

1 THE SOCIAL SECURITY NUMBERS. SO, I'M ASSUMING THAT I SHOULD
2 FOCUS MY ARGUMENT ON THOSE FOUR COUNTS.

3 THE COURT: WELL, THAT'S PROBABLY THE FOCUS, BUT
4 THE ALLEGATIONS WITH THE RESPECT TO THE SOCIAL SECURITY
5 NUMBERS AND THAT ALLEGED USE OF THE INTERNET IS A CONCERN TO
6 ME --

7 MS. POTASHNER: OKAY.

8 THE COURT: -- IN ASSESSING THE DANGER TO THE
9 COMMUNITY AS WELL AS SEEING ALL THAT IN LIGHT OF SOME PRIOR
10 CRIMINAL ACTIVITY -- CONVICTIONS THAT ARE NOT FELONY
11 CONVICTIONS, BUT THE PRIOR CONVICTIONS. THE ALLEGATIONS OF
12 THE COMPLAINT WITH RESPECT TO OTHER THREATENING CONDUCT. YOU
13 KNOW, THESE ARE OF, YOU KNOW, RELATIVELY LESSER SIGNIFICANCE.
14 BUT THEN THE DOMESTIC VIOLENCE COMPLAINT IS ALSO A CONCERN.

15 MS. POTASHNER: OKAY. IF I COULD FIRST ADDRESS, I
16 THINK THAT THERE WERE THREE FOCAL POINTS IN THE PRELIMINARY
17 HEARING THAT WAS HELD IN NEW HAMPSHIRE IN CONJUNCTION WITH
18 THE DETENTION HEARING.

19 THERE WAS A FOCAL POINT OF KILLERCOP.COM. AND
20 THERE'S A MENTION OF THAT IN THE AFFIDAVIT SUPPORTING THE
21 COMPLAINT IN THIS CASE.

22 I THINK WHAT WAS IMPORTANT THAT CAME OUT IN THE
23 HEARING THAT'S NOT ON THE FACE OF THE AFFIDAVIT IS THAT IN
24 THAT CASE ON THE BOTTOM OF EVERY WEB PAGE, WITH THE EXCEPTION
25 OF THE OPENING WEB PAGE, THERE WAS A CLEAR STATEMENT THAT

1 SAID -- THAT NOTED, QUOTE, UNQUOTE, FICTION A.D. AND/OR
2 PERSONALITY PARODY.

3 AND IT WAS PRESENT THE -- COPIES OF THE WEB PAGE
4 WERE PRESENTED TO HIS HONOR BACK IN NEW HAMPSHIRE TO SEE THAT
5 THE VERY BOTTOM SAID THIS IS A PARODY.

6 THE OTHER SIGNIFICANT THING I BELIEVE THAT CAME OUT
7 IN THAT HEARING WAS WITH RESPECT TO KILLERCOP.COM, THAT THE
8 AFFIDAVIT ONLY SPEAKS TO PART OF WHAT'S ON THAT -- WAS ON
9 THAT WEBSITE. IT DOESN'T SPEAK TO EVERYTHING. IT TAKES IT
10 OUT OF CONTEXT AND MAKES IT SEEM LIKE A MUCH MORE DANGEROUS
11 WEBSITE THAN WHAT IT WAS.

12 THE AFFIDAVIT DOESN'T MENTION THE FACT THAT IT SAYS
13 THAT IT'S A PARODY. THE AFFIDAVIT DOESN'T MENTION THE FACT
14 THAT ON THE FIRST PAGE WHEN THE WEBSITE IS OPENED, IT SAYS --
15 THERE'S A DISCLAIMER THAT SAYS:

16 "WHILE THIS SITE OFFERS REWARDS AND BENEFITS
17 TO PEOPLE WHO ENGAGE IN LAWFUL CONDUCT TO
18 SUPPORT THIS SITE, THIS SITE DOES NOT ADVOCATE,
19 ENCOURAGE OR CONDONE ANY CONDUCT THAT IS ILLEGAL
20 AT ANY TIME BY ANY PERSON OR ENTITY AGAINST ANY
21 OTHER PERSON OR ENTITY."

