

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

- - - - -	X	
UNITED STATES OF AMERICA,	:	23-CR-146(DG)
	:	
-against-	:	United States Courthouse Brooklyn, New York
RACHEL CHERWITZ and NICOLE DAEDONE,	:	
	:	January 3, 2025
Defendants.	:	11:54 a.m.
- - - - -	X	

TRANSCRIPT OF CRIMINAL CAUSE FOR CONFERENCE
BEFORE THE HONORABLE DIANE GUJARATI
UNITED STATES DISTRICT JUDGE

APPEARANCES:

For the Government:	BREON PEACE United States Attorney BY: GILLIAN KASSNER KAYLA BENSING NINA GUPTA SEAN MICHAEL FERN Assistant United States Attorneys 271 Cadman Plaza East Brooklyn, New York
---------------------	--

For Defendant Cherwitz:	AIDALA, BERTUNA & KAMINS, P.C. 546 Fifth Avenue New York, NY 10036 BY: ARTHUR L. AIDALA, ESQ.
-------------------------	--

For Defendant Daedone:	BONJEAN LAW GROUP, PLLC 303 Van Brunt Street, 1st Floor Brooklyn, NY 11231 BY: JENNIFER A. BONJEAN, ESQ.
------------------------	---

Court Reporter:	Andronikh M. Barna 225 Cadman Plaza East Brooklyn, New York (718) 613-2178
-----------------	---

Proceedings recorded by mechanical stenography, transcript produced by computer-aided transcription.

Proceedings

2

1 (In open court.)

2 THE COURTROOM DEPUTY: All rise.

3 The Honorable Diane Gujarati now presiding.

4 You may be seated.

5 THE COURT: Good morning and happy new year
6 everyone.

7 MR. AIDALA: Good morning, Your Honor.

8 MS. BENSING: Good morning, Your Honor.

9 THE COURT: We're convened in connection with the
10 parties' recent Curcio related filings; specifically, the
11 filings at ECF Nos. 247, 249 and 250.

12 I require more facts in order to evaluate whether
13 there is any actual or potential conflict as to which a Curcio
14 hearing is needed. I know that there are other pending
15 requests for relief, both motions that were filed and requests
16 that were filed not by formal motions. I do have rulings, but
17 I will not be giving them today in light of this Curcio issue
18 or, rather, issues that have been raised. So, I would like
19 the facts from the parties so that I can do a proper
20 evaluation here.

21 I don't know if the government wants to start or the
22 defense wants to start, but I will hear from the parties now.

23 MS. KASSNER: Your Honor, the government can start.

24 THE COURT: Go ahead.

25 MS. KASSNER: So, I think there are essentially two

1 primary conflicts as to Ms. Cherwitz.

2 The first potential conflict which the government
3 views -- well, I'll note the government views both as waivable
4 and potential conflicts that Your Honor -- the government
5 agrees a few more facts are necessary for Your Honor to
6 determine if there is a conflict.

7 But the first potential conflict is that the
8 government understands from public reporting that Mr. Aidala,
9 who represents Ms. Cherwitz in this matter, may be applying to
10 be the next U.S. Attorney for the Eastern District of
11 New York. The government has not confirmed that, so I think
12 Mr. Aidala probably needs to provide the relevant facts on
13 that.

14 The second potential conflict comes from the fact
15 that OneTaste is funding Ms. Cherwitz's legal defense in this
16 case. That's not new; however, the government -- and
17 Ms. Cherwitz previously waived that conflict. But the
18 government learned more facts. In particular, the government
19 was made aware that OneTaste was paying the legal fees of
20 additional individuals who are potential witnesses in the
21 case.

22 THE COURT: Similarly situated to the other
23 witnesses as to which there was a Curcio hearing before
24 Judge Levy or something different?

25 MS. KASSNER: So I think that there's something

1 different.

2 So, there are two separate issues.

3 One is that there's a potential -- well, the one,
4 the one difference is as to one witness, it's a -- he's a
5 potential government witness and, therefore, there may be a
6 witness against Ms. Cherwitz or a witness called by the
7 government who is also being paid by OneTaste. That was news
8 to us, so we thought Your Honor needed to be aware of it.

9 Separately, the government is aware that one of
10 Ms. Cherwitz's other defense attorneys, who is a member of
11 Mr. Aidala's firm, has a significant partner relationship with
12 a lawyer who is representing witnesses who appear on both the
13 government and the defense witness list and those are also
14 being funded by OneTaste.

