

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

United States of America,)	Criminal Action
)	No. 1:21-cr-00386-TNM
Plaintiff,)	
)	<u>Initial Appearance and</u>
vs.)	<u>Arraignment</u>
)	
Pauline Bauer,)	Washington, D.C.
)	June 21, 2021
Defendant.)	Time: 1:24 p.m.

Transcript of **Initial Appearance and Arraignment**
Held Before
The Honorable Magistrate Judge Zia M. Faruqui
United States Magistrate Judge

A P P E A R A N C E S

For the Plaintiff: **Jacob Steiner**
U.S. ATTORNEY'S OFFICE FOR THE
DISTRICT OF COLUMBIA
Major Crimes Section
555 Fourth Street, Northwest
Washington, D.C. 20530

Also Present: **Carmen D. Hernandez**
7166 Mink Hollow Road
Highland, Maryland 20777

Andre Sidbury, Pretrial
Services Officer

Proceedings reported by FTR Gold Electronic Recording Software.

Transcribing Stenographic Court Reporter:
Nancy J. Meyer
Registered Diplomate Reporter
Certified Realtime Reporter
United States Courthouse, Room 6509
333 Constitution Avenue, Northwest
Washington, D.C. 20001
202-354-3118

P R O C E E D I N G S

THE COURTROOM DEPUTY: All rise. All rise. Ma'am, I need you to stand.

THE COURT: That's all right.

THE COURTROOM DEPUTY: This court is now in session. Magistrate Judge Zia M. Faruqui presiding. Please be seated and come to order.

Your Honor, this is in Criminal Case 21-386, Defendant No. 2: The United States of America v. Pauline Bauer. The defendant is present in the courtroom. This matter is set for an in-person initial appearance and arraignment.

Parties, please introduce yourselves for the record, starting with the government.

We're having so many issues today.

Mr. Steiner, can you hear me? I don't know what's going on today, Judge.

THE COURT: You can just dial him in, if you want to.

Mr. Steiner, can you hear me?

THE COURTROOM DEPUTY: Let's try this. I'll try this.

Hello, Mr. Steiner. Can you hear us?

MR. STEINER: I can, yes.

THE COURTROOM DEPUTY: Okay.

THE COURT: Thanks so much. If you can please enter your appearance.

1 MR. STEINER: Your Honor, this is Jacob Steiner for
2 the United States. I'm standing in for Vivien Cockburn this
3 afternoon.

4 THE COURT: Great.

5 And Ms. Bauer is proceeding pro se, as we discussed
6 before. Ms. Bauer, I'm going to tell you a little bit about
7 what I think are the choices and road, kind of, ahead of you
8 today and then give you an opportunity to speak, and then we
9 will see how it goes.

10 I'm hopeful that given the path before you there is one
11 that's fairly straightforward in which I go through your
12 rights, you make your decisions about how you want to go
13 forward. I believe that you want to proceed pro se, which
14 means representing yourself.

15 THE DEFENDANT: I do not represent myself.

16 THE COURT: Okay.

17 THE DEFENDANT: I am here in divine special
18 appearance as a living soul, a woman.

19 THE COURT: Thank you, Ms. Bauer.

20 So I'll speak and I'll give you an opportunity to speak.
21 If you aren't able to follow those rules, then I will have to
22 hold you in contempt, and it is the last thing that I want to
23 do is see you taken back and detained, because the goal of this
24 proceeding today is to just get your initial appearance done,
25 advise you of your rights, enter the conditions of release.

1 The government is not asking that you be detained. So
2 if you're able to get through this hearing today, you'll walk
3 through those doors, go home, and I would think, hopefully, be
4 able to then proceed with your case however you choose to.
5 You'll next be before Judge McFadden. He is the district judge
6 in this matter who's handling your case. You'll have the
7 opportunity to litigate, argue that he does not have
8 jurisdiction because you are a sovereign citizen in front of
9 him. Unfort- --

10 THE DEFENDANT: I'm not a sovereign citizen. I'm a
11 sovereign people.

12 THE COURT: Sovereign person. Thank you.

13 THE DEFENDANT: I'm not a person.

14 THE COURT: People. You're a sovereign people.

15 THE DEFENDANT: People.

16 THE COURT: You'll have the opportunity in front of
17 Judge McFadden to make all of those arguments, and he will rule
18 however he wants to, and you'll then be able to react. But
19 you're going to be stuck with me unless we can get through this
20 proceeding today. So that will be up to you how you want to go
21 ahead.

22 I want to first tell you I am not appointing anyone to
23 be your lawyer. I just want to tell you the three options, and
24 then I'll hear what you have to say. The first is the
25 traditional, which we talked about at the last hearing, which

1 you're very clear you do not want, which is that someone would
2 represent you as your lawyer. And you said you don't want
3 that. That's your right.

4 The second is called standby counsel, which is where a
5 lawyer is just there on standby; right? You know, if you've
6 been on a flight, you know, you're kind of there and you're
7 waiting. If someone calls you, you get the call. If not, then
8 you don't. And so normally for all cases what we do is that we
9 have standby counsel who's just there, and if you want help
10 from them, then you say: Standby counsel, actually, I want to
11 talk to them. I'm not going to listen to them necessarily, but
12 I want to hear what they have to say. Maybe it's useful.
13 Maybe it's not. That's what Ms. Hernandez is willing to do.

14 And the third option is just you pro se, no lawyer, even
15 on standby.

16 THE DEFENDANT: I'm not pro se.

17 THE COURT: Okay. Well, you're on your own, however
18 you the people -- however you want to proceed. Those are the
19 three options.

20 So I first want to know -- because I don't want to do
21 anything, Ms. Bauer, within my power and within the rules of
22 the Constitution that's going to frustrate how you perceive
23 this should go forward. And so given those three options, I
24 think it's very clear you do not want to have me appoint
25 counsel; correct?

1 THE DEFENDANT: Correct.

2 THE COURT: Great.

3 Can you just tell me about standby counsel? They're not
4 going to do anything. They're not going to say anything, and
5 they're just there in the background. You still don't want
6 that?