22 AND THAT IS REFLECTED ON PAGE APPROXIMATELY 76 OF
23 THE TRANSCRIPT OF THE HEARING. SO, THERE WAS A CLEAR MESSAGE
24 ON KILLERCOP.COM THAT THIS WAS NOT -- THIS WAS NOT A SITE
25 THAT WAS INTENDED TO INCITE PEOPLE TO DO UNLAWFUL THINGS.

1 FURTHER, ON EVERY PAGE ONCE YOU GET PAST THAT
2 DISCLAIMER, IT SAYS ON THE BOTTOM THIS IS A PARODY,
3 BASICALLY.

4 THE LAST THING ABOUT KILLERCOP.COM THAT I THINK IS
5 IMPORTANT THAT I REVIEWED IN THE TRANSCRIPT IS THAT IT DOES
6 TALK ABOUT -- APPARENTLY. I HAVEN'T BEEN ABLE TO OPEN IT
7 MYSELF -- BUT IT MAKES REFERENCE TO SALES OF VARIOUS WEAPONS.
8 BUT WHAT THE AFFIDAVIT DOES NOT SAY OR LIST WERE THE MORE
9 OUTRAGEOUS OBVIOUSLY SARCASTIC, NON-REALITY BASED WEAPONS
10 THAT SUPPOSEDLY WERE AVAILABLE FOR SALE, WHICH INCLUDED WHAT
11 WAS CALLED A "BEE KILLER," WHICH APPARENTLY WAS A DEVICE --

12 THE DEFENDANT: "BEE STINGER."

13 MS. POTASHNER: "BEE STINGER." THANK YOU.

14 -- APPARENTLY WAS A DEVICE WHERE YOU COULD SHOOT
15 BEES TOWARDS A POLICE OFFICER AND HAVE THE POLICE OFFICER
16 STUNG BY BEES.

17 SO, IT WAS OBVIOUSLY A RIDICULOUS WEAPON THAT
18 DOESN'T EXIST.

19 MS. DUARTE: I'M SORRY, YOUR HONOR. COULD WE HAVE
20 A PAGE CITE ON THAT, THE BEE STINGER REFERENCE.

21 MS. POTASHNER: I BELIEVE THAT'S ON PAGE 65, LINE
22 25.

23 MS. DUARTE: THANK YOU.

24 (DEFENDANT SPEAKING.)

25 MS. POTASHNER: HOLD ON. HOLD ON.

1 LASTLY, WHAT I THINK IS ALSO IMPORTANT THAT --
2 WELL, TWO THINGS, AND THEN I'LL MOVE OFF OF KILLERCOP.COM.

3 IT WAS BROUGHT TO LIGHT IN THE HEARING, AND IT'S
4 NOT APPARENT FROM THE AFFIDAVIT ITSELF THAT THERE WAS NEVER
5 ANY ACTUAL SALES FROM KILLERCOP.COM. THERE WAS NO EVIDENCE
6 THAT ANYONE EVER ATTEMPTED TO BUY A WEAPON THROUGH
7 KILLERCOP.COM OR THAT ANY WEAPONS WERE EVEN AVAILABLE
8 THROUGH KILLERCOP.COM. IT WAS SIMPLY A SITE THAT WAS A
9 PARODY. AND THAT CAME OUT IN THE HEARING.

10 AND, LASTLY, WHAT'S SIGNIFICANT FROM THE HEARING
11 WAS THAT THE LAPD HAD BEEN INVESTIGATING THIS SITE,
12 KILLERCOP.COM, AND DID NOT -- AND THE D.A.'S OFFICE DID NOT
13 PROSECUTE IN ANY REGARDS TO THIS SITE. AND THIS WAS JUST
14 INFORMATION THAT WAS BEING PROVIDED. IT WAS NOT THE BASIS OF
15 ANY CRIME, INCLUDING WHAT MR. SUTCLIFFE IS CURRENTLY CHARGED
16 WITH.