15 THE COURT: Is your concern both with the funding
16 aspect and with the relationship between the lawyers?

17 MS. KASSNER: Yes, Your Honor.

18 Although I'll note that when it comes to the
19 relationship between the lawyers, I think we may be able to
20 address that.

21 But it think the main point is that -- the fact that
22 OneTaste is funding witnesses who appear on both lists is the
23 primary concern of the government and we think that would need
24 to be waived. And that would matter -- you know, if
25 Ms. Cherwitz hires alternate counsel that is also paid by

Proceedings

5

1 OneTaste, it would be the same conflict. And so that's just
2 something the government wanted to note.

3 THE COURT: Okay. But you said the issue with the
4 relationship between the attorneys is something that you might
5 be able to resolve, I believe?

6 MS. KASSNER: We might be able to resolve it,
7 Your Honor. Because at this time the government is
8 determining exactly who its witnesses are and if it turns out
9 that the government is not going to call those witnesses, then
10 that conflict would be obviated.

11 THE COURT: Let me ask you. You put in your two
12 submissions or I guess both submissions that you thought the
13 name of the long-term or significant other of -- Mr. Jaccarino
14 it is, right? -- should be kept from public filing. Why is
15 that?

16 MS. KASSNER: It's for security reasons, Your Honor.

17 THE COURT: Without going into any more detail than
18 you're comfortable with, could you elaborate on what you mean
19 by security reasons?

20 MS. KASSNER: Your Honor, if possible, we would
21 request that this conversation happen at a sidebar, but I will
22 just note it has to do with security of that individual.

23 THE COURT: Of the other lawyer?

24 MS. KASSNER: Yes.

25 THE COURT: Okay. If I need more information I will

Proceedings

6

1 ask the parties for it, but I don't think I do at this time.

2 Is there anything else the government wants to raise
3 before -- oh, there is a -- there was another issue, wasn't
4 there? A third issue that the government has raised with
5 respect to potential conflict?

6 MS. KASSNER: I think, Your Honor, that was covered
7 because it's covered under the umbrella of witnesses that
8 might be called by the government that are -- whose attorneys'
9 fees are being paid by OneTaste.

10 THE COURT: Okay.

11 Let me turn to, I think it's really counsel for
12 Ms. Cherwitz, unless counsel for Ms. Daedone wishes to be
13 heard, but I'm not sure that there's anything relevant to add.

14 But let me hear from you, Mr. Aidala.

15 MR. AIDALA: Good afternoon, Your Honor. Happy new
16 year.

17 THE COURT: Happy new year to you.

18 If you could just move the microphone towards you.

19 MR. AIDALA: So, Your Honor, I'm in the position of
20 basically telling the Court that Ms. Cherwitz would prefer
21 that I'm not here right now. She would like to have an
22 independent lawyer address these issues with the Court.

23 THE COURT: Okay, but I need to know what the issues
24 are and that's why -- this is not the Curcio hearing,
25 certainly. This is me gathering facts that I need to be able

Proceedings

7

1 to determine whether there is even an actual or potential
2 conflict with respect to you. I hear the government on the
3 other issues and you can speak to those as well, but I need
4 more facts from you, Mr. Aidala. And I can imagine that, you
5 know, maybe there's information you can't give me, but you're
6 going to have to give me some information here so that I can
7 do a proper evaluation.

8 MR. AIDALA: Your Honor, I will rely on the accuracy
9 of the article that was printed in the Daily News.

10 THE COURT: Well, tell me -- the news article was
11 referenced, but I don't think given to me and I would like to
12 have you indicate on the record what facts you want the Court
13 to rely on.

14 MR. AIDALA: Judge, as a professional courtesy, is
15 there any way we can do this outside of the open courtroom?
16 We could be on the record, but can we do --

17 THE COURT: Well, certainly we're going to do this
18 on the record. I will accommodate your request if you would
19 like to do this at sidebar. And if you can make an
20 appropriate showing for why that portion of the transcript
21 would need to be sealed, I will accommodate that. I can
22 understand why you might not want to provide certain
23 information, but we've got a criminal trial coming up and I
24 can't afford the luxury of allowing you to be coy at this
25 time. So, we can go to sidebar and we can -- you can tell me

Proceedings

8

1 why what happens at sidebar should be done under seal.

2 MR. AIDALA: Okay.

3 (Sealed sidebar.)

4 (Continued on the following page.)

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Sealed Sidebar

1 (The following occurred at sidebar.)

