

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	CR No. 21-28-8
)	Washington, D.C.
vs.)	March 26, 2021
)	4:00 p.m.
KELLY MEGGS,)	
)	
Defendant.)	
_____)	

TRANSCRIPT OF DETENTION HEARING VIA ZOOM PROCEEDINGS
BEFORE THE HONORABLE AMIT P. MEHTA
UNITED STATES DISTRICT JUDGE

APPEARANCES:

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1 P R O C E E D I N G S

2 COURTROOM DEPUTY: Good afternoon, Your Honor.

3 THE COURT: Good afternoon.

4 COURTROOM DEPUTY: This is Criminal Case No.

5 21-28-8, the United States of America versus Kelly Meggs.

6 Jeffrey Nestler for the government.

7 David Wilson for the defendant.

8 Christine Schuck on behalf of Pretrial Services.

9 The defendant's appearing via videoconference for
10 this hearing.

11 THE COURT: All right. Good afternoon to
12 everyone.

13 Counsel, good afternoon.

14 Mr. Meggs, good afternoon. Can you hear me okay?

15 THE DEFENDANT: Yes, Your Honor.

16 THE COURT: Okay.

17 So we're here this afternoon on Mr. Meggs's
18 bond-review motion. I've read all the papers that the
19 parties have submitted, and so I'm happy to hear any further
20 argument or evidence that either side wishes to present.

21 So why don't we start with Mr. Nestler and the
22 government.

23 MR. NESTLER: Thank you, Your Honor.

24 Kelly Meggs was involved in the recruiting, the
25 vetting, the planning, the coordinating, the financing of

1 what the stack of Oath Keepers, who are members of this
2 conspiracy, did on January 6th.

3 And so we've laid out the different facts that
4 support those different premises and those different
5 inferences in our pleadings, Your Honor.

6 And we can go directly to what the D.C. Circuit
7 said this morning in the *Munchel* case, which was that, those
8 who planned or coordinated the attack on the Capitol are in
9 a very different position than Mr. Munchel was and from some
10 of the other defendants, including some of the defendants
11 who Your Honor has already heard bond-review motions for and
12 has determined that the government did not meet its burden
13 of showing future dangerousness or of a need for future
14 detention.

15 Kelly Meggs is in a different situation than the
16 individuals you've already heard and released this week,
17 including Donovan Crawl and Laura Steele, Your Honor.

18 Kelly Meggs was the leader of the Florida Oath
19 Keepers, by his own admission. He was involved, as we laid
20 out in our pleading, in recruiting other members, vetting
21 other members, planning for everyone to get to D.C., paying
22 for hotel rooms for not just himself and his own family but
23 for others at both his hotel and at other hotels, telling
24 other people what to bring, giving them their supply lists
25 for mace, gas masks, batons, plate carriers, armor,

1 literally telling them to bring the tools of war that they
2 need in order to accomplish their ends while they were in
3 D.C.

4 He was also involved in coordinating with the QRF.
5 We have cited several of the comments that he made in the
6 chats, the quick reaction force that would be "heavy," the
7 government submits, indicating that the QRF would be armed
8 and have arms ready to ferry Mr. Meggs and other members of
9 the conspiracy at a moment's notice. That was part of
10 Mr. Meggs's planning.

11 For those reasons, Your Honor, Mr. Meggs is in a
12 different class than some of the other defendants who you've
13 heard bond-review motions for already. And Mr. Meggs, we do
14 submit, was not only a danger to other individuals and to
15 Congress and our entire system of government on January 6th,
16 but does pose a future danger to society at this point.

17 And there's a couple of reasons for that: One
18 is --

19 THE COURT: Let me --

20 MR. NESTLER: Go ahead, Your Honor.

21 THE COURT: Let me interrupt you for a second
22 before you move to your argument with respect to specific
23 threats.

24 I think it was your supplemental memo references
25 two facts; one, that there were firearms recovered from

1 Mr. Meggs's home following a search. So question one is:
2 Were those firearms legally registered to Mr. Meggs or his
3 wife?

4 MR. NESTLER: The FBI did not recover any
5 firearms, Your Honor, and the reason being is that the
6 search warrant did not authorize the FBI to --

7 THE COURT: I see. Okay.

8 MR. NESTLER: -- recover firearms.

9 So the FBI was aware of the location of firearms
10 in the house. And that's why we indicate in our pleading
11 that the FBI saw at least three firearms.

12 THE COURT: Okay.

13 MR. NESTLER: And that's because the FBI was doing
14 what it was supposed to be doing under the terms of the
15 search warrant, not looking for evidence of firearm
16 ownership.

17 THE COURT: I understand.

18 MR. NESTLER: And that's why I'm not able to tell
19 the Court whether those firearms appear to be the same
20 AR-platform firearms we see Mr. Meggs shooting at the range
21 in that class in September or not. I just don't know the
22 answer to that question.

