

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

UNITED STATES OF AMERICA	:	
	:	Case No. 21-CR-83 (TJM)
v.	:	
	:	
BRANDON FELLOWS,	:	
	:	
Defendant.	:	

**GOVERNMENT’S RESPONSE TO PRO SE MOTION FOR RECONSIDERATION OF
ORDER OF DETENTION**

The United States of America, by and through its attorney, the Acting United States Attorney for the District of Columbia, respectfully submits Defendant, Brandon Fellows, has failed to proffer any information which exists “that was not known to the movant at the time of the hearing and that has a material bearing on the issue whether there are conditions of release that will reasonably assure the appearance of such person as required and the safety of any other person and the community.” Title 18, U.S.C. §3142(f). For the reasons set forth below, the government requests that the Court deny the Defendant’s motion.

BACKGROUND

The defendant was charged by Complaint on January 15, 2021, with violating Title 18, U.S.C. § 1752(a)(knowingly entering or remaining in any restricted building or grounds without lawful authority) and Title 40, § 5104(e)(2)(violent entry or disorderly conduct), misdemeanors concerning his presence and actions during the January 6, 2021 riots at the Capitol Building (ECF Doc. 1, Complaint). Defendant was arrested on January 16, 2021, in Albany, New York (Doc. 8 at 1, Returned Arrest Warrant). On January 16, 2021, defendant had a first appearance, and was released on bond in the Northern District of New York (Id. at 23, Order to Release; 25-26, Minute Entry). The Magistrate Judge set another hearing in order to first review a Pretrial

Services report to decide if the defendant was a flight risk¹ under Title 18, U.S.C. § 3142(f)(2)(A) (Id. at 23, Order to Release; 25-26, Minute Entry). The Court decided to release the defendant, but ordered certain conditions including home detention and electronic monitoring (Id. at 21, Conditions of Release).

On February 3, 2021, the defendant appeared before Magistrate Judge Robin M. Meriweather via video and was placed on GPS monitoring and a curfew of 9:00 p.m. to 6:00 a.m. (Doc. 9 at 2, Order Setting Conditions of Release). Magistrate Judge Meriweather further ordered that the defendant actively seek or maintain employment and report any contact with law enforcement (Id.).

On February 5, 2021, the grand jury indicted the defendant on the four misdemeanors and added a felony violation under Title 18, U.S.C. §§ 1512(d)(2) and 2 for Obstruction of an Official Proceeding and Aiding and Abetting the same (ECF Doc. 6).

In support of its recommendation in the June 14, 2021 violation report, PSA relayed that defendant had a mental evaluation appointment for 11:00 am today (June 14, 2021), but called the agency and cancelled because he was not feeling well. When the USPO officer talked with him he asked to be able to work, despite “not feeling great.” He was told no, then asked the USPO officer “have you checked your hormones.” He was called again, directed to report to the US Probation officer by the supervisory USPO at 3:45 June 14, 2021.

Shortly after that last call, the USPO officer learned that a man had called the USPO’s mother, who lives in another state, and the man was asking for the USPO and asked twice if that was the correct number for the USPO, using the full name of the officer. The mother offered to pass a message to the USPO, and the caller said he would just contact the USPO on their “other

¹ According to the agents and reports in this case, the defendant had told the FBI he would self-surrender but failed to do so causing law enforcement to search for him by obtaining legal process for real time location information.

numbers”. Caller ID identified the caller’s number as the same number used by Defendant to contact US Probation for official business.

Lastly, USPO indicated a prior instance when Defendant was allegedly harassing a former girlfriend. Ultimately Defendant was found to be in violation of an Order of Protection. When the clerk of the court tried to call Defendant at the number he had listed as his contact on official court records, the number was forwarded to the Judge’s wife’s office.

The Court held a hearing on the Petition for Warrant and to revoke his release on July 14-15, 2021. After a hearing over two days during which witnesses testified, the Court revoked the Defendant’s release (ECF Doc. 37, Trans. of 7-15-21 Hrg. at 6, 8-9)(Attachment A).

ARGUMENT AND LAW

The applicable statute, 18 U.S.C. § 3142 (f), states a detention hearing may be reopened:

at any time before trial if the judicial officer finds that information exists that was **not known to the movant at the time of the hearing** and that has a material bearing on the issue whether there are conditions of release that will reasonably assure the appearance of such person as required and the safety of any other person and the community. (Emphasis added.)

Defendant seems to focus on his abiding by the Court’s order while on release to find work and to report as directed. (ECF Doc. 45, Def. Motion for Objection to Bond Revocation, at 6). However, Defendant’s work and reporting requirements were not at issue during his final revocation hearing on July 14, 2021. (ECF Doc. 29 at 3; ECF Doc. 46, Trans. of 7-14-21 Hrg. at 10-12) (Attachment B). Rather, he was revoked for failing to attend the “mental health evaluation and to comply with all treatment recommendations.” (Doc. 29 at 3; ECF Doc. 37, Trans. of 7-15-21 Hrg. at 6, 8-9). The evaluation was a condition ordered by the Court at Defendant’s second revocation hearing June 4, 2021 (Min. Entry of June 4, 2021). The second part of Defendant’s revocation on July 14 was his pattern of conduct– culminating in his intimidation and continued

harassment of the USPO officer – which made it clear there were no conditions or combinations of conditions that Defendant would follow if released. (Doc. 37, Trans. 7-15-21 at 9). Defendant was then sanctioned as allowed by statute for violating a condition of release coupled with the finding that no condition nor combination of conditions would guarantee Defendant would abide by those conditions of release. 18 U.S.C. §3148(b)(1)(B) and (2)(B); *United States v. Aron*, 904 F.2d 221, 224 (5th Cir. 1990).

Defendant alleges he was denied a chance to offer the court the “full context, present the truth, point out the prosecutions’ lies, and offer explanations.” (ECF. No. 45, Def’s Pro Se Motion, at 1, 3). However, the Court recessed on July 14 and reconvened the next day specifically to allow Defendant time to consult with not one but *two* attorneys about this decision. (Doc. 46, Trans. 7-14-21 at 77-79). Defendant decided not to testify at the revocation hearing, after consulting with his attorney and getting a second opinion about the soundness of testifying from a second attorney. (Doc. 37, Trans. 7-15-21 at 2-3).

Defendant indeed was given the chance to present his explanations to the revocation allegations through his attorney’s cross-examination of witnesses and her zealous arguments. The fact that he canceled but rescheduled the mental health evaluation was brought out by the cross examination of witnesses (Doc. 46, Trans. 7-14-21 at 14, 67, 71). Thus, his defense to failing to attend the evaluation (that he merely rescheduled it) was an issue known by the Court prior to ruling. Defendant’s defense to the allegations of danger was also entered into the record as ECF No. 32. This exhibit contained his texts and screen shots in which he explained what he did. He told the USPO didn’t have her number to call her. He claimed his SIM card didn’t work and he couldn’t access his Probation Officer’s phone number, so he googled her name and called a number in another state connected to the USPO officer. This number was that of the USPO’s mother, and

Defendant's actions were clearly meant to intimidate the USPO officer. He had done this before, when he called the wife of the judge in a city case for violation of a protective order in 2020. (Doc. 46, Trans. 7-14-21 at 34-36, 44-46; Doc. 37, Trans. 7-15-21 at 8). What Defendant truly objects to is the fact that his release was revoked at all.

The information Defendant wishes to present, as evidenced by the affidavit contained within his motion, was information known to him at the time of the hearing in July. Since Defendant's work history was not relevant to the violations alleged when the Court revoked his release, presenting evidence that his prior work schedule was why he rescheduled his mental health evaluation has no material bearing on the condition he violated. *United States v. Worrell*, No.21-CR-00292-RCL, 2021 WL 2366934, at *1 (D.D.C. June 9, 2021) ("...the Court finds that there are no previously unknown facts having a "material bearing" on the issue whether there are conditions of release that will reasonably assure the safety of others and the community.") *See also United States v. Hite*, 76 F. Supp. 3d 33, 43 (D.D.C. 2014), *aff'd*, 598 F. App'x 1 (D.C. Cir. 2015); *United States v. Peralta*, 849 F.2d 625, 626 (D.C. Cir. 1988). He told the USPO officer he didn't go to the evaluation because his sleep cycle was disrupted by storms – not because of a work schedule. Trans. 7-14-21 at 61-62. This conflicting rationale for disobeying the Court's order does not justify reopening the detention hearing under 18 U.S.C. §3142(f), and frankly reflects poorly upon Defendant's veracity. A decision not to present this to the Court appears to have been sound strategy on the part of defense counsel.

Even if the Court were to allow the detention hearing to be reopened, Defendant's own motion raises serious concerns that he would follow the Court's direction. After all, he had three revocation hearings in three months, all with different allegations of failing to follow the Court's orders. He continues to refuse to accept responsibility or even acknowledge his behavior violated

the Court's orders. As the Court stated in the July 15th hearing "I think the defendant, at least overall, has shown a pretty sustained contempt for the government and the court system." Trans. 7-15-21 at 6. Defendant is inherently inconsistent, stating he has "'gotten better" at following the Court's rules, yet picking which orders he will obey. He maintains his innocence saying that most of the allegations are "false" or "missing context". (ECF Doc. 45, Def's Mtn. at 6). Defendant argues that the USPO officer "threatened" him, that the prosecution made "false assertions" and that he was "abused by the prosecution and her corrupt agencies." (Doc. 45, Def's Mtn. at 6, 8). Defendant clearly believes himself a victim of the legal system, and if released he "won't abuse the courts time or waste the taxpayers [sic] dollars like they have." Id. The legal system he holds in contempt includes his own stand-by attorney.

CONCLUSION

Defendant complains that his attorney sold him a bill of goods, and that he wants a refund (Doc. 45 at 3). Defendant claims his attorney did not want to offer his evidence or object, while at the same time saying in open court on September 7, 2021 that he wanted to keep his court appointed counsel as his stand-by counsel. This demonstrates his contempt for the legal system while at the same time demanding it protect him from himself. Defendant does not recognize the basic premise that while on release he must obey the Court and the United States Probation Office, as evidenced by his demand that "bond [be] reinstated with as little restrictions as possible." (Doc. 45, Def's. Mtn. at 1).

He is entitled to neither a reopening of the detention hearing nor to release from custody.

The Government requests the Court deny defendant's motion.

By: /s/ Mona Lee M. Furst
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CERTIFICATE OF SERVICE

On this 6th day of October, 2021, a copy of the foregoing was served on standby counsel of record for the defendant via the Court's Electronic Filing System and sent via FedEx to the defendant at D.C. Jail, 1901 D Street, Washington, DC 2003.

 /s/Mona Lee M. Furst
Mona Lee M. Furst
Assistant United States Attorney

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

* * * * *

UNITED STATES OF AMERICA,)	Criminal Action
)	No. 21-83
vs.)	
)	
BRANDON FELLOWS,)	July 15, 2021
)	11:24 a.m.
Defendant.)	Washington, D.C.
)	

* * * * *

**TRANSCRIPT OF PROCEEDINGS
BEFORE THE HONORABLE TREVOR M. MCFADDEN,
UNITED STATES DISTRICT COURT JUDGE**

APPEARANCES:

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ALSO PRESENT: Brian McDaniel, Attorney
 Tekeysha Robinson, U.S. Probation
 Kendra Rennie, U.S. Probation
 Jeannine Kiebart, U.S. Probation

Court Reporter: Elizabeth Saint-Loth, RPR, FCRR
 Official Court Reporter

Proceedings reported by machine shorthand, transcript
produced by computer-aided transcription.

P R O C E E D I N G S

1
2 THE COURTROOM DEPUTY: This is Criminal Case
3 21-83, United States of America versus Brandon Fellows.

4 Counsel, please come forward to identify
5 yourselves for the record, starting with the government.

6 MS. FURST: Good morning, Your Honor.

7 Mona Furst, Assistant United States Attorney,
8 representing the United States.

9 THE COURT: Good morning, Ms. Furst.

10 MS. HALVERSON: Good morning, Judge.
11 Cara Halverson representing Mr. Fellows.

12 THE COURT: Good morning, Ms. Halverson.

13 Good morning, Mr. Fellows.

14 All right. We continued this detention hearing
15 after arguments from the attorneys because Ms. Halverson
16 indicated that Mr. Fellows might be interested in
17 testifying.

18 Ms. Halverson, where do things stand?

19 MS. HALVERSON: Your Honor, at this point -- and
20 with the help of Mr. McDaniel, who graciously agreed to
21 appear today -- Mr. Fellows has decided at this point that
22 he does not want to exercise his right to testify at this
23 hearing.

24 I do believe that he wanted to address the Court
25 perhaps to apologize, but not to testify in the sense that

1 we were thinking yesterday, if the Court would allow it.

2 THE COURT: Okay. The apology is for yesterday,
3 or what?

4 MS. HALVERSON: I think going towards the behavior
5 that was noted in the pretrial services report.

6 THE COURT: Okay. Ms. Furst, do you have any
7 concern about that?

8 MS. FURST: Well, Your Honor, I appreciate the
9 fact that he wants to apologize. If he gets up and says: I
10 apologize for my behavior and sits down, I am fine with
11 that. If he starts talking and embellishing, I would want
12 him under oath.

13 THE COURT: Okay.

14 Well, Mr. Fellows, I am happy to hear from you.

15 THE DEFENDANT: Good morning, Judge.

16 THE COURT: Good morning.

17 THE DEFENDANT: I apologize, this was written in
18 about three minutes. I had an actual longer version of an
19 apology but with more full context to address some of the
20 things that I disagree with and other things which I have
21 been told not to bring up.

22 I just wanted to apologize. My actions -- though
23 noted, have, in most times, not been criminal and also have
24 been continually getting better -- have definitely been
25 annoying.

1 And I could see the frustration from you and all
2 other parties and how that could be, you know, a reason to
3 not really be considering for my release. It's also -- you
4 know, I could see it to be troubling just in respect to this
5 life. I wouldn't want to deal with me either if I were on
6 the opposing side, so I kind of understand that.

7 I will give, you know, reasons I feel like -- you
8 know, without going into detail -- that this has been --
9 yeah -- I just want to say I feel like it has been extreme;
10 and that's all I am going to say about that.