7 THE DEFENDANT: No.

8 THE COURT: You're sure?

9 THE DEFENDANT: Yes.

10 THE COURT: Okay. Ms. Hernandez, at this point I
11 think Ms. Bauer has indicated she does not want to have standby
12 counsel. I think that, understandably, it's her life and she
13 should be able to make decisions about who does or does not
14 represent her. And so I appreciate that you want to help, even
15 in the standby role, but I think that that will only inflame
16 how things are going forward. So at this point, Ms. Hernandez,
17 I will relieve you as standby counsel.

18 If Ms. Bauer decides in the future that she wants
19 someone on standby, perhaps we will come back to you, but if
20 you have any concerns about that, I'm happy to hear from you,
21 Ms. Hernandez.

22 MS. HERNANDEZ: I'll do what the Court orders,
23 Your Honor. I'm happy to leave the hearing right now.

24 Were the Court to hold her in contempt, I -- I would ask
25 that the Court stay its order; but, again, I --

1 THE COURT: Understood.

2 MS. HERNANDEZ: I'm sorry. I'm hearing a lot of echo
3 in the background.

4 THE COURT: Okay. Thank you, Ms. Hernandez.

5 MS. HERNANDEZ: So if the Court were to consider
6 holding her in contempt, I would ask that the Court stay that
7 and -- and -- so she can appeal it to Judge McFadden.

8 THE COURT: Thank you. That makes sense.

9 So I will at this point relieve you. If for some reason
10 things do not progress and we're unable to get this proceeding
11 done today -- I don't believe that'll be the case. I think
12 Ms. Bauer does not want to be in custody. I do not want to put
13 her in custody. I think we're on -- on the same wavelength
14 here. And so I am hopeful we will not get to a contempt
15 proceeding.

16 But if you could please just stay on as a public
17 participant on the line, I would appreciate that, just because
18 this is open court. It's open to the public, and it is an
19 official record that will be listed and -- for future purposes
20 as the district court.

21 MS. HERNANDEZ: So, I'm sorry, you want me to get off
22 and call in on the public line?

23 THE COURT: No, no. I'm sorry. You can just stay on
24 the line now as a public participant --

25 MS. HERNANDEZ: Okay.

1 THE COURT: -- if you don't mind.

2 MS. HERNANDEZ: I -- I don't mind. Thank you, Your
3 Honor.

4 THE COURT: Thank you, Ms. Hernandez.

5 So, Ms. Bauer, there's various simple things we have to
6 do today. I've advised you of the right to counsel. You have
7 chosen -- I think you are -- made a knowing, intelligent, and
8 voluntary waiver. We spoke previously, and it's clear to me
9 that you do not want outside representation, which is your
10 right to do so. The Constitution guarantees you that. That's
11 in the Sixth Amendment. And so you have exercised that right,
12 and that is your right to do so. So we'll go forward with that
13 right having been exercised.

14 The next is the right to remain silent. I just have to
15 warn you that anything that you say can be used against you in
16 future proceedings, and so I want to be careful that whatever
17 we say here, you don't say something that could jeopardize
18 your -- whatever you want to do in the next proceeding in front
19 of Judge McFadden. You've been advised of that at our previous
20 proceeding, but I just wanted to remind you because it's
21 important.

22 The government, Mr. Steiner, is on the line. Anything
23 that you say now or at a future point, they could try to use
24 that against you. And so it's my job that -- make sure that
25 you hear that.

1 The next thing I want to do is talk about the conditions
2 of release. Mr. Steiner represents the United States as the
3 prosecutor. He has a right to ask for you to be detained prior
4 to trial or that you are out on release conditions.

5 So, Mr. Steiner, I want to hear what you're asking in
6 terms of the conditions of release for Ms. Bauer or if you're
7 seeking to have her detained.

8 MR. STEINER: Your Honor, the government is
9 requesting what I'll refer to as the standard or baseline
10 conditions of release. That would include that Ms. Bauer stays
11 away from the District of Columbia unless for court
12 appearances, pretrial service appointments, or attorney
13 consultations; that Ms. Bauer report to pretrial services from
14 her home jurisdiction as directed; and that she verify her
15 address, if she has not already done so.

16 And Ms. Bauer notify pretrial services in advance of any
17 travel that is within the United States or outside her home
18 federal court jurisdiction; that Ms. Bauer may travel outside
19 the continental United States only after first obtaining Court
20 approval; that Ms. Bauer participate in all future proceedings
21 as directed; and Ms. Bauer not possess any firearms,
22 destructive devices, or other dangerous weapons; and that
23 Ms. Bauer not commit any local, state, or federal crimes.

24 THE COURT: All right. Thank you.

25 And, Mr. Sidbury, you're on the line there?

1 THE DEFENDANT: I do not consent to those terms.

2 THE PRETRIAL SERVICES OFFICER: I am, Your Honor.

3 THE COURT: Yeah, I'll give you a chance, and
4 Mr. Sidbury will go next. He's -- so Mr. Sidbury is the
5 pretrial services officer. He represents the Court. That's
6 who represents people -- who represents the Court in
7 supervising people on pretrial release, those who are not being
8 detained.

9 So sorry. Mr. Sidbury, if you could introduce yourself
10 and let us know what you have to add.

11 THE PRETRIAL SERVICES OFFICER: Andre Sidbury for
12 pretrial services.

13 Your Honor, at this time we would request that she
14 report to our office by telephone to have an interview done,
15 but all of the other conditions that would -- that were
16 presented by AUSA Steiner are -- are okay release conditions.

17 THE DEFENDANT: I can't hear him at all.

18 THE COURT: Okay. That's all right. I can repeat it
19 for him.

20 So, Mr. --

21 THE DEFENDANT: That's okay. I don't need to hear
22 it.

23 THE COURT: Well, I have to make the record.

24 THE DEFENDANT: Oh. Consent --

25 THE COURT: Mr. Sidbury just said that he wants --

1 THE DEFENDANT: Consent makes law. Contract --
2 (Indiscernible simultaneous cross-talk.)

3 THE COURT: Again, you're going to wait for me to
4 speak. If you don't [sic] give me my turn, I will give you
5 your turn. I promise.

