

THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TEXAS  
SHERMAN DIVISION

\* \* \* \* \*

UNITED STATES OF AMERICA	*	4:22-MJ-0011-KPJ-1
	*	Plano, Texas
VS.	*	10:53 a.m. - 12:42 p.m.
	*	03:14 p.m. - 03:34 p.m.
ELMER STEWART RHODES, III	*	January 24, 2022

\* \* \* \* \*

**DETENTION HEARING**

BEFORE THE HONORABLE KIMBERLY C. PRIEST JOHNSON  
UNITED STATES MAGISTRATE JUDGE

\* \* \* \* \*

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**GLR TRANSCRIBERS**  
9251 Lynne Circle  
Orange, Texas 77630 \* 409-330-1610

1 **APPEARANCES:**

2 For the United States:

3 MS. KATHRYN L. RAKOCZY  
4 **U.S. Attorney's Office**  
5 555 Fourth Street NW  
6 Washington, DC 20530

7 MR. JUSTIN SHER  
8 **United States Department of Justice**  
9 950 Pennsylvania Avenue NW  
10 Washington, DC 20530

11 For the Defendant:

12 MR. PHILLIP A. LINDER  
13 **The Linder Firm**  
14 3300 Oak Lawn Ave., Suite 700  
15 Dallas, TX 75219

16 MR. JAMES L. BRIGHT  
17 **James Lee Bright, Attorney At Law**  
18 2926 Maple Avenue, Suite 200  
19 Dallas, TX 75201

20 Courtroom Deputy:

21 JANE AMERSON  
22  
23  
24  
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P R O C E E D I N G S

10:53 A.M. - JANUARY 24, 2022

THE COURT: No. 4:22-mj-11, United States vs. Elmer Stewart Rhodes, III.

MS. RAKOCZY: Good afternoon, Your Honor. Kate Rakoczy and Justin Sher on behalf of the United States.

THE COURT: Good afternoon.

**[Pause]**

COURTROOM DEPUTY: Would you raise your right hand, please. Do you solemnly swear the testimony you are about to give in the case before the Court will be the truth, the whole truth, and nothing but the truth, so help you God?

DEFENDANT RHODES: I do.

THE COURT: We're here today for your Detention Hearing. Before we begin with testimony, have both counsel received a copy of the Pretrial Services Report?

MS. RAKOCZY: Yes, Your Honor.

THE COURT: Mr. Linder, have you received a copy of the Pretrial Services Report?

MR. LINDER: We received the one last week, Your Honor. And as you may be aware, we updated some information today, but I don't know if Ms. Ruth made an

1 updated report or not, but we do have the original.

2 THE COURT: I am not aware of that. Can you  
3 tell me which information that needs to be modified?

4 MR. LINDER: We had entered information for a  
5 third party custodian and things like that, but yeah,  
6 no biographical information.

7 THE COURT: Okay. What about from the  
8 Government? Any information contained in this report  
9 you'd request to be modified?

10 MS. RAKOCZY: No, Your Honor.

11 THE COURT: All right. Mr. Rhodes, you may  
12 have a seat at counsel table with your counsel.

13 MS. RAKOCZY: Thank you, Your Honor. If I  
14 may, before we call our witness, we'd just like to put  
15 on the record that we have provided to defense counsel  
16 a copy of the discovery materials in this case that  
17 have been available up to this point. As the Court may  
18 be aware, there is a related matter out of the District  
19 of Columbia and we provided a copy in the form of  
20 several -- two multiple terabyte hard drives to defense  
21 counsel. We also provided them with a letter that  
22 highlighted some of the information that might be most  
23 pertinent for this hearing today.

24 And, Your Honor, with that, the United  
25 States calls Special Agent Michael Palian.

1 COURTROOM DEPUTY: Would you raise your right  
2 hand, please. Do you solemnly swear the testimony you  
3 are about to give in the case before the Court shall be  
4 the truth, the whole truth, and nothing but the truth,  
5 so help you God?

6 THE WITNESS: I do.

7 COURTROOM DEPUTY: You may have a seat, please.  
8 And if you would state your name and spell it for the  
9 record.

10 THE WITNESS: May I remove my mask?

11 THE COURT: You may remove your mask.

12 THE WITNESS: My name is Michael Palian.  
13 That's spelled P-a-l-i-a-n.

14 THE COURT: You may proceed, counsel.

15 MS. RAKOCZY: Thank you, Your Honor.

16 **SPECIAL AGENT MICHAEL PALIAN, CALLED BY THE GOVERNMENT**

17 **DIRECT EXAMINATION**

18 **BY MS. RAKOCZY:**

19 Q. Sir, where are you employed?

20 A. I'm employed with the FBI in Washington, DC.

21 Q. How long have you been employed with the FBI?

22 A. Just under 19 years.

23 Q. And what is your current position or title?

24 A. I'm a Special Agent with the FBI.

25 Q. Have you been a Special Agent with the FBI your

1 entire time there?

2 A. I have.

3 Q. Special Agent Palian, did you participate in an  
4 investigation into the attack on the United States  
5 Capitol that occurred on January 6th of 2021?

6 A. Yes.

7 Q. And specifically, have you participated in an  
8 investigation into the role of certain members and  
9 affiliates of a group called the Oath Keepers in that  
10 attack?

11 A. I have.

12 Q. Could you describe for the Court generally what you  
13 have learned about the role played by certain members  
14 and affiliates of the Oath Keepers in that attack?

15 A. Sure. Generally speaking, the Oath Keepers  
16 planned, funded, recruited for, and executed a plan to  
17 stop the transition of Presidential power.

18 Q. With respect to January 6th, did certain members  
19 and affiliates of the Oath Keepers actually breach the  
20 Capitol building?

21 A. They did breach the Capitol building, yes.

22 Q. Could you describe for the Court generally what  
23 that consisted of?

24 A. Generally speaking, there were two groups of Oath  
25 Keepers that breached the Capitol that day. We've

1 labeled them Stack 1 and Stack 2. Stack 1 consisted of  
2 approximately 14 individuals that entered the Capitol  
3 around 2:40 p.m. Stack 2 consisted of five individuals  
4 and a K-9 that breached the Capitol around 3:15.

5 Q. With respect to that group that you've referred to  
6 as Stack 1, was there an individual who was a  
7 co-defendant in this matter who somewhat was in  
8 leadership of that role as they breached the building?

9 A. Yes, there was.

10 Q. What's that individual's name?

11 A. That individual's name is Kelly Meggs.

12 Q. And is he a leader or was he at he time a leader of  
13 the Florida Chapter of Oath keepers?

14 A. Yes, he was the leader of the Florida Chapter of  
15 the Oath Keepers.

16 Q. With respect to that group you've referred to as  
17 Stack 2, was there someone who took something of a  
18 leadership role in leading that group into the building  
19 on January 6th?

20 A. Yes, there was.

21 Q. What's that person's name?

22 A. Joshua James.

23 Q. And was he the leader of a chapter of Oath Keepers?

24 A. He was the leader of the Alabama Chapter of Oath  
25 Keepers.



1 Q. Special Agent Palian, were there members and  
2 affiliates of the Oath Keepers who supported those who  
3 breached the building on January 6th, but did not  
4 actually go inside the building?

5 A. Yes, there were.

6 Q. Were some of those individuals present on the  
7 Capitol grounds outside of the building?

8 A. They were present on the Capitol grounds, yes.

9 Q. Were there also individuals who supported those who  
10 breached the building who were not present on the  
11 Capitol grounds?

12 A. Correct, there were.

13 Q. Where were those individuals stationed?

14 A. Those individuals were stationed at a hotel in  
15 Arlington, Virginia.

16 Q. And what role were they playing?

17 A. They played the role of the Quick Reaction Force or  
18 QRF, as it's been called.

19 Q. Is that your term or their term?

20 A. That is their term.

21 Q. Based on what you have learned through reading  
22 messages that individuals who participated in that or  
23 planned that Quick Reaction Force send among each  
24 other, what was the purpose of that Quick Reaction  
25 Force?

1 A. The purpose of the Quick Reaction Force that day  
2 was to prepare to bring weapons in support to the Oath  
3 Keepers that were in Washington, DC should, as they put  
4 it, the shit hit the fan.

5 Q. Are you familiar with an individual named Elmer  
6 Stewart Rhodes, III?

7 A. I am.

8 Q. And have you ever -- who is Mr. Rhodes?

9 A. Mr. Rhodes is the founder and leader of the Oath  
10 Keepers, the national Oath Keepers.

11 Q. Have you met Mr. Rhodes in person?

12 A. I have.

13 Q. If you could, sir, I'd like for you to look around  
14 the courtroom and let us know if you see Mr. Rhodes in  
15 the courtroom here today.

16 A. I see him sitting with his defense counsel.

17 Q. Could you describe what he's wearing?

18 A. Mr. Rhodes appears to be wearing, I guess it would  
19 be a black and light blue jumpsuit.

20 MS. RAKOCZY: May the record reflect, Your  
21 Honor, the in-court identification of the defendant?

22 THE COURT: Yes.

23 MS. RAKOCZY: Thank you, Your Honor.

24 BY MS. RAKOCZY:

25 Q. Special Agent Palian, have you investigation

1 whether the defendant played a role in the attack on  
2 the Capitol?

3 A. I have.

4 Q. Could you describe for the Court in general terms  
5 what that role was?

6 A. Sure. In general terms, Mr. Rhodes coordinated,  
7 offered to fund, and facilitated the attack on the  
8 Capitol.

9 Q. Special Agent Palian, I'd like to direct your  
10 attention to the days and weeks following the 2020  
11 United States Presidential election. Did Mr. Rhodes  
12 around that time disseminate messages that your  
13 investigation has deemed to have been relevant to the  
14 conspiracy alleged in the Indictment?

15 A. Yes, messages were disseminated.

16 Q. Could you describe for the Court some of those  
17 messages?

18 A. Sure. Those messages took various forms. They  
19 took the form of signal messages or text messages or  
20 phone calls. But the messages' content revolved around  
21 planning for the event and discussed some of the intent  
22 of the operation.

23 Q. We're going to bring up on the screen right now,  
24 with the Court's permission, what's been marked as  
25 Government's Exhibit No. 1.

1 MS. RAKOCZY: May I do that, Your Honor?

2 THE COURT: Any objection?

3 MR. LINDER: No, Your Honor. As counsel has  
4 explained, she provided this to us already.

5 THE COURT: All right, you may publish.

6 MS. RAKOCZY: Thank you, Your Honor.

7 BY MS. RAKOCZY:

8 Q. Special Agent Palian, I've placed up on the screen  
9 what has been labeled as Government's Exhibit No. 1 for  
10 the purposes of this Detention Hearing.

11 MS. RAKOCZY: And I apologize to the Court  
12 because of the PowerPoint. It actually says  
13 Government's Exhibit No. 2, but it is labeled as  
14 Government's Exhibit 1 on the hard copy that we  
15 provided to the Court and counsel.

16 BY MS. RAKOCZY:

17 Q. Special Agent Palian, do you recognize what we're  
18 seeing on the screen?

19 A. Yes, I do recognize it.

20 Q. Can you describe in general terms what it is?

21 A. Sure. This is a Signal message from a Signal chat  
22 group that was named The Old Leadership Chat and the  
23 message was sent by Mr. Rhodes on November 7th.

24 Q. Is this a copy of the message that you obtained  
25 from a search of the defendant's phone?

1 A. I did obtain this from this defendant's phone, yes.

2 Q. And did you conduct that search pursuant to a  
3 warrant?

4 A. Yes, I did.

5 Q. Does this appear to be a fair and accurate copy of  
6 the message that we're about to talk about?

7 A. Yes, it's fair and accurate.

8 MS. RAKOCZY: Your Honor, for the purposes of  
9 this hearing, we would seek to move Government's  
10 Exhibit No. 1 into evidence.

11 THE COURT: Any objection?

12 MR. LINDER: No objection.

13 THE COURT: All right, it's admitted as  
14 Government's Exhibit 1.

15 BY MS. RAKOCZY:

16 Q. Special Agent Palian, this group chat that's called  
17 Old Leadership Chat, you said it was taken from an  
18 application called Signal; is that right?

19 A. Yes.

20 Q. What is Signal?

21 A. Signal is an encrypted text messaging application.

22 Q. Okay. And you mentioned that this was a group  
23 chat. What does that mean?

24 A. A group chat means there's more than two  
25 participants in the message.

1 Q. Was the defendant, Mr. Rhodes, a participant in  
2 this chat?

3 A. He was and he was the author of this message.

4 Q. Okay. Were there other co-defendants who were  
5 charged in this conspiracy as participants in this chat?

6 A. Yes.

7 Q. For example, was co-defendant Kelly Meggs a  
8 participant in this chat?

9 A. Kelly Meggs was a participant, yes.

10 Q. And perhaps not at this time, but later in time  
11 relevant to this conspiracy, were Jessica Watkins and  
12 Joshua James participants in this chat?

13 A. Yes, both those defendants were also participants.

14 Q. The chat, when was this message that we have up on  
15 the screen now sent by Mr. Rhodes?

16 A. November 7, 2020. I can't tell the time because it  
17 appears to be covered up by the --

18 Q. Okay. On your screen it's --

19 A. On my screen it's covered, but I think it's  
20 12:25 p.m. Eastern Standard Time, if I can see it  
21 correctly. I think that says 11:25 UTC minus six.

22 Q. Special Agent Palian, when the message begins, it  
23 begins, "I am in direct context with the Serbian author  
24 of that video." Based on reading the full contents of  
25 this chat, do you know what video Mr. Rhodes is

1 referring to?

2 A. Yes, I do.

3 Q. Can you explain for the Court?

4 A. Sure. The video Mr. Rhodes is referring to comes  
5 from Serbia and it was steps taken by Serbian citizens  
6 after the election of Slobodan Milosevic.

7 Q. And did that video describe those steps?

8 A. It did.

9 Q. Could you then just read us then what Mr. Rhodes  
10 goes on to say about that video?

11 A. Sure. "His videos are excellent. Here is his  
12 written advice to us:

13 "What we have done and what you probably need  
14 to do. Peaceful protests good, well played, round one.  
15 A complete civil disobedience. They are not your  
16 representatives. They are a foreign puppet government.  
17 Connect with the local police and start organize by  
18 neighborhoods to stay safe (we didn't need this step).  
19 We swarmed the streets and started confronting the  
20 opponents. I know, not nice, but it must be done if  
21 the institutions stop to exist. Millions gathering in  
22 our Capitol. There were no barricades strong enough to  
23 stop them nor police determined enough to stop them.  
24 Police and military align with the people after a few  
25 hours of fist fight. We swarmed the Parliament and

1 burned down the fake state television. We won.

2 However, we made a mistake. We have not removed all of  
3 his people from their positions. That was the one  
4 mistake. They are going to fight to the end. You  
5 must do the same."

6 Q. Thank you. That's sufficient, Special Agent Palian.

7 MS. RAKOCZY: We can advance now and take that  
8 down from the screen.

9 BY MS. RAKOCZY;

10 Q. Special Agent Palian, did the defendant also  
11 organize virtual meetings to discuss plans for this  
12 plan that he was setting forth?

13 A. He did organize virtual meetings, yes.

14 Q. Did they use a particular site for those meetings?

15 A. Yes, they did.

16 Q. Could you tell the Court what that site was?

17 A. Sure. The site was GoToMeeting, which is a  
18 web-based application which multiple participants can  
19 log in. There's a video component to it. It's akin to  
20 Zoom, which I think most people are familiar with.

21 Q. And did Mr. Rhodes host meetings shortly after the  
22 Presidential election to discuss similar plans to what  
23 he described in that message that you just read to the  
24 Court?

25 A. He did.



1 Q. Did he send similar messages to what we just read --  
2 what you just read for the Court to other Signal group  
3 chats?

4 A. Yes, he did.

5 Q. And were co-defendants in the current Indictment  
6 present and participating in some of those group chats?

7 A. They were.

8 Q. In these messages did the defendant discuss the  
9 need for an armed force or the term Quick Reaction  
10 Force that you used to support operations in  
11 furtherance of this plan?

12 A. He did.

13 Q. And specifically, did he discuss the need for such  
14 an armed force in any of the GoToMeetings?

15 A. He did discuss it in the GoToMeetings, yes.

16 Q. Can you describe for the Court any such  
17 GoToMeetings that you remember?

18 A. Yeah, I recall one from November 9th where  
19 Mr. Rhodes discussed that they were in a similar  
20 position to 1775, March of 1775, and their quote that  
21 they would only await the President's orders. However,  
22 this was to give them official cover, I think was the  
23 term used. This is going to be our cover story or  
24 official cover.

