

27178
Vancouver Registry

In the Supreme Court of British Columbia
(BEFORE THE HONOURABLE MADAM JUSTICE HOLMES AND JURY)

Vancouver, B.C.
June 13, 2017

REGINA

v.

PATRICK HENRY FOX

PROCEEDINGS AT TRIAL
(Excerpt - Testimony of Desiree Capuano)

COPY

**BAN ON PUBLICATION;
INHERENT JURISDICTION**

27178
Vancouver Registry

In the Supreme Court of British Columbia
(BEFORE THE HONOURABLE MADAM JUSTICE HOLMES AND JURY)

Vancouver, B.C.
June 13, 2017

REGINA

v.

PATRICK HENRY FOX

PROCEEDINGS AT TRIAL
(Excerpt - Testimony of Desiree Capuano)

COPY

**BAN ON PUBLICATION;
INHERENT JURISDICTION**

Crown Counsel:

M. Myhre

Appearing on his own behalf:

P. Fox

Defence Counsel:

**A.J. Lagemaat
M. Chatha, A/S**

INDEX

WITNESSES FOR THE CROWN:

DESIREE CAPUANO	1
EXAMINATION IN CHIEF BY MR. MYHRE, Continuing:	1
EXAMINATION IN CHIEF BY MR. MYHRE, Continuing:	48
EXAMINATION IN CHIEF BY MR. MYHRE, Continuing:	64

EXHIBITS

EXHIBIT 2: Identification documents attached to email of December 17, 2014, 3 pages	4
--	----------

RULINGS

Nil

Proceedings**BAN ON PUBLICATION; INHERENT JURISDICTION**

1 Vancouver, B.C.
2 June 13, 2017

3
4 (EXCERPT COMMENCING AT 10:09:55 A.M.)

5
6 (JURY IN)

7
8 THE CLERK: Let me remind you, Ms. Capuano, that you're
9 still under affirmation.

10
11 **DESIREE CAPUANO**
12 a witness called for the
13 Crown, recalled, warned.

14
15 MR. MYHRE: My Lady, I have the additional copy of the
16 book of records.

17 THE COURT: Thank you.

18 MR. MYHRE: Are we okay to go, Madam Registrar?

19 THE CLERK: Yes.

20

21 **EXAMINATION IN CHIEF BY MR. MYHRE, CONTINUING:**

22

23 Q Ms. Capuano, when we left off yesterday, we had
24 just finished getting to the end of a few of the
25 emails from 2014 that are in this book. I'd like
26 to go back. There are a couple of things and we
27 skated over a little too quickly. Could I take
28 you back to - and we're at Tab 10 of the book here
29 - to the July 22nd, 2014 email, titled "Telephone
30 communication regarding {GR}".

31 Now, I understand you've thought about this a
32 little bit overnight. Last -- yesterday you
33 couldn't really remember what this conversation
34 was about.

35 A Correct.

36 Q Do you have any recollection of it having thought
37 about it overnight?

38 A This -- this telephone call, if memory serves
39 correctly, was in regards to me calling him and
40 asking him to stop with the website, to take it
41 down and stop emailing my co-workers.

42 Q Okay. If I could next take you a few pages
43 forward for the email titled "Forward re medical
44 marijuana program ID" from July 23rd, 2014.

45 And we talked yesterday how -- about how, in
46 many of these emails, when they're originally sent
47 to you on the dates in 2013 and 2014, the name

**Desiree Capuano (for Crown)
in chief by Mr. Myhre
BAN ON PUBLICATION; INHERENT JURISDICTION**

1 "Richard" was being used, not "Patrick".

2 A Correct.

3 Q So that looks like it's been replaced in these
4 emails.

5 A Correct.

6 Q If you look at the P.S. section of this email [as
7 read in]:

8

9 P.S., is it really necessary to keep using
10 the name Patrick?

11

12 What did that say when you received this email in
13 July 23, 2014?

14 A

15 Is it really necessary to keep using the name
16 Richard.

17

18 Q Then:

19

20 I only use it with you and that now for
21 relevant family court proceeding and you
22 already know my name is Patrick, or is it?

23

24 Did that second Patrick -- did that say Patrick?

25 A Yes.

26 Q Okay. Moving ahead again, so the email titled,
27 "The ugly proof" from December 17th, 2010 -- 2014.

28 Did you check overnight whether or not this was
29 one of the emails that {GR} was cc'd on?

30 A Yes, I did, and yes, he was.

31 Q Okay. And after court yesterday, you pointed
32 something out to me that troubled you in this
33 email that we'd overlooked yesterday when you were
34 testifying. What was that?

35 A The question on whether or not the email made me
36 fearful, because he's indicating that he owns
37 firearms and he's purchased these firearms under
38 the identity of Patrick Fox, but what was
39 concerning to me, particularly in this email, was
40 where he says [as read in]:

41

42 Regardless of what you believe, that birth
43 certificate, together with my BC ID has been
44 sufficient every time I've crossed the
45 border. You only require the passport when
46 flying, not driving.

47

**Desiree Capuano (for Crown)
in chief by Mr. Myhre
BAN ON PUBLICATION; INHERENT JURISDICTION**

- 1 Which indicated that he'd been using this identity
2 to cross into the United States on a regular
3 basis. And now he owns the firearms.
4 Q Now, at the top of this email, Richard wrote [as
5 read in]:
6
7 I've attached a few supporting documents, a
8 copy of my BC ID birth certificate, PAL, and
9 just for good measure, a copy of my most
10 recent paycheque.
11
12 Did he in fact attach those documents?
13 A Yes.
14 Q Okay. I'm going to show you a few documents.
15 MR. MYHRE: Madam Registrar, could you hand that to Her
16 Ladyship?
17 Q Can you just flip through that? It's a stapled
18 set of three -- three pages. Do you recognize
19 these documents?
20 A Yes.
21 Q Are these the ones that were attached to this
22 email?
23 A Yes.
24 Q And the ones that were attached to these -- these
25 documents have things vetted out. It looks like
26 the middle name, Patrick-something-Fox is vetted
27 out from each of them. Was that how they were
28 sent to you?
29 A Yes.
30 MR. MYHRE: My Lady, could these be marked as an
31 exhibit, please?
32 THE COURT: Any objection, Mr. Fox?
33 THE ACCUSED: Not yet, I mean, we are getting very
34 close though, to something I'm going to object to.
35 THE COURT: But you're not objecting to this?
36 THE ACCUSED: No, I don't object to this yet.
37 THE COURT: All right.
38 MR. MYHRE: And what number exhibit are we at?
39 THE CLERK: It would be Exhibit 2, My Lady.
40 THE COURT: And you're proposing that all three pages
41 be marked together as Exhibit 2?
42 MR. MYHRE: Collectively as the attachment to the
43 December 17th email.
44 THE COURT: And the version I have, that's a copy, is
45 it, not the original?
46 MR. MYHRE: These are all copies, My Lady, printouts.
47 THE COURT: All right. But has Madam Registrar got one

**Desiree Capuano (for Crown)
in chief by Mr. Myhre
BAN ON PUBLICATION; INHERENT JURISDICTION**

1 is what I'm asking.

2 MR. MYHRE: Oh, I believe the copy that the witness has
3 should become the exhibit.

4 THE COURT: All right.

5 MR. MYHRE: That's my intention.

6 THE COURT: Can I see that one, Madam Registrar? Is
7 that a colour -- yes, it is, thank you.
8

9 **EXHIBIT 2: Identification documents attached**
10 **to email of December 17, 2014, 3 pages**
11

12 MR. MYHRE:

13 Q Okay, Ms. Capuano, we're now going to move into
14 the time period that -- for which Patrick Fox is
15 actually charged with criminal harassment.
16 January the 11th, 2015. So if I could take you
17 into Tab 11, and if you could flip over a couple
18 of pages to the end of this email chain. It
19 appears to start on January the 11th at 9:04 a.m.
20 and now, to be clear, by this time was Richard
21 corresponding with you in the name "Patrick"?

22 A Yes.

23 Q So it says -- Patrick wrote [as read in]:
24

25 Good morning, Desiree.
26

27 And he's asking you some questions about how
28 {GR}'s doing.

29 A Yes.

30 Q Now, had {GR} been with Richard over the winter
31 break?

32 A Yes.

33 Q And do you remember roughly when that was?

34 A December 20 -- in the range of December 20th until
35 January -- first week of January. It's the two
36 weeks winter break through Christmas and New
37 Year's.

38 Q Now, I'd just like to highlight something in this
39 first portion of the email, and over the next
40 page, so the very -- the very last page of this
41 email string, the second full paragraph that
42 starts with, "I know that by saying this...". If
43 you look a little further down, about halfway
44 down, Richard writes [as read in]:
45

46 The longer {GR} is there with his bad
47 attitude, his indifference toward you and

**Desiree Capuano (for Crown)
in chief by Mr. Myhre
BAN ON PUBLICATION; INHERENT JURISDICTION**

1 {SC} and your family and his subtle demeanour
2 of disgust and condescension toward you and
3 {SC} and your mother and your trashy ways,
4 the more it will instill into {SC}'s
5 subconscious --
6

7 THE COURT: I'm sorry, Mr. Myhre, I'm lost and it may
8 be that members of the jury are too. Where are
9 you, please?

10 MR. MYHRE: Thank you, My Lady. So this is the very
11 end of the first email string that's included at
12 Tab 11.

13 THE COURT: When you say "the end", what kind of end do
14 you mean? When it began or when it finished
15 or...?

16 MR. MYHRE: Right. I see how it's all confusing. So
17 I'm looking at the third page at Tab 11, and the
18 first words on that page are, "Example, your
19 home...".

20 THE COURT: Okay.

21 MR. MYHRE: Thank you.

22 Q And so the second full paragraph down that starts
23 with, "I know that by saying this...", Ms.
24 Capuano, I'd like to ask you a question about this
25 portion that appears halfway down [as read in]:
26

27 The longer {GR} is there with his bad
28 attitude, his indifference toward you and
29 {SC} and your family and his subtle demeanour
30 of disgust and condescension toward you and
31 {SC} and your mother and your trashy ways,
32 the more it will instill into {SC}'s
33 subconscious that he is inferior and
34 inadequate, the more it will slowly eat away
35 at your perfect family. Sucks. Now, on the
36 one hand, you're pulled by your upbringing,
37 years of conditioning to react in the only
38 way you know, with anger and spite, to want
39 to keep {GR} there because you believe
40 that it will adversely affect me. On the
41 other hand, you know I'm right and that I've
42 been manipulating the situation for two years
43 and that as long as {GR} is in your home,
44 you will never be happy because you will
45 never have your fairy tale.

46
47 Now, do you remember what {GR}'s demeanour was

Desiree Capuano (for Crown)
in chief by Mr. Myhre
BAN ON PUBLICATION; INHERENT JURISDICTION

1 like when -- around this time when Richard sent
2 you this email?
3 A Anytime {GR} came back from his visitation with
4 his father, his behaviour was different. He was
5 reserved, he wouldn't talk, he wouldn't associate.
6 He would --
7 THE COURT: Just -- just a moment, please, Ms. Capuano.
8 Yes, Mr. Fox?
9 THE ACCUSED: I'm terribly sorry, but I'm sometimes
10 having difficulty hearing the witness. Would it
11 be okay to request that she speak just a little
12 louder?
13 THE COURT: All right.
14 THE ACCUSED: Or is there -- is there a microphone
15 perhaps?
16 THE COURT: I'll ask Ms. Capuano can you speak a little
17 more loudly?
18 A Yes, I can try.
19 THE ACCUSED: Thank you, My Lady.
20 THE COURT: Thank you.
21 MR. MYHRE:
22 Q So you said that any time he came back from his
23 visits with Richard, he was reserved --
24 A He would not associate with the family, he would
25 not accept hugs like he normally would, he'd shut
26 himself up in his room. If he was in the living
27 room, he would sit as far away from us as he
28 could, and it would take quite a bit of time to
29 get him to be normal again.
30 Q Okay. If we go forward in this email chain, so
31 just to the page preceding the one we've just been
32 looking at, and there's an email about a quarter
33 of the way down the page that starts, "On Sunday,
34 January the 11th, 2015, Patrick wrote...". And
35 three paragraphs down into that email, or, sorry,
36 the last paragraph in that email, Richard writes
37 [as read in]:
38
39 I've discussed all of this with {GR} and
40 I've explained to him what my plan is with
41 respect to you. I've told him if he's
42 uncomfortable with any of it, then I won't
43 proceed. He's is fully aware that he is
44 being used as a pawn in my plan to ruin your
45 life and he seems to be okay with it.
46
47 Ms. Capuano, how did that statement from Richard

**Desiree Capuano (for Crown)
in chief by Mr. Myhre
BAN ON PUBLICATION; INHERENT JURISDICTION**

- 1 make you feel?
- 2 A Incredibly sad. But I knew that my son was being
3 manipulated to help his father, oftentimes
4 unknowingly. So I was watching this happen and it
5 was very frustrating that he put it into words, I
6 mean, put it down on paper and there's still
7 nothing I could do to stop it.
- 8 Q Okay, now I'd like to go to the first page of this
9 email string, so the first page after Tab 11.
10 Now, it has the parties there listed, "From
11 Patrick to Desiree" at the top. Do you know
12 whether this was one of the emails that {GR}
13 was cc'd on?
- 14 A I'm sorry, which -- which one are we referring to?
- 15 Q So it -- as soon as you open from Tab 11, that
16 first page.
- 17 A Correct.
- 18 Q Do you know whether or not {GR} was cc'd on
19 this email?
- 20 A I believe he was.
- 21 Q And what we see following are some little arrows
22 that show what your response to Richard's initial
23 emails that we just looked at were.
- 24 A Yes.
- 25 Q And then below those arrows, there's Richard's
26 response to your response.
- 27 A Correct.
- 28 Q And so I'd like to take you to -- just partway
29 down the page where there are little arrows that
30 start with, "Your stalker-like obsession...",
31 about a third of the way down the page. And you
32 write to Richard [as read in]:
33
- 34 Your stalker-like obsession with me is truly
35 impressive. The amount of time and energy
36 spent thinking of me is flattering, but
37 honestly, a little pathetic.
- 38
- 39 Is that what you said in your email?
- 40 A That is what I said, yes.
- 41 Q And you told us earlier how you had, for a time,
42 been ignoring emails from Richard.
- 43 A Yes.
- 44 Q Here you've done something different.
- 45 A Yes. I was trying a new -- a new approach.
- 46 Q Can you explain what that approach was and why you
47 took that approach?

