

1 IN THE UNITED STATES DISTRICT COURT

2 FOR THE DISTRICT OF HAWAII

3 UNITED STATES OF AMERICA,) CR 17-00101 LEK
 4)
 Plaintiff,) Honolulu, Hawaii
 5) February 21, 2020
 vs.)
 6) STATUS CONFERENCE
 (1) ANTHONY T. WILLIAMS,)
 7)
 Defendant.)
 8 _____)

9
 10 TRANSCRIPT OF TRIAL PROCEEDINGS
 BEFORE THE HONORABLE LESLIE E. KOBAYASHI
 11 UNITED STATES DISTRICT JUDGE

12 APPEARANCES:

12 For the Government: KENNETH M. SORENSON, AUSA
 13 GREGG PARIS YATES, AUSA
 Office of the United States Attorney
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15 Also Present: MEGAN CRAWLEY, FBI Special Agent

16 For the Defendant (1) ANTHONY T. WILLIAMS, *Pro Se*
 17 Anthony T. Williams 05963-122
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1 FRIDAY, FEBRUARY 21, 2020 2:38 P.M.

2 THE COURTROOM MANAGER: Criminal 1700101, United
3 States of America versus Anthony T. Williams.

4 This case is called for a status conference.

5 Appearances, please, counsel for the record.

6 MR. SORENSON: Good afternoon, Your Honor.

7 Assistant U.S. Attorneys Ken Sorenson and Gregg Yates
8 here for the United States. We have FBI Special Agent Megan
9 Crawley with us.

10 THE COURT: All right. Good afternoon to all of
11 you.

12 Mr. Isaacson.

13 MR. ISAACSON: Lars Isaacson with Ms. Beecher and I
14 believe Mr. Williams is on the phone.

15 THE COURT: All right. And, Mr. Williams, are you
16 on the phone?

17 THE DEFENDANT: Yes.

18 Private attorney general Anthony Williams appearing sui
19 juris.

20 THE COURT: All right. And, Mr. Williams, at your
21 request, we're having you participate by telephone conference
22 call; is that correct?

23 THE DEFENDANT: Yes, ma'am.

24 THE COURT: All right. So you're waiving your
25 physical presence here in the courtroom; is that correct?

1 THE DEFENDANT: Yes, ma'am.

2 THE COURT: All right. So we're here to settle the
3 jury instructions. A few days ago I gave you the proposed jury
4 instructions, a copy of them, that are from the standard court
5 instructions.

6 Does anyone have any comments or objections to what the
7 court has proposed? These have been numbered 1 through 25.

8 MR. SORENSON: Your Honor, really I think we're
9 pretty -- we're fine with almost all of them. I think there
10 might be a couple that might need a tweak. Do you want me just
11 kind of go through those?

12 THE COURT: Yes, please.

13 MR. SORENSON: Do you mind if I remain seated?

14 THE COURT: Yes, please be seated.

15 And, Mr. Williams, I'll give you an opportunity to
16 respond.

17 MR. SORENSON: Your Honor, for the record, we're
18 okay with everything other than what I raise.

19 THE COURT: Okay. Thank you.

20 MR. SORENSON: I'd like to direct your attention --
21 the Court's attention to Instruction No. 5 --

22 THE COURT: Yes.

23 MR. SORENSON: -- the second paragraph, "Remember
24 that any statements, objections, or arguments made by the
25 lawyers" --

1 THE COURT: If you're going to read --

2 MR. SORENSON: -- "aren't evidence" --

3 THE COURT: If you're going to read, you just have
4 to slow down a little bit.

5 MR. SORENSON: Oh.

6 THE COURT: Yeah.

7 MR. SORENSON: That first sentence in the second
8 paragraph, Your Honor, and as it continues.

9 THE COURT: Yes.

10 MR. SORENSON: We would suggest that there needs to
11 be a change because obviously comments from Mr. Williams are
12 not made by a lawyer, so, "made by the attorneys for the United
13 States, comma, or Mr. Williams," and "whether he testifies or
14 not," we could change it, "if he does testify while
15 representing himself as his own counsel are not evidence in the
16 case."

17 And then the next sentence is the function of the lawyers.
18 We could fill that same clause in there of "the attorneys for
19 the United States or Mr. Williams while representing himself is
20 to point out those things that are most significant or most
21 helpful."

22 And then in the final paragraph, that same clause would
23 fill in where it says "lawyers."

24 THE COURT: All right. So as I understand it,
25 whenever it says "lawyers" in this instruction with regard to

1 any questions or comments, we would take out the word "lawyers"
2 and insert the words "attorneys for the United States and
3 Mr. Williams while representing himself"?

4 MR. SORENSON: Yes, Your Honor.

5 THE COURT: Mr. Williams, your position?

6 THE DEFENDANT: I object to that.

7 THE COURT: And the basis for your objection?

8 THE DEFENDANT: If it's going to say "the attorneys
9 for the United States," then it should say also "private
10 attorney general Anthony Williams."

11 THE COURT: All right. Any objection to "private
12 attorney general" --

13 MR. SORENSON: Oh, yes, Your Honor, absolutely.
14 That is -- that is not any official designation. It seems to
15 confer upon him some status that the Court agrees with that he
16 is a private attorney general. This is a self-appointed -- our
17 evidence has shown this is a self-appointed position that he's
18 given himself to perpetuate the crimes. So he's -- he's
19 Mr. Williams or Anthony Williams in our view.

20 THE COURT: So the court resolves the objection by
21 overruling Mr. Williams's objection. What will be inserted in
22 the place of "lawyers" will be "attorneys for the United
23 States, comma, and Anthony Williams while representing
24 himself." And that'll be given over the objection of
25 Mr. Williams. And the basis for that is that Mr. Williams has

1 referred to himself as a private attorney general, but the
2 court has not been provided with any evidence with regard to an
3 official or licensed position.

4 Further, Mr. Williams is exercising his right to represent
5 himself and the court has conducted that colloquy and has
6 permitted himself -- permitted him to represent himself.

7 All right. Anything else, Mr. Sorenson?

8 THE DEFENDANT: Yes, Judge.

9 THE COURT: Yes, Mr. Williams.

10 THE DEFENDANT: Could I present to you the Florida
11 Supreme Court recognizing me as a private attorney general?

12 THE COURT: You're referring to the case law that
13 refers to the United States Code, I think it's Section 1988?
14 Is that what you're referring to?

15 THE DEFENDANT: No, ma'am. I'm actually referring
16 to the actual Florida Supreme Court sending me a letter and
17 addressing me as Private Attorney General Anthony Williams.

18 THE COURT: Yeah, you can state that for the record.
19 I don't find that persuasive because I don't find that federal
20 law recognizes a private attorney general in the capacity that
21 you're claiming to be for purposes of this case. But you're
22 welcome to state it on the record.

23 THE DEFENDANT: Okay. I also have a letter from the
24 Headquarters Department of Justice FBI addressing me as Private
25 Attorney General Anthony Williams.

1 THE COURT: All right. Anything else that you want
2 to place on the record?

3 THE DEFENDANT: That'll be all.

4 THE COURT: All right. Thank you. The ruling
5 stands for the reasons I stated.

6 Mr. Sorenson, any other modifications that you wish to
7 place on the record?

8 MR. SORENSON: Your Honor, I believe just one more.
9 Instruction No. 16, Impeachment of Defendant, Prior Conviction,
10 "Evidence of a defendant's previous conviction of a crime is to
11 be considered by you only as it may affect the credibility of a
12 witness."

13 This instruction at this point, obviously, is not in play.
14 If he testifies, though, as a witness, I think we would want to
15 be more specific because we already have substantive evidence
16 in the record that he's been convicted of grand theft related
17 to the operation of this scheme in Florida. That is
18 substantive evidence, not impeachment evidence.

19 If he testifies, we believe that that same evidence would
20 continue to be substantive evidence. The evidence that he was
21 convicted of -- well, actually, I don't think his Florida
22 convictions for unauthorized practice of law are felonies.
23 Those are misdemeanors. But we believe they're -- yeah, we
24 believe those are intrinsic to the crime in any event, Your
25 Honor, and indicative of the knowledge he had that he couldn't

1 represent himself to be an attorney in this case.

2 So we don't know that this is going to be applicable, but
3 we can wait and see what happens whether he testifies or not.
4 But I don't -- I haven't heard of any -- I don't know of any
5 other evidence that we would impeach him with that's a felony.

6 THE COURT: Okay. So -- so that I'm understanding
7 you, the proposed instruction No. 6 that has to do with
8 impeachment of a defense --

9 MR. SORENSON: 16.

10 THE COURT: I mean, I'm sorry, 16, impeachment of a
11 defendant with a prior conviction, basically says that you can
12 consider it as it affects credibility, but it can't be
13 considered as evidence of guilt for the crime for which the
14 defendant is on trial.

15 So my understanding is the government's position is it
16 agrees with giving this instruction if Mr. Williams does not
17 testify.

18 But should he testify, then you believe that there should
19 be -- either this should be revised or there should be an
20 additional instruction that says that you can consider his
21 conviction in Florida -- or his Florida convictions --

22 MR. SORENSON: Well --

23 THE COURT: -- as substantive evidence of knowledge
24 and intent?

25 MR. SORENSON: Right, except for the first part,

1 Your Honor. If he -- if he doesn't testify, then this
2 instruction shouldn't be given at all because it's merely for
3 impeachment of the defendant if he testifies.

4 THE COURT: Well, I don't know because it's already
5 been mentioned --

6 MR. SORENSON: Because it may affect the credibility
7 of that defendant as a witness.

8 THE COURT: Well, that's right. It does talk to him
9 as a witness. There have been witnesses who have discussed his
10 conviction in Florida or referred to --

11 MR. SORENSON: But again --

12 THE COURT: -- you're right.

13 MR. SORENSON: -- that was substantive evidence, we
14 believe, Your Honor, for instance, Lavelle.

15 THE COURT: Right.

16 MR. SORENSON: I think that's where it comes up.

17 THE COURT: I was thinking of Ms. Kane. She
18 mentioned it too, but she didn't talk about the specifics of
19 it --

20 MR. SORENSON: Right.

21 THE COURT: -- only the injustice about it.

22 MR. SORENSON: Right, right.

23 THE COURT: But she did mention he got convicted in
24 Florida, so --

25 MR. SORENSON: But that would not be for impeachment

1 of the defendant as a witness.