25 Q. When comparing the position of themselves and his

1 followers to March of 1775, what is the significance of  
2 that date, if you know?

3 A. Yeah. So March 1st of 1775 was exactly seven weeks  
4 before the first shot in the Civil War was fired on  
5 April 19, 1775 at Lexington.

6 Q. You just said Civil War. Is that --

7 A. I'm sorry, Revolutionary War, I apologize. Thank  
8 you.

9 Q. Special Agent Palian, at some point did the  
10 defendant focus his co-conspirators on the date of  
11 January 6, 2021 as a date where they might put their  
12 plans into action?

13 A. Yes, he did.

14 Q. What is, if you know, the significance of January  
15 6th?

16 A. January 6th is when the certification of the  
17 electoral votes in Congress was to occur.

18 Q. Can you tell the Court in what context you saw the  
19 defendant articulating January 6th as an important date?

20 A. Sure. There was an interview that Mr. Rhodes did  
21 with an individual named Mike Adams in middle December,  
22 and he referenced January 6th as a hard constitutional  
23 deadline.

24 Q. Did the defendant discuss during that interview  
25 what he and his followers might do if Congress did not

1 step in or someone did not step in to stop the  
2 certification of the electoral college vote?

3 A. Mr. Rhodes, I believe it was in that interview,  
4 talked about the bloody -- massively bloody -- I'm  
5 paraphrasing, but I think that's what it was, massively  
6 bloody civil war which would ensue.

7 Q. Did the defendant also discuss the importance of  
8 January 6th on some of the Signal group chats that  
9 you've described?

10 A. Yes.

11 Q. Are you familiar with a Signal group chat called  
12 Okay FL Hangout?

13 A. Yes, I am familiar with that.

14 Q. Did you obtain a copy of this group chat from the  
15 defendant's cellular telephone when you searched it?

16 A. Yeah, we did.

17 Q. Who primarily was participating in that group chat?

18 A. Primarily, that chat was for the Florida Chapter of  
19 the Oath Keepers, but there were some national members  
20 that were involved, too.

21 Q. Were co-defendants from the Florida Chapter  
22 participants -- co-defendants in this Indictment from  
23 the Florida Chapter participants in that group chat?

24 A. Yes, the co-defendants were participants.

25 Q. Were Kelly Meggs, Kenneth Harrelson, Joseph

1 Hackett, and David Moerschel participants in that chat?

2 A. They were.

3 Q. Was the defendant a participant in that chat?

4 A. He was.

5 Q. On that chat did the defendant and others make  
6 statements that mentioned the need to scare or  
7 intimidate members of Congress on January 6th?

8 A. Yes, that was referenced.

9 MS. RAKOCZY: With the Court's permission, I'd  
10 like to publish Government's Exhibit No. 2 at this time.

11 THE COURT: Any objection?

12 MR. LINDER: We've seen it, Your Honor. No  
13 objection.

14 THE COURT: All right. And Mr. Linder, I  
15 wanted to go back to you. No objection to it being  
16 admitted into evidence?

17 MR. LINDER: Correct. I assume they're only  
18 going to offer the ones they've given us. We've seen  
19 them. No objection.

20 THE COURT: All right, so Government Exhibit 2  
21 is admitted and you may publish.

22 MS. RAKOCZY: Thank you, Your Honor.

23 BY MS. RAKOCZY:

24 Q. Special Agent Palian, I've brought Government's  
25 Exhibit 2 up on the screen. Do you recognize this?

1 A. I do recognize it.

2 Q. And is this -- are these two chats that were pulled  
3 from that Okay FL Hangout that you recovered from the  
4 defendant's phone?

5 A. Yes, they were.

6 Q. Were these chats sent in late December of 2020?

7 A. Yes.

8 Q. The first chat says that it is from a user called  
9 [OkGator1]. Based on your investigation, do you know  
10 who that person is?

11 A. I do know who that person is.

12 Q. Who utilized that moniker?

13 A. Kelly Meggs, one of the co-defendants in this case.

14 Q. And on December 23, 2020, could you read the Court  
15 the message that Mr. Meggs sent to that chat.

16 A. Sure. December 23, 2020. "We need to surround the  
17 Capitol all the way around with patriots screaming so  
18 that they hear us inside. Scare the hell out of them  
19 with about a million surrounding them should do the  
20 trick."

21 Q. Did Mr. Rhodes send a message on December 25th,  
22 then, of 2020 to the same chat?

23 A. He did.

24 Q. Could you read the Court Mr. Rhodes' message.

25 A. "I think Congress will screw him over. The only

1 chance we/he has is if we scare the shit out of them  
2 and convince them it will be torches and pitchforks  
3 time is" -- and I think he meant if -- "is they don't  
4 do the right thing. But I don't think they will  
5 listen."

6 Q. Thank you, Special Agent Palian. We can take that  
7 off the screen.

8 Special Agent Palian, you read us at the  
9 outset of your testimony a message that was from a chat  
10 that was called Old Leadership Chat; do you recall that?

11 A. Yes.

12 Q. Did that chat, contemporaneously with this case in  
13 around the time of November 2020 through January of  
14 2021, did that chat operate under a different name?

15 A. Yes, it did.

16 Q. And was that chat called Leadership Intel Sharing  
17 Secure, or words to that effect?

18 A. Yes.

19 Q. Did you uncover a message that Defendant Rhodes  
20 sent to that Leadership Intel chat around the end of  
21 December, December 31st of 2020?

22 A. Yes, we did.

23 Q. Do you recall that's just where the defendant said  
24 to those on the chat, "There is no standard political  
25 or legal way out of this"?

1 A. Yes.

2 Q. Based on the context of that conversation, are you  
3 aware of what the "this" was that he was referring to?

4 A. This meaning the general situation that surrounded  
5 the election, I believe.

6 Q. In reviewing the Signal chats on the defendant's  
7 phone, did the defendant regularly use the words "civil  
8 war" and "revolution" to refer to what he and his  
9 co-conspirators may need to do?

10 A. He regularly used those terms, yes.

11 Q. Special Agent Palian, did the defendant facilitate  
12 planning and coordination among his co-conspirators for  
13 January 6th?

14 A. He did.

15 Q. Could you tell the Court a little bit about what he  
16 did?

17 A. Sure. He was involved in QRF planning, he was  
18 involved in bringing people to the Capitol. He offered  
19 to fund several parts of the operation.

20 Q. Did the defendant participate in or administer  
21 certain group chats that surrounded planning for the  
22 6th?

23 A. He did.

24 Q. Did those chats -- was one of those chats entitled  
25 DC OP: JAN 6 '21?

1 A. Yes, that was one of them.

2 Q. And with respect to that chat, were other  
3 co-defendants in the Indictment present in that chat?

4 A. Yes, other co-defendants were present.

5 Q. And specifically, were any defendants who  
6 participated in the Quick Reaction Force present in  
7 that chat?

8 A. Yes.

9 Q. Who was present in that chat?

10 A. It was Edward Vallejo.

11 MS. RAKOCZY: I'm going to bring up on the  
12 screen now, with the Court's permission, Government's  
13 Exhibit No. 3.

14 MR. LINDER: No objection.

15 THE COURT: All right, government's Exhibit 3  
16 is admitted and you may publish.

17 MS. RAKOCZY: Thank you, Your Honor.

18 BY MS. RAKOCZY:

19 Q. Special Agent Palian, do you recognize Government's  
20 Exhibit No. 3?

21 A. Yes.

22 Q. Is this an excerpt of another group chat that you  
23 recovered from the defendant's phone?

24 A. Yes, it is.

25 Q. What is the name of this group chat?



1 A. DC OP: JAN 6 '21.

2 Q. And can you describe for the Court what the  
3 defendant is saying in these two messages?

4 A. Sure. "New Year's Eve 2020. Annex and move the NC  
5 leaders and experience prior op veterans from NC." And  
6 then about a minute later, "Let's make sure that anyone  
7 in Oath Keepers" -- I think he meant Oath Keepers, not  
8 Oath Keepera -- "who is a team leader who will be  
9 bringing a team is on this chat."

10 Q. And reviewing that group chat, Special Agent  
11 Palian, were the "team leaders" from various regional  
12 chapters of Oath Keepers all participants in that chat?

13 A. Yes, they were.

14 Q. And was this chat used to discuss plans for January  
15 6th?

16 A. It was.

17 MS. RAKOCZY: Thank you. You can take that  
18 message down.

19 BY MS. RAKOCZY:

20 Q. Special Agent Palian, you mentioned a minute ago  
21 that the defendant offered to fund or did fund aspects  
22 of planning and coordination for the 6th. Could you  
23 tell the Court exactly what you have learned?

24 A. Sure. Mr. Rhodes offered to pay for hotel rooms,  
25 but they were already taken care of at that point. He

1 also had an individual who he had put in charge of  
2 several of the aspects who had an Oath Keepers credit  
3 card, who could have paid for things, too.

4 Q. Did Mr. Rhodes offer to reimburse for the cost of  
5 supplies, like maps and communications devices?

6 A. He did.

7 Q. You mentioned a moment ago that the defendant  
8 participated in planning for the Quick Reaction Force.  
9 Did the defendant articulate the idea of having a Quick  
10 Reaction Force for January 6th?

11 A. He articulated a Quick Reaction Force, yes.

12 Q. And where did you see such messages?

13 A. In the Signal messages.

14 Q. Did he also post messages about having a Quick  
15 Reaction Force to the Oath Keepers website?

16 A. He did.

17 Q. And did he do so specifically in a call to action  
18 for his members and affiliates coming to Washington, DC  
19 for January 6th?

20 A. Yes, several days beforehand.

21 Q. Did the defendant also exchange messages with some  
22 of his co-conspirators regarding the planning and  
23 facilitation of the Quick Reaction Force?

24 A. He did.

25 Q. Did people who were planning and participating in

1 the Quick Reaction Force keep Mr. Rhodes updated on  
2 their plans?

3 A. They did keep him updated.

4 Q. During the course of your investigation, have you  
5 found evidence that there were firearms contributed to  
6 this Quick Reaction Force?

7 A. Firearms were contributed.

8 Q. And what are you basing that on?

9 A. We have statements from witnesses and we have  
10 camera footage from the hotel itself.

11 Q. Special Agent Palian, are you aware of whether the  
12 defendant brought any firearms or firearms parts or  
13 related equipment to the Washington, DC area for  
14 January 6th?

15 A. He did bring firearms parts and accessories to the  
16 DC area.

17 Q. How are you aware of that?

18 A. We conducted a financial investigation into his  
19 purchases, including those coming to the DC area. We  
20 found that the defendant purchased over \$20,000 in  
21 firearms and firearms related accessories on his way up  
22 to DC.

23 Q. And so the receipts that you've recovered show that  
24 such purchases were made at stores along the route?

25 A. Yes.

1 Q. Special Agent Palian, on January 6th of 2021,  
2 roughly when were the Capitol grounds first breached?

3 A. On January 6th the grounds were breached at the  
4 Peace Fountain at approximately 12:52, 12:53, just  
5 before 1:00 p.m.

6 Q. And approximately when was the Capitol building  
7 itself breached for the first time?

8 A. The doors to the Capitol itself, about 2:00 p.m.  
9 or around.

10 Q. Around that time that the Capitol building is being  
11 breached around 2:00 p.m., are you aware where the  
12 defendant was?

13 A. Yes, the defendant was coming onto the Capitol  
14 grounds at about that time, slightly later.

15 Q. Have you reviewed surveillance footage that shows  
16 the defendant entering the Capitol grounds around that  
17 time?

18 A. I have.

19 Q. And have you reviewed Signal chat messages where  
20 the defendant tells others that he's going to the  
21 Capitol grounds around that time?

22 A. Yes.

23 Q. Special Agent Palian, did the defendant give any  
24 directives to those on those group chats that we've  
25 been talking about, about what they should do around

1 2:00 p.m. on January 6th?

2 A. Yeah, he did give directives.

3 Q. And what did he say?

4 A. The defendant was telling the co-conspirators where  
5 they needed to go to. At one point he was telling them  
6 the south side of the Capitol. At another point it was  
7 the northeast corner.

8 MS. RAKOCZY: With the Court's permission now,  
9 Your Honor, we would like to move into evidence and  
10 publish Government's Exhibit No. 4.

11 MR. LINDER: No objection.

12 THE COURT: All right. It's admitted and you  
13 may publish.

14 MS. RAKOCZY: Thank you, Your Honor.

15 BY MS. RAKOCZY:

16 Q. Bringing up on the screen now Government's Exhibit  
17 No. 4, Special Agent Palian, do you recognize the  
18 messages that are on the screen now?

19 A. Yes, I do.

20 Q. And are these messages from a group chat that was  
21 recovered from the defendant's phone?

22 A. Yes.

23 Q. What is the title of this message group chat?

24 A. DC Jan 5/6 DC OP Intel Team.

25 Q. Was the defendant a participant in this chat?

1 A. He was.

2 Q. Was co-defendant Joshua James a participant in this  
3 chat?

4 A. Mr. James was also a participant, yes.

5 Q. Was a person who the defendant put in charge of  
6 operations for the January 6th operation on this chat?

7 A. Yes.

8 Q. Special Agent Palian, at the start, can you tell  
9 the Court roughly when these messages are being  
10 exchanged?

11 A. So these messages all are on January 6th. The  
12 first message occurs at about 1:36 p.m. Eastern  
13 Standard Time.

14 Q. And just to explain for the Court, these messages  
15 were recovered from the defendant's phone; is that  
16 right?

17 A. Correct, they were.

18 Q. And at the time of seizure, that phone was located  
19 in a Central Time Zone; is that right?

20 A. Which is why all the messages are in Central Time,  
21 yes.

22 Q. Thank you.

23 Special Agent Palian, this exchange begins  
24 with someone posting, "Patriots have stormed the  
25 Capitol according to Gateway." Is that right?

1 A. Yes.

2 Q. So then the moniker or call sign *HydroAlStatePOC*  
3 then responds, "That is correct;" is that right?

4 A. That is correct.

5 Q. And are you aware of who utilized the moniker  
6 *HydroAlStatePOC*?

7 A. I am.

8 Q. Who is that?

9 A. It was Joshua James, The Alabama state point of  
10 contact.

11 Q. Another participant then, two rows down, sends a  
12 link to a YouTube video, and at least according to the  
13 link title, it was a live stream of patriots storming  
14 the Capitol; is that correct?

15 A. Yes.

16 Q. And then someone else writes, "Are they actually  
17 patriots, not those who are going to go in disguised as  
18 patriots and cause trouble? Need to verify this." Is  
19 that what was sent next?

20 A. Yes, that was sent next.

21 Q. Did the defendant then respond towards the bottom  
22 of what we see here?

23 A. Towards the bottom he responded.

24 Q. What did he say?

25 A. January 6th at approximately 2:01 p.m. Eastern, the

1 defendant said, "Actual patriots, pissed off patriots."

2 Q. What does he say next?

3 A. 20 seconds later, "Like the sons of Liberty were  
4 pissed off patriots."

5 Q. Does co-defendant Joshua James then respond?

6 A. He does.

7 Q. What does he say?

8 A. Mr. James, about two and a half minutes later,  
9 says, "We're coming to the Capitol, ETA" -- I'm sorry,  
10 "We're coming to Capitol, ETA 30 minutes."

11 Q. Does defendant Rhodes tell Mr. James not to come?

12 A. No, not to our knowledge.

13 MS. RAKOCZY: You can remove that exhibit from  
14 the screen.

15 BY MS. RAKOCZY:

16 Q. Did the defendant also exchange messages with  
17 co-defendant Kelly Meggs around this time?

18 A. He did.

19 MS. RAKOCZY: With the Court's permission, we  
20 would like to move into evidence and publish  
21 Government's Exhibit No. 5.

22 MR. LINDER: No objection.

23 THE COURT: All right, it's admitted and you  
24 may publish.

25 MS. RAKOCZY: Thank you, Your Honor.



1 BY MS. RAKOCZY:

2 Q. Special Agent Palian, I've brought up on the screen  
3 Government's Exhibit No. 5. Do you recognize these  
4 messages?

