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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEVADA

UNITED STATES OF AMERICA,)	
)	Case No. 2:16-cr-00046-GMN-PAL
Plaintiff,)	
)	Las Vegas, Nevada
vs.)	August 10, 2017
)	9:31 a.m.
ERIC J. PARKER (11), O.)	
SCOTT DREXLER(12), RICHARD)	
LOVELIEN (13), and STEVEN A.))	
STEWART (14),)	
)	
Defendants.)	Day 19

TRANSCRIPT OF PROCEEDINGS
BEFORE THE HONORABLE GLORIA M. NAVARRO
UNITED STATES DISTRICT COURT CHIEF JUDGE, AND A JURY

APPEARANCES:

For the Government:

STEVEN W. MYHRE, AUSA
ERIN M. CREEGAN, SAUSA
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Appearances continued on next page.

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Proceedings reported by machine shorthand, transcript produced
by computer-aided transcription.

1 APPEARANCES CONTINUED:

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14 For the Defendant Steven A. Stewart (14):

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17 Also present:

18 Sharon Gavin, Special Agent FBI
19 Joel Willis, Special Agent FBI
Chris Allen, Bureau of Land Management
20 Mike Abercrombi, FBI
Mamie Ott
21 Nona Dodson
Tori Bakken
22 Brian Glynn

23

24

25

1 (Thursday, August 10, 2017, 9:31 a.m.)

2 --oOo--

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

4 (Jury out.)

5 THE COURT: You may be seated.

6 COURTROOM ADMINISTRATOR: This is the time set for
7 Jury Trial, Day 19, in Case No. 2:16-cr-046-GMN-PAL, United
8 States of America versus Eric Parker, O. Scott Drexler, Ricky
9 Lovelien and Steven Stewart.

10 THE COURT: Now, before we get started and bring in
11 the jury, let me remind everyone about the expectations
12 regarding the conduct of everyone in the courtroom.

13 Please do remember that this is a courtroom. It is
14 not a sporting event. So, it is never appropriate to show any
15 display of your reactions or feelings regarding anything that
16 you see or hear, no matter how much you agree or disagree with
17 what is being said.

18 There should be no audible expressions, no body
19 expressions, or any disruptive conduct of any kind. The
20 marshals are authorized to remove anyone who does exhibit such
21 inappropriate conduct. Likewise, the defendants are aware that
22 we do have a room right next door, a holding room with a
23 speaker system set up, so that they may continue to listen to
24 the trial if they are not able to stay in the courtroom and
25 waive their right to be present in the courtroom through the

1 display of inappropriate conduct.

2 We also have a rule about electronic devices. There
3 are no electronic devices permitted in the courtroom, so please
4 take a moment to check and make sure that you do not have any
5 kind of electronic devices, whether they be phones, laptops,
6 even if they are on the -- turned off, or private mode, or
7 vibrate mode settings, they are not permitted in the courtroom.
8 There is no recording permitted in any of the federal courts,
9 no audio recording and no video recording.

10 The attorneys are permitted to have electronic
11 devices. They do use them to review their notes, discovery,
12 present evidence and so forth. So, they are permitted to have
13 those. Likewise, the security officers in the courtroom also
14 are permitted to have electronic devices for communication
15 purposes.

16 So, anything we need to address before we bring in
17 the jury?

18 MR. MARCHESE: Your Honor, I do have one housekeeping
19 matter. I still have my opening statement, which I reserved.
20 And I plan on giving a very brief one.

21 After that, I plan on calling Mr. Parker. I don't
22 know how the Court wants to work it with his chains. If I give
23 a brief opening statement, and we just take a break, it might
24 be a little odd. But I just wanted to bring that to the Court
25 and the marshals.

1 THE COURT: All right. So, that will be your first
2 witness?

3 MR. MARCHESE: Correct.

4 THE COURT: All right.

5 Mr. Leventhal?

6 MR. LEVENTHAL: And -- yes. And we are not going to
7 be calling our investigator or any of the other witnesses that
8 we indicated we would, which kind of throws a wrinkle in my
9 preparation with Mr. Drexler.

10 Last weekend, we all went to go see them at their
11 housing unit. And because of my foot, I had to leave early. I
12 didn't get a chance. So, I know that we are going to spend a
13 majority of the day with Mr. Parker today. I would have that I
14 be given the chance to discuss with Mr. Drexler his right to
15 testify, as well as Mr. Stewart, and go thoroughly through
16 that.

17 And, obviously, we talked about it, but now that the
18 case is where it's at, if there's anything that he wants to,
19 you know, fill in, not fill in, and so I haven't had that
20 conversation with him. So, I would be requesting that Monday
21 morning, that if he decides that he wants to testify, that
22 that's when he does that, just so I can have a few days in
23 preparation.

24 We went there last weekend to do it, but I had to
25 leave early because of my medical problem. But that's all that

1 we ask for. But we have no other witnesses, then based on
2 yesterday's testimony of the four witnesses that we have.
3 There's nobody else.

4 THE COURT: All right. Mr. Tanasi?

5 MR. TANASI: Yes. Your Honor, at this time, my
6 client actually is not going to be testifying.

7 THE COURT: And Mr. Perez.

8 MR. PEREZ: Mr. Lovelien will not be testifying
9 either, Your Honor.

10 THE COURT: All right.

11 MR. TANASI: But I can also attest to Mr. Leventhal's
12 representations to the Court that we were all there last week,
13 and his foot was killing him, and he wasn't there for the
14 entirety of the meeting as well.

15 THE COURT: All right. Thank you.

16 And welcome back to Mr. Lovelien. I do sympathize
17 for your loss, and I'm glad that you are able to join us this
18 morning.

19 All right. So, I will have the marshals please
20 remove Mr. Parker's leg shackles, so that he may be able to be
21 called to testify this morning without needing to take another
22 break.

23 MR. MARCHESE: Thank you.

24 THE COURT: Thank you.

25 So, Aaron, do you want to go ahead and go fetch the

1 jury?

2 COURTROOM ADMINISTRATOR: Yes, Your Honor.

3 THE COURT: Thank you.

4 (Jury in.)

5 THE COURT: The jury may go ahead and be seated.

6 Good morning and welcome back.

7 All right. So, we are resuming today.

8 Does the government have another witness to call?

9 MR. MYHRE: No, Your Honor. The government rests.

10 THE COURT: All right. Well, before we proceed, we
11 should have the attorneys make their presence on the record in
12 front of the jury. So, let's go ahead and do that.

13 Mr. Myhre.

14 MR. MYHRE: Good morning, Your Honor. Good morning
15 ladies and gentlemen of the jury. Steven Myhre, Erin Creegan,
16 Nadia Ahmed on behalf of the United States.

17 THE COURT: Good morning.

18 MR. TANASI: Thank you. Good morning, folks.
19 Richard Tanasi, Steven Stewart. Also with us at counsel table
20 is Tori Bakken and Brian Glynn. Thank you.

21 THE COURT: Good morning.

22 MR. MARCHESE: Good morning, Your Honor. Good
23 morning, ladies and gentlemen. Jess Marchese on behalf of Eric
24 Parker.

25 MR. LEVENTHAL: Good morning, everyone. Todd

1 Leventhal on behalf of Scott Drexler.

2 THE COURT: Good morning.

3 MR. PEREZ: Good morning everyone. Shawn Perez on
4 behalf of Ricky Lovelien.

5 THE COURT: All right. We had some openings made by
6 the defendants at the beginning of trial, but there was a
7 reservation of an opening made by Mr. Marchese on behalf of his
8 client, Mr. Parker.

9 So, would you like to invoke that right to present
10 your opening statement now?

11 MR. MARCHESE: I would, Your Honor. Thank you very
12 much.

13 THE COURT: Let's go ahead and do that. Do we need
14 to move the podium?

15 MR. MARCHESE: Nah, I got it here.

16 DEFENDANT PARKER'S OPENING STATEMENT

17 Good morning, everyone. If you just forgot between
18 the last minute, I'm Jess Marchese, and I represent this
19 gentleman in the blue plaid shirt right there. His name is
20 Eric Parker.

21 As Her Honor pointed out to you a short while ago, I
22 reserved my right to give an opening statement. And basically
23 what an opening statement is, what I believe the evidence will
24 show throughout the case.

25 Now, obviously, you've heard the government put on

Defendant Parker's Opening Statement

1 their case in chief for the past month or so, and now it's our
2 opportunity for us to put on a case and show you what we
3 believe the evidence will show.

4 But I'm not going to do that in my opening argument,
5 just for the simple fact that very, very shortly, as soon as
6 I'm done here, Eric Parker is going to get on the stand, and
7 he's just going to tell what you the evidence is. Because what
8 I tell you is not evidence. It's just my belief; what I think
9 the evidence is going to show.

10 But what Eric Parker tells you is actually evidence.
11 And what he's going to tell you is that in April of 2014, he
12 was living up in Idaho. And he starts looking on the Internet,
13 and he hears and sees all these things. They are occurring in
14 Bunkerville, Nevada. All -- many of the things that we've
15 heard about for the last month or so.

16 He doesn't know any of these individuals. He's never
17 heard of a Cliven Bundy. He's never heard of an Ammon Bundy.
18 None of those things. And he starts seeing all these things on
19 the Internet and all this chatter. And as a result, he decides
20 that he's going to come to Bunkerville, Nevada. Not for cows.

21 Ladies and gentlemen, you're going to hear that Eric
22 Parker -- he's an electrician. He's not a rancher. He has no
23 dog in the fight, so to speak, that Mr. Bundy was having with
24 the federal government and the BLM.

25 No, that's not the reason that he came. So, at that

Defendant Parker's Opening Statement

1 point, as the evidence will show, he talked to a couple of his
2 buddies; Steven Stewart, who he's known for a long time, since,
3 I believe, they went to elementary school together, and another
4 friend of his, Mr. Scott Drexler.

5 And they got into Eric's truck, and they went down to
6 Bunkerville. And when they went down to Bunkerville, he didn't
7 know anyone. He didn't know Ricky Lovelien. He didn't know
8 Ryan Payne or any of the Bundys, none of those people. The
9 only people that they knew were the three of them, the three
10 boys from Idaho, so to speak.

11 And they got there, and they stayed overnight. And
12 at some point in time, as you heard earlier in the case, they
13 heard a speech. A couple people gave speeches. Ammon Bundy,
14 Cliven Bundy's son, gave a short prologue to that speech. Then
15 the Sheriff, Sheriff Doug Gillespie spoke. And then lastly,
16 Cliven Bundy spoke.

17 And based upon that, you'll hear Eric testify that it
18 was his belief that the cows were going to be released, and
19 that the Gold Butte area or allotment was now reopened to the
20 public. He didn't really know too much about the Gold Butte
21 allotment. He had never been there. Never even been to
22 Bunkerville before in his life the evidence will show.

23 So, he stood around. He waited. And you heard the
24 speeches, and you will hear them again. And then at that
25 point, Cliven Bundy got up on the stage. And after he had

Defendant Parker's Opening Statement

1 previously made some demands to the sheriff, that you will hear
2 that Eric thought were, quite frankly, ridiculous, he gave a
3 second speech. And Eric will tell you what he thought, and
4 what was going through his mind, and why he went to the wash.

5 And correct -- the government is correct in that Eric
6 went in the truck of Mr. Ricky Lovelien, who he had just met
7 that morning. He had no contact, no communication, no ties
8 whatsoever with Mr. Lovelien except that morning.

9 And he went over to the wash. And he gets there, and
10 he gets out of the truck with his friends. And at that point,
11 he starts to hear some commotion, and he starts looking at his
12 environment.

13 And you are going to hear why he went from the
14 parking area to the bridge, the northbound bridge. And you are
15 going to hear what he saw, what he did, and why he did what he
16 did when he was on the bridge.

17 And, yes, he will admit -- he will get on the stand
18 and concede that all those pictures that we've seen for the
19 last month of him laying down on the bridge, yes, that's him.
20 But he's going to explain why he did what he did. He will
21 explain that it was not to assault federal officers. It was
22 not to threaten federal officers. He didn't do it to extort
23 cattle. There was nothing about that, ladies and gentlemen.

24 This case is not about cattle for Mr. Parker. It
25 might be for some other people, but our case in chief is going

Defendant Parker's Opening Statement

1 to show that for Mr. Parker, this case was, in fact, about many
2 other things. And that at some point in time, he obviously got
3 up, and he gave that interview that you saw on the bridge where
4 Mr. Stewart and Mr. Drexler were kind of in the background, and
5 Mr. Stewart was talking to the young ladies.

6 And he's going to explain that. Because that's
7 really -- I think the whole speech is approximately 90 seconds
8 or so. But he's going to explain exactly what he said. He's
9 going to exactly -- he is going to explain what it means. Why
10 he said "Get on a bridge and show force."

11 He's going to explain his Facebook posts about why he
12 said "Get the cattle back by any means," or something along
13 those lines. And then the evidence will show that after he was
14 on that bridge, he left Bunkerville very, very shortly
15 thereafter.

16 He didn't hang around for -- I believe there was some
17 sort of a speech the government showed in their -- in their
18 case in chief. He didn't hang around for that. Him, Steven,
19 and Scott got back into Eric's truck and went back to Idaho,
20 and they never returned again.

21 So, ladies and gentlemen, that's just a quick
22 snapshot, a quick summary of what we believe our case in chief
23 and our evidence is going to show. And with that, I will ask
24 you to keep everything in mind, keep an open mind, do not make
25 a decision yet until you hear all the evidence.

Eric Parker - Direct

1 Q. Who were you living in Idaho with at the time?

2 A. My wife and my two kids.

3 Q. Okay. Now, I want to focus your attention on the
4 gentleman in the white shirt and the black tie there, Steven
5 Stewart. Do you know him?

6 A. I do.

7 Q. How do you know him?

8 A. We've been friends for a long time, since -- since we were
9 kids.

10 Q. Okay. And you kept in contact with him the whole time?

11 A. Yeah. Yeah, more or less. We didn't always live in the
12 same town, but he ended up moving to Hailey as well from
13 Northern Nevada.

14 Q. All right.

15 A. Where we grew up.

16 Q. Now, in April of 2014, would you have considered him a
17 friend?

18 A. Yeah, absolutely.

19 Q. Okay. Now, I want to talk about the gentleman with the
20 white shirt, Mr. Scott Drexler. Did you know him back then?

