahe
9 Dadyan who is also present.

10 MS. CRAWFORD: Good afternoon, Your Honor.

11 Laura Crawford standing in for attorney Gilbert
12 Tahmazian on behalf of Arman Hayrapetyan who is present being
13 assisted by the Armenian interpreter.

14 THE COURT: Who is that now?

15 THE CLERK: That was Laura Crawford in place of
16 Mr. Tahmazian who is on the airplane.

17 THE COURT: Okay. This is the time for further
18 pretrial conference. The Court spent with the lawyers a
19 substantial part of Friday afternoon having an extensive
20 hearing regarding many of the matters that were raised.
21 There are some additional matters that are raised. One of
22 them relates to Massino, and his testimony. With regard to
23 the motion to bar him from testifying about the e-mails, that
24 motion is denied. He can testify regarding the e-mails. The
25 wording of the proposed question should be altered in the

1 sense that he shouldn't be asked if he is -- does he
2 recognize certain a name from the e-mail on another document.
3 The term recognize implies some mental state or some
4 knowledge.

5 I would allow that type of questioning if the
6 questioning is along the lines of I show you exhibit so and
7 so, and do you see the name of so and so on the -- on that
8 document. It is similar, but there is a nuance. I think
9 that nuance should be observed.

10 With regard to the Robinson, that's the accountant.
11 I do believe that the defendants have a right to know about
12 the full extent of her compensation, not just from the work
13 she did on this case, but what her accounting firm performed
14 as much -- and all of the other cases that she was retained
15 by government to do similar work. I don't know how many
16 cases there are, but it all goes to her bias and so that
17 should be produced to the defense.

18 The defense wants all correspondence of any kind
19 between Johnson and the government. My view is that they're
20 entitled to any correspondence that falls within the Jencks
21 Act. I don't know what the government has, but surely they
22 know of their responsibilities under the Jencks Act. While
23 the Jencks Act speaks to providing documents after testimony,
24 I would implore the government to provide any Jencks
25 materials before the witness testifies so that there's a

1 better opportunity to prepare cross-examination.

2 Regarding drafts of summary charts, the government
3 in its answer a few hours ago said that it would provide
4 that. It also noted that any differences are self --
5 evident. So I'll order that. The government is not required
6 to provide the bills and breakdown of the bills that Stout or
7 Johnson submitted.

8 With regard to the procedures at the trial, the
9 defendants have made many motions in limine regarding
10 evidentiary rulings. The Court for better or worse has ruled
11 on all of them. So the defense is not required to object
12 during the trial on those grounds to any testimony. My view
13 is that the record is preserved if it comes to that.

14 Regarding a preliminary statement to the jury prior
15 to jury selection, the Court has to say something to the
16 panel as a whole. There will be a hundred jurors reporting
17 tomorrow. Because if I don't say something generally about
18 the case, they won't know how to answer the voir dire
19 appropriately. So I was thinking about just saying that the
20 government has charged the defendants with wire fraud, a
21 conspiracy, bank fraud, whatever, money laundering, whatever
22 it is. The government's theory is that the defendants
23 conspired to submit false documents in order to get those
24 loans and then used the funds for purposes that weren't
25 allowed under the loan program. I guess, I can mention

1 generally the loan program.

2 Then I should say that the defendants, of course,
3 deny all of the charges, and the trial begins with the
4 presumption of innocence and the burden on the government to
5 prove the charges beyond a reasonable doubt. I mean, I'm
6 sort of offering this off the cuff. I'll try to refine it,
7 but is that something that seems reasonable or what is --
8 what comments are there?

9 MR. RAM: Yes, Your Honor. That seems reasonable.

10 MR. LITRELL: Your Honor, I would ask that the
11 Court specify that these were COVID-19 --

12 THE COURT: You know something. Let me ask the
13 question. I hope that not in politic. Is everyone here
14 vaccinated? Anyone not vaccinated? Who is not vaccinated?
15 You know something, my close-up vision is a lot better than
16 my distance vision. I don't know. Tell me who you are?

