

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

\* \* \* \* \*

UNITED STATES OF AMERICA,	)	Criminal Action
	)	No. 22-00015
Plaintiff,	)	
	)	
vs.	)	<b>AFTERNOON SESSION</b>
	)	
ELMER STEWART RHODES, III,	)	Washington, D.C.
et al.,	)	October 11, 2022
	)	
Defendants.	)	1:45 p.m.
	)	
* * * * *	)	

TRANSCRIPT OF JURY TRIAL - DAY 8  
BEFORE THE HONORABLE AMIT P. MEHTA,  
UNITED STATES DISTRICT JUDGE

APPEARANCES:

FOR THE GOVERNMENT:	KATHRYN L. RAKOCZY, ESQ.
	TROY A. EDWARDS, JR., ESQ.
	JEFFREY S. NESTLER, ESQ.
	LOUIS MANZO, ESQ.
	UNITED STATES ATTORNEY'S OFFICE
	FOR THE DISTRICT OF COLUMBIA
	601 D Street, Northwest
	Washington, D.C. 20579
	 ALEXANDRA S. HUGHES, ESQ.
	JUSTIN T. SHER, ESQ.
	U.S. DEPARTMENT OF JUSTICE
	950 Pennsylvania Avenue, Northwest
	Washington, D.C. 20530

FOR THE DEFENDANT	PHILLIP A. LINDER, ESQ.
RHODES:	JAMES L. BRIGHT, ESQ.
	EDWARD L. TARPLEY, JR., ESQ.
	BARRETT BRIGHT LASSITER LINDER
	3300 Oak Lawn Avenue
	Suite 700
	Dallas, Texas 75219

APPEARANCES, CONT'D:

FOR THE DEFENDANT  
MEGGS:

STANLEY E. WOODWARD, JR., ESQ.  
BRAND WOODWARD LAW  
1808 Park Road, Northwest  
Washington, D.C. 20010

JULI HALLER, ESQ.  
LAW OFFICES OF JULI HALLER  
601 Pennsylvania Avenue, Northwest  
Suite 900  
Washington, D.C. 20036

FOR THE DEFENDANT  
HARRELSON:

BRADFORD L. GEYER, ESQ.  
FORMERFEDSGROUP.COM, LLC  
141 I Route 130 South  
Suite 303  
Cinnaminson, New Jersey 08077

FOR THE DEFENDANT  
WATKINS:

JONATHAN W. CRISP, ESQ.  
CRISP AND ASSOCIATES, LLC  
4031 North Front Street  
Harrisburg, Pennsylvania 17110

FOR THE DEFENDANT  
CALDWELL:

DAVID W. FISCHER, SR., ESQ.  
FISCHER & PUTZI, P.A.  
7310 Governor Ritchie Highway  
Glen Burnie, Maryland 21061

REPORTED BY:

LISA EDWARDS, RDR, CRR  
Official Court Reporter  
United States District Court for the  
District of Columbia  
333 Constitution Avenue, Northwest  
Room 6706  
Washington, D.C. 20001  
(202) 354-3269

I N D E XDirectCrossRed.WITNESSES FOR THE GOVERNMENT:

Justin Eller

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EXHIBITS RECEIVED IN EVIDENCEPAGE

Government's Exhibit No. 6825.8

2471

Government's Exhibit No. 6825.12

2481

Government's Exhibit No. 6825.13

2486

Government's Exhibit No. 200.P.3

2495

Government's Exhibit Nos. 183, 184, 185  
189 and 194

2499

Government's Exhibit No. 2003.F.418

2501

Government's Exhibit Nos. 4501.10,  
4500.P.4, 4500.P.7

2504

Government's Exhibit No. 1.S.672.298

2585

Government's Exhibit No. 200.V.1

2589

Defendant Watkins's Exhibit No. 3

2526

Defendant Caldwell's Exhibit No. 111

2565

Defendant Caldwell's Exhibit No. 112

2575

Defendant Caldwell's Exhibit No. 86

2575

Defendant Caldwell's Exhibit No. 113

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1           THE COURT: Please be seated, everyone. I think  
2 we've got everybody back -- or at least all the Defendants  
3 are back.

4           And so, Mr. Fischer, we were discussing your  
5 motion that you had filed last evening in which you've  
6 requested that the jury may be -- that the jury be informed,  
7 be made aware, that nobody in connection with the  
8 North Carolina Oath Keepers has been charged.

9           Mr. Fischer, I guess the issue is -- I mean, you  
10 yourself have cited a case that says just the opposite,  
11 which is that Government charging decision can be based on a  
12 whole host of factors and the fact that somebody hasn't been  
13 charged could be attributable to any number of things. And  
14 if it's admitted, it has the potential for causing confusion  
15 and certainly would open the door, in theory, to the  
16 Government explaining precisely why it hadn't charged these  
17 folks. And it may be a different reason than what you've  
18 suggested and could, you know, create a bit of a sideshow,  
19 it seems to me.

20           So why is that case wrong and what makes this case  
21 unique, in your estimation?

22           MR. FISCHER: Well, your Honor, ordinarily, under  
23 a 403 analysis, I can understand why courts generally don't  
24 allow this information in. But Mr. Stamey, he's on the  
25 Government's exhibit as a conspirator in this case. So --

1 and Mr. Stamey isn't -- his attorney has advised that he's  
2 going to invoke his Fifth Amendment privilege. So  
3 Mr. Stamey, we do not have him available to be here to  
4 testify.

5 And the Government -- that's their choice. They  
6 don't want to grant immunity. But in light of that, your  
7 Honor, it distorts the trial. It distorts the trial.  
8 Mr. Caldwell does not have access to his most important  
9 witness to come to court who would clear his name -- and,  
10 your Honor, this witness has given a lengthy statement to  
11 the FBI. It's at least four hours long. And he says -- as  
12 I indicate in my motion, there were multiple statements he  
13 made that are exculpatory of Mr. Caldwell.

14 I think the jury -- I know ordinarily there's a  
15 prejudicial angle to this, and that's how courts would  
16 sustain an objection to this type of evidence. However, in  
17 this case, I'm not sure there's prejudice to the Government  
18 because the Government's witness, Mr. Zimmerman, painted --  
19 or at least his testimony implicitly painted the North  
20 Carolina Oath Keepers, as I indicated, as the good guys, the  
21 ones who broke away from Stewart Rhodes.

22 And so if we don't have -- I don't see what  
23 prejudice the Government suffers by emphasizing the point  
24 that they are the good guys and have not been charged and --  
25 but against that, your Honor, there are two things:

1           Number one, Agent Palian testified about a, quote,  
2       "different plan," unquote. He was very clear about that.  
3       And that plan, from reading his affidavit, seems to have  
4       included the 40-plus North Carolina Oath Keepers. So that  
5       would go -- on the issue, it's relevant to show that the  
6       allegation of that plan was incorrect. The reliability of  
7       his investigation calls into question.

8           And secondly, your Honor, I would point out as  
9       well, the jury could be left with the distinct impression  
10      that Mr. Stamey has actually been charged, or they could be  
11      left with the impression that, you know, he's actually been  
12      charged and -- or this Ranger Doug Smith, who was just  
13      presented, that Mr. Smith, who was just shown in a video  
14      right next to Mr. Rhodes, that somehow these individuals are  
15      charged.

16           So, your Honor, it distorts the trial. And I  
17      think it is relevant. I think there's clearly relevance to  
18      it. The question is whether the prejudicial value is of any  
19      consequence. And I think that went out the door when the  
20      Government brought in Mr. Zimmerman.

21           Thank you, your Honor.

22           THE COURT: Thank you.

23           Mr. Nestler, would you like to be heard?

24           MR. NESTLER: Yes, your Honor.

25           This evidence is both irrelevant and prejudicial.

1 It should be excluded under Rule 403. I believe your Honor  
2 cited the Ninth Circuit case that Mr. Fischer included in  
3 his motion. That case cited back to an Eleventh Circuit  
4 case, *United States versus Delgado*, which discussed the many  
5 reasons that go into a Government's decision to not charge  
6 somebody and how the Government's decision to not charge an  
7 individual cannot be read as the Government opining about  
8 that individual's innocence.

9 There are many factors that go into charging  
10 decisions, including timing, resources, where charges are  
11 levied and which charges are levied.

12 The Government has been very clear that we believe  
13 Mr. Stamey is an unindicted co-conspirator in this  
14 conspiracy. We've all litigated, I thought before this  
15 trial started, the idea that the parties were not going to  
16 refer to any other individuals being charged or not charged.  
17 And that's where we came out. We believe that that decision  
18 was correct.

19 And as your Honor indicated, if we do get into  
20 this, then the Government would be entitled to present  
21 evidence about why it charged certain people and when and  
22 with what charges and what the Government believes, which of  
23 course would be the Government's opinion, about why certain  
24 people would be guilty.

25 THE COURT: Can I just ask you a slightly

1 different -- on an unrelated subject that Mr. Fischer has  
2 brought up, which is that -- what is the remedy, if any, in  
3 your view, to the fact that Mr. Stamey, if he otherwise  
4 would be available, would provide exculpatory evidence --  
5 exculpatory testimony, at least according to Mr. Fischer?

6 I understand the Government views him as an  
7 unindicted co-conspirator, but they have not charged him.  
8 Obviously, he's got a right, it seems to me, to invoke the  
9 Fifth; but, you know, it does come at the cost, it seems to  
10 me, of allowing the defense to present a full -- make a full  
11 presentation of the -- of the facts that they think support  
12 them.

13 MR. NESTLER: We don't believe it's consistent  
14 with D.C. Circuit case law that there is a remedy for the  
15 defense there.

16 As we went over when we litigated this issue, I  
17 believe, last week or two weeks ago, what the D.C. Circuit  
18 said, referring back to the D.C. Court of Appeals and the  
19 *Carter* decision from the D.C. Court of Appeals that does not  
20 exist in the circuit --

21 THE COURT: I know we talked about that.

22 MR. NESTLER: And so whether the Government has  
23 charged Mr. Stamey previously, or will charge him in the  
24 future, doesn't affect -- or never charges him at all does  
25 not affect the decision about whether he is an unindicted



1 co-conspirator.

2 I guess, if we're asking about hypotheticals, if  
3 we had charged him last week, for instance, I'm not sure the  
4 defense would be in a different position than they're in  
5 right now. It's -- the fact that he hasn't, as of today,  
6 been charged does not really affect the analysis.

7 THE COURT: Okay. So, Mr. Fischer, I can  
8 appreciate what you're trying to accomplish here, but I --  
9 you know, I just don't think there's any support for it, at  
10 least in terms of letting the jury be aware, become -- be  
11 told or become advised about what charging decisions the  
12 Government has or hasn't made.

13 I mean, if there is any probative value to it, it  
14 seems to me it would be low. And there's a real danger of  
15 jury confusion and, frankly, opening the door to the very  
16 thing that, you know, I don't want to have happen, and  
17 Mr. Nestler has suggested, which is that we have a  
18 mini-trial about charging decisions. I mean, I don't know  
19 how that even could come about. I mean, a prosecutor is not  
20 going to take the stand and explain why they made charging  
21 decisions.

22 So in some sense, it would potentially create a  
23 circumstance where the Government actually wouldn't be able  
24 to defend its charging decisions.

25 So while I understand the frustration, I just

1 don't think that's the appropriate remedy here.

2 You know, you've also suggested a missing witness  
3 jury instruction. And we can talk about it at the end, but  
4 I'm not sure that a predicate for a missing witness  
5 instruction is applicable. I mean, this isn't a case where  
6 the witness is uniquely within the control of the  
7 Government. You know, Mr. Stamey is equally available to  
8 both sides. But he's invoking Five.

9 And then, insofar as, you know, getting to play  
10 his videotape, which you suggested, that presents its own  
11 problems, given that the Government doesn't have an  
12 opportunity to cross-examine a videotape.

13 So, you know, I sympathize, but I'm sort of  
14 hard-pressed to come up with a good solution that's  
15 consistent with, you know, the Rules of Evidence in a way  
16 that can be done lawfully.

17 MR. FISCHER: Your Honor, just briefly: The case  
18 law that's being cited, the cases have all suggested that,  
19 in those particular cases, the facts really don't merit a  
20 judicial remedy.

21 This is a little bit different of a case. This is  
22 the one -- this is the one witness who creates a link  
23 between Stewart Rhodes and Mr. Caldwell. And he has already  
24 given a lengthy FBI interview.

25 So this isn't a situation where it's some minor

1 little -- like some of these cases, the evidence the  
2 defense --

3 THE COURT: Yes.

4 MR. FISCHER: This may very well be that case.

5 THE COURT: Understood.

6 But I'm not sure that the remedy is to alert the  
7 jury as to why -- whether he's been charged or not.  
8 And again, you know, I can't conceive of a circumstance --  
9 well, let me put it differently, which is that if it were to  
10 be introduced, what that then opens the door to in terms of  
11 the Government presentation and explanation of why. And in  
12 some sense, it may create even blowback for your client.  
13 But maybe that's a risk you're willing to take. But it's  
14 not something I'm prepared to allow to happen at this trial.  
15 But I can understand why you're asking me to.

16 MR. FISCHER: Thank you, your Honor.

17 THE COURT: Thank you, Mr. Fischer.

18 Let's go ahead and bring our jurors in.

19 THE COURTROOM DEPUTY: Jury panel.

20 (Whereupon, the jury entered the courtroom at 1:56  
21 p.m. and the following proceedings were had:)

22 THE COURT: Have a seat, everybody. Welcome back,  
23 ladies and gentlemen. I hope you had a nice lunch hour.

24 We are ready to begin our afternoon session.

25 So, Special Agent Eller, why don't you come on

1 back up.

2 Ms. Hughes, we're ready to start when you are.

3 MS. HUGHES: Thank you, your Honor.

4 DIRECT EXAMINATION (CONTINUED)

5 BY MS. HUGHES:

6 Q. Good afternoon, Special Agent Eller.

7 A. Good afternoon.

8 Q. Before the lunch break, we spent a good amount of time  
9 talking about Ms. Watkins and individuals from Ohio.

10 Do you see Ms. Watkins in the courtroom today?

11 A. I do.

12 Q. And by identifying her through articles of clothing,  
13 could you please point out where she is in the courtroom?

14 A. She's seated over there. She's wearing a green sweater  
15 with a purple shirt underneath and she's wearing black  
16 plastic glasses.

17 MS. HUGHES: May the record please reflect a  
18 courtroom identification of Ms. Watkins?

19 THE COURT: Mr. Crisp, any objection?

20 MR. CRISP: No, your Honor.

21 THE COURT: The record will reflect an in-court  
22 identification of Ms. Watkins.

23 BY MS. HUGHES:

24 Q. Special Agent Eller, we were talking about some messages  
25 before the break. And I'd like to go back to some of those

1 messages.

2 MS. HUGHES: Could we please bring up, just for  
3 the witness, message -- Government's Exhibit 6825.8.

4 Could you please scroll through these messages,  
5 Ms. Rohde.

6 BY MS. HUGHES:

7 Q. What are these messages, Special Agent Eller?

8 A. These are text messages.

9 Q. Where are these text messages from?

10 A. From Jessica Watkins's cellular telephone.

11 Q. Have you had an opportunity to compare the information  
12 that was extracted from Ms. Watkins's cell phone with the  
13 messages that are before you on your screen?

14 A. Yes.

15 Q. And are these messages a fair and accurate copy of  
16 messages contained on Ms. Watkins's phone?

17 A. Yes.

18 MS. HUGHES: The Government seeks to admit and  
19 publish Government's Exhibit 6825.8.

20 MR. CRISP: No objection.

21 THE COURT: 6825.8 will be admitted.

22 (Whereupon, Government's Exhibit No. 6825.8 was  
23 entered into evidence.)

24 BY MS. HUGHES:

25 Q. Special Agent Eller, what is the date of this first

1 message?

2 A. November 17, 2020.

3 Q. Who are these messages between?

4 A. This is between Jessica Watkins and somebody that she  
5 has listed in her contacts as Recruit Leah.

6 Q. And you said listed in her contacts. Where does this --  
7 specifically where does this name, Recruit Leah-OSRM, come  
8 from?

9 A. This comes from her contact list, from Jessica Watkins's  
10 telephone contact list.

11 Q. Could you please read the message.

12 A. "Well, if Biden get the steal, none of us have a chance  
13 in my mind. We already have our neck in the noose. They  
14 just haven't kicked the chair yet."

15 MS. HUGHES: Could we please go to the next slide.  
16 Thank you.

17 BY MS. HUGHES:

18 Q. And what is the date of this message?

19 A. November 17, 2020.

20 Q. And is this from Recruit Leah to Ms. Watkins?

21 A. Correct.

22 Q. What does Recruit Leah write Ms. Watkins?

23 A. "So I should get comfortable with the idea of death."

24 MS. HUGHES: Can we please go to the next slide,  
25 please.

1 BY MS. HUGHES:

2 Q. What does Ms. Watkins respond?

3 A. "That's why I do what I do."

4 MS. HUGHES: Could we please go to the next slide.

5 BY MS. HUGHES:

6 Q. And who is this from?

7 A. This is from Recruit Leah-OSRM to Jessica Watkins.

8 Q. And what is the date of this?

9 A. November 17, 2020.

10 Q. And you said Recruit Leah-OSRM. Have you seen OSRM,  
11 this acronym, before?

12 A. Yes.

13 Q. Where have you seen OSRM before?

14 A. This was posted on the Parler account in other places --

15 MR. CRISP: Your Honor, we'll stipulate it's the  
16 Ohio State -- we'll stipulate to the meaning of it. We  
17 don't need to lay the foundation. We can move along.

18 MS. HUGHES: Very well.

19 BY MS. HUGHES:

20 Q. So what is OSRM?

21 A. The Ohio State Regular Militia, or Ohio State Regulars.

22 Q. And is that Ms. Watkins's militia group?

23 A. Correct.

24 Q. Could you please read the message?

25 A. "I hope the training will help me be okay with dying for

1 country."

2 MS. HUGHES: Could we please go to the next  
3 message.

4 Could we please now go to Government's Exhibit  
5 6825.10, which is already in evidence, and -- oh, sorry --  
6 .9, which is already in evidence, and can we go Page 10 of  
7 6825.9. Sorry. That's 6825.10, Page 10. Thank you,  
8 Ms. Rhode.

9 BY MS. HUGHES:

10 Q. Before lunch, we were talking about messages exchanged  
11 on Parler. Did there come a time when Ms. Watkins engaged  
12 in conversations regarding travels to D.C. around  
13 January 6th?

14 A. Yes.

15 Q. And on your screen is a message. Could you please  
16 explain to the jury who this message is from?

17 A. This is from LEO2211.

18 Q. And in parentheses it says "Seikerman." Who is  
19 Seikerman?

20 A. Donald Seikerman.

21 Q. Who is Donald Seikerman?

22 A. Donald Seikerman is from Pennsylvania.

23 Q. How do you know that LEO2211 is Donald Seikerman?

24 A. Just through the -- throughout the investigation, the  
25 phone number that's associated to him, and the username.



1 Q. And what is the date of this message from Donald  
2 Seikerman?

3 A. This is December 30th, 2020.

4 Q. And who's the recipient of this message?

5 A. Ohio State Regulars.

6 Q. Is that Ms. Watkins?

7 A. Yes.

8 Q. What does Donald Seikerman write?

9 A. "Just to let you know, as per Stewart, Oath Keepers will  
10 be in D.C. both the 5th and 6th. We will need folks for  
11 both close security details and general crowd security.  
12 More details to come as soon as Stewart has time to get the  
13 call to action email together. Hope to see you there."

14 MS. HUGHES: Could we please go to the next page.

15 BY MS. HUGHES:

16 Q. What does Ms. Watkins write to Donald Seikerman?

17 A. "We are coming again. I talked to Tom. I guess he  
18 won't be using his property as a rally point again, so we  
19 need a new rally point. I'll TXT Stewart today and sort it  
20 out. We will be there on the 5th as well."

