

1 TUESDAY, JANUARY 8, 2013; SANTA CRUZ, CALIFORNIA

2 A F T E R N O O N S E S S I O N

3 P R O C E E D I N G S

4 -000-

5
6
7 THE COURT: All right. We're back on the record.
8 Miss Young, you may proceed with your direct examination of
9 Officer Winston.

10 MS. YOUNG: Thank you, Your Honor. May I
11 approach?

12 THE COURT: Yes.

13
14 **WILLIAM WINSTON**

15 called as a witness by and on behalf of
16 the PEOPLE, having been PREVIOUSLY sworn,
17 was examined and testified FURTHER as
18 follows:

19
20 **DIRECT EXAMINATION[CONTINUED]**

21 BY MS. YOUNG:

22 Q Showing you what's been marked for identification
23 People's 46, 47 and 48, can you take a look --

24 A Sure.

25 Q -- at those photos? Let me know when you're
26 ready.

1 A Okay.

2 Q Do you recognize the location of those photos?

3 A I do.

4 Q Where is it?

5 A That's the front of the 75 River Street.

6 Q And is what's depicted -- we'll go through each
7 one -- is what's depicted in those three photos, is that an
8 accurate representation of your observations on November
9 30th?

10 A Yes.

11 Q Let's start with People's -- is it 47 that it
12 begins with?

13 A 46.

14 Q 46. Let's start with 46. Do you recognize what's
15 in that photo?

16 A I do.

17 Q What is it?

18 A That's a photo of the front of 75 River Street
19 with occupy everything banner going across the top and a
20 person standing on the roof holding a flyer.

21 Q Is that the -- did you see the banner on November
22 30th?

23 A Yes.

24 MS. YOUNG: Your Honor, with that, the People
25 move to admit 46.

26 THE COURT: Yes, will be received.

1 (People's Exhibit No. 46 - 48, Photographs, Received in
2 evidence.)

3
4 BY MS. YOUNG:

5 Q Let's move on to 47. What's depicted in that
6 photograph?

7 A That would be the front of the bank, front door 75
8 River Street with several people standing arm-in-arm in
9 front of the entrance.

10 Q Is there anyone in that line that you recognize or
11 I should ask actually given that perspective, do you know
12 where you are when there's a line of people in the front of
13 the building?

14 A Where I am in relation --

15 Q Yes.

16 A I'm off to the side at the southeast corner of the
17 building maybe 20 to 30 feet away.

18 Q Does that still comport with your observations on
19 that day?

20 A Yes.

21 MS. MC CAMEY: Object. No foundation regarding
22 the time this photo was taken, observations were made or
23 date.

24 THE COURT: Sustained.

25 BY MS. YOUNG:

26 Q Did you see that line of people on November

1 30th --

2 A Yes.

3 Q -- 2013?

4 A Yes.

5 Q About what time did they lineup?

6 A Shortly after 3:00 o'clock.

7 MS. MC CAMEY: Shortly after what?

8 THE WITNESS: Three.

9 MS. YOUNG: Your Honor, with that, the People
10 move to admit 47.

11 THE COURT: Yes, will be received.

12

13 **(People's Exhibit No. 47, Photograph, Received in evidence.)**

14

15 BY MS. YOUNG:

16 Q And 48, what is that?

17 A That's more a close up picture of the sign that
18 was thrown from the roof of the building, says "Occupy
19 everything."

20 Q Fine. Again, does that comport with your
21 observations on November 30th around 3 p.m.?

22 A Yes.

23 Q Is that later in the day, People's 48?

24 A I don't think so.

25 MS. YOUNG: With that, the People move to admit
26 People's 48.

1 THE COURT: Yes, will be received.

2

3 **(People's Exhibit No. 48, Photograph, Received in evidence.)**

4

5 BY MS. YOUNG:

6 Q I think you also noted in our morning session that
7 you had seen defendant Brent Adams on November 30th at 75
8 River Street?

9 A Yes.

10 Q Okay. Where did you see him?

11 A I saw him during the march and I saw him at 75
12 River Street both in and out of the building.

13 Q And what time? Let's focus on 75 River Street.
14 Now, let me start with the march. About what time did you
15 see him in the march?

16 A I think I noticed him when they were moving west.
17 So probably around 2:45.

18 Q This is moving west down Ocean towards --

19 A West down Water.

20 Q Water towards 75 River Street. And what time did
21 you see him at 75 River Street?

22 A Again, be an estimate, shortly after three would
23 be the first time.

24 Q And you said you saw him go in and out of the
25 building?

26 A Yes.

1 Q About what time is this happening?

2 A Again, rough estimate. Shortly after three.

3 Q Now, speaking of the -- excuse me -- the exhibits
4 where I think -- I believe it's 46 and 48 of the occupy
5 sign.

6 A Yes.

7 Q Did you actually have a conversation with
8 Mr. Adams about that sign?

9 A I did.

10 Q What did he tell you about that?

11 MS. MC CAMEY: Lack of foundation, date and time
12 of the conversation.

13 BY MS. YOUNG:

14 Q What was the date and time of the conversation?

15 A It was November 30th, 2013, I'd estimate, between
16 2:15 and 2:30.

17 Q What did he tell you about the sign?

18 A He told me that he made the sign and actually
19 misspelled "occupy."

20 Q How did he spell it?

21 A Spelled it O-O-Q-U-P-Y.

22 Q Was he the one that actually fixed it?

23 A I'm not sure.

24 Q And where is this conversation taking place?

25 A Just where I was standing on the southeast corner
26 of the bank.

1 Q Now, you said you had seen him go in and out of
2 the building, did you see him after this conversation?

3 A Yes.

4 Q What was he doing?

5 A Most of the time he would be inside the building,
6 you can see through the windows that he was inside. I
7 couldn't see what he was doing in there.

8 Q Okay. Thank you.

9 THE COURT: Anything else?

10 MS. YOUNG: No, Your Honor. Thank you.

11 THE COURT: All right. Mr. Ruben?

12

13

CROSS EXAMINATION

14 BY MR. RUBEN:

15 Q Officer Winston, you testified that you saw
16 Mr. Alcantara speaking to other people on that day; correct?

17 A Correct.

18 Q And so how many times did you see that?

19 A I'd estimate two or three times.

20 Q Okay. And you were referred to alternatively as
21 addressing a crowd or speaking with people. Why don't we
22 talk about what exactly the first time you saw him, who was
23 he talking to?

24 A I don't know who he was talking to. He was
25 talking to a group of people in front of the Chase Bank.

26 Q How many people was he talking to?

1 A In total the group of approximately 100 people.

2 Q Where he was speaking to all 100 people?

3 A I don't know who he was directly speaking to.

4 Looked like he was addressing that crowd.

5 Q Okay. And given -- so a crowd of 100 people; you
6 weren't able to hear him; correct?

7 A Correct.

8 Q How far away from him were you?

9 A We were across four lanes of traffic in a patrol
10 car.

11 Q Okay. So you for instance couldn't tell if he was
12 asking people to do anything, could you?

13 A No.

14 Q You couldn't tell if he was agreeing with anyone
15 else he wanted to do something?

16 A No, I couldn't hear at all what was being said.

17 Q Okay. Now, the second time that you saw him,
18 where was that?

19 A This would be in front of the bank.

20 Q Again, how many people was he addressing?

21 A About the same amount.

22 Q Okay. So same question really. Were you able to
23 tell whether he was asking people to do something?

24 A I was not.

25 Q Were you able to tell if he was agreeing to do
26 something?

1 A No.

2 Q You really can't tell us anything about what was
3 being said at all?

4 A Right.

5 Q Just that he was talking to these folks?

6 A Yes.

7 Q Making any effort to conceal the fact that he was
8 talking to anyone?

9 A No.

10 Q And then you also testified at a preliminary
11 examination that the case regarding Mr. Alcantara and the
12 same offense on another date; correct?

13 A Yes.

14 Q And --

15 MR. RUBEN: Your Honor, I'd ask the Court take
16 judicial notice of a preliminary hearing transcript of the
17 prior case.

18 THE COURT: Yes.

19 MR. RUBEN: I'll just continue questions as to
20 that.

21 BY MR. RUBEN:

22 Q Do you have any -- of the times that you saw
23 Mr. Alcantara, did you see any evidence of any -- besides
24 when you saw him actually talking, did you see any other
25 evidence of him entering into agreements?

26 A No.

1 Q Trying to make other people enter into agreements
2 with him?

3 A No. Again, I couldn't hear what was being said.

4 Q So besides functionally I guess walking on the
5 street and you were seeing him go in and out of the bank, do
6 you see him do anything else?

7 A No.

8 Q So you did not see him doing any acts that you
9 would consider causing vandalism?

10 A I did not, no.

11 Q You're familiar with the term "vandalism"?

12 A I am.

13 Q And I wanted to ask you: You obviously didn't
14 remove Mr. Alcantara from anywhere, did you?

15 A No.

16 Q You didn't see him being removed from anywhere,
17 did you?

18 A Did not.

19 Q At the prior preliminary hearing do you remember
20 testifying last time you saw him he was exiting the bank?

21 A Yes.

22 Q And did you see -- so you saw the bank when it was
23 open; correct?

24 A When the doors were open, if you will.

25 A Yes.

26 Q And was anything preventing the general public,

1 these folks, from going into the bank?

2 A Other than the fact that it previously had been
3 locked, no.

4 Q Okay. So when you came to the bank and saw it
5 with the doors open, nothing prevented the general public
6 from entering and/or exiting?

7 A That's correct.

8 Q With the exception of your opinion on entering
9 that bank, did you see anything else illegal happen that
10 day?

11 A No.

12 MR. RUBEN: No further questions.

13 THE COURT: Mr. Hackett

14 MR. HACKETT: Thank you, Judge.

15

16 **CROSS EXAMINATION**

17 BY MR. HACKETT:

18 Q Bryan Hackett for Miss Ripleyhipps. Good
19 afternoon, Officer Winston.

20 A Afternoon.

21 Q Quickly, I understood from sort of the preamble to
22 your testimony that you have no evidence against my client
23 Gabriella Ripleyhipps whatsoever?