17 DEFENDANT ARTUR AYVAZIAN: Not vaccinated.

18 THE INTERPRETER: I'm not having nighted.

19 THE COURT: All of the lawyers are vaccinated;
20 right?

21 (All attorneys concur)

22 MR. LITRELL: Shall I take off my mask when I
23 speak with you.

24 THE COURT: It's very hard. You know this, is kind
25 of being born again. I haven't been here for 15 months. I'm

1 trying to get my bearings. I am having trouble hearing if
2 you have the mask on.

3 MR. LITRELL: I'm having the same problem,
4 Your Honor.

5 THE COURT: Am I being heard clearly?

6 MR. LITRELL: I can hear you.

7 THE COURT: Go ahead.

8 MR. LITRELL: The suggestion, I'd ask that the
9 Court inform the jury that these were COVID relief funds.
10 The reason I think is they may have strong feelings about it
11 given where we are with the pandemic.

12 THE COURT: I will.

13 MR. LITRELL: They are disaster relief funds
14 specifically targeted to small businesses for COVID.

15 THE COURT: Who is your client, Mr. Littrell?

16 MR. LITRELL: Mary Terabelian.

17 MR. JOHNSON: Your Honor, this is Peter Johnson on
18 behalf of Vahe Dadyan. We have no objection to the summary.

19 THE COURT: All right. I will refine it. Before I
20 deliver it, I'll run it by you to make sure I'm not
21 misstating something.

22 With regard to the -- and the voir dire will be
23 conducted by the Court. I will ask many of the questions
24 that were proposed. If I'm not mistaken, Mr. Littrell, you
25 proposed some questions, correct?

1 MR. LITTRELL: I did, Your Honor.

2 THE COURT: You proposed some questions about, you
3 know, the defendants being of Armenian descent and whether
4 that would affect any juror's ability to be fair and
5 impartial, something along those lines?

6 MR. LITTRELL: Yes, Your Honor.

7 THE COURT: I think that's a fair question.

8 MR. LITTRELL: I may also propose a question about
9 whether any of the prospective jurors have -- speak Armenian
10 or have any understanding of the Armenian language.

11 THE COURT: I know what you said. I can remember
12 it.

13 MR. LITTRELL: Very well.

14 THE COURT: Let's see here. I don't think this
15 hearing will be that long. We had maybe three hours Friday.
16 We covered a lot of ground. I just want to make sure I tie
17 up all of the loose ends.

18 Some things that I insist upon. When you address
19 the Court or the jury, stand at the lectern. You don't have
20 to be a wooden soldier, but don't navigate too far from the
21 lectern. I discourage bench conferences. In this case,
22 it -- I mean, I can't remember a criminal case with more
23 motions in limine. Maybe there have been, but not in my
24 recent experience. So we've covered a lot of the important
25 matters. If there is a ruling during the trial that someone

1 objected to and you want to be reheard on that, and if it's
2 an important ruling, let's do it at a recess or the lunch
3 hour.

4 Regarding objections, when you make an objection,
5 stand up. Make the objection clearly on legal grounds,
6 whatever it is. Wait for the Court's ruling. Don't argue
7 the objection. Don't argue it in the form of making the
8 objection, or certainly after the Court rules on it. That's
9 standard practice.

10 Regarding opening statements, I did discuss the
11 Court's view of opening statements at the conference on
12 Friday. I want to make sure that everybody understands it.
13 It has become in legal circles to be known as opening
14 argument. It isn't an argument. In every trial seminar,
15 even back when I was trying cases, every seminar talked about
16 the importance of the opening statement. I'm not suggesting
17 that it's unimportant, but the opening statement can be
18 persuasive by arranging the facts but not argument. I know
19 that in the -- in the culture, that rule is observed and not
20 observed. What constitutes a legitimate opening statement in
21 some courts is different than what might be the case in other
22 courts.

23 I believe, as I said Friday, in the principles well
24 known in psychology of primacy and recency. I don't want the
25 jury to make up their minds before they hear any evidence.