2 THE COURT: Right. It wouldn't be impeachment. But
3 there's some other -- I mean -- and we'll get to Mr. Williams.
4 He's proposed 2.10 of the Ninth Circuit.

5 MR. SORENSON: Right, and we can look at that then.
6 Your Honor --

7 THE COURT: We'll look at that then. So really
8 you're objecting to 16 being given at all.

9 MR. SORENSON: I just think it's not going to apply.

10 THE COURT: Right. Okay. Mr. Williams, and then if
11 Mr. Isaacson wants to add anything, what's your position on
12 Instruction No. 16? The government feels it doesn't apply and
13 doesn't want it given.

14 Are you in agreement or disagreement?

15 THE DEFENDANT: If I testify?

16 THE COURT: Whether you testify or not, I understand
17 the government's position is that it shouldn't be given at all
18 because evidence of your previous conviction in Florida of
19 unauthorized practice of law and fraud, I believe they are
20 going to argue for an instruction that it can be considered as
21 evidence of guilt of the crime for which you are on trial.

22 So they don't believe 16 should be given at all.

23 THE DEFENDANT: Oh, no, if I testify, it should be
24 given. And second of all, the unlicensed practice of law
25 should not be mentioned for this fact: When I was wrongfully

1 convicted of that, that was prior -- that was after all these
2 acts that they're charging with me now had already transpired.

3 THE COURT: You mean the conviction was but not the
4 acts that took place that underlie the conviction?

5 THE DEFENDANT: Well, no. What they're charging me
6 with, all of this happened prior to my unlawful conviction of
7 unlicensed practice of law.

8 THE COURT: Right. I'm just asking you to clarify.
9 Did it occur after your -- I'm sorry. Did your conviction
10 occur after the acts alleged in the Indictment?

11 THE DEFENDANT: Yes.

12 THE COURT: Okay. And then the conviction -- the
13 facts upon which the conviction was based, did those occur
14 before or after the events that took place in the Indictment?
15 I think the Indictment we're looking at 2013 to 2014; would
16 that be fair to say?

17 MR. SORENSON: Yes.

18 THE DEFENDANT: Right.

19 THE COURT: So when did the --

20 MR. SORENSON: Be 2015.

21 THE COURT: Through 2015, okay. So unauthorized
22 practice of law conviction in the State of Florida, when did
23 those acts --

24 MR. SORENSON: Your Honor, we're not offering
25 it -- those for intent. We're offering those to rebut the

1 continued arguments from Mr. Williams that he -- he is allowed
2 to practice law, that he can practice law. He's argued before
3 the jury, he's stated through this case that he can represent
4 people in court. We've argued, obviously, that he cannot
5 represent people in court. We put some evidence on, but
6 clearly a conviction for unauthorized practice of law directly
7 rebuts what his defense is and that is that he can practice
8 law.

9 So I don't know that it really matters when it occurred.
10 It rebuts his position that he can appear in court and
11 represent people.

12 THE COURT: But he may have thought --

13 THE DEFENDANT: If that was true, then Hawaii would
14 have charged me with unlicensed practice of law.

15 THE COURT: Okay.

16 MR. SORENSON: Well, we have a Hawaii -- we're going
17 to be offering in evidence, Your Honor, the Hawaii injunction
18 against him for the unauthorized practice of law, so --

19 THE COURT: Okay. So but his conviction occurred
20 afterwards. So they can't consider it as evidence of guilt for
21 the crime for which he's on trial.

22 MR. SORENSON: No. Well, I guess we could have a
23 limiting instruction that they can consider it for the sole
24 purpose of rebutting his contention that he can represent
25 people in court. I think that that is his argument that he has

1 been making.

2 THE DEFENDANT: Well, I've proven that.

3 MR. SORENSON: Again --

4 THE COURT: Okay. So the problem I have is is that
5 the conviction occurs after he has the acts that are alleged in
6 the Indictment. So you're using it to prove what he should
7 have known in 2015 -- in 2013, 2014, 2015. But --

8 MR. SORENSON: We don't have any other way to rebut
9 his continuing argument which you've just heard again, by the
10 way, that he can represent people in court. And that was a
11 central tenant of this in that -- that he could not represent
12 people in court. He was told that by Judge Mollway early on in
13 the scheme in 2013 --

14 THE COURT: Right, and you put that in evidence.

15 MR. SORENSON: We did.

16 THE COURT: And you have the injunction from the
17 State of Hawaii.

18 MR. SORENSON: But the problem is he continues to
19 argue that there's never been a proceeding against him. You
20 just heard him say it again, Hawaii never prosecuted him for
21 that.

22 THE DEFENDANT: They did not.

23 THE COURT: Right.

24 MR. SORENSON: So the Hawaii injunction is a little
25 different in that it does address this very conduct. In other

1 words, Hawaii says, "You cannot do that. Stop it."

2 THE COURT: Right. So I guess with the Florida
3 conviction, because it comes afterwards, so it really just goes
4 to his knowledge or whatever after the events. It's not
5 relevant to his defense in this case to the Indictment actions
6 because at that time he wasn't convicted of unauthorized
7 practice of law in Florida and he didn't commit the acts that
8 the conviction reflects.

9 So --

10 MR. SORENSON: I hear you, Judge, and I almost agree
11 with you. My only thing is is that all I can say is that
12 throughout this trial he has contended that he has not been
13 proceeded against, nobody's ever told him that he couldn't
14 represent people in court.

15 THE COURT: Well, Judge Mollway sure did.

16 MR. SORENSON: Exactly.

17 THE COURT: You put that in evidence --

18 MR. SORENSON: I did, I did.

19 THE COURT: -- day one, you know.

20 THE DEFENDANT: Then what about the judges that said
21 I can? You all not letting me put that in --

22 THE COURT: Well, you haven't --

23 THE DEFENDANT: -- the video.

24 MR. SORENSON: Is there an order to that effect?

25 THE COURT: Well, the videos that he wanted because

1 they were in courts outside of federal court in the District of
2 Hawaii and the State of Hawaii.

3 THE DEFENDANT: Well, some of them were actually in
4 Hawaii.

5 MR. SORENSON: Well, I'm sure there may be judges
6 who believed he was an attorney showing up in court
7 representing people.

8 THE DEFENDANT: They knew I was not a member of the
9 bar and that I did not have a license because that's the first
10 thing I say. And I send in my notice of appearance with the
11 U.S. Supreme Court rulings that give me the authority to assist
12 others in court without being a member of the bar and I was
13 allowed to assist.

14 THE COURT: All right. So we went through the
15 videos. My ruling stands with regard to the videos. I haven't
16 been presented with any evidence such as an order or a court
17 ruling or something from -- during the relevant time period,
18 either a state court for the State of Hawaii or a federal
19 district court for the District of Hawaii that permits
20 Mr. Williams to represent people other than himself in court as
21 a lawyer.

22 So -- so that's that.

23 THE DEFENDANT: Judge --

24 MR. SORENSON: Judge, I think I have a solution.

25 THE COURT: Yes.

1 MR. SORENSON: Okay. So in the event he
2 testifies --

3 THE COURT: Yes.

4 MR. SORENSON: -- I'm sure we'll probably hear
5 this -- I think the government should be allowed to inquire on
6 cross-examination about these -- this conviction if it's
7 material, in other words, if it rebuts something he says on
8 direct examination.

9 Otherwise --

10 THE COURT: So, for instance, if he says, "I've
11 never been convicted for unlawful practice" --

12 MR. SORENSON: Or, "Courts have allowed me to do
13 this, to, you know, practice in -- you know, in front of them
14 without a license."

15 THE COURT: Okay. But so this is my point: Doesn't
16 it then go back to Instruction No. 16 that it can be used to
17 impeach for credibility?

18 MR. SORENSON: Yes. No, no, exactly, exactly.

19 THE COURT: All right. So we're on the same --

20 MR. SORENSON: I think I can use it for impeachment
21 on credibility and we can give a limiting instruction on that.
22 The Hawaii one is a little different in that it does address
23 directly the conduct in this case.

24 THE COURT: Right. So I'm assuming -- and it's
25 wrong for me to assume -- but I think you're referring to if

1 you put on a rebuttal case.

2 MR. SORENSON: Yes.

3 THE COURT: Okay. Yeah.

4 MR. SORENSON: We may just offer -- we have a
5 certified copy of that order, so we may just offer that without
6 a witness --

7 THE COURT: Right.

8 MR. SORENSON: -- as our rebuttal.

9 THE COURT: Yeah, or cross.

10 MR. SORENSON: Yes.

11 THE COURT: Okay. All right.

12 MR. SORENSON: That make sense?

13 THE COURT: Yes, it does make sense. So Instruction
14 No. 16 --

15 MR. ISAACSON: Your Honor, can I interject?

16 THE COURT: I'm sorry. I forgot to recognize you,
17 Mr. Isaacson. Yes.

18 MR. ISAACSON: Mr. Williams asked me to review.

19 THE COURT: Yes, assist.

20 MR. ISAACSON: Your Honor, I would just say I think
21 16 should be in. It says, "Evidence of convictions considered
22 only to affect his credibility."

23 It was -- there was testimony by the agent from Florida
24 that he did have convictions, even though it's not under 609
25 certified. So there is evidence before the jury and it should

1 be an adequate and wise instruction just so they understand it
2 can't be used that he's guilty because something may have
3 happened in Florida.

4 THE COURT: Well, so I agree in part, but the other
5 part of me is just open because Mr. Sorenson is going to make a
6 case for the fact that. Indeed, the Florida conviction for
7 fraud should be used -- he's going to make an argument for
8 substantively, not just for credibility purposes.