11 I will say that I respond best to positive
12 reenforcement that I have gotten from Cara and even the
13 officers that I have had come into contact with in the jail;
14 they have been very positive in building me up.

15 Along with this, despite not getting a Bible
16 for -- I have only gotten the Bible 2 days out of the past
17 30. I did have a chance to rekindle my relationship with my
18 God which has been helpful.

19 And I know, for instance -- for me, I think it's
20 pretty clear to see my passions for politics and my
21 disagreements with illogical situations can get the best of
22 me to the point of annoying protest through various
23 situations, though they may be unorthodox at times and hard
24 to understand.

25 So I would just like to say I would -- you know,

1 if given -- I have spent 30 days in jail. I have spent six
2 months also in what, to me, feels like a jail; and it has
3 not been fun. I am a free spirit.

4 If you read the fake news article, I like to drive
5 in my bus; I like to travel. I am now stuck in what I view
6 as a cave; and, now, a cave with cages and a bunch of people
7 screaming throughout all hours of the night, and not the
8 best food. Being a nutrition major, I am not a fan.

9 I've spent 30 days in jail. I've learned both the
10 positive and negative reenforcement from that. I have
11 already, before even getting taken away, gotten better.

12 I would like the chance to be given a new officer
13 who might view me and give -- not to hold these things
14 against me. I would like to be given a better chance and
15 also, as I get better, possibly be positively rewarded for
16 my good behavior because I really -- I really love freedom.
17 You know, I love my freedom.

18 So that's it. Thank you, Your Honor.

19 THE COURT: All right. Thank you, sir.

20 Sir, while you are there, we talked yesterday
21 about your possible concerns with your attorney; I think I
22 heard that largely from her.

23 I think I heard from you that you are comfortable
24 continuing on with Ms. Halverson; is that correct?

25 THE DEFENDANT: That is correct.

1 THE COURT: Okay. Thank you, sir.

2 Thank you, Ms. Halverson.

3 All right. Before the Court is the government's
4 motion to revoke detention under 18 U.S.C. 3148. I do find
5 that there is clear and convincing evidence of violation of
6 conditions of the defendant's release.

7 I think we have seen a pattern of numerous
8 failures to call in for the drug testing program. I note
9 the May 26th report from the probation office in which the
10 defendant had about a 55 percent call-in rate. I'd also
11 note that on several occasions he was late for curfew;
12 April 8, 2021, and May 21st, 2021.

13 Most recently, the defendant canceled his mental
14 health evaluation saying that he couldn't sleep the night
15 before, but that he did want permission to work that same
16 day. I also reject the suggestion that that was somehow
17 related to concerns about COVID or the defendant being ill
18 or causing other people to get ill. I just -- I think --
19 it's pretty clear to me that the defendant is not very
20 concerned about COVID nor about getting other people ill.

21 I also find that he is unlikely to abide by any
22 condition or combination of conditions of release. I think
23 the defendant, at least overall, has shown a pretty
24 sustained contempt for the government and the court system;
25 I use that term colloquially here and not as a legal finding

1 that the defendant is in contempt. But I think the
2 allegation and the evidence in front of me right now -- I am
3 not making any finding beyond a reasonable doubt of course;
4 but there is certainly evidence the defendant was smoking
5 marijuana in a senator's private office.

6 As I mentioned before, the defendant was dressed
7 in sweatpants and eating breakfast during his initial Zoom
8 hearing in front of this court.

9 There are -- there is well-documented evidence of
10 the defendant sending vulgar emails about FBI agents. I am
11 looking at a February 22nd email in which he said, "The
12 fat-necked FBI agent lied, and I have fucking proof he did";
13 and "I'll bet you that doesn't fucking matter to our corrupt
14 government."

15 The defendant also said in that email, "I can't
16 wait for these bullies to have what they are dishing out
17 come back to them," apparently referring to federal agents.

18 I think there was significant evidence in the
19 hearing yesterday of demeaning and sexist comments toward
20 the defendant's probation officers. I'd say that the
21 defendant's compliance has been lackadaisical with his
22 conditions of release.

23 I think the mental health evaluation in
24 particular -- I think we -- probably the attorneys and I
25 agree here that there is a mental health component to this.

1 But despite our best efforts -- my best efforts -- in trying
2 to get the defendant mental health treatment, he brushed off
3 that opportunity.

4 I'd also note the intimidating phone call to the
5 probation officer's mother. I do take into consideration
6 the New York judge's police report; I don't think that's
7 conclusive evidence. And, frankly, there are a lot of
8 things here that -- looking at one piece in isolation --
9 certainly would not justify detention. And I think that
10 phone call, too, is certainly -- one could imagine innocent
11 motives or explanation for it.

12 Ms. Halverson has certainly striven admirably to
13 explain away the various issues here. I was willing to give
14 the defendant the benefit of the doubt but, as we have
15 discussed, this is kind of an extraordinary situation, for
16 me to have a third detention hearing after denying the prior
17 two government requests; but I can no longer give the
18 defendant the benefit of the doubt as to this pattern of
19 behavior.

20 I'd also note as recently as yesterday the
21 defendant was smirking and rolling his eyes throughout the
22 hearing.

23 Mr. Fellows, I think you are an intelligent man.
24 I appreciate what you've said here. You are very capable; I
25 don't think you're irredeemable, or anything like that.

1 As I've said, I don't -- I am not convinced that
2 you are a danger to the community, but I do think you are
3 impulsive. I do think you are headstrong; and you're, kind
4 of, going to do what you are going to do. And I have tried
5 really hard to avoid having to lock you up but, after months
6 here, I don't think I can be at all confident that there is
7 a condition or combination of conditions that you will
8 adhere to.

9 I don't think you are going to comply with my
10 orders. I certainly don't think you are going to obey the
11 probation officers. I don't think you are going to allow us
12 to help you. I have tried, but we are where we are. So I
13 am granting the government's motion for revocation of the
14 defendant's release conditions.

15 All right. Ms. Furst, do we have a status hearing
16 coming up, or do we need to --

17 MS. FURST: It's today, Judge. Yesterday was our
18 status --

19 THE COURT: Okay. So why don't you tell me where
20 things stand. In some ways you, kind of, have the tiger by
21 the tail now, and I am going to be very insistent that we
22 move the case along.

23 MS. FURST: Absolutely, Your Honor.

24 And I have submitted a plea offer to
25 Ms. Halverson; I think I did it two or three weeks ago, I

1 can't really remember. She has had it. The deadline is
2 August 31st because I knew she wouldn't have a chance to
3 talk to her client until today or yesterday; so that is on
4 the table, Your Honor.

5 THE COURT: Do you wish to put the plea offer on
6 the record?

7 MS. FURST: I'm sorry?

8 THE COURT: Do you wish to put the plea offer on
9 the record?

10 MS. FURST: I can. Sure.

11 The plea is an offer to 18 U.S.C. 1512, which is
12 the felony. We will not make a recommendation until after
13 we see the presentence report.

14 We calculated the guidelines to be 15 to 21 months
15 with a 3-level enhancement for --

16 MS. HALVERSON: Substantial assistance.

17 MS. FURST: -- substantial assistance.

18 Thank you.

19 So he has a criminal history of "I," I believe.

20 THE COURT: I beg your pardon?

21 MS. FURST: He has a criminal history of "I"; no
22 criminal history that would count.

23 THE COURT: That's your understanding?

24 MS. FURST: Yes.

25 Ms. Halverson reminded me, Your Honor, that we are

1 reserving the right, I think in all of the plea agreements,
2 to ask for a terrorism enhancement.

3 THE COURT: Okay.

4 MS. FURST: And I think those are the major
5 points, Your Honor. We would dismiss the misdemeanors as
6 part of that at the time of sentencing.

7 THE COURT: Okay. Where are you in discovery, ma'am?

8 I'm sorry. Ms. Halverson, is there something --

9 MS. HALVERSON: Your Honor, I just wanted to
10 put -- just to, sort of, round out the plea offer that's on
11 the table right now.

12 An upward departure for the terrorism enhancement
13 would bring Mr. Fellows' guideline range to a 32 to 36
14 automatically, which would have his guideline be much higher
15 than 18 to 21 months.

16 THE COURT: Okay.

17 MS. FURST: And where we are in discovery, Your
18 Honor, I have given, I think, 14 or 15 rounds of preliminary
19 discovery. The latest discovery was just sent last week,
20 and I know that Ms. Halverson received it; it was by mail on
21 a disk, it was a large amount of data. I sent it to her as
22 soon as I got it; and I am still looking through that data.

23 I have submitted my request for the formal
24 fast-track discovery; but to be honest with you, I have sent
25 her almost everything that we have.

1 THE COURT: Okay. So am I correct in assuming
2 that you have turned over everything you have as to the
3 defendant, that you are now kind of -- but there is all of
4 this discovery as to everyone else?

5 MS. FURST: Your Honor, every time I look at a
6 video and I see Brandon in it, I immediately download it and
7 send it to Ms. Halverson.

8 So as far as -- as of today, I haven't found
9 anything new; that is absolutely correct. We're always
10 finding new things. I will tell you that we do now have a
11 contract with Deloitte -- I think as of the end of May --
12 and that the process for getting all the discovery over to
13 them in a way to provide it globally is now underway.

14 But as far as his particular case, I believe I
15 have turned over everything that I have got that is of
16 substance. The thing is, though, it takes a lot to go
17 through some of this data. We did search warrants for
18 social media, and that kind of thing, so that's the data
19 that Ms. Halverson and I are both at the point of going
20 through. I normally don't provide discovery of stuff I
21 don't know what is in it, but I did this time.

22 THE COURT: Okay. What are you requesting, ma'am?

23 MS. FURST: Your Honor, if we could -- I know you
24 want to move it along; but under these unusual
25 circumstances, considering yesterday and today, I would ask

1 for another 60 days. And of course if we can resolve it
2 sooner we will come back to the Court.

3 But I believe with the upheaval that's happened,
4 plus the additional discovery that both parties need to go
5 through, 60 days is a reasonable amount of time, and that it
6 is in the interest of justice to do so under 18 U.S.C.
7 3161(h).

8 THE COURT: Okay. So you are seeking to toll?

9 MS. FURST: Yes, Your Honor.

10 THE COURT: Okay. Ms. Halverson.

11 MS. HALVERSON: Normally, Judge, when I have a
12 client that's detained I am not necessarily at liberty to
13 toll speedy trial given the detainment status.

14 But I will tell you that, in Mr. Fellows'
15 particular case, the information that is in the -- sort of
16 what's been termed as, sort of, the global discovery also
17 includes the Capitol Police body-worn camera and the
18 personnel files of the Capitol Police officers, so that
19 information could potentially be absolutely integral in
20 preparing for our defense in this case.

21 So I don't -- I reject, sort of, the assertion
22 that everything that had to do with Mr. Fellows has already
23 been given to me, that stuff has not; and I need that stuff
24 to be able to prepare effectively. I have talked to
25 Mr. Fellows about that; he understands that, and wishes to

1 have that in our possession before we go to trial.

2 So I think, at this juncture, it does make sense
3 to toll speedy trial and set it for a new status 60 days out
4 if Your Honor is inclined to do so. And as Ms. Furst said,
5 if there is a resolution prior to that 60 days, we would of
6 course notice the Court of that.

7 THE COURT: All right. How about September 7th,
8 10:30?

9 Does that work for you, Ms. Furst?

10 MS. FURST: Yes, Your Honor. Thank you.

11 THE COURT: Ms. Halverson?

12 MS. HALVERSON: You said September 2nd, Your Honor?

13 THE COURT: The 7th.

14 MS. HALVERSON: The 7th.

15 Indulgence.

16 THE COURT: Day after Labor Day.

17 MS. HALVERSON: That's fine, Your Honor.

18 THE COURT: We'll set this for a continued status
19 conference on September 7th.

20 I will toll the speedy trial clock until then,
21 although I expect that's going to be the last time I am
22 going to do that awaiting discovery. I think the public has
23 an interest in resolution of these cases; and I think
24 Mr. Fellows -- especially now that he is detained -- has an
25 interest in resolution of this.

1 And, Ms. Furst, I know this is not up to you, but
2 I am concerned about this kind of just continual dripping of
3 discovery that could go on eternally to defense; that's not
4 how things are supposed to operate, I think, in a criminal
5 case and certainly not in a detained case.

6 So if there is not a resolution on the 7th I
7 expect that we're going to pick a trial date. I also expect
8 we're going to pick, sort of, a cutoff for discovery, and
9 that there can be sanctions for the government if they do
10 not have discovery to defense by that time. We just -- this
11 is not how we're supposed to run the criminal justice
12 system.

13 So I think this is the last continuance. Ladies,
14 please bring your trial calendars if we don't have a
15 resolution on the 7th.

16 Ms. Furst, anything further for the government?

17 MS. FURST: Your Honor, I appreciate what you are
18 saying; and I would just note that we have tried in that
19 memorandum that we just recently filed about the discovery
20 to explain to the Court why it's taking so long.

21 As everyone knows, this is a very unusual
22 situation that's never happened before; and because of our
23 *Brady* obligations -- that's the biggest thing that we're
24 trying to abide by. But I appreciate the Court's comments,
25 and I will take them to heart.

1 THE COURT: And you see my concern about -- that
2 we're having new cases come in now. I mean, the potential
3 for new discovery is just -- that's going to continue as
4 long as you continue charging people.

5 MS. FURST: Yes.

6 THE COURT: I am not going to keep people in jail
7 while the government hunts down every last person who was in
8 the vicinity.

9 MS. FURST: I understand. Thank you.

10 THE COURT: Thank you, ma'am.

11 Ms. Halverson, anything further for the defense?

12 MS. HALVERSON: Nothing from the defense, Your
13 Honor. Thank you.

14 THE COURT: Thanks, folks.

15 (Whereupon, the proceeding concludes 11:47 a.m.)

16 **CERTIFICATE**

17 I, ELIZABETH SAINT-LOTH, RPR, FCRR, do hereby
18 certify that the foregoing constitutes a true and accurate
19 transcript of my stenographic notes, and is a full, true,
and complete transcript of the proceedings to the best of my
ability.

