

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

UNITED STATES OF AMERICA,)	
)	
)	
v.)	Criminal Action
)	No. 20-10177-PBS
)	
AMIN KHOURY,)	
)	
Defendant)	
)	

ROY BLACK’S CLOSING ARGUMENT

[edited for clarity]

May it please the Court.

And good morning, ladies and gentlemen.

I can show you where this case began to fall apart.

This is slide 213 [excerpt of government opening statement].

This is how the government started this trial, telling you that -- of course, this is what they were told by Mr. Donovan [immunized witness], not themselves -- that's how they get this information – telling us that Katherine Khoury is going to masquerade as a tennis player and go to Georgetown University and tell them that she

has an old shoulder injury, and therefore she can't play tennis anymore. That is the scheme. That's how they started off this trial with this so-called scheme, and they just repeated it again today, that Katherine Khoury, this 18-year-old girl, was going to go to Georgetown masquerading as a tennis player with a bad shoulder.

There's no chance in the world that this man would have his 18-year-old daughter be dragged into some crime and forced her to go to school and fabricate a story that she has a fake shoulder injury. There's no way in the world any father is going to do that to his 18-year-old daughter. Well, maybe there is in the world, but not in the world we live in.

Recall Katherine Khoury. You saw her on the witness stand. She testified at 25 years old. Think about her at 18 years old. Think about who she was, what kind of person she was. You heard from the teachers. You read the reports in her college application -- that she had the admiration of everybody at her school. That she was the hardest-working kid at the school. That she may not have been the best student. She may not have been great at math. She was not a 5-star tennis player, but she was honest and had integrity and stood up for people. There's simply no way in the world the girl that you know, that you saw, that you read about, that you heard about in this courtroom, would masquerade at a university claiming she has a fake shoulder injury. There's simply no

way that that unbelievable story, that demeaning, ugly story has any truth to it -- none.

It's made up by Tim Donovan as part of his scheme to get immunity, and that's all there is to it. It is the only scheme in this case. The Tim Donovan scheme. That's what he and his lawyer came up with.

And you know what the fatal flaw was? They didn't know about the text messages. They didn't know about the text messages between Katie Khoury and her father throughout the summer of 2015 leading up to her freshman year at Georgetown University. They don't know what went on in the Khoury family and what happened to Katherine Khoury, and why she really didn't play tennis at Georgetown, because they had never seen those text messages, so they didn't know the facts, the truth.

The text messages are irrefutable because they were written in 2015 in May and in that summer through October of 2015. And these text messages are ugly. You know that expression, "The truth will set you free"? Well, this is the truth. It may be ugly, it may be painful, it may be hard to listen to. It is certainly hard on Amin Khoury to re-experience

this, but it's a hard truth, and it's true. It's not like this phony story that this guy and his lawyer have made up in order to escape the fact that he's a criminal and a tax evader. The whole thing was made up by the two of them; and using this young girl and accusing her of this, to me, is the most despicable part of this case.

So what happened in the summer of 2015? Why didn't she play tennis? What happened to her? Well, we've got the evidence right here. We've got these text messages. She sent them to her father. This had to be one of the most difficult things in his life to get these text messages from his daughter [counsel walks over to the defense table and stands in front of his client and reads the individual messages to him one by one]:

"I literally hate you."

"Of course I think you are despicable."

"It was selfish and deceitful."

"I'm ashamed of you."

"Because mommy made me be nice and invite you, but, truthfully, I have zero interest in seeing you ever again."

"I talked to mommy, and she said she'll try to be in the Cape in order to make the therapy as functional as possible."

They're in therapy in the summer of 2015, not making

up shoulder injuries.

"The night of my graduation is supposed to be a fun celebration. I don't think it will be if you come."

"Lexi [her sister] and I are not doing that well."

"I hope you know that your family isn't able to exist peacefully together. And won't spend another holiday together."

"I will forever blame and resent you and have zero interest in sharing vital parts of my life with you."

That's what Katie Khoury was saying in the summer of 2015, not making up some story about a shoulder injury.

They're in therapy. Think about the angst. Think about the pain of an 18-year-old girl writing that to her father, the father that she loved more than anything else in life, that played tennis with her since she was five years old. Just think of where the source of that pain is coming from, and you know what this girl is going through.

And I didn't read the last one. This is from October 14, after one month at college:

"If you cause us another ounce of pain, I'm going to jump off a building."

We didn't get to read that text the first time around during her testimony. You know why? Because they objected. They said this is irrelevant. They didn't want you to hear this. Even in this courtroom, they will not recognize the truth. "It's irrelevant."

I don't know how many of you remember this, but this was what I thought was a shocking event. There was a young girl at the Olympics, Simone Biles --

MS. KEARNEY: Objection, not in evidence.

THE COURT: Well, let him have his closing.

MR. BLACK: I'm sorry, your Honor? Can I --

THE COURT: Yes, you can move forward.

MR. BLACK: And she came up to her number one event, an event she spent her whole life training for, her whole life, and she was unable to do it. Her mental state was such, she said, "I just cannot do it." And there she is in front of millions -- no, billions of people on television, and she had to say that. And what happened? She suffered this backlash: "You have to toughen up. We lost a gold medal because of you." Just imagine feeling like that.

