UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA
CASE NO. 21-mj-08212-BER

Thursday, June 3, 2021.

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THE COURT: Okay, let's call the case.
THE COURTROOM DEPUTY: Yes, Judge.
Calling United States of America against Jason Dolan, case number 21-82812-BER.

THE COURT: All right. So who do we have for the United States this morning?

MR. DISPOTO: Good morning, Your Honor; Mark Dispoto appearing on behalf of the United States.

THE COURT: Good morning.
Ken, can you raise that volume a little bit, it is a little hard to hear.

MR. DISPOTO: Is it better if I don't use the headphones?

THE COURT: I'm not sure if that's the problem. Go ahead and try them back on, Mr. Dispoto.

Can you hear us, okay?
MR. DISPOTO: Your Honor, good morning; Mark Dispoto appearing on behalf of the United States.

THE COURT: Okay. I think that's sufficient. If anybody can't hear, just let me know.

All right. Who do we have here appearing in the courtroom for the defendant?

MR. HUTCHINSON: Rick Hutchinson on behalf of
Mr. Dolan.

THE COURT: All right, good morning, Mr. Hutchinson. Who do we have appearing by video-conference on behalf of the defendant?

MR. VAN DER VEEN: Judge, good morning; Michael van der Veen on behalf of the defendant.

THE COURT: All right, good morning.
We have Mr. Dolan here, in the courtroom. Good morning, Mr. Dolan.

THE DEFENDANT: Good morning, Your Honor.
THE COURT: You are still under oath from yesterday; do you understand that?

THE DEFENDANT: Yes, sir.
THE COURT: Okay. All right. So we had a Pretrial Detention hearing yesterday and a removal hearing. The removal hearing was concluded. The Pretrial Detention hearing has been continued until today. So I know when we broke, I was going to hear further from the parties, so let me just ask.

First of all, Mr. Dispoto, aside from argument, do you have any other evidence or testimony that you wish to present in support of the Government's request for Pretrial Detention of the defendant?

MR. DISPOTO: Judge, the only other evidence that I have is some additional information that I learned overnight that I wanted to present to Your Honor relative to issues that we were discussing yesterday including the bond status of the
codefendant.
THE COURT: Would that be by way of a proffer? MR. DISPOTO: Yes.

THE COURT: All right. I'm having a hard time hearing you. Could you try taking off the headphones and see if that makes your voice a little bit louder, for some reason. MR. DISPOTO: Sure. I have had trouble with those headphones before. Is that better, Your Honor?

THE COURT: Much better.
So why don't we do this. Why don't I go to the Government the, and I'll take this as an additional proffer. Is that what the Government is seeking to propose here?

MR. DISPOTO: Yes, Judge; thank you.
THE COURT: All right, go right ahead.
MR. DISPOTO: Thank you, Your Honor.
Yesterday, the Court had inquired about the status of the codefendants; and I, since yesterday, had an opportunity to get some additional information in that regard which hopefully will assist the Court in addressing the bond issues.

With respect to the codefendants, I had been informed that there currently are four defendants that are detained. That is Mr. Meggs, Harrelson, Watkins, and Hackett. There are five defendants who were originally detained by the magistrate judge but whose decision was reproached by the district court judge, and bond was imposed. Those are Defendants Caldwell,

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Crowl, Steele, Mrs. Meggs, and Defendant James. There are three defendants who the Government sought detention, but bond was imposed by the magistrate judge. That is the two Parkers and Mr. Minuta. And finally, there are two defendants who the Government did not seek detention, and that is Mr. Isaacs and Mr. Young.

THE COURT: Mr. Isaacs and Mr. Young?
MR. DISPOTO: Correct.
THE COURT: Okay.
MR. DISPOTO: By way of comparison, Judge, I would offer the Court the following sort of two perspectives. First, the three defendants who were given a bond by the magistrate judge, the two Parkers and Minuta, factually stand in a significantly different posture than Mr. Dolan. Mr. Minuta apparently was a half hour late arriving at the Capitol, so he missed much of the group's entry into the building because he arrived later. B. Parker who $I$ think is a male remained outside the Capitol the entire time. Sandra Parker was part of the stack, but the only significant factual distinction between her and Mr . Dolan is that there is no evidence that Sandra Parker ever possessed a weapon on the Capitol or any time immediately before or after. There is no evidence of her association with any firearms unlike Dolan.

Now your Honor had asked me yesterday, you know, why the Government believes Mr. Dolan falls in group of detainees
as opposed to those out on bond; and I addressed some of those factual issues yesterday. The point that I wanted to emphasize this morning by way of proffer is that clearly Mr. Dolan stands most closely both before metaphorically and literally with Mr. Harrelson. Not only did they travel up from Florida together, but they are literally seen on the Capitol grounds together both prior to the entry into the building as well as shortly thereafter. And I know Your Honor had even heard some testimony yesterday about the fact that Mr. Harrelson and Mr. Dolan were on the steps of the Capitol before the stack even ascended the Capitol steps.

We don't know, Judge, whether Mr. Harrelson and Dolan conducted any type of surveillance or recognizance on the top of the steps prior to the stack's arrival; but clearly, they are on the forefront of their entry.

I would like, if I can, Judge, to provide the Court with a photograph that has been widely disseminated in a public media which shows Mr. Dolan and Mr. Harrelson in relation to the stack as they entered the building. I'm going to screen share this. I hope it works, Judge. If it doesn't, then I will just describe for the Court, but if you will give me a moment.

THE COURT: I will want everybody to be able to see it, and then you will need to follow up and file a copy with the Court.

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MR. DISPOTO: That's fine.
Can the host allow me to screen share?
THE COURTROOM DEPUTY: Yes, I just did.
MR. DISPOTO: Okay, let me try this again.
THE COURT: And I do want to make sure that Defense
Counsel and the defendant can see as well.
MR. DISPOTO: Judge, is it on your screen?
THE COURT: No.
MR. DISPOTO: Okay, here we go. Let me know if you can see it, Judge.

THE COURT: There is a photo there that I can see.
Can everybody else see it?
Mr. Hutchinson?
MR. HUTCHINSON: No.
THE COURT: I'm sorry
MR. HUTCHINSON: No, Your Honor.
THE COURT: All right. Mr. Van der Veen?
MR. VAN DER VEEN: I can see the photograph.
THE COURT: All right. Then there is something wrong with the computer at the defense counsel table in the courtroom. Is our IT specialist still here?

THE COURTROOM DEPUTY: No. I can call him, Judge.
THE COURT: Yeah, I want to make sure Mr. Dolan and his counsel here in the courtroom can see as well.

MR. HUTCHINSON: While we are waiting for that,
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Judge, $I$ just wanted to ask real quickly -- maybe Mr. Dispoto can clarify -- in pointing that the disparity between the different parties that got or did not get bond, was there mention yesterday that the client had a weapon?

THE COURT: I think the argument of the Government, and I heard this yesterday, was that he was seen carrying a case which the Government alleges appears to be some sort of gun carrying case, I think that's the Government's position, and that he had access to weapons before the search warrant and that neighbors saw him. I think that's what the Government is probably referring to. That's what I heard.

MR. HUTCHINSON: Thank you, Judge.
THE COURTROOM DEPUTY: Your Honor --
THE COURT: Ken, why don't you check his screen just to make sure there is not a button or something that needs to be pushed.

THE COURTROOM DEPUTY: No, it is not showing on any of the screens.

THE COURT: Oh, it is not on the large screen here, either.

All right. We have our IT specialist coming back, and I just want to make sure we have this taken care of.

As I said, Mr. Dispoto, you will need to file this very promptly with the Court. It is an exhibit, I will make it Government Exhibit 1.

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don't mind if the Court doesn't mind.
THE COURT: I'll tell you what, we will take just a five-minute break, and I'll be back. Why don't you work all of that out; and then if necessary, we can even print the photograph out on a color printer and give it to Defense Counsel in the courtroom.

MR. DISPOTO: All right. And your clerk's email is your regular e-mail address or is it different?

THE COURT: Just send it to the
Matthewman@flsd.uscourts.gov.
MR. DISPOTO: I'm doing it right now.
THE COURT: All right. I will be back in just a couple minutes.
(A brief recess was had and the proceedings resumed)
THE COURT: All right, we are back on the record on the U.S. versus Dolan case. We are going the old-fashioned way which is there is a printed copy of the photograph that the Government is relying on and --

Does everybody have that? Do you have that, Counsel, here in the courtroom?

MR. HUTCHINSON: Yes, Judge -- thank you -- I do and Mr. Dolan has a copy as well.

THE COURT: All right. So the defendant has it.
Mr. Van der Veen, do you also have a copy?
MR. VAN DER VEEN: I do, Judge.

THE COURT: Great.
So is the Government seeking this photograph to be introduced as Government Exhibit 1 at this hearing?

MR. DISPOTO: Yes, sir.
THE COURT: Any objection from the Defense for the purposes of today's hearing?

MR. VAN DER VEEN: No objection, Judge.
THE COURT: All right, thank you.
So the photograph will be admitted Government's
Exhibit 1 for the purposes of today's hearing.
(Evidence identified and admitted as Government Exhibit No. 1)

THE COURT: So go ahead with your argument or proffer, Mr. Dispoto.

MR. DISPOTO: Thank you, Judge.
So directing the Court's attention to Government Exhibit 1, the gentleman standing in the foreground on the left in the beige cap is Mr. Dolan. As the Court can see, he is wearing black sunglasses, it looks like a brown what I would describe as sort of a head covering and a neck covering. He is wearing a black what appears to be sweatshirt, and he is holding in his right hand what appears to be a cellphone which is facing either forwards or backwards, can't really tell.

THE COURT: Let me just -- hold on just a second. So your proffer is that the person who is holding the phone up to
the left of the photo just to the right of the person with the red hat, the person who is holding that phone up, that's Mr. Dolan, that is your proffer?

MR. DISPOTO: Correct.
THE COURT: All right, go ahead.
MR. DISPOTO: The gentleman to his left wearing the camouflage visor with his mouth agape also in a black sweatshirt is Mr. Harrelson.

Although Your Honor cannot see in this photo, I can proffer to the Court based upon other photographs observed by law enforcement that Mr. Dolan's black sweatshirt contains a gold emblem across the chest in a horizontal position that reads "Oath Keepers." Mr. Harrelson also has some type of a gold emblem which in part we see in the photograph that depicts "Oath Keepers" as well.

Behind Mr. Dolan in a what the Government has referred to as a "stack formation" are a series of individuals, many of whom are wearing military gear, immediately behind Mr. Dolan. I can see and I proffer to the Court, there are three individuals in military gear immediately behind Mr. Dolan. Behind those three individuals are at least two other individuals wearing a red cap. Behind those two are other individuals also in some type of camouflage and military gear.

I would submit to the Court that this stack formation
that Your Honor has heard about yesterday of individuals associated with the Oath Keepers including Mr. Dolan who ascended the Capitol steps, met Mr. Dolan at the top and then proceeded to enter the building.

