

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

ETHAN NORDEAN, JOSEPH R. BIGGS,  
ZACHARY REHL, ENRIQUE TARRIO and  
DOMINIC J. PEZZOLA,

Defendants.

Criminal Action  
No. 21-00175

Washington, D.C.  
March 20, 2023  
1:40 p.m.

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TRANSCRIPT OF THE JURY TRIAL - DAY 51

**AFTERNOON SESSION**

BEFORE THE HONORABLE TIMOTHY J. KELLY,  
UNITED STATES DISTRICT JUDGE

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1 (Whereupon, the jury enters the courtroom and the following  
2 proceedings were had:)

3 DEPUTY CLERK: We're back on the record in criminal  
4 matter 21-175, United States of America versus Ethan Nordean,  
5 et al.

6 THE COURT: All right. Let's bring the witness back.  
7 Mr. Smith, you may continue, sir.

8 MR. SMITH: Thank you, your Honor.

9 (TRAVIS NUGENT, DEFENSE WITNESS, PREVIOUSLY SWORN.)

10 CONTINUED DIRECT EXAMINATION

11 BY MR. SMITH:

12 Q. Good afternoon, Mr. Nugent.

13 A. Afternoon.

14 Q. I'm just going to orient you to where we left off before  
15 lunch. I asked you a question about a conversation at the food  
16 trucks.

17 Sorry, Mr. Nugent, can you hear me still?

18 A. Yes.

19 Q. So I asked you a question about the food trucks. Remember  
20 the video we saw where the group marching or standing out near  
21 the food trucks?

22 A. Yes.

23 Q. I asked you about a conversation where some members of the  
24 group wanted to head back to the hotels and some wanted to move  
25 on. Do you remember that?

1 A. Yeah.

2 Q. And you said the folks that wanted to go back to the hotels  
3 maybe explained that they were hung over?

4 A. Correct.

5 Q. You said among those that wanted to go back to the hotels  
6 was Mr. Nordean?

7 A. Correct.

8 Q. And then we watched a video clip of the scene outside the  
9 first barrier in the traffic circle, where some jumped over the  
10 barrier. Do you remember that one?

11 A. Correct.

12 Q. I think you testified that it seemed like a spontaneous  
13 occurrence to you?

14 A. Yes.

15 Q. Would you say those people outside that first barrier in  
16 the traffic circle were or were not acting with a herd  
17 mentality?

18 GOVERNMENT COUNSEL: Object to foundation.

19 THE COURT: Sustained.

20 BY MR. SMITH:

21 Q. So is there something about your particular experience,  
22 your work experience, that would lead you to compare a group of  
23 people to a herd?

24 A. No, not my work experience but...

25 Q. I'll let you finish the sentence.

1 A. My farm.

2 Q. Your farm?

3 A. Yeah.

4 Q. What do you have on your farm?

5 A. Cows and pigs and chickens and everything.

6 Q. Was there something about that scene outside the barrier  
7 that led you to believe that the people were kind of like the  
8 cows and pigs and chickens you raise?

9 A. Yeah, just herd mentality starts moving in a direction,  
10 everybody starts moving.

11 Q. So when you were marching towards the Capitol on  
12 January 6th, did you understand that the purpose of the march  
13 was to use force against people inside the Capitol building?

14 GOVERNMENT COUNSEL: Object to foundation.

15 THE COURT: Sustained as to foundation.

16 BY MR. SMITH:

17 Q. So I think you testified that you were next to Mr. Nordean  
18 and Biggs for much of the march towards the Capitol?

19 A. Correct.

20 Q. And you were having conversations with them along the way?

21 A. I wouldn't say conversations, but just bits and pieces.  
22 There was so much going on.

23 Q. Were you in close proximity for much of the march?

24 A. Yes.

25 Q. Did you understand that the reason you were marching

1 towards the Capitol was to use force against people inside the  
2 Capitol?

3 A. That's not correct.

4 Q. Why is that not correct?

5 A. Because there was never any discussion about using force  
6 against anybody who might be at the Capitol.

7 Q. Would that include police officers?

8 A. Not using force against police officers?

9 Q. Correct.

10 A. Yes, right.

11 Q. You testified earlier that you were a member of the Boots  
12 on the Ground and MOSD chat groups?

13 A. Correct.

14 Q. So what I want to do is look at a few bits and pieces of  
15 the march, as it was videotaped. Do you know someone named  
16 Eddie Block?

17 A. I do.

18 Q. Who is Eddie Block?

19 A. A Proud Boy from California.

20 Q. And do you understand that Eddie Block was filming the  
21 group that day?

22 A. Yes.

23 Q. So I'm going to bring up what's been marked as Nordean  
24 Exhibit 301. It's in evidence. And I'm at the 21 minutes and  
25 22 seconds mark.

1 (Whereupon, the exhibit was published in open court.)

2 Q. So do you recognize this building that's in the middle  
3 ground there, that I've drawn a yellow line under?

4 A. Yes.

5 Q. What's that?

6 A. The Washington Monument.

7 Q. Okay. And I'm just going to draw a circle around two  
8 people right here. The one on the left, who was that?

9 A. Myself.

10 Q. And the one with the kind of -- I don't want to say  
11 balding, but gray hair, black glasses, neck gaiter?

12 A. It appears to be Joe Biggs.

13 Q. Does this accurately reflect you waiting around near the  
14 Washington Monument before the group starts marching?

15 A. Yes.

16 Q. Okay. And it appears you're standing next to Joe Biggs  
17 there?

18 A. Yes.

19 Q. So I'm just going to move on to a second part of the march.  
20 I'm going to go to Nordean 301, 57 minutes and 28 seconds.

21 (Whereupon, the exhibit was published in open court.)

22 DEFENSE COUNSEL: If we can bring that up. Start it  
23 at Nordean 301 57 minutes and 9 seconds. It's difficult --  
24 I'll let this play for a bit.

25 (Whereupon, the exhibit was published in open court.)



1 BY MR. SMITH:

2 Q. So I'm drawing a yellow circle around someone right there.

3 Is that you?

4 A. Yes.

5 Q. You appear to be facing a group of people?

6 A. Yes.

7 Q. And does this group of people that you're facing in this  
8 clip, does it appear to be the group of people that's marching  
9 towards the Capitol?

10 A. I mean, I'm not sure.

11 Q. I'll let it play for a minute here.

12 (Whereupon, the exhibit was published in open court.)

13 BY MR. LEFT 1:

14 Q. Now, I'm going to focus your attention between these two  
15 bodies right there. I've drawn a circle around another figure  
16 with a black backwards baseball cap. You see that?

17 A. Yes.

18 Q. Who does that appear to be?

19 A. Ethan.

20 Q. Is he also facing the group of people?

21 A. It appears so.

22 Q. Let that play a second.

23 (Whereupon, the exhibit was published in open court.)

24 BY MR. SMITH:

25 Q. Just a second ago, there was another figure right there.

1 I'll draw a circle around that one. It looks like he was  
2 wearing a backpack, and he's wearing an Army fatigue baseball  
3 cap. Do you see that?

4 A. Yes.

5 Q. Do you know who that is?

6 A. I do not for sure.

7 Q. Does he appear to be facing the crowd too?

8 A. He does.

9 Q. So right now it appears that there's -- in our view right  
10 here, there's three people who might be facing the crowd of  
11 marchers here. It would be -- I think that's Ethan Nordean  
12 I've drawn a line next to, right?

13 A. Correct.

14 Q. Then there was one that you couldn't identify?

15 A. Correct.

16 Q. And then there was you right here, right?

17 A. Correct.

18 Q. And then there might be somebody else who looks like  
19 they're standing sideways. I just drew a circle around them.  
20 Okay.

21 A. Yeah.

22 Q. Okay. So I'm just going to bring this down and go to  
23 another part of the march here. So I'm going to go to  
24 Nordean 301 at 1 hour, 6 minutes and 51 seconds.

25 MR. SMITH: Bring that back up, Ms. Harris. Thank

1 you.

2 (Whereupon, the exhibit was published in open court.)

3 BY MR. SMITH:

4 Q. Now, let's bring this back one second here. This person  
5 right here, who's that?

6 A. Ethan.

7 Q. And do you know who's walking next to him?

8 A. Myself.

9 Q. And then do you see that -- there's another -- the  
10 individual with the tan -- the Army fatigue cap we were looking  
11 at before?

12 A. Yeah.

13 Q. Does it appear that you, Ethan and that other individual  
14 are walking at the lead of the group here?

15 A. Yes.

16 Q. Okay. So I'm going to bring that one down and just jump  
17 forward a little bit ahead in time to 1 hour, 13 minutes and  
18 6 seconds. Bring that up.

19 (Whereupon, the exhibit was published in open court.)

20 BY MR. SMITH:

21 Q. So here we have the figure with the fatigue hat again,  
22 right?

23 A. Right.

24 Q. Do you recognize him from that angle?

25 A. I don't know his name for sure. I recognize him as an

1 individual but not the name. I don't know his name for sure.

2 Q. Did you see him walking with the -- in close contact with  
3 Joseph Biggs and Ethan Nordean on the 6th?

4 A. I mean, I don't recall him in particular.

5 Q. Okay. And then I'm going to just draw one more circle  
6 around someone else. Who's that?

7 A. It appears to be myself.

8 Q. Does it appear that you, Joseph Biggs and the man with the  
9 fatigue hat are, again, facing the crowd of people walking  
10 towards the Capitol building in the background?

11 A. Yeah, it would appear.

12 MR. SMITH: Okay. Play that for a second.

13 (Whereupon, the exhibit was published in open court.)

14 BY MR. SMITH:

15 Q. So that would be you right there?

16 A. Correct.

17 Q. And I've drawn around a circle on someone else. That's  
18 Joseph Biggs?

19 A. Correct.

20 Q. And then we could see the -- we can sort of tell where we  
21 are at this point in the march because we can see the Capitol  
22 in the background right there.

23 I've gone back to 1 hour, 16 minutes and 44 seconds, and  
24 I'm circling the building. You can see that?

25 A. Yes, correct.

1 Q. I'm just going to jump forward in time a little bit. Go to  
2 1 hour, 18 minutes and 5 seconds.

3 MR. SMITH: Bring this one up here. Thank you,  
4 Ms. Harris. I'm going to let this play.

5 (Whereupon, the exhibit was published in open court.)

6 BY MR. SMITH:

7 Q. Now, it looks here that there's a large group of marchers  
8 under the arrow I've drawn, right?

9 A. Correct.

10 Q. It looks like they're facing a group of people standing on  
11 the grass in the middle ground there, right?

12 A. Yes, correct.

13 Q. There's a group of people standing in the circle I've just  
14 drawn?

15 A. Correct.

16 Q. One of them is -- who's that I've drawn a line next to?

17 A. Ethan.

18 Q. Okay. And the one I've drawn -- I'll draw another circle  
19 right there.

20 A. That would be myself.

21 Q. Okay. And this is -- I've drawn around circle around  
22 someone else.

23 A. It appears to be Biggs.

24 Q. Now, would you say that Mr. Biggs -- I've drawn a line  
25 there -- Mr. Nordean were leading this group of people?

1 A. Yes.

2 Q. And in this photograph, can you tell that they're leading  
3 the group of people?

4 A. I mean, I would assume it would appear to be that way,  
5 yeah.

6 Q. Because the -- they are in a group of people, a smaller  
7 group of people, facing the large body of people?

8 A. Yeah.

9 Q. And you indicated that you were one of those people in that  
10 group, right?

11 A. Right.

12 Q. Okay.

13 MR. SMITH: I'm going to go now to a point closer in  
14 time at the Capitol, 1 hour, 35 minutes and 31 seconds. I'll  
15 let this play here, Ms. Harris. Thank you.

16 (Whereupon, the exhibit was published in open court.)

17 BY MR. SMITH:

18 Q. Before I start playing, can you see that I've drawn a  
19 circle around the Capitol building right there?

20 A. Yes.

21 Q. Does it appear that we're closer in time now to the Capitol  
22 than we were in the clips we showed before?

23 A. Yes.

24 MR. SMITH: I'm just going to let this play for a  
25 second. Actually --

1 BY MR. SMITH:

2 Q. So I've drawn a line in a circle -- I've drawn a circle  
3 around two people that appear to be on a different level than  
4 the crowd on the ground, right?

5 A. Right.

6 Q. They're standing above them?

7 A. Yes.

8 Q. Okay. And who is the person I've drawn a line next to  
9 there with a megaphone?

10 A. That's Ethan.

11 Q. Who is the person standing next to Ethan?

12 A. Myself.

13 Q. And, again, if you can tell from this posture, does it  
14 appear that this group of people standing on the upper level is  
15 directing the crowd that's facing them?

16 A. I believe they were setting up for a picture at that point  
17 in time.

18 Q. Okay. Okay.

19 MR. SMITH: Let's bring that down.

20 BY MR. SMITH:

21 Q. So now I'm going to bring us closer to the Capitol at  
22 1 hour and 50 minutes and 40 seconds.

23 MR. SMITH: Ms. Harris, permission to publish that one  
24 more time. Thank you.

25 (Whereupon, the exhibit was published in open court.)

1 BY MR. SMITH:

2 Q. So here we have a small group of people who appear to be in  
3 conversation here, right?

4 A. Yes.

5 Q. And who was that one I've drawn the line next to?

6 A. It appears to be Biggs. It's kind of a dark image.

7 Q. I've drawn another line. Who does that appear to be?

8 A. Ethan.

9 Q. Do you know who this individual is with a ponytail?

10 A. I can't be sure of his name, but I do recognize him as an  
11 individual.

12 Q. Do you recognize him because, on the march, this individual  
13 with the ponytail was in close proximity to Mr. Biggs and  
14 Mr. Nordean?

15 GOVERNMENT COUNSEL: Object to leading.

16 MR. SMITH: I can ask him why he recognizes that.

17 THE COURT: Sustained -- overruled. The objection is  
18 overruled.

19 MR. SMITH: Okay.

20 BY MR. SMITH:

21 Q. So why do you recognize the individual with the ponytail?

22 A. Because he was with us that day and I'd seen him at other  
23 events.

24 Q. When you say "us," do you mean just the crowd, generally,  
25 or do you mean the group of people I've drawn a circle around?



1 A. I mean, I would say both. I mean, with the smaller group  
2 as well, just generally.

3 Q. When you say "the smaller group," are you referring to the  
4 group that I'm drawing a circle around here?

5 A. Yeah. At this particular time, yeah. This group, yeah,  
6 that you're drawing a circle around.

7 Q. What would you call that group, if anything?

8 A. Proud Boys.

9 Q. The group in the circle?

10 A. Yeah.

11 Q. So I've drawn a final line right there. Can you tell from  
12 the hat and the baseball cap here -- I can let it keep playing  
13 for a second, but can you tell from that cap who that is?

14 A. That's my hat.

15 Q. So does it appear right here that you're in some sort of  
16 conversation with Mr. Nordean, Mr. Biggs and the individual  
17 with the ponytail?

18 A. I mean, it would appear that way, I guess.

19 Q. I'll let it play for a second.

20 (Whereupon, the exhibit was published in open court.)

21 BY MR. SMITH:

22 Q. Were you able to see how Mr. Nordean was pointing in a  
23 certain direction?

24 A. Right.

25 Q. Did it appear you were pointing as well?

1 MR. SMITH: I'll just go back here for one second.

2 This is a very long video.

3 I'm going to move on to the next clip, so we don't  
4 hold this up.

5 BY MR. SMITH:

6 Q. So I'm going to go to Nordean Exhibit 345 and ask if you  
7 recognize this scene. It's Nordean 345, item G1085. This is  
8 in evidence.

9 I'll publish this to the jury.

10 (Whereupon, the exhibit was published in open court.)

11 BY MR. SMITH:

12 Q. So now, I think -- can you see this image, Mr. Nugent?

13 A. Yes.

14 Q. We appear to be, in this image, even closer still to the  
15 Capitol at this point, right?

16 GOVERNMENT COUNSEL: Object to leading.

17 THE COURT: Sustained.

18 BY MR. SMITH:

19 Q. Do we appear to be closer to the Capitol in this image than  
20 in the earlier photos we were looking at?

21 A. Yeah, correct.

22 Q. Okay. And, again, I've drawn a circle around someone with  
23 a black neck gaiter. Who is that?

24 A. Myself.

25 Q. And who appears to be standing next to you at the yellow

1 line I've just drawn there?

2 A. Joe Biggs.

3 Q. Again, he is the individual with the Army-colored hat?

4 A. Correct.

5 Q. It appears -- I think you testified that you were in close  
6 company with Mr. Nordean for much of the march?

7 A. Correct.

8 GOVERNMENT COUNSEL: Object to leading.

9 THE COURT: Overruled.

10 BY MR. SMITH:

11 Q. And that would include -- were you also or were you not  
12 also in close company with Mr. Biggs during the march?

13 A. Yes.

14 Q. So I'm just going to let this clip play for a second here.

15 (Whereupon, the exhibit was published in open court.)

16 BY MR. SMITH:

17 Q. Now, were you watching yourself in that clip?

18 A. Yes.

19 Q. And did it appear to you or did it not appear that you were  
20 gesturing with your hand?

21 A. I was.

22 Q. And do you see where you're gesturing right now?

23 A. Correct.

24 Q. What direction was that -- is that?

25 A. That would have been back towards the Washington Monument.

1 Q. Were you able to hear yourself say, "We're heading back,"  
2 or were you not able to hear that?

3 A. Yeah, it appeared that I was questioning whether or not we  
4 were heading back after we went around the other side.

5 Q. And when you were referencing "heading back," you meant  
6 where?

7 A. I can't be for sure, but I would assume back towards, like,  
8 the Washington Monument or the White House or the rally that  
9 was happening at the White House.

10 Q. Why would you assume that?

11 A. Because, I mean, that's just -- that's kind of what the  
12 plan was, is we were there to, like, kind of stick up for  
13 people. So be around the rally.

14 Q. And by "the rally," you mean the one that was -- do you  
15 mean the one that was on the Ellipse, or do you mean some other  
16 rally?

17 A. I'm not sure what the Ellipse is, but that Trump was  
18 having.

19 Q. You testified that that was your understanding of the plan  
20 for the march?

21 A. What do you mean as far as --

22 Q. Well, you testified that you assumed that you were pointing  
23 back to the rally because that's your understanding of the plan  
24 for the march, was to come down here towards the Capitol and  
25 then head back to the rally?

1 A. Watching the clip, it appears that I'm kind of trying to  
2 get confirmation as to that's what the plan was.

3 Q. And that was, at the time, your understanding of the plan?

4 A. Correct.

5 Q. Okay. Now, we'll go a little bit further here. We'll go  
6 to Government Exhibit 492FX. And this is in evidence.

7 Give me one second here, I'm sorry. It's a lot of  
8 exhibits. Okay. I'm going to put this up.

9 (Whereupon, the exhibit was published in open court.)

10 BY MR. SMITH:

11 Q. And I'm going to go to -- I'm going to go to -- I'm going  
12 to pause this for a minute and go to 34 seconds here.

13 Now, Mr. Nugent, earlier we talked about that scene at the  
14 traffic circle where the people that were protesting there  
15 started going over the barriers, right?

16 A. Right.

17 Q. Did there come a time when you -- after people walked past  
18 the barriers, they moved closer to the Capitol building?

19 A. Can you repeat that question?

20 Q. Do you remember that scene outside the protest -- the  
21 traffic circle with people -- the protesters were standing  
22 around and then, all the sudden, you said it was "spontaneous."  
23 That people started going over the barriers?

24 A. Correct.

25 Q. Did that group of people then move closer to the Capitol

1 building?

2 A. Yes. I believe they were kind of going all the way up to  
3 the steps.

4 Q. Up the steps, you said?

5 A. Yeah.

6 Q. So I'm just going to draw two circles right here. And I've  
7 drawn a line above one.

8 Who is that, I've drawn in the circle, with the backwards  
9 baseball cap?

10 A. Ethan.

11 Q. Ethan Nordean?

12 A. Correct.

13 Q. And then I've drawn a second circle right here and a line  
14 right there. And who is that?

15 A. Myself.

16 Q. And is that your hand touching Mr. Nordean's back?

17 A. Yes, it appears to be.

18 Q. Why are you touching his back there?

19 A. Just looking at it, it appears that we're trying to make  
20 sure to stay together in the crowd.

21 Q. Why would you want to stay together?

22 A. I can't be for sure, to an exact reason for that. But  
23 we're there together, so...

24 Q. Were you -- did you grab his hand -- or his back as part of  
25 a plan?

1 A. No.

2 Q. Did you grab his back because you understood this was  
3 something called a "stack formation"?

4 A. No.

5 Q. Okay. You never had a conversation with Mr. Nordean about  
6 a stack formation?

7 A. No.

8 Q. I'm going to bring up what's been marked as Government  
9 Exhibit 492G, and I'm going to go to 21 minutes and 15 seconds.

10 I'll publish it there.

11 (Whereupon, the exhibit was published in open court.)

12 BY MR. SMITH:

13 Q. Can you see that image, Mr. Nugent?

14 A. I can.

15 Q. Does it appear to you that we are -- in this image, do we  
16 look like we're closer to the Capitol building at this point?

17 A. Yes.

18 Q. Can you tell that from this -- can you see these like --  
19 this scaffolding in the background there?

20 A. Yes.

21 Q. Do you remember standing close to the Capitol like this?

22 A. Yes.

23 Q. I'm just going to draw circles right here. Again, this is  
24 you, right, that I've drawn a line next to?

25 A. Correct.

1 Q. And this is Mr. Nordean?

2 A. Yes.

3 Q. Do you recall being close to Mr. Nordean, at this point in  
4 time, when you're near the Capitol building?

5 A. I mean, yes. But details behind that, I don't know.

6 Q. We can get to that.

7 I'm going to draw a circle around one more person right  
8 here. Do you see that person?

9 A. Yes.

10 Q. Who is that?

11 A. I'm not sure.

12 Q. Did you see him on the march?

13 A. I don't recall.

14 Q. So keeping in mind what we were just looking at, you  
15 testified you remember being there next to the steps, right?

16 A. Correct.

17 Q. Okay. I'm going to bring up Nordean Exhibit 317 --  
18 actually, rather, first I'm going to bring up Government  
19 Exhibit 452. Apologies.

20 And I'm going to go to 1 minute and 18 seconds. And I'll  
21 publish that.

22 (Whereupon, the exhibit was published in open court.)

23 BY MR. SMITH:

24 Q. Now, Mr. Nugent, can you see how I'm drawing a circle  
25 around the scaffolding?



1 A. Yes.

2 Q. Does this appear to be the same scaffolding we were looking  
3 at in the last image?

4 A. It appears, yes.

5 Q. Can you see Mr. Nordean? I've circled him in yellow there.

6 A. I can.

7 Q. Now, I'm going to draw another circle around somebody  
8 wearing a blue jacket. Do you see that?

9 A. Yes.

10 Q. Do you know who that person is?

11 A. No, not for sure.

12 Q. I'm going to play this for a second for you and ask you if  
13 you saw this.

14 (Whereupon, the exhibit was published in open court.)

15 BY MR. SMITH:

16 Q. Do you see -- I'll ask you whether you saw something there.  
17 I'll play that again.

18 (Whereupon, the exhibit was published in open court.)

19 BY MR. SMITH:

20 Q. I'm going to ask you to watch the interaction of  
21 Mr. Nordean and the person in the blue jacket here.

22 GOVERNMENT COUNSEL: Your Honor, I'd object to 403  
23 cumulative, to the extent he's asking the witness to describe  
24 videos that don't depict his own conduct.

25 THE COURT: For now, overruled.

1 BY MR. SMITH:

2 Q. Can you watch those two figures, Mr. Nordean and the person  
3 in the blue jacket?

4 (Whereupon, the exhibit was published in open court.)

5 BY MR. SMITH:

6 Q. Did it appear that he grabbed him there?

7 A. It did appear that way.

8 Q. Do you recall seeing Mr. Nordean stopping some protesters  
9 when they were confronting the police?

10 A. Not stopping any one individual, but I did see him marching  
11 between the people and the police, kind of keeping, like, a  
12 buffer zone between the police and --

13 Q. Let me clarify something. Do you recall that or are you  
14 just saying what you saw in this video?

15 A. No. I recall him -- this particular scene, I don't recall.

16 Q. Right.

17 A. But I recall him marching. He was kind of going back and  
18 forth between the police and the protesters.

19 Q. And what was your -- what was he doing?

20 GOVERNMENT COUNSEL: Object to foundation.

21 THE COURT: Overruled as to the question, what was he  
22 doing?

23 BY MR. SMITH:

24 Q. What was he doing?

25 A. I can't be for sure, what he was doing. I didn't really

1 get a clear conversation or anything, but I perceived he was  
2 trying to keep that peace between, you know, having people  
3 attack officers.

4 Q. Having people attack officers and who, the crowd?

5 A. The crowd attacking officers, yeah.

6 Q. So there came a time when you -- well, did you go inside  
7 the building?

8 A. No.

9 Q. Did you leave?

10 A. I did leave.

11 Q. About when -- relative to the scene we saw there,  
12 approximately, how long were you there before you left?

13 A. I can't be for certain, but I would say maybe within a half  
14 hour of that or so. That's -- as far as time goes, that's  
15 really hard to determine.

16 Q. And did you speak to Mr. Nordean before you left?

17 A. We never really had a conversation, but I did go up and say  
18 something to him. I don't remember -- I don't remember if  
19 there was a lot of back and forth to that.

