

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

_____)	
UNITED STATES OF AMERICA)	
)	
v.)	Case No. 1:21-cr-118 (RCL)
)	
LISA MARIE EISENHART)	
_____)	

DEFENDANT’S NOTICE OF FILING

NOW COMES Defendant Lisa Marie Eisenhart, by and through undersigned appointed counsel, and formally files in this case a copy of the transcript from her detention hearing held before U.S. Magistrate Judge Frensley in the Middle District of Tennessee. This same document was previously provided to Chambers and was recently cited in this Court’s recent Opinion. *See, e.g.,* Docket #24, at p.2. It is therefore now being formally filed in this case as well, as Exhibit A hereto, in order to complete the record before this Court.

Dated February 18, 2021

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing is automatically being served upon all counsel of record, via the Electronic Case Filing system.

This 18th day of February, 2021.

_____/s/ Gregory S. Smith_____
 Gregory S. Smith

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UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

UNITED STATES OF AMERICA)
)
VS) No. 3:21-mj-2679
)
LISA EISENHART)

BEFORE THE HONORABLE JEFFERY S. FRENSLEY,
MAGISTRATE JUDGE

TRANSCRIPT OF ELECTRONIC RECORDING

(via video conference)

January 25, 2021

APPEARANCES:

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1
2 The above-styled cause came to be heard
3 on January 25, 2021, before the Hon. Jeffery S.
4 Frensley, Magistrate Judge, when the following
5 proceedings were had to-wit:

6 **TRANSCRIPT OF ELECTRONIC RECORDING**

7 ***

8
9 THE COURT: Good afternoon. Welcome,
10 everyone. Good afternoon. We're here this afternoon
11 in the matter of the *United States of America versus*
12 *Lisa Eisenhart*. It's Case No. 3:21-mj-2679.
13 Ms. Eisenhart's appearing this afternoon for a
14 preliminary hearing and detention hearing on this
15 out-of-district criminal complaint from the District
16 of Columbia. The number in the District of Columbia
17 is 1:21-mj-71.

18 We have on the line by video conference
19 Ms. Eisenhart participating by video, along with her
20 attorney, Mr. Jonathan Farmer. Mr. Kurtzman's here
21 for the United States. Mr. Kurtzman, do you have any
22 other folks with you today on behalf of the
23 government?

24 MR. KURTZMAN: Your Honor, FBI Special
25 Agent Angelo Defeo, as well as (indiscernible) from my

1 office.

2 THE COURT: All right, very good. Thank
3 you. I believe we also have Mr. Murphy on from the
4 pretrial services office as well.

5 Before we go any further, as I mentioned,
6 we're conducting this proceeding today by video
7 conference. I'd like to ask Mr. Farmer, did you have
8 a chance to speak with your client in advance of this
9 proceeding, specifically did you-all discuss
10 proceeding by video conference and does she consent to
11 do so today?

12 MR. FARMER: We did -- we did discuss
13 that, Your Honor, and she does so consent.

14 THE COURT: All right, very good. Thank
15 you, Mr. Farmer. Mr. Farmer, are you prepared to go
16 forward at this time?

17 MR. FARMER: I am, Your Honor.

18 THE COURT: And Mr. Farmer, just so the
19 record's clear, tell me what we're going forward on
20 today.

21 MR. FARMER: So we are -- and I
22 referenced this in my pleading that I filed this
23 morning. We are waiving the issue as to identity,
24 going forward on the issue of preliminary hearing and
25 detention.

1 THE COURT: All right, very good. Thank
2 you. Is the government prepared to go forward,
3 Mr. Kurtzman?

4 MR. KURTZMAN: Yes, Your Honor. If it
5 pleases the Court, we'll present evidence related to
6 both the preliminary hearing and the detention hearing
7 simultaneously as to expedite the process.

8 THE COURT: All right, very good. So
9 we'll go forward on the preliminary hearing and
10 detention hearing today in this matter. And the
11 parties are present and ready to go forward.

12 Before we begin, the Court's in receipt
13 of the Pretrial Services Report, which I have
14 reviewed. I assume you each have received a copy of
15 the report and you'll be able to keep your report
16 after the completion of these proceedings.

17 Mr. Kurtzman, would you like to call your
18 first witness, please.

19 MR. KURTZMAN: Yes, Your Honor. Before I
20 do so, did the Court receive the government's three
21 exhibits previously submitted by email and delivery?

22 THE COURT: Yes, thank you very much, we
23 did. Mr. Farmer, you received a copy of those as
24 well?

25 MR. FARMER: I did, Your Honor, yes.

1 THE COURT: All right, very good. Thank
2 you very much.

3 MR. KURTZMAN: Your Honor, I'm going to
4 move off screen and call FBI Special Agent Angelo
5 Defeo as my first witness.

6 THE COURT: Thank you, Mr. Kurtzman.
7 Good afternoon, Special Agent.

8 **ANGELO DEFEO**

9 called as a witness, after having been first duly
10 sworn, testified as follows:

11 THE COURT: Very good. If you'd please
12 state your name and spell it for the record, please.

13 THE WITNESS: Angelo Defeo. A-n-g-e-l-o,
14 D-e-f-e-o.

15 THE COURT: All right, very good.
16 Mr. Kurtzman, you can begin.

17 MR. KURTZMAN: Thank you, Your Honor.

18 **DIRECT EXAMINATION**

19 BY MR. KURTZMAN:

20 Q. Agent Defeo, how are you currently
21 employed?

22 A. Federal Bureau of Investigation,
23 Nashville resident agency.

24 Q. (indiscernible) with the FBI?

25 A. We investigate primarily domestic

1 terrorism and acts of violence.

2 Q. How long have you been with the Nashville
3 office?

4 A. May of 2020.

5 Q. Is this your first assignment for the
6 FBI?

7 A. No.

8 Q. Where have you previously been assigned?

9 A. I was previously assigned to the Chicago
10 field office.

11 Q. And were you investigating the same sorts
12 of crimes there?

13 A. Yes.

14 Q. How long (indiscernible)?

15 A. Four years.

16 Q. Do you have any law enforcement
17 experience prior to your years in Chicago?

18 A. Yes, I was a --

19 MR. FARMER: Your Honor, I don't mean to
20 jump in. It looks like Ms. Eisenhart is saying she's
21 having trouble hearing. It's a little choppy for me
22 as well. I can't make it out.

23 THE DEFENDANT: It's far away and really
24 quiet and choppy.

25 THE COURT: Yeah, I'm having the same

1 issue with that, Mr. Kurtzman. If you-all could try
2 to maybe get a little closer to the -- to the
3 microphone, please.

4 MR. KURTZMAN: Your Honor, is this
5 better?

6 THE COURT: Yeah, I think so. That
7 sounds better for me at this point, at least.

8 MR. KURTZMAN: Thank you, Your Honor.

9 BY MR. KURTZMAN:

10 Q. The last question I asked Agent Defeo was
11 if he had any law enforcement experience prior to his
12 four years in Chicago. So, Agent Defeo, could you
13 respond to that question?

14 A. Yes, I was a United States probation
15 officer for the Southern District of Iowa for
16 approximately four years prior to the FBI.

17 Q. You said your focus both in Chicago and
18 here is investigating domestic terrorism. Can you
19 define for the Court, based on your experience, what
20 domestic terrorism is?

21 A. Actually committing any type of violent
22 act or obstruction in furtherance of a personal
23 ideology.

24 Q. And in your experience, how do
25 individuals become involved in domestic terror?

1 A. Some type of radicalization process where
2 the individual starts to, either through the Internet
3 or other individuals, researching the information and
4 then it becomes more and more of a self-consuming
5 attitude, feeling, and then it just kind of drives
6 them to what we consider to be are a radicalized
7 behavior.

8 Q. In your role as an FBI special agent,
9 were you involved in the investigation of the invasion
10 of the United States Capitol that occurred on
11 January 6 of this year?

12 A. Yes.

13 Q. All right. And in your role in that
14 investigation, did you become aware of the defendant
15 in this case?

16 A. Yes, I did.

17 Q. How did that occur?

18 A. Through the investigation we identified
19 Eric Munchel as one of the individuals who was seen
20 inside the Capitol, along with his mother, Lisa
21 Eisenhart, as being one of the other individuals
22 identified inside the Capitol building.

23 Q. And in the course of the investigation,
24 did you -- were you able to determine when the
25 defendant traveled to Washington?

1 A. Yeah.

2 Q. When did that occur?

3 A. January -- I believe it was January 4.

4 Q. Do you recall when -- did the
5 investigation reveal when she left the Capitol?

6 A. Yes, our investigation revealed that she
7 returned January 7.

8 Q. In your role of working on this case,
9 have you reviewed the joint complaint that was filed
10 against the defendant herself?

11 A. Yes.

12 Q. And based on your working knowledge of
13 the investigation, can you adopt the factual
14 assertions that are contained in that joint complaint?

15 A. Yes.

16 MR. KURTZMAN: Your Honor, that joint
17 complaint was provided to -- to the Court and defense
18 counsel and also marked as Exhibit A. The government
19 would at this point move to admit that exhibit.

20 THE COURT: All right. It will be
21 admitted as Exhibit 1.

22 (Government Exhibit No. 1 was admitted.)

23 MR. KURTZMAN: Thank you, Your Honor.

24 BY MR. KURTZMAN:

25 Q. Agent Defeo, you said you were able to

1 identify and confirm the identity of the defendant
2 through the use of pictures. Do you see in the video
3 hearing the defendant, Ms. Eisenhart, here today?

4 A. Yes, I do.

5 Q. Can you identify her for the Court?

6 A. Yes, she's wearing glasses on the screen
7 in the top right corner of my screen (indiscernible)
8 blue shirt.

9 Q. Is that the same individual that you
10 observed in the photos from the Capitol?

11 A. Yes.

12 Q. And is that the same individual you
13 observed in the video marked as Government's
14 Exhibit C?

15 A. Yes.

16 Q. During the course of your investigation
17 after you realized that the defendant had returned to
18 Nashville, did you interview other witnesses who had
19 not accompanied her to the Capitol?

20 A. Yes, I did.

21 Q. And did any of those witnesses make
22 statements about her whereabouts?

23 A. They indicated that Ms. Eisenhart had
24 left Nashville and returned to -- what wound up being
25 Georgia the day after January 7. So I guess

1 January 8.

2 Q. And did any of these witnesses make any
3 statements regarding the defendant's feelings about
4 the outcome of the 2020 presidential election?

5 A. Yes. Witness 1 indicated that she was
6 very -- Ms. Eisenhart was very upset with the outcome
7 of the 2020 election.

8 Q. Was it both in this witness's opinion or
9 in your -- in what you learned during the
10 investigation, was that what motivated the defendant
11 to travel to Washington, DC?

12 A. Yes.

13 Q. Agent Defeo, in advance of this hearing,
14 the government filed a detention -- or, excuse me, a
15 motion for detention, as well as a memorandum in
16 support. Have you reviewed the contents of the
17 memorandum in support of the detention motion?

18 A. Yes, I have.

19 Q. And you've also reviewed the video taken
20 by defendant Eric Munchel from his cell phone; is that
21 correct?

22 A. That's correct.

23 Q. Did the government's memorandum in
24 support of its detention motion accurately describe
25 the events depicted in that video?

1 A. Yes.

2 Q. And you and I have spoken -- have you
3 reviewed the factual assertions in that memo on
4 page 17 through 20?

5 A. Yes, I have.

6 Q. And within those pages, are there
7 photographs of the defendant here today, as well as
8 her son?

9 A. Yes.

10 Q. And within those pages that I just
11 mentioned, 17 through 20, there are quotations made by
12 either defendant Munchel or Ms. Eisenhart; is that
13 correct?