As the Court can clearly see from this photograph, it is Mr. Dolan and Mr. Harrelson that are leading these individuals into the building.

So, Your Honor, when we talk about Mr. Dolan's comparison to other defendants, I would submit to the Court that he and Mr. Harrelson are very much similar in the role that they took on January 6th leading this group of
self-proclaimed Oath Keepers into the Capitol building.
MR. VAN DER VEEN: Your Honor, can I ask Mr. --
THE COURT: Hold on a second, you will be able to -you will be able to make any response that you wish to, but let's just not interrupt each other.

Go ahead, Mr. Dispoto.
MR. DISPOTO: Thank you, Judge.
MR. VAN DER VEEN: Judge, I'm sorry, my mute was -- I thought my mute was on. I wasn't interrupting Mr. Dispoto.

THE COURT: No, no, it wasn't you, Mr. Van der Veen, it was counsel in the courtroom.

MR. VAN DER VEEN: Okay.
THE COURT: I just want to keep this -- we are having enough technological issues as it is. We will do one at a
time, and everyone will get a chance to address the Court with whatever they wish to present.

So go ahead, Mr. Dispoto.
MR. DISPOTO: So to conclude this point, we, the Government believes that when Your Honor addresses the bond issues and looks at the other codefendants for guidance as to how the Court should apply the bond factors, we believe that Mr. Dolan and Mr. Harrelson should be treated similarly based upon the evidence that has been presented to the Court regarding their level of culpability and their actions on January 6th of 2021. Mr. Dolan -- Mr. Harrelson was detained; we believe Mr. Dolan should be as well.

THE COURT: All right.
MR. DISPOTO: The second point and the final point -THE COURT: Go ahead.

MR. DISPOTO: The second point and final point that I would like to make in conclusion in my proffer has to deal with an issue that we have been discussing that I received some additional information on over night that $I$ would like to proffer to the court.

One of the issues that came up yesterday was the issue of whether Mr. Dolan was aware or at least believed prior to the FBI's arrival at his house that he was going to get arrested. As the Court knows, it is the Government's position that Mr. Dolan suspected that he was going to get arrested and
that in the four or so months between the time of the Capitol intrusion until the time he was arrested, Mr. Dolan cleaned his house of any firearms and any Oath Keeper affiliation.

Judge, on -- I would like the Court to consider the following. On May 24th of 2021, a couple weeks ago, a media site online conducted an interview of a member of the Oath Keepers. We believe that that individual was Mr. Dolan. The name of the outlet is the "gatewaypundit.com --

MR. VAN DER VEEN: Objection.
THE COURT: I'm sorry, I didn't get that.
MR. VAN DER VEEN: I would like to make an objection, if I may.

THE COURT: Hold on, let him finish his proffer and then you can respond.

Go ahead. You said it was a media site online.
MR. DISPOTO: It was an online publication, the gatewaypundit.com.

THE COURT: The gatewaypundit.com?
MR. DISPOTO: It was gatewaypundit.com.
THE COURT: All right. And you are saying that on May 24 th, 2021, your proffer is that there was an online media interview of an Oath Keeper, and the Government believes that it was Mr. Dolan

MR. DISPOTO: ?Yes, and I'm prepared to proffer why we believe it was Mr. Dolan. He made statements in that
article that is relevant to these proceedings.
THE COURT: All right. So I know there is an
objection from Mr. Van der Veen.
Mr. Van der Veen, what is the objection to this? At this point, it is a proffer and I don't know what weight if any I'll give to it; but what is your objection to it?

MR. VAN DER VEEN: All right, Judge, I was muted so I didn't want to interrupt.

First of all he started by saying, "It is anonymous, and we don't know who it was," first of all." Secondly, he said he thinks it might be him because of the content, and he found it out last night.

I talked -- three days ago, I talked to the AUSA in charge of this in Washington and he told me of this very same thing. I have watched it. There is no indication it is our client in any way, and I'm not sure what in the interview that he thinks is relevant to these proceedings. But if he can't say it is our client or who it is, I really don't think the Court should entertain it.

We had a lot of evidence yesterday without any pinpointing to it, and I'll talk about that later; but I think this is highly irregular and unreliable as evidence even in this proceeding. So for those reasons, I ask that the Court not entertain the article.

THE COURT: All right. I'm going to overrule that.

What I will do is I will hear the proffer, and I'll hear your response to it, and I'll determine what weight, if any, to give to it.

Mr. Dispoto, go ahead.
MR. DISPOTO: Thank you, Judge.
The article described the interviewee as a former marine whom Mr. Dolan is; a member of the Oath Keepers, Mr. Dolan is; an individual who was present on the steps of the Capitol on January 6th of 2021, Mr. Dolan was; and photographs that were provided to this outlet that ran in conjunction with this article are photographs that were taken from the same vantage point as Mr. Dolan, based on the evidence that the Government has received through the course of this investigation.

Now this individual said two things that I would submit to the Court are relevant to these proceedings. First and foremost, he stated that he believed that the Government was planning to arrest him.

Now, I understand that by process of elimination, we know that as of May 24th, many of the individuals either were -- were either already detained or had already been arrested and that Mr. Dolan was one of the few Oath Keepers who, at that point, had not yet been arrested. You factor that in conjunction with his self-identifying descriptions, and we believe that was, in fact, Mr. Dolan.

Mr. Dolan also said, during this interview, that he believed the Deep State actually used a magnetic unlock on the Capitol doors to let people inside. Not only, Judge, would I submit to the Court that that observation is not only highly implausible but somewhat delusional. It does reflect a lot of appreciation for the very serious conduct that members of the Oath Keepers in general and Mr. Dolan in particular have engaged in on that day.

I offer that information to further the Government's belief that Mr. Dolan was well aware, prior to his arrest, that it was highly probable that he was going to get arrested in this case and that he took whatever steps he felt to be necessary to protect his own self-interests as it relates to the Government seizing evidence from his home that would tie him to either firearms or his affiliation with the Oath Keepers.

THE COURT: This article that you are referring to is a written article not a video interview.

MR. DISPOTO: I understand it was -- from my understanding of it, Judge, is that it was a video interview. I don't know if the audio was posted online, but it was -- what I observed was a written, for lack of better terms, summary of the interview.

For what it is worth, Judge, I do believe -- I don't want to get involved in the twit austere, but apparently an
audio is out there. Let me just leave it at that. So I do believe it was an audio interview, but I don't know if the audio was posted with the written article.

THE COURT: Do you know if there is any government agent who has reviewed the audio and matched it up in any way to Mr. Dolan?

MR. DISPOTO: I could find out, Judge, and I could probably have an answer for you in the next few minutes.

THE COURT: Okay. So I understand the proffer. Let me go over to Mr. Van der Veen to respond.

And, Mr. Van der Veen, if you have any other evidence or proffer you wish to make at this time, please go ahead.

MR. VAN DER VEEN: Judge, I'm trying to take it in the order that the Government took it in, so I'll start first with -- and I think it was Your Honor's real end-of-the-day analysis yesterday, nine have been released, three have been held. Does my client belong with the nine or does he belong with the three? And I think it is important I think that you go through and see what the Government has done and said with respect to the other folks.

The gentleman at the top, Mr. Caldwell, at the top of the indictment was originally detained; he was then released. On May 28th of 2021 -- it is public record -- the Government filed a motion objecting to the modifications of bail, and they wrote -- and I quote for the record, Judge,
regarding Mr. Caldwell: "A major part of his role in the conspiracy was organizing individuals who were on standby with guns in a hotel across the river, conduct that this court has described as among the most concerning aspects of the conspiracy and for which the evidence has only strengthened since Defendant Caldwell's release. Under these circumstances, the Government repleads confinement to his property with permission to leave for religious services and medical appointments is a completely reasonable and essential level of restrictiveness to insure the safety of the community."

And what Your Honor heard in testimony yesterday was that my client had nothing to do with organizing. My client had nothing to do with leadership; that my client had nothing to do with training people, my client was never trained by people; that the Oath Keepers association is a loose group of folks from all around the country and that -- the indictment reads his first involvement with Oath Keepers is January 3rd.

There was some talk about that he was -- his screen -- a name that they said was his screen name was on chats at some point in the several months beforehand. I'm shocked that they didn't come in today and actually show you those chats, Judge, because I think the evidence is, he was not involved in chats in any way. He never said anything or did anything and so that the quantum of evidence with respect to my client on that very issue is critical, and I'll talk about that

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more later when we argue.
But with respect to Caldwell, the leader of the band, five days ago, the Government told the judge in Washington that the circumstances which we are asking that he be released under are appropriate for Mr. Caldwell.

Also in that pleading, Judge, they used another photograph. On page -- and this is just the pleading from May 28. They have a photograph of the rifle case and the weapons that the FBI -- no weapons, the rifle case that the FBI testified about yesterday. It is actually Mr. Harrelson in the photograph, according to their pleading, and not my client. That's the photograph, and I'll -- for the record, I will read.
"Surveillance video from the Comfort Inn shows what appears to be Defendant Harrelson rolling what appears to be at least one rifle case down a hallway towards the elevator."

The pleading is silent as to my client, and they didn't show you any of the evidence that they said they have of my client there with a rifle case.

With respect to Crowl, the next defendant on the list, Crowl was originally detained, and then Judge Mehta released him authorizing him to leave home for employment, home confinement instead of home incarceration. That was on May 19th.

Watkins -- a lot of this stuff is sealed, Judge, and we did our best to get as much as we could. The Court should
know, on some of the sealed stuff, we can find it on Bloomberg still, but Watkins was released and taken back in.

Judge Mehta released Parker -- both of the Parkers. Young was originally detained and then released. Then Laura Steele was originally detained and then released by Judge Mehta. And what is important to understand about Laura Steele, Judge, is she applied to the Oath Keepers, had been a long time member of the Oath Keepers, served as an assistant chief of High Point Police Department, that day wore camouflage and a military vest and tactical gear and was in the Capitol for a long period of time, differentiating those facts from my client, Judge.

One Meggs was detained, and the difference there, Judge, is the charge. Meggs got a charge of tampering with documents or proceedings under 18 U.S.C. My client did not.

And the other one, Harrelson -- also the difference is these folks have counts that my client doesn't. And so if we were to look into the actions of what Judge Mehta has done, Meggs and Harrelson had the extra charges of tampering with documents and proceedings, and my client doesn't have that and I think that's significant.

THE COURT: Let me just stop you there for just a second because it seems to me that Harrelson and Dolan are the two most closely situated, at least in what allegedly occurred. But in looking at the Harrelson situation, Judge Kidd, the
magistrate judge in Orlando, detained Harrelson. When he got to DC, he sought review or reconsideration and Judge Mehta, the district judge, detained him on April 14th of 2021. So both judges, both the magistrate judge in Orlando and the district judge in DC detained him. Now, he was charged with a felony destruction of property similar to what Mr. Dolan is charged with; but according to what $I$ could see, he was alleged to be one of the leaders of the Oath Keepers. He apparently testified at his Pretrial Detention hearing before Judge Kidd, and there may have been some belief that he was not entirely truthful. He also had a prior criminal record which I believe was more pronounced. Mr. Dolan -- and we will get to that in a moment, but it looks like Mr. Dolan has no prior conviction at all, and the two prior charges were way back when he was either a teenager or in school or very, very --

MR. HUTCHINSON: There is an update on this as well, Judge.

