

CR-10-00757-PHX-ROS, June 11, 2012

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

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5	United States of America,)	
6)	
7	Plaintiff,)	
8	vs.)	
9)	CR-10-00757-PHX-ROS
10	James R. Parker,)	
11)	
12	Defendant.)	
13)	June 11, 2012
14)	3:01 p.m.
15)	

BEFORE: THE HONORABLE ROSLYN O. SILVER, CHIEF JUDGE
REPORTER'S TRANSCRIPT OF PROCEEDINGS

STATUS HEARING

Official Court Reporter:
Elaine Cropper, RDR, CRR, CCP
Sandra Day O'Connor U.S. Courthouse, Suite 312
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Phoenix, Arizona 85003-2151
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Proceedings Reported by Stenographic Court Reporter
Transcript Prepared by Computer-Aided Transcription

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A P P E A R A N C E S

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P R O C E E D I N G S

1
2 (Court was called to order by the courtroom deputy.)

3 (Proceedings begin at 3:09.)

4 THE COURT: Please be seated.

5 I see Mr. Minns is still here. I thought perhaps you 03:09:21
6 were going to go home.

7 MR. MINNS: I'm sorry? I apologize, Your Honor. I
8 didn't --

9 THE COURT: I just said I thought were you going to
10 go home. You had a whole week off but you're still here. So 03:09:30
11 I'm glad you're here. I'm here to ask counsel for the
12 government what your plans are.

13 As I understand it, the defense has really stipulated
14 to most of the exhibits that you're offering in. So if that's
15 the case, I'm wondering why we're going through them piecemeal. 03:09:52
16 Mr. Minns has mentioned that some of the documentation that you
17 are showing the jury is cumulative and duplicative and I share
18 that if, in fact, you're going to have a summary witness who is
19 going to then present to the jury a summary of everything that
20 has been admitted. 03:10:29

21 So what are you doing?

22 MR. SEXTON: As to the witnesses that we've had the
23 exhibits in, we've tried to just highlight certain things.
24 Like, for example, the last witness was on the stand, while
25 it's in evidence, it's sort of a gibberish that you really need 03:10:52

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1 somebody from Customs to interpret what all of the codes stuff 03:10:56
2 is as to what they are looking at.

3 So some of the insurance records we felt the same
4 thing; that just looking at them, we needed to sort of help the
5 jury find what we think some of the important parts. Sometimes 03:11:08
6 Mr. Perkel would say, "Turn to page 45 of an exhibit," and only
7 talk about one of the pages of several --

8 THE COURT: Yeah. There was a lot of detail that I
9 wasn't -- I didn't understand. For example, there were numbers
10 here and there and rather than having, let's say, one exhibit 03:11:31
11 that would explain through the witness, okay, here are the
12 numbers, here's this, here's that. Now, tell us, how many
13 times did he go to Belize, when did he go to Belize, instead
14 of, almost tragically, taking the jury step by step and then
15 backwards and forwards. You lost some of the jurors and, 03:11:52
16 frankly, I didn't want to tell them to wake up despite the fact
17 that they have been taking energy drinks throughout this trial.

18 It seems to me that a presentation like Mr. Perkel
19 presented last week could have been done in a half an hour as
20 opposed to the length, the depth, and breadth that was taken 03:12:16
21 going back and forth and back and forth with each of those
22 documents.

23 And I expect, as I have seen with all of the
24 documentation, that the defense is not going to cross-examine
25 that much because they have stood up and they have said, "We 03:12:34

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1 have no objection, that we have stipulated to the admissibility 03:12:36
2 of these documents." And I have seen before in terms of the
3 government's strategy in these types of cases, your primary
4 witnesses that come in are your summary witnesses. That gives
5 you the opportunity for two closing arguments; actually, an 03:12:59
6 opening statement and a summary witness and then a closing
7 argument.

