

SEALED

MERRICK B. GARLAND
Attorney General

BY ORDER OF THE COURT

FILED IN THE
UNITED STATES DISTRICT COURT
DISTRICT OF HAWAII
Apr 29, 2024, 2:34 pm
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**UNITED STATES DISTRICT COURT
DISTRICT OF HAWAII**

UNITED STATES OF AMERICA,

Plaintiff,

v.

KEITH MITSUYOSHI KANESHIRO (1),
DENNIS KUNIYUKI MITSUNAGA (2),
TERRI ANN OTANI (3),
AARON SHUNICHI FUJII (4),
CHAD MICHAEL MCDONALD (5),
SHERI JEAN TANAKA (6),

Defendants.

CR No. 22-00048-TMB-NC

UNITED STATES' RESPONSE
IN OPPOSITION TO
DEFENDANTS' MOTION IN
LIMINE NO. 23, ECF No. 746

UNDER SEAL

During the grand jury investigation of this case, Ernest Moritomo flatly denied authoring Defendant Aaron Fujii's malicious police report against Laurel Mau. Moritomo's grand jury transcript was produced to the defense nearly two years ago. Nonetheless, in opening statement, counsel for Fujii told the jury that Moritomo drafted the report. Counsel then revealed to the jury that Moritomo had died (a fact

previously unknown to the United States). Given this, in an abundance of caution, and contingent on further defense attempts to pin the report on Moritomo, the United States has provided notice as required under Federal Rule of Evidence 807 of its intent to introduce Moritomo's grand jury testimony at trial. At this time, however, the United States is unaware whether the defense will further seek to pin the report on Moritomo. As things currently stand, the United States does not intend to introduce Moritomo's testimony. But notice has been given in the event the calculus changes. Accordingly, at this point, Defendants' motion should be denied as moot.

In the event the issue ripens, the United States provides the following brief background.

1. In Aaron Fujii's opening statement, counsel spoke about an individual named Ernie Moritomo. Moritomo was a former HPD officer, who later worked at MAI. Among other things, counsel stated that Fujii delegated the investigation into Laurel Mau to Moritomo, who he identified to the jury as a former lieutenant with HPD. Counsel then attributed the malicious police report filed by Fujii in July 2012 to Moritomo: "So July, when Aaron is presented with this report from Ernie, Lieutenant Ernie from the Honolulu Police Department, now retired, Aaron reviews it. He looks at it, he makes sure it all checks out. And he signs off on it. He says, [l]et's submit this to the police. This is in July of 2012."¹ Counsel repeatedly referred to "Ernie's" involvement:

¹ These quotations are from the daily transcript of Fujii's opening statement.

Now, Officer Cyrel Lozano, he receives the report. This is -- I mean this was a number of years ago. This is over a decade ago. We're not sure if it was Aaron who gave the report or *Ernie gave the report*, but we do know Officer Cyrel Lozano receives the report, and at some time Aaron does sit down with somebody and discusses the matter.

When Officer Lozano receives the report, *the one that Ernie helped prepare*, his impression of the report, which stood out to him, and this is what he will testify to, the complaint looked like it was written by a police officer or an attorney, and not an average person off the street. It looked similar to how an HPD Form 252 would look. The document was modeled after how an HPD detective would write. Officer Lozano thought it looked like a police report, *because it was written by a police officer*.

(Emphasis added). In other words, counsel made Ernie Moritomo the primary actor behind the false police report filed by Fujii. The jury will not hear from Moritomo, however. As Fujii's counsel revealed in his opening statement, Moritomo has passed away.²

2. On June 2, 2022, Moritomo testified before the federal grand jury. *See* Exhibit 1 (Moritomo's grand jury transcript). At the outset of his testimony, Moritomo was advised that he was subpoenaed as a witness in the grand jury's investigation. Moritomo was advised of his rights and obligations before the grand jury, including his obligation to provide "truthful, complete, and accurate information to the Grand Jury." Exhibit 1 at Tr. p. 3. Morimoto was advised that if he were to "knowingly provide material false information, [he] could potentially be prosecuted for perjury or obstruction of justice[.]" *Id.* at Tr. pp. 3-4. Moritomo said

² The United States first learned about Morimoto's passing in Fujii's opening statement.

he understood. *Id.* at Tr. p. 4. After walking through his background, Moritomo was asked a series of questions about the Laurel Mau theft report:

Q. Do you know somebody named Aaron Fujii?

A. I know him, yes. I know him. I never did speak in detail with anything to do with him.

Q. On – in July of 2012, were you involved in preparing a theft complaint against Stanford Masui and Laurel Mau?

A. I – I don't recall. You gotta show me what – if you show me the document 'cause I've – I've done hundreds of cases and hundreds of names that I don't recall.