20 Q. What did you say to him, if you remember?

21 A. I told him that we should probably be getting out of here  
22 and this wasn't a good idea.

23 Q. And did you say that you can remember if he said something,  
24 or if he didn't say something?

25 A. I don't remember that he said anything. I mean, I don't

1 even know that he heard me, for sure, with everything going on.

2 Q. Now, at that point, we just saw video of you and

3 Mr. Nordean standing next to each other, right?

4 A. Correct.

5 Q. Do you know -- do you recall whether any of the members of

6 the marching group had already gone on forward at that point,

7 beyond where you and Mr. Nordean were standing?

8 A. I don't know for sure. Are we back to the fountain?

9 Q. That's a good question. Let me just -- I'll bring it up to

10 you again, so you can just -- this is Government

11 Exhibit 452F -- 452 at 1 minute and 20 seconds. I'm just going

12 to go to 1 minute and 18 seconds.

13 So you remember we looked at two videos and we saw the  
14 scaffolding in the background?

15 A. Correct.

16 Q. And so I'm asking you about roughly, this point in time,  
17 how long you think you were there before you decided to leave?

18 A. I mean, I don't know exactly when this happened, but I  
19 would say a half hour, 45 minutes, maybe. I'm really unsure,  
20 though, as far as timeline.

21 Q. So you indicated that you told Mr. Nordean that you wanted  
22 to take off because it was not a good idea to be there, right?

23 A. Right.

24 Q. Do you recall whether before that point in time,

25 Mr. Nordean said he needed to find his friends?

1 GOVERNMENT COUNSEL: Object to hearsay.

2 MR. SMITH: Statement of intent.

3 THE COURT: Overruled.

4 THE WITNESS: I don't recall at this point.

5 BY MR. SMITH:

6 Q. Okay.

7 A. That for sure.

8 Q. Do you recall him saying that at any other point?

9 A. I'm not a hundred percent for certain that he said that.

10 Q. Are you any other percent certain?

11 A. When he left the Rotunda or the --

12 Q. Traffic circle?

13 A. When we first went up there before you see us holding on, I  
14 vaguely remember I was talking about, hey, we got to go get  
15 everyone.

16 Q. What do you mean by getting everyone?

17 A. Just the Proud Boys, the guys.

18 Q. Is that -- why would you be talking about getting them?

19 A. Well, because we weren't supposed to be up there.

20 Q. By get them, do you mean like they had moved ahead or --

21 A. Yeah.

22 Q. Okay.

23 A. Yeah, most all of them had already pushed up to this  
24 location by the time Ethan and I had walked up there.

25 Q. Okay. I'm going to bring up Nordean Exhibit 301, one more

1 time, and go to 3 hours and 17 seconds.

2 3 hours, 17 minutes and 52 seconds.

3 A. One more time?

4 Q. 3 hours, 17 minutes and 52 seconds. Can you see this,  
5 Mr. Nugent?

6 A. Yes.

7 (Whereupon, the exhibit was published in open court.)

8 BY MR. SMITH:

9 Q. Does this appear to be Mr. Nordean here in the immediate  
10 foreground?

11 A. Yes.

12 Q. Did you see him raise his hand?

13 A. Yes.

14 Q. Did you hear someone say "Ho"?

15 A. Yes.

16 Q. Do you have an understanding from the march about what that  
17 means?

18 A. To stop.

19 (Whereupon, the exhibit was published in open court.)

20 BY MR. SMITH:

21 Q. Do you see Mr. Nordean right there?

22 A. Yes.

23 Q. What is he doing there?

24 A. Trying to get people to stop.

25 Q. Do you have an understanding of what people he's trying to

1 get to stop?

2 A. Our crew.

3 Q. Is that consistent with the interaction you said you had  
4 with him, where he said he was going to try to find people that  
5 went ahead?

6 A. Correct.

7 Q. So after January 6th, I think -- strike that.

8 You testified that you were in some of the Telegram chats  
9 with the Proud Boys, right?

10 A. Correct.

11 Q. After January 6th, did you continue chatting in some of  
12 those Telegram chats?

13 A. Maybe for a day or two.

14 Q. Was there a time where you had conversations about whether  
15 to delete messages?

16 A. At one point in time, I had mentioned to delete them, like  
17 clear the chat.

18 Q. Why did you say that?

19 A. Just so it was no longer there.

20 Q. Well, fair enough. Why did you not -- was there any  
21 particular person that you didn't want to see it?

22 A. Not in particular. We usually try to clean everything up,  
23 especially from, like, Antifa groups and stuff.

24 Q. Would you be concerned about Antifa groups seeing those  
25 chats?

1 A. At the time, probably, yeah.

2 Q. Why?

3 A. Just because it has information about what we were doing.

4 Q. Have you heard that Antifa people have doxxed Proud Boys  
5 before?

6 A. Highly doxxed.

7 Q. And you've been doxxed before by Antifa?

8 A. Correct.

9 Q. What happened?

10 A. Attacked my home, put letters in the mailbox, telling my  
11 neighbors, harassed me, put posts on Craig's List of me selling  
12 furniture, and just have people come pick it up.

13 Q. Do you know if that's happened to other Proud Boys members?

14 A. Absolutely.

15 Q. So basically, your experience with these Telegram chats was  
16 there some fear that chats would get out and they would be  
17 doxxed?

18 GOVERNMENT COUNSEL: Object to leading.

19 THE COURT: Sustained.

20 BY MR. SMITH:

21 Q. Was there or was there not a fear among other Proud Boys,  
22 in your experience, based on your interactions, of being doxxed  
23 by Antifa?

24 GOVERNMENT COUNSEL: Object to foundation.

25 THE COURT: Overruled.



1 BY MR. SMITH:

2 Q. Do you understand the question? Do you want me to ask it  
3 again?

4 A. There was very much a fear.

5 Q. Okay. In your experience, did that lead some Proud Boys to  
6 want to get rid of messages?

7 A. Yes.

8 Q. So just two more questions. You have testified in the  
9 grand jury in this case, correct?

10 A. Yes.

11 Q. The Government asked you to testify, correct?

12 A. Yes.

13 Q. And you told -- did you or did you not tell the truth  
14 there?

15 A. Yes, I told the truth.

16 Q. And you have not been charged with an offense in this case,  
17 correct?

18 A. With what?

19 Q. With any crime in this case?

20 A. No.

21 MR. SMITH: That's all, Your Honor. Thank you.

22 THE COURT: Let me just hear counsel quickly at  
23 sidebar.

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

1 THE COURT: Is there any counsel that wants a direct?

2 MR. JAUREGUI: Judge, Sabino Jauregui for Tarrio. A  
3 short direct, Your Honor.

4 THE COURT: All right. And I see Ms. Hernandez with  
5 her hand up as well.

6 All right. So we'll go Ms. Hernandez, Mr. Jauregui.

7 MR. SMITH: Is there an opportunity we can just confer  
8 very briefly before we proceed? Is that -- just to get --  
9 about two minutes?

10 THE COURT: Two minutes?

11 MR. SMITH: I'm sorry, maybe 30 seconds.

12 (Whereupon, the following proceedings were had in open  
13 court:)

14 MR. SMITH: I'm going to get out of the way, Judge.  
15 Thank you.

16 THE COURT: All right. Very well.

17 Can I also just ask, Counsel, if there's a way for  
18 counsel who are -- well, I'm told the court reporter is picking  
19 up a lot of noise from the counsel table -- counsel table,  
20 generally.

21 So if there's a way if you're -- if you're not going  
22 to be -- if you're one of the two who are not objecting or if  
23 there's a way to try to keep -- for the attorneys to keep their  
24 mouths away from the microphone, it would be appreciated.

25 Ms. Hernandez, you may proceed.

~~Nugent~~ DIRECT

DIRECT EXAMINATION

BY MS. HERNANDEZ:

Q. Good afternoon.

A. Good afternoon.

Q. I represent Zachary Rehl. You were shown a picture of him several times and didn't recognize him very well.

Do you know who he --

MS. HERNANDEZ: Mr. Rehl, can you stand up, please?

THE COURT: Ms. Hernandez, I cannot hear you.

MS. HERNANDEZ: Sorry.

BY MS. HERNANDEZ:

Q. That's Zack Rehl. You were shown several pictures of him on the screen before and you did not recognize him. Do you recall that?

A. Yes, I recall.

Q. Have you seen him before?

A. I have.

Q. But he wasn't that familiar to you during the march? You didn't see him very much?

A. Correct. He hasn't been very familiar to me ever.

Q. So you have not had very many contacts with him?

A. No, I don't believe so.

Q. So on January 6th, during the march or at any time on January 6th, did you see Mr. Rehl carrying any weapons?

A. I don't recall it.

~~Nugent~~ DIRECT

1 Q. I'm sorry?

2 A. I don't recall it.

3 Q. Okay. Or you didn't see him with a flagpole or a walking  
4 stick or anything like that?

5 A. I wouldn't recall.

6 Q. Flex cuffs?

7 GOVERNMENT COUNSEL: Asked and answered. He doesn't  
8 recall.

9 THE COURT: What was the question?

10 MS. HERNANDEZ: Flex cuffs.

11 THE COURT: You may answer the question, sir. The  
12 objection is overruled.

13 THE WITNESS: I don't recall.

14 BY MS. HERNANDEZ:

15 Q. How about any bear spray or irritant or anything like that?

16 GOVERNMENT COUNSEL: Object to foundation on 403.  
17 Doesn't recall.

18 THE COURT: Overruled.

19 THE WITNESS: I don't recall.

20 BY MS. HERNANDEZ:

21 Q. And did you see him knocking over any bike racks?

22 A. I did not.

23 Q. Or fences?

24 A. I did not.

25 Q. Or scaffolding?

~~Nugent~~ DIRECT

1 A. I did not.

2 Q. Or did you see him throw any bottles or projectiles?

3 A. I did not.

4 Q. Did you see him push, hit or spit on any law enforcement  
5 officer?

6 A. No, I did not.

7 Q. Impede any law enforcement officer?

8 A. No, I did not.

9 Q. Take any police equipment, such as a shield, a baton or any  
10 other weapon?

11 A. I didn't.

12 Q. And you didn't see him help anybody do any of those things?

13 A. No.

14 Q. You didn't see him break or damage any property on the U.S.  
15 Capitol?

16 A. I did not.

17 THE COURT: Sir, can you -- you need to keep your  
18 voice up.

19 THE WITNESS: Sorry.

20 THE COURT: It's okay.

21 BY MS. HERNANDEZ:

22 Q. You didn't see him helping anyone do any of those things,  
23 correct?

24 A. I did not.

25 MS. HERNANDEZ: Thank you. I have no other questions,

~~Nugent~~ DIRECT

1 Your Honor.

2 DIRECT EXAMINATION

3  
4 BY MR. JAUREGUI:

5 Q. Good afternoon, sir. My name is Sabino Jauregui. I  
6 represent Enrique Tarrío. I just have a few questions for you.

7 A. Okay.

8 Q. Did Tarrío cooperate with the local police whenever a rally  
9 was being held?

10 A. Outside of January 6th, you're asking?

11 Q. Yes, sir.

12 A. Absolutely.

13 Q. Okay. Would he call the police or email, message, to  
14 inform them of your plans?

15 A. Yes.

16 Q. Did Tarrío also cooperate with the FBI before holding  
17 rallies?

18 A. Yes.

19 Q. And actually, were you present in Portland when Enrique  
20 cooperated with law enforcement there in Portland?

21 A. Yes.

22 Q. Once Enrique was arrested here in D.C., did somebody step  
23 up to take leadership of the Proud Boys for January 6th?

24 A. It was briefly spoken about that Ethan would -- Ethan and  
25 Joe would kind of do that.

~~Nugent~~ DIRECT

1 Q. And is it true that everybody was -- I guess, they didn't  
2 know what to do once Enrique was arrested?

3 A. Yes.

4 Q. And, actually, you guys didn't even know where Enrique was.  
5 You were searching to find out where he was being held?

6 A. I spent, myself, probably five hours looking for him the  
7 day before.

8 Q. On the night of the 5th, did you get to speak to a guy  
9 named Kenny Lizardo?

10 A. I don't recall.

11 Q. Did you ever learn if Kenny Lizardo was with Enrique Tarrio  
12 the whole day of the 5th?

13 A. Can you repeat that question?

14 Q. Sure. Did you learn later that Kenny Lizardo was with  
15 Enrique Tarrio on the 5th of January most of the day?

16 A. No, I didn't.

17 Q. Okay. Thank you, sir.

18 Was it the original agreement way back when for Enrique to  
19 give a speech on January 6th at the \*Latinos for Trump's  
20 speech?

21 A. I do briefly remember some kind of conversation about that,  
22 yeah, in the chats.

23 MR. JAUREGUI: That's all I have. Thank you very  
24 much, sir.

25 THE COURT: All right. Cross-examination from the

1 Government.

2 CROSS-EXAMINATION

3 BY MR. MULROE:

4 Q. Good afternoon, Mr. Nugent.

5 A. Hello.

6 Q. Are you doing all right?

7 A. I'm a little nervous.

8 Q. A little nervous?

9 A. Yeah.

10 Q. Mr. Nugent, sitting here today, you are no longer a Proud  
11 Boy, correct?

12 A. Correct.

13 Q. There was a time, though, that you were?

14 A. Correct.

15 Q. And during that time, being a Proud Boy was an important  
16 part of your life, wasn't it?

17 A. Yes.

18 Q. Fair to say that your perspective on some things today is a  
19 little different from how it was back then?

20 A. Can you kind of elaborate on that?

21 Q. Well, when you were a Proud Boy, you said and did some  
22 things that maybe you would have said or done differently than  
23 you would today; is that fair to say?

24 A. I mean, I'm not really sure how to answer that, to be  
25 honest.



1 Q. I'll ask you this, Mr. Nugent. Some of the questions I'm  
2 going to ask you are going to involve things that you said and  
3 that you did back when you were a Proud Boy. Do you understand  
4 that?

5 A. Right.

6 Q. When you answer those questions, you're going to need to do  
7 your best to try to put yourself back into that mindset, even  
8 if that's not so easy to do; is that fair?

9 A. Fair.

10 Q. This jury, you understand, needs to appreciate the  
11 perspective that you had going into January 6th.

12 DEFENSE COUNSEL: Objection. He's a fact witness.

13 THE COURT: Overruled.

14 BY MR. MULROE:

15 Q. The jury has got to understand the perspective that you  
16 had, Mr. Nugent, going into January 6th; is that fair?

17 MS. HERNANDEZ: Objection. Relevance.

18 MR. JAUREGUI: Counsel --

19 THE COURT: Sustained as to that.

20 BY MR. MULROE:

21 Q. Are you going to do your best to put yourself back in that  
22 mindset, Mr. Nugent?

23 A. Yes.

24 Q. Now, when you agreed to rally with the Proud Boys on  
25 January 6th, you had been a member of the club for two years at

1 that point, correct?

2 A. I believe so, yes.

3 Q. During those two years, you had developed a fair amount of  
4 experience as a Proud Boy?

5 A. You can say that, yes.

6 Q. You had the opportunity to take part in rallies?

7 A. Yes.

8 Q. You had the opportunity to meet members of national  
9 leadership?

10 A. Yes.

11 Q. Do those include some of the defendants here on trial?

12 A. Yes.

13 Q. And you have been in different Proud Boys group chats on  
14 Telegram, right?

15 A. Yes.

16 Q. And you used the Telegram handle CR Boy as your Telegram  
17 name, right?

18 A. Yes.

19 Q. FBI has shown you some messages that you sent on Telegram  
20 before?

21 A. Yes.

22 Q. And you've never denied that those were you messages,  
23 correct?

24 A. No.

25 Q. You understand that some of those chats were found in

1 Enrique Tarrio's phone?

2 A. Makes sense.

3 Q. You understand that some of those chats were found in Ethan  
4 Nordean's phone?

5 A. Yes.

6 Q. Ethan Nordean had you saved in his phone as Travis  
7 Vancouver PD; does that sound right?

8 A. Sure. I wouldn't know for sure.

9 Q. Other than the MOSD and the Boots on the Ground chat, you  
10 were part of other Telegram chats as well, correct?

11 A. Correct.

12 Q. About other rallies and kind of general Proud Boys  
13 conversations?

14 A. I wouldn't necessarily say other rallies. There was  
15 different chats for you name it, everything.

16 Q. Other events?

17 A. There was definitely events in other chats for events, I  
18 guess.

19 Q. And all those chats, I mean, people were pretty active in  
20 those chats, correct?

21 A. Yes.

22 Q. All those events and all those chats sort of shaped your  
23 perspective?

24 MR. JAUREGUI: I'm going to object at this point as to  
25 scope.

1 THE COURT: Let me just hear you at sidebar briefly.

2 (Whereupon, the following proceedings were held at sidebar  
3 outside of the presence of the jury:)

4 THE COURT: Mr. Jauregui, he talked about Portland.  
5 He talked about all sorts of things about his experience with  
6 the Proud Boys. I don't know what to say.

7 MR. JAUREGUI: Judge, the testimony was very limited  
8 in scope by Mr. Smith, and I asked him just one question about  
9 whether or not Enrique cooperated with law enforcement in  
10 Portland. Now we're getting into a whole universe of Telegram  
11 chats that are going to vary in scope. The Government is  
12 probably going to go back into August now, which is completely  
13 outside the scope of his testimony today.

14 THE COURT: Also, if there's something that bears on  
15 his credibility, as we went through with the agent and other  
16 things, I think that's fair game. If there's something related  
17 to the case that bears on the credibility, I think that's fair  
18 game.

19 Where are going, Mr. Mulroe, just to sort of lay this  
20 out?

21 MR. MULROE: Your Honor, I'm about to tie this  
22 directly to January 6th, and then I may go back, as necessary,  
23 depending on what he admits or resists. But I do think it's  
24 all within the scope. They asked about these past rallies.

25 THE COURT: What is the overall relevance, though, of

1 where we're going?

2 MR. MULROE: Your Honor, I'll just say I'm about to  
3 ask him whether he had every reason to believe that violence  
4 was in store for January 6th. And that makes all of this  
5 relevant.

6 THE COURT: All right. I mean, that's a fair  
7 question. We'll see what he says.

8 Ms. Hernandez.

9 MS. HERNANDEZ: Your Honor, this whole notion of  
10 mindset. I think he's been asked about facts, what happened,  
11 what he saw, what he did on January 6th. What others saw --  
12 excuse me.

13 THE COURT: Go ahead, continue.

14 MS. HERNANDEZ: Sorry. So the questions were  
15 photographs or videos were shown to him. What did you see?  
16 What did you do? What did Nordean say to you? What did you  
17 hear him say? This whole notion of state of mind, I don't  
18 think there were any questions about state of mind. It was  
19 just a factual description of what he saw and what he did that  
20 day.

21 THE COURT: There were many questions about what did  
22 you expect and what was the plan that day. I think this is,  
23 you know, barely within that. So you need --

24 MR. JAUREGUI: Judge, but we're talking about that  
25 day, January 6th. Now we're going back months and months. So

1 his state of mind in August, October, November makes no  
2 difference as to what happened on January 6th.

3 THE COURT: He may say, no, that has nothing to do  
4 with it, but I think they get to ask the question. It's a fair  
5 question, and if he says no, then no. But I think it's a fair  
6 question to ask whether things prior to January 6th affected  
7 what his state of mind was that day. I think that's fair.

8 You may proceed.

9 (Whereupon, the following proceedings were had in open  
10 court:)

11 BY MR. MULROE:

12 Q. Mr. Nugent, having been a Proud Boy for two years, you  
13 testified to Mr. Smith that you were shocked by what happened  
14 on January 6th, right?

15 A. Right.

16 DEFENSE COUNSEL: Objection. Misstates the testimony.

17 THE COURT: Overruled.

18 BY MR. MULROE:

19 Q. And Mr. Smith asked you about what you thought was the  
20 plan --

21 THE COURT: All right. I'll sustain -- Mr. Mulroe,  
22 will you be more specific about what happened on January 6th?  
23 Less testimony about him being shocked.

24 BY MR. MULROE:

25 Q. Mr. Nugent, you testified that when the crowd went through

1 those barriers for the first time at Peace Circle, you were  
2 shocked by that, right?

3 A. Correct.

4 Q. You testified that you didn't think that there was any plan  
5 for any force on January 6th, correct?

6 A. Correct.

7 Q. Mr. Nugent, based on your experience as a Proud Boy, you  
8 had every reason to think that violence was in store when you  
9 went with the Proud Boys to the Capitol on January 6th; isn't  
10 that right?

11 THE DEFENDANT: Objection, Your Honor.

12 THE COURT: Overruled.

13 BY MR. MULROE:

14 Q. You had every reason to expect violence, didn't you?

15 A. No.

16 Q. Mr. Nugent, based on your experience as a Proud Boy, you  
17 knew that you might need to go against the police on  
18 January 6th; isn't that true?

19 A. No.

20 Q. Let's rewind a little bit and talk about your knowledge and  
21 experience prior to that day. So you joined the Proud Boys in  
22 late 2018, early '19?

23 A. Correct.

24 Q. And you were part of the Columbia River chapter of the  
25 Proud Boys in Washington State, correct?

1 A. Correct.

2 Q. That chapter had about 30 to 50 people in it?

3 A. Correct.

4 Q. And there was a time when you were the vice president of  
5 that chapter?

6 A. Correct.

7 Q. So fair to say that for a time, you held a modest  
8 leadership position; is that fair to say?

9 A. From my area, yes.

10 Q. For your area, not national leadership.

11 A. No.

12 Q. Now, in Proud Boys generally, there are different degrees;  
13 is that right?

14 A. Correct.

15 Q. First degree, second degree, third degree, fourth degree?

16 A. Correct.

17 Q. As of January 6th, you had achieved a rank of 4th-degree  
18 Proud Boy, correct?

19 A. Correct.

20 Q. And to become a 4th-degree Proud By, it is required to --

21 DEFENSE COUNSEL: Objection. Relevance.

22 THE COURT: Overruled.

23 BY MR. MULROE:

24 Q. To become a 4th-degree, it is required that you get into a  
25 conflict on behalf of the club; isn't that right?



1 A. Correct.

2 Q. And that means violence, doesn't it?

3 A. Negative.

4 Q. It can be some sort of other conflict that's nonviolent?

5 A. Yes.

6 Q. If you get into a shouting match with someone, it's going  
7 to get you your 4th-degree?

8 A. You can attend a protest.

9 Q. Just attending?

10 A. You can attend the protest.

11 Q. Attending a protest would be enough to get you --

12 A. There were members that got it for that, yes.

13 Q. Is that how you got yours?

14 A. No.

15 Q. There are different degrees of Proud Boys and there are  
16 also different types of Proud Boys, correct?

17 A. To a degree, yes.

18 Q. You've used the phrases "rally boys" and "party boys"?

19 A. Yes.

20 Q. The party boys like to drink?

21 A. Yes.

22 Q. The party boys like to socialize?

23 A. Correct.

24 Q. The party boys like going to bars?

25 A. Correct.

1 Q. It's right there in the name. You like to party, right?

2 A. Correct.

3 Q. The rally boys, on the other hand, were into politics,  
4 right?

5 THE COURT: Into what, sir?

6 MR. MULROE: Politics.

7 THE WITNESS: I mean, I think everybody was with the  
8 Proud Boys.

9 BY MR. MULROE:

10 Q. The Proud Boys made it a priority to stand up for western  
11 values?

12 A. All of the Proud Boys did.

13 Q. Rally boys especially liked to resist Antifa, correct?

14 A. Sure, yeah.

15 Q. And the rally boys, more so than the party boys, liked to  
16 go to protests, right?

17 A. That's somewhat accurate, I guess.

18 Q. And everybody in the club knew that for rally boys,  
19 protests equal violence; isn't that right?

20 DEFENSE COUNSEL: Objection as to what others knew.

21 THE COURT: Sustained as to the form of the question.

22 BY MR. MULROE:

23 Q. You knew, Mr. Nugent, that for rally boys "protest" means  
24 "violence," correct?

25 DEFENSE COUNSEL: Same objection.

1 THE COURT: Overruled.

2 MS. HERNANDEZ: I thought that was asked and answered  
3 before.

4 THE COURT: Overruled. The witness can answer the  
5 question.

6 THE WITNESS: Can you repeat the question?

7 BY MR. MULROE:

8 Q. For rally boys, Mr. Nugent, protest means violence?

9 DEFENSE COUNSEL: Objection.

10 THE COURT: Sustained.

11 BY MR. MULROE:

12 Q. From your perspective, Mr. Nugent, to be a rally boy means  
13 protests means violence, correct?

14 A. I think there's more to it than that, but that's definitely  
15 a portion of it.

16 Q. There's even a song about that, isn't there?

17 A. About violence?

18 Q. Do you know the song "Protest Time"?

19 A. No.

20 Q. "Protest time again. Jump in the car." No?

21 A. I'm not aware of that song.

22 Q. So, Mr. Nugent, I'm not going to ask you to put yourself  
23 entirely on one side or the other, but you, as a Proud Boy,  
24 were not big into drinking or doing drugs, right?

25 A. No.

1 Q. And you did go to rallies?

2 A. Yes.

3 Q. And Ethan Nordean knew that about you?

4 DEFENSE COUNSEL: Objection as to what Ethan Nordean  
5 knew.

6 THE COURT: Sustained, again, the way the question --  
7 the form of the question.

8 BY MR. MULROE:

9 Q. You've been to rallies with Ethan Nordean, haven't you?

10 A. Correct.

11 Q. You've been to rallies with Enrique Tarrio?

12 A. Correct.

13 Q. And for you personally, as someone who went to rallies, you  
14 viewed the use of force as being a big part of the identity of  
15 the Proud Boys; isn't that right?

