

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

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UNITED STATES OF AMERICA	*	Case No. 8:21-cr-348
vs.	*	
	*	October 19, 2022
JEREMY BROWN	*	
* * * * *	*	

ZOOM STATUS CONFERENCE

Heard via Zoom Videoconference
Sam M. Gibbons United States Courthouse
801 N. Florida Avenue
Tampa, FL
October 19, 2022

BEFORE THE HONORABLE SUSAN C. BUCKLEW

UNITED STATES DISTRICT JUDGE

Official Court Reporter:	Tana J. Hess, CRR, FCRR, RMR U.S. District Court Reporter Middle District of Florida Tampa Division 801 N. Florida Avenue Tampa, FL 33602 813.301.5207 tana_hess@flmd.uscourts.gov
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computer-aided transcription software.

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8 : 3 7 A M 1 THE COURT: All right. Then that takes us to the
8 : 3 7 A M 2 next status, which is the United States of America versus
8 : 3 8 A M 3 Jeremy Brown, and I think we had Mr. Brown on for a minute or
8 : 3 8 A M 4 two.

8 : 3 8 A M 5 COURTROOM DEPUTY: They're joining.

8 : 3 8 A M 6 THE COURT: All right. Okay. Mr. Brown, you look
8 : 3 8 A M 7 different this morning.

8 : 3 8 A M 8 THE DEFENDANT: I try to change it up, Your Honor.

8 : 3 8 A M 9 THE COURT: All right. The case is United States of
8 : 3 8 A M 10 America versus Jeremy Brown. The case number is 21-348. If
8 : 3 8 A M 11 counsel will state their appearances, starting with counsel for
8 : 3 8 A M 12 the United States.

8 : 3 8 A M 13 MR. MARCET: Daniel Marcet on behalf of the United
8 : 3 8 A M 14 States.

8 : 3 8 A M 15 MR. GOEDMAN: Menno Goedman on behalf of the United
8 : 3 8 A M 16 States.

8 : 3 8 A M 17 THE COURT: And on behalf of Mr. Brown.

8 : 3 8 A M 18 MR. FUTERMAN: Good morning, Your Honor. Roger
8 : 3 9 A M 19 Futerman on behalf of Mr. Brown.

8 : 3 9 A M 20 THE COURT: Okay. And Mr. Brown is joining us as
8 : 3 9 A M 21 well.

8 : 3 9 A M 22 Okay. This case is currently set for trial in
8 : 3 9 A M 23 December, and I did notice that -- it would be December the
8 : 3 9 A M 24 5th, and I did notice that yesterday I have a notice of agreed
8 : 3 9 A M 25 upon stipulation and witness accommodations. I know I -- I

8 : 3 9 A M 1 read through it. It appears that you all are working well
8 : 3 9 A M 2 together, and the witnesses that, Mr. Futerman, you had wanted
8 : 3 9 A M 3 to call, the Government has either agreed to make available,
8 : 3 9 A M 4 because maybe they're calling them, or agreed to make
8 : 3 9 A M 5 available.

8 : 3 9 A M 6 So, Mr. Futerman, why don't you bring me
8 : 3 9 A M 7 up-to-date on the status of the case and a little bit about
8 : 3 9 A M 8 what's going on?

8 : 3 9 A M 9 MR. FUTERMAN: Everything is going well. The next
8 : 3 9 A M 10 part of the case that is a critical part of the case in terms
8 : 4 0 A M 11 of procedure is by Friday, the Government is going to let us
8 : 4 0 A M 12 know if the additional document that we discussed and was part
8 : 4 0 A M 13 of the 404(b), the Government is going to make a decision
8 : 4 0 A M 14 whether they're going to supersede and add that as a count or
8 : 4 0 A M 15 not. So maybe the Court can defer to Mr. Marcet to enlighten
8 : 4 0 A M 16 us a little bit, but we talked yesterday, and I think that's
8 : 4 0 A M 17 the time line. If they don't file that as an additional count,
8 : 4 0 A M 18 then Ms. Loesch is going to go back to the secure location and
8 : 4 0 A M 19 be a lot more specific as to what we are requesting from the
8 : 4 0 A M 20 document in question, why we're requesting it, and we would
8 : 4 0 A M 21 proceed in a similar fashion to the other document. I think
8 : 4 0 A M 22 that our general motion probably wasn't specific enough, and so
8 : 4 0 A M 23 we're waiting and seeing if that becomes moot or not. So
8 : 4 0 A M 24 that's the next part of the case.

