

1     **IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF IDAHO**

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4	UNITED STATES OF AMERICA,	:	Case No. 10-00148-N-BLW
5		:	
6	Plaintiff,	:	<b>SENTENCING</b>
7		:	
8	vs.	:	
9		:	
10	EDGAR J. STEELE,	:	
11		:	
12	Defendant.	:	
13	----- x	:	

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13     **REPORTER'S TRANSCRIPT OF PROCEEDINGS**

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before B. Lynn Winmill, Chief District Judge

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November 9, 2011

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## PROCEEDINGS

November 9, 2011

THE CLERK: The court will now hear Criminal Case 10-148-BLW, United States of America versus Edgar J. Steele.

THE COURT: Good morning, Counsel.

MS. WHELAN: Good morning, Your Honor.

MR. HAWS: Good morning, Your Honor.

MR. HOYT: Good morning, Your Honor.

THE COURT: Before we start, let me just set the stage for what brings us to this proceeding.

On May 5th, 2011, a jury returned a verdict finding Mr. Steele guilty of Counts 1, 2, 3, and 4 of the superseding indictment. A presentence report was then ordered by the court and was subsequently completed and provided to counsel and to the court.

Mr. Steele, you've had a chance, I assume, to review the presentence report?

THE DEFENDANT: Yes.

THE COURT: Okay. And, Mr. Hoyt, you've gone over the report with your client?

MR. HOYT: I have.

THE COURT: There have been no true -- at least what I would call a true objection to the

presentence report. Subsequent to the time for the -- well, I should say in response to the PSR, defense counsel did send a letter to the probation office which he said should be considered as their objection to the presentence report, but it didn't really object to anything in the presentence report except to argue that the defendant's conviction was based on fraud and ineffective assistance of counsel, as more fully argued in his motion for a new trial. The letter suggested that all charges should be dismissed and the defendant released.

That really was not a true objection to the presentence report but was, more or less, an addendum to the motion for a new trial. And I'll note that yesterday afternoon, the court did issue an order denying the motion for a new trial, so I think those issues are now behind us.

Based upon the lack of any true objections to the presentence report, I am going to adopt the presentence report as my findings in this matter.

Is there going to be any evidence presented? I assume not, since there were no objections. From the government?

MS. WHELAN: No, Your Honor.

THE COURT: Mr. Hoyt?

MR. HOYT: No, Your Honor.

THE COURT: All right. There being no objections and there being no evidence to be presented at this time, I'll hear the arguments of counsel, starting with the government.

MR. HOYT: Your Honor, may I ask the court --

THE COURT: Yes.

MR. HOYT: -- just briefly? There is a matter. In reviewing the order which the court issued yesterday and I received after 4:00, there were a few items in the order denying the motion for summary judgment -- excuse me -- denying the motion for new trial which I think need to come to the court's attention because they -- what I'm concerned about is that these factors, if not considered by the court now, would likely cause the matter to be remanded for further proceedings and evidentiary hearings because there are certain points that are stated that are -- that are incorrect; and possibly if the court had a chance to correct those, the outcome here today might be different.

In any event, if I may briefly proceed with these issues, because I think it's important that we start on the same premise and be on the same page.

THE COURT: All right.

MR. HOYT: Thank you, Your Honor.

With reference to the heading of Section 4 of the --

THE COURT: I don't have a copy of the decision. So it would be better -- rather than to refer to headings, just describe what the issue is.

MR. HOYT: Thank you. Government misconduct, Your Honor. And I'll just annotate that it was on page 16, subparagraph C of the court's order, just for reference purposes. It had to do with the failure to report the car bomb. It was -- the court -- reference to the failure of Agent Sotka to report the car bomb, the court, in its order denying the new trial, said that there was no evidence that Special Agent Sotka knew that the pipe bomb remained under Ms. Steele's car. The evidence was from Special Agent Sotka's own testimony and was pointed out in defendant's supplemental new trial motion at page 7 and that

1 there was testimony found at page 385 of the trial  
 2 transcript, lines 3 through 11, that Agent Sotka  
 3 had, through his own testimony, indicated that he  
 4 had listened -- this is the evidence now that the  
 5 court said wasn't there -- that Agent Sotka stated  
 6 he knew that from listening to the recordings  
 7 twice, on the 9th of June and once on the morning  
 8 of the 10th of June, that a car bomb, we would  
 9 submit, had to be involved because that's what the  
 10 recording said. But there is more.

11 On the morning of June 10th, according  
 12 to the testimony of Agent Sotka --

13 THE COURT: Mr. Hoyt, let me ask. I wonder  
 14 if this could be better dealt with in a motion for  
 15 reconsideration. I would need to give the  
 16 government a chance to respond. Perhaps they  
 17 share the same concerns and want some matters  
 18 corrected, but I don't know that that needs to  
 19 even precede the sentencing. It would probably be  
 20 better if it did, but nothing that you've told  
 21 me -- and, frankly, we looked at this very  
 22 carefully. That's one of the reasons it took us  
 23 so long to get through the decision. I mean, your  
 24 filings were very substantial. There was a  
 25 tremendous amount of trial record, almost a

1 think how we ought to go forward; otherwise, we're  
 2 going to spend the next, you know, half-hour, 45  
 3 minutes to an hour plowing through something that  
 4 I think, at the end of the day, I'm still going to  
 5 require perhaps some additional briefing if there  
 6 is something to what you're going to argue. And I  
 7 think it would just be better kept to a motion to  
 8 reconsider.

9 MR. HOYT: As long -- Your Honor, as long as  
 10 we have the opportunity to file that motion for  
 11 reconsideration and ask the trial court to  
 12 reconsider these points before the motion --  
 13 before the notice of appeal is filed, I think that  
 14 would be appropriate.

15 THE COURT: Let me -- Mr. Haws, do you see  
 16 any concern with proceeding in that fashion?

17 MR. HAWS: I don't see any concern with  
 18 that, Your Honor. In fact, I would represent to  
 19 the court this morning that if we're going to get  
 20 into the transcript and the trial transcript, I  
 21 didn't come prepared to do that this morning. I  
 22 don't have the transcript before me.

23 I believe that there -- that some  
 24 omniscience is being read into the -- into the  
 25 June recordings by counsel. I don't believe that

1 two-week trial that had to be gone through. And  
 2 so that's one of the reasons it took us so long to  
 3 get a decision out.

4 We tried to be very careful in our  
 5 review of this -- and although we may have erred  
 6 in some respect, the additional question would be  
 7 whether it was the type of error that would be  
 8 reversed or, rather, just another matter that  
 9 could be taken up as harmless error on the part of  
 10 the circuit.

11 I'm just concerned that if we get into  
 12 a rehashing of the motion for new trial here, you  
 13 know, we could spend the next 45 minutes to an  
 14 hour. I would need to take a recess, review each  
 15 of those. And, frankly, I'm confident enough in  
 16 my own decision that would I prefer it be done by  
 17 way of a motion to reconsider, which would then  
 18 address in writing and give the government a  
 19 chance to respond and give me the chance to go  
 20 back and actually review the record itself, if, in  
 21 fact, there is something in the record that we  
 22 missed, despite, you know -- I won't say  
 23 "Herculean," but almost that type of effort to  
 24 review the record and to ensure we got it right.

25 So, I mean, that's my suggestion as I

1 the record as it's currently before the court  
 2 during the trial and the evidence that's before  
 3 the court substantiates that Mr. Sotka knew  
 4 anything about a bomb still being attached to  
 5 Ms. Steele's car.

6 And so it would require us to go  
 7 specifically to the record to delve through it in  
 8 order to answer these, Your Honor. I believe that  
 9 having an opportunity to rebut any of these  
 10 suggestions in the form of a motion to reconsider  
 11 would be the appropriate way to go.

12 THE COURT: Well, I'm a little nervous about  
 13 leaving -- I assume I can -- even after the  
 14 imposition of sentence, I could reconsider a  
 15 motion for a new trial if, in fact, something you  
 16 pointed out -- you know, there are standards for  
 17 motions for reconsideration. They are not often  
 18 or easily granted. A substantial burden on the  
 19 part of the party requesting reconsideration to  
 20 show, you know, essentially a manifest error, new  
 21 facts that were not known to the court at the  
 22 time, things of that sort.

23 But what I'm going to do is put  
 24 everyone on a very short leash because there is a  
 25 14-day period to file a notice of appeal from the

1 entry of judgment. We probably won't have  
 2 judgment entered until tomorrow. So I would  
 3 require, you know, a motion to reconsider would  
 4 need to be filed by, say, early next week and a  
 5 response from the government perhaps by the end of  
 6 the week in order to make sure that I can  
 7 reconsider -- take up the motion to reconsider  
 8 within that 14-day period and issue a decision  
 9 before the time for filing appeal has expired.

10 Do either of you have any concern in  
 11 that regard?

12 MR. HOYT: Your Honor, I don't, but I think  
 13 that if -- the court certainly has the power to  
 14 enlarge the 14-day time period in which to file  
 15 the motion -- or, rather, the notice of appeal.

16 THE COURT: Well, I'm not absolutely sure of  
 17 that; but if I do, you can point that out and  
 18 perhaps file with your motion for reconsideration  
 19 a request that the court enlarge that time, if  
 20 that is within my authority. I just don't know  
 21 that I can recall that happening very often, if at  
 22 all, where it's been requested that that time be  
 23 expanded.

24 It makes me think perhaps that's more a  
 25 matter left to the circuit, but I could be wrong.

1 THE COURT: All right. Very good.

2 Now, who was starting to stand up?  
 3 Ms. Whelan?

4 MR. CLAIBORNE: Your Honor, could I be heard  
 5 real quick? I'm David Claiborne. I represent the  
 6 designated victim.

7 THE COURT: Yes.

8 MR. CLAIBORNE: I just wanted to alert the  
 9 court she does have a statement make.

10 THE COURT: I'm going to allow the  
 11 government -- generally, the government will be  
 12 involved in permitting whatever victims there are  
 13 that wish to make statements.

14 So, Ms. Whelan, I'll assume that was  
 15 going to be done. I don't normally stop and scan  
 16 the courtroom for victims to ask if they want to  
 17 address the court. Usually, that's done through  
 18 the U.S. Attorney's Office.

19 MS. WHELAN: Yes, Your Honor. And counsel  
 20 had, I guess, in passing, let us know that  
 21 Ms. Steele had a statement to make. We believed  
 22 she did. And so we were going to ask the court to  
 23 allow her to make that statement at this time.

24 THE COURT: All right. Very good.

25 Ms. Steele, I assume that you're there

1 Maybe it's just not done often enough that I  
 2 recall having done it recently.

3 So at this point, I'm going to assume,  
 4 though, that without some action taken either by  
 5 myself or the circuit court, that you have 14 days  
 6 and that this matter needs to be resolved within  
 7 that time frame so that whatever you're appealing  
 8 from is not a moving target.

9 So I'm still going to require -- let's  
 10 see. Today is Tuesday. I think the very latest  
 11 would be Wednesday of next week, with the  
 12 government -- well, a week from today -- Tuesday  
 13 of next week, and the government perhaps could  
 14 respond by Friday, so that we have a chance to  
 15 look at it over the weekend and have a decision  
 16 out by the following Tuesday, which would be 14  
 17 days from today.

18 I know that puts the government at a  
 19 little bit -- I might ask, Mr. Hoyt, that you at  
 20 least alert Mr. Haws and Ms. Whelan as to what the  
 21 nature of the objections are, even if you don't  
 22 have a final brief and motion prepared, so that  
 23 they can at least start preparing and reviewing  
 24 transcripts as appropriate.

25 MR. HOYT: I'll do it. Thank you.

1 in the back of the courtroom. I can't see.

2 MR. CLAIBORNE: She is next to me,  
 3 Your Honor.

4 THE COURT: All right. If you want to step  
 5 forward. Normally we just have -- is there a  
 6 microphone?

7 MS. WHELAN: Your Honor, at the Fairfax  
 8 sentencing, she stepped up to the podium, and the  
 9 parties were able to hear her, if that works for  
 10 the court.

11 THE COURT: We'll do that. That's fine.  
 12 Ms. Steele.

13 STATEMENT BY THE VICTIM

14 THE VICTIM: Your Honor, the truth and  
 15 justice are what's at stake here today. It was my  
 16 mother's life, my life that were at stake, but  
 17 also our children's lives. However, what is at  
 18 stake is my husband and how this affects my mother  
 19 and our children and me, also how it affects my  
 20 husband.

21 Ed and I first met on March 13th, 1984,  
 22 and we were married on April 27th, 1985. To  
 23 summarize our 26 years of marriage, I have to say  
 24 we have a great marriage. We worked as a team in  
 25 work, raising our children, helping out our other

1 family members, whether it was his side or it was  
2 my family's side, and in our dreams, whether they  
3 were our individual dreams or combined dreams as a  
4 couple.

5 Perfect? No. But Ed and I have done  
6 very well and had only one blip in our marriage 11  
7 years ago. It was a rough time for so many  
8 reasons, and we both made mistakes, which the  
9 counselor we saw was amazed that the financial  
10 situations and work and illness that we were going  
11 through, that we were still together.

12 It was the strength of our love that  
13 kept us together as well as improve our  
14 communications between each other. Without going  
15 into details, I'm just going to refer to the Pina  
16 Colada song by Jimmy Buffett which describes this  
17 blip in our marriage to a tee. It was our  
18 problems, but we ended up coming back together.

19 During the first ten years for me, it  
20 was supporting my husband building his own law  
21 practice, where I worked alongside him as a  
22 receptionist, file clerk, paralegal, secretary,  
23 and wherever he needed help in building his  
24 practice. It supported us financially. It  
25 supported our desire to have and raise a family.

1 As we added a son and a daughter --  
2 another daughter to our family, most only knew Ed  
3 and I as the father and mother of three children.  
4 Ed and I strived together as a team to treat our  
5 children equally and fairly, to raise them as  
6 strong, moral, independent individuals who would  
7 have the ability to successfully live happy,  
8 productive lives in whatever direction that their  
9 dreams would take them.

10 I stand here equally proud of the three  
11 children Ed and I have raised. Though they are  
12 still at different stages and are on different  
13 paths, they have become wonderful young adults and  
14 will be a credit to this world as they follow  
15 their own unique path. Our children's  
16 accomplishments are their own, but Ed and I can  
17 humbly take full credit for our teamwork in  
18 raising, supporting, and loving them.

19 We are an excellent team in raising our  
20 children. Raising our children was easy when we  
21 agreed. But when we didn't agree, we communicated  
22 and decided the best approach to each issue  
23 together and then supported our mutual decisions.

24 It was together that we left California  
25 in search of a better environment to raise our

1 At the same time, Ed supported my  
2 dancing, whether it was dancing with the Civic  
3 Light Opera or teaching or taking classes to  
4 continue my training, always giving me the time  
5 and space to pursue my dancing. And though these  
6 were really our individual dreams, they became our  
7 dream. His dreams became mine, and my dreams  
8 became his. Because, for both of us, the  
9 happiness of the other was a dream in itself.

10 We had our common dream of us and  
11 raising a family, which was our most valued dream  
12 in our hearts.

13 By 1990, we had three beautiful  
14 children. Our eldest daughter, who biologically  
15 was from my disastrous first marriage, Ed, of his  
16 own decision, asked and willingly adopted Nicole  
17 to raise, support, and love her as his own, an  
18 unselfish act that I never asked of him, for she  
19 was not his responsibility, nor did he have a  
20 moral obligation to do so.

21 However, out of his love for me and  
22 her, he chose to officially become her father, to  
23 raise, support, and love her, though, through all  
24 the good times and rough times of raising a child  
25 as if she was his very own.

1 children, and we moved to the beautiful state of  
2 Idaho. It was to be a place that was closer to  
3 the wholesome country that both Ed and I were  
4 raised in instead of the city, where there seemed  
5 to be so many more issues and potentially bad  
6 influences upon our children.

7 This was a choice that Ed initiated  
8 because our family and our children's welfare and  
9 best interests were far more important than any  
10 financial benefits to staying in California.

11 We together built a beautiful ranch and  
12 a place that we came to call home. As we had with  
13 our other homes, we worked together to make  
14 improvements, additions, and this time to build a  
15 place for horses, cows, pigs, chickens, dogs, and  
16 cats.

17 And I should say that Ed did the work  
18 as I worked alongside him, learning how to do many  
19 things he already knew how to do. Ed performed  
20 the tiling, plumbing, drywall installation,  
21 taping, sanding, and mudding, building walls,  
22 clearing fields, building fences, and anything  
23 else that a ranch requires. He hayed, he fed, ran  
24 a tractor and a backhoe, shoveled and mowed and  
25 moved manure. He handled all aspects of horses

1 and so many other jobs to list here.

2 He was also involved with the cows,  
3 pigs, and chickens we raised for a time. And,  
4 true, the cows, pigs, and chickens were more Ed's  
5 dream than mine, but we worked together as a team.