21 A. Yeah. We knew each other less than Scott -- Steve and I.
22 We mostly talked on the Internet. He lived in the county north
23 of me in Idaho.

24 Q. Okay. What's the name of that county?

25 A. Custer County.

Eric Parker - Direct

1 Q. And how long had you known Mr. Drexler?

2 A. Maybe about a year.

3 Q. Now, turning your attention to the same time period, April
4 of 2014, generally speaking, had you heard or seen or come to
5 know of anything in reference to what was going on with
6 Mr. Cliven Bundy?

7 A. I'm sorry. At what point?

8 Q. In April of 2014.

9 A. Yeah, it was, you know, probably around the 8th to the
10 10th that I first heard about it.

11 Q. Okay.

12 A. Saw stuff about it.

13 Q. And just without getting exactly into what you heard and
14 saw yet, how did you find out?

15 A. Just across the Facebook feed, stories started popping up
16 about what was going on down there.

17 Q. Now, this Cliven Bundy individual, did you know Mr. Cliven
18 Bundy at the time?

19 A. No.

20 Q. Okay. Did you know any of the Bundy family members at
21 that time?

22 A. No.

23 Q. And Brian, if we can go to Exhibit 88, please.

24 Okay. Eric, do you see this Facebook post here in
25 the middle?

Eric Parker - Direct

1 A. Yeah, the -- yes, I do.

2 Q. Okay. Is -- is that your Facebook?

3 A. As far as I'm -- I understand, it's the -- the warrant
4 return, so it doesn't like look Facebook, but, yeah.

5 Q. Okay. But you don't dispute that's you?

6 A. No, I do not.

7 Q. Okay. And this particular post, when is it made?

8 A. The 9th. 9th of April.

9 Q. All right. Now, we had a lot of testimony about Facebook.
10 Just right now I want to focus on the text. See that portion
11 right there?

12 A. I do.

13 Q. Okay. So, on April 9th, 2014, the text, is that something
14 that you wrote?

15 A. It is.

16 Q. Okay. Explain to the jury what you meant when you typed
17 that post?

18 A. So, I came to learn that, in this situation with the
19 Bundys, there was snipers above their ranch house.

20 MR. MYHRE: Objection, Your Honor.

21 THE COURT: Sustained.

22 BY MR. MARCHESE:

23 Q. Now, let me -- let me ask you about this. So, there is
24 this Elko Light Foot Militia; correct?

25 A. Yes.

Eric Parker - Direct

1 Q. And that's part of your post; correct?

2 A. Yeah, technically. It's where I saw the -- the article,
3 interview.

4 Q. Okay. You said an article/interview?

5 A. I don't know for sure exactly -- I shared a lot of them.
6 And in this format, I don't really -- it doesn't help me
7 remember exactly which one it was I was sharing right there.

8 Q. When you say a lot of them, approximately how many
9 articles did you share?

10 A. Did I share?

11 Q. If you know.

12 A. Less than 10. I saw more than that though.

13 Q. Okay. And when you say articles that you shared, what
14 were those articles referring to?

15 A. The -- the situation in Southern Nevada, the things that
16 were going on down there. The -- the escalation that was
17 occurring down there.

18 Q. Okay. And Brian, if we can now bring up Exhibit 89.

19 Okay. So, this is another post that you admit that
20 you made; correct?

21 A. Yes, sir.

22 Q. Okay. And this is April 10th, so this is one day after
23 the one that we've seen prior; correct?

24 A. Yes, sir.

25 Q. All right. Now, on this particular post, we have had some

Eric Parker - Direct

1 testimony about this particular article right here. Do you see
2 that? The militia's mobilizing article?

3 A. Yes.

4 Q. Okay. Is that an article that you personally viewed?

5 A. Yes.

6 Q. Okay. There was some testimony previously about the video
7 regarding Ryan Payne. Do you remember that?

8 A. I remember the testimony, yes, sir.

9 Q. Okay. On April 10th of 2014, did you know Mr. Payne?

10 A. No.

11 Q. This article from the Review Journal -- I mean, the --
12 excuse me -- the video from the Review Journal, did you view a
13 video from the Las Vegas Review Journal on April 10, 2014, that
14 was linked to a Ryan Payne video?

15 A. I -- I really don't think I did. I don't remember
16 watching any video with Ryan Payne in it. I remember from the
17 article -- the key things I remembered from the article were
18 the First Amendment zone --

19 MR. MYHRE: Objection, Your Honor.

20 THE COURT: Sustained.

21 BY MR. MARCHESE:

22 Q. We'll get into those items shortly, Eric.

23 And if we could switch to Exhibit 91, please, Brian.

24 Okay. If we can go to the bottom.

25 Eric, this is another post that you made, actually,

Eric Parker - Direct

1 April 11th. Do you see that up there?

2 A. Yes.

3 Q. And it says April 12th, but based on your recollection,
4 would that have been made the day before?

5 A. As I understand it, yeah.

6 Q. And why do you say as you understand it?

7 A. The UTC time and stuff like that.

8 Q. Now, this particular article, this was another article
9 that you shared; correct?

10 A. Yes.

11 Q. Is it an article that you personally viewed?

12 A. Yes.

13 Q. Okay. Now, based on this article, was this something
14 that -- well, let me ask you this.

15 At some point in time, you made the decision to go to
16 Bunkerville; correct?

17 A. I made the decision to --

18 Q. To go to Bunkerville; correct?

19 A. Yes, sir.

20 Q. All right. Was this article something that aided your
21 decision to do so?

22 A. This and the other ones, yes.

23 Q. That was my next question. So, you said you looked at or
24 shared approximately somewhere from 5 to 10? Is that fair to
25 say?

Eric Parker - Direct

1 A. Safe assumption, yeah.

2 Q. Okay. And those articles that you viewed -- personally
3 viewed and some of them which you shared on your Facebook
4 profile, those were articles that aided in your decision to go
5 to Bunkerville; correct?

6 A. Yeah. It wasn't just the articles though. It was the
7 videos I had seen, too.

8 MR. MYHRE: Objection, Your Honor.

9 THE COURT: Do we need a sidebar?

10 MR. MYHRE: Yes, Your Honor.

11 (Sidebar.)

12 THE COURT: Mr. Myhre, your objection.

13 MR. MYHRE: Your Honor, he's about to go into videos
14 that he viewed, which would be the videos of the Bunkerville,
15 the tasing of the -- the David Bundy arrest, all of those
16 things that we have already addressed in the order.

17 He's already twice now has attempted to talk about
18 First Amendment zones; attempted to talk about snipers on the
19 ridge. It's clear he's going up there to violate the Court's
20 order.

21 Mr. Marchese's statement, I applaud him for not going
22 into those areas, but it's clear from his statement that the
23 testimony he's going to be adducing, his reasons for being on
24 that bridge, as we've already heard from his prior testimony in
25 the previous trial, go to all these issues, the 6th, the 9th,

Eric Parker - Direct

1 the tasing, the First Amendment zones, snipers, helicopters,
2 drones, snipers on the ridge, BLM shooting people in the wash,
3 all those things, Your Honor, that go to jury nullification
4 that the Court has already precluded in its order.

5 MR. MARCHESE: Well, a few things. I specifically
6 was very vague and general in my opening statement, because I
7 needed to lay the proper foundation before I even attempted to
8 get into that.

9 And when I would ask him questions, I would say
10 things like, generally, did this aid your decision to come and
11 things like that. So, I was very -- walking that tight line,
12 that tightrope in order to not violate the Court's order.

13 But it's my position, at this point, that we should
14 be allowed to get into it for many reasons. First of all,
15 these are exhibits that the government has entered into
16 evidence against Mr. Parker. I believe he has the right to
17 explain them.

18 I mean, basically, we're just left with what the
19 posts say. Some of the titles of these arguments -- or these
20 articles are somewhat inflammatory. I believe he needs to be
21 able to explain that.

22 Further, I believe the government has already opened
23 the door to a lot of them. We had some posts that were entered
24 in in reference to protesters getting arrested. Clearly, I
25 think that a good argument can be made that that references the

Eric Parker - Direct

1 David Bundy arrest.

2 Further, the government entered in a video. I think
3 it was through Agent Sully of when he went undercover at
4 that -- one of the earlier speeches. If you look on the
5 backdrop at that speech, there's a picture of David Bundy's
6 face. There's also pictures of the snipers on the ridge. So,
7 I think basically, by that, I think the government has opened
8 the door to that.

9 The article from the Las Vegas Review Journal, which
10 they've -- you know, they say is the Ryan Payne video, and it's
11 the Ammon Bundy tasing. It was taken down. I'm not saying it
12 was never the Ryan Payne video, but it was taken down. I have
13 it written down. It was on -- it was updated on April 9th,
14 2014, at 10:44 p.m. It's still up, if the Court wants to view
15 it. And it's the Ammon Bundy tasing.

16 So, I think Mr. Parker has the right to defend
17 himself and say, "No, that's not the video I saw," and show the
18 video that he actually saw. Because it's -- it goes clearly to
19 the things that I got into yesterday, that we have elements of
20 the crime, which are him traveling in interstate commerce,
21 to -- in aid of extortion. We have conspiracy. We have all
22 these other things.

23 And if he's there for the First Amendment zones, if
24 he's there because of David Bundy, if he's there because of
25 Ammon Bundy, if he's there because of Margaret, it's our

Eric Parker - Direct

1 contention that that nullifies -- maybe poor choice of words --
2 but that vitiates that element to the crime.

3 Otherwise, I'm just -- the only thing I can ask him
4 is "Did you go there to get the cattle?"

5 "No."

6 "Why did you go there?"

7 "Objection." I mean, I can't properly defend my
8 client based upon this. I do not intend upon getting into the
9 Sandoval statements. I read the Court's order. I tried to
10 figure out a way legally in which I could get it in, and I hate
11 to say I agree with Mr. Myhre on that.

12 But the other things, I think, are fair game at this
13 point, which is just simply; A, commenting on the evidence; B
14 rebutting the evidence, some of which the government has
15 already opened the door to; and, C, defending Mr. Parker in
16 reference to essential elements of the crime.

17 THE COURT: So, how would that evidence -- the
18 evidence that you're attempting to elicit, how would that rebut
19 the charges?

20 MR. MARCHESE: Well, the government's theory of the
21 case, or a lot of their theories of the case, is that there was
22 a call to arms. And the call to arms is brought out, and all
23 these different people, including Mr. Parker, came to
24 Bunkerville in order to aid Mr. Cliven Bundy in getting his
25 cattle back.

Eric Parker - Direct

1 Based upon that, I think we have the right to say:
2 "No, that's not why he went to Bunkerville. He went to
3 Bunkerville for all these other reasons and not for cows." The
4 reason I asked him, "Do you have any -- do you know the Bundys?
5 Do you have anything to do with ranching?"

6 THE COURT: So, how do those other reasons, that you
7 call them -- how do they rebut the charges?

8 MR. MARCHESE: It shows he did not travel in
9 interstate commerce in aid of extortion.

10 THE COURT: How does it show that?

11 MR. MARCHESE: Because he had other reasons. There
12 has to be a reason that he went. I mean, it wasn't as if he
13 just decided, "Oh, I am going to Bunkerville on vacation."

14 I mean, he had never been there before. He had no
15 ties whatsoever. The reason that he went there was for the
16 reasons that I've previously proffered. It had nothing to do
17 with cattle. It had everything to do with these other issues.

18 THE COURT: But it's still in response to the call
19 for arms by the Bundy family.

20 MR. MARCHESE: Well, I disagree with that, that
21 that's the reason he went. I mean, it's our assertion, and
22 it's always been our assertion, and it's always been Eric's
23 statement consistently he went because of First Amendment zone;
24 he went because people were getting hurt.

25 THE COURT: As represented by the Bundy family in

Eric Parker - Direct

1 their request for assistance, because that's -- the problem I
2 am having is I am not seeing how it would rebut, other than
3 give an alternative defense that the law does not recognize.

4 So, I'm not seeing how -- well, I will let the
5 government speak, but I think I still have questions.

6 MR. MYHRE: Yes, Your Honor. Well, as to the issue
7 of Mr. Parker presenting a defense, Mr. Parker has the right to
8 present a defense. He doesn't have a right to introduce
9 inadmissible evidence. Nor does the fact that admissible
10 evidence, such as the exhibits we've admitted and the Court has
11 admitted -- nor does that open the door to inadmissible
12 evidence.

13 The -- Mr. Marchese's mixing motive and intent. He's
14 trying to say his client or is trying to advance proof that his
15 client had a good motive to commit a crime. That he was doing
16 all these things for good reasons.

17 That's no different than the cases we've cited in our
18 brief, where you can't say, "Oh, my defense to burning down the
19 abortion clinic was because I oppose abortion, for all these
20 reasons. Look at all the horrible things."

21 THE COURT: And all the videos that I've seen on the
22 Internet about what they do at the clinics. Right.

23 MR. MYHRE: The horrible things that are -- the
24 photographs that we've seen and so forth. It's the same thing
25 here.

Eric Parker - Direct

1 And to introduce -- the case law is clear. The
2 reasons aren't admissible to show a good motive. It just
3 isn't. And when we go down this slope, the probative value is
4 zero, as the Court has already pointed out. It doesn't point
5 it out. It doesn't rebut any element of the offenses.

6 All it does is show an alternative motive. It has
7 zero probative value, and the prejudice is extremely high given
8 the -- you know, they are basically blaming the victim, and
9 these are the horrible things the victim has done. And that --
10 that is very prejudicial to the government's case.

11 THE COURT: So, I think what your -- what the defense
12 is trying to target is the intent during the travel before
13 arriving in Nevada. So, this is probably not a great example.

14 But, for example, say his grandmother lived here, and
15 she was sick, and he was on his way to Nevada because she's
16 sick. And after he gets to Nevada, he finds out about
17 something and decides to join. Then perhaps that would go to
18 his intent, right, while he's traveling if he doesn't form
19 intent until he's here. That sort of a situation.

20 But what we've got here still seems to be an
21 explanation that he's trying to provide that isn't actually a
22 legal rebutting. It doesn't rebut the intent element.

23 So, I am counting. We have got three objections so
24 far. The first one is when he tried to talk about snipers
25 being at the Bundy Ranch. The second one was when he tried to

Eric Parker - Direct

1 talk about the First Amendment. And then this third one is
2 talking about or attempting to talk about the video tasing.

