(Jury present)

THE CLERK: Please be seated, everyone.

THE COURT: Afternoon, folks.

The jurors and defendants all are present.

We are now going to hear closing argument, beginning with the government.

Mr. Solowiejczyk.

MR. SOLOWIEJCZYK: Thank you, your Honor.

THE COURT: And let me just -- OK. You anticipated me. Thank you. Go ahead, Mr. Solowiejczyk.

MR. SOLOWIEJCZYK: Good afternoon.

Ladies and gentlemen, you have now seen all of the evidence. You have heard all of the testimony. And you now know that these defendants are guilty. Guilty because they funneled tens of thousands of dollars in secret payments to the families of student-athletes to get them to go to Adidas-sponsored schools. Guilty because they knew that those secret payments made the student-athletes ineligible to compete. Guilty because they knew that the universities never, ever, would have issued athletic scholarships to those student-athletes had they known about these payments. Guilty because they went to great lengths to conceal and hide those payments from the universities by arranging for envelopes stuffed with cash to be handed off in New Jersey parking lots, in Manhattan hotel rooms, by submitting bogus invoices to

1 Adidas to paper over the payments, by routing the payments
2 through multiple bank accounts in order to make them harder to
3 trace, and by using secret second phones to further conceal
4 their involvement.
5 Guilty because at bottom, ladies and gentlemen, they
6 committed fraud.
7 Now, ladies and gentlemen, you've learned a lot about
8 the underbelly of college basketball over the course of the
9 past two-and-a-half weeks. You've heard about the five-star
10 recruits, the AAU basketball teams, the shoe wars, and the
11 black ops. But when you cut through all of that, when you get
12 to the heart of the matter, this is a very simple case. The
13 defendants caused lies to be told to universities. They caused
14 information to be provided to them that was false in connection
15 with these universities' decision to award athletic
16 scholarships. And as a result of those lies and that
17 concealment, universities provided athletic scholarship money,
18 actual money, to student-athletes who weren't even allowed to
19 compete in the sport for which they had received a scholarship.
20 If the universities had known about the defendants'
21 secret payment, they never would have issued those
22 scholarships, they never would have put themselves in harm's
23 way and risked NCAA penalties, fines, and forfeiture of
24 contests. You now know all of that as well, ladies and
25 gentlemen, and, more importantly, so did the defendants.

In this country, when you lie to someone to get them to part with their money, when you cause a university to issue financial aid to students who aren't even entitled to it, that's a crime. It's called fraud. And that's exactly what the defendants did here. Because let's be very clear about something, ladies and gentlemen, just because this case happens to take place in the world of college basketball, it doesn't mean that the same laws do not apply. They very much apply. Plain and simple.

So, ladies and gentlemen, the purpose of this closing statement is to walk through all of the evidence that proves to you beyond a reasonable doubt that these defendants are guilty, and that evidence in this case has been overwhelming. So I want to start out by talking to you about the key reasons why you know these defendants are guilty. So let's start with the first reason.

You know the defendants are guilty because you know that the defendants made these payments, secret payments, tens of thousands of dollars, to the families of student-athletes in connection with those student-athletes attending Adidas-sponsored schools. You know this is the case from the overwhelming evidence that the government has presented over the past two-and-a-half weeks. Wiretap recordings, text messages, bank records, phony invoices that were submitted to Adidas, taken together they all show you that these defendants

1 were each integrally involved in the payments to the families
2 of student-athletes.
3 I'm just going to walk you through very briefly,
4 ladies and gentlemen, that evidence right now.
5 So let's start by talking about the plan that Jim
6 Gatto, Merl Code and Christian Dawkins cooked up to pay a
7 hundred thousand dollars to the father of Brian Bowen to get
8 his son to attend the University of Louisville, an
9 Adidas-sponsored university. Ladies and gentlemen, you know
10 from all the evidence that we have presented to you exactly
11 what happened here. In May of 2017, Brian Bowen Junior still
12 had not decided which school he was going to commit to. And
13 Christian Dawkins seized on that opportunity. He knew that Jim
14 Gatto and Merl Code were willing to pay tens of thousands of
15 dollars to get Bowen to go to an Adidas-sponsored university.
16 So, Dawkins reached out to Merl Code and he asked
17 him -- this was in the text messages -- "Any Adidas schools
18 that make sense for Bowen?" that was May 18th of 2017. And as
19 you know from the text messages, Merl Code wanted to make sure
20 that Bowen went to an Adidas school. And he wanted to make
21 sure that Bowen did not attend the University of Oregon, which
22 was a Nike-sponsored school, as you heard. And as you know,
23 Nike was a rival of Adidas. You heard a lot about that during
24 this trial.
25 And Code said it himself in a text message to Dawkins

1 a few days later. "don't send Bowen to Oregon. Call me."
2 Because the only reason Code was doing this was he wanted to
3 make sure that Adidas got top players going to Adidas-sponsored
4 universities.
5 In the days that followed, Christian Dawkins, Merl
6 Code and Jim Gatto struck a deal. A dirty deal. Bowen Senior
7 would get a hundred thousand dollars in four installments of
8 $25,000 each. These payments would be funded using phony
9 invoices that Merl Code submitted to Adidas and that Jim Gatto
10 pushed through at Adidas. And Bowen Junior would commit to
11 Louisville.
12 And you saw Dawkins tell Code himself, on May 30th:
13 Tell Jim. Let's get it done. I have to discuss with you the
14 set up in the a.m.
15 And you saw it the next day, Dawkins telling Code
16 again: The deal is pretty much done. Just need to get
17 everything lined up with Gatto and we can get scholarship
18 papers signed. I can hold off Oregon, I'm pretty sure.
19 And Code responded minutes later, on May 31st, that
20 the deal was set. It's done. We just need to get the letter
21 of intent signed, not just the scholarship papers.
22 And as you know, ladies and gentlemen, the day after
23 these text messages were exchanged, Brian Bowen committed to
24 Louisville and signed his Financial Aid Agreement.
25 You also know what happened next, ladies and

1 gentlemen. As you heard from the wiretap calls that were
2 played for you during the trial, there were issues getting that
3 first $25,000 funded. The phony invoice that Merl Code put in,
4 it wasn't approved as quickly as Merl Code and Jim Gatto
5 wanted. And you heard Dawkins tell Munish Sood all about this
6 in a wiretap call on July 7th of 2017.
7 He told him that the payment was for Brian Bowen to go
8 to Louisville, and he told him that the first $25,000 was held
9 up. And so they had an ask. The ask was they wanted Munish
10 Sood and Jeff DeAngelo, Christian Dawkins' new business
11 partners, to front the first $25,000. And you heard the call
12 where Merl Code talked to both Munish Sood and Jeff DeAngelo
13 about that. And he, just like Dawkins, explained exactly what
14 this money was for, ladies and gentlemen. That's the next
15 exhibit.
16 He told them -- he told them that he was introducing
17 them to the shoe wars and how stuff happens with kids in
18 getting into particular schools, and this is kind of one of
19 those instances where we needed to step up and help one of our
20 flagship schools in Louisville, you know, secure a five-star
21 caliber kid. So obviously that helps, you know, our potential
22 business in terms of, in terms of Adidas.
23 And, ladies and gentlemen, you know what happened
24 after that. On July 13, 2017, Munish Sood met Brian Bowen
25 Senior in a parking lot in New Jersey, and he handed him an

envelope that contained close to $20,000 in cash. Brian Bowen Senior told you about that. Munish Sood told you about that. And you heard about it in all the wiretap calls around that time.

And, ladies and gentlemen, you also know that the defendants were in the process of making the second $25,000 payment. You saw the second phony invoice that Merl Code submitted to Gatto from the Karolina Khaos. But, ladies and gentlemen, you know that payment never happened because before the payment could be made to Bowen Senior, the defendants' scheme was stopped dead in its tracks and they were arrested.

And, finally, ladies and gentlemen, when it comes to the Bowen scheme, you know that Jim Gatto was integrally involved in all of this. You know he was the one that was approving the sham invoices to fund these payments. And you actually heard Gatto, on multiple occasions, talking about the details of the payments. And this is just one example where he was talking to Merl Code, and he specifically acknowledged, he asked Merl Code, "What do we do with Bowen? A hundred?" he knows the amount of money they promised Brian Bowen. Just like Code and Dawkins, he was integrally involved in these payments.

So when you take all of that together, there can be no dispute that these payments happened and that Jim Gatto, Christian Dawkins and Merl Code were involved in these payments from the outset.

1 Now, ladies and gentlemen, as you heard, the scheme to
2 funnel these payments to Brian Bowen's father, this wasn't the
3 first time that Jim Gatto had been involved in this. This was
4 not his first rodeo. In fact, you heard that he had been
5 involved in making very similar payments to the families of
6 other student-athletes to get them to go to other
7 Adidas-sponsored schools.
8 So, let's start with Dennis Smith Junior. You heard
9 about him. And TJ Gassnola told you all about this scheme. He
10 told you that he went down to North Carolina and made a -- and
11 gave $40,000 to Orlando Early, an assistant coach at NC State,
12 and that money was intended for Dennis Smith's father. And the
13 reason for the payment was because they were nervous that
14 Dennis Smith Junior wasn't going to actually commit to NC
15 State, that he was going to leave NC State.
16 And, Ms. Lee, if we could just go back to the previous
17 slide very briefly.
18 And what TJ Gassnola told you -- I'm going to walk you
19 through some examples of it -- it's corroborated by all of the
20 evidence that was presented to you. So let's walk through a
21 couple of those things.
22 He told you that he went down to North Carolina in
23 early November. Well, there is a credit card record from TJ
24 Gassnola showing that he went on a flight to Raleigh. There is
25 a bank record showing that a few days before that, he took out

$30,000. And there are also wire transfers from Adidas that came in around this time that total $40,000 and that were used to fund these payments by Gassnola, to reimburse him for these payments, as you heard

So you know that what TJ Gassnola told you is corroborated by all of the evidence.

And you know that Jim Gatto participated in this scheme to make payments to the Smith family. You heard about it from TJ Gassnola, and you know it because the reason these wire transfers were Adidas went to the New England Playaz, you know why that happens. Because Jim Gatto is the one that approves the sham invoices. That money doesn't get to the TJ Gassnola without Jim Gatto approving it.

Ms. Lee, we can skip ahead to the phony invoices.

Go back one, Ms. Lee

One other thing you know, ladies and gentlemen, you know that Dennis Smith committed to NC State less than two weeks after TJ Gassnola made that payment, that payment that he made with Jim Gatto. That was less than two weeks after he made that payment. And that's no coincidence, ladies and gentlemen.

So I want to also talk to you, ladies and gentlemen, about another scheme that Jim Gatto was involved in.

You can move ahead a few slides, Ms. Lee.

And those are the payments to [redacted], the

1 payments to [redacted] mother, of Kansas. And TJ Gassnola
2 told you about these payments. They total $90,000, and they
3 were made in multiple installments. And the first payment was
4 a $30,000 cash payment in Manhattan. Mr. Gassnola told you
5 that he met [redacted] mother, in a Manhattan
6 hotel room and gave her $30,000. And I want to walk through
7 why you know that that's what happened, because it's all
8 corroborated by the evidence.
9 So, going on to the next slide, Ms. Lee.
10 TJ Gassnola told you that he came to New York on
11 November 1, [redacted] to make this payment to [redacted]. Well, you
12 know he was in New York on November 1, [redacted]. There is a
13 parking receipt. He parked his car in New York.
14 And who did TJ Gassnola call the same day that he made
15 that $30,000 payment to [redacted]? He called Jim Gatto.
16 Because that's who he was coordinating with when it came to
17 these secret underground payments, like the payment to
18 [redacted].
19 And Gassnola told you, when he testified, about the
20 conversations that he had with Gatto when it came to the [redacted]
21 [redacted] payment. He told you that: Sometime after, Jim and I
22 had conversations all the time. One of my conversations was
23 [redacted] family is in a good place.
24 And he told you what that meant. It meant that they
25 had gotten money from us and that they are in a good place. He

1 told Jim Gatto that.

2 You also know, ladies and gentlemen, that one day
3 before TJ Gassnola made that payment on November 1, , you
4 know that he took $50,000 out of his bank account, out of his
5 New England Playaz bank account. That is one day before the
6 November 1st meeting. And you also know that that was money
7 that he had recently gotten from Jim Gatto at Adidas. You've
8 seen the phony invoice that Gassnola submitted, and which you
9 know Gatto approved, that was submitted shortly before this
10 payment was made.

11 And that phony invoice was dated October 15, . It
12 was for $50,000. And it was supposedly for basketball team
13 tournament fees. But, ladies and gentlemen, as you heard from
14 both Mr. Gassnola and from Ricky Robertson, who ran the
15 Karolina Khaos, basketball tournament fees range from $500 to a
16 thousand dollars. And everybody in the college basketball
17 world, in the grassroots world, knew that. So this phony
18 invoice that Jim Gatto approved, it was fake on its face. It
19 was pure fiction. It was pure bogus invoice. And there is no
20 way Gatto didn't know that when he approved it.

