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SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES CENTRAL DISTRICT

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| THE PEOPLE OF THE STATE OF CALIFORNIA,<br><br>Plaintiff,<br><br>v.<br><br>NAASON JOAQUIN GARCIA (5/7/69), ALONDRA OCAMPO (2/7/83), SUSANA MEDINA OAXACA (11/8/94)<br><br>Defendants. | CASE NO. BA484133<br><br>**NOTICE OF MOTION; COMMON LAW AND NONSTATUTORY MOTION TO DISMISS; MOTION TO DISMISS PURSUANT TO PENAL CODE SECTION 995; MEMORANDUM OF POINTS AND AUTHORITIES; EXHIBITS A-G [ATTACHED]; EXHIBITS H-AA [LODGED UNDER SEAL]**<br><br>Date: April 8, 2022<br>Time: 8:30 a.m.<br>Dept.: 102 |

**TO THE HONORABLE STEPHEN A. MARCUS, SUPERIOR COURT JUDGE, AND TO DEPUTY ATTORNEYS GENERAL JEFFREY SEGAL AND DIANA LYNN CALLAGHAN:**

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**TO THE HONORABLE STEPHEN A. MARCUS, SUPERIOR COURT JUDGE, AND TO DEPUTY ATTORNEYS GENERAL JEFFREY SEGAL AND DIANA LYNN CALLAGHAN:**

**PLEASE TAKE NOTICE** that on April 8, 2022, or as soon thereafter as the matter may be heard in the above-referenced court, Defendant, Naason Joaquin Garcia ("Mr. Garcia"), by and through his counsel of record, WERKSMAN JACKSON & QUINN LLP, will move for an order setting aside the Information pursuant to Common Law and

Nonstatutory Motion to Dismiss; Motion to Dismiss Pursuant to Penal Code Section 995; Memorandum of Points and Authorities. (See *People v. Crudgington* (1979) 88 Cal.App.3d 295, 300;[1] *Bayramoglu v. Superior Court* (1981) 124 Cal.App.3d 718, 729.)

This Motion will be made pursuant to the common law, as well as Penal Code section 995, on the grounds that Mr. Garcia was denied substantial rights when the prosecution concealed exculpatory evidence subject to mandatory disclosure under *Brady v. Maryland* (1963) 373 U.S. 83 (*Brady*). As a result, Mr. Garcia was denied due process under the California and United States Constitutions, was denied the right to cross-examine witnesses at the preliminary hearing, was denied the right to present evidence, and was denied the right to be effectively represented by counsel at his preliminary hearing and was held to answer without probable cause. The Motion will be based on this Notice of Motion, the Memorandum of Points and Authorities served and filed herewith, Exhibits A–G, attached and Exhibits H–AA, lodged under seal, the transcripts of the preliminary hearing, the records on file in this action, and on such oral and documentary evidence as may be presented at the hearing on the Motion.

Dated: March 15, 2022

WERKSMAN JACKSON & QUINN LLP

By: _____
Alan Jackson
Kelly C. Quinn
Caleb Mason
Mehrunisa Ranjha
Attorneys for Defendant
Naason Joaquin Garcia

[1] Superseded by statute on other grounds as stated in *People v. Preston* (1996) 43 Cal.App.4th 450, 455.

# I.
# INTRODUCTION

In the nearly three years since Mr. Garcia was first arrested for the charges alleged in this case, the prosecutors have repeated *ad nauseam* their novel theory that the majority of the crimes charged in this case occurred not because of physical restraint, physical force, or fear of physical force but because the complaining witnesses had no other choice but to comply because they were under the complete mental and spiritual thrall of Mr. Garcia and the La Luz Del Mundo ("LLDM") Church. At Mr. Garcia's preliminary hearing, prosecutors theorized that the complaining witnesses "existed entirely" within the "insular community" of the LLDM Church and were afraid that saying no to Mr. Garcia and co-defendant Alondra Ocampo ("Ms. Ocampo") would cause severe "reputational harm" and "spiritual damage" to themselves and their families. (Vol. VI, 176:27–177:7.)[2] Thus, the government argued that religion "robbed these girls of their free will." (Opposition to Original 995 Motion, at p. 23.)

While the government touted its spiritual coercion theory, arguing that the LLDM church and its doctrine brainwashed the Jane Does and took over their entire lives for the charged period, it categorically refused to allow the defense any glimpse into the actual lives of the Jane Does. Indeed, while it possessed tens of thousands of communications among and between the Jane Does over the charged period, it refused to turn over these communications claiming they were "irrelevant." The government maintained that it had thoroughly reviewed this evidence, and definitively determined that it did not contain *any* exculpatory evidence. Thus, at the time of the preliminary hearing, and in the nearly two years thereafter, the government confidently and vociferously represented to the court on numerous occasions that it was in full "compliance" with its statutory and constitutional discovery obligations. The court accepted the prosecution's representation on its face while reminding the prosecutors of their *Brady* obligations and warning that if they

[2] All citations to the preliminary hearing transcripts in the instant motion are denoted by their applicable volume and page number.

withheld any material evidence, they did this at their "own peril." Nonetheless, just 31 days before the date set for trial, Deputy Attorney General ("DAG") Jeffrey Segal suddenly and urgently initiated a phone call with the court and defense counsel to bring to the court's attention the fact that he, himself, had just began reviewing the contents of the Jane Doe's devices and had discovered evidence which, in his words, "the defense might find to be exculpatory." More than one month after this phone call, and after the court urged the prosecution to produce this evidence in discovery, the prosecution finally turned over to the defense forensic downloads of the devices of the Jane Doe complainants.

The government's late disclosure of this voluminous discovery necessitated that trial be continued again for several more months. Thus, two years after his arrest, Mr. Garcia was once again forced to continue languishing in pre-trial custody subject to an unprecedented $90 million bail while the defense got the opportunity, *for the first time*, to review evidence the government had in its possession for three years. After reviewing the newly produced evidence, it became apparent that the depth and scope of the prosecution's misconduct is immense. Indeed, examination of the devices revealed that the prosecution *actively suppressed* any evidence contrary to its case and achieved this by affirmatively *altering and manipulating* the evidence produced to the defense in discovery. It appears that the government knew at the inception of this case just how harmful the Jane Does' own communications were to its theory of the case. Thus, the prosecution chose not simply to *suppress* this evidence for years, it chose to actively *alter, edit, and manipulate* the evidence it was producing to defense counsel in discovery to make this evidence appear inculpatory.

As discussed below, in the only report produced to defense counsel prior to the preliminary hearing which discusses the Jane Does' communications with each other, "Report 79," the prosecution spliced disparate snippets of text conversations and individual text messages in a manner that falsely made them appear to be parts of a continuous conversation. Thus, the prosecution crafted fabricated "conversations," which

were pasted into reports produced in discovery and presented as genuine excerpts of exchanges between the Jane Does. This methodology fundamentally altered the meaning of the actual text conversations to make them appear inculpatory, while cutting out all portions of the actual text conversations that were, in fact, exculpatory. In reality, as established below, the unedited conversations between the Jane Does are highly exculpatory.

In addition to explicit evidence negating specific charges of the Information, the suppressed and unaltered evidence is also entirely contrary to the government's theory of this case. Indeed, it renders the government's presentation at the preliminary hearing a falsehood in its entirety. Rather than showing fearful and brainwashed acolytes of an all-powerful cult-like church—as the government alleged at preliminary hearing—the actual evidence show that the Jane Does were normal teenagers in many respects and more troubled than ordinary teenager in others. For example, like normal teenagers, they went to public school, had non-church friends, had non-church boyfriends, dressed as they pleased, had access to phones, the internet, and social media. However, the evidence also showed the Jane Does being sexually active, engaging in underaged drinking, using illicit drugs, committing petty crimes such as shoplifting, and associating with gangs and gang members. There were also numerous communications between the Jane Does discussing their disbelief in Church doctrine, disparaging Church officials, including Mr. Garcia, and asserting that they did not follow Church teachings. Indeed, if there were anything particularly noteworthy or out of the norm in the Jane Does' communications, it was that they were *more* independent and rebellious than normal teenagers—not that they were brainwashed by the LLDM Church teachings and that they lived in constant fear of stepping a single toe out of line from those teachings. Thus, to the extent that the government's novel theory of spiritual coercion held any legal water at all (which, Mr. Garcia maintains it does not), the Jane Does' own communications, which the prosecutors had from the outset of the case, make it abundantly clear that this theory is *factually* incorrect. It is a fantasy seemingly invented out of whole cloth and bullishly

pushed forward by the government even as voluminous evidence exists to refute it.

As set forth below, the suppression of this evidence by the government—including by actively providing the defense with altered and fictionalized text messages—denied Mr. Garcia his substantial rights at the preliminary hearing. There is no universe in which any person reviewing this evidence would consider it anything but exculpatory and falling squarely within the government's *Brady* obligations. Thus, the government's actions deprived Mr. Garcia of a fair preliminary hearing. The prosecution's concealment, suppression, and withholding of critical *Brady* evidence implicated his right to present evidence in his defense at the preliminary hearing, his ability to cross-examine the witnesses against him, and ultimately, even implicated his right to counsel. Relatedly, because the burden of and prejudice from the government's unjustifiable actions in this case ultimately falls on Mr. Garcia, who must continue to endure additional and endless pre-trial detention based on charges that become increasingly tenuous with the discovery of previously withheld evidence, the government's actions have also deprived Mr. Garcia of his right to a speedy trial. Thus, the Information should be dismissed.

## II.
## RELEVANT FACTS

The People first filed charges against Mr. Garcia in Case Number BA475856 on June 4, 2019. In the years since charges were initially brought against Mr. Garcia in the previous case, he has remained in pre-trial custody in the Los Angeles County Jail on the functional equivalent of a no-bail hold.[3] After the previous case was dismissed due to a violation of Mr. Garcia's right to a timely preliminary hearing, the People immediately refiled charges on July 30, 2020, initiating the instant case. Mr. Garcia's preliminary

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[3] Mr. Garcia currently remains in custody with bail set in the astronomical amount of $90 million. While he has not been denied bail altogether, the unprecedented bail amount of $90 million is the functional equivalent of a no-bail hold because, as set forth in previous motions and a writ of habeas corpus, even if Mr. Garcia were able to afford to post bond on this bail amount—an assessment which the magistrate never undertook in this case—there is no practical mechanism in California whereby a defendant can actually post bond on a bail amount that high.

hearing began soon thereafter on August 11, 2020, and lasted six full court days without any of the complaining witnesses testifying. Following the preliminary hearing, Mr. Garcia was held to answer on all charges.

## A. RELEVANT FACTS FROM THE PRELIMINARY HEARING

At the time of the preliminary hearing, no identifying information was provided to the defense about the five anonymous complaining witnesses, Jane Does 1 to 5, and none of them appeared in court to testify. Instead, the court heard Proposition 115 testimony from various government agents who had purportedly interviewed the Jane Does, reviewed documentary evidence, or translated documents. As the lead investigator on the case, Special Agent Holmes provided the bulk of the testimony regarding the substantive claims involving Jane Does 2–5. Former Special Agent Donohue provided testimony regarding the allegations concerning Jane Doe 1.

As relevant herein, the government alleged that Mr. Garcia, alongside co-defendant Alondra Ocampo, engaged in an overarching scheme of human trafficking involving Jane Does 1–3, who were teenagers at the times alleged in the Information. The government also alleged specific charges of sexual assault pertaining to each of the teenage Jane Does, as well as the two adult Jane Does, Jane Doe 4 and Jane Doe 5. In the absence of any evidence linking Mr. Garcia to any kind of physical restraint of the Jane Does (as is required in human trafficking cases) and lacking evidence of physical force to support the forcible rape and oral copulation charges, the government's entire case turned on a novel theory of "spiritual coercion" and brainwashing by the ideology of the La Luz Del Mundo ("LLDM") Church of which Mr. Garcia is the putative leader. As set forth below, the government relied entirely on this "spiritual coercion" theory to fill major holes in its case and has touted the allegedly all-encompassing coercive influence of the Church on the lives of the Jane Does at every stage of the proceedings thus far. Yet, as discussed below, it is now clear that the government's case was based on suppressing, ignoring, and flat out altering any evidence (of which there was a plethora) that defied or was contrary to specific allegations in the Information, was important impeachment

evidence, or was contrary to the government's invented theory of spiritual coercion.

### 1. THE PROSECUTION'S NOVEL THEORY OF RELIGIOUS COERCION AT THE PRELIMINARY HEARING

At the preliminary hearing, the government focused heavily on presenting evidence to support its novel theory of liability in this case—the notion that the invisible pressure exerted by the ideology of the LLDM church *forced* the Jane Does, both adult and minor, to act against their wills and to engage in unwanted sexual activities with Mr. Garcia. As the prosecutor described at the preliminary hearing: "[e]ach one of the Jane Does who was victimized by the defendant shared something in common. They were each faced with the *direct or implied threat [of], hardship*, and/or *retribution* should they decline Garcia's sexual desires or opposed defendant Ocampo and Oaxaca in an effort to facilitate the abuse." (Vol. VI, 176:16–21, emphasis added.) According to then Deputy Attorney General Amanda Plisner's description: "[e]ach of the young women, teenagers, and young adults, as detailed by Special Agent Holmes and Former Agent Donohue, was born into the Church, had lifelong family ties to the church, and was *discouraged from having any life outside the church.*" (Vol. VI, 176:22–26, emphasis added.) Thus, according to the prosecution, the threats of *hardship* and *retribution* faced by the Jane Does came in the form of threats of "being ostracized from the only community they knew, without formal education, job skills, or any trusted adults or peers outside the church;" and facing "reputational and spiritual harm from going against God and from the insular community *in which they existed entirely*." (Vol. VI, 176:27–177:7, emphasis added.)

As one example, Agent Holmes asserted that Jane Doe 2 was "forced" to engage in sexual activity with Mr. Garcia because she was afraid of hurting her "family's reputation in the church." (Vol. III, 45:12–17.) Similarly, Agent Holmes testified that the Jane Does were coerced to act against their will because they were afraid of being "kicked out" of a small service group within a larger East Los Angeles church group made up of both adult and teen females in charge of "chores, household things, studying of the church, doing things around the church." (Vol. II, 90:12–14.) The government

presented being "kicked out" of this smaller group as one of the major threats of "hardship and retribution" against the Jane Does. Agent Holmes explained that being removed from the group "would have been a big, big deal" and was the major fear which induced the Jane Does to engage in sexual activity against their will. (Vol. IV, 41:7–10.) Agent Holmes also testified that Jane Doe 2 and Jane Doe 3 "missed a lot of school because of LLDM, specifically because of [their] involvement in the group." (Vol. III, 137:1–3.) Agent Holmes testified that Jane Doe 3 had indicated that she needed to be home schooled because of her active involvement in the church and service group.

The government also made similar claims of religious coercion as it pertained to the adult Jane Does. For example, when asked if Jane Doe 4 stated why she had sex with Mr. Garcia for the first time—which is not part of the allegations in the instant case—Agent Holmes testified that Jane Doe 4 stated that she felt like she had sexual contact with Mr. Garcia because she did not want to make God mad. (Vol. II, 24:16–18.) Later, Agent Holmes clarified that Jane Doe 4 believed "that if she made Mr. Garcia [mad], it was like making God mad." (Vol. II, 95:19-21.) Indeed, although Agent Holmes testified that there was no evidence that Mr. Garcia ever told Jane Doe 4 this himself, she fervently believed that "'God will smite me. You will be in a wheelchair. You will be struck and cut by lightning,'" if she disobeyed Mr. Garcia. (Vol. II, 95–96.) Thus, the government alleged that she acted out of the fear and devotion she had internalized from her deep involvement in the LLDM church.

### 2. PRELIMINARY HEARING TESTIMONY CONCERNING SPECIFIC CHARGES

Agent Donohue testified that the only direct interaction Jane Doe 1 had with Mr. Garcia was an incident in August 2017 in which defendant Ocampo asked her "to serve defendant Garcia coffee in his office at the East Los Angeles house." (Vol. IV, 39:13–17.) Ocampo took the cup of coffee from Jane Doe 1 and told Jane Doe 1 to take her dress off. (Vol. III, 39:19–27.) Jane Doe 1 acquiesced and then went into Mr. Garcia's office. "[H]e got up from his desk, gave her a hug, told her she was beautiful, thanked her for being there, thanked her for being loyal." (Vol. III, 40:4–7.) Jane Doe 1 stated that

Mr. Garcia then kissed her and put his hand on her buttocks over her clothing. He attempted to move his hand to her vaginal area, she "pulled away from him, and he stopped." (Vol. III, 40:16–19.) Donohue later again stated that "According to Jane Doe 1, as soon as she pulled away from him physically, he stopped." (Vol. III, 77:2–4.)

As to Jane Doe 2, Agent Holmes described two sexual encounters which allegedly occurred between Jane Doe 2 and Mr. Garcia. One incident happened "sometime after August of 2017," and began with Jane Doe 2 serving Mr. Garcia coffee in his office after Ocampo told her to take her clothes off. Agent Holmes testified "[s]he said that when she entered the room, Mr. Garcia complemented her. And then what - - she described it as he grabbed on to her and put her towards the ground, kind of swung her down towards the ground, and had sexual intercourse with her." (Vol. I, 90.) Agent Holmes then recounted "She said she entered the room, he complimented her, grabbed her, kissed her, and then put her onto the ground and had sexual intercourse with her." (Vol. I, 92.) Agent Holmes testified that Jane Doe 2 "was a virgin at the time of this sexual encounter." (Vol. I, 91–92.)[4]

Agent Holmes also testified to a second "different incident" in which Jane Doe 2 "had intercourse with [Mr. Garcia] again." (Vol. I, 92.) Jane Doe 2 "went into his room to massage his feet, he then proceeded to provide oral sex to her, and then continued in to vaginal/penile sex, as well." (Vol. I, 93.) Agent Holmes testified that Jane Doe 2 recounted that "on one occasion, he (Mr. Garcia) took her head and kind of pushed her down towards his groin area. And then as she was providing oral sex to him, he was holding her head and moving it back and forth." (Vol. I, 92.) It is unclear from this testimony which of the two sexual encounters this oral copulation description

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[4] At the time of the preliminary hearing, the allegations against Mr. Garcia also included a great bodily injury enhancement arising out of Jane Doe 3's alleged loss of virginity during her first alleged sexual encounter with Mr. Garcia. This enhancement was dismissed by Judge Marcus pursuant to Mr. Garcia's Penal Code section 995 Motion to Dismiss.

corresponds to. As to both sexual encounters described, Agent Holmes stated: "She told us - - or told me that he had her hands and was holding them down onto the bed itself, and that she was having trouble moving them." (Vol. I, 95.)

The allegations concerning Jane Doe 3 only involved a singular sexual encounter wherein "she came to Mr. Garcia's residence in East LA, was met by defendant Ocampo, and told to go into Mr. Garcia's bedroom" where she began massaging Mr. Garcia's feet, and then was allegedly instructed by co-defendant Oaxaca to orally copulate Mr. Garcia. (Vol. I, 122:25–123:17, 125:2–128:8.) The Information alleges two counts concerning Jane Doe 3: Count Nine alleges Forcible Oral Copulation of a Person under 18 in violation of Penal Code section 287, subdivision (c)(2)(C), while Count Ten alleges Oral Copulation of a Person under 18, in violation of Penal Code section 287, subdivision (b)(1).

As to the human trafficking charges involving the minor Jane Does, the agents testified that all three were members of a "smaller" church service group within the East Los Angeles LLDM Church, and both began doing private dances and participated in sexual photoshoots at the direction of co-defendant Ocampo. Without any evidence of any physical restraint of the Jane Does at any time, the human trafficking charges were premised on the notion that the Jane Does were "deprived of their personal liberty" *mentally* though a "process of religious indoctrination" that affected their "free will." Thus, the ideology of the LLDM church acted as "invisible handcuffs" that restricted every thought and action of the Jane Does for the relevant periods.

Specifically, Count Two alleges that between August 1, 2017, and February 15, 2018, Mr. Garcia and Ms. Ocampo conspired to commit Human Trafficking by Procuring a Child to Engage in a Lewd Act as set forth in Penal Code section 266j. As to this Count, Agent Donohue presented testimony of Jane Doe 1's statements that Ocampo had brought schoolgirl outfits, they touched their own and each other's breasts and buttocks over the clothes, and that Ocampo took photographs. (Vol. IV, 32:5–10.) Additionally, Jane Doe 1 stated that, on another occasion, Ms. Ocampo told the girls to "put whipped

cream on each other and to kiss each other, and made them" touch each other sexually. (Vol. IV, 34:15–22.)

Count Eleven alleges that between August 1, 2017, and April 30, 2018, Mr. Garcia and Ms. Ocampo conspired to commit Human Trafficking for the Production of Child Pornography. The overt acts for this Count allege that photographs of Jane Does 1, 2 and 3 were produced while they were under 18. Specifically, Overt Acts III–VII allege that Ms. Ocampo took photographs of the Jane Does three separate times within three alleged date ranges.

Agent Holmes' testimony concerning the allegations of the adult Jane Does—Jane Doe 4 and Jane Doe 5—was quite similar. He testified that both Jane Doe 4 and 5 had a longstanding consensual relationship with Mr. Garcia. Jane Doe 4's relationship spanning the time that she served as his assistant. (Vol. I, 133:4–25.) Agent Holmes only described one specific encounter pertaining to Jane Doe 4. During that encounter, by Jane Doe 4's own statements, she took off her clothes, went into Mr. Garcia's room, "and entered the shower with" Mr. Garcia. (Vol. II, 26:1–2.) Jane Doe 4 said "they began to kiss, and then she went down on him and provided oral sex to him." (Vol. II, 26:1–2.) They then had sexual intercourse. (Vol. II, 26:14–17.) Other than this specific incident, Agent Holmes indicated generally that there were an "approximate[]" number of nine total sexual encounters "over the course of months, or even years she (Jane Doe 4) had this relationship with" Mr. Garcia. (Vol. II, 28:20–24, 155:6–8.)

As to Jane Doe 5, Agent Holmes described three incidents. For Counts 31 and 32, Agent Holmes' testified that these charges arose from an incident that "occurred in February of 2016 at his house in East LA" and involved "oral sex" and "sexual intercourse" in the shower. (Vol. II, 36:19–20.) The "second incident" described by Agent Holmes as occurring in "approximately June, of 2016," involved Jane Doe 5 purportedly going to Mr. Garcia's bedroom to massage his feet. (Vol. II, 43:9–10.) A third encounter between Jane Doe 5 and Mr. Garcia was alleged to have occurred in the "Fall, of 2017." (Vol. II, 47:9.) Agent Holmes testified that this incident "involved both

oral sex and vaginal sex. He tried to have sex on a chair in his office, but were [sic] unable to. Basically, sat on the chair, and then they did have sex." (Vol. II, 50:9–14.)

## B. RELEVANT POST-PRELIMINARY HEARING PROCEDURAL HISTORY

### 1. RELEVANT FACTS FROM THE PENAL CODE SECTION 995 MOTION TO DISMISS AND HEARING

Following the preliminary hearing, on October 7, 2020, Mr. Garcia filed a Motion to Dismiss Pursuant to Penal Code section 995. Mr. Garcia specifically raised issues relating to the lack of adequate discovery provided by the government and how this affected his ability to present a meaningful defense and cross-examine witnesses at the preliminary hearing given the volume and nature of the information intentionally withheld by the government. (See Mr. Garcia's Original Motion to Dismiss Pursuant to Penal Code Section 995, filed October 7, 2020, pp. 56–68 [hereinafter, "Original 995 Motion"].)[5] For example, Mr. Garcia generally challenged the government's decision to conduct the preliminary hearing in virtual secrecy, without providing "the defense any information about the complaining or confidential witnesses" and argued that this deprived him of "*any* meaningful ability to conduct any kind of cross-examination." (*Id.* at p. 59.) Mr. Garcia also specifically challenged, *inter alia*, the government's decision to withhold key information concerning Jane Doe 4's potential bias and inducements by the government in exchange for her cooperation with the investigation; the magistrate's refusal to allow the defense to cross-examine then Deputy Attorney General Amanda Plisner; and the limitation of cross-examination aimed at negating elements of the charged offenses and presenting an affirmative defense. In addition, Mr. Garcia's primary arguments in the 995 Motion were that the government presented insufficient evidence on the human trafficking and sexual assault charges because the government's theory of spiritual coercion does not constitute physical restraint within the meaning of the human trafficking statute and is not sufficient "duress" for the forcible sexual assault charges.

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[5] Mr. Garcia hereby incorporates by reference the arguments in his original 995 Motion to Dismiss, filed on October 7, 2020, into the instant Motion.

On October 19, 2020, the government filed its Opposition to Mr. Garcia's 995 Motion. (See People's Opposition to Defendant Naason Joaquin Garcia' Motion to Dismiss Pursuant to Penal Code Section 995 [hereinafter, "Opposition to Original 995 Motion"].) Without responding to a majority of the arguments raised in Mr. Garcia's 995 Motion, the government reiterated its overall theory of the case—arguing that the Jane Does were so mentally affected by their affiliation with the LLDM Church and participation in church groups, that they were "robbed" of their "free will." (Opposition to Original 995 Motion, at p. 23.) The government proffered that—while not physically restrained—the Jane Does were still "deprived of their liberty" because their decision-making process was affected by "a long process of religious indoctrination." (Opposition to Original 995 Motion, at p. 23.) The government's Opposition also further coalesced this notion as not just a general *theme* of its case but also one of its primary theories for establishing *force* and *duress*. The government contended that "[t]he defendants also used duress in the commission of forcible rape and oral copulation against the Jane Does." (Opposition to Original 995 Motion, at p. 27.) The government posited that "[g]iven defendants' stature and position of authority in the LLDM religious community – particularly that of defendant Garcia and, through him, the co-defendants – as well as the efforts by defendants Ocampo and Oaxaca to persuade the victims to engage in sexual activity, there is substantial evidence that all three defendants committed the crimes of forcible rape and forcible oral copulation by means of duress." (Opposition to Original 995 Motion, at p. 28.) In other words, the complaining witnesses "feared that refusing Garcia's wishes would not only cause them spiritual damage, but get them kicked out of the special group Alondra had created causing disappointment and reputational harm to their entire families." (Opposition to Original 995 Motion, at p. 29.)

Specifically, as to Jane Doe 3, the government alleged that the preliminary hearing testimony "clearly described [her] acting under duress based upon the power differential between herself and Garcia, the 'Apostle' of LLDM, which was her entire world." (Opposition to Original 995 Motion, at p. 31.) "She was also worried that her mother

would be disappointed if she left the group and she did not want to let her mother down." (Opposition to Original 995 Motion, at p. 31.) It was allegedly because of this internal pressure and unvocalized fears that Jane Doe 3 remained in the group. This internal pressure from the teachings of the church and fear of her mother's disappointment—the government alleges—also led Jane Doe 3 to go into Mr. Garcia's bedroom and to provide oral copulation. (Preliminary Hearing Transcript, Vol. I, 122:25–123:17, 125:2–128:8.) As to Jane Doe 4, the government stated that her "fear was based on her spirituality and her belief that making Garcia made [sic] would then make God mad. She had learned in LLDM that making God mad brings about physical harm in the form of being 'struck down by lightening, cut in half, [or] put in a wheelchair." (Opposition to 995 Motion, at p. 29.) Similar arguments were proffered as to each of the Jane Does.

On October 21, 2020, a hearing was held in Department 102, in front of the Honorable Stephen A. Marcus on Petitioner's Motion to Dismiss pursuant to Penal Code section 995. Judge Marcus granted the Motion as to the Extortion charges in Counts Twenty-Six, Thirty, Thirty-Two, and Thirty-Six; and the Great Bodily Injury enhancements attached to Counts Five and Six. However, the court denied the Motion as to all other counts of the Information. In affirming the bulk of the magistrate court's holding order, Judge Marcus acknowledged that the complainants' "personal mobility was not restricted physically," but found that the restriction requirement of human trafficking could be met by evidence they were "restricted mentally." (Transcript of Original 995 Hearing, p. 106:20–26.)[6] The court also found that the required "force" for the rape and oral copulation counts could come from the fact that the complainants were "manipulated" generally by religion. (*Id.* at p. 106:28–107:1.) Finding that there was sufficient evidence that the Jane Does were "restricted mentally" and "manipulated generally by religion," Judge Marcus affirmed the magistrate court's holding order. (*Id.* at p. 106:20–107:1.)

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[6] The cited excerpt from the 995 Motion to Dismiss Hearing has been attached as Exhibit A to the instant Motion

## 2. RELEVANT FACTS CONCERNING THE PROSECUTION'S HISTORY OF WITHHOLDING DISCOVERY IN THIS CASE

In the three years since charges were first filed against Mr. Garcia, and while Mr. Garcia has been held in pre-trial custody without bail, the defense has made every effort to rigorously investigate the case and made myriad requests for the People to comply with their statutory and constitutional obligations to produce all relevant and material discovery. As is amply documented in the record, the People have fought every defense effort to obtain even the most basic discovery items and consistently refused to comply with their own constitutional and statutory obligations. Below is a brief summary of the many attempts the defense has made to gain access to basic discovery in this case, and the government's refusal to comply at every stage.

On July 30, 2020—the same day as the prosecution re-filed charges against Mr. Garcia and initiated the instant case—the government filed a "Motion to Protect Victim and Witness Personal Identifying Information Pursuant to Penal Code section 1054.7," seeking to keep the identities and other identifying information of the complaining witnesses concealed from the defense. On July 31, 2020, Mr. Garcia filed his Opposition to the Motion to Protect Victim and Witness Identifying Information. On August 11, 2020, Judge Coen granted Real Party in Interest's Motion, and Mr. Garcia proceeded to preliminary hearing without any information regarding the identities of the complaining witnesses. However, Judge Coen indicated that the court would revisit this issue again following preliminary hearing.

On September 25, 2020—following the preliminary hearing—Mr. Garcia filed a "Notice of Motion and Motion to Compel Production; Memorandum of Points and Authorities in Support Thereof," requesting various categories of discovery. On October 16, 2020, the government was ordered to disclose witness names, provide unredacted investigation reports "with the exception of the addresses of the witnesses," and make witnesses available for interviews. (Transcript of October 16, 2020, Hearing, p. 47:14–

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16.)[7] However, in the months after the court ordered the government to produce unredacted copies of all relevant discovery, the government continued to refuse to comply with this mandate and continued in its pervasive pattern of withholding relevant evidence. Indeed, as just one of the numerous conversations between defense counsel and prosecutors demonstrates, the prosecution's position at this time was that the defense "would not be receiving full forensic copies of [the Jane Does' electronic devices] but would only receive the relevant or exculpatory parts of the devices which you have received." (See November Emails Between DAG Diana Callaghan and Defense Counsel, attached as Exhibit C.) Indeed, in her November 12, 2020, email to defense counsel, DAG Callaghan went systematically through a list of each requested electronic device and in reference to the Jane Does' devices, wrote "NO" to indicate that the defense would not receive copies of these devices. (*Ibid.*)

On January 6, 2021, Mr. Garcia filed "Defendant Naason Joaquin Garcia's Notice of Motion and Motion to Enforce Discovery Order and Compel Discovery Production; Declaration in Support Thereof" seeking enforcement of the magistrate court's October 16, 2020, Order directing the government to produce to the defense "all relevant evidence." Mr. Garcia argued that the government was failing to comply with that mandate and its obligations under state discovery statutes by failing to produce the electronic devices of the complaining witnesses. On February 10, 2021, the court held a hearing on Mr. Garcia's Motion to Enforce its October 16, 2020, Order. (See Transcript of February 10, 2021, Hearing, attached as Exhibit D.) At the hearing on this motion, the government represented to the court that it had produced the "relevant portions of the device[s]." (*Id.* at p. 16:5–10.) Specifically, DAG Patricia Fusco made the following representation: "The People have fulfilled all their obligations under *Brady* and 1054. The defense continued to make allegations of *Brady* violations with absolutely no basis whatsoever. . . . All of the relevant items have been available to them for quite some time,

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[7] An excerpt of the cited portions from the transcript of this hearing is attached to the instant Motion as Exhibit B.

Your Honor." (*Id.* at p. 12:19–13:4.) Mr. Garcia's counsel argued that because the government had never defined the criteria of "relevance" it was using to make determinations about what to produce, this representation was meaningless and could not be tested. (*Id.* at pp. 16:15–17:5.) Moreover, the claim that *nothing* on the electronic devices of the complainants during the time periods when they were allegedly assaulted repeatedly and trafficked defied credibility on its face. However, the court did not inquire anything further and stated that the government's bare summary representation of compliance was sufficient under Penal Code section 1054.1(e). (*Id.* at pp. 17:27–18:10.)[8]

On March 10, 2021, Mr. Garcia filed "Defendant Naason Joaquin Garcia's Notice of Motion and Motion to Compel *Brady* Evidence; Declaration of Caleb Mason; Declaration of Richard Green," placing the outstanding *Brady* issues squarely before Respondent Court and again asking the court to order the government to produce the devices of the Jane Doe complainants. On March 26, 2021, the court held a hearing to consider Mr. Garcia's *Brady* Motion. Defense counsel argued that the thousands of contemporaneous statements of the complainants contained on their electronic devices

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[8] Following this, the defense made another attempt to reach a compromise with the government. On February 24, 2021, with their forensic expert waiting at the Attorney General's Commerce, California facility, ready to download any material the prosecutors would permit, the defense requested a telephonic conference with the trial court to propose the idea of a "clean team" procedure as a discovery compromise wherein the defense could set out certain "key terms" by which to filter the communications on the Jane Doe devices, and the clean team could then review the resulting messages for "relevance" (in accordance with a criteria agreed-upon by the parties) and produce only those messages found to be "relevant." (See Transcript of February 24, 2021, Hearing, attached as Exhibit F, pp. 2–4.) The defense proposed that this procedure would strike a fair balance between the prosecution's stated goal of protecting "irrelevant" information and the defense goal of accessing material information without revealing defense strategy. The prosecution, again, assured the court that it was in compliance with its duties, with DAG Segal stating: "We have represented to the court on multiple occasions that we have complied with our discovery obligations under 1054.1 and *Brady*. We have disclosed the relevant portions - - the relevant contents from those devices, and that ought to be the end of it[.]." (*Id.* at p. 7:22–27.) Based on this assurance, the court again declined to get involved, simply referring the parties back to its standing discovery order. (*Id.* at p. 10:22–11:21.)

constitute favorable and exculpatory evidence under *Brady*. (See Transcript of March 26, 2021, Hearing, attached as Exhibit E.) In response, the government once again simply made the summary and conclusory representation that it was in compliance with its *Brady* obligations and did not respond to Mr. Garcia's request that it define the matrix being used to make this determination. (*Id.* at p. 10:13–11:15.) At that hearing, the court cautioned that "the People always proceed in any trial at their peril. If there is any suppression in this case of material or favorable information to the defense, it's going to reversible. But this is the People's absolute duty. The People have stated that there is no *Brady* material. So be it. If there's any suppression and they [ ] have withheld, then it's going to be reversed." (*Id.* at p. 20:9–13, emphasis added.) The court concluded: "To make it very simple, yes, I will order the People to comply with their *Brady* requirements. So ordered. That's an order that goes in every case, without an official order. That's as far as I'm going to go. Otherwise, your motion is denied." (*Id.* at p. 20:27–21:3.)

In summary, despite years of persistent defense requests asking the People to produce relevant information from the Jane Does' personal electronic devices, the People consistently refused to produce this discovery and the magistrate failed to order them to do so. All the while, every prosecutor involved in this case at one point personally represented to the court that the government was in complete compliance with statutory and *Brady* discovery obligations.

On August 26, 2021, 31 days before trial, prosecutor Jeffery Segal requested an urgent call with defense counsel and the court. At this call, DAG Segal informed defense counsel and the court that he had only now begun his review of the Jane Does' devices and had realized that there were in fact thousands of pages of discoverable material, including material that he described as evidence the defense "might consider [ ] *Brady*." (See Transcript of September 17, 2021, Hearing, attached as Exhibit G, p. 8:27–28.) Specifically, DAG Segal mentioned voluminous text messages between Jane Does 1, 2, and 3 spanning the periods charged in the Information. In the prosecutor's own words, these previously undisclosed messages fell within five general categories: 1) evidence of

the teenage Jane Does using drugs; 2) messages discussing the teenage Jane Does' sexual relationships and experiences with other men; 3) evidence of the teenage Jane Does' struggles with mental health issues and even suicidal ideation (characterized by DAG Segal as "teen angst"); 4) evidence of the teenage Jane Does committing petty crimes such as shoplifting; and 5) the Jane Does stating that they wanted to have sex with Mr. Garcia for money. (*Id.* at pp. 8:4–9:16.) In other words, after *years* of the defense asserting that this exact *Brady* material undoubtedly existed, and *years* of the People confidently assuring the court that nothing relevant existed within these materials, the People finally admitted that voluminous amounts of the information previously withheld from the defense is relevant and material. Due to the prosecution's shocking disclosures a month before trial was set to begin, the defense had no choice but to seek yet another continuance. Thus, Mr. Garcia's time in pre-trial custody was extended once again due to the failure on the part of the government to meet its basic obligations.

At a September 2021 hearing, prosecutor Patricia Fusco stated that the People would provide the defense with the forensic images of the phones' contents. Approximately one month later, the prosecution did so. As set forth below, the contents of these devices are immense,[9] completely change the contours of this case, and reveal a reality entirely contrary to the narrative presented by the government at the preliminary hearing.

Due to the prosecution's many blatant failures at every level—from their self-admitted failure to properly review and categorize information that has been in their possession for going on *three years*, their boldfaced and repeated lies in open court (that nothing "relevant" remained unproduced), and their delay at every stage—Mr. Garcia's trial was once again delayed. Thus, Mr. Garcia continues to endure pre-trial detention effectively without bail on charges that—as is made abundantly clear from the newly produced discovery—are far more tenuous and precarious even than the stilted testimony

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[9] See Declaration of Richard Green Regarding Updated Search Terms of Jane Doe Evidence, attached as Exhibit H, BS000001.

and sparse evidence at the preliminary hearing indicated.

### 3. RELEVANT FACTS FROM THE NEW DISCOVERY

Prior to the preliminary hearing (and up until October 2021), the government had produced a total of *one report*—Report 79—which discussed any of the content contained on the electronic devices of the minor Jane Does. In this 26-page report, Special Agent Joseph Cedusky—an agent who did not testify at the preliminary hearing—summarized and "excerpted" a small number of the text messages exchanged between Jane Does 1, 2, and 3. In this report, Agent Cedusky explained that he had reviewed the contents of the Jane Does' devices—exchanged between the teenage Jane Does, including an approximate 70,327 text message chain. From the tens of thousands of messages he reviewed, Agent Cedusky "bookmarked" a total of 2,221 texts. Of the 2,221 he "bookmarked," he then further chose a miniscule fraction of the text messages—those he personally deemed "most relevant"—to produce in the body of Report 79. According to Agent Cedusky, those few text messages deemed "most relevant" by him were "copied" into the body of Report 79.

In the years since Report 79 was first produced, the defense repeatedly and vociferously argued at court hearings, within motions, and in writ filings, that it was entitled to access the full contents of the Jane Does' electronic devices, and that the government's review, self-determination of what was "relevant," and ultimate production of discovery in this case was fatally and plainly flawed. It was obvious that, at every stage, the government deemed as "relevant" only that evidence which was explicitly inculpatory, while categorizing anything exculpatory as "irrelevant" and refusing to produce it. Unsurprisingly, when the prosecution finally gave the defense access to the Jane Does' electronic devices in October 2021, these devices turned out to be *full* of suppressed exculpatory evidence.

The sheer scale and magnitude of the exculpatory evidence that the government had deliberately withheld up to this very late point in the case was astonishing. Even more shocking, and what would have been difficult for anyone to fathom prior to the

actual production of these devices, was that the government had not just actively withheld relevant evidence, it had also engaged in active *manipulation, modification, and falsification* of the sparse evidence it had previously produced. Indeed, as the defense only discovered when it began reviewing the contents of the Jane Doe devices, each of the "excerpts" produced in the body of Report 79 were not in fact "copies" of the actual text message conversations between the Jane Does at all; rather, they consisted of individual messages that had been cut and pasted together from disparate places in long conversation threads in a manner that falsely made them appear to be portions of a continuous conversation.

Agent Cedusky's methodology was consistent: he extracted fragments of text conversations and stitched them together to make fabricated "conversations," which he then printed in the report and claimed were genuine excerpts. In each case, he altered the meaning of the actual text conversations to make them appear inculpatory and cut out all portions of the actual text conversations that were exculpatory.[10] While the modifications are numerous, the most notable omissions, egregious alterations, modifications, and fabrications are described below.[11]

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[10] In addition to altering the meaning of the text messages, it is also important to note that Agent Cedusky changed the time stamps on many of the messages in Report 79, which made them appear as though they were sent in the middle of the night. The time stamps are plain and prominent on the messages and there is no possibility that this was an accident. The prosecution will presumably attempt to explain the time changes by claiming that Agent Cedusky was "really" using UTC (Greenwich Mean Time) notations, meaning adding eight hours to the actual time messages were exchanged here in California. That explanation is implausible, however, because the actual contemporaneous time stamps are prominently displayed on the messages themselves. And the time alterations are not trivial or immaterial: for example, they would allow the prosecution to falsely suggest that Alondra Ocampo was contacting the Jane Does late at night; or to obfuscate the time when an incident allegedly occurred, impairing the defense's ability to investigate and defend the case.

[11] For the Court's reference and ease, a side-by-side comparison between the actual text messages and the altered and edited "excerpt" produced by the prosecution in Report 79, is provided in the exhibits.

As set forth below, there is a vast *multitude* of exculpatory evidence contained in the new discovery. This evidence, previously deliberately suppressed by the prosecution including by *actively* altering and falsifying evidence, changes the entire landscape of this case. Below is a summary of *some* of the most notable examples of exculpatory materials found within this discovery, which the People possessed and had reviewed months or years *before* the preliminary hearing, but did not produce to the defense until October 2021, more than a year *after* the preliminary hearing.

### a. THE GOVERNMENT SUPPRESSED EVIDENCE THAT JANE DOE 2 AND JANE DOE 3 COLLUDED TO CONCOCT THE ALLEGATIONS CHARGED IN COUNT FIVE AND SIX

Count Five of the Information charges that "[i]n or about the period of September 1, 2017, to February 28, 2018," Mr. Garcia committed forcible rape against Jane Doe 2, in violation of Penal Code section 261, subdivision (a)(2). Count Six alleges that, within this same period, Mr. Garcia committed Unlawful Sexual Intercourse against Jane Doe 2, in violation of Penal Code section 261.5, subdivision (c). The newly produced discovery shows that on April 3, 2019—ten days before Jane Doe 2 first met with the prosecutors in this case—Jane Doe 2 colluded with Jane Doe 3 to invent the allegations charged in Counts Five and Six.

On April 3, 2019, Jane Doe 2 texted Jane Doe 3 to let her know that she was having relationship issues with her then boyfriend. (See April 3, 2019 text messages discussing concocted rape allegations, lodged as Exhibit I, BS000008.) Jane Doe 2 stated that her boyfriend wanted to break up with her after calling her a liar and accusing her of engaging in disturbing sexual conduct with others. (See Exhibit I-2, BS000017–000034.) Specifically, Jane Doe 2's boyfriend made the allegation that Jane Doe 2 was having an incestuous sexual relationship with her brother. (*Ibid.*) Over text message, Jane Doe 2 asked Jane Doe 3 for advice on persuading her boyfriend to continue the relationship. (Exhibit I-2, BS000034–000036.) In response, Jane Doe 3 proposed that they tell Jane Doe 2's boyfriend that Jane Doe 2 had previously been raped, as a way to obtain his

sympathy and to deflect his other accusations against her. Jane Doe 2 askes "you think it'll work." (*Id.* at BS000037.) Jane Doe 2 worries "I want you to . . . but he won't believe you." (*Id.* at BS000036.) Jane Doe 2 says about the rape allegation "I'll come up with more stuff to say," and "I'll add a lot of vocabulary so it can confuse him but make him think he's dumb." (*Id.* at BS000037.) Jane Doe 3 even offered to prepare a draft narrative to present to the boyfriend. (*Id.* at BS000038.) They then exchanged drafts of the proposed text message to send to the boyfriend. (*Id.* at BS000038–000039.) After Jane Does 2 and 3 had discussed the proposed message, and exchanged drafts, Jane Doe 3 sent it to the boyfriend.[12] (*Id.* at BS000040–000041.) Jane Does 2 and 3 then engaged in discussion about how he might respond. (*Id.* at BS000041–000043.) Two days later, the boyfriend responded to Jane Doe 3, and stated that Jane Doe 2 was a liar, and he did not trust her and did not want to get back together with her. (*Id.* at BS000052–000054.)

Thus, the suppressed evidence shows that Jane Doe 2 and Jane Doe 3 collaborated, over text message, to craft a claim that Jane Doe 2 had been "raped" for the express purpose of winning back the affections of Jane Doe 2's boyfriend. This is especially significant because Jane Doe 2 met with the prosecution in this case just *ten days* later and repeated the same rape allegation she had concocted and workshopped with Jane Doe 3 on April 3, 2019.

While Jane Doe 2 provided the prosecution with her phone at her April 14, 2019 interview, and the prosecution imaged it, this text message exchange was concealed from the defense until October, 2021. The text exchange with Jane Doe 3 regarding preparing a

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[12] The full text of the message Jane Doe 3 drafted to send to Jane Doe 2's boyfriend is as follows: "Hey [Jane Doe 2's boyfriend] this is [Jane Doe 3], I just wanna talk to you about why you think [Jane Doe 2] is having sex with her brother? I know it's none of my business to be intruding in your guys relationship, but it's starting to get me worried because she's been really sad lately and I haven't seen her this sad in a while. You probably know that when [Jane Doe 2] and I were 15 we got raped and it consumed us but I think [Jane Doe 2] had it the worst because the "Apostle" preferred [Jane Doe 2] the most. I'm not trying To make you feel bad or have pity on us. I know [Jane Doe 2] like the back of my hand, and I know if something was happening between [Jane Doe 2] and her brother she would have already told me." (*Id.* at BS000040–000041.)

rape story to tell Jane Doe 2's boyfriend was only a week old at the time of her interview. It would have been impossible to miss. Indeed, the exchange uses the terms "rape" and "Apostle," which are among the most obvious search terms that even a preliminary word search would have used.

Moreover, there is no doubt that the prosecution did review and was aware of these messages. In Report 79, Agent Cedusky provided only the portion of the text exchange that was the text from Jane Doe 3 to Jane Doe 2's boyfriend where Jane Doe 3 tells the boyfriend the rape story they concocted together. (See Exhibit I-1.) Agent Cedusky attached *only* that portion of the email chain as "relevant," while intentionally cutting out entirely the prior discussion of the two Jane Does making up that story.

