

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

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| UNITED STATES OF AMERICA, |) | |
| |) | |
| Plaintiff, |) | |
| |) | CR No. 21-28-7 |
| |) | Washington, D.C. |
| vs. |) | March 24, 2021 |
| |) | 10:34 a.m. |
| LAURA STEELE, |) | |
| |) | |
| Defendant. |) | |
| _____ |) | |

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

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

2 COURTROOM DEPUTY: Good morning, Your Honor.

3 This is Criminal Case No. 21-28-7, the United States of
4 America versus Laura Steele.

5 Jeffrey Nestler for the government.

6 Peter Cooper for the defense.

7 The defendant's appearing via videoconference for
8 this hearing.

9 THE COURT: All right, Counsel. Good morning to
10 all of you.

11 Ms. Steele, good morning to you.

12 Can you hear me okay, Ms. Steele?

13 THE DEFENDANT: Sorry. I was muted.

14 Yes, sir, I can hear you.

15 THE COURT: Okay. Very good.

16 All right. So we're here this morning on the
17 defendant's motion to reconsider detention. The parties
18 have submitted their papers, which I've reviewed.

19 So I'm happy to hear from both sides if you'd like
20 to make additional argument, I do have some questions,
21 particularly for the government, about some of its -- about
22 some of what it's presented.

23 But let's start with Mr. Cooper.

24 And let me hear from you, Mr. Cooper.

25 And I guess where I'd like you to start is,

1 you know, the government makes the point that your motion
2 is -- it's styled as one for reconsideration, but it's not
3 clear whether you're asking for sort of a de novo review of
4 the magistrate judge's decision or you're asking for a
5 re-opening of the hearing based on new evidence?

6 MR. COOPER: Was that question to me, Your Honor?

7 THE COURT: Yes, Mr. Cooper.

8 MR. COOPER: Okay. I'm sorry.

9 So I saw that discussion in the government's
10 opposition.

11 I just looked at my submission. And right in the
12 first paragraph in the second line, I'm asking for
13 reconsideration pursuant to 3145.

14 So that's the basis of the reconsideration.
15 I would ask the Court to consider it pursuant to 3145 as I
16 stated in the first paragraph.

17 THE COURT: Okay.

18 So you're asking for a de novo sort of evaluation
19 of review under 3145(b), I guess it is?

20 MR. COOPER: Yes.

21 THE COURT: Okay.

22 All right. With that clarification, why don't
23 you -- if there's anything you want to add to what's already
24 in your papers, I mean, if you want to reply to what the
25 government has submitted, I'm happy to hear that as part of

1 your presentation.

2 MR. COOPER: Thank you.

3 I guess I'm not going to repeat a lot of the stuff
4 that's in my pleading.

5 The first thing I would just highlight the
6 government really hasn't addressed in its opposition is
7 Ms. Steele's complete lack of any criminal history and her
8 huge ties to the community, huge -- and strong ties to her
9 community, as I said, is unusual in my experience to see
10 somebody who's lived in a community for 45 years as she has
11 in America, 20-odd years, two kids, a steady job. I can't
12 think of a more secure or strong ties to the community.
13 I'll leave that alone at this point in time; that's not been
14 touched by the government.

15 The other, I guess, basis that I was focusing on
16 is, the government goes into great detail in its original
17 pleading for the affidavit for the complaint and also in its
18 opposition here into the general events of what happened on
19 that day and also what a lot of other people were doing, but
20 not what Ms. Steele was doing. There's very little as to
21 Ms. Steele's involvement here.

22 And I can just skim through this very quickly in
23 the government's opposition here. The first in the
24 background, we start talking about Co-Defendant Watkins, we
25 start talking about Co-Defendant Young, we start talking

1 about Co-Defendant Meggs about their interactions, but,
2 again, not Ms. Steele.

3 We go further down. We see -- brief indulgence --
4 okay. Page 5. Preparation. Defendant Steele's actions
5 prior to storming the Capitol. Again, we have an email that
6 she sent to Oath Keepers at the behest of her brother.

7 And then there's just emails that are coming to
8 her. There's this one that she had from, again, Defendant
9 Meggs and Defendant Young. There's another one that's from
10 somebody called Person One that was forwarded by Young to
11 Ms. Steele. Again, Ms. Steele is not really doing anything.
12 She's receiving these things, but she's not really doing
13 anything.

14 Mr. Young finally --

15 THE COURT: Well, she did enter the Capitol
16 building. It's not that she's not doing anything.

17 MR. COOPER: I'm not quite there yet, Your Honor.

18 THE COURT: Okay.

19 MR. COOPER: I will get there, yes.

20 Again, Mr. Young drove to Ms. Steele's house and
21 they came to D.C. together.

22 At this point in time, as you'll note that there's
23 been no discussion that Ms. Steele has taken any active step
24 to take part in any conspiracy. There's been no discussion
25 that she deserves a common plan that she's agreed to.

1 There's no discussion that she has engaged in any kind of
2 proactive behavior other than being there and being with her
3 brother.

4 So now we're on January 6th, which you've just
5 brought up. Again, there is this stuff coming from other
6 people to Person One again to Ms. Steele but not from
7 Ms. Steele.

8 And so we're at the Capitol itself. So I'll
9 submit to the Court that we start talking about the strength
10 of the evidence is what I'm discussing here. There's no
11 question that the nature of the charges are troubling,
12 there's no question about that. Is that the only
13 consideration that a Court had to take when assessing these
14 things, then there wouldn't be a second, third, fourth prong
15 to consider.

16 This does all come as a very holistic sense? Yes,
17 people are charged with very serious things. That doesn't
18 mean that everybody is charged with a serious matter
19 automatically gets held.

20 The evidence against her on entering the Capitol
21 building, again, there is, as we look through the several
22 photos attached to the government's pleading, and there's a
23 lot of reference that she is wearing Oath Keepers attire,
24 let me put it that way.

25 I think she's the only one of the co-defendants

1 alleged, certainly in this, that is not wearing a helmet.
2 And I would suggest that that in and of itself shows that
3 her level of involvement in whatever the others have decided
4 they're going to do is slightly different here.

