

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	CR No. 21-28-3
	)	Washington, D.C.
vs.	)	February 26, 2021
	)	2:00 p.m.
JESSICA M. WATKINS,	)	
	)	REDACTED
Defendant.	)	
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TRANSCRIPT OF DETENTION HEARING  
VIA ZOOM PROCEEDINGS  
BEFORE THE HONORABLE AMIT P. MEHTA  
UNITED STATES DISTRICT JUDGE

APPEARANCES:

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For the Defendant:	Michelle M. Peterson FEDERAL PUBLIC DEFENDER FOR THE DISTRICT OF COLUMBIA 625 Indiana Avenue, NW Suite 550 Washington, D.C. 20004 (202) 208-7500 Shelli_peterson@fd.org
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Proceedings recorded by mechanical stenography; transcript  
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1 P R O C E E D I N G S

2 COURTROOM DEPUTY: This is Criminal Case No.  
3 21-28-3, the United States of America versus Jessica Marie  
4 Watkins.

5 Ahmed Baset for the government.

6 Shelli Peterson for the defense.

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

9 THE COURT: Okay. Good afternoon, Counsel.

10 Ms. Watkins, good afternoon to you. Can you hear  
11 me okay?

12 THE DEFENDANT: Yes, Your Honor, I can.  
13 Thank you.

14 THE COURT: Okay.

15 So we're back this afternoon, this is a  
16 continuation of the detention hearing we had earlier this  
17 week. I had asked the parties to brief some issues and they  
18 did submit those briefs and I've had a chance to review  
19 those.

20 So but before we do that, we need to get  
21 Ms. Watkins re-arraigned on the superseding indictment.

22 So, Ms. Peterson, if we can start there and then  
23 we'll turn to the detention issues.

24 MS. PETERSON: Yes, Your Honor.

25 Ms. Watkins would waive the formal reading of the

1 indictment. We have received a copy of it. I don't believe  
2 Ms. Watkins yet has a copy of her own, but I have gone over  
3 the charges with her and she's aware of them.

4 We would waive the formal reading and we would  
5 enter a plea of not guilty to all of the charges and invoke  
6 all of her statutory and constitutional rights, including  
7 her right to a speedy jury trial.

8 THE COURT: Mr. Douyon, do you need to do anything  
9 more formally to ensure that the record reflects her  
10 arraignment?

11 COURTROOM DEPUTY: I don't believe so.

12 THE COURT: All right.

13 So, Ms. Peterson, are you satisfied that we've  
14 done what we need to do to have Ms. Watkins arraigned on the  
15 superseding indictment?

16 MS. PETERSON: Yes, Your Honor.

17 THE COURT: Is the government also satisfied?

18 MR. BASET: Yes, Your Honor.

19 THE COURT: Okay.

20 All right. So let's, then, turn to the matter at  
21 hand back on the question of detention.

22 And thank you, both, for the quick work that  
23 you've done on your detention memos. I really appreciate  
24 that and the thoughtfulness that both sides have put into  
25 briefing the issues.

1           Neither side's had a chance to reply, so why don't  
2 we start there. And if either side wants to orally reply to  
3 the other side's memo, I'm happy to hear your thoughts on  
4 that -- on the issues that have been briefed.

5           MS. PETERSON: Your Honor, the only thing -- if  
6 the Court's prepared for me to go first -- that I wanted to  
7 note, is that I think that the government is essentially  
8 trying to lower the standard that was put in place with  
9 *Davis* and *Johnson* by referring to the *Stokeling* case.

10           And I think that it's clear from the case law that  
11 has developed in the area of crime of violence, that the  
12 *Stokeling* standard really refers to the -- only refers to  
13 cases where property is being taken from a person, because  
14 it refers to resisting the -- overcoming resistance. And  
15 obviously, property cannot overcome resistance, only a  
16 person can have their resistance overcome. So I don't think  
17 that the *Stokeling* case modifies the standard that the Court  
18 has to apply under *Davis* and *Johnson*.

19           THE COURT: Yeah.

20           I think -- I mean, look, I think the  
21 crime-of-violence question is a difficult one. And I did  
22 have a question for Mr. Basset about the government's  
23 presentation in a moment.

24           But can I ask you, Ms. Peterson, with respect to  
25 what I'll just sort of call the federal terrorism list

1 enumerated offenses.

2 I know the argument here isn't strictly that this  
3 is a crime of terrorism, but, nevertheless, is listed among  
4 those offenses that qualify as -- under 18 U.S.C.  
5 2332b(g)(5)(B).

6 From a textual standpoint, do you agree that this  
7 sort of ten-year overlap exists; in other words, that from  
8 just a textual reading, that the ten or more years that's  
9 referenced in the Bail Reform Act would reach the up to  
10 ten-years of imprisonment that is prescribed under 3142 for  
11 destruction of federal property?

12 MS. PETERSON: I think, Your Honor, that it's very  
13 hard to argue that ten doesn't fall in that Venn Diagram  
14 between both rules. It's a very small overlap of just one  
15 day.

16 And I think that the Court has to look at  
17 congressional intent behind the Bail Reform Act and the  
18 presumption of innocence that applies in reaching the  
19 question of whether the Court should reach that conclusion,  
20 given what the Bail Reform Act is really all about, which is  
21 to hold only detention hearings for people who are of the  
22 most serious crimes, and this would not fall within that.

23 THE COURT: All right.

24 Mr. Baset, did you want to --

25 Ms. Peterson, anything else you wanted to add

1 before I turn to Mr. Baset?

2 MS. PETERSON: Your Honor, I just think in the  
3 interest of fairness, I think the Court should be aware, if  
4 it is not, that Judge Nichols addressed this issue just this  
5 morning in a case, Troy Faulkner, I believe it was -- no,  
6 I'm sorry, that was Chief Judge Howell's -- it was  
7 Gina Bisignano, I'm not sure I'm saying it correctly. But  
8 Judge Nichols did find that this same statute created the  
9 rebuttable presumption, and then he ultimately released  
10 Ms. Bisignano.

11 And Judge Howell similarly has held hearings on  
12 this, but no one has -- I don't believe anyone other than  
13 Judge Nichols has really delved into the issue.

14 THE COURT: Thank you for updating me about that.  
15 I know various of my colleagues are getting these issues at  
16 various times.

17 Mr. Baset, did you want to respond in any way to  
18 the arguments that Ms. Peterson has made in her submission?

19 MR. BASET: I would note that in terms of the last  
20 question that you just posed to Ms. Peterson, as far as the  
21 overlap, I think there's a concession here that it does fall  
22 within that time frame, and every day counts.

23 And I would also note to the Court that there are  
24 about a dozen or more other enumerated statutes within  
25 2332b(G)(5) that are not punishable by more than ten years.

1           And so if Your Honor were to not consider this as  
2 an overlap, it would effectively render nugatory over a  
3 dozen other statutes referenced. And so by Congress's own  
4 conception, they certainly thought of the fact that there  
5 would be an overlap of a day, and that was sufficient. And  
6 I think it is, in this case, as well.

7           And as Ms. Peterson has pointed out, the only two  
8 judges that have looked at this issue in this courthouse at  
9 least have ruled or held in a way that the government is  
10 arguing is appropriate here and what the statute requires,  
11 as well as is consistent with a case we cited in *Rasco*, the  
12 Fifth Circuit, 1997 case.

13           And I think at bottom, Ms. Peterson's argument  
14 replaces Congress's understanding of what constitutes a  
15 serious enough offense with her own. And so -- at which  
16 point it's an enumerated offense and it's punishable by the  
17 term that falls within the statutory requirement of ten or  
18 more years.

19           The government, at least at this point, has a  
20 rebuttable presumption that the defense must rebut, which  
21 then has baked into it an analysis -- or it has baked into  
22 it a detention hearing. Certainly in order for the defense  
23 to rebut the presumption, they would need that opportunity.

24           And so the government's argument is that once the  
25 presumption applies under 3142(e)(3)(C), an analysis of



1 3142(f) as to whether you get a detention hearing in the  
2 first place is unnecessary.

3 And then we jump --

4 THE COURT: Can I ask you just a quick question  
5 about the crime-of-violence issue?

6 I mean, how does the government square its  
7 position on crime of violence with the kinds of cases that  
8 Ms. Peterson has cited, which show, for example, you know,  
9 the pouring of blood on to government property, as  
10 constituting a depredation.

11 And, in fact, most -- and then most recently, she  
12 cites a case that's actually an ongoing prosecution --  
13 I don't have the name in front of me, but it's a case  
14 involving spray printing on the Lincoln Memorial, and that  
15 that the government has charged is a depredation of  
16 property.

17 I mean, is it the government's position that that  
18 kind of conduct still constitutes a depredation, even though  
19 I would think, at least colloquially, commonsensically, most  
20 people wouldn't say that spray painting a monument, however  
21 abhorrent they may find it, or pouring blood on government  
22 property is not really -- doesn't really rise to an act of  
23 violence or even physical force of any kind?

24 MR. BASET: We can certainly appreciate the  
25 intuitive argument or notion that this does not entail

1 force.

2 But we do have to look at the first principles of  
3 how we are to look at -- or evaluate the word "depredation."  
4 And if we actually look at the historical context of that,  
5 we have the Sixth Circuit case in *Jenkins*, which defines it  
6 as to plunder, rob or pillage, all of which, from the  
7 government's perspective, entails forceful taking based on  
8 the Supreme Court decision in *Diel*. And so in each of those  
9 scenarios, you have force applied.

10 Now, there is a Black's Law -- we wouldn't call it  
11 a definition, but it does indicate that there is some  
12 understanding to your point about the intuitive  
13 understanding of what depredation means of a non-forceful  
14 taking, where it's a taking from another person or place  
15 without right.

16 But I think if you look at it for one, Black's Law  
17 refers to this as a figurative expression, not an actual  
18 definition. It's an expression of an idea.

19 But --

20 THE COURT: And, Mr. Baset, if I can just  
21 interrupt you.

22 I mean, I hear what you're saying, and, frankly,  
23 I think it's commendable that the government, on short  
24 notice, unearthed these dictionaries and definitions.

25 But the some Supreme Court has repeatedly

1 emphasized that, in terms of thinking about this question of  
2 crime of violence and using a categorical approach, that we  
3 look actually to the case law. And oftentimes, it's the  
4 defendant who is coming in and saying, look, well, here's  
5 this potential way in which a statute can be prosecuted --  
6 used to prosecute a non-violent -- for non-violent conduct.  
7 And the Supreme Court has said, look, this isn't an exercise  
8 in creativity; rather, it's an exercise in looking at case  
9 law and seeing how the statute is actually being used.

10 And as Ms. Peterson has pointed out, I mean, there  
11 are -- you know, she's identified multiple prosecutions  
12 reaching back decades in which the government has used the  
13 statute to prosecute crimes that essentially are no more  
14 than either a painting or pouring of blood or painting of  
15 paint on to government property.

16 So certainly along the way, the government has  
17 thought, and apparently still now still considers, that type  
18 of conduct to constitute a depredation.

19 MR. BASET: Most certainly.

20 And it is from the perspective of the property,  
21 because this is a crime against property, and it is to be  
22 evaluated in terms of the damage caused to the property.

23 And so in a scenario where there is graffiti  
24 painted on a monument or blood poured on a floor, for  
25 instance. But say that that graffiti or blood can be wiped

1 away pretty easily and there's no lasting damage, certainly  
2 not of a thousand dollars, for instance, then you don't have  
3 a depredation under 1361, you don't have any sort of force  
4 applied.

5           Where the government believes that the analysis of  
6 force, or at least the prism through which we should analyze  
7 force is in terms of the impact that it has on the target,  
8 which, in this case is the property -- and that, for  
9 instance, is recognized by the Supreme Court in the case  
10 that escapes me.

11           But in the context of an indirect application of  
12 force, like in the sense of poisoning -- and the courts have  
13 held and recognized that while pouring a drop of poison into  
14 a glass of water does not, in an intuitive sense, require  
15 the application of force, most certainly the impact of it is  
16 very forceful.

17           And in the same token, if you look at the context  
18 of graffiti, while pressing a spray can might not have an  
19 enormous amount of force, it certainly does if you have to  
20 spend thousands of dollars to replace the -- or fix the  
21 injury or the damage caused to that property.

22           And so the way at least the statute is  
23 constructed, it's a crime against the property. And the  
24 property in this case is one that's damaged, and we're  
25 understanding it to be over a thousand dollars. And so

1 that's why we have baked in here the notion of force when it  
2 comes to the offense of causing depredation.

