

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

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| UNITED STATES OF AMERICA, |) | |
| |) | |
| Plaintiff, |) | |
| |) | CR No. 21-28-3 |
| |) | Washington, D.C. |
| vs. |) | February 23, 2021 |
| |) | 1:00 p.m. |
| JESSICA M. WATKINS, |) | |
| |) | |
| Defendant. |) | |
| _____ |) | |

TRANSCRIPT OF DETENTION HEARING
VIA VIDEOCONFERENCE 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 This is Criminal Case No. 21-28-3, the United
4 States of America versus Jessica Marie Watkins.

5 Ahmed Baset, Kathryn Rakoczy, and Justin Sher for
6 the government.

7 Shelli Peterson for the defense.

8 Christine Schuck on behalf of Pretrial Services.

9 The defendant appears via videoconference for this
10 hearing.

11 THE COURT: Okay. Good afternoon, everyone.

12 Ms. Watkins, good afternoon to you. Can you hear
13 me okay, ma'am?

14 THE DEFENDANT: Yes, Your Honor, I can.
15 Thank you.

16 THE COURT: Okay. Very good.

17 All right. So we're here this afternoon for a
18 detention hearing for Ms. Watkins.

19 The government has filed a motion for pretrial
20 detention and the defendant has asked for her release.

21 I've reviewed the parties' papers, including those
22 that were filed, I believe, just yesterday and then today.

23 So why don't we turn first to the government.
24 We'll start with Mr. Baset.

25 Why don't you start, Mr. Baset. I have a few

1 questions I wanted to ask you, but why don't you go ahead
2 and get started.

3 MR. BASET: Great. Thank you.

4 One of the most indelible and frightening
5 depictions from the attack on the Capitol on January 6th was
6 a line of individuals in combat paramilitary gear marching
7 in organized fashion up a hill toward the Capitol.

8 The evidence at this stage is irrefutable that
9 Ms. Watkins was not only a part of that line of people,
10 which the government has referred to as a stack, but that
11 she also recruited others to join that stack, including the
12 recently indicted Sandra Parker from Ohio.

13 Now, we know from video evidence as well that this
14 stack is soon after observed on the east side of the Capitol
15 building, along with other members and affiliates, the Oath
16 Keepers.

17 Now, these individuals are positioned near the
18 front of what we've described to be a violent mob and --
19 that is attempting to break through the doors to gain entry
20 into the Capitol building.

21 Ms. Watkins, through her Parler posts, explains
22 that she was among the group of people that was using force,
23 like -- in her words, like they do in rugby, to gain entry
24 into the Capitol, to storm the Capitol.

25 And a short time later, we see from the video the

1 door opening and the mob flowing right into the Capitol
2 building.

3 Now, at that point, we do not see Ms. Watkins and
4 her fellow co-conspirators walking away or leaving, but,
5 rather, flowing right with this violent, angry mob into the
6 Capitol building.

7 And so the destruction of that door and the entry
8 into the Capitol to fulfill the objective of the conspiracy,
9 which the government asserts, and which the evidence shows,
10 was to impede or stop the congressional proceeding occurring
11 at the moment, which was to certify the Electoral College
12 vote. And so they needed that door to be broken and
13 breached. They were involved in the violent mob to breach
14 that door; and once it was broken, they entered it.

15 And so on those facts, the grand jury has indicted
16 Ms. Watkins and her co-conspirators, to include eight other
17 individuals that were -- some of which were in that stack,
18 with aiding and abetting in the destruction of government
19 property.

20 Now, because this is an enumerated offense under
21 18 U.S.C. 2332(b)(5)(B), a rebuttal presumption in favor
22 of detention is created.

23 THE COURT: So, Mr. Baset, let me ask you about
24 that, because that first appears in your reply brief that
25 you're now -- the government is now relying on a rebuttable

1 presumption of detention on the ground that destruction of
2 government property is a crime of -- is an offense listed
3 under Section 2332(b)(G)(5) -- excuse me, (G)(5)(B).

4 Let me just ask -- I mean, you're right that the
5 government property is -- destruction of government property
6 is a listed offense under section 2332(b)(G)(5)(B), but the
7 penalty associated with that offense is not more than ten
8 years. And under 3142(f)(1)(A), an offense that's listed
9 under Section 2332(b), or, I guess, really, if we're in the
10 rebuttable presumption section, that's in Subsection
11 (e)(3) -- (e)(3)(C).

12 So are you with me, Mr. Baset?

13 MR. BASET: I believe I am following, yes.

14 THE COURT: Okay.

15 So it's not just enough to be an offense that's
16 listed under 2332(b)(G)(5)(B), but it also says, "for which
17 a maximum term of imprisonment of ten years or more is
18 prescribed."

19 See that?

20 MR. BASET: I do.

21 THE COURT: Okay.

22 So am I missing something here, then? Because
23 under 18 U.S.C. 1361, which you've rightly pointed out is a
24 listed offense, but according to 18 U.S.C. 3161, for the
25 felony offense, that is, where property damage exceeds

1 \$1,000, the max penalty is not more than ten years or both.

2 MR. BASET: If I could, perhaps, address that
3 point.

4 As an initial matter, if I'm reading this
5 correctly, it does indicate for which a maximum penalty --
6 that's under (e) (3) (C) -- for which a maximum term of
7 imprisonment or of ten years or more is prescribed. So it
8 would include a term of ten years exactly.

9 The penalty prescribed or the maximum term for
10 destruction of government property, if I'm understanding
11 correctly as well, allows for a ten-year term of
12 imprisonment.

13 So at least under the plain language of (e) (3) (C),
14 it contemplates a statute or an offense with ten specific
15 years of imprisonment to qualify, and here we do have an
16 offense that allows for a maximum term of ten years.

17 And so at least at a plain -- at a basic level,
18 I think we've hit that threshold matter; we can check that
19 box, if you will. And it would qualify because ten years is
20 applicable in both instances or potentially applicable in
21 both instances.

22 In addition, it is among the enumerated offenses,
23 and it seems as if that is without qualification as it
24 pertains to those listed under 2332 (b) (G) (5) (B).

25 THE COURT: Ms. Peterson, let me turn to you for a

1 moment, because I want to get your reaction to this. This
2 is raised for the first time in the government's reply.

3 And, you know, interestingly, when we had
4 Mr. Caldwell before me last week, this was not a basis that
5 the government had identified, they had not sort of asserted
6 a rebuttable presumption.

7 What is your reaction to this argument that she's
8 now been charged with an unlisted offense under
9 2332(g)(5)(B) and then, therefore, a rebuttable presumption
10 applies?

11 MS. PETERSON: Your Honor, I had not seen the
12 government make this argument in any of the other cases
13 prior to the reply, which I believe came in at 12:03 last
14 night. And I've had a number of other matters this morning,
15 so I have not had time to do exhaustive research on it.

16 But my take on it is the same as the questions the
17 Court was asking, which is that it does not meet the
18 standard because it is not punishable by ten years or more.
19 There's clearly a distinction being made between crimes that
20 are punishable by up to ten years and crimes that are
21 punishable by ten years or more.

22 I believe that that distinction is one that puts
23 this charge on the side where no rebuttable presumption is
24 to be had.

25 THE COURT: Let me tell you why this is important

1 for -- it's important for two reasons.

2 It's not only important because of the rebuttable
3 presumption.

4 And this was an issue -- Mr. Baset, you'll forgive
5 me, I think -- I can't remember whether you were there for
6 Mr. Caldwell's hearings or one of your colleagues, but, you
7 know, there is this -- what I kind of describe as kind of a
8 key-opening or door-opening provision under Subsection (f)
9 to a request for detention.

10 And as, again -- under *U.S. versus Singleton*, the
11 case from the D.C. Circuit which I mentioned during the
12 hearing before Mr. Caldwell, this is at 182 F.3d 7, the
13 Circuit, and I'm quoting, it says, "First, a judicial
14 officer" -- and this is at page 9 -- "First, a judicial
15 officer must find one of the six circumstances triggering a
16 detention hearing," citing 18 U.S.C. 3142(f). "Absent one
17 of these circumstances, detention is not an option."

18 So at least as I read *Singleton*, you know, first
19 thing a judicial officer needs to do is look at Subsection
20 (f) and ask him or herself, well, do any of those conditions
21 apply here?

22 And in the case of Mr. Caldwell, you know, I found
23 that he was -- that there was a serious risk that he would
24 obstruct justice based upon the fact that he had, in fact,
25 deleted evidence and invited people to his home to stash

1 evidence and so on and so forth.

2 Anyway, the bottom line is, you know, it's not
3 clear to me, in Ms. Watkins' case, whether the government is
4 relying -- what of the section (f) criteria you're relying
5 on.

6 And are you also now relying on (f)(1)(A), which
7 lists the offenses under 2332(b)(G)(5)(D), which also has
8 this maximum term of imprisonment of ten years or more as
9 prescribe qualifying language to it.

10 So, Mr. Baset, are you following -- I just want to
11 make sure you're following my thinking about how this -- how
12 this particular section operates, that is, 2332(b) and how
13 it affects the detention question that's before me, both it
14 seems to go to whether a detention hearing and even
15 detention itself is lawful; and, two, whether there is a
16 presumption of -- a rebuttable presumption of detention?

17 MR. BASET: Well, we do certainly believe that it
18 qualifies under (f)(1)(A), that being that the destruction
19 of government property is a crime of violence. Force is
20 used to achieve or to accomplish that offense, and so it
21 would qualify there.