5 With respect to entering the Capitol building,
6 well, I guess one could suggest that she is with her brother
7 and she stays with her brother, whatever his involvement is.
8 But to the extent -- and clearly, entering the Capitol
9 building is an issue in and of itself.

10 But that's not what we're talking about. What
11 we're talking about here is dangerousness and the
12 dangerousness of the community going forward based on her
13 actions here. And I would say of all the co-defendants thus
14 far in this situation, she seems to have the least
15 involvement in a common scheme or plan than the others.

16 Again, as we're going through here, we're in the
17 Capitol building now. I'm reading through the chronology of
18 the government's pleading. Does she sit inside the Capitol
19 building? Again, it's now discussing what other people are
20 doing while she's there. Again, Defendant Watkins, other
21 people are yelling things, other people are texting things.
22 It's always about other people, not about Ms. Steele.

23 And so while I would say that yes, it is troubling
24 to be charged with such things, the question is how closely
25 does this evidence -- how strong is this evidence to support

1 the assertion that she is a central member of this
2 conspiracy to, I guess, stop Congress doing its job at
3 destroying things or even threatening or injuring people,
4 how strongly is the evidence to support that assertion with
5 respect to Laura Steele.

6 Let me put it this way: If this was a
7 constructive-possession case, there is a lot of mere
8 presence here. What's missing here is an awful lot of
9 something that is claiming constructive possession over
10 something. So an act that ties Ms. Steele to this. That's
11 missing.

12 And I'm not trying to try the case here. What I'm
13 trying to do is show the Court that in order to outweigh --

14 THE COURT: If I can just interrupt you,
15 Mr. Cooper.

16 I mean, I take the various points you're making.
17 But in terms of her participation in the conspiracy -- and
18 I mean, probable cause has been established by virtue of the
19 Grand Jury Indictment, so I can't re-litigate that issue.

20 In terms of the strength of the evidence, I mean,
21 you know, look, she did gather with others and must have
22 been some planning given the way they went in to the Capitol
23 building and she did enter the Capitol building.

24 I think that what you haven't addressed is -- the
25 government goes into great detail about her actions

1 afterwards in obstructing justice, were acts that appear to
2 be in furtherance of obstructing justice and uncovering her
3 footprints, if you will. And I wonder whether you have any
4 response to that and how you think that ought to factor into
5 my evaluation.

6 MR. COOPER: I guess in moving on to that portion,
7 just to tie up what I was about to say with respect to the
8 weight-of-the-evidence issue, I think that what is also
9 missing from the government's pleading, the government's
10 position, is how this outweighs her complete lack of
11 criminal history and her huge ties to the community. It
12 just does not outweigh that. That is something that does in
13 and of itself rebut the presumption.

14 I mean, when you're -- when your husband is an
15 ex-police chief, you have two children who are police
16 officers, that, by definition, that is not anybody who is
17 less of a flight risk than somebody as that, which then
18 takes me into this, which is the allegations about
19 obstruction of justice and trying to cover her tracks, to
20 quote the government's pleading.

21 All right. The clothing, they didn't find it.
22 But there is a "burn pics." Really? Okay. The government
23 can assert these things till they're blue in the face.
24 There is no evidence of that, as far as I can see, at this
25 point in time.

1 THE COURT: It's certainly not an unreasonable
2 inference, I'll say that much.

3 MR. COOPER: Well, then we have the government's
4 preserving evidence that they assume that some kind of
5 documentation in these "burn pics," if they're relying on
6 it, would be forthcoming. It's not.

7 THE COURT: When was the search conducted?

8 MR. COOPER: February 17th, according to the
9 pleading. So that's six weeks later.

10 THE COURT: So -- yeah.

11 MR. COOPER: Five or six weeks later.

12 And with respect to -- there's also something up
13 here -- well, with respect to -- defendant's, I'm going to
14 read the second point: Defendant Steele's account, Facebook
15 account, would have documented both her intentions prior to
16 January 6th and her actions that day afterwards. These are
17 just assertions that that's what one would expect. This is
18 not any kind of evidence that Ms. Steele is being evasive or
19 trying to hide things, or, as they put it, cover her tracks.
20 These are just all discussions.

21 THE COURT: I mean, you weren't there, but
22 according to the government, her husband testified that she
23 began deleting Facebook content when she returned from
24 Washington, D.C. I mean, so it's not just this is firsthand
25 evidence from her husband, who, as you've mentioned, is a

1 law enforcement officer.

2 MR. COOPER: Well, I don't -- I mean, many people
3 have things on Facebook that they wish they hadn't put up
4 there, but that doesn't mean -- that doesn't go to criminal
5 activity, Your Honor, and it doesn't go to somebody was a
6 danger to the community with respect to pretrial detention.

7 And, again, I'm not trying to try this matter
8 here. What I'm trying to suggest to the Court is that these
9 things do not, in and of themselves, offset -- the Court
10 here can find conditions of release that satisfies the
11 safety of the community and her return to court, given her
12 background and the peripheral nature of her connection to
13 these events.

14 THE COURT: Okay.

15 All right. Anything further, Mr. Cooper?

16 MR. COOPER: Brief indulgence.

17 (Pause)

18 MR. COOPER: I'm just looking -- I guess the final
19 thing on this issue of Facebook posts and what is out there:

20 The Facebook materials that are referenced here
21 references whether or not the outcome of the election was
22 tainted or not. And whether or not somebody believes that
23 fact is quite up to them. That's not a crime. That's got
24 nothing to do with the allegations of storming the Capitol,
25 of trying to stop Congress doing its duty, all those things,

1 the events of January 6th that are charged here.

2 It may be the case that she has those political
3 views, but that in and of itself is not a reason to detain
4 her in this matter.

5 And I'll just suggest to the Court that given her
6 background here, her background in and of itself, her ties
7 to the community, those in and of themselves rebut the
8 presumption for detention, Your Honor.