5 A. I do.

6 Q. And were these also recovered from either  
7 Mr. Rhodes' phone or Mr. Kelly Meggs' phone?

8 A. Yes, they were.

9 Q. Was defendant Kelly Meggs' phone also searched  
10 pursuant to a warrant?

11 A. It was.

12 Q. These are in a slightly different format than the  
13 other messages. Is this another way that the data  
14 looks when you review it from a cell phone extraction?

15 A. Yes.

16 Q. Special Agent Palian, if you could focus on the two  
17 bottom messages in this exchange. Are they messages  
18 from Defendant Rhodes to Defendant Kelly Meggs?

19 A. Yes, they are.

20 Q. And from roughly when?

21 A. These messages were sent Jan 6 at about 2:24 p.m.  
22 Eastern.

23 Q. And what did Mr. Rhodes tell Kelly Meggs?

24 A. Mr. Rhodes said, "Go to south (emphasized) side of  
25 U.S. Capitol."

1 Q. And what did he say next?

2 A. "That's where I am going to link up with redacted."

3 Q. And are you aware of what's underneath that  
4 redaction?

5 A. Yes.

6 Q. Without giving a name, what was the position of the  
7 person who Mr. Rhodes said he was going to meet up with?

8 A. That was the operations leader.

9 MS. RAKOCZY: We can take that off the screen  
10 now. Thank you.

11 BY MS. RAKOCZY:

12 Q. Special Agent Palian, are you aware of what Kelly  
13 Meggs did after receiving that message from defendant  
14 Rhodes?

15 A. Yeah. Mr. Meggs turned his group. They were on  
16 the north side of the Capitol around when that was sent  
17 and they turned their group and headed southbound on  
18 the east side of the Capitol at that point.

19 Q. At around 2:30 p.m. then did Kelly Meggs and his  
20 group pause on the east front plaza in front of the  
21 Capitol building?

22 A. They did, they paused for several minutes.

23 Q. And at around 2:32 p.m. did defendant Kelly Meggs  
24 call defendant Rhodes?

25 A. He did.

1 Q. And have you looked at the cell phone records for  
2 that phone call?

3 A. I have.

4 Q. Does it appear from the cell phone records that the  
5 call connected?

6 A. It did.

7 Q. Was Mr. Rhodes -- could you tell whether Mr. Rhodes  
8 was on any other calls at that time?

9 A. Yeah, Mr. Rhodes was on a call with the operations  
10 leader at that point.

11 Q. And based on what the records seem to show, what  
12 did Mr. Rhodes then do with the Kelly Meggs incoming  
13 phone call?

14 A. The records indicate that there was a three-way  
15 call that was initiated at that point.

16 Q. Did that call last about a minute, minute and a  
17 half?

18 A. Approximately.

19 Q. After that phone call, what did defendant Kelly  
20 Meggs do next?

21 A. After that phone call, Mr. Meggs took the Stack 1  
22 and they went up the east side steps and entered the  
23 Capitol.

24 Q. And about when did they breach the building?

25 A. About 2:40 p.m.

1 MS. RAKOCZY: With the Court's permission,  
2 we'd like to move into evidence and publish  
3 Government's Exhibit 6.

4 THE COURT: It looks like 6, 7 and 8 are  
5 photographs. Any objection to those exhibits?

6 MR. LINDER: No, Your Honor.

7 THE COURT: All right. Government's Exhibits  
8 6, 7 and 8 are admitted and you may publish those.

9 MS. RAKOCZY: Thank you, Your Honor.

10 BY MS. RAKOCZY:

11 Q. Showing you now Government's Exhibit No. 6, Special  
12 Agent Palian, do you recognize these two photographs?

13 A. Yes, I do.

14 Q. With respect to the photograph on the left, can you  
15 tell us what that shows?

16 A. The photograph on the left shows Stack 1 in their  
17 formation, with hands on each others' shoulders, going  
18 up the east side Capitol stairs.

19 Q. And did this occur around that, say, 2:34 or 2:35  
20 time frame after Mr. Meggs had that phone call with  
21 Mr. Rhodes?

22 A. It took the Stack about five minutes to go up the  
23 stairs -- five, six minutes. So, yes, that was about  
24 that time right after the phone call.

25 Q. Special Agent Palian, with respect to the

1 photograph on the right, can you describe for the Court  
2 what that shows?

3 A. The right shows the interior of the Capitol just  
4 before the rotunda, and this is the defendants after  
5 they breached and they were inside the Capitol, the  
6 Capitol structure.

7 Q. There are little circles drawn around certain  
8 individuals' heads and then boxes that give names  
9 pointing to those circles. Can you explain that for  
10 the Court?

11 A. Sure. We were able to identify each of the members  
12 of the Stack, where they were, and where they were  
13 within the rotunda. We circled it and put it on the --

14 Q. And is this photograph on the right of Government's  
15 Exhibit No. 6 a fair and accurate depiction, based on  
16 your investigation of who these individuals were?

17 A. Yes, it's fair and accurate.

18 Q. And this photograph that we're seeing, Government's  
19 Exhibit No. 6 on the right, does this show the members  
20 of Stack 1 just after they breached the Capitol doors?

21 A. I'm sorry, could you repeat the question?

22 Q. Does this photograph on the right show the members  
23 of Stack 1 right after they've breached the Capitol  
24 doors?

25 A. Yes, it shows them right after they breached.

1 Q. Okay.

2 MS. RAKOCZY: You can take that photograph off  
3 the screen.

4 BY MS. RAKOCZY:

5 Q. You mentioned a moment ago, Special Agent Palian --  
6 we discussed the message where defendant James said on  
7 a message that he and his group were headed to the  
8 Capitol, ETA 30 minutes. Do you recall that message?

9 A. I do.

10 Q. During the course of your investigation, did you  
11 learn whether defendant James and other members of his  
12 group did, in fact, go to the Capitol grounds?

13 A. They did, in fact, go to the Capitol grounds, yes.

14 Q. And did they then ultimately breach the building?

15 A. They did.

16 Q. Roughly when?

17 A. Approximately 3:14, 3:15 p.m.

18 Q. If we could bring up onto the screen now  
19 Government's Exhibit No. 7, do you recognize these two  
20 photographs?

21 A. Yes, I do.

22 Q. With respect to the photograph on the left, what  
23 does that show?

24 A. That shows members of Stack 2, including  
25 Mr. Walden, Mr. Minuta, Mr. James, entering through the

1 east side doors.

2 Q. Are those the same doors that Stack 1 breached?

3 A. It is.

4 Q. And then with respect to the photograph on the  
5 right, does that show two other members of Stack 2  
6 entering through the same doors about seven minutes  
7 later?

8 A. Yes, that photograph shows that.

9 MS. RAKOCZY: I think you can take that  
10 photograph off of the screen.

11 BY MS. RAKOCZY:

12 Q. Special Agent Palian, after Stack 1 and Stack 2  
13 left the Capitol building, what did they do?

14 A. After Stack 1 and Stack 2 left the building, they  
15 met up together with Mr. Rhodes outside the Capitol.

16 Q. I'm showing you now -- we'll bring up on the screen  
17 what's been marked as Government's Exhibit No. 8. Do  
18 you recognize this photograph?

19 A. Yes, I do.

20 Q. And can you tell the Court what this shows?

21 A. Sure. This is the photograph of Stack 1 and  
22 Stack 2 outside the Capitol meeting up with Mr. Rhodes.

23 Q. Where on the Capitol grounds are they, roughly? Or  
24 let me ask you this: Are they in that sort of east  
25 plaza --

1 A. Yeah. Yes, they are.

2 Q. Do you see Mr. Rhodes in this photograph?

3 A. I do.

4 Q. Could you describe for the Court where he is?

5 A. Sure. Mr. Rhodes is almost dead in the middle of  
6 the photograph. It's hard to see, but he's wearing a  
7 cowboy hat. If you look at the largest American flag  
8 at the top of the photograph and go directly down from  
9 that --

10 Q. Special Agent Palian --

11 A. -- from the tip, he's there.

12 Q. I'm sorry for interrupting you. I think you're  
13 going to have to put your finger on the screen and  
14 circle. Thank you.

15 MS. RAKOCZY: And may the record reflect the  
16 witness has drawn a blue circle around the area where  
17 the defendant is.

18 THE COURT: I can't tell that it is  
19 Mr. Rhodes, but according to his testimony, yes.

20 MS. RAKOCZY: Thank you, Your Honor.

21 THE WITNESS: From that day, we have other  
22 photographs of him wearing the cowboy hat and the dark  
23 greenish jacket.

24 MS. RAKOCZY: Thank you. We can take that off  
25 the screen.



1 BY MS. RAKOCZY:

2 Q. And Special Agent Palian, I think to remove the  
3 circle, you have to click that off the top. Thank you.

4 Special Agent Palian, what was -- if you know,  
5 what was the Quick Reaction Force doing at this time?

6 A. Quick Reaction Force was stationed in Arlington at  
7 the Comfort Inn in Ballston.

8 Q. Did any members of the Quick Reaction Force send  
9 messages to any of the group chats saying anything  
10 relevant to what they were doing?

11 A. Yeah. At approximately 2:38, which was between the  
12 phone call between Kelly Meggs and Mr. Rhodes, and  
13 between the time when they breached the Capitol,  
14 Mr. Vallejo sent a message to the group.

15 Q. And roughly, what did he say?

16 A. Approximately, it was "QRF standing by. Just say  
17 the word." And that was about two minutes before  
18 Stack 1 entered.

19 Q. Special Agent Palian, during the late afternoon and  
20 evening of January 6th, did the defendant make any  
21 comments on these group Signal chats about what had  
22 occurred at the Capitol that day?

23 A. He did.

24 Q. And what generally did he say?

25 A. Generally, it was likened to the American

1 Revolution. It was also approving, and it talked about  
2 pissed off patriots. And I remember one specific  
3 message where the defendant said that they would now  
4 walk the same path as the founding fathers.

5 Q. Special Agent Palian, are you aware of when and  
6 under what circumstances the defendant left the  
7 Washington, DC area after the attack on the Capitol?

8 A. Yes, I am.

9 Q. Could you tell the Court about that?

10 A. Sure. After the events at the Capitol, certain  
11 members of the group went to the Olive Garden for  
12 dinner. They stayed for dinner, during which time one  
13 of the members of the group received a message from  
14 someone in their "Intel Team," who said that federal  
15 authorities were arresting patriots and that it was  
16 time to leave. So Mr. Rhodes -- so they left the Olive  
17 Garden at that point.

18 Q. And based on your investigation, did Mr. Rhodes  
19 then leave the area?

20 A. He did. They went back to the Hilton, got their  
21 effects, met up at a gas station, and then from there  
22 left the DC area.

23 Q. After January 6th, did the defendant continue to  
24 take steps to encourage his co-conspirators to oppose  
25 the lawful transfer of Presidential power?

1 A. He did.

2 Q. Did he send messages to some of these group chats  
3 encouraging people to continue to take such steps?

4 A. He did.

5 Q. Are you aware of a message that he sent on January  
6 11th of 2021 where he told his co-conspirators words to  
7 the effect of "Get ready to rock and roll, shit's about  
8 to go down"?

9 A. Yes.

10 Q. Did he also, in that same message, tell  
11 co-conspirators that those in this community who were  
12 fit enough to move, shoot, and communicate should be  
13 organized and prepared to do so?

14 A. Yes.

15 Q. Did the defendant call some of his co-conspirators  
16 to join him in Texas where he was residing at that time?

17 A. He did.

18 Q. Can you describe that for the Court?

19 A. Sure. There were Signal messages that went back  
20 and forth. The Florida team was asked to come out.  
21 Their response was Florida is not -- "We're not leaving  
22 the state of Florida until the first shot is fired."  
23 The co-conspirators from Arizona actually came to  
24 Texas, but didn't end up meeting with Mr. Rhodes for  
25 some reason. I'm sure there were several groups that

1 came to Texas, including Mr. James who went with  
2 Mr. Rhodes to Texas.

3 Q. Did defendant Joshua James send a message to  
4 another co-conspirator in which he told that  
5 co-conspirator he was bringing "all available firearms"  
6 to join Mr. Rhodes in Texas?

7 A. Yes, he did.

8 Q. Did Mr. Rhodes continue to make purchases of  
9 firearms, firearms parts, and related equipment after  
10 January 6th --

11 A. He did.

12 Q. -- and before January 20th?

13 A. Pardon me, I'm sorry, I didn't mean to interrupt  
14 you. He did.

15 Q. Can you describe for the Court the amount of money  
16 that you saw in the financial records being spent on  
17 firearms and related equipment?

18 A. Sure. After January 6th, finishing out the month  
19 of January, it was over \$15,000, closer to \$17,000, we  
20 think.

21 Q. After the inauguration, after January 20th of 2021,  
22 in the months since, has the defendant continued to  
23 refer to the current Presidential Administration as an  
24 illegitimate regime?

25 A. Yes.

1 Q. Has he encouraged opposition to that regime amongst  
2 his followers?

3 A. He has.

4 Q. Special Agent Palian, are you aware of whether the  
5 defendant has a permanent address currently?

6 A. I'm not aware of a permanent address.

7 Q. Did the defendant previously have a permanent  
8 address in the state of Montana?

9 A. Yes.

10 Q. And are you aware of him leaving that permanent  
11 address in the middle of 2020?

12 A. Approximately, yes.

13 Q. And then during the latter part of 2020 and most of  
14 2021, was the defendant primarily residing in Texas?

15 A. Yes.

16 Q. At the time of his arrest, had he -- was he still  
17 residing in Texas, but at a different associate's  
18 residence?

19 A. Yes, he was.

20 Q. And was he somewhat a guest at that residence?

21 A. That's our understanding, yes.

22 Q. Where does the defendant have important mail like  
23 bank statements sent?

24 A. Those are sent to a P.O. Box.

25 Q. Does the defendant also maintain storage units,

1 based on your investigation?

2 A. He does.

3 Q. When the defendant was arrested, was his vehicle  
4 searched pursuant to a warrant?

5 A. His vehicle was searched, yes.

6 Q. And in that vehicle did law enforcement recover a  
7 receipt for a storage unit?

8 A. Yes, we did recover that.

9 Q. Was that storage unit also searched pursuant to a  
10 warrant?

11 A. It was.

12 Q. Were there firearms and firearms related equipment  
13 located in that storage unit?

14 A. Yes.

15 Q. At the time of his arrest, was the room in which  
16 the defendant was staying searched pursuant to a  
17 warrant?

18 A. It was.

19 Q. And were there also firearms and firearms related  
20 parts recovered from that room?

21 A. Yes.

22 Q. Special Agent Palian, you've discussed how you  
23 searched the defendant's phone pursuant to a search  
24 warrant; is that right?

25 A. That's correct.

1 Q. In searching that phone, did law enforcement see  
2 evidence that certain Signal messages had been deleted  
3 from the phone?

4 A. Yes, we did see that evidence.

5 Q. And were some of these deleted messages on some of  
6 the planning and coordination Signal chats that we've  
7 discussed?

8 A. Yes.

9 Q. And were these apparently deleted messages from  
10 time frames relevant to the conspiracy, that is,  
11 November of 2020 through January of 2021?

12 A. Yeah, they were from that time frame.

13 Q. Are you an expert in forensically examining  
14 cellular telephones?

15 A. I am not.

16 Q. Did you speak with forensic analysts from the FBI  
17 about what you had been seeing in the phone?

18 A. Yes, we did.

19 Q. Based on what you were seeing in the phone, did the  
20 FBI Analyst have a sense or a conclusion about whether  
21 those messages were deleted by the user of the phone or  
22 by someone else?

23 A. Yeah, the conclusion was that they were deleted by  
24 the user of the phone, Mr. Rhodes.

25 Q. Have you found evidence during your investigation

1 that the defendant was mindful of the fact that law  
2 enforcement might look to those Signal messages as  
3 evidence in this case?

4 A. Yes, we developed some evidence of that.

5 Q. Could you describe that for the Court?

6 A. Mr. Rhodes engaged in some text messages with  
7 Mr. Vallejo after the fact, where he informed  
8 Mr. Vallejo to be careful speaking on Signal because  
9 the FBI had Jessica Watkins' phone and was probably  
10 looking in it, and that he was aware of -- I forget the  
11 specific term, but it was a pejorative term for an FBI  
12 informant. He was aware that one of them was in the  
13 messages.

