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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

UNITED STATES OF AMERICA * CRIMINAL NO. H-12-503
 *
VERSUS * Houston, Texas
 * July 9, 2018
JASON DANIEL GANDY * 10:30 a.m.

FINAL PRETRIAL CONFERENCE
BEFORE THE HONORABLE LEE H. ROSENTHAL
CHIEF UNITED STATES DISTRICT JUDGE

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1 THE COURT: Is counsel present?

2 MR. BUCKLEY: Yes, Your Honor.

3 THE COURT: Very good. Mr. Gandy, go ahead and sit
4 with counsel, please.

5 MS. ZACK: Your Honor, Ms. Leo is with Judge Atlas;
6 but we're ready to go forward and she will get here as soon
7 as humanly possible.

8 THE COURT: But you're here?

9 MS. ZACK: I am here, yes.

10 THE COURT: Mr. Gandy, please go ahead and join your
11 counsel at counsel table.

12 Go ahead and state your appearances, please.

13 MS. ZACK: Sherri Zack and Kim Leo on behalf of the
14 United States, Your Honor.

15 MR. BUCKLEY: Good morning, Your Honor. Sean
16 Buckley and Dustan Neyland on behalf of Mr. Gandy. With us
17 also at counsel table is Mr. Stephen Jackson, who may, if his
18 schedule clears, file a notice of appearance to join us at
19 trial, but he has not done so yet.

20 THE COURT: We will have three lawyers?

21 MR. BUCKLEY: Yes, Your Honor.

22 THE COURT: Okay. And they're all retained?

23 MR. BUCKLEY: Well, Mr. Jackson would be
24 volunteering, but Mr. --

25 THE COURT: But he would not be CJA or court

1 appointed?

2 MR. BUCKLEY: That's correct.

3 MS. ZACK: What happened to the other lawyer that's
4 still on there?

5 MR. BUCKLEY: If I may inquire.

6 MS. ZACK: Mr. Salmon.

7 THE COURT: We had a number of lawyers, but Mr.
8 Salmon was fired.

9 MS. ZACK: Right. Still on there but not here. And
10 I just don't want to create appellate issues.

11 MR. BUCKLEY: Well, I will be pleased to get to the
12 bottom of that, but I have not met the other gentleman; and I
13 am happy to proceed.

14 THE COURT: He was added on May 29, you then filed a
15 notice of appearance, and I granted your motion to substitute
16 as lead counsel; but that doesn't remove Mr. Louis Val Salmon
17 as a member of the counsel team.

18 MS. ZACK: And he was present at the last hearing
19 before Mr. Buckley joined.

20 THE COURT: That's correct. So that needs to be
21 clarified by -- today is Monday -- Wednesday at 5:00 o'clock.

22 MR. BUCKLEY: Yes, Your Honor.

23 THE COURT: In writing to the Court.

24 MR. BUCKLEY: Understood.

25 THE COURT: Thank you.

1 All right. We have a pending motion to dismiss
2 Count 1 for Speedy Trial Act. I want you to have an
3 opportunity to present that, although it's been briefed; and
4 then I want the parties to have a chance to look at a
5 proposed summary of the case that I will use during the voir
6 dire examination. Mr. Buckley has recently tried a case in
7 this court and understands that procedure. I think Ms. Zack
8 is familiar with it as well.

9 MS. ZACK: Actually, the only trial I have done,
10 Your Honor --

11 THE COURT: So let me just get to the point. What I
12 do is when we have the entire panel, I do a summary of the
13 allegations in the indictment in order to -- and I describe
14 it as a handshake introduction for the panel to what the case
15 involves and who it involves and then use it as a vehicle for
16 asking the panel if there is anything about the case that
17 would present a problem for their, raise a concern on the
18 part of any of them about their ability to be a fair and
19 impartial juror if selected. I have previously defined what
20 it means to be a fair and impartial juror.

21 And I have them each, if they do have a concern
22 then or to any other question and all the questions that I
23 ask and then that the lawyers ask -- and I will give you a
24 limited time to ask questions -- will all be presented in the
25 form: Is there anyone on this panel who. And if they have a

1 response, they will simply raise their hand. I will
2 recognize them and write down the number. I do not want
3 anything but them saying their number in front of the panel
4 as a whole.

5 When we get through all the questions and have
6 a list of the numbers of the people who have responses,
7 without them saying what those responses are, I have them
8 come up one at a time and tell us why they raised their hand
9 in answer to one or more questions, and counsel can then
10 follow up; but it will be up here at the bench, on the record
11 but up here at the bench.

12 MS. ZACK: Yes, Your Honor.

13 THE COURT: Any questions about the procedure?

14 MS. ZACK: No, Your Honor.

15 MR. BUCKLEY: No, Your Honor.

16 THE COURT: Okay. I have drafted a proposed summary
17 to read to the jury panel, and I am going to distribute it to
18 counsel, and it is a draft, well in advance of when we are
19 actually going to pick the jury, at least a week, a couple
20 weeks, week and-a-half, I guess; and then we will use it as
21 we agree on edits today, or if you need more time you can
22 tell me that. I don't think you will. It's pretty short.

23 And then you have, I think, added to the
24 filings that you have made. I now have a government witness
25 list. Are there any issues with respect to the witnesses?

1 MS. ZACK: Not that I am aware of.

2 THE COURT: Are the minors still minors?

3 MS. ZACK: No.

4 THE COURT: All right. So we don't have to worry
5 about, or do we, about protecting privacy? How do you want
6 to handle that?

7 MS. ZACK: In filings I would prefer that we refer
8 to them as how they're referred in the indictment or with
9 their initials.

10 THE COURT: You can do that in court as well.

11 MS. ZACK: In court I think we'll be okay.

12 THE COURT: It's going to be a publicly available
13 transcript.

14 MS. ZACK: No. I understand, I understand. I will
15 discuss it with them and we'll see what their wishes are.

16 THE COURT: Okay.

17 Exhibit lists I don't yet have.

18 MS. ZACK: Yes, Your Honor. I just handed up to Ms.
19 Eddins an exhibit list. And defense counsel and myself have
20 gone over a lot of it, and as far as authentications subject
21 to certain comments -- I have another one.