1 There have been studies which I don't know how reliable they
2 are, but studies as the term goes these days, that have shown
3 that jurors sometimes do make up their mind quickly.

4 So with regard to the government, I have noticed
5 over the years -- I don't know if it's part of your
6 mentoring, but when you make an opening statement, I often
7 hear the first sentence it sounds something like this, and
8 I'm just paraphrasing. I'm not putting words in your mouth.
9 The prosecutor will address the jury and say, first words out
10 of his or her mouth, this case is about fraud and deceit, and
11 it's about a gross abuse of an important government program.
12 I mean, that's -- that's what I hear sometimes. Don't do
13 that because that's argument. That is your view that it's
14 about fraud and deceit. It's the jury's mind to determine
15 that.

16 And the purpose of an opening statement is not to
17 review in detail what every witness is going to say or every
18 document says. It's to give the jury some perspective, and
19 it shouldn't be lengthy. I mean, I don't see why you
20 couldn't make an opening statement in this case any longer
21 than 45, 50 minutes or tops, an hour. I mean, the detail is
22 not part of the opening statement. The parties shouldn't
23 discuss the law in the opening statement or burdens. I will
24 tell the jury, as I've already indicated, what the burden is
25 and what the presumption is. I don't want the parties to

1 argue burdens.

2 From the defense standpoint, obviously, I can't
3 predict what evidence there will be. Of course, the defense
4 has no obligation to produce any evidence, but certainly the
5 defense can tell the jury generally what its theory of
6 defense is. It can describe, as I instructed the government,
7 what facts it will introduce either on cross-examination of
8 government witnesses or their own witnesses. Don't use the
9 code words, which I discussed Friday. You know, the code
10 words, I expect the evidence to show. And after that, is a
11 few pages of argument, or I'm going to make this promise to
12 you in the opening statement. Usually that is argument. Any
13 such camouflage. I mean, the opening statement to me is
14 important, but it is straightforward, and it may be the most
15 bland part of the case. It's just an opportunity to help the
16 jury as the evidence comes in. It's not an opportunity to
17 detail the evidence.

18 I mean, I'm making general comments. I don't know
19 what you have in mind, but I'm trying to do what I can to
20 eliminate any issues. Let's see, there was something else
21 here. I have a question for the government. I was reading
22 the trial memorandum yesterday. In the trial memorandum
23 there are certain references to one of the defendants or more
24 performing some allegedly unlawful act while on bail. What
25 is the legal significance, if any, about that? Can someone

1 provide an answer?

2 MR. FENTON: Yes, Your Honor. There's two sets of
3 counts --

4 THE COURT: Could you take the lectern. It's
5 easier for me to hear you. Tell me your name.

6 MR. FENTON: Christopher Fenton, Your Honor.

7 THE COURT: Okay.

8 MR. FENTON: There are two sets of Counts that were
9 committed, crimes that were committed while the defendants
10 were on pretrial release. The fact that those counts were
11 committed while the defendants were on pretrial release is in
12 violation of 18 USC 3167, which ultimately results in a
13 statutory enhancement at sentencing.

14 THE COURT: So it's a sentencing issue then?

15 MR. FENTON: It is.

16 THE COURT: But you're saying under Apprendi and
17 those cases, it has to be determined by the jury?

18 MR. FENTON: That's correct, Your Honor.

19 THE COURT: I see. What input do the defendants
20 have in that regard? Anything?

21 MR. RAHM: Your Honor, one option.

22 THE COURT: You're close enough so I can hear you
23 you're, Mr. Rahm.

24 MR. RAHM: Ashwin Ram on behalf of Richard
25 Ayvazyan.

1 THE COURT: Right.

2 MR. RAHM: One option to -- I understand the issue
3 the Court has referenced. One option would be for the
4 parties -- we can speak to the government and, perhaps,
5 stipulate that Mr. Ayvazyan, for example, was on release. So
6 that's something that doesn't need to be raised to the jury
7 potentially. That is not seriously in dispute. So that
8 could take the issue off the table.

