

1 (Proceedings began 4:38 p.m.)

2 THE CLERK: Criminal cause for arraignment, Case
3 Number 15-CR-252, United States v. Eduardo Li.

4 Counsel, your name for record.

5 MR. TUCHMANN: Paul Tuchmann for the United States.
6 With me Keith Edelman.

7 MR. EDELMAN: Good afternoon.

8 THE COURT: Good afternoon.

9 MR. ROSENTHAL: Sam Rosenthal with Squire Patton
10 Boggs, appearing for the defendant Eduardo Li, with Corrine
11 Irish.

12 THE CLERK: Also present is Spanish interpreter
13 Maristela Verastegui, previously sworn.

14 THE COURT: Good afternoon.

15 Good afternoon, Mr. Li.

16 THE DEFENDANT: Good afternoon.

17 THE COURT: All right. So I'm going to advise you
18 that you have a right to remain silent. Anything you say here
19 today can be used against you. You're sitting next your
20 attorney. You can feel free to consult with him privately at
21 any time.

22 THE DEFENDANT: Thank you.

23 THE COURT: Have you had a chance to speak with your
24 lawyer about the charges against you?

25 THE DEFENDANT: Yes.

1 THE COURT: Do you understand them?

2 THE DEFENDANT: Yes, sir. Yes, sir.

3 THE COURT: Would you like me to read the indictment
4 publicly?

5 MR. ROSENTHAL: Your Honor, no. We can expedite.
6 We waive reading it and he's pleading not guilty and we do ask
7 for a speedy trial, Your Honor. We waive reading and plead
8 not guilty.

9 THE COURT: Okay.

10 MR. TUCHMANN: A speedy trial.

11 MR. ROSENTHAL: We would ask for a speedy trial.
12 We're not waiving.

13 MR. TUCHMANN: Well, as to the --

14 THE COURT: But, look, let's talk first about bail
15 issues or defense --

16 MR. ROSENTHAL: Your Honor, on bail we anticipate
17 submitting a bail package and we ask that it be put over to a
18 date. It will take us a little time. I hope to do it
19 expeditiously but we've done the bail package today and we
20 intend to provide one to the Court.

21 THE COURT: All right. Do you want to schedule a
22 hearing now or just have an order -- a detention order entered
23 with leave to be calendared?

24 MR. ROSENTHAL: I'm afraid with the holiday coming
25 up it may slow things down. I hope not, but it may slow

1 things down and so it might be better if we put it over and
2 advise the Court when we're ready to proceed.

3 THE COURT: All right.

4 Do you understand what your lawyer said?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: All right. So I'm entering a detention
7 order and you have the right to come back to court whenever
8 you're ready to make bail of the case.

9 THE DEFENDANT: Thank you.

10 THE COURT: Now, on the speedy trial issue.

11 MR. TUCHMANN: Yes, Your Honor. In this case on
12 Wednesday Judge Dearie entered an order excluding speedy trial
13 time until the next status conference in the case, which is
14 scheduled for March 16th at noon. Under the law there is one
15 speedy trial clock for a case. There's not different speedy
16 trial clocks for defendants.

17 So while Mr. Rosenthal -- or Mr. Li through
18 Mr. Rosenthal can make an objection for the record, I believe
19 that speedy trial time has already been excluded until that
20 date. And so he doesn't have to sign anything and he doesn't
21 wish to sign anything, but I'm not sure what the import of
22 that is in light of that fact. Certainly we will alert --
23 well, if Mr. Rosenthal wishes to send a letter to Judge Dearie
24 or otherwise alert Judge Dearie and -- about his position then
25 he should do that. If he has a different view on the speedy

1 trial clock running or not running based upon Judge Dearie'
2 order yest -- on Wednesday, he can state that as well.

3 MR. ROSENTHAL: We don't understand a motion to be
4 pending. I think if the Government wanted to submit a motion
5 we would happy to respond to it but we have not waived --
6 not -- cannot waive. Your Honor, our reasoning is quite
7 simple. If there is a detention order we understand from the
8 other defendants of the record the docket shows quite severe
9 conditions and if our client, in fact, is incarcerated we feel
10 compelled to ask for our speedy trial rights.

11 The other thing, Your Honor, is we would ask for
12 discovery -- our Rule 16 discovery. We made a request five
13 months ago and we would ask that the Government proceed
14 expeditiously and if Your Honor would order forthwith and them
15 to turn over -- to have any Rule 16 discovery. They've
16 indicated that they do want us to sign a protective order.
17 We're happy to see one, but we have not at this point seen a
18 protective order that they requested. I would ask for
19 discovery.

20 MR. TUCHMANN: I guess, Your Honor, as to the
21 first -- as to the speedy trial issue there is no order by the
22 Government because this case has already been designated
23 complex by Judge Dearie and it's on that basis, and perhaps
24 none others -- I wasn't present on Wednesday -- but it was on
25 that basis that speedy trial time was excluded through

1 March 16th. And again, the case is complex. There's no
2 separate speedy trial clock for different defendants.

3 So again, first of all, the notice of objection for
4 the record and this order from Judge Dearie, but I don't
5 believe that has any import on whether the speedy trial clock
6 actually has begun to -- it's been told or not with respect to
7 this defendant.

8 Second of all, as to --

9 THE COURT: And just for the record there's no
10 motion before me from either party at this point. If each
11 side has its own expectation as to a speedy trial, then at
12 some point one side or the other will have to make a motion to
13 Judge Dearie.