22 THE COURT: No. I have your exhibit list. Do I
23 have Mr. Buckley's?

24 MR. BUCKLEY: We are still working on it, Your
25 Honor.

1 THE COURT: That's fine.

2 Are there any exhibits that we can admit at
3 this time to which there is going to be no objection?

4 MR. BUCKLEY: This morning Ms. Zack and I had a
5 discussion about authenticity for purposes of her witnesses.
6 We have come to some agreements, I think a large number of
7 agreements. I am pleased to work with Ms. Zack and see if
8 there are some things we can pre-admit. I think there are.
9 We just haven't gotten there yet.

10 MS. ZACK: What we could do is, we are going to meet
11 after today. We could send Your Honor a list. And what
12 we're agreeing to, obviously, is that people with business
13 records we don't need to bring.

14 THE COURT: No custodians.

15 MS. ZACK: Right.

16 Mr. Buckley wants to preserve his right to
17 object to relevance and to things that have nothing to do
18 with authentication.

19 MR. BUCKLEY: And in particular, Your Honor --

20 THE COURT: What about hearsay?

21 MR. BUCKLEY: Some of the documents may contain
22 hearsay. And as to relevance, there may be some matters that
23 would require a limiting instruction if they were partially
24 relevant.

25 THE COURT: Sure.

1 As to, I mean, I am worried about business
2 records, ordinary course of business. Are we going to need
3 witnesses to that or can you at least stipulate as to that
4 basis for a hearsay exception or exclusion?

5 MR. BUCKLEY: Absolutely. I believe that we are
6 past -- in other words, I believe that we have come to some
7 agreements that will obviate the need for any of those type
8 scenarios.

9 THE COURT: So the only objection that you are not
10 going to agree to in advance is relevance and maybe 403?

11 MR. BUCKLEY: That's correct, Your Honor, although
12 there are some that we may be able to even pre-admit.

13 THE COURT: That would be great, okay.

14 MR. BUCKLEY: We will do our best.

15 THE COURT: Okay. So let's set a deadline for that
16 so that we can have a hearing if we need to resolve any of
17 them in advance if there are disputes.

18 How about Thursday of this week? Is that
19 enough time?

20 MR. BUCKLEY: Yes, Your Honor.

21 THE COURT: Or is Friday necessary? We are in a
22 holiday-free week for a change.

23 MS. ZACK: I think we should be fine, Your Honor.

24 THE COURT: With Thursday?

25 MS. ZACK: Yeah. But I think we will be able to

1 agree to everything other than --

2 THE COURT: Relevance.

3 MS. ZACK: -- 403 stuff that happens in the course
4 of the trial.

5 THE COURT: I understand, okay. If that's right,
6 then let's make it Thursday at 5:00.

7 MS. ZACK: Okay. And we will just file something
8 with the Court saying which numbers we have agreed to.

9 THE COURT: File a marked-up exhibit list that says
10 offered and either admitted. Well, it won't say admitted,
11 but in the objection column you can put non asterisk and then
12 put asterisk means no objection other than 403.

13 MS. ZACK: Okay.

14 THE COURT: Or other than preserved 403 possible
15 objections.

16 MS. ZACK: And if we agree we'll just check
17 "admitted."

18 THE COURT: You can just check "admitted."

19 MS. ZACK: Okay. There are some things that we're
20 not necessarily going to offer at this time.

21 THE COURT: That's fine.

22 MS. ZACK: Okay.

23 THE COURT: Leave that blank.

24 MS. ZACK: We will work that out.

25 THE COURT: Leave that blank.

1 MS. ZACK: Is there going to be a deadline by which
2 they need to give us a witness list, I mean an exhibit list?

3 THE COURT: I would like that to be today if you
4 could.

5 MR. BUCKLEY: I will do my best.

6 THE COURT: How about end of -- how about 5:00
7 o'clock tomorrow, and then we'll set Friday at 5:00 o'clock
8 as the deadline to see if there can be similar agreements
9 reached as to what's on the defendant's exhibit list. You
10 don't need to double mark. If it's on the government's list,
11 you don't need put it on the defense list.

12 MR. BUCKLEY: Yes, Your Honor.

13 THE COURT: Okay. All right. Good.

14 Are there any -- I don't have the defense
15 witness list yet. Are there any anticipated problems with
16 any of your witnesses, or if the government knows who they
17 are -- and I suspect the government does -- who they are
18 likely, if there are any issues presented by who you intend
19 to call or what you intend to have them testify to?

20 MR. BUCKLEY: I didn't hear the first part of the
21 Court's question about which witnesses the Court was
22 referring to.

23 THE COURT: Well, their witnesses, the ones on your
24 not-yet-filed list.

25 MR. BUCKLEY: I don't perceive any issues at this

1 time, Your Honor.

2 THE COURT: Do you know who they're going to be?

3 MR. BUCKLEY: We have a rough idea. But we are
4 doing our final diligence list. And the Court knows that I
5 don't offer this as an excuse at all, but I am on a pretty
6 steep curve on this case and doing my best.

7 THE COURT: I know you are, and we have given you
8 time to enable you to do just that.

9 MR. BUCKLEY: Yes, Your Honor.

10 THE COURT: Can you get it on file by Wednesday of
11 this week at 5:00 o'clock, your exhibit list?

12 MR. BUCKLEY: For the defense?

13 THE COURT: I'm sorry. For your witness list?

14 MR. BUCKLEY: By Wednesday at 5:00 p.m.?

15 THE COURT: Yes, sir.

16 MR. BUCKLEY: Yes, Your Honor.

17 THE COURT: And you can notify me by 5:00 p.m. on
18 Friday if either side has any issue with any of the witnesses
19 on the other side's list, including who they are and what
20 they're going to testify to.

21 MR. BUCKLEY: Yes, Your Honor.

22 THE COURT: Or what they are anticipated to testify
23 to.

24 MR. BUCKLEY: And just as a matter for clarity, if
25 we anticipate that we may have a witness that could arise

1 only as a rebuttal witness, we may not know that until --

2 THE COURT: That's fine. That's standard.

3 MR. BUCKLEY: Understood, Your Honor.

4 THE COURT: Okay. All right.

5 I don't know if you are going submit proposed
6 voir dire questions.

7 MR. BUCKLEY: I did file a set of voir dire
8 questions this morning, Your Honor, and Ms. Zack and I have
9 discussed it. I know that she has expressed concern about at
10 least one category. I have heard her concern, I understand
11 it and am willing to work with her.