**Desiree Capuano (for Crown)
in chief by Mr. Myhre
BAN ON PUBLICATION; INHERENT JURISDICTION**

1 A A lot of the times with a bully, if you ignore
2 them or don't give them what they're after,
3 they'll stop, and so that's what I had been
4 trying. I was trying to placate and give him what
5 he was demanding or just not engaging.

6 At this point, I instead tried to defend
7 myself, stood my ground, and I wasn't going to be
8 pushed around anymore and I thought maybe if he
9 saw that I wasn't intimidated or if I wasn't
10 affected, that maybe he would stop, and so I
11 pushed back and I was trying some bravado and just
12 -- I was tired.

13 Q And Richard's response to you saying that was [as
14 read in]:
15

16 If there's any sincerity in your statements
17 that you -- then you've grossly
18 misinterpreted my intentions. I was pretty
19 direct when I told Detective Tuchfarber that
20 my intention was to do everything in my power
21 and capabilities to make your life as
22 miserable as possible and, if possible, to
23 the point that you ultimately commit suicide.
24 That would be my ultimate desire. But before
25 you reach that point, it is imperative that
26 you experience as much misery,
27 disappointment, and suffering as possible
28 first. At this point in your life, you have
29 very little to lose, so there is not much
30 incentive for me to actively publish your
31 information. I shall wait patiently until
32 you rise up a bit, then proceed with the
33 billboard campaign around Phoenix. I will
34 wait until you actually have some financial
35 significance, then publish your complete
36 credit and financial history, including your
37 social security number and birth certificate.
38 Not illegal as long as it is done outside the
39 U.S. I don't see how you could interpret
40 such intentions as being misguided affection.
41

42 How did that statement from Richard make you feel?

43 A It gave me a clue into some of the things that he
44 was planning on doing.

45 Q And did that have any affect on you?

46 A Yes. At that point, I started to wonder what else
47 he had planned. I honestly figured it was just a

**Desiree Capuano (for Crown)
in chief by Mr. Myhre
BAN ON PUBLICATION; INHERENT JURISDICTION**

1 matter of time before he was going to do something
2 else. But again, I couldn't get him to stop,
3 so...
4 Q Okay, Ms. Capuano, can you flip the page and go to
5 the third page in this email string. This is the
6 page that starts at the top with, "I know he is
7 capable of so much...". And if we look at the
8 second-last paragraph, halfway down that paragraph
9 there's a little arrow and it says -- you've
10 written [as read in]:

11
12 He is the one being hurt by your actions,
13 scheming and manipulation.
14

15 You were there referring to {GR} ?

16 A Yes.

17 Q And Richard's response was:

18
19 {GR} is not being hurt at all by what I am
20 doing. He knew before I started executing
21 the plan exactly what the plan was.
22

23 And so what was your purpose in telling Richard
24 that {GR} -- you believed {GR} was being
25 hurt?

26 A Whether Richard wanted to believe it or not, my
27 son did love me. He does love me. So for Richard
28 to try to continue to convince {GR} that I was
29 a horrible person confused him, and the fact that
30 he kept telling {GR} what his plans were with
31 regard to me and how he was planning on destroying
32 me, is not really good for a child, especially
33 when that's his mom. The fact that he was using
34 {GR} to get information about me to put on the
35 website, manipulating and using him as a tool,
36 that scars a kid. That hurts a child. He should
37 never be used like that. So, yeah.

38 Q How did it make you feel --

39 A I felt like I couldn't protect --

40 Q -- when this was happening --

41 A -- my child.

42 Q -- to {GR} ?

43 A I felt like I couldn't protect him.

44 Q Okay. The last paragraph on that page reads, and
45 this was Richard writing:

46
47 He once asked me if I would shoot you. I

**Desiree Capuano (for Crown)
in chief by Mr. Myhre
BAN ON PUBLICATION; INHERENT JURISDICTION**

1 told him that murder is illegal and immoral
2 and can result in spending the rest of one's
3 life in prison. And that the rest of my life
4 in prison is not a risk I'm willing to take.
5 But otherwise, no, I would have no qualms
6 about it; that that is how much I despise you
7 for the things you've done and continue to
8 do. He did not flinch; he didn't look
9 anything other than indifferent; as best I
10 could tell, he didn't care. The topic never
11 came up again. That was during his visit
12 last summer. To be clear, I told Tuchfarber
13 the same thing. There is nothing illegal or
14 threatening about wanting to harm someone as
15 long as you don't act on it. I am reasonable
16 and rational enough to know the difference,
17 and to refrain from engaging in such
18 activity.

19
20 And let me be absolutely clear on this point:
21 I would never deliberately cause you physical
22 harm, other than in self defence or defence
23 of another. Though that is nothing special
24 toward you - I have that rule for 'ALL'
25 people. Also, I emphasize that [REDACTED] [GR]
26 brought up the question and I only responded
27 to it truthfully.

28
29 How did this statement make you feel?

30 A I -- I, in my own mind, questioned Richard's
31 ability to rationalize what's -- what's right and
32 what's not. I also questioned his respect for the
33 law and, to me, what that meant was if he could
34 figure out a way that the risk of going to jail
35 was not there, that he would absolutely shoot me,
36 and he discussed it with our child.

37 Q Okay, if we could flip to the next email chain.

38 MR. MYHRE: And again, My Lady, I do apologize for not
39 having page numbers. That would have made things
40 easier.

41 Q If we could flip to the beginning of this email
42 chain, so over the next page. If you look at the
43 bottom of that page, see an email that starts, "On
44 Monday, January 26th, 2015, Patrick wrote...".

45 MR. MYHRE: So, okay, pardon me, members of the jury.
46 I can see you're flipping. So if we could --
47 there's the email that starts, "Your talk with

**Desiree Capuano (for Crown)
in chief by Mr. Myhre
BAN ON PUBLICATION; INHERENT JURISDICTION**

1 {GR}..." at the subject line on January 27th,
2 2015. So if you could just flip the page from
3 there and at the very bottom of that page, it
4 says, "On Monday, January 26th, 2015, Patrick
5 wrote..."

6 Q And if we look over the page, Ms. Capuano, at the
7 end of that email, the second paragraph reads [as
8 read in]:
9

10 By the bye about your medical records.

11
12 Do you see that paragraph?

13 A Yes.

14 Q So Richard wrote:

15
16 By the bye, about your medical records, I got
17 them from Penmar [phonetic] unofficially, of
18 course. That's when you were diagnosed as
19 bipolar, and since there is no cure for it
20 and it never goes away, if you were bipolar
21 then, you're bipolar now.
22

23 Do you know, Ms. Capuano, whether or not Mr. Fox
24 -- Mr. Riess was able to obtain your medical
25 records?

26 A No, I don't know if he was able to get them or
27 not. I don't know if he has them.

28 Q Generally speaking, around this time, what was
29 your belief about Mr. Riess's ability to find out
30 information about you?

31 A I figured everything that he said he had, he
32 actually had. He generally doesn't lie, so when
33 he says he's going to get it or has it...

34 Q Now, this email continues on with a criticism
35 about your parenting [as read in]:
36

37 How is it you've still not inspected
38 {GR}'s eye and brought him to the
39 ophthalmologist. It's been two weeks since I
40 ridiculed you for being so indifferent toward
41 him that you hadn't even noticed it and now
42 you still have not. How do you live with
43 yourself being so full of shit that you claim
44 to love and care about your children and that
45 you're a good parent, dude. You're one of
46 the worst fucking parents I've ever known.
47 Even my crappy mother at least eventually

**Desiree Capuano (for Crown)
in chief by Mr. Myhre
BAN ON PUBLICATION; INHERENT JURISDICTION**

1 would have taken me to the doctor. Dang,
2 woman, you're a fuckin' sad excuse for a
3 human being. Anyway, it's about time that I
4 update your website and put it back online.

5
6 Cheers,
7 Patrick.

8
9 So there we see another criticism of your
10 parenting. Do you remember whether there was a
11 problem for which {GR} needed to go to the
12 ophthalmologist?

13 A {GR} is blind in one eye. He's between half
14 and three-quarters blind. He had ROP, which is
15 retinopathy of prematurity, so he had it from
16 being premature, and he lost the retina. The
17 retina detached in that eye, so the eye is
18 essentially dead, which means it's going to milk
19 over and it's going to lose the colour and it's --
20 this is just normal. I've taken him to the eye
21 doctor. There's nothing to be done about it. The
22 eye is essentially dead, and we knew that.

23 Q Okay. If we could flip back to the beginning of
24 this email string where the subject line is
25 listed, "Your talk of {GR}", January 27th,
26 2015. So in this file of email printout, what we
27 see here is your response to those previous
28 emails, has a line along the left-hand side, and
29 then Richard has responded underneath those.

30 A Yes.

31 Q And right at the top we see your response [as read
32 in]:

33
34 Paddy, I can clearly see that maturity is not
35 your strong suit.

36
37 A Yes.

38 Q So how would you characterize your response there?

39 A It was -- it was a little antagonistic, it
40 absolutely was. I was really tired of the
41 insults, I was really tired of being called a
42 terrible person, I was really tired of being
43 questioned on everything, especially when it was
44 not true. But I also wasn't going to be pushed
45 around anymore.

46 Q Did you notice, Ms. Capuano, whether or not there
47 was any difference in your relationship with

**Desiree Capuano (for Crown)
in chief by Mr. Myhre
BAN ON PUBLICATION; INHERENT JURISDICTION**

1 {GR} when your responses changed in January of
2 2015?

3 A Absolutely.

4 Q How did it change?

5 A When I was not responding to Richard, then {GR}
6 only had one side of the story. He had Richard's
7 side of the story only. I -- I refused to put my
8 son in the middle and so I wouldn't talk to him
9 about any of this. So when he saw that I wasn't
10 responding to emails, and I wouldn't talk to him
11 about the situation, all he had was his father's
12 perspective.

13 When I started responding to these emails,
14 and when I started defending myself, that's when
15 {GR} started respecting me. When he actually
16 saw me standing up and he saw me not just laying
17 down and taking it, and he started to see some of
18 my responses as well, and he started to realize
19 that there were two sides to the story. At one
20 point, he told me it was good that I was finally
21 responding.

22 Q Now, if we go just look at the next page, and just
23 over halfway down, there's your response there
24 with the left -- bar along the left [as read in]:
25

26 All for what, to pursue some selfish vendetta
27 against me.

28
29 And so you're questioning why Richard is doing
30 what he's doing.

31 A Yes.

32 Q And we see Richard's response was [as read in]:
33

34 Wait a second, my vendetta against you is
35 somehow more selfish than what you did? You
36 had me detained for six months, then
37 physically removed from the country of my
38 birth so that you could gain custody of a
39 child you clearly don't even care about.
40 Yet, in your warped mind, I'm the selfish
41 one? Otherwise, yes, as I've stated
42 consistently for the past year and a half,
43 the singular goal of the rest of my life is
44 to destroy your life. I don't care if I die
45 penniless and alone, as long as I know I have
46 done everything I can to make your life as
47 difficult and miserable as possible within

**Desiree Capuano (for Crown)
in chief by Mr. Myhre
BAN ON PUBLICATION; INHERENT JURISDICTION**

1 the confines of the law.

2

3 So another reminder from Richard about what his
4 goal is.

5 A Yes. And another indication that he's trying to
6 say he was born in the United States.

7 Q Okay. As we saw earlier, this email included --
8 the original email included a reminder about the
9 website [as read in]:

10

11 It's time I update your website and put it
12 back online.

13

14 A Yes.

15 Q And so right now we're going to flip to the
16 website itself. So if we could go to Tab 1 of
17 this book, Ms. Capuano. Can you give the jury
18 some idea of the frequency, if at all, that you
19 visited this website yourself?

20 A I -- I went there when I initially learned of it
21 and I would look at specific parts of it, if
22 somebody brought up something that I should look
23 at. But, for the most part, other people reviewed
24 it on my behalf.

25 Q Why didn't you look at this website more
26 carefully?

27 A Because it's disgusting.

28 Q Okay. At Tab 1 here, we see the homepage. You're
29 familiar -- have you see this before?

30 A Yes.

31 Q You've been to this on the website?

32 A Yeah, it's changed over the course of the years,
33 but yes, I've seen this.

34 Q And so you knew, as is written at the top, that
35 the goal was to [as read in]:

36

37 Increase the awareness of Desiree Capuano by
38 informing the public of the atrocious, the
39 despicable and the downright evil things
40 Desiree has done.

41

42 Et cetera, et cetera. And we see -- if we look
43 under the goals of this website section, the
44 second paragraph [as read in]:

45

46 This site contains extensive allegations
47 against Desiree including that she is a white

Desiree Capuano (for Crown)
in chief by Mr. Myhre
BAN ON PUBLICATION; INHERENT JURISDICTION

1 supremacist, child abuser and drug addict.
2
3 And we saw those earlier in some of the emails.
4 A Yes.
5 Q Do you know -- did Richard ever tell you why he
6 was calling you a white supremacist?
7 A Yes.
8 Q Why?
9 A Well, having read through the book in preparation,
10 he actually has a whole post there about why I'm a
11 white supremacist, but essentially, there was a
12 single line in one email where I refer to him as a
13 dirty Mexican, and that was very bad. And then
14 there was another line in another email about
15 having to go to Compton courthouse and not being
16 able to figure out our issues on our own. So
17 those two sentences from the two emails over the
18 course of the six years is why I'm a white
19 supremacist.
20 Q Do you remember anything about a dagger in your
21 home that --
22 A Yes.
23 Q What do you remember about that?
24 A My ex, the one that was arrested, did have a
25 knife. It was on the wall. It have a swastika on
26 it. It did face on the inside of the wall. I did
27 not like it. He tried to say that it was -- that
28 the symbol meant something before the Germans used
29 it, and that was what he was impressed by, but
30 that was him.
31 Q You're referring to Christopher Lochner
32 [phonetic]?
33 A Yes.
34 Q So this would have been 2012 or --
35 A '12.
36 Q -- sometime earlier. Okay. And when we look at
37 the -- what's on this website section, it says
38 there's a blog section, a mail section, legal,
39 police reports, pictures, background history, and
40 you know from your view that those things are all
41 on the website?
42 A Yes.
43 Q And we've already seen the mail section that lists
44 -- appears to have every -- virtually every --
45 A Correct.
46 Q -- email ever sent between the two of you since
47 2011. I'd like to flip over the page -- or to Tab

**Desiree Capuano (for Crown)
in chief by Mr. Myhre
BAN ON PUBLICATION; INHERENT JURISDICTION**

1 2. So videos of Michael Capuano, is that Michael
2 Capuano? Right, Tab 2.
3 A Sorry, Tab 2. Yes, that video was taken long
4 after we were no longer together.
5 Q And below that, is that your son {SC}?
6 A Yes.
7 Q Do you know what video that is?
8 A I have that video.
9 Q Roughly how old is {SC} in that picture?
10 A I think he's about six, seven.
11 Q Do you have any idea how Richard could have gotten
12 it?
13 A Same way he got the pictures of everything. I
14 then took the pictures using my cell phone, and in
15 Facebook there's an upload section, used to be,
16 and so Richard would go into {GR}'s Facebook
17 account where I was linked with him, and he would
18 go into my pictures and he would look at my
19 uploaded pictures and he would take them all.
20 Q Now, do you know that for a fact or is that your
21 best --
22 A That's my best guess.
23 Q -- guess as to how he would have gotten them?
24 A Because I didn't even post these on Facebook.
25 They were just in the camera wall.
26 Q If we go over to Tab 3, please. So this page is
27 titled photo albums. There's a picture of you,
28 there's your current partner, James Pendleton,
29 Christopher Lochner, your son, {SC}, Michael
30 Capuano. Those are -- and that's accurate, that's
31 who those people are in those pictures?
32 A Yes. The picture of Michael Capuano, that was --
33 that was after we were already separated and
34 divorced, that -- that picture he got.
35 Q Is that actually your bedroom there?
36 A It was.
37 Q That actually -- was that your bathroom?
38 A Yes.
39 Q In what years?
40 A That was -- that was 2014 and '15. That was the
41 apartment I had with just the boys and me.
42 Q When did you move out of that apartment?
43 A Summer of 2015.
44 Q Was that the bathroom?
45 A Yes.
46 Q Was that -- it's like a living room under "my
47 home".

