

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.	*	
	*	December 16, 2021
JEREMY BROWN	*	
* * * * *		

REPORTER'S OFFICIAL TRANSCRIPT OF THE CONTINUED MOTION FOR  
RECONSIDERATION HELD BEFORE THE HONORABLE SEAN P. FLYNN  
UNITED STATES MAGISTRATE JUDGE  
DECEMBER 16, 2021

APPEARANCES:

FOR THE GOVERNMENT:

Risha Asokan  
DOJ - USAO  
400 N. Tampa Street, Suite 3200  
Tampa, FL 33602  
813.274.6000

Cherie L. Kringsman  
US Attorney's Office - FLM  
400 N. Tampa Street, Suite 3200  
Tampa, FL 33602  
813.274.6000

FOR THE DEFENDANT:

William Fargo Sansone  
Sansone Law PA  
609 W. De Leon Street  
Tampa, FL 33606  
813.361.0874

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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Proceedings recorded by mechanical stenography using  
computer-aided transcription software.

Tana J. Hess, CRR, RMR, FCRR  
U.S. District Court Reporter  
Middle District of Florida

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(Call to order of the Court.)

THE COURT: Good morning, everyone.

MR. SANSONE: Good morning, Your Honor.

THE COURT: Ms. Saucier, will you please call the case?

COURTROOM DEPUTY: Yes, Your Honor. It's 8:21-cr-348-SCB-SPF, United States of America versus Jeremy Brown.

THE COURT: Is there anything for the Court to take up before we begin? Ms. Asokan?

MS. ASOKAN: No, Your Honor.

THE COURT: Mr. Sansone?

MR. SANSONE: No, Your Honor.

THE COURT: Were you able to make your appointment yesterday, Mr. Sansone?

MR. SANSONE: Yes, Your Honor. Thank you very much.

THE COURT: All right. Ms. Asokan, you may proceed.

MS. ASOKAN: Thank you, Your Honor. One moment, Your Honor.

(Pause.)

MS. ASOKAN: Your Honor, it's my understanding that at this point I have the Court's permission to argue why reconsideration is not appropriate?

THE COURT: You do.

MS. ASOKAN: Thank you, Your Honor. So just to

1 clarify procedurally where we are, the Court is reconsidering  
2 the November 11th order denying without prejudice the  
3 Defendant's motion to reopen the hearing. Now, as this Court  
4 is aware, reconsideration, which in this district is regarded  
5 as an extraordinary remedy to only be used sparingly, is not  
6 appropriate here. The Defendant has not established: 1, an  
7 intervening change in the law; 2, discovery of new evidence  
8 that was not available at the time that the Court denied the  
9 motion to reopen; or the need to correct clear error or  
10 manifest injustice.

11 Now, Your Honor, even if we were to assume that  
12 the Defendant's basis for reconsideration is grounded in the  
13 idea that the Court committed clear error or manifest  
14 injustice, which is not clear on the face of the Defendant's  
15 motion, there has been no error or manifest injustice to  
16 correct.

17 Now, this Court found in its November 11th order  
18 that the Defendant did not meet the standard under 3142(f) for  
19 reopening, which only allows reopening if this Court finds,  
20 quote, "information exists that was not known to the movant at  
21 the time of the hearing and that has a material bearing on the  
22 issue whether there are conditions of release that will  
23 reasonably assure the appearance and safety of the community."

24 Now, in the Defendant's initial motion, the one  
25 for reopening, he identified one witness who had relayed to the

1 Court that the Defendant knew the FBI was coming to arrest him  
2 that day. That issue was raised and addressed at the initial  
3 hearing, and so there's no basis to reopen on that witness's  
4 testimony alone, and that the Government's response to the  
5 motion to reopen cites the pertinent transcript pages to show  
6 that that had already been fully addressed by the Court in the  
7 initial hearing.