Now, think about Katie Khoury in her first semester of college.

Things are so bad, her mother had to come down to school to get her out of bed, to put her into the shower. Her world was collapsing all around her, and they expected her to go and play tennis? I mean, when your world -- when your family is falling apart, when you're all in therapy together, when you're worried about your sister, your father, your mother is having all kinds of problems, the last thing on your to do list is tennis.

And think about Amin Khoury. His family is falling apart. His daughter has gotten into school. She goes out and has a drink with her sister and her friend to celebrate, and all of a sudden they're thinking of revoking her admission to the school. Can you imagine if that happened on top of everything else that this girl was suffering? What do you think that might do to her?

So Amin he calls up his friend. They suggested that he call Gordie Ernst, "Why don't you get him involved to save this?" It wasn't his idea. He was told, and we have the e-mail there. Meg Lysy tells Matt DeGreeff, "Have Amin Khoury talk to Gordie Ernst to help her." And he does. If you're ever going to give somebody in your life a gift, a thank-you, money, help when they're in need, it's going to be the person who helped you in your toughest period of time. Who else would you want to help?

Here is the man who's losing more than half of his income, who's desperate, who keeps asking Georgetown for help, and they draw up these plans. We don't know what happened to them. By the way, they say that, well, it wasn't implemented.

I'm sorry. I don't believe anything they say unless they come with a document that shows it, and they didn't come here with any document. But putting that aside, what does the Georgetown family do for them? You heard the mantra, "We all get together. We're the Georgetown family. We all help each other out"? They did nothing, nothing. After destroying over half the source of his income, they did nothing. As for the Georgetown family. Give me a break. They abandoned him. The only family that helped him was the Khoury family, and they want to turn that into a crime.

When your friend who helped you out, who did things for you that nobody else could do, that helped save your family or saved it from not being worse, that somehow you ought not to help him out in his time of need. You saw it. He not only lost half his income, his family is sick, his brother died, his father was dying. This guy was desperate. And where was everybody else? All these people that come in here, all these over-educated, arrogant people come in here willing to judge everybody else. What did they do? Nothing.

I believe that the credible evidence in this case shows there was never any bribe, there was never any agreement made, instead Katherine Khoury got into school on her own with the help -- with the help -- of her father's best friend from Brown University, which was fully disclosed to the school.

It all starts at the Brown tennis reunion at the Capital Grille. You heard the voicemail from Tim Donovan: "Let's have two or three or five or six drinks and have a good time." That's all it was. There's nothing on the horizon about Katie Khoury or tennis or Georgetown at all. Nobody knows anything, and they go to the dinner. And they're sitting around the table, Gordie Ernst, his brother Bobby, Kevin Wyman, Mike Fried, Amin Khoury, and they're drinking. They're having a good time. And what does Tim Donovan want you to believe? That when they find out that Katherine Khoury is going to college and wants to play tennis, instead of saying like old friends, "Sure, we'll help you out because this is what old friends do, old teammates, we were together all those years ago," no, somebody said, "Yeah, I'll do it for a \$200,000 bribe." Have you ever heard of such a thing happening around the table like that, with old friends just getting together, and all of a sudden, out of the blue, your family needs help?

"Sure, I'll help them for a \$200,000 bribe."

And what is the first thing that Donovan does after the dinner? This is slide 220.

The first thing he does after the dinner is, he sends a text message. And this is what we have. We only have a couple of -- three or four text messages from Tim Donovan, and I'll get into that a little bit later about what happened with his text messages, but he sends a text message to Mike Fried, the coach at Wesleyan, saying that, "Well, maybe would you be interested in Katherine if Khoury can donate \$400,000 to \$500,000?"

Now, wait a minute. They want to convince you, these people from Georgetown come in here and they want to convince you that money has nothing to do with college admissions. If you believe Meg Lysy, you can believe that one, right?

Katie has not even applied to Wesleyan, and they're negotiating with the coach and the athletic director how much money they're willing to take to let her into the school. That's these people. This is what these schools do. And the government comes in here and says, "Money has nothing to do with admission into the schools"? We have the proof right here. How more stark could it be than that?

And why in the world is Tim Donovan contacting Mike Fried at Wesleyan? According to Donovan, on the way back, on May 23rd, on the way back to the hotel, he agrees to join this conspiracy with Gordie Ernst that he's going to get paid to get Katherine into Georgetown. So if that's true, why is he talking to Wesleyan? Why is that the first message he sends out? He's not getting paid; he's just going to get a success fee there, according to what he testified to here at the trial. But why would you do that? If you really had a bribe or agreed to pay a bribe to get into Georgetown, why in the world would there be text messages trying to get her into Wesleyan and finding out how much it would cost? Proof there was no agreement. Proof there was no bribe.

And what was his testimony? This is Slide 20. This is before she files any college application. The money is to “support” the Athletic Department. That's what they call it:

"Were you willing to donate to support the Athletic Department, to support athletics at Wesleyan? Yes. Support things like the tennis team at Wesleyan? Yes."

