

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	CR No. 21-28
	)	Washington, D.C.
vs.	)	October 14, 2021
	)	11:00 a.m.
THOMAS E. CALDWELL, ET AL.,	)	
	)	
Defendants.	)	
_____	)	

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

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

2 COURTROOM DEPUTY: All rise.

3 THE COURT: Good morning, everyone. Please be  
4 seated.

5 COURTROOM DEPUTY: Your Honor, this is Criminal  
6 Case No. 21-28, United States of America versus Defendant  
7 No. 1, Thomas Edward Caldwell; Defendant 2, Donovan Ray  
8 Crawl; Defendant No. 3, Jessica Marie Watkins; Defendant 4,  
9 Sandra Ruth Parker; Defendant 5, Bennie Alvin Parker;  
10 Defendant 7, Laura Steele; Defendant 8, Kelly Meggs;  
11 Defendant 9, Connie Meggs; Defendant 10, Kenneth Harrelson;  
12 Defendant 11, Roberto A. Minuta; Defendant 12, Joshua James;  
13 Defendant 13, Jonathan Walden; Defendant 14, Joseph Hackett;  
14 Defendant 16, William Isaacs; Defendant 17, David Moerschel;  
15 and Defendant 18, Brian Ulrich.

16 Kathryn Rakoczy on behalf of the government.

17 David Fischer for Defendant Caldwell.

18 Carmen Hernandez for Defendant Crawl.

19 Shelli Peterson for Defendant Watkins.

20 John Machado for Defendant Sandra Parker.

21 Steven Brennwald for Defendant Bennie Parker.

22 Peter Cooper for Defendant Steele.

23 David Wilson for Defendant Kelly Meggs.

24 Juli Haller and Stanley Woodward for Defendant  
25 Connie Meggs.



1           Bradford Geyer and John Moseley for Defendant  
2 Harrelson.

3           Jenifer Wicks for Defendant Minuta.

4           Joni Robin for Defendant James.

5           Thomas Spina and Ed MacMahon for Defendant Walden.

6           Angie Halim for Defendant Hackett.

7           Eugene Rossi and Natalie Napierala for Defendant  
8 Isaacs.

9           Scott Weinberg for Defendant Moerschel.

10          And Attilio Balbo for Defendant Ulrich.

11          Defendants Jessica Watkins, Kelly Meggs, and  
12 Kenneth Harrelson are appearing in person for this matter.

13 All other defendants are appearing remotely.

14          THE COURT: Okay. Good morning again to everyone.

15          For those defendants who are here, welcome.

16          Hopefully everybody who's online can hear me and  
17 see me okay. If you can't, speak now.

18          Apologies for the late start. We were having some  
19 technical problems with the sound and getting connected from  
20 the courtroom, so that's the reason for the late start.  
21 Thank you for your patience.

22          So we're here for a status hearing in this matter.  
23 We were together maybe about 30 days ago and spent a great  
24 deal of time talking about where things stood with respect  
25 to discovery, and primarily the non-defendant-specific

1 discovery and the status of pushing that out.

2 So why don't we begin there with Ms. Rakoczy in  
3 terms of where discovery stands with the two databases that  
4 the government was in the process of standing up and the  
5 extent to which defense counsel have received access to  
6 those databases.

7 MS. RAKOCZY: Yes, Your Honor.

8 The government has begun producing data to the  
9 databases. I'm going to speak a little slowly because there  
10 is a little feedback from the courtroom that may have just  
11 gone away. So maybe I can speak a little more quickly now.  
12 Thank you.

13 The databases, though, I do not think are  
14 accessible to the defense at this point in time. They're,  
15 I think, still a work in progress. We are producing data to  
16 the databases, but I think that the Federal Public Defender  
17 Service is still testing out the data and determining the  
18 best ways to utilize the data and to make it available to  
19 all defense counsel.

20 There have been three productions of data to the  
21 database, two sets of documentary evidence, both relating to  
22 internal reviews that were conducted by the United States  
23 Capitol Police and the Metropolitan Police Department to  
24 make sure or to investigate whether the conduct of law  
25 enforcement on January 6th was entirely appropriate.

1 Reports and attachments to those reports have been  
2 provided to the defense. They were produced to the database  
3 because the databases are still getting up and running.  
4 They were also produced to the defense attorneys in this  
5 case through USAfx, which is a file-sharing service, as a  
6 stop-gap measure, to get them into the hands of the defense.

7 We've also produced a large amount of files of  
8 Capitol surveillance video and Metropolitan Police  
9 Department body-worn-camera footage to the database. But as  
10 I mentioned, we are still getting that -- well, we are  
11 working with FPD to get those databases up and running. So  
12 I don't think that that larger universe has been made  
13 accessible to the defense yet.

14 So we are working to get the databases up and  
15 running, we are producing data to the databases, and where  
16 appropriate, also producing that data through the  
17 file-sharing service in order to get it out more quickly  
18 while we work to get the databases up and running. So that  
19 is the status of office-wide discovery.

20 THE COURT: And so, Ms. Rakoczy, do I understand  
21 you correctly to say that even though defense counsel  
22 doesn't have access yet, that the databases are being  
23 populated with discovery, event-wide discovery, both  
24 documentary discovery for the Relativity database, and then  
25 videos for, I think it's the Evidence.com host?

1 MS. RAKOCZY: Yes, Your Honor.

2 We are producing data to the databases so that  
3 when they are -- when licenses can be provided to the  
4 defense and when they can be given accounts, that there will  
5 be data in them already.

6 THE COURT: And do we have any sense of when data  
7 will be available and become available to defense counsel?

8 MS. RAKOCZY: My understanding is that there's a  
9 combination of both sort of technical issues, figuring out  
10 the best way to stand up the databases, that I believe the  
11 Federal Public Defender Service is working on. And then  
12 there are also some issues of getting licenses into the  
13 hands of defense attorneys and accounts created for the  
14 defense attorneys. And so I don't know the answer for a  
15 precise date when that will be up and running.

16 THE COURT: Any estimate from the  
17 U.S. Attorney's Office perspective?

18 MS. RAKOCZY: I do not have an estimate.

19 I think part of this is that graciously, the  
20 Federal Public Defender Service has volunteered to serve as  
21 a conduit to get the rest of the Defense Bar access. And so  
22 part of it is that we don't have entire control over exactly  
23 how this goes from here.

24 THE COURT: And do you have a sense of whenever it  
25 is defense counsel will get access? Is there a schedule in

1 place by which there's an expectation that the data  
2 population -- the populating of the databases will be  
3 completed?

4 MS. RAKOCZY: I don't have a final date or a  
5 deadline, Your Honor, partially because the broader  
6 investigation is ongoing, and so obviously data continues  
7 and evidence continues to be gathered.

8 I know that we are populating on a rolling basis  
9 so that as we have datasets that are ready to go and to be  
10 populated into the database, we are putting them into the  
11 database, so that we can continue to produce information as  
12 expeditiously as possible.

13 THE COURT: Can you give me any estimate of how  
14 much of what the government currently has, has already been  
15 put into the database?

