

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	CR No. 21-28-9
)	Washington, D.C.
vs.)	March 26, 2021
)	10:00 a.m.
CONNIE MEGGS,)	
)	
Defendant.)	
_____)	

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

APPEARANCES:

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

2 COURTROOM DEPUTY: Good morning, Your Honor.

3 This is Criminal Case No. 21-28-9, the United States of
4 America versus Connie Meggs.

5 Jeffrey Nestler for the government.

6 David Wilson for the defense.

7 Christine Schuck on behalf of Pretrial Services.

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

10 THE COURT: All right. Good morning, everybody.
11 Hang on for one second, please.

12 Okay. Sorry about that, everyone.

13 Good morning to everybody.

14 Ms. Meggs, good morning to you. Can you hear me
15 okay?

16 THE DEFENDANT: Yes. Good morning, Your Honor.

17 THE COURT: All right.

18 So we're here this morning -- my apologies for the
19 delay -- on Ms. Meggs's motion on reconsideration or sort of
20 renewed request for pretrial release.

21 Just at the outset, let me be clear that I'm
22 treating this as an appeal, a de novo appeal from a
23 magistrate judge that found her -- that determined to detain
24 her.

25 So the delay this morning was caused by the

1 Circuit's issuance of *United States versus Munchel*, which is
2 a case that sort of directly concerns detention
3 considerations for Capitol riot defendants. And so I wanted
4 to take a moment to read that case or at least quickly read
5 through it and I want to make sure both sides have had a
6 chance to read through it as well. And I gather both sides
7 have had the opportunity to review it.

8 Mr. Nestler?

9 MR. NESTLER: Yes, Your Honor.

10 THE COURT: And Mr. Wilson?

11 MR. WILSON: Yes, sir.

12 THE COURT: Okay.

13 All right. So we'll start with the government.

14 And I guess the question to ask, Mr. Nestler, at
15 the outset, is whether the decision in *Munchel* changes the
16 government's outlook here at all with respect to Ms. Meggs?

17 MR. NESTLER: It does not, Your Honor.

18 THE COURT: Okay.

19 Go ahead, Mr. Nestler.

20 MR. NESTLER: I'm happy to explain it further.

21 THE COURT: Of course. Go ahead. I'd like you to
22 do that.

23 MR. NESTLER: Sure.

24 So if we look at page 19 of the majority's opinion
25 in *Munchel*, Your Honor, it talks about -- the Circuit talks

1 about how Mr. Munchel and his mother came in afterwards,
2 were sort of looky-loos who came into the Capitol building,
3 after others had assaulted officers, had broken down
4 barricades, had broken through doors and windows, and that
5 they were not involved and there were just the two of them.

6 The Circuit makes clear to say that those who
7 "aided, conspired with, planned, or coordinated the attack
8 on the Capitol are in a different category than Mr. Munchel
9 and his mother."

10 And that is the category that we're in here,
11 Your Honor, with Ms. Meggs and with the other defendants as
12 part of this case. That's where they are charged together
13 as co-conspirators. They are the ones who coordinated in
14 advance. They're the ones who others parted the way so that
15 these defendants could get closer to the door and could, by
16 their numbers, by their presence, by what they were carrying
17 with them, by their training actually help break into the
18 Capitol in order to cause that obstruction.

19 THE COURT: What do we make of the fact that --
20 I mean, there's no evidence here, at least with respect to
21 Ms. Meggs, of engaging in actual destruction of property, of
22 entering the Capitol building, of -- not assaulting a police
23 officer in the Capitol building or outside the Capitol
24 building.

25 Would you agree with me that those factors sort of

1 weigh against pretrial-detention determination?

2 MR. NESTLER: Yes.

3 As to Ms. Meggs, she did not personally partake in
4 those activities, as far as the evidence currently shows.
5 But because we believe some of her co-conspirators may have
6 done so and because of the presence of her conspiracy, that
7 would weigh in favor of the detention.

8 One of the pieces the Circuit referenced was that
9 Mr. Munchel and his mother were able to commit the crimes
10 they committed because of "the presence of the group."
11 So the group of dozens or hundreds of other individuals that
12 allowed those two defendants in the Circuit case to commit
13 crimes.

14 Here, there's a different concern. And the
15 Circuit said for those two, now that that mob is no longer
16 at the Capitol, there's less of a concern that those two are
17 going to be able to commit further crimes, because they used
18 that group in order to commit the crimes.

19 Here, the problem is the group itself. We have
20 this group of Oath Keepers, there are ten charged in this
21 conspiracy right now, as we indicated previously,
22 Your Honor, the investigation continues, and there may be
23 others -- we certainly have video and photographs of others
24 working in concert with these ten who are currently charged.

25 That group itself is a danger. It's the presence

1 of that group, the training that they did in advance, the
2 communications they did in advance and leading up to, and
3 then the government's concern of what they could do in the
4 future because of their group themselves, the size of their
5 group and the training and organization of their group.