THE COURT: All right, and we can discuss that.
And additionally, Harrelson had administrative privileges on the Florida Signal chat and was referred to as "Gator 6." So there seems to be some things that are similar, but there seems to be some other issues that makes Mr. Harrelson more dangerous, at least from what I can gather so far, and that's what I'm trying to understand here and hear from Counsel because these are tough decisions that a judge has
to make. I like to consider everything before making the decision. It is an important decision for the Government, and it is certainly important for the defendant.

Go ahead, Mr. Van der Veen.
MR. VAN DER VEEN: Thanks, Judge.
It seems Your Honor had a little bit more from what happened to Mr. Harrelson's facts than I had, but I would -- I want to point out what I gleaned from yesterday's testimony and from the indictment in the differences between Mr. Harrelson and my client.

Mr. Harrelson was known to be with the Oath Keepers for a long time. Yesterday's testimony was that he was identified as the head of the Florida contingency. He was the leader of the Florida thing. He was on "Leaders Only" December 31st GoToMeeting that my client was not. He was on a number of leadership chats and meetings and organizational things that my client was not on. And so when you are looking at Mr. Harrelson and my client, Mr. Harrelson's connection to the Oath Keepers is much longer, if you accept that my client even has any connection to them and that he was in a leadership position.

The FBI agent agreed with me that my client is not in leadership. My client is not an organizer. My client didn't undergo any training or give any training. He really is significantly situated in his involvement.

The photographs that we have seen with Mr. Harrelson and a rifle case are not those photographs of my client. Was my client there or not? I don't know, Judge, but I will talk about them. So that's what I would say and argue about the differences between my client and those that were detained, as far as I know, Judge.

THE COURT: All right. And I understand that, I just think it is important that we have some proportionality in these cases and that we have a basic fairness in these cases.

But in looking at Government's Exhibit 1, you know, first of all, I will say it seems to the Court that the evidence is extremely substantial and overwhelming as to the charges against Mr. Dolan. There is a grand jury indictment. And I mean, this photo, according to the Government, shows him leading what appears to be a pack of people.

MR. VAN DER VEEN: That, I object to, Judge.
THE COURT: But my point is, so it seems like the evidence seems very substantial -- and obviously, this is just -- these crimes that were alleged are just outrageous and strike at the foundation of our society. Nonetheless, as I said yesterday, you know, Mr. Dolan is still presumed innocent, and this is a detention hearing, this isn't a trial. So why is it that this Court should release Mr. Dolan on stringent conditions, and what are you proposing?

MR. HUTCHINSON: Mike, can I make one comment
quickly, just about the evidence that was just discussed?
THE COURT: Hold on just a second.
I'll tell you what, Mr. Hutchinson, when Mr. Van der Veen is done -- is this something based on what your client told you?

MR. HUTCHINSON: No. It is based on the photograph that you just referenced, Judge; and the only thing I was going to say was there is clearly people that were in front of that other group. This is like a still photo out of a video, so it is impossible to tell from the video who came in first or last.

THE COURT: Okay. So I mean, I understand your position is that -- your position, Mr. Hutchinson, is that the way the picture shows, it shows Mr. Dolan at the front with Mr. Harrelson and many people behind him, but it doesn't show whether or not there are people in front of him that he is following.

MR. HUTCHINSON: Judge, I'm not even sure that that's Mr. Dolan. It appears that there are some people in front of that line that had been identified as my client; but clearly there are people standing off to the side that just came in, in front of them. So to say he is leading this, it is impossible to tell.

THE COURT: Right. Well, the Government has proffered that it is Mr. Dolan. If the Defense wants to put on any evidence that it is not, you can go ahead and do that. But
at this point, I have a photograph here, I'm looking at Mr. Dolan in the courtroom, and the Government has proffered that that's him. So if the Defense wants to argue that that's him or not, they can certainly do that but --

MR. DISPOTO: Judge, may I --
THE COURT: -- I understand your argument.
So go ahead, Mr. Van der Veen.
MR. VAN DER VEEN: Judge Matthewman, I just wanted to make one point about that. The point that was just made that this is perspective, you don't see what is in front of our guys is, you know, self-evident. But the argument that the Government just made with the photograph is incongruent to the testimony of the FBI agent yesterday. The testimony of the FBI agent yesterday was that a whole group of people had gone up the stairs, that my client was already there singing the national anthem, and the whole group went up and -- at the very end of this stacking that they allege that my client was on the very end of that.

What you notice in the photograph is there isn't any stacking formation. The stacking as described by the Government and their definition of it is "people with hands on one another." My client clearly doesn't have his hands on anybody else in that photograph nor does anybody have their hands on him. So to a certain extent, the argument with the photograph today is incongruent with the testimony yesterday.

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But yesterday, Judge, my client was in there, by the Government's evidence. I am not disputing he wasn't there today. I am not arguing his guilt or innocence today, and I'm not saying that's not him in the photograph. To me, it doesn't matter whether it is him in that photograph or not. The considerations that I think I would like the Court to consider as the law as it is settled under our constitution and under the case law, and under those considerations taking, you know, Your Honor called it terroristic acts a couple times yesterday -- and gosh, it is hard to disagree with you, but taking the emotion of that aside, we need to look in the cold light of day as to what the factors are here. And so if I may, I'm going to briefly talk about the four and answer Your Honor's question as to why my client should be released on very restrictive conditions, if I may.

THE COURT: That will be fine. Why don't you go into that; and then after that, I'll hear from the Government and we will go ahead and get the matter resolved.

MR. VAN DER VEEN: Fundamentally, the reason why is our liberty is so darned important. It's the thing that our constitution wants to protect more than anything else, our life, or liberty, and our property and for everybody. So my client stands here with evidence by the Government but a presumption of innocence. So with that presumption of insurance and the need to protect his liberty during this
process, bail should be considered.
The bail needs to do two things, as Your Honor knows. One is to assure his appearance in court; and the second one is to make sure that the community is safe, if he is out from behind bars.

The first one, I'm going to spend very little time on it arguing. The Government has argued that he knew they were coming and he didn't flee. He has had two prior brushes with the law which I'll talk about shortly. He never failed to appear.

He has 20 years in the military and followed rules such as whatever Your Honor would hammer down on him, he would follow them with military precision as he did orders for 20 years.

THE COURT: So let me just stop you there for a second because in looking at the Pretrial Services report, it does state that -- I believe that Mr. Dolan was in the United States Marine Corps from 1994 to 2014, so a period of 20 years. And I will tell you that I typically give a great deal of respect to individuals who have served in the Armed Forces when they appear before me because they are serving the their country. On the other hand, it can cut the other way which is he has been trained by our Armed Forces, by the Marines, and he used that training allegedly to attack the Government, to attack the Capitol. So I think that cuts both ways, and I

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would like you to address that.
MR. VAN DER VEEN: I will address that, Judge. If I may, I'll address it in a little bit --

THE COURT: That's fine.
MR. VAN DER VEEN: -- in kind of an organizational argument that I have.

And so really, the consideration today isn't whether he is a flight risk. And I offered to Your Honor on that point, his wife and his daughter will tri-sign as sureties, and I'll talk about that when I talk about ties to the community.

But, you know, looking at the nature and circumstances of the offense charged including whether the offense is a crime of violence or involves a minor victim, it doesn't involve a minor victim, and I don't think it's classified as a crime of violence. In fact, the AUSA leading the charge on this case up in Washington calls it a white-collar crime and defined it as such with me.

So the weight of the evidence -- the evidence, I thought, was, you know, loose in its presentation yesterday. It was, candidly, Judge, and fairly light on details, light on facts and light on specificity. But we do know -- and this is the last time I'm going to repeat myself on this, but it goes to a couple of the factors. He wasn't a leader, wasn't an organizer, wasn't long involved with the Oath Leaders [sic], wasn't a trainer, wasn't a trainee, hadn't been in the key

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chats, wasn't in leadership chats. There is no evidence that he voiced any of the vitriol rhetoric about what people should do if they are unhappy with the election. There are no words attributed to him to any of that.

And what really the Government's evidence showed was that since this happened, he has disassociated himself. If he had an association with the Oath Keepers, he has completely disassociated himself with them. They have his telephone. They have him under surveillance, all yesterday's testimony, there was no contact with him and the Oath Keepers, there was no continuing contact. And I don't accept this as true at all, but if he had guns and got rid of them, you know, that just shows that he was going away from, you know, trying to continue to be a danger to the community. But he certainly has completely -- has no association with them at all.

And when you weigh the conduct, Judge, of all of them, you know -- he talked about it like a sex assault case, so it is not a strong argument; but, Judge, he was in there for eight or nine minutes. He did not leave the Rotunda. He did not destroy any property. He did not have a weapon. He didn't have tear gas. He wasn't in military garb, that's in the photo -- let's assume that's him in the photo. He didn't have all of the other things that real Oath Keeper members had.

If anything, the Government alleged to you that it is a loose organization and that my guy was somehow loosely
involved. He drove up with one of the guys and -- according to them and stayed in a different hotel even, apparently, in Washington D.C. So those would be my arguments on kind of the weight of the evidence.

But the history and characteristics really are where I think I can argue to Your Honor that it's one of the reasons why he should be dismissed. He has no prior criminal convictions. We rely heavily on the presentence report here. He has no prior convictions, but when you go to the -- the prior record, there are two things listed. One in Lawrence Township Police Department in New Jersey where he was arrested on March 29th, 1995, at the age of 18, "possession of firearm at school" is what Pretrial Services wrote in here -- I think they have looked at it a little bit more -- and in less than 60 days, Judge, the case was dismissed, okay. And the reason why and I'll proffer to Your Honor was that my client was 18 years old in wood shop with a pocketknife showing his wood shop teacher the pocketknife and was arrested for having a knife on school grounds. It wasn't something --

THE COURT: So the firearm reference is really a knife?

MR. HUTCHINSON: Yes.
MR. VAN DER VEEN: Yes, and it falls within the statutory frame. It is just part of the statute -- part of the title of part of the statute.

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THE COURT: Right; no, I understand that.
MR. VAN DER VEEN: Okay.
THE COURT: I have seen that before.
MR. VAN DER VEEN: I'm sorry, Judge, I missed that.
THE COURT: I said I've seen that before. The statute often refers to firearms, knives, nunchakus, weapons, you know, all of those types of things.

MR. VAN DER VEEN: And, Judge, logically, my client wouldn't have been allowed in the military months later if there was any kind of a weapon, and he certainly would not have risen to the level of staff sergeant. I'll proffer that he could guard -- he had the highest security clearance where he could guard the President with a gun. I mean, that wouldn't have happened if that was the real history.