23 I can say, I believe that Mr. Meggs does have a
24 concealed-carry permit in Florida.

25 THE COURT: Okay.

1 And then the second question pertains to removal
2 or destruction of physical evidence: You've said that the
3 FBI did do a search of his residence but didn't find any of
4 the paraphernalia that he was seen wearing on January 6th,
5 as well as that for his wife; is that right?

6 MR. NESTLER: That's correct, Your Honor.

7 The FBI did find some Oath Keepers' paraphernalia
8 and some Oath Keepers' clothing and flags, but not the
9 actual helmet, plate carrier, Oath Keepers' T-shirt that he
10 appears to have been wearing on the day in question. And
11 the government submits that that would be because Mr. Meggs
12 and/or his wife got rid of those because they were
13 incriminating.

14 THE COURT: Okay.

15 And were any other -- were there any other
16 properties or locations connected to Mr. Meggs or Ms. Meggs
17 that were searched?

18 MR. NESTLER: Just an RV that was parked on their
19 property in Dunnellon, Florida, and the FBI did search that
20 RV park on the property.

21 THE COURT: And I take it nothing was found in the
22 RV?

23 MR. NESTLER: Nothing about the gear that they had
24 been wearing that day, no.

25 THE COURT: All right.

1 MR. NESTLER: And -- I'm sorry.

2 THE COURT: Go ahead.

3 MR. NESTLER: And the government did cite, and we
4 recently located this, which is why we filed the
5 supplemental memorandum, Your Honor, that this text-message
6 chain or this message chain between Mr. and Mrs. Meggs and
7 another family member, where Kelly Meggs appears to make
8 light of the fact that he lost all of his gear in a boating
9 accident, the government finds the timing there to be
10 conspicuous, just within a week of the other co-defendant's
11 arrest being publicized.

12 THE COURT: Okay.

13 I interrupted you, Mr. Nestler, if you want to
14 continue.

15 MR. NESTLER: Yes, Your Honor.

16 And so in terms of future dangerousness, we do
17 know that Kelly Meggs was leading, commanding, controlling
18 various other individuals who are part of this Oath Keepers
19 group.

20 So unlike other members of the conspiracy who may
21 have been -- who joined or were following or were given
22 instructions, Mr. Meggs appears to be the one giving
23 commands to other people. And that does mean he poses a
24 future danger to society and to others, because he appears
25 to still have the ability to tell other people what to do,

1 where to go, what to bring.

2 The training that he participated in, as we talked
3 about this morning with regard to Connie Meggs, appears to
4 have been some sort of paramilitary training, not a firearms
5 safety class, and that does pose another, additional danger
6 that Kelly Meggs, we do believe, has access to firearms at
7 the house, but also in terms of training for how to use
8 those firearms in the future.

9 And a couple of other points, Your Honor.

10 It appears that Kelly Meggs has a desire for some sort of
11 violence. We saw both on the patch that he was wearing when
12 he illegally entered the Capitol, the language, "I don't
13 believe in anything. I'm just here for the violence."

14 And we also see one of the hashtags that the
15 training center in Leesburg, a hashtag when it posted the
16 video of Kelly Meggs and others at the training facility had
17 language that was "#giveviolenceachance."

18 So these are not statements, and these are not
19 indications that Mr. Meggs is somebody who was a non-violent
20 character, who wouldn't hesitate to use violence if he
21 thought it was warranted in order to achieve his aims.

22 THE COURT: Just to be clear, the hashtag they're
23 referring to, that wasn't something he used. That was used
24 by one of the instructors or facilitators, correct?

25 MR. NESTLER: Correct. That was the hashtag used

1 by the facility when it posted a video showing Mr. Meggs and
2 the rest of his group doing the training.

3 THE COURT: Right. Okay.

4 MR. NESTLER: And then after the Capitol was
5 breached and Mr. Meggs and others were evicted and were
6 outside, we quoted in our pleading, Mr. Meggs wrote in the
7 Signal chat to other members of the conspiracy -- and he's
8 one of the leaders who's in the Signal chat -- "Okay. Who
9 gives a damn we went in there. We are now the enemy of the
10 state. We aren't quitting. We are reloaded."

11 Those are the kinds of statements that, the
12 government submits, Your Honor, makes Mr. Meggs a danger to
13 society and to the union itself.

14 THE COURT: And, Mr. Nestler, I mean, I've
15 released some of the others on home confinement. Why do you
16 think that's inappropriate for Mr. Meggs?

17 MR. NESTLER: Well, Mr. Meggs is able to
18 communicate with other individuals through secure apps.
19 We've indicated in our pleading, has access to ProtonMail.
20 He appears to have some sort of premium or paid account to
21 ProtonMail for encrypted chats.

22 Signal, of course. He was part of that Signal
23 chat.

24 Same thing with the encrypted, end-to-end
25 communications to be able to communicate with others, not

1 just within Florida but with Oath Keepers leaders throughout
2 the country and other people who were involved in
3 potentially planning for what happened on January 6th,
4 throughout the country.

