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14 Attorneys for Plaintiffs

16 UNITED STATES DISTRICT COURT
17 SOUTHERN DISTRICT OF CALIFORNIA

18 DARRYL DUNSMORE, ERNEST
ARCHULETA, ANTHONY EDWARDS,
19 REANNA LEVY, JOSUE LOPEZ,
CHRISTOPHER NELSON,
20 CHRISTOPHER NORWOOD, and
LAURA ZOERNER, on behalf of
21 themselves and all others similarly situated,

22 Plaintiffs,

23 v.

24 SAN DIEGO COUNTY SHERIFF'S
DEPARTMENT, COUNTY OF SAN
DIEGO, CORRECTIONAL
25 HEALTHCARE PARTNERS, INC.,
LIBERTY HEALTHCARE, INC., MID-
26 AMERICA HEALTH, INC., LOGAN
HAAK, M.D., INC., SAN DIEGO
27 COUNTY PROBATION DEPARTMENT,
and DOES 1 to 20, inclusive,

28 Defendants.

Case No. 3:20-cv-00406-AJB-WVG

**DECLARATION OF JOSUE
LOPEZ IN SUPPORT OF
PLAINTIFFS' MOTIONS FOR
PRELIMINARY INJUNCTION
AND PROVISIONAL CLASS
CERTIFICATION**

Judge: Hon. Anthony J. Battaglia

Trial Date: None Set

1 *(counsel continued from preceding page)*

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DECLARATION OF JOSUE LOPEZ

I, Josue Lopez, declare:

1. I have personal knowledge of the matters set forth herein, and if called as a witness, I could and would competently so testify.

2. I was incarcerated in the San Diego County Jail (the “Jail”) from October 8, 2019 until May 12, 2021. During that time, I was awaiting trial. I was released on bail on May 12, 2021.

3. From my experiences, the Jail is a very unsafe and inaccessible place for incarcerated people with disabilities. I am deaf and my primary method of communication is American Sign Language (“ASL”). I can rely on written notes in the absence of a sign language interpreter. I am not fluent in lip-reading in English, but I am able to understand some information. The Jail consistently refused to accommodate my hearing disability while I was incarcerated.

4. I was booked into Vista Detention Facility (“Vista”) on or around October 8, 2019. Shortly after my arrival, I attended an initial mental health appointment during which custodial staff kept me handcuffed to a bar in the room which made it impossible for me to use my hands to sign effectively with the in-person interpreter about my mental health.

5. At Vista, I could not keep in regular contact with my wife or attorney because the facility did not have any interpreting services or Video Relay services, and its Telecommunication Device for the Deaf (“TTY”) machine was not in working order. The Jail had a sign that said deaf people can access the TTY to communicate, but when I asked correctional staff about it, no one knew how to operate it. I tried to use it a few days after arriving at the Jail, but it did not work. Several times I complained to staff about its non-working condition as well as the lack of access to communication devices, but they ignored my repeated requests for help fixing the machine. Because of the lack of communication options, I

1 sometimes asked fellow incarcerated people to make phone calls for me in order to
2 relay important messages.

3 6. I transferred to George Bailey Detention Center (“George Bailey”) on
4 or around December 12, 2019. During the first few months of my time at the
5 facility, the most effective point of contact I had with my wife was through short, in-
6 person visits. But because the facilities were overcrowded, it was difficult to
7 schedule visits. There was a TTY at George Bailey, but staff did not know how to
8 operate it. When I tried to ask staff to use the TTY, they often refused to allow me
9 to use it. Staff never once offered me access to the TTY. There was also a thirty-
10 minute video conferencing method called Securus. During my time in the Jail, these
11 video conferencing calls were expensive for me and my family. It was around \$100
12 a month to participate in frequent calls with my loved ones. These calls also had
13 poor network connectivity, so it was hard to use this method. When the COVID-19
14 pandemic began in March 2020, George Bailey suspended all in-person social
15 visiting. They suspended in-person social visits from March 2020 until July 2020,
16 and then again in November 2020 until May 2021. In December 2020, they
17 suspended all video visits as well.

18 7. When the Jail suspended social visits, I had to rely on just the TTY to
19 communicate with my family. The TTY is a special device, similar to a typewriter,
20 that allows speech-to-text communication. The TTY was not effective for
21 communication; there was usually a poor signal which stopped all communication,
22 and even when the signal worked, words often became garbled when two people
23 spoke at the same time, messing up the translation. My conversations over the TTY
24 took much longer than normal voice phone calls.

25 8. Many deputies at George Bailey became visibly frustrated with me
26 when I asked to use the TTY. Deputies frequently denied me access to the TTY
27 when I requested it. They said they were “too busy” or “short-staffed” to take me to
28 use it. They also delayed my request by stating they would help me “later” or they

1 “needed to ask the team” if I was allowed to use the TTY. When I finally did get to
2 use the TTY, and it was slow to operate because of poor network connection, the
3 deputies rushed me to end my call and did not allow me to finish my conversations
4 with my loved ones or attorneys. To take one example, on March 16, 2021, I
5 requested to use the TTY several times. I waited hours, and was not allowed to use
6 the TTY to call my wife until 11:45 pm. I was unable to reach my wife because she
7 was most likely asleep by the time I called her. I asked to use the TTY the next day
8 and explained that I could not reach my wife due to the late hour that I called the
9 night before. Staff originally accepted my request, but later came back and told me
10 the TTY had been moved to a different area of the Jail, without my knowledge.
11 Deputies did not escort me to the TTY’s new location and I was unable to call my
12 wife for a second time.

13 9. I tried to raise the issues of TTY access with staff on several occasions.
14 For example, on October 3, 2020, I spoke with Sergeant Cortes-Garcia about the
15 issue and he said he would help resolve it. For a few days after my conversation
16 with the Sergeant, it was easier to access the TTY when I requested it from staff.
17 However, after those few days, custodial staff went back to refusing or delaying my
18 access. Deputies continued to be dismissive or outright rude to me when I asked to
19 use the TTY, denying me contact with my family, friends, and legal counsel. I
20 estimate that staff refused me access to the TTY at least 100 times, maybe more.
21 Wait times varied each day, but I estimate the average amount of time I waited to
22 use the TTY was two to three hours. It was hard to predict how long I would have
23 to wait. The longest time I had to wait to use the TTY was three days. That
24 happened at least four or five times. People who did not have hearing disabilities
25 never had to wait as long as I did when they requested to use the phone. Sometimes
26 my hearing friends told me that they would overhear the deputies talking badly of
27 me when they discussed the phone schedule. My neighbors would say that the
28 deputies complained about how much I asked to use the TTY.