And then we get to the key exhibit in this case,

Exhibit 7. And, by the way, they had Donovan come up with some story in an effort to devalue this e-mail, but it can't be done because what happens? Here you have Amin Khoury sending an e-mail to Matt DeGreeff asking him to contact Gordon Ernst to ask him about whether or not Katherine can be recruited for an athletic slot. And what does Amin say? "Because these types of discussions can always be easy to misinterpret." Why could it be easy to misinterpret?

This is Slide 32.

This is part of Donovan's testimony. At the dinner alone there is several bottles of wine for six people. They were drinking all night. So what does Amin Khoury do? He says, "Look," he talks to the college counselor -- and, by the way, at Middlesex, I have to give them credit; they do an unbelievable job helping kids apply for college. And he calls up the counselor, or e-mails him here and says, "Look, I had these conversations, but I'm not sure what was said." You know, this is during the dinner. This is not something like a formal contract. "Can you contact Ernst because I'm worried that I may have misinterpreted what he said?"

Did you ever hear of anybody entering into a bribe asking a third party, "Oh, would you please call up the person I'm going to pay a bribe to and ask to clarify terms of the bribe"? Is that believable? Is it believable that you would put this

man, Matthew DeGreeff, in the middle of some bribe conspiracy?

You saw Matt DeGreeff. He has a Harvard degree, an MBA from Harvard, after graduation worked in the Harvard Admissions Office, has been a counselor at Middlesex for 20 years, was on NCAA committees, was on the SAT committee, has put hundreds of kids, hundreds of kids into college. Nobody does that job unless they love kids, unless they love working with kids. That's who he is. He's not some criminal.

And so he's the one who contacts Gordie Ernst to find out what's going on, and here is his testimony, in slide 106. I always find it's useful to show parts of the trial transcript to refresh your recollection about what the witnesses testified to because you just can't remember everything, and here is his testimony. He testified that Amin Khoury wanted him to confirm it because it was easy for him to misunderstand what happened, and he was anxious that maybe he misunderstood it.

Question: He's telling you he's anxious because he's worried that maybe he misunderstood or misinterpreted or misheard what Gordie Ernst told him, right? "

Answer: That's exactly what he's telling us, yes."

So what happens? He contacts -- well, before we get

to that, let's put up exhibit 222 to put them in chronological order. This is a text message from Tim Donovan to Amin Khoury July 30, 2014.

"Georgetown admissions would not take Gordie's top 50 recruit without taking the SAT, which she didn't want to do. She just accepted a scholarship offer from BC. We dodged a bullet."

"We dodged a bullet." And I'll show you in a minute why that is, because Gordie Ernst had already recruited two 5-star recruits. He's got three athletic slots. He's already used up two. The third one was going to this young lady who is a top 50 recruit, but Admissions at Georgetown wanted her to retake the SAT, and she said "no." So instead she went to BC to play tennis there. The only reason the slot opened up for Katie is because this young lady declined to take it. This is not some sure thing like a bribe. A bribe, you wouldn't care about this because he wouldn't have recruited another girl, but he recruited her right through July, but she refused to cooperate and went elsewhere.

Slide 107. Matt DeGreeff testified that Gordie Ernst had three slots. The two All Americans were committed. And he wanted to use the third slot for Katherine because he and Amin Khoury

were friends. He and Amin Khoury were friends.

Put up Slide 6.

And here is Tim Donovan saying the same thing: "He already had two 5-star recruits that he got during the summer. The third one was a young lady who went to BC instead, and that's why you said 'We dodged a bullet.'" Why would a co-conspirator say "We dodged a bullet"? If it was a guaranteed thing, a bribe, there's nothing to dodge.

Put up Slide 5.

And then we get to the SAT examinations. And, by the way, I think it was very unfair the way that was presented. With a number of witnesses, the government showed the results only of the first two tests Katie took. She took four tests altogether and improved her score each time. But how misleading is it just to put up the first two to try to make her look bad? That was not the deciding factor at the college. They consider the highest scores that you have, not the lowest. I think it was just so unfair to denigrate her like that.

So she kept taking the SATs. She took it four times, and she kept improving. Not only that, but she talked to DeGreeff about how she could improve her GPA at Middlesex, "What courses can I take? Are there other things I can do?"

How do I study for the SATs?" Her father in an email saying she's going to be studying over the holidays in order to raise her scores. Well, why do you have to raise your scores? Why do you have to worry about your GPA? Why, time after time, many times did they ask, "Send her transcripts, send her updated transcripts, send her updated SAT scores"? Why did anybody care about that? If it was a guaranteed thing, why care? Why go through all that? Is it some sort of charade that you just keep taking these tests and keep doing this work? They're going to want you to believe, I'm sure, that, oh, that's another cover story they came up with.

Well, she was a hardworking young lady. Don't you remember what -- some of those things that were said in her application I thought were extraordinary. There was one from her math teacher, and we know math was her most challenged subject, yet her trigonometry and analytical geometry teacher said, "She was the most highly focused, hardest-working student I ever had. I ever had, the most."

And we know she was struggling with her ADHD at the time, but this was a young lady who worked very hard to try to get ahead, to try to get into college, to try to improve

herself, to improve her scores. She's not part of some devious conspiracy. I think that's just anathema to even suggest that.

