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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

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UNITED STATES OF AMERICA, ) Case No. 2:11-mj-00035-EFB  
)  
Plaintiff, ) Sacramento, California  
) Tuesday, August 30, 2011  
vs. ) 10:04 A.M.  
)  
CESAR CABALLERO, ) Court Trial.  
)  
Defendant. )

TRANSCRIPT OF PROCEEDINGS  
BEFORE THE HONORABLE EDMUND F. BRENNAN  
UNITED STATES MAGISTRATE JUDGE

APPEARANCES:

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LEGEND:    S = Stevens  
              W = Wiseman

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\*Admitted again.

FOR DEFENDANT:

(NONE)

1 SACRAMENTO, CALIFORNIA, TUESDAY, AUGUST 30, 2011, 10:04 A.M.

2

3 (Call to order of the Court.)

4 THE CLERK: Calling Mag. 11-00035-EFB, United States  
5 v. Cesar Caballero. Your Honor this is on calendar for a court  
6 trial.

7 THE COURT: All right. Your appearances, counsel.

8 MR. STEVENS: David Stevens on behalf of the United  
9 States, Your Honor. Good morning.

10 MR. WISEMAN: And good morning, Your Honor. Joseph  
11 Wiseman on behalf of Mr. Caballero, who's present in court, out  
12 of custody.

13 THE COURT: All right. This is the time set for the  
14 court trial in this matter. I have received and have read the  
15 trial brief that the defense filed, Mr. Wiseman. Mr. Stevens,  
16 I didn't get a trial brief from the government. Are you  
17 intending to make an opening statement?

18 MR. STEVENS: No, Your Honor.

19 THE COURT: All right. Are you ready to proceed?

20 MR. STEVENS: We are, Your Honor.

21 THE COURT: All right. Mr. Wiseman, I've read your  
22 trial brief. Is there -- do you want to add anything to it  
23 with an opening statement?

24 MR. WISEMAN: Your Honor, no, I don't need to make an  
25 opening statement at this time. However, Your Honor, in light

1 of the number of folks in the courtroom, I'd like to ask for a  
2 witness exclusion. I understand the government has a few  
3 witnesses they want to call, so I'd like to have those  
4 individuals who are not presently testifying to be excluded.

5 THE COURT: All right. I will enter such an order.  
6 I will have to rely on counsel to help me enforce it. So if  
7 you'll look around, and if you have any witnesses here that you  
8 intend to call, have them sit out in the hallway.

9 MR. WISEMAN: Thank you, Your Honor.

10 THE COURT: All right. Mr. Stevens, if you're ready  
11 to proceed, go ahead and call your first witness.

12 MR. STEVENS: The government calls Michael Chavez.

13 MICHAEL CHAVEZ, PLAINTIFF'S WITNESS, SWORN

14 THE CLERK: I'll have you state your full name and  
15 then please spell your last name.

16 THE WITNESS: Michael Chavez, C-h-a-v-e-z.

17 DIRECT EXAMINATION

18 BY MR. STEVENS:

19 Q. Mr. Chavez, where do you work?

20 A. I work for the U.S. Postal Inspection Service in  
21 Sacramento.

22 Q. How long have you been doing that?

23 A. Since June of 2006.

24 Q. What did you do prior to that?

25 A. I worked for Equifax in Denver, Colorado.

1 Q. Now, what do you do for the Postal Service?

2 A. I'm a criminal investigator wherein I investigate crimes  
3 involving United States mail.

4 Q. Can you give the Court a short summary of your training  
5 and experience?

6 A. I attended the basic inspector training academy at the  
7 U.S. Postal Inspection Service Academy in Potomac, Maryland  
8 from February to June of 2006. And then I've been employed as  
9 an inspector from June 2006 to present.

10 Q. I'd like to take you back to September 2010. Where were  
11 you working then?

12 A. At the U.S. Postal Inspection Service Sacramento.

13 Q. And what were your typical duties, being a criminal  
14 investigator?

15 A. I'm assigned to the external crimes team wherein I  
16 investigate crimes such as theft of U.S. mail, identity theft,  
17 primarily are the main duties as an external crimes inspector.

18 Q. Now, how did you get involved in this case?

19 A. I was initially contacted by Bob Cloud from the Tribal  
20 Regulatory Commission who advised me that there had been  
21 unauthorized changes of address on two separate addresses  
22 associated with the tribe.

23 Q. And so how does change of address work for the Postal  
24 Service?

25 A. The postal customer submits a form either on-line or in

1 person, a handwritten form. They'll put their current address,  
2 and the address where they're directing the Postal Service to  
3 forward their mail, and they turn it in at the post office.

4 Q. Now, have you had training on how this is done?

5 A. Yes.

6 Q. And could you describe that training for the Court?

7 A. Yeah, we just -- we were advised on how the process works,  
8 that once the form comes in, it's maintained by the Postal  
9 Service, a business record is kept documenting the actual  
10 change of address.

11 Q. And so you're familiar with those forms?

12 A. I am.

13 Q. And you got familiar with those forms from your training?

14 A. Correct.

15 Q. And you talked about the recordkeeping of those forms?

16 A. Correct.

17 Q. Explain to us how that works?

18 A. The hard copy -- if it's a hard copy, it's actually  
19 scanned and maintained by the Postal Service. The hard copy is  
20 maintained for a period of time before it's destroyed, and then  
21 we maintain the actual image, the scanned image of the change  
22 of address.

23 Q. And why is that?

24 A. Just as purposes of recordkeeping, so that we have on file  
25 that a change of address was put in on a specific address.

1 It's just documentation of a change of address.

2 Q. Now, when somebody does this in person, what do they have  
3 to do in order to do it in person?

4 A. They have to get a copy, the packet, which includes the  
5 form, they handwrite their old address, the address where they  
6 are requesting the USPS to forward the mail, they sign it, and  
7 they can drop it in P.O. box so they can turn it into the post  
8 office. Just any form of mailing.

9 Q. Do you have access to these records?

10 A. I do.

11 Q. And how do you have access to these records?

12 A. As part of my job duties I have access -- we have a  
13 system -- internal system that I can access by address or by  
14 name and retrieve the images of those changes of address that  
15 were hard copy, or actually see the information input if the  
16 change of address was submitted on-line.

17 Q. Now, you said you had received information that there had  
18 been an unauthorized forwarding of mail?

19 A. That's what was reported to me by Bob Cloud.

20 Q. And so what information did you take down in order to  
21 proceed?

22 A. Mr. Cloud informed me that he -- he provided me the name  
23 Cesar Caballero, so from that information I went into our  
24 internal system and ran -- queried the name Cesar Caballero and  
25 found the changes of address that had been entered.



1 MR. STEVENS: Your Honor, may I approach the witness?

2 THE COURT: Yes.

3 BY MR. STEVENS:

4 Q. I'm handing you what's been marked for identification  
5 purposes only at this point P1 through P4 and P10.

6 Postal Inspector Chavez, P1, do you see that one?

7 A. Yes, sir. I do.

8 Q. Do you recognize that?

9 A. I do.

10 Q. How do you recognize that?

11 A. This is the -- it's a copy of the packet, the change of  
12 address packet.

13 Q. And specifically what does it say on the front?

14 A. It's got United States Postal Service markings on it.

15 It's addressed to the Postmaster, and it's got a note on it,  
16 and a privacy notice describing the form.

17 Q. And what does the note say?

18 A. The note says the person signing this form states that he  
19 or she is the person, executor, guardian, authorized officer or  
20 agent of the person for whom mail would be forwarded under this  
21 order. Anyone submitting false or inaccurate information on  
22 this form is subject to punishment by fine or imprisonment, or  
23 both under Sections 21001, 1702 and 1708 of Title 18 United  
24 States Code.

25 Q. And you say you pulled that up on this case?

1 A. Yes.

2 MR. STEVENS: The government moves to admit P1.

3 MR. WISEMAN: No objection, Your Honor.

4 THE COURT: All right. It's admitted into evidence.

5 BY MR. STEVENS:

6 Q. Please turn to P2. Do you recognize P2?

7 A. I do.

8 Q. And how do you recognize P2?

9 A. This is a change of address form wherein the U.S. Postal  
10 Service was directed to forward mail going to 5281 Honpie Road,  
11 Placerville, California to a new mailing address of 6368  
12 Pleasant Valley Road.

13 Q. And you pulled that up specifically on this case?

14 A. Correct.

15 Q. And what information did you use to pull that up?

16 A. Just the name, Caballero, and the address.

17 MR. STEVENS: Government moves to admit P2?

18 MR. WISEMAN: No objection.

19 THE COURT: All right. P2 is in evidence.

20 BY MR. STEVENS:

21 Q. So I'm sorry, what as the effect of that form?

22 A. The effect of this form? This directed the U.S. Postal  
23 Service to begin the process of forwarding the mail that was  
24 going to 5281 Honpie Road in Placerville. It directed the  
25 Postal Service to forward it to 6368 Pleasant Valley Road in El

1 Dorado, California.

2 Q. Now, you spoke earlier and you said this could be done  
3 over the internet, or it could be done in person?

4 A. Correct.

5 Q. And how was it done in this case?

6 A. This was a handwritten form.

7 Q. And who signed it?

8 A. It signs -- the signature reads Cesar Caballero.

9 Q. P3? Do you recognize P3?

10 A. I do.

11 Q. And how do you recognize it?

12 A. It's a U.S. Postal Service authorization to hold mail  
13 form.

14 Q. And why did you pull that one?

15 A. It's something that was provided to me by the Postal  
16 Service, they provided me a copy of this.

17 Q. And where did you get that?

18 A. I got it from the Shingle -- the Placerville Post Office.

19 Q. And you reference what kind of form that is.

20 A. Yeah, authorization to hold mail.

21 Q. And are you familiar with those forms?

22 A. Yes.

23 Q. And are you familiar with the recordkeeping of those  
24 forms?

25 A. Yes, I am. They're maintained by the Postal Service, the

1 records.

2 Q. You seemed to kind of hesitate there.

3 A. No, it's maintained by the Postal Service at the office  
4 where it was turned in at and it directs the -- in this case,  
5 it directed the Postal Service to hold the mail starting on 8-  
6 23 of '10 to 9-23 of 2010.

7 Q. And as a postal inspector, you have access to those  
8 records?

9 A. I do.

10 Q. And you verified that it was associated with what address?

11 A. 5281 Honpie Road, Placerville, California.

12 Q. And was that the subject of either of the previous  
13 documents?

14 A. Yes, it was.

15 Q. And which one was that, was it associated with?

16 A. It would have been Exhibit P2.

17 Q. And so it directs the Postal Service to do what?

18 A. To hold the mail.

19 Q. Is that all it does?

20 A. That's my understanding of what it does.

21 Q. Were there any personal notes written on that one?

22 A. It says, "must show ID, Cesar Caballero only."

23 Q. And is that a normal thing you see on those?

24 A. I have not seen this on any of -- I haven't seen this kind  
25 of markings on others that I've seen.

1 Q. And so what does that tell you?

2 A. It means -- it tells me that the person that submitted  
3 this requested that ID be shown to retrieve the mail.

4 MR. STEVENS: The government moves to admit.

5 THE COURT: Any objection, Mr. Wiseman?

6 MR. WISEMAN: Your Honor, I'm going to object insofar  
7 as there is no identification of the handwritten note. There  
8 hasn't been a foundation laid as to the author of that note, so  
9 I'd object on lack of foundation.

10 THE COURT: All right. I -- I'll let you cross-  
11 examine on the note. I'm going to admit the document into  
12 evidence.

13 BY MR. STEVENS:

14 Q. And P4? What is that?

15 A. This is also a change of address dated 8-23 of 2010  
16 directing the U.S. Postal Service to forward all mail going to  
17 P.O. Box 1340 in Placerville, California to 6368 Pleasant  
18 Valley Road in El Dorado, California.

19 Q. And why did you pull that one up?

20 A. Because it was one of the addresses that was provided to  
21 me by Mr. Cloud as having been changed.

22 Q. And who signed that one?

23 A. That's signed by Cesar Caballero.

24 MR. STEVENS: The government moves to admit P4.

25 MR. WISEMAN: No objection.

1 THE COURT: Mr. Wiseman, any objection? No  
2 objection?

3 MR. WISEMAN: No objection.

4 THE COURT: All right. P4 is in evidence.

5 BY MR. STEVENS:

6 Q. P10. Do you recognize that?

7 A. I do.

8 Q. And how do you recognize that?

9 A. It's a change of address also for P.O. Box 1340, but it's  
10 in the name Shingle Springs Band of Miwok Indians where  
11 the -- directs the Postal Service to direct mail going to  
12 Shingle Springs Band of Miwok Indians at P.O. Box 1340 to 6368  
13 Pleasant Valley Road in El Dorado, California.

14 Q. And when is it dated?

15 A. 8-23 -- actually it's dated -- signed 8-28, but the date  
16 on it is 8-23.

17 MR. STEVENS: The government moves to admit P10.

18 MR. WISEMAN: No objection.

19 THE COURT: All right. P10 is accepted into  
20 evidence.

21 BY MR. STEVENS:

22 Q. So you got these documents and you saw where they were all  
23 being -- all the mail was being forwarded to. Where was it  
24 being forwarded to?

25 A. It was being forwarded to 6368 Pleasant Valley Road, El

1 Dorado, California.

2 Q. And did you make any effort to find out where that was?

3 A. I did.

4 Q. And what did you do?

5 A. I determined that it was in El Dorado. I contacted the  
6 Postal Service, they said it was, you know, just on the  
7 outskirts of El Dorado. That's it.

8 Q. Did you determine who lived --

9 A. It was determined that it was in El Dorado.

10 Q. Did you determine who lived there?

11 A. I referred to some law enforcement databases and  
12 determined that a person by the name of Cesar Caballero was  
13 actually listed as residing at that residence.

14 Q. And so how did you proceed with your investigation?

15 A. On the first -- on September 1st I traveled to 6368  
16 Pleasant Valley Road in El Dorado along with my partner,  
17 Inspector Misty Rocimo (phonetic) and attempted to locate the  
18 residence.

19 Q. Now, I see that you just referred to some paperwork up  
20 there.

21 A. Right.

22 Q. What did you refer to?

23 A. I referred to the date that I actually -- I wanted to make  
24 sure that the date that I went there was accurate.

25 Q. And what paperwork did you refer to?

1 A. I just referred to handwritten notes of mine, of when I  
2 went to the -- just kind of an outline of the steps I took.

3 Q. So you went to what residence?

4 A. The address, 6368 Pleasant Valley Road, El Dorado,  
5 California.

6 Q. And why were you going to that address?

7 A. Because that was the address listed on the changes of  
8 address where the mail was being forwarded to, and it was also  
9 the address I had listed as a possibility of where Mr.  
10 Caballero might reside.

11 MR. STEVENS: May I approach, Your Honor?

12 THE COURT: Yes.

13 (Pause.)

14 BY MR. STEVENS:

15 Q. Handing you what's been marked as P5 and P6 for  
16 identification purposes only.

17 A. Okay.

18 Q. Now, when you arrived at that residence, did you notice  
19 anything?

20 A. I noticed the mailbox at the entrance to the --

21 Q. And what --

22 A. -- to the area where you turn to go up to the residence.

23 Q. Now, referring to P5, you say you noticed the mailbox.

24 What did you notice about it?

25 A. I noticed that it appeared to be newly painted, and that



1 it had the markings for Shingle Springs Miwok Tribe Band of  
2 Miwok Indians, with the address 6368 Pleasant Valley Road.