6 Mr. Sidbury simply said that he, as a pretrial services
7 officer, needs you to call in, as is every other person who is
8 on pretrial release, and just do an interview where you give
9 your name and your information and how they can contact you.

10 Next, I am going to turn to you to hear any objections
11 that you have as to the conditions of release. I'm only
12 talking about the conditions of release now. Go ahead.

13 THE DEFENDANT: I would like to give a -- a copy to
14 him.

15 THE COURT: So you can give it to Ms. Lavigne-Rhodes
16 to hand to me, or I can just take it.

17 Thank you.

18 THE DEFENDANT: Since you have not uploaded my notice
19 of special appearance, I'm going to read it into the court.

20 Created by, semicolon, capital letter, Pauline, lower
21 case --

22 THE COURT: Ms. Bauer, I can simply just enter this
23 on the record now by order. We haven't done anything because
24 we did not conclude our previous proceeding. So I will hereby
25 order that Ms. Bauer --

1 THE DEFENDANT: Sir, if you keep interrupting me,
2 I'll consider it as trespassing.

3 THE COURT: Okay, ma'am. It's only a one-way street
4 here right now. Only I can hold you in contempt. You cannot
5 hold me in contempt. So I'm -- I'm following your request.

6 THE DEFENDANT: Are you railroading me again?

7 THE COURT: No. I'm following your request. I'm
8 going to put this into the record. You'd like this into the
9 record. There is no court proceeding that we have had where
10 we're going to go through a 37-page plea and it's not relevant
11 to what we're asking.

12 I want to make sure you can leave this room out through
13 those doors.

14 THE DEFENDANT: I am going to read this into the
15 record.

16 THE COURT: Ma'am, you're not going to do that. I'm
17 going to enter it into the record.

18 THE DEFENDANT: I'm going to read this into the
19 record.

20 THE COURT: It's not relevant to what we're doing.
21 So now this is your last chance, Ms. --

22 THE DEFENDANT: It is relevant to what we're doing.

23 THE COURT: Ms. Bauer, why don't you summarize.

24 THE DEFENDANT: A de facto corporation has no
25 authority over me.

1 THE COURT: Do you have any -- you have clear
2 concerns about the conditions of release. Do you want no
3 conditions? I just need to know what you want.

4 THE DEFENDANT: I want no conditions of release.

5 THE COURT: Thank you.

6 THE DEFENDANT: No.

7 THE COURT: Great.

8 And so I'm going to one at a time go through them, and
9 if you can help me understand what you think of them. If I
10 have questions, some of them will be self-evident.

11 So let's start with the travel outside the
12 United States. You have to just notify pretrial and ask for
13 their permission. Is that something you don't think you can
14 do?

15 THE DEFENDANT: I would be happy to do that if you
16 could bring on burden of proof that I am a danger to society.

17 THE COURT: Okay. And so that's actually a flight
18 risk. So that's only if you're leaving the country that you
19 have to then get permission. If you're not leaving, you don't
20 have to ask for permission. So --

21 THE DEFENDANT: I don't have to ask permission at
22 all.

23 THE COURT: Okay.

24 THE DEFENDANT: I have not done any damage to anyone
25 or have harmed any- -- anything.

1 THE COURT: Ms. Bauer, you're -- you're correct.
2 You're, in fact, innocent right now. That's what I believe.
3 That's what Judge McFadden believes, because that's what the
4 Constitution guarantees you, a right to be presumed innocent.
5 However, you have been charged with a crime. So there's two
6 options: There's one where you're detained and one where you
7 are out on release.

8 THE DEFENDANT: I would be happy to accept the
9 charges, sir, if you could bring on burden of proof. The
10 burden of proof comes from the accuser, not the one being
11 accused.

12 THE COURT: And that's exactly what will happen in
13 front of Judge McFadden is that the government will have the
14 burden. If they can't meet that burden, your case will be
15 dismissed. Absolutely. You are right. You don't have to do
16 anything there because it's their job to show that whatever
17 they've alleged, which I believe that you're innocent of,
18 because that's what the Constitution says, they need to prove
19 beyond a reasonable doubt that it's true.

20 But we can't get there if you don't get conditions of
21 release set. Because if you don't have conditions of release,
22 I can't hand off your case to Judge McFadden.

23 THE DEFENDANT: I want no conditions of release.

24 THE COURT: Okay. And so I just want to know --

25 THE DEFENDANT: Under my bill of rights, I am not

1 accused of any- -- I am not convicted of anything.

2 THE COURT: That's correct.

3 THE DEFENDANT: Therefore, that is against my
4 rights --

5 THE COURT: Okay.

6 THE DEFENDANT: -- to give me a condition of release.
7 I'm not convicted.

8 THE COURT: Conditions of release are permitted by
9 the Bail Reform Act. That's the law that determines whether or
10 not you're under -- in custody or out of custody. And so I
11 understand that you do not want the conditions of release
12 any --

13 THE DEFENDANT: Under God's law I did not harm anyone
14 nor did any damage to anything.

15 THE COURT: Ms. Bauer, I just want to be -- and I'm
16 going to tell you again, it's up to you. Every time you say
17 you didn't do something, that could imply that you could have
18 been at a place where someone might have done something
19 criminal. I don't want you to say that because I want you to
20 have a successful defense when you get to Judge McFadden.

21 So any time you talk about anything that might be
22 happening --

23 THE DEFENDANT: Under God's law --

24 THE COURT: Mr. Steiner, is --

25 THE DEFENDANT: -- I did no harm to anyone --

1 THE COURT: Great.

2 THE DEFENDANT: -- or any damage to anything.

3 THE COURT: I think that's why Mr. Steiner is not
4 asking for you to be detained, whereas other people have been
5 detained in these proceedings. He's asking for the standard
6 conditions of release.

7 I understand that you objected to all the conditions of
8 release. I can't see a basis to do so, which is why I'm trying
9 to ask you if you're -- you can help me see why they are so
10 burdensome. I understand that you're innocent, and so you feel
11 you shouldn't have any, but this is where maybe you can help me
12 understand if there's -- for instance, there are people who,
13 you know, are supposed to stay in your [sic] home district.