14 A. That is correct.

15 Q. Does that memorandum fairly and
16 accurately summarize the statements they gave on that
17 video?

18 A. Yes, it does.

19 MR. KURTZMAN: Your Honor, I just would
20 note for the record that Agent Defeo has adopted the
21 factual assertions contained in the government's
22 memorandum in support of its detention motion made on
23 pages 17 through 20.

24 THE COURT: All right, thank you. It
25 will be noted.

1 BY MR. KURTZMAN:

2 Q. Agent Defeo, I'm passing you an article
3 from *The Tennessean* which has been provided to the
4 Court and defense counsel as Government's Exhibit 2.
5 Are you familiar with that article?

6 A. Yes, I am.

7 Q. How are you familiar?

8 A. (indiscernible).

9 Q. Are you familiar with the statements
10 made, allegedly made by the defendant in that article?

11 A. Yes.

12 Q. At any point has anyone discounted or
13 refuted that the defendant was, in fact, interviewed
14 as indicated in that article?

15 A. Not to my knowledge.

16 MR. KURTZMAN: Your Honor, at this time
17 the government would move to -- would move to admit
18 Exhibit 2 into evidence.

19 THE COURT: All right. It will be
20 admitted.

21 (Government Exhibit No. 2 was admitted.)

22 BY MR. KURTZMAN:

23 Q. Agent Defeo, moments ago we were
24 discussing the government's memorandum in support and
25 that it summarized the contents of about a 50-minute

1 video taken by defendant Munchel. You've reviewed
2 that video?

3 A. Yes, I have.

4 Q. And that video was obtained from
5 Mr. Munchel's phone?

6 A. Yes, it was.

7 Q. And is it fair to say that that video
8 depicts the defendant Ms. Eisenhart and her son, both
9 in the events leading up to and including her entrance
10 into the Capitol?

11 A. Yes, it does.

12 MR. KURTZMAN: Your Honor, the government
13 would move what's previously been provided to the
14 Court and defense counsel, the video exhibit, as
15 Exhibit 3.

16 THE COURT: Bear with me just a second.
17 Okay. It will be admitted. Mr. Kurtzman, let me ask,
18 does this video -- I apologize, I may have just missed
19 the testimony. Is this video the entirety of the
20 video or is it portions of the video?

21 MR. KURTZMAN: Your Honor, it is at least
22 what the government understands is the entirety of a
23 50-minute video.

24 THE COURT: Okay.

25 MR. KURTZMAN: It is not -- it is not

1 clipped in any way by the government.

2 THE COURT: Okay, thank you. It will be
3 admitted.

4 (Government Exhibit No. 3 was admitted
5 under seal.)

6 BY MR. KURTZMAN:

7 Q. Agent Defeo, in your review of the video
8 admitted as Exhibit 3, do you hear the phrase "the
9 line is broken" at a certain point?

10 A. Yes.

11 Q. And what did you understand that to mean
12 when the defendant and her son uses "the line is
13 broken?"

14 A. It indicated to me that either law
15 enforcement or physical barriers had been breached and
16 individuals were now able to get into the Capitol
17 building.

18 Q. And what did the defendant and her son do
19 once hearing that the line was broken?

20 A. They moved forward quickly trying to get
21 up the stairs, what appeared to be move towards gain
22 entrance of the Capitol building.

23 Q. Okay. And as they're doing that, does
24 the defendant and her son discuss -- do they discuss
25 weapons at any point?

1 A. Yes.

2 Q. And what's the substance of that
3 discussion?

4 A. In the video they discuss the fact that
5 they have weapons on them and that they should not
6 enter the US Capitol with weapons. So they make an
7 effort to return, put them back in the bag or bags,
8 and they go back and return whatever weapons they are
9 indicating back to a bag of some sort.

10 You cannot tell distinctly from the
11 video, but they do retreat for a moment or two to put
12 things, what they consider to be weapons, back in a
13 bag.

14 Q. All right. Mr. Munchel maintained his
15 Taser on him; correct?

16 A. Correct.

17 Q. So whatever weapons they were putting
18 back were something greater than a Taser?

19 A. (indiscernible).

20 Q. And had --

21 MR. FARMER: Your Honor, I'll object to
22 that. That lacks foundation.

23 THE COURT: Yeah, there's no foundation,
24 Mr. Kurtzman. If you want to ask some more about
25 that, you can, but he can't testify to what that

1 meant.

2 MR. KURTZMAN: That's fine, Your Honor.
3 I think we can come at it a different way.

4 THE COURT: Sure. Thank you.

5 BY MR. KURTZMAN:

6 Q. Agent Defeo, as the defendant and
7 Mr. Munchel go to put their weapons away before they
8 go to the Capitol, do you see anything on screen as
9 they're doing that?

10 A. I believe you're able to see a fanny pack
11 be unclipped by Mr. Munchel.

12 Q. And what does Mr. Munchel do with the
13 fanny pack?

14 A. He puts it in the bag.

15 Q. Now, you -- the fanny pack is not
16 transparent. You can't see inside; is that fair?

17 A. (indiscernible).

18 Q. But at any point, other than calling it
19 weapons and depositing the fanny pack in a larger
20 backpack, did the defendant or her son identify what
21 types of weapons they were putting away?

22 A. No.

23 Q. Now, sort of transitioning away from the
24 events at the Capitol to your involvement in the
25 search warrant at Mr. Munchel's house, were you

1 involved in the search of Mr. Munchel's apartment?

2 A. Yes, I was.

3 Q. And in that were you present or involved
4 with the identification and cataloging of the firearms
5 recovered?

6 A. Yes.

7 Q. Now, were any of the firearms recovered
8 from Mr. Munchel's house (indiscernible) fit inside
9 the fanny pack that you see on the video?

10 A. (indiscernible).

11 Q. In your experience is a fanny pack used
12 as a way to conceal, carry a weapon?

13 A. It can be, yes.

14 Q. Why is that?

15 A. Because it's close to the hip area and
16 easily accessible.

17 Q. Now, back to the events depicted on the
18 video. At a certain point, do you see the defendant
19 come into contact with individuals identified as
20 members of Oathkeepers?

21 A. Yes.

22 Q. And what's the contents of the
23 conversation?

24 A. Positive interaction. The Oathkeeper,
25 the individual identified as an Oathkeeper by

1 Mr. Munchel, states that there's 65 more of them
2 coming, there's a positive -- like, identification of
3 them as being Oathkeepers. And Mr. Munchel, I
4 believe, fist bumps one of the individuals who's
5 dressed in tactical gear.

6 Q. And in that video, do you see the
7 defendant and her son navigating through scaffolding?

8 A. Yes.

9 Q. Describe to the Court sort of their route
10 into the Capitol itself.

11 A. It appears that they move up the stairs
12 and there's -- you can tell some individuals are
13 wanting to breach or go inside the Capitol, others are
14 not. So they're trying to, what it appears to be,
15 navigate themselves around some scaffolding to get to
16 the entrance of the Capitol or a entrance of the
17 Capitol.

18 Q. As they're approaching the Capitol, did
19 the defendant here interact with anyone who claimed to
20 have attacked law enforcement?

21 A. I don't recall (indiscernible).

22 THE COURT: I'm sorry, I missed that.

23 THE WITNESS: I said I do not recall
24 specifically.

25

1 BY MR. KURTZMAN:

2 Q. Do you recall on the video the defendant
3 speaking to someone who is off camera who described
4 being maced and having punched two of them in the
5 face?

6 A. Yes, I do.

7 Q. What was the contents of that
8 conversation, to your recollection?

9 A. My recollection of it seemed like the
10 individual had attempted to -- the individual not on
11 the screen or on the camera attempted to --

12 MR. FARMER: Your Honor, again, I'm going
13 to object to this. His interpretation of what's
14 happening off camera based on, you know, intones and
15 implication is not appropriate for this Court. He can
16 testify as to what he saw on the video, but I think
17 his interpretation as to what all that means, the way
18 it applies, is not appropriate for this hearing.

19 THE COURT: Sustained.

20 BY MR. KURTZMAN:

21 Q. Agent Defeo, the individual that the
22 defendant is speaking to on the video, you did just
23 say moments ago that that individual stated to the
24 defendant that he had just punched two of them in the
25 face?

1 A. Correct.

2 Q. Was that individual referring to other
3 members of the protest?

4 THE COURT: Hang on.

5 MR. FARMER: Again, same objection,
6 Your Honor. He doesn't -- same objection.

7 THE COURT: Sustained.

8 BY MR. KURTZMAN:

9 Q. Agent Defeo, I'll move on to the
10 defendant's response. Do you recall the defendant in
11 the video that's labeled Exhibit 3 replying to this
12 individual, good, while everyone else is on their
13 couch, you guys are training and getting ready for it?

14 A. Yes.

15 Q. After this interaction, what happens next
16 in the video?

17 A. (indiscernible) and Mr. Munchel are able
18 to navigate themselves into the US Capitol building at
19 that time.

20 Q. At another point in the video, the
21 defendant and her son become aware that their actions
22 and the actions of other individuals in -- in or
23 around the Capitol are on the news; is that right?

24 A. Yes.

25 Q. And (indiscernible) was we ain't playing

1 no Fing nice no goddamn more; is that right?

2 A. Yes.

3 Q. And does the defendant respond to him in
4 any way or agree with his -- with his statement?

5 A. The defendant agreed.

6 Q. Now, as the -- as the video proceeds and
7 the defendant moves toward the Capitol with her son,
8 do you recall the portion of the video where an
9 individual off screen yells Congress has shut down
10 (indiscernible) Congress, and did the defendant
11 respond by saying they got tear gassed, motherf'ers,
12 oh, my God, that is -- an unintelligible word -- my
13 best day to know that they got tear gassed?

14 A. Yes.

15 Q. And this was before she enters into the
16 Capitol building itself; is that right?

17 A. That's right.

18 Q. What happens once they're up near the
19 Capitol entrance?

20 A. Mr. Munchel states that this is probably
21 the last time he'll be able to have a kit and weapons
22 on him in the US Capitol.

23 Q. And then what happened -- do the
24 defendant and her son eventually enter into the
25 US Capitol?

1 A. Yes.

2 Q. And what do they do once inside?

3 A. They walk up some stairs together and
4 begin to walk around the building.

5 Q. And did the defendant stay in one area or
6 was she moving into multiple hallways throughout?

7 A. Moving into multiple hallways throughout.

8 Q. And did the defendant, at a certain
9 point, obtain zip ties?

10 A. Yes.

11 Q. Can you describe how that happened in the
12 video?

13 A. From what you can see in the video, it
14 appears that there's a cabinet in one of the hallways
15 with a significant number of zip ties. Mr. Munchel
16 grabs a handful of zip ties and the defendant also
17 picks up a zip tie.

18 Q. When -- once they -- do they take all of
19 the zip ties from that cabinet?

20 A. I do not believe so.

21 Q. And once they -- once they obtained the
22 zip ties, what did they do next?

23 A. They continued to walk through the
24 hallways, including onto the upper area of -- appears
25 to be the Senate floor.

