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1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK
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3 UNITED STATES OF AMERICA,

4 v.

21 Cr. 746 (MKV)

5 ADEDAYO ILORI,

6 Defendant.

Jury Trial

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7
8 New York, N.Y.
9 October 25, 2022
9:30 a.m.

10 Before:

11 HON. MARY KAY VYSKOCIL,

12 District Judge

13 APPEARANCES

14 DAMIAN WILLIAMS

15 United States Attorney for the
Southern District of New York

16 BY: JULIANA N. MURRAY, ESQ.

DAVID R. FELTON, ESQ.

17 Assistant United States Attorneys

18 BRILL LEGAL GROUP, P.C.

Attorneys for Defendant

19 BY: PETER E. BRILL, ESQ.

20 ALSO PRESENT: ISABEL LOFTUS, Paralegal Specialist, USAO

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1
2 THE COURT: Good morning, and good morning to our
3 court reporter, Ms. Walker. Thank you for being here.

4 All right. So we are ready to start with jury
5 selection this morning. Just one or two things I want to talk
6 to the parties about and put on the record.

7 I mentioned to the parties earlier this morning off
8 the record that in connection with my introductory remarks to
9 our venire, the panel of prospective jurors, that I thought the
10 summary of the case -- that I thought what the parties
11 previously submitted and signed off on was more detailed and
12 lengthy than it needed to be. It went on for five pages. And
13 so I propose to the parties that we instead use the background
14 of the case from my opinion on the in limine motions.

15 I distributed copies of that to counsel off the
16 record, and they have sent back to me a few minor proposed
17 edits. Let me just walk through them to be sure I'm not
18 missing anything. All right.

19 So I had proposed to the parties, we're going to
20 strike the language after each count that says "in violation
21 of" with the statutory citation, so we'll do that for each
22 count.

23 We're going to strike in the middle of the page the
24 words "in connection with another fraud and identity theft case
25 in this district."

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1 I'm going to get rid of the parentheticals, you know,
2 the citations for the record, ECF and that sort of thing for my
3 opinion.

4 Coming down to the bottom third of the page on the
5 right-hand side we're going to strike "the government alleges"
6 and just say "the indictment alleges."

7 Oh, and I missed, I'm sorry, up above you're proposing
8 to strike "superseding" before the word "indictment." So we'll
9 just say indictment throughout.

10 All right. And then I'm going to strike the sentence
11 saying "many of these applications were submitted in the name
12 of two particular victims, hereinafter identity victim one and
13 two."

14 And in the final sentence we will strike the word
15 "the" before representations, and we'll strike all before
16 false.

17 With that, do the parties consent to this summary of
18 the case?

19 MS. MURRAY: Yes, your Honor. Just to confirm -- I
20 understand it's stricken with the comments you made. I just
21 want to confirm footnote two will be stricken.

22 THE COURT: Of course. That wasn't meant to be part
23 of what I was giving you. But that is out, and obviously
24 everything else from my opinion is out.

25 MS. MURRAY: So the government consents, your Honor.

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1 THE COURT: Okay. Mr. Brill.

2 MR. BRILL: Yes, your Honor. Thank you.

3 THE COURT: It's acceptable?

4 MR. BRILL: Yes.

5 THE COURT: Okay. Thank you very much.

6 Is there anything else we need to discuss among
7 ourselves before we let the jury administrators know that we're
8 ready for the panel of the prospective jurors?

9 MS. MURRAY: Nothing from the government, your Honor.

10 MR. BRILL: Nothing, your Honor. Thank you.

11 THE COURT: All right. Thank you.

12 So Ms. Dempsey will advise downstairs that we're ready
13 for our prospective jurors.

14 What we're going to do is tell people not to sit in
15 the jury box or the first several rows. Ms. Dempsey has it all
16 figured out. So people will be standing for a few minutes
17 until we spin the wheel to populate the first 32 seats, which
18 is the size of the wheel we need ultimately for challenges,
19 okay?

20 One more matter on the record. Mr. Brill, the verdict
21 form, you had asked at the pretrial conference for time to just
22 look it over and let me know when you're in agreement with the
23 Court's edits to the proposed verdict form?

24 MR. BRILL: Yes, your Honor. I have no objection.

25 THE COURT: All right. Thank you.

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1 While we're waiting, let me just ask on the record,
2 have you had further questions on -- you have raised,
3 Mr. Brill, on what you could say about Mr. Recamier. Have you
4 had those conferences and is there an agreement?