THE COURT: Right.
And then it looks like in January 8, 2000, he was arrested in Myrtle Beach, South Carolina, for assault and battery.

MR. VAN DER VEEN: A bouncer tossed him from a bar; the case was withdrawn.

THE COURT: Okay.
MR. VAN DER VEEN: And that was at the age of 23, and that's it. He has been a law-abiding citizen; no convictions and otherwise a law abiding citizen always fully employed after. And I know the military cuts both ways, Judge, but he

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was honorably discharged and not only was he -- he did serve the country with distinction. And I will argue, to Your Honor, that although he did get training, he didn't use really any of his training on this day because he wasn't a leader. He wasn't an organizer. He wasn't a planner. He didn't train anybody and wasn't trained by anybody in the Oath Keepers. But also, he didn't do anything, like he didn't do -- you know, there was no, like, training karate-wise that he used or any, you know, surveillance techniques that he used or any counterintelligence stuff, you know, all of those things.

Not having the distinction of serving in the military, $I$ don't know all that the training is, but my client went to the top of the stairs, sang the National Anthem, and went in with a wave of people for nine minutes and came out. It really wasn't capturing all of his military training in kind of that way, Judge, and so I would argue that balancing that the service to the country and the distinction of rising through the ranks as an enlisted man rather than an officer and getting to staff sergeant and being honorably discharged weighs more than any training that he may have used on that day.

But I would argue to Your Honor, he is going to follow your orders. Whatever Judge Matthewman tells him to do, he is going to do it. That can be easily verifiable, if Your Honor puts him on a house arrest, puts him on electronic monitoring, monitors anything he wants, cellphones, computers,
or not allow him to use them. I mean, there are all kinds of things, I think, Your Honor -- and I'll get to that in a little bit.

But the ties to the community, he has been a husband for a long time. He has been a father for 18 years. He is enormously devoted to his family, and the tie to his community is very strong. It is not a tie to DC, but it is a tie to a community and a community in this country.

He has a passport, he can surrender it; but he is not leaving the community, Judge. He is not leaving his wife, he is not leaving his daughter, and those are ties enough. And they have each offered to signature sign a bond assuring his following your orders. That's how much they believe that he won't be a danger to anybody, that he will do exactly what Your Honor tells him to do. He will report.

THE COURT: When you say "they," you are referring to his wife?

MR. VAN DER VEEN: And 18-year-old daughter.
THE COURT: Oh, the daughter is an adult?
MR. VAN DER VEEN: Yes, just turned 18.
THE COURT: Okay. Let me ask you, the address at
13957 Astor Avenue, Wellington, Florida 33414 listed in Pretrial Services report, does Mr. Dolan own that with his wife or is that rented?

MR. VAN DER VEEN: I believe it is rented, Judge.
THE COURT: Is that -- Counsel, is it rented or
owned, do you know, in the courtroom?
MR. HUTCHINSON: It is rented.
THE COURT: It is rented, okay.
Do they own any real property? Do you know if they
own any real property?
MR. VAN DER VEEN: No, Judge, he doesn't; and it is
interesting how those arguments go two ways. But my client
doesn't have any resources to go anywhere. He doesn't have any
resources to buy munitions. You know, the Government hasn't
really said what his danger to the community is. You know, I
think they are clearly intimating their concern that he is
going to get out, go organize with a bunch of people, go locate
guns that he has stashed somewhere, and attack the community.
Mr. VAN DER VEEN: His physical condition isn't
I don't think that that's a realistic consideration. I don't
think it's based in fact. I don't think it is based in the
history of my client's life. And more importantly, he doesn't
have the wherewithal to do that. He does not have the
financial resources to mount any kind of a danger to the
community. He doesn't have money to flee.

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super. He did have a hip replacement 18 months ago, progress on that hasn't been great. He does, as a result of his service, have a problem with his gut which is treated.

He depends right now on a disability payment and a pension where if Your Honor holds him during the pendency of this, those benefits will be cut off and cut off to his family, so you know, another consequence of losing his liberty. If the Court wasn't aware of it, I just wanted to point it out.

With respect to continuing on his history and characteristics, he was always employed until disabled; and if he can get working again, he is going to. So that brings us to -- if I can, Judge, I think although he rents the home, he has been there six years, a substantial period of time.

And then nature and seriousness of danger to the community, you know, it has to be, you know, clear and convincing evidence $I$ think is the standard that the Court really needs to view this in. Even when talking about if Your Honor accepts that it's a rebuttal presumption, you know, which I argue against, I think the Court disagreed with me just yesterday, but even so, it is clear and convincing evidence, and it hasn't been, Judge. And I probably annoyed folks yesterday really trying to drill down on the evidence because $I$ wanted to know, you know, what chats do you think he was on and when did he say it because $I$ don't think it's true, and Your Honor didn't get them.

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about all kinds of things that Your Honor as a defense lawyer knows; and he said to me, "You know, Mike, if the guy pleads guilty, we will agree to let him out on house arrest," and that's not the purpose of detention. The purpose of detention is not to hold a hammer with the cost of liberty over somebody to do something in the pretrial phases of the case, and so my client -- the number one guy --

MR. DISPOTO: Excuse me, Your Honor, I object. MR. VAN DER VEEN: -- on the indictment -THE COURT: Hold on just a second. What is the objection, Mr. Dispoto? MR. DISPOTO: Your Honor, I apologize, I'm a few seconds late because $I$ was on mute. Your Honor, I object to references that Mr. Van der Veen has had with Government attorneys from DC. Whatever conversations he may or may not have had are not relevant to these proceedings and the issues that are before the Court.

From what I understand, Mr. Van der Veen has spoke to Mr. Nestler one time, and he keeps making reference to characterizations Mr. Nestler has made regarding this case and other conversations between the two of them that have any -- no bearing on any of the bond issues before this Court.

THE COURT: All right. And I'll do the same with your objection as I did with his, I'll allow him to proceed and Thursday, June 3, 2021.

I'll decide what weight, if any, to give it.
And I will say this, prosecutors don't decide whether somebody gets released or not, the court decides. So regardless of whether he said that or not, it is my decision, and the court's decision to decide whether a defendant is detained or released, but I'll note your objection, Mr. Dispoto.

Go ahead, Mr. Van der Veen.
MR. VAN DER VEEN: My point wasn't that it affected the Court in any way, Judge. My point was that what Jeffrey Nestler, who is leading this up in Washington, told me is a view on what the Government's position is for detention. I did tell Mr. --

MR. DISPOTO: Excuse me, I object. I am representing the Government's position on bond, it is not Mr. Nestler. He is not here. He is not handling these proceedings, so that's why I say, with all due respect, Mr. Van der Veen, your reference to your conversations with him are not relevant.

THE COURT: All right. Mr. Dispoto, I understand your objection, and it is overruled for the purposes of hearing the proffer, the argument from Mr. Van der Veen.

Again, I hear a lot of things at these hearings and I decide what weight if any to give them. It is not particularly probative to me what the prosecutor up in $D C$ may or may not have said about whether Mr. Dolan should or shouldn't be

[^0]released. Frankly, I have heard the argument from Mr. Dispoto on behalf of the Government and, you know, he has presented the Government's position here, and that's what I'll rely on. Go ahead, Mr. van der Veen.

MR. VAN DER VEEN: Okay, Judge, then I'll just say I understand the ruling, that's fine. But I do think that it's important for the Court to consider how not only Judge Mehta but how the Government has treated the number one man indicted in this, the one they call the "leader of the band," and that was that confinement to his property with permission to leave for religious services and medical appointments is completely reasonable and is an essential level of restrictiveness to insure the safety of the community. I would argue that my client is at the bottom of the indictment, and that logic applies to him as well.

And so I really appreciate the Court's time. I have tried to not miss anything because this is so incredibly important to my client and to his family, and I think really to the constitution. And so for those reasons, Judge, I ask that you release him on home confinement with the mirrored conditions of the other nine that have been released: That he not have firearms, that he not associate himself with the Oath Keepers in any way, that he not communicate with any codefendants, that he check in with Pretrial Services as required, that he appear in court, and there was one more --

I'm looking at the Laura Steele one -- GPS monitoring. And I would ask for those very restrictive, I would argue they are enough to insure reasonably the safety of the community.

Thank you, Judge.
THE COURT: Thank you, Mr. Van der Veen.
Mr. Hutchinson, I know you have been sitting with
Mr. Dolan. Do you have anything further briefly that you would wish to assert?

MR. HUTCHINSON: Very briefly, Judge.
The arthritic condition which caused the first hip replacement about a year and a half ago had problems. He is in pain as he sits here. It is in both of his hips, and he actually needs to have the other hip replaced. He is in the process of having that looked at and literally. So the Court knows, while he was there, it happened in that long format that he had the hip replaced. Not only that, but the Court has seen a lot of photos of people inside of the Capitol, some of them were elderly with canes or walkers, et cetera. I mean, I'm not in any way characterizing what occurred as insignificant at all. What I'm saying is it certainly wasn't all armed people, and there were a lot of people that had gone to a rally and were caught up and went inside.

THE COURT: All right, thank you. So let me go to the Government.

MR. VAN DER VEEN: Judge, I forgot one thing, Judge,
if I may. I'm so sorry.
THE COURT: All right, Mr. Van der Veen, go ahead.
MR. VAN DER VEEN: I'll paint myself like this, pretrial Services recommends it. A highly experienced Pretrial Services agent looked at this and then his supervisor looked at this. They investigated thoroughly, very thoroughly; and their clear recommendation is and those are the conditions that $I$ would suggest that the Court follow, follow the Pretrial Services recommendation which was carefully thought out and planned and to have all of those restrictions.

Thank you.
THE COURT: Thank you. I did note that in the Pretrial Services report. Their recommendation is for release on strict conditions.

All right. So, Mr. Dispoto, I'll give you the last word.

MR. DISPOTO: Thank you, Judge.
Your Honor, while I'm loathe to turn this into a mini trial or to overwhelm the Court with all of the evidence that the Government has, it is incumbent upon me to address a few of the points Mr . Van der Veen raised to make sure that the record is clear and to correct misstatements that he may have made.

Your Honor, over 30 minutes ago, I had e-mailed to Your Honor's email address as well as to your courtroom deputy what I would like to present to the Court as Government Exhibit

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2. Did you want -- did Your Honor receive that?

THE COURT: I have not. I will have my courtroom deputy check. Did you send that to the other Counsel?

MR. DISPOTO: No, I just sent it to you and to Ken because I was hoping he would print up hard copies and he would present them to Counsel, at this juncture since now it is my opportunity to address that exhibit. I can move on to other matters. I wanted to address briefly while your courtroom deputy prints it out, if he is able to do so.

THE COURT: Let me see, hold on one second.
THE COURTROOM DEPUTY: Let me see if it is in the efile. No, I don't have it.

THE COURT: We don't have it. Did you send it as an attachment?

