

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF FLORIDA
GAINESVILLE DIVISION

THE UNITED STATES OF AMERICA,

Docket No. 94CR1009MMP

Plaintiff,

Gainesville, Florida

May 18, 2000

9:00 a.m.

vs.

JOHN KNOCK and
ALBERT MADRID,

Defendants.

VOLUME 10

TRANSCRIPT OF NINTH DAY OF JURY TRIAL
WHEN HEARD BEFORE THE HONORABLE SENIOR UNITED STATES
DISTRICT COURT JUDGE MAURICE M. PAUL, AND A JURY.

APPEARANCES:

For the Government:

JAMES C. HANKINSON, ESQUIRE
Assistant United States Attorney
111 North Adams Street
Fourth Floor
Tallahassee, Florida 32301

-AND-

ROBERT DAVIES, ESQUIRE
Assistant United States Attorney
104 North Main Street
Fourth Floor
Gainesville, Florida 32601

For Defendant Knock:

MICHAEL KENNEDY, ESQUIRE
ROBERT RIONDA, ESQUIRE
425 Park Avenue
Suite 2600
New York, New York 10022

1 APPEARANCES: (Continued.)
2

3 For Defendant Madrid:

RANDOLPH E. DAAR, ESQUIRE
Pier 5 Law Offices
Pier 5 North, The Embarcadero
San Francisco, CA 94111

4
5 Court Reporter:

6 Mark N. Stuart, RPR-CPE
7 Official Court Reporter
8 Post Office Box 1328
9 Gainesville, Florida 32602-1328
10 352-380-0399

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1 THE COURT: Good morning, folks. You all be seated
2 when you can, please.

3 Government ready?

4 MR. HANKINSON: We would call Bud Heng.

5 (Witness sworn.)

6 THE CLERK: Please be seated.

7 And, sir, for the record state your full name and
8 spell your last name.

9 THE WITNESS: Robert Heng. H-E-N-G.

10 (Witness's testimony previously transcribed.)

11 THE COURT: All right. Thank you, sir.

12 Call your next witness, please.

13 MR. DAVIES: Dan Olson.

14 (Witness sworn.)

15 THE CLERK: Please be seated.

16 And, sir, for the record state your full name and
17 spell your last name.

18 THE WITNESS: My name is Daniel B. Olson. O-L-S-O-N.

19 DIRECT EXAMINATION

20 MR. DAVIES:

21 Q. Good morning. Would you tell the ladies and gentlemen of
22 the jury where you work, please.

23 A. I work for the FBI in Washington, DC.

24 Q. How long have you worked there?

25 A. Since April of 1997.

1 Q. Where did you work before you joined the FBI?

2 A. I was assigned to the DEA office in Savannah. I was part
3 of the Georgia counter drug program. I was an intelligence
4 analyst there.

5 Q. What does an intelligence analyst do? What were your
6 duties?

7 A. Intelligence analysts analyze intelligence information
8 gained from drug distribution operations. I've looked at that
9 evidence or conversations intelligence, and I would see what I
10 could glean from that information.

11 Q. What laboratory or unit do you work in at the FBI in
12 Washington?

13 A. I'm in the laboratory division at a unit called the
14 racketeering records analysis unit.

15 Q. What are your duties in that unit?

16 A. We analyze clandestine business records. And I analyze
17 particular codes and ciphers.

18 Q. Do you have a title there?

19 A. Yes. I'm a cript analysis forensic examiner.

20 Q. Would you tell the jury what a cript analyst is?

21 A. A cript analysis is essentially a code breaker, someone
22 who attempts to break code without having prior knowledge as to
23 what the key to the code is.

24 Q. Would you tell the jury your educational background.

25 A. Yes. I have a bachelor's degree with a concentration in

1 criminology from St. Leo College just down the road. I also
2 have a masters in forensic science from George Washington
3 University in Washington, DC.

4 Q. And do you have any specialized training and experience
5 in cript analysis?

6 A. Yes. Between 1988 and 1992, I served in the United
7 States Army. I was with military intelligence. And during
8 that time I attended a course -- a three-month very rigorous
9 course in code breaking where we learned how to decipher and
10 decode messages.

11 Q. And in your current job since 1997 have you had
12 experience in code breaking and decoding and deciphering
13 messages?

14 A. Yes. The FBI hired me in part because of my military
15 training. After joining the FBI, I then took their course,
16 which was another introduction course on how to decipher and
17 decode messages. And since that time I have been deciphering
18 and decoding messages.

19 Q. Have you published any works on the subject of cript
20 analysis?

21 A. Yes. In the January edition of Forensic Science
22 Communications I published an article called analysis of
23 criminal codes and ciphers.

24 Q. And in your experience as a cript analyst have you seen
25 and recovered keys which can be used to decode or decipher

1 messages?

2 A. Yes, I have.

3 Q. Would you explain to a jury what a key is?

4 A. When you think of a message, a code or a cipher, it's
5 like a lock. It's a message that is locked behind a shroud of
6 secrecy, if you will.

7 A key is merely like the key that we use to unlock a
8 padlock or something like that. Both the person who wrote the
9 message and the person who is going to receive the coded
10 message would have to have a key in order to find out exactly
11 what the message says.

12 Q. And you have been talking about codes and ciphers. In
13 your specific field of experience, do you make a distinction
14 when you use the word code and as opposed to the word cipher?

15 A. Yes, there is a difference between a code and a cipher.

16 Q. Would you explain to the jury what the difference is in
17 your field of expertise?

18 A. The best way to describe a code is a code replaces a word
19 or a phrase or a sentence with another word, phrase or
20 sentence. And we call those code words. For example, if I
21 wanted to organize a surprise birthday party for my wife, and I
22 wanted to talk to different people about planning this party, I
23 may refer to the party as the movie, so in case my wife is
24 listening in on the phone or can overhear, she wouldn't hear me
25 talking about the party.

1 So I would say -- maybe I might be talking to
2 someone. I would say: Are you ready to go to the movie? Are
3 you going to be able to go to the movie tomorrow night? And
4 then we could even elaborate on that code and maybe we could
5 predetermine between ourselves that the word popcorn would mean
6 gift.

7 So are you going to buy popcorn for the movie?
8 Essentially that is a code. And the key to that code would be
9 for myself and the people that I'm talking to to prearrange
10 that popcorn is going to mean gift, and movie is going to be
11 party. Now, when a --

12 Q. Let me stop you there, since you are mentioning keys too.
13 The key is popcorn and movie for gift and party, and you are
14 talking to me, both of us would need to know the key for that
15 message to make any sense; is that correct?

16 A. Absolutely.

17 Q. That is what you were explaining a code. Explain to the
18 jury what a cipher is.

19 A. A cipher, unlike a code, whereas a code you are using a
20 word to represent a word, like popcorn or gift, but the cipher
21 is basically a secret alphabet with -- whereas in a code you
22 are replacing words, in a cipher you are replacing individual
23 letters and numbers.

24 For example, I have an ATM card. And I have a number
25 that I want to keep secret. Only I want to use that number.

1 My number is 1150.

2 I hope no one here uses that number. With my number
3 of 1150 I want to write that number down and keep it in my
4 wallet. But what if someone finds my wallet with my card in
5 and number 1150. That would be a very bad thing. So I might
6 encipher that number. One method of enciphering that number
7 would be to add a digit to every number there. So instead of
8 1150 it would be 2261. No one would know that, because I know
9 the key is: Add one.

10 Q. And are you familiar with the term additive cipher?

11 A. Yes, I am.

12 Q. Would you explain -- I think you pretty much just
13 explained that. Just explain what the term additive cipher
14 means.