3 The other thing I would say as well, in going back  
4 to counsel's argument about *Stokeling*, is that, in  
5 *Stokeling*, they recognize that it's not about the particular  
6 degree of force or the likelihood or probability that force  
7 will be used, it's just the potential that force can be  
8 used, and so I think that is also important. And I think  
9 the fact that that is a case about injury to human being  
10 versus here we're dealing with injury to property is of no  
11 import. What is important is how we evaluate what force  
12 means.

13 And the idea that you are evaluating in terms of  
14 application from the actor is not the way the cases have  
15 looked at it. More so, it's looked at from the perspective  
16 of what is the damage caused to the property, that's how we  
17 understand force.

18 We look at that in the analysis of *Khatallah*,  
19 which looks at indirect application of force, as we have  
20 here, where, you know, there's tar poured on a courthouse or  
21 there's a breaking a sprinkler to cause flooding. The  
22 analysis turns there on what is the damage caused.

23 And that's how you understand force, and that's  
24 why the government in this case believes that destruction of  
25 property of over a thousand dollars is forceful.

1 THE COURT: All right. Thank you, Mr. Baset.

2 Okay. So, you know, I've studied this some number  
3 of hours this week and I've read the parties' papers closely  
4 and followed up on their arguments.

5 You know, this is where I come out, which is:  
6 I think the government ultimately is correct that a crime  
7 charged under 3142 is a crime -- excuse me, is an offense --  
8 and this is under (f) (1) (A), that the crime charged under  
9 3142 -- excuse me -- right, 3142 for destruction of property  
10 is an offense listed in Section 2332b(g) (5) (B) for which a  
11 maximum term of imprisonment of ten years or more is  
12 prescribed.

13 You know, I think the defense -- well, first and  
14 foremost, I've sort of reached that conclusion for two main  
15 reasons:

16 The first is just the plain text. And I think the  
17 government is correct that the plain text includes this  
18 ten-year overlap; that the Bail Reform Act speaks in terms  
19 of maximum term of imprisonment of ten years or more as  
20 prescribed; and Section 3142 does prescribe a term of  
21 imprisonment of up to ten years.

22 I don't think there's any dispute here that the  
23 maximum penalty under 3242 -- 3142 is ten years, and, in  
24 fact, there are a couple of Circuit Courts that have said as  
25 much; that it is, in fact, ten years. And let me just see

1 if I can find those cases. Hang on. Just a couple of  
2 cases.

3 And I'm not suggesting these are cases that have  
4 done a deep dive into the statutory analysis, but they both  
5 at least said that and acknowledged that ten years is the  
6 maximum penalty under 3142. And that's *Theriault*,  
7 Fifth Circuit case, 555 F.2d, and the relevant pincite is at  
8 460 to -61.

9 There's also a Tenth Circuit case called -- fairly  
10 recently -- *United States versus Allen*, 983 F.3d 463, and  
11 the pincite 469, in which it sort of affirms that up to ten  
12 years is the -- or ten years is the maximum penalty.

13 And so there is this overlap. And I think the  
14 defense's argument, and I think Ms. Peterson acknowledged as  
15 much, is that the text itself does provide the overlap, and,  
16 therefore, that, frankly, at the end of the day, really, it  
17 seems to me, resolves the issue.

18 There are a couple of Circuit cases that, although  
19 they don't deal with this particular context, they sort of,  
20 I think, re-affirm the interpretation of this statute or the  
21 interplay between these two statutes.

22 The first is the one the government cited in its  
23 papers, *United States versus Rasco*, at 123 F.3d 222. It's a  
24 Fifth Circuit case.

25 And that case has a similar interplay between a

1 state statute that defines the maximum penalty as not more  
2 than ten years. And then a federal statute that provided an  
3 enhancement that used the term of -- you know, the same  
4 language we have here, "maximum term of imprisonment of ten  
5 years or more." And the Court in that case found that that  
6 ten-year overlap was sufficient to make the state offense a  
7 qualifying enhancement under federal law.

8 Similarly, there's a case called *United States v.*  
9 *Fulton*, 602 F.App'x 495 at 496. This was an  
10 Eleventh Circuit case from 2015. And it analyzes the  
11 interplay between a federal statute that provides a term of  
12 imprisonment of not more than 20 years, and then a provision  
13 in the sentencing deadlines that involves a maximum sentence  
14 of 20 years or more.

15 And in that case, because there was a 20-year  
16 overlap between these two provisions that provided the  
17 interplay between the two provisions, the Court in that case  
18 held that because the 20-year maximum fell within the lower  
19 bound of the 20 years or more that was provided in the  
20 Sentencing Guidelines, that that was enough for the  
21 enhancement in that case, it was a career-offender  
22 enhancement.

23 So I think that the two cases that we've been able  
24 to find, the one found by the government and this other  
25 case, *Fulton*, sort of stand for the opposition that in



1 circumstances like this, that so long as there is an overlap  
2 between the two provisions, that that's enough.

3           You know, the defense, I think, makes some  
4 persuasive points about congressional intent and sort of  
5 first principles about whether the Bail Reform Act is  
6 designed to -- it's sort of presumption for release.  
7 I think, however, at the end of the day, you know, the  
8 question is one of statutory interpretation; and if the text  
9 resolves the issue, the text resolves the issue, and we  
10 really don't resort to congressional intent.

11           I will note, we actually -- I'll give my law clerk  
12 credit for this -- undertook an exercise that seems similar  
13 to the one that Mr. Baset undertook since we last met. And  
14 we came to the conclusion that, you know, of all the various  
15 crimes that are listed in that terrorism listing, that there  
16 are about 15 or so offenses that do have a statutory maximum  
17 of less than ten years, they range from as little as,  
18 I think, a year to seven years.

19           And while it's not a large number in the overall  
20 count, it sort of hovers around 13 percent, according to our  
21 calculations -- and so while that may not be a large  
22 percentage, it's certainly not a negligible one. And so  
23 I just don't think we can assume that Congress meant -- that  
24 Congress didn't actually intend to cut out some meaningful  
25 amount of cases that are listed in the statute in

1 2332b(g) (5) (B) by including a ten-year-or-more provision in  
2 the Bail Reform Act.

3 So for all of those reasons, I do think that this  
4 does qualify as a qualifying offense under (f) (1) (A).

5 I don't think I, then, need to reach the question of whether  
6 3142 is a crime of violence. I actually think that's a much  
7 harder question to reach, but I don't think I need to reach  
8 it and won't reach it here.

9 So I don't necessarily agree with the government's  
10 contention that just because the presumption applies, that  
11 necessarily that sort of obviates the question of a  
12 detention hearing under Subsection (f).

13 But, frankly, I think it's an academic question,  
14 because the same provision overlaps in both Subsection (g),  
15 for purposes of the presumption and for purposes of holding  
16 the hearing under (f); in other words, to be specific,  
17 because this qualifies as an offense under Subsection  
18 2332b(g) (5) (B), for which a maximum term of imprisonment of  
19 ten or more years is prescribed, it both qualifies for a  
20 detention hearing under (f) (1) (A) and for the presumption --  
21 the rebuttable presumption under (3) (a) -- excuse me, (3) (C)  
22 -- (e) (3) (C) under the Bail Reform Act.

23 You know, Ms. Peterson had sort of noted that she  
24 thought that by virtue of interpreting it this way, that it  
25 somehow flips the presumption of innocence and the

1 presumption in favor of release.

2           It certainly doesn't flip the presumption of  
3 innocence. It may have what the defense describes as some  
4 draconian consequences, but that doesn't flip the  
5 presumption at all here.

6           In terms of the presumption, in terms of release,  
7 you know, Congress has every right to flip that presumption  
8 and it's done so here. But, again, it's just a presumption,  
9 and it's a rebuttable one. And presumably, I think congress  
10 felt the courts could have and would have the discretion.  
11 And that's why it's a rebuttable presumption, to take into  
12 account the fact that offenses like this sort of barely make  
13 the rebuttable presumption.

14           And the Courts can take that into account and take  
15 the nature and circumstances of the offense, so that, for  
16 example, the types of cases Ms. Peterson has identified,  
17 including defacing government property through graffiti or  
18 pouring of blood, while perhaps technically being subject to  
19 a rebuttable presumption, I think most jurists would view  
20 the kind of conduct for what it is and not view it as among  
21 the most dangerous offenses that might warrant that kind of  
22 rebuttable presumption.

23           All right. So with that, I am prepared to move  
24 forward with the detention hearing and apply the rebuttable  
25 presumption here. And so let's talk, then, about the

1 presentations in that regard.

2 Let's start with the government.

3 Mr. Baset, I've read your papers. If there's  
4 anything more you want to add, I'm happy to hear from you.  
5 I also had some specific questions I wanted to ask. And  
6 I think you wanted to present some evidence as well.

7 MR. BASET: Well, no, we do certainly -- the  
8 arguments that we prepared in our papers, I think,  
9 encapsulate our position.

10 I would, to put a fine point on it, emphasize that  
11 there were hundreds of people who appeared at the Capitol  
12 that day, many of whom actually entered the building.

13 And this is not -- Ms. Watkins' case does not fall  
14 within the general sort of pattern of people who are  
15 involved in this attack on the Capitol. She was somebody  
16 who recruited, trained, planned, and participated and  
17 organized a major part of this insurrection.

18 And the reason is because it was calculated to  
19 influence or affect the conduct of government by  
20 intimidation, origin, and force. And so for those reasons,  
21 we do believe that what she was engaged in was a federal  
22 crime of terrorism under 2332a, as it's defined.

23 And we know this through the various  
24 communications that she's exchanged, both before and after  
25 this incident.

1 Her feelings have not abated at all about, first,  
2 the position and the feelings she has against the  
3 government, which, in and of themselves, nothing wrong with  
4 that. But when combined with her conduct, her brazen  
5 conduct that day, gives serious cause for concern as far as  
6 the viability of any release conditions that would ensure  
7 the community's safety.

8 THE COURT: Mr. Baset, can I ask you a few  
9 questions about the actual evidence the government has --

10 MR. BASET: Of course.

11 THE COURT: -- acquired and to the extent you can  
12 provide any further edification.

13 The first concerns these quick reaction force  
14 emails and communications. You know, there's text messages  
15 with Mr. Caldwell about a quick reaction force. And then  
16 I think she refers to a quick reaction force again in  
17 another communication on January 4th. And then actually she  
18 herself, I think, had alluded to a quick reaction force  
19 earlier in connection with the November protest.

20 Does the government have any evidence that -- I'm  
21 just curious -- on January 6th, whether, in fact, there were  
22 quick reaction forces stationed outside the  
23 District of Columbia to come in to the District if called  
24 upon to do so?

25 MR. BASET: We could provide such evidence, yes.

1 THE COURT: You think you could provide such  
2 evidence?

3 MR. BASET: That those were not only planned and  
4 organized, but there was substantial efforts to make that a  
5 reality, in terms of having guns and weapons available at  
6 the ready of people like Jessica Watkins within the  
7 building.

8 THE COURT: Hang on.

9 In terms of -- my question is slightly different,  
10 which is, I know there's plenty -- I know there's evidence  
11 of planning and preparation.

12 My question is slightly different, which is:  
13 Does the government have evidence or have -- have evidence  
14 that, in fact, there were quick reaction forces; that this  
15 planning and preparation came to fruition, and that there  
16 actually were people with weapons stationed outside the  
17 District?

18 MR. BASET: That's our understanding.

19 THE COURT: That's your understanding?

20 MR. BASET: Yes.

21 Of course, the investigation is a fluid one,  
22 obviously, and it's ongoing, but that is our working  
23 understanding.

24 THE COURT: Okay.

25 But just to be clear, when you say "working

1 understanding" -- I want to just understand.

2 I mean, when you say "working understanding," are  
3 you suggesting that the government has proof that, in fact,  
4 there were people stationed outside the District of Columbia  
5 with weapons, prepared to enter the District of Columbia  
6 with weapons?

7 MR. BASET: To clarify --

8 THE COURT: And, Mr. Baset, if you want to do this  
9 in a non-public session, we can do that, too, if you're  
10 concerned about the investigation but...

11 MR. BASET: I would actually appreciate that  
12 opportunity, yes, Your Honor.

13 THE COURT: Okay.

14 So what I'm going to ask Mr. Douyon to do is  
15 ask -- I'm going to ask him to put me and Mr. Baset in a  
16 closed room so he can make a proffer, along with  
17 Ms. Peterson and the defendant, to do that. I don't know  
18 whether we could do that, but -- or how we can just unplug  
19 the public line or I'm not quite sure how to go about doing  
20 that.

