

[Intro Music]

Amanda Pampuro: Welcome to Sidebar, a podcast from Courthouse News, diving into the tides that shape and reshape our laws. I'm Amanda Pampuro, coming to you from Denver with three stories of power, corruption and accountability. An R&B singer stands accused of using the soulful stage to sexually abuse backup singers and dancers for decades. Then, a successful pop star fights back against the California conservatorship controlled by her father. Yes, that pop star, that conservatorship. But first, a foreign president who promised his people he would do better than his corrupt predecessors resists extradition from the US to stand trial in Peru. Once he was the most powerful man in the country. Now, former Peruvian president Alejandro Toledo faces charges of bribery and money laundering.

Nicholas Iovino: It was big news in the San Francisco Bay Area when he was arrested in July 2019.

Pampuro: Courthouse News reporter Nicholas Iovino was there from day one.

Iovino: When he was first arrested and appeared in court, I wasn't even able to cover the first hearing because so many Peruvian people showed up to the court. The courtroom was packed. The court staff who try to accommodate the media usually and reserve seats for the press at big high profile court hearings, they were taken off guard and didn't have anything prepared, they didn't have an overflow room. So, a lot of people showed up and many of those people support former President Toledo. One important moment was early on in the fights over his being released on bond when the judge denied the request, his wife, who was in the courtroom, yelled 'You'll be responsible for his death' to the judge. I remember the court security officer grabbed her wrist and kind of pulled her, pulled her away and then kind of dragged her out of the courtroom. It was a dramatic moment.

Pampuro: It seemed unlikely that Toledo would spend his 70s in a US prison cell on corruption charges. But then again, he was also an unlikely candidate for president.

[Flute Music]

Iovino: He grew up in the Andes, as you know, his parents were farmers. Is that right?

Cynthia McClintock: Yes, I believe that's right. I'm Cynthia McClintock and I'm a professor of political science at George Washington University and I've been studying Peru since 1973. I went to the coast around Chimbote, a fishing area and he was, the legend has it and I believe it's correct, a shoeshine boy. It's at that time that he meets the Peace Corps volunteers who suggest that he apply to university in the US. You know that Peace Corps volunteer, they become friends and Toledo, he's a very engaging person. And it's no surprise to me that he made close friends with the Peace Corps volunteers.

Iovino: I read that he went to UCSF on a soccer scholarship.

McClintock: Yes. I have no place to judge, but Toledo said that he was a pretty bad soccer player by Peruvian terms, but by US terms, he was great.

Alejandro Toledo: Yo Alejandro Toledo Manrique...

Iovino: When Toledo was elected, what got him into office, what were the promises that he made?

McClintock: Definitely democracy. No, definitely democracy. This is very, very important. Because, you know, there were not only was there evidence of authoritarian abuses, but it was clearly becoming worse. And Toledo had campaigned vigorously.

[Peruvian National Anthem]

McClintock: The promise of someone from poverty rising up to go to Stanford to make something of themselves, to become a business professor, to become a, you know, a steadfast candidate in the face of risks. This was very appealing. I think starting the economic boom was absolutely crucial. I mean, he saw the opening, I think his friendship with the United States kind of meant that there was a vision of a renewed country that would provide a stable environment for investment subsequently. Now the free trade agreement is beginning to be launched, but I think around the world it was confidence that he would kind of follow through on market principles and Peru was one of the first countries to you know, basically from about 2005 to about 2015 in Latin America, that 10 years in especially South America, they're 10 years of very robust growth. And a lot of that had to do with China's demand but Peru was really at the forefront of that. So, I think totally, you know, inspired a lot of confidence that he knew how to run Peru's economy.

Pampuro: In speeches made since Toledo had big dreams, not just for Peru, but for the region.

Toledo: The possibility of playing a crucial role in the first world, not only in the first world economy, but in shaping a world that while it grows, it has a more equal human face.