16 MS. RAKOCZY: I'm sorry, Your Honor, I don't know  
17 the answer to that question.

18 THE COURT: Do we know whether it's 5 percent,  
19 10 percent, 50 percent, any idea?

20 MS. RAKOCZY: I wish that I did, Your Honor.  
21 I don't.

22 THE COURT: Okay.

23 Ms. Peterson, maybe this is an opportune time to  
24 bring you into the discussion and get a sense of where  
25 things stand from your perspective and your office with

1 respect to these issues.

2 MS. PETERSON: Sure, Your Honor.

3 I'll speak first to the question of Evidence.com,  
4 because that's the one that is a little bit further along.

5 I do now have access to what has been put into  
6 Evidence.com by the government. So we've been -- the  
7 national office has been working with it to categorize it,  
8 so it will be obvious to defense counsel who looks at it  
9 what is sensitive, what is highly sensitive and what is not  
10 covered by the protective order. That is something that we  
11 have to do to make sure that people know how to treat the  
12 materials.

13 We are close to being ready to share with all of  
14 the defense counsel a form that they'll have to complete to  
15 get a license. That will be made available to them free of  
16 charge that they'll be able to access Evidence.com.

17 There have been some complication, because  
18 obviously we want to make sure that everyone's aware of how  
19 they can view it and how they can and cannot share it with  
20 the defendants, consistent with the protective order.

21 So at this point, we're actually waiting on the  
22 government to get back to us, after consultation with the  
23 people they need to consult with, on how -- what it means  
24 for something to be supervised or not with respect to the  
25 highly sensitive data before we can send out those

1 instructions to defense counsel.

2 I'm hopeful that this will be done by the end of  
3 the week. We're ready to send out the applications and the  
4 information as soon as we hear back from the government on  
5 that last question.

6 So what that data -- I don't know that I would  
7 call it a database, so much as a viewing platform, because  
8 it doesn't have a lot of functionality just by virtue of the  
9 way Axon uses Evidence.com and the restrictions that have to  
10 be placed on it when you're going to have probably 3- or 400  
11 people having access to it.

12 So it will be a viewing database by which everyone  
13 will be able to view all of the Capitol footage inside and  
14 outside and the body-worn camera footage.

15 THE COURT: Ms. Peterson, can I interrupt?

16 MS. PETERSON: The Relativity database with regard  
17 to all of the documentary information will be contained --

18 THE COURT: Ms. Peterson.

19 MS. PETERSON: I'm sorry.

20 THE COURT: Sorry.

21 That's okay. I was just trying to interrupt you  
22 before you moved on to Relativity.

23 MS. PETERSON: Okay.

24 THE COURT: I raised this issue last time, and  
25 that is: Will the Evidence.com platform have any search

1 functionality to it?

2 MS. PETERSON: Not --

3 THE COURT: You know, to have thousands and  
4 thousands of hours of video is only useful insofar as  
5 somebody can actually narrow down what video is potentially  
6 relevant. I mean, I imagine there's -- 98 percent of what's  
7 on there isn't going to be even relevant to a case of this  
8 size and magnitude.

9 MS. PETERSON: That is absolutely correct,  
10 Your Honor.

11 And unfortunately, it doesn't have much of a  
12 search capability. There are a couple of fields that can be  
13 searched. You can -- there's a -- the titles of the videos  
14 will say what camera it is. So you'll see the location and  
15 you'll be able to sort by locations.

16 You can see in the title the time that the video  
17 was -- on the body-worn-camera footage, you can see what  
18 time the video was uploaded, which is essentially put on the  
19 body-worn camera footage so you have a good sense of what  
20 had happened.

21 From the little bit of digging around in it I've  
22 done already, you can see on most of the Capitol Hill  
23 footage, in the title, you can see the time of day,  
24 sometimes you'll have to convert it because it's in,  
25 I believe, UTC time, as opposed to Eastern Standard Time,



1 but you can see what time of day the video was taken. So  
2 you can't put in somebody's name and find all video that  
3 reflects -- that shows someone's name, but you can at least  
4 narrow down the times.

5 And the government has also provided a series of  
6 spreadsheets that have those names in them, because defense  
7 counsel won't be able to take notes into the database  
8 everything that -- that functionality had to be shut down  
9 because otherwise everybody's work product would be  
10 available to everyone.

11 So they've provided some spreadsheets that people  
12 can use if they wish to keep track of their own notes when  
13 you look at a video and realize it's not relevant to their  
14 case or it is relevant to their case.

15 If someone wants to make video clips out of the  
16 videos, they will have to download the video and then make  
17 their clips. You cannot make clips on the database the way  
18 it's set up. Again, that's why I referred to it more as a  
19 viewing platform.

20 THE COURT: And so does the Evidence.com platform,  
21 will that also include video that was gathered either from  
22 social media sites or cell phones, and, if so, will there be  
23 any functionality and searching for that kind of video?

24 MS. PETERSON: I don't know if the government's  
25 intention at this point is to put that video in Relativity

1 or to put that video on Evidence.com.

2 To date, all that it is in Evidence.com is the  
3 CCTV footage and the body-worn camera footage.

4 I understand the Relativity platform will be much  
5 more searchable.

6 THE COURT: Ms. Rakoczy, what's the intention with  
7 respect to non-CCTV and body-worn-camera footage and where  
8 will those videos reside?

9 MS. RAKOCZY: I have asked that question,  
10 Your Honor, but I do not know the answer to it.

11 I think that -- I think that the government is  
12 still trying to figure out what the most prudent way to  
13 produce that data is, what would be the most searchable and  
14 usable format for all of that data.

15 THE COURT: Okay.

16 Ms. Peterson, I interrupted you as you were about  
17 to transition to describing where things are on the  
18 Relativity database front.

19 MS. PETERSON: Well, I don't have a lot to say  
20 about that, unfortunately. I don't -- that is still in the  
21 government's hands and that's not been shared with us at  
22 all.

23 I think it's in the earlier stages with  
24 Relativity. There were contracting issues that had to be  
25 resolved with Deloitte before anything could be shared with

1 us, so that is in the earlier stages. It is my  
2 understanding that that will have all the documentary  
3 evidence and possibly this additional video and  
4 personal-camera footage. I don't know for sure, but we  
5 don't have any of that yet.

6 THE COURT: And is there any estimate on when you  
7 will get that?

8 MS. PETERSON: All I know is that the national  
9 office and the U.S. Attorney's Office are continuing to work  
10 towards that, but I do not know how quickly it can be up and  
11 running.

12 I'm trying to get the Evidence.com out the door  
13 first.

14 THE COURT: All right.

15 Let's put a pause on that discussion for a moment.

16 Ms. Rakoczy, what else can you share with me about  
17 where things stand in discovery, and what, if anything's,  
18 transpired in the last 30 days that I ought to be aware of?

19 MS. RAKOCZY: Yes, Your Honor.

20 At this point, we have scheduled reverse proffers  
21 with just about every defense attorney and defendant who  
22 have asked for them. There is one more scheduled for next  
23 week, and there are a few defendants where we have been  
24 working with their counsel to try to find still the best  
25 date and the best way to get the process -- to get the

1 proffer achieved. For some defendants, the technical issues  
2 make it challenging, but it's also not that easy for them to  
3 travel to this area to do a reverse proffer. So there are a  
4 few that still need to be scheduled.