24 A That's correct.

25 Q Okay. But regarding your involvement at 75 River
26 Street, you were aware that there was, for lack of a better

1 word, an encampment at San Lorenzo Park?

2 A I was aware.

3 Q Prior to that?

4 A I was aware of that, yes.

5 Q Prior to November 30th?

6 A Yes.

7 Q That had been there I think over a month at that
8 point?

9 A Probably, yes.

10 Q And that was somehow related to occupy Santa Cruz?

11 A Yes.

12 Q Okay. And to your knowledge that had been nothing
13 but a peaceful encampment?

14 MS. YOUNG: I'm sorry. I need to object on
15 relevance grounds at this point.

16 THE COURT: Well, also there's no foundation for
17 30 days of participation. So I think we run afield.

18 MR. HACKETT: Okay. This is not for no reason
19 whatsoever. I was simply trying to lay a basis and
20 foundation for my line of questioning directly related to
21 the report Officer Winston wrote in this matter.

22 THE COURT: Go ahead on that report.

23 MR. HACKETT: Okay.

24 BY MR. HACKETT:

25 Q You indicated you wrote a report in this matter?

26 A I did.

1 Q And you indicated in that report that you were
2 notified or alerted in some way that this march was going to
3 happen?

4 A Yes.

5 Q That this march was planned?

6 A Yes.

7 Q And one of the ways that you were notified was by
8 a flyer; correct?

9 A Yes, sir.

10 Q You came in contact with that flyer; you were
11 given that flyer? You were provided it?

12 A I was shown a copy of it.

13 Q And the flyer said that the group planned to, and
14 I'm quoting from your report now, quote "March to picket
15 corporate banks around downtown Santa Cruz and then to march
16 to a foreclosed property" end quote?

17 A Yes.

18 Q And that was the extent of the flyer that you saw?

19 A I think there was more to the flyer but that's the
20 part I think that was of concern.

21 Q Okay. And to your knowledge on November 30th,
22 2013, was the unrented bank at 75 River Street a foreclosed
23 property?

24 A Not to my knowledge.

25 Q Okay. And the flyer didn't say anything about 75
26 River Street?

1 A It didn't, no.

2 Q And it didn't say anything about breaking into the
3 building at 75 River Street?

4 A No.

5 Q In fact the flyer didn't say anything about
6 breaking into anywhere?

7 A No, it didn't.

8 Q And it didn't say anything about a trespassing at
9 all?

10 A Right.

11 Q And certainly didn't say anything or make any
12 reference to vandalism?

13 A Correct again.

14 Q So simply talked about a peaceful march downtown
15 to picket corporate banks?

16 A I don't know the word "peaceful" was there;
17 everything else is correct, yes.

18 Q Okay. And actually prior to the lunch break, you
19 testified that at some point during this march, several of
20 the people had broken off from the march and entered the
21 building at 75 River Street; correct?

22 A Yes.

23 Q Okay. And none of those several people were my
24 client clearly?

25 A I'm sorry?

26 Q None of those several people that broke off from

1 the march were my client, Miss Ripleyhipps?

2 A I don't know.

3 Q Okay. So you have no knowledge that puts her in
4 connection with that several people that broke off?

5 A I have no knowledge.

6 Q Okay.

7 A That connects them; correct.

8 Q And you indicated you had no evidence against my
9 client whatsoever?

10 A Right.

11 MR. HACKETT: Thank you, officer. I have nothing
12 further.

13 THE COURT: Mr. Beauvais.

14

15 **CROSS EXAMINATION**

16 BY MR. BEAUVAIS:

17 Q Good afternoon, Officer Winston. I'm attorney
18 David Beauvais for Robert Norris.

19 A Afternoon.

20 Q Did you arrive ahead of the people who entered the
21 bank?

22 A No.

23 Q Okay. Do you know approximately how many people
24 were ahead of you before you arrived at the bank?

25 A No. We trailed the march, which was about 100
26 people.

1 Q Okay. When you arrived at the bank, when was the
2 first time you saw Mr. Norris in that rotation?

3 A Shortly after arrival. Within minutes.

4 Q And you said you saw him go inside the bank; is
5 that right?

6 A Yes, sir.

7 Q And did you see him come out?

8 A I did.

9 Q Do you know how long he was in the bank the first
10 time that you saw him go in?

11 A I don't.

12 Q You said you saw him go in a few times after that;
13 right?

14 A Yes, sir.

15 Q Do you know how long, the longest amount of time
16 he was in the bank during the entire period that he was
17 entering and exiting the bank?

18 A Do I know the longest period he was in there?

19 Q Yes.

20 A I don't.

21 Q Okay. Apart from seeing him outside the bank and
22 entering and exiting the bank, do you see him do anything
23 else?

24 A I saw him walking around with a tape recorder
25 outside.

26 Q Okay. And had you seen him around with that tape

1 recorder before on other occasions?

2 A Yes.

3 Q Okay. Do you know him to be a person who tape
4 records interviews with people around town?

5 A Yes.

6 Q You know about his radio show?

7 A I know he had one, yes.

8 Q Have you ever listened to it?

9 A No.

10 Q Are you aware of any of his printed journalism on
11 Indybay?

12 A I'm aware that he writes for Indybay, yes.

13 Q Okay. And over what period of time were you aware
14 of him writing for Indybay?

15 A From roughly 2008 on.

16 Q Okay. And do you know what the motif of his
17 stories is on Indybay?

18 A It's a variety, I think.

19 Q Okay. One of the things he writes about is the
20 occupy movement?

21 A I believe so.

22 Q And he also writes about homeless issues?

23 A Yes.

24 Q And he even wrote about 7575 River Street, didn't
25 he?

26 A I don't know.

1 Q Okay. He wrote about you from time to time;
2 right?

3 A Yes.

4 Q Do you remember the time that you were there, did
5 you hear any police officer make any warnings to people
6 inside that they were trespassing?

7 A Yes.

8 Q When did that occur?

9 A Sergeant Harms made that announcement sometime in
10 the evening of November 30th.

11 Q Okay. Can you narrow it down a little bit, tell
12 us about what time that was?

13 A It would be an estimate but somewhere between
14 seven and 8 p.m.

15 Q Did he use any kind of amplifying device to make
16 that warning?

17 A I think he used a bull horn. I'm not positive,
18 though.

19 Q Do you think he did? Do you remember his exact
20 words?

21 A Nope.

22 Q Okay. Did you ever make any attempt to block
23 access to the bank?

24 A No.

25 Q Did you ever go inside the bank?

26 A No.

1 Q So you're not in a position to testify to anything
2 that ever went on inside that bank?

3 A Other than what I can see from the outside.

4 Q Okay. And what did you see from the outside?

5 A Very little. I could see people inside. Couldn't
6 see what anybody was doing.

7 Q Were you able to estimate the number of people
8 that were inside?

9 A No.

10 Q Did you see counsel member Katherine Beiers come
11 inside?

12 A No.

13 Q Were you aware of the fact that she was inside?

14 A I heard that after-the-fact but I was not at aware
15 of it at the time.

16 Q That's memorialized in some of the police reports;
17 right?

18 A Pardon?

19 Q That's memorialized in some of the police reports?

20 A I don't know.

21 Q Okay. Do you know if she was ever prosecuted for
22 going inside the bank?

23 MS. YOUNG: Objection. Relevance.

24 THE COURT: Sustained.

25 MR. BEAUVAIS: I have nothing further.

26 THE COURT: Mr. Clymo.

CROSS EXAMINATION

1
2 BY MR. CLYMO:

3 Q Is it officer or detective?

4 A Pardon?

5 Q Officer or detective?

6 A Officer.

7 Q Officer, did I hear you correctly this morning
8 that your testimony was that on November 30th you were the
9 first officer on scene at the 75 River Street?

10 A There was another officer with me but yes.

11 Q Do you remember testifying on March 13th, 2013, in
12 one of the previous prelims in this matter?

13 A Yes.

14 Q Okay. At that preliminary hearing you indicate
15 that when you arrived on the scene you were one of four
16 officers there who were already there?

17 A Yes.

18 Q So you weren't the first on scene. There was four
19 other officers there?

20 A No.

21 Q Okay. Back in March were you asked upon your
22 arrival, how many officers were present? You estimate --
23 your answer was: As they arrived there, I would say no more
24 than four. Officer Forbus and myself and I believe a
25 Sergeant and Lieutenants.

26 A Correct.

1 Q So there was a sergeant and lieutenant there when
2 you arrived?

3 A Yes. We all arrived about the same time.

4 Q Okay. Now is that sergeant or Lieutenant Hedley
5 one of those people?

6 A No.

7 Q Who were these other people?

8 A Lieutenant McMahon and Sergeant Barry.

9 Q Barry? Did you see Officer Hedley there?

10 A No.

11 Q Okay. And I think -- okay. Now, you indicated
12 you had a camera with you that day; correct?

13 A Yes.

14 Q You are taking pictures?

15 A I took a few.

16 Q I think you indicated you didn't have a video
17 camera?

18 A Correct.

19 Q You were in a Santa Cruz Police vehicle; correct?

20 A Yes.

21 Q And that vehicle was equipped with a dash cam
22 recorder?

23 A Correct.

24 Q And you turned your dash cam recorder on when you
25 began leaving the courthouse; correct?

26 A We turn it on prior to leaving the courthouse.

1 Q And you had it running the entire time; correct?

2 A It shut down at some point when the vehicle was
3 parked in the parking lot.

4 Q You had it running the entire time you left the
5 courthouse to go to the Chase Bank, back across -- drive
6 down River and parked in the parking lot at the -- in the
7 parking lot side of 75 River; correct?