22 THE COURT: And the government's position --
23 I just want to be clear on this, because I've seen this
24 alluded to in various places but not really spelled out,
25 which is: Are you asserting that under the categorical

1 approach, because that's what we need to apply here, a
2 categorical approach that a crime of violence -- that the
3 destruction of government property is, in fact, a crime of
4 violence under the categorical approach?

5 MR. BASET: It is. It is one that requires the
6 force to be -- I mean, for the offense to be accomplished
7 requires force against property.

8 THE COURT: I mean, you say that.

9 And I think we need to -- one of the questions
10 I want to -- you know, that statute, the destruction of
11 property statute doesn't just speak to destruction of
12 property, it also speaks to depredation of government
13 property. It's not clear to me whether the depredation of
14 government property would necessarily involve the use of
15 violence.

16 I mean, if depredation of government property is
17 the taking -- essentially means the taking of government
18 property, depriving of property through some means, and
19 maybe it's violent means, then I'm not entirely sure that
20 that statute, under the categorical approach, satisfies the
21 "crime of violence" definition.

22 Are you following me?

23 MR. BASET: I understand your point.

24 And I think that the depredation of property
25 certainly encompasses violence or force to be exerted in

1 order to -- for that depredation to occur.

2 I understand your point, though, as far as whether
3 depredation can occur without force being exercised.

4 But there is where I would also point to the loss
5 amount and the damage that is also prescribed within this
6 analysis, which is \$1,000 or more, which seems to
7 contemplate a physical sort of force used against --

8 THE COURT: Well, if --

9 MR. BASET: -- government property.

10 THE COURT: But that assumes depredation requires
11 force.

12 And, you know, if you steal a painting worth more
13 than \$1,000 dollars, that doesn't necessarily involve any
14 force. And one could conceive of a whole host of scenarios,
15 that aren't out-there scenarios, in which depredation might
16 not involve violence. But, again, I don't know the answer
17 to that.

18 Looking, I guess, Mr. Baset, here's --

19 MR. BASET: If I could also --

20 THE COURT: Hang on one second.

21 MR. BASET: Please. Go ahead.

22 THE COURT: Look, here's my concern about all of
23 this:

24 This is my second one of these hearings in this
25 particular case. I've got other cases, and I know every

1 other judge in this District court has these cases.

2 I would like to understand from the government --

3 because this isn't going to just be applying here to

4 Ms. Watkins, it's going to apply to the remaining --

5 I assume, the remaining seven defendants, co-defendants that

6 are in this case and the various defendants in other cases,

7 what the government's theory is under Subsection (f), you

8 know, if it doesn't involve a risk of flight or a risk of

9 obstruction of justice, as it was for Mr. Caldwell's case.

10 And I'll just tell you right now: I don't buy

11 that Ms. Watkins meets the definition of "serious risk of

12 flight." I know you've alluded to sort of the one statement

13 she made about going underground. But, you know, she turned

14 herself in, so I just have a hard time finding that it rises

15 to the level of a serious risk of flight. So she's not --

16 you know, I don't think that opens the door here.

17 And so I really would like to get my arms around

18 what the theory is under Subsection (f). And if it's

19 destruction of government property is a crime of violence,

20 I'd like to know that. And if it's destruction of property

21 is an offense under 2332(b)(5)(B), I'd like to know that,

22 too, and I don't feel fully prepared today to answer those

23 two questions. And it's important for me not just to answer

24 those questions for Ms. Watkins' case, but for every other

25 case that's coming after this one.

1 And I haven't talked to my colleagues; I don't
2 know what they're thinking about this. I know at least
3 Magistrate Judge Faruqui has raised some questions about
4 this issue. And I think the government needs to have a
5 concrete answer in each of these cases as to what of the
6 conditions under Subsection (f) its relying on.

7 So anyway, I've been talking for a while. Let me
8 get your reaction and your response to it.

9 MR. BASET: We are certainly -- I can certainly
10 appreciate those concerns, especially considering that there
11 are other cases coming down the pipeline in which this issue
12 will arise again.

13 To your question initially about whether the
14 destruction of government property qualifies as a crime of
15 violence, I would cite to Your Honor the *United States*
16 *versus Khataallah* that's at 316 F.Supp.3d 207. It is a
17 D.D.C. case from 2018.

18 And I would specifically point your attention to
19 page 213, where the holding indicates that the destruction
20 of government property under Section 1363 satisfies Section
21 924(c)'s elements clause, because "injuring federal property
22 categorically requires a use of force against the property
23 of another."

24 And so I would initially cite that.

25 THE COURT: I don't want to interrupt you.

1 But that's under 18 U.S.C. 1363.

2 She's not charged with 18 U.S.C. 1363. And
3 18 U.S.C. 1363 says "willful and maliciously destroys or
4 injures any structure, conveyance, or any other real or
5 personal property."

6 That's different than this depredation language
7 that appears in 1361, right? You know, 1361 says, "Whoever
8 willfully injures or commits any depredation against any
9 property of the United States."

10 You know, so that's very different language than
11 what's in 1363.

12 MR. BASET: Well, it would be a sister statute to
13 1361. It does include the willful injury of property
14 language as well.

15 And certainly, even by the title of 1361, it is
16 about the destruction of the property and a willful intent
17 to --

18 THE COURT: Yeah, I get what the title says;
19 I know what the mens rea element is. But, you know,
20 "Whoever willfully injures or commits any depredation
21 against any property of the United States."

22 "Depredation" is different, and it's a very
23 different term than what appears in 1363, which is "destroys
24 or injures any structure."

25 I mean, that's a very different term. And the

1 fact that it's actually two sections over and a different
2 verb is used, seems to me -- the argument could be made that
3 Congress intended to convey a different meaning. And, in
4 fact, I'm sure that's how the statutes would be interpreted
5 differently. It's a very different term, "depredation"
6 versus "destruction or injury of property."

7 Anyway, I interrupted you. Why don't you go on.

8 MR. BASET: No, you certainly didn't.

9 I would note that even aside, we do believe,
10 actually, that in terms of pretrial detention, the
11 presumption -- if that presumption exists, then we don't
12 think that *Singleton* necessarily applies, because that would
13 be the starting point, not whether the detention hearing is
14 even warranted in the first place.

15 That aside, even under an analysis under --

16 THE COURT: That doesn't make sense to me
17 because -- I mean, I don't understand the argument, only
18 because the same language appears in both sections. So it
19 seems to me that the 2332(b)(G)(5)(B) question satisfies
20 both subsections; in other words, you know, if it is a
21 qualifying offense under (f)(1)(A) because it's a listed
22 offense under 2332(g)(5)(B), then both unlocks the door to
23 the detention hearing and gets you the presumption.

24 MR. BASET: I take your point.

25 I would also note, too, that because it overlaps,

1 because we have a ten-year maximum period that is allowed,
2 at least in terms of a sentencing for the destruction of
3 property, and because, under -- under (f), it does indicate
4 that a ten-year maximum -- or a ten-year sentence would also
5 qualify, that we do think that that overlap means that it
6 meets the threshold question of whether it is something with
7 the requisite penalty.

8 And really what it's looking at at the end of the
9 day is the dangerousness and the seriousness of the offense,
10 and it's among the enumerated offenses that is contemplated
11 in that regard.

12 And so going back to your initial question of
13 whether it qualifies because does it have the requisite
14 applicable or allowable sentence, I think the answer to that
15 is: Yes.

16 In addition, even if you could -- what that
17 ultimately means, though, in terms of whether it's a crime
18 of terrorism and how that should be considered, is that it's
19 just another factor for Your Honor to consider under the
20 3142(f)(2) -- rather, the factors for consideration under
21 3142(f)(2)(G)(1); specifically, the nature and circumstances
22 of the offenses. And so under that, it would be a factor to
23 consider that this is a crime of terrorism.

24 But, again, our position is that it does satisfy
25 the definition of a crime of violence and that it is among

1 enumerated offenses under 2332. And so as it is an
2 enumerated offense and it is an offense with a punishment of
3 up to ten years, which would overlap with the penalty of ten
4 years or more in prison, that that overlap does mean that
5 we, as a threshold matter --

6 THE COURT: Can I -- have any of my colleagues, to
7 your knowledge, agreed with your evaluation, either that
8 destruction of property under 18 U.S.C. 3141, I think it
9 is -- sorry, 3161, is a crime of violence or is an offense
10 listed under 2332(b)(5)(B)?

11 MR. BASET: So I don't know if any of your
12 colleagues have considered this, at least your ones here in
13 the District of Columbia.

14 I would note that in South Dakota, I believe.
15 It's *United States versus Wisecarver*.

16 THE COURT: Right.

17 MR. BASET: That's CR-0850087 2009 Westlaw.

18 THE COURT: Yeah, I'm familiar with the case.
19 I remember looking it up in connection for --

20 MR. BASET: Yes.

21 THE COURT: And I'm not --

22 MR. BASET: And in that --

23 THE COURT: I remember it being the only District
24 Court case I could find, any court case I could find asking
25 the question whether destruction of property under 1361 is a

1 crime of violence.

2 MR. BASET: And there, it does consider 1361 a
3 crime of violence in part because, as it notes, by its very
4 nature, it involves a substantial risk that physical force
5 against the property, property of another may be used
6 through the course of committing the offense, and crimes of
7 violence may include property crimes but -- and it does not
8 include arson, citing *United States versus Mitchell* there.