17 SO, THAT'S IN TERMS OF KILLERCOP.COM.

18 TURNING TO WHAT APPEARS TO BE A CONCERN IN THE
19 PRETRIAL SERVICES REPORT AS WELL AS IN YOUR HONOR'S MIND, THE
20 DOMESTIC VIOLENCE ISSUE.

21 THERE WAS TESTIMONY TAKEN ABOUT THE TEMPORARY
22 RESTRAINING ORDER AND THE BASIS OF THE TEMPORARY RESTRAINING
23 ORDER IN THAT HEARING. I APOLOGIZE. I DON'T THINK I HAVE A
24 CITE FOR THAT -- OH, I DO. I WOULD LIKE TO HIGHLIGHT WHAT'S
25 ON PAGE 120, LINE 7.

1 MS. DUARTE: That's on here.

2 THE COURT: I see that. The only account I have
3 in writing of what Judge Woehrle ordered is on the first and
4 second pages of the government's memorandum. Is there a
5 bail order or form that she signed?

6 MS. DUARTE: Not that I have seen, Your Honor. I
7 did make a couple calls trying to get the tape so at least I
8 could provide it where we may disagree. I was unable to
9 that today again.

10 MS. POTASHNER: There was a bond filled out and
11 Mr. Sutcliffe signed the bond. And then it was returned to
12 the court's clerk. So I would think it would be in the
13 court file.

14 THE COURT: Well, I don't really have to address
15 the question of flight and terms of release if I conclude
16 that there's a danger to the community, correct?

17 MS. POTASHNER: That is correct.

18 THE COURT: Have you given me all of the arguments
19 that you want me to consider as to why there is not a danger
20 to the community?

21 MS. POTASHNER: Your Honor, I didn't have a chance
22 to thoroughly read the government's papers. I can tell you
23 that previously in addressing the court I went through
24 talking about the -- there were three things. The first one
25 was the **KILLERCOP.com**. I know that was an issue previously.

1 was not prosecuted.

2 THE COURT: Where is the information about the
3 investigation of that, where in the record is that?

4 MS. POTASHNER: I don't have a cite for where it
5 is.

6 MS. DUARTE: Your Honor, you mean in the
7 preliminary hearing?

8 THE COURT: Before me.

9 MS. DUARTE: In the complaint about the
10 **Killercop.com investigation.**

11 THE COURT: Where?

12 MS. DUARTE: Toward the end, Page 20 of the
13 complaint, Paragraph 28, previous threatening activity.

14 THE COURT: And KILLERCOP.com is on Page 21. Top
15 of page 21.

16 MS. DUARTE: Yes, Your Honor. Begins on Page 21.

17 THE COURT: It's consistent with what you say,
18 Ms. Potashner because **it looks like the LAPD was successful**
19 **in having the KILLERCOP website removed from the host site.**
20 Is that correct?

21 MS. POTASHNER: **I believe so, yes.**

22 MS. DUARTE: **I believe that's correct, Your Honor.**
23 **I don't know details about if and why the case was reviewed**
24 **or declined by the DA'S office.**

25 THE COURT: Anything further, Ms. Potashner?

1 This decision by Judge Weinstein would not change that
2 view.

3 THE DEFENDANT: I think what I was trying to get across
4 to Your Honor is that before I was brought here and I spoke to
5 the judge in New Hampshire, and I'd like to quote what he said
6 about the web site, my web site. He says, (reading) "The
7 establishment of the web site tells me two things. One, that
8 your client is extraordinarily talented. That it's a
9 brilliantly conceived and put together web site but it's scary.
10 I don't know whether there's a screw loose with your client or
11 not. That's why I asked you first thing this morning. To my
12 mind that's what makes him dangerous."

13 That I might have a screw loose. Well, then half the
14 people I have met in this world should be locked up. Because
15 everybody's got a little -- and the web site was scary. But
16 like I said, there was a previous web site that I created which
17 I'm actually very proud of, called killercop.com. Which is why
18 I said the FBI is investigating, because of that scary web site.

