

1 second time of him reporting; is that correct?

2 A. That's correct.

3 MR. ZEKTSER: All right. I have no further questions.

4 THE COURT: Ms. Nguyen.

5 MS. NGUYEN: Yeah. Maybe I can just clear it up just
6 quickly.

7 FURTHER REDIRECT EXAMINATION

8 BY MS. NGUYEN:

9 Q. When he told you about the original infection with his
10 toe, he took efforts to explain to you in detail everything he
11 went through to try to get the attention of the jail staff,
12 correct?

13 A. I don't know that he took a lot of effort, okay. I
14 think that --

15 Q. I apologize.

16 A. All right. But he did describe a number of the things
17 that he did and that he kept records of this.

18 Q. And he kept records of all the things he did to try to
19 tell somebody, Hey, I have this infection and I need help,
20 right?

21 A. Yes.

22 Q. And that would be an example of self-protective
23 behavior, correct?

24 MR. ZEKTSER: Objection. Asked and answered already.

25 Q. BY MS. NGUYEN: Now --

26 THE COURT: Overruled. I will allow it.

27 THE WITNESS: Yes.

28 Q. BY MS. NGUYEN: Now, with respect to the second

1 infection, the infection of his foot, the infection that led to
2 the amputation of his leg, when that infection started to take
3 hold, did he detail all the things that he did to try to get
4 jail staff attention the same way that he did originally with
5 the toe infection?

6 A. I don't know. I'm presuming that he did because he
7 said he kept a notebook or some sort of record, and the notebook
8 got lost with the rest of his belongings when he was transferred
9 I believe from Southwest to the hospital for the amputation of
10 the leg.

11 Q. Well, I'd like to refrain from presuming only because
12 what we need you to testify to is just what you know from what
13 he told you.

14 A. Myself.

15 Q. If you don't know, then you just don't know.

16 Let me put it to you a different way. If Mr. Dominguez
17 had gone into detail about trying to get attention of the jail
18 staff about his foot infection, the same detail he went into
19 about trying to get attention of the staff with his toe
20 infection, would you have put that in your report?

21 A. Yes.

22 Q. And you didn't put that in your report?

23 A. Correct.

24 Q. So that leads you to the conclusion that, what?

25 A. That he didn't talk to me about that, and I foolishly
26 didn't ask him questions about that.

27 MS. NGUYEN: Nothing further, Your Honor.

28 THE COURT: Okay.

1 MR. ZEKTSER: No, thank you.

2 Thank you.

3 THE COURT: Okay. Thank you very much, Doctor.

4 THE WITNESS: Thank you.

5 THE COURT: Is Ms. Williams going to testify?

6 MS. NGUYEN: She's outside.

7 THE COURT: Let me just ask one question before she
8 comes in. Obviously there's an attorney-client privilege here.
9 Is he going to waive it?

10 MS. NGUYEN: He is going to waive to the degree that
11 she can testify to what he told her about certain food problems
12 that he has with relation to how he can't eat peanut butter and
13 how he can't eat dairy. Just that, just that one issue alone.

14 MR. ZEKTSER: I'm not aware of -- I mean, you're
15 agreeing that you're allowed to waive. I'm going to waive the 5
16 percent rule. That's not how it works. You either waive it or
17 you don't.

18 MS. NGUYEN: We don't --

19 THE COURT: What's she going to testify to, just that
20 he asked for -- I mean, that he was given peanut butter? I
21 assumed she was going to get up and testify that: I tried to
22 talk with him, he had this, you know, blank stare or something.

23 MS. NGUYEN: Yes, Your Honor. There is no privilege in
24 relation to what a third party can observe if they're sitting
25 directly in the audience and just watching Mr. Dominguez during
26 trial. And everything that she is going to testify to is what a
27 third party could observe. In addition to that, she is going to
28 talk about what the rigors of trial present to a criminal

1 defendant, especially with respect to this type of trial with
2 very emotional testimony, with family members, and how long she
3 expects it to go.

4 THE COURT: Okay.

5 MS. NGUYEN: And so she's not going to talk about any
6 attorney-client privileged information. I was just going to say
7 about his food preferences because that's not really in relation
8 to the case, but it does go to his insulin dip during trial.

9 THE COURT: Okay. So she would not -- I don't suppose
10 you two could stipulate to that? Now, look, she can testify --
11 she can testify to her observations of him. She can testify, I
12 believe -- let me hear what counsel have to say. She can
13 testify to her observations without -- if it's something a third
14 party can see without opening the door on the attorney-client
15 privilege. But I do think if she starts getting into things
16 that he told her, I don't think you can limit it. I think once
17 that door is open, she has to --

18 MR. ZEKTSER: I think we can come to a stip, Judge.

19 THE COURT: Well, that's what I'm wondering. If all
20 she wants to do is get into the fact of the food preferences, I
21 must admit I already read that. The case report's here, and it
22 didn't seem to be anything anybody would lie about.

23 Okay. So go ahead and call Ms. Williams.

24 MR. ZEKTSER: Wait.

25 MS. NGUYEN: Your Honor, you want the stipulation right
26 now?

27 THE COURT: Yes. Go ahead. I will take a quick recess
28 briefly.

1 (Pause.)

2 THE COURT: Okay. We're back on the record in People
3 versus Dominguez. Both counsel and Mr. Dominguez are here.

4 Yes.

5 MS. NGUYEN: Yes, Your Honor. The parties are willing
6 to enter into a stipulation that Mr. Dominguez suffers from two
7 food allergies: One, is a peanut allergy, and two is a dairy
8 allergy.

9 MR. ZEKTSER: I will stipulate to that.

10 THE COURT: Okay.

11 MS. NGUYEN: And at this time, Your Honor, can I call
12 Ms. Williams?

13 THE COURT: Yes.

14 MS. NGUYEN: Thank you very much.

15 THE CLERK: You do solemnly state the testimony you are
16 about to give shall be the truth, the whole truth, and nothing
17 but the truth, so help you God?

