

1 THE COURT: All right. Folks, we need to take another
2 short recess before we resume with a witness. All right.

3 (The Court and the jury exited at 10:45 a.m.)

4 (* * * * *)

5 (The Court entered at 11:36 a.m.)

6 (The defendant was not present.)

7 THE COURT: Good morning. Can I see counsel at
8 sidebar, please.

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1 (Beginning of Sidebar Discussion)

2 THE COURT: Just one moment, please.

3 Thank you very much, Mr. O'Neil.

4 MR. O'NEIL: Okay. Thank you.

5 THE COURT: How are we doing with respect to your
6 client?

7 MR. ANDREOPOULOS: Do you want me to go?

8 Not very good. Just to make the record clear, he's
9 indicated to me that he doesn't want to come into the
10 courtroom or, in the alternative, come into the courtroom in
11 his sweats. I have begged and pleaded with him to not do
12 either of those things and to act as he's been acting, which
13 is very good. But at the moment, his mood is such that he
14 doesn't appear as though he wants to listen to my advice.

15 I've also spoken to his mother and offered her opinions
16 to him, and that is to come out here and do the right thing,
17 so to speak. And at the moment, I don't think he's willing
18 to listen to that. He's calm. It's not as though he's
19 aggressive.

20 THE COURT: Disruptive?

21 MR. ANDREOPOULOS: No, he's just --

22 THE COURT: Refusing?

23 MR. ANDREOPOULOS: Yes, just refusing to come out at
24 the time.

25 THE COURT: Okay. I have a couple of thoughts.

1 Do you want to be heard at all, Mr. Mastroianni?

2 MR. MASTROIANNI: Not at this point.

3 THE COURT: Okay. So, Mr. Roberson also spoke with
4 him, as he has a calming influence on people normally, and
5 Mr. Kirkland apparently told him the same thing, he did not
6 want to come out.

7 So, I have two thoughts. One, is that he be brought
8 out. I would clear the courtroom -- I would clear the
9 courtroom except for his mother, perhaps, and put on the
10 record that he does not want to participate in the
11 proceedings. So that's really my only --

12 MR. KLYMAN: Well, what we would like to do, Your
13 Honor, is along with that thought of clearing the courtroom,
14 is allow him and his mother to have a conversation, because
15 I think that it may be beneficial for her to talk to him to
16 see if she can persuade him to change his mind.

17 THE COURT: And where would this happen?

18 MR. KLYMAN: Right here.

19 THE COURT: In the courtroom?

20 MR. KLYMAN: Right in the cleared courtroom.

21 THE COURT: There would be -- well, I will tell you, in
22 the event I did that, Court Officers would remain of course.

23 MR. ANDREOPOULOS: Yes.

24 THE COURT: They would not be seated next to each
25 other.