9 THE COURT: All right. Thank you, Mr. Cooper.
10 Hang on one second, everybody.

11 All right. Mr. Nestler, we'll hear from you.

12 MR. NESTLER: Thank you, Your Honor.

13 And can you hear me okay? I had to change devices
14 after technical difficulties.

15 THE COURT: Yeah. No, I can hear you just fine.
16 Thank you.

17 MR. NESTLER: Thank you, Your Honor.

18 I'd like to start with -- Mr. Cooper was talking
19 about Ms. Steele's law enforcement background for both
20 herself and her family, her husband and her children.

21 It's precisely because of her law enforcement
22 background that the government is incredibly troubled by her
23 actions, both before the storming, during the storming, and
24 after the storming of the Capitol.

25 So she touted her law enforcement background in

1 order to become a part of this group of storming the
2 Capitol. She talked about how she had all this experience,
3 how she had a permit to carry a firearm, and that that was
4 part of her skill set. That's why they should want her as
5 part of the group, because she was law enforcement.

6 And the government cited in other pleadings
7 recently filed that that was one of the factors that Kelly
8 Meggs was looking at when he was talking to other people in
9 a Signal chat; that this is great. Graydon Young was
10 bringing on a law enforcement officer to join the group on
11 January 6th that bolstered this group's credentials and what
12 they thought they could accomplish that day.

13 The same goes for what happens on the 6th itself.
14 Because of her law enforcement training, one, she should
15 know better, and, two, she has more experience than people
16 who are not in prior military or law enforcement backgrounds
17 in terms of how to operate as part of a stack, how to
18 maneuver through the crowd, and how to actually accomplish
19 their ends of actually breaching the Capitol and obstructing
20 Congress.

21 And then finally, after the storming of the
22 Capitol and Ms. Steele goes home to her family, also, law
23 enforcement officers, we understand, we cited in our motion
24 that there was a family meeting; she and Mr. Young, her
25 brother and her other people who lived in her house got

1 together and they saw Graydon Young's face all over the
2 news. There's a photograph of Graydon Young inside the
3 rotunda with his hand on Kenneth Harrelson and another
4 co-defendant's shoulder all over the news, starting on the
5 night of January 6th, January 7th, January 8th. Ms. Steele
6 is at her house with Graydon Young and her family. They're
7 obviously aware of this fact.

8 And as someone who is in law enforcement, married
9 to law enforcement, family of law enforcement, she does
10 nothing in order to contact the law enforcement, contact
11 with the FBI, aware that the police are looking for Graydon
12 Young.

13 At that point, the police are not looking for her,
14 because she hasn't been identified yet. But does not come
15 forward, does not say, I did something wrong. In fact, she
16 does the exact opposite. The government submits that she
17 got rid of the clothing and paraphernalia that she was
18 wearing that day to try to cover her tracks. And as a law
19 enforcement officer and being married to a law enforcement
20 officer, she ought to know how to cover her tracks well, and
21 it looks like she did.

22 She started deleting things off of Facebook,
23 things that would have both evidenced her intent by going to
24 D.C. on January 6th, and what she was doing on the 6th.
25 Then afterwards when she thought about what she had done,

1 she untagged herself. And we cited 27 different posts,
2 videos, and photos from Facebook. Presumably those were
3 things that people had tagged her in something that had
4 related to the activities of January 6th, we don't know
5 right now.

6 And then she deleted things from her phone. We
7 did recover her cell phone from her person at the time she
8 was arrested, the FBI did. But it looks like all of her
9 text messages and phone logs, even though the settings said
10 that they should be retained, they're not auto deleted, were
11 deleted.

12 Who knows what kind of text messages she was
13 exchanging in advance or what those phone calls were having.
14 We do, of course, have her phone records separately from
15 her carrier, from AT&T, which is why we were she was
16 exchanging text messages and phone calls, but they're
17 missing from her phone, and that's conspicuous.

18 And Mr. Cooper talked several times about how the
19 evidence against Ms. Steele is not as strong or is
20 overwhelming as others. Well, Your Honor, there's a pretty
21 good reason for why we don't have as many text messages that
22 Ms. Steele sent or as many Facebook messages as Ms. Steele
23 sent as other defendants. It's because she deleted them and
24 she knew how to do so and why it was important to do so
25 precisely because of her law enforcement background.

1 THE COURT: So have you all been able to
2 determine -- and I'm just looking at page 16 of your
3 submission -- it shows -- suggests that there was a number
4 of instant messages on January the 6th in the morning and
5 then throughout the day.

6 Have you been able to sort of trace those to the
7 recipient or the person that's on the other end of those and
8 determine who those people are, if they're specifically --
9 is she communicating with other members of the alleged
10 conspiracy?

11 MR. NESTLER: At this point, Your Honor, I can't
12 really speak to that.

13 And it wouldn't make sense for her to be
14 communicating with other members of the conspiracy on the
15 6th, because it appears that she was with at least a core
16 group of members on the 6th; they were together from earlier
17 in the morning through the storming of the Capitol, around
18 2:40 in the afternoon. So we're not sure -- we have not yet
19 been able to track that down.

20 THE COURT: So if I can just ask -- I just have
21 some questions about the evidence against Ms. Steele.

22 Let me first start -- I mean, I found it
23 interesting in the government's submission, because the
24 prior submissions were relating to some of the other
25 defendants and actually started before, long before

1 January 6th and, in fact, made after the election.

2 Ms. Steele's, the recitation with respect to her starts a
3 few days before January 6th as she's trying to sign up with
4 the organization.

5 But what can you tell me, to the extent the
6 government is able to share at this point about evidence
7 concerning the gathering, of this group of people on the 6th
8 before they entered the Capitol building and any evidence
9 that would bear on their intent with respect to why they
10 entered the Capitol building and what they intended to do
11 once they got in the building?

12 MR. NESTLER: The government's evidence at this
13 point, Your Honor, is that most of the members of the
14 conspiracy, the defendants before Your Honor, met up early
15 in the morning on the 6th at the ellipse at the rally, where
16 they did a comms check. Many members of them had radios.
17 I don't have any information at this point that Ms. Steele
18 herself had a radio with her, though it's quite apparent, at
19 least from the photograph we submitted, that her brother,
20 Graydon Young, did have a radio with him, and we are still
21 investigating Ms. Steele's use of a radio that day. They
22 did a comms check to make sure they could communicate with
23 each other via radio.