14 Q. Special Agent Palian -- and that was Mr. Rhodes who  
15 was hypothesizing; is that right?

16 A. Yes.

17 Q. Special Agent Palian, were these messages that  
18 you've just described sent in late January of 2021?

19 A. Yes.

20 Q. Was that after co-defendant Jessica Watkins was  
21 arrested?

22 A. Correct.

23 Q. When, roughly, was co-defendant Watkins arrested?

24 A. Ms. Watkins, we believe, was arrested, if my memory  
25 serves, January 17th late in the evening.



1 MS. RAKOCZY: Thank you, Your Honor. No  
2 further questions.

3 THE COURT: All right. Cross-examination.

4 MR. LINDER: One second, Your Honor.

5 **CROSS-EXAMINATION**

6 **BY MR. LINDER:**

7 **(Counsel's microphone off during questioning)**

8 Q. Good morning, Agent. How are you?

9 A. Good morning, sir.

10 Q. Good. The -- let me go a little bit into your  
11 direct examination first. All the firearms were found  
12 either in a storage unit or in a car or wherever he was  
13 staying at; correct?

14 A. Yes, that's right.

15 Q. It's not illegal to own a firearm in Texas, is it?

16 A. It is not, no.

17 Q. There were no illegal firearms found, i.e., machine  
18 guns or anything like that; correct?

19 A. Not to my knowledge.

20 Q. The guns that you found, did you determine later  
21 that they were all legally purchased from various  
22 places?

23 A. I don't know that we went back and found out where  
24 those weapons were purchased, but I will say that we  
25 have no information that says they were illegally

1 purchased.

2 Q. And no serial numbers filed off, nothing like that?

3 A. Not to my knowledge.

4 Q. So there wasn't anything done by my client,  
5 Mr. Rhodes, to conceal the fact that he owned firearms  
6 or purchased firearms?

7 A. No, there was no concealment.

8 Q. And do understand at the Montana address he was  
9 married and had six children that still live in  
10 Montana; do you understand that?

11 A. Yes.

12 Q. Since early 2020, just before COVID, it's our  
13 understanding he's lived in Granbury, Texas. Is that  
14 kind of consistent with what you have?

15 A. That's my understanding, too.

16 Q. In fact, his current driver's license still shows  
17 that address?

18 A. I believe that's correct.

19 Q. And the P.O. Box you referred to that Oath Keepers  
20 gets their mail in, that is also in Granbury, Texas  
21 near that address?

22 A. Yes, it is.

23 Q. Is the storage unit also there?

24 A. The storage unit is in Granbury. I'm not sure  
25 where in Granbury.

1 Q. Granbury is a small town; would you agree with me?

2 A. It is. I've never been there.

3 Q. Okay, just south of Fort Worth. He's got a  
4 driver's license and address there, P.O. box there, and  
5 a storage unit; correct?

6 A. Yes.

7 Q. Okay. And for all practical purposes, he's been  
8 there for almost two years?

9 A. If we're considering the middle of 2020 to now,  
10 yeah.

11 Q. Okay.

12 A. I guess that would be fair.

13 Q. Okay. Now, this conduct that we've talked about  
14 that happened on January 6th leading into that.

15 A. Sure.

16 Q. You showed the pictures of them in the Capitol,  
17 circles around those guys. There's mobs of people  
18 there that day?

19 A. There were mobs of people.

20 Q. In fact, y'all indicted approximately 800 people so  
21 far and probably more coming; would you agree?

22 A. I'm not sure of the exact number, but it's large.  
23 It's around that.

24 Q. Hundreds?

25 A. It's hundreds, for sure.

1 Q. And these people aren't all Oath Keepers, are they?

2 A. No.

3 Q. It's all different groups, independent people, just  
4 people trying to make a statement?

5 A. I don't know if I'd go as far as saying just trying  
6 to make a statement, but yes. I mean, there are  
7 large --

8 Q. There's a real estate lady from Texas who videoed  
9 herself in the rotunda. I mean, she's just there;  
10 correct?

11 A. Sure. Yeah, I mean, I'm not familiar with those  
12 cases as much, but yes.

13 Q. But the Oath Keepers were not the first people that  
14 broke down the doors or breached the doors or anything  
15 like that; were they?

16 A. They were not the first ones in the Capitol, no.

17 Q. They were just kinda in the mob, or some of them  
18 were just in the mob; is that right?

19 A. They were part of the mob, yes. I don't mean to  
20 quibble words with you, by the way, either. I'm not  
21 trying to be.

22 Q. I'm not trying to trick you with any questions. I  
23 just wanted to make sure the judge understood they  
24 weren't the ones who physically breached the doors or  
25 breached the gates; they were just there with the other

1 people that did it?

2 A. They were there with the mob, yes.

3 Q. Yes. And there were other people that actually did  
4 that before they got there?

5 A. Uh-huh

6 Q. Now, all this happens January 6th, y'all do your  
7 investigation. And so the judge is aware, there was  
8 the initial Indictment, the Caldwell Indictment?

9 A. Yes.

10 Q. And that happened two weeks after this incident, I  
11 think, and there's 17 defendants on that Indictment.

12 MR. LINDER: And I believe I've given counsel  
13 for the Government a copy of that Indictment.

14 MS. RAKOCZY: Yes, Your Honor, that's right.

15 A. Just to be clear, though, sir, I think the -- and  
16 correct me if I'm wrong on this. I think the first  
17 indictment, the Caldwell Indictment, which came down  
18 Jan 19 or 20 only had three defendants on it.

19 BY MR. LINDER:

20 Q. Okay. But it's since been added to and there's 17  
21 defendants on it?

22 A. Yes, I think that's the number.

23 Q. This new Indictment that just came down this month  
24 with the new people, it's the same and similar conduct  
25 that's discussed in the Caldwell Indictment all the way

1 back to January; right? Would you agree with me?

2 A. Yeah, the conduct is similar.

3 Q. There's no -- other than the Government saying my  
4 client obstructed justice by committing some instant  
5 messaging potentially, there's no remaining conduct in  
6 any of this after the January 20th stuff of the alleged  
7 instant messaging going on about saying there's going  
8 to be a civil war.

9 MS. RAKOCZY: Objection, Your Honor, to having  
10 this witness characterize the Indictment.

11 MR. LINDER: Your Honor, the Indictment -- the  
12 only allegation in the Indictment includes -- the only  
13 manner and means in the Indictment after January was  
14 the alleged instant messaging.

15 THE COURT: Why don't you rephrase your  
16 question, counsel.

17 BY MR. LINDER:

18 Q. Are you aware of any new things that he's done  
19 since January or February of last year, since he's been  
20 indicted?

21 A. We're aware of conduct, but I don't think that's  
22 included in the --

23 Q. Correct. And the manner and means, very specific,  
24 none of that's included in there?

25 A. I don't believe so. I mean, I'd like to refer to

1 the Indictment before I give a final answer on that.

2 But no, I think that's correct.

3 Q. And would you agree with me that back in January  
4 when y'all did this investigation and did the Caldwell  
5 Indictment, you were aware of Stewart Rhodes at that  
6 time, were you not?

7 A. We were aware of him, but we were just beginning  
8 the investigation at that point. We didn't have a lot  
9 of information on activity.

10 Q. And he's cooperated, he's talked to you guys since  
11 then, has he not.

12 A. He has.

13 Q. Okay. The -- so that we're clear, there are 17 now  
14 on the Caldwell Indictment and there are about 11 on  
15 this new Indictment with all the same, substantially  
16 similar conduct that led to the [U/I]?

17 A. Substantially.

18 Q. Okay. So can you tell the Court, other than the  
19 speech that my client made through instant messaging to  
20 his followers or whoever else got the Government people  
21 [U/I], can you tell us any illegal acts he's done since  
22 January, a year ago, other than the speech you were  
23 talking about?

24 A. No, nothing is coming to me right now.

25 Q. Okay. So, other than the speech that we're talking

1 about, most of the stuff that we're talking about here  
2 today that the Government has presented in this  
3 Detention Hearing occurred between November of '20 and  
4 January of 2021?

5 A. That's the time period of the Indictment and the  
6 conspiracy, yes.

7 Q. Thank you. Now, since then, my client has met with  
8 you guys two times in May, I believe?

9 A. I participated in the one. I'm not familiar with  
10 the other one in May.

11 Q. The one you participated in was May 3rd?

12 A. It was early May. It was early May in Lubbock.

13 Q. Okay. And that's when y'all retrieved his phone?

14 A. Yes.

15 Q. And when you approached him, did you bring another  
16 FBI Agent with you from Montana to that meeting?

17 A. Yes, I did.

18 Q. And which agent was that?

19 A. That was Special Agent Mark Saylor.

20 Q. And why did you bring Mark Saylor?

21 A. Mark had met Mr. Rhodes before and had spoken to  
22 him several times over the phone.

23 Q. They actually had a friendly relationship?

24 A. They had a friendly relationship over the phone --  
25 I mean cordial. I don't know if I'd say friendly, but



1 cordial.

2 Q. They didn't get together, but they did call each  
3 other.

4 A. Right, they would speak over the phone.

5 Q. And that goes back to 2014?

6 A. I'm not sure of the specific date, but that sounds  
7 right. I know it went back awhile.

8 Q. Sure. And so that's why y'all called him and said,  
9 hey, we're going to do a meeting with Mr. Rhodes and  
10 we'd like you to be there, and he came to this meeting?

11 A. Yes.

12 Q. And Mr. Rhodes -- when y'all approached Mr. Rhodes,  
13 was he friendly?

14 A. He was.

15 Q. Was he armed?

16 A. I believe he was, but he informed us of that and  
17 the firearm was in his backpack. I don't think it was  
18 on his person.

19 Q. And this was in Texas and he was legally carrying  
20 his gun at the time?

21 A. I believe so.

22 Q. He informed you and y'all didn't do a patdown  
23 search or anything?

24 A. No, we did not.

25 Q. Okay. And did he voluntarily hand over the phone?

1 A. We had a search warrant, but he physically handed  
2 me the phone.

3 Q. Didn't try to run from you?

4 A. No.

5 Q. Didn't try to fight you, gave you the phone?

6 A. Correct.

7 Q. And did he also give you the passcode to log into  
8 the phone?

9 A. He did provide us with the passcode, yes.

10 Q. And he didn't have to do that pursuant to the  
11 search warrant, he just had to provide you the phone?

12 A. He had to provide us biometrics and the phone, but  
13 he did not have to provide us the passcode.

14 Q. But he did?

15 A. He did.

16 Q. And that simplified the investigation of the phone,  
17 the download of the phone?

18 A. It did.

19 Q. It could take months to do it without the code;  
20 correct?

21 A. With biometrics it's much quicker, but yes, it  
22 would have slowed us down; that's a fair statement.

23 Q. In fact, y'all returned his phone two or three  
24 weeks later. You may not have been in that meeting --

25 A. I was not.

1 Q. -- but you were aware of it?

2 A. Is that the second meeting you are talking about?

3 Q. Yes.

4 A. Yeah. Yes, I was not a part of that.

5 Q. Okay. So the FBI met him again a few weeks later  
6 and returned his phone?

7 A. Right.

8 Q. Have you reached out to him at any time since?

9 A. The FBI has. I have not.

10 MR. LINDER: May I have a minute, Your Honor?

11 THE COURT: Yes.

12 **[Pause]**

13 BY MR. LINDER:

14 Q. Y'all met with him on May 3rd in Lubbock or  
15 Amarillo -- Lubbock, Texas. Y'all met with him for  
16 two, two and a half hours?

17 A. About, yes.

18 Q. Have you seen the transcript of that interview?

19 A. Yes, I have.

20 Q. The Government has provided it to us. I appreciate  
21 it. Are you aware or can you tell the Court that he  
22 did tell you that if y'all are going to indict him, to  
23 let him know and he would go to DC and turn himself in?

24 A. I believe he said that.

25 Q. And I can show it to you --

1 A. If it's in the transcript, then yes, it happened.  
2 I'm just not recalling it right now.

3 Q. Okay. And that was a very cordial conversation?

4 A. It was.

5 Q. And he said, "Hey, if you're going to indict me,  
6 let me know and I'll go turn myself in"?

7 A. Yes.

8 Q. But y'all didn't let him turn himself in?

9 A. No, we did not.

10 Q. And in fact, this past week, I guess, when y'all  
11 arrested him, did y'all call Agent Saylor back?

12 A. No.

13 Q. From Montana?

14 A. No, we did not.

15 Q. Did y'all let Saylor know that y'all were going to  
16 arrest him?

17 A. I think I had general conversations with Agent  
18 Saylor prior, but I don't know if I gave a specific  
19 date or an operation time. I'm not positive about that.

20 Q. Agent Moore, was he there?

21 A. Yes, Agent Moore was there.

22 Q. And did Agent Moore -- before y'all went in and  
23 arrested him, when y'all went to Chad Roberts' house,  
24 where he was, did Agent Moore call him on his phone and  
25 say, "Hey, we're here to arrest you"?

1 A. Yes, he did.

2 Q. And he said, "I'm coming out"?

3 A. Mr. Rhodes did say, "I'm coming out," yes.

4 Q. He's cooperated with everything, hasn't he?

5 A. He cooperated.

6 Q. Yeah.

7 A. Yeah.

8 Q. Since January of last year, when most of this  
9 offensive conduct was alleged to have happened, has my  
10 client -- are you aware of my client obtaining a  
11 passport?

12 A. No, I'm not aware of that.

13 Q. Are you aware of him changing his driver's license?

14 A. No.

15 Q. Are you aware of him obtaining a new residence  
16 address?

17 A. No.

18 Q. Are you aware of him having any foreign contacts or  
19 bank accounts in other countries?

20 A. No.

21 Q. In fact, are you aware of him ever traveling  
22 outside the country?

23 A. No.

24 Q. When did you first become aware of Mr. Rhodes? You  
25 said it wasn't in January of last year. When did you

1 first --

2 A. It was middle January of 2020.

3 Q. Okay.

4 A. I don't know if I have a specific date.

5 Q. Okay. And at that time you were aware of all this  
6 offense conduct that y'all testified to?

7 A. Yes.

8 Q. And you wouldn't say he's dangerous because all of  
9 this offense conduct that you testified to?

10 MS. RAKOCZY: Objection.

11 THE COURT: What's the objection?

12 MS. RAKOCZY: Objection calls -- argumentative.

13 THE COURT: Overruled.

14 BY MR. LINDER:

15 Q. The purpose of this hearing -- I know you're aware,  
16 this is not a guilt/innocence hearing, this is a  
17 Detention Hearing, and the Government has got to show  
18 that he's a danger.

19 A. Right.

20 Q. I believe the Government's purpose in all these  
21 messages and the guns is to show that he's potentially  
22 a danger, and the information you provided about the  
23 address, that he might be a problem; am I correct?

24 A. I would assume so.

25 Q. So all of this dangerousness occurred, most of it,

1 between November 2020 and January of 2021, aside from  
2 this speech stuff?

3 A. Again, that's the time period of the Indictment,  
4 yes.

5 Q. And you knew about all of this behavior a year ago?

6 A. A year ago, yes.

7 Q. Yet you chose not to arrest him until a year later?

8 A. Correct. Well, I -- let me -- I guess I should --  
9 the word "chosen," I guess, is -- I don't know if I  
10 agree with the word "chosen."

11 Q. I'll ask another question. If he were a danger,  
12 based on the conduct that you described today, he would  
13 have been a danger January a year ago, wouldn't he?

14 A. Correct.

15 Q. You could have issued a complaint -- the Government  
16 could have issued a complaint and had him arrested  
17 within days?

18 A. We could have issued that, yes.

19 Q. But they chose not to? And I know that's not your  
20 job.

21 A. Right, yes. I see where you're going with  
22 "chosen," yes.

23 Q. So, if you think someone is dangerous, you could  
24 issue a complaint in 24 hours?

25 A. Right. Yes, that's correct.

1 Q. And since that time, there's really been no conduct  
2 that's a danger that they've alleged or what happened  
3 today, other than the language of instant messaging?

4 A. That's the only conduct we've put out today, yes.

5 MR. LINDER: One minute, Your Honor.

6 BY MR. LINDER:

7 Q. I guess we can go back to the actual messaging.  
8 When they're messaging each other around the Capitol,  
9 there's a response to meet up, and James and some  
10 others that say, "Hey, we're on our way, we'll be there  
11 in 30 minutes"?

12 A. Right.

13 Q. Were they coming from a QRF?

14 A. No, they were not coming from the QRF.

15 Q. When they say they're coming, they're going to be  
16 there in 30 minutes, did they bring weapons with them?

17 A. They had some non-lethal weapons, but they didn't  
18 have firearms.

19 Q. Nothing that was illegal in DC?

20 A. Correct.

21 Q. In fact, they were following the laws of DC at that  
22 time, were they not?

23 A. Except for the traffic laws, yes.

24 Q. Correct. But the weapons, whether it was knives,  
25 guns or whatever that in DC was illegal, they were all



1 | legally in a hotel, whatever, they didn't bring any of  
2 | them into DC?