15 A. In an additive cipher, it's -- as I just explained, you
16 would change an individual number by adding something to it.

17 MR. DAVIES: May I approach the witness, Your Honor?

18 THE COURT: Yes, sir.

19 Q. Mr. Olson, let me show you what I've marked for
20 identification as Government Exhibit 71, which is a yellow
21 sheet of paper with writing on the front, and writing on the
22 back which was found in John Knock's house on Kahala Avenue in
23 Hawaii. Based on your expertise in the field of crypt
24 analysis, do you have an opinion as to what this is?

25 A. Yes, I do.

1 MR. DAVIES: Your Honor, I would ask to publish -- I
2 think it will be on computer page 2 of this. It is actually
3 one document front and back.

4 THE COURT: Yes, sir.

5 MR. DAVIES: May the witness stand down?

6 THE COURT: He surely may.

7 MR. DAVIES: You may stand down.

8 Q. Why don't you stand over here just to make sure that
9 everyone on the jury can see. If you use this.

10 And based on your opinion, what is this document that
11 we're are looking at on the large screen, which is the back
12 side of Government Exhibit 71?

13 A. This document is consistent with the a key for a cipher
14 that would be used to encipher numbers. Like the numbers 1
15 through 9 and 0 here. You would use a key like this to
16 encipher numbers with letters.

17 For example, when a -- the example that I gave you
18 earlier when I encrypted my personal identification number for
19 my ATM card, I said the number was 1150. If I use this key to
20 encipher my number, the number would NNSC instead.

21 Q. Again, if you were trying to relay that number to me, I
22 would need to know the key, which letters match up with which
23 numbers, and so would you, for the message to mean anything to
24 me?

25 A. Absolutely.

1 Q. Can you go to the other page of Government Exhibit 71.

2 And showing you what I'm calling the front page of
3 Government Exhibit 71. Do you have an opinion as to whether
4 this front page is consistent with anything?

5 A. Yes, I do.

6 Q. Would you explain that to the jury.

7 A. This is a key also. This is consistent with a matrix
8 that can be used to generate keys. Now, this is a different
9 type of key. This is far more advanced than just A for 1, or
10 one equals 3.

11 A key like this, using both letters and numbers, is
12 consistent with the type of key that would be used for a more
13 advanced type of computer type encryption system, an encryption
14 that would be used for example to encrypt e-mail or something
15 like that could use a key like this.

16 In this case, instead of the key being able to look
17 at the key on paper like this, and look at the message and
18 being able to make a relationship, like 1 equals A, because it
19 says in the corner, this would be a different type of key.

20 This type of key would be instructions telling a
21 computer how to encipher something. You would need to have the
22 same key inputted on the receiving end for the computer to know
23 how to descramble the message.

24 Q. So in terms of both of us knowing the key with the
25 computer with this type of cipher, I would type in a -- I could

1 type in a message in English: I'll meet you somewhere. Then I
2 would have to type in the key. It would get sent to you and
3 you'd have to type in the same key to unscramble the message to
4 see where we would meet?

5 A. Yes.

6 Q. And are you familiar with what type of encryption systems
7 could use a key like this?

8 A. There are a couple of different type of systems that
9 would use a key. One of them -- the one that I know is Data
10 Encryption System. Excuse me. Data Encryption Standard. It's
11 called DAS for short. That is an encryption system that was
12 developed by IBM in 1976. That would use a key like this.

13 Let me clarify something. On here you see it is a
14 box. There is 1 to 16 and 1 to 16 here. This is consistent
15 with something to make keys. So, for example, you
16 could arrange with the other person that our key is going to be
17 1 across.

18 That would be BMDEOJ. That would be the key. Or you
19 could decide that our key is going to be 7 from the right. And
20 then the key would be 1Y0BB. So this would be -- this could be
21 used to use make many different keys.

22 MR. DAVIES: You can have a seat.

23 May I approach again?

24 Q. And do you also have Government Exhibit 206 here in front
25 of you?

1 A. Yes, I do.

2 Q. And those are just put into evidence as documents seized
3 from Steve Abelman. Have you reviewed those documents before?

4 A. Yes, I have.

5 Q. And if we would turn to the second page of the document.
6 Do you have an opinion as to what that is?

7 A. Yes, I do.

8 Q. And if you would publish -- can you see that from here or
9 why don't you stand down.

10 Just so the jury can read it, does the top line say
11 add when giving a number, subtract when receiving a number?

12 A. Yes, it does.

13 Q. Do you have an opinion as to what this page is?

14 A. Yes, I do.

15 Q. Tell the jury what your opinion is.

16 A. This is an instruction list for how to use an additive
17 cipher to encipher telephone numbers.

18 Q. If we could go to the next page, please.

19 And do you have an opinion as to what this is,
20 actually page 3 of Government Exhibit 206. What page 3 is?

21 A. Yes, I do.

22 Q. What is your opinion as to that?

23 A. This is a list of additives.

24 Q. And would you tell us what an additive is again.

25 A. Well, an additive cipher involves changing a number so no

1 one else can read it other than the person that you want to
2 read it. The way you change the number is you add something to
3 that number.

4 Now, this is a very funny type of addition. You add
5 without carrying ones. And the way you would do that, I'll
6 maybe have a chance to explain later. But a matrix like this
7 would be used as the numbers that you would add to the number
8 that you are trying to change.

9 Q. If you would go to the next page which is page 4 of
10 Government Exhibit 206.

11 And if you would just scroll down to the bottom of
12 the page. And do you have an opinion as to what this page is.

13 A. Yes, I do.

14 Q. If you would tell the jury, please.

15 A. The bottom portion of this page where you see the little
16 star, it says REX, then a little number sign. The number that
17 follows that is an enciphered number.

18 Q. And at the bottom is that reference AZ?

19 A. Yes, it is.

20 Q. Okay. And going back -- if you would back up to the --
21 I'm sorry, the other page, the last page we looked at which is
22 page 3. If you would scroll down a little bit.

23 The reference to AZ that we just looked at on page 4
24 now we are looking at page 3. Is there a reference to AZ on
25 this page?

1 A. Yes, there is.

2 Q. If you would point it out?

3 A. The fourth line from the bottom says AZ and then a series
4 of numbers.

5 Q. If you would go back to the next page, please. This is
6 page 4 of Government Exhibit 206 for the record.

7 And using line AZ from the page before, were you able
8 to decipher this ciphered set of numbers?

9 A. Yes, I was.

10 Q. And have you written that down on the blackboard such
11 that you can help explain it to the jury?

12 A. Yes.

13 MR. DAVIES: If the clerk can help me with the
14 blackboard.

15 Q. Just start with -- this number here is the number that
16 was at the bottom of page four.

17 A. Yes. I ran out of room. But I stopped -- so I stopped
18 with the 7.

19 Q. Okay. And go ahead and explain how you deciphered the
20 number.

21 A. I would need the matrix.

22 Q. This is again the -- what I've transcribed here is what
23 was on the bottom of that page. I see ref: A number sign. AZ
24 followed by an S, and then numbers with digits. The AZ is an
25 indicator to use line AZ on this matrix.

1 So using the matrix, what I do now is I go from the
2 AZ. I see this first character is an S. And S does not -- is
3 not part of the encrypted message. this is only encrypted
4 numbers. So the S is not part of the number.

5 I believe the S means subtract. It is a reminder for
6 the individual that is decoding the number to subtract instead
7 of add. And let me explain that now.