18 THE WITNESS: I do.

19 THE CLERK: Thank you. Please be seated.

20 State your full name for the record spelling your full
21 name.

22 THE WITNESS: Nicole Williams. N-i-c-o-l-e. Last
23 name, W-i-l-l-i-a-m-s.

24 THE COURT: Okay. Good afternoon, Ms. Williams.

25 THE WITNESS: Good afternoon.

26 THE COURT: Okay. Go ahead, Ms. Nguyen.

27 MS. NGUYEN: Thank you, Your Honor.

28 NICOLE WILLIAMS,

1 called as a witness by the defendant, was sworn and testified as
2 follows:

DIRECT EXAMINATION

4 BY MS. NGUYEN:

5 Q. Ms. Williams, how are you presently employed?

6 A. I'm a public defender here in Riverside County.

7 Q. And in your tenure at the public defender's office,
8 were you ever assigned a case of Adan Dominguez?

9 | A. I was.

10 Q. And when was that?

11 A. Approximately -- it would have been sometime early last
12 year, such as January 2012, or towards the end of 2011.

13 Q. Does somewhere around March 2012 sound possible?

14 A. Yes.

15 Q. And in your representation of Mr. Dominguez, were you
16 the only trial attorney assigned to his case?

17 A. Yes.

18 Q. So is it fair to say that you've represented him for
19 over a year or about a year?

20 A. Yes.

21 Q. And in that time that you've represented him, have you
22 had an opportunity to observe his demeanor in court?

23 A. I have.

24 Q. When you first started representing him, how would you
25 describe his demeanor in court?

26 A. Without getting into conversations that we had, his
27 demeanor was or would include that he was receptive to
28 conversation. He was able to communicate with me regarding the

1 reason for him being at court to provide information to me about
2 his case and things that I needed to do and also things about
3 himself.

4 Q. And did that change over time?

5 A. It did.

6 Q. Approximately when did you notice a significant change
7 from that demeanor?

8 A. That would have been February this year.

9 Q. What type of changes did you notice?

10 A. He was not as responsive to communication with me as he
11 had been previously. He appeared lethargic at times, even
12 including having to wake him up to speak with him. He did not
13 appear to retain information. Obviously at this point what
14 we're discussing is when I saw him in court after his
15 amputation. So at that point in time I also noticed things that
16 would make me believe that at that point he was in substantial
17 pain or discomfort.

18 Q. Now, you were in trial with him on February 22nd, 2013;
19 is that correct?

20 A. I believe that would have been the date that we were
21 sent to Department 32 to Judge Fisher, yes.

22 Q. And in what demeanor did you observe him that day in
23 court?

24 A. On that particular day?

25 Q. Yes.

26 A. The same thing. He was lethargic. He appeared to be
27 in pain, definitely not comfortable. That was probably one of
28 the most telling days in terms of my contact with him. As

1 stated, I represented him for over a year, never once have I
2 seen him cry, and on that particular day he -- in the wheelchair
3 he was slumped over. He seemed despondent and actually cried.

4 Q. On that day when you were sent out to trial in Judge
5 Fisher's department, did you feel comfortable going to trial --

6 A. Absolutely --

7 Q. -- given that state?

8 A. Absolutely not.

9 Q. Why is that?

10 A. Based on his appearance, based on my attempted
11 communication with him, based on the level of pain that he
12 appeared to be in, he -- no, I did not feel comfortable going to
13 trial with him. And just in general, and I'm not speaking about
14 him in particular, but just in general if someone else had
15 presented to me the way that he did, I would not have even felt
16 comfortable joining in or accepting a plea on his behalf since
17 it does have to be knowing and voluntary, and there are severe
18 consequences from pleading or going forward with trial. So I
19 did not feel comfortable at all.

20 Q. And is that the day that you declared a doubt as to his
21 competence?

22 A. It is.

23 Q. And you said that he was slumped and despondent. Did
24 he fall asleep that morning in court?

25 A. He did.

26 Q. Do you recall one, two, how many times he fell asleep?

27 A. I would be guessing on that particular day. Because on
28 that day and the two days prior to that, that was something that

1 I had observed in court as well, where he was falling asleep in
2 court and I had to actually wake him up. So I would be wrong to
3 say how many times per day, but I did observe that on various
4 days.

5 Q. And when you were in court that morning in Judge
6 Fisher's department, did Judge Fisher -- or I don't know if it
7 was Judge Fisher or Judge Levine, either one of the magistrates
8 in this courthouse ask you to meet with jail detention health
9 staff related to Mr. Dominguez and his demeanor in court?

10 A. I don't recall if they asked me to do that or if I
11 chose to do that on my own, but I did speak with jail staff
12 regarding his circumstances.

13 Q. And did you make any requests of them related to
14 assisting him with maintaining his blood sugar levels throughout
15 the trial?

16 A. I did.

17 Q. And did they tell you whether or not they could assist
18 with that?

19 A. They did indicate that they could.

20 Q. And how did they indicate that they would do so?

21 A. The primary assistance that I discussed with them
22 regarding the blood sugar was whether or not he needed snacks
23 throughout the day and if that could be provided to him. It was
24 indicated to me that snacks could be provided. A snack was
25 brought to him in Department 32. I don't recall the time. I
26 believe, yes, in Department 32, and it consisted of wheat bread,
27 peanut butter packets, an apple, some type of beverage.

28 Q. And to your knowledge, Mr. Dominguez is allergic to

1 peanut better, correct?

2 A. That's correct.

3 Q. So he couldn't fully consume the snack that they had
4 provided to you?

5 A. That's correct.

6 Q. Or to him. I apologize.

7 A. That's correct.

8 Q. Can you explain what a trial in Mr. Dominguez's case is
9 likely to look like in terms of the length of time of trial?

10 A. Obviously dependent upon the number of witnesses, it
11 could be -- I believe the estimate we had previously given was
12 either four to five days or four to six days, I'm not sure.
13 Given the nature of these charges, it would probably take a day,
14 possibly two days for jury selection, and then the witnesses
15 being called, of course, and closing arguments. With that,
16 depending on which department we got sent to, the trial day
17 could last anywhere from 8:30 to 4:30 or 9:00 to 4:30.
18 Typically judges in this courthouse take breaks about 15 minutes
19 each in the morning session and also in the afternoon session.

20 It's my understanding that with individuals who are in
21 custody, just in general, that they are typically brought over
22 to court or woken up for court about 4:30 in the morning; that
23 they are then housed downstairs in the transportation area of
24 the courthouse, brought up to their respective courtrooms, at
25 lunchtime taken back downstairs to the transportation area and
26 held there.

27 So we're talking more than an eight-hour day at court
28 alone plus the transportation issues. It would be quite a long

1 day.

2 Q. And with respect to the evidence that's being brought
3 into trial, what's the pace of that introduction of evidence?
4 Fast? Slow?