6 So Mr. Haws lied about my husband when  
7 he stated Ed was, quote, "not much interested in  
8 nor very adept at taking care of the chores on a  
9 rural ranch property, a ranchette. He was not a  
10 rancher or a farmer." He could and did do chores  
11 and more around our place than Haws probably even  
12 thought of doing.

13 Well, you know, I'll take that  
14 statement back about Mr. Haws, because I have not  
15 been witness to his life. That statement is just  
16 as unfair as his was about my husband because he  
17 was not a witness to who my husband is. It just  
18 served his purpose of making him look like a  
19 lesser of a person. Though I know many that have  
20 never ranched and farmed, and that certainly  
21 doesn't make any them any less worthy.

22 In fact, my grandfather, who owned and  
23 ran a prestigious dairy farm in Oregon, would have  
24 been proud to have my husband work by his side and  
25 would have accepted him as his grandson-in-law

1 Yes, he once questioned whether the  
2 farm was his -- was his, but that was back 11  
3 years ago, and he chose to come back to the farm,  
4 and it was his choice.

5 At the same time, Ed had my support as  
6 he came active in defending our freedom of speech  
7 and our rights, which led him to representing many  
8 clients pro bono, speaking out about injustices,  
9 writing a book and many articles.

10 And those topics were considered  
11 politically incorrect in today's society because  
12 so many viewed it as being racist. I can say that  
13 they haven't really listened and don't truly know  
14 him. If they did, they would know at the core of  
15 his belief is justice for all, and it's just  
16 special rights for none. They would know that  
17 even though he believes this country is in serious  
18 trouble and fears the day will come that this  
19 country will be up in arms, he always advocated  
20 change through his speech and through legal  
21 avenues. He spoke against violence, and he has  
22 never been violent. Shame on the system for doing  
23 that to him.

24 Sorry. Oh. I'm sorry.

25 He has been put on hate lists and had

1 because of his good character, whether he was a  
2 farmer or not.

3 But, no, you have the word of Larry  
4 Fairfax, the lying pipe bomber who was more than  
5 willing to provide you with the anticipated  
6 testimony you expected at my husband's trial in  
7 exchange for not being charged with attempted  
8 murder in a soft plea deal.

9 And, yes, Ms. Whelan, it was together  
10 our ranch was developed, not just because it was  
11 my dream. The ranch and all it is was, by far,  
12 more my husband's idea than mine. He wanted to  
13 find a place for me to be able to have horses  
14 because he got as much joy at supporting my dream  
15 as I appreciated and enjoyed the dream that we  
16 built together.

17 The barn and inside arena was his idea  
18 and of his making. The horses were just as much  
19 him as me as he looked, found, and purchased some  
20 of the herd himself. And when it became more than  
21 we could continue to support, we mutually agreed  
22 to disperse most of the herd. That is why, on the  
23 day of his arrest, there was only four horses  
24 instead of the 20 to 30 horses we were managing in  
25 the previous years.

1 many negative labels thrown at him. But I can  
2 tell you that the hate I have witnessed is from  
3 those very groups, one of those groups being the  
4 ADL, who this court used in official court  
5 paperwork as one of its basis to deny my husband  
6 bail, among other reasons, being his writings, his  
7 book, and his Internet presence.

8 That means the government denied my  
9 husband bail because of the way he exercised his  
10 constitutional right of freedom of speech. Shame  
11 on the system for doing that to him.

12 Agent Sotka told me he knew nothing  
13 about my husband; and yet he had all this false  
14 information that was fed to him by hate groups,  
15 such as the ADL. Did he lie to me to try to get  
16 me to testify on his side? Where are the criminal  
17 charges against him for tampering?

18 He told me he knew absolutely nothing  
19 of my husband, that my husband was just a local  
20 person who was not very important. So how is it  
21 that Agent Sotka could tell me that my husband was  
22 a liar? Was that his attempt to dispel my  
23 knowledge of my husband being honest -- actually,  
24 brutally honest? Or was he just taking the word  
25 of the likes of the ADL, who cheered the demise of

1 my husband because they don't like the way he  
2 exercises his free speech?

3 And what about those death threats that  
4 the FBI investigated but now denies any knowledge  
5 of, the likes of which death threats came to our  
6 young children and I and my husband? The  
7 terrified look on my daughter when she was nine  
8 years old is still etched in my brain.

9 From the beginning, this case was a  
10 case in search of a motive. Well, there was none.  
11 First, when I was contacted by the government  
12 agents, they were claiming Ed's motive involved  
13 life insurance. There was no life insurance. I  
14 knew this was wrong. The claim was also proved  
15 wrong.

16 Then they accused me of having an  
17 affair. And to get me to believe their made-up  
18 plot, the government agents lied to me and said  
19 they had photographs of me that would support the  
20 specious claim. I knew that was a lie, too. But  
21 it still hurts to know that they would make up a  
22 lie about me and tell that to me.

23 So I am a victim, but only a victim of  
24 the slander by the government agents and the pipe  
25 bomb of the government informant that was attached

1 language. "Send me candy for 25." "Send me  
2 flowers for 50." "Send me English lessons for  
3 500," and thousands to pay for a trip for the  
4 women to come to America.

5 It was a repeated pattern, like a  
6 broken record, and he was getting the goods on  
7 this scam. He had tracked it to a Florida company  
8 that was making huge profit out of this and had  
9 talked to one of the translators and sufficient to  
10 be able to expose the fraud; that is, until his  
11 arrest.

12 And, oh, yes, Agent Sotka. There was  
13 also his claim that my husband was cashing in  
14 silver without my knowledge. That was another  
15 lie, for it was for the purpose of paying down our  
16 debt which Ed and I had agreed upon from our many  
17 discussions.

18 Then Agent Sotka and Ms. Whelan claimed  
19 the silver we sold was the same 45,000 of silver  
20 that Mr. Fairfax had stolen. They knew better  
21 because I had accounted for the silver the FBI had  
22 confiscated, and I accounted for the silver that  
23 we sold, which matched my theft report.

24 What was still missing was the \$45,000  
25 stolen by Fairfax. My husband had sold 55-plus

1 to my car. I am not a victim of my husband  
2 because my husband did nothing wrong.

3 The recordings were an elaborate  
4 fabrication. When that all failed, they latched  
5 onto information and selectively utilized Ed's  
6 book research to manufacture a motive. The  
7 Russian bride claim is so bogus, as four witnesses  
8 testified.

9 I knew that Ed was using these  
10 communications as his research and saw  
11 confirmation of the consistency between many  
12 different Russian women who are being exploited as  
13 part of a human-trafficking scam. Of course, it  
14 suited the government's needs to single out only  
15 one of these women, and then McAllister failed to  
16 put into evidence the many other women my husband  
17 was investigating as part of this scam.

18 I am not as shallow as Ms. Whelan  
19 enjoys portraying, for if it was anything else  
20 than an investigation that I knew it to be, I  
21 would have freed Ed, and I would have moved on.  
22 But this was the background work for his next book  
23 to show how they preyed on older men in America,  
24 how every one of the 25 or so women he contacted  
25 made the same requests in order, using the same

1 thousand dollars of silver. He paid about \$15,000  
2 in bills. And by the time he was arrested, the  
3 remaining 35- was still in our account, which I  
4 thank God because that's what I was -- had to  
5 survive on.

6 But Ms. Whelan presented this to the  
7 jury and made it appear that the 45,000 Fairfax  
8 stole was somehow the same 50,000 my husband sold,  
9 when they knew it wasn't.

10 The timing of when the government first  
11 claimed this plot began does not add up. They  
12 initially claimed it began on December 9th, 2009,  
13 the very day my husband was checking out of the  
14 hospital from surviving the aortic aneurysm that  
15 almost killed him. He was still not thinking  
16 clear and was in such poor physical condition that  
17 he was brought home in a wheelchair.

18 Unfortunately, this was two weeks  
19 before he was expected to be released, and I was  
20 in Oregon taking care of my mom, who was also in  
21 the hospital. So our son came home from college,  
22 and then we got a live-in nurse to be with him  
23 until I could get back home.

24 Then, during trial, they claimed it  
25 began in January. And that doesn't add up,

1 either. I was home all of January. Fairfax was  
2 not around. And the phone records show there were  
3 no conversations between Fairfax and my husband at  
4 that time.

5 My husband had three more procedures,  
6 with the last one on May 5th, which was another  
7 life-threatening aneurysm, nasal cavity, and  
8 required emergency surgery. I, again, was in  
9 Oregon taking care of my mom's medical needs  
10 following surgery when Ed called to tell me that  
11 he was headed to the hospital for his emergency  
12 surgery.

13 So I got someone to take care of my mom  
14 and immediately flew home. I managed to get there  
15 as he was being taken to the operating room. And  
16 I'm going to tell you the big smile and tears of  
17 relief streaming down his face when he saw me walk  
18 in was priceless. He couldn't have been any  
19 happier seeing me and knowing that I was going to  
20 be there when he woke up. This was not a reaction  
21 from a person who was supposedly trying to plot to  
22 have me killed.

23 During his recovery, about the only  
24 thing he was able to do was sit and work at his  
25 computer, as he suffered major headaches from his

1 believed, but I also knew that belief wasn't  
2 necessarily true.

3 I just thank God that he gave me the  
4 excellent upbringing, that I have strong morals  
5 and the strength to stand up for what is morally  
6 right in spite of the pressure being put on me by  
7 the government to do otherwise.

8 I can enumerate a long list of the lies  
9 that were told by [sic] me by one government  
10 official or another and continues to this day, but  
11 this moment I'm going to go directly and address  
12 the recordings, recordings that I was to  
13 eventually learn were pure fabrications and were  
14 not true, continuous conversations between my  
15 husband and Larry Fairfax. And though I have been  
16 accused differently, I took what the FBI told me  
17 seriously, and I did not align myself with my  
18 husband or anybody else until after I listened to  
19 the recordings and learned for myself and made the  
20 determination and -- that those recordings were  
21 not trustworthy because they were highly  
22 suspicious and unreliable.

23 Of course, it was ten days before I was  
24 allowed to hear those recordings -- well, that is  
25 two of the recordings, since I was repeatedly told

1 last surgery. It was only that last week in May  
2 that he was starting to be more mobile but was  
3 still on a lot of medications to help with pain  
4 and sleeping, including the day of his arrest.

5 Unfortunately, he was unable to follow  
6 through with the proper follow-up care and, to  
7 this day, suffers from headaches from the titanium  
8 clips that were put in his head. Just another  
9 piece of evidence McAllister never did present up  
10 for evidence.

11 Then, before, during, and after I  
12 listened to the recordings in June 2010, I was  
13 continually pressured by Agent Sotka as to what I  
14 was to believe, think, and say, no matter what I  
15 knew. I felt like I was being pressured to buy  
16 into the government's story whether I agreed or  
17 not or before I was provided any proof.

18 It was evident from his tampering that  
19 he wanted me to fall in line with what the  
20 government was trying to get me to believe, that  
21 my husband intended to kill me. There was only  
22 one thing I was interested in, and that was the  
23 truth. And I was not making any decision on the  
24 authenticity of those recordings one way or the  
25 other until I could hear them. I knew what I

1 by Agent Sotka that a third recording wasn't ready  
2 yet. That is the recording from the day of my  
3 husband's arrest. And apparently, that third  
4 recording has never been ready, because to this  
5 day I have not heard it. The recording is a  
6 recording. Once recorded, there is nothing to get  
7 ready other than push the "play" button. I was  
8 repeatedly denied the opportunity to listen to it.

9 Since the official transcript of that  
10 third recording showed that one whole hour had  
11 been lost, it is apparent to me that the  
12 government was again covering up evidence that  
13 could harm its case. Either they were not able to  
14 remake the third recording into incriminating  
15 discussion, the way the recordings of June 9th and  
16 10th were manipulated, or there was actually proof  
17 of my husband's innocence.

18 There was only testimony by Agent Sotka  
19 and Officer Spike about this; however, Agent Sotka  
20 lied on the stand about me, so no reason to  
21 believe he didn't lie about my husband.

22 When I finally was allowed to hear --

23 MS. WHELAN: Your Honor --

24 THE VICTIM: I get to make my statement.

25 THE COURT: Just a moment, Ms. Steele.

1 Ms. Whelan?

2 MS. WHELAN: Your Honor, as the court knows,  
3 it's not the typical relationship between the  
4 United States and the victim in the case. And I  
5 am hesitant to say anything. But at some point,  
6 this goes from being a victim's statement to a  
7 form of reiterating. And I'm going to ask that  
8 the comments -- you know, we have professionals  
9 here who have been maligned over and over again.  
10 And at some point, I'm going to ask her -- or ask  
11 the court to advise the witness to make her  
12 comments.

13 THE COURT: Ms. Steele, I'm going to tell  
14 you that you are on a very short leash. You just  
15 stated just moments ago -- and I jotted it down --  
16 "I am not a victim of my husband."

17 THE VICTIM: I am not a victim of my  
18 husband.

19 THE COURT: Having established that, there  
20 is a very serious question whether you have any  
21 right to address the court as a victim, since you  
22 are self-proclaiming that you are not --

23 THE VICTIM: I'm a victim of the government.

24 THE COURT: Well, that's not -- the  
25 statutory right to participate in the proceedings

1 hear the recordings, I went in with an open mind,  
2 because it was the only thing I wanted was truth.  
3 I listened carefully, and I was horrified.

4 I'm going to try to make the  
5 highlights. Agent Sotka and them said they  
6 listened to the recording five times, and I was  
7 told they never heard the word "bomb." So when  
8 did the word "bomb" go on the recording? Or was  
9 it on the recording on June 9th when they heard  
10 it, and they didn't warn me? And that's why a  
11 U.S. Marshal said that they wouldn't provide me  
12 protection before Fairfax was followed -- you  
13 know, was brought up for confession.

14 How can anybody miss the word "bomb"  
15 that's highly -- that's highly supposed to be  
16 investigated? That means I was left knowingly to  
17 have a bomb on my car, and I will go to my very  
18 end.

19 So a year and a half has brought us to  
20 this day, where I'm supposed to stand here as a  
21 victim, a victim of my husband. How do I do that  
22 when he is not the one that has victimized? How  
23 do I do that when the only ones that victimized me  
24 is Fairfax, government agents, overly aggressive  
25 women prosecutors? And, yes, Your Honor, even

1 is as a victim of the defendant's crime, which you  
2 claim that you are not a victim of. And you are  
3 free to make that claim.

4 I'm going to give you about five  
5 minutes to conclude your statement. I'm going to  
6 direct you not to make any personal attacks on any  
7 of the court personnel or the attorneys involved  
8 in this case. Because at that point, clearly,  
9 your statements --

10 THE VICTIM: Can I read --

11 THE COURT: Just a moment, Ms. Steele. At  
12 that point, your statements clearly are not the  
13 statements of a victim. It is a statement of  
14 someone who is a supporter of Mr. Steele. And  
15 generally, there is no statutory right for such a  
16 person to address the court.

17 I think I'm extending a right to you  
18 which is more than what you're probably  
19 statutorily entitled to. But, again, in an  
20 abundance of caution, I'm going to allow you to --  
21 I think you've been going for 20, 25 or 30  
22 minutes. I'm going to give you five minutes to  
23 conclude your statement, and then we're going to  
24 proceed with the sentencing. All right?

25 THE VICTIM: When I finally was allowed to

1 this court system, with its own has victimized me.  
2 Of course, this means my husband is a victim, as  
3 well; yet no matter what I have said here today,  
4 there is only one thing that matters. Today there  
5 is a great injustice being done.

6 As the alleged victim and the wife of  
7 the falsely accused, I have to ask you,  
8 Your Honor, that you stop and put this injustice  
9 and the court to a stop and free my husband so he  
10 can come home, where he belongs, and so our family  
11 can be whole again. Otherwise, at least grant him  
12 a new trial so he gets a trial that is fair.

13 He is innocent and has wrongly been  
14 convicted of crimes he did not commit. Otherwise,  
15 the court is condemning an innocent man and  
16 destroying his family. The court will not only be  
17 sentencing an innocent man to what is a death  
18 sentence, but it will wrongly be sentencing his  
19 children to live without his [sic] father, wrongly  
20 sentencing me to live -- his wife to live without  
21 her husband. And I am supposed to see justice in  
22 that?

23 It has been the lies, misconduct,  
24 violations of my statutory crime rights,  
25 violations of the constitution, unfair trial, and

1 ineffective assistance of counsel by McAllister,  
2 and the false conviction that is causing my family  
3 to be destroyed, my finances, including retirement  
4 savings, to deplete such that I declare bankruptcy  
5 and a host of other issues too long to list here.

6 It is because of all these injustices  
7 that has made me a victim. And, Your Honor, I  
8 understand that this court does not honestly know  
9 me, and what little is known of me has been under  
10 what I consider to be the worst circumstances  
11 ever. However, Agent Sotka well knows I will go  
12 out of my way to always do the morally right  
13 thing, as he witnessed when I went out of my way  
14 and expense to return an expensive pair of reading  
15 glasses that I forgot to return after they were  
16 loaned to me. But he wouldn't let that be known  
17 because that would portray my good moral  
18 character.