21 Q. And this reference to Tom letting his property be used  
22 as a rally point, have you seen references to sort of rally  
23 points in connection with somebody named Tom in other parts  
24 of the investigation?

25 A. Correct. For the Million MAGA March, they went to

1 Thomas Caldwell's property as a rally point.

2 MS. HUGHES: Could we please go to the next slide,  
3 please.

4 BY MS. HUGHES:

5 Q. And what does LEO2211, who's Donald Seikerman, write to  
6 Ms. Watkins on this slide?

7 A. "Fantastic. See you there."

8 MS. HUGHES: Next slide, please.

9 BY MS. HUGHES:

10 Q. What is this slide?

11 A. This is another part of the conversation between Jessica  
12 Watkins and Donald Seikerman.

13 Q. And is Ms. Watkins writing to Donald Seikerman in this  
14 slide?

15 A. Correct.

16 Q. What is she writing?

17 A. "Looks like Ranger Doug and NCOK crew should be coming.  
18 Tom is not able to have us stage at his property again, so  
19 we are sorting out a new RP. Nice meeting you. See you  
20 there. Do you have Zello? We use it as a backup comms, so  
21 if you install it, we can set you up before we roll out."

22 Q. Do you know what Zello is, Special Agent Eller?

23 A. Yes.

24 Q. What is Zello?

25 A. Zello is an application that you can download in your

1 cellular telephone and it replicates a walkie-talkie, or a  
2 press-to-talk walkie-talkie so you can communicate  
3 between -- like, individual to individual or it can be a  
4 group conversation as well.

5 MS. HUGHES: Can we please go to the next slide.

6 BY MS. HUGHES:

7 Q. What does Ms. Watkins write in this slide?

8 A. "I spent four days with OKs in Louisville and went to  
9 another one with them in D.C. for the Million MAGA March. I  
10 hope Stewart gets it put together soon. Time is running  
11 out."

12 Q. What is the date of this message?

13 A. This is December 30th, 2020.

14 MS. HUGHES: Could we please go to the next slide.

15 BY MS. HUGHES:

16 Q. And is this the same date, December 30th?

17 A. Correct.

18 Q. What does Mr. Seikerman write Ms. Watkins?

19 A. "Yep. I was one of those in D.C. Met you there. Old  
20 big guy with the white CCW vest in the pic."

21 MS. HUGHES: Next slide, please.

22 BY MS. HUGHES:

23 Q. What does Mr. Seikerman continue writing?

24 A. "Have Zello already set up."

25 MS. HUGHES: Next slide, please.

1 BY MS. HUGHES:

2 Q. What does Ms. Watkins respond?

3 A. "Awesome. Glad we could connect on Parler then."

4 MS. HUGHES: Next slide, please.

5 BY MS. HUGHES:

6 Q. And this -- is this the same date or is this the next  
7 day?

8 A. This is the next date, December 31st.

9 Q. What does Mr. Seikerman write Ms. Watkins the next day?

10 A. "Get in touch with Stewart and get him to add you to the  
11 new leadership chat on Signal.

12 MS. HUGHES: Next slide, please.

13 BY MS. HUGHES:

14 Q. What does Mr. Seikerman write?

15 A. "Text me your info. I will add you to the Signal chat."

16 Q. And you don't need to read that number.

17 Do they, in fact, move to text communication --

18 A. Yes.

19 Q. -- Mr. Seikerman and Ms. Watkins?

20 MS. HUGHES: Could we please, just for the  
21 witness, pull up Government's Exhibit 6825.11.

22 BY MS. HUGHES:

23 Q. And what are you looking at on your screen, Special  
24 Agent Eller?

25 A. This is a text message between Donald Seikerman and

1 Jessica Watkins.

2 Q. Where was this text message found?

3 A. On Jessica Watkins's telephone.

4 Q. And did you have an opportunity to compare this message  
5 with the information that was extracted from Ms. Watkins's  
6 cellular telephone?

7 A. Yes.

8 Q. Is this a fair and accurate copy of the information that  
9 was extracted from that cellular phone?

10 A. Yes.

11 MS. HUGHES: The Government seeks to admit and  
12 publish Government's Exhibit 6825.11.

13 MR. CRISP: No objection.

14 THE COURT: 6825.11 will be admitted.

15 (Whereupon, Government's Exhibit No. 6825.11 was  
16 entered into evidence.)

17 BY MS. HUGHES:

18 Q. Okay. So you said this was a text message between  
19 Donald Seikerman and Jessica Watkins. What's the date of  
20 this text message?

21 A. This is December 31st, 2020.

22 Q. Who is writing the message?

23 A. This is from Donald Seikerman.

24 Q. What did he write?

25 A. "Great. I will put you on the new D.C. Op Signal

1 channel. We will be having a leadership-only phone  
2 conference tonight for those that can make it."

3 MS. HUGHES: Next message, please.

4 BY MS. HUGHES:

5 Q. What does Ms. Watkins respond?

6 A. "Roger that. We own a bar, so I may be busy tonight,  
7 New Year's Eve. But I will try to make the call if I can."

8 MS. HUGHES: Next message, please. That actually  
9 may be the end of this exhibit.

10 Can we pull up, just for the witness, what has  
11 been marked as Government's Exhibit 6825.12.

12 BY MS. HUGHES:

13 Q. What is on your screen, Special Agent Eller?

14 A. This is a Signal communication.

15 Q. And what specifically is this? Is this a group chat?  
16 Is this from a direct message on Signal?

17 A. This is Donald Seikerman putting a message into a group  
18 chat on Signal.

19 Q. Where was this group chat found?

20 A. This was on Stewart Rhodes's phone.

21 Q. And did you have an opportunity to compare this message  
22 with the group chat that was extracted from Mr. Rhodes's  
23 phone?

24 A. I did.

25 Q. And is this a fair and accurate copy of the messages

1 contained in that chat?

2 A. It is.

3 MS. HUGHES: The Government seeks to admit and  
4 publish Government's Exhibit 6825.12.

5 MR. CRISP: No objection, your Honor.

6 THE COURT: 6825.12 will be admitted.

7 (Whereupon, Government's Exhibit No. 6825.12 was  
8 entered into evidence.)

9 MS. HUGHES: Thank you, your Honor.

10 BY MS. HUGHES:

11 Q. Spacial Agent Eller, if you could just go over that  
12 again, please. So who is sending this message?

13 A. This is Donald Seikerman sending the message.

14 Q. What's the date of this message?

15 A. It's December 31st, 2020.

16 Q. What's the group name?

17 A. D.C. Op Jan 6, '21.

18 Q. What is he -- what did he write on December 31st?

19 A. "Jess and some of the guys were at the first Mega [sic]  
20 March with us with the Ohio Regulars. Jess, do you know how  
21 many from your team may be able to make it?"

22 MS. HUGHES: Next slide, please.

23 BY MS. HUGHES:

24 Q. This is a few days later. Correct?

25 A. Correct.

1 Q. What is the date of this message?

2 A. This is January 3rd, 2021.

3 Q. Who is Jessica?

4 A. Jessica Watkins.

5 Q. What is Jessica writing to the D.C. Op January 6, '21  
6 chat group?

7 A. "D.C. Metro PD are not our friends. No. Capitol Hill  
8 PD are awesome, though."

9 MS. HUGHES: Next slide, please.

10 BY MS. HUGHES:

11 Q. What does Ms. Watkins write on January 4th, 2021, to the  
12 OK FLDC Op Jan 6 group?

13 A. "Who is doing the vetting? I have two folks needing  
14 vetted."

15 MS. HUGHES: Next message, please.

16 And actually, if we could just go back one slide,  
17 Ms. Rohde. My apologies.

18 BY MS. HUGHES:

19 Q. This chat is not the D.C. Op Jan 6 chat, is it?

20 A. It is not. No.

21 Q. Was this another chat, though, that was extracted from  
22 Mr. Rhodes's phone?

23 A. This was not on Stewart Rhodes's phone. This was on  
24 William Isaacs's phone.

25 Q. And who is William Isaacs?



1 A. William Isaacs is another individual around January 6th  
2 who traveled to D.C. as part of the Oath Keepers.

3 MS. HUGHES: And, your Honor, I probably should  
4 have done this just with the witness first, so I'm happy to  
5 do that.

6 If you want to take this down for a moment,  
7 Ms. Rohde. So this is Page 3 of Government's Exhibit  
8 6825.12.

9 So if you could just -- you can just put that up  
10 just for the witness, Ms. Rohde, please. Thank you. And go  
11 to the next slide as well. Thank you.

12 BY MS. HUGHES:

13 Q. So this group, not from Stewart Rhodes's phone -- did  
14 you have an opportunity to compare these messages, however,  
15 to the information that was extracted from William Isaacs's  
16 phone?

17 A. Correct. Yes.

18 Q. Are these messages a fair and accurate copy of the  
19 information that was extracted from William Isaacs's phone?

20 A. Yes, they are.

21 MS. HUGHES: The Government would seek to admit  
22 these remaining pages of Government's Exhibit 6825.12.

23 MR. CRISP: Again, no objection.

24 THE COURT: The remainder of the exhibit will be  
25 admitted.

1                   (Whereupon, Government's Exhibit No. 6825.12 was  
2 entered into evidence.)

3                   MS. HUGHES: If we could put that back up. Thank  
4 you. If you could go back one, Ms. Rohde.

5 BY MS. HUGHES:

6 Q. Okay. So on January 4th -- if you could just explain  
7 again, what is this chat group called, Mr. Eller?

8 A. This is OK FLDC Op Jan 6.

9 Q. And then you mentioned that this came from an individual  
10 named William Isaacs. Who is William Isaacs?

11 A. He's another individual who's from Florida. He's  
12 associated to the Oath Keepers.

13 Q. And is Ms. Watkins again from Florida?

14 A. She is not from Florida. No.

15 Q. Is this a group that is primarily used to coordinate  
16 among Florida members of the Oath Keepers?

17 A. That's my understanding.

18 Q. Okay. So if you could read this message just one more  
19 time, please.

20 A. "Who is doing the vetting? I have two folks needing  
21 vetted."

22                   MS. HUGHES: If we could go to the next message,  
23 please.

24 BY MS. HUGHES:

25 Q. Who responds on the same date?

1 A. OK Gator 1.

2 Q. Who do you understand OK Gator 1 to be, based on the  
3 investigation?

4 A. Kelly Meggs.

5 Q. And what does Kelly Meggs write on January 4th to the OK  
6 FLDC Op Jan 6 group?

7 A. "DCvolunteers@protonmail.com."

8 MS. HUGHES: Next slide, please.

9 BY MS. HUGHES:

10 Q. What does Ms. Watkins write later in the day on January  
11 4th?

12 A. "We made it safely."

13 Q. And is this again to the OK FLDC Op Jan 6?

14 A. Correct.

15 Q. When Ms Watkins made reference to traveling with two  
16 individuals who needed vetting, what is your understanding  
17 of who she traveled with from -- to D.C. on January 4th?

18 A. She traveled from Ohio to Virginia and the D.C. area  
19 with Donovan Crawl, Sandra Parker and Bennie Parker.

20 MS. HUGHES: And if we could show just to the  
21 witness what's been marked as Government Exhibit 6825.13.

22 BY MS. HUGHES:

23 Q. What is the date of this message?

24 A. January 4, 2021.

25 Q. Who is this message from?

1 A. This is from Jessica Watkins.

2 Q. And who is it to?

3 A. This is to Recruit Ben-OSRM.

4 Q. And again, this Recruit Ben -- where does this come  
5 from?

6 A. This is from the contact list or the -- I guess the  
7 contact log in Jessica Watkins's phone.

8 Q. And is this a fair -- if we could scroll through, are  
9 these text messages that are on the screen before you, are  
10 they a fair and accurate copy from the text messages that  
11 was derived from Ms. Watkins's phone?

12 A. Yes.

13 MS. HUGHES: The Government seeks to admit and  
14 publish Government's Exhibit 6825.13.

15 MR. CRISP: No objection.

16 THE COURT: 6825.13 will be admitted.

17 (Whereupon, Government's Exhibit No. 6825.13 was  
18 entered into evidence.)

19 MS. HUGHES: Thank you, your Honor.

20 BY MS. HUGHES:

21 Q. So if you could read this first message here on  
22 January 4th, Special Agent Eller.

23 A. "Pack khaki/tan pants. Weapons are okay now as well.  
24 Sorry for the confusion. We are packing the car and heading  
25 your way shortly."

1 Q. And again, this Ben, Recruit Ben-OSRM, this is how it  
2 was entered in Ms. Watkins's phone?

3 A. Correct.

4 Q. And what's the date of this message?

5 A. This is January 4, 2021.

6 Q. What was the date of the messages she was sending to the  
7 Florida Signal group?

8 A. I would have to see it again. I believe it was  
9 January 4, 2021, as well.

10 MS. HUGHES: If we could go to the next message,  
11 please.

12 BY MS. HUGHES:

13 Q. And is this the date -- this is again from Recruit Ben  
14 to Ms. Watkins?

15 A. Correct.

16 Q. What does Recruit Ben write to Ms. Watkins?

17 A. "We don't have any khakis. We have jeans and our BDUs.  
18 So can I bring my gun?"

19 Q. What do you understand BDUs to be?

20 A. A battle dress uniform.

21 Q. What is battle dress uniform?

22 A. That's usually a -- military refer to their uniforms,  
23 their camouflage uniforms, as BDUs. Or it could be -- it  
24 doesn't have to be camouflage, but something that matches  
25 the venue where they're going to be deploying to.

1 MS. HUGHES: Ms. Rohde, I think this is the last  
2 one.

3 Your Honor, the next group of evidence is physical  
4 evidence. The parties have agreed and stipulated to its  
5 authenticity. I have a stipulation that I can read or I can  
6 pass up.

7 THE COURT: Is everybody in agreement with it?

8 MR. CRISP: What was the question?

9 THE COURT: Is everyone in agreement with the  
10 stipulation?

11 MS. HUGHES: I believe we all are.

12 MR. GEYER: Yes, your Honor.

13 THE COURT: Why don't you just go ahead and read  
14 it into the record, Ms. Hughes.

15 MS. HUGHES: This is Government's Exhibit 3000B,  
16 stipulations regarding physical evidence:

17 The Government and Defendants Elmer Stewart  
18 Rhodes, Kelly Meggs, Kenneth Harrelson, Jessica Watkins and  
19 Thomas Caldwell hereby agree and stipulate that the  
20 following items of physical evidence were all obtained  
21 lawfully pursuant to court-authorized search warrant or  
22 subpoena or consent on or about the dates listed below.

23 1: On January 17th, 2021, the FBI collected the  
24 following items of evidence, among others, from Defendant  
25 Watkins's home: Exhibit 185, Watkins plate carrier with

1 MK-3 spray and radio (Exhibit 189 for Defendant Watkins);  
2 black bag containing helmet radio and belt (Exhibit 194 for  
3 Defendant Watkins); a paint-ball gun, Spyder Victor  
4 SV07020100503 with reader rubber steel balls cylinder.

5 On January 17th -- this is No. 2: On  
6 January 17th, 2021, the FBI collected the following items,  
7 among others, from Defendant Watkins's vehicle: Exhibit 183  
8 for Defendant Watkins, a pool cue with zip ties;  
9 Exhibit 184, Watkins, a pool cue with zip tie.

10 No. 3: On January 17th, 2021, the FBI took the  
11 following photographs during the search of Defendant  
12 Watkins's home. The parties agree and stipulate that the  
13 images are an accurate copy of the photographs taken during  
14 the search of Defendant Watkins's home: 4501.10, a  
15 photograph of a spiral notebook page; 4500.P.4, a photograph  
16 of a rifle; 4500.P.5, a photograph of rifles and an Oath  
17 Keepers flag; and 4500.P.7, a photograph of a rifle.

18 And next --

19 THE COURT: Before you go on:

20 Ladies and gentlemen, I don't think I've -- you've  
21 heard the term "stipulation" before, and I don't think I've  
22 told you all what that means, and so I want to read  
23 something to you very quickly.

24 The Government and the Defendants may stipulate --  
25 that is, agree -- to certain facts. You should consider any

1 stipulation of fact to be undisputed evidence.

2 Ms. Hughes?

3 BY MS. HUGHES:

4 Q. Special Agent Eller, did there come a time when Jessica  
5 Watkins was arrested in connection with this investigation?

6 A. Yes.

7 Q. And was her home and her vehicle searched around the  
8 same date of her arrest?

9 A. Correct. Her home and the vehicle were searched prior  
10 to her arrest.

11 Q. And if you could just explain that. When was she  
12 arrested?

13 A. She was arrested -- so the search was in the morning,  
14 and then much later in the day, almost leading into the next  
15 day, the 18th, she was arrested. She turned herself in to  
16 what would have been a local police department near where  
17 she lived.

18 Q. And what was the date of the search of her home and  
19 vehicle?

20 A. That was on the 17th of January, 2021.

21 Q. And were there certain items taken from her home and  
22 vehicle?

23 A. Yes.

24 Q. And were photographs taken during that search?

25 A. Yes.



1 Q. I want to now go through a few of the items that were  
2 seized from her home and her vehicle --

3 A. Okay.

4 Q. -- beginning with Government's Exhibit 185.

5 MS. HUGHES: May I approach the witness?

6 THE COURT: You may.

7 MS. HUGHES: Approaching the witness with  
8 Government's Exhibit 185.

9 BY MS. HUGHES:

10 Q. Special Agent Eller, if you could open that box.

11 A. Okay.

12 Q. And just holding up the item, could you please explain,  
13 what is Government's Exhibit 185?

14 A. So this is a vest or a plate carrier.

15 Q. And what are the other items? What is specifically on  
16 the vest?

17 A. So there's -- this is a mic that you would key to talk  
18 into. There's a flashlight on a string. There's also  
19 binoculars in here. It looks like rubber gloves. And then,  
20 additionally, there was a can of pepper spray that was in  
21 here as well. It's just been packaged separately for safety  
22 purposes, I guess.

23 Q. Where was the pepper spray located on the vest?

24 A. The pepper spray was in this pouch right here. And  
25 also, there's a tourniquet in the last pouch, a black

1       tourniquet.

2                   MS. HUGHES: And for the record, the special agent  
3 is holding up Government's Exhibit 185.

4 BY MS. HUGHES:

5 Q. Mr. Eller, about how heavy is this vest?

6 A. Maybe like 10 or 15 pounds.

7 Q. So why is it 10 or 15 pounds? What is --

8 A. I believe there's a plate in here as well.

9 Q. What does a plate in a vest do? What's the purpose of  
10 having this plate in a vest?

11 A. It would be to restrict or stop any -- either, like,  
12 gunshots or if you're hit with a blunt object.

13 Q. And -- you can put that away. Thank you, Special Agent  
14 Eller.

15 A. (Complies.)

16                   MS. HUGHES: Permission to approach?

17                   THE COURT: You may.

18                   MS. HUGHES: And if we could actually bring up  
19 Government's Exhibit 189 now.

20                   Permission to approach?

21                   THE COURT: Yes.

22                   MS. HUGHES: For the record, the special agent has  
23 Government's Exhibit 189.

24 BY MS. HUGHES:

25 Q. Special Agent Eller, if you could open that box and show

1 the items that are in the box.

2 A. Should I do one thing at a time?

3 Q. Yes, please. What are you holding currently?

4 A. So this is a helmet with goggles on it and several  
5 patches.

6 Q. And what do the patches say?

7 A. So one of the patches on the side is a plus sign, a red  
8 plus sign. The other one, B-positive. On the back, MED,  
9 for a medic patch. An Oath Keeper patch. And then, on the  
10 top and the side, there's two additional red plus signs.

11 Q. Is there anything else in the bag, Special Agent Eller?

12 A. Yes. There's a pouch, a set of black gloves; maybe they  
13 would be considered knuckle gloves. There's hard knuckles  
14 on the front of them.