21 These phony invoice, ladies and gentlemen -- I'm going
22 to talk about them a little bit later in more detail -- they
23 are devastating evidence that Jim Gatto knew that what he was
24 doing was wrong. They show the length that Jim Gatto would go
25 to to hide and conceal the payments, and that's very, very

1 important evidence that I am going to talk to you about in more
2 detail later.
3 And, ladies and gentlemen, you've also seen the wire
4 transfer record from Adidas in the amount of $50,000 on
5 October 21, , just a few days before Gassnola made the
6 withdrawal of cash to give to
7 mother.
8 And all of this, that November 1st payment, once
9 again, just like the Dennis Smith payment, it comes right
10 before a very critical juncture, a very critical decision. And
11 what decision does make? Well, on November 9,
12 , he commits to the University of Kansas. And that's no
13 coincidence either, ladies and gentlemen.
14 Ladies and gentlemen, we also showed you the other
15 phony invoices that were used in connection with the payments
16 to mother. Again, tournament activation fees in the
17 amounts of $70,000, which were fake on their face and Jim Gatto
18 knew it. And you also saw, as Mr. Gassnola told you, when it
19 came to the last few payments, he got what he described as
20 lazy, and he sent a straight wire transfer to
21 mother. And you saw evidence of that as well during this
22 trial.
23 So if you take all of that evidence together, ladies
24 and gentlemen, there can be no question that TJ Gassnola and
25 Jim Gatto were making payments to the mother of .

And how else do you know that Gatto and Gassnola made these payments to [redacted], his family? Well, remember what Brian Bowen Senior told you. He told you that Dawkins used the payments that Gatto had agreed to make to [redacted] to drive up the amount that Gatto and Code were going to have to pay to get Bowen Senior to commit to Louisville.

If we could just bring up that testimony, Ms. Lee.

He told you, specifically, that the number started around 60 or 80 and then it rose to a hundred. And the reason why? There was a player kind of similar to my son, I guess that went to an Adidas school, Kansas, [redacted], and he had gotten $100,000.

So, that's another reason you know that this payment happened.

And, ladies and gentlemen, you also heard about -- from TJ Gassnola about the player named [redacted] and payments to his guardian to get him to commit to the University of Kansas. And you know that Gassnola and Gatto were planning to make this payment before the charges in this case came to light. TJ Gassnola told you about it when he testified. But you also heard Jim Gatto and TJ Gassnola talk about that payment in a wiretap recording, Government Exhibit 2. And you heard Gassnola describing to Gatto exactly what he needed. He told him: "I gotta send this guy another 20 grand out on Wednesday because I gotta get him out from under this Under

1 Armour deal, the deal he's got with this guy who was taking
2 care of him. He wants his money bank now because the kid
3 didn't go to Maryland. So I got to stay on top of that." You
4 heard that call between Gassnola and Gatto.
5 In that same call, you heard Gassnola tell Gatto about
6 accounting for what he referred to as the "underground stuff."
7 Jim Gatto knew exactly what that meant. The underground stuff
8 was these secret payments to the families of student-athletes
9 to get them to go to Adidas-sponsored schools.
10 And finally, ladies and gentlemen, you heard in
11 another wiretap call, on Jim Gatto's phone, that he was talking
12 about potentially making yet another payment to the family of
13 another student-athlete, Nassir Little, in connection with
14 seeking to have Nassir Little commit to the University of
15 Miami. Gatto and Code had spoken. Gatto -- Gatto knew that
16 they had another Louisville TJ situation except it's with Miami
17 this time. And you heard on the call Gatto ultimately did not
18 go forward with those payments. There was not budget for it,
19 among other things, as you heard.
20 But that's not the point. The point of these calls is
21 to show you how Gatto operated, and that time and time again he
22 made or contemplated making payments to the families of
23 student-athletes to get them to attend Adidas-sponsored
24 schools. That's what all the evidence in this case has shown
25 you.

1 So, ladies and gentlemen, let me turn now to the
2 second reason why you know these defendants are guilty, and
3 that's the reason why the defendants made these payments.
4 Gatto and Code, as you've seen from the timeline of
5 events, they weren't just -- and Christian Dawkins as well,
6 they weren't just paying any parent of any player. They were
7 making payments to the families of specific players and for a
8 specific reason, players who they wanted to attend
9 Adidas-sponsored schools. And they made those payments at a
10 specific juncture, right around the time when the
11 student-athlete was deciding which college to attend. You saw
12 that from the timeline of events that we just reviewed. Time
13 and time again the payments were made shortly before these
14 student-athletes committed to attend Adidas-sponsored schools.
15 And Gatto and Code wanted these student-athletes to
16 commit to Adidas-sponsored schools because it was important to
17 them and their ultimate objectives to make sure that Adidas won
18 what the defendants called the shoe wars. They wanted high
19 school athletes playing on Adidas grassroots teams to go to
20 Adidas-sponsored schools and ultimately, when they turn pro, to
21 sign marketing deals with Adidas. Merl Code told you about
22 that himself during a meeting in Manhattan in June of 2017 that
23 we showed you a video of towards the beginning of this trial.
24 This is what Code said:
25 (Audio played)

1 So, ladies and gentlemen, you know why Merl Code was
2 involved in making these payments. He said it himself. You
3 also know, ladies and gentlemen, why Christian Dawkins was
4 making these payments. He wanted to sign these
5 student-athletes, kids like Brian Bowen, to lucrative contracts
6 with his new sports management company when these players
7 turned pro. And he wanted to control these players from high
8 school to college and from college to the pros. And getting
9 them some money from Adidas to go to an Adidas-sponsored
10 school, that helped him in that longterm goal, because there
11 was no better way for Dawkins to ingratiate himself with these
12 families than to facilitate a $100,000 payment to them. That's
13 why he turned to Merl Code and Jim Gatto when it came to the
14 Brian Bowen deal.
15 Now, ladies and gentlemen, you also know that the
16 defendants are guilty because there is not and cannot be any
17 dispute that the defendants were not allowed to be making these
18 payments. Indeed, defense counsel told you themselves during
19 their opening statements, there is no dispute that these
20 payments were all are flagrant NCAA rules violations.
21 Mr. Gatto's attorneys told you this. Mr. Code's attorneys told
22 you this. And Mr. Dawkins' attorneys also told you that.
23 But more significantly, ladies and gentlemen, there
24 also can be no dispute that the payments that these defendants
25 were involved in, they made the student-athletes, whose

1 families got those payments, ineligible to compete. And that's
2 a very important point
3 As you heard from each of the compliance officers that
4 testified during this trial, the players were ineligible
5 regardless of whether they had knowledge of the payments to
6 their parents. You heard that from each and every one of the
7 compliance officers. John Carns, from Louisville, told you
8 that. He told you that it didn't matter if the student-athlete
9 had no knowledge of the payment because regardless of whether
10 the student-athlete or their family member accepts a benefit,
11 the student-athlete is still culpable for that violation.
12 Carrie Doyle, from NC State, told you that. She told
13 you that a payment to the parent of a student-athlete could
14 affect the student-athlete's eligibility irrespective of
15 whether the student-athlete knew of the payment.
16 Jeff Smith, from Kansas, told you the same thing when
17 it came to [redacted].
18 So, these payments, they made these players
19 ineligible.
20 Ladies and gentlemen, you also know these defendants
21 are guilty because you know, from all the evidence and all the
22 testimony, that these universities would not have issued
23 scholarships, athletic scholarships, to these student-athletes
24 had they known about this. Because these universities don't
25 issue athletic scholarships to student-athletes that aren't

1 even eligible to compete. And all of the evidence that was
2 presented to you, ladies and gentlemen, it shows you that these
3 schools, these large public universities that were actually
4 paying for these scholarships, they cared a great deal about
5 this. These universities cared enough that they employed teams
6 of professional compliance officers whose job it was to ensure
7 that the universities did not violate NCAA rules. And it was
8 their job to ensure that all the student-athletes that took to
9 court were actually eligible.
10 You saw that the universities had forms,
11 questionnaires, training sessions. They asked lots of
12 questions. And they had a right to expect honest answers,
13 ladies and gentlemen. There could be no reasonable doubt that
14 had these universities known of the payments, the secret
15 payments that these men made of tens of thousands of dollars,
16 the payments that render these student-athletes ineligible to
17 compete, these universities never would have issued these
18 athletic scholarships. Each and every university official who
19 testified during this trial told you that in no uncertain
20 terms.
21 John Carns, from the University of Louisville, told
22 you that. He told you that if he had known about these
23 payments to Bowen's father, he would not have -- they would not
24 have issued a scholarship, or they would have canceled any
25 scholarship that had been issued.

The same is true for Carrie Doyle when it came to Dennis Smith Senior. She told you that if they had found out about these payments, they would have investigated the information, and if it was true, they wouldn't have provided an athletic scholarship to Dennis Smith Junior, or if he had already gotten aid, they would have canceled that aid. And Jeff Smith, from Kansas, he told you the same thing when it came to [redacted].

And, ladies and gentlemen, I'm going to ask you at multiple points during this summation to use your common sense, and my colleague, Mr. Mark, asked you to do the same during his opening. Use your common sense when it comes to this point. You heard that these athletic scholarships are highly coveted. Each university only was allowed to award 13 athletic scholarships every year. So, why would a university waste a scholarship on a student-athlete who wasn't even eligible to compete? The answer is simple. They wouldn't.

Ladies and gentlemen, you also know these defendants are guilty because you know that the information that was provided to these universities, it was false. There can't be any dispute about that either. And that was crucial. That was the whole point of these defendants' scheme. To make their scheme work, for the players to ever get on the court wearing that Adidas Jersey, the defendants knew full well that these universities had to be lied to, because each of these

1 universities required their student-athletes to complete
2 numerous forms in which they represented that they were
3 eligible to compete. And when it comes to the student-athletes
4 we are talking about in this case, that simply wasn't true. It
5 wasn't true because of these defendants, because of the secret
6 payments that these defendants had made to the parents of these
7 players. Those payments made these players ineligible to
8 compete.
9 Every single student-athlete was required to complete
10 the same form. It was called the student-athlete statement,
11 and you saw it multiple times during the trial. And I'm just
12 going to put up Brian Bowen's form. But all the other
13 players -- Dennis Smith, [redacted] -- they all filled out
14 the same form. And as you know, Brian Bowen signed this on
15 June 9th, just a couple of days after the dirty deal was
16 struck.
17 And I want to focus you in particular, ladies and
18 gentlemen, on the section of this document that's called the
19 "Statement Concerning Eligibility," which sort of speaks for
20 itself. The point of this part of the document is that the
21 player is certifying their eligibility.
22 And I want to take a moment, ladies and gentlemen, to
23 just walk you through this form in a little bit of detail, and
24 to remind you what the compliance officers, who are versed in
25 these topics and these forms and rely on them and have -- deal

1 with these issues all the time, what they told you about the
2 meaning of these forms and what these forms meant to their
3 universities.
4 So, Carrie Doyle told you exactly what the athlete
5 certifies in this section of the student-athlete statement.
6 The words on the form mean exactly what they say. In this
7 form, the student-athlete certifies that they're eligible for
8 competition. Ms. Doyle was asked what Dennis Smith was
9 representing in this section of the document, and she told you
10 that he is eligible for competition. Pretty basic point.
11 And you know, ladies and gentlemen, when these
12 student-athletes certify that they were eligible, in reality
13 they weren't.
14 In the student-athlete statement, the student-athlete
15 also certified that all information provided to the NCAA, the
16 NCAA Eligibility Center and the institution's admissions office
17 is accurate and valid, including ACT or SAT scores, high school
18 attendance, completion of course work and high school grades,
19 as well as your amateur status. And John Carns, from
20 Louisville, explained to you what this section of the form
21 meant. He told you that the NCAA Eligibility Center, he told
22 you about that during his testimony, and that the purpose of
23 the NCAA Eligibility Center was to make an initial
24 determination if student-athletes were eligible. That was the
25 point of the NCAA Eligibility Center.