24 They also were communicating with each other and
25 made sure that they could communicate via Signal chats. And

1 there were actually multiple different Signal chats being
2 used by members of the group and members of subgroups of the
3 conspirators here in order to communicate with one another
4 during the day. Signal was an application on their phones.

5 They also all obtained, if they didn't bring it
6 with them, a shirt identifying them as an Oath Keeper. And
7 you can see in some of the photographs, Your Honor, that
8 many of them are wearing similar shirts that identify them
9 as Oath Keepers. And then they spent that morning --
10 throughout the morning together down near the ellipse.

11 And then they moved in not necessarily one group,
12 but as part of multiple groups, on foot over to the Capitol,
13 where, as I'm sure Your Honor is familiar with the
14 geography, the most logical point of hitting the Capitol,
15 from walking from the ellipse, would be hitting the west
16 side of the Capitol.

17 But they don't go to the west side of the Capitol.
18 They all go to the east side of the Capitol. Not all of
19 them. Mr. Caldwell stayed elsewhere. But the ones who
20 actually entered went to the east side of the Capitol, where
21 they actually breached the east side of -- the east doors,
22 you know, the rotunda.

23 There, they, again, congregated, and there was
24 already many people on the steps, of course. And you can
25 see in the videos, Your Honor, that the stack of Oath

1 Keepers, they congregate together and they put their hands
2 on each other's backs and vests and they march up through
3 the stairs. And they part the crowd as they go, and the
4 crowd sort of makes way for this group of a dozen or so Oath
5 Keepers to walk up the stairs, where there's a couple of
6 them, including Mr. Harrelson, who's already near the top of
7 the steps, waving them forward, waving them on. And they
8 congregate with Mr. Harrelson there. And then they're there
9 at the top of the steps of the terrace outside of the east
10 doors of the right outside of the rotunda on the east side.

11 And there is a large push from the mob at that
12 point, at around between 2:30 and 2:40 p.m., with Capitol
13 police officers trying to keep the doors closed, and some
14 people from inside, but most of the mob from outside, trying
15 to push through and eventually are able to overwhelm the
16 police officers. There are flagpoles and sticks and
17 chemical spray being thrown, and a huge mass of people who
18 overwhelm the police and are actually able to breach the
19 doors there at around 2:40 p.m.

20 THE COURT: In terms of her actions and the
21 actions of those who she's alleged to conspire with, let's
22 start with her actions, what evidence -- what's the evidence
23 with respect to her actions and what she did once she was
24 inside the building?

25 MR. NESTLER: At this point, Your Honor, we don't

1 have any additional information about what she did
2 separately from inside the building. I don't have any
3 information that she had any confrontations with police
4 officers while she was inside the building.

5 THE COURT: Okay.

6 MR. NESTLER: It was -- and Mr. Cooper had made
7 this point about mere presence -- and the government's
8 theory in this case, Your Honor, and I don't think it
9 stretches anything and I'm referring back to
10 Chief Judge Howell, some of the statements she's made in
11 some of the cases she's heard -- that the presence itself in
12 this situation is what caused Congress to have to evacuate.

13 So Ms. Steele's presence, along with the hundreds
14 of other people in storming the Capitol, her presence as
15 part of an organized force, as part of a leadership force
16 here of Oath Keepers, where people were looking to them,
17 they were making way for the Oath Keepers to move forward,
18 that allowed a large mass of people, dozens more behind them
19 to filter into the Capitol, and that's what caused the
20 concern for the Vice President and other members of Congress
21 and staffers to have to flee and evacuate. So it's not
22 accurate to say that she was "merely present." It was her
23 presence itself that caused the obstruction.

24 THE COURT: Now, let me be 100 percent clear here,
25 which is that: I don't for a moment question the Grand

1 Jury's probable cause determination with respect to the
2 conspiracy charge, and it's not my position to question it.
3 But I also, based on the evidence, I think the case, in
4 terms of the conspiracy to obstruct, at a minimum, there's
5 evidence of probable cause for it. I mean, you have a group
6 of people who gathered together. And, as we all know, a
7 conspiracy doesn't require days and months of advanced
8 planning. It can be -- involve planning in the immediate --
9 sort of in the antecedent moments of the event itself. And
10 so clearly there was planning. They went in as a group.
11 And their intent, that will have to be maybe sorted out at
12 trial, but it's certainly not unreasonable to infer that the
13 intent of these folks was to disrupt what was happening.

14 I think the question for me, though, is a little
15 bit more nuanced in that my job here today is to assess
16 Ms. Steele's level of dangerousness in the future to
17 determine whether she should be released, which is why I'm
18 asking some of the questions I am.

19 Let me also ask: You mentioned the Signal chat.
20 Is there any evidence that Ms. Steele herself communicated
21 or issued communications on the Signal chat?

22 MR. NESTLER: Not at this time, Your Honor. But,
23 again, she deleted things off of her phone, so we don't
24 know.

25 And Signal, as I believe Your Honor is aware, is

1 an end-to-end encryption, so it's not like we can go to
2 Signal and get any records related to it. We'd have to get
3 them off Ms. Steele's phone.

4 THE COURT: That's an important clarification.

5 But let me ask it a different way, which is:
6 I know that in other cases, other defendants in this case,
7 you have Signal chats. What you're telling me is, one,
8 those are actually coming from the phones of those people?

9 MR. NESTLER: Yes.

10 THE COURT: Okay.

11 MR. NESTLER: And let me clarify that, yes, Signal
12 is not available -- it cannot be pulled off of the Cloud, so
13 it has to come from a device.

14 THE COURT: So you haven't gone to the provider,
15 for example, and said, give us all of the chats for this
16 particular group, because that's not something you're able
17 to do?

18 MR. NESTLER: Not for Signal, Your Honor.

19 THE COURT: But if you have someone else's phone
20 and that person has not deleted the communications from that
21 chat, would it show all of the communications of all of the
22 people on that line, such that if you had somebody else's
23 phone, you would be able to determine whether Ms. Steele
24 used it and made a communication on that day?