8 So using the reference number AZ, I come to AZ row on
9 this matrix. And it gives me the numbers 655. I'm just
10 reading across. 4231898762057. And there is about eight more
11 numbers.

12 And I'm not going to write those down. And I'll
13 explain why in just a second. So I -- this is row AZ from this
14 matrix. This is the original enciphered part that I found on
15 the first document. What I'm going to do now is decode or
16 decipher this message now.

17 I stated earlier that an additive cipher enciphers
18 something by adding numbers to it. So in order to decipher it,
19 to make it where we can read it again, we have to subtract
20 which was added to it and pull that back out. Now, this is
21 done with a very special type of math called non-carrying math

22 So forget all the math rules you learned in school.
23 In this type of math we don't carry over. So 2 minus 6 is the
24 same as 12 minus 6, because we are not going to carry any
25 numbers over. So 2 minus 6 would be 6. 1 minus 5 would be the

1 same as saying 11 minus 5, that would be six as well. 4 minus
2 5 would be like 14 minus 5, that is 9.

3 7 minus 4 -- well, that is a little bit easier. That
4 is three. 11 minus 2 would be 9. 4 minus 3 would be 1.

5 Now, 0 minus 1 would be like 10 minus 1, being 9.
6 And 9 minus 8 is 1. 13 minus 9 is 4. 14 minus 8 is 6. 13
7 minus 7 is 6. And 15 minus 6 is 9.

8 Now, over here it is kind of strange. See 2 minus 2
9 that is 0. 0 minus 0 is 0. 5 minus 5 is 0. 7 minus 7 is 0.
10 That is how come I didn't continue to write down these zeros.
11 So what I have essentially done is decipher this number. The
12 number that was enciphered is 669391914669.

13 Q. Do you know what that number means down at the bottom?

14 A. I limit my examination to just what is on the document.
15 So I can't tell you what this number is. However, the
16 instructions give us a way of enciphering phone numbers.

17 And including you will see dashes that are placed in
18 the enciphered number. The instructions state to place dashes
19 where you would between area codes, city codes, maybe a hotel
20 room, things like that.

21 So I cannot tell you what this is. But I can tell
22 you that it could be a phone number.

23 Q. Do you know what country code 66 corresponds to for
24 making an international call?

25 A. I called the BellSouth operator. That is the country

1 code for Thailand.

2 Q. If you would have a seat. Before we go on, if you would
3 just put this evidence back in its sleeves, please.

4 Let me put in front of you Government Exhibit 96
5 which is in evidence and also some instruction books for
6 Government Exhibit 96 which are labeled 72D, 72E and 72F.

7 Are you familiar -- have you seen that device,
8 Government Exhibit 96 and reviewed the operating instructions
9 which are 72D, E and F?

10 A. I have seen this device. And I've reviewed photocopies
11 which I believe are the copies of one of those exhibits here.

12 Q. And if you would open up 96 again. The jury has seen it
13 before. Just remind them of what is in there. Hold it up so
14 they can see it.

15 And can that device that you are holding, Government
16 Exhibit 96 be used to send an encrypted message?

17 A. According to the manual it can.

18 Q. And you have reviewed a copy of that manual?

19 A. Yes.

20 Q. Would you summarize to the jury how someone would send an
21 encrypted message using Government Exhibit 96?

22 A. Well, the manual states this device can use an encryption
23 called DAS. I mentioned that earlier, data encryption
24 standard. The manual explains that you can send a message by
25 typing the message into the machine, and then you would tell

1 the DAS or tell the machine what key to use.

2 And the key can be from 0 to 16 characters long,
3 numbers or letters just like the matrix. After inputting the
4 key into the machine, you would then tell the machine which
5 part of the text that you would want to encrypt, and you would
6 press code.

7 I think the word is encode. Here it is right here.
8 You would press this little brown button here which says code,
9 then it would then encipher it. It says code, but it's really
10 cipher, it's interchangeable. But -- and you press code and it
11 would encipher that message.

12 So for the person then to receive this message to
13 read it again, you would have to have another machine like
14 this. You would have to put in the same key, and then you
15 would hit the same button, it would unencrypt it. Then you
16 would be able to read the message.

17 MR. DAVIES: Your Honor, if you could publish
18 Government Exhibit 71 again.

19 THE COURT: Surely.

20 MR. DAVIES: May the witness stand down again?

21 THE COURT: Surely.

22 Q. If you would stand over here again.

23 For the record, this is Government Exhibit 71, the
24 piece of yellow paper that was found in John Knock's residence
25 at Kahala with regard to Government Exhibit 96 that encoding

1 device you were just showing the jury. Could this piece of
2 paper be used to send a message with that device, Government
3 Exhibit 96?

4 A. This piece of paper could be used to make keys for that
5 device to use, yes.

6 Q. And I believe you explained earlier there can be numerous
7 keys on this piece of paper that could be used? We could use
8 the key 1 left and go from the left and five right and go from
9 the right?

10 A. You can do it from any direction, top, bottom, up, down.

11 Q. In your opinion would this type of key would be
12 consistent with that type of device, Government Exhibit 96?

13 A. Yes.

14 MR. DAVIES: Thank you. I have no further questions.

15 MR. KENNEDY: Can we leave that up, please.

16 CROSS-EXAMINATION

17 BY MR. KENNEDY:

18 Q. Good morning, Agent Olson.

19 A. Good morning.

20 Q. Can you tell us, looking at Government Exhibit 71, which
21 is a piece of paper taken from a home in Hawaii, can you tell
22 us, sir, based upon your expertise from the document or how
23 ever, of when this document might have been created, might have
24 been written out or prepared?

25 A. No, I cannot.

1 Q. You've told us that the DAS system was actually made --
2 was developed I think was it by IBM back in 1976?

3 A. Yes, it was.

4 Q. And it has been commercially available probably since the
5 1980s; has it not?

6 A. I'm sure it has.

7 Q. Thank you. The item that you looked at before --

8 MR. KENNEDY: If I may, Your Honor?

9 Q. I want to place back in front of you, Agent Olson,
10 Government Exhibit 96, to which you referred earlier. Are you
11 able to tell from that exhibit, from that exhibit, when that
12 machine was manufactured?

13 A. May I inspect it?

14 Q. Would you, please.

15 A. It doesn't say anywhere on the device that I can find.

16 Q. Based upon your expertise, though, again those devices
17 and encrypting devices were commercially available certainly by
18 the early '80s; were they not?

19 A. Well, the manual say it uses DAS. And I know that DAS
20 was developed by IBM in the '70s. So I would have to say that
21 that would have been sometime in the '70s.

22 Q. Is there anything about the -- those matrixes, the codes
23 and the ciphers, that allows you to tell us how old they are,
24 or when they were used, if they were used at all?

25 A. No, there is not.

1 MR. KENNEDY: Thank you.

2 THE COURT: Thank you, Mr. Kennedy. Mr. Daar.

3 MR. DAAR: No, thank you.

4 THE COURT: Does the government have any further?

5 MR. DAVIES: No, sir.

6 THE COURT: Thank you, sir. That is all.

7 You folks have earned a break this morning. Fifteen
8 minutes.

9 (Jury out.)

10 MR. DAVIES: Your Honor, the government's next
11 witness is the second 807 witness, so I'm going to need to
12 proffer his testimony first outside of the presence of the
13 jury.

14 THE COURT: All right. We shall return in 15
15 minutes.

16 (Recess taken.)

17 THE COURT: Be seated, folks.

18 All right. Are we ready to proceed on the proffer?

19 MR. DAVIES: Yes, sir.

20 (Witness sworn.)