9 MR. SORENSON: That's correct.

10 THE COURT: Right. So here we are on 16, though,
11 before we jump the gun on what you're going to propose with
12 regard to --

13 MR. SORENSON: The unauthorized practice of law.

14 THE COURT: Yes, and also taking into account the
15 fraud convictions in Florida as substantive evidence --

16 MR. SORENSON: Yes.

17 THE COURT: -- as opposed to going to credibility.

18 MR. SORENSON: Yes.

19 THE DEFENDANT: Excuse me?

20 THE COURT: Yes.

21 THE DEFENDANT: Judge Kobayashi, I do not have a
22 conviction for fraud in any state.

23 MR. SORENSON: Yeah, it's -- the conviction was for
24 grand theft related to his operation of the same scheme.

25 THE COURT: All right. I stand corrected.

1 THE DEFENDANT: No, it was not.

2 THE COURT: Thank you, Mr. Williams. Okay. Let's
3 look at the judgment when we get to that point.

4 MR. SORENSON: Yes.

5 THE COURT: But where we are on Instruction No. 16
6 is that my understanding is it's going to be given by
7 agreement, but it may be given -- the government's also going
8 to ask for an additional, or depending on whether or not
9 Mr. Williams testifies, they may be asking for this instruction
10 to be revised to include consideration of other crimes as
11 substantive evidence of the elements of the offense.

12 MR. SORENSON: Yeah. If he does testify, we think
13 this should be amended to simply say, "Previous conviction for
14 the unauthorized practice of law should be considered of
15 you -- considered by you only on the credibility" 'cause that's
16 what we've agreed that we can try to impeach him with what he
17 says.

18 THE COURT: Right. So this will be given at the
19 very least on the -- as to unauthorized practice of law.

20 MR. SORENSON: Yes.

21 THE COURT: Right?

22 THE DEFENDANT: Then we need to add something else
23 to that.

24 THE COURT: What is that, Mr. Williams?

25 THE DEFENDANT: We need to add that in the seven

1 other states I was never charged with unlicensed practice of
2 law when they knew that I was assisting clients in those
3 states, and I have letters from those state bar associations
4 and I was never charged with unlicensed practice of law.

5 THE COURT: Right, and so that's something you can
6 raise in argument. But I'm not going to include it in the
7 legal instructions because that hasn't --

8 MR. SORENSON: Yeah. If there's an evidentiary
9 basis for it, we haven't seen that evidentiary basis.

10 THE COURT: Right. I haven't seen that, but we'll
11 have to wait until you testify with regard to that.

12 MR. SORENSON: Yeah.

13 THE COURT: So we'll flag this one as one we need to
14 revisit before the jury is instructed.

15 MR. SORENSON: Judge, sorry to interrupt. There's a
16 couple more in here, 6 and 7 I wanted to alert the Court to
17 that do mention lawyers. I think the fix here is probably
18 pretty simple, just change the word "lawyer" to "parties":
19 "During the course of trial when a party asked a question or
20 offered an exhibit into evidence and a party on the other side
21 thought it was not permitted by the rules of evidence, that
22 party may have objected."

23 THE COURT: All right. Mr. Williams, this is
24 Instruction No. 6 about evidence --

25 MR. SORENSON: And 7.

1 THE COURT: -- and objections. So we'll take a look
2 at --

3 THE DEFENDANT: I am a real lawyer. A lawyer means
4 one who knows the law. I do know the law, so I am a lawyer.
5 I'm just not a member of the bar association.

6 THE COURT: All right. So over your objection,
7 we're going to change the word from "lawyer" to "party" as to
8 Instruction No. 6.

9 And Instruction No. 7, the government also wants to
10 replace any reference to "lawyer" to "party," is that correct?

11 MR. SORENSON: Yes, Your Honor.

12 THE COURT: All right. And, Mr. Williams, do you
13 have that same objection?

14 THE DEFENDANT: Yes, I do.

15 THE COURT: All right. So over the objection of
16 Mr. Williams, the word "lawyers" will be substituted with the
17 word "parties" plural.

18 MR. SORENSON: And, Your Honor, in Instruction
19 No. 8, Stipulations, it does say there, "In this case the
20 parties have agreed," so it's kind of consistent.

21 THE COURT: All right. Anything else with regard to
22 the proposed instruction, Mr. Sorenson? And then I'll open the
23 floor to Mr. Williams.

24 MR. SORENSON: Your Honor, I think that's it.

25 THE COURT: All right. So we're just going over the

1 proposed instructions that I've put together from the standard
2 instructions, Mr. Williams. Do you have any edits or
3 objections to those Proposed Instructions 1 through 25?

4 MR. ISAACSON: Your Honor --

5 THE DEFENDANT: Yes.

6 THE COURT: Yes, Mr. Williams?

7 THE DEFENDANT: Yes. Mr. Isaacson did a proposal
8 and I would like him take the floor right now.

9 THE COURT: All right. Thank you.

10 Mr. Isaacson?

11 MR. ISAACSON: Your Honor, I think I made copies to
12 your chambers of some thoughts.

13 We would object to -- or Mr. Williams would object to the
14 Instruction 31 about aiding and abetting. I put it in my
15 declaration of counsel. I can argue those, Judge. Do I need
16 to -- basically I stand by --

17 THE COURT: I'm sorry. Which -- I'm talking about
18 Proposed Instructions 1 through 25.

19 MR. ISAACSON: Oh, I'm sorry, Judge.

20 THE COURT: Yeah.

21 MR. ISAACSON: I apologize.

22 THE COURT: Yeah. Let's -- I just want to do each
23 section first before jumping around.

24 So 1 through 25, do you guys have objections or edits like
25 the government had suggested?

1 MR. ISAACSON: Sorry, Your Honor, sorry.

2 THE DEFENDANT: There's the aiding and abetting.

3 THE COURT: Right. We'll get to that, but we're not
4 there yet. Right now we're at the ones from the standard
5 instructions.

6 MR. ISAACSON: Your Honor, if I may, 17, you have in
7 the bracket "witness." Is that going to be Mr. Malinay and
8 Ms. Cabebe?

9 THE COURT: This refers to -- yeah, yes. So we
10 would -- we either put plural "witnesses" or it would be, "You
11 have heard testimony from witnesses who have pled guilty to a
12 crime arising out of same events for which the defendant is on
13 trial. This guilty plea is not evidence against the defendant
14 and you may consider it only in determining these
15 witnesses'" -- plural -- "believability. You should consider
16 these witnesses' testimony with greater caution than that of
17 other witnesses" plural, because it's Ms. Cabebe and
18 Mr. Malinay.

19 MR. SORENSON: We agree with that, Your Honor.
20 That's fine.

21 MR. ISAACSON: You know, I think I've seen other
22 courts put the actual names in, but I don't know if you do
23 that, Your Honor.

24 THE DEFENDANT: Yes, I would like the actual names
25 placed in there.

1 THE COURT: Is that what you want, Mr. Williams?

2 THE DEFENDANT: Yes, ma'am.

3 THE COURT: So it would be Henry Malinay and Anabel
4 Cabebe. So, "You have heard testimony from Henry Malinay and
5 Anabel Cabebe, witnesses who have pled guilty to a crime
6 arising out of the same events for which the defendant is on
7 trial. These guilty pleas are not evidence against the
8 defendant and you may consider it only in determining these
9 witnesses' believability. You should consider these witnesses'
10 testimonies" -- or "testimony" I guess -- "with greater caution
11 than that of any other witnesses." All right?

12 So as revised, that's going to be given by agreement?

13 MR. SORENSON: We agree, Your Honor.

14 THE COURT: Mr. Williams?

15 THE DEFENDANT: I disagree on one particular
16 sentence.

17 THE COURT: Okay. What's that?

18 THE DEFENDANT: Where it says "to a crime arising
19 out of the same events," it was not the same events. They were
20 totally different events. They were similar, but they weren't
21 the same. They didn't do what I do. They had their own
22 separate company; they scammed these people without my
23 knowledge.

24 THE COURT: Well, they were charged under the same
25 Indictment as yours, right? No? That's right, they ended up

1 pleading guilty.

2 MR. SORENSON: Anabel Cabebe was charged in the same
3 Indictment. I think she pled to an information charging a
4 conspiracy to commit wire fraud arising from the events with
5 Mr. Williams and she so testified. But we can look at those
6 documents.

7 THE COURT: Right.

8 MR. SORENSON: But she pled to conspiring with him
9 to commit wire fraud.

10 THE COURT: Right, the same wire fraud --

11 MR. SORENSON: Yes.

12 THE COURT: -- that's alleged against him.

13 MR. SORENSON: And same for Henry Malinay.

14 THE COURT: Right. So they're arising out of the
15 same facts that they're alleging against you, Mr. Williams.

16 MR. ISAACSON: Mr. Malinay wasn't part of this case.

17 MR. SORENSON: No, but he pled guilty to a
18 conspiracy to commit wire fraud arising from this same -- his
19 conspiracy with Mr. Williams.

20 MR. ISAACSON: I'm just saying he wasn't a defendant
21 in this case.

22 THE COURT: Correct. He wasn't a defendant in the
23 original Indictment.

24 THE DEFENDANT: He didn't have no conspiracy with
25 me.

1 THE COURT: No, no, but that's what they pled
2 guilty -- I know you're denying that, but that's what they pled
3 guilty to out of the same facts that have been alleged on the
4 wire fraud.

5 THE DEFENDANT: Well, in relation to them two, yes.
6 Anabel and Henry, yeah, they have conspiracy against them too,
7 but that had nothing to do with me.

8 THE COURT: All right. So I'm going to give the
9 instruction as revised by agreement except for your objection
10 to the words "arising out of the same events for which the
11 defendant is on trial."