3 And that's in less than 10 minutes he's already tried
4 to get three different things, three different areas that we've
5 specifically -- the Court has specifically admonished him, and
6 I believe Mr. Marchese probably has, too, because you are an
7 honorable officer of the Court. And I think that was --

8 MR. MARCHESE: And if I could be clear.

9 THE COURT: -- something I was just assuming. But do
10 we need to take a break for you to admonish him that if he
11 keeps trying to answer the questions by referring to evidence
12 that we've already ruled is not admissible, that he's going to
13 waive his right to testify or look really bad in front of the
14 jury, one or the other or maybe both? But --

15 MR. MARCHESE: We have all -- Mr. Tanasi, and
16 Mr. Leventhal, and myself, one of the reasons for our meeting
17 on Saturday was they were all furnished a copy of the Court
18 order, which they are already aware of, but we just gave them
19 one physically so they have it.

20 My instructions to Mr. Parker, as we were -- in
21 reference to him testifying, was until I ask you specific
22 questions, just be general, just be vague, and then if the
23 objections get lodged, we can sort it out as need be.

24 So, that was my -- those were my instructions to him.
25 I understand the Court's ruling in reference to the elements of

Eric Parker - Direct

1 the defense, but at the same time, is he allowed to comment on
2 the evidence?

3 I mean, we have these Facebook posts. I can't ask
4 him what they say, or what they do, or why did you post them?
5 That's the issue. The government, in my opinion, has opened
6 the door.

7 MR. MYHRE: Again, Your Honor, it goes -- the -- the
8 Facebook postings themselves do not explain all of these issues
9 that we've just talked about. And so now we're going behind
10 the Facebook posting to inadmissible evidence. And I -- I fail
11 to see the argument that somehow that is prejudicing the
12 defendant.

13 He can talk about the Facebook posts, that's there.
14 That he did it, or didn't do it, or somebody else did it. But
15 going into the reasons for it, again, is -- is going to this
16 improper showing of "I've got a good motive to commit this
17 offense."

18 So, I guess I'm just not seeing the connection here
19 between the Facebook postings and then going -- looking behind
20 the Facebook postings and saying, "Oh, here is my whole host of
21 reasons why I did that."

22 How that's any different than what we just talked
23 about in terms of why I burned down the abortion clinic, I just
24 don't --

25 MR. MARCHESE: I understand that, and I agree and

Eric Parker - Direct

1 respect the Court's ruling. And I have made my record, and it
2 is what it is. If we lose, then, you know, we made a record
3 for appeal.

4 But at the same time, I would just say, by the
5 government introducing those exhibits, we have every right to
6 comment on them.

7 THE COURT: Not every right. I mean, the law is
8 clear that the right to present evidence doesn't mean that you
9 can elicit anything. It still has to be relevant and
10 probative.

11 MR. MARCHESE: I agree with that.

12 THE COURT: So --

13 MR. MARCHESE: But when the government opens the door
14 by admitting these Facebook posts with links to articles, I
15 would argue that we have every right to now explain them. But
16 the Court's been clear.

17 MR. MYHRE: And our position remains the same. The
18 motive behind posting a Facebook posting is not relevant,
19 especially when the motive is what we've all talked about.

20 THE COURT: And the defense is not prevented from
21 going -- from addressing the posts. You just can't go into
22 collateral evidence. You can't go into collateral matters.
23 You can ask whether he posted it. What it was that day,
24 whether or not he read it, things of that nature, but -- you
25 know, to test the credibility of the government's witnesses who

Eric Parker - Direct

1 have discussed the Facebook post.

2 MR. MARCHESE: I disagree. I think it's -- the
3 government -- I mean, he can't explain why he posted it? I
4 can't ask that. All I can say is "Did you post it?" And
5 that's it.

6 THE COURT: Well, to be clear, the government did not
7 admit the actual articles.

8 MR. MARCHESE: Correct.

9 THE COURT: So, the subject matter of the articles
10 has not been introduced into evidence and is not before the
11 jury.

12 What is introduced is the business records that
13 provide a summary of the Facebook postings, and some include
14 links, and text, and titles of the links, not even in their
15 entirety. Sometimes it's just dot, dot, dot, in quotation
16 marks. So it doesn't even seem like it's the entire title of
17 the article, let alone the entire article is not included.

18 MR. MARCHESE: Correct. But some of them don't even
19 include the text from Mr. Parker. It's just the article.

20 THE COURT: And the -- and the evidence that the
21 government proffered was that he posted the article. So, I
22 mean, if he didn't post it, you can certainly elicit that. If
23 he posted it without reading it, you can certainly elicit that.

24 MR. MARCHESE: But they are talking about militias.
25 The articles talk about the standoff in Nevada. They talk

Eric Parker - Direct

1 about militia mobilizing, all these things. I can't ask him
2 anything about that.

3 And they got into it collaterally, too, with the Ryan
4 Payne video. That was not the video that was up when
5 Mr. Parker, at least, shared it.

6 MR. MYHRE: And he's already testified he didn't see
7 the Ryan Payne video, so he's addressed it.

8 THE COURT: The Court agrees. Do you need to take a
9 break to admonish him?

10 MR. MARCHESE: Well, I am just going to -- I will
11 move on. I mean, I can't -- it's basically -- I will just
12 say -- I guess I will just skip --

13 THE COURT: I know you are in a difficult position.

14 MR. LEVENTHAL: And I am listening, because I'm
15 trying to find out --

16 THE COURT: I think we all --

17 MR. LEVENTHAL: I'm sorry. I'm trying to figure out
18 what I'm going to do.

19 THE COURT: I think we all sympathize with the
20 situation. But, unfortunately, that's the parameters that the
21 law requires. And that's why I keep saying if we need a break
22 for you to admonish the client, because I don't want him to
23 forfeit his right to testify, but if he keeps trying to elicit
24 or trying to testify in violation of the Court order --

25 MR. MARCHESE: I think, at this point, maybe it would

Eric Parker - Direct

1 be best if Your Honor could do it.

2 THE COURT: He is tying my hands. I don't want to
3 tell him he can't testify anymore, but --

4 MR. LEVENTHAL: It's tying our hands, too, because
5 I'm at a loss of what I'm going to consult with Mr. Drexler
6 this weekend on, and given thus far and then getting into -- I
7 mean, is he allowed to say "I saw BLM officers pointing weapons
8 at me" or --

9 MS. CREEGAN: No.

10 MR. LEVENTHAL: I mean, how far is this going? Is he
11 allowed to say "I thought I saw, you know, drones above me when
12 I was on the bridge." I mean, if that's what he saw and that's
13 what he heard --

14 THE COURT: If you want to ask a question, and you
15 are not sure whether or not you should ask that question, you
16 could either ask for a sidebar or you can ask the question.
17 And if there's an objection and you expect an objection, then
18 you should be prepared to provide a legal response for why you
19 think that that question is relevant and proper and not in
20 violation of the Court order. But I can't give you legal
21 advice. I can't give you a script.

22 MR. LEVENTHAL: No, I understand.

23 MR. MARCHESE: Well --

24 MR. LEVENTHAL: I have done this. I have just never
25 done this. I'm sorry.

Eric Parker - Direct

1 MR. MYHRE: Do you have an offer of proof of what
2 he's going to say when you get to the bridge?

3 MR. MARCHESE: You know what he's going to say.

4 MR. MYHRE: Could you put it on the record?

5 MR. MARCHESE: At this point, based upon what the
6 government's position is, I can't ask him what he saw and what
7 he heard. I guess I can only ask him what he did.

8 I mean, I'm not allowed to say that they said -- he
9 thought they were going to use lethal force. You are going to
10 object to that; correct?

11 MR. MYHRE: Yes.

12 MR. MARCHESE: You are going to object that there
13 were snipers on the ridge; correct?

14 MR. MYHRE: That he's going to testify that there
15 were snipers on ridge, yes.

16 MR. MARCHESE: You will object to any gun pointing,
17 just generally speaking; correct?

18 MR. MYHRE: Yes.

19 MR. MARCHESE: Even the stuff that you entered into
20 evidence?

21 MR. MYHRE: I'm sorry?

22 MR. MARCHESE: Even the stuff you entered into
23 evidence? Can he comment on that?

24 MR. MYHRE: Well, if it's entered into evidence, you
25 can -- that's -- I would think you can ask him about that, but

Eric Parker - Direct

1 you can't ask him about whether or not he --

2 MR. MARCHESE: Saw people pointing weapons at him.

3 MR. MYHRE: At him. Actually, hold on.

4 If your purpose in doing that is to raise a
5 self-defense, which is not cognizable, then, yes. I would
6 object. It goes to BLM conduct.

7 MR. MARCHESE: It goes to his intent. It goes --
8 there's a big difference if there's a kindergarten playground,
9 and he's pointing his gun at the kindergarteners as opposed to
10 there's BLM agents pointing guns at him.

11 MR. MYHRE: No, it's -- it doesn't rise to the level
12 of self-defense. So, it's basically BLM conduct. Again, it's
13 the --

14 MR. MARCHESE: So, I can't ask what he saw. Just
15 talk about what he did.

16 THE COURT: No, I think he can testify as to what he
17 saw. He just can't testify about whether that put fear.
18 Whether that -- whether that was the reason why he -- you know,
19 the intent. That is the problem, because it doesn't --

20 MR. MARCHESE: Every crime, there's two things.
21 There's an act, and there's an intent.

22 THE COURT: The self-defense, if it was available,
23 would be to negate the intent. Because it's not available,
24 then he can't solicit the intent of self-defense. But what he
25 saw is fair game.

Eric Parker - Direct

1 MR. MARCHESE: But if he meant to assault agents, if
2 he meant to threaten agents, if he meant to extort cattle and
3 all those things, his actions -- there has to be an intent in
4 every crime or almost every crime.

5 There has to be an intent to back up the action.
6 That's why he would testify to those specific things. The
7 government can say, just as they did in the last trial,
8 Mr. Parker has no self-defense right. There is no instruction
9 for that, so that is not to be considered.

10 MR. MYHRE: The issue there is that now it's before
11 the jury. And his -- if he's going to say "I was there because
12 I intended to protect people in the wash," or "I intended to
13 fight snipers," or "I intended to back" -- you know, "make sure
14 the BLM didn't shoot anybody," that's intent to commit the
15 crime.

16 He's basically testifying that I committed the crime.
17 I don't have a self-defense. I raised guns at an officer,
18 because I thought all these things in my alternative reality.
19 He doesn't get to explain his alternative view of reality, get
20 that before the jury, in order to talk about things that don't
21 go to his intent.

22 The things that you intend to offer go directly to
23 his intent to commit the crime as in he intended to commit the
24 crime. It's a crime to raise a gun at a federal officer when
25 there's no self-defense.

Eric Parker - Direct

1 MR. MARCHESE: I understand that, and you will argue
2 that.

3 THE COURT: What it comes down to is he's trying to
4 elicit a defense that the law doesn't recognize. And then by
5 eliciting that defense anyway, when the law does not recognize
6 it, that is a jury nullification argument which is not
7 permissible.

8 So, that's why the intent didn't come in. He can
9 testify about what he saw. He can't testify about what he
10 felt.

11 MR. MARCHESE: Okay.

12 THE COURT: But he can testify what he saw. He saw
13 the -- the BLM with the gun. He didn't see them with the gun.
14 He did see them pointing. He didn't see them pointing. They
15 were dressed like this. They were dressed like that. That's
16 permissible, but not that next step of that's why he did what
17 he did or that justifies what he did. That's not legally
18 recognized.

19 MR. LEVENTHAL: And that goes for the other ones.
20 And I don't mean to keep beating a dead horse, but I'm going
21 back to the interstate travel.

22 If he saw something, and he didn't come down for
23 the -- if he saw a video, and he didn't come down for the, you
24 know, extortion, to get cattle, then we're not asking for a
25 self-defense -- a defense. We're asking to -- a defense of

Eric Parker - Direct

1 that's not why I came down.

2 It's their burden to prove that that's what his
3 intent to come down to extort, and he's -- should be allowed to
4 give some explanation other than what the government thinks he
5 came down, for which is "I saw these videos" or "I saw these
6 things."

7 I understand the Court's ruling. I'm just -- want to
8 put a record on that if he saw it, and that's what motivated --
9 that's what he came down to for, not -- not because he came to
10 extort. If he saw somebody who -- they said, "Hey, we've
11 got -- they've got cows. Come and help us get our cows." I
12 haven't seen anything of that, "Come help us get our cows."

13 THE COURT: He's pointing weapons at abortion clinic
14 staff, because he saw a video on the newspaper with, you know,
15 unborn fetuses being shredded in a shredding machine. That
16 would be grotesque, but it wouldn't be a legal defense. And so
17 that's the problem. So, I sympathize that that's --

18 MR. LEVENTHAL: And that would go to an assault or a
19 threat.

20 THE COURT: -- where you are, but that's a fact and
21 not a legal argument that you are making.

22 MR. LEVENTHAL: Right.

23 THE COURT: So, we keep having this discussion, and
24 it never changes.

25 MR. LEVENTHAL: No, no.

Eric Parker - Direct

1 THE COURT: Because you are just arguing the facts
2 that we're all familiar with, but not giving me a legal
3 justification for ruling in your favor.

4 So, that's why we're stuck, and we're just going to
5 keep talking about it --

6 MR. LEVENTHAL: We don't have a self-defense --

7 THE COURT: -- and talking about it --

8 MR. LEVENTHAL: We don't have a self-defense for
9 traveling interstate, and there's the charge of traveling
10 interstate for extortion. There is no self-defense for that.
11 So, there's other recognizable defenses, like, I didn't -- I'm
12 sorry. I didn't do that.

13 You are going to the assault, pointing a gun at the
14 assault and the threatening. I agree. I've got a self-defense
15 for that. But the traveling in interstate commerce for
16 purposes of extortion does not have or even amount to a
17 self-defense or defense of the others, and so there is defenses
18 for that.

19 And so the defenses would be, "No, I did not come
20 down to extort. I came down because I saw these things, and
21 that's why I came down," which negates the element that they
22 must prove. It negates that.

23 I'm going to that one specific count on why it's
24 relevant on seeing those videos. It's not a self-defense.
25 It's a negate of what the government is trying to proof beyond

Eric Parker - Direct

1 a reasonable doubt. And he's saying, "No, that's not why I did
2 it."