5 In addition, Your Honor, access to firearms is
6 certainly a concern of the government's. Mr. Meggs occupies
7 a position, apparently, of some amount of prominence within
8 the Oath Keepers, at least the way the other Oath Keepers in
9 this organization, this conspiracy looked up to him and
10 looked to him for guidance for what to do in this situation.
11 And for those reasons, we don't believe that the community
12 would be safe if Mr. Meggs were released, even on home
13 confinement.

14 THE COURT: Okay.

15 All right. Thank you, Mr. Nestler.

16 Mr. Wilson.

17 MR. WILSON: Yes, Judge.

18 I think that the facts that are being developed in
19 the evidence are entirely inconsistent with the government's
20 representations.

21 I notice with respect to the -- particularly, the
22 telegram communications that have been referenced by the
23 government, Mr. Nestler talks about two messages that were
24 sent by Mr. Meggs. One that says, "Who gives a damn who
25 went in there. If it's Obama himself, it doesn't matter.

1 What matters is where we are now and decisions that have to
2 be made. We are now the enemy of the state."

3 This is in response to a message sent by another
4 individual that refers to the fact that "Individuals entered
5 the Capitol and a young woman was murdered and that's a
6 fact." And "If any so-called Antifa did go in, it doesn't
7 change that fact."

8 So the messages that are attributed to Mr. Meggs,
9 the communications attributed to Mr. Meggs, seem to point to
10 a preparation for some sort of a perceived confrontation
11 with Antifa. There is not one communication that the
12 government can point to where Mr. Meggs plans, discusses, or
13 mentions any pre-planning to enter the Capitol.

14 Going through the communications, the planning,
15 the communications, the messages are all in anticipation of
16 simply attending this rally and providing security for
17 certain high-profile individuals. There is no
18 communication.

19 And, in fact, there is another message that was
20 sent by an individual who is alleged to be the leader of the
21 Oath Keepers that refers to the spontaneousness of those
22 individuals who entered the Capitol. The government doesn't
23 mention that.

24 THE COURT: Sorry. Can I interrupt you,
25 Mr. Wilson?

1 MR. WILSON: I apologize, Judge.

2 THE COURT: No, that's okay. This is some of the
3 challenges with Zoom conference calling here.

4 I guess my question to you is: Why does any of
5 that matter? And here's why I ask. Because if
6 ultimately -- I mean, it is true that the weight of the
7 evidence is a relevant factor, but ultimately the question
8 here is one of dangerousness and safety to the community.
9 And so if the evidence is pointing in the direction of
10 somebody who's prepared to engage in violent acts involving
11 Antifa, why does it matter that there's an absence of
12 pre-planning to actually enter the Capitol building?

13 MR. WILSON: Well, Judge, I think that's entirely
14 relevant, because the allegation, the charges are that there
15 was a conspiracy to -- against the government.

16 With respect to future dangerousness, there's a
17 couple of factors that I think the Court needs to take in
18 consideration:

19 There is no evidence that Mr. Meggs possessed
20 or -- any weapon or other item of a similar nature at the
21 time he was in Washington, D.C. In fact, there's
22 communications where he refers to "don't bring any
23 firearms."

24 Now, the government points to this reference to a
25 QRF. I think that if there's a reference to a QRF and

1 backup, it is in reference not to the Capitol itself, it's
2 to a potential for a confrontation with Antifa, and I think
3 that's something the Court needs to consider.

4 And with respect to any propensity for violence,
5 there is nothing in Mr. Meggs's past that points to a
6 violent disposition. He has no prior criminal record.

7 With respect to the firearms, yes, there were
8 firearms located in his residence, those have been removed
9 from his residence, so he does not have access to any
10 firearms.

11 With respect to encrypted communication or a
12 Proton email account or ProtonMail email account, that
13 simply can be remedied by a restriction on having access to
14 any electronic devices or communications or abilities to
15 communicate.

16 I also want to point out that during his interview
17 with the, I assume it's the FBI, the individual interviewing
18 him isn't really identified, I don't think, but he's
19 indicated that he is no longer affiliated with the Oath
20 Keepers and left based upon dissatisfaction with some of the
21 things that they had done that he didn't approve of. So he
22 no longer has the ability to command or control any
23 individuals.

24 And I would also point out when the government
25 indicates that people were looking to him for direction, on

1 January 6th, between, I believe, 6:27 a.m. and, I think,
2 approximately 6:37 or 6:30 p.m., there are no messages from
3 him, he engages in no communication electronically.
4 Although other individuals are communicating, he is not.
5 So he is not directing anybody to do anything. In fact, the
6 last message that he sends at 6:37 a.m. -- or 6:27, sends,
7 "Don't come downtown to the Capitol area. The crowd's too
8 big."

