

UNITED STATES COURT OF APPEALS FOR THE
DISTRICT OF COLUMBIA CIRCUIT

UNITED STATES OF AMERICA

Appellee,

Appeal No.: 21-3029

v.

TIMOTHY HALE-CUSANELLI,

Appellant

**SUPPLEMENT TO
APPELLANT'S MEMORANDUM OF LAW
AND FACTS**

TABLE OF CONTENTS

Exhibit 1 – March 21, 2021 Transcript.....	1
Exhibit 2 – April 28, 2021 Transcript.....	35
Exhibit 3 – Howell PD Report.....	50

CERTIFICATE OF SERVICE

I certify that on this 27th day of May, 2021, I caused the foregoing to be electronically filed with the court using the CM/ECF system that will electronically serve the following registered users:

Elizabeth Trosman
Chief, Appellate Division
555 4th Street, NW
Washington, DC
Elizabeth.trosman@usdoj.gov

_____/s/_____
Jonathan Zucker

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA, :
 :
 : Docket No. CR 21-37
 :
 vs. : Washington, D.C.
 : Tuesday, March 23, 2021
 TIMOTHY LOUIS HALE-CUSANELLI, : 11:00 a.m.
 :
 Defendant. :
 -----x

TRANSCRIPT OF ARRAIGNMENT/BOND REVIEW VIA ZOOM
BEFORE THE HONORABLE TREVOR N. MCFADDEN
UNITED STATES DISTRICT JUDGE

APPEARANCES:

For the Government: JAMES B. NELSON, Esquire
Assistant United States Attorney
555 Fourth Street, NW
Washington, DC 20530

For the Defendant: JONATHAN S. ZUCKER, Esquire
Law Office of Jonathan Zucker
37 Florida Avenue, NE
Suite 200
Washington, DC 20002

Court Reporter: CRYSTAL M. PILGRIM, RPR, FCRR, RMR
Official Court Reporter
United States District Court
District of Columbia
333 Constitution Avenue, NW
Washington, DC 20001

1 P-R-O-C-E-E-D-I-N-G-S

2 THE DEPUTY CLERK: Your Honor, this is criminal case
3 21-37 United States of America versus Timothy Louis
4 Hale-Cusanelli. Counsel please introduce yourselves for the
5 record, starting with the government.

6 MR. NELSON: Good morning, Your Honor, Jim Nelson for
7 the United States.

8 THE COURT: Good morning, Mr. Nelson.

9 MR. ZUCKER: Good morning, Judge. John Zucker on
10 behalf of Mr. Hale-Cusanelli.

11 THE COURT: Good morning, Mr. Zucker, and good
12 morning Mr. Hale-Cusanelli.

13 Mr. Zucker, have you had an opportunity to talk with your
14 client about proceeding virtually rather than in person for
15 this hearing?

16 MR. ZUCKER: Not specifically about this proceeding,
17 but in general that the courts are closed and that the only
18 option is to proceed by Zoom. I believe he does not object.
19 We simply cannot conduct these hearings -- we can't transport
20 him to conduct these COVID hearings.

21 Mr. Hale-Cusanelli, you understand that -- well, we're
22 asking you if you agree to proceed by Zoom because there
23 frankly is no alternative to address this in terms of
24 logistics?

25 THE DEFENDANT: That's understood and agreed.

1 THE COURT: Okay, I do think it's appropriate to
2 proceed this way in light of the authorization in the CARES Act
3 and the danger and difficulty were Mr. Hale-Cusanelli and
4 others to proceed in-person.

5 I understand, sir, you've actually had COVID recently
6 while in jail and I'm sorry to hear that. Are you doing
7 better, sir?

8 THE DEFENDANT: Yes, Your Honor, I'm recovered. I
9 appreciate that.

10 THE COURT: I believe we need to arraign the
11 defendant, Mr. Hale-Cusanelli. The Clerk of the Court will
12 arraign you now. The language will be directed to you, but
13 typically your attorney responds on your behalf.

14 THE DEPUTY CLERK: Mr. Timothy Hale-Cusanelli, in
15 criminal case 21-37 in which you are charged by an indictment
16 on: Count One, civil disorder and aiding and abetting. Count
17 Two, obstruction of an official proceeding and aiding and
18 abetting. Count Three, entering and remaining in a restricted
19 building or grounds. Count Four, disorderly and disruptive
20 conduct in a restricted building or grounds. Count Five,
21 impeding ingress and egress in a restricted building or
22 grounds. Count Six, disorderly conduct in a Capitol building.
23 Count Seven, parading, demonstrating or picketing in a Capitol
24 building.

25 Do you waive the formal reading of the indictment and how

1 do you wish to plead?

2 MR. ZUCKER: On behalf of Mr. Hale-Cusanelli, I'll
3 waive formal reading of the indictment, plead not guilty to all
4 counts; assert all constitutional rights, including rights to
5 speedy trial, although acknowledge note of the Standing Order
6 due to the COVID pandemic; and assert all other constitutional
7 rights including production of Brady material.

8 THE COURT: Thank you, Mr. Zucker.

9 Under the Due Process Protections Act, I'm required to
10 order that the government counsel review their disclosure
11 obligations under Brady v. Maryland and it's progeny as set
12 forth in Local Criminal Rule 5.1 and comply with those
13 provisions.

14 The failure to comply can result in dismissal of the
15 indictment or information, dismissal of individual charges,
16 exclusion of government evidence or witnesses, continuances,
17 bar discipline or any other remedy that is just under the
18 circumstances. I'll also be entering a minute order to that
19 effect.

20 There's a motion for bond review. The magistrate judge
21 originally ordered the defendant to be released. The
22 government has appealed that ruling to me. It's the
23 government's burden. Mr. Nelson, I'll hear from you.

24 MR. NELSON: Thank you, Your Honor.

25 I assume that obviously there have been a number of

1 pleadings in this matter. I'll try hard not to repeat those
2 unless the Court has a specific question as to one of the
3 factors.

4 I would note that I think it's telling that between the
5 defendant's motion for release and his reply brief, there's
6 something of a theme, if you will. The first is to make
7 statements which really aren't supported by the facts, and then
8 when the government responds with those facts to sort of
9 retreat, ignore those statements and try to find a new hole in
10 the government's argument.

11 A good example of that actually is the letter filed in
12 support from Jonathan Goetz which was incomplete and
13 misleading. We gave notice of that fact to defense counsel.
14 And defense counsel nevertheless proffered it as proof that
15 defendant was not a white supremacist.

16 The defense is now admitting, basically, that not
17 everything was true in that letter; that some of the things he
18 said to NCIS weren't included. But there's really no
19 acknowledgment of the fact that this was proffered; that it's
20 not true; or the fact that, you know, frankly, Jonathan Goetz
21 is now on administrative leave for making one statement to NCIS
22 and making another statement to this Court, and for thinking
23 that, you know, somehow he wasn't responsible to tell the whole
24 truth to Your Honor.

25 And frankly, I think that that's a pretty good metaphor

1 for the defense argument in favor of release. Now I understand
2 it's our burden. I think we've met that burden. But here
3 again, the defendant contends that the government falsely
4 accused him of being a white supremacist and a Nazi supporter.
5 He's got a phone full with pictures of himself with a Hitler
6 mustache and a panoply of racist and anti-Semitic content.
7 Much of it has violent undertones. We submitted a small
8 sampling of that to Your Honor. And 34 of his 44 co-workers,
9 75% or a little more, said look, this is somebody who was
10 always like this. Even in uniform. Even on a naval base.

11 And the defendant tries to shrug that off and say it's
12 just jokes or just words, but Hitler should have finished the
13 job is not a joke. Jews, women and Blacks are at the bottom of
14 the totem pole is not a joke. Referring to people as shit-skin
15 minorities is not a joke.

16 Saying that if the defendant had been alive during World
17 War II, he'd kill all the Jews and eat them for breakfast,
18 lunch and dinner and wouldn't need to season them because the
19 salt from their tears would make it flavorful enough, is not a
20 joke. It's not a joke by anyone's definition and they're not
21 just words.

22 In fact, those reports the defendant was unstable or
23 viewed as unstable, viewed as crazy, and people were too afraid
24 to report him, go directly to the defendant's dangerousness.

25 The subsequent notice oh, well, I have a Black roommate

1 and, therefore, I can't be a racist -- the defendant lives on a
2 naval base. He doesn't choose who he lives with. And the fact
3 that the defendant is now saying, oh, well, I served in the
4 Army Reserve for 11 years so that should tip the scale as to my
5 history and characteristics in the Bail Reform Act factors --
6 I think it's important to remember, Your Honor, that the Army
7 has identified seven core values that are the foundation of
8 Army service. Their loyalty, duty, respect, selfless service,
9 honor, integrity and personal courage. Those seven core values
10 were nowhere to be found on January 6th. They're nowhere to be
11 found when the defendant is screaming at police officers and
12 shouting obscenities and flipping the bird. They're nowhere to
13 be found when the defendant is storming the Capitol through a
14 door that a rioter kicked open just a few minutes before, and
15 then dramatically stomping on the floor and kicking the walls.
16 There's no duty there. There's no honor there. There's
17 certainly no loyalty there.

18 And so the idea that this is somehow, this Army core
19 values is who the defendant is, I would submit that that was
20 just a mask he was wearing. That's just the job he had.

21 If he's not going to live up to those ideas at the moment
22 when his country needs him the most, then he's certainly got no
23 business using them to put a finger on the sail of the Bail
24 Reform Act factors here. Because what the defendant said about
25 that incident was that there was no way to describe the

1 adrenaline rush and purpose that he felt other than a civil
2 war. Something he said he wanted to participate in. Something
3 he said that good old boys from the south and the midwest were
4 going to prevail in. I would submit to Your Honor that it's
5 pretty clear what the defendant is saying there.

6 And that this was the best shot to obtain a clean bill of
7 health as a society. These are not just words. This is an
8 ideology. This is a belief the defendant has and it makes him a
9 threat. And this is a civil war that the defendant discussed
10 with C.H. his proposed third-party custodian via text message
11 as early as February 1st of 2020.

12 THE COURT: Mr. Nelson, what I'm struggling with
13 though is agreeing with you about the odiousness of everything
14 that he said that this does not appear to have translated into
15 actions prior to January 6th. And on January 6th he comes in a
16 suit, not in fatigues. Now according to your characterization
17 of what he's done, he's certainly by no means the most
18 dangerous or culpable person that I'm looking at and I'm sure
19 your office is looking at on January 6th.