3 Q. Now, looking at that photograph in P5, does that fairly  
4 and accurately show what you saw that day?

5 A. Yes, sir. It does.

6 MR. STEVENS: Government moves to admit P5.

7 MR. WISEMAN: No objection.

8 THE COURT: Any objection?

9 MR. WISEMAN: No objection.

10 THE COURT: All right. P5 is admitted into evidence.

11 BY MR. STEVENS:

12 Q. P6. See that one?

13 A. Yes, sir.

14 Q. And what is that?

15 A. It's the same photo as Exhibit P5, just from further away.

16 MR. STEVENS: Government moves to admit P6.

17 MR. WISEMAN: No objection.

18 THE COURT: All right. P6 is admitted into evidence

19 BY MR. STEVENS:

20 Q. And that's the address on that mailbox that the mail had  
21 been forwarded to?

22 A. Correct.

23 Q. Now, did you contact anyone there that day?

24 A. We did not. I left a card. I was unable to determine  
25 which residence was the actual residence, so I left my business

1 card in the mailbox.

2 Q. And you mean you inserted it into the mailbox?

3 A. I physically opened the mailbox and inserted my business  
4 card.

5 Q. What does it say on your business card?

6 A. Identifies me as -- by name and title, and gives contact  
7 information.

8 Q. And did you write why you needed to talk to anyone?

9 A. I don't recall if I did or not.

10 Q. So you left your business card. Anything else?

11 A. No.

12 Q. And so then how did the investigation proceed?

13 A. I received a call from somebody who said he was Mr.  
14 Caballero that same day and I advised him that the reason I  
15 wanted to talk to him was regarding some changes of address.

16 Q. Now, did you document this conversation?

17 A. I did document that I had a conversation with him.

18 Q. And how did you document it?

19 A. Just in my case notes, case file.

20 Q. Okay. And when did you write these notes?

21 A. Shortly afer -- I normally do it shortly after doing an  
22 interview, or having a contact.

23 Q. And so after a person purporting to Mr. Caballero called  
24 you, you noted that?

25 A. Correct.

1 Q. And what did you note in your notes?

2 A. I just noted that he had contacted me, and I had spoken  
3 with him, and he had stated that he had done the change of  
4 addresses during the conversation and I advised him at that  
5 time that I needed to speak with him in person, and we  
6 subsequently set up a meeting for the following week.

7 Q. Now, when you talked to him on the phone, was he  
8 cooperative?

9 A. Yes.

10 Q. Did you in any way threaten him?

11 A. No, I did not.

12 Q. Did you tell him that he had no choice but to talk to you?

13 A. No, sir. I didn't.

14 Q. So you just told him that you needed to talk to him and  
15 set up a meeting?

16 A. Correct. That I wanted to speak with him in person to  
17 discuss changes of address being directed to his address.

18 Q. And so when was the meeting set up for?

19 A. We ended up meeting on September -- I'm going to refer to  
20 my notes -- September 9th.

21 Q. And where did you meet?

22 A. We met at Starbuck's right off the highway -- right off  
23 Highway 50, I believe in Placerville.

24 Q. And who came up with that?

25 A. Who came up with what?

1 Q. Where to meet?

2 A. I'm not sure. I think between the two of us we just  
3 decided that was the place to meet.

4 Q. Let's go through that meeting.

5 A. Okay.

6 Q. Tell us exactly what happened.

7 A. My partner and I, Inspector Troy Dickenson (phonetic)  
8 arrived and shortly thereafter, Mr. Caballero, I recognized him  
9 from his DMV photograph, approached. We introduced ourselves,  
10 showed him identification, identified him -- identified myself,  
11 you know, showed him my government issued credential. He was  
12 accompanied by a person he identified as Richard Lawson and we  
13 sat down on a table outside of Starbuck's and began the  
14 interview.

15 Q. And take us through the interview.

16 A. I reminded Mr. Caballero that I wanted to talk to him  
17 about the changes of address that had been directed to his  
18 address, and I took out copies of two of the forwarding that  
19 have been admitted into -- have been admitted today, and I  
20 showed him two of the changes of address 5281 Honpie Road, and  
21 the other for P.O. Box 1340. I showed him copies of those, and  
22 he admitted that he completed both changes of address.

23 Q. Let's make the record clear. Go through those and tell us  
24 exactly which ones you showed him?

25 A. I showed him Exhibit 10 and Exhibit 2.

1 Q. So you showed this to him. How did it go?

2 A. It went well. I just showed him, I said here's the -- you  
3 know, I showed them to him and he immediately admitted to  
4 completing the changes of address.

5 Q. Well, what did he say?

6 A. He stated, I did it, it's our mail.

7 Q. And did you specifically note this?

8 A. I did, I -- we quoted his statement that it's our mail.

9 Q. So when you made little air quotation marks there --

10 A. Right.

11 Q. -- does that mean that when you wrote up your report you  
12 specifically put that in quotations?

13 A. I did.

14 Q. And why did you put that particular statement in quotation  
15 marks?

16 A. It was his exact words when presented with the change of  
17 address forms.

18 Q. And so what did you go on to tell Mr. Caballero?

19 A. I just -- I informed him that it had been reported to me  
20 by the tribe that these changes of addresses that he admitted  
21 to doing were unauthorized that he was not authorized to do it.

22 Q. And how did he respond?

23 A. He responded by -- he stated that the people currently  
24 representing the tribe were not authorized to be receiving the  
25 mail, and he quoted a Supreme Court decision, Jerry v. Salazar,

1 which I was unfamiliar with, but he provided me information,  
2 and stated that as a result of this Supreme Court ruling that  
3 the tribe as it stood was not authorized to be receiving the  
4 mail.

5 Q. And how did you end that interview with Mr. Caballero?

6 A. We continued, you know, we continued on. He continued to  
7 hand me additional documents. He told us about -- he continued  
8 to tell us about why the tribe was unauthorized. He asked me  
9 for assistance in making contacts with the Bureau of Indian  
10 Affairs. He asked me if I could find somebody at the Indian  
11 Affairs who could find -- who could provide me information, and  
12 I just informed him that it was basically my main concern was  
13 to ensure that the mail was getting to the proper recipients.

14 Q. And you have your summary of your report in front of you;  
15 right?

16 A. Right.

17 Q. Go to the next to the last paragraph.

18 A. Yes.

19 Q. You advised him of what?

20 A. I advised him that it was a federal offense to obstruct  
21 the U.S. mail, and I referenced 18 USC 1701.

22 Q. And how did he respond to that?

23 A. He stated he understood how I thought that he could be  
24 obstructing the mail based on the information I had, but he  
25 went on to say that the tribe was actually guilty of this,

1 because they had no right to be receiving this mail.

2 Q. Did he say anything else?

3 A. Yeah. He did say that he had received a couple of pieces  
4 of mail, only a couple he said. He agreed to put them back in  
5 the mail stream. And he stated that he didn't cash any checks,  
6 or receive any money as a result of any of the mail that he  
7 received.

8 MR. STEVENS: May I approach, Your Honor?

9 THE COURT: Yes.

10 BY MR. STEVENS:

11 Q. Handing you what's been marked for identification purposes  
12 only at this point as P8 and P9.

13 A. Okay.

14 Q. Do you recognize P8?

15 A. I do.

16 Q. How do you recognize it?

17 A. I retrieved it from the -- I requested it from the post  
18 office myself.

19 Q. And why did you request it?

20 A. I was just verifying the name that was actually listed on  
21 P.O. Box 1340. I wanted to verify.

22 Q. And refresh our memory, 1340 was the tribe's P.O. Box?

23 A. Yes. Correct.

24 Q. And how long had that P.O. Box been in existence?

25 A. According to the records I was provided, March 1st of 1986

1 they've held this P.O. Box.

2 MR. STEVENS: Government moves to admit.

3 THE COURT: Any objection, Mr. Wiseman?

4 MR. WISEMAN: Your Honor, may I voir dire the witness  
5 about a foundational question?

6 THE COURT: Yes. You want to interrupt the direct  
7 and do it now, or do you want to do it on cross?

8 MR. WISEMAN: I'll do it on cross, and if we could  
9 save any objection to that document --

10 THE COURT: All right. So I'll reserve ruling on the  
11 admissibility until then. All right.

12 BY MR. STEVENS:

13 Q. And P9?

14 A. Yes.

15 Q. What is that?

16 A. This is a notification that is sent out, the Postal  
17 Service when somebody does a change of address, the Postal  
18 Service sends a notification to both the old address that's  
19 being changed, and a new address of where the mail's being  
20 directed to as a means of notifying people that there's -- a  
21 change of address has been put in.

22 Q. And why did you pull that?

23 A. Just because I thought it was relevant to the case.

24 Q. And where is that one directed to?

25 A. It's directed to the current residents of the Shingle



1 Springs Band of Miwok Indians, P.O. Box 1340, Shingle Springs,  
2 California.

3 MR. STEVENS: Government moves to admit P9.

4 MR. WISEMAN: I have no objection to that.

5 THE COURT: All right. P9 is admitted into evidence.

6 BY MR. STEVENS:

7 Q. So, after you had your meeting with Mr. Caballero, how did  
8 you proceed with your investigation?

9 A. I contacted Ray Diaz from -- can I refer to my notes for  
10 his exact title? He's a special agent for the California  
11 Department of Justice, Bureau of Gambling Control. I contacted  
12 him.

13 Q. And why did you contact him?

14 A. Because I knew that he had -- I had been given his name by  
15 Bob Cloud from the Tribe Regulatory Commission and I knew that  
16 from my conversations with Mr. Cloud, that Mr. Diaz had more --  
17 he worked more often with dealings with Indian tribe matters.

18 Q. And did you conduct any further investigation on this  
19 case?

20 A. I provided -- I met with Mr. Diaz that same afternoon, the  
21 afternoon of the 9th, and I provided him all of the documents  
22 that Mr. Caballero had provided me, and explained to him that I  
23 had spoken to him about the changes of address, and I advised  
24 him that I had told Mr. Caballero I would provide Mr. Diaz the  
25 documents he had provided me, and I provided him all the

1 documents.

2 MR. STEVENS: Thank you.

3 THE COURT: All right. Cross-examination, Mr.  
4 Wiseman?

5 CROSS-EXAMINATION

6 BY MR. WISEMAN:

7 Q. Good morning, Mr. Chavez.

8 A. Good morning.

9 MR. WISEMAN: May I approach the witness, Your Honor,  
10 to retrieve the documents that were introduced?

11 THE COURT: Yes, you may.

12 (Pause.)

13 BY MR. WISEMAN:

14 Q. Now, in your investigation, your initial investigation of  
15 this matter, on direct examination you said that you received  
16 some sort of communication from a Bob Cloud?

17 A. Correct.

18 Q. And that started your investigation?

19 A. Yes, it did.

20 Q. Correct. At any -- did you have any conversations with  
21 Cesar Caballero before you had a conversation with Bob Cloud?

22 A. No, I did not.

23 Q. Okay. You have no recollection of any email  
24 correspondence with Mr. Caballero during your investigation?

25 A. Not that I recall.

1 Q. Okay. Now, during your investigation, did you have a  
2 conversation with a postal employee by the name of Lark Stone?

3 A. I did have a conversation with her.

4 Q. And when in the sequence of your investigation did you  
5 have that conversation with Lark Stone?

6 A. I had a conversation with her when I was advised that she  
7 was -- that Mr. Caballero had come into the post office and  
8 submitted for changes of address.

9 Q. And by whom were you advised that Mr. Caballero came into  
10 the post office?

11 A. I was advised by the postmaster of her station.

12 Q. And what prompted -- do you know why the postmaster  
13 advised you that Mr. Caballero had come in and requested change  
14 of address?

15 A. Do I -- what's the question? I'm sorry.

16 Q. In other words, if I understand your testimony, you  
17 approached Ms. Stone after you were advised by the postmaster  
18 that Mr. Caballero had come in, and --

19 A. Correct.

20 Q. -- attempted to change some addresses; correct?

21 A. Correct.

22 Q. Okay. And did you -- then you subsequently had a  
23 conversation with Ms. Stone; correct?

24 A. Yes. I had a phone conversation with her.

25 Q. And Ms. Stone is an employee of the post office up in

1 Placerville; correct?

2 A. Yes, she is. She's a -- I believe she's a clerk at the  
3 post office.

4 Q. And during the conversation with Ms. Stone, did she advise  
5 you that Cesar Caballero had come into the post office and  
6 requested a change of address?

7 MR. STEVENS: Objection, hearsay.

8 MR. WISEMAN: I'm not asking --

9 THE COURT: The objection is hearsay?

10 MR. STEVENS: Yes.

11 MR. WISEMAN: Not necessarily for the truth of the  
12 matter, but to inquire as to his -- the agent's motive --

13 THE COURT: All right. It's overruled. It's  
14 admitted for that purpose.

15 BY MR. WISEMAN:

16 Q. Okay. And did -- in the conversation with Ms. Stone, did  
17 she, in fact, tell you that Mr. Caballero had come in and  
18 requested a change of address?

19 A. She stated that she had a conversation with him, and he  
20 had requested a change of address.

21 Q. And did she also tell you during that conviction that Mr.  
22 Caballero -- well, strike that.

23 During the conversation you had with Ms. Stone, did she  
24 advise you that she was informed of some sort of tribal dispute  
25 that Mr. Caballero was having with some folks that ran the

1 casino up in Placerville?

2 THE COURT: Before you answer, you -- you're rising  
3 again, Mr. Stevens. Do you have another objection?

4 MR. STEVENS: I renew my objection.

5 THE COURT: All right. The declarant is a postal  
6 employee; is that correct?

7 MR. STEVENS: That is correct.

8 THE COURT: All right. And your objection is  
9 hearsay?

10 MR. STEVENS: Yes, Your Honor.

11 THE COURT: overruled. You may answer.

12 THE WITNESS: Specifically -- what's the question?  
13 I'm sorry.

14 BY MR. WISEMAN:

15 Q. All right. During the conversation with Ms. Stone, the  
16 postal employee, did she tell you that she was informed of some  
17 sort of dispute that Mr. Caballero was having with some other  
18 tribal members?

19 A. She advised me that he provided her documentation showing  
20 that he should be authorized to make the change of addresses  
21 that he was submitting.

22 Q. Okay. So she told you that he had -- that Mr. Caballero  
23 had provided her with some documents?

24 A. He had shown her documentation.

25 Q. Okay. And did she also tell you that she was concerned as

1 a postal employee about who was entitled to receive the mail  
2 that was directed to the Shingle Springs Miwoks?

3 A. I don't recall if she made that statement.

4 Q. Okay. Did she tell you in that conversation that she  
5 actually consulted with her supervisor as to what to do in this  
6 dispute?

7 A. Yes. She did consult with her supervisor.

8 Q. Okay. And did she also tell you in that conversation that  
9 she had explained to Mr. Caballero that there was a dispute and  
10 she was trying to resolve it with her supervisor?

11 A. I don't recall if she made that statement.

12 MR. STEVENS: Objection, Your Honor. Now it's double  
13 hearsay.

14 MR. WISEMAN: Again, not for the truth of the matter,  
15 Your Honor, just to inform the witness as to why he pursued the  
16 investigation.

17 THE COURT: All right. I'll limit it to that  
18 purpose.

19 MR. WISEMAN: Okay.

20 THE COURT: But it -- Mr. Stevens, it seems to me if  
21 these declarants are postal employees, it would be admissible.

22 BY MR. WISEMAN:

23 Q. Now, Mr. Chavez, you testified that in fact at some point  
24 that you reached out -- well, strike that. You testified that  
25 you left, I believe it was on September 1st, you left your

1 business card in the mailbox associated with an address that --  
2 where Mr. Caballero lived; correct?