9 So I do think that, you know, to the extent that
10 there's communications indicating some planning on the part
11 of Mr. Meggs, the evidence shows that it's a plan to attend
12 a rally, not a plan or conspiracy to invade the Capitol.

13 There's no allegation that he engaged in any
14 violent acts while he was in the Capitol. There's no
15 allegation that he himself destroyed any property or
16 anything of that nature. I understand the government's
17 position is that, well, we don't have that evidence yet, but
18 that doesn't mean it exists.

19 I do think that there are conditions that the
20 Court can impose on Mr. Meggs that would be sufficient to
21 alleviate or ameliorate any concern the Court might have.
22 He's not a risk of flight, he does not possess a passport.
23 And certainly, there's nothing to indicate that he would
24 commit any further acts of violence or any other acts
25 against the United States going forward if released.

1 Similar to the *Munchel* case, you know, the
2 activities that they were involved in ended with the close
3 of January 6. The issue with the government, the election
4 is over, there is no further question. So I don't think
5 that there would be any reason that the government could
6 allege that Mr. Meggs would have any sort of issue with the
7 government going forward that would cause him to engage in
8 any illegal acts.

9 You know, to the extent that the government says
10 that he instructed people on bringing tools of war, I fail
11 to see how protective gear is -- can be construed as tools
12 of war. It's rhetorical.

13 THE COURT: No. It's not just -- maybe -- "tools
14 of war" may be, I agree with you, that's probably a bit of
15 an embellishment and an overstatement, but he certainly
16 talks about mace, gas masks, batons. You know, so it's not
17 just gear or clothing.

18 MR. WILSON: None of which I'm aware were in the
19 possession of Mr. Meggs while he was inside the Capitol or
20 at the rally.

21 THE COURT: Okay. Anything else, Mr. Wilson?

22 MR. WILSON: No, Judge.

23 I think it's all laid out in the pleadings. And I
24 do think that this case is very much in line with the
25 *Munchel* case, his actions that day. And I recognize that

1 he's alleged to have been a leader in this organization;
2 I'm not aware that membership in a particular organization
3 itself is illegal. I just don't think that the evidence
4 supports the contention that he instructed anybody or
5 planned with anyone to enter the Capitol that day.

6 THE COURT: Okay.

7 All right. Mr. Nestler, it's the government's
8 burden here, so I'll give you the last word before we go on,
9 if you wish.

10 MR. NESTLER: Thank you, Your Honor.

11 Mr. Wilson is correct that Mr. Meggs does not
12 appear to have been very active in the Signal chat during
13 the day of the 6th, and there's a very logical explanation
14 for that: Mr. Meggs was the team leader on the ground in
15 charge, so there's no need to be communicating with others
16 through the Signal chat when he's there and he can talk to
17 them live.

18 And so it's correct that we don't have a Signal
19 chat with Mr. Meggs saying, now everybody go storm the
20 Capitol. But Mr. Meggs was there live with the other dozen
21 or so people who were, in a lot of ways, reporting to him as
22 the team leader, as others referred to him as the team
23 leader, so that's a very logical explanation for that fact.
24 And the communications that he made before and after the 6th
25 are much more probative of both his role and his intention.

1 And then on one more point, Your Honor, which is,
2 Mr. Wilson did indicate that Mr. Meggs told the FBI, upon
3 his arrest, that he had disassociated from the Oath Keepers.
4 That is correct.

5 The government does not have any information right
6 now to corroborate Mr. Meggs's statements, and that we will
7 indicate, and I think we indicated in our pleadings, there
8 are a couple of other points where Mr. Meggs was not
9 truthful with the FBI when he was interviewed upon his
10 arrest.

11 He did tell the FBI he did not know other people's
12 names in the organization; he only knew a couple of
13 monikers. That is false, Your Honor, because Mr. Meggs was
14 a person who was receiving these vetting forms from other
15 individuals. And we have some of the phone records showing
16 that Mr. Meggs was calling these individuals and referring
17 to them by name after the 6th and on the 7th and later,
18 clearly indicating that Mr. Meggs knew exactly who they were
19 and who their real identities were.

20 Mr. Meggs indicated that he didn't do any vetting;
21 we know that to be not correct. We see even Laura Steele
22 was providing her information to Mr. Meggs to be vetted.
23 And he told the FBI he didn't do any training, any firearms
24 or any kind of paramilitary training. We know from the
25 videos we filed yesterday on those photographs, that's also

1 not true. So everything that Mr. Meggs told the FBI upon
2 his arrest we do take with some grain of salt, Your Honor.

3 THE COURT: All right, everyone.

4 Let's hang on, folks. Let me just -- I want to go
5 off camera for a few minutes here and collect my thoughts
6 and I'll be back with you in a few minutes, okay?

7 Thanks, everybody.

8 (Recess from 4:28 p.m. to 4:31 p.m.)

9 THE COURT: All right. Do we have everybody back?
10 All right.

11 So let me just begin with the basis for detention
12 here and the grounds that justify this proceeding and the
13 consideration of pretrial detention here.