1 10. There were also long delays to set up confidential videoconferencing
2 calls with my defense attorney. For a significant period of time, George Bailey only
3 had two laptops to use for court and attorney-client meetings, making it very
4 difficult to schedule a call with my attorney.

5 11. Throughout my time at Vista and George Bailey, I had problems
6 securing a video call with my attorney that was confidential. Sometimes, deputies
7 stood in the same room while I communicated with my attorney and a sign language
8 interpreter over video. This was especially bad during court appointments. When I
9 needed to have short but important confidential appointments with my attorney
10 before a court hearing, deputies remained in the same room. When my attorney
11 asked if deputies could leave the room, they said they could not. They also failed to
12 accommodate my disability during many of these calls. Some deputies kept me
13 handcuffed, which prevented me from signing and communicating effectively to the
14 interpreter.

15 12. The Jail has also failed to accommodate my disability in other ways.
16 The Jail did not provide a sign language interpreter during interactions with nursing
17 and medical staff, despite my requests. When I left the Jail to attend medical
18 appointments at an outside hospital, I received an interpreter. But the Jail never
19 provided me with an interpreter for routine medical contacts inside the facility.
20 Instead, I had to rely on written notes to understand the complex medical issues and
21 advice that the provider was trying to discuss with me. For the majority of these
22 appointments, I did not understand what medical staff tried to communicate to me.
23 Sometimes, the doctors did not write any information down for me. I could not read
24 their lips because the majority of interactions occurred while staff wore masks. If a
25 new nurse was assigned to me, they often failed to communicate effectively with me
26 because they did not know, and apparently had no way of knowing, that I am deaf.

27 13. Many of the deputies also did not know that I am deaf and rely on
28 written notes and lip-reading in the absence of a sign language interpreter. As a

1 result, many of the deputies tried to communicate with me while wearing their
2 masks. Whenever staff did communicate with me via written notes, the notes would
3 be short and cryptic. Staff always seemed rushed and acted like they did not want to
4 take the time to explain things to me.

5 14. Custody staff usually involved other incarcerated people when there
6 was reason to communicate with me. Custody staff would have other incarcerated
7 people write down staff's questions and responses for me to read. Custody staff
8 often told another incarcerated person what to communicate to me and then the staff
9 member would leave before I had an opportunity to respond. This process was
10 ineffective because I often had follow-up questions I wanted to ask the deputy. This
11 practice also placed me at a substantial risk of harm because other incarcerated
12 people learned confidential information about me whenever I needed to
13 communicate with Jail staff. I also could not trust that these people would write
14 down accurate information. I was especially vulnerable to other people incarcerated
15 in the Jail because of the nature of my charges, and was constantly fearful that
16 having them participate in my communications with deputies put me at an extreme
17 risk of being harmed. I had no ability to control whether the other incarcerated
18 people who learned my confidential information from Jail staff would pass that
19 information on to other incarcerated persons at the Jail.

20 15. I have also experienced issues with the medical care treatment at the
21 Jail, which put my life at a substantial risk of harm. Before I was arrested, I
22 received a kidney transplant in November 2001. I take the following medications
23 every day to ensure that my body does not reject the transplant: cyclosporine,
24 mycophenolate and prednisone. When I first arrived at Vista in October 2019, the
25 Jail failed to give me my medication for around four to five days. I also had issues
26 with receiving my medication on a daily basis. I was supposed to take my
27 medication in the mornings, but due to staffing shortages, I would sometimes
28 receive my meds in the afternoon or evening. The Jail occasionally dealt with

1 inventory shortages; they did not have my medications in stock and there would be a
2 delay in ordering them. This meant I sometimes went three days without taking my
3 medications. Throughout the month of April 2020, I was in and out of the hospital
4 because I had lost around fifteen to twenty pounds and I had a low sodium count.
5 My body was shutting down and I was very sick. I was physically weak and thirsty
6 all the time. I believe the decline in my health, including my weight loss, was due in
7 part to the Jail's failure to provide me with my life-sustaining medications in a
8 timely manner.

9 16. Medical staff at the Jail also ordered me to drink two liters of water per
10 day. When I went to the outside hospital in April 2020, a kidney specialist at the
11 hospital told me that I needed to be drinking even more water. When I returned to
12 the Jail and told medical that I needed to drink more water, they denied me access to
13 more water. I do not know why they limited me to two liters and ignored the
14 specialist's advice. I began to drink more water secretly, so that I could stay
15 hydrated.

16 17. On June 9, 2020 and April 26, 2021, my defense attorney argued in
17 court about the Jail's failure to provide adequate medical care treatment for my
18 kidney transplant. The court transcripts are attached hereto as **Exhibits A and B**.
19 The judge ordered that the Sheriff's Department address my medication issues by
20 ensuring they have a stockpile of medications on-site so that I receive them in a
21 timely manner.

22 18. There were other conditions that placed my safety and survival at risk
23 in the Jail. For example, on February 13, 2021, myself and others in my housing
24 unit asked for grievance forms. A deputy threatened us that something bad would
25 happen if we filed grievances, saying, "whoever you want to write up, don't."

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27 ///

28 ///

19. I want to help improve conditions for people with disabilities and severe medical conditions who are incarcerated within the San Diego County Jail system.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct, and that this declaration is executed at San Diego, California on 10/19/2021.

DocuSigned by:
Josue Lopez
22CA5D079A45402...

Josue Lopez

EXHIBIT A

1 VISTA, CALIFORNIA; TUESDAY, JUNE 9, 2020; 11:02 A.M.

2 (THE FOLLOWING HEARING WAS REPORTED VIA VIDEO CONFERENCE PER
3 EMERGENCY RULE OF COURT 3(A).)

4 - 000 -

5 THE COURT: Okay. This is CN405969. The *People*
6 *vs. Josue Lopez*. Mr. Lopez is appearing by way of video
7 remote as are both counsel to a semi-closed courtroom
8 pursuant to California Emergency Rule of Court 3 and 5.
9 There's no member of the public present. The public can
10 listen in on YouTube. Mr. Lopez is being assisted by a
11 certified American Sign Language interpreter.

12 THE INTERPRETER: Certified American Sign Language
13 interpreter, Nancie Alcock. Qualified by 16 years in the
14 court, oath on file.

15 THE CLERK: The interpreter's identification has
16 been verified by the Court.

17 THE COURT: She has an oath on file and certified.
18 Mr. Weston, would you like to state your appearance, please.

19 MR. WESTON: Yes. Herbert Weston appearing on
20 behalf of Mr. Lopez. I'm appearing by video from my office.

21 THE COURT: And Ms. Reischl on behalf of the
22 People.

23 MS. REISCHL: Yes, Your Honor. Jennifer Reischl
24 appearing on behalf of the People.

25 THE COURT: And Mr. Lopez, are you able to see the
26 American Sign Language interpreter and understand what we're
27 doing?