6 THE COURT: What do we know about Ms. Meggs's
7 having participated in a firearms training class? What do
8 we know about that event, if anything?

9 You've alleged that they --

10 MR. NESTLER: We do know that --

11 THE COURT: I'm sorry -- that she participated in
12 a firearms training class in advance of the rally.

13 MR. NESTLER: Yes, Your Honor.

14 We do know that in September of 2020, she, her
15 husband, Kelly Meggs, and another member of the conspiracy,
16 Kenneth Harrelson, "participated in a firearms training
17 class" would be to undersell it, Your Honor. It appears to
18 be some sort of paramilitary class about how to go on the
19 offense, like a military training class, not a firearm
20 safety training class or a protective detail firearm safety
21 training class, how to use guns and be safe; this is how to
22 attack and kill people.

23 THE COURT: And is that --

24 MR. NESTLER: And so we know that she was there.

25 We have --

1 THE COURT: I'm sorry.

2 MR. NESTLER: Sorry.

3 THE COURT: When you call it a "class" or a
4 "training," is this something -- I'm just trying to
5 understand: Was this something sponsored by an
6 organization? Was it something that was done ad hoc among a
7 group of individuals? Can you describe how this came
8 together, to the government's understanding?

9 MR. NESTLER: We don't have much information right
10 now about how it came together, Your Honor, but we do know
11 that at least two of the members who were present that day
12 were wearing Oath Keepers garb while conducting this
13 training, including Ms. Meggs's husband, Kelly Meggs.

14 THE COURT: Okay. But that --

15 MR. NESTLER: And we do know that --

16 THE COURT: Yeah, I don't want to sort of sound
17 too pithy here, but I mean, was this something that was
18 sponsored by a legitimate organization like, say, the NRA,
19 or was this something that was sponsored and carried out by
20 an informal group like the Oath Keepers?

21 MR. NESTLER: I'm not prepared to say or lend any
22 credibility or non-credibility to the organization that
23 sponsored this training. We did not include that
24 organization's name in our pleading; we didn't think it was
25 appropriate to identify them.

1 It was not the NRA, but it does appear to be a
2 business that's based in Florida that does put on various
3 classes.

4 THE COURT: Okay.

5 And --

6 MR. NESTLER: And we do know that -- yes,
7 Your Honor.

8 And we do know that Kelly Meggs, or at least the
9 Meggs family, as part of their credit cards, paid \$600 to
10 this facility in late November of 2020. We don't yet know
11 what that payment was for; we're still investigating.

12 THE COURT: Okay.

13 Can you help me understand a little bit more what
14 you think the evidence -- the note that's pasted in your
15 pleading at 14, what that is?

16 MR. NESTLER: Yes, Your Honor.

17 That is an indication that Connie Meggs was
18 involved in some sort of planning for what the Oath Keepers
19 were going to be doing on January 5th and 6th. We are not
20 alleging that that was planning of storming the Capitol;
21 that's the planning about what their plans were.

22 And the reason we included that was because, at
23 least from Ms. Meggs's bond-review motion and arguments
24 advanced before the magistrate in Florida was that she was
25 not really involved; she was along for the ride with her

1 husband.

2 And this note, to the government's belief,
3 Your Honor, shows quite otherwise, that she was not just
4 following her husband wherever he told her to go, she was
5 actually taking notes about where they were going to be
6 going and what they were going to be doing.

7 THE COURT: Can I ask you -- I mean, the way this
8 is worded struck me as a little ambiguous.

9 I mean, you write: "On January 3rd, the user of
10 Defendant Meggs's phone saved the note;" I mean, instead of
11 saying Defendant Meggs saved a note.

12 Is there a reason for the hedge that's used in
13 describing the author of the note?

14 MR. NESTLER: No, Your Honor.

15 The reason for the hedge is that no one -- we
16 don't have evidence that Ms. Meggs was the one using her
17 phone at that time, versus someone else using her phone at
18 that time; that there's certainly strong circumstantial
19 evidence that it was her. But without a witness saying she
20 was the one saving that note, we didn't want to necessarily
21 ascribe it to her.

22 THE COURT: Okay. I see.

23 I just wanted to be clear that you weren't
24 suggesting that there was some other user of her phone, but
25 I understand.

1 MR. NESTLER: We are not.

2 THE COURT: And so the note -- the note does
3 reference the U.S. Capitol congressman. Does the government
4 have any further insight into what those notations are meant
5 to refer to?

6 MR. NESTLER: No, Your Honor. This is the note
7 itself.

8 The redacted portions -- and the full note was
9 provided to Mr. Wilson. But the redacted portion are names
10 or email addresses of people to apparently be in contact
11 with.

12 THE COURT: Okay.

13 And, by the way, some of this is prompted by
14 Ms. Meggs's -- we tried to get her here; she's been --
15 remains detained, I believe, in Florida; is that right?