20 So I guess I am struggling with this idea of someone who--
21 this someone who is just a lot of talk or is this someone who's
22 actually a danger to the community such that I need to detain
23 him pending trial.

24 MR. NELSON: Well, that's a fair point, Your Honor.
25 I think that merely looking at his conduct in terms of whether

1 or not he actually assaulted anyone on the 6th is one thing
2 that the Court can consider to determine he's dangerous, but
3 certainly not the only one. And the fact that the defendant
4 has put this, you know, ideology of his into action in the
5 past. Granted 2010 is a long time ago, but to be driving
6 around with a potato gun with white is right written on it,
7 while carrying a bush dagger, is relevant to this analysis.

8 THE COURT: What happened with that arrest, sir?

9 MR. NELSON: I believe he was convicted of a lesser
10 offense. I know he had a bush dagger in his possession and I
11 believe it was papered down to a local charge. Paper down
12 being a Superior Court charge. But he was given a plea
13 agreement.

14 I know that, for example -- and defense counsel mentioned
15 this in his pleading as well -- he was arrested in 2011 for
16 stabbing his mother's boyfriend during a domestic incident.
17 Again no charges were filed, but certainly telling. And I'll
18 concede, Your Honor, that I only just shared this with defense
19 counsel. I had been hoping to get verification from Pretrial
20 Services of some police reports that were filed and whether or
21 not they resulted in charges.

22 There were some complaints made against defendant in
23 February, March of last year. All I've been able to find --
24 and I can either submit them to the Court or however the Court
25 would like to handle it. I was able to get copies, photographs

1 of police report narratives filed in February, March of 2020
2 where people reported the defendant for harassment.

3 These were both Jewish individuals who said that the
4 defendant posted their name and address online. Suggested that
5 he wasn't scared of people knowing his face; that it would be
6 easy to swing by their address and talk to them about their
7 differences. Again, Your Honor, I don't have full information,
8 but the fact that those police reports were filed indicate, and
9 I think all of this shows frankly, a steady escalation in the
10 defendant's behavior.

11 THE COURT: Mr. Nelson, I don't think I actually have
12 a Pretrial Services report here. Have you access to the
13 defendant's criminal history?

14 MR. NELSON: So I don't have a up-to-date NCIC. I
15 only have, frankly, I have the reports from the incident that
16 the defendant mentioned with the stabbing. And I have a police
17 report from the 2010 incident which I've shared with defense
18 counsel. I haven't gotten a full Pretrial Services report
19 either, Your Honor.

20 THE COURT: So when you say the potato gun incident
21 was papered down. What was the defendant convicted of there?

22 MR. NELSON: Your Honor, I don't have the exact
23 charge. I only have what was represented to me by law
24 enforcement which was that it was a municipal offense, and it
25 was not a weapons charge. So I'm interpreting that as a

1 papering down of the knife charge, but I am relying on hearsay,
2 candidly, Your Honor.

3 THE COURT: Okay. So another difficulty I'm having
4 here is I think this may be the first time that I've had a
5 motion filed under the obstruction justification for release.
6 But what I hear you talking about is dangerousness and not
7 really concern about the defendant obstructing justice here.
8 And indeed it seems to be a little difficult for him to do that
9 at this point given the obviously, incredibly thorough
10 investigation that you've carried out and reams of evidence
11 already in the record as to what happened on January 6th.

12 MR. NELSON: Well, I think that they're related, Your
13 Honor. Obviously the (f)(2)(a) is the basis; we still have to
14 argue the factors since there's no presumption. But I think
15 the defendant -- the fact that the defendant deleted all of his
16 social media and this based hermes show is certainly indicative
17 of an obstructive intent and frankly obstructive conduct. This
18 case does rest, as the defendant now knows because it's
19 charged, on a confidential human source. It would -- the fact
20 that the defendant is someone who has these beliefs is not in
21 and of itself certainly grounds for detention, no matter how
22 odious they may be as the Court properly said. But the fact
23 that with those beliefs, there's been an escalation in conduct
24 and now a statement of expression of a desire to participate in
25 a civil war at a time when we're having concerns about things

1 like that in this country, at a time when the defendant has
2 really -- like he can't go back to the naval base because he's
3 been barred. He's on the verge of being separated from the
4 army. And his third-party custodians which he proffers -- one
5 of which has stated a belief that the New Jersey governor
6 should be beaten to death and was arrested with the defendant.

7 The other one has openly joked about racism and white
8 supremacy with the defendant. I don't think that either of
9 these people are going to stop the defendant from doing what he
10 might otherwise be inclined to do in violation of the Court's
11 orders.

12 So I think that Your Honor is right. I was discussing
13 dangerousness, but I think that this is all tied in with the
14 fact that the defendant is -- it is not clear that there's
15 going to be anything to keep the defendant from violating
16 pretrial conditions if the Court finds them. And we submit
17 that frankly the concern about obstruction and the concern
18 about violence indicate that release conditions would be
19 inappropriate.

20 THE COURT: Are you saying that you have concerns
21 about the safety of the confidential source?

22 MR. NELSON: Yes.

23 THE COURT: Okay. Anything else Mr. Nelson?

24 MR. NELSON: No, Your Honor, thank you.

25 THE COURT: All right, Mr. Zucker.

1 MR. ZUCKER: Judge, I also don't want to repeat
2 everything that's been in the pleadings. They've been long and
3 frankly very thorough. But I think the Court's questioning
4 indicates that the Court hits the nail right on the head.
5 Pretrial detention is to be reserved under the statute. It's
6 only for those people whose release poses an imminent threat of
7 danger or failure to appear. The government is not really
8 arguing failure to appear.

9 So the question is, is there an imminent threat of danger?
10 Are there no series of conditions of release that we could
11 impose that would comfortably assure the Court that the
12 defendant will not be a danger. And by being a danger, I mean
13 harming other people.

14 With all due respect to Mr. Nelson, that's where the
15 government's pleadings fall short. Because you have a guy who
16 is 31 years old and never been accused of assaulting anybody in
17 his life. Never committed an act of violence in connection
18 with this offense. And never done anything subsequent to this
19 offense.

20 To go back over the history a little bit; Mr. Nelson makes
21 reference to the defendant being arrested with a potato gun and
22 what happened with that case. Factually that occurred -- I
23 think he was 19 or 20 years old when that occurred, and he was
24 with somebody else who had something called a potato gun, which
25 I've never heard of before. But apparently it's something --

1 some kind of pneumatic device.

2 I've handled well over a 100 homicides in my career and
3 none of them involved a potato gun. I've never had an AWIK
4 with a potato gun. It shoots a potato. Wherein this case, he
5 was accused of shooting frozen pieces of corn. But it wasn't
6 even in the possession of this man. It was in the possession
7 of the co-defendant. My understanding which is also based on
8 hearsay like Mr. Nelsons, is that he pled to a disorderly
9 conduct and the whole case was done away with that.

10 Yes, he may have had a knife on him when he was 19 or 20
11 years old, but there's no allegation that he ever used it on
12 anybody or ever tried to stab anybody in his entire life.

13 The other incident that we disclosed for the Court was he
14 was arrested one time. And we disclosed it in the context of
15 saying he's not a risk of flight. I spoke with his lawyer in
16 New Jersey. He did have a charge pending and he made all of
17 his appearances in that case. So he made his appearances
18 there. There's no reason to believe he won't make his
19 appearances here. In that case, yes he stabbed his mother's
20 then boyfriend. And the charge -- the case was not indicted by
21 the grand jury. According to the lawyer, the evidence was that
22 the boyfriend was drunk and beating up the mother, and severely
23 had injured her, and he came to his mother's defense. And that
24 because there was a defense of mother's charge -- I'm sorry.
25 Such clear evidence of defense of another, I don't if the case

1 was dismissed by the prosecution without -- well, it definitely
2 was dismissed without an indictment. I don't know if it was
3 because the grand jurors voted against it or the prosecution
4 chose to dismiss it.

5 But all of that is a long way around of saying there's no
6 allegation in this man's history that he's ever done anything
7 violent to injure another person that warrants his detention.
8 That's who detention is designed for. It not only doesn't fit
9 this man's profile and it's unwarranted here.

10 I certainly on a personal level may share Mr. Nelson's
11 concern about anti-Semitic and racist comments. We don't
12 support them. We don't endorse them obviously. To the extent
13 Mr. Hale-Cusanelli may have made them, you know, that's
14 certainly nothing to be held -- to hold him in great esteem.
15 And we might feel repugnant. We might feel they're
16 reprehensible, but frankly if he did make them, they are. But
17 we don't detain people because they have beliefs that we
18 disagree with. We don't detain people because we have beliefs
19 that we consider repugnant. We detain them based on
20 dangerousness. And he simply doesn't present a danger to the
21 community as is implicit in the Court's questioning. He hasn't
22 hurt anybody. He didn't hurt anybody on January 6th. The
23 government has hundreds of hours of tape from January 6th and
24 they've gone through them thoroughly. And they've shown us
25 what they have of Mr. Hale-Cusanelli on January 6th and there's

1 no indication he ever tried to strike anybody. No indication
2 that he ever planned or conspired with anybody else to strike
3 anybody.

4 The Court through it's questioning has obviously -- has
5 read the pleadings. And I'm assuming one we filed last night.
6 I regret that it was so late.

7 THE COURT: Yes, I have, thank you.

8 MR. ZUCKER: But other people came to this
9 demonstration in combat gear. He went out and bought a suit
10 and tie and came that way. He wasn't coming here for violence.
11 He didn't commit violence and he left without any violence. He
12 simply is not a dangerous person by his actions and he deserves
13 the benefit of being released pending trial. If he is
14 convicted of these offenses, obviously there's going to be
15 punishment to be paid. But we don't preventively detain people
16 because they have beliefs that we find repugnant.

17 And regarding the statements about Mr. Goetz, I'm frankly
18 surprised. I didn't know he was put on administrative leave.
19 I think it's probably unwarranted. But there really is not
20 much of an inconsistency between those statements. The
21 government is trying to paint it like Goetz was -- Goetz, the
22 Court is aware from the pleadings, was his supervising --
23 Sergeant Goetz is his supervisor on the security force at the
24 naval base. Goetz in his letter to the Court said that he does
25 not consider Mr. Hale-Cusanelli dangerous. And he's never seen

1 him be violent. We stand by that.