15 Do you want me to talk about this more?

16 Q. No. That's good. Thank you.

17 A. This feels like the front of a visor for the -- so just  
18 more inserts for the goggles.

19 There's a Baofeng radio.

20 Q. What is a Baofeng radio?

21 A. I'm not an expert on radios. It's just a type of radio.

22 Q. It's a radio.

23 A. Yeah. I apologize.

24 Q. That's totally fine.

25 Is there anything else in the bag, Special Agent

1 Eller?

2 A. There's two reflective vests here -- I'm sorry.

3 Reflective belts.

4 Q. And is that the last item in the bag?

5 A. Yes.

6 Q. Okay. You can pack that up again. Thank you.

7 A. (Complies.)

8 MS. HUGHES: May I approach?

9 THE COURT: You may. You don't need to ask. You  
10 can go ahead and just do it.

11 BY MS. HUGHES:

12 Q. Special Agent Eller, did you have an opportunity to view  
13 photographs of Ms. Watkins on January 6th, 2021?

14 A. Yes.

15 MS. HUGHES: Could we bring up, just for the  
16 witness, please, Government's Exhibit 200.P.3.

17 BY MS. HUGHES:

18 Q. And, Special Agent Eller, who is this a photograph of?

19 A. This is a photograph of Jessica Watkins.

20 Q. Where was this photograph found?

21 A. This was on the Parler account as well as Donovan  
22 Crawl's phone.

23 Q. And have you had a chance to compare this photograph to  
24 the photograph that was obtained through the extraction of  
25 Donovan Crawl's phone?

1 A. Correct.

2 Q. Is this an accurate copy of that photograph?

3 A. Yes.

4 MS. HUGHES: The Government seeks to admit and  
5 publish Government's Exhibit 200.P.3.

6 MR. CRISP: No objection.

7 THE COURT: 200.P.3 will be admitted.

8 (Whereupon, Government's Exhibit No. 200.P.3 was  
9 entered into evidence.)

10 BY MS. HUGHES:

11 Q. And in this photograph, Special Agent Eller -- again,  
12 who is in this photograph?

13 A. I see Jessica Watkins as well as Bennie Parker behind  
14 her.

15 Q. Is this consistent with other images you've seen of  
16 Ms. Watkins on January 6th, 2021?

17 A. Yes.

18 Q. And could you identify some of the gear she's wearing in  
19 this photograph?

20 A. Yes.

21 Q. Please identify some of the gear she's wearing in this  
22 photograph.

23 A. The knuckle gloves are very similar to the gloves that I  
24 found in -- or that I showed in the last box.

25 The vest appears to be the same, including the

1 light that is on the string. You can see part of the -- I  
2 guess the hand radio for the mic.

3 And then also the helmet has the same goggles and  
4 the same patches as well as the one that I displayed here.

5 Q. Is one of the patches the B-positive patch?

6 A. Correct.

7 Q. Thank you.

8 MS. HUGHES: You can take that down, Ms. Rohde.

9 Could we have Government's Exhibit 194.

10 For the record, I approached with 194.

11 BY MS. HUGHES:

12 Q. Special Agent Eller, if you could open that box and  
13 identify the items in the box.

14 A. So this is a canister. I don't know what type of gas is  
15 in here, and I should probably know this. It's a canister  
16 of gas.

17 Q. A canister of gas.

18 A. This is a hopper.

19 Q. What is a hopper?

20 A. A hopper -- so for paint-ball, you would put the paint  
21 balls in here, or another type of item to hold it, so that  
22 it can feed down into the paint-ball gun, or the gun.

23 Q. Is there anything else in the box?

24 A. There are more things in here. Yes.

25 MS. HUGHES: And for the record, the special agent

1 was holding up a gas canister and a hopper.

2 BY MS. HUGHES:

3 Q. What are you holding up now?

4 A. This is a Spyder Victor paint-ball gun.

5 Q. And again, where was this obtained from?

6 A. This was -- this was obtained from her house during the  
7 search warrant.

8 Q. You can please -- I'm sorry. Continue.

9 A. I was going to say, 102 Main Street in Woodstock, Ohio.

10 Q. If you could just repackage those. Thank you, Special  
11 Agent Eller.

12 A. There's one more thing, too.

13 Q. Pardon?

14 A. There's one more thing.

15 Q. Okay. What is that final item?

16 A. These are rubber steel balls. So these are essentially  
17 balls that would go into the hopper and then shoot out of  
18 the gun.

19 Q. So those are paint-ball bullets?

20 A. So there's -- there would be no paint in them. Instead  
21 of paint, it's steel on the inside with rubber on the  
22 outside.

23 Q. You can package those up again.

24 A. Okay.

25 Q. Thank you, Special Agent Eller.

1 MS. HUGHES: Our next item is going to be  
2 Exhibits 183 and 184, please.

3 For the record, the special agent has Government's  
4 Exhibits 183 and 184.

5 BY MS. HUGHES:

6 Q. Could you please open that box.

7 A. Yes. Take the items out?

8 Q. Yes, please.

9 So what are you holding in your hand, Special  
10 Agent Eller?

11 A. These are pool cues or pool sticks.

12 Q. And have you played pool before?

13 A. I have played pool. Yes.

14 Q. How are these sticks different or the same to other pool  
15 cues you have played with in the past?

16 A. So these are much shorter and they don't have the tip or  
17 the end that would actually strike the ball.

18 Q. Did the FBI add these zip ties at the end?

19 A. These zip ties were on there already.

20 Q. So they were found with the zip ties?

21 A. Correct.

22 Q. And where were these specific items found?

23 A. So two of them were inside of the residence when it was  
24 searched. And then one was inside the vehicle.

25 Q. And could you just explain, are these all tied together



1 or --

2 A. So two of them are together. The two that were inside  
3 of the house were tied together just for evidentiary  
4 purposes.

5 So this one was the one that was located in the  
6 vehicle. So this one was not tied to these other two.

7 Q. And if we could package those up again.

8 A. Yes.

9 Q. Thank you.

10 MS. HUGHES: The Government would seek to admit  
11 Government's Exhibits 185, 189, 194 and 193 at this time.

12 I think we stipulated, but we didn't -- 183 and  
13 184 at the time we stipulated, but did not move in.

14 MR. CRISP: No objection.

15 THE COURT: 183 and 184 will be admitted.

16 THE COURT REPORTER: Sorry, Judge. Are the other  
17 exhibits admitted as well?

18 MS. HUGHES: It's 185, 189, 194, 183, and 184.

19 THE COURT: Any objection to those, Ms. Crisp?

20 MR. CRISP: No, your Honor.

21 THE COURT: So all of those will be admitted.

22 (Whereupon, Government's Exhibit Nos. 183, 184,  
23 185, 189 and 194 were entered into evidence.)

24 MS. HUGHES: If we could just bring up, for the  
25 witness alone, Government's Exhibit 2003.F.418.

1 BY MS. HUGHES:

2 Q. What is --

3 MS. HUGHES: If you could just scroll down,  
4 Ms. Rohde, just so he can see the full two pages. Thank  
5 you.

6 BY MS. HUGHES:

7 Q. What is this an exhibit -- what is this exhibit from,  
8 Special Agent Eller?

9 A. I'm sorry. Could you go back to the top one more time?

10 Q. Yes.

11 A. This is from Facebook.

12 Q. Whose Facebook is this from?

13 A. Jessica Watkins.

14 Q. And have you had a chance to compare this exhibit with  
15 the information that was extracted from Ms. -- that was  
16 provided by Facebook in connection with Ms. Watkins's  
17 account?

18 A. Yes.

19 Q. And is this a fair and accurate copy of those Facebook  
20 returns?

21 A. It is.

22 MS. HUGHES: The Government seeks to admit and  
23 publish Government's Exhibit 2003.F.418.

24 MR. CRISP: No objection, your Honor.

25 THE COURT: It will be admitted.

1 (Whereupon, Government's Exhibit No. 2003.F.418  
2 was entered into evidence.)

3 MS. HUGHES: If we could pull that up. Thank you,  
4 Ms. Rohde. If you could just zoom in on the photograph at  
5 the top with the date right below it, Ms. Rohde, just so --  
6 for some context.

7 BY MS. HUGHES:

8 Q. Have you seen this photograph before?

9 A. Yes.

10 Q. Who is generally in this photograph from the  
11 investigation specifically?

12 A. It's so hard to see because it's grainy. Donovan Crawl  
13 is in the photo.

14 Q. Could you place a dot as you're identifying individuals?

15 A. Yes. This is Donovan Crawl.

16 MS. HUGHES: And for the record, the special agent  
17 has identified the individual in the back row three people  
18 over from the last.

19 THE WITNESS: This individual is Montana Siniff.

20 MS. HUGHES: And the special agent has placed a  
21 number 2 over the third individual from the front row from  
22 the left.

23 THE WITNESS: I'm sorry. Just because of the  
24 quality of the picture, I don't want to --

25

1 BY MS. HUGHES:

2 Q. Do you see Ms. Watkins in this photo?

3 A. Again, it's so grainy. I could take a guess. I could  
4 tell you what my guess is, but I really don't want to do  
5 that.

6 Q. That's okay.

7 MS. HUGHES: Let's zoom out, please. Thank you,  
8 Ms. Rohde. Going on -- if we could zoom in on this area,  
9 Ms. Rohde. Thank you.

10 BY MS. HUGHES:

11 Q. Special Agent Eller, if you could read the message that  
12 is -- that was sent by Jolly Roger on November -- or that  
13 was sent by an individual, Bryan Baca, on November 15, 2020.

14 A. "Did you boys get in on some of the playtime with  
15 BLM/Antifa?"

16 Q. And who is Jolly Roger again?

17 A. Jessica Watkins.

18 Q. What does Ms. Watkins reply?

19 A. "Sadly, no."

20 Q. And what does Ms. Watkins then write again on the same  
21 date?

22 A. "We brought with us ass sticks, but they didn't get any  
23 loving."

24 MS. HUGHES: Could we please go to the next page,  
25 Ms. Rohde, of the same exhibit. And could we please zoom

1 in, Ms. Rohde. One down. Thank you.

2 BY MS. HUGHES:

3 Q. So is this post that we referred to earlier in your  
4 testimony, the Yahoo! News?

5 A. Yes.

6 Q. What does Ms. Watkins write below that message that we  
7 previously reviewed? And that was Government's Exhibit  
8 2684.1. What is right below that message?

9 A. She says, "@DonovanCrowl. In the background with the  
10 green lawn chair bag full of pool cues cut into Antifa  
11 smashers."

12 MS. HUGHES: And if we could please bring up what  
13 has already been admitted into evidence as Government's  
14 Exhibit 6824B. This is the video we viewed. If you could  
15 play it just at six seconds, Ms. Rohde. You can start at  
16 three seconds to six seconds. That's perfect.

17 (Whereupon, segments of Government's Exhibit No.  
18 6824B were published in open court.)

19 MS. HUGHES: I'll ask you to pause in just a  
20 moment -- if you could pause right here.

21 BY MS. HUGHES:

22 Q. Who is this individual? We've identified the individual  
23 to the right of Mr. Rhodes. Who is the individual to the  
24 left of Mr. Rhodes?

25 A. So this individual is Donovan Crowl.

1 Q. And what is Mr. Crowl carrying?

2 A. He's carrying what appears to be a green lawn chair bag,  
3 or a folding chair bag.

4 MS. HUGHES: You can bring that down. Thank you,  
5 Ms. Rohde.

6 BY MS. HUGHES:

7 Q. Now, Special Agent Eller, you referenced that, in  
8 addition to items seized at Ms. Watkins's residence and from  
9 her vehicle, there were also photographs taken during this  
10 search. I would like to go through a few of these  
11 photographs with you.

12 A. Okay.

13 MS. HUGHES: Could we begin with Government's  
14 Exhibit 4501.10.

15 And I guess at this point, before we do this, the  
16 Government seeks to admit the photos that have been  
17 stipulated to, and that would be 4501.10, 4500.P.4, 4500.P.5  
18 and 4500.P.7.

19 MR. CRISP: No objection.

20 THE COURT: Those will be admitted.

21 (Whereupon, Government's Exhibit Nos. 4501.10,  
22 4500.P.4, 4500.P.5 and 4500.P.7 were entered into evidence.)

23 MS. HUGHES: Starting with the first photograph,  
24 please. This will be 4501. Thank you, Ms. Rohde.

25

1 BY MS. HUGHES:

2 Q. What is this a photograph of, Special Agent Eller?

3 A. It's a notebook with information written in it.

4 Q. And what is on this notebook?

5 A. There is an email address as well as a phone number.

6 Q. What's the email address?

7 A. Minecraftgamer98@protonmail.com.

8 Q. And below the email, is there a password written?

9 A. There is.

10 Q. I will save you from having to read that.

11 In the top right of the document, is there a phone  
12 number? And I've circled the top right of the document for  
13 you.

14 A. Yes.

15 Q. Did you have an opportunity, through the course of the  
16 investigation, to learn whose number this is?

17 A. This is for Thomas Caldwell.

18 MS. HUGHES: If we could go to Government's  
19 Exhibit 4500.P.4.

20 BY MS. HUGHES:

21 Q. Special Agent Eller, during the course of the search of  
22 Ms. Watkins's residence, were certain weapons photographed?

23 A. Yes.

24 Q. Is this one of those weapons?

25 A. Yes, it was.

1 MS. HUGHES: Could we please go to Government's  
2 Exhibit 4500.P.5.

3 BY MS. HUGHES:

4 Q. And is this another photograph of weapons?

5 A. Correct.

6 MS. HUGHES: And could you please zoom in on this  
7 area, Ms. Rohde. Thank you.

8 BY MS. HUGHES:

9 Q. For the record, approximately how many weapons can you  
10 see in this photograph?

11 A. There's three there, but one of them I believe is a  
12 rubber rifle or a training rifle.

13 Q. And do you recognize the script and the color of part of  
14 the flag, even though it's folded over? Is that consistent  
15 with a flag you have seen elsewhere?

16 MR. CRISP: Your Honor, could we do a quick  
17 sidebar?

18 (Whereupon, the following proceedings were had at  
19 sidebar outside the presence of the jury:)

20 MS. HUGHES: We did not have to -- that's fine.  
21 We can move on, your Honor.

22 THE COURT: Okay.

23 MR. CRISP: Yeah. My concern, though, is I would  
24 like a cautionary instruction as to whether that's an Oath  
25 Keeper flag. Because they made a reference to it saying



1 Oath Keeper in the past. I believe it says Ranger, because  
2 she was a former Ranger. So they've already elicited the  
3 idea that that could have been Oath Keeper. And I don't  
4 believe the evidence supports that.

5 THE COURT: Oh, is this the -- there was earlier  
6 testimony about a flag. Is that -- is this what he would  
7 have been referring to?

8 MR. CRISP: That's my understanding. If I'm  
9 mistaken, I would ask the Government to correct me. But  
10 that's my understanding.

11 MS. HUGHES: It certainly is consistent with an  
12 Oath Keeper flag.

13 THE COURT: Has he observed it? Or is there even  
14 such a thing as an Oath Keeper flag?

15 MS. HUGHES: There very much is, your Honor. The  
16 "ER" is consistent with Oath Keeper. But we do not need  
17 to -- we do not need to elicit what he -- what this flag is  
18 consistent with. It is certainly consistent with the Oath  
19 Keeper flag in coloring and text. But there is not  
20 testimony that we need to go further on.

21 MR. CRISP: I can tell you that Ranger is also  
22 consistent, and it is black and yellow and it's a Ranger  
23 tab. But I'd like to see the flag. If I'm wrong, then so  
24 be it.

25 THE COURT: Do we have the flag?

1 MS. HUGHES: I'm not certain if we have the flag,  
2 your Honor. But again, this is not testimony the Government  
3 would strongly -- we're happy to move on.

4 THE COURT: That's fine. Let's move on, then.

5 MS. HUGHES: Thank you.

6 (Whereupon, the following proceedings were had in  
7 open court:)

8 MS. HUGHES: If we could go to the next exhibit,  
9 please, 4500.P.7.

10 BY MS. HUGHES:

11 Q. Is this a photograph of another rifle found in  
12 Ms. Watkins's residence?

13 A. This is a shotgun and a pistol.

14 Q. And where -- if you could just mark on your screen --  
15 when you say a shotgun and a pistol, what is the shotgun?

16 A. So this would be the shotgun.

17 Q. And what's the pistol?

18 A. The pistol is here.

19 Q. And what is the bag that is located behind the shotgun?

20 A. The Ziploc bag?

21 Q. Correct.

22 A. It's a Ziploc bag with different shells in it, different  
23 shotgun shells.

24 Q. Special Agent Eller, we previously talked about a spiral  
25 notebook as well. Was that spiral notebook, in addition to

1 all of these items, were they found inside Ms. Watkins's  
2 home?

3 A. Correct.

4 MS. HUGHES: The Court's indulgence.

5 No further questions.

6 THE COURT: Mr. Crisp?

7 MR. CRISP: Thank you, your Honor.

8 CROSS-EXAMINATION

9 BY MR. CRISP:

10 Q. Good afternoon, Special Agent Eller.

11 A. Good afternoon, sir.

12 Q. So I want to go back to earlier testimony about the pool  
13 cues. So you're aware that those pool cues were also used  
14 in a defensive capacity. Right?

15 A. Am I aware of that?

16 Q. Yes. That they had a defensive capacity capability as  
17 opposed to offensive.

18 A. That's possible.

19 Q. Okay. And in fact, that's how it was demonstrated to  
20 you at one point?

21 A. As in who demonstrated them?

22 Q. My client.

23 A. I don't recall her demonstrating those.

24 MS. HUGHES: Objection, your Honor.

25 MR. CRISP: I'm not sure what the basis is, Judge.

1 MS. HUGHES: We're happy to have a follow-up on  
2 the call.

3 THE COURT: Well, he said he doesn't remember.  
4 So...

5 MR. CRISP: Okay. I'll rephrase and move on -- or  
6 rephrase.

7 BY MR. CRISP:

8 Q. So they certainly have a defensive capability as opposed  
9 to offensive. Correct?

10 A. In addition to offensive, they could have a defensive  
11 presence. Yes.

12 Q. Okay. Now, you also don't have any indication that she  
13 brought them into D.C. on the 6th of January. Right?

14 A. Correct.

15 Q. Similarly, you don't have any indication that she  
16 brought weapons to -- and by "weapons," I mean firearms --  
17 to D.C. on the 6th of January, or even the 5th of January?

18 A. That is correct.

19 Q. So your understanding is that any weapons she had would  
20 have been at least a two-hour drive from D.C. on the 6th.  
21 Yes?

22 A. I don't know if it was two hours. But around there.

23 Q. They would have been in the Front Royal, Virginia,  
24 location?

25 MS. HUGHES: Objection, your Honor. This calls

1 for testimony that is -- it calls for testimony of evidence  
2 not on the record.

3 MR. CRISP: Your Honor, I think the Government has  
4 clearly implicated or implied, with the --

5 THE COURT: Hang on. Let's use the phone.

6 (Whereupon, the following proceedings were had at  
7 sidebar outside the presence of the jury:)

8 THE COURT: Ms. Hughes, is there a reason this  
9 can't come in? I assume at some point the Government is  
10 going to introduce evidence of guns being brought to the  
11 area.

12 MS. HUGHES: It is not currently in evidence. And  
13 it is not proper to -- the Government's position is it won't  
14 be proper to bring it in through hearsay. And there is no  
15 testimony actually regarding her traveling with any weapons  
16 at this point.

17 THE COURT: Well, let me -- I mean, look, it may  
18 be. On the other hand, if Mr. Crisp wants to introduce the  
19 fact that she brought them to the area, I mean, it's his  
20 prerogative to do so.