21 THE CLERK: Please be seated.

22 And, sir, for the record state your full name and
23 spell your last name?

24 THE WITNESS: Mark Giuffre. G-i-u-f-f-r-e.

25 DIRECT EXAMINATION

1 BY MR. DAVIES:

2 Q. Where do you work?

3 A. With the United States Drug Enforcement Administration.

4 Q. What office are you currently working in?

5 A. The Sonclau resident office located in Sonclau, Thailand.

6 Q. What are your duties?

7 A. I'm the resident agent in charge.

8 Q. And how long have you worked for DEA?

9 A. Approximately 13 and a half years.

10 Q. How long have you worked for the DEA in Thailand?

11 A. Approximately 6 and a half years.

12 Q. Back in 1994, were you requested to locate the captain of
13 a vessel known as the Omni, a person named David Bailey?

14 A. Yes.

15 Q. And did you locate David Bailey?

16 A. Yes.

17 Q. And did Mr. Bailey turn over five faxes from the OMNI's
18 owner, Patrick Osborne, to you?

19 A. Yes.

20 MR. DAVIES: May I approach, Your Honor?

21 THE COURT: Uh-huh.

22 Q. And you should find in front of you Government Exhibit
23 209. Are those the faxes that Mr. Bailey turned over to you?

24 A. Yes.

25 Q. When did you speak to David Bailey?

1 A. Initially I spoke to him on approximately June 2nd and
2 3rd of 1994. Then again on June 6th.

3 Q. What were the circumstances of your speaking to
4 Mr. Bailey?

5 A. Upon determining where he resided, myself and another
6 special agent traveled to his residence and knocked on the
7 door, identified ourselves and asked if he would be willing to
8 answer questions.

9 Q. Where was his residence?

10 A. Located in Sonclau, Thailand.

11 Q. When you asked if he'd talk to you, what was his
12 response?

13 A. He said that he would and he invited us into his
14 residence.

15 Q. Did he ever have any hesitation about speaking with you?

16 A. No.

17 Q. Agent Giuffre, in some of your reports, David Bailey is
18 listed as a confidential informant. Was David Bailey ever
19 involved in drugs?

20 A. No, not to my knowledge.

21 Q. Why was he listed as a CI?

22 A. For reporting purposes in the event that information he
23 had led to the apprehension of a fugitive, he could then be
24 given a reward, a financial reward.

25 Q. So just so the record is clear, David Bailey was never

1 involved in any criminal activity?

2 A. Correct.

3 Q. And he was just listed as a CI basically to give him a
4 number, not because he was a cooperating defendant or involved
5 in any criminal activity; is that correct?

6 A. Correct.

7 Q. What does David Bailey do for a living?

8 A. Previously he was the captain of the sailing vessel OMNI,
9 and currently he operates a crab processing and canning company
10 located in Southeast Asia that is affiliated with Phillips
11 Seafood, an American company.

12 Q. Are you familiar with that company?

13 A. Yes.

14 Q. It's a retail company?

15 A. Yes.

16 Q. Would you describe to the Court what type of business it
17 is and what David Bailey does for that business.

18 A. He obtains crab, unprocessed crab from fisherman located
19 in Thailand, Malaysia and Indonesia, and using a series of
20 independent processing facilities he has the crab processed,
21 then using his own facilities, canned and it's then shipped and
22 sold to Phillips Seafood. I'm not sure of the city.

23 Q. Have you discussed with Mr. Bailey whether he'd come here
24 to court in Gainesville, Florida to testify?

25 A. Yes.

1 Q. And what did David Bailey tell you?

2 A. He said no, he'd not come to testify. That it would be
3 very disruptive to his business to have to travel here, that he
4 was not going to sit on an airplane for 20 plus hours each way
5 to come here to do that.

6 Q. When you spoke with David Bailey back on June 2nd of
7 1994, and thereafter, you had several conversations with him,
8 correct?

9 A. Yes.

10 Q. Did David Bailey say how long he had been the captain of
11 the OMNI?

12 A. He said he first became the captain in approximately the
13 end of 1991. And then, he ended approximately a few months
14 before we spoke with him in 1994.

15 Q. Did you show David Bailey a photo-array to see if he
16 could identify ma'am of the as Patrick Osborne?

17 A. Yes.

18 Q. Is Government Exhibit 210 in front of you?

19 A. Yes.

20 Q. Is that the photo array that you showed David Bailey?

21 A. Yes, it is.

22 Q. And would you explain to the Court the circumstances of
23 you showing the photo array to David Bailey, exactly what
24 happened?

25 A. I presented this photo array, which I constructed for him

1 and asked him if anyone -- if he recognized anyone depicted in
2 the photographs. He immediately pointed to the photograph of
3 John Knock and stated that he knew this person as Patrick
4 Osborne.

5 I then asked him to write the name that he knew that
6 person as and initial and date below the photograph. And
7 thereafter I myself signed and dated the back of the form.

8 Q. Did you ever suggest in any way to David Bailey who he
9 should pick out?

10 A. No.

11 Q. Did David Bailey say anything about the value of the OMNI
12 that he was the captain of that Patrick Osborne owned?

13 A. He said that it had been purchased for approximately
14 150,000 to 200,000 United States dollars.

15 Q. And did David Bailey ever say anything about how many
16 times he had met Mr. Osborne and what Mr. Osborne said he did
17 for a living?

18 A. He said that he met him twice, both occasions in Bangkok
19 in 1994. I'm sorry. One occasion in Bangkok. And a couple of
20 weeks thereafter in Bukat, Thailand. That when he had asked
21 Mr. Osborne, John Knock, about his occupation, he responded
22 that he pushed paper for a living.

23 MR. DAVIES: Your Honor, that is the evidence the
24 government is asking -- to enter the hearsay that the
25 government is requesting to introduce to the jury.

1 I would like to ask the witness to go into the other
2 things David Bailey said, not because I'll present it to the
3 jury but I believe it goes to his reliability.

4 Q. If you would, tell the Court what else David Bailey told
5 you?

6 A. He stated that in addition to its value, that
7 approximately 200 thousand dollars had been spent to maintain
8 the OMNI, and that he also met an associate of Mr. Osborne by
9 the name of Roger who he later identified as Roger Darmon.

10 He also indicated that during the meetings with
11 Mr. Osborne, I'm sorry with his contacts with Patrick Osborne,
12 he was surprised in that on some occasions he sent fax requests
13 to Mr. Osborne for permission to take the OMNI on long
14 excursions, and for funding for those excursions, and that he
15 was surprised that Mr. Osborne never responded in any detail,
16 he simply wired or fax acknowledging that he was wiring the
17 funds for the excursions for the vessel.

18 Q. Okay. Specifically, so the record is clear, how many
19 specific days did you speak to Mr. Bailey about Patrick Osborne
20 and the OMNI?

21 A. There were three specific times that we met in person and
22 there were several telephone conversations as well.

23 Q. And how long did those conversations take?

24 A. The first meeting was approximately a half hour to 40
25 minutes. The meetings thereafter were 20 minutes or so.

1 Q. What was David Bailey's demeanor like during those
2 interviews, during those conversations?

3 A. He seemed easygoing. He didn't appear nervous at all.
4 He was fully cooperative.

5 Q. And did you ever tell David Bailey that he could receive
6 a reward if this information led to John Knock's apprehension?

7 A. Yes.

8 Q. So was it conveyed to Mr. Bailey that it was important to
9 tell the truth?

10 A. Yes.

11 Q. And did Mr. Bailey appear to understand that?

12 A. Yes.

13 Q. Did Mr. Bailey ever hesitate or have any trouble
14 remembering anything he was telling you?

15 A. On two occasions he wasn't certain about dates. For
16 example, when he was referring to his meeting with John Knock
17 in Bangkok, he said he thought it was in March of 1994.