Pampuro: As part of this future Toledo directed Peru to invest in the trans-oceanic highway project. This \$658 million project would run from Brazil's Atlantic coast to the Pacific shores of Peru, linking the South American countries not just to each other, but to the world. Instead, the road opened up the Amazon rain forests to deforestation and the country to debt. By the project's completion in 2012, the cost more than tripled to \$2 billion. Some people blame kickback schemes like the one Toledo was accused of calling the trans-oceanic highway the most corrupt highway in the world. Peru was accusing Toledo of taking \$35 million in bribes from the Brazilian construction company, Odebrecht, during his presidency.

Iovino: According to Toledo, this is politically motivated, and their main evidence is from two witnesses. A formerly close friend of Toledo, Israeli businessman Josef Maiman, and an executive from the company Odebrecht, who says he personally delivered cash to Toledo.

[News Clip]

Iovino: Is Toledo still popular in Peru?

McClintock: I believe he wanted Peru to do well in his heart. He is basically 99% a good person who wants to do the right thing. Now that said, there are long standing norms of corruption in Peru in most developing Latin American countries is this issue of taking cuts on infrastructure projects. I mean, it would be too nice to say no, he made just one mistake because you know, this was a lot of money. But it wasn't setting a pattern so much as maintaining a pattern or not breaking a pattern. I think it was something that virtually every president did that to a certain extent, some presidents felt they have to do in order to keep their party together and to kind of maintain loyalties. So again, I would say it was it's not breaking with the past and saying I can do better, this is wrong, but saying I'm just gonna do what

every other president has done and let you know, going with that flow, and that was very, very sad. If it was if it's true, and again, I have to emphasize that, no, I'm not privy to this actual evidence.

Pampuro: The US legal system does not take lightly to the argument that everybody does it.

lovino: Even though it's not their case, this is the Peru government who wants him charged, they are acting very much like he's their target, I suppose. They fought against him getting a public defender. They said he was hiding money. They said his wife was hiding a million dollars in assets and that he should not have had a government funded public defender. They fought against him being released on house arrest. They fought against him having better conditions in jail. So, I mean, I guess that was surprising to me is how aggressive the US prosecutors were in this case.

Pampuro: Under what circumstances would Toledo be sent back to Peru?

lovino: Basically, the standard is a probable cause standard. The judge has to say is this evidence that Peru has produced show that there is enough evidence to charge him, that there is probable cause that this person can be charged with these crimes. I think these are important decisions. You know, the US has to honor its treaties. But in my own reviewing of the documents and evidence against Toledo, it looks pretty strong in that there are witnesses, there's evidence of the money going to different accounts, evidence that he got at least \$500,000 and according to the government that other money was used to purchase a home and an office for his benefit, though he says that those purchases were not made for him that they were to benefit Maiman. So, you know, all of the arguments they're making are the kinds of things that traditionally are tested at trial, that would not be a basis to deny probable cause to charge someone. So, I think they have an uphill battle. I think it's going to be difficult for him to defeat these charges.

[Flute Music]

Pampuro: The US court does not decide whether Toledo was guilty. But on September 28, Magistrate Judge Thomas Hixson deemed the evidence strong enough to support the charges, and ordered Toledo be sent back to Peru to stand trial. The next question is where Toledo goes from here? Does he climb back up that unlikely mountain, or does his fall from the top continue?

Pampuro: Review Nick's deep dive into the evidence against the leader on courthousenews.com. If you learn something new, let us know on Twitter @sidebarCNS. President Toledo has an uphill climb against two witnesses. R&B singer R. Kelly faced a dozen singers, dancers and fans throughout his five-week trial. Reporter Nina Pullano was there day in and day out through the trial and when the jury issued its verdict. Listen to what she tells Nicolas lovino.

lovino: Just a quick heads up to our listeners. While we won't get into explicit details, this segment will discuss allegations of physical and sexual abuse.

[R. Kelly Supports Chanting]

lovino: You just heard R. Kelly supporters chanting outside a courthouse in Brooklyn, New York. The 54-year-old singer, best known for songs like 'I Believe I Can Fly' and 'Bump n' Grind,' was recently convicted in a federal racketeering trial. A 12-member jury found the R&B superstar ran his music recording business like a criminal enterprise, which he used to prey on young women and underage girls. On September 27, after a five-week trial, a jury found Kelly guilty on all counts. Before that verdict

came in, I spoke with Courthouse News reporter Nina Pullano who covered the trial every day. Here's our conversation. Hi, Nina. Thanks for joining us.