5 A. I would say possibly slow as far as the introduction of
6 evidence because it would primarily be through witnesses. But I
7 would also indicate that during jury selection it's my practice
8 to involve the clients in jury selection with respect to the
9 people that are being presented and determining if they have any
10 opinion one way or another on a potential jury panel. So there
11 is a lot of involvement for anyone that's charged with a
12 criminal offense with respect to trials.

13 Q. And so with respect to how he was seemingly in pain and
14 slumped and despondent and crying on the day when you were
15 supposed to start selecting a jury, how did you feel about his
16 ability to participate rationally in his defense with respect to
17 selecting a jury?

18 A. He was not able to.

19 Q. And are there other areas of the trial in which you
20 have concerns about him and his ability to participate and
21 assist you in his defense?

22 A. Yes.

23 Q. What are those areas?

24 A. Along with the trial, there will come a point where
25 Mr. Dominguez would have to decide if he wanted to testify. If
26 he chose not to testify, then we would have to indicate that
27 waiver on the record at the Court's request at the appropriate
28 time. So he would have to be able to knowingly waive that right

1 to testify. If he chose to testify, based on his condition that
2 I observed, I would not feel comfortable with that as well. So
3 it's not just going to trial, but it's his ability to
4 participate, his ability to make waivers, his ability to
5 competently testify and to competently make decisions about his
6 case.

7 MS. NGUYEN: Nothing further, Your Honor.

8 THE COURT: Mr. Zektser.

9 MR. ZEKTSER: Thank you.

10 CROSS-EXAMINATION

11 BY MR. ZEKTSER:

12 Q. Good afternoon, ma'am.

13 A. Good afternoon.

14 Q. Now, there's a number of different types of cases that
15 we see in these courts, right?

16 A. Yes.

17 MS. NGUYEN: Objection.

18 Q. BY MR. ZEKTSER: Okay. And some of those cases are
19 more complicated than others, correct?

20 A. It seems like that's an easy question to answer, but
21 it's not.

22 Q. All right. Well, let me help you a little bit. Some
23 cases you have DNA experts, right?

24 A. Yes.

25 Q. Okay. And with a DNA expert, they take the stand and
26 they use a lot of big words, correct?

27 A. Probably, yes.

28 Q. Okay. Somewhat hard for someone who is not used to

1 that to really understand, correct?

2 A. Are you speaking in terms of, like, jurors or attorneys
3 or --

4 Q. Anybody. It's a lot more difficult to understand
5 someone who is a DNA expert as opposed to just a regular
6 civilian witness?

7 MS. NGUYEN: I'm going to object as to relevance to
8 this line of questioning.

9 MR. ZEKTSER: Your Honor --

10 THE COURT: What's the relevance?

11 MR. ZEKTSER: Well, the witness --

12 THE COURT: Hold on. I mean, child molestation cases
13 can be extremely complicated if you bring in a -- say you bring
14 in experts with the colposcope photos and all that stuff.

15 MR. ZEKTSER: Right.

16 THE COURT: Or some people don't do that.

17 MR. ZEKTSER: Right.

18 THE COURT: They just kind of come in and that's it.
19 So I don't know.

20 MR. ZEKTSER: Well, I'm going to go into that, Your
21 Honor. I can help the Court.

22 THE COURT: You will? Okay. I don't need your help,
23 but go ahead, you can inquire. But just general questions about
24 difficulties and that.

25 MR. ZEKTSER: Sure.

26 THE COURT: Okay.

27 Q. BY MR. ZEKTSER: You had my witness list, right?

28 A. Actually, I'm not sure.

1 Q. Were you aware of any experts that were going to
2 testify in this case, any DNA experts?

3 A. DNA experts, no.

4 Q. All right. Any -- I don't even know -- child rape
5 syndrome experts?

6 A. Not that I'm aware of.

7 Q. All right. I mean, the witnesses in this case were
8 going to be children, correct?

9 A. Teenagers, yes.

10 Q. Teenagers. And then an officer who was going to play
11 his confession, correct?

12 A. An officer would testify whether or not the
13 confession -- quote/unquote confession would come in, I don't
14 know.

15 Q. All right. But beyond that --

16 MR. ZEKTSER: I don't remember the term that the Court
17 was using. Some kind of colonoscope?

18 THE COURT: Well, I meant -- I probably shouldn't have
19 even mentioned that. You can have experts that actually examine
20 the genital area. There's all kinds of experts --

21 MR. ZEKTSER: Sure.

22 Q. BY MR. ZEKTSER: Were you aware --

23 THE COURT: -- in these cases. Look, give me a little
24 credit up here. I can tell you, I'm coming into this with the
25 belief that a child molestation trial -- and I don't know
26 anything about this one -- could be extremely complicated if
27 done right.

28 MR. ZEKTSER: Right.

1 THE COURT: Go ahead.

2 MR. ZEKTSER: Well, if I may, Your Honor. This one is
3 simply the children testifying and an officer testifying. There
4 is no SART exams or anything like that. So it's just witnesses
5 testifying, Your Honor.

6 THE COURT: Okay. Okay. Go ahead.

7 Q. BY MR. ZEKTSER: Now, we were actually in front of
8 Judge Levine, correct?

9 A. When?

10 Q. At some point in Department 64?

11 A. We were there three consecutive days.

12 Q. Right. And your testimony was that at those times
13 Mr. Dominguez was falling asleep, correct?

14 A. Yes.

15 Q. All right. Well, as you sit up there today, have you
16 seen him falling asleep at all?

17 A. I haven't been watching him.

18 Q. All right. Well, at some point you tried to continue
19 the case in Department 64, correct?

20 A. I've continued it a few times.

21 Q. Well, were you trying to continue the case in
22 Department 64, ma'am?

23 MS. NGUYEN: Objection. Vague as to time.

24 THE COURT: Sustained. Why don't you narrow it down as
25 to time.

26 Q. BY MR. ZEKTSER: The day that we were sent out to Judge
27 Fisher's courtroom, did you attempt to continue that case, this
28 case?

1 MS. NGUYEN: Objection. Vague as to time again. I
2 would like for him to actually give a time estimate. 8:30 in
3 the morning during calendar call? 10:30? Exactly what time is
4 this referencing?