8 A Yes.

9 Q It was running during that time?

10 A Yes.

11 Q Part of that video device it's manipulable in the
12 way that you can focus where the camera's angled; correct?

13 A Yes.

14 Q Either you or your partner were adjusting the
15 camera during the time; correct?

16 A Yes.

17 Q Okay.

18 MR. CLYMO: May I approach, Your Honor?

19 THE COURT: Yes.

20 BY MR. CLYMO:

21 Q I'm going to show you what's marked as Defense
22 Exhibit B, as in boy, take that and see if you recognize
23 that.

24 A Yes.

25 Q Would that be a fair and accurate depiction of
26 75 River Street location and the area around it?

1 A It would.

2 Q Okay. Now, is it from my understanding as you
3 look at the diagram, you would be coming down Water Street
4 from the lower left-hand corner of the Exhibit B and
5 proceeded slowly behind the group, you turned left on to
6 River Street which would be going up on the diagram and
7 proceed to follow along the bank and then parked in the
8 parking lot in the upper corner of B; correct?

9 A More I think parked back there but correct.

10 Q Could you mark on the exhibit, write "car" where
11 your car was parked on Exhibit B.

12 A Ya, it would be an estimate.

13 Q That's fair enough.

14 MS. YOUNG: I'm sorry. If we can clarify what
15 time period are we talking about on the November 30th?

16 MR. CLYMO: I think he was only driving there
17 once; my understanding is November 30th, 2013, you're
18 following the protesters and you parked your car and your
19 car remained there until 9:00 o'clock when you left; fair to
20 say?

21 A Yes.

22 MS. YOUNG: Now I understand. Okay.

23 BY MR. CLYMO:

24 Q It's in blue pen "C-A-R" to indicate where your
25 car was. Now, on this diagram you talked -- well, discussed
26 people going in and out of the bank; is that correct?

1 A That's correct.

2 Q On the diagram there is -- well, if I put a 75
3 right here, would that be -- would this indicate to you
4 75 River Street, the bank we're talking about?

5 A Yes.

6 Q So I'll write a 75 here. Can you indicate where
7 on the building the entryway is you made your observations
8 of people going in and out?

9 A It's not really visible because of the shadow.

10 Q Certainly.

11 A How would you like me to mark it?

12 Q Do you want to write "doorway"? How about a "D";
13 fair enough?

14 A Indicate that area.

15 Q Okay. As your looking at Exhibit B on the
16 left-hand edge between the two trees there's a 'D'; correct?

17 A Essentially end of that walkway.

18 Q Now, when you drove down in your car when you
19 passed the doorway of River Street, how fast was your car --
20 well, was part of your progress -- did you drive from -- on
21 the diagram from the bottom of the diagram across the top to
22 the parking lot, you went by the doorway area?

23 A Uh-huh.

24 Q And your vehicle was moving at that point;
25 correct?

26 A Yes.

1 Q How fast do you think your car was going?

2 A Pretty slowly. Probably no more than 10, 15 miles
3 an hour.

4 Q Okay. As you drove by, was the dash cam that you
5 had in the car equipped turned to the right to look and see
6 what -- make observations into the doorway?

7 A I'm not sure.

8 Q You watch your dash cam?

9 A I haven't.

10 Q Okay. When you arrived, where was the sergeant
11 you remember being there?

12 A In the parking lot near where I marked "car" on
13 there.

14 Q Was he already in the parking lot? Did he get
15 there simultaneously or after?

16 A I think just shortly after we did.

17 Q Okay. What about the lieutenant? Same time?

18 A Ya, I believe they were together.

19 Q Going back to when you first started following the
20 group, the group that moved from the courthouse to the Chase
21 Bank building, was that approximately 75 to 100 people?

22 A Yes.

23 Q Okay. And that group by the time it left Chase
24 and headed toward 75 River Street, it had grown in size to
25 approximately over 100 people at that time?

26 A Hadn't grown much. It was about the same.

1 Q When you write up your report back right after
2 that happened?

3 A Yes.

4 Q In your report you indicate on page -- do you have
5 your report in front of you?

6 A I do.

7 Q I believe it's on Page 1 of three. Fourth
8 paragraph down at 1458 hours the group which had now about
9 100 people strong began to walk down Water Street?

10 A Sounds correct.

11 Q So does that refresh your recollection? Did it
12 grow from 50 to 75 to 100 people by the time them the left
13 Chase?

14 A Yes.

15 Q Okay. I think you indicated that on November 30th
16 while you were there eventually 15 officers were at the
17 scene at 75 River Street?

18 A That would be an estimation as well but around
19 that number, yes.

20 Q About what time was it that 15 officers had
21 amassed there?

22 A Throughout the day. But when Sergeant Harms and
23 his team came, that was the highest number of officers that
24 were there and that was roughly around 7 p.m.

25 Q Now, you indicated on direct that you observed
26 Becky Johnson go inside the bank?

1 A Yes.

2 Q This was on November 30th; correct?

3 A Correct.

4 Q That was during the daylight hours or in the
5 evening when it was dark?

6 A Daylight.

7 Q That would have been before Sergeant Harms
8 arrived?

9 A Yes.

10 Q That would have been before you heard any type of
11 warning being given?

12 A Correct.

13 Q Now, what time -- do you have any estimation of
14 what time you observed Miss Johnson go inside the bank?

15 A I don't know. It was daylight hours. So sometime
16 I would guess between three and probably 5 p.m.

17 Q That was in -- where were you when you made this
18 observation?

19 A On that southeast corner of the building.

20 Q Okay. Did you make -- going back up to when you
21 drove by the doors at 75 River Street or your approach, you
22 did observe people going into the bank?

23 A I'm sorry.

24 Q When you drove by before you parked your car and
25 you made observations of people entering the bank; correct?

26 A Yes.

1 Q I think you described it in the past people
2 pouring into the bank.

3 A Yes.

4 Q Now, I think your testimony today you made these
5 observations on Miss Johnson entering the bank while you
6 were -- after you had parked the car?

7 A Yes.

8 Q Okay. Now, back in March when you testified, you
9 were asked about if you and Officer Forbus got out of your
10 police car once you parked, came around the front of the
11 building. You indicated that you got out of the car. You
12 did not come around to the front of the building; that you
13 stayed near your car and you at that point from that
14 position you testified you wouldn't be able to really see
15 the doorway from there; do you recall testifying to that?

16 A I do.

17 Q And they asked you, you know, so I'm having
18 trouble understanding. You testified you stayed near the
19 car the whole time, didn't come around the front of the
20 building. Were in a position you couldn't see the door but
21 your testimony is today while you were in that position you
22 saw my client enter a bank?

23 A That's not my testimony.

24 Q So did you not stay in your car once you got out
25 of it?

26 A We stayed near the car about 15 minutes then we

1 moved up to that southeast corner.

2 Q Right after you were asked these questions back in
3 March, was it at a later point in time when you saw people
4 entering the door that you depicted. You indicated no. It
5 was prior to us getting into the parking lot as we were
6 coming off Water Street that people were entering. You saw
7 people before and after?

8 A We have saw people pouring into the bank as we
9 drove by and throughout the day we saw people entering and
10 exiting.

11 Q Do you have Exhibit G in front of you still?

12 A Yes.

13 Q Could you indicate to me where you walked to and
14 where you were standing.

15 A Not going to be able to see it. Behind these
16 trees right here on the corner of the building. There's an
17 overhang.

18 Q Okay.

19 A So it would be right along the building here.

20 Q Is that a -- the parking -- that is a parking
21 area? Sidewalk?

22 A This is all parking lot. I think right up to the
23 edge of the building here. And then this is sort of the
24 landscaped area.

25 Q Okay. And so can you maybe write an "S" where you
26 were stranding?

1 A I can try. Will be in the trees.

2 Q Now, from that position could you see into the
3 bank?

4 A Through some windows, yes.

5 Q Okay. And so you saw Miss Johnson into the bank,
6 how long did you see her exit the bank?

7 A I'm sorry?

8 Q Did you see her exit the bank?

9 A I did not.

10 Q Okay. And you haven't watched your dash cam but I
11 believe you District Attorney said you watched other videos
12 and watched other pictures of other officers that were there
13 that day; correct?

14 A I've seen some of the videos; correct.

15 Q Have you seen any videos of Becky Johnson going
16 into a bank?

17 A I have not.

18 Q Do you have any recollection?

19 THE COURT: I just want to be clear. The video we
20 looked at before the lunch break, were you identifying her
21 from that video clip as going into the bank.

22 THE WITNESS: No, sir. She was outside the bank
23 at that time.

24 MS. YOUNG: I believe that was for identification
25 purposes only at that time when he showed the video before.

26 MR. CLYMO: It was just she was there was a video

1 of her outside standing on the sidewalk. Just wanted to
2 make sure.

3 BY MR. CLYMO:

4 Q So you have not seen any videos of Miss Johnson
5 going into a bank?

6 A I have not.

7 THE COURT: You didn't personally observe her walk
8 into the bank?

9 THE WITNESS: I did observe her walk into.

10 BY MR. CLYMO:

11 Q When she walked into the bank, how many people
12 were in this area of the entrance to the bank when you made
13 that observation?

14 A I'd estimate 25, 30.

15 Q Was anybody talking to you?

16 A No.

17 Q Was it an unobstructed view you had from where
18 you're standing in the parking lot to the doorway through
19 the trees?

20 A Fairly unobstructed, yes.

21 Q Where was this banner we talked about? Was this
22 banner down?

23 A The one that was strung up?

24 Q Ya.

25 A It would be across up here.

26 Q Okay. Now, were you -- did you watch the video

1 Officer Hedley shot from the time he testified that he leap
2 frogged the group, arrived and was recording the entire --
3 for two hours; did you watch that video of people coming and
4 going?