Nina Pullano: Hey, Nick, good to be back.

Iovino: So, you last checked in with us in July, before the R. Kelly trial got underway. Can you remind us what charges the singer is facing?

Pullano: Right. So, in Brooklyn, the top count against R. Kelly is a racketeering charge. And that has 14 acts that are charged within it, including coercion and enticement of minors to commit illegal sex acts. Some of those are related to the Mann Act and separate from the racketeering charge. He also has eight separate Mann Act violations involving various anonymous alleged victims. And some of them also include minors and the illegal sex acts either are related to the person's age if they were under 18 when R. Kelly was much older than that, or they're related to the allegation that R. Kelly knowingly transmitted herpes to victims, basically, without their consent to the circumstances of the situations since they weren't aware of the risks involved.

Iovino: Is that a crime, to knowingly transmit herpes to a person without their consent?

Pullano: It is a crime under New York state law. So, even though this is a federal trial, and the charges are federal, that's how the transmission of herpes charges came into play was through New York state health law.

Iovino: And racketeering or RICO is a law that's traditionally been used to go after organized crime. How do prosecutors say those charges fit here?

Pullano: That's true. And it's a good question, because this has been the focus of a lot of the defense attorney argument both during trial and I've spoken to some of R. Kelly's former attorneys who really don't believe that the inner circle of employees and friends of R. Kelly that are kind of alleged as making up the enterprise, they don't believe that it's really a fit in this case. RICO has historically been used to go after, as you mentioned, organized crime, drug cartels and you know, mob associated families. And there's been a lot of discussion about you know, even R. Kelly supporters who've been at trial sort of feel that charging one person is running an enterprise doesn't make sense.

[R. Kelly Supporters Chanting]

Pullano: It is interesting, and it is somewhat unusual that R. Kelly is charged alone with running an enterprise. There are not co-conspirators, there are not co-defendants in this case, he's the sole person charged, and yet, the government's case centers on the idea that he had all of these people working for him helping him commit crimes and the jury charge that the judge gave was very clear that in order for something to be an enterprise, it doesn't need to follow a specific hierarchy or structure or have decisions made in a certain way, it can be rather loose. It's rather loosely defined under the law. The government does not allege that a criminal enterprise existed. They allege that an enterprise existed that helped R. Kelly commit crimes.

Iovino: What kind of evidence has the prosecution put forward to make its case here?

Pullano: The bulk of the evidence has been testimony at trial. We have heard from 45 witnesses over more than a month of testimony. It's been a long haul and a lot of those people are either accusers or

employees, former employees of R. Kelly. They described both ends of a pattern that happened for decades, which basically involved R. Kelly scouting out or recruiting people at concerts or sometimes at malls or sometimes at McDonald's in Chicago. We heard from employees who say they were part of this recruiting, and they carried around phone numbers, and they helped to book travel and help to make payments for hotels and airfare and those kinds of things, to transport people to essentially come in and have sexual relationships with R. Kelly. We also heard from accusers who said that this was their experience and who described sexual and physical abuse. They described being held to really strict rules while they were staying with R. Kelly like having to greet him and stand up every time he walked into the room. I think every accuser or near that said they were required to call him daddy. We also saw evidence of a lot of these allegations. So, we saw plane tickets, and we saw phone records. The government did bring in hundreds of documents and pieces of evidence to sort of support the stories that we were hearing in court.

Iovino: I understand there was testimony on how R. Kelly exerted control over his alleged victims. What did witnesses have to say about that?

Pullano: Multiple victim witnesses talked about being required to ask R. Kelly for permission to do pretty much anything, either directly or through one of his associates who would have to get confirmation from him that the guest or girlfriend was allowed to go to the bathroom, eat, leave the room or the tour bus that they were staying in. And we saw text messages sort of supporting that story.

Iovino: What's been the strategy for R. Kelly's defense team in fighting these charges?