3 | A. Right.

4 | Q. There's no evidence that when all this was going on  
5 | that they ever even brought any into the Capitol?

6 | A. Could you ask that question again for me, sir?

7 | Q. There's no evidence that they brought any weapon  
8 | into the Capitol other than the non-lethal ones?

9 | A. Into the Capitol, yes, that's correct.

10 | Q. And so they could have. If they had all this stuff  
11 | out there 4.9 miles away by Google maps, they didn't do  
12 | that, did they?

13 | A. They did not.

14 | Q. Okay. Are you familiar with LEOSA, the law to  
15 | carry weapons -- other officers being able to carry  
16 | weapons in certain places?

17 | A. Very, very vaguely.

18 | Q. Did y'all talk about it at that meeting that you  
19 | had on May 3rd?

20 | A. Yeah, I believe it was brought up.

21 | Q. Okay. And did Mr. Rhodes appear very educated on,  
22 | hey, what we can bring and what we can't bring. We  
23 | weren't going to break a law. The law allows us to go  
24 | here, but not there, and y'all discussed it in that  
25 | interview?

1 A. Yeah, those things were discussed.

2 Q. And did it seem very apparent he did not want to  
3 break the law?

4 A. I mean, I wouldn't want to characterize his  
5 mindset, but yes, he said those things.

6 Q. And again, the FBI, when they wanted to call him,  
7 they can call him, people that know his phone number,  
8 and he responds, does he not?

9 A. He always has.

10 MR. LINDER: No further questions.

11 THE COURT: All right, redirect?

12 MS. RAKOCZY: Briefly, Your Honor.

13 **REDIRECT EXAMINATION**

14 **BY MS. RAKOCZY:**

15 Q. Special Agent Palian, did the defendant also send  
16 messages on the Signal chat discussing the fact that if  
17 people brought guns to the district, they were aware  
18 that some law officers were stopping people and might  
19 search them?

20 A. Yes.

21 Q. And had members of the QRF gone into the district  
22 and had their weapons and been arrested, would they  
23 have been able to continue serving as the QRF?

24 A. No, they would not have been.

25 Q. You were asked some questions about Stack 1 and

1 whether they breached the building, and you said that  
2 they did not; is that right? They were not the first  
3 to -- I'm sorry, they were not the first to break the  
4 doors open?

5 A. Correct.

6 Q. When Kelly Meggs with Stack 1 go up the stairs to  
7 the area outside the doors to the building, were the  
8 doors open at that time?

9 A. No, they were not.

10 Q. Have you watched some public source video about  
11 what happened outside those doors around 2:38 p.m.?

12 A. Yes.

13 Q. Did the mob, with some help of rioters inside the  
14 building, force the doors open?

15 A. They did at about 90 seconds before Stack 1  
16 entered, yes.

17 Q. Was Stack 1 present in that mob a few rows back  
18 from the door around that time?

19 A. Yeah, they were 10 to 20 feet back.

20 Q. Special Agent Palian, you were asked about  
21 co-defendant Joshua James' group and how they told  
22 Mr. Rhodes they were on their way to the Capitol at  
23 around 2:00 p.m. and would be there in about 30  
24 minutes. Do you do you recall that questioning?

25 A. Yes.

1 Q. Have you obtained during the course of your  
2 investigation a video that an individual with  
3 Mr. James, co-defendant Roberto Minuta, made as the  
4 group went to the Capitol?

5 A. Yes.

6 Q. And during that travel to the Capitol, did  
7 Mr. Minuta state that there's war on the streets right  
8 now?

9 A. Yes.

10 Q. Did he say that they were on their way to the  
11 Capitol?

12 A. Yes.

13 Q. Special Agent Palian, you were asked some questions  
14 about whether you could have arrested Defendant Rhodes  
15 last January. Do you recall those questions?

16 A. Yes, I do.

17 Q. As of last January, had you obtained a search  
18 warrant for Defendant Rhodes' phone?

19 A. No, we did not have a search warrant in January.

20 Q. After you obtained that search warrant, did that  
21 phone have to go through an extensive filter process to  
22 review and take out any [U/I] messages, that the  
23 investigation and trial team did not see those messages?

24 A. It did.

25 Q. Have you recovered a number of significant messages

1 with respect to the defendant's mental state and  
2 culpability in this case from that phone?

3 A. Yes.

4 Q. Have you recovered other aspects of evidence  
5 against Mr. Rhodes during the course of this  
6 investigation in the months since January of 2021?

7 A. Yes.

8 Q. And did those form the allegations in the  
9 Indictment in this case?

10 A. They do. They have.

11 Q. Special Agent Palian, you were asked some questions  
12 about the weapons that those Oath Keeper members and  
13 affiliates who breached the Capitol brought into the  
14 building. You were aware that there were some  
15 non-lethal weapons on those individuals' persons;  
16 correct?

17 A. There were.

18 Q. At least one or two brought pepper spray or bear  
19 spray; is that right?

20 A. Yes.

21 Q. And at least one member carried a large stick into  
22 the building; is that right?

23 A. Yes.

24 Q. Were all of those or most of those members also  
25 wearing military style protective gear?

1 A. Yes.

2 Q. Did that include helmets?

3 A. Hard knuckle gloves, helmets, goggles.

4 Q. And did some -- did at least one member, an  
5 affiliate -- did Defendant Joshua -- have you seen  
6 video of Defendant Joshua James assaulting at least one  
7 member of law enforcement in the rotunda area of the  
8 Capitol?

9 A. Yes.

10 MS. RAKOCZY: Thank you, Your Honor. I have  
11 no further questions.

12 THE COURT: Any other questions, Mr. Linder?

13 MR. LINDER: Just briefly.

14 **RE-CROSS-EXAMINATION**

15 **BY MR. LINDER:**

16 **(Counsel's microphone off during questioning)**

17 Q. Agent, in regards to Joshua James, which counsel  
18 has talked about assaulting a law enforcement officer.

19 A. Yes, sir.

20 Q. He's actually on release, is he not?

21 A. Mr. James is out on release, yes.

22 Q. Okay. And in fact, Roberto Minuta, who went into  
23 the Capitol, is also on release?

24 A. He is.

25 Q. Donovan Crawl, who went into the Capitol, is on

1 release?

2 A. Yes.

3 Q. And my client never went in the Capitol, did he?

4 A. Your client never went into the Capitol.

5 Q. And you said there were some Oath Keepers in that  
6 crowd behind the doors that got breached. They weren't  
7 coordinating that breach with the mob, were they? They  
8 were in that crowd behind the front people, but they  
9 weren't the ones that coordinated it, were they?

10 A. No, that's correct.

11 Q. It was other people that coordinated it?

12 A. Yes. I'm sorry, I wasn't clear.

13 Q. They were in kind of -- some of them were in a  
14 group behind?

15 A. Yes.

16 Q. Thank you.

17 **EXAMINATION BY THE COURT**

18 Q. Special Agent, I have a few questions for you.

19 The Government is moving to detain on several  
20 different bases. One is a serious risk of flight.

21 What evidence do you have that Mr. Rhodes is a risk of  
22 flight?

23 A. Isn't a risk of flight?

24 Q. Is.

25 A. Oh, is a risk of flight. Mr. Rhodes doesn't seem

1 to -- he's seems to be very mobile, he seems to only  
2 have limited personal effects, which would allow him to  
3 move quickly from an area. He doesn't seem to have  
4 ties to a lot of areas, other than what I discussed.

5 Q. But he's been here for almost two years, correct,  
6 in Texas?

7 A. Yeah, to my knowledge, he's been in Texas for about  
8 two years, yes.

9 Q. Okay. Anything else?

10 A. No, I can't think of anything else.

11 Q. The Government is also moving -- alleging a risk of  
12 obstruction of evidence.

13 A. Yes.

14 Q. I wanted to make sure I'm clear, the deleting of  
15 messages, what time frame did that occur?

16 A. We can't tell when the messages themselves were  
17 deleted, but the messaging were from the pertinent time  
18 period. But our forensics can't determine when the  
19 message was deleted.

20 Q. Okay. In addition to the deletion of messages, is  
21 there any other evidence of attempts to obstruct  
22 justice by Mr. Rhodes?

23 A. The deletion of the messages is what's coming to  
24 mind right now.

25 Q. And do you know, was that on one -- was that on one



1 certain date or was it a continued pattern of deleting  
2 messages?

3 A. I'm not sure.

4 Q. You don't know?

5 A. I'm not sure.

6 Q. And that happened shortly after the January 6th --

7 A. We don't know. I can't say a time frame. It  
8 happened between January 6th and when we recovered the  
9 phone, which was May.

10 Q. Since the January 6th event, have -- you testified  
11 regarding --

12 A. Oh, ma'am, I'm sorry, can I --

13 Q. Yeah.

14 A. One other thing. We are aware of individuals close  
15 to Mr. Rhodes saying, per Stewart Rhodes, delete all  
16 your evidence, delete all your messages. We are aware  
17 of that.

18 Q. And that was shortly after the January 6th event?

19 A. Yes.

20 Q. You testified to conversations shortly after the  
21 January 6th event that Mr. Rhodes had in chats of  
22 various sorts about continuing the war or however he --  
23 I'm paraphrasing. But has his phone been monitored?  
24 Have you monitored his communications at all? I don't  
25 know what time frame. I'm guessing that was sort in

1 the January/February months after the incident.  
2 Throughout this last year, have you observed any  
3 communications?

4 A. So our -- we seized the phone in May. That's when  
5 the communications with Mr. Rhodes -- that's our time  
6 frame that we have communications from him is up to May  
7 for the most part.

8 We also have public statements that he's made  
9 during that time period which referred to the incoming  
10 administration as a foreign and illegal occupying force  
11 or an enemy occupying force. Those are public  
12 statements that he made in various forms.

13 Q. So no communications have been monitored since May  
14 of 2021?

15 A. Do you mean like a Title III or something?

16 Q. Uh-huh.

17 A. No.

18 THE COURT: All right, thank you. You may  
19 step down.

20 Does the Government have any other  
21 witnesses?

22 MS. RAKOCZY: No, Your Honor.

23 THE COURT: Mr. Linder?

24 MR. LINDER: Your Honor, do you want to hear --  
25 the only witness I was going to call is my third party

1 | custodian. I've got family here that I would just  
2 | proffer, and a friend, but I didn't want to hold them  
3 | all to the stand.

4 | THE COURT: Well, I've read the letters that --  
5 | I'm assuming you're going to offer those into evidence  
6 | at some point?

7 | MR. LINDER: Yes, Your Honor.

8 | THE COURT: But I had some time and I went  
9 | ahead and read them before the hearing. I don't think  
10 | it's necessary to have any character evidence from  
11 | family, but I would like to hear from your proffered  
12 | third party custodian.

13 | MR. LINDER: I did provide those letters to  
14 | counsel for the Government.

15 | MS. RAKOCZY: Yes, Your Honor.

16 | THE COURT: All right, sir, you will need to  
17 | come up to the witness stand, please.

18 | COURTROOM DEPUTY: If you'd please raise your  
19 | right hand. Do you solemnly swear the testimony you  
20 | are about to give in the case before the Court shall be  
21 | the truth, the whole truth, and nothing but the truth,  
22 | so help you God?

23 | THE WITNESS: Yes.

24 | COURTROOM DEPUTY: Have a seat, please, and if  
25 | you could state your name and spell it for the record.

1 THE WITNESS: I'm Brian, B-r-i-a-n.

2 COURTROOM DEPUTY: And your last name?

3 THE WITNESS: Bodine, B-o-d-i-n-e.

4 COURTROOM DEPUTY: B-o-d-i-n-e.

5 THE COURT: You may proceed, Mr. Linder.

6 MR. LINDER: Your Honor, I would like to keep  
7 out some of the biographical information due to the  
8 press that's in here. I mean, he's a Dallas resident.  
9 I think Probation has his information.

10 THE COURT: Okay.

11 **BRIAN BODINE, CALLED BY THE DEFENSE**

12 **DIRECT EXAMINATION**

13 **BY MR. LINDER:**

14 Q. Brian, how long have you known Mr. Rhodes?

15 A. Since about late March, early April 2020.

16 Q. You've known him almost two years?

17 A. Yeah.

18 Q. And are you a member of Oath Keepers?

19 A. No.

20 Q. Do you live here in the Dallas County area?

21 A. Yes.

22 Q. And do you have any criminal history?

23 A. No.

24 Q. The address that you've given to Probation, is that  
25 an address that he can live at with you?

1 A. Yes.

2 Q. Are there any weapons in that home?

3 A. No.

4 Q. Do you have any alcohol or drug issues?

5 A. No.

6 Q. Do you have a job?

7 A. Yes.

8 Q. Have I explained to you what the duties of a third  
9 party custodian are?

10 A. Yes.

11 Q. If the judge releases him, I would anticipate he  
12 will be on some kind of GPS monitor. And that you  
13 would be required to be informed of the Court date, the  
14 meetings he has, and to make sure he got there, but  
15 also to inform the Court if you thought he was doing  
16 anything illegal, if he was purchasing guns or around  
17 other co-defendants he's not supposed to be around.  
18 Could you promise the Court that you can do that?

19 A. Yes.

20 Q. And do you know Chad Roberts, the person whose  
21 house he was at when he was arrested; is that correct?

22 A. Yes, I do.

23 Q. And is Chad also willing to be a third party  
24 custodian, but he just can't live there because of his  
25 children?

1 A. He's told me that, yes.

2 Q. So, between the two of you, acting as a third party  
3 custodian, he's a lawyer and a Rabbi, they can go off  
4 and communicate daily in regards to Mr. Rhodes; is that  
5 correct?

6 A. Correct.

7 Q. And Mr. Rhodes had been living with him?

8 A. Correct.

9 Q. And you weren't there in DC on the 6th, were you?

10 A. No.

11 Q. You're not in any of these cases, are you?

12 A. No.

13 MR. LINDER: I'll pass the witness.

14 THE COURT: Cross-examination?

15 MS. RAKOCZY: No, Your Honor, thank you.

16 THE COURT: All right. I have some questions.

17 **EXAMINATION**

18 **BY THE COURT:**

19 Q. All right, sir, you said that you met Mr. Rhodes  
20 late March, early April of 2020; correct?

21 A. Yes, that's correct.

22 Q. How did you meet him?

23 A. He was in front of Shelley Luther's salon in North  
24 Dallas and I can't remember the exact day, but it was  
25 right in that time frame, shortly after the COVID

1 lockdown, shutdowns had started, and a group of people  
2 gathered there just to see what was going on.

3 Q. Was that a staged protest?

4 A. I wouldn't say staged. I would say that it was  
5 just citizens that were concerned and she opened up her  
6 business, as you may recall, and people went down there  
7 to show support for her. So it was a show of support.

8 Q. Okay. So at the show of support, that's how you  
9 met Mr. Rhodes?

10 A. Yes.

11 Q. And tell me about your relationship since that day  
12 that you met him.

13 A. I mean, I met him, I shook his hand, I can't  
14 remember the exact day it was. And then, you know,  
15 I've talked to him a number of times since then. I've  
16 hung out with him, played pool with him, watched  
17 Cowboys games with him and other friends, you know.  
18 It's just I've -- basically, he's a friend.

19 Q. Okay. How often would you say that you see him?

20 A. Shortly before Christmas, it was like a couple of  
21 days before Christmas. Again, the most recent time  
22 would have been the last football game of the regular  
23 season we watched Cowboys and Eagles. So twice a  
24 month, once a month, twice a month, three times a  
25 month. I mean, it just depends on the month here.

1 Q. I know you testified you are not a member of the  
2 Oath Keepers.

3 A. Correct.

4 Q. Do you follow the statements that he makes online  
5 in that regard?

6 A. I don't follow any feeds by the Oath Keepers  
7 actively on anything. In fact, I think that group has  
8 been de-platformed. So I don't follow that actively,  
9 but I do follow the news -- everything in the news.

10 Q. You mentioned that you were also friends with Chad  
11 Roberts.

12 A. I know Chad, yes.

13 Q. And how do you know him?

14 A. Kind of the same way. He was also there in front  
15 of Shelley Luther's Salon around that time period and I  
16 met him then and, you know, just struck up  
17 conversations with him.

