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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	CASE NO. CR05-85RSM
)	
v.)	SEATTLE, WASHINGTON
)	June 14, 2010
DOUGLAS SPINK,)	
)	Revocation/Evidentiary Hearing
Defendant.)	
)	

VERBATIM REPORT OF PROCEEDINGS
BEFORE THE HONORABLE RICARDO S. MARTINEZ
UNITED STATES DISTRICT JUDGE

APPEARANCES:

For the Plaintiff: STEVEN MASADA
SUSAN ROE

For the Defendant: HOWARD PHILLIPS

Reported by: NANCY L. BAUER, CCR, RPR
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1 June 14, 2010

2:00 p.m.

PROCEEDINGS

3 THE CLERK: This is the matter of the United States
4 v. Douglas Spink, Cause No. CR05-85, assigned to this court.
5 Counsel, please make your appearances for the record.

6 MR. MASADA: Good afternoon, Your Honor. Steven
7 Masada on behalf of the government. I'm joined at counsel
8 table by Susan Roe and Probation Officer Jeff Robson.

9 THE COURT: Good afternoon.

10 MR. PHILLIPS: Good afternoon, Your Honor. I'm
11 Howard Phillips for Mr. Doug Spink.

12 THE COURT: Mr. Phillips, thank you.

13 Counsel, we scheduled this evidentiary hearing today
14 because the court has received two different reports of
15 alleged violations of supervised release conditions. There
16 are four in total: No. 1 is committing the crime of animal
17 cruelty, a violation of a general condition that he not
18 commit another federal, state, or local offense. No. 2 is
19 failing to submit truthful reports to probation since October
20 of 2008. That's a violation of Standard Condition No. 2.
21 The third alleged violation is leaving the judicial district
22 without permission on or about March 19th and July 18th,
23 2008, in violation of Standard Condition No. 1. And,
24 finally, associating with persons engaged in criminal
25 activities or associating with persons convicted of a felony

1 on or about November 4th, 2009, through December 5th, 2009,
2 and April 14th, 2010, in violation of Standard Condition No.
3 9.

4 Mr. Phillips, I believe your client made his initial
5 appearance, and basically entered denials to all four of
6 these previously, correct?

7 MR. PHILLIPS: That's correct, Your Honor, initially.

8 THE COURT: At this point in time, does he, in fact,
9 wish to admit any of these violations?

10 MR. PHILLIPS: Your Honor, my client, Mr. Spink,
11 would admit to the violation related to travel outside the
12 court's jurisdiction, which was, I believe, Violation No. 3,
13 that he traveled to New York without the permission of his
14 PO.

15 THE COURT: All right. And does he understand that
16 by admitting it, there will be no need for the government to
17 try to prove this? The court will simply accept the fact
18 that he is admitting, and the court will find that that
19 violation has, in fact, occurred.

20 MR. PHILLIPS: He does, Your Honor.

21 THE COURT: All right. So we have denials to the
22 other three?

23 MR. PHILLIPS: That's correct.

24 THE COURT: Counsel, the court has actually received
25 several memos both from the government and the defense. As

1 both of you are aware, both sides are aware --

2 MR. PHILLIPS: Excuse me, Your Honor. I need to make
3 a clarification with respect to No. 1, that has to do with
4 the animal cruelty. He neither admits or denies that
5 allegation, so the government would have to prove it by a
6 preponderance.

7 THE COURT: All right. As I was saying, I received
8 several memos from both sides regarding the scope of the
9 evidentiary hearing, regarding issues that may or may not
10 arise. Counsel, the rules of evidence are very relaxed at an
11 evidentiary hearing. There is no jury. The court is simply
12 the trier of fact as well, and, therefore, to the extent that
13 there's any necessity to rule on these motions, the court
14 will deny them at the outset, allow the government to put on
15 whatever proof they feel is necessary, and, Mr. Phillips,
16 you'll certainly be available to cross-examine any witnesses
17 that they may present or certainly make any legal arguments
18 you think are proper. All right?

19 MR. PHILLIPS: Very well, Your Honor.

20 THE COURT: How does government wish to proceed,
21 Mr. Masada?

22 MR. MASADA: Your Honor, the government anticipates
23 calling two witnesses and submitting the testimony of another
24 by affidavit. I understand that the defense will object to
25 that. The third witness is Mr. Clarke. He is in the

1 courthouse and available to provide testimony, if defense
2 wishes to call him, or if the court wishes to hear from him
3 directly.

4 THE COURT: All right. Let's get the live witnesses
5 out of the way.

6 MR. MASADA: The government calls Jeff Robson.

7 THE COURT: Please step before the clerk and be
8 sworn.

9 JEFF ROBSON, HAVING BEEN FIRST DULY SWORN,
10 TESTIFIED AS FOLLOWS:

11 THE CLERK: Please state your full name and spell
12 your name for the record.

13 THE WITNESS: My name is Jeff Robson; last name is
14 R-o-b-s-o-n.

15 DIRECT EXAMINATION

16 BY MR. MASADA:

17 Q Good afternoon, Mr. Robson. How are you employed?

18 A I'm currently employed as a probation officer with the
19 U.S. Probation Office.

20 Q How long have you been with the office of U.S. Probation?

21 A A little over seven years.

22 Q What did you do prior to that?

23 A Prior to employment with U.S. Probation, I was employed
24 with the City of Fife as a probation officer for two years.
25 I was also employed with the Department of Revenue as a

1 revenue agent to the compliance unit, special licensing in
2 business taxes. And prior to that, I was employed at Western
3 State Hospital, working with violent developmentally-delayed
4 drug users and sex offenders.

5 Q So how long have you been working with people on
6 supervision and parole?

7 A For over ten years.

8 Q Did you receive any specialized training as part of your
9 service?

10 A With the U.S. Probation Office, I received training to
11 utilize ImageScan, which is a forensically sound computer
12 investigation tool that was designed by the FBI and CART.

13 Q Now, are you familiar with Douglas Spink, the defendant in
14 this case?

15 A Yes.

16 Q How so?

17 A Mr. Spink was assigned to my caseload approximately over a
18 year ago.

19 Q Why was Mr. Spink on supervision?

20 A He's currently on supervision for cocaine possession.

21 Q Now, if you would, would you turn with me or pull out
22 Exhibit No. 1? Officer Robson, do you recognize this
23 document?

24 A Yes, I do.

25 Q And what is it?

1 A It is Mr. Spink's judgment in his current case.

2 Q Now, does the Office of Probation maintain a file on all
3 persons that are on probation or supervision?

4 A Yes, they do.

5 Q Have you reviewed Mr. Spink's file?

6 A Yes, I have.

7 Q Would you turn with me to Exhibit 2? Do you recognize
8 this document?

9 A Yes, I do.

10 Q And what is it?

11 A Exhibit 2 is Mr. Spink's general conditions of
12 supervision, special conditions of supervision. These
13 conditions were reviewed by Mr. Spink by his last probation
14 officer in 2007, and it's both signed by his last probation
15 officer and Mr. Spink.

16 Q And where is this document maintained?

17 A In his file.

18 MR. MASADA: Your Honor, the government moves to
19 admit 1 and 2.

20 THE COURT: Any objection, Mr. Phillips?

21 MR. PHILLIPS: No, Your Honor.

22 THE COURT: 1 and 2 are admitted.

23 (EXHIBIT 1 and 2 ADMITTED.)

24 Q (By Mr. Masada) Mr. Robson, did you file the violation
25 reports in this case?

1 A Yes, I did.

2 Q And what are those four violations?

3 A Initially, on April 1st, I submitted a violation for a
4 request for a warrant, alleging that Mr. Spink committed the
5 crime of animal cruelty, and he falsified his monthly
6 reports. I submitted a supplemental violation report later
7 alleging that he traveled outside the district without
8 permission and that he engaged with people in criminal
9 activities.

10 Q Now, how did your investigation with Mr. Spink begin?

11 A Initially, I received a call from Detective Jerry Chandler
12 in Maury County, Tennessee. Detective Chandler informed me
13 that Mr. Spink was calling the jail incessantly and bugging
14 his staff, and he was also supposedly calling the public
15 defender's office, and they were interested in filing a
16 no-contact order, he was calling that much.

17 Q Now, was Mr. Spink contacting inmates in the Maury County
18 Jail?

19 A Yes, he was contacting James Michael Tait.

20 Q Are you familiar were that name, James Michael Tait?

21 A Yes. Mr. Tait was involved back in the 2005 Enumclaw case
22 involving bestiality, where a gentleman died.

23 Q What was Mr. Tait in custody in Tennessee for?

24 A For bestiality-related charges.

25 Q Were there any other defendants in that case?

1 A Yes, there was.

2 Q And who was that?

3 A Kenny Thomason.

4 Q If you would turn with me to Exhibit 3. Do you recognize
5 this document?

6 A Yes, I do.

7 Q And what is this?

8 A This exhibit is an affidavit for James Michael Tait,
9 alleging animal cruelty, and --

10 Q Next couple pages?

11 A 140, 141, 142; 143 goes into that affidavit for Kenny
12 Thomason alleging animal cruelty, and that's all of 143.

13 Q Now, you mentioned that Mr. Spink was contacting Mr. Tait
14 in jail. Were those calls recorded?

15 A Yes, they were.

16 Q And have you had an opportunity to review those calls?

17 A Yes, I have.

18 Q If you would turn with me to Exhibit 6, do you recognize
19 this document?

20 A Yes, I do. What this document is, is the call log I
21 received from Maury County.

22 Q And what inmate does it refer to?

23 A This is the complete call history of James Michael Tait.

24 Q Did any of those phone numbers on this call log come to
25 your attention?

1 A Yes, they did. The 360 number on here, which is the same
2 number Mr. Spink reports on his monthly report form as his.

3 Q And approximately how many calls do you see to that
4 number?

5 A Approximately ten.

6 MR. MASADA: Your Honor, the government moves to
7 admit Exhibits 3 and 6.

8 THE COURT: Any objection, Mr. Phillips, to 3 and 6?

9 MR. PHILLIPS: No objection, Your Honor.

10 THE COURT: Thank you. 3 and 6 are admitted.

11 (EXHIBIT 3 and 6 ADMITTED.)

12 Q (By Mr. Masada) Now, again, you said you listened to
13 these calls?

14 A Yes, I have.

15 Q What's the general subject matter of the calls?

16 A The general subject matter of the calls is talking about
17 Mr. Tait's charges for bestiality and their dissatisfaction
18 with Mr. Tait's representation that he received in this case.

19 Q Now, jumping ahead a little bit, did the office of
20 probation later find written correspondence between Mr. Tait
21 and Mr. Spink?

22 A Yes.

23 Q Turn to Exhibit 7, 8, and 9.

24 A Exhibit 7, 164, is a letter we found during the search of
25 Mr. Spink's residence. It's from James Michael Tait to

1 Mr. Spink. Exhibit 8, 167 and 168, is another letter written
2 from James Michael Tait to Mr. Spink. Exhibit 9 is a letter
3 written from James Michael Tait to Mr. Spink, and that's 163.

4 Q Where were these letters found?

5 A They were found inside Mr. Spink's residence.

6 MR. MASADA: Your Honor, the government moves to
7 admit 7, 8, and 9.

8 MR. PHILLIPS: No objection.

9 THE COURT: Thank you. 7, 8, 9 are admitted.

10 (EXHIBIT 7, 8, 9 ADMITTED.)

11 Q (By Mr. Masada) If you would turn with me to Exhibit 5.
12 Do you recognize this copy?

13 A Yes, I do. It's a copy of the jail tapes.

14 Q And have you listened to this CD?

15 A Yes, I have.

16 MR. MASADA: Your Honor, the government moves to
17 admit 5.

18 THE COURT: Any objection?

19 MR. PHILLIPS: No objection.

20 THE COURT: 5 is admitted.

21 (EXHIBIT NO. 5 ADMITTED.)

22 Q (By Mr. Masada) What did you do after having those
23 conversations with Detective Chandler in Tennessee?

24 A After speaking with Detective Chandler, he informed me
25 that there was various websites that he was aware of. I took

1 that information and searched the Internet for Mr. Spink, for
2 Fausty, for Mr. Spink's business's name, to see if there were
3 any more websites out there.

4 Q And what did you find?

5 A In my search, I found approximately 40 more websites that
6 related to either bestiality or a means to --

7 MR. PHILLIPS: Objection, Your Honor. Objection to
8 these. I believe we dealt with this in our motion. This is
9 one of the issues, the question of attribution. This witness
10 may have found those websites, but there's not attribution to
11 my client, Mr. Spink, in particular, so we object to it.

12 THE COURT: I understand that's your argument,
13 Counsel. The testimony will be admitted.

14 MR. PHILLIPS: Thank you.

15 Q (By Mr. Masada) So can you describe some of these
16 websites, generally?

17 A Some of the websites contained thousands of pictures,
18 videos, blogs, and stories related to bestiality. Some of
19 the other websites were means to surf the Internet
20 anonymously and download files quickly.