21 MR. CRISP: Your Honor, my understanding is they  
22 showed a slide where they talked about Ben-OSRM bringing  
23 weapons and weapons are okay and things like that. So they  
24 clearly have brought up that implication with the jury. I  
25 don't know how they could say they couldn't in good faith.

1 MS. HUGHES: The Government's position would be,  
2 your Honor, that there hasn't been the bases of admissible  
3 evidence that allows this fact to be introduced. It's  
4 hearsay, firmly.

5 THE COURT: I don't know about that. But if he's  
6 got a good-faith basis to ask the question, then he can  
7 answer if he knows.

8 MS. HUGHES: It's based on Ms. Watkins's own  
9 statements. The Government's position is that it should not  
10 be admitted.

11 THE COURT: It's not an issue of -- again, if he's  
12 got a good-faith basis to ask him where these were as of  
13 January 6th and whether there's -- I'm not sure what the  
14 hearsay basis is. He's got a good-faith basis to ask. If  
15 the agent knows the answer, he knows the answer. Now, I  
16 don't know whether he has firsthand knowledge of it or  
17 whether it comes from another FBI agent. But I'm not  
18 sure -- for present purposes, you aren't going to quibble  
19 with that.

20 MS. HUGHES: We are, your Honor.

21 (Whereupon, the following proceedings were had in  
22 open court:)

23 THE COURT: The objection is overruled.

24 BY MR. CRISP:

25 Q. Sir, my question earlier was: There was discussion

1 about weapons being brought to D.C., certainly with respect  
2 to Recruit Ben. Do you remember that?

3 A. Yes.

4 Q. Okay. And during the course of your investigation, you  
5 had an opportunity to investigate as to whether or not my  
6 client did bring weapons into D.C. on the 6th?

7 A. Yes, we did.

8 Q. All right. And through the course of your  
9 investigation, you learned that weapons were brought as far  
10 as the Western Virginia location. Is that fair to say?

11 A. Correct.

12 Q. Okay. There was a number of things you discussed on  
13 direct regarding Parler and my client's use of Parler.

14 Do you remember that?

15 A. Yes.

16 Q. So you have no evidence to indicate that my client ever  
17 spoke with Mr. Rhodes via Parler.

18 A. I do not. No.

19 Q. Okay. And similarly, regarding the Parler  
20 communications, there was a reference to an FRX. That  
21 stands for field exercise. Right?

22 A. I believe so. Yes.

23 Q. Okay. And as part of a field exercise, that was being  
24 discussed as late as 24 December?

25 A. I think it was field training exercise and then a

1 training exercise. There was two words in there. It wasn't  
2 just FRX.

3 Q. Used interchangeably in relation to the 3 through 9  
4 January training event. Yes?

5 A. Correct.

6 Q. And so my question is: As late as 24 December, there  
7 was a discussion about engaging in that training event on 3  
8 through 9 January of 2021?

9 A. That is correct.

10 Q. Thank you.

11 MR. CRISP: Your Honor, at this point, I want to  
12 show some contextual text messages that we've pulled out  
13 based on some of the Government's exhibits. I don't know if  
14 the Government is going to have an objection to them. I'm  
15 happy to take a brief recess to let them go through that so  
16 we don't get into a discussion in front of the jury. But it  
17 was based on how far the Government went with some of the  
18 exhibits. Would it be an appropriate time to take a brief  
19 recess?

20 THE COURT: Okay. Why don't we go ahead and do  
21 that.

22 Ladies and gentlemen, why don't we take our  
23 afternoon break. It's a little early, but that's all right.  
24 We'll also adjourn probably 15 minutes early today at the  
25 request of one of our jurors.



1           So why don't we plan to resume at 3:05. And I'll  
2           ask just counsel to be back a little bit before then if we  
3           need to resolve anything.

4           Thank you.

5           THE COURTROOM DEPUTY: All rise.

6           (Whereupon, the jury exited the courtroom at 2:50  
7           p.m. and the following proceedings were had:)

8           THE COURT: Okay. We'll see everybody in a few  
9           minutes.

10          Special Agent Eller, you can step down.

11          Thank you, everybody.

12          (Thereupon a recess was taken, after which the  
13          following proceedings were had:)

14          THE COURT: Please remain seated, everyone. Thank  
15          you.

16          Ms. Watkins, you can have a seat.

17          MR. CRISP: I'm sorry, Judge?

18          THE COURT: I'm just telling Ms. Watkins she can  
19          have a seat. She doesn't need to stand.

20          Any issues to raise about 106 material that  
21          Mr. Crisp wishes to introduce?

22          MS. HUGHES: Your Honor, if we could just have a  
23          few more moments. We're having some technological issues.

24          THE COURT: Okay.

25          MS. HUGHES: Your Honor, these are only -- there

1 are two messages that the Government would disagree that  
2 fall under Rule 106 grounds for admissibility.

3 THE COURT: Okay.

4 MR. CRISP: What I propose to do, your Honor, so  
5 you can see it, is I'm going to plug it in and put it on the  
6 screen. Pending the Court's ruling on whatever it is, I  
7 will print it out later for the record, if that's okay.

8 THE COURT: Sure.

9 MR. CRISP: Thank you. And we'll call this  
10 Watkins 1 -- or Watkins 2. Excuse me. I apologize. It's  
11 Watkins 3.

12 MS. HUGHES: For the first message -- do you want  
13 me to show it on yours? What would be the easiest way to  
14 preview this for the Court?

15 For the first message that the Government would  
16 disagree falls within 106 is, without more information about  
17 where this message comes from, the way it is presented by  
18 defense --

19 THE COURT: Ms. Hughes, can -- I'm sorry. Can  
20 you -- because I've now seen three in succession. Can you  
21 tell me which one we're referring to?

22 MS. HUGHES: And Mr. Crisp can correct me, but I  
23 believe this is the message the Government is introducing.  
24 And so -- oh, I'm sorry. Okay. I thought that we were  
25 connected here.

1 MR. CRISP: She is. This is --

2 MS. HUGHES: Understood.

3 MR. CRISP: He's looking at this. You want to go  
4 back one.

5 MS. HUGHES: Go back one. Okay.

6 This is the message that the Government  
7 introduced.

8 THE COURT: Okay.

9 MS. HUGHES: The argument, I believe, Mr. Crisp,  
10 is that the next message is in sort of temporal proximity to  
11 this message.

12 MR. CRISP: The next message.

13 MS. HUGHES: But this is Facebook, so it is  
14 unclear from this message whether or not it's in the same  
15 group, if it's in the same thread, what is -- how these two  
16 messages relate to each other, if at all.

17 MR. CRISP: Your Honor, this was from an  
18 extraction on Facebook that the Government gave us through  
19 discovery. So it's all part of the same chain. I mean,  
20 obviously, I don't have a way to authenticate it sans their  
21 expert pulling them in and doing it that way. But it was  
22 all part of the same Facebook extraction that they did. So  
23 I don't know how else to answer that question except to say  
24 I think the Government should be stuck with the discovery  
25 that they gave us.

1 MS. HUGHES: The way the Facebook returns are  
2 produced, your Honor, is that there are threads that are  
3 collated together. And then there can be posts.

4 And so without more, just the fact that this was  
5 in the Facebook returns around the same time, there's  
6 nothing obviously in this message that links them together  
7 in any way.

8 THE COURT: Can you go back to the earlier one?  
9 What's the timing of that one?

10 MR. CRISP: Eleven minutes earlier is what I'm  
11 trying to elicit, your Honor.

12 MS. HUGHES: And this message was specifically in  
13 a chat with Donovan Crawl. And so if the next message is in  
14 that same chat, then it would be something that is -- would  
15 be a different -- potentially different group, potentially  
16 different conversation.

17 THE COURT: Do we have any context for where this  
18 was posted, Mr. Crisp?

19 MR. CRISP: I'm going to pull up the extraction  
20 from which all these derive, your Honor, and provide that to  
21 the Court here in a minute.

22 So this is what was provided as part of the  
23 extraction from Facebook, and I believe it was part of the  
24 same chat. I mean, I can put the whole thing in there. I  
25 just think it will be a bit -- there's obviously superfluous

1 stuff that I was trying to avoid.

2 MS. HUGHES: So if you see -- I mean, I think the  
3 conversation helps the context here, where you see: "I  
4 signed up for Parler. Nice. I'll download the app."

5 And then she interjects with what seems like an  
6 unrelated comment. And so I think -- you know, Rule 106  
7 would, I think, not allow this statement to come in.

8 THE COURT: I think -- to be clear, Ms. Hughes,  
9 what I think you're saying is there is -- there are  
10 apparently messages between Mr. Crawl and Ms. Watkins. And  
11 they appear one right after the other. Whereas the message  
12 that Mr. Crisp wants to post or include concerning a news  
13 story in Cleveland appears to be simply -- it appears to be  
14 divorced from that. In other words, it may just be a  
15 posting generally to Facebook or for some other purpose.  
16 Right?

17 MS. HUGHES: I think this is actually still in  
18 their conversation.

19 THE COURT: Okay.

20 MS. HUGHES: It's just that it is not related to  
21 the conversation that is happening specifically about  
22 downloading Parler. Mr. Crawl responds: "Nice. I'll  
23 download the app again."

24 And then she responds with a seeming unrelated  
25 comment.

1           So it's not that -- that comment does not provide  
2           context for the recruiting via Parler. This is a general  
3           sort of, you know, running commentary. And just because  
4           they're between the same two people does not mean that it  
5           informs or provides context or explains, which is required  
6           under 106, the statement "I signed up for Parler, trying to  
7           recruit." And he responds: "Nice. I'll download the app  
8           again."

9           MR. CRISP: I'm happy to address that, your Honor,  
10          if you'd like.

11          THE COURT: You're happy to address what? What's  
12          the next message?

13          MR. CRISP: That is the last of the -- I'm sorry.  
14          In the Facebook -- in my proposed exhibit or in the Facebook  
15          messages subsequent to that?

16          THE COURT: The Facebook messages. I was curious  
17          as to what was next.

18          Go ahead. Mr. Crisp, you were going to respond to  
19          Ms. Hughes and the suggestion that this is not related to  
20          the recruiting communications and Parler communications.

21          MR. CRISP: I think it provides context as to why  
22          they're talking about recruiting in the first place. So  
23          you've got these initial discussions about, Hey, I'm trying  
24          to recruit, that go back to the purpose of a person being  
25          shot and then BLM gearing up; we need to do more recruiting.

1 And then this puts context into the reason why they are.

2 So from that standpoint, I disagree with the  
3 Government in the sense that I think it does provide context  
4 and at least gives a colorable argument for the defense to  
5 say: This is our reason.

6 THE COURT: All right. I'll let it in. I mean, I  
7 think it's fairly tenuous, but we'll let it in. There's no  
8 harm in allowing it in.

9 What's the other one?

10 MS. HUGHES: The other two, your Honor, are --  
11 it's these two, No. 5 and No. 6.

12 So the defense has proposed adding a series of  
13 text messages surrounding the text messages the Government  
14 introduced between Jessica Watkins and Recruit Leah on the  
15 17th. These two messages, 5 and 6, are two days before.

16 Ms. Watkins and Recruit Leah have a good amount of  
17 communications with one another. And these messages that  
18 were exchanged two days prior, unrelated to the actual  
19 messages that we introduced -- the Government introduced, we  
20 would argue fall outside Rule 106.

21 MR. CRISP: So here's why I think it's -- again,  
22 the Government, I think, is engaging in a bit of sleight of  
23 hand here.

24 This entire -- I mean, she's been talking with  
25 Recruit Leah for days and days and days about joining, about

1       why to join, about death. The text that they put in there  
2       is: Dying or -- something about death and dying.

3               There were many discussions like that, but I think  
4       to take one isolated comment in the, quote, "recruitment"  
5       efforts of my client without putting in other things would  
6       be disingenuous.

7               MS. HUGHES: And that's why we haven't -- we have  
8       not objected to the messages that surround the messages  
9       we've sought to introduce two days later.

10              Introducing unrelated topics -- it cannot be that  
11      the entirety of their communications are relevant under 106.  
12      This does not provide context to the specific evidence the  
13      Government has introduced.

14              So these messages two days before -- all of the  
15      messages are generally about the election and various other  
16      things. But for the specific messages the Government  
17      introduced, it can't be that the entirety of their thread  
18      comes in under Rule 106. And this is two days before.

19              THE COURT: Okay. Look, I think this is  
20      temporally removed, unlike the last one. It's temporally  
21      removed by at least 48 hours. You know, it doesn't provide  
22      context for the specific text message that the Government  
23      introduced some number of days later.

24              I mean, the Government is introducing it not --  
25      largely for Ms. Watkins's state of mind and her thinking and



1       what she's telling the recruit on a particular day. And so,  
2       you know, that's what's relevant and that's what needs to be  
3       completed as opposed to her thought process two days  
4       earlier.

5               So I think this one probably stays out for that  
6       reason. Okay?

7               MS. HUGHES: Very well. Thank you, your Honor.

8               THE COURT: Mr. Crisp?

9               MR. CRISP: If I -- one moment, your Honor.

10              Based on that context, I may want to modify what  
11       I'm putting in subsequent as well, then, your Honor. If I  
12       may have one moment.

13              THE COURT: Well, if it hasn't been objected to,  
14       you can bring in what you like.

15              MR. CRISP: I understand.

16              THE COURT: One of the jurors has requested that  
17       we adjourn at 4:45 today so I believe she can get to a  
18       family commitment. So we'll go to 4:45 this afternoon, just  
19       for everyone's planning purposes.

20              Are we ready to bring them in? Mr. Crisp?

21              MR. CRISP: I am, your Honor. But I need to  
22       redact -- I'm taking out additional messages because I don't  
23       believe the other ones worked in without the additional  
24       context. So I'm going to remove -- but for the Court's  
25       ruling, I'm going to be removing additional ones, and I'll

1 put that on the record.

2 THE COURT: Okay. Well, again, I'm not asking you  
3 to remove anything that hasn't been objected to.

4 MR. CRISP: Oh, I know you're not. My argument is  
5 a but-for argument. So I think without those preceding  
6 messages and that flavoring the entire conversation, I think  
7 it changes the tenor and context.

8 THE COURT: Okay. We can bring them in.

9 THE COURTROOM DEPUTY: The jury panel.

10 (Whereupon, the jury entered the courtroom at 3:18  
11 p.m. and the following proceedings were had:)

12 THE COURT: Please be seated, everyone.

13 Retake the stand, please.

14 (The witness complies.)

15 THE COURT: Ladies and gentlemen, so we'll go  
16 until about 4:45 and then we'll adjourn for the day.

17 Mr. Crisp, whenever you're ready.

18 MR. CRISP: Thank you, your Honor.

19 BY MR. CRISP:

20 Q. Special Agent Eller, I want to talk about Government  
21 Exhibit 6825.

22 There was discussion about the Facebook  
23 extraction. You're familiar with that Facebook extraction  
24 or series of extractions?

25 A. Yes.

1 Q. Okay. And you're also familiar with, I believe --

2 MR. CRISP: If you'd go to Slide 3, please.

3 BY MR. CRISP:

4 Q. This was the Government exhibit discussing "I signed up  
5 for Parler" that was admitted through your direct  
6 examination. Do you recall that?

7 A. Yes.

8 Q. And this was at 21:31, which would be 9:30 in the  
9 evening. Yes?

10 A. Yes.

11 Q. Okay. And that would be, in fact, 9:30 local time?

12 A. Correct.

13 Q. Okay.

14 MR. CRISP: If you could go to Slide 2, please.

15 BY MR. CRISP:

16 Q. So as part of these discussions, I believe the  
17 discussion was recruitment efforts in which my client was  
18 engaging.

19 Do you recall that?

20 A. Yes.

21 Q. So in a discussion chat or a discussion with Mr. Crawl,  
22 there was a discussion about an armed black man being shot  
23 in Columbus.

24 Do you remember that?

25 A. I'm seeing it now. I don't recall it prior to this.

1 THE COURT: Mr. Crisp, this isn't being shown to  
2 the jury yet. Has it been marked?

3 MR. CRISP: It should be Watkins 3, your Honor. I  
4 apologize if I did not do so earlier.

5 THE COURT: So Watkins 3 will be admitted.

6 (Whereupon, Defendant Watkins's Exhibit No. 3 was  
7 entered into evidence.)

8 MR. CRISP: I was going to say, I move for its  
9 admission at this point. Thank you.

10 BY MR. CRISP:

11 Q. Sir, are you able to see Slide 2?

12 A. I'm not sure which slide this is. Is there one before  
13 it?

14 Q. Do you see the slide that says Jolly Roger with the sent  
15 time of 2020/12/05, which is December 12th [sic] of 2020 --

16 THE COURT REPORTER: I'm sorry, counsel. Was  
17 that --

18 MR. CRISP: It is December 5th of 2020 -- I  
19 misspoke; thank you -- at 21:20 hours and 41 seconds.

20 BY MR. CRISP:

21 Q. Is that slide in front of you?

22 A. Yes.

23 Q. Okay. Now, you see that this is a text message from my  
24 client, who is the Jolly Roger. Right?

25 A. I would say --

1 Q. A Facebook --

2 A. -- a Facebook message.

3 Q. Excuse me. Yes. Sorry.

4 A. Yes, it is.

5 Q. All right. And there was a discussion there. And  
6 the -- this is part of, to your recollection, a discussion  
7 between her and Mr. Cowl. Right?

8 A. Correct.

9 Q. All right. And so part of this discussion pertained to  
10 why she was wanting to engage in additional recruiting  
11 efforts. This gives context to that.

12 Would you agree?

13 A. I don't know what the purpose of her putting this  
14 message on there was.

15 Q. Well, you remember there was a discussion about using  
16 Parler as a recruiting effort. Right?

17 A. Correct.

18 Q. And so part of this was, why is she trying to recruit?  
19 Right?

20 A. Correct.

21 Q. Okay.

22 MR. CRISP: If we can go to Slide No. 4.

23 BY MR. CRISP:

24 Q. As a follow-on, on that same date, you will see that  
25 this is also another post that my client made through

1 Facebook. Correct?

2 A. Correct.

3 Q. And the title is: "Militia group appears at state house  
4 to protect people at rallies for Trump and Biden." Yes?

5 A. That's the body of the -- I guess the website. Yes.

6 Q. Right. Above the URL, there's a word that says "Title."  
7 Correct?

8 A. Correct. Okay. On the bottom.

9 Q. Yes, sir.

10 And this was all part of the discussion about why  
11 signing up for Parler was relevant.

12 A. Again, it came after it. I don't know if this is part  
13 of that discussion or not.

14 Q. Okay. So you're talking about an hour and a half after  
15 that discussion is still going on with Mr. Crawl.

16 A. I'm sorry. What's the question?

17 Q. You remember --

18 MR. CRISP: If we could go back to Slide 3.

19 BY MR. CRISP:

20 Q. This was Government Exhibit 6825. This happened at  
21 21:31, which we agreed was 9:30. Would you agree?

22 A. Yes.

23 Q. Okay. This was a Facebook communication between my  
24 client and Mr. Crawl.

25 A. Correct.

1 Q. Okay. In that same communication stream, at Slide 4,  
2 there's additional discussions about what's going on and  
3 what the militia efforts are in Ohio.

4 Would you agree?

5 A. Correct.

6 Q. Thank you.

7 MR. CRISP: Slide 5, please.

8 BY MR. CRISP:

9 Q. So Recruit Leah, again, was an individual that my client  
10 was attempting to recruit to the OSRM. Yes?

11 A. Correct.

12 Q. And there were discussions she had with Ms. Leah over a  
13 period of probably 14 days -- well, going back to about the  
14 4th of November. Does that sound right?

15 A. Yes. It sounds accurate.

16 Q. And she continued to communicate with her up through the  
17 end of December. Is that also consistent with your  
18 recollection?

19 A. Yes, sir.

20 Q. Okay. And this was from -- and I apologize. This is --  
21 we have: "Damn. Do you think that people will fight this?"