5 THE COURT: Overruled.

6 Q. BY MR. ZEKTSER: Did you attempt to continue this case?

7 A. Yes.

8 Q. Okay. And you said that you had seen Mr. Dominguez
9 falling asleep so many times, right?

10 A. Yes.

11 Q. And that you weren't comfortable with representing him,
12 correct?

13 A. That's correct.

14 Q. But you didn't mention anything of that sort to Judge
15 Levine, did you?

16 A. That's not correct.

17 Q. Well, she sent us out, correct?

18 A. She did.

19 Q. And she inquired of Mr. Dominguez, correct?

20 A. On which day?

21 Q. On the day that she sent us out.

22 A. I don't recall if she did on the day that she sent us
23 out.

24 Q. She also inquired the day beforehand, right?

25 A. That's correct.

26 Q. Okay. Do you remember if she had to wake him up when
27 she was inquiring?

28 A. I had already woken him up.

1 Q. Okay.

2 A. So she didn't have to.

3 Q. Isn't it true that she made a statement on the record
4 saying, Well, he appears to be very coherent?

5 A. I have no recollection of that. I need to see
6 something.

7 Q. Did you write a 1050 up describing everything that
8 you've described for us in court?

9 A. What I'm describing now?

10 Q. Yes.

11 A. I did not.

12 Q. Okay. You said that you were extremely concerned about
13 going to trial with him, right?

14 A. Yes.

15 Q. We were coming back day after day to 64 to see Judge
16 Levine, right?

17 A. And that's why we were coming back day after day,
18 because I had expressed my concerns regarding his medical
19 status. At that point in time I could not say that he was 1368
20 or that I had a doubt, but I essentially expressed to Judge
21 Levine and to yourself that I had concerns about Mr. Dominguez's
22 ability to participate in the trial. The case was trailed day
23 to day to obtain further information. And I had even indicated
24 to the Court that I would like to get more information, that I,
25 in fact, had an investigator attempting to get information from
26 the jail and if the Court could assist me that would be
27 wonderful.

28 Q. Right. And so you must have mentioned 1368 in Judge

1 Levine's court, correct?

2 A. No. I had not mentioned those particular terms.

3 However, what I was seeing amounted to that.

4 THE COURT: Okay. This is turning into an argument.

5 MR. ZEKTSER: All right. Well --

6 THE COURT: No, don't interrupt me.

7 MR. ZEKTSER: Yes, Your Honor.

8 THE COURT: Just ease off a little bit. You have to
9 work together tomorrow after this. So go ahead.

10 Q. BY MR. ZEKTSER: We were sent to Department 32 Judge
11 Fisher, correct?

12 A. That's correct.

13 Q. Okay. And when we got to Judge Fisher, did you
14 immediately tell Judge Fisher you were finding him a 1368 or you
15 were going to assert 1368?

16 MS. NGUYEN: Objection. Relevance.

17 THE COURT: Overruled.

18 THE WITNESS: Not immediately. However, when Judge
19 Levine sent us to Department 32, she explicitly stated that she
20 was not making a ruling as to whether or not the matter should
21 be continued.

22 THE COURT: Okay. Ms. Williams, that's nonresponsive.
23 Go ahead, just answer the question. I'm sure Ms. Nguyen is
24 quite competent to follow up.

25 MR. ZEKTSER: Thank you.

26 Q. BY MR. ZEKTSER: One of the things that you were to do
27 was to talk to a doctor; is that right?

28 A. Yes.

1 Q. And he was present, correct?

2 A. In 32?

3 Q. Correct.

4 A. Yes.

5 Q. We talked to him in the back room; isn't that true?

6 A. I believe it was in 32, yes.

7 Q. Okay. And one of the things that we were going to do
8 is we were going to put him on the stand and go over a number of
9 things, correct?

10 A. That was a possibility, yes.

11 Q. But after speaking to him and after he told us his
12 opinions, instead of putting him on the stand, you declared a
13 1368; isn't that true?

14 A. That's the general order of things but not the reasons.

15 Q. And then I asked -- and then I asked if we can put him
16 on the stand, and you objected, correct?

17 THE COURT: Can I ask, what are we talking about?

18 We're talking about a doctor dealing with the 1368 issue? A
19 doctor dealing with his medical condition?

20 MR. ZEKTSER: Medical condition and his pain.

21 THE COURT: Okay. Now I got it. Okay. Well, I
22 suppose there's no evidence of that right now because I'm just
23 getting it from you.

24 Is that true, we're talking about a doctor, a physician
25 to deal with his medical issues?

26 THE WITNESS: Yes.

27 THE COURT: Okay. Okay. Now go ahead.

28 Q. BY MR. ZEKTSER: And the doctor told us that he would

1 be able to reduce the amount of pain medication so that he
2 wouldn't be so sleepy. Do you recall that?

3 A. (No audible response.)

4 MS. NGUYEN: Objection. Multiple levels of hearsay.

5 THE COURT: I'm not sure. What's the relevance of
6 this?

7 MS. NGUYEN: And relevance.

8 THE COURT: What is the relevance, that he could have
9 reduced his pain medication?

10 MR. ZEKTSER: It goes to whether he'd be able to assist
11 in trial, assist his counsel.

12 THE COURT: You know, I have to look at him as he sits
13 here today, not what was going on back then. So ask another
14 question.

15 MR. ZEKTSER: Yes, sir.

16 THE COURT: And "him" obviously referring to
17 Mr. Dominguez.

18 Q. BY MR. ZEKTSER: When we got back, okay, in Department
19 64, you told us that you did not declare a doubt; is that right?

20 A. That's correct.

21 Q. Okay. Then we got to Department 32. How long did you
22 speak with him then?

23 A. I don't remember.

24 Q. But after speaking with him for whatever period of time
25 it was, you would agree with me it wasn't over an hour, right?

26 A. No, I wouldn't agree with that.

27 Q. You declared a doubt after speaking to him for an hour
28 in Department 32?

1 A. Any amount of time I put on it would be a guess. I
2 don't remember how long I spoke with him in Department 32 on
3 that day.

4 MR. ZEKTSER: All right. I have no further questions,
5 Your Honor.

6 THE COURT: Questions?

7 MS. NGUYEN: Thank you, Your Honor.

8 REDIRECT EXAMINATION

9 BY MS. NGUYEN:

10 Q. You declared a doubt the morning of February 22nd,
11 2013, in Judge Fisher's courtroom, correct?

12 A. Yes.

13 Q. Because he was falling asleep that morning, correct?

14 A. Yes.

15 Q. And this was after coming to court three consecutive
16 days?

17 A. Yes.

18 Q. And that's what we would be asking of him if we were to
19 go forward with trial, we'd be asking him to come to court
20 repeatedly every day, correct?