[. . .]

Q. Let me know you what I have marked as EM-1.^[3] Could you take a look at that, sir?

A. I don't – I don't – I don't . . .

Q. In particular, I'd like you to look at pages 2 through 18. You see at the bottom in the right-hand corner where the number – no. On the second page where it says "2" and a circle around it, do you see that? Bottom right-hand corner.

A. Yeah, I see 2.

Q. Okay. Two through 18.

Were you involved in preparing that 17-page affidavit?

A. No, not that I – let me look at it.

Q. Okay. Look closely.

What page are you on now, sir?

A. I – I don't see my name on – on this report 'cause I don't – this is the first time I'm seeing this report.

Q. You did – you weren't involved in preparing –

A. No.

Q. -- that 17-page --

A. No.

Q. -- affidavit --

A. No.

Q. -- for Mr. --

A. This is the first time I have seen this report.

Q. Sir, let me finish asking the question before you answer. The court reporter can only taken down one of us at a time.

³ Fujii's police report, previously admitted at trial.

Were you involved in preparing the 17-page affidavit on pages 2 through 18 of that document?

A. No.

Q. Do you know why anyone might say that you were?

A. I don't know.

Q. Do you know Laurel Mau?

A. No. I don't know. I never -- I never met her. Who is she?

Q. Do you know Stanford Masui?

A. No. Who is Stanford Masui?

Q. Okay, did you read through the affidavit and see the allegations there?

A. Yeah, I saw the allegations.

Q. Does that refresh your recollection?

A. No. What have -- what have I got to do with this report? Why didn't -- why didn't you question Aaron -- Aaron Fujii that I hardly talk to 'cause he's -- he's the -- he's high above them. I'm just a worker.

Exhibit 1 at Tr. pp. 8-11.

After some additional testimony on other subjects, Moritomo was again asked about the Fujii police report:

Q. And as you sit here, sir, you had no involvement with preparing --

A. No.

Q. -- that police report?

A. No involvement, now. This is the first time I'm seeing this report and, if you notice, there's my -- my name is not in this report.

Q. Did you help draft it?

A. No. I ain't going to draft this kind of -- my report is -- I'm used to doing big cases. My report is going to be that fat. I would have really hanged somebody to the wall. This is -- this is not enough.

Q. Well, it says there are a lot of exhibits there, but I don't see any. Did you -- were you involved in preparing exhibits?

A. No, no, no, no. I -- besides, I look at this, this is not normally what I would -- how I would tell 'em how to write.

Q. Why is that?

A. Because I don't like what it -- how they wrote it.

Q. It's not -- it's not break -- it doesn't broke -- break -- break it all down. It just said background, and they didn't separately everything.

Exhibit 1 at Tr. pp. 19-20.

When Fujii gave his opening statement, he knew about Moritomo's testimony denying playing any role in Fujii's police report. Indeed, the United States produced Moritomo's grand jury transcript to the defense nearly two years ago on July 11, 2022. Additionally, Moritomo's grand jury testimony is preserved on audio, which was also previously produced to the defense (in October 2023).

3. Under Federal Rule of Evidence 807, a statement is admissible if (1) it is supported by sufficient guarantees of trustworthiness—after considering the totality of circumstances under which it is made and evidence, if any, corroborating the statement; and (2) it is “more probative on the point for which it is offered than any other evidence that the proponent can obtain through reasonable efforts.” Fed. R. Evid. 807. The rule requires providing reasonable pretrial notice of the intent to offer the statement, except the Court, for good cause, may excuse a lack of pretrial notice. Fed. R. Evid. 807(b).

Here, pretrial, the United States did not know Moritomo had passed away and did not know that the defense would claim in opening that Moritomo had authored Fujii's malicious police report (especially since Moritomo flatly denied doing so in the grand jury). Given counsel's opening statement, however, and not knowing the defense's upcoming intentions, the United States has provided notice under Rule 807. The United States did not file its own affirmative motion to the Court, because it remains unclear whether the defense intends to elicit testimony about Moritomo (and whether the defense has a good-faith basis for claiming he drafted Fujii's

report). At this time, the United States does not intend to introduce Moritomo's grand jury testimony. But notice has been given in the event the calculus changes.

