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IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF FRESNO
CENTRAL DIVISION
Before the Honorable W. Kent Hamlin, Judge
Department 73

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THE PEOPLE OF THE STATE)
OF CALIFORNIA,)
) Case No. F13902430
Plaintiff,)
)
vs.)
) REPORTER'S TRANSCRIPT
SHELDON SCARBER, GAIL SCARBER,)
AND CRYSTAL REYNOSO,)
Defendants.)

Fresno, California March 10, 2016
March 11, 2016

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A P P E A R A N C E S:

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FOR THE DEFENDANT ROBERT LAMANUZZI
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1 So I'm gonna let you go ahead and tell me if there is
2 something I've missed as far as -- I mean, you don't know
3 what I've heard, and what I haven't, what my conclusions are,
4 but, um, other than to say that I'm aware that we have a
5 great deal of evidence that puts these people together in an
6 effort to transport him across the border into Mexico, and
7 return, and pretend as though that never happened. Other
8 than that, if there is something more that I've missed, um,
9 feel free to point it out and explain to me why I should hold
10 each of these defendants to answer for these charges.

11 MS. GIMLE: We'd be prepared to submit it, Your Honor.

12 THE COURT: Okay. Well, here's the thing. Um, there is
13 no -- well, I'll just take some of your arguments and -- in
14 piece, because they -- like I say, I kinda wonder if you even
15 heard the same evidence I heard. There's no assumption that
16 Spencer Scarber fled and his father was in on it. There is
17 significant circumstantial evidence that proves it. And this
18 argument that it wouldn't be meaningful or sensible or
19 logical for him to report this false kidnapping because it
20 would cut off three hours of travel time assumes one thing,
21 and that's that Spencer isn't already across the border,
22 which all the evidence tells us he was. He was across the
23 border at 3:24 in the morning. That was the whole point. I
24 mean, Mr. Scarber's statements to law enforcement are false,
25 and they are made to law enforcement to establish that he's
26 in his home at such an hour that he couldn't possibly be

1 across that border. They're designed to establish that he
2 saw him in the home as late as 1:30, and that's simply not
3 true. It doesn't make -- it doesn't fit with the
4 circumstances. Okay. First of all, he did report a
5 disappearance, and he suggested it was likely a kidnap. And
6 you'll recall this goes back even to a supposedly threatening
7 note that was left the day before, that is the explanation
8 for why Gail Scarber and Crystal Reynoso and other family
9 members had to leave town, cause they were so concerned for
10 their safety. Well, I -- I -- admittedly, it's complicated
11 stuff, but I sat here and watched this presentation about the
12 phone records, and I don't see how anybody can look at that
13 and not conclude that Kyle Scarber brought Spencer Scarber to
14 a location in Kingsburg, and Selma, that vicinity --
15 apparently it looks like Kingsburg -- he handed him off to
16 Gail Scarber and Crystal Reynoso, who drove that red Toyota
17 or white Toyota Avalon across the border, then walks back,
18 leaving him and the car across the border, and then met with
19 Stephanie Walker, who then transported them back so that they
20 could somehow be back with some kind of a story that they had
21 nothing to do with his disappearance. Well, it's so
22 apparent, based on their meeting and all the phone calls,
23 that they were all involved in that process. They were all
24 involved in this effort of escorting him across the border
25 and buying him time to not only get across the border, but
26 get some distance from the border before anybody suspected

1 that that's in fact where he was. So he's already hours
2 across the border by the time anybody starts to wonder, hmmm,
3 this doesn't really look like a kidnapping, I wonder what
4 happened, and by then he's long since gone. That vehicle
5 drove into Mexico. I don't have to find every single overt
6 act here proven. I need to find there is a conspiracy to --
7 at least one act was committed in the State of California and
8 each of these defendants is connected to it, and that's well
9 established by the evidence. We've even got a note with
10 Brandon Smith's name in Mr. Scarber's truck. We've got the
11 Brandon Smith name in the room that Spencer was in sometime
12 previous. We've got Brandon Smith on all these documents.
13 They are clearly forgeries, and there's only really -- the
14 evidence supports the conclusion only one person in this room
15 forged them, and that's Gail Scarber. So I mean, she hands
16 them off to Mr. Kaiser, and I have no idea why, but
17 fortunately rather than destroy them as he was instructed, he
18 gave them to law enforcement. Coming from her, in that
19 setting, those items with this Brandon Smith connection, this
20 false ID he's carrying that reflects he's an individual born
21 registered or licensed in Texas, is all very strong evidence
22 that all three were involved in the process of aiding him to
23 escape the jurisdiction of the court; that for whatever
24 reason -- frankly their timing wasn't good. They probably
25 should have let him testify first, and then escorted him out
26 before the verdict, so that at least he'd have his testimony