22 This was actually, in fact, from Ms. Leah to  
23 Ms. Watkins. Is that your recollection?

24 A. This says here Watkins to Recruit Leah.

25 Q. And I apologize. If we could disregard the title, do

1       you remember whether or not this was from Ms. Leah to  
2       Ms. Watkins?

3       A.   I don't.   I apologize.

4               MR. CRISP:   Next slide, please.

5       BY MR. CRISP:

6       Q.   And this -- do you remember whether or not Ms. Watkins  
7       answered with something to the effect of:  "I hope not.  I  
8       love this country too much to see us killing each other"?

9       A.   Again, I don't recall who said that to who.

10      Q.   Okay.  But you remember these conversations are  
11      consistent with those conversations you saw between Leah and  
12      Watkins?

13      A.   Correct.

14              MR. CRISP:   Next slide.

15      BY MR. CRISP:

16      Q.   So this was immediately -- or shortly after that earlier  
17      conversation, I believe, approximately two hours later.  
18      Right?  This is Government Exhibit 6825.

19      A.   Correct.

20              MR. CRISP:   Next slide.

21      BY MR. CRISP:

22      Q.   And again, this is Ms. Leah asking Watkins whether she  
23      should be comfortable with the idea of death.  Yes?

24      A.   Correct.

25              MR. CRISP:   Next slide.



1 BY MR. CRISP:

2 Q. Ms. Watkins is answering: "That's why I do what I do."

3 A. Correct.

4 Q. It says, "D.C. Metro PD are not our friends." That was  
5 Government Exhibit 1.S.159.668 within that same 6825  
6 exhibit. Yes?

7 A. Correct. Yeah. I don't remember the name of the  
8 exhibit. I do remember this being up there, though.

9 MR. CRISP: Next slide, please.

10 BY MR. CRISP:

11 Q. Do you remember the preceding discussion was from Rook  
12 to this chat group discussing how local law enforcement  
13 allegedly sold themselves out? Right?

14 A. I do not recall this.

15 Q. Do you remember -- if you take a moment to read through  
16 those two slides, please, and see if it refreshes your  
17 recollection.

18 A. If you would go to the next one.

19 Q. Yes. We jumped ahead on you too fast, there. I  
20 apologize. It's backwards.

21 A. As I said before, I don't recall this.

22 Q. Okay. Does this look consistent with what was in there?

23 A. I'm sorry. Can you ask the question again?

24 Q. Does what is on the screen look consistent with what you  
25 saw on the extractions?

1 A. It does, yes.

2 Q. Okay.

3 A. But again, I did not review this specific message.

4 Q. Okay. But for context, this is what my client said.

5 And you understand the Government has stipulated to the  
6 admissibility of this document under --

7 MS. HUGHES: Objection, your Honor.

8 THE COURT: Sustained.

9 Mr. Crisp, I'll just ask you to avoid --

10 MR. CRISP: Sure.

11 BY MR. CRISP:

12 Q. You understand that this preceded the discussion that my  
13 client had on this channel, or this chat group, by --

14 MR. CRISP: If you can go to -- and then back.

15 BY MR. CRISP:

16 Q. -- approximately -- it was -- not preceded; it was about  
17 15 minutes afterwards. Correct? Based on the time setting,  
18 2:47 to 3:05.

19 A. So this was posted 15 minutes prior to the other  
20 statement.

21 Q. That is correct.

22 A. Correct.

23 Q. Okay. So this would have been responsive to that  
24 earlier comment about D.C. Metro and law enforcement?

25 A. This followed the other comment. Correct.

1 Q. Thank you.

2 MR. CRISP: No further questions. Thank you.

3 THE COURT: Mr. Bright?

4 CROSS-EXAMINATION

5 BY MR. BRIGHT:

6 Q. Good afternoon, sir. How are you today?

7 A. Good afternoon. I'm doing well.

8 Q. Just a few quick questions.

9 The primary focus, it seems, of your part of this  
10 investigation was the Ohio contingent and kind of how they  
11 mixed and merged a bit with the North Carolina group. Is  
12 that right?

13 A. In part.

14 Q. But a good part of what we've discussed today?

15 A. So the main focus was the Ohio -- the Ohio contingent.

16 Q. And then also, as we saw it progressing, how they were  
17 relating to, via Mr. Caldwell and Doug Smith and Paul  
18 Stamey --

19 A. Correct.

20 Q. -- the North Carolina chapter. Correct?

21 A. Yes, sir.

22 Q. And you understood that Doug Smith was fundamentally the  
23 president of the North Carolina chapter prior to November  
24 15th. Is that accurate?

25 A. I don't know when he took that role or when he started

1 taking that role.

2 Q. You understood that was his role at some point?

3 A. Correct. Around January 6th, that was the role.

4 Q. Well, you say it was his role around January 6th of  
5 2021. But you would agree with me that it's fairly evident  
6 from the texts and the chats that have been presented  
7 through you today that there was an ongoing split within the  
8 Oath Keepers. Correct?

9 A. I don't know if I would define it as a split.

10 MS. HUGHES: Objection. Misstates the evidence.

11 THE COURT: He's answered in the negative. So...

12 MR. BRIGHT: I'm sorry, sir?

13 THE COURT: I said he's answered in the negative.

14 So we will continue.

15 BY MR. BRIGHT:

16 Q. So as you read through the texts, you did not see the  
17 same thing that I saw that suggested that the North Carolina  
18 Oath Keepers were not going to, quote, "roll with Stewart  
19 anymore"? I believe it was referred to as Stewie by  
20 Mr. Caldwell.

21 A. I do recall that message.

22 Q. Okay. So if they're not going to roll with them any  
23 longer, what would that be indicative of to you? A lack of  
24 cooperation at the national level?

25 A. I can't -- I can't guess what that was in relation to,

1 if it had anything to do with the national level.

2 Q. So you didn't see behind-the-scenes communications  
3 between Mr. Caldwell going directly to Doug Smith and not  
4 through Mr. Rhodes anymore?

5 A. I did not see those. No.

6 MR. BRIGHT: I apologize, your Honor. I may have  
7 written down the wrong exhibit numbers.

8 I'll keep going for a moment until she finds the  
9 exhibit. I apologize, sir.

10 BY MR. BRIGHT:

11 Q. When you -- I'm going to start and just kind of go  
12 through your testimony, if I may.

13 When you reviewed the video that was -- of  
14 Mr. Rhodes talking, that was from the December 12th Jericho  
15 march in D.C. Is that correct?

16 A. That's not correct.

17 Q. What was that from?

18 A. I believe that's from the Million MAGA March.

19 Q. Okay. And at that march, you identified other  
20 individuals that were behind him. Correct?

21 A. There was two other individuals that I identified.  
22 Correct.

23 Q. Okay. How were they dressed?

24 A. They were -- if you want to pull it back up, I can  
25 describe it.

1 Q. Yeah.

2 A. But they were wearing tactical gear.

3 Q. BDUs?

4 A. I would have to see it again.

5 Q. Okay. We can do that.

6 MR. BRIGHT: This has previously been marked as  
7 Government Exhibit 6825B.

8 BY MR. BRIGHT:

9 Q. This is the video. Correct?

10 A. Correct.

11 Q. Okay. And the gentleman behind Mr. Rhodes's left  
12 shoulder --

13 A. The one where the pointer is. Yes.

14 Q. Yes, sir. That's Doug Smith. Correct?

15 A. Yes, sir.

16 Q. Okay. And is the tactical gear that he's wearing what  
17 you previously testified to as what were referred to as  
18 BDUs?

19 A. It could be. As I said before, a BDU is dependent on  
20 the environment that you're being deployed to. So if it's  
21 camo, it could be a jungle environment. If it's more of an  
22 urban environment, it doesn't necessarily have to be camo.

23 Q. So it could also include the type of gloves that they  
24 would regularly be seen wearing. Correct?

25 A. I don't know if gloves are considered part of BDU.

1 Q. BDU is a military term. Correct?

2 A. Yes.

3 Q. And you served in the military. Correct?

4 A. Yes.

5 Q. Thank you.

6 The variety of different gear that the Oath  
7 Keepers would be seen on the streets in that you have seen  
8 and you have reviewed through your extensive investigation,  
9 many of those could commonly be called BDUs. Correct? That  
10 was a term of parlance amongst these men. Is that accurate?  
11 Is that correct?

12 A. I'm sorry. Can you ask me that question again?

13 Q. You've done a deep investigation on this. You've seen  
14 lots of pictures of the Oath Keepers. Correct?

15 A. I've seen pictures of them. Yes.

16 Q. Okay. And you've seen pictures of them at various  
17 events. Correct?

18 A. Correct.

19 Q. Okay. You've seen pictures, as part of your  
20 investigation, specifically of Jessica Watkins at these  
21 events. Correct?

22 A. I have.

23 Q. And you've seen pictures of the Oath Keepers on January  
24 5th. Correct?

25 A. I don't know if specifically I have.

1 Q. Have you seen pictures of the Oath Keepers on January  
2 6th?

3 A. Yes, I have.

4 Q. Okay. And so you've been able to, through your  
5 investigation and seeing those pictures, see the various  
6 tactical gear that they would wear at many of their events.  
7 Correct?

8 A. Correct.

9 Q. And those would be called BDUs. Correct?

10 A. Depending on what they wear. Some probably would fall  
11 under BDUs. Correct.

12 Q. Okay. And so therefore, it would not -- from your  
13 investigation and your experience, it was not unusual for  
14 them to dress in that gear. Correct?

15 A. Correct.

16 Q. At marches that well predate January 6th. Correct?

17 A. Again, I can only speak to the ones that I know about,  
18 like this one right here, the Million MAGA March.

19 Q. Okay. How many -- is this just the only video you've  
20 seen of the Million MAGA March? Or have you seen pictures?

21 A. There are other photographs. Yes.

22 Q. And you've seen those?

23 A. Correct.

24 Q. And there are Oath Keepers dressed in BDUs, tactical  
25 gear, camouflage, helmets. All of those were worn at



1 previous events. Correct?

2 A. I can speak to what Jessica Watkins and her militia from  
3 Ohio were wearing. I can't speak to what the other  
4 individuals were wearing other than outside of this video.

5 Q. Okay. In your investigation of them, they would wear  
6 all of the above-issued items that I described. Correct?

7 A. Correct.

8 Q. Okay. So if they wore the same things on January 6th,  
9 that would be in conformity with what you've just stated you  
10 witnessed at prior events. Correct?

11 A. Again, at this event, yes. And then --

12 Q. Okay. Thank you.

13 I'm going to show you, sir, what's been marked  
14 6825, I believe, .2. You've previously spoken about this.  
15 Correct?

16 A. I think this says .1 on here.

17 Q. I apologize, sir. .1. Thank you.

18 You've previously identified this as part of an  
19 ongoing discussion between Caldwell and Cowl. Correct?

20 A. Correct.

21 Q. Cowl was part of the Ohio group that you were charged  
22 primarily with investigating. Is that correct?

23 A. The Ohio State Regular Militia?

24 Q. Yes, sir.

25 A. Yes, sir.

1 Q. And that's a separate militia from the organization of  
2 the Oath Keepers. Correct?

3 A. Correct. Yes.

4 Q. It's completely separate in terms of them defining  
5 themselves as an actual militia. Correct?

6 A. It's separate, but they also said that they were part of  
7 the Oath Keepers, as well as paying dues to the  
8 organization.

9 Q. But Jessica Watkins was clear that she was forming her  
10 own independent group. Correct?

11 A. So -- yes. She had an independent group from the Oath  
12 Keepers.

13 Q. And in this text, in this -- what's been previously  
14 marked as 6825.1, you would agree with me that Caldwell is  
15 detailing to Crowl some level of dissatisfaction between  
16 the, quote, N. Carolina boys and Stewart Rhodes, the  
17 president -- the founder of the Oath Keepers. Correct?

18 A. So yes. This says: "Would not roll on op with Stewie  
19 again."

20 Q. Okay. But they're expressing their dissatisfaction with  
21 him in a leadership role. Is that correct?

22 A. Correct. I don't know if it would suggest that they  
23 would never go with him again.

24 Q. Well, according to this, Caldwell is relating that to  
25 Crowl. Correct?

1 A. That's what he said.

2 Q. Did you take the time to continue investigating what was  
3 going on between the North Carolina group and the Oath  
4 Keepers in terms of this?

5 A. I couldn't -- are you referring to the -- just the  
6 sentence "not roll on an op with Stewie again"?

7 Q. Well, did you continue to at all investigate what was a  
8 rift between the two groups?

9 A. Again, my focus was on the Ohio aspect of this. I  
10 couldn't speak to any type of rift that was happening  
11 between North Carolina and Stewart.

12 Q. At some point, you've testified today that NC Paul  
13 Jarhead was known as Paul Stamey. Right?

14 A. Yes, sir.

15 Q. And he was having direct communications also with  
16 Donovan Cowl. Correct, sir?

17 A. Yes, he was.

18 Q. And these were direct communications, again, from the  
19 North Carolina group?

20 A. Correct. Direct conversation with Donovan --

21 Q. To the --

22 A. -- Cowl.

23 Q. -- Ohio group, not to Oath Keepers national. Correct?

24 A. To Donovan Cowl, yes.

25 Q. And as late as 12/7/20, when NC Paul Jarhead was sending

1 information to Crawl, that had to do with some training that  
2 was going to be offered by Doug Smith at his farm in  
3 North Carolina. Correct?

4 A. Correct.

5 Q. Okay. And what, to your recollection and your  
6 investigation, were the dates that that training was  
7 supposed to take place?

8 A. Again, I believe it was December -- about December 10th  
9 to December 14th. But there were some travel days just  
10 because people were arriving from various states.

11 Q. Do you recall the date of the Jericho march in  
12 Washington, D.C.?

13 A. I don't. The only recollection I have is just from the  
14 other testimony.

15 Q. So you would agree with me if I told you that it was  
16 12/12 -- December 12th of 2020. Correct?

17 A. That sounds accurate. Yes.

18 Q. And that would have been, in terms of time, a direct  
19 conflict with the coordination of Paul Stamey, on behalf of  
20 Doug Smith, and reaching out to the Ohio State Regulars to  
21 come to training at Doug Smith's farm. Correct?

22 A. The training, if it went for those specific dates, would  
23 interfere or be at the same time as the Jericho march.

24 Q. Okay. So if we can trust the evidence that's been put  
25 on by the Government, we could also agree, then, that things

1       were being planned by the North Carolina group that were in  
2       direct conflict of other marches or events that the Oath  
3       Keepers were planning on the exact same weekend. Would that  
4       be reasonable?

5       A. Are you asking me if it was planned specifically because  
6       it was during the Jericho march?

7       Q. I am not asking you that. I'm asking you whether we  
8       could agree that they would have been in conflict with one  
9       another.

10      A. Yes, because the dates overlap.

11      Q. You have previously identified a text directly from  
12      Jessica Watkins in response to an ABanderson146. Correct?

13      A. Correct.

14      Q. And that was a potential recruit of Ms. Watkins?

15      A. I did not say that.

16      Q. I'm asking you. Were you able to identify who that  
17      person was?

18      A. I do not know who that person is.

19      Q. The context of their conversation, though, had to do  
20      with the training event that Ms. Watkins was planning.  
21      Correct?

22      A. Correct.

23      Q. Okay. And as late as 12/24/20, when that was sent, it  
24      was still being -- and proposed to be scheduled for January  
25      3rd through January 9th. Is that accurate?

1 A. Yes.

2 Q. So as late as 12/24/20, events by the Ohio State  
3 Regulars, Jessica Watkins and others in the Ohio group, they  
4 were still planning training events that were -- would have  
5 been in direct conflict with any intended plans for  
6 January 6th. Correct?

7 A. Yes. Those dates overlapped.

8 Q. Fourteen days prior to the events of January 6th, the  
9 Ohio State Regulars were still planning events that would  
10 have -- if they went through, would have prohibited them  
11 from being at January 6th. Correct?

12 A. Correct.

13 Q. As a matter of fact, other than the lens that we choose  
14 to look at things through, of all the events and texts that  
15 you've talked about and presented through chats and  
16 evidence, we have not seen one bit of evidence that directly  
17 incorporates a plan for the events of January 6th in terms  
18 of what's been presented through you so far. Is that  
19 correct?

20 MS. HUGHES: Objection.

21 BY MR. BRIGHT:

22 Q. Don't look at her.

23 THE COURT: Hang on. Can you rephrase your  
24 question --

25 THE WITNESS: I --

1 THE COURT: Hang on.

2 I'll sustain it. If you can just rephrase the  
3 question, please.

4 MR. BRIGHT: I'm so sorry, sir?

5 THE COURT: Rephrase the question, please.

6 MR. BRIGHT: Thank you, sir.

7 BY MR. BRIGHT:

8 Q. The evidence that has been presented today in these  
9 texts and these chats, they have not formulated, in terms of  
10 what's been presented, any plan for January 6th itself.

11 Correct?

12 A. There was chats about going there.

13 Q. But nothing illegal at all?

14 MS. HUGHES: Objection, your Honor. Calls for a  
15 legal conclusion.

16 THE COURT: Sustained.

17 Reformulate, please.

18 BY MR. BRIGHT:

19 Q. You did not see or present any chats or texts regarding  
20 what the underlying charges in this case are. Correct?

21 MS. HUGHES: Again, objection, your Honor.

22 THE COURT: I'll just ask you to re- -- I know  
23 what you're getting at, but you've got to rephrase your  
24 question.

25 MR. BRIGHT: I know you do, your Honor.

1 I pass the witness, your Honor.

2 THE COURT: All right.

3 MR. WOODWARD: I'll pick up where Mr. Bright --

4 THE COURT: Hang on, Mr. Woodward.

5 Mr. Geyer, did you wish to cross-examine?

6 MR. GEYER: Yes, sir.

7 THE COURT: All right. Let's do this in turn.

8 Oh, I'm sorry. Mr. Woodward, you can go next.

9 I'm sorry. It's my fault. Sorry about that.

10 Mr. Woodward --

11 MR. WOODWARD: It's the haircut. Nobody  
12 recognizes me anymore.

13 THE COURT: I actually did have a moment of  
14 hesitation this morning.

15 CROSS-EXAMINATION

16 BY MR. WOODWARD:

17 Q. Let me ask the question I think Mr. Bright was trying to  
18 ask you.

19 In all of the text messages you read to the jury  
20 today, all the Facebook posts you read for the jury today,  
21 all the Parler messages you read for the jury today, did you  
22 see any discussion about the Oath Keepers going into the  
23 Capitol Building on January 6th?

24 A. I did not see any of those or read any of those today.

25 No.



1 Q. Did you read any messages or other communications today  
2 about the certification of the Electoral College?

3 A. On the messages today? No. Not that we read here.

4 Q. And then I presume not about stopping the certification  
5 of the Electoral College?

6 A. Again, not on the messages that we read here today.

7 Q. You testified a little bit about Signal. Are you  
8 familiar with Signal?

9 A. Just through this investigation.

10 Q. So you wouldn't know, then, that, when a message is sent  
11 in a group chat on Signal, the sender has no way of knowing  
12 whether a specific participant in that chat has received the  
13 message?

14 A. Again, I'm not familiar with how that works.

15 Q. And so you would have no way of knowing whether, for  
16 example, a message that was sent to a chat that Mr. Rhodes  
17 was a participant in had actually been received by  
18 Mr. Rhodes?

19 A. Again, I would not know that.

20 Q. And so -- let's try the technology here. This is the  
21 Government's exhibit that has been admitted.

22 Do you remember reading this chat -- this message  
23 for the jury today?

24 A. Yes.

25 Q. You don't know whether Mr. Rhodes ever read that

1 message, do you?

2 A. Correct. I do not know.

3 Q. You're not familiar with the Carolina Guard, are you?

4 A. I'm not.

5 Q. So you didn't -- you weren't aware that the North  
6 Carolina chapter of the Oath Keepers changed its name to the  
7 Carolina Guard?