19 No. He had to lie about me. Well,  
20 fine, because I know who I am, and I can hold my  
21 head up high because I know the only thing that I  
22 have stood up for is the truth. And if the truth  
23 was as the government claims, I wouldn't be  
24 standing up for my husband here today because I  
25 have said and I -- that I will not put my life at

1 was at work when a warrant was secured before the  
2 search of his home. The Fifth Amendment rights  
3 were at work when he was advised of his rights at  
4 the time of his arrest, when he was indicted by a  
5 grand jury, and when he made the decision as to  
6 whether he was going to testify at trial.

7 His Sixth Amendment rights were seen  
8 when he claimed he couldn't afford an attorney and  
9 one was appointed for him, when he was given a  
10 speedy and public trial, when his lawyer  
11 cross-examined the witnesses against him, when he  
12 subpoenaed the witnesses to trial, and he had an  
13 impartial jury.

14 Throughout these proceedings, this  
15 defendant has had all of his rights protected by a  
16 legal system which he repeatedly tried to  
17 undermine.

18 The United States notes and the court  
19 has adopted the presentence report. The  
20 United States has filed a sentencing memorandum in  
21 this case, and we incorporate that into our  
22 comments, and we'll keep our comments brief.

23 Judge, you will note that we  
24 recommended a total sentence of 600 months. We  
25 are -- it's below the calculated guideline range,

1 risk for anyone. That is a line that nobody  
2 crosses with me.

3 I am standing here today because I know  
4 my husband is innocent and he rightfully should be  
5 at home. For, after all the misconduct, he, at  
6 the very least, deserves a new trial with counsel  
7 who represent his case.

8 Thank you.

9 THE COURT: Ms. Whelan.

10 RECOMMENDATIONS BY THE GOVERNMENT

11 MS. WHELAN: Thank you, Your Honor.

12 Your Honor, during the course of these  
13 proceedings, it has been inviting at times and  
14 almost compelling to want to react to things  
15 outside what this case is about. But this case is  
16 only about what the defendant did: that he hired  
17 someone to kill his wife, and then he continued to  
18 try to manipulate her in order to undermine the  
19 integrity of the legal system which he swore to  
20 uphold.

21 In the investigation and prosecution of  
22 this case, the defendant has received every  
23 procedural protection afforded to criminal  
24 defendants in the District of Idaho and in federal  
25 courts across the country. The Fourth Amendment

1 and I want to explain why to the court. And that  
2 lies squarely on my shoulders, because the  
3 guideline range is 715 to 773 months imprisonment,  
4 and we're recommending 600, which is below.

5 And the reason that we did that is  
6 because when the sentencing memorandum was filed,  
7 Mr. Haws and I were talking. He didn't have a  
8 copy of the sentencing memorandum. I apparently  
9 hadn't forwarded it to him. And we went through  
10 it looking at the 3553(a) factors and the  
11 statutory minimum and maximum, and that's how we  
12 came up with that sentence. And because we filed  
13 that in our sentencing memorandum, we feel  
14 honor-bound to continue that into this sentencing  
15 hearing, although the guideline range is 715 to  
16 773 months.

17 Does the court have any questions? I  
18 figured you might be curious.

19 THE COURT: I do not. You know, let me  
20 comment -- and this is probably as much for those  
21 in the audience who may sit, and their jaws may be  
22 rattling because of the guideline ranges. I mean,  
23 I have never -- I've seen a guideline range of  
24 life, but I have never seen a guideline range  
25 exceed 360 months until this case. And the reason

1 it does is because Congress has determined that  
2 individuals who use explosive devices and -- for  
3 these purposes are subject to what Congress has  
4 mandated as a statutory minimum sentence, in this  
5 case, of 480 months. So the guideline range is  
6 completely driven by that.

7 And so no sentence the court can impose  
8 would be less than 480 months. So the question,  
9 then, of how much above that is within the  
10 discretion of the court -- you know, I have read  
11 your sentencing memorandum. I understand it. I  
12 have gone through a similar process myself trying  
13 to think of what is a just and reasonable sentence  
14 under these circumstances. And I can't quarrel  
15 with your recommendation or the recommendation of  
16 Mr. Cedros from the -- in his recommendations in  
17 the presentence report.

18 So, you know, if you want to explain  
19 it, you can. But, of course, this mandatory  
20 minimum as prescribed by Congress in this case is  
21 what drives the sentence, and there is nothing the  
22 court can do to ignore that.

23 MS. WHELAN: Thank you, Your Honor.

24 And how we broke it down -- and this is  
25 maybe just for edification for others as well as

1 the court. We understand, having read the PSR,  
2 the financial situation of the defendant and the  
3 lengthy time that he is looking at.

4 The \$100 special assessment on each  
5 count needs to be imposed, as well as we would ask  
6 for the restitution, which totals \$2,836.91.

7 THE COURT: Let me -- you know, even before  
8 hearing, you know, Ms. Steele's statement here  
9 today in which she clearly and emphatically  
10 described herself as not a victim in this  
11 proceeding, I wondered whether it was appropriate  
12 to include her counseling costs as a matter of  
13 restitution. And I -- we did deal with that, I  
14 think, in Mr. Fairfax's case. Restitution was  
15 ordered, and that was, I think, very appropriate.

16 But the government takes the position  
17 it should be ordered?

18 MS. WHELAN: I do. And the reason that we  
19 do, Judge, is because this was a joint venture by  
20 two men. And but for Mr. Steele, Mr. Fairfax  
21 would have never been in that position. And so we  
22 didn't want to saddle Mr. Fairfax with the  
23 restitution solely. We suggested it be joint and  
24 several.

25 THE COURT: All right. I understand.

1 the court -- is we have asked the court to impose  
2 120 months for the murder-for-hire. The mandatory  
3 consecutive 120 months, then, goes for Count 2.  
4 There is a mandatory 360 months consecutive on  
5 Count 3. We're asking for the 120 months on  
6 Count 4, but that that would run concurrent with  
7 Count 1, and that's how we get to 600 months.

8 THE COURT: The only concern, you know --  
9 when you have a sentence in which someone has  
10 apparently tried to tamper with or interfere with  
11 the process, I've always been concerned that  
12 somehow the sentence in that must be consecutive.  
13 And that's the only area where your analysis may  
14 break down, if you will.

15 MS. WHELAN: I agree. We struggled with  
16 that, also, Your Honor, as Mr. Haws and I  
17 discussed it. And we felt the same way. But then  
18 when we looked at the consecutive terms, we kind  
19 of just did a swap and looked at it. That's so  
20 the court understands what our thinking was going  
21 into it.

22 THE COURT: Certainly.

23 MS. WHELAN: We're asking the court to  
24 impose the three years supervised release on each  
25 count. A fine we would leave to the discretion of

1 MS. WHELAN: Judge, just briefly, as I said,  
2 I don't want to take up a ton of the court's time,  
3 but I do want to make some points.

4 Looking at the 3553(a) factors, looking  
5 at the nature and circumstances of the offense,  
6 each of these offenses, as the court knows -- I  
7 mean, it's obvious -- they are very serious, and  
8 they involve circumstances which demonstrate a  
9 cold and calculating manner about this defendant.

10 The court and the jury heard the tapes  
11 wherein the murder is discussed, wherein the  
12 conversation is about making sure that the murder  
13 is done because they don't want -- Mr. Steele  
14 doesn't want his wife left as a paraplegic or in  
15 some manner where he would have to stay with her,  
16 and the kids would be angry at him.

17 And the evidence at trial established  
18 beyond a reasonable doubt that this defendant  
19 tried to have his wife killed. These are serious,  
20 serious offenses.

21 Looking at the history and  
22 characteristics of the defendant, he is 66. He is  
23 highly educated, with both an MBA and a JD. He is  
24 married with three children and has no prior  
25 criminal history. He has had many medical

1 procedures throughout his life. And during trial,  
2 and even today, there was talk about this 2009  
3 ascending aortic aneurysm and that it was  
4 life-threatening. And we note from the  
5 presentence that four months after that procedure,  
6 the defendant had extensive liposuction.

7 And the point that we bring that up is  
8 not to say that the aortic aneurysm was not  
9 life-threatening, but four months later, he is  
10 cleared for elective surgery. And so this idea  
11 that he was either so medicated or that he was so  
12 incapacitated in some way that Mr. Fairfax was  
13 able to take advantage of him doesn't ring true.

14 The evidence in this case also  
15 establishes that the defendant has a long, long  
16 pattern of manipulative behavior. It was borne  
17 out in the discovery, which has been provided to  
18 the defendant, and the evidence produced in court.

19 Now, in addition to calling Ms. Steele,  
20 prior to that, the defendant had called his own  
21 son and told him he had to convince -- and that's  
22 been played in the record during the course of  
23 these proceedings -- that he had to convince his  
24 mother to say that that was not the defendant's  
25 voice on the tape because he was afraid he wasn't

1 a future and -- in these emails, expressing his  
2 love, all supposedly for a book. That's a  
3 continuation of manipulation.

4 And perhaps it's been best  
5 demonstrated, Your Honor, by his reaction to this  
6 court and United States Attorney's Office where he  
7 has repeatedly lashed out rather than accept  
8 responsibility. When the FBI agent caught him in  
9 his alibi on that first day, he claimed the FBI  
10 had engaged in misconduct. When the court made  
11 rulings that went against him or weren't in his  
12 favor, he accuses the court of misconduct. When  
13 the U.S. Attorney's Office refuses to back away  
14 from a prosecution of a violent offense after he  
15 has convinced his wife to state that she is not a  
16 victim, he accuses the United States of  
17 misconduct.

18 But never once has this defendant  
19 accepted responsibility for his own misconduct,  
20 not once, not even in acknowledging what those  
21 phone calls are. Never once.

22 The United States wants to address this  
23 concept that has been espoused over and over that  
24 if there is no victim, there is no case, there is  
25 no crime. And as the defendant knows and

1 going to get ahold of Mrs. Steele and compelling  
2 his son to take those efforts.

3 And then, of course, the defendant's  
4 own statements to Ms. Steele where he directly  
5 tells her that it would be her fault if he went to  
6 prison for the offense, that she would have to  
7 explain to their children why their father wasn't  
8 around, and that without her, the tapes couldn't  
9 be authenticated, so there would be no case.

10 And that is direct evidence of  
11 manipulation, and it's not the first manipulative  
12 action but, rather, as we know from interviews  
13 that Mrs. Steele has had with the media, for years  
14 before this he has been preparing his family. He  
15 has been telling them, "You know, some day,  
16 something is going to happen. The government is  
17 going to come and get me. The ADL is going to  
18 come and get me." And those are in those  
19 interviews that Ms. Steele has had, and we see  
20 that.

21 And even if you took the defendant's  
22 statement about this Ukrainian bride situation,  
23 which the United States submits is his own  
24 fabrication to cover it up, it's still  
25 manipulative. He is talking to these women about

1 certainly the court knows, that's not how the  
2 criminal justice system works. If the criminal  
3 justice system required that a person acknowledge  
4 they're a victim before a case could proceed, the  
5 most vulnerable in our community would be  
6 repeatedly victimized.

7 If admitted victimization was required,  
8 no justice would be found for young children who  
9 are groomed for sexual abuse or depend upon their  
10 very abuser for their food and their shelter and  
11 their clothing. Nor would there ever be justice  
12 for the physically, emotionally, and mentally  
13 abused spouses to return again and again to their  
14 abuser. That's why there is a criminal justice  
15 system. It's not a civil case.

16 The defendant's attempts to have his  
17 wife killed are no less real, no less of a crime,  
18 no less of a danger to the community because  
19 Mrs. Steele doesn't believe it. The evidence has  
20 proved otherwise, and the jury decided otherwise.

21 Judge, as outlined by the  
22 United States, we believe the punishment we have  
23 suggested will provide adequate and general  
24 deterrence to criminal conduct. This lengthy  
25 sentence will hopefully deter anybody else from

1 having a pipe bomb put on someone's car that  
2 they're trying to kill.  
3 You know, we heard from Mrs. Steele  
4 just now that her family's belief or her husband's  
5 belief is justice for all and special rights for  
6 none. And we're asking the court to impose that  
7 justice evenly. As Mr. Haws said in his closing  
8 remarks, quoting Theodore Roosevelt, "No man is  
9 above the law, and no man is below it, and nor do  
10 we ask any man's permission when we ask him to  
11 obey it."

12 And what we are asking the court is to  
13 sentence the defendant according to the law. Does  
14 the court have any questions?

15 THE COURT: No, I do not.

16 MS. WHELAN: Thank you, Your Honor.

17 THE COURT: Thank you.

18 Mr. Hoyt.

19 MR. HOYT: Your Honor, my client would like  
20 to give an allocution.

21 THE COURT: You can do it now. I was going  
22 to ask him at the end of your argument, but you  
23 can even do it now if you prefer.

24 MR. HOYT: May he use the podium?

25 THE COURT: Yes. That would be fine.

1 inconsistent, and I did not stop her. I just put  
2 a time limit after about 30 minutes and suggested  
3 that she should wrap up in five minutes with  
4 whatever she had to say.

5 THE DEFENDANT: Well, I, too, am a victim.  
6 My entire family is a victim. In fact, all of  
7 American society is a victim in this case. And I  
8 have seen this operate before, though I have never  
9 seen it so brazenly presented. I have never seen  
10 them pull out all the stops.

11 Sixty years they want me to serve.  
12 Let's see. I get out when I'm 135, then, I guess.  
13 Five years would be a death sentence, Judge. Five  
14 years, given my physical condition -- I almost  
15 died twice just in the last two years, and I'm  
16 certainly not getting any medical attention in  
17 jail.

18 So anything over five years is  
19 irrelevant except as a statement made by this  
20 court. You know, 5 years, 15, 20, 50, 60 --  
21 60 years. Give me a thousand. Put me in the  
22 Guinness Book of World Records.

23 I become very angry about a lot of  
24 things in this case, and it's because of that  
25 anger that I have bowed to the counsel of others

1 Mr. Steele.

2 STATEMENT BY THE DEFENDANT  
3 THE DEFENDANT: Thank you, Judge.

4 Left to my own devices, this will be  
5 lengthy, and it will violate the very things that  
6 you refuse to allow my wife to continue with. So,  
7 at the outset, I think I would like to ask what  
8 the rules are.

9 This case is about government  
10 misconduct; and yet we have been prevented at  
11 every stop from putting on evidence about it, from  
12 making allegations about it. And now here today,  
13 my wife can't recount to the court her personal  
14 experiences where she has been lied to by the  
15 government and manipulated by it.

16 Is that going to bear with me, too, or  
17 do I finally get a chance to have my say in this  
18 case? I have never had it.

19 THE COURT: Mr. Steele, you have your right  
20 to allocute to the court. You can say anything  
21 you want to. The only reason I limited  
22 Mrs. Steele is because she was making her  
23 statement to the court as a victim while, at the  
24 same time, simultaneously arguing to the court  
25 that she was not a victim. It was simply

1 to not represent myself, to not take the stand at  
2 trial. My lawyer was adamant that I wouldn't take  
3 the stand; that's why I didn't. I should have. I  
4 should have fired him and represented myself from  
5 the beginning. That was then. This is now.

6 All the posttrial motions have been  
7 denied summarily. Yes, I have read your  
8 memorandum, and I beg to disagree with your  
9 findings, with your conclusions. That's just an  
10 introduction to what I have to say.

11 Fifty years -- sixty years, if you  
12 listen to the prosecutor. Sixty years. Nobody  
13 was hurt. Nobody was killed. There is a  
14 substantial dispute as to who the perp is in this  
15 case. We all agree that Larry Fairfax is a perp,  
16 if not the perp. And he is serving his soft ball  
17 sentence of two years right now. He is going to  
18 get out to a halfway house in a month or two, and  
19 then he will be free. Served up his sentence in  
20 exchange for coming into this court and testifying  
21 against me, further lying in exchange for saying,  
22 "Yeah, I put the pipe bomb on Mrs. Steele's car,  
23 but Mr. Steele told me to do it." Outright lies.  
24 And I have never been allowed to say that. I have  
25 never been allowed to point out when the

1 government has lied. And it has lied extensively.  
2 And I have heard a couple of those lies repeated  
3 here today.

4 And I want to tell you that during this  
5 statement, I am in no way, shape, or form going to  
6 pussyfoot around. The government has lied  
7 repeatedly. I have been framed. I am innocent,  
8 Judge, absolutely completely innocent. I have  
9 been framed from start to finish.

10 But it wasn't enough that I get framed  
11 with serious allegations, serious evidence that's  
12 been fabricated, as we have proven, but that proof  
13 wasn't allowed into trial. That's not enough.  
14 You've got to have this show trial. You've got to  
15 have this massive publicity. You've got to have  
16 her holding a press conference every other week in  
17 the run-up to trial. You've got to have the jury  
18 pool in Coeur d'Alene and around Coeur d'Alene so  
19 tainted that you had to move the trial away to  
20 Boise, the other end of the state. Of course, the  
21 news reaches there, too.

