

P R O C E E D I N G S

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THE COURTROOM DEPUTY: This is Criminal Case 21-022, United States of America v. Christopher Grider.

Starting with government counsel, I'm going to ask that you please state your appearance for the record.

MS. WONG: Good afternoon, Your Honor. Candice Wong for the United States. I'm joined here today by my section chief in the background, Dineen Baker. She's the chief of the violent crime, narcotics, and trafficking section, should the Court wish to hear from her.

THE COURT: Good afternoon.

MR. MAYR: Good afternoon, Your Honor. Brett Mayr. I'm present here with my client, Christopher Grider.

THE COURT: Good morning, Mr. Mayr and Mr. Grider.

This is a status conference that was set in the ordinary course on February 22nd, 2021, before it came to the Court's attention that defense counsel had given a media interview concerning this criminal case and also before there was a second nationally televised appearance by defense counsel concerning this matter. I am emphasizing the timing because

1 unlike in Judge Mehta's case where I understand there was not
2 an attempt by the media to intervene, there is such a motion
3 pending in my case, but today's proceeding was not set as a
4 hearing per se, nor is it the Court's intention to turn today's
5 proceeding into such a hearing.

6 This Court ordinarily proceeds by motion and would most
7 certainly not enter any order of this nature without requiring
8 the parties to brief the legal issues and having an actual
9 hearing on those briefs.

10 So for today's purposes, the Court merely asked the
11 parties to be prepared to discuss the local rules concerning
12 the duties of counsel and the authority of the Court during the
13 course of this previously scheduled status conference,
14 primarily because I wanted to determine whether counsel for
15 both sides are aware of their obligations under this Court's
16 local rules as a precursor for any potential future
17 determination of whether an order under Local Rule 57.7(c) is
18 warranted.

19 So let me start by summarily denying without prejudice
20 the news organizations' pending motion to intervene as
21 unnecessary and premature under these circumstances.

22 And for the purposes of today's conference, let me just
23 start by addressing Mr. Mayr concerning his understanding of
24 the local rules in connection with the media appearances that
25 have occurred. The Court is aware of two instances of -- or

1 participation in nationally televised interviews. I understand
2 that this is not your ordinary jurisdiction. So let me just
3 hear from you about your view of whether the appearances that
4 you made are consistent with the local rules, or maybe you're
5 just not aware of those duties and restrictions.

6 MR. MAYR: Sure, Your Honor.

7 THE COURT: You may have to speak up. I'm sorry.

8 MR. MAYR: Yes. I hope you can hear me okay. I'll
9 try to speak up a little bit louder.

10 So first and foremost in that regard, Your Honor, as far
11 as the application of the local rules, I will represent to the
12 Court that as was required when I submitted my motion to appear
13 pro hac vice on this case, I did affirm that I had reviewed the
14 local rules. Now, in all honesty, I kind of skimmed over the
15 local civil rules, but I paid close attention to the local
16 criminal rules and was aware of the rule dealing with pretrial
17 publicity, noting its similarities to Model Rule 3.6, which is
18 something that I'm very -- which I'm very familiar with.

19 I -- I -- I want -- I want to start off by letting the
20 Court know that I did not take my appearances on any of these
21 nationally televised interviews lightly; that a lot of
22 forethought went into these to make sure that, one, I was
23 complying with the local rules; two, I was complying with my
24 ethical obligations in doing so.

25 As I stated, I reviewed the Model Rule 3.6. I reviewed

1 local rules for the D.C. Bar, just -- just to see if there was
2 any difference there. I'm very familiar with the
3 Supreme Court's decision in *Gentile v. State Bar of Nevada*.

4 Judge, I'm -- I'm cochair of the ethics committee for
5 the Texas Criminal Defense Lawyers Association. I actually --
6 my -- my former employer gave a seminar on pretrial publicity
7 that I made sure that -- watched to make sure there wasn't
8 anything I wasn't picking up. So I was very well aware of the
9 limitations and ethical obligations that I was bound by and
10 took those into consideration.