16 A. You said me?

17 Q. You.

18 A. No.

19 Q. You didn't think using force was a big part of what the  
20 Proud Boys --

21 DEFENSE COUNSEL: Objection. Asked and answered.

22 THE COURT: Overruled.

23 BY MR. MULROE:

24 Q. You didn't think that using force was important for Proud  
25 Boys?

1 A. At times, sure.

2 Q. At times. Your attitude, Mr. Nugent, was: Always go ready  
3 to fight because that's the world we live in?

4 DEFENSE COUNSEL: Objection. Character evidence.

5 THE COURT: Overruled.

6 BY MR. MULROE:

7 Q. I'll say that again. Your attitude was: Always go ready  
8 to fight because that's the world we live in?

9 A. Is there a source this is coming from?

10 MR. MULROE: Can I have just for the witness, please,  
11 Exhibit 1419B.

12 BY MR. MULROE:

13 Q. While that's coming up, Mr. Nugent, do you remember being  
14 part of a Telegram chat called "PNW Gay Ranch Cat Fight" chat?

15 A. No.

16 Q. Does that sound like the type of Telegram group you might  
17 have been a part of?

18 A. I mean, there's always weird, but no, I don't remember this  
19 particular one.

20 MR. MULROE: If we could scroll down a little bit.

21 BY MR. MULROE:

22 Q. You see Travis Vancouver PB there on the bottom --

23 MS. HERNANDEZ: Objection. Relevance as to  
24 Mr. Nugent.

25 THE COURT: Overruled.

1 BY MR. MULROE:

2 Q. Travis Vancouver PB, that's you?

3 A. Yes.

4 Q. And so there are two messages on the screen. First one is  
5 from user Churro Knives (ph) it says: Dude --

6 MR. JAUREGUI: Objection. Lack of evidence. Improper  
7 foundation.

8 DEFENSE COUNSEL: Improper impeachment. I mean,  
9 that's not proper --

10 THE COURT: Hold on. Let me hear you in sidebar.

11 (Whereupon, the following proceedings were held at sidebar  
12 outside of the presence of the jury:)

13 DEFENSE COUNSEL: We've been down this road before,  
14 Judge. It's either impeachment or refreshing his recollection,  
15 but it can't be both without a foundation.

16 THE COURT: Well, he just said it's his message.

17 DEFENSE COUNSEL: He didn't say that. He said that  
18 was his name. He hasn't been asked to adopt the message as his  
19 own, and he hasn't been asked whether this refreshes his  
20 recollection.

21 THE COURT: No. He was asked that it was: Always go  
22 ready to fight; it's the world we live in. He was asked that  
23 question. He denied it. So why can't -- Mr. Mulroe is just  
24 setting the -- he's giving -- orienting him as to something he  
25 responded to.

1 MR. PATTIS: I don't recall the record that way, sir.  
2 The transcript will confirm, as we like to say. He said, is  
3 there still -- a source this is coming from? Mr. Mulroe had an  
4 exhibit marked for identification. Now he's reading from an  
5 exhibit that's been marked for identification.

6 He's asked the man whether his name was Travis  
7 Vancouver PB, which is presumably on the document. I think he  
8 has to show the witness the document to see if it refreshes his  
9 recollection, or otherwise authenticate it to use to impeach.  
10 You can't to it otherwise.

11 THE COURT: He's not using it to refresh recollection,  
12 but he does -- I mean, he denied the statement.

13 MR. PATTIS: No, Your Honor, he never denied it.  
14 Never. He simply said, is this coming from a document, and I  
15 think Mr. Mulroe has to show it to him to get him to adopt it  
16 to impeach him with it. He just doesn't get to read it from  
17 the well of the Court.

18 THE COURT: Well, as to his statement, why can't he  
19 just ask the same --

20 I mean, I think, Mr. Mulroe, the proper way to do it  
21 is just ask the question again, isn't this you? I mean, you  
22 denied that, and now go to his statement, rather than the  
23 statement that it's responding to. Isn't that the right way to  
24 do it, Mr. Mulroe?

25 MR. MULROE: Yes, Your Honor. I think at this point,

1 I can just move the exhibit in. I mean, he said it's him and  
2 it contradicts --

3 MR. PATTIS: He hasn't said it's him. He said that's  
4 his screen name. If he adopts the statement as his, then the  
5 analysis changes. But as a matter of form, he hasn't.

6 THE COURT: No, no, no. If he denies -- and we have  
7 been down the road. And creatively, Mr. Smith, in particular,  
8 has admitted all sorts of evidence that has prior inconsistent  
9 statement.

10 So Mr. Mulroe --

11 MR. PATTIS: That was without objection. I am  
12 objecting on the grounds that unless he adopts the statement as  
13 his own, it needs a foundation.

14 THE COURT: That's a -- the Government definitely  
15 objected, I recall.

16 The point is, he can ask him the question, isn't it  
17 true you -- this is your statement? If he says yes, frankly --  
18 well, if he says yes, then we're done. If he says no, then I  
19 don't know why it can't be moved into evidence as a prior  
20 inconsistent statement.

21 MR. PATTIS: Documents come into evidence three ways.  
22 They either come in to refresh a person's recollection, in  
23 which case they're moved in for identification. They come in  
24 as a prior inconsistent statement if they can be shown that  
25 they are the witness's statement. They come in as past



1 recollection recorded if they meet those formalities. This is  
2 the second route, and unless he adopts it as his statement, it  
3 can't be used.

4 THE COURT: Or the Government can lay the foundation  
5 that it is --

6 MR. PATTIS: It is his statement, right. But they  
7 have to lay that foundation. And if he denies it, they can't  
8 lay it through him.

9 THE COURT: So you're denying that this is his  
10 statement? You're objecting on that basis?

11 MR. PATTIS: No. I was objecting that it was being  
12 read from the by the well of the Court. Absent the foundation,  
13 I think the attempt has to be made to lay it.

14 THE COURT: Mr. Mulroe, we'll put aside whether you  
15 can move it in, but you can certainly ask him if that's his  
16 statement. I think that's where you're headed. So go right  
17 ahead.

18 MS. HERNANDEZ: I'm sorry, Your Honor. Two things.  
19 Number one, this, I believe, is a chat group that Mr. Mulroe --  
20 that the Government has not introduced in the past. This isn't  
21 one involving any of the defendants, except of Mr. Nordean, if  
22 I'm not mistaken. So it's completely -- it's hearsay as to the  
23 defendants in general.

24 THE COURT: The Government has asked him about his  
25 expectations heading into January 6th. This is about that. So

1 it is relevant for that purpose.

2 MS. HERNANDEZ: But it should be limited to -- I mean,  
3 I don't even know what date it is, but it's limited to whenever  
4 it was. And second Your Honor, I did not understand that any  
5 prior inconsistent statement comes in. Only sworn prior  
6 inconsistent statements come in.

7 THE COURT: No. I think we've been down this road,  
8 and Mr. Smith has creatively gotten a lot of things in evidence  
9 that I believe were not sworn. But we can -- let's not do a  
10 dally on this now.

11 Mr. Mulroe, you may proceed.

12 (Whereupon, the following proceedings were had in open  
13 court:)

14 BY MR. MULROE:

15 Q. Mr. Nugent, that's your statement: Always go ready to  
16 fight. It's the world we live in?

17 MR. PATTIS: Again, same objection. There has to be a  
18 foundation. We don't get to --

19 THE COURT: Mr. Pattis, I understand the objection.

20 The objection is sustained.

21 You may ask the witness the question.

22 BY MR. MULROE:

23 Q. Mr. Nugent, isn't it true that on December 13th of 2020,  
24 you sent a message to the PNW Gay Ranch Cat Fight chat saying:  
25 But always go ready --

1 MR. PATTIS: Objection. Same foundation. The witness  
2 has to be given an opportunity to adopt it --

3 THE COURT: This is -- you may proceed, Mr. Mulroe.

4 BY MR. MULROE:

5 Q. Isn't it true that on December 13th, 2020, you sent that  
6 message reading: But always go ready to fight.

7 DEFENSE COUNSEL: Same objection, Your Honor.

8 THE COURT: Overruled. I understand the objection.

9 BY MR. MULROE:

10 Q. You sent that message saying: But always go ready to  
11 fight. It's the world we live in.

12 Isn't that true, Mr. Nugent?

13 A. Yes, it appears so.

14 MR. MULROE: I move to admit 1419B.

15 DEFENSE COUNSEL: We object to that as to foundation.

16 THE COURT: It will be admitted.

17 MR. MULROE: May we publish?

18 THE COURT: Permission to publish.

19 (Government Exhibit 1419B received in evidence.)

20 BY MR. MULROE:

21 Q. And, Mr. Nugent, you also had art work in your Google Cloud  
22 storage account that celebrated this view of the Proud Boys as  
23 heroes in violent conflict; isn't that right?

24 A. Sure.

25 MR. MULROE: May we have the screen just for the

1 witness, please?

2 MR. JAUREGUI: Objection. Can we go on sidebar?

3 (Whereupon, the following proceedings were had in open  
4 court:)

5 MR. JAUREGUI: Judge, the way we've been handling it  
6 throughout this trial is that the person is given an  
7 opportunity to either admit or reject the statement. If they  
8 reject the statement, then the defense can impeach them with  
9 the evidence.

10 He's saying, yes, I made that statement. So why does  
11 the Government get to now introduce it, if he's admitting that  
12 he did make that prior consistent statement? So he's saying  
13 yes, I made the statement, and now the Government gets to  
14 introduce it as well.

15 THE COURT: So let me circle back to Mr. Smith --  
16 well, Mr. Mulroe. What's the answer to that question? It's a  
17 good question.

18 MR. MULROE: Your Honor, this is not impeachment.  
19 This is a piece of art that he possessed.

20 THE COURT: No, no, no. They're circling back to the  
21 statement we just talked about.

22 MR. MULROE: The previous one?

23 THE COURT: Correct.

24 MR. MULROE: Well, it's inconsistent with his initial  
25 answer on direct.

1 MR. JAUREGUI: No. He never --

2 THE COURT: Mr. Jauregui, we'll come back to it, all  
3 right. Let's just let him move on.

4 MR. JAUREGUI: Judge, on this one, on this artwork,  
5 this is relevance. This artwork has nothing to do and it's  
6 outside the scope. What does this artwork have to do with what  
7 he testified on direct?

8 THE COURT: Again, I think -- well, Mr. Mulroe, why  
9 don't you -- why don't I hear from you on that?

10 MR. MULROE: Your Honor, I'll proffer that the artwork  
11 is an illustration in sort of a comic book style of a bunch of  
12 Proud Boys beating up a bunch of ninja-looking Antifa people.  
13 I think it circumstantially demonstrates this witness' view of  
14 the Proud Boys as a fighting force on the side of good versus  
15 evil.

16 MR. JAUREGUI: Judge, it sounds to me like he depicts  
17 the Proud Boys as a bunch of Teenage Mutant Ninja Turtles.  
18 It's not relevant as to this case.

19 MS. HERNANDEZ: Your Honor, again, I feel like the  
20 Court has asked us when the Government is going to use -- or  
21 when the defense is going to use a piece of evidence like this,  
22 none of us have seen it. Are we talking about some  
23 black-on-white violence? It's 403. None of us have seen the  
24 exact item that Mr. Mulroe wants you to introduce.

25 And, again, this is a very narrow chat group. This

1 chat group is this Vancouver PD that nobody else is familiar --  
2 is, you know, involved with, is my understanding.

3 THE COURT: I understand that. The fact that no one  
4 else is involved is totally irrelevant.

5 Mr. Mulroe, why don't we -- I mean, look, obviously,  
6 this is a -- I understand your argument about relevance in  
7 terms of what he has said already and how he did not expect  
8 violence that day. He took some leeway to do this. I hear  
9 you. But how much of this do we have? How many things are we  
10 going to go through, just so we get a sense of this?

11 MR. MULROE: There's going to be a bit more, Your  
12 Honor. The next one is something that's already in evidence,  
13 and then a couple more chats I expect to show.

14 MS. HERNANDEZ: I'm sorry, what is the other one  
15 that's already in evidence?

16 MR. MULROE: The other one I intend to show next is  
17 the Bad Company video that Mr. Tarrío posted to his Parler  
18 account.

19 MR. JAUREGUI: Judge, what's the relevance in the  
20 scope of that? It has nothing to do with what he's testified  
21 to on direct.

22 THE COURT: Yeah, how does it link up with him?

23 MR. MULROE: I mean, it may not. I'm going to ask him  
24 whether he's familiar with social media posts of videos  
25 glorifying violence by the Proud Boys, and I think it's

1 especially relevant because Mr. Tarrio is the one that posted  
2 it, one. And, two, it was specifically linked to the Portland  
3 part of the country where this man was active.

4 MR. JAUREGUI: Judge, I find this completely unfair.  
5 The defense were policed very strictly when it came to scope  
6 where we tried to cross-examine these witnesses.

7 THE COURT: I understand. I understand that. But, I  
8 mean, if the witness -- if there's something to contra -- but  
9 on the other hand, again, the defendant -- let me put it this  
10 way: There were a lot of use of things that were contradicted  
11 to impeach witnesses, a lot of creative use of statements  
12 saying that they were contradictory.

13 This is, you know -- let's put it this way.  
14 Mr. Mulroe, I'll give you a little bit of leeway here. But I  
15 don't know -- let me put it this way. This was in his account  
16 this year?

17 MR. MULROE: Yes.

18 THE COURT: You have leeway here. I'm not going to  
19 have you show him every video under the sun that he might or  
20 might not be familiar with. You can -- this is in his account.  
21 I think it's fair game.

22 MS. HERNANDEZ: Your Honor, the questions asked by  
23 Mr. Nordean about expectation of violence for January 6th, if  
24 my recollection serves me right, were right based on his  
25 participation in MOSD and his participation on Boots on the

1 Ground. They are not generally based on his -- you know, are  
2 Proud Boys generally violent.

3 This comes back to our argument over propensity of the  
4 evidence, 403. The Government continuously tries to paint the  
5 Proud Boys as these violent groups. My client has never, ever  
6 been charged with hitting anybody or been arrested for hitting  
7 anybody. He didn't do that on January 6th.

8 THE COURT: I understand. I understand.

9 MR. MULROE: Your Honor, I just want to know their  
10 perspective, that if they call a witness to the stand with some  
11 violent past, and he gets up there and says, gosh, I didn't  
12 think there was going to be any violence, that they do that at  
13 their peril. We have the right to impeach that.

14 THE COURT: I think that's fair, but I think it has to  
15 be tethered to him. It can't be just: I'm showing him this  
16 video and, gee, did you -- showing a video already and saying,  
17 gee, did you ever see this.

18 So you can proceed with this with -- Mr. Pattis?

19 MR. PATTIS: I wasn't paying attention but I heard  
20 Mr. Mulroe say they call a witness at their peril who didn't  
21 use violence, but we get to impeach him with that violent past.  
22 That's -- you can't even make --

23 MR. MULROE: That's not what I said.

24 THE COURT: That's not what he said. That's not what  
25 he said.



1           Mr. Mulroe, you can proceed with this, and -- but not  
2       showing him just videos that were posted and asking him, gee  
3       did you ever see this video? So let's tether it to things you  
4       can tether to him. You may proceed.

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

7       BY MR. MULROE:

8       Q. So, Mr. Nugent, on you screen there you've got Government  
9       Exhibit 1408. You recognize that as something that came from  
10      your Google account?

11      A. Yes.

12      Q. You've seen that image before?

13      A. Yes.

14      Q. You kept a copy of that?

15      A. I believe so, yeah.

16           MR. MULROE: Move to admit 1408.

17           THE COURT: It will be admitted.

18           (Government Exhibit 1408 received in evidence.)

19           MR. MULROE: May we publish?

20           THE COURT: Permission to publish.

21           (Whereupon, the exhibit was published in open court.)

22      BY MR. MULROE:

23      Q. Mr. Nugent, you were familiar with videos posted online  
24      that glorified Proud Boys going into battle, correct?

25      A. Correct.

1 Q. They were videos that --

2 DEFENSE COUNSEL: Objection, Judge.

3 MS. HERNANDEZ: Propensity.

4 THE COURT: I'll hear it at sidebar.

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

7 MR. MULROE: Judge, I thought Your Honor had already  
8 ruled --

9 THE COURT: I said he can't show -- I don't want  
10 him -- I don't think I would exclude, on 403, him showing him  
11 any particular video. If it's just general questions like  
12 this, he won't be able to -- well, Mr. Smith would be able to  
13 redirect him on, you know, what his understanding of these  
14 videos is.

15 MS. HERNANDEZ: Your Honor, we're in propensity  
16 territory. This notion that the Proud Boys were violent and,  
17 therefore, they would be violent on January 6th --

18 THE COURT: I understand the objection. I think he  
19 gets a little leeway to talk about -- to show him things that  
20 link up with him that impeach the notion that he had no reason  
21 to expect violence on January 6th.

22 You may proceed.

23 (Whereupon, the following proceedings were had in open  
24 court:)

25 BY MR. MULROE:

1 Q. You know the videos I'm talking about, right, Mr. Nugent?

2 DEFENSE COUNSEL: Objection. Nobody knows what videos  
3 he's talking about.

4 DEFENSE COUNSEL: Objection. Vague.

5 THE COURT: Witness can answer the question.

6 BY MR. MULROE:

7 Q. Videos that glorify Proud Boys going into battle?

8 A. I mean, I don't know what particular video you're talking  
9 about.

10 Q. You're familiar with that type of video, though?

11 MS. HERNANDEZ: Objection, Your Honor --

12 THE COURT: Overruled. Please. Overruled.

13 BY MR. MULROE:

14 Q. You know the type of video I'm talking about, right?

15 A. Yes.

16 Q. And those videos got people pretty fired up sometimes?

17 MS. HERNANDEZ: Objection, Your Honor.

18 DEFENSE COUNSEL: Speculation.

19 THE COURT: Sustained.

20 BY MR. MULROE:

21 Q. Did those videos help your chapter with recruitment?

22 A. I think overall, yeah.

23 Q. With respect to violence, the official policy of the Proud  
24 Boys was always in self-defense, correct?

25 A. Correct.

1 Q. That was really just for appearances, wasn't it?

2 MS. HERNANDEZ: Objection. Argumentative.

3 THE COURT: Overruled.

4 BY MR. MULROE:

5 Q. That was just for appearances?

6 A. I would say no.

7 Q. You would say no? Mr. Nugent, you understood that the  
8 aggressive use of force was not just tolerated but celebrated;  
9 isn't that right?

10 DEFENSE COUNSEL: Objection. Vague, argumentative.

11 THE COURT: Sustained on vagueness grounds.

12 BY MR. MULROE:

13 Q. Well, Mr. Nugent, let me ask you this: There were times  
14 you yourself celebrated the aggressive use of force, correct?

15 A. Correct.

16 Q. You once used the following words on Facebook to describe a  
17 violent confrontation involving two Proud Boys: Dudes --

18 DEFENSE COUNSEL: Objection. Cumulative, outside the  
19 scope, 403.

20 THE COURT: Overruled.

21 BY MR. MULROE:

22 Q. You once used these words on Facebook: Dudes tried to call  
23 out Tiny and Donovan at the van mall for their Trump flag, and  
24 it didn't end so well for them.

25 Do you recall that?

1 A. Yes.

2 Q. Do you know the episode I'm talking about?

3 A. Yes.

4 Q. Do you agree with me that insulting somebody's flag is not  
5 the type of thing that justifies the use of force in  
6 self-defense?

7 DEFENSE COUNSEL: Objection, Your Honor. Calls for a  
8 legal conclusion.

9 THE COURT: Overruled.

10 MS. HERNANDEZ: Beyond the scope.

11 THE COURT: Overruled.

12 BY MR. MULROE:

13 Q. You can answer.

14 A. I don't know exactly what happened, but it wasn't just a  
15 flag.

16 Q. Beyond just celebrating it, you yourself once tried to  
17 recruit other Proud Boys to use force aggressively as those you  
18 viewed as your enemies; isn't that true?

19 DEFENSE COUNSEL: Objection. Vague, time.

20 THE COURT: Sustained as to vagueness.

21 BY MR. MULROE:

22 Q. Let me be more specific. Mr. Nugent, do you remember being  
23 part of a Telegram chat called "PDX Event Page"?

24 MS. HERNANDEZ: Objection. Relevance to Mr. --

25 THE COURT: Overruled.

1 BY MR. MULROE:

2 Q. Sound like a chat you were part of?

3 A. I would assume so but, I mean, I don't recall the name  
4 exactly.

5 Q. And Enrique Tarrío was part of that chat, too, right?

6 A. Again, it's been so long, I don't know.

7 Q. Do you remember a time in August of 2020 when you used that  
8 chat group to recruit other Proud Boys to go attack some cars  
9 that you thought belonged --

10 MR. JAUREGUI: Objection. Foundation. He already  
11 says he doesn't know.

12 MS. HERNANDEZ: Objection as to the date, Your Honor.  
13 It's outside the conspiracy --

14 THE COURT: Overruled. Those objections are  
15 overruled.

16 BY MR. MULROE:

17 Q. Do you remember using that chat to recruit other Proud Boys  
18 to go attack some cars that you thought belonged to BLM and  
19 Antifa?

20 A. I don't know for sure.

21 Q. Tell me if you remember sending this message: So I have a  
22 guy I work with that knows --

23 MS. HERNANDEZ: Objection. If he's refreshing  
24 recollection, then it can't be by the defendant -- by the  
25 witness.

1 THE COURT: Let me hear counsel at sidebar.

2 (Whereupon, the following proceedings were held at sidebar  
3 outside of the presence of the jury:)

4 THE COURT: We've been down this passage with  
5 Mr. Pattis just a moment ago, down this road. Mr. Mulroe has a  
6 good-faith basis to ask these questions. He's reading,  
7 practically, from the person's Facebook message. Now --

8 MS. HERNANDEZ: He said that he didn't refresh -- he  
9 didn't recall that message. The way to do it is then to show  
10 it to him and see if he recalls it -- if he recalls it. And  
11 this is a message of, as far as I understand, from 2020. I  
12 thought the witness said he did not recall.

13 THE COURT: He said it three times, he doesn't recall.

14 MS. HERNANDEZ: So if he doesn't recall, then he's  
15 trying to refresh recollection, and then it goes -- he doesn't  
16 read it out loud. He's shown it to the witness: Does this  
17 refresh your recollection?

18 THE COURT: You can proceed that way.

19 MS. HERNANDEZ: It's the only way -- I'm sorry.

20 THE COURT: It's the only way?

21 MS. HERNANDEZ: It's the only way to refresh  
22 recollection. It doesn't get read into the record.

23 THE COURT: Right. It's the only way to refresh  
24 recollection. But Mr. Mulroe is not attempting to refresh his  
25 recollection. Mr. Mulroe is attempting to cross-examine him

1 and ask him if he made a particular statement that he has a  
2 good-faith basis to ask about. Doesn't he?

3 MS. HERNANDEZ: No. I mean, he's asked with reading,  
4 and the guy says, I don't remember. So the next step is, well,  
5 let me show it to you. Read it to yourself and see if this  
6 refreshes your recollection. If it does, that's the end of it.

7 THE COURT: Mr. Smith.

8 MR. SMITH: Your Honor, I think the whole line of  
9 questioning is character evidence, for this reason, Your Honor.  
10 I'll explain it very briefly. Mr. Mulroe is asking the witness  
11 about whether he has certain opinions about the use of  
12 violence. The suggestion is that this shows that he could have  
13 intended the use of violence on January 6th. That's the use of  
14 a character trait to show action in accordance with that  
15 character trait.

16 It's impermissible evidence, Your Honor.

17 THE COURT: Okay. Let's -- I understand your  
18 argument. I'm going to -- here's what we're going to do. It's  
19 about 10 minutes early for a break, but I'm going to take the  
20 afternoon break for the court reporter, and we'll come back and  
21 discuss this quickly outside the presence of the jury.

22 I don't -- well, I'll say no more. Let's just have  
23 our afternoon break.

24 (Whereupon, the following proceedings were had in open  
25 court:)



1 THE COURT: We're a few minutes early on our afternoon  
2 break for the court reporter. We'll go ahead and take it now.

3 See you all in 10 minutes.

4 (Whereupon, the jury exited the courtroom and the following  
5 proceedings were had:)

6 THE COURT: Sir, you may step down.

7 Just for a moment, we'll give the court reporter a  
8 break from taking down what you're saying.

9 (A recess was taken at 3:03 PM)

10 \*(out defendant presence of jury)

11 THE COURT: Everyone may be seated.

12 So, look. I understand the argument you're making,  
13 Mr. Smith. I think -- let me put it this way. I think it  
14 is -- this is sort of a subspecies of things we've been -- the  
15 parties have been arguing about for a long time about violence  
16 and the way it plays out in this case.

17 I do think, again, this is kind of -- the way it plays  
18 out with this witness is a little different, though, because,  
19 again, this is a witness who testified, oh, I didn't expect  
20 anything to happen. I didn't expect any violence that day.  
21 And these are things that tend to undermine that.

22 So I don't see it -- let me put it this way. To the  
23 extent it's tethered to violence that advances the Proud Boys's  
24 political goals, I don't see it as -- I see it as legitimate  
25 impeachment evidence. But there's going to be a limit to how

1 long we can go down this road on 403 grounds, I think. That's  
2 number one.

3 Number two, just as far as the process goes, I don't  
4 know why -- Mr. Pattis, circling back to your objection and  
5 just sort of like -- and Ms. Hernandez echoed it. I don't  
6 have -- let me put it this way.