5 But I think we've done maybe eight or nine of them  
6 at this point, and, as I said, there's another few in the  
7 process. And we remain open to do further reverse proffers  
8 with anyone who has not had one yet. And also happy to do  
9 more informal conversations with defense counsel at any time  
10 if they're having trouble determining where things are or  
11 understanding the significance of certain discovery.

12 We have continued to do some rolling productions  
13 in this particular case. Since we were last before the  
14 Court, we've done another round of production of FBI reports  
15 and subpoena returns from the ongoing investigation.

16 We've provided some additional public-source  
17 videos that were located by the government that show some  
18 events and actions that are relevant to this particular  
19 case.

20 We've made a couple of disclosures of information  
21 that we thought might be material or favorable to the  
22 defense.

23 We've identified -- we discussed this a little bit  
24 in our last hearing, but we've identified for the defense  
25 the names of the people who are referred to by person

1 numbers in the indictments that have been returned in this  
2 case.

3 And also relevant to the question of other  
4 individuals who may have been involved in planning or  
5 coordinating some of the actions that are alleged in this  
6 case, we've provided to the defense, I believe last week,  
7 late last week, approximately 14 Signal chats, so these are  
8 message groups on the messaging application Signal that the  
9 government has identified as being some of the most  
10 significant planning and coordination chats, and we think  
11 that will assist the defense in having at its fingerprints a  
12 body of some more significant evidence of planning or  
13 coordination in this case.

14 In the FBI reports, we've talked a lot about  
15 search warrant returns of digital evidence and scoped versus  
16 unscoped returns. I think all of the unscoped and  
17 unfiltered, full data extractions were provided to the  
18 defense earlier. We are now in the process of providing the  
19 scoped versions, so just the versions of data that the  
20 government has identified as relevant and seized.

21 Some of that was provided in the FBI reports that  
22 were produced a couple weeks ago. Those were the  
23 extractions that were small enough to provide through the  
24 cloud, through file sharing.

25 There are some additional scoped search warrant

1 returns from cell phones or iCloud accounts that are a  
2 larger dataset that we're putting on hard drives, and that's  
3 taking us a little bit longer than we wanted to be able to  
4 get downloaded onto the hard drives, but those hard drives  
5 we hope to disseminate next week.

6 So a good chunk of the electronic evidence that  
7 the government has deemed relevant and that we are  
8 considering to have been scoped out of the electronic  
9 evidence returns will be in the hands of the defense  
10 hopefully by next week or the week thereafter, which should  
11 give the defense a large sense of what the government would  
12 be drawing from to work towards trial exhibits in any trials  
13 of these cases.

14 THE COURT: And is the government intending to  
15 make scoped search warrant material available widely and  
16 universally? Will that information be uploaded to the  
17 databases, or is that only going to be disclosed on a  
18 case-specific basis?

19 MS. RAKOCZY: No, Your Honor.

20 It's my understanding that that will be  
21 provided -- the scoped search warrant returns from digital  
22 evidence or social media accounts, phones, whatnot, that  
23 that is data and evidence that will be shared across the  
24 Capitol breach cases through either Relativity or  
25 Evidence.com.

1 THE COURT: All right.

2 One last question: Where, if anywhere, do we  
3 stand on the issue of getting defendants access to the  
4 databases, in particular, those defendants who are detained?

5 I discussed this with counsel last time and there  
6 was -- I was told that there was -- there were discussions  
7 on the way about how to potentially make these databases  
8 accessible to, in particular, detained defendants.

9 Where do things stand with that?

10 MS. RAKOCZY: I know those discussions are still  
11 underway, but candidly, I don't think there is a clear  
12 answer yet.

13 THE COURT: Ms. Peterson, do you have any further  
14 insight?

15 MS. PETERSON: Your Honor, Ms. Rakoczy is exactly  
16 right, there are still ongoing discussions about it, it's a  
17 very difficult issue to resolve.

18 Certainly, people will be able to share the  
19 information if they download it and bring it to the jail and  
20 sit with their client and show them. That is not possible  
21 with the vast quantities of the data that's there. So we're  
22 still working with the jail to see if there is a way to get  
23 a broader access for folks in custody.

24 I can speak on the -- you know, for my own client  
25 who still is on the wait-list to get access to the initial

1 discovery that was sent over. So there is still a very long  
2 wait-list to get access to the discovery, and that's before  
3 any of this additional discovery was produced.

4 THE COURT: What about for non-detained  
5 defendants, is there a plan to make the databases accessible  
6 to them?

7 MS. PETERSON: That's the issue that we're -- yes  
8 is the short answer.

9 The database or viewing platform itself is not  
10 accessible to them because you have to have a license to  
11 access the platform. But each individual counsel will have  
12 the ability to share evidence from that platform with their  
13 client.

14 What we're working out is -- the protective  
15 orders, the Court may recall, says that you cannot share  
16 highly sensitive information, which all of the CCTV footage  
17 for the most part is still classified as without supervising  
18 it, which would mean you would have to be watching it with  
19 the client while they watched it or have them in your office  
20 while they watch it.

21 We're trying to get clarification that what's  
22 provided is shared via the link that you're allowed to use  
23 with Evidence.com, provided you click off that they cannot  
24 download it or re-share it, that that would be deemed to be  
25 supervised. So as soon as we get that final issue resolved



1 and instruction sent out to people, there will be a way to  
2 share it with people who are not in custody.

3 THE COURT: Okay.

4 MS. HALLER: Your Honor, I would just point out  
5 that's a bit prejudicial to those who are in other states.

6 THE COURT: Hang on, Counsel.

7 MS. HALLER: So, for example, we have a client not  
8 in detention.

9 THE COURT: Hang on.

10 With so many lawyers on the line, I need you to  
11 identify who you are and who your client is, please.

12 MS. HALLER: Yes, Your Honor. Forgive me.

13 Juli Haller for Connie Meggs.

14 I would just point out that my client is in  
15 Florida and I am in Washington, D.C.'s area, along with  
16 Mr. Woodward, so we have a bit of a challenge if we have to  
17 supervise Ms. Meggs' -- Mrs. Meggs' access.

18 Thank you, Your Honor.

19 THE COURT: Okay.

20 I mean, you know, those are going to be logistics  
21 that are associated with all of this, and, frankly, just yet  
22 another challenge that we're going to have to deal with.

23 Ms. Rakoczy, anything else you would like to  
24 report on the status of discovery?

25 MS. RAKOCZY: I just want to clarify, Your Honor,

1 with respect to Ms. Haller's concern.

2 And I am not as in the weeds as Ms. Peterson on  
3 this, but my understanding is that when the digital data can  
4 be shared with the defense, I think the U.S. Attorney's  
5 Office and the Federal Public Defender Service is just  
6 trying to work out the appropriate safeguards so that it can  
7 be shared electronically, it just won't be downloadable by  
8 the defendants themselves, but it can still be shared  
9 virtually so you don't actually have to be physically  
10 present with your client to view or share the data.

11 THE COURT: Okay. That's helpful. Thank you.

12 Unless there's anything more on discovery, let's  
13 turn to the issue of our trial schedule which obviously is  
14 impacted by where things stand.

15 We have presently a trial date, a first trial date  
16 of late January of 2022, I think it's January 31st we're  
17 supposed to start jury selection. I held off on identifying  
18 who's going to be in that trial other than three defendants  
19 who are presently held.