16 MR. NESTLER: That's my understanding, Your Honor.

17 THE COURT: Okay.

18 And part of the reason there was the -- her ring
19 was not off -- they weren't able to get the wedding ring off
20 her finger. Has that issue resolved itself?

21 MR. NESTLER: The marshals have informed me --

22 THE DEFENDANT: Yes.

23 MR. NESTLER: -- that that has resolved itself,
24 yes.

25 THE COURT: All right.

1 Mr. Nestler, is there anything else you want to
2 add?

3 MR. NESTLER: Two more small points, Your Honor;
4 one about detention.

5 Just looking at Judge Katsas's dissent,
6 Your Honor, and there's a point that the Judge makes, which
7 is that in the *Munchel* case, there was no charge that gave
8 rise to a rebuttable presumption, and that, again, affected
9 the Court's analysis in that case. And here we do have that
10 fact; that is an additional fact that was not present in
11 *Munchel*.

12 The other point I just want to mention,
13 Your Honor -- and I'm sorry, I should have raised this at
14 the outset -- was the conflict issue. In filing the
15 government's opposition to the bond-review motion for
16 Connie Meggs and Kelly Meggs, it's become more and more
17 apparent to the government about the potential for a
18 conflict between Connie Meggs and Kelly Meggs, especially as
19 evidence of what Kelly Meggs did and said as being used by
20 the government.

21 We are using those statements and those actions,
22 including Kelly Meggs's signing up with the Oath Keepers for
23 a lifetime membership with spouse, as evidence against
24 Connie Meggs, and we do believe that does rise to the level
25 of potential conflict with having them represented by the

1 same counsel.

2 THE COURT: Well, let me -- I'm glad you raised
3 that, because we ought to -- I think earlier I did raise
4 this issue at the arraignment with Ms. Meggs and both she
5 and Mr. Meggs at least were warned of the conflict and said
6 they understood the conflict and were prepared to waive it.

7 I guess the question in my mind is: Do I have the
8 authority to override a person's Sixth Amendment right to
9 counsel if there is -- if the conflict rises to something
10 that's not waivable?

11 And I have to confess, I've not had a husband-wife
12 represented by the same counsel in a case before. And so
13 I mean, I understand the general parameters of the issue,
14 but I don't know what the case law says about whether I
15 could, for example, order that there be a severance,
16 essentially, of counsel, that Mr. Wilson either elect to
17 represent Mr. Meggs or his wife.

18 Does the government have a view on that?

19 MR. NESTLER: Not formalized, Your Honor.

20 We can provide more research, Your Honor, and we
21 can brief the issue, if necessary.

22 We were hoping that this would resolve itself with
23 speaking on the record with Mr. Wilson and with both of his
24 clients and with Your Honor, but we could continue to brief
25 that issue if Your Honor would like.

1 THE COURT: Well, I mean, we have -- and I'm happy
2 to do it again -- you know, I'd indicated also that we would
3 get conflicts counsel, although having Ms. Meggs in Florida
4 makes that a little bit more challenging, to advise them,
5 and I still plan to do that.

6 But, Mr. Wilson, is it still both of your clients'
7 intentions to proceed with a single lawyer?

8 MR. WILSON: I have discussed this matter
9 initially upon them informing me that they wanted me to
10 represent both of them. I went in great detail into the
11 potential for conflict. And, in fact, what the government's
12 trying to create right now, I predicted and I discussed it
13 with both of them, and they had reviewed and signed a
14 detailed conflict waiver.

15 I don't see a conflict rising to the level of what
16 the government is contending at this point in time. And I
17 think that if there is a severance down the road, it's not a
18 severance of counsel, it's a severance of Mr. and Ms. Meggs,
19 as far as their case is concerned, and I think that
20 necessity would exist for purposes of trial, regardless of
21 who the attorney is representing Mr. and Ms. Meggs.

22 If the government intends to introduce a statement
23 made by Ms. Meggs against Mr. Meggs at trial, well, then,
24 regardless of who their attorney is, a severance would be
25 warranted. We haven't gotten there.

1 THE COURT: Well, maybe.

2 MR. WILSON: Right.

3 THE COURT: The short answer is "maybe."

4 Only if it's a testimonial statement. I don't
5 know which statement you're referring to. I guess you're
6 talking about the post-arrest statement that she's made; and
7 even then, you know, it begs the question of whether we
8 could redact it in such a way that -- but we're far away
9 from that --

10 MR. WILSON: Correct.

11 THE COURT: -- date, from that possibility.

12 But you're right, that's something that's looming
13 here.

14 What's your view, to the extent that you have an
15 understanding of this, of whether I could compel, contrary
16 to their express view, that they have separate counsel?

17 MR. WILSON: Well, Judge, the only --

18 THE COURT: And to be clear, Mr. Wilson, I'm not
19 suggesting I'm taking any steps today, I just want to know
20 what your position is.