19 That was a web site I created. I made that scary like
20 that to get people's attention because they seemed to like that.
21 Because it dealt with something that's very scary, which is
22 being kidnapped by the police department, specifically the LAPD.

23 That's what I've alleged from that web site. It was
24 detailed, that web site. It was my learning about the system of
25 the law and justice and the police, and certain other issues

1 would like you to prepare and file on Monday or Tuesday a
2 pithy, accurate, balanced neutral notice of ruling on the
3 rulings I'm about to articulate so that the rulings I make
4 on the motions in limine will be reflected in writing. I'm
5 not issuing a rush order. I will have them available as a
6 trial tool as well.

7 Let's start with the government's motions in
8 limine. The first motion concerns the **KILLERCOP.com** web
9 site. And I don't think that the government has
10 demonstrated, but I will give you a limited opportunity to
11 do so, what the similarity in the web site and what the
12 material amount is of the **KILLERCOP web site**. I think that
13 when you first spoke about the issue of who prepared the
14 EvilGX.com and whether the identity of the preparer or
15 person responsible for creation of **KILLERCOP.com** and the
16 EvilGX.com was the same. There was no question it would be
17 relevant for that purpose.

18 Other than that, it isn't entirely clear to me.
19 If I permit reference to **KILLERCOP.com** it would only be
20 pursuant to a limiting instruction. What I have done to
21 expedite the hearing here is to circulate a draft of the
22 limiting instruction. In that draft, which I think you
23 have -- you have it, right?

24 MS. DUARTE: Yes, Your Honor.

25 THE COURT: You can see in the portions that are

1 bolded, those are the areas I want you to know is your
2 opportunity to tell me what the relevance is within the
3 meaning of 404(b). Everyone is familiar with the provisions
4 of 404(b) and what the elements are and standards are.

5 MS. DUARTE: Your Honor, may I approach with a
6 copy of exhibits that we were planning on introducing? I
7 will give a copy to Mr. Harris as well.

8 THE COURT: What are you handing now, please?

9 MS. DUARTE: I'm handing a copy of several
10 documents. May I approach?

11 THE COURT: Give it to the clerk please.

12 MS. DUARTE: I would like to, if the court will
13 permit, go through them and describe what they are at the
14 same time. If I can find my copy.

15 Your Honor, Page 1 of this exhibit, continuing to
16 Pages 2 and 3, are items found in Mr. Sutcliffe's residence
17 at the time of the warrant. There's subscriber information.

18 THE COURT: Which residence, Los Angeles or New
19 Hampshire?

20 MS. DUARTE: New Hampshire. There was not a
21 warrant in Los Angeles, Your Honor. It appears to be a
22 subscriber, subscription form for the **KILLERCOP.com web**
23 site.

24 THE COURT: Form 14 I think.

25 MS. DUARTE: Yes, Form 14. And then there's also

1 a correspondence confirming registration on Page 2 of a FAX
2 transmission from ValueNet. And again, these were found in
3 the apartment. These aren't business records. These appear
4 to be FAX confirmations. They show Mr. Sutcliffe indeed was
5 a subscriber to, creator of the **KILLERCOP.com** site.

6 The next page, Your Honor, is copy of a newspaper
7 article. It appears, it's Page 4 but the page number is in
8 the middle. It was found in Mr. Sutcliffe's residence in
9 New Hampshire at the time of the warrant.

10 And the newspaper article was found, in the middle
11 there you see a picture from the web site who is KILLERCOP,
12 followed by the script, this is not a joke. I'm serious.

13 THE COURT: Then it says what? I'm offering a
14 thousand dollars reward for the first person who --

15 MS. DUARTE: Yes, that's what it says, Your Honor.

16 THE COURT: That's pretty potential, almost
17 inflammatory stuff.

18 MS. DUARTE: I agree, Your Honor. "This is not a
19 joke. I'm serious" goes directly to Mr. Sutcliffe's intent
20 to threaten in the present case. And as to the rest, I
21 would certainly be amenable to -- just bring that in, I
22 would be quite willing to do that.