The Court should deny Defendants' twenty-third *in limine* motion as moot.

Dated: April 29, 2024

Respectfully submitted,

MERRICK B. GARLAND
Attorney General

/s/ Colin M. McDonald

MICHAEL G. WHEAT
JOSEPH J.M. ORABONA
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EXHIBIT 1

UNDER SEAL

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

In the matter of
GRAND JURY INVESTIGATION
USAO NO. 2017R04796 (Panel 21-I)

TESTIMONY OF ERNEST MORITOMO

DATE: June 2, 2022
TIME: 1:40 p.m.

Taken before the United States Grand Jury in Room C-119,
U.S. Courthouse, Honolulu, Hawaii.

APPEARANCE:

For the United States of America:

MICHAEL WHEAT, ESQ.
COLIN MCDONALD, ESQ.
Special Attorney of the United States
U.S. Attorney's Office, Southern District
of California
880 Front Street, Rm. 6293
San Diego, California 92101-8893

REPORTED BY: WENDY M. WATANABE
CSR No. 401

1 ERNEST MORITOMO
2 called as a witness on behalf of the Grand Jury, being
3 first duly sworn to tell the truth, the whole truth, and
4 nothing but the truth, was examined as follows:

5 EXAMINATION

6 BY MR. WHEAT:

7 Q. Sir, behind the glass there you can take off your
8 mask so we can see your face.

9 State your name, spell your name for the record.

10 A. Ernest Shizuo Moritomo.

11 Q. Spell it.

12 A. E-R-N-E-S-T S-H-I-Z-U-O M-O-R-I-T-O-M-O.

13 Q. Sir, did you receive a subpoena to come to the Grand
14 Jury?

15 A. Yes.

16 Q. You received a subpoena because you're a witness.
17 You're not the subject or target of the Grand Jury
18 investigation, but somebody who might have information --

19 A. I -- I -- I can't hear. I'm kind of -- I'm almost
20 80 years old so I can't hear very well.

21 Q. Let me take this off and talk a little louder.

22 A. Yes.

23 Q. Is that better?

24 A. Yeah.

25 Q. Okay. This is a federal grand jury composed of 23

1 members of the community empowered to investigate federal
2 law violations.

3 You're here as a witness. You're not the subject or
4 target of the investigation; do you understand that?

5 A. Yes.

6 Q. Let me advise you of your rights and obligations
7 before the Grand Jury.

8 You have a Fifth Amendment right against
9 self-incrimination. That means if any answer to a
10 question put to you might implicate you in a crime, you
11 could invoke your Fifth Amendment right to remain silent.

12 Do you understand that?

13 A. Yes.

14 Q. You have a Sixth Amendment right to be represented
15 by counsel; and although that lawyer could not be present
16 with you here in the Grand Jury room, you could consult
17 with a lawyer outside.

18 Do you understand that?

19 A. Yes.

20 Q. You have an obligation to provide truthful,
21 complete, and accurate information to the Grand Jury.

22 Do you understand that?

23 A. Yes.

24 Q. If you were to knowingly provide material false
25 information, you could potentially be prosecuted for

1 perjury or obstruction of justice; do you understand?