9 And I believe in the *Wisecarver* case, they
10 discharged a weapon, and there was a conviction of crime of
11 violence in that case. But it was an analysis of 1361; it
12 did conclude that it was a crime of violence.

13 THE COURT: Okay.

14 Ms. Peterson, thoughts?

15 MS. PETERSON: Yeah.

16 Your Honor, I believe that this is something that
17 we do need to resolve before we get into the meat of whether
18 or not there's even a detention hearing to be had.

19 So I would suggest that, while I know that
20 Ms. Watkins is anxious to get this issue resolved, if the
21 Court could give us 24 hours so that I can consult with some
22 of the legal experts on the crimes of violence issues in our
23 office and perhaps file a supplemental pleading.

24 I do think -- I was -- I tried the *Khattalah* case,
25 so I do think that is a very different scenario than what

1 we're looking at here and two very different statutes.

2 But I would have to go back and refresh my
3 recollection by reading the briefing that we filed in that
4 case.

5 And I think it also might still be an issue that's
6 on appeal, so I'd like to talk to the appellate lawyer
7 that's handling the *Khattalah* case in our office.

8 THE COURT: I mean, let's bear in mind that my
9 observation about whether *Khataallah* applies or not has
10 nothing to do with the different facts involved, right?

11 MS. PETERSON: No. I understand.

12 THE COURT: I think you would agree, or should
13 agree, that the question is one of a categorical approach.

14 So the fact that *Khataallah* involved a clear
15 destruction of a U.S. property in Libya is really not a here
16 nor there, and that this case is -- didn't necessarily
17 involve that kind of level of destruction.

18 The question is the charge and what are the
19 elements of the offense.

20 MS. PETERSON: Right.

21 And I think that the Court has pointed out the
22 elements of the offense and the charge between 1361 and 1363
23 are very different.

24 So we just have to take a look to see whether
25 those differences take 1363 out of the equation for one

1 where there is a categorical -- you have to have committed
2 violence to be able to commit the crime. And I think the
3 example the Court gives of taking a painting makes it quite
4 clear that it doesn't have to involve a crime, and,
5 therefore, it seems that even it falls outside that
6 category.

7 THE COURT: To be clear, I don't know that that
8 satisfies the meaning of "depredation." I mean, it's not a
9 word that you often encounter in the criminal statute.

10 So in any event, I mean, the title of these
11 statutes can be misleading.

12 And, you know, the word "destroy" doesn't actually
13 appear anywhere in the statutory text. And this word
14 "depredation" does, which is a different word. And
15 ultimately what that term means informs whether 1361 is a
16 crime of violence or not.

17 Ms. Peterson, do you know whether any of my
18 colleagues have grappled with these issues?

19 MS. PETERSON: I don't believe that it has come
20 up. I think this is the first time that I've seen -- and
21 I've been trying to follow most of these cases -- where the
22 government's even made this argument in this courthouse.
23 But I can't swear by that; I have not read every single
24 case. And, more importantly, they're not even being
25 docketed as quickly as they would in normal circumstances be

1 docketed. So it's a little bit hard to tell for sure.

2 I have not heard, in talking with the lawyers who
3 have represented other defendants in these similar cases,
4 that this has been an issue that has been briefed.

5 THE COURT: Okay.

6 Well, there's a first for everything, and this is
7 going to be the first.

8 So I guess, you know, Mr. Baset, I would like --
9 and this is not -- don't take this as a knock on you, but
10 I'd like the U.S. Attorney's Office to weigh in on these two
11 questions with your appellate folks and others who are
12 prepared to say, this is the position of the
13 U.S. Attorney's Office.

14 Again, I'm not suggesting that you were stating
15 anything other than the position of your office. But, you
16 know, again, if this was a one-off case, you know, we might
17 roll with all of this. But it's clearly not. And these are
18 issues that are going to affect not just Ms. Watkins but
19 potentially dozens and dozens of people who are still coming
20 through the pipeline.

21 So I'd like to get some briefing on it. I'd like
22 to have some understanding of the analysis that the
23 U.S. Attorney's Office believes backs up both of its
24 positions in terms of Subsection (F) and then also -- well,
25 in terms of Subsection (f), really, it's Subsection

1 (f)(1)(A), which is, I think, the only real possible
2 subsection that applies in this case.

3 And obviously, Mr. Baset, if the
4 U.S. Attorney's Office reads *Singleton* and the cases in the
5 Circuit differently than I do, that Subsection (f) is not
6 some sort of key door-opening provision, then I'd like to
7 know that, too, because, you know, I think -- and I've read
8 this in some of the transcripts of various Magistrate Judges
9 who have dealt with folks who have appeared before them, you
10 know, some of the Magistrate Judges have grappled with
11 Subsection (f) first and this issue of the requisite showing
12 to get a hearing and what that means; others have not.

13 And, frankly, in the limited briefing I've seen
14 from the government, it sort of has alighted over that
15 issue.

16 And I just think *Singleton* says what it says.
17 I don't think there's been very much said since then. I may
18 have missed it. But if I'm wrong about how I'm reading
19 Subsection (f), I'd like to know that, too.

20 MR. BASET: Understood.

21 THE COURT: Okay.

22 So let's figure out timing here, you know, what's
23 a reasonable amount of time.

24 Ms. Watkins, I know this is not something that you
25 may have anticipated today and you probably thought you were

1 going to get an answer one way or another. But, you know,
2 there's a threshold legal question here that I really need
3 to have answered to my satisfaction, not just for your case
4 but for a whole host of -- this, you know, other defendants
5 who are going to appear in this case and defendants
6 appearing before judges throughout this District Court.
7 So in my view, these are really important threshold
8 questions that need some vetting before I can reach the
9 answers.

10 THE DEFENDANT: Your Honor, may I speak with my
11 attorney real quick one moment before you make a decision,
12 sir?

13 THE COURT: Yeah. Sure.

14 Ms. Peterson.

15 THE DEFENDANT: It will just be a second.

16 THE COURT: Hang on.

17 Is there a way, Ms. Peterson, that you can dial in
18 over there?

19 MS. PETERSON: Yes. I believe that the Courtroom
20 Deputy can put me into a break-out room with her and then
21 we'll come right back.

22 THE COURT: Okay. Let's do that.

23 (Defense counsel conferred with the defendant off
24 the record.)

25 THE COURT: Okay.

1 Ms. Peterson, you've had time to confer with
2 Ms. Watkins?

3 MS. PETERSON: Yes, Your Honor.

4 She just wanted a little clarity as to exactly
5 what the legal issues that were before the Court are.

6 So we're fine, and she understands that it's going
7 to take us a few days to straighten all of this out and
8 she's prepared to wait.

9 THE COURT: All right.

10 Well, you know, realistically, given my schedule
11 and what I'm asking you all to do -- and I want to -- do you
12 think you could get my briefing by Thursday?

13 MS. PETERSON: Yes, Your Honor. I'll make it
14 happen from my -- does the Court want us to simultaneously
15 brief these issues since we sort of, I think -- and then
16 reply to each other?

17 THE COURT: Well, I guess -- I mean, the question,
18 Ms. Peterson, is how quickly you want to do this.

19 I mean, I'm trying to be sensitive to Ms. Watkins'
20 interest in getting a resolution here, and so that's why
21 I was suggesting as quickly as I have.

22 On the other hand, if you want the government to
23 go first and then you reply and -- I mean respond, then we
24 can move that way. But that'll drag this out.

25 MS. PETERSON: I think the Court has crystallized

1 the issues enough that we could, perhaps, do our initial --
2 both of us file on Thursday, and then both respond on Friday
3 if there's anything that's raised that we didn't address in
4 the initial pleadings.

5 THE COURT: Yeah, that's sort of my view; that
6 I think we can handle any responses by -- do that orally,
7 any replies.

8 Mr. Baset, do you think that works with your
9 schedule?

10 MR. BASET: It certainly works with mine.

11 I think the question is the time it takes to run
12 it down within our office to make sure that all the right
13 minds are thinking about it and making sure that we are of
14 an official position.

15 I think that schedule should work. If I do find
16 that we do need some more time, if it is okay, I would like
17 to let the Court know. I don't anticipate that, but, again,
18 I am reticent to speak for other people that need to chime
19 in and have to thoughtfully and fully consider this issue
20 that you've raised.

21 THE COURT: Okay.

22 All right. Well, let's do that.

23 And then let's see. My schedule on Friday is not
24 great, but we could do 11:30, if there's time available from
25 the jail, if there's an open line?

1 THE DEFENDANT: Would you like me to get someone
2 to ask, Your Honor?

3 THE COURT: No, Ms. Watkins --

4 MS. PETERSON: No, the Courtroom Deputy does that.

5 THE COURT: -- the Courtroom Deputy will do that.

6 COURTROOM DEPUTY: Your Honor, I'm not seeing
7 11:30 as available. But I could -- I'm not seeing 11:30 as
8 available.

9 THE COURT: What's available on Friday?

10 COURTROOM DEPUTY: 2:00, 2:30, and 4:00.

11 THE COURT: Let's do 2:00, if everybody is
12 available.

13 MR. BASET: Sorry, was that 12:00?

14 THE COURT: No. 2:00.

15 MR. BASET: 2:00. The government's available.
16 Thank you.

17 THE COURT: And if you all could just make sure
18 your filings are made by 5:00 on Friday -- just -- I mean,
19 I don't -- you know, so I have an opportunity to read them
20 Thursday evening.