MR. DISPOTO: Let me -- I sent it at 11:42 a.m. to Your Honor and to kenzuniga@flsd.uscourts.gov with an attachment entitled "photo two."

THE COURT: Ken, why don't you look on your email, see if that came through.

THE COURTROOM DEPUTY: I don't have it.
MR. DISPOTO: I'll resend it right now.
THE COURT: All right, why don't you do this. Why don't you send it to everybody. Is this the only additional exhibit you are seeking to introduce?

MR. DISPOTO: Yes, Your Honor.
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THE COURT: All right. We will take a short break.
MR. DISPOTO: I can do it right now, unless you want
to do a break otherwise. I mean, I can do it right now.
THE COURT: Go ahead and send it, let me see if it
comes through.
MR. DISPOTO: That's fine. While we wait, I can move
on to a few other matters I want to address, and I can come
back to this once it is received.
MR. DISPOTO: Your Honor, with respect to the
question that the Court had asked at the conclusion of my
proffer, initially, you had asked if any government agents had
listened to the audio interview of Mr. Dolan by that -- that
online outlet, and I have been told that the voice has been
purposely altered to conceal the identity of the person who was
veen's words, the king of the band or head of the band,
interviewed. So we were not able -- we were not able to
positively identify his voice.

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inferences by the order in which these defendants are listed in the indictment. The order does not say anything about their level of culpability and no such inference should be drawn. The fact remains relative to Mr. Caldwell, the Government sought detention on Mr. Caldwell; and Mr. Caldwell was originally detained by the magistrate judge. It was the district court on appeal that overturned that. At no point did we join in any efforts to have Mr. Caldwell released. There may have been discussions about conditions of bond that the Government was requesting, if the court was designed -- or inclined to release Mr . Caldwell, but any suggestion that we joined in any efforts to have Mr . Caldwell released are flatly falsed.

MR. VAN DER VEEN: Your Honor --
THE COURT: Your position is that the DC circuit ordered him released.

MR. DISPOTO: Correct. It was on appeal from the magistrate judge's order of detention.

THE COURT: Well, was it by Judge Mehta or was it the appellate court?

MR. DISPOTO: No, I think believe it is Judge Mehta. THE COURT: All right, go ahead.

MR. DISPOTO: Hold on, Judge.
Yes and --
THE COURT: All right, $I$ think the picture has come
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through.

MR. DISPOTO: Has Your Honor received that email that
I just sent?
THE COURT: Yeah, I believe --
MR. DISPOTO: Has that email gone through yet?
THE COURT: Yes. I believe my courtroom deputy has received it.

Ken, how long will it take you to print some copies?
THE COURTROOM DEPUTY: I printed, I just need to go get it.

THE COURT: All right. We will just -- my courtroom deputy will go and get those photos and we will see in it gets admitted or not and what we do with it.

Go ahead, Ken.
Do you have any other argument, Mr. Dispoto?
MR. DISPOTO: I'll wait for the photos. I want to address -- there are two photos on one page. I just want to address those two photos, as they relate to Mr. Van der Veen's arguments, and wrap up very briefly thereafter.

THE COURT: Okay, so we are going to take a short break; and once we have that photo -- it is two photos on one page, is that correct?

MR. DISPOTO: Correct, Your Honor. Thank you.
THE COURT: All right. So we will be in recess for a couple minutes, while we get that photo.

THE COURT: All right, everybody, please be seated.
Let's go ahead and continue on the Dolan case and hopefully we can get this concluded at this point.

Ken, what time is my afternoon hearing?
THE COURTROOM DEPUTY: At 2:00 p.m.
THE COURT: I normally give my staff a lunch break, but let's see if we can get this matter resolved as quickly as possible.

So Mr. Dispoto, I did receive the photograph. I assume you are moving to introduce this as Government Exhibit 2?
(Evidence identified as Government Exhibit No. 2)
MR. DISPOTO: Yes, Your Honor.
THE COURT: All right, so for the purposes of today's hearing, Mr. Van der Veen, I know you have a copy of it there, any objection?

MR. VAN DER VEEN: Judge, I do have an objection or a point to make about it, at the very least.

THE COURT: All right. Well, if you have an objection, what is the objection, authenticity or you just want to argue relevance or something else?

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MR. VAN DER VEEN: No. This picture is contradictory to the FBI agent's testimony yesterday.

THE COURT: Okay. Well, I'll tell you what, I'm going to go ahead and admit, and you can argue against it and I'll decide it like with other evidence what weight, if any, to give it.
(Evidence admitted as Government Exhibit No. 2)
MR. VAN DER VEEN: Okay, of course.
THE COURT: So go ahead, Mr. Dispoto, what is this Government's 2.

MR. DISPOTO: Thank you --
What's happening -- sorry, Judge, I'm having video issue.

All right. Thank you, Judge, I think I'll be done in five minutes. I appreciate the Court's indulgence.

Your Honor, Mr. Van der Veen, you know, continues through his argument to attempt to disassociate Mr. Dolan with the Oath Keeper. I'm presenting Government Exhibit 2, specifically the first photograph which depicts Mr. Dolan standing on the steps of the Capitol wearing a black sweatshirt that clearly indicates an association or affiliation with the Oath Keepers. He is depicted under the yellow -- I'm sorry, under the red arrow.

For context, Judge, and just so the Court understands who else is depicted in this photograph, to his right in the
yellow is Ms. Watkins.
THE COURT: You mean the yellow arrow?
MR. DISPOTO: The yellow arrow.
The blue arrow is Kelly Meggs, and the green arrow is Connie Meggs, and the individual immediately in the front -slightly in front of Mr . Dolan and to his left, that would be Joe Hackett. So I just showed that photograph just so there is no misunderstanding with respect to Mr. Dolan wearing the Oath Keepers sweatshirt.

THE COURT: All right, fine thank you.
MR. DISPOTO: With respect to the second photograph, Judge, Mr. Van der Veen said several times during his presentation that there was no evidence that Mr. Dolan is depicted anywhere near the firearms that the Government believes were being removed by Mr. Harrelson and Mr. Dolan the day after the Capitol riots. This photograph, Judge, is the government's belief -- and Mr. Van der Veen certainly may not agree with who that person is, but I am proffering to the Court the Government believes that individual who is pushing the dolly that contains the firearm cases is Mr. Dolan.

Mr. Harrelson is pulling that dolly with his right hand.
I'll further note, Judge, and I believe this was part of the Government's proffer yesterday, that Mr. Dolan's cell site data puts him in the area of this hotel which was located in the state of Virginia at the time that this surveillance

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photograph was taken. Obviously, there was no was pinpoint GPS monitoring going on, but the general cell site data puts him in the area of this hotel on this day.

With that said, Judge, that concludes my factual proffer. I have made most of my arguments yesterday, so I'm not going to repeat them, but I would simply like to point out the following observation --

I'm sorry, Mr. Van der Veen did you have an
objection? Did you want me to --
THE COURT: No, I don't think -- I think he was just moving, Mr. Dispoto.

MR. DISPOTO: Judge, in conclusion, I just want to share with the Court the following sort of assessment and observations.

Mr. Dolan through his attorney has continued, during the course of these proceedings, to what I would describe as downplaying his -- Mr. Dolan's behavior. Mr. Van der Veen has pointed out on several occasions that Mr. Dolan was inside of the Capitol for all but nine minutes. I would submit to the Court, it was more like 12. But quite frankly, Judge, it doesn't matter whether he was in there for nine minutes or 12 minutes or 20 minutes or more, it doesn't matter.

Unlike many people --
THE COURT: Mr. Dispoto, let me just.
MR. DISPOTO: Yes.
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THE COURT: On that point you have me, the alleged behavior is outrageous, there is no doubt; and the evidence is very substantial, so you have me on that point.

MR. DISPOTO: Okay. Well, I was going further it, but I have you on it, Judge, I'll just conclude. Thank you very much.

THE COURT: All right, thank you.
Mr. Van der Veen, anything else you want to respond to.

MR. VAN DER VEEN: Just very briefly, Judge.
First with respect to -- I may continue to take it in the order he ended, with respect to Thomas Caldwell, it is not just that Thomas Caldwell is at the top of the indictment and that every U.S. Attorney's Office that I know of always puts the top guy at the top of the indictment, but, Judge, they say it in their pleading. They say in their pleading that he is the man organizing all of the weapons. And that was May 28th, just last week and they said that home confinement was fine for Mr. Caldwell. And I think that that's part of the analysis that Your Honor wanted to see, how were other people who were released situated here.

And I'm not downplaying -- first of all, I said that my client was in there for less than ten minutes, under the Government's theory. I'm not confessing for my client. I haven't even had a chance to talk to my client in a really kind
of confidential personal way. What I'm telling you is that the Government's theory is that he was in there for less than ten minutes. That was the FBI agent's testimony yesterday.

And I agree with you, Judge, there is nothing soft about what happened here. And you know, the Government has put on a great prima facie case for Your Honor, after a grand jury investigated saying my client is likely there. That's not my argument at all.

My argument is that my client's liberty rights while presumed innocent under the law and the constitution and then the law as developed for detention, he is eligible for release under strict circumstances. And I don't want to offend the Court or this proceeding to suggest that in any way this is not serious, it wasn't heinous, all of that; but that's not, I think, the controlling issue here.

With respect to the photograph that they just put up and where they have an arrow saying that that's Jason Dolan, I would like everybody to look at that very closely and look at that time in comparison with the photograph that they used in their pleading.

First, the -- in this photograph that they used in their pleading, I think $I$ can see something that looks like either a rifle case, a bow and arrow case, a large violin case. I frankly can't tell what it is in there. It could be a case of anything. But what $I$ do know is that in the photograph that

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they just sent you, Judge, there is no rifle case in the photograph, one; but two, and most importantly, yesterday on cross-examination, I asked the FBI agent about the insignia. They show you the top photograph where it is very clear that there is a brand new sweatshirt with the insignia or the words "Oath Keepers" on it. It is not their insignia. It is on that body that he says is my client is a brand new sweatshirt with the words "Oath Keepers" not their insignia. He is addressed completely differently than everybody around him, completely differently I think which shows his level of involvement with the Oath Keepers.

But finally, the FBI agent testified. I said, "Did you ever see any other insignia of Oath Keepers at all?"

And he said, "Yes, the next day in the hotel, he was wearing the same sweatshirt with -- the black sweatshirt and the insignia on it." That was his testimony. That's not true.

In this photograph, the person's whose face you can't see but are telling to tell Your Honor that's Mr. Dolan is not as described yesterday by the FBI agent. And so when I asked Your Honor to weigh the details of what the FBI agent said, it is the devil is in the details. You know, it -- he said he was wearing the same shirt. If this is him, then it is incongruent and inconsistent with the testimony. If we believe what the testimony was, then this isn't the photograph of my client. And so that it's weight that I would argue, Your Honor.


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$3142(e)(3)(C)$. The presumption arises if the offense -- and here, that would be felony destruction of property under Section 1361 is listed in Section 2332b(g)(5)(B) and carries a maximum term of I am preempt of ten years or more. So at a minimum on that, on that ground, the rebuttable presumption does apply in this case.