20 That said, last time we were together, there  
21 seemed to be some unanimity on the view that a late January  
22 trial is just not feasible, given what the status is of  
23 discovery. And I think where I left things was, well, we're  
24 going to keep it on the calendar, and, in particular, I  
25 wanted to hear from the three defense counsel, after they've

1 had an opportunity to consult with their clients, about how  
2 to proceed with the current schedule and whether essentially  
3 the proposal, I think, was that we would vacate -- or at  
4 least the suggestion was to vacate the January trial date  
5 and then convert what is the second trial, which is  
6 currently scheduled to begin April 19th, turn that into the  
7 first trial date.

8           So why don't we -- let me just start with -- just  
9 in terms of my own list, Mr. Peterson on behalf of  
10 Ms. Watkins, then we'll turn to Mr. Wilson on behalf of  
11 Mr. Meggs, and then counsel on behalf of Mr. Harrelson.

12           MS. PETERSON: Thank you, Your Honor.

13           I have spoken with Ms. Watkins. And while it's  
14 certainly not ideal, she understands that I do not believe  
15 that I can effectively represent her with a trial date in  
16 late January, given the vast amount of discovery that is yet  
17 to be disclosed and shared with her.

18           THE COURT: Okay.

19           And she's prepared to waive speedy trial through  
20 an April trial date?

21           MS. PETERSON: Yes, Your Honor.

22           THE COURT: Okay.

23           Mr. Wilson.

24           MR. WILSON: Judge, I think we're in the same  
25 boat.

1           With the vast quantity of discovery that's still  
2 outstanding and even what we have, I don't think that we  
3 would be prepared to go forward with trial in January  
4 either. And I will have a waiver of speedy trial through  
5 the April trial term signed by Mr. Meggs as soon as I can  
6 get one to him and have it returned back.

7           THE COURT: Okay.

8           So you've at least -- it sounds like, Mr. Wilson,  
9 am I understanding correctly that he is prepared to waive  
10 speedy trial through an April trial date?

11          MR. WILSON: That's correct, Judge.

12          THE COURT: Okay.

13          And then on behalf of Mr. Harrelson, Mr. Geyer,  
14 Mr. Moseley?

15          MR. GEYER: Good morning, Your Honor.

16          Yes, I'm, frankly, struggling through this.

17          I have a client that I think, under any normal  
18 circumstances, would not be in detention. He is not a risk  
19 and he's not a risk of flight. I make that assertion, we'll  
20 re-affirm that in a proper motion. It's based on having to  
21 interact with many, many defendants around the country over  
22 a period of many years.

23          I'm very concerned about the conditions that they  
24 are currently living under. It's nearly impossible to  
25 prepare for trial. I am left to -- every now and then, I'm

1     able -- when he's able to get to a phone, because he spends  
2     25.5 hours in an 8-foot-by-12-foot cell in total  
3     isolation -- they do allow him to put some pictures up but  
4     that's about it -- and that's broken by a five and a half  
5     hour gap, where he's able to have some human contact in a  
6     small alcove area, and then it's 11.5 hours back in the  
7     hole. So my life has become when that phone rings and it's  
8     my client, I drop whatever it is I'm doing, if I'm at a  
9     family party, if I'm -- whatever it is, I drop it, I pull  
10    out a notepad, and I start writing down.

11           They don't -- as I think the Court is aware, the  
12    warden of that prison has been held -- I believe this is  
13    true -- has been held in contempt by another judge in this  
14    district.

15           So even though these prisoners are making these  
16    pleas regarding things like food -- I'm sorry, but a -- two  
17    hard-boiled eggs and four slices of bread is not a meal. Many  
18    of these people are veterans. They served with distinction,  
19    as did my client. It's -- so part of me wants to go, let's  
20    go on January 31st.

21           I believe that there's -- really, there's all kind  
22    of laws that are being violated by continuing to hold them.  
23    They are -- they haven't had a shave or a haircut. I'm  
24    gratified that the camera isn't on them. I fear what I  
25    would say. Am I going to say the American Taliban or

1 Unabomber or something. I mean, that's convenient.

2 THE COURT: Mr. Geyer, let's rein this in a little  
3 bit.

4 I hear you, I know the conditions are less than --  
5 they're not ideal. Let me be clear that it's not just  
6 January 6 defendants who are all being subjected to these  
7 conditions, it's anybody who's detained at that jail. So,  
8 you know, there are -- there are district judges who have  
9 expressed concerns. We are constantly in communications  
10 with the Department of Corrections about these conditions  
11 and these issues, and, in particular, getting access to  
12 defendants, through defense counsel, and getting them access  
13 to discovery.

14 Some of this, I will tell you, is a function of if  
15 counsel is not in the District of Columbia or near the  
16 District of Columbia, it makes it harder.

17 But counsel are now able to visit the jail and  
18 visit their clients, is my understanding.

19 MR. GEYER: Well -- no. My understanding is  
20 that --

21 THE COURT: But be that as it may, I'm not here to  
22 litigate those issues.

23 What I need to know from you, Mr. Geyer, bottom  
24 line is, whether you are prepared and Mr. Harrelson is  
25 prepared at this time to move the January trial date and

1 move it to April and whether he's prepared to exclude time  
2 until then.

3 MR. GEYER: Under these circumstances and over my  
4 objection, I think I'm going to have to stipulate to  
5 extension of the Speedy Trial Act, because --

6 THE COURT: I guess I don't understand that.

7 You can't both object and stipulate at the same  
8 time.

9 MR. GEYER: Well, ultimately, I'm --

10 THE COURT: Your client is --

11 MR. GEYER: Ultimately, I --

12 THE COURT: Hang on.

13 Your client is either stipulating and agreeing to  
14 exclude time and move that trial date or he's not. So which  
15 of the two is it?

16 MR. GEYER: We will acquiesce to movement of the  
17 trial date.

18 THE COURT: Okay.

19 So do I incorrectly understand you to say that  
20 there's no objection to vacating the January trial date for  
21 Mr. Harrelson, resetting it to April; is that correct?

22 MR. GEYER: Yes, that's correct.

23 THE COURT: And he is not objecting to -- or he is  
24 consenting to the exclusion of time under the  
25 Speedy Trial Act through the April trial date;

1 is that correct?

2 MR. GEYER: Yes, that's correct.

3 THE COURT: Okay. Thank you, Counsel.

4 All right.

5 So in light of that -- and let me just ask -- let  
6 me open the floor right now to any other counsel. No one's  
7 been assigned to a January trial date, but let me confirm  
8 with everyone whether there would be any objection to  
9 vacating the January trial date for any non-detained  
10 defendant, and if there is, speak now or forever hold your  
11 peace.

12 MR. SPINA: No objection on behalf of Walden.

13 THE COURT: All right.

14 Hearing no objection from anyone, I am going to  
15 vacate the January trial date. So we're going to vacate the  
16 January 31st trial date, and we will then make our first  
17 trial in this matter the April 19th trial date that has been  
18 reserved that will sort of start following Easter Monday, on  
19 April 19th, and that will include any detained defendants,  
20 there are three now. If there are any remaining for that  
21 trial, they will be in that first trial group, and then  
22 we will just see whether there are -- who else might be in  
23 that group. So that is where we stand in terms of the  
24 schedule.