28 THE DEFENDANT: Yes, I can, Your Honor.

1 THE COURT: Thank you. I believe we're here for
2 purposes of a prelim; is that correct?

3 MR. WESTON: Well, I'm here to make a record about
4 my client being denied his constitutional right to have
5 effective representation and to address the issue of the
6 prelim. I think they're both sort of together.

7 THE COURT: Okay. Why don't you fill me in,
8 Mr. Weston.

9 MR. WESTON: Okay. Your Honor, my client has been
10 in custody since the beginning of this case and I
11 understand -- just so that the record is clear, I understand
12 that he is not entitled to zero bail because of the charges.
13 However, back in February I went in to see my client prior
14 to the coronavirus. We had a prelim date set. I was having
15 good contact with my client. I went in in March. I believe
16 it was March the 20th. At that point in time the jails had
17 shut down. They weren't allowing any visits in. The
18 problem for my client is that meant that he could not
19 communicate at all with his -- with his attorney. We were
20 back in court on April the 23rd in front of Your Honor to
21 discuss the problems that I was having regarding, first of
22 all, his health, and I'm going to get into that in a moment,
23 but also my concern is that I cannot and I'm being prevented
24 from effectively representing my client.

25 I mean, I understand that it's a difficult
26 situation and I understand about the coronavirus. With all
27 my other clients we've been able to sort of jerry-rig a --
28 the ability to communicate either by phone or by video. The

1 jail has now set up video conferencing in some jails, but
2 they limit the people who are able to appear in those
3 videos. So on April the 23rd I expressed my concern to this
4 Court regarding, first of all, my inability to effectively
5 represent him and secondly, his health conditions. The
6 Court then said well -- that at this point in time the --
7 there -- he continue to be in custody, but if there were
8 continued issues to bring it back to the Court to address
9 those issues. I've been contacting -- or trying to get
10 Mr. Lopez on the triage calendar for that specific purpose
11 to address those issues.

12 Since April the 23rd I have had no contact with my
13 client. Today is the first time that I've been able to see
14 my client. I've attempted probably every day to get a video
15 conference with him. One of the problems is for awhile he
16 was in a facility that didn't have video conferencing. Then
17 he got into a facility that has video conferencing, but they
18 won't video conference people from his particular cell.
19 They just -- for security or for medical reasons or for
20 whatever reasons, they don't really explain to me. I can't
21 set up a video conference. Obviously my client is disabled
22 in that he cannot hear. He shouldn't be denied his
23 constitutional rights to effective counsel just because he
24 has a disability. And the fact of the matter is how can we
25 go months? It's now June the 9th. I haven't talked to him
26 since February the 12th in person, though I did on April the
27 23rd.

28 We had the same type of a conference; we just had

1 for a period of time so I can at least explain to him what's
2 going on. I do find it amazing that my client is able to
3 talk to his -- his -- his family sometimes but not to me,
4 and I don't understand why that is. You know, I've been
5 told a few times that it's because the jail phones for
6 attorneys is not there. I haven't the slightest idea what
7 they're doing with that, but I think that this Court is
8 mandated to do something to prevent this continuing on and
9 on and we have a prelim date set, and I'm not able to do a
10 prelim because I can't effectively represent him because we
11 haven't been able to talk about his case, just mere
12 communications.

13 I -- he also has a medical condition. That's one
14 of the other issues that we addressed the last time. He has
15 a -- a -- he has a kidney transplant, meaning that he has a
16 transplanted kidney. He is at high risk. The Court was
17 concerned about the medical conditions and we addressed
18 those the last time. He has been getting treatment, but
19 again, he tells me that he has this medicine that he has to
20 take every day. Unfortunately, sometimes the medicine
21 doesn't get to the jail. So he wasn't been able to take his
22 medicine yesterday for the pills that keep him alive.

23 THE COURT: Who has the responsibility of getting
24 the medication to the jail?

25 MR. WESTON: The jail does. They won't take --
26 they will not take any -- any private things. We've asked
27 that the jail -- that he could bring his stuff -- that they
28 won't accept anything but their medicine. He's been

1 hospitalized since April the 23rd twice in that he has a low
2 sodium count and he's lost -- my understanding is he's lost
3 somewhere between 15 and 20 pounds because his body is
4 shutting down and he's not functioning. And so I'm asking
5 the Court for a lot -- for all of those different particular
6 reasons to make sure that -- that he's, you know, medically
7 protected, and I know that -- that the jail tries to do the
8 best they can, but with a high risk individual, they're just
9 overwhelmed trying to make sure the coronavirus doesn't get
10 there and they're overwhelmed because my client has extreme
11 medical needs and even though this case is very, very, very
12 serious, it doesn't mean he should die because he's in
13 custody.

14 I -- the Court does have to make sure that -- that
15 the public is safe. I'm asking the Court to consider to
16 releasing him on zero bail and putting him under house
17 arrest because of these conditions. At least I could then
18 go visit him with a signed interpreter. I mean, I have --
19 the problem is even if I were to decide, and my daughter
20 would probably object to me saying this, even if I decide to
21 go visit him, which they don't allow right now, they don't
22 allow us to go in because they're worried we would bring in
23 the disease into the jail, but even if we somehow got that,
24 I would have to have a signed interpreter put their health
25 at risk when they're not supposed to be having that type of
26 a contact.

27 So I -- you know, I understand that back in April
28 we said, you know, let's try to do the best we can, but the

1 best we can is basically -- it's denying him his right to
2 have an effective attorney because as many times as I tried
3 and attempted to have that communication, it hasn't happened
4 and I don't think that that should happen in this day in age
5 when we could put him under house arrest and make sure he
6 isn't able to leave his house. From my experience with the
7 electronic bracelet, whatever way we set it up, they're
8 pretty accurate. They get almost immediate notice if you
9 were to leave that particular area and it's a GPS thing and
10 they would follow him.

11 And so I'm asking the Court to allow him to be
12 released so at some point in time he be able to communicate
13 and have effective communication. Even if he's out of
14 custody we can do Zoom meetings like we're doing right now,
15 which the jail doesn't allow. They're just incapable of
16 doing that and I can't blame the jail for that because I
17 don't know -- we were able to come up with this or have this
18 idea of what we needed to do.