8 : 4 0 A M 25 Other than that, I have spoken to my witnesses.

8 : 4 0 A M 1 I've made arrangements for my witnesses to fly in. They all
8 : 4 1 A M 2 are a go. The Government now has either their witnesses that I
8 : 4 1 A M 3 will cross-examine or they will produce them. My expert
8 : 4 1 A M 4 witnesses, they're a go.

8 : 4 1 A M 5 I think most of the evidentiary issues are --
8 : 4 1 A M 6 have been decided, I think for the most part.

8 : 4 1 A M 7 So we're progressing well, and I look to the
8 : 4 1 A M 8 Court orders as to when we have to adhere for the exhibits and
8 : 4 1 A M 9 the witness list and the jury questions. All of that, of
8 : 4 1 A M 10 course, will be done on time.

8 : 4 1 A M 11 So everything is going to plan, Your Honor.

8 : 4 1 A M 12 THE COURT: All right. Mr. Marcet or Mr. Goedman,
8 : 4 1 A M 13 either one, as I -- and without going into specifics for
8 : 4 1 A M 14 obvious reasons here, the contemplation or the decision by the
8 : 4 1 A M 15 Government as to whether to supersede and add an additional
8 : 4 1 A M 16 count, the count has to do with something that was originally
8 : 4 1 A M 17 prepared by Mr. Brown; is that what it is?

8 : 4 1 A M 18 MR. MARCET: Yes, Judge. It's a classified memo that
8 : 4 2 A M 19 he drafted that was in his RV.

8 : 4 2 A M 20 THE COURT: I understand. Okay. All right.
8 : 4 2 A M 21 Mr. Marcet, do you want to add anything?

8 : 4 2 A M 22 MR. MARCET: Judge, I apologize. I had an oversight
8 : 4 2 A M 23 in the -- I missed that you had set the motion in limine
8 : 4 2 A M 24 deadline for October 7th. We're still working through some
8 : 4 2 A M 25 things, and we just received a supplemental expert disclosure

8 : 4 2 A M 1 from the defense. I was wondering if we could have some
8 : 4 2 A M 2 additional time. We'd like to file a Daubert motion based on
8 : 4 2 A M 3 the most recent disclosure that we received on Monday. I don't
8 : 4 2 A M 4 think the proffered expert testimony is appropriate. So we'd
8 : 4 2 A M 5 at least -- if Your Honor would give us some more time to file
8 : 4 2 A M 6 our final motions in limine, that would -- I would appreciate
8 : 4 2 A M 7 it.

8 : 4 2 A M 8 THE COURT: Well, I'm not going to give you more time
8 : 4 2 A M 9 to file final motions in limine. I might give you more time to
8 : 4 3 A M 10 file that particular motion. Let me see if Mr. Futerman has
8 : 4 3 A M 11 any objection.

8 : 4 3 A M 12 MR. FUTERMAN: I would have objection on motions in
8 : 4 3 A M 13 limine because I've been working, as you know, extremely hard
8 : 4 3 A M 14 on this case. It's very intensive. I don't have the resources
8 : 4 3 A M 15 of the United States Government. I don't have multiple agents
8 : 4 3 A M 16 to assist me, so any motions in limine again would set me back
8 : 4 3 A M 17 from my preparation. I think we could address them at the
8 : 4 3 A M 18 court.

8 : 4 3 A M 19 The issue that Mr. Marcet is discussing, I can
8 : 4 3 A M 20 give the Court a little broad outline of that issue -- sorry
8 : 4 3 A M 21 for the pop-up on Microsoft. It may -- I think it's something
8 : 4 3 A M 22 we can discuss in court quite frankly.