22 Right from the beginning, nobody has  
23 cared what I've had to say. Nobody has cared what  
24 my intent is or was. Nobody has bothered to ask  
25 me. Anything I said has been rejected as false.

1 Berkeley, getting an MBA. Did well there, was  
2 awarded scholarships. I worked then for several  
3 years as a financial analyst, as a controller for  
4 a couple of companies. Always spotless work, well  
5 thought of, all my life.

6 I went to law school because law --  
7 life just wasn't satisfying enough to me. I  
8 wanted more out of it. And I spent three years at  
9 UCLA getting my JD degree, after which I returned  
10 to the San Francisco Bay area, where I had worked  
11 after the MBA, and took a job with a small law  
12 firm there for two years. They liked me a lot.

13 Afterwards, after those two years, I  
14 went on my own because I just had to. And I have  
15 never looked back. I have been a success as a  
16 lawyer every step of the way. I have been able to  
17 employ 18 to 20 people in a law firm, and we have  
18 been proud of the work that we have done.

19 In the last 10 or 12 years, I have  
20 taken to handling cases pro bono, primarily cases  
21 with a First Amendment aspect to them, and I have  
22 been proud of that work.

23 That means, Judge, that I have been  
24 having to represent the politically incorrect,  
25 because it's the politically incorrect whose First

1 And somehow, rather, this perp, this Larry  
2 Fairfax, the self-admitted liar, the self-admitted  
3 pipe-bomber, everything he says gets believed.

4 I have no criminal history. I have  
5 never been arrested, not even for the mandatory  
6 DUIs that it seems so many of us go through in  
7 life. I have a pristine record; and yet I'm the  
8 one that you're told is the liar here. I'm the  
9 one that shouldn't be listened to. I'm an  
10 officer, literally, of this court; and yet nobody  
11 wants to hear me, and nobody wants to believe  
12 anything that I have to say. Everybody just  
13 assumes that I'm a liar, that I'm a bad guy. And  
14 that ain't right.

15 I have led a good life, and I'm proud  
16 of it. I'm proud of my behavior during this case.  
17 Certainly deserves otherwise.

18 Let me tell you a little about myself,  
19 first of all. I grew up in a small town in north  
20 central Washington, just west of here. I have a  
21 college degree, a BA from the University of  
22 Washington in Seattle. I spent four years in the  
23 military, Vietnam era. I was decorated more than  
24 once, discharged honorably. I spent two years at  
25 Cal Berkeley, University of California at

1 Amendment rights get violated in this country.  
2 Make no mistake. They're the only ones, because  
3 we have become a country of men, not of laws, and  
4 so laws get selectively enforced. And I knew that  
5 throughout my career from watching other cases,  
6 watching clients. But I never knew it like I have  
7 learned it during my own case.

8 I have been married for 27 years. Just  
9 a couple years more than that I've been a lawyer.  
10 I've got three of the best children anybody could  
11 want. I love them dearly. They're good, solid,  
12 intelligent, honorable, respecting people, and I  
13 proudly bequeath them to this world. They are  
14 part of my legacy.

15 Cyndi. There is so much to say about  
16 Cyndi. Anybody -- anybody ought to be able to sit  
17 here and just watch what she just did and know why  
18 I love her like I do, and I always have.

19 I remember the moment I met her. I  
20 recall her standing up and smiling that impish  
21 little grin that I love so much, casting her eyes  
22 down. I fell in love with her at first sight, and  
23 I have loved her ever since then, even during that  
24 little speed bump nine or ten years ago that she  
25 spoke about. She is my soul mate, if you will.

1 And I bring this up because a lot has  
2 been made about motive. And you need to  
3 understand, as my friends understand, as people  
4 who know me understand, that my relationship with  
5 my wife has been such that it would be impossible  
6 for me to do what I have been falsely charged and  
7 falsely convicted of doing in this case, which is  
8 to harm her.

9 I'd lay down my life for her in a  
10 moment, always would have; I will today. It was  
11 love at first sight, and my heart jumps up now  
12 every time I catch sight of her. She is my  
13 partner. She is my lover, my wife, my helpmate.  
14 She is my best friend. She always has been, since  
15 the day we met. She is my anchor in life, always.  
16 She stood beside me, just as she stood beside me  
17 throughout this ordeal.

18 Who wouldn't love a woman like that?  
19 Every man in here should wish that he had a woman  
20 like that. I have got one. And I'm proud of her.  
21 I love her dearly.

22 I can't imagine life without her, but  
23 I'm going to have to get used to it, apparently.  
24 She cared for me through the six months and four  
25 life-threatening surgeries just prior to my

1 massive headaches. I have nosebleeds. And this  
2 all is because I was denied follow-up treatment  
3 and care once I was arrested.

4 There has been a history in every jail  
5 my complaining about headaches that they haven't  
6 been able to handle, my complaining about  
7 nosebleeds that they haven't been able to stop.  
8 But you don't get medical treatment to speak of in  
9 jail. Once you're arrested, you become part of  
10 the garbage and refuse of life. I have certainly  
11 learned that.

12 My side of this case hasn't been told  
13 yet. I'm not going to be able to entirely tell it  
14 here today, even if you allow it, Judge, because  
15 there just isn't enough time today. I realize  
16 that.

17 I had no defense presented at trial  
18 because of my lawyer's personal problems. I had  
19 no proper representation before that lawyer  
20 because of that lawyer's personal problems.

21 Finally I have got a lawyer that I  
22 think a lot of, somebody who is telling things the  
23 way they ought to have been told; and yet he is  
24 being slapped down with "no merit," "denied,"  
25 repeatedly. Well, we have got an appeal left.

1 arrest. Oh, liposuction. Yeah, it was elective.  
2 It had been paid for before my aortic aneurysm  
3 emergency surgery, and it was designed to reduce  
4 the size of my breasts, primarily, because I had  
5 prostate cancer 12 years ago. And as a part of  
6 the chemotherapy and the radiation therapy that I  
7 received for that -- and I survived it, too, as  
8 you can see -- because of that, my breasts -- my  
9 breasts grew, and I was always self conscious of  
10 it. So, finally, I was going to have them fixed.  
11 And somehow she makes it appear that it's some  
12 kind of useless, superfluous, frivolous reason.

13 And then I had two more surgeries after  
14 that, one for an emergency hernia repair, which  
15 can be life-threatening. There was no suggestion  
16 that I was about to die, but I know the doctor  
17 puts me into the emergency room -- or the surgery  
18 room the day after I appeared in his office with  
19 it.

20 And the nasal aneurysm, the head  
21 aneurysm certainly was life-threatening. I could  
22 have bled to death in the time I was trying to  
23 drive to the emergency room. And I have symptoms  
24 and problems from that to this day. I've had them  
25 throughout the pendency of this case. I have

1 And I'll tell you, we're going to make the most of  
2 that. I finally am going to tell my story. If I  
3 finally have to fire every lawyer in the country  
4 and handle this case myself, I will do it.

5 And don't tell me about how lawyers who  
6 have themselves as clients are fools because  
7 anybody who wants to become a lawyer is a fool  
8 anyway.

9 I was held and kept incommunicado in  
10 the run-up to trial. That was intentional. I was  
11 denied the right to even call a lawyer of any sort  
12 during the first month that I was held in Spokane  
13 County Jail in solitary confinement, maximum  
14 security.

15 And I have repeatedly been held under  
16 those conditions since then. Of the 18 months  
17 since I was arrested, probably 15 or 16 of those  
18 months I have been under those conditions.

19 I wasn't allowed to put on a defense at  
20 the trial, and you know why that was. My lawyer  
21 was told "Thou shalt not criticize the government.  
22 You will not say bad things about the FBI."

23 But the bad guys here, Judge, are the  
24 government, are the FBI, are the prosecution. And  
25 when I'm denied the right to speak out about their

1 conduct and what they have done, then I'm denied  
2 the right to present my case, as I was at trial.  
3 I was denied the right to present any sort of  
4 defense.

5 You let them come in with a videotaped  
6 deposition of a witness from halfway around the  
7 world, apparently finding that the government has  
8 a constitutional right to confrontation. Which I  
9 have read the Constitution. I don't see it in  
10 there. I do, however, see in it my right to  
11 confrontation. They shouldn't have been allowed  
12 to have her testify that way.

13 And then you turned around and sided  
14 with them. You flip-flop flipped in a very  
15 strange way. You said my sound experts couldn't  
16 testify. Remember I said I had evidence that  
17 proved that wasn't me on the tapes? You heard it.  
18 You heard it in the Daubert hearing, two days'  
19 worth prior to the trial.

20 You heard one expert, Dr. Papcun, a  
21 world renowned -- the guy who literally wrote the  
22 book, who generally works for the government and  
23 the FBI, testify that there were extensive  
24 electronic signatures and irregularities in the  
25 tapes and that the tapes could not be relied upon.

1 I say it here today.

2 And about that phone call to my wife  
3 and my son, you know, I didn't tell her to lie.  
4 This court allowed Mr. Haws to tell the jury that  
5 "He told her to lie." And that was a lie. What I  
6 told her to do was to stand her ground, because I  
7 knew how cases like this could go. I've seen the  
8 FBI in action before. I had seen it, a win at any  
9 cost.

10 And I told her, "You have to stand like  
11 a rhinoceros in the road and tell them what I know  
12 to be true, that that isn't me on the tapes,"  
13 because I never did it. I never conspired. And  
14 this was before I heard the tapes but after I had  
15 been told essentially what was on them. I told  
16 her, "Stand like a rhinoceros in the road. Do not  
17 be deterred by them because they will pull out all  
18 the stops." And they did.

19 I told her to tell the truth, and the  
20 truth was that it's not me on those tapes. Where  
21 it is me, it's snippets from other recordings.  
22 Those tapes are false. 350 anomalies. One would  
23 be enough.

24 You decided that Mr. Walsh wouldn't be  
25 allowed to testify because he wasn't qualified.

1 And you heard the other sound expert, a  
2 guy that had worked in this field before it was  
3 even a field, a guy with over 20 years' experience  
4 working for the New York Police Department  
5 analyzing recordings; and he said not only are  
6 there over 350 anomalies indicative of dubbing,  
7 turning on and off equipment, and the like, he  
8 said it wasn't even my voice. He said that based  
9 upon the analysis that he did with computer  
10 programs and wave analysis, that he could see  
11 where some of it was my voice; but then at other  
12 places, it was somebody else's voice who had been  
13 morphed to sound like mine.

14 I've got to admit, when I first heard  
15 the tapes, I was devastated, because it sounded  
16 like me. And there were things in it I recalled  
17 having discussed with Fairfax but certainly not at  
18 the time and place that was alleged.

19 And my only conclusion was that they  
20 had made recordings and spliced them together.  
21 Not so farfetched. It happens. And it happens by  
22 this government. And it happens by international  
23 governments, repeatedly.

24 These are not the lunatic ravings of a  
25 madman. I have said this from the beginning, and

1 Twenty plus years in New York Police Department  
2 doing this field before it was a field. I call  
3 him a world-class expert, and certainly  
4 Dr. Papcun. And you said he couldn't come in  
5 because he wasn't relevant because the  
6 authenticity of the tapes hadn't been put into  
7 dispute; and yet in these recordings that they  
8 used to support yet another charge in my 60-year  
9 total, I said to my wife that the recordings were  
10 false.

11 They were played in the courtroom; and  
12 yet you said that it hadn't been put in dispute.  
13 There was a letter attached to the deposition  
14 transcript of that lady from Ukraine. I wrote the  
15 letter. Nobody ever asked me if I did, if I'd  
16 authenticate it. I would have. I did. And I had  
17 reasons for doing it that didn't have anything to  
18 do with running off with a near teenager to dump  
19 my wife.

20 In that letter I told her that they had  
21 recordings that were falsified. That was before  
22 the court; and yet you said it was irrelevant  
23 because nobody had brought it into dispute. My  
24 wife had testified that it wasn't my voice on  
25 those recordings, but you said that Dr. Papcun

1 couldn't testify because nobody had put the  
2 authenticity of the recordings into dispute. Time  
3 and again, it was put into dispute, Judge.

4 And then, just before the defense was  
5 to be allowed to start to present its case -- it  
6 wasn't going to be much of a case, near as I could  
7 tell, because I had left that to McAllister. I  
8 trusted in him. I had forgotten about how the  
9 fact is that all lawyers are fools.

10 I know I couldn't trust myself because  
11 of the anger that I felt, because of the  
12 irrationality I felt. I sat in that chair in more  
13 trials than I can recount.

14 But I want to tell you, shifting over  
15 three feet into the other chair provides a  
16 perspective so different that it's almost  
17 indescribable. It's like someone who has children  
18 trying to explain to someone who has never had  
19 children the value of having children, something  
20 that can't be done until you've been there.

21 The view from that chair is very  
22 different from this chair, and I had enough sense  
23 to realize that I couldn't trust my point of view.  
24 That's why I didn't take the stand, because the  
25 guy that was sitting in this chair absolutely

1 court and are not subject to being revisited at  
2 this time.

3 The only thing I would also add is that  
4 we do actually have another matter scheduled at  
5 11:00. We did communicate with counsel and asked  
6 as to how much time you all felt you needed. I  
7 think the government gave us some indication, but  
8 we didn't hear from the defense. We assumed that  
9 two hours would be sufficient; and, therefore, we  
10 had a matter this morning at 8:00 which concluded  
11 just moments before we began this proceeding and  
12 then scheduled another matter at 11:00, which we  
13 will now have to move back presumably into the  
14 lunch hour or later.

15 So, for all of those reasons, I would  
16 ask you to focus in on the purpose of the  
17 allocution, which is to offer statements and  
18 points of view with regard to mitigation.

19 Go ahead, Mr. Steele.

20 THE DEFENDANT: Judge, if innocence isn't in  
21 mitigation, I don't know what is.

22 THE COURT: Well, the point -- and your  
23 position on that is well established, and there is  
24 probably not much purpose in restating it here,  
25 since I'm completely aware of your position that

1 prohibited me from doing it, among other things.  
2 Never prepared me, just like he didn't prepare any  
3 other witnesses.

4 THE COURT: Mr. Steele, I need to take a --  
5 we need to take a break. We have been going since  
6 8:00 this morning. So is this a good breaking  
7 point where we can take a five- or ten-minute  
8 break?

9 THE DEFENDANT: That will be fine,  
10 Your Honor.

11 THE COURT: Counsel, we'll be in recess  
12 for -- let's make it a ten-minute recess. We'll  
13 be in recess.

14 (Recess.)

15 THE COURT: Mr. Steele, you may resume your  
16 allocution. As you do so, I might remind you the  
17 purpose of the allocution is not to reargue the  
18 case or to reargue questions of innocence or to  
19 reargue a motion for new trial. The purpose of  
20 allocution is to suggest matters in mitigation  
21 that the court should consider.

22 Now, I'm not going to impose time  
23 limits, but I would caution you to focus in on the  
24 purpose of the allocution rather than raising  
25 issues which have already been decided by the

1 you are innocent of all charges.

2 THE DEFENDANT: It's not well established  
3 because the evidence hasn't been heard. The  
4 reasons for it hasn't been heard. The reasons I  
5 believe and others believe that I'm innocent  
6 hasn't been heard.

7 I sat here just ten minutes ago, and I  
8 watched U.S. Marshals Service Deputy Glenn Morgan  
9 sharing a laugh with somebody else in the audience  
10 when I said that the tape recordings were  
11 fabricated. Obviously, that was too farfetched to  
12 believe. Well, that's what I have encountered  
13 right down the line with every government official  
14 in this case.

15 I have never been allowed to have my  
16 say about this. It hasn't been put on for me by  
17 my lawyers until the one I've got now, and he is  
18 only on board after trial.

19 It's high time I was heard. I deserve  
20 to be heard. I have an absolute right to be heard  
21 in allocution at this point in the proceedings.  
22 You haven't allowed it. This is deja vu all over  
23 again. It feels like the trial, when you were  
24 constantly pounding on my lawyer to wrap things  
25 up, to stop doing this, to stop making these

1 questions. And now you've suggested that I limit  
2 myself to the next 15 minutes and hinted that  
3 maybe you will push that other matter over.  
4 Nobody ever asked me. Nobody ever asked my  
5 lawyer, because I told him I was going to take  
6 well over an hour in my statement. This is just  
7 like the trial. Move, move, move.

8 And then in less than one day, my case  
9 was presented. And before I knew it, the guy that  
10 I had hired and paid a lot of money to, paid my  
11 life savings to, to represent me rested. I  
12 couldn't believe what was going on. And now it's  
13 happening here again today. What's wrong with  
14 this picture, Judge?