3 A. Correct.

4 Q. Okay. And you also testified you were shown by counsel a  
5 photograph of the post box -- or the mailbox; correct?

6 A. Correct.

7 Q. Okay. And did you -- by the way, did you take these  
8 photographs that are depicted in P5 and P6?

9 A. I did not.

10 Q. Okay. And from where did you obtain these photographs?

11 A. I believe Special Agent Diaz took the photographs, as far  
12 as I know. I did not take the photographs.

13 Q. And how -- were you with Mr. Diaz at the time that he  
14 was --

15 A. I was not.

16 Q. Okay. So you're not sure when these photographs were  
17 taken; correct?

18 A. I'm not; correct.

19 Q. But your testimony is that what's depicted in these  
20 photographs accurately represent what was on the mailbox;  
21 correct?

22 A. Correct.

23 Q. And how far did you get from -- to -- strike that.

24 How close did you get to the actual mailbox when you went  
25 up to -- strike that -- because you obviously got close to the

1 mailbox, because you put your card in; right?

2 A. Correct.

3 Q. And you testified that it appeared to be freshly painted?

4 A. Appeared to be to me.

5 Q. What about the mailbox that led you to believe that it was  
6 freshly painted as opposed to paint being there for who knows  
7 how long?

8 A. It just appeared to me that it had been -- there was new  
9 paint on it.

10 Q. Are you familiar with painting mailboxes?

11 A. I am not.

12 Q. Okay.

13 A. It just appeared to me that it was.

14 Q. All right. So when you left your card you testified that  
15 you -- that same day you received a telephone call from Mr.  
16 Caballero?

17 A. I believe it was the same day.

18 Q. Okay. And in that -- there was a brief conversation you  
19 had with him?

20 A. Very brief. Very brief.

21 Q. And the idea was to set up a meeting with Caballero later?

22 A. Correct.

23 Q. Okay. So as I understand your testimony, about a week  
24 later you, in fact, met with Mr. Caballero?

25 A. I did.



1 Q. And you were at the Starbuck's; correct?

2 A. Correct.

3 Q. All right. Was that a -- was the venue conducive to  
4 having a conversation with him?

5 A. I conduct interviews at Starbuck's multiple times, so I  
6 deemed it conducive.

7 Q. Okay. And that was a place that the two of you agreed  
8 upon; correct?

9 A. Correct.

10 Q. Okay. And in -- during the conversation with Mr.  
11 Caballero, he obviously knew you were a postal inspector;  
12 correct?

13 A. I did -- yeah, I believe so. I showed him my  
14 identification.

15 Q. And during the conversation with Mr. Caballero, how that's  
16 on the 10th of September.

17 A. I believe the 9th, I believe.

18 Q. On the 9th, pardon me. You testified that you showed him  
19 certain documents; correct?

20 A. Correct.

21 Q. And did you show Mr. Caballero the actual change of  
22 addresses that you testified to, which I believe are depicted  
23 in P4 and P10?

24 A. I showed him copies of a change of address from each P.O.  
25 Box 1340 as well as the Honpie Road address.

1 Q. And sir, how long did this face-to-face meeting take  
2 place?

3 A. Approximately an hour.

4 Q. You were with Mr. Caballero for an hour?

5 A. Approximately.

6 Q. Okay. And you were with your partner at that time?

7 A. Correct.

8 Q. And that partner is again, who?

9 A. Troy Dickenson, postal inspector.

10 Q. Troy Dickenson. Did Mr. Dickenson take notes as well?

11 A. No, I did the note taking.

12 Q. Okay. So during this hour conversation, you confronted  
13 Mr. Caballero with the change of address forms; right?

14 A. Correct.

15 Q. And Mr. Caballero basically said, without a doubt, I did  
16 it, I submitted these forms.

17 A. He stated he submitted them; correct?

18 Q. And did Mr. Caballero -- did you ask him, by the way, if  
19 that was his signature, for example, of the bottom left of both  
20 P4 and P10?

21 A. I don't recall if I asked him or not.

22 Q. Okay. But he didn't deny they were his signatures; right?

23 A. He did not deny; no.

24 Q. Okay. And during this hour conversation, I take it you  
25 got into some discussion about Mr. Caballero's motive for doing

1 this; right?

2 A. Correct.

3 Q. And Mr. Caballero during that meeting explained to you  
4 that there has been a long-running dispute that he has with a  
5 different tribe; correct?

6 A. He stated that he was in a dispute with the tribe.

7 Q. Okay.

8 A. That's my recollection, and went on to explain, and  
9 provide me documentation.

10 Q. Okay. And how many documents did he provide you during  
11 that hour-long meeting?

12 A. I don't know the exact number, it was a stack of them --

13 Q. Yeah.

14 A. -- that I handed on to Special Agent Diaz.

15 Q. So, Mr. -- did Mr. Caballero actually give you copies of  
16 these things?

17 A. Yes, he did. He provided me copies.

18 Q. For your perusal, and for you to take possession of?

19 A. Correct.

20 Q. Okay. Now, in those documents, did Mr. Caballero -- well,  
21 strike that.

22 Did Mr. Caballero explain to you that one, he was not a  
23 member of the tribe that was running the Red Hawk Casino up in  
24 Placerville?

25 A. I don't recall if he made the statement claiming to be a

1 member of the tribe or not.

2 Q. Okay. Did Mr. Caballero during that meeting tell you that  
3 he is a Miwok?

4 A. I don't -- I don't recall what he said in terms of what  
5 his affiliation was. I just know that he stated that the tribe  
6 as it stood was not recognized and he began providing me  
7 documentation.

8 Q. Right. And he did tell you that the reason that he  
9 submitted the change of address for the Shingle Springs Miwoks  
10 is that he believed that he was entitled to get mail addressed  
11 to them; correct?

12 A. Correct. He was a --

13 MR. STEVENS: Objection, Your Honor. This would be  
14 hearsay. It's not a statement of a party opponent offered by a  
15 party opponent.

16 THE COURT: All right. Repeat the question again. I  
17 want to -- restate your question.

18 MR. WISEMAN: All right.

19 BY MR. WISEMAN:

20 Q. During the conversation with Mr. Caballero, he told you,  
21 correct, that he submitted the change of address forms because  
22 he believed that he was entitled to receive mail that was  
23 directed to the Shingle Springs Miwok; do you recall that?

24 A. I --

25 THE COURT: All right. Do you want -- just a minute,

1 before you answer, I assume your objection now is hearsay, is  
2 that right, Mr. Stevens?

3 MR. STEVENS: Yes, Your Honor.

4 THE COURT: All right. You're trying to elicit your  
5 client's own statement, and the --

6 MR. WISEMAN: Yes.

7 THE COURT: And the relevance of the statement is?

8 MR. WISEMAN: The relevant statement is -- goes to  
9 Mr. Caballero's state of mind with respect to submitting the  
10 change of address form. I mean, I can withdraw it for the time  
11 being.

12 THE COURT: Well, the objection's sustained.

13 MR. WISEMAN: Okay.

14 BY MR. WISEMAN:

15 Q. Now, the -- do you remember anything, by the way, about  
16 the documents that Mr. Caballero provided for you?

17 A. I remember they all -- at least some of them that he had  
18 had government markings on them, Internal Revenue Service,  
19 Department of the Interior, and he continued to provide me  
20 these. He provided me public notices from newspapers and it  
21 was just documentation that I was going to provide to Ray Diaz,  
22 because I knew my only concern was the -- making sure that the  
23 mail was getting to where it needed to get to.

24 Q. But at that moment, you believed that the mail needed to  
25 be delivered elsewhere?

1 A. It was my opinion that the mail needed to continue to  
2 go -- going where it was prior to the change of addresses that  
3 were submitted.

4 Q. And that was based upon your conversation with Mr. Bob  
5 Cloud?

6 A. With Bob Cloud, with the Postal Service.

7 Q. And what did you learn through the Postal Service to lead  
8 you to believe that the proper place where that mail should  
9 have been delivered was elsewhere?

10 A. I learned that it had been delivered to those two  
11 addresses consistently for a period of time, and then I was  
12 notified by Bob Cloud that there were fraudulent changes of  
13 address that were put in, so at that point, I determined that  
14 until I could conclude my investigation, or that there was some  
15 resolution that the mail was going to continue going to the  
16 recipients prior to the change of address that was submitted.

17 Q. So when you -- at the time that you met with Mr. Caballero  
18 on the 9th of September is -- but I understand your testimony,  
19 sir, is that your goal was to get the mail back to where you  
20 thought the proper recipient was?

21 A. It was my goal to get -- correct, to the proper recipient.

22 Q. Now, did you explain that to Mr. Caballero that you  
23 believed that the mail was going to the wrong place?

24 A. I advised Caballero that I was aware that he was involved  
25 in a civil matter, and that until -- and that he had an

1 upcoming hearing, and that until there was a resolution reached  
2 by some sort of governing body, the mail was going to continue  
3 to go to where it was originally sent to prior to the change of  
4 address.

5 Q. So you explained to him that you -- to Mr. Caballero, that  
6 you knew that there was a civil matter going on?

7 A. Correct.

8 Q. And in fact, there was a civil matter going on; correct?

9 A. Correct.

10 Q. And you, in fact, submitted a declaration on behalf of the  
11 folks who run the dry hawk -- or the casino up there in  
12 Placerville in support of their civil action; correct?

13 A. I provided a documentation of my interview of Mr.  
14 Caballero.

15 Q. Right.

16 A. I didn't support it one way or the other, I just provided  
17 my documentation from my interview.

18 Q. But my point is, is that on behalf of the folks that run  
19 the casino up in Placerville, you provided a declaration to  
20 their lawyers; correct?

21 A. Correct.

22 MR. STEVENS: Objection, asked and answered.

23 BY MR. WISEMAN:

24 Q. Okay. Now, I want to go back to the documents that Mr.  
25 Caballero provided you, and gave you, invited you to take a

1 copy of, which I understand you did take a copy of, of the  
2 documents he provided -- Mr. Caballero provided you on the 9th  
3 of September?

4 A. Correct.

5 Q. Right. Did you have any reason to believe that those  
6 documents were not accurate in what they depicted?

7 A. I had no reason to believe. I took them at face value  
8 when he handed them to me, advised him I would pass them on to  
9 somebody else.

10 Q. And in your investigation, sir, did you do anything to  
11 investigate the substance of Mr. Caballero's claim that there  
12 was a legitimate dispute that he was having with the tribe that  
13 ran the casino?

14 A. No, I did not.

15 Q. Okay. Now, I want to call your attention to a document  
16 that has been identified as P3, it's not -- and I believe it's  
17 been admitted into evidence. Can you see this, sir?

18 A. I can.

19 Q. Okay. This is -- this appears to be an authorization to  
20 hold mail. Now you -- counsel asked you about some handwriting  
21 on here, "must show ID, Cesar Caballero only." Do you have any  
22 idea whose handwriting that is?

23 A. I do not.

24 Q. Did you speak with anybody as to who may have authored  
25 that?



1 A. No, I did not.

2 Q. And if you look at this, and if you can't see it from your  
3 perspective, I'll be happy to bring it up to you. Do you see  
4 the handwriting appears to be different; correct?

5 A. I don't know. I'm not a handwriting expert, I don't know.

6 MR. WISEMAN: Well, may I approach?

7 THE COURT: Yes.

8 (Pause.)

9 BY MR. WISEMAN:

10 Q. Sir, the top portion of that document appears to have been  
11 filled out by somebody who signed it under the name Cesar  
12 Caballero; correct?

13 A. Correct.

14 Q. Okay. If you look at that handwriting, from just your lay  
15 perspective, and you compare it to the handwriting where  
16 it's -- or the bottom, does it appear to be the same?

17 A. No, it doesn't.

18 MR. STEVENS: Objection, lack of foundation.

19 THE COURT: Mr. Wiseman, the witness has testified  
20 he's not a handwriting expert, in spite of that, you want him  
21 to make a handwriting analysis comparison?

22 MR. WISEMAN: I think that as a lay witness he can  
23 look at the document and determine if it appears to be the same  
24 or different. I don't think it requires an expert to make that  
25 determination.

1 THE COURT: All right. I'll allow him to answer the  
2 question, but I don't -- I really can't give it a whole lot of  
3 weight, Mr. Wiseman, given the testimony you've just elicited  
4 that he has no expertise in the matter.

5 MR. WISEMAN: All right.

6 THE COURT: All right. You may answer.

7 THE WITNESS: What -- so answer to --

8 BY MR. WISEMAN:

9 Q. The question is, from your lay perspective, knowing that  
10 you're not an expert, but does the handwriting appear to be  
11 different to your lay eye?

12 A. Yeah. Yes.

13 Q. Okay.

14 MR. WISEMAN: May I approach?

15 THE COURT: Yes.

16 (Pause.)

17 BY MR. WISEMAN:

18 Q. And sir, going back to this hour-long conversation that  
19 you had on the 9th of September, is there anything that you  
20 recall that Mr. Caballero told you that's not reflected in your  
21 notes?

22 A. No. My report accurately reflects my recollection of the  
23 interview and the notes that I took.

24 Q. Right. And you testified that Mr. Caballero said to you  
25 in response to your comment to him that it was a federal

1 offense to obstruct mail, you testified that Mr. Caballero said  
2 he understood how what he had done could be mistaken for  
3 obstructing mail; correct?

4 A. That's correct.

5 Q. Okay. And he was cooperative through the -- through this  
6 interview; right?

7 A. Yes, he was.

8 Q. Okay. And he also advised you that he didn't -- his  
9 intent was merely to obtain mail that he thought should be  
10 delivered to him; correct?

11 A. Correct.

12 MR. WISEMAN: Okay. May I have a moment, Your Honor?

13 THE COURT: Yes.

14 (Pause.)

15 MR. WISEMAN: And Your Honor, no further questions at  
16 this time. And with respect to the government's attempt to  
17 introduce P3, again, I would object on lack of foundation.

18 THE COURT: All right. Was that the exhibit you were  
19 going to voir dire on?

20 MR. WISEMAN: Yes, Your Honor. This is the document  
21 that has the handwriting regarding showing ID.

22 THE COURT: All right. All right. That was P3,  
23 then?

24 MR. WISEMAN: That was P3.

25 THE COURT: I thought it was 8. All right.

1 The -- I'm going to admit the exhibit. You've made your point  
2 as to the handwritten part of the exhibit, and I'll allow you  
3 to argue that when we get to that point.

4 Any redirect, Mr. Stevens?

5 MR. STEVENS: Yes, Your Honor.

6 REDIRECT EXAMINATION

7 BY MR. STEVENS:

8 Q. Postal Inspector, why didn't you go and determine who was  
9 the rightful leader of the tribe?

10 A. Because I was only concerned about who was -- my job only  
11 entail making sure that the mail's getting to where it was  
12 supposed to be going.

13 Q. Where it was supposed to be going.

14 A. Or who -- that it was going to who it was directed to.

15 Q. Where it was addressed to?

16 A. Correct.

17 Q. To whom it was specifically addressed to?

18 A. Correct.

19 MR. STEVENS: Thank you.

20 THE COURT: Any recross?

21 MR. WISEMAN: Just briefly.

22 RECROSS EXAMINATION

23 BY MR. WISEMAN:

24 Q. Sir, your -- the testimony that you've given under direct  
25 and cross, it's fair to say that you were aware that there was

1 some sort of dispute as to who was entitled to this mail;  
2 correct?

3 A. I knew there was a dispute; correct.

4 Q. Okay. And counsel just asked you a question, and your  
5 response was you were just attempting to make sure the mail got  
6 to the right recipient; correct?

7 A. Correct.

8 Q. But, since you knew there was a dispute, how did you  
9 ascertain that the proper recipient was to whom you thought the  
10 mail should go?