21 A. Correct.

22 Q. Unlike what we have here, which is just one day of
23 testimony, correct?

24 A. Yes.

25 Q. And prior to February 22nd, you had seen him come to
26 singular court appearances and he hadn't always fallen asleep
27 every time, correct?

28 A. That's correct.

1 Q. Do you think that it was the fact of coming to court
2 repeatedly day after day after day, that that affected his
3 ability to stay awake during trial?

4 MR. ZEKTSER: Objection. Improper.

5 THE COURT: Sustained.

6 Q. BY MS. NGUYEN: It was clear to you that -- well,
7 withdraw that.

8 And with respect to being in Judge Levine's courtroom,
9 did Judge Levine notice Mr. Dominguez's lethargy?

10 A. Yes, she did.

11 Q. Did she make any comments related to that on the
12 record?

13 A. I believe she did, yes.

14 Q. And do you remember her saying anything related to
15 Mr. Dominguez being coherent?

16 A. I don't recall if she said anything with respect to him
17 being coherent, but I do recall myself and Mr. Zektser having a
18 conversation with Judge Levine in chambers about this matter
19 being sent out to trial. Do not remember which day it was, but
20 we had a discussion. She was prepared at that point to send us
21 out for trial. However, once we left her chambers and was then
22 on the record in Department 64, she changed her mind, and it was
23 at that point that she ordered that additional information be
24 provided about Mr. Dominguez's medical condition I would assume
25 based on what she observed of him in court.

26 Q. And you've been working as a deputy public defender for
27 a number of years, correct?

28 A. Here in Riverside since 2004. Previously in San Diego

1 for two years before that.

2 Q. And in your experience, when a defense attorney
3 declares a doubt, it's usually related to somebody who is so
4 delusional or acting so bizarrely that you just can't even
5 really have a conversation with them, correct?

6 MR. ZEKTSER: Objection. Relevance.

7 THE COURT: Sustained.

8 Q. BY MS. NGUYEN: When you were in Judge Levine's
9 courtroom, did it occur to you that perhaps you should declare a
10 doubt in this case related to his lethargy and all the symptoms
11 that you observed?

12 MR. ZEKTSER: Objection. Relevance, Your Honor.

13 MS. NGUYEN: Your Honor, this is exactly what
14 Mr. Zektser went over during his cross-examination: Why didn't
15 she declare the doubt in Judge Levine's courtroom and she waited
16 until she got to Judge Fisher's courtroom. I'd like to ask her
17 about that.

18 THE COURT: I think his purpose was different. Well,
19 I'm worried that you're getting close into attorney-client,
20 though: Why she declared a doubt. Let's face it, she had to
21 declare the doubt after her conversations with him and something
22 he said. Isn't that getting close to --

23 MS. NGUYEN: No, Your Honor. I think -- I think she
24 had to declare a doubt based on what she observed, what she saw
25 of him. And this is not -- it's difficult for a defense
26 attorney in that situation because it's not a classic mental
27 illness, the reason why we declare a doubt. And so Mr. Zektser
28 got into --

1 THE COURT: Go ahead, you can ask it. You convinced
2 me.

3 MS. NGUYEN: Thank you very much, Your Honor.

4 Q. BY MS. NGUYEN: Did it occur to you to declare a doubt
5 in Judge Levine's courtroom at the time that he was exhibiting
6 all these symptoms?

7 A. To use those specific words or to affirmatively say I
8 have a doubt pursuant to Penal Code Section 1368, no. However,
9 after observing him over the three-day period in court, the
10 various things that I have already described, it became apparent
11 that what I was explaining to the Court about what my concerns
12 were that that was essentially what I was saying and I just
13 hadn't used the terminology. And I think it is precisely what
14 is being mentioned, that it is not the normal case, and it
15 wasn't something that was readily apparent. But like I said,
16 what I had seen and what I was describing to me was saying he
17 was 1368.

18 Q. You've been doing this for a long time?

19 A. Yes.

20 Q. And you know what it takes to have a competent
21 defendant sit next to you during trial and interact with you and
22 assist in his own defense, correct?

23 MR. ZEKTSER: Objection. Relevance.

24 THE COURT: I will let that question in. I'm not sure
25 I will allow the follow-up question.

26 Go ahead.

27 THE WITNESS: Yes, I do.

28 Q. BY MS. NGUYEN: And even outside of this label of 1368,

1 as an attorney at the core of what you do, assisting your client
2 and asking him to assist you, did you believe that he was
3 competent to go to trial?

4 MR. ZEKTSER: Objection. Relevance. She had already
5 declared a doubt.

6 THE COURT: You can answer it. Overruled. Go ahead.

7 THE WITNESS: No, I did not.

8 MS. NGUYEN: Nothing further, Your Honor.

9 EXAMINATION

10 BY THE COURT:

11 Q. Let me just ask, Ms. Williams, when -- when was his
12 surgery that resulted in the amputation of his foot? Do you
13 know the date?

14 A. I believe it was February 6th, but that is a guess on
15 my part. It might have been the week prior to that.

16 THE COURT: Sound about right to everybody?

17 MS. NGUYEN: I think she's correct, Your Honor, but I
18 can confirm in a second.

19 MR. ZEKTSER: She is correct.

20 Q. BY THE COURT: Now, did you announce ready in front
21 of -- with Judge Levine?

22 A. No.

23 Q. How did you end up going to trial? Did you get pushed
24 by the judge out to trial? I mean, there's different ways of
25 doing it. Sometimes Judge Levine may just push you out to trial
26 and say, sorry, you're going. So how did you end up at trial?

27 A. Assuming his amputation was on February the 6th,
28 whatever that first court date was after the amputation, he was

1 not there. At that point all I knew is that he was just in the
2 hospital medically unavailable. The case was actually on
3 calendar, and I'd be guessing at the dates, but Judge Kelly was
4 present the first day that it was on calendar, and we had a
5 discussion, since Mr. Dominguez wasn't there, about bringing him
6 back on the trial date.

7 But I guess the easy answer to your question, Your
8 Honor, is that all of the days or the appearances that I had
9 with Mr. Dominguez with Judge Levine, we were discussing his
10 physical and mental status.