23 MR. HARRIS: Could I comment?

24 THE COURT: Not yet. Let her finish. Go ahead.

25 MS. DUARTE: Proceeding to Page 5, Your Honor. I

1 apologize, these pages came out -- the whole E-Mail was
2 found -- this is Pages 5 through -- I'm sorry, Your Honor --
3 5 through 20. This was a group of E-Mails which were found
4 in Mr. Sutcliffe's apartment again in New Hampshire at the
5 time the warrant was served. They contain correspondence
6 between Mr. Sutcliffe and the systems administrator at the
7 web provider he was using for **KILLERCOP**. And I want to
8 point out specifically the page that I'm interested in, Your
9 Honor, from the E-Mail.

10 Again, I included the whole thing in case there
11 was an argument that I had not. Page 14 contains a section,
12 E-Mail which indicates the system administrator has written
13 to Mr. Sutcliffe and has insisted that he put a parody
14 disclaimer on his web site. Now the importance of that,
15 Your Honor, probative value is that Mr. Sutcliffe has
16 argued, and I anticipate will argue, again quite strenuously
17 that this whole thing was a joke and a parody.

18 Based on this evidence, it appears he was
19 characterizing early on in his web site operation, and by
20 the time he structured the current web site he would have
21 known what was necessary to make it a parody.

22 THE COURT: Wait a minute. On Page 14, that's
23 from the system administrator, SWS, Mr. Sutcliffe --

24 MS. DUARTE: Yes, Your Honor.

25 THE COURT: Addressed to Steve and in the sixth or

1 seventh paragraph there's a suggested disclaimer and that
2 was something that the evidence, you say would show was
3 suggested to Mr. Sutcliffe that he incorporate.

4 MS. DUARTE: Yes, Your Honor. It appears from the
5 E-Mail that he did not have his site as a parody. It wasn't
6 clear that **KILLERCOP** was a parody or any kind of a joke, if
7 you will, which he argued in the past to this court and
8 others.

9 THE COURT: The language on that page proposing
10 the disclaimer was suggested by the system administrator,
11 right?

12 MS. DUARTE: Correct.

13 THE COURT: What would the evidence be as to
14 whether Mr. Sutcliffe. on KILLERCOP.com accepted and
15 incorporated that disclaimer suggestion?

16 MS. DUARTE: It appears from further E-Mail that
17 he partially incorporated it. That resulted in the site as
18 it's exhibited. I have a few pages which follow.

19 THE COURT: Page 16 --

20 MS. DUARTE: Yes, Your Honor. And if you will
21 notice a little bit further down, the fifth full paragraph
22 which again as I stated, the third line reads "I want the
23 bad cops to believe it's real." Your Honor, I believe that
24 that goes to the intent to threaten as well.

25 Your Honor, on Page 17, further correspondence

1 indicates again that Mr. Sutcliffe kind of complied but he
2 didn't really. That goes toward the same questions you had
3 about page 14.

4 And lastly, on this E-Mail Your Honor, again,
5 appears at Page 19. I'm sorry, Your Honor. I already --
6 this repeats "I want the bad cops to believe it's real."
7 And Your Honor, on page, the next page, which bears a Bates
8 Stamp number on the bottom, 3069, and 3070, are pages that
9 were located that actually were downloaded from the web site
10 KILLERCOP.com in 2001 by LAPD. Drawing the court's
11 attention to the Bates Stamp 3069.

12 THE COURT: Just a second. I'm making some notes
13 about something. Hold on, please.

14 So you're on Bates 3069.

15 MS. DUARTE: Yes, sir.

16 THE COURT: What do you want me to look at?

17 MS. DUARTE: Top of the page, we will pay \$3,500
18 cash, no questions asked for home location of this officer.
19 And then he's soliciting a recent picture. That is very
20 similar, Your Honor. And I know the court spoke to
21 identity. But this is very similar to the solicitation for
22 address and information which was made for people on the
23 current web site, the EvilGX web site.

