

1 UNITED STATES DISTRICT COURT
2 WESTERN DISTRICT OF WASHINGTON AT SEATTLE
3

4 UNITED STATES OF AMERICA,)
5) CR20-174-JCC
6 Plaintiff,) SEATTLE, WASHINGTON
7 v.) October 22, 2020
8 ERIC SHIBLEY,) 9:00 a.m.
9 Defendant.) Arraignment

10 VERBATIM REPORT OF PROCEEDINGS
11 BEFORE THE HONORABLE BRIAN A. TSUCHIDA
12 UNITED STATES MAGISTRATE JUDGE
13

14 APPEARANCES:
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17 For the Plaintiff: Brian Werner
18 Amanda Vaughn
19 Laura Connelly
20 Assistant United States Attorneys
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Suite 5220
Seattle, WA 98101

21 For the Defendant: Michael Nance
22 Attorney at Law
23 615 2nd Avenue
24 Suite 760, Penthouse Suite
25 Seattle, WA 98104

1 THE CLERK: The United States District Court for the
2 Western District of Washington is now in session, the
3 Honorable Brian A. Tsuchida presiding. The matter before the
4 court is scheduled for arraignment. The cause number is
5 CR20-174, assigned to Judge Coughenour, United States versus
6 Eric Shibley.

7 Counsel, please make your appearances.

8 MR. WERNER: Good morning, Your Honor. Brian Werner
9 on behalf of the United States.

10 THE COURT: Mr. Werner, good morning.

11 MS. VAUGHN: Amanda Vaughn on behalf of the United
12 States, Your Honor.

13 THE COURT: Ms. Vaughn, good morning.

14 MS. VAUGHN: Good morning.

15 MS. CONNELLY: Laura Connelly on behalf of the United
16 States, Your Honor.

17 THE COURT: And, Ms. Connelly, good morning.

18 MR. NANCE: And for the defense, Your Honor, there's
19 only one of me. Michael Nance for Eric Shibley.

20 THE COURT: I'm sure you're equal to three. Good
21 morning, Mr. Nance. Mr. Shibley, good morning. Can you hear
22 and see me okay?

23 THE DEFENDANT: Yes, Your Honor.

24 THE COURT: If at any time you can't hear or don't
25 understand, just let me know, it's no problem, we can always

1 go over things. And if you've got a question, you can talk
2 privately with Mr. Nance. Okay?

3 THE DEFENDANT: Yes, Your Honor.

4 THE COURT: So, Mr. Shibley, we're conducting this
5 remotely using this AV technology, due to the health crisis.
6 And I want to talk to you, Mr. Shibley, and Mr. Nance, are
7 you folks okay going forward this way?

8 MR. NANCE: We are.

9 THE COURT: All right. Thank you very much, both of
10 you.

11 So we're set for an arraignment, it's the formal
12 presentation of the charges returned by the Grand Jury
13 through an indictment. And, Mr. Nance, has the defense
14 received a copy of the indictment?

15 MR. NANCE: We have. I mailed a copy to Mr. Shibley
16 here over the weekend. I trust he's had a chance to receive
17 it. I've summarized it with him over the phone.

18 THE COURT: All right.

19 So, Mr. Shibley, the arraignment is the formal
20 presentation of the charge. And it seems that you and your
21 lawyer are ready to go forward. And so what will happen now
22 is Mr. Werner is going to advise you of the general nature of
23 the charges and the possible penalties, if you were
24 convicted. And then we can set a trial date.

25 So, Mr. Werner, please go ahead.

1 MR. WERNER: Yes, Your Honor.

2 The Grand Jury has returned a 15-count indictment naming
3 the defendant, Eric Shibley, in each count.

4 Counts 1 through 7 charge Mr. Shibley with wire fraud.
5 They charge a wire-fraud scheme that was for the purpose of
6 Mr. Shibley to unjustly enrich himself by obtaining paycheck
7 protection program and emergency -- I'm sorry, economic
8 injury disaster loan proceeds under false and misleading
9 pretenses, including by making false statements about monthly
10 payroll expenses, employees, and revenues of Mr. Shibley's
11 entities, and Mr. Shibley's probation status. It was also
12 the purpose of the scheme, the wire-fraud scheme to defraud,
13 to conceal that scheme.