12 THE COURT: What is the category?

13 MR. BUCKLEY: The category is --

14 MS. ZACK: Acts versus mere thoughts, desires and
15 sexual preferences.

16 My issue is that under 1591 "would be caused
17 to" could potentially get confused with "may want to sleep
18 with," which is two very different things. And I don't want
19 the jury to be misled. If the defendant believed that the
20 minor would be caused to engage in commercial sex, that's a
21 crime.

22 THE COURT: No. I understand that. I don't think
23 that -- I think we can frame the question, it's sort of a
24 lust in your heart. If you don't do anything, including
25 don't attempt to bring a minor to a place where you intend

1 that minor to be caused to engage.

2 MS. ZACK: Right.

3 MR. BUCKLEY: Right.

4 THE COURT: And I think I can make that clear in
5 framing the question.

6 MR. BUCKLEY: Yes, Your Honor, because the specific
7 issue I am interested in is that there are people within the
8 Southern District of Texas who might find some of the
9 perceived thoughts or desires that Mr. Gandy had to be
10 repugnant enough that they may want to punish him for that.

11 THE COURT: I appreciate that. But I think the
12 instructions will make it clear that that is not within the
13 purview of the criminal statute. And it really does go back
14 to the famous old 1980's political statements that came out
15 of politics but had a much broader application. Many have
16 lust in their heart, but it doesn't go anywhere beyond that.

17 MR. BUCKLEY: And I hope that my comment was not
18 taken in a derogatory fashion.

19 THE COURT: Of course not. Of course not.

20 MR. BUCKLEY: I am just trying to distill the issue.

21 THE COURT: All right. So I will look at your
22 proposed voir dire questions, both of you. I will ask all
23 the standard questions: Can you follow the rules? Can you
24 apply the burden of proof? You understand about privilege
25 against self, against the defendant testifying. I'll cover

1 all of that. I will cover the substance of the indictment,
2 the allegations, and I will cover much of your proposed voir
3 dire, particularly the ones that are among the more
4 sensitive.

5 And then each of you will have a chance to ask
6 questions. I am limiting it as to time. And it sounds like
7 a draconian limit, but you will give me time back, because
8 remember it's only to ask the question and count the number
9 and write down the numbers of the people who say they have
10 got a response, that's all it is. So it's more time than it
11 sounds like. You cover more quickly. You ask more
12 questions.

13 MS. ZACK: The other issue that the government had
14 with their proposed voir dire, the defense proposed voir
15 dire, is there is a whole section on the Me Too movement,
16 which I don't believe is relevant at all in this case.

17 THE COURT: It's not; it's just not; it's just not.
18 That doesn't involve children.

19 MR. BUCKLEY: Understood, Your Honor.

20 THE COURT: Full stop. I think that's enough.

21 We'll ask plenty of questions about what the
22 indictment does cover. I don't think we need to add to it
23 with a discussion about men in power engaging in sexual acts
24 with women who are not minors.

25 MR. BUCKLEY: Yes, Your Honor. I understand.

1 THE COURT: Far from it.

2 MR. BUCKLEY: There's a very specific connotation
3 that was not intended by me.

4 THE COURT: I think we can simply eliminate any
5 reference and avoid the confusion in that fashion.

6 MS. ZACK: How much time is Your Honor going to give
7 us, just so I can write it down?

8 THE COURT: I am thinking of 15 minutes.

9 MS. ZACK: Okay.

10 THE COURT: And how long do you think you will want
11 for opening statements?

12 MS. ZACK: 20 minutes, 25 at best.

13 MR. BUCKLEY: I would not need more than that, Your
14 Honor.

15 THE COURT: All right. I will give you each 20
16 minutes. Presumptively if you think you need 25, I'll be
17 happy to give you both 25.

18 (Ms. Leo entered the courtroom)

19 THE COURT: How long do you think -- so we have a
20 pretty big panel coming in because of the nature of the case
21 and it's summer. I suspect it will take us -- the real
22 question is whether we are going to need to break for lunch
23 during voir dire.

24 MS. ZACK: Before we pick the jury?

25 THE COURT: Or as part of picking the jury.

1 MS. ZACK: Right.

2 THE COURT: I am going to try to start early enough
3 and go efficiently enough that if we can -- I will have
4 snacks for the jury panel. Make sure we have enough,
5 (referring to law clerk.) And with a break, with them able
6 to snack as they wait for the questioning of the individual
7 panel members, then if we could go through until 1:00 or
8 1:30, then we wouldn't need to break for lunch, then we would
9 start the following day.

10 What day are we picking the jury, the 18th?

11 MS. ZACK: Yes.

12 THE COURT: So then we would have a lunch break.

13 MS. ZACK: Right.

14 THE COURT: And then we would go straight to opening
15 statement and your first witness.

16 MS. ZACK: We think, Your Honor, just for scheduling
17 purposes, the government anticipates resting by Friday
18 afternoon, if not sooner.

19 THE COURT: You are making me a very happy Judge
20 just in terms of scheduling.

21 All right. So we start on the 18th. And I
22 have actually got a lunch meeting that day.

23 MS. ZACK: So we are taking a break.

24 THE COURT: So we will break for lunch, yes,
25 briefly.

1 MS. ZACK: What time will we be breaking?

2 THE COURT: Noon to 1:00.

3 MS. ZACK: Okay.

4 THE COURT: I can't avoid it.

5 But what I probably will do is see if we can
6 arrange with the cafeteria to have an expedited service for
7 the jurors so we can start promptly at 1:00 o'clock, okay.
8 But even with that we should be able to -- so you are going
9 to finish --

10 MS. ZACK: We are hopeful.

11 THE COURT: -- Friday or Monday the 23rd.

12 And do you have any sense of how long your case
13 might take?

14 MR. BUCKLEY: I don't, Your Honor. But I am certain
15 that it will not be as long as the government's. It will
16 likely be much more abbreviated. Just frankly I see our case
17 as being a cross-examination case.

18 THE COURT: Sure.

19 So I am thinking that the 23rd or the 24th we
20 will be ready to submit to the jury, probably the 24th, and
21 then we will have arguments. I am going to do the
22 instructions first and then you can argue the instructions.

23 MR. BUCKLEY: Yes, Your Honor.

24 THE COURT: So we should finish by the 25th. That
25 would be a good thing. Yes, that would be a very good thing

1 because the 26th is ugly.