15 I have a right, and it's high time that  
16 I was heard. I haven't been allowed to be heard.  
17 Nobody believes me, even though I'm an officer of  
18 this court. And the only one who proves that I'm  
19 a liar about anything is this oafish, northern  
20 Idaho handyman, self-confessed liar,  
21 self-confessed pipe-bomber.

22 But I, law degree, officer of this  
23 court as well as courts all up and down the west  
24 coast, I am not to be believed, I am to be rushed  
25 along, I am not to be heard. That's the way it's

1 powder received at this court and in other federal  
2 office buildings -- I don't know how extensive it  
3 was -- the first day that I was brought to court  
4 for an appearance. And that's why that hearing  
5 was canceled.

6 I had nothing to do with that. I have  
7 no idea what it was. But, clearly, now in  
8 retrospect, that's why I was dealt with so  
9 heavy-handedly by Magistrate Candy Dale. The  
10 assumption was that it was me or my supporters  
11 sending anthrax to the federal system. That's  
12 ridiculous. No evidence of it.

13 In fact, I think it was my enemies who  
14 did it. Why? Well, to make it look like I did  
15 it, to have exactly the effect that was had, where  
16 I was denied bail, to further poison the jury pool  
17 that was sitting out there against me.

18 And I was denied bail in a very  
19 heavy-handed manner. Murderers get bail.  
20 Murderers get six to eight years. Nobody was hurt  
21 in this case, and I'm getting 60. What's wrong  
22 with this picture?

23 I was denied a lawyer for the first  
24 month that I was in custody, a very difficult  
25 month for me while I went through withdrawal from

1 been right from the beginning.

2 Yes, the recordings are false. This  
3 case is about denial to me of my rights right down  
4 the line up to and including today.

5 I was denied bail. Why? I don't know  
6 why. Murderers get bail all the time, but I have  
7 never been allowed it. I was slapped into maximum  
8 security isolation for a month at the very  
9 beginning and kept in that condition most of the  
10 time.

11 I have been held incommunicado by the  
12 government of this country. I am a political  
13 prisoner. I haven't heard that word used in this  
14 court yet. It's high time it was. I am a  
15 political prisoner being persecuted for my views,  
16 for having dared to speak out about believing that  
17 every citizen of the United States of America  
18 should have rights, that nobody should have  
19 special rights. And that's the extent of it.

20 But everybody wants to accuse me of  
21 being a racist for saying that much, for  
22 representing the people that I have represented  
23 whose First Amendment rights have been destroyed  
24 because they were politically incorrect.

25 I understand there was some white

1 all of the prescription drugs that I was on from  
2 those four surgeries that I had just had, all of  
3 those prescription drugs, the shock of being  
4 arrested for the first time in my life, being held  
5 in maximum security, full lockdown, isolation.

6 I was denied my wife for a year. I  
7 wasn't allowed to talk to her. I was accused of  
8 witness tampering because I told her to tell the  
9 truth. And the truth was it wasn't me on those  
10 tapes.

11 I believe at one point she testified  
12 that's the way she took it, too. And what you've  
13 seen of her today, I think you can probably agree  
14 with me that that is not a woman who is going to  
15 be told what to do. And I knew that after 27  
16 years with her, certainly.

17 The no-contact order was merely used as  
18 an artifice to further isolate me. For example, I  
19 didn't know that she had listened to these tapes  
20 -- these recordings, excuse me -- the first time  
21 and pronounced them to be false. I was unaware of  
22 that for several months.

23 We hear our own voice on a recording.  
24 It's hard to tell, because we don't often hear  
25 that. Same was true for me. But she is the

1 world's foremost leading expert on how my voice  
2 sounds and the way I talk. It only took one  
3 hearing for her to hear that they were false.

4 But then we had sound experts who  
5 analyzed them extensively, hundreds of hours; and  
6 they proclaimed them false, too. Of course, they  
7 weren't allowed to testify. Of course, she wasn't  
8 allowed to testify about that, either.

9 My defense was not allowed in this  
10 courtroom, before this court, before the jury. We  
11 were not allowed to say anything bad about the  
12 government or its agents. We weren't allowed to  
13 talk about the lies or to bring out even the lies  
14 that were in the record said by Agent Sotka, said  
15 by Mr. Haws, said by Prosecutor Whelan. You  
16 prevented that.

17 That was my case, government  
18 misconduct. That was my case, and you prevented  
19 us from putting it on. My defense against these  
20 tapes was that they were false, and you prevented  
21 that evidence from coming in. You heard it  
22 yourself, but you wouldn't let the jury hear it.

23 What were they supposed to conclude?  
24 All they knew was that here are these tapes, and  
25 nobody has challenged them. Steele isn't taking

1 And we came up with the proof for it.  
2 It's in the record of that secret hearing I wasn't  
3 allowed to attend near the end of the trial. It's  
4 in the record of that hearing that you held  
5 ex parte with my lawyer. It was in the record  
6 where you revealed that the Marshals Service had  
7 brought to you what they had overheard me talking  
8 to my lawyer about in the privacy of an  
9 attorney-client setting. And you let them tell  
10 you, and then you used it, Judge. You used it to  
11 intimidate my lawyer, and it wasn't the first  
12 time, either.

13 I understand fully well now why he  
14 stood down, now that I know about his bankruptcy  
15 before trial that he was still surging through  
16 during the trial, that I know that he was about to  
17 be disbarred after trial. And he was disbarred.  
18 Last I heard, he was driving a taxi in Denver.  
19 But nobody told me about that, least of all him.

20 All those secret hearings. Twenty-nine  
21 sidebars were held during that trial that I was  
22 not allowed to attend. Twenty-nine. Secret  
23 hearing after secret hearing, closed hearings,  
24 sealed documents, secret, secret, secret.

25 And you know, I looked into the stuff

1 the stand and saying, "That's not me." Of course,  
2 they had to find me guilty. They had no  
3 alternative.

4 You don't get to say much in a defense  
5 that you're allowed to only put on in less than  
6 one day, however. I look at these TV cases -- the  
7 Michael Jackson doctor case, the Spokane detective  
8 case, case after case after case where these  
9 trials drag on for weeks; and yet we were forced  
10 to compress ourselves into less than one day and  
11 denied the ability to present the defense, the  
12 truth that really had occurred, denied the ability  
13 to defend myself with the experts, with the woman  
14 who knows my voice to tell the jury that that  
15 wasn't my voice on the tape, that they were false,  
16 and there is something else going on here.

17 I was denied attorney-client privilege,  
18 as you know. The prosecutors had the Marshals  
19 Service listening in on my phone calls to lawyers.  
20 The prosecutors had the Marshals Service opening  
21 my legal mail to lawyers. And as you well know,  
22 the Marshals Service was listening in on my  
23 private in-booth conferences with my lawyers, my  
24 lawyers of record -- not just not of record, but  
25 of record -- more than once.

1 that's all secret, all those hearings and all  
2 those documents. There is a common thread. You  
3 know what they got in common? They show that the  
4 government is up to no good. The secrecy is there  
5 to protect the government -- has been and is now.

6 I had a right to attend that hearing  
7 during trial, but you didn't bring me in. I had a  
8 right to have my conversation with my attorney not  
9 listened to, but you authenticated that right.  
10 And you had them tell you what it was that I had  
11 said, and then you used it against me, Sixth  
12 Amendment, Fifth Amendment be damned. Certainly,  
13 no First Amendment in my case.

14 They seized my life savings, which I  
15 had in the form of silver at my home. And they  
16 held it until just about the eve of trial. That's  
17 why I had to have the public defender. I couldn't  
18 afford to hire a lawyer. And they released that  
19 silver just a couple of weeks before trial was  
20 scheduled to start, and that's when I was able to  
21 have McAllister sign on as my attorney of record,  
22 because that was when I was able to pay him.

23 Well, it wasn't even me, by the way,  
24 because it was my wife's silver at that point. I  
25 had signed everything over to her. My alleged

1 victim, I gave her everything in my life. And if  
2 anything comes to me in what's left to me of my  
3 life, I will give it to her.

4 I was denied investigation that I  
5 demanded into the Russian Mafia, which I maintain  
6 had a hand in this case, into this Russian bride  
7 scam. They brought in a very selected body of  
8 evidence about that. They brought in letters that  
9 I had exchanged with one of these Ukraine girls,  
10 when there had been upwards of a hundred of them  
11 that I had had contact with, certainly, 30 to 50  
12 with whom I had had extensive correspondence  
13 exchanged. You could see it just on the evidence  
14 that was admitted without my knowledge by my  
15 lawyer in collusion with the prosecutor. I saw it  
16 after the trial.

17 You take a look at the government's  
18 Bates number stamps down at the bottom of the  
19 pages. There is big gaps. Where are all those  
20 letters, Judge?

21 Just in the packs that they put into  
22 evidence, there had been evidence removed. It had  
23 been screened and sanitized to make it look that I  
24 had an affair going on with one woman that I was  
25 going to run away with from my wife.

1 the bomb and looked at it. And he testified it  
2 wasn't even a bomb, would never have gone off.  
3 But that wasn't allowed to be presented at my  
4 trial. And like so many things, that was withheld  
5 from me, like Larry Fairfax's book was withheld  
6 from me. There are plenty of Brady violations in  
7 this case, Judge.

8 When I was arrested, I was stunned when  
9 Agent Sotka told me that Cyndi had been killed.  
10 And then later on, when he then told me that my  
11 mother-in-law had just been shot, I did smell  
12 something, and it wasn't the odor of defecation,  
13 one of the many lies told by Sotka to the jury,  
14 allowed over my objection. "Oh, he defecated  
15 himself there while we were arresting him."  
16 Didn't bring in the booking report, which would  
17 have shown that, and it doesn't.

18 I have the underwear I was wearing that  
19 day. It's been held in property in jail all  
20 along. I have it. It hasn't been washed. I  
21 couldn't get McAllister to bring it in and show  
22 Sotka was a liar for that one thing as well as so  
23 many other things.

24 I was in shock. I was grief-stricken.  
25 And then when I was told my mother-in-law had been

1 Well, if I wanted to run away, why  
2 didn't I just run away? I mean, you have got to  
3 ask yourself: "Why does my wife have to die if  
4 I'm going to run away with a near teenager?" And  
5 the spectacle of that is beyond imagination for  
6 me, anyway.

7 You know, there was that much admitted  
8 in documents of that investigation I was  
9 conducting for that book, about an inch in height.  
10 If they had brought in all the real documents, it  
11 would have been easily a foot or better. That's  
12 how much wasn't brought in. That's how much was  
13 selected to not be presented in this biased case.

14 The government had access to  
15 information that the bomb wasn't a bomb even.  
16 They kept deferring Larry Fairfax's sentencing.  
17 Every time my trial continued, they continued that  
18 because they didn't want him sentenced until after  
19 my trial because they had to have that hammer  
20 hanging on him. Because you could have just  
21 disregarded it and given him a lot more than two  
22 years, of course.

23 And the day after I was convicted, the  
24 word came out, and his sentencing was held. And  
25 the major witness there was a guy who had tested

1 shot, I suddenly began to figure out that there  
2 was something very wrong going on. And that's  
3 when they arrested me. And they didn't Mirandize  
4 me, but they were perfectly willing to bring in  
5 things like odors and whatnot or the way I acted  
6 or Strike -- Officer Strike, who testified that I  
7 was trying to cry.

8 What I was trying to do was to not cry.  
9 Here I am, all these men around me. My wife has  
10 just been killed. I was struggling mightily not  
11 to cry, but I was crying at that. Anybody would.

12 They told me during the arrest of the  
13 recorded plot, that they had recordings, and  
14 that's when I knew that it was false. I didn't  
15 know who had made the false recordings. I didn't  
16 know what was going on then, but I knew it was  
17 false right then; and yet the government went on  
18 to testify, and Mr. Haws repeated in his closing  
19 argument and more than once at trial that I didn't  
20 know about the recordings until my family told me  
21 about them; that, somehow or other, that makes me  
22 look more culpable.

23 What that would do, I suppose, is make  
24 me look guilty of witness tampering. But the fact  
25 is I had been told about the recordings at the

1 moment I was arrested, and I knew they couldn't  
2 exist. And so I told my wife to stand like a  
3 rhinoceros in the road and be not dissuaded. Tell  
4 the truth. Tell them that's not my voice on the  
5 tapes, because it wasn't, and it isn't. Of  
6 course, we weren't able to put that testimony on  
7 for the jury. You heard it, though.

8 Who would do this? The government?  
9 Oh, my government wouldn't do that to me. I've  
10 had to fight that for years now. I had to fight  
11 it with my own wife until this case. She now  
12 finally believes it, as so many other people do.  
13 It's kind of like, Judge, how a woman who gets  
14 raped will suddenly become a supporter of the  
15 Second Amendment.

16 You know, and when I showed up at trial  
17 after it had been continued for that week, the  
18 week that they needed to hang the bomb on my  
19 wife's car, by the way, which never left the  
20 state -- and it was defective; it wasn't a bomb.  
21 And I think that's probably why this powder was  
22 sent out, because they knew that you had continued  
23 the hearing for a week. And it was at the end of  
24 that week that that bomb was discovered.

25 And all you've heard is testimony that

1 were ready with press releases and spokesmen  
2 appearing the day I was arrested.

3 Funny they were able to do that. It's  
4 not like I'm important. They said it themselves.  
5 "He is not important." I'm not important. It's  
6 not like I'm a guy that you've got to have a  
7 biography in the can for in case he dies  
8 unexpectedly. The news organizations have those  
9 for people. Why would they suddenly have this  
10 canned dog-and-pony show about me trying to have  
11 my wife killed? What's wrong with that picture?

12 And I was given no bail. And several  
13 months later, when we asked for it again, I saw  
14 Magistrate Candy Dale shock through with malice,  
15 dripping with venom, taking on my lawyer for  
16 daring to come to court and once again asking for  
17 bail.

18 My friends, my family had gotten  
19 together, and they were putting up a million  
20 dollars bail for me, but that was rejected out of  
21 hand. No bail.

22 What's wrong with this picture?  
23 Murderers get bail. That cop in Spokane is  
24 getting bail. He is out even after he has been  
25 convicted. And that's true throughout the

1 there wasn't any bomb until then. So when was it  
2 put on, Judge? There is absolutely no proof, no  
3 evidence that it was put on before that car left  
4 the state. There is no evidence that it or  
5 anybody traveled in interstate commerce for the  
6 purpose of committing a crime.

7 And, you know, I was handed this  
8 document here that I have got in my hands at that  
9 first hearing. It's called a pretrial services  
10 report. And right in it -- and this is the one  
11 that was prepared just after I was arrested. And  
12 right in it, it quotes the ADL about me as  
13 offering evidence why I shouldn't be given bail,  
14 because I'm a bad guy, because I say things that  
15 are politically incorrect. Accused me of writing  
16 a number of books; that was false. I have written  
17 one book, called "Defense of Racism." And if you  
18 measure it by its title, you could be offended.  
19 Nobody who has read it has been offended.

20 So there we were at my first hearing,  
21 where I asked for bail. You're not supposed to  
22 ask for it at that hearing, but I did anyway. And  
23 I see in the document the ADL is being relied upon  
24 to give reasons why I shouldn't be given bail.  
25 Right at the outset. And I understand that they

1 country.

2 But I get special treatment. You've  
3 got to ask yourself why, Judge. Why do I get  
4 special treatment? Why am I charged the way I am  
5 so that I'm going to be hit with 50 to 60 years'  
6 imprisonment in a few minutes? What's that all  
7 about?

8 You said yourself you had never seen  
9 anything this size. Why me? Why am I that  
10 important? Nobody was hurt in this case. My wife  
11 has testified repeatedly that she believes I'm  
12 innocent. You have got the perp, the admitted  
13 perp, in jail; and yet the system is still pulling  
14 out the stops on me. Fifty to sixty -- make it a  
15 thousand years, Judge. Here, let me ask this in  
16 my allocution: Give me a thousand years. I think  
17 that will put me in Guinness Book of World  
18 Records. You might as well, because I'm going to  
19 be dead in five years wherever I am, chances are.  
20 And statistically, even without my medical  
21 history, I would be dead in ten years.

22 So this hoo-ha about the length of the  
23 sentence is just window dressing. And why do they  
24 need to dress the window in this case? What's the  
25 point of it if I'm not important and this is just

1 a case of murder for hire that went awry?  
 2 Well, I must be important, actually;  
 3 otherwise, you wouldn't be about to bang me with  
 4 50 to 60 years. I must be important because we  
 5 wouldn't have all this media here that's here  
 6 right now. I must be important because I wouldn't  
 7 be getting the attention in the media. I wouldn't  
 8 be getting the condemnation of NGOs that I believe  
 9 are complicit in my prosecution.

10 I don't know who fabricated those  
 11 tapes. It took somebody with know-how and money,  
 12 somebody a heck of a lot smarter than Larry  
 13 Fairfax; that's for sure. I don't know who it  
 14 was. But I see the ADL appearing right from day  
 15 one. Day one, ADL. I have never seen them quoted  
 16 in court papers in 30 years of legal practice; and  
 17 yet, in my case, the ADL has given reasons why I  
 18 shouldn't get bail, and they're being listened to.  
 19 And they're out with press statements the same  
 20 day.