21 COURTROOM DEPUTY: So, Your Honor, I could either  
22 move government counsel, defense counsel, the defendant, and  
23 you and the court reporter to a breakout room, or I can move  
24 the public line to a waiting room, if that would be --

25 THE COURT: Whatever is easiest for you.

1           COURTROOM DEPUTY:   Okay.

2           THE COURT:   Why don't we move the public line to a  
3 waiting, breakout room, because that way, all of us don't  
4 need to press buttons, including Ms. Watkins, to be put in a  
5 breakout room.

6           COURTROOM DEPUTY:   Okay.   So I have just moved the  
7 public-access line to the waiting room.

8           THE COURT:   So this portion of the hearing is not  
9 on the public record.

10          MR. BASET:   Thank you, Your Honor.

11          (Sealed)

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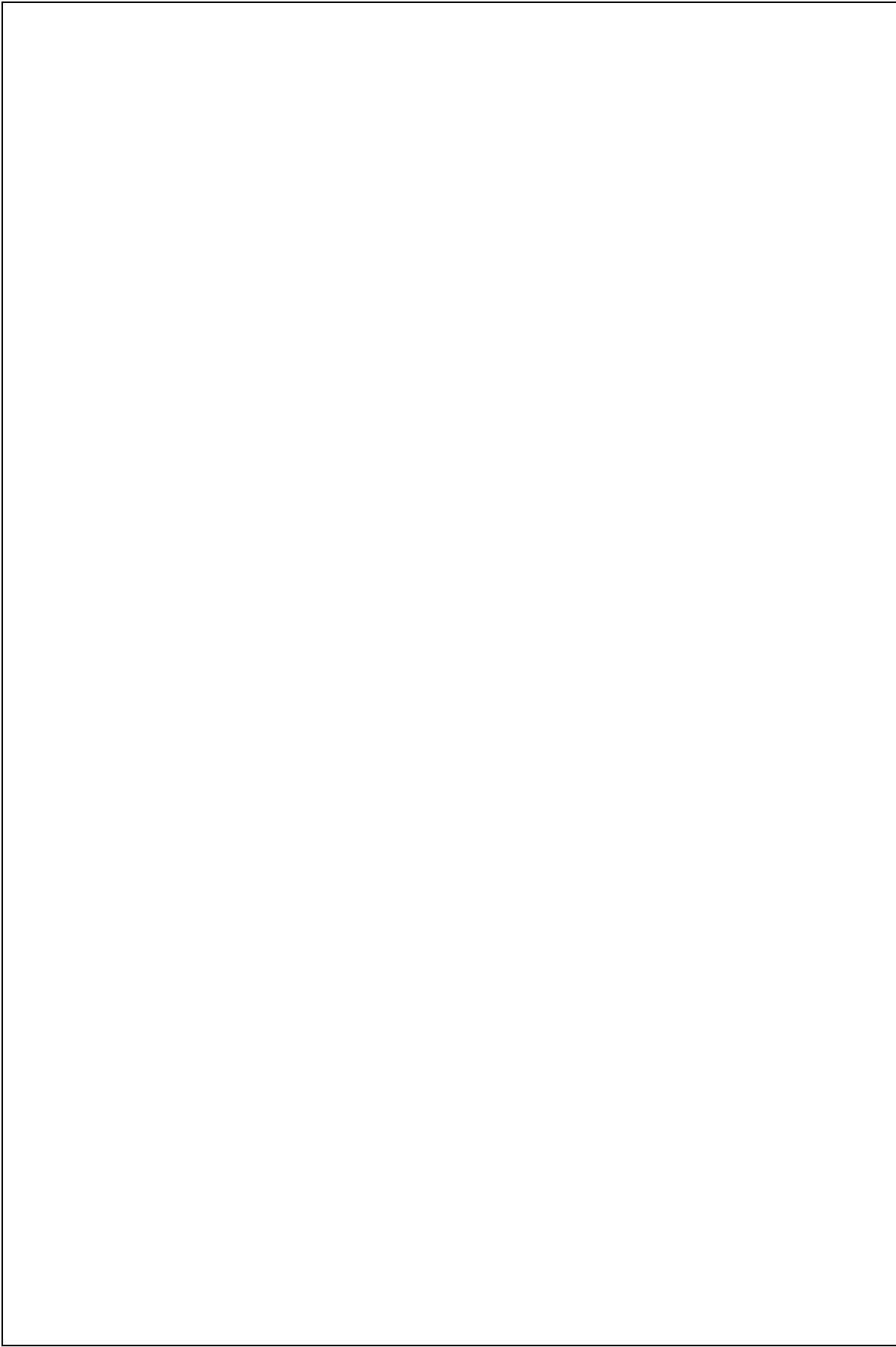
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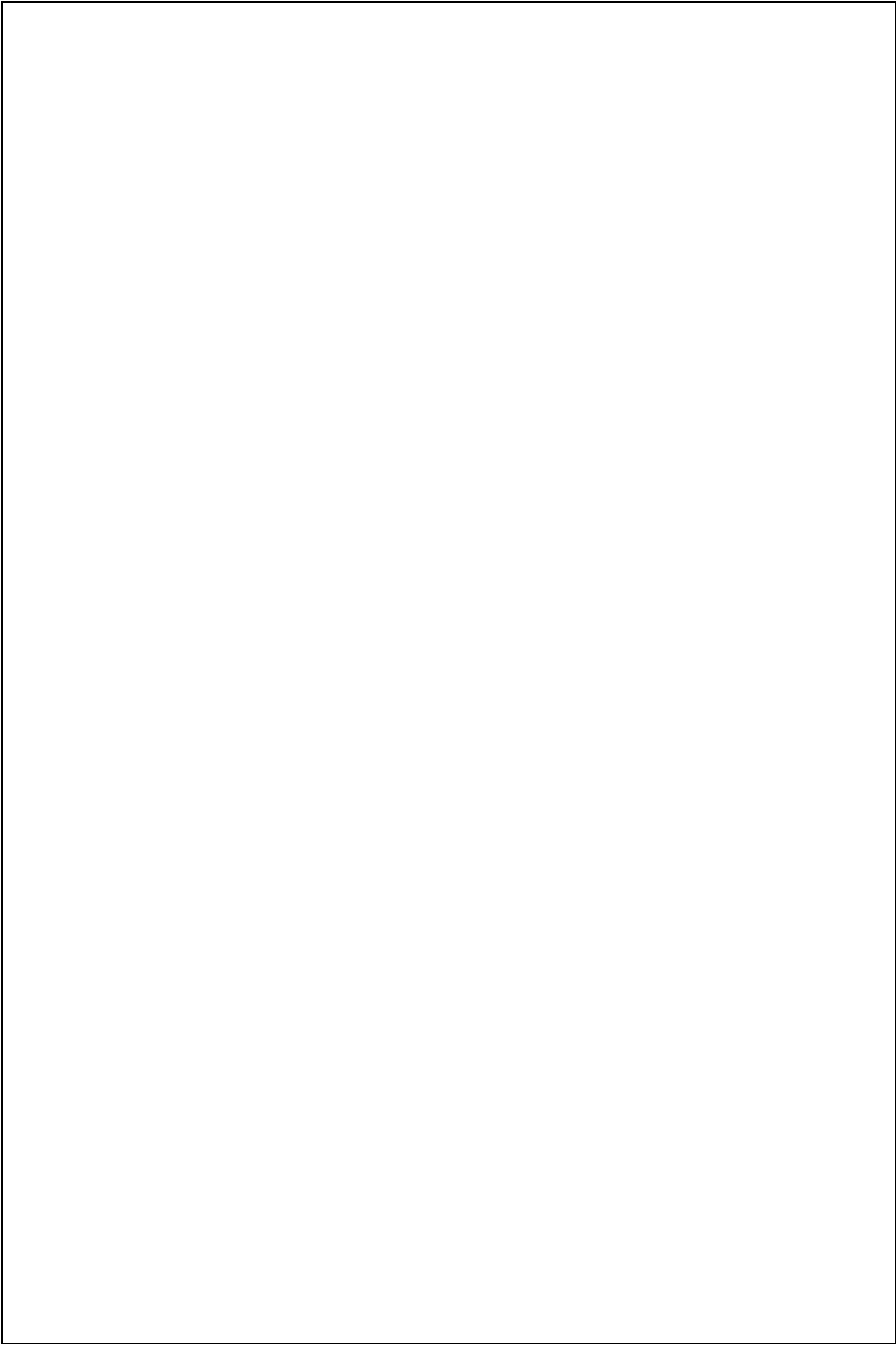
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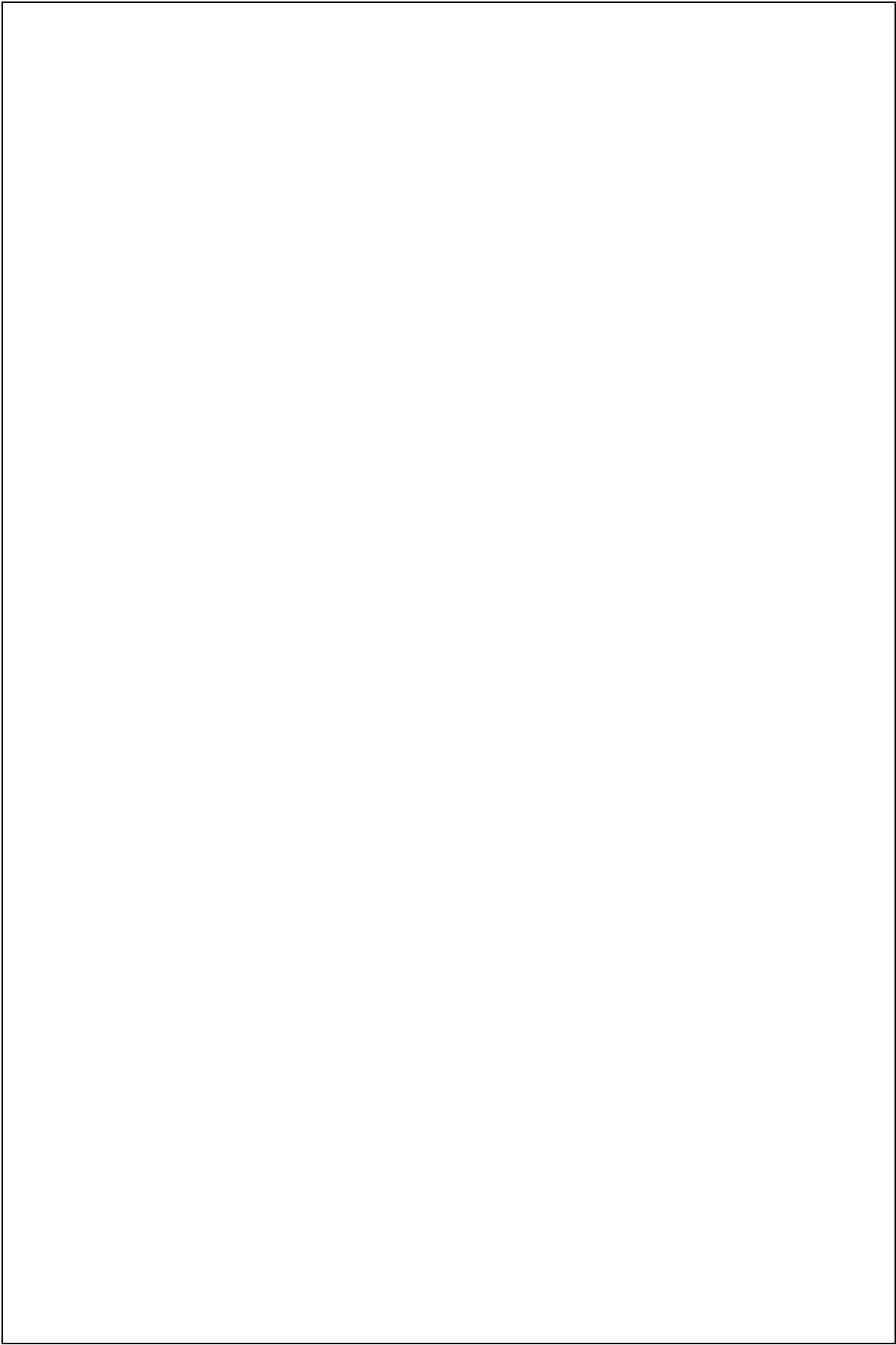
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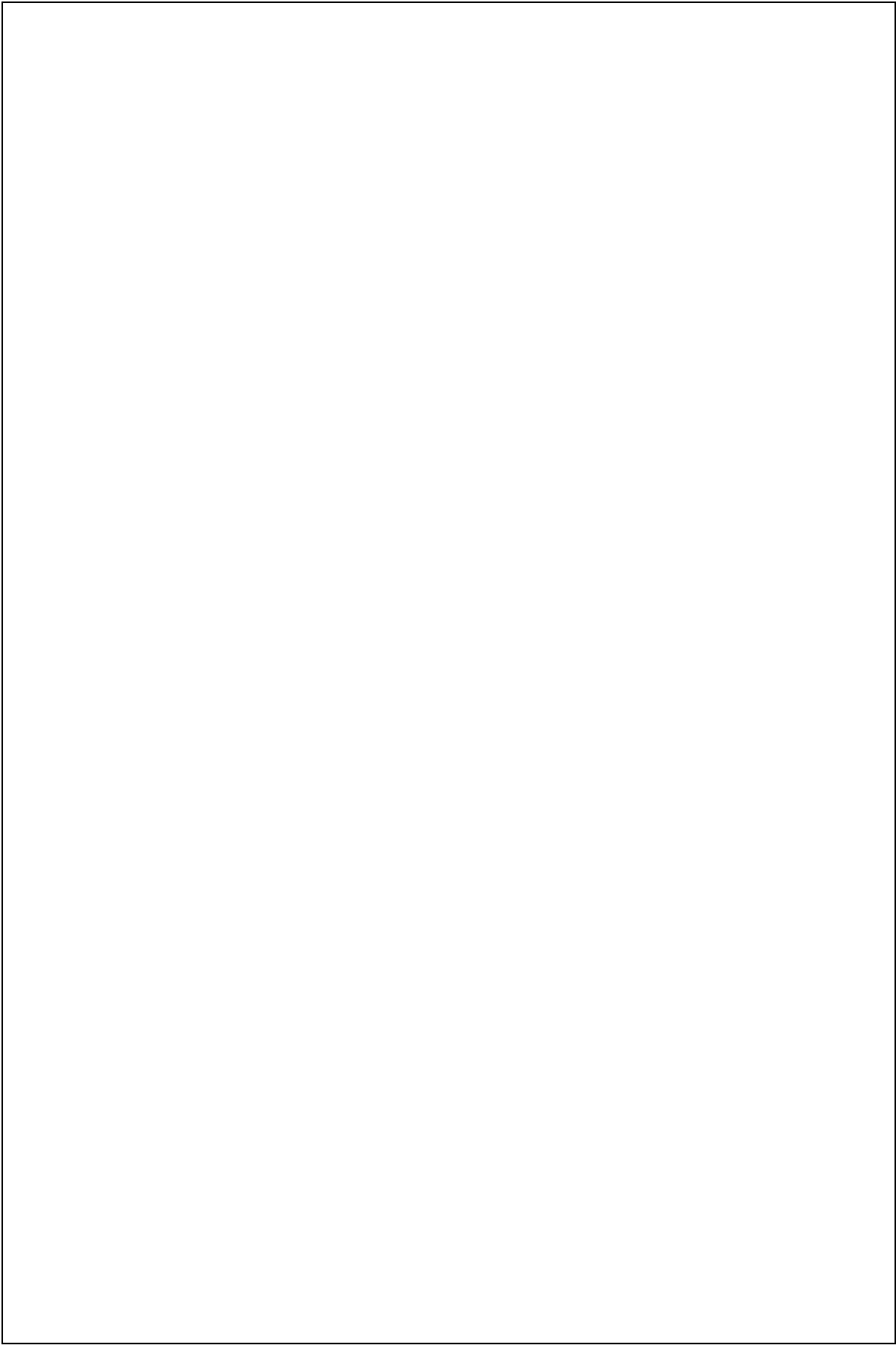
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(Open court)

