

1 (Thereupon, the jury was brought to the
2 courtroom at 11:12 a.m.)

3 THE COURT: Ladies and gentlemen, I apologize
4 for the late start. So we will now have -- the
5 government having rested yesterday, we will now have the
6 defense case. Ms. Sassower, do you have a wit --

7 MS. SASSOWER: Good morning, Your Honor.
8 Ladies and gentlemen of the jury, defense calls Josh
9 Albert, legislative correspondent to Senator, New York
10 home state senator Hillary Rodham Clinton.

11 THE CLERK: Please raise your right hand.

12 Thereupon,

13 JOSHUA ALBERT,

14 having been called as a witness for and on behalf of the
15 defendant, and after having been first duly sworn by the
16 deputy clerk, was examined and testified as follows:

17 THE COURT: Sir, please be seated.

18 THE WITNESS: Thank you, Your Honor.

19 THE COURT: Thank you.

20 DIRECT EXAMINATION

21 BY MS. SASSOWER:

22 Q Good morning, Mr. Albert.

23 A Good morning.

24 Q You are here pursuant to my subpoena, is that
25 correct?

1 A That's my understanding. Your Honor, is this
2 on?

3 THE COURT: It's a recording system.

4 THE WITNESS: Oh.

5 MS. SASSOWER: May I approach the witness?

6 THE COURT: You may.

7 BY MS. SASSOWER:

8 Q The exhibit number is 34 defendant's for
9 identification. It requests, in addition to your
10 appearance, any documents and records relating to me,
11 the Center for Judicial Accountability, and my request
12 to testify at the Senate Judiciary Committee on May
13 22nd, 2003.

14 Have you brought any documents beyond what you
15 turned over to Senate legal counsel?

16 A With me today?

17 Q Yes.

18 A No.

19 Q In preparation for your testimony today, have
20 you refreshed your recollection by reviewing any
21 documents?

22 A I've looked at some documents.

23 Q May I ask what they are?

24 A The responsive documents, the e-mail
25 specifically that were produced to you and other

1 documents.

2 Q Which of the documents?

3 A A submission to the court.

4 Q Which submission to the court?

5 A That the government produced to the court. I
6 think it's been referred to as an ex parte submission.

7 Q I see. Any other documents?

8 A Not to, no, not to refresh my recollection.

9 Q Would you state how long you have -- would you
10 state your employment for Senator, Senator Hillary
11 Rodham Clinton insofar as your title, how long you have
12 occupied that position and what it entailed?

13 A My title for, in Senator Clinton's office is
14 legislative correspondent. I've occupied that position
15 since approximately May 2002.

16 Q And in that -- and what are your duties as
17 legislative correspondent?

18 A I'm part of the legislative team.

19 Q And what are your duties?

20 A To assist the senator in her legislative work
21 and certain policy areas.

22 Q And what policy areas in particular?

23 A Generally speaking, budget and tax, homeland
24 security, defense, veteran's issues, postal issues,
25 pension issues and occasional other matters.

1 Q Do those other matters include judicial,
2 federal judicial nominations?

3 A In one instance.

4 Q What instance is that?

5 A The instance of Judge Wesley, as I recall, is
6 the only instance in which I've worked on judicial
7 nomination.

8 Q Okay. Do I -- can you explain why it is that
9 my contact with Senator Hillary Rodham Clinton's office
10 was directed to you?

11 A No.

12 Q Do you routinely, as part of your
13 responsibilities, handle constituent concerns?

14 A Yes.

15 Q And a constituent is defined as?

16 A Resident of New York.

17 Q A resident of New York. So would it be your
18 normal course of practice to handle calls from persons
19 from New York with concerns about specific matters?

20 A Yes.

21 Q Would you -- tell me what your educational --
22 were you working for Senator Clinton prior to May 2002
23 when you became her legislative correspondent?

24 A Yes.

25 Q What was your prior employment with Senator

1 Clinton?

2 A I've worked for Senator Clinton in her New York
3 City office.

4 Q And what was your title there?

5 A Director of special projects.

6 Q And what were your duties?

7 A A variety of duties including case work, few
8 selected legislative issues, overseeing military academy
9 nominations and some administrative work.

10 Q How long were you occupying that position?

11 A From the time that Senator Clinton was sworn in
12 as a senator.

13 Q Which was?

14 A As I recall now, it was January 3rd, 2001.

15 Q January 3rd, 2001. Had you been employed
16 working for any other public officials prior to that?

17 A What do you mean by public official?

18 Q Public officials or someone who's on ^{the} public
19 payroll, either elected or appointed but whose salary
20 comes from We, the People.

21 A I was employed as a paralegal in the United
22 States Attorney's Office for the Eastern District of New
23 York for approximately two years prior to going to law
24 school.

25 Q You are a lawyer.

1 A I am.

2 Q What law school -- I'm sorry. When were you
3 employed as a paralegal in the Eastern District of New
4 York?

5 A As I recall, from approximately 1991 to
6 approximately 1993.

7 Q When did you attend law school?

8 A 1993 and 1996.

9 Q And what law school did you attend?

10 A Fordham law school.

11 Q And your first job out of Fordham law school?

12 A I worked for a law firm in New York City.

13 Q What kind of practice did that law firm have?

14 A General practice.

15 Q Litigation?

16 A It included litigation.

17 Q Federal and state?

18 A Practice included federal and state court
19 practice.

20 Q Did you ever engage in litigation?

21 A I was part of the litigation department.

22 Q And how long were you at that law firm having a
23 general practice?

24 MS. LIU: Objection, Your Honor, relevance of
25 this line of questioning.

1 THE COURT: Sustained.

2 BY MS. SASSOWER:

3 Q Were you employed at any other law firm before
4 your employment with Senator Hillary Rodham Clinton?

5 A I, no.

6 Q You re, remained at that law firm until you
7 took the position with Senator Clinton?

8 A That's correct.

9 Q May I just briefly ask what the name of the law
10 firm is?

11 A Holland and May.

12 Q Okay, moving on.

13 Q Can you, can you identify the date and the
14 substance of our first contact or contacts?

15 A I'm sorry, can you repeat the question?

16 Q Can you identify the date or dates of our first
17 contact?

18 A At this time I don't recall the first date.

19 MS. SASSOWER: Defendant's Exhibit 12 for
20 identification. May I approach the witness?

21 THE COURT: Yes.

22 MS. SASSOWER: I offer you Defendant's 12 for
23 identification consisting of my --

24 MS. LIU: Objection, Your Honor. May we
25 approach?

1 THE COURT: Sustained. Approach.

2 (Bench Conference)

3 MS. LIU: Your Honor, I believe that what Ms.
4 Sassower is trying to do is to refresh this witness'
5 recollection with a document. She has not laid the
6 foundation for that, the proper foundation. She didn't
7 ask him if there is anything that would refresh his
8 recollection. He should be allowed to name them, at
9 which she can show it to him.

10 THE COURT: Well, if it's gonna refresh
11 recollection, recollection has been refreshed, then the
12 document has to be removed. You can't, refreshing
13 recollection, you can't read from the document.