3 So, I've made my record, but I just think that we're
4 talking about two different counts that have two different
5 defenses. We can't just lump them all in one. I agree with
6 Your Honor. You can't point a gun because of abortion. But if
7 you travel in interstate commerce, not knowing what was going
8 on, that's a completely different defense.

9 MR. MYHRE: And that's -- we have already made our
10 record on this, but that is precisely what the order addresses.
11 Because you can't go to the motive of why someone came. You
12 can't -- to show -- motive doesn't prove intent. All you're
13 doing is introducing -- attempting to introduce the reasons why
14 someone came to Bunkerville.

15 The evidence -- okay -- of that, that you seek to
16 introduce, is all nullifying evidence. Because you're talking
17 about things that don't go to any defense. You're talking
18 about the victim deserved it. You're talking about the victim
19 did all these horrible things.

20 You're not -- you're going well beyond what was in
21 the individual's -- you know, what the decision was. You're
22 going for all the reasons for the decision, and we've already
23 talked about that.

24 MR. LEVENTHAL: Well, the travel in interstate
25 commerce, you can change it with the intent or with the motive

Eric Parker - Direct

1 to -- to extort --

2 THE COURT: No, it's not --

3 MR. MYHRE: Motive is not intent.

4 MR. LEVENTHAL: I understand that. But it's not --
5 motive intent, that's not why he came. And he should be able
6 to negate or explain why he came.

7 THE COURT: If he came to Las Vegas to gamble, and
8 while he was here, he found out about the Bundy event.

9 MR. LEVENTHAL: Right.

10 THE COURT: Now you get rid of the interstate
11 commerce.

12 MR. LEVENTHAL: Right.

13 THE COURT: But if you already know about the Bundy
14 event before you got here --

15 MR. LEVENTHAL: Right.

16 THE COURT: -- and you're calling ahead and saying
17 that you're coming. Can you come and stay at their ranch, so
18 you don't actually have that factual defense either.

19 But, I think that there's no changing of the ruling
20 at this point. We will just go forward --

21 MR. MYHRE: Your Honor --

22 THE COURT: -- as best as we can with Mr. Parker.

23 MR. MYHRE: I'm sorry. Before -- and I know we've
24 been back here a long time, but I wanted to go back to one
25 aspect that the Court discussed with Mr. Marchese. And that is

Eric Parker - Direct

1 he can testify as to what he saw.

2 Well, he's going to say like "I saw snipers. I saw
3 BLM trying to shoot people." It's those conclusions that we
4 anticipate the testimony is going to go well beyond "I saw
5 people with guns. I saw people up on a hill."

6 He's going to project, in that testimony, his
7 conclusions as to what these people were doing, what their
8 intent was; and, therefore, to try to explain what he was
9 doing.

10 So, that's where, I think, the danger is going to lie
11 in terms of going down that road in terms of what he's going to
12 talk about what he saw.

13 THE COURT: I think he can talk about what he saw.
14 He just can't talk about --

15 MR. MARCHESE: Just don't bring up --

16 THE COURT: -- the next step up, how that made him
17 feel or what he thought about that.

18 MR. MARCHESE: So, do not try to elicit anything in
19 reference to his subjective thought process at this time.

20 THE COURT: (Nods head.)

21 MR. MARCHESE: Based upon that --

22 THE COURT: In relation to --

23 MR. MARCHESE: What he saw.

24 THE COURT: Right. What -- in relation to a
25 self-defense.

Eric Parker - Direct

1 MR. MARCHESE: Okay. I can -- I can certainly move
2 on from First Amendment zones. That's easy enough. I will
3 just move on to the next line of questioning. But I believe I
4 am going to need a sidebar, or a break, or something in order
5 to admonish him in reference to when we get to the bridge.

6 THE COURT: Okay. I mean, if he saw the cows, and it
7 made him feel happy, that's fine. So, those kind of feelings,
8 those are fine. If it goes to self-defense, the fear, that's
9 the part that --

10 MR. MARCHESE: Yeah.

11 THE COURT: -- is going to be objectionable.

12 MR. MARCHESE: I need to admonish him in reference to
13 the 40 or so minutes he's on the bridge.

14 THE COURT: I think that's the best I can do, is just
15 let him tell about what he saw and not get into how it made him
16 feel or what his assumption was based on what he saw.

17 MR. MARCHESE: Okay.

18 MR. LEVENTHAL: We are trying. It's not easy.

19 MR. TANASI: Stewart joins in all the defense
20 positions and objections here today. Thank you.

21 (End of sidebar.)

22 THE COURT: So, we are going to go ahead and take a
23 little break, so that we can hopefully get things back on
24 track.

25 During this break, I do admonish the jury to remember

Eric Parker - Direct

1 that you are not to discuss this case with anyone nor permit
2 anyone to discuss it with you. You may talk to your fellow
3 jurors about other things, but not about this case.

4 Please do not attempt to perform any research, or any
5 independent investigation, nor read, or view, or listen to
6 anything that touches upon this case in any way. Remember, if
7 you do have questions, please, we ask that you just write them
8 down, so that both parties have an opportunity to address and
9 respond to those questions.

10 Rather than going off and looking for something that
11 may or may not be correct that then counsel has no idea that
12 you've, you know, put something in your head that is not
13 appropriate that they don't have an opportunity to comment
14 upon.

15 And finally, please do not reach any opinions or form
16 any opinions yet. We do have more testimony, and you'll be
17 provided evidence, and then the jury instructions of law.
18 After that, you will hear closing arguments. And once closing
19 arguments are over, then you will be excused to begin the
20 deliberation process.

21 So, we will go ahead and stand for the jury. It's
22 10:30. We will take 15? Okay. We will take a 15-minute break
23 until 10:45, and then we will welcome them back.

24 So, the jury is excused. And Mr. Parker, after the
25 jury exits the courtroom, then you may also take your bathroom

Eric Parker - Direct

1 break.

2 THE WITNESS: Thank you, Your Honor.

3 THE COURT: And we will resume back here at 10:45.

4 (Recess 10:28 a.m. Resumed 10:44 a.m. Jury out.)

5 THE COURT: All right. Mr. Leventhal is back, so
6 let's go ahead and go back on the record.

7 We are on the record outside the presence of the
8 jury, because the Court needs to admonish the defendant,
9 Mr. Parker, who is on the witness stand, and to elicit some
10 information also from Mr. Parker.

11 So, Mr. Parker, I need to make sure that you
12 understand that it is your decision whether or not to testify.
13 Your attorney can counsel you and suggest to you and recommend
14 to you whether he thinks you should testify or whether he
15 thinks you should not testify. But ultimately, it is entirely
16 up to you to make that decision. Do you understand that?

17 THE WITNESS: I do.

18 THE COURT: And when you make that decision, it's
19 important to me that it is an informed decision, which means
20 that you understand the effects of the decision.

21 There is a Court order that explains and clarifies
22 the information that is -- has been shown to be relevant and
23 admissible under the law.

24 My understanding is that your attorney has provided
25 you a copy of that order and discussed it with you.

Eric Parker - Direct

1 Unfortunately, in less than the first 10 minutes of your
2 testimony, on three separate occasions, you tried to testify as
3 to areas that you're specifically not permitted to do.

4 So, the first one was as to the snipers, the second
5 one was as to the First Amendment, and the third one was as to
6 videos regarding tasing and other collateral incidents.

7 So, that's why I recommended we take a break in case
8 you need to talk to Mr. Marchese some more, if you need to
9 clarify, because if you are intentionally violating the Court
10 orders, then I cannot permit you to testify. And I do not want
11 to have to make that finding that you are not permitted to
12 testify because you are in violation of Court order.

13 So, I'm admonishing you and explaining that to you
14 now, but I also want to give you the opportunity, if you want
15 to take a little more time to talk to Mr. Marchese about, so,
16 what can I say or what can I not say and so forth, if there is
17 that confusion still that's lingering in your mind.

18 So, I'm giving you the benefit of the doubt,
19 essentially, is what I'm saying. Even though I think it's
20 likely that you are intentionally violating the Court order,
21 I'm willing to give you the benefit of the doubt and give you
22 some time to speak to Mr. Marchese to help you to be able to
23 testify.

24 So, do you want to take a little bit longer break to
25 talk to Mr. Marchese?

Eric Parker - Direct

1 THE WITNESS: Sure.

2 THE COURT: Okay. Go ahead and do that. And then,
3 Mr. Marchese, when you let us know that you're ready, if you
4 want to --

5 MR. MARCHESE: Thank you, Your Honor.

6 MR. MYHRE: Your Honor. Excuse me, Your Honor.

7 If -- before Mr. Marchese leaves, is it possible for to us
8 discuss that one matter that we wanted to make a further record
9 in the Court, and this is with respect to what he can testify
10 to as to what he observed on the bridge.

11 THE COURT: All right. Go ahead.

12 MR. MYHRE: The record should reflect that
13 Mr. Parker's returned with Mr. Marchese.

14 THE COURT: Yeah, they never left. They just got as
15 far as the door but didn't walk outside.

16 MR. MYHRE: Thank you, Your Honor.

17 Your Honor, it's the government's position that what
18 Mr. Parker may have seen in the wash or what he was -- intends
19 to testify to as what he saw, does not go to any cognizable
20 defense and is, in fact, jury nullification.

21 So, if he says "I saw BLM officers raise weapons,"
22 that's not relevant to anything, because there's no
23 self-defense that is cognizable in this case.

24 And all it is is saying "I was -- they are provoking
25 me to do something." Provocation is not a defense, and

Eric Parker - Direct

1 provocation is irrelevant.

2 And, so, therefore, if -- if his intent is to testify
3 as I saw BLM officers pointing guns; therefore, I raised my gun
4 or I put -- I got down prone, or whatever it is he intends to
5 testify, we believe that is similarly irrelevant and in
6 nullification territory, because it does not go to a defense.
7 It goes to his claim of provocation. "I was provoked to doing
8 it."

9 And it's -- to use -- to go back to sort of the --
10 some of the analogies we've used, it's no different than if --
11 if this were a case of arson in an abortion clinic, and the
12 arsonist wants to testify, "Well, I did it for all these
13 reasons." Now the arsonist says, "When I got to the clinic, lo
14 and behold, they were doing abortions there."

15 That would be the same type of nullification
16 information that it's not relevant to anything. It just -- all
17 it does, it puts seeds into the juror's mind that there's
18 something there about BLM conduct. There's something there
19 about the conduct of what's going on that justifies the actions
20 of the defendant.

21 And once we start down that slippery slope, it's --
22 it's really -- it's really hard to stop it. And we just
23 believe we are into nullifying or mistrial territory if we go
24 into what he observed in the wash.

25 The fact that the defendant may or may not have

Eric Parker - Direct

1 anything relevant to say is not -- not the government's, you
2 know, fault. It's whether there's a legal defense or a legal
3 claim that can be made, not whether the defendant can testify
4 about anything under the sun. So, that's -- that's our
5 position, Your Honor.

6 THE COURT: All right. And the Court disagrees. The
7 Court believes that the defendant can testify about what he saw
8 and what he heard.

9 He cannot -- it cannot be offered to show his intent
10 and whether or not he was afraid or acting in defense of others
11 or in defense of himself, merely because the law does not
12 recognize that defense.

13 But he can testify about what he saw, and what he
14 heard, and even what he felt, if it's unrelated to the
15 self-defense or a defense of others, so long as it's still
16 relevant. It could be offered for other reasons. If it's to
17 impeach the credibility of a different witness, who said that
18 they saw, you know, someone dressed in all red. And, you know,
19 Mr. Parker says, "There was no person dressed in all red. I
20 never saw the person dressed in all red" or so forth.

21 He can provide testimony about what he saw, so long
22 as it's not for the purpose of -- only relevant to a
23 self-defense or a defense of others, which is not available.
24 But he can testify about what he saw and what he heard.

25 He can also testify -- testify about what he felt, so

Eric Parker - Direct

1 long as it was not offered for a self-defense to show a
2 self-defense or defense of others. That's not available,
3 because that would be a jury nullification argument, and so the
4 Court cannot permit that.

5 However, he can testify about how he felt, for
6 example, as I said, when the cows are released. If he wants to
7 testify about how that made him happy, or how it didn't really
8 matter to him, or those kinds of feelings, that's -- if it's
9 relevant to something else, that's appropriate.

10 So, he just can't talk about whether or not he was
11 afraid, afraid of being shot himself, or afraid that other
12 people were going to be shot, because the relevance of that
13 would only be in regards to a defense that's not available;
14 and, therefore, would only be a nullification argument.

15 MR. MYHRE: Your Honor -- and thank you, Your Honor.

16 And I appreciate you allowing me to make a record on that.

17 I just -- so, for clarification purposes, Your Honor,
18 then, for example, we anticipate his testimony would be "I
19 heard, when I was at the assembly area, that people were going
20 to be shot in the wash."

21 That again would go to, you know, his -- his
22 self-defense claim, his imperfect self-defense claim that is
23 not cognizable. And so we believe that would be highly
24 prejudicial, because now the government's put in a position of,
25 you know, trying to demonstrate that no one was going to be

Eric Parker - Direct

1 shot in the wash. And it's not -- and that is irrelevant.

2 Similarly, we anticipate his testimony to be that "I
3 saw," quote, unquote "snipers on the mesa," or "I saw
4 militarized people in the wash." These are all his
5 characterizations, his conclusions, you know, which again go to
6 nullification, because now it plants in the juror's mind that
7 there are snipers or that there are military people in the
8 wash.

9 So, we would seek clarification that he not be
10 allowed to characterize, and especially with respect to what he
11 heard about people being shot in the wash, because it's just --
12 you know, it's -- again, that's very highly prejudicial.

13 MR. MARCHESE: Your Honor, if I may.

14 THE COURT: It comes down to the same thing. It
15 needs to be legally probative. It can't be probative of a
16 defense that's not available. It needs to be relevant and
17 probative of something that is recognizable.

18 MR. MARCHESE: And the problem is what the government
19 is failing to elicit is the fact that they have brought a lot
20 of this testimony out already. They have brought in pictures
21 and testimony of Agent Swanson pointing his weapon.

22 They brought in the four-man stack through a Flynn
23 video. They brought in Todd Engel telling Sergeant Serena they
24 are pointing weapons at them down in the wash. So, much of
25 this evidence -- and also to the Shilaikis videos. If you

Eric Parker - Direct

1 focus in on certain areas, it shows pictures or video footage
2 of agents pointing weapons.