19 THE COURT: Okay. Ms. Reischl?

20 MS. REISCHL: Yes, Your Honor. I'm opposed to any
21 reduction in bail. I understand Mr. Weston's concerns, but
22 this is a very serious case with life talk allegations, and
23 I know Your Honor heard the bail arguments on April 23rd and
24 left bail at a million dollars. And I believe this Court is
25 already familiar with the facts of this case, but the
26 defendant is a public safety -- a major public safety
27 concern. In this case he had intercourse multiple times
28 with a victim who was five years old. There was oral

1 copulation. He apologized on video when confronted about
2 the charges. There's also a potential additional 1108
3 victim, and when his phone was searched there was child porn
4 found on his phone. So this is a very serious case. I do
5 not think a reduction in bail is the solution here. I don't
6 know what relief the Court can offer, but I think the
7 solution needs to be finding a way he can communication with
8 his attorney while remaining in custody. If the Court wants
9 any additional facts about the fact --

10 THE COURT: I want to know what you can do to
11 facilitate to -- yeah, you work with the Chief law
12 enforcement in the County of San Diego. Your -- your Chief
13 Officer can probably direct or have directly with the
14 sheriff -- the sheriff an ability to make this work. So
15 what can you do to make it work because otherwise you've got
16 an appeal right at the outset before you've even gotten a
17 prelim?

18 MS. REISCHL: Does the Court have suggestions? So
19 I don't know what the Court would suggest, but --

20 THE COURT: I'm asking you what you can do. I'm
21 not suggesting anything yet.

22 MS. REISCHL: I don't know what we can do to make
23 the sheriff's department do anything.

24 THE COURT: How about ask --

25 MS. REISCHL: Yeah, we can ask --

26 THE COURT: Has anybody asked -- has anybody
27 asked --

28 MS. REISCHL: In past issues I've seen defense file

1 writs to the sheriff. He's adept and that's what I've seen
2 when there is a complaint about the conditions or the
3 treatment and they've done the writ procedure.

4 THE COURT: So I was -- I'm just making sure --

5 MS. REISCHL: Yes, it's certainly something we can
6 look into.

7 THE COURT: So now let me talk because you talked
8 over me three times. I'm just making sure you're indicating
9 you will do nothing affirmative until the defendant seeks a
10 writ; is that correct?

11 MS. REISCHL: No, Your Honor. I'm happy to --

12 THE COURT: So --

13 MS. REISCHL: -- make inquires.

14 THE COURT: So who's asked -- who from the DA's
15 office has asked the sheriff to do something?

16 MS. REISCHL: I don't believe they have,
17 Your Honor.

18 THE COURT: What do we have on the 11th -- here's
19 what I'm going to do: I'm setting the matter for the 11th
20 at 1:30. I don't know if it will go at 1:30. An OSC
21 regarding contempt for failure to pre-provide his
22 medication, failure to receive medication when they've run
23 out -- I want someone from the sheriff's department on the
24 line so we can address Mr. Weston's ability to communicate.
25 I'll also reserve the rest of that afternoon for Mr. Weston
26 to continue with his communications with the client to avoid
27 a continuance of the prelim. The People are to grease the
28 skids. If it has to go all the way up to the DA, fine. Do

1 something. If I'm in a position come the 11th that nothing
2 has been done, I will take the only action I feel I can take
3 to preserve the constitutional integrity of this case.
4 Anybody have any doubts as to what we're talking about?

5 MR. WESTON: No, Your Honor.

6 MS. REISCHL: No.

7 THE COURT: Okay. All you guys have got work to do
8 the 11th at 1:30.

9 MR. WESTON: Thank you, Your Honor.

10 THE COURT: Ms. Reischl, you'll notify the sheriff
11 he's adept of the OSC?

12 MS. REISCHL: Yes.

13 THE COURT: Thank you.

14 MR. WESTON: Thank you, Your Honor.

15 (The proceedings adjourned at 11:16 a.m.)
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1 STATE OF CALIFORNIA)
2 : SS.
3 COUNTY OF SAN DIEGO)
4
5

6 I, DULCEMARIA DUARTE, Official Reporter for the
7 Superior Court of the State of California, in and for the
8 County of San Diego, do hereby certify:

9 That as such reporter, I reported in machine
10 shorthand the proceedings held in the foregoing case;

11 That my notes were transcribed into computer format
12 under my direction, and the proceedings held on June 9,
13 2020, contained within Pages 1 through 11 are a true and
14 correct transcription.

15 Dated this 16th day of April, 2021.
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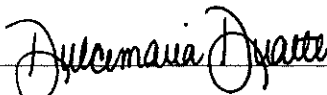

Dulcemaria Duarte, CSR 13968
OFFICIAL COURT REPORTER

EXHIBIT B

Superior Court of the State of California
For the County of San Diego
Department 25 Hon. Harry M. Elias, Judge

The People,)	Certified Transcript
)	Case No. CN405969
Plaintiff,)	
)	
v.)	
)	
JOSUE LOPEZ,)	
)	
Defendant.)	OSC Hearing

Reporter's Transcript

June 11, 2020

Pages 1 through 26

Appearances:

For Plaintiff: Summer Stephan
District Attorney
By: Justine L. Santiago
Deputy District Attorney
325 South Melrose Drive, Suite 5000
Vista, California 92081-6691

For Defendant: Weston Criminal Lawyers
By: Herbert Weston
378 Vista Village Drive
Vista, California 92083

Stephanie Whitehead, RDR, CRR, CSR# 10093
Official Court Reporter

1 Vista, California; Thursday, June 11, 2020; 3:42 p.m.

2 -oOo-

3
4 THE COURT: All right. So this is CN405969. The
5 People v. Josue Lopez.

6 Mr. Lopez is appearing by way of video remote to a
7 semi-closed courtroom pursuant to California Emergency Rule
8 of Court 3 and 5. It's semi-closed in that the public are
9 not physically present; they are able to listen in by way of
10 YouTube.

11 Mr. Lopez is being assisted by a certified American
12 sign language interpreter who is?

13 THE INTERPRETER: Certified American Sign Language
14 Interpreter Nancy Alcock. Oath on file.

15 THE CLERK: The interpreter's identification has
16 been verified by the Court.

17 THE COURT: We're here at a hearing set by the
18 Court because we were in court two days ago. One, I want to
19 thank Mr. Toyen for responding so quickly and being
20 available.

21 Present currently on the stream are Sanford Toyen,
22 the legal adviser to the Sheriff, Herb Weston, counsel for
23 Mr. Lopez, and Justine Santiago, counsel for the People. I
24 know there are other people available. We'll get to that in
25 a minute.

26 Mr. Toyen, let me give you a brief run-up to where
27 we're at and why I asked you to be present today. I'm going
28 to give you a brief overview, and then I am going to let

1 Mr. Weston give you more detail. There are two issues of
2 some concern as it relates to me, which is why I asked for
3 this hearing.