Now that's not the be all and end all of the case however, because the rebuttable presumption is just that, it's rebuttable.

The policy underlying the Bail Reform Act is to permit release under the least restrictive condition compatible with assuring the future appearance of the defendant. And that's stated in United States versus Price, 773 Fed. 2d 1526 at page 1527, and that's an Eleventh Circuit case from 1985.

Now when the United States seeks to detain a criminal defendant pending trial, as they are here, based on his status as a flight risk, a serious flight risk, it must prove by a preponderance of the evidence that no condition or set of conditions will reasonably assure his presence at trial. That is stated in United States v. Medina, M-E-D-I-N-A, at 775 Fed. 2d, 1398, page 1402, Eleventh Circuit 1985.

Now by contrast where the Government seeks to detain a defendant based on a contention that he is a danger to the community, it must show by clear and convincing evidence that no condition or combination of conditions will reasonably

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assure the safety of the community. That's also mentioned in United States v. Medina. However, here, where there is a rebuttal presumption which arises, there is a rebuttable presumption that the person is both a flight risk and a danger to the community.

Now once the statutory presumptions are raised, the rebuttal presumption, the defendant carries the burden of production to come forward with evidence to rebut the presumption or presumptions, and that's United States v. Quartermaine, Q-U-A-R-T-E-R-M-A-I-N-E, 913 Fed. 2d, 910, page 916, Eleventh Circuit, 1990. However, this obligation to come forward with evidence does not shift to the defendant the Government's burden of persuasion. And in that -- in Quartermaine, they cite United States v. King for that proposition, 849 Fed. 2d 485, 488, which is an Eleventh Circuit 1988 case.

So the way it appears in our law, in our case law and in the statute is that in a presumption case, the defendant bears the burden of producing evidence to suggest that he is not dangerous and/or that he is not likely to flee if released. That's Quartermaine, 913 Fed. 2d at 916 quoting United States versus Hertato, 779 Fed. 2d, 1467, 1479, Eleventh Circuit 1985. And in presumption cases, as here, the presumption becomes evidence to be considered along with other evidence listed in the Bail Reform Act or information as indicative of risk of
flight or danger to the community. And that's Quartermaine 913 Fed. 2d at 916.

And then finally, the presumption of detention does not alter the defendant's underlying presumption of innocence which is stated at 18 U.S.C. Section $3142(j)$. And I deal with these detention issues quite often, and they are very important and that's why $I$ know we have spent a lot of time on this, I think both sides, I think Mr. Dispoto, I think Mr. Van der Veen, Counsel, Mr. Hutchinson, you have all done a good job here in elucidating the issues that the Court needs to deal with and needs to address.

I'm going to first start off with risk of flight, and I do find that the defendant has sufficiently rebutted the risk of flight. I do not find the defendant is a serious risk of flight. I do think that there are conditions or combinations of conditions of release which would reasonably assure the defendant's appearance in court. We are talking here about a defendant who is a United States citizen. He resides in the Southern District of Florida, in Wellington. He has been residing at that location for approximately six years. He resides with his wife and his adult 18-year-old daughter.

I have heard no indications of any evidence that he was planning to flee or that he had an escape bag referred to by different names where he had fake passports or identifications or anything ready to flee. I have heard really
no evidence that he was planning to flee or would flee.
As I said, he did 20 years in the Marines. He served his country honorably during that period of time, and I think the Court certainly gives him credit for that.

So I do not find that he is a serious risker of flight or nonappearance, and I find the defendant has sufficiently rebutted that and that the Government has not proven by a preponderance of the evidence that he is a serious risk of flight for a number of reasons, and those are some of the reasons, but there are many others as well.

There was evidence that the Government -- again, a lot of the evidence I heard cuts both ways. There was evidence that the Government put on that he well knew that the agents would eventually about coming to arrest him. I don't doubt that. I mean, this has been in the media. A lot of the Oath Keepers have been arrested. A lot of affiliated individuals have been arrested. I have no doubt that he knew he was -- the FBI would be coming to his residence at some point.

It cuts both ways. On the one hand, he could have fled if he wanted to at that point. He didn't. On the other hand, he could have gotten rid of firearms, as the Government argues, and he could have gotten rid of Oath Keeper garb which the Government argues. I don't have any direct evidence of that but certainly the disposition of any weapons can be viewed as either trying to get rid of unfavorable evidence or it could
also be viewed as he has had enough with Oath Keeper nonsense, and he is going to try to change -- change his ways going forward. The same thing could be said of the Oath Keepers garb. I think that evidence does cut both ways. I don't see any strong evidence of trying to obstruct or destroy potential evidence. So I have considered all of that.

I think the real rub here is whether or not the defendant is a danger -- whether or not the defendant is a danger to the community if he were to be released, and that is interesting because when you look at the pictures of Mr. Dolan -- the Government has proffered Exhibits 1 and 2 -certainly inside of the Capitol and on the steps of the Capitol, that's a very dangerous scary sight. What occurred and what is alleged was just reprehensible and should never happen in a free democratic country.

And even though perhaps some of those participants don't want to honor the Constitution and don't want to follow the laws, this court honors the Constitution and follows the laws even when I am confronted with defendants who may not belief that is the case.

In looking at danger, $I$ look at a lot of factors, one of the very first things I look at is the defendant's criminal record if any. Mr. Dolan has no criminal record to speak of. The prior arrests really are of no consequence to me. One was a knife incident, when he was in high school in shop class,
which was dismissed; and the other was an assault and battery which resulted in a nonconviction, something to do in a bar incident. Neither of those really carry much weight. What does carry a lot of weight is that he has absolutely no convictions whatsoever whether violent or otherwise.

I also see no mental health issues. I see no drug addiction issues. I see none of those issues.

He does have a wife and a daughter who apparently are standing behind him, and I think that's commendable, and he is lucky for that.

When I go through this, clearly the nature of the insignia stand offense poses a risk of danger, but I don't think the nature of the instant offense can be the only thing that the Court deals with here. I have to look at the other surrounding factors. And I am going to give a lot of weight to the fact that he was a 20-year marine veteran, that he served his country honorably, that his wife and adult daughter are here, and I am going to deny the Government's request for Pretrial Detention.

I'm going to find that the defendant has sufficiently rebutted the rebuttable presumption, that the Government has not established by clear and convincing evidence that he is a danger to the community. I am going to order release on very, very strict conditions very similar to what many of the other defendants -- the majority of the other defendants have been
released in this case.
And I will state that I very carefully considered his relationship with Mr. Harrelson because Mr. Harrelson is detained, and I know that the allegation the Government proffered is that Mr. Dolan and Mr. Harrelson traveled together from South Florida up to DC, that Mr. Dolan rented a car and that Mr. Dolan paid for the room; but, when I look at the Harrelson situation, I see some real differences. One is that it was alleged that Mr. Harrelson was a leader of the Oath Keepers, and I really haven't seen that alleged as to Mr. Dolan or proven.

Moreover, Mr. Harrelson took what I considered a very unusual step of testifying at a Pretrial Detention hearing. I have been doing this at a long, long time, and that is extremely ware, and I believe that the court found that some of his testimony was perhaps quite questionable or untruthful.

Additionally, he has a more significant prior criminal history than Mr. Dolan, and he had administrative privileges on the Florida Signal chat as Gator 6 which does not apply to Mr. Dolan. And I do find that an although there are some similarities, there are also some major differentials.

So what I'm going to do is I'm going to order the defendant released, first of all, on a 100,000-dollar personal surety bond that's a significant bond that will have to be signed by him, his wife, his adult daughter, and I'll have to
speak to them to make sure they are agreeable to do that and
they know what they are getting into by that because if
Mr. Dolan were to flee or violate of the conditions of his
release, the Government could come after both his wife, his
daughter, and him for up to $\$ 100,000$ in any real or personal
property. And it would be a pretty despicable husband who
would put his wife and adult daughter in such a circumstance.
I don't think Mr. Dolan would do that.
So my conditions of release are 100,000-dollar
personal surety bond signed by the defendant, his wife, and
adult daughter.

Mr. Dolan, where is your passport?
THE DEFENDANT: I don't know if the FBI took or not. THE COURT: Mr. Hutchinson, can you put the microphone put the microphone closer to Mr. Dolan. I need to ask him a few questions.

I believe, Mr. Dolan, your daughter said she has the passport, correct?

UNIDENTIFIED SPEAKER: The wife.
THE DEFENDANT: She does look young.
THE COURT: So the passport will be turned into Pretrial Services today. The Pretrial Services officer is here tray, and the passport will be vended today.

Mr. Dolan, while you are on release, you are not allowed to apply for, seek, or obtain any passports,
replacement passports, or travel documents; do you understand that?

THE DEFENDANT: Absolutely.
THE COURT: You are to report to Pretrial Services as directed. They will tell you when and how to report whether in person or not.

You are to actively seek full-time employment; but if you obtain full-time employment, it has to be approved by U.S. Probation.

You are to avoid all contact with victims or
witnesses. You can have no contact whatsoever with any Oath Keeper or anybody who participated in this incident; do you understand that?

THE DEFENDANT: Yes, sir.
THE COURT: I'm also going to require that you have -- and when I say "no contact with victims or witnesses," your attorney is permitted to have contact with any alleged victims or witnesses in order to prepare your case. That's a constitutional right you have. So if your attorney or your attorney's investigator wishes to make contact and they can do that ethically and professionally, they can do that. You yourself cannot. And "contact" includes encrypted chats, it includes texts, emails, phone calls, carrier pigeons, anything at all; do you understand that?

THE DEFENDANT: Yes, absolutely, Your Honor.

THE COURT: All right. I'm also going to state that you can have no firearms in your residence, in your possession, custody, or control. Under federal law, "firearms" includes bullets, ammunitions, guns, pistols, shotguns, rifles, anything at all. None of that can be in your residence.

I'm also going to place you in the Special Offender Unit in U.S. Probation. It is referred to as "SOU." you will be supervised by James Pierce, an experienced probation officer.

I'm also going to require location monitoring, GPS; and, at this point, in light of the fact that the defendant has brought on counsel to represent him, I'll require the defendant to pay the cost of the GPS.

I'm going to impose home incarceration which, in effect, is jail at your residence, at this point. You can go out for medical emergency reasons or for medical treatment. You will need to clear that with U.S. Probation. You will be strictly supervised. If you need to extend that, right now, you can probably speak with your counsel by Zoom or phone or whatever else.

You're computer, you will be able to have no encryption software on any phones, computers, or devices in your residence; do you understand that?

THE DEFENDANT: Yes, sir.
THE COURT: If I find out that you are using any type
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of encryption device, if you are communicating with Oath Keepers, if you are doing anything that is in any way illegal, contemptuous, I will not hesitate and I'm sure that the court in DC will not hesitate to revoke your bond conditions and have you incarcerated; do you understand?