**Desiree Capuano (for Crown)
in chief by Mr. Myhre
BAN ON PUBLICATION; INHERENT JURISDICTION**

- 1 A That living room was from a previous apartment
2 that I had with Christopher Lochner in 2012 or
3 2011.
- 4 Q Okay. Under the "San Diego", do you know where
5 that picture is from?
- 6 A That's from the family vacation that we took in
7 San Diego that {GR} was supposed to be with us.
8 Q In 2011?
- 9 A Yes.
- 10 Q If we flip the page over, we see photo album,
11 Desiree Capuano. Where is the -- can you tell the
12 jury where the first three pictures are from?
- 13 A The first picture is the mug shot from when I was
14 arrested for marihuana. The second picture is the
15 marihuana card. The arrest actually -- the
16 charges were dropped for the arrest for marihuana.
17 And then all of the rest of the pictures are
18 still-shot images from the interview that I did
19 with the CBC.
- 20 Q Okay. If we flip the page --
21 MR. MYHRE: And, members of the jury, if we're counting
22 page numbers in this photo album, if you go to
23 page 3.
- 24 Q If you look down to the sixth row, Ms. Capuano,
25 you see there's -- looks like a picture of you and
26 then a blurred-out face.
- 27 A Yes.
- 28 Q Whose face is that?
- 29 A {GR}'s.
- 30 Q And then the next row, the third picture, whose
31 face is blurred out there?
- 32 A {GR}'s.
- 33 Q If you flip over to the next page, there's some
34 photos of you and -- is that Christopher Lochner
35 at the top there?
- 36 A Yes.
- 37 Q Do you know where these photos came from?
- 38 A Some in the camera wall. They weren't -- they
39 weren't published.
- 40 Q Sorry, you said they weren't public?
- 41 A I didn't post them on the Facebook. They were
42 just in the camera wall section that you can get
43 to through Facebook.
- 44 Q Okay. If we could flip over to the next photo
45 album titled page, Capuano. These are all
46 pictures of your son, {SC}?
- 47 A Yes.

**Desiree Capuano (for Crown)
in chief by Mr. Myhre
BAN ON PUBLICATION; INHERENT JURISDICTION**

- 1 Q How does it make you feel these -- knowing these
2 pictures are up on the website?
- 3 A This section was added after the last custody
4 hearing in which the judge maintained that I have
5 sole custody over our son, and that I'm
6 responsible for all visitation and communication.
7 Richard called {GR} and {GR} told me that
8 Richard's intentions were now to go after {SC}, my
9 other child, and this was his way of doing this,
10 to put all of these pictures of my son on the
11 site. And this scares me so much, because that's
12 public. So any paedophile --
- 13 THE COURT: Would you just stop for a moment, please.
- 14 THE ACCUSED: No, I'm sorry.
- 15 THE COURT: All right.
- 16 THE ACCUSED: I don't object.
- 17 THE COURT: There was a hearsay issue in there. That's
18 why I'm -- can you go back and address that again,
19 please, appropriately?
- 20 MR. MYHRE:
- 21 Q So the relevant question, Ms. Capuano, is how does
22 this make you feel, and I think you were starting
23 to tell us that.
- 24 A Yes.
- 25 Q You came to believe, for the reasons you've
26 outlined, that now --
- 27 A There was a reason --
- 28 Q -- Richard was focusing an attack on {SC}.
- 29 A Yes.
- 30 Q How did that make you feel?
- 31 A Again, this is a danger and this is a risk to a
32 minor child. This website has my home address.
33 It has pictures of my house. It has maps
34 detailing the area where I live along with bus
35 routes, and any other information. So if anybody
36 took a liking to my kid, they could very easily
37 find him. And above that, the kid was 12 years
38 old. He did nothing to Richard. Richard might
39 claim that I deserve this punishment, but this kid
40 did nothing to deserve punishment.
- 41 Q How did that make you feel, to feel like {SC} was
42 being punished now?
- 43 A Scared. At this point we talked about moving, we
44 talked about hiding identities, we talked about
45 what we could do to disappear so that I could
46 protect my family.
- 47 Q Okay. Ms. Capuano, if you look at the last row of

**Desiree Capuano (for Crown)
in chief by Mr. Myhre
BAN ON PUBLICATION; INHERENT JURISDICTION**

1 pictures on the first page of the {SC} Capuano
2 photo album, in the middle, do you know who is in
3 that picture, the middle picture? So the photo --
4 the first page of the {SC} Capuano photo album.
5 A Yes.
6 Q The last row, the middle picture.
7 A Yes.
8 Q Who's in that picture?
9 A {GR} .
10 Q Who else?
11 A {SC} .
12 Q And who's the one who's face is blurred?
13 A {GR} .
14 Q If we flip to the -- counting page numbers of this
15 photo album, the 1, 2, 3, 4, fifth page, the last
16 -- well, actually, how about the first row. You
17 see in the middle photo in the first row, there --
18 there are two, it looks like children laying on
19 the floor and a dog.
20 A Yes.
21 Q Who is that?
22 A {SC} and {GR} .
23 Q And whose face is blurred?
24 A {GR} 's.
25 Q If you look at the last row on that page, the
26 middle photo or the first two photos in the last
27 row, whose face is blurred out there?
28 A Always {GR} .
29 Q And the boy in the light blue, that's {SC} ?
30 A Yes.
31 Q Okay. I would just like to skip ahead to Tab 5
32 now.
33 A There's also a picture of {SC} in his underwear on
34 the last page outside by the pool.
35 Q So those are the last two rows on the second-last
36 page of the {SC} Capuano photo album?
37 A Yes.
38 Q And you pointed them out because...?
39 A It's a child in his underwear on a disgusting
40 website. Again, these are not photos I published
41 to Facebook. They were just in the camera wall.
42 Q Tab 5, please. So this page is titled
43 "Associates". Now, my question is you've looked
44 at some of these, and some of the people you don't
45 know and some of them you do. As far as the
46 people you know, these are actually those people.
47 Like that's actually a picture of Theresa Hoffman

**Desiree Capuano (for Crown)
in chief by Mr. Myhre
BAN ON PUBLICATION; INHERENT JURISDICTION**

- 1 [phonetic], Donald Tomlin [phonetic], {SC}
2 Capuano, James Pendleton?
- 3 A Yes.
- 4 Q Could you flip over the page, the second page?
5 The third person down is Wendy Mary Pendleton?
- 6 A Yes.
- 7 Q And that's -- it's written there [as read in]:
8
9 Wendy Pendleton is my fiancé James
10 Pendleton's mother.
11
12 Is it true that this is James Pendleton's mother?
- 13 A Yes.
- 14 Q And it's written that -- the last line under Wendy
15 Pendleton:
16
17 Wendy owns Express Employment Professionals,
18 a staffing agency in Tucson.
19
20 Is that true?
- 21 A Yes.
- 22 Q Okay. And then some of the people below that you
23 know, and some of them you don't.
- 24 A Correct.
- 25 Q Generally the people you know, are those people
26 from Apollo?
- 27 A Yes. Where it actually gets to be associates, a
28 couple of pages later, those are the people that
29 -- some of them I know because they worked at
30 Apollo, but most of them I don't know.
- 31 Q How does it make you feel to know that there are
32 other people that you know or are associated with
33 are posted on this website?
- 34 A Isolated. I know that anybody associated with me,
35 anybody that knows me, anybody that supports me,
36 anybody that sticks up for me, is going to become
37 a target. These people have nothing to do with
38 this and they should not have to be referenced on
39 this. I am -- I actually had to send out a
40 message to all of these people and let them know
41 that they were on the website, just in case
42 anybody ever asked them, and I apologized to them.
- 43 Q Do you remember when you did that?
- 44 A I don't remember exactly when I did that, no. I
45 could find out.
- 46 MR. MYHRE: My Lady, I'm going to be moving back into
47 the emails. It might be a time for the break.

**Desiree Capuano (for Crown)
in chief by Mr. Myhre
BAN ON PUBLICATION; INHERENT JURISDICTION**

1 I'm in Your Ladyship's hands.

2 THE COURT: I would suggest we go another five to ten
3 minutes unless there's a reason to take a break
4 now.

5 MR. MYHRE: No, I'm content to continue on, thank you.

6 Q If we could go then back to Tab 11, please, Ms.
7 Capuano. Now, if we could flip to the next email
8 after the last one we were looking at. This one's
9 titled, "Your talk with {GR}" dated January 27,
10 2015.

11 If we just look down to the -- where the
12 arrows start, it says [as read in]:

13

14 Paddy, I can clearly see that maturity is not
15 your strong suit.

16

17 So that's part of the email chain that we had
18 looked at earlier; is that right, Ms. Capuano?

19 A Correct. Yes.

20 Q And what we --

21 THE COURT: Mr. Myhre, a couple of times now you've
22 read that "maturity is not your strong suit".
23 What I'm looking at, it says:

24

25 Maturity is your strong suit.

26

27 MR. MYHRE: Pardon me, thank you, you're right.

28 Q The question, Ms. Capuano, is the response above,
29 and I'll read it out:

30

31 Desiree:

32

33 As a show of good faith --

34

35 And I'm at the top of the page.

36

37 -- I'll fill you in on one of the plans that
38 I'm working on for you. What I'd like, very
39 much, is to be able to add some "intimate"
40 pictures of you to your web site. To do
41 that, of course, I'd have to hire someone to
42 get close to you, pretend to be interested in
43 you. Eventually, gain your trust, then
44 eventually sleep with you. That should
45 take...what, about 3, 4 days? Difficult to
46 find people that unscrupulous. But for the
47 right price there's always someone willing to

**Desiree Capuano (for Crown)
in chief by Mr. Myhre
BAN ON PUBLICATION; INHERENT JURISDICTION**

1 do what you want. Hooray America!

2
3 There's nothing criminally illegal about it.
4 You may be able to pursue a claim in civil
5 court, but I'm not going to worry about that.

6
7 Okay, good evening.
8 Patrick

9
10 How did this response from Richard make you feel?

11 A This -- this was -- he actually had {GR} on
12 this email to me, where he was saying that he was
13 going to hire someone to have sex with me so he
14 could get pictures for the website. It is
15 disgusting. It was -- it was sick. It was sick.

16 Q Okay. If we could flip to the next email, please,
17 titled "More plans", dated January 28th, 2015.
18 Ms. Capuano, do you remember if {GR} was cc'd
19 on this email?

20 A I don't remember, but I'm pretty sure he was. I'd
21 have to verify that, but {GR} was put on almost
22 every email he sent, so...

23 Q Okay. I'm going to read it out for you, Ms.
24 Capuano [as read in]:

25
26 Desiree:

27
28 Being that my primary goal in life is for you
29 to experience as much misery as possible,
30 allow me to point out another way in which
31 you've been manipulated. {GR} being in
32 your home serves that goal much better than
33 if he were here with me. How so? His
34 formative years were spent in an environment
35 very different from yours, around people who
36 viewed the world very differently than you.
37 By now, you should have come to the
38 conclusion that he's not going to assimilate
39 to your way of life. He'll never see the
40 world through your perception. {SC}, on the
41 other hand, has always been with you and only
42 knows your way of life. You and Safe live
43 harmoniously. {GR} brings friction to
44 that world of yours. By now you should have
45 realized that he is and will remain a
46 constant source of contention. Gradually his
47 presence erodes the delicate fantasy bubble

Desiree Capuano (for Crown)
in chief by Mr. Myhre
BAN ON PUBLICATION; INHERENT JURISDICTION

1 that you're trying to maintain, and so as I
2 say, it serves my purposes better, him being
3 with you.

4
5 A few months ago, I suspected you were
6 starting to get fed up with how he was
7 disturbing the balance in your made-up world
8 which inevitably would result in you sending
9 him away. So I opened these lines of
10 communication because I know the one thing
11 that is more important to you than anything
12 else is to spite me and prove me wrong. By
13 maintaining this email correspondence, I
14 motivate you to keep fighting, i.e. to keep
15 {GR} with you to spite me so that his
16 presence continues to eat away at your
17 ridiculous fantasies.

18
19 I tell you this now because, in your mind,
20 hearing someone else say these things which
21 you know are true gives them validity, makes
22 them more real and now you can add this
23 knowledge to the list of things eating away
24 at you. I know you'll never admit it openly,
25 pride perhaps, but you know everything I'm
26 saying is true.

27
28 Cheers,
29 Patrick.

30
31 Around this time, January the 28th, was there
32 friction between {GR} and {SC}, or you and
33 {GR}?

34 A He -- {GR} had been back for a couple weeks so
35 he was starting to warm up again, starting to open
36 up. And, no, at no point was {GR} causing
37 friction in my home. I was just trying to develop
38 and build a relationship with my son who I hadn't
39 seen in a number of years. So it was a challenge
40 to get to know each other and to build that bond
41 especially with Richard trying to destroy it at
42 every turn. But for Richard to think that the
43 only reason I was keeping my son was out of spite
44 for him is ludicrous.

45 Q Okay. If we could flip to Tab 12.

46 MR. MYHRE: My Lady, I'll just point out that there is
47 an email on the last page of Tab 11, but it's

**Desiree Capuano (for Crown)
in chief by Mr. Myhre
BAN ON PUBLICATION; INHERENT JURISDICTION**

1 actually -- just because of the double-sided
2 printing, that email is actually -- appears at Tab
3 12 as well. So I'm not skipping that email, it's
4 just duplicated.