2 Yes, did he omit that he was a white supremacist? Well, for
3 purposes of bond we didn't ask him that question. Or I didn't
4 ask him any questions. Whoever prepared the letter, he didn't
5 think that was particularly relevant because the issues before
6 the Court is dangerousness and violence and he addressed those
7 issues and he has not recanted, and his statement is not
8 inconsistent in that regards no matter what the government
9 said.

10 I note that by way of -- if there's anybody, if there's
11 any situation in which we expect somebody who has violent
12 proclivities to act, it would have been during January 6th.
13 There was violence abundant. You've seen the tapes as we all
14 have. There were fights between police and demonstrators and
15 Mr. Cusanelli was right in the middle of that and didn't strike
16 anyone. The government would have let us know if they had.

17 They've interviewed 44 people, 34 of whom have said he's a
18 white supremacist or made comments like that. They certainly
19 weren't people who were holding their tongues to protect him.
20 And apparently, not once in those 44 people did anybody make an
21 allegation that he was ever violent or aggressive or attacked
22 anyone.

23 He spent 11 years in military reserves. There hasn't been
24 a single instance where he's been accused of acting
25 inappropriately or violently or attacking anyone. He spent the

1 last I forget how many years as a security officer. He wears a
2 gun every day at work that he's issued at work. There's never
3 been an allegation that he's ever acted improperly with any of
4 that.

5 THE COURT: Mr. Zucker, what do I do with the
6 suggestions that people were afraid to turn him in?

7 MR. ZUCKER: Well, I would credit those, but being
8 afraid to turn somebody in, to make allegations about him being
9 an anti-Semitic or a racist is because you don't want to have
10 to deal with the reaction. It doesn't mean -- because you're
11 afraid to call somebody out as being a racist, doesn't mean
12 that you're physically afraid of them.

13 It could be that you just don't want to deal with the
14 reaction of making what would be a comment that would hold them
15 up to great ridicule. I would, frankly, be very offended if
16 somebody accused me of being a racist or being an anti-Semitic.
17 And I probably would react in an aggressive hostile way, but I
18 wouldn't be violent. And they wouldn't want to have to deal
19 with that reaction.

20 I think that the fact that co-workers don't want to have
21 to deal with that kind of emotional reaction is perfectly
22 understandable, but that doesn't mean that they were saying
23 he's physically violent. That doesn't mean I'm fearful for my
24 physical safety. That's not what they -- we don't know exactly
25 what they said. They said they didn't want to deal with the

1 consequences. They were afraid of reporting him because they
2 considered him unstable. It's understandable that somebody who
3 expresses those kinds of beliefs is likely unstable. But that
4 doesn't mean that they're violent.

5 I mean he's had 31 years on the planet and he's never been
6 accused of committing a violent offense against anybody except
7 for the one we talked about where either the grand jurors, the
8 prosecutors, found it was self-defense or defense of another
9 and warranted.

10 So given what he's been through and given the situations
11 as a security officer, as a military person, all of the
12 situations he's been in, the fact that he's never reacted
13 inappropriately, violently, aggressively or hurt anybody
14 balanced against the fact that he has or has expressed beliefs
15 that are morally repugnant, we still have to give him what the
16 law requires us to give him, which is the benefit of doubt that
17 he's not violent, he hasn't committed a crime and it's
18 improbable he will commit a violent offense if he's released
19 because he's never done it in the past.

20 I think that's basically it. Is there anything else the
21 Court wants me to respond to? Wait, I'm sorry, one other
22 thing.

23 THE COURT: Yes, sir.

24 MR. ZUCKER: Yes, he was in military housing. Well,
25 it was on a naval base, so I'm not sure it was military

1 housing. He can't return there. But he does have resources
2 and Ms. Wright has said she's in a position to pay two or three
3 months, rent on an apartment for him. He does have a job. If
4 he can't return to HBC, he does have a job.

5 I'm hearing different things about the military. I've
6 heard that although there's something pending as a reservist,
7 his superior officer still wants him to drill and to train with
8 them. So I don't think he's been formally discharged.
9 Although I expect that's a likely outcome of this.

10 So, anyway, he does have a way to support himself. And
11 he is viable. Of course, we're not opposed to the equivalent
12 of his being monitored by the local courts. If he does
13 anything in violation of any curfew or if he's anywhere where a
14 crime is committed, the Court will have that. As the rule is
15 with anybody with HISP.

16 THE COURT: Mr. Zucker, you probably know every judge
17 is afraid of releasing somebody who then goes and does
18 something crazy. There's a lot in here that makes me worried
19 about that.

20 MR. ZUCKER: I understand the concern. And I know
21 the last thing you want is for somebody who has been released
22 to go out there and commit some kind of heinous act. But those
23 are the chances we take unless it's an unwarranted risk. I
24 mean a past is pro-log here. He's never done anything like
25 that in the past. He certainly has an opportunity. He has a

1 gun in his hand five days a week and he's never abused that
2 power. So why in the world would we think he would do it now
3 when nothing has changed. If anything, I expect, and this is
4 not just for Mr. Hale-Cusanelli, but what I'm seeing generally
5 with people charged in this case, they've become very
6 disillusioned with what the consequences of their having acted.
7 Basically feeling like they've been duped into the activities
8 on January 6th. I don't think we want to get into a whole
9 political argument about that; whether or not they were duped
10 by the President. But there certainly is a disassociation by
11 him and others generally with this whole stop the steal
12 movement. So if anything, I think that it's less probable now
13 than it would have been on January 6th.

14 But even on January 6 in the heat of battle, this man
15 didn't lose his head. He didn't hit anybody. He didn't strike
16 anybody. I understand the Court's concern. But the law
17 creates a presumption in favor of release with reasonable
18 conditions. And there's no reason to believe that this man is
19 deserving of preventive detention.

20 THE COURT: All right. Mr. Nelson, you get the last
21 word.

22 MR. NELSON: Thank you, Your Honor. I will be brief.
23 I've known Mr. Zucker for awhile and he's obviously a very
24 good lawyer. And he's doing a good job for his client. But we
25 have a number of these defendants, and I'm not standing before

1 Your Honor or any other judge in our court asking you to hold
2 them. The fact is that this is a man who proudly walked around
3 with a Hitler mustache, espousing Nazi ideology. Who ignored
4 every oath he took on behalf of the United States Army, stormed
5 the Capitol, then went home and talked about how excited he was
6 by it and how he wanted to participate in a civil war.

7 I just don't agree with Mr. Zucker how ever much I may
8 respect him that we have to wait for him to take an affirmative
9 act in furtherance of that desire before we can say that he's
10 dangerous. I think that everything in the defendant's phone,
11 everything in the defendant's demeanor, everything in the way
12 that he carried himself, suggests that his ideology has
13 escalated. His acting on that ideology has escalated. And
14 that if released to the community now, having lost -- he may
15 have access to a new job; he may have access to a new house;
16 but he's lost everything he's worked for in the first 30 years
17 of his life. To suggest that he is not going to be inclined to
18 take any further action on those beliefs or that ideology, I
19 think is naive.

20 I think that he does -- the Bail Reform Act factors do
21 weigh in favor of detention. They may not weigh
22 overwhelmingly, but they do weigh in favor of detention, Your
23 Honor, and I think that is appropriate.

24 MR. ZUCKER: Judge, can I respond to one point?

25 THE COURT: Sure.

1 MR. ZUCKER: I should have said this earlier. In
2 relation to the confidential human source, we have no objection
3 to a protective order. We're pretty sure we know who it is or
4 Mr. Hale-Cusanelli is pretty sure he knows who it is. It's
5 somebody he's been friends with. I guess I probably -- it's
6 somebody he's known for a long time and they have a very close
7 relationship. And there's no problem staying away. And we'll
8 abide by a protective order. That person is, if it's who we're
9 pretty sure it is, it's a colleague from the military who is
10 certainly capable of calling the authorities if
11 Mr. Hale-Cusanelli ever presents anything in the way of a
12 threat. But there's no reason to believe he would have any --
13 he would attack this person.

14 THE COURT: All right.

15 MR. ZUCKER: And we can protect him with a protective
16 order.

17 THE COURT: Before the Court is the defendant's
18 motion for modification of bond to place the defendant on
19 conditional release pending trial.

20 As I said, the magistrate judge initially ordered the
21 defendant to be released. The Chief Judge at the defendant's
22 (sic) request, stayed that release pending my review. I'm
23 doing that review now under the statute, a de novo review.

24 This comes on the government's motion to detain the
25 defendant pending trial under 18 U.S.C. 3142(f)(2). There is

1 no rebuttable presumption in this case suggesting that
2 detention would apply, in fact, as the defense points out.
3 There is a general legal presumption against detention pending
4 trial for anybody.

5 The government must show by clear and convincing evidence
6 that no condition or combination of conditions of release will
7 reasonably assure the safety of any other person and the
8 community. The government has sought detention under the legal
9 basis of 3142, I believe it's (f)(2)(B), that the defendant
10 shows a serious risk; that such person will obstruct or attempt
11 to obstruct justice or threaten, injure or intimidate or
12 attempt to threaten, injure or intimidate a prospective witness
13 or a juror.

14 Under the Bail Reform Act, I need to consider four
15 factors. One, the nature and circumstances of the offense.
16 Two, the weight of the evidence. Three, the defendant's
17 history and characteristics. And four, the danger to the
18 community.

19 First, looking at the nature and circumstances of the
20 offense. I'm not going to reiterate everything that the
21 government has said about what happened on January 6th that I
22 don't really understand the defense to be disagreeing with at
23 least for purposes of today's hearing. Obviously, the January
24 6th riot was a serious and sui generis threat to our country's
25 body politic.

1 The defendant, according to the government's evidence,
2 participated, was there, entered the Capitol Building via some
3 scaffolding. He also, according to the government, admits to
4 using hand signals and directing people into the Capitol
5 Building.

6 In my mind, this factor weighs in favor of release for the
7 defendant, but just slightly. I think the defendant -- there's
8 no evidence that the defendant committed any violence or
9 obstruction of property while he was there. He also, as the
10 defense points out, apparently wore a suit there. Certainly
11 not suggesting that he was coming armed for battle, but more
12 for a rally or a protest.