18 Q. Okay. Did you participate in any way in the  
19 January 6th event?

20 A. No.

21 Q. Did you know about Mr. Rhodes' involvement in the  
22 January 6th event?

23 A. Well, I watched things on TV, so I know what  
24 everybody else knows, which is through public open  
25 source information, you know. I read the articles.



1 Q. So he didn't tell you anything about his plans  
2 beforehand?

3 A. No, no.

4 Q. You mentioned that you're employed. What do you  
5 do?

6 A. I drive for ride share companies. I do some  
7 consulting as well. I don't want to give the name of  
8 which company, if that's okay, but -- or which  
9 companies --

10 Q. What kind of consulting work?

11 A. Political.

12 Q. I'm sorry?

13 A. Political, like campaigns. I help with campaigns.  
14 I've been doing that for years.

15 Q. Tell me a little bit more about what you do.

16 A. So, you know, there's block walking that's involved  
17 with campaigns. There's social media that's involved.  
18 There's just all the different aspects of a grass roots  
19 campaign. And so I've been involved in that for years.  
20 And I also do a lot of ride share, though, late at  
21 night. So it's between those two things that would  
22 constitute my employment.

23 Q. And what's your typical job schedule?

24 A. I drive pretty late when I do the driving. As far  
25 as the campaigns is concerned, that could be going to

1 meeting and events in the evening. So it's more of an  
2 evening type of thing. It's an evening late type of  
3 thing as opposed to a morning thing with me in terms of  
4 my daily schedule.

5 Q. Okay. I know you testified you have no firearms in  
6 your house.

7 A. Right.

8 Q. Do you have any drugs in your house?

9 A. No.

10 Q. If the Court were to release Mr. Rhodes into your  
11 custody, you would be required to notify the Court if  
12 he violates any conditions of his release. Do you  
13 understand that?

14 A. I do.

15 Q. And no other person lives with you; is that correct?

16 A. That's correct.

17 Q. Is my understanding correct that right now you're  
18 in a one-bedroom apartment, but I guess you're willing  
19 to move to a two-bedroom --

20 A. Right.

21 Q. -- if Mr. Rhodes can come live with you?

22 A. Right.

23 Q. And that would take a couple of days?

24 A. Yeah, it's going to take a few days, yeah.

25 Q. You've never had Mr. Rhodes stay with you before,

1 | though; correct?

2 | A. No.

3 | THE COURT: All right, thank you, sir. You  
4 | may step down.

5 | MR. LINDER: Yes, Your Honor, just to make the  
6 | Court aware, I've got my client's sister who is in  
7 | Minnesota, and his cousin who lives in California,  
8 | friends from Houston. There are several people here  
9 | that I won't name that are all here in support of  
10 | Mr. Rhodes.

11 | And as I told you, there are two people  
12 | that would be third party custodian connections, if you  
13 | need that, in addition to the ones stated, and I've  
14 | provided that to the probation officer also.

15 | THE COURT: All right, thank you.

16 | So no other witnesses, Mr. Linder; correct?

17 | MR. LINDER: Correct, Your Honor.

18 | THE COURT: Did you want to move the letters  
19 | that you submitted to the Court as an exhibit?

20 | MR. LINDER: Yes, Your Honor.

21 | THE COURT: Any objection?

22 | MS. RAKOCZY: No objection.

23 | THE COURT: All right. All of the letters  
24 | that were submitted to the Court on behalf of  
25 | Mr. Rhodes are admitted as Defendant's Exhibit 1.

1           MR. LINDER: Your Honor, I will note, you  
2 probably saw in the letter, but one of those letters  
3 stands out without saying his name. You've got it in  
4 front of you. He is a senior partner of a large  
5 national firm and he's willing to stake his reputation  
6 on Mr. Rhodes. He wrote a very nice letter that you've  
7 got before you.

8           THE COURT: All right, thank you.

9           I'll hear closing statements at this time.

10          MS. RAKOCZY: Thank you, Your Honor.

11          ***(Counsel's microphone off during argument)***

12                 Your Honor, with respect to the nature and  
13 circumstances of the offenses in which the defendant is  
14 charged, he's not charged with a crime of violence, but  
15 he is charged with orchestrating a plot to [U/I] mobs  
16 surrounding the Government for the transfer of  
17 Presidential power in this country.

18                 The Government [U/I] that is difficult to  
19 [U/I]. And the courts have recognized that a harm to  
20 the union is a harm to the society, if not to the  
21 nation, that can be considered as part of the danger  
22 the defendant is posing to the community.

23                 You've heard testimony here today [U/I]  
24 he put forth a plan to include co-conspirators. He  
25 offered reimbursement and financial incentives to

1 encourage people to participate. And he was one of the  
2 architects of this plan how to arm Quick Reaction Force  
3 available on standby to ready weapons, ready firearms,  
4 and transfer those firearms into the hands of  
5 co-conspirators on the grounds at a moment's notice.  
6 The Government submits to this Court that shows an  
7 extreme disregard for the danger and safety of the  
8 community and also for the laws of the United States,  
9 which made it very difficult for this Court to trust  
10 that the defendant can comply with conditions of  
11 release.

12                   The Court has heard evidence that the  
13 defendant and his co-conspirators then took this plan  
14 and utilized it to engage in an attack on the United  
15 States Capitol. The Government has mentioned during  
16 this hearing and in his papers words of the defendant  
17 in orchestrating this conspiracy, and the defense made  
18 reference to the Government saying just words. But we  
19 are not saying just words here. We base those words on  
20 import. It's the conduct of the defendant and his  
21 co-conspirators they engaged in on January 6th and  
22 thereafter, continuing to purchase firearms, continuing  
23 to gather themselves together and to ready themselves  
24 for conduct to forcibly oppose the peaceful transfer of  
25 power in this country.

1                   The statements that the defendant made did  
2 not stop during the time period of this conspiracy. We  
3 heard testimony that the defendant continued to make  
4 statements regarding the regime, the current  
5 Presidential administration being illegitimate, and  
6 that the Court [U/I]. He has utilized his military  
7 background, his legal training, and his position as the  
8 leader of this nationwide organization to further the  
9 goals of this conspiracy. We think the Court needs to  
10 consider that, the threat that the defendant continues  
11 to pose to our community.

12                   THE COURT: Counsel, let me ask you a question  
13 about that because I don't disagree with what you just  
14 said. I don't agree with Mr. Linder's characterization  
15 that they're just words. Yes, we have a right to free  
16 speech, but when your speech is intended to essentially  
17 cause violence, then, you know, that's you're here  
18 today.

19                   But there are conditions that the Court  
20 could implement regarding the use of social media and  
21 electronic devices. And so my question for you in  
22 terms of monitoring any electronic device that  
23 Mr. Rhodes had access to. So my question is, why  
24 would that not -- why would that condition, along with  
25 others, not be sufficient in this case?

1 MS. RAKOCZY: Your Honor, our conversations  
2 with Pretrial Services were with the District of  
3 Columbia and not with your office here. In our  
4 conversation with Pretrial Services, we've learned it  
5 is difficult to monitor a defendant's electronic  
6 communications. They can take the extreme step of  
7 installing tracking software on cell phones and  
8 computers, but they can't be present in the home at all  
9 times. And we heard that the custodian who was  
10 proffered here today is someone who is a very busy  
11 person who works, it sounds like many hours. He's an  
12 industrious person, but unfortunately that means he's  
13 not going to be around all the time and he can't say  
14 that someone is not going to drop by the house and  
15 provide a device or something that the defendant could  
16 use to access the Internet.

17 And so we do have a concern that with all  
18 of those contentions, Pretrial and this Court could  
19 try to keep the defendant from having access to those  
20 platforms, but he knows how to use encrypted messaging  
21 applications and could have access to such devices if  
22 someone should make it available and help him out. He  
23 can be sincere when he says he would do his best, but  
24 he's one person and he's not going to be with the  
25 defendant all the time.

1           THE COURT: One of the questions that I asked  
2 the agent that is still a question in my mind: This  
3 occurred over a year ago, the January 6th incident, and  
4 we've heard about conversations that Mr. Rhodes has had  
5 shortly after the January 6th event. But in the last  
6 year there doesn't seem to be any evidence, at least  
7 that was presented here today to support that he's a  
8 continuing danger or a flight risk or could potentially  
9 obstruct justice.

10           MS. RAKOCZY: We would [U/I] with that, Your  
11 Honor. But the witness did proffer today and it has  
12 been alleged in the Indictment that Mr. Rhodes, number  
13 one, engaged in obstruction with respect to his own  
14 phone. The Special Agent did mention that an associate  
15 of the defendant did put forth a recommendation that  
16 other co-conspirators took the evidence from their  
17 phones.

18           In addition to that, the defendant does  
19 continue -- did continue to remain in touch with  
20 co-conspirators on his phone. The witness proffered  
21 that he does continue to make statements suggesting  
22 that the regime is illegitimate.

23           For all that he said, we would also note  
24 that some of his efforts have been hampered by the  
25 fact that there have been arrests of a number of his



1 co-defendants in this case. [U/I] think that the  
2 defendant himself is not a danger because he does still  
3 have his platform, he does still have his influence,  
4 and he does still have members and affiliates involved  
5 in who are willing to continue to follow him and to  
6 raise [U/I].

7 THE COURT: Okay. You may continue if you  
8 have anything else.

9 MS. RAKOCZY: Thank you, Your Honor. Just  
10 briefly. The defense pointed out to your question to  
11 Special Agent Palian, who is detained, who is not  
12 detained in this case. We know this Court has to make  
13 its own decision on the basis of the evidence to the  
14 Court, but in the event that [U/I] in this Court's  
15 determination, the District Court Judge in the District  
16 of Columbia [U/I] had the opportunity to reveal appeals  
17 of some of the detention orders. And they make  
18 decisions about who would remain detained or who would  
19 be released. As noted repeatedly, the decision-making  
20 process that for him was one of the most significant  
21 factors whether defendant played a leadership role in  
22 this conspiracy.

23 So the defendants who are currently  
24 detained -- Kelly Meggs, Jessica Watkins, and Kenneth  
25 Harrelson -- are all alleged to have played roles.

1 Kelly Meggs was a leader of Stack 1 and a  
2 leader of the Florida Chapter of the Oath Keepers.

3 Kenneth Harrelson was [U/I] and a deputy  
4 to him in the leadership of both Stack 1 and that  
5 Florida group.

6 Jessica Watkins was also a member of that  
7 Stack 1 and a leader of the Ohio contingent that  
8 participated in that Stack 1.

9 THE COURT: Wasn't Joshua James also a leader  
10 of the Alabama Oath Keepers and it looks like he was  
11 released?

12 MS. RAKOCZY: Yes, Your Honor, he was  
13 released. He was initially detained, but then released  
14 upon appeal. I don't want to speak for the judge, but  
15 it sounded during that hearing as though some of the  
16 major factors in that particular case were the  
17 defendant's ties to his community and his employment.  
18 He also had an outstanding military record, including  
19 receiving a couple of [U/I]. Those are some of the  
20 factors that appear to have influenced [U/I] with  
21 respect to Joshua James. But he did play a leadership  
22 role with respect to Stack 2.

23 I would also note, Your Honor, that the  
24 Defendant Edward Vallejo has just been arrested and  
25 detained by the judge in Arizona. Our judge in the

1 District of Columbia has not reviewed any appeals of  
2 that decision at this point, but [U/I] in the District  
3 of Arizona did make the decision to detain Mr. Vallejo  
4 when he was arrested. He is also someone, like  
5 Mr. Rhodes, who did not breach the Capitol, yet he was  
6 in the District of Columbia because he was serving in a  
7 role as a Quick Reaction Force member. A plan that we  
8 had submitted to the Court and was shown today was the  
9 plan that Mr. Rhodes put into place and then he  
10 orchestrated.

11 And so [U/I] the use of weapons for this  
12 conspiracy and the readiness of Mr. Rhodes and his  
13 co-conspirators to have those weapons on hand and to  
14 bring them in, if necessary, is part of this  
15 dangerousness that concerns the Government currently.

16 We would just also note that with respect  
17 to the risk of flight issue, I know the Court asked the  
18 witness a couple of questions. We would point out in  
19 the summary the witness didn't mention this, but he did  
20 testify to the fact that on January 6th, when the  
21 defendant learned that law enforcement was potentially  
22 coming for him and for others who participated in the  
23 attack on the Capitol, he did flee at that time. And  
24 [U/I] didn't come out and tell us, but those were some  
25 of the circumstances where he [U/I] opportunity at that

1 point to be [U/I] home. So there is some evidence  
2 before Your Honor that the defendant had in the past  
3 engaged in flight and who could potentially do it again.

4 We've also proffered the evidence that the  
5 defendant and his organization has contacts throughout  
6 the United States. We don't think he's necessarily an  
7 international flight risk. He doesn't have a passport  
8 as far as we know. But it would not be impossible for  
9 him to find an associate anywhere in this country to  
10 take his stuff, which as the witness said was very  
11 mobile and go underground and somewhat difficult to  
12 find if we wanted to.

13 For all these reasons, Your Honor, the  
14 fact that a Grand Jury has found probable cause to find  
15 the defendant engaged in this plot to forcibly oppose  
16 the peaceful transfer of power in this country, and  
17 then deleted evidence of these crimes, we submit that  
18 there just aren't conditions or a combination of  
19 conditions that can ensure the safety of the community  
20 and [U/I].

21 THE COURT: Thank you.

22 MS. RAKOCZY: Thank you.

23 THE COURT: Mr. Linder?

24 MR. LINDER: Yes, Your Honor.

25 ***(Counsel's microphone off during argument)***

1                   The Arizona Court, to touch on something  
2 that the prosecutor just mentioned, the Arizona Court  
3 in the Vallejo hearing actually did their hearing via --  
4 we were able to listen to it. It wasn't on Zoom, but  
5 we were able to listen to it. And the reason the Judge  
6 detained Mr. Vallejo in that case, who didn't go in the  
7 Capitol, the emphasis he put was that he was sitting on  
8 a cache of guns at the QRF. He was the guy that was  
9 there that could have brought the guns had he wanted to.  
10 That's what the judge [U/I].

11                   Our client was never at the QRF and wasn't  
12 at the Capitol. So that was --

13                   THE COURT: Right, Mr. Linder, but just  
14 because he wasn't physically present, he was  
15 responsible, at least based on the evidence that was  
16 shown today, for facilitating others and himself in  
17 terms of bringing ammunition to have on hand if and  
18 when they wanted to use it; right?

19                   MR. LINDER: He was one of the people. There  
20 were different chat rooms from different groups and  
21 there were different QFRs that he wasn't involved in.

22                   THE COURT: So how is he any different is my  
23 question?

24                   MR. LINDER: Well, he didn't breach the  
25 Capitol. He didn't assault a police officer. He

1 didn't have a weapon. He didn't do anything illegal  
2 other than just [U/I] on trespasses and those things,  
3 and speech, and that's not in today's hearing. But he  
4 didn't -- anything that they want to say that he did  
5 was dangerous [U/I] anybody hear of. And [U/I]. The  
6 agent wasn't able to offer any information today, and  
7 neither has opposing counsel, that he's done anything  
8 to incite any of this violence or do anything for the  
9 last six months.

10                   If he wanted to come under the radar, he  
11 could have done so. The FBI had his phone number and  
12 they called him and they meet with them, he gives them  
13 his phone and gives them the code. And when he told  
14 them that I'll surrender and go to DC if you're going  
15 to indict me, just call and I'll go to DC and turn  
16 myself in. And when they were going to arrest him here  
17 at Chad Roberts' house, they call him. They were  
18 outside and he walks out. He's not anybody who's  
19 trying to do anything. He's never broken the law. He  
20 doesn't have any criminal record. He was honorably  
21 discharged. He's a Yale Law Graduate. He has no  
22 criminal history.

23                   THE COURT: Well, I actually have a question  
24 about -- I do know he graduated from Yale Law School  
25 and practiced law for a period of time. The

1 information I have in the Pretrial Services Report  
2 states that he was disbarred in 2007. Do you know why?

3 MR. LINDER: I'll speak in generalities. He  
4 had a personal family matter going on and they  
5 allegedly brought the case before the court and  
6 grievance committee and they disbarred him. It wasn't  
7 anything where he stole clients' funds or anything  
8 [U/I] or anything like that. But [U/I].