18 And he believed that the meeting a couple of weeks
19 after at Bukat occurred with Mr. Knock. But, during our
20 meeting the second time, which was on the 6th of June, he
21 clarified that and indicated he had had an opportunity to
22 review his calendar, his personal calendar, that upon reviewing
23 it he determined that in fact that the meeting with John Knock
24 in Bangkok was in February, and he had an exact date. February
25 13th of 1994.

1 In addition, from reviewing his records, he clarified
2 the location of the hotel. So there were two or three items
3 that he wasn't sure of the exact dates or times, and he
4 clarified those during the June 6th meeting.

5 Q. And when he first spoke to you, was he clear with you
6 that he wasn't sure of the exact date, that he was making an
7 approximation?

8 A. That's correct.

9 Q. And then he voluntarily checked his own notes and checked
10 to make sure that you got the exact correct information?

11 A. That's correct.

12 MR. DAVIES: No further questions, Your Honor.

13 THE COURT: Any cross on the proffer?

14 MR. KENNEDY: Yes, Your Honor.

15 CROSS-EXAMINATION.

16 BY MR. KENNEDY:

17 Q. Good morning, Agent Giuffre.

18 A. Good morning.

19 Q. What nationality is David Bailey?

20 A. He is a United States citizen.

21 Q. And are you aware that a United States citizen can be
22 subpoenaed by the United States government wherever they are in
23 the world and have to respond to that subpoena?

24 A. I'm not aware of that.

25 Q. Was any effort made, in as far as you know, to subpoena

1 Mr. Bailey?

2 A. No subpoena was issued to me to serve him.

3 Q. In addition to no subpoena being issued to you, sir, are
4 you aware of any efforts by the United States government to
5 subpoena this United States citizen into this court so that his
6 testimony would be direct rather than have to come through you
7 through hearsay? I mean no disrespect to you by that question.

8 A. I'm not aware of a subpoena being issued.

9 Q. Are you aware of any effort to get a subpoena by the
10 government?

11 A. I'm aware of discussions between the U.S. Attorney's
12 office here and Mr. Bailey directly. But I don't know if those
13 discussions entailed getting a subpoena as well or not. I
14 don't know.

15 Q. So, as far as you know, there has been no subpoena issued
16 nor any attempt to issue a subpoena to Mr. Bailey by the United
17 States government?

18 A. Yes, I know that no -- no subpoena has been issued,
19 because I haven't received a subpoena to serve.

20 Q. And Mr. Bailey is dependent for his livelihood, at least
21 in part as I understand it, on a United States company here on
22 the east coast called Phillips Seafood; is that correct?

23 A. That's correct.

24 Q. To your knowledge, has the government made any effort to
25 encourage or have Phillips Seafood Company to get their either

1 employee or subcontractor, whatever he happens to be, to come
2 over here and be cooperative in these proceedings?

3 A. I do not.

4 Q. You did say to Mr. Bailey that, in fact, he might be the
5 recipient of an award if the information he gave, in fact,
6 resulted in the apprehension of someone; is that correct?

7 A. That's correct.

8 Q. Am I correct that the only reason Mr. Bailey gave you for
9 not wanting to come here is that he did not want to be
10 inconvenienced to have to get on a plane and travel the 20
11 hours or whatever the case is to fly from Bangkok here to the
12 east coast of the United States, that is the only reason he
13 gave; is it not?

14 A. No. He said it would be extremely disruptive to his
15 business at this time. He stated what you just stated, that he
16 didn't want to sit on an airplane for 20 hours each way.

17 Q. Did you ask him -- strike that for the moment.

18 Among the people who are on the photo array, Agent
19 Giuffre that you showed to Mr. Bailey, is a photograph of
20 Claude Duboc; is it not?

21 A. That's correct.

22 Q. Did you ask him about Claude Duboc?

23 A. I don't recall whether I asked him about Claude Duboc.
24 I didn't specifically make any reference to Claude Duboc being
25 in the photo spread.

1 Q. I understand that.

2 A. I don't recall whether I did or not.

3 Q. Well, you were interested in Mr. Duboc, or not?

4 A. Yes.

5 Q. You were also interested in this short gentleman who has
6 been referred to as Roger Darmon, correct?

7 A. Correct.

8 Q. You asked him about Darmon?

9 A. What I did was I showed him a separate photo spread which
10 had Roger Darmon's photograph. After he identified Roger
11 Darmon as Roger, I then asked him about him, yes. Since he
12 didn't identify Claude Duboc, I didn't -- I don't recall asking
13 him any questions about Claude Duboc.

14 Q. Lastly, the -- the money that came in that Mr. Bailey had
15 requested, came in from wire transfers; did it not?

16 A. Yes. I believe so.

17 Q. That is what he reported to you at least?

18 A. Correct.

19 Q. Did he say that he had copies of the wire transfers or
20 any documentation with reference to that?

21 A. No. I specifically asked him for any and all
22 documentation, including wire transfers. And those faxes were
23 the only thing that he produced.

24 MR. KENNEDY: Thank you, Agent Giuffre.

25 THE COURT: Mr. Daar.

1 MR. DAAR: No questions, Your Honor.

2 THE COURT: Government have any additional?

3 REDIRECT EXAMINATION

4 BY MR. DAVIES:

5 Q. Was this case set for trial last fall?

6 A. Yes.

7 Q. Did Mr. Bailey agree to come to the United States at that
8 time to testify for trial?

9 A. Yes.

10 Q. Did he, in fact, come, I believe to the Boston area with
11 plans to come down to Gainesville?

12 A. Yes.

13 Q. But then his -- but then the trial was continued and
14 Mr. Bailey went back to Thailand?

15 A. That's correct.

16 Q. And when you asked -- so and then you spoke with
17 Mr. Bailey after all of that happened?

18 A. That's correct.

19 Q. And did you ask him to come again?

20 A. Yes.

21 Q. And what was his response at that time?

22 A. In addition to what I just stated, he stated that it
23 would be very inconvenient for his -- very disruptive to his
24 business. He also made reference to his previous travel to
25 America, and indicated that he had come all of the way back

1 here, had been waiting and wasn't notified until the last
2 minute when he arrived at the airport, at the airport in the
3 East Coast that he was no longer needed, that the trial had
4 been postponed. He was frustrated with that previous traveling
5 here.

6 Q. He expressed some displeasure with that?

7 A. Yes, he did.

8 Q. Is that one of the reasons that he gave you for not being
9 willing to come this time?

10 A. Yes.

11 MR. KENNEDY: One point, if I may, Your Honor. No
12 more questions.

13 Your Honor, I commend to the Court the case of --
14 first referred to by the Court in its sue sponte order,
15 Blackmer vs. the United States. B-L-A-C-K-M-E-R, 284 US 421,
16 where the Supreme Court held that an American living abroad is
17 subject to criminal penalties when he refused to obey a
18 subpoena from the American Court.

19 And that -- quoting further: By virtue of the
20 obligations of citizenship, the United States retained its
21 authority over that individual, and he was bound by the laws
22 made out applicable to him in a foreign country.

23 THE COURT: I need to see if the government is going
24 to put on any more testimony about efforts to subpoena him
25 before I take argument.