14 MS. LIU: Exactly, Your Honor.

15 THE COURT: So I will allow this witness to
16 answer the question whether the document refreshes his
17 recollection. It won't be the reading of this document.

18 MS. LIU: Very well, Your Honor.

19 THE COURT: Very well.

20 (Open Court)

21 BY MS. SASSOWER:

22 Q Does the document that I have presented to you
23 refresh your recollection as to the date on which we
24 spoke together by telephone initially?

25 A May I read t?

1 Q If that will assist you, yes.

2 A No, it does not refresh my recollection.

3 THE COURT: Very well, let's move forward.

4 MS. SASSOWER: What is your recollection? Have
5 you ever seen that document before?

6 THE COURT: Well, the objection is sustained.

7 The purpose for the document was to refresh
8 recollection. It is not refreshed, no foundation has
9 been laid. Let's move ahead.

10 BY MS. SASSOWER:

11 Q What is your recollection of our contacts?

12 A My recollection is that you left one or two
13 voice mails for me. That on one occasion we spoke by
14 telephone and then subsequently spoken in joint
15 telephone conversation with my colleague Leecia Eve,
16 Senator Clinton's counsel. And --

17 Q Yes.

18 A No, nothing to add.

19 Q Do you keep a diary, a log in your capacity as
20 a legislative assistant where you note from day to day
21 calls that come in, calls that you make and a summary of
22 their substance?

23 A No.

24 Q Well, so you have no recollection of any dates
25 of our contacts, when they might have commenced and what

1 I said either in voice mail or on the one occasion that
2 we spoke by phone before the phone conference that you
3 identified?

4 MS. LIU: Objection, compound.

5 THE COURT: Well, yes, it sounds like a speech.
6 And there's a question some, there some place. Ask a
7 succinct question please.

8 BY MS. SASSOWER:

9 Q What, what do you recollect as to why I was
10 contacting Senator Clinton's office?

11 A My recollection is that you wanted to express
12 your opposition to the nomination of Judge Wesley.

13 Q And why did I want to express it to Senator
14 Clinton?

15 MS. LIU: Objection, Your Honor.

16 THE COURT: Sustained.

17 BY MS. SASSOWER:

18 Q Does Senator Clinton have a special role when
19 it comes to judicial nominations that cover New York?

20 A I don't understand the question. I don't
21 understand special role.

22 Q Do you know what a blue slip is?

23 MS. LIU: Objection, Your Honor.

24 THE COURT: Sustained.

25 MS. LIU: May we approach?

1 THE COURT: Yes.

2 (Bench Conference)

3 THE COURT: Yes.

4 MS. LIU: Your Honor, we've been informed by
5 Mr. Vinik that the definition of blue slip is the
6 subject of some debate within the Senate itself. Any
7 request for hearing, who's gonna be questioning go
8 through the blue slip process.

9 THE COURT: I have absolutely no understanding
10 of blue slip. Preliminarily, before I send the jury
11 back to the juryroom to have Mr. Vinik come up again and
12 speak with me, I need to know preliminarily what is it?
13 Is this, is this speech and debate? What are we talking
14 about?

15 MS. LIU: It involves the speech and debate
16 privilege, Your Honor

17 MR. GOLDSTONE: Your Honor, perhaps I can
18 assist. Maybe if she ask the question - did you hear
19 Senator Clinton cancel the nomination, withdraw the
20 nomination, so we don't have to get into the definition.

21 THE COURT: Yes.

22 MS. LIU: Your Honor, we would object to that
23 too. That's a communication between him and Ms.
24 Sassower. If that's the question, then I object.

25 THE COURT: I think that was the question.

1 Very well.

2 (Open Court)

3 THE COURT: Ms. Sassower.

4 BY MS. SASSOWER:

5 Q As a lawyer working for Senator Clinton, are
6 you not aware that Senator Clinton and Senator Schumer
7 have special prerogatives when it comes to judicial
8 nominations affecting New York State?

9 A I just want to be clear, I don't work for
10 Senator Clinton as an attorney.

11 Q But you are an attorney.

12 A That's correct. I'm sorry, what's the
13 question?

14 Q Are you unaware that Senator Clinton along with
15 Senator Schumer have special prerogatives relating to
16 federal judicial nominations for New York State and the
17 Second Circuit?

18 A Again, I'm not sure what you mean by special
19 prerogatives.

20 Q Did I discuss with you that I was approaching
21 Senator Clinton with a request that she, as well as
22 Senator Schumer, take steps to prevent the nomination of
23 Richard Wesley from going forward to Senate
24 confirmation?

25 A My understanding was that you wanted to, you

1 wanted Senator Clinton to oppose the nomination of Judge
2 Wesley or at least allow you to oppose it in some
3 fashion at the hearing.

4 THE COURT: Question, Ms. Sassower.

5 MS. SASSOWER: Yes. A home state senator can
6 prevent a nomination from proceeding to hearing by
7 opposing the nomination, is that not correct?

8 MS. LIU: Objection, Your Honor.

9 THE COURT: Sustained.

10 BY MS. SASSOWER:

11 Q Did we discuss the nature -- excuse me. Before
12 our phone contact, had you ever heard of my name or the
13 Center for Judicial Accountability?

14 A I don't recall ever hearing your name or the
15 name of the Center for Judicial Accountability.

16 Q You were unaware of any prior correspondence
17 over past years from me, as coordinator of the Center
18 for Judicial Accountability, is that your testimony?

19 A Right. At this time I don't recall ever
20 hearing your name or the name of that Center prior to
21 the time when you contacted the office and left a voice
22 mail for me.

23 Q When did you become aware that I and the Center
24 for Judicial Accountability, of which I am the
25 coordinator, had prior contact with Senator Clinton?

1 A I'm sorry, what was the question?

2 Q When did you become aware -- did you ever
3 become aware that there was prior communications from me
4 to Senator Clinton's office specifically about how the
5 Senate Judiciary Committee mishandles federal judicial
6 nominations?

7 A As I recollect, you told me that you had sent a
8 document or documents to the New York City office but I,
9 I don't recall specifically. But that, to the best of
10 my recollection as I recall.

11 Q Okay. When were you informed -- excuse me.
12 When were you informed that I had provided documents to
13 the New York City office?

14 A As I recall, it was when you told me --

15 Q Ah.

16 A -- that you had done that.

17 Q And they were delivered in what fashion to the
18 New York office?

19 A I don't recall what you told me about how they
20 were delivered.

21 Q Did you receive at anytime a fax that would
22 have reflected how they were delivered to the New York
23 office?

24 A I don't recall if I did or not.

25 MS. SASSOWER: I have Defendant's Exhibit 37

1 for identification. May I approach the witness, Your
2 Honor?

3 THE COURT: You may.

4 BY MS. SASSOWER:

5 Q This is Defendant's Exhibit 37. Does this
6 package, do the documents contained in that package
7 resemble, indeed exactly, what might have been hand
8 delivered to the New York office?