11 In -- in doing the interviews and reading the rules, I
12 did not intend nor believe that any of my comments ran afoul of
13 the rules. For one, I don't believe that my comments in any
14 way -- to take from -- to take from (b)(1) of the rule, I did
15 not believe and had no intention of having my statements
16 interfere with a fair trial or otherwise prejudice the
17 administration of justice. Obviously --

18 THE COURT: Right. I was listening very carefully
19 because I was trying to understand when you said you were
20 familiar with the rules if you were referencing in particular
21 the local rules of this Court -- and, that is, Local Rule
22 57.7(b)(1), which I now take you to be referencing in
23 particular. And so let's just be as clear as we can concerning
24 what that rule says.

25 MR. MAYR: Sure.

1 THE COURT: "It is the duty of the lawyer or law firm
2 not to release or authorize the release of information or
3 opinion which a reasonable person would expect to be
4 disseminated by means of public communication, in connection
5 with pending or imminent criminal litigation with which the
6 lawyer or the law firm is associated, if there is a reasonable
7 likelihood that such dissemination will interfere with a fair
8 trial or otherwise prejudice the due administration of
9 justice."

10 So, you know, again, I'm not trying to turn this into a
11 hearing necessarily. I just wanted to get a sense of whether
12 you were aware of this particular rule and -- and suggesting
13 that you don't believe that what you did ran afoul of it or you
14 just weren't aware of that. It sounds like -- it sounds like
15 the -- the former.

16 MR. MAYR: Definitely, Your Honor. Very familiar
17 with it. In fact, I remember when I -- when I was first
18 familiarizing myself with the local rules before submitting my
19 application to appear pro hac vice, I remember reviewing this
20 rule and saying: Okay. That looks just -- that looks pretty
21 much like Model Rule 3.06 [sic], which -- and it has the
22 same -- it has the same reasonable likelihood of -- of language
23 that was discussed by the Supreme Court in the *Gentile*
24 decision.

25 So I immediately recognized it, and I knew that, look, I

1 don't need to go -- I don't go on there and try to, you know,
2 throw out some crazy statements that are just going to ruin the
3 ability to have a fair trial in this case.

4 Now, I will say this: Each of these times that I did do
5 some national interviews, it wasn't like I sought -- it's not
6 like I sought out to be interviewed by them. These -- these
7 org- -- these media entities contacted me saying: Hey, we
8 are -- we are doing this -- we're considering doing a story
9 regarding your client. We'd like to know whether you would
10 want to be interviewed.

11 THE COURT: I understand. And I understand from at
12 least reading the media interviews and the transcripts that
13 other defense counsel were contacted as well and -- and others
14 decided not to do the interview.

15 MR. MAYR: Sure. And I was -- and I -- obviously I
16 saw that after the fact, but my position, as it pertained to my
17 client, was there's been -- this is obviously an unprecedented
18 situation. There's been negative -- there's been publicity
19 about this almost on a daily basis since this occurred back in
20 January. And there was an abundant amount of -- of -- of
21 publicity regarding my client's case, especially in his
22 community.

23 And when I was contacted by these -- it's interesting
24 you brought up other counsel, because after the fact, I heard
25 stories where other counsel said they declined to comment for

1 the story. And I thought that's -- that's not good. That's
2 not good that -- that the media is talking about their client's
3 case and is portraying it as -- in -- in what could be
4 construed in a negative light and there's no one there to
5 balance that out.

6 And so when I was contacted by these agencies, my
7 decision to -- to go on an interview with them is to try to --
8 not so much to interfere with a fair trial, but to ensure that
9 we have a fair trial, to ensure that the story just wasn't
10 reporting one side. I wanted them to have both sides of the
11 story so that, again, my client wasn't being portrayed as just
12 some -- as just another Capitol rioter who was there to do harm
13 and -- and wreak havoc and lead an insurrection. I felt
14 that -- that my ethical obligations required me to give a
15 counterpoint of that, and that was the reason why I did those.

16 And, again, in making my comments, I'm very familiar
17 with the rules, very familiar with the ethical obligations, as
18 well as my obligation to my client. Try to keep things very
19 balanced. I tried to focus on what was already out in the
20 public record, not to go much well beyond that, which is an
21 exception, and -- and -- but -- but provide some balance to the
22 story regarding my client.

23 THE COURT: All right. So it -- it sounds as though
24 we may need to have some briefing and -- and a hearing
25 concerning it, because the position that you are taking is one

1 that I'm going to have to evaluate, because it sounds as though
2 you believe that this was not a mistake or, you know, a
3 circumstance in which you didn't really understand the rules
4 and that you believe that, you know, it's not going to arise
5 again, and you wouldn't -- and you do take these rules to limit
6 your ability to -- to have a discussion. In fact, it sounds as
7 though just the opposite is the case.