14 And so we had a defendant who was in Florida, but he was
15 a truck driver and he needed to drive through multiple
16 jurisdictions. And so I did not include the conditions of the
17 release that he had to seek permission to go to another
18 district because that's burdensome. And it is not helpful to
19 him.

20 THE DEFENDANT: I am a business owner.

21 THE COURT: Okay.

22 THE DEFENDANT: And I don't get to take vacations
23 very often, and I have a vacation planned, plus I have seminar
24 plans. And I do not understand -- I do not see why I am being
25 put into any of these conditions. You let me go for five

1 months. I was not a harm to anyone under God's law.

2 THE COURT: So, Ms. Bauer, I have signed orders to
3 allow people who are on conditions of release to travel for
4 vacations. You -- because you're presumed innocent, as you
5 said; that doesn't mean -- because there are -- there are
6 formal charges that have been brought against you -- that you
7 lose your rights to have and enjoy your life. You absolutely
8 do get that.

9 And so I want to work with you to make sure that you can
10 operate your business, that you can go on vacation, that you
11 can do all the things that are within the system of what our
12 laws permit, the Bail Reform Act permits. I think that that's
13 very reasonable, everything that you're requesting, but I need
14 you to help me figure out what are the things you're asking
15 for.

16 If it's just you don't want any of them, it's going to
17 be really tough because everyone else is getting them and
18 that's what's considered fair. If you can show me: Hey,
19 here's a reason why. Like, do you have a firearm?

20 THE DEFENDANT: It's my Second Amendment right to
21 have my firearm.

22 THE COURT: Great. So you do have a firearm. And
23 you don't want to give that up; is that fair to say?

24 THE DEFENDANT: That is.

25 THE COURT: Okay. Great.

1 So one of the reasons why people have to give up
2 their --

3 THE DEFENDANT: I am a business owner.

4 THE COURT: Uh-huh.

5 THE DEFENDANT: I can get robbed at any time.

6 THE COURT: Do --

7 THE DEFENDANT: I need to be able to defend myself.

8 THE COURT: Okay. Do you keep your firearm in your
9 business, or do you keep it at your home? Because the concern
10 only primarily, I'll say -- Mr. Sidbury, we'll hear from him --
11 is that when pretrial services, if they ever have to come to
12 your home to check if there's an issue or anything --

13 THE DEFENDANT: Pretrial services has no jurisdiction
14 over me. It's a de facto corporation.

15 THE COURT: Pretrial services is part of the Court.
16 It's part of what the Constitution established.

17 THE DEFENDANT: It's a part of your de facto
18 corporation, and you have no jurisdiction over me.

19 THE COURT: I'm --

20 THE DEFENDANT: I am a free living soul, a woman, a
21 fiduciary, a trustee --

22 THE COURT: So we're --

23 THE DEFENDANT: -- a creation of God.

24 THE COURT: -- we're going to have trouble getting
25 forward if you refuse to acknowledge that you'll have to

1 listen. You don't have to agree that they have jurisdiction.

2 THE DEFENDANT: I would like to read into the
3 court --

4 THE COURT: We're -- I've already --

5 THE DEFENDANT: My special appearance.

6 THE COURT: I've already entered --

7 THE DEFENDANT: I would like to read into the court
8 my notice of special appearance.

9 THE COURT: I have already entered it onto the
10 record. We don't need things that are already on the record.

11 THE DEFENDANT: I would like to read into the
12 court's --

13 THE COURT: I understand you would like that.

14 THE DEFENDANT: -- my special appearance.

15 THE COURT: But I don't think that that -- reading
16 that document is relevant.

17 THE DEFENDANT: I am going to read --

18 THE COURT: No, Ms. Bauer, you're not.

19 THE DEFENDANT: -- my special appearance.

20 THE COURT: Ms. Bauer, I don't -- please do not --
21 you have the keys to your jail cell. Do not open it and put
22 yourself in it. Let's focus on the conditions of release.

23 THE DEFENDANT: Do not railroad me.

24 THE COURT: Ma'am, I'm not railroading you. I'm
25 trying to make sure that you can leave this courtroom today and

1 continue to maintain your business --

2 THE DEFENDANT: I can leave this courtroom today when
3 I read my notice of special appearance.

4 THE COURT: Let's get through the conditions of
5 release first, set those, and then we can talk about that.

6 THE DEFENDANT: You don't have jurisdiction over me,
7 the free living soul, a woman.

8 THE COURT: I don't need to argue with you about
9 that. You are entitled to believe that, and you will be
10 entitled to argue that in front of Judge McFadden, but he's the
11 only person who can agree with you. I don't have the ability
12 to say yes or no to that. What I am trying to do is get you to
13 Judge McFadden so that you can make that argument, and he may
14 believe you and agree with you and say: You're right. The
15 case is dismissed.

16 But if you don't agree with moving this case forward,
17 you can't get there. And so I just need you to understand the
18 conditions of release.

19 On the firearm, do you think that you would be
20 willing -- I can't even say. I have to hear from the
21 government. They may object and Mr. Sidbury may object, but
22 could you just leave the firearm at your place of business,
23 outside of your home?

24 THE DEFENDANT: Yes.

25 THE COURT: Okay. Thank you.

1 Mr. Sidbury, the defendant has a business, and she's
2 concerned for her safety. Given that pretrial typically makes
3 home visits, what do you think about having the condition
4 modified that the firearm has to be only at the business and
5 not in her residence?

6 THE PRETRIAL SERVICES OFFICER: Your Honor, if we
7 could, they also do employment visits. We also request that
8 she not have a firearm at her employment as well.

9 THE COURT: Okay. Thank you.

10 And, Mr. Steiner?

11 MR. STEINER: Your Honor, I would join in pretrial's
12 request that we continue with the standard conditions here;
13 that the defendant not be allowed to possess a firearm either
14 at her home or her business or on her person. I think the
15 condition of pretrial's interest, the defendant's demonstrated
16 lack of compliance with pretrial's conditions that have been
17 posted so far.