5 A I have not.

6 Q Okay. Did he tell you he watched that video,
7 never saw Miss Johnson walk into the bank?

8 A He did not.

9 Q Okay. What was Miss Johnson wearing?

10 A I believe a light colored coat. I couldn't
11 describe further.

12 Q Was she wearing slacks? Dress or skirt? What was
13 she wearing for clothing?

14 A I believe pants. I don't know.

15 Q Could you tell if she was carrying any rocks?

16 A I couldn't tell.

17 Q If she was carrying boulders, would that be
18 something you would have observed?

19 A Yes.

20 Q Did you see her carrying a tent?

21 A No.

22 Q Did you see her with a sleeping bag slung over her
23 shoulder?

24 A No.

25 Q Did you see her holding any spray paint cans?

26 A No.

1 Q Did you see her holding any paint brushes?

2 A No.

3 Q Did you see her holding any paint cans?

4 A No.

5 Q Did you see her carrying furniture?

6 A No.

7 Q Did you see her breaking things while she was

8 approaching or causing damage to 75 River Street?

9 A No, sir.

10 Q Was she wearing a mask?

11 A No.

12 Q She have any wood pellets?

13 A I'm sorry?

14 Q Was she carrying any wood pellets with her?

15 A No.

16 Q Was your partner officer -- Forbus or Formage,

17 (phonetic)?

18 A Forbus.

19 Q Was he standing with you during this time?

20 A Yes.

21 Q When you made these observations of Miss Johnson?

22 A Yes.

23 Q Okay. And you didn't give any warnings to

24 Miss Johnson saying, "Hey, you can't go in there"?

25 A I did not.

26 Q You didn't hear any warnings being given to the

1 group prior to Officer Harms or Sergeant Harms giving one;
2 is that correct?

3 A That's correct.

4 Q And you said you yourself did you take
5 photographs?

6 A I did.

7 Q Did you take any photographs of Becky Johnson?

8 A No.

9 Q Now, you also testified on April 23rd at the
10 second preliminary hearing in this case?

11 A Yes.

12 Q Do you remember testifying there describing your
13 ability to see people going in and out of the bank?

14 A Yes.

15 Q You describe that as I can see people going in, I
16 did not have a clear view. All right.

17 A (Witness nods head.)

18 Q And at that point you were approximately 20 or 30
19 feet away from the door?

20 A Yes.

21 Q I think I had my head down to the prior question.
22 You said yes? Did you just nod yes?

23 A I nodded. Should have said yes.

24 Q Okay. Thank you. I think you also testified back
25 in April that -- of 2013 -- that you estimated you saw 50
26 people enter the bank on November 30, 2013?

1 A Yes.

2 Q These were all -- was this prior to the Sergeant
3 Harms arriving?

4 A Yes.

5 Q Now, once Sergeant Harms arrived, you never saw
6 Becky Johnson again at 75 River Street; correct?

7 A That's correct.

8 Q You didn't see Becky Johnson entering into any
9 agreements with anybody, did you?

10 A No.

11 Q You didn't see Becky Johnson commit any acts of
12 vandalism?

13 A No.

14 Q Did you ever see Becky Johnson be removed from 75
15 River Street?

16 A No.

17 Q Did you ever see Becky Johnson refuse to leave
18 after being commanded to leave the area?

19 A No.

20 Q Just so I'm clear, I know you're not clear, to the
21 time you believe you saw Miss Johnson enter the bank but it
22 was definitely during the daylight hours in November 30th?

23 A Yes, sir.

24 MR. CLYMO: Nothing further.

25 THE COURT: Miss Briggs.

26 MS. BRIGGS: No questions, Your Honor.

1 THE COURT: Miss McCamey?

2 MS. MC CAMEY: Thank you, Your Honor.

3

4

CROSS EXAMINATION

5 BY MS. MC CAMEY:

6 Q Good afternoon, Officer Winston.

7 A Afternoon.

8 Q You indicated that your assignment on the November
9 30, 2013, was to observe, record the activity of the planned
10 occupy Santa Cruz march; is that right?

11 A That's correct.

12 Q You were assigned to do that with Officer Forbus;
13 correct?

14 A Correct.

15 Q And was there a briefing or some type of gathering
16 that the officers did before this assignment was made?

17 A No.

18 Q Who gave you that assignment?

19 A Lieutenant McMahan.

20 Q Lieutenant McMahan approach you and ask you and
21 Officer Forbus to engage in this?

22 A Yes.

23 Q Were you aware of what any other officers duties
24 were with regard to the march?

25 A No.

26 Q Now, when you were recording, the only thing you

1 used was car video; is that correct?

2 A That's correct.

3 Q One attached to your police car?

4 A A few still photographs that I took.

5 Q What did you take those with?

6 A Department issued camera.

7 Q Okay. You said you were initially positioned in
8 the jail driveway across from 701 Ocean?

9 A Yes.

10 Q On the San Lorenzo Park side?

11 A Yes.

12 Q And that's where the march began?

13 A The march began from the Water Street stairs along
14 Water Street toward Ocean.

15 Q How long did this march last before it ended up at
16 75 River Street?

17 A Total of about half an hour.

18 Q Now, you indicated that when you arrived at
19 75 River Street you actually saw the doors open?

20 A Yes.

21 Q So if I'm understanding your testimony correctly,
22 prior to your -- while you were there, the doors had been
23 closed, you saw them get open?

24 A No.

25 Q I'm not understanding.

26 A So we're at the very end of the march.

1 Q Yes.

2 A And as the marchers passing by the 75 River, the
3 doors became open. I'm not sure -- I didn't see them
4 actually physically be opened but the people were going.

5 Q So by the time you looked over at the doors,
6 75 River Street, they were already open?

7 A Yes.

8 Q Okay. So you don't know when they actually became
9 opened?

10 A I don't.

11 Q Now, you've indicated that you saw Mr. Adams in
12 the march; is that correct?

13 A Yes.

14 Q Did you see him at 701 Ocean Street near
15 San Lorenzo Park when you were in your car filming that
16 location?

17 A I don't recall seeing him in there.

18 Q At what point do you remember seeing him
19 initially?

20 A When we were westbound on Water and --

21 Q You did not see him at the Chase Bank?

22 A I don't recall seeing him, no.

23 Q And how long was the group at the Chase Bank?

24 A 15 minutes.

25 Q So when the marchers went back down, excuse me,
26 Water Street, is when you first noticed him?

1 A Yes.

2 Q And is it fair to say he was actually across on
3 the levee on the other side of the march?

4 A I don't think so. I think I recall him being in
5 the street.

6 Q Okay. What exactly do you recall?

7 A Just him being a part of the march with a group of
8 people that were walking down.

9 Q Do you recall at what location on River Street you
10 first noticed Mr. Adams?

11 A What location on River Street?

12 Q Excuse me.

13 A Water.

14 Q Water Street, thank you.

15 A I believe around the bridge, San Lorenzo River.

16 Q When you noticed him on the bridge, what was the
17 first thing you noticed?

18 A I don't know. I'm not sure exactly what.

19 Q So you just saw Mr. Adams, said, oh, there's Brent
20 Adams?

21 A More than likely, yes.

22 Q And it was at the point where the group had
23 already crossed over the bridge?

24 A I think they were in the process of crossing over
25 the bridge.

26 Q And was he just walking?

1 A As far as I remember, yes.

2 Q Was there anything about him other than the fact
3 that you recognized him that drew your attention to him?

4 A No.

5 Q At that point did you continue to watch him?

6 A No. I didn't focus on him. I was paying
7 attention to the whole group.

8 Q And how long after that point did the group arrive
9 at 75 River Street?

10 A Very shortly; less than five minutes.

11 Q Okay. And were you ahead of -- were you behind
12 the group?

13 A We were behind the group.

14 Q Okay. At that point where you saw Mr. Adams, they
15 were fairly close to 75 River?

16 A Yes.

17 Q And you, I believe, indicated you pulled right
18 into the parking lot?

19 A Yes.

20 Q Okay. Did you pull ahead of the group there?

21 A The group had gone on to the sidewalk and stopped
22 there. So we continued on and went past them.

23 Q You went past that group?

24 A Yes.

25 Q You went past the group Mr. Adams was in?

26 A Yes.

1 Q Okay. When you arrived, the door was already
2 open?

3 A Yes.

4 Q When you arrived, did you see at that point people
5 entering the building?

6 A Yes.

7 Q And was it at that point that you saw at the very
8 beginning people pouring into the building?

9 A As we were driving by.

10 Q That's when you say as we were driving by, you're
11 referring to when you were first arriving there?

12 A As we were driving by 75 River Street, yes.

13 Q Okay. Now, when you pulled into the parking lot,
14 you turned off your vehicle; you were no longer recording;
15 is that right?

16 A The recorder stays on for awhile. Has a tendency
17 to shutdown if the vehicle's not running. I'm not sure how
18 much longer it continued to run.

19 Q Did you mark on the exhibit that Mr. Clymo gave
20 you exactly what direction your car was pointing in?

21 A Can I or did I?

22 Q Did you?

23 A No. I just wrote the word "car."

24 Q Could you do that for me, please, with a triangle.

25 A I need a pen or there's one here.

26 Q Depict the front of the vehicle.

1 A Sure.

2 THE COURT: Why don't you describe verbally what
3 the camera would have been pointing at at the time of
4 turning your vehicle off.

5 THE WITNESS: Okay. It would have been pointing
6 back toward River Street.

7 BY MS. MC CAMEY:

8 Q So you didn't have any intention of recording
9 anything going at 75 River when you arrived there?

10 A I hadn't thought about it, no.

11 Q Okay. Did you have any particular assignment once
12 you got at 75 River?

13 A We waited at the patrol vehicle until we were told
14 that we should move closer to the building, see what was
15 going on.

16 Q This also directive from Lieutenant McMahan?

17 A Yes.

18 Q Okay. Were there -- there were I think Mr. Clymo
19 got out on cross-examination there was at least four other
20 officers present at the scene at that time or arrived almost
21 simultaneously with you?

22 A Including me, four.

23 Q Including you, four. Okay. And when you arrived,
24 did you just stand off to the side of the building?

25 A No. When we first arrived in the parking lot, we
26 waited until we were told what our next step was.

1 Q I guess I intended to move on to that next step.
2 So after you were directed by Lieutenant McMahon, what did
3 you do after that?