25 MR. NESTLER: The answer to that question is

1 nuanced, Your Honor.

2 And forgive me a little bit. But there is an
3 ability, my understanding from how we've been diving into
4 this -- and we don't have a full answer to all of this, but
5 our preliminary understanding is that there's an ability for
6 certain members who are organizers of the chat to remotely
7 delete the chat. So if you were and I were in a Signal chat
8 and you wanted to delete it later, you could delete it and
9 it would no long be accessible to me on my phone.

10 There's also an ability to sort of remove oneself
11 from a Signal chat and then make it -- if you and I were in
12 a chat and you didn't delete the chat, Your Honor, but you
13 withdrew yourself from that conversation, I, on my phone,
14 may not be able to see your communications anymore.

15 But we are still looking into exactly what
16 parameters there were and the different overlapping Signal
17 chats amongst the conspirators here.

18 THE COURT: All right.

19 So it's not as simple as we have somebody's phone
20 who didn't actively delete these communications, and,
21 therefore, we have everything that was said among the group
22 that day?

23 MR. NESTLER: It is not that simple, Your Honor.

24 THE COURT: Okay.

25 MR. NESTLER: Which is part of why -- and I know

1 we're in the middle of this case, Your Honor, but the
2 government does so continue to actively investigate this;
3 there are lots of different facets, including technical
4 complications like that.

5 THE COURT: No, I understand. I appreciate that
6 clarification.

7 Just a couple more questions: In terms of the
8 obstructive conduct, I mean, it's pretty well laid out in
9 your papers. I think the question -- I mean, I was
10 surprised that given what -- is that it's not a standalone
11 charge against Ms. Steele, and I was -- is there a reason
12 for that at this juncture?

13 MR. NESTLER: All I can say, Your Honor, is that
14 the Grand Jury continues to investigate.

15 THE COURT: I guess the final question I have is,
16 in terms of -- and I think somewhere -- I've read a number
17 of these, but I think you said at some point maybe in your
18 opposition that this group was -- I'm looking now at the
19 bottom of page 7 -- the chat shows that the participants
20 were activating a plan to use force on January 6th.

21 Can you expound upon that? What makes you think
22 that they were prepared to use force, other than the
23 evidence that you've already laid out?

24 MR. NESTLER: Yes, Your Honor.

25 I mean, it's circumstantial there. And the

1 evidence is that the people in the Signal chat are saying,
2 we're taking things into our own hands. The President's not
3 doing anything now. We have to take it upon ourselves. You
4 know, there are patriots pounding on the doors, and we need
5 to go to the south side of the Capitol steps. And then
6 there's a photograph showing where to go. And so that's
7 what we need to do.

8 And the force -- we are not at this point
9 alleging, Your Honor, that the force was to actually,
10 physically attack police officers, for instance, though that
11 certainly was something that many of the members of the mob
12 did, and certainly something that members of the Oath
13 Keepers here benefited from, other people in the mob
14 attacked the officers, and these Oath Keepers were then able
15 to get better access to the doors to get through and get
16 inside. But it's using force in order to actually breach
17 the Capitol; that the Capitol was secure, supposed to be
18 secure, and you couldn't just go in and head straight to the
19 Senate chamber.

20 But at this point, the Oath Keepers were
21 activating a plan to use force in order to actually break
22 into the Capitol, break into the Senate. And we hear
23 Ms. Watkins, on her part of the chat, talking about how they
24 need to make their way to the Senate, because that's where
25 they need to go to in order to actually "Stop the Steal," in

1 their words.

2 THE COURT: One final question.

3 You know, the government's detention request
4 rests, in part, on the charge of destruction of property and
5 sort of cited in a prior hearing involving Mr. Caldwell,
6 I believe, or maybe it was involving Ms. Watkins actually, I
7 do think that that charge qualifies for presumption of
8 detention, not because it's a crime of violence but because
9 it's a cross-reference to sort of the terrorism -- list of
10 terrorism crimes.

11 But what is the specific evidence of -- that
12 either Ms. Steele destroyed property or that she aided and
13 abetted in the destruction of property, because that's what
14 she's charged with, and the grand jury evidently found
15 probable cause that she participated in some destruction
16 involving property or aided and abetted in that regard?

17 MR. NESTLER: Yes, Your Honor.

18 And just to be clear at the outset, the
19 government's not relying on the strength of the destruction
20 of property evidence in order to support the charge. The
21 destruction of property evidence is what gets us to a
22 hearing. I think it's the presumption under 3142(e).

23 THE COURT: Right.

24 No, I agree with your legal framework in that
25 analysis. I am curious about what the evidence is as to the

1 destruction of property.

2 MR. NESTLER: Understood, Your Honor.

3 So there's a set of double doors, very large, very
4 expensive, ornate-looking double doors on the east side of
5 the Capitol, just outside of the rotunda, that the mob and
6 the rioters, including these Oath Keepers, actually breached
7 and went through.

8 That door suffered extensive damage, according to
9 the architect of the Capitol. Glass panes were smashed.
10 One of the door handles was actually ripped off and removed.
11 One of the door stoppers, the hydraulic pieces that keep the
12 door open or shut, was damaged and nonfunctioning. And the
13 door itself suffered extensive damages from chemical
14 irritants, both from -- it appears right now, and, again,
15 we're continuing to investigate, both from the rioters
16 outside spraying at officers at the door, and also from
17 officers inside potentially using it as a crowd-control
18 measure spraying back. So that is the evidence about the
19 door itself.

20 I will say based on our review of the video
21 evidence right now, Your Honor, it does appear that the
22 glass panes that we do see smashed in the doors, at least
23 some of them or several of them were smashed about 15 or 20
24 minutes before Ms. Steele's group actually penetrated those
25 doors.

1 But that's not to say that additional damage to
2 those doors was not incurred during the minutes when
3 Ms. Steele and the rest of her group was actually breaching,
4 physically breaching those doors; that that's the damage to
5 the doors themselves.