18 I think counsel perhaps is creating a little bit wider
19 zone here than may otherwise be necessary in a case for a
20 defendant who presents some reason to be able to possess --
21 possess a firearm.

22 THE COURT: Okay. Thank you.

23 Do we know where all the parties are? I want to go one
24 at a time to see if we can get through them all and then come
25 back to any place where there's a disagreement.

1 So here we have a disagreement. The defendant has asked
2 that -- and I'll say to her credit, she is trying to work with
3 the Court, a Court that she does not recognize the jurisdiction
4 of, and that she is trying to find a path forward that
5 accommodates what I am asking. And so I appreciate -- thank
6 you, Ms. Bauer, for trying to do that.

7 I'm not going to rule on that request yet. I'm going to
8 go one at a time to see what all we have and how -- if we can
9 get to a point where we can --

10 THE DEFENDANT: I would be happy to consider your
11 pretrial services if you could bring to me where I am proven to
12 be a danger to society.

13 THE COURT: So the government is not -- the reason
14 that you're not having a detention hearing in terms of going
15 into custody is that they don't believe you're a danger to
16 society. Mr. Steiner has not alleged that, nor has he alleged
17 that you're a flight risk.

18 There are conditions or a combination of conditions,
19 they believe, that can both reasonably assure your
20 appearance -- so flight risk -- and that reasonably assure that
21 you're not a danger to the community.

22 So Mr. Steiner agrees with you. The government agrees
23 you're not a danger. The government agrees you're not a flight
24 risk. These are the conditions.

25 THE DEFENDANT: I would be happy to agree to your

1 conditions if you can prove to me that I am a danger to my
2 community. I've been running a business for 15 years in my
3 community. I volunteer in my community. I volunteer within
4 the U.S. Forest Service. I volunteer with everything. I am
5 not a danger to my community.

6 THE COURT: I think we all agree with you; that --
7 first of all, your volunteer service is commendable.

8 THE DEFENDANT: I do not agree to your pretrial
9 services.

10 THE COURT: The problem is is that if you --

11 THE DEFENDANT: I do not consent to your pretrial
12 services.

13 THE COURT: So you're saying that -- under no
14 condition you'd be willing to speak to pretrial services; is
15 that right?

16 THE DEFENDANT: That is correct.

17 THE COURT: And that --

18 THE DEFENDANT: No conditions.

19 THE COURT: And -- sorry. I want to be very clear.
20 I'm not talking about conditions of release.

21 So even if there are no conditions of release, that you
22 can do whatever you want to, pretrial is still who will be
23 supervising you.

24 THE DEFENDANT: Pretrial services does not have
25 jurisdiction over me.

1 THE COURT: Okay. And so --

2 THE DEFENDANT: It's a de facto corporation.

3 THE COURT: Are you --

4 THE DEFENDANT: Part of the de facto corporation.

5 THE COURT: You're unwilling to call into pretrial
6 services, a phone number, to do the interview then; is that
7 right?

8 THE DEFENDANT: I do not consent to pretrial
9 services.

10 THE COURT: Okay. Ms. Bauer, you're leaving me no
11 choice. It's the only thing I can do then is hold you in
12 contempt. And so if you're unwilling to have a phone call
13 interview with pretrial services, what we can do is re- --
14 reconvene -- I'll give you two options. One is in -- it's 1:48
15 now. I have a series of other hearings.

16 We can reconvene at 2:30, if you want to take some time
17 to think about it and think about the conditions of release. I
18 will tell you these are the ones in the -- about two- to three
19 hundred other cases we've set. I'm inclined to set the same
20 conditions of release because those people are doing the same
21 things that you're doing. It would be incredibly unfair to
22 them that you would get some special treatment. I don't think
23 you seem like a person who wants special treatment. I think
24 you want to be treated fairly and evenly, just like everyone
25 else is.

1 And so if you are willing to abide by the conditions of
2 release and follow them, you get to leave this court today, go
3 home, continue to run your business. But if you're not willing
4 to be supervised by pretrial, the only path for me forward is
5 to hold you in contempt and we can try to meet again later
6 today after you've been confined to a cell.

7 THE DEFENDANT: I would like to read my notice of
8 special appearance into the court.

9 THE COURT: Ms. Bauer, I've already told you, that's
10 not something we're going to do until --

11 THE DEFENDANT: I am going to --

12 THE COURT: -- until --

13 THE DEFENDANT: -- read my notice of special
14 appearance.

15 THE COURT: Ms. Bauer, until we have the conditions
16 of release, I will not consider that. That is a reason for you
17 to get through the conditions of release. But if you can't get
18 through the conditions of release, we can't get through your
19 special appearance.

20 THE DEFENDANT: Are you claiming to derive your
21 authority from your uncle's office? Are you claiming to --

22 THE COURT: Ms. Bauer, this is your last chance.

23 THE DEFENDANT: -- authority over me from the --

24 THE COURT: Okay. U.S. Marshal, I hereby hold the
25 defendant in contempt. She's to be remanded to the custody of

1 the U.S. Marshals Service.

2 We will reconvene at, let's say, 3:00 p.m. with the
3 defendant, Ms. Bauer, then, and we'll try to attempt again.

4 Mr. Steiner, are you available then?

5 MR. STEINER: I am, Your Honor. Thank you.

6 THE COURT: Okay. Ms. Hernandez, I'd ask -- I will
7 stay my excusable view. If at that time you want to make
8 argument, I will hear from Ms. Bauer first again and then hear
9 from you, but we will reconvene at that time and attempt to see
10 if we can get through the initial appearance.

11 MS. HERNANDEZ: Yes, sir.

12 THE COURT: Okay. Parties are excused.

13 (Recess taken at 1:50 p.m.)

14 THE COURTROOM DEPUTY: Recalling Criminal Case
15 21-386, Defendant No. 2, the United States of America --

16 MS. HERNANDEZ: Are we waiting for the judge to come
17 back on?

18 THE COURTROOM DEPUTY: I'm sorry, Ms. Hernandez?

19 THE COURT: I'm here, Ms. Hernandez.

20 MS. HERNANDEZ: Are we waiting for the judge --

21 THE COURT: I'm here.

22 THE COURTROOM DEPUTY: Okay.

23 MS. HERNANDEZ: Are we waiting for the judge to come
24 back on?

25 THE COURTROOM DEPUTY: No, we're starting. No, we're

1 starting.