25 Let me go back to discovery, because I will say



1 the following based upon what's been represented: Things  
2 have got to move faster, okay? It's easy for me to say that  
3 and I'm not suggesting that anybody is dragging their feet  
4 on this, but, you know, it really -- we've got to get to a  
5 point and we have got to get a point soon where defense  
6 counsel has meaningful access to this information. It's  
7 simply just not acceptable any longer to keep hearing that  
8 the government is continuing to work on this with the Public  
9 Defender. And I know everybody is -- and I'm not  
10 questioning anybody's good faith in this, but at some point,  
11 continuing to work on it is not going to be a satisfactory  
12 answer to me and I suspect to the other members of this  
13 bench.

14 So, Ms. Rakoczy and Ms. Peterson, I hate to ask  
15 Ms. Peterson to do this, but since she is the sole counsel  
16 here from the Federal Public Defender, I would like a Status  
17 Report within a week that tells me exactly when defense  
18 counsel is going to get access to this material.

19 I would like to know how much of the material,  
20 when they get access to it, will actually be on these  
21 databases. I'd like to know, for example, if only 5 percent  
22 of the material has been uploaded at this point or whether  
23 it's 10 percent, 15 percent.

24 I'd like to know whether there is a schedule in  
25 place to actually begin uploading the material in a

1 meaningful way so that we have some sense of when defense  
2 counsel and defendants will have complete and full access to  
3 this information.

4 I want to know where things stand on being able to  
5 get defense -- defendants who are incarcerated access to  
6 this information.

7 It's just not simply good enough to me at least  
8 anymore to continue to hear that we're working on it. We've  
9 got to get some results. And it's been incremental,  
10 I understand that. It's a slow-moving process.  
11 I understand it's an unprecedented case, it's an  
12 unprecedented amount of information. But what's not  
13 unprecedented is that we've got defendants charged with  
14 serious crimes, at least three of whom are incarcerated, and  
15 they've got rights, constitutional and statutory, to get to  
16 a trial if that's what they want.

17 So from my perspective, I want to see -- I want to  
18 understand exactly where things stand. If we're not going  
19 to start hitting targets -- can I ask counsel to please mute  
20 your line, we're starting to get a little bit of feedback.  
21 And if things are not moving at a point -- if things are not  
22 moving in a way that is going to get us meaningfully to a  
23 trial date, right now that earliest trial is in April in  
24 this case, then there will probably be more firm judicial  
25 orders to get us there, all right?

1           That April trial date is not going to move because  
2 of discovery issues, I'm telling everybody right now and  
3 you're on notice of that right now. That includes the  
4 government and that includes the defendants' counsel who are  
5 detained and will be in that trial date.

6           I mean, that is now six months away. And while  
7 that may seem like a long time, it will be upon us quickly.  
8 And so there's a lot to do between now and then, and it's  
9 going to be my intention to stay on top of this to make sure  
10 that that trial date does not move and that the defendants  
11 get the access they're entitled to and that their counsel  
12 have the access that they're entitled to to get this  
13 material.

14           So I am going to ask for something in writing from  
15 the government. Today is the 14th of October. I'll ask for  
16 something that's jointly filed with the Federal Defender by  
17 next Friday, the 22nd, that answers some of the questions  
18 that I've just posed and provides any other information.

19           What I really care about, what I really want to  
20 know at the end of the day is when this information is going  
21 to be available. I understand that the investigation is  
22 ongoing, there is a constant collection of new data and new  
23 evidence, that's fine. But when are the defendants and  
24 their lawyers going to get access to the information that  
25 the government already has?

1           And I mean all of it, not just, you know, a small  
2 percentage of it. I mean all of it. And that's something  
3 that not only I want to know, every judge on this court  
4 wants to know, and I suspect every single defense lawyer  
5 that's representing somebody would like to know so that they  
6 can adequately advise and represent their clients, okay?

7           Any questions about that, Ms. Rakoczy?

8           MS. RAKOCZY: No, Your Honor. I understand.

9           THE COURT: Okay.

10          Ms. Peterson?

11          MS. PETERSON: And, Your Honor, I would simply  
12 note that I will rely on the government because it's their  
13 representations that have to be made. Emily Miller from the  
14 U.S. Attorney's Office is coordinating the discovery from  
15 them. I'm happy to add any information I know, but largely  
16 what I'm doing is repeating what the government is telling  
17 us.

18          THE COURT: Sure.

19          MS. PETERSON: So with respect to the  
20 Evidence.com, it's partly in our hands. Relativity database  
21 is not at all in our hands at this point.

22          THE COURT: Understood.

23          I'm including you in the mix only because you've  
24 got --

25          MS. PETERSON: I understand.

1           THE COURT: -- a better sense of where things  
2 stand from the defense perspective and access issues. So  
3 I'd like a defense perspective included in whatever report  
4 is submitted to me by next week.

5           MS. PETERSON: That's fine. Thank you.

6           THE COURT: All right.

7           Are there any other matters anybody -- oh, one  
8 matter before I open this up.

9           Motions, I think we are now at a point where at  
10 least the motions concerning Counts 1 and Counts 2 of the  
11 supplemental briefing, those deadlines have come and gone.  
12 I think the final reply briefs that were submitted by the  
13 defendants were submitted yesterday, I believe, or the day  
14 before.

15           I'll just put on the record that even if a  
16 defendant that is charged with those counts, that particular  
17 counsel did not file a reply, I'm going to treat all the  
18 arguments as made by those lawyers as being made on behalf  
19 of all defendants and treat these as motions and arguments  
20 that are made on behalf of everybody.

21           I will get down to the business of looking at  
22 those motions. Whether I need a hearing or not after I get  
23 through the newly submitted materials, I will let everybody  
24 know. I just haven't read everything yet. It's only, you  
25 know, become ripe just a couple days ago and it's sort of

1 among my highest priorities to get to. So if I need a  
2 hearing, I will let everybody know.

3 Anything else that anybody wants to raise that  
4 applies to every defendant? I will in a moment go down the  
5 line of all defense counsel, but are there any other global  
6 issues that anybody wants to raise at this point?

7 MS. RAKOCZY: Your Honor, on behalf of the  
8 government, we would just ask, with respect to the motions  
9 that will be filed in November and December, because there  
10 were a number of requests for extension, does the Court want  
11 the government to respond on sort of a typical  
12 two-week-response rolling basis or could we have a date in  
13 December or January to respond sort of en masse to a number  
14 of motions, if there are such motions?

15 THE COURT: So, Ms. Rakoczy, I will confess to you  
16 that I don't have a schedule in front of me that outlines  
17 what motions are due -- or which motions -- which defendants  
18 have asked for extensions and which defendants have motions  
19 due in November and December.

20 I'm happy --

21 MS. RAKOCZY: I'm only asking --

22 THE COURT: That's okay.

23 I'm happy to have the government respond to those  
24 motions all at once on a single date.

25 So if you want to consult with counsel whose

1 motions are pending and discuss a schedule with them and  
2 present it to me, I'm happy to take a look at that and  
3 likely sign off on that.