4 The more important one to me is the fact that
5 Mr. Weston advised me Mr. Lopez has certain medical issues,
6 in particular he's a kidney transplant recipient. And,
7 therefore, as I understand most transplant patients require
8 significant medications, antirejection medications, other
9 medications so their transplant remains successful. That's
10 my primary concern.

11 The second, though, was Mr. Weston has indicated to
12 me an inability to be able to communicate with his client in
13 terms of preparation for the preliminary hearing. I mean,
14 we hear that on a number of occasions, but I think it's sort
15 of borne out here in the sense that it's clear Mr. Lopez
16 needs an American Sign Language interpreter. So, one, we
17 have to accommodate the interpreter's schedule to make that
18 work, and obviously the schedule of the facility, and the
19 ability so that Mr. Lopez can see the interpreter while
20 Mr. Weston is trying to communicate with her.

21 We've been able to accommodate that twice here in
22 court in that we've set up in a separate room a laptop so
23 that Mr. Weston can Microsoft Teams into the laptop, as can
24 the jail facility, and then Ms. Alcock has been here on both
25 occasions so she can serve as the link between Mr. Weston
26 and his client for those communications.

27 continue or to do that other than when we're in
28 the courtroom setting to make that work. And in light of

1 the fact that this is a multi-count life-top case, that's
2 sort of the third branch, if you will, in terms of the weigh
3 down on this issue.

4 So, Mr. Weston, I would ask for you, if you could,
5 to advise Mr. Toyen in more detail as it relates to, first,
6 the medication issue and then, second, the ability to
7 communicate with your client issue.

8 MR. WESTON: Yes, your Honor. During the pendency
9 of this particular case, since I got on, there's always been
10 a concern regarding the medical condition of my client. And
11 I know that the Sheriff tries as best as they can -- I'm not
12 trying to think that they don't try at all on behalf of
13 Mr. Lopez. However, I do get called quite a few times
14 regarding the fact that there's some medicine that he has
15 been on that he would miss on kind of a regular basis. It
16 seems like it's a special medicine.

17 They have problems with either getting it or having
18 it in enough of a supply that he can't get his daily dose.
19 Like the other day, when he went to court he told me that he
20 had missed, I believe, a day or two where they had missed it
21 out. Today they were -- they're supposed to give it in the
22 morning, and they gave it to him in the afternoon, right
23 about 1:30 today.

24 There's a concern about that. It has been better,
25 his medical care, since they transferred him from a regular
26 jail cell to the medical facility. It's better care there
27 because -- and not because the other -- (technical
28 difficulties with live stream) -- are not watching, but this

1 is an individual who needs extra care because of his medical
2 condition and that it would be severe health issues.

3 He has been going to the hospital. He has a
4 lower -- and I thought it was salt, but I might not have
5 gotten to remember the exact one, but a lower reading which
6 causes a big concern. Also the fact that he's been losing
7 weight because of the medical conditions that he has, that
8 that in fact has prevented him -- and when he was going to
9 the hospital they were trying to control that medical
10 condition, and, therefore, he was going back and forth to
11 the hospital.

12 My understanding that he's been back and forth to
13 the hospital a few times since our last court date on April
14 the 23rd where we went through and I addressed or was
15 concerned about the fact that there's this medical condition
16 that he has that doesn't seem to be being taken care of.

17 So I have a concern regarding his medical
18 condition. I do get a call from his relatives. That's how
19 I hear it because, of course, he can't communicate with me.
20 He does communicate with his relatives. The other problem
21 is just that, the lack of communication.

22 When he was -- when the coronavirus wasn't present
23 I could take my American Sign interpreter and go down and
24 visit him, which we did. But since that time we've been --
25 and again, I don't want to say this as if they're picking on
26 me in particular, but they basically have shut down the jail
27 from having visits that we are able to go. And --

28 MR. TOYEN: Mr. Weston?

1 MR. WESTON: Yes.

2 MR. TOYEN: I'm sorry. I don't want to interrupt
3 you, but I think we might be able to shortcut some of this.
4 I don't mean to dispute your experience, but I can tell you
5 that, you know, I've got the acting lieutenant of the Bailey
6 facility here as well as THE sergeant who's in charge of
7 supplementary services. And if you can come down to the
8 Bailey with your interpreter, you're not going to be --
9 you're not -- you'll be able to have your contact visit.

10 MR. WESTON: Well, I mean --

11 MR. TOYEN: I can tell you that right now.

12 MR. WESTON: Well, I mean, the difficulty of that
13 is I have to make a decision that my -- that I'm putting
14 my -- I know the room that we go to. That room is not --
15 does not socially distance the three individuals who are
16 going to be in that room. I've been in that room numerous
17 times. I mean, they're physically not being able to do
18 that. Also the fact that during this time period we're not
19 supposed to be doing that type of contact. Whether I do it
20 is something that I decide, but I can't decide for my
21 interpreter. The fact of the matter is --

22 MR. TOYEN: So are you -- is your claim that the
23 room isn't big enough? Because I thought it had to do with
24 you not -- a claim that you didn't have -- that you weren't
25 being allowed down at the facility to have a contact visit
26 with a sign language interpreter.

27 MR. WESTON: Well, when we went to the jail to try
28 to accomplish that, we were told that there are no contact

1 visits. There's no visits -- visiting. Now, I mean, all's
2 I can do is -- they tell me that the jail was shut down for
3 visits of that type. There is a way that we can do
4 through -- at least now or started to do -- (technical
5 difficulties with live stream) -- there was -- the Securus
6 has allowed us to do video visits with certain people at
7 George Bailey. They do it at George Bailey and they do it
8 at Vista. They don't do it at South Bay and downtown.

9 When my client got to George Bailey, I tried to
10 avail myself of the video visits that way, and I kept
11 getting denied of the video visits; that he wasn't available
12 for -- to visit. The procedure is I go in at midnight,
13 because there's a two-day span which I can ask for a visit.
14 On midnight, about three times a week, I go onto the Securus
15 website and I try to book a visit with my client within
16 those two days because that's the only two days that they
17 will allow me to have.

18 And every time -- I did -- was able to get two
19 times or, I believe, one time on this particular client that
20 I was able to get a visit, but then it wasn't -- he wasn't
21 brought there to be visited. It isn't that we're not
22 trying.

23 MR. TOYEN: This was at midnight?

24 MR. WESTON: No, no, no. This is where I have to
25 go on Securus. You have to go on the form and demand a
26 time. So you go on the form, they give you two days to
27 request a visit. So if I'm on midnight, I've got that day
28 and the next day. And those are the only two days that I

1 can make a visit for. If there's no visiting available then
2 they tell me, "no visits available." There's never a visit
3 within the first day. Sometimes, for some people, there's a
4 visit on the next day.