2 MS. ZACK: Your Honor, what time will you like to
3 start in the morning?

4 THE COURT: I like the lawyers here by 8:30 at the
5 very latest.

6 MS. ZACK: Okay.

7 THE COURT: I will let the jurors pick, the jurors
8 who are picked pick if they want to come in at 8:30 or 9:00.

9 MS. ZACK: Okay.

10 THE COURT: Many of them will want 8:30 because
11 there is actually relatively less traffic now than there has
12 been during the school year. And that will dictate when you
13 come in as well.

14 MS. ZACK: And how late does Your Honor go?

15 THE COURT: I wouldn't keep the jury later than 6:00
16 unless they're deliberating and say they want to stay later.
17 And generally we will end at 5:00. We will use the lunch
18 break and any afternoon or mid morning break to work out any
19 disputed issues so we can avoid interrupting. And there will
20 be no bench conferences during the presentation of the
21 evidence, none. Don't ask. Okay.

22 If I encounter an issue based on an objection,
23 then the objections will not be speaking objections; they
24 will be one or two words, leading, 403, hearsay. I will be
25 able to follow. If I can resolve it on the basis of an

1 equally terse response, I will. If I can't, if I need more
2 information or give you a change to present more analysis,
3 then I will instruct you to move on. You will preserve your
4 right to return to that area after we resolve the issue even
5 if it means you calling a witness. Okay?

6 MR. BUCKLEY: Yes, Your Honor.

7 THE COURT: Okay. Those are the basics that I can
8 think of. I know the U.S. Attorney's office has a room
9 available to it to use for prep.

10 MS. ZACK: Yes.

11 THE COURT: We will have a room available for the
12 defendant.

13 MR. BUCKLEY: Thank you, Your Honor.

14 THE COURT: The defense team. Apparently it will
15 have to be a relatively large room.

16 All right. Let's hear argument on the -- I am
17 going to have my law clerk give you copies of the draft voir
18 dire summary. And again, it's only a draft. It will be
19 hedged, preceded and followed by reminders that -- it will be
20 preceded and followed by a reminder to the jury that this is
21 not evidence, it's not instructions on the law, it is simply
22 a handshake introduction for the limited but important
23 purpose of them telling us if they have any concerns about
24 their ability to be fair and impartial. Okay?

25 MS. ZACK: Yes, Your Honor.

1 THE COURT: So let's have the argument first. I
2 think it won't take long because you have already briefed it
3 pretty thoroughly, but I am happy to hear anything else you
4 want to say.

5 MR. BUCKLEY: Thank you, Your Honor.

6 This is a case that began procedurally in this
7 court six years ago. And a year, under the applicable Barker
8 versus Wingo standard for speedy trial analysis, a year is
9 sufficient to trigger the Barker versus Wingo analysis, of
10 course, and we are far past that.

11 There are many factors, the length of delay,
12 the reasons for the delay, the assertion of the right, the
13 defendant's assertion of the right, rather, and prejudice are
14 weighed to produce a result under Barker versus Wingo.

15 In this case the length of the delay is six
16 years. It is not one of these 18-or-20-year cases that the
17 Fifth Circuit has found to be patently extraordinary, but it
18 is quite significant. Particularly since the Speedy Trial
19 Act itself gives an initial 75-day window to try cases, I
20 think six years is strikingly long.

21 The reasons for the delay in this case I think
22 are the subject of really most of the dispute between the
23 defense and the government. And it is in the government's
24 response to our motion to dismiss that the government has
25 laid out a chronology of this case and procedural actions and

1 maneuvers that have contributed to this delay.

2 At the end of the day, however, it is not Mr.
3 Gandy's obligation to bring himself to trial. And there are
4 some aspects of the underlying chronology and maneuvering in
5 this case that appear even on their face to be beyond his
6 control, particularly those that relate to his difficulties
7 with mental health treatment or his need for mental health
8 treatment and delays that --

9 THE COURT: That was not caused by the government.

10 MR. BUCKLEY: That's correct, Your Honor.

11 And it is not, we are not making the allegation
12 here that this is a governmental negligence matter, that the
13 government has some duty to do something quicker, although I
14 certainly do have a -- I would offer commentary on the latter
15 part of this superseding indictment being a delay; but I have
16 not moved to dismiss that for reasons that I think are
17 consistent with the Fifth Circuit precedent.

18 The assertion of the right is another area here
19 that seems to be in dispute. Well, it's not in dispute in
20 the sense that Mr. Gandy has not explicitly through counsel
21 asserted his right to a speedy trial until now. And
22 obviously the Court has already indicated that no
23 continuances will be granted, and we acquiesce with that and
24 we are ready for trial.

25 But in the past Mr. Gandy's counsel have moved

1 for various continuances and delays; and the assertion of the
2 right, as the Fifth Circuit has recognized, is not
3 dispositive if a defendant does not assert his right to a
4 speedy trial because the system, or the criminal justice
5 apparatus has an independent duty to bring a defendant to
6 trial and society has an interest that a defendant will be
7 brought to trial within a reasonable amount of time.

8 Prejudice is, in a case like this, perhaps
9 very, very difficult to quantify until we would actually get
10 into the evidence in the cross-examination of witnesses, but
11 it does seem to be the case that the Fifth Circuit has
12 indicated that a delay of six years is sufficient to impute
13 prejudice in --

14 THE COURT: Well, for the purpose of triggering the
15 inquiry.

16 MR. BUCKLEY: Well --

17 THE COURT: It doesn't.

18 MR. BUCKLEY: -- that's a good question, Your Honor.
19 I understand the triggering occurs after a period of one year
20 under Barker versus Wingo. And it's also my understanding
21 that the Fifth Circuit in the United States versus Fry, which
22 is cited on page 5 of our motion, has indicated that
23 prejudice under the prejudice prong of Barker versus Wingo is
24 generally presumed when post indictment delay lasts at least
25 five years. That's my reading of the case. And so I think

1 that under --

2 THE COURT: I think the question is -- I don't
3 disagree with you. The question is what is the legal effect
4 of the presumption in this context?

5 MR. BUCKLEY: Of course, Your Honor.

6 THE COURT: It does not establish prejudice if other
7 factors weigh against it and there is an inability to show
8 specific prejudice to the defendant's ability to mount a
9 defense, as I read the cases.

10 MR. BUCKLEY: I think I understand the Court's view.
11 And the way that I read that matter is that the defendant
12 would not be required under Barker versus Wingo to provide a
13 specific annotation of all of the different ways that he may
14 have been prejudiced once this has reached a certain
15 threshold.