8 And so the Court is going to have to rule on whether or
9 not the -- these rules are consistent with the conduct that has
10 already occurred and that presumably might occur again if it is
11 your position that the rules do not prescribe that kind of --
12 of discussion on the part of an attorney.

13 MR. MAYR: Yeah. Let me be clear. I -- I don't want
14 the Court or anyone, for that matter, to think that I'm just
15 flaunting these rules. I mean, I -- I'm -- I take them very
16 seriously. I mean, when I made that affirmation, I took it
17 very seriously.

18 I don't want the Court to think that I'm here to flaunt
19 them or just throw them to the wayside and I'm going to do
20 whatever I want to. I'm obviously going to abide by whatever
21 the Court orders me to do, and I'm going to abide by whatever,
22 you know, you allow me to do and what you don't allow me to do.

23 Up until this point, you know, I look at the rule and
24 I -- I see that the rule says, look, you can't talk about prior
25 criminal record. We haven't talked about prior criminal

1 record. You can't talk about the existence or contents of any
2 confession or admission. I haven't done that. You can't talk
3 about the performance of any examinations or tests. I haven't
4 done those things.

5 But (b) (3) does say that "The foregoing shall not be
6 construed to preclude the lawyer or law firm . . ." and it
7 gives a number of exceptions, if you would, where -- things
8 that I can comment on. And, again, I -- I'm -- I know that
9 there's not a real clear bright line on a lot of these things,
10 and so I want the Court to be aware that, look, I will -- I
11 don't want to come across as saying that, look, I'm going to do
12 what I want to and, you know, whatever may -- I'll take
13 whatever.

14 I'm willing to comply with any limitations that the
15 Court feels is necessary, but, in the same respect, you know,
16 again, I feel like I do have an -- I do have an obligation to
17 my client and to -- consistent with his First Amendment rights
18 to at least be able to comment regarding this is what's
19 happening, this is what my -- this is what our defense is, this
20 is what we anticipate happening without breaching those
21 barriers that are discussed in the -- that are discussed in the
22 rest of the rules. So anyway --

23 THE COURT: All right. Well, let me -- let me -- let
24 me hear from the government. I mean, the Court was mostly
25 focused on (b) (1) and the extent to which one might interpret

1 the interviews that have already occurred as presenting a
2 reasonable likelihood of interference or prejudicing the
3 administration of justice. And I think that we may need to
4 brief that to the extent that defense counsel at least doesn't
5 think that talking on a national news program about his
6 client's defense would, in fact, run afoul of that rule.

7 But let me hear -- maybe the government agrees with his
8 view on -- of this.

9 MS. WONG: Your Honor, the government is certainly
10 happy to submit anything on the -- in writing that would help
11 the Court in addressing your minute entry that was entered the
12 other day.

13 I think maybe I can start by just noting that defense
14 counsel has noted that one of his reasons was that there was
15 abundant publicity involving this case. I do just want to note
16 for the record, Your Honor, to my knowledge, the government has
17 not issued any public statement on Mr. Grider's case to date
18 nor even a press release as to this criminal matter.

19 All I'll say for now, Your Honor, is that the government
20 is mindful of the obligations that bind, you know, both
21 government attorneys, as well as defense counsel, in Local
22 Rule 57.7, not just (b)(1), but the specifically delineated
23 categories in (b)(3) as well, which include the
24 57.7(b)(3)(vi) -- subpart (vi) -- that no discussion of an
25 ". . . opinion as to the accused's guilt or innocence or as to

1 the merits of the case or the evidence in the case." That is a
2 specifically delineated category.

3 But beyond that, if I can just speak to the government's
4 obligations. We do recognize and take seriously not only the
5 obligations -- we are familiar with the obligations and ethical
6 duties in Local 57.7, but also the further obligations that are
7 spelled out in the justice manual, as well as the Department of
8 Justice regulations that would further ascribe anything the
9 government would say in this case.

10 And we certainly agree and expect -- we think it's
11 appropriate for Your Honor to reiterate these obligations and
12 these duties and certainly expect that this matter should not
13 be tried, you know, in the court of public opinion, but rather
14 in this courtroom.