5 MS. MURRAY: Yes.

6 MR. BRILL: Yes, your Honor.

7 THE COURT: Let Mr. Brill go first. Go ahead.

8 MR. BRILL: It's interesting. Actually, the
9 government and I did a bunch of research. There's very, very
10 little out there from the defendant's perspective on offering
11 that, and while I'm sure I could come up with a creative
12 argument as to why from the defense perspective it might be
13 different, all the case law says it's completely inappropriate.
14 And I could find no case law in support of my possibly creative
15 argument.

16 So based on that, as you can see, I didn't file
17 anything asking the Court to consider it.

18 THE COURT: Okay. Great. Thank you.

19 (Continued on next page)

20 (Jury selection conducted)

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1 (A jury of 12 and two alternates was duly impaneled
2 and sworn)

3 THE COURT: All right. So just a couple of
4 preliminaries. My plan for today is each of the lawyers has
5 told me that their opening statements are going to be
6 relatively brief. So I'd like to get those started today so
7 that we can start out tomorrow morning with evidence.

8 I'm going to work hard to get you all finished with at
9 least the presentation of the evidence and the lawyers'
10 presentations to you this week, if we can possibly do that, so
11 that we get you all to complete your service promptly.

12 Let me just talk to you about a couple of things.

13 As I mentioned earlier today, the COVID-19 protocols
14 in the courthouse constantly are being updated, and the current
15 protocols say that you're not required to wear a mask, although
16 it may be prudent for people to wear a mask. If for individual
17 reasons people opt to do that, that's absolutely fine. I'd ask
18 you to respect one another if people do choose to use masks.
19 We're also not requiring social distancing as we had to do
20 during the height of the pandemic. But please be respectful of
21 one another. The only restriction really that remains in place
22 at the courthouse now is that if you test positive for COVID,
23 if you experience symptoms, or if you're in close contact with
24 someone who tested positive, there are some remaining
25 restrictions in place. Ms. Dempsey is going to give you her

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1 contact information before you leave today. Please let her
2 know immediately if any of those circumstances materialize.
3 If, god forbid, you should test positive or be in contact with
4 somebody else who does, you'll please let us know about that.
5 And if you have any questions about the protocols, you can let
6 us know that as well and we'll try to answer. Okay?

7 So in a few moments we're going to begin the trial, as
8 I say, with opening statements from counsel. Before we do
9 that, I want to give you a little bit of information about what
10 to expect over the course of this trial and some principles of
11 law that you should keep in mind as you are serving as jurors.

12 Each day we're going to begin around 9:30 or 10:00.
13 I'll tell you before we conclude on any given day exactly what
14 time we're going to start the next morning.

15 We will make light breakfast available in the jury
16 room, which Ms. Dempsey will show to you shortly. We'll do
17 that starting at around 8:30 for anybody who might arrive early
18 enough to be able to enjoy it, and Ms. Dempsey will, as I say,
19 give you the instructions about where you should gather and
20 where that will be.

21 Each day we'll try to take a morning break, a stretch
22 break, bathroom break. We'll have lunch each day for roughly
23 the same amount of time that we took it today. If you have to
24 go out and buy food, it might be a little tough. I don't know
25 if any of you tried to do that today. But the cafeteria is

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1 available to you. You might want to bring your own lunch as
2 well. We'll take a break each afternoon, and then I will
3 endeavor to finish each day around 4:30, but by 5:00 at the
4 very latest. All right?

5 So as I said, we're going to start the trial with
6 opening statements from counsel, first from the government and
7 then from the defendant. Opening statements are an opportunity
8 for the lawyers to give you a sense of what they think you
9 should expect to find out at trial.

10 After opening statements, the government will present
11 its evidence. It will call witnesses, one witness at a time.
12 The government will ask its witnesses questions. That's called
13 direct examination. Then defense counsel, Mr. Brill, will have
14 the opportunity to ask any questions he wishes of the
15 government's witnesses. That's called cross-examination. And
16 then there might be what we call redirect by the government and
17 potentially recross by the defendant until each witness is
18 completed with his or her testimony.

19 After the government has called its last witness, the
20 defense has a chance to call witnesses. Keep in mind the
21 defendant has no burden to call any witnesses or to present any
22 evidence whatsoever. The burden at this trial is always and
23 exclusively on the government to prove guilt beyond a
24 reasonable doubt. That said, the defendant may call witnesses
25 if he wishes to do so.

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1 After all the evidence is complete, the lawyers will
2 make closing statements, and that's their opportunity to
3 present to you arguments about what they think the evidence has
4 shown. Then I'll instruct you on the law, and then you'll
5 retire to the jury room and deliberate to reach a verdict.

6 Now as I mentioned to you earlier today, in our
7 American system of justice, the judge and the jury each have
8 separate roles. My job is to instruct you on the law, and as
9 I've just indicated, I will largely do that at the end of the
10 case, aside from these few instructions I'm giving you right
11 now.