14 So under 3142(f)(1), if an offense is listed under
15 28 U.S.C. 2332b(g)(5)(B) and that listed offense carries a
16 penalty of ten years or greater, that makes a person
17 eligible for detention.

18 In this case, the charge of destruction of
19 government property, although aiding and abetting of
20 destruction of government property is a qualifying charge
21 or, in this case, involves that kind of conduct, because
22 that's the word used in the statute, "involve," because this
23 case involves that kind of conduct, Mr. Meggs is subject to
24 a detention hearing, and, therefore, eligible for detention.

25 That same charge for which the Grand Jury has

1 found probable cause gives rise to a rebuttable presumption
2 of detention, and that there are no combination of
3 conditions that would ensure the safety of the community and
4 of dangerousness. Mr. Meggs -- that is a rebuttable
5 presumption, and Mr. Meggs has brought forward evidence to
6 rebut it; specifically, at least, at a minimum, the absence
7 of any criminal history.

8 So consequently, the question remains whether the
9 government has established by clear and convincing evidence
10 that Mr. Meggs presents such a danger to the community or to
11 any person, but no combination of conditions would ensure
12 the safety of the community.

13 In making that assessment, I'm required to
14 consider four factors: The nature and circumstances of the
15 offense, the weight and the evidence against the person, the
16 history and characteristics of the person, and the nature
17 and seriousness of the danger to any person or the community
18 that will be posed by the person's release.

19 Let me start with the history and characteristics
20 of the person. Mr. Meggs has no prior criminal convictions,
21 has a senior position with an automobile dealership,
22 I believe, in Florida, a long-term resident of that
23 community, has two adult children, is married. And so
24 there's nothing about his history or circumstances, such as
25 prior criminal convictions or the like, that would weigh in

1 favor of pretrial detention here.

2 But against those characteristics and history,
3 I've got to weigh the nature and circumstances of the
4 offense and the weight of the evidence against him, the
5 danger that he poses.

6 The nature and circumstances of the offense, the
7 nature of the offenses which relate to the charges
8 themselves, are set forth in the indictment.

9 Mr. Meggs and others are accused of entering the
10 Capitol building during the count of the Electoral College
11 with the intent of obstructing that proceeding. He is both
12 accused of conspiring to do so and doing so individually.
13 He's accused of aiding and abetting in the destruction of
14 property and for that purpose.

15 Those charges are obviously quite -- are serious;
16 I think our Court of Appeals has acknowledged that in the
17 recent decision. You know, this is not run-of-the-mill
18 charge; on the other hand, it's not as -- the dissent in the
19 recent Court of Appeals decision points out, it's not a
20 Class A felony, for example; but, nevertheless -- or at
21 least the lead charge is not a felony; but, nevertheless,
22 they are serious offenses.

23 And the circumstances of the offenses charged are
24 such that they do give rise to a concern, an inference of
25 dangerousness.

1 Mr. Meggs, at least on January the 6th, did join
2 with others to enter the Capitol building. As the
3 government has described more than once, they sort of formed
4 a stack of individuals, or at least a line-up of
5 individuals, and moved toward the front of the large group
6 of people who were attempting to infiltrate the Capitol by
7 knocking down that front door or knocking down a door or
8 going through a door and going through officers who were
9 trying to hold the door and hold the line.

10 Mr. Meggs, and those he was with, were not at the
11 front of that line, nor were they all the back at the back,
12 as the Munchels were in that case that the Circuit decided
13 today, he was somewhere in the middle, probably arguably
14 closer to the front, along with folks who were all pressing
15 forward to enter the Capitol building.

16 While he did not directly destroy property or
17 injure property, you know, the government has argued and the
18 Grand Jury has found, that he aided and abetted by being
19 part of a larger group that did destroy property in order to
20 effectuate entry into the Capitol building.

21 And the probable cause has been found in terms of
22 the strength of that. That'll ultimately be something a
23 jury may need to decide, but I think, and I've said before
24 not just in this case, in others, but I think the weight of
25 the evidence with respect to that particular charge is

1 arguably weaker than it is with respect to some of the other
2 charges, including conspiring to enter the Capitol building
3 to obstruct the proceedings.

4 And I think the inference to be drawn when a group
5 of people collect together to enter a Capitol as part of a
6 larger mob who have an avowed belief that what is happening
7 is illegitimate, it's certainly more than a reasonable
8 inference to draw that their interest in engaging in that
9 kind of conduct in entering the Capitol building was in
10 order to interrupt and disrupt the congressional
11 proceedings.

12 And so those are the nature and circumstances of
13 the offense. As I said, the weight of the evidence, I
14 think, varies based upon the charge. I think the government
15 has stronger evidence with respect to the first two charges,
16 perhaps less so with respect to the destruction-of-property
17 offense.