And then Matt DeGreeff -- this is Exhibit 132 -- said that when he spoke to Gordie Ernst, he didn't say, "oh, yes, I have a slot for Katie Khoury. Don't worry about it." No, no. He told DeGreeff that he's going to have to wait until he has a good handle on his recruiting class before he makes a decision about Katie Khoury. This is not a done deal. He's going to wait all the way till the end.

Exhibit 17 please.

We're now five months later, mid-October. You remember that Gordie Ernst said, "Well, I'm going to have to see how my recruiting class goes"? Well, Matt DeGreeff -- and I asked him, "Why did you do this?" He said, "That's my job. I follow up on things." Five months later he emails Ernst, "Do you have any further progress or any more thoughts on Katie being part of your recruiting class?"

And what is his reply? Exhibit 13. He's happy to talk about Katie, because he had the best recruiting year in memory, two 5-star recruits, the same thing we heard from Donovan, the same thing we heard earlier from DeGreeff. Now we're hearing it directly from Gordie Ernst, that he

has three slots. Two were taken up by the two 5-stars, the SAT girl dropped out, and now there's one spot or one slot available.

Next Slide 121.

Gordie Ernst then asks in the e-mail saying, "Well, send me Katie Khoury's transcripts and scores." And what did Matt DeGreeff say? "Well, I had already sent them to you back in July." Ernst had forgotten that he even had them because Katie Khoury was not anywhere on his mind for five months. Even though he had the scores, the transcripts and what have you, he asked for them all over again, and Matt DeGreeff sends it to him.

Exhibit 17. When he gets the updated transcripts and scores, what does he do? He sends them to Meg Lysy [Georgetown admissions officer]. And with the explanation, "This is the daughter of my best bud from Brown." Total transparency. He tells the admissions officer about the relationship. He doesn't hide it from them.

Slide 110.

Mr. DeGreeff testified that he talked to Gordie Ernst about her academic performance, that Ernst said that she had to

improve her grades, that she had to work on improving her scores. Why would he say that? If this was a done deal, why would he even say that?

And then what happens? Exhibit 223. This is a text message in March of 2015 from Tim Donovan congratulating the Khourys on their daughter being admitted to Georgetown. And what does he say? "The Vatican might want to see it as proof that miracles still happen!"

That miracles still happen.

You know, you pray for a miracle.

You don't pay for a miracle.

If this was a bribe that was preordained, why would Tim Donovan say that to Amin Khoury? It's only the two of them in this conversation. He calls it a miracle that she got in.

And why was it a miracle? Think of all the things that had to line up. They had to wait for Gordon Ernst's final recruiting class, then he had three 5-star recruits that filled up his recruiting class, but at the last minute one of them decided not to go to the school, so that freed up a slot.

And Katie Khoury kept improving her grades. The deal

was for her to work time and time again to try to get her better, to get a better GPA, get better SATs. All these things fell into place. That's the only reason that she got this slot, the only reason why, not because of a bribe but because all these things worked out. And if this really was a bribe, why would you worry about all these things? Why would they even be on the horizon? Why would they be talking about them?

The government's case relies upon a conspiratorial agreement being entered into at the reunion dinner, and I ask you, at what point in this dinner was a deal struck? Where is the evidence of it? You heard what Donovan says about Ernst, but where is one word about Amin Khoury agreeing to commit a crime, one word?

Slide 25. I asked Donovan this:

"QUESTION: While you were sitting there, did anybody say, for \$200,000, we'll get your daughter into school?

"ANSWER: No.

"QUESTION: As a matter of fact, there was no discussion of any crime during that dinner, was there? So there was no discussion at that dinner of someone committing a crime?

"ANSWER: No."

And then I asked him:

"QUESTION: Finally, Is there any evidence, anything that happened of somebody suggesting a crime or a bribe that you heard?

"ANSWER: No."

Slide 32, and once again this is the source of information that the government is relying upon. There were several bottles of wine drinking at that dinner, and then they went to the party and had more to drink. That's the source of the information that they're relying upon for their case.

The prosecutors try to convince you that the timing of the payment is of no consequence to the charges, but the Court will tell you that the opposite is true; that if you agree to pay before an official act is done, that is a crime, but if you pay afterwards as a thank-you for somebody who has done something for you, that is not a crime. And the Court will instruct you, "If you find that Mr. Khoury agreed to pay only after Mr. Ernst designated Mr. Khoury's daughter as a tennis recruit, you must find that he is not guilty of bribery."

And "Finally, if Georgetown condoned or provided its tacit approval, either directly or indirectly for the payment, then the government has not proved there was a bribe."

We'll get to that in a minute about the tacit agreement, but the important part here is, if Khoury only agrees to pay after his daughter was admitted, after she was admitted to the school, after she had the problems with underage alcohol, after or during the time that they're thinking of revoking her admission, when she's going to the disciplinary committee, when she's suspended at Middlesex, when she has to write letters of apology, when Gordon Ernst comes in and helps bail her out with Meg Lysy, the admissions officer, who's making that decision regarding discipline, if in fact Amin Khoury is thanking him for doing all that, for saving what's left of his family, that is not a bribe and it's not a crime.