11 Q. All right.

12 A. And I had indicated based on these things I'm seeing,
13 I'm not ready.

14 Q. And I will tell you, when I look at it -- let me see,
15 the doubt was -- proceedings were suspended on February 21st.
16 It seems a little quick to go to trial between February (sic)
17 26th and February 21st if you had your foot amputated. So
18 that's why I'm asking if you announced ready or if you put in a
19 1050 asking for some type of showing -- showing that perhaps he
20 just went through a really major surgery and he'd be under
21 medication. I'm wondering what you did to try to keep from
22 getting this sent to trial?

23 MS. NGUYEN: Your Honor, if I could provide
24 Ms. Williams with a copy of the case print?

25 THE COURT: Absolutely. I had it printed out because I
26 wanted to see the times.

27 MS. NGUYEN: That was very good because I think that
28 will help refresh memory as to the dates.

1 THE COURT: Sure.

2 MR. ZEKTSER: Also I think there's a letter that's
3 included in the court file regarding the question that Judge
4 Levine wanted to know from the medical staff whether he was
5 capable of going to trial or not, and they answered.

6 MS. NGUYEN: And Your Honor --

7 THE COURT: Well, I will just tell both counsel what
8 I'm thinking of. I mean, I have to make a decision today as to
9 whether he is competent to stand trial. And just what I said, I
10 think it's a little fast having somebody have their foot
11 amputated and going to trial about 10 days after that just
12 because I would think that in addition to the pain there might
13 be some psychological trauma or a lot of things like that. Now,
14 I don't -- I'm not saying any of that is present today, but I'm
15 just trying to get the timeline here.

16 Q. BY THE COURT: Okay. So what did you do to try to keep
17 this from going to trial, or did the judge just push you into
18 trial and say, Sorry, Ms. Williams, you're going, this case is a
19 year old or something?

20 A. Your Honor, I believe initially -- I believe
21 Mr. Dominguez had his amputation on February 6th.

22 Q. Okay.

23 A. And he was not present at court -- or somewhere around
24 that week he had his amputation. I believe he was in the
25 hospital for about four days after that and then returned to
26 court. I had filed a 1050 based on other reasons to continue
27 the trial --

28 Q. Okay.

1 A. -- previously. And then once I learned of the
2 amputation, I included that orally in our discussions with --
3 with Judge Levine for my reasoning as to why this matter should
4 perhaps be continued.

5 Q. What did she say to that? I'm just curious. Did she
6 say, sorry, you're going or what?

7 MS. NGUYEN: Your Honor, I actually have a transcript
8 from the proceedings with Judge Levine on the 19th and 21st if
9 Your Honor wants to read it.

10 Q. BY THE COURT: Well, maybe I'm getting a little off the
11 issue here too. I'm sorry, go ahead, Ms. Williams. I
12 interrupted you.

13 A. With respect to how receptive she was, I feel a little
14 awkward regarding that.

15 THE COURT: I'm putting you in a bad spot. You don't
16 have to answer that question. My main goal is just to figure
17 out what his competence is now as we sit here in court to go to
18 trial. That's the only issue I need to discuss.

19 Okay. I don't have any further questions. Ms. Nguyen,
20 let me get back to you. Any follow-up?

FURTHER REDIRECT EXAMINATION

22 BY MS. NGUYEN:

Q. You were not comfortable going out to trial?

24 A. Correct.

25 Q. And you made those reservations known to the Court
26 every chance you could, correct?

27 A Yes

28 MS. NGUYEN: Nothing further.

1 THE COURT: Mr. Zektser.

2 MR. ZEKTSER: Nothing. Thank you.

3 THE COURT: Okay. Thank you, Ms. Williams.

4 Okay. Any further defense evidence?

5 MS. NGUYEN: No, Your Honor. If you want to have the
6 transcript from the hearing, that's fine, I have it here if you
7 wish to have that for the Court.

8 THE COURT: That's okay.

9 MS. NGUYEN: But nothing further, Your Honor.

10 THE COURT: Okay. Just for counsel, I was just going
11 into these issues that perhaps given the pain he might have been
12 technically incompetent at that point, but the issues could
13 possibly have resolved in the two-month period. That's just why
14 I was inquiring.

15 MR. ZEKTSER: I understand, Your Honor. You know,
16 Judge Levine inquired into that with the hospital staff and a
17 letter was sent to her, and that's why she sent us out is as a
18 result of that letter.

19 THE COURT: Okay.

20 MS. NGUYEN: But unfortunately it was hospital staff,
21 they weren't psychologists and they weren't trained in giving us
22 opinions on that issue.

23 THE COURT: Okay. I promise I will give you plenty of
24 chance to argue.

25 Okay. Are you going to call Dr. Jimenez?

26 MR. ZEKTSER: I don't know.

27 MS. NGUYEN: Your Honor, if we can just have a brief
28 recess, Mr. Zektser and I can speak about that.

1 THE COURT: Okay.

2 MS. NGUYEN: I also need to label exhibits if we're
3 going to go forward with Dr. Jimenez.

4 THE COURT: Okay.

5 MS. NGUYEN: Thank you very much, Your Honor.

6 THE COURT: Okay. Court's in recess.

7 (Recess.)

8 THE COURT: Okay. We're back on the record in People
9 versus Dominguez. We've got both counsel and Mr. Dominguez
10 here. No witnesses right now.

11 Okay. Any issues about Dr. Jimenez? I just remembered
12 there was some issue about his license or something.

13 MR. ZEKTSER: There's plenty of issues with
14 Dr. Jimenez, Judge, so I'm actually going to rest on the
15 evidence.

16 THE COURT: Okay. Okay. So we've rested. Let's go on
17 to argument then. You have the burden, Ms. Nguyen.

18 MS. NGUYEN: Thank you very much, Your Honor. I'm
19 going to keep it short because I think that we've heard enough
20 evidence and information in court today.

21 But essentially Mr. Dominguez has gone through a lot
22 this past year. He lost his mother when he was initially
23 arrested or close to the time when he was initially arrested.
24 He was charged with these very heinous crimes. He was injured
25 on a bus transport quickly after he was arrested, and he made
26 considerable efforts to have that situation remedied. He tried
27 over and over and over and over again to get jail medical staff
28 to look at his toe, and 110 days later they finally did but it

1 had progressed so far -- the infection had progressed so far
2 that his toe had to be amputated.