1 Q. And do you recall the defendant making
2 any statements or chanting or yelling out while inside
3 the Capitol?

4 A. Yes.

5 Q. Is it -- is it -- in your recollection,
6 did she at a certain point yell "traitors" and/or
7 "treason?"

8 A. Yes.

9 Q. And did that occur once or multiple
10 times?

11 A. Multiple.

12 Q. In the video, did you ever hear others
13 nearby the defendant yelling, "anybody home?"

14 A. Yes.

15 Q. Do you hear in the video people yelling
16 "where did you go" and "they're cowards?"

17 A. Yes.

18 Q. And this occurred when they are in the
19 upper level of the Senate chamber looking down at the
20 empty Senate?

21 A. Correct.

22 Q. And that was minutes after the
23 vice-president and the Senate had just been there?

24 A. Correct.

25 Q. You also hear an individual who's close

1 to Ms. Eisenhart as she's roaming through the Capitol
2 yelling "they're cowards" and "are you afraid?"

3 A. Yes.

4 Q. Following -- I guess eventually
5 Ms. Eisenhart left the Capitol building; is that fair?

6 A. Yes.

7 Q. Do you recall learning of events that
8 occurred at her hotel later that night?

9 A. Yes.

10 Q. And that was made by an individual named
11 William Turton?

12 A. Is that fair.

13 Q. And before reviewing what Mr. Turton said
14 regarding the defendant, were you aware of his
15 presence in and around the insurrectionists at the
16 Capitol?

17 A. No.

18 Q. Did Mr. Turton report on other people who
19 were also present at the Capitol?

20 A. Yes.

21 Q. Is it fair to say that he was there as a
22 reporter, not as a participant?

23 A. Based on the (indiscernible), that's what
24 appears to be happening.

25 Q. Okay. Are some of his social media

1 postings identifying individuals who had invaded the
2 Capitol?

3 A. Yes.

4 Q. And did Mr. Turton indicate that he had
5 come into contact with the defendant and her son the
6 evening of January 6?

7 A. Yes.

8 Q. And what were the circumstances of their
9 interaction?

10 A. Another individual appears to have been
11 interviewing the defendant and Mr. Munchel unrelated,
12 in which Mr. Turton sees the video and reports on
13 social media that these two individuals previously had
14 been harassing him and actually pointed a Taser at him
15 earlier on in the day.

16 Q. And did Mr. Turton also allege that the
17 individuals had attempted to follow him to his hotel
18 room, refer to him -- well, we'll leave -- did
19 Mr. Turton at least allege that the defendant and her
20 son had tried to follow him to his hotel room?

21 A. Yes.

22 Q. And did Mr. Turton also allege that the
23 hotel staff had to move his room for his safety?

24 A. Yes.

25 Q. In the -- in the video that -- where

1 Mr. Turton identifies the defendant and her son as the
2 ones who had harassed him, did Mr. Munchel make any
3 statements that corroborated Mr. Turton's account?

4 A. (indiscernible).

5 Q. And what was that?

6 A. That it was Antifa, he identified the
7 individual as being Antifa and that they were
8 harassing Antifa individuals.

9 MR. KURTZMAN: Your Honor, those are all
10 the questions I have.

11 THE COURT: Okay. Hang on just a minute,
12 Mr. Farmer.

13 (Pause in proceedings.)

14 THE COURT: All right. Mr. Farmer, do
15 you have any cross-examination?

16 MR. FARMER: Yes, Your Honor.

17 **CROSS-EXAMINATION**

18 BY MR. FARMER:

19 Q. Agent Defeo, I'm Jonathan Farmer. I
20 represent Ms. Eisenhart in this matter. I've got some
21 questions for you. Let me know if you have trouble
22 hearing or understanding me.

23 A. Do the same, please.

24 Q. I wanted to talk about the time period
25 before Ms. Eisenhart and her son went to the Capitol.

1 Okay? Now, you testified in the preliminary hearing
2 regarding her son, Eric Munchel; is that correct?

3 A. Yes, I did.

4 Q. And the video that was introduced is the
5 same video that was introduced in that preliminary
6 hearing; is that correct?

7 A. Are you referring to the 50-minute video?

8 Q. I am. The video that was introduced as
9 evidence today?

10 A. Yes, sir.

11 Q. So there's no new video that you
12 introduced today that wasn't introduced in
13 Mr. Munchel's hearing; is that correct?

14 MR. KURTZMAN: Just for clarity sake, I
15 think it was actually defense counsel that introduced
16 that video as evidence.

17 THE COURT: Yeah, I think
18 Mr. Munchel's -- or, I'm sorry, I think Mr. Kurtzman's
19 correct, Mr. Farmer. In the Munchel hearing the
20 defendant introduced video, and there was -- there
21 were three videos introduced is my recollection, one
22 was -- or four, actually.

23 I think there were portions of a video
24 from the night of January the 5th related to an
25 interaction between Mr. Munchel and some law

1 enforcement officers in Washington, DC. There was a
2 portion of the video, which I want to say was
3 somewhere in the neighborhood of about 12 minutes or
4 so maybe, that was the camera footage from Mr. Munchel
5 on the day of January the 6th.

6 And then there were two videos of -- of
7 surveillance footage from the Capitol that were
8 introduced that were relatively short. And all were
9 introduced by Mr. Munchel. The video today,
10 Mr. Kurtzman has represented, is the full, entire
11 video of the events on January the 6th recovered from
12 Mr. Munchel. So there's some overlap with that, but
13 this video appears to be more than that.

14 Does that sound pretty accurate,
15 Mr. Kurtzman?

16 MR. KURTZMAN: I would agree with that
17 characterization, Your Honor.

18 THE COURT: All right. Thank you,
19 Mr. Kurtzman.

20 Mr. Farmer, I hope that clarifies for
21 you.

22 MR. FARMER: It does. Thank you,
23 Your Honor.

24 BY MR. FARMER:

25 Q. So prior to Ms. Eisenhart going to

1 Washington, DC on the 6th, you don't have any evidence
2 that she made any plans to meet anybody to go up
3 there, other than her son; is that correct?

4 A. That's correct.

5 Q. You don't have any evidence that she
6 planned to coordinate movements with anyone other than
7 her son in Washington; is that correct?

8 A. Correct.

9 Q. Okay. There's been a lot of talk about
10 radicalization and militias and the like. You don't
11 have any evidence that Ms. Eisenhart is involved in
12 any militias prior to going to Washington, DC; is that
13 correct?

14 A. Not at this time.

15 Q. Okay. Is it your understanding that she
16 left her home in Georgia and came to Nashville and
17 picked up her son on the way to Washington, DC?

18 A. I do not know definitively where she had
19 come (indiscernible) prior to coming to Nashville to
20 meet her son.

21 Q. Is it your understanding that she rented
22 a hotel on the way -- on the drive up to
23 Washington, DC?

24 A. Yes.

25 Q. Does that indicate to you a more

1 spontaneous plan?

2 A. I can't say one way or the other when she
3 planned to go and when a hotel room was booked.

4 Q. Did she try to book the hotel under a
5 fictitious name?

6 A. Not that I'm aware of.

7 Q. What name did she book the hotel under?

8 A. I believe it was under Lisa Eisenhart.

9 Q. Okay. Did she take any steps to -- to
10 hide her presence in Washington that you know of?

11 A. No, not that I know of.

12 Q. Okay. Let's talk about once they got to
13 Washington, DC but before January -- or before the --
14 the entry into the Capitol. Okay?

15 So I understand from your testimony that
16 they arrived -- they were in Washington, DC on
17 January 5; is that correct?

18 A. Yes.

19 Q. Okay. You've shown the Court and you
20 reviewed a lot of photographs, social media and
21 otherwise, showing Ms. Eisenhart; is that correct?

22 A. Yes.

23 Q. In any of those photographs do you see
24 her with a firearm, physical (indiscernible)?

25 A. No.

1 Q. The interactions that Mr. Munchel had
2 with law enforcement on January 5, do you know what
3 I'm referring to?

4 A. Yes, sir.

5 Q. Mr. Munchel was not arrested in that
6 interaction; is that correct?

7 A. That is correct.

8 Q. Have you reviewed the reports for those
9 arrests -- or not arrests, for those interactions?

10 A. The actual police report, no, I have not.

11 Q. Do you have any reason to believe that
12 the Washington, DC police found a firearm on
13 Mr. Munchel or Ms. Eisenhart at that time?

14 A. No, I believe it was just the Taser.

15 Q. Okay. And that was found on Mr. Munchel,
16 not on Ms. Eisenhart; is that correct?

17 A. Correct.

18 Q. Okay. Moving on to January 6 prior to
19 entry into the Capitol, again, lots of Facebook
20 photos, lots of surveillance photos from the hotels;
21 correct? You've reviewed all those things?

22 A. Yes, sir.

23 Q. Okay. Kind of same line of questions.
24 Any firearms present visible on Ms. Eisenhart at that
25 time?

1 A. Not in any evidence we have so far.

2 Q. Any weapons visible on Ms. Eisenhart at
3 any time?

4 A. No.

5 Q. Okay. Let's talk about the time period
6 when they are out of the hotel, but they are --
7 outside the Capitol, I'll describe it, on January 6
8 before allegedly entering. Do you understand the
9 timeframe I'm referring to?

10 A. Yes.

11 Q. Okay. And the video evidence that you
12 reviewed, the 50-minute video, about 38 or 39 minutes
13 of it is before entry; is that correct?

14 A. Yes, right around there, yes.

15 Q. Okay. You don't see Mr. Munchel or
16 Ms. Eisenhart break down any barriers, do you?

17 A. No.

18 Q. You don't -- and I'm sure you've seen
19 media coverage where people -- where protesters were
20 out there playing tug of war with the police regarding
21 the barriers. Do you know what I'm referring to?

22 A. Yes, sir.

23 Q. You don't see Ms. Eisenhart involved --
24 or participating in that conduct, do you?

25 A. Not on the video.

1 Q. Okay. You're aware that some individuals
2 committed acts of vandalism outside the Capitol; is
3 that correct?

4 A. I'm sorry, sir. You broke up
5 momentarily. Just one more time.

6 Q. You're aware that some individuals
7 committed act of -- acts of vandalism outside the
8 Capitol; is that correct?

9 A. Yes, sir.

10 Q. You don't have any evidence that
11 Ms. Eisenhart participated in anything like that, do
12 you?

13 A. Not at this time.

14 Q. Or her son, Mr. Munchel?

15 A. Again, not at this time.

16 Q. Okay. Windows were broken outside of the
17 Capitol; is that correct?

18 A. I believe so.

19 Q. You don't have any reason to believe that
20 Ms. Eisenhart or Mr. Munchel was involved in any of
21 that, do you?

22 A. Not at this time.

23 Q. The door was breached to get in the
24 Capitol. We've seen on the national media people
25 knocking the door in. You don't have any reason to

1 believe that Ms. Eisenhart or Mr. Munchel was involved
2 in that, do you?

3 A. Not at this time.

4 Q. How many police officers were assaulted?
5 Do you have any idea?

6 A. I do not know the actual number.

7 Q. You haven't seen any media reports about
8 that?

9 A. I may have. I just could not recall an
10 exact number.

11 Q. Okay. But in any event you don't have
12 any evidence that Ms. Eisenhart or her son,
13 Mr. Munchel, were involved in assaulting police
14 officers outside the Capitol, do you?

15 A. No.

16 Q. Okay. You say you can -- you can review
17 the cameras and the video that Mr. Munchel provided
18 before going to the Capitol. And I believe you
19 testified you can see a Taser on Mr. Munchel; is that
20 correct?

21 A. Not on the video provided, but there's
22 pictures of Mr. Munchel inside the Capitol in which
23 you can see the Taser on his hip.

24 Q. Okay. You can't see that on the videos?

25 A. No, because the video is being shot from

1 Mr. Munchel's chest. You wouldn't be able to see
2 what's on his body.

3 Q. Okay. That makes sense. But in any
4 event, you don't see any Taser, weapon, anything
5 whatsoever on Ms. Eisenhart, do you?