11 A. Based on the fact that the mail had been going to these  
12 addresses for an extended amount of time, and the fact that it  
13 was reported by Mr. Cloud that there had been an unauthorized  
14 change of address.

15 Q. Okay. And in response to Mr. Cloud's comment, what you  
16 did is, as you testified to, you undertook this investigation;  
17 correct?

18 A. Correct.

19 Q. All right. And at the end of the investigation, you  
20 became aware that Mr. Caballero had a dispute with the tribe,  
21 and that he believed that he had the right to receive that mail  
22 directed to the Shingle Springs Miwok; correct?

23 MR. STEVENS: Objection, that's outside the scope.  
24 My question was why didn't he try to determine who the rightful  
25 leader of the tribe was.

1 THE COURT: Overruled. You may answer.

2 THE WITNESS: Can you repeat it please?

3 BY MR. WISEMAN:

4 Q. Well, you -- we've established that you knew during your  
5 investigation there was a dispute as to -- with Mr. Caballero  
6 believing that he had the right to obtain that mail that was  
7 directed to the Shingle Springs Miwok; correct?

8 A. Yeah. He stated that to me.

9 Q. Okay. And -- but what I'm simply trying to get at is you  
10 concluded that the mail should go to the folks that Bob Cloud  
11 was involved with, simply based upon Mr. Cloud's statement to  
12 you; correct?

13 A. Mr. Cloud's statement along with the fact that mail had  
14 been going to these specific addresses for a long period of  
15 time.

16 MR. WISEMAN: Okay. No further questions.

17 THE COURT: All right. Mr. Stevens, anything  
18 further?

19 MR. STEVENS: No, Your Honor.

20 THE COURT: All right. Thank you. You may step  
21 down.

22 (Witness excused.)

23 THE COURT: Mr. Stevens, do you have further  
24 witnesses?

25 MR. STEVENS: The government calls Ray Diaz.

1 THE COURT: All right.

2 RAY DIAZ, PLAINTIFF'S WITNESS, SWORN

3 THE CLERK: And if you'll state your full name for  
4 the record, and please spell your last name.

5 THE WITNESS: Okay. My full name is Ray Diaz. I  
6 spell the last name D-i-a-z.

7 DIRECT EXAMINATION

8 BY MR. STEVENS:

9 Q. Mr. Diaz, where do you work?

10 A. I currently work as a special agent with the California  
11 Department of Justice within the Bureau of Gambling Control.

12 Q. And what do you do there?

13 A. I conduct criminal investigations that occur on tribal  
14 lands that have casinos.

15 Q. And how long have you been specifically doing that?

16 A. I currently have been with the Bureau of Gambling Control  
17 since 2004, I believe.

18 Q. And what specific training have you received?

19 A. Well, I've been through a basic investigator academy, but  
20 I conduct all types of investigations, any type of crime that  
21 may occur, I mean it could be anything from loan sharking, to  
22 violent crimes, assaults, pimping, prostitution, anything  
23 imaginable. It's almost like a state vice unit, but dealing  
24 with crimes that occur on casino property, or tribal land.

25 Q. And how did you become involved in this case?

1 A. I received a call from the Red Hawk Casino Tribal Gaming  
2 Commission and they had advised me that there was a problem  
3 with the tribe, that there was some mail that was stolen from  
4 them.

5 Q. Well, tell us who this Tribal Gaming Commission is?

6 A. Well, the Tribal Gaming Commission is actually the entity  
7 that oversees the casino. I mean, you have your tribe, and  
8 then they appoint a Tribal Gaming Commission that actually  
9 makes sure that the gambling establishment is in compliance  
10 with the state. So usually, when we conduct criminal  
11 investigations at the casino, they will contact us and let us  
12 know that some type of crime occurred at the casino.

13 Q. Now, have you been familiar with this particular casino in  
14 the past?

15 A. Yes, I have.

16 Q. And how?

17 A. I've conducted numerous investigations at that particular  
18 casino, anything from check fraud to identity theft. I even  
19 did a loan shark investigation last year that was involved with  
20 that casino.

21 Q. And so specifically, as to this particular case, how did  
22 you get involved?

23 A. Well, they had notified me that some mail had been stolen  
24 from the tribe, and they had also advised me that they had  
25 already provided this information to a postal investigator by



1 the name of Mike Chavez.

2 So at that point, I made contact with Mike Chavez to see  
3 what he had already done with this investigation and he advised  
4 me that he had already interviewed Mr. Caballero at that point.  
5 And he told me that, you know, Mr. Caballero filled out a  
6 couple of forms with the mail -- to actually divert the mail  
7 from the tribe over to his personal address.

8 Investigator Chavez provided me with some information.  
9 One of the things he gave me was a copy of Mr. Caballero's  
10 business card. He had given me a copy of that so I could make  
11 contact with Mr. Caballero myself, so I could hear Mr.  
12 Caballero's story to see why he did divert this mail, and  
13 ultimately, I believe it was on September 30th, I made contact  
14 with Mr. Caballero by phone, based on the business card that  
15 Investigator Chavez had given me, and I just asked him, why did  
16 you divert the mail?

17 Q. And did you document this?

18 A. Yeah, I did, in the report.

19 Q. And do you have that with you?

20 A. Yeah. I have the report with me, yes.

21 Q. Lead us through that telephonic interview.

22 A. You want me to read it verbatim, or --

23 Q. No, just go through and tell us what happened.

24 A. Okay.

25 Q. What was said, how he responded.

1 A. Well, like I stated, I contacted him on September 30th.  
2 He identified himself as Cesar Caballero. I told him I was  
3 looking into the matter, which means I was looking into the  
4 matter regarding the diverted mail. I told him that I believed  
5 what he did could be considered criminal. He proceeded to get  
6 into a debate with me pertaining to the fact that he's an  
7 actual Shingle -- that the tribe that runs the Red Hawk Casino  
8 are not true Shingle Springs Miwoks.

9 Q. Are you familiar with who's on the board for that casino?

10 A. As far as --

11 Q. The Gaming Commission?

12 A. The Gaming Commission or the tribe?

13 Q. Both?

14 A. I'm not really very familiar with the actual Gaming  
15 Commission Board, because they have people under them that make  
16 contact with me.

17 Q. Do you know if Mr. Caballero is on it?

18 A. No, he is not.

19 Q. What about -- is he on the tribe?

20 A. No, he's not.

21 Q. Does -- do you know if he received mail at the casino  
22 prior to last year?

23 A. No, he did not.

24 Q. And how do you know that?

25 A. Well, I talked to the Tribal Council, numerous members of

1 the council and asked them that question, and I was also  
2 advised by the tribal chair that the particular -- that the  
3 P.O. Box that belongs to the tribe where the mail was diverted  
4 from has actually been with the Red Hawk Casino tribe for  
5 approximately 20 years, I believe.

6 Q. And so lead us through the rest of the conversation with  
7 Mr. Caballero.

8 A. Well, I asked him to briefly explain to me why he took the  
9 tribe's mail, and he told me that his problem with the tribe  
10 that is currently running the Red Hawk Casino is that they are  
11 not "Shingle Spring Miwoks" and that the Bureau of Indian  
12 Affairs does not recognize them as such.

13 Q. But you know for a fact that they've been getting their  
14 mail there for 20 years?

15 A. Yes.

16 Q. All right. Go on.

17 A. Mr. Caballero told me that as a result of the tribe not  
18 being true Shingle Spring Miwoks, they should not be getting  
19 mail in that name without proper identification. And he also  
20 advised me that he turned in approximately four mail slips to  
21 the post office that diverted the mail from the tribe to  
22 himself.

23 I told Mr. Caballero that I understood his argument, but  
24 in my opinion, it still didn't give him the authority to take  
25 their mail. And I also emphasized that he, himself has even

1 said he has never had any affiliation with that specific tribe  
2 that runs the Red Hawk Casino.

3 Q. When he told you that -- he told you he had no affiliation  
4 with them?

5 A. Yes.

6 Q. Okay.

7 A. With the tribe itself.

8 Q. The ones who were receiving mail there for 20 years?

9 A. Yes. That is correct. And I told him what he -- in my  
10 opinion what he did was equivalent to going to a mailbox  
11 belonging to someone else and taking their mail.

12 Q. How did he respond to that?

13 A. He really didn't give me a response to that.

14 Q. And did you -- after doing that, making that telephonic  
15 interview, how did you proceed with your investigation?

16 A. I contacted the post office and spoke to a postmaster just  
17 to confirm that these change of mail -- I'm not really sure  
18 what the actual -- what they're really called, but they're  
19 change of mail forms, were actually submitted to them to divert  
20 the mail from the tribe to Mr. Caballero's address.

21 Q. You were just being thorough?

22 A. Yeah, I just wanted to make sure that it -- you know, it  
23 did occur. I didn't want to just base everything off what I  
24 was being told by Mr. Caballero, and I wanted to actually have  
25 the person that works at those post office up in Shingle

1 Springs and Placerville to also tell me that they had received  
2 those.

3 Q. Thank you. Anything else?

4 A. Not that I can think of.

5 MR. STEVENS: Okay.

6 CROSS-EXAMINATION

7 BY MR. WISEMAN:

8 Q. Good morning, Mr. Diaz.

9 A. Good morning.

10 Q. In your investigation, sir, did you have any opportunity  
11 to look into some of the claims that Mr. Caballero was making  
12 to you concerning the reasons why he diverted mail?

13 A. Well, I only looked at them to the extent of asking the  
14 tribe that runs the casino if Mr. Caballero had any affiliation  
15 with that particular tribe.

16 Q. And in your inquiry with the tribe, did the tribe  
17 representative tell you that Mr. Caballero was not a member of  
18 that tribe?

19 A. Yeah.

20 Q. And did --

21 A. Correct.

22 Q. And during your conversation with Mr. Caballero, did Mr.  
23 Caballero tell you that it was his belief that the folks that  
24 were running the casino were Maidu and not Miwoks?

25 A. I can't remember if Mr. Caballero told me that, but I do

1 recall hearing that argument from Mr. Caballero pertaining to  
2 them being Maidu as opposed to Miwok. And the reason I say  
3 that is because I have seen Mr. Caballero on television, but I  
4 can't recall him actually specifically telling me that.

5 Q. And when you spoke with the folks at the casino, the tribe  
6 that runs the casino, did anybody there confirm that they were  
7 Miwoks?

8 A. I didn't ask them, because the only thing I was concerned  
9 about was the mail, and if he had the authority to take their  
10 mail. I didn't want to really get involved with the whole  
11 tribal issue. I wanted to keep it really simple. From my  
12 perspective, it was just did Mr. Caballero have the authority  
13 to take their mail. And Mr. Caballero himself told me that he  
14 had no affiliation with that particular tribe, so I just didn't  
15 see how he would have the authority, then to take their mail.

16 Q. Well, did Mr. Caballero tell you, or did you learn from  
17 any source during your investigation that it was Mr.  
18 Caballero's position that since he was a Miwok, he believed  
19 that the mail going to Shingle Springs Miwok, addressed to  
20 Shingle Springs Miwok was being delivered to the wrong place?

21 A. No. I mean, Mr. Caballero told me in my interview with  
22 him that he felt they didn't have the rights for that mail  
23 because it was being addressed to Shingle Spring Miwoks, and he  
24 didn't feel like that particular tribe are Shingle Spring  
25 Miwoks.

1 Q. And did -- thank you.

2 In the conversations that you had with Mr. Caballero, did  
3 he explain to you that his tribal affiliation is Shingle  
4 Springs Miwoks?

5 A. Yeah. He did state that he is a Miwok, a true Miwok.

6 MR. WISEMAN: Very well. No further questions.  
7 Thank you.

8 THE COURT: Any redirect?

9 MR. STEVENS: No, Your Honor.

10 THE COURT: All right. You may step down.

11 THE WITNESS: Thank you.

12 MR. STEVENS: Your Honor, may this witness be  
13 excused?

14 THE COURT: Yes, if neither of you intend to recall  
15 him.

16 MR. WISEMAN: No, Your Honor. He can be excused.  
17 That's fine.

18 THE COURT: All right. You may leave.

19 (Witness excused.)

20 MR. STEVENS: The government calls Rhondella  
21 Dickerson.

22 THE COURT: Okay.

23 RHONDELLA DICKERSON, PLAINTIFF'S WITNESS, SWORN

24 THE CLERK: Please state your full name, and spell it  
25 for the record.

1 THE WITNESS: Rhondella Dickerson, D-i-c-k-e-r-s-o-n.

2 DIRECT EXAMINATION

3 BY MR. STEVENS:

4 Q. Ms. Dickerson, where do you work?

5 A. At Shingle Springs Rancheria.

6 Q. And how long have you been working there?

7 A. Twelve plus years.

8 Q. And over the 12 plus years, what jobs have you had there?

9 A. The community development officer, environmental director,  
10 council member, administrative director, and tribal vice chair.

11 Q. No, you said council member. Council member of what?

12 A. Of the tribe.

13 Q. And this tribe would be?

14 A. Shingle Springs Band of Miwok Indians.

15 Q. And I'm sorry how long ago was that where you were a  
16 council member?

17 A. I actually currently am a council member.

18 Q. And do you know who the other council members are?

19 A. Yes.

20 Q. And do you know who the council members have been for the  
21 last 20 years, more or less?

22 A. More or less, some of them.

23 Q. Has Cesar Caballero ever been a council member?

24 A. No.

25 Q. Now, are you familiar with the Red Hawk Casino?



- 1 A. Yes.
- 2 Q. And how are you familiar with that?
- 3 A. That's the tribe's economic development.
- 4 Q. And are you familiar with where they get their mail?
- 5 A. Yes.
- 6 Q. How?
- 7 A. Out of the United States Post Office.
- 8 Q. And do you know what their mailing address is?
- 9 A. The casino, or the tribe's?
- 10 Q. Both?
- 11 A. Both. I don't recall the one for the casino, but I know
- 12 the tribe's.
- 13 Q. And what's that?
- 14 A. And that's P.O. Box 1340, Shingle Springs band -- or
- 15 Shingle Springs, California.
- 16 Q. And you said that you've been working there in various
- 17 capacities for 12 years?
- 18 A. Um-hmm.
- 19 Q. Has that always been the mailing address?
- 20 A. Yes.
- 21 Q. And are you familiar with what kind of mail they get?
- 22 A. Yes.
- 23 Q. Like what?
- 24 A. We receive grant notifications. We receive grant
- 25 documents that come back that are called grant agreements, and

1 those are very important because their timely, you sign those  
2 and then send them back for our programs that we submit. We  
3 receive --

4 Q. Oh, just a moment.

5 A. Go ahead.

6 Q. I'm sorry. What happens if they're not sent back in time?

7 A. That we would lose our funding for our programs.

8 Q. Any idea what kind of funding are we talking about?

9 A. Quite a bit of funding. We have environmental grants. We  
10 have the general assistance grant, which call the GAP grant,  
11 that pretty much sustains our environmental program. We have  
12 our Clean Water Act 106, and that's for non-point source  
13 funding. We have our Clean Water Act 319 funding grant. We  
14 have our social services grants through the BIA. We have our  
15 HUD grants, which are the IHBG, which Indian Housing Block  
16 Grant. That's --

17 Q. Well, are we talking tens of thousands of dollars,  
18 hundreds of thousands, or millions?

19 A. Well, the IHBG is about 400-and-some-odd thousand dollars,  
20 just the one grant. And so we're talking around seven or  
21 800 -- well, over \$100,000 in funding that comes for the  
22 tribe's programs.