Pullano: Throughout cross examination and again, in closing arguments, the strategy was really to suggest that the abuse that was being alleged simply had never happened. Repeatedly, attorney Deveraux Cannick asked victims sort of why they had stayed in this relationship or rather confirmed that they had stayed in this relationship despite what they were saying had happened to them. He asked about whether they participated in the documentary 'Surviving R. Kelly' that sort of spurred these charges. He asked how much money they got for participating in that documentary and he sort of brought home that point in his closing arguments where he mentioned 'Surviving R. Kelly' and then suggested that these accusers were surviving off of R. Kelly and really were just looking for a payout once the relationship that they were in, that the defense attorneys say was all consensual, once those relationships had ended.

Iovino: What were the allegations related to the late R&B singer Aaliyah and how did they come into the trial?

Pullano: The charge against R. Kelly related to Aaliyah is that he bribed a public official in order to get a fake ID so that he could marry her when she was 15 years old and R. Kelly was 27 because he believed that Aaliyah was pregnant at the time. So of course, Aaliyah passed away 20 years ago and wasn't there to testify, but we also heard from another accuser who said that she saw R. Kelly engaged in a sexual act with Aaliyah when she was no older than 14 years old.

Iovino: So, these accusations go back to the early to mid-90s. If they're true, how did R. Kelly get away with it for so long?

Pullano: Yeah, I think that really speaks to the kind of cultural reckoning that's happened alongside the legal charges that have been brought against R. Kelly in recent years. And the government has certainly

made the point that this is the kind of pattern of abuse that existed and was allowed to exist in plain sight. And again, they made the point that these crimes happen, this abuse happened, because R. Kelly had help, because he had this inner circle, he had, you know, the fame and money that afforded him the power to hire people to keep them close, to at times threaten them so that they stayed loyal to him or insists that they pick aside if it seemed like they might dissent, and really just use that power to act with impunity, as the government argued for decades.

[Music Break]

Iovino: After my conversation with Nina, the verdict came in. It happened a lot more quickly than expected, after less than two days of jury deliberations. I caught up with Nina one more time to get an update on the case, after R. Kelly was found guilty on all counts. Hi, Nina.

Pullano: Hello again.

Iovino: So, we're catching up again after just a few days. Were you surprised how quickly the jury reached a verdict?

Pullano: You know, it was hard to get a really clear sense of the jury, in part because they were kept anonymous and partially sequestered so, we didn't see much of them. Throughout trial, we were in an overflow room so couldn't see how they reacted to the evidence. But the fact that after nine hours, given the six weeks of testimony and all the information they had to go through, the amount of time it took to me suggests that there wasn't too much disagreement.

Iovino: What's been the reaction of R. Kelly's lawyers and the prosecutors and the victims?

Pullano: I was able to catch up with R. Kelly's lawyers right after the verdict was read. And his lead defense attorney Deveraux Cannick told me that not only was he disappointed in the verdict, but he was more disappointed in the prosecution for bringing these charges in the first place. He repeated as he did in arguments that there were inconsistencies in the witness testimony that he felt should have invalidated this case.

Cannick: They cherry-picked a version and ran with that version, they totally ignored the inconsistencies that all these witnesses gave in their debriefing. They try and I guess it successfully did it was to massage it. But it's the situation we're in. I don't know if I'm more disappointed in the jury's verdict, or the government's action in this case.

Pullano: Prosecutors spoke outside of court and really talked about the significance of this legal proceeding, sort of in the cultural context and what it means for people who are victims, people who may feel voiceless, getting some sense of justice and the acting US Attorney in the Eastern District of New York made a comment about how even if it's many years later, the long arm of the law will catch up to you and that was sort of the theme.

Jacquelyn Kasulis: In rendering its verdict today, the jury delivered a powerful message to men like R. Kelly: no matter how long it takes, the long arm of the law will catch up with you.

Iovino: What's next for R. Kelly?