13 Nonetheless, I am concerned by his admissions that he
14 urged people to advance. This certainly -- it sounds like
15 regardless of his intentions going to the Capitol on January
16 6th, by the time he got there he took it upon himself to
17 encourage others to essentially storm the Capitol Building and
18 enter it despite police presence, tear gas, fences and what
19 have you.

20 The second factor is the weight of the evidence. I think
21 that factor does weigh for detention in this case. I think
22 that the weight of the evidence, as far as I can tell, appears
23 to be overwhelming; that the defendant did what the government
24 says that he did on January 6th.

25 The third factor is the defendant's history and

1 characteristics. This is the most difficult prong in this
2 case, as far as I'm concerned. As the defense has indicated,
3 he has no criminal history. It sounds like possibly he has a
4 disorderly conduct conviction, but certainly nothing like the
5 criminal history of most defendants that I detain in this
6 courthouse. He was employed. He was a military veteran with a
7 secrecy clearance. And while I understand the government's
8 concern about the defendant's apparent violation of his oaths
9 and obligations as a member of the military, I think
10 nonetheless it appears that he had various positions of trust
11 with the government for some years and, therefore, is again
12 somebody who is very unlike most defendants that I see being
13 detained. That all speaks in his favor.

14 However, I'm very concerned about the well-documented
15 history of racist and violent language here. I'm not going to
16 repeat everything that is in the government's submissions and
17 that the prosecutor has pointed to, but I think there is
18 substantial evidence here that for a number of years the
19 defendant has apparently had kind of a neo-Nazi racist ideology
20 that has led him to use racist language, sexist language, and
21 has been generally engaged in hateful conduct, if not
22 necessarily violent conduct toward a number of people with whom
23 he's had contact.

24 The government has, as I said, done a pretty extensive
25 investigation, interviewing 44 of his co-workers. And a number

1 of them were aware of his racist language and certainly the
2 language here goes beyond just being racist, but suggesting
3 violence towards people who are not like Mr. Hale-Cusanelli.
4 The language is repugnant and very concerning.

5 Having said all of that, we don't typically penalize
6 people for what they say or think. I think for purposes of my
7 analysis, I need to -- I'm trying to figure out whether this
8 well-documented history of violent and racist language does
9 suggest that the defendant poses a danger to the community.

10 I also do take note of this arrest where the defendant was
11 arrested with a potato gun with white is right emblazoned on it
12 and found to have a bush dagger in his possession at the time
13 of his arrest. Apparently, he was not convicted of a weapons
14 offense, just a lesser misdemeanor. However, and I also note
15 this was apparently when he was a teenager, but this is
16 concerning given it is suggestive. A, that this kind of
17 neo-Nazi beliefs -- he's harbored these for a number of years,
18 but it is some evidence of the defendant actually acting out on
19 this, that this is not just language but actually action.

20 I appreciate the defense bringing to my attention the
21 domestic violence case. I don't believe that case, which was
22 ultimately dismissed, would justify detention in any way.

23 The fourth factor is the defendant's danger to the
24 community. I do believe this weighs in favor of detention. I
25 am concerned about all of the violent language that I

1 previously mentioned.

2 I am very concerned about the statements the prosecutor
3 pointed to after January 6th suggesting that the defendant is
4 looking forward to a civil war. I am very concerned about his
5 statement to the confidential source suggesting that the tree
6 of liberty needs to be watered with the blood of patriots from
7 time to time; that of course was a quote from Thomas Jefferson.
8 But for the Bail Reform Act analysis, it is highly troubling.

9 I also note the government's evidence that the defendant
10 appears to have surrounded himself, to a certain extent anyway,
11 with people who have encouraged this behavior and people who
12 may even agree with him. And I agree with the government's
13 concern regarding potential escalation of violence at this
14 point given all that has occurred. And I am concerned for the
15 safety of the confidential human source. I think given all of
16 the facts here in the government's motion, I mention it is
17 pretty obvious to the defendant anyway who this person is. And
18 I am concerned given all of the defendants -- all of the things
19 he said in the past about committing violence against those who
20 he feels are pitted against him. And given the sum evidence
21 that the defendant has been willing to put these thoughts into
22 action in the past, I think I do have a duty to protect that
23 confidential source.

24 I think this is a close case in terms of the government
25 meeting its burden under the Bail Reform Act, but I do believe

1 that ultimately the government has met the factors laid out in
2 the Bail Reform Act and, therefore, I will hold the defendant
3 pending trial, finding that no condition or combinations of
4 conditions will assure the safety of the community if I release
5 the defendant pending trial.

6 For all of those reasons, I'll deny the defendant's motion
7 to modify conditions of release and overrule the magistrate
8 judge's order of release pending trial.

9 Mr. Nelson, where do things stand in terms of discovery
10 and the next steps here?

11 MR. NELSON: Yes, Your Honor. We've been able to
12 turn over some discovery to defense counsel that has consisted
13 of sort of a small portion of the defendant's cell phone
14 extraction. It's just been too large to provide the defendant
15 through USAfx. There are obviously a number of videos we have
16 to disclose. We put still shots in our pleadings, but the
17 videos themselves have to be disclosed, and they are also quite
18 large and subject to a protective order. So I need to talk to
19 Mr. Zucker about how to best go about that.

20 I do think that some time is warranted to make that
21 happen. I would defer to Mr. Zucker as to time and also to the
22 Court. I don't want to give the suggestion that I'm trying to
23 drag this out. Given that the defendant is detained, we want
24 to proceed apace. But I think that 60 days should give us
25 plenty of time to get the discovery over, make a plea offer,

1 and give the defense time to review that with his client. But
2 if Mr. Zucker wants a shorter period of time before our next
3 meeting, I won't object to that.

4 MR. ZUCKER: I would, Judge. Regarding discovery,
5 this is an ongoing problem. I'm on my way to your office in
6 another case. I've dropped off a hard drive. We can do the
7 same thing; you can download it onto that.

8 What my recommendation would be is that we put it out for
9 30 days, recognizing that it's a high probability you might get
10 a consent motion from both of us to continue it for another 15
11 to 30 days. Because I think it's improbable we could get
12 everything done in those 30 days. Nonetheless, I don't want
13 Mr. Hale-Cusanelli lingering. If we make some progress in 30
14 days great, if not, we'll probably do a consent motion to
15 continue for another 15 to 30, so that's agreeable.

16 THE COURT: I'm fine with that. I'll just say as the
17 attorneys may know in general, I'm very interested in moving
18 all of my cases along and certainly criminal detained cases I
19 think we should all be making an effort to reach a quick
20 resolution on them whether by trial or some other means.

21 It seems to me government has done significant
22 investigations so far in this case and has a lot of evidence.
23 So I'm willing to give a little bit of time to hand that
24 evidence over, but I would expect that at our next time
25 together we're going to know which direction this case is

1 going. And if there's -- Mr. Hale-Cusanelli is not interested
2 in pleading guilty, which of course is completely his right, I
3 want to look to set up a quick trial date. So let's plan to
4 come with the calendars next time.

5 How about Tuesday -- Ms. Chaclan, maybe you can check the
6 jail's calendar for Wednesday, April 28.

7 THE DEPUTY CLERK: I'll check, Judge.

8 MR. ZUCKER: The 28th is fine here, Judge if it's
9 available to the jail.

10 THE DEPUTY CLERK: I'm just confirming, Your Honor,
11 is that Wednesday, April 28th?

12 THE COURT: Yes.

13 THE DEPUTY CLERK: Okay, there is availability in the
14 morning.

15 THE COURT: Okay, does 10 a.m. work for you, Mr.
16 Nelson?

17 MR. NELSON: It does, Your Honor, thank you.

18 THE COURT: And, Mr. Zucker?

19 MR. ZUCKER: Fine, anytime.

20 THE COURT: Okay, so we'll set this for a video
21 status conference on Wednesday, April 28th. Obviously, if
22 there's been an agreement the parties have reached before that
23 as to disposition, the parties can send me paperwork
24 beforehand. We can certainly convert that to a plea hearing.
25 If the parties agree that they need a bit more time, I welcome

1 Mr. Zucker's suggestion for a brief continuance. And otherwise
2 I think we'd be looking at trial dates.

3 Mr. Nelson, do you have a motion?

4 MR. NELSON: Your Honor, I would move to exclude the
5 Speedy Trial Act time between now and then just for the need to
6 get the defendant up to speed on the discovery.

7 THE COURT: Mr. Zucker?

8 MR. ZUCKER: Given the complexity of the case, I
9 recommend to Mr. Hale-Cusanelli that we waive speedy trial
10 between now and then. There's a lot of material to cover.

11 THE COURT: I think it is appropriate to waive the
12 speedy trial clock until April 28th in light of the extensive
13 discovery that needs to be disclosed here.

14 Mr. Nelson --

15 MR. ZUCKER: I'm sorry, Judge, I got the date. I
16 didn't get the time.

17 THE COURT: 10 a.m.

18 MR. ZUCKER: Thank you.

19 THE COURT: April 28th. Mr. Nelson, anything further
20 for the government?

21 MR. NELSON: No, Your Honor, thank you.

22 THE COURT: And, Mr. Zucker?

23 MR. ZUCKER: Nothing, thank you. I would ask, if
24 available through the courtroom clerk, if you're able to leave
25 Mr. Hale-Cusanelli and I in a lockout room. I don't know if

1 they've got another hearing after us and they can't, but if
2 it's available I'd like to talk with him on screen after
3 everybody else has gone.

4 THE DEPUTY CLERK: They do block off in the calendar
5 at 12, but I can create the breakout room.

6 MR. ZUCKER: Until 12, that'll give us five minutes,
7 thank you.

8 THE COURT: Great. I neglected to mention. Both
9 attorneys I thought you did a nice job in that debriefing and
10 arguing. That motion, that's a tough issue and I thought both
11 sides did a nice job of presenting the arguments to their
12 respective clients. Thanks, folks.

13 MR. NELSON: Thank you, Your Honor.

14 MR. ZUCKER: Thanks, Judge. Be well.

15 (Video conference adjourned at 11:55 a.m.)

16 -oOo-

17

18

19

20

21

22

23

24

25

1 CERTIFICATE

2 I, Crystal M. Pilgrim, Official Court Reporter, certify
3 that the foregoing is a true and accurate transcript, to the
4 best of my ability, of the proceedings remotely reported in the
5 above-entitled matter.