18 You know, the question here, it seems to me, to be
19 really that the fourth prong or the fourth -- that is, the
20 nature and seriousness or the danger to any person or the
21 community that would be posed by the person's release.

22 You know, on Mr. Meggs's side of the ledger, he is
23 not, as his counsel rightly points out and the government
24 admits, did not -- is not accused of engaging any assaultive
25 behavior on that day. He's not himself accused of

1 possessing a weapon that day. He's not accused of himself
2 directly destroying property that day. All of those factors
3 weigh, it seems to me, against a finding of dangerousness.

4 On the other hand, there is substantial evidence
5 here that Mr. Meggs is someone who was prepared to do
6 violence and ready to engage in violence prior to January
7 the 6th.

8 And let me be clear about something here, at least
9 in terms of my analysis. The fact that there are no direct
10 communications about a plan to have an incursion at the
11 Capitol prior to January 6th to me is not dispositive of the
12 issue of dangerousness. What is dispositive of the issue of
13 dangerousness are the various facts and circumstances
14 surrounding January the 6th and what that means about the
15 risks the person poses if they are released.

16 So the fact that Mr. Meggs's communications may
17 have been not about entering the Capitol building, but,
18 rather, engaging with Antifa, it seems to me is a relevant
19 factor but certainly is not dispositive in his favor,
20 because the ultimate question is dangerousness and whether
21 his release would pose a danger to the community and whether
22 there are a combination of conditions that would ensure the
23 safety of the community.

24 And when I look at what the government has
25 presented, Mr. Meggs raises a whole host of concerns that

1 I will tell you the others have not, with the exception of,
2 perhaps, Ms. Watkins. Not only did he actually enter that
3 building on January the 6th and then collect with others to
4 do so -- so on January the 6th itself, he actually --
5 whether there was any pre-planning on the 5th or earlier is,
6 in a sense, beside the point.

7 What is the point is that on January the 6th, at
8 least ten people collected together, which arguably
9 constitutes a conspiracy in and of itself on January 6th to
10 enter the Capitol building. And they did so as part of a
11 larger mob of individuals, a crowd of people who pushed up
12 against a door and against a group of officers to find their
13 way into the Capitol building to disrupt what was happening
14 with Congress.

15 But more importantly, in my view, Mr. Meggs has
16 presented himself as somebody, through his words and his
17 deeds and his conduct as somebody who presents a danger,
18 because he is somebody who's a leader, somebody who was
19 communicating not just within the Oath Keepers but with
20 other organizations and prepared to come to Washington, D.C.
21 to do violence.

22 And it may not have been violence to enter the
23 Capitol, but it was violence to engage with people in the
24 street, whether it be Antifa or some other group, and to
25 essentially create and be prepared for and engage in havoc

1 in the streets of Washington, D.C. That presents a danger,
2 in my view, to the community.

3 And these are his words. On November 9th, days
4 after the election, "This fight" -- he posts on Facebook:
5 "This fight is face to face, not far away. If you're ready
6 to join the fight, DM me. Remember, there are people doing
7 shit," is his word.

8 A month later, he says that he is "organizing an
9 alliance between the Oath Keepers, the Florida Three
10 Percenters, and the Proud Boys. We've decided to work
11 together and shut this shit down," okay? Whether he's
12 talking about the election count or shutting down violent
13 protests or violence involving Antifa; nevertheless, we have
14 somebody who's already prepared to organize and engage with
15 other groups to engage in violent acts on the streets of the
16 District of Columbia.

17 December 22nd of 2020, a Facebook exchange in
18 which he's contemplating with somebody else what might be
19 described as a military, a pincer-type movement, to confront
20 people in the streets. "I figure we could splinter off the
21 main group of Proud Boys and come up behind them. Fucking
22 crush them for good. We can hang for a while. They'll see
23 one group. Then we fall back on the pack and peel off.
24 We catch them in the middle. Game over."

25 That's not the only instance of such language.

1 On December 25th of 2020, not just language with playing, he
2 talks about what equipment should be brought to the
3 District of Columbia. He talks about D.C. has no guns. And
4 so I guess to his credit, he'll recognize that you shouldn't
5 bring a gun to the District. But it wasn't necessarily to
6 avoid violence, it was to avoid getting arrested. So
7 instead, bring mace, gas -- these are my words. But he
8 says, "So mace and gas masks, some batons. And if you've
9 got armor, that's good. During the day, it's kind of
10 boring; but when it starts getting dark, game on." So,
11 again, here we have Mr. Meggs, a leader of this group of
12 people, ready to engage and prepare for violence in the
13 evening.

14 He later on says in that same string:
15 "Orchestrated a plan with the Proud Boys. I've been
16 communicating with the leader. We're going to march with
17 them for a while. Then fall back to the back of the crowd
18 and turn off. Then we will have the Proud Boys get in front
19 of them. The cops will get between Antifa and Proud Boys.
20 We will come in behind Antifa and beat the hell out of
21 them." I think those words speak for themselves in terms of
22 what Mr. Meggs was prepared to do and willing to do when he
23 came to Washington, D.C.