In sum, the government charged Mr. Garcia with forcibly raping Jane Doe 2 all while Jane Doe 2's own contemporaneous text messages—*her own words*—which the People had in their possession and had reviewed, directly contradicted that accusation. There is simply no reality in which these text messages could possibly have been deemed "irrelevant" to the magistrate's inquiry at the preliminary hearing. Yet they were brazenly withheld from the defense for more than two years, while the prosecutors—Amanda Plisner, Patricia Fusco, Diane Callaghan, and Jeffrey Segal, members of the Bar and officers of the Court—repeatedly and explicitly told the Court and defense counsel that there was nothing "relevant" on the phones.

### b. THE GOVERNMENT SUPPRESSED OTHER COMMUNICATIONS AMONG THE JANE DOES FURTHER UNDERMINE THE GOVERNMENT'S ALLEGATIONS PERTAINING TO JANE DOE 2

As set forth above, the April 3, 2019, text messages between Jane Doe 2 and Jane Doe 3 which Agent Cedusky omitted show them inventing, honing, and perfecting the forcible intercourse claim that Jane Doe 2 would later parrot to investigators and prosecutors at the inception of this case. However, this is only one example of statements made by Jane Doe 2 undermining the government's allegations in this case. Indeed, all of Jane Doe 2's communications with the other Jane Does were exculpatory because they

showed that she consistently and repeatedly *denied* ever having sexual intercourse with Mr. Garcia. (See Jane Doe 2's messages denying having sexual intercourse with Mr. Garcia, lodged as Exhibit J, BS000068.)

For example, in another text exchange on February 19, 2018, Jane Doe 2 stated: "[Alondra] asked me twice. I always say no." (Exhibit J-2, BS000074.) This is incredibly significant because while the allegations in this case are that Jane Doe 2 actually had intercourse with Mr. Garcia on two occasions, in her candid conversations with the other Jane Does, Jane Doe 2 unequivocally states that she was *asked* by Alondra Ocampo on two occasions to have sexual intercourse with Mr. Garcia but that she refused to do so. It is, of course, highly significant that Jane Doe 2's account of being *asked* to have sexual intercourse twice (and refusing) eventually morphed into an account of her *actually* having sexual intercourse with Mr. Garcia twice by the time she met with investigators in this case.[13]

The timing of these statements by Jane Doe 2 is important because she made these statements at the tail end of the period within which the prosecution alleges forcible rape and unlawful sexual intercourse occurred against her. Both Counts Five and Six, charging Mr. Garcia with forcible rape and unlawful intercourse against Jane Doe 2, have as their time period September 1, 2017, to February 28, 2018. Yet, as of February 19, 2018—nine days before the end of the period—Jane Doe 2 explicitly denied *ever* having sexual intercourse with Mr. Garcia. Moreover, ten days before the end of this period, Jane Doe 2 definitively stated that she would refuse to have sexual intercourse with Mr. Garcia if

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[13] To be clear, Jane Doe 2 did make reference to allegedly engaging in oral sex with Mr. Garcia but consistently denied that she ever engaged in sexual intercourse. Thus, any oral sex allegations are not at issue in this section. Instead, this section pertains exclusively to the government's allegations that Mr. Garcia forcibly raped Jane Doe 2, in violation of Penal Code section 261, subdivision (a)(2) (Count Five), and that he had unlawful sexual intercourse with her, in violation of Penal Code section 261.5, subdivision (c) (Count Six). As discussed herein, Jane Doe 2's own words consistently and vehemently refute these allegations, and those writings were improperly withheld from the defense for *years*.

ever asked to do so. There was no indication in these statements that Jane Doe 2 felt any type of spiritual coercion or feared any reputational harm from refusing. To the contrary, she stated that she had refused on multiple occasions in the past without any consequences. This evidence is highly exculpatory.

Jane Doe 2 also affirmatively denied having sexual intercourse with Mr. Garcia in *later* conversations with the other Jane Does. On April 10, 2018, more than a month *after* the charged period for the forcible rape count, Jane Does 1, 2, and 3 were talking about sex and the use of condoms. (Exhibit K, BS000076.) During that conversation, Jane Doe 2 again denied having intercourse with Mr. Garcia. At one point, Jane Doe 3 stated, "I wonder if SOG uses them." Jane Doe 2 responded, "No, he doesn't. I was close to having sex with him." Again, the only possible meaning of the sentence "I was close to having sex with him," is that Jane Doe 2 *did not* in fact have sex with Mr. Garcia. And this exchange occurred in April 2018, a month after the end of the time period during which the prosecution alleges that Garcia coerced sex from Jane Doe 2, and after Jane Doe 2 had left the group.

In sum, over years of conversation and thousands of text messages exchanged, Jane Doe 2 never stated that she engaged in sexual intercourse with Mr. Garcia, either consensually or non-consensually. The *first* and *only* time sexual intercourse with Mr. Garcia is ever mentioned is when Jane Doe 3 concocts rape allegations on Jane Doe 2's behalf to send to Jane Doe 2's boyfriend to dissuade him from breaking up with her. (See Exhibit I.) As discussed in the previous section, this exchange took place on April 3, 2019—approximately fifteen months after the end of the period alleged in the Information. Other than this invented allegation, the years' worth of communications between the Jane Does prior to that exchange[14] show Jane Doe 2 never mentioning sexual intercourse with Mr. Garcia, and in fact consistently *denying* any sexual intercourse with Mr. Garcia. This is especially significant because the Jane Does often openly and

[14] The main Jane Doe group chat on Jane Doe 3's phone begins in January 2018 and goes up until April, 2019—when she turned her phone over to the government.

extensively discuss sex and the church. Thus, Jane Doe 2's *specific denial* of having any kind of sexual intercourse with Mr. Garcia and vehement assertion that she would refuse to have sex with Mr. Garcia if ever asked to do so, is highly exculpatory. Yet, this directly and highly exculpatory evidence was affirmatively concealed from the defense for *years*.

### c. THE GOVERNMENT SUPPRESSED AND ALTERED THE JANE DOES' DISCUSSIONS CONCERNING RELIGION AND THE LLDM CHURCH

As discussed previously, the government's theory at the preliminary hearing was that the invisible pressure exerted by the ideology of the LLDM church *forced* the Jane Does, both adult and minor, to act against their wills and to engage in unwanted sexual activities with Mr. Garcia. As described by then Deputy Attorney General Amanda Plisner (who is no longer with the office): "[e]ach of the young women, teenagers, and young adults . . . was born into the Church, had lifelong family ties to the church, and was *discouraged from having any life outside the church.*" (Vol. VI, 176:22–26, emphasis added.) According to the prosecution, they faced threats of *hardship* and *retribution* in the form of threats of "being ostracized from the only community they knew, without formal education, job skills, or any trusted adults or peers outside the church;" and facing "reputational and spiritual harm from going against God and from the insular community in which they existed *entirely*." (Vol. VI, 176:27–177:7, emphasis added.) These claims were blatantly false, and so the prosecution concealed and withheld the thousands of text messages *proving* them false.

While the prosecution was making these shocking and dramatic claims in court and in numerous court filings over the course of two years, and even as Mr. Garcia continued to languish in pre-trial custody based on these charges and claims, the prosecution well knew that it had in its possession concrete evidence disproving its theory and its claims in the form of the Jane Does' own words and own description of their lifestyles and views of the church. The unaltered and suppressed materials include statements showing that the Jane Does' views on the church differed vastly from what the

government has alleged throughout the life of this case, and what it presented at the preliminary hearing. In short, the actual text messages are stark demonstrations of the manifest falsity of the prosecution's assertions as they show, time and again, that the Jane Does were free (both physically and mentally) to exercise their will as they saw fit and to even act in ways entirely contrary to Church teachings and doctrine with impunity.

The Jane Doe's actual lives are exposed by the text messages as essentially the opposite of what the prosecution falsely presented at the preliminary hearing. Yet, this evidence was deliberately concealed—often by the government literally deleting messages and editing out of discovery productions words contrary to its theory. Indeed, the prosecutors vigorously fought against discovery of the actual phones, claiming over and over again—falsely and deliberately—that there was "nothing relevant" on the phones. As set forth below, the Jane Does' own words and actions are highly exculpatory and entirely contrary to the government's theory in this case.

### i. FEBRUARY 19, 2018, EXCULPATORY MESSAGES DISCUSSING JANE DOE 1 LEAVING THE CHURCH

There are several text exchanges showing the Jane Does discussing leaving the church. In Report 79, Agent Cedusky included a long "excerpt" from February 19, 2018, which he stated showed that the Jane Does wished to leave the church but could not. (See Exhibit L, BS000081; Exhibit L-1, BS000082; Exhibit M, BS000112.) However, he selectively edited the "excerpts," omitting numerous statements that undermine that claim and are affirmatively exculpatory. The full comparison copy is found in Exhibit L-3. The following are a few notable examples:

Agent Cedusky omitted an exchange in which Jane Doe 1 stated that she was talking to another group member about Mr. Garcia, and was told: "don't feel bad, it's not like he asks for you guys." (Exhibit L-2, BS000086.) Jane Doe 2 responded that this same group member had asked her to come to Mr. Garcia's house, and she said no. These statements are exculpatory because they are evidence that Mr. Garcia was not, contrary to the prosecution's assertions, "asking for" specific Jane Does to come to his house. And Jane Doe 2's comment is particularly significant because it demonstrates that that she did

in fact have a choice about whether to go to Mr. Garcia's house when asked, and did in fact feel comfortable saying no.

After all these deletions, Agent Cedusky's fabricated "excerpt" continued with Jane Doe 1 sending "So r u guys gonna seclude me now that I'm out the group [emoji]," and ended with an exchange about the Jane Does considering moving away for college. (Exhibit L-1, BS000083.) The report "excerpt" ended with a message from Jane Doe 3: "I don't want to be in it anymore." (BS000083.) Agent Cedusky stated that these messages showed that the only way for the Jane Does to get out of the group was to leave for college. (*Ibid.*) Here is what Agent Cedusky *omitted*, however, from that conversation: Jane Doe 1 stated that the *actual* reason she didn't want to move away is that she doesn't want to leave her boyfriend: "Ugh but I don't wanna leave [J---]," "I'll wait." (BS000109.) The Jane Does then started talking about what they would do for money if they moved. Jane Doe 3 proposed: "Stripping." (BS000111.) They also discussed marriage, whether inside or outside the church. Jane Doe 2 stated: "U can b pretty fukn happy if u dnt go by the rules," clearly indicating that Jane Doe 2 did not see herself as a "captive," bound by "spiritual coercion" and deprived of free will. (BS000123.) Indeed, Jane Doe 2 was urging the others not to follow "the rules." (*Ibid.*) Finally, Jane Doe 3 stated, in the same conversation: "Got block everyone from church So I can be a hoe." These text messages were concealed. (BS000128.)

All three Jane Does repeatedly also stated that they felt like they were willing and able to say no to Ms. Ocampo if she ever asked them to engage in sexual activity with Mr. Garcia. For example, referring to a request from Ocampo to go to Garcia's office, Jane Doe 2 stated: "She asked me n I sad [sic] no." (BS000087.) Similarly, Jane Doe 3 stated: "I'm not gonna be to freaky with [Garcia]." (BS000073; see also BS000103 ["I don't wanna do freaky things with him"].) This demonstrates that whatever Jane Doe 3 is referring to, she had the ability to make decisions about what she would and would not do—directly contrary to the prosecution's claims that the Jane Does were "trafficked" and "dominated" and forced to do whatever Garcia or Ocampo demanded. In that same

exchange, Jane Doe 1 says her mom tells her she can do whatever she wants, demonstrating that Jane Doe 1 is aware that she could do whatever she wants and did not, in fact, feel pressured to stay in the church because of her family ties—again, directly contrary to the prosecution's claims.

Thus, the Jane Does' discussions around Jane Doe 1's departure from the Church and their own attitudes towards the Church demonstrate that the Jane Does did not see themselves as spiritual prisoners, "trafficked" and dominated by the church, but rather that they had agency, free will, choice, and their own lives, which they freely enjoyed and which had nothing to do with, and contravened, the rules of the church in which the prosecution claimed they were "imprisoned."

### ii. FEBRUARY 20, 2018, EXCULPATORY DISCUSSIONS REGARDING CO-DEFENDANT OCAMPO

A significant portion of the government's theory of the case was that the Jane Does are being dominated and manipulated and having their interactions monitored and controlled by co-defendant Ocampo. This theme was argued at length at the preliminary hearing and the 995 hearing.

In Report 79, Agent Cedusky excerpted parts of the February 20, 2018, text messages to show the relationship between Ocampo and the Jane Does. However, once again he selectively edited the "excerpt" to omit numerous exculpatory statements. Agent Cedusky's "excerpt" begins with Jane Doe 2 stating that "Alondra told me she lost her virginity at 14." (Exhibit M-1, BS000084.) Jane Doe 3 then stated that Alondra told her (Jane Doe 3) to "stop talking to [Jane Doe 2]." Yet, to create this false narrative, Agent Cedusky deleted and omitted numerous texts in the exchange showing that the Jane Does actually found Ocampo's "don't talk to Jane Doe 2" statement laughable; that they ignored it and mocked it; that they mocked the church; and that, in the same conversation, they discussed being happy with their alleged illicit activities.

Agent Cedusky omitted a long string of messages after Jane Doe 3's text stating that Ms. Ocampo told her to "stop talking to [Jane Doe 2]," beginning with Jane Doe 2 replying "No" "fucken" "way." (Exhibit M-3, BS000124–000125.) Jane Doe 1 then said

"What the fuck" followed by a laughing emoji. (*Ibid.*) Jane Doe 2 asked Jane Doe 3 if she is kidding, and Jane Doe 3 responded, "She called me right now." (*Ibid.*) Jane Doe 2 stated: "Im laughing sm" followed by "Wat a divk." (*Ibid.*) The messages show that, far from being afraid of the church, or being brainwashed by church officials, the Jane Does found their purported "orders" and instructions laughable. They also felt comfortable openly criticizing supposed church leaders such as Ms. Ocampo and far from being brainwashed, were even comfortable mocking, ignoring, and directing insults at them.

For example, Jane Doe 1 commented "she acts like ohhh it's okay" "don't worry u don't have to," referring to Ms. Ocampo. (BS000126.) Jane Doe 2 responded, "Got my shmonnneeey" followed by several mocking emojis with their tongue sticking out. (*Ibid.*) A few messages later Jane Doe 1 asked "Is she loaded" to the group. (BS000127–000128.) Jane Doe 2 laughed before replying "Shes loaded..." (*Ibid.*) She then laughed some more. (*Ibid.*) The implication here is that the Jane Does were being paid for sexual activities, and they assume that Ocampo is too. This is, of course, *directly* contrary to the prosecution's assertions of the Jane Does being under spiritual coercion and brainwashing. Therefore, of course, Agent Cedusky simply deleted these messages from the fabricated and altered excerpt produced in the report and created a false narrative by cutting and pasting messages together.

During this conversation, the Jane Does also made other comments showing their disbelief in the Church, their distance from the Church, and their general lack of acquiescence to church teachings. For example, Jane Doe stated: "I was always bad," that she "Didn't care about church," and that she "Had a lot of friends," who were "Not from church." (BS000141.) Jane Doe 3 stated that she "Would hang around with chulos," referring to people who are involved with street gang subculture. (BS000142.)

### iii. APRIL 3, 2018, EXCULPATORY MESSAGES DISCUSSING GOD

On April 3, 2018—right in the middle of the period during which the AG charged that Jane Does 1, 2, and 3 were being held against their will and "trafficked" through "spiritual coercion" that deprived of their free will because they had been brainwashed

since childhood to believe that they had to obey all commands of Mr. Garcia—Jane Does 1, 2, and 3 all engaged in a conversation where they stated that they *do not feel they have to obey the church and Mr. Garcia*—the direct opposite of the prosecution's entire theory of the case. (See Exhibit N, BS000161.)

> Jane Doe 1: How do you feel about God?
> Jane Doe 3: IDK [I don't know] I feel like there is a God
> Jane Doe 2: I don't think there's a god
> Jane Doe 3: And if there is
> Jane Doe 3: then let him judge me n if I go to hell I go to hell
> Jane Doe 1: Most of the time I don't care either
> Jane Doe 3: But I don't feel like I have to follow the church rules and SOG (BS000161–000162.)

A few messages later, Jane Doe 3 writes "Wait what if the SOG is really like The one that can take us to heaven" "But then I'm like wtf no." (BS000163–000164.) She goes on to say "Bc ik for sure that shit aint real lol." (*Ibid.*) Thus, Jane Doe 3 clearly doesn't believe what the prosecution is claiming she does: that the Jane Does believed that the Church and Mr. Garcia could affect their spiritual life and reputations. As is clear from this exchange, Jane Doe 3 is not brainwashed and has no problem openly stating that she does not need to follow the church's rules or treat the defendant as if he holds any kind of special spiritual position. Rather, she states that she knows that all this rhetoric from the church "aint real." (*Ibid.*)

These messages show that Jane Does 1, 2, and 3 often engaged in frank and detailed discussion over text message concerning their views of the LLDM church, and their dislike of Mr. Garcia. All three Jane Does expressed their belief that the LLDM church, and those involved in the Church, including Mr. Garcia and their parents, are hypocritical. The Jane Does also repeatedly expressed mockery, non-belief, and scorn for the church, and talked repeatedly about breaking and ignoring its rules. While the prosecution produced selective and highly edited portions of the Jane Does' lengthy exchanges prior to the preliminary hearing, they omitted key portions showing that, contrary to the prosecution's arguments at the preliminary hearing and in multiple filings following the preliminary hearing, the Jane Does' were never "brainwashed" by the

LLDM church and that they openly and freely discussed their skepticism and lack of belief in LLDM teachings. There is no question that these issues would have been brought up and vigorously argued by the defense at the preliminary hearing had the defense been aware of the true facts and evidence.

### iv. EXCULPATORY MESSAGES DISCUSSING THE JANE DOES' ATTITUDES TOWARDS THE CHURCH

In Report 79, Agent Cedusky included a long excerpt from the Jane Does' February 17 and February 18, 2018, text messages. However, in including this excerpt, Agent Cedusky omitted text messages pertaining to the Jane Does' roles within the LLDM church, their views on the church, and their views on religion in general. (See Exhibit O, BS000165.)

For example, he omitted texts in which Jane Doe 2 says she's "glad alondras not on me anymore." (BS000221.) These deletions were no accident. For example, when Jane Doe 1 comments that she is thinking of writing a book called "escaping a cult," in the actual conversation both Jane Doe 2 and Jane Doe 3 laughed. Jane Doe 2 wrote "lol," and Jane Doe 3 sent a "laughing" emoji. (BS000192–000193.) While Agent Cedusky included the initial comment, he *omitted both responses*. (See BS000216–000217.)

After Jane Doe 2 commented, "Honestly, I never rlly obeyed Sog lmao. like he would tell the youth to do stuff n all tht n I never did it bc I doubted him a couple times," Agent Cedusky deleted the next seven messages, in which Jane Doe 1 states that it was *Jane Doe 2*, and not Alondra Ocampo, who pushed the others to take naked pictures. (See BS000219.) Jane Doe 1 says to Jane Doe 2 at 8:42am, "U were the one that would get mad at us for not sending pics." (*Ibid.*) Agent Cedusky deleted that text from his "excerpts," and then included the next line: "But I wpuld get mad bc alondra would pressure me sm." (*Ibid.*) Agent Cedusky, in other words, *cut out* the text in which Jane Doe 1 states that *Jane Doe 2* got mad at Jane Doe 1 and 3 for not sending pictures, and *included* the text in which Jane Doe 2 says that "Alondra would pressure me." (*Ibid.*)

Once again, this evidence is exculpatory, and these omissions and alterations were deliberate—designed to cover up the fact that none of the Jane Does were experiencing

"spiritual coercion" or any other kind of coercion. Indeed, the prosecution staked its case on an *ad nauseam* repetition that the Jane Does were subject to compulsion and had no choice or free will. Yet, their own text messages—deleted from the produced "excerpt" by Agent Cedusky—undermine this claim.

### v. JANE DOE 3'S MESSAGES COACHING JANE DOE 1 TO MAKE ALLEGATIONS AGAINST MR. GARCIA TO AVOID GETTING IN TROUBLE WITH HER MOM

As discussed previously, in October 2021 the government produced, for the first time, a conversation between Jane Doe 3 and Jane Doe 2 wherein Jane Doe 3 suggested that Jane Doe 2 concoct rape allegations against Mr. Garcia in order to prevent her boyfriend from breaking up with her. Remarkably, this was not Jane Doe 3's only foray into crafting false abuse claims. In a May 20, 2018, text exchange, Jane Doe 3 made a similar suggestion to Jane Doe 1, aimed at helping Jane Doe 1 appease her mother after she caught Jane Doe 1 "making out" with her boyfriend in a car outside Jane Doe 1's house. (See Exhibit P, BS000223.)

This conversation between Jane Doe 3 and Jane Doe 1 spanned more than 200 messages. Agent Cedusky extracted *seven* of these, and cut and pasted them into a fabricated "conversation" which he falsely presented as genuine. (See Exhibit P-3, BS000244.) Here is the actual concealed conversation. Jane Doe 3 first told Jane Doe 1 that she was dumb to have gotten caught like that. (BS000229.) Jane Doe 1 answered that she didn't know her mom was home when she got dropped off at her house with her boyfriend, so she sat with her boyfriend in the car and "macked for a few." (BS000230.) However, Jane Doe 1's mother came out of the house and caught them. (BS000229.) Jane Doe 1 was afraid of how her mother would react. (BS000230.) In response to Jane Doe 1's predicament, and while Jane Doe 1 waited to be disciplined by her mother, Jane Doe 3 proposed a solution for what Jane Doe 1 could say to her mom to get her to relent: "Just blame it on how you needed someone because of what happened with SOG." (BS000232–000233.) They then proceeded to talk more about Jane Doe 1's relationship with her mother and how Jane Doe 1 should act moving forward. (*Ibid.*) As Jane Doe 1

and Jane Doe 3 continued to exchange messages, Jane Doe 1's mother initiated a conversation with Jane Doe 1. (BS000238.) After finishing the conversation with her mother, Jane Doe 1 relayed to Jane Doe 3 what had been said. Jane Doe 1 explained that her mother told her she couldn't go out partying with the other Jane Does, that her mother was angry with her, and had told Jane Doe 1 that she was a little girl who should not be with "guys alone." (BS000240–000243.) Jane Doe 3 then proceeded to advise Jane Doe 1 to "say I'm not alittle [sic] girl anymore" and "SOG took that ways [sic] from me." In response, Jane Doe 1 sent a laughing emoji. (BS000242–000243.)

In excerpting parts of this conversation in Report 79—which, again, was the only evidence of the minor Jane Does' conversations provided to the defense prior to the preliminary hearing—Agent Cedusky cut and pasted 7 lines plucked from different places in the lengthy conversation between Jane Doe 3 and Jane Doe 1[15] in a way that completely removed the context of the conversation and changed its meaning. (See Exhibit P-3, BS000244–000248.) Agent Cedusky cut and pasted excerpts from different conversations together; he omitted the first part of the conversation; he cut out approximately 114 messages between "with sog" and "[s]ay I'm not a little girl anymore"; he cut out all the preceding and succeeding messages showing that "[s]ay I'm not a little girl anymore" is not actually Jane Doe 3's description of herself (as Agent Cedusky falsely claimed), but is rather Jane Doe 3's advice to Jane Doe 1 about what Jane Doe 1 should say to persuade Jane Doe 1's mother to let her have a boyfriend.

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[15] In Report 79, Agent Cedusky's invented text exchange, plucking 7 lines from different places in a 200-plus text conversation to create a fabricated narrative, reads as follows:
[UTC] [6:33 p.m. Pacific Time]
Jane Doe 3: Just blame it on
How u needed someone
Bc of what happened
With sog
Jane Doe 3: Say I'm not a little girl anymore
Jane Doe 1: She started making [f]un of me
SOG took that aways from me
(Exhibit P-1, BS000224.)

(*Ibid.*) Shockingly, he then summarized the conversation by falsely writing: "In this portion of the text conversation, Jane Doe 3 *states that she is no longer a little girl* and that the *SOG took that from her.*" (BS000224.) Agent Cedusky's statement was knowingly and deliberately false. In reality, and clearly revealed by the actual texts, Jane Doe 3 was telling *Jane Doe 1* what to say to her mother to appease her after Jane Doe 1 got caught making out with her boyfriend. By cutting and pasting together a series of 7 text messages from a conversation that contained over 100 texts exchanged over the span of over half an hour, the government made it appear as if Jane Doe 3 was saying that Mr. Garcia had taken her innocence when, in fact, Jane Doe 3 was once again coaching another Jane Doe (Jane Doe 1) on what to say when faced with an inconvenience or being denied something she wanted—make allegations against Mr. Garcia.

Thus, the government's act of actively altering and falsifying this exchange between Jane Doe 3 and Jane Doe 1 to entirely change the meaning, tone, and context of the exchange is a gross dereliction of professional responsibility, is entirely inexcusable, and is made all the more egregious by the *content* of the actual messages. When considered in their entirety and without any alteration, these messages are yet another example that Jane Doe 3's consistent solution for others facing an inconvenience or being denied something was to advise that they make allegations against Mr. Garcia. These concealed exchanges are *highly* impeaching not just of Jane Does 1 and 2's claims but also of Jane Doe 3's own claims. The fact that she *twice* advised the other two to claim they were abused by Mr. Garcia in order to manipulate a third party creates considerable doubt on her own claims and overall credibility.

### d. THE GOVERNMENT SUPPRESSED AND ALTERED EVIDENCE OF THE JANE DOES' DISCUSSIONS ABOUT THEIR SEXUAL EXPERIENCES

As discussed in the previous section, the Jane Does' conversations about religion and the LLDM Church were entirely contrary to the government's theory in this case—that the Jane Does were brainwashed and scared, and that they had no lives outside of the church. However, in addition to their conversations challenging Church beliefs and

Church hierarchies, the Jane Does' communications also show that they unabashedly lived a lifestyle contrary to the Church's conservative Christian ideology. They openly engaged in behavior that would have been much more serious within the teachings of the Church and would have led to much more serious consequences than merely being kicked out of a voluntary service group (which was the main "threat" alleged by the government at the preliminary hearing). They mocked, flaunted, and disregarded Church rules and acted in manner entirely contrary to that of a fearful, dominated acolyte deprived of free will.

The Jane Does' unedited conversations with each other, concealed by the prosecution for more than two years, were replete with references to their sexual activities and experiences, including frequent references to sexual activity with various boyfriends, and even discussion of sexual attraction to each other. Prior to October 2021, not only did the government fail to produce this information—which is directly pertinent to the central theories and issues in this case—it is now apparent that the government actively *altered* and *falsified* the discovery that *was* previously produced to delete and edit out any reference to the Jane Does' sexual experiences and exploits with others. For example, as demonstrated in the exhibits, Agent Cedusky consistently removed from Report 79 any and all of the Jane Does' many sexually explicit discussions. The deleted and concealed materials include statements showing that the Jane Does are joking about alleged incidents involving Mr. Garcia, that they regularly engaged in and enjoyed sexual activities with others, that they were experienced with sex, and that they were comfortable discussing sex in graphic terms. Of course, this was likely because evidence of the Jane Does' extensive dating and sexual history is contrary to the government's theory of human trafficking and sexual assault in this case. Indeed, the entire premise of the government's case is that the Jane Does "existed entirely" within the allegedly "insular" and conservative community of the LLDM church, had no lives outside of the church, and were so brainwashed by church doctrine that they believed they would face severe spiritual, physical, and material consequences if they ever disobeyed or strayed from conservative church doctrine. This also directly contradicted Agent Holmes

testimony at the preliminary hearing that Jane Doe 2 "was a virgin at the time of [the alleged] sexual encounter" with Mr. Garcia. (Vol. I, 91–92.) This testimony was central to the bodily injury enhancement, which was specifically based on the allegation of injury from the loss of Jane Doe 2's virginity.

As set forth below, the Jane Does' own words over the years spanning the charged period in the Information directly contradict this theory. Therefore, this evidence is highly exculpatory. Yet, this evidence was concealed from the defense for years.

### i. FEBRUARY 17, 2018, EXCULPATORY TEXT MESSAGES DISCUSSING THE JANE DOES' ENJOYMENT OF TAKING NUDE PICTURES

Among the exculpatory statements found on the devices include the Jane Does' discussion of their sexuality and their past sexual experiences, in contravention of church teachings. Indeed, the Jane Does often spoke of engaging in activities to specifically defy restrictions imposed by their parents and church doctrine.

For example, on February 17, 2018, in an exchange Agent Cedusky omitted from Report 79, Jane Doe 3 stated to the other Jane Does: "When church says we can't g anal, Im do anal," and the responses of the other two Jane Does, which was to laugh and then discuss graphic sexual experiences that they enjoyed. (BS000203–000204.)

Agent Cedusky deleted portions of the exchange in which Jane Doe 1 says that "Sorry I'm just a child" "That occasionally likes to get naked", and Jane Doe 3 responded, "And take pix" and "Have seen each other's boobs." (BS000205.) This was, of course, highly exculpatory because Jane Doe 1's explicit statement that she "likes to get naked" and "take pix" undermines the prosecution's theory that the Jane Does were forced to take off their clothes and take pictures by Ms. Ocampo on behalf of Mr. Garcia. (*Ibid.*) Here, they are openly admitting that they "like" to take naked pictures and appear to be engaging in this behavior on their own.

### ii. FEBRUARY 19, 2018, EXCULPATORY DISCUSSIONS ABOUT BIRTH CONTROL

The concealed evidence includes text of Jane Doe 2 talking about having had intercourse with "[A---]," her then-boyfriend, her concerns about getting pregnant, and

taking birth control. However, in Report 79, Agent Cedusky deleted from the middle of the excerpted exchange a series of 26 messages, where this conversation occurs. (See Exhibit L, BS000081.) While Agent Cedusky included a comment by Jane Doe 2, stating: "so after alondra tlks to us i have to go get it w [A---]" but deleted from his "excerpt" a full 84 messages describing what "it" is, namely Plan B, a morning-after birth control pill. (See Exhibit L-3, BS000114–000117.) Agent Cedusky omitted numerous additional messages in the exchange in which all three Jane Does discuss their sexual relationships, including Jane Doe 1's sexual relationship with J----, and Jane Doe 3's statement that "I'm talking to like 700 guys." (BS000116.)

All these statements referencing the Jane Does' sex lives—which Agent Cedusky carefully deleted from the fabricated "excerpts" in Report 79, cutting and pasting around them to make fabricated "conversations" in a transparent attempt to conceal from the defense the fact that the Jane Does were all sexually active, free to have relationships with non-church members, and sexually experienced. The prosecution knew this evidence would undermine its narrative that the Jane Does were "spiritual prisoners" who were "trafficked" and had no free will.

### iii. FEBRUARY 21, 2018, EXCULPATORY DISCUSSIONS CONCERNING ORAL SEX

Between February 19, 2018 (See Exhibit M, BS000118) and February 21, 2018 (See Exhibit Q, BS000249), in text messages concealed by the prosecution, the Jane Does discussed various topics including oral sex. Jane Doe 3 told the group that she needs to block everyone from church "So I can be a hoe." (BS000128.) A few messages later Jane Doe 2 responded that "she (Alondra) told me i was her fav out of u hoes" before adding "Bc i was the biggest hoe." (BS000129.) Jane Doe 1 laughs at this comment. The Jane Does then discussed blocking people from church from seeing their snapchat stories. (BS000137.) Jane Doe 1 told Jane Doe 2 that she is happy that she and her boyfriend A--- are happy. Jane Doe 1 also added that she is happy Jane Doe 3 is happy "hoeing." (*Ibid.*) Jane Doe 3 stated: "I'm glad that i finally know how to suck dick," "And I've tried it."

(BS000138.) Jane Doe 2 replied, "I suck at giving head." (*Ibid.*) After a few messages making fun of each other, Jane Doe 1 added "I suck at sucking too." (BS000139.)

The Jane Does also engaged in discussions indicating their overall independence, including the fact that they could drive, and borrowed their parents' or their boyfriends' cars to get around Los Angeles. They also discussed their attraction to adult men. After Jane Doe 3 asked, "So when is we going shopping," the Jane Does made plans to go shopping on Melrose Avenue in Beverly Hills. (BS000144.) One suggested borrowing their mother's car. (*Ibid.*) Jane Doe 1 commented that "[A---2] keeps saying he owes me 200," before adding "well nigga wen u paying up [D----]." Jane Doe 3 laughed at this comment. Jane Doe 2 said: "Tell [A---2] fuk the 200" and "Let me drive ur car instead." (BS000145.) They discussed what car to use for a few more messages before Jane Doe 1 offered that "N my dad can pick us up." (BS000147.) Jane Doe 2 replied: "ur dad" followed by several emojis suggesting Jane Doe 2 is sexually attracted to the dad. (*Ibid.*) "He cn stay with us," Jane Doe 2 offered, to which Jane Doe 1 replies with a kissing emoji. (*Ibid.*) These texts imply Jane Doe 2 was attracted to older men and was not afraid or intimidated about expressing it.

In total, Agent Cedusky deleted nearly 200 text messages from the actual exchange, selecting his preferred statements and cutting and pasting them together to make a fabricated "conversation," materially altering the actual conversation and giving the impression that it was a continuous chain of texts. (See Exhibit M-3, BS000151–000159; Exhibit Q-3, BS000320–000336.) He removed potentially exculpatory texts revealing that the Jane Does apparently engaged in sex acts for pay, expressed amorous feelings for older men, had little respect for the church, and did not feel threatened by Alondra Ocampo. Agent Cedusky also removed and concealed texts concerning the Jane Does' other sex partners, and their use of racial slurs.

### iv. MARCH 29, 2018, EXCULPATORY TEXT MESSAGES CONCERNING PARTICULAR SEX ACTS

As in the previous section, Agent Cedusky presented another short and edited portion of a conversation on March 29, 2018, in which the Jane Does discussed oral sex,

to falsely make it appear that they were discussing Mr. Garcia. (See Exhibit R, BS000337.) In fact, the portions omitted by Agent Cedusky demonstrate that they were not—they were primarily discussing their own boyfriends, as well as their respective sexual experiences and desires. The actual text messages demonstrate that the Jane Does enjoyed sexual activities, were experienced with sex, and frequently discussed sexual experiences with each other in graphic terms.

Agent Cedusky's excerpt begins with Jane Doe 3 texting the group "Suzy tough (taught) [sic] me everything." (See Exhibit R-1, BS000339.) In the excerpted portion, the Jane Does then proceeds to discuss oral sex and the purported size of Mr. Garcia's penis. The texts are presented in such a way that they appear to suggest the Jane Does are disgusted by penises and have no other exposure to or experience with them.

In reality, Agent Cedusky deliberately edited his "excerpt" by omitting dozens of texts in this precise conversation. (See Exhibit R-2, BS000340; Exhibit R-3, BS000330–000332.) Indeed, Agent Cedusky begins his excerpt 75 lines into a conversation about oral sex, with a comment by Jane Doe 3 stating that "Suzy tough (taught) [sic] me everything." The actual conversation began much earlier, with Jane Doe 2 asking the other Jane Does: "u know wat made me happy." (BS000341.) Then, in reference to her then-boyfriend, Jane Doe 2 stated: "[A---] dick appointments." (*Ibid.*) "What the fuk," Jane Doe 1 responded, while Jane Doe 3 laughed. (*Ibid.*) They then discussed how Jane Doe 2 and A--- were almost like "the same person." (*Ibid.*) However, Jane Doe 2 lamented that she and A--- grew apart when "he got into dr[u]gs." (BS000343.)

Jane Doe 1 then offered: "U know i liked dick appointments too." (BS000344.) She then commented that she thinks she is "allergic to sex," which elicited a laugh from Jane Doe 2. (*Ibid.*) Jane Doe 3 commented that she is too is scared to have sex. (BS000345.) Jane Doe 2 commented that "I jst dnt like riding" and then in follow up text, "him." (*Ibid.*) It is unclear to whom she is referring. Jane Doe 1 jokingly replied "Butch thats not allergic thats called being a virgin." (*Ibid.*) Jane Doe 2 laughed at the comment. Jane Doe 3 asked if riding him means "doggy style." (BS000349.) Jane Doe 2 replied "No bitch doggy style homb as uk" then corrects "uk" to "fUkkkk." (BS000350.) Jane

Doe 1 asks how Jane Doe 2 knows all these terms. Jane Doe 2 replies because A---, her boyfriend, taught her "everything i need to kno[w]." (BS000351.) It is in response to this comment that Jane Doe 3 finally replied "Suzy tough me everything" (Agent Cedusky's misleading "opening" text of his excerpt). (*Ibid.*)

Agent Cedusky then deleted the text that immediately followed this comment by Jane Doe 3—a text from Jane Doe 1 replying to Jane Doe 2 about her boyfriend A--- in which she says to Jane Doe 2, about A---, "u called him professor" followed by a smug smiling emoji. (*Ibid.*) After omitting that exchange, Agent Cedusky's excerpt picked back up with Jane Doe 1 disliking the text "Suzy tough me everything." (*Ibid.*) He then omitted several texts, including Jane Doe 2 laughing at Jane Doe 1's "professor" comment. Jane Doe 1 appears to tell Jane Doe 3 "Bitch get out of here." (*Ibid.*) Jane Doe 2 says "Anyway . . . ." (*Ibid.*) Jane Doe 3 laughs. (*Ibid.*) Jane Doe 2 says "Who tf invited her" and Jane Doe 3 replies "Stfu." (BS000352.) All of these texts are omitted from the "conversation" provided by Agent Cedusky.

Agent Cedusky's excerpt continued when Jane Doe 2 comments "I dnt like suking dick." (*Ibid.*) By cutting and pasting selective portions of this text exchange together without any indication that there are messages missing in between, Agent Cedusky falsely and misleadingly gave the impression that the excerpt reflected one continuous conversation, with the false implication that the Jane Does are discussing Garcia, rather than Jane Doe 2's sex acts with her boyfriend, A---. (*Ibid.*)

Agent Cedusky then included a statement from Jane Doe 3 stating that Mr. Garcia's penis was small and ended his "excerpt," again falsely giving the impression that the discussion was about Mr. Garcia. (See BS000339.) In fact, the conversation in the actual chain of texts then goes directly back to the Jane Does' boyfriends and their sex acts with them. (See BS000352.) Jane Doe 2 chimes in to say "I like wen [A---] fingers me soo good." (BS000354.) Jane Doe 1 comments "Lol i wish i saw." (BS000355.) Jane Doe 2 says "My fav thing was getting fingered" and "He was skilled." (*Ibid.*) Jane Doe 3 laughs at her comment. (*Ibid.*) Jane Doe 1 says "U horny bitch." (*Ibid.*) Jane Doe 2 says she never gets horny and then wonders why men get horny so quickly.

(BS000356.) They then discuss how they "hate" guys and how they are "weirdos." (*Ibid.*) Jane Doe 1 says J---, one of her boyfriends, would get extremely horny.

The Jane Does then discuss how some women are "horny" too, and Jane Doe 2 relates that A--- broke up with a girl because she was too horny during freshman year. (BS000357.) Jane Doe 1 says "i was the virgin mary freshman year." (BS000358.) Jane Doe 2 agrees and says Jane Doe 1 would always call her a "hoe" and make her look bad because she "was with" a boy. (*Ibid.*) Jane Doe 2 says "Wow i was always a hoe." (BS000359.) Jane Doe 3 asks Jane Doe 2 what she would do with her freshman boyfriend. Jane Doe 2 says he would finger her, implying she was sexually active already by age 14. (*Ibid.*) Jane Doe 1 then jokes that Jane Doe 3 is horny and probably "fingering herself" while Jane Doe 2 describes her sexual history. (BS000360.) Jane Doe 2 further comments about her freshman boyfriend that "He fingered me once n then he ate me like 100377482 times." (*Ibid.*) Jane Doe 1 then asks Jane Doe 3 who she had sex with. Jane Doe 3 says "R---," another boy. This surprises the other Jane Does. (BS000360–000363.) They then discuss the finger size of their sexual partners, before the conversation switches to another subject. (*Ibid.*)

Agent Cedusky deleted all these text messages from his fabricated "excerpts" and the prosecution concealed them for more than three years. Agent Cedusky carefully cut and pasted the actual texts to make it appear that the excerpted conversation—and by extension, the Jane Does' past sexual experiences—all centered entirely around Mr. Garcia. The concealed texts reveal, however, that the girls were sexually active with their own boyfriends, in high school (as early as Freshman year), were joking during the course of their discussion, and were actually primarily referring to sexual experiences with other partners during the exchange. Agent Cedusky's conduct in editing the excerpted conversation by removing references to Jane Doe 2's boyfriend A--- gave the false impression that the entirety of the excerpted texts was referring to Mr. Garcia, when that is patently false.

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### e. THE GOVERNMENT SUPPRESSED EVIDENCE THAT THE JANE DOES' LIFESTYLE AND ACTIVITIES ARE CONTRARY TO THE PROSECUTION'S THEORY OF SPIRITUAL COERCION AND "BRAINWASHING

As set forth above, the messages between the Jane Does, spanning the years of their lives when the prosecution alleges they were trafficked and their every action controlled by the dominating doctrine of the Church, demonstrate that their lifestyle, thoughts, and activities were entirely contrary to the prosecution's theory of brainwashing. Indeed, the messages are replete with references to the Jane Does being sexually active with boys, having boyfriends, having friends outside of church, attending parties, sometimes engaging in illicit activities such as shoplifting or doing drugs, and just generally engaging in activities that would have been entirely contrary to alleged Church teachings and doctrine. (See Exhibit S, discussing the Jane Does' drug usage, BS000367–000376; Exhibit T, BS000377–000387.) While there are numerous examples scattered throughout the text messages, below are some notable examples that have not previously been discussed.

For example, on January 21, 2018, Jane Doe 1 told the other Jane Does that she felt like she was making them "bad" with respect to sexual activity. (BS000379.) Jane Doe 2 responded that she has always "been like…" "thi[s]." (*Ibid.*) Jane Doe 3 replies that she too has "always been bad" before adding, "Girl I hangout with cholos[16] in middle school." (*Ibid.*) This is important because it indicates that that Jane Doe 3 had friend groups and influences outside of the Church and was engaged in the types of activities alleged in the case long before the allegations of Garcia and Ocampo's actions.

Similarly, in a series of texts on January 22, 2018, the Jane Does discuss that Jane Doe 1 and Jane Doe 2 are sexually active with their boyfriends A--- and J--- and discuss whether they used condoms. (BS000385.) Again, this shows that Jane Doe 1 and Jane Doe 2 were in sexually active relationships with men in January of 2018. (*Ibid.*) This is entirely contrary to the image of the Jane Does presented by the prosecution at the

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[16] "Cholo/Chola" refers to Chicano gang culture.

preliminary hearing.

In another series of text messages, Jane Doe 3 also stated: "I was always bad" "Didn't care about church" "Had a lot of friends." (BS000141.) Jane Doe 3 also about Ms. Ocampo telling her to stop talking to other Jane Does. Jane Doe 3 stated: "I can decide for myself." (BS000142.)

The Jane Does also made frequent references to stealing and other illegal activities. For example, on March 27, 2018, Jane Doe 2 asked the other Jane Does if it is easy to steal at Universal Studios. (See Exhibit U-1, BS000389.) It appears that she was visiting Universal Studios and wondering what she could steal from there. (BS000390.) On April 13, 2018, Jane Doe 2 stated that she wants to steal not buy and that it is easy to steal from Goodwill. Jane Doe 3 agreed that she wanted to buy and steal when they go. (Exhibit U-2, BS000394.) Jane Doe 2 also mentioned stealing items with her boyfriend, [A---]. (*Ibid.*) On the same day, the Jane Does discussed getting new clothes. Jane Doe 1 stated that she is going to go thrift shopping and to steal new clothes. Later, on May 23, 2018, Jane Doe 2 texted the other Jane Does to say she is stealing from Goodwill. Jane Doe 1 responded that she is so good at stealing. (Exhibit U-3, BS000395–000397.)

Thus, these text messages—suppressed by the government—show that the Jane Does have no problem living a life outside the church or committing illegal and immoral (according to church doctrine) acts such as shoplifting when they want something for their own benefit. Plainly, they do not seem compelled by the church or its morals to avoid such misconduct. These statements, again, contradict the core assertions repeated ad nauseum by the prosecution and demonstrate that the Jane Does were not brainwashed sheep, were not dominated or subjected "spiritual coercion."

### f. THE GOVERNMENT ALTERED AND OMITTED TEXT MESSAGES TO PORTRAY JANE DOE 2'S DESCRIPTION OF A DREAM AS HER DESCRIPTION OF A REAL ENCOUNTER WITH MR. GARCIA

In Report 79, Agent Cedusky cut and pasted text messages together to create a false narrative about a small section from a conversation on May 20, 2018, which

continued into the early hours of May 21, 2018, in which Jane Doe 2 discussed a "nightmare" she had about Mr. Garcia. (See Exhibit V, BS000398.) Jane Doe 1 texted "Aw fuck," responding to Jane Doe 2's description of her "nightmare" before the fabricated "conversation" continues with a text nearly seven hours later from Jane Doe 2 reading "My moms so worried for me." (Exhibit V-1, BS000400.) In the Report, these texts are falsely presented in such a way that they appear to form a continuous conversation and paint a picture that Mr. Garcia violently attacked Jane Doe 2 while she screamed "no" to him. (*Ibid.*) Indeed, Agent Cedusky described the conversation as follows: "In this portion of the text conversation," Cedusky wrote, "Jane Doe 2 states that she had a nightmare. She was crying and screaming about what she did with GARCIA when he was touching her." (*Ibid.*)

In reality, the conversation began 109 messages earlier and the Jane Does exchanged 38 additional messages between "aw fuck" and "My moms so worried for me." (See Exhibit V-3, BS000412–000414.) As demonstrated in the attached Exhibit, these messages were purposefully omitted by Agent Cedusky. (*Ibid.*) Indeed, Agent Cedusky edited, cut and pasted the conversation to remove key context, including that the JDs were discussing toxic relationships with other men, the frequent sex they were having, and deep emotional disturbance and suicidal ideation caused by an absentee father immediately before and in the middle of the conversation about Jane Doe 2's dream about Mr. Garcia touching her-- a dream which even Jane Doe 2 *admitted* (in more texts Agent Cedusky omitted) was *not representative of* what happened in reality. Yet, Cedusky falsely painted a nightmare she had as her actual recollection of her interaction with Garcia. The Attorney General suppressed these messages for more than two years, despite knowing that they were certainly relevant and potentially highly exculpatory.

### g. THE GOVERNMENT ALTERED AND OMITTED THE JANE DOES' DISCUSSION OF A CIVIL LAWSUIT AGAINST MR. GARCIA

Report 79 contains a 10-line purported portion of a text conversation from September 7, 2018, extracted from a small section of a conversation on September 7,

2018, in which Jane Doe 1 and Jane Doe 3 discuss a lawsuit against Mr. Garcia and the church. (See Exhibit W, BS000415.) As is the recurring theme as it pertains to Report 79, Agent Cedusky materially altered the exchange to change its meaning and to omit and conceal exculpatory material.