12 All right.

13 THE DEFENDANT: I think it should say "similar."

14 MR. SORENSON: Oh, are you striking that language,
15 Your Honor?

16 THE COURT: No, I'm not striking the language.
17 That's just the part he's objecting to. But he's agreeing that
18 it should be given, that we should identify Mr. Malinay and
19 Ms. Cabebe by name, and that any -- their testimony or their
20 guilt or pleading guilty shouldn't be evidence against him, and
21 he's agreeing that they should consider those witnesses'
22 testimony with greater caution than any other witness.

23 Correct, Mr. Williams?

24 THE DEFENDANT: That's correct.

25 THE COURT: I'm sorry. Ms. Odani has a question for

1 me.

2 I don't have it. I only have up to 25.

3 THE LAW CLERK: Yeah, 25 is the last.

4 THE COURT: Oh, I see. I looked at -- I see. Thank
5 you.

6 Okay. I'm sorry, Mr. Isaacson, you're right. I looked at
7 25, but -- I put it in the order, but we didn't change the
8 number. So that was my -- you're right, the aiding and
9 abetting is there, so we should address that. But -- okay.

10 So we're at 17 and we're going to give it as revised by
11 agreement except for that specific language I just identified.

12 What's the next one, Mr. Isaacson?

13 MR. ISAACSON: The ones I'm objecting to?

14 THE COURT: Correct.

15 MR. SORENSON: Your Honor, I think Mr. Isaacson's
16 talking about -- I guess he's going to talk about their
17 submissions, but I don't know that we finished with the Court's
18 first 25.

19 THE COURT: Right.

20 MR. SORENSON: Like, 27 --

21 THE COURT: No, no. So the aiding and abetting is
22 in the court's proposed --

23 MR. SORENSON: It is.

24 THE COURT: -- because I took the ones that you guys
25 asked for. You're right. I was wrong. So I just want to go

1 through all the ones you have objections to of the standard
2 court instructions.

3 MR. ISAACSON: Sorry, Judge, feel like I'm all out
4 of order here.

5 THE COURT: You know what? Maybe what's easier is
6 let's go page by page in the order I put it. We can see -- I
7 think the majority of them you guys are in agreement.

8 All right. So the Proposed Instruction No. 1 is the duty
9 of the judge. I believe that's going to be given by agreement;
10 is that correct?

11 MR. SORENSON: Yep.

12 THE COURT: Okay. Proposed Instruction No. 2, the
13 duty to follow instructions having to do with a single
14 defendant, any objection to that?

15 MR. SORENSON: None.

16 THE COURT: All right.

17 MR. ISAACSON: Mr. Williams, do you want me to speak
18 or do you want to speak?

19 THE DEFENDANT: You do it right now.

20 MR. ISAACSON: Okay. Judge, I reviewed. No
21 objection to 2.

22 THE COURT: All right. Instruction No. 3 gives the
23 legal definition of reasonable doubt and the government's
24 burden of proof.

25 Any objection to that being given?

1 MR. SORENSON: Not from us, Your Honor.

2 MR. ISAACSON: None, Your Honor.

3 THE COURT: Okay. Instruction No. 5 refers to the
4 evidence excluding argument of counsel. That's going to be
5 given as modified over the objection of Mr. Williams.

6 Instruction No. 6 has to do with evidence objections
7 raised by parties. That's going to be given as revised over
8 the objection of Mr. Williams.

9 Instruction No. 7, likewise, the word "lawyers" will be
10 deleted. It'll be revised to reflect "parties" and that's
11 going to be given over the objection of Mr. Williams.

12 Instruction No. 8 has to do with stipulations. I don't
13 know that there were any, so I don't know that that has to be
14 given.

15 THE DEFENDANT: Well, they -- I did a motion for a
16 stipulation of certain facts, but it was never answered.

17 MR. SORENSON: I think the Court denied that motion,
18 Your Honor.

19 THE COURT: Right.

20 MR. SORENSON: I think -- I think there were just a
21 couple agreements here and there, Your Honor, so it doesn't
22 hurt to give it.

23 THE COURT: Right.

24 MR. ISAACSON: I agree, Judge. People did stipulate
25 the evidence coming in.

1 THE COURT: That's true. So that'll be given by
2 agreement; is that correct?

3 MR. ISAACSON: Yes, for the defendant.

4 THE COURT: All right. Instruction No. 9 sets forth
5 the definition of direct and circumstantial evidence and that
6 they can consider both.

7 Any objection to the court giving this instruction?

8 MR. SORENSON: Not for the United States.

9 MR. ISAACSON: None. None, Your Honor.

10 THE COURT: Instruction No. 10 talks about the
11 credibility of the witnesses and that the jury is the sole
12 judge of the credibility or believability of each witness and
13 the weight to be given to his or her testimony.

14 Any objection to the court giving this instruction?

15 MR. SORENSON: No, Your Honor.

16 MR. ISAACSON: No, Your Honor.

17 THE COURT: Instruction No. 11 pertains to the
18 defendant testifying, and that would, of course, only be given
19 if Mr. Williams testifies on Monday. But it states, "The
20 defendant has testified. You should treat this testimony just
21 as you would the testimony of any other witness."

22 Any objection to the court giving this instruction?

23 MR. SORENSON: No, Your Honor. In the event
24 it's --

25 MR. ISAACSON: Your Honor, if I may add for

1 Mr. Williams's benefit, in the event he does not testify, am I
2 correct there'll be a similar instruction that they cannot use
3 that against him, Judge, if you can talk about that for a
4 second?

5 THE COURT: Exactly. So this instruction would only
6 be given if Mr. Williams does testify. If he does not testify,
7 then we would take out this instruction and replace it with the
8 standard jury instruction that the defendant has a right not to
9 testify and you should not hold his decision not to testify
10 against him in considering the charges.

11 MR. ISAACSON: Thank you, Your Honor.

12 THE COURT: All right. And so we're all in
13 agreement that that's how it's going to go --

14 MR. SORENSON: Yes, Your Honor.

15 THE COURT: -- if he doesn't testify on Monday?
16 Okay.

17 Instruction No. 12 talks about the rules of evidence
18 providing for experts and -- with specialized knowledge
19 testifying.

20 Any objection to the court giving that standard
21 instruction?

22 MR. SORENSON: No, Your Honor.

23 MR. ISAACSON: No, Your Honor.

24 THE COURT: Instruction No. 13 talks about how a
25 witness can be discredited or impeached by contradictory

1 evidence.

2 Any objection to the court giving this standard
3 instruction?

4 MR. SORENSON: No, Your Honor.

5 MR. ISAACSON: No, Your Honor.

6 THE COURT: Instruction No. 14 of the standard
7 instruction talks about impeachment by evidence of the general
8 reputation of the witness for truth or veracity is bad in the
9 community where the witness now resides or has recently
10 resided.

11 MR. SORENSON: Probably nonapplicable.

12 THE COURT: Only bad things I heard about was Edna
13 Franco and she didn't testify.

14 MR. SORENSON: Right.

15 THE COURT: I mean, they said she's a bad person.

16 MR. SORENSON: There was a lot of bad stuff said
17 about Edna.

18 THE COURT: Right. And I don't recall any testimony
19 about anybody else's reputation for truthfulness or veracity.

20 MR. SORENSON: No.

21 MR. ISAACSON: I don't recall reputation evidence.

22 THE DEFENDANT: Yeah. My witness did specifically
23 talk about how Edna and Henry Malinay were both con artists in
24 what they did to a lot of people in the community.

25 THE COURT: Okay. So do you want this given?

1 THE DEFENDANT: Yes.

2 MR. SORENSON: Well, it has to be general reputation
3 for truth and veracity in the community. I don't know if we
4 had that kind of evidence.

5 THE DEFENDANT: Yeah, we did.

6 MR. SORENSON: I mean, that simply wasn't --

7 THE DEFENDANT: Against Henry Malinay, that's been
8 provided.

9 THE COURT: Could you repeat that, Mr. Williams?

10 THE DEFENDANT: Of the sworn affidavits that were
11 filed against Mr. Malinay or the OCP complaints that were filed
12 against him in the community.

13 THE COURT: Yeah, but it was for his acts. But what
14 we're wondering is if it's for his reputation for truth or
15 veracity.

16 So I'm just going to give it. I'm going to give it 'cause
17 there was a lot of testimony with regard to it and I don't
18 think -- I think it's harmless error if it really doesn't
19 apply. I don't know if anybody's really going to argue it.

20 Okay. So impeachment of a witness with a prior conviction
21 of a felony or a crime involving dishonesty or false statement.

22 MR. SORENSON: Again, this probably is applicable to
23 both Cabebe and Malinay who pled guilty, Your Honor. Would
24 that be correct?

25 THE COURT: Right. That's who I'm thinking it is,

1 but we already have one --

2 MR. SORENSON: You already have that, so I would ask
3 that it not be given again.

4 THE COURT: Okay. Are you in agreement,
5 Mr. Isaacson and Mr. Williams?

6 THE DEFENDANT: No. I think it should be given.
7 It's a standard -- it's a standard instruction.

8 MR. SORENSON: But they've already been cautioned
9 about the testimony of both Malinay and Cabebe by name.

10 THE DEFENDANT: It's standard.

11 MR. ISAACSON: Your Honor, I might add that's
12 similar, but that has to do more with facts -- I think it talks
13 about facts relating to this -- these -- this circumstance of
14 this case. This goes a little bit more toward just felony in
15 general and it does talk about circumstances. So I think --

16 MR. SORENSON: But there's only one felony.

17 MR. ISAACSON: What?

18 MR. SORENSON: I mean, there's -- if we're going to
19 give this, I don't know that we should give the other one.

20 MR. ISAACSON: Can I --

21 THE COURT: Well, I guess it is duplicative to the
22 sense that one is which they have testified they pled guilty,
23 but they haven't been sentenced. So technically, although I
24 guess the Second Chance Act the government took the position if
25 you pled guilty, you're convicted.

1 MR. ISAACSON: Oh, yeah.

2 MR. SORENSON: Well, I mean, yeah, you're not
3 convicted until you're sentenced, correct? So --

4 THE COURT: So arguably they could move to withdraw
5 their guilty plea.

6 MR. SORENSON: Their conviction is not final at this
7 point, so it's probably factually not correct.

8 THE COURT: Right.

9 THE DEFENDANT: But that's not correct. They're not
10 just -- before you got sentenced -- you can get convicted at
11 trial and you convicted and you're not sentenced yet.