21 MR. WILSON: Judge, this is -- I have in the past
22 had circumstances where I've had individuals in the same
23 case ask me to represent them, where there, in fact, was a
24 conflict; and in those circumstances, they each waived the
25 conflict and no one sought to have me removed.

1 You know, I'm not aware of any particular case law
2 one way or the other. But I do think the Constitution
3 speaks very loudly that an individual has their -- a
4 constitutional right to the attorney of their choice.

5 I think the only case I've ever seen where an
6 attorney was removed was in the matter of John Doty, and
7 that was, I think, on the government's allegation that his
8 attorney at the time was somehow involved in the conspiracy.

9 But I don't know, Judge. If the Court wants us
10 parties to brief the Court, we can certainly do that, but
11 I think that the defendants involved should have their say
12 in the matter.

13 THE COURT: Well, let's put it this way: I mean,
14 there's no motion before me. So if the government is
15 seeking to either move to compel me to require them to both
16 have their own separate counsel, I'll take that up.

17 I'm certainly not going to order that absent an
18 actual motion from the government and briefing from the
19 defendants. It's too substantial of an issue for me to do
20 on the back of a napkin here. So I'm certainly not going to
21 do that.

22 And secondarily, you know, if the government
23 thinks that what we've done thus far to ensure that both
24 Mr. and Ms. Meggs are fully and -- fully informed of the
25 potential conflict and that there's more we need to do, I'm

1 happy to hear that as well, pass this detention hearing
2 today to advise both of them to make sure -- Mr. Meggs's
3 detention hearing is this afternoon -- to make sure that
4 they're advised by a neutral lawyer.

5 As I said, I'm not prepared to take any steps
6 today to address that issue absent -- in a formal motion and
7 actual briefing on it, okay?

8 MR. NESTLER: Yes, Your Honor.

9 And the government would prefer to proceed that
10 way, to have conflicts counsel appointed to advise them, and
11 we could have -- if they continue to persist in wanting to
12 waive that conflict, then we can address whether the
13 government would file a formal motion.

14 THE COURT: Okay.

15 All right. Mr. Wilson, let me turn to you, then,
16 on the merits of this, and I'll hear from you on your
17 motion.

18 MR. WILSON: Judge, I would first like to address
19 the issue with the ring.

20 Yeah. Initially, the motion was predicated on the
21 fact that I had been notified by the Marshals Service that
22 she would not be transported and that no party, no --
23 whether the jail or the U.S. Marshals Service was in a
24 position to remove the ring from her finger. That was the
25 development that prompted me to file the detention -- the

1 instant motion.

2 The information then came to light through the
3 discovery process; that is, encompassed in Mr. Meggs's
4 motion to be heard this afternoon. I filed a statement of
5 adoption to try to adopt the arguments and facts in his
6 motion, simply because of the fact that they weren't
7 present; I didn't know that at the time that I filed the
8 motion for her.

9 The ring was removed.

10 She is still in Orlando, although I would concede
11 that for the last few days, she's there still because the
12 Court requested that they keep her there for purposes of
13 this hearing. But even if she had been transported, she
14 would not be in Washington, D.C. at this point, based upon
15 the travel that Mr. Meggs engaged in. But I think that with
16 respect to some of the Court's questions of the government
17 as to their filing and the information contained in the
18 filing, I can shed some light.

19 And in all candor to the Court, I did not see the
20 government's filing until this morning, it was brought to my
21 attention by the media, who I did not respond to. However,
22 with respect to this firearms training, it was a two-hour
23 class on firearms safety. The government would like to
24 transform it into some form of paramilitary training.
25 I'm not going to mention the name of the facility, but I'm

1 very familiar with it. It's a very well-known firearms
2 safety training facility in this part of the state of
3 Florida. It's not some secret, underground training at some
4 top-secret location. They have a website. They're very
5 well known, and it is firearms safety that's given, and it
6 just so happens that this was a two-hour training course.

7 Now, with respect to the \$600, I likewise don't
8 know how much the actual two-hour training for both of them
9 was, but I also know that this particular facility requires
10 a membership if you're going to use their facility. So that
11 may be part of it.

12 You know, there are some statements that are
13 attributed to the instructor in the government's filings.
14 There's no statements of violence or anything else that's
15 attributed to Mrs. Meggs.

16 And, in fact, if someone is undertaking a firearms
17 safety class and there's a component of self-defense in that
18 class, I'm sure that knowing where to shoot and where not to
19 shoot is probably part of the training.

20 But this was in September, and I think it probably
21 pre-dates -- and I haven't compared the date of the training
22 because I just found out what the dates of the
23 communications that the government is alleging led up to the
24 trip to Washington, D.C.

25 THE COURT: And so --

1 MR. WILSON: I suspect it was before.

2 THE COURT: Well, it certainly pre-dates the
3 election.

4 MR. WILSON: Correct.

5 THE COURT: It must.

6 MR. WILSON: So, you know, I am -- I do --
7 I disagree with the government and their analysis that
8 Ms. Meggs is in somewhat of a different place than the
9 Munchels. The evidence that we have is that they went --
10 now the government refers to as a "stack"; I think that
11 we'll be able to easily dispel that down the road.