8 The Defendant also identified six witnesses who  
9 apparently never had seen the sign until after the first  
10 detention hearing, but who nevertheless could offer testimony  
11 as how this sign should be interpreted or that the Court -- or  
12 to correct the Court's misinterpretation based on their  
13 knowledge and relationship with the Defendant. So, in other  
14 words, they were supposed to be character witnesses for the  
15 Defendant who would offer evidence to rebut the dangerous --  
16 finding of dangerousness under 3142(g).

17 Now, the Court is familiar with the Government's  
18 position based on the case law on whether that alone is  
19 sufficient to count as new information. It's in our papers. I  
20 won't repeat those arguments again now, and the Court actually  
21 agreed with those arguments in its November 11th ruling.

22 But now that we've actually heard the testimony  
23 from those witnesses, it's even more clear that there is no  
24 basis for reopening this hearing. We heard from four witnesses  
25 as to their interpretation of the sign. None of that testimony

1 constituted information that both did not exist at the time of  
2 the hearing and that is material to the Court's determination  
3 as to detention. Excuse me.

4 Now, again, Your Honor, all of these witnesses  
5 testified that they had never actually seen the sign until  
6 after the initial hearing. None of the witnesses have any  
7 personal knowledge of the sign. That was established in their  
8 testimony.

9 Two of the witnesses, Mr. Olsen and Ms. Jones,  
10 testified that they spoke to the Defendant about the sign in  
11 May or June of this year, though neither could actually recall  
12 specifics of the conversation that they had with the Defendant.  
13 Your Honor, that necessarily means that the Defendant knew that  
14 he had these conversations with them since he was a party to  
15 the conversation, and therefore this information was known to  
16 him at the time of the first hearing.

17 The other two witnesses, Mr. Ferraccio and  
18 Mr. Pecha, have never had a conversation with the Defendant  
19 about the sign. They have absolutely no personal knowledge  
20 about it, and instead they were speculating as to what they  
21 thought it meant and what they thought the Defendant meant  
22 based on what they knew about the Defendant. One of the  
23 witnesses actually said he was speculating.

24 And even the two witnesses who spoke to the  
25 Defendant, Mr. Olsen and Ms. Jones, about the sign offered no

1 material testimony, because at bottom, Your Honor, the issue is  
2 not about what the sign meant to them or what their view of the  
3 sign was based on what they know about the Defendant. Those  
4 were the questions that were posed to them by defense counsel  
5 numerous times. "What do you think it meant?" The issue is,  
6 rather, how someone who doesn't know the Defendant, like a law  
7 enforcement officer or pretrial services officer or even this  
8 Court, should interpret that if they approach the house or had  
9 to have an interaction with the Defendant knowing what that  
10 sign said.

11 Your Honor, the proposed testimony or the  
12 testimony that we actually heard completely undermines a  
13 finding of materiality under 3142(f). But to the extent the  
14 Court is willing to consider this information as a basis for  
15 reopening, their testimony actually established the  
16 Government's point and supports the Court's concern. Your  
17 Honor, none of them could say that a stranger would not  
18 perceive it as a threat. Ms. Jones said that a stranger could  
19 perceive it as a threat. That was her explicit testimony.  
20 Mr. Ferraccio said a law enforcement who did not know the  
21 Defendant and saw the sign, he would assume would, quote, "come  
22 in heavy," which we believe means come in armed or protected.

23 Mr. Pecha said the same thing about a stranger's  
24 perception of the threat. He even went so far to say that if  
25 he had known about the sign, particularly the PS portion, he

1 probably would have counseled the Defendant against posting it.

2 So for those reasons, Your Honor, the motion for  
3 reconsideration should be denied.

4 But in the alternative, Your Honor, this Court  
5 should find that even if the detention hearing were reopened,  
6 there remain no conditions of release that would ensure the  
7 Defendant's appearance and the safety of the community.

8 Your Honor, this Court already found that the  
9 United States proved by clear and convincing evidence that  
10 detention was appropriate under the Bail Reform Act. I believe  
11 Your Honor previously characterized the evidence as  
12 substantial. Over the last two days, the United States has  
13 presented additional evidence that only affirms the Court's  
14 initial finding, and again, Your Honor, the inquiry is to view  
15 the evidence in the totality, in the context of all that we  
16 know about the Defendant, his expressed statements and his  
17 actions.