6 THE COURT: And does the video show that she or
7 her group actually caused the damage?

8 I mean, you know, look, I know I'm splitting hairs
9 here, but unfortunately -- not unfortunately, I should
10 say -- but the nature of what I'm required to do here is to
11 assess the evidence against her.

12 But insofar as damaging that door and enabling
13 people to enter it once that door was damaged, do you see on
14 the video whether she or any of the Oath Keepers were
15 involved in that property destruction?

16 MR. NESTLER: Not her or the other members of the
17 Oath Keepers.

18 Other individuals who were attempting to breach
19 the Capitol at the same time as they were attempting to
20 breach the Capitol and potentially acting in concert with
21 them would have caused some damage to those doors around
22 that time. But no, there's no direct evidence right now,
23 Your Honor.

24 And we're still -- again, the video itself is not
25 exactly crystal clear, because there are hundreds -- or

1 dozens, I'm sorry, of people coming through, and it's hard
2 to see exactly what's happening at every given time from
3 every given angle, so we are continuing to investigate that.
4 But no, we don't have that regarding the doors right now.

5 THE COURT: Look, I don't want to -- I'm not --
6 don't take what -- my questions to be at all critical, but
7 there's an inherent challenge, and I appreciate it, in terms
8 of what the government is trying to accomplish here.

9 I mean, there was literally, quite literally a mob
10 breaking into the Capitol building, and there's no question
11 about that in that that mob was acting together. But, you
12 know, in the context of a criminal case, the question is
13 less about the mob than it is about the actions of an
14 individual that's before me, and that's what I'm trying to
15 focus on here.

16 MR. NESTLER: Actually, Your Honor, can I just
17 clarify?

18 And in terms of the damage to the Capitol, again,
19 we are still working with the architect of the Capitol and
20 the Smithsonian to in order to talk about additional damage
21 and cleanup that was done in the areas where Ms. Steele was.

22 So she and her co-defendants went into the rotunda
23 and there will be -- some of them tried to go down a hallway
24 that was blocked by MPD officers, it was a hallway
25 connecting the rotunda to the Senate chamber. And MPD

1 officers mustered there and actually had to use chemical
2 irritants and chemical spray in order to repel a large group
3 of individuals, including some of these Oath Keepers, going
4 down that hallway. And that, of course, damaged the marble
5 floors and the walls and some of the artwork in the rotunda
6 as well.

7 And so, again, we are continuing to investigate
8 that. And I'm not saying that Ms. Steele was one of the
9 Oath Keepers who tried to go down that hallway or actually
10 deployed any spray or caused an officer to deploy a spray.
11 But in terms of a legal analysis, she would be part of that
12 conspiracy or aiding and abetting any other kind of actors
13 who would have been responsible for that damage.

14 THE COURT: Okay.

15 All right. Well, I appreciate that. Thank you,
16 Mr. Nestler.

17 All right, Mr. Cooper. I'll give you an
18 opportunity for a rebuttal, if you want one.

19 Mr. Cooper?

20 MR. COOPER: Yes, Your Honor. I'm sorry, I was
21 just -- I was thinking. Just very, very briefly.

22 I understand that it's an ongoing, difficult
23 investigative process to parse out what specific individuals
24 were doing on January 6th, when there is this mass of people
25 that have congregated around the Capitol building.

1 All I can say is this: Is that in the pleading
2 that the government submitted with respect to Laura Steele,
3 both of them that I've seen so far, there isn't any violent
4 conduct portrayed, there isn't any destructive conduct
5 portrayed. There is allegations that she is affiliated with
6 a group of people that are conspiring to do those things,
7 but, again, the nexus between her and that group.

8 And I will also say this: I don't think the
9 government's position is that every single member who is
10 affiliated with the Oath Keepers is, by definition, then
11 affiliated with any kind of conspiracy to cause damage or
12 threaten or engage in the near riot that happened that day.

13 All the photographs, the video footage that the
14 government has put in this, all has -- even the worst one,
15 which I would suggest is the, I guess what they call the
16 stack, the going in a line up to the Capitol building
17 itself, is -- still looking at the people around, is still
18 not violent-appearing in nature. I'm not suggesting it's
19 legal to enter the Capitol building, I'm not doing that, but
20 I'm just putting it into context.

21 And I know the government keeps trying to
22 characterize this as storming the Capitol. When one thinks
23 about storming the Capitol, I know it did take place in some
24 areas like this on that day. One thinks of this kind of
25 Les Miserables, manning the barricades and flags waving.

1 And that did happen that day, but not in these photographs,
2 and not with respect to Ms. Steele.

3 So I think I'm going to ask the Court to take it
4 all into context and we'll try this in a trial when that day
5 arrives. But with respect to detaining her, I think this
6 presumption is rebutted. Thank you.

7 THE COURT: Thank you, Mr. Cooper.

8 All right. If everybody would just give me a
9 couple minutes, I'm just going to go off video for a few
10 moments and collect my thoughts and I'll be back with
11 everybody, okay?

12 MR. COOPER: Very well. Thank you.

13 (Recess from 11:19 a.m. to 11:22 a.m.)

14 (Pause)

15 THE COURT: Okay. Mr. Nester and Mr. Cooper, do
16 we have you back?

17 Mr. Cooper? There he is.

18 All right. So we've got everybody back.

19 So, you know, as I said at the outset, my review
20 here is de novo of the magistrate judge's detention
21 determination.

22 The government has moved for detention and argued
23 that, given the nature of the charges, in particular, the
24 charge of destruction of government property, that a
25 rebuttable presumption applies here of dangerousness.

1 And just to be clear, the government has not argued that
2 Ms. Steele presents a risk of flight; and in any event, I
3 would not have found her to have presented a risk of flight.
4 So the question really is one of dangerousness and whether
5 there are any combination of conditions that would ensure
6 the safety of the community.

7 Given the nature of the charges and the charge of
8 destruction of property, as I said earlier, it does give
9 rise to a rebuttable presumption of dangerousness, because
10 it is a listed offense under the list of terrorism statutes
11 and also is a charge that has a maximum penalty of at least
12 ten years, and so the presumption does arise here.