8 But pacing through it like this is, as has been
9 said -- and I am not offering this for my mere statement but it
10 has been made by the defense, is that it is cumulative and 03:13:18
11 duplicative. And if they make that objection again, I'm going
12 to sustain it. I don't know where you're going from here. It
13 looks like most of the witnesses are live witnesses. But if
14 you have any other exhibits or any other witnesses to go
15 through, like we did last Thursday, if I get that objection, I 03:13:39
16 am going to sustain it; okay? Do you understand?

17 MR. SEXTON: I do.

18 THE COURT: All right.

19 So in terms of the witnesses that you have, how many
20 of these other witnesses do we have that are exhibit-type 03:13:52
21 witnesses?

22 MR. SEXTON: That are -- well, we only have two
23 separate credit cards that we were just going to enter the
24 exhibits in a 902(11) sort of way and not have a witness -- we
25 were just talking to counsel that we weren't going to have a 03:14:10

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1 witness go through those and we were going to save those for a
2 summary.

03:14:12

3 THE COURT: Good. That takes care of that as opposed
4 to having the witness testify and go through them like you have
5 done previously.

03:14:21

6 MR. SEXTON: That's correct. And I believe the
7 witnesses to follow, Judge, are generally people who had some
8 fact content dealings with the defendant and so they are going
9 to testify to their dealings with the defendant, and they are
10 going to have a few exhibits that were part of the process,
11 whether it be a real estate sale or a real estate loan.

03:14:39

12 So I think they are going to be not of a summary or
13 not capable of a summary witness because their individual
14 testimony is about their particular transactions with the
15 defendant during the relevant period.

03:14:56

16 THE COURT: Well, that is fine.

17 If they are stipulated admitted, then rather than
18 have the witness identify the document, then going to various
19 lines and pages and words, it would seem to me that with that
20 witness, it would make a lot more sense if you zoomed in,
21 "Okay. Is this the exhibit? Is this the document?" And I
22 understand the benefits of technology and offering the jury an
23 opportunity to see something. But I will tell you, you're
24 losing this jury. You lost them the first couple of days when
25 you had the fact witness. I understand why you have to do

03:15:17

03:15:38

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1 that, despite the fact there had been admissions to many of 03:15:42
2 those documents.

3 But I think the jury is getting tired.

4 MR. SEXTON: No. And I appreciate you bringing that
5 to our attention. I'm not here to dispute that you think that 03:15:57
6 there's a better way to present this. We appreciate that, that
7 input, and we will be very mindful -- we are ahead of our
8 schedule, as I told you last week, because I think we have
9 tried to cut down some things that we had in mind.

10 We are hopeful that week that you have the five trial 03:16:21
11 days may be the latest. We may even rest sometime next week is
12 our big hope. So we're way ahead of what we projected. We've
13 cut out a lot of things that never made it to the witness stand
14 because we don't think it was necessary. So we've done some
15 internal things, Judge. I hope you can appreciate that we've 03:16:37
16 done some internal things to try to shorten this trial. And
17 it's a white collar case and it's going to have a certain
18 tedium to it in any respect.

19 But we will take your comments to heart and we will
20 look at what we're presenting next week and endeavor not to do 03:16:54
21 something that would seem to be something that we can get by
22 with through a summary fashion or a less tedious way.

23 THE COURT: Okay. I appreciate your taking my
24 comments to heart and being very respectful of them. When I
25 was a prosecutor, I would also say you are never too rich, too 03:17:15

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1 thin, or have enough evidence.

03:17:21

2 MR. SEXTON: Right.

3 THE COURT: And I understand that but I am also
4 telling you, on behalf of the jury and the defense, who have
5 been very professional throughout, that this is taking a lot
6 more time than it should. So I've said everything that I
7 wanted to say.

03:17:27

8 And let me ask Mr. Minns and Ms. Arnett if there's
9 anything you would like to say?

10 MR. MINNS: Yes. Thank you very much, Your Honor.
11 The defense also has no objection to any of the Bank of America
12 records and we sent an exhaustive list and we were attempting,
13 before the Court came on, to go over that again with the
14 government.