15 THE COURT: Yeah. So, Mr. Mayr, I have to say that
16 I'm trying to assess whether or not it makes sense to spend
17 time on really fleshing these things out or whether the
18 language the government counsel points to, which is, you know,
19 well-taken here, Rule 57.7(b)(3)(vi), which appears to limit
20 counsel's ability to comment concerning an opinion as to the
21 accused's guilt or innocence or as to the merits of the case or
22 the evidence in the case.

23 You know, I saw the *60 Minutes* interview. I pulled
24 up -- I saw that live, by the way. I saw that on the night
25 that it was actually broadcast, and I saw the CNN interview

1 earlier, just in preparation for this matter, and I think it's
2 sufficiently close that, you know, if it were your intention to
3 kind of go on the media circuit and continue in this fashion,
4 you really would have to sort of assess the extent to which the
5 law and the rules as they are set forward really do prescribe
6 the particular conduct.

7 MR. MAYR: Right.

8 THE COURT: I sort of hear you suggesting that that's
9 not your intention, that you don't want to run afoul of the
10 rules, and I guess I -- I can say, at this point, that I do
11 read these rules as preventing counsel from actually opining
12 on -- about his client's guilt or innocence or the merits of
13 the case because doing so, especially in the national forum --
14 doing so, in the Court's view at least, without it being
15 briefed and without making a definitive ruling on what you've
16 actually done, as a general matter, I -- I think there is a
17 reasonable likelihood that precisely because of the public
18 interest in this matter, that by having counsel going out,
19 having, you know, nationally televised interviews, talking
20 about the evidence, you know, people are playing the clips from
21 the videotapes that are likely going to be evidence in this
22 case, and having defense counsel put forward their view of
23 them, I think there is a reasonable likelihood that that
24 interferes with any potential future trial process concerning
25 this.

1 At a minimum, the Court now is going to have to really
2 tailor its *voir dire* if we go to trial to really assess whether
3 and to what extent any jurors may have seen these interviews.
4 And that should tell us something, I think, because if they've
5 seen them, then they've already gotten some idea of the
6 defendant's view of this case in a way that may be prejudicial
7 to the government in terms of its putting forward the evidence,
8 and we want to have people who don't have preconceived notions
9 of a matter as jurors.

10 So there is a likelihood, I think, a risk, when we have
11 counsel doing this, which is precisely why this rule exists.
12 So I'm not making now today any ruling about the extent to
13 which you have acted unethically or actually violated the
14 rules, but I will let this serve as something of a warning that
15 we're going to have to really bear down on this as a legal
16 matter if it is your intention to continue in this fashion
17 and -- and if this -- you know, this issue continues to arise
18 in the context of this case.

19 MR. MAYR: Judge, I agree with everything --
20 Your Honor, I agree with everything you say, and I will -- I
21 will respectfully abide by that -- that -- that caution, that
22 warning. I -- I know this is -- this is not an -- this is one
23 of the most difficult things for a criminal defense lawyer
24 is -- is responding to the -- is responding to what is out
25 there, and I want to be clear. If I had it my way, there would

1 be no publicity about any of this stuff, but it's just not the
2 reality of it.

3 And, again, I want the Court to understand that, you
4 know, my intentions here were -- were to provide balance,
5 because, again, my concern is when these organizations reached
6 out saying, hey, we want to do a story about your client's
7 case, again, I did not want there -- I mean, I'll -- I'll let
8 the Court know that I've spoken with local media in the Waco
9 area regarding this case and not saying anything differently
10 than what I've -- what I've already stated and what's already
11 in the public record. But, again, the whole reason of this is
12 just to provide balance -- to -- again, to ensure that there
13 isn't this -- that there isn't this prejudice to the
14 administration of justice by what is being published by the
15 media.

16 THE COURT: But can I just say that justice is not
17 done in the media. It is -- it's really -- my purview is not
18 really the concern of what -- what people in the media or
19 people in the world will think about your client, and -- and
20 it's not really the duty of counsel in this context to make
21 sure that the media portrays your client in a favorable light;
22 right?