18 Now, in addition to the grounds and evidence  
19 that was presented at the first hearing which the United States  
20 relies on again here, this Court heard evidence going to the  
21 factors under 3142(g) that all favor detention, the first  
22 factor being the nature and circumstances of the offense.  
23 There were four felony counts in the indictment that each carry  
24 penalties of up to 10 years. The Defendant, again under  
25 preliminary sentencing guidelines calculations, is looking at

1 51 to 63 months on those counts. This is serious prison time.  
2 This favors detention.

3 The second factor that the United States  
4 presented evidence on is dangerousness. Now, in this factor  
5 the Government presented additional evidence about the grenades  
6 that were found in the RV as well as information from the  
7 search warrant that was issued out of the District of Columbia  
8 that should raise serious concerns about the Defendant's  
9 handling of explosive materials.

10 Your Honor, to the extent that it wasn't clear  
11 in my earlier presentation, the search warrant refers to the  
12 Defendant taking explosives with him to DC in his RV,  
13 explosives that traveled across many states to get there, and  
14 that's exactly what the agents found in the RV when they  
15 executed the search on September 30th. This goes directly to  
16 dangerousness, and it goes directly to disregard for safety of  
17 the community.

18 The next area that evidence was presented on,  
19 and there was substantial evidence on this point, was  
20 conditions of release and compliance. Your Honor, at the  
21 beginning of the hearing, I raised for this Court's attention  
22 the fact that the Defendant made it known to third parties and  
23 his counsel that if his -- if this Court imposed restrictions  
24 on him that he viewed as unconstitutional, he would refuse to  
25 accept release and go back to jail.

11:09 AM 1 And that is exactly what we heard at the  
11:09 AM 2 conclusion of the hearing yesterday. We heard it in jail calls  
11:09 AM 3 beginning in late October through November. We heard it in a  
11:09 AM 4 call with Mr. Olsen from Sunday, and, quote, "The restriction  
11:09 AM 5 on firearms was a hill to die on," or that he would be dying on  
11:09 AM 6 the hill.

11:09 AM 7 Now, defense counsel yesterday stated that these  
11:09 AM 8 were just some of the things that the Defendant was wondering  
11:09 AM 9 about, that he was ruminating on. That's not what we heard.  
11:09 AM 10 We didn't hear any pondering. We heard, "This is a hill to die  
11:09 AM 11 on," and this is what, quote, "I have to do." And we also know  
11:09 AM 12 that he discussed this with his attorney, and this was his  
11:09 AM 13 plan. He was not questioning himself. And, Your Honor, if  
11:09 AM 14 that's not enough, the Defendant said it unequivocally to Your  
11:09 AM 15 Honor in court yesterday.

11:09 AM 16 Now, Your Honor, I just want to briefly address  
11:09 AM 17 a few other things that defense counsel raised in his argument.

11:10 AM 18 Now, the first one is particularly concerning to  
11:10 AM 19 the Government, and it goes to the issue of delay and the  
11:10 AM 20 defense's explanation as to what the Defendant meant by delay  
11:10 AM 21 tactics. Your Honor, there was reference at least a couple of  
11:10 AM 22 times yesterday that the United States has not been compliant  
11:10 AM 23 with its discovery obligations. That is completely untrue.  
11:10 AM 24 Your Honor, I made the first production on November 16th when  
11:10 AM 25 the Court's deadline under the discovery order was November

1 19th. Productions have been made on a rolling basis since.

2 It's important to recognize that the discovery  
3 in this case includes evidence from the Government's  
4 investigation into the events that occurred on January 6th. As  
5 the Court is aware, this case is the result of the search  
6 warrant that was issued from the District of Columbia relating  
7 to the Defendant's case as to his participation on January 6th.

8 Now, the nature of the January 6th  
9 investigation, which is ongoing, includes voluminous evidence  
10 about witnesses both involved in the Defendant's case and the  
11 broader investigation.