8 A. I was not aware of that.

9 Q. And you weren't aware that, at the time that this  
10 message was sent, the North Carolina Oath Keepers were no  
11 longer affiliating with Stewart Rhodes?

12 A. Again, my focus was on the Ohio individuals.

13 Q. Well, your focus was on the Ohio individuals, but you  
14 did read this message to the jury today.

15 A. I'm not sure of what your question is.

16 Q. Did you read this message to the jury today?

17 A. I read this message. Yes.

18 Q. Who is NC Eastern Lead?

19 A. Is that Steven or -- it's Steve. And again, I did not  
20 investigate this individual, so I couldn't tell you any more  
21 than his first name and botch his last name.

22 Q. And are you familiar with any Ohio residents in the NCOK  
23 county leaders chat?

24 A. What do you mean by "Ohio residents"? Like --

25 Q. Well -- I'm sorry to talk over you.

1 A. Someone from the group, the Ohio State Regular Militia?

2 Q. I'm just trying to ask the question in a way that is  
3 limited to the folks that you testified you investigated.  
4 So why don't you state it for me. Who did you investigate  
5 for this case?

6 A. Jessica Watkins and Donovan Crawl.

7 Q. Well, you just testified a minute ago that you're not  
8 familiar with folks that aren't in the Ohio -- what was the  
9 word you used?

10 A. The Ohio State Regular Militia?

11 Q. All right. So you are familiar with all the members of  
12 the Ohio State Regular Militia?

13 A. Correct.

14 Q. Are any members of the Ohio State Regular Militia  
15 participants in this NCOK county leaders chat?

16 A. Not to my knowledge.

17 Q. Are you personally aware of anyone other than Stewart  
18 Rhodes that was a participant in that chat?

19 A. I am not. I have not reviewed this chat beyond this  
20 message here.

21 MR. WOODWARD: Your Honor, no further questions.

22 THE COURT: Mr. Geyer?

23 MR. GEYER: May it please the Court.

24 CROSS-EXAMINATION

25

1 BY MR. GEYER:

2 Q. Hello, Special Agent. My name is Brad Geyer and I  
3 represent Kenneth Harrelson, who's in the back corner.

4 A. Yes, sir. Nice to meet you.

5 Q. You may recall him from the investigation you did  
6 regarding January 6th when Kelly Meggs and Kenneth Harrelson  
7 came to the rescue of --

8 THE COURT: Mr. Geyer --

9 BY MR. GEYER:

10 Q. -- Officer Harry Dunn --

11 THE COURT: -- Mr. Geyer -- Mr. Geyer, ask  
12 questions, not commentary, please.

13 MR. GEYER: Okay.

14 BY MR. GEYER:

15 Q. Mr. Harrelson is not on Facebook. Are you aware of  
16 that?

17 A. I am not aware of that. I don't have intimate knowledge  
18 if he was on Facebook or not.

19 Q. Okay. He's never been on Parler. Yes?

20 A. I do not know, sir.

21 Q. Therefore, he's never been on the NCOK county leaders  
22 chat. Is that right?

23 A. Again, I don't know what chats he's been in or he hasn't  
24 been in.

25 Q. He didn't attend the rally on November 19th, 2020, on

1       behalf of the Oath Keepers or in any capacity?

2       A.   November 19th? I don't even know what that would be.

3       Q.   Oh, the -- the November rally. The MAGA --

4       A.   You're referring to November 14th?

5       Q.   Yes. Thank you for that, Special Agent. I appreciate  
6       that.

7       A.   Not to my knowledge. I don't know if he went or not.

8       Q.   Okay. How about the December 12th event?

9       A.   Are you referring to the Jericho march?

10      Q.   Yes. The Jericho march.

11      A.   I don't -- I really don't have any information about the  
12      Jericho march. I apologize. So I don't know if he was  
13      there.

14      Q.   But it wouldn't surprise you if it turned out he didn't  
15      go there either.

16      A.   Would I be surprised?

17      Q.   Yeah.

18      A.   I'm sorry. Can you ask that question in a different  
19      way?

20      Q.   Isn't it true that he wasn't at the Jericho march,  
21      either?

22      A.   Sir, I don't know.

23      Q.   He wasn't on the OK leadership chat either at any point  
24      in time. Is that right?

25      A.   Again, I can't speak to that. I don't know what chats

1 he was in or was not in.

2 Q. He was added to the DC Op chat on the evening of  
3 January 3rd. Is that your understanding?

4 A. I do not know when he was added to that chat.

5 Q. Okay. As part of your investigation, you mentioned you  
6 did 20 to 30 interviews. Is that correct?

7 A. No. I think I said I interviewed about 20 to 30 people  
8 and I engaged in about 40 to 50 interviews, I think, is what  
9 I said.

10 Q. Would one of those individuals be Jeffrey A. Brodeur?

11 MS. HUGHES: Objection, your Honor. Relevance,  
12 scope.

13 THE COURT: I'll see where it goes. Go ahead,  
14 Mr. Geyer.

15 THE COURT REPORTER: Can I get a spelling, please,  
16 for Brodeur?

17 MR. GEYER: Jeffrey A. B-R-O-D-E-U-R.

18 BY MR. GEYER:

19 Q. And on August 20th, '21, you did an interview of Officer  
20 Harry Dunn?

21 A. Yes.

22 Q. And on --

23 MS. HUGHES: Objection, your Honor.

24 THE COURT: I think we are getting beyond where we  
25 need to be, Mr. Geyer.

1                   You can move on.

2                   MR. GEYER: He testified about interviewing 40 to  
3                   50 people.

4                   THE COURT: Yes. But --

5                   MR. GEYER: Save it? Okay. Thank you, your  
6                   Honor.

7                   No more questions.

8                   Thank you, sir.

9                   CROSS-EXAMINATION

10                  BY MR. FISCHER:

11                  Q. Good afternoon, Agent. How are you doing?

12                  A. I'm doing well. How are you doing, sir?

13                  Q. Just fine. As somebody from Cincinnati myself, I say  
14                  welcome to D.C.

15                  A. Thank you. Thanks for having me.

16                  Q. Sir, can you tell me, how many investigations,  
17                  approximately, have you done in your career? Approximately.

18                  A. So probably -- when you define an investigation, like  
19                  what? There's many different levels of investigations.  
20                  Maybe 30.

21                  Q. Okay. Fair enough.

22                  And obviously, the FBI investigations are your  
23                  specialty. Is that fair to say?

24                  A. That's -- yes. That is one aspect of what we do at the  
25                  FBI.

1 Q. Okay. And you named a bunch of investigative techniques  
2 that you did in this case, including interviewing witnesses,  
3 issuing subpoenas, obtaining documents, telephone records,  
4 messages, that type of thing. Is that fair to say?

5 A. Yes, sir.

6 Q. Okay. And, sir, I know this may sound like a dumb  
7 question, but certainly you would agree that when you do an  
8 investigation or when you're handed a file to investigate,  
9 as an investigator, you would prefer to be able to take your  
10 time and methodically investigate the case, you know,  
11 interview witnesses, get documents, issue subpoenas -- you  
12 would prefer to do that as opposed to basically making a  
13 very quick arrest. Would that be fair to say?

14 A. I'm sorry. Can you rephrase the question?

15 Q. Sir, you have a choice. You get handed a file to do an  
16 investigation at the FBI. Right? Would you prefer to have  
17 a substantial amount of time to interview witnesses,  
18 subpoena documents, obtain phone records, text messages,  
19 et cetera, and do a methodical, lengthy investigation or  
20 would you prefer just to make a quick arrest of the suspect?

21 A. So what I do is I gather the facts and the information  
22 and I provide that to, you know, not only my supervisor, but  
23 also the attorney's office. And the speed of the  
24 investigation doesn't really depend on that. I do the  
25 investigation. I pass the facts over. And, you know,



1       that's all it is. It doesn't change how fast something  
2       goes. And it's not what my preference is.

3       Q. Well, you certainly work in consultation with a U.S.  
4       attorney's office -- in this case, the U.S. Attorney's  
5       Office here in D.C. -- you certainly work in consultation  
6       with the prosecutors to make determinations on filing  
7       charges. Is that correct?

8       A. So I provide them the information and then they  
9       determine what charges there are going to be -- or they  
10      would move forward with.

11      Q. And, sir, I understand there are circumstances when you  
12      have to make -- move quickly and make an arrest quickly.  
13      But my question is: You would -- I guess I'm asking, you  
14      would certainly prefer to be able to take your time and do a  
15      methodical, thorough, lengthy investigation before you  
16      charge somebody as opposed to simply going out and arresting  
17      somebody without investigating. You certainly would agree  
18      with that.

19      A. Again, I don't have a preference.

20      Q. Sir, I presume you attended the FBI Academy. Is that  
21      correct?

22      A. Yes, sir.

23      Q. And at the FBI Academy, you were trained on how to do  
24      investigations?

25      A. There was a number of classes there.

1 Q. Okay. Well, certainly, sir, one of the things -- at the  
2 Federal Bureau of Investigation, one of the classes you  
3 attended was how to investigate. Is that fair to say?

4 A. Correct. There's aspects of it. There's interview  
5 classes.

6 Q. And, sir, you would certainly agree that, in your  
7 training, you're not supposed to jump to conclusions as to  
8 whether someone broke the law, but rather you're supposed to  
9 investigate and do that methodical witness-by-witness,  
10 document-by-document investigation. Isn't that fair to say?

11 A. Again, we collect the information and the evidence and  
12 the facts and we turn those over, not only to our  
13 supervisor, but to the attorney's office as we go forward  
14 with the investigation.

15 Q. All right. Well, I'll move along, sir.

16 Let me ask you -- you certainly in this case --  
17 you indicated you conducted, you know, somewhere along the  
18 lines of 40-plus interviews. Right?

19 A. Yes, sir.

20 Q. And many of those involved Oath Keepers, cooperators,  
21 affiliates of the Oath Keepers, friends of the Oath Keepers,  
22 family of the Oath Keepers, and practically anybody who you  
23 believed might have relevance to the events of January 6th.  
24 Is that correct?

25 A. So all those things that you said, I don't know if I can

1 agree to all those. I mean, maybe a couple in there if you  
2 want to, like, talk about each one individually. But all of  
3 those things, I don't think I can agree to that.

4 Q. Okay. Well, you certainly have interviewed people who  
5 are members of Oath Keepers. Right?

6 A. Correct.

7 Q. And you've certainly interviewed people who are  
8 affiliated with the Oath Keepers. Correct?

9 A. Yes, sir.

10 Q. And you've interviewed, I believe, the family of Donovan  
11 Crawl. Is that fair to say?

12 A. I did not. No, sir.

13 Q. Well, I should say either you or your team of agents at  
14 the FBI have done interviews.

15 A. I apologize. I was actually on one interview with him  
16 on the back end. I did not do the -- one of his family  
17 members.

18 Q. Okay. Fair enough.

19 So certainly we can agree that you conducted  
20 interviews of people you believe are -- have relevant  
21 information regarding the events of January 6th. Correct?

22 A. Correct. Yes.

23 Q. Yeah.

24 And you asked them -- when you interview those  
25 individuals, you ask them questions -- I mean, obviously,

1       you're first going to ask: Do they have personal knowledge  
2       of the events? Did they see them with their own eyes?  
3       Right?

4       A. Are you referring to January 6th?

5       Q. Yeah. Yeah. Sure. I mean, that's what you are  
6       investigating. Right? January 6th.

7       A. Correct. Yes.

8       Q. Okay. So the people you're talking with, you're asking  
9       them questions about January 6th?

10      A. It's not just January 6th, no. There's a whole host of  
11      things leading up to January 6th that would be good to ask  
12      about. Right? It's not just January 6th. That's not the  
13      way the interviews went, nor is that what the goal was.

14      Q. Okay. Well, you certainly are asking folks that you're  
15      interviewing questions about whether there was any  
16      premeditation or any plan for the Oath Keepers to breach the  
17      United States Capitol on January 6th. That's certainly a  
18      question you were asking. Right?

19      A. I'm not going to say in every interview that was asked,  
20      but that -- I would say that that would be a common focus or  
21      a question in those interviews.

22      Q. And also you asked about the QRFs. Correct?

23      A. Correct. There was questions about QRFs.

24      Q. And also one of those questions would be whether the QRF  
25      was intended specifically to breach the United States

1 Capitol. Right?

2 MS. HUGHES: Objection, your Honor. This falls  
3 beyond the scope of what Agent Eller testified to.

4 THE COURT: It is beyond the scope.

5 MR. FISCHER: I'll move along, your Honor.

6 BY MR. FISCHER:

7 Q. And you also asked the individuals you interview as to  
8 whether they have any knowledge as to whether the Oath  
9 Keepers had a specific plan to stop the election or the  
10 Electoral College certification process on January 6th.  
11 Right?

12 A. Again, it would depend who we're interviewing. But that  
13 could be a possible question.

14 Q. Okay. Well, as part of your interview with -- regarding  
15 the Ohio militia, you also -- the name Thomas Caldwell came  
16 on your radar. Right?

17 A. I'm sorry. Could you ask the question again?

18 Q. As part of your investigation into Jessica Watkins and  
19 the Ohio Oath Keepers, the name Thomas Caldwell also came up  
20 in your investigation. Right?

21 A. Correct.

22 Q. Okay. And one of the things that you were particularly  
23 focused on early on in your investigation was whether  
24 Mr. Caldwell was training military -- doing military-type  
25 training on his property in the Shenandoah Valley. Correct?

1 A. I do not recall that. If you're saying that was the  
2 focus of the investigation? I don't recall that.

3 Q. I'm not saying the focus. Certainly a significant  
4 issue -- or an issue you were investigating early on, after  
5 you got on this investigation, was whether Mr. Caldwell was  
6 training -- doing military-type training on his property,  
7 his farm, in the Shenandoah Valley in Virginia. Right?

8 A. I don't recall that.

9 Q. Okay. Sir, you are aware -- you've already testified, I  
10 believe, about the Million MAGA March that occurred  
11 November 14th of 2020. Right?

12 A. Correct.

13 Q. And you certainly are aware that there is evidence or  
14 testimony regarding Oath Keepers being on Mr. Caldwell's  
15 farm prior to that event and after that event. Right?

16 A. I know prior. I'm not clear on after.

17 Q. Okay.

18 A. Prior to November 14th, yes.

19 Q. And in fact, sir, you do not have any evidence that  
20 Mr. Caldwell was training up a tactical band of fighters or  
21 doing any type of military training on his farm in Virginia.  
22 Right?

23 A. I do not recall the training on his farm in Virginia.

24 No.

25 Q. Okay. And, sir, you worked with other agents on this

1 case. Right?

2 A. Yes, sir.

3 Q. And particularly one of the agents you worked with is  
4 Special Agent Michael Palian. Is that correct?

5 A. That is one person I worked with.

6 Q. Okay. And, sir, another focus of your investigation  
7 early on, you mentioned in your testimony, was regarding the  
8 use of Zello by members of the Oath Keepers or their  
9 affiliates. Is that correct?

10 A. Correct.

11 Q. And in fact, sir, one of the questions you were asking  
12 the interviewees that you talked with was whether they had  
13 knowledge whether certain people were on Zello or not.

14 Correct?

15 A. So again, I don't know which specific interview you're  
16 talking about, but that would be also a topic of interest.

17 Q. Well, in fact, sir, one of the very first pieces of  
18 information you and your colleagues at the FBI received  
19 regarding the Oath Keepers was a news article regarding  
20 Zello. Right?

21 MS. HUGHES: Objection, your Honor. Outside the  
22 scope. Not in evidence.

23 MR. FISCHER: He testified about Zello, your  
24 Honor, already.

25 THE COURT: I'll allow it.

1                   Go ahead.

2           BY MR. FISCHER:

3           Q.   Do you recall early on, sir, that one of the first  
4           pieces of information you and your colleagues at the FBI  
5           received regarding January 6th was a newspaper article that  
6           dealt with the use of Zello, or alleged use of Zello, by  
7           members of the Oath Keepers?

8           A.   I know what you're referring to. But I wouldn't agree  
9           that that's one of the first pieces of evidence or one of  
10          the first pieces at all.

11          Q.   Okay. Well, sir, I'm not trying to split hairs here.  
12          You investigated the use of Zello by members of the Oath  
13          Keepers. Is that right?

14          A.   Correct.

15          Q.   Okay. And in fact, sir, you -- you obtained some audio  
16          recordings that purport to be Zello recordings regarding  
17          January 6th. Right?

18          A.   That's correct.

19          Q.   And in fact, you and your team tried to identify people  
20          who were on those Zello recordings. Correct?

21          A.   The team did. Yes.

22          Q.   Yes. Well, certainly, you're privy to the information  
23          the team has. Right?

24          A.   I am. Yes.

25          Q.   Okay. And in fact, sir, there was a belief among you



1 and your team that Mr. Caldwell was on Zello giving out  
2 orders on January 6th. Do you remember that?

3 MS. HUGHES: Objection, your Honor. Outside the  
4 scope.

5 THE COURT: Sustained.

6 We are getting past the scope of direct  
7 examination, Mr. Fischer.

8 MR. FISCHER: The Court's indulgence.

9 BY MR. FISCHER:

10 Q. Sir, you spoke about Donovan Crawl before. He's a  
11 person that was from Ohio. Right? Correct?

12 A. He's an individual who was in the Ohio State Regular  
13 Militia.

14 Q. Yes. Okay.

15 And Mr. Crawl was arrested around  
16 January 17th/January 18th, maybe the early-morning hours of  
17 the 18th, of 2021. Right?

18 A. Yes, sir.

19 Q. And he was arrested right at the same time as Jessica  
20 Watkins -- roughly the same time. Is that right?

21 A. Yes, sir.

22 Q. Okay. And, sir, I'm going to -- Mr. Crawl, you were  
23 able -- you were able to do an investigation of --

24 A. You said "Mr. Crawl." Are you referring to me?

25 Q. Yes. You were able to do a background investigation of

1 potential witnesses regarding Mr. Crowl through your  
2 investigation. Correct?

3 A. There's individuals that we deemed would be, you know,  
4 of importance to talk to or of interest.

5 Q. In other words, sir, you went out to talk to people and  
6 asked them about Donovan Crowl. Right? Fair enough?

7 A. I'm not going to say I did. But people did.

8 Q. Okay. Well, certainly as part of the FBI investigation,  
9 you or your agents went out and spoke to people and asked  
10 them questions regarding Donovan Crowl. Right?

11 A. Yes.

12 Q. He was one of the first three people arrested on major  
13 charges in the January 6th investigation. Correct?

14 MS. HUGHES: Objection, your Honor.

15 THE COURT: Could you just reformulate the  
16 question? I mean, he said when he was arrested. So let's  
17 move on.

18 BY MR. FISCHER:

19 Q. Sir, I'm going to show you --

20 MR. FISCHER: This is just for the witness, not  
21 for the jury.

22 THE COURTROOM DEPUTY: Okay.

23 BY MR. FISCHER:

24 Q. Sir, I'm going to show you what is marked as  
25 Exhibit 111, Caldwell Exhibit 111.

1 A. I'm sorry. Did you say Caldwell?

2 Q. This is Caldwell Exhibit 111. Can you take a look at  
3 that and tell me if you recognize what that document is.

4 A. This appears to be from Facebook.

5 Q. Okay. And at the top of the Facebook, it looks like the  
6 author, or the person on Facebook who's -- there's a message  
7 between two individuals. One is Jolly Roger and one is  
8 Donovan Crowl. Correct?

9 A. Correct.

10 Q. Okay. So it appears to be Facebook communications  
11 between Jolly Roger, who is Jessica --

12 MS. HUGHES: Objection, your Honor. This is  
13 hearsay. It's not in the context of any of the statements  
14 the Government has introduced.