20 This certificate shall be considered null and void
21 if the transcript is disassembled and/or photocopied in any
22 manner by any party without authorization of the signatory
below.

23 Dated this 22nd day of July, 2021.

24 /s/ Elizabeth Saint-Loth, RPR, FCRR
25 Official Court Reporter

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
vs.)	CR No. 21-83
)	Washington, D.C.
)	July 14, 2021
)	10:17 a.m.
BRANDON FELLOWS,)	
)	
Defendant.)	
_____)	

TRANSCRIPT OF DETENTION HEARING
BEFORE THE HONORABLE TREVOR N. McFADDEN
UNITED STATES DISTRICT JUDGE

APPEARANCES:

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Proceedings recorded by mechanical stenography; transcript
produced by computer-aided transcription

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

2 COURTROOM DEPUTY: The Honorable Trevor N.
3 McFadden presiding. Please be seated and come to order.

4 Your Honor, this is Criminal Case 21-83,
5 United States of America versus Brandon Fellows.

6 Counsel, please come forward to identify
7 yourselves for the record, starting with the government.

8 MS. FURST: Good morning, Your Honor.

9 Mona Furst, Assistant United States Attorney
10 representing the United States.

11 THE COURT: Good morning, Ms. Furst.

12 MS. HALVERSON: And Cara Halverson representing
13 Mr. Fellows.

14 THE COURT: Good morning, Ms. Halverson;
15 good morning, Mr. Fellows.

16 We're here for a detention hearing.
17 Ms. Halverson, I guess I'm wondering a little bit if this is
18 necessary. I feel like you'd agree with me, I've been
19 pretty patient and accommodating along the way. I've
20 honestly never even seen a third motion for revocation,
21 because judges have typically granted the first or second
22 one.

23 It occurs to me that possibly is in Mr. Fellows'
24 best interests to stop digging at some point and not to have
25 me hear a bunch of witnesses talking about what he's done,

1 but you tell me what you think we need to do.

2 MS. HALVERSON: Thank you, Your Honor.

3 And I do agree that you've been patient in this
4 case.

5 I have spoken with Mr. Fellows and he does want to
6 elect to put on his case today, as far as the detention
7 hearing. So he would like to proceed with the proceedings
8 today.

9 THE COURT: Okay.

10 Ms. Furst.

11 MS. FURST: Your Honor, as a preliminary matter,
12 we discussed how you would like to proceed since all but one
13 person are officers of the Court.

14 So what we have is Ms. Robinson from PSA,
15 Ms. Rennie and Ms. Kiebart, who are from Albany, the
16 probation officers and supervisor probation officer. And
17 then we have Ms. Rennie's mother, who, obviously, is a
18 civilian.

19 But since the others are officers of the Court,
20 would you prefer that they just tell you their -- tell you
21 what happened or do you want me to put them under oath and
22 question them?

23 THE COURT: Ms. Halverson, what's your position?

24 MS. HALVERSON: My position is I think at this
25 point, we're sort of in legal argument land. I think that

1 there's been allegations that have been put out. I don't
2 know that we're necessarily challenging what they're saying
3 happened, it's just a matter of whether or not that's enough
4 to revoke him.

5 So I guess I don't know that it's necessary to
6 call them as witnesses if we're not necessarily challenging
7 the factual basis, we're only challenging sort of -- from my
8 perspective, this is a legal argument.

9 THE COURT: Okay. That makes sense to me.

10 So, Ms. Furst, I don't think there's any need to
11 swear in the court officers.

12 MS. FURST: All right, Your Honor. Thank you.

13 I'll just go ahead and start with Ms. Robinson and
14 have her tell you her part of it.

15 THE COURT: Okay.

16 MS. FURST: Then we'll go to Ms. Rennie,
17 Ms. Kiebart, and then Ms. Rennie can talk about what
18 happened to Mom --

19 THE COURT: Okay.

20 MS. FURST: -- if you'd be okay with that, and
21 then Mom doesn't have to worry about it.

22 THE COURT: Okay.

23 MS. FURST: All right.

24 THE COURT: That sounds like that makes sense.

25 Well, let me hear what the Pretrial Services or the

1 Probation Officer has to say and we can decide whether it
2 makes sense to hear from her mother as well.

3 MS. FURST: Okay. Thanks.

4 MS. HALVERSON: Your Honor, if I could, just very
5 quickly.

6 If we're going to have them speak openly in a
7 narrative fashion, I think that's fine. I just want to make
8 sure that I'm reserving my right to then object for
9 relevancy when that happens.

10 THE COURT: Of course.

11 And you'd have an opportunity to cross-examine
12 them if you wish.

13 MS. HALVERSON: Thank you.

14 COURTROOM DEPUTY: Is it okay if I admit all
15 three?

16 MS. FURST: Yes.

17 MS. HALVERSON: Uh-huh.

18 MS. FURST: And, Your Honor, while we're getting
19 them into the room, I have submitted four exhibits; one is a
20 Word document that contains a text message, and the other
21 three are voicemails. And I would move to just admit them
22 en masse at this point.

23 MS. HALVERSON: I would object to their
24 admittance, Your Honor.

25 THE COURT: You do object?

1 MS. HALVERSON: I do object.

2 THE COURT: Okay.

3 Well, why don't you kind of -- I saw those, they
4 honestly didn't make a lot of sense to me. So maybe you
5 can --

6 MS. FURST: I can explain to you my purpose in
7 providing them.

8 THE COURT: All right.

9 Well, why don't you do that as they come up and we
10 can deal with the objection.

11 MS. FURST: Okay. Thank you.

12 All right. So, Your Honor, this is -- we will be
13 calling Ms. Robinson first -- or not calling, but asking her
14 to talk.

15 THE COURT: Okay.

16 Good morning, Ms. Robinson.

17 MS. ROBINSON: Good morning, Your Honor.

18 THE COURT: And can you state your name and
19 position for the record, ma'am.

20 MS. ROBINSON: Sure.

21 Takeysha Robinson, supervisor, Pretrial Services
22 Office in U.S. District Court.

23 THE COURT: Okay.

24 MS. FURST: So, Ms. Robinson, could you spell your
25 full name for the reporter, please.

1 MS. ROBINSON: Sure.

2 T-a-k-e-y-s-h-a, R-o-b-i-n-s-o-n.

3 MS. FURST: And, Ms. Robinson and Ms. Kiebart and
4 Ms. Rennie, what the Court and counsel have decided is,
5 I'm not going to question you. The Court sees you as
6 officers of the Court. So you can just tell the judge what
7 happened.

8 Ms. Robinson, we'll start with you and then we'll
9 go to Ms. Rennie and then we'll go to Ms. Kiebart.

10 Ms. Rennie and Ms. Kiebart, there are exhibits
11 that I want to admit through you, so there will be some
12 questioning in order to lay that foundation, and then I'll
13 move to admit them, Ms. Halverson will file her objection,
14 and the Court will rule.

15 But as far as Ms. Robinson is concerned, the
16 petition and your part of it, the petition's part of the
17 court file, so we don't have to admit that.

18 So, Ms. Robinson, if you would just go ahead and
19 tell the judge what happened on June 14th and what you know
20 about the defendant, how he came to be supervised by PSA and
21 forward.

22 MS. ROBINSON: Okay.

23 Takeysha Robinson, Pretrial Services.

24 The defendant became a client back in January,
25 I believe. And throughout his supervision period, there

1 have been several issues with the defendant.

2 We attempted to work with the defendant outside of
3 the court to regain compliance, and there was a lot of
4 pushback. And so then what I instructed my employee, who
5 was actually the D.C. supervising case manager of the
6 defendant, was to file a petition -- I'm sorry, file a
7 report with the Court at that time asking that the defendant
8 be removed because of the continued behavior that the
9 defendant exhibited. That has happened a couple of times.
10 The defendant was warned a couple of times by the Court, as
11 well as by Pretrial in New York.

12 We got to June the 14th, and I received a phone
13 call from the supervisor in New York, Ms. Kiebart,
14 indicating that the defendant was informed -- well, he told
15 them that morning that he was not going to come --
16 I'm sorry, that he was unable to make his appointment.

17 So when she contacted -- when Ms. Rennie contacted
18 the defendant to find out --

19 MS. HALVERSON: I was going to make an objection.

20 It sounds like she's going to be talking about
21 hearsay, and I would prefer that Ms. Rennie be the one to
22 talk about what she actually had on that phone call.

23 THE COURT: Okay.

24 Is Ms. Rennie going to speak in a minute?

25 MS. FURST: She is, Your Honor.

1 But, you know, I would submit under Federal Rule
2 of Evidence 1101 that hearsay is admissible, but Ms. Rennie
3 will be testifying.

4 THE COURT: I agree.

5 MS. FURST: This is just Ms. Robinson telling you
6 what she understood was going on that led to the petition
7 for warrant being filed.

8 THE COURT: Okay. Objection overruled.

9 You may continue, ma'am.

10 MS. ROBINSON: Okay.

11 And so when I received the phone call, I was asked
12 what could be done. And so what they had to do was give me
13 the history of what occurred that day, starting from that
14 morning.

15 And that morning was when Ms. Rennie contacted the
16 defendant and questioned the defendant about why he canceled
17 his appointment for the mental health appointment.

18 And the defendant, at that point, told her his
19 reasons why he canceled the appointment, asked if he could
20 go out on a job, she denied that, and then a little while
21 later, he was contacted and told to come into the office by,
22 I believe it was Ms. Kiebart.

23 And soon after he was contacted by Ms. Kiebart to
24 make his way into the office, the phone call was made to
25 Ms. Rennie's family member, and at that point, based on the

1 history that the defendant had previously exhibited,
2 comments that the defendant had made, I felt like the
3 defendant was a danger to the community, and submitted the
4 petition for warrant.

5 MS. FURST: Can I? May I, Your Honor?

6 THE COURT: Yes, ma'am.

7 MS. FURST: Ms. Robinson, could you tell the
8 Court, when you say based on information that you had, you
9 decided he was a danger, could you elaborate on that,
10 please, and tell the judge what specific things led you to
11 believe he was a danger?

12 MS. ROBINSON: Okay.

13 The defendant has previous arrests for
14 harassment -- harassment cases. And then there was
15 information that was provided that the defendant had
16 previously contacted -- I'm sorry, had previously used the
17 phone number of a judge that was presiding over a case that
18 the defendant was a party to. And so at that point, this
19 was an obvious pattern.

20 MS. FURST: All right.

21 So to make that a little bit clearer, as
22 I understand what you're telling the Court, defendant had an
23 appointment -- when we say "defendant," we're talking about
24 who?

25 MS. ROBINSON: Mr. Fellows.

1 MS. FURST: Brandon Fellows. Okay.

2 MS. ROBINSON: That is correct.

3 MS. FURST: He had an appointment on June 14th for
4 a mental health evaluation; is that correct?

5 MS. ROBINSON: That is correct.

6 MS. FURST: And was that a court-ordered condition
7 of his release?

8 MS. ROBINSON: That was.

9 MS. FURST: Was that a condition that was added at
10 the second motion for revocation held June 4th?

11 MS. ROBINSON: Yes, it was.

12 MS. FURST: And so did he -- to your
13 understanding, did he make that appointment -- did he go to
14 that appointment?

15 MS. ROBINSON: He did not go to the appointment.

16 MS. FURST: Did he cancel the appointment?

17 MS. ROBINSON: It is my understanding that he
18 canceled the appointment.

19 MS. FURST: Okay.

20 And so after that, there were phone calls and some
21 contact. And we'll have Ms. Rennie go into that.

22 But the harassment arrest, as well as calling --
23 or leaving a number for -- that was to the judge's wife in
24 the harassment case led you to believe that he was a danger?

25 MS. ROBINSON: Yes.

1 MS. FURST: And do you know any more specifics
2 about the judge's wife phone call?

3 MS. ROBINSON: The specifics that I know from one
4 of the documents that I read was that the defendant was,
5 I believe, in a -- like in the Clerk's Office somewhere and
6 was told to fill out a form to include the information of
7 his contact information, and the phone number that he put
8 down on that form was the phone number to the wife of the
9 judge.

10 MS. FURST: So when the clerk tried to call the
11 defendant, it rang to the judge's wife's office; is that
12 your understanding?

13 MS. ROBINSON: That is my understanding.

14 MS. FURST: All right.

15 And so on June 14th, were you also aware of other
16 behaviors by the defendant that had happened previously that
17 led you to believe he may be a danger?

18 MS. ROBINSON: Yes.

19 The defendant has made several comments; the
20 defendant has left voice messages. It was a constant
21 throughout.

22 And like I said, we attempted to resolve it with
23 the defendant and defense counsel, and to no avail, we are
24 at this point.

25 MS. FURST: All right.

1 And, Your Honor, I'll go into more detail maybe
2 with Ms. Rennie.

3 THE COURT: Okay.

4 Did you have any questions for Ms. Robinson,
5 Ms. Halverson?

6 MS. HALVERSON: Just briefly.

7 Good morning, Ms. Robinson.

8 Is it your understanding that Mr. Fellows -- you
9 said that he canceled his appointment for mental health
10 evaluation?

11 MS. ROBINSON: Good morning.

12 Yes, that is my understanding.

13 MS. HALVERSON: And did he reschedule it?

14 MS. ROBINSON: At the time, I wasn't sure if the
15 appointment was rescheduled or not.

16 MS. HALVERSON: Are you aware now?

17 MS. ROBINSON: If you're telling me that it's
18 rescheduled.

19 MS. HALVERSON: So you have not been made aware
20 one way or the other whether or not he's rescheduled that
21 appointment?

22 MS. ROBINSON: I do believe that there was some
23 reschedule. But when the phone call was made, that was not
24 the -- that part of the conversation.

25 It was just the appointment was canceled, he asked

1 to go to work, he was denied to go to work because he did
2 not make the appointment, which is kind of what he has been
3 doing the entirety of his supervision. When he doesn't want
4 to go to take a drug test or doesn't want to go and do
5 something, he doesn't do it. And so going to work that day
6 was denied, and then we later on got into the part where he
7 reached out to the defendant's family member.

8 MS. HALVERSON: All right.

9 So just to back up a little bit, Ms. Rennie never
10 told you that he rescheduled his appointment prior to you
11 filing the petition for revocation?