3 Well, when he got back to the jail, again he started to
4 have another infection, but this time I believe that his
5 depression started to set in. And for whatever reason, maybe
6 that was the reason, he did not engage in any self-protective
7 behavior. He did not even start trying to get the -- or at
8 least to our knowledge, trying to get the attention of the
9 deputies or the detention health services staff and tell them
10 what was going on. You know, if we had a perfectly run jail
11 where everything was operating as it should, a nurse should have
12 been going in regularly to check on his original amputation to
13 see how that toe was doing, or the lack thereof, and nobody did.
14 If that had happened, then maybe they would have seen the
15 infection progressing in his left foot.

16 But finally when somebody came in to check on him, that
17 infection had gotten so bad that of course his leg had to be
18 amputated on February 6th, 2012. And then a few weeks later we
19 are placing him in court in trial where he is really fighting
20 for his life. We're asking him to pay attention to everything
21 that's happening. He is groggy. He is crying. He is slumped
22 over in his chair. He is falling asleep. He is simply not
23 competent to move forward with trial. We heard testimony from
24 Ms. Williams where she said that she's done this for a while.
25 And as a defense attorney knowing what she needs to hear from
26 her client, she did not feel comfortable going forward with him.

27 And there is a Supreme Court case, *Medina versus*
28 *California*, where the United States Supreme Court there said,

1 look, the people who know best are the defense attorneys. They
2 know whether or not a person can rationally assist in their own
3 defense. And so we have -- that's why I put Ms. Williams on the
4 stand. So Your Honor could see from her perspective that this
5 was not a man that she felt comfortable going to trial with in
6 the state that he was in.

7 Now, Your Honor had made some comment as to the
8 difference between his presentation then and his presentation
9 now. There may be a difference and we don't see Mr. Dominguez
10 sleeping in court today, but we don't know what the reason for
11 that is. I'm aware that Mr. Dominguez is now being housed in
12 the jail hospital and maybe it's the fact that he is getting
13 daily care and better care that is the cause of him not falling
14 asleep in court. But given the fact that we have a doctor's
15 analysis as to what his mental illness is, which is major
16 depressive disorder, we know that he has not engaged in
17 self-protective behavior because he let his foot get to the
18 condition that it was in without asking for any help.

19 THE COURT: Well, tell me what the evidence of that is.
20 Because all I've seen so far is that he had two amputations, but
21 I haven't heard evidence that he lay there and allowed, you
22 know, the foot to just deteriorate to the point it had to be
23 amputated. I mean, where's the evidence? I haven't seen any
24 evidence of that. I've seen that the doctor didn't mention it
25 in his report.

26 MS. NGUYEN: I mean, well, that's the problem. The
27 doctor mentioned in his report that Mr. Dominguez took a lot of
28 steps and spent a lot of energy trying to get the attention of

1 the staff after the first amputation but that he doesn't recall
2 him making mention of taking similar steps after the second
3 amputation. And he also testified, to my recollection, that if
4 he had said that he took the same steps, he would have noted
5 that in his report. So the lack of that being in his report
6 indicates to him that he didn't make those statements.

7 THE COURT: Okay. Go ahead.

8 MS. NGUYEN: Which I think is reasonable.

9 You know, it's really just an issue of does
10 Mr. Dominguez have the capacity to rationally assist in his own
11 defense, and the evidence is clear that he does not. And this
12 is a preponderance of the evidence standard. Your Honor only
13 has to be convinced by a preponderance of the evidence that it's
14 more likely than not that he is incompetent, that he does lack
15 the capacity to engage in self-protective behavior, and that he
16 cannot rationally assist in his own defense. And that's what
17 we're saying is happening here.

18 And I will use his words as my last statement. What he
19 told Ms. Manning was that he has no more fight left in him, he
20 cannot do it anymore. And that's the position that he is in.
21 We're asking him to get up and get ready for the fight of his
22 life. Exactly what he is asking -- exactly what he is saying is
23 that he doesn't have any more fight left in him, and that's the
24 essence of capacity, of his ability to assist rationally in his
25 defense. He simply doesn't have the ability to do so because
26 his mental illness, his major depressive disorder, has robbed
27 him of his ability to do so.

28 THE COURT: Mr. Zektser, go ahead.

1 MR. ZEKTSER: Sure. Thank you, Judge.

2 I'm just going to go through each witness very briefly
3 and I will start with Ms. Williams. You know, I did get a
4 little loud at some points because the situation itself kind of
5 offended me as an attorney, and I apologize for that. But we
6 had -- specifically Ms. Williams was arguing to continue this
7 case on a number of grounds. Never once did she put in a 1050
8 that she feared that Mr. Dominguez wasn't able to cooperate,
9 that he was sleeping too much, that he was even on the verge of
10 1368 whatsoever. We were in front of Judge Levine, she was
11 arguing that his pain medications were too strong. Judge Levine
12 disagreed with her and sent the case out. Then we met with a
13 doctor who disagreed with Ms. Williams. And then instead of
14 putting the doctor on the stand, she declared a doubt.

15 And so it was extremely offensive and a misuse of the
16 judicial system to me and it bothered me. So I apologize for
17 getting loud in that regard.

18 But what we did do was we heard from two other doctors
19 in this case. The first doctor said that one of the main things
20 that Mr. Dominguez loves to do and his passion is through the
21 church and his prayer. So I asked, Well, has he just lost -- is
22 he hopeless or helpless? Both of them important in this case.
23 And although she was saying that he was helpless beforehand and
24 hopeless beforehand, I brought out the fact that he was
25 continuing to do his passion. He wasn't so helpless that he
26 stopped praying. He wasn't so helpless that he stopped reading
27 the Bible. He wasn't so helpless that he wasn't still
28 practicing his Catholic faith. He continued despite the fact,

1 as Dr. Kaisch said, he's just "hmmm" nothing.

2 Oh, and also this is an individual who just has --
3 doesn't want to live, supposedly, is telling this other doctor,
4 quote: Life is beautiful; living is one of the most precious
5 gifts. This isn't a man who is giving up. This is a man who is
6 practicing his faith, this is a man who is continuing to do what
7 matters most to him, and he did it on a daily basis. Or a
8 continual basis, excuse me.

9 Then the second doctor testified. And it's almost
10 humorous because the doctor testified to the fact that, oh, he
11 is just there doing nothing, unable to assist. Then when he
12 forgot something, he did the exact contrary, Mr. Dominguez, of
13 unable to assist. He assisted. He assisted. And I have some
14 minutes -- or excuse me. I have an unofficial transcript here,
15 but on page 70 of that transcript the doctor says -- or
16 Ms. Nguyen says, "...would it refresh your recollection if you
17 looked at your report?"