7 Of course, you can choose to refresh your witness's  
8 recollection, if you would like, right? That's one way of  
9 doing it. I don't think there's anything -- what's the  
10 Government -- Ms. Hernandez, your point and, Mr. Pattis, your  
11 point, too, was if you say, well, if the person cross-examining  
12 says, didn't you -- and asks the question in a very vague way,  
13 and the witness says, I can't remember, and they have a  
14 good-faith basis to ask a question about whether the person  
15 said something that would impeach them, it's the expectation.  
16 Now, you may disagree, it doesn't impeach them. But let's just  
17 assume it does. I don't know why, if they have a good-faith  
18 basis, they can't just ask the question, even if the person had  
19 said, I don't remember.

20 I guess, in fairness, I should hear Ms. Hernandez.

21 MS. HERNANDEZ: First of all, it's an out-of-court  
22 statement. It's hearsay. So the only way it comes in is  
23 either because it's a prior inconsistent statement or it's to  
24 refresh recollection, and then he gets to read it and see if it  
25 refreshes his recollection.

1           With respect to -- it's an out-of-court statement,  
2   what the Government's trying to introduce. 801D says: A  
3   declaring witness's prior statement, the declarant testifies on  
4   any subject to cross-examination on prior statement, and the  
5   statement is inconsistent with the declarant's testimony, I  
6   mean, this is -- this cross-examination is not about what the  
7   declarant said but what he thought, and was given under penalty  
8   of perjury at trial. Then it can come in. Otherwise, it's a  
9   hearsay statement.

10           THE COURT: No, no, no. It's a separate question  
11   about whether the statement would be moved into evidence. So  
12   put that aside just for the moment. The point is -- the point  
13   is it does impeach -- in other words, we went through this when  
14   the shoe was on the other foot, where Mr. Smith made a lot of  
15   creative use of sort of statements that he would say. That  
16   impeaches the witnesses.

17           And the Government -- what the Government is saying  
18   here, the relevance is, this person said, there was no reason  
19   for me to think -- expect any violence on that day. Right?  
20   And so that these things they are bringing out, in their view,  
21   impeach that statement.

22           MS. HERNANDEZ: They don't really because the bottom  
23   line is he came on January 6th. He committed no violence. So  
24   to say that he expected no violence is not inconsistent with  
25   anything he ever said before. Making these statements -- these

1 are out-of-court statements that the Government is misusing at  
2 this point, in addition to all the propensity stuff, in  
3 addition to the fact that all these statements come in from his  
4 little chapter out in Vancouver that nobody else knows anything  
5 about or had any interaction with. I mean, it's just -- I've  
6 never seen prior statements introduced in this fashion.

7 THE COURT: Ms. Hernandez, you understand that it  
8 doesn't matter -- if we can at least get this straight. It  
9 doesn't matter -- when we're impeaching this witness, it  
10 doesn't matter that your client wasn't in a chat group. Do you  
11 understand why that is?

12 MS. HERNANDEZ: I understand. But you still have a  
13 403 issue, relevance, that comes in. I just don't understand  
14 this manner of impeaching somebody when he is not saying he  
15 didn't -- you impeach him because he's denying he said it  
16 before. He's never denied not saying it before.

17 THE COURT: No, no. Mr. Smith made very creative use  
18 of this in many ways, because I had to go run it down. When a  
19 witness would say something, he would say, Judge, that  
20 impeaches the witness because it's -- not because it's a prior  
21 inconsistent statement, but because it's inconsistent, at least  
22 arguably, with his testimony. I could go back and look in the  
23 record. It's inconsistent with his testimony.

24 So what the Government is doing here is doing the same  
25 thing and saying this is inconsistent with his testimony. His

1 testimony was, I had no reason to think there would be  
2 violence. And their argument is, yes, you did because of A, B  
3 and C.

4 MS. HERNANDEZ: Again, if that's the reason for  
5 bringing it in, number one, it isn't inconsistent with the  
6 testimony because he managed to be there on January 6th and not  
7 commit any violence. My client managed to be there on  
8 January 6th and not commit any violence, one.

9 Two, it remains an out-of-court statement being  
10 offered for the truth of the matter asserted. That does not  
11 come in. And if he reads it out loud, it's coming in. That's  
12 evidence. If he reads it out loud, it's evidence that's coming  
13 in.

14 THE COURT: All right. Mr. Smith, I'll hear you.

15 MR. SMITH: Your Honor, one last point we want to make  
16 is the 404 rule is separate and apart from relevance and  
17 impeachment. So it's a bar on evidence, no matter how it's  
18 characterized. Even if the evidence is relevant, it still  
19 passes 403 muster. It is impeachable, 404 is a separate  
20 category bar on evidence.

21 404B1 reads: Evidence of any other crime, wrong, or  
22 act is not admissible to prove a person's character in order to  
23 show that on a particular occasion, the person acted in  
24 accordance with that character.

25 So if what we're doing is we're showing this witness,

1 by statements, indicating he glorifies violence, in the  
2 Government's words, in order to show that on a particular  
3 occasion, January 6th, he expected or intended violence, that  
4 is squarely within the bar and purpose of the use of this  
5 evidence. And that's true, even if we characterize it as  
6 relevant, if we characterize it as impeachment. If that's what  
7 it's going to show, it's barred.

8 THE COURT: I do think "expected" and "intended" are  
9 two different things, maybe for the purpose of this rule. I'll  
10 look at it.

11 Mr. Pattis, what did you want to say? I'll give you a  
12 word, and then I'll give the Government a word --

13 MR. PATTIS: My point is, perhaps, hypertechnical  
14 about foundations. I think that both sides have gotten away  
15 with creatively mixing and matching. Did you say, well, I  
16 don't recall looking at a document? Refresh your recollection.  
17 If the person says, yes, you give him permission to show it.  
18 You have him read it. Does that refresh your recollection?  
19 Didn't you once say? That's one way to do it.

20 Second way to do it is, did you state on a prior  
21 occasion something inconsistent, without reading that document  
22 into the record. But you've got to -- in my view, at least,  
23 and nobody ever would appoint me to sit in your seat. But in  
24 my view, the witness has to be shown that and adopt it as his  
25 own.

1           And the only reason I tendered that objection as to  
2       this witness is because his recollection seems hazy to me. So  
3       I was objecting to reading from the well of the Court,  
4       something that had not been adopted by the witness as his own.

5           If the Government believed he had given an  
6       inconsistent statement, my belief is that the proper foundation  
7       is to show it, did you say that then? And then contrast the  
8       two and ask which is true. So it was, perhaps, hypertechnical.  
9       But given the witness' difficulties with recollection, I  
10      thought it was apt at the time.

11           THE COURT: I'm sorry. Ms. Hernandez, I'll take a  
12      look at it on the break. I've heard all of you extensively on  
13      this. I just want to hear briefly from the Government and then  
14      take our break for the court reporter, because now we are  
15      approaching the time when we should take a break for her.

16           MR. MULROE: May I ask, Your Honor, is there one of  
17      those points that you're most interested in hearing?

18           THE COURT: I'm more concerned about the mechanics of  
19      how you think you should be able to proceed here.

20           MR. MULROE: Right. So I think that we have a menu of  
21      options at our disposal, given the way this evidence has been  
22      made relevant. So I think that, certainly, we could treat it  
23      as a prior inconsistent statement if he says, no, I didn't say  
24      that, and then we show him saying that. We could do it that  
25      way.

1 But I also think that, to the extent that each of  
2 these prior messages by the witness impeaches and rebuts, in  
3 the broader sense, his testimony on direct, I think that it's  
4 got sort of independent probative value. And I think that if  
5 we didn't want to, we wouldn't even need to ask him, well,  
6 didn't you send this message to the chat? I think we could  
7 just get him to say that's his message and put it in. So I  
8 think that --

9 THE COURT: Meaning -- look, you're right. Put  
10 aside -- we all know how you can -- at this point, we all know  
11 how refresh your recollection works. Put that aside.

12 You think -- let me put it this way, how do you intend  
13 to proceed? Simply to ask him a question because you think it  
14 impeaches his testimony? Did you say A, B and C?

15 And what about Mr. Pattis's -- the point that  
16 Mr. Pattis and Ms. Hernandez are making that you should ask him  
17 some sort of foundational question before you ask that?

18 MR. MULROE: Well, I think given the posture we're on  
19 with cross-examination, the question is whether we have the  
20 good-faith basis to ask the question. So I don't see why we  
21 shouldn't be able to ask him, didn't you tell members of that  
22 chat, and then just quote it to him. We have a good-faith -- I  
23 mean, we know that he said it.

24 THE COURT: Again, as long as it's relevant in  
25 impeaching and all the rest.



1 MR. MULROE: Correct, correct.

2 MR. PATTIS: I still think the witness has to be given  
3 the opportunity to adopt it as his own. Show it to him. I  
4 mean, that's the point of having -- if it were a sworn  
5 statement, then I think you've got a different issue. But if  
6 it's not and it's just out there in the either -- I'm not  
7 questioning Mr. Mulroe's good-faith basis. Again, it may be an  
8 arcane point but I still think it's not the right foundation.

9 MS. HERNANDEZ: If it's not a sworn statement, Your  
10 Honor, I think it's hearsay. That's why I keep on saying  
11 relevance as to my client. As I understand 801D on prior -- a  
12 defendant's witness prior statement --

13 MR. MULROE: And just to be perfectly clear, Your  
14 Honor, none of these are being offered for the truth of any  
15 assertion within them. It's to circumstantially show --

16 MR. JAUREGUI: Judge --

17 MR. MULROE: I'd like to finish what I was saying.

18 None of these is being offered for the truth. What's  
19 being asserted is to circumstantially illustrate his state of  
20 mind, his plan, his intention. I know that 404B makes all  
21 those things permissible, just to Mr. Smith's character  
22 evidence point, which he's argued before. Opportunity, intent,  
23 preparation, plan, knowledge, motive, all permissible purposes.

24 That's what these statements are doing, as well as  
25 rebutting his earlier testimony about no expectation of

1 violence. So with respect to that, I think that hearsay just  
2 doesn't factor into this analysis at all.

3 THE COURT: Mr. Jauregui, I'll give you the last --

4 MR. JAUREGUI: Judge, just briefly. To impeach what?  
5 That he said that he was shocked on January 6th that there was  
6 violence? So they get to go back in time to every incident to  
7 2018 to say that he glorified violence and that he drew some  
8 Teenage Mutant Ninja Turtles fighting some black ninjas, to  
9 impeach that? That one word, shock, that let's them go back in  
10 time for years and find every glorification of violence by this  
11 man? It's not relevant. It's outside the scope.

12 THE COURT: Look, there's a limit here. I mean, if  
13 that's overall, your point, I think there is a limit here.

14 All right. Let's take our 10 minutes. Give the court  
15 reporter a break.

16 (A recess was taken at 3:17 PM)

17 DEPUTY CLERK: We are back on the record in criminal  
18 matter 21-175, United States of America versus Ethan Nordean,  
19 et al.

20 THE COURT: Mr. Smith.

21 MR. SMITH: Your Honor, just two people outside the  
22 hall just informed us that they saw the witness Nugent speaking  
23 to an FBI agent in the hall. I made an inquiry with  
24 Mr. Nugent's counsel to find out what that was about.  
25 Mr. Nugent's counsel represented that he went to go speak to

1 the witness and ask him, and the witness replied that it  
2 concerned his security and safety.

3 Mr. Nugent's counsel has indicated that the witness  
4 has received some threats in the past that apparently relate to  
5 the false suggestion that he's an informant for the Government,  
6 and people had sent him threats.

7 So my understanding is that when the agent approached  
8 the witness in the hall, it was to suggest that the FBI could  
9 be available to help them guard against those threats. That's  
10 perfectly acceptable, of course, and appropriate.

11 The point, though, is that the witness is not being  
12 threatened in court today during these proceedings, and  
13 offering that benefit or opportunity to a witness in the middle  
14 of his testimony, I guess, the very least you could say is it's  
15 a little bit premature since he's not under danger in the  
16 courthouse.

17 Presumably, the Government can wait until the witness  
18 is done testifying before offering services to that witness.  
19 It was an inappropriate conversation, and we don't understand  
20 why the witness would be approached in the middle of his  
21 testimony.

22 THE COURT: Does the Government want to just put  
23 something on the record on that front?

24 MR. MULROE: Your Honor, I can only speak to what I  
25 just heard from Mr. Smith, and I appreciate that he's also

1 conveying it sort of second- or thirdhand.

2 I would note that these threats or these perceived  
3 threats are not a recent development. I understand that they  
4 have been happening for some time, and we have produced  
5 documentation of that in discovery. All that is to say that I  
6 cannot make a firm representation sitting here right this  
7 moment, but I don't think this is the first time that the idea  
8 of safety and security has arisen. So I just would --

9 THE COURT: All right. I think it's appropriate,  
10 though, while the witness's testimony plays out that there not  
11 be that kind of contact.

12 MR. MULROE: Yes, Your Honor. Fully understood.  
13 We'll make sure everyone on Government's side appreciates that.

14 I do just want to note that our understanding on this  
15 side of the room is that Mr. Nugent is the one who approached  
16 the agent and made that first contact, not the other way  
17 around.

18 THE COURT: All right. If that's true, it puts a  
19 different light on things. Regardless, better not to engage  
20 him while he's in the middle of testifying, I think is the best  
21 path forward.

22 All right. Look, I took a look at the Rules and I  
23 took a look at -- I do think the Government gets a little  
24 leeway here to ask these types of questions and does get to  
25 jump in. And I mean, it's cross-examination, and say that to

1 the extent these things do impeach his testimony about what he  
2 expected on January 6th, gets to ask him some -- you know,  
3 these questions, they have a good-faith basis to ask them.

4 I do think -- and I don't know the contours of what  
5 you-all plan to elicit. I do think, kind of similar to the  
6 line we drew with regard to other types of evidence, if we're  
7 talking about things that happened -- and, Mr. Mulroe, you  
8 raised this in terms of --

9 If we're talking about incidents that aren't  
10 post-election, I think the argument that it impeaches his  
11 testimony kind of starts to drift into 403 territory. So if  
12 we're talking about things he said, and I think the main thing  
13 you already went into is something that was actually quite  
14 close to January 6th, as I recall. I think in December, late  
15 December.

16 So I think that's sort of fair game to ask him about.  
17 I don't think asking him about a rally that happened way before  
18 the election or the year before is very -- I don't think  
19 that -- let me put it this way, I don't think that passes the  
20 403 bar in terms of impeaching his expectations about  
21 January 6th. I don't know whether you have anything in that  
22 category, but as I thought about it over our break, I think  
23 that line to draw makes sense.

24 MR. MULROE: That's fair, Your Honor. I just want to  
25 note that I think the direct went all the way back to the

1 summer and rallies in Portland, and talked about things like  
2 whether Enrique Tarrío was cooperative with police during that  
3 time frame. I mean, that all goes to his expectations. If it  
4 doesn't, I don't know why it's relevant.

5 THE COURT: I don't know if it went to those same  
6 expectations. And, you know, maybe -- I take your point about  
7 where the direct was, but when talking about violence and his  
8 expectation of whether there would be violence or would not be  
9 violence, I've generally drawn a line post-election, and I  
10 think that is the line to draw here.

11 So if you have something -- you get to ask the  
12 question. If the defense doesn't think it impeaches, they can  
13 object and I'll just rule. But I think you get to dive in and  
14 ask these questions.

15 Again, post-elections types of things, and we'll go  
16 from there.

17 Any reason Ms. Harris shouldn't bring in the jury?

18 MR. MULROE: Your Honor, I have one thing, as long as  
19 we're here without the jury. In the spirit of Your Honor's see  
20 something, say something instruction. There is a point on  
21 January 4th or 5th, when Enrique Tarrío is in custody and Ethan  
22 Nordean takes over a leadership role in the Ministry of  
23 Self-Defense.

24 Mr. Nugent, the witness, sent messages to the group,  
25 or at least a message, promoting Nordean as the leader and

1     throwing his support behind him. I intend to go into why that  
2     was, what it was about Mr. Nordean and his qualities that made  
3     Mr. Nugent think that he was the right one to lead this group.

4             And I do think that as part of that line of inquiry,  
5     we are likely to introduce an image recovered from Mr. Nugent's  
6     Google account that's sort of a stylized illustration of the  
7     events that is known as the punch heard around the world. I  
8     know that punch, itself -- I'm just pausing, Your Honor.

9             THE COURT: Yeah, I understand. I understand.

10            Mr. Mulroe.

11            MR. MULROE: So we think that's relevant to the  
12     witness's state of mind, to his reason for nominating Nordean  
13     as the new leader and for the leadership qualities, and,  
14     frankly, for the expectation of force. It's not video. So  
15     it's not showing the events itself. But it was something that  
16     was in this witness's possession that I think is fair game for  
17     us to ask him about.

18            THE COURT: Mr. Smith.

19            MR. SMITH: Your Honor, Mr. Nugent doesn't nominate  
20     leaders of the MOSD. There's no proffer that he does. There's  
21     no explanation, foundation for why Mr. Nugent's state of mind  
22     is relevant to anything that's in the scope of cross.

23            And Mr. Nugent has not himself cited the punch heard  
24     around the world as an explanation. So to inject that would  
25     be -- we think it's not relevant. It's -- whatever probative

1 value it has to explain the state of mind of someone who has no  
2 control over MOSD decisions would be substantially outweighed  
3 by the prejudice of showing Mr. Nugent punching someone.

4 And, Judge, we already kind of argued the video point  
5 of the punch heard around the world, and the Court agreed that  
6 it sort of excluded the references to that punch in isolation.  
7 There was a brief flash of that video in the montage the  
8 Government played, but I think the Court previously excluded it  
9 for the other reasons. So to inject it right now outside  
10 the --

11 Okay, thank you.

12 THE COURT: Okay. Let me just hear -- Mr. Mulroe,  
13 first of all, thank you for raising this, so we can deal with  
14 it now. Two, what does he say -- what does the witness -- you  
15 said he promoted him in some way?

16 MR. MULROE: Yes, Your Honor.

17 THE COURT: Just tell me --

18 MR. MULROE: Let me get the message up. This was a  
19 message that Mr. Nugent sent to the Ministry of Self-Defense  
20 Main 2 chat on January 4th at 3 -- well, the afternoon of  
21 January 4th, around 8:00 p.m.

22 Texted message is: Hey, so right now, guys, we need  
23 to fall under Rufio. Let's not make anything public about  
24 that, though. We got to make sure someone is leading this  
25 shit, though, so others don't try to pull rank.



1 I'm not suggesting that Mr. Nugent had the authority  
2 unilaterally to choose Nordean as the leader, but he certainly  
3 was promoting him as the leader. And that is, in fact, what  
4 ended up happening.

5 THE COURT: Yeah, but you don't have any reason to  
6 link that in this photo, do you? I mean -- or not the photo,  
7 the event.

8 MR. MULROE: Well, Your Honor, we're on cross. I'm  
9 not sure what he's going to say, but I think that I'll get that  
10 out of him. I think that I'll get him to testify that the  
11 reason he thought Rufio should be in charge is because people  
12 respected Rufio. They looked up to Rufio. He was a hero among  
13 the Proud Boys, and he was a hero because of his fighting  
14 ability.

15 THE COURT: Let's put it this way. I'm skeptical --  
16 first of all, if -- I think -- Mr. Mulroe, let's put it this  
17 way. I think you can ask those questions on cross and see what  
18 he says. And, I mean -- but I'm skeptical that I would allow  
19 you to go into this video on 403 grounds.

20 Mr. Smith.

21 MR. SMITH: Your Honor, what other people thought is  
22 not what Mr. Nugent thought. So Mr. Nugent's feelings can be  
23 asked, why did you promote him. He can't be asked, why did  
24 other people think you were right about promoting him.  
25 Mr. Mulroe just said, well if he's asked why he had a

1 reputation for being a fighter, he's asking what this witness,  
2 why other people -- what other people thought about  
3 Mr. Nordean.

4 THE COURT: Mr. Mulroe can ask why he promoted him.  
5 And if he says because of fighting, maybe that opens the door.  
6 But I think, like -- even then, I think I would exclude the  
7 reference to this on 403 grounds.

8 MR. SMITH: Thank you, Your Honor.

9 THE COURT: We'll see what he says, and if he says  
10 fighting, we can take it up.

11 Ms. Hernandez.

12 MS. HERNANDEZ: Thank you, Your Honor.

13 Did I hear Mr. Mulroe say that there's some tangible  
14 item that they found on Mr. Nugent that they're going to  
15 introduce, and what are we talking about?

16 THE COURT: Ms. Hernandez, I'm sorry, but we've just  
17 been having a discussion about this. So I think it's tough to  
18 now catch you up about it.

19 It's a --

20 MS. HERNANDEZ: Sorry, I didn't hear it.

21 THE COURT: It's a photo -- or is it a photo?

22 MR. MULROE: We have it up on the Government laptop,  
23 if we can just see it. It's a stylized illustration, is the  
24 best way to put it.

25 MS. HERNANDEZ: I'm sorry, I thought there was some

1 item, not the -- is that what you're talking about, the  
2 cartoonish thing?

3 MR. MULROE: It is a digital illustration found on  
4 Mr. Nugent's Google Cloud storage account.

5 MS. HERNANDEZ: I thought he was talking about some --  
6 something that he had on him.

7 THE COURT: I'd say -- look, I think you get to ask  
8 the question about why he promoted him. No question. We've  
9 heard a lot on direct about he was leading that day. Fine.

10 I just don't think this -- on 403 grounds, I think --  
11 again, let's see what he says, but my inclination is to not let  
12 you do a photo of this on 403 grounds. So let's just -- let's  
13 proceed.

14 Anything further -- oh, well, there is one other thing  
15 I want to raise.

16 MR. SMITH: Your Honor, object to the extent that  
17 Mr. Nordean's general fighting abilities are being raised to  
18 show that on a particular occasion he did or did not do  
19 something. Again, that is character evidence. So asking  
20 whether he has a fighting ability to show that something  
21 happened on January 6th is not appropriate.

22 THE COURT: He can ask the question why he promoted  
23 him, and did he promote him because of A, did he promote him  
24 because of B, did he promote him because of fighting ability.  
25 If he says, no, I didn't, then fine. But that's a fair

1 question given the evidence and the direct. He gets to  
2 explain, why did he promote him as the leader.

3 MR. SMITH: What is that relevance here on direct?

4 THE COURT: I think it's relevant, for example,  
5 whether -- I mean, this whole case is about how -- in part  
6 about your client being selected as the interim leader, right?

7 And this witness is promoting him as the interim  
8 leader. Why can't the Government ask why you took that action,  
9 why did you promote him as the leader?

10 MR. SMITH: Your Honor, there isn't any -- I brought  
11 out on direct that he said Mr. Nordean was a leader. That  
12 isn't even challenged in direct.

13 THE COURT: The whole question of why people acted the  
14 way they did that day is -- or in the days surrounding  
15 January 6th and on January 6th is exactly why you called him to  
16 say, well, I acted the way I did, I expected this. I mean, the  
17 Government gets to ask him this question.

18 MR. SMITH: Your Honor, whether he's a fighting  
19 personality to show what -- that something happened on  
20 January 6th, that's squarely character -- that is the  
21 definition of it.

22 THE COURT: They get to ask him. I don't know what  
23 his testimony is going to be.

24 MR. SMITH: I think you said that Mr. Mulroe can ask,  
25 did you promote him because he's a fighter? And if the

1 suggestion is he became the leader on January 6th because of  
2 this character trait, that that is using a character trait to  
3 show that on a particular occasion a person did or didn't do  
4 something.

5 THE COURT: It's having the witness explain why he  
6 took an action he took. I'm going to allow that, but I'm not  
7 going to allow the photo or the video.

8 MR. SMITH: Thank you.

9 THE COURT: That's number one. Number two --

10 MR. MULROE: I'm sorry, Your Honor. I heard that you  
11 were reserving on the image, which is not a photo. It's an  
12 illustration, earlier. But now you said you're not allow- -- I  
13 just want to -- I won't attempt to do it if you're  
14 categorically --

15 THE COURT: I'm going to exclude it on 403 grounds.  
16 You get the answer, but the photo or the video, I'm going  
17 exclude on 403 grounds.

18 Let me just also -- this is -- I'm pivoting completely  
19 here. Just so you-all know, Ms. Harris got a request, just a  
20 scheduling note. One of our jurors, I think on Friday or over  
21 the weekend actually broke a bone in her foot, and she has  
22 asked that we -- the only appointment she could get to follow  
23 up on that is Thursday afternoon. So we're going to have to,  
24 unfortunately, make Thursday a half day, as well as Tuesday.  
25 Nothing we can do about it.

1           The appointment -- the only appointment she could get  
2           was at 2:00, and the doctor told her it was urgent that she be  
3           seen by a physician this week.

4           MR. MULROE: Your Honor, would you just remind us,  
5           please. Are we sitting on Friday this week or do we know yet?

6           THE COURT: We are. Let me just go back. It's open  
7           in my book. Maybe I haven't informed you-all that, and maybe I  
8           should have, but this was a week -- we've now stretched into a  
9           week where I thought I was having another trial. We've  
10          actually passed a number of those, but this was a week where I  
11          thought I was going to be presiding over a different trial. So  
12          I don't have anything on Friday scheduled.

13          So my plan was to sit Friday, and I should have let  
14          you-all know that, and we're all so busy. So that's the answer  
15          on Friday.

16          MR. JAUREGUI: All day, Your Honor?

17          THE COURT: As of right now, yes.

18          All right. So half day Tuesday, half day Thursday, at  
19          least with the jury and then -- all right. Thank you. I  
20          should have let you-all know that.