1 And he told you that the representation about amateur
2 status, it's what all these witnesses have been talking about
3 all the trial. A very basic concept. That when you're an
4 amateur athlete, you can't get paid to play and neither can
5 your parents.
6 And turning to the next portion of this form, just a
7 few lines down, the student-athlete also represents on the form
8 that they've reported to the director of athletics, or his or
9 her designee of your institution, any violations of NCAA
10 regulations involving you and your institution. Well, ladies
11 and gentlemen, that wasn't true, either, when it came to these
12 student-athletes, because all of them had been involved in a
13 violation of NCAA rules due to the fact their parents took
14 money and none of them had reported any such violations at the
15 time they signed the form. That is yet another statement in
16 this form that is not true
17 And let me direct you finally to the statement at the
18 bottom of the form which tells the player that they are
19 affirming that they understand that if they sign this statement
20 falsely or erroneously, they violate NCAA legislation on
21 ethical conduct and can further jeopardize their eligibility.
22 Ms. Doyle, who, as she testified, had worked at the
23 NCAA for years and had worked there as a compliance officer for
24 years after that told you about the significance of this. She
25 told you that it didn't matter whether the student-athletes

1 knew the form was false at the time they completed it. It
2 doesn't matter. Providing false information on this form,
3 that's yet another separate violation and that can also
4 jeopardize your eligibility. So this section of this
5 student-athlete statement, the point is it contains multiple
6 statements that are demonstrably false. And the reason the
7 information provided on the forms were demonstrably false is
8 because of these defendants and their secret payments.
9 Now you also heard, and you saw, that these
10 universities require the student-athletes to complete other
11 forms in which they made additional representations about their
12 eligibility, in compliance with NCAA rules. I am just going to
13 go through a few of them. I am not going to try to put you to
14 sleep with these forms.
15 But if you take a look at the Financial Aid Agreement,
16 this was the one signed by Brian Bowen. In it, he indicated
17 that he understood that his scholarship could be immediately
18 reduced or canceled at any time if he rendered himself
19 ineligible for intercollegiate competition. And John Carns,
20 the compliance officer from Louisville, told you exactly what
21 could cause him to be rendered ineligible from intercollegiate
22 competition -- not meeting NCAA amateurism or academic
23 requirements, not being admissible to the institution.
24 You saw that NC State had numerous forms above and
25 beyond the Financial Aid Agreement and the student-athlete

1 statement that Dennis Smith Junior completed, and those forms
2 were also filled with information that was false because of the
3 payments that Jim Gatto was involved in. And this form says it
4 itself. He represented that he had not been involved in a
5 possible violation of NCAA rules. Obviously, ladies and
6 gentlemen, he had been because his father had taken money.
7 That was because of Jim Gatto.
8 And, finally, there were the Kansas forms, and they
9 also had a Financial Aid Agreement that contained similar
10 representations that [redacted] made in connection with his
11 getting a scholarship at Kansas.
12 And, ladies and gentlemen, there can be no serious
13 dispute that the universities relied on the answers that were
14 provided on these forms. Every single compliance officer told
15 you the same exact thing: If these payments had been disclosed
16 on the forms, the universities never would have issued the
17 scholarships.
18 Ladies and gentlemen, let me say one other word about
19 these forms, briefly. To be clear, the defendants did not
20 themselves make the misrepresentations to the universities that
21 are on these forms. They didn't themselves complete the forms.
22 That's obvious. But that isn't the question. The question,
23 ladies and gentlemen, is whether the defendants willfully
24 caused false certifications to be made. And, ladies and
25 gentlemen, of course they did. Because they knew these forms

1 were going to be completed by the student-athletes. They knew
2 the universities were going to ask these questions regarding
3 eligibility, because every university does, and by their
4 actions, by their payments, they caused the answers to those
5 questions on those forms to be false. In short, they caused
6 false representations to be made to the universities.
7 And, ladies and gentlemen, the defendants of course
8 knew that the student-athletes and their parents would provide
9 false information. And you don't have to guess as to this
10 point, because you heard, for example, that when the University
11 of Kansas started investigating [redacted] eligibility and
12 certain payments that involved TJ Gassnola to the mother of
13 [redacted], you heard exactly what [redacted]
14 [redacted] did and you saw it in the text messages, as well. She
15 what Jim Gatto and TJ Gassnola expected she would do. She lied
16 about those payments. And as you saw from the text message
17 exchange between [redacted] and her son, she instructed her son
18 to lie as well. She told him: "you don't know, you don't
19 know. I don't care what they say to you. You don't know."
20 And [redacted] responded, "Got you."
21 Ladies and gentlemen, you also know that the
22 defendants are guilty because you know that the defendants'
23 conduct caused the universities harm. The universities were
24 harmed in two distinct ways. First, they were deprived of
25 something of value, namely, the money used to fund these

1 athletic scholarships. The scholarship that Louisville issued
2 to Brian Bowen, for example, consisted of approximately $40,000
3 in aid. That's actual money that -- that's actual money that
4 went out the door. This is Bowen attended summer school. He
5 ate food. He lived in a dorm. Real costs the University of
6 Louisville bore under the false impression that Bowen was
7 eligible to receive an athletic scholarship when he wasn't.
8 The same is true for [redacted], Dennis Smith and [redacted]
9 [redacted].
10 But there's a second kind of harm that these
11 defendants exposed these universities to as well. Because as I
12 expect Judge Kaplan will instruct you, a victim can be deprived
13 of money or property when it is deprived of the ability to make
14 an informed economic decision about what to do with its assets
15 in a way that could have caused or did cause tangible economic
16 harm to the universities.
17 And Judge Kaplan is going to instruct you on the law,
18 and his instructions govern and you should listen carefully to
19 those instructions.
20 But, ladies and gentlemen, you know that's exactly
21 what happened here. Because as you heard, issuing a
22 scholarship to an ineligible player, allowing an ineligible
23 player to compete for the school, it exposed the universities
24 to the very real risk of fines and other penalties that could
25 be imposed by the NCAA. You heard about this from the

1 compliance officers who testified. Carrie Doyle, from NC
2 State, told you all about the types of penalties that could be
3 imposed. There could be financial fines, recruiting
4 restrictions, scholarship reductions, post-season bans. They
5 can be forced to forfeit games and vacate records. And if a
6 student participated while ineligible during an NCAA
7 championship post-season, the institution might be required to
8 return revenue that they had received from the NCAA in
9 connection with that NCAA champion play. So, these penalties
10 aren't hypothetical.
11 And as you heard through a stipulation that all of the
12 parties agreed to, a rogue employee at the University of
13 Louisville engaged in rules violations back in 2010 through
14 2014. What was the result of that? Because Louisville had
15 played athletes who turned out to be ineligible, Louisville was
16 stripped of its 2013 national championship and it was forced to
17 forfeit approximately $500,000, and those are among other
18 penalties that were imposed.
19 And you also heard that if a school is already on
20 probation at the time another violation occurs, like Louisville
21 was, that's an aggravating factor that can mean even more steep
22 penalties for the school. Carrie Doyle explained that to you
23 as well during her testimony. She told you about how being on
24 probation could be an aggravating factor for the NCAA
25 So that's a long way of saying that this is why the

1 universities cared about this, ladies and gentlemen. They
2 cared because they had no choice but to comply with these
3 rules. They could not and would not issue a scholarship to an
4 ineligible athlete like Brian Bowen because they didn't want to
5 run the risks of being exposed to these kinds of harms.
6 Now, ladies and gentlemen, you also know that the
7 defendants are guilty because you know that the defendants knew
8 all of this, everything that I just went through. They knew
9 these payments weren't allowed. Dawkins and Code told you that
10 themselves in recorded telephone calls and in recorded meetings
11 that you heard. Christian Dawkins said it very simply.
12 (Audio played)
13 And, ladies and gentlemen, you also know that
14 Christian Dawkins and Merl Code, as well as Jim Gatto, men who
15 were steeped in the world of college basketball, they knew that
16 these universities had professional compliance departments, and
17 what they were trying to do is get around those people. You
18 actually heard Mr. Code and Mr. Dawkins talk about this during
19 a recorded meeting in New York. Merl Code talks about how
20 people can start asking questions, you know, folks, you know,
21 compliance officers at the schools. I mean, I was getting
22 calls when he -- Christian Dawkins -- showed up at Clemson, I
23 was getting calls. Why is he here? They were calling to me.
24 I guess he's down there recruiting. I don't know.
25 So, it's no secret to these defendants that there were

1 these compliance officials at these universities whose job it
2 is to ensure that these universities comply with NCAA rules.
3 Everybody knows that in the world of college basketball.
4 And the defendant also knew that if the payments were
5 discovered, the student-athletes would be deemed ineligible and
6 they would never get the scholarship. And the defendants,
7 ladies and gentlemen, they knew that the student-athletes would
8 have to complete and submit paperwork to the universities in
9 order to get that athletic scholarship. Of course they knew
10 the answers would be false; I've explained to you why. And
11 they knew false answers had to be provided because if they
12 weren't, the entire scheme would go up in smoke if these
13 payments were disclosed. The student-athlete would be deemed
14 ineligible. They wouldn't play in college. And as you heard,
15 that would greatly diminish their ability to ultimately get to
16 the pros.
17 And you know that as well from the defendants' own
18 words. Just going back to some of the text messages I showed
19 you a little bit earlier about Brian Bowen's commitment, when
20 Dawkins tells Merl Code that Bowen has decided to commit to
21 Louisville, what are the next words out of Dawkins' mouth?
22 What's the obvious next step that has to happen? "just need to
23 get everything lined up with Gatto and we can get scholarship
24 papers signed." "Scholarship papers signed." Because
25 everybody knows that that's the next thing you have to do if

1 you're committing to a university. These defendants knew that.
2 And Merl Code responded that he understood the same.
3 "We need to get the letter of intent signed, not just the
4 scholarship papers."
5 So these defendants knew very well -- you can see it
6 in black and white -- that Brian Bowen would be submitting
7 paperwork to get the scholarship, and of course they knew the
8 information regarding his eligibility would be false.
9 You also know that the defendants knew about the risks
10 that their conduct imposed upon the universities. They were
11 steeped in and knew an awful lot about the world of college
12 basketball, in grassroots basketball; that's become clear
13 during this trial from all the calls you heard and from all of
14 the testimony
15 And anyone who worked in college basketball knew that
16 payments of tens of thousands of dollars to the parents of
17 student-athletes in connection with their children attending
18 Adidas-sponsored schools could result in serious trouble,
19 serious problems for the universities.
20 And, ladies and gentlemen, there's been very little
21 evidence that the universities wanted to take on any of those
22 risks. To the contrary, every university witness told you
23 exactly the opposite, that they had no desire to take on
24 players who were ineligible and could lead to penalties for the
25 universities.

And TJ Gassnola, another member of the defendant's conspiracy, he told you that himself. He was a consultant for Adidas, just like Merl Code, and he knew that the secret payments that he and Jim Gatto were funneling from Adidas to [redacted] mother could spell big trouble for the University of Kansas if those payments ever came out. He knew that NCAA sanctions could be imposed. He told you that himself when he testified. He was asked, "Would did you expect could happen if these payments weren't concealed well?"

"They would lose their eligibility, people would lose jobs, and Kansas could have sanctions laid on them from the NCAA."

And given the testimony you heard from the compliance officers, ladies and gentlemen, that makes good sense, because if the payments were discovered, there can't be any real dispute that these universities were exposed to the risk of serious harm. The defendants knew that at the time they made these payments.

so, ladies and gentlemen, I now -- I want to turn to what is a core issue in this case. Did the defendants, in making these secret payments, and knowing the universities would be misled and knowing the universities would issue scholarships based on false and misleading information, did they do all of that with the intention of defrauding the universities? Of course they did. I expect Judge Kaplan will

1 tell you that a person acts with a specific intent to defraud
2 when he acts with the intent to deceive and for the purpose of
3 depriving the relevant university of something of value.
4 Now, ladies and gentlemen, you know the defendants
5 intended to defraud. You know that in two ways. First, they
6 deprived the universities of the value of the scholarship, and,
7 as we discussed, tens of thousands of dollars went out the
8 door. And, second, they also deprived them of the ability to
9 make an informed economic decision about what to do with their
10 money or their property, that is, who to award scholarships to
11 in a way that could have caused or did cause tangible economic
12 harm to them.
13 Ladies and gentlemen, when you consider all of the
14 evidence in this case and you apply the law to that evidence,
15 there is only one logical conclusion to be drawn -- that the
16 defendants intended to defraud the universities.
17 So, how do you know that? You know that because it
18 was the entire point of the defendants' scheme. They had to
19 hide and conceal these payments from the universities, from the
20 NCAA, and from the outside world. Because the defendants knew
21 that if the universities found out about these secret payments,
22 their whole plan was going to be ruined. Kids wouldn't be able
23 to play in college, wouldn't wear the Adidas brand on national
24 TV. It would be far more difficult for them to ever make the
25 pros and sign those lucrative contracts with Jim Gatto and Merl

1 Code of Adidas. You heard that from Munish Sood and also the
2 signed lucrative contract with Christian Dawkins' management
3 company.
4 You heard that from Munish Sood, TJ Gassnola and from
5 Brian Bowen Senior, how important it was for these kids to play
6 in college if they were ever going to make it to the NBA, where
7 the defendants really hoped to cash in on them.
8 And, ladies and gentlemen, I'm going to walk you
9 through the many different ways that these defendants sought to
10 conceal what they were doing from the universities. As you are
11 evaluating whether the defendants had the intent to defraud
12 these universities, stay focused on this evidence.
13 (Continued on next page)
14
15
16
17
18
19
20
21
22
23
24
25

1 MR. SOLOWIEJCZYK: Because the lengths these
2 defendants were willing to go to, to hide what they were doing,
3 it tells you an awful lot about their intentions. And the fact
4 that these defendants tried to conceal what they were doing
5 from the outside world tells you something else that is
6 important. It tells you that they knew what they were doing
7 was wrong. Because when people know that what they are doing
8 is wrong, they try to hide it. And that's exactly what they
9 these defendants did.
10 So what did the defendants do to conceal their scheme
11 to make payments to the families of student-athletes? Well,
12 they paid in cash so the payments would be harder to trace.
13 They used phony invoices to paper over the payments. They
14 routed the money through multiple bank accounts to further
15 conceal the payments. And they took other steps to conceal
16 too, which included, among other things, using secret second
17 phones -- bat phones.
18 Let's talk about each of those one at a time.
19 So as you saw during the trial, the defendants made
20 payments to the parents of student-athletes almost exclusively
21 in cash. Why? Because when cash is used, the payments can be
22 more easily concealed.
23 Merl Code told you this himself in his own words.
24 When he was asked by Jeff DeAngelo and Munish Sood about how
25 they recommended that they make the $25,000 payment to Bowen