THE DEFENDANT: Yes, Your Honor.
THE COURT: You will be restricted to the Southern District of Florida. You can only leave the Southern District of Florida with Probation approval, and you can only go there -- leave to go DC, District of Columbia, for court. Now much of that is being done remotely, so when it is done remotely, you will stay here. When you do have to leave to actually attend court in person at some point for your trial or otherwise, then you would be permitted to go to the District of Columbia.

So Special Offender Unit; location monitoring which is GPS; and the Special Offender Unit is a very high level of supervision by very experienced probation officer, and Mr. Pearce has been here a long time and he is a very good and respected probation officer; home incarceration which, in effect, is jail at your residence. You can leave for medical purposes, emergency medical purposes orb medical treatment. You are confined to the Southern District of Florida. You are allowed to go to DC only for court. No encryption software on your computer.

1 you go after that point.

That all being said, Mr. Dispoto, I know you wanted Pretrial Detention, I have denied that. But as far as the conditions of release, are there any other conditions of release that the Government would be requesting that I impose on Mr. Dolan?

MR. DISPOTO: No other conditions of release, Judge. We just have one request relative to Your Honor's order today. THE COURT: Okay. I'll get you that in just a second.

Mr. Van der Veen, as far as the conditions of release, are there any clarifications or anything else that you need to address?

MR. VAN DER VEEN: Judge, the only thing that I would ask, Your Honor, could he have one visit with his lawyer? Given the posture of this case and my communications with the Government, a meeting with my client in person would be really important; and from an economic standpoint, for me to go there versus him to come to me is a world's difference.

THE COURT: All right. Are you going to be his
permanent counsel in the $D C$ case?
MR. VAN DER VEEN: Yes.
THE COURT: All right. So at this point, I will
state that $I$ will allow an in-person meeting between Mr. Dolan and Mr. Van der Veen; however, I would think that that would have to be approved by U.S. Probation, and it would be solely for that purpose. I don't know if that can be accomplished when you are going to a court hearing or not.

When would you want to meet with him?
MR. VAN DER VEEN: As soon as possible, Judge. I mean, I would like to meet with him as soon as possible. Let me talk to him. If I can't meet with him next week by him coming up, maybe I have just have to bite the bullet and fly down.

THE COURT: All right. I'll reserve on that for now. I understand and I certainly think that Mr. Dolan has the right to consult personally with his counsel; however, there may be some other litigation going on and perhaps that's best left to Judge mate that up in the DC court. So I'll reserve on that either for me to resolve or perhaps if Judge Mehta wishes to handle that, he could resolve that.

All right. Anything else, Mr. Van der Veen?
MR. VAN DER VEEN: No, thank you, Judge.
THE COURT: Mr. Hutchinson, anything else you needed to address?

MR. HUTCHINSON: Judge, what are you going to do about my condition as CJA?

THE COURT: No, you will be -- at this point, you know, I left you on. I was not the one who appointed you. I know Judge Reinhart appointed you, and then Mr. Van der Veen came on; but in the interest of judicial an attorney economy and really to provide a smooth operation of this hearing and to provide effective assistance to Mr. Dolan, I kept you on. But you will be terminated as of today, as far as CJA counsel.

MR. HUTCHINSON: Yes, sir.
THE COURT: But I appreciate your assistance to the Court, and I'm sure Mr. Dolan and Mr. Van der Veen appreciate it as well.

As I said, it is an unusual situation; but to me, I didn't want to put form over substance, and I wanted to make sure that while Mr. Dolan was in the courtroom, he had effective assistance of counsel and then also that while Mr. Van der Veen was appearing by video conference, there was sufficient consultation, so I did it for that. But as far as once you are concluded today, Mr. Hutchinson, your representation will be concluded as court-appointed counsel with thanks from the Court.

MR. HUTCHINSON: Thank you, Your Honor. I appreciate it.

THE COURT: All right. Now I am going to have to Thursday, June 3, 2021.

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hear from the wife and daughter; and I know, Mr. Dispoto, you
have a request to make, but let me just do that so I don't
forget, and then I'll go to you, Mr. Dispoto.
If the wife and daughter could please come up to the
podium.

MR. HUTCHINSON: At the podium, Judge?
THE COURT: I need them at a microphone.
THE COURTROOM DEPUTY: Table.
MR. HUTCHINSON: One moment.
THE COURT: One other point, on the computer encryption, in order to enforce that, Probation needs a computer search requirement, and I will order that, that they be permitted to search the computer in order to make sure that there is no encryption. Do you have any objection to that, Mr. Van der Veen?

MR. VAN DER VEEN: No, Judge.
THE COURT: All right, thank you.
All right. So, Ma'am --
MRS. DOLAN: I'm sorry.
THE COURT: That's okay, that's fine.
MR. HUTCHINSON: Judge, the client was asking, as far as the search, they are searching to see if there are encryption devices it?

THE COURT: Yes, that's correct.
MR. HUTCHINSON: They are not going to be on
searching for --

THE COURT: Well, they will search to see if there are encryption devices on there. They are not going to do a forensic search of the computer, correct?

UNIDENTIFIED SPEAKER: That's correct, Your Honor.
THE COURT: It is to make sure that there are no encryption devices to be able to enforce my requirement, otherwise there would be no way for me to know if there were any encryption. But it is not a -- it is not a wholesale warrantless search.

MR. HUTCHINSON: That's what I was asking, Judge. Thank you.

THE COURT: Okay.
All right. So let me speak first to Mr. Dolan's wife. Would you raise your right hand please.

Go ahead, Ken.
NOOR RITA DOLAN, DEFENSE WITNESS, SWORN DIRECT EXAMINATION

THE COURTROOM DEPUTY: State your full name.
MRS. DOLAN: My full name is Noor Rita Dolan.
THE COURT: Spell your first name.
MRS. DOLAN: N-O-O-R then space R-I-T-A.
THE COURT: Noor, N-O-O-R space R-I-T-A, Dolan.
MRS. DOLAN: Correct.
THE COURT: All right, ma'am.
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BY THE COURT:
Q. Do you reside with Jason Dolan?
A. Yes, I do, Your Honor.
Q. Is that at the address in Wellington?
A. Yes, Your Honor.
Q. You are his legal wife?
A. Yes, I am.
Q. How long have you been married?
A. Almost 18 -- 19 years, I'm sorry.
Q. Okay. So you have been married 19 years.

So let me ask you. I have required a lot of
conditions of release including a 100,000-dollar personal surety bond to be co-signed by you. Do you understand that by signing that, if your husband were to flee, leave the jurisdiction, not show up in court, violate his conditions of release, the Government could come after you personally for up to $\$ 100,000$ of any real or personal property that you own?
A. Yes, Your Honor.
Q. Knowing that, are you still willing to cosign the bond?
A. Yes, Your Honor.
Q. Will you do everything to insure that Mr. Dolan, your husband, follows all of the conditions of release? I know you have been sitting here listening to them.
A. Yes, Your Honor.

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Q. If he is not, will you notify Probation?
A. Definitely, Your Honor.

THE COURT: All right, I'll approve you as a cosigner.

And then, let me speak to the daughter next.
Good morning, ma'am.
MISS DOLAN:
THE COURT: Ken, please swear her in.
CORINNE DOLAN, DEFENSE WITNESS, SWORN
THE COURTROOM DEPUTY: State your full name and spell
your full name for the record
MISS C. DOLAN: Corrine, C-O-R-I-N-N-E, Dolan, $\mathrm{D}-\mathrm{O}-\mathrm{L}-\mathrm{A}-\mathrm{N}$.

## EXAMINATION

BY THE COURT:
Q. All right, ma'am. How old are you?
A. I'm 18.
Q. All right. And you are obviously the daughter of the defendant in this case, Jason Dolan?
A. Yes, so I'm told.
Q. Yes, okay. All right, now same questions to you. Do you live at home at the same Wellington address?
A. Yes.
Q. All right. Are you willing to cosign the 100,000-dollar personal surety bond?

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A. Yes.
Q. And I know you are young, you just became an adult, but the Government could come after you for up to $\$ 100,000$ in any real or personal property that you own if Mr. Dolan were to flee, fail to appear, violate his conditions of release; do you understand that?
A. Yes.
Q. Nonetheless, are you still willing to cosign that bond? A. Yes, sir.

THE COURT: All right, I'll go ahead and approve Corinne Dolan also as a cosigner.

Do any of either of have any questions for the Court about the obligations that you are undertaking today?

MRS. DOLAN: The only question $I$ have is if that if like say if I have to go to work, sometime my husband have to pick my daughter up. She have her permit, but she doesn't actually have a license to drive yet. Can he drive her to school because --

THE COURT: No, he is not allowed --
MRS. DOLAN: I just wanted to make clear.
THE COURT: At this point, he is not allowed to leave the residence.

MRS. DOLAN: All right, that's fine. I'll make some arrangement or myself.

THE COURT: That doesn't -- it is possible that down Thursday, June 3, 2021.
the road that might be changed or loosened; but for now, that's
a requirement, a strict requirement that he is on home
incarceration. You will have to make other arrangements for
your --

MRS. DOLAN: Okay. Yes, Your Honor.
THE COURT: -- your daughter.
All right, any other questions that you have, ma'am?
MRS. DOLAN: No, that's it.
THE COURT: All right, thank you. You all can have a seat.

MRS. DOLAN: Thank you.
THE COURT: All right. So those would be my conditions of release.

Let me turn to Government, Mr. Dispoto, I know you had wanted to raise an issue.

MR. DISPOTO: Yes, Judge. Before I do that, may I ask the Court, does the Court want to give Mrs. Dolan any cautionary instructions relative to her access to firearms? Obviously, this Court is not prohibiting her from having access, but her access could cause Mr. Dolan some issues. So does the Court want to address that with her?

THE COURT: Yes, that's a good point.
Mrs. Dolan and Corinne Dolan, both of you, no firearms, weapons of any kind are allowed in the residence whatsoever, whether you live there or not. So if you,
yourself, have a firearm, it cannot be in there. There can be no firearms, bullets, guns, ammunition whatsoever in the residence, while Mr. Dolan is on these restrictions on pretrial release. So do you understand that both of you.

MRS. DOLAN: Yes, Your Honor.
THE COURT: They are both nodding yes.
So regardless of whether or not Mrs. Dolan or Corinne Dolan may or may not have the ability or right to have a firearm, they are not allowed to bring any firearms into the residence.

I also want to clarify one thing. There can be no Oath Keepers or anybody affiliated with them or anybody who participated in the incident at the Capitol coming to the house to visit Mr. Dolan. That is another condition.

All right. Mr. Dispoto, anything else that you wanted to raise?

I think we lost -- I think we got Mr. Dispoto frozen there for a moment, so we are going to have to wait until he comes back. It looks like we just lost him, so he will be back in a second. I love technology when it works.
(Pause in the proceedings)
THE COURT: Ken, are you able to call him and try to find out what is going on here?