Bribes are paid in advance;
thank-you's are paid afterwards.

You don't pay the building inspector afterwards, after he's passed your building. People have to pay in advance.

Slide 22.

The government, of course, makes much about the fact that the payment was made in cash. And what did the government tell you in the opening statement? "You will hear the defendant, when paying it, he didn't use a check. He didn't use a wire transfer. He didn't call his bank and ask them to transfer the money. He didn't e-mail his personal assistant and ask him to transfer the money, none of that."

Well, put up slide 227, please. In fact what was the evidence -- please take a look at these exhibits. They are Exhibits 49 and 50. Mr. Khoury's personal assistant, Karl Saunders, on May 5, 2015, e-mailed two Credit Suisse representatives, Lorrie Malanga and Maria C. Alliferis. We have the e-mail, there's a letter attached to it requesting the funds, and remember they said that he didn't ask his assistant to do it? Well, here it is in evidence. And attached to the e-mail is the letter executed by Amin C. Khoury requesting \$200,000 in wire transfers to his account at Wells Fargo. He had the money wire transferred from Credit Suisse to Wells Fargo. And then Exhibit 51 is a withdrawal slip from the checking account at Wells Fargo in the name of Amin C. Khoury authorizing and signing for the in-person withdrawal. So for them to say that this is not documented is simply not true. And what was the motivation for paying in cash? Why was Donovan paid in cash or why did Donovan want cash? Well, we know he has done this a number of times. He admits it. There was a young lady called MK -- we can't use her name -- but he got a fee, a success fee of \$50,000 for getting her into Swarthmore, \$50,000. And he told the parents, even though there's no crime involved, no paying of coaches, nothing, "I want you to pay me in cash," and they paid him \$50,000 in cash. Why? So he could avoid paying income tax.

He is the one who has the tax obligation. He's the one

who committed the tax crime. Giving him the cash is not a crime. There's no tax consequences to paying someone any money. The tax consequences is receiving it as income. That's why he wanted it in cash, so he didn't have to report it. And he did this on his success fees. Why? Because they're not documented; they're not in his contracts. It is kept separate.

Please put up slide 55. And I asked him:

"QUESTION: That allowed you to hide the money and not pay taxes on it, correct?

"ANSWER: Yes.

"QUESTION: You wanted it in cash so you could hide it and not pay taxes?

"ANSWER: I did not pay taxes.

"QUESTION: And how did you get the cash?"

This is talking about MK's father bringing the cash to him.

Slide 54. And I asked him, "So you demanded it to be paid to you in cash?" and he said, "I don't know if I demanded it, but I was happy with it."

"Even though it was entirely legitimate, the \$50,000 was paid in cash, right? "Yes." And then he admits that he didn't pay any of the tax on it.

And, by the way, I think we brought out he never initially told the government about this payment to begin with. It's somewhere down the line that he finally tells them about it.

If we could put up Slide 189. This is from the testimony of Meg Lysy, the admissions officer that the government relies upon to say that fundraising potential and money doesn't get you admitted to the school.

And I asked her:

"QUESTION: Do you do investigations of families?"

"ANSWER: No.

"QUESTION: Are the parents made targets for donations?"

"ANSWER: No."

Now, here, let me get it from here:

"QUESTION: Do you have investigations into the net worth of parents of potential students?"

"ANSWER: No, we don't do that.

"QUESTION: Isn't it a fact you put down things like how much their home is worth?"

"ANSWER: No.

You didn't see that, did you?

We introduced Georgetown emails asking – What kind of business does the family they have? Remember the emails relating the fathers were CEOs and how important their business was and what their philanthropic history is?

What does she say about that? "I've never heard of that."

"QUESTION: Are you aware that Georgetown sets targets for the fundraising for the parents of potential students?

"ANSWER: No.

"QUESTION: You've never heard of that?

"ANSWER: No."

None of that's true. We proved it because we subpoenaed all their e-mails. That's what they plan for at the school.

They research how much people's homes are worth, what their net worth is, how much they've given in the past, how much they can expect to get from them, what their net worth is, what they're president and CEO of.

And put up Slide 158.

This is when Lysy got on the witness stand and she was asked questions by the prosecution about whether Katherine Khoury was worthy to be admitted to her school, and she gave an opinion. And then we found out to our surprise when questioned by the prosecutor she would automatically say "yes" to their questions. I'll show you that in a minute.

She admitted on cross-examination she never read Katie's application. Even before coming to this trial, she didn't read her application. Even though she went to the U.S. Attorney's Office, met with them, I don't know how many times, and they showed her these documents, yet she still never reads them. And then she comes in here and gives an opinion that Katie's not worthy for their school without even reading the application. She didn't read it the first time; and she didn't read it when she was preparing to testify. The only time she read it is when I forced her to read part of Katie's essay when she was on the witness stand. How could she come in here and give an opinion about this young lady without doing any research, without reading the basic documents, especially the college application?