2 [Redacted]

3 [Redacted]

4 [Redacted]

5 [Redacted]

6 [Redacted]

7 [Redacted]

8 [Redacted]

9 [Redacted]

10 [Redacted]

11 [Redacted]

12 [Redacted]

13 [Redacted]

14 [Redacted]

15 [Redacted]

16 [Redacted]

17 [Redacted]

18 [Redacted]

19 [Redacted]

20 [Redacted]

21 [Redacted]

22 [Redacted]

23 [Redacted]

24 [Redacted]

25 [Redacted]

Sealed Sidebar

1 [REDACTED]

2 [REDACTED]

3 [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 [REDACTED]

24 [REDACTED]

25 [REDACTED]

Sealed Sidebar

1 [REDACTED]

2 [REDACTED]

3 [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 [REDACTED]

24 [REDACTED]

25 [REDACTED]

Sealed Sidebar

1 [Redacted]

2 [Redacted]

3 [Redacted]

4 [Redacted]

5 [Redacted]

6 [Redacted]

7 [Redacted]

8 [Redacted]

9 [Redacted]

10 [Redacted]

11 [Redacted]

12 [Redacted]

13 [Redacted]

14 [Redacted]

15 [Redacted]

16 [Redacted]

17 [Redacted]

18 [Redacted]

19 [Redacted]

20 [Redacted]

21 [Redacted]

22 [Redacted]

23 [Redacted]

24 [Redacted]

25 [Redacted]

Sealed Sidebar

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

[Redacted text blocks corresponding to lines 1-10]

(Sealed sidebar ends.)

Proceedings

14

1 (In open court.)

2 THE COURT: Okay. We had a sidebar. I have
3 directed that the transcript of that sidebar be sealed for the
4 reasons that were discussed at the sidebar.

5 Let me turn to the parties for their proposed next
6 steps.

7 Government.

8 MS. KASSNER: Your Honor, as the government noted in
9 its letter, I think there does need to be a Curcio hearing.

10 I understand from statements that defense counsel
11 made earlier that there are ongoing discussions with outside
12 counsel, but I think the important thing that is not clear
13 from the defense letter is whether this time Ms. Cherwitz
14 intends to actually waive this conflict or if she's still
15 considering it. I'm sorry, not waive the conflict or if
16 that's something that she's only considering today and she
17 actually will intend to waive it later. I think there was
18 some uncertainty this morning about her intention going
19 forward.

20 The government would like to proceed with the trial
21 as scheduled if there -- if either of two things is found by
22 the Court. If the Court finds that there is no conflict or no
23 potential conflicts, then we would like to proceed.

24 Alternatively, if the Court finds that there's
25 potential conflict and Ms. Cherwitz does, after speaking with

1 counsel, decide to waive it, then we would like to proceed
2 because we have a lot of witnesses who have really rearranged
3 their lives to accommodate this trial.

4 That said, I think we do need to have a formal
5 Curcio hearing. And I think we should do it as soon as -- you
6 know, we have a date on the calendar for next Tuesday. I
7 would defer to Your Honor on scheduling that. And I think
8 after we determine that, then we can determine how to proceed.

9 One last thing though.

10 As to the potential conflict having to do with
11 OneTaste paying Ms. Cherwitz's legal fees, as we noted in our
12 letter, we asked Ms. Daedone's counsel if her -- if
13 Ms. Daedone is currently having any of her legal fees paid for
14 by OneTaste and we didn't receive a response. And, therefore,
15 if we're going to do a Curcio hearing on this issue, it
16 would -- if to the extent that she is having any of her
17 attorneys being paid for by OneTaste, we would prefer to do it
18 all in one proceeding rather than in this iterative process,
19 to the extent possible.

20 THE COURT: Let me hear from the defense on proposed
21 next steps.

22 And I could start with Mr. Aidala.

23 MR. AIDALA: Your Honor, my client is actively
24 engaged with independent counsel, non-conflicted counsel.

25 THE COURT: Can you just move the microphone towards

Proceedings

16

1 you again?

2 MR. AIDALA: Yes.

3 My client is actively engaged with an attorney who
4 could be here as soon as Monday if the Court didn't want to
5 wait until Tuesday.

6 THE COURT: Let me make sure I understand the role
7 of this attorney though.

8 This is an attorney who is consulting with her on
9 potential conflicts or an attorney that she is thinking of
10 retaining?