Pullano: The judge set R. Kelly's sentencing date for May of 2022. In between now and then, of course, his attorneys may file a motion to overturn the conviction. His attorneys have already suggested that

they'll plan to appeal, which would be something that happens, you know, later down the road. In this trial, there were nine counts against him. And each carried a possible sentence of 10 or 20 years. So, he's looking at potentially decades in prison, potentially life in prison, based just on the charges in New York. Regardless of what happens in Brooklyn, he faces state and federal charges still in Chicago and in Minnesota, and a few other investigations so, it's really just the beginning, not the end of a long legal battle for him.

Iovino: All right. Well, thanks so much for coming back and updating us on the outcome.

Pullano: Absolutely. Thank you. All right. Take care.

[Music Break]

Pampuro: Old fans are torn. Look at YouTube comments for R. Kelly's 1998 song 'If I Could Turn Back the Hands of Time.' Following the verdict, one fan wrote, 'So sad the things you did. Your songs are still the best though.' And another said, 'I bet he wishes he could turn back the hands of time. Now he's been found guilty.'

Pampuro: Looking at videos for Britney Spears songs and the comments are filled with hopes and prayers for her to defeat her conservatorship. Reporter Bianca Bruno met some of these fans on the courthouse steps outside the pop star's latest hearing.

[Free Britney Chants]

Bianca Bruno: Britney Spears is free. After 13 years in a contested conservatorship controlled by her father Jamie Spears, the pop icon was able to successfully kick her dad out of the legal guardianship, which is set to be terminated later this year. Hundreds of supporters and journalists flocked to the courthouse to witness the historic hearing.

Bruno: And why are you here supporting Britney today?

Britney Supporter: I've become heavily involved in the Free Britney movement over the last two and a half years or so, you know, as we learned about these allegations of abuse in her court case, we started coming out here and rallying. It was just a dozen of us with pink posters and to have seen the evolution that now that there are hundreds of people here today, the whole world is watching, because we're realizing that this court case is quite complicated and unfortunately not just an isolated incident. This is not just a case that affects Britney Spears, it affects the entire probate court system in our country.

[Music Break]

Bruno: For years, the public didn't know exactly how Britney Spears felt about being subject to a conservatorship following a very public mental breakdown. This summer we heard directly from the pop star herself.

News clip: Britney says she felt traumatized, exploited and demoralized, telling the court "I just want my life back."

Bruno: Britney got her wish last week when a Los Angeles Superior Court judge found it was in her best interest for her father to be removed as conservator. But how did one of the most iconic American pop

stars end up being subject to control from others in every aspect of her life, from her finances to her birth control? To get up to speed, you need a one-on-one lesson on conservatorships in California.

Conservatorship clip: There are all kinds of people who may become conservatives, the elderly, the developmentally disabled, or those with serious mental or physical disabilities. What they have in common is that they need help managing their daily personal needs or financial affairs.

Zoe Brennan-Krohn: All conservatorships, which are called guardianships in most states outside of California are really by definition, disability rights issues, because only people who have disabilities or who are perceived as having disabilities and up in this process at all, and we don't know whether Britney Spears identifies as a person with a disability. I don't know anything about her diagnoses, or how she thinks of herself, but the court by putting her in a conservatorship has taken away her really core civil rights or civil liberties, her opportunity to make her own choices about her life because they perceive her as being disabled.

Bruno: That's Zoe Brennan-Krohn, an attorney with the Disability Rights Project at the American Civil Liberties Union. This summer, the ACLU joined over two dozen disability rights organizations in filing a brief in Britney's conservatorship case advocating for her right to select a new attorney after her prior attorney stepped down.

Brennan-Krohn: Having the right to an attorney is really critical in these proceedings. And you need to have a lawyer who advocates for your stated interest who is not overlaying their own views and their own values into their advocacy. And we see that a lot in conservatorship and guardianship cases that in many cases, you don't have a right to a lawyer at all, which is really shocking, that you can lose all of your rights essentially permanently with no lawyer in the room. But even in cases where you do have a lawyer, people often have lawyers who don't take seriously what their client is saying they want.

Bruno: And that appears to have been the case for Britney, who this summer revealed her wishes were not being considered.