12 But the evidence that we've been provided in
13 discovery is that Mrs. Meggs did not participate in any
14 damage to the property at the Capitol. The doors were
15 already open by the time that they went there.

16 So to the extent that the government is relying on
17 the presumption afforded to them by the charge of damage to
18 government property in excess of \$1,000, I think the Court
19 can look at the weight of the evidence, in light of the fact
20 any evidence whatsoever, that Mrs. Meggs, or Mr. Meggs, for
21 that matter, but Mrs. Meggs herself participated in violent
22 acts against property or against individuals or that she was
23 involved in the planning of any violent attack against the
24 Capitol, against the property, or against any individuals.
25 She does not present an identified and articulable threat to

1 the community if she's released on bail.

2 And to the extent that the government says that
3 there's -- the fact that there are other people makes her a
4 danger, I'm not following that logic. She has stable
5 residence, she has no prior criminal history, there is no
6 risk of flight, and I don't think that the government can
7 overcome her right to liberty at this point in the
8 proceedings.

9 THE COURT: Okay.

10 Can you address, to the extent you're able, and I
11 leave it to you whether to comment on this or not, but the
12 government has extensively suggested that Ms. Meggs engaged
13 in deletion of messages from her cell phone after the 6th.

14 MR. WILSON: Judge, I can't speak to that.

15 All I can speak to is the fact that she gave a
16 voluntary interview to law enforcement upon her arrest, she
17 waived her right to counsel, and she provided her phone to
18 the government agents.

19 I think that the -- there's a message that I saw
20 in the government's filing that indicated that one of the
21 individuals said in the message -- Mr. Meggs probably said
22 that the reason that they had not been arrested was that
23 they assisted a police officer, prevented him from being
24 attacked by the mob.

25 So if that was their belief, that they weren't

1 subject to arrest because they assisted a police officer who
2 was being threatened, then she would have no reason to think
3 that she was subject to arrest and no reason to delete
4 messages.

5 So, you know, I certainly delete messages on my
6 phone for no nefarious reason other than the fact that I
7 don't want 10,000 messages on my mobile phone. So she's not
8 charged with obstruction of justice, she's not charged with
9 destroying any evidence. I don't think it's of import, but
10 I really can't speak to whether she did or what messages she
11 did delete or when.

12 THE COURT: Okay.

13 Mr. Nestler, do you want to add anything else at
14 this juncture?

15 MR. NESTLER: Yes, Your Honor, just a couple of
16 points.

17 One, it is not accurate to say that Ms. Meggs,
18 like the Munchels, came upon the Capitol after the doors
19 were opened and walked inside.

20 The video that we provided to the Court, a link to
21 a YouTube video, and provided to defense counsel, shows that
22 the stack of individuals, including Ms. Meggs, walked up the
23 east side of the Capitol steps, while the crowd parted ways
24 for the Oath Keepers stack to go up.

25 They were on the landing, I don't have an estimate

1 in feet, but they were on the landing in front of the
2 Columbus Doors of the east side of the Capitol there, as the
3 crowd, for several minutes, violently attacked the officers
4 and tried to force the doors open.

5 The mob was yelling, "Take their shields, our
6 house, we want Trump." Rioters are firing pepper spray at
7 officers. Rioters who are there -- just in front of
8 Ms. Meggs, she wouldn't be able to miss this -- are
9 saying -- are beating the officers with flagpoles and with
10 their shields. And they're throwing bottles and other
11 things at the officers in order to pull the officers away
12 from the door, because the officers are there protecting
13 that door, so that Ms. Meggs and the rest of her group are
14 then able to enter through those doors and enter into the
15 Capitol. It is not correct to say that she just came upon
16 the Capitol later and waltzed inside.

17 With respect to the class Your Honor asked
18 Mr. Wilson about, it's true that a class that we indicated
19 was back in --

20 THE COURT: I'm sorry, Counsel, if I can just
21 interrupt you.

22 MR. NESTLER: Sure.

23 THE COURT: And maybe I'm -- and I have to -- as
24 soon as this hearing is over, I will have to re-read this
25 decision, but it isn't clear to me that the Munchels,

1 Mr. Munchel and his mother, Ms. Eisenhart, they simply
2 walked through an open door after a large group of people
3 had already entered.

4 I mean, at least as described by the Circuit, and
5 maybe I'm missing this, I mean, they were a part of a group
6 that was attempting to enter all at once. They weren't in
7 the front, but they were part of a larger crowd, and they
8 were able to enter as the front portion of the crowd moved
9 into the Capitol building. Is that inaccurate?

10 MR. NESTLER: I have not seen the video,
11 Your Honor, from *Munchel*. I'm just going from what the
12 Circuit said on page 4, that Munchel and Eisenhart entered
13 the Capitol through an open door and stayed for
14 approximately 12 minutes.