21 Q Did you file any information related to Mr. Spink's
22 corporate interests?

23 A Yes.

24 Q And what was that?

25 A I found different -- he has a Baneki website, which says

1 on the website that he's the founder of Baneki Privacy
2 Computing. On the Cryptocloud website, on the bottom, it
3 shows Fausty, the screen name that he goes by, that he's the
4 founder of Baneki's Cryptocloud.

5 Q If you would turn to Exhibit 37. Mr. Robson, you
6 previously reviewed Exhibit 37?

7 A Yes, I have.

8 Q And what is Exhibit 37?

9 A Exhibit 37 is a collection of different Internet documents
10 that I found related to Mr. Spink and some of his activities
11 online.

12 Q Now, if you would, would you turn with me to Exhibit 37A?

13 A Okay.

14 Q And what is this?

15 A Exhibit 37A, page 207, is a posting by Fausty, or
16 Mr. Spink, and it's a collection of pictures of his dogs.
17 These are the same dogs that we saw during our April 14th
18 search at his residence.

19 Q And flipping to the page that's Bates No. 208, 209, and so
20 on, these are the photographs you're referring to?

21 A Yes.

22 Q And you recognize these dogs from the search?

23 A Yes.

24 Q Flip with me, if you will, to Exhibit 37B. Now, what is
25 this?

1 A Exhibit 37B to 34 is the cultureghost.org website. It's
2 kind of a question-and-answer form for the format for the
3 VPN, which is a virtual private network.

4 Q And I see a posting by Fausty; is that correct?

5 A Yes.

6 Q Now, if you would, would you turn with me to the page
7 labeled Bates No. 236. Do you see an entry on that page?

8 A Yes.

9 Q And what's the general subject matter of that entry?

10 A On 236, this posting by Fausty, it talks about how his
11 horse, Capone, was kidnapped, and it also speaks to getting
12 his horse back.

13 On the next page, 237, there's a picture of Mr. Spink and
14 his horse, Capone. The caption on the bottom of the picture
15 says, "An old photo of Capone and I."

16 Q And it's signed by Fausty, correct?

17 A Yeah.

18 Q Turn with me to Exhibit 37C. What is 37C?

19 A 37C, page 284, is a posting by Baneki where it shows
20 Douglas Spink, and then this is his resumé.

21 Q And this is the cultureghost website?

22 A Yes.

23 Q Now, Mr. Robson, flip with me to 37J. What is this?

24 A 37J, page 323, this is the zetatracker website. This is
25 the main page you go to when you get there. What it shows

1 is, it's a bestiality site, containing thousand of pictures
2 of bestiality movies, videos, blogs, and stories related to
3 it. What it shows under "latest news," there's a posting by
4 Fausty in the moderator section.

5 Q You said it's a bestiality web page. How are files
6 exchanged or downloaded?

7 A On this website, it's a BitTorrent website. What that
8 means, really, is it's similar to Napster. It's peer-to-peer
9 file sharing. How this is different than Napster is, instead
10 of having one supernode controlling all the informations, it
11 breaks it out. So you'll have -- you're able to download
12 large documents from multiple people. It breaks up the files
13 so you can download it that way, and it's much faster and
14 it's more secure.

15 Q Flip with me to 37K, if you don't mind. What is 37K?

16 A 37K, page 322, is another posting on this zetatracker
17 website. In the search engine, I typed in Fausty, and what
18 this shows, specifically, are the postings that Mr. Spink,
19 Fausty, posted on the site.

20 Q Now, I notice in 37K, there's file called, "Fausty, Last
21 HOPE." Does that have significance to you?

22 A Yes, yes, it does. And what Last HOPE is, HOPE stands for
23 Hackers on Planet Earth, and this is a conference that
24 Mr. Spink attended in 2008. He was actually a speaker at
25 this conference.

1 Q Did you find additional evidence of that?

2 A Yes, we did. We found -- it's posted on YouTube for the
3 public to view, and we also found a CD during the search of
4 "Last HOPE conference," and it is also posted on the Last
5 HOPE website that he is a speaker.

6 MR. MASADA: Your Honor, the government moves to
7 admit Exhibit 37.

8 THE COURT: Any objection?

9 MR. PHILLIPS: No objection, Your Honor.

10 THE COURT: 37 is admitted.

11 (EXHIBIT 37 ADMITTED.)

12 Q (By Mr. Masada) Mr. Robson, what did you do after
13 conducting this investigation?

14 A After conducting the investigation and finding the
15 evidence, I submitted a violation report and warrant for his
16 arrest.

17 Q And was Mr. Spink arrested?

18 A Yes, he was.

19 Q Can you describe the details of that arrest?

20 A On April 14th, the U.S. Marshal Service served a warrant
21 for Mr. Spink's arrest at his residence. He was arrested
22 without incident. After that, his arrest, the U.S. Probation
23 Office conducted a search of his residence that way. Animal
24 Control and the Whatcom County Sheriff's Department were both
25 called; Whatcom County Humane Society to control animals, and

1 the sheriff's department to control any third parties.

2 Q And where was Mr. Spink's property located?

3 A In Sumas, Washington.

4 Q And approximately how many people were involved in the
5 arrest and search?

6 A Approximately 20.

7 Q Why so many people?

8 A The reason there were so many people was strictly for
9 officer safety concerns. During conversations with Detective
10 Jerry Chandler, he told me that Mr. Spink was preparing for
11 law enforcement to kick in his doors after listening to the
12 Maury County Jail tapes. Mr. Spink said that he is prepared
13 for the Hells Angels and in militant fashion will protect
14 himself.

15 Q And were you aware that Mr. Spink maintained several large
16 animals at the property?

17 A Yes. He owned several large dogs that had issues in the
18 past with people.

19 Q If you would, would you turn with me to Exhibit 12.

20 Now, first of all, was Mr. Spink alone when the U.S.
21 Marshals and Office of Probation came to his property on
22 April 14th?

23 A No, he wasn't. Also at the residence was Stephen Clarke.

24 Q Now, Exhibit 12, what is contained in Exhibit 12?

25 A In Exhibit 12, page 372 through -- continuing on, these

1 are pictures that the probation office took during the
2 search. The first page, this is a sign in front of
3 Mr. Spink's property; 373 is a picture of Mr. Spink's
4 residence itself; page 374 is a photograph inside
5 Mr. Spink's residence; page 376 is a book found in
6 Mr. Spink's residence with the word "Fausty" written on the
7 cover; page 377 is a whiteboard inside Mr. Spink's residence.
8 On the whiteboard it says, "Cross species co-op"; on page
9 378, it's a letter found inside Mr. Spink's residence
10 addressed to Baneki Computers. On the address it is written
11 to Mr. Spink's P.O. box in Bellingham; pages 379 and 380 are
12 books found inside Mr. Spink's residence, some of them
13 containing and related to bestiality; page 384 is the
14 Companion Species Manifesto with the name "Fausty" written on
15 the cover; the following page is a camcorder, which was found
16 inside Mr. Spink's residence, located on his couch, that was
17 plugged into the wall; the following page is another picture
18 outside Mr. Spink's residence; the page after that is a
19 picture of Stephen Clarke, who was found at Mr. Spink's
20 residence with Mr. Spink; the following page are checks that
21 were found at Mr. Spink's residence to Baneki Privacy
22 Computing; the following page is another picture of checks
23 found at Mr. Spink's residence to Baneki Privacy Computing;
24 the next page is a book of checks from Exitpoint Stallions,
25 also located at Mr. Spink's residence. And that's it.

1 MR. MASADA: And I apologize to the court. I think
2 one of those photographs might have been out of order, just
3 for the record.

4 Q (By Mr. Masada) Do these photos accurately depict what
5 you saw during your search on April 14th?

6 A Yes.

7 MR. MASADA: Your Honor, the government moves to
8 admit Exhibit 12.

9 THE COURT: Mr. Phillips?

10 MR. PHILLIPS: No objection.

11 THE COURT: 12 will be admitted.

12 (EXHIBIT 12 ADMITTED.)

13 Q (By Mr. Masada) You mentioned that Mr. Spink maintained
14 animals on his property. Did you discover animals when you
15 came to his property on April 14th?

16 A Yes.

17 Q What type of animals?

18 A They were four horses, seven dogs, and thirteen mice.

19 Q If you would flip with me to Exhibit 13? Do you recognize
20 this?

21 A Yes. This is the Whatcom County Humane Society report of
22 the incident on April 14th, and it lists the animals that
23 they seized.

24 Q And does that accurately reflect your recollection of the
25 animals that were found at the property?

1 A Yes.

2 Q Please flip with me to Exhibit 14. Do you recognize
3 Exhibit 14?

4 A Exhibit 14, these are all pictures that the Whatcom County
5 Humane Society took of the animals that were under their
6 care.

7 Q And these are animals seized from Mr. Spink's property?

8 A Yes.

9 Q Have you reviewed these photographs?

10 A Yes.

11 Q And do you recognize these as the animals that you saw on
12 Mr. Spink's property?

13 A Yes, these are the animals.

14 MR. MASADA: Your Honor, the government moves to
15 admit 13 and 14.

16 MR. PHILLIPS: No objection.

17 THE COURT: 13, 14 admitted.

18 (EXHIBIT 13 and 14 ADMITTED.)

19 Q (By Mr. Masada) What type of items did U.S. Probation
20 officers find at Mr. Spink's property?

21 A We found miscellaneous business records of his, we found
22 more books relating to bestiality, we found checking account
23 records, and a lot of documentation.

24 Q You mentioned letters. Did you find letters?

25 A Yes. We found letters from James Michael Tait to

1 Mr. Spink, from Kenny Thomason and Mr. Spink, from Mark
2 Taggert, another inmate, to Mr. Spink, and various other
3 documents from inmates to Mr. Spink.

4 Q And you mentioned in the photographs a video camera. Did
5 you discover a video camera?

6 A Yes.

7 Q Was that item seized?

8 A Yes.

9 Q And videotapes along with it?

10 A Yes.

11 MR. PHILLIPS: Objection, Your Honor, to the leading
12 questioning.

13 THE COURT: Your objection is overruled. The answer
14 will stand. Ask another question.

15 Q (By Mr. Masada) Officer Robson, I'd like to go straight
16 to the violations. I guess Mr. Spink is admitting to
17 unauthorized travel in this violation hearing, so I'll just
18 briefly touch upon it. Have you personally ever --

19 MR. PHILLIPS: Objection, Your Honor.

20 THE COURT: Why do we need to bother with this,
21 Mr. Masada?

22 MR. MASADA: There is some relevance in that it
23 relates to some of the conduct that goes on at the
24 defendant's property.

25 THE COURT: Okay.

1 MR. MASADA: I'll go straight through.

2 THE COURT: Thank you.

3 Q (By Mr. Masada) Now, you mentioned the Last HOPE
4 conference; is that correct?

5 A Yes.

6 Q Again, what is Last HOPE?

7 MR. PHILLIPS: Objection, Your Honor; asked and
8 answered.

9 THE COURT: Overruled.

10 A It stands for Hackers on Planet Earth.

11 Q (By Mr. Masada) And if you would, would you flip with me
12 to Exhibit 21? Do you recognize this document?

13 A Exhibit 21, starting on page 406, is a printout from the
14 Last HOPE website. It's the speakers list part of that
15 conference.

16 Q And Mr. Spink spoke at this conference?

17 A Yes.

18 MR. PHILLIPS: Objection; leading.

19 THE COURT: It is leading, Counsel. Ask another
20 question.

21 Q (By Mr. Masada) How does Mr. Spink relate to the Last
22 HOPE conference?

23 A Mr. Spink was a speaker at that conference. That
24 presentation can be found on YouTube.

25 Q If you would, would you flip with me to Exhibit 22? What

1 is Exhibit 22?

2 A Exhibit 22 is a copy of the YouTube videos.

3 Q And have you reviewed Mr. Spink's speaking engagement on
4 YouTube?

5 A Yes.

6 Q And have you reviewed the CD?

7 A Yes.

8 Q Is this CD a true and accurate copy of his presentation at
9 that conference and what's posted on YouTube?

10 A Yes.

11 Q What did Mr. Spink discuss at this New York conference?

12 A At the beginning of the presentation, he speaks to
13 criminal history, his charges, and how he's currently on
14 federal supervision. Further on in the presentation, he
15 speaks about some of his beliefs on animals, and then he also
16 speaks on corporate jurisprudence and setting up different
17 corporations.

18 MR. MASADA: Your Honor, government moves to admit
19 Exhibit 21 and 22.

20 THE COURT: Any objection?

21 MR. PHILLIPS: No objection.

22 THE COURT: 21 and 22 admitted.

23 (EXHIBIT 21 and 22 ADMITTED.)