1 before the jury on the off chance they might buy it. But
2 it's apparent that they didn't like the way this case was
3 going. They've told everybody it was all -- you know, people
4 were lying, that some friend or some guy extorted a
5 confession from him, that he wasn't being treated fairly, he
6 was being falsely convicted. They all believe that in their
7 hearts, and that's why they went to these steps to help them
8 escape the jurisdiction of the court, but it's apparent that
9 was their intent, and that they were all joined in that
10 effort. It's apparent that they all engaged in that
11 conspiracy to help him not appear in court on that charge.
12 So that gets you to Count 1 and that gets you to Count 2. As
13 far as Count 3 goes, again, you have a willful failure to
14 appear in court, and that's 1320.5. And again, there's clear
15 evidence they have not only attempted to help him avoid
16 prosecution for the rape case, but helped him fail to appear
17 in court. And they were all part of that effort to get him
18 out of the jurisdiction of the court so he could do so.
19 False counterfeit certificates of birth, forgery of the
20 Orange County recorder, those are clearly established by the
21 evidence. And I think it's a fair inference that when
22 Mr. Scarber tells this story, which is a story which he knows
23 to be false, based on all these conversations that he's had
24 on the phone with his daughters as they are escorting his son
25 across the border, it is -- it is quite apparent that he knew
26 he wasn't kidnapped, that he knew he hadn't disappeared. So

1 when he gives the officers that indication, talks about
2 seeing a light down on the road there, and then takes them to
3 this staged crime scene, he is impliedly saying he was
4 kidnapped. He doesn't have to say it in so many words. The
5 officers can draw that conclusion. He said he was concerned,
6 or thought he might have been, about this guy, this bad guy
7 who supposedly extorted a confession from him was somehow
8 involved in his disappearance. Calling the police when he
9 knows, in fact, his son was just across the border hours
10 earlier into Mexico, and his claiming he disappeared is a
11 false report to law enforcement. So there's sufficient
12 evidence for the People to allege the misdemeanor in Count 6
13 as well.

14 Each defendant is held to answer for each of the felony
15 charges in Counts 1, 2, and 3. Gail Scarber is held to
16 answer for the felony charges in Counts 4 and 5. And there
17 is sufficient evidence for the People to allege the
18 misdemeanor against Sheldon Kyle Scarber in Count 6 based on
19 the evidence that I heard. Again, I don't need to relate
20 every single piece of evidence that supports that conclusion.
21 All I can say is it's my job to assess the credibility of the
22 witnesses. The witnesses, for the most part, I found to be
23 highly credible. The statements attributed by those
24 witnesses to others I believe in fact were the statements
25 those others made, but those statements, almost without
26 exception, were lies, and part of the attempt to cover up

1 this effort. And they are so patently lies and they are made
2 by all of them, or others in conjunction with them, that it
3 supports the conclusion that in fact each was involved in
4 this concerted effort to help him escape the jurisdiction of
5 the court, to help him fail to appear at a proceeding where
6 he was ordered to appear, and to basically assist him in his
7 efforts to flee into Mexico, provide him with a false
8 identification, in the hopes that somehow he could remain
9 there or not be detected there, or not be brought back to
10 justice. That's what the evidence supports, and it supports
11 it rather strongly.

12 Now, are all these things gonna be proven beyond a
13 reasonable doubt at trial? I don't know. Is this more than
14 sufficient evidence for the Court to hold them to answer as
15 to all of these charges? Absolutely. And they are held
16 accordingly. I guess they are on some status or another,
17 either on bond or O.R. I'm not being asked today to modify
18 that status. I see Kyle Sheldon Scarber posted a bond
19 February 17th, 2013, Gail Scarber posted a bond February
20 17th, 2013, and Crystal Reynoso posted a bond February 17th,
21 2013. They are not identical to the schedule announced for
22 the charges, but I think they are sufficient for the Court to
23 have satisfaction based on their having made all previous
24 appearances that they will make future appearances, and the
25 Court allows them each to remain on bond pending further
26 proceedings.

1 Statutory date for the arraignment proceeding on the
2 information would be the 28th of March, a Monday. I can set
3 it at a later date with a time waiver.

4 MR. SARSFIELD: Can we do April -- or Friday, April 1st?
5 That would be our request.

6 THE COURT: Either Counsel want to confirm their
7 availability on that date?

8 MR. LAMANUZZI: I am not available, but if someone --

9 MR. SARSFIELD: I can appear for you.

10 MR. LAMANUZZI: -- could stand in for me.

11 MR. SARSFIELD: I'll appear for you.

12 THE COURT: Okay. Mr. Nuttall, is that satisfactory for
13 you and your client?

14 MR. NUTTALL: Let me check something.

15 THE COURT: Okay.

16 MR. NUTTALL: April 1st. Yes.

17 THE COURT: Good point. We are asked to try to combine
18 calendars and keep them light that day. The 31st is a court
19 holiday, and a number of judges and staff have decided to
20 make a four-day weekend out of it, and take the April 1st
21 off, so perhaps we can come up with another date.

22 MR. SARSFIELD: Can't do the 8th. How about Monday the
23 4th of April?

24 THE COURT: April 4 work for the People?

25 MS. GIMLE: I think that's fine, Your Honor.

26 MR. LOWE: Somebody will make it.