9 THE COURT: Okay. If you can work that out, that
10 would be good.

11 MR. RAHM: The issue, Your Honor, would be if the
12 stipulation is read to the jury, it has the same effect of
13 testimony that he was on release from custody. So that is
14 ultimately the optics issue. I don't know if the government
15 was planning on calling -- it doesn't appear that there's a
16 witness on the witness list to speak to the fact of the
17 release, but perhaps the government -- we haven't had this
18 discussion.

19 THE COURT: I mean, I don't know whether anyone
20 committed any crime here, but to the extent a crime was
21 alleged, it would appear from a timing standpoint, it was at
22 least with some when they were on release; correct?

23 MR. LITRELL: Correct. The time frame itself is
24 during the release.

25 THE COURT: I see. What is it -- what is the

1 status of that Rule 902 question?

2 MR. LITTRELL: The 902.11 --

3 THE COURT: The certification issue.

4 MR. LITTRELL: Yes, Your Honor. The parties
5 submitted motions over the weekend. The government --
6 actually, Mr. Silverman from our team can speak to that issue
7 if he can come to the lectern.

8 THE COURT: Now I remember seeing that. Go ahead.

9 Is that Mr. Fenton?

10 MR. FENTON: Yes, Your Honor. My understanding is
11 that issue has been resolved.

12 THE COURT: That's what I thought. Okay. I was
13 thinking of time limits, because I think time limits have a
14 good effect on keeping the trial moving. I do like to keep
15 things going and not to the detriment of allowing the parties
16 to present their case, but I don't like to waste the Court's
17 time or mostly the jury's time.

18 So with regard to a lot of the witnesses on Friday,
19 we went through the narrative of most of the witnesses. I
20 think I could tell from the narrative that vast majority of
21 the witnesses were relatively short. I mean, they were some
22 from the DMV who would say this or that or the other thing.
23 I think those witnesses should go very quickly. I can't
24 anticipate cross-examination. I'm only thinking of time
25 limits for the government's case in chief. I have no idea

1 which witnesses will be cross-examined or how extensively or
2 what is going to happen.

3 That's my initial comment. Did you have something
4 to say, Mr. Fenton?

5 MR. FENTON: Yes, Your Honor. I would agree with
6 the Court that the majority of the government's witnesses
7 will be quite short. The DMV witnesses that you posted to
8 and the EDD witnesses, those are good examples. The identity
9 theft victims would be short.

10 THE COURT: What are they going to say other than
11 did you apply for a loan? No. Did you ever give any -- tell
12 anyone to apply for you? Do you know these people or
13 whatever. I mean, you should go through it quickly.

14 MR. FENTON: We agree, Your Honor.

15 THE COURT: Don't -- you know, dress up the public
16 status of some of these people. I mean, sometimes when they
17 call an officer, they -- police officer, they take him
18 through all of their training and all of that stuff. I mean,
19 people know what a police officer does. They know what the
20 DMV is and so forth. So you can assume a few things.

21 MR. FENTON: Understood, Your Honor.

22 THE COURT: And just give me a minute to make sure
23 I did -- oh, timingwise, I don't know what the schedules are
24 of other courts. I begin trial at 9:00 o'clock. Take a
25 ten-minute recess in the morning, and I try to limit it to

1 ten minutes unless something unexpected happens and then one
2 hour for lunch. Go back at 1:00 o'clock until 5:00. I'm
3 going to clear my calendar Monday so we're going to have
4 trial all next week.

5 I don't know what to tell the jury in terms of the
6 length of the trial. It's difficult for me to assess because
7 all I know now is what the government proposes to do in its
8 case in chief. I'm going to tell the jury that my best
9 estimate is two weeks, maybe was a touch more or a touch
10 less. I don't know. I have to give them some idea.

11 I try to work hard along with you, so you can
12 depend on me to be punctual. If I'm not, it would be
13 extraordinary.