1 MR. KENNEDY: I beg your pardon?

2 THE COURT: I need -- I want to see if the government
3 is going to put on any more testimony about efforts to subpoena
4 him --

5 MR. KENNEDY: I'm sorry.

6 THE COURT: -- to this proceeding.

7 MR. KENNEDY: I am sorry. I was putting the horse
8 before the cart.

9 THE COURT: That is all right. Does the government
10 have any more testimony?

11 MR. DAVIES: May I have a second, Your Honor?

12 THE COURT: Sure.

13 MR. DAVIES: No further evidence, Your Honor.

14 THE COURT: Thank you. Thank you, sir. You may step
15 down. Then we'll hear your argument.

16 MR. DAVIES: Your Honor, first of all, I want to be
17 clear what I think the issues are. The only hearsay the
18 government is offering is the statement of identification and
19 the statement of value, the value of the boat, and what John
20 Knock said he did for a living.

21 So three items of hearsay. The government's position
22 is that turning over the faxes, the turning over of the faxes,
23 that's an event that is admissible independent of Rule 807.

24 I proffered that just in an abundance of caution.
25 With regard to the hearsay, that is the statement of

1 identification, the value of the boat and what Mr. Knock did
2 for a living. Rule 807 again allows a lawyer in proof of a
3 material fact, which it is, if it's more probative on the point
4 for which it's offered than any other evidence I can procure
5 through reasonable efforts, which it is, we had Mr. Bailey here
6 in the fall.

7 The case was continued at Mr. Kennedy's request. We
8 thought he'd come, and then he refused. The general purpose of
9 the rules of evidence -- I mean I suggest that this would be
10 served by the admission of the evidence.

11 Generally the interests of justice are served by this
12 admission of this evidence that I proffered, just as prior 807
13 evidence in the balancing test. Mr. Bailey's a private
14 citizen. He is halfway around the world and won't come to
15 trial. He spoke to special Agent Giuffre voluntarily. He
16 didn't have any reason to lie. He did not hesitate in
17 answering questions.

18 He immediately picked John Knock out of the photo
19 array. And the photo array, if you will look at it, it is a
20 very bad array. I mean, it is very bad copies of people, it's
21 hard to tell them. So he obviously knew Mr. Knock well or the
22 person he knew as Mr. Osborne well, and could still, even
23 though it was a bad photo array or an unclear photo array,
24 still was immediately able to pick him out.

25 Under the Parker case, again the issue is, you have

1 the discretion to admit this evidence. The 11th Circuit
2 evidentiary rulings are referred to the discretion of the
3 District Court. This is a discretionary call, just like the
4 other 807 evidence.

5 It is Mr. Knock that chose to deal with people half
6 way around the world. The hearsay I'm offering is very simply
7 a straight forward statement, one of identification. And with
8 the other things, it's about the value of the boat and that
9 Mr. Knock never said what he did for a living other than
10 pushing paper.

11 And, again, I think importantly I'm not arguing that
12 the jury has to accept this as the truth. The Government's
13 position is not to ask for a jury instruction that this is what
14 happened. I'm arguing the evidence is admissible. Mr. Giuffre
15 should be able to testify to this. Mr. Kennedy can
16 cross-examine him. And then the jury should get to consider
17 it. That is the position of the government on those hearsay
18 statements, Your Honor.

19 THE COURT: Thank you.

20 Go ahead.

21 MR. KENNEDY: Thank you, Your Honor. I commend
22 Blackmer. You cited it to us. And I was grateful for that
23 direction from the Court. We have here in the United States,
24 unlike prior 807 wherein it was not a United States citizen, it
25 was beyond -- because Singapore has no treaty with the United

1 States, it was beyond the subpoena power of the United States,
2 beyond letters rogatory power. Here we deal with an American
3 citizen whom they know and have actually gotten here one time
4 before.

5 They could have subpoenaed him. They made absolutely
6 no effort on this record to subpoena him. That is inexcusable
7 in light of the right of confrontation of Mr. Knock that is
8 being deprived by the admission of this hearsay evidence.

9 And third -- the second point I make, Your Honor, is
10 that those faxes are not self-authenticating. The custodian of
11 the faxes would have to come and say those are the very faxes
12 that I got, and I've held on to them all of this time. They
13 have been in my custody and now I'm presenting them.

14 Submit it, Your Honor.

15 MR. DAVIES: Your Honor, with regard to the faxes, I
16 think all but one of them are signed. And the other one came
17 in the bundle. It has got the name Osborne on it. Weinstein
18 on Evidence at Section 901.50 says handwriting comparisons can
19 be made by the trier of fact. Those are written by Mr. Knock.
20 They are written by Patrick Osborne, who is Mr. Knock. The
21 jury can look at that handwriting. They can compare it to
22 Government Exhibit 136, which is the mail room records of
23 Patrick Osborne which are in evidence.

24 We are also going to be introducing letters that Mr,
25 Knock wrote at his Kahala house which are in his handwriting.

1 So this is not hearsay evidence. Special Agent Giuffre can
2 testify that he obtained those letters in the course of his
3 investigation. The government's position is that is
4 Mr. Knock's handwriting.

5 The issue for you is is that sufficient to go to the
6 jury? Since you have got other samples under the rules of
7 evidence, the jury can make a handwriting comparison. I think
8 it's pretty clear that it's Mr. Knock's handwriting. But that
9 is something that the jury should see. That goes to their --
10 Mr. Kennedy's argument goes to their weight not their
11 admissibility. The letters are admissible. That is not
12 hearsay.

13 As to the hearsay evidence that I'm offering, the
14 statement of identification, the value of the boat, and
15 Mr. Knock's statement about what he did for a living,
16 ultimately it just turns on reasonableness and fairness. We
17 did have Mr. Bailey here in the country in the fall. He was
18 planning to come to Gainesville. It got continued, not at our
19 request, but at the defendant's. They are saying we could have
20 served a subpoena. He told us he wouldn't come. It is a whole
21 balancing mix under Rule 807 you go through as the Parker case
22 discusses, including the circumstances of the statement, all of
23 the evidence you considered.

24 It boils down to a discretionary decision by the
25 District Court. Again, like I argued on the other 807, it's to

1 your discretion. I'd submit it's the fair thing to do is to
2 let in the hearsay as well as the nonhearsay evidence.

3 THE COURT: Mr. Kennedy.

4 MR. KENNEDY: Yes. Your Honor, what it boils down
5 to --

6 THE COURT: Let me ask you if you specifically can
7 address the fact that was raised by the government that he was
8 here ready for the last trial which was continued at the
9 request of the defendant and now he is not available. I don't
10 know if he is not legally not available, but he won't come.

11 MR. KENNEDY: Well, the fact that he came voluntarily
12 is something for which we should be grateful. The fact that I
13 broke my hand and had to request an adjournment and the Court
14 graciously granted that is a fact that ought not be held
15 against Mr. Knock in this regard.

16 The fact remains is that they could have subpoenaed
17 him, Judge, because -- a minor inconvenience to his business or
18 a minor inconvenience to his backside having to sit in the
19 plane and travel is not the basis for us to say this man
20 doesn't have to come, the government does not have to subpoena
21 him.

22 They didn't subpoena him. It is a question of
23 whether or not they even tried and they didn't, as compared to
24 his right of -- Mr. Knock's right of confrontation.

25 Thank you, Your Honor.

1 THE COURT: Any additional by the government?

2 MR. DAVIES: No, sir.

3 THE COURT: All right. The proffer is denied. Under
4 28 U.S. Code 1783, there is authority, ample authority for the
5 securing of a United States National residing in a foreign
6 country. 1784 would even have allowed me to attach his moneys
7 coming from this business here in the east coast if he failed
8 to appear. I deny the proffer.