21 MR. BASET: Do you mean the filing by 5:00 p.m. on
22 Thursday evening?

23 THE COURT: Right.

24 MR. BASET: Not by Friday. Okay.

25 THE COURT: Yeah, by 5:00 on Thursday evening, if

1 you could make your filings at 5:00 p.m. on the 25th.

2 Does that work, Ms. Peterson?

3 MS. PETERSON: We will make it work.

4 THE COURT: Okay.

5 So we'll look forward to receiving the parties'
6 additional briefing and we will take it from there. And
7 we'll see everybody again on Friday.

8 MS. PETERSON: Thank you, Your Honor.

9 MR. BASET: Thank you, Your Honor.

10 (Proceedings concluded at 1:46 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: February 23, 2021

/S/ William P. Zaremba

William P. Zaremba, RMR, CRR

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| <p>Case 1:21-cr-00228-APM Document 35 Filed 02/24/23 Page 30 of 35</p> <p>COURTROOM</p> <p>DEPUTY: [3] 3/2 27/6 27/10</p> <p>MR. BASET: [26] 4/3 6/13 6/20 7/2 10/17 11/5 11/23 12/9 12/19 12/21 14/9 15/12 16/8 16/24 18/11 18/17 18/20 18/22 19/2 23/20 26/10 27/13 27/15 27/21 27/24 28/9</p> <p>MS. PETERSON: [12] 8/11 19/15 20/11 20/20 21/19 24/19 25/3 25/13 25/25 27/4 28/3 28/8</p> <p>THE COURT: [44]</p> <p>THE DEFENDANT: [4] 3/14 24/10 24/15 27/1</p> <p>\$</p> <p>\$1,000 [3] 7/1 12/6 12/13</p> <p>'</p> <p>'s [1] 14/21</p> <p>/</p> <p>/S [1] 29/10</p> <p>0</p> <p>0850087 [1] 18/17</p> <p>1</p> <p>11:30 [3] 26/24 27/7 27/7</p> <p>12:00 [1] 27/13</p> <p>12:03 [1] 8/13</p> <p>1361 [10] 6/23 15/7 15/7 15/13 15/15 18/25 19/2 19/11 20/22 21/15</p> <p>1363 [8] 14/20 15/1 15/2 15/3 15/11 15/23 20/22 20/25</p> <p>18 U.S.C [8] 5/21 6/23 6/24 9/16 15/1 15/2 15/3 18/8</p> <p>182 [1] 9/12</p> <p>19 [1] 29/6</p> <p>1:00 [1] 1/6</p> <p>1:46 [1] 28/10</p> <p>2</p> <p>20001 [1] 2/7</p> <p>20004 [1] 1/23</p> <p>2009 [1] 18/17</p> <p>2018 [1] 14/17</p> <p>202 [3] 1/16 1/23 2/7</p> <p>2021 [2] 1/5 29/10</p> <p>20530 [1] 1/16</p> <p>207 [1] 14/16</p> <p>208-7500 [1] 1/23</p> <p>21-28-3 [2] 1/4 3/3</p> <p>213 [1] 14/19</p> <p>23 [2] 1/5 29/10</p> <p>2332 [14] 5/21 6/3 6/6 6/9 6/16 7/24 8/9 10/7 10/12 13/21 16/19</p> | <p>24 [1] 19/21</p> <p>252-6928 [1] 1/16</p> <p>25th [1] 28/1</p> <p>2:00 [4] 27/10 27/11 27/14 27/15</p> <p>2:30 [1] 27/10</p> <p>3</p> <p>3141 [1] 18/8</p> <p>3142 [4] 6/8 9/16 17/20 17/21</p> <p>316 [1] 14/16</p> <p>3161 [2] 6/24 18/9</p> <p>3249 [1] 2/7</p> <p>333 [1] 2/6</p> <p>354-3249 [1] 2/7</p> <p>4</p> <p>4:00 [1] 27/10</p> <p>5</p> <p>550 [1] 1/22</p> <p>555 [1] 1/15</p> <p>5:00 [4] 27/18 27/21 27/25 28/1</p> <p>6</p> <p>625 [1] 1/22</p> <p>6503 [1] 2/6</p> <p>6928 [1] 1/16</p> <p>6th [1] 4/5</p> <p>7</p> <p>7500 [1] 1/23</p> <p>9</p> <p>924 [1] 14/21</p> <p>A</p> <p>abetting [1] 5/18</p> <p>able [1] 21/2</p> <p>about [11] 5/23 10/11 12/22 13/13 14/2 14/3 14/13 15/16 20/9 23/18 26/13</p> <p>above [1] 29/4</p> <p>above-titled [1] 29/4</p> <p>Absent [1] 9/16</p> <p>accomplish [1] 10/20</p> <p>accomplished [1] 11/6</p> <p>according [1] 6/24</p> <p>achieve [1] 10/20</p> <p>actually [3] 16/1 16/10 21/12</p> <p>addition [2] 7/22 17/16</p> <p>additional [1] 28/6</p> <p>address [2] 7/2 26/3</p> <p>affect [1] 22/18</p> <p>affects [1] 10/13</p> <p>affiliates [1] 4/15</p> <p>after [2] 4/14 13/25</p> <p>afternoon [4] 3/2 3/11 3/12 3/17</p> <p>again [8] 9/10 12/16 14/12 17/24 22/14 22/16 26/17 28/7</p> <p>against [6] 11/7 12/7 14/22 15/8 15/21 19/5</p> | <p>agree [2] 20/12 20/13</p> <p>agreed [1] 18/7</p> <p>ahead [2] 4/1 12/21</p> <p>Ahmed [2] 1/13 3/5</p> <p>ahmed.baset [1] 1/18</p> <p>aided [1] 2/10</p> <p>aiding [1] 5/18</p> <p>alighted [1] 23/14</p> <p>all [9] 3/17 12/22 22/17 25/7 25/9 25/11 26/12 26/22 27/17</p> <p>allowable [1] 17/14</p> <p>allowed [1] 17/1</p> <p>allows [2] 7/11 7/16</p> <p>alluded [2] 10/24 13/12</p> <p>along [1] 4/15</p> <p>also [12] 4/11 6/16 10/6 10/7 11/12 12/4 12/5 12/19 16/25 17/4 20/5 22/24</p> <p>am [3] 6/13 6/22 26/18</p> <p>AMERICA [2] 1/3 3/4</p> <p>AMIT [1] 1/10</p> <p>among [4] 4/22 7/22 17/10 17/25</p> <p>amount [2] 12/5 23/23</p> <p>analysis [4] 12/6 16/15 19/11 22/22</p> <p>angry [1] 5/5</p> <p>another [4] 14/23 17/19 19/5 24/1</p> <p>answer [6] 12/16 13/22 13/23 14/5 17/14 24/1</p> <p>answered [1] 24/3</p> <p>answers [1] 24/9</p> <p>anticipate [1] 26/17</p> <p>anticipated [1] 23/25</p> <p>anxious [1] 19/20</p> <p>any [17] 8/12 9/20 12/13 15/4 15/4 15/8 15/8 15/20 15/21 15/24 18/6 18/11 18/24 21/10 21/17 26/6 26/7</p> <p>anything [2] 22/15 26/3</p> <p>anyway [3] 10/2 14/7 16/7</p> <p>anywhere [1] 21/13</p> <p>appeal [1] 20/6</p> <p>appear [2] 21/13 24/5</p> <p>APPEARANCES [2] 1/12 2/1</p> <p>appeared [1] 23/9</p> <p>appearing [1] 24/6</p> <p>appears [5] 3/9 5/24 15/7 15/23 16/18</p> <p>appellate [2] 20/6 22/11</p> <p>applicable [3] 7/20 7/20 17/14</p> <p>applies [4] 8/10 16/12 20/9 23/2</p> <p>apply [3] 9/21 11/1 13/4</p> <p>applying [1] 13/3</p> <p>appreciate [1] 14/10</p> <p>approach [5] 11/1 11/2 11/4 11/20 20/13</p> | <p>are [23] 4/1 4/3 8/30 8/20 10/6 10/10 10/25 11/22 13/6 14/9 14/11 20/18 20/23 22/11 22/17 22/18 22/19 24/5 24/7 25/5 26/13 26/13 27/18</p> <p>aren't [1] 12/15</p> <p>argument [5] 8/7 8/12 16/2 16/17 21/22</p> <p>arise [1] 14/12</p> <p>arms [1] 13/17</p> <p>around [1] 13/17</p> <p>arson [1] 19/8</p> <p>as [28] 4/10 4/13 7/4 7/11 7/23 7/23 8/16 9/7 9/10 9/18 10/8 12/2 12/2 13/9 14/5 14/14 15/14 18/1 18/5 19/3 21/25 21/25 22/9 25/4 25/21 25/21 27/7 27/7</p> <p>aside [2] 16/9 16/15</p> <p>ask [5] 4/1 5/23 6/4 9/20 27/2</p> <p>asked [1] 3/20</p> <p>asking [3] 8/17 18/24 25/11</p> <p>asserted [1] 8/5</p> <p>asserting [1] 10/25</p> <p>asserts [1] 5/9</p> <p>associated [1] 6/7</p> <p>assume [1] 13/5</p> <p>assumes [1] 12/10</p> <p>attack [1] 4/5</p> <p>attempting [1] 4/19</p> <p>attention [1] 14/18</p> <p>attorney [1] 24/11</p> <p>ATTORNEY'S [5] 1/14 22/10 22/13 22/23 23/4</p> <p>available [6] 26/24 27/7 27/8 27/9 27/12 27/15</p> <p>Avenue [2] 1/22 2/6</p> <p>away [1] 5/4</p> <p>B</p> <p>back [3] 17/12 20/2 24/21</p> <p>backs [1] 22/23</p> <p>based [1] 9/24</p> <p>Baset [12] 1/13 3/5 3/24 3/25 5/23 6/12 9/4 10/10 12/18 22/8 23/3 26/8</p> <p>basic [1] 7/17</p> <p>basis [1] 8/4</p> <p>be [25] 4/18 5/12 6/15 8/24 10/23 11/6 11/6 11/25 13/3 15/12 16/2 16/4 16/13 17/18 17/22 19/5 19/18 20/5 21/2 21/7 21/11 21/25 22/7 24/15 25/19</p> <p>bear [1] 20/8</p> <p>because [21] 5/20 5/24 6/22 7/19 8/1 8/18 9/2 10/23 11/1 13/3 14/21 16/12 16/17 16/18</p> | <p>6/21 16/25 17/1 17/3 17/13 19/3 23/7</p> <p>been [6] 8/8 14/7 21/21 22/4 22/4 23/17</p> <p>before [10] 1/10 8/4 9/12 10/13 19/17 23/9 24/6 24/8 24/11 25/5</p> <p>behalf [1] 3/8</p> <p>being [5] 8/19 10/18 12/3 18/23 21/24</p> <p>believe [11] 3/22 6/13 8/13 8/22 10/17 16/9 18/14 19/9 19/16 21/19 24/19</p> <p>believes [1] 22/23</p> <p>between [2] 8/19 20/22</p> <p>bit [1] 22/1</p> <p>both [10] 7/1 7/20 7/21 10/13 16/18 16/20 16/22 22/23 26/2 26/2</p> <p>bottom [1] 10/2</p> <p>box [1] 7/19</p> <p>breach [1] 5/13</p> <p>breached [1] 5/13</p> <p>break [2] 4/19 24/20</p> <p>break-out [1] 24/20</p> <p>brief [2] 5/24 25/15</p> <p>briefed [1] 22/4</p> <p>briefing [5] 20/3 22/21 23/13 25/12 28/6</p> <p>broken [2] 5/12 5/14</p> <p>building [4] 4/15 4/20 5/2 5/6</p> <p>buy [1] 13/10</p> <p>C</p> <p>Caldwell [3] 8/4 9/12 9/22</p> <p>Caldwell's [2] 9/6 13/9</p> <p>came [1] 8/13</p> <p>can [13] 3/12 3/14 7/18 12/3 14/9 18/6 19/21 21/11 24/8 24/17 24/20 25/24 26/6</p> <p>can't [2] 9/5 21/23</p> <p>Capitol [9] 4/5 4/7 4/14 4/20 4/24 4/24 5/1 5/6 5/8</p> <p>case [24] 3/3 9/11 9/22 10/3 12/25 13/6 13/9 13/24 13/25 14/17 18/18 18/24 18/24 19/9 19/11 19/24 20/4 20/7 20/16 21/24 22/16 23/2 24/3 24/5</p> <p>cases [9] 8/12 12/25 13/1 13/6 14/5 14/11 21/21 22/3 23/4</p> <p>categorical [6] 10/25 11/2 11/4 11/20 20/13 21/1</p> <p>categorically [1] 14/22</p> <p>category [1] 21/6</p> <p>certainly [7] 10/17 11/25 14/9 14/9 15/15 16/8 26/10</p> <p>Certified [1] 2/4</p> <p>certify [2] 5/11 29/2</p> |