THE COURT: All right. So we're now back on the public record.

Mr. Baset, I have one more question to ask you, because you did submit, during the last hearing -- and bear with me for a minute while I get those records -- hold on, please --

(Pause)

THE COURT: Your memo referenced some of the items that were found during the search of Ms. Watkins' home. Among those was -- this is on page 13 of your brief at ECF 15 -- "recipe for making a destructive device."

And you did send me, on Tuesday, three

1 documents -- three pages, I should say, two of which seem to  
2 be the recipes that you were alluding to in your paperwork.

3 So can you tell me what more you can about those  
4 pieces of evidence?

5 MR. BASET: Yes, Your Honor.

6 The recipe for bomb making, we believe, was one  
7 that appeared in The Anarchist Cookbook, a book that we  
8 understand was published in the early 1970s. The author of  
9 that recipe was an individual that went by the moniker Jolly  
10 Roger.

11 And, of course, Ms. Watkins' bar is named the  
12 Jolly Roger.

13 And --

14 THE COURT: Okay. So that's -- and I'm sorry to  
15 interrupt, but that's what I was going to ask you, because  
16 I know that's the name of her bar.

17 Do you think she drafted this or -- I mean, it  
18 doesn't look like pages from a book. It looks like  
19 something somebody typed up.

20 What's your understanding of who would have typed  
21 this up or how this document came into creation, to the  
22 extent you have the understanding?

23 MR. BASET: We don't have any information in terms  
24 of who actually drafted that specific document, just that it  
25 was found in her residence.

1 THE COURT: Okay.

2 So you were saying that this is something that  
3 was -- something called The Anarchist Cookbook?

4 MR. BASET: That's right.

5 THE COURT: Anything else that you can add to  
6 that?

7 MR. BASET: Factually, no.

8 THE COURT: Okay.

9 All right.

10 Last question, Mr. Baset: The defendant, in her  
11 submission, has sort of proffered that she was -- that she  
12 actually, once inside the Capitol, acted peacefully, did not  
13 herself destroy anything; in fact, came to the aid of people  
14 inside the building who were injured.

15 Does the government have any evidence to support  
16 those assertions, any exculpatory, or, arguably, would be  
17 categorized -- would be considered exculpatory evidence to  
18 support those assertions?

19 MR. BASET: Well, we are still in the process of  
20 processing all the video from inside of the Capitol, which  
21 we, at this moment, have not fully had access to or  
22 reviewed. So it is not to say that that type of evidence  
23 does not exist.

24 From what we've seen as of now, we don't see her  
25 engaged directly in an assault of an officer per se. But

1 what we would point to is what she told us -- or what she  
2 told the Ohio Capital Journal on January 13th, in an article  
3 in which she notes, "We never smashed anything, stole  
4 anything, burned anything. And truthfully, we were very  
5 respectful with Capitol Hill PD until they attacked us.  
6 Then we stood our ground and drew the line."

7 What the government would submit that quote from  
8 Ms. Watkins indicates is that she, at some level, had tried  
9 to repel or used some sort of force or aggression in trying  
10 to repel what she believed was an attacking force, that  
11 being the police officers that were trying to protect the  
12 people inside in that building.

13 And so it would be the government's position that  
14 that is actually evidence from her own mouth that she was  
15 engaged in some sort of physical confrontation with police.  
16 Other than that, though, we don't have any additional  
17 evidence.

18 THE COURT: Thank you, Mr. Baset.

19 Did you want to add anything else before I turn to  
20 it over to Ms. Peterson?

21 MR. BASET: I would -- one last thing.

22 Ms. Peterson does provide some -- a recommendation  
23 of conditions that would be able to assure the community's  
24 safety in her return to court.

25 I would note there are some fundamental issues

1 with those recommendations. I can make those -- I can  
2 address that later after Ms. Peterson speaks or I can do so  
3 right now, if you prefer.

4 THE COURT: Yeah. No. Why don't you go ahead and  
5 do that now. I mean, there have been representations made  
6 about her partner and her -- and others. So if you have  
7 something you'd like to say in response to that, I'm happy  
8 to hear it.

9 MR. BASET: Sure.

10 There's a few issues that we see in terms of those  
11 release conditions that she's seeking.

12 For one, she's seeking to reside with her partner,  
13 who we understand is also a militia member, is also somebody  
14 who was involved in training. And although we don't have  
15 reason to believe that this individual was at the Capitol on  
16 January 6th, we do understand that this individual is quite  
17 involved in this same militia.

18 The second thing is that this Court cannot fashion  
19 any conditions that would preclude that individual from  
20 possessing firearms. And so -- or weapons, because that's  
21 his, or hers, constitutional right in and of itself.

22 And so the concern would be that while this Court  
23 might be able to restrict Ms. Watkins from possessing or  
24 having access to weapons, she would still be in close  
25 proximity to weapons if her partner sought to get those

1 weapons.

2 The additional point we'd like to make as well is  
3 that, as part of her job, she is exposed to alcohol --

4 COURT REPORTER: Mr. Baset, can you repeat --  
5 there's a beeping that's going on, and I missed what you  
6 said around "she would still be in close proximity to --"

7 THE COURT: And I'll just note, it looks like your  
8 video is frozen. Your audio has still continued to come  
9 through, but your video has frozen.

10 And now it looks like we've lost your audio.

11 Mr. Douyon, do we still have him or is he --

12 MR. BASET: Am I back?

13 THE COURT: Yes, you're back.

14 MR. BASET: I apologize. I was dealing with some  
15 technical difficulties here.

16 But the additional point we'd make is that she is  
17 exposed to an environment of intoxication by virtue of her  
18 job, and that's something that causes the government great  
19 concern in terms of her ability to act as a rational actor.

20 The additional fact is that, because she was  
21 involved in not just showing up as a lone wolf or showing up  
22 to the Capitol with a few friends to storm it, she was  
23 involved in active recruitment, planning, and coordinating  
24 for future violence against the government. There are no  
25 conditions or set of conditions that would preclude her from

1 engaging in that type of activity moving forward. Even if  
2 she's placed under home confinement, even if she has an  
3 electronic-monitoring system, it would not stop her.

4 And what is of particular concern in this  
5 environment, where our democracy is still very fragile, is  
6 that you have someone like Person One, who is the founder of  
7 the Oath Keepers, that even after January 6th, indicating  
8 that members ought to obstruct essentially or not follow any  
9 orders coming from this Administration led by this  
10 President, because they're fundamentally -- this was a  
11 fraudulent election and this is not an authorized power.  
12 And so the leader of the very militia that Ms. Watkins has  
13 associated with is now instructing that person -- the  
14 militia members -- to disobey government orders, and, if  
15 necessary, to take up arms to defend their rights.

16 Now, Ms. Watkins herself has said that, "I don't  
17 underestimate the result of the deep state. Biden may still  
18 be our President. If he is, our way of life as we know it  
19 is over, our republic would be over. Then it is our duty as  
20 Americans to fight, kill, and die for our rights."

21 These conditions, President Biden being in power,  
22 did not exist before she was arrested. If she's released,  
23 those are the conditions that she's going to be walking  
24 into, where her "way of life" is over.

25 And so the type of zeal, the type of enthusiasm,

1 the type of conviction that she had just days before this  
2 attack certainly has not dissipated, and, if anything, has  
3 strengthened and resolved [sic], as the government has  
4 pointed out, by submitting in its reply brief the texts --  
5 or the communication that was sent to Person One about how  
6 she is proud to be an Oath Keeper, how she would even try to  
7 line the Oath Keepers' coffers with additional money, and  
8 that she has no remorse of the actions or her conduct inside  
9 the Capitol.

10 And so in a world where Person One is now calling  
11 for continued animosity and adversity and violence and just  
12 not obeying government orders, in a world like that in a  
13 world where Ms. Watkins believes that what she did was  
14 appropriate and legal and where her convictions have become  
15 even more strident, despite knowing all the catastrophe of  
16 what January 6th was, there are no conditions or set of  
17 conditions that would reasonably ensure the community's  
18 safety and her return to court.

19 THE COURT: Let me just ask you: The  
20 communication that you just referenced with Person One that  
21 I think was identified in your most recent brief, this is  
22 ECF 30 on page 4, what's the date of that communication?

23 MR. BASET: That is dated January 12th,  
24 Your Honor.

25 THE COURT: Okay.



1 All right. Ms. Peterson.

2 MS. PETERSON: Thank you, Your Honor.

3 I think it's important -- and I'll start with that  
4 last piece that the government referred to -- is that  
5 Ms. Watkins believed -- first, let me start with,  
6 Ms. Watkins is not of the same level as Person One.  
7 Ms. Watkins -- and I think the government would concede  
8 this -- is only loosely associated with the Oath Keepers.  
9 Ms. Watkins paid her, whatever it was, \$50 to be a member of  
10 the Oath Keepers.