14 Counts 1 through 7 are laid out in a table. The table
15 lays out the count number, the approximate date, and the
16 interstate wire transmission supporting each count. If
17 convicted of Counts 1 through 7, the maximum penalty that may
18 be imposed for each count is 20 years imprisonment, a \$25,000
19 fine, three years of supervised release, and a \$100 penalty
20 assessment.

21 And to the extent the wire-fraud scheme involved
22 defrauding a financial institution or an emergency or
23 disaster declared emergency -- or declared disaster, the
24 maximum penalty is increased to 30 years imprisonment, a one
25 million dollar fine, and five years of supervised release,

1 and a \$100 penalty assessment.

2 Mr. Shibley is charged in Counts 8 through 10 with
3 committing the crime of bank fraud, in violation of Title 18
4 United States Code, Section 1344-2. The bank-fraud scheme,
5 scheme to defraud, is similar to the wire-fraud scheme to
6 defraud. The purpose of that scheme is for Mr. Shibley to
7 unjustly enrich himself by obtaining paycheck protection loan
8 proceeds under false or misleading pretenses, or by making a
9 series of false statements.

10 Further, the indictment lays out Counts 8 through 10 by
11 number, approximate date and submission to a financial
12 institution.

13 If convicted of Counts 8 through 10, the maximum penalty
14 for each count is 30 years imprisonment, a one million
15 dollars fine, five years of supervision following
16 imprisonment, and a \$100 penalty assessment.

17 Finally, Counts 11 through 15 charge Mr. Shibley with
18 money laundering. They charge that the defendant,
19 Mr. Shibley, knowing that funds involved represented proceeds
20 of unlawful activity, engaged and willfully caused others to
21 engage in monetary transactions affecting interstate
22 commerce, and criminally derived property of a value greater
23 than \$10,000, in violation of Title 18 of the United States
24 Code, Sections 1957 and 2.

25 The indictment further lays out five separate counts,

1 separated by account number, date, and specific monetary
2 transaction. If convicted of Counts 11 through 15, the
3 maximum penalty for each count is ten years imprisonment, a
4 \$250,000 fine, three years of supervision following
5 imprisonment, and a \$100 penalty assessment.

6 Finally, there are forfeiture allegations also listed in
7 the indictment.

8 THE COURT: Thank you very much, Mr. Werner.

9 So, Mr. Shibley, those are the charges. Mr. Nance, on
10 behalf of Mr. Shibley, what pleas should be entered?

11 MR. NANCE: Not guilty to all counts.

12 THE COURT: All right. Not guilty pleas are entered
13 as to each allegation. And do we have a trial date?

14 THE CLERK: Yes, Your Honor. Trial is scheduled for
15 December 14th at 9:30 a.m. before Judge Coughenour. Proposed
16 trial exhibits are due December 14th, and pretrial motions
17 are due November 12th.

18 THE COURT: Mr. Nance, does the defense request
19 discovery?

20 MR. NANCE: Yes, we do.

21 THE COURT: And I will direct the government to
22 provide discovery under Local Rule 16 and Criminal Rule 16.

23 All right. Mr. Shibley, we have a trial date, December
24 14th, in front of District Judge Coughenour.

25 Mr. Nance and Mr. Werner and Ms. Vaughn and Ms. Connelly,

1 anything further from the government or the defense?

2 MR. WERNER: No, Your Honor.

3 MR. NANCE: Nothing at this time.

4 THE COURT: All right. All right.

5 Mr. Shibley, hang in there. We've got the trial date
6 coming up. Since there's nothing further, we'll be at
7 recess.

8 (Adjourned.)

9

10 C E R T I F I C A T E

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13 I certify that the foregoing is a correct transcript from
14 the record of proceedings in the above-entitled matter.

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18 /s/ Debbie Zurn

19 DEBBIE ZURN
20 COURT REPORTER

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