4 MS. RAKOCZY: Thank you, Your Honor.

5 THE COURT: Okay?

6 All right.

7 MR. BRENNWALD: Your Honor, this is  
8 Steve Brennwald for Mr. Parker.

9 THE COURT: Yes, Mr. Brennwald.

10 Mr. Brennwald?

11 MR. BRENNWALD: Can the Court hear me?

12 THE COURT: Yes.

13 You wanted to say something that applies to  
14 everyone?

15 MR. BRENNWALD: Yes, Your Honor.

16 I know that motions have been filed with respect  
17 to the 1512(c) count, and my question is whether general  
18 motions that might apply to discovery that we will at some  
19 point in the future will have a separate deadline or are we  
20 supposed to have filed all motions in this case regarding  
21 any issue although we don't have complete discovery?

22 THE COURT: No.

23 The only deadlines that have been set with respect  
24 to motions are Rule 12 motions.

25 Now that we know there will not be a trial in

1 January, I will get out a schedule for motions with respect  
2 to April defendants, but I'm not sure we need to do that  
3 just yet.

4 But, no, there will be a separate motions schedule  
5 for motions in limine and the like.

6 Obviously, you know, as I said, Rule 12 motions,  
7 we've had deadlines in place, so if you haven't filed those,  
8 better to do that sooner rather than later.

9 MS. HERNANDEZ: Your Honor, I'm sorry, this is  
10 Carmen Hernandez.

11 With respect to discovery and "the ongoing  
12 investigation," I continue to be concerned about the way  
13 discovery is coming in. Again, I'm not ascribing bad  
14 motives to the government, but, as the Court heard, last  
15 week we got 14 new Signal chats, which the government claims  
16 involve planning and vital information for this case. And  
17 the reason, as I understand it, we only got it a week ago,  
18 even though my client was originally charged in January, is  
19 because of an ongoing investigation.

20 The government has "29 persons," you know, Person  
21 Number One, Person Number Two, 29 persons. We know the  
22 identity, I believe, now of eight of them. But I'm not --  
23 what does an ongoing investigation mean in terms of --  
24 I understand, let me back up.

25 I understand normally the Federal Government



1 investigates for years and then brings charges, but I'm  
2 concerned that there's no outer limit to what we're facing.  
3 It is very -- I understand the Court has now moved the  
4 January trial date, but it's impossible to get a handle on a  
5 case where there's no outer limit to the ongoing  
6 investigation, there's no outer limit to the number of  
7 persons that are being investigated, and each -- and some of  
8 the persons that are being investigated --

9 THE COURT: Well, Ms. Hernandez --

10 MS. HERNANDEZ: -- are key people.

11 Person Number One is supposed to be the head of  
12 the Oath Keepers.

13 THE COURT: Ms. Hernandez.

14 MS. HERNANDEZ: I'm sorry, I'm --

15 THE COURT: Look, the bottom line is, I understand  
16 the concern, but there's nothing I can do about that.

17 I can't order the government to end its  
18 investigation, I can't order the government to stop  
19 collecting relevant evidence.

20 What I can do is set deadlines, I can set trial  
21 dates. And the government has obligations and  
22 responsibilities to get evidence to defense counsel, and  
23 that's what I'm trying to do.

24 If we get to a point in time where the  
25 government's late disclosure prejudices the defendants in

1 any way, then we can take that up then. But we're not even  
2 close to that point. And, you know, maybe we'll get closer  
3 to that as we get to April.

4 But, you know, as I said, it's not for a judge,  
5 for anybody on the Federal Judiciary to tell the government  
6 when an investigation can stop or who to investigate or not  
7 investigate. And while it impacts everybody in this case,  
8 I understand that, but there's not much I can do about that,  
9 all right?

10 MS. HERNANDEZ: Well, Your Honor, I've been in  
11 many cases, including, I believe, in front of you, where the  
12 Court sets a deadline for discovery.

13 I understand investigation, there's nothing, but  
14 the government has to produce any evidence they plan to use  
15 by a date certain, and then after that --

16 THE COURT: That is happening in this case, which  
17 is, there are -- the government has obligations to produce  
18 discovery. Ms. Rakoczy, as I understand it, that's why  
19 we're having these hearings, is producing it.

20 I'm as frustrated as anyone that defense counsel  
21 has not gotten access to the larger body of evidence. And,  
22 you know, as I said, we may get to a point where the  
23 government's failure to produce evidence is going to result  
24 in the exclusion of evidence that the government late  
25 produced, but we're just not there yet, or some other

1 sanction, but we're not even close to that. So that's  
2 regrettably what the state of play is right now.

3 MS. HERNANDEZ: Thank you.

4 THE COURT: Let's started with Mr. Caldwell and  
5 Mr. Fischer.

6 Anything you'd like to raise, Mr. Fischer?

7 MR. FISCHER: Respectfully, no, Your Honor.

8 THE COURT: Okay.

9 Ms. Hernandez, anything else on behalf of  
10 Mr. Crawl?

11 MS. HERNANDEZ: No, Your Honor. I believe the  
12 Court has covered my concerns.

13 THE COURT: Okay.

14 Ms. Peterson on behalf of Ms. Watkins?

15 MS. PETERSON: No, Your Honor.

16 THE COURT: Mr. Machado on behalf of Sandra  
17 Parker?

18 MR. MACHADO: Your Honor, just one matter.

19 With regard to -- I realized after the fact, after  
20 our hearing that we had on the motions, that I had not  
21 joined in a motion or I had not put a notice to join in the  
22 motion.

23 Even though it's essentially after the fact of --  
24 is there -- am I still able to join, even if the motion has  
25 been denied, just for record purposes, is that necessary or

1 is -- as part of the record of the case, is it considered  
2 that as part of the case?

3 THE COURT: No.

4 What I have said throughout is if you intend to  
5 join a motion, file a notice indicating you are joining a  
6 motion.

7 MR. MACHADO: All right.

8 THE COURT: If you haven't filed such notice, the  
9 Court of Appeals will assume that you haven't joined in that  
10 argument.

11 MR. MACHADO: Okay.

12 THE COURT: So if that's not something you've done  
13 on a particular motion, Mr. Machado, even if it's been  
14 denied, then I would suggest you file that notice to  
15 preserve your record.