1 Senior, here is what he said.
2 He said," I would suggest, I would suggest, for
3 cleanliness and lack of questions, I would always assume cash
4 is better. Right?"
5 "Cleanliness and lack of questions." In other words,
6 pay the money in cash so that it's clean and so no one can ask
7 any questions about it later.
8 Because Merl Code, Jim Gatto, and Christian Dawkins
9 knew very well, ladies and gentlemen, that they were not
10 allowed to be making payments to Bowen's dad to get his son to
11 go to Louisville. And they knew that for this scheme to
12 succeed, they absolutely had to conceal that payment in every
13 way that they could, and that included making the payments in
14 cash.
15 Ladies and gentlemen, you also know that the
16 defendants created and approved sham invoices. These sham
17 invoices were meant to conceal the true nature of these
18 payments. You have seen a number of these bogus invoices
19 already during this summation. Jim Gatto at Adidas approved
20 and pushed through invoice after invoice, for things like
21 tournament fees or travel expenses. He and the consultants who
22 worked for him, men like Merl Code and TJ Gassnola, worked to
23 create and approve bogus, phony invoices prepared for expenses
24 that were pure fiction. Totally invented expenses.
25 Let's take a look at an example. On June 5, right

1 around the time that the deal was struck to send Brian Bowen to
2 Louisville, Merl Code submitted a phony invoice to Jim Gatto
3 for $25,000 from the Karolina Khaos that was supposedly for
4 travel team expenses.
5 But, ladies and gentlemen, you know what this payment
6 was really for. It wasn't for travel expenses. You heard that
7 from Ricky Robertson, and you also heard that in all the
8 wiretapped calls. It was the first $25,000 that Gatto, Code
9 and Dawkins had promised to Bowen Senior to get his son to
10 commit to Louisville.
11 This is one of many phony invoices that you saw during
12 this trial, and you saw, among other things, a chart of all the
13 various invoices that had been approved when it came to the New
14 England Playaz, which totaled a very substantial amount of
15 money, ladies and gentlemen, over $700,000 in invoices that
16 were approved.
17 The invoices that Jim Gatto was approving that had
18 fake expenses on them, and that he was pushing through, they
19 were to fund dirty payments, underground payments, to the
20 families of student-athletes in connection with their decision
21 to attend Adidas-sponsored schools.
22 And, ladies and gentlemen, you know that Merl Code and
23 Christian Dawkins were in on this too. They were active
24 participants in the plan to push through phony invoices at
25 Adidas to fund their underground payments. Merl Code explained

1 the whole thing to Dawkins in a wiretap call that you heard
2 during this trial.
3 Dawkins asked him, "Gatto wasn't put on the books, was
4 he?"
5 And Code said, "Yeah, I think he was. But I think he
6 was doing it as a payment. He's doing it as a payment to my
7 team, to my organization. So it's on the books, it's not on
8 the books as what it's actually for."
9 That says it all, ladies and gentlemen. Why the fake
10 invoices? Because Jim Gatto, Merl Code, and Christian Dawkins
11 knew that they had to conceal these payments from everyone, and
12 that included concealing it from the universities and from the
13 NCAA. And this scheme wouldn't have worked if they didn't
14 conceal it. So they also had to be sure that they concealed it
15 on the books of Adidas.
16 Gatto knew that he couldn't possibly have any record
17 of these payments on Adidas's books. He couldn't leave any
18 trace of the true purpose of these payments. Otherwise the
19 whole scheme was going to be foiled. More lying, more deceit,
20 more concealment by these defendants of what they were doing
21 because they knew what they were doing was wrong.
22 Ladies and gentlemen, you also heard about the
23 defendants' efforts to conceal these payments by routing money
24 through multiple accounts. Adidas did not simply write a check
25 to Brian Bowen Senior or send a wire directly to him. You know

1 that. And the reason the money was routed through multiple
2 bank accounts before it made its way to its actual intended
3 recipient is simple. The defendants wanted to make these
4 payments harder to trace. So if anyone ever came looking or
5 asking any questions, it would harder to tell where the money
6 was coming from and where it was going to.
7 So let's look at the first payment to Bowen Senior as
8 an example. What Gatto, Code, and Dawkins did was try to
9 conceal that payment by routing it through multiple bank
10 accounts. You saw this in the financial records and you heard
11 about it in the testimony of Ricky Robertson, who is the head
12 of the Karolina Khaos amateur basketball team, and he
13 controlled the Karolina Khaos bank account. And his account
14 was used to route payments to Brian Bowen unbeknownst to him.
15 So you saw that, first, there is a $30,000 wire that
16 was sent into the Karolina Khaos account from Adidas. And that
17 was supposedly for some of these bogus expenses that we have
18 been talking about. And that was on August 1.
19 Then you saw that same day, Ricky Robertson cut a
20 check to Christian Dawkins in the amount of $25,000, which he
21 labeled as consulting fees. And Mr. Robertson was asked why he
22 wrote consulting fees on this check. Because Merl Code asked
23 him to.
24 That was just another way these defendants were trying
25 to conceal what they were doing, by mislabeling these checks.

1 Because as you heard from Mr. Robertson, Christian Dawkins
2 never did any consulting work for the Karolina Khaos basketball
3 team.
4 And as you know, the plan was that Dawkins would
5 withdraw the funds from his bank account and give them in cash
6 to Brian Bowen. There were multiple steps to these payments,
7 they went through multiple accounts, and the reason for that
8 was simple. It was because these defendants were trying to
9 hide the fact of these payments, and they went to great lengths
10 to do that.
11 Ladies and gentlemen, you also heard about how Brian
12 Bowen Senior and Christian Dawkins used second phones to
13 communicate. When they were talking about these prohibited
14 payments, they often switched over to their secret phones
15 which, as Brian Bowen Senior told you, they called "bat
16 phones."
17 This is but one example. Bowen said to Dawkins, "Let
18 me use the other phone." Then he said, "I don't call from my
19 other phone. I answer it, but I don't F with this phone. I
20 don't trust this phone."
21 "All right. Hold on."
22 Then they switched over to their bat phones.
23 And Bowen told you why they were using bat phones when
24 he testified. And you know why, ladies and gentlemen. Why did
25 he use a bat phone to talk about the subjects of these

1 prohibited payments? Because, he told you, "it wasn't
2 connected to my name. I mean, if you're doing something wrong,
3 you don't want be connected to your name."
4 That's why Christian Dawkins had a second phone too.
5 And Dawkins and Bowen weren't the only ones with bat
6 phones. Merl Code referred to having his own bat phone, as you
7 saw in text message that he sent to Chris Rivers at Adidas. "I
8 am hitting you from the bat phone."
9 The defendants Christian Dawkins, Merl Code, they were
10 using bat phones for one reason, and one reason only. Because
11 they wanted to hide what they were doing from the outside
12 world. People who think that everything is on the up-and-up,
13 they don't have second and third phones, they are not switching
14 calls over from one phone to another. This is what people do
15 when they know what they are doing is wrong. And they wanted
16 to be sure that they didn't get caught. Because they knew they
17 weren't allowed to be making these payments. And they knew
18 that if these payments ever saw the light of day, this whole
19 scheme that they cooked up, it was foiled. The universities
20 would declare the players ineligible. No big profits for the
21 defendants.
22 Ladies and gentlemen, as if that weren't enough
23 evidence of the lengths these defendants were willing to go to
24 to conceal their wrongful conduct, there is more. Because you
25 heard the defendants in their own words, time and time again,

1 talk about their suspicion and their concerns. Because they
2 knew what they were doing was wrong, and they knew that only a
3 very small circle of trust can know about these secret payments
4 to the parents of student-athletes. A need-to-know basis.
5 So I am just going to walk through one or two examples
6 of that, ladies and gentlemen.
7 You know that Dawkins and Code began, as you heard in
8 the call, to have suspicions about Dawkins' new business
9 partners, Jeff DeAngelo and Jill Bailey, who, as you heard,
10 turned out to be undercover FBI agents. And you saw in one of
11 these calls, Code telling Dawkins, "You've got to be extra
12 cautious about who you're associating with. That's why I am on
13 this whole work. They ain't cutting me no checks for S. They
14 gonna pay you and you gonna pay me."
15 In that same call, Code advised Dawkins, "Like, you
16 and I need to protect ourselves, man. I'm saying this just as
17 a guy who's real skeptical about this S. You and I need to get
18 some background information on Jeff and his chick."
19 Why all these concerns about Jeff and Jill? Why all
20 these suspicions? They also talked in this call, as you may
21 recall, about hiring private investigators to look into them.
22 Why do Code and Dawkins need to know who they are dealing with?
23 Because they know these payments that they are engaged in, they
24 are not supposed to be doing it, and they know they need to be
25 extra careful. If Dawkins and Code were engaged in a business

1 venture that was totally on the up-and-up, would they be
2 talking about hiring private investigators and looking into
3 these people and being skeptical, and all the other things they
4 talked about in this call? No, they wouldn't, ladies and
5 gentlemen.
6 You also heard Dawkins talk about his concerns and his
7 efforts to hide what he was doing in yet another call. This is
8 a call with Munish Sood, and it occurred on the same day, a
9 little bit before Christian Dawkins was going to send an e-mail
10 to Jill Bailey, a new business partner, and Munish Sood. And
11 that e-mail, as you saw, contained the names of various players
12 and the amounts of money that Dawkins was planning to provide
13 to them or their families or handlers. And one of the players
14 discussed here is Brian Bowen. That's what this whole e-mail
15 is full of.
16 And you heard in a call between Dawkins and Sood that
17 Dawkins had second thoughts about putting any of this
18 information in writing in an e-mail to his new business
19 partner, Jill Bailey. Here is what Dawkins said to Munish Sood
20 before he sent an e-mail containing details of payments to
21 various players and their families.
22 (Audio played)
23 MR. SOLOWIEJCZYK: Dawkins says it himself, ladies and
24 gentlemen. He is worried about, if someone goes into Jill
25 Bailey's e-mail, they might discover the secret payments that

he has outlined in that e-mail. Why is he paranoid, as he puts it? Because he knows the payments that he put in that e-mail, payments to players and their families, including Brian Bowen's father, they are not allowed, they are wrong, and he is concerned about anybody from the outside world ever seeing that e-mail. Because for the defendants' scheme to work, they have got to keep these payments concealed from everyone.

So in light of all that evidence, ladies and gentlemen, there can't really be any dispute about the lengths that these defendants went to to hide and conceal what they were doing. Who are the defendants concealing all this information from? Well, they are certainly trying to conceal these payments from the universities. Because if the universities found out, then the student-athletes won't continue to get a scholarship. You know that. The universities can't find out for this scheme to work.

Were the defendants also trying to conceal what they were doing from the NCAA as well? Of course they were. Because for the scheme to work, the defendants had to conceal what they were doing from both the NCAA and the universities. In fact, it would make little sense if the defendants wanted to hide their payments from the NCAA but had no problem with the universities knowing about the payments. Because if the NCAA found out about these payments, they would certainly inform the universities, and that would spell the same outcome for these

1 defendants. Players would be declared ineligible and the
2 defendants' scheme would be over.
3 And, ladies and gentlemen, when we refer to
4 universities, we are talking about big public universities in
5 this case; universities with boards of directors, and
6 chancellors, and a professional compliance staff, whose sole
7 job it is to ensure that these universities don't run afoul of
8 NCAA rules violations or give out scholarships to ineligible
9 athletes. We are not just talking about a single coach on a
10 basketball team. Universities are obviously far bigger than
11 just a coach. Your common sense tells you that.
12 Now, ladies and gentlemen, during the defendants'
13 opening statements, and through their questioning, you have
14 heard two primary arguments. First, that the defendants
15 supposedly were doing this -- all these secrets payments and
16 everything else I have discussed -- to help, not harm the
17 universities. And, second, that they believed the coaches were
18 asking them to make these payments.
19 Now, ladies and gentlemen, I will remind you, of
20 course, that the defense has no burden in this case. The
21 government bears the entire burden of proof, and we embrace
22 that burden. But when the defense presents evidence to you,
23 makes arguments to you, you are entitled to, and you should,
24 scrutinize that evidence and those arguments, the same way that
25 you would scrutinize and analyze any other evidence and any

other arguments. You should use your common sense as well. And when you do that, ladies and gentlemen, you will see that the defendants' arguments don't make any sense and are at bottom irrelevant.

So let's start by talking about this notion that by making these secrets payments to the families of student-athletes to get them to commit to Adidas-sponsored schools the defendants were really just trying to help those universities.

Ladies and gentlemen, respectfully, that doesn't make sense. Sure, nobody disputes that universities want top-level talent. They want to win games. But that doesn't mean that the universities are willing to cheat and break the NCAA rules to do so. That doesn't mean they want to assume the risks of NCAA penalties just to get a top recruit.

And here is another important point. The mere fact that if the defendants had gotten away with it, that if they were never caught the schools might have won a few more basketball games because of these top recruits, that's irrelevant. Because by exposing these universities to the risks of harm, risks the universities didn't want to take, these defendants took this decision out of the hands of the university where it belonged. And the defendants had no right to do that.