That's an insult to this process. It's an insult to what we do in this courtroom. It's an insult to the American justice system. If somebody's going to come into court and give an opinion about another person and say they're not worthy to go into a school, you have to at least read the documents. I just can't imagine that this is what goes on in the school -- that she doesn't read them; and worse, that when she came here, she still didn't read it.

And then I asked her -- the government on direct examination had her look at one of Katie's essays, and, of course, they're trying to make the point that she's not really a tennis player and doesn't have anything to do with tennis, and they have her look at the essay, and they say, "Well, is there anything about tennis in that essay?" And you can see it's right there, right in front of her eyes, and what does she say? "No, she doesn't say anything about tennis," because she knows that's what they want to hear. Really, she's willing to answer whatever question they want how they want it. That's the power of federal prosecutors. You don't think it's intimidating for people to go to their office and deal with FBI agents and federal prosecutors? They're happy to say "yes" to all their questions. They don't meet with us. They only meet with them, and that's where they practice their testimony. And she says, "No, it doesn't say anything about tennis." Why? Because the prosecution is trying to point out Katie is not really a tennis player and doesn't care about tennis and doesn't bother to mention it, even though, I know you know, because it came out, you've got several paragraphs throughout the application, particularly in the letter from Middlesex talking about her being from a tennis family, and what her tennis strokes were like,

and how she performed on the team, and that she was a great teammate, and she also played squash. All of that is in there.

But, oh, no, they point Lysy to that one page and try to get her -- and do get her to say it doesn't mention tennis so they can get up here and argue to you, "See, she's a fake tennis player, she's just masquerading, this 18-year-old girl, she's just making it all up, she's a phony tennis player." That's their mantra from the beginning of this case: She's a phony tennis player.

Now, one thing you can't say about Katie Khoury that she's phony anything. Did she ever lie about who she was? Did she ever exaggerate her qualifications? Did she ever say she was a 5-star tennis player? Did she say she was a great player? No, just the opposite. She told the truth time and time again. And they try to twist that into her masquerading as a tennis player. And she never claimed to be the best student. She doesn't get the highest SAT score, but she reported every single one of them and told the truth about them. Every word in that application that she filed, that you've seen, is truthful. She told the truth over and over again, even when it wouldn't help her. And they accuse her of

being a fake, of pulling a masquerade, of claiming she has phony injuries. That's how far they're willing to go to convict this man, to get at him through his daughter. There's no chance she is any of what they say. You saw her. You read these materials. Make your own judgment.

The Court is going to instruct you, and I just read part of it, if Georgetown gave explicit or tacit approval for Gordie Ernst to accept money from donors, then it is not a crime; it is not a bribe. So what is the evidence on that?

Let's examine Exhibit 305. This is the Plan B e-mail and memo. Dated on May 19, 2015. This is not a coincidence. We know that the money was withdrawn on May 6, 2015, by Amin Khoury. This is two weeks later, and we know that this was an ongoing conversation in the Georgetown athletic department. What are they talking about? Gordie Ernst has lost his tennis courts, has lost his summer camps and lost over half his income. He's desperate to find money somewhere because he can't live off the salary that Georgetown pays him. And what does Georgetown do when they want to do something? They fundraise. They don't take it out of their budget. They don't take it out of their endowment. They fundraise. They go ask people to give us more money. That's what this is, Plan B. Plan A is the university, in conjunction with

donors, supplementing his salary. Plan B is that private donors can come in and pay his salary directly.

Now, they try to cover this up by saying, "Oh, it's going to go through the university." Well, did you see any documents to that effect, even one document? I'm sorry to say this, but I don't believe anything they say unless they've got a document to back it up. We've got the Plan B document right here. We know this was going on, and attached to the email is the actual plan. Real Evidence.

You know that Brenda Smith didn't submit this plan without knowing what people were thinking of doing. There's a reason why this was sent to Lee Reed, the Athletic Director, and Dan Trump, the assistant Athletic Director and to the CFO of the Athletic Department. And don't you think that Brenda Smith in preparing this spoke to Gordie Ernst and told him, "This is what we're going to do for you, to get private donors to give you money, and supplement your salary."

Now Georgetown claims, "Oh, no, you can't accept an outside source of money when you're a coach," but this is exactly what they're talking about in Plan B, taking an outside source of money, and you can read the attachment which sets forth the details of the plan.

And remember this is in May 2015 when this is under consideration, it is going to be the first summer that he doesn't have his tennis camps, the first summer after the courts were ripped up in 2014. That's why all this has come to a head in May of 2015, because Gordie Ernst is asking for help. They didn't make a pledge to him, at least as far as we can determine, but Amin Khoury made a pledge. And that's why you see these text messages afterwards, because he made a promise, and he's a man who stands by his promises. When he promised to pay a certain amount, he paid it, and that's what those subsequent text messages were about, because he's a man of his word.

put up exhibit 309.

And, this email proves that Gordie Ernst is not the first coach they did that with. In fact, Lee Reed admitted that, that they've done this with other coaches, got donors to supplement their salaries. Here we have the crew coach. This email says, "We're going to hire a new crew coach, but we have no money. Go find some so we can pay the crew coach." That's what they do at Georgetown. They don't pay out of their budget. They don't pay out of their endowment. When something comes up in sports, they go to the people who pay. And who are the people who pay? I think we've seen that every time: It's the parents of the players and the alumni who were in this sport. These are the

people who support these programs. And so Ernst lost somewhere around \$80,000 a year, and they're trying to come up with the funds to replace it.