12 MS. ROBINSON: I did not ask that question, but
13 that was not -- to my remembrance, that was not a part of
14 the conversation.

15 MS. HALVERSON: Okay.

16 Additionally, you noted in the -- you wrote the
17 pretrial petition for revocation, correct?

18 MS. ROBINSON: That is correct.

19 MS. HALVERSON: And you cite what I think you put
20 as an outline of an email from a case, and that's the case
21 in upper state New York?

22 MS. ROBINSON: That's correct.

23 MS. HALVERSON: And did you provide that -- the
24 full email to anybody or did you just include the summary?

25 MS. ROBINSON: Just the summary.

1 MS. HALVERSON: And you crafted the summary
2 yourself?

3 MS. ROBINSON: No.

4 I received the information -- well, part of the
5 summary came from Ms. Kiebart.

6 MS. HALVERSON: Okay.

7 So Ms. Kiebart crafted the summary?

8 MS. ROBINSON: The email that was sent to me that
9 is -- yes.

10 MS. HALVERSON: I just want to understand how many
11 hands were on this.

12 So, Ms. Kiebart, and I'll ask her that as well,
13 but your understanding is that the summary of the email that
14 was provided is a summary that Ms. Kiebart drafted based on
15 email that she received from somebody else?

16 MS. ROBINSON: And that is typical when a case is
17 being courtesy supervised.

18 MS. HALVERSON: Right.

19 But is that correct?

20 MS. FURST: Well, Your Honor, I'm going to object.

21 I think, first of all, it's a compound question,
22 and, secondly, it's asking for speculation as to where
23 Ms. Kiebart got the information.

24 THE COURT: Overruled.

25 MS. HALVERSON: So you can answer the question.

1 MS. ROBINSON: Yes.

2 So the email was provided to me when I asked for a
3 summary of what happened.

4 MS. HALVERSON: Okay.

5 THE COURT: And, I'm sorry, we're talking about
6 the February 22nd, 2021, email, is that this --

7 MS. HALVERSON: The Court's indulgence.

8 THE COURT: -- that talks -- I just want to make
9 sure I understand what we're all talking about.

10 MS. HALVERSON: Yeah.

11 So what I'm talking about is there is a note, it's
12 the fourth paragraph down, it says: "The following is an
13 outline of an email that one of the NYNP presentence
14 investigators sent to the U.S. magistrate judge." And then
15 it is in quotes and talks about conduct. And that's the
16 email that I'm talking about.

17 Is that an email that was sent to you directly
18 from this person or was it sent to you through Ms. Rennie?

19 MS. ROBINSON: That was sent to me through --
20 I believe it was Ms. Kiebart. I would have to look back at
21 the name of the person that sent it to me, but it was sent
22 from that office.

23 MS. HALVERSON: And it says it's an outline of an
24 email. What did you mean by "an outline of an email"?
25 Is it the full email that was sent to them or is it a

1 summary that -- do you understand it to be drafted? I'm
2 just wondering about that word "outline" that you used.

3 MS. ROBINSON: The word "outline" is -- meaning
4 it's not the email in its entirety.

5 MS. HALVERSON: Okay.

6 So there is part of the email that is not included
7 in this?

8 MS. ROBINSON: That's a possibility.

9 Like I said, I asked for a summary so that I could
10 get the -- provide the Court with the information, and that
11 was the summary that was provided to me.

12 MS. HALVERSON: From Ms. Rennie or Ms. Kiebart?

13 MS. ROBINSON: Yes.

14 MS. HALVERSON: Okay.

15 And are you aware if charges were brought against
16 Mr. Fellows regarding his conduct?

17 MS. ROBINSON: For the -- with the phone number?

18 MS. HALVERSON: Uh-huh. Yes.

19 MS. ROBINSON: I'm not aware if charges were
20 brought, but I know it was in connection with the case, and
21 I do understand that the judge was removed from the case and
22 the case was reassigned. So I don't know if charges were
23 brought or not.

24 But I do know that there are pending charges, the
25 last information that I have, but I'm not sure who it's in

1 connection to.

2 MS. HALVERSON: Are you talking about the petty
3 theft charges?

4 MS. ROBINSON: No.

5 There is a pending -- let's see.

6 There is a pending -- there looks like there is a
7 pending harassment, and I believe that that is the case that
8 -- the 2019 case that is in connection with the judge. But
9 like I said, I don't know who the parties are to that case.

10 MS. HALVERSON: So my understanding is it's a
11 contempt charge that's pending. He has two pending charges;
12 one's a contempt charge and one's a petty larceny charge.
13 The petty larceny charge is for conduct that occurred after
14 he was placed on pretrial -- or, I'm sorry, before he was
15 placed on pretrial supervision, so I'll sort of skirt around
16 that.

17 But as far as the contempt-of-court charge, you're
18 not aware of whether or not the judge or his wife is a party
19 to that --

20 MS. ROBINSON: That is correct.

21 MS. HALVERSON: -- or whether or not that contempt
22 charge at all relates to the conduct that was part of the
23 summary outline of an email that somebody sent to Ms. Rennie
24 or Ms. Kiebart?

25 MS. ROBINSON: No.

1 So my understanding is that email is a part of
2 what happened in the judge that was assigned to that 2019
3 case, where there's one count for criminal contempt and
4 another count for harassment, seriously annoying.

5 MS. HALVERSON: Okay.

6 I guess I'm just trying to get clarity. And I
7 don't want to waste anybody's time, but just to make sure
8 the record's clear, you're not aware if that contempt or
9 harassment charge has anything to do with the conduct that
10 was outlined in this email?

11 MS. ROBINSON: Correct.

12 MS. HALVERSON: Okay.

13 No further questions.

14 THE COURT: Thank you, ma'am.

15 MS. FURST: Thank you, Judge.

16 So, Ms. Robinson, in the petition, the summary
17 that you placed from the email you got from the Northern
18 District of New York, that summary says that police were
19 called because Mr. Fellows was --

20 MS. ROBINSON: Following someone.

21 MS. FURST: -- following a woman who apparently
22 was an ex-girlfriend. Is that your understanding?

23 MS. ROBINSON: That is correct.

24 MS. FURST: She called the police, police went out
25 to investigate, they saw that cars were following each other

1 in a parking lot; is that right?

2 MS. ROBINSON: Correct. That's correct.

3 MS. FURST: And they ran Mr. Fellows and found
4 that there was a protection order against him;
5 is that correct?

6 MS. ROBINSON: That is correct.

7 MS. FURST: And that's in Guilders Town [sic],
8 New York.

9 MS. ROBINSON: New York.

10 MS. HALVERSON: And, Your Honor, we would object
11 to this line of questioning at this point. He's got a
12 conviction for that. I don't know that we need to go into
13 the specifics of the conduct of that.

14 THE COURT: Okay.

15 I mean, I can read the email or whatever this is,
16 as well as either of you.

17 MS. FURST: Yes, Your Honor.

18 I just feel it was a little convoluted, especially
19 when it comes to the contempt, if I could just follow
20 through on the actual facts, because I believe the contempt
21 came -- if I may proffer.

22 THE COURT: Sure.

23 MS. FURST: So in August of 2019, the police are
24 called to this situation where the female victim said this
25 man's following me.

1 THE COURT: Right.

2 MS. FURST: Police go there, they learn that
3 Mr. Fellows, there's a protection order from this victim
4 against him, so that was already in place.

5 And then I believe the contempt came because he
6 allegedly violated the order by following her on that date.
7 And I'm not sure; Ms. Halverson probably knows more than I
8 do. But at any rate, that is a totally separate matter than
9 calling the -- putting down the judge's phone number.

10 If I may continue with the proffer, I can --

11 THE COURT: Okay.

12 Yeah. But I think Ms. Halverson's point was, he
13 was not charged or anything in relating to -- in relation to
14 this call of the judge's wife.

15 MS. FURST: Right, Your Honor.

16 And what I wanted to proffer was that he was not
17 charged; however, the judge did make a police report. And
18 so that is of record, and then the Judge asked to be removed
19 from the case.

20 THE COURT: Okay.

21 MS. FURST: But that is correct, there was not any
22 charges?

23 I believe the contempt was for violating the
24 protection order.

25 THE COURT: Okay.

1 MS. FURST: Thank you.

2 THE COURT: Thanks.

3 All right. Are we moving on, Ms. Furst?

4 MS. FURST: If I may have a moment.

5 THE COURT: Sure.

6 MS. HALVERSON: The Court's indulgence.

7 I'm not exactly sure what the rules are, but I
8 just wanted to whisper to my client, which normally I would
9 do when he's next to me, but if I can just go around the
10 table --

11 THE COURT: That's fine.

12 MS. HALVERSON: Okay.

13 THE COURT: I think all of that stuff is there to
14 protect you.

15 MS. HALVERSON: Yeah. Well, I appreciate that.

16 MS. FURST: I don't think I have any -- I don't
17 think I have anything else for Ms. Robinson, Your Honor.
18 Ms. Halverson may have something more.

19 THE COURT: Okay.

20 Well, I think we're ready to move on to your next
21 witness.

22 MS. FURST: Okay.

23 THE COURT: Thank you, Ms. Robinson.

24 MS. FURST: Your Honor, then we will ask
25 Ms. Kendra Rennie to step up.

1 And is that Kendra?

2 Is Kendra there?

3 All right. Well, it looks like -- I've never meet
4 these folks, Your Honor. I'm guessing this is Ms. Kiebart.
5 Is Ms. Kiebart there? Yes, she raised her hand.

6 All right. We'll go forward with her.

7 We can't hear you.

8 THE COURT: It looks like she can't hear us.

9 MS. FURST: And Ms. Rennie is just totally not
10 there, I guess.

11 MS. RENNIE: Can you hear me now?

12 THE COURT: Yes.

13 MS. RENNIE: Sorry, it said that you guys had to
14 give me permission.

15 MS. FURST: All right.

16 Is there maybe a permission for Ms. Rennie, too?

17 COURTROOM DEPUTY: I don't see that on my end.

18 MS. FURST: Okay.

19 Judge, if I may ask Ms. Kiebart if she knows where
20 Ms. Rennie is. Maybe if they're both in the office,
21 Ms. Rennie then can come up to the Zoom.

22 THE COURT: Okay. Sure.

23 MS. FURST: Ms. Kiebart, are you at your office?

24 MS. KIEBART: Yes, I am.

25 MS. FURST: Is Ms. Rennie there by any chance?

1 MS. KIEBART: No, she is not, but I can get ahold
2 of her.

3 MS. FURST: Okay.

4 I'm not sure why the Zoom -- maybe if you can ask
5 her to just call in to the Zoom, that might help, on the
6 phone.

7 THE COURT: So it looks like -- I mean, I think
8 this black screen is her down there. We need to get her
9 video moving.

10 And there should be a button -- Ms. Rennie,
11 I don't know if you can hear me, but on the lower left-hand
12 corner, there is a video icon that you need to click on and
13 a microphone that you need to click on.

14 MS. KIEBART: If I may speak, she said she's
15 rejoining.

16 THE COURT: Okay.

17 MS. FURST: Okay.

18 Well, Judge, we can go forward with Ms. Kiebart.

19 THE COURT: Okay.

20 MS. FURST: We can do that.

21 And, Ms. Kiebart, we're sort of doing this proffer
22 question and narrative.

23 Why don't you start with who you are, how you are
24 connected to Mr. Fellows, and just go down and tell the
25 judge what you know about this incident and what's alleged

1 in the petition.

2 MS. KIEBART: Good morning. My name is Jeannine
3 J-e-a-n-n-i-n-e. Last name Kiebart, K-i-e-b-a-r-t. I'm a
4 supervising U.S. Probation officer in the Northern District
5 of New York. And I am currently Kendra Rennie's supervisor.
6 And I have 22 years --

7 MS. FURST: I'm sorry, I'm having so much
8 feedback, I can't hear it.

9 THE COURT: It looks like we have Ms. Rennie.
10 Ms. Rennie, can you mute for the moment there.
11 There. Thank you. We'll let you know when you're
12 up.

13 MS. KIEBART: Thus far, what I was saying?

14 THE COURT: Yeah, please continue, Ms. Kiebart.

15 MS. KIEBART: Okay.

16 I come to know Mr. Fellows, as I am the supervisor
17 for PO Rennie.

18 I don't know what direct line of questioning, but
19 my first contact with him was back in April of -- April 5th
20 of 2021.

21 At that time, I received a voicemail from him in
22 reference to PO Rennie directing him to report weekly with
23 his job-search logs. It was about a five-minute
24 conversation. I don't know if we're able to play that
25 conversation or if you want me just to tell you what was in

1 that five-minute voicemail.

2 MS. FURST: All right.

3 And, Your Honor, at this point, I would move to
4 admit Government's Exhibit 4, which is the voicemail that
5 Ms. Kiebart is referring to. She received it Monday,
6 April 5th, approximately 4:19 p.m. from the defendant's
7 phone number. Let me just lay one more piece of foundation.

8 Are you aware -- I can't pull the screen up so you
9 cannot look at the person sitting in the courtroom, I don't
10 know how to identify him for you.

11 MS. KIEBART: I can identify him.

12 MS. FURST: Your Honor --

13 THE COURT: You might be able to see the
14 courtroom. Can you?

15 MS. KIEBART: Yes.

16 THE COURT: Yeah.

17 MS. KIEBART: Yes, Your Honor.

18 Mr. Fellows is the gentleman in the orange
19 jumpsuit wearing his mask below his lips.

20 MS. FURST: All right.

21 And nodding his head?

22 MS. KIEBART: Correct.

23 MS. FURST: Thank you for that identification.

24 And at the time, did your office have a cell phone
25 number by which he would contact your office?

1 MS. KIEBART: Yes, we did.

2 MS. FURST: And the voicemail, Exhibit 4, that we
3 are going to move to admit, did that come from the
4 defendant's cell phone number that was on record in the
5 office in Albany?

6 MS. KIEBART: Yes, it did.

7 MS. FURST: All right.

8 Albany was doing courtesy supervision, correct?

9 MS. KIEBART: That is correct.

10 MS. FURST: And that is because defendant lived in
11 the Northern District?

12 MS. KIEBART: That is correct.

13 MS. FURST: Okay.

14 And this voicemail came to you, and this was your
15 first experience, direct experience with the defendant;
16 is that correct?