14 That's all I have. Anything else?

15 MR. RAHM: Couple housekeeping matters, Your Honor.

16 THE COURT: Yes.

17 MR. RAHM: Will each defendant be afforded eight
18 peremptory strikes?

19 THE COURT: Each defendant?

20 MR. RAHM: Approximately --

21 THE COURT: The rule says ten for the defense. Six
22 for the government. That's what I intend to do.

23 MR. RAHM: Is that per defendant, Your Honor?

24 THE COURT: Total.

25 MR. RAHM: Total?

1 THE COURT: Yes.

2 MR. RAHM: There will likely be four defendants at
3 trial.

4 THE COURT: That's all right. We've done cases
5 with five, six defendants. That has been approved. So that
6 is what the rule says. That's the rule that will be
7 followed. We're going to have 16 -- I'm going to call four
8 alternates to make sure we have some backup. I'll give each
9 party another challenge for the alternates.

10 MR. LITTRELL: Your Honor, may I just speak on that
11 very briefly?

12 THE COURT: Yes.

13 MR. LITTRELL: Rule 24 gives this Court discretion
14 to grant more --

15 THE COURT: I know I have discretion.

16 MR. LITTRELL: I ask the Court the Court grant a
17 few more. There's a few reasons. I do think this will be a
18 trial where jurors have strong feelings about being here
19 generally --

20 THE COURT: But those will be for cause challenges.
21 I mean, if there is a basis for a cause challenge, I'm going
22 to rule on it. What I intend to do is first ask questions of
23 the -- this may be a little different because there will be a
24 large number of jurors. So generally what I do is I ask the
25 panel as a whole some questions. Then 12 jurors are seated.

1 I get into more personal type questions with them. I may
2 have to alter that and just do everything at the -- with the
3 12 in the box. I think -- this is sort of an unknown. I
4 don't know how people are going to respond to jury duty with
5 the pandemic.

6 I mean, whether more people -- you know, jurors --
7 some jurors have a tendency to try to find a way not to
8 serve. It may be easier for them now. They have some cover,
9 but we'll see. I don't know. And certainly, I'm going to
10 probe and not just go through the paces. If you feel
11 necessary to follow-up on something, you can ask me to.
12 That's something that happens sometimes hopefully not
13 frequently. If there is something about a juror's answer
14 that you think requires a follow-up question, you can
15 approach and ask me to do that.

16 MR. LITRELL: I think the concern is this: I
17 think jurors will admit to having feelings about being here
18 both because of the subject matter of the case and because of
19 the pandemic, but I think if the Court asked them if they can
20 be fair and set those feelings aside, many will say yes. I
21 think they mean for that to true. That does not change the
22 fact that they still have bias. So the bias that doesn't
23 rise to the level of warranting to a cause challenge is what
24 I'm worried about. I think this case presents a
25 particular --

1 THE COURT: I don't think I see anything, frankly,
2 unusual about this case. I mean, I know it's been hard
3 fought so far and it will continue to be, I know. You know,
4 it's -- these kinds of allegations are unfortunately or
5 fortunately commonplace. That's why we have trials. I mean,
6 it doesn't seem like an unusual case to me.

7 MR. LITTRELL: I think this will -- maybe this is
8 not unusual. I expect the government to show lots of images
9 of cash and jewels and gold and --

10 THE COURT: Well, let's find out.

11 Does the government intend to show pictures of cash
12 and gold and other things?

13 MS. AHN: Your Honor --

14 THE COURT: Who are you? Would you identify
15 yourself.

16 MS. AHN: Catherine Ahn on behalf of the
17 United States.

18 THE COURT: Yes.

19 MS. AHN: There were gold coins and jewelry and
20 watches that were seized from defendant Richard Ayvazyan and
21 Marietta Terabelian's home, which is consistent with the
22 tracing records and is at issue both in the trial and the
23 criminal forfeiture, Your Honor. The government will be
24 showing those exhibits on the document camera, as they will
25 be brought in physically. As --

1 THE COURT: Well, is it -- regarding -- that is
2 something else I wanted to talk about. Thank you for
3 bringing that up. Regarding the forfeiture counts, would it
4 be appropriate to wait until the jury returns a verdict? If
5 the jury acquits these defendants, then we never reach
6 forfeiture. So maybe the solution is to not show all of the
7 pictures and wait to see what happens. Maybe you won't have
8 that opportunity.

