

1 (Continuing.)

2 MS. BONJEAN: Moving on to one of the elements of
3 this offense is whether or not the Government has
4 demonstrated serious harm or threats of serious harm. And
5 this is where I think the Government has come up very short,
6 and this is why.

7 While there's certain -- a fair amount of
8 flexibility with the terms serious harm or threat of serious
9 harm, what the Government has alleged, essentially, is
10 that -- and what the evidence has demonstrated is that there
11 were people who participated in OneTaste and then later
12 determined that they were psychologically harmed. Not that
13 in the moment psychological harm was the reason they stayed.
14 At best, they have, on reflection, given vague assessments
15 that I was brainwashed, which again, you know, our position
16 is that is not competent evidence, should not have been
17 brought in. But they have these -- the testimony is
18 essentially that at the time, I didn't trust my judgment, I
19 felt that there were messages that made me confused, I was,
20 you know, kind of like mind control type arguments.

21 As that is on a slippery slope, there's zero
22 authority out there, there's never been a case where you can
23 equate serious harm or threats of serious harm with these
24 vague concepts of brainwashing or mind control. And while,
25 yes, they do identify certain sort of coercive tactics that

1 they claim were used against them, manipulation, some vague
2 concepts, but this is all -- they all universally admit that
3 in the moment, that at the time, they understood that they
4 were free to leave. What kept them there was fear of being
5 kicked out of the group chat. That was what kept them
6 there. They wanted -- it was social coercion, spiritual
7 coercion. It wasn't coercion that kept them there other
8 than we still want to be part of this community, otherwise
9 known as we want to be part of this community and we don't
10 want to give up what the community offers.

11 And this gets us into some very worrisome First
12 Amendment issues, because the First Amendment protects
13 people's right to assemble as they see fit. Scientologists
14 are permitted to fraternize with Scientologists. Churches
15 are permitted to socialize with people that share their
16 beliefs. They are permitted under the First Amendment to
17 say, you don't share our beliefs, therefore you may not be
18 part of our community. And OneTaste also, not just as a
19 business, but as a community was permitted to say, we share
20 these beliefs, we live by them ourselves, if you don't want
21 to live by them, then you will have to leave.

22 Or you may be a customer, you can attend classes,
23 you can be on the outer circles, but you may not be in, you
24 may not be in the inner circle, because this is our
25 community and these are things that we share, these are

1 beliefs that we strongly adhere to, and we don't want people
2 who don't believe in these principles. And no matter what
3 we feel about those principles, they had a First Amendment
4 right to live in community around these principles, and that
5 people were afraid that they would be kicked out because
6 they didn't want to accept these principles or the rules or
7 any of those things that were required by the community is
8 not -- it's not coercion. In fact, it's protected by the
9 First Amendment.

10 This goes back to the whole shunning idea, which
11 again we've cited caselaw in the past and we stand by that,
12 that really what they were afraid of most is conduct that is
13 protected by the First Amendment in the same way that any
14 community, whether it's a church or other spiritual
15 practices and other organizations that some people feel
16 are -- you know, had these cultish type attributes.

17 So that type of fear is not the type of fear that
18 was contemplated by the lawmakers when they passed this
19 legislation, the paradigmatic types of cases that we all
20 know come down to, you know, coerced, you know, more like --
21 again, like illegal immigrants being kept in scenarios where
22 they have been denied their papers, they've lost their
23 freedom either physically or they have lost their freedom in
24 ways that prevent them from leaving the situation.

25 We have seen evidence in other cases that we

1 talked about in the past, whether it's *United States v.*
2 *Maneri* or *United States v. Kelly*, where you have actual
3 manipulation in conjunction with threats of physical
4 violence. Even if physical violence isn't used, but there's
5 a threat of it, that's the type of coercion that the
6 lawmakers had in mind, not some type of social coercion or
7 fear that you're going to be kicked out of the group, and
8 that is what we've heard of.

9 In fact, time and time again we've heard these
10 witnesses testify, when pushed, I could leave, I didn't need
11 to stay, but I felt like I didn't have a choice. Well, just
12 because you felt in the moment that you didn't have a
13 choice, what they're really saying is I felt like I didn't
14 have a choice and also get to stay, and that is what they
15 have testified about. They wanted to stay, and that's why
16 they did. And that is -- our position in our argument is
17 that as a matter of law, that cannot satisfy the serious
18 harm and threats of serious harm prong.

19 I think I'll rest on my comments on that
20 particular aspect. Again, you know, time and time again
21 we've seen where people were free to leave. Every last one
22 of them admitted as much.

23 Focusing a little bit on the Reese Jones
24 allegations, we heard from three witnesses who discussed
25 what they describe as being asked to handle Reese Jones, and