11 MR. AIDALA: No. The first one.

12 THE COURT: Okay.

13 MR. AIDALA: Just about -- we'll start, we'll crawl,
14 then we'll walk, then we'll run. So we're still crawling.

15 THE COURT: Okay.

16 Ms. Bonjean.

17 MS. BONJEAN: Yes, Your Honor.

18 I don't know that I have a strong opinion,
19 although --

20 THE COURT: Sorry?

21 MS. BONJEAN: I don't know that I have a big dog in
22 this fight.

23 What I will say is that if the Court is intending to
24 do a Curcio hearing on Monday, that does present a problem for
25 me, as I have a hearing and I am in court elsewhere with a

Proceedings

17

1 judge who has strong feelings about her scheduling orders
2 also. So, it's not really something I could readjust at this
3 late juncture. So Monday is just a bit of a conflict.

4 As --

5 MS. KASSNER: Your --

6 MS. BONJEAN: I'm sorry.

7 THE COURT: No, go ahead, Ms. Bonjean.

8 MS. BONJEAN: So as to the government checking in
9 with me about whose paying my bills at this point, this has
10 been raised, I did provide them with the information. The
11 suggestion that somehow they need to check in every 30 days to
12 make sure that the conflict hasn't arisen or whatever is going
13 on here, I would certainly have the good sense to raise
14 potential conflicts that I thought required, you know, the
15 Court to address. I don't need to be policed by the
16 government. I answered these questions and I have no reason
17 to believe anything has changed. I certainly can ask my
18 client again if there's something I should be aware of. But
19 this idea that they have to e-mail me every so often to see,
20 you know, if I'm still being paid by my client is -- it just
21 suggests that maybe I wouldn't be forthcoming about that or
22 that somehow I would -- I don't know, I don't know what the
23 Court -- what they want from me. But I would let them know if
24 something changed that I thought everyone should be aware of
25 or, most importantly, that my client should be aware of.

Proceedings

18

1 THE COURT: Okay.

2 Go ahead.

3 MS. KASSNER: Your Honor, I just want to clarify the
4 reason the government raised it, is because Ms. Bonjean has
5 asked for additional attorneys to work on this case and those
6 attorneys, we understand, are being paid for by OneTaste. So
7 to the extent those people, whoever they may be -- we don't
8 know if we know all of them. To the extent there are other
9 attorneys --

10 THE COURT: I'm not sure I follow you when you say
11 she asked for other attorneys to work on the case.

12 MS. KASSNER: There were requests to modify the
13 protective order to include additional attorneys.

14 THE COURT: You're talking about Mr. Williams and
15 Ms. Caine?

16 MS. KASSNER: No, Your Honor. There are also other
17 attorneys, so it raised questions for us as to whether or not
18 their attorneys are not attorneys of record but are working in
19 her defense or somehow working, representing her in any
20 capacity, that are being paid for by OneTaste. We just
21 wanted, in an abundance of caution, to make sure that we could
22 ascertain that.

23 The other thing I will note as to scheduling is I
24 believe, if there is no potential conflict as to Ms. Daedone,
25 the Curcio hearing would only being as to Ms. Cherwitz, just

1 for clarity. So I don't think Ms. Daedone or her counsel
2 would need to attend in that case.

3 MS. BONJEAN: May I respond briefly, Your Honor?

4 THE COURT: Yes, of course.

5 MS. BONJEAN: Yes. I don't know why this is coming
6 up.

7 We did ask for Shaneeda Jaffer, who has represented
8 OneTaste, OneTaste for -- since 2018. They are aware of that.
9 And because they're represented by One -- she has represented
10 OneTaste, she is most certainly paid by OneTaste. There is
11 no -- there is absolutely no hiding the ball there.

12 And she has been a source of assistance. Because
13 again, I continue to reiterate, even though these defendants
14 are the ones that are on trial, the forced labor statute, the
15 way they had charged this really puts OneTaste as -- is the
16 vehicle through which they are allegedly committing crimes and
17 that's one of the theories. So having the ability to confer
18 with OneTaste counsel -- this is outside counsel, by the
19 way -- has been very helpful, has allowed us to do our job in
20 a way that has -- we can get our questions answered very
21 quickly.

22 And there was a request that she be added to the
23 protective order. They declined. They said no. She works
24 for -- I forget the firm -- Benesch. They would not agree.
25 We didn't push it. We've abided by the protective order.

1 Now, you know, they want a Curcio hearing for any attorney we
2 might consult with who's maybe being paid by OneTaste since
3 2018. I mean, they're -- you know, I don't know who else
4 they're referring to. But this is no surprise -- I'll put it
5 on the record -- it is Shaneeda Jaffer. She is paid by
6 OneTaste, I imagine, since she represents OneTaste.