2 MS. HERNANDEZ: Oh.

3 THE COURTROOM DEPUTY: Recalling Criminal Case
4 21-386, Defendant No. 2: The United States of America v.
5 Pauline Bauer. This matter is set for an initial appearance
6 and arraignment.

7 THE COURT: Mr. Steiner, are you able to enter your
8 appearance to begin with. I think they --

9 MR. STEINER: Yes, Your Honor. This is Jacob Steiner
10 for the United States. I'm appearing on behalf of Vivien
11 Cockburn this afternoon.

12 THE COURT: Thank you.

13 And Ms. Bauer is here, again, in person. Again,
14 Ms. Bauer has chosen not to have counsel represent her, which I
15 understand. I think she made a knowing, voluntary, and
16 intelligent waiver and has chosen to exercise her Sixth
17 Amendment rights. Ms. Hernandez is merely observing right now.
18 She is not in any form representing the defendant.

19 So, Ms. Bauer, I just want to see again if we can talk
20 about the conditions of release. I can only begin with one
21 question, which is: You have the right to not like the system.
22 You have the right to object to the jurisdiction of this Court.
23 You will get to do that with Judge McFadden.

24 My goal is to get the conditions of release set today so
25 you can go home, you can manage your business, you can go on

1 vacation, what -- I want to work those things out, if we can do
2 that, and then -- it has to be -- involve part of the Court,
3 the judiciary, Article III of the Constitution, pretrial
4 services. And so if we can do that, then we can go forward.

5 If we can't, then I'll have to remand you again and we
6 can try again tomorrow. I don't think that's in your best
7 interest. I don't think that you should be back there. I'm
8 hoping we can get this across the finish line, but it's up to
9 you.

10 So do you think you can preserve your right? You can
11 have what's called a standing objection; say I object to the
12 jurisdiction of this Court, I object to the existence of
13 pretrial services. And I'll note that for the record, if
14 that's something you want me to do, but once your standing
15 objection is there, we have to go on. And you've preserved
16 that right.

17 So it's a right that you have in front of Judge McFadden
18 and a right you have before the next court, which is the
19 D.C. Circuit, and then the Supreme Court. So if that's
20 something that we can do, you feel like you get to make your
21 objection to the Court's authority and pretrial, but then we go
22 on and you can follow my directions, we can close this up
23 pretty quickly and have you on the road.

24 Now, again, I have to resolve the conditions of release.
25 They may not be conditions that you like. Again, my word is

1 not final. You have the opportunity before Judge McFadden at
2 your next hearing to say: Judge McFadden, Judge Faruqui was
3 totally out of line. First, you don't have jurisdiction over
4 me. Second, he made me turn over my firearm or he made me have
5 to tell pretrial that -- before I go out of the district. All
6 of this doesn't make any sense.

7 And Judge McFadden can say: Ms. Bauer, you're right. I
8 totally agree with you. That's totally unfair. You have a
9 Second Amendment right or you have the right to a freedom of
10 association, your First Amendment right, and he could say that.
11 And then after that you have the opportunity to have those
12 conditions removed.

13 But today I have to set the conditions before you can
14 then have the opportunity to be reheard on them, and I may
15 agree with you on some of them.

16 So that's where we are. Do you feel like you can go
17 forward?

18 Ms. Bauer, it's a yes or no. Do you feel like you can
19 go forward with what I've described?

20 Okay, Ms. Bauer. It's the last chance. I need you to
21 answer yes or no. If you don't, then I'm going to have to
22 remand you back to custody. What do you think? Yes or no; can
23 you go forward with what I've suggested?

24 THE DEFENDANT: I am Pauline Bauer. I am a free
25 living soul, a sui juris, a fiduciary.

1 You have my name in all capital letters. That is not
2 who I am. This Court has no jurisdiction over me.

3 THE COURT: So as I hear it, Ms. Bauer, you're
4 unwilling to go forward. So I'm going to, again, remand you
5 back to custody.

6 Ms. Lavigne-Rhodes, do you want to pick a time for a
7 hearing tomorrow? We can try again in the afternoon.

8 Do you want to say 3:00 p.m., Ms. Lavigne-Rhodes?

9 THE COURTROOM DEPUTY: Yes.

10 THE COURT: Okay. We'll recall this case tomorrow at
11 3:00 p.m.

12 In the interim, I'm going to continue to keep --
13 Ms. Hernandez, we'll keep you on the hook. If you want to file
14 any paperwork that you think contempt is inappropriate, I'll
15 have your limited appearance simply for that purpose, to object
16 to any of the contempt or detention proceedings. Is that
17 something that works for you?

18 MS. HERNANDEZ: Yes, Your Honor. May I be heard
19 (indiscernible)?

20 THE COURT: Yes. Yep.

21 I'll just note for the record the defendant is not
22 present at this time. I think that she's already stated that
23 she's unwilling to answer yes-or-no questions about even going
24 forward. I think having her in the courtroom would be -- only
25 inflame what is already a tense situation.

1 So I'll hear you for the limited purpose we've
2 discussed; is that I am appointing you to just be standby
3 counsel in terms of -- you can file anything in regards to
4 contempt proceedings or anything else ancillary related to
5 that.

6 Go ahead, Ms. Hernandez.

7 MS. HERNANDEZ: Your Honor, the only thing I was
8 going to suggest -- and, again, under my limited role -- is
9 perhaps the Court could impose whatever conditions it feels are
10 appropriate. If Ms. Bauer violates those, pretrial services
11 can file a notice of violation and the matter would go in front
12 of Judge McFadden to determine whether (indiscernible), in
13 fact, a violation and if there is (indiscernible) limited to
14 (indiscernible) violation and (indiscernible) the person on the
15 same condition. And that would avoid her having to spend the
16 night, I guess, at D.C. jail tonight.