8 : 4 3 A M 23 So there was a document that was produced late
8 : 4 3 A M 24 in the discovery at the Government's -- at the defense's
8 : 4 3 A M 25 request, which is a trace report about the grenades and the

8 : 4 3 A M 1 fuses with the grenades, and we've agreed as part of the
8 : 4 3 A M 2 stipulation that document is coming in. And my understanding
8 : 4 3 A M 3 from Mr. Marcet is they're going to get a fact witness; not an
8 : 4 4 A M 4 expert witness, but someone that is knowledgeable about that
8 : 4 4 A M 5 document, how it's produced and what it shows. And if that
8 : 4 4 A M 6 witness testifies consistently with what we anticipate, I might
8 : 4 4 A M 7 be able to get my questions through cross-examination from him
8 : 4 4 A M 8 about that document. If he testifies inconsistently with what
8 : 4 4 A M 9 I anticipate or there's additional information that I need to
8 : 4 4 A M 10 bring in, I have supplied an expert. I originally had him as
8 : 4 4 A M 11 an expert for twofold: One, he has a top secret security
8 : 4 4 A M 12 clearance; and one, he would be brought in to not only explain
8 : 4 4 A M 13 this report, but also to question whether these documents are
8 : 4 4 A M 14 classified. I have now told Mr. Marcet the latter part, we are
8 : 4 4 A M 15 not bringing him in as an expert to question the classified
8 : 4 4 A M 16 nature or for that expertise, but he is going to talk about
8 : 4 4 A M 17 this trace report, if needed.

8 : 4 5 A M 18 The trace report is -- to a layperson is not
8 : 4 5 A M 19 clear. It's confusing. It's something that needs explanation.
8 : 4 5 A M 20 So not necessarily are we going to call this witness, but it's
8 : 4 5 A M 21 in the abundance of caution in the event his expert doesn't --
8 : 4 5 A M 22 or his witness doesn't describe the things I'm talking about.

8 : 4 5 A M 23 I don't think there's a need for a Daubert
8 : 4 5 A M 24 motion necessarily in my humble opinion, but I think it's
8 : 4 5 A M 25 something we could resolve during the court through a

8 : 4 5 A M 1 proffer -- during the trial through a proffer, depending on
8 : 4 5 A M 2 what that witness says. So that's what that person would
8 : 4 5 A M 3 testify. And I modified what he was going to testify about and
8 : 4 5 A M 4 gave that to Mr. Marcet yesterday.

8 : 4 5 A M 5 THE COURT: Okay. Let me see if I understand. I
8 : 4 5 A M 6 want to repeat the way I'm understanding what you're saying.

8 : 4 5 A M 7 So there is a trace report having to do with the
8 : 4 5 A M 8 grenades that were found in the trailer, and the Government is
8 : 4 6 A M 9 going to present a fact witness to I guess explain the trace
8 : 4 6 A M 10 report, and you had listed an expert witness, and you were
8 : 4 6 A M 11 going to perhaps ask that expert witness about the trace report
8 : 4 6 A M 12 as well, and I said "perhaps" because you said you may be able
8 : 4 6 A M 13 to get that information via cross-examination of the
8 : 4 6 A M 14 Government's witness. Is that correct?

8 : 4 6 A M 15 MR. FUTERMAN: That's exactly right.

8 : 4 6 A M 16 THE COURT: Okay. And your witness that will be
8 : 4 6 A M 17 testifying, if he does testify in that capacity, Mr. Futerman,
8 : 4 6 A M 18 will he be testifying as a fact witness or an expert witness?

8 : 4 6 A M 19 MR. FUTERMAN: Expert witness. He's definitely going
8 : 4 6 A M 20 to give additional opinions, depending on what this fact
8 : 4 6 A M 21 witness says.

8 : 4 6 A M 22 THE COURT: Okay. And when did you list him as an
8 : 4 7 A M 23 expert?

8 : 4 7 A M 24 MR. FUTERMAN: So I listed him -- I'd have to look at
8 : 4 7 A M 25 PACER now, but I would guesstimate -- and Mr. Marcet may have

8 : 4 7 A M 1 it up -- probably about a month or so ago, before our trial,
8 : 4 7 A M 2 and his original opinion has been modified a little bit, and
8 : 4 7 A M 3 his role as an expert has obviously been narrowed to one issue
8 : 4 7 A M 4 as opposed to two issues. And there was some delay in -- even
8 : 4 7 A M 5 though he had a top security clearance, they had to do a
8 : 4 7 A M 6 background check and everything else on him in order to
8 : 4 7 A M 7 potentially testify as an expert on the second issue. I think
8 : 4 7 A M 8 the Government has now not gone forward with that additional
8 : 4 7 A M 9 top security clearance. I don't know the status of that, but
8 : 4 7 A M 10 it's obviously not necessary now.