21          All right. Let's bring in the jury.

22          MR. PATTIS: Judge, while we have a moment, will we be  
23          having a charge conference any time soon?

24          THE COURT: So I think that's a good idea. I'm  
25          thinking about whether Thursday might be a time to do that, at

1 least to discuss the key things.

2 MR. PATTIS: It would be helpful to know, moving into  
3 closings.

4 THE COURT: So that's sort of my -- if I can get  
5 myself up to speed, I think that's -- we may be able to do that  
6 on Thursday afternoon.

7 (Witness takes the stand.)

8 (Whereupon, the jury enters the courtroom and the following  
9 proceedings were had:)

10 THE COURT: All right. Everyone may be seated.  
11 Welcome back, ladies and gentlemen.

12 Mr. Mulroe, you may proceed.

13 MR. MULROE: Thank you, Your Honor.

14 BY MR. MULROE:

15 Q. Mr. Nugent, in the time frame between the presidential  
16 election and January 6th, you began more and more to see the  
17 police as your enemies; isn't that true?

18 A. I wouldn't say so.

19 Q. You wouldn't say so? Mr. Nugent, as of November 29th,  
20 2020, you believed it might be time to, quote: Turn our backs  
21 on the cops.

22 Isn't that true?

23 A. I'm not sure what you're referring to.

24 Q. As of November 29th, 2020, you believed that, quote: We  
25 can't allow the cops to become social justice warriors.

1           Isn't that right?

2           A. I'm not aware of this.

3           Q. You believed at that time, quote: They serve a purpose.  
4           They are needed. Most are good dudes. But if they're going to  
5           play games, it's time to play.

6           Isn't that right?

7           A. I would have to see this. I don't know.

8                   MR. MULROE: Ms. Rohde, can we have --

9                   DEFENSE COUNSEL: Objection to not inconsistent.

10                  THE COURT: Overruled.

11                  MR. MULROE: 1404G just to the witness please.

12                  (Published to witness.)

13                  MR. MULROE: And if we could go to Page 2, please.

14           BY MR. MULROE:

15           Q. Do you see the message at the top?

16           A. Yes.

17                   MR. MULROE: Can we zoom in a little bit so it takes  
18           up more of the screen?

19           BY MR. MULROE:

20           Q. That's your Telegram name, correct?

21           A. Yes.

22                   MR. MULROE: Go to Page 3 at the top.

23           BY MR. MULROE:

24           Q. That's another message from you, isn't it?

25           A. Yes.



1 MR. MULROE: And then the bottom of Page 3. And this  
2 is a message from you as well, isn't it?

3 A. Yes.

4 MR. MULROE: Move to admit 1404 G.

5 THE COURT: It may be shown to the jury.

6 (Government Exhibit 1404G received in evidence.)

7 MR. MULROE: Publish that. Go to Page 2.

8 BY MR. MULROE:

9 Q. Here at the top, I'm highlighting on the side in yellow,  
10 Mr. Nugent. That is you sending the message: If they want to  
11 do that, it's time we turn our backs on the cops.

12 Correct?

13 A. Yes, that's me.

14 MR. MULROE: And go to the top of Page 3.

15 BY MR. MULROE:

16 Q. This is you saying: We can't allow cops to become social  
17 justice warriors.

18 Correct?

19 A. Correct.

20 MR. MULROE: And the bottom of Page 3.

21 BY MR. MULROE:

22 Q. This is you saying: They serve a purpose. They are  
23 needed. Most are good dudes but if they going to play games,  
24 it's time the play.

25 That's your message, right?

1 A. Correct.

2 Q. When you said "time the play," you're not talking about  
3 hopscotch, right?

4 A. I mean, potentially.

5 Q. When you say "play" there, it's kind of like when you talk  
6 about toys in some of your other messages, right?

7 A. In some of my other messages?

8 Q. Like when Antifa doesn't stick around very long, we bring  
9 out the toys?

10 MS. HERNANDEZ: Objection.

11 THE COURT: Overruled.

12 THE WITNESS: I'm not sure what you're referring to.

13 BY MR. MULROE:

14 Q. When you say "toys," you mean guns, right?

15 A. Again, I'm not sure what you're referring to.

16 Q. Have you ever had any other toys to confront Antifa with?

17 MS. HERNANDEZ: Objection, Your Honor. Asked and  
18 answered.

19 DEFENSE COUNSEL: Also argumentative.

20 THE COURT: Sustained. Asked and answered.

21 BY MR. MULROE:

22 Q. So that was the end of November. And then as of  
23 January 2nd, 2021 --

24 MR. MULROE: You can take the exhibit down,  
25 Ms. Harris.

1 BY MR. MULROE:

2 Q. As of January 2nd, just a few days before January 6th, you  
3 believed it was time for the Proud Boys to, quote: Change up  
4 our attire and show the commie police we will not take their  
5 tyranny.

6 Isn't that right?

7 A. I don't remember this.

8 MR. MULROE: Just for the witness, Exhibit 1404H,  
9 please.

10 BY MR. MULROE:

11 Q. Do you see that message right at the top?

12 A. Yes.

13 Q. That's your message, isn't it?

14 A. Yes.

15 MR. MULROE: We move to admit -- or if Your Honor  
16 prefers, just publish 1404H.

17 THE COURT: Let's publish it to the jury.

18 (Whereupon, the exhibit was published in open court.)

19 BY MR. MULROE:

20 Q. Mr. Nugent, on January 22nd, 2021, you sent this message,  
21 didn't you: It's about time we change up our attire and show  
22 the commie police we will not take their tyranny; they  
23 straight-up assaulted people today.

24 That was you, wasn't it?

25 A. Yes.

1 Q. Let's talk about that phrase you used, "change up our  
2 attire." Proud Boys have colors, right?

3 A. Correct.

4 Q. And when you're wearing the colors, people know that you're  
5 Proud Boys, correct?

6 A. Yes.

7 Q. When you're not wearing your colors, people might not  
8 realize that you're Proud Boys, correct?

9 A. Correct.

10 Q. You agree in some situations, it can be helpful to conceal  
11 your identity?

12 A. Absolutely.

13 Q. There have been times when you've driven unregistered cars  
14 so you couldn't be tracked?

15 MR. JAUREGUI: Objection. Foundation.

16 THE COURT: Sustained.

17 BY MR. MULROE:

18 Q. There are times you've discussed in chats driving  
19 unregistered cars --

20 MR. JAUREGUI: Objection. Relevance and scope, Judge.

21 THE COURT: Sustained as to relevance and scope.

22 BY MR. MULROE:

23 Q. Let's talk about Proud Boys colors, specifically. You,  
24 yourself, Mr. Nugent, have directed other Proud Boys not to  
25 wear colors on at least one occasion; isn't that right?

1 MS. HERNANDEZ: Scope.

2 THE COURT: Well, let me hear you at sidebar.

3 (Whereupon, the following proceedings were had in open  
4 court:)

5 THE COURT: When was this event, Mr. Mulroe?

6 MR. MULROE: Post-election, Your Honor.

7 THE COURT: What are the circumstances?

8 MR. MULROE: It is a chat in which Mr. Nugent and  
9 other Proud Boys are going to a place together, or gathering  
10 people to go to a place. He tells the others don't wear --  
11 you're going to be doing recon; don't wear colors but be ready  
12 to fight.

13 THE COURT: All right. I think it's within -- okay.  
14 Fair enough.

15 MS. HERNANDEZ: Your Honor, 403, beyond the scope,  
16 hearsay. I'm just saying 403, beyond the scope, hearsay.

17 THE COURT: It's impeachment evidence.

18 You may proceed, Mr. Mulroe.

19 (Whereupon, the following proceedings were had in open  
20 court:)

21 MR. MULROE: Can we have the screen for the witness?  
22 Let's do 1404F.

23 Can we scroll down a bit? Right there. Let's go up  
24 just a little bit.

25 BY MR. MULROE:

1 Q. So you see a message from yourself to your own screen,  
2 correct, Mr. Nugent?

3 A. Correct.

4 Q. And then there's a message right above yours that you  
5 appear to be responding to?

6 A. Yes.

7 MR. MULROE: We move to publish 1404F.

8 THE COURT: Permission to publish is granted.

9 (Whereupon, the exhibit was published in open court.)

10 BY MR. MULROE:

11 Q. Mr. Nugent, on November 29th, 2020, a member of the chat,  
12 Dan 2, says: I haven't heard from Flip or anyone today.  
13 Should get ahold of Sarge. But I'm sure any Proud Boys who are  
14 available should get their butts up there and show some  
15 numbers, if they can.

16 Right?

17 A. Yes.

18 Q. And then after that, you send a message and you say: This  
19 will be recon only, for now. No colors.

20 Correct?

21 A. Yes.

22 MR. MULROE: And I'll clear the highlighting,  
23 Ms. Rohde, if you would scroll down just a bit.

24 BY MR. MULROE:

25 Q. You sent another message just a few seconds later, right?

1 A. Yes.

2 Q. And you said: Come ready to fight, though.

3 A. Yes.

4 MS. HERNANDEZ: Scope, Your Honor.

5 THE COURT: Overruled.

6 MR. MULROE: We can take the exhibit down.

7 BY MR. MULROE:

8 Q. I want to get to January 6th, Mr. Nugent.

9 Now, you were inspired to go to January 6th based on what  
10 you saw happen in D.C. in December; is that right?

11 A. Yes.

12 Q. And part of what you learned about what happened at that  
13 Proud Boys rally in D.C. in December was through social media,  
14 correct?

15 A. Yes.

16 MR. MULROE: 636, which is in evidence.

17 MR. SMITH: Objection. Scope, Your Honor.

18 THE COURT: Overruled.

19 BY MR. MULROE:

20 Q. Mr. Nugent, do you remember seeing a post by Enrique  
21 Tarrio, as follows, talking about how silent, big dick ninjas  
22 were roaming the streets in D.C. on December 12th?

23 A. I don't recall that.

24 Q. What about the one about how Antifa has been running  
25 from --

1 MR. SMITH: Objection. Asked and answered,  
2 foundation.

3 THE COURT: Sustained.

4 MS. HERNANDEZ: And move to strike, Your Honor. He  
5 said he didn't see it.

6 THE COURT: Sustained.

7 Mr. Mulroe, I'll just ask you to show these to the  
8 witness and see if he -- if you can lay a foundation.

9 MR. JAUREGUI: Judge, it's published for the jury.

10 THE COURT: It's already in evidence.

11 MR. MULROE: Can I have the screen just for the  
12 witness, please.

13 601-24.

14 BY MR. MULROE:

15 Q. Do you remember this post by Ethan Nordean's Parler?

16 MR. SMITH: Objection. Scope.

17 THE COURT: Overruled.

18 BY MR. MULROE:

19 Q. Do you remember seeing this on Parler?

20 A. Not for sure.

21 MR. MULROE: Let's do 603-30.

22 Scroll down, please.

23 BY MR. MULROE:

24 Q. Do you remember seeing this post by Joe Biggs to Parler  
25 after December 12th?



1 A. I don't remember if I did.

2 Q. You knew, though --

3 MR. SMITH: Your Honor, this is published. There's  
4 no -- objection. Foundation.

5 THE COURT: Sustained.

6 MR. MULROE: We can take the screen down.

7 BY MR. MULROE:

8 Q. Mr. Nugent, you knew, though, that there had been some  
9 serious violence in D.C. on December 12th, correct?

10 MR. SMITH: Objection. Misstates the testimony.

11 THE COURT: Overruled. The witness can answer the  
12 question.

13 BY MR. MULROE:

14 Q. You knew there had been violence in D.C.?

15 A. Can you repeat the question? Sorry.

16 Q. You knew that there had been violence at the December rally  
17 in D.C.?

18 A. Correct.

19 Q. You talked about that in some of your Telegram chats,  
20 correct?

21 A. Possibly, yes.

22 MR. MULROE: Just for the witness, can we have 1419A.

23 BY MR. MULROE:

24 Q. And about a third of the way down on the page, it's another  
25 message from you, isn't it?

1 MS. HERNANDEZ: Objection. Hearsay.

2 MR. SMITH: Scope.

3 THE COURT: I'll hear you at sidebar.

4 (Whereupon, the following proceedings were held at sidebar  
5 outside of the presence of the jury:)

6 THE COURT: Mr. Mulroe, what's the relevance here? I  
7 understand you had a basis to ask the questions. He said  
8 before he understood that he was inspired to come to  
9 January 6th by some of this stuff. He said yes. Fine. But  
10 what are we doing here?

11 MR. MULROE: Well, I think if what happened in  
12 December is what inspired him to come in January, then the jury  
13 needs to know what was his understanding of what happened in  
14 December.

15 THE COURT: Why don't you just ask -- fair enough.

16 MS. HERNANDEZ: Your Honor, the bottom line is this --  
17 this is incomprehensible in this sense. Whatever he  
18 understood -- well, he was able to come on January 6th and not  
19 commit any violence. So it's not the understanding that the  
20 Government is trying to get to whatever was in his mind.

21 He came to be with -- he didn't commit any violence.  
22 He didn't destroy any property. So all of this seems very  
23 extraneous to the original direct, and, also, I don't know what  
24 he's trying to prove. That the Proud Boys can never attend a  
25 rally without committing violence? That's inconsistent with --

1 THE COURT: He's trying to impeach the witness who  
2 said, I was shocked there was physical -- that what happened  
3 there that day was violence.

4 So, Mr. Mulroe, you may proceed.

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

7 BY MR. MULROE:

8 Q. Mr. Nugent, you knew that in D.C. in December, some of your  
9 dudes stomped a dude out, correct?

10 A. Yeah, I mean, I don't really recall any of this, but yeah.

11 MR. MULROE: Just for the witness, 1418B.

12 BY MR. MULROE:

13 Q. Mr. Nugent, you knew that at the December rally, the Proud  
14 Boys beat a dude unconscious and the cops saved him, correct?

15 MR. SMITH: Objection. Scope, 403.

16 THE COURT: All right.

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

19 THE COURT: Mr. Mulroe, I'm going to sustain the  
20 objection. If you want to ask him what about these prior  
21 things inspired him to be there, that's fine. But dragging  
22 through, like, each of these things, I don't see the relevance.

23 I understand you want to ask him about his  
24 understanding of what happened, and if some of these other  
25 statements mean you can cross him about it, fine. But just

1 dragging these statements that he made about this through him  
2 now -- you can ask him -- there's no reason why you can't just  
3 ask him these questions, questions about what his understanding  
4 was of this prior event without going through each of these  
5 statements.

6 MR. SMITH: Your Honor, we would make a cumulative  
7 argument for things not related to January 6th. Mr. Mulroe  
8 indicated we're moving to January 6th, and now we're back in  
9 December --

10 THE COURT: Mr. Smith, okay.

11 Mr. Mulroe, you can ask him all about what his  
12 understanding was. There's no reason to go back through these  
13 statements unless he says something inconsistent.

14 MR. MULROE: Yes, Your Honor.

15 (Whereupon, the following proceedings were had in open  
16 court:)

17 BY MR. MULROE:

18 Q. December is what inspired you to come in January, right?

19 MR. SMITH: Objection.

20 THE COURT: Overruled.

21 BY MR. MULROE:

22 Q. December is what inspired you to come in January, correct?

23 A. I would say so, yeah.

24 Q. And you were not just coming to D.C. in January by  
25 yourself; you were going as part of the Ministry of

1 Self-Defense, right?

2 A. I wouldn't say that's true.

3 Q. You were a member of the Ministry of Self-Defense, correct?

4 A. I don't know that I was a member of it, but I was in the  
5 chat.

6 DEFENSE COUNSEL: I'm hearing a little buzzing. I  
7 think the Court is too.

8 THE COURT: Spoken like a true defense attorney. Do  
9 we know --

10 DEFENSE COUNSEL: Objection, 403.

11 THE COURT: Do we know whether -- do we really know  
12 what phone is making the buzzing?

13 MR. McCULLOUGH: Your Honor, it sounds to me like it  
14 may be one of the handheld microphones. If everybody would  
15 surreptitiously turn them off, that might do it.

16 THE COURT: Mr. Pattis, that special mic you had, was  
17 it never working?

18 MR. PATTIS: I've turned it off and gave it back to  
19 Ms. Harris, sir.

20 THE COURT: Because we haven't had this problem, I  
21 thought that could have been the culprit.

22 Wow. It sounds quiet now, though.

23 MR. MULROE: Thank you, Your Honor. The Court's  
24 indulgence.

25

1 BY MR. MULROE:

2 Q. So, Mr. Nugent, you were a member of the Ministry of  
3 Self-Defense chat, right?

4 A. Correct.

5 Q. And they didn't let people in the chat unless they were  
6 part of the group, right?

7 A. I mean, I don't particularly remember the guidelines behind  
8 the chat.

9 Q. You knew that there were guidelines, though?

10 A. Yeah.

11 Q. And you knew that you were invited to be part of this?

12 A. Yes.

13 Q. And you knew that this was a selective group?

14 A. From my understanding, people coming to Washington D.C.,  
15 yes.

16 Q. And you knew that the Ministry of Self-Defense was a  
17 secretive group?

18 A. Yes.

19 Q. You weren't supposed to tell others about it, right?

20 A. It was mentioned, yeah, that we weren't supposed to.

21 Q. Mr. Nugent, you were not a leader of the Ministry of  
22 Self-Defense, were you?

23 A. No.

24 Q. You were a member, correct?

25 A. Yeah. I guess you could call me a "member," yes.

1 Q. But along with other members, you were in some chat groups  
2 where there was discussion of preparations, right?

3 A. Probably. I don't really recall.

4 Q. Mr. Nugent, I want to ask you some questions about strategy  
5 and tactics. Are you familiar with those terms?

6 A. Yes.

7 Q. When we talk about a strategic objective, that's sort of  
8 the overall goal, right?

9 A. Right.

10 Q. When we talk about tactics, those are the steps you take to  
11 achieve the goal, correct?

12 A. Yes.

13 Q. In terms of strategic objective --

14 MS. HERNANDEZ: Scope, Your Honor.

15 THE COURT: Overruled.

16 BY MR. MULROE:

17 Q. In terms of strategic objective, you knew there was an  
18 overall goal for the D.C. rally in January, didn't you?

19 A. I mean, I would say yes.

20 Q. And you made reference to that goal in some of your chats  
21 through the Ministry of Self-Defense group, right?

22 A. I'm unsure.

23 MR. MULROE: Can we have just for the witness 503N1, N  
24 as in Nancy.

25 BY MR. MULROE:

1 Q. That's a message from your Telegram handle, correct,  
2 Mr. Nugent?

3 A. Yes.

4 Q. And have you seen this message before?

5 A. I don't know that I've seen it before. I mean, I obviously  
6 wrote the message.

7 Q. This message you sent on December 30th, 2020, correct?

8 A. Yes. 2030.

9 MR. MULROE: Move to admit 503N1.

10 DEFENSE COUNSEL: No objection.

11 THE COURT: It will be admitted, and permission to  
12 publish.

13 (Government Exhibit 503N1 received in evidence.)

14 (Whereupon, the exhibit was published in open court.)

15 BY MR. MULROE:

16 Q. Mr. Nugent, on December 30th, you sent a message to the  
17 Ministry of Self-Defense main group saying: Big thing with  
18 this event is we need to get everyone focused on a goal of the  
19 event, correct?

20 A. Correct.

21 Q. But it wasn't your job to set that goal, was it?

22 A. No.

23 Q. It was the leadership who decided on the overall strategic  
24 objective, correct?

25 A. I would say so, yes.



1 Q. More specifically, Enrique Tarrío, as the top leader, had  
2 the final say, didn't he?

3 A. I'm not totally sure on that, whether it was more of an  
4 East Coast-based thing or if he had the final say.

5 Q. It was your understanding that Enrique Tarrío was the head  
6 of the Ministry of Self-Defense, though, correct?

7 A. Correct.

8 Q. You also knew that the leadership was putting tactics into  
9 place to help achieve that goal, right?

10 A. I mean, what do you mean by "tactics"?

11 Q. Well, one of the tactics was to not wear colors, correct?

12 A. Correct.

13 Q. And you knew that the purpose of that was to blend in?

14 A. Correct.

15 Q. We've already talked about why that's useful, right?

16 A. Correct.

17 Q. Another part of the tactics for January 6th was making sure  
18 the group's plans weren't revealed to law enforcement, correct?

19 A. I wasn't really sure if that was a thing or not, but...

20 MR. MULROE: Can we have the screen just for the  
21 witness. 507N1, please.

22 And if we could zoom in a bit on the middle message  
23 there.

24 BY MR. MULROE:

25 Q. There's another message from you, Mr. Nugent?

1 A. Yes.

2 Q. This one is -- it's in UTC Time Zone, but around 1:00 in  
3 the morning on January 5th, 2021.

4 A. Yeah, that's...

5 MR. MULROE: Move to admit 507N1.

6 DEFENSE COUNSEL: No objection.

7 THE COURT: It will be admitted, and permission to  
8 publish.

9 (Government Exhibit 507N1 received in evidence.)

10 (Whereupon, the exhibit was published in open court.)

11 BY MR. MULROE:

12 Q. This is a message that you sent to the Ministry of  
13 Self-Defense group saying: We need an admin to go through this  
14 chat and nuke everything.

15 Correct?

16 A. Yes.

17 Q. And you sent that message shortly after you-all learned  
18 that Enrique Tarrío had been arrested, right?

19 A. Correct.

20 Q. And you knew there was a chance that the police had his  
21 phone, right?

22 A. Correct. That's probably -- yeah.

23 Q. And you didn't want all the Ministry of Self-Defense chats  
24 to come into the hands of law enforcement, right?

25 A. Potentially, yeah.

1 Q. This was really nothing like those previous rallies where  
2 you-all would tell the police your plans, right?

3 A. That was above my scope of what I was privy to, I guess.

4 Q. You didn't tell any police officers your plans for  
5 January 6th?

6 A. Myself, no, I did not.

7 Q. And you didn't have any reason to think that Enrique Tarrio  
8 told the police his plans for January 6th?

9 A. I didn't have any reason to think he didn't.

10 Q. You have no reason to think one way or the other --

11 DEFENSE COUNSEL: Objection, Judge. May we be heard?

12 (Whereupon, the following proceedings were held at sidebar  
13 outside of the presence of the jury:)

14 MR. PATTIS: My understanding is that the Government  
15 is threatening to -- that Mr. Lamond has been advised that he  
16 can potentially face prosecution, and if Mr. Tarrio was in  
17 touch with Lamond and the Government knows and they're asking  
18 questions in his name, I don't think they can do so in good  
19 faith because they know the truth to be otherwise. And their  
20 goal is to strike fair but hard blows, but not unjust ones.

21 THE COURT: Mr. Mulroe.

22 MR. MULROE: We don't have any reason to think that  
23 that I'm aware of, Your Honor. They've got Lamond's phone. I  
24 know that we're making arraignments, so they'll be able to  
25 offer any relevant parts into evidence. But I'm asking this

1 witness about his perceptions and his experience.

2 MR. PATTIS: Expectations of others, I think that's  
3 when things went a little awry.

4 MR. JAUREGUI: Judge, especially since the Government  
5 knows that Tarrío did communicate with Lamond. Not only that,  
6 but that Lamond communicated that up through the chain of  
7 command to other law enforcement officers and other agencies.

8 That's why we're working with the Government right now  
9 to get us an FBI agent in here that can testify as to Lamond's  
10 extractions because there was this very prosecutor that gave  
11 the insinuation that when he redirected Dubrowski, that Lamond  
12 was a dirty cop and that Lamond was giving information --  
13 leaking information, and I think it was not giving him any  
14 information.

15 THE COURT: All right. So let's just do this.  
16 Mr. Mulroe, you've already asked the question. He said, I  
17 don't have any reason to think he didn't. You got that in  
18 before there was an objection. Why don't you just move on.

19 MR. MULROE: Yes, Your Honor.

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

22 BY MR. MULROE:

23 Q. Mr. Nugent, another part of the tactics in place for the  
24 Ministry of Self-Defense was putting the right people into  
25 leadership roles, true?

1 A. I'm not sure.

2 MS. HERNANDEZ: Foundation, Your Honor.

3 THE COURT: Overruled.

4 The witness can answer if he knows.

5 THE WITNESS: I'm not really sure where you're going  
6 with that, I guess.

7 BY MR. MULROE:

8 Q. Well --

9 A. I don't understand the question.

10 Q. Some people are better leaders than others; do you agree  
11 with that?

12 A. Yes.

13 MS. HERNANDEZ: Objection. He answered the question  
14 already. Asked and answered.

15 THE COURT: Overruled as to the -- overruled.

16 BY MR. MULROE:

17 Q. You would agree with me that some people are better leaders  
18 than others?

19 A. Yes.

20 Q. And before he was arrested, Enrique Tarrio was the one  
21 calling most of the shots in the Ministry of Self-Defense,  
22 right?

23 A. Yes.

24 Q. After Enrique Tarrio was arrested, you-all needed to make  
25 some adjustments on that front, correct?

1 DEFENSE COUNSEL: Objection. Vague, "you-all."

2 THE COURT: Overruled.

3 The witness can answer the question.

4 BY MR. MULROE:

5 Q. You had to make adjustments in the Ministry of Self-Defense  
6 after the top leader was taken into police custody, correct?

7 A. Yes.

8 Q. You had an opinion about who would be -- the best choice to  
9 lead the group would be, right?

10 A. I believe so, yes.

11 MR. MULROE: Just for the witness, 510N1.

12 BY MR. MULROE:

13 Q. Do you recognize this message from you, Mr. Nugent?

14 A. Yes.

15 Q. A message from the Ministry of Self-Defense Main 2 on the  
16 4th of January, 2021?

17 A. Yes.

18 MR. MULROE: We move to admit 510N1.

19 DEFENSE COUNSEL: No objection.

20 THE COURT: It will be admitted, and permission to  
21 publish.

22 (Government Exhibit 510N1 received in evidence.)