16 THE COURT: At the beginning of the inquiry. So the
17 inquiry proceeds and then you get to a stage at which the
18 defendant must at least indicate where in the record there is
19 information to support an inference of specific prejudice.

20 MR. BUCKLEY: But I also think -- and not to quarrel
21 with the Court -- but it's our position that Barker versus
22 Wingo, within the Barker framework of the United States
23 versus Fry the Fifth Circuit have indicated that the
24 prejudice prong itself is established by a --

25 THE COURT: Well I agree. As the triggering prong

1 what that means is what we are sort of not quibbling about;
2 but even if I don't put a burden on the defendant, I have got
3 to be able to find it in the record.

4 MR. BUCKLEY: Yes, Your Honor.

5 THE COURT: That there is some indication of
6 prejudice or something to support an inference of specific
7 prejudice. And that is different from saying that there is a
8 particular burden on the defendant.

9 MR. BUCKLEY: Understood, Your Honor. And that
10 remains --

11 THE COURT: I think we are on the same page.

12 MR. BUCKLEY: I agree, Your Honor. I think so.

13 In that vein it may be that at some point
14 during the trial we, if the Court denies this motion at this
15 time, I may need to reassert it if --

16 THE COURT: Sure.

17 MR. BUCKLEY: -- prejudice becomes evident.

18 THE COURT: And I would not preclude that in advance
19 because that would be akin to rendering an advisory opinion.

20 MR. BUCKLEY: Yes, Your Honor.

21 THE COURT: Now, it would be a limine order. You
22 may want to reassert it, but it will not be in front of the
23 jury.

24 MR. BUCKLEY: Understood. And I understand the
25 Court.

1 THE COURT: You will approach the Court before you
2 make any mention of it at all.

3 MR. BUCKLEY: Yes, Your Honor.

4 THE COURT: Okay. That is a limine order.

5 MR. BUCKLEY: Pardon me, Your Honor?

6 THE COURT: That is a limine order.

7 MR. BUCKLEY: Yes, Your Honor. I understand.

8 THE COURT: Do the parties have the other limine
9 motions they wish to present?

10 MR. BUCKLEY: We do have some other -- well, we are
11 working on some limine matters that I think we can largely
12 agree on. And there is one today that --

13 THE COURT: That we can take up?

14 MR. BUCKLEY: Yes, Your Honor.

15 And so, I guess if I could conclude my argument
16 on this, I will conclude it with that.

17 THE COURT: That's fine.

18 MR. BUCKLEY: I am concluded. I think I made the
19 points that I need to make under the Speedy Trial motion.

20 THE COURT: I didn't mean to deflect us.

21 MR. BUCKLEY: Would the Court like to hear the
22 limine matters before Ms. Zack?

23 THE COURT: Well, I would like to hear Ms. Zack on
24 this point, and then we can move to the limine matters and
25 any other issues that we need to address pretrial.

1 MR. BUCKLEY: Yes, Your Honor.

2 THE COURT: Thank you, Mr. Buckley.

3 MR. BUCKLEY: Thank you, Your Honor.

4 MS. ZACK: Your Honor, the United States agrees with
5 Your Honor's analysis under Barker Wingo that yes, the time
6 frame triggers the Court to inquire if there is prejudice.
7 But there is no prejudice. There has been no demonstrating
8 prejudice in their motion, there is no prejudice in the
9 record; and it seems counterintuitive to the Fifth Circuit
10 case law and to logic itself to say that when a defendant
11 hires nine different attorneys, has potential competency
12 issues and frustrates the system himself that he then gets to
13 benefit from that behavior.

14 There has been no prejudice. This Court has
15 never denied him an opportunity to have new counsel. He has
16 done that nine different times.

17 He brought forward a competency issue. And at
18 that time the United States had the opportunity to seek
19 another expert and to challenge that. And rather than
20 frustrate the process further, the United States acquiesced
21 to that expert that they hired's opinion and allowed the
22 defendant to go off for competency restoration. That took a
23 year out of this process. And that was due to no fault of
24 the United States.

25 This Court has done nothing to delay this

1 process. All delays are attributable to the defendant. And
2 any absence of any showing of prejudice, I don't believe that
3 the case law supports a finding that any type of Speedy Trial
4 issue has occurred at this point, and we would ask that Your
5 Honor deny the defendant's motion.

6 MR. BUCKLEY: May I respond briefly?

7 THE COURT: You may.

8 MR. BUCKLEY: I believe the delay caused by Mr.
9 Gandy's mental health treatment was eight months based on --
10 Pardon me, Your Honor.

11 (Cell phone ringing)

12 MR. BUCKLEY: That's the first time in 20 years
13 that's happened.

14 THE COURT: Uh-huh. Nice try. You are an officer
15 of the Court, sir.

16 MR. BUCKLEY: I am, Your Honor. And that is a true
17 statement.

18 THE COURT: It could be true.

19 MR. BUCKLEY: Well, it's true that that's the first
20 time it's happened in 20 years.

21 THE COURT: We didn't have a cell phone until 10
22 years ago, but that's okay.

23 MR. BUCKLEY: Understood, Your Honor. I apologize.

24 THE COURT: No problem.

25 MR. BUCKLEY: My understanding and my information

1 and belief is that the delay caused by Mr. Gandy's treatment
2 was eight months and not 12, but I realize that's a little
3 bit of splitting hairs.

4 But the other thing, I wanted to take a little
5 bit of exception to the, I think, flavor or characterization
6 of the government's portrait of Mr. Gandy as frustrating the
7 process. There is I don't think any question that Mr. Gandy
8 has a bona fide mental health difficulty that has been
9 treated and that has been explored; and so to the extent that
10 there is a portrait of him as calculatingly or deliberately
11 frustrating the proceedings, I don't think that's a valid
12 conclusion, Your Honor. And with that I will close. Thank
13 you.

14 THE COURT: Anything further, Ms. Zack?

15 MS. ZACK: No, Your Honor.

16 THE COURT: You know, there are lots of different
17 ways to characterize what the chronology in the record
18 portray.