6 A. No, not on the video.

7 Q. Okay. And so let's talk a little bit
8 about this -- this stashing of weapons as it was
9 phrased. And I want to be clear. And I think this is
10 a point where precision makes a difference, okay. To
11 be clear, Ms. Eisenhart never said "I have weapons;"
12 is that correct?

13 A. That exact statement was not made by
14 Ms. Eisenhart, that I recall.

15 Q. What she said is: If you go into the
16 Capitol with weapons, you go to federal prison;
17 correct?

18 A. That's correct.

19 Q. She did not say she had weapons; is that
20 correct?

21 A. Correct.

22 Q. And so when they -- and so at that point
23 Ms. Eisenhart and her son, Mr. Munchel, decide to turn
24 around, what I would kind of describe as fighting
25 upstream to retreat from the Capitol; is that a fair

1 characterization?

2 A. Yes, it is.

3 Q. And what I mean by that, and tell me if
4 you view the videos the same way I do, there are a lot
5 of people out there; is that correct?

6 A. Yes.

7 Q. How many people would you estimate are
8 outside the Capitol at this time?

9 A. I couldn't even venture a guess. At
10 least thousands.

11 Q. At least thousands. And the people are
12 shoulder to shoulder; is that correct?

13 A. Yes. There was no social distancing
14 going on.

15 Q. No social distancing at all. And so
16 Mr. Munchel and Ms. Eisenhart kind of go against the
17 grain of -- against the grain of the crowd and they
18 move back to where this backpack is; is that correct?

19 A. Yes.

20 Q. And now you -- you testified on your
21 direct that they both stashed things in the backpack.
22 Do you recall that testimony?

23 A. Yes, sir.

24 Q. But to be fair, you can't see
25 Ms. Eisenhart put anything in the backpack, can you?

1 A. No, you cannot.

2 Q. You can only see Mr. Munchel put things
3 in the backpack; is that correct?

4 A. Correct.

5 Q. And you -- in fact, you can't even see
6 what he put in that backpack, can you?

7 A. No, you cannot.

8 Q. It's just simply a -- a fanny pack; is
9 that correct?

10 A. Yes, it appears to be a fanny pack, but
11 you can't see the contents.

12 Q. In any event, you, as we sit here today,
13 you don't have any actual or direct knowledge as to
14 what was in that fanny pack or the backpack at all; is
15 that correct?

16 A. That's correct.

17 Q. So let's jump to when the -- when
18 Ms. Eisenhart and Mr. Munchel are entering. Are you
19 familiar with that part of the video?

20 A. Yes, sir.

21 Q. And it's about -- about minute 38 or so;
22 does that sound about right?

23 A. Are you referring to just the time when
24 they walk in and up the stairs?

25 Q. When they walk through the door.

1 A. I don't know the exact time. But if
2 that's what you say, that sounds about right.

3 Q. All right. Do you see police officers
4 lined up on the wall as they walk in?

5 A. Yes. It appears to be police officers.

6 Q. Are they Capitol police officers, as near
7 as you can tell?

8 A. I cannot tell.

9 Q. But nevertheless, uniformed police
10 officers?

11 A. Yes.

12 Q. Okay. They're not -- they don't say
13 anything to Ms. Eisenhart, do they?

14 A. No.

15 Q. They're not trying to block entry or
16 barricade entry or issue warnings. They're just
17 simply standing there; is that correct?

18 A. Yes.

19 Q. Okay. And at the same time all kinds of
20 people are going into the Capitol along side
21 Mr. Munchel and Ms. Eisenhart; is that right?

22 A. Yes, there was multiple people going up
23 the -- into the entrance and up the stairs with them,
24 yes.

25 Q. As you put it, no social distancing --

1 A. Correct.

2 Q. -- is that right?

3 A. Correct.

4 Q. And a big crowd kind of lined in and went
5 through and the police officers didn't -- the police
6 officers at the door, anyway, didn't say anything at
7 all about that; is that fair?

8 A. Yes, on the video that is fair.

9 Q. Are you aware that Ms. Munchel has told
10 the media and I believe FBI agents as well -- not
11 Ms. Munchel. Ms. Eisenhart has told the media and I
12 believe FBI that she was there as an observer?

13 A. I do not recall. She did not say that to
14 me, if that happened.

15 Q. Okay. You've never heard that before?

16 A. No.

17 Q. Are you aware that Eric Munchel told his
18 mother, Ms. Eisenhart, don't touch anything, inside
19 the Capitol?

20 A. Yes, I do recall.

21 Q. Okay. And she complied with that; is
22 that correct?

23 A. She touched a zip tie.

24 Q. Other than the zip tie, she didn't
25 vandalize or hurt anything?

1 A. Not that we can see on the video.

2 Q. Okay. So let's talk about the vandalism
3 a little bit. There's a lot of vandalism inside the
4 Capitol as well; is that right?

5 A. Yes.

6 Q. No evidence that Ms. Eisenhart had any
7 role in any of that; correct?

8 A. No, not at this time.

9 Q. There were assaults that took place
10 inside the Capitol; is that right?

11 A. Yes.

12 Q. No evidence that Ms. Eisenhart had any
13 role in any of that; correct?

14 A. Yeah, not at this time.

15 Q. Okay. Did people have firearms inside
16 the Capitol?

17 A. I do not know.

18 Q. (indiscernible) firearms?

19 A. I'm not aware -- I'm unaware if they had,
20 I'm not sure.

21 Q. Certainly Ms. Eisenhart didn't have any
22 firearms inside the Capitol?

23 A. Not that we can see from a video.

24 Q. Okay. And then from the video you also
25 can't see any weapons either on Ms. Eisenhart; is that

1 correct?

2 A. Correct.

3 Q. And you say it's not that you can see
4 from the video. That's true, but you also don't have
5 any other evidence of that either; correct?

6 A. Yes, not at this time.

7 Q. Okay. You did tell me earlier that you
8 saw that Mr. Munchel had a Taser in his -- in his side
9 waist; is that right?

10 A. Yes, it appears in a -- in a holster on
11 his right hip.

12 Q. Did he ever take that out?

13 A. Not on the video that we can tell.

14 Q. Did he ever show it to anybody?

15 A. Again, not on the video that we can see.

16 Q. He didn't fire it at anybody, to be sure?

17 A. Not on the video.

18 Q. Okay. And, again, you say not on the
19 video. You don't have any evidence, video or
20 otherwise, that he did any of those things; is that
21 correct?

22 A. As of right now, we do not know whether
23 he fired it or displayed it at any other the time.

24 Q. And all I'm asking is what you know right
25 now, right.

1 Do you have any evidence that
2 Ms. Eisenhart photographed any sensitive documents?

3 A. No, not at this time.

4 Q. Do you have any evidence that she entered
5 any legislative offices?

6 A. No, not at this time.

7 Q. Let's talk a little bit about the zip
8 ties. Do you remember testifying about the zip ties?

9 A. Yes, sir.

10 Q. Okay. And that's clearly visible on the
11 video; is that correct? Ms. Eisenhart and her son
12 taking zip ties?

13 A. Yes.

14 Q. Okay. You don't have any evidence that
15 they did anything with those zip ties, do you?

16 A. No, not at this time.

17 Q. Okay. Do you recall Ms. Eisenhart in the
18 video talking to another person inside the Capitol
19 about -- about why she had the zip ties?

20 A. I do not recall that.

21 Q. Okay. So if I told you there was a
22 section around minute 48 when someone asked her about
23 the zip ties and she discusses that, you don't have
24 any knowledge of that whatsoever?

25 A. I just cannot recall at this time. You

1 can remind me.

2 Q. Okay. Well, if she says -- someone asked
3 her, hey, what about the zip ties, she says some
4 version of, I just got these to keep them out of bad
5 peoples' hands, those types of things, does that ring
6 a bell to you?

7 A. No, sir, it doesn't. I apologize.

8 Q. Okay. But if it's on the video, I mean,
9 you certainly wouldn't dispute that; is that correct?

10 A. I'm not disputing that.

11 Q. Okay. And then the government introduced
12 a *Tennessean* article, I believe it was Exhibit 2. Are
13 you familiar with that *Tennessean* article?

14 A. Yes, sir, I have it in front of me.

15 Q. Okay. And let's talk a little bit about
16 that, first about the zip ties. Do you see where
17 Ms. Eisenhart discusses the zip ties in the article?

18 A. Could you point me just to the -- make it
19 faster?

20 Q. It's on page 2.

21 A. It's under where it says why is he called
22 Zip Tie Guy, is that what you're referring to?

23 Q. Yeah, it is. And it is the fifth
24 paragraph down. It starts with we saw the zip ties.

25 A. Yes, sir, I'm reading it now.

1 Q. Read that out loud, if you don't mind.

2 A. We saw the zip cuffs on top of an already
3 open cabinet in the hallway inside the Capitol
4 building. We do not know how the cuffs came to be
5 there. We picked them up to prevent them from falling
6 into the hands of bad actors, she said in Tuesday's
7 statement.

8 Q. Okay. And so if I told you that's
9 consistent with what she said on-site, you wouldn't
10 have any basis, I guess right now, to agree or
11 disagree with that, would you?

12 A. Correct.

13 Q. Okay. While we're on this article, let's
14 look at the very first paragraph. Do you see that?

15 A. Yes, sir.

16 Q. Zip Tie Guy did not go to the US Capitol
17 with nefarious intent, his mother said; is that right?

18 A. Yes, sir.

19 Q. And she said that freely and voluntarily
20 before she was under arrest or before there was a
21 warrant issued against her; is that right?

22 A. According to the date, I can -- I can
23 confirm that there was not an arrest warrant for her
24 at the time of this article being published.

25 Q. Okay. And then jumping back to -- to the

1 video inside the Capitol, does the video show
2 Mr. Munchel and Ms. Eisenhart, does it show them
3 leaving voluntarily?

4 A. Yes. I believe the video cuts out before
5 they actually exit the building fully, but they are
6 looking for the exit at that time.

7 Q. And I think you testified in
8 Mr. Munchel's hearing that he and his mother appeared
9 to be together in the Capitol. They appeared to be
10 kind of walking through the Capitol together. Do you
11 remember that?

12 A. Yes, sir.

13 Q. There wasn't any conflict between them;
14 is that right?

15 A. No. It appeared Mr. Munchel was trying
16 to follow Ms. Eisenhart around inside the Capitol to
17 keep them close.

18 Q. He had his arm on her the whole time; is
19 that crite -- right? On the (indiscernible) you can
20 see a tether; is that right?

21 A. Yeah, it appears he's holding a handle on
22 the back of her bulletproof vest for the majority of
23 the time, not the entire time, but especially outside
24 as well.

25 Q. And while they're in the Capitol, they

1 are repeatedly admonishing other people inside the
2 Capitol not to break anything; is that right?

3 A. I believe Mr. Munchel makes statements
4 with regards to not breaking things and they are not
5 Antifa I believe is some version of what he said.

6 Q. Is it fair to say that what he's saying
7 is I don't -- we don't need to be breaking anything,
8 we don't need to be vandalizing, we don't need to be
9 doing anything like that here. Is that a fair
10 characterization?

11 A. That's what Mr. Munchel states.

12 Q. I understand, I understand. He sees
13 police officers in the Capitol as well?

14 A. Yes, sir.

15 Q. Okay. And he says words of support for
16 the police; is that fair?

17 A. Yes, sir. I believe he apologizes as
18 well.

19 Q. Okay. And says we still love ya, we
20 still support ya, words to that effect?

21 A. Yes, to that effect.

22 Q. Okay. All right, all right. Let's talk,
23 then, about the hotel lobby incident that you
24 described. Now, you didn't testify about that with
25 Mr. -- during Mr. Munchel's hearing; is that right?