23 (Whereupon, the exhibit was published in open court.)

24 BY MR. MULROE:

25 Q. After Tarrio was arrested, Mr. Nugent, you told others to

1 follow: Hey, so right now, guys, we need to follow under Rufo.

2 That's Rufio, right?

3 A. Yes.

4 Q. Let's not make anything public about that, though. We've  
5 got to make sure someone is leading this shit, though, so  
6 others don't try to pull rank.

7 That was your message?

8 A. Yes.

9 Q. Mr. Nugent, this was your message, but this was not your  
10 idea, correct?

11 A. That's a fair statement, yeah.

12 Q. Ethan Nordean told you that he was the one who ought to be  
13 in charge after Tarrío was arrested, correct?

14 A. I believe we talked about it, yes.

15 Q. You agreed with that, didn't you?

16 A. Yes.

17 Q. You thought he was the right man to lead the group?

18 A. Correct.

19 Q. Ethan Nordean commanded a lot of respect, didn't he?

20 A. Can you kind of elaborate on that?

21 Q. Well, within the Proud Boys, guys were willing to follow  
22 Rufio, right?

23 A. Yes.

24 Q. Guys looked up to Rufio, right?

25 A. Correct.

1 Q. Fair to say Rufio had almost a heroic reputation in the  
2 Proud Boys?

3 A. Fair to say, yes.

4 Q. And what made him heroic was his ability to use force,  
5 right?

6 MR. SMITH: Objection. Lack of evidence.

7 THE COURT: Overruled.

8 MS. HERNANDEZ: Objection. Scope, Your Honor.

9 THE COURT: Overruled.

10 BY MR. MULROE:

11 Q. He was famous for his fighting ability, wasn't he?

12 A. Famous, yes.

13 Q. You looked up to him for that, didn't you?

14 A. Among many things, sure.

15 Q. You had a file in your Google storage account that  
16 celebrated his fighting ability, right?

17 MR. SMITH: Objection. Mischaracterizes --

18 DEFENSE COUNSEL: Objection. Vague.

19 THE COURT: Overruled.

20 BY MR. MULROE:

21 Q. Do you know what I'm referring to?

22 A. I don't for sure.

23 MR. MULROE: The screen just for the witness, please.

24 MR. SMITH: Your Honor, this has been --

25 MR. MULROE: Different exhibit, Your Honor.



1 1409, please.

2 BY MR. MULROE:

3 Q. Do you recognize that image, Mr. Nugent?

4 A. I do.

5 Q. And that was in your Google account, right?

6 A. It must have been, yeah. I don't remember it.

7 MR. MULROE: Move to admit --

8 THE WITNESS: I don't remember it being in my account.

9 BY MR. MULROE:

10 Q. You know the image, though, right?

11 A. Yes.

12 MR. MULROE: Move to admit 1409.

13 DEFENSE COUNSEL: Objection. Relevance, scope, 403.

14 THE COURT: Sustained on 403.

15 BY MR. MULROE:

16 Q. Ethan Nordean, apart from being known to you for his  
17 fighting ability, he sometimes spoke in very blunt terms about  
18 the need to use force, didn't he?

19 A. I don't really remember a specific time. But I'm sure at  
20 times, yeah.

21 Q. Did you ever watch or listen to his podcast, Rebel Talk  
22 with Rufio?

23 MR. SMITH: Objection. Outside the scope, 403, 401.

24 THE COURT: Sustained as outside the scope.

25 BY MR. MULROE:

1 Q. Mr. Nugent, you were not a Proud Boys hero, like Ethan  
2 Nordean was, were you?

3 A. No.

4 Q. You consider yourself a nobody who was just doing what you  
5 could to help?

6 A. That sounds about right.

7 MR. MULROE: May we have just for the witness 510N2?

8 BY MR. MULROE:

9 Q. Do you remember sending this message to the Ministry of  
10 Self-Defense?

11 A. Yeah.

12 MR. MULROE: Move to admit 510N2.

13 MR. SMITH: Relevance to him being nobody.

14 DEFENSE COUNSEL: Also 403.

15 THE COURT: I'll overrule the objection. It should be  
16 admitted, and permitted to publish.

17 (Government Exhibit 510N1 received in evidence.)

18 (Whereupon, the exhibit was published in open court.)

19 MS. HERNANDEZ: Scope, Your Honor.

20 THE COURT: Overruled.

21 BY MR. MULROE:

22 Q. On the 5th, Mr. Nugent, you sent to the group the  
23 following: I'm nobody. Doing what I can to help. Enrique, of  
24 course, just got out of a long night of a couple hots and a  
25 cot, and is settling in. So we're working a plan out. I'll

1 post the details I know, as soon as I know more, but yes, we  
2 will be meeting tomorrow in the morning and continuing on with  
3 the plan. Just understand, shit clearly went south with his  
4 arrest, but they are continuing on with tomorrow.

5 When you said "they are continuing on," you were referring  
6 to the Ministry of Self-Defense leaders, correct?

7 A. To be honest, no. It's probably just a grammar mistake.

8 Q. Mr. Smith asked you about the Airbnb you went to; is that  
9 right?

10 A. You said the one that we went to?

11 Q. The night before January 6th, you gathered with some others  
12 at an Airbnb, correct?

13 A. Correct.

14 Q. There was a meeting there, right?

15 A. Correct.

16 Q. It was crystal clear to you at that meeting that Ethan  
17 Nordean and Joe Biggs were the ones in charge, correct?

18 A. Correct.

19 Q. Joe Biggs, he was not always the most popular guy.

20 Do you agree with that?

21 A. I mean, under what pretense that would be?

22 Q. Some people had issues with Biggs, right?

23 A. What's that?

24 Q. Some people had issues with Biggs, right?

25 A. Yes.

1 Q. That was because he could be kind of over the top in his  
2 rhetoric sometimes?

3 A. I would hate to speculate on other people's opinion. But,  
4 yes. Essentially, yes, he could be very brass.

5 Q. Kind of inflammatory?

6 A. Yes.

7 Q. On the night of the 5th at that Airbnb, though, people were  
8 ready to respect Joe Biggs's leadership, correct?

9 DEFENSE COUNSEL: Objection. Vague.

10 THE COURT: Overruled.

11 BY MR. MULROE:

12 Q. You can answer.

13 A. Can you repeat the question?

14 Q. So we talked about how some guys had issues with Biggs, but  
15 not at that Airbnb, right? Everyone at that Airbnb was ready  
16 to get behind Biggs, correct?

17 A. I believe so, yes.

18 MR. SMITH: Your Honor, there's a scheduling issue.  
19 We have to alert the court to an emergency.

20 (Whereupon, the following proceedings were held at sidebar  
21 outside of the presence of the jury:)

22 MR. SMITH: -- informed me that he must leave at  
23 5:00 o'clock because of his cruise. If Mr. Mulroe continues in  
24 this vein, in what we think are cumulative questions, we will  
25 have no opportunity for recross unless we continue past 5:00.

1 THE COURT: I don't know what you want me to say. We  
2 proceeded -- Mr. Smith, we proceeded --

3 MR. SMITH: Your Honor, we have a right to redirect.  
4 So if our right to redirect is shut down by cumulative  
5 questioning, we're objecting on Sixth Amendment grounds, the  
6 right to cross-examine the witness.

7 THE COURT: It's not cumulative. I don't know why we  
8 had another witness on, if we thought this was going to be an  
9 issue earlier today.

10 MR. SMITH: Your Honor, there have been objections by  
11 other defense counsel that Nordean was not -- this is not --

12 THE COURT: Mr. Mulroe, how much longer do you have?

13 MR. MULROE: I think we're going to go past 5:00. I  
14 think you should have called him first.

15 MR. SMITH: Your Honor, we were not informed, Your  
16 Honor, that we would lose our right to redirect. We had --  
17 there were questions that go directly to the heart of this  
18 case. This is our most essential witness, Your Honor. We  
19 cannot be denied our right to redirect.

20 THE COURT: And so I should cut off the Government's  
21 right to cross? I don't know what you want -- what you're  
22 asking.

23 MR. SMITH: Your Honor, I'm asking to go past  
24 5:00 o'clock, if Mr. Mulroe is saying he will take all of the  
25 remaining time.

1 THE COURT: Look, let me just also say, we can  
2 probably go another -- from the jury's perspective, this is a  
3 day when I know we can go a little bit later until about 5:15,  
4 if that helps or matters.

5 MR. SMITH: Your Honor, if the Government now runs out  
6 the clock and we don't have redirect, Your Honor, that is just  
7 not -- we had no opportunity to fix this, Your Honor. The  
8 first witness this morning, we tried to get through it as  
9 quickly as possible. He drove 15 hours --

10 THE COURT: Mr. Smith, he won't be going on his  
11 cruise, then, if you want to enforce the subpoena. What in the  
12 world can I do now? I mean, the Government -- I think this  
13 is --

14 MR. SMITH: Your Honor, this has been cumulative  
15 questioning outside the scope for the past 20 minutes, Your  
16 Honor. We're only asking for the right to a redirect  
17 examination of our own witness, Your Honor. Mr. Mulroe will  
18 just run out the clock until 5:15.

19 THE COURT: He is not -- this is -- I will listen to  
20 objections about cumulativeness, but, I mean, this is within  
21 the scope. I don't know what to say. I really don't know what  
22 to say.

23 Mr. Mulroe, you may continue.

24 Look, we're going to go beyond 5:00 o'clock, and we  
25 can go until 5:15 or 5:20. Mr. Smith, I don't know what

1 position this puts me in. I don't know how I can just tell the  
2 Government, well, stop your cross-examination now.

3 MS. HERNANDEZ: Your Honor, what's the point that  
4 Mr. Mulroe is trying to make that they've been involved in  
5 violent conduct? I think he's made his point.

6 THE COURT: No, no. We're not -- he's going to go  
7 beyond that now. We're talking about -- you see what's on  
8 here.

9 Mr. Mulroe, you may proceed.

10 I'll police relevance and cumulativeness as much as I  
11 can.

12 MR. SMITH: Thank you, Your Honor.

13 THE COURT: Mr. Mulroe, how much -- what's your  
14 good-faith estimate right now?

15 MR. MULROE: I think, potentially, 30 minutes. I'll  
16 tell Your Honor, I'm not going to rush, but I'm not going run  
17 out the clock either. I intend to do cross-examination.

18 THE COURT: Proceed, and I'll police this.

19 (Whereupon, the following proceedings were had in open  
20 court:)

21 BY MR. MULROE:

22 Q. At that meeting at the Airbnb, Mr. Nugent, some of what was  
23 discussed was the tactics to be used the next day, correct?

24 MS. HERNANDEZ: Your Honor, scope.

25 DEFENSE COUNSEL: Asked and answered.

1 THE COURT: Overruled.

2 BY MR. MULROE:

3 Q. Discussed tactics for January 6th, right?

4 A. Sure, yeah.

5 Q. Discussed the use of radios?

6 A. Yes.

7 Q. Discussed breaking into small teams?

8 A. Yes.

9 Q. Discussed the time and the place to meet?

10 A. Yes.

11 Q. And you conveyed that to others who were not present at the  
12 Airbnb, correct?

13 A. Correct.

14 MR. MULROE: Scroll down just a bit, Ms. Rode.

15 BY MR. MULROE:

16 Q. And here we have you sending a message: Everyone needs to  
17 meet at the Washington Monument at 10:00 a.m. tomorrow?

18 A. Correct.

19 Q. One thing that was really stressed at this meeting was that  
20 everyone needed to follow the commands of leadership, correct?

21 MS. HERNANDEZ: Cumulative.

22 THE COURT: Overruled.

23 BY MR. MULROE:

24 Q. Everyone needed to follow the commands of the leadership,  
25 right?



1 A. Correct.

2 Q. Even if you didn't fully understand the plan they had in  
3 mind, you were supposed to follow, right?

4 A. Fair statement, yeah.

5 Q. So the next day, you did go to the mall to meet at  
6 10:00 a.m. at the Washington Monument, right?

7 A. Yes.

8 Q. And you didn't decide that, yourself. The leaders decided  
9 that, correct?

10 A. Correct.

11 Q. You passed the message along?

12 A. Correct.

13 Q. And I won't show you the video, but Mr. Smith showed you a  
14 bunch of videos of you and Mr. Nordean in close proximity  
15 throughout that morning, right?

16 A. Correct.

17 Q. You were near him for much of the day, right?

18 A. Correct.

19 Q. You tried to stay close?

20 A. Correct.

21 Q. Because you respected him?

22 A. Correct.

23 Q. You respected his leadership?

24 A. Correct.

25 Q. And you learned at some point that the leadership had

1 decided you were no longer going to break off into small teams,  
2 right? You were going to march as one big group?

3 A. For the time being, yeah.

4 Q. And you were going to march as one big group to the  
5 Capitol?

6 A. Correct.

7 Q. You said on direct examination that the plan was supposed  
8 to be around the rally at the Trump speech. But that's not  
9 where the leadership took you, is it?

10 A. No.

11 Q. They took you to the Capitol, didn't they?

12 A. Correct.

13 Q. And that surprised you, didn't it?

14 A. Fair enough, yeah. I don't know if "surprise" is the right  
15 word.

16 Q. It wasn't what you expected, though?

17 A. Right.

18 Q. You told Mr. Smith that a whole lot of people were taking  
19 photos of the group as you marched, right?

20 A. Correct.

21 Q. You enjoyed that, didn't you?

22 A. What's that?

23 Q. You enjoyed that, didn't you?

24 MR. SMITH: Your Honor, relevance, scope.

25 THE COURT: Sustained as to relevance.

1 BY MR. MULROE:

2 Q. The reason people took photos is because normal patriots  
3 looked up to the Proud Boys, right?

4 MR. SMITH: Objection. Relevance.

5 THE COURT: Sustained.

6 BY MR. MULROE:

7 Q. Did you feel famous that day on the Mall?

8 MR. SMITH: Objection to relevance.

9 THE COURT: Sustained.

10 BY MR. MULROE:

11 Q. Mr. Nordean -- Mr. Nordean's lawyer, Mr. Smith, asked you  
12 about a time when someone who said he was a pastor came up to  
13 the group. Do you remember that?

14 A. Yes.

15 Q. You said that this supposed pastor asked about going past  
16 the barricades, right?

17 A. Correct.

18 Q. He approached the Proud Boys to ask him that question,  
19 didn't he?

20 A. Correct.

21 Q. He knew that if he wanted to get that done, the Proud Boys  
22 were the guys to do it?

23 MR. SMITH: Objection. Speculation.

24 THE COURT: Sustained.

25 BY MR. MULROE:

1 Q. I'll show you Exhibit 1,000 at the 10 minute and 22 mark.

2 MR. MULROE: Do we have the sound?

3 (Whereupon, the exhibit was published in open court.)

4 MR. MULROE: Pause it there.

5 BY MR. MULROE:

6 Q. You heard Mr. Nordean say: We know what the oath is,  
7 support and defend the Constitution of the United States  
8 against foreign enemies and domestic.

9 A. Correct.

10 Q. Police officers not following their oath is something the  
11 Proud Boys talked about a lot leading up to January 6th, wasn't  
12 it?

13 MS. HERNANDEZ: Scope.

14 THE WITNESS: I can't be for certain.

15 THE COURT: Overruled.

16 BY MR. MULROE:

17 Q. What was your answer, Mr. Nugent?

18 A. I can't tell you for certain. I don't really remember.

19 Q. That was something you yourself had discussed, correct?

20 A. I believe so, yes.

21 MR. MULROE: Can we have just for the witness 1418C?

22 And let's scroll down to bottom of the first page.

23 Let's hold it there.

24 BY MR. MULROE:

25 Q. Do you recognize the message that you sent on

1 December 13th, 2020?

2 MR. SMITH: Your Honor, objection. Scope, relevance.

3 THE COURT: Overruled.

4 BY MR. MULROE:

5 Q. Do you recognize that message?

6 A. I mean, yeah, I definitely wrote it.

7 MR. MULROE: Move to admit 1418C.

8 DEFENSE COUNSEL: No objection.

9 THE COURT: Permission to publish is granted and  
10 document will be admitted.

11 (Government Exhibit 1418C received in evidence.)

12 BY MR. MULROE:

13 Q. So on December 13th, Mr. Nugent, you said: We have to hold  
14 some sort of moral high ground, though, and can't scream, "Fuck  
15 the police ... yet ... but we need to hold them accountable.  
16 We can't continue to not call them out on their bullshit. We  
17 can't continue to follow their orders while in the streets."

18 That's your message, isn't it?

19 A. Correct.

20 MS. HERNANDEZ: Objection. Hearsay.

21 THE COURT: Overruled.

22 MR. MULROE: Go to the second page. And scroll down a  
23 bit. Right there is good. Up a bit, actually. Just one more  
24 message. Maybe one more after that.

25 BY MR. MULROE:

1 Q. Here at the bottom of the first page, Uncle Mike says: How  
2 do we hold them accountable?

3 Right?

4 A. Correct.

5 MR. MULROE: And scrolling down to Mr. Nugent's  
6 message.

7 BY MR. MULROE:

8 Q. You answered: By calling out their bullshit. Every single  
9 police officer on the ground! We don't shake their hands and  
10 thank them. We demand they do their fucking job and support  
11 the oat --

12 Does that mean oath?

13 A. Yeah, I believe so.

14 Q. The oath they take to become an officer. I want to get the  
15 officer oaths and have them printed on postcards to hand to  
16 them. If they're higher up, I want them to uphold their oath.  
17 It's their job at that point, and they are just acting as  
18 Government goons.

19 So you had strong feelings about law enforcement and the  
20 oaths that they were sworn to follow, correct, Mr. Nugent?

21 A. That's a fair statement.

22 Q. On January 6th, you were not the one making statements  
23 about police's oaths, right?

24 A. No.

25 Q. The leaders did that, didn't they?

1 A. Yeah.

2 Q. As you-all walked around that day, you were not the one  
3 making decisions where to go, correct?

4 A. No.

5 Q. The leaders made that decision, correct?

6 A. Correct.

7 Q. When it was time to get ready to leave the food trucks, you  
8 weren't the one who decided to go back to the Capitol, correct?

9 A. No.

10 Q. The leaders decided that, correct?

11 A. Correct.

12 Q. You went to the location called Peace Circle, correct?

13 A. Correct.

14 Q. And the crowd there, once the Proud Boys arrived, started  
15 getting very hyped up, right?

16 A. The crowd, did you say?

17 Q. The crowd, yes.

18 A. Yeah, I believe so.

19 Q. And very soon after you got there, the crowd that you were  
20 part of pushed past barricades, didn't they?

21 A. Yes.

22 Q. And you weren't sure what to do at that moment?

23 A. I -- no.

24 Q. You felt shocked?

25 A. Fair statement.

1 Q. You felt shocked, but you still knew, like you testified,  
2 that you were not supposed to go past the barriers, right?

3 A. Correct.

4 Q. So you had the figure out what to do?

5 A. Correct.

6 Q. So you fell back on the chain of command?

7 A. Fair statement.

8 Q. You compared the crowd to farm animals earlier, but people  
9 aren't like animals, are they?

10 A. Yes, they 100 percent are.

11 Q. But people can make their own decisions, can't they?

12 A. So can animals.

13 Q. You made your own decisions on January 6th, didn't you?

14 A. Yeah.

15 Q. One of the decisions you made when that crowd started  
16 surging forward was to turn to Rufio, correct?

17 A. Correct.

18 Q. You asked Ethan Nordean, are we doing this, right?

19 A. I believe so, something along those lines.

20 Q. And he just looked at you?

21 A. I don't know exactly what totally came out, but yes.

22 Q. And you asked him, are we going in?

23 A. Again, I'm not totally sure, but yes, that sounds correct.

24 Q. And he just looked at you?

25 A. Sure.



1 Q. And then he moved forward toward the Capitol, didn't he?

2 A. That -- that sounds about right.

3 Q. And you went with him?

4 A. Yes.

5 MR. MULROE: Can we have just for the witness 480W at  
6 3 minutes and 5 seconds.

7 And I think Mr. Smith knows the video. If there's no  
8 objection, I'll just move this in.

9 THE COURT: It will be admitted, and permission to  
10 publish.

11 (Government Exhibit 480W received in evidence.)

12 (Whereupon, the exhibit was published in open court.)

13 BY MR. MULROE:

14 Q. Let's start at 3:05 and play the first five seconds.

15 (Whereupon, the exhibit was published in open court.)

16 BY MR. MULROE:

17 Q. Mr. Nugent, did you see on the video of yourself reaching  
18 forward toward people in front of you?

19 A. Yes.

20 Q. Did you see Mr. Nordean rush past you on your right?

21 A. Yes.

22 MR. MULROE: Let's keep playing to 3:16.

23 (Whereupon, the exhibit was published in open court.)

24 BY MR. MULROE:

25 Q. Then you followed him, didn't you?

1 A. Yes.

2 Q. You followed him because he was the leader?

3 A. Yeah.

4 Q. And what had been impressed upon you when you joined the  
5 Ministry of Self-Defense was to follow the leaders, right?

6 A. Sure.

7 Q. And you didn't stop there. You kept moving closer, didn't  
8 you?

9 A. Yes.

10 MR. MULROE: 492X, please, at 30 seconds -- FX, 492FX,  
11 my apologies.

12 Let's play about 10 seconds or so of that.

13 (Whereupon, the exhibit was published in open court.)

14 MR. MULROE: Let's pause it there.

15 BY MR. MULROE:

16 Q. Mr. Nordean is still leading you there, isn't he?

17 A. Yes.

18 MR. MULROE: And pause at 36 seconds.

19 BY MR. MULROE:

20 Q. He's leading you toward the Capitol, isn't he?

21 A. Yes.

22 Q. There's a bunch of others following behind you, right?

23 A. Yes.

24 Q. He didn't need to tell you to stay close, did he?

25 A. What was that?

1 Q. He didn't need to tell you to stay close, did he?

2 A. No.

3 Q. He brought you all the way up to the front of that crowd,  
4 didn't he?

5 A. I mean, I brought myself up there, but yeah.

6 Q. With your hand on his shoulder in front of you?

7 A. Yes.

8 MR. MULROE: Let's have 445BX, please.

9 Play the first 13 seconds. I think this is in, but  
10 please correct me if I'm wrong. 445BX.

11 First 13 seconds of that, please.

12 (Whereupon, the exhibit was published in open court.)

13 BY MR. MULROE:

14 Q. Do you see your arm over there? I just highlighted it on  
15 the left side of the screen at 16 seconds, Mr. Nugent.

16 A. Yes.

17 Q. You were gesturing at the police, right?

18 A. It appears so.

19 Q. And Mr. Nordean was right there with you, wasn't he?

20 A. Yes.

21 MR. MULROE: Play the video.

22 (Whereupon, the exhibit was published in open court.)

23 BY MR. MULROE:

24 Q. Do you see Biggs there?

25 A. Yes.

1 (Whereupon, the exhibit was published in open court.)

2 MR. SMITH: Objection. Cumulative.

3 THE COURT: Overruled.

4 (Whereupon, the exhibit was published in open court.)

5 MR. MULROE: Pause there.

6 BY MR. MULROE:

7 Q. And at 39 seconds of the video, Mr. Nugent, Ethan Nordean  
8 goes over to Joe Biggs, doesn't he?

9 A. It appears so.

10 Q. It was after that that the fence came down, right?

11 A. It appeared so. I'm not sure.

12 Q. And after that fence came down, you followed the leaders  
13 forward again, didn't you?

14 A. I believe so. I don't really know.

15 Q. Well, you and Ethan and the other Proud Boys, or at least  
16 some of the other Proud Boys, you got up to the very front  
17 where a new police line was formed, right?

18 A. Yes.

19 MR. MULROE: Can we have just for the witness 409B?  
20 First -- just play the first few seconds.

21 (Whereupon, the exhibit was published in open court.)

22 BY MR. MULROE:

23 Q. And you recognize that scene from the Capitol on  
24 January 6th?

25 A. Yes.

1 MR. MULROE: Move to admit 409B.

2 DEFENSE COUNSEL: No objection.

3 THE COURT: It is admitted, and permission to publish.

4 (Government Exhibit 409B received in evidence.)

5 MR. MULROE: We'll play that and pause at the  
6 15-second mark, Ms. Rode.

7 (Whereupon, the exhibit was published in open court.)

8 BY MR. MULROE:

9 Q. That's you there, right?

10 A. Yes.

11 Q. Now, it was around this time, Mr. Nugent, that you tried to  
12 be the voice of the reason, right?

13 A. Yes.

14 Q. You actually always tried to be the voice of reason at  
15 Proud Boys events, correct?

16 A. I would say that's a fair statement.

17 Q. And so here at the Capitol on January 6th, you got up to  
18 the front where the officers were, and you told Ethan Nordean:  
19 We need to get on a mic and control the crowd, right?

20 A. That sounds about right.

21 MR. MULROE: Let's play -- Ms. Rode, let's skip to  
22 2:48. Same exhibit, 409B, and we'll play from 2:48 to 2:56.

23 (Whereupon, the exhibit was published in open court.)

24 BY MR. MULROE:

25 Q. And you even asked the police if they had a bullhorn you

1 could use; do you remember that?

2 A. Yes.

3 MR. MULROE: Let's play until 3:13.

4 (Whereupon, the exhibit was published in open court.)