15 Officers were standing to the right of the door
16 not blocking their entry.

17 THE COURT: Yeah. I mean, I just -- again, it's a
18 little -- it's not descriptive, but on page 3 it says that
19 "They pushed their way through the crowd to continue towards
20 the Capitol." Again, "Munchel followed Eisenhart, often
21 holding on to a strap on her back, encouraged people along
22 the way," et cetera.

23 So anyway, you know.

24 MR. NESTLER: That's right.

25 THE COURT: And I don't want to leave with the

1 impression that somehow for minutes after the larger group
2 had entered, that the door was just propped open and they
3 walked through it. I don't know that that's a fair
4 recitation of what happened.

5 MR. NESTLER: Understood, Your Honor.

6 In *Munchel*, it does appear that the other
7 individuals broke through the doors and then the Munchels
8 were able to walk through the door without being sort of
9 stopped. There was a line of people who appeared to have
10 walked through in that case.

11 THE COURT: Right.

12 MR. NESTLER: Unlike here where the mob physically
13 forced their way through the door, and Ms. Meggs was part of
14 that mob that forced their way through the door.

15 And then going to the destruction of evidence,
16 Your Honor, it is correct that right now, Ms. Meggs is not
17 charged with obstruction of evidence. But as I indicated
18 before, the grand jury's investigation is continuing; she
19 did delete messages from her phone. And, again, we believe
20 it's hers; no reason to think it's not her. But the
21 circumstantial evidence is that she deleted messages from
22 the 6th.

23 And then we see that she and her husband got rid
24 of the clothing and the gear they were wearing and had with
25 them when they were at the Capitol. And so to Mr. Wilson's

1 point that people delete messages from their phone all the
2 time, the government submits, one, that's not really likely
3 to be the case here, just deleting messages from the 1st to
4 the 6th of January, which is the critical time we're
5 concerned about here. But then afterwards, they appear to
6 have gotten rid of the gear they were wearing that would
7 have captured them on video. And so for Mrs. Meggs, and
8 Mr. Meggs later this afternoon, to say they thought they
9 weren't going to be arrested because they helped the police
10 officers, doesn't really hold any water.

11 And then we even see a text message, which we
12 cited in our supplemental pleading last night, that we just
13 located that Mr. Meggs and Ms. Meggs are making light of the
14 fact that Mr. Meggs, "lost his gear in a boating accident,"
15 and Ms. Meggs wrote "LOL."

16 That just doesn't really carry any credibility
17 with the government, Your Honor. It appears that they threw
18 away or somehow got rid of their clothes maybe on the water,
19 for all we know. The hat, the shirt, the helmet, the
20 backpack that Ms. Meggs had, the FBI did not locate it when
21 it searched their home when they were arrested.

22 THE DEFENDANT: It's in my son's room.

23 MR. WILSON: Ms. Meggs.

24 THE COURT: Ms. Meggs, I'll just -- let me just
25 say, I understand the challenges that are here because you

1 can't -- you're not sitting next to your lawyer in an
2 ordinary world.

3 THE DEFENDANT: I hope you find it.

4 THE COURT: Hang on.

5 I can understand in an ordinary world, you could
6 whisper into his ear and he could speak on your behalf, and
7 so we have those challenges here.

8 But I just want you to be careful, because
9 anything you say is being taken down by a court reporter and
10 can be considered evidence and used against you.

11 THE DEFENDANT: Yes, sir.

12 THE COURT: So I would ask you to be mindful of
13 your lawyer's instruction not to speak on the record, okay?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: And if you do want to talk to him, I
16 don't know whether we can make any arrangements to do that,
17 but just raise your hand and we can try to make that
18 arrangement during this hearing, okay?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: All right.

21 All right. Mr. Nestler, anything else?

22 MR. NESTLER: No, Your Honor.

23 THE COURT: Okay.

24 All right. Give me a second, everybody. I'll be
25 right back, okay?

1 (Pause)

2 THE COURT: Okay, everyone.

3 All right. Let me just address the motion for
4 release pending trial.

5 Just preliminarily, let me get out of the way that
6 I do think this detention hearing is appropriate. The
7 government has charged Ms. Meggs with destruction of
8 government property under the Bail Reform Act. That charge
9 is cross-referenced to, I think it's the sort of list of
10 terrorism crimes listed -- destruction of a number of
11 properties listed, and, therefore -- and because this
12 particular crime has a ten-year maximum penalty, it's ten
13 years or more, it's proper to hold the detention hearing,
14 Ms. Meggs is eligible for detention.

15 The fact that she's been charged for destruction
16 of property also gives rise to a rebuttable presumption that
17 no combination of conditions will ensure the safety of the
18 community and that she does present a danger.

19 That is just a presumption, and the burden is on
20 Ms. Meggs to come forward with evidence to rebut that
21 presumption. She's done that here in numerous ways, not the
22 least of which is to reference the fact that she has no
23 prior criminal history and to emphasize what she did not do
24 on January 6th.