2 A. Yes.

3 Q. Have you understood everything I've said to you up
4 to now?

5 A. Yes.

6 Q. And having your rights and obligations in mind, are
7 you prepared to testify here today?

8 A. Yes.

9 Q. What do you do for a living, sir?

10 A. Currently working with my wife at the swap meet.

11 Q. Okay. And what do you do at the swap meet?

12 A. Sell women's clothes.

13 Q. Okay. How long have you done that?

14 A. Fifteen years.

15 Q. What'd you do before that?

16 A. I worked for the Honolulu Police Department, and I
17 was also in -- in charge of major crimes investigations.

18 Q. Criminal Investigative Division?

19 A. Yes, criminal.

20 Q. What was your highest rank at the police department?

21 A. Lieutenant.

22 Q. Pardon?

23 A. Lieutenant.

24 Q. Lieutenant.

25 When did you retire?

1 A. 1995.

2 Q. And where did you go to work after you left the
3 police department?

4 A. I went to work at the airport -- no. I worked -- I
5 worked at -- for the state.

6 Q. Doing what?

7 A. As a sheriff.

8 Q. A sheriff. A deputy sheriff?

9 A. No, sheriff.

10 Q. I didn't understand, sir.

11 A. Sheriff.

12 THE COURT REPORTER: Sheriff?

13 BY MR. WHEAT:

14 Q. Sheriff?

15 A. Yeah, head sheriff.

16 Q. As the sheriff?

17 A. Yeah, as the sheriff.

18 Q. Oh. How long did you do that?

19 A. For two years.

20 Q. Then what did you do?

21 A. Then I went to the airport.

22 Q. Doing what?

23 A. Investigation as a private consultant.

24 Q. What company was that?

25 A. That was just -- wasn't a company. I was just hired

1 on -- on the -- on the side.

2 Q. Okay. And what'd you do after that?

3 A. Then I went to work with my wife.

4 Q. Okay. Do you know somebody named Dennis Mitsunaga?

5 A. I know of him, but I never really talked in detail
6 with him.

7 Q. Okay. Did you ever work for him?

8 A. I am -- I did work for him.

9 Q. When did you work for him?

10 A. Well, I'm working part-time now.

11 Q. You work part-time for him?

12 A. Yeah.

13 Q. What do you do for Dennis Mitsunaga?

14 A. Well, I'm a construction inspector.

15 Q. What does that mean?

16 A. Means I go to a project, and I just take photographs
17 of what they're doing. I read the contract and look at
18 the specifications for the -- the job and every specific
19 whatever they gotta do for that particular room or roof or
20 whatever, elevator or what, I look at what step each day
21 that the workers do and what they completed, and I take
22 photographs.

23 Q. How long have you been doing that?

24 A. For about three-and-a-half years.

25 Q. How did you get that job?

1 A. Well, I've been in construction from -- from 1960.
2 I owned my own company then.

3 Q. What was the name of that company?

4 A. That was EK Rocks. I used to build walls, and I
5 drew house plans, and I drew wall plans.

6 Q. And did you ever have a business partner?

7 A. No.

8 Q. Okay. Do you know somebody named Rudy Alivado?

9 A. That's my good friend.

10 Q. How do you know Rudy?

11 A. Well, we were in the police department together. I
12 was the -- when I was first hired on board to the police
13 department, he was my off -- I was an undercover officer,
14 and he was my lead officer.

15 Q. Okay. Do you know somebody named Laurel Mau?

16 A. I'm not familiar with that name.

17 Q. Did you ever work on anything involving Laurel Mau?

18 A. I don't recall. I don't know any -- anything about
19 Laurel Mau.

20 Q. Do you know somebody named Sheri Tanaka?

21 A. Yeah, I know Sheri Tanaka 'cause we was -- when the
22 company I was -- worked for, the moving company filed for
23 bankruptcy, I worked with her on that.

24 Q. What company was that?

25 A. That was Precision Moving. I was the general

1 manager for that company.

2 Q. Who owns that company?

3 A. That company was owned by Bill Fraser.

4 Q. And how did you come to deal with Sheri Tanaka?

5 A. Well, the company, they -- they brought her on board
6 because they -- they had sued the company because the
7 company was going into bankruptcy proceeding so they was
8 wondering where all the money went, and what happened was
9 they overbooked the number of jobs so they couldn't handle
10 the jobs. They had more jobs than they could handle, and
11 it was a government contract dealing with direct type of
12 moves, and you gotta do it within a certain time. You
13 can't tell 'em no, and that's what happened. They
14 overbooked and, based on that, they got swamped, and they
15 couldn't handle the jobs.

16 Q. So you left the police department in what year?

17 A. '95.

18 Q. And did you ever file any police reports after 1995?

19 A. No, not that I recall.

20 Q. Were you ever involved in drafting any theft
21 complaints --

22 A. Not that I recall.

23 Q. -- after 1995?

24 A. Not that I recall.

25 Q. Do you know somebody named Aaron Fujii?

1 A. I know him, yes. I know him. I never did speak in
2 detail with anything to do with him.

3 Q. On -- in July of 2012, were you involved in
4 preparing a theft complaint against Stanford Masui and
5 Laurel Mau?

6 A. I -- I don't recall. You gotta show me what -- if
7 you show me the document 'cause I've -- I've done hundreds
8 of cases and hundreds of names that I don't recall.