16 MR. MACHADO: Yeah. Will do. Thank you.

17 THE COURT: Okay.

18 Mr. Brennwald on behalf of Mr. Parker?

19 MR. BRENNWALD: Nothing else, Your Honor.

20 Thank you.

21 THE COURT: All right.

22 Mr. Cooper on behalf of Ms. Steele?

23 MR. COOPER: Nothing, Your Honor. Thank you.

24 THE COURT: All right.

25 Mr. Wilson on behalf of Mr. Meggs?

1 Mr. Wilson?

2 MR. WILSON: No, Your Honor. I'm sorry.

3 THE COURT: All right.

4 Ms. Haller on behalf of Ms. Meggs?

5 MS. HALLER: No, Your Honor. Thank you.

6 THE COURT: All right.

7 Mr. Geyer on behalf of Mr. Harrelson?

8 MR. GEYER: No.

9 Thank you for your consideration today,  
10 Your Honor.

11 THE COURT: All right.

12 Ms. Wicks on behalf of Mr. Minuta?

13 Ms. Wicks, we'll get to your motion at the end,  
14 but anything you want to raise at this point?

15 MS. WICKS: Nothing else then, Your Honor.  
16 Thank you.

17 THE COURT: All right.

18 Ms. Robin on behalf of Mr. James?

19 MS. ROBIN: Nothing at this time. Thank you.

20 THE COURT: Mr. Walden -- excuse me, Mr. Spina on  
21 behalf of Mr. Walden?

22 MR. MacMAHON: Your Honor, Edward MacMahon for  
23 Mr. Walden.

24 We have nothing. Thank you.

25 THE COURT: All right.

1 Ms. Halim On behalf of Mr. Hackett?

2 MS. HALIM: No, Your Honor. Thank you.

3 THE COURT: Mr. Rossi on behalf of Mr. Isaacs?

4 MR. ROSSI: Your Honor, nothing to add.

5 THE COURT: On behalf of Mr. Moerschel, Mr. Kibria  
6 or Mr. Weinberg?

7 MR. WEINBERG: No, nothing, Your Honor.

8 Scott Weinberg on behalf of Mr. Moerschel.

9 THE COURT: And then on behalf of Mr. Ulrich,  
10 Mr. Balbo and Mr. Abbenante?

11 MR. BALBO: Yes, Your Honor.

12 Mr. Ulrich and I participated in a reverse proffer  
13 with the government a couple of weeks ago for which there  
14 was a presentation, a PowerPoint presentation, that included  
15 such things as emails, text messages, some still images, and  
16 we asked for a copy of that presentation and we were told we  
17 couldn't have it. I was wondering if that is something that  
18 the Court could perhaps direct the government to provide to  
19 us. I understand the investigations are ongoing, but I was  
20 wondering if that was something that you could have them  
21 provide to us.

22 THE COURT: Let's put it this way: I think my  
23 instinct and the short answer is likely no. I don't know  
24 that I can compel that production, because I suspect the  
25 government will say it's work product, even though it's been

1 disclosed as part of a reverse proffer.

2 And so I think the answer is no. If you want to  
3 file a motion to compel that convinces me that that kind of  
4 PowerPoint that the government has put together for a  
5 reverse proffer can be -- that its disclosure can be  
6 compelled, I'm happy to take a look at such motion.

7 MR. BALBO: Yes, Your Honor.

8 It's not necessarily the PowerPoint itself. It's  
9 just to ensure that the underlying evidence which was put  
10 into the PowerPoint is something that has been disclosed.

11 I don't think everything that has been disclosed  
12 at this point was -- I think there was additional  
13 information that was in the PowerPoint that had not been  
14 previously disclosed. I'm more worried about the evidence  
15 than the bells and whistles of the PowerPoint.

16 THE COURT: I see.

17 Well, I mean, certainly, you are entitled to --  
18 that's a straightforward Rule 16 disclosure. And if there's  
19 specific information that you saw in that PowerPoint that  
20 you don't believe you received, I would urge you to talk to  
21 Ms. Rakoczy and make sure that that's been produced.

22 MS. RAKOCZY: Your Honor, I understand that my  
23 colleague, Mr. Edwards, has offered to make the underlying  
24 evidence of any videos or messages or whatnot available to  
25 the defense, if it hasn't already been produced.

1 THE COURT: Okay.

2 So there you go, Mr. Balbo. Just talk to  
3 Mr. Edwards and you should be able to get the information  
4 you're looking for, okay?

5 MR. BALBO: Thank you, Your Honor.

6 THE COURT: Okay.

7 So I think that's all I want to cover in terms of  
8 everyone.

9 I'll ask -- there's specific issues with respect  
10 to the following defendants, so I'll ask counsel for  
11 Mr. Harrelson, Ms. Wicks on behalf of Mr. Minuta, and  
12 counsel for Mr. James to remain on the line so we can  
13 address those specific issues as to them. Obviously,  
14 everybody else is welcome to stay on if you'd like, but the  
15 only remaining issues are specific to those three  
16 defendants.

17 Oh, hang on. Before we leave, before anybody  
18 leaves, let's set down another status conference. How about  
19 December 3rd at 11:00 a.m.?

20 MS. HERNANDEZ: I have a sentencing at 11:30 a.m.,  
21 Your Honor, with Judge Chutkan.

22 THE COURT: Hang on. I spoke too soon.

23 What's available?

24 I need to check on the availability of our  
25 Ceremonial Courtroom before I commit to a date and time.



1           Okay. How about December 6th at 11 a.m.?

2           MS. HERNANDEZ: Your Honor, I have a status at  
3 11:00 -- this is Carmen Hernandez -- but I think I can  
4 probably move that, it's a virtual status, it shouldn't take  
5 very long.

6           THE COURT: Thank you, Ms. Hernandez.

7           Hearing no other objections or conflicts, we'll  
8 set down another status hearing December 6th at 11:00 a.m.

9           And so I'll look forward to getting the  
10 government's submission and FPD submission next Friday. And  
11 if there's a need for further hearings on the status of  
12 discovery, I'll set those in due course.

13           All right. So counsel for Mr. Harrelson,  
14 Mr. Minuta, and Mr. James; otherwise, everybody is free to  
15 leave the Zoom conference. Thank you, everyone.

16           MS. RAKOCZY: Excuse me, Your Honor.

17           Just for the record, I know we have motions  
18 pending, but through the next date, is the Speedy Trial Act  
19 tolled in the interests of justice?

20           THE COURT: Yeah.

21           Are we only tolled through today?

22           MS. RAKOCZY: I think with -- I know that the  
23 counsel who are detained just waived through the next trial  
24 date, but just generally speaking.

25           THE COURT: Yeah.

1 I mean, I'll make -- we are tolled, given that  
2 there are pending motions on the first count. But,  
3 nevertheless, I'll toll through December the 6th, at least  
4 till our next day together, as the ends of justice outweigh  
5 the interests of the defendants and the public in a speedy  
6 trial, and specifically, exclusion of that time is warranted  
7 to allow the government to continue to make discovery  
8 available. For the reasons we've already discussed, it's a  
9 highly complex case with an extraordinary volume of  
10 discovery and the complexity of getting that discovery to  
11 defense counsel has proven to be challenging and the  
12 exclusion of that time to continue that process and for the  
13 defense to receive that discovery and share it with their  
14 clients warrants the exclusion of time through December the  
15 6th, in addition to the exclusion of the time that's already  
16 tolled as a result of pending motions.

17 Thank you for the reminder, Ms. Rakoczy.

18 So other than those three counsel, we'll see  
19 everybody in about five, six weeks.

20 Thanks, everybody, and have a good Thanksgiving if  
21 we don't see you sooner.

22 (Pause)

23 THE COURT: So let's start with Ms. Wicks and  
24 Mr. Minuta.

25 Is Mr. Minuta on? Is he available? Is he on

1 the -- Ms. Wicks?

2 MS. WICKS: Yes, Your Honor, he's on via video.

3 THE COURT: Okay.

4 So, Ms. Wicks, I've obviously seen your motion.  
5 And I haven't granted it yet, because we're still in the  
6 process of trying to identify counsel for Mr. Minuta.