Agent Cedusky cut out from the middle of the text message chain an exchange Jane Doe 1 had with Sochil Martin (the plaintiff in the lawsuit against Mr. Garcia and the church), which Jane Doe 1 copied to Jane Does 2 and 3. That exchange, which should have been the fifth line of the purported "conversation" printed in Report 79, was deleted and replaced with a box that says "[OBJ]." (BS000415; BS000423.) In fact, though, the screenshot of the exchange with Sochil Martin is plainly visible, as shown in the Exhibit, Agent Cedusky made the deliberate choice to remove it to conceal it from the defense. And the content of the exchange—in addition to the fact that it is with Sochil Martin,[17] who had been trying to recruit others to join her civil lawsuit against the church, is significant. (BS000423.) Ms. Martin tells Jane Doe 1 that she has contacted a lawyer and wants Jane Doe 1 and her "friends" to talk to the lawyer. (*Ibid.*) Jane Doe 1 texted Jane Doe 3 a screen capture from her phone of the message from Sochil Martin saying: "Hello dear, idk if he has contacted you but if you get a chance please give him a call. Can you please talk to your friends? Give them his number, or him their number. The more information we can provide the better. Thank you." (*Ibid.*) Agent Cedusky *deliberately removed and omitted from his report the actual contents of that screen capture*, replacing it in his purported "conversation," as noted, with a box reading "[OBJ]." (*Ibid.*) Thus, he deliberately cut this evidence out of his report to hide the fact that the Jane Does were communicating with Sochil Martin as early as September 2018 and that she was urging them to speak to a lawyer working on a civil suit for financial gain.

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[17] Despite Ms. Martin's efforts, not a single other plaintiff has joined her civil suit, and the prosecutors in this case did not include her as a named victim, or even list her as a witness, despite her very public and lurid allegations of sexual abuse against Garcia and the church—demonstrating that the prosecutors do not believe her allegations and believe that her participation would undermine their case.

Agent Cedusky also omitted the messages that came directly before the one with which he starts his excerpts. (*Ibid.*) Those are additional messages from Sochil Martin regarding the lawyer, and the actual phone number of the lawyer in question. The number is the number for the Herman Law Firm, in Palm Beach, Florida, which is a plaintiff's firm, founded by Jeff Herman, that solely represents plaintiffs alleging sexual abuse. Its website trumpets "$200+ million in settlement and verdicts," and "No Fee Unless We Win for You." As the prosecution is aware, one of the paradigmatic pieces of impeachment evidence in any case is that a witness was aware of a possible payout in a civil suit. Another is that a witness was coordinating with another civil complainant with extremely dubious credibility and motives. Therefore, Agent Cedusky's alteration and falsification of the text conversation to cut out all references to Sochil Martin, and all information about the actual lawyer at issue, amounted to deliberate concealment of this critical impeachment evidence.

This is particularly egregious because, at the preliminary hearing, Agent Holmes testified that he had "no information" as to whether any of the Jane Does were coordinating with Sochil Martin regarding a civil suit. (Vol. II, 69:23–70:3.) This fact is particularly troubling given that Agent Holmes, the lead agent on the case, gave this testimony despite knowing that the prosecution had deliberately removed from Report 79 the actual text exchanges showing coordination between the Jane Does and Sochil Martin regarding a civil suit.

Finally, Agent Cedusky also altered the order of two messages to make it appear that the Jane Does are "scared." (BS000423.) In the texts, Jane Doe 3 replies to Jane Doe 1's message about speaking to the lawyer (that we now know was the Herman Law Firm) as follows: "I got a message on Reddit, but I'm kind of scared." In the *actual* exchange, JD 1 responds: "Why?" (BS000424.) Agent Cedusky altered the exchange to move the "Why?" message farther down in the exchange, to make it appear as though it was a response to JD3's later comment, "My mom still goes to church." (*Ibid.*)

This alteration was deliberate and significant: in the *actual* exchange, Jane Doe 1

is asking Jane Doe 3 why she would be scared. However, that actual statement does not support the prosecution's endlessly-repeated (and contrary to the evidence) assertions that the complainants and witnesses are all somehow "at risk." Thus, Agent Cedusky simply moved the "why" to a different place to alter the meaning of the text exchange and make it appear as though Jane Doe 1 was asking "Why does your mom still go to church?"

**h. THE GOVERNMENT SUPPRESSED THAT JANE DOE 4 STATED IN MULTIPLE TEXT MESSAGES THAT FORMER PROSECUTOR AMANDA PLISNER PROMISED TO GIVE HER AND HER HUSBAND MONEY FOR A "DOWN PAYMENT," TO HELP HER HUSBAND WITH HIS IMMIGRATION STATUS, AND TO FIND HIM A JOB AND OTHER INCOME**

On June 4, 2019 (the day after Mr. Garcia's arrest), Jane Doe 4 texted her husband: "Amanda says they'll help us with the down payment." (Exhibit X-1, BS000426.) On June 21, 2019 (two weeks after Mr. Garcia's arrest), in a text exchange with her husband regarding how he can fix his immigration status (he did not have permission to immigrate), and with finding a job, Jane Doe 4 wrote: "The thing is to see immediately with Amanda about some programs or something you could come on and also receive support while you are here." (BS000427, translated from Spanish)

This is significant not only because a witness's motivation to assist the government in exchange for favorable financial or legal assistance for herself and her husband is critical exculpatory evidence, but also because the prosecution's various inducements to Jane Doe 4 in exchange for her testimony was a major issue raised by the defense at the preliminary hearing. At that time, the defense raised the issue of the prosecution's offer of immunity to Jane Doe 4, and the fact that the full scope and contour of this immunity deal, including the content of many communications between Jane Doe 4 and prosecutor Amanda Plisner was unknown. Unknown too, at that time, were communications between Amanda Plisner and a Mexican prosecutor, and Ms. Plisner's interjection in a Mexican investigation and potential prosecution on behalf of Jane Doe 4. Thus, the defense requested that they be able to cross-examine Ms. Plisner

regarding these issues. As set forth in Mr. Garcia's original 995 Motion to Dismiss, this request was erroneously denied, denying Mr. Garcia the benefit of his substantial right to cross-examine witnesses at a preliminary hearing. And the magistrate's ability to gauge Jane Doe 4's credibility was critical not only for the allegations of sexual assault against her (as to which there is no evidence but her word), but also as to the child pornography allegations, as to which she is the only witness who claimed that two individuals were minors.

### i. THE GOVERNMENT SUPPRESSED JANE DOE 4'S SEXUALLY EXPLICIT TEXT MESSAGES WITH MINORS

A review of Jane Doe 4's devices also reveals a number of other disturbing details about her which constitute exculpatory evidence and should have been produced in advance of the preliminary hearing. Jane Doe 4's text messages show that she had sexually explicit communications with at least two female minors. (Exhibit Y, BS000430–000436.) Jane Doe 4 exchanged extensive text messages with a minor girl in the church. Jane Doe 4's text messages also show that she was communicating with a different minor girl at the same time.

She asked this girl to send her "special" and "sexy" pictures and texted sexually with her multiple times. She first asked for pictures on March 19, 2018, claiming they were for someone else but then revealed to the girl that the pictures aroused her and were used for her masturbation. She then goes on to say that she would show this girl how to masturbate herself.

In sum, these messages—showing that Jane Doe 4 engaged in a sexual relationship with at least two minor females—are evidence of Jane Doe 4's motive to lie and to seek immunity from the government in exchange for implicating Mr. Garcia. Nonetheless, these communications were deliberately withheld from the defense for years.

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### j. THE GOVERNMENT SUPPRESSED JANE DOE 4'S LONG DIARY ENTRY DISCUSSING THE CHURCH AND MR. GARCIA AND STATING THAT "I NEVER DID ANYTHING I DIDN'T WANT TO DO"

In December 2018, Jane Doe 4 authored a diary entry in the Notes App on her phone venting her feelings about the church. (See Exhibit Z, BS000437.) This document was created on December 10, 2018, at 6:05:57 PM PST. It was last modified on December 10, 2018, at 7:07:19 PM PST. (BS000441.) In this document, she states, "I genuinely like [the church]. I don't feel I'm being forced to obey...." (BS000439.) She later says that "I don't do anything that I don't understand and that I don't want to do...." (*Ibid.*) This contemporaneous written statement by Jane Doe 4, memorializing her own perspective and experiences, directly undermines the People's theory that Jane Doe 4 was a victim of force of coercion of any kind. (*Ibid.*) *She expressly states that she wasn't.* She because it expressly states that she does not feel forced to obey or do anything she doesn't want to. (*Ibid.*) If anything, it suggests she had consensual encounters with Mr. Garcia which are perfectly legal. (*Ibid.*) There is no mention of sex against her will. (*Ibid.*) This evidence is exculpatory and completely contradicts the People's allegations against Mr. Garcia. Yet, the prosecutor concealed it for two years.

Also, on December 10, 2018, at 7:08:14 PM PST, this exact entry was posted anonymously on a Reddit thread labeled "r/exlldm." (BS000443–444.) The thread is anonymous, but it was posted less than a minute after the last modification made on Jane Doe 4's phone, confirming that she was the author. In other words, the prosecutor knew for two years that anonymous comment denying allegations of coercion was actually their star alleged victim.

### k. THE GOVERNMENT SUPPRESSED JANE DOE 4'S COMMUNICATIONS WITH SOCHIL MARTIN

In addition to the above messages which seriously implicate Jane Doe 4's credibility and are clear examples of impeachment evidence that should have been produced to the defense prior to the preliminary hearing, Jane Doe 4's phone also contains other examples of impeachment evidence that should have been produced.

Specifically, Jane Doe 4's phone shows that on June 3, 2019, she received a call from Sochil Martin, on the day of Mr. Garcia's arrest. (See Exhibit AA, BS000445.) She also received an accompanying text message from Ms. Martin. (*Ibid.*) This indicates that Ms. Martin had Jane Doe 4's personal cell phone number and was in contact with Jane Doe 4. (*Ibid.*) However, the extent and nature of this contact was not explored at the preliminary hearing because these records were not produced.

These communications were made on—June 3, 2019, at 9:27 PM, which, if reported in UTC, translates to 1:27 PM PST. (*Ibid.*) This is approximately one hour before Mr. Garcia's arrest. Indeed, Mr. Garcia was arrested little more than an hour later at 2:45 p.m. PST. It is, therefore, reasonable to surmise that Ms. Martin and her husband were notified of the impending arrest, and thus proceeded to notify Jane Doe 4. Given that Ms. Martin is seeking a multi-million-dollar lawsuit against Mr. Garcia, she clearly has financial motive to see Mr. Garcia criminally prosecuted and convicted, she also has a vested interest in having the Jane Does testify against Mr. Garcia, given that she has been relentlessly soliciting their testimony. Given this financial motive, evidence of Ms. Martin's communications with the Jane Does is critical as it shows that Ms. Martin could have influenced the Jane Does in myriad ways that implicate their credibility. Any evidence of communication between Sochil Martin and the Jane Does is exculpatory and essential to Mr. Garcia's defense. As such, it should have been provided to Mr. Garcia and his defense team *years* ago. Instead, the prosecutor concealed it.

### I. THE GOVERNMENT SUPPRESSED COMMUNICATIONS BETWEEN SOCHIL MARTIN, THE HERMAN LAW FIRM, AND JANE DOES 1–3

In addition to the specific exculpatory conversations between Jane Does 1, 2, and 3, discussed in previous sections, their text messages also provide insight into potential outside influences and incentives they might have been offered in exchange for their involvement in the instant case. Specifically, on or about September 7, 2018, Jane Doe 1 was contacted by Sochil Martin in connection with her civil lawsuit against Mr. Garcia. Ms. Martin asked that Jane Doe 1 call and speak with an attorney at the Herman Law

Firm (the firm representing Ms. Martin in her civil lawsuit against Mr. Garcia), she also asked that Jane Doe 1 provide the number for the law firm to Jane Does 2 and 3 and ask that they also call the firm. (See Exhibit W-2, BS000418–000421.) Following this, on the same day, Jane Doe 1 contacted Jane Does 2 and 3 and provided them the phone number of the Herman Law Firm. There are then further references to the follow-up calls. But, it is unclear from the messages when each Jane Doe contacted attorneys from the Herman Firm and/or Sochil Martin, how long these conversations lasted, and whether there were any communications subsequently because the phone logs for the Jane Doe 2 and 3 devices were not produced to the defense (the phone records produce to the defense go back less than one month). Thus, after reviewing these text messages and seeing the Jane Does' references to speaking with attorneys involved in Ms. Martin's civil lawsuit, this raised the question of when and how often the Jane Does contacted Ms. Martin and the Herrman Law Firm. However, in reviewing the Jane Does devices, it became apparent that some of the devices were missing certain crucial data. Specifically, Jane Doe 3's phone contained call logs going back only to March 19, 2019—approximately one month before she met with investigators and the phone was imaged. The call logs for the time during which Jane Doe 3 would have first come in contact with Ms. Martin and the Herman law firm were missing.

When the defense requested the complete call logs, the prosecutor responded that it had failed to catalogue all the phone logs when it originally imaged the phone in April 2019, and that the phone was immediately returned to Jane Doe 3 in 2019 after it was imaged. The prosecution further declined to provide any assistance in recovering the missing call logs. Thus, it appears at this time that important exculpatory evidence in the form of information relating to the extent of Jane Doe 3's communications with Ms. Martin and the Herman Law Firm—evidence the prosecution had in its possession when it had the phones on April 3, 2019, and which would all go towards figuring out if Jane Doe 3 has been subject to any kind of external influence from vested parties or if she has any financial incentive in her involvement in the instant case—is unavailable and has likely been allowed to spoliate by the prosecution.

## III.
## MEMORANDUM OF POINTS AND AUTHORITIES

A preliminary hearing is more than just a pretrial hearing. (*Jones v. Superior Court* (1971) 4 Cal.3d 660, 668.) "[T]he purpose of a preliminary hearing is, in part, to assure that a person is not detained for a crime that was never committed[.]" (*People v. Plengsangtip* (2007) 148 Cal.App.4th 825, 835.) "[I]t is a proceeding designed to weed out groundless or unsupported charges of grave offenses and to relieve the accused of the degradation and expense of a criminal trial." (*People v. Brice* (1982) 130 Cal.App.3d 201, 209.) "Preliminary hearings thus serve to protect both the liberty interest of the accused and the judicial system's and society's interest in fairness and the expeditious dismissal of groundless or unsupported charges, thereby avoiding a waste of scarce public resources." (*Bridgeforth v. Superior Court* (2013) 214 Cal.App.4th 1074, 1086–1087 (*Bridgeforth*).) In addressing the purpose of preliminary hearings, courts have specifically found that "[r]equiring prosecutorial disclosure of information that is both favorable to the defense and material to the magistrate's determination of 'whether there exists probable cause to believe that the defendant has committed a felony' . . . provides a valuable additional safeguard for these extremely important interests." (*Id.* at p. 1087.) Additionally, at the preliminary hearing, a defendant has several substantial rights, including the right to confront prosecution witnesses, the right to present evidence at the hearing to negate an element of an offense, to impeach prosecution evidence, to establish an affirmative defense, and to effective assistance of counsel. (Pen. Code, §§ 865, 866, subd. (a); *Jennings v. Superior Court* (1967) 66 Cal.2d 867, 875, 880 (*Jennings*); *Mitchell v. Superior Court* (1958) 50 Cal.2d 827, 829 (*Mitchell*).)

When a defendant's substantial rights are not upheld at the preliminary hearing,

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the defendant may be entitled to set aside the information under Penal Code section 995[18] or a common law motion to dismiss. (See *Stanton v. Superior Court* (1987) 193 Cal.App.3d 265, 271 (*Stanton*).) The primary distinction between these motions is that the statutory motion under section 995 is, for the most part, limited to the transcripts of the preliminary hearing,[19] while the nonstatutory motion to dismiss encompasses errors not shown by the transcript. (*Ibid.*) However, regardless of whether the motion is brought under Penal Code section 995 or through a nonstatutory motion, the substantial rights being analyzed at the preliminary hearing are the same. (See, e.g., *Harris v. Superior Court* (2014) 225 Cal.App.4th 1129, 1144 [finding that a nonstatutory motion to dismiss is a proper procedural vehicle for challenging denial of a defendant's substantial rights]; *Bogart v. Superior Court of Los Angeles County* (1963) 60 Cal.2d 436.)

Courts agree that when a defendant's claim is that he was denied exculpatory evidence at a preliminary hearing, thereby denying the defendant a substantial right, the proper vehicle is a nonstatutory motion to dismiss. (See *Stanton*, *supra*, 193 Cal.App.3d at p. 271.) Thus, in cases where a defendant has brought this type of claim as a motion under Penal Code section 995, the government has argued it is the wrong vehicle and the claim should be brought as a common law motion. (See *Id.* at p. 265.)[20] Conversely, in

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[18] To preserve a defendant's right to writ a denial of the 995 Motion, the motion must typically be brought within 60 days of arraignment. However, when, as here, "the defendant was unaware of the issue or had no opportunity to raise the issue" within the 60 days of the arraignment, this limitation does not apply. (Pen. Code, § 1510.)

[19] See *People v. MacKey* (1985) 176 Cal.App.3d 177, 186 [holding that the court could consider evidence beyond just the transcript of the preliminary hearing in ruling on the defendant's Penal Code section 995 Motion to Dismiss].

[20] In *Stanton*, *supra*, 193 Cal.App.3d at p. 269, the court noted that the trial court "found the preliminary hearing transcript contained no evidence of the prosecutions dereliction," thus the Motion was not brought under Penal Code section 995. Said another way, the defense had no reason to know prior to the preliminary hearing of the missing, exculpatory evidence. (*Ibid.*) Later, the defense learned that there was evidence that could have been used to cross examine an eyewitness at the preliminary hearing. (*Id.* at p. 270.)

some cases, when a defendant has brought this claim as a common law motion to dismiss, the government has argued that the claim should be brought under Penal Code section 995. (See *Currie v. Superior Court of Los Angeles* (1991) 230 Cal.App.3d 83, 89.)[21] To avoid any argument by the People that Mr. Garcia's argument that the government has denied him his substantial rights—by withholding exculpatory evidence prior to the preliminary hearing—is not being properly presented to this court because of the procedural vehicle of the argument, Mr. Garcia is bringing this argument under both and sets forth that the denial of a substantial right at the preliminary hearing is cognizable both in a Motion to Dismiss pursuant to Penal Code section 995 and a nonstatutory motion to dismiss. (See *Murgia v. Municipal Court* (1975) 15 Cal.3d 286, 294, fn. 4.) Additionally, Mr. Garcia reasserts any 995 arguments that could not be fully briefed or heard at the time of the filing of the Motion because of the government's suppression and alteration of evidence. Any argument concerning a difference in the prejudice standard between the two types of motions is addressed more fully below.

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The Court of Appeal found that the withheld evidence was material, and that the defendant was denial his substantial right of cross examination. (*Id.* at p. 272.) Unlike *Stanton*, evidence of the prosecution's dereliction is evident from the transcript of the preliminary hearing in this case. It is evident in the fact that the government repeatedly made factual assertions on the record which it had reason to know were false. In this way, unlike *Stanton*, the issues raised herein cannot be fully briefed without reference to the transcript of the preliminary hearing.

[21] In *Currie, supra,* 230 Cal.App.3d at p. 83, the Petitioner was held to answer on four felonies. After the preliminary hearing, and the denial of Petitioner's Motion to dismiss pursuant to Penal Code section 995, the government disclosed information concerning the victim and the defendant brought a nonstatutory Motion to Dismiss, not a motion under Penal Code section 995. The government argued in that case that the defendant's argument (that the government failed to provide the exculpatory evidence) could have been raised pursuant to Penal Code section 995 but was not. (*Id.* at p. 89.) On appeal, the court ultimately disagreed with the government but it did not negate the government's primary argument. (*Id.* at p. 90.)

## A. ERROR STANDARD APPLICABLE TO A NONSTATUTORY MOTION TO DISMISS

The California Supreme Court has not yet specifically addressed how courts should analyze pretrial review of the violation of a defendant's substantial right when brought pursuant to a nonstatutory motion to dismiss. In *Pompa-Ortiz*, the Supreme Court found that it was "settled that *denial of a substantial right at the preliminary examination renders the ensuing commitment illegal and entitles a defendant to dismissal of the information.*" (*People v. Pompa-Ortiz* (1980) 27 Cal.3d 519, 523 (*Pompa-Ortiz*), internal citations omitted, emphasis added.) Thus, the California Supreme Court held that prejudice is presumed on a pretrial defense motion to dismiss the information when a defendant has been denied a substantial right in a probable cause hearing and challenges that error pretrial, dismissal is required even in the absence of any prejudice stemming from the error. (*Id.* at p. 529.) Therefore, the critical inquiry after *Pompa-Ortiz*, is whether the pretrial challenge to the charging document is one alleging the violation of a substantial right at the preliminary hearing, which requires no showing of prejudice. (*Harris, supra*, 225 Cal.App.4th at pp. 1146–1147.)

In *Stanton*, the Fourth District Court of Appeal initially invoked the California Supreme Court's opinion in *Pompa-Ortiz* as setting forth the appropriate standard for determining when the remedy of dismissal is appropriate in the context of a motion to dismiss the information. (*Stanton, supra*, 193 Cal.App.3d at p. 265.) However, although the Supreme Court in *Pompa-Ortiz* was addressing the same issue discussed by the Supreme Court—the pre-trial review of the denial of a substantial right at the preliminary hearing—the *Stanton* Court found that the procedural vehicle was the relevant consideration. (*Id.* at p. 271.) Thus, because the motion in *Pompa-Ortiz* was a statutory motion to dismiss, as opposed to a nonstatutory motion to dismiss, the *Stanton* Court found that it did not need to apply the Supreme Court precedent. (*Id.* at p. 272.) The *Stanton* Court went on to suggest that—because of the different procedural vehicle—a wholesale dismissal of the information may not be appropriate to remedy, as mandated by

*Pompa-Ortiz*. (*Ibid.*) Instead, the Court found that only any counts or enhancements that are impacted by that exculpatory evidence should be dismissed or stricken. (*Ibid.*) After finding that the defense had been denied exculpatory evidence at the preliminary hearing, the *Stanton* Court then ordered the superior court to vacate its order denying the nonstatutory motion to dismiss and to enter a new order granting the motion and striking the gross negligence allegation from the information. (*Ibid.*)

Later, in *Merrill v. Superior Court* (1994) 27 Cal.App.4th 1586 (*Merrill*), the same court—the Fourth District Court of Appeal—moved even further away from Supreme Court precedent and found that when the government withholds evidence at the preliminary hearing the reviewing court should "look to the materiality of the nondisclosed information and what effect it had on the determination of probable cause."[22] (*Id.* at p. 1596.) This Fourth District precedent is distinct from *People v. Gutierrez* (2013) 214 Cal.App.4th 343, 356 (*Gutierrez*), where the First District Court of Appeal held the "*Brady* violations are, by definition, prejudicial" in the context of the prosecution's duty to disclose exculpatory evidence pre-preliminary hearing and recognized that a breach of the prosecutor's *Brady* obligations violated the defendant's "substantial right" at the preliminary hearing.

Again, the California Supreme Court has not yet determined whether it intended that its evaluation of the pre-trial standard for the violation of pre-trial denial of substantial rights in *Pompa-Ortiz* should apply in non-statutory as well as statutory

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[22] In *Merrill*, the Court of Appeal found that the trial court's task of weighing the evidence in that case was "extremely difficult" because the trial court had to "reweigh the evidence at the preliminary hearing *after* having heard the full trial." (*Merrill*, 27 Cal.App.4th at p. 1597, emphasis in original.) Ultimately, the Court of Appeal determined that the trial court did not abuse its discretion because it "scrutinized each piece of incriminating evidence from the preliminary hearing and then carefully weighed it against the exculpatory effect" of the withheld evidence. In doing so, that trial court "neither overlooked exculpatory evidence nor considered incriminating evidence from any course but the preliminary hearing." (*Ibid.*) Given those facts, the Court of Appeal could not "say [the lower court] abused its discretion" in denying the motion. (*Ibid.*)

motions. Thus, this is not a settled legal question. In his original 995 Motion to Dismiss, Mr. Garcia argued that his right to cross-examination, to present evidence, and to counsel were denied and he was entitled to a dismissal of the Information based on that denial, without a showing of prejudice. Now, in this second Motion to Dismiss—which is based on those same arguments plus the additional argument that the government withheld and concealed exculpatory evidence—it is anticipated that the government will argue that Mr. Garcia is no longer entitled to the standard under *Pompa-Ortiz* but must meet the prejudice element under *Stanton*. Although it seems counter to logic and equity that the government's actions in willfully suppressing and altering evidence could possibly lead to a higher burden on the defense,[23] the defense will argue the prejudice standard under *Stanton*, without conceding.

For purpose of this motion, it is clear that—under any standard—dismissal is warranted.

## B. MR. GARCIA'S RIGHT TO EXCULPATORY EVIDENCE WAS VIOLATED

Suppression of material evidence favorable to the defendant violates the guarantees of due process. (*Brady, supra*, 373 U.S. at p. 87; see U.S. Const., 5th & 14th amends.; Cal. Const., art. I, §§ 7, 15; *People v. Ruthford* (1975) 14 Cal.3d 399, 406 (*Ruthford*), declined to follow on another ground in *In re Sassounian* (1995) 9 Cal.4th 535, 545, fn. 7 (*Sassounian*).) The government's duty to disclose material evidence is not limited to evidence that tends to directly exculpate the accused; it also includes evidence

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[23] Although the arguments raised herein may certainly also be cognizable in a different vehicle, the fundamental rights implicated are exactly the same. Indeed, because a defendant's right to exculpatory evidence implicates his federal and state constitution rights *in addition* to state statutory rights, the issue here is of a more *serious* character than one implicating a defendant's substantial and statutory right alone—as was the case in *Pompa-Ortiz*. (See *Bridgeforth, supra,* 214 Cal.App.4th at p. 1087.) Thus, it would be paradoxical to hold a claim implicating fundamental constitutional rights, as well as state statutory and substantial rights, to a *higher* burden than one implicating statutory rights alone.

that is useful to impeach the credibility of a government witness. (*United States v. Bagley* (1985) 473 U.S. 667, 676 (*Bagley*).)

"[A] defendant has a due process right under the California Constitution and the United States Constitution to disclose prior to the preliminary hearing of evidence that is both favorable and material[.]" (*Bridgeforth, supra*, 214 Cal.App.4th at p. 1074.) "This right is independent of, and thus not impaired or affected by the criminal discovery statutes." (*Ibid*; see also *Guiterrez, supra*, 214 Cal.App.4th at p. 343 [finding that exculpatory evidence must be disclosed at preliminary hearing post Proposition 115].) Indeed, courts recognize that impeachment evidence can often make the difference between acquittal and conviction. (*Bridgeforth*, 214 Cal.App.4th at p. 1074.) The California Supreme Court has taken a particularly broad view of exculpatory evidence, finding: "Evidence is 'favorable' if it either helps the defendant or hurts the prosecution, as by impeaching one of its witnesses." (*Sassounian*, at p. 544, citing *Bagley*, at p. 676; see also *Ruthford*, at p. 408 ["We conclude that the suppression of substantial material evidence bearing on the credibility of a key prosecution witness is a denial of due process within the meaning of the Fourteenth Amendment"].) "[T]he prosecution, even in the absence of a request therefore, [has a duty] to disclose all substantial material evidence favorable to an accused, whether such evidence relates directly to the question of guilt, to matters relevant to punishment, or to the credibility of a material witness."[24] (*Ruthford, supra,* 14 Cal.3d at p. 406.)

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[24] Additionally, the Legislature has recently taken significant steps to finally impose penalties on prosecutors who fail to comply with these provisions. Effective January 1, 2016, judges are required to report to the State Bar a prosecutor who intentionally withholds relevant or material exculpatory evidence in violation of Penal Code section 1424.5, if the court finds the prosecutor acted in bad faith and the withholding contributed to a guilty verdict or a guilty or nolo contendere plea, or, if identified before the conclusion of trial, seriously limited the ability of the defendant to present a defense. (Cal. Bus. & Prof. Code, § 6086.7.) Furthermore, effective November 2, 2017, prosecutors have an ethical duty pursuant to California Rules of Professional Conduct, Rule 5-110(E) to disclose all evidence or information the prosecutor knows or should know tends to negate the guilt of the accused, mitigate the offense, or mitigate the

The *Brady* rule unquestionably applies at the preliminary hearing. (*Bridgeforth*, *supra*, 214 Cal.App.4th at p. 1081; *Gutierrez*, *supra*, 214 Cal.App.4th at p. 346.) This right to *Brady* evidence exists independent of, and thus not altered by, criminal discovery statutes. (*Bridgeforth*, 214 Cal.App.4th at p. 1081.) There is no requirement that the prosecutor actually know about the evidence if it was known to the police. (*Kyles v. Whitley* (1995) 514 U.S. 419, 437 (*Kyles*).)

Whether or not evidence is "material" is determined by looking at its "cumulative effect . . . separately and at the end of the discussion." (*Kyles, supra*, 514 U.S. 419 at p. 437.) The question for "materiality" is "not whether the defendant would more likely than not have received a different verdict with the evidence," nor is it "a sufficiency of the evidence test." (*Id.* at pp. 434–435.) Indeed, "material" evidence may merely be, "evidence that tends to influence the trier of fact because of its logical connection with the issue." (*People v. Garcia* (1993) 17 Cal.App.4th 1169, 1179, citing *People v. Morris* (1988) 46 Cal.3d 1, at p. 30, fn. 14.)

Again, the exact standard used to evaluate a violation of *Brady* pretrial has been stated differently by different courts. In *Bridgeforth*, *supra*, 214 Cal.App.4th at p. 1081, 1087, the Second District held that to establish a *Brady* discovery violation at the preliminary hearing, a defendant must show that the discovery sought is favorable to him, either because it is exculpatory or impeaching; it has been suppressed by the state or its agents; and, disclosure would "create[] a reasonable probability of a different outcome at the preliminary hearing." (*Bridgeforth*, *supra*, 214 Cal.App.4th at p. 1081, 1087.) However, in *Gutierrez*, the First District, found that "*Brady* violations are, by definition, prejudicial," and that "[b]reach of the prosecution's *Brady* obligation must therefore be deemed to violate a substantial right thereby requiring dismissal." (*Gutierrez, supra*, 214 Cal.App.4th at p. 356.) While Mr. Garcia notes, preserves, and consistently maintains

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sentence. Pursuant to Rule 5-110(F), prosecutors must now make post-trial disclosure of evidence that has a reasonable likelihood of demonstrating the defendant did not commit the offense.

that, in all things, the California Supreme Court precedent is controlling, this question does not need to be decided, because, as shown below, under *any* of the varying standards set forth in *Pompa-Ortiz*, *Stanton*, *Merrill*, or *Gutierrez*, the withheld and concealed evidence violated *Brady* and warrants dismissal of the Information.

Here, as detailed in the facts section, the scope and magnitude of suppressed exculpatory evidence in this case is staggering and implicates virtually every aspect of the case presented by the government at the preliminary hearing. However, for purposes of this discussion, the suppressed evidence can be divided into three broad categories: 1) evidence contradicting specific charges in the Information; 2) evidence contradicting and undermining the government's overarching theory of "religious coercion;" and 3) specific impeachment evidence. While any one of these categories of suppressed evidence, in its own right, would warrant dismissal of the Information for egregious violation of the requirements of *Brady*, cumulatively these categories of suppressed evidence render the entire case presented by the government at the preliminary hearing, a falsehood. Therefore, this evidence is not just slightly favorable to the defense—as is all that is required for a *Brady* violation—the newly discovered evidence reshapes this entire case. Indeed, this evidence shows that the government consistently lied about the evidence to make its case appear far stronger than it actually was. Yet, even with the benefit of a case based on fabricated and altered evidence, with crucial exculpatory material suppressed, the prosecution's case was tenuous and several counts were dismissed by this Court upon Mr. Garcia's 995 Motion. Had even a fraction of the now-uncovered evidence been presented to the magistrate court and to this Court on the original 995 Motion, it is more than reasonably likely that Mr. Garcia would not have been held to answer or that this entire case would have been dismissed.

The first category of exculpatory evidence includes evidence undermining specific charges of the Information. The strongest evidence within this category are the Jane Does' statements undermining the forcible rape (Count Five) and unlawful sexual intercourse (Count Six) charges pertaining to Jane Doe 2. This includes the text exchange

between Jane Doe 2 and Jane Doe 3 wherein Jane Doe 3 helped invent rape allegations against Mr. Garcia on Jane Doe 2's behalf to gain the sympathy of her boyfriend, who wanted to break up with Jane Doe 2. This evidence is significant. Jane Doe 3 stated that she would "google" what words to say to sound convincing to Jane Doe 2's boyfriend and exchanged drafts of the allegations with Jane Doe 2 before finally sending the drafted text message to Jane Doe 2's boyfriend. This entire exchange is made all the more exculpatory by its timing—over a year after the end of the charged period when the government alleges Jane Doe 2 was raped by Mr. Garcia—as well as the fact that, prior to this exchange, Jane Doe 2 specifically denied ever having sexual intercourse with Mr. Garcia. Thus, the prosecution's suppression of this evidence—directly exculpatory to Counts Five and Six of the Information, was egregious.

As another example of egregious conduct by the government in suppressing directly exculpatory evidence is evidence that the Jane Does—and specifically Jane Doe 2—were sexually active. While this would not be particularly noteworthy in most other cases, it is incredibly significant in this case not only because it undermines the government's spiritual coercion theory but also because the prosecution specifically and explicitly lied about this fact at the preliminary hearing. Indeed, Agent Holmes specifically testified at the preliminary hearing that Jane Doe 2 "was a virgin at the time of [the alleged] sexual encounter" with Mr. Garcia. (Vol. I, 91–92.) Moreover, in addition to affirmatively asserting this lie at the preliminary hearing, the government also charged Mr. Garcia with a great bodily injury enhancement based solely on this knowingly false allegation. The magistrate then held Mr. Garcia to answer on this great bodily injury enhancement, finding that evidence that Jane Doe 2 lost her virginity during her alleged sexual encounter with Mr. Garcia was sufficient evidence to hold Mr. Garcia to answer for inflicting great bodily injury upon her. While this enhancement was ultimately dismissed by this Court upon Mr. Garcia original 995 Motion to Dismiss based on solely legal grounds, that fact does not diminish the magnitude of the government's misconduct and unethical behavior in affirmatively asserting a falsehood and charging Mr. Garcia

with "taking" Jane Doe 2's virginity while they suppressed a multitude of messages where she stated, in her own words, that she was sexually active with her boyfriends, and even discussed particular sex acts and positions she enjoyed. This conduct was egregious and unjustifiable.

The second category of exculpatory evidence encompasses a massive and far-reaching amount of evidence—communications among and between the Jane Does fundamentally undermining and contradicting the prosecution's theory of spiritual coercion in this case. This evidence includes direct evidence of the Jane Does' disparaging, skeptical, and defiant attitudes towards the teachings of the LLDM Church, and towards Mr. Garcia and co-defendant Ocampo; evidence of the Jane Does' physical and mental freedom in the form of them being free to attend public school, have non-church friends, have non-church boyfriends, go to non-church parties, have access to phones, the internet, and social media; evidence of the Jane Does' sexual freedom and open discussion of their sexual experiences with each other; and evidence of the Jane Does' lifestyle, including their experimentation with drugs and alcohol, their commission of petty crimes such as shoplifting, and their association with all types of people, including individuals associated with gangs. Cumulatively, this evidence paints a picture of the Jane Does' lives entirely contrary to what was presented at the preliminary hearing where the government alleged that the Jane Does' were in such fear of the "reputational" and "spiritual" damage that would come from them being kicked out of a voluntary church service group that they had no choice but to acquiesce when co-defendant Ocampo asked them to take nude photos or engage in sexual activity with Mr. Garcia. Quite the contrary, had the Jane Does truly internalized and been "brainwashed" by the teachings of the LLDM church to the point that the very threat of reputational and spiritual damage would be strong enough to coerce them to engage in sexual activity against their will, they surely would not have been engaging (quite openly) in a multitude of other types of activity forbidden by Church teachings. Thus, the evidence suppressed by the government entirely contradicts the theory it presented and relied entirely upon at

the preliminary hearing.

The third and final category of exculpatory evidence is specific types of impeachment evidence weighing on the veracity and credibility of individual Jane Does. This includes evidence of inducements given to Jane Doe 4, in addition to an offer of immunity, in exchange for her cooperation in the instant case. These inducements include an offer to help Jane Doe 4's husband with his immigration status, and to help Jane Doe 4 make a down payment on a house. A great deal of other impeachment evidence pertaining to Jane Doe 4 has also been uncovered including evidence of her own illicit and illegal sexual communications with minors which speak deeply to her character and show her own pursuit of sexual relationships with minor girls. Jane Doe 4's phone also revealed a diary entry written by Jane Doe 4, which she later also posted on Reddit, wherein she specifically writes that she *did not* feel coerced by the LLDM Church to act in any particular way.

Finally, both Jane Doe 4 and Jane Doe 3's phones reveal their communications with Sochil Martin and/or the Herman Law Firm. All of these categories of suppressed evidence collectively and individually constitute impeachment evidence that was directly relevant to the magistrate's inquiry at the preliminary hearing and which should have been admitted to allow the defense to cross-examine the government's witnesses.

The government's actions in this case were egregious and extreme. In a world where *Brady* has been the law of the land for nearly 60 years, it is difficult to imagine how this could have happened. It is impossible to fathom how experienced and seasoned government officials and officers of the Court engaged in this level of concealment, alteration, and suppression of evidence, while presenting to the court a narrative they knew was false and that they knew their concealed evidence contradicted. Yet, that is exactly the evidence and egregious conduct that is now squarely before this Court. There is nothing the government can now say or do to mitigate the harm that has already been done by its concerted and deliberate efforts to suppress and conceal material evidence.

Simply put, the damage has been done.

Mr. Garcia was forced to sit through a farcical preliminary hearing based entirely on lies and fiction created from whole cloth in the minds of investigators and prosecutors. He was held to answer and has been detained on these same charges for the better part of three years. This Court and Mr. Garcia were then collectively duped and forced to go through a 995 Motion to Dismiss process based entirely on lies and deceit. Even as Mr. Garcia briefed, and this Court considered, the sufficiency of the evidence to hold him to answer, both were privy only to the filtered and carefully curated "facts" the government chose to disclose because those selective facts were favorable to the government's case. This conduct is inexcusable and has no place within our system of justice. As such, the only remedy in the face of the government's extreme misconduct is for this Court to dismiss the Information. While this will not make Mr. Garcia whole and will never give him back the three years of his life he has lost due to the government's actions, it will ensure that the government can no longer continue to act unethically and to the exclusion of all considerations of justice, ethics, and the truth, in its singular desire to convict Mr. Garcia at all costs. The Information should be dismissed.

## C. THE FAILURE TO DISCLOSE EVIDENCE VIOLATED OTHER SUBSTANTIAL RIGHTS

As noted above, a defendant has several substantial rights at the preliminary hearing, including the right to present evidence at the hearing to negate an element of an offense, to impeach prosecution evidence, or to establish an affirmative defense. (Pen. Code, §§ 865, 866, subd. (a); *Jennings, supra*, 66 Cal.2d at pp. 875, 880; *Mitchell, supra*, 50 Cal.2d at p. 829.) All these substantial rights become nothing but abstract principles, impossible to realize, without discovery. As one court opined, "a defendant has a right to present an affirmative defense at a preliminary hearing . . . [and] for that right to be meaningful, it must include the opportunity to obtain discovery prior to the hearing. [Citations]." (*People v. Hertz* (1980) 103 Cal.App.3d 770, 776–777; see also *Holman v. Superior Court* (1981) 29 Cal.3d 480, 485 [holding that a magistrate has authority to grant discovery to a criminal defendant prior to the preliminary hearing].)

As case law makes clear, without access to pre-preliminary hearing discovery, the fundamental purpose of the preliminary hearing—to weed out groundless charges and make informed rulings on the constitutionality of searches and seizures—is frustrated. A one-sided presentation of the evidence, without any effective challenge, makes impossible a magistrate's opportunity to determine the credibility of evidence and dispose of cases that should never progress. Neither the magistrate's function nor the defendant's rights can be exercised in a meaningful way if defense counsel merely sits and listens at the preliminary hearing; without pre-preliminary hearing discovery, he can do little more.

### 1. MR. GARCIA WAS DENIED HIS SUBSTANTIAL RIGHT TO PRESENT EVIDENCE

The right to present evidence at a preliminary hearing is a substantial right. (See *Jennings*, *supra*, 66 Cal.2d at p. 867.) Penal Code section 866, subdivision (a) provides that "[w]hen the examination of the witnesses on part of the people is closed, any witness the defendant may produce must be sworn and examined." Upon request of the government, the defendant must show that the evidence is "reasonably likely to establish an affirmative defense, negate an element of a crime charged, or impeach the testimony of a prosecution witness or the statement of a declarant testified to by a prosecution witness." (*Ibid.*) As one court noted, "[t]he purpose of this right is obvious: to permit the defendant to rebut the People's evidence of probable cause and persuade the magistrate not to make a probable cause finding." (*Nienhouse v. Superior Court* (1986) 42 Cal.App.4th 83, 91.) This type of evidence can be elicited by cross examination or by calling a witness at the close of the prosecution's evidence. (*Id.* at p. 92.)

Here, as set forth above, the suppressed evidence falls into three main categories and includes directly exculpatory evidence as to specific charges, directly exculpatory evidence undermining the prosecution's theory of how the Jane Does' were allegedly deprived of their liberty for purposes of human trafficking, as well as how the prosecution alleges they were coerced to engage in sexual acts with Mr. Garcia; and a

great deal of impeachment evidence. In addition to requiring dismissal because of the violation of *Brady*, dismissal is also required because of the effect that this *Brady* violation had on Mr. Garcia's substantial rights, including his right to present evidence in his own defense.

It is impossible to overstate the ways in which the preliminary hearing would have proceeded entirely differently had this evidence been produced as the law dictates. As just one discrete example, in response to the government's argument that the Jane Does' subjective religious beliefs and internalized views regarding the LLDM Church could constitute sufficient evidence of spiritual coercion for both the human trafficking and sexual assault charges, defense counsel argued that even if it were true that the Jane Does *subjectively* feared the consequences of saying no to Mr. Garcia or disobeying Ms. Ocampo, there was no evidence to show that the subjective beliefs of the Jane Does could be somehow attributed to Mr. Garcia. Defense counsel stated: "I'm suggesting that" the feelings of the Jane Does are not something "that can be attributed to my client, specifically. *Who knows what Jane Doe 2 - - 1, 2, 3, 4, or 5 - - how they interpreted the teachings of the Church, teachings of their family, how their family viewed the church, how their family viewed the individuals involved, the leadership, et cetera.* That is [imputing] to my client information about which he would have no personal knowledge. He would not know how Jane Doe 3 would view either him or any of the defendants, or any of the leadership of the Church, or the Church itself. He would not have that knowledge, and that would be at minimum what would be required by the prosecution to establish force under this theory of rape." (Vol. VI, 132:7–21, emphasis added.) In other words, defense counsel acknowledged the Jane Does' self-described fear of spiritual harm but argued that there was nothing linking the Jane Does' self-attested fears of reputational and spiritual harm to any action by Mr. Garcia.

The newly produced discovery makes clear that not only is the *link* between the Jane Does' subjective beliefs and Mr. Garcia entirely non-existent—namely, there is no evidence anywhere within their thousands of communications of something Mr. Garcia

did or said to make them believe that they would face spiritual and reputational harm if they refused him—it also shows that the prosecution's fundamental *premise*, that the Jane Does' were brainwashed by the teachings of the Church and had intense internal fears of Mr. Garcia and the Church, was also patently and demonstrably false.

Indeed, little did defense counsel know at the time of the preliminary hearing that when they posed the question: "*Who knows what Jane Doe 2 - - 1, 2, 3, 4, or 5 - - how they interpreted teachings of the Church, teachings of their family, how their family viewed the church, how their family viewed the individuals involved, the leadership, et cetera,*" the prosecution did in fact know the answers to these questions, and had evidence in their possession entirely contrary to the theories they had presented. (*Ibid.*) The actual evidence was that the Jane Does actively and openly lived lives entirely contrary to Church doctrine; openly disparaged Church teachings and beliefs—including basic and fundamental beliefs concerning topics such as the existence of God; had no qualms about defying their parents and Church officials such as Ms. Ocampo; had friends and boyfriends outside of Church; openly mocked the church and its teachings, had full unrestricted access to phones, internet, social media; engaged in activities typical of any teenager such as dating and experimentation with alcohol, while also engaging other more troubling activity such as shoplifting, doing drugs, associating with gang members, etc. In short, the truth could not be further from the government's claim that the Church was the Jane Does' whole world and that they "existed entirely" within this world.

Finally, to the extent that the prosecution will now seek to present post-hoc explanations and excuses for the statements of the Jane Does, to harmonize the Jane Does' own contemporaneous and conflicting words with the charges in the Information and the allegations made at the preliminary hearing, or to generally minimize the import of the newly uncovered evidence, this does not change the fact that the government unilaterally *deprived* the defense from pursuing any of the numerous new investigative leads contained in these communications, from presenting the many affirmative defenses provided by this evidence, from cross-examining testifying officers about this evidence,

and from impeaching witness testimony through this evidence. There is simply no universe in which even a fraction of this evidence—had it not been suppressed, concealed, and systematically erased from discovery productions—would not have fundamentally altered every aspect of Mr. Garcia's preliminary hearing. Moreover, in unilaterally choosing to suppress and alter this evidence, the government also deprived the magistrate of making *any* kind of actual determination regarding the strength of individual counts charged and the government's case as a whole—which is the entire purpose of a preliminary hearing. This further had the domino effect of depriving the defense from being able to properly brief and argue their 995 Motion to Dismiss; and prevented this Court from being able to fairly adjudicate that Motion. In short, the ripple effects of the prosecution's deliberate misconduct are numerous and cannot be overstated. As such, the one and only remedy for the prosecution's monumental failures to abide by the basic duties of its office, and thereby depriving Mr. Garcia of his fundamental rights, is dismissal of the Information.

### 2 MR. GARCIA WAS DEPRIVED OF HIS SUBSTANTIAL RIGHT TO CROSS-EXAMINATION

"The right to cross-examination, which is basic to our judicial system and has been from earliest times, is part of this fundamental right available to an accused." (*Priestly v. Superior Court* (1958) 50 Cal.2d 812, 822 (*Priestly*) (Carter, J., concurring),[25] noting *Alford v. United States* (1931) 282 U.S. 687.) This right applies at the preliminary hearing. (Pen. Code., § 865 ["The witness must be examined in the presence of the defendant, and may be cross-examined on his behalf."]; *Jennings, supra,* 66 Cal.2d at p. 872.) Even when the government proceeds pursuant to the provisions of Proposition 115, the defense must be given the ability to challenge the veracity and credibility of the hearsay statement through cross-examination of the law enforcement officer. (See *People v. Erwin* (1993) 20 Cal.App.4th 1542, 1551.)

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[25] Abrogated on another ground, as recognized in *Martin v. Superior Court of Los Angeles County* (1967) 66 Cal.2d 257, 258.