5 Q So, Ms. Capuano, at the beginning of Tab 12, the
6 email titled, "Re mail" dated April 9th, 2015.
7 This is an email from you to Richard.

8 A Yes.

9 Q And you write [as read in]:

10

11 Richard:

12

13 I enjoy your banter as much as the next
14 person, so long as said person is going
15 through a quadruple root canal without pain
16 medication and multiple broken bones. That
17 being said, your stalking behaviour is really
18 not welcome. Unless there is something
19 pertinent pertaining to {GR}, I have no
20 desire to receive correspondence from you.
21 Please cease and desist any and all
22 communications that do not fall under the
23 above guidance for communication.

24

25 Further, you do not have my permission to use
26 my emails, photos, recordings, audio and
27 visual likeness or any other item to include,
28 but not limited to the website you've put
29 back up. In other words, stop stalking me,
30 stop posting things online pretending to be
31 me. Stop assuming my identity through email
32 and other sources and take down the domain
33 and foolish website. That serves as formal
34 notice.

35

36 A Those are words that you wrote to Richard?

37 A Yes.

38 Q Do you know why you wrote them at that time?

39 A I believe at that time I had called the RCMP for
40 the first time, and was asked whether I
41 specifically told him to stop and to take the
42 website down, which I had, but that was another
43 attempt. And the initial sentence, it was sarcasm
44 and it was [indiscernible], but again, I received
45 emails every day from him, multiple times a day.
46 All of them were designed to just tear me down and
47 make me feel horrible about myself. So I didn't

**Desiree Capuano (for Crown)
in chief by Mr. Myhre
BAN ON PUBLICATION; INHERENT JURISDICTION**

1 want him to see that it was working.

2 Q Was it working, Ms. Capuano?

3 A He wasn't able to pull my family apart, but yes.

4 Yes, it was.

5 Q And can you elaborate on that? What do you mean,
6 it was working?

7 A There were many days I didn't want to get out of
8 bed. There were many days I didn't want to face
9 anything. There many days it was really hard to
10 just go about a normal routine. I was scared. I
11 was always looking over my shoulder. I wouldn't
12 make any new friends. I wouldn't talk to anybody.
13 I was in my head going over all of the things that
14 he could do, all of the things that he was going
15 to do, all of the things he said he was going to
16 do, all of the information that he was planning on
17 getting, what information did he have. It was
18 just constant.

19 MR. MYHRE: My Lady, could we take the break now,
20 please?

21 THE COURT: All right, we'll do that. Members of the
22 jury, we'll take the morning break now.

23

24 (JURY OUT)

25

26 THE COURT: Anything to address before we break?

27 MR. MYHRE: No, My Lady.

28 THE COURT: Thank you.

29 THE CLERK: Order in court. This court stands
30 adjourned for the --

31 THE COURT: Mr. Fox, do you have something?

32 THE ACCUSED: No, [indiscernible/not at microphone].

33 THE COURT: All right. Thank you.

34

35 (WITNESS STOOD DOWN)

36

37 (PROCEEDINGS ADJOURNED FOR AFTERNOON RECESS)

38 (PROCEEDINGS RECONVENED)

39

40 **DESIREE CAPUANO, recalled.**

41

42 THE SHERIFF: The jury, My Lady.

43

44 (JURY IN)

45

46

47

**Desiree Capuano (for Crown)
in chief by Mr. Myhre
BAN ON PUBLICATION; INHERENT JURISDICTION**

EXAMINATION IN CHIEF BY MR. MYHRE, CONTINUING:

- 1
2
3 Q Ms. Capuano, I'd like to continue on with some of
4 the emails. And at Tab 12, we looked at an email
5 titled "Re mail". The next email is titled
6 "Parenting obviousness" dated April 26, 2015.
7 You've read this -- you read this email when it
8 was sent?
- 9 A Yes.
- 10 Q Would it be fair to characterize it as criticism
11 of your parenting.
- 12 A It would, yes, it is.
- 13 Q Okay. I'm just going to highlight a couple of
14 lines. If you look at the fourth paragraph, it
15 starts [as read in]:
16
17 That is why I say you're an idiot who is a
18 terrible parent.
19
20 And then if you look at the final paragraph:
21
22 One final note, you see where I called you
23 an idiot, but I have the decency to explain
24 why I believe you're an idiot. See how nice
25 and civilized I am? When was the last time
26 you backed up your claims against me?
27
28 An example of criticisms of your parenting.
- 29 A Yeah. This is also an example of where he insults
30 me and then tells me that I shouldn't be offended,
31 or that he's nice and civilized about the fact
32 that he's insulting me. This criticism came
33 because my son snuck out in the middle of the
34 night and went up to the grocery -- the
35 convenience store and bought an energy drink, and
36 we found out and disciplined him. This email is
37 telling me about why I should not have disciplined
38 him.
- 39 Q If we could go to Tab 13, please?
- 40 MR. MYHRE: And, My Lady, I'd like to do maybe I ought
41 to have done when we created these books, which
42 was number these pages, because this first email
43 that starts, " summer visitation 2014",
44 continues for quite a ways. So what I propose to
45 do is that we -- so we know where we're referring
46 to, we simply go page by page and just write 1, 2,
47 3, 4 at the bottom. You're going to see that page

**Desiree Capuano (for Crown)
in chief by Mr. Myhre
BAN ON PUBLICATION; INHERENT JURISDICTION**

1 2 is a completely blank page. Let's all label
2 that "2" so that we know where we are.
3 THE COURT: Now, what about Ms. Capuano, who has the
4 original.
5 MR. MYHRE: Could -- maybe it would be helpful if she
6 wrote those numbers too, My Lady.
7 THE COURT: All right. I wonder if Madam Registrar
8 should do that, please, in the original exhibit.
9 We're at Tab 13. So we're at Tab 13, and the idea
10 is to number every page so that we have 1, and
11 then the back of that page --
12 THE CLERK: The back is a 2.
13 THE COURT: --- is 2, although it should be a blank
14 page.
15 THE CLERK: I know, double --
16 THE COURT: Are you at Tab 13?
17 MR. MYHRE: Okay.
18 THE CLERK: Tab 13, and then it --
19 MR. MYHRE: Madam Registrar, can I see that book?
20 THE COURT: And we have a problem. And one of the
21 jurors has a problem as well.
22 A JUROR: Yeah, her book is not matching up with mine.
23 THE CLERK: Yeah.
24 THE COURT: Is that the new book that arrived today?
25 THE CLERK: No. No.
26 MR. MYHRE: Okay. My Lady, could I ask yourself and
27 members of the jury some -- those of you who have
28 a blank page, if you flip to the next -- the start
29 of the next email, the one that says "{GR}'s
30 summer visitation 2015", and the date is May 6,
31 2015 at 5:51 p.m. So May 6th, at 5:51 p.m.
32 THE COURT: No. For me, the next email string -- all
33 right, I'm -- I'll explain what's in my copy, Mr.
34 Myhre. At Tab 13, there's the email string that
35 begins "Re {GR} summer visitation 2015".
36 That's on the first page. On the second page,
37 that's blank, and on the third page at the top is
38 the second half of a list beginning "3. What
39 childish tantrums?"
40 MR. MYHRE: Does everybody have the email that -- for
41 some of you, it might be the first email, for some
42 of you it might be the second email that starts
43 May 5th, 2015 at 9:26 p.m.
44 UNIDENTIFIED SPEAKER: Yes, that's the right page.
45 MR. MYHRE: Okay.
46 THE COURT: Yes. For me, that is page 5.
47 MR. MYHRE: So it appears, My Lady, that in some of

**Desiree Capuano (for Crown)
in chief by Mr. Myhre
BAN ON PUBLICATION; INHERENT JURISDICTION**

1 these copies we're missing that first email that
2 starts April 26th, 2015, at 11:35 and that's
3 missing from this exhibit copy. So I'm going to
4 propose that we proceed without that. So that
5 would mean the jurors who have the April 26th,
6 2015, 11:35 email should take out the first two
7 pages, if you're content with that, My Lady. That
8 would give us all, I think, the same thing.
9 THE COURT: All right. So then if I understand you
10 correctly, for some of us, at Tab 13, the first
11 email is "Re {GR} summer visitation 2015" and
12 it is dated Sunday, April 26th, 2015. Some have
13 that string of emails and some do not. And the
14 string goes for about four pages, although one of
15 those pages is blank in my copy, and what you're
16 suggesting, Mr. Myhre, is those of us who have
17 that string, simply remove it.
18 MR. MYHRE: Yes, so we all have the same thing.
19 THE COURT: Right. And so we would all then start with
20 an email with the same title, "Re {GR} summer
21 visitation 2015", but the date would be Tuesday,
22 May 5, 2015.
23 MR. MYHRE: At 9:26 p.m.
24 THE COURT: At 9:26 p.m. Now, is that clear for
25 everyone?
26 A JUROR: We just noticed in our books here that in --
27 in Tab 12, that we have the April 26th
28 [indiscernible/not at microphone] or summer
29 visitation 2015. That is in Tab 12 in this --
30 THE COURT: So it got to the wrong tab.
31 A JUROR: It looks like it, My Lady.
32 THE COURT: All right.
33 UNIDENTIFIED SPEAKER: It appears in my Tab 12, the
34 last page of it and also the first page of that
35 "Re {GR}'s summer visitation", but it's only
36 the first page of that email which, because it was
37 on the back, I guess the Crown made photocopies of
38 that and put the photocopy as the first page of
39 Tab 13. So I'm not sure if the jurors have the
40 entire email or just the first page.
41 THE COURT: All right. Mr. Myhre, how would you like
42 to deal with this?
43 MR. MYHRE: So I think that that is what's happened, as
44 they're two-sided. We just happened to get the
45 first email from that string at the back of Tab
46 12, but I'd still like to proceed by just -- I can
47 ask the questions I need to ask without those two

**Desiree Capuano (for Crown)
in chief by Mr. Myhre
BAN ON PUBLICATION; INHERENT JURISDICTION**

1 pages.
2 THE COURT: All right. So we'll go back to that plan.
3 With those who have that email that's -- the
4 string dated Sunday, April 26th, 2015, please just
5 remove it, and then we'll start Tab 13 at the
6 email that's dated Tuesday, May 5, 2015. Mr. Fox?
7 THE ACCUSED: Just so that I'm clear, then, should that
8 be numbered as page 5 or should that be renumbered
9 and we start back at 1.
10 THE COURT: I think we'll start that at -- have you
11 already numbered the exhibit, Madam Registrar?
12 THE CLERK: No, I haven't touched it.
13 THE COURT: And it will start that at page 1.
14 THE CLERK: So the Tuesday, May 5th, 2015, 9:26 --
15 MR. MYHRE: Will be page 1.
16 THE COURT: Yes. That will be page 1.
17 THE CLERK: I'll renumber them that --
18 THE COURT: And number them on every page, so the front
19 of the page is 1, the back of the page is 2.
20 MR. MYHRE: So then the email that starts May 6, 2015,
21 at 5:51 p.m. would be page 5.
22 THE COURT: Yes.
23 MR. MYHRE: And then page 9 is the email, May 6th,
24 2015, at 10:05 p.m., page 9? And then page 12
25 would be the email dated May 7th, 2015, at 12:32
26 p.m., page 12. And 13 is the last page in this
27 email string.
28 THE CLERK: I have 26 pages.
29 MR. MYHRE: Twenty-six pages in Tab 13?
30 THE CLERK: Yes.
31 MR. MYHRE: We're only going to -- My Lady --
32 THE CLERK: And number -- you said number them back to
33 front, and so I have three here.
34 THE COURT: Sorry, what do you mean by that?
35 THE CLERK: I said I'd renumber them, as mine are all
36 double-sided, so 1, 2, I've got 26.
37 THE COURT: Perfect.
38 THE CLERK: Is that right?
39 MR. MYHRE: My Lady, my intention was only to number
40 the email string "[REDACTED] summer visitation 2015".
41 THE COURT: Well, it might -- personally, I'm numbering
42 all of these tabs so that I can find the documents
43 again, but it's up to members of the jury if they
44 wish to put numbers on.
45 MR. MYHRE:
46 Q Okay. Ms. Capuano, you've read this email string
47 before. You participated in it.

**Desiree Capuano (for Crown)
in chief by Mr. Myhre
BAN ON PUBLICATION; INHERENT JURISDICTION**

1 A Yes.
2 Q And it starts -- the jury doesn't have this, but
3 on April the 20th, 2015, you sent an email to
4 Richard telling you that {GR} -- or telling him
5 that {GR} wanted to spend his summer visit with
6 Richard.
7 A Yes.
8 Q And you provided dates to Richard?
9 A Correct.
10 Q Okay, and then I counted approximately 44 emails
11 black and forth, that'd be roughly 22 each in this
12 email string. Does that sound about right?
13 A There were 44, that is correct.
14 Q And would it be accurate to say that this email
15 string sort of devolved into an argument about
16 what the word "itinerary" means?
17 A Absolutely.
18 Q Now, in the course of this argument, Richard
19 referred to you in a number of derogatory ways.
20 A Correct.
21 Q On page 1, if you look at the very last paragraph,
22 it says [as read in]:
23
24 Go look up the word "itinerary", you fucking
25 moron.
26
27 Do you see that?
28 A Yes.
29 Q If you flip over the page, the first full
30 paragraph --
31 THE COURT: Which page is this?
32 MR. MYHRE: So page 2.
33 Q The first full paragraph, the last sentence [as
34 read in]:
35
36 Be more fucking specific, you fucking idiot.
37 Fuck you and fuck your stupid white trash
38 single-mother bullshit games.
39
40 If you look at the bottom of page 3, the second-
41 last paragraph:
42
43 What the fuck is wrong with your head? What
44 fuck --
45
46 And then last paragraph:
47

**Desiree Capuano (for Crown)
in chief by Mr. Myhre
BAN ON PUBLICATION; INHERENT JURISDICTION**

1 What the fuck do you mean by itinerary? That
2 is such a fucking vague term. Be specific,
3 you fucking idiot.
4

5 If we look at page 5 right in the middle, Richard
6 writes [as read in]:
7

8 Sorry, I meant to say stupid fucking cunt.
9

10 If we go to page 9, the sixth paragraph, Richard
11 writes:
12

13 Do you ever get tired of being the perpetual
14 loser? Do you ever think to yourself, what's
15 the point? Ever seem to you that maybe life
16 is just too fucking hard and there's no point
17 because we're all going to die in the end
18 anyway? If not, well, that's too bad, the
19 world is going to be a better place when
20 you're no longer in it.
21

22 Ms. Capuano, did you ever wonder to yourself
23 sometimes what's the point, as Richard asked you
24 here?

25 A Yes. And I can --

26 Q Did you --

27 A -- just be easier to give up. Many times.

28 Q Can you give the jury some idea of the -- the
29 extent to which you felt that way?

30 A I never contemplated how to commit suicide, but
31 there were many times I questioned whether I had
32 the strength to keep going, whether it would end,
33 whether I would get my life back or if this was
34 just what I was going to deal with every day for
35 the rest of my life now. It's -- this is what --
36 this is what I should just be used to, and I
37 didn't know if I could get used to living this
38 kind of life forever. But I'm -- I know who I am,
39 and I know I'm strong enough.