11 Ms. Watkins is, and always has been, more a  
12 consultant, if you will, to the Oath Keepers in attempting  
13 to provide assistance for security at the various rallies  
14 that were referred to in the papers. She's not a person who  
15 is out there planning and organizing for the Oath Keepers.

16 She did that for her militia, there's no question  
17 about that, and she has acknowledged that. And her militia  
18 is a very small group of individuals in Ohio. I know that  
19 she intends to put on the record here that she intends to  
20 disband that militia, she wants nothing to do with it  
21 anymore.

22 Her partner, who has written a letter to the Court  
23 on her behalf, is -- was similarly -- may have paid dues to  
24 become, if you will, a card-carrying member of the Oath  
25 Keepers. But that's not the same as being an Oath Keeper in

1 the sense of the folks who are really making those plans.  
2 He also would gladly give up that membership in the  
3 Oath Keepers.

4 Mr. Siniff, who wrote the letter to the Court, has  
5 already indicated that he is prepared to get rid of, and has  
6 gotten rid of, all of the weapons that were in their home.

7 Certainly, Ms. Watkins cannot be in possession of  
8 any weapon that was in their home, whether it was his weapon  
9 or her weapon, would be considered in her possession if it  
10 was in their home.

11 So the notion that the Court cannot fashion  
12 release conditions because Mr. Montana Siniff could bring a  
13 weapon into the home is no different than it would be in any  
14 other case in the District of Columbia if someone were to be  
15 released. The Court would assume that when it says you may  
16 not be in possession of a weapon, that if there's a weapon  
17 in the home, whoever's weapon it is has to get rid of the  
18 weapon for that person to be in compliance or else that  
19 person could not live in that residence. We do it every day  
20 in the District of Columbia and in surrounding  
21 jurisdictions. So the notion that he is not a paper  
22 place -- their joint-owned residence is not a proper place  
23 for her to reside is, I think, a red herring.

24 I'd like to go back to, because the Court raised a  
25 question about it, this supposed recipe for making

1 destructive devices.

2           There is absolutely no evidence that Ms. Watkins  
3 had any intention of doing anything with this recipe. The  
4 government's put no evidence on about where it was found;  
5 they have noted that it dates back to the 1970s. And  
6 I think they're particularly intrigued because it says it's  
7 by the Jolly Roger. But that Jolly Roger has absolutely no  
8 connection to the reason why the bar is called the Jolly  
9 Roger. The Jolly Roger is a pirate. It's a pirate theme,  
10 if you will, to the restaurant. So this is another one of  
11 those attempts to make it look worse than it is.

12           THE COURT: Maybe.

13           I mean, I don't think most people, certainly folks  
14 who aren't intending to -- who aren't -- have some intention  
15 to do harm, just happen to have the recipes for explosive  
16 devices from home made -- from ordinary objects like -- this  
17 is titled: Making plastic explosives from bleach. And  
18 another -- chemical called thermite: How to use thermite in  
19 order to cause explosions.

20           Now, I don't know whether she's ever -- had  
21 thought of using it. But the fact that she has this stuff  
22 and then is also involved in a militia that has access to  
23 arms, whether legally owned or not, is really -- that ought  
24 to trouble anybody.

25           MS. PETERSON: If these documents were possessed

1 in connection with an offense, I would understand the -- I  
2 do understand the Court's concern.

3 But if they were connected in the sense that she  
4 were driving someplace and had the materials and the recipe  
5 together or if she even, in her home, had the materials and  
6 the recipe and some indication that it was being used, as  
7 opposed to having documents that are probably decades old  
8 that she had just because they're interesting, there's no  
9 evidence in the record at all. They're simply pages of The  
10 Anarchist Cookbook.

11 And there's -- I understand why the government  
12 would be concerned and the Court would be concerned about  
13 those. But absent any evidence that she was engaged in any  
14 way, presumably if she had an intention to be involved in  
15 the making of explosives, that would have shown up in her  
16 text messages and communications as well, and there's  
17 absolutely no suggestion of that.

18 So I think that while it's unfortunate that  
19 they -- and I don't think the government has even said where  
20 within the house they found these. But I have no reason to  
21 believe that it is not something like in the bottom of a box  
22 someplace, not somewhere where they were easily accessible.

23 THE COURT: Mr. Baset, do you have any -- can you  
24 shed any light on where these documents were found?

25 You're on mute, Mr. Baset, so we can't hear you.

1 Is he connected still?

2 COURTROOM DEPUTY: He's connected.

3 I'm sending him a chat to see if he responds.

4 THE DEFENDANT: His video is frozen.

5 MS. PETERSON: Ms. Watkins, I want you to let me  
6 do the talking, okay?

7 COURTROOM DEPUTY: I'll send Mr. Baset an email.

8 THE COURT: Why don't you send him an email or  
9 he'll probably log back in, because his video is frozen as  
10 well.

11 COURTROOM DEPUTY: Okay.

12 THE COURT: Just stand by, everybody. Sorry for  
13 the challenges here.

14 (Pause)

15 THE COURT: Ms. Rakoczy, is that -- am I  
16 pronouncing your name correctly?

17 MS. RAKOCZY: Yes, Your Honor.

18 I'm happy to stand in, if necessary, if Mr. Baset  
19 continues having technical difficulties.

20 THE COURT: Okay.

21 Well, it doesn't look like you all are in the same  
22 place.

23 MS. RAKOCZY: We are not.

24 THE COURT: You are not in a position to let him  
25 know what's going on.

1           But you are counsel of record, so let me ask you,  
2 even though he's not available, whether -- that last  
3 question of whether the government has any information about  
4 where these recipes were found and if you've got anything  
5 more to say about that.

6           MS. RAKOCZY: I know, Your Honor, that they were  
7 found during the search warrant that was executed on the  
8 defendant's residence, which is an apartment in the same  
9 building kind of above the business that she operates.  
10 I was just trying to looking up the precise location from  
11 the seizure list, whether we know precisely where within the  
12 apartment it was found.

13           But we do know that she shares that apartment with  
14 her significant other, and we don't believe anybody else has  
15 access to that space.

16           THE COURT: Okay.

17           MR. BASET: I am also back, Your Honor. I do  
18 apologize for the technical difficulties.

19           THE COURT: All right.

20           Well, Mr. Baset, I had just asked your colleague,  
21 Ms. Rakoczy, whether she had any other information about the  
22 location where within the apartment these recipes were  
23 found.

24           MR. BASET: I did hear her answer and I have  
25 nothing to add to that.

1 THE COURT: Okay.

2 MR. BASET: I do have a point of clarification  
3 based on a question you did previously ask as to whether we  
4 had any evidence to support Ms. Watkins' assertion that she  
5 was acting with a peaceful mind, at least inside the  
6 Capitol.

7 There is some video showing her at least providing  
8 some comfort or aid to another individual who looks to be  
9 also affiliated with the Oath Keepers. And so to that end,  
10 I did want to clarify there is some information to that  
11 effect.

12 THE COURT: Okay.

13 All right. Ms. Peterson.

14 MS. PETERSON: Yes, Your Honor.

15 I think it's important for the Court to know  
16 that -- and I appreciate that the government was kind enough  
17 to provide some of these examples to me -- even though they  
18 had provided more discovery, they went out of their way to  
19 show me some of the areas where there was *Brady* material in  
20 case I hadn't seen it myself.

21 So I do want to alert the Court that prior -- that  
22 the government has pointed out that there are text messages  
23 in which Ms. Watkins, assuming these are, in fact, her  
24 texts, has messages back and forth with other members  
25 saying, "Keep it peaceful. Deadly force should be avoided

1 at all costs."

2 She refers to -- when she refers favorably to the  
3 Oath Keepers, she says it in the context of, "They rescued  
4 cops, we saved lives, and did the right things." So she's  
5 talking about her -- in the context of her group, how they  
6 tried to keep order in the Capitol.

7 And I have seen no evidence that she committed any  
8 act of violence. The government has referred to video that,  
9 in fact, shows that she did do what she has indicated she  
10 did, which was to rescue people who had suffered from  
11 violence.

12 She came into contact throughout the course of the  
13 day -- and, again, because we don't have all of the  
14 discovery yet, we're unable to provide you specific examples  
15 of this, but she came into contact with police officers,  
16 Capitol police and others throughout the day and was always  
17 respectful and polite and responsive to their requests.

18 This takes it back to her initial -- if we start  
19 at the beginning of the story on January 6th when she came  
20 to -- with her VIP pass to provide security at the rally  
21 itself, she encountered Secret Service agents, they told her  
22 she couldn't bring in some of the gear she was wearing, that  
23 that would have to be left outside of the area. She went  
24 and took off the gear, left it outside of the area, and then  
25 returned.



1           She was always respectful to law enforcement as  
2 things progressed that day, and I've seen no evidence to the  
3 contrary. There is no evidence that she committed any  
4 violent act in entering or in staying within the Capitol  
5 building.

6           I think it's also important to note that while she  
7 was engaged in conduct that she obviously recognizes now she  
8 should not have been engaged in that day in the sense of  
9 being inside the Capitol, she's not denying that she was  
10 inside the Capitol. But she did, as she encountered police  
11 officers, do exactly what she was told to do.

12           When the curfew became announced, when it came out  
13 on social media that there was a curfew, she left, she did  
14 not remain in the Capitol after the curfew was announced.  
15 She was back in her hotel by the time the curfew had been  
16 announced.

17           When she saw the riot police starting to come to  
18 the Capitol, again, she left. She's had an area staged  
19 outside of the Capitol where she provided medical services  
20 to people in need of those medical services, because, as the  
21 Court knows from our pleadings, she is a trained medic. She  
22 works for a fire department. She worked as an EMT. She  
23 served in the Army. So she has training to assist people  
24 who are in need of assistance, and that is what she did  
25 during the course of the day.

1           Immediately -- and I think even the government  
2 points to a couple of texts where they suggest that it means  
3 that she still abides by the violent acts that occurred that  
4 day, I think it's important for the Court to know that  
5 repeatedly after January 6th, she referred to the fact that  
6 they were there to help with law and order, if you will.  
7 Perhaps misguided at best, but she was there to try to, as  
8 she had at other rallies, stayed between what she  
9 anticipated to be, if you will, Antifa, Black Lives Matter,  
10 protesters in favor of one group, versus protesters against  
11 the same group. Her job, her role, as she saw it in these  
12 instances, were to stay between people who were on opposite  
13 sides of a dispute.

14           I think one of the interesting things that I  
15 received was after -- prior to our last hearing, that very  
16 morning, I got an email unsolicited -- as the Court may  
17 know, I attached to my pleading a number of letters of  
18 character reference for Ms. Watkins.

19           But I also, the morning of that hearing, got an  
20 unsolicited phone call, followed by an email from a woman  
21 who barely knows Ms. Watkins but met her in the context of  
22 that day, a Ms. Walsh, who is a woman from Seattle, who came  
23 in for the Trump rally, ended up not going out of fear  
24 because she had brought a child with her, ended up not  
25 going. But she wrote to me -- called me first and then

1 wrote to me to tell me that she ran in to Ms. Watkins in the  
2 parking lot and she recognized her from the photos she saw  
3 on TV.

4 She ran into her in the parking lot the day after  
5 January 6th, as they were packing up to leave, and had a  
6 discussion with her about what had transpired. And in that  
7 discussion, she -- Ms. Watkins told her then -- and this is  
8 someone -- this is not as if she was talking to law  
9 enforcement or being recorded and was trying to put some  
10 space between herself and the people who had done wrong;  
11 rather, she was talking to a fellow Trump supporter who had  
12 come to this mission.

13 And she said to her that they had had great  
14 encounters with the friendly police who were inside the  
15 building. When they had walked in, they didn't -- that  
16 Ms. Watkins and the people who were with her didn't get into  
17 any fights. They left before things had started to get bad.  
18 And she said, and I quote, "Overall, I remember her  
19 expressing dismay that things had gotten out of hand with  
20 regard to the behavior of idiots inside the Capitol."

21 She draws a distinction from people there being  
22 respectful, talking with the police, and other people who  
23 were there who had a purpose to destroy things and cause  
24 trouble. So even on the day after the incidents,  
25 Ms. Watkins was expressing those same -- those same

1 thoughts.

2 THE COURT: Ms. Peterson, you know, I guess one of  
3 the more troubling aspects of this case is the evidence the  
4 government has gathered about people she was with that day.  
5 She was charged with conspiracy. She is on one of these  
6 apps that allowed for sort of closed-circuit communication,  
7 as if she was sort of on a walkie talkie, this J6, Zello,  
8 I think it's called.