6 **Please Note:** This hearing occurred during the COVID-19
7 pandemic and is, therefore, subject to the technological
8 limitations of court reporting remotely.

9

10 _____
11 /s/Crystal M. Pilgrim, RPR, FCRR, RMR

Date: May 17, 2021

12

13

14

15

16

17

18

19

20

21

22

23

24

25

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA,	:	
	:	Docket No. CR 21-37
	:	
vs.	:	Washington, D.C.
	:	Wednesday, April 28, 2021
TIMOTHY LOUIS HALE-CUSANELLI,	:	10:00 a.m.
Defendant.	:	
-----	:	-x

TRANSCRIPT OF STATUS CONFERENCE VIA ZOOM
BEFORE THE HONORABLE TREVOR N. MCFADDEN
UNITED STATES DISTRICT JUDGE

APPEARANCES:

For the Government: JAMES B. NELSON, Esquire
KATHRYN E. FIFIELD, Esquire
Assistant United States Attorneys
555 Fourth Street, NW
Washington, DC 20530

For the Defendant: JONATHAN S. ZUCKER, Esquire
Law Office of Jonathan Zucker
37 Florida Avenue, NE
Suite 200
Washington, DC 20002

Court Reporter: CRYSTAL M. PILGRIM, RPR, FCRR, RMR
Official Court Reporter
United States District Court
District of Columbia
333 Constitution Avenue, NW
Washington, DC 20001

P-R-O-C-E-E-D-I-N-G-S

THE DEPUTY CLERK: Your Honor, this is criminal case, 21-37 United States of America versus Timothy Louis Hale-Cusanelli. Counsel, please introduce yourselves for the record, starting with the government.

MR. NELSON: Good morning, Your Honor, Jim Nelson and Kathryn Fifield for the United States. Ms. Fifield will be taking my place after today.

THE COURT: Good morning, folks.

MR. ZUCKER: Good morning, Judge. John Zucker and Peter Wright on behalf of Defendant Cusanelli. Let the record reflect he's appearing by video, thank you.

THE DEFENDANT: Good morning, sir.

THE COURT: Good morning, gentlemen, and good morning, Mr. Cusanelli. Mr. Zucker, have you had an opportunity to talk to your client about proceeding virtually for purposes of today's hearing?

MR. ZUCKER: Yes, we consent, Judge.

THE COURT: I think it is appropriate to proceed in this fashion in light of the pandemic and the provisions in the CARES Act.

Before the Court is the defendant's motion for reconsideration of bond and to place the defendant on conditional release pending trial. The Court previously

1 ordered the defendant held without bail pending trial.

2 The defense primarily relies on the D.C. Circuit's recent
3 decision in United States v. Munchel, 991 F.3d 1273, and to a
4 lesser extent a suggestion that the confidential source may
5 have moved out of the area since my original ruling.

6 I've reviewed the parties' thoughtful briefings and I'm
7 going to deny the motion to reconsider. In my mind -- well,
8 Munchel also was a Capitol riot case. The district court there
9 really relied on the nature and circumstances of the case for
10 its erroneous decision to detain the defendant in that case.
11 And I'm looking to page 1282 of the circuit's opinion which
12 says the crux of the district court's reasoning was that the
13 grand jury alleged that the appellants used force to subvert a
14 democratic election and arrest the peaceful transfer of power.
15 Such conduct threatens the republic itself; indeed few offenses
16 are more threatening to our way of life.

17 The circuit believed that the trial court in that case did
18 not properly consider that event as a one-off event in light of
19 everything else that was known about the defendants. And also
20 that the defendants did not participate in any violence in the
21 January 6th case.

22 In contrast, in my ruling I actually found that the nature
23 and circumstances of the offense probably tilted toward
24 release. Given that as defense points out, there's no
25 allegations of violence by the defendant here.

1 I did note that it was certainly a serious incident and I
2 was concerned that the defendant apparently had admitted to
3 urging people to advance, but nonetheless I found that that
4 factor was not one that tilted toward detention. Rather, I
5 primarily relied on the evidence of the defendant's danger to
6 the community based on the extensive submissions from the
7 government regarding the defendant's comments about people of
8 different races, of different religions.

9 To a certain extent, the fact that he had been apparently
10 convicted on a relatively minor charge, but where he had a
11 potato gun that he was using to shoot houses that said white is
12 right. And in short, I was concerned and remain to be
13 concerned that the defendant bears real animus against groups
14 of people in this country; and that this has been to a certain
15 extent carried out in a dangerous conduct in the past in light
16 of that case from several years ago, but that his conduct in
17 this case made me concerned that he was perhaps looking to act
18 on these violent tendencies and violent comments in the past.

19 So I think that this case is very different and while
20 obviously they're both January 6th cases, I think my reasoning
21 was on a very different basis than the basis of the district
22 court in the Munchel case.

23 I will say that if I was just looking at what the
24 defendant did on January 6th, he would be a free man right now.
25 It's rather looking at the totality of the circumstances and

1 the evidence of what the defendant has said and done in the
2 past, combined with his alleged involvement in the January 6th
3 riot and the evidence that he might have been urging people to
4 advance that really concerned me here.

5 I also I don't find that the possibility that the
6 confidential source may have moved to be a sufficient
7 justification to now release the defendant. The defense
8 indicates that he knows that person well. If that's correct,
9 he may well know where the person has moved. The person may
10 well have moved back. I don't think that is a reason to let
11 the defendant out now.

12 So for all of those reasons and for the reasons more
13 specifically that I gave in my original oral ruling, I'm
14 denying the motion for reconsideration.

15 Mr. Nelson, where do things stand in the case?

16 MR. NELSON: Yes, Your Honor. The defense counsel
17 provided me with a hard drive to load certain information,
18 discovery on to that was too much to transfer it another way.
19 That is complete and the hard drive can be provided to defense
20 counsel going forward. As the Court is likely aware, Ms.
21 Fifield as substitution counsel is taking my place and is
22 probably in a better position to speak going forward. But it
23 is my understanding that as with all of these cases we are now
24 working through, the process was developed to cover all of the
25 electronic evidence from the Capitol. We are now working

1 through that process, but candidly Ms. Fifield is in a better
2 position to inform the Court as to how that relates to this
3 particular defendant.

4 THE COURT: Okay, Ms. Fifield do you want to pick up
5 from there?

6 MS. FIFIELD: Thank you, Your Honor. Just having
7 come on board and given the efforts to provide defense counsel
8 with some preliminary discovery, I'm comfortable now moving
9 forward with the, our office is calling it fast track
10 discovery, which is the program through which we're putting
11 together all of the electronic evidence and all of the common
12 evidence in the Capitol riot cases. And I can get that process
13 rolling very shortly.

14 THE COURT: Okay.

15 MS. FIFIELD: I can't speak to -- pardon me, Your
16 Honor. I can't speak to the total amount of time that it will
17 take to put that together not having gone through it before,
18 but we can get it started.

19 THE COURT: All right, I think at the last hearing I
20 understood that a plea offer was going to be provided this
21 month. Has that happened?

22 MS. FIFIELD: No, Your Honor, I have not provided an
23 offer.

24 THE COURT: Okay, what's going on there?

25 MR. NELSON: Your Honor, candidly I think that -- and

1 this is on me frankly. I think as the transition was happening
2 that sort of slipped through the cracks a little bit. I will
3 communicate with Ms. Fifield and defense counsel today to make
4 sure that all of the parties are in connection, and so that
5 Ms. Fifield is not left -- not being sure of what we
6 communicated about and defense counsel is on board, in the
7 know, sort of, our internal processes and basically connect all
8 of the dots. I apologize to the Court.

9 THE COURT: Okay, I don't think I'm understanding
10 this though. I doubt you are making the final decision on a
11 plea offer. I've been told in multiple cases that plea offers
12 were going to be coming out this month; is that incorrect?

13 MR. NELSON: No, that in and of itself is not
14 incorrect, Your Honor. We have received authority to begin
15 initiating certain plea agreements. Separate and apart from
16 this, I may have misunderstood the Court. I had spoken with
17 Mr. Zucker about the parameters of a potential plea in this
18 case early on in the case. When Your Honor mentioned that,
19 that is sort of where my mind went. I don't think I had that
20 conversation with Ms. Fifield.

21 But in terms of plea agreements going out this month in
22 these cases, that is correct. And that will happen in this
23 case as well.

24 THE COURT: Okay, well I take it that means in the
25 next couple of days.

1 I'll hear from Mr. Zucker in a moment, but this is a
2 detained defendant and I'm inclined to honor any requests from
3 him to move quickly toward trial. So the government can make a
4 plea offer, it cannot; that's obviously entirely up to you, but
5 I'm not going to wait for that.

6 Ms. Fifield, what are you requesting?

7 MS. FIFIELD: Your Honor, I have not spoken to
8 defense counsel regarding timing for moving forward and I heard
9 the Court's desire to move forward quickly. I would want to
10 speak with Mr. Nelson, then also defense counsel. In terms of
11 discovery, there's been coordination that would need to happen.
12 And so I would request 30 days for a continued status with the
13 possibility that the Court could put a hearing on the calendar
14 sooner once we have those conversations.

15 THE COURT: All right, Mr. Zucker?

16 MR. ZUCKER: Your Honor, thank you. I request an
17 earlier date only because, with all due respect to both
18 prosecutors -- I know Mr. Nelson, he's been an honest straight
19 shooter -- but I've heard that the discovery has been loaded
20 onto a disk, then -- and then I've heard from Ms. Fifield that
21 discovery will be prepared. I'm just trying to figure out what
22 in the world is going on.

23 I think from what Mr. Nelson said we can pick up the disk
24 today. I think he's shaking his head yes or tomorrow, but we'd
25 like to get started on that.

1 And I find I don't want to wait 30 days. I would rather
2 set it in for two weeks. At the end of two weeks if progress
3 is being made and there's a consent to put it off for another
4 two weeks, I assume the Court would perceive that well, just a
5 communication from counsel. But with all due respect, we've
6 had a lot of stagnation here.

7 And I know it's not from lack of diligence on the part of
8 the prosecutors. I know this is a massive, massive
9 undertaking, but the man was arrested in January and we still
10 don't have any discovery to speak of. We just kind of have the
11 disclosures and the motions.