4 A We've just stood and observed.

5 Q Okay. And you stood with three other officers?

6 A Correct.

7 Q Lieutenant Forbus, detective Forbus?

8 A Officer Forbus at the time.

9 THE COURT: You're covering ground really already
10 been covered by other counsel. Is there something
11 specifically relevant to Mr. Adams you want to get to,
12 because I've heard all of these questions before.

13 MS. MC CAMEY: Yes.

14 THE COURT: Why don't you get to what's relevant
15 to Mr. Adams.

16 MS. MC CAMEY: Okay.

17 BY MS. MC CAMEY:

18 Q At what point when you were there did you see
19 Mr. Adams again?

20 A Shortly again after the time we moved up to the
21 corner.

22 Q Shortly after you arrived with the other three
23 officers?

24 A Yes.

25 Q Okay. And at that point did you engage him in
26 conversation?

1 A I spoke with him a little bit, yes.

2 Q Okay. Was it at that point that you discussed the
3 sign?

4 A Yes.

5 Q At this point Mr. Adams was on the ground speaking
6 to you; is that right?

7 A Yes.

8 Q Okay. He is not one of the people who hung the
9 sign?

10 A I don't know who hung the sign.

11 Q Okay. Was the sign up when you arrived?

12 A It was going up.

13 Q Okay. So it was going up. While Mr. Adams was on
14 the ground, it was going up?

15 A Yes.

16 Q Okay. So Mr. Adams was not in possession of that
17 sign; is that right?

18 A When it was being hung?

19 Q Yes. When you were talking to him.

20 A Right.

21 Q Obviously somebody else?

22 A I was thinking he was not in possession of the
23 sign when I was speaking to him.

24 Q Do you know when that sign was made?

25 A No.

26 Q During the 30 days that this occupy protest had

1 been going on, did you get any indication from Mr. Adams
2 when that sign was originally made?

3 A No.

4 Q Did you figure out whether or not that sign had
5 been previously used?

6 A I did not.

7 Q And according to your report, the discussion was
8 just about the fact that he had painted that banner and
9 initially had misspelled "occupy"; is that right?

10 A Yes.

11 Q Did you stay in that location where you were,
12 you're facing the bank to the left of the doors during the
13 time you were there?

14 A For the most part. We took five minute breaks
15 here and there. But most of the evening; yes, ma'am.

16 Q Were you aware there were other detectives or
17 officers across at the levee filming the scene?

18 A I was not.

19 Q Okay. Did you ever attempt to go into the bank?

20 A No.

21 Q Did you ever attempt to address the group?

22 A No.

23 Q Okay. And at what point did you see Mr. Adams
24 next?

25 A I'm not sure.

26 Q You don't remember having another interaction with

1 him?

2 A I don't.

3 Q You don't remember seeing him again?

4 A I do remember seeing him throughout the day
5 several more times. I couldn't tell you what time.

6 Q Okay. Just wandering around outside the building?

7 A Going in and out.

8 Q Okay. You actually observed him going in?

9 A Yes.

10 Q Did you observe him with trash cans?

11 A I don't recall.

12 MS. MC CAMEY: I have nothing further.

13 THE COURT: Miss Porter, anything that hadn't
14 already been covered?

15 MS. PORTER: No questions.

16 THE COURT: Any redirect? K

17 MS. YOUNG: Just very quickly.

18

19 **REDIRECT EXAMINATION**

20 BY MS. YOUNG:

21 Q You said that you had a still camera, you had
22 taken some photographs. Do you know if they were saved in
23 Santa Cruz PD's P drive with your badge number?

24 A Yes.

25 Q What's your badge number?

26 A 164.

1 Q For counsel, it's 11S dash 10203 dot 16467; is
2 that correct?

3 A Should be

4 MS. MC CAMEY: What was that?

5 MS. YOUNG: I'm sorry. I'll repeat that. 11S
6 dash 10203 dot 164. These are approximately 22 photographs;
7 does that sound about right?

8 A Yes.

9 Q Direct your attention -- I'm going to take that
10 off the projector in just one second -- photograph number
11 21. Do you recognize this photograph?

12 A I can't see it from where I am. Yes.

13 Q And what is it?

14 A It's a photograph I took while I was standing on
15 that corner.

16 Q Do you recognize the figure that's kneeling on the
17 ground?

18 A I do.

19 Q Who is that?

20 A Becky Johnson.

21 Q Thank you. Is that the vantage point that you
22 had?

23 A Yes.

24 Q Obviously going to change as people -- you're
25 stationary but people are moving around you?

26 A Correct.

1 MS. YOUNG: Okay. All right. Thank you. That's
2 all.

3 THE COURT: Mr. Clymo?

4 MR. CLYMO: Can I see that picture back up there?
5

6 **RECROSS EXAMINATION**

7 BY MR. CLYMO:

8 Q It's daylight during that picture; correct?

9 A It is.

10 Q November 30th; correct?

11 A Yes.

12 Q Take any photographs in December of 2011 at 75
13 River Street?

14 A No.

15 Q In this picture, where are the doors to the bank?

16 A They would be --

17 MS. YOUNG: Indicating to the left of the screen.

18 MR. CLYMO: To the left of the screen.

19 BY MR. CLYMO:

20 Q How many people are in this photograph other than
21 Miss Johnson?

22 A Looks like 12 or 13.

23 Q Any of those other 11 or 12 people seated with
24 Miss Johnson here in court today?

25 A I don't think so.

26 Q Any of those other four previous codefendants in

1 this case dismissed in this photograph?

2 A I'm sorry?

3 Q I believe there was originally 11 defendants.
4 Four people whose cases were dismissed. Are any of those
5 people in the photograph with Miss Johnson?

6 A I don't think so.

7 Q Just to be clear, Miss Johnson is outside the
8 bank; correct?

9 A Yes.

10 MR. CLYMO: Nothing further.

11 THE COURT: All right. Anything else?

12 MS. YOUNG: No.

13 THE COURT: All right. The witness can be
14 excused. If you'll just hand the exhibits to the clerk on
15 your way out.

16 THE WITNESS: Thank you, sir.

17 THE COURT: Any additional witnesses, Miss Young.

18 MS. YOUNG: No, Your Honor. Thank you.

19 THE COURT: We need to determine how we're going
20 to complete the record with respect to the prosecution's
21 evidence concerning the videos, the clips that were
22 displayed during the course of the preliminary examination
23 from cameras one and two. Do we have DVD's that we can
24 mark?

25 MS. YOUNG: We have external hard drive we can
26 mark.

1 THE COURT: Does this external hard drive contain
2 everything in the case?

3 MS. YOUNG: Yes.

4 THE COURT: Is there some way that the external
5 hard drive we can extract?

6 MS. YOUNG: Absolutely. What I can do to
7 complete the Court's record for the clips that we've played,
8 and if counsel wants if anything in addition that I didn't
9 play that the I did use, just write down the path and I'll
10 put it on a DVD for the Court.

11 THE COURT: So we can deal with this one or two
12 ways. We can limit it to what was displayed in court during
13 the preliminary examination or if there's a stipulation
14 between the parties we can extract everything that was
15 videotaped on cameras one and two that was identified by the
16 person who testified in the proceedings. What are you you
17 offering?

18 MS. YOUNG: Simply what I think I'm allowed to
19 which was identified by the witnesses.

20 THE COURT: Right. So that's -- what I'm going to
21 do then is, so we can complete the record, direct Miss Young
22 to extract from her hard drive the clips that were
23 identified on the record, put them on to either a DVD or
24 some other hard drive, make sure that what I'm receiving is
25 what was testified to and identified so that counsel has an
26 opportunity to look at what was extracted, make sure it's

1 complete. Anybody have a problem with that proceeding?

2 Okay. So

3 MR. BEAUVAIS: Your Honor, I do have a witness.

4 THE COURT: I want to make sure we are through with
5 Miss Young's presentation.

6 MS. YOUNG: As I'm thinking it through, I think
7 it is probably easiest if I simply delete what we didn't
8 view and just allow you to have the external hard drive. I
9 think that's the easiest way to go, the quickest.

10 THE COURT: That's fine. All right. So I've
11 previously admitted the various exhibits that have been
12 offered by the People.

13 So let me inquire what the offer of proof is,
14 Mr. Beauvais.

15 MR. BEAUVAIS: Yes, Your Honor. The witness' name
16 is Dennis Davies, he's a radio guy that's been for decades.
17 Works at the radio station where my client has his radio
18 show. He's familiar with my client's radio show and the
19 kind of work he does. And will testify to that radio
20 journalism. And also would be able to testify that
21 following the events at 75 River Street my client did
22 produce radio programs which discussed what happened at
23 75 River Street.

24 THE COURT: All right. Before we get to that
25 point, let me make this inquiry of Miss Young.

26 MS. YOUNG: Yes.

1 THE COURT: First of all, have I heard any
2 evidence that Mr. Norris was present in the building any
3 time after warnings were given when -- any time after the
4 building was posted, the agents of Wells Fargo gave the
5 police authority to enter and ordered persons out of the
6 building.

7 MS. YOUNG: No. What you have -- not those
8 warnings aren't through the flyers. The warnings are
9 through the direct contact that he had between detectives
10 Williams and Officer Hedley when he approached their car;
11 that was at the levee, parked at the levee. You heard
12 testimony that they communicated to him you're -- anyone
13 who's going into that building is trespassing. What was
14 asked on cross-examination is, well, you didn't tell him he
15 would necessarily be arrested. I would argue, you know, of
16 course that's not --

17 THE COURT: Had the agents of the bank told the
18 police that police had the authority to act on their behalf
19 and order occupants out by the time that encounter occurred
20 with Mr. Norris?

21 MS. YOUNG: I believe that it was Sergeant Harms
22 who testified about the timeline. And -- if I recall, it
23 was that they had received authorization, it was that
24 afternoon on November 30th.