03:17:50

15 It appears there's three more people from Oklahoma.
16 There's a huge lawsuit going on in Oklahoma. It's gone up to
17 their appellate court. I'm not sure if the Supreme Court is
18 what it's called or what it's called. I have no state --
19 Oklahoma state -- I have federal experience in Oklahoma but I
20 have no state experience so I don't know what it's called.

03:18:08

03:18:28

21 But there's a great deal of litigation that has been
22 going on. There's a great deal of hostility between the native
23 Oklahomans and the Parkers and their supporters. It seems to
24 be with three more of these people that the government is
25 trying to litigate the Oklahoma issue in this tax court case,

03:18:52

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1 so we may be urging the same type of duplication and prejudice 03:18:55
2 on three more. I know they have made it very clear to the jury
3 that there are people in Oklahoma who don't like the Parkers.
4 I don't know how much more clear it is appropriate, if any of
5 it was appropriate. 03:19:14

6 THE COURT: Well, I will -- Mr. Sexton, Mr. Perkel,
7 do you know who those individuals are that Mr. Minns is talking
8 about and is there, in your view, any reason why they should be
9 called in addition to those who have already been called?

10 MR. SEXTON: They all had their own individual 03:19:33
11 dealings with the defendant as to the nature of what they were
12 either purchasing from these Oklahoma people or what they --
13 what Mr. Parker admitted to them about his Belizean operation
14 or his wealth in the United States. So we believe --

15 THE COURT: Okay. I'm sorry to interrupt. But what 03:19:52
16 you're saying is that they will offer admissions of the
17 defendant concerning his, as you hope the jury to believe, his
18 personal involvement in this to establish your position that
19 the corporations were nominees; right?

20 MR. SEXTON: Yes. And if I might add, they are very 03:20:18
21 brief witnesses. They had -- I would feel comfortable
22 representing to you that these are half an hour witnesses at
23 most. They are very brief as far as their dealings with him,
24 an evening with him, a conversation with him, and what was said
25 in that conversation. 03:20:36

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1 One of them is a person that they bought the very 03:20:38
2 property that they built that old western style building and
3 the other home on that Oklahoma property and the Court saw
4 pictures of that last week. He's the one that bought -- that
5 the land was bought from and how much Mr. Parker paid for that. 03:20:54
6 So I think they will be fast witnesses, Judge, and I don't
7 think they are going to be duplicative.

8 THE COURT: If they are and I sustain the objection,
9 you're going to have to drag them off the witness stand.

10 MR. SEXTON: Fair enough. 03:21:12

11 THE COURT: And what I would do in order to save time
12 is to, in a synoptic form, tell Mr. Minns and Ms. Arnett
13 exactly what you expect that they are going to say so that if I
14 hear that they are duplicative, I will hear that in the morning
15 before they testify or at a break if the two of you, both 03:21:27
16 sides, can not agree that they should testify and testify in a
17 certain manner and means.

18 MR. SEXTON: We presented that in the pleading that
19 the Court asked us to submit to you before trial in which we
20 gave a brief synopsis of what they are going to testify about 03:21:47
21 and their expected length.

22 THE COURT: And now knowing that, Mr. Minns, do you
23 still take the position that they are duplicative?

24 MR. MINNS: I will follow the Court's instructions
25 and after they send me whatever they send me, then I will, as 03:21:59

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1 the Court has instructed, I will either raise it or not. I 03:22:03
2 think that the Court's decision is wise on that.

3 THE COURT: Okay. Well, apparently, Mr. Sexton and
4 Mr. Perkel believe that they have outlined enough as to what
5 they are going to say. Who are these individuals? 03:22:19

6 MR. SEXTON: One is a Mr. Apple, a Mr. Schumacher and
7 a Mr. Roberts.

8 THE COURT: And in those -- for those three you've
9 already listed exactly what they are going to say?

10 MR. SEXTON: The general nature of what they are 03:22:34
11 going to testify of their dealings with Mr. Parker.

12 MR. PERKEL: And sorry to interrupt my colleague, but
13 the memorandums of interview produced by the IRS during
14 interviews taken last year or the year before were also just
15 turned over pursuant to discovery which lists, in substance, 03:22:49
16 the very topics that we plan to elicit.