Use your common sense when approaching this argument,

1 ladies and gentlemen. You don't help someone by hiding
2 information from them that they are entitled to know in
3 deciding what to do with their money. You don't help someone
4 by ensuring that they are provided with false information,
5 which is exactly what the defendants in this case did by making
6 these payments, and knowing full well the student-athletes
7 would seek athletic scholarships and would fill out forms that
8 contained false information.
9 You don't help someone by exposing them to all sorts
10 of risk of penalties and fines. That's what these defendants'
11 supposed help did as well. Thanks to these defendants, the
12 universities played ineligible players in contests, and as you
13 heard, that would likely lead to forfeiture of those contests
14 as well as a risk of a host of other significant NCAA
15 penalties, including fines and loss of revenue.
16 Does any of that sound like help, ladies and
17 gentlemen? No, it doesn't.
18 Here is the bottom line. This was not the defendants'
19 decision to make for the universities. It was the
20 universities' choice who to give scholarships to, and they were
21 entitled to rely on the accuracy of the information that they
22 were receiving. By making secret payments to the families of
23 student-athletes, taking steps to conceal those payments from
24 the universities, and ensuring that the forms submitted to the
25 universities would contain false statements, these defendants

1 took away from the universities their right to make informed
2 decisions with their money. That isn't help. It's fraud.
3 Ladies and gentlemen, let me also address the argument
4 that you heard defense counsel make in opening statements that
5 the coaches at these universities were asking the defendants to
6 make the payments to the families of these student-athletes,
7 that the coaches asked them to make these payments so that the
8 basketball teams could recruit these athletes to play for their
9 teams.
10 Let me say a few things about why that argument is at
11 the end of the day irrelevant. First, there is very little
12 evidence to support the defendants' assertion that the coaches
13 were asking for each and every one of the payments with which
14 these defendants are charged.
15 Let's talk about the Brian Bowen scheme for a minute.
16 Christian Dawkins told you himself, in wiretapped calls with TJ
17 Gassnola, who knew the details of these payments. He didn't
18 know anybody was listening when he had this conversation. And
19 it was a very close circle of people that knew about these
20 payments. According to Christian Dawkins, when he didn't think
21 that anyone was listening, that circle didn't include Assistant
22 Coach Kenny Johnson.
23 Gassnola said to Dawkins -- as you recall, Gassnola
24 had heard from Brad Augustine, who was an AAU coach of another
25 team, that he knew about the $100,000 payment to Bowen Senior,

1 and he was angry about that and he called Dawkins.
2 And Gassnola said: "This guy ain't lying because
3 there's only four in the world that went down. So five. Me,
4 you -- so TJ Gassnola, Christian Dawkins, Merl Code, Jim Gatto,
5 and Kenny Johnson, the assistant coach at Louisville."
6 And how did Dawkins respond? "Whoa. Kenny didn't
7 even know. I didn't tell Kenny. The $100,000 number was not
8 mentioned."
9 So the notion that Merl Code, Christian Dawkins or Jim
10 Gatto made these payments to Brian Bowen Senior because they
11 were asked to do it by the coaching staff, it's undercut by the
12 evidence. It's undercut by Christian Dawkins's own words.
13 Indeed, the only coach you know for certain was
14 involved in these payments was Orlando Early, an assistant
15 coach at NC State. And you did hear from TJ Gassnola that he
16 was directly involved in the payment that went to Dennis
17 Smith's father.
18 But putting all of that aside, ladies and gentlemen,
19 here is what matters. You don't need to decide which coaches
20 knew and which coaches didn't. You don't need to decide which
21 coaches were asking for these payments and which coaches
22 weren't. At the end of the day, it's utterly irrelevant.
23 Because any coaches who were involved in any such payments, or
24 had knowledge of them and didn't report them, were not
25 authorized to do this. They were not acting on behalf of or in

1 the interests of their universities, period.
2 And the defendants knew that. When Merl Code and
3 Christian Dawkins did not think anybody was listening, they
4 told you exactly what they thought. That Rick Pitino might
5 have known something when it came to Brian Bowen, but that
6 Pitino had plausible deniability.
7 (Audio played)
8 MR. SOLOWIEJCZYK: What does plausible deniability
9 mean? It means the defendants know that Rick Pitino was not
10 allowed to be involved in such a payment. And it means that
11 these defendants knew that Rick Pitino would not have the
12 authorization of his university if he asked for such a payment,
13 and that he would need a basis to deny that payment if it was
14 ever discovered. Which tells you everything you need to know,
15 ladies and gentlemen. These defendants didn't actually think
16 that, if Rick Pitino asked for such a payment, that he had the
17 authority from his university to do so, or that he was acting
18 purely for the interest of his school. That's why Rick Pitino,
19 as they said, needed plausible deniability.
20 And you know what you do have evidence of, ladies and
21 gentlemen, loads and loads of evidence? Is that any coach who
22 participated in or encouraged any such payments was acting
23 expressly contrary to the wishes of the university that
24 employed him, contrary to the express policies of those
25 universities, and contrary to the terms of their employment

1 agreements with these universities.
2 You saw many employment agreements during this trial.
3 This is just one, Rick Pitino's employment agreement. And it
4 makes clear that he has duties to know, recognize, and comply
5 with, among other things, the rules of the NCAA. And he has a
6 duty to diligently supervise compliance of assistant coaches
7 and any other employees for which Pitino is administratively
8 responsible for. That includes making sure they don't violate
9 NCAA rules.
10 And you heard that there can be consequences if an
11 NCAA rules violation happens under these coaches' watch, or if
12 they are involved in a violation. Indeed, you heard time and
13 time again, from each and every compliance officer that
14 testified, that any coach who engaged in making these sorts of
15 secret payments to the parents of student-athletes, they would
16 be subject to immediate termination.
17 And TJ Gassnola, he told you that he was well aware of
18 this as well at the time that he and Jim Gatto were making
19 their underground payments.
20 Why didn't TJ Gassnola tell the compliance staff at NC
21 State about the payments he and Gatto were involved in with
22 Assistant Coach Orlando Early? Why? Because that wouldn't
23 have helped anybody. It would hurt Dennis Smith and it would
24 have hurt the coaching staff. And then he was asked how he
25 expected it would hurt Dennis Smith and hurt the coaching

1 staff. "The coaches would have got fired and Dennis would have
2 been deemed ineligible. He would have never played there."
3 Because everybody working in the world of college
4 basketball knows that any coaches asking for payments like
5 these wouldn't be acting on behalf of their universities.
6 Quite the opposite. They would be acting contrary to their
7 university's own interests.
8 Of course the defendants who worked in the industry
9 knew this. Of course they knew that any coaches asking them to
10 make any such payments were not acting with the blessing of the
11 universities. So at the end of the day this whole notion that
12 the coaches were asking for it, even if it was true, it's
13 irrelevant.
14 Now, ladies and gentlemen, for all of the conduct that
15 I just described the defendants are charged with three crimes.
16 In Count One, all three defendants are charged with
17 conspiracy to commit wire fraud. I expect you to hear from
18 Judge Kaplan that a conspiracy is an agreement.
19 Ladies and gentlemen, if you find that the defendants
20 agreed to defraud the University of Louisville through their
21 agreement to pay $100,000 to the father of Brian Bowen, you can
22 stop there. They are guilty as to Count One.
23 In Count Two, all three defendants are charged with
24 the substantive crime of wire fraud involving the scheme to
25 defraud the University of Louisville in connection with the

1 $100,000 payment to Brian Bowen's father.
2 If you find each defendant participated in that scheme
3 with the intent to defraud the University of Louisville, then
4 defendants are guilty of that count as well.
5 And in Count Three, solely Jim Gatto is charged with
6 the substantive crime of wire fraud involving a scheme to
7 defraud the University of Kansas. This is in connection with
8 the payments that were made to [redacted] mother to get
9 [redacted] to commit to the University of Kansas.
10 If you find that Jim Gatto participated in that scheme
11 with the intent to defraud the University of Kansas, then he is
12 guilty as to that count.
13 Ladies and gentlemen, I am about to sit down.
14 At the beginning of this case, we asked you to use
15 your common sense in evaluating the evidence, and I am going to
16 ask you to do that again. Because if you use your common
17 sense, you will reach the only verdict that is consistent with
18 the law and with the evidence -- that the defendants are
19 guilty.
20 Thank you.
21 We will take a 15-minute break and then we will hear
22 from Mr. Haney.
23 (Jury exits courtroom)
24 (Recess)
25 THE COURT: What is the defendants' time allocation?

MR. HANEY: I will be one hour.

MR. MOORE: We are not 100 percent sure how long Mr. Code's closing argument is going to go, but it will probably be slightly less than an hour.

THE COURT: So then an hour and whatever for Mr. Schachter.

MR. MOORE: Yes, sir.

(Jury present)

THE COURT: The jurors and the defendants all are present.

We will now hear from Mr. Haney on behalf of Mr. Dawkins.

MR. HANEY: Thank you, your Honor.

Good afternoon. Before I begin, on behalf of my client, Christian Dawkins, he and myself deeply thank you for all your patience and your attentiveness and the incredible sacrifice that you all made to leave your lives to be here for the period of time that you were here.

As I watched you all over the last several weeks dutifully file in, just as you did now, one by one to take your respective seats in the jury box, it struck me really, for the first time in maybe 20 years of practicing law, the extent of sacrifice you made by giving Christian Dawkins his day in court.

Now, I totally would be remiss if I did not comment

1 and compliment Mr. Diskant, Mr. Mark, Mr. Solowiejczyk, and Ms.
2 Flodr -- they are very talented team of young lawyers who have
3 sat there in the front row -- for a fine argument today. Now,
4 I don't agree, obviously, with what they said, but I listened
5 intently, and I hope you do the same of me.
6 I thank his Honor for his patience, as it was tried,
7 as you saw, at times during the course of the trial, and for
8 accommodating a couple of out-of-town guys, like me and Mr.
9 Moore, as we navigated our way through the Big Apple.
10 Ladies and gentlemen, for Christian Dawkins, this was
11 the fight for his life, like no other, to clear his name, fight
12 for his liberty, fight for his freedom. And he is still in
13 that fight right now.
14 Despite the mistakes and missteps he has made, those
15 mistakes, those missteps, and the people that you saw in this
16 courtroom who testified against him that he met along the way
17 at such a young age, I submit to you never warranted him with
18 being charged with these very serious federal crimes.
19 Now, hopefully together these discussions that we are
20 having are going to be helpful to you in trying to arrive at a
21 decision in this case, where you don't compromise, you don't
22 sacrifice your beliefs, and where you don't betray your own
23 individual conscience, but instead, you do what you believe,
24 based on the evidence in this case, is the right thing to do.
25 Now, you, ladies and gentlemen, are empowered to

1 determine, based on your assessment of the evidence, not the
2 argument of the lawyers, of what that right thing is. It's a
3 great and mighty privilege, a responsibility, and I submit to
4 you perhaps even a burden, to hold a 25-year-old man's future
5 in your hands, to be the purveyors of justice, and ultimately
6 make the decision that you will soon make of whether or not
7 Christian is guilty or not guilty.
8 So now the defendant, Christian Dawkins, is afforded
9 his opportunity to argue the case, if you will, but I am not
10 going to argue with you. I am going to just try and discuss
11 with you the reasonable inferences, which I submit can be drawn
12 from the evidence in this case, and try to make sense of these
13 charges before the court.
14 Ultimately, it will be what you decide to be the facts
15 that is what is going to be important, and all of us can live
16 with that, and we will, because you took an oath. And we are
17 mindful of that oath that you took as jurors, and we trust that
18 you as jurors will fulfill that oath and keep the promises you
19 made and follow the law.
20 Simply put, you are fair people. We are confident you
21 will arrive at a fair and just outcome for both sides -- the
22 government and the defense -- because that's what fair people
23 do.
24 Now, after several, admittedly, tedious moments during
25 the course of this trial, you are now empowered to administer

1 justice. No more lawyer arguments. No more secret trips to
2 the sidebar. You are now empowered to ensure that this great
3 system that we have works. This is your time, ladies and
4 gentlemen, the ball is now in your court, and I submit that you
5 have this rare opportunity to be participants in this
6 administration of justice. For, as you will see, the
7 government took this case of NCAA rule-breaking, and now you
8 must decide if NCAA rule-breaking is a federal crime.
9 The judge will instruct you on the law.
10 THE COURT: Sustained. That is most assuredly not the
11 jury's job.
12 MR. HANEY: Thank you, your Honor.
13 The judge will instruct you on the law. That is not
14 my job. It's only my job to walk you through the evidence,
15 which we are about to do. And it is your job to decide if my
16 client violated those laws. And I submit to you that the
17 government has failed to prove that beyond a reasonable doubt.
18 So let's revisit the evidence in this case and take a
19 journey, if you will. Remember in my opening statement I
20 talked about a journey for justice, that you would go on a
21 trip. And it wouldn't be a straight line path; it would a path
22 that would take different routes. It would meander a bit. You
23 might even hit a dead-end road every now and then and have to
24 come back. And I submit to you that trip that you took left
25 you empty of any sensible explanation for the theory in this