"[C]ross-examination provides a major method for establishing the accuracy and reliability of direct testimony . . . [and] is necessary since experience tells us that ex parte statements are too uncertain and unreliable to be considered in the investigation of controverted facts." (*Priestly, supra*, 50 Cal.2d at p. 822 (Carter, J., concurring).) Cross-examination "may be directed to the eliciting of any matter which may tend to overcome or qualify the effect of the testimony given by him on his direct." (*Jennings, supra*, 66 Cal.2d at p. 877, citing *People v. Zerillo* (1950) 36 Cal.2d 222, 228.) While a court "has broad discretion to control the ultimate scope of cross-examination designed to test the credibility or recollection of a witness [citation]," "wide latitude" should be given to cross-examination designed to test the credibility of a prosecution witness in a criminal case. (*Jennings*, 66 Cal.2d at p. 877, citing *People v. Murphy* (1963) 59 Cal.2d 818, 830–831.)

Not all restrictions upon cross-examination amount to a denial of a substantial right. As the government is often quick to point out "an information will not be set aside merely because of some minor error or irregularity at the preliminary hearing." (*People v. Sheets* (1967) 251 Cal.App.2d 759, 767.) However, as a general rule, restrictions upon cross examination are considered "substantial if the subject-matter of the questions "concern[ed] the criminal transaction" and was aimed at establishing an affirmative defense (*Jennings*, 66 Cal.2d at p. 867) or impeaching a material witness (*Alford v. Superior Court* (1972) 29 Cal.App.3d 724.) This includes "*all* relevant and material matters preceding, concurring with, or following the criminal event, within [the witness'] knowledge and reasonably related to the issue of guilt or innocence." (*Gallaher v. Superior Court, supra*, 103 Cal.App.3d 666, 672.)[26] It does not include cross-examination on a collateral issues that go only to the witness's "general" credibility and is minor or insubstantial. (*People v. Stone* (1983) 139 Cal.App.3d 216, 224.) Thus, for example, a

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[26] Disapproved of on another ground by *Whitman v. Superior Court* (1991) 54 Cal.3d 1063, 1078.

defendant has no right to cross examine on search and seizure issues if there is no pending motion to suppress. (*People v. Williams* (1989) 213 Cal.App.3d 1186, 1192.)

As detailed above, the evidence suppressed by the government in this case is extensive and implicates every aspect of the preliminary hearing and the government's presentation of evidence at the preliminary hearing. One important way in which the suppressed evidence affected Mr. Garcia's substantial rights was the way in which it affected cross-examination. It goes without saying that the many categories of exculpatory and impeachment evidence uncovered in this latest discovery would entirely have changed the defense strategy on cross-examination. Even without the Jane Does themselves testifying, Mr. Garcia was denied the opportunity to cross-examine the agents regarding the specific and general evidence revealed in this discovery. Indeed, had the defense know of the alterations to the text messages in Report 79, the defense would have been eager to call to the stand and cross-examine Agent Cedusky.

One example indicative of the general and persistent denial of the defense's ability to cross-examine, warranting special consideration, is the multitude of impeachment evidence uncovered in the new discovery regarding Jane Doe 4. This includes evidence showing that Jane Doe 4 was promised immigration benefits for her husband in exchange for her cooperation in the instant case, an alleged promise by the government to help Jane Doe 4 with a down payment for a house, evidence of Jane Doe 4's own explicit communications with at least two minor girls, a journal entry by Jane Doe 4 specifically stating that she was never coerced by the LLDM Church or church members, and evidence of Jane Doe 4's communications with and collusion with Sochil Martin. This evidence is incredibly important and should have been produced prior to the preliminary hearing.

As set forth throughout the preliminary hearing, a significant amount of information presented at the preliminary hearing was obtained from Jane Doe 4 and was

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contingent on Jane Doe 4's personal credibility.[27] For example, the child pornography counts were wholly dependent on Jane Doe 4's identification of certain individuals in pornographic videos found on Mr. Garcia's phone. Messages obtained from Jane Doe 4, purportedly exchanged between Jane Doe 4 and Mr. Garcia, were also used by the prosecution as evidence of Mr. Garcia's involvement in the instant charges. Thus, evidence impeaching Jane Doe 4's credibility and exploring any incentives she had to lie or falsely accuse Mr. Garcia was highly relevant. While, at the start of the preliminary hearing, general information was provided by the government that Jane Doe 4 had been "offered" a grant of immunity by Deputy Attorney General Plisner, the prosecution refused to provide details about the government's immunity deal with Jane Doe 4, and the defense was not allowed to cross-examine DAG Plisner regarding the specifics of this deal. (Vol. II, 167, 175; Vol. VI, 111.) However, this was just one avenue of impeachment that should have been available to the defense. There are numerous other avenues which have been discovered from within this latest discovery that the defense should have been able to explore and develop, and which it was categorically denied knowledge or investigation of.

Thus, Mr. Garcia was denied his substantial preliminary hearing right to cross-examine the witnesses presented by the government against him because important

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[27] Agent Holmes showed Jane Doe 4 pornographic videos that showed the faces of individual women, and asked her if she could identify any of them. (Vol. V, 43–44.) Jane Doe 4 could not identify any of the women as being underage; however, she stated that she *thought* the female, referred to as Confidential Victim (CV) 58-7, was under 18. (Vol. V, 45–46, 130.) Agents then searched for that name, got a photograph and birthdate from a visa application, and Holmes testified as to his "lay opinion" that the person in the video was the same as the photograph, and 2) that information on the application showed that CV 58-7 was under 18. Neither Stover nor Holmes spoke with CV 58-7. (Vol. V, 47:1–15.) In fact, no one from any agency spoke to her. (*Ibid.*) Instead, agents acquired a photograph from the visa application. (Vol. V, 47:14–18.) On cross-examination by Mr. Garcia's counsel, Agent Holmes admitted that nothing else was done to verify that CV 58-7 was, in fact, the same person as in the video, and no attempt was made to locate or interview her. (Vol. III, 162–163.) Thus, Jane Doe 4's word alone was sufficient and the only evidence used by the government to charge Mr. Garcia with child pornography.

impeachment and exculpatory evidence was deliberately withheld from the defense. Denial of this substantial right requires dismissal of the Information.

### 3. THE PROSECUTION'S MISCONDUCT IMPLICATES MR. GARCIA'S RIGHT TO COUNSEL

A criminal defendant has both a constitutional and statutory right to the assistance of counsel at the preliminary hearing. (U.S. Const., 6th Amend.; Cal. Const., art. 1, § 15; Pen. Code, §§ 859, 860, 987; see also *Coleman v. Alabama* (1969) 399 U.S. 1, 9–10 (*Coleman*); *Hale v. Superior Court* (1975) 15 Cal.3d 221, 225.) Defense counsel's skills "may expose fatal weaknesses" in the prosecution which "may lead the magistrate to refuse to bind the accused over." (*Coleman, supra*, 399 U.S. at p. 9.) Thus, a magistrate's rulings at a preliminary hearing that prevent counsel from effectively defending his client can violate due process. (See *Little v. Superior Court* (1980) 110 Cal.App.3d 667.) Therefore, when a defendant has been effectively denied counsel at a preliminary hearing, prejudice is presumed, and the ensuing commitment is illegal. (*Bogart, supra*, 60 Cal.2d at p. 440.)

As set forth above, the government's deliberate actions to suppress, alter, and omit crucial exculpatory and impeachment evidence denied Mr. Garcia his specific substantial rights of presenting evidence in his own defense and cross-examining witnesses. However, that is not where the fallout from the government's egregious actions stopped. Indeed, the level of suppression in this case is serious enough that it also implicates Mr. Garcia's right to counsel.

When a defendant, as here, has been denied discovery to a point where defense counsel is unable to fully perform his duties, including the duty to expose fatal weaknesses in the prosecution's case through presentation of defense evidence and cross-examination of witnesses, this can be considered an effective denial of the right to counsel. Because the government's actions were so egregious in this case and because it actively suppressed and altered evidence to paint an entirely false narrative of this case, Mr. Garcia's due process rights, including his right to counsel is implicated here. Thus,

Mr. Garcia has not legally been committed by a magistrate and is entitled to relief under a common law motion to dismiss, as well as Penal Code section 995. Because Mr. Garcia was denied this substantial right, the Information should be dismissed.

## D. THE GOVERNMENT'S EGREGIOUS ACTIONS HAVE DEPRIVED MR. GARCIA OF HIS RIGHT TO A SPEEDY TRIAL AND BAIL

The right to a speedy trial is a "fundamental right granted to the accused and . . . the policy of the law since the time of the promulgation of Magna Charta and the Habeas Corpus Act." (*Harris v. Municipal Court* (1930) 209 Cal. 55, 60–61.) The function of this vital constitutional provision is "to protect those accused of crime against possible delay, caused either by willful oppression, or the neglect of the state or its officers." (*In re Begerow* (1901) 133 Cal. 349, 354–355; *People v. Wilson* (1963) 60 Cal. 2d 139, 148.) Thus, the speedy trial "guarantee is an important safeguard to prevent undue and oppressive incarceration prior to trial, to minimize anxiety and concern accompanying public accusation and to limit the possibilities that long delay will impair the ability of an accused to defend himself." (*United States v. Ewell* (1966) 383 U.S. 116, 120.)

Both the state[28] and federal Constitutions guarantee criminal defendants the right to a speedy trial. (U.S. Const. amend. VI.; Cal. Const., art. I, § 15, cl. 1; *Klopfer v. North Carolina* (1967) 386 U.S. 213, 222–223.) In determining whether or not a delay violates a defendant's Sixth Amendment right, courts are directed to look at four factors: (1) whether the delay before trial is uncommonly long; (2) whether the government or the criminal defendant is more to blame for the delay; (3) whether the defendant asserted her right to a speedy trial; and (4) whether the defendant has suffered prejudice as a result of the delay. (See *Doggett v. United States* (1992) 505 U.S. 647, 651; *Barker v. Wingo*

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[28] Unlike the federal constitution, "[u]nder the state Constitution, the filing of a felony complaint is sufficient to trigger the protection of the speedy trial right." (*People v. Martinez* (2000) 22 Cal.4th 750 (*Martinez*), noting *People v. Hill* (1984) 37 Cal.3d 491, 497, fn. 3; *People v. Hannon* (1977) 19 Cal.3d 588, 607–608.) "Thus, a defendant charged with a felony may predicate a claimed speedy trial violation on delay occurring after the filing of the complaint and before the defendant was held to answer to the charge in superior court." (*Martinez,* at p. 766.)

(1972) 407 U.S. 514, 530.) As a threshold matter, a defendant must show that there has been a delay in excess of that which is considered customary. (See *Doggett, supra*, 505 U.S. at p. 652.) Once a defendant has made that showing, the court must balance the four factors described above to determine whether or not the Sixth Amendment has been violated. (*Ibid.*)

A similar calculus applies under Article I, Section 15 of the California Constitution's speedy trial guarantee. (See *People v. Martinez* (2000) 22 Cal.4th 750, 754; *Serna v. Superior Court* (1985) 40 Cal.3d 239, 249.) Indeed, the test is essentially the same as the due process test for pre-accusation delay; "regardless of whether defendant's claim is based on a due process analysis or a right to a speedy trial not defined by statute, i.e., any prejudice to the defendant resulting from the delay must be weighed against justification for the delay." (*Martinez, supra*, 22 Cal.4th at 767, quoting *Scherling v. Superior Court* (1978) 22 Cal.3d 493, 505; see *Barker v. Wingo, supra*, 407 U.S. 514, 531.) Even "slight prejudice" shifts the burden to the prosecution to establish justification. (*Scherling, supra*, 22 Cal.3d at 505.) "Even a minimal showing of prejudice may require dismissal if the proffered justification for delay is insubstantial." (*People v. Dunn-Gonzalez* (1996) 47 Cal.App.4th 899, 915.)

Courts have found that, in assessing the reason for the delay and which party is to blame, "different weights should be assigned to different reasons." (*United States v. Loud Hawk* (1986) 474 U.S. 302, 315.). Thus, "[w]hile a 'deliberate attempt to delay the trial in order to hamper the defense,' would be weighed heavily against the Government, delay from 'overcrowded courts' . . . would be weighed 'less heavily.'" (*Ibid.*) However, even "a more neutral reason such as negligence or overcrowded courts . . . nevertheless should be considered since the ultimate responsibility for such circumstances must rest with the government rather than with the defendant." (*Barker v. Wingo, supra*, 407 U.S. 514 at p. 531.)

A criminal "defendant has a due process right under the California Constitution and the United States Constitution to disclosure of prior to the preliminary hearing of

evidence that is both favorable and material, in that its disclosure creates a reasonable probability of a different outcome at the preliminary hearing." (*Bridgeforth v. Superior Court* (2013) 214 Cal.App.4th 1074, 1081.) This right "is independent of, and thus not impaired or affected by the criminal discovery statutes." (*Ibid.*) Furthermore, as "[l]aw enforcement officers," prosecutors "have the obligation to convict the guilty and to make sure they do not convict the innocent. They must be dedicated to making the criminal trial a procedure for the ascertainment of the true facts surrounding the commission of the crime." (*United States v. Wade* (1967) 388 U.S. 218, 256.) Thus, the "prosecution is obligated to disclose favorable and material evidence 'whether the defendant makes a specific request [citation], a general request, or none at all.'" (*People v. Williams* (2013) 58 Cal.4th 197, 256, quoting *In re Brown* (1998) 17 Cal.4th 873, 879.)

Here, as discussed above and raised by Mr. Garcia in a multitude of discovery motions, the government has consistently failed to disclose relevant and necessary discovery to the defense. Indeed, the prosecution's lack of interest in fulfilling its basic ethical and legal duties was apparent very early on in this case, right after Mr. Garcia was first arrested in 2019. At that time, attorneys for the prosecution were sanctioned for their persistent failure to produce discovery needed for the preliminary hearing. Since then, the egregious and brazen pattern of suppressing evidence has simply persisted and worsened over time, leading to the instant situation where it is now apparent that Mr. Garcia has been detained for nearly three years based entirely on lies. The prosecution has persistently and stubbornly failed to produce relevant discovery including when asked informally at the inception of this case, when asked formally in a courtroom setting, and even when specifically ordered by the court. Thus, the resulting delay in the proceedings, including and up to the necessity of Mr. Garcia having to ask for yet another continuance over two years after his arrest and 31 days prior to the date set for trial, is all *entirely* attributable to the government's deliberate, active, and repeated misconduct in this case.

Moreover, in addition to forcing Mr. Garcia to remain detained while the government, time and again, engages in misconduct and suppresses evidence for years,

the government's actions also implicate and call into question the very basis for Mr. Garcia's detainment. Because the very same facts that were the basis for the magistrate's holding order, were also the basis for the magistrate's astronomical bail order in this case—the government's egregious actions also show that Mr. Garcia's very detainment, for almost three years, has been based on lies and fabricated evidence. Although the *only* appropriate remedy in this case is dismissal of the entire Information, it is important for the Court to note the extent to which Mr. Garcia has suffered due to the government's blatant and intentional misconduct. Indeed, in addition to suffering prolonged detention for nearly three years, it is clear that the very basis and premise for the detention were the government's manipulations and fabrications.

## IV.
## CONCLUSION

As set forth herein, the government's actions in this case were egregious, extreme, and shocking. The magnitude of the government's misconduct was so vast that it cannot easily even be quantified, and the cascading effect of consequences from these actions is immense. These include, *inter alia*, Mr. Garcia being forced to sit through a mockery of a preliminary hearing based entirely on lies and fiction created from whole cloth in the minds of investigators and prosecutors; being held to answer on these false and fabricated "facts"; and this Court and Mr. Garcia then going through a 995 Motion to Dismiss process based on lies. All the while, Mr. Garcia remained detained in pre-trial custody on an astronomical bail order based entirely on fictional facts and a false narrative cobbled together from disparate pieces of evidence manufactured to appear inculpatory, and presented by the prosecution as truth while they knew well that the presented evidence was false and while a mountain of exculpatory evidence was actively buried.

Simply put, this conduct is inexcusable and has no place in our system of justice. At the most fundamental level, Mr. Garcia's due process rights have been trampled and crushed beneath the boot of a prosecution hellbent on winning a conviction no matter the costs. The only remedy in the face of this extreme and shocking conduct is for this Court

to dismiss the Information. While this will not make Mr. Garcia whole and will never give him back the three years of his life he has lost due to the government's actions, it will ensure that the prosecution can no longer continue to act unethically and to the exclusion of all considerations, including its own duties and the pursuit of the truth, in its singular pursuit to convict Mr. Garcia. Thus, for the reasons set forth herein, this Court should grant the instant Motion and dismiss the Information.

Dated: March 15, 2022

WERKSMAN JACKSON & QUINN LLP

By: _____

Alan Jackson
Kelly C. Quinn
Caleb Mason
Mehrunisa Ranjha
Attorneys for Defendant
Naason Joaquin Garcia

# EXHIBIT A

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

DEPARTMENT NO. 102 HON. STEPHEN A. MARCUS, JUDGE

THE PEOPLE OF THE STATE OF CALIFORNIA,

PLAINTIFF,

VS.

01 NAASON GARCIA,
02 SUSANA OAXACA,

DEFENDANTS.

COPY

NO. BA484133

REPORTER'S TRANSCRIPT OF 995 MOTION

OCTOBER 21, 2020

APPEARANCES:

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BY: CALEB MASON, ESQUIRE
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FOR DEFENDANT 03:
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PRIVATELY RETAINED COUNSEL
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18411 CRENSHAW BOULEVARD, SUITE 120
TORRANCE, CALIFORNIA 90504-5077

REPORTED BY: ELIZABETH WATSON, CSR 9536
OFFICIAL COURT REPORTER

| | |
|---|---|
| CASE NUMBER: | BA484133 |
| CASE NAME: | PEOPLE VS. NAASON GARCIA -01<br>SUSANA OAXACA -03 |
| LOS ANGELES, CALIFORNIA | WEDNESDAY, OCTOBER 21, 2020 |
| DEPARTMENT 102 | HON. STEPHEN A. MARCUS, JUDGE |
| REPORTER: | ELIZABETH WATSON, CSR NO. 9536 |
| TIME: | 9:00 A.M. |

APPEARANCES:

DEFENDANT, NAASON GARCIA, PRESENT WITH COUNSEL, ALAN JACKSON AND CALEB MASON, ESQUIRES; DEFENDANT, SUSANA OAXACA, NOT BEING PRESENT, WAS REPRESENTED BY COUNSEL, PATRICK CAREY, ESQUIRE; JEFFREY SEGAL AND AMANDA PLISNER, DEPUTIES ATTORNEY GENERAL, REPRESENTING THE PEOPLE OF THE STATE OF CALIFORNIA.

(GIOCONDA AVILÉS AND JORGE VILLAGRA, CERTIFIED SPANISH LANGUAGE INTERPRETERS, INTERPRETING FOR THE DEFENDANT.)

THE COURT: WE ARE ON THE RECORD. THIS IS THE MATTER OF PEOPLE VS. NAASON GARCIA AND ALSO SUSAN OAXACA.

CAN I HAVE ALL COUNSEL ANNOUNCE THEIR APPEARANCES IN THIS MATTER. THE DEFENDANT IS PRESENT IN CUSTODY WITH HIS ATTORNEY.

MR. JACKSON: GOOD MORNING, YOUR HONOR. ALAN

THEN ASKED, "WHERE IS THAT IN YOUR REPORT?" HE CONSULTED HIS NOTES, AND MR. SEGAL WAS THERE, HE HEARD THIS, AND VERY CLEARLY HE SAID, QUOTE, "ACTUALLY WHAT SHE SAID WAS, SHE SAID SHE ENTERED THE ROOM, HE COMPLIMENTED HER, HE GRABBED HER AND KISSED HER, AND THEN PUT HER ON TO THE GROUND AND HAD SEXUAL INTERCOURSE WITH HER." IT'S A VERY DIFFERENT STATEMENT THAN HE SWUNG HER TO THE GROUND, JUMPED ON TOP AND RAPED HER.

I JUST WANT THE COURT TO UNDERSTAND THAT THESE STATEMENTS, THIS HYPERBOLE THE ATTORNEY GENERAL SEEMS TO BE TAKING LIBERTIES WITH SIMPLY IS NOT BORNE OUT BY THE FACTS. I'LL LEAVE IT AT THAT. I WANT TO MAKE SURE THE COURT UNDERSTANDS THAT THE FACTS ARE WHAT WAS PRESENTED IN EVIDENCE, AND NOT WHAT WAS ARGUED BY THE DEPUTY ATTORNEY GENERAL.

THE COURT: THERE'S A LOT OF FACTS. I HOPE I GET THEM RIGHT, BUT ANYWAY --

MR. JACKSON: THANK YOU.

THE COURT: FIRST OF ALL, I DID WANT TO SAY I WANT TO COMPLIMENT THE LAWYERS FOR WELL WRITTEN POINTS AND AUTHORITIES IN SUPPORT OF THEIR RESPECTIVE POSITIONS. I WILL HAVE TO SAY, THE DEFENSE WAS A LITTLE BIT TOUGH THERE IN WHAT THEY SAID, THINGS LIKE -- I DON'T KNOW. THEY MADE SOME SORT OF SNARKY COMMENTS I GUESS. BUT, ANYWAY, THAT'S OKAY. BUT THEY WERE VERY GOOD, AND THEY WERE ACTUALLY BRILLIANT.

I ALSO WANT TO COMPLIMENT BOTH SIDES FOR THE ORAL ARGUMENTS. THEY WERE VERY HELPFUL TO THE COURT.

I WANT TO MAKE THE FOLLOWING EXPRESSIONS OF WHAT A COURT IS SUPPOSED TO DO IN A 995 MOTION (READING:)

THE STANDARD IS REASONABLE PROBABLE CAUSE, WHICH MEANS SUCH A STATE OF FACTS AS WOULD LEAD A MAN OF ORDINARY CAUTION OR PRUDENCE TO BELIEVE AND CONSCIENTIOUSLY ENTERTAIN A STRONG SUSPICION OF THE GUILT OF THE ACCUSED.

WHEN A SUPERIOR COURT REVIEWS A DECISION OF A MAGISTRATE UNDER SECTION 995 OF THE PENAL CODE, IT MAY NOT SUBSTITUTE ITS JUDGMENT AS TO THE WEIGHT OF THE EVIDENCE FOR THAT OF THE COMMITTING MAGISTRATE OR JUDGE THE CREDIBILITY OF WITNESSES.

***PEOPLE VS. MASSENGALE***, M-A-S-S-E-N-G-A-L-E, AND THAT IS 261 CAL.APP.2D 758.

(READING:)

EVERY LEGITIMATE INFERENCE MUST BE DRAWN IN FAVOR OF THE INFORMATION IN A SECTION 995 REVIEW, AND IF THERE IS SOME EVIDENCE IN SUPPORT OF THE INFORMATION, THE COURT WILL NOT INQUIRE INTO THE SUFFICIENCY THEREOF.

***PEOPLE VS. BLOCK***.

(READING:)

FINALLY, IT IS WELL ESTABLISHED THAT A 995 MOTION DOES NOT LIE TO CONTEST EVIDENTIARY RULINGS BY THE MAGISTRATE, UNLESS

THE DEFENSE CAN SHOW THE COMMITMENT WAS BASED ENTIRELY ON INCOMPETENT EVIDENCE.

NOW I'M GOING TO MAKE SOME GENERAL COMMENTS, AND THIS SORT OF GOES TO THE DISCUSSION -- I MEAN, IT'S THE UNDERLYING THEME OF THIS WHOLE CASE, WHAT'S SORT OF GOING ON. I BELIEVE THAT DESPITE THE PROTESTATIONS OF THE DEFENSE, THAT THERE ARE NO FACTS THAT SHOW A SUBSTANTIAL AND SUSTAINED RESTRICTION ON JANE DOE 1, AND FURTHER, WITHIN THEIR POINTS AND AUTHORITIES, THEY DIDN'T ARGUE THAT SO MUCH TODAY, BUT THAT THERE IS NO DURESS, I BELIEVE THAT THE OVERWHELMING EVIDENCE SHOWS THE DEFENDANTS USED THEIR POSITION IN THE CHURCH TO PROGRAM AND COERCIVELY PERSUADE THESE YOUNG GIRLS TO ENGAGE IN SEXUAL ACTIVITY.

THEY USED THE FACT THAT THE GIRLS WERE MEMBERS OF THE CHURCH THEIR ENTIRE LIFE, AND THEIR FAMILIES WERE MEMBERS OF THE CHURCH -- AND THIS IS, I GUESS, LLDM -- THEY BELIEVED THAT MR. GARCIA WAS THE APOSTLE OF GOD AND THAT THEY HAD TO OBEY HIS WISHES; TO NOT OBEY HIS WISHES WAS GOING AGAINST THE WISHES OF GOD. THIS WAS A CONTROLLED ENVIRONMENT SOMEWHAT AKIN TO RELIGIOUS CULTS.

JANE DOE 1 AND THE OTHER JANE DOES' LIBERTY AND THE LIBERTY OF THE OTHER GIRLS WAS RESTRICTED BECAUSE THEY WOULD LOSE THEIR ENTIRE WAY OF LIFE WHICH WAS BUILT ON A FOUNDATION OF RELIGION. THEY COULD NO MORE SAY "NO" TO ANY OF GARCIA'S REQUESTS THAN THEY COULD TO EATING BREAKFAST OR SOMETHING, OR GOING TO SLEEP.

THIS WORLD OF RELIGION WAS ALL THEY KNEW. THEY WERE SUSCEPTIBLE TO SUGGESTIONS AND MANIPULATION BECAUSE THEIR WHOLE LIFE REVOLVED AROUND THE CHURCH. THEIR FAMILY LIFE REVOLVED AROUND THE CHURCH. THEY WERE, IN A WORD, INDOCTRINATED.

WHAT LEAPS OUT FROM THE FACTS IN THIS CASE IS THE FACT THAT THE DEFENDANT DID RESTRICT THE PERSONAL LIBERTIES OF THE GIRLS INVOLVED. WHY ELSE WOULD TEENAGE GIRLS DANCE HALF NAKED FOR A 50-YEAR-OLD MAN OR ENGAGE IN SEXUAL ACTIVITIES, LIKE LICKING WHIP CREAM OFF THEIR NAKED BODIES, AGAIN, FOR THE PRURIENT INTEREST OF A 50-YEAR-OLD MAN, OR SEND THIS INDIVIDUAL, OR HAVE SENT, PHOTOS ABOUT THESE ACTIVITIES?

THE OBVIOUS INFERENCE IS THEY DID NOT DO THESE THINGS VOLUNTARILY OR CONSENT TO THESE ACTIVITIES. THEY WERE FORCED TO DO THIS BECAUSE THEY WERE MANIPULATED TO BELIEVE THEY MUST PERFORM THIS SEXUAL ACTIVITY OR LOSE THEIR CONNECTION TO THEIR CHURCH, WHICH IS THE MOST IMPORTANT ASPECT OF THEIR LIFE AND THAT OF THEIR FAMILY.

WHILE IT IS TRUE, THEIR PERSONAL MOBILITY WAS NOT RESTRICTED PHYSICALLY, IT WAS RESTRICTED MENTALLY. THESE GIRLS COULD NOT LEAVE THESE LOCATIONS WHERE THEY ENGAGED IN SEXUAL ACTIVITY BECAUSE THEY WERE ADOLESCENTS AND SUBJECT TO THE PRESSURES OF THEIR FAMILY, THEIR CHURCH, AND THE LEADER OF THE CHURCH, "THE APOSTLE." THEY HAD NO ABILITY TO RESIST. AND THESE INDIVIDUALS INVOLVED IN THIS SCHEME, OCAMPO, OAXACA, AND GARCIA EXPLOITED AND MANIPULATED THESE YOUNG GIRLS USING

RELIGION AS INVISIBLE HANDCUFFS.

IT IS CLEAR TO THE COURT THAT THERE WAS SUSTAINED AND SUBSTANTIAL RESTRICTION ON THEIR PERSONAL LIBERTY OF JANE DOE 1 AND ALL OF THE GIRLS INVOLVED. AND AGAIN, THIS IS A CRAZY QUESTION, BUT WHY ELSE WOULD THESE YOUNG GIRLS DEGRADE AND DISGRACE THEMSELVES? THERE IS NO OTHER RATIONAL EXPLANATION FOR THE BEHAVIOR OF THE GIRLS.

I ALSO AM GOING TO BE ADOPTING, AND I'LL PROBABLY MENTION IT LATER, BUT I THINK A NUMBER OF THE THINGS THE PROSECUTOR SAID TODAY ON THIS SUBJECT IS VERY APPROPRIATE, THAT THEY SHOWED UP AT THESE LOCATIONS, THEY LET PEOPLE TAKE THEIR PHONES, THEY WERE PART OF THIS GROUP. I MEAN, WHAT DID THEY GET OUT OF THE GROUP? I WILL MENTION THAT THEY SORT OF GOT MONEY AND PROBABLY SOME RECOGNITION, BUT THEY REALLY DIDN'T GET MUCH OUT OF THE GROUP, AND THAT IS FURTHER EVIDENCE THAT THEIR ACTIVITY WAS RESTRICTED.

AND, ALSO, IN EVALUATING DURESS AND RESTRICTION, YOU HAVE TO LOOK AT THE TOTAL CIRCUMSTANCES. THAT'S WHAT THE LAW TELLS YOU TO DO. SO I HAVE TO LOOK AT THE FACT THAT THESE ARE YOUNG WOMEN, MOSTLY MINORS, AND THEY HAD A RELATIONSHIP WITH THIS DEFENDANT SUCH THAT HE WAS AS CLOSE AS YOU CAN GET TO GOD, AND, THEREFORE, THEIR OBLIGATION IN LIFE, BASED ON THEIR TRAINING AND EXPERIENCE, WAS TO SERVE THIS PERSON WHO WAS CLOSE TO GOD. THEIR ENTIRE LIFE'S EXPERIENCE TAUGHT THEM THAT THEY WERE TO OBEY THE LEADER OF THE CHURCH WHICH THEY HAD BEEN BORNE INTO.

AND THEIR ACTIONS MEET THE TEST OF A REASONABLE PERSON OF ORDINARY SUSCEPTIBILITIES. AND ANY MINOR GIRL, IN THE FACE OF SUCH AWESOME RELIGIOUS AUTHORITY, WOULD HAVE PERFORMED THE ACTS AND DONE THE THINGS THAT WERE DONE HERE IN THE SAME MANNER.

THAT IS JUST A GENERAL STATEMENT FROM THIS COURT FINDING THAT THERE WAS DURESS, THERE WAS RESTRICTION OF PERSONAL LIBERTY.

LET'S TALK ABOUT HUMAN TRAFFICKING. FIRST OF ALL, I FOUND IT INTERESTING IN THE DEFENSE PAPERS THAT THEY CLAIMED THERE WERE NO HUMAN TRAFFICKING CASES IN STATE COURT. I MYSELF HAVE DONE THREE OF THEM, SO I DON'T THINK THEY'RE AS LIMITED AS YOU THINK, OR UNUSUAL.

MY RESPONSE TO THE CLAIMS ABOUT HUMAN TRAFFICKING IS SIMPLY THERE WAS SUFFICIENT EVIDENCE TO SHOW A VIOLATION OF PENAL CODE SECTION 266J, PROCURING A CHILD TO ENGAGE IN A LEWD ACT. CERTAINLY TOUCHING A CHILD'S BUTTOCKS OR HER VAGINAL AREA AND KISSING HER ON THE LIPS AND ALL THAT STUFF IS -- AND MOVING YOUR HAND IN HER VAGINAL AREA, IS CERTAINLY A LEWD ACT. AND THEN THE OTHER ONE I BELIEVE IS TAKING OFF CLOTHES AND TOUCHING EACH OTHER SEXUALLY. BOTH OF THESE ARE LEWD ACTS.

AND THEN THE OTHER ONE -- COUNT 11 IS HUMAN TRAFFICKING FOR PRODUCTION OF CHILD PORNOGRAPHY. I BELIEVE THIS, FOR EXAMPLE, INVOLVES OCAMPO, WHICH THERE IS AN AIDING AND ABETTING THEORY. SHE GRABBED JANE DOE 1, FORCED HER TO OPEN HER LEGS AND TOOK PHOTOGRAPHS. THERE'S JUST ALL KINDS OF EXAMPLES WHERE THIS FILMING AND

SUPERIOR COURT OF THE STATE OF CALIFORNIA

THE COUNTY OF LOS ANGELES

DEPARTMENT 102 HON. STEPHEN A. MARCUS, JUDGE

THE PEOPLE OF THE STATE OF CALIFORNIA,

PLAINTIFF,

VS. NO. BA484133

01 NAASON GARCIA,
02 SUSANA OAXACA,

DEFENDANTS.

STATE OF CALIFORNIA )
)
COUNTY OF LOS ANGELES )

I, ELIZABETH J. WATSON, OFFICIAL REPORTER OF THE SUPERIOR COURT OF THE STATE OF CALIFORNIA, FOR THE COUNTY OF LOS ANGELES, DO HEREBY CERTIFY THAT THE FOREGOING PAGES, 1 THROUGH 157, INCLUSIVE, COMPRISE A FULL, TRUE AND CORRECT TRANSCRIPT OF THE PROCEEDINGS HELD IN THE ABOVE-ENTITLED MATTER ON WEDNESDAY, OCTOBER 21, 2020.

THIS TRANSCRIPT COMPLIES WITH 237(A)(2) OF THE CODE OF CIVIL PROCEDURE.

DATED THIS 27TH DAY OF OCTOBER, 2020.

ELIZABETH J. WATSON, RPR
OFFICIAL REPORTER CSR 9536

# EXHIBIT B

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

DEPARTMENT 101 HON. RONALD S. COEN, JUDGE

COPY

THE PEOPLE OF THE STATE OF CALIFORNIA,

PLAINTIFF,

VS.

NAASON JOAQUIN GARCIA,
SUSANA MEDINA OAXACA,

DEFENDANTS.

NO. BA484133-01, -03

REPORTER'S TRANSCRIPT OF PROCEEDINGS

OCTOBER 16, 2020

APPEARANCES:

FOR THE PLAINTIFF:
OFFICE OF THE ATTORNEY GENERAL
CALIFORNIA DEPARTMENT OF JUSTICE
BY: DIANA L. CALLAGHAN, DEPUTY
AMANDA G. PLISNER, DEPUTY
JEFFREY SEGAL, DEPUTY
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CALEB E. MASON, ESQ.
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TORRANCE, CALIFORNIA 90504

ANABELE MONTGOMERY, CSR #13231
OFFICIAL REPORTER

| | |
|---|---|
| CASE NUMBER: | BA484133-01, -03 |
| CASE NAME: | PEOPLE VS. NAASON JOAQUIN GARCIA, SUSANA MEDINA OAXACA |
| LOS ANGELES, CA | FRIDAY, OCTOBER 16, 2020 |
| DEPARTMENT 101 | HON. RONALD S. COEN, JUDGE |
| REPORTER: | ANABELE MONTGOMERY, CSR NO. 13231 |
| TIME: | A.M. SESSION |

APPEARANCES: DEFENDANT NAASON JOAQUIN GARCIA, PRESENT WITH COUNSEL, ALAN J. JACKSON AND CALEB E. MASON, ATTORNEYS AT LAW; DEFENDANT SUSANA MEDINA OAXACA, NOT PRESENT, REPRESENTED BY COUNSEL, J. PATRICK CAREY, ATTORNEY AT LAW; DIANA L. CALLAGHAN, AMANDA G. PLISNER, AND JEFFREY SEGAL, DEPUTIES ATTORNEY GENERAL, REPRESENTING THE PEOPLE OF THE STATE OF CALIFORNIA.

-OOO-

(ALEXANDER OLSON, INTERPRETING FOR DEFENDANT NAASON JOAQUIN GARCIA FROM ENGLISH INTO SPANISH AND SPANISH INTO ENGLISH.)

THE COURT: ALL RIGHT. WE'RE ON THE RECORD IN PEOPLE VS. GARCIA AND OAXACA. DEFENDANTS ARE PRESENT WITH THE EXCEPTION OF DEFENDANT OAXACA, WHO IS APPEARING 977(B) THROUGH COUNSEL; SHE SIGNED THE PROPER DOCUMENT. ALL COUNSEL ARE PRESENT. MR. JACKSON AND MR. MASON FOR

(THE FOLLOWING PROCEEDINGS WERE HELD IN OPEN COURT:)

THE COURT: WE'RE BACK ON THE RECORD, PEOPLE VS. OAXACA AND GARCIA. DEFENDANTS -- WITH THE EXCEPTION OF DEFENDANT OAXACA, DEFENDANT GARCIA IS PRESENT. ALL COUNSEL ARE PRESENT. THE SPANISH INTERPRETERS, WHOSE OATHS ARE ON FILE, LIKEWISE ARE PRESENT.

I'VE HAD AN IN-CAMERA HEARING IN WHICH I'VE SEALED THE TRANSCRIPT. BASED ON WHAT I HEARD IN CAMERA, I HAVE MADE THE FOLLOWING ORDERS:

THE PEOPLE ARE ORDERED TO IMMEDIATELY DISCLOSE TO DEFENSE COUNSEL THE NAMES OF ALL WITNESSES THEY INTEND TO CALL. I'M ORDERING ALL REPORTS TO BE UNREDACTED WITH THE EXCEPTION OF THE ADDRESSES OF THE WITNESSES; I'M ORDERING THAT THE ADDRESSES NOT BE DISCLOSED. I'M ORDERING THAT THE WITNESSES BE MADE AVAILABLE FOR INTERVIEW BY THE DEFENSE AT A CONVENIENT TIME AND PLACE. AND WHEN I SAY "CONVENIENT," THAT'S WITH THE PEOPLE. BASED ON CASE LAW THAT I'VE ALREADY CITED, IF A WITNESS OBJECTS TO BEING INTERVIEWED, THAT MUST BE IN WRITING AND FILED.

IF A WITNESS REQUESTS, THE PEOPLE MAY BE PRESENT AT ANY INTERVIEW BY THE DEFENSE AND THAT -- THE CASE I CITED FOR THAT IS PEOPLE V. VALDEZ, V-A-L-D-E-Z, AT 55 CAL.4TH 82.

THERE'S A PROTECTIVE ORDER AS TO THIS UNDER PENAL CODE SECTION 1054.2, AND I'M MAKING A FURTHER

PROTECTIVE -- STRIKE -- FURTHER PROTECTIVE ORDER THAT THIS INFORMATION, THE NAMES OF THE WITNESSES, ARE NOT TO BE -- ALONG WITH ANYTHING THAT HAS BEEN PREVIOUSLY REDACTED, NOT TO BE SHARED WITH ANYONE OTHER THAN THE DEFENSE TEAM, OTHER THAN THE DEFENDANT, DEFENSE INVESTIGATOR. ANYONE ELSE THAT THE DEFENSE CHOOSES TO SHARE, THERE SHOULD BE A LIST OF NAMES SUPPLIED TO THE PEOPLE IN CASE THERE'S ANY MISCONDUCT. THAT'S THE EXTENT OF MY ORDER. EVERYTHING ELSE, I'VE ALREADY RULED UPON.

COUNSEL IS GOING TO BE HERE ON THE 21ST OF OCTOBER IN 102. AFTER DEPARTMENT 102, COUNSEL ARE DIRECTED TO COME TO THIS COURT. IN ANY EVENT --

MR. MASON, YOU PULLED YOUR SHIRT LIKE YOU WANT TO SAY SOMETHING.

MR. MASON: THANK YOU, YOUR HONOR. I DO, VERY BRIEFLY.

THERE'S ONE ADDITIONAL ISSUE, AND THAT HAD TO DO WITH THE ELECTRONIC DEVICES. THE PEOPLE ARE IN POSSESSION OF --

THE COURT: YES.

MR. MASON: -- THE PHONE AND THE COMPUTER BELONGING TO --

THE COURT: I'M SO SORRY. THANK YOU FOR REMINDING ME, AND THAT WAS MY FAULT, NOTHING OF COUNSEL. I AM NOT ALLOWING UNRESTRICTED ACCESS TO THE ITEMS IN EVIDENCE, ONLY THOSE ITEMS THAT ARE RELEVANT TO THIS CASE. IF THERE IS A DISPUTE, THAT IS TO BE BROUGHT TO ME.

MR. MASON: YOUR HONOR, I BELIEVE THERE IS A

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

DEPARTMENT 101 HON. RONALD S. COEN, JUDGE

THE PEOPLE OF THE STATE OF CALIFORNIA,

PLAINTIFF,

VS.

NAASON JOAQUIN GARCIA,
SUSANA MEDINA OAXACA,

DEFENDANTS.

NO. BA484133-01, -03

REPORTER'S CERTIFICATE

I, ANABELE MONTGOMERY, CSR, OFFICIAL REPORTER OF THE SUPERIOR COURT OF THE STATE OF CALIFORNIA, FOR THE COUNTY OF LOS ANGELES, DO HEREBY CERTIFY THAT THE FOREGOING PAGES, 1 THROUGH 58, INCLUSIVE, COMPRISE A FULL, TRUE AND CORRECT TRANSCRIPT OF THE PROCEEDINGS HELD IN THE ABOVE-ENTITLED MATTER ON OCTOBER 16, 2020.

DATED THIS 28TH DAY OF OCTOBER, 2020.

ANABELE MONTGOMERY, CSR NO. 13231
OFFICIAL REPORTER

# EXHIBIT C

**Mehrunisa Ranjha**

| | |
|---|---|
| **From:** | Diana Callaghan <Diana.Callaghan@doj.ca.gov> |
| **Sent:** | Thursday, November 12, 2020 12:33 PM |
| **To:** | Caleb Mason; rgreen@unitedstatesforensics.com |
| **Cc:** | Amanda Plisner; Steven Stover; Alan Jackson |
| **Subject:** | RE: Portable Cases [People v. Garcia] |

Caleb, I have made a list of everything that Rick is asking for with my responses in red. I am unclear on what you are referring to when you ask for "custodian and device origination information." All information about the devices is contained in the reports with the exception of the chain of custody logs. Is that what you are seeking?

As for the rest of the devices, with the exception of the Jane Doe devices you have been given either full forensic copies of the item or full forensic copies minus the attachments unless we could not image the device at all or it was encrypted. I realize that you want the attachments minus the CP however we are under no obligation to provide those to you. We have complied with the court's previous order to make the attachments available to you while providing that which we are able to provide.

Contained within the items you have received is the metadata, text messages, emails, and whatsapp messages that you have been requesting. The only thing that is missing is the images contained on the device. Everything else remained intact.

As for the Jane Doe devices the court was clear that you would not be receiving full forensic copies of those devices but would only receive the relevant or exculpatory parts of the devices which you have received.

As to your last paragraph we were speaking specifically about the Ocampo devices. I made the representation that you had received everything but the images. That is in fact the case. I have spoken to TFO Stover and he indicated to me that he sent Rick complete forensic copies of the Ocampo devices minus the images. In the meantime, he has agreed to remove the few hundred CP images and provide the rest which is something we are not going to do for the rest of the devices.

Ultimately, you have everything that the court ordered us to provide to you and are getting even more. I am baffled at why you keep insisting on getting the Jane Doe devices when the court has made it clear that you will not be getting them.

In any event, here is the list:

018-001 Ocampo iPhone: We have the Case.mfdb, Need Portable Case with CP Redacted. You will be receiving

018-002 Ocampo iPhone: We have the Case.mfdb, Need Portable Case with CP Redacted. You will be receiving

018-003 Samsung SCH-R350: We have the Physical Image. Can you provide Custodian and Device Origination information?

098-002 iPhone "Consent Castellanos": We have only a partial Axiom production. We request the Image Files along Custodian and Device Origination information. Jane Doe Device No – Court order

086-001 Unknown Origin, Text Message Report in HTML format: We request the Image Files along Custodian and Device Origination information. Jane Doe Device No – Court order

085-003 Unknown Origin, Text Message Report in HTML format: We request the Image Files along Custodian and Device Origination information. ** Appears to be from a Physical Acquisition of an Android device. Jane Doe Device No – court order

085-001 Xiaomi Redmi 5 Plus, WhatsApp Message Report in HTML format: We request the Image Files along Custodian and Device Origination information. Jane Doe Device No -- court order

037-001 Unknown iPhone: We have only a partial Axiom production. We request the Image Files along Custodian and Device Origination information. Jane Doe Device No – court order

020-002 Unknown Mac: We have only a partial Axiom production. We request the Image Files along Custodian and Device Origination information. Jane Doe Device No – court order

020-001 Unknown PC: We have only a partial Axiom production. We request the Image Files along Custodian and Device Origination information. Jane Doe Device No – court order

009-002 Unknown iPhone from Unknow Source, Encrypted Backup. We have only a partial Axiom production. We request the Image Files along Custodian and Device Origination Information. Jane Doe Device NO – Court order

016-001 iPad: Purportedly contains CP. If that has been determined not to be the case then please provide image files. If CP is a concern we already have the Case.mfdb, we request an Axiom portable case with CP redacted but other artifacts attached. Garcia device No – Court order

016-002 iPhone: Purportedly contains CP. If that has been determined not to be the case then please provide image files. If CP is a concern we already have the Case.mfdb, we request an Axiom portable case with CP redacted but other artifacts attached. Garcia Device No – Contains CP

018-004 iPhone: No data provided. We request the Image Files along Custodian and Device Origination information. Received

018-006 iPhone: No data provided. We request the Image Files along Custodian and Device Origination information. Received

018-011 iPhone: No data provided. We request the Image Files along Custodian and Device Origination information. Could not be imaged

018-030 Nokia: My notes lists this as an unsupported model. If that has changed please provide data. Could Not be imaged

017-003C Coolpad Cell Phone: My notes list this as an unsupported model. If that has changed please provide data. Could not be imaged

018-007 iPad A1430: My notes list as not acquired due to password. If that has changed please provide data. Received

018-009 iPad A1432: My notes list as not acquired due to password. If that has changed please provide data. Unchanged as far as I know.

016-015 Apple Laptop: My notes list as not acquired due to password. If that has changed please provide data. Could not be imaged

016-005 iPad: No data provided. We request the Image Files along Custodian and Device Origination information. Could not be imaged

016-006 Kingston Flash Drive: My notes list as not acquired due to password. If that has changed please provide data. Encrypted

016-007 Kingston Flash Drive: No data provided. We request the Image Files along Custodian and Device Origination information. Encrypted

016-008 Kingston Flash Drive: No data provided. We request the Image Files along Custodian and Device Origination information. Encrypted

018-002 Direct TV Box: My notes list this as an unsupported model. If that has changed please provide data. Item was returned

018-003 Spectrum TV Box: My notes list this as an unsupported model. If that has changed please provide data. Item was returned

018-039 Apple TV: My notes list this as an unsupported model. If that has changed please provide data. Item was returned

018-032 250Gb External Drive: Axiom Case.mfdb provided. We request the Image Files along Custodian and Device Origination information. Garcia Device No – Contains CP

017-018-C Pink Flash Drive: No data provided. We request the Image Files along Custodian and Device Origination information. Could not be imaged files damaged

017-014-C SanDisk SD: No data provided. We request the Image Files along Custodian and Device Origination information. You have this

017-009-C Pink Flash Drive: No data provided. We request the Image Files along Custodian and Device Origination information. This item could not be imaged as the files were damaged.

