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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES
DEPARTMENT 30 HON. ARMENUI A. ASHVANIAN, JUDGE

THE PEOPLE OF THE STATE OF CALIFORNIA,)
)
) PLAINTIFF,)
)
) VS.) NO. BA509784
)
) 01 - EUGENE W. YU,)
)
) DEFENDANT.)
)

REPORTER'S TRANSCRIPT OF PROCEEDINGS
DECEMBER 7, 2022

APPEARANCES:

FOR THE PLAINTIFF: OFFICE OF THE DISTRICT ATTORNEY
BY: LUKE SISAK, DEPUTY
320 WEST TEMPLE STREET
LOS ANGELES, CALIFORNIA 90012

FOR THE DEFENDANT: BIRD MARELLA
BY: ALEXIS WISELEY, ESQ.
1875 CENTURY PARK EAST
23RD FLOOR
LOS ANGELES, CALIFORNIA 90067
(APPEARING TELEPHONICALLY)

LORI D. CASILLAS, CSR #9869, RPR
OFFICIAL REPORTER

1 THE COURT: GOOD AFTERNOON. LET ME CALL THE
2 MATTER FIRST. CALLING THE MATTER OF EUGENE YU, BA509784.
3 COUNSEL, MAKE YOUR APPEARANCES.

4 MS. WISELEY: GOOD AFTERNOON, YOUR HONOR. ALEXIS
5 WISELEY APPEARING ON BEHALF OF MR. YU 997 (SIC).

6 MR. SISAK: LUKE SISAK FOR THE PEOPLE. GOOD
7 AFTERNOON.

8 THE COURT: GOOD AFTERNOON. YOU MEAN 977 (B),
9 COUNSEL?

10 MS. WISELEY: YES, I DO.

11 THE COURT: ALL RIGHT. MY UNDERSTANDING FROM THE
12 NOTES IN THE COURT FILE, THIS IS A FURTHER PROCEEDING ON
13 PROPERTY RETURN BY THE PEOPLE.

14 MR. SISAK: YOUR HONOR, THIS CASE WAS DISMISSED AT
15 OUR MOTION ABOUT A MONTH AGO BECAUSE WE HAVE SO MUCH
16 EVIDENCE, A LARGE AMOUNT OF IT BEING SERVERS RANGING INTO
17 THE DOUBLE DIGIT TERABYTE RANGE THAT WE NEED TIME TO
18 ANALYZE THAT EVIDENCE.

19 AT THE TIME OF THE DISMISSAL, THERE WAS A
20 PENDING MOTION FROM THE DEFENSE PURSUANT TO 1536.5 FOR
21 COPIES OF, OR IN THE ALTERNATIVE, THE ACTUAL EVIDENCE
22 BACK.

23 JUDGE WILSON, AT THE TIME, DID ORDER THAT
24 THE D.A.'S OFFICE MAKE REASONABLE EFFORTS TO PROVIDE
25 COPIES. AND OUR POSITION HAS BEEN THROUGHOUT THAT WE WERE
26 WILLING TO DO SO EVEN WITHOUT A COURT ORDER. WE HAD
27 PROVIDED SOME MATERIAL BACK. WHAT IS REMAINING NOW IS
28 SERVERS.

1 COUNSEL HAS STILL BEEN REQUESTING COPIES OF
2 THOSE SERVERS, OR IN THE ALTERNATIVE, THE ORIGINALS WITH
3 THE UNDERSTANDING THAT THOSE MATERIALS ARE NECESSARY FOR
4 THE BUSINESS TO CONTINUE TO OPERATE. OUR OFFICE HAS BEEN
5 MAKING EFFORTS TO DETERMINE WHAT ABILITY WE HAVE TO
6 ACTUALLY REPRODUCE THOSE SERVERS.