18 And he says, "Sure. I thought it was his left toe that
19 was amputated. Sorry."

20 And the Court says, "Go ahead, Doctor, you can take a
21 look."

22 And before he can even look at his report,
23 Mr. Dominguez is helping. He is paying attention to the trial.
24 He is engaged in the trial. He is participating in the trial.
25 And he's, in fact, correcting a witness, an expert witness. So
26 I don't see it as he is just "hmmm" nothing. I see it quite the
27 contrary. He is actually helping.

28 Both doctors, they had a job to do, which is to find

1 out his background, run a number of tests, ask him a number of
2 questions; one of them for two hours, I believe, and one for
3 60 minutes. They needed his help to complete the tests. He
4 wasn't just "hmmm" nothing, he helped each and every one of
5 them. He answered their questions despite the fact that they
6 said it in English and here he speaks Spanish in court. He
7 never didn't answer a question, and he continued to answer
8 questions and thanked them afterwards for helping him.

9 So to say that he has no care, to say that he is unable
10 to assist, to say that he is just so uninterested and just so
11 depressed that he is just "hmmm" nothing, I think the evidence
12 is exactly to the contrary. And you don't need a doctor to tell
13 you, Your Honor, you saw it for yourself.

14 And so on that, Your Honor, I'd ask that you find that
15 Mr. Dominguez is competent to stand trial. He does know
16 everybody's role, what the court system entails, what's going to
17 go on, and it appears that he's practiced his lies already to
18 these doctors. So on that I will submit.

19 THE COURT: Okay. Any rebuttal remarks?

20 MS. NGUYEN: Yes. Just very briefly.

21 I think what the examiners said was pretty clear, that
22 they thought he was open and forthcoming with them. They didn't
23 get the sense that he was malingering. So my client and I both
24 take issue with the notion that he was lying to the examiners.
25 I don't think that there was any evidence related to that.

26 And the fact that he is helping out, what Dr. Kaisch
27 said was that he has good manners. He exhibited good manners
28 throughout the entire interview. He was -- I heard it as, Well,

1 I understand that -- the fact that he was trying to indicate to
2 the examiner which leg it was to, that doesn't mean that he is
3 competent. That doesn't go to whether or not he will engage in
4 self-protective behavior.

5 One could interpret that as thinking that this
6 gentleman just has good manners, he is -- he is active in his
7 community and maybe he was -- maybe he actually would engage in
8 protecting another person or helping another person, but when it
9 comes to health, the doctor was very, very clear that this
10 gentleman will not rise to assist himself. And that is exactly
11 what an attorney needs from her counsel (sic) to go to trial,
12 and therefore, we believe he is incompetent. And there was no
13 evidence brought in by the prosecution to show that he is
14 competent. They didn't bring their expert.

15 We have two experts up there that said that he has
16 major depressive disorder, and the second one saying that that
17 depressive disorder leads him to be incompetent. That is where
18 the evidence stands. And given that that's the state of the
19 evidence, I think it's very clear to make a finding on a
20 preponderance of the evidence that he is incompetent.

21 THE COURT: Okay. Thank you.

22 Let me just go through the three witnesses. We have
23 Ms. Manning who believed that or diagnosed Mr. Dominguez with
24 major depressive disorder, and that was the limit of her
25 expertise. She couldn't really talk about his competence
26 issues. Dr. Kaisch made the same diagnosis and felt he was
27 incompetent. And then finally, Ms. Williams discussed her
28 experiences in February.

1 My feeling is this: I believe he is competent to stand
2 trial. I think he was competent back in February. I just
3 believe that it was probably premature to have someone go to
4 trial within about 10 days of having half of their leg
5 amputated. It's a very serious surgery, and I wouldn't -- it
6 wouldn't surprise me that he was falling asleep. My guess is he
7 was under pretty heavy pain medication most of the time. But I
8 didn't find anything that convinced me to a preponderance of the
9 evidence that he doesn't understand the nature and purpose of
10 the proceedings. I really think it's to the contrary. I
11 thought he has a very good understanding of the proceedings. I
12 think he does have the ability to cooperate with counsel, to
13 rationally cooperate with counsel. I mean, do I dispute that he
14 has major depressive disorder? No. I do believe that that's a
15 correct diagnosis.

16 But I was curious from Dr. Kaisch whether is this
17 something like -- let me back up.

18 Some people have that disorder and there's nothing they
19 can point to. But he -- he has some hugely significant
20 stressors in his life, one of which or two of which are
21 two amputations and then criminal charges. I don't know how
22 many life sentences he is looking at, but I assume it's at least
23 three and probably several times that. It does appear to be all
24 situational. As I said, I thought it was too premature to go to
25 trial within 10 days after having your leg amputated.

26 But in terms of his competence today, which is the
27 decision I make, I do believe he does understand the nature and
28 purpose of the proceedings. I think he has a very good

1 understanding of that. I do believe he can rationally cooperate
2 with counsel. So with that addition as well, there is a
3 presumption of competence. The Court is going to find that
4 Mr. Dominguez is competent to stand trial, so I will reinstate
5 criminal proceedings.

6 I think this is zero of 60, so I will just send it back
7 to, where, the department it came from or Department 64?

8 MR. ZEKTSER: Department 64, Your Honor.

9 THE COURT: Okay. I will send it back to Department
10 64.

11 THE CLERK: What date? The last day is June 14th.
12 That's the 60th day.

13 MR. ZEKTSER: I would ask that we set it for --

14 THE COURT: I know you want tomorrow, Mr. Zektser.

15 MR. ZEKTSER: No, I'm not saying that. I would ask for
16 the end of next week.

17 THE COURT: Okay. We will set it for the end of next
18 week.

19 MS. NGUYEN: The 25th, is that okay?

20 THE COURT: That's fine. Let's set it for the 25th.
21 Okay. We will set it April 25th, 8:30 in the morning,
22 Department 64. Okay. Thank you.

23 THE CLERK: For jury trial?

24 MR. ZEKTSER: For jury trial, yes.

25 THE COURT: I will set it for jury trial, and
26 Ms. Williams can do her 1050 if she is going to do it today or
27 do whatever she's going to do. Or maybe she's not.

28 Okay. Thank you, counsel.

1 MR. ZEKTSER: Thank you, Your Honor.

2 MS. NGUYEN: Thank you, Your Honor.

3 (Proceedings concluded.)

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