17 THE COURT: Well, I'm going to try that tomorrow. I
18 mean, she's hopefully heard from one of my astute law clerks --
19 Ms. Weiant; I think we have to figure out -- she's not going to
20 be willing, from what I can tell, to be sworn into the
21 conditions of release.

22 So what do you think about that, Mr. Steiner? I know --
23 not one, but two former law clerk positions, I'm sure you have
24 the active (indiscernible) tonight for us and not just stick us
25 with the research assignment. So if you can look into that,

1 see if you have any thoughts on that. And if -- how we can
2 proceed if someone refuses to go forward with conditions of
3 release, even acknowledging the -- I guess the existence of the
4 authority of the Court.

5 I mean, I -- I agree with Ms. Hernandez that I can
6 simply -- and I will ultimately make a decision and enter
7 conditions of release. And then once I do, it's up to the
8 person to comply. There's nothing immediate, other than
9 swearing to agree to them; but, you know, when we're not in
10 person and on Zoom, we do, in fact, have, you know, the
11 defendant -- but as would be here today, they would sign the
12 conditions of release.

13 And I -- setting aside whether or not she's going to be
14 sworn into that, I'm quite confident she will not sign those
15 given where we are today. Perhaps that will change tomorrow.
16 So if she's unwilling to be sworn in and unwilling to sign the
17 conditions of release, I think we're still kind of stuck.

18 But I'd be happy, Ms. Hernandez, if you can provide me
19 with any authority or any, you know, court that has acted in
20 such fashion. I mean, I do understand what you're suggesting,
21 is that perhaps we can give this to Judge McFadden. I don't
22 want to set the defendant up to fail, though, and that's what I
23 feel like I'm doing, or just delaying the inevitable, so...

24 But I am unhappy that someone who the government has
25 asked and pretrial has asked to be out in the community is

1 instead being detained now. I will note -- as I will tell her
2 again tomorrow -- and I said earlier today -- she has the keys
3 to her jail cell, as with all contempt cases.

4 And I hope that she exercises the sound discretion to
5 decide to do what is needed to move this forward; but I'm happy
6 to hear from you both tomorrow at the appointed time if you
7 have any thoughts as to creative ways we can move this forward.

8 Mr. Sidbury, are you on the line?

9 THE PRETRIAL SERVICES OFFICER: Yes, Your Honor, I
10 am.

11 THE COURT: Okay. Have you had a situation, or maybe
12 you can speak to your colleagues, of something like this where
13 you've been able to resolve and the person feels like they're
14 able to maintain their, sort of, legal argument but still be
15 supervised?

16 THE PRETRIAL SERVICES OFFICER: No, Your Honor. I
17 personally have never experienced this, and I don't know of
18 anyone else that has experienced this.

19 THE COURT: Thanks, Mr. Sidbury.

20 THE PRETRIAL SERVICES OFFICER: The other --

21 MS. HERNANDEZ: Your Honor -- I'm sorry, Your Honor,
22 the other --

23 THE PRETRIAL SERVICES OFFICER: The other --

24 THE COURT: Go ahead, Mr. Sidbury. We'll come to you
25 in a minute, Ms. Hernandez.

1 Go -- go ahead, Mr. Sidbury.

2 MS. HERNANDEZ: Sorry.

3 THE PRETRIAL SERVICES OFFICER: So especially when
4 we're requesting courtesy supervision from another
5 jurisdiction, we've never experienced that before; and that
6 other jurisdiction indicated that they can't supervise the
7 defendant because they have been uncooperative.

8 THE COURT: All right. Thank you, Mr. Sidbury.

9 Go ahead, Ms. Hernandez.

10 MS. HERNANDEZ: Right. Your Honor, the other thing I
11 was going to request is that Ms. Bauer was willing to
12 (indiscernible) court today, as the Court directed her to do a
13 week ago, even though the schedule was changed. So rather than
14 (indiscernible) overnight, I would ask the Court to continue
15 the hearing for a day or two so that I can do some research on
16 whether the Court can impose conditions without her swearing in
17 or admitting the jurisdiction of the Court; let her go home or
18 come back for another date later this week. I mean, she showed
19 her willingness to do -- subject herself to the Court's
20 jurisdiction by showing up today.

21 So I -- instead of imposing -- instead of holding her
22 in, I guess, contempt and detaining her overnight, I would ask
23 that alternatively the Court determine that -- to hold a
24 hearing on the contempt, have us brief the issue, and have her
25 come back on a date -- I would say in a couple of days

1 (indiscernible) tomorrow, but if tomorrow is what the Court
2 (indiscernible) tomorrow.

3 That way she can (indiscernible). I don't know whether
4 she drove to town and her car is parked on the street and if
5 they'd be towed (indiscernible), kind of, start to get a little
6 bit burdensome for her.

7 I think that -- she's shown herself (indiscernible) to
8 subject (indiscernible) of the Court by returning today. She
9 also, at least at the beginning of the hearing (indiscernible),
10 was willing to modify her (indiscernible) to the firearm.

11 So (indiscernible) some flexibility. So rather than
12 hold her overnight, I would see if she would be willing to come
13 back Friday or tomorrow (indiscernible) or today, some day this
14 week.

15 THE COURT: Thank -- thank you, Ms. Hernandez.

16 Mr. Steiner, I'm happy to hear from you.

17 MR. STEINER: Your Honor, I -- I certainly understand
18 Ms. Hernandez's concerns and -- and her argument.

19 I think the real concern here is based on the -- the two
20 proceedings we had before Your Honor. I think it's very clear
21 that Ms. Bauer is -- is not going to comply with the -- with
22 the Court's direction or agree to any conditions of release,
23 from what I can tell. I think that holding her in contempt and
24 ordering her detained overnight does serve the purpose of
25 hopefully instructing her as to the -- the Court's jurisdiction

1 over her and the penalties that do accompany contempt.