9 MS. AHN: Well, Your Honor, you are correct.
10 Forfeiture is not at issue until after the jury returns its
11 verdict. The government is also alleging money laundering
12 and conspiracy counts. Some of its proof relates to the
13 movement of money --

14 THE COURT: Why the pictures? Doesn't the jury
15 know what a watch looks like or gold coins?

16 MS. AHN: Yes, Your Honor.

17 THE COURT: Why that? I don't like that approach.
18 You know, sometimes the government does that. You know,
19 there's an old expression from a Texas judge -- heaven knows
20 I'm not from Texas. He said, "You dance with dem that brung
21 ya." You dance with the evidence you have. We don't need
22 pictures, and this is not show-and-tell.

23 MS. AHN: Yes, Your Honor.

24 THE COURT: I'm glad it was raised. Is there
25 something else here?

1 MR. LITTRELL: One more thing. The other thing I'm
2 concerned about is I think the government intends to call a
3 witness to talk about the purpose of the SBA loan program.

4 THE COURT: Let me -- well, I mean, generally, I
5 think, you know, the -- they have a right to describe the
6 program in the most general way, but certainly no witness
7 from the SBA or the -- who is the EIDL? What agency is that?
8 Is that SBA also?

9 MS. AHN: Yes, Your Honor, both --

10 THE COURT: SBA. The -- the witnesses should
11 describe the program in a neutral way. This is the program
12 set up during the COVID crisis to provide loans to small
13 business for these purposes and that's it. Not, you know --
14 another thing. I don't want the government saying in opening
15 statement anything about this case being about, you know, the
16 laudatory purposes of the loan program. That is something
17 politicians decided upon. It is the program, whether it's
18 good, bad, or indifferent.

19 Tell your witnesses not to use the opportunity to
20 color anything more than this is the way the program is; this
21 is the kind of information that is required; this is the
22 proper use of the funds, and the program relies on accurate
23 information. That's it.

24 MS. WIRSCHING: Your Honor, may I be briefly heard?

25 THE COURT: Yes. What is your name?

1 MS. WIRSCHING: Jennifer Wirsching for Artur
2 Ayvazyan, Your Honor.

3 THE COURT: Yes.

4 MS. WIRSCHING: About the recent ruling about not
5 displaying photos of items from Ms. Terabelian and
6 Mr. Richard Ayvazyan's home. It's our understanding that the
7 government also seeks to introduce many photographs of items
8 found in the Weddington home, the home of my client and Ms.
9 Dadyan. Those are items that Your Honor ruled were able to
10 come in as inextricably intertwined. We would note to the --

11 THE COURT: Are those the identification cards?

12 MS. WIRSCHING: Things that are not related as
13 checks, documents. Things of that nature.

14 THE COURT: Well, I feel a little differently about
15 that. I think the government can show the jury pictures of
16 some of these things because they're not as self-evident. I
17 mean, people know what a watch is or a house. I remember in
18 one of the charts, the government actually put a picture of a
19 house in the chart. I ordered that removed.

20 I mean, to some extent, I'm going let the
21 government do that. If it becomes repetitive or excessive or
22 duplicative, I'll make the appropriate rulings.

23 MS. WIRSCHING: Thank you, Your Honor.

24 MR. RAHM: Similar question, Your Honor, with
25 respect to opening statement. If the government will be

1 using a powerpoint. If they have any images or photos in the
2 powerpoint presentation?

3 THE COURT: That's a fair question.

4 MR. RAM: We've not seen that yet.

5 THE COURT: Does the government intend to use a
6 PowerPoint?

7 MS. AHN: No, Your Honor.

8 THE COURT: I'm glad you're not using that. I
9 don't know where that came to be so popular, but lawyers
10 function on language. You know, PowerPoints, I think they're
11 kind of corporate boardroom stuff. Everybody uses them, so I
12 guess maybe they're good. I don't know. You're not going to
13 use it?