9 THE COURT: The Pretrial Services Report also  
10 states that his employment is essentially the founder  
11 of Oath Keepers and that he, you know, gets all of his  
12 salary from that job. If he were to be released,  
13 what's the intent going forward, at least until his  
14 trial, in terms of his role with the Oath Keepers?

15 MR. LINDER: Very good question. As you know,  
16 the one witness who's a senior partner in the law firm  
17 can vouch for him. And we anticipated he would be a  
18 work [U/I]. He has a job writing appellate briefs and  
19 could do that and assist on different levels at  
20 different law firms. He's done that in the past and he  
21 could do it again.

22 THE COURT: With who? With the lawyer that  
23 wrote the letter?

24 MR. LINDER: Yes. And other law firms, but  
25 he's done that in the past and lawyers have hired him

1 to do constitutional issues and briefs and they could  
2 put him to work. We've already [U/I].

3           And as far as to respond to what the  
4 Government said about my client, monitoring his  
5 electronic communication, the Oath Keepers is a public  
6 organization. Even if he was communicating  
7 surreptitiously, it's a public platform, it's going to  
8 get out. They're monitoring all these people. He  
9 hasn't talked to any of the co-defendants that have  
10 been indicted. They've been indicted and he can't do  
11 that. He hasn't tried to do that.

12           THE COURT: I don't think the public platform  
13 is what the Government is worried about. I mean,  
14 there's evidence that he was messaging, sending  
15 encrypted messages.

16           And, you know, this Court has imposed the  
17 condition before to have software monitored. But the  
18 Government does raise a fair point, which is the  
19 proffered third party custodian will not be there all  
20 the time. Mr. Rhodes does appear to have a number of  
21 associates, as they've been referenced, other members  
22 of Oath Keepers. And even members -- maybe people that  
23 are not members of Oath Keepers, but that agree in his  
24 beliefs that would possibly be willing to give him. I  
25 mean, obviously at some point it's just not possible to



1 monitor. And so I think that's a fair point.

2                   The other -- and you know this,  
3 Mr. Linder. Really, in a case of involving child  
4 pornography, that's the easiest way to really be able  
5 to monitor a phone because you can monitor for a  
6 specific type of search. With encrypted messaging and  
7 things like that, it's just it's more difficult.

8                   MR. LINDER: I understand. And I understand  
9 what the Court is saying. I agree, but it's not  
10 impossible. There could be restrictions put on him  
11 where he doesn't have a phone, or has a certain phone  
12 that belongs to somebody else. And I don't think with  
13 the nature of this case and the publicity this case has  
14 gotten, I don't think anybody is going to risk doing  
15 that. If he's the number one guy on this Indictment, I  
16 don't think people are going to go slipping him cell  
17 phones and risk getting arrested by the FBI. I don't  
18 think anybody would want to risk that. I don't think  
19 he would want to risk that.

20                   THE COURT: Well, I don't think I'm with you  
21 on that. But your proffered third party custodian, I  
22 know that his mother is deceased, he does not have  
23 contact with his father. He does have a sister. But  
24 the relationship between the proffered third party  
25 custodian and Mr. Rhodes does not necessarily seem

1 sufficient to me for him to be a suitable third party  
2 custodian.

3 MR. LINDER: Which is why I offered backups to  
4 kind of assist in that.

5 THE COURT: Right, but they're backups just  
6 saying they would check in on him.

7 MR. LINDER: Right. And I know one of them  
8 would have -- or two of them would have daily  
9 communication, not just once a week. They talk daily.

10 THE COURT: Okay. All right, thank you.

11 Anything else?

12 MS. RAKOCZY: No, Your Honor. Thank you.

13 THE COURT: Mr. Linder?

14 MR. LINDER: Are we just closing or are we  
15 just --

16 THE COURT: Well, yeah, this is closing.

17 Would you like to say anything else?

18 MR. LINDER: We got into a question and answer.

19 THE COURT: Okay, I'm sorry, go ahead.

20 MR. LINDER: I don't know if the Court's  
21 aware. Your coordinator said you might be aware. He  
22 was actually cooperating with a Congressional subpoena.  
23 He has a lawyer in DC. He's supposed to testify on  
24 February 2nd before Congress. If DOJ had waited a month  
25 for this Indictment, they could have got his testimony

1 in front of Congress and used that, but they avoided  
2 that. And so there are people in DC that are not very  
3 happy about this Indictment because now he can't  
4 testify. He was cooperating with a Congressional  
5 subpoena in addition.

6                   And I also provided the Court with the  
7 U.S. vs. [U/I], which I gave to counsel for the  
8 Government, that basically says what I elicited on  
9 cross-examination of the agent. The Government can  
10 indict whoever they want within [U/I]. We know that.  
11 They can do it this year, next year, whatever. But  
12 it's very disingenuous to sit on something for a year  
13 and say: Oh, this guy's dangerous for all this stuff  
14 he did in January, but we're going to sit on for a year  
15 and indict him later.

16                   And they call him dangerous. If they  
17 knew he was dangerous, they should have sworn out a  
18 complaint. Saying he's a danger now is disingenuous  
19 when they can't bring any activity that he's done,  
20 anything other than deleted messages before May of last  
21 year [U/I]. But other than some deleted messages, they  
22 can't bring anything to show that he's a danger. And  
23 so I kinda find that --

24                   In additional, the last thing, counsel  
25 wrote a brief -- counsel for the Government wrote a

1 brief, and on page 15, bottom of page 15, the last  
2 sentence and it runs over on the top of page 16. It  
3 said, "It's difficult to imagine conduct that poses a  
4 greater risk to our society than ones targeted at  
5 undermining the laws and procedures at the heart of our  
6 democratic process."

7                   If there's nothing greater, then why are  
8 they [U/I]. That's -- to me, that's the most  
9 disingenuous part of this. And I know it's not their  
10 call. There are obviously people above them and they  
11 all submit that call. But to me that speaks volumes  
12 that they don't really think he's a danger.

13                   And one other thing on flight risk, Your  
14 Honor.

15                   THE COURT: Well, but they're not just moving  
16 on danger.

17                   MR. LINDER: They moved on both, danger and  
18 flight risk. They brought out evidence of both.

19                   THE COURT: Well, right. But under  
20 3142(f)(2), they are moving under flight and  
21 obstruction.

22                   MR. LINDER: Correct. But one other thing on  
23 flight, Your Honor, and I'll wrap it up.

24                   This is not the [U/I] we have on our case  
25 where someone is trying to do everything in secret, get

1 out of jail, run to Mexico, get out and go wherever  
2 they want to. Mr. Rhodes, whether you like it or not,  
3 had a platform. And even if he's not allowed to  
4 participate in that platform going forward if he's on  
5 release -- and I assume he would not be able to  
6 participate in that -- him running and hiding and not  
7 standing in trial avoids the very purpose of everything  
8 he stands for. I don't think he just wants a public  
9 trial. I think he wants a speedy public trial. And  
10 he's going to do everything he can to make that happen.

11           And I just think this is not the typical  
12 case we see and hear where some people tend to run.  
13 It's not an event with him where people that [U/I] him  
14 in the past or people that he wants to maybe hurt in the  
15 future running and fleeing from the court, all of that.  
16 So that's what makes it different.

17           THE COURT: Let me ask you one question before  
18 you sit down. I'm going to take a little bit of time  
19 today to think about this. But do you have anyone else  
20 to offer as a third party custodian?

21           MR. LINDER: We can talk -- there's lots of  
22 people in court. Great question. Would the Court  
23 allow him to move to another district with a family  
24 member?

25           THE COURT: Are you talking about the sister

1 in Montana?

2 MR. LINDER: Well, we've got Minnesota, we've  
3 got California, we've got different people that, if the  
4 Court would allow him, we just didn't know if he would  
5 be able to leave this district, which is why Brian has  
6 an apartment in Dallas, which is the Northern District,  
7 as you know; and Carrollton, which is the Eastern  
8 District, which is here. That's what we made  
9 provisions for in the last few days.

10 But if the Court is flexible and will  
11 allow him to be monitored in a different district,  
12 we've got a lot of people.

13 THE COURT: Well, I don't want to commit to  
14 anything before I hear the testimony, but yes, I would  
15 consider it. In this particular case, the casual  
16 relationship between the proffered third party  
17 custodian and Mr. Rhodes is not sufficient. And so  
18 while I would consider another third party custodian, I  
19 think it needs to be a more significant relationship  
20 outside of the context of some of the conversations and  
21 beliefs that is alleged in this Indictment.

22 MR. LINDER: Correct. That's why I made sure  
23 before we were talking he wasn't there on the 6th, he's  
24 not a member of Oath Keepers.

25 I've just been informed that the family

1 members, both a cousin and a sister, would be willing  
2 to be third party custodians.

3 THE COURT: All right. If you're prepared to  
4 put them up on the stand, then let's do that.

5 MR. LINDER: May I have a moment, Your Honor?

6 THE COURT: Yes.

7 **[Pause]**

8 MR. LINDER: Your Honor, if I could avoid  
9 using the last name, we can provide that information to  
10 Probation.

11 THE COURT: Is there any objection?

12 MS. RAKOCZY: No, Your Honor.

13 THE COURT: Okay.

14 COURTROOM DEPUTY: Do you solemnly swear the  
15 testimony you are about to give in the case before the  
16 Court shall be the truth, the whole truth, and nothing  
17 but the truth, so help you God?

18 THE WITNESS: Yes, ma'am.

19 COURTROOM DEPUTY: Have a seat, please.

20 THE COURT: Mr. Linder, you may proceed.

21 **BENJAMIN [LNU], CALLED BY THE DEFENSE**

22 **DIRECT EXAMINATION**

23 **BY MR. LINDER:**

24 Q. Sir, would you please state your first name -- you  
25 can take off your mask. Please state your first name

1 for the Court.

2 A. Benjamin.

3 Q. And are you married to one of Stewart's cousins?

4 A. Yep.

5 Q. And have you had a lot of interaction with Stewart  
6 over the years?

7 A. Yes, because of his cousin, but also because of his  
8 uncle who lives on my property.

9 Q. Okay. And what state do you live in?

10 A. California.

11 Q. Okay. And we can provide that information to  
12 Probation, the specifics of it.

13 Do you have any criminal history?

14 A. No.

15 Q. Does your wife have any criminal history?

16 A. No. We're boring.

17 Q. Sometimes that's better. Do you have kids in the  
18 home?

19 A. We have four kids.

20 Q. Okay. And do you work outside in a regular kind of  
21 job?

22 A. I'm a C27 landscape contractor. I do landscape  
23 design and installations

24 Q. And does your wife stay at home or does she work  
25 outside the home?



1 A. She's a stay at home mom.

2 Q. Okay. Do you have a room in the house?

3 A. Actually, we have a whole separate house on our  
4 property where my father and mother-in-law live. And  
5 that would be Stewart's uncle, and they're very close.  
6 And they actually have an extra bedroom, bathroom, the  
7 whole setup. And actually, it's pretty regular that he  
8 would go and stay there when he does come.

9 Q. Okay, so he's been there several times anyway?

10 A. Oh, yes, sir.

11 Q. And do your kids think of him as an uncle?

12 A. Yes.

13 Q. Okay.

14 A. Yeah, he's good with kids.

15 Q. All right. So you heard me ask the other  
16 custodian these same questions. Any weapons in the  
17 house?

18 A. No, not that house.

19 Q. Okay. And do you understand if there's weapons on  
20 the property, that that be removed and taken somewhere  
21 else; you understand that?

22 A. That's fine.

23 Q. Okay. And I assume, based on the nature of the  
24 judge's questions to me, and I know this Court, there  
25 will be limitations on his electronic communications to

1 be able to have. Are y'all able to comply with that if  
2 he has to wear a leg monitor or not give him access to  
3 a computer, things like that?

4 A. Yeah, it would be easy, because actually in that  
5 guesthouse there is no Internet access. We live in the  
6 mountains.

7 Q. Okay. And any alcohol or drug use in the house?

8 A. Actually, no. My wife is a recovered alcoholic, so  
9 we don't have any alcohol at all or anything.

10 Q. Like you said, you're pretty boring?

11 A. Say what?

12 Q. Like you said, pretty boring.

13 A. Yeah. I live with four kids.

14 Q. I understand.

15 MR. LINDER: I'll pass the witness.

16 THE COURT: Cross-examination?

17 MS. RAKOCZY: Briefly, Your Honor.

18 **CROSS-EXAMINATION**

19 **BY MS. RAKOCZY:**

20 Q. Sir, you said that if Mr. Rhodes were to stay with  
21 your family, he will stay in the guesthouse?

22 A. Yeah, that would be correct with my -- his uncle  
23 and aunt, yeah.

24 Q. Where is the guesthouse in relation to your house?

25 A. It's about 600 feet. It's on the same property.

1 We have about four acres and it's about 600 feet away.

2 It's a three-bedroom, two-bathroom granny house.

3 Q. And the other two people who live in that  
4 guesthouse are Mr. Rhodes' uncle and Mr. Rhodes'  
5 uncle's wife?

6 A. Yeah. And actually, my mother-in-law works  
7 fulltime for a law firm, but my father-in-law doesn't --  
8 he's a writer, and so -- and he's older, so he actually  
9 never leaves. He's always home.

10 MS. RAKOCZY: I have no further questions.  
11 Thank you, Your Honor.

12 **REDIRECT EXAMINATION**

13 **BY MR. LINDER:**

14 Q. And if the Probation needed to talk to them here  
15 with some specifics in a few minutes, could you get  
16 them on the phone?

17 A. Yeah, I mean, this is very spur of the moment,  
18 obviously, Your Honor. But yeah, do whatever we can do.

19 Q. Okay, thank you very much.

20 MR. LINDER: Thank you, Your Honor.

21 **EXAMINATION**

22 **BY THE COURT:**

23 Q. Sir, before you step down, did you have any  
24 knowledge of Mr. Rhodes' involvement in the January 6th  
25 event, other than what you've heard publicly?

1 A. Not until after.

2 Q. Okay. And what did you learn after?

3 A. I mean, pretty much the big stuff, whatever the  
4 news told me or that kinda thing. There wasn't any  
5 contact about that incident in his family. So we  
6 talked, but I didn't know anything about that incident  
7 beforehand. And afterwards, it was quite some time  
8 before there was some communication, and it has been  
9 very little since then.

10 Q. Are you a member of the Oath Keepers?

11 A. No.

12 Q. Is your uncle that lives on the property?

13 A. Most definitely not. Nobody that lives on that  
14 property is an Oath Keeper.

15 Q. All right. Do you understand that if you were to  
16 act as a third party custodian, you would be required  
17 to notify the Court if Mr. Rhodes violated any of the  
18 conditions that the Court set?

19 A. I am now, yes, ma'am.

20 Q. And you think you could do that?

21 A. Yeah, I personally work a lot, and so but I come  
22 home every day. That's part of my job. But I know  
23 that his uncle, my father-in-law, never leaves. And so  
24 I think that, yeah, it would be very easy to have  
25 somebody with him at all times. Is that what you're

1 alluding to?

2 Q. Right, not just be with him at all times, but also  
3 willing to notify the Court if he was in violation of a  
4 condition.

5 A. Yes, ma'am.

6 THE COURT: All right, thank you. You may  
7 step down.

8 All right. We'll stand adjourned. I will  
9 issue an opinion in the next 24 to 48 hours.

10 MS. RAKOCZY: Your Honor, would the Court --  
11 the Government would request that if the Court should  
12 issue a decision to release the defendant, you will let  
13 us know?

14 THE COURT: Yes, I will do that.

15 All right. We'll stand adjourned.

16 **[12:42 p.m. - Proceedings adjourned]**

17 **[3:14 p.m. - Proceedings re-opened]**

18 THE COURT: Good afternoon. We're here on  
19 the record. 4:22-mj-11, United States vs. Elmer  
20 Stewart Rhodes, III.

21 For the record, this morning the Court  
22 held a Detention Hearing. Testimony was presented by  
23 both the Government and the defendant. After the  
24 hearing, Mr. Rhodes', I believe, soon-to-be ex-spouse,  
25 Ms. Tasha Adams, contacted the Court to communicate

1 concerns for her, as well as her children's safety, if  
2 he were to be released.

3 Ms. Adams, I made a request that you be  
4 asked if you'd be willing to provide those statements  
5 on the record. It's my understanding that you said  
6 yes. So I then contacted counsel for the Government  
7 and counsel for defendant so that your statements could  
8 be made on the record with both counsel present.