12 Your job as jurors is to listen and to decide all
13 issues of fact in this case based on the evidence that will be
14 presented to you in the courtroom during the trial. You are
15 the only tryers of fact issues, and your decisions will control
16 the verdict that gets rendered here. I just remind you, please
17 don't take anything that I say or I do during this trial as
18 indicating what your verdict should be. Please pay close
19 attention to all the evidence at trial.

20 The evidence will come in to you in three general
21 categories. The first category we've just talked about; that's
22 testimony from witnesses called by the parties. Testimony
23 given by a witness under oath is evidence. The second category
24 of evidence consists of documents or exhibits if I formally
25 receive them into evidence during the trial. And the third

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1 category are stipulations or agreements between the parties.

2 If the parties stipulate to certain facts or to what a witness
3 would say, that stipulation is evidence.

4 There are other things that happen during a trial that
5 are not evidence. So for example, a question asked by a lawyer
6 before a witness answers is not evidence. Any statement by
7 counsel, including opening statements and closing remarks to
8 you, the jury, are not evidence. Anything that I exclude
9 during trial or if I should strike anything from the record and
10 tell you not to consider it, that is not evidence. Finally,
11 anything that you see or you hear or you read outside of this
12 courtroom is not evidence. You must base your verdict solely
13 on the evidence that is received in this courtroom.

14 Now from this point on until you retire to deliberate
15 on your verdict, it is your duty not to discuss this case and
16 not to remain in the presence of other people who might be
17 discussing the case. This rule about not discussing the case
18 with others includes discussions even with members of your own
19 family and your friends. If at any time during the course of
20 the trial any person attempts to talk to you or to communicate
21 with you about the case, either in or out of the courthouse,
22 please immediately report such an attempt to me through my
23 courtroom deputy, Ms. Dempsey.

24 So in this regard, let me explain to you that the
25 attorneys and the defendant in this case are not supposed to

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1 talk to you, the jurors, even to offer a friendly greeting. So
2 if you happen to see one of these lawyers or one of their
3 assistants or the defendant in the hall or anywhere in the
4 courthouse and they should ignore you, please don't take
5 offense. They're acting properly by doing that because they
6 really shouldn't be communicating with you in any way, verbally
7 or otherwise.

8 Just as you may not have any in-person communications
9 about this case, you shouldn't communicate about the case with
10 anyone by cellphone, through email, through BlackBerrys, if
11 anybody still has those, by iPhone, text messaging, Twitter,
12 YouTube, any blog, website, or any internet chat room, any
13 social networking sites--this is some of why we asked you about
14 these things--including Facebook, Instagram, LinkedIn, YouTube.
15 All of that is off limits for talking about this case while you
16 are sitting as a juror. Similarly, you cannot use any of these
17 tools to post any information about the case on the internet,
18 or to do any research or make any investigation on your own
19 about any of the matters relating to this case, or even this
20 type of case, while you're sitting as jurors. So that means,
21 for example, that you shouldn't consult reference works or
22 dictionaries; you shouldn't search the internet or websites,
23 any kind of blog, use any kind of electronic tool to obtain
24 information about this case or even this type of case, not
25 about the parties to the case, the lawyers in the case, anyone

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1 else involved in the case. You must decide this case, as I
2 said repeatedly while we were selecting you as jurors, based
3 only on the evidence presented to you in this courtroom and my
4 instructions about the law. It would be improper for you to
5 supplement that information on your own.

6 All right. Finally, some jurors like to take notes
7 during the trial, especially if it's a long trial. This won't
8 be a particularly long trial, but I do permit jurors--and the
9 parties have signed off on this--to take notes during the trial
10 should you wish to do so. Not during opening statements, but
11 when you come tomorrow, Ms. Dempsey will give each of you a
12 notepad, and if you want to take notes during the course of the
13 trial, as I say, you may do so. You're not obligated to do
14 that. If you do take notes, please be sure that your taking of
15 notes doesn't interfere in any way with your listening to or
16 considering all of the evidence.

17 Also, if you do take notes, don't discuss them with
18 anyone during the trial, even during your deliberations. If
19 you take notes, they are to be used solely to assist you, and
20 your notes are not to substitute for your recollection of the
21 evidence in this case. In addition, the fact that a particular
22 juror has taken a note entitles that juror's view to no greater
23 weight than the views of any other juror during deliberations.
24 And again, as I said, please don't show your notes to any other
25 juror during deliberations.

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Opening - Ms. Murray

1 If during the deliberations you have any doubt as to
2 what the testimony was, you'll be permitted to request that the
3 official transcript, which is being made of these proceedings
4 by our court reporter who is here with us right now over
5 here -- she will be making an official transcript throughout,
6 and you can request that testimony be read back to you.