5 On Mr. Lopez's matter, there was never a visit.
6 I've been on that website numerous times trying to get to
7 see him because I know I have to organize a visit. And I'm
8 able to then, after I make an appointment, try to have an
9 interpreter ready to go so that I can then see him at least
10 through the phone, even though the phone screen, at least
11 from my experience, is not that -- at least it appears for
12 me, not that big. But we might have some problems. But
13 that's the problem is that every time I've attempted to try
14 to see my client, I've been told that we can't do that.

15 MR. TOYEN: You're talking -- well, I just want to
16 make clear because there's a lot of things you're
17 throwing -- you're kind off putting up here.

18 Is the issue with in-person visit or the video
19 visits?

20 MR. WESTON: I was told you can't do an in-person
21 visit. Period.

22 MR. TOYEN: You can. You can. We may not allow
23 that for -- we may not allow that for everybody, but, you
24 know, you clearly -- your client clearly has a situation
25 that's different, and we need to accommodate that and we
26 will. You can come down for an in-person visit if that's
27 what you want.

28 THE COURT: And Mr. Toyen, do you believe that were

1 that to occur you have a locale or a location where the
2 visit can occur where both his client, Mr. Weston, and the
3 interpreter could be sufficiently distant in terms of
4 meeting the Department of Public Health's requirements?

5 MR. TOYEN: Yes. So let me about put that -- I've
6 got the administrative lieutenant there -- here. She can
7 confirm that.

8 MS. FARRIS: Hi, this is Lieutenant Jill Farris,
9 and we are happy to accommodate any visit any time you need.
10 So we switched our professional visits to the social visit
11 room so that there would be the glass. And if using an
12 interpreter, Mr. Lopez would be on one side of the glass,
13 you could be on the other side of the glass, and the
14 interpreter could be on that side of the glass, and that way
15 you'd be spread out if you need to be. And the
16 interpretations can happen through the glass.

17 We can also do in-person contact visits like you
18 did back in February when you were down here. So we can do
19 it that way. If you're not comfortable doing an in-person,
20 then we could do it through the glass in the social visit
21 room as well. I'm happy to accommodate whatever makes
22 everyone feel comfortable. We really don't have a lot of
23 visits happening, so the space is really not an issue down
24 here.

25 THE COURT: So Mr. Weston, let me ask you: Between
26 the option of trying to do it on Securus with a video setup
27 or doing an in-person in a larger room that would allow all
28 three parties to be present socially distanced, consistent

1 with the requirements of the Department of Public Health,
2 which would you prefer to do?

3 MR. WESTON: Well, first I'd have to figure out
4 what my interpreter would want. I mean, it's not just me.
5 If it was just me, I'd probably go down to the room and do
6 it, but it's not just me. So I'd have to make a
7 determination of what he -- he feels comfortable in doing
8 when I take him with me because there's three of us, me, him
9 and my --

10 THE COURT: So you haven't inquired of that person
11 yet?

12 MR. WESTON: Well, I did inquire. When I asked him
13 if he would feel comfortable going down to a jail, and he
14 said no, I mean, I did inquire that way. There isn't
15 that -- but I would tell the Court that was a couple weeks
16 ago. I mean, there seems to be a more opening of our
17 society. So I don't know what his -- what his experience
18 has been. And I do notice that -- and I will tell the Court
19 since we last talked on, I believe, three days ago, they
20 have opened up Microsoft Teams to be able to do some visits
21 at the -- at the George Bailey facility similar to what we
22 have here.

23 We are having some difficulty though in the George
24 Bailey facility because it's not a confidential
25 communication, being that the -- my understanding is that
26 George Bailey's Microsoft system isn't tied down to a table.
27 So, like, I've done visits now at South Bay. They put
28 the -- they turn the computer on. It's either tied down and

1 then all of the Sheriffs go out of the room, and so I feel
2 comfortable that my client has a confidential communication
3 with me.

4 We tried that at George Bailey, and it appears --
5 and I don't know if it's just one room -- that in that
6 particular facility, the Microsoft Teams or the computer
7 that they have to leave a Sheriff within the room after --
8 even after they turn it off as opposed to whereas you can --
9 they can leave the room in other facilities.

10 I'm okay with Microsoft Teams because that's safe.
11 I just want to make sure it's a confidential communication
12 between me and my client and being able to have a room where
13 he's not there with a Sheriff. Because I think if a
14 Sheriff's in the room, that that violates -- it's no longer
15 confidential.

16 THE COURT: So Mr. Toyen, what can you tell me
17 about what, if anything, you know about the accessibility of
18 a Microsoft Teams interview or client contact similar to the
19 process we have here; one, if that can be done, and two, the
20 ability to keep it confidential so that the deputy need not
21 be in the room at the time they're communicating?

22 MR. TOYEN: I'd have to -- I'd defer to Justine on
23 that because she's, you know, at the facility. I don't know
24 is that -- it sounds to me like that's primarily for social
25 visits.

26 Justine, am I -- am I close?

27 MS. SANTIAGO: And I think -- are you trying to get
28 information from Jill or myself?

1 MR. TOYEN: Oh, sorry.

2 THE COURT: You mean, Lieutenant Farris?

3 MR. TOYEN: Yes, Lieutenant Farris.

4 MS. SANTIAGO: Thank you.

5 MS. FARRIS: Yes. So it's my understanding there
6 are computers throughout the facility that we're doing
7 attorney-client meetings. If the deputies are leaving the
8 door propped open or they're standing in there because
9 there's computer equipment and they don't want to leave the
10 inmate with the computer equipment unmonitored, then that is
11 an issue I can address on my end. Obviously, our inmate can
12 be patted down, searched, before he goes in the room, after
13 he leaves the room so if there's an issue of computer
14 tampering we can address that.

15 THE COURT: Right.

16 MS. FARRIS: So if that's what you're seeing here
17 at Bailey, is that the deputy is staying in the room, it may
18 be to monitor the computer equipment, and I can fix that.
19 That's no problem. I can ask the deputies to secure the
20 door so there is no deputy monitoring your -- your meeting
21 with your client.

22 THE COURT: So what I'm hearing -- and any one of
23 you feel free to correct me if I'm wrong. What I'm hearing
24 is the Sheriff can accommodate a Microsoft Teams client --
25 attorney-client interview, maintain confidentiality, and
26 with the use of Microsoft Teams, have it also accessible to
27 a sign language interpreter so that Mr. Weston can
28 communicate with his client.