23 Q. So altogether it adds up to millions?

24 A. Yes.

25 Q. And is Cesar Caballero allowed to sign for any of those?

1 A. No.

2 Q. Why not?

3 A. Because he's not the designated signature authority for  
4 the tribe.

5 Q. And who is that?

6 A. And that is the chairman, Nicholas H. Fonseca.

7 Q. Where does he get his mail for the tribe?

8 A. At the same post office box.

9 Q. Now, in the last 12 years, have you had to deal with any  
10 of the mail?

11 A. Yes.

12 Q. And what capacity?

13 A. Currently my capacity is I manage the front office also,  
14 and that mail comes in delivered, we -- my receptionist logs it  
15 in and then it is -- checks are distributed up to our fiscal,  
16 and then I actually open all the chairman's mail.

17 Q. Well, in the last 12 years when Cesar Caballero's mail  
18 came in there, what did you do with it?

19 A. I've never received any.

20 Q. Well, when his checks came in there, what did you do with  
21 those?

22 A. I didn't receive any.

23 Q. Well, when the federal government sent him notifications  
24 there, what did you do with those?

25 A. We never received any.

- 1 Q. Well, what about his personal mail that he received there?
- 2 A. I've never received personal mail there.
- 3 Q. So -- and all those years, he's never received any mail
- 4 there?
- 5 A. Not to my knowledge, no.
- 6 Q. And not that inadvertent mail couldn't have went there?
- 7 A. No.
- 8 Q. Are you aware of whether or not that was ever his address?
- 9 A. No.
- 10 Q. No, you mean it was not his address?
- 11 A. It wasn't his address.
- 12 Q. And you talked about the grants, that that could be a real
- 13 problem if those didn't arrive when they were supposed to. Is
- 14 there other mail that's of similar importance?
- 15 A. Very important, we get our Indian Health Service checks
- 16 and our Medi-Cal payments through the state for our clinics,
- 17 and those are large amounts that we get, and that would be
- 18 detrimental if we didn't receive those.
- 19 Q. So you're saying detrimental in the sense that people
- 20 wouldn't get the health care?
- 21 A. Yes. Correct.
- 22 Q. And Mr. Caballero's allowed to sign for those?
- 23 A. No.
- 24 Q. He's not? Why not?
- 25 A. Because he's not the designated, authorized signature.

1 Q. Last year, did you notice there was a problem with the  
2 mail?

3 A. We were actually notified, the person that goes and picks  
4 up the mail, we had not received any for a day, and that was  
5 unusual.

6 Q. So what did you do?

7 A. They notified the chairman immediately.

8 Q. And did you eventually start getting your mail?

9 A. Yes.

10 Q. And was it all accounted for?

11 A. We can't really determine because it was smaller amounts,  
12 and it -- and so on those days, it was very difficult to know  
13 if we'd gotten all of our mail back.

14 Q. Now, do you get enrollment forms in the mail?

15 A. Yes.

16 Q. What are those?

17 A. Those are usually a form that the membership is requested  
18 to enroll in the tribe.

19 Q. And do you commonly get those?

20 A. Yeah, I mean, it's not all the time, but we do.

21 Q. And what happens if those disappear?

22 A. Then they would have to resubmit one.

23 Q. If they knew that it hadn't been received?

24 A. Yes. Correct. And they would usually call and do a  
25 follow-up.

1 Q. So what practical effect did it have when you weren't  
2 receiving your mail?

3 A. Unsurety of -- we had to call and verify with the agencies  
4 if they had sent something out, we had to contact each  
5 department and find out what they were expecting. The clinic  
6 director was very worried that we weren't getting some of the  
7 funding that was supposed to come in to her department.

8 Q. So this actually caused a huge problem?

9 A. Yes. Yes, very much panic.

10 Q. Has Cesar Caballero ever been -- had an office there?

11 A. No.

12 Q. Is he an enrolled member of the tribe?

13 A. No.

14 Q. Is he in any official capacity authorized to receive mail  
15 on behalf of your tribe?

16 A. No.

17 MR. STEVENS: Thank you. Nothing further.

18 THE COURT: Cross-examination?

19 MR. WISEMAN: One second, Your Honor, if I may.

20 (Pause.)

21 CROSS-EXAMINATION

22 BY MR. WISEMAN:

23 Q. Good morning, ma'am.

24 A. Good morning.

25 Q. Just a couple of questions. If I heard your testimony

1 correctly, and this is why I'm asking you, did you testify that  
2 the mail was undelivered for simply one day?

3 A. I -- my person -- I think -- I know for sure one day. I  
4 don't know if there was any other days.

5 Q. Okay. So it's your personal knowledge the mail wasn't  
6 delivered for one day, and subsequently the mail did start to  
7 be delivered again; correct?

8 A. Yes.

9 MR. WISEMAN: Okay. No further questions.

10 THE COURT: Any redirect?

11 REDIRECT EXAMINATION

12 BY MR. STEVENS:

13 Q. It wouldn't surprise you if it was three days or five  
14 days, would it?

15 A. No.

16 MR. STEVENS: All right. Thank you. Nothing.

17 THE COURT: Any further questions?

18 MR. WISEMAN: No, Your Honor.

19 THE COURT: All right. Thank you. You may step  
20 down.

21 MR. STEVENS: Your Honor, may this witness be  
22 excused?

23 THE COURT: Mr. Wiseman, do you intend to recall the  
24 witness?

25 MR. WISEMAN: Your Honor, in light that it's going to

1 be a short trial, I would rather have this witness on call. I  
2 may have need to call her back.

3 THE COURT: All right. Then I will ask that she  
4 remain in the courthouse so that she can be reached.

5 MR. WISEMAN: Thank you.

6 (Witness steps down.)

7 THE COURT: All right. Any further witnesses, Mr.  
8 Stevens?

9 MR. STEVENS: Could I just have a moment, Your Honor?

10 THE COURT: Yes.

11 (Pause - counsel conferring.)

12 MR. STEVENS: The government rests, Your Honor.

13 THE COURT: All right. Mr. Wiseman?

14 MR. WISEMAN: Your Honor, the defense will call Lark  
15 Stone to the stand.

16 THE COURT: All right. Let me inquire of my staff.  
17 Maybe I should give our reporter a 10-minute break.

18 MR. WISEMAN: Let's do that.

19 THE COURT: Why don't we take a 10-minute break just  
20 to give her arms a rest.

21 MR. WISEMAN: Let's do that. Thank you, Your Honor.

22 (Recess from 11:21 a.m. to 11:37 a.m.)

23 THE CLERK: Please remain seated. Court is again in  
24 session.

25 THE COURT: All right, Mr. Wiseman. You --



1 MR. WISEMAN: Thank you, Your Honor.

2 THE COURT: -- are you ready to proceed?

3 MR. WISEMAN: Yes, thank you. The defense calls Lark  
4 Stone to the stand.

5 THE COURT: All right. If you'd come forward, ma'am?

6 MR. WISEMAN: It's on that side.

7 LARK D. STONE, DEFENDANT'S WITNESS, SWORN

8 THE CLERK: Be seated. Will you state your full name  
9 for the record and spell your last name?

10 THE WITNESS: Lark D. Stone, S-t-o-n-e.

11 DIRECT EXAMINATION

12 BY MR. WISEMAN:

13 Q. Good morning, Ms. Stone. Ms. Stone, where do you  
14 presently reside?

15 A. In Shingle Springs.

16 Q. Okay. And are you presently employed?

17 A. Yes, I am.

18 Q. By whom are you employed?

19 A. The U.S. Postal Service.

20 Q. And what is your position with the U.S. Postal Service?

21 A. I'm a sales associate and also a window clerk.

22 Q. And how long have you been employed by the U.S. Postal  
23 Service?

24 A. Approximately 14 years.

25 Q. Okay. And are you -- what -- are you assigned to a

1 particular post office?

2 A. Placerville Post Office.

3 Q. By the way, are there -- is there only one post office in  
4 Placerville?

5 A. That's the major area. It's the main post office, but  
6 there are smaller ones; Diamond Springs, El Dorado, but we're  
7 the main post office in Placerville, yes.

8 Q. And that's where you're employed?

9 A. Yes.

10 Q. And how long have you been employed by the postal service  
11 at that particular post office?

12 A. The 14 years.

13 Q. Okay. So for your entire tenure --

14 A. Yes.

15 Q. -- with the post office, you've been in Placerville  
16 Post --

17 A. Yes.

18 Q. -- the post office there. Okay. I want to direct your  
19 attention to last year, specifically in late August, August  
20 23rd. Did a gentleman by the name of Cesar Caballero come into  
21 the post office that day?

22 A. Yes.

23 Q. And did you have an opportunity to have some sort of  
24 interaction with Mr. Caballero?

25 A. Yes.

1 Q. By the way, do you recognize Mr. Caballero in the  
2 courtroom?

3 A. Yes.

4 Q. And can you just identify him? Is he the gentlemen  
5 sitting at the table here?

6 A. Yes.

7 Q. Okay. Now, what was the circumstances -- well, strike  
8 that.

9 Did you -- you had an occasion to have some conversation  
10 with Mr. Caballero on that day, on the 23rd of August?

11 A. Yes, customer service.

12 Q. Okay. And what is your recollection of the conversation  
13 you had with Mr. Caballero that day?

14 A. Okay.

15 MR. STEVENS: Objection; hearsay.

16 THE COURT: All right. The question is what -- okay.  
17 Repeat your question again.

18 MR. WISEMAN: My --

19 THE COURT: You were asking what were the  
20 conversations?

21 MR. WISEMAN: No, I asked her what her -- what is her  
22 recollection of the conversation. Well let me try again.

23 THE COURT: All right. Yeah.

24 MR. WISEMAN: Let me --

25 THE COURT: Yeah.

1 MR. WISEMAN: Let me do --

2 THE COURT: Reword your question --

3 MR. WISEMAN: All right.

4 THE COURT: -- because it does --

5 BY MR. WISEMAN:

6 Q. Mr. Caballero --

7 THE COURT: -- seem to call for hearsay.

8 BY MR. WISEMAN:

9 Q. Did Mr. Caballero come to your teller window?

10 A. Yes.

11 Q. Okay. And when Mr. Caballero came to your teller window,  
12 did you, in conversations with him, did you learn the reason  
13 why he was at the post office that day?

14 A. Yes.

15 Q. And what did you determine his reasons for being there?

16 MR. STEVENS: Objection; that calls for hearsay.

17 THE COURT: All right. Overruled.

18 You may answer.

19 THE WITNESS: Mr. Caballero approached the situation  
20 that he had several documentations with him and his interest  
21 was into retrieving mail for the Miwok tribe.

22 BY MR. WISEMAN:

23 Q. Okay. And did Mr. -- did -- were you led to believe that  
24 Mr. Caballero wanted to change an address to where certain mail  
25 was being delivered?

1 A. At that moment, he was interested in protecting the Miwok  
2 tribe mail.

3 Q. Okay. And he -- you testified that Mr. Caballero provided  
4 some documents?

5 A. Yes.

6 Q. Now, were you able to look at those documents?

7 A. Yes, and he --

8 Q. Now, what do you recall those documents, if you do, do you  
9 recall what those documents were, sort of in general?

10 A. Yes.

11 Q. Now, what were they, ma'am?

12 A. The documentation that I'd seen, he had asked for some  
13 advice on what he needed to do to protect the Miwok tribe mail.  
14 He -- and then he proceeded to show me the identification that  
15 identified it as the band of Miwok tribe -- Shingle Springs  
16 Band of Miwok tribe and the Miwok tribal mail. So it satisfied  
17 me that he wasn't just somebody inquiring; that he was the  
18 person that was qualified to get prior, you know, information  
19 of what he needed to do.

20 Q. Okay, so if I understand your testimony, is your  
21 recollection is that Mr. Caballero came to your teller window,  
22 presented you with some documents --

23 A. Uh-huh.

24 Q. -- and those documents reflected that he was -- is it fair  
25 to say that those documents reflected that he was a member of

1 the Miwok tribe?

2 A. Yes.

3 Q. Okay. Did you, by the way, recall seeing any  
4 identification which indicated that Mr. Caballero was, in fact,  
5 a member of the Miwok?

6 A. Yes, I did.

7 Q. Okay. And based upon your conversation, you believed that  
8 Mr. Caballero was permitted to do what he was trying to do that  
9 day, correct, at the post office?

10 A. Yes. I strongly believed, in the documentation that I  
11 seen, that I would further the conversation and give him his  
12 options what he needed to do to protect the mail.

13 Q. Okay. So is it fair to say, based upon your conversation  
14 with Mr. Caballero and the documents that he showed you, you  
15 understood his purpose was to protect the mail that is going to  
16 the Shingle Springs Miwok tribe?

17 A. Absolutely, yes.

18 Q. Okay. And what happened next?

19 A. At that point I give him his options, that in order to  
20 protect the mail, at this point would put it on hold.

21 Q. Okay. So --

22 A. And that would be for the Shingle Springs Miwok tribe and  
23 the Band of Miwok tribe.

24 Q. Okay. And when you say that it -- to put the mail on  
25 hold, what do you mean by that?

1 A. That all the mail that is going to this particular address  
2 would be on hold and we would place a yellow card, on hold, so  
3 the carrier would know to hold this and -- because there was  
4 this hold and he had showed me the proper identification for  
5 the tribal mail, that I put that it would be -- to be picked up  
6 and show ID for him only at this point, from the documentation  
7 that I'd seen.

8 Q. Okay. So when -- let me sort of break this down again.  
9 Mr. Caballero approaches you, you have a conversation. Based  
10 upon your conversation and based upon the documents that he's  
11 providing you, you believe, as a postal employee, that it  
12 appeared that he had the entitlement to receive mail directed  
13 to the Shingle Springs Band of Miwoks?

14 A. Yes.

15 Q. Okay. Now did -- during the conversation, did you learn  
16 that there was any sort of dispute that Mr. Caballero was  
17 having with a competing tribe?

18 A. Well, at this time, for this particular mail, there was  
19 obviously a dispute. That's why he did come in, because of the  
20 Miwok and the other various mail. Now, there was other mail  
21 going to this address. There were several different pieces,  
22 several different names. He only asked for the individual  
23 name. It wasn't for the whole entire. It was only for what he  
24 qualified for, and that was the mail that he did want.

25 Q. So, in other words, if I understand what you're saying,

1 the -- mail -- a variety of mail was going to that particular  
2 address --

3 A. Yes.

4 Q. -- that Mr. Caballero wanted changed, correct?

5 A. It was a business, sort of, address where there's several  
6 different pieces of names and just several different pieces of  
7 different various names going to that address.

8 Q. Okay. And -- but you testified that Mr. Caballero was  
9 specific that he only wanted one particular name and address  
10 changed relating to one particular sort of stream of mail,  
11 correct?

12 A. Yes.

13 Q. Okay. And that was relating to the Miwok tribe?

14 A. Yes.

15 Q. Okay. By the way, ma'am, is it -- in your 14-year  
16 experience, is it common to have disputes as to who's entitled  
17 to mail?

18 A. Yes.

19 Q. And is it something routinely that you have to deal with  
20 as a postal -- post office employee?

21 A. Yes.

22 Q. Give us a quick example of -- for example, what -- what's  
23 another way that you would be confronted with this dispute or  
24 with some of the subject matters that you've seen?

25 A. There was a --



1 MR. STEVENS: Objection; relevancy.

2 THE WITNESS: -- rock quarry --

3 THE COURT: Just a minute.

4 Your objection is on relevance?

5 MR. STEVENS: Yes.

6 THE COURT: Overruled. You may answer.

7 THE WITNESS: Yes. There's several businesses that  
8 maybe the owner and a lessee of the property, there was a very  
9 big dispute between an owner and a lessee that was -- it had to  
10 do with a rock quarry, so there was several millions of dollars  
11 involved, and so we did hold the mail, and that dispute went on  
12 for several years.