9 MS. LIU: Objection.

10 THE COURT: Sustained.

11 BY MS. SASSOWER:

12 Q I hand delivered documents to the New York
13 office, is that correct?

14 A I don't know if you did or not.

15 Q I offer --

16 A I don't recall at this time I should say.

17 MS. SASSOWER: May I approach the witness, Your
18 Honor?

19 THE COURT: You may.

20 BY MS. SASSOWER:

21 Q Can you identify the exhibit, the exhibits
22 marked for identification which I have provided you?

23 A I'm sorry, could you repeat the question?

24 Q Would you kindly identify the three exhibits
25 marked for identification which I provided you?

1 A This appeared to be the three documents that
2 were responsive to your subpoena that were produced
3 here.
4 Q What are they please?
5 A They are, they are e-mails internal to our
6 office.
7 Q From?
8 A There are -- well, I'd have to talk about each
9 one.
10 Q Yes, please do.
11 A One is from me.
12 Q What date?
13 A To Leecia.
14 Q What date?
15 A That's Defendant's Exhibit 43.
16 THE COURT: I'm sorry, Mr. Albert, --
17 THE WITNESS: Oh.
18 THE COURT: -- the exhibit number is what?
19 THE WITNESS: Forty-three, --
20 MS. SASSOWER: I'm sorry, --
21 THE WITNESS: -- Your Honor.
22 MS. SASSOWER: -- may I interrupt?
23 BY MS. SASSOWER:
24 Q Would you please start with Exhibit Number 41?
25 A Sure.

1 Q The earliest e-mail, so we can go sequentially
2 in order.

3 A Defendant's Exhibit 41 is an e-mail from me to
4 Leecia.

5 A Who is Leecia?

6 A Leecia Eve, Senator Clinton's counsel.

7 Q And what does it say? Would you read it? You
8 wrote it?

9 A I don't recall writing it, but I wouldn't be
10 surprised if I did.

11 Q It bears your name.

12 A It does.

13 Q Okay. And what does it say?

14 MS. LIU: Objection, Your Honor.

15 THE COURT: Approach.

16 (Bench Conference)

17 MS. LIU: Your Honor, this document has not
18 been admitted into evidence.

19 THE COURT: Okay.

20 MS. LIU: And if Ms. Sassower wants to
21 introduce it for the truth of the matter that a packet
22 was hand delivered to New York, then it's hearsay.

23 THE COURT: Ms. Sassower, I'll hear from you on
24 that issue. The document itself is hearsay. And to the
25 extent that you're seeking to offer it to establish the

1 delivery of the package, you're offering it for the
2 truth of the matter asserted not for any other reason.

3 That confirms it's hearsay and it must fall
4 within some exception to be admitted into evidence. I
5 can think of no exception to the hearsay rule that would
6 permit the admission of this document.

7 MS. SASSOWER: I am impeaching the witness,
8 Your Honor. He identified, he doesn't -- he never saw
9 the April 23rd letter which is the letter that is part
10 of that package.

11 His e-mails expressly refer to that letter. It
12 referred to the package. It doesn't matter whether it
13 was hand delivered or otherwise. It ultimately reached
14 that office.

15 THE COURT: Well, it says to me that she hand
16 delivered the package to the New York City office on
17 4/23. That's what I see. I don't see any reference to
18 any specific package. It says a package. I'm still
19 trying to --

20 MS. SASSOWER: I'll ask him what package.

21 THE COURT: I'm still trying to --

22 MS. LIU: Your Honor, we simply object to
23 having this witness refer to documents that are not in
24 evidence. Ms. Sassower of course in asking the
25 questions, he should -- and he can't read from the

1 document.

2 THE COURT: Absolutely.

3 MS. SASSOWER: Fine, fine.

4 MS. LIU: Thank you.

5 THE COURT: Sustained.

6 MS. SASSOWER: Your Honor, only a single copy
7 was provided to me. I don't have a copy to question him
8 from, shall I take --

9 THE COURT: What do you mean only a single copy
10 was provided to you?

11 MS. SASSOWER: These were turned over the other
12 day. I have only seen a single copy that I provided to
13 the witness.

14 THE COURT: This is a matter that should have
15 been taken care of before now. For now you got to stand
16 over his shoulder.

17 MS. SASSOWER: All right. So I will take it
18 back. Okay. Thank you.

19 (Open Court)

20 MR. MENDELSON: Your Honor, may the record
21 reflect that Ms. Sassower has taken those exhibits - 41,
22 42 and 43 back from the witness, Mr. Albert.

23 THE COURT: So noted.

24 BY MS. SASSOWER:

25 Q Was there any time that I informed you that I

1 had hand delivered a package to the New York City office
2 on April 23rd?

3 A I don't recall specifically if, if you told me
4 that.

5 Q I'd like to have marked into evidence
6 Defendant's Exhibit 41, an e-mail from Mr. Albert to
7 Leecia Eve.

8 MS. LIU: Objection, Your Honor.

9 THE COURT: Very well, sustained.

10 MS. SASSOWER: On what basis?

11 THE COURT: Approach.

12 (Bench Conference)

13 THE COURT: Let me just clarify. We were
14 pretty clear about that you're seeking to offer this for
15 the truth of the matter contained within. It's hearsay.
16 It's not in any hearsay exception.

17 To the extent that you can ask questions about
18 its content, that you can do but you can't admit that
19 document into evidence.

20 MS. SASSOWER: Okay, fine.

21 MS. LIU: Thank you, Your Honor.

22 (Open Court)

23 BY MS. SASSOWER:

24 Q Do you ever recall my stating to you that I
25 would supply Senator Clinton's office with documents

1 establishing the unfitness of Judge Wesley for a seat on
2 the Second Circuit Court of Appeals?

3 A Specifically, I don't remember you, I don't
4 recall you saying that you would supply documents.

5 Q Did you ever receive anything in writing where
6 I stated I was or would be supplying documents
7 evidentiarily establishing the unfitness of Judge Wesley
8 for a seat on the Second Circuit Court of Appeals?

9 A Your question is in the future tense, again I
10 don't recall you saying that you would supply documents.

11 Q Did your office ever receive documents to your
12 knowledge?

13 A I'm sorry, what kind of documents?

14 Q Documents that I provided to establish the
15 unfitness of Judge Wesley for the Second Circuit Court
16 of Appeals so that Senator Clinton could exercise her
17 prerogative to block --

18 THE COURT: Sustained.

19 MS. SASSOWER: --the confirmation.

20 THE COURT: Sustained. Next question.

21 MS. SASSOWER: I offer Exhibit 38 for
22 identification. Defendant's Exhibit 38, a letter from
23 me --

24 THE COURT: Do not identify the document from
25 the floor please.

1 MS. SASSOWER: I see. May I approach the
2 witness?

3 THE COURT: You may.

4 BY MS. SASSOWER:

5 Q Have you ever seen that document before?

6 A May I review it?

7 Q Please.

8 A Your question is whether I recall receiving
9 this?

10 Q Yes, did you ever --

11 A I don't recall specifically receiving this.

12 Q Would you look at the fax receipt attached to
13 it? Does that reflect the fax number of the office, the
14 Washington D.C. office that you would have available for
15 receipt of letters addressed to you?