15 MR. FISCHER: State of mind, your Honor.

16 THE COURT: I'll allow it. I'll allow it. Go  
17 ahead.

18 MR. FISCHER: Your Honor, at this time, I  
19 introduce Exhibit -- Caldwell Exhibit 111.

20 And if we could publish --

21 THE COURT REPORTER: I'm sorry. I just need to  
22 know if it's admitted.

23 THE COURT: Caldwell 111 will be admitted.

24 (Whereupon, Defendant Caldwell's Exhibit No. 111  
25 was entered into evidence.)

1 BY MR. FISCHER:

2 Q. And so, sir, at the top of the page here, you'll see the  
3 word -- you'll see Jolly Roger, which is Jessica Watkins, I  
4 believe you said earlier. Correct?

5 A. Correct. Jolly Roger is Jessica Watkins.

6 Q. Okay. And it looks like there's a message sent on  
7 November 11th, 2011, at 2:07 UTC time. Correct?

8 A. Yes, sir.

9 Q. And it looks like, just below that, there's a message --  
10 and I'm sorry. That message says: "Sinuses, mad headache."

11 And then right below that, it looks like there is  
12 a message by Donovan Cowl sent just a little bit later, at  
13 2:07:55 UTC time on November 11th, where Mr. Cowl says,  
14 quote: "All is well, Cap. Sounds as if you have the  
15 situation well in hand."

16 Correct?

17 A. Correct.

18 Q. Okay. And then the next line is from Jessica Watkins  
19 to -- and I'll go down here a little bit -- Jessica Watkins  
20 to Donovan Cowl.

21 A. Again, I don't know if this is just a message between  
22 these two, unless there was context at the top. You'd have  
23 to go all the way to the top and it would show if it's a  
24 group message or if this is a message between these two  
25 individuals.

1 Q. Fair enough, sir.

2 So the next message I'm pointing to, right here,  
3 is on November 11th, 2020, 18:51 hours UTC time. Could you  
4 please read that to the jury, please.

5 A. "Donovan, I need you to be on a conference call at 5:00.  
6 They need to vet you. I need you sober. That's mandatory  
7 to participate in D.C. I understand and honestly agree.  
8 They're weeding out yahoos. It's smart, honestly. Wish  
9 they had vetted people before Louisville, honestly. Be  
10 ready to impress. You're vetting with DOD, so you will be  
11 talking with a great guy I trust. See you then. Roger."

12 Q. And then below that --

13 THE COURT: Mr. Fischer, can I ask this just to be  
14 shut down? I didn't realize there was more than one page.  
15 So can I just see the rest of what you wish to admit?

16 MR. FISCHER: Yes, your Honor.

17 THE COURT: That's it?

18 MR. FISCHER: Yes. Yes, your Honor.

19 THE COURT: That's fine. Thank you. I appreciate  
20 it.

21 MR. FISCHER: Okay.

22 BY MR. FISCHER:

23 Q. So, sir, under that message, it appears just a little  
24 while later that Mr. Crawl indicates, quote: "Yes, ma'am.  
25 You are aware I'm sober more hours of the day than not.

1 Every time you say that, it makes me giggle."

2 Correct?

3 A. Yes.

4 Q. All right, sir. And you're aware Ms. Watkins owned a  
5 bar in the -- in the area where Mr. Crawl lived. Correct?  
6 You're aware of that?

7 A. She owned a bar in Woodstock, Ohio.

8 Q. Okay. And, sir, Mr. Crawl, he turned himself in at some  
9 point around November 18th -- I'm sorry -- January 18th of  
10 2021. Right?

11 A. The 17th into the 18th of 2021.

12 Q. And isn't it true, when he turned himself in, he was  
13 intoxicated?

14 A. He appeared to be intoxicated. There was no tests done  
15 to confirm that.

16 Q. Okay. And, sir, regarding Mr. Crawl, I want to show  
17 what is marked as Defense Exhibit 112. In fact, sir, it  
18 might be easier -- if I can --

19 MR. FISCHER: Your Honor, may I approach and give  
20 the witness a copy of the same thing? It might be easier.

21 THE COURT: Yes.

22 THE WITNESS: Thank you.

23 BY MR. FISCHER:

24 Q. Sir, if you could just take a look at that document for  
25 a moment and see if you recognize that document or can

1 identify it.

2 THE COURT: Does the Government know what he's  
3 looking at, Mr. Fischer?

4 MR. FISCHER: I gave them copies, your Honor.

5 THE COURT: Thank you.

6 MS. HUGHES: What exhibit number is this,  
7 Mr. Fischer?

8 MR. FISCHER: It's going to be 112.

9 MS. HUGHES: Is that this?

10 MR. FISCHER: I apologize. It's this one.

11 MS. HUGHES: The Government would object to this  
12 as outside the scope of the testimony and hearsay.

13 THE COURT: Why don't we just let him take a look.  
14 I haven't seen it, so...

15 BY MR. FISCHER:

16 Q. Sir, do you recognize what this document is?

17 A. It appears to be a message between Mike Metz and Donovan  
18 Crawl on Facebook.

19 Q. Okay. A Facebook message. Correct?

20 A. Yes, sir.

21 Q. And obviously, you secured Facebook messages -- you or  
22 your team, as part of your investigation, secured Facebook  
23 messages. Correct?

24 A. Yes, sir.

25 Q. Okay.

1 MR. FISCHER: Your Honor, if I could show the  
2 Court.

3 THE COURT: Yes. Get on the phone.

4 (Whereupon, the following proceedings were had at  
5 sidebar outside the presence of the jury:)

6 THE COURT: Mr. Fischer, can I ask what the  
7 relevance of the document is?

8 MR. FISCHER: There's been testimony regarding  
9 Donovan Crawl, his arrest, his connection with Watkins. And  
10 what this document shows -- there has also been a picture of  
11 Ms. Watkins on January 6th that's been put in. And what  
12 this document shows is state of mind of Mr. Crawl on  
13 January 6th.

14 MS. HUGHES: Your Honor, I fail to see how this is  
15 actually relevant to that. In fact, this is on January 5th  
16 through January 6th. So this is farther than any of the  
17 testimony we've covered regarding Mr. Crawl.

18 THE COURT: I guess I have to see it again. I'm  
19 not quite sure what it's relating to.

20 MR. FISCHER: Can I just hand it up to you?

21 THE COURT: Please.

22 (Mr. Fischer tenders document to the Court.)

23 THE COURT: Thank you.

24 So all we've really gotten is communications  
25 between Ms. Watkins and Mr. Crawl back in November, I think.



1 And now you're trying to introduce something sort of on  
2 January 5th, maybe into the early-morning hours of the 6th.  
3 And I'm just not understanding the linkage between what was  
4 coming out on direct relating to Mr. Crowl and what you're  
5 proposing to do here with this document.

6 MS. HUGHES: Your Honor, the Government also is  
7 unclear what Donovan Crowl's statement has to do in terms of  
8 relevance to sort of the testimony here.

9 MR. FISCHER: Well, your Honor, I'd say that they  
10 brought in several messages between Crowl and Caldwell. The  
11 implication is that those show some type of connection  
12 coming up to January 6th. When they have an exhibit that  
13 says Mr. Caldwell said something about there's going to be a  
14 big op coming up, they're clearly trying to imply that Crowl  
15 and Caldwell are planning something for January 6th.

16 And I think it's perfectly fair game to show that  
17 Mr. Crowl's state of mind was not to attack the Capitol, but  
18 instead to take a nap on the afternoon of January 6th, which  
19 at the bottom of the big paragraph indicates he was going to  
20 rest up after the White House.

21 MS. HUGHES: I'm sorry, your Honor. I'm not  
22 seeing that message.

23 THE COURT: It just says at the bottom here that  
24 "We're doing the White House in the a.m. and early  
25 afternoon, rest up at the hotel, then headed back out

1 tomorrow night 'tifa hunting. We expect good huntin'."

2 MS. HUGHES: I'm still not sure what this has to  
3 do with Mr. Crawl's comments to this individual, Mr. Metz,  
4 how that's relevant.

5 MR. FISCHER: I'm not sure, your Honor, why the  
6 Government is putting it in, then, because the only reason  
7 they're putting the Crawl and Caldwell in there is this has  
8 something to do with January 6th.

9 THE COURT: Well, of course that's why we are  
10 here.

11 All right. I'm going to -- I'll let it in. I  
12 think it's a little -- there was a text message or a  
13 communication between them on Facebook back on December the  
14 4th between Mr. Caldwell and Mr. Crawl in which Mr. Caldwell  
15 is talking about much larger ops, et cetera, et cetera. And  
16 so I guess this is arguably relevant to establishing that  
17 there was no such larger op, at least as of the eve of  
18 January 6th. So I'll let it in.

19 But let's keep moving here so we can get this guy  
20 done and get done for the day.

21 MR. FISCHER: Understood.

22 (Whereupon, the following proceedings were had in  
23 open court:)

24 BY MR. FISCHER:

25 Q. So, Agent Eller, you do have a copy of Exhibit 112 in

1 front of you. Is that correct?

2 A. Yes, sir.

3 Q. Okay. And this is a Facebook message, it appears,  
4 between a guy named Mike Metz and Donovan Crawl. Correct?

5 A. Yes, sir.

6 Q. Okay. And I'm going to direct your attention towards  
7 the bottom where I have the fuchsia-colored sticky down  
8 there. It appears to be a message that's -- well, first of  
9 all, right above that message, it says "Mike Metz." And it  
10 looks like Mr. Metz on January 6th at 3:02 UTC time sends a  
11 message to Crawl where he says, quote: "One more thing.  
12 Keep eyes on people with red MAGA hats worn backwards. Saw  
13 a report that they were going to infiltrate crowd tomorrow."

14 Do you see that, sir?

15 A. I do. Yes.

16 Q. Okay. And then underneath that is a reply, it appears,  
17 from Donovan Crawl on January 6th at 3:08 UTC time which, by  
18 the way, that would be minus five, so it's actually January  
19 5th, 10:16 p.m. Eastern Standard Time. You would agree with  
20 that?

21 A. Yes, sir.

22 Q. Okay. Could you read that quote out where it says:  
23 "Thanks, brother"?

24 A. "Thanks, brother, but we are way ahead on that. We have  
25 infiltrators in their ranks. We are doing the WH in the

1 a.m. and early afternoon. Rest up at hotel. Then headed  
2 back out tomorrow night 'tifa hunting. We expect good  
3 hunting."

4 Q. All right. Now, sir, you are certainly aware that on  
5 January 6th there was an event planned at the White House,  
6 or the Ellipse, in the morning of January 6th where  
7 President Trump was going to speak. Is that right?

8 A. Correct.

9 Q. Okay. And you're aware that the events that -- the  
10 unfortunate events that happened at the Capitol on  
11 January 6th happened in the early afternoon of January 6th.  
12 Correct?

13 A. Correct.

14 Q. It appears from this, sir, wouldn't you agree, that  
15 Mr. Crowl, instead of having a plan to attack the Capitol,  
16 had a plan to, quote, "rest up at the hotel," unquote?

17 A. I'm not sure that's in relation to that.

18 Q. Well --

19 A. I don't know what order that is.

20 THE COURT: Mr. Fischer, just ask him what it says  
21 and --

22 MR. FISCHER: Understood, your Honor. Fair  
23 enough.

24 BY MR. FISCHER:

25 Q. All right. Sir, and you did not -- I'm going to find

1 one more exhibit.

2 MR. FISCHER: The Court's indulgence.

3 BY MR. FISCHER:

4 Q. Well, first of all, we had also referenced earlier --

5 MR. FISCHER: And I move in Exhibit 112 at this  
6 time. Caldwell Exhibit 112.

7 THE COURT: It will be admitted.

8 (Whereupon, Defendant Caldwell's Exhibit No. 112  
9 was entered into evidence.)

10 MR. FISCHER: Just really quickly -- your Honor,  
11 this is by stipulation.

12 BY MR. FISCHER:

13 Q. Sir, there was a tweet by President Trump. This is  
14 Caldwell Exhibit No. 86. Are you aware of that tweet that  
15 was sent out on December 19th?

16 A. I'm not aware of that tweet.

17 MR. FISCHER: Your Honor, by stipulation, I'd move  
18 in at this time Caldwell Exhibit No. 86.

19 THE COURT: Caldwell 86 will be admitted.

20 (Whereupon, Defendant Caldwell's Exhibit No. 86  
21 was entered into evidence.)

22 MS. HUGHES: And, your Honor, also at this time,  
23 I'm going to move in Caldwell Exhibit 111, which is a  
24 stipulation between the parties. May I read the stipulation  
25 to the jury, your Honor?

1 THE COURT: Sure. I have 111 in already. Right?

2 MR. FISCHER: I apologize. This is actually --  
3 this is going to be 113. Caldwell 113.

4 THE COURT: Okay.

5 MR. FISCHER: May I publish it, your Honor?

6 THE COURT: You may. Sure.

7 MR. FISCHER: Ladies and gentlemen of the jury,  
8 there's a stipulation that's been reached between the  
9 parties that the Government and all Defendants hereby agree  
10 and stipulate as follows: Number one, the United States  
11 Congress was not in session on November 14th of 2020.

12 And number two, the United States Congress was not  
13 in session on December 12th, 2020.

14 Move in 113 also, your Honor.

15 THE COURT: It will be admitted.

16 (Whereupon, Defendant Caldwell's Exhibit No. 113  
17 was entered into evidence.)

18 BY MR. FISCHER:

19 Q. Sir, to your knowledge, Mr. Caldwell was not on a Signal  
20 chat titled North Carolina county leaders. Is that correct?

21 A. I do not know if he was on that chat.

22 Q. He wasn't on a Signal chat called D.C. Signal op chat  
23 leadership chat, was he?

24 A. I don't know, sir. I'm sorry.

25 Q. He was not on an old leadership chat of Signal. Is that

1 correct?

2 A. I do not know, sir.

3 Q. And he was not a part of a members-only November 9th  
4 GoToMeeting -- November 9th, 2020 GoToMeeting, was he?

5 A. I do not know if he was in that meeting or not.

6 Q. Sir, you would agree Antifa certainly has nothing to do  
7 with the Electoral College vote. Is that correct? That's  
8 the members of Congress that do that. Is that fair to say?

9 A. Is Antifa related to them? Or have --

10 Q. I'm asking: You would certainly agree it's members of  
11 Congress that conduct the Electoral College certification,  
12 not Antifa. Correct?

13 A. That's correct.

14 Q. Okay.

15 MR. FISCHER: Your Honor, I have no further  
16 questions of this witness.

17 THE COURT: Thank you, Mr. Fischer.

18 MR. FISCHER: Thank you, sir.

19 THE WITNESS: Thank you, sir.

20 THE COURT: Ms. Hughes, any redirect?

21 REDIRECT EXAMINATION

22 BY MS. HUGHES:

23 Q. Good afternoon, Mr. Eller -- Special Agent Eller.

24 A. Good afternoon.

25 Q. Just a few more questions.

1 A. Yes, ma'am.

2 Q. You were asked by Mr. Crisp regarding several  
3 interactions first between Ms. Watkins and Recruit Leah.

4 Are the text messages you testified about today  
5 the only messages that were exchanged between Recruit Leah  
6 and Ms. Watkins?

7 A. I am not sure.

8 Q. Were there other messages between these individuals  
9 other than --

10 A. Other text messages?

11 Q. -- ones that were put on the slide?

12 A. Yes.

13 MS. HUGHES: Could we please put up for the jury  
14 what has already been admitted into evidence 192.T.286.

15 BY MS. HUGHES:

16 Q. Now, Mr. Crisp asked you questions implying that the  
17 training was in regards to Black Lives Matter and tying it  
18 to an article about Black Lives Matter.

19 Do you recall those questions?

20 A. I do.

21 Q. And this message that was on November 9th from Jessica  
22 Watkins to Recruit Leah, what does Ms. Watkins in her own  
23 words say that she needed Recruit Leah in fighting fit shape  
24 by?

25 A. By inauguration.



1 Q. And, Mr. Eller, do you recall what else happened on  
2 November 9th?

3 A. On November what? I'm sorry.

4 Q. On November 9th, 2020. Do you recall whether there was  
5 a GoToMeeting?

6 MR. CRISP: Your Honor, I have an objection. This  
7 is not what was part of his direct examination. This is a  
8 separate text message. And so I'm going to renew my  
9 objection on one of the earlier exhibits the Government  
10 objected to because -- I would then renew my objection and  
11 be able to get into my issues on the 15th because this  
12 wasn't elicited through his testimony on the 9th.

13 THE COURT: Let's discuss this.

14 (Whereupon, the following proceedings were had at  
15 sidebar outside the presence of the jury:)

16 MS. HUGHES: Mr. Crisp's question --

17 THE COURT: Hang on. Look, I don't remember  
18 whether it was Mr. Crisp or someone else, but there  
19 certainly was the -- there was questioning, I think from  
20 Mr. Bright, about the overlap between the training from  
21 January 3rd through the 9th and the events of January 6th.

22 So this text message which says, from Ms. Watkins  
23 to Recruit Leah, "If you want to do that, then basic  
24 training is mandatory. Take the time off work in advance,  
25 January 3rd through the 9th. I need you in fighting fit

1 shape by inauguration" -- so it rebuts the idea that there  
2 is some inconsistency between having a training from  
3 January 3rd through the 9th and the events of January 6th.  
4 So it will be admitted.

5 MR. CRISP: The issue I have, though, is this is  
6 out of context for the conversations with Leah, however,  
7 because Leah -- they did have discussions that had nothing  
8 to do with the inauguration two days earlier, but had to do  
9 with what I was talking about with recruiting for --

10 THE COURT: Look, I don't know whether it's in  
11 context or not. The bigger issue here is it is in direct  
12 response to Mr. Bright's cross-examination about the overlap  
13 of the dates and provides an explanation for why, even  
14 though January 6th -- although this was as of November the  
15 9th -- why training could have been scheduled from  
16 January 3rd through the 9th and still conflicted with the  
17 6th and yet still been consistent with the overall alleged  
18 conspiracy.

19 MS. HUGHES: Thank you, your Honor.

20 (Whereupon, the following proceedings were had in  
21 open court:)

22 BY MS. HUGHES:

23 Q. Special Agent Eller, this message that was sent on  
24 November 9th, was there a GoToMeeting that took place this  
25 date?

1 A. Yes, there was.

2 Q. And who was on this meeting that was on the board? Who  
3 of these Defendants was on this meeting that you recall?

4 A. It was -- Stewart Rhodes and Jessica Watkins were two of  
5 the individuals.

6 Q. And was this the only time that Ms. Watkins tied the  
7 need to train for fighting with the inauguration?

8 A. I don't recall other times. There could have been other  
9 times.

10 MS. HUGHES: Could we please bring up what is  
11 already in evidence 129.T.393.

12 BY MS. HUGHES:

13 Q. Is this another message from Jessica Watkins?

14 A. Yes. This is a text message from Jessica Watkins.

15 Q. Is this also on November 9th?

16 A. Correct.

17 Q. Is this to an individual named Whip?

18 A. Yes.

19 Q. Who is Whip?

20 A. It's Michael Greene, or Michael Simmons.

21 Q. Can you read this message?

22 A. "Hey, sir. We have a basic training class (mandatory  
23 for Ohio Regulars) for Jan 3rd through 9th. If you have any  
24 guys who don't have formal training that you want to send,  
25 feel free to give them my info. It's a full basic training

1       shoved into a week. It will be tough. Grueling, even."

2               MS. HUGHES: Could we please go to the next page,  
3       please.

4               THE WITNESS: "I want my guys on the same page  
5       before inauguration. If you'd like to involve any of your  
6       men, the offer is on the table. There's a packing list I  
7       will distribute before end of week. Thank you, sir. You're  
8       a rock amongst sand."

9               MS. HUGHES: Thank you, Ms. Rohde. You can take  
10      that down.

11      BY MS. HUGHES:

12      Q. And, Mr. Eller, you were also asked a series of  
13      questions regarding the relationship between specifically  
14      Mr. Rhodes and the North Carolina contingent of the Oath  
15      Keepers.