12 THE COURT: Yeah, that's true. That is true.

13 MR. SORENSON: Can we -- I mean, are we going to --

14 THE COURT: Well, they pled guilty so they could
15 actually move to withdraw their guilty plea before sentencing.

16 So -- so I'm only going to give one of these and the one
17 I'm going to give is Instruction 17, "Witness who has pled
18 guilty," because they both admitted they pled guilty and they
19 both stated on the record they haven't been sentenced yet. And
20 to give both I think would be an overemphasis on that.

21 Over your objection, I'm not going to give the prior
22 conviction instruction, Mr. Williams.

23 Okay. Then we have the Proposed Instruction 16 about
24 impeachment of the defendant with a prior conviction. We've
25 already indicated we need to revisit that once Mr. Williams

1 makes the decision about testifying.

2 MR. SORENSON: Yes.

3 THE COURT: Instruction No. 17, witness who has pled
4 guilty, with the editing and modifications, we've revised it.
5 It's being given by agreement except for the specific language
6 to which Mr. Williams --

7 MR. SORENSON: Yes.

8 THE COURT: -- objects, that they pled guilty to a
9 crime arising out of the same events for which the defendant is
10 on trial.

11 Okay. The next is Proposed Instruction No. 18, "Testimony
12 of a law enforcement officer should be given the same weight as
13 everyone else" --

14 MR. SORENSON: Yes, Your Honor.

15 THE COURT: -- "who testifies."

16 That's given by agreement; is that correct?

17 MR. SORENSON: Yes, Your Honor.

18 MR. ISAACSON: Yes, Your Honor.

19 THE COURT: Instruction No. 27 talks about the
20 summary charts and summaries, "They themselves are not evidence
21 or proof of any facts. If they don't correctly reflect the
22 facts or the figures shown by the evidence in the case, you
23 should disregard," et cetera.

24 That's given by agreement?

25 MR. SORENSON: I think that -- I think that our

1 charts are substantive evidence, Your Honor.

2 The next one, so I don't know that we have -- do we have
3 charts and summaries that are just -- I don't know if we have
4 pedagogical --

5 THE COURT: So your charts and summaries were
6 received in evidence?

7 MR. SORENSON: Yeah, so far, Your Honor. If there
8 are demonstrative charts, I can't remember them at this stage,
9 but might be my fault.

10 Yeah, the government doesn't have any demonstrative charts
11 at this stage.

12 THE COURT: All right. So you're saying it's not
13 applicable?

14 MR. SORENSON: It's not at this juncture. Now, the
15 defense may come up with something. I don't know. If it
16 becomes material, we can address it. But at this stage --

17 THE COURT: Are you in agreement, Mr. Isaacson or
18 Mr. Williams?

19 MR. ISAACSON: Yeah, I think the government charts
20 were actually admitted. Mr. Williams had a diagram in his
21 opening, but that's the only other thing I can think of.

22 THE COURT: Okay. So, Mr. Williams, you're all
23 right with not giving Instruction No. 27?

24 THE DEFENDANT: Yes.

25 THE COURT: Okay. Instruction No. 26, certain

1 charts and summaries have been admitted into evidence and they
2 are only as good as the underlying supporting material. You
3 should therefore give them only such weight as you think the
4 underlying testimony deserves."

5 Is that being given by agreement?

6 MR. SORENSON: Yes, Your Honor.

7 MR. ISAACSON: Yeah, agreed.

8 THE COURT: Proposed Instruction No. 28, it goes
9 through what the law is with regard to what must -- the
10 elements that have to be proven with regard to Counts 1 through
11 15 of the Superseding Indictment with wire fraud.

12 Any objections to the court giving this instruction?

13 MR. SORENSON: No, Your Honor.

14 MR. ISAACSON: Your Honor, the only objection I have
15 is tied to the verdict form. I don't know if you want to
16 discuss that now or at some other point. This is a
17 good -- this is the law, 28 is fine, but there is something to
18 do with the verdict form I'd like to raise at some point.

19 THE COURT: Okay. We'll definitely go through the
20 verdict form.

21 Okay. All right. So 28 is being given by agreement,
22 correct? No one's -- okay.
23 Instruction No. 29, "In determining whether a scheme to defraud
24 exists, you are entitled to consider not only the defendant's
25 words and statements, but also the circumstances in which they

1 are used as a whole," and then it goes and explains the law
2 with regard to that.

3 Any objection to the court giving Instruction No. 29?

4 MR. SORENSON: No, Your Honor. It's a standard
5 instruction.

6 MR. ISAACSON: Your Honor, if I may, I believe -- I
7 didn't raise this before, but a little bit now. Judge, I
8 believe Instruction 29 is the government's one based on case
9 law. I don't think this is a standard Ninth Circuit one.

10 I have checked the law and I believe this is a correct
11 assertion of the decision that the government cited when they
12 did this. I am -- I guess for Mr. Williams I would object. I
13 don't think this is necessary for this case. There's plenty of
14 description of the elements of the crime and a narrative of
15 what a scheme to defraud can be done, you know, may be
16 necessary in certain situations, but I don't think it's
17 necessary in this case.

18 We have plenty of evidence and the instructions lay out
19 the element of the crime. And an additional editorial of what
20 a scheme to defraud is I think the jury is perfectly able to
21 make their decision. So on Mr. Williams's behalf, I would
22 object to 29.

23 THE COURT: Okay. So a scheme to defraud is alleged
24 in the Indictment.

25 MR. SORENSON: Oh, it is alleged, yes, Your Honor.

1 THE COURT: Yeah. So I think that's why it's
2 relevant and give that. So that'll be given over
3 Mr. Williams's objections.

4 Proposed Instruction No. 30, this goes to the law as to
5 the elements of Count 16 through 32 of the Superseding
6 Indictment charging mail fraud.

7 Any objection to the court giving this instruction?

8 MR. SORENSON: No, Your Honor. It's essentially the
9 same as our wire fraud instruction.

10 MR. ISAACSON: It matches the -- no objection to it,
11 Judge.

12 THE COURT: All right. Now, 31 is the one I believe
13 you wanted to address; isn't that correct, Mr. Isaacson?

14 MR. ISAACSON: Yes, if I may, Your Honor. The
15 beginning part of it is fine. It just goes to -- when we go
16 to -- is it here? Did I get the wrong one? -- aiding and
17 abetting.

18 THE COURT: Yes.

19 MR. ISAACSON: Oh, I'm sorry, 31 aiding and
20 abetting. Your Honor, I lay out in my declaration of counsel
21 my arguments for it.

22 Briefly, he's not charged with 18 U.S.C., Section 2, nor
23 is he charged with conspiracy. One of the issues I was
24 thinking about, especially when I looked at the jury
25 instruction, the Ninth Circuit one, whether or not it makes

1 sense in a -- no longer a multiple defendant case. There's
2 only one defendant in this case at this time.

3 I found a Seventh Circuit decision where it talked about
4 in the case where 20 more persons were charged with the
5 commission of the crime. Then it might makes sense there.

6 The Ninth Circuit Model Jury Instruction 5.1 says the
7 government is not -- their version is the government is not
8 required to prove precisely which defendant actually committed
9 the crime and which defendant aided and abetted.

10 Your Honor, I think this is meant for a case when you have
11 more than one defendant. I think that makes sense, you know, I
12 think in a kind of analogy to *Pinkerton* a little bit. But if
13 at this point it doesn't -- and it doesn't make any sense to
14 the facts of the case. Mr. Williams is alleged to be the king
15 guy, the head guy; he's the guy who, you know, they're saying
16 is the mastermind of this whole thing. They didn't call
17 Ms. Cabebe as a witness; only Mr. Sorenson did. They can't
18 call Barbara Williams as a witness in this case.

19 So I am concerned, Judge, that the government may say, Oh,
20 well, Mr. Williams should be found guilty because he aided and
21 abetted with Ms. Cabebe," when there's been no evidence of that
22 whatever. He's supposed to be the ring leader. He's supposed
23 to be the main guy. This aiding and abetting I think is
24 unfair. It's not in the Indictment, it's not into the trial
25 memorandum, he's not charged with it; he's a sole defendant at

1 this time.

2 I would merely suggest based on these facts, or I'd argue,
3 Judge, that the aiding and abetting should not be given.

4 THE COURT: All right. Mr. Sorenson, are you --

5 MR. SORENSON: Okay. Well, aiding and abetting is
6 charged. It's inferred to be charged in every federal case.
7 There's a lot of case law on that.

8 And it does apply, and Mr. Isaacson indicated that there
9 weren't more than one person charged in the Indictment. There
10 were. There were two people charged in the Indictment, and
11 there are multiple counts in the Indictment, and in a lot of
12 those counts other individuals -- for instance, I believe Mary
13 Jean Castillo was sending wires. We would argue and advocate
14 that Mr. Williams is guilty for her acts because he aided and
15 abetted, procured, counselled, commanded her to do those acts.

16 So as far as multiple of the counts in the Indictment, he
17 is, you know, not the principal. He's not the person that
18 actually sent them. He's the person that counselled, commanded
19 procured, or somehow induced the commission of the violation.

20 So aiding/abetting is squarely in play here, Your Honor.
21 We think your instruction is right on all fours with what our
22 evidence is going to prove or did prove. So we like 31.

23 THE COURT: I think that's very persuasive, the fact
24 that you like it, that the Court should give it.

25 So I'm going to give that over the objection of the

1 defense. I think it does fit the testimony. And also looking
2 at the Indictment, how it's been charged, that the allegation
3 is that Mr. Williams not necessarily did all the acts himself
4 that caused the mail to be used to send the checks or the money
5 orders, but that he, as it indicated, 'counselled, commanded,
6 induced, or procured."