16 A There's a fax number on the sheet which I
17 recognize as a fax number in the Washington D.C. office.

18 Q And it reflects a successful transmittal, is
19 that correct?

20 A It states result okay.

21 Q Okay. And is it a normal practice in your
22 office that when faxes are received they are not
23 delivered to the person to whom they are addressed?

24 A I'm sorry?

25 Q Is it a normal practice in Senator Clinton's

1 office that when faxes are received they are not
2 transmitted to the person to whom they are addressed?

3 A Could you restate the question?

4 Q You are stating under oath that you never
5 received this May 2nd letter from me addressed to you,
6 is that your testimony?

7 A No.

8 Q What is your testimony with respect to this
9 letter?

10 A I said I don't recall receiving it.

11 Q You knew you were going to be called to present
12 testimony in a criminal case.

13 Is it your testimony that you did not in anyway
14 refresh your recollection so that you could give
15 appropriate testimony?

16 THE COURT: Sustained. He's already answered
17 that question sometime ago.

18 MS. SASSOWER: Okay.

19 THE COURT: Next question.

20 BY MS. SASSOWER:

21 Q Okay. Does this letter from me refresh your
22 recollection that we had had a conversation on May 2nd
23 that you had initiated to me?

24 A Me, you?

25 Q Yes. Does this, does this communica -- does

1 this fax that I prepared reflect my thanks to you for
2 having called me on behalf of Leecia Eve?

3 MS. LIU: Objection, Your Honor.

4 THE COURT: Sustained.

5 BY MS. SASSOWER:

6 Q Okay. Do you have any recollection of having
7 been informed by me that I was intending to hand deliver
8 to the Senate Judiciary Committee an exact copy of the
9 materials that I had hand delivered to Senator Clinton's
10 New York office on April 23rd, 2003?

11 A I don't specifically recall your telling me
12 that.

13 Q Do you recall me telling you that not only was
14 I going to deliver a duplicate copy of those materials
15 to the Senate Judiciary Committee but five boxes of
16 further substantiating evidence establishing the
17 unfitness and corruption in office?

18 THE COURT: Sustained.

19 MS. SASSOWER: Did I tell you that I was gonna
20 be in Washington D.C. on May 5th expressly for the
21 purpose of making hand delivery of documents
22 establishing the unfitness of Judge Wesley?

23 THE COURT: Sustained.

24 MS. SASSOWER: Okay. Do you recollect at
25 anytime -- was a meeting tentatively scheduled by you

1 for me with Leecia Eve at 1 P.M. on Monday, May 5th, for
2 purposes of discussing the documentation establishing
3 the unfitness of Judge Wesley?

4 THE COURT: Sustained.

5 MS. SASSOWER: Why? Oh, sorry. My, my, my
6 legal assistant, my legal adviser doesn't know the basis
7 upon which --

8 THE COURT: Well, maybe you and your legal
9 adviser should come to the bench.

10 MS. SASSOWER: Yes.

11 (Bench Conference)

12 THE COURT: I am disappointed that I'm supposed
13 to provide this. You cannot ask a question and include
14 your speech. There is no reason for you in every
15 question that you ask to state your opinion as to the
16 unfitness of Judge Wesley.

17 MS. SASSOWER: We discussed it.

18 THE COURT: Listen, I'm telling you now you can
19 ask a question pertaining to communication --

20 MS. SASSOWER: Thank you, thank you

21 THE COURT: -- without expressing your opinion
22 as to Judge Wesley.

23 MS. SASSOWER: Thank you.

24 (Open Court)

25 THE COURT: Ms. Sassower.

1 MS. SASSOWER: Thank you.

2 BY MS. SASSOWER:

3 Q At any time, did you schedule a meeting for me
4 and Leecia Eve for 1 P.M. on Monday, May 5th?

5 A I don't recall tentatively scheduling a meeting
6 for a particular date, but I wouldn't be surprised if I
7 had.

8 Q Do you remember repeated phone messages -- or
9 strike that. Do you, did you receive two or three phone
10 messages on May 5th from me that I was running late?

11 A Again, I don't recall those specific phone
12 messages on specific date.

13 Q On May 5th, were you at anytime advised that I
14 had arrived at Senator Clinton's Washington office and
15 was sitting in the waiting area to meet with you and
16 Leecia Eve?

17 A I don't recall ever being told that.

18 MS. SASSOWER: I mark, I have marked
19 Defendant's, Defendant's Exhibit 18 for identification.
20 May I approach the witness?

21 THE COURT: You may.

22 BY MS. SASSOWER:

23 Q Have you -- on May 5th, did you receive the
24 copy of the document that I just handed you?

25 A No, I don't recall receiving this document on

1 May 5th.

2 Q Were you ever advised that I -- I'm sorry. Did
3 you, was it your testimony that you were never told that
4 I was waiting in the lobby, the office area of Senator
5 Clinton's office on May 5th, that I had finally arrived?

6 A No, that's not my testimony.

7 Q What is your testimony?

8 A I don't recall being told that you were there
9 on the, --

10 Q You don't recall.

11 A -- on May 5th.

12 Q Would there be any entries in the receptionist
13 journals, logs that might reflect that I was a visitor
14 there?

15 A Not that I'm aware of.

16 Q And is it your testimony that you never
17 received, either on May 5th or at anytime thereafter,
18 the document, copy of the document that I have presented
19 you with?

20 A I don't recall the specific document, no.

21 THE COURT: Very well. Let's take a recess for
22 10 minutes. This is a convenient time.

23 (Thereupon, the jury returned to the juryroom.)

24 THE COURT: Very well, recess for 10 minutes.

25 Don't discuss your testimony with anyone.

1 THE WITNESS: Okay.

2 THE COURT: Very well.

3 (Thereupon, the Court recessed at 12:05 p.m.)

4 (Thereupon, the Court reconvened at 12:15
5 p.m.)

6 THE CLERK: United States vs. Elena Sassower,
7 case number M4113-03.

8 THE COURT: Very well. Counsel approach
9 please.

10 (Bench Conference)

11 THE COURT: Let the record reflect that Ms.
12 Sassower, Mr. Goldstone, Mr. Mendelsohn and Ms. Liu are
13 at the bench. And I didn't allow them the opportunity
14 to announce themselves so I'm doing that for the record.

15 The examination of this witness is taking far
16 too long. And it seems to me that at some point in time
17 there must -- to the extent that you want to continue to
18 question this witness, you must make inquiry into the,
19 the area that precipitated the events of May 22. I'm
20 directing you to do that now.

21 MS. SASSOWER: Thank you.

22 THE COURT: Okay.

23 MS. SASSOWER: I will just try to introduce
24 this which exposes what he says and said as false.

25 THE COURT: Have we not already gone through

1 this?