2 I also note, I would be a little concerned about
3 allowing Ms. Bauer to remain in the District for a large period
4 of time. Obviously one of the conditions the government
5 requested today was that she stay away from the District of
6 Columbia. I'm not sure if we were to reschedule the hearing,
7 if she would stay in the District or leave the District. But
8 given her inability to agree to any conditions of release and
9 combined with the allegations in the complaint, I would be
10 concerned about her remaining in the District and potentially
11 posing a danger to residents in the District of Columbia,
12 including members of Congress and their staff.

13 MS. HERNANDEZ: So, Your Honor, I'm --

14 THE COURT: Go ahead, Ms. Hernandez.

15 MS. HERNANDEZ: -- not suggesting (indiscernible)
16 stay overnight in the District. I'm just (indiscernible) home.
17 And also my response is twofold. Either she's (indiscernible)
18 subject to the jurisdiction of the Court, and then it would
19 make sense for the Court to just (indiscernible) hearing, allow
20 us to (indiscernible), allow me to research. (Indiscernible)
21 the Court could just impose conditions (indiscernible),
22 doesn't -- not willing to swear to (indiscernible).

23 Alternatively, if the government is saying or if what
24 the Court is (indiscernible) determining is that she's not
25 willing to subject herself to the jurisdiction of the Court,

1 I'm not sure if contempt is appropriate under those
2 circumstances.

3 I -- my limited (indiscernible) at the point if the
4 Court determines -- that a Court determines that someone who's
5 held in contempt (indiscernible) not going to change their
6 position, then contempt is not an appropriate remedy at that
7 point. My understanding is (indiscernible) witnesses are held
8 in contempt for refusing to testify, but at some point the
9 Court determines that (indiscernible) further contempt is not
10 going to change the witness' mind, then contempt should end at
11 that moment.

12 So if -- if what -- I don't think she should be held in
13 contempt just to punish her or coerce her. The theory I
14 (indiscernible) is that she would change her mind
15 (indiscernible) the document. I just think it's not necessary
16 to detain her. If the Court could -- given her (indiscernible)
17 willing to -- to (indiscernible) to some extent to the Court's
18 jurisdiction, the Court could just schedule a hearing tomorrow,
19 two days from today, to go home to Pennsylvania and return in
20 two days or -- those are my alternatives (indiscernible) to
21 avoid a jail sentence.

22 I'm not sure that that's -- I'm trying to avoid having
23 her (indiscernible) give her some time. I'm not sure it's
24 going to change her mind. I think it will make it worse.

25 THE COURT: Well, I appreciate -- Ms. Hernandez, you

1 should be commended. It's very easy for you to just throw up
2 your arms and not care, and I appreciate how much you do care.
3 I think that's the mark of a true -- not only a great attorney,
4 but of a great person. So thank you.

5 I hear what you're saying. Contempt -- when contempt is
6 futile -- futile, when it cannot prompt a response from the
7 person -- and so if I believe that the defendant will under no
8 circumstances accept the jurisdiction of this Court, then I
9 believe the law is pretty clear. I do have to release them.
10 So here intransigence, if it's a ten out of ten, then they --
11 in fact, after a period of time of demonstrating that
12 intransigence, I think, they are generally, I think, as --
13 criminal contempt as opposed to civil contempt, the law is
14 clear that they are to be released.

15 I don't think we're there yet. I think -- I think
16 criminal contempt is where we are right now. So I think that
17 the defendant is not a danger of flight risk so great that that
18 is a reason to hold her. I think, however, the defendant has
19 refused to answer my questions. I've given her multiple
20 chances, both last week in the video hearing and then today at
21 the prior proceeding.

22 And -- and, in fact, at this proceeding, she's now taken
23 steps backwards. So she was un- -- unwilling even to answer a
24 yes-or-no question. And so for that reason I think criminal
25 contempt is appropriate. I think her behavior overall shows

1 that she is of sound mind and that the whole purpose of
2 contempt in -- criminal contempt is that it is to correct
3 behavior that is correctable.

4 I agree that when it's -- cannot be corrected, then it
5 is hopeless, but I have nothing at this point to demonstrate to
6 me we're there. I think in typical contempt proceedings,
7 that's after someone has been in custody for months. When it's
8 a grand jury investigation, it's when the grand jury is about
9 to expire, and that's typically when contentious witnesses are
10 then released from jail if they've expired and outlived the --
11 the grand jury's pendency.

12 Here I -- I am with you, Ms. Hernandez. I am very
13 unhappy that the defendant has to spend a night in jail.
14 That's not something I feel will be good for her, and I am
15 concerned that it might make her more frustrated with the
16 system, but I don't -- I think it's the least bad choice that I
17 have in front of me. I think that if I continue to go forward
18 after she has engaged in con- -- contentious behavior, I don't
19 think the contempt will change unless there is some
20 consequence. That's why contempt exists and why criminal
21 contempt exists.

22 And so I will be eager tomorrow at 3:00 p.m. to, again,
23 find a path in which we can do what the government had
24 requested and pretrial, which is release her on conditions of
25 release. If that's -- somehow we can do it without -- over her

1 objection, I'm all ears. I'd love to hear that, but I need
2 some guidance. But in the near term, I agree with the
3 government that contempt is appropriate -- criminal contempt at
4 this time -- and that we'll revisit it tomorrow to see if there
5 is a path forward to get the defendant to a place where she can
6 just agree to the -- the baseline that we need so that her case
7 can move forward to Judge McFadden. So I'll note your
8 objection.

9 I look forward to hearing from you-all again tomorrow.

10 Thank you, Ms. Hernandez. I really do appreciate it.

11 That's it. The parties are excused.

12 (The proceedings concluded at 3:32 p.m.)
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CERTIFICATE

I do hereby certify that the foregoing is a true, correct, and complete transcript of the audio-recorded proceedings in this matter, audio recorded on June 21, 2021, and transcribed from the audio recording to the best of my ability, and that said transcript has been compared with the audio recording.

Dated this 1st day of July, 2021.

/s/ Nancy J. Meyer

Nancy J. Meyer, Official Court Reporter
Registered Diplomate Reporter
Certified Realtime Reporter
United States Courthouse, Room 6509
333 Constitution Avenue Northwest
Washington, DC 20001
202-354-3118
nancy_meyer@dcd.uscourts.gov