24 Q (By Mr. Masada) Mr. Robson, I'd like to play a brief clip
25 from Exhibit 22. You recognize this as a YouTube clip?

1 A Yes.

2 Q And it says, Last HOPE, and has the date and location of
3 the conference?

4 A Yes. July 18 through 20, 2008, in New York City.

5 (Video is played.)

6 MR. MASADA: I'll stop there.

7 Q (By Mr. Masada) Just to be clear, you've never authorized
8 out-of-state travel, correct?

9 A No.

10 Q Now, let's move on to the first disputed allegation --
11 let's move on to the allegation of lying on monthly reports.
12 If you would turn with me to Exhibit 25. What's contained in
13 Exhibit 25?

14 A Exhibit 25 are copies of Mr. Spink's past monthly report
15 forms to the probation office. As part of his conditions,
16 he's required to send these in once a month to the probation
17 office.

18 Q And why is the information provided important?

19 A The information on these reports is very important to the
20 probation office, as it gives a record of how to contact
21 Mr. Spink, it apprises us of anything that might be going on
22 with Mr. Spink, and maybe a way to help him.

23 Q Does the monthly report contain a question about travel?

24 A Yes, it does.

25 Q What is that question?

1 A On the second page of all monthly report forms, it
2 specifically asks, "Did you travel out of the district
3 without permission?" And Mr. Spink marked, "No."

4 Q And as previously discussed, that was not true?

5 MR. PHILLIPS: Objection, Your Honor; relevance to
6 this line of questioning.

7 THE COURT: Overruled.

8 Q (By Mr. Masada) Now, where are these monthly reports
9 maintained?

10 A They're maintained in his file.

11 MR. MASADA: Your Honor, the government moves to
12 admit Exhibit 25.

13 THE COURT: Any objection to 25, Mr. Phillips?

14 MR. PHILLIPS: No objection, Your Honor.

15 THE COURT: 25 is admitted.

16 (EXHIBIT 25 ADMITTED.)

17 Q (By Mr. Masada) Now, do the monthly reports inquire about
18 employment status?

19 A Yes, it does.

20 Q What did Mr. Spink report about his employment?

21 A Mr. Spink reports that he works for Baneki Computing. He
22 says the address of Baneki Computing is his P.O. box in
23 Bellingham. He also reports that his main supervisor is
24 J. Tover, and the position he held there is a tech lead.

25 Q Now, on the second page, there's a signature block where

1 the supervisee has to verify that all information is complete
2 and correct; is that right?

3 A Yes.

4 Q Was what you just described complete and correct?

5 A No.

6 Q How so?

7 A Through different Internet research and through the search
8 conducted on April 14th of Mr. Spink's residence, we found
9 multiple documents stating that he's either the founder and
10 CEO, or CTO or chairman of Baneki Privacy Computing.

11 Q If you would, would you turn with me to Exhibits 26
12 through 29? We'll start with 26. What is this?

13 A Exhibit 26, page 87, this is a printout that I did from
14 the Secretary of State's web page. It shows Douglas Spink
15 with the same Bellingham P.O. box as the chairman of Baneki
16 Privacy Computing.

17 Q Where did you find this document?

18 A On the Secretary of State -- Washington Secretary of
19 State's web page.

20 Q And Exhibit 27?

21 A Exhibit 27, page 91, is the master business application
22 from the Department of Licensing for Baneki Privacy
23 Computing, showing Douglas Spink as the chairman of the board
24 for Baneki Privacy Computing. It estimates the gross income
25 of his business is over \$100,000 a year. On the last page,

1 page 94, it says, "Prepared by Douglas Spink."

2 Q Exhibit 28?

3 A Exhibit 28, page 99, is a receipt that we found during the
4 April 14th search of Mr. Spink's residence. What it shows is
5 D. Spink is the chairman and founder of Baneki Privacy
6 Computing, and it's also signed by Mr. Spink.

7 Q And you recognize that signature?

8 A Yes.

9 Q And Exhibit 29?

10 A Exhibit 29 is a document that, again, we found during the
11 April 14th search of Mr. Spink's residence. On page 108, it
12 shows Douglas Spink's signature as the chairman of the
13 company, and he also uses his Bellingham P.O. box as the
14 address.

15 Q Officer Robson, turn to Exhibit 31 and 32. Do you
16 recognize these documents?

17 A They're both documents we found during the search of
18 Mr. Spink's property. Exhibit 31, what they are are wire
19 transfers from Baneki Privacy Computing, overseas. On the
20 first one, the origination is Baneki Privacy Computing, and
21 the requester is Douglas Spink. On the second one, the
22 originator is Douglas Spink, and the requester is Baneki
23 Privacy Computing.

24 Q And when you say, "second one," you're referring to 32?

25 A Yes.

1 Q Now, is the fact that Mr. Spink is operating a company and
2 transferring money overseas, is that something that you, as
3 his probation officer, would find important to know?

4 A Yes.

5 MR. MASADA: Your Honor, the government moves to
6 admit Exhibits 26 through 29 and 31 and 32.

7 MR. PHILLIPS: No objection.

8 THE COURT: Exhibits 26, 27, 28, 29, 31, and 32 are
9 admitted.

10 (EXHIBIT 26 through 32 ADMITTED.)

11 Q (By Mr. Masada) Now, on his monthly reports, did
12 Mr. Spink make a representation about renting property?

13 A Yes, he did.

14 Q And what did he state?

15 A On the monthly report forms, it states that he was renting
16 a Sumas property, and he pays \$1,200 a month for that rent.

17 Q Through the investigation, did you find that to be true?

18 A No.

19 Q Why not?

20 A During the search, we found records that were shown that
21 Mr. Spink, through Exitpoint Stallions, was purchasing that
22 property. Additional documents we found, not during the
23 search, shows that Mr. Spink was defaulting on that loan
24 agreement.

25 Q Now, what about the amount Mr. Spink said he was paying

1 per month?

2 A On the monthly report forms, it said he's paying \$1,200 a
3 month. Other documents that I reviewed showed that he's
4 paying, on average, \$500 a month.

5 Q And if you would, would you flip to Exhibit 33? Do you
6 recognize this document?

7 A Yes.

8 Q And what is it?

9 A It's a notice of intent to forfeit the Sumas property.

10 Q And turning to the page Bates No. 115.

11 A Page 115 shows -- the top section shows the amounts that
12 were due and owing, and the lower section shows the amounts
13 that he actually paid.

14 MR. MASADA: Your Honor, government moves to admit
15 33.

16 THE COURT: Any objection?

17 MR. PHILLIPS: No objection, Your Honor.

18 THE COURT: 33 is admitted.

19 (EXHIBIT 33 ADMITTED.)

20 Q (By Mr. Masada) Do the monthly reports inquire about
21 checking accounts?

22 A Yes.

23 Q And what did Mr. Spink report?

24 A Mr. Spink reports he does not have a checking or savings
25 account.

1 Q And what did your investigation uncover?

2 A During the search, we found multiple checkbooks at his
3 residence that Mr. Spink had control over and was using, so
4 that was inaccurate.

5 Q If you would, would you turn with me to Exhibits 49 and
6 50?

7 A Exhibit 49 is just a few of the checks that we found, page
8 950, from Baneki Privacy Computing. What it appears is that
9 these checks are being used for personal reasons.

10 Q And the first page on the document that's Bates No. 950,
11 it's a check made out to the American Alpine Club?

12 A Yes.

13 Q And the next page is what, a check to where?

14 A It's made out to an animal hospital. 952 is also made out
15 to an animal hospital, and it looks like 53 is family
16 medicine. All these checks don't appear to be involved with
17 computers or computing.

18 Q And to your knowledge, Baneki is a tech-related company?

19 A Yes.

20 Q And just to be clear, Exhibit 50?

21 A Exhibit 50, page 959, is another check we found in the
22 April 14th search of Mr. Spink's residence, the checkbook for
23 Exitpoint Stallions, Inc.

24 Q What is Exitpoint Stallions, to the best of your
25 knowledge?

1 A It is a company owned by Mr. Spink related to horses.

2 Q Exhibit 48, what is this?

3 A Exhibit 48, page 962, what this is, is the payment book
4 found during the April 14th search of Mr. Spink's residence.
5 This payment book is for the Suburban that he drives.

6 Q And it was found at his property, correct?

7 A Yes.

8 MR. MASADA: Government moves to admit 48 through 50.

9 MR. PHILLIPS: No objection.

10 THE COURT: They are admitted.

11 (EXHIBITS 48, 49, and 50 ADMITTED.)

12 Q (By Mr. Masada) Do the monthly reports inquire about
13 contact with persons with criminal records?

14 A Yes.

15 Q And what does Mr. Spink report?

16 A He reports that he had no contact with people.

17 Q And is that true?

18 A No.

19 Q Now, this relates to the next violation, which is
20 associating with persons committing a crime or convicted
21 felons. Who are you referring to in relation to this alleged
22 violation?

23 A Mr. Clarke and James Michael Tait.

24 Q Now, again, Tait is the person that was in custody in the
25 Maury County Jail?

1 A Yes.

2 Q Now, you previously testified that you've listened to the
3 jailhouse calls; is that correct?

4 A Yes, that's right.

5 Q I'll play one really quickly.

6 MR. MASADA: For the record, I'm playing a call that
7 was dated November 14th, 2009. On Exhibit 5, it's
8 11/14/2009.

9 (Audiotape played.)

10 Q (By Mr. Masada) Officer Robson, on that call,
11 Mr. Tait alluded to something that occurred maybe 30 years
12 ago. Did you run a background check on Mr. Tait?

13 A Yes, I did.

14 Q What did you find?

15 A I ran the NCIS background check on Mr. Tait, and what it
16 showed was he was charged with five counts of indecent
17 liberties. He also was found guilty of one count and
18 sentenced to ten years in custody. It's a Class B felony.

19 Q And Exhibit 51, what is 51?

20 A Exhibit 51, page 933, is a copy of the background check
21 that I ran.

22 MR. MASADA: Your Honor, the government moves to
23 admit Exhibit 51.

24 MR. PHILLIPS: No objection.

25 THE COURT: 51 is admitted.

(EXHIBIT 51 ADMITTED.)

Q (By Mr. Masada) After this phone call that we just listened to, did Mr. Spink tell you he associated with Mr. Tait?

A Yes, he did.

MR. PHILLIPS: Objection, Your Honor; beyond the scope. There's no testimony or no evidence related to that.

THE COURT: The objection is overruled. The answer will stand.

Q (By Mr. Masada) Now, you mentioned during the search you found several letters. If you would turn with me to Exhibits 10 and 11.

First address Exhibit 10. What is Exhibit 10?

A Exhibit 10, page 196, is a letter from Kenny Thomason to Mr. Spink.

Q And just to be clear, who is Kenny Thomason?

A He's another gentleman arrested in Maury County, Tennessee, on bestiality charges with Mr. Tait.

Q Exhibit 11?

A Exhibit 11, page 172, is a letter from Mark Taggart, on page 172. It's addressed to Fausty. 175 is another jail correspondence from Mark Taggart, addressed to Doug.

Q What else is contained in Exhibit 11, just generally speaking?

A Generally speaking, it's multiple letters from different

1 institutions, from people in different institutions to
2 Mr. Spink.

3 Q And where were these letters found?

4 A All these letters were found during the April 14th search
5 of Mr. Spink's residence.

6 MR. MASADA: Your Honor, the government moves to
7 admit 10 and 11.

8 MR. PHILLIPS: No objection, Your Honor.

9 THE COURT: Exhibits 10 and 11 are admitted.

10 (EXHIBIT 10 and 11 ADMITTED.)

11 Q (By Mr. Masada) Returning to the alleged violation, who
12 else do you believe that Mr. Spink was improperly associating
13 with?

14 A Stephen Clarke.

15 Q And Stephen Clarke is?

16 A Stephen Clarke was a man also found with Mr. Spink at his
17 residence during the April 14th search.

18 Q And what is the basis for your belief that a violation
19 occurred?

20 A During the search we found a videotape, and contained on
21 that videotape was Mr. Clarke engaging in sexual activities
22 with Mr. Spink's dogs.

23 Q Moving along to the fourth violation, a federal, state, or
24 local crime, what crime do you allege that Mr. Spink
25 committed here?

1 A Animal cruelty in the first.

2 Q Under Washington law?

3 A Yes.

4 Q If you would, would you turn with me to Exhibit 19? What
5 is Exhibit 19?

6 A Exhibit 19 is a copy of the Washington RCW for animal
7 cruelty in the first degree.

8 Q Now, you mentioned you seized videos during the search of
9 Mr. Spink's property; is that correct?

10 A Yes.

11 Q Were you able to view those videos?

12 A Yes.

13 Q Can you describe when you viewed them and the
14 circumstances?

15 A Initially, we viewed one of the videos at Mr. Spink's
16 residence. One video showed Mr. Clarke engaging in sexual
17 activities. Later, we viewed them again at Whatcom County
18 Police Department, completely, from start to finish. In
19 those videos, it showed multiple scenes where dogs are
20 engaging in sexual activities with Mr. Clarke.