24 THE COURT: Just give me a proffer without any
25 documents. What do you represent the EvilGX web site would

1 not been threatened by him. That's the way I read it.

2 Then lastly, the next two pages, which are the
3 last two pages of what I have given the court, these are two
4 pages from, that were found in the defendant's residence in
5 New Hampshire which contained a printout apparently of the
6 web site back in 1998 and this is --

7 THE COURT: Printout of the **KILLERCOP?**

8 MS. DUARTE: Yes, found in his apartment. I can't
9 tell you whether or not it was complete because I don't
10 know, I haven't compared it. But it contained about 50
11 pages. These are only two of those pages. I pulled them
12 for our purposes.

13 And Page 1, "The price is wrong, bitch" at the
14 bottom, that is also exhibited on defendant's web site
15 EvilGX.com.

16 THE COURT: In what context? That precise phrase?

17 MS. DUARTE: That precise phrase, and it actually
18 appears as a sound file, multiple times on defendant's home
19 computer and also on the web site, web pages which will be
20 exhibited and which were charged in the government's case
21 for EvilGX.com.

22 THE COURT: Assume for the moment that there's no
23 factual dispute that Mr. Sutcliffe was at least responsible
24 for the creation of EvilGX.com, which is what his opposition
25 says, and I know that you would have replied and pointed out

1 Now you want to be heard but only about this
2 question of whether or not a rational jury could evaluate at
3 least portions of this set of materials that Ms. Duarte has
4 just reviewed and rationally find it is probative on the
5 issue of Mr. Sutcliffe's intent to threaten. Why isn't it?

6 MR. HARRIS: Let's go back to the first -- the
7 third of the -- the fourth page of the first document where
8 there's the picture in the middle of the page, who is
9 **KILLERCOP**. It says this is not a joke, I am serious. Do
10 you have that, Your Honor?

11 THE COURT: Yes, I do.

12 MR. HARRIS: Well, it says "I'm offering not a
13 thousand dollars but a thousand dollars and five cents."
14 That's a little signal right there, what is going on.

15 THE COURT: What is the signal?

16 MR. HARRIS: That it's **a spoof**, that thousand
17 dollars and five cents. He's playing with them. **If it was**
18 **not a joke it would be, it would be a thousand dollars.** But
19 what is the possible interpretation, that five cents, other
20 than that he's winking at them.

21 THE COURT: I will tell you what. I'm not going
22 respond to a rhetorical question. Because I don't want to
23 be ever in the role of an advocate. But I've got to tell
24 you, I wouldn't be surprised if the government had a
25 response.

1 Mr. Sutcliffe did anything illegal on **KILLERCOP.com**.

2 THE COURT: Yes. In my limiting instruction the
3 jury will be told that.

4 MR. HARRIS: But the premise here that it was a
5 threat at time one to show that he intended to threaten at
6 time two, if it had been a threat at time one he would have
7 been prosecuted by either the feds or the state government
8 for the threat of time one.

9 But they knew full well this was criticism of the
10 government. And it was First Amendment activity. And they
11 had no chance.

12 So you have got in terms -- if it shows anything,
13 it shows that he was -- the First Amendment. Why wasn't he
14 ever prosecuted for that one? So I don't think -- it's
15 pretty clear to me that it is a scary name. It is unpopular
16 to argue against the police and law enforcement. That's
17 really what is going on here, Your Honor.

18 THE COURT: I have heard enough. I'm going to
19 permit the -- I'm going to grant the motion with the
20 limiting instruction. It's going to be limited to evidence
21 within the prong of 404(b) that can be considered for
22 purposes of the element of intent.

23 If you can propose and if the government can
24 accept some kind of stipulation that would be signed by
25 Mr. Sutcliffe and that would basically establish that along,

1 something along the lines that Mr. Sutcliffe previously
2 created and communicated about a web site and described in a
3 fair but balanced way without using the **KILLERCOP.com**, what
4 the web site was about and that contained the statements
5 about his being serious and the like, I would consider, I'm
6 not necessarily requiring this of the government but I would
7 consider limiting the government to introducing that
8 stipulation. And thereby you can keep out, possibly keep
9 out reference to the admittedly volatile and potentially
10 explosive term KILLERCOP.com.