017-019-C Pink Flash Drive: No data provided. We request the Image Files along Custodian and Device Origination information. Could not be imaged files were damaged

020-003 DVD: No data provided. We request the Image Files along Custodian and Device Origination information. Jane Doe Device No – Court order

020-001 Unknown Computer System: No data provided. We request the Image Files along Custodian and Device Origination information. Jane Doe Device No – Court order

020-002 Unknown Computer System: No data provided. We request the Image Files along Custodian and Device Origination information. Jane Doe Device No – Court order

037-001 Unknown Cell Phone: No data provided. We request the Image Files along Custodian and Device Origination information. Jane Doe Device No – Court order

**From:** Caleb Mason <cmason@werksmanJackson.com>
**Sent:** Tuesday, November 10, 2020 3:44 PM
**To:** Diana Callaghan <Diana.Callaghan@doj.ca.gov>; rgreen@unitedstatesforensics.com
**Cc:** Amanda Plisner <Amanda.Plisner@doj.ca.gov>; Steven Stover <Steven.Stover@doj.ca.gov>; Alan Jackson <ajackson@werksmanjackson.com>
**Subject:** RE: Portable Cases [People v. Garcia]

Thank you, Diana. Our position is that everything should be provided to us except CP images. As to those, and those alone, we must go to Commerce to view them. But as to the actual data that Rick is requesting, that needs to be provided to us. It's not CP, and it's not something we can "review" at all, let alone "review in Commerce." It needs to be provided in its full original format to our expert for analysis.

I don't know if you are familiar with the procedures of "reviewing" devices at the Commerce facility. What happens when we go there is that we are allowed into a small room, at which an agent sits at a computer. Alan and I sit at the far end of the room and cannot touch the computer. The agent will then click through photos and videos and we can look at them from a distance and make notes on paper about what we see. The last time we were there, the agents told us they had no index or labelling and weren't sure what exactly was on the device, but thought they could find "the good ones." As I told you previously, the agents didn't have any way to label or keep track of what images they were showing us, forcing me to write down a 34-digit string of numbers and letters for each image we saw.

The procedure is limited entirely to looking at photos or videos and taking notes on paper about what we saw. As to actual forensic analysis of data (including, e.g., metadata about when images were created, uploaded, transferred, etc.) we cannot undertake such analysis at the Commerce facility, nor could Mr. Green if he were sitting in the room. He needs to work on the full forensic copy of each device (with the CP images removed).

Additionally, many of the devices at issue contain thousands of emails and text messages. Not only is it physically impossible to "review" thousands of messages by sitting in a room while an agent clicks through screens, that sort of "review" (simply looking at messages, whether on a screen or on paper) is not the type of analysis at issue in this case, as you well know because we've discussed it multiple times. Our forensic expert needs access to the full forensic copies of each device to be able to, inter alia, analyze messages, along with images, videos, and other files, to determine when and where they were created, when sent, when viewed, etc. We have discussed these issues many times, so Alan and I are dumbfounded that you would still seek, at this date and after all those discussions, to prevent us from obtaining this data.

I asked yesterday if you would be willing to get on a call with us and both forensics experts. I reiterate that request. We can get on the phone at any time that's convenient for you. You told me yesterday in court that you were giving us "everything but the CP." If you are now not willing to do that, we're going to need to file another motion, because I think we will need resolution of concerns regarding the People's compliance with the Court's orders. We are talking here about metadata from the electronic devices, which we all understand is a critical issue in this case, which the People have withheld for over a year, and which I have heard the People repeatedly tell the defense and the Court over the past month they are now providing. Indeed, you and your colleagues have even gone so far as to state in court that the People *already* have provided it, which is unambiguously not true, as your email below confirms.

Most recently, you personally stood up in court on October 28 when I raised this issue, and said to Judge Coen, "Oh, we're providing all of that, it's just an issue of his expert talking to our expert." Yesterday in court, you first told me that you had "already produced everything last week," and then, when I conferred with Mr. Green and informed you that in fact Mr. Stover had withheld large amounts of non-CP information and data, you reiterated to me that your intent was to produce "everything but the CP." As you requested, I then asked Rick Green to email with Steve Stover so there would be no more ambiguity or confusion. Your email below appears to contradict what you told the Court and what you told me. I'd like an explanation of your change in position, and we'll plan on taking this issue to the Court if the People do not produce "everything but the CP" as we previously discussed.

Thanks,

Caleb

**Caleb Mason**
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**From:** Diana Callaghan <Diana.Callaghan@doj.ca.gov>
**Sent:** Tuesday, November 10, 2020 1:42 PM
**To:** rgreen@unitedstatesforensics.com
**Cc:** Amanda Plisner <Amanda.Plisner@doj.ca.gov>; Steven Stover <Steven.Stover@doj.ca.gov>; Caleb Mason <cmason@werksmanjackson.com>; Alan Jackson <ajackson@werksmanjackson.com>
**Subject:** Portable Cases

Mr. Green, your email was forwarded to me by TFO Stover. We will not be making any additional portable cases for the devices you have requested other than the Ocampo devices that you spoke to TFO Stover about yesterday. All of those devices have been available for your review in Commerce for over a year during regular business hours with appropriate notice. If you wish to review those items you can do so in Commerce. Thanks. Diana



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# EXHIBIT D

CASE NUMBER: BA484133
CASE NAME: PEOPLE VS. GARCIA, OAXACA
LOS ANGELES, CA FEBRUARY 10, 2021
DEPARTMENT 101 HON. RONALD S. COEN, JUDGE
REPORTER: BROOKE A. BRUBAKER, CSR NO. 9420
TIME: A.M. SESSION

APPEARANCES:

DEFENDANT NAASON J. GARCIA, (NOT PRESENT); COUNSEL, ALAN JACKSON, CALEB MASON, ATTORNEYS AT LAW; DEFENDANT OAXACA, (NOT PRESENT); COUNSEL, JOHN PATRICK CAREY, ATTORNEY AT LAW; PATRICIA FUSCO, AMANDA PLISNER, JEFF SIEGEL, DEPUTIES ATTORNEY GENERAL, REPRESENTING THE PEOPLE OF THE STATE OF CALIFORNIA.

THE COURT: ON THE RECORD. CALLING THE MATTER OF PEOPLE VS. GARCIA AND OAXACA.

DEFENDANT GARCIA IS PRESENT.

DEFENDANT OAXACA IS APPEARING 977(B).

ALL OTHER COUNSEL ARE PRESENT.

MR. JACKSON AND MASON, FOR DEFENDANT GARCIA.

MR., CAREY FOR DEFENDANT OAXACA.

MS. FUSCO, MS. GALLAGHER, MS. PLISNER, MR. SIEGEL.

DID I LEAVE ANYONE OUT, FOR THE PEOPLE?

MS. PLISNER: I DON'T BELIEVE SO, YOUR HONOR.

MS. FUSCO: NO, YOUR HONOR.

THE COURT: THE MATTER IS HERE FOR, AMONG OTHER THINGS -- OH, I AM SO SORRY.

THE SPANISH INTERPRETER'S OATH IS ON FILE, PRESENT FOR DEFENDANT GARCIA. IF I CAN HAVE THE IDENTIFYING INFORMATION OF THE INTERPRETER, PLEASE?

THE INTERPRETER: YES, YOUR HONOR.

PATRICIA PAREDES, P-A-R-E-D-E-S, CERTIFICATION NO. 301819, VERIFIED BY THE COURTS AND OATH IS ON FILE.

THE COURT: THANK YOU SO MUCH.

THE MATTER IS HERE FOR PRETRIAL, TRIAL SETTING, AS DAY 0-OF-60. IT'S ALSO A MOTION TO COMPEL AND DISCOVERY FILED BY THE DEFENDANT GARCIA. I'VE READ AND CONSIDERED THE MOTION, THE PEOPLE'S OPPOSITION, THE DEFENDANT'S REPLY. JUST FROM MY VIEW OF THE MOTION, I TAKE IT -- AND CORRECT ME IF I'M WRONG -- THAT, MR. MASON, YOU'RE GOING TO ARGUE THIS MATTER?

MR. MASON: YES, YOUR HONOR.

THE COURT: GO AHEAD. I'LL HEAR FROM YOU FURTHER, IF YOU WISH.

MR. MASON: THANK YOU, YOUR HONOR.

THE MOTION I THINK IS FAIRLY STRAIGHTFORWARD. I WOULD TELL THE COURT AT THE OUTSET THAT THE ONE ISSUE ON WHICH I THINK -- WE ALL THINK THE COURT MIGHT BENEFIT FROM SOME LIVE TESTIMONY -- IS THE TECHNICAL ISSUE WITH RESPECT TO THE STATUS OF WHAT WE ARE GENERALLY CALLING THE METADATA WITH RESPECT TO TEXT MESSAGES ON JANE DOE 4'S DEVICES. BUT THAT, OF COURSE,

APPLIES BROADLY TO ALL THE DEVICES.

I SEE THE PEOPLE HAVE BROUGHT MR. STOVER, AND I HAVE MR. GREEN, OUR FORENSIC ANALYST, WAITING ON THE PHONE, IF NEED BE. JUST TO LET THE COURT KNOW THAT IN CASE -- I DON'T THINK TO DECIDE THIS THAT'S ABSOLUTELY NECESSARY -- BUT I THINK THERE MAY BE SOME ADDITIONAL CONTEXT.

LET ME START WITH THAT ISSUE. I THINK THE REASON WHY I THINK THE COURT CAN DECIDE THIS PRETTY STRAIGHTFORWARDLY IS THAT THE FORENSIC EXAMINERS DO NOT DISAGREE. THEY BOTH SAY IN THEIR DECLARATIONS THAT -- IN FACT, BOTH OF THEM USED THE METAPHOR OF THE BUCKET. THAT WAS MR. STOVER'S METAPHOR. THE INFORMATION, THE RAW METADATA ABOUT SENT RECEIVED, TIME, ET CETERA, WITH RESPECT TO TEXT MESSAGES IS STORED IN THESE DEVICES IN WHAT MR. STOVER CALLED A BUCKET, AND LITTLE INTERMIXED, SO THAT THERE IS NO WAY TO PROVIDE THAT RAW DATA WITHOUT PROVIDING THE RAW DATA FOR ALL TEXT MESSAGES ON THE DEVICE. AND THIS WAS THE SUBJECT MATTER OF THE TELECONFERENCE. WE, THE DEFENSE, ORGANIZED THE CALL WITH BOTH EXAMINERS AND LAWYERS AND TALKED THIS THROUGH, AND THAT WAS THE GENESIS OF THE INCIDENT MOTION WITH RESPECT TO THAT ISSUE. AND THE TWO FORENSIC EXAMINERS AGREED ON THIS.

SO WE ASKED, "WELL, WHY CAN'T WE HAVE THAT IF IT IS NECESSARY FOR AUTHENTICATION? FORENSIC ANALYSIS AND AUTHENTICATION OF THE THE TEXT MESSAGES, WHICH, AGAIN, THEY BOTH AGREE IT IS. WHY CAN'T WE HAVE

IT TO ANALYZE IT?"

AND THE ANSWER THE PEOPLE HAVE GIVEN -- AND THIS WAS AN ANSWER WITH -- FIRST FROM MR. STOVER, WHO APPEARS WAS DELEGATED THIS DECISION MAKING CAPABILITY. HE SAID, "WELL, IF YOU SAW THAT FULL BUCKET, YOU MIGHT SEE THINGS THAT ARE IN MY VIEW IRRELEVANT," RIGHT? DON'T HAVE ANYTHING TO DO WITH THE CASE.

AND SPECIFICALLY HE SAID, "WELL, THAT WOULD BE PERHAPS TEXT MESSAGES FROM JANE DOE 4 -- OR WHOSE EVER DEVICE IT WAS WE WERE TALKING ABOUT -- JANE DOE 4 -- THAT WOULD BE TEXT MESSAGES BETWEEN JANE DOE 4 AND SOMEBODY ELSE, AND I DON'T THINK THAT THOSE TEXT MESSAGES HAVE ANYTHING TO DO WITH THE CASE, SAID MR. STOVER.

MR. JACKSON AND I HAD A DIFFERENT VIEW ON THAT OBVIOUSLY, BECAUSE WE'RE THE LAWYERS WHO HAVE TO DEFEND THE CASE. AND AS THE COURT IS AWARE, THE PEOPLE'S THEORY OF THIS CASE IS THAT THESE JANE DOES WERE SUBJECT TO AN ALL-ENCOMPASSING YEARS LONG SCHEME OF MIND CONTROL, SPIRITUAL COERCION, CULT-LIKE DOMINATION, IN ALL ASPECTS OF THEIR LIVES; THEREFORE, IT IS IMPOSSIBLE FOR ME -- AND I THINK FOR ANY LAWYER TRYING ANY CASE LIKE THIS -- TO UNDERSTAND HOW MESSAGES BETWEEN THESE JANE DOES AND SOMEBODY ELSE -- OTHER THAN THE ONES THAT HAVE BEEN ALLEGEDLY PRODUCED BETWEEN JANE DOE 4 AND MR. GARCIA ARE, QUOTE, UNQUOTE "IRRELEVANT." I DON'T THINK THAT THEY COULD POSSIBLY BE IRRELEVANT. THIS MATTERS BECAUSE THE PEOPLE HAVE NOW ABANDONED THEIR

PRIOR ARGUMENT THAT THERE WAS SOME PRIVACY INTEREST THAT THEY WERE TRYING TO PROTECT. THEY NO LONGER MAKE THAT ARGUMENT IN THEIR OPPOSITION. THEY SAY, "WE ARE NOT CLAIMING THERE IS ANY RIGHT TO DENY DISCOVERY BASED ON THE PRIVACY INTEREST OF WITNESSES." THEY'RE SAYING IT IS PURELY -- I WILL QUOTE TO THE PEOPLE'S OPPOSITION -- "THE PEOPLE ARE DECLINING TO ALLOW THE DEFENSE TO SEE MATERIAL THAT THE PEOPLE BELIEVE ARE IRRELEVANT." AND THIS DESCRIPTION CHARACTERIZES ALL OF THE TEXT MESSAGES AND THE METADATA IN JANE DOE 4'S PHONE, AND IT ALSO, YOUR HONOR, IS WHAT THE PEOPLE HAVE APPLIED TO THE ENTIRETY OF THE CONTENTS OF THE PHONES AND ELECTRONIC DEVICES OF THE OTHER FOUR JANE DOES AS WELL. THE ENTIRETY OF THEM -- WE HAVE RECEIVED NOTHING FROM ANY ELECTRONIC DEVICE, FROM ANY OF THE COMPLAINANTS IN THIS CASE, WITH THE SOLE EXCEPTION OF THOSE TEXT MESSAGES ALLEGED TO HAVE BEEN BETWEEN JANE DOE 4 AND MR. GARCIA. EVERYTHING ELSE -- LITERALLY, THE ENTIRETY OF ALL OF THE ELECTRONIC DEVICES WHICH THE FIVE JANE DOES VOLUNTARILY GAVE TO THE GOVERNMENT, THE GOVERNMENT IS NOW TELLING THE DEFENSE AND THIS COURT NOTHING IN THOSE DEVICES IS RELEVANT TO THIS CASE.

AND, YOUR HONOR, THAT TAKES ME TO THE NEXT POINT, WHICH IS THE LEGAL MERITS OF THAT ASSERTION. AND AS THE COURT KNOWS FROM READING THE BRIEFING, I DON'T THINK THAT ASSERTION HAS ANY MERIT. THIS IS A CASE WHICH THE COURT IS AWARE AND THE PROSECUTION HAS CHARGED THAT THE RELIGION OF WHICH MY CLIENT IS A SPIRITUAL

LEADER EXISTS SOLELY AS AN ORGANIZATION OF MIND CONTROL, COERCION, DOMINATION, A CULT DEDICATED SOLELY TO SATISFYING THE INSATIABLE SEXUAL DESIRES OF MR. GARCIA. AND THAT IS FROM THE PEOPLE'S BRIEF. THAT IS WHAT THE PEOPLE ARGUED HERE IN THIS COURT IN THE PRELIM. THAT IS WHAT THE PEOPLE ARGUED NEXT DOOR IN THE 995.

THAT IS THE PEOPLE'S THEORY OF THE CASE, AND THERE IS A REASON THAT THAT IS THE PEOPLE'S THEORY ON THE CASE. THE PEOPLE HAVE CHARGED TRAFFICKING AND FORCIBLE SEXUAL ASSAULT, AND THEIR THEORY OF THE DEPRAVATION OF LIBERTY REQUIRED FOR THE TRAFFICKING COUNTS IS SOLELY THIS SPIRITUAL DOMINATION CREATED BY THE ALL-ENCOMPASSING FORCE OF THE CHURCH. THAT IS ALSO THE PEOPLE'S THEORY FOR THE FORCIBLE ELEMENT WITH RESPECT TO MOST OF THE FORCIBLE COUNTS.

SO, YOUR HONOR, IN THAT CONTEXT, IT IS ABSOLUTELY NECESSARY -- AND I THINK THIS WEEK THE VIEW OF ANY JURIST ANALYZING THIS ISSUE -- IT IS ABSOLUTELY NECESSARY THAT THE DEFENSE BE ALLOWED TO EXAMINE WHAT THE LIVES OF THESE COMPLAINANTS WERE LIKE DURING THAT APPROXIMATELY TWO-YEAR PERIOD CHARGED IN THIS CASE.

THE PEOPLE HAVE ALLEGED THAT DURING THIS TWO-YEAR PERIOD, THESE FIVE COMPLAINANTS WERE SUBJECTED TO A TOTALIZING, ALL-ENCOMPASSING DOMINATING REGIME OF SPIRITUAL COERCION WHICH DEPRIVED THEM OF FREE WILL. HOW DO YOU DEFEND AGAINST THAT ALLEGATION? YOU ASK, WHAT WERE THESE COMPLAINANTS DOING DURING THAT TIME? DID THEY GO TO SCHOOL? DID THEY HAVE FRIENDS? DID THEY

HAVE SOCIAL INTERACTIONS? DID THEY HAVE JOBS? WHO WERE THEY SPEAKING WITH? WHAT WERE THEY SAYING? HOW DOES THIS COME WITHIN THE PURVIEW OF PENAL CODE SECTION 1054.1(A) THROUGH (F)? IT IS EXCULPATORY, YOUR HONOR.

THE COURT: UNDER (E)? IT WOULD BE (E).

MR. MASON: (E) IS STATEMENTS OF WITNESSES.

THE COURT: 1054.1 IS EXCULPATORY EVIDENCE.

MR. MASON: IT IS EXCULPATORY. IT IS ALSO, YOUR HONOR, STATEMENTS OF WITNESSES THAT THE PROSECUTION INTENDS TO CALL. AND I WILL TURN TO THAT.

THE COURT: I GOT THE IMPRESSION THAT THEY WERE NOT GOING TO CALL THESE PEOPLE.

MR. MASON: NO, YOUR HONOR, THE JANE DOES.

THE COURT: NO, NOT THE JANE DOES. THE PEOPLE WHO YOU SEEK TO FIND.

MR. MASON: OKAY. SO THAT IS THE SET OF 39 INDIVIDUALS WHO WERE IDENTIFIED BY ONE OF THE JANE DOES. SHE PROVIDED A HANDWRITTEN LIST TO AGENT TROY HOLMES OF 39 PEOPLE THAT SHE WAS REGULARLY IN CONTACT WITH DURING THE PERIOD ALLEGED IN THIS CASE. SO THERE ARE TWO REASONS WHY THAT'S DISCOVERABLE: THE FIRST IS THIS IS A WRITTEN STATEMENT FROM A WITNESS THAT THE PEOPLE INTEND TO CALL. THIS IS A JANE DOE. AND THE PEOPLE TOLD US THAT THOSE ARE THEIR FIVE TRIAL WITNESSES, ARE THE JANE DOES. IT'S A WRITTEN STATEMENT FROM A JANE DOE, AND IT WAS MADE TO THE PROSECUTION. AND, YOUR HONOR, I BROUGHT A COPY. IF THE COURT WANTS TO SEE IT, I'LL JUST PULL

ONE OUT. WHEN THE PEOPLE INITIALLY DISCLOSED THIS TO US, WAS IN DECEMBER. DECEMBER 11TH. SO TWO MONTHS AFTER THIS COURT HAD ORDERED THE PEOPLE TO TURN OVER ALL OF THEIR UNREDACTED REPORTS. THE PEOPLE GAVE US THIS PAGE -- IT WAS A COUPLE PAGES. IT WAS COMPLETELY BLACK. THERE WAS NOTHING ON IT. IF YOU RECALL, I BROUGHT ONE IN AND SHOWED THE COURT AT THE TIME.

THE PEOPLE WERE DIRECTED BY THE COURT TO PRODUCE -- THEY ACTUALLY WERE NOT SO DIRECTED. THIS IS WHY WE HAD TO FILE THE MOTION. WE FILED OUR MOTION JANUARY 4TH. ON FEBRUARY 1ST, THE PEOPLE SENT US WHAT I HAVE IN MY HAND NOW, AND I CAN HAND THIS UP TO THE COURT TO LOOK AT, IF THE COURT WOULD LIKE TO SEE. IT'S THE SAME PAGE. THE PEOPLE HAVE UNREDACTED THE NAMES -- THESE 39 NAMES, BUT THEY HAVE NOW REDACTED THE CONTACT INFORMATION.

THE COURT: YOU MADE THAT CLEAR IN YOUR REPLY.

MR. MASON: YES, I DID, YOUR HONOR. I AM WONDERING IF THE COURT WANTS TO SEE THE PAGE.

THE COURT: NO. I DON'T NEED TO.

MR. MASON: OKAY. SO THE ISSUE, THEN, WITH RESPECT TO THIS LIST -- I SHOULD SAY THIS IS NOT THE ONLY SUCH PLACE WHERE THE PEOPLE HAVE DONE THIS. THERE ARE APPROXIMATELY 50 OTHER INSTANCES IN THE REPORTS WHERE THERE IS A NAME AND THEN CONTACT INFORMATION -- NOT A NAME OF A JANE DOE -- A NAME OF SOMETHING ELSE WHERE THE PEOPLE HAVE REDACTED THE CONTACT INFORMATION.

SO MY QUESTION FOR THE PEOPLE -- AND I

EMAILED THEM IMMEDIATELY AND ASKED THEM THIS QUESTION: "WHAT IS YOUR LEGAL BASIS FOR REDACTING THE CONTACT INFORMATION, FOR REDACTING THIS STATEMENT WHICH WAS PROVIDED BY ONE OF YOUR TRIAL WITNESSES TO THE PROSECUTION, THIS WRITTEN STATEMENT?" I DID NOT RECEIVE A RESPONSE. BUT IN THE OPPOSITION, THE PEOPLE ALLUDE TO THIS ONLY BY SAYING, "WELL, WE'VE JUST REDACTED THE CONTACT INFORMATION, THE PERSONAL IDENTIFYING INFORMATION." THEY DON'T GIVE A REASON AS TO WHY THAT'S LEGALLY JUSTIFIED.

NOW, WITH RESPECT TO THIS REDACTION, WHAT DOES IT DO? PREVENTS THE DEFENSE FROM BEING ABLE TO FIND AND INTERVIEW THESE PEOPLE. IS THERE A REASON WHY THE PROSECUTION SHOULD BE ABLE TO PREVENT THE DEFENSE FROM FINDING AND INTERVIEWING THESE PEOPLE? I CANNOT THINK OF ONE. NOW, THE PROSECUTION MIGHT SAY, "WELL, FINE. THEY CAN DO THEIR SEARCH ENGINES AND LOOK UP THESE PEOPLE ON THEIR OWN." OKAY. WE CAN TRY THAT. SOME OF THE NAMES ON THIS LIST, HOWEVER, ARE ONLY FIRST NAMES. SO HERE IS A FIRST NAME AND THEN CONTACT INFORMATION THAT HAS BEEN PROVIDED IN A WRITTEN STATEMENT BY THE PEOPLE'S WITNESS -- JANE DOE 5 FROM THE PEOPLE -- WHAT IS THE REASON WHY THE PEOPLE SEEK TO PREVENT THE DEFENSE FROM COMMUNICATING WITH THESE INDIVIDUALS AND ASKING THEM QUESTIONS? THESE ARE PEOPLE THAT WE KNOW ARE RELEVANT TO THE CASE, BECAUSE JANE DOE 5 HERSELF SAID THEY WERE.

MR. HOLMES, THE LEAD AGENT, RECEIVED THIS

LIST ON MARCH 25TH, 2020. AS THE COURT KNOWS, A LOT HAS HAPPENED IN THIS CASE SINCE THEN. IT'S BEEN ALMOST A YEAR. WE'VE HAD A PRELIMINARY HEARING, WE'VE HAD A NUMBER OF OTHER PROCEEDINGS. IS IT POSSIBLE THAT MR. HOLMES JUST SORT OF FORGOT ABOUT THEM FOR ALL THIS TIME AND NEVER TALKED TO THEM? I DON'T THINK IT IS. I DON'T THINK THAT'S HOW THIS PROSECUTION, WHICH BRINGS FOUR LAWYERS TO THE DISCOVERY HEARING, IS RUNNING ITS DISCOVERY. I THINK THEY'VE TALKED TO ALL OF THESE PEOPLE, BUT NONE OF THEM ARE ON THE WITNESS LIST THAT THE PROSECUTION GAVE US IN OCTOBER. THEREFORE, THE ONLY POSSIBLE INFERENCE THAT I CAN CONCLUDE FROM THIS IS THAT THE PROSECUTION TALKED TO THESE PEOPLE AND DETERMINED THAT THEY COULD NOT PROVIDE CORROBORATING INFORMATION FOR THE ALLEGATIONS. I CANNOT THINK OF ANY OTHER EXPLANATION FOR THAT.

THE COURT: YOU MENTIONED THAT IN YOUR PLEA, THAT IF THEY WERE INCULPATORY, THEY WOULD BE CALLED. SINCE THEY'RE NOT INCULPATORY, THEY ARE EXCULPATORY. THAT'S YOUR VIEW; YES?

MR. MASON: IT IS. AND I WOULD BE HAPPY TO EXPAND ON THAT, BECAUSE THAT'S THE GRAVAMEN OF THIS MOTION.

THE COURT: IF YOU WANT TO. YOU DON'T HAVE TO.

MR. MASON: I WILL VERY BRIEFLY, YOUR HONOR. THIS IS CRITICAL, THAT WE GET THIS ACROSS TO THE COURT. I APPRECIATE WE MADE IT IN WRITING, BUT I WANT TO EMPHASIZE IT HERE. THIS CASE ALLEGES NOT JUST ONE, TWO, THREE OR MORE DISCRETE ACTS, WHICH ONE CAN LOOK AT AS A

SIMPLE DISCRETE ACT AND DEFEND IT ACCORDINGLY. THIS CASE ALLEGES A TOTALIZING SCHEME THAT ENCOMPASSED TWO YEARS. AND ACCORDING TO THE PROSECUTION, WAS THE SOLE AIM AND FUNCTION OF THIS ENTIRE RELIGION.

THESE ARE 39 PEOPLE WHO WERE THERE WITH THIS COMPLAINANT DURING THAT TIME, PRESUMABLY EXPERIENCING THE SAME CONTEXT WITH RESPECT TO THE RELIGION, THE SERVICE GROUP, THE EFFECT THAT THE CHURCH UNDERLIES AS THIS COMPLAINANT. IT IS NOT POSSIBLE THAT ANYTHING THAT THESE 39 PEOPLE SAY ABOUT THAT EXPERIENCE AND THAT TIME PERIOD AND THEIR RELATIONSHIP WITH THE CHURCH IS NOT RELEVANT. AND THE SAME GOES FOR ALL OF THE COMMUNICATIONS, ALL OF THE DATA, COMINGS AND GOINGS IN THE DAILY LIVES OF THE OTHER FOUR COMPLAINANTS. IT IS RELEVANT TO THIS CASE -- IT MUST BE RELEVANT TO THIS CASE. AND THERE IS NO MIDDLE GROUND WHERE SUCH INFORMATION IS NEITHER INCULPATORY OR EXCULPATORY. IT'S ONE OR THE OTHER, BECAUSE EITHER IT SHOWS THE DOMINATING SCHEME OF COERCION, SPIRITUAL DOMINATION, OR IT DOESN'T. AND IF IT DOESN'T, YOUR HONOR, IT'S EXCULPATORY.

THE COURT: ANYTHING ELSE YOU WISH TO SAY?

MR. MASON: YES. IF THE COURT HAS QUESTIONS ABOUT THE TECHNICAL ASPECTS OF THE METADATA, I WOULD REQUEST THAT WE REQUEST WE HAVE LIVE TESTIMONY.

THE COURT: I DON'T THINK THAT'S REQUIRED.

MR. MASON: THANK YOU, YOUR HONOR.

THE COURT: I DO HAVE ONE QUESTION OF YOU.

MR. MASON: YES, SIR.

THE COURT: YOU STATED IN YOUR MOTION THAT THE ORDER I MADE GOES BEYOND THE STATUTORY REQUIREMENTS, AND THAT IS NOT TRUE. I MADE THAT CLEAR, THAT I'M BOUND SOLELY BY 1054, ET SEQUITUR, AND NO FURTHER.

MR. MASON: YES, YOUR HONOR.

THE COURT: ANY RESPONSE?

MR. MASON: THE ORDER REFERRED TO ALL RELEVANT INFORMATION. AND AS WE LOOKED AT THE LANGUAGE OF 1054.1, IT DID APPEAR THAT THE ORDER FOR ALL RELEVANT INFORMATION DID GO BEYOND THE BOUNDS OF 1054.1. I APPRECIATE THE CLARIFICATION --

THE COURT: IT WAS NOT.

MR. MASON: -- FROM THE COURT.

THE COURT: OKAY. THANK YOU.

I'LL HEAR ANY RESPONSE FROM THE PEOPLE. WHO IS GOING TO BE ARGUING FOR THE PEOPLE?

MS. FUSCO: I WILL, YOUR HONOR. THANK YOU.

THE COURT: ALL RIGHT.

MS. FUSCO: YOUR HONOR, THERE ARE TOO MANY INACCURACIES AND MISCHARACTERIZATION TO ADDRESS THEM ALL, AND I DON'T THINK THE COURT WOULD WANT TO HEAR ALL OF THAT ANYWAYS. BUT IN SHORT, THE PEOPLE HAVE FULFILLED ALL THEIR OBLIGATIONS UNDER BRADY AND 1054. THE DEFENSE CONTINUES TO MAKE ALLEGATIONS OF BRADY VIOLATIONS WITH ABSOLUTELY NO BASIS WHATSOEVER. THE CHARACTERIZATION AND EXAGGERATION OF THE PEOPLE'S THEORY OF THIS CASE, I UNDERSTAND IS SELF-SERVING FOR THEM, BUT IT JUST SIMPLY ISN'T TRUE THAT THEY ARE ENTITLED TO KNOW

EVERY SINGLE THING THAT THE JANE DOES DID OVER A THREE-, FOUR-YEAR PERIOD, WHEN THEY WENT TO THE MALL, PERSONAL THINGS THAT THEY'VE DISCUSSED THAT HAVE ABSOLUTELY NOTHING TO DO WITH THIS CASE, ET CETERA.

WE DIDN'T SAY THAT WE WERE ABANDONING THE PRIVACY ISSUE. WE SIMPLY SAID IT WAS MOOT, YOUR HONOR. WE DON'T HAVE TO GO THERE BECAUSE WE HAVE PROVIDED EVERYTHING RELEVANT. IT'S EITHER BEEN PHYSICALLY GIVEN TO THEM OR BEEN MADE AVAILABLE TO THEM. THEY HAVE CHOSEN NOT TO COME TO COMMERCE, DESPITE THEIR INSISTENCE THAT WE SET THAT LAB UP. IT TURNS OUT THEIR EXPERT IS IN FLORIDA. I UNDERSTAND HE MAY NOT WANT TO COME HERE. THAT MAY NOT BE CONVENIENT FOR HIM. BUT ALL OF THE RELEVANT ITEMS HAVE BEEN AVAILABLE TO THEM FOR QUITE SOME TIME, YOUR HONOR. THEY HAVE MADE THE ARGUMENT REGARDING HUMAN TRAFFICKING AND NEEDING TO KNOW THE DETAILS OF EVERYTHING THE JANE DOES DID FOR THE ENTIRE TIME PERIOD OF THE CHARGES MULTIPLE TIMES, AND HAVE FAILED IN THIS COURT, THE 995 COURT, THE APPELLATE COURT, THE SUPREME COURT, FAILED EVERY TIME. BUT THEY CONTINUE TO MAKE THE SAME ARGUMENTS.

AS FAR AS THE LIST OF NAMES, YOUR HONOR, THEY'RE NOT ENTITLED TO THE CII OF THOSE FOLKS. THEY ARE NOT -- WE ARE NOT OBLIGATED TO GIVE THEM THAT INFORMATION UNDER 1054. THEY ARE NOT OUR WITNESSES FOR TRIAL. WHEN WE SENT THE EMAIL REFERRED TO IN THE PAPERS, YOUR HONOR, THAT WAS TO INITIALLY GIVE THEM THE NAMES OF THE JANE DOES, AS WE WERE ORDERED TO DO, SO

THAT THEY WOULD HAVE THEM IMMEDIATELY. THEREAFTER, WE REMOVED THE REDACTIONS FROM THE REPORTS OF THE WITNESSES THAT WE INTEND TO CALL, AND THEY HAVE ALL BEEN PROVIDED.

WITH RESPECT TO THE ACTUAL LIST OF NAMES FROM JANE DOE 5, YOUR HONOR, THEY NEVER SAID A WORD TO US UNTIL THIS MOTION. IT SIMPLY DIDN'T COPY PROPERLY. WE DID NOT PURPOSELY REDACT IT. WE CORRECTED IT AS SOON AS WE WERE ALERTED TO THE ISSUE. BUT THEY NEVER SAID ANYTHING PRIOR TO THIS MOTION. THEY COULD HAVE JUST SAID SOMETHING AND THEY ALSO COULD HAVE COME INTO COMMERCE TO LOOK AT THE ACTUAL PHYSICAL BOOK, WHICH THEY'VE KNOWN ABOUT FOR MONTHS.

ALL OF THE JANE DOE DEVICES, RELEVANT PORTIONS THEREOF, THAT IS, HAVE BEEN AVAILABLE FOR THEIR REVIEW.

WITH THAT, UNLESS THERE'S SOMETHING SPECIFIC THAT THE COURT WOULD LIKE THE PEOPLE TO ADDRESS, WE WOULD SUBMIT.

THE COURT: NO, THANK YOU.

MR. MASON, SINCE YOU ARE THE MOVING PARTY, YOU GET THE LAST WORD.

MR. MASON: THANK YOU, YOUR HONOR.

YOUR HONOR, I'VE WRITTEN DOWN A COUPLE THINGS THAT I HEARD MS. FUSCO SAY.

THE FIRST THAT I WILL ADDRESS, "THEY CAN COME INTO COMMERCE AND REVIEW THE DIARY." YOUR HONOR, I AM CONSTRAINED TO ADDRESS THE COURT, BUT MY QUESTION WOULD BE WHETHER THAT INVITATION WOULD ALLOW YOU TO

REVIEW THE DIARY AND SEE THE CONTACT INFORMATION, OR WHETHER WE WOULD BE REVIEWING A REDACTED DIARY. AND IF WE WOULD SIMPLY BE INVITED TO REVIEW THIS PAGE IN THE DIARY EXACTLY AS IT'S BEEN PRESENTED WITH THE REDACTIONS, THAT'S NOT A SATISFACTORY REMEDY FOR THIS MOTION. THE MOTION REQUESTS THE FULL STATEMENT THAT WAS MADE BY THE WITNESS, WHICH INCLUDED THE CONTACT INFORMATION.

MS. FUSCO ALSO SAID THESE NAMES ON THAT LIST ARE NOT OUR TRIAL WITNESSES. WELL, IF THAT'S THE CASE, YOUR HONOR, THERE IS NO LEGAL BASIS FOR REDACTING THE CONTACT INFORMATION.

THE SECOND THING I HEARD HER SAY WAS, "ALL THE JANE DOE DEVICES ARE AVAILABLE FOR REVIEW." YOUR HONOR, THAT'S JUST NOT TRUE. I HAVE NEVER SEEN ANY OF THE ATTORNEYS AT THE COMMERCE LOCATION, BUT MR. JACKSON AND I HAVE BEEN THERE SEVERAL TIMES. WE HAVE ASKED TO SEE ANYTHING FROM ANY OF THE PHONES OR ELECTRONIC DEVICES FROM ANY OF THE JANE DOES, AND WE'VE BEEN REFUSED THE ABILITY TO DO THAT. THE ONLY THING WE'VE BEEN ALLOWED TO LOOK AT ARE MATERIAL FROM MR. GARCIA'S PHONES. AND THEN ON OUR LAST TRIP, WE WERE ALLOWED TO SEE MATERIAL FROM ONE OF MS. OCAMPO'S PHONES.

THE PEOPLE HAVE NEVER PERMITTED THE DEFENSE TO REVIEW ANYTHING FROM THE PHONES OR ELECTRONIC DEVICES OF THE FIVE JANE DOES.

THE COURT: LET ME INTERRUPT YOU ONE SECOND.

MS. FUSCO, IS THAT TRUE OR NO?

MS. FUSCO: ABSOLUTELY NOT, YOUR HONOR.

THE COURT: ALL RIGHT. GO AHEAD.

MS. PLISNER: IF I MAY ADD?

THE COURT: YES.

MS. PLISNER: THE JANE DOE DEVICES WERE INITIALLY PROTECTED BY A 1054.7 ORDER. THE COURT MODIFIED THE ORDER RECENTLY AND INDICATED THAT WE SHOULD MAKE AVAILABLE THE RELEVANT PORTIONS OF THE DEVICE. SO FOLLOWING THAT MODIFICATION OF THE ORDER, THOSE RELEVANT PORTIONS WOULD HAVE BEEN AVAILABLE FOR REVIEW.

THE COURT: ALL RIGHT. GO AHEAD, COUNSEL. SORRY.

MR. MASON: YOUR HONOR, IF THAT'S THE CASE, I APPRECIATE THAT. WE'LL GO DOWN TO COMMERCE AND SEE WHAT THEY'LL LET US SEE.

THE FINAL ISSUE, THOUGH, IS THIS QUESTION OF RELEVANCE AND BOTH OF THE ANSWERS FROM THE ATTORNEYS. IN PREVIOUS COMMUNICATIONS WITH MR. STOVER, THE PEOPLE HAVE SAID, "WELL, WE'VE GIVEN YOU WHAT'S RELEVANT." AND WE'VE PUT THIS IN OUR REPLY, BECAUSE I THINK THIS IS AN IMPORTANT POINT FOR THE COURT AND WHY I'VE BEEN STRESSING RELEVANCE. WE DO NOT KNOW WHAT, IF ANY, CRITERIA THE PEOPLE ARE APPLYING TO DETERMINE RELEVANCE. WE DO NOT KNOW WHO IS EVEN MAKING THAT DECISION. WHEN WE WERE ON THE PHONE WITH MR. STOVER AND THE PROSECUTORS, MR. JACKSON AND I ASKED THIS QUESTION: "WHO IS MAKING THE DECISION ABOUT WHAT IS AND IS NOT RELEVANT?" BECAUSE THE PEOPLE HAVE TOLD US THAT THERE IS NOTHING RELEVANT ON ANY OF THE ELECTRONIC DEVICES OF

THE JANE DOES. WHO MADE THAT DECISION? WHO REVIEWED THESE MATERIALS? WHAT CRITERIA DID THEY USE? RELEVANCE IS A LEGAL CATEGORY, WHICH THE COURT IS VERY FAMILIAR. I WOULD LIKE TO KNOW WHO IS APPLYING THAT AND HOW IT IS BEING APPLIED TO THIS CASE.

WHAT WE WERE TOLD BY THE PROSECUTORS ON THE PHONE CALL THAT PRECIPITATED THIS MOTION IS THAT THE PROSECUTOR THEMSELVES DIDN'T REVIEW IT, DIDN'T KNOW WHO DID. WEREN'T INVOLVED IN IT. THE ONLY PERSON WHO SAID THAT HE MADE A PERSONAL DECISION ABOUT RELEVANCE WAS MR. STOVER. MR. STOVER ALSO SAID HE DIDN'T PERSONALLY REVIEW WHAT WAS ON THE PHONES, EITHER. HE ONLY LOOKED AT THE METADATA ON THE JANE DOES PHONE -- JANE DOE 4'S PHONE.

SO THE CLAIM THAT EVERYTHING RELEVANT HAS BEEN PROVIDED, I THINK CANNOT BE ACCEPTED BY THE COURT, THE VERY LEAST WITHOUT KNOWING WHO IS MAKING THAT DECISION AND WHAT THEY'RE MAKING IT BASED ON.

THE COURT: ALL RIGHT. THANK YOU.

COUNSEL SEEMS TO BE CONFUSING MY ORDER UNDER 1054, ET SEQUITUR, THE BRADY VS. MARYLAND, B-R-A-D-Y -- I DIDN'T THINK I WAS GOING TO HAVE TO CITE IT. ONE MOMENT.

(PAUSE IN PROCEEDINGS.)

THE COURT: AT 373 US. 83, BRADY IS AN OBLIGATION BY THE PEOPLE. THE MOTION TO COMPEL DEALS WITH THE

COURT'S ORDER.

I AM FAMILIAR WITH KENNEDY VS. SUPERIOR COURT, K-E-N-N-E-D-Y, AT 145 CAL.APP.4TH 359, THAT PENAL CODE SECTION 1054.1(E), RELATING TO EXCULPATORY EVIDENCE, IS TO BE NARROWLY CONSTRUED. IT DOES NOT INCLUDE DISCLOSURE OF IMPEACHMENT EVIDENCE, BUT MAY BE A BRADY ISSUE THAT'S NOT BEFORE ME. WHAT IS BEFORE ME IS HAVE THE PEOPLE MET THE DISCOVERY ORDER AS I HAVE ISSUED IT? I FIND THAT THEY HAVE.

THE MOTION TO COMPEL IS DENIED.

THE MATTER IS NOW HERE AS DAY 0-OF-60. WHAT IS THE PLEASURE OF COUNSEL?

MR. MASON: YOUR HONOR, WITH RESPECT TO THE DATE, I WOULD SAY THIS: I THINK WE'RE GOING TO MOST LIKELY NEED, FIRST OF ALL, TIME TO TRY AND LOCATE AND CONTACT THESE 39 NAMES. IF THE PEOPLE WILL NOT PROVIDE US THE CONTACT INFORMATION, WE'RE GOING TO HAVE TO WORK ON THAT ON OUR OWN. IT'S POSSIBLE THE INVITATION FROM COUNSEL WAS AN INVITATION TO VIEW THE DIARY WITH THE INFORMATION. IF THAT'S THE CASE, IT WILL BE QUICKER. BUT THIS IS A LIST OF 39 NAMES. WE WERE GIVEN THOSE NAMES BY THE PEOPLE ONLY LAST WEEK, ON FEBRUARY 1ST. THAT'S THE FIRST TIME WE'VE SEEN IT. SO WE NEED TO TALK TO THEM.

THE COURT: LET ME TRY AND SHORTCUT THIS. I'M NOT GOING TO RUSH YOU.

MR. MASON: THANK YOU.

THE COURT: NOT ONLY AM I CONCERNED ABOUT EVERYONE

BEING PREPARED UNDER THE 6TH AMENDMENT. ON THE OTHER HAND, I AM BEING UNDERSTANDING ABOUT EVERYTHING. I AM CONCERNED ABOUT COVID AND GETTING JURORS. YOU HAVE WHATEVER TIME YOU NEED. I AM CONCERNED ABOUT THE PANDEMIC AS WELL, GETTING JURORS IN THIS COURT.

AS COUNSEL ALREADY KNOWS, JUST THIS WEEK THERE WAS AN ARTICLE ABOUT THE -- A LAWSUIT WAS FILED YESTERDAY, AS I UNDERSTAND IT, IF NOT THE DAY BEFORE, RELATING TO -- NOT CRIMINAL FELONY TRIALS -- BUT AS TO TRAFFIC TRIALS AND UNLAWFUL DETAINERS, KEEPING THE COURTS CLOSED. SO WITH THOSE TWO CONCERNS, I AM NOT ARGUING WITH YOU.

MR. MASON: THANK YOU, YOUR HONOR. I APPRECIATE THAT.

I WOULD PROPOSE THAT WE PICK A DATE A MONTH OR SO OUT FOR STATUS AND ANOTHER 0-OF-60.

MR. JACKSON: I'D SAY EIGHT WEEKS, AS A STATUS.

THE COURT: I'M FINE.

MR. JACKSON: IS THAT OKAY WITH THE COURT?

THE COURT: OF COURSE.

MR. JACKSON: THAT WOULD PUT US -- IF I CAN HAVE A SECOND?

(PAUSE IN PROCEEDINGS.)

MR. JACKSON: MAY I HAVE A MOMENT TO CONSULT WITH MY CLIENT?

THE COURT: CERTAINLY. WHILE COUNSEL'S DOING

THAT, IS THAT ACCEPTABLE TO THE PEOPLE?

MS. FUSCO: YES, YOUR HONOR.

THE COURT: MR. CAREY, YOU PROBABLY THINK I AM IGNORING YOU. I AM NOT.

MR. CAREY: NO. NO. HAPPY TO BE HERE, YOUR HONOR.

MR. JACKSON: THANK YOU, YOUR HONOR.

THE COURT: WHAT IS A GOOD DATE?

MR. CAREY: 4/12.

THE COURT: IS THAT GOOD FOR US?

THE CLERK: YES, YOUR HONOR.

THE COURT: GOOD FOR THE PEOPLE?

MS. FUSCO: YES, YOUR HONOR.

THE COURT: THAT WOULD BE 0-OF-60?

MR. MASON: YES, YOUR HONOR. THANK YOU.

THE COURT: MR. CAREY, IS THAT AGREEABLE TO YOU AND YOUR CLIENT?

MR. CAREY: IT IS. THANK YOU.

THE COURT: MR. GARCIA, IS THAT AGREEABLE TO YOU?

DEFENDANT GARCIA: YES, YOUR HONOR.

THE COURT: THE MATTER IS SET APRIL 12TH, 2021, 8:30 A.M., IN THIS DEPARTMENT, FOR PRETRIAL AND TRIAL SETTING, AS DAY 0-OF-60.

THE DEFENDANT IS ORDERED TO APPEAR. MS. OAXACA MAY REMAIN AS FAR AS THAT HEARING IS CONCERNED, 977.

MR. CAREY: THANK YOU, YOUR HONOR.

MS. FUSCO: THANK YOU, YOUR HONOR.

(PROCEEDINGS CONCLUDED.)

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

DEPARTMENT 101 HON. RONALD S. COEN, JUDGE

THE PEOPLE OF THE STATE OF CALIFORNIA,

PLAINTIFF,

VS.

01 NAASON JOAQUIN GARCIA,
03 SUSANA MEDINA OAXACA,

DEFENDANTS.