1 MS. FARRIS: Mr. Weston would have to provide
2 the -- I don't have a sign language interpreter at George
3 Bailey.

4 THE COURT: No, no, no. That's him.

5 MS. FARRIS: Okay.

6 THE COURT: It's basically a three-party meeting.
7 The sign-language interpreter is to facilitate Mr. Weston's
8 ability to communicate with Mr. Lopez, Mr. Lopez's ability
9 to communicate back. And when that meeting is ongoing,
10 Mr. Lopez will be in the room by himself, the deputy would
11 have had the ability to pat him down before, if they feel
12 appropriate, handcuff him to the chair so he at least can't
13 damage the computer, and then when it's done, he goes back
14 to his -- his room or his cell or his mod, and Mr. Weston
15 goes on with his.

16 Mr. Weston, will that meet your ability to have a
17 confidential client interview?

18 MR. WESTON: It would, your Honor. I do tell the
19 Court that it appears that the way we're doing that -- and
20 again, I apologize. We just started it yesterday the 11th.
21 I had eight interviews with my clients that I've been doing
22 over -- that I haven't been communicating with except over
23 the phone. So I've done eight of those.

24 Now, one of the issues is for Mr. Lopez's idea is
25 the slots are regulated by the public defender because I
26 believe they're the ones that set it up.

27 THE COURT: I would think, based on what I'm
28 hearing, that if you had a direct communication with

1 Lieutenant Farris or any designee of hers, they could
2 facilitate that to expedite your ability to communicate with
3 your client.

4 MR. WESTON: Thank you. That was my other thing
5 that the slots are limited to 20 minutes. So I was hoping
6 that I would be able to communicate with someone directly so
7 that we can set that up to have -- because of the sign
8 interpreter it takes longer, I believe, to communicate, as
9 opposed to the other times if they only give you 20-minute
10 slots which is okay; we just make more of them. But if
11 they're available for us to make those arrangements or I
12 have someone to make the arrangements I'm happy to do it
13 that way.

14 THE COURT: All right. So let me now then go to
15 the --

16 MR. TOYEN: Lieutenant, is that something we can
17 do?

18 MS. FARRIS: Yes, I will get a hold of Ridgehaven.
19 They simply provide us with the schedule and make sure that
20 we -- after I know a good time for you and for the
21 interpreter and then we'll get that time slot saved for you.

22 MR. WESTON: And if you could -- I'm happy to give
23 you my e-mail address so we can communicate e-mail or
24 however --

25 MS. FARRIS: Absolutely, yeah. Absolutely.

26 THE COURT: All right. So let me go back.

27 Mr. Toyen, I wonder if you could then go back and address
28 what you know or how you think we can help facilitate the

1 continued medical care and/or providing of medication to
2 Mr. Lopez. It sounds like there's already been an
3 improvement because he's been moved to a medical room or a
4 medical ward, if you will.

5 MR. TOYEN: Yeah, and we -- Dr. Montgomery is here
6 just to back me up. We did a -- we looked at his medication
7 that he's supposed to be receiving, and I think -- I'm
8 probably going to mangle this. But Prednisone, cyclosporin,
9 and mycophenolate. It shows that he's regularly receiving
10 those. Those are -- those are the kidney medications. We
11 discovered, though, that, you know, because we've gone to a
12 new provider, pharmaceutical provider that basically just
13 does everything outside and ships it to us, my understanding
14 is in, you know, prepackaged dosages --

15 THE COURT: Right. Like being in a nursing care
16 home.

17 MR. TOYEN: Very similar to that is my
18 understanding. And we discovered that we didn't -- there
19 have been gaps where, you know, the shipment has taken
20 longer to arrive than we thought it was going to be -- than
21 we thought it was going to take. And that, I think,
22 accounts for the vast majority of the times when he didn't
23 appear to be getting his medicine -- his medication.

24 Now that we know that that's the issue, we're
25 working you know to make sure that happens including, you
26 know, keeping a stocked supply of certain medications
27 available. So if a shipment is late, you know, we've got a
28 replacement stockpile.

1 THE COURT: So Mr. Weston, Prednisone,
2 cyclosporin -- I forget the name of the third one. Are
3 those the three you're aware of, or are there more, or
4 something else you think that has not or is not being
5 provided?

6 MR. WESTON: I believe that those are the ones that
7 my client was being -- was talking about. The kidney
8 medication was the ones that they were concerned. And I
9 believe what -- what he just described was exactly what my
10 client was saying. They were telling him well, we're out of
11 it. We'll get it to you as soon as we get another supply of
12 it, which is a concern is that they shouldn't run out of it
13 because it's real important.

14 I understand we're all human. I'm not trying to
15 say there's some nefarious thing here. I'm just worried
16 about the effect of lack of medication my client is --

17 THE COURT: If I hear Mr. Toyen correctly, the
18 Sheriff's trying to remedy the situation by creating sort of
19 a stockpile so that they will have some available --

20 MR. TOYEN: That's my understanding.

21 THE COURT: -- of regular.

22 MR. TOYEN: Dr. Montgomery, if you want to jump in.

23 DR. MONTGOMERY: Yes. Thank you, Mr. Toyen. Your
24 Honor, Jon Montgomery, Medical Officer. Thank you for
25 allowing me to join you today.

26 Just to clarify, Mr. Lopez is currently on three
27 separate medications, that's Prednisone, cyclosporine and
28 mycophenolate. These medications are associated with the

1 chronic immunosuppression needed for the maintenance of his
2 transplant.

3 The issue has been with, as Mr. Toyen mentioned, we
4 have relatively recently moved to an outsourced
5 pharmaceutical service, and the two main medications, the
6 cyclosporin and mycophenolate, have been essentially just in
7 time, if you will, shipped in, as you were alluding to,
8 similar to a group home construct, in 30-day pill packages.
9 And they've been ordered for months at a time.

10 However, because of the logistical considerations,
11 sometimes it takes upwards of about three to five days for
12 some of the medications to arrive. And it does appear that
13 there has been several instances, unfortunately, that we
14 have run out by a day or so. Again, our primary reason for
15 being is for the appropriate medical care and treatment of
16 our patients.

17 So yes, we are taking direct action. We are
18 getting a stockpile of medications which is called our stock
19 or profile medications for all three of those. The intent
20 is if and when the patient-specific medications for whatever
21 reason are not readily available, we would shift over to the
22 stock medications to provide the buffer until the resupply
23 from Diamond comes into play.

24 THE COURT: All right. So it sounds to me like the
25 Sheriff is making, one, the inability to deliver it is not
26 either intentional on their part or even a result of their
27 lack of effort; it's the inability of the pharmaceutical
28 company or the pharmaceutical provider to ship with a

1 consistent enough basis so it's always there on time.

2 I think any of us who have ever switched from one
3 health plan to another health plan or one Rx provider --
4 prescription provider to another runs into some of this.
5 But it sounds to me like they're making every effort in
6 creating the stockpile that if there's any further delay, it
7 will not affect him receiving his meds.