40 Q Okay. We're going to flip to the next email, Ms.
41 Capuano, the one that's titled, "The motivation
42 for your behaviour". This is dated May 7th, 2015
43 at 12:51 p.m., so it comes about 20 minutes after
44 the last email in the previous email string; is
45 that right?

46 A Yes.

47 Q And Richard writes, top [as read in]:

**Desiree Capuano (for Crown)
in chief by Mr. Myhre
BAN ON PUBLICATION; INHERENT JURISDICTION**

1
2 The only reason you're being such a stupid
3 cunt right now, well, always, really, is
4 because you know that {GR} would rather be
5 with me than with you.

6
7 And he goes on to explain why he thinks that
8 you're being -- giving the responses you were
9 giving in that previous email chain.

10 A Yes. Why I was standing up for myself and not
11 just accepting, why I was actually setting rules
12 and guidelines and stipulations for visitation.

13 Q Ms. Capuano, I think you said you were -- thought
14 you were standing up for yourself?

15 THE COURT: Just a moment, please, Mr. Myhre. Mr. Fox
16 has a concern.

17 THE ACCUSED: I'm sorry, I'm just having difficulty
18 hearing again.

19 THE COURT: All right.

20 THE ACCUSED: Not hearing Ms. Capuano.

21 THE COURT: Mr. Myhre, if you keep your voice up and
22 Ms. Capuano will more likely keep hers up.

23 MR. MYHRE: Thank you, My Lady, I'll try. Apologies,
24 Ms. Capuano, I'll try to keep my voice up.

25 Q Now, you -- I think what you said was you felt you
26 were standing up for yourself in that previous
27 email.

28 A Yes. I was actually, in my own way, trying to
29 control the situation for one of the first times,
30 determine the guidelines, the stipulations and the
31 rules for {GR}'s visitation which is something
32 that I hadn't necessarily done before, and it's my
33 belief that that's why he called me a stupid cunt.

34 Q That's how you understood his response?

35 A Correct.

36 Q If we could go to the next email, please, the one
37 titled "Belligerence" dated May 7th, at 7:01 p.m.,
38 and Richard wrote [as read in]:

39
40 For someone who claims not to care, you sure
41 spend a lot of time trying to get a rise out
42 of me.

43
44 I'll read the whole email, Ms. Capuano.

45
46 If I believe your intention was to try to
47 annoy me, to anger me, then I will phrase my

**Desiree Capuano (for Crown)
in chief by Mr. Myhre
BAN ON PUBLICATION; INHERENT JURISDICTION**

1 responses in a way that makes it seem I am
2 annoyed so that you will believe you are
3 succeeding and you will continue. You have
4 an incredible habit of saying things that
5 shoot me in the foot and that contradicted
6 previous statements. One day when {GR} is
7 older and starts forgetting what you're like
8 and starts thinking maybe you deserve another
9 chance, like I did, then I can show him all
10 of these emails and how you lie incessantly
11 to get what you want and how you betray
12 people's trust and how you play on their
13 guilt with a passion to get what you want
14 from them, and I'm sure that will be enough
15 to convince him not to get back in contact
16 with you. You see, it will be your own words
17 and actions that keep {GR} away from you
18 once he's no longer there under court order.
19 That has been my plan since March 2013, and
20 you consistently played right into it.
21 Because you're too arrogant to ever
22 acknowledge that you've been beat, or that
23 I'm better and smarter than you. See, I can
24 even come right out and tell you and it won't
25 matter. You'll just keep getting suckered
26 right into it.

27
28 So another example of Richard telling you what his
29 plan was.

30 A Yes. The fact that he tells me in this email that
31 he can tell me what his plans are and it won't
32 matter, because he's smart enough to have covered
33 his tracks.

34 Q The next email is titled "Petition for annulment".
35 Do you know what Richard was referring to when he
36 said "petition for annulment"?

37 A Yes, I've submitted -- began the paperwork for an
38 annulment.

39 Q Annulment of...?

40 A The marriage between him and I.

41 Q When did you realize that you were still legally
42 married?

43 A It wasn't long after -- it was probably around
44 2005.

45 Q And so would it be fair to characterize this email
46 as Richard saying it doesn't really matter if I
47 appear. Either way I will accomplish what I want

Desiree Capuano (for Crown)
in chief by Mr. Myhre
BAN ON PUBLICATION; INHERENT JURISDICTION

1 to.

2 A Yes. That no matter what, he intends to drive us
3 out and keep me in court for years and never grant
4 the annulment.

5 Q And we see the last paragraph [as read in]:

6
7 You see, careful meticulous planning, that's
8 how you prevail or I'm lying about everything
9 in this message just to mess with you.

10

11 A Yes.

12 Q Did you ever determine whether or not he was
13 telling the truth in this message?

14 A He did not appear for that hearing, and the
15 annulment was granted. It's finalized.

16 Q The next email dated May the 11th, 2015, titled
17 "Website updates" [as read in]:

18

19 Desiree:

20

21 As promised I posted all the emails up to
22 this point to the site. You can view them at
23 <http://www.desireecapuano.com/mail>, but I'm
24 sure you already know that. I find it
25 fascinating that even though you know every
26 single piece of correspondence with you is
27 going to be posted publicly on a website
28 hosted on a domain with your name, you still
29 allow yourself to get overly emotional and
30 say things that make you look like an idiot.
31 I would think you'd be a little more cautious
32 in what you say.

33

34 Patrick.

35

36 Is that an email you received on May the 11th,
37 2015 from Richard?

38 A Yes. Yes.

39 Q The next email dated May 15th, 2015 is titled "The
40 most difficult border in the world to cross".

41 This was an email in which Patrick sent you
42 pictures of a place at the border where he said he
43 could cross the border.

44 A Where he says he does cross the border.

45 Q How did that make you feel?

46 A Scared. He shows me pictures of a place where
47 there's no law enforcement, there's no

**Desiree Capuano (for Crown)
in chief by Mr. Myhre
BAN ON PUBLICATION; INHERENT JURISDICTION**

- 1 immigration, there's no custody, there's nobody to
2 check his identity, there's nobody to see if he's
3 got guns on him, there's nobody. He -- it's just
4 a park and he just walks across and he shows me
5 pictures of it, tells me how easy it is.
6 Q The next email is titled "Search engine results"
7 dated May 23rd, 2015. I'll read the first couple
8 paragraphs [as read in]:
9
10 Hello Desiree:
11
12 Thought you might like to know that when I
13 Google Desiree Capuano, the website is the
14 second entry on the list. Not bad for people
15 that might want to Google you. When I Google
16 Desiree Tomlin, the site is the 18th in the
17 search results. Need to improve this so
18 people who don't know you changed your name
19 can find it easier, people you went to grade
20 school with and such.
21
22 Your maiden name is Tomlin?
23 A Yes.
24 Q And is this an accurate copy of the email you
25 received on that day, other than as you've told us
26 before, the actual email address was --
27 A Correct, yes.
28 Q Do you remember in the summer of 2015 whether or
29 not [REDACTED] -- you sent [REDACTED] to visit Richard
30 in Canada?
31 A Yes, I did.
32 Q Do you know roughly what dates?
33 A End of May through July. I was under court order
34 to provide reasonable visitation and communication
35 between [REDACTED] and his father. Bless you.
36 Q Do you remember when that order was made?
37 A The last hearing that we had had. I'd have to
38 look at records.
39 Q Okay. If we could go to Tab 14, please. Email
40 titled "Re automobile accident" dated June 12th,
41 2015, and Ms. Capuano, if you could flip to the
42 fourth page of this email string, the last page of
43 this email string. If I could summarize this
44 email string, this is you and Richard arguing
45 about what happened around [REDACTED] being born
46 prematurely.
47 A Correct.

**Desiree Capuano (for Crown)
in chief by Mr. Myhre
BAN ON PUBLICATION; INHERENT JURISDICTION**

- 1 Q What we see on the last page, the second-last full
2 paragraph, it appears Richard wrote [as read in]:
3
4 Now what I would like from you is for you to
5 deny these claims and call me a liar. I will
6 then gladly post the medical, insurance and
7 police reports to your website. Yes, medical
8 reports are confidential, but you live in the
9 greatest country in the world where anything
10 can be purchased, yay America.
11
12 And then at the end:
13
14 P.S., I've bcc'd all the relevant parties.
15
16 So, first of all, do you know whether Richard had
17 obtained any of your medical records?
18 A I don't know.
19 Q At that point in time, did you think that he could
20 or not?
21 A I think he's capable of getting anything he says
22 he's going to get.
23 Q Do you know whether he had bcc'd to anybody on
24 this email?
25 A I have no idea.
26 Q Did the possibility that he had cause you any
27 concern?
28 A Only because I don't know who he would have bcc'd.
29 I don't know if it would have been more work
30 colleagues or friends or to people he knew.
31 There's no way to know. If you want to point out
32 this is -- this is the first notification that I
33 ever got that he believes that our son was
34 premature because I punched myself in the stomach,
35 and that is the story that he gave to our son
36 while he raised him.
37 Q How did that make you feel knowing that that's
38 what your son had been told?
39 A I had to talk to him about it, and he told me he
40 already knew the story. I had -- it was -- it was
41 really baffling. He was there during the whole
42 event. He -- Richard knew what had happened. I'm
43 not really sure where he got that from.
44 Q Now, I'm start -- just going to stop you there,
45 Ms. Capuano. The question is how did it make you
46 feel?
47 A Disgusted. Just -- just another lie.

**Desiree Capuano (for Crown)
in chief by Mr. Myhre
BAN ON PUBLICATION; INHERENT JURISDICTION**

1 Q Okay. If we could go to the next email, please,
2 Ms. Capuano. It's titled "Re status update",
3 dated June 15th, 2015. If we went to the bottom
4 of this page, it appears that it starts with an
5 email on June 13th, 2015, and it says -- Patrick
6 wrote [as read in]:
7

8 Hello Desiree:
9

10 So {GR} has been here about two weeks now.
11

12 And goes on to say what they've been up to. Then
13 in the last full paragraph on this page:
14

15 I don't understand how it is that he's been
16 with you two and a half years and you've not
17 taught him anything, yet you still try to
18 convince him you're a good parent.
19

20 Another criticism of your parenting?
21

21 A Yes.

22 Q Then it appears later that same day if we just go
23 up from the start of that email, says on Saturday,
24 June 13th, so that same day the first email was
25 sent. Patrick wrote [as read in]:
26

27 What, no comeback? Could it be that you
28 finally accepted that you really are a
29 terrible parent and an overall bad person?
30

31 If we look up from there, where I see -- it looks
32 like Mr. Fox has an objection.

33 THE ACCUSED: Just a correction. In the first
34 paragraph that you were reading from that:
35

36 I don't understand how it is that he's been
37 with you two and a half years and you've not
38 taught him anything --
39

40 Then she says -- then it says:
41

42 -- yet you still try to convince yourself --
43

44 You just said:
45

46 -- yet you still tried to convince him.
47

**Desiree Capuano (for Crown)
in chief by Mr. Myhre
BAN ON PUBLICATION; INHERENT JURISDICTION**

1 "Him" being {GR}, I presume.

2 THE COURT: All right, thank you.

3 MR. MYHRE:

4 Q June 15th, some two days later, you wrote back [as
5 read in]:

6
7 I understand that you feel the need to
8 document every milestone of parental
9 responsibility to prove you'd do anything
10 beyond supporting a 14 -- with way too much
11 free money. Do you want a good boy? Well,
12 good boy, Richard, I'm so glad you taught
13 your son something, way to go.

14
15 And then the same day there's a response at the
16 top from Richard, and the last paragraph says:

17
18 Why do you want your children to remain
19 incapable of doing anything on their own so
20 they have to depend on you? That's terrible
21 parenting, but then you're a single mother.
22 That's what all single mothers do. Single
23 mothers don't want to raise children, they
24 just want to have babies. I know, because I
25 grew up around many of them.

26
27 So another criticism from Richard.

28 A Yes.

29 Q The next email is titled "Your favourite child"
30 dated June 28th, 2015, and it's an email from
31 Patrick [as read in]:

32
33 Desiree:

34
35 I was speaking with {GR} earlier about
36 that thing of you refusing to allow him to
37 get decent clothes when he's with you.

38
39 Do you know what Richard was referring to there?

40 A I didn't buy {GR} designer-brand jeans.

41 Q And Richard goes on to write:

42
43 And I pointed out to him that you obviously
44 like {SC} more than him.