9 Q. Okay. In the last six months, has anybody talked to
10 you about Laurel Mau?

11 A. No.

12 Q. Have you been interviewed by any attorneys within
13 the last six months?

14 A. No.

15 Q. Have you talked to Ms. Tanaka in the last six
16 months?

17 A. No. Like I said, I hardly talk to him. It's just
18 he's a -- the only time I met him was in a bar one time,
19 then I just talked to him, but we don't talk about
20 anything 'cause I'm -- he's really not my friend. He's
21 Rudy's friend.

22 Q. Who's Rudy's friend?

23 A. Mitsunaga.

24 Q. Mitsunaga, okay.

25 Let me show you what I have marked as EM-1. Could

1 you take a look at that, sir?

2 A. I don't -- I don't -- I don't...

3 Q. In particular, I'd like you to look at pages 2
4 through 18. You see at the bottom in the right-hand
5 corner where the number -- no. On the second page where
6 it says "2" and a circle around it, do you see that?
7 Bottom right-hand corner.

8 A. Yeah, I see 2.

9 Q. Okay. Two through 18.

10 Were you involved in preparing that 17-page
11 affidavit?

12 A. No, not that I -- let me look at it.

13 Q. Okay. Look closely.

14 What page are you on now, sir?

15 A. I -- I don't see my name on -- on this report 'cause
16 I don't -- this is the first time I'm seeing this report.

17 Q. You did -- you weren't involved in preparing --

18 A. No.

19 Q. -- that 17-page --

20 A. No.

21 Q. -- affidavit --

22 A. No.

23 Q. -- for Mr. --

24 A. This is the first time I seen this report.

25 Q. Sir, let me finish asking the question before you

1 answer. The court reporter can only take down one of us
2 at a time.

3 Were you involved in preparing the 17-page affidavit
4 on pages 2 through 18 of that document?

5 A. No.

6 Q. Do you know why anyone might say that you were?

7 A. I don't know.

8 Q. Do you know Laurel Mau?

9 A. No. I don't know. I never -- I never met her. Who
10 is she?

11 Q. Do you know Stanford Masui?

12 A. No. Who is Stanford Masui?

13 Q. Okay. Did you read through the affidavit and see
14 the allegations there?

15 A. Yeah, I saw the allegations.

16 Q. Does that refresh your recollection?

17 A. No. What have -- what have I got to do with this
18 report? Why didn't -- why didn't you question Aaron --
19 Aaron Fujii that I hardly talk to 'cause he's -- he's the
20 -- he's high above them. I'm just a worker.

21 Q. Who do you answer to at Mitsunaga & Associates?

22 A. I answer to Braceros, Cristopher Braceros.

23 Q. Spell it.

24 A. It's C-R-I-S-T-O-P-H-E-R Bra -- B-R-A-C-E-R-O-S,
25 Braceros.

1 Q. And what is that person's position?

2 A. He's the engineer.

3 Q. How did you get the job --

4 A. Construction -- construction project engineer.

5 Q. How did you get the job?

6 A. Through Alivado.

7 Q. When did you -- Alivado get you the job?

8 When did Rudy get you the job?

9 A. About three-and-a-half years ago.

10 Q. How were you paid?

11 A. I'm -- I'm paid by check.

12 Q. Are you paid by the hour, or are you on salary?

13 A. I'm paid by the hour.

14 Q. Okay. And how many hours a week do you work?

15 A. Well, right now, I'm not working. I only get one
16 hour a week because of the unemployment.

17 Q. Why aren't you working?

18 A. Waiting for this other job to start up which what
19 happened was we supposed to start up in January. What
20 happened was the other -- some of the contractors
21 contested the bid so now it's on hold 'cause they said it
22 was -- the -- the other contractor that won the bid is not
23 qualified to do the job so that's why it's in limbo right
24 now so I'm waiting for them to start the job; otherwise,
25 if I -- if I don't have the one hour a week, I can go off

1 and start and look with other companies and look for other
2 jobs, and that's why I have the one hour.

3 Q. Are you associated with any political PACs,
4 Political Action Committees?

5 A. I was one time.

6 Q. What PAC was that?

7 A. That was Defend Hawaii.

8 Q. Defend Hawaii.

9 And who were you involved with there?

10 A. That was with Bert Mitsunaga.

11 Q. Bert Mitsunaga?

12 A. Yeah.

13 Q. Who's that?

14 A. That was the -- the son of Dennis Mitsunaga.

15 Q. How did you get involved with Bert?

16 A. He came to me, and he said, Ernie, you want to head
17 this PAC? I said I don't want to head no PAC. He said
18 you don't gotta do anything. All you gotta do is just
19 sign this form, and you don't have to do anything.