24 Another exchange on December the 30th, 2020, says,
25 he will not be carrying, but there's a reason for that,

1 because we have a "Heavy QRF," referring to a quick reaction
2 force, "ten minutes out, though." This is referring to
3 having a group of people or a person outside the
4 District of Columbia with weapons at the ready to come in,
5 if necessary, if things get heavy; in other words, if
6 there's a confrontation with other groups.

7 Again, Signal chat on January the 2nd, 2021,
8 showing that he planned to get with, "the North Carolina
9 team today and find out the QRF location," again, referring
10 to the quick reaction force and where they're going to be.

11 And then, perhaps most troubling of all, and this
12 is, frankly, in all of the evidence that I've seen and
13 presented with, the most express statement about somebody
14 coming to Washington for something other than just a
15 political rally. After learning that the Vice President
16 would count the Electoral College votes, he writes, "that
17 checks all the boxes. I think this is why we were called
18 here. Anything less would be a terrible mistake. The
19 natives are restless. Tell your friend this isn't a rally."
20 And then he tells that same person: "Be very cautious."
21 You know, all of those communications that happened before
22 the 6th are indicative of somebody who is prepared for and
23 planning for violence in the streets of Washington, D.C.

24 There's ample evidence that Mr. Meggs is a leader
25 and planner in this group. He says, in a communication

1 dated December 25th, that he is the state lead of Florida.
2 There are communications with other chains -- excuse me,
3 communication chains with others showing communications with
4 other groups that he's admitting to, organizing large
5 numbers of people to come to Washington, and providing
6 direction on what type of implements to bring into the
7 District and how to avoid getting arrested in the District.

8 He has an alias that he uses on these planning
9 calls: Gator 1.

10 Mr. Young, who is a co-defendant in this case,
11 acknowledges in one of his text messages, in one of his
12 communications, that Mr. Meggs was a team leader at the
13 Capitol, those are his words.

14 And we also have evidence that Mr. Meggs is
15 underwriting the cost of hotel rooms not just for himself
16 but for others.

17 His behavior in the aftermath of the 6th certainly
18 suggests that he was not humbled by what he saw happen, and,
19 in fact, was inspired by it.

20 There is the comment, and although it's the only
21 one, you know: "Okay. Who gives a damn who went in there.
22 We are now the enemy of the state. We aren't quitting.
23 We're reloading."

24 And as the government has represented today that
25 even after the 6th, he is still calling people and

1 communicating with people who are other leaders of other
2 organizations even after the 6th. And so we have somebody
3 who is preparing for violence before the 6th. On the day of
4 the 6th, he incurs the Capitol building with a group of
5 others, and after the 6th is looking forward to further
6 planning and preparation with others.

7 So I do think, you know, the question under
8 *Salerno*, which the Circuit makes clear I need to consider in
9 *Munchel*, is what is the identifiable or articulable threat
10 that individual poses to the community, and I think
11 Mr. Meggs poses two threats here that are articulable and
12 identifiable.

13 One is: Further violence in the streets of
14 various cities throughout the country in which there are
15 possibilities of political rallies, possibilities of
16 antagonistic behavior between opposing political forces.
17 That risk has not abated. That risk has not abated, and
18 I think Mr. Meggs has not, given how expressive he has been
19 about how he views the particular groups or people he thinks
20 are part of Antifa -- can I ask whoever is on there to
21 please mute your line -- that he has a mindset of somebody
22 who's prepared to fight and do so violently in the streets.

23 The second identifiable and articulable harm is
24 that I think he poses a threat to Democratic institutions
25 and processes. You know, he's demonstrated that by entering

1 the Capitol building, I think, to interrupt what Congress
2 was doing. It's true that that event has passed, but,
3 nevertheless, I think, given all of the facts and
4 circumstances, there are other capitols out there and there
5 are other events, and, frankly, even just public
6 demonstrations where I think Mr. Meggs poses a threat to the
7 community.

8 And it's not simply what he's done, but it's also
9 what he's capable of doing. And this is why I don't think
10 any conditions of release are warranted, even though I've
11 considered home detention, I've considered a stay-away from
12 D.C., I've considered all of the other conditions I've
13 placed on others who I thought were -- who posed a lesser
14 risk.

15 You know, the first is, Mr. Meggs, there's
16 evidence here that he destroyed evidence or secreted
17 evidence. The fact that none of his clothing has been found
18 that he was wearing on that day and that there is this
19 text-message chain between he and his wife that suggests
20 that maybe he got rid of it, lessens the reliability that
21 Mr. Meggs may have of complying with any conditions of
22 release.

23 Secondly, Mr. Meggs has clearly demonstrated that
24 he knows how to communicate with others, through both
25 encrypted and non-encrypted modes of communication. And

1 even if I were to order him not to do that, we are in no
2 position to be able to monitor everything he does or does
3 not do. And given the depth of his planning and preparation
4 and his leadership, I do not have the level of comfort that
5 we can monitor his communications.