19 I would take one exception to your exception,
20 Mr. Buckley. Setting aside the mental health evaluation
21 delay as something that is not blamed properly on either
22 party, it is essential to protecting the integrity of the
23 process. Setting aside even that time, we do have the
24 significant -- all of the delays that Mr. Gandy requested in
25 motions for continuance, with the exception of the mental

1 health delay, were to allow new counsel, which were large in
2 number, to become sufficiently familiar with the case and the
3 discovery to enable them to mount a adequate constitutionally
4 necessary defense, and that's why I granted them. But the
5 fact that Mr. Gandy insisted on firing very good lawyers over
6 and over and over again and hiring new lawyers was the reason
7 for most of the continuances that he requested, he requested
8 and the Court granted.

9 The added, the superseding of the indictment I
10 agree is not the basis for finding the bulk of the delay.
11 So it's somewhat ironic to say, well, I caused this delay but
12 now I want my case dismissed because I caused so much delay.
13 There is kind of a term for that, but it is not necessary to
14 put it on the record.

15 MR. BUCKLEY: If I may, Your Honor, just briefly.

16 THE COURT: Yes, sir.

17 MR. BUCKLEY: It's my -- and, of course, this is my
18 information and belief, and I don't have personal knowledge
19 of it. But it's my understanding that the change in lawyers
20 have been largely the lawyers themselves quitting the case or
21 withdrawing because of personality conflicts. And, of
22 course, that, if it were true, is not necessarily their fault
23 but Mr. Gandy --

24 THE COURT: I'm not blaming the lawyers.

25 MR. BUCKLEY: Yes, Your Honor.

1 THE COURT: To the contrary.

2 MR. BUCKLEY: Understood. And I just wanted the
3 Court to understand that our position is that this isn't
4 necessarily a case where Mr. Gandy is just hiring and firing
5 for any strategic purposes or just because he doesn't like
6 people. There is a bona fide challenge due to his mental
7 health challenges, I think.

8 THE COURT: Well, I am not sure what the reason is,
9 but it is of his doing.

10 MR. BUCKLEY: Understood.

11 THE COURT: And there are too many good lawyers who
12 get fired for it to be any individual lawyer's doing. It is
13 Mr. Gandy is the only constant there. He made it very
14 difficult for lawyers to represent him, and either he fired
15 them or they fired him, but the record seems to indicate that
16 he fired them.

17 MR. BUCKLEY: Yes, Your Honor. I understand.

18 THE COURT: Over and over again. And they were all
19 retained, to be clear. And the record was presented in a way
20 that did not give me a lot of alternatives until this last
21 time. And the good news is that Mr. Gandy is extraordinarily
22 well represented.

23 MR. BUCKLEY: Thank you, Your Honor.

24 THE COURT: As is the United States Attorney.

25 MS. ZACK: Thank you, Your Honor.

1 THE COURT: So we are in good shape in terms of
2 lawyered up. And I think you can tell that I am not inclined
3 to grant a continuance, but I am going to issue an order that
4 details the reasons why.

5 MR. BUCKLEY: And when you said "continuance," did
6 you mean the order of --

7 THE COURT: The dismissal.

8 MR. BUCKLEY: Yes, Your Honor.

9 THE COURT: I misspoke, and I apologize for that.
10 Thank you for clarifying.

11 MR. BUCKLEY: Yes, Judge.

12 THE COURT: All right. Assuming, without deciding
13 finally until I scrub, I put it to the drafting test in final
14 form, I would like to move to the issue of the limine
15 requests if there are any.

16 MR. BUCKLEY: Well, there is a matter that relates
17 generally to limine, and so I think it's probably appropriate
18 to raise it at this time.

19 Ms. Zack and I have had a discussion about it,
20 and I think we have come to a meeting of the minds; but
21 because of the nature of it, we wanted to bring it to the
22 Court's attention.

23 This is a case that involves four alleged
24 victims who were minors at the time of the alleged incidents.
25 The fact pattern in this case, both through the government's

1 presentation and certainly through the defense presentation,
2 will relate not only to the alleged sexual matters directly
3 related to or caused by Mr. Gandy but may also be intertwined
4 with peripheral matters that are relevant and are of a sexual
5 nature as to these complaints.

6 Now ordinarily under the Federal Rules of
7 Evidence, Rule 412 provides that, which is the rape shield
8 law, provides quite a bit of certainly caution for any lawyer
9 seeking to cross-examine or otherwise expose matters of that
10 nature.

11 Ms. Zack and I have discussed this, and rather
12 than filing a written pleading, the government responding to
13 it and going back and forth, I think what we have agreed on
14 is that the government does not object to me exploring issues
15 of that nature as long as I explore them in a dignified
16 fashion and ask the questions in a good faith, having a good
17 faith factual basis and also a good faith basis that the
18 matter would be admissible for some legitimate purpose.

19 So I bring this to the Court's attention
20 because if the Court has an independent concern about the
21 application of Rule 412, we certainly wanted to resolve it in
22 advance of the commencement of trial.

23 THE COURT: Does the government object to this
24 approach?

25 MS. ZACK: No, Your Honor.

1 THE COURT: All right. So what kind of order should
2 we enter to make this, to implement this?

3 MS. ZACK: I don't know necessarily that we need any
4 particular order. I think that if Mr. Buckley were to go
5 outside the realm of what we have discussed, I will make the
6 appropriate objection. At that point Your Honor can rule on
7 it or if necessary, I guess, take -- I don't think this is
8 going to be a big deal as far as evidentiarily. I think that
9 there may be some information that the jury considers about
10 this. I think that it is a strategic move on their part for
11 certain aspects of it, and it can be used the same way for
12 the government. So potentially I could go into this well
13 before Mr. Buckley does with the victims. So I don't see
14 that there is a problem. I have not moved to exclude this.
15 I typically don't in these type of cases. I think it creates
16 more problems.

17 And we have discussed this. I think that you
18 can't take an individual and look at them in the vacuum of
19 only the events that occurred with them with the defendant.
20 I think that some type of background has to be given, and I
21 think that some of the things that Mr. Buckley is talking
22 about are the things that made these individuals potentially
23 vulnerable to Mr. Gandy as a whole.

24 So I don't have an issue with it, and we've
25 discussed that. So I don't know how one would fashion an

1 order. I just think maybe, Your Honor, knowing that this
2 issue is out there is enough.

3 THE COURT: Okay. I know.

4 Are there any disputed matters that need to be
5 taken up in the limine context?

6 MR. BUCKLEY: Not at this time, Your Honor. I have
7 a few things on my list that are on my agenda to discuss with
8 Ms. Zack over the next couple days; and based on my
9 experience working with her, I am confident that we can come
10 to some compromise in most of those cases.