CASE NO. BA484133

REPORTER'S TRANSCRIPT OF PROCEEDINGS

LOS ANGELES, CALIFORNIA; FEBRUARY 10, 2021

APPEARANCES:

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BROOKE A. BRUBAKER, CSR NO. 9420
OFFICIAL REPORTER

# I N D E X

| PEOPLE'S WITNESSES: | DIRECT | CROSS | REDIRECT | RECROSS | VOIR DIRE |
|---|---|---|---|---|---|
| (NONE) | | | | | |

**DEFENDANT'S:**

## EXHIBITS

| PEOPLE'S | FOR IDENTIFICATION | IN EVIDENCE |
|---|---|---|
| (NONE) | | |

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

DEPARTMENT 101 HON. RONALD S. COEN, JUDGE

| | |
|---|---|
| THE PEOPLE OF THE STATE OF CALIFORNIA, PLAINTIFF, VS. 01 NAASON JOAQUIN GARCIA, 03 SUSANA MEDINA OAXACA, DEFENDANTS. | CASE NO. BA484133 REPORTER'S CERTIFICATE |

I, BROOKE A. BRUBAKER, OFFICIAL REPORTER OF THE SUPERIOR COURT OF THE STATE OF CALIFORNIA, FOR THE COUNTY OF LOS ANGELES, DO HEREBY CERTIFY THAT THE FOREGOING PAGES, 1-, COMPRISE A FULL, TRUE, AND CORRECT TRANSCRIPT OF THE PROCEEDINGS HELD IN THE MATTER OF THE ABOVE-ENTITLED CAUSE, ON FEBRUARY 10, 2021.

THIS TRANSCRIPT WAS PREPARED IN COMPLIANCE WITH 237(A)(2) OF THE CODE OF CIVIL PROCEDURE.

DATED THIS 25TH DAY OF FEBRUARY, 2021.

BROOKE A. BRUBAKER
CSR NO. 9420, OFFICIAL REPORTER

# EXHIBIT E

CASE NUMBER: BA484133
CASE NAME: PEOPLE VS. NAASON J. GARCIA
LOS ANGELES, CA MARCH 26, 2021
DEPARTMENT 101 HON. RONALD S. COEN, JUDGE
REPORTER: BROOKE A. BRUBAKER, CSR NO. 9420
TIME: A.M. SESSION

APPEARANCES:

DEFENDANT NAASON J. GARCIA, PRESENT WITH COUNSEL, ALAN J. JACKSON AND CALEB MASON, ATTORNEYS AT LAW; PATTY FUSCO, JEFREY SEGAL, AND DIANA CALLAGHAN, DEPUTIES ATTORNEY GENERAL, REPRESENTING THE PEOPLE OF THE STATE OF CALIFORNIA.

THE COURT: ON THE RECORD IN PEOPLE VS. GARCIA.

THE DEFENDANT IS PRESENT.

ALL COUNSEL ARE PRESENT.

THE SPANISH INTERPRETER, WHOSE OATH IS ON FILE, LIKEWISE, IS PRESENT.

IF I CAN HAVE THE IDENTIFICATION OF THE INTERPRETER, PLEASE?

THE INTERPRETER: YES, YOUR HONOR. PATRICIA PAREDES, P-A-R-E-D-E-S, CERTIFICATION NO. 301819, VERIFIED BY THE COURT. MY OATH IS ON FILE.

THE COURT: THANK YOU, SO MUCH.

MATTER IS HERE ON THE DEFENDANT'S MOTION TO COMPEL BRADY MATERIAL, B-R-A-D-Y. I HAVE READ THE DEFENDANT'S MOTION, RESPONSE BY THE PEOPLE, AND THE

DEFENDANT'S REPLY.

I TAKE IT, MR. MASON, YOU'RE GOING TO BE ARGUING THIS MATTER?

MR. MASON: YES, YOUR HONOR. THANK YOU.

THE COURT: I'LL HEAR FROM YOU, IF YOU WISH.

MR. MASON: THANK YOU.

YOUR HONOR, I DON'T NEED TO SUMMARIZE WHAT'S IN THE PAPERS, SO LET ME TRY TO AMPLIFY WHAT I THINK IS THE KEY ISSUE HERE.

AS THE COURT RECALLS -- AND WE PUT THIS IN THE BEGINNING OF OUR MOTION -- THAT AT THE PRIOR HEARING ON OUR PREVIOUS DISCOVERY MOTION, THE COURT NOTED, "THIS IS NOT TO THE COURT A BRADY ISSUE. IT DOES -- THE MOTION DOES NOT INCLUDE THE DISCLOSURE OF EVIDENCE, REFERRING TO PENAL CODE 1054.1(E). THERE MAY BE A BRADY ISSUE, BUT MAY BE" -- TYPO IN THE TRANSCRIPT -- "A BRADY ISSUE THAT'S NOT BEFORE ME. WHAT IS BEFORE ME IS HAVE THE PEOPLE MET THE DISCOVERY ORDER THAT I ISSUED? I FIND THAT THEY HAVE."

SO WE HAVE NOW BROUGHT THIS MOTION EXCLUSIVELY AS A BRADY MOTION, EXPLICITLY UNDER THE CONSTITUTIONAL RIGHT THE SUPREME COURT HAS SET FORTH AND MANY CASES FOLLOWING, THAT THE DEFENSE HAS TO -- IN BRADY EVIDENCE, BRADY CONSTRUED, AS THE COURT WELL KNOWS, ANY EVIDENCE THAT MAY BE MATERIAL TO MAKING OUT ANY FORM OF THE DEFENSE CASE, WHETHER IMPEACHMENT OR NEGATION OF AN ELEMENT OR AFFIRMATIVE DEFENSE.

AND THE EVIDENCE THAT IS PRINCIPALLY AT

ISSUE HERE IS SUMMARIZED IN THE DECLARATIONS. WE HAVE TWO DECLARATIONS OF OUR FORENSIC EXPERT, RICK GREEN. AND THE NUMBERS ARE SLIGHTLY DIFFERENT. THEY WENT DOWN FROM 41,000 TO 38,000 MESSAGES, AND THAT WAS BECAUSE OF INFORMATION THAT WAS SUBSEQUENTLY REVISED BY THE DEFENSE EXPERT, STEVEN STOVER, BETWEEN THE TIME OF THE FILING OF OUR MOTION AND OUR REPLY. THE NUMBER THAT WE NOW HAVE IN OUR REPLY IS APPROXIMATELY 37 1/2 THOUSAND MESSAGES. THAT'S 37,460. THAT'S THE BEST WE CAN COME UP WITH, A DEFINITIVE NUMBER FOR MESSAGES IN THE FOLLOWING CATEGORY: THESE ARE TEXT MESSAGES, EMAILS, OR INSTANT MESSAGES THAT WERE SENT BY OR RECEIVED BY THE FIVE IDENTIFIED JANE DOE COMPLAINANTS DURING THE TIME PERIOD THAT IS SET FORTH IN THE INFORMATION CHARGED BY THE PEOPLE AS THE TIME PERIOD DURING WHICH THESE COMPLAINANTS WERE, QUOTE, "TRAFFICKED" IN WHAT THE PEOPLE HAVE DESCRIBED AS AN ALL-ENCOMPASSING SEX CULT THAT CREATED A PERVASIVE ATMOSPHERE OF THREAT, FEAR, COERCION, FEAR OF -- AS THE PEOPLE'S OPPOSITION SAYS -- "DIRE CONSEQUENCES, ACTIONS THAT WOULD ENSUE, THAT THEREFORE FORCED THESE FIVE COMPLAINANTS TO SUBMIT TO THE SEX TRAFFICKING OF THIS ORGANIZATION," WHICH THE PEOPLE HAVE CHARGED IS CREATED AND MAINTAINED SOLELY TO SATISFY THE SEXUAL DESIRES OF MR. GARCIA. THAT'S WHAT THE PEOPLE HAVE SAID. THAT'S THE THEORY OF THE CASE ARTICULATED MULTIPLE TIMES IN THIS COURT, IN THE PAPERS.

WE HAVE TRIED TO, THEREFORE, CREATE A CATEGORY AS NARROW AND FOCUSED AS POSSIBLE, SO THERE CAN

BE NO SUGGESTION THAT WE ARE FISHING OR ENGAGED IN OVERBREADTH, OR SIMPLY LOOKING TO RUMMAGE AT WILL. WE HAVE CREATED AS NARROW A CATEGORY AS POSSIBLE THE INFORMATION THAT WE WANT TO SEE, AND WHAT WE ASKED FOR --

THE COURT: NOT TO INTERRUPT, BUT I WANT TO MAKE SURE I UNDERSTAND EXACTLY WHAT YOU'RE SAYING.

YOUR CONTENTION IS THAT EVERY ONE OF THESE MESSAGES THAT YOU ARE REQUIRING -- EVERY SINGLE ONE -- IS MATERIAL AND FAVORABLE; YES?

MR. MASON: YES, YOUR HONOR.

THE COURT: OKAY.

MR. MASON: I WILL EXPLAIN WHY.

THE COURT: OKAY. KEEP GOING.

MR. MASON: BECAUSE THESE ARE THE CONTEMPORANEOUS STATEMENTS MADE BY AND RECEIVED BY THESE FIVE INDIVIDUALS DURING THIS TIME PERIOD. AND THAT'S WHY THIS TIME PERIOD IS SO IMPORTANT, YOUR HONOR. WE TOOK THE TIME PERIOD THAT IS CHARGED IN THE INFORMATION.

TO USE AN ANALOGY, IF THERE WERE AN ALLEGATION THAT A PERSON WAS BEING PHYSICALLY HELD IN A PARTICULAR LOCATION FOR A PARTICULAR TIME PERIOD WITHOUT BEING ABLE TO ESCAPE, IT WOULD SURELY BE RELEVANT, MATERIAL, BRADY, IF THE PEOPLE WERE SITTING IN POSSESSION OF INFORMATION ABOUT THE PHYSICAL WHEREABOUTS OF THAT ALLEGED VICTIM OF KIDNAPPING DURING THAT ENTIRE TIME, BUT REFUSED TO SHOW THE DEFENSE.

THIS CASE, AS THE PEOPLE HAVE REPEATEDLY

SAID, DOES NOT REQUIRE IN THEIR THEORY PROOF OF PHYSICAL RESTRAINT. THE PEOPLE HAVE SAID DURING THIS TIME PERIOD, THEY CLAIM THEIR RESTRAINT WAS SPIRITUAL, THAT IS WAS THIS FEAR OF SPIRITUAL COERCION, THAT THE FIVE COMPLAINANTS LIVED IN A CONSTANT FEAR OF DIRE CONSEQUENCES IF AT ANY MOMENT THEY DID NOT SUBMIT TO SEXUAL COMMANDS GIVEN BY MR. GARCIA.

NOW, THE PEOPLE HAVE CONCEDED THAT THERE WERE NO DIRECT COMMUNICATIONS BETWEEN MR. GARCIA AND THESE COMPLAINANTS. THOSE DON'T EXIST. SO WHAT DOES THAT DIRE CONSEQUENCES, THAT PERVASIVE FEAR, THAT ALL-ENCOMPASSING COERCION CONSIST OF? WELL, APPARENTLY IT CONSISTS OF SOMETHING IN THE MENTAL STATE OF THE FIVE COMPLAINANTS DURING THIS TIME PERIOD. YOUR HONOR, I DON'T KNOW ANY OTHER WAY TO DESCRIBE IT.

THE PEOPLE'S THEORY OF THE CASE IS THERE WAS SOMETHING IN THE MENTAL STATE OF THE FIVE COMPLAINANTS DURING THE TIME PERIOD THAT HAD SOMETHING TO DO WITH MR. GARCIA AND THE CHURCH THAT CREATED FOR THESE COMPLAINANTS A MENTAL STATE IN WHICH THEY LACKED FREE WILL, THEY LACKED THE ABILITY TO CONTROL THEIR OWN LIVES, AND, THEREFORE, THEIR LIBERTY WAS SIGNIFICANTLY RESTRAINED, WHICH WAS THE ELEMENT THAT THE THE PEOPLE HAVE TO PROVE.

SO WHAT IS THE EVIDENCE AVAILABLE OF THE MENTAL STATE OF A PERSON DURING AN EXTENDED TIME PERIOD? AND I WOULD SUBMIT -- AND I DON'T THINK IT'S REASONABLY IN DISPUTE -- THE BEST EVIDENCE OF THE MENTAL STATE OF A

PERSON DURING A PARTICULAR IDENTIFIED TIME PERIOD ARE THE CONTEMPORANEOUS STATEMENTS, THOUGHTS, RECORDED REFLECTIONS, PHOTOS, COMMUNICATIONS, AND OTHER ACTIVITIES. WHAT DID THAT PERSON DO AND SAY DURING THAT TIME PERIOD?

IF WE WERE HISTORIANS, YOUR HONOR, AND WE WANTED TO SEE WHAT THE ATMOSPHERE WAS DURING THE PLAGUE YEARS IN LIFE, TO USE A FAMOUS EXAMPLE IN WHICH HISTORIANS RETURNED TO CONTEMPORANEOUS REFLECTIONS, WHAT DO WE LOOK AT? WE LOOK AT DIARIES, WE LOOK AT NOTES, WE LOOK AT LETTERS, WE LOOK AT THE CONTEMPORANEOUS STATEMENTS MADE BY THE PEOPLE EXPERIENCING A PARTICULAR DIRE CIRCUMSTANCE. "DIRE" IS THE WORD USED BY THE PEOPLE IN THEIR OPPOSITION.

WE NEED TO BE ABLE TO PROVE, TO ARGUE TO A JURY -- AND THE JURY IS THE FINDER OF FACT IN OUR SYSTEM -- WHICH IS A TRUTH-SEEKING SYSTEM, YOUR HONOR. IT IS NOT A SYSTEM THAT'S DESIGNED AND INTENDED TO SIMPLY PROCURE CONVICTIONS WITHOUT DIVULGING EVIDENCE. IT'S A TRUTH-SEEKING SYSTEM. A JURY THAT'S GOING TO SIT IN JUDGMENT OF MR. GARCIA NEEDS TO BE ABLE TO SEE WHAT WERE THE CONTEMPORANEOUS STATEMENTS, THOUGHTS, COMMUNICATIONS, RECORDED REFLECTIONS OF THESE FIVE INDIVIDUALS, WHO THE PEOPLE CLAIM WERE THE CONTINUOUS SUBJECT OF A TWO-YEAR PERIOD OF COERCION SO EXTENSIVE THAT IT DEPRIVES THEM OF THE LIBERTY AND THE ABILITY TO EXERCISE FREE WILL.

WELL, WE HAVE -- THE PEOPLE HAVE -- THE

DEFENSE DOES NOT HAVE -- BUT THE PEOPLE HAVE SOMETHING AROUND 37,460 CONTEMPORANEOUS STATEMENTS MADE BY, RECEIVED BY, THESE FIVE INDIVIDUALS DURING THAT TIME PERIOD. THOSE STATEMENTS ARE THE BEST, IF NOT THE ONLY EVIDENCE, OF WHAT THEIR MENTAL STATE WAS DURING THAT TIME PERIOD.

NOW, THE COURT ASKS DO I CONTEND THAT THEY ARE ALL BRADY? I DO, YOUR HONOR, BECAUSE THOSE STATEMENTS EITHER REFLECT THE EXISTENCE OF A PERVASIVE SCHEME OF TOTALIZING COERCION, OR THEY DO NOT. THOSE STATEMENTS EITHER SAY SOMETHING ALONG THE LINES OF, "TODAY I FEEL COERCED TO ENGAGE IN SEXUAL ACTIVITIES COMMANDED BY MY CHURCH," OR THEY DO NOT. THOSE STATEMENTS EITHER SAY, "I FEEL COMPELLED TO DO SOMETHING I DON'T WANT TO DO," OR THEY DO NOT. THERE'S NO OTHER THIRD ALTERNATIVE. THEY EITHER SAY THAT, OR THEY DON'T. NOW, IF THEY SAY IT, IMPLICITLY OR EXPLICITLY, THEN THEY'RE GREAT EVIDENCE FOR THE PEOPLE, AND WE WOULD EXPECT THAT WE WOULD HAVE SEEN IT IN REPORTS, HEARD IT IN TESTIMONY. WE DID NOT.

IF THEY DO NOT SAY, YOUR HONOR, THEN, YES, THEY ARE ALL BRADY, BECAUSE IF THERE ARE 37,460 CONTEMPORANEOUS STATEMENTS MADE BY, RECEIVED BY THESE COMPLAINANTS DURING THIS TIME PERIOD, AND NONE OF THEM SAY ANYTHING ABOUT A SCHEME OF COERCION, SEXUAL DOMINATION, DIRE CONSEQUENCES -- NONE OF THEM MENTION THAT AT ALL -- THAT'S BRADY. THAT IS --

THE COURT: THAT'S THE DEFINITION OF "MATERIAL"

AND "FAVORABLE"?

MR. MASON: YES, YOUR HONOR.

THE COURT: REALLY?

MR. MASON: I DO BELIEVE THAT, YOUR HONOR, BECAUSE THAT IS WHAT YOU WOULD SHOW TO A JURY. AND IF ANYONE WERE LITIGATING THIS CASE, THEY WOULD SAY TO A JURY, "DURING THIS TIME PERIOD, DID THESE COMPLAINANTS MAKE ANY REFERENCE AT ALL, IMPLICITLY OR EXPLICITLY, IN ANY OF THEIR COMMUNICATIONS TO THE SCHEME OF DOMINATION AND COERCION THAT THE PEOPLE SAY WAS SO PERVASIVE IT DEPRIVED THEM OF THEIR FREE WILL? LOOK AT ALL THE THINGS THEY SAID AND DID DURING THIS TIME PERIOD. IS THAT REFLECTED IN ANY OF THEM? IF THE ANSWER IS "NO," YES, THAT'S BRADY. THAT'S EXCULPATORY.

THE COURT: ALL RIGHT. ANYTHING ELSE BEFORE I HEAR FROM THE PEOPLE?

MS. FUSCO: YOUR HONOR --

THE COURT: ONE MOMENT.

IS THERE ANYTHING ELSE BEFORE I HEAR FROM THE PEOPLE?

MS. FUSCO: OH, I'M SORRY, YOUR HONOR.

MR. MASON: YES, YOUR HONOR. THERE IS ONE OTHER COMMENT.

I THINK -- I ALLUDED TO THIS IN THE PAPERS. I THINK THAT BEFORE THE COURT RULES, I WOULD RESPECTFULLY ASK THAT THE COURT ASCERTAIN BY SOME MEANS -- AND THERE ARE TWO GENTLEMEN IN THE HALL WHO I COULD CALL AS WITNESSES ON THIS POINT WHO MIGHT KNOW THE

ANSWER. WE'VE BEEN TRYING TO DETERMINE WHAT THE BASIS IS -- WHAT DEFINITION, WHAT TEST THE PEOPLE ARE EMPLOYING FOR THEIR DEFINITION OF RELEVANCE.

THE PEOPLE HAVE REPEATEDLY SAID TO THE COURT, AND NOW IN THEIR PAPERS HERE, HOW "WE'VE GIVEN YOU EVERYTHING THAT'S RELEVANT."

THEY HAVE NOT SAID WHAT THEY MEAN BY RELEVANT. WHO'S EXAMINING THESE MESSAGES? WHAT STANDARDS DO THOSE PEOPLE USE; WHETHER ANY NOTES WERE TAKEN. I DON'T KNOW WHETHER THE PROSECUTOR SITTING HERE IN THIS ROOM HAVE REVIEWED THESE 38,647 MESSAGES. THE LEAD INVESTIGATOR IS SITTING OUT IN THE HALLWAY.

YOUR HONOR, I WOULD BE HAPPY TO -- AND I THINK IT WOULD BE USEFUL TO CALL HIM AND GET SOME TESTIMONY ON THIS.

THE COURT: WHY?

MR. MASON: BECAUSE I DO NOT THINK THAT THE COURT IS IN A POSITION TO MAKE A RULING ON THE QUESTION OF WHETHER OR NOT THE BRADY OBLIGATION HAS BEEN SATISFIED IN THE ABSENCE OF SOME EVIDENCE FROM THE PEOPLE.

THE COURT: WHOSE OBLIGATION IS THAT?

MR. MASON: IT IS THE PEOPLE'S LIGATION.

THE COURT: THERE YOU GO. I DON'T NEED TO HEAR ANY TESTIMONY. THE RULING --

MR. MASON: OKAY. YOUR HONOR, I WILL SUBMIT. THE PEOPLE HAVE NOT MET THEIR OBLIGATION.

THE COURT: THAT'S FINE.

MR. MASON: THERE HAS BEEN NO EVIDENCE PRESENTED

AS TO WHAT REVIEW WAS DONE AND WHAT STANDARD WAS APPLIED ON THAT REVIEW.

THE COURT: ALL RIGHT.

MR. MASON: THANK YOU, YOUR HONOR.

THE COURT: WITHOUT CITING A NUMBER OF CASES, BEFORE I HEAR FROM THE PEOPLE -- JUST LOOKING AT ONE, IN PARTICULAR -- IN RE BACIGALUPO, B-A-C-I-G-A-L-U-P-O, AT 55 CAL.4TH 312 -- IT TALKED IN TERMS OF FAVORABLE MATERIAL, MEANING THAT THERE IS A REASONABLE PROBABILITY THAT THE SUPPRESSED EVIDENCE WOULD PRODUCE A DIFFERENT VERDICT. AND THEN IT GOES ON TO DETERMINE MATERIAL. HOWEVER, I WILL NOW HEAR FROM THE PEOPLE.

MS. FUSCO: THANK YOU, YOUR HONOR.

AGAIN, YOUR HONOR, I FEEL COMPELLED TO JUST MENTION THAT THERE ARE TOO MANY MISCHARACTERIZATIONS OF THE EVIDENCE AND OF THE PEOPLE'S THEORIES OF THIS CASE THAT HAVE BEEN STATED BY DEFENSE TO ADDRESS IN COURT, AND I'M SURE THE COURT IS AWARE OF THOSE EXAGGERATIONS AND MISSTATEMENTS.

AGAIN, YOUR HONOR, JUST BRIEFLY, THIS CONTINUES TO BE JUST ANOTHER BACK DOOR ATTEMPT TO GAIN UNFETTERED ACCESS TO THE JANE DOE DEVICES BASED ON A FLAWED INTERPRETATION OF TRAFFICKING STATUTES. AND, AGAIN, A FLAWED INTERPRETATION OF THE PEOPLE'S THEORY. THEY ARE ESSENTIALLY GUESSING AT THE NUMBER OF MESSAGES ON THESE PHONES. AND THE NOTION THAT EVERYTHING THAT IS ON THESE PHONES IS BRADY IS ABSURD, AND I BELIEVE THE COURT UNDERSTANDS THAT AND KNOWS THAT.

THE DEFINITION OF "EXCULPATORY" IS NOT "EVERYTHING." THAT'S JUST COMPLETELY ABSURD.

IN TERMS OF THE RELEVANCY ASPECT, YOUR HONOR, WE'VE BEEN THROUGH THIS. WE'VE BEEN THROUGH THIS ON MULTIPLE OCCASIONS. THIS PRELIM WAS AT LEAST A WEEK LONG, YOUR HONOR. THERE ARE -- OUR AGENTS WERE ON THE STAND FOR HOURS. DEFENSE COUNSEL HAD PLENTY OF TIME TO ASK THEM ALL SORTS OF QUESTIONS. WE'VE SUBMITTED DECLARATIONS. WE'VE ARGUED BASICALLY THIS SAME MOTION ON A COUPLE OF OCCASIONS NOW ALREADY, AND IF THEY STILL DON'T UNDERSTAND WHAT RELEVANCE IS, THEN THAT'S NOT REALLY -- THEN THAT'S SURPRISING. LET'S JUST SAY THAT.

WITH THAT, UNLESS THERE'S SOMETHING SPECIFIC THE COURT WOULD LIKE THE PEOPLE TO ADDRESS, YOUR HONOR, WE WOULD SUBMIT.

THE COURT: THANK YOU.

AS THE MOVING PARTY, YOU DO HAVE THE LAST WORD.

MR. MASON: THANK YOU, YOUR HONOR.

YOUR HONOR, LET ME TAKE IN ORDER WHAT I BELIEVE I HEARD FROM THE PEOPLE. THE FIRST WAS A STATEMENT THAT THE DEFENSE HAS MADE MISCHARACTERIZATIONS OR MISSTATEMENTS OF THE PEOPLE'S THEORY OF THE CASE. IN FACT, I AM QUOTING FROM THE PEOPLE'S THEORY OF THE CASE. I AM QUOTING FROM THE OPPOSITION. AND THE OPPOSITION STATES, AND THIS IS SIGNED BY THE PROSECUTOR WHO JUST SPOKE TO THE COURT, ON PAGE 8 TO PAGE 17.

THE PEOPLE ASSERT THAT DEFENDANT GARCIA

ESTABLISHED SUBSTANTIAL AND SUSTAINED RESTRICTION OF THE JANE DOES' PERSONAL LIBERTY BY REQUIRING THEM TO SUBMIT TO HIS ORDERS TO GO TO HIM WHENEVER AND WHEREVER HE WANTED. WHEN THE JANE DOES WERE WITH GARCIA, THEY WERE REQUIRED TO SATISFY SEXUALLY GARCIA IN WHATEVER MANNER HE DESIRED. THAT'S THE PEOPLE'S WORDS; THE PEOPLE'S WORDS THAT THE PEOPLE SUBMITTED TO THIS COURT. SUBSTANTIAL AND SUSTAINED RESTRICTION DURING THE PERIOD CHARGED BY MR. GARCIA. THE EVIDENCE OF WHETHER OR NOT THAT IS TRUE IS FOUND IN THE CONTEMPORANEOUS -- MEANING AT THE TIME -- STATEMENTS, ACTIONS, BEHAVIORS, THOUGHTS, NOTES, RECORDED REFLECTIONS BY THESE FIVE INDIVIDUALS. THERE IS NO MISCHARACTERIZATION. THERE IS CERTAINLY NO MISSTATEMENT. I QUOTED WHAT THE PEOPLE WROTE.

SECOND, THE PEOPLE STATE, ONCE AGAIN, THE DEFENSE IS SIMPLY LOOKING FOR, QUOTE, "UNFETTERED ACCESS." THAT'S NOT TRUE. THAT'S WHY WE CREATED, AS NARROW AND FOCUSED AS POSSIBLE, A WINDOW OF WHAT WE ARE ASKING FOR. THE MOTION DOES NOT REQUEST UNFETTERED ACCESS. THE MOTION DOES NOT REQUEST ACCESS TO EVERYTHING ON THOSE PHONES FROM ANY DATE RANGE. IT REQUESTS MESSAGES SENT AND RECEIVED BY THESE JANE DOES DURING THE TIME PERIOD CHARGED IN THE INFORMATION. THE PEOPLE JUST IGNORE WHAT WE ARE ASKING FOR AND REPEAT "UNFETTERED ACCESS," "FISHING EXPEDITION." YOU DON'T WIN CASES BY SIMPLY SAYING "UNFETTERED ACCESS," "FISHING EXPEDITION" AGAIN AND AGAIN. THEY NEED TO RESPOND TO WHAT WE'RE ACTUALLY ASKING FOR.

SECOND, WE NEVER ASKED FOR UNFETTERED ACCESS, EVEN TO THESE MESSAGES. WE PROPOSED THE SYSTEM THAT WE PROPOSED IN A CONFERENCE WITH THE COURT ON FEBRUARY 24TH FOR A CLEAN TEAM OF AGENTS, NOT IN THE PROSECUTION TEAM, BUT EMPLOYED BY THE GOVERNMENT, TO RUN A SERIES OF SEARCH TERMS.

THE COURT: I RECALL THAT.

MR. MASON: WE PROPOSED THAT. THE RESPONSE FROM DEPUTY ATTORNEY GENERAL AMANDA PLISNER WAS, "SURE. TELL ME YOUR SEARCH TERMS." SHE WANTED US TO TELL HER WHAT OUR SEARCH TERMS WOULD BE. THAT PROPOSAL THAT WE MADE WOULD SATISFY ANY CONCERNS ABOUT UNFETTERED ACCESS, A FISHING EXPEDITION. IN THAT PROPOSAL, WE WOULD NOT HAVE ACCESSED DIRECTLY THAT INFORMATION AT ALL. WE WOULD SUBMIT SEARCH TERMS TO THE CLEAN TEAM, THE CLEAN TEAM WOULD RUN THE SEARCH TERMS, PRINT OUT THE RESULTS.

THE COURT: LET ME ADDRESS THAT. AGAIN, NOT TO INTERRUPT YOU, BUT I DON'T WANT TO SPEND TOO MUCH TIME ON THAT TOPIC. THAT WOULD NOT ALLAY YOUR BRADY CONCERNS IF THE CLEAN TEAM, AS YOU CALL IT, RETRIEVED INFORMATION AND GAVE IT TO YOU. YOU COULD STILL ARGUE AT A LATER DATE THAT THERE WAS EVIDENCE OF SUPPRESSION OF SOME FAVORABLE AND MATERIAL ITEMS AND STILL HAVE A BRADY VIOLATION, BUT THAT WOULD NOT ALLAY YOUR FEARS.

MR. MASON: WELL, YOUR HONOR, WHEN THE PARTIES -- IN MY EXPERIENCE DOING CLEAN TEAMS, IT'S BEEN ON THE OTHER SIDE. BUT WHEN PARTIES HAVE DONE CLEAN TEAM PROPOSALS LIKE THIS IN THE PAST, IT'S TYPICALLY BEEN

WITH THE PARTICIPATION OF THE COURT AND THE AGREEMENT OF THE PARTIES, AND THAT'S WHAT WE WERE SUGGESTING. AND THE REASON THAT I DON'T THINK THAT THAT'S CONCERNS THAT WE COULD LATER SOMEHOW TURN AROUND AND CLAIM A BRADY VIOLATION --

THE COURT: ARE YOU NOW ADVOCATING THAT THE BRADY PROCESS IS ALSO A COURT PROCESS? ARE YOU ADVOCATING THAT I MUST VIEW THESE 38,000-PLUS ITEMS AND DETERMINE IF THERE IS BRADY MATERIAL?

MR. MASON: YOUR HONOR, I DON'T THINK YOU NEED TO, IF THE PEOPLE WOULD AGREE TO A CLEAN TEAM.

THE COURT: IF THEY DIDN'T, ARE YOU SUGGESTING THAT ANY CASE, ANY CASE -- I'M TALKING ABOUT THE FIRST CASE I EVER READ -- RUTHERFORD, R-U-T-H-E-R-F-O-R-D, AT 14 CAL.3D 399, IN 1975 -- TO THE MOST RECENT CASE IN THIS AREA, WHICH IS PEOPLE VS. STEWART, S-T-E-W-A-R-T, AT 55 CAL.APP.5TH 755, AND EVERY SINGLE CASE IN BETWEEN.

IS THERE ONE CASE THERE THAT IS BEHIND YOUR ADVOCATION THAT THE COURT MUST GET INVOLVED AND VIEW THESE ITEMS?

MR. MASON: YOUR HONOR, I HAVE NOT SUGGESTED THAT THE COURT VIEW THEM. WHEN I SAY "PARTICIPATION BY THE COURT" -- LET ME DESCRIBE THE PROCESS, AS I HAVE DONE IT OTHER TIMES WITH OTHER COURTS.

THE PARTIES AGREE ON A PROPOSED ORDER FOR A PROCEDURE, AND THE PROPOSED ORDER FOR THE PROCEDURE IS SOMETHING LIKE THE FOLLOWING: THE PEOPLE WILL SET UP A CLEAN TEAM -- NOT PART OF THE PROSECUTION TEAM -- IN A

WALLED OFFICE, PART OF THE PROPOSED PROTECTIVE ORDER THE COURT WOULD SIGN. THE CLEAN TEAM WOULD RUN SEARCH TERMS THAT ARE PROVIDED BY THE DEFENSE ON A DEFINED UNIVERSAL METHOD. IT WOULD BE IN THE PROPOSED ORDER. THE CLEAN TEAM WOULD RUN THOSE SEARCHES, PRINT OUT THE RESULTS, AND THEN HAVE A SEPARATE REVIEW, WHICH IS VERY COMMONLY DONE FOR RELEVANCE OR BRADY APPLICATION, USING AN AGREED-UPON DEFINITION. AND THEN THE MESSAGES THAT SATISFY THIS CRITERIA WOULD BE PRODUCED.

THE COURT: BY "REVIEW," YOU'RE REFERRING TO COURT REVIEW? COURT REVIEW?

MR. MASON: NO, YOUR HONOR. THAT'S NOT HOW THE PROCEDURE --

THE COURT: WELL, WHAT REVIEW -- YOU MENTIONED THEN THERE WOULD BE A REVIEW.

MR. MASON: THE REVIEW IS DONE BY THE CLEAN TEAM. THAT'S MEMBERS OF THE GOVERNMENT.

THE COURT: ALL RIGHT.

MR. MASON: NOT THE PROSECUTION TEAM.

THE COURT: ALL RIGHT.

MR. MASON: THE COURT'S ROLE IN SUCH A PROCESS -- AND THIS IS HOW WE HAVE DONE IT BEFORE -- THE COURT'S ROLE IN SUCH A PROCESS IS LIMITED TO APPROVING THE PROPOSED ORDER, MODIFYING IT IF THE COURT DEEMS NECESSARY, AND SIGNING IT. AND THAT PROPOSED ORDER IS IMPORTANT BECAUSE THAT WHAT ENSURES THE SEPARATION BETWEEN THE CLEAN TEAM AND PROSECUTION TEAM.

THE COURT: AND THAT WOULD ALLAY ALL BRADY FEARS?

IS THAT WHAT YOU'RE SAYING?

MR. MASON: YOUR HONOR, I CANNOT TELL YOU RIGHT AT THIS MOMENT IF IT WILL ALLAY ALL BRADY FEARS. WHAT I CAN TELL YOU IS THAT'S WHAT WE PROPOSED AT THE TIME.

THE COURT: I UNDERSTAND THAT.

MR. MASON: WE PROPOSED THAT WHEN WE HAD OUR INVESTIGATOR OUT THERE.

THE COURT: I UNDERSTAND WHAT YOU PROPOSED.

MR. MASON: ALL RIGHT.

THE COURT: I AM JUST WONDERING EXACTLY IF THAT WOULD, ONE, INCLUDE COURT PARTICIPATION WHEN NO CASE SAYS THAT. AND I AM NOT REFERRING TO ANY STIPULATION OR WHAT OTHER COURTS DO.

MR. MASON: YEAH.

THE COURT: AND, TWO, WHETHER THAT WOULD ALLAY ALL BRADY FEARS, IN TERMS OF IF THERE IS ANY OTHER SUPPRESSION, NEGLIGENT, INTENTIONAL, OR OTHERWISE THAN ANY MATERIAL OR FAVORABLE MATERIAL BY THE GOVERNMENT? AND THE ANSWER IS, IT HAS TO BE NO.

MR. MASON: YOUR HONOR --

THE COURT: IT WOULD NOT. IT HAS TO BE --

MR. MASON: THE ANSWER TO THE QUESTION IS ALWAYS, IN THEORY, NO, BECAUSE IT IS IMPOSSIBLE TO ALLAY ALL THOSE CONCERNS IN THE ABSENCE OF FULL FILE DISCOVERY.

THE COURT: ALL RIGHT.

MR. MASON: NOW, IT'S MY VIEW, WHICH I'VE ARTICULATED PUBLICALLY FOR YEARS, THAT WE SHOULD HAVE FULL FILE DISCOVERY --

THE COURT: YOU'RE IN THE WRONG FORUM FOR THAT.

MR. MASON: I UNDERSTAND THAT, YOUR HONOR.

WE ARE NOT GOING TO HAVE FULL FILE DISCOVERY HERE, AND THAT'S WHY, WHEN WE'RE DEFENDING OUR CLIENT, WE'RE TRYING OUR BEST TO COME UP WITH WAYS TO GET AT THIS EVIDENCE.

THE COURT: ALL RIGHT.

MR. MASON: AND LET ME MAKE TWO MORE POINTS.

AND I DO THINK THAT WE HAVE EXTENDED THIS OLIVE BRANCH, IF YOU WILL, OR THIS EFFORT TO COMPROMISE QUITE A WAYS BY EVEN PROPOSING THE CLEAN TEAM PROPOSAL WITH THE LIMITED UNIVERSE OF MATERIALS. WE ARE NOT SIMPLY COMING IN HERE, MAKING BLANKET DEMANDS FOR UNFETTERED ACCESS, AND THEN POUNDING THE TABLE WITH TAKING WRITS. THAT IS NOT WHAT WE'RE DOING HERE. WE ARE TRYING TO FIND A WAY TO GET AT THE EVIDENCE THAT RESPECTS THE CONCERNS, WHICH ARE REAL CONCERNS. I DON'T BELIEVE THAT THEY ARE FRIVOLOUS. I DON'T THINK THEY'RE APPLICABLE HERE, BUT THEY'RE REAL CONCERNS ABOUT, YOU KNOW, RUMMAGING IN PRIVATE MATERIAL. WE WOULD PREPARE SEARCH TERMS. WE WOULD GIVE THOSE TO THE CLEAN TEAM. WE WOULD NOT BE RUMMAGING IN AN UNFETTERED WAY. WE PROPOSED THAT. THE PROSECUTION REJECTED IT. AS THE COURT RIGHTLY POINTS OUT, THERE IS NOT MUCH MORE I CAN SAY ABOUT THAT BECAUSE THAT'S THEIR -- YOU KNOW, THAT'S A PROCESS THAT REQUIRES THE PARTICIPATION.

LET ME TURN TO THE FINAL TWO COMMENTS. THE PEOPLE SAY WE ARE GUESSING AT THE NUMBER OF MESSAGES.

ABSOLUTELY FALSE. THE NUMBER IN THIS DECLARATION COMES STRAIGHT FROM THE PEOPLE'S OWN FORENSIC EXPERT, STEVEN STOVER. THAT'S WHY WE BROUGHT RICK GREEN OUT HERE TO CALIFORNIA TO MEET PERSONALLY WITH STEVEN STOVER AT THE COMMERCE FACILITY. THEY SPENT THREE DAYS GOING THROUGH THESE MESSAGES.

THE DECLARATIONS FROM RICK GREEN ARE THE INFORMATION THAT STEVEN STOVER DIRECTLY PROVIDED TO HIM. THESE WERE STEVEN STOVER'S OWN PRINTOUTS, SAYING FOR EACH DEVICE, WHAT IS THE NUMBER OF MESSAGES ON IT. WE THEN TOOK THAT NUMBER OF MESSAGES AND WE WENT BACK THROUGH ALL THE DISCOVERY THAT HAD BEEN PROVIDED IN THIS CASE, AND WE TOTALED UP THE TOTAL NUMBER OF MESSAGES THAT WE HAD IN THAT DISCOVERY FROM ANY OF THE FIVE COMPLAINANTS. AND THAT NUMBER IS 1,187. AND THAT 1,187 IS PRINCIPALLY THOSE ALLEGED MESSAGES FROM JANE DOE 4 THAT WERE DISCUSSED AT LENGTH AT THE PRELIM. AND WE HAVE HERE SOME 700-PLUS TEXT MESSAGES FROM JANE DOE 5 -- TO AND FROM JANE DOE 5 -- MOST OF WHICH ARE TO AND FROM ALONDRA OCAMPO. AND I SUSPECT THAT THAT'S WHY WE WERE GIVEN THOSE, BECAUSE THEY WERE PART OF THE ALONDRA OCAMPO'S DISCOVERY. BUT FROM JANE DOE 5 HERSELF, WE HAVE, YOU KNOW, THIS 700, 720, MESSAGES. THE TOTAL NUMBER OF MESSAGES ON HER PHONE IS ABOUT 22,000. AND THAT'S IN THE DECLARATIONS. THIS IS JANE DOE 5, WHOSE NARRATIVE, AS THE COURT RECALLS, ENCOMPASSES THE LONGEST PERIOD, THE MOST NUMBER OF ALLEGED INTERACTIONS, AND THE MOST SUSTAINED CLAIMED INTERACTIONS WITH MR. GARCIA OF

ANY OF THE FIVE COMPLAINANTS. THAT'S 20,000-PLUS CONTEMPORANEOUS STATEMENTS ABOUT WHAT SHE WAS DOING, FEELING, THINKING, SAYING, DURING THE PERIOD WHEN THE PEOPLE CHARGED SHE WAS REPEATEDLY AND CONTINUOUSLY BEING TRAFFICKED, SEXUALLY ABUSED BY MR. GARCIA.

DO ALL OF THOSE THOUSANDS OF CONTEMPORANEOUS TEXT MESSAGES WITH OTHER PEOPLE MAKE ANY REFERENCE TO THAT, OR NOT? A JURY IS ENTITLED TO KNOW THAT, AND A REASONABLE FACT-FINDER COULD LOOK AT THE COMPLETE ABSENCE OF ANY REFERENCE IN CONTEMPORANEOUS STATEMENTS, THE ACTS, COERCIONS THAT ARE ALLEGED IN THIS CASE BY THE PEOPLE AND SAY, "YEAH. THAT'S REASONABLE DOUBT."

I MEAN, YOUR HONOR, THAT'S BRADY. I THINK THAT IS THE DEFINITION OF BRADY.

AND I WILL SUBMIT ON THAT, YOUR HONOR.

THE COURT: THANK YOU.

TO CLARIFY THE PARAMETERS OF THIS HEARING, AS COUNSEL STATED IN THE BEGINNING -- AND THIS IS A HEARING SOLELY ON THE PEOPLE'S DUTY UNDER BRADY, B-R-A-D-Y, VS. MARYLAND, AT 373 US 83, EVERY SINGLE CASE THAT I HAVE BEFORE ME, WHICH IS EVERY CASE FROM CALIFORNIA, THE COURT OF APPEAL, THE SUPREME COURT OF CALIFORNIA, AND THE UNITED STATES SUPREME COURT, AS RECENTLY AS TURNER VS. UNITED STATES, T-U-R-N-E-R, AT 582 US, PAGE NO. 90 HAS BEEN ASSIGNED -- THE SECONDARY CITATION IS 198 JUDICIAL 2ND 443. EVERY SINGLE CASE HELD THAT IT IS THE PEOPLE'S DUTY, UNDER BRADY VS.

MARYLAND, TO SUPPLY, WITHOUT REQUEST, MATERIAL AND FAVORABLE INFORMATION. THERE IS NO DISPUTE AS TO ANY PARTY AS TO THAT.

AND AS BACIGALUPO STATED, THAT I CITED EARLIER, ALONG WITH OTHER CASES, A VIOLATION OF BRADY REQUIRES REVERSAL, WITHOUT ANY NEED FOR ADDITIONAL HARMLESS ERROR ANALYSIS, IF THERE IS A TRUE BRADY VIOLATION.

CONSEQUENTLY, THE PEOPLE ALWAYS PROCEED IN ANY TRIAL AT THEIR PERIL. IF THERE IS ANY SUPPRESSION IN THIS CASE OF MATERIAL OR FAVORABLE INFORMATION TO THE DEFENSE, IT'S GOING TO BE REVERSIBLE. BUT THIS IS THE PEOPLE'S ABSOLUTE DUTY.

THERE IS -- TO DO WHAT YOU ALLUDED TO DO WHEN YOU STARTED TO ALLUDE TO THAT IN THE COURT'S INTERVENTION IN THIS MATTER, MEANING THAT I HAVE TO EXAMINE EVERY ITEM OF THE PEOPLE'S EVIDENCE BETWEEN WHETHER ANY ITEM IS MATERIAL AND FAVORABLE IS SOMETHING THAT BRADY DOESN'T CALL FOR. THAT'S A 1054 ISSUE. WE'VE ALREADY DEALT WITH 1054.1(A) THROUGH (F), AND THIS IS NOT PART OF THIS HEARING.

CONSEQUENTLY, THE PEOPLE HAVE STATED THAT THERE IS NO BRADY MATERIAL. SO BE IT. IF THERE'S ANY SUPPRESSION AND THEY AND THEY HAVE WITHHELD, THEN IT'S GOING TO BE REVERSED. THERE IS NOTHING FOR ME TO COMPEL, SINCE THIS IS THE PEOPLE'S DUTY.

TO MAKE IT VERY SIMPLE, YES, I WILL ORDER THE PEOPLE TO COMPLY WITH THEIR BRADY REQUIREMENTS. SO

ORDERED. THAT'S AN ORDER THAT GOES IN EVERY CASE, WITHOUT AN OFFICIAL ORDER. THAT'S AS FAR AS I'M GOING TO GO. OTHERWISE, YOUR MOTION IS DENIED.

MR. MASON: YOUR HONOR, MAY I BE HEARD WITH ONE ADDITIONAL REQUEST?

THE COURT: THERE IS NOTHING ELSE TO BE HEARD. THIS IS SOMETHING TOTALLY DIFFERENT FROM THIS. THE WAY IT WORKS IS THE PROPONENT ARGUES AND THE RESPONDENT CLOSES. THAT'S IT.

IS THERE A DIFFERENT ISSUE, OTHER THAN BRADY?

MR. MASON: IT'S IN LIGHT OF THE COURT'S ORDER, YOUR HONOR, AND RULING.

THE COURT: SO IS IT SOMETHING I DIDN'T CLARIFY?

MR. MASON: YES, YOUR HONOR.

I THINK THAT WE SHOULD HAVE A RECORD OF WHAT THE PEOPLE HAVE DONE, IN ORDER TO REVIEW THESE --

THE COURT: THAT'S DENIED.

MR. MASON: OKAY. THANK YOU, YOUR HONOR.

THE COURT: OKAY. THANK YOU.

I'LL SEE COUNSEL AT THE PRE-TRIAL.

(PROCEEDINGS CONCLUDED.)

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

DEPARTMENT 101 HON. RONALD S. COEN, JUDGE

| | |
|---|---|
| THE PEOPLE OF THE STATE OF CALIFORNIA, PLAINTIFF, VS. 01 NAASON JOAQUIN GARCIA, DEFENDANT. | CASE NO. BA484133 |

REPORTER'S TRANSCRIPT OF PROCEEDINGS

LOS ANGELES, CALIFORNIA; MARCH 26, 2021

APPEARANCES:

FOR THE PEOPLE: OFFICE OF THE ATTORNEY GENERAL
BY: PATRICIA FUSCO, DIANA LYNN CALLAGHAN, JEFF SEGAL, DEPUTIES
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SUITE 1702
LOS ANGELES, CALIFORNIA 90012

FOR DEFENDANT 01: WERKSMAN, JACKSON & QUINN LLP
BY: ALAN J. JACKSON,
CALEB MASON, ATTORNEYS AT LAW
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FOURTH FLOOR
LOS ANGELES, CALIFORNIA 90017
(FOR ALL PURPOSES)

BROOKE A. BRUBAKER, CSR NO. 9420
OFFICIAL REPORTER

# I N D E X

| PEOPLE'S WITNESSES: | DIRECT | CROSS | REDIRECT | RECROSS | VOIR DIRE |
|---|---|---|---|---|---|
| (NONE) | | | | | |

**DEFENDANT'S:**

(NONE)

## EXHIBITS

| PEOPLE'S | FOR IDENTIFICATION | IN EVIDENCE |
|---|---|---|
| (NONE) | | |

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

DEPARTMENT 101 HON. RONALD S. COEN, JUDGE

| | |
|---|---|
| THE PEOPLE OF THE STATE OF CALIFORNIA, PLAINTIFF, VS. 01 NAASON JOAQUIN GARCIA, DEFENDANT. | CASE NO. BA484133 REPORTER'S CERTIFICATE |

I, BROOKE A. BRUBAKER, OFFICIAL REPORTER OF THE SUPERIOR COURT OF THE STATE OF CALIFORNIA, FOR THE COUNTY OF LOS ANGELES, DO HEREBY CERTIFY THAT THE FOREGOING PAGES, 1-21, COMPRISE A FULL, TRUE, AND CORRECT TRANSCRIPT OF THE PROCEEDINGS HELD IN THE MATTER OF THE ABOVE-ENTITLED CAUSE, ON MARCH 26, 2021.