20 Q. Did you get paid for it?

21 A. No.

22 Q. Why would you do it?

23 A. Because they asked -- he asked me, and I felt -- I
24 felt that I had to do it.

25 Q. Well, how did Bert find you?

1 A. Well, he works in the same office I was working at
2 that time.

3 Q. And what did you do for the PAC?

4 A. Well, I -- I met with the attorney which was Sheri
5 Tanaka. She said, okay, sign these documents which I did,
6 go to the bank, open an account which I did, and then
7 that's all I -- that's all I did.

8 The next thing I know after -- during the process of
9 the election, what happened was I got this call from the
10 Election Committee, and they gave me a fine. I said,
11 what? What am I getting fined for? They said did you
12 know that you gotta file with the Election Committee that
13 says how the expenditure of money was -- was -- is
14 expended?

15 I said what money? He said you got money. I said I
16 don't know, I said. So then I had to file paperwork, then
17 I had to call the -- the Election Committee, the person
18 and ask the clerk to help me fill out the form 'cause I
19 didn't know the form. Nobody helped me, and I had to pay
20 the fine. They reimbursed me the first time, then the
21 second time --

22 Q. Who reimbursed you?

23 A. I think was Bert. He got -- he got me the money.

24 Q. And the second time?

25 A. Second time what happened was, again, like nobody

1 tells me anything. With any of the stuff, you gotta file
2 again. They fine me again. But this time, I was -- I was
3 kind of upset with that so what I did was I paid it. It
4 was for \$890, and I -- and I didn't tell him anything
5 about it 'cause I said the next time they ask me to do
6 this thing, I ain't gonna do it.

7 Q. What was the -- the purpose of Defend Hawaii?

8 A. What was it, to -- something to do with the rail, I
9 think. That's -- that's about it. You know the -- the
10 contest in the rail, they didn't want the -- the -- the
11 rail to go through, the project at that time. They was
12 really pushing, you know, the rail so that's what I
13 believe -- I believe that that was happening with that,
14 you know. Don't make the rail 'cause the rail is -- is a
15 money-losing project. We're going to -- we're going to
16 pay for it in the end which actually it's -- it proves
17 itself right now. It's a big -- big problem right now.

18 Q. Was that your first time you dealt with Sheri
19 Tanaka?

20 A. That's with that time and the time, like I said,
21 when we had -- I was going through the bankruptcy because
22 I was the general manager for the company, and I had to
23 talk 'cause I was in charge of the company so that's the
24 only time I talked to Sheri Tanaka.

25 Q. Was Rudy Alivado or Dennis Mitsunaga --

1 A. No.

2 Q. -- involved in the moving company?

3 A. No. Only the -- Rudy Alivado was involved with the
4 moving company.

5 Q. What was Rudy's role in the moving company?

6 A. He was the vice president and then after a while, he
7 -- he got out and that's why when they tried to sue him,
8 they thought that he -- he was part of it so I had to
9 testify and say, no, they -- they made a mistake 'cause
10 they thought he was part of this company, but he had left
11 already.

12 So they said, oh, he got the deep pockets to sue the
13 -- the heck out of this company, but he had gone already
14 so they -- so they went through the process and then run
15 up the attorney's fee for over half a million dollars, and
16 they kept on doing it to this -- this poor company, then I
17 finally asked 'em, I said why are you suing us? The guy
18 left already. You ain't getting no money out of him.

19 Q. So how did Bert know to come to you?

20 A. Because he knows me.

21 Q. How does he know you?

22 A. Because I worked for the company. We -- we --
23 several times when I would go to a party I drank with him.

24 Q. So you partied with the Mitsunagas?

25 A. Only with Bert.

1 Q. Okay. When's the last time you saw Bert?

2 A. Well, unfortunately, the last time I saw Bert was,
3 what -- was one year ago, two years ago. I can't
4 remember, but he passed away.