11 THE COURT: Okay. You are both famously reasonable.

12 MS. ZACK: Thank you, Your Honor.

13 MR. BUCKLEY: Thank you.

14 THE COURT: That is a compliment.

15 So is your best suggestion that we should
16 meet -- when is the question, in advance of the scheduled
17 pretrial, in advance of the scheduled jury selection for a
18 final, very brief pretrial?

19 MS. ZACK: I think we are going to be able to work
20 everything out, to be quite honest with you.

21 THE COURT: Okay. Let's just presumptively do it
22 that morning. Come at 8:15.

23 MS. ZACK: Okay.

24 THE COURT: And the other thing, I have three more
25 suggestions. I know you are going to invoke the rule. I

1 want you guys to be sure that you have advised your clients,
2 your witnesses, all others on the fact that the rule has been
3 invoked and what that means, No. 1.

4 No. 2, I need you to come every day at least 15
5 minutes early. So if I set it for 8:30, come at 8:15.

6 Reason, you are going to need to test your technology every
7 day. We've even had some recent work done here. I have no
8 confidence in our system's ability -- this is based on
9 experience -- to work consistently day-to-day.

10 MS. ZACK: And our paralegal is going to contact Ms.
11 Eddins and come over sometime later this week.

12 THE COURT: Call her Eddins and she'll be happy.

13 MS. ZACK: Sorry. Eddins. And do those tests. And
14 she will be available every day.

15 THE COURT: Every day.

16 MS. ZACK: Yes, Your Honor.

17 THE COURT: That's fine.

18 During opening statements and closing
19 arguments, those who are seated in advance of the bar will
20 stay in their seats and not move around. It is distracting.

21 I don't care where you sit when you examine
22 witnesses or when you stand. It is often easier to use the
23 podium so that you can speak directly into the microphone.

24 I do insist that you stand when you are
25 addressing the Court. Among other things, it lets the court

1 reporter know that this is clearly on the record, or when you
2 are examining a witness, unless there is some health reason
3 that require somebody to sit.

4 I also want you to admonish witnesses or
5 parties who may need it, and even if you don't think they do,
6 that the Court will take steps if I become concerned that
7 facial expressions or nonverbal sounds or gestures are being
8 used in a way that the jury can see, are being made in a way
9 that the jury can see, particularly if there is any
10 indication that it's being done to express a certain thought
11 or reaction to the jury or the panel. I want poker faces for
12 everyone. And if I see that it is not being exhibited, after
13 a warning, I will put it on the record in front of the jury.

14 MR. BUCKLEY: Yes, Your Honor.

15 MS. ZACK: Question.

16 THE COURT: Yes, ma'am.

17 MS. ZACK: During opening and closing I understand
18 we can use podium. Are we free not -- are we free to move
19 away from the podium?

20 THE COURT: As long as you are speaking loud enough
21 that the court reporter and everyone can hear you. This is a
22 big courtroom.

23 MS. ZACK: Yes. I am not worried for me. So I am
24 sure Ms. Leo can keep her voice up, so that shouldn't be a
25 problem.

1 THE COURT: That's my only concern.

2 MS. ZACK: Technology wise I have one question, and
3 I don't know if the Court can answer it. But because there
4 is a child pornography component, I know that the jurors have
5 monitors. Is there a way to stop the overhead but allow the
6 jurors to see, the Court to see and defense and government
7 counsel to see the exhibit without it being made public to
8 the people in the gallery?

9 THE COURT: I will find out. You can ask Ms. Eddins
10 about the technology.

11 MS. ZACK: Okay, okay.

12 THE COURT: And look, it depends on who's in the
13 courtroom. If we don't have anybody in the courtroom except
14 law clerks and witnesses, I mean and interns, I'm not going
15 to worry about it.

16 MR. BUCKLEY: I believe it's possible, Your Honor.

17 MS. ZACK: I think it is possible. I'll check with
18 Ms. Eddins.

19 THE COURT: I think it is possible. I mean, if we
20 have members of the press, I can see your concern. And I
21 don't mean to hide things from the press specifically that
22 are being made available to anyone else.

23 MS. ZACK: Right.

24 Is Your Honor going to require all of our
25 witnesses to be here on the first day to inform them?

1 THE COURT: No, no.

2 MS. ZACK: Thank you.

3 THE COURT: Just the witnesses who you think we will
4 reach the first day.

5 MS. ZACK: Sure.

6 THE COURT: And I doubt -- I mean, I don't think we
7 are going to get past opening statements.

8 MS. ZACK: We have two very briefly witnesses, Your
9 Honor, that are coming from the United Kingdom, and they're
10 very brief; but if they have to go on Thursday morning,
11 that's fine with us.

12 THE COURT: That's fine. Have them come Wednesday
13 just in case. We'll try.

14 MS. ZACK: Yes.

15 MR. BUCKLEY: Is it the Court's expectation that
16 when addressing witnesses, including the alleged minor
17 victims, that they be addressed using Mr. or Mrs?

18 THE COURT: Absolutely. This is a formal
19 proceeding.

20 MR. BUCKLEY: And one final matter, Your Honor.
21 Regarding invocation of the rule, I understand that agents,
22 government agents who are also witnesses, may, in the course
23 of trial, continue, as the natural course of things, continue
24 communicating with some witnesses. And I wanted to ensure
25 that those communications would not include anything that the

1 agents have learned from the testimony.

2 MS. ZACK: We will make sure, Your Honor, that they
3 all understand the parameters of the rule and that
4 communications only deal with travel, timing, where to be,
5 when to be there, et cetera.

6 As to Mr. Buckley's point about Mr. Smith,
7 Mrs., does Your Honor require when we want to approach a
8 witness that we ask each time?

9 THE COURT: You don't need to ask at any time if you
10 can approach a witness. You need to ask every time that you
11 want to approach the Court. And PS, I am usually going to
12 say no, unless you are simply handing an exhibit, and that
13 goes up to my law clerk; and you don't need to ask permission
14 to approach my law clerk.