MR. HUTCHINSON: We still lost Mr. Dispoto.
THE COURT: He is trying to get back on.
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All right, so Mr. Dispoto, let me turn to you. MR. DISPOTO: Yes, Judge, thank you. We would ask the Court to stay its order today until Monday to give the United States Attorney's Office in Washington an opportunity to consider whether to file an appeal of this Court's decision to Judge Mehta.

THE COURT: Let me address that because that is in our local rules under Southern District of Florida Rule Four, Review and Appeal. And regarding the Government appeal of a release order, at the conclusion of a hearing pursuant to 18 United States Code 3142 in which a magistrate judge has entered an order granting pretrial release, the Government would make an ore tenus motion that the magistrate judge exercise discretion to stay the release order for a reasonable time to allow the Government to pursue a review or appeal of the release order in accordance with the 18 United States Code 3145. If a stay is ordered pursuant to this rule, the clerk of the court is directed to obtain the tape recording or cassette immediately after the hearing and deliver the cassettes or tapes promptly to the appropriate court reporter so that an expedited transcript can be delivered to the district judge within 48 hours prior to the hearing at which the release order is entered. The United States Attorney's Office is to pay the court reporter's charges.

So let me just be clear, Mr. Dispoto, you are asking
for a short stay for the U.S. Attorney's Office to determine if
they will appeal, is that right?

MR. DISPOTO: Correct.
THE COURT: All right. I'm not inclined to do that through Monday. Today is Thursday, if there is extenuating circumstances, I'll reconsider it. I would rather that the U.S. Attorney's Office decide that by tomorrow. Do you think there is any chance that they can do that?

It is one thing -- it's one thing to make the decision to appeal; and if they do decide to appeal, then certainly I would enter a stay reasonable period of time for Judge Mehta to address the issue because in these removal matters, I have had so many of them over the years, the appeal would go to Judge Mehta in the DC court.

So at this point, you are just asking for a short stay to allow the U.S. Attorney's Office to decide whether they will or will not appeal?

MR. DISPOTO: Correct.
THE COURT: Why don't we do this. At this point, I'll give -- I'll stay it until 4:00 o'clock tomorrow. If by some chance that there is good cause as to why you cannot make that determination by 4:00 o'clock tomorrow, you can file a motion. I'll reconsider it. If necessary, I can set a hearing down, but $I$ would think that with all of the cases that have gone on before, it's not as if Mr. Dolan is the first one
arrested in this indictment. He is one of the tail end. They probably have a pretty good perspective of what their position should be, and I know they have to discuss it and evaluate it and perhaps speak it to appellate counsel, whatever they want to do. But I would really -- since it is Thursday, I would rather not put it over until Monday, unless it is absolutely necessary.

So what I would ask you, Mr. Dispoto, I'll stay it until 4:00 o'clock tomorrow, and I would ask that you please advice opposing Counsel and the Court whether or not the Government wishes to appeal. If for some reason you have very good cause to ask for more time to make that decision, just file a motion, speak to the other side, and I'll quickly address that issue, and I may each schedule a quick hearing on that, although it might be difficult to bring the defendant into -- into court. I want to be fair to the Government here as far as the stay, but $I$ also want to be fair to the defendant. So would 4:00 o'clock tomorrow give you enough time, Mr. Dispoto?

MR. DISPOTO: I believe so, Judge. I will communicate further with Counsel from DC. We will do our best to make it work by tomorrow at 4:00.

THE COURT: Okay. And Mr. van der Veen, anything you want to address on that? I know you probably oppose the stay, but our local rules provide for it. Usually, it is a stay
where the prosecutor says we are going to appeal, and then it is a different sort of different situation, in this case, Mr. Dispoto is not the prosecutor handling the case. I'm sure the ultimate call will be made by the prosecutor in DC. I don't any harm in giving them until 4:00 o'clock tomorrow. It is allowed for in our local rules. And I think, in our efforts trying to be fair to both sides, $I$ think it is consistent with what I have done.

So what is your position on that, Mr. Van der Veen?
MR. VAN DER VEEN: I object, Judge, and I understand your ruling.

THE COURT: Okay. All right. So what we will do then, I have ordered him release. The release will be stayed until 4:00 p.m. tomorrow.

Mr. Dispoto, if you get a decision earlier than 4:00 tomorrow, please file a motion or notice with the court so I can deal with that appropriately. If the U.S. Attorney's Office decides not to appeal, then I'll want to make sure that Mr. Dolan gets out for the weekend.

If they do decide to -- if they do decide to appeal, then I want to have to address a reasonable stay that's authorized under our local rules and just keep in mind that a transcript has to be prepared as well.

MR. DISPOTO: Okay. Will do, Judge, thank you.
THE COURT: Hold on one moment.
Thursday, June 3, 2021.

THE COURTROOM DEPUTY: There are no cassettes.
THE COURT: And also in the past, there were often cassette tapes made of these recordings. It is not done that way anymore, so there are no cassettes. In the past, I know that copies of cassette recordings could be made available for appellate review, that doesn't exist anymore under our current DAR system. So it has to be a transcript that gets produced. So if you are going to be filing a motion to stay it longer than 4:00 tomorrow, then the clerk is going to have to have those transcripts prepared, and the U.S. Attorney's Office is going to have to pay for the cost of those transcripts.

MR. DISPOTO: Okay, very well, Judge; thank you so much.

THE COURT: Thank you, Mr. Dispoto.
All right. Mr. Van der Veen, anything else we need to address?

MR. VAN DER VEEN: No, Judge; thank you for the Court's time.

THE COURT: All right. And Mr. Hutchinson, in light of the appeal, I'll leave you on through tomorrow, just in the event anything needs to be addressed tomorrow that would require Mr. Dolan's presence. So I'll extend your appointment through tomorrow, all right?

MR. HUTCHINSON: Yes, sir.
THE COURT: All right. Anything else from either

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side?
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Hearing nothing, everybody have a good afternoon, and we will see where we go from here.

Thank you.
THE COURTROOM DEPUTY: All rise, court in recess.
(PROCEEDINGS ADJOURNED)

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\mathrm{C}-\mathrm{E}-\mathrm{R}-\mathrm{T}-\mathrm{I}-\mathrm{F}-\mathrm{I}-\mathrm{C}-\mathrm{A}-\mathrm{T}-\mathrm{E}
$$

I hereby certify that the foregoing is an accurate transcription of digitally recorded proceedings in the above-entitled matter to the best of my abilities.

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

6/8/2021
DATE
/s/DIANE MILLER
DIANE MILLER, RMR, CRR
Official Court Reporter
United States District Court
101 South U.S. Highway 1
Fort Pierce, FL 34950
772-467-2337

Thursday, June 3, 2021.

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| 27/18 28/14 29/6 | 28/2 30/23 30/23 30/24 | when [36] 3/16 9/6 9/7 | $\begin{array}{lll} 13 / 15 & 13 / 25 & 14 / 1 \end{array} 17 / 10$ |  |
| 42/2 42/9 43/6 47/19 | $30 / 2530 / 2531 / 131 / 2$ | 9/8 13/8 14/5 21/1 23 |  | wrong [1] 7/19 <br> wrote [2] 19/25 32/13 |
|  | 32/19 34/4 34/4 34/5 | 23/14 24/17 26/3 29/20 | 25/11 28/16 28/18 29/19 |  |
| 18 54/4 58/6 60/13 | 34/6 34/15 37/8 40/9 | 0/10 31/16 32/9 35/16 | $35 / 1537 / 639 / 340 / 2$ | Y |
| 62 61/23 61/24 6 | watched [1] 16/15 <br> Watkins [4] 4/22 21/24 | $37 / 1737 / 2438 / 738 / 23$$54 / 19$$66 / 15$$60 / 10$$60 / 19$ |  | $\begin{array}{ll} \hline \text { Yeah [2] } & 7 / 23 \\ \text { year [4] } & 35 / 4 \\ \hline \end{array}$ |
| 62/12 66/17 66/18 |  |  | $\begin{aligned} & 44 / 245 / 147 / 847 / 11 \\ & 47 / 1247 / 1247 / 2456 / 19 \end{aligned}$ |  |
| /11 82 | $22 / 250 / 1$ | $\begin{aligned} & 60 / 2561 / 11 \text { 62/7 64/5 } \\ & 64 / 1666 / 1166 / 1268 / 8 \end{aligned}$ | $\begin{aligned} & 47 / 1247 / 1247 / 2456 / 19 \\ & 56 / 2562 / 262 / 2463 / 21 \end{aligned}$ | $\begin{aligned} & 58 / 2161 / 16 \\ & \text { years [12] } 29 / 1129 / 14 \end{aligned}$ |
|  |  | 68/9 76/20 77/19 77/22 | $\begin{aligned} & 63 / 2364 / 565 / 765 / 17 \\ & 65 / 1765 / 21 \quad 66 / 366 / 4 \end{aligned}$ |  |
| $[1] \quad 36$ | $\begin{aligned} & \text { wave [1] } 34 / 14 \\ & \text { way [24] } 4 / 25 / 106 / 3 \end{aligned}$ |  |  | 29/18 32/16 35/5 37/13 |
|  | 10/16 16/16 19/5 20/23 | $32 / 1133 / 1237 / 553 / 17$ | 66/7 66/12 67/5 67/5 | 56/4 58/20 59/2 72/1072/11 79/13 |
| $18$ | 23/14 26/13 29/22 34/16 | 54/4 56/22 57/2 58/24 | 68/3 68/4 69/3 69/9 |  |
| 8 | $\begin{aligned} & 38 / 5 \quad 38 / 1340 / 1041 / 23 \\ & 42 / 1953 / 153 / 13 \\ & 57 / 17 \end{aligned}$ | 63/12 67/5 67/5 81/1 | 69/21 70/12 71/2 72/22 | yellow [4] 49/22 50/1 |
| 20 21/13 26/9 26/10 |  |  | 73/1 75/3 76/19 77/19 | 50/2 50/3 |
| 49/12 69/18 | $\begin{aligned} & \text { 66/2 71/8 77/14 77/25 } \\ & 82 / 4 \end{aligned}$ | $\begin{array}{\|l\|} \hline 83 / 3 \\ \text { wherewithal [1] } 36 / 18 \end{array}$ | 9/2 79/17 79/17 80/20 |  |
|  |  | whether [21] $6 / 12$ <br> 14/22 26/15 28/5 30/7 | $\begin{array}{\|l} 80 / 21 ~ 81 / 4 ~ 81 / 12 ~ 81 / 13 \\ 81 / 24 ~ 83 / 3 \end{array}$ | $\begin{array}{lllll} 4 / 13 & 7 / 3 & 9 / 21 & 10 / 21 & 11 / 4 \\ 15 / 24 & 32 / 22 & 32 / 23 & 35 / 20 \\ 44 / 25 & 46 / 24 & 47 / 6 & 48 / 2 \end{array}$ |
|  |  |  |  |  |
|  | 36/8 59/12 59/19 60/2 | 30 | willing [3] 72/20 73/24 |  |




[^0]:    Thursday, June 3, 2021.