1 A. That's correct.

2 Q. Have you interviewed William Turton?

3 A. No, sir.

4 Q. So is the sum basis of your knowledge
5 what he says in his Twitter feed?

6 A. Yes, sir.

7 Q. Okay. Do you have that Twitter feed in
8 front of you?

9 A. I do not believe I do. Stand by, I'll
10 see if I can.

11 Q. Okay.

12 MR. KURTZMAN: Just one minute,
13 Your Honor. I'm pulling it up.

14 THE COURT: Okay, thank you.

15 THE WITNESS: As long as you can still
16 see me, I do have the Twitter feed pulled up.

17 BY MR. FARMER:

18 Q. Okay. I want to go through it with you
19 and I want to be sure we're looking at the same thing.
20 So I'm looking at William Turton's Twitter thread. Is
21 that right? Is that what you have?

22 A. Yes, sir.

23 Q. Okay. And at the very first, at the very
24 top there's a video and above it -- it's dated
25 January 6, and above it it says, pretty chill vibe

1 here in this hotel lobby as Trump supporters
2 decompress from today's events. All are violating
3 local mask rules despite multiple massive signs about
4 the mask rules. Do you see that?

5 A. Yes, sir.

6 Q. Okay. So we're reading from the same
7 sheet, it looks like; is that correct?

8 A. Yes, sir.

9 Q. Okay. And then he goes on and next
10 tweeted, after I took this video, it says several
11 Trump supporters harassed me and tried to follow me to
12 my room. Do you see that?

13 A. Yes, sir.

14 Q. One accused me of being Antifa. Hotel
15 security intervened and moved me to a new room. What
16 a weird day. Is that right?

17 A. Yes, sir.

18 Q. Okay. And then it says -- the next one
19 is, the Trump supporters demanded that I delete the
20 video. One woman flashed her Taser at me and
21 threatened to mace me. I should also say for the
22 record, the hotel staff and security were extremely
23 professional, polite and got me out of a bad
24 situation. Is that fair?

25 A. Yes, sir.

1 Q. And then -- and then there's a video of
2 what appears to be Mr. Munchel in the Senate
3 chamber -- or a photograph, and he says I can now say
4 that one of the people in the hotel lobby who demanded
5 I delete the video put his hands on me and screamed at
6 me is this guy. He appears in the first frame of the
7 video above. Right?

8 A. Yes, sir.

9 Q. So he's saying Mr. Munchel put his hands
10 on him and yelled at him?

11 A. Yes, that's what he's accusing.

12 Q. Okay. And then at the end there's a
13 video of Mr. Munchel, and you can see Ms. Eisenhart
14 kind of in the back where he's talking about people
15 trying to film him earlier; is that right?

16 A. Yes, sir.

17 Q. So where in this Twitter feed does it say
18 Ms. Eisenhart did anything to this guy?

19 A. I believe the only reference to her is
20 that he states that a female is the one that pointed a
21 Taser at him. One woman flashed her Taser at me and
22 threatened to mace me.

23 Q. Okay. So when you -- so when you told
24 the Judge that Ms. Eisenhart threatened to tase and
25 mace this guy, you're referring to a statement saying,

1 after I took this video, several Trump supporters
2 harassed me, and one woman flashed her Taser at me and
3 threatened to mace me; is that right?

4 A. Then if you go down to the actual video
5 where they're both discussing -- basically I infer
6 that they were together when this was occurring.

7 Q. Okay. But to be clear, Mr. Turton, he
8 identifies Mr. Munchel in the video as the guy who
9 laid hands on him; right?

10 A. Correct.

11 Q. And he -- and you see Ms. Eisenhart in
12 the same video, don't you?

13 A. Yes.

14 Q. And he doesn't say a word about
15 Ms. Eisenhart being the person that maced or
16 threatened him?

17 A. No, the only reference is when he says
18 one woman flashed her Taser at me and threatened to
19 mace me. I should also say for the record, this is
20 the tweet that you'd already stated before.

21 Q. Okay. But that's not the question I
22 asked you. The question I asked you is that when
23 Mr. Turton is linking to the video and saying,
24 Mr. Munchel is the guy that put hands on him, you can
25 see Ms. Eisenhart in that video, can't you?

1 A. Yes, sir.

2 Q. And he doesn't -- Mr. Turton doesn't say
3 a word about Ms. Eisenhart having any involvement
4 whatsoever, much less tasing or macing; is that
5 correct?

6 A. Not in that tweet, correct.

7 Q. Not in that tweet. You haven't talked to
8 him, have you?

9 A. Excuse me?

10 Q. You haven't talked to him, have you?

11 A. No, sir.

12 Q. All right. Were you involved in the
13 search warrant of this case, of Mr. Munchel's house?

14 A. (indiscernible) involved in the search
15 warrant of Mr. Munchel's apartment, yes, sir.

16 Q. All right. His apartment, okay. It is
17 your understanding, correct me if I'm wrong, that
18 every single gun in that -- that was recovered and has
19 been referenced and admitted into evidence by the
20 government, that belongs to Mr. Munchel; is that
21 correct?

22 A. Yes. According to the witness in the
23 home, yes.

24 Q. Okay. Not to Ms. Eisenhart; is that
25 correct?

1 A. Correct.

2 Q. Okay. There's -- and to be clear,
3 there's no evidence that you have that any of those
4 weapons went to Washington, DC; correct?

5 A. Not at this time, that's correct.

6 Q. Okay. The tactical vests that were
7 recovered, is it your understanding that both of those
8 also belonged to Mr. Munchel?

9 A. According to the witness interviewed,
10 they belonged to Mr. Munchel, but the -- the witness
11 stated they were purchased for family is how he stated
12 it.

13 Q. Purchased for family?

14 A. Yeah, something to that effect. He
15 doesn't say they're both Eric's or whatever. It's
16 more so, Eric -- Mr. Munchel has his own and then he
17 purchased an extra one for a family member.

18 Q. So Eric bought another one just in case
19 someone in the family might need one; is that a fair
20 summary?

21 A. That's basically how the witness stated
22 it, yeah.

23 Q. Okay. All right, all right. And you
24 don't have any reason to believe that's not true, is
25 it?

1 A. No, sir.

2 Q. Okay. So let's talk a little bit about
3 what the witness says. He said that when Mr. Munchel
4 and Ms. Eisenhart went to the rally in Washington,
5 they didn't have any plan to cause trouble; is that
6 right?

7 A. Correct.

8 Q. No plan to do anything illegal --

9 A. That's correct.

10 Q. -- correct? That Ms. Eisenhart went to
11 voice her opinion; is that correct?

12 A. Yes, sir.

13 Q. There was no plan to take hostages or
14 cause violence?

15 A. Correct.

16 Q. That they were nonviolent people?

17 A. Correct.

18 Q. And that they don't hold any
19 antigovernment ideologies?

20 A. That's correct.

21 Q. Did you -- are you aware of the
22 communications between Ms. Eisenhart and the FBI after
23 she returned from Washington?

24 A. Just on the periphery. I did not have
25 any direct contact with Ms. Eisenhart after she

1 returned from Washington.

2 Q. Are you aware of any evidence of
3 Ms. Eisenhart committing any acts of obstruction since
4 she got back?

5 A. No, sir.

6 Q. Any acts of concealment (inaudible) or
7 any evidence since she got back?

8 A. No, sir.

9 Q. Engage in any flight since she got back?

10 A. Not that I'm aware of.

11 Q. Are you aware that she stayed in daily --
12 almost daily contact with the local FBI agent, Agent
13 Potts?

14 A. Yes, sir.

15 Q. And then she contacts him regularly to
16 see if there was a warrant, and if so, she was going
17 to surrender herself, is that -- are you aware of
18 that?

19 A. Yes, sir.

20 Q. And, in fact, she did that, didn't she?
21 When the warrant was issued, she came down the next
22 day and surrendered herself; is that right?

23 A. That's right.

24 Q. Without incident?

25 A. Correct.

1 Q. Okay.

2 MR. FARMER: Those are my questions,
3 Your Honor.

4 THE COURT: Redirect, Mr. Kurtzman?

5 MR. KURTZMAN: Thank you, Your Honor.

6 **REDIRECT EXAMINATION**

7 BY MR. KURTZMAN:

8 Q. Agent Defeo, moments ago the defense
9 lawyer was asking you if you saw the defendant here
10 participating in any violence in that video. I want
11 to come at it a little differently. In that video,
12 did you view -- did you see the defendant do things
13 that endorsed violence?

14 A. What do you mean by endorsed?

15 Q. Did the defendant encourage others who
16 had previously engaged in violence?

17 A. Discussed, conversations at least with
18 other individuals who stated that they were punching
19 the police, I believe.

20 Q. And did she seem to encourage this person
21 not to assault police or encourage the conduct that
22 they had claimed to have participated in?

23 A. (indiscernible).

24 Q. And at a certain point, you mentioned
25 when you were testifying earlier, that you do recall

1 the defendant's son discussing that the line has
2 broken; correct?

3 A. Yes.

4 Q. And you inferred that the line was the
5 line of police protecting the elected representatives
6 of our country; correct?

7 A. Yes, physical barriers as well
8 (indiscernible).

9 Q. Someone had engaged in some acts to get
10 into the Capitol where they were prohibited from
11 being; correct?

12 A. (indiscernible).

13 Q. And we discussed the sort of obstacle
14 course of scaffolding and things that the defendant
15 moved through in Exhibit 3 to get inside the Capitol.
16 Were the defendant and her son moving with the flow of
17 the crowd or were they intent on getting into the
18 Capitol?

19 A. (indiscernible) because statements were
20 made by the defendant about, if you're just standing
21 around, move out of the way, things of that sort. I
22 would say they were intent on going inside.

23 Q. On multiple occasions in the video, both
24 the defendant and her son tell people who are merely
25 exercising their First Amendment rights to get out of

1 the way?

2 A. Yes.

3 Q. And she wanted them out of the way so she
4 could access the Capitol?

5 A. Correct.

6 Q. And Mr. Farmer also asked you questions
7 about whether -- whether the defendant herself had
8 weapons on her while -- while the video is running and
9 they're outside and then inside the Capitol. And you
10 respond to that you did not see a weapon on her body;
11 is that fair?

12 A. Yes.

13 Q. Now, throughout the course of the video,
14 how close is her son to her?

15 A. The majority of the video they're very
16 close because his video -- is being shot from his vest
17 and he's holding onto her vest. So they're very close
18 proximity.

19 Q. He's essentially touching her almost the
20 entire time they're on video together?

21 A. Yes.

22 Q. And throughout the entirety
23 (indiscernible) Mr. Munchel possessed the Taser when
24 they entered the Capitol; correct?

25 A. Yes.

1 Q. And he possessed some other weapons
2 beyond that Taser before he entered the Capitol?

3 MR. FARMER: Objection, Your Honor. That
4 lacks foundation.

5 THE COURT: Sustained. If you want to go
6 at it another way, Mr. Kurtzman, you can.

7 BY MR. KURTZMAN:

8 Q. Agent Defeo, did Mr. Munchel claim to
9 have other weapons on his person besides the Taser in
10 the video?

11 A. Yes --

12 THE COURT: Hang on.

13 MR. FARMER: I'll object again,
14 Your Honor -- I'm sorry.

15 THE COURT: That's okay. Go ahead. I
16 was telling the witness to wait. You go ahead,
17 Mr. Farmer, I'll hear you.

18 MR. FARMER: I'll object again. I think
19 he can say what -- what Mr. Munchel said on the video,
20 and certainly counsel can argue how he interprets
21 that. But to ask the witness to give his own
22 interpretation as a fact witness I think is
23 inappropriate and shouldn't be allowed.