21 Q Approximately how many videos were there?

22 A There were approximately four videotapes seized.

23 Q Now, if you would, would you turn with me to Exhibit 15?
24 It's a copy of a CD that has Bates No. 643. Have you
25 reviewed this CD?

1 A Yes, I have.

2 Q And is it a true and accurate copy of one of the videos
3 that you viewed?

4 A Yes, it is.

5 Q And can you briefly describe what is contained on this
6 particular video?

7 A On this video, it shows Mr. Clarke engaging in sexual
8 activities with Mr. Spink's dogs. In the background, you can
9 hear Mr. Spink's voice while the activities were happening.

10 Q What's your basis for making the conclusion that it's
11 Mr. Spink's voice?

12 A After listening to the jail conversations multiple times
13 and watching the video, the YouTube videos multiple times,
14 Mr. Spink has a unique voice, and hearing that and the word
15 usages that are unique to him.

16 Q Did you recognize the location where these events
17 occurred?

18 A Yes. The different sexual acts occurred inside and
19 outside Mr. Spink's residence.

20 Q And did you recognize the animals involved?

21 A Yes. They were the same animals we saw during the search
22 on April 14th.

23 Q If you would, would you turn to Exhibit 16? It's CD Bates
24 No. 644. Have you reviewed this CD?

25 A Yes, I have.

1 Q And, again, is it a true and accurate copy of the video
2 you previously viewed?

3 A Yes, it is.

4 Q A video seized from Mr. Spink's property?

5 A Yes.

6 Q And what is contained on Exhibit 16?

7 A On Exhibit 16, it shows Mr. Clarke measuring erect dog
8 penises, and you can hear Mr. Spink and Mr. Clarke talking
9 back and forth about the peculiarities of each dogs' penises.

10 Q Do you recognize the location?

11 A Yes. It was inside Mr. Spink's house.

12 Q And do you recognize the dogs?

13 A Yes.

14 Q And were they using -- was Mr. Clarke using a tool to
15 perform these acts?

16 A Yes. He was using a pair of calipers that we also found
17 during the search.

18 Q Would you turn to Exhibit 17? Do you recognize this?

19 A Yes. Exhibit 17, page 584, is a picture of the calipers
20 we seized during the search, which can also be seen in the
21 video.

22 Q In the video, Exhibit 16, CD Bates No. 644?

23 A Yes.

24 MR. MASADA: Your Honor, the government moves to
25 admit 17 and 19.

1 THE COURT: Any objection?

2 MR. PHILLIPS: No objection, Your Honor.

3 THE COURT: 17 and 19 admitted.

4 (EXHIBIT 17 and 19 ADMITTED.)

5 MR. MASADA: No further questions, Your Honor.

6 THE COURT: Cross-examination, Mr. Phillips?

7 MR. PHILLIPS: Thank you, Your Honor.

8 CROSS-EXAMINATION

9 BY MR. PHILLIPS:

10 Q Good afternoon, Mr. Robson.

11 A Good afternoon.

12 Q How are you today?

13 A Pretty good.

14 Q You said you've been Mr. Spink's probation officer for
15 about a year, maybe less, maybe more; is that right?

16 A Yes.

17 Q Maybe as little as eight months and maybe as many as 18
18 months; is that right?

19 A Definitely not 18, but maybe as little as eight months.

20 Q But do you estimate that it's about a year, in average; is
21 that right?

22 A Yes.

23 Q And you had no contact with Mr. Spink personally in that
24 time, have you?

25 A That's correct.

1 Q You testified about Mr. Spink -- you may have misspoke --
2 calling the jail. The phone calls you listened to, there was
3 no phone calls to the jail, the phone calls are all from the
4 jail; is that not true?

5 A In the phone records, yes, according to Detective
6 Chandler, Mr. Spink called the jail.

7 Q But according to the phone records, the objective evidence
8 you have, the phone calls went one way, and that was from
9 Mr. Tait to Mr. Spink; isn't that true?

10 A Yes.

11 Q Now, you also testified that Mr. Tait was being held on
12 bestiality; is that right?

13 A Bestiality-related charges.

14 Q Bestiality-related charges. But, in fact, it was animal
15 cruelty charges; isn't that true?

16 A Yes.

17 Q In the charging documents, there is no mention of the word
18 bestiality; isn't that true?

19 A I believe it mentioned sex with animals.

20 Q But the word "bestiality" was not used?

21 A No.

22 Q Now, Mr. Spink has been on supervision for a long time,
23 since the time he was convicted and released from prison; is
24 that right?

25 A March 25th, 2007.

1 Q 2007. And in March of 2007, he was assigned a probation
2 officer; is that right?

3 A Yes.

4 Q Your predecessor, the person who supervised him before
5 you, was a PO as well, right?

6 A Yeah.

7 Q And that was Mr. Aiken; isn't that true?

8 A Yes.

9 Q Is it not true that you don't know if Mr. Aiken, in fact,
10 gave Mr. Spink permission to have contact with the people who
11 you received letters from; isn't that true?

12 A That's true.

13 Q I'm going to go through some of the exhibits here. One is
14 Exhibit 12. I believe you have it before you. That was one
15 of the photos that was taken of a sign that was outside
16 Mr. Spink's property. Do you remember that?

17 A Yes.

18 Q Okay. Third paragraph from the bottom, that says, "If you
19 are a member of law enforcement with a valid court-issued
20 order or warrant, please call the caretaker to notify of your
21 presence"; isn't that true? Is that right? See that?

22 A The third paragraph?

23 Q Third from the bottom.

24 A Yes.

25 Q "And we will ensure your safe entry and welcome here."

1 Isn't that right, that's what it says?

2 A That's what it says.

3 Q You also talked about a number of websites, and you
4 described that they are websites involving bestiality and
5 that sort of thing; is that right?

6 A Yes.

7 Q Okay. Now, you, in fact, did not find that website
8 information on Mr. Spink's computers; isn't that true?

9 A Yes.

10 Q In fact, you just went online, went on the Internet, and
11 found stuff that you thought related to Mr. Spink, and
12 produced it; is that right?

13 A I wasn't able to recover any information off Mr. Spink's
14 computers.

15 Q My point is, the websites, you went online on the Internet
16 and pulled up those web pages; is that right?

17 A Yes.

18 Q In fact, I could have done that?

19 A Yes.

20 Q Or anyone else in this courtroom could have done that; is
21 that right?

22 A Yes.

23 Q Now, when you open up a web page, typically it doesn't say
24 this web page was posted by a person; is that correct?

25 A Typically not.

1 Q Okay. Now, are you familiar with the word or the term or
2 the problem within the Internet called "attribution"? In
3 other words, you have to be able to attribute a website to a
4 person, which would be attribution, but you can't say that
5 Mr. Spink actually typed that down and put it in the website,
6 can you?

7 A I don't understand your question.

8 Q Well, for instance, you did not get into his computer, so
9 you don't know if those websites or the information you saw
10 was generated by Mr. Spink; isn't that true?

11 A I don't know if it was made off that computer.

12 Q Okay. Well, in fact, you don't know if he in fact created
13 those websites, or you don't even know if someone else
14 altered, changed, added to, or deleted from those websites,
15 do you?

16 A From the research I found online, the who-is registry, who
17 it is registered to, all these different websites related
18 back to his P.O. box in Bellingham related to his Chilliwack
19 P.O. box that was found in his personal diary or manual in
20 his house. They all go back to his Baneki business or
21 website, which he admits to running. The different
22 bestiality websites all use that same Baneki server. It's
23 kind of the totality of the events. They have pointer
24 records on their servers pointing back to the Baneki website.

25 Q Okay. Well, you mentioned Baneki, the Baneki computing

1 company is, in fact, a security services or server that's
2 provided to other people; isn't that true?

3 A Yes. What -- what --

4 Q Is that right?

5 A Yes, Baneki offers security --

6 Q So just because --

7 MR. MASADA: Your Honor, I object to his not letting
8 the witness finish his answer.

9 THE COURT: He gets to finish his answer.

10 MR. PHILLIPS: I apologize.

11 Q (By Mr. Phillips) My question is: Baneki, which is a
12 company, offered secure servers and websites -- to be able to
13 do their website things on these servers. Their customers
14 then could use that website. That doesn't mean that
15 Mr. Spink had anything to do with those websites, does it,
16 just because it has the name Baneki Privacy Computing on it?

17 THE COURT: Mr. Phillips, these questions are
18 probably better addressed in argument to me.

19 MR. PHILLIPS: Okay, Your Honor. That's fine.

20 Q (By Mr. Phillips) Now, turning to Exhibit Bates No. 554.

21 A What number?

22 Q That's the exhibit regarding the photos of the dogs.
23 Exhibit 13. Bates page 554, at the bottom. I guess it was
24 associated with the dogs and the horses. That is from
25 Whatcom County when they seized the horses and dogs. Isn't

1 it true that there's a notation that the horses and dogs all
2 appeared to be in relatively good health; isn't that correct?

3 A I'm looking at pictures of the dogs, which --

4 Q Do you not have your exhibits? Second page, Exhibit 13.

5 A Which?

6 Q Down at paragraph 3, the long paragraph.

7 THE COURT: Do you have the photo itself?

8 MR. PHILLIPS: No. I have a script, Your Honor.

9 MR. MASADA: Your Honor, it's not a photo, it's the
10 humane society records.

11 THE COURT: Oh, the list.

12 MR. PHILLIPS: Yes, the list.

13 Q (By Mr. Phillips) Do you have that?

14 A 554.

15 Q Look down where it says, "The horses and dogs all appear
16 to be in relatively good health, but the conditions they were
17 living in were subpar"; is that right?

18 A Yes.

19 Q Is it fair to say Mr. Spink's horses and dogs, seven dogs,
20 four horses, were in relatively good health?

21 A It's subjective.

22 Q Okay. Now, you also talked about Exitpoint. Exitpoint is
23 a company; is that right?

24 A Yes.

25 Q And it's a company that owns property, owns horses,

1 perhaps, and owns real estate; isn't that true?

2 A There's a lot of things going on with Mr. Spink's
3 companies.

4 Q Sir, that didn't answer the question.

5 A What was your question?

6 Q The question had to do with, isn't it true Exitpoint is a
7 company that owns property?

8 A I'm trying to think of which property you're saying they
9 own.

10 Q Any property, sir. It's a company that owns property.
11 Horses, Capone.

12 A Capone. I've seen limited documentation on Capone, who
13 the actual owner is.

14 Q And the other thing you testified to was that there was --
15 that the photos of the dogs were posted by Fausty,
16 F-a-u-s-t-y?

17 A Yes.

18 Q And I think you mentioned the word Fausty three or four
19 times. I believe you say you saw a book with Fausty written
20 on it. Do you remember that?

21 A Yes.

22 Q And you also testified that you found websites with the
23 word Fausty on it?

24 A Yes.

25 Q Okay. Now, Fausty you are attributing to Mr. Spink, but

1 anybody could type Fausty and put it on the Internet,
2 couldn't they?

3 A I suppose they could. I suppose they could.

4 Q Now, there was one photograph that's part of your exhibit
5 on page 237, I believe, a photo of Mr. Spink next to his
6 horse. Do you remember that photo?

7 A Yes.

8 Q Do you know if that photo was, in fact, over ten years
9 old?

10 A I'm not sure of the age of that photo.

11 Q So the photo could have been ten years old; is that right?

12 A Yes.

13 Q Now, you also talked about Hope, that is Hackers --

14 A On Planet Earth.

15 Q -- on Planet Earth. And you talked about a website and
16 showed websites and that sort of thing. But do you know what
17 an uploader is?

18 A No. What context are you --

19 Q For instance, if someone posts a blog, in order to be able
20 to ascertain who posted that blog, there would be, like, an
21 uploader who would determine who actually posted that blog.

22 And if there is no uploader, you can't say who put that
23 posting on the blog unless you knew who the uploader -- that
24 there was an uploader existing. Did you see any uploaders on
25 those websites where Fausty was mentioned, that's talked

1 about in that exhibit?

2 A I didn't look for uploaders.

3 Q One of your exhibits, 6, 7, 8, perhaps 9, you included
4 letters from Mr. Spink to Mr. Tait or Mr. Tait to Mr. Spink;
5 is that right?

6 A I think they were Mr. Tait to Mr. Spink.

7 Q Okay. And, again, you don't know if Mr. Spink had
8 permission to communicate or discuss things with Mr. Tait; is
9 that right?

10 A He was on my caseload at the time, and, no, I didn't give
11 him permission to do so.

12 Q Well, his prior PO Aiken could have?

13 A I don't believe that to be true. There's no records of
14 that.

15 Q But you don't know that to be true; is that right?

16 A I spoke to Jerrod about this one, and I was questioning
17 whether he gave him permission about out-of-jurisdiction
18 travel. Once he was transferred to my caseload, it would be
19 my call, my permission he'd seek.