13 BY MR. WISEMAN:

14 Q. Okay. So when -- if I understand what you're saying, so  
15 when there is a dispute as to where the --

16 A. Yes.

17 Q. -- mail should be delivered, it's routine for the postal  
18 service to place a hold on that mail, correct?

19 A. Yes.

20 Q. Okay. And after you explained that to Mr. Caballero, did  
21 Mr. Caballero do anything in response?

22 A. He did want to receive only his mail, and that's why on  
23 the hold it was the mail that I had seen the identification  
24 for. That was the mail that we put on hold that related him to  
25 his mail only. And that's where there was other mail that

1 anyone else, with their proper identification, could pick up  
2 their mail.

3 Q. All right.

4 A. So it was a split. That's the way we work it, is whoever  
5 has the identification for that particular name or business,  
6 they would get their mail and it would be hold in that respect.  
7 And then if they're, at that point, of course it gets held over  
8 to a higher up, which is a supervisor. She makes the call of  
9 getting the postal inspectors involved and finishing off the  
10 true identity of how they're going to handle that position.

11 Q. Okay. Now with respect to this particular issue here with  
12 Mr. Caballero, after he -- after you learned that there was a  
13 dispute and after you explained to him that the mail could be  
14 placed on hold --

15 A. Uh-huh.

16 Q. -- is it your understanding that the mail was actually  
17 placed on hold?

18 A. Yes.

19 Q. Okay. Did you have a conversation with your supervisor at  
20 the post office concerning this particular issue that Mr.  
21 Caballero addressed with you?

22 A. Yes.

23 Q. And as a result of the conversation with your supervisor,  
24 what happened?

25 A. At a later time is when the other parties at this address

1 with their IDs had come in to the post office to retrieve their  
2 mail. But there were issues. They wanted all the mail without  
3 the proper ID.

4 Q. Okay. Did you -- did -- let me go back to the situation  
5 with your supervisor. By the way, who -- at that time, who was  
6 your supervisor?

7 A. Theresa Aldrich (phonetic).

8 Q. Okay. So you had a conversation with Ms. Aldrich about  
9 Mr. Caballero's issues, correct?

10 A. Yes.

11 Q. And as a result of that conversation, was the mail in  
12 dispute placed on hold?

13 A. Yes, it was.

14 Q. Okay. And that was your decision or her decision?

15 A. It was the company's decision.

16 Q. Now, when you mean company, you mean the postal service?

17 A. The carrier, the supervisor, myself, the office, and it  
18 was placed on hold.

19 Q. Okay. And that's routine?

20 A. Yes.

21 Q. Okay.

22 MR. WISEMAN: May I have a moment, Your Honor?

23 THE COURT: Yes.

24 (Pause - counsel conferring.)

25 BY MR. WISEMAN:

1 Q. Now, ma'am --

2 MR. WISEMAN: May I approach the witness, Your Honor?

3 THE COURT: Yes, you may.

4 BY MR. WISEMAN:

5 Q. Ma'am, I want to show you a document that's been  
6 previously marked as Government's 3. Take a look at that.

7 Take your time and let me know after you've had an opportunity  
8 to see that.

9 A. Yes, I see it.

10 Q. Do you recognize that document?

11 A. Yes, I do.

12 Q. And what -- can you describe for His Honor what that  
13 document is?

14 A. This is an authorized mail hold saying that I  
15 authorize -- that I'd seen the documentation for the Shingle  
16 Springs Band of Miwok Indians, the Shingle Springs Miwok tribe  
17 at this address with this particular name. So this person came  
18 in, verified to me that he had documentation that supported the  
19 fact, I seen his personal ID and I put the mail on hold for  
20 those names.

21 Q. Okay. And, ma'am, on the document, when you say he, can  
22 you recall --

23 A. Mr. Caballero.

24 Q. Okay. Got it. So --

25 A. That -- and that's where I had put this purposely, to make

1 it a strong, must show ID showing that it was Mr. Caballero for  
2 this particular mail.

3 Q. Okay, so it was -- so let me ask you, if I may, ma'am, the  
4 writing on the bottom of this document, where it says, must  
5 show ID, Cesar Caballero only, is that your handwriting?

6 A. Yes, it is.

7 Q. Okay. And you did this in response to Mr. Caballero  
8 showing you ID that he was a Miwok Indian?

9 A. Yes.

10 Q. Okay. At that point, did you have any reason to believe  
11 that Mr. Caballero was not entitled to get this mail?

12 A. No, I strongly believed he was.

13 Q. Okay. And did -- during your conversation with Mr.  
14 Caballero that day, did you have any reason to believe that he  
15 had some sort of improper motive for asking the mail to be  
16 held?

17 A. No.

18 MR. STEVENS: Objection; calls for speculation.

19 THE COURT: Overruled.

20 BY MR. WISEMAN:

21 Q. Now, ma'am, couple more questions. Do you recall if you  
22 provided Mr. Caballero with a change of address form that day,  
23 on the 23rd of August?

24 A. Yes.

25 Q. Okay. Did you see him fill those documents out?

1 A. No.

2 Q. Okay.

3 MR. WISEMAN: One moment, Your Honor.

4 (Pause - counsel conferring.)

5 BY MR. WISEMAN:

6 Q. At some point, ma'am, after Mr. Caballero met with you on  
7 the 23rd of August, did a gentleman by the name of Mr. Fonseca,  
8 Nick Fonseca, show up at the post office?

9 A. I was not there at the time that he did arrive, but I did  
10 receive the aftershock of the information and the documentation  
11 that he did show.

12 Q. Okay. And do you -- but you were not there when he showed  
13 up, correct?

14 A. Not at that time.

15 Q. At some point, did you get an opportunity to look at the  
16 documentation that Mr. Fonseca showed up with?

17 A. Yes.

18 MR. STEVENS: Objection; not only a lack of personal  
19 knowledge, it's calling for hearsay.

20 THE COURT: Well, the question was did you get a look  
21 at the documentation he left.

22 MR. STEVENS: How does she know he left it? She said  
23 she wasn't there. It would have to call for hearsay.

24 THE COURT: All right, so your objection is  
25 foundation as to whether or not there was any such

1 documentation.

2           You want to lay a foundation for that --

3           MR. WISEMAN: Sure.

4           THE COURT: -- Mr. Wiseman?

5 BY MR. WISEMAN:

6 Q. You testified, ma'am, that you were not there when Mr.  
7 Fonseca showed up, correct?

8 A. Yes.

9 Q. Did you learn from somebody that Mr. Fonseca, in fact, did  
10 show up at the post office?

11 A. Yes, I did.

12           MR. WISEMAN: I offer --

13           THE COURT: All right. Yeah. I assume you're going  
14 to object on hearsay, Mr. Stevens?

15           MR. STEVENS: Yes.

16           THE COURT: All right.

17           MR. WISEMAN: I --

18           THE COURT: Without revealing the content of the  
19 information, Mr. Wiseman, establish who it is that provided her  
20 the information.

21           MR. WISEMAN: I was about ready to do that.

22           THE COURT: All right.

23 BY MR. WISEMAN:

24 Q. Now, ma'am, who was the individual or individuals that  
25 advised you that Mr. Fonseca had arrived at the post office?

1 A. Supervisor Theresa Aldrich.

2 Q. Okay. And did she -- and you don't have to tell us the  
3 contents, but did she give you any reason -- did she explain to  
4 you why Mr. Fonseca was there?

5 A. Yes.

6 Q. Okay. And did she, your supervisor, advise you that Mr.  
7 Fonseca had presented certain documents the day he showed up?

8 THE COURT: All right, just a minute. Mr. Stevens,  
9 you rise?

10 MR. STEVENS: Classic hearsay. A statement of an out  
11 of court declarant.

12 THE COURT: All right, but it's --

13 MR. STEVENS: Offered for the truth --

14 THE COURT: -- it's --

15 MR. STEVENS: -- of the matter asserted.

16 THE COURT: -- it's a employee of the postal service  
17 and the witness's supervisor, so --

18 MR. STEVENS: There is no postal service supervisor  
19 exception, Your Honor.

20 THE COURT: No, but there's a party declarant  
21 exception. Or it's actually not an exception. It's not  
22 defined as hearsay under the federal rules, period.

23 MR. STEVENS: No, that's a statement by a party  
24 opponent offered by a party opponent.

25 THE COURT: All right. You -- you've made your



1 record. Overruled.

2 MR. WISEMAN: Okay.

3 BY MR. WISEMAN:

4 Q. And so you were advised that Mr. Fonseca had provided some  
5 documents, correct?

6 A. Yes. We had a small meeting.

7 Q. And were there -- when you say we, just name the  
8 individuals who were at that meeting.

9 A. The rural carrier for that particular address, my  
10 supervisor, and myself to discuss the contents of what was  
11 going on at this time.

12 Q. Okay. And during that meeting with those individuals,  
13 were you shown some documents?

14 A. Yes.

15 Q. And just describe for the Court what those documents  
16 appeared to you to be.

17 A. In our conversation, the paperwork was -- the  
18 documentation was there, and in this approach, there was ID for  
19 the other tribe, which had the band of Indians, and that was  
20 Mr. Francesca (phonetic) and were seeing that it's the dispute  
21 at this particular address. Well, who would know best would be  
22 the rural carrier, her name is Leslie, that would identify that  
23 there are several pieces of mail from different names --

24 THE COURT: All right. I'm --

25 THE WITNESS: -- going to this address.

1 THE COURT: I'm going to stop you. You seem to be  
2 going a little afield of the question.

3 MR. WISEMAN: Okay.

4 THE COURT: The question was what did the documents  
5 appear to be and you mentioned an identification. Were there  
6 other documents besides the identification?

7 THE WITNESS: His driver's license with a photo.

8 MR. WISEMAN: Okay.

9 THE WITNESS: And that's basic name, address.

10 BY MR. WISEMAN:

11 Q. Okay. Now, in your -- I want you to recall the documents  
12 that you looked at that day. Did any of the documents that you  
13 were told that were provided by Mr. Fonseca, did they indicate  
14 that he was a Miwok tribal member?

15 A. Not at all.

16 Q. Thank you.

17 MR. WISEMAN: No further question.

18 THE COURT: All right.

19 Cross examination, Mr. Stevens?

20 CROSS-EXAMINATION

21 BY MR. STEVENS:

22 Q. You got in trouble, didn't you? Didn't you?

23 A. Get in trouble?

24 Q. Yeah.

25 A. No, sir.

1 Q. You got yelled at?

2 A. Excuse me?

3 Q. You got yelled at?

4 A. No, sir.

5 Q. Oh, so you got told that you shouldn't have forwarded that  
6 mail, right?

7 A. No, sir.

8 Q. And you said that you only forwarded mail for the Indian  
9 tribes?

10 (Pause - counsel conferring.)

11 BY MR. STEVENS:

12 Q. Showing you what's been marked as P2. Whose mail's  
13 getting forwarded there?

14 A. This is Shingle Springs Rancheria.

15 Q. Thank you. And when you talked to Mr. Caballero, he told  
16 you that he'd been receiving mail at that mailbox for 20 years?

17 A. No, sir.

18 Q. So -- but you inquired. You went and checked out who had  
19 been receiving mail there, right?

20 A. Yes.

21 Q. How'd you do that?

22 A. From the carrier.

23 Q. So you went and contacted the carrier when Mr. Caballero  
24 came into the office?

25 A. No, sir.

1 Q. No, I want to know what happened when Mr. Caballero came  
2 in.

3 A. The documentation --

4 Q. Did you go --

5 A. -- of the Shingle Springs Miwok tribe --

6 Q. You went --

7 A. -- tribal mail?

8 Q. -- and verified who had been receiving mail at that  
9 mailbox?

10 A. On the mailbox that we have in the back it shows names of  
11 different various pieces of mail that go there to that office.

12 Q. And you made sure that his was already on there?

13 A. Yes.

14 Q. And it was on there?

15 A. Yes.

16 Q. It said that the Miwok -- the Shingle Springs Band of  
17 Miwok Indians was receiving mail there?

18 A. The identification of the Shingle Springs Miwok tribe was  
19 receiving mail at that address.

20 Q. And Mr. Caballero told you he had been receiving mail at  
21 that address?

22 A. No, he was saying that he wanted to retrieve the tribal  
23 Miwok mail.

24 Q. Oh, because somebody else had already -- somebody had  
25 taken it?

1 A. Yes.

2 Q. And you went and verified that that had happened? That  
3 somebody had taken it?

4 A. That's beyond what you're implying.

5 Q. Uh-huh. So you don't really know if he was telling the  
6 truth?

7 A. He was telling the truth.

8 Q. Well, but you didn't go verify.

9 A. In my verification that, yes, the tribal mail for the  
10 Miwoks was going to this address.

11 Q. But you verified that it had been, as he said, taken over,  
12 that somebody else had taken it?

13 A. No, that there was a dispute.

14 Q. So you went and you made sure that was -- the dispute was  
15 resolved?

16 A. Making an attempt to protect the mail.

17 Q. You went and made sure that the dispute was resolved.

18 Yes --

19 A. Not --

20 Q. -- or no?

21 A. No.

22 Q. So if he's not right, you took some -- you allowed  
23 somebody else's mail to be forwarded, didn't you?

24 A. No.

25 Q. You didn't? If he's wrong and it's not his mail, and it

1 was forwarded to him, you allowed somebody else's mail to be  
2 forwarded to him, correct?

3 A. No.

4 Q. No? Explain.

5 A. The particular dispute was turned over to the postal  
6 inspectors and to my supervisor.

7 Q. So you put a hold on all of those?

8 A. For the dispute. Only on his particular Miwok tribe.

9 Q. Well --

10 A. Not on all of the mail.

11 Q. Oh --

12 A. Just the Miwok tribe.

13 Q. -- so there was mail that was forwarded to his -- to the  
14 address he gave?

15 A. The hold mail was put on for Shingle Springs Miwok Band of  
16 Miwok Indians.

17 Q. Uh-huh. But the Shingle Springs Rancheria was forwarded?

18 A. That's out of my office.

19 Q. And you verified that the information he was showing you,  
20 the identity, you verified all that stuff, right?

21 A. For the Band of Miwok Indians, yes.

22 Q. How did you verify that?

23 A. The documentation that I seen.

24 Q. How did you verify that documentation was correct?

25 A. I believe the IRS forms are proper from the IRS company.

- 1 Q. So you're an expert on --
- 2 A. From the Bank of America statement.
- 3 Q. Okay. So basically you believed Mr. Caballero?
- 4 A. Yes.
- 5 Q. Okay. And if he is not right, you're wrong? Right?
- 6 A. I was not wrong.
- 7 Q. Based on the information you were given, correct?
- 8 A. On the information that I was given, I was correct.
- 9 Q. And if that information was wrong, then you weren't
- 10 correct? Were -- the decision you made was correct, but what
- 11 happened was wrong?
- 12 A. The decision I made was correct, and what happened after
- 13 that is not my decision.
- 14 Q. So he's still getting that mail, isn't he?
- 15 A. I have no idea, sir.
- 16 Q. And you know that that mail was actually turned over to
- 17 somebody else?
- 18 A. I know it went into the postal inspector's hands and my
- 19 supervisor from there.
- 20 Q. But you know that it ended up going to the casino and the
- 21 tribe, right?
- 22 A. I don't know, sir.
- 23 Q. You don't know that?
- 24 A. I don't know what the end result was. I turned it over to
- 25 the postal inspector.

1 Q. Because you knew that he could be wrong?

2 MR. WISEMAN: Your Honor, I'm going to object.

3 BY MR. STEVENS:

4 Q. Right?

5 MR. WISEMAN: I think it's -- I think we're --  
6 it's -- the relevancy of this I have doubts about.

7 THE COURT: It -- yeah. I -- sustained.

8 Mr. Stevens, it is -- this is cross-examination, but  
9 I think you've established pretty clearly that you and the  
10 witness disagree on this.