17 MS. KIEBART: That is correct.

18 MS. FURST: Your Honor, we would move to admit
19 Government's Exhibit 4.

20 MS. HALVERSON: We would object, Your Honor.

21 We've had two revocation hearings before -- or
22 after that voicemail was left. That was never raised.
23 I don't see now why it's relevant information.

24 I don't think the government is proffering that he
25 made any threats towards anybody in that voicemail message.

1 I think this is really just to sort of inflame the passions
2 to show that Mr. Fellows is rude, and, again, I don't think
3 that has any bearing on whether or not he's a danger to the
4 community. So I would submit that this isn't relevant
5 information.

6 THE COURT: All right.

7 I don't think my passions will be inflamed.
8 Overruled.

9 MS. FURST: Okay.

10 And, Ms. Kiebart, you've listened to this
11 voicemail, correct?

12 MS. KIEBART: That is correct.

13 MS. FURST: And it's a true and accurate
14 representation of the one you received that day?

15 MS. KIEBART: That is correct.

16 (Audio played)

17 MS. FURST: Ms. Kiebart, after you --

18 (Audio played)

19 THE COURT: It sounds like it's just starting up
20 again.

21 MS. FURST: Sorry, Your Honor.

22 Ms. Kiebart, so he ran the message out, the
23 voicemail; is that correct?

24 MS. KIEBART: That is correct.

25 MS. FURST: And are you aware of whether or not he

1 did that on a regular basis?

2 MS. KIEBART: I know he has done it to Ms. Rennie
3 in the past.

4 MS. FURST: And after you heard this voicemail,
5 was there anything about this voicemail that caused you
6 alarm?

7 MS. KIEBART: Yes.

8 And not just alarmed, but concerned and disturbed,
9 I think, are appropriate words as well.

10 As you heard, it's a lengthy voicemail. In that
11 time, he made reference to my sex drive, which to me I
12 construed it as sexual harassment.

13 I had concerns about his anger and any kind of
14 perceived threats. He made mention of wanting to fight
15 people on the bus, random people, just over wearing masks.

16 He made statements that he's getting more and more
17 angry with us, and I'm taking "us" as my department, and
18 specifically Ms. Rennie.

19 He made reference to the way that Officer Rennie
20 conducts her job as that of the Nazis, in that he would tell
21 them to kindly fuck off.

22 All those statements has caused me to have
23 concerns. And to be honest, as the case progressed and as I
24 saw a pattern, those concerns increased even more so than
25 when I initially received the email or the voicemail.

1 MS. FURST: All right.

2 And after this April 5th voicemail, did you
3 contact Mr. Fellows?

4 MS. KIEBART: Yes, I did.

5 MS. FURST: Could you tell the Judge when you did
6 that and what you talked about?

7 MS. KIEBART: I called him back on his reported
8 phone number the following day, on April 6th, at around
9 11:20 a.m.

10 At that point, I had more of a brief conversation
11 with him. I told him that he needs to follow Officer
12 Rennie's instructions, which means if she's telling him to
13 report, he needs to report.

14 And I listened to his concerns regarding the
15 reporting, but, again, told him what his directives were and
16 that he needed to follow Officer Rennie's directives.

17 At that point, he told me to enjoy my shitty job
18 and ended the conversation.

19 MS. FURST: All right.

20 And he was unhappy with Ms. Rennie because of her
21 requiring him to come in to report his job search;
22 is that correct?

23 MS. KIEBART: That's correct.

24 MS. FURST: And you had contact again with him on
25 April 30th, where he was in the lobby but didn't have a

1 mask?

2 MS. KIEBART: That is correct.

3 MS. FURST: Could you tell the Judge about that
4 contact?

5 MS. KIEBART: The officers -- sure.

6 The Court Security Officers requested me to come
7 downstairs to provide Mr. Fellows with a mask so that he can
8 enter the building.

9 By the time I arrived, he was having a
10 conversation with the security officers regarding a small
11 knife that he kept on his keychain.

12 He was providing them with resistance on why he
13 needed to remove that knife. He did, in fact, remove it
14 when I gave him the directive to do so.

15 I provided him with a mask. We walked upstairs.
16 And during our conversation upstairs, I instructed him that
17 he is -- his behavior is not appropriate and he did at that
18 time tell me that he was sorry that he took his frustrations
19 out on me during the phone conversations.

20 MS. FURST: All right.

21 And then you had contact with him again on
22 June 14th -- or that's not true.

23 Was there an issue that arose on June 14th of 2021
24 concerning Mr. Fellows?

25 MS. KIEBART: Yes, there was.

1 MS. FURST: And go ahead and tell us.

2 MS. KIEBART: Officer Rennie came to me --

3 MS. FURST: Go ahead.

4 MS. KIEBART: I'm sorry.

5 Officer Rennie came to me visibly upset, advising
6 me that Mr. Fellows made reference to her hormones.

7 At that time, I told Officer Rennie that I was
8 going to call Mr. Fellows myself and direct him to report
9 that day and that I would be providing him with a new
10 officer.

11 On that same day around June 14th, around
12 2:24 p.m., I did call Mr. Fellows on his reported phone
13 number and directed him to report to the office to come see
14 me.

15 MS. FURST: And we have some documents that have
16 his reported phone number redacted.

17 And, Your Honor, for the record, those are
18 documents 32 in our file, which were the -- it was my motion
19 for judicial knowledge -- and then to include in the record
20 the documents from the New York initial appearance and
21 detention hearing.

22 And in those documents, Ms. Kiebart, the reported
23 phone number is redacted; however, are you familiar with the
24 full phone number?

25 MS. KIEBART: Yes, I am.

1 MS. FURST: And the number that you called was the
2 full, correct phone number for the defendant?

3 MS. KIEBART: Yes, it was.

4 MS. FURST: Okay.

5 And in that conversation, what did you tell the
6 defendant?

7 And you said it was 2:24 on June 14th?

8 MS. KIEBART: That is correct.

9 It was a very short conversation. I gave him
10 explicit instructions to report to my office to see me at
11 3:45 p.m. that same day.

12 MS. FURST: And your intent at that time was to
13 give him a different probation officer to report to?

14 MS. KIEBART: That is correct.

15 MS. FURST: Okay.

16 Did anything happen after that where Ms. Rennie
17 came to you again?

18 MS. KIEBART: Yes.

19 I was in a meeting with our Deputy Chief and
20 another supervising officer. Ms. Rennie came in extremely
21 upset; she was actually shaking and emotional. I could tell
22 that something tragic had happened, but I did not know what.
23 We stopped our meeting and all of us addressed Ms. Rennie to
24 see what was going on.

25 At that point, we learned that her mother had

1 called her and indicated that Mr. Fellows, which we later
2 identified as him through her caller ID, contacted her,
3 wanting to know if this was Kendra Rennie's number.

4 MS. FURST: And you said Ms. Rennie was upset.
5 Did you do anything after you learned what had
6 happened?

7 MS. KIEBART: Yes.

8 Myself and the Deputy Chief and Ms. Rennie and
9 another supervisor all reached out to Pretrial Services
10 office in Washington to advise of the situation and to
11 request a warrant.

12 MS. FURST: And why did you want a petition and a
13 warrant?

14 MS. KIEBART: We were concerned for safety at that
15 point.

16 MS. FURST: So other than the April 30th call that
17 we -- I'm sorry, April 5th call, Exhibit 4 that we talked
18 about, and then the call about hormones, was there anything
19 else that went into your concern that led you to believe the
20 defendant might be a danger?

21 MS. KIEBART: Yes.

22 I became Kendra's supervisor in March, so I
23 learned about the case back then. And it seemed to be a
24 pattern with how Mr. Fellows has been treating Ms. Rennie,
25 making sexual innuendo comments, talking to our

1 UA technician in a manner that's inappropriate.

2 He recently had revocation proceedings in front of
3 the Court where some of those issues were addressed. So at
4 this point, I was seeing a pattern.

5 MS. FURST: And you're talking about the June 4th
6 hearing and the voicemail where he described his genitalia?

7 MS. KIEBART: That is correct.

8 MS. FURST: All right.

9 And were you aware of an incident that happened in
10 Guilders Town with another female?

11 MS. KIEBART: Yes.

12 A bail report writer indicated and got information
13 that was provided to Ms. Rennie and also our court in the
14 Northern District of New York that there was a situation in
15 Guilderland where he wrote down the Presiding Judge's wife's
16 phone number as his personal contact information.

17 MS. FURST: And do you know whether or not that
18 was the case that arose from his violation of a protective
19 order against an ex-girlfriend?

20 MS. KIEBART: Yes, it was.

21 MS. FURST: All right.

22 And after this incident with Ms. Rennie and her
23 mother, you contacted D.C. Did you contact D.C. to ask them
24 about the warrant?

25 MS. KIEBART: It was a joint phone call, so I

1 could see where there was some confusion.

2 The Deputy Chief was on the phone call. So we
3 called from her office, and myself, Kendra, and another
4 supervisor, Michael Patnaude.

5 So, yes, we all were calling up.

6 MS. FURST: And did anybody email Ms. Robinson any
7 information in reference to Ms. Halverson's questions
8 earlier?

9 MS. KIEBART: Yes, that was our Deputy Chief,
10 Christine Connolly. She was operating off of her computer
11 and her email, with us providing her with the information.

12 MS. FURST: All right.

13 And after this happened, did the defendant report
14 at 3:45?

15 MS. KIEBART: He reported later than 3:45, but he
16 did report.

17 MS. FURST: And what happened at that time?

18 MS. KIEBART: We did not receive a warrant, so he
19 did wait in our waiting area for a while, at which point
20 around 5:30, I did tell him that he was going to be given a
21 new officer, that new officer was not available, and that he
22 needed to report the following day, and that he was to see
23 Christine Connolly -- Christine Connolly is a Deputy Chief
24 in our office -- at which point he told me that he thought
25 he was going to be getting a male officer and that he has

1 more respect for male officers.

2 MS. FURST: And when the warrant did not occur,
3 was there a point when Mr. Fellows left your office?

4 MS. KIEBART: Right after that comment, he did
5 leave.

6 Our Deputy Chief, Christine Connolly, followed him
7 out to escort him out the building, at which time he made
8 reference to me as blondie.

9 MS. FURST: And after that occurred, did you have
10 more conversations with Ms. Rennie about what had happened
11 with her mother -- and what had happened?

12 MS. KIEBART: Yes.

13 MS. FURST: Okay.

14 Can you tell the Court what your understanding
15 was?

16 MS. KIEBART: Yes.

17 Her mother was extremely upset as well. She was
18 concerned for her safety, and Ms. Rennie was going to go
19 pick her mother up that evening.

20 MS. FURST: Did her mother live in another state?

21 THE COURT: I'm sorry, are we going to hear from
22 Ms. Rennie?

23 MS. FURST: We are, Your Honor.

24 THE COURT: Okay.

25 Let's move this along.

1 MS. FURST: We'll move on.

2 Did you yourself have any further contact with the
3 defendant on June 14th?

4 MS. KIEBART: Yes, I did.

5 MS. FURST: What was that?

6 MS. KIEBART: I received a phone call from
7 Ms. Rennie indicating that Mr. Fellows had reached out to
8 her and sent her a screenshot of his Google search of her.
9 And I told her that I will call him directly and tell him to
10 cease contact with her unless it's location-monitoring
11 related.

12 So at around 7:06 p.m. on June 14th, I called
13 Mr. Fellows on his reported phone number and told him that
14 he is not to have any more contact with Ms. Rennie unless
15 it's strictly related to location-monitoring concerns.
16 I provided him with my direct line and number so that he can
17 call me with any issues.

18 I asked him to repeat back those directive, so I
19 wanted to make sure he had a very clear understanding, and
20 he told me that he records all his conversations, including
21 this one. He did, though, repeat back my directives.

22 He did inquire at that time if the reason I'm
23 calling him was in reference to him reaching out to her
24 family member.

25 MS. FURST: May I have one moment, Your Honor?

1 THE COURT: Yes.

2 MS. FURST: Your Honor, I'll turn this witness
3 over.

4 THE COURT: Okay.

5 Ms. Halverson.

6 Good morning -- are we still in the morning? Yes.

7 So thank you for being here today. I just have a
8 couple questions for you and then, hopefully, you'll be able
9 to relax a little bit.

10 So just to sort of go back, you said that the
11 email that was written to Ms. Robinson was a summary that
12 was provided by Officer Connolly from your office?

13 MS. KIEBART: So that's a two-part question.

14 The summary -- if you're talking about the
15 outline, that was an outline done by Ms. Inman in my office,
16 which I referenced to, is a bail report presentence writer.

17 The email that outlined a lot of the violation
18 behavior above that came from my Deputy Chief, if that makes
19 sense.

20 MS. HALVERSON: Sort of.

21 So I just -- so I guess my point is that there was
22 multiple people that sort of looked at this email that came
23 through and made edits and excises from the actual email.

24 MS. KIEBART: Can you please clarify which email
25 you're speaking of?

1 MS. HALVERSON: I'm sorry, I'm talking about the
2 email that was cited in the petition -- the Court's
3 indulgence.

4 This was -- the email doesn't have a date on it,
5 so that's why it's a little bit difficult for me to figure
6 out, but it's the -- it's on the fourth paragraph of the
7 narrative of the pretrial revocation report. So it starts:
8 "The following is an outline of an email," and then there
9 was a quote.

10 MS. KIEBART: Yes, that quote, that email came
11 from Melissa Inman.

12 MS. HALVERSON: Okay.

13 And Melissa Inman is the one that reviewed and
14 drafted this but from a different document?

15 MS. KIEBART: Correct.

16 MS. HALVERSON: Okay.

17 MS. KIEBART: She's the one that -- just so we're
18 clear, she's the one that obtained the incident report and
19 she notified our court and provided Ms. Rennie with that
20 summary.

21 Does that answer the question?

22 MS. HALVERSON: Yes.

23 And so just to follow up on that, she provided it
24 to Ms. Rennie, Ms. Rennie provided it to you, you then
25 passed it to Ms. Robinson?