THIS TRANSCRIPT WAS PREPARED IN COMPLIANCE WITH 237(A)(2) OF THE CODE OF CIVIL PROCEDURE.

DATED THIS 13TH DAY OF APRIL, 2021.

BROOKE A. BRUBAKER
CSR NO. 9420, OFFICIAL REPORTER

# EXHIBIT F

CASE NUMBER: BA484133
CASE NAME: PEOPLE VS. GARCIA AND OAXACA
LOS ANGELES, CA FEBRUARY 24, 2021
DEPARTMENT 101 HON. RONALD S. COEN, JUDGE
REPORTER: BROOKE A. BRUBAKER, CSR NO. 9420
TIME: A.M. SESSION

APPEARANCES:

DEFENDANT GARCIA, (NOT PRESENT), WITH COUNSEL, CALEB MASON AND ALAN JACKSON, ATTORNEYS AT LAW (VIA WEBEX); AMANDA PLISNER AND JEFFREY SIEGEL, DEPUTIES ATTORNEY GENERAL (VIA WEBEX), REPRESENTING THE PEOPLE OF THE STATE OF CALIFORNIA.

THE COURT: ALL RIGHT. LET'S GO ON THE RECORD.

PEOPLE VS. GARCIA.

THE DEFENDANT IS NOT PRESENT.

I UNDERSTAND ON THE PHONE IS MR. MASON, FOR THE DEFENDANT, VIA WEBEX.

MR. MASON HAS INFORMED ME MR. RICK GREEN, A COMPUTER SPECIALIST, IS PRESENT ALSO.

FOR THE PEOPLE IS MS. PLISNER AND MR. SIEGEL, DEPUTIES ATTORNEY GENERAL ON THE TELEPHONE.

I AM GOING TO ASK ALL OF YOU, WHEN YOU DO SPEAK, IDENTIFY YOURSELF, SO THE COURT REPORTER CAN GET DOWN THE PROPER PERSON.

MR. MASON, YOUR CLIENT IS NOT HERE, AND I TAKE IT YOU WAIVE HIS PRESENCE FOR THIS HEARING?

MR. MASON: THAT'S CORRECT, YOUR HONOR.

I'LL ADVISE THE COURT, MR. JACKSON HAS ARRIVED AS WELL, SO I HAVE HIM ON THE LINE.

THE COURT: THANK YOU.

I DON'T KNOW WHAT THE PURPOSE IS, BUT I TAKE IT THE DEFENSE HAS BROUGHT THIS WEBEX MOTION; IS THAT CORRECT?

MR. MASON: YES, YOUR HONOR. I WOULD BE HAPPY TO ADVISE THE COURT. IT WILL PROBABLY BE VERY BRIEF.

WE JUST WANTED YOUR GUIDANCE ON ONE QUICK ISSUE.

THE COURT: I'M LISTENING.

MR. MASON: THANK YOU, YOUR HONOR.

SO AS THE COURT MIGHT BE AWARE, THE PEOPLE INVITED US TO COME OUT TO THE FACILITY IN COMMERCE AND WE BROUGHT OUR COMPUTER FORENSIC EXPERT, MR. GREEN, OUT THERE. HE WAS OUT THERE MONDAY AND TUESDAY, AND THE ISSUE IS THE FOLLOWING -- I SHOULD SAY, THE PEOPLE HAVE BEEN VERY ACCOMMODATING OF OUR SCHEDULE AND WERE VERY NICE TO MR. GREEN.

MS. PLISNER WAS OUT THERE AT THE FACILITY ON MONDAY AND SHE PROPOSED TO MR. GREEN THAT HE COULD ENTER SEARCH TERMS, OR HAVE THE AGENTS ENTER SEARCH TERMS INTO THE PHONES OF THE FIVE COMPLAINANTS, THE FIVE JANE DOES. WE THOUGHT THAT WAS A GREAT IDEA, AND WE WOULD LIKE TO TAKE THE PEOPLE UP ON THAT OFFER. WE WANTED SOME GUIDANCE FROM THE COURT, AND HOPEFULLY WE CAN DO IT IN A FASHION OR A MOTION PRACTICE AS TO HOW

THAT SHOULD TAKE PLACE. AND MY PROPOSAL WAS -- AND THIS IS WHAT WE'VE BEEN TALKING ABOUT, THE ATTORNEY GENERAL TEAM -- AND OVER THE LAST TWO DAYS -- WHAT WE PROPOSE IS THAT IN ORDER TO DO THESE SEARCH TERMS, THAT THE PEOPLE WOULD SET UP WHAT WE COLLOQUIALLY TERM A "CLEAN TEAM"; THAT IS, ONE OR MORE AGENTS OR OTHER AG'S WHO ARE NOT PART OF THE PROSECUTION TEAM, AND THAT WE WOULD THEN PROVIDE THE SEARCH TERMS TO THAT CLEAN TEAM.

THE CLEAN TEAM WOULD THEN DO THE FOLLOWING: THEY WOULD ENTER IN THE SEARCH TERMS. AND I UNDERSTAND THE PEOPLE WANTED TO HAVE A SEPARATE REVIEW FOR RELEVANCE, WHICH, AGAIN, WE'RE OKAY WITH, BUT THAT'S INCONSISTENT WITH WHAT THE COURT'S PRIOR ORDER WAS. SO THE PARTIES WOULD HAVE AN AGREED DEFINITION OF RELEVANCE, AND HOPEFULLY WE CAN GET THE COURT TO SIGN OFF ON THAT IF WE HAVE A DISAGREEMENT. BUT THEN THE CLEAN TEAM WOULD DO THE REVIEW AND THEY WOULD TELL US WHETHER OR NOT A PARTICULAR SEARCH TERM HAD A HIT OR NOT IN THE DEVICE AND HOW MANY HITS THERE WERE, AND THEN THE CLEAN TEAM WOULD LOOK AT WHAT THE RESULTS WERE. WE WOULD NOT SEE THE ADDITIONAL RESULTS UNTIL THE CLEAN TEAM HAD REVIEWED THEM AND DONE THEIR REVIEW FOR RELEVANCE, PURSUANT TO THE AGREED UPON DEFINITION, AND THEY WOULD KEEP NOTES AND RECORDS OF WHAT THE HITS WERE TO BE PRESERVED FOR POTENTIAL FUTURE LITIGATION, AND THEN THEY WOULD PRODUCE TO US ALL THE MATERIALS THAT HAD, YOU KNOW, TURNED UP IN RESPONSE TO THE SEARCH TERMS FROM THE DEVICES, AND WE WOULD DO IT THAT WAY. THE

PROSECUTION TEAM WOULD NOT BE PRESENT FOR THAT, YOU KNOW.

I AM SURE THE COURT'S FAMILIAR WITH THE WAY WE NORMALLY DO CLEAN TEAMS IN ANY LAW ENFORCEMENT INVESTIGATION, AND THE PROSECUTION TEAM WOULD NOT COMMUNICATE WITH THE CLEAN TEAM ABOUT WHAT OUR SEARCH TERMS WERE, WHETHER OR NOT THEY PRODUCED HITS IN THE DEVICES, AND WHAT THE RESULTS WERE. AND I THINK -- I'VE ACTUALLY SAID -- YOU KNOW, WE HOPEFULLY DON'T HAVE A REAL PRONOUNCED DISAGREEMENT ON THIS -- THE -- I THINK THE PROSECUTION TEAM IS IN AGREEMENT IN PRINCIPLE THAT THIS IS A GOOD WAY TO HANDLE IT, AND WE JUST WANTED SOME GUIDANCE FROM THE COURT AND LOGISTICS, AND, PARTICULARLY, WE'RE GOING TO HAVE TO COME UP WITH A PROPOSED ORDER FOR SIGNATURE, YOU KNOW, FORMALIZING THE PROCEDURES AS I'VE LAID THEM OUT BELOW, OR SUBJECT TO FURTHER DISCUSSIONS WITH THE PROSECUTION.

SO THAT WAS WHAT WE WANTED TO KNOW WITH THE COURT INFORMALLY NOW, BECAUSE MR. GREEN IS HERE NOW. I THINK JUST BASED ON THE CALENDARING, WE'RE GOING TO HAVE TO SEND HIM HOME AND BRING HIM BACK LATER, BUT WE WERE HOPING TO BE ABLE TO GET THIS -- SOME SENSE FROM THE COURT AS QUICKLY AS WE COULD, SO WE CAN MOVE THIS FORWARD, IF WE'RE GOING TO GO THIS WAY.

THANK YOU.

THE COURT: ALL RIGHT. THANK YOU.

ANYBODY FROM THE PEOPLE WISH TO SPEAK?

MS. PLISNER: YES, YOUR HONOR.

THIS IS AMANDA PLISNER. LET ME JUST SAY VERY QUICKLY, AND THEN I'LL DEFER TO MR. SIEGEL.

IT APPEARS TO ME OR SOUNDS TO ME THAT THERE WAS A MISCOMMUNICATION BETWEEN MR. GREEN AND MR. MASON, AS I DID NOT PROPOSE THAT THEY RUN SEARCH TERMS. IN FACT, WHAT HAPPENED WAS MR. GREEN QUERIED IF THAT WOULD BE A POSSIBILITY. IN AN ATTEMPT TO FACILITATE AN EXPEDITIOUS REVIEW OF THE RELEVANT INFORMATION ON THE DEVICES, I INDICATED THAT IF THEY PROVIDED US WITH THE SEARCH TERMS, I WOULD BE GLAD TO RUN THEM OR TO ASK MR. STOVER TO RUN THEM, OR MR. GREEN, SO THAT HE COULD QUICKLY REVIEW WHAT IT WAS HE WAS THERE TO REVIEW. IT WAS CERTAINLY NOT SOMETHING I PROPOSED, AND I'M JUST GOING TO ASSUME THAT THAT WAS A MISCOMMUNICATION BETWEEN MR. GREEN AND MR. MASON.

WITH THAT, I'LL DEFER TO MR. SIEGEL FOR THE REMAINDER.

MR. SIEGEL: GOOD MORNING, YOUR HONOR.

JEFF SIEGEL, ON BEHALF OF THE PEOPLE.

YOUR HONOR, OUR POSITION ON HOW THE ENTIRETY OF THIS CASE HAS BEEN IS THAT THE DEFENSE IS NOT ENTITLED TO UNFETTERED ACCESS TO THE JANE DOES' DEVICES BECAUSE THERE IS A LOT OF INFORMATION ON THOSE DEVICES THAT HAS -- THAT IS PRIVATE AND HAS NOTHING TO DO WITH THE RELEVANT ISSUES IN THIS CASE.

THE COURT: MR. SIEGEL, LET ME INTERRUPT YOU AT THIS TIME. MR. SIEGEL, PLEASE. ONE MOMENT.

I'VE ALREADY MADE A RULING ON

FEBRUARY 10TH, 2021, AND THAT'S THE RULING I AM GOING BY, WHICH WAS THAT THE PEOPLE HAVE MET THEIR DISCOVERY OBLIGATION AS I ORDERED IT. SO I AM NOT CONCERNED WITH UNFETTERED ACCESS. I'VE ALREADY MADE A RULING AS TO THAT, SO YOU MAY CONTINUE WITH THAT.

MR. SIEGEL: THAT'S CORRECT, YOUR HONOR.

AND THAT IS WHAT HAS BEEN POINTED OUT. THAT WAS THE SECOND TIME THE COURT HAS RULED, DENYING THIS MOTION, THIS IDEA THAT THE DEFENSE IS ENTITLED TO ACCESS -- TO HEAR RELEVANCE TO UNFETTERED ACCESS TO THESE DEVICES. SO IT MAKES NO SENSE MS. PLISNER WOULD SHOW UP MONDAY MORNING AND ALL OF THE SUDDEN OFFER TO ALLOW THE DEFENSE TO PROPOSE SEARCH TERMS TO WHAT WOULD ESSENTIALLY BE A FISHING EXPEDITION INTO THE CONTENTS OF THESE DEVICES.

MR. GREEN PROPOSED -- CAME TO COURT, CAME TO COMMERCE ON MONDAY, ASKED IF HE COULD RUN SEARCH TERMS. MS. PLISNER SAID, "WELL, LET ME SEE WHAT YOU'VE GOT HERE. MAYBE THERE'S SOMETHING WE CAN DO, THEN, TO FACILITATE WHAT YOU'RE DOING." BUT THAT WAS IN THE CONTEXT OF WHAT THEY WERE THERE TO DO, WHICH WAS TO EXAMINE THE METADATA THAT WAS -- REGARDING RELEVANT EVIDENCE THAT WE HAVE ALREADY DISCLOSED, IN ORDER TO VERIFY AUTHENTICITY. THAT WAS THE PARAMETERS OF WHAT THEY WERE SUPPOSED TO BE DOING; NOT GOING INTO THIS FISHING EXPEDITION INTO OTHER THINGS.

WHAT HAPPENED WAS WE -- SO MS. PLISNER SAID, "WELL, LET'S SEE. WE HAVE SOME SEARCH TERMS.

WE'LL TAKE A LOOK TO SEE IF THERE IS SOMETHING TO FACILITATE YOUR WORK." THE NEXT THING WE KNOW IS MR. GREEN GETS ON THE PHONE WITH MR. MASON AND HE RECEIVED -- WE RECEIVED AN EMAIL THAT ALL OF THE SUDDEN PROPOSES THIS WHOLE CLEAN TEAM IDEA THAT ESSENTIALLY SEEKS TO CUT OUT THE PROSECUTION TEAM OUT OF THE DISCOVERY PROCESS AND, YOU KNOW, INSISTING THAT WE -- THAT WE APPOINT A CLEAN TEAM THAT HAS NO KNOWLEDGE OF THIS CASE, THE RELEVANT ISSUES, OR ANY OF THE DISCOVERY HISTORY, AND THAT THEY THEN GET TO SOMEHOW WORK WITH THIS CLEAN TEAM IN TRYING TO FIGURE OUT SOME SEARCH TERMS. THAT IS NOT REQUIRED UNDER SECTION 1054.1.

THE DEFENSE HAS MADE PREVIOUS MOTIONS TO COMPEL DISCOVERY. THEY HAVEN'T INDICATED THAT THERE WAS ANYTHING SECRET ABOUT WHAT THEY'RE LOOKING FOR -- THERE IS NO -- WE BELIEVE THAT THEIR REASON TO BELIEVE THAT THERE IS ANYTHING SECRET ABOUT THE SEARCH TERMS THAT THEY'RE SEEKING. SO, I MEAN, THE COURT HAS ALREADY RULED ON THIS TWICE, YOUR HONOR, THAT THEY'RE NOT ENTITLED TO ACCESS WHAT THEY WANT OF THESE PHONES OF THESE JANE DOE DEVICES.

WE HAVE REPRESENTED TO THE COURT ON MULTIPLE OCCASIONS THAT WE HAVE COMPLIED WITH OUR DISCOVERY OBLIGATIONS UNDER 1054.1 AND UNDER BRADY. WE HAVE DISCLOSED THE RELEVANT PORTIONS -- THE RELEVANT CONTENTS FROM THOSE DEVICES, AND THAT OUGHT TO BE THE END OF IT UNDER SECTION 1054.54.1. THERE IS NO LEGAL BASIS UNDER 1054.1 TO ALLOW THE DEFENSE TO DO WHAT

THEY'RE ASKING TO DO IN THIS CASE. SO I WOULD JUST ASK THE COURT TO CONFIRM THE COURT'S PREVIOUS RULING, DENYING THIS ACCESS AND WHAT THEY SEEK. AND IF THE COURT IS GOING TO SOMEHOW ENTERTAIN ANY EVENT, THAT WE NOT GET -- THE PROSECUTION CANNOT GET CUT OUT OF THE -- WHATEVER IT IS THAT THE COURT ALLOWS WITH REGARD TO SEARCH TERMS, BECAUSE THAT'S GOING TO PUT US AT A HUGE DISADVANTAGE TO TRY TO GET A CLEAN TEAM SOMEHOW UP TO SPEED ON THE ISSUES IN THIS CASE.

SO WITH THAT, UNLESS THE COURT HAS ANY QUESTIONS, I AM HAPPY TO SUBMIT.

THE COURT: I DO NOT.

MR. MASON, ANY FINAL COMMENT, AS YOU ARE THE MOVING PARTY?

MR. MASON: I DO, YOUR HONOR. THANK YOU.

SO THE FIRST COMMENT I WOULD MAKE IS THAT THE PROSECUTION TEAM IS NOT CUT OUT OF ANYTHING. THE PROSECUTION TEAM HAS THESE PHONES. THE PROSECUTION TEAM AT ANY TIME CAN EXAMINE THE PHONES AND EVERYTHING IN THEM AND RUN WHATEVER SEARCH TERMS THEY WANT TO RUN. THE ONLY THING WE DO NOT WANT THE PROSECUTION TEAM TO SEE IS WHAT SEARCH THE DEFENSE CHOOSES TO RUN, AND THAT IS THE DEFENSE'S THOUGHT PROCESS AS TO WHAT THEY WOULD LIKE TO SEE, SEARCH, AND THAT'S SOMETHING THE PROSECUTOR IS NOT ENTITLED TO. THE PROSECUTION HAS THE PHONES.

SECOND, YOUR HONOR, WITH RESPECT TO THE ISSUE OF THE COURT'S PRIOR RULING, THE REASON WE'RE IN THIS POSITION IS, IF THE COURT RECALLS, AT THE END OF

THE LAST HEARING, MS. PLISNER STOOD UP IN COURT AND REPRESENTED TO THE COURT THAT ALL OF THE DEVICES, INCLUDING THE JANE DOE DEVICES, WERE AT COMMERCE, AND WE COULD COME AND SEE THEM, AND WE COULD EXAMINE THEM WHENEVER WE WANTED. THAT WAS HER WORDS AT THE END OF THE LAST HEARING. THAT'S WHY WE BROUGHT OUR EXAMINER OUT, AND THAT'S WHY WE ARE IN THIS POSITION. WE HAVE NOT BEEN PRODUCED A SINGLE ITEM FROM ANY OF THE JANE DOE PHONES.

SO THE ISSUE OF THE COURT'S PRIOR RULING IS THE PEOPLE ARE OBLIGATED TO PRODUCE ALL RELEVANT EVIDENCE. THE PEOPLE ARE INDEPENDENTLY, CONSTITUTIONALLY OBLIGATED TO PRODUCE ALL EXCULPATORY EVIDENCE. IF THERE IS ANYTHING AT ALL ON THOSE FIVE JANE DOE PHONES THAT IS RELEVANT AND/OR EXCULPATORY, OR OTHERWISE DISCOVERABLE, WE ARE ENTITLED TO THAT, AND I HAVE NOT HEARD THE PEOPLE SAY -- BECAUSE I DON'T THINK THEY CAN, AND I DON'T THINK THEY BELIEVE THIS -- I HAVE NOT HEARD THE PEOPLE SAY TO THE COURT, "THERE IS NOTHING RELEVANT TO THIS CASE IN ANY OF THOSE FIVE JANE DOE PHONES."

THAT WAS THE WHOLE POINT OF THE CLEAN TEAM. A CLEAN TEAM IS A WELL ESTABLISHED METHOD FOR LOOKING AT EVIDENCE IN A WAY THAT THE DEFENSE DOES NOT GET THE UNFETTERED ACCESS, WHICH THE PROSECUTION SAYS THEY DON'T WANT US TO HAVE. THE COURT HAS RULED WE CANNOT HAVE WHAT WE ARE PROPOSING IS EXTREMELY FETTERED. IT IS CLOSELY FETTERED BY THE DEFINITION OF RELEVANCE BY THE

PROSECUTION TEAM DOING THESE SEARCHES AND NOT GIVING UP ANYTHING THAT'S NOT RELEVANT. THAT'S WHAT WE'RE ASKING FOR THEM TO DO. THE PROSECUTION CAN DO WHATEVER THEY WANT WITH THESE PHONES AT ANY TIME, SO THERE'S OBVIOUSLY NO LIMIT ON WHAT THEY CAN DO. THERE IS NO DISADVANTAGE. THE ONLY DISADVANTAGE I GUESS MR. SIEGEL IS REQUIRING TO DO -- HE DOESN'T KNOW WHAT I AM THINKING, OR HE DOESN'T KNOW WHAT ALAN IS THINKING -- AND HE IS NOT ENTITLED TO, AND THOSE ARE MY COMMENTS.

I WOULD SAY, YOUR HONOR, I DON'T THINK IT'S FAIR OR ACCURATE TO SAY THE COURT ALREADY RULED ON THIS. THE COURT HAS NOT RULED ON THIS ISSUE WITH RESPECT TO THE JANE DOE PHONES. THE COURT HAS RULED, AND WE ACCEPT THAT RULING FOR THESE PURPOSES, THAT WE'RE NOT ENTITLED TO THE FULL FORENSIC DOWNLOAD THAT WE CAN SIMPLY PERUSE AT OUR LEISURE. THAT'S WHAT WE WOULD LIKE. OBVIOUSLY, THE COURT HAS RULED WE CANNOT DO THAT, BUT I THINK THE PROVISION OF ALL RULES OF EVIDENCE DOES REQUIRE THE PROSECUTION -- ALLOWS YOU TO RUN SEARCH TERMS ON THESE PHONES.

I WOULD SUBMIT ON THAT.

THE COURT: THANK YOU.

AT THE LAST HEARING, MS. PLISNER STATED -- AND I'M QUOTING FROM THE TRANSCRIPT -- THE JANE DOE DEVICES WERE INITIALLY PROTECTED BY THE 1054.7 ORDER. THE COURT MODIFIED THE ORDER RECENTLY AND INDICATED THAT WE SHOULD MAKE AVAILABLE THE RELEVANT PORTIONS OF THE DEVICE. SO FOLLOWING THAT MODIFICATION OF THE ORDER,

THOSE RELEVANT PORTIONS WOULD HAVE BEEN AVAILABLE FOR REVIEW.

TO CONTINUE WITH MY RULING, I THINK COUNSEL IS CONFUSING ME WITH THE DISCOVERY REFEREE IN CIVIL MATTERS. AS I'VE STATED TIME AND TIME AGAIN, PENAL CODE SECTION 1054, ET SEQUITUR, IS ALL OF THE DISCOVERY THAT APPLIES AT A CRIMINAL CASE, EXCEPT THAT WHICH IS CONSTITUTIONALLY MANDATED. I AM NOT A DISCOVERY REFEREE. THAT'S TO SAY, WHICH WAY THE DISCOVERY SHOULD BE BROUGHT ABOUT. THAT IS NOT MY JOB. THAT'S NOT MY PURVIEW.

I DID RULE BACK ON FEBRUARY 10, 2021, THAT THE PEOPLE HAVE MET THEIR OBLIGATIONS UNDER PENAL CODE SECTION 1054.1(A) THROUGH (F). AS FAR AS WHAT COUNSEL WISHES TO DO ABOUT SEARCH TERMS, THAT APPEARS TO BE A FISHING EXPEDITION. I AM NOT GETTING INVOLVED IN THAT. I AM NOT MAKING ANY RULING AS TO THIS. I ALREADY RULED DISCOVERY HAS BEEN COMPLIED WITH. AS A CRIMINAL JUDGE, THERE IS NO FURTHER RULING I NEED OR WILL MAKE.

IF THERE IS NOTHING FURTHER, THAT CONCLUDES THIS HEARING.

MR. MASON: THANK YOU, YOUR HONOR.

MS. PLISNER: THANK YOU, YOUR HONOR.

THE COURT: THANK YOU, ALL.

MR. SIEGEL: THANK YOU, YOUR HONOR.

(PROCEEDINGS CONCLUDED.)

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

DEPARTMENT 101 HON. RONALD S. COEN, JUDGE

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|---|---|
| THE PEOPLE OF THE STATE OF CALIFORNIA,<br>PLAINTIFF,<br>VS.<br>01 NAASON JOAQUIN GARCIA,<br>03 SUSANA MEDINA OAXACA,<br>DEFENDANTS. | )<br>)<br>)<br>)CASE NO.<br>)BA484133<br>)<br>)<br>)<br>)<br>) |

REPORTER'S TRANSCRIPT OF PROCEEDINGS

LOS ANGELES, CALIFORNIA; FEBRUARY 24, 2021

APPEARANCES:

FOR THE PEOPLE: OFFICE OF THE ATTORNEY GENERAL
BY: AMANDA GAIL PILSNER AND
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FOR DEFENDANT 01: WERKSMAN, JACKSON & QUINN LLP
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FOR DEFENDANT 03: LAW OFFICES OF J. PATRICK CAREY
BY: JOHN PATRICK CAREY,
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BROOKE A. BRUBAKER, CSR NO. 9420
OFFICIAL REPORTER

# I N D E X

| PEOPLE'S WITNESSES: | DIRECT | CROSS | REDIRECT | RECROSS | VOIR DIRE |
|---|---|---|---|---|---|
| (NONE) | | | | | |

**DEFENDANT'S:**

(NONE)

## EXHIBITS

| PEOPLE'S | FOR IDENTIFICATION | IN EVIDENCE |
|---|---|---|
| (NONE) | | |

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

DEPARTMENT 101 HON. RONALD S. COEN, JUDGE

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|---|---|
| THE PEOPLE OF THE STATE OF CALIFORNIA, PLAINTIFF, VS. 01 NAASON JOAQUIN GARCIA, 03 SUSANA MEDINA OAXACA, DEFENDANTS. | CASE NO. BA484133 REPORTER'S CERTIFICATE |

I, BROOKE A. BRUBAKER, OFFICIAL REPORTER OF THE SUPERIOR COURT OF THE STATE OF CALIFORNIA, FOR THE COUNTY OF LOS ANGELES, DO HEREBY CERTIFY THAT THE FOREGOING PAGES, 1 THROUGH 11, COMPRISE A FULL, TRUE, AND CORRECT TRANSCRIPT OF THE PROCEEDINGS HELD IN THE MATTER OF THE ABOVE-ENTITLED CAUSE, ON FEBRUARY 24, 2021.

THIS TRANSCRIPT WAS PREPARED IN COMPLIANCE WITH 237(A)(2) OF THE CODE OF CIVIL PROCEDURE.

DATED THIS 4TH DAY OF FEBRUARY, 2021.

BROOKE A. BRUBAKER
CSR NO. 9420, OFFICIAL REPORTER

# EXHIBIT G

CASE NUMBER: BA484133
CASE NAME: PEOPLE VS. GARCIA/OAXACA
LOS ANGELES, CA SEPTEMBER 17, 2021
DEPARTMENT 101 HON. RONALD S. COEN, JUDGE
REPORTER: BROOKE A. BRUBAKER, CSR NO. 9420
TIME: A.M. SESSION

APPEARANCES:

DEFENDANT GARCIA, PRESENT WITH COUNSEL, ALAN J. JACKSON AND CALEB MASON, ATTORNEYS AT LAW; DEFENDANT OAXACA (NOT PRESENT) WITH COUNSEL, PATRICK J. CAREY, ATTORNEY AT LAW; PATRICIA FUSCO, JEFFREY SEGAL, AND DIANA CALLAGHAN, DEPUTIES ATTORNEY GENERAL, REPRESENTING THE PEOPLE OF THE STATE OF CALIFORNIA.

THE COURT: ON THE RECORD IN PEOPLE VS. GARCIA AND OAXACA.

DEFENDANT GARCIA IS PRESENT.

DEFENDANT OAXACA IS APPEARING 977(B) THROUGH COUNSEL.

ALL COUNSEL ARE PRESENT.

THE SPANISH INTERPRETER, WHOSE OATH IS ON FILE, IS PRESENT.

IF I CAN HAVE THE IDENTIFYING INFORMATION OF THE INTERPRETER, PLEASE?

THE INTERPRETER: JANE HUDSON, H-U-D-S-O-N, COURT VERIFIED, COURT CERTIFIED SPANISH INTERPRETER. 300401. OATH ON FILE.

THE COURT: THANK YOU.

MATTER IS HERE FOR PRETRIAL. COUNSEL FOR DEFENDANT GARCIA FILED A MOTION TO CONTINUE. I'VE ALREADY INDICATED LAST PROCEEDING THAT COUNSEL HAD GOOD CAUSE. I DO HAVE TO MAKE A FEW COMMENTS.

I'VE READ AND CONSIDERED THE MOTIONS AND THE PEOPLE'S NON-OPPOSITION TO THE CONTINUANCE. COUNSEL HAS MADE A MOTION TO CONTINUE ON TWO MAJOR GROUNDS. ONE IS THE RECENT DISCOVERY. THAT IS GOOD CAUSE.

TWO, THE JURORS AND WITNESSES MUST WEAR MASKS, THE CLAIM THAT THE WITNESSES WOULD BE ANONYMOUS, THIS BEING A 6TH AMENDMENT VIOLATION, AND MASKS RENDER THE WITNESSES FACELESS, AND COUNSEL CAN'T SEE THE FACES OF THE JURORS. I DO NOT FIND THAT TO BE GOOD CAUSE TO CONTINUE.

THE MOST RECENT CASE ON THIS ISSUE IS PEOPLE VS. ARREDONDO, A-R-R-E-D-O-N-D-O, AT 8 CAL.5TH 694. IN THAT CASE, IT HELD THAT THE CONFRONTATION RIGHTS OF THE DEFENDANT WERE VIOLATED, WHERE THE VICTIM, WHO WAS AGE 18, TESTIFIED WITH A COMPUTER MONITOR POSITIONED SO THAT THE VICTIM AND DEFENDANT COULD NOT SEE EACH OTHER. IT HELD THAT THAT PARTICULAR ACCOMMODATION WAS NOT JUSTIFIED BY THE FACT THAT THE VICTIM STARTED CRYING. THE ARREDONDO CASE HELD THAT THE COURT IS NOT PRECLUDED FROM ORDERING AN ACCOMMODATION TO WITNESSES OLDER THAN AGE 13, OTHER THAN CLOSED-CIRCUIT TELEVISION. AND I NEED NOT GO ON FURTHER FROM THERE.

THIS IS NOT THE TYPE OF CASE, AS WAS ARREDONDO. THIS IS NOT THE TYPE OF CASE AS IN COY VS. IOWA -- C-O-Y -- 487 U.S. 1012, WHICH HAD HELD THAT A SCREEN BETWEEN THE -- PLACED IN FRONT OF A CHILD WITNESS AND THE DEFENDANT THAT IS SPECIFICALLY DESIGNED TO ENABLE THE WITNESS TO AVOID VIEWING THE DEFENDANT THAT ALLOWS THE DEFENDANT TO SEE A DIMMER -- DIM VIEW OF THE WITNESS THROUGH THE SCREEN, WITH A DENIAL OF RIGHT OF CONFRONTATION. AND, AS SUCH, THIS WOULD NOT BE AN ANONYMOUS WITNESS, AS COUNSEL WOULD HAVE THE IDENTIFICATION OF THE WITNESS.

UNTIL THERE IS A CALIFORNIA CASE, ASSUMING THAT ON THE NEXT DATE WE HAVE FULFILLED OUR MASK MANDATE -- AND I HAVE NO IDEA WHETHER IT'S GOING TO BE OR NOT -- BUT UNTIL THERE IS SUCH A PUBLISHED CALIFORNIA CASE, I DO NOT FIND THIS TO BE A DENIAL OF RIGHT TO CONFRONTATION.

THE SAME WITH THE FACES OF THE JURORS WEARING MASKS. THIS IS A STATEWIDE MANDATE. COUNSEL CAN SEE THE DEMEANOR OF THE JURORS. THE ONLY THING THAT IS COVERED IS THE NOSE AND MOUTH.

AS I STATED EARLIER, COUNSEL DOES HAVE GOOD CAUSE. THE PEOPLE HAVE CONCEDED COUNSEL HAS GOOD CAUSE BECAUSE OF DISCOVERY.

WITH THAT IN MIND, THE CONTINUANCE IS GRANTED.

NOW WE HAVE AN ISSUE AS TO THE CALENDAR.

MR. JACKSON: MAY I BE HEARD, YOUR HONOR?

THE COURT: OF COURSE.

MR. JACKSON: THERE ARE -- WITH REGARD TO THE MASK MANDATE, OBVIOUSLY, THAT'S A BONE OF CONTENTION, FOR LACK OF A BETTER PHRASE, FOR US, BUT IT'S IMMATERIAL AT THIS POINT.

THE COURT: AT THIS POINT, YES. I UNDERSTAND. I AGREE.

MR. JACKSON: RIGHT. SO -- AND WHO KNOWS WHEN OR IF THE MASK MANDATE WILL BE IN PLACE AT THAT TIME. WE'LL ADDRESS IT AT THAT TIME. SO I APPRECIATE THE COURT'S GUIDANCE IN PUTTING UP SOME GUARDRAILS, IN TERMS OF THE ARREDONDO CASE AND HOW IT HELD, AND THAT WILL HELP GUIDE US AS WE MOVE FORWARD.

THE COURT: I WOULD BE SHOCKED IF THE MASK MANDATE IS IN EXISTENCE BY THE TIME WE TRY THIS CASE. THEN AGAIN, I'M IN SHOCK IT'S STILL IN EXISTENCE TODAY.

MR. JACKSON: RIGHT. THAT MAKES TWO OF US.

THE COURT: SO AS I WAS PROPOSING TO COUNSEL, I HAVE AN ISSUE WITH THE CALENDAR. I HAVE TRIALS SET ALL THE WAY THROUGH NEXT YEAR, BUT IN THROUGH THE GOOD PART OF NEXT YEAR, INCLUDING AN EIGHT-WEEK SPECIAL CIRCUMSTANCE, TWO-DEFENDANT MURDER CASE. I CAN MAKE THIS PROMISE TO COUNSEL. I'LL TELL COUNSEL MOMENTARILY -- I'LL TELL THEM RIGHT NOW. THE FIRST DATE THAT I HAVE OPEN ON MY CALENDAR RIGHT NOW APPEARS TO BE THE FIRST WEEK OF MAY. WITH THAT SAID, IF FOR SOME REASON THAT TRIAL THAT I HAVE IS NOW SET FOR MARCH, GETS CONTINUED -- WITH THAT SAID, AND THAT'S SET AT THE VERY

BEGINNING OF MARCH -- I WILL NOTIFY COUNSEL OF ALL DUE SPEED AS SOON AS I HEAR, AND PERHAPS IT'S GOING TO BE ADVANCED. THIS CAN BE ADVANCED. I APOLOGIZE TO COUNSEL. ALL COUNSEL HERE ARE EXPERIENCED. THEY KNOW THE ISSUES THAT GO ON ON THE 9TH FLOOR AND, RIGHT NOW, IT'S BEYOND MY CONTROL.

MR. JACKSON: UNDERSTOOD. I DO WANT TO -- IF I COULD, YOUR HONOR, THE COURT INDICATED WHEN THE COURT BEGAN ITS COMMENTS, BY SAYING, "I HAD ALREADY INDICATED AT A PRIOR HEARING THAT THE COURT WAS INCLINED TO GRANT THE 1050 AND FIND GOOD CAUSE." THAT WASN'T ACTUALLY A HEARING, AND I WANT TO MAKE SURE THAT WE DO MEMORIALIZE THE CIRCUMSTANCES OF THAT CONVERSATION.

THAT WAS A PHONE CALL BETWEEN AND AMONG THE COURT, WHO KINDLY AGREED TO GET ON THE PHONE WITH MR. SEGAL AND MYSELF, BUT IT WAS NOT REPORTED, OR AT LEAST, I DON'T BELIEVE IT WAS REPORTED.

THE COURT: I STAND CORRECTED. LET ME INQUIRE. BROOKE?

THE REPORTER: WHAT WAS THE DATE?

MR. JACKSON: IT WOULD HAVE BEEN AUGUST 26TH.

THE REPORTER: I DON'T BELIEVE IT WAS.

THE COURT: COUNSEL, YOU'RE RIGHT. I APOLOGIZE. YES. I APOLOGIZE. THIS WAS AN INFORMAL HEARING WITH COUNSEL AND THE PEOPLE.

MR. JACKSON: RIGHT.

THE COURT: AND IT WAS RELATING TO DISCOVERY. I MADE CERTAIN VIEWS KNOWN. WITH THAT IN MIND, I STATED

THAT THERE WOULD BE GOOD CAUSE FOR A CONTINUANCE, AND I MADE THAT PROMISE TO ALL COUNSEL, AND YOU ARE CORRECT. THANK YOU FOR THE CORRECTION.

MR. JACKSON: SO IF I COULD ELUCIDATE FOR A QUICK SECOND ABOUT THAT?

THE COURT: PLEASE. GO AHEAD.

MR. JACKSON: I THINK THE RECORD DOES DESERVE TO BE SORT OF FLESHED OUT WHERE THAT'S CONCERNED.

TO TAKE US BACK TO AUGUST 26TH, I RECEIVED A PHONE CALL -- I'M SORRY -- THAT MAY NOT BE TRUE -- I RECEIVED A COMMUNICATION -- I DON'T REMEMBER IF IT WAS A PHONE CALL OR AN EMAIL -- FROM MR. SEGAL, WHO INDICATED THAT HE WOULD LIKE TO GET ON THE PHONE WITH THE COURT. THERE WAS AN ISSUE HE WANTED TO RAISE THAT DEALT WITH SOME DISCOVERY, AND I ACCOMMODATED HIM AND SAID, "SURE. IF YOU HAVE SOMETHING TO SAY, LET'S GET ON THE PHONE AND DO IT, AND THE COURT WAS EQUALLY ACCOMMODATING, IF NOT MORE SO, TOOK TIME OUT OF ITS SCHEDULE, AND THE THREE OF US GOT ON THE CALL.

DURING THE COURSE OF THAT CONVERSATION, MR. SEGAL REVEALED WHAT CAN ONLY BE DESCRIBED AS EXTRAORDINARILY TROUBLING INFORMATION. THIS ISN'T JUST -- AND I DON'T BELIEVE THAT THE COURT WOULD COUCH THIS AS SIMPLY A DISCOVERY MOTION OR A DISCOVERY ISSUE. THIS GOES FAR BEYOND THAT.

MR. SEGAL INDICATED TO THE COURT AND TO COUNSEL, TO ME, THAT, QUOTE, "THE DAY BEFORE" -- WHICH WOULD HAVE BEEN AUGUST 25TH -- HE STARTED -- AND I'M

QUOTING. I WROTE COPIOUS NOTES ABOUT IT. HE STARTED GOING THROUGH THE TEXT MESSAGES OF THE JANE DOES' PHONES, AND HE WAS TROUBLED BY CERTAIN THINGS THAT HE BEGAN TO FIND. AND THE NEXT MORNING -- AND I THINK OUR CALL, YOUR HONOR -- MAYBE THE COURT CAN CORRECT ME -- I THINK IT WAS LATE MORNING, MAYBE 11:00, MAYBE NOON, SOMETHING LIKE THAT, BECAUSE I REMEMBER MR. SEGAL SPECIFICALLY SAYING, "I HAD TIME TO GO THROUGH EVEN MORE" -- "HUNDREDS OF EVEN MORE MESSAGES THIS MORNING AND DECIDED TO MAKE THIS CALL" -- TO MR. JACKSON, OR TO MAKE THIS REQUEST TO GET MR. JACKSON ON THE PHONE WITH THE COURT.

OBVIOUSLY, THAT IS AN ENORMOUS REVELATION THAT MR. SEGAL AND THE PROSECUTION TEAM, QUOTE, "STARTED GOING THROUGH THESE MESSAGES" JUST ABOUT 30 DAYS BEFORE TRIAL. GIVEN THE FACT THAT WE, THE DEFENSE, HAVE BEEN ASKING, BEGGING, AND DEMANDING OF THE PROSECUTION TO ALLOW US ACCESS TO THOSE PHONES AND THE DATA UNDERLAYING THOSE PHONES -- THE DATA ON THOSE PHONES OF ALL THE JANE DOES, SPECIFICALLY IN THIS CASE JANE DOE 1, 2, 3, AND WE HAD BEEN TOLD OVER AND OVER AND OVER AGAIN, NUMBER ONE, "WE HAVE GONE THROUGH ALL THOSE PHONES." THE COURT KNOWS THIS. I MEAN, THIS ISN'T A NEW THING. THE MEDIA KNOWS THIS. EVERYBODY IN THE AUDIENCE KNOWS THIS BECAUSE WE'VE HAD THIS CONVERSATION SO MANY TIMES. "WE'VE GONE THROUGH ALL THE PHONES. WE HAVE GONE THROUGH AND REVIEWED EVERY BIT OF DATA. YOU HAVE ALL RELEVANT AND MATERIAL DATA, AND THERE IS NO DISCOVERABLE

OR BRADY OR EXCULPATORY INFORMATION FOR YOU. YOU'RE JUST ASKING TO GO THROUGH THOSE PHONES AS A FISHING EXPEDITION."

AS MR. SEGAL CONTINUED TO -- AND I HAVE TO GIVE HIM CREDIT FOR MAKING THIS CALL -- IT'S HIS OBLIGATION TO DO -- SHOULD HAVE BEEN DONE TWO YEARS AGO. BUT I GIVE HIM CREDIT FOR AT LEAST ELUCIDATING ON WHAT HE FOUND ON THE PHONE. WE HAVE STILL NOT HAD ACCESS TO ALL OF THE TEXT MESSAGES TO WHICH THEY HAVE ACCESS, AND I'LL DESCRIBE THAT IN JUST A SECOND. HE INDICATED THAT THERE WERE FIVE CATEGORIES -- AND THE COURT WILL RECALL THIS -- FIVE CATEGORIES OF INFORMATION THAT WERE OF CONCERN TO HIM THAT HE BELIEVED COULD, IN HIS WORDS, POTENTIALLY BE DISCOVERABLE. THAT IS THE MOST -- THAT IS THE BIGGEST UNDERSTATEMENT I THINK I'VE EVER HEARD IN THE PRACTICE OF LAW.

THE FIVE CATEGORIES ARE THE FOLLOWING: SOME OR ALL OF THE JD'S USE OF DRUGS, SOME OR ALL OF THE JD'S SEXUAL CONDUCT. THAT'S NUMBER TWO. NUMBER THREE, SOME OR ALL OF THE JD'S MENTAL HEALTH ISSUES. NUMBER FOUR, SOME OR ALL OF THE JD'S BEING INVOLVED IN THEFT -- ADMITTING TO THEFT AND CONSPIRACY TO COMMIT THEFT. SOME OR ALL OF THE JD -- AND THIS THE ONE THAT CAUGHT THE COURT ATTENTION MOST AND CAUGHT MY ATTENTION MOST -- STATEMENTS BETWEEN AND AMONG THE JD'S INDICATING AN INTENT TO SET UP THE DEFENDANT FOR MONEY.

MR. SEGAL WENT ON TO SAY, "I THINK MR. JACKSON MIGHT CONSIDER THIS BRADY." SO IN AN

ABUNDANCE OF CAUTION, I'M BRINGING THIS TO THE COURT'S ATTENTION. AND THE COURT ACTUALLY LAUGHED OUT LOUD AND SAID, "IN THE LAST FIVE MINUTES, WHAT I'VE HEARD MR. SEGAL, I WOULD -- I FIND GOOD CAUSE."

"I AM TELLING YOU AS -- FOR GUIDANCE" -- BECAUSE I THINK MR. SEGAL THEN WENT ON TO SAY, "I'M ASKING FOR GUIDANCE AS TO WHAT TO DO." OF COURSE, THIS COURT HAS MADE IT VASTLY CLEAR IT IS NOT A DISCOVERY REFEREE. THAT IS NOT SOMETHING THAT THE COURT'S WILLING OR HAS BEEN WILLING TO ENGAGE IN. AND THE COURT SAID, "MR. SEGAL, YOU NEED TO TURN ALL THAT OVER." AND SHORTLY THEREAFTER, THE COURT SAID, "IS THERE ANYTHING ELSE?" MR. SEGAL SAID, "NO." I THINK HE SAID SOMETHING ABOUT A PROTECTIVE ORDER, AND WE ENDED THE CALL. AND I THINK THAT'S A RELATIVELY FAIR RECITATION OF THAT CALL.

THE COURT: ALL RIGHT.

MR. JACKSON: WHAT'S MOST TROUBLING IS THAT NOT ONLY IS THIS ADDITIONAL DISCOVERY. THIS ISN'T, YOU KNOW, A CAR WAS SEARCHED AND A DRIVER'S LICENSE GOT STUCK BETWEEN THE SEAT AND THE CONSOLE AND THE POLICE OFFICERS FORGOT TO LOG IT AND NOW THEY'RE TURNING THAT OVER.

THIS IS THE CENTRAL SERIES OF ISSUES THAT WE HAVE BEEN ASKING FOR, IN TERMS OF DISCOVERY RELATED TO THE JANE DOES FOR TWO SOLID YEARS, WHILE MY CLIENT HAS SAT IN CUSTODY WAITING PATIENTLY, OSTENSIBLY, ON A NO-BAIL HOLD, A $90 MILLION BAIL. MENTAL HEALTH ISSUES, THEFT ISSUES, ISSUES RELATED TO DRUG USE, ISSUES RELATED

TO SEX, AND SEXUAL CONDUCT, ISSUES RELATED TO A SPECIFIC INTENT TO SET UP THE DEFENDANT IN A WAY THAT IS EXACTLY HOW THE DEFENDANT APPEARS TO HAVE BEEN SET UP. WE HAVE COME TO COURT ON NUMEROUS OCCASIONS -- TOO NUMEROUS TO EVEN COUNT -- AND WE'VE SAID, "WE WOULD LIKE ACCESS TO THE JANE DOES' PHONES. AND THE COURT HAS SAID -- AND I'LL USE THE COURT'S WORDS AS BEST I CAN. I WILL SUMMARIZE. THE COURT HAS SAID, "LOOK, I AM NOT A DISCOVERY REFEREE. IT'S NOT MY JOB, DUTY, NOR MY PLACE TO GO THROUGH ALL THE PROSECUTION'S EVIDENCE, WHICH WE SORT OF ASKED.