21 That's real efficient. We ought to  
 22 turn the running of government over to them. Oh,  
 23 excuse me, I forgot. We did.

24 Now, I have a number of topics I want  
 25 to cover yet. Remember, I haven't been heard. I

1 other two recordings that Larry Fairfax  
 2 participated in? Funny thing, there is a  
 3 defective recorder there, too. FBI said so.  
 4 Because the local office sent it back to Quantico  
 5 for examination. And they said, "We can't do  
 6 anything with this. It's defective." So they  
 7 sent it back. What did the FBI do? They sent  
 8 them another one. It's just like this one.

9 So we have recordings made by defective  
 10 recorders, and that was presented at trial. And  
 11 that, too, was a Brady violation because it wasn't  
 12 disclosed to us, just like the fact that the  
 13 original recording was destroyed by Agent Sotka,  
 14 destroyed before he ever even listened to the  
 15 copy, certainly never listened to the two of them  
 16 so that he could verify that somehow or other it  
 17 got from one to the other correctly.

18 He delayed ten days before he let my  
 19 wife hear the first two recordings. My wife has  
 20 heard them several times since then. My lawyers  
 21 have heard them. And they have all told me how  
 22 they have changed in one way or another each time  
 23 they have heard them. These tape -- or these  
 24 recordings have been a work in progress. And this  
 25 third recording we have never even heard.

1 wasn't allowed to put on my case, wasn't allowed  
 2 to present even on the miserable defense that  
 3 McAllister had prepared for me. Nobody has heard  
 4 me talk until now.

5 I have given two interviews. Amazing,  
 6 all the publicity that's gone on about what I say  
 7 and think, but these reporters haven't even come  
 8 and asked me. KXLY did two weeks ago. And a  
 9 movement paper, the American Free Press,  
 10 interviewed me a few months ago, all posttrial, of  
 11 course.

12 But I have really got to talk about  
 13 these tapes a little bit. Cyndi heard it at once.  
 14 She knew they were false. My experts came in and  
 15 said they were false, that they were fabricated.  
 16 It wasn't even my voice. Of course, that evidence  
 17 wasn't heard by the jury.

18 There is a third tape that my wife was  
 19 told isn't ready yet. And as she pointed out, it  
 20 probably still isn't ready because she still  
 21 hasn't heard it. And why isn't it ready? Because  
 22 it's a tape that the government has admitted had a  
 23 defective recorder on it. And there is an hour of  
 24 the recording missing, a critical hour.

25 Well, funny thing. You know those

1 And I see some more laughter and  
 2 smiling over here. Man, this guy is a lunatic.  
 3 This can't be true. Well, this is American  
 4 justice today.

5 The American public has been so  
 6 hoodwinked, so buffaloed. I'm not delusional.  
 7 I'm a well-educated professional with a long track  
 8 record of honesty, a long track record  
 9 representing the politically incorrect wherein I  
 10 have seen what the government will do. I have  
 11 never seen it do what it's done to me, though, but  
 12 I have seen them do it before; and yet we have  
 13 government agents sitting over here laughing at it  
 14 during the hearing. What's wrong with this  
 15 picture, Judge?

16 You bootstrapped the opinions of my  
 17 experts into the reason for your denial of their  
 18 being able to be my experts at trial. That ain't  
 19 the way it's supposed to work. You are supposed  
 20 to hear about their qualifications, and then  
 21 you're supposed to decide if they're qualified.  
 22 Instead, you went ahead and heard all their  
 23 conclusions, all their research, two days of  
 24 testimony, and then you ruled that one was not  
 25 qualified and the other was irrelevant. You did

1 wrong, Judge. You shouldn't have done that.  
 2 Tic-Tac sound, remember that? We heard  
 3 about that during the trial for the first time.  
 4 And why was it important for Mr. Haws to come in  
 5 and present that evidence? Well, it was important  
 6 because we had presented during the Daubert  
 7 hearing evidence of 351 anomalies, 351  
 8 occurrences, electronic signatures of the type  
 9 that occur when you dub, splice, cut recordings.  
 10 351. One would be enough. One would be enough to  
 11 disauthenticate them.

12 And how did you authenticate them?  
 13 With Larry Fairfax. That's what you ruled from  
 14 the bench. The self-confessed perp, the liar, the  
 15 pipe-bomber, the oafish north Idaho handyman. He  
 16 is the one who you believed that the tapes were  
 17 correct.

18 Sotka couldn't be believed because he  
 19 lied to us going into the trial, and he lied  
 20 during the trial. Remember how many times he  
 21 refused to call that original the original because  
 22 he had destroyed it? He insisted on using a  
 23 second- or third-generation copy and calling that  
 24 the original.

25 I call that a lie, Judge. And I accuse

1 they had gone to the trouble of getting the  
 2 railroad company to confirm that there was a train  
 3 that went through there every day at that time.  
 4 Of course, they didn't explain why there was no  
 5 train whistle after 6:02 the next night.

6 My wife said that it wasn't my voice on  
 7 the tapes, that it was somebody who was mimicking  
 8 my voice, every time it came to the subject of the  
 9 plot. Routine stuff about feeding the animals and  
 10 whatnot, she said that sounded like me. And  
 11 that's exactly what the sound experts said. Funny  
 12 thing. She said it first, during the first  
 13 week -- well, excuse me -- ten days after my  
 14 arrest, when she was finally allowed to hear those  
 15 two recordings.

16 She wasn't allowed -- she has never  
 17 been allowed to hear the third recording, don't  
 18 forget, because it's not ready yet. What does it  
 19 take to get it ready, Judge? The same stuff that  
 20 it took to get those two ready during those ten  
 21 days that they refused to let my wife hear those  
 22 recordings? What did they do to those tapes to  
 23 make them ready? My experts would tell. They did  
 24 tell you, but you didn't let them tell the jury.

25 I'm not going to reargue the business

1 the government agents in this case of lying  
 2 repeatedly and throughout this case. And it's  
 3 been proven. It's on the court record. It's in  
 4 the transcript.

5 Authenticated the tape by a proven liar  
 6 who is being held hostage by a soft ball plea  
 7 bargain. That's how you authenticated the tape.  
 8 World-renowned experts, the guy who wrote the  
 9 book, that's not good enough, but Larry Fairfax  
 10 is.

11 My wife testified and would have  
 12 testified to a great more problems with those  
 13 recordings, all of which indicate that there is  
 14 something wrong with them, from the fact that  
 15 there is train whistles on one done in the barn  
 16 where you can't hear the train, and there is no  
 17 train whistles on the other one, though it's at  
 18 exactly the same time. Both recordings started at  
 19 exactly 6:02 p.m. What a coincidence. One of  
 20 them had nine train whistles. The other one had  
 21 none. Why is that?

22 Well, the one with none I can explain  
 23 because you can't hear the train whistle in the  
 24 barn, but they presented it as critical that the  
 25 train whistle was on the other one. Why? Because

1 about lack of federal jurisdiction. I think it  
 2 was well put by Mr. Hoyt in his motion for new  
 3 trial. I found the logic inescapable; I'm  
 4 astounded to find that you didn't.

5 Larry Fairfax was an agent of the  
 6 government when he went to Oregon. He wasn't my  
 7 agent. They paid him \$500 to go to Oregon and be  
 8 there in case I called him so they would have a  
 9 record of me making an interstate call. Why would  
 10 that be important? An interstate call would be  
 11 proof of federal jurisdiction.

12 He testified he went to Oregon one  
 13 other time, too, which, of course, I knew nothing  
 14 about. Said he went there to see if the bomb was  
 15 still on the car. Looked at it, wasn't on the  
 16 car. All we've had is that there is no evidence  
 17 -- that there is evidence that there was no bomb  
 18 when that car was outside the state.

19 The statute calls for somebody to  
 20 travel interstate in order to create a nexus with  
 21 interstate commerce and thereby confer  
 22 jurisdiction upon this court as opposed to state  
 23 courts.

24 He didn't go there to commit any  
 25 crimes. He didn't go -- I didn't send him. He

1 testified that he didn't go with the intent to  
2 commit any crimes. The second time he went, it's  
3 unclear what he went for. He just went to receive  
4 a phone call. And when he went, he was the  
5 government's agent.

6 Where is the federal jurisdiction,  
7 Judge? I don't get it. If anything, this is a  
8 state court matter. We shouldn't even be here.  
9 You shouldn't have heard this case. This should  
10 be dismissed right now for lack of jurisdiction,  
11 which is within your power to do, but you won't.

12 Why am I so important that all of this  
13 stuff is happening? I mean, why do you have  
14 to -- why didn't you just let the state prosecute  
15 me? Why did it have to be brought into a federal  
16 courtroom? Why do I face 60 years? Why do we  
17 have all of this government prevarication? What's  
18 going on here if this is just an ordinary case and  
19 I'm just an ordinary guy? I'm sure not being  
20 treated that way.

21 It looks like more than an ordinary  
22 case to me, Judge. Why would that be, do you  
23 suppose? You're sitting up there talking about  
24 you haven't seen a recommendation more than twice  
25 what you had seen as a high watermark in the past

1 Why? Because they lied about them.

2 So then they decided I had a  
3 girlfriend. That was the motive. I'm still  
4 having trouble with this one, Judge. If it's  
5 really true that I'm going to run off with an  
6 18-year-old -- I'm 66 now -- a girl who is young  
7 enough to be my granddaughter and, theoretically,  
8 young enough to be my great-granddaughter -- if  
9 I'm going to do that, aside from how am I going to  
10 survive the honeymoon night, why didn't I just do  
11 it? Why do I have to get my wife out of the way?  
12 That just doesn't make sense.

13 Guys run away with their mistresses all  
14 the time. They don't have to kill their wife. I  
15 wouldn't have to do it, either. Where is the  
16 motive there?

17 At trial, there was something said  
18 about uninsured motorists coverage. I'm a lawyer.  
19 I have handled a lot of cases involving auto  
20 insurance. I well know that you don't collect  
21 insurance for intentional acts. And whether it  
22 was a bomb, a run off the road, my mother-in-law  
23 being shot by somebody, as I was told, those are  
24 all intentional acts. And I'm a lawyer, and I  
25 know better. Give me a break. There wasn't any

1 until today. And you heard Prosecutor Whelan  
2 stand up here, and (clapping) I deserve it.  
3 What's that all about? I'm going to be dead in  
4 five or ten years anyway. I'm amazed that I  
5 haven't had another aneurysm and died in jail.

6 What's going on here? This  
7 just -- this case doesn't add up, no matter what  
8 kind of machine you use to do the addition.

9 What's my motive? I've got motives  
10 laid on me. I have yet to hear one that worked.  
11 The first one was life insurance. My wife and I  
12 canceled our life insurance policies eight or ten  
13 years ago, so it wasn't that. I wasn't going to  
14 profit by her death, that's for sure.

15 Then they said she had a boyfriend, and  
16 they told her they had pictures of her with this  
17 boyfriend. She didn't have a boyfriend. I could  
18 have told them that. I know her.

19 You heard the way I described her. I  
20 think she would describe me the same way. That's  
21 not the description of somebody who has a  
22 boyfriend.

23 And then when she challenged them and  
24 said, "Show me these pictures," and they weren't  
25 able to. Why? Because they didn't have them.

1 uninsured motorist coverage available.

2 What was my motive? I didn't have a  
3 motive. I don't have a motive today. I didn't  
4 have a motive then. The only motive I saw here  
5 was for the government and the NGOs, like the ADL,  
6 to get me. Yeah, they're out to get me, Judge.  
7 And they have got me good. It does happen. It  
8 happens all the time.

9 This murder for hire is a template used  
10 by the FBI throughout this country on defendant  
11 after defendant. There are so many in jail right  
12 now under an identical prosecution that I couldn't  
13 even count. Yes, it happens. The toughest thing  
14 you got is to think that our government would do  
15 anything to us, that they would lie. We proved  
16 the lies in this case. By implication, we have  
17 proved what they have done.

18 I didn't have a motive. And the only  
19 evidence suggesting that I might have a motive was  
20 falsified, and it was authenticated by the liar  
21 who would say anything to escape the sentence that  
22 he deserved, which he was given by the prosecution  
23 for him to come in and lie about me. And you let  
24 him authenticate those tapes. That was the only  
25 authentication of the tapes.

1 Because the FBI violated its own  
2 protocols in making them. They sent Fairfax onto  
3 my property, allegedly, with these recorders --  
4 with this recorder. There was no simultaneous  
5 microphone monitoring, as there is supposed to be.  
6 There was no second agent -- just Agent Sotka --  
7 as there is supposed to be. There was never  
8 any --

9 THE COURT: Mr. Steele, let me interrupt you  
10 for just a moment. You have been going about an  
11 hour.

12 And let me point out, Mr. Hoyt, I did  
13 check, and we sent an email to counsel on October  
14 12, copies to you and to the government,  
15 indicating that we needed to have a time frame for  
16 the sentencing. We typically, in a garden-variety  
17 sentencing, take about an hour, but we needed to  
18 know how much more time to allot.

19 Based upon what the government  
20 responded to, we set this for a two-hour  
21 sentencing. We didn't hear from Mr. Hoyt;  
22 therefore, we had nothing else to go on. If we  
23 had known there was going to be more requested, we  
24 would have allotted more time.

25 I have still been, I think, quite

1 generous in allowing you to reargue the case,  
2 which is not the purpose of the allocution. You  
3 have repeated yourself -- we're probably going on  
4 two or three times on most of your statements have  
5 been said time and again.

6 So I'm going to give you 15 more  
7 minutes to conclude your statement, and then we're  
8 going to move on with the rest of the sentencing.  
9 And I would, again, remind you that the purpose of  
10 allocution is to argue mitigation and reasons why  
11 the sentence that the court imposes should be more  
12 or less than what the government has recommended  
13 or the probation office has recommended or to  
14 offer anything else by way of leniency.

15 But in terms of rearguing the case, the  
16 jury has spoken, and that -- the verdict is what  
17 the court must impose its sentence upon.

18 So I'll give you another 15 minutes;  
19 then I'm going to have to ask you to conclude your  
20 allocution. Proceed.

21 THE DEFENDANT: Judge, I have an absolute  
22 right to say anything I want to for any length at  
23 this time.

24 THE COURT: Actually, sir, you do not. But  
25 let's go ahead and proceed.

1 THE DEFENDANT: Well, I understand that. I  
2 get it loud and clear. I'm going to just chock it  
3 up to coincidence that you're doing it at the very  
4 time that I'm getting into the real government  
5 misconduct.

6 THE COURT: Well, I have no idea what you're  
7 going to get into, sir. I can't read your mind.

8 THE DEFENDANT: I was talking about Sotka  
9 violating FBI protocols when he made these alleged  
10 recordings.

11 THE COURT: Sir, you have 15 minutes, and  
12 then we'll proceed with the balance of the  
13 sentencing. Go ahead.

14 THE DEFENDANT: And he destroyed the  
15 original.

16 The evidence goes away in this case.  
17 It should have gone away at the outset. And I  
18 have been denied my attorney-client privilege. I  
19 suppose you'll call it repetition for me to go  
20 into that now -- how they opened my mail to  
21 lawyers, how they listened in to booth -- how you  
22 listened in to a booth conversation with my  
23 lawyer. You, Judge. You did it. How they  
24 listened in on my telephone calls.

25 And I saw in your response, memorandum

1 in point, denying the motion for new trial. I saw  
2 where you said that it's okay to do that for an  
3 attorney that isn't of record. And I was  
4 astounded to see you put that in writing. That  
5 isn't what the Supreme Court has said. That's not  
6 what the Constitution says.

7 And, as it turns out, the two lawyers  
8 that became my attorneys of record -- Mr. Hoyt  
9 and, before him, Mr. McAllister -- were the  
10 attorneys they were listening in on but before  
11 they became of record. And you have given cover  
12 to the government by ruling that I had waived my  
13 attorney-client privilege somehow just by talking  
14 to them. That's amazing.

15 You know, I have got page after page  
16 after page. Here is my page on government  
17 misconduct. I'm sure some of it is repetitious,  
18 but I figured I would have all the time in the  
19 world for this. And it was the first time I was  
20 going to be allowed to speak out, so I was going  
21 to speak out. But I'm not able to tell you about  
22 all of the government misconduct, the lies, the  
23 violation of FBI protocols, failing to warn my  
24 wife of a bomb, telling my wife not to get a  
25 lawyer. We want to talk about witness tampering?

1 What they did with her was witness tampering.  
 2 Oh, and there was another witness, too,  
 3 a guy named Daryl Hollingsworth, who they put me  
 4 in the Bonner County Jail with, made my cellmate.  
 5 He had been the cellmate of Larry Fairfax, and he  
 6 told me how Fairfax had told him that the FBI had  
 7 hired him to set me up, but his testimony was cut  
 8 short. And he was intimidated by the FBI, but  
 9 nobody seems to think there was anything wrong  
 10 with that.