7 WE HAVE NOW DETERMINED AS OF MONDAY OF THIS
8 WEEK, WE DO NOT HAVE THE TECHNICAL ABILITY IN-HOUSE TO DO
9 SO. I HAVE GOTTEN CONFIRMATION FROM MY CHAIN OF COMMAND
10 THAT WE ARE PREPARED TO PAY AT OUR OWN EXPENSE TO HIRE AN
11 OUTSIDE THIRD-PARTY FIRM THAT DOES HAVE THE ABILITY TO
12 PRODUCE THESE MATERIALS.

13 SO ASSUMING THAT THE COURT MAKES THE
14 APPROPRIATE VERBAL ORDER, I WILL BE PREPARING A WRITTEN
15 ORDER TO THAT EFFECT ORDERING OUR OFFICE TO RETAIN
16 THIRD-PARTY ASSISTANCE AND REPRODUCE THESE THINGS FOR THE
17 DEFENSE AT THEIR REQUEST IN AS REASONABLE A TIME AS WE
18 CAN.

19 MY UNDERSTANDING IS THAT FIRM IS READY TO
20 COME IN; MAKE THEIR INITIAL ANALYSIS OF WHAT IT WILL TAKE
21 AND HOW LONG IT WILL TAKE. BUT I HAVE BEEN TOLD TO EXPECT
22 AT LEAST THREE WEEKS TO A MONTH. AND I HAVE BEEN TOLD
23 THAT NORMALLY THIS PROCESS WOULD TAKE MORE LIKE TWO OR
24 THREE MONTHS, BUT WE'RE DOING WHATEVER WE CAN TO EXPEDITE
25 THE PROCESS.

26 THE COURT: ALL RIGHT. THANK YOU, MR. SISAK.

27 COUNSEL, DO YOU WANT TO BE HEARD?

28 MS. WISELEY: YES, YOUR HONOR. I GENERALLY AGREE

1 WITH MR. SISAK'S SUMMARY OF THE CIRCUMSTANCES IN THIS
2 CASE. I WILL ADD THAT WITH RESPECT TO THE COURT ORDER FOR
3 THE RETURN OF PROPERTY, IT SIMPLY SAYS THAT I AM TO BE
4 PROVIDED WITHIN A REASONABLE TIME.

5 AND I SUBMIT YOUR HONOR THAT IT BEING
6 ALMOST A MONTH SINCE THAT ORDER, YOU KNOW, TIME IS TRULY
7 OF THE ESSENCE HERE. AND COPIES -- THOUGH WE APPRECIATE
8 THE PEOPLE'S EFFORTS IN OBTAINING THEM -- COPIES OF FILES
9 ARE NO LONGER SUFFICIENT TO RETAIN THE BUSINESS. WE NEED
10 THE ORIGINALS.

11 SO THE EXTENT THE OFFICE IS ABLE TO OBTAIN
12 COPIES, WE WOULD REQUEST PEOPLE KEEP THE COPIES TO THE
13 EXTENT THAT THEY NEED THEM AND RETURN THE ORIGINAL TO
14 MR. YU.

15 MR. SISAK: WE ARE ACTUALLY GOING TO EVALUATE
16 WHETHER OR NOT THAT IS POSSIBLE BASED ON THE NATURE OF HOW
17 THOSE COPIES ARE FORENSICALLY OBTAINED AND WHAT LEVEL OF
18 FAITH WE HAVE IN THEIR FIDELITY.

19 BUT ASSUMING THAT THERE IS NO OTHER REASON,
20 WE WOULD ACTUALLY BE COMFORTABLE IN AT LEAST TRYING TO
21 RETURN THE ORIGINALS. BUT STEP ONE IS MAKING THE COPIES.
22 AND THAT IS WHERE WE ARE NOW DETERMINING HOW EXACTLY THAT
23 WILL HAPPEN.

24 AND I'VE BEEN TOLD IT WILL BE INTO THE SIX
25 FIGURES TO GET IT DONE. AND OUR OFFICE IS AT THIS TIME
26 I'VE BEEN TOLD PREPARED TO MOVE FORWARD WITH THAT.