12 THE COURT: Yes, I'm kind of surprised myself. I'm
13 happy to look at trial dates if you like Mr. Zucker. I've got
14 a couple recent openings, otherwise it's going to be in the
15 fall.

16 MR. ZUCKER: I tell you what, I don't want to be
17 disingenuous with the Court. I appreciate you offering us a
18 trial date that's fairly soon and that you are seeking to
19 protect the client's speedy trial rights. But given the
20 magnitude of this case, I can't imagine that we would be ready
21 for trial very quickly. So if you want -- if you want to give
22 us a date that we can reserve, with the knowledge that I think
23 is a high expectation we would seek to continue it based on the
24 massive quantity of materials involved, I'm amenable to that.

25 I'm also frankly optimistic that there'll be a

1 disposition. There's no secret the government has a lot of
2 evidence here. And certain things, in those kind of cases,
3 tend to lean towards resolution. We've been waiting for one
4 and depending on what it is, we might be able to have one. I
5 guess I'm talking out both sides of my mouth.

6 I guess what I'm suggesting is if you want to give us a
7 trial date that you suggest could be available, with the
8 understanding that there's a high probability I would move to
9 continue it, that's fine.

10 THE COURT: Yes, I don't like doing that. Let's come
11 back in two weeks. And I'm going to expect that the government
12 intends to make a plea offer. If it's made by that point,
13 perhaps we can take a plea at that point if that's what
14 Mr. Hale-Cusanelli wants to do. Obviously, that's entirely up
15 to him. If not, we should start talking kind of more
16 realistically about trial dates.

17 Ms. Fifield, I understand you're just coming to the case,
18 but within two weeks I hope you'll be in a position to give us
19 a little further clarity on where things stand with the case
20 and what we can realistically do.

21 I typically look to do one, maybe two, status conferences
22 and then pick trial dates. I recognize these cases are
23 unusual, but the attorney general has also assured all of us
24 that these are his top priority. So I'm sure you're putting
25 whatever resources you need to to ensure they are dealt with

1 correctly.

2 How about Tuesday, I'm sorry, Wednesday, May 12th 10 a.m.?

3 Ms. Fifield, does that work for you?

4 MS. FIFIELD: Yes, Your Honor.

5 THE COURT: And, Mr. Zucker?

6 MR. ZUCKER: I'm sorry, can you repeat that, Judge,
7 the date?

8 THE COURT: Yes, Wednesday, May 12th.

9 MR. ZUCKER: That's fine.

10 THE COURT: I'll see the parties on Wednesday, May
11 12th at 10 a.m. I'll do a virtual status conference.

12 Ms. Fifield, do you have a motion?

13 MS. FIFIELD: I'm sorry, Your Honor, would you mind
14 providing some clarification.

15 MR. ZUCKER: Speedy trial.

16 THE COURT: Are you asking --

17 MS. FIFIELD: Yes, my apologies. Your Honor, the
18 government would ask the Court to exclude -- continue this and
19 exclude time from the speedy trial, make a finding that it's in
20 the interest of justice and the public.

21 THE COURT: On what basis?

22 MS. FIFIELD: To exclude time given the voluminous
23 discovery, the unique aspects of this case; and the government
24 and defense counsel need to diligently prepare and the
25 government needs to comply with its discovery obligations.

1 THE COURT: Mr. Zucker.

2 MR. ZUCKER: In all candor, Judge, I haven't
3 discussed that with Mr. Hale-Cusanelli. I'm inclined to oppose
4 it only to keep the pedal to the metal to try and get discovery
5 in this case. But I think -- isn't the Chief Judge's order
6 still in place? They can't move, that everything is safe.

7 THE COURT: I'm not sure about that. I think,
8 regardless, I need to make a specific finding in each case.
9 Regardless of the defendant's position, at this point, I'll
10 assume that you're opposing. I am going to grant a motion to
11 toll until the 12th in light of the significant discovery
12 that's going over and to a lesser extent on the basis of the
13 change in personnel for the prosecutor. But I'm not going to
14 hold it up for a plea offer. And I do think we're coming to
15 the point here where the tolling needs to stop.

16 All right. Anything further today, Ms. Fifield?

17 MS. FIFIELD: Nothing from the government, Your
18 Honor.

19 THE COURT: And, Mr. Zucker?

20 MR. ZUCKER: Your Honor, I'm actually looking at
21 Mr. Hale-Cusanelli. I know he wants to address the Court
22 regarding bond, but you've already ruled. I don't know if he
23 still wants to address the Court.

24 I had told him if he addresses the Court, I want him to
25 stay away from anything connected with January 6th. Again, I

1 don't know if he wants to address you still, now, considering
2 that the motion has already been ruled on, it seems kind of
3 moot, but I don't want to step on his toes if he does.

4 Mr. Hale-Cusanelli, we can't hear you.

5 THE DEFENDANT: Yeah, Mr. Zucker, Your Honor, what I
6 had intended to speak on was regarding certain categories that
7 were ruled against me regarding my character that I feel were
8 not correctly represented last time to provide a different
9 context for things. But your ruling has already been made,
10 Your Honor, and I'm not going to squabble about it at this
11 point.

12 THE COURT: Thank you, sir. Obviously, I have what I
13 have before me for a bail determination. Character also
14 matters a lot and your history and characteristics, if and when
15 it comes time for sentencing. And if we are at that point, I
16 certainly would give you an opportunity to speak and present
17 any evidence that you wish that may provide context or
18 undermine what the government has alleged.

19 All right. Thanks, folks. See you in a couple of
20 weeks.

21 MR. ZUCKER: Judge, can I ask if the courtroom clerk
22 wouldn't mind putting us in a breakout room?

23 Mr. Nelson, did I understand that the discovery can be
24 picked up today?

25 MR. NELSON: Yes, that's correct.

1 MR. ZUCKER: Great, I'll contact you after this,
2 appreciate it. Thank you.

3 THE COURT: Thanks, folks.

4 MS. FIFIELD: Thank you, Your Honor.

5 MR. NELSON: Thank you, Your Honor.

6 (Video conference adjourned at 10:24 a.m.)

7 -oOo-

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 CERTIFICATE

2 I, Crystal M. Pilgrim, Official Court Reporter, certify
3 that the foregoing is a true and accurate transcript, to the
4 best of my ability, of the proceedings remotely reported in the
5 above-entitled matter.

6 **Please Note:** This hearing occurred during the COVID-19
7 pandemic and is, therefore, subject to the technological
8 limitations of court reporting remotely.

9

10

/s/Crystal M. Pilgrim, RPR, FCRR, RMR

11

Date: May 17, 2021

12

13

14

15

16

17

18

19

20

21

22

23

24

25



Arrest #: 10-28665-A-AR

Call #: 10-28665

Date/Time Reported: 08/04/2010 @ 0307

Arrest Date/Time: 08/04/2010 @ 0350

Booking Date/Time: 08/04/2010 @ 0428

Involves: Juveniles

Reporting Officer: Cpl. Fred Bauer

Assisting Officer: Ptl. David MacNeil

Booking Officer: Ptl. David MacNeil

Approving Officer: Sgt. Michael Martin

Signature: _____

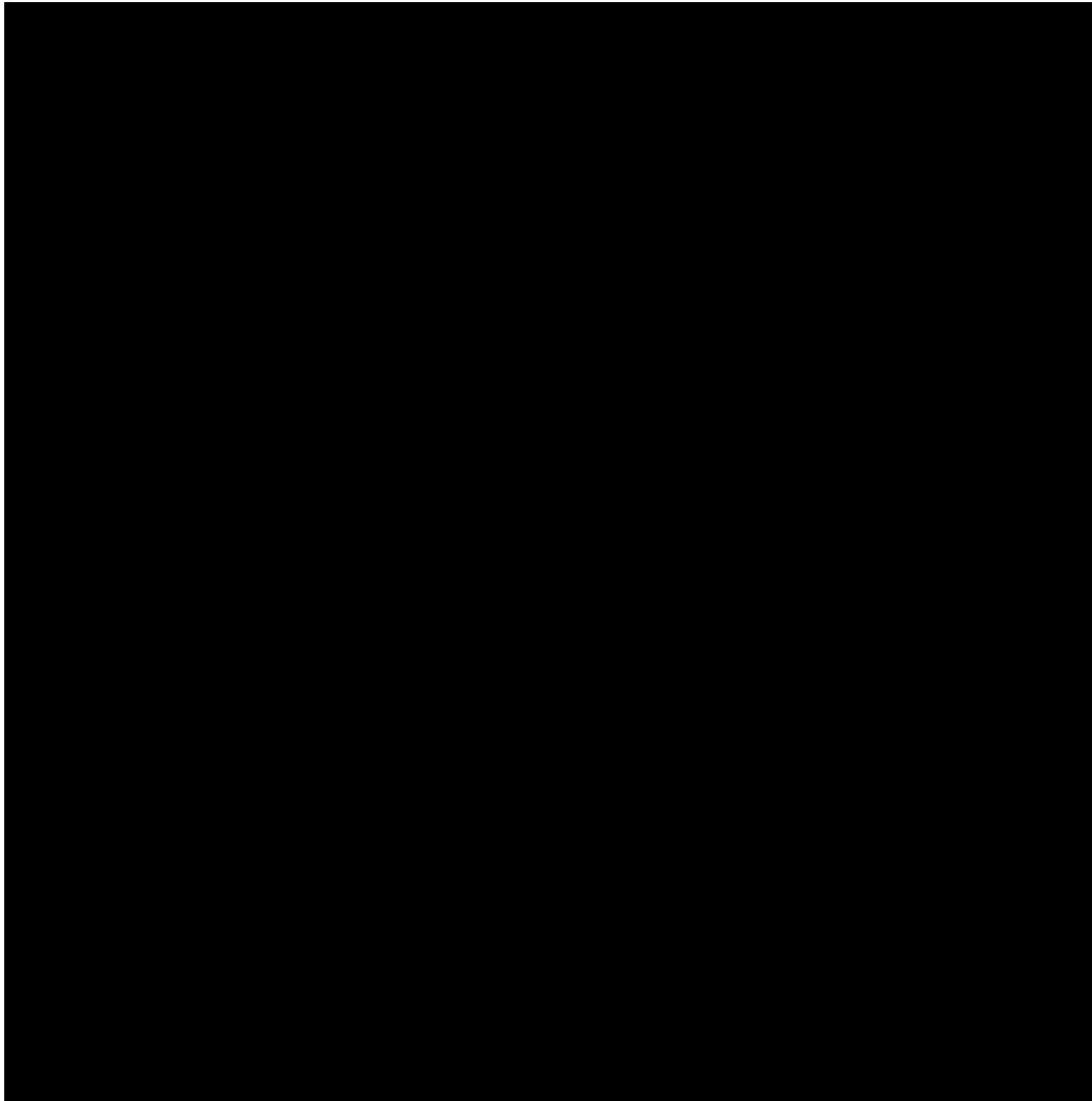
Released: 08/04/2010 @ 0530

Signature: _____

#	DEFENDANT(S)	SEX	RACE	AGE	SSN	PHONE
---	--------------	-----	------	-----	-----	-------

Arrest #: 10-28665-A-AR

Call #: 10-28665



Arrest #: 10-28665-A-AR

Call #: 10-28665

#	PERSON(S)	PERSON TYPE	SEX	RACE	AGE	SSN	PHONE
---	-----------	-------------	-----	------	-----	-----	-------

3	HALE-CUSANELLI, TIMOTHY L	PARTICIPANT	M	W	20		
---	---------------------------	-------------	---	---	----	--	--

#	VEHICLE(S)	YEAR	MAKE	STYLE	COLOR1	COLOR2	REG	VALUE
---	------------	------	------	-------	--------	--------	-----	-------