14 MS. AHN: No, Your Honor.

15 MR. RAHM: Your Honor, I can't remember if your
16 preference is to send the indictment back for jury
17 deliberations?

18 THE COURT: I probably will because -- well, it
19 depends. There's a lot of counts. It depends on whether
20 there's some way to prepare a verdict form which enables the
21 jury to identify evidence that relates to a count. We don't
22 have to address that right now.

23 MR. RAHM: Okay. If I -- if you'll entertain a
24 quick suggestion. We have no objection to the indictment
25 going to the jury in lieu of a detailed verdict form. We can

1 deal with that later.

2 THE COURT: All right.

3 MR. RAHM: I would ask that the forfeiture counts
4 or allegations be redacted out of the trial indictment.

5 THE COURT: We're not there yet.

6 MR. RAHM: Yeah.

7 THE COURT: Maybe -- okay. Go ahead. Would you
8 identify yourself. I'm going to wear my glasses tomorrow. I
9 didn't realize how long this courtroom is.

10 MR. JOHNSON: Peter Johnson on behalf of Vahe
11 Dadyan. Your Honor issued an order regarding the
12 inextricably intertwined evidence over the weekend. We
13 joined the opposition to that because Mr. Vahe Dadyan is not
14 related to any of that. We asked for a limiting instruction.
15 The Court's order did not include any limiting instruction.

16 THE COURT: Why don't you propose one for me, and
17 I'll consider it.

18 MS. AHN: Your Honor, this was addressed in the
19 government's reply to the opposition to the motion in limine.
20 I'm happy to provide a copy. Essentially, the government's
21 argument is that Mr. Dadyan was a participant in the scheme
22 and in the conspiracy.

23 THE COURT: I'm having trouble hearing you, Ms.
24 Ahn. Can you -- where is the microphone? Maybe the
25 microphone is too tall for you.

1 MS. AHN: I am a petite person, Your Honor.

2 THE COURT: Now I can hear you better.

3 MS. AHN: The government addressed this issue in
4 its reply in support of its motion in limine Number 2,
5 Your Honor. Essentially, the government's argument is that
6 the defendant was part of the scheme in the conspiracy and
7 knowingly participated. Therefore, evidence of the scheme
8 and the conspiracy can be brought in against him.

9 THE COURT: I understand. Okay. That's as much as
10 I can do. I'm sure as hard as the lawyers and the parties
11 and the Court has tried to anticipate, no trial ensues
12 without things that come up suddenly. Hopefully not too
13 many. We'll have to adjust as things go.

14 So I'm looking forward to the trial. The lawyers
15 have definitely shown that they know what they're doing in
16 the pretrial matters. I hope we have a smooth trial.

17 MS. AHN: Your Honor, if I may -- oh --

18 THE COURT: Yes.

19 MR. FENTON: Your Honor, one more housekeeping
20 matter.

21 THE COURT: Would you take the lectern.

22 MR. FENTON: Sure. One more housekeeping matter,
23 Your Honor. There is an agreed upon motion for a 502(d)
24 stipulation that would allow the filter team in this case to
25 share the potentially privileged material that was

1 withheld --

2 THE COURT: That stipulation; right?

3 MR. FENTON: Yes.

4 THE COURT: I just noticed that over the lunch
5 hour. I'll approve it.

6 MR. FENTON: Thank you, Your Honor.

7 MS. AHN: Your Honor, just one more item. In a
8 previous pretrial conference, Your Honor noted that the
9 government could read the -- a portion of the indictment
10 which we filed for the Court --

11 THE COURT: Oh, yes. Okay. Sorry. Thank you for
12 reminding me. I don't want you to read the entire
13 indictment. You can read the conspiracy count, the wire
14 fraud, just the part of the count that describes whatever you
15 think was a violation, and the money laundering conspiracy.
16 No -- maybe one or two overt acts. Not every count. I mean,
17 there are a lot of counts. So just read those counts.