9 You can mark them for identification and put them in
10 the record if you want to preserve them for any appellate
11 purposes, the documents you had.

12 MR. DAVIES: Your Honor, with regard to the
13 documents -- just so I'm clear, the government would offer the
14 documents without offering any hearsay, simply that Special
15 Agent Giuffre uncovered them in an investigation. At least the
16 handwritten ones. If I can get Government Exhibit --

17 There are five faxes, Your Honor. And just for the
18 record, the first one is signed. The second one is not. The
19 third one is not. And then the fourth and fifth are
20 handwritten.

21 This handwriting, like I said, we have handwriting in
22 evidence of Mr. Knock which is the mail room record, which is
23 already in evidence. We are going to present other handwriting
24 evidence which is letters he wrote that were uncovered in the
25 search of his Kahala house.

1 I think under Weinstein on Evidence, I can have an
2 agent say that he uncovered these, and then they will be
3 submitted to the jury and the jury would compare the
4 handwriting.

5 And if -- I think it's sufficient for a jury issue.
6 They can look at this, and if they decide it's Mr. Knock's
7 handwriting then I think it's -- then it would be a reasonable
8 determination by them. They can consider this. It is a jury
9 issue. The Court shouldn't bar this from going to the jury is
10 our position.

11 MR. KENNEDY: Your Honor, without the hearsay which
12 you have properly excluded, those are also hearsay and there is
13 no context within which to be able -- for the jury to be able
14 to understand them without the admissible hearsay. This in
15 fact inadmissible evidence.

16 MR. DAVIES: They are statements of a party, Your
17 Honor.

18 THE COURT: Let me see them. I think I'm going to
19 allow you just to have them identify those documents and how he
20 received them. I'm not saying they will go into evidence. But
21 that is the ruling we can make later.

22 MR. DAVIES: Yes, sir.

23 THE COURT: If you wish to put him on for that
24 limited purpose that is fine.

25 MR. DAVIES: Yes, sir. Just for the record, I

1 referred to Government Exhibit 209 with Special Agent Giuffre
2 which is five fax pages we used in the proffer. I'm going to
3 remove the two pages that are typewritten and keep the three
4 handwritten pages in 209.

5 THE COURT: If they are willing to -- well, they may
6 want -- would you be willing to stipulate that Agent Giuffre
7 obtained those from Bailey?

8 MR. KENNEDY: Bailey, Your Honor?

9 THE COURT: In Thailand on those dates? And we can
10 later decide if they are coming in, or we can put the agent on
11 and he can say what they are. That is up to you all.

12 MR. KENNEDY: Correct me if I'm wrong, didn't the
13 agent already testify that he got them from Mr. Bailey?

14 THE COURT: But the jury wasn't in.

15 MR. KENNEDY: That is correct. And hopefully the
16 jury will never hear that.

17 THE COURT: But I'm saying that we need to make some
18 record of this. And in the event it's admissible, the jury
19 knows where they came from.

20 MR. KENNEDY: One moment. If I may confer with my
21 colleague.

22 (Discussion off the record.)

23 MR. KENNEDY: Your Honor, I'm prepared to stipulate.
24 We are going to re-mark those exhibits. That if Agent Giuffre
25 were called to testify in front of the jury, he would, in fact,

1 testify that he received 209A, B and C from Mr. David Bailey,
2 either in Thailand or in Bangkok, I don't remember which.

3 Mr. Knock, do you join me in consenting to that
4 stipulation?

5 DEFENDANT KNOCK: Yes. I consent, Your Honor.

6 THE COURT: Mr. Daar?

7 MR. DAAR: I join.

8 DEFENDANT MADRID: Yes, Your Honor.

9 THE COURT: Thank you. All right. Mark them. And
10 then if they become admissible, that stipulation would then be
11 read to the jury.

12 MR. KENNEDY: Yes, Your Honor.

13 THE COURT: And that gets us to lunch.

14 MR. DAVIES: Your Honor, I did have one -- I was
15 going to call Agent Giuffre to put in a foreign business record
16 which I showed Mr. Kennedy. It will take about three minutes,
17 five minutes at the most to do. We can do it before or after
18 lunch.

19 THE COURT: I don't have a problem with that, for
20 that purpose. Incidentally, I've got a 1:00, so I have -- they
21 tell me it's going to take 20 minutes, to 1:30. And I'll do
22 that in another courtroom.

23 MR. HANKINSON: Judge, just the one scheduling
24 matter. We have two witnesses who have attorneys who have
25 raised privileges of one sort of another, attorney-client

1 privilege or marital privilege.

2 I told the lawyers for them that I would attempt to
3 get a time with the Court in which we could address those.
4 Hopefully sometime when the jury wasn't, you know, waiting on
5 us.

6 But it's a -- something that we are going to need to
7 address. I guess it's just a matter of when the Court would
8 like to hear those.

9 THE COURT: Well, any time. When do you propose to
10 put them on?

11 MR. HANKINSON: I would expect both of them to
12 testify sometime tomorrow. So what I was hoping is we could do
13 it at the end of the day or first thing in the morning
14 tomorrow.

15 THE COURT: I have other matters set at 8:30 in the
16 morning.

17 MR. HANKINSON: Okay.

18 THE COURT: We'll do it tonight.

19 MR. HANKINSON: Okay.

20 THE COURT: Do it at the end of the day. Sure.

21 MR. KENNEDY: There are the lawyers.

22 THE COURT: I was wondering what they were doing
23 sitting out there. Glad to have you from Jacksonville.

24 MR. SHEPHARD: Thank you, sir.

25 MR. SCHAFFNIT: Good morning, Your Honor.

1 THE COURT: We'll do it this afternoon, after we
2 adjourn for the day.

3 I'm going to send the jury to lunch. See you all at
4 1:30.

5 (Recess taken.)

6 (Jury in.)

7 THE COURT: You all be seated, please.

8 Call your witness.

9 MR. DAVIES: Mark Giuffre.

10 (Witness sworn.)

11 THE CLERK: Please be seated.

12 And, sir, for the record state your full name and
13 spell your last name.

14 THE WITNESS: Mark Giuffre. G-I-U-F-F-R-E.

15 DIRECT EXAMINATION

16 BY MR. DAVIES:

17 Q. Good afternoon. Would you tell the ladies and gentlemen
18 of the jury where you work, please.

19 A. At the United States Drug Enforcement Administration.

20 Q. What office are you currently assigned to?

21 A. In Sonclau resident office in Sonclau, Thailand.

22 Q. What are your duties at the DEA office in Thailand?

23 A. I'm the resident agent in charge.

24 Q. And how long have you worked in Thailand for the DEA?

25 A. Approximately six and a half years.

1 Q. And how long have you worked for DEA total?

2 A. Approximately 13 and a half years.

3 Q. And did you assist us here by obtaining some foreign
4 business regards regarding the stay of a Patrick Osborne at the
5 Buchat Yacht Club in Thailand?

6 A. Yes, I did.

7 Q. What is the Buchat yacht club?

8 A. It's a resort hotel located in Buchat, Thailand.

9 Q. Buchat is a city in Thailand?

10 A. Yes, it is.

11 MR. DAVIES: May I approach, Your Honor?

12 THE COURT: Yes, sir.

13 Q. Showing you what I've marked for identification as
14 Government Exhibit 204. Are those the records that you
15 obtained for us accompanied by a certificate of authenticity?

16 A. Yes, they are.

17 MR. DAVIES: Your Honor, I would offer Government
18 Exhibit 204 into evidence.

19 THE COURT: Without objection.

20 (Government Exhibit No. 204 admitted.)