3 So, a lot of this evidence has already been elicited.
4 So, we just simply would be commenting on the evidence that the
5 government has already brought into evidence. They can't have
6 it both ways, Your Honor.

7 MR. MYHRE: I believe the Court has already ruled
8 that he --

9 THE COURT: The Court's made its ruling. If the
10 evidence is probative and relevant of something that is legally
11 cognizable, then, of course, it's permitted.

12 If it's only relevant or only provided for the
13 purpose of justifying a defense that's not available, then it
14 is essentially only being provided for nullification, which the
15 Court is not permitted to allow.

16 All right. Let's go ahead and take your break. I
17 don't want to limit your time, so that he's clear, and we don't
18 have any more objections.

19 (Recess 10:55 a.m. Resumed 11:03 a.m. Jury out.)

20 THE COURT: Mr. Marchese, anything you want to put on
21 the record?

22 MR. MARCHESE: No, Your Honor. I have spoken with
23 Mr. Parker. I think we're -- we will be fine.

24 THE COURT: All right. So, Mr. Parker, do you feel
25 you had sufficient time to discuss the issues with your

Eric Parker - Direct

1 attorney, Mr. Marchese?

2 THE WITNESS: Yes, Your Honor.

3 THE COURT: And have you come to a decision as to
4 whether you want to continue to testifying or not?

5 THE WITNESS: I absolutely want to continue to
6 testify for the Court.

7 THE COURT: Okay. Thank you. So, we'll go ahead and
8 call back in the jury then.

9 (Jury in.)

10 THE COURT: All right. The jury may go ahead and be
11 seated. Everyone else may be seated as well afterwards.

12 All right. So, let's go ahead and continue with
13 direct examination.

14 MR. MARCHESE: Thank you, Your Honor.

15 Q. Eric, when we left off, I believe we were speaking about
16 you were looking at some different items on the Internet;
17 correct?

18 A. Yes, sir.

19 Q. Okay. So, at some point in time, you made the decision to
20 go to Bunkerville; is that right?

21 A. Yes, sir.

22 Q. And approximately when was that?

23 A. You know, it was three years ago, but I would say on the
24 10th.

25 Q. Could we get up Exhibit 92, please, Brian?

Eric Parker - Direct

1 Okay. Now, this is a post that you made sometime --
2 looks like on the 11th. Does that sound correct?

3 A. Yes.

4 Q. Okay. And that's based on that UTC time that we've had a
5 lot of testimony about; right?

6 A. Yes.

7 Q. Did you make that post?

8 A. Yes, I did.

9 Q. All right. And who did you reach out to?

10 A. I'm not sure who runs the "Support Cliven Bundy" page, but
11 I assumed it was somebody that was -- was there at the -- at
12 the ranch area.

13 Q. Okay. Now, based on this post, you obviously made the
14 decision. You say "we" in this post. Who is we?

15 A. Scott Drexler, Steven Stewart, and myself.

16 Q. Now, when you made the decision to go, had you heard
17 anything about Cliven Bundy's issue with the cattle?

18 A. Yes.

19 Q. Okay. And generally speaking, what did you hear about the
20 cattle and his issue with the BLM?

21 A. I want to make sure I am staying within the parameter.
22 The -- I knew there was a Court order. I knew that they had
23 been arguing about the -- the grazing fees, they being the BLM
24 and Mr. Bundy. I knew that he had the water rights, and that
25 that made him feel like he --

Eric Parker - Direct

1 MR. MYHRE: Objection, Your Honor. That's a legal
2 conclusion.

3 THE COURT: Sustained.

4 THE WITNESS: Okay.

5 BY MR. MARCHESE:

6 Q. Yeah, don't talk about what Mr. Bundy felt. Just talk
7 about what you knew, if anything, about Mr. Bundy's issue with
8 the BLM.

9 A. I knew they were rounding up the cattle, and that was
10 causing protests.

11 Q. Okay. Now, did you -- were you aware of specifically a
12 Court order?

13 A. As far as aware, I had heard there was a Court order.
14 Yes. I never read the Court order or saw the Court order.

15 Q. Okay. Did you do any research in reference to the Court
16 order?

17 A. To the Court order specifically, no, sir.

18 Q. Okay. Now, when you made the decision to go, was the
19 decision based upon going to Bunkerville to get the cattle
20 back?

21 A. No.

22 Q. Okay. Now, when you went there, you drove in your truck;
23 correct?

24 A. Yes.

25 Q. You drove with Steven Stewart and Scott Drexler; correct?

Eric Parker - Direct

- 1 A. Yes.
- 2 Q. What did you bring with you?
- 3 A. Quite a bit of stuff. Camping gear for a couple days,
4 food, a tent, that kind of stuff. And then my -- my body armor
5 and my rifle.
- 6 Q. Why did you bring your rifle?
- 7 A. To protect myself.
- 8 Q. And why would you bring body armor?
- 9 A. Also to protect myself.
- 10 Q. Did you bring a knife?
- 11 A. Yeah, I always -- a knife is part of camping gear, I would
12 say, yeah.
- 13 Q. Can you speak up? I'm sorry.
- 14 A. The knife, yes. Yes, I did.
- 15 Q. Okay.
- 16 A. Part of the camping gear.
- 17 Q. When you left with Mr. Drexler and Mr. Stewart, when was
18 that approximately?
- 19 A. I want to say before noon on the 11th.
- 20 Q. What was your plan when you left?
- 21 A. To go protest.
- 22 Q. Now, in the government's case in chief, they mentioned the
23 Euclid Stockyard. Are you familiar with that?
- 24 A. Yes.
- 25 Q. Did you ever call the Euclid Stockyard?

Eric Parker - Direct

1 A. I did.

2 Q. Why?

3 A. The posts, I remember, if I am remembering correctly, said
4 that they were going to sell the cattle. And I didn't
5 understand that to be part of what was going on, so I was
6 curious.

7 I was going to call and ask if -- what that was
8 about, that they were buying the cattle? I thought that they
9 were just going to be rounding it up; getting it off of what
10 they called the public lands.

11 Q. Okay. And did you call?

12 A. I did. Nobody answered, so --

13 Q. Did you ever call back?

14 A. No. I lost the urge.

15 Q. Now, approximately -- I know you said this already.
16 Approximately when did you arrive at the -- in Bunkerville?

17 A. I think it was about 2:00, 2:00 a.m., 1:00 a.m.

18 Q. Okay. When you got there, what happened?

19 A. We pulled up and saw the stage area. And there was a
20 couple of people standing out there still welcoming people
21 showing up.

22 Q. Did you know those people?

23 A. No.

24 Q. Okay. And after you met the people that you didn't know,
25 what happened then?

Eric Parker - Direct

1 A. They asked where we wanted to camp. There looked like
2 there was kind of a party going on at one of the campgrounds,
3 and they said that the militia was camping on the other side of
4 the river.

5 Q. Which camp had the "party," quote, unquote "going on"?

6 A. Just the one that was right there by the stage, sir.

7 Q. And which -- did you -- did you go to one of the camps?

8 A. Yeah, I did. I went -- I chose to go over to the other
9 side. I was curious, and I had a lot of questions, and I
10 figured that would be where I could get most of my answers.

11 Q. Okay. And when you went there, what happened next?

12 A. We -- we pulled up, and there was a man standing at the
13 entrance to where the -- the private property camping area was.

14 Q. Did you know that man?

15 A. No. He asked who we were and where we were from, and we
16 told him. And he showed us where we could camp. Where we
17 could set up our tent.

18 Q. All right. And where did you set up your tent, if you
19 remember?

20 A. Just back along the ditch right there. It was -- I don't
21 have a picture, so I can't show you guys. But, yeah. Just in
22 that camping area.

23 Q. All right. So, you went to sleep at some point; right?

24 A. Yeah. But not before I -- as we were setting up our --
25 our tent, a guy walked through the campground. He was visibly

Eric Parker - Direct

1 frustrated, and he said that --

2 MR. MYHRE: Objection, Your Honor. Hearsay.

3 THE COURT: Sustained.

4 BY MR. MARCHESE:

5 Q. So, you are at the campground. Some individual you come
6 into contact with. Did you know that individual?

7 A. No, sir.

8 Q. Okay. And after you came into contact with that
9 individual, without saying what he said, what did you do next?

10 A. We -- we watched -- we took the next watch on the entrance
11 gate to the camp.

12 Q. Okay. What do you mean by watch?

13 A. Basically, it was what that -- like I said, the guy that
14 was standing there when we pulled up, asked us who we were, and
15 showed us where we could camp, we did that for about two hours.

16 Q. Okay. So, you stood there and showed people where to
17 camp?

18 A. Yeah. Nobody came. It was like 2:00 to 4:00 in the
19 morning.

20 Q. Okay. So, after you told people where to camp, what did
21 you do then?

22 A. Went to bed.

23 Q. All right. And I assume, at some point, you woke up?

24 A. Yes.

25 Q. When was that?

Eric Parker - Direct

1 A. I would say later than 6:00 and before 8:00.

2 Q. All right. Now, at some point in time, did you go to the
3 staging area?

4 A. Yes.

5 Q. Okay. And approximately what time was that?

6 A. You know, I don't recall the exact time. It was probably
7 around 9:00.

8 Q. And when you went to the staging area, what did you see?

9 A. A lot of people. Just a lot of people gathering, really,
10 at first.

11 Q. Other -- were Steve and Scott with you?

12 A. Yes.

13 Q. Other than Steve and Scott, did you know anyone at the
14 staging area?

15 A. No.

16 Q. When you went to the staging area, did you -- was there
17 any plan as to how the day was going to progress?

18 A. The only plan I had heard was that the sheriff was on his
19 way to update the crowd, to talk to the crowd, to talk to
20 Cliven, family. Other than that, there was no plan that I was
21 aware of.

22 Q. Okay. So, your plan was to listen to the sheriff and that
23 was pretty much it?

24 A. Yes.

25 Q. Okay. Brian, could we get Exhibit 21, please?

Eric Parker - Direct

1 And before we start playing, Eric, do you know this
2 individual?

3 A. I do now.

4 Q. Okay. And when was this video taken to your knowledge?

5 A. The morning of the 12th.

6 Q. Okay. And on April 12th, 2014, did you know this
7 individual?

8 A. No.

9 Q. Okay. Were you present for this speech?

10 A. Yeah, most of it.

11 Q. Okay. Now, where were you in relation to the stage?
12 Obviously, this is probably taken somewhat in the center.
13 Where were you located?

14 A. Back and to the right for most of the speech.

15 Q. Now, when you say back and to the right, if you're
16 Mr. Bundy, is that what you're saying? You're away from him to
17 his right?

18 A. No, it would be to the crowd's right.

19 Q. Okay. Now, when you say back, approximately how far back
20 were you?

21 A. Hard to say exactly. More than 10 feet. More than
22 15 feet.

23 Q. Further than from you to me right now?

24 A. Yes.

25 Q. Okay. And Brian, if we could press play, please.

Eric Parker - Direct

1 (Exhibit 21 being played.)

2 Q. Now, you were present for that you testified; correct?

3 A. Yes.

4 Q. And you heard that portion of the speech; correct?

5 A. Yes.

6 Q. At this point, what is going through your mind in
7 reference to any plan, if there is one?

8 A. Just to hear what the sheriff had to say.

9 Q. Okay.

10 A. There was a lot of talk in the crowd of --

11 MR. MYHRE: Objection. Hearsay.

12 THE COURT: Sustained.

13 BY MR. MARCHESE:

14 Q. Did you know Sheriff Gillespie at the time?

15 A. No.

16 Q. Okay. Did you -- obviously, you don't know him
17 personally, but did you know of him?

18 A. I knew Clark County had a sheriff.

19 Q. Okay. But you didn't even know his name?

20 A. No, sir.

21 Q. Okay. Brian, press play.

22 (Exhibit 21 being played.)

23 Q. The sheriff obviously just mentioned some sort of a press
24 release. At this juncture, when you are standing in the crowd
25 at this date and time and location, were you aware of any press

Eric Parker - Direct

1 release?

2 A. Just rumor of it.

3 Q. And when you say rumor, what was your knowledge of the
4 rumor?

5 A. That they were -- that the BLM were putting out a -- had
6 put out a press release saying that they were --

7 MR. MYHRE: Objection. Hearsay, Your Honor, as to
8 the rumor.

9 THE COURT: Sustained.

10 MR. MARCHESE: I think it goes to the effect on the
11 hearer, Your Honor.

12 MR. MYHRE: Same objection, Your Honor. There is no
13 relevance to the effect on the hearer of a rumor.

14 THE COURT: Sustained.

15 BY MR. MARCHESE:

16 Q. Did you do any personal research in reference to the press
17 release?

18 A. Not until later.

19 Q. Okay. So, at this date and time, you had only heard
20 things, without getting into what they were. But you had only
21 heard things in reference to the press release; correct?

22 A. Correct. I -- I ended up looking -- looking for it later,
23 when -- when we were at the bridge.

24 Q. Okay. And we'll get into that.

25 Brian, please press play.

Eric Parker - Direct

1 (Exhibit 21 being played.)

2 Q. Okay. You heard a little bit in reference to what the
3 sheriff had to say. Not talking about rumors about press
4 releases, talking about what Sheriff Gillespie said in
5 reference to press releases. You were there. You were
6 present. You heard him say that; correct?

7 A. Yes.

8 Q. Based upon what you heard the sheriff say about press
9 releases, what was your thought process at the time?

10 A. So, he said a couple different things there. I -- I
11 definitely thought that they were finishing their -- that they
12 were done with their impoundment.

13 The crowd asks, "What about the cows?" And then he
14 says, "We have to discuss how that's handled in a safe manner,"
15 and how they would further discuss that.

16 Q. He mentioned the Gold Butte allotment. Did you know where
17 the Gold Butte allotment was at that time?

18 A. No.

19 Q. Did you know what the Gold Butte allotment was at that
20 time?

21 A. I -- I assumed it was the whole area that they lived in.

22 Q. He mentioned, the sheriff that is, that the Gold Butte
23 allotment would be open to the public. Were you aware, at this
24 time, this date, this location, that the Gold Butte allotment
25 was closed to the public?