7 So I do believe that this is an appropriate instruction to
8 give, recognizing Mr. Isaacson's strong arguments to the fact
9 that he is a sole defendant in this case. So it's not that
10 he's saying there's specific others, but certainly the
11 testimony bears it out with regard to it and supports the
12 instruction as does the Indictment. So over the objection of
13 the defense.

14 Okay. Proposed Instruction No. 19 talking about on or
15 about for multiple counts.

16 MR. SORENSON: No objection.

17 MR. ISAACSON: No objection, Your Honor.

18 THE COURT: All right. Thank you.

19 Instruction No. 20 giving the definition of knowingly.

20 MR. SORENSON: No objection.

21 MR. ISAACSON: No objection, Your Honor.

22 THE COURT: Instruction No. 21 that the jury is
23 cautioned they should not take any consideration about
24 punishment, that that's reserved for the province of the judge.

25 MR. SORENSON: No objection.

1 MR. ISAACSON: No objection, Your Honor.

2 THE COURT: Instruction No. 22, standard instruction
3 taking notes during the trial, instructing them that it's only
4 to assist their memory; they shouldn't be overinfluenced by
5 them.

6 Any objection?

7 MR. SORENSON: None, Your Honor.

8 MR. ISAACSON: No objection, Your Honor.

9 THE COURT: Instruction No. 23 that they
10 should -- the jurors should conduct no outside research to
11 assist them in coming to a verdict.

12 Any objection?

13 MR. YATES: No objection.

14 MR. ISAACSON: No objection, Your Honor.

15 THE COURT: Instruction No. 24, that they have a
16 duty to deliberate and must be a unanimous decision.

17 Any objection to me giving this?

18 MR. SORENSON: No, Your Honor.

19 MR. ISAACSON: No objection, Your Honor.

20 THE COURT: Instruction No. 25, it has to do with
21 the verdict form and directing them that they need to
22 deliberate and complete the entire verdict form once they reach
23 unanimous agreement as to the verdict, they have to have the
24 foreperson sign it and date it, and that they shouldn't tell
25 anyone during their deliberations how many people are voting

1 for or against a certain count.

2 Any objection to giving that?

3 MR. SORENSON: No objection.

4 MR. ISAACSON: No objection, Your Honor.

5 THE COURT: Okay. That'll be given by agreement.

6 All right. So we've finished those.

7 Now we're going to go to the first set of proposed
8 instructions by Mr. Williams. That was the proposed jury
9 instruction that was exchanged on January 17, 2020.

10 MR. SORENSON: Has the Court already ruled on those,
11 Your Honor? 'Cause I don't have those.

12 MR. ISAACSON: I have -- well, you can look at mine.

13 THE COURT: No. I mean, I generally -- what I've
14 generally stated to you folks is that I'm -- I'm going to
15 refuse them.

16 MR. SORENSON: Yes.

17 THE COURT: And so I just wanted to put it on the
18 record now.

19 MR. SORENSON: Okay.

20 THE COURT: And then we'll go to the second -- or
21 Mr. Isaacson's most recent filing on his supplemental points
22 and authorities for jury instructions.

23 And then I want to go over the verdict form.

24 And then I want to go over the requests by Mr. Williams
25 for the transcripts.

1 MR. ISAACSON: Oh, yes.

2 THE COURT: Okay? So the government filed their
3 objections to the proposed jury instructions. That's
4 Document 792. That was filed January 22, 2020.

5 Okay. So I'm just going to go through the instructions
6 and the reasons why I'm refusing them.

7 MR. ISAACSON: Your Honor, for the record, may I
8 just -- may I? Sorry.

9 Your Honor, Mr. Williams's instructions for the record are
10 found attached to the government's proposed jury instructions.
11 They're actually found in Document 79-1.

12 THE COURT: All right. Thank you.

13 MR. ISAACSON: Sorry, Judge.

14 THE COURT: All right. So the first proposed
15 instruction has to do with the good faith defense. And so the
16 court's denying that because it's inapplicable to the counts
17 against Mr. Williams in this matter involving mail or wire
18 fraud.

19 The second proposed instruction has to do with outside
20 research, directing them that they have a constitutional right
21 to research legal dictionaries. That's contrary to law and
22 therefore not applicable and the court's refusing that.

23 The next proposed instruction is the instruction to the
24 jurors that they don't have to follow all of the court's
25 instructions and he has -- they have the right to jury

1 nullification. That's not supported by law. In fact, that's
2 contrary to law, and so the court is refusing that instruction.

3 The fourth proposed instruction is the prosecution's
4 motive that directs the jury to weigh the motives of the
5 prosecutors in prosecuting the case, and that's not supported
6 by the law, in fact, contrary to law, and therefore, the court
7 is refusing on that basis.

8 The fifth proposed instruction is -- has to do with, "You
9 can determine that based upon the evidence presented that
10 others should have been arrested and indicted for the offenses
11 and not the accused. It is your duty to return a verdict of
12 innocent or not guilty."

13 Again, that's direct contrary to law, not supported by
14 law, and therefore, the court is refusing on that basis.

15 In addition, the court notes that there is a jury
16 instruction about the reliance on a good faith belief and/or on
17 advice of counsel or a learned expert, but that instruction
18 specifically pertains to income tax fraud which is not being
19 alleged against Mr. Williams in this case, and there is no
20 willfulness element that the government is required to prove on
21 the counts in the Indictment, and therefore, such instructions
22 are not supported by the law or by the Indictment.

23 So the court on that basis additionally refuses the
24 instructions that were requested by Mr. Williams.

25 All right. So now we're going to turn to Mr. Isaacson's

1 filing which was today. I'm not sure -- is it today? Or it
2 was yesterday, I'm sorry, Document 914. And that was the
3 supplemental points and authorities regarding the instructions.

4 So, Mr. Isaacson, do you want to go over whatever's
5 remaining of what you submitted? 'Cause I know you just argued
6 that first one about aiding and abetting.

7 MR. ISAACSON: Your Honor, I would do Instruction
8 1B, my proposed instruction, Exhibit D to my --

9 THE COURT: Oh, could you use the microphone?

10 MR. ISAACSON: Oh, I'm sorry, Your Honor.

11 THE COURT: That's all right.

12 MR. ISAACSON: Sorry. Your Honor. If I may, the
13 Ninth Circuit instruction is actually Exhibit F, 3.16, intent
14 to defraud. And in that one, Exhibit F, it cites to *United*
15 *States v. Molinaro*. And the Ninth Circuit approved an
16 instruction that I have included in my -- I took it verbatim --
17 my instruction proposed 1B. So that's taken directly from the
18 3.16 Ninth Circuit one, "You may determine whether the
19 defendant had an honest, good faith belief in the truth of the
20 specific misrepresentations alleged in the Indictment in
21 determining whether or not the defendant acted with intent" --

22 THE COURT REPORTER: Wait.

23 MR. ISAACSON: Oh, too fast?

24 THE COURT REPORTER: Yeah.

25 MR. ISAACSON: Oh, yes, yes. "You may determine

1 whether a defendant had an honest, good faith belief in the
2 truth of the specific misrepresentations alleged in the
3 Indictment in determining whether or not the defendant acted
4 with the intent to defraud. However, a defendant's belief that
5 the victims of the fraud would be paid in the future or will
6 sustain no economic loss is no defense to the crime."

7 Judge, this was approved in the *Molinaro* case. I think it
8 fits pretty well to the facts that we have, you know, whether
9 or not Mr. Williams had an honest, good faith belief, and this
10 truth of what he allegedly said fits exactly to what this case
11 is.

12 The facts of it seem to be, if I can, they're alleging on
13 the one hand it was evil intent and all these things. They
14 seem to be -- the Ninth Circuit has approved this and it seems
15 to be appropriate to this case.

16 THE COURT: All right. Mr. Sorenson?

17 MR. SORENSON: Your Honor, I think it's pretty
18 settled in the Ninth Circuit, and I'm quoting directly from the
19 *Shipsey* case, Your Honor, citation being 363 Fed.3d 962, "Our
20 case law is well settled that a criminal defendant has no right
21 to" --

22 THE COURT: Slow down. Slow down.

23 I'm sorry. What does it say?

24 MR. SORENSON: (Reading:) "Our case law is well
25 settled that a criminal defendant has no right to any good

1 faith instruction when the jury has been adequately instructed
2 with regard to the intent required to be found guilty of the
3 crime charged, notwithstanding the normal rules governing
4 theory of defense requests."

5 Your Honor, I think the instruction given regarding the
6 elements of both the mail fraud and wire fraud, which are the
7 same pretty much, is completely adequate and that this
8 instruction is confusing to some degree.

9 THE COURT: Well, it goes directly to his defense,
10 doesn't it? So I haven't looked at the *Shipsey* case --

11 MR. SORENSON: Yeah. If I look at the third element
12 of, for instance, Instruction No. 28, there, "Defendant acted
13 with the intent to defraud, that is, the intent to deceive or
14 cheat," so that's the intent required, the intent to deceive or
15 cheat.

16 THE COURT: Right.

17 MR. SORENSON: This instruction, I guess it was
18 cobbled together from the *Molinaro* case?

19 THE COURT: Yeah. So he offers Exhibit F to his
20 filing, the Ninth Circuit standard instruction 3.16 intent to
21 defraud, and it defines it, "An intent to defraud is an intent
22 to deceive or cheat."

23 MR. SORENSON: Right.

24 THE COURT: Then in the comment it refers to the
25 *Shipsey* case, which you just cited to me, and then that follows

1 with his reference and to the holding in *United States v.*
2 *Molinaro*.

3 MR. SORENSON: Yeah, the -- 28 does say "acted with
4 the intent to defraud, that is, the intent to deceive or
5 cheat." So that's already given.

6 THE COURT: Right.

7 THE DEFENDANT: That's part of my defense, so it
8 should be an instruction because why would I think I'm
9 defrauding someone when I was already previously investigated
10 in 2012 by the FBI in Tennessee and they never charged me,
11 investigated by the FBI in Florida for the same thing and they
12 never charged me? Matter of fact, they declined prosecution.