25 MR. RUBEN: I object to the recitation. She's
26 testifying.

1 THE COURT: We're engaged in argument now. I'm
2 trying to make a determination whether I'm going to issue a
3 holding order against Mr. Norris for the purposes of even
4 needing the testimony which is now being proposed.

5 So the question is: My recollection is that
6 there's authority was not given to the police to announce to
7 the crowd the owners were directing the police to have the
8 occupants removed or ordered out of the building until
9 sometime after about six or 6:30.

10 MS. YOUNG: I believe that's when he said they
11 started to do that. That's right. That's when he started
12 to do that. Now obviously the interaction -- I'm sorry.

13 THE COURT: So do I have any evidence that
14 Mr. Norris was present in the building after that point in
15 time? There's a distinction here amongst the various
16 defendants. I think where evidence is lacking on the
17 trespassing as relates to Penal Code Section 602 subdivision
18 O. And the elements that you're required to prove is as
19 relates to Mr. Norris, Miss Johnson and Miss Foster.

20 MS. YOUNG: Right. I believe just focussing on
21 Mr. Norris for the moment, the testimony that you have is
22 that he gets that direct warning from the Detective Williams
23 for which Officer Hedley's present. And then during the
24 course of that day, they see him go continually over or
25 repeatedly I should say in and out of the building after the
26 warning.

1 So in order to make the trespass elements is
2 that warning plus those repeated entries upon which I'm
3 relying as opposed to anything that Sergeant Harms did.

4 MR. BEAUVAIS: If I might respond, Your Honor?

5 THE COURT: Yes.

6 MR. BEAUVAIS: It's not clear that the bank that
7 has granted the authorization for the police action to
8 enforce the trespass laws at the time that conversation with
9 two officers took place when they were in the patrol car,
10 number one.

11 Number two, there's no evidence as to when the
12 last entry and exit to the building took place.

13 Number three, the statute requires that a person
14 be ordered to leave the building and then refuse to leave.
15 And that's a so-called order in advance that you might be
16 trespassing or that you were trespassing. We may arrest you
17 doesn't meet the terms of the statute or the elements of the
18 statute. And the final problem is there's been absolutely
19 no evidence presented that in any form whatsoever any
20 warnings to people included the statement that the police
21 are acting on behalf of the owners, which is also in the
22 statute.

23 So there's just -- it's totally failure of
24 proof, Your Honor.

25 THE COURT: All right. Here's what I'm going to
26 do. First of all, I think the testimony you are proposing

1 to offer on Mr. Norris' behalf may be unnecessary. I want
2 to outline for you what my thinking is. We'll take a break
3 so you can respond to it. Let me outline what my thinking
4 is. You can respond when I ask for your thoughts and
5 response to my observations here.

6 First of all, I don't believe I've heard any
7 evidence that permits me to conclude that there's reasonable
8 cause to believe that there is an agreement that proves for
9 the purposes of establishing a conspiracy.

10 What I've heard is that there was a planned
11 march to banks in downtown Santa Cruz area. And a
12 foreclosed property. During the course of the march somehow
13 someone gained entrance into 75 River Street. A spontaneous
14 event then ensued where persons poured into that once vacant
15 building without the consent of the owner; clearly this was
16 not something that was open to the public. Everyone that
17 was going into the building understood, given the prior
18 history of the bank and the events that were occurring, this
19 was not a museum. It was not a government building. It was
20 not an open commercial place of business. It was a property
21 that the persons who were entering did not have a right to
22 go into.

23 That being said, I'm not seeing anything by way
24 I can reasonably infer that there was an agreement to
25 trespass in this building until the building became open and
26 persons started to spontaneously go in it.

1 That being said, I think you have established as
2 relates to Mr. Adams, Mr. Alcantara, Miss Rileyphipps,
3 (phonetic), (SIC) and Mr. Laurendeau. They were there on
4 multiple days. They were present in the building after it
5 was announced that the agents had given the law enforcement
6 the authority to order persons out and they were being asked
7 to leave or they would be in violation of trespassing laws.
8 And they continued to remain in and about the premises.

9 Additionally, my observation and might have
10 thought that as a result of the trespass, that you have some
11 evidence that's sufficient for the issuance of a holding
12 order for those four individuals, that natural and probable
13 consequence of that trespass was persons committed
14 vandalism.

15 So, however, I think your evidence is lacking
16 merely as a matter of proof that Mr. Norris, Miss Johnson
17 and Miss Foster were present after law enforcement had the
18 authority to act on behalf of the owners of the property.

19 And in the absence of direct proof that those
20 individuals committed a trespass, I don't believe there's a
21 basis for me to issue a holding order by which I can
22 conclude they're somehow responsible for others who did
23 trespass.

24 So --

25 MS. BRIGGS: Your Honor, there's a piece of
26 defense evidence directly bearing on the point that you have

1 just made. I would ask the Court to consider it. It's a
2 subpoenaed business record. I've shown it to the District
3 Attorney many months ago. It indicates Mr. Laurendeau's
4 work schedule on those dates. And his absence at the time
5 that the announcement was made on the 30th. And it
6 indicates his arrival at work shortly after the alleged
7 conduct on the second.

8 THE COURT: He's on the roof. First or second.
9 The building had been posted. Whether he's at work when the
10 announcement's made or whether he's coming and going, he's
11 there on multiple days and there's a strong suspicion to
12 believe that he committed the act of trespassing. Also want
13 to observe that I'm not prepared to make a holding order as
14 relates to unlawfully occupying under 602(m) because this is
15 transient coming and going. People were not removed but
16 clearly everyone understood they didn't have a right to
17 enter the building. You're going to lose all credibility
18 with me if you're going to be arguing this was a bank open
19 to the public and everybody was there because they assumed
20 the police were inviting them or wanted them to be there.

21 MS. BRIGGS: I'm simply trying to move into
22 evidence exhibit marked as Defense Exhibit A.

23 THE COURT: I'll receive your Defense Exhibit.

24 MS. BRIGGS: As well as moving into evidence
25 previously marked Exhibit 'G' clearly shows written notices
26 from the first had been removed and showing that Detective

1 Gunter was nowhere pictured in that event.

2 THE COURT: I will receive those. Not going to
3 change my opinion as to your client was well aware of the
4 building had been posted and he didn't have a right to be
5 there, and law enforcement made it clear to him and to
6 others that the law enforcement had the authority to have
7 the building cleared on behalf of the owners.

8 Mr. Ruben, anything else you want me to consider
9 before we break?

10 MR. RUBEN: Just clarifying questions, if I might?

11 THE COURT: Yes.

12 MR. RUBEN: Your indication was a little bit
13 unclear to me as to what count specifically we were
14 discussing.

15 THE COURT: We're discussing my tentative.

16 MR. RUBEN: Mr. Alcantara, Count 1 which the
17 Court's indication --

18 THE COURT: My tentative is to not issue a holding
19 order on Count 1 conspiracy charge. I don't think people
20 have established the necessary agreement.

21 As to Count 2, my tentative is to issue a
22 holding order on the felony vandalism charge as to
23 Mr. Alcantara, Mr. Adams, Miss Rileyphipps and Mr.
24 Laurendeau.

25 MR. RUBEN: Another clarifying question. I heard
26 the Court say it, that the vandalism was a natural and

1 probable consequence of the trespass. So there's a no hold
2 -- an indicated no hold on conspiracy but holding on Count 2
3 as it is a natural and probable consequence of the trespass
4 which I'm catching wind you're going to hold on except for
5 the occupy charge. Yes?

6 THE COURT: Count 4, the holding order will be
7 holding order on Count 4. The trespass, the evidence
8 persuaded directly establishes the four identified
9 individuals were violating Penal Code Section 602
10 subdivision O. And that trespass had the effect of
11 permitting acts of vandalism to occur as a natural and
12 probable consequence of that trespass.

13 MS. BRIGGS: There was no holding order on Count
14 3?

15 THE COURT: Correct.

16 MS. YOUNG: You'd like to take a break then hear
17 argument?

18 THE COURT: Yes because one of the things I'm still
19 unclear on, I'll permit you to direct me to specific
20 evidence, I have heard nothing that persuades me to believe
21 that Mr. Norris, Miss Johnson and Miss Foster were present
22 after warnings were given on behalf of the property owners.

23 MR. HACKETT: I understand after the break, Your
24 Honor, everyone's going to have an opportunity to make
25 argument but I simply want to say this, either clarify
26 and/or ask the Court to revisit during this break your

1 tentative ruling regarding Miss Ripleyphipps presence. It's
2 abundantly clear from Officer Hedley that he was there in
3 the daylight hours before the riot police showed up, before
4 any verbal warnings were given prior to December 1st we have
5 anything was posted. And after that Lieutenant Richard and
6 I had a lengthy back and forth regarding he had no idea
7 where she was, talked to her on the cell phone. She could
8 have been talking to them on a cell phone. She was merely a
9 messenger. I'm concerned with this sort of the loose
10 characterization of her continued presence after any notices
11 were given. I think the evidence was contrary to that.

12 THE COURT: We're going to agree to disagree then.
13 I believe the evidence is sufficient to establish she is on
14 the property all three days. She's directly telling
15 Lieutenant Richard or others she's engaged in meetings with
16 the group. She's not going to leave until they have further
17 meetings. And she is acting as a spokesperson for the
18 entire group. So she is clearly a strong suspicion to
19 believe that whether I have direct testimony someone's
20 inside the building inferentially, she is repeatedly in the
21 building engaged in meetings with persons who are actively
22 trespassing.

23 MR. HACKETT: Lieutenant Richard's testimony was
24 contrary to that. It was that not only could he not
25 personally put her in the building but that he only talked
26 to her on the cell phone. She could have been contacting

1 them via cell phone. There was never any indication from
2 her I'm going into the building now to continue these. In
3 fact, Lieutenant Richard specifically said there's no
4 evidence she had any part in those negotiations. She was
5 merely relaying information from him to them and from them
6 to him.