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| Case 1:21-cr-00028-APM Document 35 Filed 02/24/21 Page 32 of 35 | | | | |
|---|--|--|---|--|
| G | | | | |
| government's... [4] 10/22 13/7 21/22 27/15 | I am [2] 6/13 26/18 | initial [4] 7/4 17/12 26/1 26/4 | kathryn.rakoczy [1] 1/17 | 6/16 24/11 25/13 26/12 27/17 28/1 28/3 |
| grand [1] 5/15 | I assume [1] 13/5 | initially [2] 14/13 14/24 | Keepers [1] 4/16 | makes [1] 21/3 |
| grappled [2] 21/18 23/10 | I believe [7] 3/22 6/13 8/13 8/22 18/14 19/9 24/19 | injures [4] 15/4 15/8 15/20 15/24 | key [2] 9/8 23/6 | making [1] 26/13 |
| great [2] 4/3 26/24 | I can [3] 3/14 19/21 24/8 | injuring [1] 14/21 | key-opening [1] 9/8 | maliciously [1] 15/3 |
| ground [1] 6/1 | I don't [3] 13/10 21/19 27/19 | injury [2] 15/13 16/6 | Khatallah [3] 14/16 20/9 20/14 | marching [1] 4/6 |
| group [1] 4/22 | I don't think [2] 13/16 23/17 | instances [2] 7/20 7/21 intended [1] 16/3 | Khattalah [2] 19/24 20/7 | Marie [1] 3/4 |
| guess [4] 6/9 12/18 22/8 25/17 | I guess [4] 6/9 12/18 22/8 25/17 | intent [1] 15/16 | kind [3] 9/7 9/7 20/17 | matter [4] 7/4 7/18 18/5 29/4 |
| H | I had [1] 8/11 | interest [1] 25/20 | knock [1] 22/9 | matters [1] 8/14 |
| had [10] 8/3 8/5 8/5 8/11 8/14 8/15 8/24 9/24 19/18 25/1 | I have [6] 3/25 8/15 21/23 22/2 25/21 27/19 | interestingly [1] 8/3 | know [42] | max [1] 7/1 |
| hand [1] 25/22 | I haven't [1] 14/1 | interpreted [1] 16/4 | knowledge [1] 18/7 | maximum [8] 6/17 7/5 7/6 7/9 7/16 10/8 17/1 17/4 |
| handle [1] 26/6 | I just [3] 10/10 10/23 13/14 | interrupt [1] 14/25 | L | may [5] 19/5 19/7 23/17 23/25 24/10 |
| handling [1] 20/7 | I know [6] 12/25 13/12 14/2 15/19 19/19 23/24 | interrupted [1] 16/7 | language [6] 7/13 10/9 15/6 15/10 15/14 16/18 | maybe [1] 11/19 |
| Hang [2] 12/20 24/16 | I mean [9] 11/6 11/8 11/16 15/25 16/17 20/8 21/10 25/17 27/18 | invited [1] 9/25 | last [2] 8/4 8/13 | me [20] 3/13 5/23 6/3 6/4 6/12 7/25 8/4 8/25 9/5 10/3 10/13 11/13 11/22 13/23 14/7 16/2 16/16 16/19 24/20 27/1 |
| happen [1] 25/14 | I remember [1] 18/19 | involve [6] 11/14 12/13 12/16 13/8 20/17 21/4 | later [1] 4/25 | mean [15] 6/4 11/6 11/8 11/16 15/25 16/17 18/4 20/8 21/8 21/10 25/17 25/19 25/23 27/18 27/21 |
| hard [2] 13/14 22/1 | I think [17] 7/18 9/5 11/9 11/24 14/4 18/8 20/12 20/21 21/2 21/20 23/1 23/7 25/15 25/25 26/6 26/11 26/15 | involved [3] 5/13 20/10 20/14 | lawful [1] 10/15 | meaning [2] 16/3 21/8 |
| has [14] 3/19 3/20 4/10 5/15 10/7 13/1 14/3 20/9 20/21 21/19 22/4 22/4 23/14 25/25 | I understand [2] 11/23 12/2 | involves [1] 19/4 | lawyer [1] 20/6 | means [7] 11/17 11/18 11/19 17/5 17/17 21/15 23/12 |
| have [29] 3/25 7/15 8/15 13/14 14/4 17/1 17/13 18/6 18/12 20/2 20/24 21/1 21/1 21/4 21/18 21/23 22/2 22/3 22/22 23/9 23/9 23/10 23/12 23/18 23/25 24/3 25/21 26/19 27/19 | I want [3] 8/1 11/10 25/11 | irrefutable [1] 4/8 | lawyers [1] 22/2 | meat [1] 19/17 |
| haven't [1] 14/1 | I wanted [1] 4/1 | is [102] | least [6] 7/13 7/17 9/18 14/2 17/2 18/12 | mechanical [1] 2/9 |
| he [3] 9/23 9/23 9/24 | I was [2] 19/24 25/21 | isn't [1] 13/3 | leaving [1] 5/4 | meet [1] 8/17 |
| hear [1] 3/12 | I'd [8] 13/20 13/21 20/6 22/10 22/21 22/21 23/6 23/19 | issue [9] 9/4 14/4 14/11 19/20 20/5 22/4 23/11 23/15 26/19 | legal [3] 19/22 24/2 25/5 | meets [2] 13/11 17/6 |
| heard [1] 22/2 | I'll [2] 13/10 25/13 | issues [6] 19/22 21/18 22/18 25/5 25/15 26/1 | Leigh [1] 1/13 | MEHTA [1] 1/10 |
| hearing [11] 1/9 3/10 3/18 9/12 9/16 10/14 16/13 16/23 19/18 23/12 29/5 | I'm [14] 7/4 7/10 9/13 11/19 16/4 18/18 18/21 22/14 23/18 23/18 25/11 25/19 27/6 27/7 | it [72] | let [6] 5/23 6/4 7/25 8/25 14/7 26/17 | members [1] 4/15 |
| hearings [2] 9/6 12/24 | I'm not [4] 11/19 18/21 22/14 27/6 | it would be [1] 15/12 | let's [6] 20/8 23/22 24/22 26/22 26/23 27/11 | mens [1] 15/19 |
| her [6] 3/20 4/21 4/23 5/4 5/16 24/20 | I'm sure [1] 16/4 | it's [24] 6/15 9/1 9/2 10/2 11/13 11/19 13/4 13/18 13/20 13/23 15/22 16/1 16/5 16/21 17/8 17/10 17/17 17/18 18/15 21/8 22/1 22/17 22/25 25/6 | let's see [1] 26/23 | mentioned [1] 9/11 |
| here [13] 3/17 6/22 7/15 9/21 11/1 13/3 13/16 18/12 20/1 20/15 23/22 24/2 25/20 | I've [9] 3/21 8/14 10/23 12/25 14/7 21/20 21/21 23/7 23/13 | its [3] 14/6 19/3 22/23 | level [3] 7/17 13/15 20/17 | Merit [1] 2/3 |
| here's [2] 12/18 12/22 | identified [1] 8/5 | itself [1] 10/15 | Libya [1] 20/15 | Michelle [1] 1/20 |
| herself [2] 9/20 13/14 | impede [1] 5/10 | J | like [15] 4/23 4/23 13/2 13/17 13/20 13/21 20/6 22/8 22/10 22/21 22/21 23/6 23/19 26/16 27/1 | might [3] 12/15 20/5 22/16 |
| hill [1] 4/7 | important [5] 8/25 9/1 9/2 13/23 24/7 | jail [1] 26/25 | limitations [1] 29/7 | mind [1] 20/8 |
| him [1] 9/20 | importantly [1] 21/24 | January [1] 4/5 | limited [1] 23/13 | minds [1] 26/13 |
| his [1] 9/25 | imprisonment [5] 6/17 7/7 7/12 7/15 10/8 | JESSICA [2] 1/6 3/4 | line [4] 4/6 4/9 10/2 26/25 | mine [1] 26/10 |
| hit [1] 7/18 | include [5] 5/16 7/8 15/13 19/7 19/8 | join [1] 4/11 | listed [8] 6/2 6/6 6/8 6/16 6/24 7/24 16/21 18/10 | misleading [1] 21/11 |
| holding [1] 14/19 | including [2] 3/21 4/11 | judge [3] 1/11 13/1 14/3 | lists [1] 10/7 | missed [1] 23/18 |
| home [1] 9/25 | indelible [1] 4/4 | judges [3] 23/8 23/10 24/6 | little [2] 22/1 25/4 | missing [1] 6/22 |
| Honor [13] 3/2 3/14 8/11 14/15 17/19 19/16 24/10 25/3 25/13 27/2 27/6 28/8 28/9 | Indiana [1] 1/22 | judicial [3] 9/13 9/14 9/19 | look [4] 9/19 12/22 20/24 28/5 | Mitchell [1] 19/8 |
| HONORABLE [1] 1/10 | indicate [2] 7/5 17/3 | jury [1] 5/15 | looking [4] 12/18 17/8 18/19 20/1 | mob [4] 4/18 5/1 5/5 5/13 |
| host [2] 12/14 24/4 | indicates [1] 14/19 | just [19] 3/22 6/4 6/15 10/10 10/23 11/11 13/3 13/10 13/14 13/23 17/19 20/24 22/18 23/16 24/3 24/15 25/4 27/17 27/18 | loss [1] 12/4 | moment [3] 5/11 8/1 24/11 |
| hours [1] 19/21 | indicted [2] 4/12 5/15 | Justin [2] 1/14 3/5 | M | more [12] 6/7 6/17 7/1 7/7 8/18 8/21 10/8 12/6 12/12 18/4 21/24 26/16 |
| how [7] 10/11 10/11 10/12 16/4 17/18 23/18 25/18 | individuals [3] 4/6 4/17 5/17 | Justin Sher [1] 3/5 justin.sher [1] 1/19 | ma'am [1] 3/13 | morning [1] 8/14 |
| | | K | made [5] 8/19 13/13 16/2 21/22 27/18 | most [2] 4/4 21/21 |
| | | Kathryn [2] 1/13 3/5 | Magistrate [3] 14/3 23/8 23/10 | motion [1] 3/19 |
| | | Kathryn Rakoczy [1] | Magistrate Judge [1] 14/3 | move [1] 25/24 |
| | | | Magistrate Judges [2] 23/8 23/10 | Mr. [15] 3/24 3/25 5/23 6/12 8/4 9/4 9/6 9/12 9/22 10/10 12/18 13/9 22/8 23/3 26/8 |
| | | | make [9] 8/12 10/11 | Mr. Baset [10] 3/24 3/25 5/23 6/12 9/4 10/10 12/18 22/8 23/3 |