7 Mr. Minuta, your lawyer has indicated -- you've  
8 shared this with him, Ms. Wicks, I assume?

9 MS. WICKS: Yes, I have, Your Honor.

10 THE COURT: All right.

11 So that she's retiring and, therefore, we're going  
12 to have to find you new counsel to represent you.

13 It's a little bit more complicated than  
14 it would be ordinarily just because of the number of  
15 defendants and the number of lawyers that are appointed in  
16 these cases, it is making a little bit more difficult to  
17 identify somebody. But I hope to have somebody in place in  
18 the next week or so. So if you'll just be patient with me  
19 in that process, we should have somebody appointed for  
20 Mr. Minuta probably within the next week or so, okay? And  
21 then we'll grant Ms. Wicks' motion.

22 MS. WICKS: Thank you, Your Honor.

23 THE COURT: Ms. Wicks, is there a date by which  
24 you are intending to be officially retired that I need to be  
25 aware of?

1 MS. WICKS: Next week, but I'm not disappearing.

2 THE COURT: All right.

3 So that's the status of that.

4 Mr. James, we received a pretrial report  
5 concerning Mr. James. And is he on the line either by phone  
6 or by video?

7 MS. ROBIN: He is present, Your Honor, by video.

8 THE COURT: Okay.

9 Mr. James -- oh, I see you in the lower right  
10 corner now.

11 So is there any objection to the recommendation  
12 that's been made by Pretrial? Ms. Robin, have you seen that  
13 report?

14 MS. ROBIN: I have seen the report and we have no  
15 objection, Your Honor.

16 THE COURT: All right.

17 So, Mr. James, we will add that condition that's  
18 been recommended by Pretrial in the report to your  
19 conditions of release. So we'll expand the availability of  
20 services to you and hopefully that will be of assistance,  
21 okay?

22 DEFENDANT JAMES: Thank you, sir.

23 THE COURT: All right.

24 So, Ms. Wicks and Ms. Robin, you're free to leave,  
25 if you'd like.

1           So that then leaves Mr. Harrelson.

2           And there is a pending motion concerning  
3 Mr. Harrelson's health status that was filed by prior  
4 counsel. There were representations made in that motion  
5 about Mr. Harrelson's health. I did ask the government to  
6 respond to that motion, and, in particular, comment on the  
7 health condition that was identified in that motion that  
8 remains under seal, so I won't identify it.

9           The government responded that, based on its  
10 information, that the health information -- the health  
11 condition was not one that warranted early release. But  
12 what wasn't clear to me, and that's why I wanted to raise  
13 this now, is where the government had obtained its  
14 information. It seemed to be quoting from medical records,  
15 those weren't attached, at least as far as I can tell,  
16 either to Mr. Harrelson's motion or to the government's  
17 response, and so I wanted to get some further insight from  
18 the government on that before ruling on the motion.

19           MS. RAKOCZY: Yes, Your Honor.

20           That information came from records from the  
21 Department of Corrections which we obtained and shared with  
22 defense counsel.

23           THE COURT: Okay.

24           And so the quotation was to that, to medical  
25 records that you obtained from the DOC?

1 MS. RAKOCZY: Yes, Your Honor.

2 I should clarify that we received the records  
3 through the U.S. Marshals Service but they are from the  
4 Department, correct.

5 THE COURT: All right.

6 Mr. Geyer, you had seemingly alluded earlier in  
7 our hearing that there may be another motion forthcoming  
8 concerning Mr. Harrelson's bond status. So was I  
9 overreading something you said?

10 MR. GEYER: No, Your Honor.

11 Right now, we're contemplating two motions; one  
12 involves -- boy, there's really bad feedback, so I'll slow  
13 down.

14 Oh, thank you, whoever fixed that, I very much  
15 appreciate it.

16 Regarding the health issue, I reviewed the file of  
17 the motion that was prepared by prior counsel and I ended  
18 up -- an expert I had formally consulted with, we agreed  
19 with the government's assessment and they were really  
20 accommodating and forthcoming by making that record that was  
21 filed under seal available to me, and I'm very appreciative  
22 for that, I just want to state that for the record.

23 I anticipate -- we're considering filing a motion  
24 on behalf of one or more of the defendants who are currently  
25 incarcerated involving their conditions of confinement,

1 which I believe violate a number of laws. I intimated about  
2 some of that in my prior comments, and I appreciate the  
3 Court's indulgence in allowing me to say that earlier today.

4 And I believe that it warrants immediate release  
5 just based on the fact that this class of defendants, which  
6 are in a subset of defendants in the Department of  
7 Corrections under a warden who's already been held in  
8 contempt, they're not allowed to engage in religious  
9 services. If they meet with me, it's 14 days in isolation.  
10 So it's really not -- I really don't have access to my  
11 client, I really don't. I'm sorry, I don't.

12 The other part of the -- and I'll lay this out in  
13 a motion next week, I believe, I'll lay this all out for the  
14 Court -- I believe that that and what I think will be a  
15 second motion will give the court overwhelming justification  
16 to immediately release my client.

17 THE COURT: So if I could just interrupt.

18 MR. GEYER: There are video --

19 THE COURT: That's okay.

20 Mr. Geyer, if I could just interrupt you --

21 MR. GEYER: Sure.

22 THE COURT: -- because what I wanted to just get  
23 to is whether I need to sort of rule on this pending motion  
24 that's based upon his medical condition. As I said, prior  
25 counsel had added this argument under seal.

1 MR. GEYER: Oh.

2 THE COURT: Since it sounds like you're going to  
3 either renew or supplement what's already been filed, maybe  
4 it's just best that I hold off at this point and not do  
5 anything with it. Is that okay with you?

6 MR. GEYER: The way that I treated it is -- again,  
7 I'm trying to sync up with what everybody else has done and  
8 make it as seamless as possible, which is why I submitted a  
9 proposed -- an unopposed motion to delay a supplemental  
10 response on the matters that are before the Court today  
11 regarding the statutory 1512. I think I'll be able to do  
12 something very succinct on Monday about that, or that's my  
13 goal. And if that time elapses the way the proposed motion  
14 is framed, then we won't file it and I won't seek leave to  
15 renew it.

16 On this, I let the medical motion go through and  
17 I, frankly, agreed with the government and the --

18 THE COURT: All right.

19 So let's do this.

20 MR. GEYER: -- Court ruled --

21 THE COURT: Why don't I -- I'll close out that  
22 motion.

23 And so we'll deny the motion based upon the  
24 limited medical justification that was offered in that prior  
25 motion under seal. That's without prejudice to refiling any



1 other motion that you'd like to file. And so just in terms  
2 of -- I want to make sure the docket is orderly here.

3 MR. GEYER: Sure.

4 THE COURT: So we'll close that motion out.  
5 If you want to file something else, obviously you are free  
6 to do that, and we'll take that up when you file it, okay?

7 MR. GEYER: Okay. Thank you, Your Honor.

8 THE COURT: All right.

9 Thank you all very much, we'll hear from you soon  
10 and see you soon after.

11 Thanks, everybody.

12 MS. RAKOCZY: Thank you, Your Honor.

13 (Proceedings concluded at 12:27 p.m.)  
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C E R T I F I C A T E

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

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

Date: \_\_October 14, 2021\_\_      /S/ \_\_William P. Zaremba\_\_

William P. Zaremba, RMR, CRR

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