

ATTACHMENT

“F”

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

UNITED STATES OF AMERICA,	)	Fort Myers, Florida
	)	
	)	Case 2:20-CR-114-FtM-66MRM
Plaintiff	)	
	)	Thursday, March 25, 2021
vs.	)	
	)	2:53 p.m. to 2:59 p.m.
CASEY DAVID CROWTHER,	)	
	)	Courtroom 5D
Defendant	)	
_____	)	

TRANSCRIPT OF EXCERPT OF PROCEEDINGS RE EXHIBIT 167

HELD BEFORE THE HONORABLE JOHN E. STEELE,

United States District Court Judge

Official Court Reporter:
Jeffrey G. Thomas, RPR, CRR
2110 First Street, Suite 2-194
Fort Myers, FL 33901
Telephone: (239) 461-2033

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A P P E A R A N C E S

COUNSEL FOR GOVERNMENT:

United States Attorney's Office
Middle District of Florida
United States Courthouse
2110 First Street
Room 3-137
Fort Myers, FL 33901
(239) 461-2200
BY: TRENT REICHLING, ESQ.
MICHAEL V. LEEMAN, ESQ.

COUNSEL FOR DEFENDANT:

FisherBroyles LLP
2390 Tamiami Trail North
Suite 100
Naples, FL 34103
BY: NICOLE HUGHES WAID, ESQ
BRIAN E. DICKERSON, ESQ.

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MR. DICKERSON: Just one other issue, Your Honor. With regard to Exhibit 167 for the government, that's the e-mail from Brad Smith that doesn't have the attachments. We have all the attachments, so that he can have all the attachments. And we've made that objection previously, that he needs to have all the exhibits.

THE COURT: I do remember the objection. So you just want to attach those to 167?

MR. DICKERSON: Correct.

THE COURT: Any objections?

MR. LEEMAN: Yes, Your Honor. We introduced what we believed was relevant while the case was open. There are any number -- I don't believe every e-mail is required to contain everything it ever had. If there's an argument that somehow what's been submitted is misleading, of course we could be required to complete that; but that's not what's being made.

That e-mail was introduced for a limited purpose, to show that an application was made at a particular time. Those other attachments are substantive, has lots to relate to what I think the defendant would want to say, but they were not attached, they're not relevant to the government's case; and, after the case is closed, we would view it as improper. We also don't think we're under a duty to have included them in

1 the first place, but what I said before, the document was what
2 we purported it to be, which was an e-mail that contained one
3 of the attachments that was sent at the time.

4 THE COURT: Refresh my memory as to what the
5 attachments are.

6 MR. LEEMAN: The e-mail, Your Honor, was the Target
7 Roofing submitting to the bank its application -- one of its
8 applications for the loan. Also attached with it is voluminous
9 paperwork -- I can't say voluminous off the top of my head,
10 Your Honor -- paperwork supporting payroll numbers. Payroll
11 numbers of the bank. And to the extent payroll is a big part
12 of their defense here, sort of back-dooring this in after the
13 case is closed, is We don't believe it's proper.

14 And so what the government introduced was the e-mail
15 to prove the time the application was submitted, that
16 Mr. Crowther was copied on it, that he was aware of it, and
17 that the application did, in fact, come to the bank as the bank
18 received it. And that's what's in evidence right now,
19 Your Honor.

20 These other things, about payroll, they're not in, I
21 don't believe there's anything misleading about having left the
22 payroll numbers out, so we'd object to it being added after the
23 fact, Your Honor.

24 THE COURT: Would I be correct that you had the
25 attachments all along?

1 MR. LEEMAN: Yes. I would highly assume that we've
2 had those documents, Your Honor. I can't -- without having our
3 discovery file in front of us, but yes, we have, generally
4 speaking, all of the e-mails. And we made decisions to leave
5 things out because they don't pertain to our case, we don't
6 want to bury the jury with irrelevant documents that aren't
7 ours; so they were left out, they were omitted, and it's not
8 misleading in any way. I haven't heard any argument that it's
9 misleading. They are just wanting to move in evidence that
10 helps them.

11 THE COURT: That's a surprise from the defense.

12 The Court will allow that exhibit to be . . . hang on
13 a second here.

14 (The Court confers with the Courtroom Deputy
15 privately.)

16 THE COURT: The Court will allow the attachments that
17 were not included with the exhibit to be admitted and attached
18 to, I think you said, 167?

19 MR. DICKERSON: Correct, Your Honor.

20 THE COURT: Mr. Leeman, do you want that separately
21 marked, so you can distinguish between what you presented and
22 what the exhibit looks like now?

23 MR. LEEMAN: I'm not sure -- I've yet to -- I'm
24 trying to think of different ways this may play out
25 where I think the only reason to keep it separate

1 would be in order to ensure that we have a clean record in case
2 anyone ever makes anything of this issue. So I would prefer
3 that it be made separate somehow, at least for sort of record
4 notification purposes. I'm certainly open to ideas on how to
5 do that. I don't have one at the moment.

6 THE COURT: Well, someone can put in the record the
7 number of pages of your exhibit; and then, when we have 40
8 pages more, we'll know the last 35 are the defendant's.

9 MR. LEEMAN: We could do that.

10 THE COURT: Or something like that.

11 MR. LEEMAN: We do could do that, Your Honor, if I
12 could retrieve the exhibit.

13 THE COURT: Sure. We don't need to be on the record,
14 I don't think, to do this. You two can work it out, and if you
15 can't, you can tell me in the morning, and I'll fix it.

16 MR. LEEMAN: Yes, sir.

17 THE COURT: Anything else?

18 MR. LEEMAN: No, Your Honor.

19 MR. DICKERSON: Not from the defense, Your Honor.

20 THE COURT: All right. I'll see you at 9:00 o'clock.

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22 (Thereupon, at 2:59 p.m., the Excerpt Regarding Exhibit
23 167 was concluded.)

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CERTIFICATE

I CERTIFY THAT THE FOREGOING TRANSCRIPT IS A TRUE AND ACCURATE
TRANSCRIPT FROM THE ORIGINAL STENOGRAPHIC RECORD IN THE
ABOVE-ENTITLED MATTER.

Dated this 8th day of April, 2021.