Eric Parker - Direct

1 MR. MYHRE: Objection, Your Honor. Facts not in
2 evidence.

3 MR. MARCHESE: Your Honor.

4 THE COURT: Do you want to rephrase the question?

5 BY MR. MARCHESE:

6 Q. Based upon -- you heard the sheriff say that the Gold
7 Butte allotment was closed to the public; correct?

8 A. Yeah, I heard him say that it was open.

9 Q. It was open to the public. I'm sorry. What did that mean
10 to you?

11 A. That the area was --

12 MR. MYHRE: Objection. It's still eliciting facts
13 not in evidence.

14 MR. MARCHESE: Your Honor, he's commenting on the
15 video that is in evidence, that they entered into evidence.

16 MR. MYHRE: We object to the pointing by counsel at
17 opposing counsel.

18 THE COURT: Please refrain. The objection is
19 sustained.

20 MR. MARCHESE: So, he cannot comment on what the
21 sheriff just said?

22 THE COURT: He can comment on what the sheriff just
23 said.

24 BY MR. MARCHESE:

25 Q. Okay. You heard what the sheriff just said.

Eric Parker - Direct

1 THE COURT: On his --

2 MR. MARCHESE: I'm sorry.

3 THE COURT: Consistent with the Court order of his
4 intentions. Need to be relevant and probative.

5 BY MR. MARCHESE:

6 Q. Okay. In reference to what the sheriff just said in
7 reference to the Gold Butte allotment, do you remember that
8 portion of the video?

9 A. I do.

10 Q. Okay. When you were standing there on that date, that
11 time, that location, what did that mean to you?

12 A. I thought that it was all being opened. That it was all
13 open. They were done, leaving, and they needed to talk about
14 how the cows were going to be safely released.

15 Q. Did you know personally, at that time, whether it was open
16 or closed?

17 A. Only by the word of the sheriff.

18 Q. Okay. Now, at the end of the video, right before we
19 stopped it, you heard some people yelling out in the crowd
20 "What about the cattle?" Did you hear that?

21 A. Yeah. The second time they start yelling about the cows?

22 Q. Yes. "What about the cows?" Or "What about the cattle?"
23 Something along those lines. Do you remember that?

24 A. Yes.

25 Q. Did you hear anyone saying that?

Eric Parker - Direct

1 A. I heard it two times. I hear -- I heard it in the
2 beginning, when the guy first says it in the crowd. I was -- I
3 remember being closer to the -- the guy in the crowd. He says
4 it the first time.

5 And then the sheriff says, "We need to talk about how
6 that's going to be safely handled," something along those
7 lines. I'm paraphrasing. And -- and then they -- they start
8 to continue to ask about the cows, where they are, and --

9 Q. Okay. Now, when -- you were present, and you heard that;
10 correct?

11 A. Yes.

12 Q. Okay. When you heard that, not talking about what other
13 people were saying or doing. When you personally heard that,
14 what were you thinking?

15 A. I thought that the cows were going to be released.

16 Q. Why?

17 A. Because that -- that was my perception of what had just
18 occurred, is the crowd asked about the cows. He said, "We need
19 to talk about how that's going to be safely -- safely
20 accomplished."

21 I figured they needed to talk about the logistics,
22 whether the cowboys were going to go get them, or trucks, or I
23 didn't know where they were. I didn't know -- so, but I
24 thought they were being released, yes.

25 Q. Now, when you thought that they were going to be released,

Eric Parker - Direct

1 did you, in your mind, have any belief that you were going to
2 be a part of that?

3 A. No, not yet. Not at that point.

4 Q. Okay. And Brian, if you can play the rest of it.

5 (Exhibit 21 being played.)

6 Q. Stop it for a moment.

7 So, you hear the crowd. At this point, they are
8 cheering?

9 A. Yes.

10 Q. What are you doing?

11 A. Just listening. I -- he had just said that he was not
12 there to negotiate with the sheriff. I didn't really know what
13 that meant. The sheriff kind of just told him what they needed
14 to talk about.

15 I -- this is the first time I ever really saw Cliven
16 Bundy or heard him, so I was kind of taking in Cliven Bundy.
17 My perception was that he had an audience and was -- had some
18 pent-up stuff to -- to talk about.

19 Q. Now, you heard him talk about a plan in that little
20 segment there?

21 A. I did.

22 Q. Okay. Now, at this point, you previously testified that
23 you didn't really have a plan. But at this point of the
24 speech, did you have any sort of plan in place?

25 A. Me? No. No.

Eric Parker - Direct

- 1 Q. Okay. And Brian, if you can continue to play.
2 (Exhibit 21 being played.)
- 3 Q. Stop it there, please.
- 4 Now, you were present for this; correct?
- 5 A. Yes, sir.
- 6 Q. You heard what Mr. Bundy told the sheriff; correct?
- 7 A. I did.
- 8 Q. Okay. Were you in agreement with that?
- 9 A. Well, there was a lot there. I don't know.
- 10 Q. Well, let me take it piece by piece. He talked about
11 disarming the park service.
- 12 A. Uh-huh.
- 13 Q. You heard that part?
- 14 A. Yes, I did.
- 15 Q. Okay. Were you in agreement with that?
- 16 A. I'd like to say yes, but I'd like to explain myself. Yes.
- 17 Q. Okay. In reference to the --
- 18 A. Did I think it was going to happen? No. No.
- 19 Q. Okay. In reference to the bulldozing the fences or
20 something along those lines, you heard that portion?
- 21 A. Yes.
- 22 Q. Okay. Were you in agreement with that?
- 23 A. No.
- 24 Q. Okay. Brian, continue to play.
25 (Exhibit 21 being played.)

Eric Parker - Direct

1 Q. Brian, can you stop for a moment?

2 You saw some individuals in camouflage in front of
3 the stage?

4 A. Can I clarify something real quick?

5 Q. We'll get back to that. You saw the individuals in
6 camouflage in front of the stage?

7 A. Yes.

8 Q. Okay. Did you know any of those individuals?

9 A. No. I knew them to be the Arizona State Militia just from
10 their patches.

11 Q. Okay. When did you learn to know that?

12 A. A little earlier in the day.

13 Q. Okay. So, it was that day?

14 A. Yeah, that day, yes.

15 Q. You see some of them have some kind of radio
16 communications or something along those lines. Did you see
17 that or do we need to back it up?

18 A. No, I have seen it. I know they had radios, yeah.

19 Q. Okay. Did you have any sort of earpiece?

20 A. No.

21 Q. Did -- to your knowledge, did Mr. Stewart or Mr. Drexler
22 have any sort of earpiece?

23 A. No.

24 Q. Okay. Were you in any sort of radio communications at any
25 point in time on the 12th with anyone?

Eric Parker - Direct

- 1 A. No.
- 2 Q. Or even earpiece communication, if that's any different?
- 3 A. It's not, and no.
- 4 Q. Okay. All right. Now, you also heard Mr. Bundy speaking,
5 something in reference to taking all the weapons and bringing
6 them to We the People. Did you hear that portion?
- 7 A. Yeah.
- 8 Q. Okay. Did you -- did you agree with that?
- 9 A. No, no.
- 10 Q. To your knowledge, did Sheriff Gillespie even have the
11 power to do so?
- 12 A. To my knowledge, no.
- 13 Q. Okay. Continue to play, Brian.
14 (Exhibit 21 being played.)
- 15 Q. You heard Mr. Bundy saying to go watch the -- everything
16 be torn down or something along those lines. You heard that?
- 17 A. Yeah, to report back or whatever.
- 18 Q. Okay. And this is basically the entire speech; correct?
- 19 A. Yes.
- 20 Q. Okay. Did you -- where did you go, if anywhere, after
21 this speech concluded?
- 22 A. Hung out. Watched the crowd. I think went back and got
23 some water from the camp or the truck. I'm not sure.
- 24 Q. So, you heard him give the sheriff one hour; correct?
- 25 A. Yes.

Eric Parker - Direct

1 Q. All right. Were you waiting for that hour to pass?

2 A. Yeah. Yeah.

3 Q. And at that time, while you were waiting, what was going
4 through your mind as to what was going to transpire, if
5 anything?

6 A. Well, I -- I thought that they were going to talk about
7 how the cows were going to be safely released. I wasn't
8 sure -- you know, after Cliven said the other stuff that he
9 said, I wasn't really sure what was going to happen. I -- I
10 did not think they were going to return with all the BLM's
11 weapons in a truck or whatever he said.

12 Q. So, at some point in time, Mr. Bundy got back on the
13 stage; correct?

14 A. Yes.

15 Q. Were you present for that?

16 A. I was.

17 Q. Okay. And what did you hear, to your recollection, from
18 Mr. Bundy?

19 A. He said, you know, "It's been an hour." He asked if he
20 had heard from the media. And then he said, "Well" --
21 something about the sheriff hasn't gotten back -- come back.

22 And then he said, "If the cows are still there,
23 to" -- he was talking to the cowboys up on the hill and the
24 cowboys that were down -- there was some up on the mountain,
25 and then there was some down. He was talking to the cowboys to

Eric Parker - Direct

1 go get the cows, if they were still there.

2 Q. Now, you heard that speech; correct?

3 A. Uh-huh.

4 Q. At this point, you hear him tell the cowboys "Go get'er
5 done," or something along those lines; correct?

6 A. Yeah.

7 Q. Where did you go or what did you do based upon that, if
8 anything?

9 A. The crowd was going to watch the cows come home. Be
10 released. Be picked up, however it was going to be. The fact
11 that the sheriff didn't come back, so there was -- this is the
12 start of some confusion for myself.

13 The fact that the sheriff didn't come back, we
14 weren't -- I wasn't sure if they were -- you know, what they
15 were doing. So, there was talk of more protesting, if the
16 sheriff was -- was over there. And there was a lot of what ifs
17 at that point.

18 And I just -- there was talk of more protesting,
19 waiting. Waiting. Maybe there needed to be more time before
20 the cows would release. So, it was -- this is the start of a
21 lot of confusion for me.

22 Q. At some point in time, you made a decision to go to the
23 wash; correct?

24 A. To go to the wash?

25 Q. Yes.

Eric Parker - Direct

1 A. Yeah. Later on, yes.

2 Q. Okay. Brian, can we get up Exhibit 93, please? And
3 Brian, if you can go down to the middle.

4 Okay. Let's focus on this particular post. Do you
5 remember this post, Eric?

6 A. I do.

7 Q. All right. You made this post?

8 A. Yes.

9 Q. All right. So, this is made sometime after Mr. Bundy
10 gives his second speech; is that accurate?

11 A. Yes.

12 Q. Okay. You made this post. Tell the jury what you meant
13 by this post?

14 A. I meant a couple different things. I was in a hurry on my
15 phone posting it. Probably should have clarified a little bit
16 more. I was trying to just give an explanation of what I had
17 seen so far and what I thought.

18 Bundy gave the sheriff one hour to disarm the BLM.
19 He didn't reply. That's -- you know, he didn't come back, and
20 they didn't talk about it. He didn't reply on the stage. "We
21 are now going to free the cattle by any means."

22 Q. What did you mean "by any means"?

23 A. By any means, like I said, like I alluded to earlier, it
24 was I wasn't really sure what was happening at that point. So,
25 if it took more protesting, if it took -- you know, I was

Eric Parker - Direct

1 prepared to stay with the protesters.

2 If they were going to protest on the side of the
3 highway for a week, then I was going to stay with the
4 protesters. If they needed to get trucks in there to safely --
5 like the sheriff had said -- safely, safe. If they needed to
6 get trucks in there, I was willing to help raise money to get
7 the trucks. If -- whatever needed to be done, I was going to
8 go help them.

9 Q. Okay. So, if anything, whatever needed to be done, does
10 that mean violence?

11 A. No. No. At this point, it didn't cross my mind at all.

12 Q. You also said "Do it or else, Mr. Bundy said." What did
13 you mean by that?

14 A. I was kind of trying to explain his -- his demeanor on the
15 stage, I guess. His -- you know -- just he was saying, you
16 know, that -- how do I explain it?

17 He was -- he was saying that they were going to
18 continue the protest, in my mind. That they weren't going to
19 be placated and stop just because they put out a press release
20 that said that they were stopping.

21 Q. You also said you would not be lied to. What did you mean
22 by that?

23 A. That was more of, you know, him not -- the sheriff not
24 coming back, the placated thing. We kind of -- I -- I guess I
25 kind of felt like it was just giving lip service to the crowd

Eric Parker - Direct

1 and then disappearing. So, we went over to see and continue
2 the protest.

3 Q. Now, just to back up slightly, you saw the sheriff speak
4 earlier, obviously. We had the exhibit of that.

5 A. Uh-huh.

6 Q. Did you ever see him again?

7 A. Gillespie?

8 Q. That day, yes.

9 A. No, sir.

10 Q. And Brian, if we can go to Exhibit 182, slide two.

11 Okay. So, you see this exhibit that was entered into
12 evidence?

13 A. Yes, I do.

14 Q. Okay. You see the back of yourself there; correct?

15 A. Yes, I do.

16 Q. Okay. And you see this individual to your left; correct?

17 A. Yes.

18 Q. Okay. On April 12th, 2014, did you know this individual?
19 This Ricky Ray Lovelien prior to that day?

20 A. Prior to that day, no.

21 Q. Okay. Just briefly explain how you came into contact with
22 him?

23 A. He was camping next to us, and he asked us -- as we were
24 getting ready to go over to the stage, he said that the
25 parking -- he had obviously been there a day or so. And he

Eric Parker - Direct

1 said that the parking was going to be limited and asked if we
2 wanted a ride over to the stage.

3 Q. Okay. And then you obviously went over to the stage at
4 some point; right?

5 A. Yes.

6 Q. Okay. Now, when you were at the stage, were you with him
7 at the staging area?

8 A. For a second. I don't necessarily -- this picture
9 actually kind of surprised me, because I don't -- I don't
10 really remember being with him like that. But we definitely
11 were talking a little bit, you know.

12 Q. Okay. And you mentioned that you made the decision to go
13 to the wash; correct?

14 A. Correct.

15 Q. And when you made the decision to go to the wash, how did
16 you get there?

17 A. So, it's kind of hectic. Everybody was just jumping into
18 vehicles and stuff. And I asked Ricky -- I didn't know his
19 name at that time. I asked him if -- if he was going over
20 there as well. If he was going to follow the protesters as
21 well. And he said "Yes." And I said, "Can we get a ride?"