2 MS. SASSOWER: He acknowledges that I'm
3 stopping by at 1 P.M. to meet with --

4 THE COURT: As, as I recall, prior, to the
5 extent that you want to question him based on any
6 information contained in that document, I don't think
7 anyone has had any issue with that. You've tried it
8 unsuccessfully. But to have it admitted into evidence,
9 --

10 MS. SASSOWER: Thank you.

11 THE COURT: -- you've got to find an exception
12 to the hearsay rule. I can think of none. I don't
13 believe you'll be able to have it admitted into
14 evidence. All right.

15 (Open Court)

16 (Thereupon the witness resumed the witness
17 stand. The jury returned to the courtroom at 12:20
18 P.M..)

19 THE COURT: Ms. Sassower, please inquire.

20 MS. SASSOWER: Yes.

21 BY MS. SASSOWER:

22 Q Before we move on, I show you once again
23 Defendant's Exhibit 41 for identification. That is a
24 fax from you to Leecia Eve, is it not?

25 A It appears to be an e-mail not a fax.

1 Q I'm sorry, an e-mail, from you to Leecia Eve.

2 A That's correct.

3 Q And the date is?

4 A The date is May 2nd, 2003.

5 Q Does that e-mail not identify that I would be
6 stopping by at 1 P.M. on Monday "to meet with us"?

7 A May I read from the e-mail?

8 Q Please do.

9 A The e-mail states in relevant part, Leecia,
10 she's stopping by at 1 P.M. on Monday to meet us. E-
11 mail is headlined Elena Sassower,--

12 Q Would you be --

13 A -- Center for Judicial Accountability.

14 Q Thank you. There's only two other sentences
15 there. Could you read the whole fax? The e-mail
16 rather.

17 A The next sentence after that states, she hand
18 delivered the package to NYC office on 4/23. No way it
19 could have reached us yet even if forwarded from there.
20 She's faxing a cover letter.

21 Q Okay. Thank you. Is, is it your recollection
22 that I never faxed a cover letter on that day, May 2nd?

23 A I don't recall whether you did or not.

24 Q The package to which that e-mail refers, were
25 you ever notified by the New York office that it had

1 been received?

2 A I don't recall whether I was.

3 Q I show you Defendant's Exhibit 42.

4 MS. SASSOWER: Your Honor, may I have
5 Defendant's Exhibit 41 marked for identification now
6 marked into evidence?

7 THE COURT: Do you have the actual documents
8 itself?

9 MS. SASSOWER: Marked into evidence document.

10 THE COURT: Offered into evidence.

11 MS. SASSOWER: Yes.

12 THE COURT: Admitted into evidence rather.
13 Government.

14 MS. LIU: No objection, Your Honor.

15 THE COURT: Very well. Exhibit 41 is admitted
16 into evidence.

17 BY MS. SASSOWER:

18 Q Exhibit Number 42 for identification that I
19 just handed you consist of an e-mail exchange between
20 yourself and another employee of Senator Clinton's
21 office, is that not correct?

22 A I'd characterize it as, it contains actually
23 three separate communications, e-mail communications.

24 Q Between yourself and another employee of
25 Senator Clinton's office, is that correct?

1 A Yes. There's, there are two other employees of
2 Senator Clinton who are identified in the e-mail as
3 having received some or all of these exchanges.

4 Q One of them is, is an Eric Lavecchia.

5 A It's pronounced Lavecchia.

6 Q Lavecchia.

7 A That's correct. He's the recipient of or he,
8 he sent -- it's a chain of e-mails and he sent the first
9 one to me, according to this document.

10 Q Okay. And what did Eric Lavec, I'm sorry.

11 A Lavecchia.

12 Q Lavecchia, from the New York office say in the
13 first e-mail to you? And what was the date?

14 A May I just read it?

15 Q I would most appreciate it.

16 A The date is Tuesday, May 13th 2003. The e-mail
17 states, "Hi Josh, got it. I was actually just about to
18 follow up on my last e-mail. So you don't think I
19 should forward to D.C. then. It seems like it would
20 ordinarily go to D.C. (Leecia)? But if she has already
21 sent documents there, then I guess not."

22 MS. LIU: Your Honor, may we approach?

23 THE COURT: Yes, you may.

24 (Bench Conference)

25 MS. LIU: Your Honor, Mr. Vinik has informed us

1 that he wishes to be heard on the issue of blue slip.

2 THE COURT: That, that, that terminology is
3 going to be redacted from this.

4 MS. LIU: Very well, Your Honor.

5 THE COURT: There will not be any mention of
6 blue slip. To the extent, to the extent that there is
7 still meaning in that sense by the redaction of that
8 terminology, it seems to me that I have marked my copy
9 with a post-it to have that redacted.

10 The meaning is still there, but that, that
11 terminology is simply not going to come into this case.

12 MS. SASSOWER: Your Honor, --

13 THE COURT: And quite frankly, all of this is a
14 question of relevance to the ultimate events
15 precipitating those of May 22nd. Now get to the events
16 that led up to that.

17 (Open Court)

18 THE WITNESS: Your Honor, shall I wait?

19 MS. SASSOWER: Does that --

20 THE COURT: Just wait. Question please.

21 BY MS. SASSOWER:

22 Q Does that chain of e-mails between yourself and
23 Mr. Lavecchia, reflect receipt in the New York office of
24 the package of materials that I had hand delivered on
25 April 23?

1 A First of all, there, there, again there's a
2 second employee Leecia Eve has mentioned who's a
3 recipient of one of these emails, but all I can do is
4 read you what it says.

5 Q All right.

6 A I don't know if I'm permitted to do that.

7 THE COURT: No, you are not.

8 BY MS. SASSOWER:

9 Q Okay. Did you have any conversations -- what
10 were your conversations with Leecia Eve concerning the
11 documentation that I had provided to the New York
12 office?

13 MS. LIU: Objection, Your Honor.

14 THE COURT: Sustained.

15 BY MS. SASSOWER:

16 Q Did there come a time when there was a
17 telephone conference between yourself, Leecia Eve and
18 me?

19 A Yes.

20 Q What was the date of that telephone conference?

21 A I don't recall the specific date, but I believe
22 it was not long before the actual nomination hearing for
23 Judge Wesley.

24 Q Might it have been May 20th?

25 A Again, I don't recall specific date but it's

1 possible.

2 Q And what was the basis upon which a telephone
3 conference was scheduled for me with Leecia Eve and
4 yourself? Why was it scheduled?

5 A I suggested that it be scheduled because you
6 felt strongly, you were, about the nomination. You were
7 a constituent and we felt that it was our obligation to
8 hear your concerns.

9 Q Why was it your obligation to hear my concerns?

10 A For the reasons I just stated.

11 Q Simply because Senator Clinton is my senator?

12 A That's one of the reasons I stated.

13 Q What other reasons, what other obligations does
14 Senator Clinton have with respect to Federal judicial
15 nominations in, for New York in the 2nd Circuit?

16 THE COURT: Sustained. We've already been
17 through that.

18 BY MS. SASSOWER:

19 Q At the time of the phone conference, had you
20 reviewed any of the extensive documentation that had
21 been received by the New York office or Washington
22 office?