11 I have got a sheet of items about  
 12 prosecutor misconduct. I would like to tell you  
 13 about why I was referred to as the "million-dollar  
 14 man" around this courthouse, but I don't have  
 15 time.

16 I would like to tell you about being  
 17 thrown in the hole in Spokane and Ada Counties. I  
 18 would like to tell you about how my case was tried  
 19 in the press to the point where, when we first had  
 20 a jury call on this case in this courtroom, you  
 21 made the comment that you had never before seen  
 22 people show up and demand to be made juries --  
 23 jury members. I'm sure that's part of the reason  
 24 we went to Boise thereafter, but I know why. I'm  
 25 not going to be able to tell you why, though,

1 wife? He told her that I told him not to do those  
 2 things. I don't get to tell anybody about this,  
 3 though, because I don't have time.

4 I don't get to talk about how you  
 5 compressed the case, made me put it on in less  
 6 than a day. Of course, I didn't have much of a  
 7 case to put on because you had taken away my  
 8 defense.

9 I don't really get to talk about how  
 10 you intimidated my lawyer repeatedly, two times  
 11 about subpoenas -- one on Fairfax's book, the  
 12 other on Papcun -- both of which I had told  
 13 McAllister to do and which he didn't do and which  
 14 his co-counsel has testified that he was told to  
 15 do; and yet you say there is no evidence of  
 16 ineffective assistance of counsel. What does it  
 17 take, Judge? What does it take?

18 Oh, and you denied the recorder  
 19 inspection, by the way. Remember I talked about  
 20 there being two recorders, two defective recorders  
 21 for the recordings? You wouldn't even let us see  
 22 them, let alone inspect them. They said that the  
 23 anomalies might be because of the recording  
 24 limitations of the recorder, but you wouldn't let  
 25 us see them to test if that statement was true.

1 because I don't have enough time.

2 I'm not going to be able to talk  
 3 extensively about the Brady violations, which are  
 4 numerous.

5 You know, Hollingsworth, my cellmate,  
 6 Fairfax's cellmate, a month before trial, he told  
 7 me about Fairfax's book. I told McAllister. I  
 8 told McAllister to subpoena it, and he didn't.  
 9 You remonstrated with McAllister during the trial  
 10 for not having subpoenaed it prior to trial  
 11 because he obviously knew about it. And he lied  
 12 to you when he said he didn't know about it until  
 13 he testified at trial.

14 Did anybody ever show you the piece of  
 15 paper I wrote during the Daubert hearing when I  
 16 handed it to him, and I said, "Subpoena Papcun  
 17 before he leaves town. We've got to have him. He  
 18 is too important. And if he does leave town, pay  
 19 anything to get him back"? I can't tell you about  
 20 that because I don't have time.

21 I can't tell you about the fact that I  
 22 told him to get my supporters, who had gathered  
 23 money for me, to fly Papcun back and buy out his  
 24 vacation. He told me my wife had told him not to  
 25 do those things. And you know what he told my

1 I filed a bar complaint against  
 2 Whelan -- you know that -- for invading my  
 3 attorney-client privilege. She did that. She  
 4 filed the motion to have it sanctioned by you a  
 5 week after I told McAllister on the phone that I  
 6 wanted it done. It's the only way she could have  
 7 known about it.

8 And, of course, she admitted that she  
 9 had been listening to those conversations, but she  
 10 has lied and denied it more than once since then.  
 11 But Whelan, the prosecutor, lied, Judge, to this  
 12 court.

13 And you gave a jury rule modification  
 14 that was incredible to me. You said that they  
 15 should use but-for causation in determining  
 16 whether Fairfax had gone to Oregon because of me.  
 17 Well, you know, if anybody here gets injured going  
 18 home today after this hearing, am I going to be  
 19 responsible for that? But for me, they wouldn't  
 20 have gotten hurt. It's the same rationale.

21 Cardozo discussed it in Palsgraf, you  
 22 know that case that they told us in first-year  
 23 torts that we would be talking about the rest of  
 24 our careers. For good reason. Cardozo would  
 25 disagree with you. But for me? No. Wrong.

1 Public defender misconduct -- I have  
2 got a whole list of items. The guy that I had to  
3 have at first, not the least of which is the fact  
4 that he refused to give us an affidavit coming  
5 into these proceedings. Why? Because Prosecutor  
6 Whelan told him not to. That's what he told us.

7 I was repeatedly lied to.  
8 Investigation wasn't done. I was lied to by  
9 McAllister. No preparation of witnesses or me.  
10 We gave him lists of questions to ask of witnesses  
11 at trial. He put them aside and didn't use them.  
12 Never challenged the recordings' authentication.  
13 I doubt that it would have done him any good. He  
14 refused to pursue the angle of the Russian Mafia  
15 or the Russian brides case that I was  
16 investigating for a book that I was writing.

17 He simply stood down at trial after you  
18 confronted him with the knowledge of what I had  
19 said to him in the attorney-client conference  
20 booth during trial. He stood down after that  
21 because of what you said to him.

22 I refused to recognize the authority of  
23 this court. I am one of the victims. The perps,  
24 Larry Fairfax, admitted and the government and the  
25 FBI and the NGOs. Nobody is injured. Nobody is

1 fabricated. I'm getting 50-plus years. Murderers  
2 walk in six to eight. I demand to be released  
3 now.

4 And, you know, then I had something  
5 that I wanted to finish off with, which was more  
6 of a patriotic theme about America, about a storm  
7 that's rising in America right now. And you can  
8 see it out there in the Tea Party demonstrations,  
9 but I'm not going to have enough time to give it,  
10 Judge.

11 I think it's one of my best pieces of  
12 writing. I think it would have been impressive,  
13 but I don't have time to give it because I'm not  
14 being allowed to say what I want to say during  
15 this allocution because I'm being cut off and  
16 limited to 15 minutes, which I have six of left.

17 THE COURT: Sir, just so we're clear, an  
18 hour and fifteen minutes.

19 THE DEFENDANT: I beg your pardon?

20 THE COURT: You have been going for an hour  
21 and ten minutes, and I said I would give you an  
22 hour and 15 minutes.

23 THE DEFENDANT: Well, since you gave notice,  
24 it's been nine minutes, and I have got another six  
25 minutes to go.

1 damaged except my wife and myself, our family.  
2 Larry Fairfax admitted his intent to  
3 scam us. And, when caught, he came up with a  
4 whole new intent, a whole new Magellan.

5 He admitted to taking silver from one  
6 of the stashes that he knew about on my property.  
7 He admitted it. He didn't say I gave it to him.  
8 He admitted he took it. He admitted to planting  
9 the bomb. He admitted to lying. But he is the  
10 one who is to be believed, not me, an officer of  
11 this court.

12 The grand jury indicted me on evidence  
13 that we conclusively showed you during the Daubert  
14 hearing was falsified. Because there is no  
15 victim, there is no injured party. They swore out  
16 a complaint against me, and it was false. No  
17 victim and no injured party has complained against  
18 me. On the contrary, my wife, who is the victim,  
19 comes in and supports me. And you cut her off for  
20 doing that.

21 I have been improperly charged. I have  
22 been improperly tried. I have been improperly  
23 convicted. And I'm about to be improperly  
24 sentenced.

25 You have no jurisdiction. It's

1 THE COURT: I'll grant you six minutes. I  
2 was rounding it.

3 THE DEFENDANT: Thanks, Judge. Six minutes.  
4 Hmm, where do I begin?

5 THE COURT: Well, I think more appropriate  
6 is where you end. I would suggest maybe you  
7 get --

8 THE DEFENDANT: Oh, you made it clear that I  
9 should be ending. I understand that.

10 THE COURT: Well, my suggestion is, whatever  
11 points you feel are important to make you really  
12 should make over the next few minutes.

13 THE DEFENDANT: The point I want to make is  
14 that there is tyranny and injustice afoot in this  
15 land that has taken hold of this country and run  
16 screaming headlong into the pit. It started 50  
17 years ago. It gathered force 30 years ago. And  
18 today it's really coming to the fore.

19 And you can see it in the dissatisfied  
20 Americans that are out there in the Tea Party.  
21 You can see it in these occupy Wall Street, occupy  
22 Los Angeles demonstrations that are going on right  
23 now. There are no leaders. There is no stated  
24 agenda. It is general dissatisfaction with the  
25 establishment and the way that we are being

1 treated. And that storm is rising up in America,  
2 and it isn't going to stop.

3 You know, it was President Thomas  
4 Jefferson -- he was one of my personal heroes --  
5 who said that the tree of liberty has to be  
6 watered from time to time with the blood of  
7 tyrants and patriots, alike.

8 Well, it's starting to happen, because  
9 I see they're starting to shoot our own citizens  
10 in the street now, just like what's going on  
11 around the world. There is a storm rising in the  
12 world. You see it in Italy. You see it in  
13 Greece, all those demonstrations, all those  
14 deaths. We are careening over the precipice. And  
15 my case is just an indication of what's happening.

16 There is no justice today in America  
17 for the politically incorrect. You claim the rule  
18 of law has brought me in to stand before you. And  
19 I have recounted many of the times that the law  
20 has been broken by the prosecution, by the  
21 government, by you -- broken by the FBI, broken by  
22 the Department of Justice.

23 You know, if this is where the rule of  
24 law has brought us, I've got to ask you: What  
25 good is that rule?

1 The average American's knowledge of  
2 government's tyranny is growing by the hour now.  
3 The time is coming. With her ascendance in  
4 commerce, America has lost her spirit. As said in  
5 the Bible, you can't serve God and man.

6 Boy, this is -- this is a great speech  
7 I wrote. This is probably one of the best  
8 speeches I ever wrote, you know.

9 You know, history shows us the rocks  
10 that we're about to founder on -- tyranny,  
11 injustice, unfairness, inequality. I have seen it  
12 in my legal career, and I have seen it in my case.

13 And the people who have done it to me  
14 are the same people who say that patriotism is  
15 old-fashioned, that love of country is out of  
16 date. They say the same about those who consider  
17 the slightest show of sentimentality toward  
18 America to be proper.

19 But God help us, Judge, and God help  
20 America if these cynics, these elitist  
21 one-worlders, power brokers ever persuade us that  
22 these things have passed us by. Because, Judge,  
23 patriotism, loyalty, justice, sentiment, these  
24 things are the United States of America, and they  
25 will be again, regardless of what you say here

1 America needs a change, a real change,  
2 not just the rhetoric of politics, which we're  
3 getting once again. These guys don't understand  
4 what's going on. I know what's going on. America  
5 is broken -- critically, terminally broken. All  
6 the built-in mechanisms to fix her have been  
7 shorted out. She won't be fixed.

8 We are a government of elitists,  
9 self-righteous, ruthless men. America can't be  
10 fixed because it won't be fixed.

11 Something has got to be done, Judge.  
12 The present government will never allow us openly  
13 to form an organized opposition to what's going on  
14 in this country. The Constitution has been thrown  
15 out the window in my case. The laws have been  
16 trod underfoot. And you facilitated it, Judge.  
17 You.

18 Cancer, both foreign and hostile, sits  
19 astride America today, just as it does the whole  
20 world. And the time is coming soon now. Some say  
21 we can reform government -- just pass the right  
22 bill, repeal the right act, elect the right  
23 president. Then, once we have made it up with the  
24 federal government, it will protect us. Common  
25 sense says otherwise, based on results.

1 today.

2 I think that's my 15 minutes.

3 THE COURT: Thank you, Mr. Steele.

4 THE DEFENDANT: My pleasure.

5 THE COURT: Mr. Hoyt.

6 RECOMMENDATIONS BY DEFENSE

7 MR. HOYT: Your Honor, I have two matters to  
8 take up with the court quickly.

9 THE COURT: Would you step to the lectern?

10 MR. HOYT: I will. I will.

11 THE COURT: Thank you.

12 MR. HOYT: I was looking for the proper note  
13 here.

14 Number one, we would request that any  
15 interment in any prison facility be directed by  
16 the court to Sheridan to speed the appellate  
17 process in this case or facilitate the appellate  
18 process. And, second of all, that the payment of  
19 any fines be directed or delayed until after he is  
20 released.

21 THE COURT: Just make that last statement.

22 MR. HOYT: That any fines be -- that he be  
23 directed to pay any fines after he is released.

24 THE COURT: All right.

25 MR. HOYT: Those are the two rights that

1 are -- or the two requests that defendant can  
2 make.

3 THE COURT: All right. Any other argument  
4 or recommendation as to a sentence?

5 MR. HOYT: Yes, Your Honor. I'll step to  
6 the lectern.

7 THE COURT: All right. Let me just --  
8 because, again, we're running, obviously,  
9 off-kilter in terms of time. Counsel, with the  
10 matter that we had scheduled at 11:00 and it's now  
11 almost 12:00, I am not sure we will be able to get  
12 to that today. We may have to continue it until a  
13 later session of court.

14 My apologies. We tried to plan ahead  
15 and, obviously, did not do a very good job of it.  
16 So I'm going to ask you to perhaps get with  
17 Ms. Parson or the clerk's office downstairs and  
18 see if we can either -- or you might stay around.  
19 I'm just not sure. We're kind of in a bit of a  
20 state of limbo because we couldn't plan ahead.

21 Now, Mr. Hoyt.

22 MR. HOYT: Thank you, Your Honor.

23 The recommendation would be that the  
24 defendant be given credit for time served and  
25 released and that the full extent of his sentence

1 to respond to anything that was said here. That's  
2 neither here nor there. I was referring to my  
3 response to those statements made about decisions  
4 I made during the course of the trial.

5 I am very comfortable that the  
6 decisions made were appropriate and in accordance  
7 with the facts and the law as they were presented.  
8 But, of course, we'll see what an appellate court  
9 does, as we always must.

10 And I think for me to get engaged in  
11 some kind of a spirited defense of the court's  
12 decisions during the course of the trial would not  
13 be well advised and perhaps might also elevate  
14 accusations into more than what they are.

15 Now, let me -- I'm required -- this  
16 case is unusual. As I noted at the outset, the  
17 mandatory minimum, it's not set by the court, it's  
18 not set by the U.S. Attorney's Office, not set by  
19 the Executive Branch but set by Congress and then,  
20 I suppose, signed into law by a president -- I  
21 don't know which president -- mandates in this  
22 case a minimum 40-year sentence because of  
23 statutory mandatory minimum sentences which the  
24 court has no discretion to ignore.

25 So that, obviously, makes much of the

1 be the amount of time served so far since his  
2 arrest, since June 11th.

3 THE COURT: All right. No other argument or  
4 recommendation?

5 MR. HOYT: No other argument or  
6 recommendation.

7 COURT'S COMMENTS AND SENTENCE

8 THE COURT: All right. Then, perhaps  
9 counsel shouldn't go so far. I wasn't sure how  
10 much time we would take. So it's one of those  
11 moving targets that we have to deal with.

12 I believe I have already noted that I'm  
13 going to accept the presentence report as my own  
14 findings in this matter since there was no proper  
15 objection to the presentence report. The only  
16 objection stated was similar to what was argued  
17 here, that the jury verdict was wrong and that the  
18 verdict should be set aside.

19 There is a temptation, I think -- it's  
20 a human temptation -- to want to respond and  
21 defend oneself and to say why the things that were  
22 said were simply not true. I think that would not  
23 be wise and -- for the court at this point.

24 Again, I was not suggesting the United  
25 States Attorney's Office is under a gag order not

1 proceeding here today almost predetermined because  
2 the court just simply has no discretion. It is  
3 something that Congress has dictated. And I took  
4 an oath of office to uphold the laws of the  
5 United States when I became a federal judge, and I  
6 have tried to do so, and I intend to continue to  
7 do so.

8 So, even if I might disagree with that,  
9 that's irrelevant. The law is what it is, and I  
10 will apply it as evenhandedly as I can.

11 I am required, though, to go through  
12 and consider certain sentencing factors. The  
13 sentencing guidelines, which has an extraordinary  
14 guideline range in this case, is but one of those  
15 factors. I'm going to go through them in the same  
16 sequence that they're set forth in the statute,  
17 which is 18 U.S. Code Section 3553(a).

18 The first factor which the court is to  
19 consider is the nature and circumstances of the  
20 offense. And, obviously, from that, I am -- I  
21 derive that from my sitting through the trial.

22 Here, the defendant hired Larry Fairfax  
23 to kill the defendant's wife and mother-in-law.  
24 The defendant gave Mr. Fairfax a \$10,000 down  
25 payment and agreed to pay an additional \$25,00 for

1 carrying out the murders.

2 After approaching law enforcement about  
3 the murder-for-hire plot, Mr. Fairfax, acting in  
4 the capacity as a confidential informant, engaged  
5 the defendant in conversations during which  
6 investigators recorded comments from Mr. Steele  
7 that verified that the -- that his intent was to  
8 have his wife and mother-in-law killed. The  
9 investigators then obtained a search warrant and  
10 arrested Mr. Steele.