1 case that the universities were somehow harmed, and that my
2 client intended to harm them.
3 I submit that at the end of this trip it will be
4 evident that the government's theory is flawed, and the
5 government has failed to meet that burden of proof, and that
6 Christian Dawkins will not be guilty of the crime of wire fraud
7 and conspiracy.
8 So let me start this journey for justice by discussing
9 the charges against Christian Dawkins.
10 Now, after all the defendants have had a chance to get
11 up here and speak to you tomorrow, the government will get an
12 opportunity to address you again one last time, and then Judge
13 Kaplan is going to instruct you on the charges brought by the
14 government in the case. So let's look at the charges.
15 Now, you will hear that the government is bringing
16 three different counts in this case. It is important to
17 remember that my client, Christian Dawkins, is only being
18 charged with Count One and Count Two.
19 Count One, conspiracy to commit wire fraud, which
20 includes the universities Louisville, Kansas, Miami, and North
21 Carolina State.
22 Count Two, substantive crime of wire fraud with
23 Louisville.
24 Now, the judge will instruct you on the law. But I
25 will tell you that in order to find my client, Christian

1 Dawkins, guilty of Count Two, the government must prove beyond
2 a reasonable doubt that Christian Dawkins acted with a criminal
3 intent, an intent to defraud.
4 I submit that it is the burden the government will not
5 be able to meet in this case to defraud Louisville. That's
6 Count Two.
7 So what is Count One? Count One is the conspiracy to
8 commit wire fraud. Again, Louisville, Kansas, Miami, and North
9 Carolina State. These are the four schools that the government
10 put forth to you as the victims in this case.
11 Now, I want to try to make sense with this for a
12 minute. I really want you to think on this. Where during the
13 last several weeks did you ever hear my client's name
14 associated with anything that occurred at either North Carolina
15 State or the University of Kansas?
16 Ladies and gentlemen, you didn't. Because there
17 wasn't a suggestion from the government that Christian Dawkins
18 was involved in anything that had to do with North Carolina
19 State or Kansas.
20 Now, we have heard testimony from witnesses Carrie
21 Doyle and Jeff Smith, in the compliance departments of both
22 North Carolina State University and University of Kansas, both
23 who detailed a variety of rules improprieties associated with
24 Dennis Smith, Jr. at North Carolina State, and the same type of
25 NCAA rules violations with players

1 [redacted] at the University of Kansas. But, ladies and gentlemen,
2 ask yourselves when you deliberate, did you ever hear the name
3 Christian Dawkins come out of the university witnesses' mouths
4 one single time?
5 You heard the testimony of former Adidas consultant TJ
6 Gassnola, who detailed the facts and circumstances of cash
7 drops to the parents and guardians of those players at North
8 Carolina State and Kansas, more specifically, Dennis Smith, Jr.
9 at North Carolina and [redacted] at
10 Kansas. Ask yourselves again, did you ever hear the name
11 Christian Dawkins come out of the mouth of TJ Gassnola in
12 connection with those two schools, Kansas and North Carolina
13 State? Was Christian Dawkins's name ever mentioned one time as
14 an actor or a participant in any scheme to the parents or
15 guardians of any of the players at either North Carolina State
16 or the University of Kansas? No, you didn't.
17 If you have any doubt, I will tell you what. Don't
18 take my word for it. You can prove me wrong. When you go back
19 into the deliberation room, after what we have all said, you
20 will have the ability to request the transcript of what you
21 heard in court over the past several weeks. You can ask for
22 the transcript of the North Carolina State and the Kansas
23 compliance staff, and the testimony of TJ Gassnola, and review
24 it for yourself. And I submit to you -- and hold me to what I
25 am going to say -- you won't find one shred of evidence

1 connecting Christian Dawkins to Kansas or North Carolina State.
2 Nothing.
3 It goes further than the transcript. Was there a
4 single text message, wiretap, or an e-mail that ever made any
5 suggestion that my client, Christian Dawkins, was engaged in
6 some scheme to defraud North Carolina State or the University
7 of Kansas through the use of interstate wires? The answer is
8 no. Not one single shred of evidence.
9 So let's talk about another school that the government
10 has alleged is a victim in this case. The University of Miami.
11 You heard the stipulation read into the record by the
12 government. And that stipulation simply means that the
13 government and we agree that what is contained in that
14 stipulation is to be considered by you all as evidence.
15 So let's take a look at the most relevant portion of
16 that stipulation, which is Government Exhibit S7.
17 "On or about August 6, 2017, after Brad Augustine
18 requested money from Adidas for the stated purpose of providing
19 those funds to the family of Nassir Little, Augustine told
20 Christian Dawkins, in substance, that he did not intend to
21 provide that money to the Little family but instead intended to
22 use the money for his AAU team and other expenses." Remember
23 that word "intended."
24 So, ladies and gentlemen, that's a fancy way of saying
25 Brad Augustine was trying to con Adidas out of money. And,

1 therefore, there was never any conspiracy associated with an
2 attempt to steer or influence Nassir Little to the University
3 of Miami. It was a sham. Brad Augustine was lying. No
4 parents ever received any money. No kids were paid to attend
5 the University of Miami. No kids or parents ever made any
6 certifications of eligibility to the University of Miami.
7 Therefore, the University of Miami never suffered any harm or
8 injury. Absolutely nothing.
9 So I submit to you, ladies and gentlemen, based on
10 that evidence of what you know, what we have just talked about,
11 as we have taken this journey so far, no North Carolina State,
12 no Kansas, and no University of Miami.
13 Now, the government still alleges, despite that, that
14 Christian Dawkins was in a conspiracy with the two gentlemen
15 associated with Adidas, Mr. Gatto and Mr. Code.
16 Ladies and gentlemen, as you deliberate on whether
17 Christian Dawkins was involved in a conspiracy with the two
18 defendants associated with Adidas, ask yourselves how that's
19 possible, when the evidence has shown that Christian Dawkins
20 had nothing to do with three of the four Adidas schools even
21 referenced in Count One of the charges.
22 Not to mention, during the course of this trial you
23 were presented with evidence that Christian Dawkins was far
24 from exclusively working to help Adidas schools get players.
25 In fact, he was working just as much to help Nike schools as he

1 ever did with Adidas.
2 Let's take a look at some testimony from Brian Bowen
3 Senior, the father of Brian Bowen Junior. We referred to him
4 as Tugs, and you all know by now who that is. We heard that my
5 client, Christian Dawkins, discussed several options with Brian
6 Bowen Senior. Here is the testimony, question to Brian Bowen
7 Senior by me:
8 "Q. And there was conversation about other schools with
9 yourself and Christian that were possible suitors for your son
10 at the college level, would you agree?
11 "A. Say that again. I'm sorry.
12 "Q. There were other schools that you discussed including
13 DePaul, correct?
14 "A. Yes.
15 "Q. Creighton, correct?
16 "A. Yes.
17 "Q. Oregon, correct?
18 "A. Yes.
19 "Q. UNLV, correct?
20 "A. Yes.
21 "Q. And Michigan State obviously, correct?
22 "A. Yes."
23 Now, ladies and gentlemen, you know from the evidence
24 two of these schools, Michigan State and Oregon, they are both
25 Nike schools.

1 So, ladies and gentlemen, the conspiracy that the
2 government alleges with the Adidas defendants in Count One and
3 my client, I submit to you, based on all that evidence, it's
4 not there. Forget about beyond a reasonable doubt. There is
5 no evidence of it. And notwithstanding the incredibly high
6 burden of proof in a criminal case, which is beyond a
7 reasonable doubt. It's the highest burden of proof we have in
8 the America legal justice system. In fact, it's a balancing
9 test. You literally put the evidence on a scale and you weigh
10 it. And it's not a little more than not; it's significantly
11 more than it's not. In this case, ladies and gentlemen, there
12 is nothing even to put on the scale, I submit to you.
13 So what does that leave us with? That leaves us with
14 one school, I contend, and one remaining count, and one very
15 opportunistic father.
16 Now, central to the government's case is that
17 Christian Dawkins, at the age of 23 years old, somehow
18 influenced the father of Tugs Bowen to get his son to attend
19 the Adidas-sponsored University of Louisville by paying Brian
20 Bowen Senior with money that Christian Dawkins obtained from
21 Adidas.
22 Now, I will not, and cannot, interject my own feelings
23 to that suggestion, but let's look at the evidence and focus on
24 how that simply did not happen.
25 First of all, when Brian Bowen Senior took that

1 witness stand I asked him on cross-examination, whose decision
2 was it for Tugs Bowen to go to Louisville? And Brian Bowen
3 Senior's answer to my question was so important, so paramount
4 to this case I want you to see it for yourselves and read it.
5 I am not going to talk. I want you to look at it.
6 (Continued on next page)
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1 MR. HANEY: There it is, ladies and gentlemen. You
2 heard it from the government's own witness, Tugs Bowen -- not
3 his father, not Christian Dawkins -- Tugs Bowen made the
4 decision to go to Louisville. I submit to you that this
5 statement, this testimony from Brian Bowen Senior is fatal to
6 the government's case. I don't know how much clearer evidence
7 you can have than that statement by Brian Bowen Senior.
8 And, ladies and gentlemen, remember, that came from
9 the government's own witness, who is testifying and being
10 granted immunity from prosecution of multiple felonies he was
11 charged with. Testifying in this case to potentially avoid
12 going to prison. Testifying to help the government convict my
13 client. And he told you that his son was the one who chose to
14 go to Louisville.
15 Now, you also heard Brian Bowen Senior testify that on
16 numerous occasions Christian Dawkins advocated and pushed for
17 his son to attend the hometown school of Michigan State
18 University. Here's that testimony now.
19 (Pause)
20 I asked Mr. Bowen, on cross-examination:
21 "Q Mr. Bowen, you testified on direct about conversations with
22 Christian Dawkins about where your son would go to school, is
23 that correct?
24 "A Yes, that's correct.
25 "Q One of those schools that was discussed was Michigan State

1 University, is that a correct statement?
2 "A Yes, it is."
3 You also saw in Government Exhibit 102K-10 text
4 messages between Christian Dawkins and Brian Bowen Senior that
5 Christian Dawkins told Brian Bowen Senior that his son should
6 go to Michigan State, a Nike school. And I want you to take a
7 look at that exhibit.
8 And right here on May 18, 2017, shortly before he made
9 his decision, you see my client, Christian Dawkins, sending a
10 text to Brian Bowen Senior, Christian telling Brian Bowen
11 Senior, on May 18, 2017, that Tugs should go to MSU, keep it
12 simple. They want Tugs.
13 Brian Senior says, "He's just not feeling them. I'll
14 ask him again today. I'm for MSU. It's him."
15 Understand, those are text messages. Those two
16 gentlemen don't know they're being monitored by the FBI. So
17 here we have, again, Christian Dawkins charged in a conspiracy
18 with Adidas, making a pitch, telling Brian Bowen Senior his son
19 should go to a school who is not sponsored by Adidas but
20 instead sponsored by Adidas' archrival Nike.
21 And Brian Bowen Senior says, as you can see from the
22 text message: I'll ask him today. Tugs is just not feeling
23 them. I'm for MSU. It's him.
24 Does that sound like to you, ladies and gentlemen,
25 that he is the decision maker? Does it sound like, as the

1 government contends, Brian Bowen Senior was forcing his son to
2 do anything? Does this sound like a text from a man who has
3 that kind of influence over his son?
4 And, ladies and gentlemen, when I asked Brian Bowen
5 Senior in this courtroom why his son did not go to the hometown
6 school of Michigan State University, what did Brian Bowen
7 Senior say? Look at what Brian Bowen Senior said. I asked him
8 on cross-examination:
9 "Q So it was your son's choice to go to Michigan State or not
10 to go to Michigan State, is that a fair statement?
11 "A Of course.
12 "Q Just like it was your son's choice to go or not to go to
13 Louisville, correct?
14 "A Of course."
15 How much clearer can that be? Beyond a reasonable
16 doubt? Tugs Bowen was the decision maker. Not Brian Bowen
17 Senior. Not Christian Dawkins.
18 Let's take a look at some text messages between
19 Christian Dawkins and Tugs himself. In Exhibit 105, Christian
20 Dawkins texts, on the date of May 23, 2017, shortly before -- a
21 couple of weeks before Tugs Bowen makes a decision. Christian
22 Dawkins texts: The last one you should talk to, though, is
23 Marvin Menzies at UNLV. He's got a squad and a good thing
24 going. And you can be the man. And you need to really have a
25 final conversation with Dana Altman at Oregon. It's a terrible

1 place but a good basketball situation.
2 Tugs responds: OK, I will.
3 Then Christian responds: OK, cool. Let me know if
4 you have any questions or want to know anything background wise
5 about the coaches or players before you make a final decision.
6 Whatever you do, you will kill it.
7 Does this sound like somebody who was trying to
8 influence Tugs Bowen to go to any school, Adidas or otherwise?
9 Ladies and gentlemen, I submit to you, based on the evidence,
10 not all the secret accounts and invoices and backbones, based
11 on the evidence it makes no sense.
12 But let's not stop there. Our journey for justice has
13 got a few more stops along the way.
14 Let's talk about motivation for a minute. The
15 government's theory depends on Brian Bowen Senior taking money
16 to influence his son to go to Louisville. But you heard Brian
17 Bowen Senior, the government's witness, called before you by
18 the government to help their burden. Their witness told you
19 himself, the most important factor in making any basketball
20 decision with his son, since his son was in high school, was
21 not money but whether the situation was a good basketball fit.
22 You heard that Tugs Bowen, from his dad's testimony, was
23 offered $18,000 -- or the father was offered $18,000 for his
24 son to play AAU basketball for the Spiece Indy Heat. Let's
25 take a look at that testimony now.

