

# Closing time for Sam Bankman-Fried

Let's be honest: The facts are bad for Sam Bankman-Fried. The prosecution, in the closing statement delivered by Nicolas Roos (pronounced "Rose", though he won't correct you if you get it wrong, as Judge Lewis Kaplan did for most of the trial) today, went through a lot of contemporaneous written evidence that suggested that Bankman-Fried was very, very guilty of wire fraud and conspiracy charges at FTX. Roos gave a confident, restrained argument, relying heavily on that evidence to argue Bankman-Fried had used FTX customer deposits as his own private piggy bank, funneling them through his trading firm, Alameda Research.

He also pointed to why Bankman-Fried had done it: "The defendant was greedy."

That closing statement honestly could have ended after the first hour. The evidence that Bankman-Fried was involved – from his Google Meet with the other alleged co-conspirators, to the metadata linking him to various incriminating spreadsheets, to the funds traced to entities he controlled – would have been enough. But we got a few more hours anyway, as though Roos had rented a backhoe for his pile of evidence and was going to get as much use out of it as possible.

As Roos spoke, the jury was focused very closely on him. No one appeared to be napping. I didn't see anyone glance at the clock; many jurors were taking notes. Though Roos was interrupted by an AV mishap when the screens used to show the jurors the evidence briefly went out in the middle row, the closing argument was smooth. Roos talked directly to the jury, glancing occasionally at his own notes.

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Watching Roos, I came to understand why the defense had been jumping around in time so much. Chronological order was bad for Bankman-Fried: it showed pretty clearly that he was learning things and lying about them. The “Assets are fine” tweet, sent November 11th, was four hours after a Signal chat where Bankman-Fried acknowledged an \$8 billion difference between what he owed customers and what FTX could pay.

So I was sympathetic to Mark Cohen, the lawyer for the defense, who didn’t seem like he had much to work with. But then his closing statement managed to make things worse? To begin with, he appeared to be reading directly from a document he’d created, rather than looking up at the jury. He spoke softly, almost in a monotone, as though he was hoping to lull the jurors to sleep.

Perhaps predictably, Cohen emphasized that mistakes aren’t illegal. And he sought to present Alameda and FTX as legitimate, innovative businesses. It was sort of hard to understand exactly what they were innovating or how, but never mind. It is certainly true that at its peak, FTX’s valuation was very high.

Cohen said the prosecution was trying to make Bankman-Fried into a villain. He then *showed the jury* a number of photos that made Bankman-Fried look, well, bad: him hanging out with Bill Clinton and Tony Blair, lounging on a private jet, and at the Super Bowl with Katy Perry and Orlando Bloom. I don’t know *why* Cohen chose to remind us of these photos, but he did. Yes, the prosecution was painting an uncharitable picture of Bankman-Fried but there’s no need to *reinforce* it.

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We learned Bankman-Fried was working very hard, 12 hours a

day, which seemed low: Bankman-Fried had previously testified he worked as many as 22 hours a day. But I couldn't tell you what exactly he was doing for all that time, as there was precious little testimony about it. Similarly, I heard a lot about a data protection policy the defense could not produce.

In Cohen's telling, the government's cross-examination had been unfair to Bankman-Fried – if he answered at length, Roos framed his answers as too rambling, and if he answered briefly, Roos said he sounded evasive. Look, I was there – and I know word salad and evasions when I hear them. It is kind of my business! Bankman-Fried's answers to questions he didn't like, *even when posed by the actual judge*, weren't good. Saying he was “far from polished,” and “was himself; he was Sam” doesn't really get the work done. It *especially* doesn't get the work done when the Bankman-Fried we saw on direct examination was warmer, funnier, and very different than the one we saw on cross. That Bankman-Fried was an awful lot like the one we knew from media appearances before November 2022.

Cohen introduced matters that I think were meant to confuse the jury, but seemed to merely bore them. During a long digression about Alameda's net asset value, for instance, I saw several jurors glance at the clock at the back of the courtroom. The same went for discussion of FTX's risk engines.

Cohen even managed to make Alameda CEO Caroline Ellison sound *more* reliable, not less, by defending the tweets she sent out in the November period when FTX was failing. That is an unforced error. Undercutting Ellison's testimony – alongside that of Gary Wang, Adam Yedidia, and Nishad Singh – was one of the rare gambits I could imagine working for Bankman-Fried's defense. If Cohen is saying she is reliable here, why should we doubt her elsewhere?

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We still have to hear the prosecution's rebuttal to Cohen's arguments, such as they were, before the case goes to the jury. But I think even the most talented defense lawyer would struggle with this case. The documentary evidence for the prosecution is just too overwhelming, and there's very little evidence to back Bankman-Fried's telling of events, which contradicts all three cooperating witnesses – and Yedidia, who hasn't been charged with anything. Plus, the last person the jury heard speak was Bankman-Fried, and we did establish at length that he loves to lie.

The main thing the closing arguments made clear was how lopsided the case was. Bankman-Fried's defense appears to be that he is a nice boy who would never do anything to hurt anyone on purpose. An introvert! Who doesn't even do recreational drugs! When Cohen asked the jury to keep him in mind as they deliberated, Bankman-Fried crumpled the water bottle in his hand, making a noise. Glancing over, I saw he was looking directly at the jury, with an expression on his face that suggested he might cry.

Bankman-Fried is right to be frightened. He brought excuses. The prosecution brought receipts.

<https://www.theverge.com/2023/11/1/23942828/sam-bankman-fried-trial-closing-arguments>