7 THE COURT: Okay.

8 Mr. Aidala, let me turn back to you to speak on
9 behalf of your client, really.

10 But her efforts to consult with another lawyer
11 that's not you, when will you know whether that has been sort
12 of solidified?

13 Yes. Go ahead.

14 (Counsel confers with client.)

15 MR. AIDALA: By the close of business today.

16 THE COURT: Okay.

17 MR. AIDALA: They were in consultation all day
18 yesterday and I was asked for certain items that I provided.
19 So it's ongoing, Judge. It's not -- like, she's not starting
20 to look.

21 THE COURT: Okay.

22 So I think what I understand you to be contemplating
23 is that she will be, probably by the end of the day, lining up
24 a lawyer, who is not you, to consult with as to issues of
25 potential or actual conflict that may or may not require a

Proceedings

21

1 Curcio hearing. Is that correct?

2 MR. AIDALA: Yes, Your Honor.

3 THE COURT: Okay.

4 Would you put in a letter as soon as you know more
5 information?

6 MR. AIDALA: What would you like the letter to
7 include?

8 THE COURT: In terms of whether she has a --

9 MR. AIDALA: A lawyer?

10 THE COURT: A lawyer.

11 MR. AIDALA: Yes.

12 THE COURT: Correct.

13 I need to be able to determine next steps and I need
14 that information.

15 MR. AIDALA: Would you like that lawyer to file a
16 notice of appearance?

17 THE COURT: It's not really necessary.

18 MR. AIDALA: Okay.

19 THE COURT: Because that person, as I understand the
20 posture we're in now, is not going to be representing her at
21 this stage. That lawyer is simply going to be an independent
22 lawyer consulting with her on issues relating to conflict. Is
23 that correct?

24 MR. AIDALA: Yes, Your Honor.

25 THE COURT: And that's the government's

1 understanding as well, correct?

2 MS. KASSNER: Yes.

3 And, Your Honor, just one request, if possible.

4 Once Ms. Cherwitz has made a decision as to whether
5 or not she's waiving the conflict, it would be helpful to I
6 think both the Court and the government to know that decision
7 so that we can start figuring out what kind of Curcio hearing
8 we're having and also start managing the expectations of a lot
9 of witnesses who we're currently arranging travel for.

10 THE COURT: Right.

11 As much information as relevant to this issue of
12 actual or potential conflict that, Mr. Aidala, your client can
13 provide through you at this stage would be helpful to the
14 Court.

15 MR. AIDALA: Yes, Your Honor.

16 And hypothetically, if that attorney wants to write
17 a letter to the Court directly, she could just do it through
18 my ECF. Because without a notice of appearance, I don't
19 believe that's possible. So she'll just do it through --

20 THE COURT: I think it is possible. But if it's
21 not, yes.

22 MR. AIDALA: Okay.

23 Yes, Judge, I will give you as much information as
24 we have by the end of the day.

25 THE COURT: May I ask a question that is not on this

1 topic.

2 But Ms. Kassner, you, I believe, have been
3 pronouncing Ms. Cherwitz's name differently than I think I
4 have been pronouncing it and I want to make sure I have the
5 correct pronunciation of her name.

6 DEFENDANT CHERWITZ: It's Cherwitz.

7 THE COURT: Okay. I think I have been pronouncing
8 it correctly.

9 MS. KASSNER: I think I have been pronouncing it
10 incorrectly, Your Honor.

11 THE COURT: Okay.

12 That was the easiest question anyone's going to get
13 asked today, I think.

14 Is there anything else we need to take up?

15 You can look out on the docket for next steps, but I
16 will be waiting for more information from Ms. Cherwitz through
17 her lawyer.

18 MR. AIDALA: I'll be seeing you in two hours,
19 Your Honor.

20 THE COURT: On another matter, for record clarity.

21 Okay. I think we can adjourn for today. And again,
22 you can keep an eye out on the docket.

23 MS. KASSNER: Thank you.

24 THE COURT: Thank you, all.

25 MR. AIDALA: Thank you, Judge.

Proceedings

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

MS. BONJEAN: Thank you, Your Honor.
(Matter concluded.)

* * * * *

I certify that the foregoing is a correct transcript from the record of proceedings in the above-entitled matter.

/s/ Andronikh M. Barna

January 6, 2025

ANDRONIKH M. BARNA

DATE