7 Please don't take your notebooks with you during
8 breaks, and please don't take them home with you when you leave
9 each evening. Leave them here at the courthouse, and pick them
10 up again when you return the next morning.

11 All right. So bearing all of those preliminary
12 instructions in mind, we're now ready to start this trial, and
13 we'll begin with the government's opening statement.

14 MS. MURRAY: Thank you, your Honor.

15 THE COURT: All right. Ms. Murray, you'll be
16 delivering?

17 MS. MURRAY: Yes, your Honor. May I just move the
18 podium in front of the jury?

19 THE COURT: Yes, sure. Do you want to help
20 Ms. Murray? Just be careful of the wires, if there are any.

21 MS. MURRAY: This is a case about lies, about greed,
22 and about brazen theft. This man, Adedayo Ilori, the
23 defendant, used real people's identities to create fake IDs, to
24 open accounts in their names, and to defraud banks and the
25 federal government. Using these stolen identities, the

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Opening - Ms. Murray

1 defendant submitted fraudulent loan applications for more than
2 \$10 million, and he successfully stole more than \$1 million in
3 government aid--money that was intended to help small
4 businesses that were trying to stay afloat during the COVID-19
5 pandemic; money that was intended to help people keep their
6 jobs, to help keep roofs over their head.

7 And what did the defendant use this money for? For
8 himself. To rent an apartment, to buy luxury items, to invest
9 in stocks and cryptocurrency. The defendant left dozens of
10 victims in his wake. He cheated the federal government, he
11 cheated banks, and he cheated the individual victims--real
12 people whose names and personal information he stole, whose
13 credit and reputation he damaged. That is why we're here
14 today, because the defendant was in the business of stealing
15 identities and money.

16 Now I want to give you an overview of what I expect
17 the evidence at this trial will show.

18 In March 2020, the COVID-19 pandemic thrust our
19 country into uncertainty. Essentially overnight, New York City
20 was locked down. We were told to stay inside. The streets
21 were deserted, businesses were shuttered, and there was no end
22 in sight. You will learn that the Small Business
23 Administration, or SBA, a federal government agency, stepped in
24 and ran different programs intended to provide individuals and
25 small businesses in the United States with financial support

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Opening - Ms. Murray

1 during the pandemic. You will hear that the SBA worked with
2 banks to process loan applications and to provide money to
3 struggling small businesses that needed help paying employees
4 and keeping the lights on.

5 You will hear how the defendant took advantage of
6 those pandemic relief programs. You will hear that the
7 defendant submitted over a dozen fraudulent loan applications,
8 but he did not use his own name on those applications.
9 Instead, he stole the identities of other individuals and he
10 submitted the applications, applications filled with lies,
11 under their names. He lied, claiming the money was needed to
12 support small businesses. He lied, saying the money would be
13 used to pay the salaries of those businesses'
14 employees--employees who didn't exist.

15 You will learn about how the defendant and his
16 co-conspirators meticulously tracked and maintained personal
17 information of these identity theft victims, how they kept
18 notebooks in which they wrote down details about their victims,
19 including names, addresses, phone numbers, and Social Security
20 numbers. They even kept notes about specific victims, notes
21 indicating whether the victim's stolen information was good or
22 bad at particular banks. You will hear how the defendant used
23 these stolen identities to set up email accounts and cellphone
24 accounts in victims' names, which he used for fraudulent
25 communications to open bank accounts and investment accounts in

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Opening - Ms. Murray

1 the victims' names, to impersonate the victims during meetings,
2 phone calls, and email communications. The defendant used
3 these stolen identities so he could submit more fraudulent
4 applications, so he could steal more money. And he used the
5 stolen identities to cover his tracks, to distance his own
6 identity from the fraud, to avoid getting caught.

7 And you'll learn that the defendant was being paid
8 handsomely. Working alongside co-conspirators, the defendant
9 succeeded in stealing more than \$1 million in pandemic relief
10 funds, and he attempted to obtain millions more. The defendant
11 routed the stolen money through bank accounts that he and his
12 co-conspirators set up in individual victims' names. He moved
13 the money around to hide the fact that it was dirty. He lined
14 his own pockets with money intended to help desperate people
15 and businesses struggling in the heart of the pandemic. How?
16 He drove a new Mercedes, he rented a luxury apartment, he
17 withdrew thousands of dollars in cash, and he made investments
18 for himself. That is what I expect the evidence will show.

19 Now let me take a moment and tell you about the types
20 of evidence that the government will use to prove the
21 defendant's crimes.