15 MS. ZACK: And we will have a notebook, a complete
16 notebook for Your Honor --

17 THE COURT: Good.

18 MS. ZACK: -- Wednesday morning and will have for
19 defense counsel all that as well.

20 THE COURT: Okay.

21 Anything else we need to do today?

22 MR. BUCKLEY: Nothing from us, Your Honor, I don't
23 believe.

24 MS. ZACK: Oh, I know that Mr. Buckley filed a
25 proposed jury charge. I would like an opportunity to look at

1 that -- I think most of it might be acceptable -- and just
2 file what the government, our, not response, but our version
3 of what the substantive charges would be, because we want to
4 double check. We are concerned, due to the date ranges, Your
5 Honor, we are having to go back and use older versions of the
6 statutes because the case is so old there have been
7 amendments. If we could have until Friday to get that to the
8 Court we would greatly appreciate that.

9 THE COURT: Sure.

10 MS. ZACK: Thank you.

11 THE COURT: Sure.

12 MS. ZACK: And when we can actually agree on a
13 version, if Mr. Buckley and I can agree on a version, we will
14 file that jointly so that then we don't even have to have a
15 charge conference on that portion of it.

16 THE COURT: Good.

17 MR. BUCKLEY: I will certainly do my best to work
18 toward that, Your Honor.

19 THE COURT: All right. Excellent.

20 What else? Anything else?

21 MR. BUCKLEY: If I may have a moment, Your Honor,
22 to --

23 THE COURT: Sure.

24 MR. BUCKLEY: -- look at my pad.

25 Nothing more from us at this time, Your Honor.

1 THE COURT: All right. I think we have a plan.

2 If there is anything that comes up that
3 requires us to have an interim conference, please advise us
4 as quickly as possible.

5 MS. ZACK: Yes, Your Honor.

6 THE COURT: Okay. And I think we are in good shape.

7 MS. ZACK: Oh, yes. One other thing, Your Honor.

8 THE COURT: Oh, alternates.

9 MS. ZACK: Two.

10 THE COURT: Two.

11 MR. BUCKLEY: Yes, Your Honor.

12 MS. ZACK: Just because there's a weekend coming.

13 THE COURT: Well, not only is there a weekend, it's
14 just, yes.

15 MS. ZACK: Seems like a good thing.

16 As we discussed, and obviously Mr. Buckley
17 noticed and the Court noticed, there has been a six-year gap
18 since the arrest. There has been more than six years from
19 the time that the crimes were committed.

20 Is the Court going to address this in some way
21 with the jury to inform them that they're not to consider the
22 time frame that it has taken to bring this case to trial?

23 THE COURT: Sure.

24 MS. ZACK: Okay. And it's through no fault of the
25 defense or the government.

1 THE COURT: Put it in the proposed voir dire.
2 That's where it belongs.

3 MS. ZACK: Okay.

4 THE COURT: Okay.

5 MS. ZACK: Yes, because we both filed our proposed
6 voir dire already. So you want me to file something else,
7 just a supplemental? I will file a supplemental, Your Honor.

8 THE COURT: That's fine.

9 Okay. Take a look and take a five-minute
10 break. Take a look at this proposed voir dire summary. And
11 our last item of business today will be going through this
12 and making, you making me aware of any changes that you might
13 want to make. I have tried to keep it short, I have tried to
14 keep it neutral. It simply says, here's what the case is
15 about, okay.

16 MR. BUCKLEY: Yes, Your Honor.

17 THE COURT: Take a look. I will be back in five
18 minutes.

19 MS. ZACK: Yes, Your Honor.

20 THE COURT: Thank you.

21 (Brief recess taken)

22 THE COURT: Have you both had an opportunity to read
23 and discuss among yourselves on each side the proposed
24 summary?

25 MR. BUCKLEY: Yes, Your Honor.

1 MS. ZACK: Yes, Your Honor.

2 THE COURT: You may be seated.

3 So starting with the first page, first
4 paragraph, any suggested revisions?

5 MR. BUCKLEY: No objection from us, Your Honor.

6 MS. ZACK: No, Your Honor.

7 THE COURT: First page, second paragraph, any
8 suggested revisions?

9 MR. BUCKLEY: Nothing from us, Your Honor.

10 MS. ZACK: No, Your Honor. This isn't going to be
11 handed out to them, correct?

12 THE COURT: No. I am going to read it to them.

13 MS. ZACK: Nope, nothing.

14 THE COURT: How about the third paragraph?

15 MR. BUCKLEY: Nothing from us, Your Honor.

16 MS. ZACK: Nothing from the United States.

17 THE COURT: The remainder of page 1?

18 MR. BUCKLEY: Nothing from us, Your Honor.

19 MS. ZACK: Nothing from the United States.

20 THE COURT: The remainder of page 2?

21 MR. BUCKLEY: Nothing from us, Your Honor.

22 MS. ZACK: Nothing from me.

23 THE COURT: Nothing to add?

24 MS. ZACK: No, Your Honor.

25 MR. BUCKLEY: Correct.

1 THE COURT: Great. All right. You guys are excused
2 until a week from Wednesday.

3 MR. BUCKLEY: That's the 18th, correct?

4 THE COURT: Right.

5 If we need to see you before you will advise
6 us, and it will be this Friday, not next Monday. So please
7 do. And I will look forward to getting your materials on
8 exhibits, anything else on proposed voir dire questions,
9 anything on witnesses.

10 MR. BUCKLEY: Yes, Your Honor.

11 THE COURT: All right. And anything else of a
12 limine nature, let us know what it is.

13 All right. If you have additional questions of
14 Ms. Eddins or of me, relate them to Ms. Eddins. She will get
15 them to me. Very good.

16 MS. ZACK: Thank you, Your Honor.

17 MR. BUCKLEY: Thank you.

18 THE COURT: And you are going to get us the
19 clarifying information on the counsel, status of the
20 uncertain counsel?

21 MR. BUCKLEY: I will get on it right away, Your
22 Honor.

23 THE COURT: Thank you so much.

24

25 (Conclusion of proceedings)

CERTIFICATION

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5 I, Fred Warner, Official Court Reporter for the
6 United States District Court for the Southern District of
7 Texas, Houston Division, do hereby certify that the foregoing
8 pages 1 through 45 are a true and correct transcript of the
9 proceedings had in the above-styled and numbered cause before
10 the Honorable LEE H. ROSENTHAL, Chief United States District
11 Judge, on the 9th day of July, 2018.

12 WITNESS MY OFFICIAL HAND at my office in Houston,
13 Harris County, Texas on this the 6th day of May, A.D., 2024.
14
15
16
17

18 /s/ Fred Warner
19 Fred Warner, CSR
20 Official Court Reporter
21
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23
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25