11 You said in your papers that's not the same thing
12 as COPKILLER.com. You can argue all the things that you
13 just argued to me. You can argue that 27 cents shows it was
14 a joke, that they can't regard that web site as evidence of
15 actual intent anymore than they could the EvilGX. All those
16 things are fair grounds for you to pursue.

17 This is an element of evidence that it's
18 permissible for the jury to consider and I grant the motion
19 under those terms.

20 Now let's turn to the government's next motion,
21 concerns Tracy Hall. And I'm going to deny that motion but
22 only as to the -- if it's still the case the current
23 pendency of the witness intimidation charge under Penal Code
24 136, but under certain limited conditions.

25 All you're going to be permitted to do,

notwithstanding the other requests I have made to him in the past, I asked him to challenge when the U.S. attorney stood up and told this court a bald-faced lie regarding **killercop.com** and it's correlation between evilgx.com. This court then accepted her lie without a question. I asked him to challenge that. I said that was a lie. He shushed me. And I waited and I waited and then you ruled and you ruled in her favor, that this inflammatory irrelevant material could be brought into this case based on her lie.

So at that prejudice right there that was the last time. At that point he was in my mind summarily dismissed. I can't fight by myself. I'm not going to sit here with somebody who's incompetent and won't admit it and won't effectively assist me.

THE COURT: You want another lawyer?

THE DEFENDANT: That's not what I want. I want this case dismissed. How many lawyers do I have to go through? If Your Honor were sitting in a prison where I'm sitting right now waiting for me to find you a competent lawyer I think the shoe would be on a different foot.

I have gone through three lawyers now. How many do I have to go through? My liberty has been deprived based on my freedom of speech for nine months now. I have not seen my four year old daughter. Her birthday just passed. I have been withheld from my family and my friends, these heinous charges

1 revised paragraph.

2 THE COURT: You do the latter. I may have already
3 fixed it by then.

4 Any other objections?

5 MS. DUARTE: No, Your Honor. The first paragraph, no
6 objections, nor to the last.

7 THE COURT: Mr. Sutcliffe?

8 THE DEFENDANT: Yes, Your Honor. Regarding the
9 limiting instructions on **killercop.com** --

10 THE COURT: I'll get to that later. Just on the
11 statement of the case. I am going to change, to a slight
12 extent, paragraph 2.

13 THE DEFENDANT: No objections.

14 THE COURT: Ms. Duarte, if the first sentence --
15 first three lines of the first sentence in the middle paragraph
16 on the statement of the case read as follows, would I correctly
17 state what the Government's charge is?

18 Here's what they would say. "Second, the Government
19 alleges, in counts 5 through 9, that Mr. Sutcliffe obtained and
20 transferred to the Internet the Social Security numbers of
21 various individuals and that in doing so he intended to aid and
22 abet the making of a false representation."

23 MS. DUARTE: Yes, Your Honor, if I could just have a
24 minute.

25 Yes, Your Honor, false representation of a Social

1 Now you did ask for a change or some kind of
2 clarification in one of the documents, I think the limiting
3 instruction about **killercop.com**, and I said we'll talk about
4 that later. You may be heard.

5 THE DEFENDANT: Thank you, Your Honor.

6 Before we get there, I also have a motion to dismiss
7 counts 1 through 9 for lack of jurisdiction. Has the Court
8 received that? Is the Court ready to rule on that?

9 THE COURT: I'm not sure when you filed that one.

10 THE DEFENDANT: That was filed at the same time or
11 shortly thereafter. It should have been.

12 THE COURT: What's your theory that I lack
13 jurisdiction?

14 THE DEFENDANT: Not you, personally, Your Honor.
15 Basically, I have a document here, if the Court would like to
16 examine or make copies for the Government. I believe it was
17 filed.