#	OTHER PROPERTIES	PROPERTY #	STATUS
1	HOMEMADE PVC LAUNCHER QUANTITY: 1 SERIAL #: NOT AVAIL DATE: 08/04/2010	10-1371-PR VALUE: \$30.00	Seized (Not Previously Stolen)

Arrest #: 10-28665-A-AR

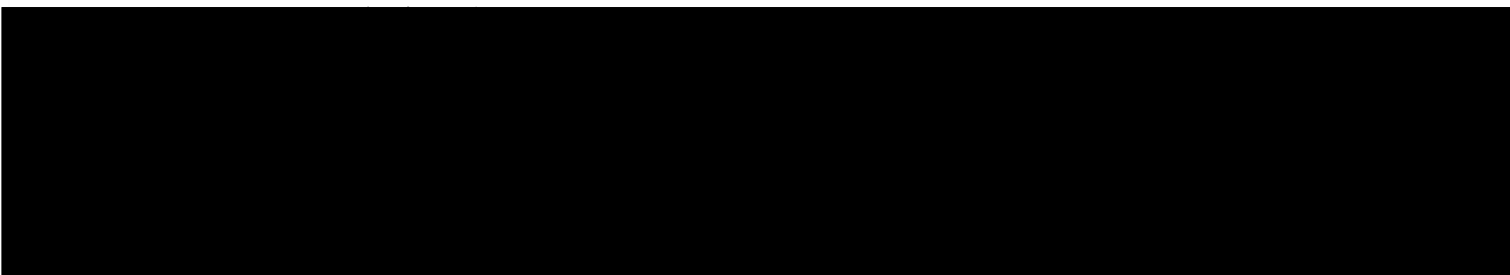
Call #: 10-28665

 CONFIDENTIAL VICTIM REPORT

#	VICTIM(S)	SEX	RACE	AGE	SSN	PHONE
---	-----------	-----	------	-----	-----	-------

2

DOB:
 ETHNICITY: Not of Hispanic Origin
 RESIDENT STATUS: Non Resident
 VICTIM CONNECTED TO OFFENSE NUMBER(S): 3
 CONTACT INFORMATION:



Ref: 10-28665-A-AR

Entered: 08/04/2010 @ 1928

Entry ID: 170

Modified: 08/04/2010 @ 2130

Modified ID: 239

On Wednesday August 4th at approximately 0305 hours this officer was dispatched to [REDACTED] for a shooting complaint. While enroute dispatch advised this officer the victim heard a loud explosion, something hit the house and a vehicle sped away. The victim also advised there was a hole in his residence.

Upon arrival this officer spoke with the victim, [REDACTED]. The victim advised he and his wife were woken from their sleep by a loud explosion and something hitting his residence. While out at the scene this officer observed a frozen piece of corn on the cob laying in the victims front lawn. The frozen vegetable was on the left side of the property, about twenty feet away from the residence, near the front walkway. This officer then observed the damage to the residence. The piece of corn struck the right side of the house a few inches from the front door and only a foot or so from a large front glass window. When it struck the home it cracked and shattered the siding and placed a hole into the wood behind the siding a few inches in diameter. There were also corn remains in the hole.

This officer then began to further speak with the victim attempting to identify a possible suspect. The victim stated he had no idea who would be damaging his home. The victim did advise he had a similar incident about a year ago with a potato and his home was struck with paint balls.

As this officer was speaking with the victim Sgt. Martin and Ptlm. McNeil were on scene with this officer. While on the victims front lawn a red smaller vehicle traveling on Midland Blvd. made a right and turned onto Overlook Terr. Once the vehicle observed the three officer on scene it sped off towards Stuart St. then towards West Farms Rd. At that time Sgt. Martin and Ptlm. McNeil began to pursue the vehicle. This officer finished speaking with the victim and then headed to the motor vehicle stop on West Farms Rd.

Upon my arrival at the stop this officer walked up to the accused vehicle, a red 2001 Dodge Neon bearing N.J. [REDACTED]. While at the stop this officer observed pieces of corn all over the driverside rear passenger seat (left rear). This officer also observed a thin piece of PVC pipe with the words "Officer Ramrod" written on it.

While at the scene of the stop the four subject in the vehicle were identified. [REDACTED], was driving, [REDACTED] was sitting behind the driver (left rear position). [REDACTED] was the front passenger and Timothy Hale-Cusanelli 20yoa was in the rear passenger seat.

Subsequent to an investigation all four subjects were placed under arrest. See Sergeant Martin's supplementary report for more at the motor vehicle stop. They all were transported to Police Headquarters, processed and later released on Criminal and MV Complaints. The three adults were charged with Conspiracy to Commit Criminal Mischief, Possession of a Weapon and Possession of Weapon for Unlawful Purpose.

Criminal Mischief (4th degree), Conspiracy to Commit Criminal Mischief (4th degree), Possession of a Weapon (4th degree), Possession of a Weapon for Unlawful Purpose (3rd Degree), Throwing/Launching Items from a Motor Vehicle (39:4-64), and violating Howell Township Juvenile Curfew (118-2-Township Ordinance).

Ref: 10-28665-A-AR

Entered: 08/04/2010 @ 1928 Entry ID: 170
Modified: 08/04/2010 @ 2130 Modified ID: 239

This officer contacted the juveniles mother and he was turned over to her. This officer initiated a central charge sheet on the juvenile and that will be sent up to Monmouth County for charges.

This officer filled out a property report on the PVC pipe launcher and placed the same into evidence. The corn and hair spray recovered at the scene of the motor vehicle stop was photographed and turned over the to the defendants for disposal.

Ref: 10-28665-A-AR

Entered: 08/04/2010 @ 2118

Entry ID: 170

Modified: 08/04/2010 @ 2130

Modified ID: 239

Approved: 08/04/2010 @ 2127

Approval ID: 239

PROPERTY DETAIL REPORT

CALL NUMBER	10-28665
REPORT # (OF-AR)	10-28665-AR
OFFICER	Cpl. Fred Bauer
OFFICER SIGNATURE	

DETAILS OF RECOVERY

RECOVERED DATE	08/04/2010
PLACE RECOVERED	West Farms Rd. Howell Township
IN POSSESSION OF	
MAINTAINED AS EVIDENCE? (YES OR NO)	yes
PLACE STORED	Howell Evidence Locker #5 Blue
OWNER'S NAME	
OWNER'S ADDRESS	

LIST PROPERTY NUMBER WITH EACH LISTED PROPERTY

HOMEMADE PVC LAUNCHER 10-1371-PR

DISPOSITION OF PROPERTY

RELEASED DATE	
PROOF OF OWNERSHIP	
SIGNATURE OF OFFICER AUTHORIZING RELEASE	
RELEASED TO OWNER-AGENT-OFFICIAL (NAME/ADDRESS)	
SIGNATURE OF OWNER-AGENT-OFFICIAL	
SIGNATURE OF OFFICER RELEASING PROPERTY	

PROPERTY DETAIL REPORT

Ref: 10-28665-A-AR

Entered: 08/04/2010 @ 2118	Entry ID: 170
Modified: 08/04/2010 @ 2130	Modified ID: 239
Approved: 08/04/2010 @ 2127	Approval ID: 239

Ref: 10-28665-A-AR

Entered: 08/05/2010 @ 0225

Entry ID: 239

Modified: 08/05/2010 @ 0226

Modified ID: 239

Approved: 08/05/2010 @ 0717

Approval ID: 216

SUPPLEMENTAL REPORT

CALL #

DATE REPORTED

08/04/2010

LOCATION

CRIME/ INCIDENT

UNLAWFUL POSS OF WEAPON
 POSS WEAPON WITH UNLAWFUL PURPOSES
 AGREE TO AID ANOTHER PLAN CRIME-CONSPIRACY
 Throwing of Objects or Debris from Vehicle

NEW CRIME / INCIDENT IF CHANGED

VICTIM NAME (NEW/IF CHANGED)

VICTIM ADDRESS (NEW/IF CHANGED)

ACCUSED NAME (NEW/IF CHANGED)

ACCUSED ADDRESS (NEW/IF CHANGED)

SUPPLEMENTING OFFICER

Sgt. Michael Martin # 239

OFFICERS SIGNATURE

APPROVING OFFICER SIGNATURE

NARRATIVE

On Wednesday, August 4, 2010 at approx. 3:05 AM I responded to the area of [REDACTED] on a report of someone firing a weapon at a house, causing a large hole, and fleeing the area in a motor vehicle. I headed from Farmingdale Borough, and observed no vehicles at all for the length of West Farms Road. I arrived several minutes later and met with Cpl. Bauer and Ptl. MacNeil who were speaking with the homeowner, Robert Motyka. It was determined that suspect(s) unknown had fired a piece of frozen corn at the residence, causing a significant hole and damage to the siding and wall immediately to the right of the front door. There was a piece of frozen corn found nearby, indicative of this incident just occurring.