Let's look at Exhibit 287. I'd ask you to read all of them -- I'm not going to go through the entire string of e-mails, but this is the one where they're all in a tizzy because there's one young man whose father is on the Board of Trustees, and they are desperate to find a way to get him admitted to Georgetown. They say, "Well, he's not really a baseball recruit," although he can play baseball, so, you know, he couldn't get a legitimate athletic slot doing that. So it goes all the way up to Trump, who testified here: They started out with Development, getting him a slot out of the Development department. Apparently that was not successful so they shifted it to baseball to try to get him a slot on the baseball team, but alas baseball had used up all its slots. So what did they do? "Well, let's take a slot from football, and we'll move it over to baseball, and we'll make believe that he really got recruited for baseball, so in that way he'll get admitted." These are the same people who told you about the integrity of these slots when it came to tennis. While you're considering that testimony please take a careful look at this e-mail chain.

This is probably the only time they put the shenanigans in writing. Usually these things are not put in writing. I'm sure they sit around their office and decide how they're going to do it. If the person is important enough, they will bend over backwards, and they will find him a slot, even though he's not a legitimately recruited athlete. And this inevitably leads to the conclusion that Georgetown recruits athletes based in part on whether the parents will "support" the program.

That's what Gordie Ernst was doing, and we know other coaches were doing. That's where they get their sports budget from – the parents of students. And I think the best evidence of this is in exhibit 308. They're talking about doing away -- they don't have enough money for baseball scholarships -- so they're talking about doing away with baseball scholarships. And what do they say in Subsection 2?

"The coaches will either have to recruit really rich kids who can pay..." The coaches will have to recruit really rich kids who can pay. They have denied this time and time again, and here it is right in writing in their own e-mails: "We recruit really rich kids who can pay," meaning their parents will pay.

When it comes to Tim Donovan, we lost the search for

truth. All we saw was an effort to hide it. I asked him about them -- he supplied only three text messages. That's all we've seen. He admits there were thousands of text messages on his phone. Well, where are these text messages? We found out right during this trial while I was asking him a question, I asked him about these text messages -- where are they? And what did he say?

put up Exhibit 30.

And I asked him, "Out of these thousands of text messages, why were only three selected?" Only three. And, by the way, they were not the original texts. He made what's called a screenshot by making a photograph with his phone and then forwarding it so you can't find any of the metadata or any of the electronic data on it. And what does he say? "I didn't decide which text messages to turn over."

Now, come on. He and his lawyer for a year are negotiating with the government for him to get immunity. He knew everything that was going on. You really believe a guy like him who knows that he's looking at jail and being indicted for tax evasion, and you think he doesn't know what his lawyer is doing when he goes to talk to the prosecutors?

And I asked him some questions about his phone. He claims he doesn't know who made the screenshots, and he told us under oath before the lunch recess that he had turned his phone

over to the government prosecutors. And, of course, he says that -- let me see if I can find it. If we could put up slide 4.

And I asked him, "Isn't it a fact that you didn't turn your phone over to the government prosecutors?" He said:

"ANSWER: They had my phone. They had access to all my text messages."

And then after the recess he comes back, the luncheon recess, and put up slide 27. And I asked him the question:

"QUESTION: You said before we recessed that you turned your phone over to the government, right?"

"ANSWER: I misspoke. I turned my phone over to my lawyer.

"QUESTION: Oh, you found out during the recess that was false?"

"ANSWER: I misspoke. I didn't turn my phone over to the government. I turned my phone over to my lawyer."

So he never turned the phone over for an examination. It didn't go to the FBI. It didn't go to their crime lab. It was not examined by the government. There are thousands of messages, text messages on his phone, text messages which include messages between him and Gordon Ernst.

Now, what could be more important in this case than

looking at the text messages between him and Gordon Ernst? It seems to me that would be a critical part of this case, and yet, I don't know if you will remember this, when I was questioning him about it, I said, "Well, is your lawyer here in the courtroom?" and he said "Yes." And then his lawyer was sitting back there, and he stood up and identified himself. By the way, his lawyer voluntarily stood up to be identified, but did you see him offer to turn over the phone?

Let me discuss with you the Court's jury instructions. The Court will instruct you that, first of all, on the conspiracy count, all three objects of the conspiracy require that there be a bribe. If you find there is not a bribe, that resolves the issues in Counts 1 or 2. Further as I have already discussed with you, the

Court will instruct you that a gratuity, a thank-you, a gift is not a bribe. Finally the court will instruct you on the elements needed to prove a fraud. A fraud requires false statements or omissions. This refers to the application submitted to Georgetown. Katie Khoury had none of those, no false statements, nothing at all in her application that could be proven as a crime.

The Court is also going to instruct you on the burden of proof and reasonable doubt. You must find, before you could declare Mr. Khoury

guilty, that the evidence has been proven to you beyond a reasonable doubt. Now, I know that you're all familiar with that term, it is embedded in our popular culture. But the problem is, as it is with most legal rules, they are abstract. They don't give you all the direction you need. It's not that easy to apply an abstract legal rule to the concrete facts of the case, but you must find beyond a reasonable doubt every fact necessary for a conviction was proven by the government.