17 THE COURT: I expected that. But usually the
18 interviews are hopefully broader than what you are going to
19 offer the witness for during trial. And if you have summarized
20 that already, as Mr. Sexton said, then Mr. Minns, then, can 03:23:06
21 decide whether or not it is cumulative of what has already
22 occurred or whether or not he believes that even if it's only a
23 grain of sand on a beach, that you're entitled to offer it.

24 Okay. Mr. Minns?

25 MR. MINNS: Yes, Your Honor. I would just -- on Leon 03:23:27

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1 Apple, they say he will testify to his interactions and 03:23:30
2 observations of defendant with regards to the leasing of public
3 lands in Oklahoma. If that -- if they are talking about the
4 leasing, the leasing has been gone into in great detail.

5 THE COURT: So what else is he going to add? 03:23:48

6 MR. PERKEL: Well, his dealings with Mr. Parker are
7 detailed in a memorandum of interview. He had a
8 conversation --

9 THE COURT: Mr. Perkel, outline them now because
10 you're not going to go through them through that interview. 03:23:59

11 MR. PERKEL: No.

12 THE COURT: What will he testify to that is different
13 than the witnesses who have already testified?

14 MR. PERKEL: Well, he had a conversation with
15 Mr. Parker, Stan Manske, and Mr. Apple's father as well and 03:24:08
16 Mr. Manske's law office, approximately four of them. There may
17 have been Roy Young there. I can't remember. But at least of
18 the four of them. The other witnesses, Mr. Schumacher and
19 Mr. Monty Joe Roberts, were not present there.

20 THE COURT: And what was said and by whom? 03:24:26

21 MR. PERKEL: So the defendant approached Mr. Apple
22 and Mr. Apple's father inside the office, told them and asked
23 them whether he was willing to agree to enter into a sublease
24 agreement before the acquisition of some of the leasing lands
25 so that he could then, essentially, say to Mr. Apple, "You 03:24:42

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1 lease the land and we're going to have this agreement even 03:24:46
2 before you lease that I will then lease it from you for a
3 higher price than you bid on." And that was that conversation.

4 Mr. Schumacher, Mr. Monty Joe Roberts, the other two
5 individuals that Mr. Sexton just mentioned, were not part of 03:25:02
6 that conversation.

7 THE COURT: So what are they going to testify to?

8 MR. PERKEL: I know Mr. Monte Joe Roberts sold land
9 to the defendant, about \$450,000 worth of land, and that land
10 that he sold to the defendant was used -- at least part of that 03:25:18
11 land was used as the site for the construction of the western
12 style hunting lodge.

13 THE COURT: Did he have a conversation with him or
14 we're talking about documentation here?

15 MR. PERKEL: Let me turn to Mr. Sexton. He had a 03:25:33
16 conversation but different than the Apple conversation.

17 THE COURT: Let's do this. Obviously, the outline
18 that you have given me doesn't accurately reflect precisely
19 what they are going to testify to. So get together with
20 Mr. Minns, tell him exactly what they are going to testify to, 03:25:49
21 and he can decide whether it's duplicative. And of course
22 narrow it to precisely what is relevant in this particular case
23 as we talked about -- as I mentioned at the outset. So we've
24 got those three witnesses.

25 Are there any others that you have noted, Mr. Minns, 03:26:12

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1 that require a discussion at this time concerning whether or
2 not they are -- they offer cumulative testimony and evidence?

03:26:15

3 MR. MINNS: No, Your Honor.

4 THE COURT: Okay.

5 All right. Well, I think we're finished.

03:26:28

6 Anything else from the government?

7 MR. SEXTON: No, Judge.

8 THE COURT: Thank you.

9 Anything else?

10 MR. MINNS: In parting, Your Honor, I would request
11 perhaps that the Court instruct the parties if there's
12 exhibits -- for example, the government did not object to the
13 pictures on our board. I would hope that they would not object
14 that -- that they would agree that those can be exhibits now
15 that the jury has already seen them. But I would request that
16 we be instructed to spend five or ten minutes to see if the
17 government can agree to a single exhibit of the defendants.