8 : 4 7 A M 11 But to answer your question directly, I can look
8 : 4 7 A M 12 that up, but I suspect Mr. Marcet will help me. Probably a
8 : 4 7 A M 13 month or two ago. Mr. Marcet, do you remember when I listed
8 : 4 7 A M 14 him to you?

8 : 4 7 A M 15 MR. MARCET: In probably early September, I think --
8 : 4 7 A M 16 is when I think we got his name. Yeah.

8 : 4 8 A M 17 THE COURT: Okay. Then, Mr. Marcet, you're welcome
8 : 4 8 A M 18 to file a motion, if you would like, to file a Daubert motion
8 : 4 8 A M 19 out of time, and you might summarize for me what you -- what
8 : 4 8 A M 20 you think the motion would say in your motion to file it out of
8 : 4 8 A M 21 time. And, you know, I don't know, Mr. Futerman may very well
8 : 4 8 A M 22 be right. I'm not sure why this couldn't have been done timely
8 : 4 8 A M 23 by the Government, but at any rate, it may be an issue that's
8 : 4 8 A M 24 not an issue, number 1, or it may be an issue that is addressed
8 : 4 8 A M 25 at trial.

8 : 4 8 A M 1 But even if I do deny your motion, Mr. Marcet,
8 : 4 8 A M 2 to file the Daubert motion out of time, it will at least give
8 : 4 8 A M 3 me a heads up as to what you anticipate that witness is going
8 : 4 9 A M 4 to testify to and why you object.

8 : 4 9 A M 5 So just go ahead and file a motion to file a
8 : 4 9 A M 6 Daubert motion out of time, and in the motion, please give me
8 : 4 9 A M 7 a -- kind of a summary of what you anticipate that witness will
8 : 4 9 A M 8 say and why it is that you think he should not be allowed to
8 : 4 9 A M 9 testify.

8 : 4 9 A M 10 MR. MARCET: Yes, Judge.

8 : 4 9 A M 11 THE COURT: Okay. And in all probability I will deny
8 : 4 9 A M 12 the motion to file the motion out of time, but it will -- even
8 : 4 9 A M 13 if that, if it comes to trial and we have an objection, at
8 : 4 9 A M 14 least I'm prepared for the objection.

8 : 4 9 A M 15 MR. MARCET: Yes, Judge.

8 : 4 9 A M 16 THE COURT: Okay. Anything else?

8 : 4 9 A M 17 MR. MARCET: Nothing on behalf of the United States.

8 : 4 9 A M 18 THE COURT: Okay. Let's talk about trial length.
8 : 4 9 A M 19 Again, now that we're getting closer to trial, what would you
8 : 4 9 A M 20 anticipate, Mr. Marcet, length of trial from the Government's
8 : 5 0 A M 21 standpoint?

8 : 5 0 A M 22 MR. MARCET: I would hope the whole trial could be
8 : 5 0 A M 23 done in two weeks, including any rebuttal case. Our case in
8 : 5 0 A M 24 chief, I think four to five days is a fair estimate.

8 : 5 0 A M 25 THE COURT: Okay. All right. Mr. Futerman, what do

8 : 5 0 A M 1 you think? If their case in chief is four to five days,
8 : 5 0 A M 2 what -- how long of a trial?

8 : 5 0 A M 3 MR. FUTERMAN: I agree. We'll try this case within
8 : 5 0 A M 4 two weeks.

8 : 5 0 A M 5 THE COURT: Okay.