7 THE COURT: So rhetorical question. How does one
8 engage in meetings unless they're in the building
9 participating in.

10 MR. HACKETT: She did not engage in any meeting.

11 THE COURT: We disagree on that.

12 MS. YOUNG: Mr. Ruben needs to approach about
13 scheduling.

14 THE COURT: All right. So what I'm going to do is
15 -- do you understand --

16 MS. YOUNG: I do.

17 THE COURT: What sort of the evidence I'm
18 interested in. And I think counsel for Mr. Norris,
19 Miss Johnson and Miss Foster need to be prepared to cite any
20 contrary evidence or absence of evidence as to whether I
21 hope everybody understands the distinctions I'm making. I'm
22 looking at the requirements of 602 subdivision O which
23 requires a refusal or failure to leave land upon being
24 requested to leave by a peace officer at the request of the
25 owner. And upon being informed by the peace officer that he
26 is acting at the request of the owner, the owner's agent or

1 persons in lawful possession. So I'm not recalling any
2 testimony any of those three other individual were on-site
3 and remained on-site after having received the statutorily
4 required announcement.

5
6 (Whereupon, a recess was taken.)
7

8 THE COURT: Let's go back on the record. I looked
9 at my notes during the break, Miss Young. Although my notes
10 reflect that it was on -- sometime between six and 6:30 that
11 law enforcement was informed on November 30 that a Wells
12 Fargo bank representative were giving their authority for
13 law enforcement to act on their behalf to order the persons
14 occupying the building out of the building; however, any
15 announcements to that effect were made verbally, nothing was
16 posted until December 1; correct.

17 MS. YOUNG: That comports with my recollection.
18 During the break I was looking through my notes from direct
19 and cross-examination. And I don't see anything different.

20 THE COURT: I believe the posting occurred on
21 December 1 at about 3:00 o'clock. I don't have any
22 testimony at least reflected in my notes. And I was paying
23 careful attention on these points that Mr. Norris or
24 Miss Johnson or Miss Foster were observed after 6:30 even
25 giving you the benefit of the doubt that the three of them
26 may have been given verbal notice of law enforcement's or

1 owners demand that they leave. So anything different?

2 MS. YOUNG: I don't have any different
3 recollection from, you know, the evidence that we put on.
4 And really for those three, it was for the other defendants,
5 you're right, there's more a marriage between either direct
6 communication or posting as it were and then observations.
7 And those -- you're right. Those three I don't have that
8 marriage so to speak, and my memory's not any different from
9 yours.

10 THE COURT: And so as it relates to the three
11 where the evidence is lacking direct commission of any
12 crime, you're relying on conspiracy.

13 MS. YOUNG: That's exactly right.

14 THE COURT: What evidence do I have there was an
15 agreement?

16 MS. YOUNG: Here's the thing. What you heard on
17 cross-examination is folks taking the elements of conspiracy
18 very literally when in fact, and I know I've briefed this ad
19 nauseum, so I'm not going to belabor it. Conspiracy can be
20 shown not simply through a face-to-face conversation between
21 people or notes passed among one another but essentially by
22 conduct. This doesn't need to be an appreciable time gap
23 between what a group decides to do and a group doing it.

24 Whether or not there was a switched up location,
25 whether or not they switched up how long they intended to
26 stay, how they intended to conduct themselves once in the

1 building, you know, these are decisions that likely are
2 being all -- likely all being made on the November 30th.
3 I'm not sure about the location if that was decided on
4 November 30th or before; I've made that clear.

5 But when you look at the conduct of the crowd,
6 for example, with respect to Miss Foster, what you have
7 testimony she's in the doorway. She's waiving folks in.
8 And you have affirmative conduct on behalf of them that
9 demonstrates their -- frankly their commit to the cause.
10 And that cause that day took the form of entry into an
11 occupation of that building. But you're right, for those
12 three three that is the entirety. You're exactly right.

13 THE COURT: I am persuaded that Castro versus
14 Superior Court case that's been discussed in the briefs
15 filed by the parties, 9 Cal Ap 3d, 675 case then
16 subsequently followed in Long versus Valentino, 1990 case,
17 that given that we are talking about a right of assembly,
18 First Amendment right of free speech, and these crimes are
19 alleged to have occurred during in an assembly when persons
20 are airing grievances over an important matter of public
21 interest; that something more than circumstantial evidence
22 is required in a case of this nature to prove a conspiracy
23 and an agreement. And I don't have either direct evidence
24 of a conspiracy. All I have is evidence that there was a
25 march planned from the courthouse which went to Chase Bank
26 and then as I observed earlier, somehow that door got

1 opened, whether it was by someone who had access to the keys
2 lawfully, custodian who might have been part of the occupy
3 movement or whether the box was broken, I don't know. The
4 record is absent of any evidence of that regard. But this
5 to all appearances seems to be a spontaneous entry into the
6 building after the front door was opened with a key.

7 Consequently, considering all of the
8 circumstances as it relates to all the charged defendants, I
9 can't even infer that this was an agreement to commit a
10 trespass crime; that there was an agreement to go into that
11 building and occupy it and stay there even after law
12 enforcement showed up as an agent of the bank and ordered
13 persons to leave.

14 So I'm not going to hold on Count 1 the
15 conspiracy charge as to any of the defendants.

16 And as relates to Mr. Alcantara, I know
17 Mr. Ruben has another engagement at 3:30, reason I believe
18 it's sufficient to issue a holding order as relates to
19 Mr. Alcantara as a direct perpetrator of violating Penal
20 Code Section 602 subdivision 0, trespassing and refusing to
21 leave, and by his conduct aiding or betting vandalism as a
22 natural and probable consequence of the trespassing crime,
23 the evidence is that Mr. Alcantara was present on all three
24 days when law enforcement observed him. He was present in
25 the building and observed in the building after the building
26 was posted and law enforcement ordered him leave. He was

1 engaged in moving furniture in front of the front
2 entranceway to block law enforcement to come into the
3 building. He stood on top of the desk to disable
4 surveillance cameras. And under all the circumstances it
5 was reasonably foreseeable that persons and the group
6 trespassing which consisted of numerous persons who were
7 masked, who were bandana'd, were occupying the roof. Who
8 were chanting and yelling in victory after law enforcement
9 was persuaded to back off; that it was necessary for persons
10 to remind others not to commit acts of vandalism.

11 Consequently vandalism was reasonably
12 foreseeable. It's reasonably foreseeable that it was wrong
13 if 100 people who are engaged in trespass and acts of civil
14 disobedience, they're going to commit acts of vandalism. So
15 all this is a natural, probable consequence of the
16 underlying crime of trespass.

17 MR. RUBEN: I'll actually not argue and instead
18 ask just clarify questioning if I could regarding the
19 Court's ruling.

20 THE COURT: Yes.

21 MR. RUBEN: There's a no hold as to Count 1?

22 THE COURT: Correct.

23 MR. RUBEN: No hold as to count -- I'm getting
24 mixed up. Three?

25 THE COURT: Correct.

26 MR. RUBEN: You are holding, although it's a

1 misdemeanor, we do have a holding order on the 602(o)?

2 THE COURT: Correct.

3 MR. RUBEN: The Court's holding then is that he is
4 directly guilty, if you will, directly responsible for
5 602(o) and the natural and probable consequence of his
6 direct liability is the felony vandalism?

7 THE COURT: Yes. So he aids and abets a felony
8 vandalism by his commission, his act of misdemeanor trespass
9 and the fact that the vandalism amounted to more than \$400
10 in damages or \$900 in damages, whatever the current
11 violation is --

12 MR. RUBEN: *less than ever in arguing that point.
13 But again I hate to nitpick here. I just want to make sure
14 I understand. Directly liable for the 602(o) and liable for
15 the Count 2 being held to answer on Count 2 as that is
16 direct and natural consequence of his act in Count 3?

17 THE COURT: Count 4.

18 MR. RUBEN: Count 4. Thank you, Judge.

19 THE COURT: Holding order will issue as to
20 Mr. Alcantara for all the reasons I just enunciated.

21 And so, Miss Young, you agree then with my
22 analysis as to -- and we're going to I think disagree on the
23 conspiracy charge -- you think I should issue a holding
24 order as to all seven defendants on the conspiracy charge.
25 I'm going to decline to do that because I believe the
26 evidence is insufficient.

1 *The fact of the holding on the conspiracy
2 charge, you agree with me then that there's insufficient
3 evidence to establish that Mr. Norris, Miss Johnson and
4 Miss Foster are directly liable for violating the trespass
5 statute.

6 MS. YOUNG: Yes. The Court's reasoning makes
7 sense.

8 THE COURT: I'm going to decline to issue a
9 holding order as to Mr. Norris, Miss Johnson and
10 Miss Foster.

11 THE CLERK: Hold on.

12 THE COURT: No holding order as to Miss Johnson,
13 Mr. Norris and Miss Foster.

14 MS. YOUNG: I should clarify, given the Court's
15 decision on Count 1, yes the Court's further decision would
16 flow reasonably, logically from that, yes.

17 THE COURT: All right. Discharging all counts as to
18 those three defendants.

19 And then as to Mr. Adams, I would issue the
20 holding order as to Count 2, the felony vandalism charge as
21 aider and better, in connection with Mr. Adams' commission,
22 I believe there's a strong suspicion to believe he directly
23 violated Penal Code Section 602(o) by trespassing and
24 refusing to leave after having been provided notice by law
25 enforcement that the agents directed law enforcement to
26 remove the trespassers from the property.

1 Mr. Adams, the evidence established that he was
2 in and out of the property over the entire three days that
3 the law enforcement were present on the scene and observed
4 him there. He was actively moving furniture, large desk or
5 bookshelf to prevent law enforcement from coming in. He was
6 engaged in spokesperson type activities. He was bringing
7 trash cans in and out and was present on the scene and then
8 active participant in the trespass.