22 You will see fraudulent documents in the names of
23 numerous identity theft victims. Those documents include fake
24 IDs and fraudulent bank cards, fraudulent credit card and bank
25 account applications, falsified tax and bank records, and

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Opening - Ms. Murray

1 fraudulent apartment and car rental agreements. Some of these
2 fake IDs have the defendant's or a co-conspirator's photograph
3 alongside the names and dates of birth of their victims. Some
4 of these fraudulent bank cards were in the defendant's pocket
5 when he was arrested. Blatant fraud. You will see the
6 fraudulent loan applications for five pandemic relief loans
7 that the defendant actually received, loan applications
8 submitted under stolen identities for more than \$1 million in
9 government and government-backed aid, money intended to assist
10 small businesses.

11 You will also see fraudulent loan applications for
12 several additional loans the defendant unsuccessfully applied
13 for, his attempts to obtain millions more.

14 You will see bank records for numerous bank accounts
15 that the defendant and his co-conspirators opened and
16 controlled in the names of identity theft victims, accounts
17 that received the more than \$1 million in stolen money.

18 You will also see records showing that the money was
19 then laundered out of those accounts, including through large
20 cash withdrawals and transfers to other bank accounts or
21 investment accounts that the defendant and his co-conspirators
22 controlled, all in an effort to conceal the scheme, to hide the
23 fact that the money was dirty.

24 You're going to see emails and text messages in which
25 the defendant, in his own words, discussed the fraudulent

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Opening - Ms. Murray

1 scheme with his co-conspirators. You'll see the defendant
2 using multiple cellphones and fraudulent email accounts in the
3 names of numerous victims to communicate with the SBA, banks,
4 and others. You will see messages that were recovered from
5 many different devices, including two of the cellphones the
6 defendant had on him when he was arrested--messages that detail
7 months of the fraud and identity theft scheme.

8 And you'll see the notebook that the defendant and his
9 co-conspirators used to track the identity theft victims'
10 personal information, to record the successful theft of those
11 identities.

12 And you're also going to hear the testimony of
13 witnesses. You will hear from several of the victims whose
14 identities were stolen, innocent people whose personal
15 information the defendant and his co-conspirators used. They
16 used the victims' identities to set up email accounts, to open
17 bank accounts and credit cards, to submit loan applications and
18 receive funds, to rent apartments and cars. You will hear that
19 the theft and fraudulent use of these victims' identities
20 plagued the victims with problems, ranging from damaged credit
21 scores to being blacklisted by businesses.

22 You will also hear from representatives of the SBA,
23 the federal government agency that supplied the pandemic relief
24 money that the defendant stole.

25 You will hear from employees of a bank from which the

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Opening - Ms. Murray

1 defendant attempted to steal millions more in pandemic relief.

2 Finally, you will hear from law enforcement agents who
3 investigated the fraud scheme. You will hear how the agents
4 learned about a single possible fraudulent loan and started to
5 pull the thread, how they dug into the information listed on
6 that loan application, how they traced the cellphone number
7 listed on that application, tracking the location of that
8 cellphone across New York City, how the agents did stakeouts,
9 conducted physical surveillance, and followed the money, how
10 they pieced together the electronic fingerprints the defendant
11 and his co-conspirators accidentally left behind. This work
12 allowed them to see past the fake identities that were being
13 used and led them to the real fraudster behind the scheme, the
14 defendant.

15 Ladies and gentlemen, the evidence at this trial is
16 going to be presented to you in bits and pieces, and it won't
17 always come in in chronological order, so we ask that you pay
18 close attention as witnesses take the stand and as exhibits are
19 admitted. What I've outlined this afternoon is just an
20 overview of the evidence you can expect to see and hear.

21 At the end of the trial, we'll have the opportunity to
22 speak with you again and to talk with you in more detail about
23 everything you've seen and heard. Now between now and then,
24 I'd like to ask you to do three things--first, pay close
25 attention to the evidence; second, follow the judge's

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Opening - Mr. Brill

1 instructions on the law; and third, use your common sense, the
2 same common sense you use every day in your lives as New
3 Yorkers. When you do those three things, you will reach the
4 only verdict that is consistent with the law, the evidence, and
5 your common sense, that the defendant is guilty.

6 THE COURT: All right. Thank you, Ms. Murray.
7 Mr. Brill?

8 We'll now hear from Mr. Brill on behalf of the
9 defendant Mr. Ilori.

10 MR. BRILL: Thank you, your Honor.

11 Good afternoon, everybody.

12 The government says that this is a case about lies; we
13 don't disagree. The government says that this is a case about
14 greed; and again, we don't disagree. What we do disagree with
15 is the government's use of the term--you've heard it a couple
16 of times kind of stuck in there--co-conspirators. The
17 government believes, as they've said, that Mr. Ilori worked
18 with other people--that's what "co-conspirators" means--to
19 engage in this fraud. Our position, which I think is going to
20 be fairly clear, is that this fraud, this identity theft, this
21 stealing of money, was perpetrated by somebody else, not a
22 co-conspirator with Mr. Ilori but just somebody that Mr. Ilori
23 knew and was friends with.