24 THE COURT: What do you say,
25 Mr. Kurtzman?

1 MR. KURTZMAN: Your Honor, if I asked it
2 that way, that was not my intention. The witness has
3 previously testified that the defendant made comments
4 about weapons. I'm merely asking if Mr. Munchel in
5 the video claims to have weapons other than the Taser.

6 THE COURT: You can --

7 MR. FARMER: I think the answer to that
8 question has been established. The answer to that
9 question is no. He wants him to take statements he
10 made and then create an assumption or presumption or
11 an inference.

12 THE COURT: Yeah, you can --

13 MR. FARMER: (indiscernible).

14 THE COURT: You can ask that question,
15 Mr. Kurtzman. I'll let the witness answer that
16 question. But in terms of what the witness understood
17 that to mean or believed that to mean or thought that
18 meant or thought that Mr. Munchel was talking about,
19 we're not going there.

20 MR. KURTZMAN: Okay, Your Honor.
21 Understood. And I'll just move on.

22 THE COURT: Okay.

23 MR. KURTZMAN: Because I think -- I think
24 the previous sort of evidence regarding that is
25 established --

1 THE COURT: Okay.

2 MR. KURTZMAN: -- in Agent Defeo's
3 initial testimony.

4 BY MR. KURTZMAN:

5 Q. Agent Defeo, Mr. Farmer also asked you
6 questions about whether -- whether Ms. Eisenhart was
7 an observer. Do you recall that line of questioning?

8 A. Yes, sir.

9 Q. And he said that at certain points in the
10 video you hear perhaps her son saying don't touch
11 anything. But she did, in fact, touch things inside
12 the Capitol building; is that fair?

13 A. Yes.

14 Q. She is seen on video carrying a zip tie;
15 is that correct?

16 A. Yes.

17 Q. And she is inside the Senate chamber with
18 her son?

19 A. Yes.

20 Q. And you mentioned in your earlier
21 testimony that she and her son are moving through
22 multiple hallways; is that correct?

23 A. Correct.

24 Q. And did they touch any of the doors as
25 they were moving through the hallway?

1 A. Yes. As opposed to touching anything, I
2 need to clarify that handrails were touched, doors
3 were touched, things of that sort were -- I mean, it's
4 not that nothing was touched on the video. It's more
5 so that, yes, things were touched as they moved about
6 inside the Capitol.

7 Q. And as they're walking the hallways with
8 doorways on either side, are they trying any of the
9 door handles?

10 A. Yes.

11 Q. And those doors were locked?

12 A. (indiscernible).

13 Q. But they're trying to open those doors,
14 the defendant is trying to open those doors as she
15 moves through the hallway on the video?

16 A. Yes.

17 Q. You talked about some of the quotes that
18 Ms. Eisenhart made in *The Tennessean* article that's
19 been entered as Exhibit 2. Are you familiar with any
20 other interviews that the defendant and her son gave
21 to other media outlets?

22 A. (indiscernible).

23 Q. And do you recall Ms. Eisenhart saying
24 after the invasion of the Capitol, the following day,
25 that she would rather die than live under, I'm

1 paraphrasing, the current state of affairs?

2 A. Yes.

3 Q. And her son is also quoted as saying that
4 the purpose in going to Washington was to show that
5 we're willing to rise up, band together and fight, if
6 necessary; same as our forefathers who established
7 this country in 1776?

8 A. Yes.

9 Q. So you recall that quote being attributed
10 to her son after the invasion of the Capitol?

11 A. Yes.

12 Q. And in any of the interviews you've seen
13 of the defendant available in media, have you seen any
14 remorse expressed for her actions?

15 A. No.

16 Q. Mr. Farmer asked you questions about the
17 plan. Remind us again, when did Ms. Eisenhart and her
18 son depart for Washington, DC?

19 A. I believe it was January 4.

20 Q. And when was the planned rally?

21 A. (indiscernible).

22 Q. Do you have any information that
23 Mr. Munchel and his mother purchased their tactical
24 vests or any other -- or Taser or anything else in
25 Washington, DC?

1 A. No.

2 Q. All of that was purchased before they
3 went to Washington, DC?

4 A. (indiscernible).

5 Q. The individual you've described I think
6 as Witness 1 told you that the tactical vests were
7 purchased by Mr. Munchel before they went to
8 Washington, DC?

9 A. (indiscernible).

10 MR. KURTZMAN: Your Honor, those are all
11 the questions I have.

12 THE COURT: Thank you, Mr. Kurtzman.
13 Special Agent Defeo, thank you for your testimony.
14 You can stand down at this time.

15 *****WITNESS EXCUSED*****

16 THE COURT: Mr. Kurtzman, does the
17 government have any other proof you want to put on at
18 this time?

19 MR. KURTZMAN: No, Your Honor.

20 THE COURT: All right, very good. Thank
21 you.

22 Mr. Farmer, do you have any proof you'd
23 like to put on?

24 MR. FARMER: Yeah, I would like to -- and
25 I haven't sent this to the Court yet because, frankly,

1 I was surprised by the testimony about it. But I'd
2 like to send the Twitter thread that I went through
3 with the agent about the hotel lobby after the fact.
4 Mr. Kurtzman provided it to me this morning and said
5 he was going to ask the agent some questions about it.
6 This is about the alleged mace and tasing. I'd like
7 to submit that as an exhibit to his testimony.

8 THE COURT: Mr. Kurtzman --

9 MR. FARMER: And I can email it --

10 THE COURT: Hang on, Mr. Farmer.

11 Mr. Kurtzman, that was not an exhibit that you sent
12 me, was it? I don't remember seeing that.

13 MR. KURTZMAN: It is not, Your Honor. I
14 supplied it to defense counsel this morning. I hadn't
15 actually had a chance to discuss it with Agent Defeo
16 until shortly before I sent it to defense counsel.

17 THE COURT: Okay.

18 MR. KURTZMAN: I did not (indiscernible)
19 or intend to introduce it as an exhibit.

20 THE COURT: Okay. But whatever
21 Mr. Farmer has, he got it from you, and so you're
22 aware of what it is.

23 MR. KURTZMAN: It's the same link, that's
24 correct, Your Honor.

25 THE COURT: All right. Okay. I'll admit

1 that, Mr. Farmer. If you want to send that to me,
2 I'll take a look at it when we take a break after the
3 proof comes in.

4 MR. FARMER: Okay, very well.

5 Okay, Your Honor. I don't have any
6 witnesses as to probable cause. I do as to detention.
7 I think procedurally -- proceduralwise, though, I
8 think it would make sense to have argument as to
9 probable cause.

10 I do have an argument related to probable
11 cause that affects detention. I outlined this in my
12 pleadings. Essentially the defense's position at this
13 point is there isn't probable cause that 1752(a)(1),
14 (2) or (3) has been established with the (b)(1)
15 enhancement. So I'll translate that into English a
16 little bit.

17 In order for the -- in order for 1752,
18 which is unlawful entry, to become a felony, there has
19 to be a dangerous weapon, right. And so I have an
20 argument that -- that that hasn't been established to
21 a probable cause standard, at least as it pertains to
22 Ms. Eisenhart. And that if that is true, then there's
23 no statutory basis to even go through 3142(g),
24 detention analysis.

25 The government outlines in their motion I

1 think three basis to have this analysis. Two of them
2 I think are just facially wrong. The third one is the
3 one regarding the probable cause issue. So I'm happy
4 to argue that, or if you want to jump into the
5 detention testimony and have the argument all at the
6 end, I'm happy to do that too. I just don't want to
7 waive that.

8 THE COURT: Yeah, I understand. So let
9 me say -- let me say this. This is what I'd like to
10 do. I want to go ahead and take all the proof.
11 Mr. Farmer, I checked this morning, and I did not see
12 your response to the government's detention
13 memorandum. And, in fact, I was -- I've been busy
14 with other matters in court this morning and hadn't
15 had a chance to check the docket again, so I didn't
16 actually realize you'd filed something until you
17 mentioned it as we began these proceedings.

18 I think it would be appropriate and fair
19 for me to review your pleadings before I hear from
20 you-all on this. So what I think I want to do is just
21 go ahead and take the proof. Then I'll take a recess
22 and review -- I think I'm going to need to review the
23 videotape since Mr. Kurtzman has entered that into
24 evidence. And I also want to take a look at your
25 response. So I think from an efficiency standpoint,

1 it makes sense for me to have done all that before I
2 hear argument.

3 So I'm not going to -- by going forward
4 on the detention issue, you're not waiving anything.
5 I'll take you-all up at the end on that. I appreciate
6 you raising it, but I think -- I think that's the best
7 way for us to go at this, so.

8 MR. FARMER: Okay. Very good. Then as
9 to detention, first I have the exhibit that I sent to
10 chambers and to Mr. Kurtzman, the proffered statement
11 of a witness. I'm going to ask that that be placed
12 under seal. She's concerned about the media scrutiny
13 of this case proceeding and her name and identity and
14 address and phone number and the like being out in the
15 public.

16 THE COURT: Okay. What's the
17 government's position on that?

18 MR. KURTZMAN: Your Honor, I concur with
19 Mr. Farmer that placing it under seal is appropriate
20 here.

21 THE COURT: All right.

22 MR. KURTZMAN: And I do have a copy.

23 THE COURT: Very good. That will be
24 admitted as Defendant's Exhibit No. 1. I'll place
25 that under seal.

1 (Defense Exhibit No. 1 was admitted under
2 seal.)

3 THE COURT: Mr. Farmer, I'm going to
4 admit the Twitter feed that you're going to send as
5 No. 2. That way we'll sort of keep everything in
6 order that way, since we've premarked your -- we've
7 premarked your proffered statement. Thank you.

8 (Defense Exhibit No. 2 was admitted.)

9 MR. FARMER: Okay. And then lastly for
10 detention, Your Honor, I have a witness who I hope is
11 on the line.

12 THE COURT: Okay.

13 MR. FARMER: I have given her -- do you
14 have someone on the line?

15 THE WITNESS: Yes.

16 THE COURT: Very good.

17 MR. FARMER: Very good.

18 THE COURT: All right. Tell me how you
19 want to proceed with this witness, Mr. Farmer.

20 MR. FARMER: Well, so I would like to
21 establish her identity through the sealed document and
22 then you can swear her at that point and then I'll
23 just go through some quick questions with her.

24 THE COURT: All right. That's very good.
25 Thank you, go ahead.

1 MR. FARMER: All right. Ma'am, can you
2 hear me?

3 THE WITNESS: Yes, I can.

4 MR. FARMER: This is Jonathan Farmer,
5 Ms. Eisenhart's attorney. You and I have spoken
6 several times over the past few days; is that correct?

7 THE WITNESS: Yes.

8 MR. FARMER: And I sent you a document
9 that you reviewed earlier today, in fact. Are you
10 familiar with what I'm referring to?