20 Q And you had no contact with Mr. Spink for the entire year;
21 is that right?

22 A Yes.

23 Q You didn't reach out to him?

24 A No.

25 Q You didn't check on him to see if he was doing the right

1 thing?

2 A No.

3 Q Isn't that right?

4 A Yes.

5 Q You didn't check to see if he was committing a crime or
6 not. You didn't check his home situation to see how he was
7 living; isn't that true?

8 A I found -- through the jail phone conversations in Maury
9 County, Tennessee, I found he was violating his supervision.

10 Q Well, in the jail conversation that you just mentioned or
11 played before the court, one, in fact, Mr. Spink tells the
12 person on the other phone, Mr. Tait, that, "I have permission
13 from my P0 to contact people." He said, "Don't worry about
14 it." Isn't that what was on the CD?

15 A Yes, that was what was on the CD. No, he didn't have
16 permission.

17 Q From you?

18 A From me.

19 Q You received a phone call, I believe, at this initial --
20 this process began when you received a phone call, I believe
21 you said it was from Detective Chandler; is that right?

22 A Yes.

23 Q From Tennessee?

24 A Yes.

25 Q And that, then, prompted you, then, to do these website

1 searches; is that right?

2 A Yes.

3 Q And you said, I believe, you found 40 websites and
4 thousands of pictures of bestiality?

5 A Yes.

6 Q Isn't it true that you cannot say that this man posted
7 those photographs on those websites?

8 MR. MASADA: Your Honor, I object. This has been
9 asked and answered, and it's argumentative.

10 THE COURT: Overruled. You may answer.

11 A The zetatracker website, what it is is a forum where
12 people can come together and share bestiality images. A good
13 portion of those, Mr. Spink did not post himself, but it's a
14 forum where they can share, they can trade bestiality images
15 with each other on the website. You can purchase credits to,
16 if you didn't have anything to trade, to kind of buy
17 bestiality pictures. So it's promoting bestiality.

18 Q (By Mr. Phillips) But you can't attribute the postings of
19 those bestiality pictures, you cannot attribute that to
20 Mr. Spink specifically, can you?

21 A And there's a section in the website that says --

22 Q Can you answer that question, please, can you?

23 MR. MASADA: Your Honor, I object.

24 THE COURT: Yes, it's getting ugly.

25 MR. PHILLIPS: Sorry, Your Honor.

1 Q (By Mr. Phillips) If you would please answer the question
2 directly, I'd appreciate it. You cannot attribute those
3 websites to Mr. Spink; isn't that true?

4 A There is no doubt in my mind they are from Mr. Spink.

5 Q There's no doubt in your mind, but you have no objective
6 evidence; in other words, you do not have anything from his
7 computer indicating that he posted those websites, do you?

8 MR. MASADA: Your Honor, I'm going to object. This
9 is asked and answered. We've gone over this.

10 THE COURT: It has been, Mr. Phillips.

11 MR. PHILLIPS: I'll move on, Your Honor.

12 Q (By Mr. Phillips) Let's go to Baneki. You know Mr. Spink
13 is a founder of Baneki?

14 A That's what it says on his website.

15 Q And one of the things you put in the exhibit is, in
16 Washington State, there's no record or it's been disbanded or
17 something like that, but it is not a Washington State
18 corporation, is it?

19 A There's Washington records, there's Nevada records, and
20 there's also Canadian records of it.

21 Q Okay. So you don't know if, for a fact, if Baneki is, in
22 fact, a company registered to do business in Nevada and/or
23 Canada; is that right? Not just Washington?

24 A It's -- you can be registered in one state and do business
25 in another. That's not an issue.

1 Q Okay. Now, there were -- you also pointed out some checks
2 that you found -- allegedly found on Mr. Spink's property,
3 and those checks say Baneki on them; is that right?

4 A Some say Baneki and some say Exitpoint Stallions.

5 Q None of those checks say Doug Spink; is that right?

6 A Just in the signature block.

7 Q None of those checks, in the little block saying who the
8 check belongs to, none of those checks or checkbooks actually
9 belong to Doug Spink, the person?

10 A The checks are drawn on the business account. Mr. Spink
11 was using the checks.

12 Q And Congress has decided that businesses are entities, are
13 they not?

14 A I'm not sure what Congress said.

15 MR. MASADA: Your Honor, I object.

16 MR. PHILLIPS: I'll move on, Your Honor.

17 THE COURT: Okay.

18 Q (By Mr. Phillips) Now, you also played a tape or CD or a
19 video of Mr. Spink speaking at the HOPE convention. Do you
20 remember that?

21 A Yes.

22 Q All right. And he's talking about his friends, his family
23 has four legs -- his best friend, his life partner, Capone,
24 has four legs and that sort of thing. Could it be at this
25 convention or this opening of this conference that he was

1 being, in fact, satirical in making those comments? Did you
2 take that serious?

3 A There's further dialogue in that tape that wasn't played
4 for the court. He's wearing a T-shirt that says, "Sex, dogs,
5 and rock 'n' roll." We found receipts for that T-shirt.
6 Later on in that tape, he says, "My boyfriend is hung like a
7 horse."

8 Q I'm sorry, Mr. Robson. That didn't answer my question.

9 A I wasn't taking that as satire, if that was your question.

10 Q But it could be satirical, saying his life partner is a
11 horse; is that right?

12 MR. MASADA: Objection.

13 THE COURT: The objection will be sustained.

14 Q (By Mr. Phillips) You testified about the raid on
15 Mr. Spink's property and, I believe, that there were 20
16 people.

17 A Yes.

18 Q Some guys in SWAT gear, weapons, M-16s, all that stuff,
19 going down on this property to do what?

20 A To arrest Mr. Spink without incident, safely.

21 Q And, in fact, in your report, and anything -- I think
22 everything you stated is that the arrest of Mr. Spink was
23 done without incident; isn't that true?

24 A Yes.

25 Q Okay. I think you testified that there was safety

1 concerns. There was no reports made of the dogs growling or
2 biting or trying to attack or go after anybody, was there?

3 A Animal control has had reports in the past of Mr. Spink's
4 dogs lunging at people in public.

5 Q Well, dogs can be protective, but in this case, when 20
6 SWAT team members came on his property, there was no violence
7 or attempts to bite anyone or do anything unsafe; isn't that
8 true?

9 A There was enough numbers to take care of the situation
10 safely, yes.

11 Q Okay. In fact, I believe you said that when you got there
12 or after you got there, animal control was called. But isn't
13 it true that animal control was already -- was part of the
14 whole entourage that went to his property?

15 A Yes. It was a coordinated effort to ensure the safety of
16 people and animals.

17 Q Animal control was already there. They didn't arrive
18 there later?

19 A Yes.

20 Q Is it fair to say that the government decided they were
21 going to take his animals at this point?

22 MR. MASADA: Your Honor, I object to the form of the
23 question, "take his animals."

24 THE COURT: Sustained.

25 Q (By Mr. Phillips) Seize the animals.

1 A Animal control was called to resolve any possible animal
2 issues.

3 Q Well, what animal issues would require a horse trailer,
4 other than transporting?

5 MR. MASADA: Your Honor, I object. How is this
6 relevant?

7 THE COURT: Objection is sustained, Counsel.

8 Q (By Mr. Phillips) If I may return a little bit to the
9 HOPE thing. I'm going to try to speed it up. Okay? The
10 HOPE concert, page 415, in the last HOPE exhibit, Exhibit 21,
11 go to page 415.

12 A 425?

13 Q 415, sir.

14 A 415.

15 Q One of the featured speakers at this conference was
16 Mr. Doug Spink, and I think you showed the video of him that
17 was found on YouTube. Adam Savage was also one of the
18 featured speakers, isn't that true, halfway down?

19 A Yes.

20 Q And Adam Savage is the esteemed cohost of the popular TV
21 show, *MythBusters*, on the Discovery Channel, and maker of
22 things, will give a captivating talk on the nature of this
23 particular obsession. He was also on that program; isn't
24 that true?

25 A Yes.

1 Q Turn to page 421, please. Under "Doug Spink," the first
2 sentence there kind of lays out what he was going to do and
3 the presentation on the subject of corporate legal
4 jurisdictions and relative related topics. Isn't that the
5 subject of his discussion?

6 A Yes.

7 Q Turn now to one of the probation office reports that you
8 prepared that he has prepared and signed for you guys, and
9 there's one on page 10, Plaintiff Exhibit No. 25, page 10. I
10 guess you can get either one of those reports, the monthly
11 reports, I want to talk to you about it.

12 A Mine aren't in sequential order like yours are.

13 Q Well, the question here is: He's supposed to report what
14 he's doing for employment and what he's doing to make money
15 and income; is that right?

16 A Yes.

17 Q Okay. And there is a specific section that requires him
18 to do that. Are you familiar with that section --

19 A Yes.

20 Q -- middle of the page on the right-hand column? Okay.

21 A The name of the immediate supervisor?

22 Q Well, the name of the type of job, I guess. It's hard to
23 read. But he has in there "tech lead"?

24 A Yes.

25 Q And when you write in "tech lead," there isn't much room

1 to write anything else, is there?

2 A I've had other people with longer job titles fill that in
3 there.

4 Q Well, "tech lead" kind of fills it up, doesn't it? Okay.
5 Never mind.

6 You testified that when you went to Mr. Spink's home
7 about safety concerns, you had mentioned something about
8 Hells Angels?

9 A Yes.

10 Q When you went to his cabin, you found no knives, no guns,
11 no AR-15s, no bomb-making material, or anything like that;
12 isn't that true?

13 A No.

14 Q No or yes?

15 A No. We found knives and bear mace there.

16 Q Did he attempt to use any of those there?

17 A No.

18 Q In his report, I believe you testified, on Exhibit No. 5,
19 Mr. Tovar or Baneki were his employers. Isn't it true that
20 in your investigation over the last few months, you never
21 contacted Mr. Tovar, his supervisor, or contacted the people
22 at Baneki?

23 A I spoke with Paul Peterson. He's a member of Baneki.
24 Mr. Peterson describes himself as the accountant for Baneki
25 Privacy Computing. He told me that the company was bringing

1 in roughly \$12- to \$14,000 a month in revenues and that
2 Mr. Spink was the leader of Baneki.

3 Q Mr. Spink was a lead tech of Baneki. Isn't that what
4 Mr. Peterson told you?

5 A Leader, CEO.

6 Q Did he say leader, founder, or CEO?

7 A He was describing him as the head entity of it.

8 Q Isn't it true there is a difference between a founder and
9 a CEO?

10 A Yes.

11 Q Let me back up. Of all the documents that you have, do
12 you see Mr. Spink signing as the CEO, chief executive
13 officer, of Baneki, of anything? Not chairman, not founder,
14 but CEO?

15 A I misspoke. Not CEO, but CTO.

16 Q Technical officer?

17 A Yes.

18 Q Thank you.

19 Mr. Spink reported that he was renting property or
20 paying rent for the property where he was staying. Isn't it
21 true that the owner of the property was Exitpoint, and he was
22 paying rent to Exitpoint?

23 A I have no records of that.

24 Q Well, the records that you have, in fact, you say that
25 there was a sale of the property, a contract to buy that

1 property that was with Exitpoint Stallions; isn't that true?

2 A I believe so, yes.

3 Q Okay.

4 You testified on the checks that, Mr. Spink, it was
5 obvious he was using the checks, that is the checks from
6 Baneki, for his personal use, and one of the things you had
7 talked about was the animal hospital; is that right?

8 A Yes.

9 Q And also Check No. 53116 was for health insurance; is that
10 right?

11 A I don't know exactly what that is.

12 Q Okay. We'll move on.

13 The car that you talked about, the Suburban that you
14 showed, that Suburban was, in fact, owned by Baneki and not
15 Mr. Spink; isn't that true?

16 A On the check, I don't remember if it says Baneki or
17 Exitpoint, but it also says Mr. Spink's name on it also.

18 Q I'm talking about the Suburban. Okay? You did not find
19 any registration or certificates of ownership showing that
20 Mr. Spink owned that Suburban. It was, in fact, owned by
21 Baneki; isn't that true?

22 A I believe it was either Baneki or Exitpoint Stallions,
23 but, yes.

24 Q Okay. Exhibit No. 5, the date on that exhibit was
25 11/14/2009. That one, I guess, is a letter. And --

1 A Did you say Exhibit 5?

2 Q I may have misspoke. Hold off. My point is: Mr. Spink
3 contacted Mr. Tait preceding his guilty finding for the four
4 or five B felonies in Tennessee, which occurred in January
5 2010; isn't that true?

6 A I missed your question.

7 Q Okay. Mr. Tait was found guilty -- pled guilty in January
8 2010; is that right?

9 A I believe so.

10 Q Okay. So before that time, and, in fact, it was after
11 that time when, at sentencing, that's when he became a felon;
12 isn't that true?