8 : 5 0 A M 6 MR. FUTERMAN: I actually think that there's one
8 : 5 0 A M 7 other stipulation that Mr. Brown is going to sign that the
8 : 5 0 A M 8 Government's waiting for that will probably save a couple more
8 : 5 0 A M 9 witnesses, and I think that their case in chief, four days or
8 : 5 0 A M 10 five days at most. I don't think our case would be more than
8 : 5 0 A M 11 two to three days, at most. So I do think within two weeks is
8 : 5 0 A M 12 a very conservative estimate. I think it'll go quicker than
8 : 5 0 A M 13 that, quite frankly.

8 : 5 0 A M 14 THE COURT: All right. Let me just ask you another
8 : 5 0 A M 15 question that has to do with a different subject, with jurors.
8 : 5 1 A M 16 I'm going to have to give -- well, it's December the 5th, so
8 : 5 1 A M 17 I'm not sure when I'll have to give them, maybe sometime end of
8 : 5 1 A M 18 October, beginning of November -- a number of jurors that need
8 : 5 1 A M 19 to be brought in for this case. And because it's in December,
8 : 5 1 A M 20 and because it's perhaps a two-week trial, obviously I'm going
8 : 5 1 A M 21 to have to bring more jurors in than normal. Are there any --
8 : 5 1 A M 22 and the subject matter obviously. I don't know how much you're
8 : 5 1 A M 23 going to get into the January 6th, but obviously people have
8 : 5 1 A M 24 very strong feelings on both sides about that.

8 : 5 1 A M 25 So I'm kind of asking for some suggestions.

8 : 5 1 A M 1 Normally for a normal criminal trial, I bring in about 33 or 34
8 : 5 1 A M 2 jurors. If it's going to be lengthy, I might move it up to 40
8 : 5 2 A M 3 or so jurors. If it's, you know, a publicity case or something
8 : 5 2 A M 4 that I think people might have strong feelings about as far as
8 : 5 2 A M 5 what they're going to hear, I might go up to 50.

8 : 5 2 A M 6 So what do you think, Mr. Marcet and
8 : 5 2 A M 7 Mr. Futerman, regarding the number of jurors that I should call
8 : 5 2 A M 8 in?

8 : 5 2 A M 9 MR. MARCET: Judge, I would err towards 50 for the
8 : 5 2 A M 10 reasons you noted. Our case, you know -- our view of the case
8 : 5 2 A M 11 is it's a simple straightforward search warrant case. My
8 : 5 2 A M 12 understanding is that the defense intends to make this about
8 : 5 2 A M 13 January 6th and revenge against Mr. Brown, which I think will
8 : 5 2 A M 14 touch on those issues that you stated. So I do think there
8 : 5 2 A M 15 will need to be voir dire on January 6th, on the FBI's search
8 : 5 2 A M 16 of Donald Trump relating to classified information, all of
8 : 5 3 A M 17 which, you know, I think this case will conjure up in people's
8 : 5 3 A M 18 minds if the defense does put on the case they represented.

8 : 5 3 A M 19 And so in addition, given the holidays
8 : 5 3 A M 20 approaching, people may have problems in that second week with
8 : 5 3 A M 21 their schedules, so I think erring towards 50 would be a good
8 : 5 3 A M 22 idea.

8 : 5 3 A M 23 THE COURT: Oh, yeah, I do too. Mr. Futerman, what
8 : 5 3 A M 24 do you think?

8 : 5 3 A M 25 MR. FUTERMAN: I agree. I think 50 is the right

8 : 5 3 A M 1 number.

8 : 5 3 A M 2 Just for clarification, Mr. Marcet and I have
8 : 5 3 A M 3 talked about this, so let me maybe expand a little bit on the
8 : 5 3 A M 4 Court's concern and where this case is in terms of January 6th.
8 : 5 3 A M 5 There is obviously going to be some tangential discussions that
8 : 5 3 A M 6 relates to January 6th, and I can just overlay a little bit.

8 : 5 3 A M 7 Mr. Brown's interaction with law enforcement was
8 : 5 3 A M 8 pre-January 6th. It was December, and there were discussions
8 : 5 3 A M 9 that related in our opinion to January 6th and his potential
8 : 5 4 A M 10 involvement to help (audio fades). January 6th occurs, and
8 : 5 4 A M 11 then Mr. Brown discusses these interactions in a March podcast,
8 : 5 4 A M 12 subsequent podcast, and then you have the search in September.