45
46 So the question, Ms. Capuano, is how did it make
47 you feel, Richard telling you that he was telling

Desiree Capuano (for Crown)
in chief by Mr. Myhre
BAN ON PUBLICATION; INHERENT JURISDICTION

- 1 {GR} that you like {SC} more?
- 2 A He was telling {GR} and convincing {GR} that
- 3 I was trying to play favourites, but the reasons
- 4 he gave {GR} weren't true.
- 5 Q And how did that make you --
- 6 A It was very frustrating. It was very frustrating
- 7 because then {GR} came home and I had to deal
- 8 with the repercussions of that.
- 9 Q If we could go to the next email, please. This
- 10 one is titled "Re Carrington College", and if we
- 11 look at the bottom of the page, it appears to
- 12 start with an email on June 27th, 2015. Patrick
- 13 wrote [as read in]:
- 14
- 15 Hello Desiree:
- 16
- 17 May you confirm that you've taken a position
- 18 with Carrington College in Tucson. If so,
- 19 then I should update your website. If you
- 20 have any interesting quotes or pseudo-facts
- 21 that I can put on the site, but I can't
- 22 imagine there'd be much of a need for a
- 23 systems analyst at an individual campus of a
- 24 demi-college. Wouldn't that be a bit of a
- 25 step down from what you were purportedly
- 26 doing at Apollo? But since the campus is
- 27 substantially smaller, then you'd -- then
- 28 you'd be less anonymous and word of your
- 29 website and your backstory should spread
- 30 quickly.
- 31
- 32 Now, I think you told us yesterday that your job
- 33 with Apollo ended --
- 34 A In --
- 35 Q -- at the end of September 2015. Do you remember
- 36 whether or not at this time, June 27th, you were
- 37 still employed by Apollo?
- 38 A Maybe it was 2014 that I was laid off. I may have
- 39 been mistaken.
- 40 Q Do you want to just think about that for a second?
- 41 A Yeah. Yeah, it must have been 2014 then, sorry.
- 42 Q Now, in June of 2015, did you take a position with
- 43 Carrington College?
- 44 A No. No, I was still employed with Apollo at that
- 45 time. I -- I was laid off in September of 2015.
- 46 I moved to Tucson, and I kept my job in Phoenix
- 47 and I drove up to Phoenix for the last couple of

**Desiree Capuano (for Crown)
in chief by Mr. Myhre
BAN ON PUBLICATION; INHERENT JURISDICTION**

- 1 months of my tenure there. I was still employed
2 with Apollo at this time.
- 3 Q Okay. So you weren't looking for a job in June of
4 2015.
- 5 A No.
- 6 Q Okay. Did this email mean anything to you, or...?
7 A Yes, it meant that he was trying to find where I
8 would be working. He was researching places and
9 he had already indicated that if he had -- he
10 would -- as soon as he found out where I would be
11 working, he would be informing them, just like he
12 did at Apollo, which meant he was going to try to
13 ruin any new job that I got, and Apollo was having
14 difficulties, they were going through lay-offs at
15 that time.
- 16 Q So then above that, there's another email from
17 Richard and then on June 28th, 2015, it says
18 Desiree Capuano wrote -- you wrote [as read in]:
19
20 My job is none of your business.
21
- 22 A Correct.
- 23 Q And then above that, the first paragraph on this
24 page we see Richard's response [as read in]:
25
26 Is that because you're embarrassed about
27 having to take such a step down? You think
28 that if you don't tell me, that I won't be
29 able to confirm it anyway? Can I not just
30 call HR and ask them, and as long as you use
31 your social security number, then couldn't I
32 just run a credit check on you?
33
- 34 A I was scared when I got that, because at that
35 point he'd basically just told me he had my social
36 security number.
- 37 Q Okay. Ms. Capuano, could we flip back in this
38 book to Tab 7, please. And what we see here is --
39 says "type of blogs" on the first page. It says
40 "recent posts" and then it says "popular posts"
41 and then near the bottom of the page, it starts
42 listing blog posts, starting with [as read in]:
43
44 Yes, this website is still here because --
45
46 And then the list continues over the next page for
47 several pages. I believe there are about 90 blogs

**Desiree Capuano (for Crown)
in chief by Mr. Myhre
BAN ON PUBLICATION; INHERENT JURISDICTION**

1 listed; does that sound roughly accurate?

2 A Based off of this documentation, yes. I don't
3 know, I haven't read any of the blogs before the
4 hearing.

5 Q You hadn't read any of these before the hearing?

6 A No.

7 Q Now, if we look at -- if we go past the list and
8 again, My Lady, I apologize for the lack of page
9 numbers. The way these -- the blogs are printed
10 out here, if you flip to the very bottom of the
11 page and you see a title of a blog that says, "My
12 new home and job", that starts after the list of
13 the blogs. It's dated July 13th, 2015 over on the
14 right-hand side.

15 A Yes.

16 Q You can see under that it says "Perspective" --
17 sorry, under the title, "My new home and job", it
18 says [as read in]:

19
20 Perspective Desiree 306 viewers, views zero
21 comments.

22
23 If we flip over the page, do you recognize the
24 house that's shown there?

25 A Yes.

26 Q And was that your house?

27 A Yes.

28 Q When did you move there?

29 A It's not my house, it's my fiancé's house. Yes, I
30 moved there over the summer of 2015.

31 Q You moved there in the summer of 2015?

32 A Correct.

33 Q And we've already seen that's a picture of James
34 Pendleton?

35 A Correct.

36 Q Now, the next blog we see on the next page is
37 titled [as read in]:

38
39 James' attempts to get the site taken down.

40
41 I'm going to skip that one and go to the next one
42 after that, that's titled:

43
44 Green Valley Hospital career prospects.

45
46 And its website. Do you have that there, Ms.
47 Capuano?

**Desiree Capuano (for Crown)
in chief by Mr. Myhre
BAN ON PUBLICATION; INHERENT JURISDICTION**

- 1 A Yes.
- 2 Q Do you know who Green Valley Hospital is?
- 3 A Yes.
- 4 Q Okay, what -- what do you know about that?
- 5 A I submitted my resumé to them for multiple
6 positions.
- 7 Q Now, this blog is dated October 13th, 2015.
- 8 A Correct.
- 9 Q When did you submit your resumé to them?
- 10 A I was laid off on September 30th of 2015, and I'd
11 been submitting resumé for all potential
12 employment during those two weeks. They actually
13 had multiple openings so I submitted for multiple
14 openings.
- 15 Q The two weeks following September 30th, you were
16 submitting resumé?
- 17 A Correct.
- 18 Q And that included to Green Valley Hospital?
- 19 A Correct.
- 20 Q And did you ever hear from Green Valley Hospital?
- 21 A No.
- 22 Q Now, Ms. Capuano, it might be easiest to find the
23 next blog if you just start from the back, the
24 last part of Tab 7 and flip backwards until you
25 find the blog, "Oh, to work at Pima Community
26 College". And so that blog contains a picture
27 that looks --
- 28 A Yes.
- 29 Q I'm holding it up here. And we see under the
30 title, "Oh, to work at Pima Community College",
31 it's dated May the 11th, 2016.
- 32 A Yes.
- 33 Q Did you ever apply to this college?
- 34 A Yes, I did.
- 35 Q Okay. So tell the jury how that application went.
36 Did you ever hear from them?
- 37 A Yes. I applied for a position with Pima. I went
38 on a series of interviews and I was made an offer.
39 It was a very good position. I was working on a
40 contract at the time, so it was substantially more
41 money. It was a full-time position, all benefits
42 for me and the kids. I had a starting date.
43 They'd already given me the offer letter which I
44 had signed, and when I asked them if I was good to
45 give my two weeks' notice at my current job, they
46 said, "Hold on."
- 47 Over the course of the next couple of weeks,

**Desiree Capuano (for Crown)
in chief by Mr. Myhre
BAN ON PUBLICATION; INHERENT JURISDICTION**

1 they went back and forth with their legal
2 department and determined they couldn't take the
3 risk of employing me because of the website, and
4 so they withdrew their offer.
5 Q And was that around May 2016 that was happening?
6 A Yes.
7 Q Okay. We're going to go back to the emails, Ms.
8 Capuano, if we could look at the last email of Tab
9 14. So would it be accurate to summarize this
10 email as Richard saying his lessons when he's a
11 parent and going through hard times are better
12 than your parenting approach.
13 A Oh, yes.
14 Q And then the last sentence of that email, Richard
15 wrote [as read in]:
16
17 He doesn't hate you because of what I tell
18 him about you. He hates you because of what
19 you do.
20
21 A Yes.
22 Q How did that make you feel?
23 A Sad.
24 Q The next email, the first one at Tab 15 titled
25 "Status", dated July the 5th, 2015. Was -- do you
26 remember, was {GR} with Richard in Vancouver at
27 this time?
28 A Yes.
29 Q And I see the first sentence [as read in]:
30
31 Hello, Desiree:
32
33 One, yes, {GR} and I are having fun at
34 your expense.
35
36 And basically goes on to mock things you do as a
37 parent.
38 A Yes.
39 Q Do you know whether {GR} was cc'd on this
40 email?
41 A Yes.
42 Q The next email titled "Your reasoning", dated July
43 the 5th, 2015, Richard writes [as read in]:
44
45 So why would you want a child living in your
46 home that you know doesn't respect you?
47

**Desiree Capuano (for Crown)
in chief by Mr. Myhre
BAN ON PUBLICATION; INHERENT JURISDICTION**

1 Goes on in the next paragraph [as read in]:
2

3 The only remaining reason I can think of is
4 that you do it to spite me, but that's
5 backfiring on you because I have already
6 worked out a plan that involves {GR}
7 remaining with you until he turns 16, then
8 moving to Ontario where neither you nor the
9 U.S. or Canadian courts can touch him, and
10 I've explained that plan to him. He doesn't
11 like it, but he understands and appreciates
12 the motives.
13

14 So by insisting on keeping him with you,
15 aren't you really just spiting yourself?
16 Aren't you really just subjecting yourself to
17 the additional difficulties of providing for
18 a child that looks down on you, that
19 considers you below him because of your
20 refusal to be anything more than a white
21 trash pothead, because of your inability to
22 make any good or proper decisions, because of
23 you're continually doing things that
24 adversely affect him and giving him any
25 choices?
26

27 Is that an email that you received from Richard on
28 July the 5th, 2015?

29 A Yes.

30 Q Another example, I suppose, of general critical
31 comments?

32 A Yes. Constant.

33 Q Do you know whether {GR} is cc'd on this email?

34 A I believe he was.

35 Q If we could look at the next email, please, titled
36 "Fun at your expense", dated the same day, July
37 5th, 2015 [as read in]:
38

39 Hello Desiree:

40
41 In the event you're curious how exactly we're
42 having fun at your expense, allow me to
43 enlighten you.
44

45 And then goes on to list 51 ways that you are
46 being made fun of.

47 A Correct.

**Desiree Capuano (for Crown)
in chief by Mr. Myhre
BAN ON PUBLICATION; INHERENT JURISDICTION**

1 Q Who did you understand Richard to be referring to
2 when he said "we"?

3 A Him and {GR}.

4 Q Do you know whether {GR} was cc'd on this
5 email?

6 A Yes.

7 Q The next email dated July 12th, 2015, Richard
8 wrote [as read in]:
9

10 {GR} tells me that when you bring him to
11 the airport, you get a security pass and
12 escort him right to the point that he boards
13 the plane. Are you fucking retarded? Why do
14 you single mothers always baby their kids?
15 Dude, he's 14, for Christ's sake. No wonder
16 when he arrives here he seems incapable doing
17 the smallest things.
18

19 Another criticism of your parenting.

20 A Yes. I understand some parents handle things in
21 different situations, but nothing I did was right
22 by him. Didn't matter.

23 Q Okay. The next email titled "Re contact
24 information". If we flip to the second page of
25 this email and look at where it started, at the
26 bottom, the last two paragraphs, Patrick wrote [as
27 read in]:
28

29 According to Google maps, that address is a
30 U.S. post office. You are legally required
31 to provide me the address where {GR} will
32 be physically residing.
33

34 Had you provided an address to Richard?

35 A It was a mailing address, not a physical address.

36 Q Why didn't you provide Richard with your mailing
37 address -- or your home address.

38 A Two reasons. One, he was outside the country. He
39 was not supposed to enter the country, so there
40 should be no reason for him to need a physical
41 address, and two, I didn't want it up on the
42 website.

43 Q And it goes on. If we look at the -- further up
44 the page, this same page that we're just looking
45 at, the second full paragraph, Desiree Capuano
46 wrote [as read in]:
47

**Desiree Capuano (for Crown)
in chief by Mr. Myhre
BAN ON PUBLICATION; INHERENT JURISDICTION**

1 As long as Patrick Fox continues to put my
2 personal information on a public website, it
3 will not be provided.
4

5 A Yes.

6 Q That is what you said to Richard at that time?

7 A Yes.

8 Q And it goes on. If we look, flipping back to the
9 first page, he demands the address again. You
10 don't give it to him, and then his final response
11 at the top of the page [as read in]:
12

13 Since I've not heard back from you with the
14 current address at which {GR} will be
15 residing, I will not be transporting him to
16 the airport.
17

18 A Yes, he was telling me in this email thread that
19 unless I gave him a physical address, he's not
20 going to return my son to me.

21 Q The next email titled "Re update to your site", if
22 we look halfway down the page on July 13th, 2015,
23 Patrick wrote [as read in]:
24

25 Desiree:

26
27 I've updated some of the information on your
28 site. Let me know if anything is inaccurate,
29 namely on the home page and on the news page.
30 I was sure to include your new address, a
31 picture of your presumed boyfriend and a
32 picture of your new home.
33

34 And then if we look up at the email at the top of
35 the page:
36

37 Desiree:

38
39 Oh, I should mention before you freak out at
40 {GR} and ground him for telling me where
41 you live, I already had the address from the
42 times you'd previously spent the weekends at
43 the house. Given the address, finding the
44 name of the person who owns the property is a
45 simple public records check. Given the name
46 of the property owner, a simple Google search
47 provides his Linked In and Facebook profiles.

**Desiree Capuano (for Crown)
in chief by Mr. Myhre
BAN ON PUBLICATION; INHERENT JURISDICTION**

1 From the Linked In profile, I could see that
2 he also worked at Apollo Group at the same
3 time you did. Using basic deduction and
4 given how well I know you, I was able to
5 conclude that you were intimately involved
6 with Mr. Pendleton. Why else would you take
7 your kids and spend numerous weekends at his
8 house which is hours drive from where you
9 live. So, you see, {GR} told me nothing.
10 Any fool with partial intelligence and a bit
11 of background on you could figure it out.
12

13 A He was tracking {GR} through the use of his
14 cell phone. He was monitoring the GPS location of
15 the cell phone. That's how he figured it out.

16 Q That's what you believe?

17 A Yes.

18 Q The next email, "{GR}'s return", dated July
19 14th, 2015 [as read in]:
20

21 So tell me, Desiree, how was {GR} upon his
22 return? How's his demeanour seem? Does he
23 seem happy to be back with you? Has he been
24 sharing with you all the things he did, his
25 wonderful accomplishments? Is he excited
26 about his new home? Is he looking forward to
27 starting his new school? Or has he been
28 withdrawn, keeping to himself, spending most
29 of his time in his room? And as I've said
30 repeatedly, the misery that will bring --
31 that will bring you and your home is far
32 greater than a court order for you to return
33 him. The court order gives you the
34 opportunity to get people's pity, a son that
35 hates you because you're a narcissistic fuck-
36 up, leaves only you to blame.
37

38 Do you remember around that time how {GR} was
39 when he returned home from his visit with Richard?

40 A That one was worse than any of the others. That
41 was also during the same visit where he had told
42 {GR} that I loved my other kid more, and given
43 him reasons. When {GR} got back, he was like a
44 completely different person. He wouldn't come
45 near me. He wouldn't talk. _____

46 _____ He was excited for the move before he went to
47 Canada. And when he got back, he was just scared,

**Desiree Capuano (for Crown)
in chief by Mr. Myhre
BAN ON PUBLICATION; INHERENT JURISDICTION**

1 and it broke my heart.