23 A Could you be more specific about documents
24 received.

25 Q Did you know that I had set forth in summary

1 form the evidence of Judge Wesley's unfitness --

2 THE COURT: Sustained.

3 MS. SASSOWER: -- in a --

4 THE COURT: Sustained. Mr. Albert, would you
5 state for us, if you recall, the documents that you
6 reviewed prior to the telephone conference that
7 pertained to Ms. Sassower's concerns?

8 THE WITNESS: All the documents or the
9 documents that she --

10 THE COURT: Any documents that you reviewed
11 that you recall, yes.

12 THE WITNESS: What I recall reviewing were e-
13 mails that she sent and that I received. I also recall
14 reviewing the results of independent research that I did
15 and that senator's counsel, Leecia Eve, did.

16 THE COURT: Anything else?

17 THE WITNESS: Not that I recall at this time,
18 Your Honor.

19 THE COURT: Very well, Ms. Sassower.

20 BY MS. SASSOWER:

21 Q What examination had you done of the research
22 and evidence that I had provided you and the Senate
23 Judiciary Committee?

24 A As I mentioned in my earlier response, I recall
25 making an effort to read the e-mails that you sent

1 directly to me.

2 Q But the e-mails were not the evidence, the
3 documents pertaining to Judge Wesley's unfitness, is
4 that correct?

5 A I, no.

6 Q Okay. Did, in advance of the conference on May
7 20th by telephone, did I request that the documentary
8 evidence be reviewed?

9 A Again, I don't recall the specific date of the
10 teleconference.

11 Q Okay. What, in advance of the telephone
12 conference, did I request that the documents that I had
13 provided not only to the Senate Judiciary Committee,
14 that is the Republican side --

15 THE COURT: Sustained. Mr. Albert, do you
16 recall ever having reviewed a packet of documents
17 pertaining to Senator Wesley other than the materials
18 that you previously identified?

19 THE WITNESS: I don't recall doing that, Your
20 Honor.

21 THE COURT: Very well, move this along.

22 BY MS. SASSOWER:

23 Q Okay. Can you describe the telephone
24 conference, how long it was, what was discussed?

25 A I'll tell you what I recall. It was a very,

1 very lengthy telephone conference. My recollection is
2 that it exceeded 30 minutes.

3 It was so lengthy in fact that I had to get off
4 the phone at a certain point because I had another
5 pressing engagement. I, I don't recall exactly what it
6 was.

7 And as I recall, you became very worked up and
8 became difficult to reason with you about this.

9 Q When you said I became worked up, what did you
10 mean? What do you mean? What was I worked up about?

11 A You felt very strongly about Judge Wesley, but
12 it was hard to have a reasoned discussion with you about
13 it.

14 Q Well, had you -- you had not reviewed any of
15 the documents that I had provided Senator Clinton's
16 office, --

17 A That's not --

18 Q -- is that correct?

19 A That's not my recollection, no.

20 Q Well, haven't you just testified --

21 THE COURT: The record will reflect how he
22 testified. Next question.

23 BY MS. SASSOWER:

24 Q Did you state to me that you had not received,
25 that you had not examined the underlying documentary

1 evidence that I had provided?

2 A You mean during the telephone confe --

3 Q Yes.

4 A Conference?

5 Q Did you state to me?

6 A I don't recall whether that came up.

7 Q Did Leecia Eve state to me that she hadn't
8 reviewed any of the underlying documents?

9 A Again, I don't recall.

10 Q Well, might I have been "worked up" that these
11 documents had been delivered weeks earlier and there had
12 been no review by Senator Clinton's office?

13 A I, I don't recall specifically.

14 Q Did I state that the documentary evidence
15 needed to be evaluated before the nomination could
16 properly proceed to a confirmation hearing?

17 A I don't recall specifically but I wouldn't be
18 surprised if you did.

19 Q As an attorney, do you not form opinions based
20 on --

21 THE COURT: Sustained.

22 BY MS. SASSOWER:

23 Q Do you have a recollection -- excuse me. Do
24 you have recollection of my telling you that there had
25 been no investigation done by the Senate Judiciary

1 Committee either?

2 A I don't recall your telling me that.

3 Q Did I fax an e-mail correspondence reflecting
4 my advice to you that there had been no investigation by
5 the Senate Judiciary Committee of the evidence that I
6 had provided to the committee.

7 A Yeah, I don't recall specific e-mail or fax to
8 me to that effect, but I wouldn't be surprised if you
9 had stated that.

10 THE COURT: Mr. Albert, two things.

11 THE WITNESS: Yes.

12 THE COURT: Number one, I don't want you to
13 speculate. So if you don't recall, you simply don't
14 recall.

15 THE WITNESS: Okay.

16 THE COURT: The question that I am going to put
17 to you is simply this. With regard to the telephone
18 conference involving Ms. Sassower, Ms. Eve and yourself,
19 I'd like for you to state to the ladies and gentlemen of
20 the jury all that you recall of what transpired during
21 that telephone conference.

22 THE WITNESS: Very well, Your Honor. What I
23 recall of the telephone conference is that basically,
24 Ms. Sassower was requesting that Senator Clinton oppose
25 Judge Wesley's nomination.

1 And I also recall that she was told that
2 Senator Clinton would not oppose the nomination. I also
3 recall Ms. Sassower then asked that Senator Clinton, on
4 Ms. Sassower's behalf, request that Ms. Sassower be
5 permitted to testify at the hearing.

6 And again, as I recall, Ms. Sassower was told
7 that was not, Senator Clinton would not make that
8 request and that in fact it's not, it's the Senate
9 Judiciary Committee, of which Senator Clinton is not a
10 member, that makes those decisions as to who testifies
11 and who doesn't.

12 That's my recollection of the substance of the
13 conversation. And as I mentioned earlier, a great deal
14 of my, my -- as I recall now, a great deal of the
15 conversation was, Ms. Sassower, it's a one-sided
16 conversation.

17 Ms. Sassower was very worked up and emotional
18 and had nothing, a great deal of reasoned discussion
19 about this.

20 THE COURT: Very well.

21 BY MS. SASSOWER:

22 Q Isn't it correct that because neither you nor
23 Ms. Eve had read the concise written summary that I had
24 prepared as to the evidence of Judge Wesley's unfitness
25 that you required me to spend valuable time going

1 through the basis that had already been set forth in a
2 written document which neither of you had read?

3 THE COURT: Did Ms. Sassower require that you
4 explain to her the basis for her objection to Judge
5 Wesley during the telephone conference?

6 THE WITNESS: Did we ask her to explain the
7 basis?

8 THE COURT: Yes.

9 THE WITNESS: I believe that was -- yes, I
10 believe we did.

11 THE COURT: Very well.

12 MS. SASSOWER: And did I say --

13 THE WITNESS: As I recall now, I should say.

14 MS. SASSOWER: And did I say that it was your
15 obligation, you must --

16 THE COURT: Sustained, Sustained. Next
17 question.

18 BY MS. SASSOWER:

19 Q Did I request to you to provide that written
20 statement of opposition dated March 26 to Senator
21 Clinton so that she could herself read it?