11 THE WITNESS: Yes.

12 MR. FARMER: And are you the person in
13 that document?

14 THE WITNESS: Yes, I am.

15 MR. FARMER: Okay. And the person who
16 purports to be a third-party custodian if that is
17 required. Is that you?

18 THE WITNESS: Yes.

19 MR. FARMER: Okay. All right. I'm going
20 to ask that the Judge swear you in now.

21 THE WITNESS: Okay.

22 THE COURT: Very good.

23 **DEFENSE WITNESS NO. 1**

24 called as a witness, after having been first duly
25 sworn, testified as follows:

1 THE COURT: Very good, thank you.
2 Mr. Farmer, you can continue.

3 **DIRECT EXAMINATION**

4 BY MR. FARMER:

5 Q. Okay. Ma'am, I'm going to be careful not
6 to use your name. And so there might be a little bit
7 of an awkwardness about that, but we're going to do
8 our best.

9 So you have known Lisa Eisenhart her
10 entire life; is that correct?

11 A. Yes, yes.

12 Q. She has resided with you in your home for
13 the past nine years; is that correct?

14 A. Yes.

15 Q. And now, to be fair, that is her primary
16 residence with you. She's also doing her work as a
17 traveling nurse. So she's not at the home every day
18 and every night; is that -- is that correct?

19 A. That's correct.

20 Q. Okay. In all the time that you've known
21 Ms. Eisenhart, have you known her to have a criminal
22 history?

23 A. No.

24 Q. Ever known her to have any violent
25 tendencies?

1 A. No.

2 Q. Would you describe her as a person who
3 follows rules?

4 A. Yes, I would.

5 Q. Has respect for authority?

6 A. Yes.

7 Q. Okay. You may be aware kind of an
8 undercurrent of these proceedings is talked about
9 militias and insurrectionists and the like. Is
10 Ms. Eisenhart in any way affiliated with any militia
11 group at all, to your knowledge?

12 A. No, she is not.

13 Q. Any insurrectionist group, revolutionary
14 group?

15 A. No, she is not.

16 Q. To your knowledge, does she even know
17 anybody involved in those groups?

18 A. Not that I'm aware of. I really don't
19 think so.

20 Q. Okay. She's got a college degree; is
21 that right?

22 A. Yes, she does.

23 Q. And what is that degree in?

24 A. She's a registered nurse. She's an RN.

25 Q. Okay. And how long has she been a

1 registered nurse?

2 A. About 30 years.

3 Q. Okay. And what -- most recently how was
4 she employed?

5 A. Through a traveling agency.

6 Q. Okay. All right. Would you say that she
7 often develops close relationships with the patients?

8 A. Yes, she does.

9 Q. And that she's a caring individual that's
10 reflected in her work; is that fair?

11 A. Extremely caring.

12 Q. Okay. All right. What about her family?
13 Is she close to her sons?

14 A. She's very close with the boys, yes, she
15 is.

16 Q. Okay. All right. And in and around the
17 community where you live, does she have close friends?

18 A. Yes, she does.

19 Q. Okay. Does she interact with them
20 regularly and daily?

21 A. Yes. Yes, she does.

22 Q. Okay. All right. If the Judge orders
23 her to be released, do you think she will try to hide
24 or not come to court?

25 A. No, she would never do that.

1 Q. Okay. Has she ever left the
2 United States?

3 A. No, she doesn't even own a passport.

4 Q. Okay. You became aware after January 6
5 that your daughter's -- your daughter -- that
6 Ms. Eisenhart and Mr. Munchel were -- their pictures
7 were in the media; is that fair to say?

8 A. Yes.

9 Q. Okay. Did she -- did Ms. Eisenhart ever
10 ask you to help her hide or destroy anything at all?

11 A. No, she did not.

12 Q. Okay. Do you have any knowledge about
13 her interaction with the local FBI agent during this
14 time?

15 A. Yes. Yes, I do.

16 Q. Okay. Tell me about that.

17 A. I talked to Lisa every day, and every day
18 she said she called the office to see whether there
19 was a warrant out for her arrest because she wanted to
20 turn herself in and get this over with. So every day
21 she would call and every day they'd say there was no
22 warrant yet. And when she did call and they said
23 there was a warrant, she said that she was going that
24 day to turn herself in.

25 Q. Okay. You had talked to me about the

1 concept of a third-party custodian; is that right?

2 A. Yes, I have.

3 Q. Have you talked to the pretrial services
4 office about that as well?

5 A. Yes, I have.

6 Q. And has it been explained to you what
7 that role would be?

8 A. Yes.

9 Q. Okay. Explain it to the Judge in your
10 own words what a third-party custodian is.

11 A. I would be responsible to monitor her
12 comings and goings or whatever rules the Court has set
13 forth for her. And if she disobeys any of them, it
14 would be up to me to call and report her, which I
15 would do.

16 Q. Okay. You're willing to do that?

17 A. Yes, I am.

18 Q. Do you think she would disobey any of the
19 rules?

20 A. No, because she wouldn't want to
21 jeopardize my safety or me getting involved in
22 anything.

23 Q. But even if she did disobey the rules,
24 you'd be willing to -- to --

25 A. Report her.

1 Q. -- tell the appropriate authorities?

2 A. Yes, I would.

3 Q. Last bit of housekeeping, I'd ask you if
4 you've read this. And I said at the beginning that
5 you don't have an email address. You, in fact, do
6 have one; is that correct?

7 A. Yes, I do.

8 Q. Yeah, don't tell us, but at least
9 (indiscernible). But you'd be willing to share that
10 with the authorities or whoever else needed it; is
11 that right?

12 A. I would.

13 Q. Okay. All right. Those are my
14 questions. I think the prosecutor may have some
15 questions for you.

16 How old are you, ma'am?

17 A. 73.

18 MR. FARMER: Okay. I think the
19 prosecutor may have some questions for you.

20 THE COURT: Mr. Kurtzman?

21 MR. KURTZMAN: Yes, Your Honor.

22 **CROSS-EXAMINATION**

23 BY MR. KURTZMAN:

24 Q. Ma'am, can you hear me?

25 A. Yes, I can.

1 Q. Ma'am, I understand that your daughter's
2 primary residence has been with you, but she's worked
3 as a traveling nurse. Within the past year, how long
4 would you say she's stayed at your residence with you?

5 A. Last year she was here eight months.

6 Q. Okay. And so was she working locally
7 where you are or was there just no traveling nurse
8 work at that time?

9 A. No, she was working for (indiscernible)
10 Hospital, Downtown Atlanta.

11 Q. Okay.

12 MR. KURTZMAN: Thank you, Your Honor.
13 Those are -- those are all my questions.

14 THE COURT: Okay. Mr. Farmer, any
15 redirect?

16 MR. FARMER: No, Your Honor.

17 THE COURT: All right. Thank you, ma'am.
18 I appreciate your testimony. This is the Judge. You
19 are welcome to stay on the line if you'd like to, but
20 you don't have to. I appreciate your testimony.
21 Thank you for being here today. If you do stay on the
22 line, I'd just ask that you mute your telephone so
23 that we don't get any potential feedback from that.
24 Thank you.

25 THE WITNESS: Okay, thank you.

1 *****WITNESS EXCUSED*****

2 THE COURT: Mr. Farmer, do you have any
3 other proof you want to put on?

4 MR. FARMER: No, Your Honor, just
5 argument.

6 THE COURT: All right, very good.

7 Mr. Kurtzman, does the government have
8 any rebuttal proof or proof on detention?

9 MR. KURTZMAN: No, Your Honor.

10 THE COURT: All right.

11 MR. KURTZMAN: Nothing other than what
12 we've already presented.

13 THE COURT: Sure, I understand. Thank
14 you.

15 Okay. I tell you what we're going to do
16 right now is I'm going to take a recess. I need to
17 look at the exhibits that have been introduced.

18 Mr. Kurtzman, you filed this videotape, which has been
19 described as being roughly 50 minutes, so I'll be
20 looking at that. And then I'm going to look at the
21 pleadings as well, as I referenced, Mr. Farmer's
22 motion on detention -- or opposition to the
23 government's motion for detention.

24 So I'm guessing we can probably expect
25 this recess to last about an hour, just based on the

1 time it will take to get through the video recording.

2 What we'll do is come back on at that
3 point in time, and I'll hear argument from you then
4 and we'll go forward. During the recess if you-all
5 need to discuss anything, you're welcome to do that.
6 I would suggest -- we don't have a separate room to
7 put you into, but if you-all want to talk on the
8 telephone or need to discuss any matters amongst
9 yourselves, you can do that. When we come back, I'll
10 ask for any announcements, and then we'll move on to
11 argument at that point.

12 I'm going to leave the screen up and just
13 come back on when I'm ready. So I would just suggest
14 you-all leave your screen available as well. And, you
15 know, you can certainly move about, do whatever you
16 need to do. Like I said, it's going to be a little
17 bit, but when we come back, I'll let you know and
18 we'll wait for everybody to get on at that point.

19 Anything further before we take a recess,
20 Mr. Kurtzman?

21 MR. KURTZMAN: Your Honor, if it's okay
22 with the Court, I'll excuse Agent Defeo because
23 (indiscernible).

24 THE COURT: Yeah, thank you,
25 Mr. Kurtzman. I apologize if I didn't mention that.

1 I meant to excuse Mr. Defeo -- Agent Defeo if he
2 needed to leave. I appreciate you bringing that to my
3 attention. And certainly he's free to go at this
4 point in time.

5 Mr. Farmer, any else from you before we
6 take recess?

7 MR. FARMER: No, Your Honor.

8 THE COURT: All right, very good. Thank
9 you all. We'll be in recess.

10 (Whereupon, a break was taken.)

11 THE COURT: All right. We're back on the
12 record after a recess. During the recess I was able
13 to review the exhibits in this case and also take a
14 look at the defendant's pleadings in response to the
15 government's motion for detention and memorandum.

16 Are there any announcements before we
17 begin?

18 MR. FARMER: Not from the defense.

19 MR. KURTZMAN: Not from the government,
20 Your Honor.

21 THE COURT: Very good, thank you. Okay.
22 So all right. As I mentioned at the outset, this
23 matter is set today for a preliminary hearing and
24 detention hearing. Mr. Farmer, I know you have an
25 issue to raise. Tell me what you would propose in

1 terms of procedurally how we go at this.

2 Do you want to take -- does anybody want
3 to be heard on the -- on the probable cause issue? I
4 know there is some interplay between the two, but tell
5 me what you'd propose, Mr. Farmer, and I'll hear from
6 you, Mr. Kurtzman.

7 MR. FARMER: I'm happy to just argue all
8 of it, Your Honor, as opposed to breaking it up.

9 THE COURT: Okay.

10 MR. FARMER: (indiscernible).

11 THE COURT: Hang on, Mr. Farmer. We're
12 having a little trouble hearing you. Your volume
13 seems to be a little bit low. Maybe if you could
14 speak up some for us.

15 MR. FARMER: (indiscernible).

16 THE COURT: You're still not that loud.
17 You're pretty clear, but you're just not very loud.

18 MR. FARMER: How about now?

19 THE COURT: That's better for me.

20 Ms. Eisenhart, can you hear him okay? Mr. Kurtzman,
21 how about for you?

22 THE DEFENDANT: Yes.

23 THE COURT: Mr. Kurtzman, could you hear
24 Mr. Farmer okay?

25 MR. KURTZMAN: It was a little better,

1 Your Honor.

2 THE COURT: All right. Go ahead,
3 Mr. Farmer. Sorry --

4 MR. FARMER: What I was saying is I can
5 proceed either way. I think given a preference, it
6 probably makes sense just to argue once, but there is,
7 I think in Your Honor's noting, a kind of threshold
8 point we've got to cross before we get into the
9 3142(g) factors. So just as long as we kind of keep
10 that threshold in mind, I'm happy to argue about all
11 of it.

12 THE COURT: All right, that's fine.
13 Let's go ahead with the government first.
14 Mr. Kurtzman, if you want to go ahead and argue. And
15 then we'll -- we'll see what Mr. Farmer has to say and
16 we'll sort of go at it that way.