| | | | | | |
|---|--|---|--|--|--|
| Case 1:21-cr-00028-APM Document 35 Filed 02/24/21 Page 33 of 35 | | | | | |
| M | Mr. Baset... [1] 26/8 Mr. Caldwell [3] 8/4 9/12 9/22 Mr. Caldwell's [2] 9/6 13/9 Ms. [24] 3/12 3/18 4/9 4/21 5/3 5/16 7/25 10/3 13/4 13/11 13/24 19/14 19/20 21/17 22/18 23/24 24/14 24/17 25/1 25/2 25/18 25/19 27/3 28/2 Ms. Peterson [8] 7/25 19/14 21/17 24/14 24/17 25/1 25/18 28/2 Ms. Watkins [13] 3/12 3/18 4/9 4/21 5/3 5/16 13/4 13/11 19/20 22/18 23/24 25/2 27/3 Ms. Watkins' [3] 10/3 13/24 25/19 much [1] 23/17 must [1] 9/15 my [18] 8/16 10/11 12/22 12/24 13/17 14/1 18/6 20/2 20/8 21/17 24/3 24/7 24/10 25/10 25/12 25/14 26/5 26/23 | 6/25 7/14 7/16 8/8 10/20 11/6 13/21 16/21 16/22 17/9 18/2 18/2 18/9 19/6 20/19 20/22 offenses [5] 7/22 10/7 17/10 17/22 18/1 office [9] 1/14 19/23 20/7 22/10 22/13 22/15 22/23 23/4 26/12 officer [4] 2/2 9/14 9/15 9/19 official [2] 2/4 26/14 often [1] 21/9 Ohio [1] 4/12 okay [14] 3/11 3/13 3/16 6/14 6/21 19/13 22/5 23/21 24/22 24/25 26/16 26/21 27/24 28/4 once [1] 5/14 one [17] 4/4 8/22 9/6 9/15 9/16 11/5 11/9 12/14 12/20 12/24 13/12 13/25 20/13 20/25 22/16 24/1 24/11 one-off [1] 22/16 ones [1] 18/12 only [5] 4/9 9/2 16/17 18/23 23/1 open [1] 26/25 opening [4] 5/1 9/8 9/8 23/6 opens [1] 13/16 operates [1] 10/12 opportunity [1] 27/19 option [1] 9/17 orally [1] 26/6 order [1] 12/1 organized [1] 4/7 other [17] 4/15 5/16 8/12 8/14 12/25 13/1 13/6 13/24 14/11 15/4 16/20 22/3 22/15 24/4 25/16 25/22 26/18 others [3] 4/11 22/11 23/12 our [5] 17/24 19/22 20/7 26/1 26/12 out [9] 6/23 10/24 12/15 20/21 20/25 23/22 24/20 25/7 25/24 out-there [1] 12/15 outside [1] 21/5 over [3] 16/1 23/14 24/18 overlap [3] 17/5 18/3 18/4 overlaps [1] 16/25 | Parler [1] 4/21 part [2] 4/9 19/3 particular [2] 10/12 12/25 parties' [2] 3/21 28/5 penalty [6] 6/7 7/1 7/5 7/9 17/7 18/3 people [5] 4/9 4/22 9/25 22/19 26/18 perhaps [3] 7/2 19/23 26/1 period [1] 17/1 personal [1] 15/5 pertains [1] 7/24 peterston [11] 1/20 1/24 3/7 7/25 19/14 21/17 24/14 24/17 25/1 25/18 28/2 physical [2] 12/7 19/4 pipeline [2] 14/11 22/20 place [1] 16/14 places [1] 10/24 plain [2] 7/13 7/17 Plaintiff [1] 1/4 pleading [1] 19/23 pleadings [1] 26/4 Please [2] 12/21 29/5 point [8] 5/3 7/3 11/23 12/2 12/4 14/18 16/13 16/24 pointed [2] 6/23 20/21 position [5] 10/22 17/24 22/12 22/15 26/14 positioned [1] 4/17 positions [1] 22/24 possible [1] 23/1 posts [1] 4/21 potentially [2] 7/20 22/19 prepared [3] 13/22 22/12 25/8 prescribe [1] 10/9 prescribed [4] 6/18 7/7 7/9 12/5 presumption [12] 5/21 6/1 6/10 8/6 8/9 8/23 9/3 10/16 10/16 16/11 16/11 16/23 pretrial [4] 2/2 3/8 3/19 16/10 prior [1] 8/13 prison [1] 18/4 probably [1] 23/25 proceeding [1] 5/10 proceedings [4] 1/10 2/9 28/10 29/4 produced [1] 2/10 property [37] provision [2] 9/8 23/6 PUBLIC [1] 1/21 punishable [3] 8/18 8/20 8/21 punishment [1] 18/2 put [1] 24/20 puts [1] 8/22 | qualification [1] 7/23 qualifies [3] 10/18 14/14 17/13 qualify [4] 7/15 7/19 10/21 17/5 qualifying [2] 10/9 16/21 question [11] 10/13 14/13 16/19 17/6 17/12 18/25 20/13 20/18 24/2 25/17 26/11 questions [8] 4/1 8/16 11/9 13/23 13/24 14/3 22/11 24/8 quick [1] 24/11 quickly [3] 21/25 25/18 25/21 quite [1] 21/3 quoting [1] 9/13 R raised [4] 8/2 14/3 26/3 26/20 Rakoczy [2] 1/13 3/5 rather [2] 5/5 17/20 rea [1] 15/19 reach [1] 24/8 reaction [3] 8/1 8/7 14/8 read [4] 9/18 21/23 23/7 27/19 reading [3] 7/4 20/3 23/18 reads [1] 23/4 real [3] 15/4 23/1 24/11 realistically [1] 25/10 really [8] 6/9 10/24 13/17 17/8 20/15 22/25 24/2 24/7 Realtime [1] 2/4 reasonable [1] 23/23 reasons [1] 9/1 rebuttable [7] 5/25 6/10 8/6 8/9 8/23 9/2 10/16 rebuttal [1] 5/21 receiving [1] 28/5 recently [1] 4/12 recollection [1] 20/3 record [2] 24/24 29/3 recorded [1] 2/9 recruited [1] 4/11 referred [1] 4/10 refresh [1] 20/2 regard [1] 17/11 Registered [1] 2/3 release [1] 3/20 relying [5] 5/25 10/4 10/4 10/6 14/6 remaining [2] 13/4 13/5 remember [3] 9/5 18/19 18/23 remotely [1] 29/7 replies [1] 26/7 reply [5] 5/24 8/2 8/13 25/16 25/23 | Reporter [4] 2/3 2/3 2/4 2/4 reporting [1] 29/7 represented [1] 22/3 request [1] 9/9 requires [4] 11/5 11/7 12/10 14/22 requisite [3] 17/7 17/13 23/11 research [1] 8/15 resolution [1] 25/20 resolve [1] 19/17 resolved [1] 19/20 respond [2] 25/23 26/2 response [1] 14/8 responses [1] 26/6 reticent [1] 26/18 reviewed [1] 3/21 right [14] 3/17 5/1 5/5 6/4 13/10 15/7 18/16 20/10 20/20 24/21 25/9 26/12 26/22 27/23 rightly [1] 6/23 rises [1] 13/14 risk [6] 9/23 13/8 13/8 13/11 13/15 19/4 RMR [2] 29/2 29/11 roll [1] 22/17 room [2] 2/6 24/20 rugby [1] 4/23 run [1] 26/11 |
| N | nature [2] 17/21 19/4 near [1] 4/17 necessarily [4] 11/14 12/13 16/12 20/16 need [7] 11/1 11/9 19/17 24/2 24/8 26/16 26/18 needed [1] 5/12 needs [2] 9/19 14/4 night [1] 8/14 no [8] 1/4 3/3 8/23 16/8 20/11 27/3 27/4 27/14 normal [1] 21/25 not [44] note [4] 16/9 16/25 18/14 29/5 notes [1] 19/3 nothing [1] 20/10 now [9] 4/13 4/17 5/3 5/20 5/25 5/25 8/8 10/6 13/10 number [1] 8/14 NW [3] 1/15 1/22 2/6 | opens [1] 13/16 operates [1] 10/12 opportunity [1] 27/19 option [1] 9/17 orally [1] 26/6 order [1] 12/1 organized [1] 4/7 other [17] 4/15 5/16 8/12 8/14 12/25 13/1 13/6 13/24 14/11 15/4 16/20 22/3 22/15 24/4 25/16 25/22 26/18 others [3] 4/11 22/11 23/12 our [5] 17/24 19/22 20/7 26/1 26/12 out [9] 6/23 10/24 12/15 20/21 20/25 23/22 24/20 25/7 25/24 out-there [1] 12/15 outside [1] 21/5 over [3] 16/1 23/14 24/18 overlap [3] 17/5 18/3 18/4 overlaps [1] 16/25 | | | S said [1] 23/17 same [2] 8/16 16/18 Sandra [1] 4/12 satisfaction [1] 24/3 satisfies [4] 11/20 14/20 16/19 21/8 satisfy [1] 17/24 say [2] 11/8 22/12 says [7] 6/16 9/13 15/3 15/7 15/18 23/16 23/16 scenario [1] 19/25 scenarios [2] 12/14 12/15 schedule [4] 25/10 26/9 26/15 26/23 Schuck [2] 2/2 3/8 second [3] 12/20 12/24 24/15 section [8] 6/3 6/6 6/9 6/10 10/4 10/12 14/20 14/20 sections [2] 16/1 16/18 see [6] 4/25 5/3 6/19 20/24 26/23 28/7 seeing [2] 27/6 27/7 seems [6] 7/23 10/14 12/6 16/2 16/19 21/5 seen [4] 8/11 10/23 21/20 23/13 sense [1] 16/16 sensitive [1] 25/19 sentence [2] 17/4 17/14 sentencing [1] 17/2 serious [3] 9/23 13/11 |
| O | Oath [1] 4/15 objective [1] 5/8 observation [1] 20/9 observed [1] 4/14 obstruct [1] 9/24 obstruction [1] 13/9 obviously [1] 23/3 occur [2] 12/1 12/3 occurred [1] 29/5 occurring [1] 5/10 off [2] 22/16 24/23 offense [23] 5/20 6/2 | p p.m [4] 1/6 27/21 28/1 28/10 page [1] 9/14 painting [2] 12/12 21/3 pandemic [1] 29/6 pape [1] 14/19 papers [1] 3/21 paramilitary [1] 4/6 | | | |