As we were inspecting the damage, a red colored Dodge Neon drove past the residence heading east and accelerated rapidly upon passing the three marked police vehicles. Ptl. MacNeil and I left and attempted to catch up to the vehicle, which travelled at a high rate of speed up Stuart Street and turned left onto eastbound West Farms Road. Ptl. MacNeil caught up with the vehicle around the 500 block of West Farms Rd. Upon my arrival I observed Ptl. MacNeil having the driver, [REDACTED] exit the vehicle and walk towards Ptl. MacNeil's vehicle. I am very familiar with [REDACTED] from numerous police incidents involving him.

I approached the vehicle (NJ registration: [REDACTED]) and spoke with the front seat passenger, [REDACTED]. He admitted that he owns the car and it is registered in his mother's name ([REDACTED]). I had him step from the vehicle and had the rear seat passengers place their hands on the front seat head rests, knowing that a weapon may be inside the car. I shined my flashlight into the car and did not see any weapons. I informed [REDACTED], who owned the car that I was concerned that there may be a weapon on the car and that the police were investigating a report that someone had fired a projectile at a house. [REDACTED] stated he knew nothing

Ref: 10-28665-A-AR

Entered: 08/05/2010 @ 0225

Entry ID: 239

Modified: 08/05/2010 @ 0226

Modified ID: 239

Approved: 08/05/2010 @ 0717

Approval ID: 216

about anyone firing anything. I asked his permission to check the trunk of the vehicle, which he consented for me to search. Due to having four unrestrained suspects and the fact that a weapon may be present, I dispensed with using a written consent form. I told [REDACTED] he had the right to refuse, and he stated that he wanted to cooperate the best he could and that he was "not involved". I noticed him to be visibly nervous.

I unlocked the trunk using the ignition key and found an approx. 5 foot long "potato gun" fashioned out of schedule 40 white PVC plastic. I also observed a aerosol can of hair spray, and an opened bag of frozen ears of corn. The corn inside the bag was cut in similar lengths of the piece of corn recovered at [REDACTED]. The corn was still frozen, indicative of it not being inside the trunk for very long. All three items were atop numerous other items stored inside the trunk, further leading me to suspect that the items were recently placed there. Further inspection of the "potato" gun revealed bits of corn around the end of the discharge tube, and a piece of frozen corn loaded into the weapon. The weapon had a barbecue grill-type igniter drilled into the chamber. Such weapons are loaded with a potato or other item that allows the tube to be sealed, then "charged" with a flammable aerosol, usually hair spray, and ignited with an electric igniter. The internal explosion of the flammable gases cause the potato or other item to be fired at a highly dangerous velocity and distance. It was evident that this weapon was recently fired and most likely the one used at the residence on [REDACTED].

It should be noted that written on the "potato" gun in black marker were the words "WIDOWMAKER" and "WHITE IS RIGHT" written underneath a drawing of a Civil War Confederate Flag. I am not aware of any persons of African-American or Negro descent residing at [REDACTED]. I would later learn that the residence was specifically targeted by one of the arrestees (Juvenile: [REDACTED]) due to him having prior issues with one of [REDACTED] sons. It does not appear that there was any bias-related intent involved with this particular offense.

After recovering the weapon, I had the left rear passenger exit the vehicle. Fragments of corn were found near the window opening there, indicative of the weapon being fired out that window. The left rear passenger was identified as [REDACTED]. I informed him of our findings and he stated that he had fired the "potato" gun from the car because he is mad at [REDACTED] son for a prior dispute over stolen bicycles. He admitted that the three other occupants of the car were present, and that [REDACTED] was the driver when they first drove by and fired the potato gun.

Realizing that there was an obviously conspiracy and that all vehicle occupants were aware of the crime that occurred and that none had taken any steps to renunciate their involvement or report the incident to police, all were placed under arrest and charged with Conspiracy to Commit Criminal Mischief (*the damage to the house was well over the \$500 threshold which makes the criminal mischief charge a 4th degree offense; thus providing probable cause for the Conspiracy charge. All vehicle occupants were also charged with Possession of a Weapon and Possession of a Weapon for an unlawful purpose. [REDACTED] charges are to be considered by the Monmouth County Prosecutor's Office once his case is forwarded there.

When Ptl. MacNeil placed Timothy Hale-Cusanelli under arrest, he recovered a stainless steel "punch dagger" knife from Cusanelli's front pant pocket. This was done during a search subsequent to Hale-Cusanelli's arrest and after he denied being in possession of any weapons when asked. Hale-Cusanelli was charged with an additional count of Possession of a Weapon.

Ref: 10-28665-A-AR

Entered: 08/05/2010 @ 0225 Entry ID: 239
Modified: 08/05/2010 @ 0226 Modified ID: 239
Approved: 08/05/2010 @ 0717 Approval ID: 216

All three adults were processed for their arrests and released on summonses. [REDACTED] and [REDACTED] were issued a motor vehicle summons for 39:4-64 (throwing/ejecting items from a moving vehicle). [REDACTED] is also charged with violating Howell Twp. Juvenile Curfew. His complaints will be forwarded with his case file to MCPO. [REDACTED] was released to his mother by Cpl. Bauer.

The victim, [REDACTED] was informed of the defendant's arrests and release. The potato gun was photographed and taken into evidence. The hairspray and corn were photographed and returned to the defendants.



Arrest #: 10-28665-B-AR

Call #: 10-28665

Date/Time Reported: 08/04/2010 @ 0307

Arrest Date/Time: 08/04/2010 @ 0350

Booking Date/Time: 08/04/2010 @ 0422

Involves: Juveniles

Reporting Officer: Cpl. Fred Bauer

Assisting Officer: Ptl. David MacNeil

Booking Officer: Ptl. David MacNeil

Approving Officer: Sgt. Michael Martin



Signature: _____

Released: 08/04/2010 @ 0530

Signature: _____

#	DEFENDANT(S)	SEX	RACE	AGE	SSN	PHONE
1	HALE-CUSANELLI, TIMOTHY LOUIS	M	W	20		

Military Active Duty: N

HEIGHT: 510

WEIGHT: 150

HAIR: BROWN

EYES: BROWN

BODY: SLIM

COMPLEXION: FAIR

DOB:

PLACE OF BIRTH: NEPTUNE, NJ

LICENSE NUMBER:

ETHNICITY: NOT HISPANIC

[CONTACT INFORMATION]

Home Phone

(Primary)

[APPEARANCE]

GLASSES WORN: YES

[FAMILY/EMPLOYMENT INFORMATION]

MARITAL STATUS: SINGLE

FATHER'S NAME:

MOTHER'S NAME:

EMPLOYER/SCHOOL:

OCCUPATION:

Arrest #: 10-28665-B-AR

Call #: 10-28665

#	DEFENDANT(S)	SEX	RACE	AGE	SSN	PHONE
---	--------------	-----	------	-----	-----	-------

[RIGHTS/BOOKING CHECKS]

PHONE USED: N
ARRESTEE SECURED: N

FINGERPRINTED: Y
PHOTOGRAPHED: Y
SUICIDE CHECK: Not Performed
PERSONS: State&Federal
NCIC VEHICLE CHECK: Not Performed
INJURY OR ILLNESS: N

#	OFFENSE(S)	ATTEMPTED	TYPE
---	------------	-----------	------

LOCATION TYPE: Highway/Road/Alley/Street Zone: SECTOR 3

1	UNLAWFUL POSS OF WEAPON 2C:39 5D OCCURRED: 08/04/2010 0307	N	Indictable
2	POSS WEAPON WITH UNLAWFUL PURPOSES 2C:39 4D OCCURRED: 08/04/2010 0307	N	Indictable
3	CONSPIRACY 2C:5 2 OCCURRED: 08/04/2010 0307	N	Indictable
4	POSS WEAPON WITH UNLAWFUL PURPOSES 2C:39 4D OCCURRED: 08/04/2010 0307	N	Indictable

Arrest #: 10-28665-B-AR

Call #: 10-28665

#	PERSON(S)	PERSON TYPE	SEX	RACE	AGE	SSN	PHONE
---	-----------	-------------	-----	------	-----	-----	-------

Home Phone (Primary)
 Home Phone (Primary)
 Work Phone (Primary)
 Work Phone

#	VEHICLE(S)	YEAR	MAKE	STYLE	COLOR1	COLOR2	REG	VALUE
---	------------	------	------	-------	--------	--------	-----	-------

1	NEON	2001	DODG	4D	RED		NJ	
STATUS: (Not NIBRS Reportable)							DATE: 08/04/2010	
OWNER:								
VIN:								

#	OTHER PROPERTIES	PROPERTY #	STATUS
---	------------------	------------	--------

1	SILVER METAL PUNCH DAGGER	10-1372-PR	Seized (Not Previously Stolen)
	QUANTITY: 1	VALUE: \$5.00	
	SERIAL #: NOT AVAIL		
	DATE: 08/04/2010		
	OWNER: HALE-CUSANELLI, TIMOTHY LOUIS		
2	HOMEMADE PVC LAUNCHER	10-1371-PR	Seized (Not Previously Stolen)
	QUANTITY: 1	VALUE: \$30.00	
	SERIAL #: NOT AVAIL		
	DATE: 08/04/2010		

Arrest #: 10-28665-B-AR

Call #: 10-28665

CONFIDENTIAL VICTIM REPORT

#	VICTIM(S)	SEX	RACE	AGE	SSN	PHONE
2		M	W			

DOB: [REDACTED]
ETHNICITY: Not of Hispanic Origin
RESIDENT STATUS: Non Resident
VICTIM CONNECTED TO OFFENSE NUMBER(S): 3
CONTACT INFORMATION:
Home Phone (Primary) [REDACTED]

Attachments for 10-28665-B-AR

Description	Type
HALE CDR #1	PDF
Attachment#: B7FF1C7498F84874B490EA2DBE596987	
HALE CDR #2	PDF
Attachment#: F822BB090BD945689C0A4504615D589D	

CERTIFICATE OF SERVICE

I certify that on this 27th day of May, 2021, I caused the foregoing to be electronically filed with the court using the CM/ECF system that will electronically serve the following registered users:

Elizabeth Trosman
Chief, Appellate Division
555 4th Street, NW
Washington, DC
Elizabeth.trosman@usdoj.gov

/s
Jonathan Zucker