1 MS. KIEBART: I did not pass that to Ms. Robinson.
2 It went from Ms. Rennie, and she would have to
3 testify to how it got to Ms. Robinson.

4 MS. HALVERSON: Okay.

5 And going back to the April 5th message that was
6 left for you, did you at that time contact D.C. Pretrial
7 Services and ask that his bond be revoked on the basis of
8 that voicemail message at that time?

9 MS. KIEBART: No, I did not.

10 MS. HALVERSON: Did you tell him, when you asked
11 him on June 14th at 2:24 p.m. to come into the office, did
12 he ask you why?

13 MS. KIEBART: Yes, he did.

14 MS. HALVERSON: And did you tell him why?

15 MS. KIEBART: No, I did not.

16 MS. HALVERSON: No further questions.

17 THE COURT: Thank you, Ms. Kiebart.

18 MS. FURST: Ms. Kiebart, I don't know if you have
19 this in front of you, it is the police report from
20 Guilderland concerning the harassment argument in the
21 parking lot from August of 2019.

22 MS. HALVERSON: I would object.

23 MS. KIEBART: I do not have that in front of me.

24 MS. FURST: I'm sorry?

25 MS. KIEBART: I'm sorry, I do not have that in

1 front of me.

2 MS. FURST: Okay.

3 Are you aware of whether or not that's where the
4 quote came from?

5 MS. KIEBART: Yes, that's my understanding.

6 MS. HALVERSON: Again, I would object to this line
7 of questioning, Your Honor. I don't think this has anything
8 to do with what we're talking about here today. It sounds
9 like we're trying to litigate a case that should be
10 litigated up in Guilderland, New York, and not litigated
11 down here in the U.S. District Court for the District of
12 Columbia.

13 So I think that we're trying to push in
14 information to make Mr. Fellows seem more guilty than he is,
15 and I just object to the relevancy of whatever a police
16 report says from 2019.

17 My point in my line of questioning was that there
18 were multiple people that edited this statement that was
19 sent in the Pretrial Services Report violation report.

20 THE COURT: Okay.

21 I thought Ms. Furst was trying to explain that,
22 where that language came from.

23 MS. FURST: That's correct, Your Honor.

24 THE COURT: Okay.

25 Overruled.

1 MS. FURST: And, Your Honor, if I may, I'll just
2 show the report to counsel so she'll have a copy.

3 THE COURT: That's fine.

4 Okay. Did you have any more questions for
5 Ms. Kiebart?

6 MS. FURST: Sorry, Your Honor?

7 Ms. Kiebart, is there anything else relevant that
8 the judge should know?

9 MS. KIEBART: The only thing is, with that report,
10 that was instrumental for us with our concerns, because it
11 shows a pattern of behavior. So if defense counsel wants to
12 know why that was important to us, it's because it was
13 similar conduct, where it was an attempt at intimidation.

14 THE COURT: Okay.

15 MS. FURST: And --

16 ALSO PRESENT: That's why that report is so
17 important, which is why we sought a warrant.

18 MS. FURST: So was this report part of the
19 decision that went into your thought process about why you
20 believe the defendant was dangerous and escalating
21 behaviors?

22 MS. KIEBART: Absolutely.

23 It's a culmination of everything I testified to
24 that made the decision why we wanted to move forward with
25 the warrant.

1 MS. FURST: Okay.

2 Your Honor, I would move to admit the Guilderland
3 report that we're talking about into evidence, because it
4 did go into the decision to request the warrant.

5 And there are two reports, for the Court's
6 edification. One involves the August 19 violation of the
7 protection order. And then on the last page is the report
8 by the judge in the harassment case, where the report was
9 the phone number given by the defendant to contact him was a
10 Google number that then rang to the judge's wife's office.
11 So I would move to admit those as Exhibit 5, and counsel has
12 a copy.

13 MS. HALVERSON: I would object to admission of
14 that for a couple of reasons. One, again, I do not see the
15 relevancy of this. I think we're trying to litigate a case
16 from the upper state of New York down here in the District
17 Court.

18 THE COURT: So, I'm sorry, even to the relevance
19 of your client allegedly calling a judge's wife?

20 MS. HALVERSON: So the reason I don't see that to
21 be relevant is because, at the end of the day with that
22 case, charges were never filed, which makes me think that
23 these were unsubstantiated charges. So I don't think that
24 unsubstantiated accusations are relevant to whether or not
25 he's a danger.

1 I also believe that the first page, the request
2 that was given to the Guilderland Town Police Department in
3 order to obtain these records, was improper on the part of
4 Pretrial Services.

5 In order to obtain the record, Pretrial Services
6 said that they needed the report to ascertain details to
7 calculate defendant's criminal history, not to find pieces
8 or facts to then use later to revoke his pretrial release.

9 So I think it was disingenuous on the part of
10 Pretrial Services in New York to even obtain the contents of
11 a case that's not being litigated before Your Honor.

12 THE COURT: Okay. Thank you, Ms. Halverson.

13 MS. FURST: And, Your Honor, just to respond, it's
14 routine for Probation or, I guess, PSA here, to request
15 records in order to give the Court a full picture for bond
16 purposes in the beginning of a case.

17 This request was made January 19th after defendant
18 was first arrested. It was done in the normal course of
19 business. It became important for this motion to revoke,
20 because it is part of the thought process that went into
21 Probation in New York asking for a petition for a warrant
22 because of his past conduct.

23 THE COURT: I understand.

24 MS. FURST: Okay.

25 THE COURT: I'm admitting the document.

1 I think -- I understand Ms. Halverson's point on there's no
2 charges or conviction, and I think that goes to the weight,
3 but on detention issues, courts regularly consider any
4 number of things, including arrests.

5 MS. FURST: Thank you.

6 THE COURT: So I think it is appropriate.

7 I don't see anything -- well, regardless, even if
8 Pretrial Services did somehow pull a fast one on this police
9 department, I don't see how that would be a reason to keep
10 it out. So I'll admit it.

11 All right. Next witness.

12 MS. FURST: Yes, Your Honor. We'll call
13 Ms. Kendra Rennie.

14 And, Ms. Rennie, I don't know if you were able to
15 hear at the beginning. We are going to just talk about what
16 happened with your mom and not require your mom to testify.

17 MS. RENNIE: Thank you.

18 MS. FURST: Sure.

19 MS. RENNIE: Good afternoon, Judge. I was on the
20 full video. I'm not understanding why I was not able to be
21 seen, but I connected on my phone now.

22 THE COURT: Okay.

23 We can hear you well. Thank you, ma'am.

24 MS. RENNIE: Thank you.

25 MS. FURST: And actually, we can see you.

1 All right. Would you tell the Court your name,
2 your occupation, your experience, and then discuss how you
3 first met Mr. Fellows and did you go over the requirements
4 of pretrial release with him, and just tell the judge,
5 leading up to June 14th, your experience.

6 MS. RENNIE: Yes, I -- Kendra Rennie, R-e-n-n-i-e.
7 I've been a Probation Officer for almost 24 years.

8 I came into contact with Mr. Fellows on
9 January 19th, following his release in the Northern District
10 of New York.

11 On that date, he reported to our office, at which
12 time I reviewed his conditions of release, which included
13 contact information for our office. I also placed him on
14 the bracelet, and he signed documentation agreeing to the
15 conditions, and on the location monitoring conditions, it
16 included my office number and the emergency number for the
17 Court.

18 Immediately following his enrollment in the
19 program, Brandon has showed signs of non-compliance.

20 There was a conversation on August -- or, excuse
21 me, January 26th, where I told him that he was not allowed
22 out for exercise purposes.

23 At that time, he indicated that he didn't feel
24 that was appropriate and that his body would not do well
25 with that and he said to me, "I won't forget that." So I

1 interpreted that to mean that he was stating that he would,
2 you know, not forget that we were not allowing him out to
3 exercise.

4 Again, right from the start -- as the Court's
5 aware, we filed violations, he's been problematic, leaving
6 disturbing voicemails, texts, inappropriate conversations
7 with other members of our staff, including text messages
8 with other officers.

9 He was resistant to seeking employment. When
10 doing so, he indicated that he submitted an application to
11 the FBI office in Albany, which I found to be sarcastic in
12 nature. That was not an actual attempt to seek employment,
13 in my view. Again, he indicated he didn't want to work in
14 terms of being on the books.

15 And as we've mentioned and the Court's aware, we
16 filed two violations for Mr. Fellows. The first was on
17 May 5th, where we, after revocation for his failure to
18 report, failure to provide information about his employment,
19 failing to follow his curfew. On two occasions, failing to
20 report police contact.

21 And as the Court's aware, he left a voicemail for
22 me on May 19th, failed to follow through with the drug
23 testing program, which led to a second violation on May
24 26th.

25 And following the May 26th hearing -- or not the

1 hearing. Following the June 4th hearing, Your Honor issued
2 an order for him to attend a mental health evaluation.

3 MS. FURST: And during the course of your
4 supervision of Mr. Fellows, did he ever leave you long
5 voicemails that were just sort of rambling?

6 MS. RENNIE: Yes, he did.

7 MS. FURST: And did he ever send inappropriate
8 text messages to you or people in your office?

9 MS. RENNIE: Yes.

10 He sent an inappropriate text message to another
11 officer, Ronald Lacey, and sent me several emails and
12 voicemails.

13 MS. FURST: All right.

14 And we have marked as Exhibit 1 the text message
15 content to Probation Officer Lacey from February 15th of
16 2021, correct?

17 MS. RENNIE: Yes.

18 MS. FURST: And, Your Honor, I would move to
19 submit this text messages into evidence.

20 MS. HALVERSON: I would object, Your Honor.
21 It's a Word document that's based on I don't know what.

22 I've not seen a printout of the actual text
23 message. I don't have any way to verify this was sent.

24 It's simply just a Word-document transcription of something
25 that I wasn't actually provided the underlying information

1 for.

2 So I have no way to authenticate this or -- and
3 Officer Lacey is not present, so I can't cross-examine him.

4 And additionally, this is, apparently, from
5 February of this year, which I don't think is relevant to
6 the inquiry that we're talking about today.

7 So for all of those reasons, I would object to its
8 submission into evidence.

9 THE COURT: Thank you, Ms. Halverson.

10 Have I seen this?

11 MS. FURST: The actual text?

12 THE COURT: Well, the document. Is this in your
13 third motion to revoke the defendant's pretrial release?

14 MS. FURST: It is not in the motion, Your Honor.

15 THE COURT: Okay.

16 MS. FURST: This was given to me by Probation
17 afterwards as we were getting ready for the hearing.

18 THE COURT: Okay.

19 MS. FURST: I can lay a little bit more
20 foundation.

21 THE COURT: Okay.

22 MS. FURST: Ms. Rennie, without going into what
23 the text says, did you receive this text from Mr. Lacey?

24 MS. RENNIE: Yes, I did.

25 MS. FURST: And what was the background? Why was

1 he even talking with Mr. Fellows?

2 MS. RENNIE: I believe I was out that day or
3 conducting field work. And I knew that Brandon's number was
4 on the call-in list and he did not call in the night before
5 for drug testing. So I asked Ron to get in touch with him
6 and let him know that he needed to report for a drug test
7 and I asked that he remind him to bring verification of his
8 employment, meaning his DVA.

9 MS. FURST: And did you have the reported number
10 for Mr. Fellows at that time?

11 MS. RENNIE: Yes.

12 His reported phone number?

13 MS. FURST: Yes.

14 MS. RENNIE: Yes.

15 MS. FURST: And did you provide that to Mr. Lacoy
16 to contact Mr. Fellows?

17 MS. RENNIE: Yes, or he would have found it in the
18 chronological records, yes.

19 MS. FURST: And you received the body of the text
20 that reportedly came from Mr. Fellows to Mr. Lacoy;
21 is that correct?

22 MS. RENNIE: Yes.

23 MS. FURST: And in what form did you receive it?

24 MS. RENNIE: I believe that when I came into the
25 office the next day, Ron had -- Ron Lacoy had placed the

1 text message into my chronological record and told me to
2 look at it. That's my best recollection.

3 MS. FURST: All right.

4 And have you seen Government's Exhibit 1, the Word
5 document?

6 MS. RENNIE: Yes.

7 MS. FURST: Is that an accurate representation of
8 the text message?

9 MS. RENNIE: Yes.

10 MS. FURST: And what is the relevance for this
11 hearing concerning this text message?

12 MS. RENNIE: It shows Mr. Fellows' unwillingness
13 to comply with his conditions, inappropriate conduct -- or
14 inappropriate communication when he references, I'm not
15 going to have anyone weirdly staring at my dick. I'm not a
16 fan of that weird stuff. He's dictating -- I'm sorry?

17 MS. FURST: He was referencing that because when
18 you take -- when you give a UA, or a urinalysis, there is
19 going to be an officer in the room to make sure that nothing
20 is diluted or manufactured, correct?

21 MS. RENNIE: That's correct.

22 And he also makes reference to corrupt government
23 and the politicians, and he said they will burn in hell
24 unless they change, just like I will. So I found that to be
25 inappropriate and disturbing.

1 MS. FURST: And did this text message, did you
2 have knowledge of this text message in February when it was
3 sent to Mr. Lacey?

4 MS. RENNIE: Yes.

5 MS. FURST: Did this text message fall into your
6 thought process during the events of June 14th?

7 MS. RENNIE: Yes.

8 MS. FURST: Your Honor, I would move to admit
9 Exhibit 1.

10 MS. HALVERSON: My objection stands, Your Honor.
11 I think she's given a narrative that shows that without
12 actually having to submit it as an exhibit.

13 But, again, I don't have any -- if it was
14 submitted from that officer to Ms. Rennie, I don't know why,
15 just like all the other voicemail and text messages that
16 you've been able to take judicial notice of, why this was,
17 apparently, not included in something. Instead, it's some
18 kind of transcription that was done in a Word document, and
19 I just don't think that that's proper.

20 So for all those reasons, I would object to its
21 coming into evidence.

22 THE COURT: Okay.

23 Over objection, I'll admit it. I think those
24 arguments go to the weight, not the admissibility.

25

1 (Government's Exhibit 1
2 received into evidence.)