27 THE COURT: ALL RIGHT. AND SO FROM THE COURT'S
28 ASSISTANCE, MR. SISAK, I DO SEE A NOTATION FROM JUDGE

1 WILSON THAT SHE HAD ORDERED PURSUANT PENAL CODE 1536.5 (A)
2 FOR PEOPLE TO PRODUCE IT. WHAT FURTHER MINUTE ORDER DO
3 THE PEOPLE NEED TO GET THAT BALL ROLLING?

4 MR. SISAK: I WILL ACTUALLY PREPARE A WRITTEN
5 ORDER BECAUSE BOTH THE TECHS FROM OUR OFFICE AND THE THIRD
6 PARTY WILL NEED THAT AUTHORIZATION TO GET INTO IT. IT
7 WOULD BE ESSENTIALLY AN ORDER STATING THE PEOPLE ARE
8 ORDERED TO REPRODUCE AND I WILL GIVE ITEM NUMBERS IN
9 PARTICULAR.

10 THE COURT: ALL RIGHT. PREPARE THAT ORDER AS SOON
11 AS YOU CAN. I WILL GO AHEAD AND SIGN IT. IF YOU TWO
12 AGREE, WE CAN SET IT OVER FOR A 30-DAY DATE SINCE YOU SAID
13 IT IS GOING TO TAKE ROUGHLY BETWEEN THREE TO FOUR WEEKS SO
14 THAT WE ARE ON THE SAME PAGE. OR IF YOU TWO WANT TO GO
15 AFTER THE HOLIDAYS, WE CAN SET IT SOMETIME TOWARDS THE END
16 OF JANUARY FOR AN ACTUAL STATUS ON PRODUCTION FOR THE
17 DEFENSE.

18 MS. WISELEY, WHAT DO YOU THINK?

19 MS. WISELEY: YOU KNOW, THE RETURN OF PROPERTY AS
20 SOON AS POSSIBLE IS, YOU KNOW, JUST CRITICAL FOR THE
21 CLIENT. SO TO THE EXTENT THAT WE COULD CHECK IN TO MAKE
22 SURE PROGRESS IS HAPPENING SOONER THAN THE END OF JANUARY,
23 THAT WOULD CERTAINLY BE PREFERABLE.

24 THE COURT: ALL RIGHT. WE CAN SET A DATE FOR
25 JANUARY, HOW IS JANUARY 9TH, MONDAY, FOR FURTHER PROGRESS?

26 MR. SISAK: I AM IN COMPTON THAT DAY, YOUR HONOR.
27 I'M SORRY.

28 THE COURT: OKAY. WHAT ABOUT --

1 MR. SISAK: ACTUALLY, I TAKE THAT BACK. THAT IS
2 GOING TO BE A WEBEX. SO I CAN DO THE 9TH.

3 THE COURT: ALL RIGHT. SO WE ARE GOING TO SET
4 THIS OVER FOR FURTHER STATUS JANUARY 9, 2023. AND AS SOON
5 AS MR. SISAK HAS THE COURT ORDER READY, I WILL SIGN IT.

6 ANYTHING FURTHER?

7 MS. WISELEY: NO, YOUR HONOR. THANK YOU.

8 THE COURT: MR. SISAK?

9 MR. SISAK: YOUR HONOR, I THINK I SHOULD JUST
10 MENTION ON THE RECORD THAT THE MATERIAL SEIZED WERE SEIZED
11 PURSUANT TO A MICHIGAN SEARCH WARRANT, WHICH IS PART OF
12 THE OTHER ISSUE WITH WHY WE NEED ORDERS TO DO THESE
13 THINGS.

14 THE COURT: ALL RIGHT. THANK YOU.

15 MR. SISAK: THANK YOU. THANK YOU, YOUR HONOR.

16 THANK YOU COURT STAFF.

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18 (PROCEEDINGS CONTINUED TO MONDAY, JANUARY
19 9, 2023, IN DEPARTMENT 30.)
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