9 And for the same reasons I'm holding for
10 Mr. Alcantara, his conduct had the natural and probable
11 consequence of aiding and abetting a vandalism charge.

12 So for all of those reasons, I would hold
13 Mr. Adams. Any comments?

14 MS. MC CAMEY: Well, a few. I'm just confused.
15 He's a direct perpetrator on Count 4; is that right?

16 THE COURT: Correct.

17 MS. MC CAMEY: And the Court's theory is that
18 vandalism, felony vandalism was a natural probable
19 consequence of the 602 and he also aided and abetted felony
20 vandalism?

21 THE COURT: He aids and abets the vandalism by his
22 active trespass.

23 MS. MC CAMEY: Okay. Well, I'm sure the Court
24 understands the law of aiding and abetting. I don't know
25 there's any evidence regarding the vandalism that Mr. Adams
26 knew the perpetrator; that he did anything to aid and assist

1 the perpetrator; he did in fact aid and assist the
2 perpetrator in the vandalism or know of the perpetrator's
3 criminal purpose. So I would argue with the Court on those
4 points.

5 THE COURT: Yes. So your argument's noted. I'm
6 going to issue the holding order as relates to Mr. Adams on
7 Counts 2 and Count 4. I'm going to discharge him on Count 1
8 and Count 3.

9 And then any argument for Mr. Laurendeau?

10 MS. BRIGGS: Your Honor, did you get the
11 opportunity to review the worksheet that I provided
12 indicating that he clocked in to work 15 minutes before the
13 verbal order and then within 20 minutes of the alleged
14 contact on the second, there's also -- all of the evidence
15 -- though I do want to know it appears that law enforcement
16 did an appalling lack of interest in preparing for testimony
17 for today and yesterday by having not reviewed the video
18 evidence they were testifying regarding. Some of them at
19 least not in the last year. They all mischaracterized the
20 nature of the evidence but did agree that the notices that
21 were posted on the first were removed; that when they
22 arrived on the 2nd, Mr. Laurendeau did in fact leave and did
23 not enter once there was actual proof that he personally was
24 informed, there's no proof that he entered the building
25 after that date, which is consistent by all counsel. As to
26 November 30th, there's a sole photograph that is completely

1 lacking in foundation but nonetheless during the day and
2 again based on his work schedule clearly indicates he did
3 not refuse any notice and not refused any order by the
4 elements of the statute itself on the bare bones there's
5 insufficient evidence to hold him on those charges.

6 THE COURT: Do you want to respond, Miss Young?

7 MS. YOUNG: Sure. There's actually evidence that
8 some of the flyers had been torn down by the protesters.
9 There's no evidence at all the flyers were gone. There's
10 ample evidence he's there the day after all of those notices
11 go up. Obviously when that different version was being
12 posted by Lieutenant Richard.

13 THE COURT: Yes. I believe we saw videotapes of
14 him being present at or near the time the property was being
15 initially posted. He's seen coming into the building and
16 going out of the building on numerous occasions over the
17 first and second. He's also --

18 MS. BRIGGS: I'm sorry, Your Honor, that's a
19 mischaracterization --

20 THE COURT: -- he's also directing persons not to
21 provide information to law enforcement about the group's
22 plans. So the evidence is ample to establish that there's a
23 strong suspicion to believe that he is actively
24 participating for the purposes of trespassing; that he's not
25 only directly trespassing, he's aiding others in
26 trespassing.

1 MS. BRIGGS: Two things. One, there was no testimony
2 regarding December first. Not a single mention of my client
3 remaining on December first, period.

4 On December 2nd, you're relying on the testimony
5 of the officers recitation of the video which does not
6 accurately reflect the video. It was another individual
7 asking police officers fairly aggressively "Where are we
8 supposed to go? Where are we supposed to go?" And
9 Mr. Laurendeau gestures at him and says "not the time." As
10 in these officers are not going to solve your problems about
11 being homeless.

12 The conclusions made by the Court do not reflect
13 the testimony regarding the first and regarding the second
14 are relying on inaccurate testimony by an officer who has
15 not recently reviewed that video and is not listening at the
16 audio at the time he reviewed it in court.

17 THE COURT: My understanding is Lieutenant
18 Richard's testified that it was about 3:30 p.m. on December
19 2nd he was posting exterior doors of the building. At that
20 time he engaged Mr. Laurendeau or shortly thereafter and
21 told Mr. Laurendeau directly that he needed to leave the
22 building. He was trespassing. He needed to leave
23 immediately. And thereafter --

24 MS. BRIGGS: Which he did then do.

25 THE COURT: Pardon me?

26 MS. BRIGGS: Which he did then do.

1 THE COURT: So again for the reasons I previously
2 stated, there's a strong suspicion to believe Mr. Laurendeau
3 trespassed and violated 602 subdivision O. I'm going to
4 issue the holding order as I indicated, Count 2 and Count 4.

5 So, Mr. Hackett, as to Miss Ripleyhipps?

6 MR. HACKETT: Your Honor, as to Bryan Hackett for
7 Miss Ripleyhipps. I'm actually, Your Honor, going to more
8 or less submit on your ruling. I would like to lodge an
9 objection merely to state that felony vandalism is neither a
10 natural and probable consequence of a misdemeanor trespass
11 under the facts and circumstances adduced at this hearing,
12 nor does the aiding and abetting theory. I join in
13 Miss Mc Camey's reading of aiding and abetting law which I
14 will not repeat or recite. But the -- neither did the
15 aiding and abetting theory make this a felony vandalism
16 necessarily ride of the coattails of the Count 4. With that
17 I submit, Your Honor.

18 THE COURT: All right. Also want to note that
19 defense counsel cites Wawanesa Mutual Insurance Company
20 versus Matlock for the proposition that a trespass cannot by
21 law result in a determination that vandalism occurs as a
22 natural and probable consequence of trespass.

23 First of all, that case is factually
24 distinguishable because, one, it involved a tort liability
25 involving two teenagers who were trespassing on property.
26 One of them was smoking a cigarette. And as a result of the

1 discarded cigarette, property was engulfed in flames and
2 property, significant property damage resulted so that the
3 nonsmoking teenager cannot be held liable for the acts of
4 the smoking teenager.

5 Apparently that's the only case that's addressed
6 the issue of whether vandalism or property damage can be
7 attributed to an act of trespassing when there's no direct
8 proof of vandalism.

9 And in this case we have persons who are
10 facilitating the movement into and out of the building who
11 are masked and engaged in acts of civil disobedience. And
12 they understand when they ask others not to commit acts of
13 vandalism, that it's probable that others will ignore that
14 request and advisement and they act at their peril when they
15 engaged in acts of civil disobedience of this type.

16 So for those reasons and all that I have
17 previously expressed, I'm going to issue the holding order
18 as to Miss Ripleyphipps as well as to Count 2, the felony
19 vandalism charge and Count 4, the trespass, the 602
20 subdivision O.

21 So as to those four defendants, two weeks for
22 arraignment on the information?

23 MS. YOUNG: Yes.

24 THE COURT: January 22nd at 8:15

25 MS. BRIGGS: Your Honor, defense counsel try to --
26 I do have a number of conflicts in the next two weeks out of

1 the district.

2 THE COURT: I don't want to put it off too long. I
3 do not want this case to linger. We're going to move this
4 case promptly.

5 MS. MC CAMEY: We just want to pick a date we all
6 can be here.

7 THE COURT: On or about January 22nd

8 MS. BRIGGS: Delays have not been caused by
9 defense counsel.

10 THE COURT: I understand.

11 MS. BRIGGS: Anything we can get would be
12 appreciated.

13 THE COURT: I understand.

14 THE DEFENDANT ALCANTARA: Actually I'm on calendar
15 on January 22nd for another matter

16 THE COURT: Perfect. So it will be convenient for
17 you to be here on that same date then.

18 MS. BRIGGS: Your Honor, would Friday, February
19 1st be an available date to return to court? I have jury
20 duty beginning the 14th. So I've had to schedule my court
21 dates, assuming I won't actually be retained on a jury, but
22 accommodate the possibility that week of the 14th so the
23 following two weeks are quite packed.

24 THE COURT: Mr. Alcantara, you're here on the 22nd
25 anyhow. Are you -- do you have court appearances that
26 conflict on the 22nd?

1 MS. BRIGGS: I will simply not actually be in the
2 state that day, not for court appearance. I will not be in
3 the state.

4 THE COURT: Gone that week?

5 MS. BRIGGS: Yes, which is why I'm requesting the
6 first. I don't know if it can be arraigned separately then
7 his appearance waived on the first for us to join up the
8 following court date. So he doesn't have to make any
9 additional trips to the court.

10 THE COURT: We can do that. We can arraign -- have
11 you talk to counsel about dates we could effectuate the
12 arraignment of the three others on the 22nd? You and
13 Mr. Laurendeau are on the first.

14 MS. BRIGGS: Counsel would rather do the 22nd or
15 1st.

16 MS. MC CAMEY: I'm happy to do the first, if
17 Miss Briggs --

18 THE COURT: If you want to have counsel appear for
19 you specially. All we're going to do is set dates?

20 MS. BRIGGS: I prefer to be present particularly
21 for that reason, dates don't need be disturbed.

22 THE COURT: Let's go ahead, have
23 Miss Ripleyhipps, Mr. Alcantara and Mr. Adams on the
24 January 22nd at 8:15 for arraignment on the information.
25 And we will have arraignment on the information for
26 Mr. Laurendeau on the first of February 8:15. Whatever

1 dates are selected on the 22nd, we'll use on the first.

2 Make sure you talk to everybody before the 22nd

3 MS. BRIGGS: I'm sure the Court's aware we will be
4 filing a 995 in a timely manner as well.

5 THE COURT: Yes. So for that reason, I'm going to
6 go ahead and maintain all of the exhibits that have been
7 entered into evidence.

8 All right. So we need to turn to the issue of
9 sanctions.

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