24 So when the government says this is a case about lies,
25 as I said, we agree, and this is a case about greed, as I said,

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Opening - Mr. Brill

1 we agree, but this is not a case about Mr. Ilori's lies or
2 Mr. Ilori's greed. This is perhaps a case about Mr. Ilori's
3 gullibility, and it certainly is a case about the guilt of
4 another individual, Chris Recamier, whose face and name you
5 will hear throughout the days of this trial over and over and
6 over again. It's Mr. Recamier who was on bank surveillance
7 photo and bank surveillance video going and opening up bank
8 accounts. It's Mr. Recamier, when he has to open up a
9 brokerage account or a Robinhood account, who takes a picture,
10 a selfie of his own face as the person claiming to be one of
11 the identity theft victims or multiple identity theft victims.
12 And our hearts go out to these victims. Just, they're not
13 Mr. Ilori's victims; they're Mr. Recamier's victims.

14 This is a case, aside from the lies and the greed,
15 that in our mind is a case of guilt by association. The fact
16 that Mr. Ilori was friends with Mr. Recamier, the fact that
17 Mr. Ilori spent time with Mr. Recamier, the government has
18 taken a leap to decide that not only is Mr. Ilori a person who
19 was -- happened to be present and friendly with the actual
20 perpetrator of these crimes but actually engaged in these
21 crimes with Mr. Recamier. The government was not satisfied
22 simply that Mr. Recamier committed these crimes but they also
23 accuse Mr. Ilori of being part of it.

24 So the government, for example, says that Mr. Ilori
25 rented an apartment. Well, Mr. Recamier actually lived in that

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Opening - Mr. Brill

1 apartment. Mr. Recamier was the reason that the government
2 actually found out a lot about what was going on and what he
3 was doing because Mr. Recamier had a drug problem and
4 Mr. Recamier OD'd in the apartment. And the water was running
5 in the apartment, and the water was dripping down into the
6 apartment below. So the building management comes up, they
7 knock on the door. They kind of, you know, with the security
8 chain, they can peek in the door and they see Mr. Recamier like
9 with his head in the sink. So they knocked on the door. The
10 police come, they go into the apartment, they find all these
11 fake IDs. That's one of the first clues that maybe he's up to
12 something. Mr. Ilori wasn't there. Mr. Recamier rented the
13 car, the Mercedes -- or purchased the Mercedes. I mean, he
14 didn't purchase it with his own name; he purchased it in the
15 name of one of these identity theft victims. But over and over
16 again, the things that the government is telling you and just
17 told you in the opening statement were done by Mr. Ilori were
18 actually done by Mr. Recamier.

19 So the government's theory perhaps -- maybe this is
20 what they will try to intimate -- is that Mr. Ilori was somehow
21 the power behind the throne. I don't know how they're going to
22 get there. But ultimately, the evidence in this case will show
23 Chris Recamier, Chris Recamier, Chris Recamier, doing literally
24 everything that the government is alleging against Mr. Ilori.

25 And so that's the issue here. The issue here is not

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Opening - Mr. Brill

1 that this crime didn't occur, over and over again, because it
2 did occur over and over again. The issue is not that these
3 poor people had their identities stolen, and their lives were
4 thrown into chaos, because that's what happened, and the
5 government will, as part of its evidence, put some of those
6 people up on the stand. A, because it's proper, you know, the
7 government is going to show you the people whose identities
8 were stolen; but of course it's also to show you the emotional
9 gravitas of what these people went through. The thing to keep
10 in mind is that it wasn't Mr. Ilori who put those people
11 through those things; it's somebody else. And not some random
12 person, some pie-in-the-sky person, some person that we
13 imagined; there's an actual physical person we know about who
14 did all of it. And you will see much evidence, lots of
15 evidence--not to beat a dead horse here--of that person having
16 done this, over and over and over again.

17 So again, it's our position, and we believe the
18 evidence will show quite clearly, that Mr. Ilori may have been
19 friends with Mr. Recamier, Mr. Ilori may have hung out with
20 Mr. Recamier, but Mr. Ilori didn't live in the apartment,
21 Mr. Ilori didn't control the vehicles. Mr. Ilori was just a
22 victim of circumstance, much the same way that these identity
23 theft victims were.