13 A No. He was convicted of a felony in Washington State in
14 1997 --

15 Q Oh, that's right.

16 A -- in Kitsap County. He was charged with a B felony for
17 indecent liberties.

18 Q You're right. The Washington conviction that he served,
19 that he was convicted on was for a misdemeanor criminal
20 trespass. That is the Enumclaw case; is that right?

21 A He was convicted in '97 of a felony, which makes Mr. Tait
22 a felon. He was also arrested for trespassing in Enumclaw in
23 2005.

24 Q And that was a misdemeanor, right?

25 A Yes.

1 Q All right.

2 In the tape that you played, Mr. Spink said that Jerrod
3 Aiken gave him permission to talk to felons years ago. Is
4 that what he said on the tape?

5 A I think he said his probation officer gave him permission
6 to talk to felons.

7 Q Years ago?

8 A I don't know. I don't recall.

9 Q That's fine.

10 MR. MASADA: Your Honor, the tape speaks for itself.

11 MR. PHILLIPS: That's fine.

12 Q (By Mr. Phillips) You had mentioned Mr. Taggert, I
13 believe, and Kenny Thomason, and other people who sent other
14 inmates that you found letters, do you know, in fact, if
15 those people, the other inmates that you found the letters at
16 Mr. Spink's property, were, in fact, part of this RDAP
17 program, and they were supportive of one another after they
18 got out?

19 A Kenny Thomason was arrested with James Michael Tait due to
20 the bestiality-related charges in Tennessee.

21 Q How about Taggert?

22 A So I don't know if Kenny Thomason also served federal
23 custody time, either. As far as Mr. Taggert goes, I'm not
24 sure that he's on -- if he's committed a federal crime or
25 not.

1 Q Okay. And when Mr. Spink reported on his monthly
2 supervision report about paying rent, he noted that he paid
3 cash, is that right, \$1,200 a month? Page 35.

4 A That's what's written, yes.

5 Q Okay. The Baneki Check 5282 for the American Alpine Club,
6 do you, in fact, know if that was not for advertising for
7 Baneki?

8 A I'm not sure what American Alpine Club is.

9 Q And the Associates in Family Medicine, do you know if that
10 was, in fact, health insurance?

11 A I do not know.

12 Q All right. Lastly, you talk about the videos with
13 Mr. Clarke having sex with the dogs?

14 A Yes.

15 Q I think there was seven dogs that belonged to Mr. Spink
16 that were in that area. You did not see Mr. Spink having sex
17 with any dog on those videos, did you?

18 A No.

19 Q But you, in fact, did, in fact, see Mr. Clarke having sex
20 with dogs?

21 A Yes.

22 Q Two short questions: Do you, in fact, know that the
23 utility knife that was found on his property was 100 percent
24 approved by his P0?

25 A There were several knives found.

1 Q There was apparently a utility knife. The question is:
2 Do you know if that was approved by his P0?

3 A No.

4 Q And do you know who owns Exitpoint?

5 A Douglas Spink.

6 Q And who else?

7 A I believe his mother is on the board also.

8 MR. PHILLIPS: Thank you.

9 MR. MASADA: Just a couple questions, Your Honor.

10 REDIRECT EXAMINATION

11 BY MR. MASADA:

12 Q As an employee of the U.S. Probation Office, are federal
13 felons supposed to be in contact at all?

14 A No.

15 Q Now, to the best of your knowledge, would a lead tech have
16 check writing authority for a company?

17 A No.

18 Q Now, there was a series of questions about Mr. Spink's use
19 of the checks for Baneki and Exitpoint Stallions. On his
20 monthly report -- if you'd flip with me to Exhibit 25.

21 A Okay.

22 Q And is there a place on there where he has to disclose the
23 vehicles that he uses?

24 A Yes.

25 Q And what does he disclose?

1 A It says he drives a 1992 Chevy Suburban, green, registered
2 to Exitpoint Stallions.

3 Q And who is it registered to?

4 A Exitpoint Stallions.

5 Q Flipping back to Exhibit 48, what is 48?

6 A Exhibit 48 is the coupon book for the 1992 Chevy Suburban
7 to Baneki, Inc.

8 Q So Douglas Spink was purchasing the Suburban through
9 Baneki, not Exitpoint?

10 A Both are written in purchasing the truck.

11 Q There was also questions about whether Mr. Spink was
12 appropriately disclosing his finances. If you would turn
13 with me to Exhibit 49. Do you know who actually owns the
14 property in Sumas, Washington, where Douglas Spink was
15 living?

16 A At the time, I believe the owner was MGB Enterprises.

17 Q Do the Vanderpools, does that ring a bell?

18 A Yes.

19 Q If you would turn with me to Exhibit 49, to Bates No. 945.
20 What is that?

21 A Page 954 is a company check from Baneki Privacy Computing
22 to Marve Vanderpool.

23 Q But, again, Mr. Spink was purchasing the property through
24 Exitpoint Stallions; is that correct?

25 A Yes.

1 Q Is it fair to say he was using these two entities
2 interchangeably?

3 A Yes.

4 Q Now, counsel asked you a series of questions about the
5 fact you did not find any information or data on Mr. Spink's
6 computers. Why is that?

7 A The --

8 MR. PHILLIPS: Objection, Your Honor.

9 THE COURT: Grounds?

10 MR. PHILLIPS: Beyond the scope.

11 THE COURT: Overruled.

12 A I attempted to retrieve the information on Mr. Spink's
13 computer using the image scan, the FBI software tool. What I
14 believe is on the computer --

15 MR. PHILLIPS: Objection to what this person
16 believes, Your Honor; speculation.

17 THE COURT: Overruled. Go ahead.

18 A What I believe, or what I've been able to find, as
19 computers are very heavily encrypted, and I do not have the
20 expertise to break that encryption on computers.

21 Q One more point, Officer Robson. There was some questions
22 about whether or not Mr. Spink's prior probation officer,
23 Jerrod Aiken, provided his permission to contact felons. Is
24 Mr. Spink's file maintained in the ordinary course of
25 business?

1 A Yes.

2 Q And typically isn't there some indication in the file if
3 there is permission for him to contact felons?

4 A Yes.

5 Q In your review of the file, was there any indication that
6 Mr. Spink had received permission to contact felons?

7 A There's nothing in the chronological records to indicate
8 that.

9 Q And, again, in October through December of 2009, when
10 Mr. Spink was contacting Mr. Tait and Mr. Thomason in
11 Tennessee, you were his probation officer, correct?

12 A Yes.

13 Q Counsel questioned you about the amount of contact you had
14 with Mr. Spink. Do you have an explanation for that?

15 A Part of the reason for that is the officer safety
16 concerns, hearing in the tapes that he's preparing for --

17 Q I'm sorry. Maybe you misheard my question. The lack
18 of -- the fact that you had not directly contacted Mr. Spink
19 prior to executing the arrest in the search.

20 A Another one of the concerns was the sophistication of
21 Mr. Spink with computers, and the concerns being that he
22 would destroy evidence on his computers. Searching some of
23 the websites, we're finding multiple pictures of bestiality
24 and some -- with very youthful participants --

25 MR. PHILLIPS: Object; nonresponsive.

1 THE COURT: Yeah, I'm not sure it is. The question
2 he's asking you is: Why haven't you seen him for a year?

3 Q (By Mr. Masada) Why haven't you spoken or met with
4 Mr. Spink prior to this entire investigation?

5 A He was transferred to low-risk caseload. While he was on
6 low-risk caseload, it was found that he was associating --
7 violating his conditions of supervision. I continued to
8 investigate the case.

9 Q Was your relationship with Mr. Spink fairly typical for
10 other low supervision individuals under your supervision?

11 A Yes.

12 MR. MASADA: No further questions, Your Honor.

13 MR. PHILLIPS: Briefly, Your Honor.

14 THE COURT: Very briefly.

15 RE-CROSS-EXAMINATION

16 BY MR. PHILLIPS:

17 Q You testified, when counsel was asking you about whether
18 Mr. Spink could have contact with any felons, isn't it true
19 that the standard condition was, "The defendant shall not
20 associate with any person engaged in criminal activity and
21 shall not associate with any person convicted of a felony,
22 comma, unless granted permission to do so by a probation
23 officer." Isn't that the condition?

24 A Yes.

25 MR. PHILLIPS: Thank you.

1 THE COURT: You may step down.

2 Detective, come up and be sworn.

3 STEVEN ROFF, HAVING BEEN FIRST DULY SWORN,
4 TESTIFIED AS FOLLOWS:

5 THE CLERK: Please state your full name and spell
6 your last name.

7 THE WITNESS: My name is Steven Aaron Roff, R-o-f-f,
8 as in Frank.

9 DIRECT EXAMINATION

10 BY MS. ROE:

11 Q And your occupation?

12 A I'm a detective with the Whatcom County Sheriff's Office.

13 Q And were you involved in the execution of a search warrant
14 at Doug Spink's residence in Whatcom County on April 14th,
15 2010?

16 A Yes, I was.

17 Q Why were you involved?

18 A I was involved to assist the U.S. Marshals with an arrest
19 warrant and U.S. Probation with an execution of a probation
20 search.

21 Q Okay. What did you do?

22 A I stood by while the search warrant, the arrest warrant
23 was served. Once Mr. Spink was in custody and the United
24 States Probation Department was going to start their search,
25 I cleared the scene.

1 Q Did you return that day?

2 A I did, about an hour and a half later.

3 Q Why?

4 A I returned for a criminal investigation on state and local
5 charges of animal cruelty in the first degree.

6 Q When you first arrived, how many people were already at
7 Spink's residence?

8 A Oh --

9 Q Excluding law enforcement.

10 A Oh. One.

11 Q Who?

12 A Stephen A. Clarke.

13 Q And he was there with Mr. Spink?

14 A Yes, he was. He was there earlier when the arrest warrant
15 was executed.

16 Q What about animals?

17 A There were four horses and seven dogs.

18 Q Take a look at Exhibit 14. Have you seen that exhibit
19 before?

20 A Yes, I have.

21 Q And do you recognize those as the animals that were
22 present in Mr. Spink's cabin that day?

23 A Yes. They were running around outside of the cabin.

24 Q Okay. Look at Exhibit 12. After that initial page, do
25 you see some photos taken outdoors, and do you recognize

1 those?

2 A Yes. That's the outside exterior of Mr. Spink's cabin.

3 Q Look at the last page in that exhibit, please. The last
4 page in Exhibit 12, do you recognize that? They might be out
5 of order.

6 A No. This appears to be a checkbook for Exitpoint
7 Stallions.

8 Q Look through those pictures. Do you recognize a picture
9 of Mr. Clarke in there?

10 A Yes, I do. Yes, right there. That's Mr. Clarke outside
11 of Mr. Spink's cabin.

12 Q Are you familiar with that scene, having been there
13 before?

14 A From earlier in the day, yes.

15 Q Go ahead and put that exhibit back together, if you don't
16 mind.

17 Did you find or take custody of any videos that day?

18 A Yes, I did.

19 Q And tell us how that happened.

20 A Once I left the scene of the initial execution of the
21 search warrant, I later received a phone call from Probation
22 Officer Angela McGlynn, informing me that the video camera
23 and videotape had been located inside of Mr. Spink's
24 residence that showed Mr. Clarke engaged in sexual conduct
25 with dogs on the premises.

1 Q Take a look at what's been marked Exhibit 15 and 16.

2 A 15 and 16.

3 Q And do you recognize those?

4 A Yes. These are DVDs that I had the videos put on to.

5 Q And did you view those in their entirety?

6 A Yes, I did.

7 Q Tell us briefly, summarize what is on those videos, and
8 how they are set up. Do they have date times and stamps on
9 them?

10 A Yes. They're date and time stamped, and the videos are
11 set up like to videos on a tripod, and the footage on the
12 video -- some of the videos show Mr. Clarke engaged in sexual
13 conduct with dogs.

14 Q When you say "sexual conduct," do you mean anal
15 penetration?

16 A Yes, I do.

17 Q Do you recognize the dogs shown on those videotapes?

18 A Yes, I do.

19 Q Are those Mr. Spink's dogs that are in the pictures and
20 that you saw there that day?

21 A Yes.

22 Q Was there anyone else on those recordings, other than
23 Mr. Clarke or the dogs?

24 A Yes.

25 Q Who?

1 A Mr. Spink's voice can be heard on the recordings.

2 Q What's going on at the different times when Mr. Spink's
3 voice is heard?

4 A Mr. Clarke is engaged in sexual conduct with the dogs,
5 which includes the dogs having anal penetration into
6 Mr. Spink's anus as well as Mr. Clarke.

7 MR. PHILLIPS: Objection, Your Honor. That was not
8 Mr. Spink's anus.

9 THE WITNESS: I'm sorry. Mr. Clarke. I apologize.
10 And Mr. Clarke holding some of the dogs by their penises and
11 the dogs' penises were erect.