21 MR. DAVIES: I would request to publish 204.

22 THE COURT: You may do so.

23 MR. DAVIES: May the witness stand down, Your Honor?

24 THE COURT: Certainly.

25 MR. DAVIES: If you would come over here so you are

1 out of the jury's way.

2 Q. And does that indicate the person staying at the Buchat
3 yacht club?

4 A. Yes.

5 Q. The dates are a little hard to read. But what were the
6 dates that Patrick Osborne was staying at the Buchat yacht
7 club?

8 A. It would be 3/25. In Thailand people will always write
9 the month before the date, followed by the year. And this
10 indicates -- it's very difficult to read. It should read 3/24
11 of '94. I'm sorry. 24/3/94.

12 Q. That is March 24th of '94?

13 A. That's correct. And then 4/2 of '94.

14 Q. So that would be April 2nd?

15 A. That's correct.

16 Q. Thank you. You can have a seat.

17 MR. DAVIES: No further questions, Your Honor.

18 THE COURT: Any cross?

19 MR. KENNEDY: Can we leave it up for just a moment.

20 CROSS-EXAMINATION

21 BY MR. KENNEDY:

22 Q. I'm not disagreeing with you, agent. Good afternoon.
23 But, how are you able to see '94 on that?

24 A. Actually when I look at the original, sir, I can see it
25 more clearly. If you look at the bottom of the form towards

1 the bottom, the arrival and departure date.

2 Q. May I?

3 A. Yes. Here we are.

4 Q. Okay.

5 A. Is that showing up there?

6 MR. KENNEDY: Could you scroll up just a bit?

7 A. Right there. If we look at the bottom section which we
8 weren't looking at a moment ago, which is up there now, it
9 shows there: 2/25. Out: 3/4.

10 Q. And it's the year that I was interested in. How are we
11 able to fix the year?

12 A. Right here. Right here. I make that as a '94.

13 Q. All right. Would you be kind enough to go up and point
14 out where here, because the ladies and gentlemen of the jury
15 couldn't see the here that you are pointing at? We see it
16 right there.

17 A. Well, it is on this form on several places. Also here
18 departure date: 3/2 of '94.

19 MR. KENNEDY: Okay. Thank you very much.

20 THE COURT: Mr. Daar.

21 MR. DAAR: No questions.

22 REDIRECT EXAMINATION

23 BY MR. DAVIES:

24 Q. Just so we are clear. You got down to the bottom part
25 and read it clearly. The dates that Patrick Osborne was there

1 were February 25th of '94 through March 4th of '94; is that
2 correct?

3 A. That's correct.

4 MR. DAVIES: Thank you. No further questions.

5 THE COURT: Thank you. Your next witness.

6 MR. HANKINSON: We call Shelly Wickersham.

7 (Witness sworn.)

8 THE CLERK: Please be seated.

9 And, ma'am, for the record state your full name and
10 spell your last name.

11 THE WITNESS: My name is Shelly Mary Wickersham.

12 W-I-C-K-E-R-S-H-A-M.

13 DIRECT EXAMINATION

14 (Witness's testimony previously transcribed.)

15 THE COURT: Thank you, ma'am you may step down.

16 Your next witness.

17 MR. HANKINSON: We call Chris Horn.

18 (Witness sworn.)

19 THE CLERK: Please be seated.

20 And, sir, for the record state your full name and
21 spell your last name.

22 THE WITNESS: Christopher John Horn. H-O-R-N.

23 DIRECT EXAMINATION

24 BY MR. DAVIES:

25 Q. Good afternoon. Would you tell the ladies and gentlemen

1 of the jury your age, please?

2 A. Thirty-eight.

3 Q. What city do you currently live in?

4 A. Tusden, California.

5 Q. Where is Tusden, California?

6 A. It is about an hour south of Los Angeles.

7 Q. Mr. Horn, what understandings, if any, do you have about
8 whether your testimony can be used against you?

9 A. I understand that it cannot.

10 Q. Are you currently employed?

11 A. Yes.

12 Q. What do you do for a living now?

13 A. I sell business supplies.

14 Q. Do you know a woman named Sonya Vacca?

15 A. Yes.

16 Q. About when did you meet Sonya Vacca?

17 A. Around 1989.

18 Q. How did you meet Sonya Vacca?

19 A. She was at my parent's house for a barbecue.

20 Q. Did you become friends with Sonya Vacca?

21 A. Yes.

22 Q. Did Sonya Vacca have any business ventures that you knew
23 about?

24 A. Yes. She had a couple of different projects that she was
25 doing.

1 Q. Tell the jury what type of projects were those?

2 A. She was trying to put together a car delivery service for
3 people that were out of town. She was -- she sold jewelry,
4 precious stones, things like that.

5 Q. Did there come a time when Sonya Vacca asked you about
6 traveling with her?

7 A. Yes.

8 Q. What happened? What did she say to you?

9 A. She asked me if I wanted to go to Singapore.

10 Q. What was your response?

11 A. Yes.

12 Q. Did she say what you all would be doing in Singapore or
13 what you would be taking to Singapore?

14 A. Yes, she did.

15 Q. What did she tell you you would be taking?

16 A. She said that we would be taking money.

17 Q. And did you agree to take money to Singapore with you?

18 A. Yes.

19 Q. Well, the first trip you took, was it just the two of you
20 or were there more people?

21 A. It was just the two of us.

22 Q. And were you still in college then or just out of
23 college?

24 A. I was still in college at that time.

25 Q. And did there come a time when you and Sonya Vacca

1 house-sat a house in Canada?

2 A. Yes.

3 Q. And about how long before the house-sitting was it that
4 you started transporting money with Sonya Vacca, approximately?

5 A. About a year, maybe less than a year.

6 Q. And was that trip the same trip, the round trip that you
7 made transporting money?

8 A. No.

9 Q. How many trips did you make with Ms. Vacca couriering
10 money to Singapore?

11 A. Approximately six.

12 Q. Did there ever come a time when Sonya Vacca told you
13 where the money you were transporting came from?

14 A. Yes.

15 Q. What did she tell you?

16 A. She said it was from marijuana and hash.

17 Q. What would your and Ms. Vacca's routine be with making
18 these trips to Singapore be? Where were you living at the time
19 when you were making those trips?

20 A. I was living in San Juan Capistrano, California.

21 Q. Where is that in relation to a big city?

22 A. An hour and a half south of LA.

23 Q. And where was Ms. Vacca living then?

24 A. Luna Nagel.

25 Q. Where is that?

1 A. An hour and a half south of LA.

2 Q. What was your and Ms. Vacca's routine be with regard to
3 making these trips transporting money to Singapore?

4 A. We would fly to Montreal from LA, and then from Montreal
5 we would pick up suitcases and fly to Vancouver. And then from
6 Vancouver to Singapore.

7 Q. Would you spend the night in a hotel in Montreal?

8 A. Yes.

9 Q. Do you remember what type of hotels you stayed at in
10 Montreal?

11 A. Real nice ones. Like different ones, one time the Ritz,
12 things like that.

13 Q. And you said in Montreal people would deliver the money
14 to you and Sonya to courier overseas?

15 A. Yes.

16 Q. Do you remember the names of any of the people that
17 delivered money to you there?

18 A. Mr. Larkin was the -- the main person.

19 Q. And how would the money be packaged?

20 A. They were in brown paper bags.

21 Q. And what would you actually carry the money in to
22 Vancouver and then on to Singapore?

23 A. Suitcases.

24 Q. And how many suitcases full of money would you typically
25 carry per person?