WE DIDN'T THINK WE COULD TRUST THEM TO GIVE US EVERYTHING WE WANTED AND EVERYTHING TO WHICH MR. GARCIA IS ENTITLED, AND WE ASKED THE COURT TO INTERVENE. THE COURT SAID GENTLY, "I AM NOT GOING TO ACCEPT THAT INVITATION, MR. JACKSON, MR. MASON. THE PROSECUTION KNOWS THEIR JOB, AND IF THEY DON'T TURN SOMETHING OVER, IF THEY REFUSE, IF THEY HIDE, IF THEY CONCEAL EVIDENCE AND IT TURNS OUT TO BE BRADY, THEY DO SO AT THEIR PERIL."

MS. FUSCO, MR. SEGAL, MS. PLISNER HAVE ALL BEEN ON THE RECORD. MS. FUSCO ACTUALLY POUNDED HER FIST ON THE TABLE, I RECALL, AND POINTED OVER TO THIS SIDE OF THE TABLE AND SAID, "HOW DARE THEY ACCUSE US OF HOLDING BACK INFORMATION?" SHE PUT IN A MOTION THAT SHE SIGNED, "THE PEOPLE DO NOT DISPUTE THAT THEY HAVE A DUTY TO PROVIDE ALL RELEVANT EVIDENCE AS STATUTORILY AND CONSTITUTIONALLY REQUIRED, AND THE PEOPLE HAVE DONE SO.

THE PEOPLE HAVE REVIEWED THE DEVICES IN FULL." THAT'S NOT A SMALL STATEMENT. "THE PEOPLE HAVE REVIEWED THE DEVICES IN FULL FOR RELEVANT DATA AND EXCULPATORY EVIDENCE, TAGGED THE RELEVANT ARTIFACTS IN AXIOM, IDENTIFIED THEM IN REPORTS OF INVESTIGATION, PROVIDED THOSE REPORTS OF INVESTIGATION TO THE DEFENSE, AND MADE THE TAGGED ARTIFACTS AVAILABLE." IN OTHER WORDS, THEY'VE DONE EVERYTHING THEY NEEDED TO DO. THEY'VE LOOKED AT ALL THE EVIDENCE, THEY'VE LOOKED AT ALL THE PHONES, THEY'VE MADE A COMPREHENSIVE REVIEW OF THE DATA AND MADE A DETERMINATION THERE IS NO RELEVANT MATERIAL OR EXCULPATORY INFORMATION IN ANY OF IT. "MR. JACKSON, MR. MASON, GO AWAY. YOU CAN'T SEE THE PHONES." AND 31 DAYS BEFORE THIS CASE WAS SUPPOSED TO GO TO TRIAL, THIS IS REVEALED.

SO ONE OF TWO THINGS IS TRUE, AND IT'S BINARY. EITHER THEY KNEW THAT THEY HAD THIS INFORMATION AND THEY MADE FALSE STATEMENTS, KNOWING FALSE STATEMENTS TO THIS COURT AND TO COUNSEL -- OFFICERS OF THE COURT, OR THEY HADN'T REVIEWED IT AS MR. SEGAL SUGGESTED, AND THEY STILL MADE FALSE STATEMENTS TO THE COURT AND TO OFFICERS OF THE COURT. THERE IS NO THIRD OPTION. WE ARE EXTRAORDINARILY TROUBLED BY THIS.

OBVIOUSLY, AS THE COURT INDICATED, ITS CALENDAR IS RELATIVELY JAMMED. WE ARE GOING TO NEED TIME TO GO THROUGH THESE DATA TO DATE AS WE SIT HERE, NOTWITHSTANDING THE PASSAGE OF TIME AFTER THIS PHONE CALL WITH MR. SEGAL AND THE COURT AND MYSELF. FOR THE

FIRST TIME -- FIRST TIME -- WE RECEIVED THE FIRST TEXT MESSAGE THAT'S REFLECTIVE OF THIS CONVERSATION, AND THAT WAS YESTERDAY AFTERNOON AT -- I WANT TO SAY IT WAS ABOUT 1:00 O'CLOCK, 2:00 O'CLOCK IN THE AFTERNOON.

YOUR HONOR, THAT -- WHAT WE RECEIVED YESTERDAY IS ONE -- AND I WANT TO BE CLEAR ABOUT THIS -- IT'S ONE TEXT STRING FROM ONE CONVERSATION, FROM ONE JANE DOE'S PHONE, AND IT TOOK THREE HOURS FOR A HYPER-SPEED COMPUTER TO JUST DOWNLOAD THAT DATA. IT WAS 15,000 TEXT MESSAGES IN THE DOWNLOAD FROM YESTERDAY. OBVIOUSLY, WE HAVEN'T HAD THE CHANCE -- WE GOT IT AROUND 1:00 O'CLOCK -- PROBABLY ABOUT 4:00 -- IT WAS DOWNLOADED, AND WE BEGAN SCROLLING THROUGH IT. THAT'S NOT -- I THINK THE PROSECUTION HAS SEVEN PHONES FROM THE JANE DOES IN THEIR POSSESSION. SOME OF THE JANE DOES HAD MULTIPLE PHONES WHICH THEY TOOK AND MADE MIRROR IMAGES OF AND DOWNLOADED. WE STILL DON'T HAVE ANY OF THAT.

I WOULD GUESS -- BY THE WAY, NOT FOR NOTHING -- BUT JUST TO ILLUSTRATE THE FRUSTRATION AND THE INACCURATE AND FALSE STATEMENTS THAT HAVE BEEN PROVIDED TO US, STEVE STOVER -- SEEMS LIKE A NICE ENOUGH GUY. DON'T KNOW WHAT HIS MOTIVATION WOULD BE FOR DOING THIS OR SAYING THIS, UNLESS HE JUST WAS EITHER ACTING AT THE BEHEST OF ONE OF THE AG -- THE DEPUTY AG'S, OR HE WAS JUST NOT COMPETENT TO MAKE THE STATEMENT -- HE SAID THE JANE DOE PHONES -- ALL OF THEM TOGETHER -- EVERYTHING REFLECT ABOUT 35,000 TEXT MESSAGE, WHICH WE

THOUGHT WAS A PRETTY BIG NUMBER. 35,000, THAT'S NOT NOTHING. AND JANE DOE 3'S PHONE HAS 7,000. WELL, WE ONLY GOT ONE STREAM FROM JANE DOE'S STREAM YESTERDAY. IT WAS 15,000 TEXT MESSAGES. SO EVEN THAT WAS FALSE. NOT A SINGLE THING THAT THE PROSECUTION HAS TOLD US ABOUT THE ACTUAL PHONES AND THE DATA UNDERLYING THOSE PHONES HAS BEEN ACCURATE. NOT A SINGLE THING THEY'VE TOLD THIS COURT HAS BEEN ACCURATE, AND WE ARE EXTREMELY AND DEEPLY TROUBLED BY THAT. SO WE INTEND TO UTILIZE OUR TIME WISELY -- THE TIME THE COURT IS GRACIOUSLY GIVING US -- I THINK CONSTITUTIONALLY HAS TO GIVE US -- IN ORDER FOR US TO GET PREPARED FOR THIS CASE.

WE WILL BE BRINGING A SERIES OF MOTIONS. WE WILL ASK THE COURT TO REVIEW -- RE-REVIEW, UNDER A 995 MOTION. WE WILL ASK THE COURT TO REVIEW -- I AM NOT ASKING THE COURT TO DO IT TODAY, BECAUSE IT'S SORT OF HITTING EVERYBODY LIKE A BUCKET OF ICE WATER AT THIS POINT -- BECAUSE OF THIS LATE DISCOVERY, WE'LL BE ASKING THE COURT TO REOPEN A 1054.1 MOTION, WHICH WE'VE ALREADY MADE, AND IT'S ALREADY ON THE RECORD. IT WAS DENIED, WITH THE EXCEPTION OF SIMPLY ORDERING THE PROSECUTION TO DO ITS JOB, WHICH IT CLEARLY, ABJECTLY HAS NOT DONE. WE WOULD BE ASKING THE COURT TO ENTERTAIN A TERMINATE SANCTIONS MOTION. WE'LL BE SUGGESTING -- ASKING THE COURT TO REVIEW AN OSC SANCTION MOTIONS.

THE COURT: ONE MOMENT. INTERPRETER CHANGE.

(PAUSE IN PROCEEDINGS.)

MR. JACKSON: GOOD?

AND WE'RE GOING -- I THINK, MOST IMPORTANTLY, WE'RE GOING TO BE ASKING FOR AN FHA HEARING. THESE ARE THE THINGS WE WILL ASK THE COURT TO ENTERTAIN. WE WILL OBVIOUSLY UTILIZE -- BE MINDFUL OF THE COURT'S SCHEDULE. THESE ARE NOT SMALL ISSUES. THESE ARE RELATIVELY LARGE ISSUES, INCLUDING THE EVIDENTIARY HEARING THAT WE EXPECT, AND I BELIEVE THE COURT WOULD BE REQUIRED TO HOLD AT THIS POINT TO FIND OUT EXACTLY WHAT HAPPENED.

WHAT WAS THE MOTIVATION BEHIND THESE FALSE STATEMENTS? WE KNOW THAT THEY WERE FALSE. I MEAN, THE COURT'S HEARD THE PROSECUTION SAY, "WE'VE LOOKED AT EVERYTHING. WE'VE TURNED EVERYTHING OVER." AND WE ALSO KNOW THAT LESS THAN TWO WEEKS AGO, THERE WAS A HUGE REVELATION THAT THEY HADN'T LOOKED AT EVERYTHING AND THEY HADN'T TURNED EVERYTHING OVER, SO SOMETHING'S GOT TO GIVE. WE'RE GOING TO BE ASKING THE COURT TO ENTERTAIN THOSE ISSUES.

THE COURT: ALL RIGHT. I AM NOT REQUIRING IT, BUT IF THE PEOPLE WISH TO MAKE A RESPONSE?

MR. SEGAL: YES, YOUR HONOR.

YOUR HONOR, I KNOW MS. FUSCO WANTS TO ADDRESS SOME OF THE LEGAL ISSUES, BUT EVEN THE FACT THAT MR. JACKSON REFERRED TO COMMENTS THAT I ALLEGEDLY MADE DURING THIS PHONE CALL, I DO WANT TO CORRECT THE RECORD AS TO SOME OF THOSE COMMENTS.

FIRST OF ALL, WITH RESPECT TO MY REVIEW OF THOSE TEXT MESSAGES, WHAT I INDICATED ON THE PHONE WAS THAT I HAD CONDUCTED A RECENT REVIEW OF THOSE TEXT MESSAGES IN PREPARATION FOR TRIAL, SINCE I WAS -- I'M GOING TO BE HANDLING THE EXAMINATION OF THOSE WITNESSES. I NEVER INDICATED TO ANYONE THAT NO ONE ELSE HAD EVER CONDUCTED A REVIEW OF THAT MATERIAL.

IN FACT, THE DEFENSE HAS REPORTED AN INVESTIGATION 79 WHERE OUR AGENT, JOSEPH ESTE, CONDUCTED A -- WHAT LOOKS LIKE A COMPREHENSIVE REVIEW OF THE CONTENT OF JANE DOE -- OF THE MATERIALS THAT WERE EXTRACTED FROM JANE DOE 3'S PHONE. AND WE INDEED MADE NUMEROUS WRITTEN DISCLOSURES OF THE CONTENTS OF THE PHONES BACK THEN, AND THEY'VE HAD THAT MATERIAL FOR WELL OVER -- QUITE A WHILE, SO --

MS. FUSCO: OVER A YEAR.

MR. JACKSON: OVER A YEAR, IN WRITING THOSE DISCLOSURES.

MR. SEGAL: SECOND OF ALL -- SO MY COMMENTS ABOUT "RECENT REVIEW" HAD TO DO WITH ME PERSONALLY REVIEWING CERTAIN TEXT MESSAGES THAT I HAD NOT REVIEWED PRIOR, IN PREPARATION FOR TRIAL. I WAS NOT CONDUCTING -- THAT WAS MY ROLE IN THIS.

SECOND, WITH RESPECT TO THE SUBSTANCE OF SOME OF THESE THINGS -- AND THE ONE THING I MIGHT HAVE SAID DURING THE HEARING -- AND I DON'T THINK MR. JACKSON MENTIONED TODAY -- I MIGHT HAVE SAID, "SOME OF THESE MESSAGES WERE SENT AND RECEIVED DURING RELEVANT TIME

PERIODS DURING THE TIME THAT WE'VE ALLEGED SOME OF THESE CRIMES OCCURRED." THAT WAS A MISREADING OF MY NOTES, AND THIS IS ALL -- THE MESSAGES SPEAK FOR THEMSELVES. THE DEFENSE HAS THEM NOW. ALL OF THESE MESSAGES ARE SEVERAL MONTHS THAT I REFERRED TO -- ARE SEVERAL MONTHS AFTER THE ALLEGATIONS OF -- AGAINST MR. GARCIA. BUT WITH RESPECT TO THE SUBSTANCE OF THEM, I NEVER SAID -- ALL -- I WOULD SAY 99 PERCENT OF THE MESSAGES THAT I HAD REVIEWED AT THAT POINT -- AND THE MESSAGES THAT WE SENT OVER YESTERDAY -- IT'S A VERY LONG EMAIL STRING BETWEEN JANE DOE 2 AND JANE DOE 3, MOSTLY, AND THESE ARE CONVERSATIONS THAT OCCUR OVER SEVERAL MONTHS. AND SO THIS IS ALL AFTER EVERYTHING HAS HAPPENED AND THE GIRLS ARE PAST ALL OF THIS. SO TO THE EXTENT I SAID SOMETHING DIFFERENT DURING THE PHONE CALL, THAT WAS NOT ACCURATE, AND IT'S OBVIOUS FROM THE MESSAGES, THE DATES.

WITH RESPECT TO THE THEFT, I DID NOT SAY THAT ALL OF THE JANE DOES WERE INVOLVED IN THEFT. I SAID THAT ONE OF THE JANE DOES WHO WERE PARTICIPANTS ON THOSE -- WERE PARTICIPANTS IN THOSE TEXT MESSAGES HAD MENTIONED TAKING SOME UNDERWEAR AND I THINK SOME CLOTHING ON A COUPLE OF OCCASIONS FROM A STORE, AND HAD TALKED PROSPECTIVELY, LIKE, "HEY, LET'S GO TAKE SOME EYELASHES FROM TARGET." AND I DON'T KNOW IF THAT OCCURRED OR NOT. THAT IS WHAT I SAID. THAT'S WHAT THE TEXT MESSAGES SHOW. SO, YOU KNOW, YOU DON'T HAVE TO TAKE MY WORD FOR IT OR MR. JACKSON'S. THAT'S WHAT THE TEXT MESSAGES SHOW.

WITH RESPECT TO THE USE OF DRUGS, WHAT I SAID WAS THAT THERE WAS DISCUSSION BETWEEN THOSE TWO JANE DOES -- AND I'M NOT TALKING ABOUT THE OTHERS -- I'M TALKING ABOUT THOSE TWO -- 2 AND 3 -- OF BASICALLY USING WHAT'S I THINK CALLED WAX. IT'S LIKE A CONCENTRATED CANNABIS. THERE IS SOME DISCUSSION ABOUT THAT. THAT IS -- THAT IS NOT A CRIME -- THE USE OF MARIJUANA IS NOT A CRIME OF MORAL TURPITUDE -- WOULD NORMALLY NOT BE ADMISSIBLE FOR IMPEACHMENT, BUT THERE IS SOME DISCUSSION ABOUT THOSE TWO JANE DOES TALKING ABOUT USING ESSENTIALLY MARIJUANA.

AS FAR AS SEX, THESE TWO YOUNG LADIES ARE TALKING TO EACH OTHER PRIVATELY ABOUT RELATIONSHIPS THAT THEY HAVE WITH OTHER BOYS. THAT'S IT. THAT IS EXTREMELY UNLIKELY TO BE ADMISSIBLE. AND THIS IS, REMEMBER, SEVERAL MONTHS AFTER EVERYTHING WITH GARCIA. HIGHLY UNLIKELY THAT SOMETHING LIKE THAT WOULD BE ADMISSIBLE, OR MATERIAL. THEN, AS FAR AS MENTAL HEALTH, WHAT I INDICATED AND WHAT THE MESSAGES SHOW IS THAT THESE GIRLS ARE DEPRESSED AND DISTRAUGHT, AND THEY TALK ABOUT THAT -- ABOUT THAT -- ABOUT HOW THEY'RE FEELING. REMEMBER, THIS IS A FEW MONTHS AFTER THEY'VE BEEN THROUGH EVERYTHING ALLEGED IN THIS CASE, NOT TO MENTIONED THE ORDINARY TEENAGE ANGST KIND OF STUFF. AND THEN WITH RESPECT TO SETTING UP THE DEFENDANT, I DID NOT SAY THAT THEY DISCUSSED SETTING UP THE DEFENDANT FOR ANYTHING.

AND, BY THE WAY, THAT MESSAGE ABOUT DOING

THAT, ABOUT REJOINING THE GROUP AND GETTING PAID FOR HAVING SEX WITH MR. GARCIA, THAT WAS DISCLOSED IN REPORT 79, OVER A YEAR AGO. I WAS MISTAKEN ABOUT THAT. THAT ACTUALLY WAS DISCLOSED. BUT MORE THAN THAT, YOUR HONOR, THIS IS SOMETHING THAT OCCURS, AGAIN, NOT PROSPECTIVELY, "HEY, LET'S SET UP MR. GARCIA." THIS IS SOMETHING THAT HAPPENS MONTHS AFTER ALL OF THIS IS OVER, AND THEY ARE TALKING IN GEST, FACETIOUSLY. AND THEN I THINK AFTER THAT, THEY TALK ABOUT SOME COMPLETELY DIFFERENT SUBJECT. IT'S CLEAR IN CONTEXT, WHICH I DIDN'T HAVE A CHANCE TO EXPLAIN TO THE COURT DURING OUR PHONE CALL. WHEN THESE MESSAGES ARE VIEWED IN CONTEXT, IT WILL BE CLEAR TO EVERYONE THAT THIS IS A LITTLE BIT OF -- I GUESS YOU CALL IT GALLOWS HUMOR, ABOUT WHAT HAD HAPPENED TO THEM. THAT'S IT. THAT'S WHAT'S IN THOSE MESSAGES.

SO I -- SO I JUST WANTED TO CORRECT THE RECORD AS TO WHAT I HAD SAID BECAUSE, UM, I THINK IT WAS CHARACTERIZED AS A LOT MORE THAN THAT WHAT I ACTUALLY AT LEAST TRIED TO COMMUNICATE TO THE COURT. AND, AGAIN, NO ONE HAS TO TAKE MY WORD OVER MR. JACKSON'S WORD. THEY HAVE THE TEXT MESSAGES. THAT'S WHAT THEY SAY.

MS. FUSCO: AND, YOUR HONOR, I WOULD LIKE TO JUST DOVETAIL ON THAT.

I MEAN, MR. SEGAL WAS TRYING TO CLARIFY THE THINGS THAT WERE SAID BY COUNSEL THAT MISSTATED HIS PRIOR COMMENT, AND, AS WITH EVERYTHING ELSE, AN ATTEMPT TO PROJECT A FALSE NARRATIVE IN THIS CASE. COUNSEL CONTINUES TO MAKE FALSE ACCUSATIONS COMPLETELY

EXAGGERATE FACTS, TAKES A HUGE LEAP WITH EVERY SINGLE THING.

MR. SEGAL SAYS, "I WAS REVIEWING THESE MESSAGES YESTERDAY." ALL OF THE SUDDEN, IT TURNS INTO "NO ONE ON THE PROSECUTION TEAM HAS EVER REVIEWED A SINGLE THING IN THIS CASE." THIS IS THE TYPE OF EXAGGERATION THAT THEY HAVE MADE WITH EVERY SINGLE FACT IN THIS CASE, YOUR HONOR. THEY HAVE MADE HUGE LEAPS ON THE CONTENT OF THE MESSAGES AND EVERYTHING SAID BY COUNSEL, INCLUDING IN COURT, ON THE PHONE.

SINCE THE TIME OF THAT TELECONFERENCE WITH THE COURT, YOUR HONOR, THERE HAVE BEEN NUMEROUS EXCHANGES BETWEEN COUNSEL. I WANT TO MAKE SURE THE RECORD IS CLEAR, BECAUSE THEY DO CONTINUE TO MAKE FALSE ACCUSATIONS OF HIDING EVIDENCE, ET CETERA, ET CETERA. WHAT HAPPENED WAS THAT WE WERE REVIEWING EVIDENCE. I THINK IT WAS ACTUALLY IN RESPONSE TO A REQUEST FROM COUNSEL FOR COPIES OF THINGS THAT THEY HAD NOT VIEWED, OKAY? NOT TO SAY THAT THEY WERE NOT AVAILABLE TO THEM. THEY HAD THEM. IN THE -- BUT THEY SPECIFICALLY WERE ASKING FOR IT. WE WERE TRYING TO ACCOMMODATE THEM.

IN THE PROCESS OF REVIEWING WHAT HAD BEEN PROVIDED, MR. SEGAL WAS CONCERNED THAT WE HAD NOT SPECIFICALLY COPIED THESE PARTICULAR ITEMS TO SEND TO COUNSEL, AND WE DID NOT HAVE TIME TO DRILL DOWN ON THE ISSUE OF WHETHER IT HAD ACTUALLY BEEN MADE AVAILABLE BECAUSE THE DISCOVERY CUT-OFF WAS THE FOLLOWING DAY.

THE PEOPLE DID THE ABSOLUTE RIGHT THING,

YOUR HONOR, AND BROUGHT IT TO THEIR ATTENTION AND TO THE ATTENTION OF THE COURT. SINCE THE TIME OF THAT PHONE CALL, WE ACTUALLY HAVE BEEN ABLE TO DRILL DOWN ON THE ISSUE AND DISCOVERED THAT THIS EVIDENCE -- ALL OF THE JANE DOE 3 EVIDENCE THAT WE'RE TALKING ABOUT HERE IN COURT TODAY, YOUR HONOR, HAS BEEN AVAILABLE TO THEM FOR QUITE SOME TIME. THEY WERE PUT ON NOTICE. THERE WAS A REPORT, NO. 79, WHICH WAS DISCLOSED TO THEM ON JULY -- I BELIEVE IT WAS JULY 20TH OR JULY 30TH, OF 2020, WHICH SPECIFICALLY REFERENCES THIS CD THAT WE'RE TALKING ABOUT THAT MR. SEGAL HAD BEEN LOOKING AT. IT WAS PRODUCED TO THEM THEN, THEN THE PRELIM OCCURRED. AND AFTER THAT, THE PEOPLE WERE ORDERED TO DISCLOSE THE NAMES OF THE JANE DOES, ET CETERA. WE WENT BACK, WE PROVIDED UNREDACTED COPIES OF MULTIPLE REPORTS, INCLUDING THAT SAME ONE.

ALSO, YOUR HONOR, IN FEBRUARY OF 2021 -- AND I DO HAVE MR. STOVER ON STAND-BY -- AND I THINK HE WOULD DEFINITELY TAKE ISSUE WITH COMMENTS OF COUNSEL, TO THE EFFECT THAT HE HAD DONE SOMETHING NEFARIOUS IN THIS CASE, WHICH IS OUTLANDISH, UNFOUNDED, AND COMPLETELY UNPROFESSIONAL OF COUNSEL TO INSINUATE. BUT MR. STOVER SAT FOR A WEEK IN COMMERCE, YOUR HONOR, TO ACCOMMODATE THE DEFENSE REQUEST TO REVIEW RELEVANT EVIDENCE WITH WHICH THE PEOPLE HAD TAGGED AS TO MULTIPLE DEVICES, INCLUDING THE JANE DOE 3 DEVICE AND OTHER DEVICES.

DID THEY LOOK AT ANYTHING SUBSTANTIVE DURING THAT TIME, YOUR HONOR? NO. THEY SENT THEIR

EXPERT WHO SHOWED UP ON TWO OF THE DAYS WHILE THEY HAD RESERVED FIVE. HE SHOWED UP ON TWO OF THE DAYS AND ALL HE WAS INTERESTED IN WERE WORD COUNTS, MESSAGE COUNTS. THEN HE WANTED TO JUST BE ABLE TO USE THEIR OWN SEARCH TERMS TO REVIEW ENTIRE PHONES, WHICH THEY WERE NOT ENTITLED TO LOOK AT. DID NOT WANT TO LOOK AT ANY OF THE SUBSTANCE. AND THIS IS ALL DETAILED IN MR. STOVER'S REPORT. DID NOT LOOK AT ANYTHING OF SUBSTANCE. AND ASIDE FROM THOSE TWO DAYS THAT MR. GREEN WAS IN COMMERCE, YOUR HONOR -- INCIDENTALLY, I DON'T THINK MR. GREEN WORKS FOR MR. CAREY. THE CHARGES AS TO JANE DOE 3 PERTAIN TO MS. OAXACA. THOSE WERE THE ONLY CHARGES THAT PERTAIN TO MS. OAXACA. SO AS FAR AS WE KNOW -- ALTHOUGH WE PROVIDED THE SAME REPORTS TO MR. CAREY -- MR. CAREY, NOR ANYONE REPRESENTING HIM HAD EVER SHOWN UP IN COMMERCE TO REVIEW ANY OF THIS EVIDENCE THAT HAS BEEN AVAILABLE TO THEM.

ASIDE FROM THE TWO DAYS THAT MR. GREEN WAS IN COMMERCE WITH MR. STOVER, CARRYING ON WITH A BUNCH OF NONSENSE, INSTEAD OF LOOKING AT THE ACTUAL SUBSTANTIVE EVIDENCE -- ASIDE FROM THAT, YOUR HONOR -- AND I LOOKED AT THE LOG MYSELF, YOUR HONOR, AND COUNTED IT UP. THE DEFENSE HAS SPENT A TOTAL OF FIVE AND A HALF HOURS IN COMMERCE IN THE TWO SOLID YEARS THAT THIS CASE HAS BEEN GOING ON, TO USE MR. JACKSON'S OWN COMMENTS ABOUT HOW MUCH TIME HAS PASSED. OVER TWO YEARS, YOUR HONOR, FIVE AND A HALF HOURS. AND THEY'RE SO WORRIED ABOUT THE SUBSTANCE OF THIS CASE, PURPORTEDLY.

YOUR HONOR, THEY HAVE BEEN ASKING FOR UNFETTERED ACCESS TO THE JANE DOE PHONES ALL THIS TIME. FRANKLY, THE PEOPLE ARE JUST AT A POINT WHERE WE WOULD LIKE TO JUST GET TO THE SUBSTANCE OF THIS CASE INSTEAD OF LETTING TIME PASS AND ALLOWING COUNSEL TO JUST CONTINUALLY TRY TO MANUFACTURE BRADY AND OTHER DISCOVERY ISSUES.

AT THIS POINT, YOUR HONOR, ALTHOUGH WE DON'T BELIEVE WE ARE REQUIRED TO, WE DON'T THINK THAT WE NEED TO, BUT WE WANT TO PROVIDE COPIES OF THE JANE DOE PHONES -- THE DEVICES -- SAVE CHILD PORN, AND I BELIEVE THE COURT PREVIOUSLY STATED THAT CONTACT LISTS ARE OFF LIMITS TO THEM. BUT WE WILL BE PROVIDING THOSE -- COPIES OF THOSE DEVICES TO THEM, ASIDE FROM THOSE ITEMS THAT I JUST MENTIONED, IN AN EFFORT TO JUST GET TO THE SUBSTANCE OF THIS CASE AND GET THIS CASE TO TRIAL, RATHER THAN CONTINUE TO HAVE FALSE ACCUSATIONS FLYING SO THAT THEY CAN TRY TO DIVERT ATTENTION FROM THE ACTUAL FACTS OF THIS CASE, WHICH ARE OVERWHELMINGLY -- THAT SHOW THE GUILT OF THE DEFENDANT IN THIS CASE.

THE COURT: ALL RIGHT. THANK YOU.

MR. CAREY, I BELIEVE -- CORRECT ME IF I'M WRONG -- YOU WERE INVITED TO PARTICIPATE IN THE CONVERSATION -- THE TELEPHONIC CONVERSATION. YOU CHOSE NOT TO.

MR. CAREY: THAT'S CORRECT. I WAS IN COURT. I SPOKE TO MR. JACKSON, AND HE RELAYED THE CONTENTS OF THE CONVERSATION TO ME, SO I EFFECTIVELY WAIVED MY RIGHT.

THE COURT: AGAIN, AS I HAVE BEEN SAYING LAST COUPLE OF YEARS, I AM NOT LEAVING YOU OUT OF ANYTHING.

MR. CAREY: I UNDERSTAND.

THE COURT: IF YOU WANT TO SAY ANYTHING, GO AHEAD. I AM NOT USING THIS AS A FORUM FOR A BOXING MATCH. I LET COUNSEL VENT, BASICALLY, AND WAS KEEPING QUIET. BUT IF THERE IS ANYTHING YOU WANT TO STAY, GO AHEAD.

MR. CAREY: YES. JUST BRIEFLY. I WAS GOING TO STAY OUT OF IT, BUT MS. FUSCO JUST MENTIONED ME AND SOME INVITATION FOR ME TO COME TO COMMERCE AND LOOK AT ALL THEIR DISCOVERY. I'LL SEARCH FOR THAT INVITATION IN MY INBOX, BUT ON THE ONE HAND SHE'S SAYING WE'VE HAD TWO AND A HALF YEARS TO GO LOOK AT ALL THEIR EVIDENCE, BUT ON THE OTHER HAND, SHE'S SAYING, "OKAY. FINALLY, WE'LL TURN IT OVER." SO IF WE HAD ALL THIS TIME TO LOOK AT IT, WHAT DOES SHE NEED TO TURN OVER? IT'S JUST UTTERLY CONFUSING.

MS. FUSCO: DARNED IF I DO, DARNED IF I DON'T, YOUR HONOR.

THE COURT: I'M SORRY. COUNSEL...

MR. CAREY: SHE'S ACTUALLY RIGHT.

MS. FUSCO: SWORD AND THE SHIELD. IF YOU HAD --

MR. CAREY: I'M JUST TRYING TO GET DISCOVERY. THERE IS A LOT OF STUFF THAT GOES ON IN THE BACKGROUND. EVERY TIME I REPLY, "LOOK, I JUST WANT THE EVIDENCE THAT APPLIES TO MY CLIENT." I STILL DON'T HAVE IT, AND I'M STILL CONFUSED. I KNOW THE COURT DOESN'T WANT TO BE A REFEREE. I AM STILL CONFUSED AS IF I AM SUPPOSED TO GO

SEARCH THEIR WAREHOUSE FOR THE EVIDENCE RELEVANT TO MY CLIENT, OR IF THEY'RE GOING TO GIVE IT TO ME. SO I DON'T WANT TO GET THE COURT INVOLVED, BUT I'M JUST TRYING TO FIGURE OUT WHAT I'M SUPPOSED TO DO BECAUSE I DON'T WANT TO BE HERE IN MAY AND WE ACTUALLY ARE GOING TO TRY THE CASE AND BE TOLD, ONCE AGAIN, THAT IT'S MY FAULT FOR NOT GOING TO THEIR WAREHOUSE TO SEARCH FOR MY DISCOVERY.

THE COURT: ALL RIGHT. I'VE HEARD ENOUGH. I DON'T NEED ANY RESPONSES FROM ANYBODY ANYMORE. THAT'S ALL THIS WAS FOR. THIS IS NOT ANY MOTIONS. I KEPT QUIET. BEFORE THE COURT PICKS A DATE, THERE'S ONLY ONE THING I WANT TO SAY. I AM NOT CASTING ASPERSIONS AS TO ANYBODY. THE ONLY THING I AM GOING TO SAY, AS I WOULD IN ANY CASE, AND AS I DO IN EVERY CASE, I ORDER COUNSEL TO MEET, CONFER, AND IF THERE IS A POSSIBLE RESOLUTION IN THIS MATTER, PURSUE IT. I AM AMENABLE TO ALMOST ANYTHING.

COUNSEL KNOWS THE TYPE OF CASES THAT I TRY IN THIS COURT. I'M ON MY WAY TO 30 DEATH PENALTY CASES, SO I'M USED TO COMPLEX CASES. BUT, AGAIN, IF THERE IS ANY RESOLUTION, I WOULD URGE COUNSEL TO MEET AND CONFER. DO IT NOW, AND SEE WHAT CAN HAPPEN.

IN ANY EVENT, LET'S PICK A DATE.

MR. JACKSON: THE ONLY PIECE OF HOUSEKEEPING LEFT IS WE WERE INFORMED AFTER THE FACT THAT THIS COURT HAD SIGNED A PROTECTIVE ORDER.

THE COURT: I DID, AS I WOULD IN ANY CASE.

MR. JACKSON: UNDERSTOOD.

THERE IS A -- THERE ARE A COUPLE OF ISSUES IN THAT PROTECTIVE ORDER, THE MOST SALIENT OF WHICH, YOUR HONOR -- AND I WOULD BRING TO THE COURT'S ATTENTION -- I THINK IT'S PARAGRAPH 8 -- THE REASON THAT WE DIDN'T SIGN IT AND WOULD NOT SIGN OFF ON IT IS BECAUSE IT DISALLOWS US FROM EVEN PRESENTING THE DATA THAT WE NOW ARE GOING TO GET, THE EXCULPATORY DATA, TO MY OWN CLIENT AND TO MS. OAXACA FOR MR. CAREY. I BELIEVE IT'S COMPLETELY INAPPROPRIATE. IT MAY HAVE BEEN AN OVERSIGHT ON THE COURT'S PART, BUT I WOULD ASK THE COURT TO REVERSE ITS ORDER AS IT PERTAINS -- OBVIOUSLY.

THE COURT: LET ME -- PARAGRAPH EIGHT?

MR. JACKSON: I THINK SO.

THE COURT: UNDER NO CIRCUMSTANCES SHALL THE RECORD BE DOWNLOADED INTO ANY COMPUTER PROGRAM OR INTO THAT WEBSITE.

MR. JACKSON: NO. IT MUST BE SEVEN. SOMETHING ABOUT "SHARED WITH THE DEFENDANT."

THE COURT: THE RECORDS OR COPIES THEREOF WILL NOT BE GIVEN TO THE DEFENDANT WITHOUT THE COURT'S APPROVAL FOLLOWING THE HEARING.

MR. JACKSON: CORRECT. I HAVE TO BE ABLE TO DISCUSS THIS ISSUE AND SHOW THEM TO MY CLIENT.

THE COURT: MR. SEGAL, YOU DRAFTED THE ORDER. IS THERE ANY ISSUE WITH THAT?

MS. FUSCO: YOUR HONOR, I -- THERE STILL ARE CONCERNS AS TO THE JANE DOES PRIVACY, AND I DON'T

BELIEVE IT IS NECESSARY TO ACTUALLY SHOW THE DEFENDANT THE CONTENTS. OF COURSE, THEY CAN DISCUSS FACTS WITH THEM, BUT THIS IS REALLY NOT DIFFERENT THAN THE COURT'S PRIOR ORDERS, SO I DON'T THINK THAT IT SHOULD BE DELETED.

MR. JACKSON: THE COURT PREVIOUSLY SAID -- AND RIGHTFULLY SO -- YOU LOOKED DOWN FROM THE BENCH AND SAID, "MR. JACKSON, I DON'T BELIEVE I COULD EVER MAKE A LEGAL ORDER THAT DISALLOWS YOU FROM SHARING INFORMATION" --

THE COURT: NO, THAT'S CORRECT.

MR. JACKSON: -- WITH MY CLIENT.

THE COURT: THAT'S NOT WHAT THE PARAGRAPH SHOWS. "YOU MAY SHARE, YOU MAY SHOW, BUT NOT GIVE."

MR. JACKSON: CORRECT.

THE COURT: THAT'S WHAT IT SAYS.

MR. JACKSON: I READ IT MORE BROADLY, AND I THINK MS. FUSCO JUST CORROBORATED MY READING OF IT. SHE DOESN'T THINK I SHOULD EVEN BE ABLE TO SHOW IT TO HIM. THAT'S RIDICULOUS.

THE COURT: THAT'S NOT WHAT THE ORDER SAYS. EVERY WORD HAS MEANING, AND IT WAS NOT SPECIFICALLY INCLUDED OR EXCLUDED AS INCLUDED. "THE RECORD WILL NOT BE GIVEN TO THE DEFENDANT WITHOUT THE COURT'S APPROVAL FOLLOWING THE HEARING." IT DOESN'T SAY ANYTHING ABOUT "SHOWN" OR "DISCUSSED."

MR. JACKSON: I WILL GOVERN MYSELF ACCORDINGLY.

MR. CAREY: CAN I ASK A QUESTION? I GET WHAT THE

COURT'S SAYING, BUT IF I DON'T GIVE THE MESSAGES TO MY CLIENT, I'LL HAVE TO SIT WITH HER IN A ROOM FOR PROBABLY THREE WEEKS.

THE COURT: I UNDERSTAND. I AM SORRY.

MR. CAREY: SO CAN I GIVE THEM TO HER TO LOOK AT JUST -- I WANT TO MAKE SURE --

THE COURT: YOU CANNOT GIVE THEM TO HER. YOU CAN SHARE THEM WITH HER, SHOW THEM TO HER, DISCUSS THEM WITH HER.

MR. CAREY: OKAY. SO SHE CAN COME TO MY OFFICE AND LOOK AT A COMPUTER?

THE COURT: ABSOLUTELY. ALL RIGHT. DATE.

MR. JACKSON: YOUR HONOR, I DARE SAY AN INTERIM DATE OF --

THE COURT: OH, THERE WILL BE MANY INTERIM DATES, BUT THE FIRST THING I WANT TO DO IS SET A TRIAL DATE.

MR. JACKSON: GOT IT. GOT IT. OKAY. WE'RE LOOKING IN MAY?

THE COURT: I AM.

MR. JACKSON: REMARKABLY, MY CALENDAR IS COMPLETELY FREE.

THE COURT: REMARKABLY. THE CASE THAT I HAVE, IT'S SUPPOSED TO END -- AND NOTHING'S FOR CERTAIN -- APRIL 29TH.

MR. JACKSON: I WOULD THINK THE COURT WOULD WANT A WEEK OR SO BREATHER, AT LEAST.

THE COURT: DON'T WORRY ABOUT ME.

MR. JACKSON: YOUR HONOR, HOW ABOUT THE -- ABOUT

THE WEEK OF THE 9TH?

THE COURT: THAT WILL BE FINE. ANY PARTICULAR DATE, WE CAN SET IT FOR MAY 9TH AS 0-OF-10, WITH THE UNDERSTANDING WE ALWAYS START ON DAY ZERO IN THIS COURT.

MS. FUSCO: YOUR HONOR, WILL THE COURT BE SETTING A MOTION DATE BASED ON THAT?

THE COURT: I'LL BE SETTING PRETRIAL DUTIES AFTER THIS. THE FIRST THING I WANT TO DO IS CEMENT THE TRIAL DATE.

MR. JACKSON: MAY I HAVE JUST A MOMENT?

THE COURT: SURE.

(PAUSE IN PROCEEDINGS.)

THE COURT: I TAKE IT THE ESTIMATE IS STILL AROUND EIGHT WEEKS?

MS. CALLAGHAN: YES.

THE COURT: I TAKE IT THE ESTIMATE IS STILL AROUND EIGHT WEEKS?

MS. FUSCO: THEREABOUTS, YOUR HONOR. SEVEN -- SIX, SEVEN WEEKS.

THE COURT: WE'LL MARK IT FOR EIGHT.

(PAUSE IN PROCEEDINGS.)

MR. JACKSON: MAY 9 IS FINE, YOUR HONOR.

THE COURT: AS 0-OF-10?

MR. JACKSON: AS 0-OF-10.

THE COURT: IS THAT AGREEABLE WITH YOU, MR. GARCIA?

THE DEFENDANT: YES, YOUR HONOR.

THE COURT: ON BEHALF OF DEFENDANT OAXACA, IS THAT AGREEABLE WITH THE DEFENSE?

MR. CAREY: YES, YOUR HONOR.

THE COURT: AND I TAKE IT, AGREEABLE WITH THE PEOPLE?

MS. FUSCO: YES, YOUR HONOR.

THE COURT: AT THIS TIME, MATTER WILL BE SET AS A 0-OF-10, UNDERSTANDING THAT THE COURT WILL START ON DAY ZERO, MAY 9, 2022 8:30 A.M., THIS DEPARTMENT.

THE DEFENDANT IS ORDERED TO APPEAR.

AS TO THE NEXT DATE FOR PRETRIAL, WHATEVER MOTIONS ARE NOTED, AGAIN, I'M GOING TO INFORM COUNSEL, I EXPECT TO BE IN CONSTANT TRIAL, BUT THAT SHOULDN'T STOP COUNSEL AT ALL. I WILL HAVE TO WORK AROUND WHATEVER SCHEDULE I HAVE, BUT ANOTHER TRIAL OCTOBER 4TH. BUT WHAT IS A DATE FOR ANY MOTIONS OR NEXT PRETRIAL?

MR. JACKSON: YOUR HONOR, I WOULD THINK THAT -- YOUR HONOR, ABOUT A MONTH FROM NOW I THINK WOULD BE SATISFACTORY.

THE COURT: THIS COURT WILL BE DARK THE WEEK OF THE 18TH OF OCTOBER.

MR. JACKSON: THEN LET'S DO -- LET'S SET IT FOR THE 15YTH, IF IT WORKS FOR THE COURT'S CALENDAR, THE FRIDAY BEFORE YOU LEAVE?

THE COURT: ALL RIGHT. I'LL BE IN JURY TRIAL THAT

DAY. WE CAN TRY.

MR. JACKSON: OKAY.

THE COURT: ALL RIGHT. THAT'S AGREEABLE WITH ALL OF THE PARTIES, BY THE PEOPLE?

MS. FUSCO: YES, YOUR HONOR.

THE COURT: MR. CAREY?

MR. CAREY: YES. THANK YOU.

THE COURT: MATTER IS SET OCTOBER 15, 2021, 8:30 A.M., IN THIS DEPARTMENT, FOR PRETRIAL. DEFENDANT GARCIA IS ORDERED TO APPEAR.

AS FAR AS DEFENDANT OAXACA, AT THIS TIME, SHE MAY REMAIN UNDER PENAL CODE SECTION 977(B).

MR. JACKSON: THANK YOU, YOUR HONOR.

MR. CAREY: THANK YOU, YOUR HONOR.

MR. JACKSON: I HEARD MS. FUSCO INDICATE THAT IT IS THE GOVERNMENT'S INTENTION AT THIS POINT TO MAKE AVAILABLE THE DATA OF ALL OF THE JANE DOES' PHONES?

THE COURT: I HEARD --

MR. JACKSON: NOT THE CP, OBVIOUSLY.

THE COURT: I HAVE NEVER CORRECTED YOU. THIS ISN'T FEDERAL COURT. THERE IS NO GOVERNMENT HERE. IT'S THE PEOPLE, BUT I ACCEPT THAT.

MR. JACKSON: FINE.

THE COURT: THAT'S WHAT I ASSUME THE PEOPLE WOULD SAY.

MR. JACKSON: FINE. I WOULD ASK THAT BE MADE IN THE FORM OF AN ORDER. I WOULD ASK THE COURT TO ORDER THE PROSECUTION TO TIMELY OR FORTHWITH PRODUCE THOSE

DATA.

THE COURT: THIS IS AN OFFER BY THE PEOPLE. I HAVE NOT CHANGED ANY ORDER I MADE. I ACCEPT THE OFFER. I THINK IT'S GENEROUS, AND I HOPE THE PEOPLE WOULD. AGAIN, I AM NOT MAKING ANY ORDER.

MR. JACKSON: THANK YOU, YOUR HONOR.

THE COURT: THANK YOU.

MS. FUSCO: THANK YOU, YOUR HONOR.

THE COURT: WE'LL TAKE A SHORT BREAK TO ALLOW THE CAMERAS TO LEAVE, AND WE'LL CALL THE DORANTES MATTER.

(PROCEEDINGS CONCLUDED.)

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

DEPARTMENT 101 HON. RONALD S. COEN, JUDGE

THE PEOPLE OF THE STATE OF CALIFORNIA,

PLAINTIFF,

VS.

01 NAASON JOAQUIN GARCIA,
03 SUSANA MEDINA OAXACA,

DEFENDANTS.

CASE NO. BA484133

REPORTER'S TRANSCRIPT OF PROCEEDINGS

LOS ANGELES, CALIFORNIA; SEPTEMBER 17, 2021

APPEARANCES:

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OFFICIAL REPORTER

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

DEPARTMENT 101 HON. RONALD S. COEN, JUDGE

THE PEOPLE OF THE STATE OF CALIFORNIA, ) CASE NO.
) BA484133
PLAINTIFF, )
)
VS. ) REPORTER'S
) CERTIFICATE
01 NAASON JOAQUIN GARCIA, )
03 SUSANA MEDINA OAXACA, )
)
)
DEFENDANTS. )
)

I, BROOKE A. BRUBAKER, OFFICIAL REPORTER OF THE SUPERIOR COURT OF THE STATE OF CALIFORNIA, FOR THE COUNTY OF LOS ANGELES, DO HEREBY CERTIFY THAT THE FOREGOING PAGES, 1-30, COMPRISE A FULL, TRUE, AND CORRECT TRANSCRIPT OF THE PROCEEDINGS HELD IN THE MATTER OF THE ABOVE-ENTITLED CAUSE, ON SEPTEMBER 17, 2021.

THIS TRANSCRIPT WAS PREPARED IN COMPLIANCE WITH 237(A)(2) OF THE CODE OF CIVIL PROCEDURE.

DATED THIS 4TH DAY OF OCTOBER, 2021.

BROOKE A. BRUBAKER
CSR NO. 9420, OFFICIAL REPORTER

PROOF OF SERVICE

STATE OF CALIFORNIA )
) ss.
COUNTY OF LOS ANGELES )

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action; my business address is 888 West Sixth Street, Suite 400, Los Angeles, California 90017.

On March 15, 2022, I served the foregoing document, described **NOTICE OF MOTION; COMMON LAW AND NONSTATUTORY MOTION TO DISMISS; MOTION TO DISMISS PURSUANT TO PENAL CODE SECTION 995; MEMORANDUM OF POINTS AND AUTHORITIES; EXHIBITS A-G [ATTACHED]; EXHIBITS H-AA [LODGED UNDER SEAL]** on all interested parties listed below by transmitting to all interested parties a true copy thereof as follows:

| | |
|---|---|
| Jeffrey Segal<br>Diana Callaghan<br>CA Attorney General's Office<br>300 S. Spring Street, Suite 1702<br>Los Angeles, CA 90013<br><br>***Via Personal Service*** | John Patrick Carey<br>Law Offices of J. Patrick Carey<br>18411 Crenshaw Blvd., Suite 120<br>Torrance, CA 90504<br>***Via Email*** pat@patcareylaw.com<br><br>***Attorney for Susana Oaxaca*** |

☒ **BY PERSONAL SERVICE** by delivering a copy of the document(s) by hand to the addressee or I cause such envelope to be delivered by process server.

☒ **BY ELECTRONIC TRANSMISSION** by transmitting a PDF version of the document(s) by electronic mail to the party(s) identified on the service list using the e-mail address(es) indicated.

☒ I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on March 15, 2022 in Los Angeles, California.

Martha Rodriguez