Let me give you an example of how to apply reasonable doubt. Imagine the following: That you go back into the jury room and after your deliberations you sign a verdict form. You're ready to come out here and announce your verdict. But the court Clerk stops you and says, "Oh, there's a new piece of evidence. We have found a tape recording of what went on in the reunion dinner --"

MS. KEARNEY: Objection, your Honor.

THE COURT: Sustained.

MR. BLACK: I think that's fair to comment on --

MS. KEARNEY: It's the --

THE COURT: I could talk to you at sidebar if you want.

MR. BLACK: Sure.

THE COURT: It's actually a great time to stretch

because Mr. Black told me he'd go about an hour and a half. We have another 15 minutes or so of that, so it will still be a few more minutes.

SIDEBAR CONFERENCE:

THE COURT: You're saying that there's another transcript?

MR. BLACK: No. This is hypothetical.

THE COURT: That there's --

MR. BLACK: I'm saying that assume that there was all of a sudden a tape recording, would you want to listen to it?

THE COURT: That's speculative because there's no evidence of it.

MR. BLACK: I'll say there's no evidence of it.

THE COURT: Just say there's no evidence, there's no tape recording. That's fair game --

MR. BLACK: Okay.

THE COURT: -- that there's no tape recording.

MS. KEARNEY: It's just the point that this is purely hypothetical speculation.

THE COURT: Of course, the way he worded it was highly speculative.

MS. KEARNEY: And --

THE COURT: Excuse me. Yes, you're right. That's why

I sustained the objection, but this alternative formulation would be that you can also consider the lack of evidence, and there is no tape recording. I think that would be fair game.

MR. MARKHAM: Yes, your Honor, but may I ask for a specific instruction that the jury only consider the facts in evidence.

THE COURT: -- for reasonable doubt the fact that there is no --

MR. MARKHAM: Yes, your Honor.

THE COURT: Okay. How much longer do you think you have?

MR. BLACK: Three minutes, four minutes.

THE COURT: That's fine. All right, I just didn't want to --

MR. MARKHAM: Your Honor, I have one more point I want to address outside the jury. He just misstated the mail fraud instruction that there has to be a bribe in order for a conspiracy to exist.

THE COURT: I will give them instructions.

(End of sidebar conference.)

THE COURT: You all set? Good stretch? We won't finish this all before lunch anyway, so we're just going to finish with Mr. Black and then take a break.

MR. BLACK: Ladies and gentlemen, I'm not suggesting there is a tape recording. This is a purely hypothetical issue, purely hypothetically. If you found out --

MS. KEARNEY: Objection, your Honor.

THE COURT: Yes, that's not what we talked about.

[If the court had allowed me to use the reasonable doubt example, I would have continued with the following: If the court clerk stopped you and said we have unearthed a tape of the reunion dinner (where the bribe is supposedly agreed to) would you say I don't need to hear that tape because I am already convinced beyond a reasonable doubt that they agreed to a bribe at the dinner. Or would you say -- of course I need to hear that tape before I return a verdict of guilty. If the latter I suggest to you that the government's case has not been proven to you beyond a reasonable doubt.]

MR. BLACK: All right. What the Court will tell you is that a gift, a gratuity, or a reward for prior action is not a bribe, unless it was promised beforehand. That's why they made the deal with Donovan. That's how Donovan sold the whole thing. They had to have him. Without Donovan, there's no case. If you have any doubt about Donovan's credibility, believability, honesty and

integrity, then you have to acquit Mr. Khoury. Let me repeat the instruction:

"If the agreement to exchange anything of value for an act is made after that act has been performed, that agreement cannot properly be viewed as an agreement to offer or accept a bribe."

[long pause while putting the notes aside]

ladies and gentlemen, in December I was waiting while lying on a stretcher --

MS. KEARNEY: Objection.

THE COURT: Let him finish. Go ahead.

MR. BLACK: -- at the Sylvester Medical Clinic in

Miami, and it's times like that which focus the mind, when you think back about what is important in life. All of you are much younger than I am, so perhaps you have not had that experience yet, but I can assure you...when such a time comes up and you're taking inventory of what you've done in your life and the relationships that you had, you're not going to be thinking about your homes or your cars or your job, your money, or even your close friends. The only thing you're going to think about is your

family. And with all due respect to our spouses, when you think about family, you think about your children and what you did for your children and how you tried to support and help

your children. And when your child was suffering and needed your help were you there to help him or her? I think you'll look back and judge whether it was the right thing to do. And to help somebody who helped you at a time like that, I think is a very human thing to do. We all don't have that many friends in our lives, not many people who --

THE COURT: I'm having trouble hearing you.

MR. BLACK: I'm sorry. We don't have that many friends in our life. There aren't that many who stood up for us in time of trouble. Who are you going to call on when you're in trouble? But when you have somebody like that, you want to help them any way that you can, and helping a friend is not a reason to put somebody in the penitentiary. Thank you.