| Case 1:21-cr-00028-APM Document 35 Filed 02/24/21 Page 34 of 35 | | | |
|---|--|--|--|
| S | stereography [1] 20/5 22/19 | then [15] 3/22 6/22 8/9 11/19 16/11 16/22 22/24 23/6 23/17 24/20 25/15 25/23 25/23 26/2 26/23 | turn [2] 3/23 7/25 turned [1] 13/13 two [6] 9/1 10/15 13/23 16/1 20/1 22/10 |
| serious... [1] 13/15 | still [2] 20/5 22/19 | theory [2] 13/7 13/18 | U |
| seriousness [1] 17/9 | stop [1] 5/10 | there [16] 9/5 9/7 9/23 10/15 10/21 12/4 12/15 14/10 19/2 19/8 19/10 20/16 21/1 24/17 24/18 28/6 | U.S [3] 1/14 2/5 9/10 |
| Services [1] 3/8 | storm [1] 4/24 | there's [8] 8/19 19/18 22/6 23/17 24/2 26/3 26/24 26/25 | U.S. [5] 20/15 22/10 22/13 22/23 23/4 |
| seven [1] 13/5 | straighten [1] 25/7 | therefore [3] 8/9 21/5 29/6 | U.S. Attorney's [1] 22/23 |
| she [6] 4/11 4/22 13/13 13/13 25/4 25/6 | Street [1] 1/15 | these [13] 4/17 9/17 12/24 13/1 14/5 21/10 21/18 21/21 22/3 22/10 22/17 24/7 25/15 | U.S. Attorney's Office [3] 22/10 22/13 23/4 |
| she's [4] 8/7 13/15 15/2 25/8 | structure [2] 15/4 15/24 | thing [1] 9/19 | U.S. property [1] 20/15 |
| Shelli [2] 1/24 3/7 | subject [1] 29/6 | think [28] 7/18 9/5 11/9 11/24 13/16 14/4 16/12 17/5 17/14 18/8 19/24 19/25 20/5 20/12 20/21 21/2 21/20 23/1 23/7 23/16 23/17 25/12 25/15 25/25 26/6 26/8 26/11 26/15 | U.S.C [8] 5/21 6/23 6/24 9/16 15/1 15/2 15/3 18/8 |
| Sher [2] 1/14 3/5 | subsection [13] 6/10 9/8 9/19 13/7 13/18 14/6 22/24 22/25 22/25 23/2 23/5 23/11 23/19 | thinking [3] 10/11 14/2 26/13 | ultimately [2] 17/17 21/15 |
| short [1] 4/25 | subsections [1] 16/20 | this [65] | under [37] |
| should [3] 17/18 20/12 26/15 | substantial [1] 19/4 | those [8] 3/21 5/15 7/24 9/20 13/22 13/24 14/10 20/25 | underground [1] 13/13 |
| showing [1] 23/11 | suggest [1] 19/19 | thought [2] 12/2 17/17 | understand [5] 11/23 12/2 13/2 16/17 20/11 |
| shows [1] 5/9 | suggesting [2] 22/14 25/21 | thoughtful [1] 26/19 | understanding [2] 7/10 22/22 |
| side [2] 4/14 8/23 | Suite [1] 1/22 | thoughts [1] 19/14 | understands [1] 25/6 |
| similar [1] 22/3 | supplemental [1] 19/23 | threshold [5] 7/18 17/6 18/5 24/2 24/7 | Understood [1] 23/20 |
| simultaneously [1] 25/14 | sure [8] 10/11 11/19 16/4 22/1 24/13 26/12 26/13 27/17 | through [5] 4/19 4/21 11/18 19/6 22/20 | UNITED [9] 1/1 1/3 1/11 3/3 14/15 15/9 15/21 18/15 19/8 |
| since [2] 23/17 25/15 | swear [1] 21/23 | throughout [1] 24/6 | United States [3] 14/15 15/9 19/8 |
| single [1] 21/23 | T | Thursday [5] 25/12 26/2 27/20 27/22 27/25 | unlisted [1] 8/8 |
| Singleton [5] 9/10 9/18 16/12 23/4 23/16 | take [7] 8/16 16/24 20/24 20/25 22/9 25/7 28/6 | time [10] 4/25 8/2 8/15 13/14 21/20 23/23 25/1 26/11 26/16 26/24 | unlocks [1] 16/22 |
| sir [1] 24/12 | takes [1] 26/11 | timing [1] 23/22 | up [6] 4/7 8/20 18/3 18/19 21/20 22/23 |
| sister [1] 15/12 | taking [3] 11/17 11/17 21/3 | title [3] 15/15 15/18 21/10 | upon [1] 9/24 |
| six [1] 9/15 | talk [1] 20/6 | titled [1] 29/4 | us [4] 19/21 25/7 25/14 26/2 |
| so [45] | talked [1] 14/1 | today [3] 3/22 13/22 23/25 | usdoj.gov [3] 1/17 1/18 1/19 |
| So in [1] 24/7 | talking [2] 14/7 22/2 | too [4] 13/22 16/25 23/7 23/19 | use [2] 11/14 14/22 |
| So it's [1] 6/15 | technological [1] 29/7 | toward [1] 4/7 | used [4] 10/20 12/7 16/2 19/5 |
| some [11] 5/17 11/18 14/3 19/21 22/21 22/22 23/6 23/8 23/10 24/8 26/16 | tell [3] 8/25 13/10 22/1 | transcript [3] 1/9 2/9 29/3 | using [1] 4/22 |
| someone [1] 27/1 | ten [18] 6/7 6/17 7/1 7/7 7/8 7/11 7/14 7/16 7/19 8/18 8/20 8/21 10/8 17/1 17/4 17/4 18/3 18/3 | transcription [1] 2/10 | |
| something [4] 6/22 17/6 19/16 23/24 | ten-year [4] 7/11 17/1 17/4 17/4 | transcripts [1] 23/8 | |
| soon [1] 4/14 | term [11] 6/17 7/6 7/8 7/9 7/11 7/16 10/8 15/23 15/25 16/5 21/15 | triggering [1] 9/15 | |
| sorry [2] 18/9 27/13 | terms [5] 16/10 17/2 17/17 22/24 22/25 | | |
| sort [7] 8/5 12/7 13/12 23/6 23/14 25/15 26/5 | terrorism [2] 17/18 17/23 | | |
| South [1] 18/14 | text [1] 21/13 | | |
| speak [3] 11/11 24/10 26/18 | than [9] 6/7 7/1 12/13 15/6 15/10 15/23 19/25 22/15 23/5 | | |
| speaks [1] 11/12 | Thank [5] 3/15 4/3 27/16 28/8 28/9 | | |
| specific [1] 7/14 | Thank you [5] 3/15 4/3 27/16 28/8 28/9 | | |
| specifically [2] 14/18 17/21 | that [168] | | |
| spelled [1] 10/24 | that'll [1] 25/24 | | |
| stack [4] 4/10 4/11 4/14 5/17 | that's [19] 6/8 6/10 6/15 7/6 10/13 11/1 13/25 14/16 15/1 15/6 15/10 15/25 16/4 18/17 20/5 20/7 25/20 26/3 26/5 | | |
| stage [1] 4/8 | | | |
| standard [1] 8/18 | | | |
| start [2] 3/24 3/25 | | | |
| started [1] 4/2 | | | |
| starting [1] 16/13 | | | |
| stash [1] 9/25 | | | |
| statement [1] 13/12 | | | |
| STATES [9] 1/1 1/3 1/11 3/4 14/15 15/9 15/21 18/15 19/8 | | | |
| stating [1] 22/14 | | | |
| statute [6] 7/14 11/10 11/11 11/20 15/12 21/9 | | | |
| statutes [3] 16/4 20/1 21/11 | | | |
| statutory [1] 21/13 | | | |
| steal [1] 12/12 | | | |
| | | | violent [4] 4/18 5/5 5/13 11/19 |
| | | | vote [1] 5/12 |
| | | | vs [1] 1/5 |
| | | | W |
| | | | wait [1] 25/8 |
| | | | walking [1] 5/4 |
| | | | want [9] 8/1 10/10 10/23 11/10 14/25 25/11 25/14 25/18 25/22 |
| | | | wanted [2] 4/1 25/4 |
| | | | warranted [1] 16/14 |
| | | | was [20] 4/5 4/9 4/22 4/22 5/10 5/11 5/14 8/4 8/17 9/4 9/23 9/23 13/9 19/10 19/11 19/12 19/24 22/16 25/21 27/13 |
| | | | Washington [4] 1/5 1/16 1/23 2/7 |
| | | | WATKINS [15] 1/6 3/4 3/12 3/18 4/9 4/21 5/3 5/16 13/4 13/11 19/20 22/18 23/24 25/2 27/3 |
| | | | Watkins' [3] 10/3 13/24 25/19 |
| | | | way [3] 24/1 24/17 25/24 |
| | | | we [31] |
| | | | we will [2] 28/3 28/6 |
| | | | we'll [4] 3/24 24/21 28/5 28/7 |
| | | | we're [4] 3/17 6/9 20/1 25/6 |
| | | | we've [2] 4/18 7/18 |
| | | | weapon [1] 19/10 |
| | | | week [1] 8/4 |
| | | | weigh [1] 22/10 |
| | | | well [12] 4/13 7/11 9/20 10/17 12/8 15/12 15/14 22/6 22/24 25/10 25/17 26/22 |
| | | | were [8] 3/22 5/13 5/17 5/17 9/5 22/14 23/25 25/5 |
| | | | Westlaw [1] 18/17 |
| | | | what [21] 4/18 8/7 9/7 10/4 11/1 13/7 13/18 14/2 14/5 15/18 15/19 15/23 17/8 17/16 19/25 20/18 21/15 23/12 23/16 25/5 25/11 |
| | | | what's [3] 15/11 23/22 27/9 |
| | | | when [1] 8/3 |
| | | | where [6] 6/25 8/23 12/4 14/19 21/1 21/21 |
| | | | whether [17] 9/5 10/3 10/14 10/15 11/13 12/2 14/13 16/13 17/6 17/13 17/17 18/25 19/17 20/9 20/24 21/15 21/17 |
| | | | which [23] 4/10 5/9 5/9 5/11 5/17 6/16 6/23 7/5 7/6 8/13 8/17 9/11 10/6 10/7 10/25 12/6 12/6 |