9 And while the words aren't attributable to her,  
10 although she does refer that she's got a good group, we have  
11 about 30 or 40 of us "sticking to the plan," she says. And  
12 an unknown male says, "You're executing a citizens' arrest,  
13 arrest this assembly. We have probable cause for acts of  
14 treason and election fraud." Another unknown male directly  
15 says to Ms. Watkins, "Get it, Jess. Do your f'ing thing.  
16 This is what we f'ing up for. Everything we f'ing trained  
17 for."

18 And so I'm having a really hard time reconciling  
19 the description you're providing of Ms. Watkins with the  
20 things that were actually said that day and the purpose of  
21 what she seemingly was there for and others were there for  
22 as articulated by their very words that day.

23 And so the gloss that is -- well, what you've  
24 suggested is really -- sort of stands in stark contrast to  
25 what was actually being said on the day of.

1 MS. PETERSON: I think the Court is right that  
2 there were people on that radio communication who were  
3 saying those kinds of things. But not Ms. Watkins.

4 And Ms. Watkins, from the video you could tell,  
5 it's not as if she's carrying this phone or radio  
6 connection, where she's in constant communication and is  
7 even hearing everything that's being said.

8 I think the government points to her -- the  
9 destruction of property comes because she was in a group  
10 that like -- and she referred to it, according to the  
11 government, as having gotten into the Capitol like playing  
12 rugby. Essentially, you're part of a group that gets pushed  
13 in. She's not personally taking an action to break into the  
14 Capitol.

15 And there are a number of people who have come in  
16 this Court now already, who -- I'll refer to the woman the  
17 media calls Pink Hat Lady, Ms. Rachel Powell, who  
18 Chief Judge Howell released, who used a battering ram to --  
19 according to the government, to break down the door to get  
20 into the Capitol. That's not what Ms. Watkins did.

21 Did Ms. Watkins do a little bit of chest thumping  
22 in the aftermath initially, suggesting, yeah, I was part of  
23 who got into the Capitol, according to the government's  
24 communications, yes.

25 But if you look at the video, the door had already

1 been opened before Ms. Watkins arrived there. So the notion  
2 that she may have taken some credit in this chest thumping  
3 that followed the incident does not support a finding that  
4 she actually is someone who engaged in any violence or  
5 destruction of property. It can be charged in an  
6 aiding-and-abetting theory, and that appears to be what the  
7 government is doing here, but there's no evidence that  
8 I have seen that suggests that she took any of those violent  
9 acts.

10           And I did want to address, because I think it's  
11 important, to look at the cases where -- there's been a  
12 great deal of inconsistency in who gets held and who does  
13 not get held. And that happens when you go in front of  
14 different judges throughout the country.

15           But I think if the Court looks at some of the  
16 cases where people who committed actual violence in the  
17 Capitol that day and are on release conditions, it certainly  
18 supports the notion that there are release conditions in  
19 this case which can be set to allow for Ms. Watkins to be on  
20 release pending trial. And we would agree it's very  
21 stringent release conditions.

22           But in the Chad Jones case, for instance, he was  
23 charged with assault on a police officer. And, in fact,  
24 it's -- under Section 11 -- I'm sorry, 111(b), which  
25 requires a use of a deadly or dangerous weapon or infliction

1 of bodily injury, he was the gentleman who, according to the  
2 government's evidence, was filmed using a flagpole to  
3 repeatedly and violently strike and break the glass of that  
4 door where Ashli Babbitt was subsequently shot and killed  
5 climbing through the broken pane.

6           You see in that video, officers, lawmakers, and  
7 staff on the other side of the doors as the glass is being  
8 broken. And you see Ms. Babbitt shot and killed. The  
9 government didn't even request Mr. -- it's my  
10 understanding -- that Mr. Jones be detained or -- and I may  
11 be wrong on that. If they requested it, he was not  
12 detained, it was my understanding. Mr. -- that case is  
13 21-MJ-76.

14           Mr. Goss-Jankowski was another individual who was  
15 charged under that same statute for assaulting a federal  
16 officer with a dangerous weapon, in that case, it was a  
17 Taser, after being videotaped trying to forcefully and  
18 violently enter the Capitol.

19           According to the government, he used that Taser on  
20 multiple occasions. And an officer nearby suffered a heart  
21 attack after being Tased.

22           THE COURT: Ms. Peterson, can I interrupt you for  
23 a second?

24           MS. PETERSON: Yes.

25           THE COURT: I need to just deal with a scheduling

1 issue for one minute. So if you all could bear with me,  
2 please.

3 THE DEFENDANT: Can I be put in a breakout room  
4 with Ms. Peterson if there's going to be a second for a  
5 pause?

6 (Pause)

7 THE COURT: Sorry about that. Thank you,  
8 everyone.

9 Okay. So, Ms. Peterson, you were saying there was  
10 a gentleman who was accused of using a Taser but he was  
11 released?

12 MS. PETERSON: Right. And then -- that case is  
13 21-CR-123.

14 A third case is *United States versus Matthew*  
15 *Miller*, which is 21-CR-75, where an individual was charged  
16 with, I believe, ten different offenses, including the  
17 assault on a federal officer under 111(b) by discharging the  
18 fire extinguisher and using a crowd-barrier fence as a  
19 ladder to scale the walls.

20 We have Rachel Powell, who I referred to already,  
21 who used the battering ram to break into the window of the  
22 Capitol so that she could force her way in. That's  
23 21-MJ-197. She also used -- according to the government,  
24 used a bullhorn to direct the rioters on where they should  
25 go, understanding what the floor plan appeared to be.



1 Chief Judge Howell denied the government's appeal of her  
2 release pending the outcome of this case.

3 We have *United States versus Mark Leffingwell*,  
4 which is 21-CR-5 before Judge Amy Berman Jackson, where the  
5 defendant was charged with assault on a federal officer  
6 under Section 111, as well as other charges.

7 THE COURT: Well, let me ask -- I mean -- just to  
8 interrupt you, Ms. Peterson, and ask the government what its  
9 thinking is in some of these cases and why in their view  
10 Ms. Watkins stands in a different category than some of the  
11 people that you've just identified who engaged in violent  
12 acts, including assaults on police officers, and actually  
13 directly damaging and injuring property.

14 MR. BASET: The first distinction we would draw is  
15 that Ms. Watkins was part of a large conspiracy. And as we  
16 know, whether you are an aider or abettor or a principal of  
17 that conspiracy, the law makes no distinction in terms of  
18 your culpability.

19 Secondly, we know that everyone within that  
20 conspiracy are people who tend to have roles, and their own  
21 roles, which helps to facilitates the overall objective,  
22 which in this case was to prevent the Electoral College vote  
23 from becoming certified.

24 And so within that conspiracy, the government has  
25 had evidence, or provided evidence, that there was violence

1 contemplated, planned for, and, in some instances, used.  
2 And so the extent to which Ms. Watkins did not engage in  
3 violence, her role was, it appears, at least at some level,  
4 a medic.

5 But just as an Army platoon that is at war has  
6 roles for individuals, including medics, so that people  
7 within that group can remain healthy and able to fight and  
8 pursue their objective, we see in that photo or the video  
9 that the government referenced, where she's providing some  
10 aid or comfort, it's to somebody who is a part of that  
11 conspiracy offense, who, it appears, is not on the side of  
12 police. She was not assisting police in trying to stop  
13 people from entering that building.

14 In fact, you know, the assertion that Ms. Watkins  
15 was respectful of law enforcement is actually something that  
16 the government would absolutely strenuously push back on.  
17 She did the exact opposite. She overwhelmed the police that  
18 day. She was part of the reason why police were overwhelmed  
19 and couldn't do their job. And, in fact, the quote that she  
20 provides afterwards indicates that she was actually getting  
21 in the way and trying to stop them from doing their job,  
22 because that's when she "stood her ground." And so the  
23 notion that she was actually respectful of police, when she  
24 was preventing them from actually doing their job, is  
25 just -- it has no merit.

1 But even beyond that, the distinctions between the  
2 cases that Ms. Peterson cited do not involve individuals who  
3 were involved in a larger conspiracy, who are involved in  
4 recruiting people to join this conspiracy, who are involved  
5 in training those people, in providing them, for instance,  
6 with combat warfare training prior to the Inauguration, none  
7 of those cases involve the individual saying, I need to get  
8 you in fighting fit condition for the Inauguration. So in  
9 terms of the communications and their willingness and zeal  
10 to get involved in, at least Ms. Watkins' hope was that it  
11 would have been an Insurrection Act call that day, it is of  
12 no import.

13 And I would also say, too, that she expected or  
14 had the comfort and peace of mind of knowing that there were  
15 people stationed with weapons if she needed it; in other  
16 words, she had -- from a -- she had her own defense system  
17 and ability to offensively attack people, and that was at a  
18 moments' notice, if she needed it.

19 She also states, too, in a text message or in a  
20 communication that, "If it gets bad today, QRF will be  
21 there" -- or "QRF to us with weapons for us."

22 But "We can have mace, Tasers, or night sticks.  
23 QRF stages, armed, with our weapons, outside our city, and  
24 be prepared to fight hand to hand."

25 And so the fact that she didn't actually have to

1 engage in this activity is not a function of her lack of  
2 desire to engage in that activity. Frankly, she even says  
3 so. "I'm no doctor. I'm a soldier. A medic with a rifle,  
4 maybe, but a soldier. I will hurt/kill those who try to  
5 hurt/kill me or others." And so she had the proclivity.

6 But the reality is, those officers were  
7 overwhelmed. The reality is, those legislators did not --  
8 they were swept away and didn't exist for her to be able to  
9 carry out the plan that is referenced in that Zello chat.

10 THE COURT: Mr. Baset, I appreciate that.

11 We're sort of drifting into more substance than  
12 some of the distinctions, but thank you for doing that.

13 All right. Ms. Peterson, is there anything else  
14 you want to add before I sort of think about my decision  
15 here a little bit?

16 MS. PETERSON: Yes.

17 Your Honor, because of what Mr. Baset just said  
18 about, well, she's a member of a conspiracy, I feel  
19 compelled to point the Court to the several members of  
20 conspiracies who have not been detained.

21 I would point to Joseph Biggs, 21-MJ-126, a  
22 proud -- according to the government, a proud member of the  
23 Proud Boys, who was at the front of the crowd who breached  
24 the Capitol and entered within 20 seconds of its breach,  
25 unlike Ms. Watkins, who the government acknowledges was not

1 there within 20 seconds of the breach.

2           The government's information suggests that  
3 Mr. Biggs was wearing an earpiece and carrying a walkie  
4 talkie for communication purposes and presumably for  
5 coordination with other Proud Boys during the riot. I don't  
6 believe the government even sought his detention; but in any  
7 event, he is not being detained pretrial.

8           We have the -- there are many others who committed  
9 violence who are also not being detained. But I think the  
10 Court got those points, so I'll point to Mr. DeCarlo and  
11 Mr. Ochs, charged in the conspiracy as the Proud Boys as  
12 well. And one of them even has the Proud Boys', according  
13 to the government, name tattooed on his arm. According to  
14 the government, they engaged in planning and fundraising and  
15 forcibly stormed past the barricades and made comments  
16 before and after in support of the insurrection. Ochs was  
17 charged with stealing flex cuffs from a Capitol police  
18 officer. And despite all of this, the government did not  
19 even seek their detention.

20           Also, we have Mr. Council in 21-MJ-08, who forced  
21 his way through the police line, pushed a female officer,  
22 and had to be pepper sprayed.

23           We have Jenny Cudd, who had no regret after the  
24 fact and told a news station that she would absolutely do it  
25 again, all of whom the government did not seek detention on.

1           And then, as I indicated earlier, we had, this  
2 morning, Judge Nichols found the presumption -- the  
3 rebuttable presumption to apply for Gina Bisignano, who was  
4 a member of the crowd of rioters struggling with police  
5 officers to attempt to gain entry into the Capitol using  
6 what was, according to the government, a red arousal spray  
7 on the officers, striking or attempting to strike the  
8 officers, and physically pushing the police line to gain  
9 entry into the Capitol. And using the bullhorn outside,  
10 telling people to "bring weapons" and to "bring gas masks."  
11 And despite all of that evidence, she was released by  
12 Judge Nichols this morning.

13           THE COURT: Okay.

14           MS. PETERSON: So I think that the notion that  
15 there's something particularly dangerous about Ms. Watkins,  
16 when compared to these other individuals, that notion is not  
17 supportable.