9 So, typically, we have you testifying in  
10 response to questions. I think we'll start off,  
11 Ms. Adams, if you wouldn't mind, just stating your full  
12 name for the record and spell it. And then I'll just  
13 allow you to speak, to communicate to the Court what  
14 you want to communicate regarding Mr. Rhodes.

15 **TASHA VONN ADAMS RHODES**

16 **OPENING STATEMENT**

17 MS. ADAMS: Okay. My name is Tasha Vonn Adams  
18 Rhodes. T-a-s-h-a V-o-n-n A-d-a-m-s, and then Rhodes,  
19 R-h-o-d-e-s.

20 I was married to Stewart in 1994 and filed  
21 for divorce in February 2018. We are still not legally  
22 divorced. We have six kids together. Just wanted to  
23 just express that he was extraordinarily violent during  
24 our marriage and often used firearms to control us.  
25 Not always necessarily pointing them right at us, but

1 waving them around the room, screaming, yelling,  
2 pointing them at his own head. Even if someone just  
3 wanted to step outside or go to the store, he kept us  
4 very isolated.

5 In addition to that, I still wanted to let  
6 the Court know that his lifestyle was very much about  
7 eventually escaping if he were ever what he called  
8 picked up by the Feds, that he rented backhoes and dug  
9 elaborate escape tunnels in our back yard, had  
10 unregistered cars waiting out in the woods to escape,  
11 purchased hundreds of dollars in razor wire that he  
12 needed to string up around the property and hide in  
13 bushes in case the Feds ever came to his door.

14 And I just think he's a huge danger and a  
15 flight risk.

16 **EXAMINATION**

17 **BY THE COURT:**

18 Q. When you say that he pointed -- he oftentimes used  
19 firearms to threaten and isolate you, are you talking  
20 about you alone or you and your children?

21 A. Mostly me. With the kids, the threat was -- it  
22 was -- it was more physical, just hands-on physical  
23 violence. But he would excuse and say, "Oh, I didn't  
24 mean to do that." But, I mean, sometimes he would  
25 just, if he was angry, he would suddenly want to

1 practice martial arts and, you know, he would punch the  
2 kids or, "Oh, you know, I didn't mean to do that. But  
3 it was always in direct -- directly involved, you know,  
4 if he was really angry or not.

5           But then there were times when he did just  
6 completely lose it. And at one point he just, I don't  
7 know, just choked my daughter and had to be removed by  
8 my son. And these fits became things that used to  
9 happen every so many years when he'd just sort of  
10 mentally break down. It started happening every few  
11 weeks in the last couple of years from like 2016 on.  
12 Just started happening more and more. And it took us  
13 about -- it was really my adult kids saving money and  
14 helping us, helping me and the other kids get out with  
15 an attorney, that we would not have gotten out.

16           And we were actually afraid that though he's  
17 very, very afraid of going to prison, my biggest fear  
18 with him was like a murder-suicide type thing. It's  
19 just he'd just go all out. And the gun waving was  
20 happening more and more until one of the last events.  
21 You know, my kids actually saw a bit of it. And most  
22 of that was done more in private, but he was getting  
23 more and more blatant with it.

24 Q. Did you ever obtain a restraining order or anything  
25 like that against him?



1 A. I'm sorry. I applied for one. It was denied.

2 Q. And when was that?

3 A. That was 2018.

4 Q. Okay.

5 THE COURT: All right, does either counsel  
6 have any questions of Ms. Adams?

7 MR. BRIGHT: Kate, I'll let you go first.

8 MS. RAKOCZY: No questions for the Government,  
9 Your Honor. Thank you.

10 MR. BRIGHT: Your Honor, I have a few  
11 extremely brief questions.

12 THE COURT: Okay.

13 MR. BRIGHT: This is James Lee Bright, by the  
14 way, Your Honor.

15 THE COURT: Go ahead, Mr. Bright.

16 MR. BRIGHT: Thank you, Judge.

17 **CROSS-EXAMINATION**

18 **BY MR. BRIGHT:**

19 Q. Do you prefer to be referred to you now as  
20 Ms. Adams out of respect for you, ma'am?

21 A. Yes, I'm legally Adams now.

22 Q. Okay, I'm happy to do that. My name is James Lee  
23 Bright. I'm one of the co-counsel defense attorneys  
24 your still pending husband, Stewart Rhodes.

25 What would you say that the time frame of

1 these behavioral patterns was, Ms. Adams?

2 A. Well, he had always been controlling and violent,  
3 but it went from it would be a couple times a year to,  
4 you know, drawing his handgun at the bar over his own  
5 head or, you know, waving it around a lot. After Bundy  
6 Ranch, he had a pretty serious mental deterioration  
7 until --

8 Q. Ms. Adams, if I may, can you just keep it within  
9 the scope of the question.

10 A. Okay.

11 Q. What was the time frame?

12 A. When you're saying time frame, do you mean how  
13 often was he --

14 Q. No, ma'am. Like what -- in years, when did the  
15 last time that these events happen?

16 A. Well, we left in 2018, February 2018. So I would  
17 say his last -- I'm going to say it was January of that  
18 year, 2018.

19 Q. 2018?

20 A. Yes.

21 Q. Okay.

22 A. That's the last time we saw him.

23 Q. Did you include this in the divorce proceedings, in  
24 your petition?

25 A. Umm --

1 Q. You didn't, did you?

2 A. I included a lot of it. There's really limited  
3 space. We didn't really get that far in the divorce.  
4 We only got as far as the kids exclusively, not with me.

5 Q. All right. So it's my understanding your family  
6 law attorney has reached out to me as of last week  
7 asking that we help with the settlement of the final  
8 orders. Are you aware of that, ma'am?

9 A. Yes.

10 Q. Okay. You're aware that I returned saying that  
11 that is not an area of law that I practice?

12 A. Okay. Yeah, I don't know.

13 Q. You're aware that the allegations that you're  
14 making were not included in the divorce proceedings, in  
15 the original petition, ma'am; is that correct?

16 A. Honestly, I don't know what was included. We --

17 Q. Okay, these are pretty serious allegations --

18 A. Yes, they are.

19 Q. -- when you make them --

20 A. But they were included in my restraining order  
21 application.

22 Q. They do not.

23 A. Yes.

24 Q. Okay. Now, were any police reports at any given  
25 time filed in these matters?

1 A. No.

2 Q. Okay. So, just to clarify, there's never been any  
3 police reports of -- respectfully, very serious  
4 allegations.

5 A. Yes.

6 Q. And they were also not included in the divorce  
7 proceedings; correct?

8 A. I don't know if I can say they were or not included  
9 in my divorce proceedings because, honestly, we filled  
10 out so much stuff and I've just kinda lost track and it  
11 was four years ago. But I definitely included this  
12 in -- his gun waving was included in the restraining  
13 order and we just never got that far. All I did was  
14 apply. We filed for divorce and then we had one  
15 hearing about the kids only and that's as far as it got.

16 Q. Understood. So you've had no contact with him in  
17 three, four years?

18 A. Yeah, no, only just one line, you know, statements  
19 like I want to talk to the kids. And then I would tell  
20 him the time and he would agree.

21 Q. Not a problem. And so during the period of time  
22 that all those series of actions that you've alleged  
23 today that were occurring, could you detail for me the  
24 adult witnesses that would have been privy to that?

25 A. That was me.

1 Q. So no witnesses?

2 A. No, of course not. This is a domestic violence  
3 incident that occurred in the middle of the woods.

4 This is not the kind of thing that happens publicly.

5 Q. Did you ever have the opportunity to report these  
6 to a good friend or somebody that we could contact to  
7 verify them?

8 A. No, I had no friends.

9 Q. Okay.

10 A. Or really, I was not in contact with any of my  
11 family at that time.

12 Q. Understood. Did you have the opportunity to  
13 memorialize any of this in photographs or anything  
14 else?

15 A. No.

16 MR. BRIGHT: Your Honor, I pass the witness.

17 THE COURT: All right. Any other questions?  
18 Government's counsel?

19 MS. RAKOCZY: Not from the Government. No,  
20 Your Honor, thank you.

21 THE COURT: All right. Ms. Adams, I don't  
22 have any questions for you. Thank you for reaching out  
23 and providing the information. And you are dismissed  
24 at this time, so you can leave the phone call.

25 MS. ADAMS: Okay. Thank you very much for

1 your time.

2 THE COURT: You're welcome. Thank you.

3 MR. BRIGHT: Thank you, Ms. Adams. Have a  
4 good day, ma'am.

5 MS. ADAMS: Thank you.

6 THE COURT: All right. Counsel, before we go,  
7 I wanted to give each of you an opportunity to make any  
8 statements about the testimony that was just provided,  
9 if you would like to.

10 MS. RAKOCZY: Your Honor, this is Kate  
11 Rakoczy --

12 MR. BRIGHT: Your Honor -- yeah, I'll let you  
13 go first, Kate, please.

14 MS. RAKOCZY: That's fine, thank you.

15 ***(Counsel's microphone off during argument)***

16 Your Honor, Kate Rakoczy on behalf of the  
17 United States. I did want to make sure I let the Court  
18 know out of candor and let counsel know that the FBI  
19 interviewed Ms. Adams at her residence, I believe,  
20 early last week or the previous week, shortly after  
21 Mr. Rhodes' arrest. I will provide a copy of that 302  
22 to defense counsel and can provide a copy to the Court  
23 as well, if the Court would like. I say that only just  
24 so the Court is aware of it, that we did interview  
25 Ms. Adams.

1                   We do find the information that she has  
2 to share very concerning with respect to Mr. Rhodes as  
3 dangerous and his stability. The only reason we did  
4 not proffer the evidence at the hearing is that we  
5 learned this information very recently and have not had  
6 the opportunity to corroborate the information,  
7 although I think as the witness points out, it would be  
8 difficult to corroborate, as are many domestic violence  
9 allegations of that nature.

10                   And I don't think that's a reason to  
11 discredit the information. I think the Court has had  
12 an opportunity to hear from her and can choose to  
13 assess her credibility on the basis of having heard  
14 from her and heard her information. So we do think  
15 this is additional evidence of the defendant's  
16 dangerousness that the Court should seriously consider  
17 in making its decision.

18                   THE COURT: All right, thank you.

19                   Mr. Bright.

20                   MR. BRIGHT: At your convenience, Your Honor.

21                   ***(Counsel's microphone off during argument)***

22                   You know, Your Honor, I think it's  
23 difficult, I think, to assess how to address this  
24 properly. I respectfully understand the point that the  
25 Government is making, and if I was them, I would do the

1 same thing.

2                   That being said, we should never, out of  
3 hand, dismiss domestic violence allegations. That's a  
4 given. But we have a situation whereby there is an  
5 exceptionally acrimonious relationship between a to-be  
6 ex-husband and a to-be ex-wife. We have a history  
7 here, according to Ms. Adams, of completely unreported,  
8 completely uncorroborated, completely unrecorded  
9 incidents of what, if true, would indeed be completely  
10 inappropriate conduct on behalf of any given  
11 individual, much less an individual that's a pending  
12 defendant before the District Court.

13                   But the fact that she, by her own  
14 admission, says that the protective order was denied  
15 speaks volumes. I'm not a practitioner of law in the  
16 state of Montana. I don't know what their standards  
17 are. But if we extrapolate the standards in Texas law,  
18 I can tell the Court, and the Court is well aware, as  
19 I'm sure the prosecutors from DC are aware, that the  
20 standard to get one at minimum for what would be in  
21 Texas a 60-day window is incredibly low.

22                   It's merely a probable cause standard.  
23 More likely, would a reasonable person believe on the  
24 facts at hand a crime of criminal activities occurred  
25 and they happened within 60 days prior. That's all you



1 have to establish to get a protective order initially  
2 issued prior to a continuance order.

3           If she was denied in Montana -- and  
4 further, it was never included in the divorce  
5 petitions, which would give any party in family court a  
6 disproportionate share of the estate, and also greater  
7 ability to control the children.

8           I would have to say, Your Honor, that in  
9 reviewing her Twitter account, looking at the [U/I]  
10 that's going on the Internet with her, I don't mean to  
11 disrespect somebody that claims what is otherwise awful  
12 conduct towards a woman, but I have to in this case  
13 look at the motivations behind them.

14           We get back to a question like we  
15 presented in court today. If it's a danger, why did we  
16 wait a year? If he's a danger, why did she wait four  
17 years to bring this up to a court when it's the  
18 opportunity while she's trying to use me to serve final  
19 orders on her husband in jail?

20           I'm sorry, Your Honor, I think this is a  
21 disreputable claim that she's making. The timing reeks  
22 of an attempt to abuse what he's already going through.  
23 And I don't -- I hate saying this with such serious  
24 allegations, but when I wrap all of that together and I  
25 look at the manner in which it can be used and, boom,

1 all of the sudden here we go today after she doesn't  
2 say a word to any human being on earth, including in  
3 her divorce petition for four years. I hate to say it,  
4 but to some extent these allegations should be  
5 dismissed out of hand.

6                   The Court, obviously, this is just  
7 argument on my behalf and the Court will take into  
8 account as they wish the allegations that she's made.  
9 But I think that on behalf of Mr. Linder and I, that's  
10 going to be our formal argument and stance on this  
11 matter.

12                   THE COURT: I know that you had asked her  
13 about the petition. Have you seen a copy of the  
14 petition?

15                   MR. BRIGHT: Your Honor, when her lawyer --  
16 well, she just said that she didn't believe that it was  
17 in it. And so I'm going to take Ms. Adams at her word  
18 when she tells us about her petition and then --

19                   THE COURT: Well, I think she came back around  
20 to saying she couldn't say that, that she didn't know.  
21 So I don't know if you're asking or because you really  
22 don't know, or you're asking her, but you already know  
23 the answer.

24                   MR. BRIGHT: No, Your Honor, I asked that  
25 question of her initially. She said at first she

1 didn't remember. Then she said she doesn't know. And  
2 so I'm going to accept her at face value. And when I  
3 get those kinds of answers from a divorce petition, I'm  
4 going to trust that she didn't have it in there.

5 I've been through a divorce. I remember  
6 damn well everything in my petition. That's not  
7 something people forget. Those situations can be  
8 emotionally scarring. And I find it extremely  
9 difficult to believe that for such significant  
10 allegations you wouldn't even be able to remember  
11 whether it was in your petition or not.

12 I just don't find that credible, Your  
13 Honor. I apologize.

14 THE COURT: All right. Let me ask you this,  
15 Mr. Bright. Do you know -- I know that there's been  
16 about a four-year separation between Ms. Adams and  
17 Mr. Rhodes. It's my recollection from the Pretrial  
18 Services Report that although Mr. Rhodes contributes  
19 money for support of the children, he does not see  
20 them. Is that accurate?

21 MR. BRIGHT: That is my understanding, yes,  
22 Your Honor. I believe that is part of the acrimonious  
23 nature. I have spoken with Mr. Rhodes about this. And  
24 again, I'm not -- none of us are privy to the  
25 interworkings of these two. But it has been relayed to

1 me that kind of in your -- that there has been some  
2 withholding of visitation with the children. I believe  
3 some of that has to do with politics. I think some of  
4 that has to do with, as I understand it, she used to be  
5 a Jehovah's Witness and has converted to -- and I will  
6 plead ignorance as to the exact details of the nature  
7 of what it means to be a Wiccan. But I believe, if I  
8 understand correctly, it's some form of pagan witch  
9 type practice. And obviously, Mr. Rhodes is Messianic  
10 Jewish, Christian tradition. Again, but I plead  
11 ignorance as to the details of what all that means.  
12 But the wedge between these two, to my understanding,  
13 is such that he has not seen his children in years.

14 THE COURT: Okay.

15 MR. BRIGHT: And has been -- by her own words  
16 just now, they don't communicate or have any contact  
17 with each other, which is why I would say I'm a bit  
18 confused why she's so concerned about her safety when  
19 she hadn't seen him in four years.

20 THE COURT: Okay. All right. Well, thank you  
21 both for being available on such short notice for this.  
22 I appreciate it.

23 MS. RAKOCZY: Thank you very much, Your Honor.

24 MR. BRIGHT: Thank you for your time, Your  
25 Honor. Please let us know if you need anything further.

1 THE COURT: Thank you. We'll stand adjourned.`

2 **[3:34 p.m. - Proceedings adjourned]**

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4 C E R T I F I C A T I O N

5

6 I certify that the foregoing is a correct  
7 transcript of the electronic sound recording of the  
8 proceedings in the above-entitled matter.

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11 /s/ Gwen Reed

12 1-28-22

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