25 So the burden then shifts and remains with the

1 government. It's not that it shifts. The burden still
2 remains with the government or is with the government to
3 prove by clear and convincing evidence that no combination
4 of conditions will ensure the safety of the community or any
5 particular person were Ms. Meggs to be released.

6 Liberty is the norm under the Constitution, and
7 I am supposed to consider what lesser -- what conditions of
8 release would be appropriate to ensure the safety of the
9 community if, nevertheless, she does present some risk on
10 release.

11 And so among factors I need to consider here, and
12 we've talked about this at length, are the nature and
13 circumstances of the offense, the weight of the evidence,
14 the history and characteristics of the individual, and the
15 threat that the individual poses to any particular person or
16 to the community.

17 You know, again, I'll combine the first two as
18 I have in the past in some of these hearings. And obviously
19 what Ms. Meggs has been charged with and what the grand jury
20 has found her to -- for there to be sufficient evidence to
21 charge her with probable cause is very serious.

22 As I've said before, this really was an attack on
23 the very fabric of our democracy, and Ms. Meggs and others
24 like her who joined in that day to enter the Capitol posed a
25 threat to the democracy. And but for the brave actions of

1 police officers, things could have been far worse than they
2 were and turned out to be that day, although many -- some
3 number of lives perished and many officers were injured.

4 You know, in terms of the evidence against
5 Ms. Meggs, you know, I have the benefit of being -- of
6 presiding over these detention hearings for each of the
7 other nine individuals that have been charged in this case.
8 And the truth is, the evidence against Ms. Meggs is not
9 quite what it is against others. There is not evidence of
10 the kind of extensive planning and preparation, particularly
11 in terms of communications with others, other Oath Keepers
12 or with other members of other groups, as we've now learned
13 with the case with Mr. Meggs, for example.

14 There's no indication that she herself was
15 involved in discussions about bringing weapons to the
16 District of Columbia or stationing a quick reaction force to
17 come into the District if things got heavy, as I think
18 Mr. -- his name is escaping me right now -- has said in his
19 text messages. You know, she's not a recruiter of other
20 individuals, as Ms. Watkins seems to be, and is not a leader
21 frankly, like her husband is alleged to be.

22 And so the evidence in terms of against her
23 doesn't sort of -- it doesn't weigh quite as heavily in
24 terms of the threat assessment that I need to make to the
25 community and the forward-looking threat assessment. In

1 this case, it is what the government suggests or has argued
2 it is, which is sort of a threat to engage in this kind of
3 behavior again and sort of engage in acts that would
4 threaten democratic institutions and democratic processes,
5 and whether Ms. Meggs, if released, would pose a threat to
6 that interest.

7 You know, to reiterate, she didn't -- there's no
8 evidence that day that she herself destroyed property,
9 although she is charged with aiding and abetting in the
10 destruction of property, but there's no evidence that she
11 herself did so, there's no evidence that she herself
12 assaulted any police officer or even made her way into the
13 Senate chamber, into the chamber of any particular
14 congressperson.

15 In terms of her nature and her own personal
16 circumstances, Ms. Meggs has no prior criminal convictions.
17 She is otherwise a law-abiding person who has strong ties to
18 her community, as I understand it.

19 I believe prior to this, she was employed; is that
20 right, Mr. Wilson?

21 MR. WILSON: She actually was a volunteer at a
22 church thrift store.

23 THE COURT: Okay.

24 But, nevertheless, no prior criminal convictions.

25 Look, the bottom line is that when I sort of

1 balance all these factors, I think Ms. Meggs is -- and to be
2 clear, I mean, I think what the Court -- the Circuit has
3 emphasized in *Munchel* is what I've been trying to
4 communicate through these various detention hearings, is
5 that, one, each of these evaluations I'm required to make
6 are individualized. You know, the fact that there was a mob
7 there that day, I think, has instilled a lot of passion and
8 emotion even among the members on the bench. But
9 ultimately, the question of detention is one that's
10 individualized and specific to the person that's before the
11 Court.

12 Second, you know, we are supposed to look at
13 specifically what that person did on January the 6th and
14 before and after. But I think what *Munchel* emphasizes is
15 that there are certain acts that other -- certain types of
16 acts and certain types of associations on January the 6th
17 that differ in kind in terms of evaluating and predicting
18 somebody's threat to the community and risk of release --
19 risk on release.

20 And then finally I think what the Circuit has
21 emphasized, that the question here is a narrow one: What is
22 a person's future risk? What future risk does that person
23 pose to a particular person, individual, or, in this case,
24 to democratic institutions?

25 And when I'm confronted with the evidence I am

1 regarding Ms. Meggs and when I evaluate it against the
2 larger body of evidence that's been presented to me with
3 respect to others, I think once I balance that, particularly
4 in light of *Munchel*, I don't think there really is a basis
5 to hold Ms. Meggs or continue to hold Ms. Meggs.