13 MR. SORENSON: But he can -- I mean, he can argue
14 and certainly put on evidence that is contrary to the elements
15 that are required in the charge and then argue it.

16 THE DEFENDANT: They should be in there.

17 MR. SORENSON: I mean, he can argue that he didn't
18 lie.

19 THE COURT: Right. So I'm just bewildered by the
20 comment because it refers to both the *Shipsey* case, which
21 they're saying that "As long as you give the instruction on the
22 intent to defraud is an intent to deceive or cheat, the panel
23 held that no good faith instruction was necessary at all. But
24 on the issue as to whether the defendant acted in good faith
25 and therefore did not act with an intent to defraud, in the

1 *Molinaro* case the Ninth Circuit approved the following
2 instruction involving the crime of bank fraud."

3 MR. SORENSON: Well Your Honor, we stick with the
4 *Shipsey* case. Of course, as you might expect, we do believe
5 that the defendant has every right to argue that he didn't lie
6 because he believed in the facts that he was representing, but
7 that means that he wins on the third element of Instruction
8 No. 28 --

9 THE COURT: All right.

10 MR. SORENSON: -- that he didn't act with the intent
11 to defraud, so...

12 THE COURT: All right. So I'm going to give it over
13 the objection of the government. I think because in the
14 commentary it has the both ways, I'm going to interpret it that
15 it's my discretion whether or not to give it and it's not
16 reversible error to give, so -- but if it is, it is, and --

17 MR. SORENSON: I don't think it is, Your Honor.

18 THE COURT: Thank you, Mr. Sorenson.

19 So I'm going to give it over the objection of the
20 government.

21 All right. Are there any other instructions that we
22 haven't covered that you are asking the court to instruct on?

23 MR. ISAACSON: Judge, Exhibit G is -- I think kind
24 of dovetails to my concern that before -- if Mr. Williams does
25 testify, that there be at least a sidebar as to what they're

1 going to be allowed to go into his situation.

2 THE COURT: Right. So I think what I should do is
3 rule now on their trial brief on the issues that they say
4 they're going to bring up so that you know --

5 MR. ISAACSON: Your Honor --

6 THE COURT: -- should he testify.

7 MR. ISAACSON: -- I was hoping you might give me a
8 chance -- I'm going to visit with Mr. Williams over the
9 weekend.

10 THE COURT: Okay.

11 MR. ISAACSON: And I might prepare a short response
12 to some of the legal issues raised in the trial brief, Judge.

13 MR. SORENSON: That's fine, but I don't know that
14 Mr. Isaacson can represent Mr. Williams, and it sounds like
15 he's moving into that ground.

16 MR. ISAACSON: Oh, no.

17 THE DEFENDANT: Well, I'd like to say --

18 MR. SORENSON: He's indicated he was going to
19 prepare a pleading.

20 THE COURT: I'm sorry?

21 MR. SORENSON: He just indicated he was going to go
22 prepare a pleading. This is a defendant that is *pro se* that
23 has chosen to operate without counsel, so I just -- I mean,
24 there can be problems I think if there's a bleed-over with
25 Mr. -- and Mr. Isaacson's -- he's already recognized this.

1 THE COURT: Right. So what I'm going to do is
2 outline what I think the issues are that may come up if
3 Mr. Williams testifies that have been highlighted in the
4 government's brief so that we're all on the same page.

5 But before I do that, I just want to finish up with the
6 instructions then. Have we gone through all the instructions
7 that people are requesting?

8 MR. SORENSON: From our point of view, yes, Your
9 Honor.

10 THE COURT: Okay.

11 MR. ISAACSON: Yes, Your Honor, I believe so.

12 THE COURT: All right. Then can we go over the
13 verdict form and see if you have any -- Mr. Yates submitted for
14 the government proposed verdict form. I've revised -- not
15 revised it -- I've added some more language to it, not the
16 substantive on the counts, but just the instructions, like an
17 introduction to the jury.

18 So the front of the form will read "Verdict Form," and
19 then our standard language, "You may read the entire verdict
20 form before answering the questions. You must answer all of
21 the questions unless otherwise indicated. Answer the questions
22 in numerical order, follow all directions. After you have
23 answered all required questions, the foreperson shall sign and
24 date the verdict form, inform the court that a verdict has been
25 reached, and contact the bailiff."

1 "We, the jury, answer the questions submitted to all of us
2 as follows."

3 And then what Mr. Yates had proposed is each of the counts
4 are -- there's a heading as to Count 1, (wire fraud): "As to
5 the offense of wire fraud as charged in Count 1 of the
6 Superseding Indictment, we, the jury, find the defendant,
7 Anthony T. Williams" -- and then there's two options for them
8 to choose and they would indicate with an X or a check not
9 guilty or guilty.

10 And they would then progress in chronological order
11 through each of the counts indicating their decision.

12 And after the 32 counts in the verdict, there is a
13 paragraph that says, "After completing all of your answers to
14 the verdict form, the foreperson shall sign and date this form,
15 inform the court in writing that the jury has reached a
16 verdict, and call the bailiff." There's a line for the date
17 and there's a line for the foreperson's signature.

18 All right. So objections, requests for editing the form
19 of the verdict form, Mr. Isaacson?

20 MR. ISAACSON: Your Honor, I just want to make sure
21 that Mr. Williams has asked me to assist him in regard to the
22 jury instructions and the other issues regarding this. It's
23 not me going on my own, but what I believe with Mr. Williams's
24 express instructions.

25 THE COURT: That is correct, Mr. Williams?

1 THE DEFENDANT: That's correct.

2 THE COURT: Okay.

3 MR. ISAACSON: I just want to make sure I'm not
4 jumping around.

5 Judge, the only concern I have with the verdict form is
6 just a question. It doesn't -- neither the verdict form nor
7 the instructions talk about the specific counts as to what
8 actually is alleged in the counts.

9 Are you -- may I inquire, you -- you put -- I can't talk today,
10 Your Honor. Do you put the Indictment in with the jury? Or I
11 don't know if you --

12 THE COURT: Right. So that's one thing I would ask
13 you folks. Is it by agreement that they'll have a copy of the
14 Indictment?

15 MR. ISAACSON: I would object to that, Judge.
16 There's so much hearsay, so many allegations against
17 Mr. Williams that I would certainly object to the Indictment
18 going back to the jury.

19 THE DEFENDANT: Yes, I would object too. What I
20 will say that should go back there is just the actual counts.

21 THE COURT: Right. So you're talking about the part
22 of the Indictment that begins at page 19 of the Superseding
23 Indictment that has a title of "Count 16 through 32"? And then
24 it goes through, "The grand jury further charges," and then it
25 goes through the mailings, and then there's a table that has

1 the dates and the count number.

2 THE DEFENDANT: Right.

3 THE COURT: And then as to page -- I guess it would
4 be page 17, but just the bottom portion where it comes under
5 the heading "Wire Communications," and then on to page 18 and
6 then it sets forth the separate counts.

7 THE DEFENDANT: Right.

8 THE COURT: Okay. That you would agree to having
9 submitted to the jury. But everything prior to that you're
10 suggesting should be redacted, that is, blocked -- whited
11 out -- excuse me -- so that the jury can't read it and it would
12 just have the -- the face page with I guess the names of Anabel
13 Cabebe and Barbara Williams whited out, and it would have the
14 title "Superseding Indictment, Counts 1 through 15, Wire Fraud,
15 18 U.S.C., Section 1342, The grand jury charges," and then
16 everything would be blanked out or whited out or not included
17 until page 17, everything after the title, "The Wire
18 Communications"?

19 Is that what we're talking about, Mr. Williams?

20 THE DEFENDANT: That's correct.

21 MR. SORENSON: Yeah, we agree, Your Honor. I don't
22 like all this stuff going back with them. You know, it's
23 probably improper.

24 So I think exactly as the Court has described. My
25 understanding is the front page and then basically we get down

1 right to Wire Communications, we pick up at paragraph 33, and
2 then we carry through all the way through the next -- all the
3 way through to end to page 20.

4 THE COURT: Right.

5 MR. SORENSON: And stop there.

6 THE COURT: So I'm going to have the government
7 prepare what we've decided so we can all look at it on Monday
8 and make sure we're all in agreement. Okay?

9 MR. SORENSON: Yes.

10 THE DEFENDANT: Okay.

11 THE COURT: All right. So anything else about the
12 verdict form then as proposed, Mr. Isaacson and Mr. Williams?

13 MR. ISAACSON: I don't see anything, Your Honor.

14 THE COURT: All right.

15 THE DEFENDANT: I'd like to just put this on the
16 record too.

17 THE COURT: Yes, Mr. Williams.

18 THE DEFENDANT: Just to rebut what Mr. Sorenson
19 said. As standby counsel, the U.S. Supreme Court ruled in *U.S.*
20 *v. Coupez* and *U.S. v. Digags* (phonetic) that a standby counsel
21 is not just to step in when the *pro se* no longer wants to be
22 *pro se*, but a standby counsel is there to assist, counsel, and
23 do everything to assist the *pro se* defendant in defending
24 themselves, and that includes if they need to draft motions on
25 behalf of the *pro se* defendant. Just want to put that on the

1 record.

2 THE COURT: All right. And so it is.

3 All right. So we've taken care of the jury instructions
4 subject to whether or not Mr. Williams testifies. We will go
5 over them again in finalized form once that decision has been
6 made.

7 Right now we are targeting Wednesday to be the closing
8 argument day. All right?

9 THE DEFENDANT: We can -- I can let the Court know
10 now I'm going to testify.

11 THE COURT: Well, no, but I appreciate that. Thank
12 you for giving me a heads-up. But you and I need to have a
13 colloquy so we can go over on the record that you understand
14 the risks and benefits of going forward, you understand your
15 constitutional right to testify. So we're going to do that
16 Monday morning first thing. So I'm having the jury come in a
17 little bit later so we can have that colloquy on the record.