11 BY MR. STEVENS:

12 Q. So certain parts of the mail were held for -- until that  
13 hold order was later taken off, right?

14 A. Yes.

15 Q. And other parts, which you were not a party of, were  
16 forwarded, correct?

17 A. I believe so.

18 Q. Thank you.

19 THE COURT: All right.

20 Mr. Wiseman, any redirect?

21 MR. WISEMAN: Briefly.

22 REDIRECT EXAMINATION

23 BY MR. WISEMAN:

24 Q. Let me just ask you simply, ma'am. When Mr. Caballero  
25 came in, you determined there was a dispute. Everything that



1 you testified to, how you handled it, is that basically  
2 routine, standard operating procedure for the postal service?

3 A. Yes.

4 Q. Thank you.

5 MR. WISEMAN: No further question.

6 MR. STEVENS: No further questions.

7 THE COURT: All right. One moment. I want to look  
8 at my notes.

9 When Mr. Wiseman was asking you questions on direct,  
10 I thought I understood you to testify that there was a request  
11 only to hold the mail of a particular individual, but I didn't  
12 hear you say the name of the individual. Who was that  
13 individual?

14 THE WITNESS: You mean, for the Shingle Springs Miwok  
15 tribe?

16 THE COURT: Well, I'm asking you, because I don't  
17 know. I understood your testimony to be that there was a  
18 request to hold the mail, not of every -- not all the mail, but  
19 only the mail of a particular individual.

20 THE WITNESS: Right. Yes.

21 THE COURT: Did I misunderstand you?

22 THE WITNESS: Yes. The -- it was to hold for the  
23 tribal mail for the Shingle Springs Band of Miwok Indians.  
24 And --

25 THE COURT: All right. So it was not an individual

1 -- it was not a person's name, it was the name of an  
2 organization; is that what you're saying?

3 THE WITNESS: Yes.

4 THE COURT: And the organization was what?

5 THE WITNESS: A Miwok tribe.

6 THE COURT: All right.

7 Counsels, if my questions have caused either of you  
8 to have further questions, I'll allow that at this time. Mr.  
9 Wiseman?

10 FURTHER REDIRECT EXAMINATION

11 BY MR. WISEMAN:

12 Q. Just so the record's clear, ma'am, His Honor asked you a  
13 question about the hold mail. As I understand it, the request  
14 to hold mail was for a entity, not an individual, correct?

15 A. Yes.

16 Q. And your recollection is that entity was the Shingle  
17 Springs band of Miwok tribe?

18 A. Yes.

19 Q. Okay. Very well, thank you.

20 MR. WISEMAN: Nothing further.

21 THE COURT: Mr. Stevens?

22 MR. STEVENS: Nothing further.

23 THE COURT: All right.

24 You may step down. Thank you.

25 THE WITNESS: Thank you.

1 (Witness excused.)

2 THE COURT: All right. Mr. Wiseman, any further  
3 witnesses?

4 MR. WISEMAN: Your Honor, I would inquire from the  
5 Court. Does the Court wish to take -- I was inclined to call  
6 another witness, but if --

7 THE COURT: We -- then let's -- we'll go ahead and  
8 take the lunch break, then.

9 MR. WISEMAN: That's fine.

10 THE COURT: All right. Why don't we -- let's  
11 reconvene at 1:30.

12 MR. WISEMAN: That's fine. Thank you.

13 (Luncheon recess from 12:07 p.m. to 1:31 p.m.)

14 THE CLERK: Please remain seated. Court's again in  
15 session.

16 THE COURT: All right, Mr. Wiseman, you were about to  
17 call your next witness?

18 MR. WISEMAN: Your Honor, the defense would like to  
19 call, or recall, if you will, Ms. Dickerson, who the government  
20 had called previously and I understand she's still on hold.

21 THE COURT: All right. Is that witness --

22 MR. WISEMAN: Is she still --

23 THE COURT: -- still in the hallway, Mr. Stevens?

24 MR. STEVENS: No idea.

25 (Pause.)

1 THE COURT: All right. I'll remind you that  
2 you're -- you remain under oath.

3 THE WITNESS: Yes.

4 THE COURT: All right. You may proceed, Mr. Wiseman.

5 MR. WISEMAN: Thank you.

6 RHONDELLA DICKERSON, DEFENDANT'S WITNESS, PREVIOUSLY SWORN

7 DIRECT EXAMINATION

8 BY MR. WISEMAN:

9 Q. Ma'am, earlier you testified this morning about your  
10 involvement with tribal government; correct?

11 A. Correct.

12 Q. Okay. Now, ma'am, the -- are you a member of a particular  
13 tribe?

14 A. Yes. I'm --

15 Q. And what is your tribal affiliation?

16 A. I'm a member of the Shingle Springs Band of Miwok Indians.

17 Q. Okay. Now as a member of the Shingle Springs Band of  
18 Miwok Indians, have you -- well, let me ask you this. Strike  
19 that.

20 Let me ask you this first. Are you familiar with the  
21 Bureau of Indian Affairs?

22 A. Yes, I am.

23 Q. And what is your understanding of what the Bureau of  
24 Indian Affairs is?

25 A. They are to conduct the concerns of any tribe --

1 Q. Right.

2 A. -- and they oversee those tribes.

3 Q. And you understand the Bureau of Indian Affairs is a  
4 federal government agency, correct?

5 A. Yes. Yes.

6 Q. And the Bureau of Indian Affairs recognizes certain tribes  
7 in the United States, correct?

8 A. Yes, correct.

9 Q. And do you, by the way, do you have identification -- do  
10 you personally carry identification that identifies you as a  
11 member of a particular tribe?

12 A. Yes.

13 Q. Okay. Is that identification that you carry, is that  
14 identification issued by the Bureau of Indian Affairs?

15 A. No.

16 Q. Okay. Is it identification that your tribe has just  
17 created and handed out to its members?

18 A. And the Bureau of Indian Affairs has that list.

19 Q. Right.

20 A. Yes.

21 Q. But the identification is not a identification that's  
22 issued by the Bureau of Indian Affairs; correct?

23 A. Correct.

24 Q. Okay. And you testified earlier that you had several  
25 positions with the tribe. Now, how long have you been an

1 enrolled member of your tribe?

2 A. Oh, years.

3 Q. I'm sorry?

4 A. I'm trying to think of -- back in the '80s or --

5 Q. Okay.

6 A. -- '70s, somewhere around there.

7 Q. Now, the -- we heard some testimony earlier from another  
8 witness, and I want to ask you some questions about mail that  
9 gets delivered to the tribe. But before I do that, I  
10 understand from your previous testimony that the tribe has a  
11 number of different entities; is that correct?

12 A. Well, they have entities off from tribe, I guess you'd --

13 Q. Right. Well maybe -- let me rephrase that. The tribe  
14 provides a variety of services to its tribal members, correct?

15 A. Correct.

16 Q. And, for example, the tribe provides health services to  
17 its tribal members, correct?

18 A. Correct.

19 Q. All right. And what -- can you describe some of the other  
20 services that the tribe provides to its members?

21 A. The tribe provides environmental protection services, to  
22 provide -- they provide emergency response and fire protection.  
23 They provide housing services, rental assistance, moving  
24 assistance, down payment assistance, utility assistance.

25 Q. And those services are provided by, I would imagine,

1 various departments of the tribe?

2 A. Yes, correct.

3 Q. Okay. And those departments get mail, correct?

4 A. Yes, correct.

5 Q. So if I wanted to write a letter, for some reason, to the  
6 housing assistant folks at the tribe --

7 A. Yes.

8 Q. -- I would write -- I would address it to them, correct?

9 A. No. You address it to the Shingle Springs Band of Miwok  
10 Indians.

11 Q. Okay. And how would I know that it was going to a  
12 particular department?

13 A. You could actually put that on there, but most  
14 everything's usually addressed to the chair and then goes in.

15 Q. Okay. But, so there's a variety of mail that goes to the  
16 tribe --

17 A. Yes.

18 Q. -- from different sources? Okay. Now, the Shingle  
19 Springs Band of Miwok Indians as you've described it, how long  
20 has it been a tribal entity?

21 A. Oh.

22 Q. To your knowledge, if you know.

23 A. Somewhere in the '69 or '70, somewhere around there.

24 Q. Okay.

25 A. I think that it was a recognized --

1 Q. And the tribe isn't -- we're talking about the tribe that  
2 runs the casino up there in Placerville; correct?

3 A. Correct.

4 Q. Okay. Now, the -- is it fair to say that  
5 there -- the -- there is not really a difference between a  
6 reservation and a rancheria; correct?

7 A. Correct. That's usually, it's maybe like land base size.

8 Q. Okay. So if I were writing to the, as you described it,  
9 the Shingle Springs Band of Miwok Indians, if I addressed  
10 something to the Shingle Springs Rancheria to 5281 Honpie Road,  
11 for example, it would go to the tribe; right?

12 A. Correct.

13 Q. So there's real no -- there's not a difference between the  
14 use of the word rancheria as opposed to Miwok Band; correct?

15 It's still going to go to the same place?

16 A. If they have the correct address on it.

17 Q. Right. If it has the correct address.

18 A. I mean, because the rancheria is the land base, and the  
19 Shingle Springs Band of Miwok Indians is the people.

20 Q. Understood.

21 A. That's the difference between them.

22 Q. Yeah. But if I did write a letter, for example, to the  
23 Shingle Springs Rancheria and I addressed to what I just said,  
24 the 5281 Honpie Road, it's going to go to the tribe?

25 A. Yes.



1 Q. Okay.

2 MR. WISEMAN: No further questions, Your Honor.

3 THE COURT: All right.

4 Any cross examination?

5 CROSS-EXAMINATION

6 BY MR. STEVENS:

7 Q. So if something is addressed to the Shingle Springs  
8 Rancheria -- I -- I'm kind of confused. Does that mean the  
9 entire -- everything that the tribe is involved with?

10 A. Yes.

11 Q. Is encompassed by that?

12 A. Yeah.

13 Q. So any mail addressed to Shingle Springs Rancheria is  
14 going to go to the tribe?

15 A. Yes.

16 Q. And you get a lot of mail that's addressed that way?

17 A. Yes, correct.

18 Q. And just so -- any idea what the percentage of that might  
19 be, off the top of your head? Doesn't have to be exact.

20 A. Sixty.

21 Q. What about Shingle Springs Band of Miwok Indians? Miwok  
22 Indians? How much of that is addressed to the tribe now that  
23 you guys get?

24 A. Maybe one or two.

25 Q. So, let's go back to the Shingle Springs Rancheria. How

1 long have you been getting things, at least for the 12 years  
2 you've been there, that were addressed Shingle Springs  
3 Rancheria?

4 A. Twelve years.

5 Q. And -- but you do get things sometimes that are addressed  
6 to the various forms, Shingle Springs Band of Miwok Indians?

7 A. Yes.

8 Q. And you guys have been getting mail like that for how long  
9 too? Twelve years?

10 A. Since I've been there, I -- that I can speak of, for 12  
11 years.

12 Q. Thank you.

13 THE COURT: All right.

14 Mr. Wiseman?

15 MR. WISEMAN: Briefly.

16 REDIRECT EXAMINATION

17 BY MR. WISEMAN:

18 Q. Just so I understand, if I'm a member of the -- of a  
19 Shingle Springs Band of Miwok Indians, I'm also a member of the  
20 Shingle Springs Rancheria, correct?

21 A. Well, I guess so, because it would be land base.

22 Q. Right. But I can use that -- my tribal affiliation as  
23 either one?

24 A. Yes, if -- but it's incorrect, you know? The terms,  
25 people miss those terms, but yes.

1 Q. Right. But -- so you're saying the rancheria is land  
2 based, but I just want to make sure that it's clear that in  
3 use -- in being a Shingle Springs Miwok, one can use either  
4 name interchangeably to identify themselves as being a member  
5 of the Miwoks?

6 A. Of that particular tribe, yes.

7 Q. Yes. Okay.

8 MR. WISEMAN: Thank you, Your Honor. No further  
9 questions. Thank you, Rhonda.

10 THE COURT: All right.

11 MR. WISEMAN: Now --

12 THE COURT: Anything further, Mr. Stevens?

13 MR. STEVENS: No.

14 THE COURT: All right. Thank you, ma'am.

15 THE WITNESS: Thank you.

16 THE COURT: You may step down. And any reason to  
17 require the witness to remain here?

18 MR. WISEMAN: No, Your Honor, thank you.

19 THE COURT: All right, then, Mr. Stevens?

20 MR. STEVENS: Thank you.

21 THE COURT: Do you -- Mr. Stevens, do you intend to  
22 recall the witness?

23 MR. STEVENS: No.

24 THE COURT: All right, then, she's free to go or she  
25 can remain if she wishes.

1 (Witness excused.)

2 All right. Any further defense witnesses?

3 MR. WISEMAN: Your Honor, the defense would like to  
4 recall Mr. Chavez. I didn't earlier indicate that I would, but  
5 if the Court would permit me to recall him briefly?

6 THE COURT: All right.

7 (Pause.)

8 THE COURT: All right.

9 MR. WISEMAN: Good afternoon.

10 THE COURT: I'll remind you -- it's Inspector or  
11 Officer?

12 THE WITNESS: Inspector.

13 THE COURT: Inspector Chavez --

14 THE WITNESS: Yeah.

15 THE COURT: -- I'll remind you you're -- you remain  
16 under oath.

17 THE WITNESS: Yes, sir.

18 THE COURT: All right. You may continue, Mr.  
19 Wiseman.

20 MR. WISEMAN: Thank you.

21 MICHAEL CHAVEZ, DEFENDANT'S WITNESS, PREVIOUSLY SWORN

22 DIRECT EXAMINATION

23 BY MR. WISEMAN:

24 Q. Mr. Chavez, earlier you testified about the meeting you  
25 had with Mr. Caballero, and you described it for taking place

1 at Starbucks for about an hour, and Mr. Caballero, if I recall  
2 your testimony, provided you with a number of documents,  
3 correct? You recall your testimony?

4 A. That's correct.

5 Q. Now, in the documents, did you get anything that appeared  
6 to be a tribal identification from the Bureau of Indian  
7 Affairs?

8 A. You know, not that I recall. I --

9 Q. Okay.

10 A. I was given a lot of documents.

11 Q. Right.

12 A. I put them together and passed them on to Special Agent  
13 Diaz.

14 Q. Okay. And did you, at any time in your investigation,  
15 attempt at -- to determine if Mr. Caballero was, indeed,  
16 recognized by the Bureau of Indian Affairs as a Miwok tribal  
17 member?

18 A. I did not.

19 Q. Okay. Thank you.

20 MR. WISEMAN: No further question.

21 THE COURT: All right.

22 Mr. Stevens?

23 CROSS-EXAMINATION

24 BY MR. STEVENS:

25 Q. Why not?

1 A. Because I passed on all the information to Special Agent  
2 Diaz and I was only concerned about resolving the mail issue of  
3 specifically where the mail was to be delivered.

4 Q. So you weren't there to determine who was a rightful  
5 member of what tribe?

6 A. Correct.

7 Q. Whether or not people got their mail?

8 A. That was my main concern.

9 Q. Thank you.

10 THE COURT: All right. Anything further, Mr.  
11 Wiseman?

12 MR. WISEMAN: Your Honor, if I may, let me call Mr.  
13 Diaz, who's here, and I'll ask him that simple question.

14 THE COURT: All right. But you're through -- you  
15 have no --

16 MR. WISEMAN: I'm done with this gentleman, thank  
17 you.

18 THE COURT: All right. You may step down. Thank  
19 you.

20 (Witness excused.)