1 My question to Brian Bowen Senior:
2 "Q And when your son was still in high school, you were
3 actually even offered $18,000 to play for a team out of
4 Indiana, called the Spiece Indy Heat, correct?"
5 So what happened after Brian Bowen Senior was offered
6 $18,000 by the Spiece Indy Heat, to play for that AAU team? He
7 told you what happened. My question to Brian Bowen Senior:
8 "Q Tugs chose not to play for that team, didn't he?
9 "A Correct."
10 And Tugs Bowen, as you heard from the testimony, he
11 didn't play for the Spiece Indy Heat. He instead went and
12 played for another team, called the Mean Streets. And why Mean
13 Streets? Were they paying more money? No. Brian Bowen Senior
14 told you, the Mean Streets were only going to give him $5,000,
15 which he took. And when I pressed Brian Senior on that point,
16 look at what he said:
17 "Q So even though you could have been paid three times more
18 money to play for the Spiece Indy Heat, you didn't because you
19 felt the Mean Streets were a better basketball fit for your
20 son, correct?
21 "A Correct."
22 In fact, Brian Bowen Senior accepted less than one
23 third of the amount of money he could have received from the
24 other AAU team, the Spiece Indy Heat. He got only $5,000
25 instead of $18,000 for Tugs Bowen to play for the Mean Streets.

1 Because it was a better basketball fit for his son.
2 And that wasn't the only example. The evidence showed
3 that Tugs' father was also made aware of an offer of $150,000
4 and an $80,000 car from an assistant coach at Oklahoma State
5 University for his son to play there. Let's look at the
6 transcript. The question to Brian Bowen Senior:
7 "Q What did Mr. Dawkins say with respect to Oklahoma State
8 University?
9 "A They were like $150,000 cash, $80,000 for a car, and some
10 undisclosed amount to buy a house, I guess, too."
11 Brian Bowen Senior also testified that his son was
12 going to the University of Arizona but only changed his mind
13 when two kids, who had previously declared for the NBA draft,
14 changed their minds and returned to school. You heard his
15 testimony. Rawle Alkins and Allonzo Trier. When that
16 happened, the University of Arizona was ruled out. Why? It
17 wasn't a good basketball fit.
18 Brian Bowen Junior -- I'm sorry, Brian Bowen Senior
19 then testified not until the end of May of 2017 did the
20 University of Louisville even become a consideration for his
21 son's college choice. Not because of money, but because
22 Christian Dawkins and Bowen Senior realized that a player named
23 Donovan Mitchell had left Louisville and went to the pros. How
24 do we know that? You can see it from his testimony.
25 He was asked:

1 "Q Mr. Bowen, when Donovan Mitchell declared for the NBA
2 draft, did you feel at that point the University of Louisville
3 became a good basketball fit for your son?
4 "A I mean, not immediately. Once, you know, Christian had
5 mentioned it to me. I didn't really think about Louisville."
6 "Best basketball fit." We see it over and over, a
7 pattern. That is why Tugs Bowen played for the Mean Streets.
8 That is why he played for his high school team, La Lumiere Prep
9 School. Just like why he did not choose Michigan State. Just
10 like he did not choose Arizona. Each time, it was always Tugs
11 Bowen's decision. And each time Tugs Bowen's decision was
12 based on basketball, not money.
13 And, ladies and gentlemen, the same thing happened in
14 this case, the same pattern continued. Let's look at why Brian
15 Bowen Senior said Tugs Bowen chose Louisville. The question
16 was posed:
17 "Q And when Tugs made that decision to go to Louisville, you
18 felt that it was a good decision in picking the University of
19 Louisville, didn't you?
20 "A I agreed with it.
21 "Q There was no doubt that you believed the University of
22 Louisville had a great basketball program for your son,
23 correct?
24 "A Yes.
25 "Q And you thought that your son was a great fit for the

1 University of Louisville basketball team, too, didn't you?
2 "A Yes."
3 And given that pattern here, there is no wonder why
4 Tugs Bowen ended up at the University of Louisville.
5 And just like the evidence has shown, Louisville is
6 not the only school offering money for Tugs Bowen to attend
7 their school and play on their basketball team. Brian Bowen
8 Senior, like he always had, he was going to get paid no matter
9 where his son ended up playing.
10 Ladies and gentlemen, I submit the government has not
11 come close to meeting the burden of proof in this case. And I
12 submit to you, they have not presented any evidence at all that
13 my client ever influenced the dad, Brian Bowen Senior, to do
14 anything. The government had my client's phones wiretapped,
15 obtained all of his emails, text messages. And despite the
16 mountain of data they collected over the years of this
17 investigation, the government has not shown you in their case
18 one single phone call, one single text message, one single
19 email where my client ever told Tugs Bowen or his dad that if
20 Tugs Bowen went to the University of Louisville, then, and only
21 then, would he pay his dad a hundred thousand dollars or anyone
22 else would. The evidence is silent on that because there isn't
23 any.
24 Beyond a reasonable doubt? Again, use your common
25 sense and logic. If that ever was agreed upon by Christian

1 Dawkins and Brian Bowen Senior, why wouldn't there be any
2 evidence of it? Nothing.
3 Now, ladies and gentlemen, I submit that based on the
4 evidence and the testimony of Brian Bowen Senior, you can
5 infer, you can make a reasonable inference, and conclude that
6 Brian Bowen Senior was an opportunist. You heard from the
7 testimony, he was a 46-year-old police officer, on disability,
8 who for six years had been committing food stamp fraud,
9 cheating poor people, not paying his taxes, and mooching off my
10 client, barely in his 20s. You saw Brian Bowen Senior testify.
11 You are the determiners of credibility right now, not me. My
12 opinion of him doesn't matter.
13 But ask yourselves -- you watched him testify -- does
14 Brian Bowen Senior strike you as a grown man who would ever let
15 a 20-something-year old kid like Christian Dawkins tell him
16 what to do with his son? I submit to you, ladies and
17 gentlemen, and I contend the notion that Christian Dawkins, at
18 23 years old, could have ever influenced Brian Bowen Senior to
19 force his son, his pride and joy -- you heard him testimony,
20 working with him since he was little -- to suggest that he
21 could have gotten him to do anything he didn't want to do is
22 utterly ridiculous.
23 I submit, our trip could end right now, that the
24 journey is over, and you've arrived at your place that we
25 embarked upon during the opening statement of justice. Let's

1 go down the road a little bit further just in case we are not
2 all there.
3 You've heard over the course of the last two weeks
4 repeated testimony from government witnesses, multiple, who
5 have said paying money to parents of prospective
6 student-athletes is a violation of the NCAA rules and
7 compromises the eligibility of those student-athletes, in this
8 instance, Brian Bowen Junior, or Tugs Bowen.
9 OK. Let's say for the sake of argument that's right.
10 Let's take a look at all the times Brian Bowen Senior broke the
11 NCAA rules long before July of 2017: $8,000 wrapped in a
12 magazine sent to him from TJ Gassnola. $12,000 over time from
13 Chris Rivers, who paid the rest of the $20,000 payment to play
14 for the Michigan Mustangs. $5,000 from the former NFL wide
15 receiver, Tai Streets. $1,500 from Tim Anderson, the head
16 coach of the Nike Mean Streets. A $2,000 check from Adidas'
17 Chris Rivers. $8,000 from Shane Heirman, the head basketball
18 coach at the La Lumiere Prep School. By his own admission,
19 Brian Bowen Senior testified on at least seven occasions,
20 before he ever took that money in July of 2017 in the parking
21 lot of Morristown, New Jersey in that sandwich, he broke the
22 NCAA rules by taking money, not just from Adidas, but from the
23 coaches and from Nike-sponsored programs.
24 The government just stood up here during their closing
25 argument and told you that the July 2017 payment from Munish

1 Sood to Brian Bowen Senior was the payment, the trigger that
2 made Brian Bowen Junior ineligible and caused the false
3 certification to be made to the Athletic Department and thereby
4 defrauding the University of Louisville. Are you kidding me?
5 Ladies and gentlemen, think about that logic, if you
6 will. If paying parents makes kids ineligible, which is what
7 they say, then I contend any one of those seven separate
8 occasions when Brian Bowen Senior broke the NCAA rules by
9 getting paid, long before he got paid in 2017, made his son
10 ineligible back then. Arguably, Brian Bowen Junior was
11 ineligible seven times before he ever got to Louisville.
12 Beyond a reasonable doubt?
13 By his own admission, Brian Bowen Senior testified
14 that after the infamous July 2017 payment from Munish Sood on
15 the date of August 23rd, he received $1,300 in cash. And who
16 did Brian Bowen Senior receive that cash from? Let's look at
17 what Brian Bowen Senior said. The government's own witness.
18 He told you, the question:
19 "Q You testified on direct, Mr. Bowen, that there was an
20 occasion where the head associate basketball coach at the
21 University of Louisville, Kenny Johnson, gave you $1,300 cash
22 outside the Galt house apartment in Louisville, is that right?"
23 He answered, "Yes."
24 "Q And you know that the head associate coach is the
25 number-two guy on the coaching staff behind the head coach,

1 isn't that right?
2 "A Yes.
3 "Q And that payment by you -- the head associate coach of the
4 University of Louisville, Kenny Johnson, that would be a
5 violation of the NCAA rules, wouldn't it?"
6 He answered, "Yes."
7 That's right, ladies and gentlemen. Brian Bowen
8 Senior acknowledged, on cross-examination, that the University
9 of Louisville's head associate basketball coach, Kenny Johnson,
10 the second in command behind Rick Pitino, who was in the
11 Louisville basketball program, paid him $1,300. And Brian
12 Bowen Senior knew when he took that money, just like he did
13 with all the other money he took, he was violating the NCAA
14 rules. Brian Bowen Senior told you he knew that payment could
15 have compromised his son's eligibility in the exact same way it
16 could have when he received the money from Munish Sood in that
17 Morristown, New Jersey parking lot.
18 Here is the testimony on that. A question to Brian
19 Bowen Senior was posed:
20 "Q So this action by the head associate coach at the
21 University of Louisville, Kenny Johnson, paying you cash could
22 have affected Tugs' eligibility in the exact same way Christian
23 Dawkins did, agreed?
24 "A Both violations."
25 And the government wants you to believe that the

1 University of Louisville is a crime victim? A fraud victim?
2 Victimized by the actions of my client. When their own second
3 in command of the basketball program was breaking the exact
4 same NCAA rules they allege was the harm that they suffered in
5 this case?
6 And to further exemplify the absurdity of the
7 situation in Louisville, you were presented with other
8 evidence, directly from the government, through a stipulation
9 that I'm about to show you again. I am not going to read the
10 whole thing.
11 At the time the University of Louisville Head
12 Associate Basketball coach, Kenny Johnson, broke the NCAA rules
13 by paying Brian Bowen Senior that $1,300 cash, the Louisville
14 basketball program had just recently been placed on probation
15 for committing major rules violations. Now, I want you to keep
16 in mind, these violations didn't have anything to do with these
17 defendants. These violations were violations that occurred
18 between 2010 and 2014. And I contend that this is an example
19 of Louisville, the OK for their basketball program violating
20 the rules of the NCAA to rack up wins.
21 Let's look at the stipulation. The highlighted
22 portion, if you could turn your attention to that.
23 On the date of June 15, 2017, the NCAA Division I
24 Committee on Infraction ("COI") found that on twelve occasions,
25 between approximately 2010 until approximately 2014, the former

1 Director of Basketball Operations for the University of
2 Louisville's men's basketball team committed NCAA recruiting
3 violations. The COI further determined that, through this
4 conduct, the University of Louisville had committed Level I
5 aggravated violations, i.e., ones which seriously undermined or
6 threatened the integrity of the NCAA collegiate model --
7 because the violations provided, or were intended to provide, a
8 substantial or recruiting advantage."
9 Just like that Miami stipulation that we saw before,
10 this is evidence; this is agreed to by the defense and the
11 government.
12 And I contend that the University of Louisville
13 baseball program had such little regard for the NCAA and their
14 rules, they thumbed their nose at the NCAA and within 90 days
15 of not just being placed on probation for four years, but also
16 being stripped of their 2013 national title, continued to
17 commit NCAA rules violations by making cash payments to
18 players. I ask you, ladies and gentlemen, does that sound like
19 a crime victim to you?
20 As I told you in the opening statement, this case was
21 never a "who done it," for this case is simply what was in the
22 mind of the young man sitting over there. And the Judge will
23 instruct you -- not me -- on the law of intent. Always require
24 the government to prove their case beyond a reasonable doubt.
25 Now, you heard testimony from Munish Sood, who stated