18 And then you can formally tell us after I've gone through
19 all that with you what your decision is. So I understand that
20 at this point you've certainly declared your intent to do so.
21 I'm not saying you're not going to; I'm just saying we need to
22 follow a certain procedure. I'm required by law to follow a
23 certain procedure.

24 All right. So -- and then also noting Mr. Isaacson's
25 going to meet with you and probably go over your rights to

1 testify and so forth as well.

2 So I just want to, for everyone's edification and I, go
3 over with you on that Monday. In the government's brief they
4 have indicated that they do not intend to introduce evidence of
5 your Florida conviction during its case-in-chief and it did not
6 do so, as they've said, and it will, however, use such evidence
7 during cross-examination in the event Mr. Williams testifies
8 and offer affirmative evidence of the conviction during
9 rebuttal. And they're referring to the June 23, 2017,
10 conviction in Broward County, Florida, of grand theft for his
11 operation of his rescue mortgage scheme in Florida, and then on
12 February 24, 2016, being convicted of unauthorized practice of
13 law.

14 So I just want to give you that this -- I do agree with
15 their position in the brief. Evidence of the Florida
16 convictions is not subject to Rule 404(b) since it's direct
17 proof of Mr. Williams's intent in committing the charged scheme
18 to defraud.

19 Now, the unauthorized practice of law I'm going to think
20 about more and I'm not --

21 MR. SORENSON: Your Honor, I think we've agreed
22 we'll only use that for impeachment on the Florida convictions,
23 and that's what I'm referencing there.

24 THE COURT: Okay.

25 MR. SORENSON: Okay. So we're not going to

1 pursue -- based on the Court's concerns, we're not going to
2 pursue arguing that as substantive evidence, but depending how
3 he testifies, we'd like to cross.

4 THE COURT: For impeachment?

5 MR. SORENSON: Yes.

6 THE COURT: And then that would be the jury
7 instruction we talked about.

8 MR. SORENSON: Yes.

9 THE COURT: Okay.

10 MR. SORENSON: Now, there is the Hawaii -- there's
11 the Hawaii injunction that does directly lead to this case.

12 THE COURT: Right. And that is -- is --

13 MR. SORENSON: It's not a conviction.

14 THE COURT: Right. But that's a fair ground for
15 impeachment.

16 MR. SORENSON: Yes.

17 THE COURT: And that I would likely permit. I mean,
18 I'll hear argument beforehand so you certainly can present
19 that. We should talk about that before the jury is convened on
20 Monday.

21 All right. So the last thing I want to talk to you
22 about -- oh, go ahead Mr. Isaacson.

23 MR. ISAACSON: Forgive me. I'm not quite -- so
24 Mr. Williams doesn't testify, if he decides not to testify, the
25 government will not seek to introduce -- if he rests, you know,

1 we give it to the Court on Monday -- will not be seeking to try
2 to introduce any of the Florida convictions if he doesn't
3 testify? Am I -- am I right on that?

4 MR. SORENSON: No. I think we can introduce
5 evidence of the grand theft, although that's already in the
6 record, but we can -- I think we can offer the -- just the
7 abstract of conviction.

8 MR. ISAACSON: So even if he doesn't testify, the
9 government's seeking --

10 THE COURT: Right, they're going to seek a
11 rebuttal --

12 MR. SORENSON: Right.

13 THE COURT: -- in your rebuttal. If he rests and he
14 doesn't testify, they're going to seek to have the --

15 MR. SORENSON: Well, wait a minute.

16 THE COURT: -- grand theft --

17 MR. SORENSON: Wait. If he doesn't testify, Your
18 Honor, I'd have to look back to determine whether that would be
19 proper rebuttal. I'd have to look --

20 THE COURT: No, it wouldn't be rebuttal because
21 somebody's raised it affirmatively. It's not that they're
22 denying it. Yeah, it wouldn't be rebuttal.

23 MR. SORENSON: Right. So I'm not sure that -- let
24 me look into it, but I'm not sure that we would be well served
25 by doing that. It's already in the record. We've already

1 elicited evidence of it in our case-in-chief, but I don't know
2 that it's proper rebuttal unless he testifies.

3 THE COURT: Right. I think you're right. So if he
4 doesn't testify, then I don't think you can bring in the
5 Florida conviction, certainly not the unauthorized practice of
6 law conviction. And I think at this point --

7 MR. SORENSON: I think the Hawaii injunction comes
8 in because he has consistently argued during his case that he's
9 authorized to practice law.

10 THE COURT: I know, but that's not evidence. That's
11 not evidence and --

12 MR. SORENSON: Well, no, no. He had -- he had --

13 THE COURT: -- Mr. Evers -- Mr. Evers testified to
14 that affirmatively.

15 MR. SORENSON: Well, right, but he had his two
16 witnesses yesterday -- well, mostly Mr. Horowitz --

17 THE COURT: Oh, about the private attorney general.

18 MR. SORENSON: -- stating that the private attorney
19 general law, he did research on it and he's concluded based on
20 his, you know, extensive research that Mr. Williams can
21 practice law and can represent him.

22 THE COURT: That's true. That would be rebuttal.

23 So if Mr. Williams does not testify, then he can seek in
24 his rebuttal case, I think, the unauthorized practice of law
25 injunction in the State of Hawaii. But all that other stuff, I

1 don't think can be rightly put in a rebuttal. But I'll hear
2 your argument with regard to that, but --

3 MR. SORENSON: I may not have one. If I come up
4 with an argument, I'll let the Court know.

5 MR. ISAACSON: All right. We'll give you an
6 opportunity.

7 MR. SORENSON: Oh, Your Honor, one more thing.

8 THE COURT: Yeah.

9 MR. SORENSON: I don't know if the Court's taken
10 note of this, but we also intend in the event he testifies to
11 go into his nonfiling of his --

12 THE COURT: Oh, your income tax issue.

13 MR. SORENSON: -- of tax. Now, that's pretty
14 standard in fraud cases. I've given the Court a lot of
15 authority on that. I've introduced evidence on other fraud
16 cases without denial ever because it is directly material to,
17 you know, you don't report your proceeds when you're defrauding
18 people. That's a common argument.

19 THE COURT: Right. I forgot to mention
20 the -- yeah -- the tax thing, but that's in their brief too.
21 So that would be an issue that would only come into play if he
22 testifies.

23 MR. SORENSON: That is correct.

24 THE COURT: Yeah. You could --

25 THE DEFENDANT: I have to object to that for the

1 simple fact I'm not being charged with tax evasion because the
2 IRS knows that their agency is a fraud. If it wasn't, they
3 would have been charged me with tax evasion; two, there's
4 nowhere in the Indictment has nothing to do with this case;
5 but, three, I hope that they do erroneously put that in there
6 and bring that up because that's reversible error.

7 THE COURT: Okay. All right. So we'll address that
8 on Monday.

9 MR. ISAACSON: Your Honor?

10 THE COURT: Yes.

11 MR. ISAACSON: Your Honor, have you made a
12 determination preliminarily if you allow the income tax
13 evidence to come in and Mr. Williams testifies?

14 THE COURT: Yes, I would let it in if he testifies.
15 All right. So now I wanted to talk about order for the
16 transcripts.

17 MR. ISAACSON: Yes, Your Honor. Before coming in
18 today --

19 THE COURT: Yeah, I have them, so I'm going to sign
20 it. But now I know you want to use it for the closing argument
21 on Wednesday, but because you folks are ordering it so late in
22 the trial, I'm not -- I don't want you to think that me signing
23 this and directing the payment to the court reporter means that
24 the -- all of these transcripts will be done in time for you
25 guys to either use it for preparation, et cetera, okay? I will

1 authorize that the funds will be released and she will be
2 directed to be paid for it, et cetera, but I'm not saying
3 they're going to be done before Wednesday.

4 MR. ISAACSON: Yes, Your Honor.

5 THE COURT: It's been ordered so late. All right.
6 So all right. So I'm signing it right now, Mr. Williams, and
7 we'll have that filed and you're authorized to the prepayment
8 for the transcripts. All right?

9 Is there anything else that that we need to address,
10 Mr. Sorenson, for the government?

11 MR. SORENSON: Not at this time, Your Honor. Thank
12 you very much.

13 THE COURT: All right. Mr. Williams?

14 THE DEFENDANT: No, ma'am, not at this time.

15 THE COURT: Mr. Isaacson?

16 MR. ISAACSON: Your Honor, I guess the government
17 was going to let us know the rebuttal witnesses. If they could
18 do that so Mr. Williams could hear?

19 MR. SORENSON: Your Honor, yeah, Laurice Otsuka, FBI
20 Forensic Accountant James Spoda, TSA Director of Training, and
21 I think that's it. And we'll probably introduce the
22 unauthorized practice of law injunction without a witness.
23 It'll just be a certified self-authenticated record that we
24 will make an argument is relevant. But obviously we're not
25 going to -- we're not going to -- I don't think we're going

1 to put that in -- no, no, we are going to put that in whether
2 he testifies or not so --

3 THE COURT: That's the Hawaii injunction?

4 MR. SORENSON: Yes.

5 THE COURT: Yes, okay. All right. Anything else?

6 MR. ISAACSON: That's it, as far as I know, unless
7 Mr. Williams has something else.

8 THE COURT: He indicated he --

9 THE DEFENDANT: I have nothing else.

10 THE COURT: All right. Wish all of you a very good
11 evening and we're hanging up now. Good day to you,
12 Mr. Williams, and to everyone else. We're in recess.

13 MR. SORENSON: Thank you.

14 (Proceedings concluded at 4:02 P.M.)

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COURT REPORTER'S CERTIFICATE

I, DEBRA READ, Official Court Reporter, United States District Court, District of Hawaii, do hereby certify that pursuant to 28 U.S.C. §753 the foregoing is a complete, true, and correct transcript of the stenographically reported proceedings held in the above-entitled matter and that the transcript page format is in conformance with the regulations of the Judicial Conference of the United States.

DATED at Honolulu, Hawaii, April 6, 2020.

/s/ Debra Read

DEBRA READ, CSR CRR RMR RDR