23 What we care about in the justice system is whether your
24 client will have a fair trial to include the government's
25 ability to put forward its case and your ability to defend, and

1 when we have media representations -- obviously the media is
2 free to write stories about whatever it wants, but when we have
3 people who are actively involved in the criminal justice
4 system, also participating actively in the media realm, then we
5 have real risk that we're going to prejudice the jurors who the
6 Court would be called upon to bring into the courtroom and try
7 to actually hear the evidence and decide the case on what is
8 being presented to them in court.

9 So I completely understand that you may feel as though
10 the portrayals of your client in the media are unfair, but, you
11 know, with all due respect, really the most important thing is
12 whether your client is going to be able to get a fair trial
13 should it come to that, and in order for that to happen,
14 members of the case need not participate in the media
15 representations. Do you understand?

16 MR. MAYR: Absolutely. And, again, Your Honor,
17 I -- I completely agree with everything you said. Every
18 concern you've raised has been a concern that I have taken into
19 consideration and -- and weighed and balanced in doing what
20 I've done. But I'm -- I'm hearing the Court loud and clear.
21 I -- again, rather than -- again, it's not my intention to try
22 this case in the media. I want to make that abundantly clear.
23 I just -- and I think the best way for that to happen is for me
24 to decline any future interviews.

25 I will limit myself to the very clear plain language of

1 the rule, which will only allow me to comment on scheduling
2 matters, letting -- letting the media know, okay, on this date
3 there's a hearing, but nothing beyond that, and -- and, again,
4 my client is -- is pleading not guilty and we're looking
5 forward to our day in court, and beyond that -- that's only if
6 I'm asked. I'm not going to make any statements or reach out
7 or do anything else any further from this point forward.

8 THE COURT: All right. Well, I think that's helpful,
9 and as a result, let's just table this discussion. Hopefully
10 we won't have to go any further.

11 Now, the other things that were on the agenda for
12 today's status conference concern the various other pending
13 motions about discovery, speedy trial clock and the like, and
14 the defendant's motion to dismiss.

15 Let me ask government counsel about the discovery. I
16 received your notice informing the Court of items that have
17 been produced to defense counsel via file sharing and also the
18 government's motion for the release of 6(e) materials. So
19 maybe you can say a little bit about the status of discovery in
20 this case.

21 MS. WONG: Yes, Your Honor. We do appreciate that
22 even back before that discovery letter on March 10th, you did
23 very quickly sign our unopposed motion for protective order
24 then. So the government was able to make a production that is
25 delineated in that discovery letter that's filed on the docket

1 on March 10th. It included not only charging documents but
2 search warrant returns, subpoena returns, Capitol Police
3 footage, various other videos that reflect the defendant's
4 conduct inside the Capitol Building that were in the
5 government's possession from the dates in context.

6 That is a separate track -- I mean, that's -- that is
7 the extent of discovery that has been disclosed to date, the
8 March 10th production, that is an informal discovery
9 production. We do have, separately, a process that is being
10 sorted out in connection with, you know, discussions with the
11 federal public defender's office regarding a system we can have
12 that will ultimately amass sort of a formal process here,
13 including as additional video evidence, voluminous video
14 evidence, is gathered. Some of this is referenced, Your Honor,
15 in the most recent motion for tolling that the government's
16 filed.

17 THE COURT: Well, let me ask you about that, because
18 I have had some defense counsel in other cases push back
19 concerning the tolling and the plan that the government has, in
20 conjunction with the federal public defender's office, to toll
21 the clock for extended periods of time to allow for this kind
22 of coordination. And the concern that defense counsel has
23 expressed, and that I think some of my colleagues on the court
24 have actually been persuaded by, is the concern that the
25 government seems to be working on a consolidated, coordinated

1 production of discovery with respect to maybe all of these
2 cases or most of these cases and it's not particularized to the
3 individual defendant.

4 So I had a case -- one of these cases where the
5 discovery was limited with respect to the individual, but the
6 government was still asking through this form motion for 60
7 days, 90 days, or whatever it was, because it said it was
8 engaged in this larger effort to coordinate the -- the -- the
9 video, you know, on a more generic basis. So what can you say
10 here about the evidence that pertains to Mr. Grider in
11 particular that would warrant what the government is asking for
12 here, which is a 60-day period of exclusion?