11 After he was arrested, the defendant  
12 made contact with his wife and son from the jail.  
13 During those conversations, the defendant told his  
14 wife and son that the recordings of the  
15 conversation with Mr. Fairfax regarding the  
16 murder-for-hire plot were manufactured by the  
17 government. He then instructed them about what to  
18 say to investigators so that the recordings could  
19 not be used against him at trial.

20 On May 5th, 2011, a jury returned a  
21 verdict convicting the defendant of all four  
22 charges in the superseding indictment.

23 With regard to -- I think the only  
24 comment I will make -- and it's not intended in  
25 any way as a defense of my rulings or a defense of

1 his wife and that he engaged in a plot to have her  
2 murdered rather than to simply enter into a  
3 divorce; whether to avoid the financial fallout of  
4 a divorce or for some other reason, I don't know.

5 And then we have the tape recordings.  
6 That's the area where I probably won't go into any  
7 more detail except to say that my rulings are  
8 clear on the record as to why I ruled the way I  
9 did. And I think that -- well, I'll just leave it  
10 at that. I think there is other comments I can  
11 make, but I really think it would not be prudent  
12 at this time.

13 And the only other comment I would say  
14 is that a conspiracy, from my view -- and I'm  
15 not -- I have issued decisions criticizing  
16 government employees for improper conduct. I have  
17 no reluctance at all to do that when there is a  
18 factual basis to reach that conclusion. But I  
19 think in this case, conspiracy can only be found  
20 in this case if you ignore the facts and your  
21 world view, in essence, dictates that there is a  
22 conspiracy everywhere.

23 That's, to me, the only way that you  
24 can find a conspiracy in this case, because it's  
25 certainly not in the facts.

1 the jury's verdict; I think that's for the circuit  
2 court to sort out on appeal. But I do think it's  
3 important to offer just a very general observation  
4 about what this case was about and what it was not  
5 about.

6 I think there has been an effort to  
7 inject into this case an argument that this case  
8 is about Mr. Steele's politics, it is perhaps  
9 about his views, and it is about a government  
10 conspiracy. And I will say that from my position,  
11 having reviewed all of the evidence -- that which  
12 the jury saw, that which they did not see -- I  
13 think there is absolutely no evidence of that.

14 What the evidence indicates is that  
15 this was a crime of -- I don't know if you want to  
16 call it a midlife crisis, a crime of passion,  
17 perhaps a crime of greed; I don't know. But what  
18 is clear from the record is that the defendant was  
19 involved in an Internet-based relationship with a  
20 young Russian woman, which he has explained that  
21 it was not real, that it was a ploy on his part to  
22 develop a record or a basis for a book. However,  
23 the jury did not believe that, apparently.

24 It's also clear that he decided, and  
25 the jury so found, to end his relationship with

1 Now, let me turn, then, to the  
2 defendant's history and characteristics, the next  
3 3553(a) factor.

4 The defendant is a 66-year-old male.  
5 He was born in Seattle, Washington, in 1945 but  
6 was raised in north central Washington. He was  
7 raised in what he considered poor economic  
8 conditions but indicates that he did not lack the  
9 necessities of life. He indicated that there was  
10 sexual abuse at a young age, but that's not really  
11 been argued or suggested that that in some way  
12 contributed to the crime in this case or his  
13 decision-making.

14 The defendant served in the U.S. Coast  
15 Guard for three and a half years after graduation  
16 from college. And after leaving the Coast Guard,  
17 he obtained an MBA from the University of  
18 California Berkeley and a law degree from UCLA.

19 He spent his professional career  
20 focused primarily on civil litigation. He married  
21 Cyndi Kunzman on April 27th, 1985. She brought to  
22 the marriage a daughter, whom the defendant  
23 adopted. And the defendant and Mrs. Steele also  
24 have two biological children in common, a son and  
25 a daughter.

1 The medical records show that the  
2 defendant has had some minor surgeries in the past  
3 plus some more severe medical conditions and  
4 surgery more recently. Most notably, he had  
5 prostate cancer in 1997, gastric bypass in I think  
6 it was 2008, surgery for an ascending aortic  
7 aneurysm in 2009, surgery for a hernia in 2010,  
8 and a surgery in 2010 because of an uncontrollable  
9 nosebleed.

10 Following the gastric bypass that I  
11 referred to, he lost approximately 100 pounds and  
12 then underwent the extensive liposuction that was  
13 discussed previously.

14 The defendant is currently prescribed  
15 some medications but primarily for blood pressure  
16 problems, anxiety, seizures or mania and  
17 depression or sleep aid. He does not appear to  
18 have any drug or alcohol addictions, and there is  
19 no documented history of mental or emotional  
20 conditions.

21 That's what the presentence report  
22 reflects, and those are the circumstances of the  
23 defendant that I think in some way, large or  
24 small, bears upon the appropriate sentence in this  
25 case.

1 any needed educational or vocational training,  
2 medical care, or other correctional treatment.

3 Those are the core in which the court,  
4 as I mentioned, must impose a sentence sufficient  
5 but not greater than necessary to accomplish those  
6 objectives.

7 In my view, murder for hire is -- it is  
8 simply not enough to say it is a serious offense.  
9 It is far more than that. It is a crime that is  
10 extremely troublesome and a crime that becomes  
11 more troublesome because it was a -- the intended  
12 victims were close family members.

13 The use of an explosive device  
14 increases the seriousness of the crime because of  
15 the possibility for injuring innocent bystanders.

16 Tampering with witnesses is, again, an  
17 offense that I would describe as far more than  
18 just serious. It strikes at the very heart of the  
19 entire legal system when people try to intimidate  
20 victims and witnesses.

21 So, for that reason, this is a very  
22 serious offense, one that certainly stands out in  
23 my mind throughout my 24 years as a judge.

24 In terms of adequate deterrence, it is  
25 clear that the defendant attempted to have his

1 I would indicate the guideline range is  
2 the aforementioned astronomical range of 715 to  
3 773 months. The sentence range prescribed by  
4 statute on Count 1 is a up to ten years and a  
5 \$250,000 fine; on Count 2, a minimum of ten years  
6 consecutive to any other sentence and a \$250,000  
7 fine; a sentence on Count 3 of not less than 30  
8 years consecutive to any other sentence and a  
9 \$250,000 fine; and on Count 4, up to 20 years.

10 Then I'll turn -- and then there is the  
11 issue of restitution, which I am going to order.  
12 I expressed a concern whether the request from  
13 Ms. Steele is really the claim of a victim, given  
14 her statements here in the court and throughout  
15 the proceedings that she doesn't feel that she is  
16 a victim, but I am going to order it nonetheless.

17 Then, turning to the -- what we call  
18 the 3553(a)(2) factors. These are the core of the  
19 court's sentencing, which -- and the court is  
20 required to impose a sentence which is sufficient  
21 but not greater than necessary to reflect the  
22 seriousness of the offense, to promote respect for  
23 the law, to provide just punishment, to ensure  
24 adequate deterrence, to adequately protect the  
25 public, and to ensure that the defendant receives

1 wife and mother-in-law killed; and but for  
2 Mr. Fairfax going to his lawyer, who, in turn,  
3 then got the police involved about this matter,  
4 there is every likelihood that the crime at some  
5 point in time would have been carried out. That  
6 makes the matter very serious, and it also raises  
7 questions about the need for future deterrence.

8 And then the protection of the public  
9 is, again, the same issue.

10 Now, I queried or discussed the issue  
11 with Ms. Whelan about whether or not there should  
12 be a five-year consecutive sentence for the  
13 victim-tampering charge, Count 4. That would have  
14 led to an additional five years than what I was  
15 originally thinking and five years more than what  
16 the government has asked.

17 But I have concluded that, given the  
18 defendant's age and the mere fact that any  
19 sentence that I impose in this case is a death  
20 sentence -- not a death sentence, but is a life  
21 sentence -- simply because of the 40-year  
22 mandatory minimum for a man of 65 years old is a  
23 life sentence. There is no way to avoid that.  
24 And so I think to add anything more would not  
25 accomplish anything in terms of the need to

1 protect the sanctity of the legal system and to  
2 appropriately punish those who tamper with  
3 witnesses and victims.

4 However, with regard to the murder for  
5 hire, I cannot bring myself to impose a sentence  
6 of less than the mandatory -- or maximum sentence  
7 of ten years.

8 Again, one cannot plan to murder  
9 someone, engage in a plot to hire someone to carry  
10 that out, and I think justice would dictate that a  
11 ten-year sentence, even if it is just absolutely  
12 the minimum that could possibly be imposed --  
13 which, in this case, is also the statutory  
14 maximum.

15 So I pretty much expressed my concerns.  
16 My decision does match up with the government's  
17 recommendation, which is less than what the  
18 probation office recommended. It is not because  
19 I'm agreeing with the government as a matter of  
20 principle but because, as I have assessed the  
21 facts of this case, it just turns out that their  
22 recommendation coincides with my own as I have  
23 thought about this case over the last few days.

24 So, with that, if the defendant will  
25 stand, I'll pronounce sentence. Mr. Steele.

1 of \$100 per count. That will be due immediately.

2 With regard to restitution, I am going  
3 to order restitution in the amount of \$2,836.91 to  
4 the victims identified in the presentence report,  
5 which, again, that amount also shall be due  
6 immediately.

7 Because the amounts of restitution  
8 exceeds \$2,500, the court is required to consider  
9 whether interest should be imposed. I am going to  
10 waive, however, the interest requirement. Again,  
11 given the sentences, I think that there is just  
12 really no purpose in that. And, plus, I don't  
13 think the defendant has the ability to pay  
14 interest at this point.

15 I am going to require -- I'm not sure  
16 why the request was made otherwise, but I am going  
17 to require that the defendant submit nominal  
18 payments of not less than \$25 per quarter while he  
19 is incarcerated if he is allowed to participate in  
20 what is called the Inmate Financial Responsibility  
21 Program. And that will be applied towards the  
22 special assessment and the restitution that I have  
23 ordered. If he is not deemed eligible because of  
24 health conditions or age, then that requirement  
25 will not be imposed.

1 Mr. Edgar Steele, having been found  
2 guilty by a jury of Counts 1, 2, 3, and 4, as  
3 contained in the superseding indictment, and the  
4 court being satisfied that you are guilty as  
5 charged, I hereby order and adjudge as follows:

6 Pursuant to the Sentencing Reform Act  
7 of 1984, it is the judgment of the court that you  
8 be sentenced to the custody of the Bureau of  
9 Prisons for a term of 600 months, consisting of  
10 120 months on Count 1; 120 months on Count 2, to  
11 run consecutive to the sentence on Count 1; 360  
12 months on Count 3, to run consecutive to the  
13 sentences on Counts 1 and 2; and 60 months on  
14 Count 4, to run concurrent with the other  
15 sentences.

16 Pursuant to statute, this offense  
17 qualifies for DNA collection. You will,  
18 therefore, submit a DNA sample while incarcerated  
19 by the Bureau of Prisons or, absent collection  
20 while in prison, then at the direction of the U.S.  
21 Probation Office upon release.

22 The defendant -- I am going to waive  
23 any fine in this matter. I don't, frankly, see  
24 the utility of making -- or imposing such a fine.  
25 However, a special assessment of \$400 is mandatory

1 Upon release from incarceration, the  
2 defendant will be placed on supervised release for  
3 a term of three years. Therefore, within 72 hours  
4 of his release from custody, the defendant will  
5 report in person to the probation office in the  
6 district to which he is released. Supervised  
7 release will be imposed upon the following terms  
8 and conditions:

9 I will find that the defendant poses  
10 essentially no risk of future substance abuse, so  
11 that mandatory drug testing will be waived. The  
12 defendant will be prohibited from possessing any  
13 firearms or other dangerous weapons. He will not  
14 commit any federal, state, or local crimes. He  
15 will not unlawfully possess any controlled  
16 substances. He will pay the court-ordered special  
17 assessment and restitution that has been ordered.

18 I am not going to establish a payment  
19 schedule -- because of the length of the sentence,  
20 I think it would simply be foolhardy to do so --  
21 but simply require that it be paid upon his  
22 release from custody.

23 The defendant will submit to a search  
24 of his person, place of residence, or automobile  
25 at the direction of his probation officer and

1 submit to the seizure of any contraband found  
2 therein.

3 The defendant will also comply with all  
4 general and specific terms of supervised release  
5 and the standard conditions of supervision, as  
6 will be outlined in the court's written judgment  
7 to be filed in this proceeding.

8 I would advise you, Mr. Steele, that if  
9 you violate the terms of supervised release, you  
10 could be sentenced to a further term of  
11 incarceration.

12 I would advise you that you have the  
13 right to appeal your conviction and your sentence,  
14 and you have a period of 14 days from today within  
15 which to file that notice of appeal with the clerk  
16 of the court.

17 If unable to pay the cost of an appeal,  
18 you may apply for leave to appeal in forma  
19 pauperis. If you so request and qualify, the  
20 clerk of the court will prepare and file a notice  
21 of appeal on your behalf. And if you request  
22 court-appointed counsel, then they will also  
23 arrange for that.

24 I will recommend to the Bureau of  
25 Prisons that you receive credit for all time

1 served in federal custody. I do not -- I have no  
2 idea, given the nature of this conviction, whether  
3 you will qualify for medium or minimum security.

4 I think that is -- Mr. Cedros, the  
5 Sheridan, Oregon, facility is medium or minimum  
6 security; is that correct?

7 THE PROBATION OFFICER: I believe so,  
8 Your Honor.

9 THE COURT: I will recommend either  
10 Sheridan, Oregon, or a place in the northwest that  
11 would meet with the defendant's custody  
12 classification. I can't control that, but I  
13 certainly have no qualms about recommending  
14 Sheridan, Oregon, if that is, indeed, in keeping  
15 with the Bureau of Prisons' custody classification  
16 in this case.

17 I would point out that I did not impose  
18 any additional terms of supervised release beyond  
19 those required by statute and the standard  
20 conditions always imposed simply because I doubt  
21 that's going to happen in this case, but I did do  
22 so.

23 Mr. Cedros, Ms. Parson, Mr. Severson,  
24 did I overlook anything that needed to be covered?

25 THE CLERK: No, Your Honor.

1 THE COURT: Anything from the government or  
2 Mr. Hoyt?

3 MS. WHELAN: No, Your Honor.

4 MR. HOYT: Nothing further, Your Honor.

5 MR. CLAIBORNE: Your Honor?

6 THE COURT: Yes.

7 MR. CLAIBORNE: Mrs. Steele would like to  
8 request, if the court would permit it, a last  
9 moment with Mr. Steele.

10 THE COURT: I'm sorry? I didn't hear the  
11 last --

12 MR. CLAIBORNE: A last few minutes with him  
13 before --

14 THE COURT: My standard policy is to leave  
15 that up to the Marshals Service. I have no  
16 objection to that. But if their rule -- if their  
17 security arrangements or the custody issues  
18 preclude that, I'm not going to interfere with  
19 that. So I will leave it up to the marshal. I'll  
20 recommend it to them. If they feel that that's in  
21 keeping with their security concerns and their  
22 standard procedures, that's fine with me. If not,  
23 I will back them a hundred percent, because that's  
24 their job, is to worry about security for all  
25 concerned, and I won't trump their decision.

1 MR. CLAIBORNE: Thank you, Your Honor.

2 THE COURT: All right. Again, Mr. Hoyt,  
3 Ms. Whelan, Mr. Haws, anything else?

4 MS. WHELAN: Nothing further.

5 MR. HAWS: Nothing further, Your Honor.

6 MR. HOYT: No, Your Honor.

7 THE COURT: I would remind counsel you have  
8 a week to file a motion for reconsideration.

9 MR. HOYT: Thank you.

10 THE COURT: And the government will only  
11 have until the following Friday.

12 And, Mr. Hoyt, I asked you, within the  
13 next day or two, to orally advise counsel as to  
14 the issues you intend to raise --

15 MR. HOYT: I will do so.

16 THE COURT: -- so they can begin preparing a  
17 response even before receiving your formal motion.

18 With regard to the matter we had  
19 scheduled at 11:00, we might be able to proceed  
20 directly to that. I'll have to talk to the court  
21 staff and see if we can still proceed with that.

22 We'll be in recess.

23 (Proceedings concluded at 1:08 p.m.)

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R E P O R T E R ' S C E R T I F I C A T E

I, Tamara I. Hohenleitner, Official  
Court Reporter, State of Idaho, do hereby certify:

That I am the reporter who transcribed  
the proceedings had in the above-entitled action  
in machine shorthand and thereafter the same was  
reduced into typewriting under my direct  
supervision; and

That the foregoing transcript contains a  
full, true, and accurate record of the proceedings  
had in the above and foregoing cause.

IN WITNESS WHEREOF, I have hereunto set  
my hand November 15, 2011.

-s-  
Tamara I. Hohenleitner  
Official Court Reporter  
CSR No. 619



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