8 : 5 4 A M 13 I have told Mr. Marcet, and he has agreed
8 : 5 4 A M 14 because Mr. Brown was dressed in a certain way on January 6th,
8 : 5 4 A M 15 which may not be helpful for the defense, there may be jurors
8 : 5 4 A M 16 that are very sensitive about January 6th, so we do not intend
8 : 5 4 A M 17 to go into in depth Mr. Brown's role on January 6th, nor does
8 : 5 4 A M 18 the Government; just to touch upon the fact that there was
8 : 5 4 A M 19 discussion, what that discussion was about, there was
8 : 5 4 A M 20 January 6th, and then Mr. Brown's reaction in discussions about
8 : 5 4 A M 21 it.

8 : 5 4 A M 22 So if that gives some guidance to the Court, we
8 : 5 4 A M 23 are both hoping that -- I have no intention of talking about
8 : 5 4 A M 24 Donald Trump's classified document investigation or matters
8 : 5 4 A M 25 like that. I don't think it's relevant, and it's inflammatory

8 : 5 5 A M 1 either way.

8 : 5 5 A M 2 And so I just wanted to explain to the Court we
8 : 5 5 A M 3 are trying to narrow the issues. We can't avoid talking about
8 : 5 5 A M 4 the January 6th event and how it affected Mr. Brown and his
8 : 5 5 A M 5 reactions to law enforcement's inquiry into his help and to
8 : 5 5 A M 6 assist preventing January 6th, but I do not intend to go into
8 : 5 5 A M 7 details about what he did on January 6th, or certainly in jury
8 : 5 5 A M 8 selection. I have -- my proposed questions that I have
8 : 5 5 A M 9 prepared already do not touch upon January 6th or any views
8 : 5 5 A M 10 around January 6th or anything like that.

8 : 5 5 A M 11 THE COURT: Or -- what about the classified document
8 : 5 5 A M 12 incident with Donald Trump?

8 : 5 5 A M 13 MR. FUTERMAN: No. None of my proposed jury
8 : 5 5 A M 14 questions for the Court touch upon that, and I don't think it's
8 : 5 5 A M 15 relevant for this particular case.

8 : 5 5 A M 16 THE COURT: Okay. I would agree with you that there
8 : 5 5 A M 17 will be jurors that have very strong feelings about that.

8 : 5 5 A M 18 Mr. Marcet, do you want to add anything to what
8 : 5 6 A M 19 Mr. Futerman just said?

8 : 5 6 A M 20 MR. MARCET: Judge, I agree with what he said. With
8 : 5 6 A M 21 respect to January 6th, we don't want to get into detail.
8 : 5 6 A M 22 Obviously depending on, you know, if Mr. Brown does testify,
8 : 5 6 A M 23 what he says will have to be -- we'll have to see what comes in
8 : 5 6 A M 24 and then what's relevant based on how the defense case
8 : 5 6 A M 25 proceeds. But in our case in chief, I don't believe there's

8 : 5 6 A M 1 going to be anything about anything after September 30th of
8 : 5 6 A M 2 2021, which was the day of the search -- or I mean, sorry,
8 : 5 6 A M 3 anything before or after that, apart from the 404(b) notice
8 : 5 6 A M 4 about the 2017 incident.

8 : 5 6 A M 5 As for our proposed voir dire, I think -- I
8 : 5 6 A M 6 don't think we'll propose anything that discusses the Donald
8 : 5 6 A M 7 Trump classified information directly, but I think given the
8 : 5 6 A M 8 views people have currently, I think questions about views of
8 : 5 6 A M 9 the FBI and classified information generally, I think we will
8 : 5 7 A M 10 propose questions in that vein because I don't know how else we
8 : 5 7 A M 11 would get at that issue.

8 : 5 7 A M 12 THE COURT: Okay. Well, I'll have to wait and see
8 : 5 7 A M 13 what the questions that you're proposing are.

8 : 5 7 A M 14 I mean, you know, classified documents -- I am
8 : 5 7 A M 15 sure that once you mention classified documents, the Donald
8 : 5 7 A M 16 Trump incident is going to run through the minds of a lot of
8 : 5 7 A M 17 the jurors, but I'm not sure why there needs to be voir dire
8 : 5 7 A M 18 about it. But go ahead and propose what you would like to
8 : 5 7 A M 19 propose, and then we can always talk about it.