Brennan-Krohn: We do know and we've heard from Britney directly saying, 'I don't like this, I don't want this, this isn't helping me. This is hurting me. This is making me feel unsafe. It's making me feel like a child and I want to get out.' People should not be in conservatorships unless they are truly the absolute last resort. Conservatorships should not be used to sort of help make sure a person makes good financial choices or to control their financial choices or to control their personal choices and it seems like that's what it's being used for.

Bruno: But the path for Britney or anyone to get out of a conservatorship or guardianship is fraught. Disability rights advocates have called out how easy it can be to get into a conservatorship and how hard it is to get out of one.

Brennan-Krohn: How do you even go about finding someone to help you get out of the conservatorship? If your conservator controls everyone you talk to? It can be a really Kafkaesque situation that people can get trapped in.

Bruno: Well, Brennan-Krohn said conservatorships and guardianships are a recipe for fraud and abuse due to the power differential between the conservator and conservatee. We don't even have the data we need to take steps to address problems in the system.

Brennan-Krohn: We don't know how many people are in conservatorships and guardianships, or how long they've been in there or how they feel about being in them. The estimates are that there's 1.3 million people in conservatorships and guardianships across the country and around 200,000 new guardianship proceedings or conservatorship proceedings are started every year. And the populations that get into them primarily are young people with intellectual and developmental disabilities who often get into conservatorships through what's called the school to guardianship pipeline where people just go directly from being children to being placed under guardianship as soon as they turn 18.

Bruno: Britney's very public fight to get out of her conservatorship has sparked interest in the unlikeliest of places: the halls of Congress. Her case sparked senators Elizabeth Warren and Robert Casey Jr. to ask the Justice Department and Health and Human Services to publicly share data the agency's collected on guardianships in the United States. Across the aisle, Republicans have also come to Britney's defense with Senator Ted Cruz coming out in support on his podcast

Ted Cruz: On the question of the conservatorship, I am squarely and unequivocally in the camp of free Britney. I think this is friggin' ridiculous what is happening to Britney Spears and it needs to end.

Bruno: But where should the changes start?

Brennan-Krohn: There's not enough oversight now. And conservatorship is typically a state and a local issue. It happens in state courts and probate courts. It's not in federal court. But that said there's a lot that the federal government and state governments can and should do to expand protections and to fix this system.

Bruno: One of the top fixes disability rights advocates want to see: fewer people in conservatorships and guardianships in the first place.

Brennan-Krohn: Another really big part of it is reducing the number of people in the conservatorship and guardianship system all together. So that far, far fewer people ever lose their rights that way, ever get caught in the system, ever come near the system. I think we need a much broader way to divert people out of guardianships who might otherwise be at risk of them. And to support people using voluntary supports to direct their own lives that don't ever end up with court involvement and the loss of civil liberties.

Bruno: Helping people with disabilities create a support network to make life decisions. A concept called supported decision making is a skill nondisabled folks are trusted to employ when making big choices. Extending that autonomy to disabled people may require additional or different support systems.

Brennan-Krohn: The concept is really that simple of giving a person with disabilities the opportunity to choose who they want to help them what they want to help them make their own choices. And you can do that without court involvement, without loss of your civil liberties. And it actually protects people more, because it's giving them autonomy. It's giving people the opportunity to say what they like and what they don't like and to have that respected.

Bruno: After seeing Britney continued to perform and work while being under the control of her father folks want to see that autonomy extended to her.

Brennan-Krohn: Really the most striking thing that I see is that her case is actually very similar to cases that we see all the time. That people with disabilities get into conservatorships and guardianships often

very easily and find it extremely hard to get out of them. This case is really not an anomaly in a lot of ways.

[Free Britney Chants]

Pampuro: A foreign president, a singer, a pop star's father, the facts in these cases triggered outrage from a public that loved and trusted them. But these cases also showed the system working, embodying that American ideal that even the most powerful will be brought to court for accountability. Thank you for listening, subscribe to Sidebar CNS on Apple and Spotify so you don't miss the next episode where we dive into stories of a divided court in a divided nation, from the highest court in the land, to the QAnon agenda.

[Outro Music]