5 Q. How did he pass?

6 A. I don't know. Nobody said anything. He just passed
7 away.

8 Q. How did you learn he passed?

9 A. They told me he passed away.

10 Q. Who's "they"?

11 A. The office said he passed away.

12 Q. Who do you deal with at the office?

13 A. Well, like I said, I deal -- I deal with Braceros.

14 Q. What about the office manager?

15 A. Office manager, no.

16 Q. Do you make political contributions to politicians?

17 A. Yes.

18 Q. Did you ever contribute to Keith Kaneshiro?

19 A. I don't like Keith Kaneshiro. I going tell you why.
20 Because was work --

21 Q. That's not my question.

22 A. -- I was working for the state and guess what, he
23 terminate me to bring aboard his friend. I was the
24 sheriff. He terminated me, and that's why I don't like
25 him 'cause he didn't even talk to me, the courtesy to even

1 talk to me. The next thing I know I got notice you out.

2 That's why I don't like him. I don't like him at all.

3 Q. Do you tell people you don't like him?

4 A. I tell people I don't like him, yes.

5 Q. Did you tell Bert?

6 A. I don't tell such things to him, or he -- he got --
7 like I said, I always believe in this. Ninety-five
8 percent of people don't give a rip about your problem
9 'cause they got problems of their own, 5 percent of the
10 people happy it's your problem so why should I tell him my
11 problem?

12 So I don't tell anybody my problems, right? Keep it
13 to yourself because, what, nobody cares. Why I going tell
14 somebody about my problems? Why I going tell something
15 about why I don't like Keith.

16 Q. Okay. So you talked to Sheri Tanaka with the
17 bankruptcy and with the PAC.

18 Any other times?

19 A. No, only -- only time was when she tell me --
20 instructed me what to do, but she didn't help me in the
21 process of -- you know when I got slammed by the Election
22 Committee so I was kind of upset about that. I had to do
23 it on my own.

24 Q. Did you call her?

25 A. I couldn't get ahold of her. And then -- and I

1 was -- I was -- I was hammered by the -- the committee to
2 come up with answers so I had to call the attorney -- I
3 had to talk to the -- I can't remember her name. She's an
4 attorney. So she called me, and she said you gotta file,
5 you gotta file, you gotta file, you gotta file so I had to
6 do it. I couldn't wait.

7 Q. How'd you find out what you had to file, where the
8 money was?

9 A. They called me up.

10 Q. Did you know where the bank accounts were?

11 A. I only know the -- when they said that I had to go
12 back, and I had to call Bert, and I had to tell him, hey,
13 what -- what is this? I need the files of how the money
14 was expended and how they expended the money. So he gave
15 me that list of paper how the money was -- I think it was
16 couple hundred thousand dollars they said that the TV --
17 TV commercials that they did.

18 Q. And where'd the money come from?

19 A. I haven't the faintest idea. I don't know. I
20 didn't sign any checks, I didn't even sign any deposit
21 slips, I didn't do anything. All I know is like I said,
22 when I got -- all I thought was just, okay, I signed it, I
23 going just be the figurehead, and that's it.

24 Q. And as you sit here, sir, you had no involvement
25 with preparing --

1 A. No.

2 Q. -- that police report?

3 A. No involvement, now. This is the first time I'm
4 seeing this report and, if you notice, there's my -- my
5 name is not in this report.

6 Q. Did you help draft it?

7 A. No. I ain't going to draft this kind of -- my
8 report is -- I'm used to doing big cases. My report is
9 going to be that fat. I would have really hanged somebody
10 to the wall. This is -- this is not enough.

11 Q. Well, it says there a lot of exhibits there, but I
12 don't see any.

13 Did you -- were you involved in preparing exhibits?

14 A. No, no, no, no. I -- besides, I look at this, this
15 is not normally what I would -- how I would tell 'em how
16 to write.

17 Q. Why is that?

18 A. Because I don't like what it -- how they wrote it.

19 Q. Well, how did they write it that you don't like?

20 A. It's not -- it's not break -- it doesn't broke --
21 break -- break it all down. It just said background, and
22 they didn't separate everything.

23 MR. WHEAT: Okay. Anything else?

24 BY MR. MCDONALD:

25 Q. Sir, did you ever communicate with Mr. Mitsunaga

1 about making campaign contributions to any particular
2 political candidate?

3 A. I don't -- like I said, I don't talk to Mitsunaga,
4 you know, because like I said, the only -- you know, only
5 time I saw him when I went in the bar one time that
6 I acknowledge him. I saw him drinking 'cause Rudy said to
7 come and then I just sat at a separate table 'cause he had
8 all his friends there with him, you know, and then when I
9 go to the office, if I ever saw him, I don't talk to him
10 because he's -- he's really not my friend.