18           I understand, and this is -- as the Court well  
19 knows, part of being a defense lawyer is understanding that  
20 each individual we come into contact with is a complex  
21 person; there are lots of different aspects of those  
22 complexities with Ms. Watkins.

23           I know that Ms. Watkins wants to make a statement  
24 to the Court before the Court rules on this issue. We've  
25 talked about it. She understands that her statements can be

1 used against her in future proceedings, but she thinks it's  
2 important for the Court to hear. So I'm going to allow her  
3 to do that in a moment.

4 I don't -- obviously, I had a number of things  
5 I wanted to say about her personal background, but I think  
6 those are all included in the papers that we have submitted.

7 I do believe that we have rebutted any  
8 presumption, especially considering that that presumption is  
9 barely there, given the overlap here of one day.

10 There is no doubt in my mind that the Court can  
11 set conditions of release that would ensure that  
12 Ms. Watkins, given where she is now, is not a risk to the  
13 community if she were to be released.

14 The Court has to look at whether Ms. Watkins is a  
15 present danger, if it releases her, not whether she posed a  
16 danger on January 5th or 6th. It is whether she possesses  
17 a -- poses a danger to the community were she to be released  
18 today.

19 And I think with that, I would -- if the Court  
20 would indulge Ms. Watkins the opportunity to say what she  
21 wants to say.

22 THE COURT: Okay.

23 Ms. Watkins, I'll hear from you. I'll just warn  
24 you that this is being transcribed and anything you do say  
25 on the record here can be used against you by the

1 government, okay?

2 THE DEFENDANT: Yes, Your Honor. Thank you so  
3 much, sir.

4 Me and Montana were the founding members of my  
5 Ohio militia. We started it with the intent -- Ohio has,  
6 like, a tornado-alley situation going on. We founded it  
7 with the intent of providing search and rescue, and then,  
8 of course, helping law enforcement with civil unrest. I've  
9 documented this very well.

10 Given the results of everything January 6th and  
11 everything that's come out, I've honestly been appalled by a  
12 lot of my -- I don't know if they're co-defendants, but my  
13 fellow Oath Keepers have kind of like turned my stomach  
14 against it, which is why I'm canceling -- as soon as I'm  
15 out, whether it's acquittal or on release, I'm canceling my  
16 Oath Keeper membership. I have no desire to continue with  
17 people who say things like that.

18 And also for the record, Your Honor, I have  
19 disbanded my militia. Me and the founding member, like I  
20 had stated, had talked about it back when I was in  
21 Montgomery County, maybe a week after I was -- I turned  
22 myself in, that we're done with that lifestyle. Like, you  
23 know, we've got a struggling small business.

24 I did it out of the love of my country, but  
25 I think it's time to let all of that go. I think I'm going



1 to focus on my business, Your Honor. I don't intend to use  
2 social media, either for amusement or for political  
3 purposes.

4 I think it's time for me to focus on my business,  
5 Your Honor. And whether that's, again, after I serve a  
6 sentence or I'm acquitted or whether that's -- whether I'm  
7 released.

8 I am sorry for any inconvenience I've caused the  
9 Court just being here today. I'm not a criminally minded  
10 person. I don't even run stop signs. And I'm humbled and  
11 I am humiliated that I'm even here today, sir.

12 So I thank you for your time, thank you for  
13 hearing me out.

14 MS. PETERSON: Your Honor, there was just one  
15 other thing that I had in my notes that I wanted to make  
16 sure that I pointed out.

17 And that is, the text where Ms. Watkins -- where  
18 the government says Ms. Watkins indicated, "we have a good  
19 group and we're going to stick to the plan," it's my  
20 understanding that that text was very early on in the day.  
21 And it reflects the plan that Ms. Watkins had, which was to  
22 escort individuals from the rally to Capitol Hill. Not to  
23 engage in illegal activity at the Capitol, but to continue  
24 the -- to support the rally that was going on itself.

25 So the "We have a good group, we're going to stick to the

1 plan," does not have the negative connotations that the  
2 government is suggesting.

3 THE COURT: Can I just -- one last question and  
4 then I'll take a moment here.

5 Mr. Baset, if you were to place Ms. Watkins and  
6 her conduct as sort of relative to the other eight people  
7 who have been indicted in this conspiracy, in this charging  
8 document, how would you characterize her conduct relative to  
9 others or where would you place her? Because I have to  
10 confess, I'm not familiar with what at least seven of the  
11 others are charged with doing.

12 MR. BASET: Right.

13 The others are similarly charged.

14 There is an additional obstruction count that's  
15 been levied against a couple of the other individuals.

16 But she is charged just as they are, for the most  
17 part. She's a regional leader from Ohio, a militia that  
18 linked up with the Oath Keepers not just on January 6th but  
19 before that, and had participated in events with the Oath  
20 Keepers before January 6th.

21 And so in terms of where she falls in the scale or  
22 the spectrum of these defendants, she's a leader. And  
23 moreover, that's borne out by the fact that she actually  
24 recruited two of the members that were participating in this  
25 conspiracy, including another individual by the name of

1 Sandy Parker, Sandra Parker, who is indicted and was in the  
2 stack and went into the building. She recruited that  
3 person, along with her husband. So she is very responsible  
4 in that way.

5 I also did have an answer to your question before  
6 about where the bomb-making recipe was found if you would  
7 like that information.

8 THE COURT: I would, please, yes.

9 MR. BASET: And it's our understanding that that  
10 was found in a loft adjacent to the living room on top of or  
11 inside of a cardboard box that was opened already and that  
12 did not have a top on it.

13 THE COURT: Okay.

14 Can I also ask, I have a vague understanding of  
15 what's happened with some of these other folks in this  
16 indictment and did hold Mr. Caldwell.

17 And Mr. Caldwell, although he never entered the  
18 Capitol, he certainly, through his communications,  
19 demonstrated he was certainly an organizer of these events  
20 and engaged in potentially obstructive conduct to hide his  
21 and others' roles.

22 But is the government asking that others be held  
23 in this conspiracy? I know Mr. -- I know at least the  
24 other -- the third member, who was part of the original  
25 indictment, he's held, but what about the others?

1 MR. BASET: We have requested holds on the others  
2 that have appeared so far.

3 I cannot say at this moment what we are going to  
4 do with future individuals. As we are doing here, we're  
5 just going to have to evaluate that on a case-by-case  
6 scenario. But as of now, we have requested holds on all of  
7 those individuals who have appeared.

8 THE COURT: All right.

9 MS. PETERSON: And so Your Honor knows, if I  
10 might, the Parkers have both been released. And I know that  
11 because I'm arranging their court-appointed counsel.

12 I believe the Biggs have been held to date, but I  
13 don't know that that has been borne out all the way, and  
14 certainly hasn't come before Your Honor yet.

15 But the Parkers are both on release.

16 THE COURT: Okay.

17 But the government hasn't asked for holds as to  
18 each of the defendants, whether it's been here or in another  
19 jurisdiction?

20 MR. BASET: We have.

21 And much like the Biggs, or one of the Biggs, who  
22 is a regional leader in Florida, Ms. Watkins is a regional  
23 leader in Ohio.

24 THE COURT: Okay.

25 All right. Thank you, all. I need to -- I'm

1 going to go off the record here, and I just want to think  
2 about some things and then I will be back momentarily.

3 Why don't we take -- it's 3:40 now. So let's give  
4 our court reporter a rest as well and let's all resume at  
5 3:50, all right?

6 Thanks, everyone.

7 MR. BASET: Thank you.

8 (Recess from 3:40 p.m. to 4:00 p.m.)

9 COURTROOM DEPUTY: Can you see us all,  
10 Ms. Watkins?

11 THE DEFENDANT: I can see everyone. Yes, I can.  
12 Thank you.

13 COURTROOM DEPUTY: Sorry about that, Your Honor.

14 THE COURT: No problem.

15 Okay. Mr. Baset, do we have you on the line?  
16 You're back, it looks like.

17 MR. BASET: I believe I am.

18 THE COURT: Okay.

19 All right. So I've already sort of made the  
20 initial finding I'm required to make under the Bail Reform  
21 Act that Ms. Watkins, based on the charges and the fact that  
22 she has been indicted and probable cause has been found by  
23 the Grand Jury, that she has been indicted under an offense  
24 that qualifies her both for a detention hearing and for the  
25 rebuttable presumption. So those are sort of the principles

1 under which I'm operating here.

2 I'm next required to turn to Subsection (g) of the  
3 Bail Reform Act and consider whether there are any  
4 conditions or combination of conditions that would assure  
5 the safety of the community and Ms. Watkins' return to  
6 court.

7 I think I alluded to this before. I don't think  
8 Ms. Watkins is a flight risk, and so I don't think there's  
9 basis to hold her on risk of flight. She did turn herself  
10 in.

11 I think the harder question is one of  
12 dangerousness and whether there are a combination of  
13 conditions that would ensure the safety of the community.  
14 In making that assessment, I have to consider four factors:  
15 The nature and circumstances of the offense, the weight of  
16 the evidence, the history and characteristics of the  
17 defendant, and the nature and seriousness of the danger of  
18 any person -- the nature and seriousness of the danger to  
19 any person or the community that will be posed by release.

20 Let me start with Ms. Watkins and her history and  
21 characteristics.

22 You know, she has no prior criminal convictions,  
23 she is a member -- former member of the military, is an  
24 owner of a small business.

25 I've received and read the numerous letters of

1 support from the community that attest to her good  
2 character. You know, on the other hand -- and all of those  
3 factors weigh against detention prior to trial.

4 On the other hand, Ms. Watkins, even by her own  
5 admission, she self-identifies as someone who's affiliated,  
6 and, in fact, a founder of something called the Ohio State  
7 regular militia. She has been referred to as the sort of  
8 commanding officer of that militia, and is, by her own  
9 admission, whether by payment of dues or otherwise, a member  
10 of the Oath Keepers, and, according to the government,  
11 describes the Oath Keepers as a loosely organized collection  
12 of various militia that believe the Federal Government has  
13 been co-opted by a shadowy conspiracy that's trying to strip  
14 American citizens of their rights.

15 You know, even if that description is somewhat  
16 hyperbolic, I don't know whether it is or not, nevertheless  
17 demonstrates that Ms. Watkins is not sort of a solo operator  
18 and that she is affiliating with other people, other militia  
19 members, other members, other people in an organized effort  
20 to -- well, she's engaged in an organization.

21 And that her role was one here not just of a  
22 follower, but, rather, she's certainly higher up in the  
23 chain. The government has presented evidence that she is a  
24 recruiter and did recruit others to participate in the  
25 events of January the 6th and before; that she is somebody

1 who has participated in planning calls with leaders of the  
2 Oath Keepers, is communicating regularly with the person who  
3 is the head of the Oath Keepers.

4 And so in terms of where somebody thinks about her  
5 role in terms of the hierarchy, you know, Ms. Watkins is not  
6 just a foot soldier, if you will, but, rather, somebody who  
7 actually is involved in planning and organizing of larger  
8 groups of people.

9 And the text messages and the communications that  
10 are identified both in the government's submissions for  
11 detention and in the indictment show that she was doing just  
12 that; that she was organizing larger groups to come to the  
13 city and participate in the events of January the 6th.

14 The question, then, is the nature and  
15 circumstances of the offense and what's the weight of the  
16 evidence against her.

17 I've said this before. Let's talk just very  
18 candidly. The nature and circumstances of the offense, what  
19 she's been charged with certainly presents a danger.

20 This is not the kind of conduct or the kind of  
21 offense that anybody should consider typical or ordinary.  
22 It was a historic event, an incursion on the Capitol that  
23 was a real threat to the very fabric of our democracy. And  
24 the truth of the matter is, Ms. Watkins was not simply just  
25 a willing participant of that, she was, as I said, an



1 organizer and a leader in those efforts.

2           You know, that is made clear by the evidence that  
3 the government has identified through social media postings  
4 and Ms. Watkins either said in her own words or in words  
5 that were communicated to her by others that she was  
6 conspiring with.

7           You know, soon after or actually before the  
8 election, according to the government, there are  
9 communications showing her recruiting trainees, who she has  
10 said will need to be fighting fit by the Inauguration, those  
11 are her words; communications on October 26th in which she's  
12 referring to training, including two days of war games and  
13 combat training, these are, again, her words, for urban  
14 warfare, riot control, and rescue operations. According to  
15 the government's proffer, she recruited at least two people  
16 to attend these sessions.