12 For example, Defendant 4, who is mentioned in  
13 the search warrant that the Court has in Government's Exhibit  
14 10. Your Honor, I just want to note right now that the  
15 Defendant was right up to the line of identifying who Defendant  
16 4 was in Court. This is, in our view, a form of witness  
17 intimidation, but it's the security of those witnesses that is  
18 a priority for the Government and which is exactly why the  
19 Government has been trying to pursue and put in place a  
20 protective order to safeguard the discovery in this case.

21 And this isn't just in the context of the  
22 January 6th investigation, but also based on what we have seen  
23 in this case and the Defendant's actions.

24 Evidence of witness intimidation. Looking up  
25 information about a Government's witness in the case. That was

1 all in Government's Exhibit 9H-T. And just to be clear on the  
2 record, even though the content was not discussed on the  
3 record, that call and that transcript did not pertain only to  
4 the agent's information. There was also other very concerning  
5 and serious references that were made in that call.

6 Your Honor, I sent the first draft of the  
7 protective order on November 23rd. Counsel and I had  
8 discussions that day about it. It's the standard protective  
9 order that has been issued in the DC cases regarding the  
10 January 6th defendants. It's specifically tailored to protect  
11 how information that contains sensitive information like  
12 witness information is shared and stored. There's also the  
13 standard limitation about dissemination to third parties,  
14 limiting discovery to the litigation. This is common, happens  
15 all the time in all types of litigation.

16 Now, one concern that was raised in defense --  
17 one concern that was raised was defense counsel's access to the  
18 Defendant in Pinellas and his ability to share discovery with  
19 the Defendant. Defense counsel assured us that no discovery  
20 would be shared until a protective order agreement reached --  
21 was reached between the parties or resolved by the Court.

22 Now, we took the Defendant's concern about  
23 access to information and access to his client very seriously,  
24 and the Government actually went so far to go reach out to  
25 Pinellas and to get special privileges for defense counsel to

1 facilitate the flow of discovery. Those privileges were  
2 granted on November 29th. Discussions have been ongoing since,  
3 and defense counsel received a revised draft of the  
4 protective -- proposed protective order on December 7th. It  
5 wasn't until last Thursday, December 9th, after the Court set  
6 the hearing that we're in right now, that defense counsel let  
7 me know that we would be unable to reach an agreement as to the  
8 language of the protective order.

9 Now, it's not clear at this point whether that's  
10 to the entirety of the protective order or certain provisions,  
11 but it's in the Defendant's view that under the Sixth Amendment  
12 he's entitled to a public trial, and that's what he wants.  
13 That was the explanation that was provided.

14 Your Honor, without going into the details of  
15 the protective order and how we intend to litigate it, which a  
16 motion will be filed, it's important to know that the  
17 protective order has nothing to do with the evidence that the  
18 Defendant can produce or present at trial, but we know from  
19 both his statements in court and on jail calls that he intends  
20 to share discovery publicly, including with the media.

21 So this is now something that is ripe for the  
22 Court's review, and a motion will be filed in the next few  
23 days.

24 Your Honor, I just want to be abundantly clear  
25 that the United States has been diligently producing discovery

1 consistent with the Court's order and attempting to resolve  
2 this protective order issue ever since. So any suggestions  
3 that the United States is not complying with discovery  
4 obligations is completely unfounded and misleading.

5 On somewhat of a related note, because this was  
6 alluded to a couple of times yesterday in both defense  
7 counsel's presentation and the Defendant's statement, to the  
8 extent that there is any question or doubt about this, the  
9 Government does not have access to the Defendant's privileged  
10 communications with his attorney. While it is the Defendant's  
11 choice to waive, the United States fully understands and  
12 appreciates the protections afforded to attorney-client  
13 privileged communications and the importance of safeguarding  
14 those communications. This Court knows that, and so does  
15 defense counsel.