16              Do you recall those messages [sic]?

17      A. Which? The messages between Rhodes and --

18      Q. Oh, sorry. That's a fair question.

19              Do you remember the questions that were asked to  
20      you --

21      A. Yes.

22      Q. -- by defense counsel about this -- about this  
23      disagreement, as they characterized it, between Mr. Rhodes  
24      and the North Carolina contingent?

25      A. I do, ma'am.

1 MS. HUGHES: Could we please bring up Government's  
2 Exhibit 6825.3.

3 BY MS. HUGHES:

4 Q. Could you read, Mr. Eller -- Special Agent Eller, could  
5 you please read -- first of all, who is this message  
6 between?

7 A. This is between Thomas Caldwell and Donovan Crowl.

8 Q. And could you read from here, Special Agent Eller, to  
9 this part of the message, please?

10 A. Yes, ma'am. "I have been talking with the N. Carolina  
11 boys and they were, as of today, adamant they would not roll  
12 on an op with Stewie again."

13 Q. What is the date of this message?

14 A. This is December 4th, 2020.

15 MS. HUGHES: Could we please bring up what is  
16 already in evidence as Government's Exhibit 1005. And,  
17 Ms. Rohde, if we can move to the second page of this  
18 message.

19 BY MS. HUGHES:

20 Q. Special Agent Eller, this open letter to President Trump  
21 from Stewart Rhodes --

22 MS. HUGHES: Could we please zoom in on the date  
23 of this message, Ms. Rohde.

24 BY MS. HUGHES:

25 Q. What is the date of this open letter?

1 A. December 14th, 2020.

2 MS. HUGHES: And if we could go to Government's  
3 Exhibit 1008, which is already in evidence. And we can go  
4 to Page 8 of this exhibit. Apologies. I'm sorry. Move up,  
5 Ms. Rohde. I must have marked the wrong page number. If  
6 you could just move to the top of this article.

7 One page up, please. And if you could just zoom  
8 in on the date, which I believe is actually the second page.  
9 Perfect. Thank you, Ms. Rohde.

10 BY MS. HUGHES:

11 Q. What is the date of this open letter?

12 A. "Today, December 23rd."

13 MS. HUGHES: And if we could bring up -- and the  
14 Government -- we can bring this up just for defense counsel  
15 and the witness, please -- 1.S.672.298.

16 Your Honor, this message will be -- the  
17 authenticity of this message will be established by a  
18 subsequent witness, but the Government seeks to  
19 conditionally admit it for purposes of discussing with  
20 Special Agent Eller. The extraction he cannot speak to, but  
21 the body of these messages he is familiar with.

22 THE COURT: Is there any objection to this --  
23 Are you introducing this at this time?

24 MR. WOODWARD: The Court's indulgence, your Honor.

25 (Counsel confer privately.)

1 MR. WOODWARD: I don't think we've seen this  
2 message, your Honor.

3 MS. HUGHES: It is on the Government's exhibit  
4 list and it's been provided both as an exhibit and in  
5 discovery. It is just this page I intend to show at this  
6 time, though.

7 THE COURT: Mr. Woodward?

8 MR. WOODWARD: Your Honor, we do object, given  
9 that it's out of context and our inability to examine the  
10 witness. We don't want to go tit for tat on this.

11 THE COURT: It's redirect. That's kind of what  
12 happens.

13 This will be admitted. 1.S.672.298 will be  
14 admitted. It's proper rebuttal for the cross-examination.

15 (Whereupon, Government's Exhibit No. 1.S.672.298  
16 was entered into evidence.)

17 MS. HUGHES: If we could please publish this  
18 message. Thank you.

19 BY MS. HUGHES:

20 Q. What is the date of this message?

21 A. December 23rd, 2020.

22 Q. Who is this message from?

23 A. This is from Ranger Smith.

24 Q. Is he one of the North Carolina individuals who's  
25 associated with the Oath Keepers?

1 A. Yes. This is Doug Smith, the North --

2 Q. What is -- sorry.

3 A. -- Carolina lead.

4 Q. Sorry. What does Doug Smith write to Stewart Rhodes on  
5 December 23rd?

6 A. "Hey, Stewart. I just read your second part of the  
7 letter to President Trump. Bravo, bravo, bravo. This is  
8 the very best presentation of the truth that has ever been  
9 penned. You and Kelly have literally laid out what could  
10 become the most influential writing the United States has  
11 seen since its founding men inspired by God."

12 MS. HUGHES: Could we also put up now what has  
13 been admitted into evidence 1.S.159.225.

14 BY MS. HUGHES:

15 Q. And on December 31st, what does Stewart Rhodes write the  
16 DC Op Jan 6th group on Signal?

17 A. "Added some of the NC leaders and experienced prior op  
18 veterans from NC."

19 Q. And, Special Agent Eller, is it your understanding that  
20 Mr. Stamey traveled to D.C., the D.C. area, prior to  
21 January 6th?

22 A. Yes, ma'am.

23 Q. And is it your understanding that Doug Smith traveled to  
24 the D.C. area prior to January 6th?

25 A. Yes, ma'am.



1 Q. Okay. Moving on to some of the questions that were  
2 asked of you by Mr. -- by Mr. Caldwell's counsel --

3 MS. HUGHES: Could we please bring up Defense  
4 Exhibit 111.

5 And I may have to ask you for your exhibit.

6 BY MS. HUGHES:

7 Q. You were asked a series of questions about this exchange  
8 between Ms. Watkins and Donovan Crawl.

9 Based on the investigation, when Ms. Watkins at  
10 18:51 UTC writes, "They're weeding out yahoos. It's smart,  
11 honestly. Wish they vetted people before Louisville. Be  
12 ready to impress," who is your understanding about who she's  
13 asking Donovan to be ready to impress?

14 A. This would have been a vetting process for the Oath  
15 Keepers.

16 Q. Special Agent Eller, I want to ask you about one final  
17 exhibit.

18 MS. HUGHES: Could we bring up Government's  
19 Exhibit 200.V.1. We can go to about ten seconds in this  
20 exhibit, Ms. Rohde. It's a video.

21 If we could have sound, please.

22 THE COURTROOM DEPUTY: Has this been admitted?

23 MS. HUGHES: This has been admitted.

24 THE COURT: It has? I don't think it has.

25 MS. HUGHES: My apologies. Could we please

1       conditionally admit -- we could admit this.

2       BY MS. HUGHES:

3       Q.   Special Agent Eller, have you reviewed --

4               MS. HUGHES:   My apologies.   If we could just show  
5       this to the witness.

6       BY MS. HUGHES:

7       Q.   Have you reviewed video footage of Ms. Watkins and  
8       Mr. Crowl on January 6th?

9       A.   Yes.

10      Q.   Have you reviewed video footage of Ms. Watkins and  
11      Mr. Crowl inside the Capitol on January 6th?

12      A.   Yes, ma'am.

13             MS. HUGHES:   The Government would seek to admit  
14      and publish -- my apologies -- Government's Exhibit 200.V.1.

15             MR. WOODWARD:   Objection.   Lack of foundation.

16      BY MS. HUGHES:

17      Q.   And have you had a chance to view the video footage of  
18      Mr. Crowl inside the Capitol that he filmed of himself?

19      A.   Yes, ma'am.

20             MS. HUGHES:   And if you want to play this video,  
21      we can.   Do you want to play a snippet for Special Agent  
22      Eller?

23             THE COURT:   Hang on.

24      BY MS. HUGHES:

25      Q.   Do you recognize this video?

1 A. Yes, ma'am.

2 MS. HUGHES: The Government seeks to admit and  
3 publish Government's Exhibit 200.V.1.

4 MS. HALLER: We've been limited in addressing  
5 January 6th questions. This is redirect. We're opening up  
6 a whole new line of questioning.

7 THE COURT: It's overruled. There was questioning  
8 asked about what was being worn on the various dates. This,  
9 I assume, is in response to that.

10 200.V.1 will be admitted.

11 (Whereupon, Government's Exhibit No. 200.V.1 was  
12 entered into evidence.)

13 MS. HUGHES: Please play about ten seconds,  
14 Ms. Rohde.

15 (Whereupon, segments of Government's Exhibit  
16 No. 200.V.1 were published in open court.)

17 MS. HUGHES: Can we just pause right there.

18 BY MS. HUGHES:

19 Q. Who is it that we are seeing on the screen right now?

20 A. This is Donovan Crawl and Jessica Watkins.

21 Q. And is Donovan Crawl the one that said: "Over in the  
22 Capitol"?

23 A. Correct.

24 MS. HUGHES: Can we go back five seconds, please.

25 (Whereupon, segments of Government's Exhibit

1 No. 200.V.1 were published in open court.)

2 MS. HUGHES: We can pause there.

3 BY MS. HUGHES:

4 Q. Who is that with Mr. Crawl?

5 A. It was Jessica Watkins.

6 Q. So was Mr. Crawl, in fact, sleeping on January 6th, in  
7 the afternoon?

8 A. No, he was not.

9 Q. Where was he?

10 A. He was inside the Rotunda in the U.S. Capitol.

11 MS. HUGHES: No further questions.

12 THE COURT: Okay.

13 MR. WOODWARD: I would like time to be heard on  
14 that last text message. We can do it at the end of the day,  
15 though.

16 THE COURT: Okay. Special Agent Eller, thank you.  
17 You may step down.

18 THE WITNESS: Thank you, sir.

19 THE COURT: Thank you.

20 (Witness excused.)

21 THE COURT: Ladies and gentlemen, we have come to  
22 the end of the day. Thank you again for your time and your  
23 attention today. We look forward to seeing you tomorrow.  
24 We will get started as close to 9:30 as we can. Thank you,  
25 everyone. Have a good evening.

1 (Whereupon, the jury exited the courtroom at 4:41  
2 p.m. and the following proceedings were had:)

3 THE COURT: Have a seat, everybody.

4 Mr. Woodward, what's the issue?

5 MR. WOODWARD: Your Honor, I've just looked and I  
6 don't see that particular message either in the group of  
7 800-and-some that the Court knows I've --

8 THE COURT: Which message are you referring to?

9 MR. WOODWARD: Could I ask the Government for  
10 assistance in showing the Court the message that Ms. Hughes  
11 just admitted on redirect?

12 1.S.672.298.

13 MS. HUGHES: Your Honor, may I clarify?

14 My apologies. I said before that it was on an  
15 exhibit list in discovery. It was in discovery; it wasn't  
16 on our exhibit list. So my apologies for not clarifying  
17 that point.

18 THE COURT: Okay.

19 MR. WOODWARD: The point is that it references  
20 Kelly. We don't believe that to be Kelly Meggs. We believe  
21 that is Kellye SoRelle. And so we'd like the opportunity to  
22 clarify that with the agent and ask that he not be excused.  
23 This is not the first time that Kelly Meggs and Kellye  
24 SoRelle have been mixed up by the Government.

25 In the transcript of the November 9th GoToMeeting

1 call -- there are several versions of that transcript, the  
2 first two of which also reference Kelly Meggs when, in fact,  
3 there is a woman speaking, and the Government does not  
4 dispute that it is Kellye SoRelle.

5 THE COURT: Well, this has nothing to do with  
6 Mr. Meggs. I mean, if you want Ms. Hughes to get back up  
7 and ask one more question to clarify that this is not a  
8 reference to Kelly Meggs, then --

9 MR. WOODWARD: I'm happy to have Ms. Hughes do it.  
10 I don't need to be the one who does it, but I --

11 THE COURT: Okay. That's fine. This is a clear  
12 reference to the letter and not anything on a GoToMeeting.  
13 And it's pretty clear that Kelly Meggs was not on the open  
14 letter; it was Kellye SoRelle.

15 MS. HUGHES: Your Honor, the Government would  
16 stipulate that this is not Kelly Meggs.

17 THE COURT: Well, why don't we just have -- we'll  
18 have Agent Eller retake the stand -- is he available  
19 tomorrow?

20 SPECIAL AGENT ELLER: I'll be here.

21 THE COURT: Okay. I mean, I didn't know if you  
22 were heading back to Cincinnati or not.

23 SPECIAL AGENT ELLER: Oh, I'll be here.

24 THE COURT: We'll just have him retake the stand  
25 and then you can ask him that clarifying question and --

1 MS. HUGHES: I'm happy to, your Honor.

2 MR. WOODWARD: Thank you. Nothing further from  
3 us.

4 THE COURT: Okay. All right. Let me just ask,  
5 are we -- in terms of -- it would be nice if there was a way  
6 in which the sort of rule-of-completeness issues could get  
7 resolved at the start of the day. I know some of that may  
8 be unavoidable, but if there's any way for the Government to  
9 sort of indicate what exhibits it's planning to introduce,  
10 the range of exhibits, the following day, particularly  
11 through an agent so that the defense can be ready to  
12 identify what they're intending for --

13 MR. NESTLER: Yes, your Honor. We've been doing  
14 that.

15 THE COURT: Oh, okay.

16 MR. NESTLER: We just haven't always heard back  
17 from defense counsel prior to the conclusion of direct about  
18 what they intend to do on cross.

19 THE COURT: I'm sorry. Say that again,  
20 Mr. Nestler.

21 MR. NESTLER: We just have not always heard back  
22 from all of the defense counsel on what they intend to do or  
23 attempt to do on cross.

24 THE COURT: Okay. Look, you know, this is not  
25 criticism. I would like to avoid the 10 to 15 minutes we're

1 taking to deal with this. I understand it is potentially  
2 unavoidable, but if we can deal with it in the morning or  
3 on, you know, breaks to get more evidence in, all the  
4 better.

5 So I'll just, you know, ask you all to try and  
6 strive to be able to allow me to make these rulings and  
7 avoid having to take time out of evidence to do so.

8 Mr. Linder?

9 MR. LINDER: I was just going to follow up on  
10 that, your Honor. The Government has been giving us their  
11 stuff early, but as you know, once we get them, we've got to  
12 then go through it and figure out what we want to use and  
13 then put them in an admissible format.

14 THE COURT: I get it. I want to be -- I'm going  
15 to be flexible. I have been flexible. I understand the  
16 fluid nature of cross-examination. I'm just making a  
17 request to try and minimize, you know, the time we're taking  
18 away from the jury and the presentation of evidence. That's  
19 all. Okay?

20 MR. LINDER: Understood.

21 THE COURT: All right. Anything else we need to  
22 take up before we adjourn for the day?

23 Just let -- yes, Mr. Nestler.

24 MR. NESTLER: Just on timing, for the defense  
25 counsels' attorney-client privilege issues, I know your



1 Honor wanted an answer today. I know they need some more  
2 time. We do want to get a resolution on that, and we'd like  
3 to have a firm deadline, if we could.

4 THE COURT: Mr. Linder?

5 MR. LINDER: I've got to write a brief tonight,  
6 your Honor. I plan on going through those records tonight.

7 THE COURT: Okay. I mean, look, you can write  
8 something. You don't have to write something. I mean,  
9 really, unless there's case law that you think is useful,  
10 you can always just bring it to J.C.'s attention. I'll read  
11 the cases.

12 Look, the bottom line is, you know, what is the  
13 factual proffer going to be from the defense to, one,  
14 suggest that there is at least, as of pre-January 6th, some  
15 attorney-client relationship between Ms. SoRelle and the  
16 Oath Keepers or Ms. SoRelle and any individual Oath Keepers?  
17 That's foundational question one.

18 And then, importantly, even if there is one --  
19 well, even if there is one, whether the particular message  
20 was, in fact, part of that relationship is an open question  
21 even if you can establish an attorney-client relationship.  
22 So, I mean, I don't need briefing on those things.

23 MR. LINDER: It won't be long. I don't have time  
24 to write a long brief. But I do believe we can establish  
25 factually that there was an attorney-client relationship

1       between Ms. SoRelle and at least Stewart Rhodes and the Oath  
2       Keepers. I don't know about the other members. I believe  
3       we can establish that.

4               The individual messages is going to be the  
5       problem. There's some that may be and some that may not be.  
6       So that's the hard part.

7               THE COURT: I mean -- well, let's see where things  
8       are. Can we -- today is Tuesday.

9               Mr. Nestler, is Thursday okay?

10              MR. EDWARDS: Thursday morning is fine, your  
11       Honor. Mr. Nestler is laughing because I think the message  
12       itself could be resolved right now.

13              THE COURT: No. I know you think that. And I  
14       want to -- my ultimate goal here is to -- if it turns out  
15       that that is not a message in furtherance of an  
16       attorney-client -- I shouldn't say in furtherance -- as part  
17       of an -- if it's not an attorney-client communication -- I  
18       want to give Mr. Linder an opportunity to talk about  
19       whatever messages may either precede or, you know, come  
20       after that so that I can make a firm ruling. And it's not  
21       appropriate for me to just make it in a vacuum. Mr. Linder  
22       has indicated he needs to review the surrounding messages  
23       which he only got last night.

24              So if we can, you know, set down Thursday morning  
25       for at least that one document, that would be helpful.

1 Mr. Linder?

2 Mr. Woodward.

3 MR. WOODWARD: I was invoking the Government's ire  
4 on my standing on this.

5 The communications that were provided over the  
6 weekend are communications that the filter team withheld  
7 from Mr. Rhodes's phones only. And so Mr. Rhodes's counsel  
8 does not yet have communications from Ms. SoRelle's phone.  
9 And unless and until we have those communications, we cannot  
10 be sure that we have constructed the complete picture of  
11 what that chat was.

12 MR. EDWARDS: That's not correct, your Honor.  
13 Just to clarify the record, Mr. Rhodes's counsel has the  
14 messages that were filtered out of SoRelle's phone. I  
15 believe that was October 6th, so it was a couple of days  
16 ago.

17 And I just -- you know, I know your Honor is  
18 tracking this. I just want to reiterate the messages that  
19 Mr. Linder got yesterday he had previously, but this was  
20 kind of an added benefit for us to just offer, you know, the  
21 selected highlighted messages --

22 THE COURT: Right.

23 MR. EDWARDS: -- from that large phone.

24 THE COURT: Look, I mean, you all need to do what  
25 you need to do. I'd like to be able to resolve this

1 Thursday morning before we get started. And I think giving  
2 you the evening and all day tomorrow and tomorrow evening  
3 ought to give you the time to review what you need to  
4 review. You've got a large defense team that can take a  
5 look and see what messages come before and after that might  
6 suggest this is part of an attorney-client communication.

7 So -- you know, maybe I don't even need to reach  
8 the issue of whether there's, in fact, an attorney-client  
9 relationship if the message is clearly not part of that  
10 communication -- I mean, is not an attorney-client  
11 communication even if there was a relationship.

12 MR. LINDER: Understood.

13 THE COURT: I mean, I don't know what you've read.  
14 I don't know what the Government's view is on this. But I  
15 do know Mr. Rhodes -- I've read that Mr. Rhodes and  
16 Ms. SoRelle may have had more than a professional  
17 relationship. I don't know whether the Government's  
18 position is whether some of these communications are a part  
19 of that relationship or something more professional. And  
20 so --

21 MR. LINDER: There are communications that we  
22 would say are privileged and communications we would  
23 probably acknowledge are not.

24 THE COURT: Okay. Well, the goal is to figure out  
25 which -- you know, what bucket they fall into.

1 We'll see everybody tomorrow morning.

2 Thank you.

3 MR. EDWARDS: Thank you, your Honor.

4 (Proceedings concluded.)

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**CERTIFICATE**

I, LISA EDWARDS, RDR, CRR, do hereby  
certify that the foregoing constitutes a true and accurate  
transcript of my stenographic notes, and is a full, true,  
and complete transcript of the proceedings produced to the  
best of my ability.

Dated this 11th day of October, 2022.

/s/ Lisa Edwards, RDR, CRR  
Official Court Reporter  
United States District Court for the  
District of Columbia  
333 Constitution Avenue, Northwest  
Washington, D.C. 20001  
(202) 354-3269

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