18 MS. AHN: Yes, Your Honor. I believe Your Honor
19 provided a very similar instructions in the previous pretrial
20 conference. The government, at defendant's request, filed a
21 proposed reading indictment. We were just wondering when the
22 Court would like that to be read?

23 THE COURT: You know, I have to -- I don't have
24 that in mind. I have to go back and look at it. I will.

25 MS. AHN: Yes, Your Honor.

1 MR. LITTRELL: Your Honor, on that topic. I
2 haven't seen this proposed indictment. One thing we object
3 to across the board is using AKAs to describe the defendants.
4 So in the captions the defendants are listed, for example, as
5 Marietta Terabelian, aka Viktoria Kauichko. So we would
6 object to the government ever using an aka to describe
7 Ms. Terabelian.

8 THE COURT: I think in this case that's a valid
9 objection. I mean, in other cases, you know, where someone
10 in a drug case, for example, has an aka, that is permissible,
11 but here one of the issues, at least as the Court has been
12 informed, will be whether this Kauichko or Zhadko or whoever
13 is really a pseudonym for one of the defendants.

14 So I think by using that aka, you may be arguing or
15 suggesting. That's impermissible.

16 MS. AHN: Yes, Your Honor. We're fine with that.
17 In our proposed verdict form, consistent with Mr. Littrell's
18 request, we actually removed the aka.

19 THE COURT: Let's wait for the verdict form.

20 MS. AHN: Yes, Your Honor.

21 THE COURT: We've got a while to go.

22 MS. AHN: Yes, Your Honor.

23 MR. RAHM: Your Honor, one more issue?

24 THE COURT: Yes.

25 MR. RAHM: The defense would like to call two

1 witnesses in their case that are either part of a government
2 task force or federal agents. The first was raised at the
3 last hearing Justin Palmerton, the lead case agent. The
4 government said they'd make him available. By omission, we
5 failed to acknowledge to the Court. We also asked for a
6 second Detective Lyle Barns who was part of the search
7 warrants executed in this case.

8 THE COURT: Detective?

9 MR. RAHM: Yes, Your Honor.

10 THE COURT: With the Los Angeles Police Department?

11 MR. RAHM: Yes, Your Honor.

12 THE COURT: I see. Will he be available?

13 MS. AHN: Your Honor, we agreed to provide the
14 subpoena to LAPD. We reserve -- we don't know whether or not
15 LAPD has any objections to it. We agreed to provide the
16 subpoena to LAPD to make them aware of the defendant's
17 request.

18 THE COURT: So I mean, is that person served?
19 That's the important question.

20 MS. AHN: We have -- we will provide the subpoena
21 to Officer Barns.

22 THE COURT: That's all that is required now; right?

23 MR. RAHM: Yes, Your Honor. The scope of testimony
24 can be discussed later.

25 MS. AHN: We may file a 403 motion as to Detective

1 Barns, Your Honor.

2 THE COURT: I didn't hear what you said.

3 MS. AHN: We may file a 403 motion as to Detective
4 Barns.

5 THE COURT: Okay.

6 MR. RAHM: Thank you, Your Honor.

7 THE COURT: Then I think we've done as much as we
8 can. Thank you for your participation.

9 MS. AHN: Thank you, Your Honor.

10 THE COURT: The pretrial conference is over.

11 (Proceedings concluded at 2:33 p.m.)

12 CERTIFICATE

13 I HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT
14 TRANSCRIPT OF THE STENOGRAPHICALLY RECORDED PROCEEDINGS IN
15 THE ABOVE MATTER.

16 FEES CHARGED FOR THIS TRANSCRIPT, LESS ANY CIRCUIT FEE
17 REDUCTION AND/OR DEPOSIT, ARE IN CONFORMANCE WITH THE
18 REGULATIONS OF THE JUDICIAL CONFERENCE OF THE UNITED STATES.

19
20 /s/ Miriam V. Baird

02/15/2022

21 MIRIAM V. BAIRD
22 OFFICIAL REPORTER

DATE