8 : 5 7 A M 20 MR. MARCET: Okay.

8 : 5 7 A M 21 THE COURT: All right. I think those are the only
8 : 5 7 A M 22 things that I wanted to discuss. Number of jurors. I can't
8 : 5 8 A M 23 think of anything else. Hold on just a minute. Ms. Black, can
8 : 5 8 A M 24 you think of anything else that we need to talk about?

8 : 5 8 A M 25 COURTROOM DEPUTY: No. Just to remind them to make

8 : 5 8 A M 1 an appointment with me to test the --

8 : 5 8 A M 2 THE COURT: Okay. And Ms. Black, who's the courtroom
8 : 5 8 A M 3 deputy, said to remind you if you are going to be using the
8 : 5 8 A M 4 courtroom equipment, you may want to come in and make sure your
8 : 5 8 A M 5 computer is compatible and that sort of thing, and we'll try to
8 : 5 8 A M 6 make sure the equipment works, which sometimes goes from day to
8 : 5 8 A M 7 day.

8 : 5 8 A M 8 Let me just tell you just -- I don't know how
8 : 5 8 A M 9 many spectators to anticipate with this, but, Mr. Futerman, if
8 : 5 8 A M 10 you will let me know as far as jury selection, especially if we
8 : 5 8 A M 11 have that many prospective jurors, there's going to be no room
8 : 5 8 A M 12 in the courtroom during jury selection for other people, and
8 : 5 8 A M 13 they're not going to miss anything anyway. But we're going to
8 : 5 9 A M 14 try to try the case in the top courtroom if we can get the
8 : 5 9 A M 15 sound system up, and obviously that's a bigger courtroom, but
8 : 5 9 A M 16 our sound system in that courtroom has been down, and it has
8 : 5 9 A M 17 not been a usable courtroom. So I'll try to get another
8 : 5 9 A M 18 courtroom, but even though, if I use this courtroom or another
8 : 5 9 A M 19 courtroom that's not Courtroom 17, the spectator space is very
8 : 5 9 A M 20 limited. So if we need to do anything about setting up an
8 : 5 9 A M 21 overflow room or anything like that, you need to give me a
8 : 5 9 A M 22 heads up so I can give our system's people a heads up, okay?

8 : 5 9 A M 23 MR. FUTERMAN: Yes, Your Honor, just with the caveat
8 : 5 9 A M 24 that a lot of the -- for example, at the motion hearing for
8 : 5 9 A M 25 bond, I had no control, no idea who was showing up, and I did

8:59 AM 1 speak to the people afterwards. They're very nice, very
8:59 AM 2 polite, very well-behaved on behalf of Mr. Brown. It's very
9:00 AM 3 difficult because I don't know who's showing up, I don't have
9:00 AM 4 control of who's showing up, so I really don't know, but if I
9:00 AM 5 had to guesstimate, we may have a dozen or so people.

9:00 AM 6 THE COURT: We can accommodate that. That's not a
9:00 AM 7 problem.

9:00 AM 8 MR. FUTERMAN: One thing I thought about while we
9:00 AM 9 were just talking, a lot of these witnesses are coming from
9:00 AM 10 cold places, and we don't know what the weather will be like,
9:00 AM 11 and the only thing I thought about is I don't have an objection
9:00 AM 12 if it happened to having a Zoom backup. I just wanted the
9:00 AM 13 Court to know.

9:00 AM 14 So say we have a witness coming from Washington
9:00 AM 15 that both sides wanted, and it was a Touhy witness or a
9:00 AM 16 Government witness. I'm not against -- of course, it's up to
9:00 AM 17 the Court -- having the backup if we have snow in Washington or
9:00 AM 18 something that we can't have substitute accommodation. So I
9:00 AM 19 wanted to make the Court aware if you were looking at a
9:00 AM 20 courtroom, that we could plan on that as a backup so the trial
9:01 AM 21 is not delayed.