13 MS. WONG: Sure. Yes, Your Honor. I think they're
14 not distinct in that sense. I mean, we are certainly
15 collecting and amassing all the video evidence and other
16 evidence that we have with respect to Mr. Grider, and I do
17 expect, I should say, to make an additional production of all
18 these items that are currently in my possession on this
19 informal track.

20 The formal track, though, is because given the nature of
21 this evidence and the nature of the events on January 6th,
22 there is evidence -- you know, there was a lot of footage that
23 is being recovered. For instance, whether through legal
24 process of other defendants that are being investigated, may
25 still not be out there, but that where Mr. Grider may or may

1 not appear from different angles and other footage that I do
2 not currently have and that defense counsel currently does not
3 have.

4 And in order for the government and defense counsel, I
5 think, to feel that we have reasonably discharged our
6 obligations to have -- our ethical duties, but also to have
7 seen all the evidence, we do need that process in place where
8 that additional evidence that I said beyond sort of the obvious
9 footage -- or immediate footage, for instance, that has already
10 been recovered.

11 For instance, I noted that I have already disclosed
12 various video clips from U.S. Capitol Police surveillance
13 footage that I was able to identify, include Mr. Grider, but
14 there may be different video clips recovered from other
15 defendants' cell phones that are -- do not depict the same
16 course of events that are already on these cameras that are in
17 specified locations.

18 THE COURT: But that -- but that potentially
19 implicate Mr. Grider?

20 MS. WONG: Exactly.

21 THE COURT: We have the complexity of lots of people
22 with lots of cell phones, you know, going at different angles,
23 and we don't yet know whether you have everything. And so
24 there may be more time needed to ferret through all of this and
25 make sure that defense counsel has everything?

1 MS. WONG: Precisely, and I think -- I, myself, would
2 not feel comfortable stating that I have fully, you know,
3 flagged all video footage that is in the government's
4 possession that features Mr. Grider at all, or that he might
5 find of interest, until we have that formal process or this
6 sort of technological infrastructure in place that will help,
7 you know, give us some comfort that we have gone through this
8 more methodically.

9 THE COURT: All right. And so, Mr. Mayr, do you
10 consent to the -- I see it's represented that this is an
11 unopposed motion to exclude time. Is that your position?

12 MR. MAYR: It is, Your Honor. Again, I -- I don't
13 think I've agreed so much with the prosecutor before in a long
14 time, but, you know, the reality of it is is a lot of these
15 other videos -- I mean, in the informal discovery, there's been
16 some things that could be considered as much exculpatory as --
17 as they could be inculpatory, and -- and I'm -- I don't have
18 any reason to think that that's not going to be the case with
19 additional videos.

20 Ms. Wong hits the nail on the head. There could be -- I
21 mean, there's -- there's one video that we're aware of where my
22 client is -- is yelling to other people inside the Capitol,
23 "Don't break anything. Don't break anything." That could be
24 very relevant, especially to the depravation charge that he's
25 facing in Count 1 of the indictment. So it would be very

1 helpful for us to see other videos where he's maybe saying the
2 same thing or he's encouraging other people to not cause any
3 damage to the prosecutor [sic]. Just like for the government
4 it may be interested if he does something.

5 Along those lines, I would also say we are very
6 interested in any body camera footage from any of the officers.
7 We feel that that's going to be very important in our defense,
8 knowing what his interactions were like with the police
9 officers. We saw a little bit of that in his interactions with
10 the officers at the Speaker's Lobby door. So we -- I think we
11 need to see the rest of -- we need to see the rest of it and
12 have as complete and accurate picture --

13 THE COURT: All right. So it sounds like you are on
14 board with this 60-day exclusion?

15 MR. MAYR: Yes.

16 THE COURT: I will allow it in the interest of
17 justice given the representations that have been made. I'm
18 going to look carefully at the actual written order. I may
19 tailor it some. I know some of my colleagues have tweaked it
20 to be more specific to the needs of this individual case, but I
21 will toll the clock for 60 days out, which is what I think the
22 government is asking for, and I will issue a ruling concerning
23 that.

24 I'll also grant the 6(e) motion, which I also understand
25 there's consent to, allowing for the release of those materials

1 and sealed materials pursuant to the protective order. One
2 thing I did note with respect to that motion in particular,
3 Ms. Wong, is the mention of codefendants, and I didn't know
4 whether there was some -- whether that's sort of standard form
5 language in these motions or whether the government is
6 indicating that there may yet be a codefendant in this case.