22 Q. And prior to hearing Cliven Bundy speak the second time,
23 was there any plan to go over to the wash?

24 A. No. No.

25 Q. Was there any plan to meet up with Ricky Ray Lovelien at

Eric Parker - Direct

1 that point at any time?

2 A. No. I assumed I would see him again. He was camped next
3 to us, but there was no plan to meet up with Ricky, no.

4 Q. To your knowledge, was Mr. Lovelien camping with anyone
5 else?

6 A. No, not that I saw.

7 Q. Now, when you went over to the wash, what, if anything,
8 did you take with you?

9 A. What I had on me, and my rifle was in Ricky's truck. I
10 didn't want to leave my rifle at the camp in my tent or
11 anything. So, my rifle was in the truck.

12 Q. Okay. So, if we can go to 182-14. You've seen this dash
13 cam video; correct?

14 A. I have.

15 Q. And just generally, what does it depict?

16 A. Interstate 15 Northbound. The whole video or just the
17 picture?

18 Q. Just the picture.

19 A. That's a picture of the back of Ricky's truck. I'm in the
20 front seat. We were -- it's kind of like a parade going over
21 there. There was a lot of vehicles. Guys with flags kind of
22 thing. And the -- we were driving over to -- to the parking
23 area, I guess, is what you would call it. It's not really a
24 parking lot.

25 Q. Were you driving?

Eric Parker - Direct

- 1 A. No.
- 2 Q. Had you ever been there before?
- 3 A. No.
- 4 Q. Who is with you?
- 5 A. Steve and Scott are in the back of the truck, and I'm in
6 the front seat, and Ricky is driving.
- 7 Q. Okay. Do you have your rifle with you?
- 8 A. Yes.
- 9 Q. Okay. And where is that?
- 10 A. In its rifle case in the front seat.
- 11 Q. Now, did you arrive to the parking area?
- 12 A. Yes, we did.
- 13 Q. Okay. And Brian, if we can go to 182-1, please.
- 14 Okay. You've seen this particular video, and this is
15 a screenshot of the video; correct?
- 16 A. Correct.
- 17 Q. All right. And, obviously, there's some yellow bars
18 indicating you and Mr. Drexler on there; correct?
- 19 A. Yes.
- 20 Q. Okay. So, generally speaking, where is this video to your
21 knowledge?
- 22 A. The parking area on I-15 -- off of I-15.
- 23 Q. Okay. So, obviously, you are out of the vehicle at this
24 point; correct?
- 25 A. Yeah, a lot of time's actually passed.

Eric Parker - Direct

1 Q. And it appears you -- both you and Mr. Drexler are walking
2 in a particular direction; is that right?

3 A. Yes.

4 Q. And based upon what you see there, where are you going?

5 A. Going to the bridge area. I didn't know it was a bridge
6 at that time. I just heard that there was protesters in the
7 wash, and I was walking in that direction. I ended up on a
8 bridge.

9 Q. Okay. Now, to your knowledge, where is Steven Stewart at
10 this juncture?

11 A. Steven? I believe he was behind us.

12 Q. Okay. How about Ricky Lovelien?

13 A. I don't know.

14 Q. When was the last time you had seen Ricky Lovelien when
15 you were in his truck and you got out?

16 A. That was it, when I got out of the truck.

17 Q. Brian, can we go to Exhibit 196, please?

18 Okay. Eric, do you remember this particular photo?

19 A. I do.

20 Q. Okay. And generally speaking, where is -- is this?

21 A. That's where the crowd had gathered right at the parking
22 area off of I-15.

23 Q. Okay. And what's going on, at this point, to your
24 recollection?

25 A. As far as I recall, the Metro had been talking with

Eric Parker - Direct

1 somebody. I later found out it's David Bundy. But at the
2 time, I didn't know. They were talking with somebody, and then
3 getting ready to cross back over into the median where -- where
4 all their vehicles and the rest of Metro were. I -- I asked
5 Metro what was with the guys up on the hill.

6 Q. Now, on this picture, you have your rifle with you;
7 correct?

8 A. Yes.

9 Q. Okay. Why did you take your rifle with you?

10 A. I went and got it after I saw the guys up on the hill.

11 MR. MYHRE: Objection, Your Honor.

12 THE WITNESS: There was, like -- sorry.

13 MR. MYHRE: Objection, Your Honor.

14 THE COURT: Sustained.

15 BY MR. MARCHESE:

16 Q. If we can go to Exhibit 117, please.

17 Now, this is the Facebook post from Mr. Steven
18 Stewart. Do you see that?

19 A. Yes.

20 Q. Okay. Now, obviously, you are not Steven Stewart. You
21 didn't make this post; correct?

22 A. No, but I was -- I was there and standing with him when --
23 when he was talking about what he's talking about. What he's
24 trying to talk about there.

25 Q. Okay. Now, referencing -- he references a really

Eric Parker - Direct

1 high-powered scope. Do you see this right there?

2 A. I do.

3 Q. And you said that you're personally aware of what he was
4 referring to at that point?

5 A. I am.

6 MR. MYHRE: Objection. Hearsay, Your Honor.

7 THE COURT: Sustained.

8 MR. MARCHESE: I'm not asking for hearsay, Your
9 Honor. I am just asking his personal knowledge of what
10 Mr. Stewart is referring to with the scope.

11 MR. MYHRE: It's based on hearsay, Your Honor.

12 THE COURT: Yeah, it's hearsay to what someone else
13 believes or thinks.

14 MR. MARCHESE: Okay.

15 THE COURT: You can ask him whether he saw a really
16 high-powered scope.

17 BY MR. MARCHESE:

18 Q. At some point in time, you were with Mr. Stewart; correct?

19 A. I was.

20 Q. And was there any point in time when you and Mr. Stewart
21 came into contact with a really high-powered scope?

22 A. There was.

23 Q. When was that?

24 A. It was on the side of the road. There was a woman who had
25 a -- is it call telescoping? Like a pirate's telescope. And

Eric Parker - Direct

1 she gave it to Steve first. I was standing there. But then
2 she gave it to me afterwards. We were -- we were looking up on
3 the mountain at the people up on the mountain.

4 MR. MYHRE: Objection, Your Honor.

5 THE COURT: Sustained.

6 BY MR. MARCHESE:

7 Q. And Brian, can you publish to only Court and counsel
8 Exhibit 5017, please.

9 And Eric, do you recognize this?

10 A. I do.

11 MR. MYHRE: Objection, Your Honor. We need a
12 sidebar.

13 THE COURT: Let's go to sidebar.

14 (Sidebar.)

15 THE COURT: All right. Mr. Myhre, go ahead.

16 MR. MYHRE: Thank you, Your Honor. The government's
17 objection again is relevance. This doesn't go to -- to
18 undercut any testimony or rebut any testimony that was
19 presented in the government's case in chief. It goes, again,
20 to the nullification issue of, you know, what the BLM conduct
21 was.

22 THE COURT: So, why can't he testify that he saw
23 people on a hill, so long as he doesn't testify he thought they
24 were snipers? Why can't he say he was just using a telescope
25 to look at people on a hill, so long as he doesn't say that he

Eric Parker - Direct

1 thought they were snipers?

2 MR. MYHRE: Because the only reason he would say that
3 is because they're sniper. He would say that they're snipers.
4 That's the reason why he would elicit it. Otherwise, it's not
5 relevant to anything. The fact there were people on a hill
6 doesn't mean anything unless he makes a connection that they're
7 snipers, and he's going to make that connection.

8 THE COURT: Isn't it relevant to show why they are
9 discussing, in the Facebook post, a high-powered scope to rebut
10 the inference that the scope is being used against the BLM for
11 some relevant reason?

12 MR. MYHRE: He's already testified about the
13 high-powered scope. This -- this image that is drawn up now is
14 not from the high-powered scope. He's already testified he got
15 a high-powered scope. He was looking up. And this is -- image
16 is not from the high-powered scope.

17 THE COURT: I'm assuming the question is going to be
18 is this what you were looking at with the scope? Trying to
19 look at with the scope?

20 MR. MARCHESE: It also goes to the picture of Eric
21 like this, because that's what he was talking about. That's
22 why he did that. When he got shot in that particular position,
23 that's what he was referring to.

24 THE COURT: By "shot" you mean photographed.

25 MR. MARCHESE: Well, yeah. I'm just killing it with

Eric Parker - Direct

1 the horrible -- between nullification and shot, I mean, Mr. Bad
2 Pun over here. Bad Shakespeare play.

3 MR. MYHRE: Then again, Your Honor, that's not
4 relevant to anything, unless he makes the connection that
5 that's why I got my rifle. That's why I went to the wash, is
6 because these guys on the hill.

7 And that, again, goes to the inference that, "Oh,
8 there's snipers. They are doing something wrong. There's
9 something bad going on."

10 MR. MARCHESE: The problem is, is that it rebuts why
11 he -- you know, the government's theory of the case is that he
12 went over there to forcefully take the cattle back.

13 Now I am stuck. He's not able to answer this
14 question. Now I'm stuck with he just has a rifle in his hand.
15 We don't know why.

16 MR. MYHRE: Well, he's stuck, because he put
17 irrelevant evidence on to begin with. And so, if -- you know,
18 you can't make your own situation and then say you're stuck in
19 it, and say "Now I'm allowed to introduce inadmissible evidence
20 to get myself out."

21 MR. MARCHESE: Well, I mean, we can just go about it
22 this way. I can go to Exhibit 17 and just show the
23 government's aerial shots of the snipers.

24 MR. MYHRE: They are not snipers.

25 THE COURT: So, is the defense response to the

Eric Parker - Direct

1 objection that the intent for which this next portion of the
2 testimony is offered is to demonstrate why Mr. Parker had a
3 rifle? That it was related to people on a -- that he saw on a
4 hill?

5 MR. MARCHESE: And that's part of it, and then the
6 other part is that --

7 THE COURT: How does that rebut anything?

8 MR. MARCHESE: Well, it also explains the evidence
9 that's been brought in by the government against all these
10 defendants.

11 THE COURT: He doesn't have the rifle to aim them at
12 the BLM in the wash. He has it to aim at the BLM on the hill?

13 MR. MARCHESE: No, because he's concerned about
14 himself. All the things that he can't get into about reference
15 to people getting hurt.

16 THE COURT: He's concerned about himself, which is
17 self-defense, which is not permissible. So, the objection is
18 sustained.

19 MR. MARCHESE: But I can't comment -- okay.

20 (End of sidebar.)

21 THE COURT: All right. So, I do have a jury note. I
22 have Jury Note No. 129, which asks: "Can the witness please
23 speak into the microphone?"

24 So you can pull the microphone closer to you, if you
25 need to. There's actually two of them, so I don't know if you

Eric Parker - Direct

1 want to set them up the way I have mine. That seems to help
2 when you turn your head to look at the screen, and it's away
3 from the microphone, so by using the second microphone by the
4 screen, that could help.

5 And then the second part of Jury Note 129 asks:
6 "What does the word probative mean?" And so that's a legal
7 word. It just means more probable than not that it's relevant,
8 not collateral. So, it's something that's related to the case
9 as opposed to something that's not related and goes off on a
10 tangent.

11 So, it's a legal term, and it's a ruling that the
12 Court makes, and you don't need to make any finding about
13 whether or not something is probative for purposes of testimony
14 here; for whether or not it -- we can keep going in that
15 direction or a different direction. So, don't worry about
16 that, but I appreciate the question.

17 All right. So --

18 MR. MARCHESE: All right. Do you want me to
19 continue? I've got my little list here, and I'm about halfway
20 done, so --

21 THE COURT: All right. Well, the last objection was
22 sustained, so you just pick up right after that.

23 MR. MARCHESE: Well, I just noticed it was noon. I
24 can keep going if Your Honor wants.

25 THE COURT: The objection was sustained.

Eric Parker - Direct

1 MR. MARCHESE: Correct. I was just referring to the
2 break, Your Honor. If you wanted to take the break now,
3 because I said I am about halfway done.

4 THE COURT: Okay. So, by keep going, you mean not
5 keep going with what I ruled on? You mean keep going as --

6 MR. MARCHESE: Well, I want to keep going but --

7 THE COURT: -- during the lunch hour.

8 MR. MARCHESE: -- I know where the Court is with
9 that.

10 THE COURT: All right. Well, so you are telling me
11 it's going to be after the lunch hour?

12 MR. MARCHESE: I have a list, and I'm about halfway
13 done.

14 THE COURT: Okay. So, let's go ahead then and take
15 our lunch break, assuming, Mike, we have lunch ready for them.
16 Because if it hadn't arrived, we would just keep go.

17 So, my understanding is the lunch has arrived, so we
18 will go ahead and excuse the jury so they can have their lunch.

19 It is 12:20 now. Let's plan to be back here by 1:00.

20 During the lunch break, again, remember you may speak
21 to your fellow jurors about other things, but not about this
22 case or anything that touches upon the case. You may not read,
23 or listen to, or view anything that touches upon the case nor
24 attempt to perform any independent research or investigation.

25 If you have a question, write it down and please do

Eric Parker - Direct

1 not form any opinion.

2 We'll go ahead and stand for the jury. And after
3 they exit, then, Mr. Parker, you can take your lunch break as
4 well, and then we'll all meet back up here at 1:00.

5 (Jury out.)

6 THE COURT: Off record.

7 (Recess, 12:03 p.m. Resumed 1:28 p.m. Jury out.)

8 THE COURT: Thank you. You may be seated. Go ahead
9 and bring in the jury.

10 (Jury in.)

11 THE COURT: The jury may go ahead and be seated, and
12 everyone else may be seated afterwards.

13 All right. So, we are back from the lunch break, and
14 everyone is here. We'll go ahead and resume with direct
15 examination of Mr. Parker.

16 MR. MARCHESE: Thank you, Your Honor.

17 Q. Good afternoon, Eric. I believe where we left off, you
18 were somewhere in the staging area. Do you remember that?

19 A. Yes, sir.

20 Q. Okay. At some point in time, did you move to the
21 northbound bridge?

22 A. I did, sir.

23 Q. Okay. And Brian, can we bring up Exhibit 182, slide 22,
24 please?

25 Okay. Now, this was an exhibit that was entered into

Eric Parker - Direct

1 evidence against you. This is actually a still photo of a
2 video. Are you familiar with that video?