13 It is a rebuttable presumption, and that shifts
14 the burden to the defendant to come forward with some
15 evidence that the Court must consider as part of the overall
16 dangerousness assessment. Ms. Steele has met that burden
17 here by coming forward with information about her
18 background, and, in particular, absence of any criminal
19 record, as well as law enforcement ties to her family and
20 her own law enforcement background. So she's at least met
21 her initial burden.

22 And so ultimately the burden still remains with
23 the government to establish by clear and convincing evidence
24 that there are no combination of conditions that would
25 ensure the safety of any other person or the community.

1 In making that assessment, I need to evaluate four
2 factors: The nature and circumstances of the offense
3 charged, the weight of the evidence against the defendant,
4 the defendant's history and characteristics, and the nature
5 and seriousness of the danger to any other person or the
6 community that would pose by the release.

7 Let me start with the first two factors, and I'll
8 combine them; that is, the nature and circumstances of the
9 charge and the weight of the evidence against the defendant.

10 There's no question here that the nature and
11 circumstances of the offense charged are serious and
12 arguably weigh in favor of detention, certainly based upon
13 the presumption.

14 Ms. Steele is charged with destroying government
15 property as part of an insurrection or a riot that took
16 place on the Capitol on January the 6th. She herself has
17 been charged with a conspiracy along with ten others to
18 enter the Capitol building for the purposes of obstructing
19 the ongoing Electoral College vote. That proceeding was, in
20 fact, obstructed. Members of Congress did have to adjourn;
21 in fact, not just adjourn but were sort of whisked away for
22 their own safety because of the number of people that were
23 entering the building and were actually entering the Senate
24 chamber to disrupt that proceeding. And so, you know, the
25 offenses here clearly go to -- or go to sort of the basics

1 of our democracy and the institutions of our democracy. And
2 so the dangerousness here of the conduct really can't be
3 overstated.

4 Now, insofar as the evidence against Ms. Steele,
5 as I said, I'm not here to question the Grand Jury's
6 determination of probable cause as to her. And as I said
7 earlier in my opinion, there is certainly probable cause as
8 to the conspiracy count, just given the nature of the group
9 that went in together at the Capitol, the fact that they
10 went in as a formation, and that the purpose of -- one could
11 certainly reasonably infer that the purpose of entering the
12 Capitol was to impede what Congress was trying to accomplish
13 that day, particularly given some of the communications
14 about the fact that the President had not done anything, in
15 the words of Person One.

16 That said, you know, I have the benefit here of
17 comparing Ms. Steele relative to others in this charge, in
18 this case. And relative to others, there is no evidence,
19 for example, of recruiting of people to join this, of
20 training people. We have such evidence with respect to
21 Ms. Watkins. Ms. Steele's not accused of engaging in
22 communications prior to January the 6th concerning weapons
23 or the bringing of weapons to the District of Columbia.
24 Certainly, Ms. Watkins and Mr. Caldwell have evidence of
25 that type against them.

1 The evidence against Ms. Steele seems to be that
2 she essentially signed up to be a member of the Oath Keepers
3 in the days before January the 6th, touting her law
4 enforcement background as an attribute. But there's no
5 evidence that she was affiliated with the group before then
6 or that she participated in the kind of planning and
7 preparation events or activities that we've seen in evidence
8 against Mr. Caldwell and Ms. Watkins.

9 On the day of January 6th itself, while there's --
10 the evidence is strong that Ms. Steele gathered with others
11 to enter the building, there is an absence of evidence
12 for -- at least at this juncture -- that Ms. Steele was
13 involved in the communications on that Signal chat; that
14 once she entered the building, that she herself confronted
15 law enforcement or used any kind of spray or destroyed any
16 kind of property.

17 I understand both that the government's
18 investigation is ongoing and there were challenges
19 associated with sort of individualizing the evidence against
20 the individual defendants, given that there was a mob there,
21 but, again, my job here is to evaluate the evidence against
22 the individual that's before me and not collectivize all the
23 evidence against this particular individual.

24 And so as I said, there isn't evidence, at least
25 right now, that Ms. Steele herself destroyed any property,

1 engaged in any assaultive behavior, had any kind of weapons
2 on her of any kind. You know, I'm not limiting it just to
3 guns, but even we've heard about batons and the like.
4 There's no suggestion that she had possession of such
5 implements.

6 You know, I am troubled, to say the least, about
7 her conduct in the aftermath of this. I think the
8 government's evidence is compelling, to say the least, that
9 Ms. Steele attempted to destroy evidence that could be
10 traced to her. I don't know whether she panicked, how
11 willful the conduct was, whether she actually thought this
12 would be evidence she could destroy that would erase her
13 footsteps and her conduct in the District of Columbia, but
14 it certainly seems to me, at least based on the evidence
15 before me, that that certainly was something that she was
16 contemplating.

17 And so on balance when I sort of think about the
18 weight of the evidence and the nature and circumstances of
19 the offense, I think it tips the scale in favor of
20 detention, but, perhaps, not as strongly as it does for some
21 of the others who've been indicted in this case.

22 The defendant's history and characteristics, those
23 are set forth in the defendant's own submission, and the
24 government doesn't really address those in its submission.

25 And Ms. Steele has no prior criminal convictions,

1 she has a law enforcement background, which, truth be told,
2 makes some of the conduct here a little bit more troubling;
3 but, nevertheless, she does have law enforcement background,
4 no prior criminal convictions. She has strong community
5 ties, as has been pointed out. She's married, has two
6 children. Her husband is in law enforcement. The two
7 children are either in law enforcement or soon to be in law
8 enforcement. And so, you know, the nature -- the history
9 and characteristics of Ms. Steele sort of weigh against
10 detention, in my view.