9:01 AM 22 THE COURT: I'll look into that. I have never used
9:01 AM 23 Zoom to have a witness testify during trial. We do have some
9:01 AM 24 of the courtrooms -- 17, for example, is set up with cameras.
9:01 AM 25 It does permit testimony by a witness that's not located in the

9:01AM 1 courtroom, but I'm not sure. There may be one other courtroom
9:01AM 2 that has that ability too.

9:01AM 3 But, you know, also if you all are working
9:01AM 4 together, witnesses can be called out of time. I mean, you
9:01AM 5 know, if you have a witness that can't get here exactly when
9:01AM 6 you wanted to call him or told the Government you're going to
9:01AM 7 call him, we'll just have to sort of be flexible with that.

9:01AM 8 MR. FUTERMAN: Thank you, Your Honor.

9:01AM 9 THE COURT: Okay. Anything else? And, you know,
9:02AM 10 Mr. Futerman, you all are working so well together that I know
9:02AM 11 that anything like that we can resolve. And even though this
9:02AM 12 case -- I've set this case for December, which is always a
9:02AM 13 difficult month, we do have a few days. You know, the
9:02AM 14 following week, I don't have any -- any trials set, so if
9:02AM 15 something happens and we had to go over a little bit into the
9:02AM 16 third week, I have the luxury of doing that. Nobody is going
9:02AM 17 to want to do that because it's getting close to Christmas, but
9:02AM 18 I'm not -- I don't have any other trials set, so --

9:02AM 19 MR. FUTERMAN: I understand, Your Honor. Hopefully
9:02AM 20 we won't get to that. I was scheduled I think on the 22nd to
9:02AM 21 fly out to England, but hopefully --

9:02AM 22 THE COURT: If we're not finished by the 22nd, I
9:02AM 23 anticipate that we'll be in big trouble. So we should be
9:03AM 24 easily finished by then.

9:03AM 25 MR. FUTERMAN: Thank you.

9:03 AM 1 THE COURT: Hopefully. I would hate for you to miss
9:03 AM 2 that.

9:03 AM 3 MR. FUTERMAN: Thank you.

9:03 AM 4 THE COURT: Anything else from anyone?

9:03 AM 5 MR. MARCET: Nothing on behalf of the United States.

9:03 AM 6 THE COURT: All right. I think in the abundance of
9:03 AM 7 caution I'm going to restatus this. Again, we can do it by
9:03 AM 8 Zoom, and sometimes it's easier to resolve problems by just
9:03 AM 9 talking about them as we have today. So why don't we set this
9:03 AM 10 for -- put this on the criminal statuses again for November the
9:03 AM 11 16th? Are all of you available on November 16th?

9:03 AM 12 MR. FUTERMAN: Yes, Your Honor, I am.

9:03 AM 13 THE COURT: I'll restatus this, and that's right
9:03 AM 14 before the trial, and so hopefully if there are any issues, you
9:03 AM 15 can bring them up at that time.

9:03 AM 16 MR. FUTERMAN: Thank you, Your Honor.

9:03 AM 17 MR. MARCET: Yes, Your Honor.

9:03 AM 18 THE COURT: Okay. Anything else?

9:03 AM 19 MR. MARCET: Nothing on behalf of the United States.
9:03 AM 20 Thank you, Judge.

9:03 AM 21 MR. FUTERMAN: No, Your Honor. Thank you.

9:03 AM 22 THE COURT: All right. Thank you.

9:04 AM 23 (End of proceedings.)
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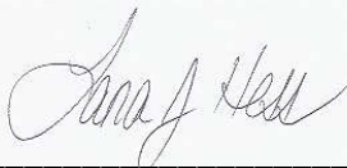
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UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA

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I, Tana J. Hess, Official Court Reporter for the United States District Court, Middle District of Florida, certify, pursuant to Section 753, Title 28, United States Code, that the foregoing is a true and correct transcription of the stenographic notes taken by the undersigned in the above-entitled matter (Pages 1 through 20 inclusive) and that the transcript page format is in conformance with the regulations of the Judicial Conference of the United States of America.



Tana J. Hess, CRR, RMR, FCRR
Official Court Reporter
United States District Court
Middle District of Florida
Tampa Division
Date: January 24, 2023