2 MR. MYHRE: This might be a good time, My Lady.

3 THE COURT: All right. We'll break for lunch now,
4 members of the jury.

5

6

(JURY OUT)

7

8

[PROCEEDINGS IN ABSENCE OF JURY FROM 12:32:06
9 TO 12:36:07 P.M.]

10

11

(WITNESS STOOD DOWN)

12

13

[PROCEEDINGS IN ABSENCE OF JURY FROM 12:37:49
14 TO 12:43:25 P.M.]

15

16

(PROCEEDINGS ADJOURNED FOR NOON RECESS)
17 (PROCEEDINGS RECONVENED)

18

19

(JURY OUT)

20

21

[PROCEEDINGS IN ABSENCE OF JURY FROM 2:01:48
22 TO 2:02:18 P.M.]

23

24

DESIREE CAPUANO, recalled.

25

26

(JURY IN)

27

28

[MID-TRIAL INSTRUCTION FROM 2:03:03 P.M. TO
29 2:06:45 P.M.]

30

31

EXAMINATION IN CHIEF BY MR. MYHRE, CONTINUING:

32

33

Q Ms. Capuano, if we could continue where we left
34 off with the emails. Tab 15, we had finished
35 looking at the email "**{GR}**'s return", and we --
36 I would now like to direct you to the "Ridiculous
37 tattoo on your finger", dated July 14th, 2015.

38

A Yes.

39

Q And the email states [as read in]:

40

41

I heard you're in the process of having that
42 tattoo removed. Wonderful, more money you're
43 spending on yourself while you make your
44 children live like vagrants. Nice. But, you
45 know, white trashiness is a mindset.

46

Removing a tattoo won't make you less trashy.
47 It might just make it easier to conceal until

**Desiree Capuano (for Crown)
in chief by Mr. Myhre
BAN ON PUBLICATION; INHERENT JURISDICTION**

1 you open your mouth anyway.

2
3 Another example of the way that Richard would
4 speak to you.

5 A Yes. He also got this information from our son,
6 so for me, it was another example of how he was
7 taking innocent things that my son would say to
8 him in passing and use them to try to hurt me.

9 Q The next email titled "**{GR}**'s infection" dated
10 July 18th, 2015. Do you know whether **{GR}** was
11 cc'd on this email?

12 A I don't. I would have to check. He might be, but
13 I don't know for sure.

14 Q And I'll just read a few of the lines [as read
15 in]:

16
17 Desiree:

18
19 What the fuck is wrong with you? You're
20 still not taking **{GR}** to the doctor about
21 the infection on his ear and neck.

22
23 Next paragraph:

24
25 What the goddamn fuck is wrong with you? Get
26 the fuck off your lazy fucking ass and take
27 your fucking son to a fucking doctor, you
28 stupid piece of shit. How the fuck do you
29 get off calling yourself an excellent mother?
30

31 And it goes on. And then the last paragraph:

32
33 Better yet, why don't I just forward this
34 email with pictures of the rash on **{GR}**'s
35 neck to all the people in your contacts list
36 for you.

37
38 A Yes.

39 Q How did this -- do you know what he was referring
40 to, an infection?

41 A Yes. Before **{GR}** went up to Canada for a
42 visitation, he had a sore on the back of his ear,
43 put Neosporin on it, and then he went up to Canada
44 where apparently it spread to cover his neck and
45 both ears. So when he came back, the rash that he
46 had covered ears and neck. He had some
47 medication, ointment, that he apparently got up in

**Desiree Capuano (for Crown)
in chief by Mr. Myhre
BAN ON PUBLICATION; INHERENT JURISDICTION**

- 1 Canada, so we were going to finish that out and
2 then I was going to take him to the doctor.
3 It took us actually a long time to get rid of
4 that. It was some form of a staph infection. We
5 tried various different things. Coincidentally
6 when he dyed his hair, the rash came back. So we
7 don't know for sure what caused it. It could have
8 been an allergic reaction to hair dye, but we're
9 still not sure. But we did eventually get it
10 taken care of. It took about six weeks, but we
11 eventually got it.
- 12 Q How did this email make you feel?
13 A Furious.
14 Q The next email, titled "Re contact information",
15 and here, if we look about halfway down this first
16 page, we see the first inline portion on July
17 18th, 2015. You wrote [as read in]:
18
19 Richard, have you stopped to consider that if
20 what you have was a real address or not, just
21 an intentional misdirection, that you would
22 be endangering {GR}'s safety and privacy
23 with your amateur website, publishing an
24 address your son would potentially be
25 residing at. Good job, classy, real classy.
26
27 Did you write that?
28 A Yes.
29 Q Did -- did Richard in fact have your correct
30 address?
31 A Yes.
32 Q Okay. And so what did you mean when you said he
33 would be endangering {GR}'s safety?
34 A There's a lot of information on the website that
35 could be insulting to a great many people. To put
36 the address of the website also on -- the address
37 of my home also on the website was a risk to
38 everybody in the house, including his son.
39 Q Okay. If we look at Richard's response, the
40 second paragraph from the top [as read in]:
41
42 I've considered whether publishing the
43 address of an openly racist anti-Latino who
44 happens to be physically present at the same
45 house which my son is also physically present
46 at, and after careful consideration have
47 concluded if such an event as angry Mexicans

**Desiree Capuano (for Crown)
in chief by Mr. Myhre
BAN ON PUBLICATION; INHERENT JURISDICTION**

1 showing up to express their discontent with
2 you and your white supremacist beliefs were
3 to occur, the focus of their attention would
4 be on -- would be you, not {GR}. The
5 Latino people are generally honourable and
6 would not harm an innocent child if they had
7 issues with the child's misguided mother.
8 So, no, I don't believe {GR} would be put
9 in danger -- put in any danger by publishing
10 your address.

11
12 So did -- is that what Richard wrote back to you?

13 A Yes, that is what he wrote back.

14 Q And what did you understand him to mean, or how
15 would you summarize what you understood from that?

16 A He selected one potential scenario that could
17 cause danger, and determined that as long as that
18 one potential scenario was not going to happen,
19 that myself and the family were safe. But that's
20 just one potential scenario of what could happen
21 that would cause us harm. A great many people
22 besides angry Mexicans could show up at my house
23 for any number of reasons.

24 Q Did --

25 A So it did not alleviate my fear.

26 Q If we flip the page to the next email in -- with
27 the same subject line, "Re contact information",
28 sent the same day, July 18th, 2015 about a -- it
29 looks like it would be about 15 minutes after the
30 previous one. There's another response from
31 Richard, and he goes on to say [as read in]:

32
33 I also considered the legal implications if
34 something were to happen like, for example, a
35 pissed-off Mexican showed up at your house
36 and attempt to cause you -- harass you in
37 retaliation for your racist views. Some
38 might say I was criminally negligent by
39 publishing your address along with your
40 racist comments. They might try to argue
41 that had I not done so, then you would not
42 have been harmed. However, both your racist
43 view and related comments and your current
44 address are all points of fact. The
45 publishing of facts simply cannot be
46 considered negligent, criminal or otherwise.
47 I'm pretty sure not a court in America would

**Desiree Capuano (for Crown)
in chief by Mr. Myhre
BAN ON PUBLICATION; INHERENT JURISDICTION**

1 hold me responsible for anything that might
2 occur to you as a result of you openly
3 expressing racist, anti-Latino sentiments
4 while living in an area with a very high
5 Mexican population.
6

7 Another thing you can't prevent me from
8 publishing is your social security number.
9 There is no law in Canada which prohibits a
10 person from publishing the non-Canadian
11 identifying information of another person
12 who's not in Canada, and even if it were
13 illegal under U.S. law, I'm not in the U.S.
14 and therefore not subject to U.S. laws.
15

16 How did this response from Richard make you feel?

17 A I was so angry.

18 Q The next email, again titled "Re contact
19 information", this is the next page, July the
20 19th, 2015. If we look at the bottom of the first
21 page, it says, on July 19th, 2015, Patrick wrote
22 [as read in]:
23

24 Allow me to also point out that of course I
25 had considered that I could potentially raise
26 the issue of Pendleton publicly disclosing
27 that he has top secret clearance which, in
28 itself, would likely result in him losing
29 such clearance if in fact he did actually
30 have it, which I suspect by the fact that he
31 publicly advertised, that he does not.
32 However, since I have no issue with Pendleton
33 and he has not harmed me in any way, he is
34 purely collateral to this matter, and it
35 would be against my morals to cause harm to a
36 person collaterally in order to adversely
37 affect you.
38

39 That is, of course, one of the fundamental
40 differences between you and I. You would not
41 think twice about harming an innocent
42 bystander in order to reach your target, case
43 in point, Liz, though I suppose I could
44 rationalize it by saying I was just doing my
45 duty as a patriotic citizen, right? But, no,
46 I would not stoop to such levels.
47

**Desiree Capuano (for Crown)
in chief by Mr. Myhre
BAN ON PUBLICATION; INHERENT JURISDICTION**

1 Now, if we go up to the top of that same page --
2 so this email, 10:56, so it looks like it was
3 written 50 minutes after the one we've just read.
4 Richard wrote [as read in]:
5

6 Now that I think about it, this situation
7 does raise a few disturbing questions
8 actually. A security clearance is based on a
9 person's character as well as their actual
10 arrest and or convictions. A person who
11 cohabits with a clearance-holder or applicant
12 is also subject to a background check,
13 usually just as stringently as the
14 clearance-holder himself.
15

16 And then the last paragraph of that email:
17

18 I just don't see how it's possible that
19 Pendleton could possibly maintain a security
20 clearance while also cohabiting with you. I
21 mean, wouldn't a responsible patriotic
22 citizen feel a sense of obligation to report
23 such a situation to the proper authorities?
24 How can a person with such poor judgment that
25 he would be seriously committed enough to a
26 woman that he would have her move into his
27 house with her two children, be trusted with
28 a security clearance, a top secret clearance
29 at that.
30

31 Does James Pendleton have some form of security
32 clearance that allows him to take jobs that
33 require security clearance?

34 A Yes.

35 Q What did you understand from this email from
36 Richard?

37 A I took this as a veiled -- veiled threat that he
38 was going to contact authorities regarding the
39 security clearance of James Pendleton.

40 Q How did that make you feel?

41 A Very scared. I know what it felt like to go
42 through that at Apollo, and I did not want James's
43 livelihood damaged because of me, and I didn't
44 want him to have to go through that same
45 embarrassment and humiliation.

46 Q Okay. If we could go to Tab 16, please, the first
47 email titled, "Forward TKT" with a number,

**Desiree Capuano (for Crown)
in chief by Mr. Myhre
BAN ON PUBLICATION; INHERENT JURISDICTION**

- 1 DesiréeCapuano.com, and if we look halfway down
2 the page, there's an email from
3 JamesPendletonJunior@gmail.com to abuse@web.com.
4 Do you -- had you seen this email --
- 5 A Yes.
- 6 Q -- before? What is -- what is the email that
7 follows there?
- 8 A This is James sending an email to the abuse
9 department of the website host company, letting
10 them know that this website was up and that it was
11 damaging and that -- asking them to look into it
12 and try to take it down, then said they forwarded
13 it over to Mr. Riggs. Then he put it on the
14 website.
- 15 Q Okay. Do you know if this complaint from James
16 had the effect of having the website taken down?
- 17 A It absolutely did not.
- 18 Q Okay. If we could go to Tab 17, please. This
19 email is titled "Re {GR}'s visit for winter
20 break, 2015", and if we look halfway down, we see
21 you're initiating email to Richard sent November
22 14th, 2015, in which you basically bring up the
23 subject of {GR} coming to visit for the winter
24 break and you put some stipulations on it.
- 25 A Yes. Richard had sent me emails requesting
26 {GR} for the winter break, so this was my email
27 to him with the stipulations.
- 28 Q And Richard's response was essentially -- this was
29 -- we see in the first line [as read in]:
- 30
- 31 This was not an invitation to negotiate,
32 and --
- 33
- 34 A Correct.
- 35 Q And it goes on in the third paragraph.
- 36
- 37 There will be no negotiating and I will not
38 agree to any terms you try to impose.
- 39
- 40 You will soon be homeless; you have no money;
41 nobody believes anything you say anymore;
42 nobody is coming to your aid or defence; you
43 will not be able to secure another job as
44 long as that website exists - and it's not
45 going anywhere as long as you're alive.
- 46
- 47 Your boyfriend has reached the point of being

Desiree Capuano (for Crown)
in chief by Mr. Myhre
BAN ON PUBLICATION; INHERENT JURISDICTION

1 fed up, and only his sense of decency towards
2 {SC} keeps him from kicking you guys out. He
3 knows {GR} will be fine because of me.
4
5 Do you remember in November of 2015 whether you
6 had yet secured a job?
7 A I -- I was still working the contract.
8 Q So I take it after you were laid off by Apollo in
9 September 2015, you were then able to obtain a
10 contract somewhere?
11 A Correct. The same one I was told not to give
12 notice to.
13 Q Right. Okay, Ms. Capuano, I'd like to talk for a
14 minute about some of the different steps you've
15 taken to try to get that website taken down.
16 We've heard about some of them already. I'll
17 summarize. We saw an email where you asked
18 Richard to take the website down. You had taken
19 steps to have it blocked at Apollo when you were
20 working there.
21 A Correct.
22 Q Do you know whether or not {GR} ever asked
23 Richard to take it down?
24 A He did.
25 Q And what -- tell us what happened.
26 A He did ask.
27 Q How do you know that?
28 THE ACCUSED: Objection.
29 THE COURT: All right. What's the nature of your
30 objection, Mr. Fox?
31 THE ACCUSED: I believe that it would be hearsay.
32 THE COURT: All right. Can you be careful of that,
33 please, Mr. Myhre, and approach the matter in a
34 way that will not elicit hearsay.
35 MR. MYHRE:
36 Q How do you know that {GR} had asked Richard
37 that?
38 A {GR} called Richard and had me -- he put him on
39 speakerphone.
40 Q So you were --
41 A Richard and I and {GR} were all in the same
42 room.
43 Q Okay. What was said by {GR} to Richard when
44 you were sitting there?
45 A {GR} told him that he needed to take down the
46 website and he needed to stop the harassment, and
47 if he did that, the condition was that I would

**Desiree Capuano (for Crown)
in chief by Mr. Myhre
BAN ON PUBLICATION; INHERENT JURISDICTION**

- 1 return the cell phone to {GR}. That's what
2 {GR} wanted. He wanted his cell phone back and
3 the website and harassment to stop.
- 4 Q Do you remember if Richard had any response to
5 that?
- 6 A He said no.
- 7 Q Okay. We've seen -- do you -- sorry, do you
8 remember when that was?
- 9 A That was the summer of 2015, shortly after he
10 returned.
- 11 Q From his visit with Richard?
- 12 A Correct.
- 13 THE ACCUSED: I'm sorry, did she say December?
- 14 A Summer.
- 15 THE ACCUSED: Summer, thank you.
- 16 MR. MYHRE:
- 17 Q We've seen that you -- or at least from James
18 there was a complaint to this web host?
- 19 A Yes.
- 20 Q There were earlier complaints made to a site -- or
21 to a host called "GoDaddy"?
- 22 A Yes.
- 23 Q We've heard that you interacted with a Detective
24 Tuchfarber with -- sorry, was that Phoenix or
25 Tucson?
- 26 A That was Phoenix.
- 27 Q You also tried to get help from the police in
28 Canada.
- 29 A I did.
- 30 Q So let's talk about that for a minute. Do you
31 remember when you first contacted the RCMP?
- 32 A I believe it was spring of 2015.
- 33 Q And what did you ask them to do for you?
- 34 A I told them that the website was up and that I
35 kept receiving emails in abusive nature from
36 Richard. Also informed them that the emails
37 indicated that he was crossing the border using
38 this identity from Florida, and that the identity
39 from Florida, to my understanding, was not valid,
40 was not true, and asked if they could explain to
41 me how he was able to get a PAL.
- 42 Q Okay. Did you get a response from the RCMP?
- 43 A At the time, yeah, I got something of a response.
- 44 Q Were there any results in terms of the website?
- 45 A No.
- 46 Q I understand that then, in the summer of 2015, you
47 contacted the RCMP again?