1 the obvious. Munish Sood was the banker that testified at the
2 beginning of the trial. One of the first witnesses, I
3 remember. He testified that to be involved in the sports
4 business, he and Christian needed the universities. Without
5 them, they wouldn't have any clients. The schools were the
6 lifeblood of the sports agencies. Kids went to these schools
7 arguably not to get an education but they went to these schools
8 to increase their draft status, so they could become
9 professionals, and become future clients perhaps of Munish Sood
10 and Christian Dawkins. Therefore, you may ask yourselves, as
11 you deliberate -- and think of the logic of this and make
12 reasonable inferences -- what possible sense would it have made
13 in Christian Dawkins' mind that he would ever want to do
14 anything with the specific intent to defraud any of these
15 universities? Christian Dawkins wasn't interested in hurting
16 universities. It was in his best interest to help them. And
17 the best way Christian Dawkins could help universities is help
18 them get players.
19 And the evidence backs this up completely -- not even
20 our evidence, the government's evidence. Let's look back at
21 Government Exhibit 107Q-1, which is a text message between TJ
22 Gassnola and the head coach of Louisville, Rick Pitino himself.
23 Remember this text message. TJ Gassnola is congratulating Rick
24 Pitino for the commitment of Brian Bowen Junior to play
25 basketball at Louisville. Texting Rick Pitino how Tugs Bowen

1 will help Louisville's basketball program. Why? Because Tugs
2 Bowen going to Louisville was a good thing for Louisville. Not
3 a bad thing. Not a fraudulent thing. And Rick Pitino knew it.
4 Rick Pitino: Thumb's up. Good job. Thanks.
5 Everything Christian Dawkins did with respect to Tugs
6 Bowen and Louisville was done with the best intentions in his
7 mind. Not done for any purpose other than that. The evidence
8 showed he helped Brian Bowen Senior get the money he
9 desperately needed in part to repair his house that had burned.
10 He helped Tugs Bowen find a top school that needed a player to
11 replace Donovan Mitchell, and offered a great stage to audition
12 for the NBA. He helped the Louisville basketball team secure
13 one of the best high school basketball players in America. And
14 in doing all these things, he scored points with the dad, he
15 got in good favor with Rick Pitino, and one day hopefully, if
16 he was lucky, got a step closer to being Tugs Bowen's manager
17 or agent. Where possibly, ladies and gentlemen, based on any
18 of those facts can you find one scintilla that Christian
19 Dawkins acted with an intent to harm, defraud, or hurt anyone?
20 The government has tried to show you that because
21 money exchanged hands in cash form, because it was submitted
22 under a different name, travel expenses on invoices. Don't
23 forget, a lot of that has nothing to do with my client.
24 Understand, he's being tried here alone. And sometimes in a
25 case like this, all of the evidence is cumulated and it can be

1 prejudicial to a particular client. So keep Christian Dawkins,
2 if you will, separate to some of those transactions.
3 But you heard from Christian Dawkins himself why these
4 payments were happening in cash form and why they were being
5 concealed, the ones he was associated with. Listen to the
6 phone call. It is frankly rare that as a defense attorney you
7 get such a clear refutation of a government theory against your
8 client by and through a wiretap. So I'm going to play right
9 now briefly phone call DX7 for you. You could hear Christian
10 Dawkins describing in his state of mind his own words in the
11 transcript that the accompanies.
12 (Audio played)
13 Did you hear that, ladies and gentlemen? The federal
14 agent asked Christian Dawkins is there any reason why this guy
15 didn't want to just wire it to him. It sounds like a question
16 an FBI agent would ask. Christian Dawkins' answer was, "I
17 guess from the standpoint of keeping everything as clean as
18 possible for -- you never know when the NCAA is going to come."
19 He didn't say, Well, we're committing wire fraud. What if the
20 FBI finds out?
21 Christian Dawkins' paranoia was based on what he said
22 in this wiretap. He's worried about the NCAA.
23 As we said in our opening statements, the NCAA rules
24 were violated.
25 You also heard the government reference in their

1 closing argument a Jeff and Jill. You remember, Jeff DeAngelo
2 and Jill were these undercover investors that Munish Sood had
3 brought to Christian Dawkins and Merl Code. And the government
4 suggested that the concern of Christian Dawkins and Merl Code
5 was that Jeff and Jill needed to be investigated. Right? Who
6 knows who these people are. And here's testimony from Munish
7 Sood that could help clarify that to you, to why Christian
8 Dawkins was concerned, so there's not some misleading
9 information to cause you to think otherwise. The question to
10 Munish Sood:
11 "Q Isn't it true that you and Christian both had concern about
12 Jeff and Jill, the investors, because of the association they
13 had with Marty Blazer, right?
14 "A Yes.
15 "Q Because Marty Blazer introduced you to Jeff and Jill,
16 didn't he?"
17 He answered, "Yes."
18 "So you and Christian Dawkins had conversation about
19 the concern of the investigation of Marty Blazer with his
20 problems with the SEC, right?"
21 Mr. Sood answered: "We had concerns about that and
22 also the fact that, as I said earlier, where the money was
23 coming from.
24 "Q And that concern included being introduced to Jill because
25 she was associated and linked with this Marty Blazer guy,

1 right?
2 "A Correct."
3 So any concerns that they had with Jeff and Jill were
4 because of this shady character named Marty Blazer who brought
5 them to the table. So, I want you to understand that, and
6 that's what the evidence is.
7 Why did Christian Dawkins do the things that he did?
8 He definitely did things. We sat here for three weeks and
9 heard that. And because none of us are mind readers, we need
10 to look at the evidence to do our best in answering that
11 question.
12 And when the doors close behind you, and they will
13 soon, and you begin to deliberate in the jury room, I want you
14 to keep one simple phrase in mind and one simple concept. I
15 believe it is a phrase that my client will never forget, and I
16 hope you won't, either. "Preexisting relationship." "Prior
17 relationship." Though many things in this case are in dispute,
18 one thing I submit to you that is absolutely certain is the
19 fact that in the mind of Christian Dawkins, he believed,
20 whether he was right or wrong, that arranging to give Brian
21 Bowen Senior money was not an NCAA rules violation. And,
22 again, whether he is right or wrong about that, what matters is
23 if he had a good faith belief for that.
24 How can we possibly know what was in Christian
25 Dawkins' mind at the time the payments were happening? You

1 could almost say it is not possible. I submit we have
2 evidence. And, fortunately, if there is any good thing to
3 happen when the FBI is monitoring your phone calls, fortunately
4 they were on this occasion when they wiretapped his phone.
5 Let's listen to a recording they took of Christian Dawkins, and
6 there is a transcript that accompanies.
7 (Audio played)
8 So, we'll leave that up for a minute. In his truist
9 moments -- how truer a moment can you have than when you're
10 being wiretapped by the FBI -- Christian Dawkins says: Yeah,
11 that's my son, Jeff. Like, when I tell you to feed my guy,
12 like this is my guy, like his effing aunt used to babysit me,
13 I've been knowing this kid his whole life. His cousin was my
14 first girlfriend. Like, these are my people people.
15 He then goes on and says: I don't even think they
16 could do anything, because I've been knowing him his whole
17 life. I don't even think it is an added benefit. I think it
18 would be like, OK, you know, they just -- they just had a prior
19 relationship before. That's how long I've been knowing him.
20 That was what was in his mind. That's the evidence.
21 Now, let's put that in context. You may say, So what?
22 Who says that that's OK? Well, you heard the testimony of John
23 Carns, the senior associate athletic director for compliance at
24 the University of Louisville, who testified very clearly, and
25 recognized the existence of such a rule, that under certain

1 circumstances those preexisting relationships are exempt from
2 NCAA the impermissible benefit rule and can even be paid cash.
3 Let's look at the Louisville compliance director's testimony
4 together. The question was posed to Mr. Carns, from
5 Louisville:
6 "Q You know there is a exception to the preferential treatment
7 rule that involves preexisting relationships, don't you?
8 "A Yes, there is."
9 But it gets better. Here's the same compliance
10 director testifying that cash could even be paid under the
11 preexisting relationship rule. Question to Mr. Carns:
12 "Q As the director of compliance, would you agree that there
13 does exist a circumstance called a preferential -- under the
14 preferential treatment rule, where if there is a preexisting
15 relationship between parties, cash can be paid under certain
16 circumstances?
17 "A Under the circumstances listed in that interpretation,
18 yes."
19 So from the government's own witness, there is a
20 preexisting evidence -- existing relationship rule, where cash
21 can be paid to those who had a prior relationship, and there
22 was clearly evidence that Christian Dawkins had a preexisting
23 relationship with Tugs Bowen and his family, absolutely -- not
24 my opinion, from the evidence. But let's look at the evidence
25 and not take Christian Dawkins' word for it.

1 Here is Government Exhibit 516. It is an email from
2 Christian Dawkins to Munish Sood. Christian Dawkins emails
3 Munish Sood, April 10, 2016.
4 Brian Bowen: He's a kid that is a little bit more of
5 a longterm project. $1,500 a month is what he will need. He
6 is a Saginaw, Michigan kid. I've known the family for years.
7 He's for sure a pro.
8 But it's not just Christian Dawkins who acknowledges
9 this, Munish Sood also acknowledged that Christian referred to
10 Tugs Bowen as his son. Here's Munish Sood's testimony on that.
11 Mr. Sood was asked:
12 "Q And you had on several occasions had heard Chris Dawkins,
13 my client, refer to Tugs Bowen as his son?"
14 He answered, "Yes."
15 Brian Bowen Senior acknowledged that he and Christian
16 Dawkins went way back. Brian Bowen Senior's testimony:
17 "Q And you and Christian Dawkins go way back; is that a fair
18 statement, is that fair to say?
19 "A Yeah. I knew him from the same city."
20 How far back is way back? Brian Bowen Senior told you
21 that Christian Dawkins was in fact Tugs Bowen's AAU coach since
22 Tugs Bowen was 12 years old. Question to Bowen Senior:
23 "In fact when Tugs was only 12 years old, Christian
24 was an AAU basketball coach, wasn't he?
25 "A He was one of them.

1 "Q On the Dorians Pride AAU team, correct?
2 "A Yes."
3 So, based on the evidence, is there really any
4 question at all that Christian Dawkins and the Bowen family,
5 including both Brian Senior and Tugs, had a preexisting
6 relationship? In fact, I have already played you the recording
7 where Christian Dawkins tells the undercover FBI agent that
8 Brian Bowen Senior's aunt used to babysit him. Now, I played
9 that call. We are not going to listen it to it again. But I
10 want you to look at the transcript of that call, if you will,
11 because this is a very important point.
12 Here's a transcript of that phone call. This is DX5T,
13 as evidence. I want you to look closely at the date on the
14 phone call. The date on the phone call, July 10th, 2017, three
15 days before the payment to Munish Sood in the Morristown, New
16 Jersey park lot.
17 "I don't even think they could do anything because
18 I've been knowing him his whole life. I don't even think it's
19 an added benefit. I think it would be like, OK, you know, they
20 just had a prior relationship before."
21 What better proof explains what was in Christian
22 Dawkins' mind than those words?
23 Understand, ladies and gentlemen, we don't have a
24 burden of proof. Mr. Dawkins and I could sit down and not say
25 a word. But I'm giving you evidence of way more than what a

1 reasonable doubt is.

2 Ladies and gentlemen, what we saw from the government
3 in this case is what we expected. Exceedingly predictable and,
4 I submit, underwhelming. The government inundated you with
5 weeks of phone calls, transcripts, emails and text messages
6 showing that in certain circumstances, mostly with others, NCAA
7 rules were violated. They played grainy videos of hotel
8 meetings, wiretaps of guys using bad language, talking about
9 breaking rules, cooperating witnesses testifying against
10 friends, just like we told you they would. Lined up the
11 witnesses one by one, spending weeks to emphasize just how much
12 these rules were broken. Witnesses who admitted testifying
13 against my client could possibly provide them relief from
14 lengthy prison terms.

15 They brought in a guy named TJ Gassnola. You sawed TJ
16 Gassnola. Let me ask you a question. Would you buy a used car
17 from TJ Gassnola? A better question: Would you buy a new car
18 from TJ Gassnola with a hundred-thousand-mile warranty? I
19 would submit, you probably wouldn't. In fact, TJ Gassnola, if
20 you recall, he said that he had a lot to gain by testifying
21 against Christian Dawkins. It was my last question I asked TJ
22 Gassnola. And he struggled with me, but eventually he admitted
23 it, that he had a lot to gain by being here to testify against
24 Christian Dawkins.

25 And so as you deliberate, I implore you to ask

1 yourself if the government has proved beyond a reasonable doubt
2 that Christian Dawkins committed the wire fraud, as it will be
3 instructed to you by the Judge, as it relates to the only
4 school, I submit to you, that is at issue in this case, the
5 University of Louisville. And if he had a good faith belief.
6 You will get instructions on that. The school's basketball
7 program was already on probation for breaking the rules and
8 continued to cheat the rules with no regard, and they are the
9 crime victims here?
10 Ask yourselves as you deliberate, what possibly did
11 Christian Dawkins do with any criminal intent? What did he
12 have to gain from causing harm to Louisville? Ask yourselves,
13 what proof did the government present that Louisville suffered
14 any harm? The evidence showed that Tugs Bowen never even
15 played at Louisville. He left.
16 I submit that as you deliberate, ask yourselves, based
17 on that phone call between Christian Dawkins and the undercover
18 FBI Agent known as Jeff DeAngelo, how could anyone conclude
19 anything other that in Christian Dawkins' mind what he was
20 doing was OK, in his 23-year-old mind as well.
21 Now, you'll be instructed by the Judge on the law.
22 You will be instructed on the definition of "reasonable doubt."
23 And as it's been emphasized, reasonable doubt is the highest
24 burden of proof that exists in the American legal justice
25 system, and there is a reason for that, because of the