6 Now, that said -- so I will grant the motion for
7 release. Ms. Meggs, you will be released, but I am going to
8 release you on fairly strict conditions, at least at the
9 start.

10 And so you will be required to submit to
11 supervision and report to supervision for -- within the
12 district in which you reside and will be released.

13 She lives in Orlando, Mr. Wilson; is that right?

14 MR. WILSON: No, Judge. She lives in, I think,
15 either Marion or Citrus County. She lives near Ocala. So
16 she would be reporting to the Ocala division of the Middle
17 District of Florida.

18 THE COURT: Okay.

19 So the Middle District of Florida is where we will
20 ask for courtesy supervision of Ms. Meggs.

21 Mr. Wilson, if she has a passport, she must
22 surrender that passport to the probation office in the
23 Middle District of Florida.

24 She must stay away from the District of Columbia.

25 She also must remain in the Middle District of

1 Florida and must report to Pretrial Services or the
2 probation office there weekly. Any travel outside must be
3 approved by the Court before she's permitted to do that.

4 She shall have no contact with anyone associated
5 or affiliated with the Oath Keepers; the only exception to
6 that would be her husband.

7 She shall not possess any firearm, destructive
8 device, or any weapon. That goes for any firearm or
9 destructive device or weapon that she has a legal --
10 otherwise legal entitlement to hold. That is not something
11 that she may keep with her and possess with her -- have in
12 her actual or constructive possession while this case is
13 pending.

14 I am going to put her on 24 hours a day home
15 incarceration at the start. She may leave for medical
16 necessities and court appearances or other activities
17 approved by the Court. Whether continued home incarceration
18 is required as we move forward is something I can revisit in
19 the future.

20 She will be subject to location monitoring as
21 directed by Pretrial Services or a supervising officer and
22 comply with all the program requirements and instructions
23 that are provided.

24 In addition, she shall not have access to any
25 computer, smartphones, tablets or any kind of

1 electronic-communication device that would allow her to
2 communicate through either encrypted or non-encrypted
3 applications. And those will be the conditions of release
4 for Ms. Meggs.

5 Any questions, Mr. Wilson, about those conditions
6 of release or what your client needs to do in light of my
7 order?

8 MR. WILSON: No, Your Honor. They're very
9 consistent with the conditions that are imposed in this
10 division routinely, so we're very familiar with them.

11 THE COURT: Okay.

12 All right. Anything further, folks, before we
13 adjourn?

14 MR. NESTLER: Not from the government, Your Honor.
15 Thank you.

16 MR. WILSON: Not on behalf of Ms. Meggs, Judge.

17 THE COURT: All right. Thank you, all, very much.

18 Ms. Meggs I'll give you the same warning I give to
19 others, and that is, you know, again, don't take this as a
20 reflection of how -- the seriousness of what you've been
21 accused of. It is serious, but I do think that given what
22 the legal standards are, you are entitled to be released
23 pretrial.

24 However, these conditions, if they are violated,
25 could subject you to being placed back and incarcerated.

1 THE DEFENDANT: Yes, sir.

2 MR. WILSON: Judge, may I address one issue,
3 please?

4 THE COURT: Yes, of course.

5 MR. WILSON: In light of our prior -- the Court's
6 prior -- our discussion with respect to an additional
7 attorney to advise her with respect to the conflict issue, I
8 might suggest that -- Ms. Meggs was previously represented
9 by the Federal Defender's Office, and perhaps an attorney
10 from their office could discuss this matter with her --
11 because there is no conflict between their office and her,
12 and perhaps that might be a viable choice to advise her with
13 respect to the potential conflict.

14 THE COURT: I thought you were going to go
15 somewhere else, but it's a fair suggestion.

16 Look, I'll just have to -- what I'm going to do is
17 call our Federal Defender, and whoever conflicts counsel is
18 doesn't need to actually speak to Ms. Meggs in person.

19 MR. WILSON: Okay.

20 THE COURT: So they can do that via Zoom or by
21 phone and have that discussion.

22 So I think I'll just go through our Federal
23 Defender and have somebody court-appointed here. That'll
24 save us the bureaucratic challenge of having a Federal
25 Defender from another district appear.

1 MR. WILSON: And that would presume that she would
2 be authorized to use an electronic device to communicate
3 with the attorney?

4 THE COURT: Of course.

5 MR. WILSON: Okay.

6 THE COURT: As I said, yes, she can -- certainly
7 for legal communications and things of that nature, that
8 would certainly be acceptable and consistent with the
9 conditions of release.

10 MR. WILSON: Thank you.

11 THE COURT: Okay?

12 All right. Thank you, all, very much.

13 (Proceedings concluded at 11:09 a.m.)

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C E R T I F I C A T E

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

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

Date: April 14, 2021 /S/ William P. Zaremba

William P. Zaremba, RMR, CRR

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