17           And so, you know, even before the election,  
18 Ms. Watkins is engaged in the kind of sort of militarist  
19 training and preparation that she thinks may be necessary to  
20 engage in if the election is won by someone other than the  
21 President.

22           She expresses the concern after the election,  
23 after President Biden is elected, that "Our way of life as  
24 we know it is over. Our Republic would be over." This is  
25 on November 17th. Then it is our duty as Americans to

1 fight, kill, and die for our rights.

2 Again, this isn't somebody who is simply  
3 expressing dissent or even questioning the validity of  
4 President Biden's election; rather, she is expressing a  
5 desire to fight, kill, and die as a result of this election.

6 But, again, these aren't just mere expression;  
7 they're actually, then, followed up by conduct. She's  
8 engaging in communications with Mr. Caldwell about this  
9 quick reaction force, something she'd talked about earlier  
10 in November, and understanding fully what this quick  
11 reaction force would entail.

12 And let me just say -- and I said this during  
13 Mr. Caldwell's hearing and I'll say it again here --  
14 you know, perhaps the most disturbing aspect of the planning  
15 in these cases is this quick reaction force.

16 The idea that folks who were part of our military  
17 are using that training to plan their conduct here in  
18 Washington, D.C., on January the 6th and to avoid detection  
19 or avoid bringing firearms in, but yet being prepared to  
20 engage in the kind of violent behavior -- or engage in  
21 violent behavior, urban warfare, as she had put it earlier,  
22 by stationing people outside the District of Columbia to  
23 come in to the District to be prepared to engage with others  
24 with weapons.

25 That is the planning that Ms. Watkins engaged in,

1 she participated in it. There's no evidence here that she  
2 at any point sought to withdraw herself from that kind of  
3 planning and preparation. You know, to the contrary, the  
4 communications suggested she was in the heart of it. And  
5 then she appeared in Washington clad in camouflage helmets,  
6 bulletproof vests, clothes with knuckles' protection, and  
7 radios.

8 And now, you know, Mr. Caldwell -- excuse me,  
9 Ms. Watkins has suggested that her primary purpose in being  
10 in Washington there that day was not to engage in any  
11 incursion of the Capitol, but, rather, to provide security  
12 at the rally that preceded the events at the Capitol.

13 But that only -- doesn't make a whole lot of sense  
14 to me, at least in terms of her primary purpose, because,  
15 one, why somebody who was there for a political rally would  
16 be talking to others about rapid incursion forces doesn't  
17 make a whole lot of sense.

18 And, two, if she was there to provide security at  
19 the rally, she, nevertheless, made her way to the Capitol  
20 and then actually joined with others to enter the capitol by  
21 her own terms, she forcibly entered the Capitol building.

22 And then the communications that if she didn't  
23 engage in it with them but certainly others who she was  
24 communicating with and actively assisting, even by her own  
25 admission, even as something as limited as being a medic,

1 although I think there's some question as to whether that,  
2 in fact, was her limited role, that an unknown male says,  
3 "We're here to execute a citizens' arrest, the arrest of  
4 this assembly," referring to the Congress. "We have  
5 probable cause for acts of treason and election fraud."

6 Another unknown male speaks to her directly:  
7 "Get it, Jess. Do your f'ing thing. This is what we were  
8 f'ing up for. Everything we f'ing trained for."

9 So if there's any question about what Ms. Watkins  
10 was doing there and what she was doing in terms of  
11 conspiring with others, these are the words of a conspiracy  
12 referring to planning -- to acts of planning and preparation  
13 for something. It wasn't merely just to provide security at  
14 a rally, it was something else, it was something more.

15 And, you know, even if she herself, as the  
16 evidence seems to suggest, didn't destroy property  
17 personally or she herself didn't commit individual acts of  
18 violence, she certainly was participating as part of a  
19 group, who seemed intent on interrupting the proceedings of  
20 the United States Congress in certifying the election. That  
21 is, by its very definition -- I think demonstrates her  
22 dangerousness and that she's willing to engage in dangerous  
23 conduct and engage in violent conduct.

24 I think all of that is supported by the fact  
25 that -- the search of her home. She did have weapons there,

1 although they were legal, so I don't hold that against her.

2           There is, however, tactical gear. You know, pool  
3 cues cut down to baton size. I mean, that's not to play  
4 pool, it's to engage in the kind of conduct that  
5 I understand that those kind of weapons were actually  
6 brought to D.C.

7           Zip and cable ties. While, again, Ms. Watkins  
8 herself didn't have them on her, as far as I understand,  
9 others did on that day, and they were clearly looking for  
10 people to use those zips and cable ties on.

11           Again, I'm not saying, because I don't think the  
12 evidence has been established, that Ms. Watkins herself was  
13 trying -- brought zips and cable ties. But there were  
14 certainly other people, including the person who said that  
15 they were there to execute a citizens' arrest, I don't think  
16 that connection is that far-fetched.

17           And then there's this recipe for making a  
18 destructive device. Maybe it's a document that had been in  
19 her home for some time. Who knows. But nevertheless  
20 I think is indicative of her mindset and how she -- well,  
21 let's just put it this way: I think it's indicative of  
22 things that she may have thought about, if not more  
23 recently, then certainly once upon a time.

24           And so I do think the nature and circumstances of  
25 the offense and the weight of the evidence do favor

1 detention.

2           You know, the defense, as I said, has argued that  
3 Ms. Watkins was primarily in Washington for -- to provide  
4 security. Again, I think the facts that have been presented  
5 undercut that.

6           She argues that she didn't engage in any violence  
7 or force herself on to the Capitol grounds or destroy any  
8 property, and, in fact, discouraged others to do so.

9           You know, again, I think that even if that's true,  
10 Ms. Watkins' conduct in terms of organizing and marshaling  
11 resources to bring people to the Capitol building that day  
12 to disrupt Congress, to engage in the planning of rapid  
13 incursion forces, where weapons would be placed outside the  
14 District of Columbia -- and I'll refer to my comments during  
15 the closed session about that and how Ms. Watkins viewed  
16 those instructions and how she felt about that and how she  
17 felt that --

18           And to the extent that there's been reference here  
19 made to her intentions were not to overthrow the government,  
20 but, rather, reacting to the possibility that  
21 President Trump would invoke the Insurrection Act, you know,  
22 let me say two things; one, I think that evidence puts to  
23 rest any notion that people were not influenced to act in  
24 dangerous ways in response to the President's words, but,  
25 more importantly, the fact that the President might have

1 done so didn't provide cause or legitimacy for people to  
2 bring arms into or near the District of Columbia in support  
3 of that possibility, you know.

4 And so the conduct here, she seems to have shown a  
5 singular-minded focus on ensuring that what happened on  
6 January the 6th would be disrupted and that Congress would  
7 not be able to peacefully transition power to a new  
8 Administration or to a new President.

9 In terms of whether there are lesser conditions  
10 that would ensure the safety of the community, I've thought  
11 about this quite hard, Ms. Watkins, and I think, at the end  
12 of the day, I just can't get there.

13 I don't think putting you on home detention would  
14 ensure the safety of the community. As I said, you are an  
15 active participant, organizer, leader of others in engaging  
16 in this kind of conduct.

17 The material that's found at your home certainly  
18 suggests further potential for organizing and further  
19 potential for violence.

20 I'm concerned about your partner and his  
21 participation in the Ohio militia.

22 And while you have today denounced the Oath  
23 Keepers, you've renounced your affiliation with them, I have  
24 to balance that against your prior conduct.

25 And, you know, there is a continued risk, it seems

1 to me, that once you are released, that you will  
2 re-affiliate yourself with these groups and these people.

3 We simply don't have the capacity to monitor your  
4 communications through text messaging, social media, or  
5 encrypted apps, as you have shown the ability to use to  
6 communicate with others. And I think, as the government has  
7 said, the threats on the democracy, the threats on the  
8 Capitol have not fully abated.

9 And so for all of those reasons, I'm not prepared  
10 to release Ms. Watkins under the current circumstances based  
11 upon the evidence that's been presented. I just don't think  
12 that there are a combination of conditions that would ensure  
13 the safety of the community in light of Ms. Watkins'  
14 conduct, her actions, and notwithstanding the fact that, as  
15 I said, I have recognized her history and characteristics  
16 and the lack of any criminal convictions, but I just don't  
17 think, in the present circumstances based on the evidence  
18 that's been presented, that there are a combination of  
19 conditions that would ensure the safety of the community.  
20 So I will grant the government's motion and deny the request  
21 to release her pending trial.

22 So I think we have a next date on the calendar, at  
23 least for Mr. Caldwell and Ms. Watkins on March the 12th.  
24 Hopefully, we will have some of the other defendants in this  
25 case here before the Court so we can all get on the same



1 schedule by March the 12th.

2 Ms. Peterson, have you spoken with Ms. Watkins  
3 about speedy trial?

4 MS. PETERSON: Your Honor, we have had brief  
5 discussions. I don't think there's any need to do anything  
6 about that today given that we'll be back in court on the  
7 12th and the Chief Judge's standing order, I believe, tolls  
8 the speedy trial clock between now and that date anyway.

9 THE COURT: Okay.

10 It does.

11 And for the reasons that are set forth in the  
12 Chief Judge's standing order, I will toll the speedy trial  
13 clock in this case through March the 12th.

14 For the reasons stated in that standing order, we  
15 simply are not in a position to have a trial. And so for  
16 that reason -- or work toward a trial in the current  
17 circumstances. And so for those reasons, I think the  
18 interests of justice outweigh the interests of the defendant  
19 and the public in a speedy trial, and so I'll exclude the  
20 dates through March the 12th.

21 I'll also note that there will, obviously, need to  
22 be time here for Ms. Watkins and her defense counsel to  
23 receive discovery and review discovery and prepare her  
24 defense. And so I think for those reasons, exclusion of  
25 speedy trial is warranted.

1           I think it's also likely that, frankly, the clock  
2 hasn't even started for Ms. Watkins, given that other  
3 members of the -- other people who were named in this  
4 indictment are still waiting to appear for the first time in  
5 this District.

6           All right. With that, is there anything else  
7 anybody else would like to raise or discuss today?

8           MR. BASET: Nothing for the government.  
9 Thank you, Your Honor.

10           MS. PETERSON: Nothing further, Your Honor.  
11 Thank you.

12           THE COURT: All right.

13           Mr. Baset?

14           MR. BASET: Nothing from the government.  
15 Thank you.

16           THE COURT: Okay.

17           Thank you, all, very much.

18           (Proceedings concluded at 4:21 p.m.)  
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25

C E R T I F I C A T E

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

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

Date: March 8, 2021 /S/ William P. Zaremba

William P. Zaremba, RMR, CRR

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73/25 <b>18 U.S.C [1]</b> 6/4 <b>19 [1]</b> 83/6 <b>197 [1]</b> 56/23 <b>1970s [2]</b> 34/8 43/5 <b>1997 [1]</b> 8/12 <b>2</b> <b>20 [5]</b> 16/12 16/14 16/19 60/24 61/1 <b>20-year [2]</b> 16/15 16/18 <b>20001 [1]</b> 2/5 <b>20004 [1]</b> 1/20 <b>2015 [1]</b> 16/10 <b>202 [3]</b> 1/16 1/20 2/5 <b>2021 [2]</b> 1/5 83/10 <b>20530 [1]</b> 1/15 <b>208-7500 [1]</b> 1/20 <b>21-28-3 [2]</b> 1/4 3/3 <b>21-CR-123 [1]</b> 56/13 <b>21-CR-5 [1]</b> 57/4 <b>21-CR-75 [1]</b> 56/15 <b>21-MJ-08 [1]</b> 61/20 <b>21-MJ-126 [1]</b> 60/21 <b>21-MJ-197 [1]</b> 56/23 <b>21-MJ-76 [1]</b> 55/13 <b>222 [1]</b> 15/23 <b>2332a [1]</b> 20/22 <b>2332b [5]</b> 6/5 7/25 14/10 18/1 18/18 <b>252-7097 [1]</b> 1/16 <b>26 [1]</b> 1/5 <b>26th [1]</b> 73/11 <b>2:00 [1]</b> 1/6 <b>3</b> <b>30 [2]</b> 40/22 52/11 <b>3142 [10]</b> 6/10 8/25 9/1 14/7 14/9 14/9 14/20 14/23 15/6 18/6 <b>3242 [1]</b> 14/23 <b>3249 [1]</b> 2/5 <b>333 [1]</b> 2/4 <b>354-3249 [1]</b> 2/5 <b>3:40 [2]</b> 69/3 69/8 <b>3:50 [1]</b> 69/5 <b>4</b> <b>40 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