3 MS. FURST: Thank you, Your Honor.

4 Do you want time to read it or shall I move on?

5 THE COURT: Let's keep moving. I can read
6 quickly.

7 MS. FURST: All right.

8 And then we -- let's continue with -- that was
9 just an example of the kind of things that Mr. Fellows would
10 send to Probation; is that correct?

11 MS. RENNIE: Yes.

12 MS. FURST: All right.

13 And then leading up to -- no, let's go to
14 Exhibit 2.

15 You mentioned the June 4th revocation hearing.
16 Was there an additional requirement and condition of release
17 added at that time?

18 MS. RENNIE: Yes.

19 The Court ordered the defendant participate in
20 mental health treatment.

21 MS. FURST: And in order to facilitate that, was
22 anything done to set up an appointment?

23 MS. RENNIE: Yes.

24 Through our contract agency, I contacted the
25 agency and coordinated the setup of that evaluation for
June 14th.

1 MS. FURST: So was the evaluation to be held on
2 June 14th?

3 MS. RENNIE: Yes.

4 MS. FURST: What time?

5 MS. RENNIE: 11:00 a.m.

6 MS. FURST: And did you receive any indication
7 from Mr. Fellows that he was aware of that appointment on or
8 before June 14th?

9 MS. RENNIE: Yes.

10 I had emailed him, I believe it was June 9th, to
11 advise him of the appointment and provided him time out for
12 that appointment.

13 And then Mr. Fellows emailed me on June 14th at
14 1:30 a.m. indicating that he almost forgot about his
15 appointment, but that he knew it was that day, meaning
16 11:00 a.m., on June 14th.

17 MS. FURST: And before June 14th, on June 10th,
18 did you receive a voicemail from him?

19 MS. RENNIE: Yes, I did.

20 MS. FURST: And we've got that marked as
21 Exhibit 2; is that correct?

22 MS. RENNIE: Yes.

23 MS. FURST: And what is the relevance in the
24 context of this hearing for that voicemail?

25 MS. RENNIE: Mr. Fellows was late in getting home,

1 so he was contacting me through the emergency number to let
2 me know that he was going to be late. So this was a
3 voicemail he left at 5:02 p.m. to explain why he was late.

4 MS. FURST: So was it your understanding that he
5 knew he could get messages to you through the emergency
6 contact number you had given him when he first came under
7 supervision?

8 MS. RENNIE: Yes.

9 MS. FURST: All right.

10 Is this also another example of a little bit of a
11 winding voicemail?

12 MS. RENNIE: Yes.

13 He used up the full voicemail, if I remember
14 correctly.

15 MS. FURST: Your Honor, I move to admit Exhibit 2.

16 MS. HALVERSON: I believe it's already been
17 admitted into evidence, if I'm not mistaken. Exhibit 2
18 would be the --

19 MS. FURST: No. We did 4.

20 MS. HALVERSON: I thought that's the June 10th.
21 This is the June 10th?

22 (Counsel conferred off the record.)

23 MS. HALVERSON: Oh, I'm sorry. Yeah.

24 So my objections are the same for all of these
25 documents. I don't think that they show anything; I don't

1 think that they're relevant information to whether or not
2 he's a danger to the community, and based on that, you know,
3 I would object to its admission.

4 THE COURT: I am wondering a little bit where
5 we're going with all of this.

6 Are you just showing that he knows he can reach
7 her?

8 MS. FURST: That's one thing, Your Honor.

9 The other thing, Your Honor, is, as a proffer, he
10 says in there that he leaves these long voicemails for no
11 purpose other than it's fun, it passes time, and it's a
12 hobby.

13 THE COURT: Okay.

14 I'm not going to revoke on that basis.

15 MS. FURST: Okay.

16 All right. We'll move on. Thank you, Your Honor.

17 Also, if I may, this -- I'm not going to play
18 this, but this June 10th voicemail was after the June 4th
19 revocation, correct?

20 MS. RENNIE: Yes.

21 MS. FURST: All right.

22 So let's go ahead then and talk about Exhibit 3.

23 And, Your Honor, I know there's going to be
24 another objection to that one, which is also another
25 voicemail.

1 And what is the relevance of Exhibit 3, the
2 voicemail that was left on February 3rd in regards to your
3 thought process on June 14th?

4 MS. RENNIE: That was a voicemail that was left
5 following his court appearance. And he was updating me on
6 what occurred in court, but he was also indicating something
7 along the lines of the prosecution lady is miserable, she's
8 lying, corrupt, and I found it to be another disturbing
9 voicemail.

10 MS. FURST: Did it feed into your -- how you felt
11 after you learned the defendant had called your mom?

12 MS. RENNIE: Yes, because it's a pattern of
13 behavior.

14 MS. FURST: Your Honor, I would move to admit
15 Exhibit 3.

16 MS. HALVERSON: I would object again, same basis
17 for objection.

18 At this point, it's incredibly cumulative
19 information. I think we already have a basis to make the
20 points. I don't think we need to actually admit these
21 voicemails into evidence.

22 THE COURT: All right.

23 So, Ms. Furst, I've got another hearing that was
24 supposed to start half an hour ago.

25 MS. FURST: I'm sorry.

1 THE COURT: We've been doing this for well over an
2 hour. You need to come to a point here.

3 MS. FURST: I will, Your Honor.

4 Ms. Rennie, let's get to the point of what
5 happened on June 14th.

6 On June 14th, did you have several contacts with
7 the defendant?

8 MS. RENNIE: Yes, I did.

9 Several emails with the defendant and a text.

10 MS. FURST: And did that contact on June 14th
11 start at 1:37 in the morning?

12 MS. RENNIE: Yes.

13 MS. FURST: And in that email, did defendant
14 indicate, I almost forgot, I have a therapy session at 11:00
15 tomorrow?

16 MS. RENNIE: Yes.

17 MS. FURST: And earlier in the morning at 8:40,
18 8:43, you had emails with the defendant about his schedule,
19 his work schedule; is that right?

20 MS. RENNIE: Yes. I emailed him at 8:40 and 8:43.

21 MS. FURST: And at 8:44, you sent him a text to
22 read his email about the scheduling; is that correct?

23 MS. RENNIE: Yes, it is.

24 MS. FURST: And then at 12:26, he replies with an
25 email. And then at 12:36, you actually call him on his

1 reported number; is that correct?

2 MS. RENNIE: That's correct.

3 MS. FURST: And during that phone call, did you
4 have a discussion about whether or not he went to his mental
5 health evaluation?

6 MS. RENNIE: Yes, I did.

7 We discussed that he did not go to his mental
8 health appointment, and he indicated that he canceled it
9 because he wasn't feeling great because his sleep schedule
10 was off because the thunderstorms kept him up.

11 MS. FURST: And did he then ask if he could go to
12 work or at least go solicit work?

13 MS. RENNIE: Yes, he did.

14 And I denied it. And then that's when he asked,
15 have you checked your hormones today.

16 MS. FURST: And did that upset you?

17 MS. RENNIE: Yes, it did.

18 MS. FURST: And did you see this as part of that
19 escalating course of behavior?

20 MS. RENNIE: Yes, I did, because he also left me a
21 voicemail on May 19th referencing his genitalia and the size
22 of his genitalia and the performance of his genitalia.

23 MS. FURST: Now, did defendant tell you he
24 rescheduled the mental health evaluation?

25 MS. RENNIE: Yes.

1 MS. FURST: Based on his behaviors up until that
2 date, did you have an expectation that he would actually go
3 to the mental health evaluation?

4 MS. RENNIE: No, I did not.

5 I asked him why he canceled, and he said, I was
6 not feeling great. And I said, well, it sounds like you're
7 good enough -- you know, you feel well enough to go to work.
8 He said, well, you can't prove that I'm not sick.

9 MS. FURST: So in the petition -- did you consider
10 them this failure to go to the mental health evaluation a
11 violation of a condition?

12 MS. RENNIE: Yes.

13 MS. FURST: In the petition, however, that was
14 drafted by D.C., the violation is -- the allegation is
15 dangerousness to the community, but the violation is, the
16 defendant should avoid contact with any person who's a
17 victim or witness. Are you aware of that?

18 MS. RENNIE: Yes.

19 And I would explain that, based on his ongoing
20 behavior, a failure for him to attend a mental health
21 treatment could leave him as a danger to the community based
22 on his continued behavior.

23 MS. FURST: And so in your mind, is the mental
24 health violation -- violation of going to get the eval, is
25 that the violation, even though it is listed differently in

1 the petition?

2 MS. RENNIE: Yes.

3 In addition, as you've laid out, I feel he
4 continues to be a danger to the community based on the other
5 information.

6 MS. FURST: All right.

7 And after you told him he couldn't go to work or
8 couldn't petition work, what happened then?

9 MS. RENNIE: At that time, as I said, he asked
10 about my hormones, and he then -- I told him that I would
11 need him to speak with my supervisor, I was not able to
12 locate her, so I told him I would call him back. And then a
13 few minutes later he mailed me, and that was at 12:58 and
14 then he mailed me again at 1:09.

15 MS. FURST: And that just had to do with him
16 telling you about contact with law enforcement over the
17 weekend?

18 MS. RENNIE: Correct, and about paying his EI
19 bill, his location monitoring bill.

20 MS. FURST: All right.

21 And as Ms. Kiebart testified, she called him at
22 2:24 after she learned about the hormone comment, told him
23 it was inappropriate, told him to report, correct?

24 MS. RENNIE: That's correct.

25 MS. FURST: And then at 2:30, did your mother

1 receive a phone call?

2 MS. RENNIE: She did.

3 MS. FURST: And your mother does not live in
4 New York; is that correct?

5 MS. RENNIE: That's correct.

6 MS. FURST: And you learned about this from your
7 mother who called you after this happened, correct?

8 MS. RENNIE: Yes.

9 Yes, she texted me and then -- sorry.

10 MS. FURST: Please tell the Court about that.

11 MS. RENNIE: When I spoke with my mother, she
12 indicated that someone had just called her and asked if this
13 was Kendra Rennie's phone number. And then she indicated
14 that it was.

15 And then he asked again, is this Kendra's Rennie's
16 phone number. And she indicated it was. And she asked, you
17 know, who's calling, and he did not answer her. And then
18 she asked if she could relay a message and he indicated that
19 that wasn't necessary and that he would call her on the
20 other numbers.

21 MS. FURST: And what did your mother relay to you
22 as to how she felt after she got that phone call?

23 MS. RENNIE: She said she knew it wasn't right,
24 that it made her nervous, and she felt very uncomfortable.

25 MS. FURST: And did you ultimately go pick up your

1 mother?

2 MS. RENNIE: I did.

3 MS. FURST: And while you were at her home,
4 did you take a picture of her landline that had the number
5 who had called her on it?

6 MS. RENNIE: Yes, I did.

7 MS. FURST: And you have seen document 32, there
8 are two pictures in the back of that document, correct?

9 MS. RENNIE: Yes.

10 MS. FURST: And on the last page, is that a
11 picture of your mother's landline, the time of 2:30 and June
12 14th?

13 THE COURT: I'm sorry, are you contesting that he
14 called?

15 MS. HALVERSON: I am not, Your Honor.

16 MS. FURST: Oh, okay.

17 THE COURT: Then move on.

18 MS. RENNIE: Okay.

19 MS. FURST: So ultimately, all of these taken
20 together, Ms. Rennie, please tell the Court why you believe,
21 based on your experience with this defendant and your
22 experience as a United States parole officer, why you
23 believe he's a danger.

24 MS. RENNIE: I feel he's a danger to the
25 community.

1 And it begins with during his pretrial interview,
2 he was asked if he had any weapons in the home and he
3 indicated his only weapons are his hands.

4 And as I mentioned throughout supervision, he's
5 been problematic and making sexual innuendos.

6 What he did by calling my mother, I feel was
7 purposeful, it was intimidation, it was frightening, it made
8 me nervous. It's very easy for him to cut off the bracelet,
9 go to my mother's house. I couldn't protect her.

10 He's been arrested in the past for violation of
11 protection orders. He allegedly has jumped on his
12 girlfriend's car and bashed her cell phone on the dashboard,
13 allowing her not to call the police. So I find all of that
14 to be -- to show that he's a danger to the community.

15 And lastly, this conduct is just very similar to
16 what he did to the Guilderland Town judge as a form of
17 intimidation to show that he is in control and he can show
18 you that he can control you by reaching out to your family
19 members. So I feel it's intimidation and I feel that he is
20 nothing but a danger to the community.

21 MS. FURST: I'll turn the witness over,
22 Your Honor.

23 MS. HALVERSON: I'll be brief. I only have a
24 couple questions for you, Ms. Rennie.

25 On June 12th, did he email you and tell you that

1 his SIM card was not working?

2 MS. RENNIE: Yes.

3 MS. HALVERSON: Did he reschedule his appointments
4 for -- his mental health evaluation appointment for the
5 following week, June 21st?

6 MS. RENNIE: Yes.

7 MS. HALVERSON: Did he reschedule before you
8 admonished him for canceling it?

9 MS. RENNIE: Yes, I believe so.

10 MS. HALVERSON: Was his reporting improving since
11 the revocation -- the last revocation hearing?

12 MS. RENNIE: Can you define "reporting"?

13 MS. HALVERSON: Well, I guess my understanding is
14 that he's to call in to you and that there was an allegation
15 in the last revocation hearing that he wasn't calling in
16 like he was supposed to?

17 MS. RENNIE: Yes.

18 His continued calling in increased, but his
19 conduct and communication with our office did not.

20 MS. HALVERSON: All right.

21 No further questions.

22 THE COURT: I have a question.

23 Ms. Rennie, I think I saw somewhere that your
24 mother's phone number is listed under your name in Google;
25 is that correct?

1 MS. RENNIE: Yes.

2 Well, Your Honor, he searched it, and my name
3 comes up connected to her address, perhaps, because I've
4 lived there before, that's what I believe it is.

5 THE COURT: Okay.

6 MS. RENNIE: But, Your Honor, if I may, it also
7 showed that my address is in Glenmont, New York, which
8 there's no reason for him to call an area code of 413 when
9 he knows that my phone number is a 518.

10 THE COURT: Yeah.

11 I guess I'm just thinking, you know, a lot of
12 folks have different area codes than -- with cell phones,
13 the way they are these days, I'm wondering if someone could
14 mistakenly think that's your home line or other line by
15 Googling you.