22 A Sorry, your March 26th statement?

23 Q Yes, of opposition that summarized the evidence
24 as to Judge Wesley's unfitness since you had not read
25 it.

1 THE COURT: Sustained. No speeches and if the
2 question --

3 MS. SASSOWER: I'm sorry.

4 THE COURT: -- can't be put concisely, don't
5 ask it.

6 BY MS. SASSOWER:

7 Q Did I ask that you give Senator Clinton the
8 March 26 statement?

9 A I don't recall specifically.

10 Q Your testimony, however, is that you never read
11 the March 26 statement, is that correct?

12 A That's not my testimony.

13 Q Did you ever read the March 26 statement that I
14 had prepared outlining the evidence?

15 A I believe my testimony is I don't recall at
16 this time whether I have.

17 A Is it your testimony that you had, that you
18 never examined the underlying documents referred to by
19 that statement.

20 A I don't know which documents you're referring
21 to.

22 THE COURT: Very well.

23 MS. SASSOWER: The substantiating proof of
24 Judge Wesley's official misconduct as a New York Court
25 of Appeals judge.

1 THE COURT: Sustained. Do you have any further
2 questions pertaining to --

3 MS. SASSOWER: Yes.

4 THE COURT: -- the telephone conference?

5 BY MS. SASSOWER:

6 Q Is it your testimony -- did there come a time
7 when you received a summary prepared by me of what had
8 taken place in our phone conversation?

9 A The question is did I receive a summary from
10 you at some point thereafter?

11 Q Yeah.

12 A I don't recall if I did.

13 Q I show you -- before that, following our phone
14 conversation, did you become aware that I left a voice
15 mail message to speak to your superior, the chief of
16 staff, Tamera Luzzato?

17 A You're asking following the, the conversation
18 with Leecia Eve and myself and you.

19 Q Yes.

20 A Again, I don't recall specifically.

21 Q Did you ever -- is it your testimony that you
22 are unaware that some hours after our phone conversation
23 I left a voice message complaining of your misconduct
24 and that of Leecia Eve in connection with this matter?

25 A Again, I don't recall specifically learning

1 that.

2 Q Were you aware that following my voice mail
3 complaint against you and Leecia Eve, the office
4 manager, Ms. Kelly, the office manager, called Capitol
5 police?

6 THE COURT: Do you recall the actual question?

7 THE WITNESS: No.

8 BY MS. SASSOWER:

9 Q Were you aware, were you aware that Liz Kelly,
10 the office manager, called Capitol police to complain
11 about me?

12 A No. I'm, I'm, I'm, I understand that Liz Kelly
13 at some point contacted Capitol police. But I have no
14 personal knowledge of that.

15 Q At whose direction did Liz Kelly call --

16 THE COURT: Sustained.

17 MS. SASSOWER: -- Capitol police, if you know?

18 THE COURT: He had no personal knowledge.

19 MS. SASSOWER: Was --

20 THE COURT: Mr. Albert, --

21 THE DEFENDANT: Uh-huh.

22 THE COURT: -- were you in any way involved in
23 contacting the Capitol police concerning Ms. Sassower
24 following your telephone conference?

25 THE WITNESS: Your Honor, to my knowledge and

1 to my recollection, I was not.

2 THE COURT: Very well. Next question.

3 BY MS. SASSOWER:

4 Q Okay. Did you ever listen to the voice mail
5 message I left on May 20th, complaining about you and
6 Leecia Eve in connection with your conduct in this
7 matter?

8 THE COURT: Sustained. Next question.

9 MS. SASSOWER: Did you ever hear the voice mail
10 message of May 20?

11 THE COURT: Sustained. Next question.

12 BY MS. SASSOWER:

13 Q Is it your view that without any review of the
14 statement I have provided summarizing the evidence
15 either by you, Leecia Eve or Senator Clinton or anyone
16 else in that office, Senator Clinton could properly
17 endorse the confirmation?

18 A I'm sorry, could you restate the question?

19 Q Did you believe that there was an obligation on
20 the part of anyone in Senator Clinton's office to read
21 the overview statement of March 26th?

22 THE COURT: Sustained. His belief is
23 irrelevant to this case.

24 MS. SASSOWER: Okay. Is it not correct that
25 you received -- okay. On May 21st, did you receive a

1 fax and e-mail from me setting forth what I viewed as
2 your professional misconduct and that --

3 THE COURT: Sustained.

4 MS. SASSOWER: -- of Leecia Eve?

5 THE COURT: Sustained.

6 MS. SASSOWER: Okay.

7 THE COURT: Irrelevant.

8 MS. SASSOWER: Oh. Excuse me. I show
9 Defendant's Exhibit 3, Defendant's Exhibit 4 for
10 identification -- oh, excuse me.

11 THE COURT: Excuse me. Are those documents
12 going to demonstrate that Mr. Albert called the Capitol
13 police?

14 MS. SASSOWER: They're going to demonstrate
15 that I complained about --

16 THE COURT: Just answer my question please. I
17 don't care about your complaint. Are the documents
18 going to establish that he called the Capitol police?

19 MS. SASSOWER: They are going to refresh his
20 recollection as to --

21 THE COURT: Approach.

22 (Bench Conference)

23 THE COURT: I want to make sure that we're
24 clear here. When I ask you a direct question, give me a
25 direct answer, otherwise request permission to approach.

1 Second, we have now consumed an inordinate
2 amount of time in your questioning --

3 MS. SASSOWER: All right.

4 THE COURT: -- this witness who testifies that
5 his recollection of these events is limited. So then I
6 asked him can you recall what is it that you did. At
7 some point in time get to your arrest.

8 MS. SASSOWER: Okay.

9 THE COURT: Well, actually unless the next
10 question specifically addresses your arrest and his
11 involvement or not in it, this examination is concluded.
12 Thank you.

13 (Open Court)

14 THE COURT: Ms. Sassower.

15 MS. SASSOWER: Yes, Your Honor.

16 BY MS. SASSOWER:

17 Q Did there come a time when you learned that I
18 had been threatened by Capitol police as a result of the
19 contact between your office and Capitol police?