7 MS. WONG: That is standard language in the motion.
8 I do not currently believe there is a -- there will be,
9 imminently, a codefendant.

10 THE COURT: Okay. All right. So that's -- those are
11 the main motions that -- procedural motions that exist.

12 Turning to the reply brief hearing date, et cetera, for
13 the motion to dismiss, I have the motion to dismiss. I have
14 the government's opposition that just came in yesterday. So I
15 have not reviewed them yet. I'm waiting for the -- the motion
16 to ripen.

17 Let me ask you, Mr. Mayr, whether you are seeking a time
18 for reply or would you like the Court to go ahead and evaluate
19 the motion from the opposition?

20 MR. MAYR: Your Honor, I -- I think -- I think -- you
21 know, I had an opportunity to review the government's motion.
22 I don't believe a reply is -- at this time, I don't believe a
23 reply is necessary.

24 THE COURT: All right.

25 MR. MAYR: I think I will be just restating what is

1 in the motion. So I'm ready for the Court to, you know, set --
2 set it for submission or do whatever is -- whatever action is
3 needed on the motion.

4 THE COURT: All right. I typically have a hearing
5 related to such matters, and I'm just looking -- my schedule is
6 a little complicated. What I'll do is I will take a look. Let
7 me just -- give me a second here to see.

8 I could see you-all on this matter in the afternoon of
9 the 16th, which is next Friday. Would you be available for a
10 hearing on the motion to dismiss?

11 MS. WONG: The government is available.

12 MR. MAYR: Could I ask what time the Court is looking
13 to do this?

14 THE COURT: About 2:30 or 3 o'clock Eastern.

15 MR. MAYR: Yes. We made that adjustment.

16 Yes, I will be available that afternoon.

17 THE COURT: All right. So let me set this for 2:30
18 Eastern on the 16th of April, and that will be for a hearing on
19 the pending defense motion to dismiss Count 4 of the
20 indictment.

21 So, then, we also now need to set a return date on this
22 case. The question is whether I need to see you again before
23 the expiration of the 60-day tolling period. Let me ask.

24 MS. WONG: Your Honor, my -- I think 60 days brings
25 us to Saturday, June 5th. I asked Mr. Mayr if he was available

1 the week of May 31st or June 7th. All those dates work for me.
2 I believe he said everything but one of those dates might work
3 for him, and then we would just ask that you toll until that
4 date, whatever works for the Court.

5 THE COURT: All right. Mr. Mayr -- Mr. Mayr, what's
6 your availability the week of June 7th?

7 MR. MAYR: The week of June 7th is a lot better than
8 the week of -- of May 31st.

9 THE COURT: Could we do this on the 10th?

10 MR. MAYR: Would it also be in the afternoon?

11 THE COURT: That's fine.

12 MR. MAYR: Yes, I'll be available. That would work
13 perfectly.

14 THE COURT: All right. So let's set this for the
15 next status conference date, June 10th at 2:30 in the
16 afternoon.

17 And we will -- the Court will find that it's in the
18 interest of justice for the reasons represented in the
19 government's written motion to toll the speedy trial clock
20 between today and return of court on this matter, which will be
21 June 10th. I will file a formal order concerning the tolling,
22 but for our purposes now, the clock will be tolled until then.

23 Is there anything else that I need to address in this
24 case at this time?

25 MS. WONG: Nothing from the government, Your Honor.

1 MR. MAYR: And nothing from the defendant.

2 THE COURT: All right. So I will see you-all on the
3 16th for the hearing on the motion to dismiss. Take care. I
4 will see you then.

5 (The proceedings concluded at 3:14 p.m.)

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CERTIFICATE OF OFFICIAL COURT REPORTER

I, Nancy J. Meyer, Registered Diplomate Reporter,
Certified Realtime Reporter, do hereby certify that the above
and foregoing constitutes a true and accurate transcript of my
stenograph notes and is a full, true, and complete transcript
of the proceedings to the best of my ability.

Dated this 22nd day of June, 2021.

/s/ Nancy J. Meyer

Nancy J. Meyer

Official Court Reporter

Registered Diplomate Reporter

Certified Realtime Reporter

333 Constitution Avenue Northwest, Room 6509
Washington, D.C. 20001