16 Now, as to the specific evidence offered by the  
17 United States, defense counsel stated that we should not credit  
18 the evidence relating to the grenades and as they go to  
19 dangerousness because, among other things, we don't know how  
20 long the Defendant's had them. Your Honor, this actually cuts  
21 against the Defendant's position. Having grenades of this  
22 caliber, of this type, or of any type really, that has  
23 explosive capabilities, even one day is too long. If the  
24 Defendant -- if he's had them, and if he's had them for longer  
25 than that, either in his house where family and friends visit,

1 including children, or in his RV, which he travels the country  
2 in, that is extremely concerning. And that goes to a disregard  
3 for safety.

4 As to the classified documents, Your Honor, to  
5 the extent it wasn't clear in my presentation, a preliminary  
6 determination as to the classification status of those  
7 documents has been made. There is classified information in  
8 those documents.

9 And as to proceeding on these charges, defense  
10 counsel and I had a conversation Wednesday about the process,  
11 last Wednesday to be clear for the Court, including that  
12 defense counsel would need a clearance. Now, as Your Honor is  
13 probably aware, this is a complicated process with numerous  
14 stakeholders involved. We have to get certain use authority  
15 and privileges to use this information in court.

16 Defense counsel was contacted this past Monday  
17 about starting the process to obtain the clearance. So for the  
18 Court's awareness, the United States is proceeding at a pace  
19 with respect to the classified documents that are issued in  
20 this case.

21 Your Honor, the last piece that I want to  
22 address that defense counsel -- excuse me, that defense counsel  
23 responded to yesterday is about the search warrant compliance.  
24 Now, this has come up many times already in presentation. This  
25 Court is very familiar with what happened, especially with

11:17 AM 1 happened in court on Tuesday.

11:17 AM 2           Knowing the familiarity and the facts  
11:17 AM 3 surrounding Defendant's refusal, I'm not going to belabor it,  
11:17 AM 4 but to be clear, because I think there was some  
11:17 AM 5 misunderstanding yesterday, defense counsel received a copy of  
11:17 AM 6 the motion for the order to show cause on Thursday when it was  
11:17 AM 7 filed under seal with the Court. He also received a copy of  
11:17 AM 8 the order to show cause Friday stating that a hearing would be  
11:17 AM 9 held on Tuesday as to why the Defendant should be held in  
11:18 AM 10 contempt. So all of this was known to the defense. And even  
11:18 AM 11 still, knowing that there was contempt -- a contempt proceeding  
11:18 AM 12 on the horizon, the Defendant still did not immediately comply  
11:18 AM 13 in court Tuesday, even after Your Honor explained the procedure  
11:18 AM 14 and the rights to him.

11:18 AM 15           Your Honor, for all of those reasons, for those  
11:18 AM 16 reasons stated in our brief, the United States maintains that  
11:18 AM 17 reconsideration is not appropriate here. Motion should be  
11:18 AM 18 denied, but even still, if the Court were to reopen it, United  
11:18 AM 19 States submits that there is no -- there are no conditions of  
11:18 AM 20 release that could assure the safety of the community and the  
11:18 AM 21 Defendant's appearance. All of the factors favor detention.

11:18 AM 22           The last thing I want to say, Your Honor, is  
11:18 AM 23 there was some suggestion yesterday about yet another piecemeal  
11:18 AM 24 approach to the issue of detention, about instituting -- or  
11:18 AM 25 imposing some restrictions, coming back after appeal, et

11:18AM 1 cetera. And on this point, Your Honor, I'd like to direct the  
11:19AM 2 Court's attention to *United States v. Pon*, which was cited in  
11:19AM 3 both the Government's response to the -- the Government's  
11:19AM 4 response to the Defendant's motion to reopen as well as in the  
11:19AM 5 Court's order. And that case is found at 2014 Westlaw 3340584.

11:19AM 6 And, Your Honor, for the record, the part I'm  
11:19AM 7 about to quote is from page 8. It says, "As written, the  
11:19AM 8 reopening provision is in effect, the computation of a Court's  
11:19AM 9 inherent reconsideration authority tempered by the  
11:19AM 10 understanding that to promote finality, preserve judicial  
11:19AM 11 resources, and discourage piecemeal presentations, a Court  
11:19AM 12 should not reconsider a decision based on information that  
11:19AM 13 could have been presented the first time around."