03:26:37

03:26:53

18 THE COURT: Okay. Well, that is certainly -- that
19 certainly should be the case.

20 Do you know, are there any, let's say, surprise
21 exhibits that you're going to ask or are they all Rule 16
22 exhibits that you intend to offer that you have already given
23 the United States government?

03:27:06

24 MR. MINNS: The only possibility that we have not
25 given them already in advance of the trial, and this is in a

03:27:22

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1 discussion that we just had, the government disagrees with the 03:27:26
2 Belize judgment. We received it from a prominent Arizona law
3 firm that received it from the Belize authorities. We may ask
4 that the suit be put into evidence if it doesn't -- if the
5 judgment doesn't come in. That's the only thing on our board 03:27:49
6 that they wouldn't agree could be shown.

7 THE COURT: Is it Police or Belize?

8 MR. MINNS: Belize. If I mispronounce it, I
9 apologize, Your Honor.

10 THE COURT: It's Belize judgment? 03:28:01

11 MR. MINNS: Yes.

12 THE COURT: What is that?

13 MR. MINNS: Your Honor, it's a \$3 million plus
14 judgment against Cimarron River Ranch from the Belize
15 corporation. The government says that money belongs to 03:28:11
16 Mr. Parker. The defense says that it does not. The government
17 says it should have been on the offers in compromise. The
18 government's position so far has been that the entire \$6
19 million, which included expenses, investors, everything, should
20 have been on the Parkers' offers in compromise. So that is 03:28:34
21 evidence that it is not their money.

22 THE COURT: Mr. Sexton?

23 MR. SEXTON: Before you came on, I told them that I
24 would look at their defense exhibits and send something to them
25 tomorrow. Why he's raising it now before I've had a chance to 03:28:50

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1 look at those and honor my commitment to him. I will do that 03:28:53
2 later today and tomorrow and send them the ones that we do not
3 object to and the ones that we have concerns with.

4 I have, from day one, the moment I got this one-page
5 Belize judgment, I have been checking it out. If you go to the 03:29:10
6 Belize website, there's no report of this judgment on the
7 Belize website and they list the Supreme Court -- the court
8 system down there lists all of their judgments and they
9 actually have them PDF'd that you can look at them.

10 This judgment is not on there. The seal, there's a 03:29:27
11 seal on this document that's just a raised seal. If you hold
12 it up to the light, it says Supreme Court of Belize but it
13 is -- we have not been able to find that seal anywhere. So we
14 have concerns as to the authenticity.

15 THE COURT: So the question is, is it what it 03:29:44
16 purports to be? And I'll let you guys work on it. Apparently,
17 Mr. Minns, Mr. Sexton, and Mr. Perkel have been working on it.

18 Is there any other exhibit that you need to talk
19 about or can we just adjourn and you work with the government?

20 MR. MINNS: Yes, Your Honor. Thank you for your time 03:30:02
21 and thank you for bringing these things to our attention.

22 THE COURT: Okay. Thank you.

23 We're adjourned.

24 COURTROOM DEPUTY: All rise, please.

25 (Whereupon, these proceedings recessed at 3:30 p.m.)

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C E R T I F I C A T E

I, ELAINE M. CROPPER, do hereby certify that I am duly appointed and qualified to act as Official Court Reporter for the United States District Court for the District of Arizona.

I FURTHER CERTIFY that the foregoing pages constitute a full, true, and accurate transcript of all of that portion of the proceedings contained herein, had in the above-entitled cause on the date specified therein, and that said transcript was prepared under my direction and control, and to the best of my ability.

DATED at Phoenix, Arizona, this 13th day of August, 2012.

s/Elaine M. Cropper

Elaine M. Cropper, RDR, CRR, CCP

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