12 Q (By Ms. Roe) Taking a look at 42 and 43, did you make
13 reports of those tapes indicating what was going on and
14 making verbatim transcripts of the relevant portions when
15 Mr. Spink was on the audio?

16 A Yes, I did.

17 Q Can we review the time when Mr. Spink is on the audio?

18 A Yes, and I have copies of those reports, if I can refer to
19 those.

20 Q Yes. On Exhibit, I think it's 42, page 13.

21 A May I just read from this to get all the detail and the
22 exact times?

23 Q On the lines?

24 A Yes.

25 MR. PHILLIPS: Your Honor, I object to the witness

1 reading.

2 MS. ROE: They're not in evidence.

3 THE COURT: What are you asking him?

4 MS. ROE: Can he tell us the setup and give us the
5 specific conversation between Mr. Spink and Mr. Clarke.

6 Reading, ensuring accuracy as to the conversation.

7 Q (By Ms. Roe) Detective, can you tell us what's happening
8 on the video at the time this conversation occurs?

9 A On April 10, 2010, at approximately 1013 hours, there's a
10 white male, later identified as Stephen Clarke. He was on
11 the video engaged in sexual conduct with a mastiff-style dog.
12 Mr. Clarke was on his knees, and he assisted the mastiff by
13 mounting him and engaging in sexual conduct. The mastiff
14 appeared to insert his penis into Mr. Clarke's anus.

15 Q Okay. And what's the conversation during this event?

16 A At approximately 2025 hours, it would be 11 minutes and 31
17 seconds into the video, the front door of the cabin opens.
18 You can't see who enters, but a male engages Mr. Clarke in
19 conversation. I recognize that male's voice as being
20 Mr. Spink. And the conversation goes:

21 Spink: "Aha, caught in the act. I shouldn't be
22 surprised."

23 Clarke: "He feels a lot bigger than those shepherds."

24 Spink: "Yeah. I have warned people about that. Not you.
25 You don't need to be warned. But you could imagine people

1 used to shepherds stumble into him thinking, wow, he is not a
2 big dog. Only one person, yipping, tied with him before.
3 I'm never doing this again."

4 Q Is that the end of the conversation at that time?

5 A Yes.

6 Q And is there the noise of someone opening the door, as
7 though someone is leaving?

8 A Yes.

9 Q Is there a little later, in that videotape, another
10 conversation? If you want to turn to the next page.

11 A Yes. At approximately 2029 hours.

12 Q Was Clarke still engaged in sexual contact with the
13 mastiff?

14 A Yes. At approximately 2027 hours, 13 minutes and 27
15 seconds into the video, the door opened again. You can't see
16 who enters the door. At approximately 2029 hours, 15 minutes
17 37 seconds into the video, Mr. Clarke is still engaged in
18 sexual conduct with the mastiff, and Mr. Spink and Mr. Clarke
19 have a second conversation.

20 Q Can you give us that conversation?

21 A Yes, I can. Clarke: "Well, in terms of sexual
22 performance, he is certainly on par." Spink: "No doubt.
23 That has never been a weak spot for him."

24 At approximately 2029 hours, 15 minutes and 50 seconds
25 into the video, the mastiff disengaged with Mr. Clarke.

1 Clarke: "Oh, damn. I didn't know it. I just made a lot of
2 mess." Spink: "The good news is, in the context of the
3 existing muddy, filthy mess that is my cabin right now, it is
4 not even," and then Mr. Spink stopped talking, or I couldn't
5 copy what was said.

6 Q Is there another video that is indicated that it was taken
7 on 4/13 of this year?

8 A Yes, there is.

9 Q Okay. And at approximately 1806 on that video, 57 minutes
10 into it, is there a conversation between Mr. Spink and
11 Mr. Clarke?

12 A Yes, there is.

13 Q What is Mr. Clarke doing at the time?

14 A He's outside of Mr. Spink's residence, and he's engaged in
15 sexual conduct with a German shepherd.

16 Q Is the conversation not about the actual sexual conduct,
17 but about the horses and that they're making noise in the
18 area?

19 A Yes, it is.

20 Q Okay. Can you see Mr. Spink on the video at the time?

21 A No, you cannot.

22 Q Do you recognize it as being Mr. Spink's residence?

23 A Yes.

24 Q Is there another video tape, which would be No. 16?

25 A Yes.

1 Q And did you view that in its entirety?

2 A Yes.

3 Q And looking at what's, I believe, your report from -- on
4 that tape, which is marked as Exhibit 43, in Video 4, with
5 the markings of 4/13/10 at 1818, is there a conversation that
6 follows the video between Spink and Clarke?

7 A Yes.

8 Q Tell the court what's happening on the video at the time.

9 A At approximately 1818 hours, the video starts, and it
10 shows a horse's erect penis. At about 1909 hours, the
11 location changes from outside to inside of Mr. Spink's cabin.
12 It shows a male subject holding a Great Dane's penis. It
13 appeared that the Great Dane was ejaculating, and the subject
14 was measuring the Great Dane's penis size with calipers.

15 Q And is there conversation?

16 A Yes, there is.

17 Q Tell us the conversation.

18 A At 1911 hours, 2 minutes and 50 seconds into the video,
19 Clarke and Spink have the following conversation:

20 Clarke: "Well, I am impressed."

21 Spink: "Yeah."

22 Clarke: "Although I am surprised he is not actually wider
23 than Bujo, the same, 3.62."

24 Spink: "I think his shaft is definitely bigger."

25 Clarke: "Oh, yeah. He may have a little more volume in

1 that knot."

2 Spink: "He's got that little hump along the top of it
3 that is kind of common for a certain kind of Dane."

4 Clarke: "I can see why he was such a good tie."

5 Spink: "Because he is such a good boy."

6 Q At that point in the video, does Mr. Clarke appear on the
7 video? Can you see his face or his head?

8 A Yes.

9 Q And does it appear that he may be engaging in oral sex
10 with the dog?

11 A Yes.

12 Q And then is there a further discussion between Clarke and
13 Spink?

14 A Yes.

15 Q What's that discussion?

16 A Clarke: "Good boy."

17 Q I'm sorry. Is he referencing the Great Dane?

18 A Yes, he is. Mr. Clarke is still holding the Great Dane's
19 erect penis.

20 Clarke: "Good boy."

21 Spink: "Two. That's going to mean a big nap."

22 Q Further on in that video, does it show Mr. Clarke engaged
23 in measuring the different dogs at Spink's cabin, the size of
24 the penises?

25 A Yes.

1 Q And did you later take into evidence a piece of paper with
2 markings or notations that appear to be related to the
3 numbers said on those videos?

4 A Yes.

5 Q Okay. Showing you what's been marked Exhibit 18, please,
6 do you recognize that?

7 A I do.

8 Q What is it?

9 A This is the note that you just described. It was
10 recovered from Mr. Clarke's rental car during the execution
11 of the search warrant.

12 Q Does it have a list of dogs at Mr. Spink's house?

13 A It does.

14 Q And measurements in what? Centimeters?

15 A I'm assuming, yes.

16 Q Was there further conversation on that tape between Clarke
17 and Spink, and is it about the measurements and the size and
18 the appearance of the dogs' penises?

19 A Yes.

20 Q Does Mr. Spink ever engage in the measurements that you
21 see?

22 A No.

23 MS. ROE: Government offers 18.

24 THE COURT: Any objection to 18?

25 MR. PHILLIPS: No, Your Honor.

1 THE COURT: 18 is admitted.

2 (EXHIBIT 18 ADMITTED.)

3 MS. ROE: No further questions.

4 CROSS-EXAMINATION

5 BY MR. PHILLIPS:

6 Q Good afternoon, Detective.

7 A Good afternoon.

8 Q You know Mr. Spink?

9 A Correct.

10 Q You've had contact with him prior to this last incident;
11 is that right?

12 A Yes, I have, sir.

13 Q Back in 2008; is that right?

14 A Yes, sir.

15 Q When his horse, Capone, was stolen?

16 A Correct.

17 Q And you were involved at that time?

18 A Yeah, I was the lead investigator.

19 Q So you knew the person who claimed the horse or kidnapped
20 the horse, Ms. Super; is that right?

21 A Yes, I did.

22 Q Okay. Now, Mr. Spink had not been charged in state court;
23 isn't that right?

24 A No, but I referred him.

25 Q I'm sorry. If you could just answer my question.

1 MS. ROE: Objection, Your Honor. He's allowed to
2 answer the question.

3 THE COURT: He answered the question.

4 Q (By Mr. Phillips) Mr. Spink was not charged in state
5 court, was he?

6 A No, not yet.

7 Q And you did not see, in those videos, Mr. Spink engage in
8 any sexual activity with any animal; isn't that true?

9 A No, I did not.

10 Q Now, you testified that you found a video camera, I
11 believe it was a video -- a little Sony; is that right?

12 A Correct.

13 Q And is it not true that Mr. Clarke is from England?

14 A Yes.

15 Q Is it also true that there was some difficulty pulling up
16 the video because the formatting of that camera was from the
17 UK?

18 A Correct.

19 Q You testified that when you were there for the initial
20 execution of the arrest warrant, you left, and then you came
21 back for investigation of bestiality?

22 A Correct.

23 Q Okay. Now, your subsequent investigation of bestiality
24 had to do with Mr. Clarke, because Mr. Spink was already
25 taken into custody; isn't that true?

1 A Correct.

2 Q So when you spoke of returning to investigate bestiality,
3 you were talking about Mr. Clarke; isn't that right?

4 A Yes, sir.

5 Q Mr. Clarke was, in fact, arrested, charged, found guilty,
6 convicted, and served about 30 days in jail; is that right?

7 A That sounds about correct, yes.

8 Q Isn't it true the Whatcom County Humane Society was on the
9 scene to assist the United States Marshal's Office?

10 A Yes, it was.

11 Q And do you remember them arriving there about 0729, 0730
12 hours? That is, the humane society.

13 A At the sheriff's office?

14 Q At Mr. Spink's property.

15 A Can you repeat the time?

16 Q Do you remember the time that they arrived?

17 A It would have been about 1000 hours or shortly thereafter
18 when the arrest warrant was executed.

19 Q Sorry. I misunderstood, then.

20 And, in fact, they were there at the time the arrest
21 warrant was executed, and there was a horse trailer; isn't it
22 true?

23 A Correct.

24 Q And isn't it not also true that the Whatcom County
25 Sheriff's decided they were going to seize Mr. Spink's horse,

1 Capone, at that time; isn't that true?

2 MS. ROE: Objection to relevancy.

3 MR. PHILLIPS: It goes to bias, Your Honor.

4 THE COURT: Overruled.

5 A That's not true.

6 Q (By Mr. Phillips) Well, isn't it true that when you
7 arrived on the scene, you asked Mr. Spink about Capone?

8 A Yes.

9 Q And isn't it true that you asked him -- and you knew who
10 Capone was?

11 A Correct.

12 Q Let me clarify one thing. You had given some graphic
13 descriptions of what you saw on the video, and isn't it true
14 that from what you -- from what you could see, the video was
15 being held by a -- the video camera was being held on a
16 tripod or some sort of mechanism that held it in place; is
17 that right?

18 A Correct.

19 Q It didn't appear to be handheld, as though Mr. Spink was
20 assisting?

21 A No.

22 MR. PHILLIPS: Thank you.

23 REDIRECT EXAMINATION

24 BY MS. ROE:

25 Q Detective, take a look at Exhibits 45 and 46, please.

1 A Yes.

2 Q Do you recognize those?

3 A 45 looks like it's going to be a judgement and sentence
4 for Stephen Clarke in Whatcom County Superior Court.

5 Q 46?

6 A 46 looks like it is a statement of defendant on plea of
7 guilty to a non-sex offense in Whatcom County Superior Court.

8 Q Is that Mr. Clarke's statement?

9 A Yes.

10 Q Are those documents both relating to this incident?

11 A Yes, they are.

12 MS. ROE: I offer 45 and 46.

13 THE COURT: Any objection?

14 MR. PHILLIPS: No objection to 45 or 46.

15 THE COURT: 45 and 46 are both in.

16 (EXHIBIT 45 and 46 ADMITTED.)

17 Q (By Ms. Roe) Detective Roff, you've been to this cabin.
18 How big is it?

19 A It's not that big at all. From what I remember, one room,
20 100, 200 square feet, at the most.

21 RE CROSS-EXAMINATION

22 BY MR. PHILLIPS:

23 Q You've testified that you've been to that particular
24 property before in Sumas?

25 A Just that day.

1 Q Not before this incident?

2 A Not before the incident.

3 Q That was the first time you'd been to this property; isn't
4 that true?

5 A That was the first time I'd been to the property.

6 MR. PHILLIPS: Thank you.

7 THE COURT: You may step down.

8 MS. ROE: Your Honor, the other testimony the
9 government would present would be the sworn affidavit of
10 Mr. Clarke. He's in the courthouse today, but we're offering
11 this by way of affidavit in lieu of live testimony.