11:19AM 14 Your Honor, any efforts to continue this  
11:19AM 15 process, knowing everything that we know about the Defendant,  
11:19AM 16 his position on conditions of release, a piecemeal approach,  
11:20AM 17 that's just simply not supported by the law. There's no basis  
11:20AM 18 to reconsider. There's no basis to reopen, but even if the  
11:20AM 19 Court were to reopen, the evidence is clear and convincing that  
11:20AM 20 he must stay detained. Thank you.

11:20AM 21 THE COURT: Thank you, Ms. Asokan. First off, I'd  
11:20AM 22 like to commend counsel for both parties. The presentation  
11:20AM 23 this week has been excellent on both sides and has been very  
11:20AM 24 helpful for the Court's determination, so I thank all three of  
11:20AM 25 you for the efforts that you've made this week in order to

1 assist the Court in ruling on the pending motion.

2 Now, as for the pending motion, it is a pending  
3 motion for reconsideration of my prior order denying the motion  
4 to reopen bond. The Court finds that the Defendant has not  
5 satisfied his burden of establishing that there has been a  
6 change in the law, there's been new evidence since that  
7 hearing, or there was a clear error or manifest injustice as a  
8 result of the Court's prior order.

9 On that basis alone, the Court denies the motion  
10 for reconsideration.

11 However, the Court notes for the record that in  
12 denying the motion to reopen bond, the Court did so without  
13 prejudice. Even if the Court were to construe the motion for  
14 reconsideration as a renewed motion to reopen the bond hearing,  
15 the Court once again finds that that motion should be denied,  
16 because Defendant has not met the burden that's set forth in 18  
17 USC Section 3142(f) for reopening a bond hearing, and that is  
18 that information exists that was not known to the Defendant at  
19 the time of the hearing and that has a material bearing on the  
20 issue of whether there are conditions of release that will  
21 reasonably assure the appearance of such person as required and  
22 the safety of any other person in the community.

23 The information that's been proffered this week  
24 and the information that was put forth in Defendant's motion  
25 for reconsideration and the first motion for -- to reopen the

1 bond hearing, that information was known to the Defendant at  
2 the time of the bond hearing. The Defendant knew the witnesses  
3 that were going to be called today, knew the conversations the  
4 witness had -- excuse me, the Defendant had with those  
5 witnesses, and there was no information that was presented that  
6 is new information, with the possible exception of the opinion  
7 testimony that was given by these witnesses as to what they  
8 believed was meant by the Defendant's sign that was posted in  
9 his window, which was admitted into evidence as Defendant's  
10 Exhibit 1 during this week's evidentiary hearing. The Court  
11 finds that their opinions are nothing but pure speculation.  
12 There was no personal knowledge as to what the Defendant meant  
13 when he posted that sign. It's only what they think he meant.

14 Now, the Court, as I mentioned at the first bond  
15 hearing, is very troubled by that sign and the implications of  
16 that sign and views that sign as a direct threat to law  
17 enforcement. It's been suggested to this Court that it was not  
18 a direct threat, but rather, it was meant as a playful jab to  
19 the law enforcement officers, the agents who had previously had  
20 interactions with the Defendant.

21 I do not find that argument to be credible at  
22 all. The sign was not directed to those agents. The sign was  
23 directed to all law enforcement agencies which the Defendant  
24 reasonably thought could come to his house.

25 It was a warning to those law enforcement

1 agencies, and the warning was that if they come, they better  
2 bring a bigger tactical package.