24 Now the government certainly will say, well, there's a
25 piece of breadcrumb here that proves Mr. Ilori knew what was

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Opening - Mr. Brill

1 going on, or there's a breadcrumb here that proves Mr. Ilori
2 knew what was going on, but literally the government is taking
3 little breadcrumbs and trying to take you down a path, but the
4 breadcrumbs do not lead down the path that the government is
5 going to try to take you down. The government is certainly
6 allowed to use evidence that is not direct evidence, right? I
7 mean, you have a murder case, you know, they don't always have
8 a video of the person shooting the other person, right?
9 There's circumstantial evidence as well. I'm not saying that
10 that's not proper, but there is circumstantial evidence and
11 there is conjecture; there is circumstantial evidence and there
12 is guessing; there is circumstantial evidence and there's
13 simply just casting aspersions.

14 And it's your job to hold the government to its proof.
15 And what that means in our system, and in our court system, is
16 that the government must prove its case to you by a very, very
17 high burden. They must prove its case to you beyond a
18 reasonable doubt. So the government essentially must eliminate
19 all reasonable doubt about the defendant's guilt before you can
20 convict. The government will not be able to prove its case to
21 you beyond a reasonable doubt. They will give you little bits
22 and pieces and try to get you to put it together into a
23 coherent picture. To use a different analogy, they'll give you
24 lots of pieces of the puzzle but it won't make a full puzzle.
25 And so that's the problem here. Because they've got the puzzle

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1 put together for Mr. Recamier, and now they want to put the
2 puzzle together for Mr. Ilori, and they will not be able to do
3 that, because he didn't do it.

4 So I'm going to ask you, as the government,
5 Ms. Murray, just asked you when she had that list of three
6 things she wanted you to do, I'm just going to ask you to do
7 one thing, and that is to listen to the evidence and to use
8 your own independent judgment, not what the government tells
9 you or what the witnesses, especially the government agents,
10 ask you to believe, but to use your own independent judgment
11 and say: Is the government convincing me to the point that I
12 need to convict a person of a serious crime? And I'm going to
13 suggest to you that the government will not be able to do that,
14 they will not be able to put the picture together, and you will
15 ultimately have to find Mr. Ilori not guilty.

16 Thank you.

17 THE COURT: All right. Thank you very much,
18 Mr. Brill.

19 So, ladies and gentlemen, we're going to at this stage
20 adjourn for the day. The next step in the process is for the
21 government to begin presenting its case by calling witnesses.
22 We'll do that starting first thing tomorrow morning. So I
23 would ask you all to be back ready to take your seats and begin
24 the trial at 9:30 tomorrow morning. As I said, we'll have
25 refreshments for you in the jury room starting at about 8:30,

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1 so anybody who's able to and wishes to arrive early, you can
2 certainly do that, but we need to start the trial at 9:30, so
3 that we keep things moving and we can get you all through this
4 trial on the timetable that I told you I'm going to endeavor to
5 achieve.

6 MR. BRILL: Your Honor, I'm sorry. May we approach
7 for one second. I apologize.

8 THE COURT: Sure.

9 MR. BRILL: Thank you.

10 THE COURT: Excuse us for one moment.

11 (At the sidebar)

12 MR. BRILL: Your Honor, I believe our second alternate
13 is the one who has the doctor's appointment tomorrow.

14 THE COURT: Let me check. Okay. And what time, she
15 said 8:30?

16 MR. BRILL: Yes.

17 THE COURT: Let's ask her to come up here.

18 MS. MURRAY: No. 14.

19 THE COURT: Can I ask Juror No. 14 if you could join
20 us for a minute.

21 (Juror No. 14 present at sidebar)

22 THE COURT: Did you tell us that you have an
23 appointment tomorrow morning?

24 JUROR: Yes. 8:30.

25 THE COURT: Okay. Mr. Brill remembered and reminded

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1 me. Both counsel reminded me. So you think it will be about
2 how long?

3 JUROR: Approximately an hour. It's over on 72nd
4 Street, York Avenue.

5 THE COURT: Oh, okay. So you think you can get here
6 by 10?

7 JUROR: Yes.

8 THE COURT: Okay. So I'm going to tell everybody to
9 come at 10 instead of 9:30, okay? If you run into a problem,
10 Ms. Dempsey will take you all in the back and she'll give you
11 her contact information, and you can be in touch with her.

12 Thank you, Mr. Brill.

13 (In open court)

14 THE COURT: All right. Ladies and gentlemen, I
15 forgot, there was something we had discussed with one of your
16 fellow jurors in terms of a conflict for very early tomorrow
17 morning, so I don't want to drag you all here on the chance
18 that she might not be able to be here for a 9:30 start, so why
19 don't we say tomorrow morning we'll plan on 10:00. That's a
20 little bit out of the ordinary, but I just don't want to waste
21 all of your time by having you here if we're potentially not
22 going to be ready to go. But we will have refreshments
23 available if anybody wants to come early. But please be here
24 and ready to go by 10:00 tomorrow morning, all right?

