

1 (In open court.)

2 THE COURT: All right. Please be seated.

3 About how much more do you have?

4 Have a good evening. We will see you tomorrow.

5 THE WITNESS: Thank you, Your Honor.

6 (Witness steps down.)

7 THE COURT: How much longer?

8 MS. PENZA: 30 to 45 minutes, Your Honor.

9 THE COURT: Any more pictures?

10 MS. PENZA: The child pornography, Your Honor.

11 THE COURT: And for those you're not passing out a
12 book, are you?

13 MS. PENZA: We would propose, Your Honor -- we only
14 have one copy of this.

15 THE COURT: Why don't we do what we did the other
16 day and show it only to the jury and turn off the rest of the
17 video.

18 MS. PENZA: We had thought, Your Honor, that the
19 agent could display it to the jury and give them the
20 opportunity to look at that single binder, Your Honor.

21 THE COURT: You can do it that way. That's fine.

22 MS. PENZA: Okay. There's a certain -- as Your
23 Honor knows, there's aspects -- in terms of identifying the
24 individual, these are highly-quality photos, and there's only
25 one copy. We would briefly display it to the jury and ask

1 that they briefly look at it, and that's it in terms of the
2 photographs.

3 MR. AGNIFILO: What was the procedure again?

4 THE COURT: There's a binder?

5 MS. PENZA: Yes.

6 THE COURT: It has one photo in it?

7 MS. PENZA: No, Your Honor, I'm sorry. It's one
8 binder. It has each of the photographs that's been charged.
9 So it has 18 or so images of child pornography in it.

10 THE COURT: I see. And you're going to ask the
11 jurors to look at all 18 images.

12 MS. PENZA: Briefly, Your Honor. We'll have the

13 agent who is in custody of the images, display the images very
14 briefly to the jury and then allow them to accept the images,
15 not for a lengthy period of time, but to have an opportunity
16 to look at the images themselves.

17 MR. AGNIFILO: Would the agent approach the jury to
18 do that?

19 MS. PENZA: Yes.

20 MR. AGNIFILO: I would object to that. I think the
21 book could be passed and they can look at it as they deem
22 necessary. Face-to-face, I don't want that. If they want
23 look, if they don't want to look.

24 THE COURT: It might coerce the jurors to look at
25 the images; is that the argument? Why don't we have one of

1 the attorneys do it. I don't understand. After this, what we
2 had today -- I will allow the agent. He's in custody of it.
3 They're images of child pornography. It's very serious and
4 the agent can show it to them and then they can pass it to the
5 jury. Anyone who wants to look further can look and anyone
6 who doesn't want to look further doesn't have to look, and
7 then we'll be done with this portion of the case.

8 MS. PENZA: Yes, Your Honor.

9 THE COURT: And after that, that's it?

10 MS. PENZA: That's it for this witness, Your Honor,
11 and then there's one additional witness tomorrow.

12 THE COURT: How much do you have for the witness.

13 MR. AGNIFILO: Hour, hour and 15.

14 THE COURT: And then there's one more witness after
15 that?

16 MS. PENZA: Yes, Your Honor, our case agent,
17 approximately two hours on direct.

18 THE COURT: And on cross?

19 MR. AGNIFILO: Probably less than an hour.

20 THE COURT: Which will take us into the middle of
21 the afternoon, I guess.

22 MR. AGNIFILO: Sounds about right.

23 THE COURT: And then you'll rest your case.

24 MS. PENZA: We expect to, Your Honor.

25 THE COURT: You expect to. Okay.

1 And then I'll hear from the defense.

2 MR. AGNIFILO: Yes, sir. Can I go back to the issue
3 that I raised at sidebar and maybe do it at sidebar PSR?

4 THE COURT: No. We did it. I am not doing it
5 again. Once is enough in this case. Send me a letter. You
6 are good at that. After 6 a.m., if you do not mind.

7 MR. AGNIFILO: Okay, Judge. We're done for the day.

8 MS. PENZA: Thank you, Your Honor.

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11 (Matter adjourned to Thursday, June 13, 2019 at 9:30 a.m.)

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