3 Now, there's been a suggestion to the Court that  
4 that was a double entendre; that really what he meant by that,  
5 by "a bigger tactical package," was a male anatomy; in other  
6 words, "You better have guts to come to my house." Either way,  
7 that's still a threat. But I also recall the testimony of  
8 Major Sergeant Olsen who testified this week, and he was asked  
9 about tactical packages on cross-examination. Major Sergeant  
10 Olsen stated that it depends on the circumstance; that in  
11 previous missions that he's been on, if it's been a hearts and  
12 mind mission, then he wouldn't take a big tactical package. He  
13 wouldn't take -- I believe the context was whether you would  
14 have grenades on you when you met with warlords, as he said,  
15 but that's not tactical package that you would take.

16 I agree with Major Sergeant Olsen. I think  
17 that's what Defendant Brown meant when he said, "You better  
18 bring a bigger tactical package." It was in reference to  
19 weapons. It was a warning to law enforcement that if they came  
20 to his house, they'd better be well armed. That's how I take  
21 it. That's how I believe the evidence has been presented to  
22 the Court.

23 In addition, in a reported jailhouse call which  
24 was admitted into evidence, Defendant Brown specifically stated  
25 that it was an if/then statement. If they violate the law,

1 meaning he thinks that they violated the law, then they better  
2 bring a bigger tactical package. Again, that is an expressed  
3 threat to law enforcement, that if Defendant Brown in his sole  
4 judgment thinks that law enforcement is violating the law, that  
5 they better come well armed. They better bring a bigger  
6 tactical package.

7 The Court once again views that as a direct  
8 threat.

9 In addition, there was more evidence that was  
10 presented to the Court through a sealed exhibit that was  
11 discussed at sidebar, which I will not reveal the specifics of  
12 that sealed exhibit, but in general terms, it was a discussion  
13 that the Defendant was having with his partner regarding her  
14 efforts to locate a witness in this case and a law enforcement  
15 officer, and then it goes beyond that: To go into that law  
16 enforcement's family, and to provide -- look for information  
17 about family members of that law enforcement agent. The Court  
18 views that as another threat to law enforcement as well as  
19 potentially an effort to tamper with witnesses in this case,  
20 which the Court takes very seriously.

21 So even if the Court were to find that there was  
22 new information that was material to the Court's determination  
23 as to whether there were reasonable conditions, the Court  
24 alternatively finds that after considering all of the evidence  
25 that's been presented, both at this hearing and the original

1 bond hearing, as well as argument of counsel and the factors  
2 listed in 18 USC Section 3142(g), that by clear and convincing  
3 evidence there are no conditions or combination of conditions  
4 of release that'll reasonably assure the safety of any other  
5 person in the community, to specifically include law  
6 enforcement in their interactions with the Defendant.

7 The Court will finally note for the record that  
8 even if the Court were to release the Defendant on conditions  
9 of release, which I've already specifically found that there  
10 are no conditions of release that would reasonably assure the  
11 safety of any person or the community, but even if the Court  
12 has erred in that ruling and were to release him on conditions,  
13 in the Court's opinion those conditions at a minimum would  
14 include that the Defendant may not have -- own or possess and  
15 have access to a firearm or other destructive device, and  
16 Defendant stated to me directly, to the Court yesterday at the  
17 hearing, that he views that as a violation of his Second  
18 Amendment rights, and that he would refuse any conditions of  
19 release that would impinge upon that right.

20 That's his choice, but there are no conditions  
21 that the Court could impose, again, that would reasonably  
22 assure the safety of any other person in the community. And  
23 for those reasons, and for other reasons which the Court will  
24 put in its written order, the Court denies Defendant's motion.

25 The Court has allowed the Defendant to make a

1 record here this week. The evidence that you wanted to put  
2 before the Court is now in the record, and I encourage you to  
3 exhaust all your legal rights, including your option to appeal  
4 the Court's order, and if you do, the District Judge will have  
5 before her all the evidence that you've presented this week,  
6 and if the Court has erred, I'm sure the District Judge will  
7 not hesitate to let me know.

8 Is there anything further from the Government at  
9 this time?

10 MS. ASOKAN: Yes, Your Honor. Just as a procedural  
11 matter, I believe there's been some confusion as to in which  
12 case the detention order has been entered. I believe out of  
13 DC, there's some confusion as to whether the Defendant is being  
14 detained in the DC case, and so if Your Honor would just  
15 clarify in the order as to which case he's being detained.