5 BY MR. MULROE:

6 Q. Mr. Nugent, you knew how much the people in that crowd  
7 respected the Proud Boys, didn't you?

8 A. Yes.

9 Q. Nobody got on the bullhorn to control that crowd, did they?

10 A. No.

11 Q. It was pretty soon after that that you realized things were  
12 getting really bad and that it was time to go, right?

13 A. Yes.

14 Q. And so one more time, you grabbed Ethan Nordean and you  
15 told him that it was time to leave, right?

16 A. I believe so. I don't remember the exact details of  
17 everything.

18 Q. Well, you told him it was time to leave. Whether you  
19 grabbed him or not, you told him, we've got to go?

20 A. Yeah.

21 Q. And once more, he ignored you?

22 A. I don't know if he ignored me or if he just didn't hear me  
23 or what the pretext behind that was.

24 Q. Well, if you thought he hadn't heard you --

25 MR. SMITH: Objection. Asked and answered.

1 THE COURT: Overruled.

2 BY MR. MULROE:

3 Q. If you thought he hadn't heard you, you would have repeated  
4 yourself, correct?

5 A. Potentially, correct.

6 Q. This was an important statement, right?

7 A. Correct.

8 Q. Your perception was that he didn't want to listen to you?

9 MR. SMITH: Objection. Speculation.

10 THE COURT: Overruled.

11 BY MR. MULROE:

12 Q. Right?

13 A. I don't know. With the chaos going on --

14 Q. Do you remember telling the FBI on May 5th, 2022, that  
15 Ethan Nordean didn't want to listen to you?

16 A. I don't think those were my exact words, but I know there  
17 was something along that line.

18 Q. Something to that effect?

19 A. Yeah.

20 Q. This time, Mr. Nugent, you didn't stick with leadership,  
21 right?

22 A. Right.

23 Q. This time, you made the decision on your own to get out of  
24 there?

25 A. Correct.

1 Q. Because you knew you were breaking the law?

2 A. Correct.

3 Q. You knew the police wanted you to leave?

4 A. Correct.

5 Q. And you knew that this riot was interfering with law  
6 enforcement?

7 A. Correct.

8 Q. And you knew that this riot was interfering with the  
9 politicians inside that building?

10 A. I wouldn't say -- at the time, no. I didn't even really  
11 realize what was going on inside the building.

12 Q. Mr. Nugent, as angry as you were at the police, you knew  
13 that things were going too far?

14 A. Yeah. That's a fair statement, yeah.

15 Q. Because fighting the police is different than fighting  
16 Antifa, correct?

17 A. I'm -- sure, yeah.

18 Q. Going up the against the government is different than going  
19 up against BLM, right?

20 MR. SMITH: Cumulative, Judge.

21 THE COURT: Overruled.

22 BY MR. MULROE:

23 Q. It's different when you're going up against the government,  
24 right?

25 A. Yes.



1 Q. So you left?

2 A. Correct.

3 Q. But Ethan Nordean stayed?

4 A. I believe so, yes.

5 Q. And he wasn't worried about his hangover at that time, was  
6 he?

7 MR. SMITH: Objection --

8 THE COURT: Sustained.

9 BY MR. MULROE:

10 Q. And Joe Biggs stayed?

11 A. I believe so, yes.

12 Q. And a whole lot of other Proud Boys stayed, didn't they?

13 A. I believe so, yes.

14 Q. And things went even further after you left, didn't they?

15 A. I believe so, yes.

16 Q. You're aware that they breached more police lines?

17 A. I wasn't there for that, so I mean...

18 Q. You're aware a whole lot more stuff happened after you  
19 left?

20 MR. SMITH: Objection to cumulative.

21 THE COURT: No. Sustained as to speculation.

22 BY MR. MULROE:

23 Q. Mr. Nugent, you left the Capitol, but you stayed in the  
24 chats for some time, right?

25 A. I believe, yes, that's a fair statement.

1 MR. MULROE: If we could have just for the witness  
2 510N3.

3 Zoom in on the top, please.

4 BY MR. MULROE:

5 Q. This is another message from you to the Ministry of  
6 Self-Defense Main 2, correct?

7 THE WITNESS: Yes.

8 MR. MULROE: Move to admit 510N3.

9 MR. SMITH: No objection.

10 Cumulative to direct and cross.

11 THE COURT: It will be admitted, and permission to  
12 publish.

13 Objection is overruled.

14 (Government Exhibit 501N3 received in evidence.)

15 BY MR. MULROE:

16 Q. You told the other members of that chat: Scrub all these  
17 chats, correct?

18 A. Correct.

19 MR. MULROE: If we could scroll down just a bit.  
20 Little more. Little more. Little more.

21 BY MR. MULROE:

22 Q. You said: Please wipe this chat!!

23 Correct?

24 A. Correct.

25 Q. And you cleaned up your phone after January 6th, right?

1 A. Correct.

2 Q. You had stuff on that phone that you just didn't think  
3 anyone needed to see, correct?

4 A. Correct.

5 Q. You deleted these chats?

6 A. Correct.

7 Q. And you deleted the chats in the Ministry of Self-Defense  
8 where Proud Boys were celebrating what happened at the Capitol?

9 A. I mean, I left the chats.

10 Q. Left the chat?

11 A. Which deletes the chat.

12 Q. You're aware, though, that in those chats before you left,  
13 there was celebration?

14 A. Yes.

15 Q. You're aware that Enrique Tarrio said he was proud of  
16 you-all?

17 A. I don't recall.

18 MR. SMITH: Objection. Scope, cumulative.

19 THE COURT: Sustained as to cumulative.

20 BY MR. MULROE:

21 Q. Mr. Nugent, how did it feel to see people celebrating  
22 something you knew was wrong?

23 MR. SMITH: Objection. Relevance.

24 DEFENSE COUNSEL: Object to scope. As it relates to  
25 January 6th?

1 THE COURT: Sustained as to relevance.

2 BY MR. MULROE:

3 Q. Just one more line of questioning for you, Mr. Nugent. As  
4 a result of January 6th, you have received some unwanted  
5 attention?

6 A. As a result of January 6th?

7 Q. After January 6th, you've received some unwanted attention?

8 MR. SMITH: Objection. Relevance.

9 MR. MULROE: Goes to bias, Your Honor.

10 MR. SMITH: Bias?

11 (Whereupon, the following proceedings were held at sidebar  
12 outside of the presence of the jury:)

13 THE COURT: Are you going to the threats?

14 MR. MULROE: Yes.

15 THE COURT: Okay.

16 MR. SMITH: Biased in favor of whom? That would lead  
17 him to be biased against the defense.

18 THE COURT: Why would there be bias there?

19 MR. MULROE: Your Honor, the fact that he received  
20 threats based on the perception that he was cooperating with  
21 the Government and becoming a State's witness is relevant to  
22 the type of testimony that he's giving in this proceeding.

23 MR. SMITH: There's no tie to these defendants, Your  
24 Honor. We have no knowledge that that has anything to do with  
25 these defendants. So how can it be relevant to the defendant's

1 state of mind if --

2 THE COURT: It's not about the defendant's state of  
3 mind. It's about his own bias.

4 What I don't understand, I still don't understand, why  
5 did it make him biased against the Government?

6 MR. MULROE: Because he thinks that if he gives  
7 testimony that is not inculpatory, he will be in a better  
8 position.

9 THE COURT: All right. Let's quickly do it.

10 MS. HERNANDEZ: Your Honor, 403. 403. I mean, where  
11 is this going? 403.

12 THE COURT: Overruled.

13 (Whereupon, the following proceedings were had in open  
14 court:)

15 THE COURT: Overrule the objection.

16 You may proceed.

17 BY MR. MULROE:

18 Q. After January 6th, Mr. Nugent, you received some unwanted  
19 attention, that's right?

20 A. Correct.

21 Q. Some people believed that you were cooperating with the  
22 Government, correct?

23 A. Correct.

24 Q. And as a result of that, there's been some pretty ugly  
25 things said about you online, correct?

1 A. Correct.

2 Q. Enough that you feared for your safety?

3 A. Correct.

4 Q. And your family's safety?

5 A. Correct.

6 Q. You've received threats from individuals associated with  
7 the Proud Boys?

8 A. Correct.

9 Q. They told you you need to watch your back?

10 A. Correct.

11 Q. They said you got it coming for you?

12 MR. SMITH: Objection, Your Honor.

13 THE COURT: Overruled.

14 Let's wrap it up, Mr. Mulroe.

15 BY MR. MULROE:

16 Q. Those include -- I'd like to show you one exhibit,  
17 Mr. Nugent.

18 MR. MULROE: Just for the witness, 1511.

19 MR. SMITH: Your Honor, 403, cumulative, relevance,  
20 scope. We don't want to lose our ability --

21 THE COURT: I understand. I understand.

22 BY MR. MULROE:

23 Q. Do you recognize this post, Mr. Nugent?

24 A. I do.

25 THE COURT: I'm going to sustain the objection on

1 relevance and 403.

2 BY MR. MULROE:

3 Q. Mr. Nugent, you are not a confidential human source for the  
4 FBI, are you?

5 A. No.

6 Q. You were not used by the FBI to set people up for  
7 January 6th, correct?

8 MR. SMITH: Objection. Scope, relevance.

9 THE COURT: Overruled.

10 BY MR. MULROE:

11 Q. A Proud Boy named Jeffrey Grace has accused you of turning  
12 State's witnesses; is that right?

13 MR. SMITH: Objection. Relevance, scope.

14 THE COURT: Overruled.

15 BY MR. MULROE:

16 Q. Jeffrey Grace accused you of being a state's witness,  
17 right?

18 A. He's not a Proud Boy.

19 Q. He's accused you of that?

20 A. Yes.

21 Q. A State's witness is a witness for the Government, right?

22 MS. HERNANDEZ: Objection. Hearsay.

23 THE COURT: Overruled.

24 BY MR. MULROE:

25 Q. A State's witness is a witness for the Government, right?

1 A. Correct.

2 Q. You're not here as a State's witness; you're here as a  
3 Defense witness, correct?

4 A. Correct.

5 Q. Do you think Jeffrey Grace appreciates the difference?

6 DEFENSE COUNSEL: Objection --

7 THE COURT: Sustained.

8 MR. MULROE: Thank you, Mr. Nugent.

9 No further questions.

10 THE COURT: Redirect. From Counsel for Mr. Nordean.

11 REDIRECT EXAMINATION

12 BY MR. SMITH:

13 Q. Mr. Nugent, thank you. You're leaving tomorrow to fly to  
14 Florida, correct?

15 A. At 4:00 a.m.

16 Q. So if we don't wrap up by the time the trial proceedings  
17 end today, we would be denied our ability to redirect  
18 examination --

19 GOVERNMENT COUNSEL: Object to relevance, 403.

20 THE COURT: Sustained.

21 BY MR. SMITH:

22 Q. You testified you were in close contact with Nordean  
23 throughout the march on January 6th, 2021, correct?

24 A. Correct.

25 Q. And you testified you were not aware of any plan to use



1 violence on January 6th, correct?

2 A. Correct.

3 Q. You were asked by Mr. Mulroe the question about strategy  
4 and tactics, right?

5 A. Correct.

6 Q. And you testified about the chat where you mentioned a  
7 goal. Do you remember that one?

8 A. Correct.

9 Q. And you were asked about a chat, a January 5th chat, where  
10 you mentioned a plan. Do you remember that?

11 A. Correct.

12 Q. Do you have any reason at all to believe that the goal or  
13 plan referenced included storming the Capitol?

14 A. No.

15 Q. Do you have any reason at all to believe that the goal or  
16 plan involved using violence on January 6th?

17 A. No.

18 Q. Did anything about your experience on the march towards the  
19 Capitol suggest that the group was planning to storm the  
20 Capitol?

21 A. No.

22 Q. Did anything about the march suggest that they were  
23 planning to use violence against members of Congress?

24 A. No.

25 Q. Against police?

1 A. No.

2 Q. Was Nordean's comment that he wanted to go back to the  
3 hotel with the food trucks consistent with a goal of storming  
4 the Capitol?

5 A. No.

6 Q. Was Mr. Nordean's comment, after the initial breach, that  
7 he wanted to go ahead and find the guys consistent with that?

8 A. Can you put some context behind that?

9 Q. Do you remember you testified about how near the time of  
10 the first breach, you and Mr. Nordean had a conversation where  
11 he indicated he wanted to go ahead and find the guys?

12 A. Yeah.

13 Q. Is that consistent with a plan on his part to storm the  
14 Capitol?

15 A. No.

16 Q. You were asked about statements, generally, concerning  
17 fighting and Telegram chats going back to 2020.

18 A. Correct.

19 Q. Do any of those chats have any bearing on whether you  
20 engaged in a plan to commit violence on January 6th,  
21 specifically?

22 A. Absolutely not.

23 GOVERNMENT COUNSEL: Relevance of his opinion.

24 THE COURT: Overruled.

25 BY MR. SMITH:

1 Q. Did any of those chats reflect planing with respect to  
2 January 6th specifically?

3 A. No. They were referring to Portland and Seattle.

4 Q. So not even the same coast, right?

5 A. Correct.

6 Q. So were there or were there not chats in the Proud Boys  
7 Telegram groups that were meant facetiously, meant in jest? Do  
8 you know what that -- so --

9 A. Can you repeat the question?

10 Q. Yes. Were there, in the Telegram chats that you were  
11 testifying about, like the MOSD chat, do people sometimes make  
12 chats in jest, as a joke, as opposed to sincere?

13 A. Oh, yes, absolutely.

14 Q. Were there a lot of chats like that made in -- as a joke?

15 A. Yes, there were many.

16 Q. Were there a lot of, kind of, chats that you would find  
17 crazy in those groups?

18 MR. MULROE: Object to scope.

19 MR. SMITH: Your Honor, this is --

20 THE COURT: Overruled.

21 BY MR. SMITH:

22 Q. Were there a lot of chats that you would find crazy if you  
23 were to look in the MOSD group chat?

24 A. I mean, I don't know, to be honest. I don't really recall  
25 a lot what was talked about directly.

1 Q. Well, you saw some comments about people using violence in  
2 those chats, right?

3 A. Correct.

4 Q. Every time when you saw a chat related to violence, did it  
5 end up happening that in the real word, there was violence used  
6 against someone?

7 A. Not every time, no.

8 Q. Did it happen most of the time?

9 A. I mean, I don't know. That's kind of a broad question, I  
10 feel.

11 Q. Okay. So you were shown a December 13th, 2020, chat from  
12 you, saying you were always ready the fight. Do you remember  
13 that?

14 A. Right.

15 Q. Didn't you say in that chat before you determined whether  
16 you were going to go to D.C. on January 6th, 2021?

17 MR. MULROE: Object to leading.

18 THE WITNESS: I'm unsure.

19 THE COURT: Overruled.

20 BY MR. SMITH:

21 Q. Do you remember whether the former president tweeted about  
22 being in D.C. and being wild?

23 A. I don't recall.

24 Q. So when the prosecutor was asking you about references to  
25 violence in the chats, do you recall him asking whether that

1 was about offensive or defensive violence?

2 A. He didn't ask that.

3 Q. Were those -- so were those chats references to offensive  
4 or defensive violence?

5 A. I would say a majority of it being defensive violence.

6 Q. Okay. Did you ever see any chats from Mr. Nordean  
7 indicating he wanted to use force offensively on January 6th,  
8 2021?

9 A. No.

10 Q. Okay. You were shown an image of people punching each  
11 other; it looked like a cartoon.

12 A. Correct.

13 Q. Did that -- your possession of that chat mean to you that  
14 you intended to commit violence on January 6th?

15 A. No.

16 Q. The Government -- you testified about turning your back on  
17 cops. You testified about a chat where you said -- where you  
18 referenced turning our backs on cops.

19 Do you remember that chat?

20 A. Correct.

21 Q. That was from November 2020?

22 A. Correct.

23 Q. Was that a part of a plan to interfere with police on  
24 January 6th, 2021?

25 A. No.

1 Q. You were shown a chat from January 2nd that said: Show  
2 commie police we will not take their tyranny.

3 Do you remember that chat?

4 A. I remember discussing it here.

5 Q. Was that part of a plan to interfere with police?

6 A. I don't believe so.

7 Q. So you testified about the Proud Boys not wearing their  
8 colors on certain occasions. Remember that?

9 A. Right.

10 Q. Do you remember your testimony on direct about how  
11 sometimes you would delete messages for fear of being doxxed by  
12 groups like Antifa?

13 A. Correct.

14 Q. Would Proud Boys not wear colors for the same reason, that  
15 they didn't want to be identified by people they were hostile  
16 to?

17 MR. MULROE: Object to leading.

18 THE COURT: Sustained.

19 BY MR. SMITH:

20 Q. Is it or is it not true that Proud Boys would decide not to  
21 wear colors to avoid being seen by people that were hostile to  
22 them?

23 A. At times, yes.

24 Q. Would that time include January 6th?

25 A. Yes.

1 Q. So you were -- this is the final question. You were asked  
2 to testify -- I think you testified on direct that you were  
3 asked by the Government to testify in the grand jury in this  
4 case, correct?

5 A. Correct.

6 Q. You testified that the Government asked you to testify at  
7 the grand jury, correct?

8 A. Correct.

9 Q. And you testified that you told the truth in the grand  
10 jury, correct?

11 A. Correct.

12 Q. At any time after you testified for the Government in the  
13 grand jury, did they inform you that your testimony was not  
14 accurate?

15 A. No.

16 Q. Okay. And you've testified that you have not been charged  
17 with any crime related to January 6th, correct?

18 A. Correct.

19 MR. SMITH: Thank you. That's all.

20 THE COURT: All right. Sir, you may step down. Thank  
21 you for your testimony.

22 Let me speak to counsel at sidebar very briefly.

23 (Whereupon, the following proceedings were held at sidebar  
24 outside of the presence of the jury:)

25 THE COURT: All right. As I said, we had a little

1 extra time here, but my plan is to just release them, instruct  
2 them about media and all the rest. And we can pick up with any  
3 additional topics once they're released.

4 Any objection to that?

5 MR. SMITH: No, Your Honor.

6 THE COURT: All right. Very well.

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

9 THE COURT: Ladies and gentlemen, a few scheduling  
10 notes before I release you. To remember -- I think I mentioned  
11 this before, but I want to make sure I did. Both tomorrow and  
12 Thursday, we will only go half a day. We will go the morning  
13 tomorrow and Thursday. Friday it appears like we'll have  
14 mostly a full day. So that's a change from most Fridays. So I  
15 just wanted you-all -- to let you know that.

16 As we get closer, I'll firm up the details on Friday,  
17 but it looks like it will be, for the most part, a full day on  
18 Friday. Tuesday and Thursday, half days only.

19 As usual, please avoid all media coverage regarding  
20 January 6th and specifically regarding this case. Don't  
21 conduct any independent investigation on your own, and do not  
22 discuss the evidence in the case with anyone.

23 Thank you. We'll see you tomorrow.

24 (Whereupon, the jury exited the courtroom and the following  
25 proceedings were had:)



1 THE COURT: Everyone may be seated. Let's just wait  
2 for Ms. Harris to come back in.

3 All right. So have -- do the defendants have any more  
4 clarity about the order in which we will proceed?

5 MR. PATTIS: We will tomorrow morning, Judge. And one  
6 reason for that is that we have made a request, several of us,  
7 of the Government for information relating to CHS. My  
8 understanding is we need to meet and confer about the status of  
9 that.

10 From Mr. Biggs's perspective, we may ask for Wednesday  
11 off, depending on what happens, because we've made a fairly  
12 comprehensive request, but will report about that tomorrow  
13 morning.

14 THE COURT: All right. Let me put it this way. I am  
15 not -- let me put it this way.

16 MR. PATTIS: Is that you're way of saying, Good look,  
17 Mr. Pattis?

18 THE COURT: I think it is unlikely that I would give  
19 you-all Wednesday off, as much as I understand everyone wanting  
20 that. Particularly since, for reasons out of all of our  
21 control, we have half of Tuesday and half of Thursday off, as  
22 it is for juror-related reasons. If that means -- so --

23 MR. PATTIS: Depending on what we learn, we may or may  
24 not make the application. I have good reasons for it,  
25 potentially, but I'll save them until I have to complete --

1           THE COURT: All right. Might that also affect -- in  
2 other words -- well, I don't want -- it sounded like you-all  
3 were talking about another defendant going ahead of you. In  
4 which case, if you wanted to make that application and let that  
5 play out, perhaps you would just pass the baton to another  
6 defendant. But I don't know if that's --

7           MR. PATTIS: Let us talk to the Government, Judge?

8           THE COURT: All right. We'll just table it and take  
9 it up tomorrow.

10          MR. JAUREGUI: And, Judge, we're all working very hard  
11 together to try to make this as fast and as efficient as  
12 possible. That's why we stepped up, if need be, to start our  
13 case.

14          But I will tell you -- and I think I'm in my third or  
15 fourth email. The Government can correct me. I've been asking  
16 the Government for the FBI agent assigned to the Lamond case,  
17 the actual FBI agent that reviewed Lamond's extractions. I've  
18 sent three or four emails -- yes, I have. I see some shaking  
19 of the head over there. I can count them. I can print them  
20 from the computer.

21          And I'm waiting. I did speak to Ms. Valentine and  
22 Mr. Kenerson this afternoon. We're working together. I'm  
23 going to identify some chats for them to see if, perhaps we can  
24 even stipulate. But I wanted to inform Your Honor, because if  
25 we can't stipulate, then I am going to need that witness from

1 the Government.

2 THE COURT: A stipulation in this case. Hope springs  
3 eternal.

4 All right. So, look, it sounds like, given all the  
5 flux, we'll just take it up first thing tomorrow.

6 I just want to -- one other thing in everyone's -- on  
7 everyone's radar, that Mr. Kenerson and I sort of had a  
8 discussion about in open court earlier, but I'm not sure  
9 everyone was listening.

10 I think it might be a productive way to spend the  
11 second half of Thursday for -- maybe not the whole time -- but  
12 for me to hear you on those points of the jury instructions  
13 that you-all want to be heard on. There's a lot of that that I  
14 think is not worth discussing. I mean, I think a lot of it you  
15 agree on. But there are some key things, First  
16 Amendment-related things, the 1512 instruction, that it may  
17 make sense for me to hear you on.

18 It seems to me, I wouldn't necessarily pick Thursday,  
19 but we have that time. It may be a good time to do that. So I  
20 just put that all on your radar as something that it may make  
21 sense to do Thursday afternoon. I don't want to -- it sounds  
22 like -- this is all evolving in terms of what your -- you know,  
23 which defendant is going to go next.

24 I don't want to necessarily say for sure, but I think  
25 it may make -- it may be a valuable use of our time on Thursday

1 afternoon for some period.

2 Anything else before we adjourn for the day? All  
3 right. See you all tomorrow at 9:00.

4 (Proceedings concluded at 5:12 PM)

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C E R T I F I C A T E

I hereby certify that the foregoing is an accurate transcription of the proceedings in the above-entitled matter.