25 Now the final thing I just want to remind you, please

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1 do not discuss the case, not with each other, not with your
2 families. You can tell them you're serving on a jury, but not
3 what kind of case, not what the case is about. Don't do any
4 research about the case, all right?

5 You don't yet have your notebooks, but I'm going to
6 tell you each day to please just leave your notebooks on your
7 chairs or in the jury room when you leave for the day.

8 And with that, then, we'll adjourn for the day. I
9 thank you very much, and I'll see everybody tomorrow morning.
10 Ms. Dempsey will meet you in the back in the jury room, okay?
11 Thank you all very much.

12 Please rise for the jury.

13 (Jury not present)

14 THE COURT: You can be seated, everyone.

15 Is there anything we should discuss?

16 MS. MURRAY: Nothing from the government, your Honor.

17 MR. BRILL: What time would you like us here?

18 THE COURT: All right. Well, that's why I'm asking if
19 there's anything we need to discuss. If there isn't, then we
20 don't need too much time.

21 Let me just ask, has the government given notice to
22 any victims entitled to notice?

23 MS. MURRAY: Yes, we've notified all of the victims of
24 the scheduling of the trial. Everyone has been made aware.

25 THE COURT: Okay. All right. Then who is the first

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1 witness tomorrow?

2 MS. MURRAY: We will be calling Gerald Hanson, and we
3 did provide -- oh, actually, your Honor, we are going to begin
4 by reading several stipulations into the record --

5 THE COURT: Okay.

6 MS. MURRAY: -- which will be very brief, and then
7 we'll call Gerald Hanson, and we did provide a list in order of
8 the government's anticipated witnesses to Mr. Brill this
9 morning.

10 THE COURT: Okay. And do you have a copy of that that
11 you can make available to me?

12 MS. MURRAY: I have one downstairs. I can bring it
13 right back up in a few minutes.

14 THE COURT: Unless you remember; you can just tell it
15 to me.

16 MS. MURRAY: Gerald Hanson.

17 THE COURT: And how long, roughly?

18 MS. MURRAY: Approximately 15 minutes or so.

19 THE COURT: Oh, not very long at all.

20 MS. MURRAY: No. Then Jonathan Herttua,
21 H-E-R-T-T-U-A; again, maybe 20 or so minutes.

22 John Piarulli, P-I-A-R-U-L-L-I, 20 to 30 minutes, I
23 would say.

24 THE COURT: Okay.

25 MS. MURRAY: Kathleen Littwin, L-I-T-T-W-I-N, around

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1 30 minutes. And then --

2 THE COURT: I'm not going to hold you to exactly. I'm
3 just trying to get a sense.

4 MS. MURRAY: Of course. Of course. And then our new
5 witness, Joshua Sarver, again, maybe 20 to 30 minutes.

6 Oh, excuse me, your Honor. After Kathleen Littwin, we
7 have Kandace Zelaya, again, 30 minutes or so; and then
8 Mr. Sarver. And then just to close out what I expect to be
9 tomorrow is the case agent, Harry Lidsky, who will be two to
10 three hours.

11 THE COURT: Okay. And it occurred to me that's why he
12 was not here during voir dire?

13 MS. MURRAY: So we spoke with Mr. Brill. Mr. -- or
14 Special Agent Lidsky was in the courtroom during voir dire.

15 THE COURT: Oh, he was.

16 MS. MURRAY: Yeah. We discussed the case law with
17 Mr. Brill, and he agrees the case agent is able to be present
18 at the trial before testifying.

19 THE COURT: But somebody wasn't here?

20 MS. MURRAY: Mr. Kerwin John was not here and the
21 other law enforcement agent we're going to be calling was not
22 here, for that reason.

23 THE COURT: All right. I appreciate it.

24 So if there's nothing that we need to talk about
25 tomorrow morning, Mr. Brill, we can all be here, you know,

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1 between 9:30 and 9:45, ready to start at 10:00.

2 MR. BRILL: Okay.

3 THE COURT: If anything occurs to anybody that we do
4 need to talk about, you can either submit a letter on the
5 docket with a courtesy copy to chambers by email or be in touch
6 with Ms. Dempsey.

7 All right. Thank you very much then. Thank you to
8 our court reporter. And we'll stand adjourned then. Thank
9 you. Have a good evening, everyone.

10 MS. MURRAY: Thank you, your Honor. You too.

11 (Adjourned to October 26, 2022, at 10:00 a.m.)
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