16 THE COURT: So he's being detained in both cases. He  
17 was detained in this case as pending in the Middle District of  
18 Florida after considering the factors in 18 USC Section  
19 3142(g). Now, because he's being detained in this case, the  
20 issue of bond is moot as to his other case. I cannot release  
21 him in one case and order him detained in the other. So just  
22 so we're clear, I'm not ordering his detention based on the  
23 misdemeanor charges that are pending in the District of  
24 Columbia. I'm ordering him detained in this case, the felony  
25 case pending in the Middle District of Florida. However,

1 because the Court is ordering him detained in this case, the  
2 issue of bond is moot as to the other case. That's the Court's  
3 ruling.

4 MS. ASOKAN: Thank you, Your Honor.

5 MR. SANSONE: Your Honor, can I have just a moment?  
6 Because that issue came up -- I wasn't there; he has DC  
7 counsel -- came up in the DC hearing, and I just want a  
8 clarification real quick.

9 (Pause.)

10 MR. SANSONE: Your Honor, it was kind of what  
11 Ms. Asokan had just said, that I wasn't there. It was at his  
12 initial appearance. They had a detention hearing. Obviously  
13 he was detained here, but I believe the District Court -- or  
14 Magistrate Judge, I wasn't sure who it is -- said it was  
15 unclear if this Court had specifically ordered him detained on  
16 both or not, whether it was a finding actually as to the  
17 misdemeanor case also that there were no conditions. Obviously  
18 I wasn't there, and it seemed like from what Your Honor just  
19 said is -- which I agree, is the second -- it's essentially  
20 moot, but you're not making a specific finding if he were  
21 solely here on the misdemeanor case --

22 THE COURT: That is correct. So, for example, if the  
23 Court were to have granted your motion and released him on  
24 conditions of release in this felony case pending in the Middle  
25 District of Florida, then the issue as to whether there were

1 conditions of release in the misdemeanor case pending in the  
2 District of Columbia would then be ripe for consideration. But  
3 because he is ordered detained in this case, the issue of  
4 detention is moot as to his other case pending in DC.

5 Now, I will note that the District Judge in the  
6 District of Columbia can review my bond order, and if the  
7 District Judge disagrees, then the District Judge can modify my  
8 order of detention, just as Judge Bucklew here in the Middle  
9 District of Florida can modify my order of detention here in  
10 this case.

11 MR. SANSONE: Your Honor, I'm going to reach out to  
12 DC counsel just to make sure, and if there's some point of  
13 clarification that I think needs to be brought before Your  
14 Honor, I'll just put it in a writing or a motion or something  
15 to that effect.

16 THE COURT: You may, but again, I think the issue of  
17 the misdemeanor case pending in the District of Columbia is  
18 pending in the District of Columbia, and it's for the judge in  
19 the District of Columbia to make that determination. I saw  
20 Mr. Brown because he was arrested in this district, and I saw  
21 him for his initial appearance and for a detention hearing here  
22 in the Middle District of Florida. I made my ruling, and that  
23 ruling has been made, and if the District Judge in the District  
24 of Columbia for which the -- where the case is pending, or  
25 since it's misdemeanor if it's pending before the Magistrate

1 Judge, then that judge can decide whether I erred in detaining  
2 him. But, again, so the record is clear, the reason for his  
3 detention is solely -- in the misdemeanor case is solely  
4 because I've ordered him detained in this case pending in the  
5 Middle District of Florida.

6 MR. SANSONE: I'll reach out. I have DC counsel. He  
7 was there. I'll reach out to DC counsel and relay that  
8 information.

9 THE COURT: Thank you, Mr. Sansone.

10 Is there anything further from the Government?

11 MS. ASOKAN: No, Your Honor. Thank you.

12 THE COURT: From the defense?

13 MR. SANSONE: No, Your Honor.

14 THE COURT: All right. Thank you. We're adjourned.

15 (End of proceedings.)  
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