3 A. I am, sir.

4 Q. Okay. So, on here it says it's approximately 11:56 a.m.
5 Do you remember that?

6 A. I didn't know the exact time. But, yes, I remember the
7 point in time when I walked on the bridge, sir.

8 Q. All right. Now, from the staging area to where you are
9 right now, approximately how far is that?

10 A. From the parking lot to that area right there?

11 Q. Correct.

12 A. I would say easily a couple hundred yards.

13 Q. Okay. Was there any particular reason that you went to
14 the northbound bridge? Yes or no?

15 A. Yes, there was. I --

16 MR. MYHRE: Objection, Your Honor. It was
17 nonresponsive at this point. He just asked whether there was,
18 but we have an objection to the --

19 BY MR. MARCHESE:

20 Q. That's fine. Don't get into the reason. Okay. We will
21 just move on.

22 MR. MYHRE: Thank you.

23 BY MR. MARCHESE:

24 Q. So, you see this individual here? It looks like maybe he
25 has a camera or some kind of a phone in his hand. Do you see

Eric Parker - Direct

1 that?

2 A. Yes, I see it in the picture.

3 Q. Okay.

4 A. I don't remember him at that time.

5 Q. On April 12, 2014, did you know that individual?

6 A. No, I did not.

7 Q. Okay. When you walked by him, at this juncture, did you
8 have any communication with that individual?

9 A. No, I did not.

10 Q. And at any point in time, on April 12th, 2014, to your
11 recollection, did you have any communication with that
12 individual?

13 A. I did not.

14 Q. So, now you got onto the bridge. You are in this
15 particular area. Where did you go from there?

16 A. I went out to about the center of the bridge.

17 Q. Okay. And are Steven and Scott with you at this time to
18 your knowledge?

19 A. I believe Scott was. Steven was not.

20 Q. Okay. And you got out to the middle of the bridge, you
21 just testified to. And did you go directly from this area that
22 you were in or did you stop?

23 A. Directly in the area in the picture?

24 Q. Yes.

25 A. Yes. Yes, sir, I did.

Eric Parker - Direct

1 Q. All right. And then when you got there, what did you do?

2 A. I took in the situation. I looked down into the wash. I
3 saw a small group of protesters underneath the bridge I was
4 standing on, the northbound bridge. They had flags and
5 whatnot.

6 And then I started to take in the greater situation,
7 the larger situation. I saw the fence, and I saw the men at
8 the trucks in the combat gear, and I saw the guys up on the
9 hill.

10 MR. MYHRE: Objection, Your Honor.

11 THE COURT: Sustained.

12 BY MR. MARCHESE:

13 Q. And Brian, if you can bring up Government's Exhibit 10,
14 please.

15 MR. MYHRE: And move to strike that last response,
16 Your Honor.

17 THE COURT: The jury will disregard that last answer.

18 BY MR. MARCHESE:

19 Q. And, Brian, if you can start it at approximately 2:20 and
20 play for about -- well, I will tell you when to stop. Okay.
21 Push play.

22 (Exhibit 10 being played.)

23 Q. And Brian, you can stop there.

24 And is that generally what you saw when you walked
25 out to the center of the northbound bridge?

Eric Parker - Direct

1 A. Yeah. I was handed a pair of binoculars, and I was
2 looking at this vehicle, and the back of this vehicle, and
3 these vehicles right here, and mostly those three areas right
4 there.

5 Q. Okay. Whose binoculars were those?

6 A. I'm not sure. There was a lot of people on the bridge.
7 They all were -- were doing different things. Some people had
8 cameras. Some people had binoculars, and there was one person
9 with a pair of binoculars looking that way. They said a few
10 things to me and handed me the binoculars, because I wanted to
11 see for myself.

12 Q. How long did you have those binoculars for approximately?

13 A. A minute and a half at the most.

14 Q. Then you gave them back, I assume?

15 A. Yeah.

16 Q. Now, Brian, can we get up Government's Exhibit 210,
17 please?

18 All right. Now, you've seen this exhibit previously
19 through Agent Willis, I believe it was?

20 A. I have.

21 Q. Okay. So, if you could just maybe put a little X as to
22 your -- actually, can we make this just slightly bigger, Brian?
23 Perfect. Thank you.

24 If you can just put maybe a little X as to generally
25 where you were at the point in time when you had the

Eric Parker - Direct

1 binoculars?

2 A. About right there.

3 Q. And can you put another X as to the area in which you came
4 from initially?

5 A. About right there.

6 Q. Okay. So, other than the northbound bridge, was there any
7 other area on this map which you traveled to prior to going to
8 the center portion of the northbound bridge?

9 A. No. No, sir. I went directly in this direction along
10 here and then crossed over and then to about right here.

11 Q. You say crossed over. What do you mean by crossed over?

12 A. Crossed the street. Crossed the highway.

13 Q. Okay.

14 A. Interstate 15.

15 Q. Now, you just testified that you were -- and correct me if
16 I'm wrong. You were focusing on this general area?

17 A. Specifically this truck, the men there, and this vehicle
18 right here where there were men with --

19 MR. MYHRE: Objection, Your Honor.

20 THE WITNESS: -- plain clothes.

21 BY MR. MYHRE:

22 Q. Going into this area of -- that we discussed earlier --

23 THE COURT: Do you want to redirect your witness,
24 please.

25 MR. MARCHESE: Can he say what he saw?

Eric Parker - Direct

1 MR. MYHRE: Objection. Relevance, Your Honor.

2 THE COURT: You know the parameters of the order,

3 Mr. Marchese.

4 MR. MARCHESE: Okay.

5 THE COURT: We are not going to waste any more time
6 at sidebar.

7 BY MR. MARCHESE:

8 Q. Without saying what you saw, was there ever a point in
9 time when you looked in this vicinity over here?

10 A. No. I -- I don't remember even being able to see over
11 there. There was a hill here, when I was over here, and -- and
12 when I got over here to the bridge, my -- my concern was other
13 things.

14 Q. Now, when you say other things, would it be accurate to
15 say that you were always looking forward?

16 A. Or up and to the right.

17 MR. MYHRE: Objection, Your Honor. Sidebar, please.

18 THE COURT: All right.

19 (Sidebar.)

20 THE COURT: All right. You wanted sidebar, so it
21 sounds like Mr. Parker is done testifying. He doesn't want to
22 testifying anymore? Is that what it is?

23 He's been saying it over and over again, trying to
24 communicate to the jury that there's something else. That he's
25 looking at the people up on the hill regardless of the order.

Eric Parker - Direct

1 MR. MARCHESE: I was under the impression that he was
2 allowed to say what he saw, but he was not allowed to testify
3 of how it made him feel. That's number one.

4 Number two, my questions were pointed. I am trying
5 to just keep him focused in the wash and looking forward. I --
6 I mean, I was under the assumption -- and Mr. Tanasi and I
7 spoke at lunch -- that he could testify to what he saw, just
8 not that it made him feel fear or anything along those lines.

9 If I am wrong, then I apologize, but that was my
10 understanding on what the Court's order was.

11 THE COURT: Mr. Myhre.

12 MR. MYHRE: Thank you, Your Honor. We would move
13 that Mr. Parker be sanctioned by taking him down and moving to
14 strike his direct.

15 This clearly is intentional. We already had an
16 objection as to the very same about the mesa, who's up there,
17 which was sustained.

18 We've hit it now at least two times since then, and
19 what's happening now is that we're getting these dribs and
20 drabs in front of the jury that there's something out there.
21 And it's virtually impossible to -- to erase it from their
22 minds now at this point.

23 We have gone -- Mr. Marchese, in his direct, hit it
24 at least three times just since the -- we got back from our
25 break.

Eric Parker - Direct

1 MR. MARCHESE: That's not true, you know.

2 MR. MYHRE: And he was -- he said, "Did you see this
3 up here on the right? Oh, you went back here. Well, when you
4 went down here, what did you see?"

5 "Well, I looked up on the right, and looked back at
6 this truck twice. Looked back at the truck twice. Looked up
7 at the mesa."

8 Especially in light of the Judge's -- the Court's
9 prior ruling with respect to this specific issue about the
10 mesa, we see no alternative at this point, Your Honor.

11 THE COURT: Well, Mr. Marchese, is there any innocent
12 reason why he keeps wanting to tell the jury that he was
13 looking up at the mesa?

14 MR. MARCHESE: Absolutely. And the reason being, is
15 that I'm going to get to it, is we had a ranger come in who
16 testified that he pointed his weapon at her. And I'm just
17 trying to get out that he always looked forward, and he was
18 never looking to the left in her direction. That's what I'm
19 trying to elicit.

20 THE COURT: But that's not what the testimony is.
21 His testimony is that he's looking up is what he just stated.

22 MR. MARCHESE: Correct.

23 MR. LEVENTHAL: Up to the left. This is on the
24 right.

25 MR. MARCHESE: I thought he said -- no, she -- she's

Eric Parker - Direct

1 in with Shilaikis. I'm trying to get him focused that he's
2 only looking in the wash.

3 THE COURT: But that's not what his answer was. His
4 answer was that he is looking up at the hill. So, is there any
5 reason why testimony about him looking up in the hill would
6 be --

7 MR. MARCHESE: I thought -- the hill that he was
8 referring to was the one that he marked by Post 1. Is that
9 what you were referring to?

10 MR. LEVENTHAL: He said it was a hill.

11 MR. MARCHESE: Right. He said "I couldn't see over
12 there." I think that's what he testified to.

13 MR. MYHRE: He said "I looked up to the right."

14 MR. MARCHESE: Right. But I'm trying to focus him to
15 say he never looked to the left. But getting back to the
16 Court's original order, am I incorrect in saying that he's not
17 allowed to testify what he saw?

18 THE COURT: The problem is that your witness has been
19 admonished and told not to discuss, and he keeps on saying it.

20 The objection is made. The objection is sustained.
21 The jury is told to disregard the statement, and then he does
22 not answer your question without trying to sneak in information
23 that is in violation of the Court order.

24 MR. MARCHESE: But I understand we can't talk about
25 the pre-12th. I understand that. And I understand --

Eric Parker - Direct

1 THE COURT: In the last sidebar, you told me that the
2 reason that you wanted to elicit testimony about what he saw up
3 on the hill was in order to explain why he had gotten the
4 firearm, which is directly related to a defense that is not
5 appropriate.

6 MR. MARCHESE: But I was -- I am under the impression
7 that he could testify to what he saw, but just not the way he
8 made it -- it made him feel. Am I incorrect? If I am, I
9 apologize. But that was Mr. Tanasi's understanding, too.

10 MR. TANASI: That's -- that's my understanding, too,
11 Your Honor.

12 THE COURT: As long as there is a relevant purpose to
13 it. For example, we talked about, you know, when the cows were
14 released and so forth. He could talk about how that made him
15 feel, because it doesn't go into self-defense.

16 But if the only reason you are going to ask questions
17 about what he sees up on the hill is in order to set up a
18 self-defense, defense of others, jury nullification, then how
19 is -- then it's not relevant or probative.

20 MR. MARCHESE: But it's relative and probative not --
21 where he's looking, because he never looked to the left.
22 That's what I am trying to have him testify to.

23 THE COURT: And you asked him, "Did you look straight
24 ahead?" And he said, "And up on the hill." So, he keeps on
25 wanting to get into the people on the hill, even after numerous

Eric Parker - Direct

1 times it's been explained that that's not appropriate.

2 MR. MYHRE: And he also volunteered, I would point
3 out, about when he looked at the trucks, that they were in
4 combat gear.

5 MR. MARCHESE: Well, I mean, the government's own
6 exhibit, I think, bears that out. It's very difficult --

7 THE COURT: But what is the purpose of pointing that
8 out? It doesn't go to impeach the credibility of someone else.
9 The only reason to bring it up --

10 MR. MARCHESE: I'm just trying to say what happened.
11 I mean, it's just --

12 THE COURT: No.

13 MR. MARCHESE: -- it's very difficult, because we are
14 stuck.

15 THE COURT: You can't just say what happened if it's
16 not relevant, probative, or legally recognizable.

17 MR. MARCHESE: It's the crime. That's what he did.
18 We have 40 pictures of Eric prone on the bridge, and I can't --
19 I can't explain how he got there, or why he did what he did, or
20 what he saw.

21 THE COURT: The government's motion is granted.

22 (End of sidebar.)

23 THE COURT: All right. The government's motion is
24 granted.

25 So, Mr. Parker, you can go back and take your seat.

Eric Parker - Direct

1 And defense may call its next witness. Do you have another
2 witness that's ready?

3 MR. MARCHESE: Eric, come on down.

4 MR. LEVENTHAL: No, Your Honor.

5 THE COURT: Not for today?

6 MR. LEVENTHAL: No, Your Honor.

7 THE COURT: All right. We'll go ahead then and
8 excuse the jury a little bit earlier today, and welcome you
9 back on Monday morning at 9:00 a.m. Yes, 9:00 a.m. for Monday
10 morning.

11 During this overnight break, please remember that you
12 are not to speak about this case or discuss it with anyone.
13 You may, of course, let your employers know or your family and
14 friends know that, yes, you still do have jury duty, so that
15 they can make plans, and you can make those kind of plans.

16 But please do not discuss any of the issues about the
17 case or anything else related to the case except for the time
18 line. And also do not read, or listen to, or view anything
19 that touches upon this case in any way, and do not attempt to
20 perform any research or any independent investigation.

21 You will be provided with testimony, exhibits. I
22 will provide to you the jury instructions, so that you can
23 apply the facts as you find them to those jury instructions,
24 and then you will hear closing arguments. After that, you will
25 be excused, so you may begin your deliberation process. So,

Eric Parker - Direct

1 until then, please do not form any opinions.

2 So, we'll go ahead and stand for the jury so they may
3 be excused, and we will welcome you back at 9:00 a.m.

4 (Jury out.)

5 THE COURT: All right. So, Court's in recess until
6 9:00 a.m. Monday morning.

7 (Recess, 1:49 p.m.)

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Eric Parker - Direct

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INDEX OF EXAMINATIONS

For the Plaintiff:

Witness Name	Direct	Cross	RD	RX	Voir Dire
Eric Parker	13				

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COURT REPORTER'S CERTIFICATE

I, KATHERINE EISMANN, Official Court Reporter, United States District Court, District of Nevada, Las Vegas, Nevada, certify that the foregoing is a correct transcript from the record of proceedings in the above-entitled matter.

Date: August 11, 2017.

/s/ Katherine Eismann

Katherine Eismann, CSR CRR RDR