18 THE COURT: Take the copy.

19 THE DEFENDANT: The theory is that this Court -- the
20 Government lacks jurisdiction as a matter of law in that the
21 Government, under the Commerce Laws, Article 1, I believe it's
22 clause A, section 3, has to show interstate movement, at the
23 minimal, to suffice jurisdiction over the accused. I don't
24 believe the Government can prove that and I demand that the
25 Government have to prove that before they try me.

1 THE COURT: Your demand that the Government have to
2 prove that is granted. The Government will have to prove that
3 the facilities of interstate commerce were used in connection
4 with the conduct alleged in the indictment. If it proves that,
5 there's no jurisdictional barrier to an otherwise valid
6 conviction.

7 THE DEFENDANT: Thank you, Your Honor.

8 THE COURT: Let's talk about the **killercop.com**
9 instruction. What's your objection to that?

10 THE DEFENDANT: I received a letter from the
11 Government dated November 4, signed by Elena Duarte. In there
12 she says, under three sections -- in the second section, she
13 says, "Enclosed please find the following: Five packets of
14 material recently provided by the LAPD containing downloads of
15 and information for the killercop.com website. The Government
16 is not planning on using any of this material at trial. I
17 think that this material is contained on the CD marked
18 "Killercop" already in your possession. Nevertheless, as
19 printouts were given to me, I'm passing on copies to you."

20 These are what was represented to be from
21 killercop.com.

22 THE COURT: Let the record reflect there that
23 Mr. Sutcliffe is holding onto a --

24 THE DEFENDANT: I have no objections. And in fact --

25 THE COURT: Don't interrupt me.

1 admissible, your motion will be granted and they'll be received
2 into evidence. If you think that they're helpful to your
3 defense, that should be what you do.

4 On the so-called Brady violations, I'm not aware of
5 any evidence establishing that the Government has failed to
6 carry out its constitutional obligations under Brady. I don't
7 know if that was a motion for dismissal based upon that theory,
8 but if it was, I deny it.

9 On relevance and the limiting instructions on
10 **killercop.com**, this was something that was touched on a long
11 time ago in an earlier hearing. This limiting instruction I
12 will use, although I'm willing to consider slight variations of
13 the language if somebody establishes it would improve it.

14 I'm going to use this instruction if and only if and
15 only when there is reference to killercop.com. The minute that
16 evidence and inquiry is raised is when I will give this
17 limiting instruction to the jury. I have already found that
18 evidence relating to the Defendant's involvement in
19 killercop.com is relevant and can be introduced, but only for
20 limited purposes. This limiting instruction is designed to
21 make it clear to the jury what those limited purposes are.

22 Do you have any response to the limiting instruction,
23 Ms. Duarte?

24 MS. DUARTE: No, Your Honor.

25 THE COURT: Now what in the limiting instruction --

1 assuming that I denied, and I have denied, your anticipatory
2 motion to exclude that evidence -- I'm telling you now I'm not
3 going to exclude it, but I am going to limit its use and
4 purpose. With that guidance that I now just reiterated, is
5 there some objection you have to the particular language here?

6 THE DEFENDANT: No, but I'm concerned about your
7 saying that you're going to limit it.

8 THE COURT: When the jury receives information about
9 **killercop.com**, they're going to be told what I wrote down here
10 that I gave to you. They're going to be reminded about that in
11 a general way when they're instructed at the end of the case,
12 that if evidence was admitted for a limited purpose only, it
13 can be used only for that purpose. They can't consider
14 whatever the evidence may show about your involvement with
15 killercop.com to reach some conclusion that you were
16 inclined -- that is what the propensity means -- to commit a
17 crime. They can consider it for other reasons. That's what
18 this says. That's what's going to happen.

19 THE DEFENDANT: Thank you, Your Honor.

20 I'd like to make at this time, Your Honor, a motion
21 to dismiss for Brady violations. I've also -- in that letter I
22 just read to the Court from the Government, I was provided, in
23 the first paragraph, two additional documents entitled
24 "Probation Reports" redacted as to personal information
25 regarding the Hall conviction.