11 The nature and -- seriousness and the danger that
12 she presents to the community. Look, I think given all the
13 facts and circumstances here, my view ultimately, Ms. Steele
14 doesn't pose the kind of danger to the community that
15 warrants her continued detention pending trial. Again,
16 she's not accused here of being a planner, of somebody who
17 organized this group, somebody who recruited members, of
18 somebody who trained members. There's no evidence that she
19 talked about weaponry, as we've seen with other defendants,
20 about quick reaction forces and the like. You know, her own
21 gear that she wore on that day looks to be less combative,
22 if you will, than what some of the other members of the
23 conspiracy were doing.

24 And when I look at all the evidence that's
25 presented against Ms. Steele, you know, she seems to -- all

1 of her conduct is focused on what happened on January the
2 6th, a one-time episode and one-time date. There's no
3 evidence that she, for example, unlike others, expressed a
4 desire to sort of continue on with this behavior in other
5 venues.

6 Now, again, the government can say, and I think
7 appropriately so, that she may have destroyed some of the
8 evidence that might have otherwise supported those kind
9 of -- that kind of inference. But the reality is,
10 I don't have the evidence before me. Whether that's because
11 Ms. Steele destroyed it or because it just isn't there, at
12 this point, I'm not in a position to draw any kind of
13 inference that, in fact, Ms. Steele, if she were released,
14 is likely to engage in the kind of behavior that she did on
15 January the 6th.

16 None of that is meant to say that Ms. Steele
17 doesn't pose some risk. She did affiliate with people who
18 proposed a threat to the fabric of our democracy. She
19 herself, instead of withdrawing from this group of people,
20 went into the Capitol building while Congress was in
21 session. Only she knows what was truly in her mind that day
22 and what her intentions were. But certainly, any reasonable
23 person could draw the inference that it was to disrupt the
24 proceedings of Congress. And so I'm certainly not -- none
25 of this is meant to say that Ms. Steele is not culpable or

1 that her actions weren't dangerous that day.

2 The question before me today is whether she poses
3 a continued danger to the community. And pretrial release
4 is the norm. And I think based upon all the evidence that's
5 before me and relative to the evidence that I've seen
6 against others, this evidence against Ms. Steele and her
7 participation of a lesser degree. And so I do think there
8 are a combination of conditions that I can impose to ensure
9 the safety of the community, given Ms. Steele's background
10 and her history and the absence of any prior criminal
11 convictions and any violent conduct in her past.

12 So I am going to permit -- I will grant the
13 motion; however, I am going to place fairly strict
14 conditions on Ms. Steele. These conditions will be similar
15 to the conditions that I had placed on Mr. Caldwell.

16 She must submit to supervision in the district to
17 which she will be released, and she must report to that
18 office within 24 hours of her release.

19 She must surrender her passport, if she has one,
20 to the Pretrial Services office in the division in which she
21 is released.

22 She also must have no contact with anyone
23 associated or affiliated with the Oath Keepers. And she
24 also must stay away from the District of Columbia. And that
25 will include her brother. I'm not sure whether he will be

1 released or not, but he is certainly a participant in this,
2 and so she shall have no contact with him as well.

3 She shall not possess any kind of firearm or
4 destructive device.

5 Mr. Cooper, I don't know whether your client has a
6 firearm at home or whether any members of her family have
7 firearms at home. What's your understanding of that?

8 MR. COOPER: At the original hearing, Your Honor,
9 it was discussed that that may be the case, but there was no
10 problem with either her husband or anybody else in the
11 household removing any kind of firearm from that place.

12 THE COURT: All right.

13 MR. COOPER: That can be done.

14 THE COURT: So not only shall she not possess a
15 firearm or destructive device or any weapon, there shall be
16 no firearm, destructive device, or illegal weapon of any
17 kind in the household. So if her husband, who is law
18 enforcement, has a weapon in the house, that will need to be
19 removed as well.

20 I am going to subject Ms. Steele to home
21 incarceration. She will be restricted to her home for
22 24 hours a day, except for medical necessities, court
23 appearances, or other activities approved specifically by
24 the Court. That will certainly be the conditions going
25 forward. And we may revisit that down the road, but for

1 now, I think home incarceration is appropriate in the
2 present circumstances.

3 She also will have to submit to GPS monitoring.

4 And, finally, she shall have no access to
5 computers, smartphones, tablets, or any kind of electronic
6 communication device that would allow her to communicate
7 through either encrypted or non-encrypted applications.

8 She also must remain in the district to which she
9 is released absent permission from the Court. As I said,
10 she is permitted to leave her home for medical appointments
11 and meetings with counsel, but those requests must be
12 approved by Pretrial Services in advance. And as I said,
13 she must report to Pretrial Services in the district to
14 which she is released within 24 hours of being released.

15 If release happens -- she shouldn't be released by
16 the end of the weekend, so it shouldn't pose a problem. But
17 if for whatever reason she's released on Saturday, she shall
18 make sure that she -- or on Sunday, she shall report to
19 Pretrial Services in her district by no later than the close
20 of business on Monday.

21 All right. Any questions or anything else anybody
22 wants to raise this morning about my order?

23 Mr. Nestler.

24 MR. NESTLER: Not from the government, Your Honor.

25 Thank you.

1 THE COURT: Mr. Cooper.

2 MR. COOPER: No, Your Honor, not from me either.

3 Thank you.

4 THE COURT: All right.

5 Ms. Steele, this isn't unique to you and I've said
6 this to others, which is: You are on very strict conditions
7 of release. I don't for a moment dismiss the seriousness of
8 the conduct for which you've been accused, but -- and so
9 strict compliance is really critical. And failure to
10 strictly comply with my conditions could result in the
11 revocation of those conditions, okay?

12 THE DEFENDANT: (Nodding head.)

13 THE COURT: All right.

14 Thank you, all, very much.

15 And, Mr. Cooper and Ms. Steele, we'll see you,
16 I think, on our next court hearing date, which I think is,
17 what, April --

18 COURTROOM DEPUTY: April 6th, Your Honor.

19 MR. COOPER: April 6th, Your Honor.

20 THE COURT: All right. We'll see everybody on
21 April 6th.

22 Thank you, all.

23 (Proceedings concluded at 11:39 a.m.)

24

25

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: April 13, 2021 /S/ William P. Zaremba

William P. Zaremba, RMR, CRR

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