W

which... [6] 12/15
14/11 15/23 18/3 21/14
23/1

while [2] 14/7 19/19

who [6] 22/2 22/11
22/19 23/9 23/9 24/5

Whoever [2] 15/7
15/20

whole [2] 12/14 24/4

why [6] 3/23 3/25 4/1
8/25 16/7 25/20

will [6] 7/19 14/12
24/15 27/5 28/3 28/6

willful [3] 15/3 15/13
15/16

willfully [2] 15/8 15/20

William [4] 2/3 29/2
29/10 29/11

WilliamPZaremba [1]
2/8

Wisecarver [2] 18/15
19/9

within [2] 12/5 26/12

without [2] 7/23 12/3

word [4] 21/9 21/12
21/13 21/14

words [2] 4/23 16/20

work [3] 26/15 28/2
28/3

works [2] 26/8 26/10

worth [1] 12/12

would [27] 7/8 7/19
9/23 10/21 11/14 12/4
13/2 13/17 14/15 14/18
14/24 15/12 16/4 16/9
16/12 16/25 17/4 17/22
18/3 18/14 19/19 20/2
20/12 21/25 22/8 26/16
27/1

wrong [1] 23/18

Y

Yeah [6] 15/18 18/18
19/15 24/13 26/5 27/25

year [4] 7/11 17/1 17/4
17/4

years [14] 6/8 6/17 7/1
7/7 7/8 7/15 7/16 7/19
8/18 8/20 8/21 10/8
18/3 18/4

yes [7] 3/14 6/13 17/15
18/20 24/19 25/3 25/13

yesterday [1] 3/22

you [76]

you know [2] 8/3 10/2

you'll [1] 9/4

you're [4] 5/25 6/4 10/4
10/11

you've [4] 6/23 13/12
25/1 26/20

your [35]

Your Honor [12] 3/2
3/14 8/11 14/15 17/19
19/16 24/10 25/3 25/13
27/6 28/8 28/9

Zaremba [4] 2/3 29/2
29/10 29/11