6 Third, Mr. Meggs seems to be somebody of some
7 means. He has, as I said, underwritten people's trips to
8 Washington, people's hotel rooms, he's able to participate
9 in the training class, although it's not a king's ransom,
10 nevertheless, it demonstrates an ability to finance such
11 activities.

12 And then, you know, finally, I accept the
13 government's representations that Mr. Meggs was less than
14 forthcoming during his FBI interview.

15 And so while there are strict combination of
16 conditions that could be placed on somebody if released, for
17 those reasons, I simply do not believe Mr. Meggs is someone
18 that can be -- whose danger would be substantially or
19 significantly or sufficiently, I should say, mitigated by
20 placing those conditions upon him.

21 You know, the bottom line is that I've had the
22 benefit of comparing the evidence against Mr. Meggs, the
23 benefit to the evidence that has been brought before me with
24 respect to at least six or seven other people. The evidence
25 against Mr. Meggs is more substantial than it is against any

1 other defendant, with the exception of, perhaps,
2 Ms. Watkins.

3 And I think the danger -- the inference of
4 dangerousness is consistent with that evidence. And I think
5 Mr. Meggs, unlike the others -- and I think given all the
6 evidence that's before me, all of the factors that I've
7 considered and, frankly, I've carefully considered what the
8 Circuit had to say in *Munchel* -- and I will point out that
9 the Circuit did say that it viewed people differently who
10 aided, conspired with, planned or coordinated actions on
11 January the 6th, they are in a different category than those
12 who cheered on the violence or entered the Capitol after
13 others cleared the way. I think there's ample evidence here
14 of conspiring and planning and coordinating dangerous
15 activities, including contemplating nighttime confrontations
16 with the likes of Antifa and others and planning for those
17 purposes.

18 And so I think Mr. Meggs is in a very different
19 position than the defendants were in *Munchel*. I think he's
20 in a very different position than most of the other
21 defendants in this case. And so for that reason, I do find
22 that there are no combination of conditions that would
23 ensure the safety of the community if Mr. Meggs was
24 released, and, therefore, I will deny the defendant's
25 request for Pretrial Release.

1 Okay. With that, is there anything else anybody
2 else wants to raise, because we are scheduled to be
3 together, I think, in about ten days?

4 MR. NESTLER: Not on behalf of the United States.
5 Thank you, Your Honor.

6 MR. WILSON: Not on behalf of Mr. Meggs, Judge.

7 THE COURT: Thank you, all, very much. We will
8 see you soon.

9 Thanks, everyone.

10 (Proceedings concluded at 4:53 p.m.)

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C E R T I F I C A T E

I, William P. Zaremba, RMR, CRR, certify that the foregoing is a correct transcript from the record of proceedings in the above-titled matter.

Please note: This hearing occurred during the COVID-19 pandemic and is therefore subject to the technological limitations of court reporting remotely.

Date: March 27, 2021 /S/ William P. Zaremba

William P. Zaremba, RMR, CRR

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WILSON: [6]</p> <p>11/17 13/1 13/13 16/18</p> <p>16/22 34/6</p> <p>THE COURT: [26] 3/3</p> <p>3/11 3/16 5/19 5/21 6/7</p> <p>6/12 6/17 6/25 7/14</p> <p>7/21 7/25 8/2 8/12 9/22</p> <p>10/3 10/14 11/14 12/24</p> <p>13/2 16/13 16/21 17/6</p> <p>19/3 19/9 34/7</p> <p>THE DEFENDANT: [1]</p> <p>3/15</p>	<p>6:27 [2] 15/1 15/6</p> <p>6:30 [1] 15/2</p> <p>6:37 [2] 15/2 15/6</p> <p>6th [24] 4/2 5/15 7/4</p> <p>11/3 15/1 17/13 17/24</p> <p>18/17 22/1 24/7 24/11</p> <p>24/14 25/3 25/4 25/7</p> <p>25/9 28/22 29/17 29/25</p> <p>30/2 30/3 30/4 30/5</p> <p>33/11</p> <p>7</p> <p>7th [1] 18/17</p> <p>9</p> <p>9th [1] 26/3</p> <p>A</p> <p>a.m [2] 15/1 15/6</p> <p>abated [2] 30/17 30/17</p> <p>abetted [1] 22/18</p> <p>abetting [2] 19/19</p> <p>21/13</p> <p>abilities [1] 14/14</p> <p>ability [3] 8/25 14/22</p> <p>32/10</p> <p>able [5] 6/18 10/17</p> <p>10/25 32/2 32/8</p> <p>about [15] 7/23 9/3</p> <p>11/23 16/16 20/24 24/8</p> <p>24/10 24/14 24/17</p> <p>26/12 27/2 27/3 28/13</p> <p>30/19 34/3</p> 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