16 MS. RENNIE: I'm sure that's possible.

17 But if his SIM card was broken, then I'm not sure
18 how he was able to make phone calls, because your SIM card,
19 I believe, is what's responsible for cell service in your
20 phone.

21 THE COURT: All right.

22 Thank you, ma'am.

23 MS. RENNIE: Thank you.

24 MS. FURST: I have nothing further, Your Honor.

25 THE COURT: Thank you, Ms. Furst.

1 MS. HALVERSON: I have nothing but argument.

2 THE COURT: Okay.

3 Thanks to the witnesses. I appreciate your time.

4 All right. Ms. Furst, I'm not going to hold the
5 defendant on the basis of dangerousness to the community.
6 I think you've shown that he's rude and immature and
7 misogynist.

8 Do you want to argue that he is unlikely to abide
9 by any condition or combination of conditions of release?

10 MS. FURST: Your Honor, I think the evidence or
11 the proffers of the witnesses have shown that to be the
12 case. He is -- although it is not against the conditions to
13 be rude and crude, Your Honor, you have seen an escalating
14 pattern of harassment and anger against the probation
15 officers, especially against Ms. Rennie.

16 Your Honor, I believe the evidence shows that it
17 escalated from harassment to intimidation upon his making
18 the effort to find a phone number that he didn't need to
19 find.

20 And Googling Ms. Rennie, when you Google her, the
21 first number that comes up is the Probation Office's number.
22 As Ms. Rennie told you, he can contact her through the
23 emergency number. If his SIM card wasn't working, he
24 couldn't have called anybody, including the mom. And he had
25 just talked with Ms. Kiebart. He could have just hit

1 "redial" and asked to speak with Kendra Rennie.

2 I think this is an escalation into territory which
3 shows that he has a continuing pattern of doing whatever he
4 wants when he wants. He is not -- and as the Court noted in
5 the beginning, this is the third motion to revoke. I mean,
6 I've been practicing 41 years and I can tell the Court I've
7 never had a third motion to revoke. Number two is usually
8 it.

9 And so at this point, he's not doing what the
10 Court said. If you recall in May, that May -- the May
11 revocation hearing that we had, the five days after the May
12 revocation hearing, he didn't call in five days in a row,
13 he didn't call in for his UA. He deliberately snubbed the
14 Court's orders.

15 In June, after the phone call about the genitalia,
16 then six days later he's leaving this rambling phone
17 message. He talks about how it's fun to leave these
18 messages. In the text message, Exhibit 1, he argues about
19 why should he have to bring in his business license. And,
20 no, I'm not going to do it today. And, no, I'm not going to
21 provide a UA because someone's watching me. But I can do it
22 tomorrow. In other words, he's exhibiting this behavior
23 where he thinks he doesn't have to listen to the Court's
24 orders and the Court's employees. And, in fact, in that
25 Exhibit 4 voicemail, he tells Ms. Kiebart, you know,

1 Ms. Rennie doesn't need to know where I am, that's none of
2 her business, I can do what I want to do.

3 So, Your Honor, I think taking everything into
4 consideration since the hearing in May, the hearing in June,
5 and today, there is absolutely no belief that he's going to
6 follow the conditions of the Court. He violated a condition
7 under the statute by not going to mental health and
8 canceling it, and he's not going to follow the conditions.
9 I still believe he's a danger. I understand what you say,
10 Your Honor, but there is still a basis to revoke, and I ask
11 that you do that.

12 THE COURT: Thank you, Ms. Furst.

13 Ms. Halverson.

14 MS. HALVERSON: I'll be super quick. I won't
15 address any of the dangerousness arguments since you already
16 short-cutted that.

17 I would offer proffer to the Court that, given the
18 fact that Mr. Fellows rescheduled his appointment almost
19 immediately after he canceled it shows that he was trying to
20 comply. I think that there are many times he was doing
21 exactly what a lot of people during the pandemic do. You
22 don't feel well, you'll cancel your appointment and you
23 reschedule it. The fact that the rescheduling was never
24 proffered to the Court except in this hearing is a little
25 bit concerning. So I would say we haven't actually given

1 him a full chance to comply. Additionally, you heard
2 Ms. Rennie say that his call-in was improving.

3 So I don't think that this is a basis that -- or
4 I don't think there's a basis to find that he is not going
5 to comply with your conditions, especially when he did make
6 a follow-up appointment, which was before Ms. Rennie
7 admonished him for canceling, showing that it's not some
8 kind of nefarious or -- there's some kind of troubling
9 inference that the only reason he rescheduled is because
10 Ms. Rennie got mad at him for rescheduling. He rescheduled
11 on his own accord.

12 And additionally, it does seem that he's
13 improving, which, I'll just remind the Court, the reason the
14 Court, I believe, ordered mental health evaluation for
15 Mr. Fellows before is that we felt that that was the -- the
16 problem with him reporting, the problems that he has being
17 rude and crass and offensive is related to a mental health
18 issue that's going on. And so I think we should, again,
19 allow him the opportunity to get that help. He's not going
20 to get it at the D.C. jail. So I would submit to Your Honor
21 that there is proof that he is actually complying with his
22 conditions and that there's no basis to find that he's not
23 going to in the future.

24 Additionally, Your Honor, I do believe that
25 Mr. Fellows wants to address the Court. I have asked and

1 I have advised Mr. Fellows that I do not believe that it is
2 in his interest and I advised him to not address the Court
3 at this time. I believe Mr. Fellows would like to do so
4 anyway.

5 THE COURT: Okay.

6 Ms. Furst, do you believe he needs to be put under
7 oath?

8 MS. FURST: Yes, Your Honor.

9 And I would ask the Court that I be able to
10 cross-examine.

11 THE COURT: Okay.

12 Have you talked with your client about what that
13 entails, Ms. Halverson?

14 MS. HALVERSON: I have not talked to him about the
15 potential for cross-examination. I guess my only comment on
16 that would be that it remains relevant to the inquiry today
17 and that it does not lead into questions getting to the
18 heart of what his charges are, the underlying charges are.

19 THE COURT: All right.

20 We'll deal with that, but why don't you talk a
21 moment and talk with him about what this will mean.

22 And, of course, also, potential for charges and
23 enhancements for obstruction of justice and perjury.

24 (Defense counsel conferred with the defendant off
25 the record.)

1 MS. HALVERSON: Your Honor, this is not the first
2 time I've sort of had this conversation with Mr. Fellows.

3 At this point, I'm a little bit -- I'm not exactly
4 sure how to proceed.

5 Mr. Fellows, time and again, has told me that he
6 does not believe that I am making the best judgments in his
7 case. He believes that there potentially could be another
8 attorney that could advise him differently. And so I don't
9 know if the Court wants to make a finding at this point, but
10 I do not think that Mr. Fellows wishes to continue with my
11 representation.

12 THE COURT: Okay.

13 What do you think I should do?

14 I'm wondering if we should continue this and give
15 an opportunity for you all to talk or to look for different
16 options for him.

17 MS. HALVERSON: So my -- as far as the
18 representation is concerned, I think that it -- if he's not
19 taking my advice about not making a statement today and that
20 is based on the fact that he does not want me to be his
21 representative and he doesn't believe I have his best
22 interests at heart, I would want him to get advice from a
23 different attorney before making that determination, because
24 once he starts making statements in open court, you can't
25 walk that back.

1 And so I do feel that advice through another
2 attorney may be helpful since it doesn't seem like I'm able
3 to really get through to him and he's not able to listen to
4 me.

5 THE COURT: How long do you think we need to find
6 someone else?

7 MS. HALVERSON: I will check with my office.
8 If we could potentially continue for one week's time if your
9 schedule would allow it.

10 THE DEFENDANT: May I please speak?

11 THE COURT: Okay, sir. Go ahead.

12 THE DEFENDANT: I'm sorry.

13 I don't know how all this works, it's still kind
14 of new to me.

15 I just -- I'd rather not wait. She's -- my
16 attorney has been very helpful in many ways, but we've had
17 different views. It's been mostly, hey, I object to this,
18 the prosecution is lying, I would like this to be addressed.
19 Many times lies have not been touched on, this being the
20 sixth time. I would really like to be able to address them.

21 It's not the mere fact -- I think Cara does a
22 great job at trying to wait out for a plea deal, but I have
23 been sitting here getting abused and lied, and they've had
24 many times to speak and there's been many things that have
25 not been given context that I've been able to speak to.

1 Rather than wait, because I need immediate relief,
2 I would like to be able to at least make these statements.
3 I've been made well aware of the risks that could be -- that
4 could come from this; I'm willing to accept those risks.
5 I just really would like to be able to present my case just
6 as each and every one of these people have been able to
7 present today and previously at six times while I've only,
8 to my knowledge, spoken three sentences in all five or six
9 hearings.

10 THE COURT: All right.

11 So, Mr. Fellows, are you comfortable with
12 Ms. Halverson as your attorney or are you seeking to have a
13 different attorney?

14 THE DEFENDANT: I personally am comfortable, but I
15 will say that it seems as if she does, you know, like --
16 previously, I did want to pursue to wait out for a plea
17 deal. That was prior to me reading on certain laws.
18 Obviously, I'm not a lawyer, but I feel as if a plea deal
19 may not be in my best concern, and I feel like upon reading
20 these laws, I have been abused.

21 And I know for the longest time I've been lied
22 about and I've just been sitting here quietly. I would like
23 to address those lies here today. And I'm fine with being
24 cross-examined. And I'm fine with these being initiated as
25 facts, because everything I speak on this today is going to

1 be 100 percent facts, unlike what the prosecutor has said.

2 THE COURT: Okay.

3 So you can certainly have your chance to present
4 your side.

5 I think what Ms. Halverson is saying, and I'm sure
6 what just about any defense attorney would tell you, is that
7 there are big risks to you in doing that.

8 What I'd like to do is come back in a few days
9 when we can find another attorney who could represent you
10 and you could have an opportunity to chat with that
11 attorney. If you still want to testify, you could do that.

12 If you're telling me, though, that you're
13 comfortable with her as your attorney, you understand all
14 the risks, and you want to proceed anyway but you want her
15 to continue to represent you, I'm willing to consider that.

16 Is that what you're saying or would you like to
17 have an opportunity to talk with another attorney?

18 THE DEFENDANT: I would very much like to be able
19 to speak today. I believe Cara has represented me well.

20 Obviously we have just now more recently
21 differentiating views on how to -- what we should be
22 seeking, plea deal or not. But I do think that she has --
23 she has good character, she's done her best, and I'd like to
24 proceed.

25 I definitely want to read this, because I need

1 immediate relief in a timely manner for my personal life and
2 business life and multiple reasons.

3 THE COURT: Okay. Thank you, sir.

4 Ms. Halverson, I mean, it sounds like -- you know,
5 I can imagine how someone could have a differing view from
6 his attorney but still think his attorney is representing
7 him well. That's what I think I'm hearing.

8 MS. HALVERSON: I think that's right, Your Honor.

9 And I'm happy to stay in the case. I have no
10 problems with Mr. Fellows. I just wonder if there's -- if
11 there's another voice in the case, if Mr. Fellows might be
12 able to hear the cautions that I'm giving him in a different
13 way potentially, and I would rather say this off the record
14 if possible if we could approach.

15 THE COURT: Okay.

16 I don't even know if that's possible in this
17 courtroom.

18 COURTROOM DEPUTY: We don't have the intercoms.

19 THE COURT: Well, so are you suggesting the
20 attorneys approach?

21 MS. HALVERSON: Yes.

22 THE COURT: Okay.

23 Well, come on over here.

24 MS. HALVERSON: Thank you.

25 (Off the record bench conference.)

1 THE COURT: All right.

2 So, Mr. Fellows, this is what I want to do.
3 I want to try to come back tomorrow morning and give --
4 hopefully in that time, we can find another attorney, he'll
5 have an opportunity to talk with you. And we can talk then
6 about whether you want to proceed with Ms. Halverson,
7 proceed with a different attorney, and hopefully we can
8 continue this detention hearing tomorrow.

9 I'm not going to make a decision about kind of
10 detention between now and then. But, as you can tell, you
11 taking the stand and testifying under oath is a big deal and
12 there's -- I understand why you want to do it, and you're
13 certainly entitled to have your day in court if you want to,
14 but I also want to make sure you completely understand what
15 you're doing by doing that, okay?

16 So can we come back at, let's say, 11:00 tomorrow,
17 Ms. Furst? Does that work for you?

18 MS. FURST: Yes, Your Honor, I'll be here.

19 THE COURT: Okay.

20 And, Ms. Halverson, does that work for you?

21 MS. HALVERSON: It does, Your Honor. Thank you.

22 THE COURT: All right.

23 And I think we can be back in my courtroom,
24 courtroom 2.

25 Anything further we need to do now, Ms. Furst?

1 MS. FURST: Your Honor, do you want Ms. Robinson,
2 Ms. -- any of the --

3 THE COURT: I don't think we need -- I mean -- let
4 me put it this way: If Mr. Fellows decides to testify,
5 I suppose you would have an opportunity for rebuttal. So if
6 you think you need somebody available, that's your call, but
7 I'm not asking you to bring anybody.

8 MS. FURST: I personally don't.

9 THE COURT: Well, pick a mic.

10 MS. FURST: Any mic.

11 I don't think I need them available, Your Honor,
12 but if for some reason I do, perhaps let's be in your
13 courtroom, but maybe I could just get them on the phone, put
14 the phone up to the mic.

15 THE COURT: We'll figure something out.

16 MS. FURST: Okay. Thank you, Your Honor.

17 THE COURT: Ms. Halverson, anything further?

18 MS. HALVERSON: No, Your Honor.

19 THE COURT: Thanks, folks. We'll continue this
20 until 11:00 a.m. tomorrow.

21 (Proceedings concluded at 12:04 p.m.)
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23
24
25

C E R T I F I C A T E

I, William P. Zaremba, RMR, CRR, certify that the foregoing is a correct transcript from the record of proceedings in the above-titled matter.

Date: September 28, 2021 /S/ William P. Zaremba

William P. Zaremba, RMR, CRR

ALSO PRESENT: [1]
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