21 All right. And, Special Agent Diaz, I'll remind you  
22 you remain under oath.

23 THE WITNESS: Okay.

24 RAY DIAZ, DEFENDANT'S WITNESS, PREVIOUSLY SWORN

25 DIRECT EXAMINATION

1 BY MR. WISEMAN:

2 Q. Mr. Diaz, you just heard Mr. Chavez explain the scope of  
3 his investigation, so I'm going to ask you; when you -- well,  
4 first of all, let's establish, you received some documents from  
5 Mr. Chavez, correct?

6 A. I do --

7 Q. That --

8 A. I do recall receiving some documents from Investigator  
9 Chavez.

10 Q. And you recall those documents were -- those are the  
11 documents that Mr. Chavez indicated Mr. Caballero gave him?

12 A. Correct.

13 Q. Correct.

14 A. Correct.

15 Q. And, in your investigation, did you make an attempt to  
16 determine whether Mr. Caballero was, indeed, a recognized  
17 member of the Miwok tribe?

18 A. My attempt was to determine if Mr. Caballero was a member  
19 of the tribe that runs the Red Hawk Casino. Otherwise, it was  
20 irrelevant to me. What was relevant was whether he had the  
21 right to their mail.

22 Q. That -- that's not my question, sir. My question is, did  
23 you attempt, in your investigation, to verify whether Mr.  
24 Caballero was recognized by the federal government as a member  
25 of the Miwok tribe?

1 A. No, I did not. I felt it was irrelevant.

2 Q. And so what you did is, as I understand your testimony,  
3 you took the word of another tribe that purports to be Miwok  
4 and when they said Mr. Caballero is not a member of our tribe,  
5 that was sufficient?

6 A. No, I took the member (sic) of them as well as Mr.  
7 Caballero. Mr. Caballero told me that he was not a member of  
8 that tribe.

9 Q. Right, because Mr. Caballero told you that because Mr.  
10 Caballero told you in addition that he did not believe that the  
11 individuals who were purporting to be Shingle Springs Miwoks  
12 were in fact Miwoks. As a matter of fact, he told you that  
13 they were Maidu and their --

14 A. Yeah.

15 Q. -- historical record establishes that?

16 A. Yeah. And in my investigation, what I'm saying, is I  
17 didn't find that relevant because what I found was relevant was  
18 the fact that he didn't have a right to their mail.

19 Q. I understood what your --

20 A. Uh-huh.

21 Q. -- what your purpose is. I just want to make sure that  
22 you understand my question, and I just want to get it clear.  
23 He did represent to you when he said I'm not a member of that  
24 tribe, those folks are Maidu, correct?

25 A. I do remember him telling me that he is not a member of



1 that tribe. I don't specifically remember him telling me that  
2 they were Maidu, but I have heard him argue that.

3 Q. Okay.

4 A. But I don't know if he told me --

5 Q. All right.

6 A. -- about the Maidu part.

7 Q. And lastly, in your investigation, did you do anything to  
8 look into this, what appears to have been a dispute between Mr.  
9 Caballero and the, let's call it, competing tribe?

10 A. The only thing I did was determine that there was a civil  
11 matter going on between the tribe and Mr. Caballero. But --

12 Q. Okay. Thank you. No --

13 A. Okay.

14 Q. Thank you.

15 A. Uh-huh.

16 MR. WISEMAN: No further questions, Your Honor.

17 THE COURT: Mr. Stevens?

18 MR. STEVENS: Nothing, Your Honor.

19 THE COURT: All right. Thank you very much.

20 THE WITNESS: Uh-huh.

21 THE COURT: You can step down.

22 MR. WISEMAN: Thank you, Your Honor. He's excused.

23 THE COURT: All right.

24 (Witness excused.)

25 THE COURT: Any further witnesses, Mr. Wiseman?

1 MR. WISEMAN: Your Honor, the defense rests.

2 THE COURT: All right.

3 Mr. Stevens, any rebuttal witnesses?

4 MR. STEVENS: Just a moment, Your Honor.

5 (Pause - counsel conferring.)

6 MR. STEVENS: No, Your Honor. Thank you.

7 THE COURT: All right, counsel. Are you ready to  
8 argue the case?

9 MR. STEVENS: Yes, Your Honor.

10 MR. WISEMAN: Yes, Your Honor.

11 THE COURT: All right. Mr. Stevens?

12 PLAINTIFF'S CLOSING ARGUMENT

13 MR. STEVENS: Your Honor, this case is not about who  
14 belongs to what tribe. This case is about whose mail belongs  
15 to whom. Now there's been no testimony that any of those  
16 grants or anything like that was addressed to him. He had no  
17 right to that mail. As for the implicit assertion by the  
18 testimony that he only had that specific mail forwarded, if you  
19 actually look at the documents, you see that he had the mail  
20 forwarded for that and from two different addresses. He only  
21 held the mail for one of the specific addresses. So the other  
22 mail was forwarded. And for that mail that was held, that was  
23 obstructed. They did not get their mail like they should have.  
24 They --

25 THE COURT: All right. Let's run through the

1 information. The information charges three counts.

2 MR. STEVENS: Uh-huh.

3 THE COURT: Count one is August 23rd, 2010 and it  
4 cites a Form 3575. I think that is Exhibit P2, but --

5 MR. STEVENS: Uh-huh.

6 THE COURT: -- is that what you're relying on, is P2?

7 MR. STEVENS: Yes.

8 THE COURT: All right. And then count two is also  
9 the same date and it's the same form number. Is that  
10 exhibit -- which exhibit is that? Is that --

11 MR. STEVENS: 4.

12 THE COURT: -- 4, P4? All right. And then the count  
13 three is August 28, 2010, same form number?

14 MR. STEVENS: P10.

15 THE COURT: 10. All right. And each of those is the  
16 form for official mail forwarding, change of address order?

17 MR. STEVENS: Yes, Your Honor.

18 THE COURT: All right. You can proceed.

19 MR. STEVENS: And so he did that on all three of  
20 those. The mail was only held for one, but even then it's  
21 still obstructed. It simply was not his mail. This is  
22 not -- there's no assertion made whatsoever that he was getting  
23 his mail. In fact, the evidence is he was not getting mail at  
24 either of those addresses. He was not getting mail because,  
25 you know, he was not getting his mail through the tribe.



1 the mail, and what happened? She did what the postal service  
2 typically does in a situation like that. So we're not  
3 disputing that Mr. Caballero did, in fact, make those changes,  
4 make the changes in mail delivery, but it wasn't done with  
5 intent. There's no proof that the government has been able to  
6 establish, even circumstantially, in my view --

7 THE COURT: Well the -- your --

8 MR. WISEMAN: -- but he --

9 THE COURT: -- your trial brief, this was at page 4  
10 under your heading, Caballero did not obstruct the mail since  
11 he used post office lawful procedures to obtain mail he  
12 believed he was entitled to receive, you argue -- well first  
13 you admit that the mail that the sender -- that mail that was  
14 intended by the sender to go to the Red Hawk Casino actually  
15 was sent to this new address that the defendant had given to  
16 the post office. But then you argue that apparently the  
17 defendant believed he was entitled to receive it.

18 But it -- the evidence seems to be that the defendant  
19 actually was involved in this dispute over who had the right to  
20 use the name that he claimed he owned and that he submitted  
21 this change of address for the purpose of gaining an advantage  
22 in that dispute rather than to actually direct mail to where it  
23 was intended to go.

24 MR. WISEMAN: Well, Your Honor, I don't think the  
25 evidence -- there's certainly evidence that there is a dispute.

1 That's, if you will, the pink elephant in the room. We know  
2 there was a dispute. But I don't think the evidence  
3 establishes that Mr. Caballero did that to gain some sort of  
4 advantage in the civil case. And what I suggest here in -- on  
5 paragraph 4 is as Ms. Stone testified. She testified that it  
6 was standard procedure for the -- for when there was a dispute  
7 for the mail service to hold the mail until it was resolved by  
8 her -- the supervisors, which it apparently was.

9 But the Court, as Your Honor is clear, that there --  
10 this -- the -- and I think the evidence supports this, there is  
11 a civil dispute as to who's entitled to the name, the lawful  
12 name of the Shingle Springs Miwok Tribe. Since there was a  
13 dispute, I think -- and since the burden, as we all know, is on  
14 the government, I don't think the government has made the  
15 burden -- made their burden to prove the criminal intent for  
16 purposes of being convicted of a crime.

17 Now, with respect to a civil lawsuit the -- obviously  
18 the standard's different. But for purposes of criminal intent,  
19 I don't think the government has proved that. I think Mr.  
20 Caballero did what a reasonable person would do in going in --  
21 assuming that he had a good faith dispute as to who was  
22 entitled to use that name, which the evidence suggests nothing  
23 but that, he went into the post office and presented it to Lark  
24 Stone, who told him what to do, and that's it.

25 THE COURT: Well the --

1 MR. WISEMAN: I don't think that --

2 THE COURT: -- the element, and I'm taking this from  
3 your trial brief where you cite to United States v. Fleming, a  
4 Tenth Circuit case, and United States v. Upshaw, a Third  
5 Circuit case, and I have read those. The elements are willful  
6 or knowing act --

7 MR. WISEMAN: Yes.

8 THE COURT: -- to obstruct or retard and then the  
9 third element is the passage of the mail. So when you focus on  
10 the mens rea requirement of willful or knowing, are you arguing  
11 that he didn't willfully change the address of the mail, or --

12 MR. WISEMAN: No, but what I am focusing on is  
13 in -- the citation of Austin on page 2 which is -- and the  
14 cases that we cited after Austin on -- beginning on line 8  
15 through 14 is that it has to be an improper motive. Certainly  
16 it's willful. I'm -- he went in there knowingly what he was  
17 doing and he intended to do that, but I don't think the  
18 evidence establishes that there was an improper motive to do  
19 that. And I think the government's obligation to convict this  
20 gentleman has to prove that beyond a reasonable doubt.

21 THE COURT: All right. Anything further?

22 MR. WISEMAN: No, Your Honor.

23 THE COURT: All right.

24 Mr. Stevens?

25 MR. STEVENS: For one thing, I didn't get his trial

1 brief until yesterday. It was filed on the 29th, so I haven't  
2 had a chance to go through those cases. I just looked at the  
3 statute, and it specifically says willing and knowingly (sic).  
4 It doesn't say that I have to prove an improper motive.

5 I think all the evidence shows that he knew exactly  
6 what he was doing and he fully intended to happen what  
7 happened.

8 RULING

9 THE COURT: All right. I am -- counsel, I'm ready to  
10 rule. I thought about submitting this, but I really don't  
11 think that I would gain anything from that. I have read the  
12 cases, and I do appreciate your trial brief, Mr. Wiseman.

13 The elements, and these are -- they're set out in the  
14 Third Circuit's Upshaw case that's cited in Mr. Wiseman's  
15 brief. The obstruction element requires delay due to some sort  
16 of an illegitimate action. I -- I'm satisfied of that, Mr.  
17 Wiseman, but I think that the fact that the defendant admits  
18 that the -- that mail that the intender -- that the sender  
19 intended to go to the Red Hawk Casino and was, in fact,  
20 addressed to the casino actually was diverted to the  
21 defendant's address is -- meets one important prong of the  
22 three prongs that have to be established.

23 Now, the defendant claims that he was entitled to  
24 receive the mail because he owns the name under which the mail  
25 was addressed. I don't think that that gives him the right to



1 divert the mail. Claiming that he owns the name that the  
2 rancheria uses does not establish that the defendant was  
3 entitled to receive the mail that senders had intended to go to  
4 the rancheria or to the casino or that was addressed to the  
5 rancheria or the casino.

6           And, in fact, Mr. Wiseman, as I indicated, I think  
7 that that actually establishes that the defendant's true motive  
8 wasn't to make sure that mail gets to where it's supposed to  
9 go, but instead, the motive was to gain whatever advantage he  
10 needed to gain in this ongoing dispute over who had the right  
11 to use the name. And he may have a very strongly held belief  
12 that he owns that name and he -- and the rancheria shouldn't  
13 use it. That doesn't give him the right to divert or in any  
14 way obstruct or delay the delivery of the mail that was  
15 addressed to the rancheria. I don't think that that  
16 establishes a defense to the charge that -- the three charges  
17 that have been brought under Section 1701.

18           I didn't hear any evidence that diverting the mail to  
19 the defendant was done so that he could receive mail that he  
20 actually believed was directed to him. I know that was argued  
21 in the trial brief, but I don't think the evidence bears that  
22 out.

23           The Postal Inspectors Chavez and Special Agent Diaz  
24 each testified to their interviews with the defendant. They --  
25 in those interviews, according to the testimony that I heard,

1 the defendant explained to each of those officers his  
2 motivation and his motivation seems to be pretty clearly his  
3 dispute over the use of the name and who has the right to use  
4 the tribal name and not any good faith belief by the defendant  
5 that he's entitled to receive the mail or that the mail was  
6 intended for him or addressed to him.

7           Each of the officers also testified that the  
8 defendant admitted that he was not a member of the tribe that  
9 was operating the rancheria or operating the Red Hawk Casino.  
10 Each officer testified that the defendant admitted that he did  
11 not claim to be any kind of a governmental representative of  
12 the rancheria or a member of its governing body. So, at  
13 bottom, the evidence is pretty clear that what motivated the  
14 defendant was his effort to gain an advantage in this dispute,  
15 and I so find.

16           So, for those reasons, I find beyond a reasonable  
17 doubt that the defendant did willfully and knowingly obstruct  
18 the passage of mail to the rancheria on the two occasions  
19 charged on October 23 of 2010 and on another occasion on August  
20 28, 2010 by submitting mail forwarding and change of address  
21 orders to the post office on those dates, and that was done for  
22 the purpose of diverting the mail that was not sent or  
23 addressed to him, and for those reasons, I do find the  
24 defendant guilty of each of the three counts charged.

25           All right. I intend to refer this to probation

1 unless counsel wishes to proceed immediately to judgment and  
2 sentencing. Do you wish to be heard on that matter?

3 MR. STEVENS: No, Your Honor.

4 MR. WISEMAN: May I have a moment, Your Honor?

5 THE COURT: Yes.

6 (Pause - counsel conferring.)

7 MR. WISEMAN: Your Honor, Mr. Caballero would  
8 be -- is willing to proceed to sentencing now in lieu of a  
9 presentence report if the Court wishes to proceed.

10 THE COURT: All right. I think I would like more  
11 background information as to the defendant and it's the type of  
12 information I probably could only get through a thorough  
13 interview by the probation office, so I am going to refer it,  
14 Mr. Wiseman.

15 Mr. Clerk, can we get a date for a hearing on the  
16 report -- a presentence report investigation from the probation  
17 office as well as judgment and sentencing?

18 THE CLERK: Yes, sir. November 14th, 2011 at 10:00  
19 a.m.

20 THE COURT: All right. That'll be the order. The  
21 matter, then, is set for judgment and sentencing for November  
22 14, 2011 at 10:00 a.m.

23 MR. STEVENS: Thank you.

24 THE COURT: All right.

25 MR. WISEMAN: Thank you, Your Honor.

1 THE COURT: Thank you, counsel.

2 THE DEFENDANT: Thank you, Your Honor.

3 (Whereupon the hearing in the above-entitled matter was  
4 adjourned at 2:10 p.m.)

5 --o0o--

6 CERTIFICATE

7 I certify that the foregoing is a correct transcript from  
8 the electronic sound recording of the proceedings in the above-  
9 entitled matter.

10

11 \_\_\_\_\_ September 9, 2011

12 Patricia A. Petrilla, Transcriber

13 AAERT CERT\*D-113

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