11 Q. What about the same question with respect to Bert
12 Mitsunaga?

13 A. Well, I know Bert better than him.

14 Q. Okay. And -- and did you ever have considerations
15 with Bert Mitsunaga about sending money to particular
16 political candidates?

17 A. No, no, no, no. I don't get involved with that.
18 Like I said, I don't want to get involved with anything
19 like that, you know, 'cause when I was in the police
20 department, they said don't get involved with politics.
21 That's why I was very hesitant to be the head of this
22 committee when he promised me that all I would be is a
23 figurehead. Oh, okay. I said fine, you know. I can be
24 ignorant. I don't have to know anything.

25 Q. When Bert Mitsunaga paid back the fine that you had

1 paid, did he pay you in cash or by check?

2 A. I -- I can't recall.

3 Q. Okay.

4 A. I can't recall --

5 Q. Okay.

6 A. -- you know.

7 BY MR. WHEAT:

8 Q. But you took it upon yourself to pay the second fine
9 out of your own funds?

10 A. Yeah, because I -- I was -- like I said, I held it
11 as ammunition to show them in the event they try to call
12 on me again to be a head of some kind of PAC, I going to
13 say you know what, nobody helped me with -- with -- with
14 this stupid, you know, filings and taking care of this
15 complaint, first of all, and then, look, I had -- I have
16 this fine that I paid, and it took me a long time. I had
17 to work with the clerk and the other side like she
18 committed to take care of this -- this thing which --

19 Q. How'd you get the information to file the second
20 report?

21 A. I had to talk to the clerk, Election Committee. I
22 said can you help me, please, in filling out this report.

23 Q. No. My -- the question's different. You had to say
24 where the money was expended the second time.

25 Where'd you get that information?

1 A. From Bert. They gave me a piece of paper and
2 that's, he says, where the money went.

3 Q. Who did?

4 A. Bert.

5 Q. So you talked to him a second time?

6 A. Yes.

7 Q. And did you tell him you were getting fined the
8 second time?

9 A. I told him, yes.

10 Q. And what did he say?

11 A. He said don't worry about it.

12 Q. Are you a wealthy man?

13 A. Come again?

14 Q. Are you a wealthy man?

15 A. No.

16 Q. Well, how can you just afford to spend money without
17 somebody reimbursing you for something you had nothing to
18 do with?

19 A. Be -- no, because I didn't want them to hold this
20 against me the second time and tell me, hey, take a PAC
21 again.

22 Like I said, I was very hesitant again. You know, I
23 wanted to show them, hey, I got this fine and then, you
24 know, I'm not going to do it again, and I -- there's so
25 much trouble taking care of this 'cause my name is being

1 stained now, and I was kind of upset about that.

2 Q. Did they ever come to you a third time?

3 A. Who?

4 Q. Bert.

5 A. No, 'cause he knew I was angry.

6 Q. How did you display your anger?

7 A. Told him I ain't going to do it again. That's it.

8 I walked off.

9 MR. WHEAT: Okay. Any questions for this witness?

10 Seeing no hands, hearing no --

11 BY MR. WHEAT:

12 Q. Is there anything you'd like to tell the Grand Jury
13 that I haven't asked you?

14 A. No. I -- I'm just sad that we gotta do this today,
15 you know, okay?

16 Q. Why are you sad?

17 A. Well, you know, why you trying to prosecute
18 somebody? I don't -- I don't -- can't stand, you know.

19 Q. Okay. How were you treated here today?

20 A. Come again?

21 Q. How were you treated here today?

22 A. Well, it's okay, you know, just I came in at 9:30,
23 and I've been waiting around, you know, and I did five
24 crosswords from the newspaper, you know.

25 Q. Okay. Anything else, sir?

1 A. No. Well, I'm glad it's over with, you know --

2 Q. Okay. Anything else you'd like to tell the Grand
3 Jury?

4 A. -- unless you call me again.

5 Come again?

6 Q. Anything else you'd like to tell them?

7 A. Stay safe.

8 MR. WHEAT: Okay. May this witness be excused?

9 THE FOREPERSON: Yes.

10 MR. WHEAT: Thank you, sir. You can step down.

11 (Testimony concluded at 2:06 p.m.)

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CERTIFICATE

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I hereby certify that the foregoing is a true and accurate transcript, to the best of my skill and ability, from my stenographic notes of this proceeding.

06/15/22

Date

Wendy M. Watanabe

WENDY M. WATANABE, CSR, RPR