Stacy Heavenridge, RPR  
Official Court Reporter  
to the Honorable Jia M. Cobb  
United States District Court  
for the District of Columbia  
333 Constitution Avenue NW  
Washington, D.C. 20001  
Stacy\_Heavenridge@dcd.uscourts.gov

**BY MR. JAUREGUI: [1]**

14546/4

**BY MR. LEFT 1: [1]**

14517/13

**BY MR. MULROE: [130]**

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**BY MR. SMITH: [39]**

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**BY MS. HERNANDEZ: [5]**

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**DEFENSE COUNSEL: [41]**

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 14559/9 14560/4 14560/21  
 14561/4 14562/8 14562/13  
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**DEPUTY CLERK: [2]**

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**GOVERNMENT COUNSEL:  
[14]**

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**MR. MULROE: [117]**

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**10010 [1]** 14509/23  
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**1014 [1]** 14510/16  
**10:00 a.m [2]** 14636/17  
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**1408 [4]** 14511/21 14573/9  
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**15 seconds [1]** 14531/9  
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**16 minutes [1]** 14520/23  
**16 seconds [1]** 14647/15  
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**18 minutes [1]** 14521/2  
**18 seconds [2]** 14532/20  
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**1:00 [1]** 14622/2  
**1:40 [1]** 14509/6  
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**20 [1]** 14509/5  
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**20 seconds [1]** 14536/11  
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**20005 [1]** 14510/4  
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**2023 [1]** 14509/5  
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**20530 [1]** 14509/19  
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**22nd [1]** 14607/20  
**24 [1]** 14612/13  
**28 seconds [1]** 14516/20  
**29th [3]** 14603/19 14603/24  
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|   |  |  |
|---|--|--|
| <b>2</b><br><b>2:00 [1]</b> 14602/2<br><b>2:48 [2]</b> 14649/22 14649/22<br><b>2:56 [1]</b> 14649/22<br><b>2nd [3]</b> 14606/23 14607/2<br>14666/1  | <b>404B1 [1]</b> 14585/21<br><b>409B [5]</b> 14511/13 14648/19<br>14649/1 14649/4 14649/22<br><b>44 seconds [1]</b> 14520/23<br><b>445BX [2]</b> 14647/8 14647/10<br><b>45 minutes [1]</b> 14536/19<br><b>452 [2]</b> 14532/19 14536/11<br><b>452F [1]</b> 14536/11<br><b>4700-A [1]</b> 14511/3<br><b>480W [3]</b> 14511/14 14645/5<br>14645/11<br><b>492FX [2]</b> 14529/6 14646/10<br><b>492G [1]</b> 14531/9<br><b>492X [1]</b> 14646/10<br><b>49th [1]</b> 14510/16<br><b>4:00 a.m [1]</b> 14660/15<br><b>4th [2]</b> 14596/20 14596/21<br><b>4th of [1]</b> 14626/16<br><b>4th or [1]</b> 14594/21<br><b>4th-degree [4]</b> 14556/17<br>14556/20 14556/24 14557/7  | <b>5:20 [1]</b> 14634/25<br><b>5th [6]</b> 14547/8 14547/12<br>14594/21 14622/3 14630/22<br>14651/14<br><b>5th at [1]</b> 14632/7<br><b>5th chat [1]</b> 14661/9<br><b>5th of [1]</b> 14547/15   |
| <b>3</b><br><b>3 hours [2]</b> 14538/1 14538/2<br><b>3 minutes [1]</b> 14645/6<br><b>30 [2]</b> 14556/2 14612/21<br><b>30 minutes [1]</b> 14635/15<br><b>30 seconds [2]</b> 14542/11<br>14646/10<br><b>301 [5]</b> 14515/24 14516/20<br>14516/23 14518/24 14537/25<br><b>30th [2]</b> 14620/7 14620/16<br><b>31 seconds [1]</b> 14522/14<br><b>317 [1]</b> 14532/17<br><b>33012 [1]</b> 14510/17<br><b>33014 [1]</b> 14510/14<br><b>333 [2]</b> 14511/3 14673/10<br><b>34 seconds [1]</b> 14529/12<br><b>345 [2]</b> 14526/6 14526/7<br><b>35 minutes [1]</b> 14522/14<br><b>36 seconds [1]</b> 14646/18<br><b>383 [1]</b> 14510/6<br><b>39 seconds [1]</b> 14648/7<br><b>3:03 [1]</b> 14581/9<br><b>3:05 and [1]</b> 14645/14<br><b>3:13 [1]</b> 14650/3<br><b>3:16 [1]</b> 14645/22<br><b>3:17 [1]</b> 14590/16 | <b>5</b><br><b>5 seconds [2]</b> 14521/2<br>14645/6<br><b>50 [1]</b> 14556/2<br><b>50 minutes [1]</b> 14523/22<br><b>501N2 [1]</b> 14511/15<br><b>501N3 [2]</b> 14511/16 14654/14<br><b>503N1 [4]</b> 14511/17 14619/23<br>14620/9 14620/13<br><b>507N1 [4]</b> 14511/18 14621/21<br>14622/5 14622/9<br><b>51 [1]</b> 14509/10<br><b>51 seconds [1]</b> 14518/24<br><b>510N1 [5]</b> 14511/19 14626/11<br>14626/18 14626/22 14630/17<br><b>510N2 [2]</b> 14630/7 14630/12<br><b>510N3 [2]</b> 14654/2 14654/8<br><b>52 [1]</b> 14538/2<br><b>52 seconds [1]</b> 14538/4<br><b>555 [1]</b> 14509/18<br><b>57 minutes [2]</b> 14516/20<br>14516/23<br><b>59047 [1]</b> 14510/23<br><b>5:00 [2]</b> 14632/25 14633/13<br><b>5:00 o'clock [3]</b> 14632/23<br>14633/24 14634/24<br><b>5:12 [1]</b> 14672/4<br><b>5:15 [3]</b> 14634/3 14634/18<br>14634/25 | <b>6</b><br><b>6 minutes [1]</b> 14518/24<br><b>6 seconds [1]</b> 14519/18<br><b>601-24 [1]</b> 14612/13<br><b>603-30 [1]</b> 14612/21<br><b>6175 [1]</b> 14510/13<br><b>636 [1]</b> 14611/16<br><b>6th [80]</b> 14514/12 14520/3<br>14539/7 14539/11 14543/23<br>14543/24 14546/10 14546/23<br>14547/19 14549/11 14549/16<br>14549/25 14552/22 14553/4<br>14553/11 14553/25 14554/2<br>14554/6 14554/14 14554/22<br>14555/5 14555/9 14555/18<br>14556/17 14565/25 14571/23<br>14572/7 14574/17 14574/21<br>14580/13 14583/23 14585/6<br>14585/8 14586/3 14590/5<br>14593/2 14593/14 14593/21<br>14599/21 14600/15 14600/15<br>14600/20 14601/1 14603/16<br>14607/2 14611/8 14611/9<br>14614/9 14614/18 14616/7<br>14616/8 14621/17 14623/5<br>14623/8 14631/11 14636/3<br>14640/11 14642/22 14644/13<br>14648/24 14649/17 14654/25<br>14655/25 14656/4 14656/6<br>14656/7 14657/18 14659/7<br>14660/23 14661/1 14661/16<br>14662/20 14663/2 14664/16<br>14665/7 14665/14 14665/24<br>14666/24 14667/17 14668/20 |
| <b>4</b><br><b>40 [1]</b> 14511/10<br><b>40 seconds [1]</b> 14523/22<br><b>401 [1]</b> 14629/23<br><b>403 [31]</b> 14533/22 14544/16<br>14569/23 14572/4 14574/10<br>14576/19 14582/1 14584/13<br>14585/19 14593/11 14593/20<br>14597/19 14598/7 14599/10<br>14599/12 14601/15 14601/17<br>14609/15 14609/16 14615/15<br>14617/10 14629/13 14629/14<br>14629/23 14630/14 14657/10<br>14657/10 14657/11 14658/19<br>14659/1 14660/19<br><b>404 [2]</b> 14585/16 14585/19<br><b>404B [1]</b> 14589/20   |  | <b>7</b><br><b>7166 [1]</b> 14510/10<br><b>8</b><br><b>801D [2]</b> 14583/2 14589/11<br><b>8:00 p.m [1]</b> 14596/21   |



|                                      |                                     |                                     |
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| <b>9</b>                             | 14608/1 14608/23 14611/12           | 14600/8 14601/6                     |
| <b>909 [1]</b> 14509/22              | 14611/21 14611/24 14611/24          | <b>active [2]</b> 14551/19 14571/3  |
| <b>99 [1]</b> 14510/20               | 14613/19 14613/24 14615/20          | <b>actual [1]</b> 14670/17          |
| <b>9:00 [1]</b> 14672/3              | 14615/23 14615/25 14616/1           | <b>actually [9]</b> 14522/25        |
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| <b>a.m [3]</b> 14636/17 14637/6      | 14619/4 14619/7 14619/10            | 14593/13 14601/21 14602/10          |
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| <b>abilities [1]</b> 14599/17        | 14627/4 14627/14 14629/17           | <b>addition [2]</b> 14584/2 14584/3 |
| <b>ability [9]</b> 14597/14 14599/20 | 14630/6 14631/8 14632/14            | <b>additional [1]</b> 14668/3       |
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| 14628/16 14629/17 14658/20           | 14639/12 14639/15 14640/11          | <b>adjustments [2]</b> 14625/25     |
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| <b>able [10]</b> 14525/22 14528/1    | 14646/12 14649/20 14653/5           | <b>admin [1]</b> 14622/13           |
| 14528/2 14574/12 14574/12            | 14657/2 14657/3 14657/25            | <b>admissible [1]</b> 14585/22      |
| 14587/19 14588/21 14603/5            | 14661/3 14661/6 14661/9             | <b>admit [15]</b> 14511/12          |
| 14614/18 14623/24                    | 14661/18 14661/22 14662/9           | 14567/14 14568/7 14573/16           |
| <b>about [162]</b> 14512/15          | 14662/16 14663/11 14663/25          | 14605/4 14607/15 14620/9            |
| 14512/19 14512/23 14513/21           | 14664/1 14664/21 14664/24           | 14622/5 14626/18 14629/7            |
| 14514/6 14515/5 14529/13             | 14665/1 14665/16 14665/17           | 14629/12 14630/12 14641/7           |
| 14531/5 14535/11 14536/16            | 14666/7 14666/10 14668/2            | 14649/1 14654/8                     |
| 14537/14 14537/18 14538/16           | 14669/4 14669/8 14669/12            | <b>admits [1]</b> 14552/23          |
| 14539/14 14539/24 14540/3            | 14670/3 14671/8                     | <b>admitted [11]</b> 14564/8        |
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| <b>Telegram [18]</b> 14539/8         | 14581/23                             | 14668/14 14670/6 14670/12          |
| 14539/12 14540/15 14550/14           | <b>Texted [1]</b> 14596/22           | <b>their [22]</b> 14542/23 14572/9 |
| 14550/16 14550/16 14550/19           | <b>than [12]</b> 14522/22 14523/3    | 14572/13 14572/20 14576/23         |
| 14551/10 14552/10 14561/14           | 14526/19 14548/22 14551/9            | 14583/20 14585/2 14607/4           |
| 14561/16 14577/23 14604/20           | 14558/15 14559/14 14563/22           | 14607/22 14610/14 14623/19         |
| 14613/19 14620/1 14662/17            | 14625/10 14625/18 14652/15           | 14640/10 14641/16 14641/17         |
| 14663/7 14663/10                     | 14652/18                             | 14642/8 14642/9 14642/10           |
| <b>tell [19]</b> 14520/20 14522/2    | <b>thank [25]</b> 14512/8 14518/25   | 14642/16 14642/17 14644/11         |
| 14523/13 14525/11 14525/13           | 14521/3 14522/15 14523/24            | 14666/2 14666/7                    |
| 14531/18 14541/13 14578/21           | 14541/21 14542/15 14545/25           | <b>them [33]</b> 14514/20 14518/19 |
| 14588/21 14596/17 14618/19           | 14547/17 14547/23 14596/11           | 14521/16 14523/6 14523/15          |
| 14623/2 14623/4 14635/1              | 14596/13 14598/8 14598/12            | 14537/18 14537/20 14537/23         |
| 14635/16 14640/18 14646/24           | 14601/8 14602/19 14603/13            | 14539/16 14546/14 14568/8          |
| 14647/1 14670/14                     | 14617/23 14635/12 14642/10           | 14576/24 14582/15 14582/16         |
| <b>telling [2]</b> 14540/10 14651/14 | 14660/8 14660/13 14667/19            | 14589/15 14590/9 14591/9           |
| <b>tells [1]</b> 14609/10            | 14667/20 14668/23                    | 14593/3 14617/15 14641/15          |
| <b>tend [1]</b> 14581/21             | <b>that [735]</b>                    | 14641/16 14642/2 14642/10          |
| <b>tendered [1]</b> 14587/1          | <b>that's [104]</b> 14515/3 14516/2  | 14642/15 14642/16 14642/16         |
| <b>terms [8]</b> 14570/7 14593/8     | 14517/8 14518/11 14520/17            | 14666/22 14668/1 14668/2           |
| 14593/20 14619/5 14619/13            | 14523/10 14523/15 14525/14           | 14669/25 14670/19 14670/19         |
| 14619/17 14629/17 14671/22           | 14528/11 14528/11 14528/23           | 14670/23                           |
| <b>territory [2]</b> 14574/16        | 14529/2 14535/14 14535/14            | <b>then [44]</b> 14513/8 14518/14  |
| 14593/11                             | 14536/9 14540/13 14541/21            | 14518/16 14518/18 14519/9          |
| <b>testified [28]</b> 14513/12       | 14543/12 14547/23 14549/8            | 14520/5 14520/20 14528/25          |
| 14514/17 14515/11 14527/5            | 14552/16 14552/17 14553/6            | 14529/22 14529/25 14530/13         |
| 14528/19 14528/22 14532/15           | 14554/7 14557/4 14558/17             | 14548/19 14552/22 14554/5          |
| 14539/8 14541/8 14554/13             | 14559/14 14561/3 14561/8             | 14564/4 14564/18 14564/18          |
| 14554/25 14555/4 14569/7             | 14561/13 14562/2 14562/9             | 14568/8 14570/13 14578/24          |
| 14570/20 14581/19 14644/1            | 14563/5 14564/3 14564/14             | 14579/9 14579/14 14579/15          |
| 14660/22 14660/25 14661/6            | 14565/15 14565/16 14566/15           | 14582/24 14583/8 14586/12          |
| 14662/9 14665/16 14665/17            | 14570/12 14570/15 14572/14           | 14587/7 14587/7 14587/13           |
| 14666/7 14667/2 14667/6              | 14572/22 14572/23 14572/24           | 14587/24 14588/22 14589/5          |
| 14667/9 14667/12 14667/16            | 14572/24 14580/6 14580/13            | 14598/6 14599/25 14602/19          |
|                                      | 14582/1 14582/8 14585/4              | 14605/1 14606/22 14610/4           |



|                                      |                                  |                                     |
|--------------------------------------|----------------------------------|-------------------------------------|
| <b>T</b>                             |                                  |                                     |
| <b>then... [6]</b> 14610/18 14614/12 | 14656/18 14663/6 14663/6         | 14642/25 14643/20 14644/9           |
| 14634/11 14645/1 14645/25            | 14663/10 14663/14 14663/15       | 14644/10 14644/11 14649/25          |
| 14670/25                             | 14663/16 14663/22 14664/5        | 14650/9 14653/12 14653/14           |
| <b>there [147]</b> 14513/21          | 14670/19 14671/15                | 14653/16 14658/9 14658/11           |
| 14514/6 14514/22 14515/5             | <b>there's [32]</b> 14518/9      | 14661/22 14663/3 14666/15           |
| 14516/3 14516/17 14517/2             | 14518/10 14519/9 14521/7         | 14666/15 14667/13                   |
| 14517/15 14517/25 14517/25           | 14521/13 14542/17 14542/21       | <b>they'll [1]</b> 14623/24         |
| 14518/14 14518/16 14518/18           | 14542/23 14552/14 14552/16       | <b>they're [11]</b> 14518/19        |
| 14520/15 14520/22 14521/11           | 14559/14 14559/16 14561/18       | 14521/10 14522/2 14523/6            |
| 14521/19 14521/25 14522/19           | 14570/11 14571/8 14581/25        | 14564/23 14568/20 14598/14          |
| 14523/9 14525/11 14527/1             | 14582/9 14590/12 14595/20        | 14604/4 14623/17 14642/16           |
| 14528/12 14529/14 14529/17           | 14595/20 14598/13 14610/4        | 14668/3                             |
| 14530/14 14530/18 14530/23           | 14613/3 14616/2 14616/12         | <b>they've [2]</b> 14623/23 14635/4 |
| 14531/10 14531/19 14532/15           | 14621/25 14632/18 14645/7        | <b>thing [12]</b> 14577/5 14584/25  |
| 14533/5 14533/16 14534/6             | 14646/22 14656/23 14657/24       | 14593/12 14594/18 14599/2           |
| 14535/6 14535/11 14535/12            | 14671/13                         | 14599/14 14620/17 14621/4           |
| 14535/19 14536/17 14536/22           | <b>therefore [1]</b> 14574/17    | 14621/19 14636/19 14671/5           |
| 14537/13 14537/19 14537/24           | <b>these [37]</b> 14517/14       | 14671/6                             |
| 14538/21 14538/23 14539/14           | 14531/18 14540/15 14552/24       | <b>things [37]</b> 14545/12         |
| 14539/19 14539/20 14540/16           | 14571/6 14572/5 14574/13         | 14545/22 14548/18 14548/22          |
| 14540/21 14540/21 14541/4            | 14576/22 14579/6 14581/21        | 14549/2 14552/5 14552/16            |
| 14541/14 14542/1 14542/7             | 14583/20 14583/25 14583/25       | 14554/6 14565/18 14566/8            |
| 14546/20 14548/13 14551/14           | 14584/3 14588/2 14589/14         | 14570/9 14571/10 14573/3            |
| 14551/17 14553/18 14553/21           | 14589/18 14589/24 14591/12       | 14574/19 14581/14 14581/21          |
| 14555/4 14556/4 14556/12             | 14592/2 14592/2 14592/24         | 14583/20 14586/9 14589/21           |
| 14557/12 14557/15 14557/15           | 14593/1 14593/3 14594/14         | 14592/19 14593/1 14593/7            |
| 14558/1 14559/16 14561/9             | 14612/7 14615/20 14615/22        | 14593/12 14594/1 14594/15           |
| 14561/22 14562/4 14563/3             | 14615/24 14616/1 14616/3         | 14603/1 14615/21 14615/22           |
| 14566/17 14571/10 14572/11           | 14616/4 14616/12 14654/16        | 14616/7 14624/3 14628/14            |
| 14572/12 14573/8 14576/13            | 14655/5 14656/23 14656/25        | 14650/11 14652/13 14653/14          |
| 14583/18 14585/1 14585/6             | <b>they [79]</b> 14513/3 14522/6 | 14657/25 14671/15 14671/16          |
| 14585/7 14587/16 14589/6             | 14523/16 14529/18 14530/2        | <b>think [136]</b> 14513/12         |
| 14590/5 14590/13 14592/10            | 14534/9 14537/20 14540/16        | 14514/17 14518/11 14526/12          |
| 14594/8 14594/16 14594/20            | 14547/1 14552/24 14554/4         | 14527/5 14536/17 14539/7            |
| 14596/7 14598/25 14599/14            | 14564/22 14564/23 14564/24       | 14552/16 14552/17 14552/23          |
| 14600/10 14606/5 14608/13            | 14564/25 14564/25 14565/1        | 14553/10 14553/18 14553/22          |
| 14608/18 14609/23 14610/14           | 14565/6 14565/7 14568/7          | 14554/4 14554/5 14554/7             |
| 14613/8 14613/14 14613/16            | 14571/12 14572/1 14572/10        | 14555/4 14555/8 14558/7             |
| 14615/2 14615/3 14615/21             | 14572/12 14572/20 14574/1        | 14559/14 14560/19 14560/24          |
| 14618/9 14619/2 14619/17             | 14574/17 14582/13 14582/17       | 14563/7 14563/15 14563/20           |
| 14621/23 14622/20 14624/10           | 14582/18 14583/20 14583/22       | 14563/25 14565/13 14565/16          |
| 14624/18 14631/14 14631/14           | 14590/6 14590/22 14592/3         | 14566/7 14569/8 14569/13            |
| 14633/10 14633/17 14640/4            | 14593/3 14594/12 14597/12        | 14570/25 14571/21 14572/12          |
| 14640/23 14641/23 14643/14           | 14598/14 14600/14 14600/22       | 14572/14 14572/14 14574/10          |
| 14643/19 14646/7 14646/14            | 14604/3 14604/4 14605/10         | 14574/18 14575/22 14580/8           |
| 14646/16 14647/5 14647/14            | 14605/22 14605/22 14605/23       | 14581/13 14581/13 14581/17          |
| 14647/19 14647/24 14648/5            | 14607/22 14610/15 14618/5        | 14582/1 14582/9 14583/19            |
| 14649/9 14651/16 14651/24            | 14618/5 14623/18 14623/19        | 14585/1 14586/8 14586/14            |
| 14653/17 14655/13 14656/18           | 14631/4 14631/5 14637/2          | 14587/19 14587/20 14587/22          |
|                                      | 14638/11 14638/11 14642/10       | 14588/1 14588/3 14588/4             |
|                                      | 14642/14 14642/17 14642/20       | 14588/6 14588/8 14588/12            |

|                                    |                                    |                                    |
|------------------------------------|------------------------------------|------------------------------------|
| <b>T</b>                           | 14548/13 14552/25 14575/10         | 14602/23 14602/25 14603/15         |
| <b>think... [78]</b> 14588/13      | 14581/18 14591/11 14592/10         | 14603/20 14604/3 14604/5           |
| 14588/18 14589/2 14589/5           | 14596/24 14596/25 14611/2          | 14605/11 14605/24 14606/2          |
| 14589/8 14589/10 14590/1           | 14613/2 14613/8 14617/22           | 14607/3 14607/21 14622/2           |
| 14590/13 14592/7 14592/9           | 14618/9 14621/6 14627/4            | 14629/19 14633/25 14636/9          |
| 14592/20 14592/23 14593/4          | 14627/5 14629/10 14632/7           | 14638/3 14639/12 14643/7           |
| 14593/5 14593/10 14593/12          | 14638/16 14641/14 14655/12         | 14649/11 14650/12 14650/14         |
| 14593/14 14593/16 14593/17         | <b>thought [22]</b> 14554/19       | 14650/15 14650/18 14651/20         |
| 14593/18 14593/19 14593/22         | 14559/2 14574/7 14578/9            | 14651/23 14652/10 14653/5          |
| 14593/25 14594/10 14594/12         | 14578/18 14579/12 14583/7          | 14653/24 14660/16 14662/9          |
| 14594/13 14595/3 14595/4           | 14587/10 14593/22 14597/11         | 14664/4 14664/7 14664/8            |
| 14595/11 14595/16 14595/25         | 14597/21 14597/22 14598/2          | 14666/24 14667/12 14668/1          |
| 14596/8 14597/9 14597/10           | 14598/25 14599/5 14602/9           | 14671/11 14671/19 14671/19         |
| 14597/16 14597/17 14597/24         | 14602/11 14617/21 14627/17         | 14671/25                           |
| 14598/6 14598/6 14598/17           | 14633/8 14650/24 14651/3           | <b>timeline [1]</b> 14536/20       |
| 14599/7 14599/10 14599/10          | <b>threatened [1]</b> 14591/12     | <b>times [9]</b> 14543/6 14561/1   |
| 14600/4 14600/24 14601/20          | <b>threatening [1]</b> 14623/15    | 14561/2 14576/13 14579/13          |
| 14602/24 14603/5 14609/13          | <b>threats [8]</b> 14591/4 14591/6 | 14608/13 14608/18 14629/20         |
| 14614/11 14617/7 14623/7           | 14591/9 14592/2 14592/3            | 14666/23                           |
| 14623/9 14623/10 14623/18          | 14656/13 14656/20 14658/6          | <b>TIMOTHY [1]</b> 14509/11        |
| 14623/22 14624/2 14624/13          | <b>three [4]</b> 14518/10 14564/21 | <b>Tiny [1]</b> 14576/23           |
| 14624/17 14632/24 14633/13         | 14579/13 14670/18                  | <b>today [9]</b> 14548/10 14548/18 |
| 14633/14 14634/12 14635/5          | <b>through [14]</b> 14552/15       | 14548/23 14552/13 14591/12         |
| 14635/15 14645/7 14647/9           | 14554/25 14565/8 14570/10          | 14607/23 14610/12 14633/9          |
| 14651/16 14655/2 14660/5           | 14583/13 14611/13 14615/22         | 14660/17                           |
| 14667/2 14668/10 14669/18          | 14616/1 14616/4 14616/12           | <b>together [6]</b> 14530/20       |
| 14670/14 14671/10 14671/14         | 14619/21 14622/13 14624/6          | 14530/21 14530/23 14609/9          |
| 14671/14 14671/24                  | 14634/8                            | 14670/11 14670/22                  |
| <b>thinking [1]</b> 14602/25       | <b>throughout [3]</b> 14568/6      | <b>told [17]</b> 14535/21 14536/21 |
| <b>thinks [1]</b> 14657/6          | 14637/15 14660/23                  | 14541/13 14541/15 14542/18         |
| <b>third [3]</b> 14556/15 14613/24 | <b>throw [1]</b> 14545/2           | 14602/2 14623/8 14626/25           |
| 14670/14                           | <b>throwing [1]</b> 14595/1        | 14627/12 14638/18 14649/18         |
| <b>thirdhand [1]</b> 14592/1       | <b>Thursday [13]</b> 14601/23      | 14650/15 14650/18 14650/19         |
| <b>this [274]</b>                  | 14601/24 14602/18 14602/25         | 14654/16 14658/9 14667/9           |
| <b>those [42]</b> 14513/5 14513/15 | 14603/6 14668/12 14668/13          | <b>tolerated [1]</b> 14576/8       |
| 14522/9 14534/2 14539/12           | 14668/18 14669/21 14671/11         | <b>tomorrow [12]</b> 14631/2       |
| 14539/24 14545/12 14545/22         | 14671/18 14671/21 14671/25         | 14631/4 14636/17 14660/13          |
| 14549/6 14550/3 14550/11           | <b>tie [2]</b> 14552/21 14656/23   | 14668/11 14668/13 14668/23         |
| 14550/22 14550/25 14551/3          | <b>time [78]</b> 14519/17 14521/1  | 14669/5 14669/12 14670/9           |
| 14551/19 14551/20 14551/22         | 14522/14 14522/21 14523/17         | 14671/5 14672/3                    |
| 14551/22 14555/1 14565/1           | 14523/24 14525/5 14529/3           | <b>too [5]</b> 14518/7 14578/5     |
| 14575/16 14575/21 14577/17         | 14529/17 14532/4 14535/6           | 14582/11 14617/7 14652/13          |
| 14578/14 14587/17 14589/21         | 14535/14 14536/16 14536/24         | <b>took [9]</b> 14570/8 14592/22   |
| 14591/9 14594/5 14597/17           | 14537/24 14538/1 14538/3           | 14592/23 14600/8 14601/6           |
| 14602/10 14619/5 14619/10          | 14539/14 14539/16 14540/1          | 14601/6 14638/9 14638/11           |
| 14623/1 14644/19 14651/16          | 14543/23 14548/13 14548/15         | 14639/2                            |
| 14658/16 14663/1 14663/17          | 14555/1 14556/4 14556/7            | <b>top [9]</b> 14604/15 14604/22   |
| 14664/2 14665/3 14665/3            | 14559/18 14559/20 14577/19         | 14605/9 14605/14 14607/11          |
| 14671/12                           | 14578/7 14581/15 14587/10          | 14621/1 14626/6 14632/1            |
| <b>though [22]</b> 14536/20        | 14587/15 14590/6 14590/10          | 14654/3                            |
|                                    | 14592/4 14592/7 14594/3            | <b>topics [1]</b> 14668/3          |

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