20 A No.

21 Q Defendant's Exhibit 45, would you identify that
22 document?

23 THE COURT: What is the date and time of
24 this --

25 MS. SASSOWER: May --

1 THE COURT: -- matter?
2 MS. SASSOWER: -- 20 --
3 THE WITNESS: Your Honor, --
4 THE COURT: Excuse me.
5 THE WITNESS: Oh.
6 THE COURT: Excuse me. What is the date and
7 time?
8 MS. SASSOWER: May 22nd.
9 THE COURT: 2003, 8:38 a.m.?
10 MS. SASSOWER: No.
11 THE COURT: What's the time?
12 THE WITNESS: That is the time I have on the
13 document.
14 MS. SASSOWER: Oh, that is the time you have?
15 I have -- oh, excuse me. Yeah. Could we, could we
16 break for lunch so that I can sort these e-mails that
17 have the same date?
18 THE COURT: Unless this document pertains to
19 the arrest, --
20 MS. SASSOWER: Yes, it does.
21 THE COURT: -- and it doesn't, --
22 MS. SASSOWER: Yes, it does.
23 THE COURT: -- your examination is concluded.
24 Is there any cross-examination for this witness?
25 MS. SASSOWER: Wasn't the --

1 THE COURT: Is there any cross-examination?

2 MS. LIU: No cross, Your Honor.

3 THE COURT: Very well. We'll break for the
4 luncheon recess. Please be back, ladies and gentlemen
5 of the jury, at 2:00 o'clock sharp.

6 THE WITNESS: Thank you, Your Honor. I just
7 want to add one thing on the record, my employment. I
8 don't know if --

9 THE COURT: If --

10 (Thereupon, the jury was excused for lunch at
11 12:58 P.M.)

12 THE COURT: Very well. Mr. Albert, your
13 testimony is concluded. Thank you for your service.

14 THE WITNESS: Thank you, Your Honor.

15 MS. SASSOWER: I'm not --

16 THE COURT: Counsel please approach.

17 (Bench Conference)

18 THE COURT: The one thing that cannot happen
19 here is the squandering of time on matters that are
20 completely extraneous to the, to the offense with which
21 you are charged. We have now expended in excess of two
22 hours getting to the arrest. That is unacceptable.

23 The document that you are about to inquire into
24 that I correctly identified for the record, May 22nd,
25 2003, 8:38 a.m., the content of that e-mail has

1 absolutely nothing to do with this witness' involvement
2 in your arrest.

3 It was very clear from this witness' testimony
4 that he not only had limited recollection of the
5 telephone conference but he made no contact with the
6 Capitol police.

7 You failed to establish either through cross-
8 examination or any documentation that he had had
9 communication with Capitol police.

10 Therefore, all of the preliminary, all of the
11 prelude in your testimony, from your efforts to give
12 speeches concerning the unfitness of Judge Wesley, there
13 is only so much that this Court can tolerate in allowing
14 you to put your case on.

15 I won't hear further discussion on this matter.
16 When we come back at two o'clock, you will then, if you
17 choose to do so, call Ms. Eve. You can ask questions
18 pertaining to her employment.

19 You will not be asking questions pertaining to
20 the receipt or not of packages, as that is irrelevant to
21 the charges against you and which you are on trial. The
22 pertinent issue is what brought to bear the involvement
23 of the Capitol police.

24 MS. SASSOWER: Misconduct of that office, Your
25 Honor.

1 THE COURT: No, Ms., --

2 MS. SASSOWER: -- in connection with this
3 nomination.

4 THE COURT: Ms. Sassower, don't interrupt me.
5 Do not interrupt me again. The misconduct of that
6 office certainly is not the purview of this Court in
7 this matter. Your misconduct is the focus of the
8 current charge.

9 Therefore, Ms. Sassower, if you call Ms. Eve,
10 identification information, contacts with you, telephone
11 conference, what she did thereafter.

12 MS. SASSOWER: Thank you.

13 THE COURT: Thank you.

14 (Open Court)

15 THE COURT: Recess until two.

16 (Thereupon, the Court recessed at one o'clock
17 p.m.)

18 (Thereupon, the Court reconvened at two o'clock
19 p.m.)

20 THE CLERK: Your Honor, the matter before the
21 Court for trial, United States versus Elena Sassower,
22 case number M-4113-03.

23 THE COURT: Very well.

24 MS. LIU: Your Honor, Jessie Liu for the United
25 States.

1 MR. MENDELSON: My apologies, Your Honor.

2 Aaron Mendelsohn for the United States.

3 MS. SASSOWER: Elena Sassower, defendant pro
4 se.

5 MR. GOLDSTONE: Mark Goldstone, attorney
6 adviser.

7 THE COURT: Very well. Preliminary matters?

8 MR. MENDELSON: Yes, Your Honor. I was able
9 to redact Defense Exhibit 2, as the Court instructed.
10 The first two pages of that. I have a copy for the
11 defendant and a copy for the Court.

12 And we, we would stipulate that these last two
13 pages, these are the color photos, that these are also
14 Defense Exhibit 2, pages three and four.

15 And if the Court would allow, we would
16 substitute the redacted first two pages plus these two
17 color pages as the new Defense Exhibit 2. Or we'll be
18 happy to stipulate to that.

19 THE COURT: Any objection?

20 MS. SASSOWER: None. Thank you.

21 MR. GOLDSTONE: I have a question, judge. Will
22 the jurors be instructed as to, to disregard redactions
23 and what the redactions are? Or will they just get the
24 documents?

25 THE COURT: Just get the documents.

1 MS. SASSOWER: Yes.

2 MR. GOLDSTONE: Thank you, Your Honor.

3 THE COURT: Very well.

4 MS. SASSOWER: Could we have a moment to take
5 this in order? This is an important exhibit in the
6 examination of Ms. Eve.

7 THE CLERK: The Court will stand a brief five-
8 minute recess until return of Court.

9 (Brief recess)

10 THE CLERK: Recalling our trial matter, United
11 States versus Elena Sassower, case number M4113-03.

12 MS. LIU: Jessie Liu for the United States.

13 MR. MENDELSON: Aaron Mendelson for the
14 United States.

15 MS. SASSOWER: Elena Sassower, criminal
16 defendant pro se.

17 MR. GOLDSTONE: Mark Goldstone, attorney
18 adviser.

19 THE COURT: Very well, please be seated.

20 MR. MENDELSON: My apologies, Your Honor. Two
21 exhibits, Government, Defense Exhibit number two, on
22 page one there is another, there's five words you have
23 previously ruled should be not admissible with respect
24 to an e-mail and we would just ask to have that redacted
25 before we present --

1 MS. SASSOWER: What?

2 MR. MENDELSON: -- it to the jury.

3 MS. SASSOWER: What?

4 THE COURT: Very well. I'll address this in
5 just a second.

6 (Pause)

7 THE COURT: Mr. Mendelsohn, Mr. Mendelsohn, Mr.
8 Mendelsohn.

9 MR. MENDELSON: Yes, Your Honor. There are --

10 THE COURT: The issue.

11 MR. MENDELSON: There are really only two
12 words that we would ask to have redacted from --

13 THE COURT: Were these the two words that I --

14 MR. MENDELSON: Two words.

15 THE COURT: Were these two words that I
16 addressed in the e-mail of earlier today? Two words
17 which have specific meaning that has no relevance to the
18 elements of the charge or the defenses thereto?

19 MR. MENDELSON: That's correct, Your Honor.

20 THE COURT: Very well.

21 MS. SASSOWER: Excuse me.

22 THE COURT: Those words will be redacted.

23 MS. SASSOWER: They were the basis upon which I
24 had communication with Senator Clinton's office and
25 Senator Schumer's office because they had a blue slip