8 So then I guess my next then question is we
9 currently have a preliminary hearing date set for June 17.
10 And I want to hear from you, Mr. Weston. Are you
11 comfortable proceeding then, or would you like additional
12 time so you can work out these Microsoft Teams meetings to
13 communicate with your client, or what would you like?

14 MR. WESTON: No, your Honor. It's always been our
15 intent to not have a prelim on the 17th. This is the type
16 of case that we need to do a live prelim on, and so it's
17 never been our intention to go forward unless we had the
18 ability to do a live prelim. Either way, I wouldn't be
19 ready to perform a prelim because of the lack of
20 preparation.

21 But I want to make sure that the record is clear
22 that our intention was, even before I couldn't communicate
23 with my client, that I don't believe having a video prelim
24 is proper in this type of case. Especially with the
25 communication problems, being in another room is -- for him
26 would just be terrible in trying to figure out how to
27 communicate during a prelim.

28 So I'm going to waive time and set the matter over

1 to a time when we're at least going to have -- or have a
2 potential of having a live hearing, which I think is
3 sometime July or August.

4 THE COURT: The longer we go the likelihood is
5 greater than we'll have something live in court. If I had a
6 firm date when I knew we'd start, I'd tell you.

7 MR. WESTON: No, I understand that, your Honor.

8 THE COURT: But I don't know yet.

9 So Mr. Lopez, what I'd like to ask you is under the
10 law you have a right to a speedy preliminary hearing, under
11 the new emergency rules, within 30 days of when you are
12 arraigned and no later than 60 days from when you are
13 arraigned.

14 If you wish, you may give up your right to a speedy
15 preliminary hearing and agree to one at a later date.

16 Mr. Weston is trying to accommodate or find a date
17 when everyone could actually appear here in court. But I
18 want to be very candid with you: I can't guarantee that the
19 date we set would necessarily accomplish that.

20 Are you willing at this time, sir, to waive time to
21 a new date picked by Mr. Weston?

22 THE DEFENDANT: Yes. Yes, that would be fine.

23 THE COURT: Thank you.

24 THE DEFENDANT: Thank you, your Honor.

25 THE COURT: Mr. Weston, you're in charge.

26 MR. WESTON: Yes, your Honor. I would suggest
27 maybe we can do the 26th of August which is like a
28 Wednesday. That gives us enough time -- again, it might not

1 be a solid date, but I think that might be enough.

2 THE COURT: All right. Ms. Santiago, is that date
3 okay with the People?

4 MS. SANTIAGO: Yes, your Honor, thank you.

5 THE COURT: All right. We'll set the matter for
6 preliminary hearing on August 26, 8:45 a.m. in Department 5
7 or whatever courtroom 5 sends it to. As we get closer it
8 that August date, we'll know more as to whether we're having
9 live hearings or not. Again, I want to thank Mr. Toyen on
10 behalf of the Sheriff's Department, Lieutenant Farris and
11 Dr. Montgomery for participating in this and helping us try
12 to reach some ability to assist both in Mr. Lopez's health
13 and also his ability to communicate with his client.

14 MR. WESTON: Your Honor, I was wondering if -- I
15 don't want to give Lieutenant Farris's e-mail or contact --

16 THE COURT: No, no. We can go offline and I'll let
17 Ms. Santiago or Mr. Toyen, either one, be the link so that
18 you and Lieutenant Farris can be in touch.

19 MR. WESTON: Okay.

20 MR. TOYEN: I will act as the clearinghouse. I
21 will send all the e-mails to Ms. Santiago.

22 THE COURT: Thank you very much, Mr. Toyen.

23 MR. WESTON: Okay. That would be perfect.

24 THE COURT: Thank you everybody.

25 MR. WESTON: Your Honor, maybe we could set a
26 back-up readiness date with the idea that maybe that
27 would -- we can have a better idea whether or not the courts
28 are going to be open or not.

1 THE COURT: Okay.

2 MR. WESTON: And we could do a 977 waiver because
3 then that way least if we don't need Mr. Lopez and we're
4 only going to set new dates that we can take care of it.

5 THE COURT: Do you want to take a 977 waiver from
6 Mr. Lopez at this time?

7 MR. WESTON: Yes, your Honor. May I go forward?

8 THE COURT: Yes.

9 MR. WESTON: Okay. Mr. Lopez, we're going to be
10 setting an intervening court date. We're asking that you
11 waive your right to come to court just to set new dates in
12 case the courts aren't open yet.

13 Is that okay for you to be -- basically allow me to
14 appear for you for the purposes of just setting dates? Is
15 that all right?

16 THE DEFENDANT: Yes, yes. That would be fine.
17 Yes, that would be fine.

18 THE COURT: All right. Again, thank you everybody.
19 I appreciate the time you put in and waiting to hear this so
20 late in the afternoon so I could clear up the appropriate
21 room and get everybody involved.

22 MR. TOYEN: You're welcome, your Honor. Your
23 Honor, just on a personal matter would you be able to either
24 call me or contact me on Teams after you're done with your
25 calendar for the day?

26 THE COURT: Yeah.

27 MR. TOYEN: This has nothing to do with this case.

28 THE COURT: Yeah. Sure. Why don't you stay -- can

1 he stay there and we lose everybody else?

2 THE BAILIFF: I can do that.

3 THE CLERK: What's the readiness date?

4 THE COURT: Herb, what date do you want for that
5 readiness?

6 MR. WESTON: Right. I was just going to say, can
7 we have July 23rd? That's a Thursday. Is that okay,
8 Ms. Santiago?

9 MS. SANTIAGO: That's fine. Thank you.

10 THE COURT: Okay. Good. Thanks.

11 MR. WESTON: Thank you, your Honor. Thank you,
12 everyone.

13 THE COURT: Everybody bail out except Mr. Toyen.

14 (Proceedings concluded at 4:15 p.m.)

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1 State of California)
2 : SS.
3 County of San Diego)
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5 I, Stephanie Whitehead, RDR, CRR, CSR #10093, an
6 Official Court Reporter for the Superior Court of the State
7 of California, in and for the County of San Diego, do hereby
8 certify and declare:
9

10 I reported the proceedings held in the foregoing
11 case by creating notes utilizing my stenographic machine;
12

13 That my notes were transcribed with proprietary
14 computer and formatted under my direction;
15

16 And the preceding hearing heard on June 11, 2020,
17 contained within pages 1 through 23, is a true and accurate
18 transcription.
19

20 Dated this 26th day of April 2021.
21
22

23
24 
25 Stephanie Whitehead, RDR, CRR, CSR #10093
26 Official Court Reporter
27
28