**Desiree Capuano (for Crown)
in chief by Mr. Myhre
BAN ON PUBLICATION; INHERENT JURISDICTION**

- 1 A Yes.
- 2 Q And this time you interacted with Constable Dupont
3 [phonetic]?
- 4 A Yes.
- 5 Q And you told him the nature of your complaint.
- 6 A Correct. At that time, the new information about
7 my home address was up on the website.
- 8 Q And what was your understanding of what Constable
9 Dupont did?
- 10 A He requested copies of the emails that had been
11 sent, so I forwarded those over. He seemed taken
12 aback with the website, so it was my understanding
13 that he was doing an investigation and looking
14 into the matter. At some point, I was informed
15 that Richard was arrested, but that he didn't stay
16 in custody as far as I know, was released, and
17 then I was given very scattered information, not
18 properly informed about what was happening.
- 19 Q You eventually found out that Richard hadn't
20 actually been charged with anything as a result of
21 that?
- 22 A Correct.
- 23 Q How did you find that out?
- 24 A I didn't find that out until I spoke with the
25 media quite a bit later. Richard did tell me in
26 emails, but I did not hear from any other source
27 until then.
- 28 Q And when you started contacting the media, roughly
29 when was that?
- 30 A It was spring of 2016.
- 31 Q Now, I understand that -- well, fair to say that
32 the outcome of your complaint to Constable Dupont
33 didn't result in the website coming down.
- 34 A Correct.
- 35 Q You also looked for help from the courts in
36 Arizona?
- 37 A Yes.
- 38 Q In July of 2015, you obtained an order of
39 protection in Sahuarita?
- 40 A Yes.
- 41 Q That order of protection forbid any contact with
42 you, forbid Richard from going near your residence
43 and also forbid him from any harassment.
- 44 A Correct.
- 45 Q Do you know whether it said anything about the
46 website?
- 47 A The website was considered harassment, but it was

Desiree Capuano (for Crown)
in chief by Mr. Myhre
BAN ON PUBLICATION; INHERENT JURISDICTION

- 1 not a direct order to take it down.
- 2 Q What do you mean the website was considered
3 harassment?
- 4 A In the -- in the order of protection case, the
5 website was brought up as evidence of harassment.
- 6 Q So what was your understanding of what was
7 supposed to happen as a result of that order?
8 Sorry, let me rephrase that. Why did you get that
9 order? Why did you seek it?
- 10 A In order to move through legal channels to have a
11 website taken down from a provider, the first step
12 is to get a restraining order or an order of
13 protection. So that was only as a first order.
14 That, in itself, cannot be used to take down the
15 website, but it is the first necessary step. So I
16 went through that process.
- 17 The other reason that I got it is because if
18 Richard were to show up physically, and I had the
19 restraining order in place, then the cops would
20 show up faster with a restraining order than they
21 would if I didn't have it. So it did help me were
22 he to show up in person at any point.
- 23 Q Okay. I understand that Richard later challenged
24 that order in the -- at the next level --
- 25 A Municipal, yeah.
- 26 Q -- of court. At the Municipal Court. Was the
27 order upheld?
- 28 A Yes.
- 29 Q Okay. Did Richard participate in a hearing --
- 30 A Yes.
- 31 Q -- for -- of the appeal of the order?
- 32 A Yes, over the phone.
- 33 Q Okay. Did he --
- 34 A Sorry?
- 35 THE ACCUSED: Can you clarify, are you referring to the
36 order of protection hearing that were made in
37 Municipal Court or the appeal in the Pima County
38 Superior Court?
- 39 MR. MYHRE: So as I understand it -- thank you, we'll
40 clarify.
- 41 Q Ms. Capuano, you obtained an order for
42 protection --
- 43 A From the Municipal Court.
- 44 Q Okay. And then there was an appeal of that?
- 45 A At the municipal level.
- 46 Q Okay. So did Richard participate in the appeal at
47 the municipal level?

**Desiree Capuano (for Crown)
in chief by Mr. Myhre
BAN ON PUBLICATION; INHERENT JURISDICTION**

- 1 A Yes, he did.
- 2 Q Okay. Did he give any indication, one way or
3 another, as to whether he intended to abide by the
4 order?
- 5 A Absolutely. He said he would not.
- 6 Q Did he give a reason?
- 7 A He said he was not within the jurisdiction.
- 8 Q I understand that Richard -- pardon me, back up.
9 The appeal at the Municipal Court level, when did
10 that take place?
- 11 A I believe that was December of 2015.
- 12 Q I appreciate I'm asking you this without --
- 13 A That's okay.
- 14 Q -- having any documentation, but just roughly. I
15 understand that Richard further challenged that
16 order to the Superior Court level?
- 17 A Yes.
- 18 Q And that actually there was a hearing scheduled
19 for June the 7th, 2016.
- 20 A Yes.
- 21 Q That was to be held where?
- 22 A In Tucson, Arizona.
- 23 Q Okay. I'm going to back up a little bit. You
24 went to the media?
- 25 A I did.
- 26 Q In the spring of 2016.
- 27 A Yes.
- 28 Q How did that come about and why?
- 29 A I hadn't heard anything back about the initial
30 case with the RCMP. I couldn't get any footing, I
31 couldn't get anybody to do anything about the
32 website or the harassment, and I was still at a
33 point where anytime anybody Googled my name, the
34 website would come up and I was -- it appeared
35 that I wrote the website. So it was still under
36 the appearance that all of that was things that I
37 had done. Nowhere in any of that information was
38 Richard's name ever mentioned, and I wasn't going
39 to allow him to continue to push that website,
40 making it appear as though I had written it and --
41 so I went to the media, made a call to the CBC to
42 see if anybody would be interested in helping me.
- 43 Q Okay, and you actually gave a televised interview
44 to CBC?
- 45 A I did.
- 46 Q You're aware they wrote an article?
- 47 A Yes.

**Desiree Capuano (for Crown)
in chief by Mr. Myhre
BAN ON PUBLICATION; INHERENT JURISDICTION**

- 1 Q Did that have any effect as far as what you could
2 tell in terms of when your name was Googled?
- 3 A Yes. Yes.
- 4 Q What was the effect?
- 5 A After that, any time my name was Googled and the
6 website came up, there was also information that
7 it was written by Patrick or Richard. He also
8 modified the website after that to include
9 disclaimers that the website was written by him
10 that weren't there before.
- 11 So it did help to identify that I was not the
12 one responsible for that website.
- 13 Q At some point, you set up a GoFundMe page?
- 14 A I did.
- 15 Q Why did you do that?
- 16 A I was asked to. A media source said that she was
17 getting requests from people who wanted to find
18 out how to help me and had requested that I set up
19 a GoFundMe page for that, so I did.
- 20 Q Did you get financial help from that page?
- 21 A Some. There's about \$900 total. In order for
22 those things to work, you have to continuously ask
23 for help, and I wasn't going to do that.
- 24 Q In terms of custody of {GR}, I understand that
25 the last order that was made was made in March of
26 2016?
- 27 A Yes.
- 28 Q And so what's -- what is the -- what was {GR}'s
29 custody status as of that order in March 2016?
- 30 A I was -- still retained sole custody. Up until
31 that hearing, it was still under terms that I
32 provide reasonable visitation and communication.
33 After that hearing, it changed.
- 34 Q Did visitation change after -- with that final
35 order?
- 36 A Yes. The judge determined that that hearing
37 that --
- 38 Q So I just want to be careful --
- 39 A Sorry.
- 40 Q -- how I ask this. Do you have to provide
41 visitation --
- 42 A No.
- 43 Q -- as of that order?
- 44 A Or communication.
- 45 Q I understand that in April or May of 2016, you got
46 some calls from somebody you believe was Richard.
- 47 A Oh, yes, sorry. Yes. April 2nd, I received a

**Desiree Capuano (for Crown)
in chief by Mr. Myhre
BAN ON PUBLICATION; INHERENT JURISDICTION**

1 phone call to my home number. The incoming number
2 was from Tucson, Arizona, and the message that was
3 left was from Richard. It was to {GR} and it
4 only instructed him to call Richard on his mobile
5 phone. Then April 8th, there was another call to
6 my home, this time from a California number, from
7 a corporation, again a message left from Richard
8 instructing {GR} to call him on his mobile
9 phone. April 22nd, there was a third call to my
10 home, again with a message from Richard for
11 {GR} to call him on his mobile. This one was
12 also from California.

13 Q Did those calls cause you any concern?

14 A Yes, absolutely.

15 Q Why?

16 A I didn't know if they were spoof calls. I didn't
17 know if he was actually in the country. I don't
18 know if he was doing it to mess with my head. I
19 don't know if he was doing it to scare me. But it
20 certainly worked.

21 Q Okay. Ms. Capuano, I'm nearing the end of my
22 questions, and obviously we've covered a lot of
23 territory in the last four or five hours that
24 you've been testifying.

25 A Yes.

26 Q Could you summarize for the jury for the period
27 between January 2015 and May 2016, did you have
28 concerns for your physical safety?

29 A Yes, I did.

30 Q Could you summarize what they -- what those
31 concerns were?

32 A The concerns were it was my belief that Richard
33 was crossing into the country on a regular basis,
34 that he had figured out a way to cross into the
35 United States undetected with no issues. He had
36 access to guns and owned firearms under an
37 identity that, in my opinion, could probably be
38 tossed if he needed to. It wasn't his actual
39 birth certificate. It wasn't actually his
40 identity is my understanding.

41 I'd already seen how quickly he could get to
42 Los Angeles in just a matter of days, and he had
43 contacts in Los Angeles that would help him, give
44 him a place to stay, food, shelter,
45 transportation. I live six hours away from those
46 resources, and I know how much he despises me, and
47 all of the times that he told me the world would

**Desiree Capuano (for Crown)
in chief by Mr. Myhre
BAN ON PUBLICATION; INHERENT JURISDICTION**

1 be better without me in it, he wouldn't stop until
2 I'm deceased, the website would be up until I was
3 dead, and he was just -- there were -- there were
4 many comments that scared me.

5 Q Did you have any concerns about a potential
6 physical reprisal from people in the community due
7 to the website?

8 A I don't know how many people saw the website. He
9 took out a Google ad in my neighbourhood so
10 anybody that accessed -- Googled my name, an ad
11 would come up and take them right to the website,
12 and he targeted that for a 20-mile radius around
13 my home address. I don't know how effective it
14 was. I didn't necessarily feel fear that the
15 people in my neighbourhood would hurt me.

16 Q Can you summarize, Ms. Capuano, the impact that
17 the emails that we've looked at and this website
18 had on your life in that time period, January 2015
19 through May 2016?

20 A I felt isolated, I felt beat up, I felt powerless,
21 frustrated and stopped at every turn. It felt
22 like he had worked it out so that nothing he did
23 he could get in trouble for, and so I felt like it
24 was just going to continue, that this was never
25 going to get any better, and that I would never be
26 able to make him stop. I was losing jobs, I was
27 losing friends, I was struggling every day. I was
28 depressed, but I had to try to conceal that so
29 that I could still raise my kids and make them
30 smile and make sure their lunches were made, go to
31 work, and take care of my dogs and live a normal
32 life.

33 There was a strain on the relationship with
34 James and I, not because of him and I, but because
35 now his livelihood was being threatened. His
36 mother was -- information put on the website, so
37 she'd been brought into it. Everybody I know --
38 everybody I knew. I even asked James if it would
39 just be better if I left so he wouldn't have to
40 deal with this, so that they would be safe. He
41 stood by my side.

42 Q Did you contemplate relinquishing custody of
43 {GR} ?

44 A I had thought about it, yes. But I knew that even
45 if I had, he wouldn't stop. It wouldn't fix it,
46 it wouldn't make it stop. I could give him
47 everything he wanted and it wouldn't matter. He

BAN ON PUBLICATION; INHERENT JURISDICTION

1 THE COURT: Ready for the jury?

2 MR. MYHRE: Yes.

3

4

(JURY IN)

5

6 THE SHERIFF: The jury, My Lady.

7

8 **EXAMINATION IN CHIEF BY MR. MYHRE, CONTINUING:**

9

10 Q Okay. Ms. Capuano, at this stage I need to ask
11 you to look around the court and tell the jury
12 members if you see the person here who you've been
13 referring to as Richard Riess or Patrick Fox, and
14 if you see him, please tell the jury what he's
15 wearing.

16 A The gentleman in red.

17 MR. MYHRE: No more questions, My Lady.

18 THE COURT: Are you closing your examination?

19 MR. MYHRE: My Lady, those are all my questions for
20 today.

21

22 [DISCUSSION FROM 3:00:46 TO 3:04:39 P.M.]

23

24 (WITNESS STOOD DOWN)

25

26 (JURY OUT)

27

28 (PROCEEDINGS ADJOURNED TO JUNE 14, 2017 , AT
29 1:00 P.M.)

30

31

32

33 Transcriber: D. Rochfort

34

35

36

37

38

39

40

41

42

43

44

45

46

47

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47

I hereby certify the foregoing to be a true and accurate transcript of the evidence recorded on a sound recording apparatus, transcribed to the best of my skill and ability.



D. Rochfort
Court Transcriber