14 MR. ROSENTHAL: Our request -- we're making it
15 now -- is for a speedy trial.

16 THE COURT: I can't schedule a trial.

17 MR. ROSENTHAL: I understand, Your Honor.

18 THE COURT: This is an arraignment. If --

19 MR. ROSENTHAL: I understand, Your Honor.

20 THE COURT: If that's something you want from Judge
21 Dearie --

22 MR. ROSENTHAL: I do understand.

23 THE COURT: Okay.

24 MR. TUCHMANN: As to the discovery issue we -- while
25 this defendant has just arrived in the United States and has

1 just been arraigned today, there is discovery that will be
2 provided and will be provided expeditiously. I plan to
3 provide the proposed protective order to counsel early next
4 week and once he signs it I believe there will be discovery
5 that we can give him and there should be discovery we can give
6 him next week even absent a protective order. So the
7 Government is aware of its Rule 16 obligations. We'll comply
8 with them, but -- and it will comply with them expeditiously.

9 MR. ROSENTHAL: The charge has been pending seven
10 months and we had asked for Rule 16 discovery five months ago.
11 We're happy to act as expeditiously as the Government will
12 allow us, to but we haven't seen a protective order and we do
13 think we are entitled to discovery, particularly if we're
14 asking for a speedy trial.

15 THE COURT: Is there one standard protective order
16 in this case or are there different orders?

17 MR. TUCHMANN: There have been no protective orders
18 entered yet as to any of the defendants yet. So we will give
19 the protective order to counsel early next week that we will
20 propose to counsel.

21 THE COURT: Okay. So, well, it's almost 5:00
22 o'clock on Friday, so early next week is like tomorrow in
23 business terms.

24 MR. ROSENTHAL: Or Christmas Eve in holiday terms.

25 MR. TUCHMANN: Christmas Eve is not until Thursday,

1 Your Honor.

2 THE COURT: Right. I assume you're talking about
3 Monday.

4 MR. TUCHMANN: I hope to get it to him by Monday.

5 MR. ROSENTHAL: And, Your Honor, if they could
6 provide us with at least the start of the discovery on Monday
7 we would be appreciative of that.

8 MR. TUCHMANN: As I said, the defendant has arrived
9 in this country today. We will provide discovery
10 expeditiously and we will honor our ex -- our obligations to
11 do that.

12 THE COURT: Okay. So if you -- I assume you'll be
13 getting the protective order on Monday, Tuesday morning at the
14 latest and we'll work from there.

15 MR. TUCHMANN: I'm sorry?

16 THE COURT: I said I assume that counsel will
17 receive the protective order Monday or Tuesday morning at the
18 latest and then we'll move on.

19 MR. TUCHMANN: That is my -- I believe so, yes.

20 THE COURT: Yeah. Okay.

21 MR. ROSENTHAL: I could only request, Your Honor.
22 I -- and again, in light of the fact that the defendant has
23 been incarcerated for seven months and he's made a request
24 five months ago for Rule 16 discovery and I think Your Honor
25 is probably quite right, it's probably a standard protective

1 order.

2 THE COURT: Well, it sounds like the Government's --
3 will move quickly on this and your request will be honored for
4 the protective order and then the discovery will move right
5 afterwards according to Mr. Tuchmann. So if you have a
6 problem you'll let someone know.

7 MR. ROSENTHAL: I certainly will, Your Honor. Is it
8 possible to schedule at this point a status conference with
9 respect to the discovery issue?

10 THE COURT: What's Judge Dearie doing with that at
11 this point?

12 MR. TUCHMANN: There is a status conference in this
13 case on March 16th at noon. If counsel for whatever reason
14 wants to see Judge Dearie earlier than that I think he should
15 make a submission to Judge Dearie as to what he needs a status
16 conference for. I don't -- we certainly haven't talked to
17 Judge -- again, Judge Dearie's expectation is the next
18 appearance in this case is on March 16th for every defendant
19 and that's what we are expecting. Counsel is free to make an
20 application to Judge Dearie for an earlier appearance.

21 MR. ROSENTHAL: That's 115 days.

22 THE COURT: Well, again, if -- I know just having
23 read what Judge Dearie said, as quoted in the newspaper, that
24 he'd like to see this case move as quickly as possible. You
25 certainly can make a motion to him, a request, and I'm sure

1 he'll address it quickly. And he'll either handle it or refer
2 it to me.

3 MR. ROSENTHAL: Thank you, Your Honor.

4 THE COURT: Anything else?

5 MR. TUCHMANN: No, Your Honor.

6 THE COURT: Okay. Anything else?

7 MR. ROSENTHAL: No, Your Honor. Thank you for your
8 indulgence and staying late and it's very much appreciated and
9 avoided a trip to the courthouse on Saturday.

10 THE COURT: It's not late yet.

11 MR. ROSENTHAL: Okay.

12 THE COURT: Okay. All right.

13 MR. TUCHMANN: Oh, and can I -- can I talk to an
14 agent for one second, Your Honor?

15 THE COURT: Um-hum.

16 [Pause in the proceedings.]

17 MR. TUCHMANN: No, Your Honor. Nothing further.

18 THE COURT: Okay.

19 MR. ROSENTHAL: Thank you, Your Honor.

20 THE COURT: All right. Thank you.

21 THE CLERK: Thank you.

22 (Proceedings concluded at 4:48 a.m.)

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1 I certify that the foregoing is a court transcript
2 from an electronic sound recording of the proceedings in the
3 above-entitled matter.

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7 Ruth Ann Hager, C.E.T.**D-641

8 Dated: December 31, 2015
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