12 THE COURT: That's your agreement, Mr. Phillips?

13 MR. PHILLIPS: No, sir, Your Honor, we do not. We
14 object in the strongest terms. We believe an affidavit in
15 lieu of live testimony denies my client his Sixth Amendment
16 right to confrontation.

17 THE COURT: So you'd like the witness to be produced
18 to testify?

19 MR. PHILLIPS: No, Your Honor, I think that testimony
20 should be excluded.

21 THE COURT: Well, it's not going to be excluded. If
22 you don't want to stipulate to the affidavit, then we'll have
23 to call the witness. Is that what your client wants?

24 MR. PHILLIPS: Your Honor, the problem with the
25 affidavit is that we received it just prior to this hearing,

1 and we have not -- I've had no chance to really read it, so
2 I'm not sure what all was entirely included in that.

3 THE COURT: We've been going since two o'clock.
4 We'll give our court reporter a ten-minute break. The
5 affidavit is three and a half pages long, so that will give
6 you time to go over it.

7 (A RECESS WAS TAKEN.)

8 MS. ROE: Your Honor, I believe the defense will
9 agree that the affidavit of Mr. Clarke may come in as
10 substantive evidence. They waive their right to have him
11 appear in person, but instead of or in lieu of
12 cross-examining him, they wish to submit the notations or the
13 notes of a prior proffer he made. So that is what they're
14 doing in lieu of confronting him.

15 THE COURT: All right.

16 MR. PHILLIPS: That's true, Your Honor.

17 THE COURT: And do you have that, Mr. Phillips?

18 MR. PHILLIPS: The court has it.

19 THE COURT: It's the one I'm looking at?

20 MS. ROE: Yes.

21 THE COURT: All right. Counsel, any other witnesses
22 on behalf of the government at all?

23 MS. ROE: Not from the government, Your Honor.

24 THE COURT: Mr. Phillips, have you discussed with
25 your client his right to testify if he would like?

1 MR. PHILLIPS: Yes, Your Honor.

2 THE COURT: Well, first of all, does he intend to
3 call any other witnesses?

4 MR. PHILLIPS: No.

5 THE COURT: After discussing with him his right to
6 testify or his absolute right to remain silent, what does he
7 wish to do?

8 MR. PHILLIPS: He wishes to remain silent, Your
9 Honor.

10 THE COURT: Mr. Phillips, let me hear from you in
11 terms of argument. He's admitted to three, but tell me why
12 you don't think the government has proven these by a
13 preponderance of the evidence.

14 MR. PHILLIPS: With respect to the violation,
15 allegation No. 1, having to do with the animal cruelty
16 statute, it's our position, Your Honor, that this -- that
17 matter is not properly before the court, and that that is a
18 state charge, and the state has not arrested my client. They
19 have not charged him. He has not been convicted of that
20 charge.

21 So our position is that the government should not be able
22 to argue that there's a criminal offense, which is a state
23 offense, when Mr. Spink has not been convicted or charged
24 with that offense.

25 It's my understanding that the evidentiary hearing for his

1 supervised release is not to put on a mini hearing or mini
2 trial to ascertain whether he's guilty of that crime.
3 Clearly, there are rules in play when you have a trial, being
4 found guilty of a crime, that just do not exist in this
5 situation. The standard of proof is different, the
6 preponderance, as opposed to beyond a reasonable doubt. He
7 has not been found guilty or even arrested or even charged
8 with the state offenses; therefore, it's our position that
9 this is not properly before this court, and we'd ask the
10 court to throw out that petition on the basis of that.

11 And in addition, the statute is untested -- that is, the
12 Washington State statute is untested -- and it would be our
13 position it may be even unconstitutional, therefore it should
14 not be a valid basis for this court to find that he violated
15 or violated the condition that he not commit a state crime
16 because there's no proof that he's committed a state crime.
17 Proof of crime done with a conviction and a judgment and
18 sentence, and that does not exist in this case.

19 With respect to inmates and contact with inmates and that
20 sort of thing, Your Honor, my client insists that he, in
21 fact, had permission from Mr. Aiken. What's more telling is
22 that the video or the audio that was taken of the telephone
23 call, Mr. Spink speaks, in fact, to that, that he has had
24 permission to have contact with the felons by Mr. Aiken,
25 prior P0, which would negate that allegation that he's had

1 contact with people who are felons, because he's had
2 permission to do that. That would include Mr. Tait as well
3 as Mr. Taggart or Tovar or whatever his name was.

4 I think it's also important, Your Honor, for the court to
5 understand that the letters that were found were out in the
6 open, the letter that he received. So there was no attempt
7 on his part to hide or keep that information hidden. He kept
8 the letters. He could have burned them or threw them away if
9 he thought that was, in fact, not something he should be
10 doing. He thought he had permission, the letters were there,
11 the government found them, and that's why we're here, at
12 least, on that allegation.

13 With respect to the truth of the report, Your Honor, I
14 believe the government is failing to ascertain the difference
15 between entities, between a person and a corporation.
16 Clearly, Exitpoint Stallions and Baneki are separate
17 corporations. This court had no prohibitions that he not be
18 allowed to work for Baneki. He, in fact, worked for Baneki.
19 He reported properly that he was a tech lead. The government
20 is trying to change -- use the word "chairman" to show that
21 he was doing something different, but -- and the government
22 is trying to use the other words to describe his activities,
23 such as chief technical officer, but, in fact, he was a tech
24 lead, and that was properly reported.

25 That also goes to the ownership of the Suburban. It goes

1 to the ownership of the real estate. In fact, the
2 prohibition is that he not have a personal checking account
3 without the knowledge of the P0. He had no personal checking
4 account, and that's directly off the language of the
5 conditions imposed by this court.

6 Your Honor, we believe that the government has failed to
7 meet, by a preponderance of the evidence, the allegations
8 that are contested here, especially Allegation No. 1 just
9 doesn't seem quite kosher that he could be found guilty of
10 committing a crime in this court under these circumstances,
11 under this standard, when, in fact, he has not been found
12 guilty in state -- or charged by the state or convicted by
13 the state. So we'd ask the court to disallow that allegation
14 or find that allegation not committed.

15 Unless there's something else, that's all I have.

16 THE COURT: Thank you, Mr. Phillips. Ms. Roe?

17 MS. ROE: Briefly, Your Honor. As this court is well
18 aware, probation reports that are sent in monthly and reports
19 to the probation officers are not games to be played or
20 manipulated. The purpose of supervised release is for the
21 United States government to monitor and assist defendants who
22 are released from jail.

23 Mr. Spink had done a pretty good job of staying below the
24 radar for several years, and it wasn't until the last few
25 months, when Agent Robson got this case and heard from

1 Tennessee that he wasn't behaving well, that Mr. Spink was
2 engaged in calling jails and talking to people who have been
3 charged with crimes and people who have convictions, that
4 there was really more scrutiny of Mr. Spink. His game
5 playing in the monthly reports worked for a while, but it's
6 pretty clear that he founded and ran a significant company,
7 Baneki Privacy Computing, what it was engaged in, and that he
8 had access to the checkbooks, he had access to money, he
9 moved some out of the country, he paid his personal and
10 animal bills with the checking account, and it's not fine to
11 say it wasn't in his name. It was something that he was
12 controlling. It's the spirit of probation and what he must
13 do. It's also why his travel was inappropriate, his other
14 conduct was inappropriate.

15 As to Count No. 1, which is his participation in the
16 underlying crime in Whatcom County, the statute is fairly
17 clear that -- which is in evidence, assisting or allowing
18 people to engage or to provide the animals is criminal. That
19 matter was referred to Whatcom County. Mr. Spink has been in
20 jail since that time. It is completely appropriate to prove
21 that the violation of probation, that he committed this crime
22 or engaged in this crime in this fashion. This is done
23 routinely in courts.

24 The people he was in contact with in Tennessee and
25 elsewhere by phones and letters were people he knew to be

1 felons or engaged in criminal conduct. And sort of
2 interestingly, if we were to believe what Mr. Spink said in
3 that one tape, he also said the attorney general knew his
4 case, it was such a big case. And really what Mr. Spink said
5 in his phone calls maybe is not in touch with reality. The
6 government believes all four allegations are proven, and we
7 ask you to find he has violated those.

8 THE COURT: Thank you. All right, Counsel. As
9 indicated, there are four alleged violations of the
10 conditions of supervised release. No. 3 has been admitted,
11 that is leaving the state without permission. We're only
12 talking about 1, 2, and 4.

13 As indicated by all parties, the standard is by a
14 preponderance of the evidence. There were basically three
15 witnesses: Two witnesses that testified, the affidavit of
16 Mr. Clarke, as well as the proffer that the court has had a
17 chance to fully review.

18 Let me indicate, first off, that the court finds and
19 accepts the testimony from all the witnesses, the probation
20 officer, the Whatcom County detective, Detective Roff, and
21 also from Mr. Clarke. There really is no testimony to the
22 contrary. The only question is what to make of all the
23 testimony that's been given to the court, both orally and in
24 the exhibits that have been admitted for purposes of this
25 particular hearing.

1 In terms of the truthful reports, the allegation is
2 failing to submit truthful reports to the probation office
3 since October of 2008, and there are several ways that that
4 can actually be proven, and that was proven in this
5 particular case. Mr. Spink was not truthful in those
6 reports, and the court finds that the evidence is
7 overwhelming that he, in fact, did not tell the truth;
8 therefore, that has been proven.

9 Associating with people engaged in criminal activities or
10 associating with persons convicted of a felony on or about
11 October 4th, 2009, through December 5th, 2009, and on or
12 about April 14th, 2010, in violation of standard condition
13 No. 9.

14 He definitely was associated with Stephen Clarke. There's
15 no argument about that. There was a conversation on the
16 record, both were found on the premises when Mr. Clarke was
17 engaged in criminal activity. Mr. Clarke was convicted in
18 Whatcom County. There was no question he was involved in
19 criminal activity. That in and of itself fulfills the
20 elements of that particular violation, not to mention contact
21 with Mr. Tait and contact with the other people that were in
22 custody.

23 As to whether or not Mr. Aiken ever gave him permission,
24 the court believes that the testimony of Probation Officer
25 Robson probably takes care of that, and whenever probation

1 officers do that, they take great care to mark that in the
2 file for anyone who picks that file up subsequently to
3 understand that permission has been given. The court is
4 satisfied that that violation has been, in fact, proven by
5 the government as well.

6 That simply leaves Violation No. 1, committing the crime
7 of animal cruelty in violation of current state law, and the
8 prohibition for Mr. Spink was that he not commit any other
9 crimes, federal, state, or local.

10 RCW 16.52.205 that's shown in Exhibit 19 makes it a
11 felony. Animal cruelty in the first degree, when he or she
12 knowingly permits any sexual conduct or sexual contact with
13 an animal to be conducted on any premises under his or her
14 charge or control, or knowingly engages in, organizes,
15 promotes, conducts, advertises, aids, abets, participates in
16 as an observer, or performs any service in furtherance of an
17 act involving any sexual contact or sexual conduct with any
18 animal for recreation or commercial purpose.

19 Yes, there is no evidence that Mr. Spink was holding the
20 video camera, no evidence that he was the one that was
21 actively photographing this, but all the other evidence, and
22 the bulk of the evidence clearly shows that his actions fall
23 within the statute itself.

24 Mr. Phillips argues that it's not properly before the
25 court. He's not been tried in state court. That happens all

1 the time. And whether or not state charges will follow is
2 not for this court to be concerned with at this point in
3 time.

4 Mr. Phillips' argument is that the statute may very well
5 be unconstitutional. Again, at this point in time, the
6 statute is -- has not been ruled unconstitutional by any
7 state court, and the court is satisfied that Mr. Spink is
8 also in violation as charged in Alleged Violation No. 1.

9 All right. Madame Clerk, do we have a disposition date?

10 THE CLERK: Friday, July 16th, at 1:30 p.m.

11 THE COURT: Will that work for the government, that
12 day, July 16th?

13 MS. ROE: Yes.

14 THE COURT: Mr. Phillips?

15 MR. PHILLIPS: Yes, yes, Your Honor.

16 THE COURT: All right. We still have Mr. Clarke's
17 matter to deal with. If there's nothing further, we'll be at
18 recess on this matter. Thank you.

19
20 (THE PROCEEDINGS CONCLUDED.)
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23
24
25

C E R T I F I C A T E

I, Nancy L. Bauer, CCR, RPR, Court Reporter for the United States District Court in the Western District of Washington at Seattle, do hereby certify that I was present in court during the foregoing matter and reported said proceedings stenographically.

I further certify that thereafter, I have caused said stenographic notes to be transcribed under my direction and that the foregoing pages are a true and accurate transcription to the best of my ability.

Dated this 7th day of September 2010.

/S/ Nancy L. Bauer

Nancy L. Bauer, CCR, RPR
Official Court Reporter