17 MR. KURTZMAN: Your Honor, in dealing
18 with alternative (indiscernible) to the probable cause
19 issues, as we laid out -- the government laid out the
20 elements of each of the offenses in its -- in its
21 detention motion. As the Court's well aware at this
22 early stage, the probable cause threshold is very low.

23 And the government, through the testimony
24 of the FBI special agent presented today, his adoption
25 of the affidavit within the criminal complaint and the

1 (indiscernible) statements made, allegedly made by
2 Ms. Eisenhart in the video of her and her son's
3 actions on January 6, the government has established
4 well beyond the probable cause standard -- or well
5 beyond a basis necessary for the Court to find
6 probable cause as to each of the four charged offenses
7 did occur.

8 I'm happy if Mr. Farmer challenges a
9 particular element of a particular charge, I can
10 address that in a rebuttal, but I would just leave
11 it -- leave the preliminary hearing and probable cause
12 finding with what I've just outlined.

13 With respect to the threshold issue of
14 whether detention is appropriate under 3142, I think
15 if the Court looks at the *Casper* case which discusses
16 one of these offenses and lays out -- as cited in the
17 government's motion for detention, lays out that one
18 of these (indiscernible) is an element of the offense;
19 albeit, it does not say that in the law itself.

20 But under 3141(f)(1)(E), I think we also
21 have established that -- or 3141(f)(1)(E) establishes
22 that any felony done with a dangerous weapon is an
23 offense that an individual could be detained pending
24 trial. Here we have a defendant charged with
25 conspiracy. We have her co-conspirator ultimately

1 carrying a Taser. That possession of that Taser can
2 be attributed both to the fact that she is charged as
3 a co-conspirator within the proximity throughout the
4 events of January 6.

5 And it is also, as the government
6 established in its proof, the defendant and her
7 co-conspirator discussed the possession of other
8 weapons on that day as well, which they viewed as
9 being more dangerous than the Taser in potentially
10 leading to federal prison to them.

11 Your Honor, for those reasons, I believe
12 the government -- oh, and one more, under the civil
13 disorder charge, 18 United States Code Section 231, I
14 think it is worth the Court noting that
15 18 United States Code 232 (indiscernible) defines
16 civil disorder as any public disturbance involving
17 acts of violence by assemblages of three or more
18 persons which poses an immediate danger or results in
19 damage or injury to the property or person of any
20 other individual.

21 For those reasons, Your Honor, I believe
22 the government has established that Ms. Eisenhart is,
23 at the very least, eligible for detention. And for
24 the reasons the government is about to outline should
25 be detained pending trial.

1 THE COURT: Let me interrupt you right
2 there, Mr. Kurtzman. Let me hear from Mr. Farmer on
3 those issues at this point because I think that goes
4 to the threshold issue that he's describing for the
5 Court.

6 MR. FARMER: Thank you, Your Honor.

7 As Your Honor is aware, in this case the
8 government, at least in their pleadings, have
9 addressed three separate threshold basis that they
10 feel they can -- they can have a detention hearing.
11 Specifically in their pleadings, they tie two of the
12 three to 18 USC 1752. And those three I guess
13 (indiscernible), first is the statutory elements of
14 the crime indicate that it is a crime of violence.
15 The second (indiscernible) that's not true, any felony
16 that involves a dangerous weapon can get them there.
17 And then the third is a substantial risk of flight.

18 So it's very important, I think, to note
19 that I guess despite the government attorney's
20 argument just now, in their pleadings and in their
21 motions, the government's traveling under 1752. So
22 the first rung, the elements establish a crime of
23 violence, I think that's just a matter of Your Honor
24 looking at the elements of the statute and seeing that
25 they -- that it simply does not.

1 Notably, the government has confined its
2 charging documents to 1752(a)(1) through (3). This is
3 in the motion and memo. (a)(4) references physical
4 violence, to be sure. And I think if the government
5 in their memo said she's also guilty of (a)(4), then
6 their argument would be stronger, but that's not what
7 it says.

8 And then trying to dovetail the (b)(1)
9 enhancement of 1752, the firearm enhancement -- or,
10 excuse me, the dangerous weapon enhancement, that in
11 and of itself certainly doesn't give rise to an
12 elemental crime of violence. So that way is gone.

13 Then I'm going to jump to the third
14 piece, the substantial risk of flight. I just don't
15 think there's any evidence whatsoever about risk of
16 flight at all, much less substantial risk of flight.
17 And the government has to do more than just utter the
18 words "substantial risk of flight" and saying she's
19 facing a big sentence and have the Court undergo this
20 analysis.

21 I think -- I understand if you take all
22 the crimes alleged and add up the statutory maximum,
23 you get theoretically to 20 years, but I think the
24 government knows and I know, I think the Court know.
25 There's not really any remote way these charges end up

1 with such significant penalty. The grouping, the
2 guideline range, my rough estimate, it's about a
3 offense level of a 10 to 12.

4 So I don't think this is one of the cases
5 where it's so serious that we've got to keep
6 Ms. Eisenhart in custody so she won't flee.

7 And that leads to the last one. This is
8 the theory that if the -- if 1752 is not a crime of
9 violence, we can still proceed if it is a felony and
10 involves a dangerous weapon. And that's where the
11 probable cause determination comes in.

12 So to proceed -- it's important to note,
13 if there's no dangerous weapon, it's not a felony.
14 1752 is a misdemeanor unless there's a dangerous
15 weapon.

16 So what is the proof that Ms. Eisenhart
17 possessed a dangerous weapon? None. There was a lot
18 of attempt to try to kind of tie her to dangerous
19 weapons, there was a lot of attempts to, well -- I
20 heard the agent saying, you know, well, they went and
21 stashed weapons. You know, but when we bore down on
22 that, he said, well, really (indiscernible) Eisenhart
23 did. He said Ms. Eisenhart admitted to carrying
24 weapons and we bore down on that -- and I think
25 Your Honor listened to the video. She says no such

1 thing. She said she can't go in there with weapons.
2 That's not the same thing as saying "I have weapons."
3 There's no -- there's just simply no proof whatsoever
4 that she possessed a weapon.

5 So I guess the other way they get there
6 is through this conspiracy with Mr. Munchel and that
7 she is, you know, on the hook for his conduct. I
8 understand that's the rule. And I understand that
9 probable cause is a low standard. It is a standard
10 nonetheless. And the evidence before the Court is is
11 that they didn't take any guns that were found up to
12 Washington, DC. And notably and significantly as they
13 made their way towards the Capitol, they got to the
14 threshold -- that word again, threshold -- of the
15 Capitol and decided, in fact, we don't want to take
16 any weapons in here. That's what Ms. Eisenhart said.
17 No weapons are going in here. That's a line we're not
18 going to cross.

19 So she turned around, went back, fought
20 upstream, went all the way back and something, the
21 agent's not able to testify what, the video doesn't
22 reveal what, but placed something into the -- into the
23 duffle bag.

24 I would submit the evidence preponderates
25 that there was no conspiracy to carry a weapon in the

1 Capitol. And if Your Honor so finds, then there's no
2 detention hearing. Ms. Eisenhart's simply released on
3 her own recognizance.

4 THE COURT: So, Mr. Kurtzman, I'm looking
5 at the government's pleading in support of its motion
6 for detention. What do you say about Mr. Farmer's
7 argument that 1752(a) by itself doesn't form a basis
8 for detention? I mean, do you -- do you acknowledge
9 that to form a basis as a crime of violence would
10 require Ms. Eisenhart to possess a dangerous weapon?

11 MR. KURTZMAN: Your Honor, if you could
12 say that again.

13 THE COURT: Yeah. So as I see it, we're
14 looking at really sort of two issues here. One is --
15 is the one you've just advanced with regard to the
16 conspiracy and that, as set forth in your memorandum
17 at page 5, where it discusses that this involved a
18 conspiracy to possess a dangerous -- or use a
19 dangerous weapon, namely a Taser.

20 My question is: If you set aside the
21 conspiracy for a minute, what do you say about
22 Mr. Farmer's argument that there's been no proof that
23 Ms. Eisenhart possessed any sort of a dangerous weapon
24 such as 1752 by itself, without the conspiracy
25 element, doesn't form a basis for detention as to her.

1 Do you agree with that?

2 MR. KURTZMAN: Your Honor, I would -- I
3 would disagree with that, Your Honor. I would argue
4 that this is like a case that where we're more
5 familiarly in front of you with, where even throughout
6 the conspiracy charge, the government would be able to
7 proceed under constructive possession of a dangerous
8 weapon, in that, as the Court knows, as it sees in the
9 video, Ms. Eisenhart and her son are attached,
10 literally, attached for the majority, the majority of
11 their time both approaching and inside the Capitol.
12 And I would disagree with the characterization that
13 she said that it was Ms. Eisenhart who did not want to
14 take weapons in there.

15 That is not what the evidence shows. The
16 evidence shows that her son said he wasn't going in
17 there because he had weapons. And she said, you know,
18 we're going to go dump them back in the bag and then
19 we're going.

20 She was fully aware that he possessed the
21 Taser. As defense counsel elicited, Mr. Munchel's
22 interaction with law enforcement the day preceding the
23 storming of the Capitol, he was asked about his Taser.
24 The evidence shows that Ms. Eisenhart was with him
25 when he was asked. And I believe the Taser was in the

1 same location, i.e. on his hip, as she stormed the
2 Capitol, which is the same place that the Taser was
3 when he and Ms. Eisenhart were stopped by the police
4 asking what that was that he was carrying.

5 THE COURT: Does the government take the
6 position that Ms. Eisenhart conspired with anyone
7 other than Mr. Munchel?

8 MR. KURTZMAN: Your Honor, I -- at this
9 point with search warrants not returned on their
10 phones, I'm not -- I'm willing to say that at this
11 point we don't know of any other interaction between
12 her and -- we don't know of any other agreements to
13 further criminal conduct, other than between she and
14 her son. But as the Court knows, the investigation is
15 in a relatively (indiscernible) stage.

16 THE COURT: But you're not suggesting
17 that she's subject to detention because some random
18 person who was a part of that group had a dangerous
19 weapon on them. You're focusing exclusively on
20 Mr. Munchel for your argument of constructive
21 possession.

22 MR. KURTZMAN: With respect to this
23 threshold issue, yes, Your Honor.

24 THE COURT: Okay. And so you -- the
25 government's position is that if one person who's a

1 part of the alleged conspiracy possesses a firearm,
2 then the other person possesses the firearm as well.

3 MR. KURTZMAN: Well, in this conspiracy
4 they are --

5 THE COURT: Or, I'm sorry, the dangerous
6 weapon, I'm sorry. I think it's established there's
7 no firearm taken into the Capitol.

8 MR. KURTZMAN: There's no evidence that
9 there was a firearm, Your Honor, in the Capitol.

10 THE COURT: Right, but that's your --
11 that's the government's basis for these charges is
12 that Mr. Munchel's possession is attributable to her.

13 MR. KURTZMAN: Correct, Your Honor, both
14 through their conspiracy and through constructive
15 possession as they moved sort arm in arm or connected
16 through the Capitol.

17 THE COURT: Okay. Mr. Farmer, anything
18 else you want to say about that?

19 MR. FARMER: Yes, Your Honor. Just
20 simply that that's not the law on conspiracy or
21 possession as it applies (indiscernible). And I'll
22 rest on my statements I've already made in the
23 pleadings I filed.

24 THE COURT: Well, I didn't notice, maybe
25 you can direct me to it. I didn't see that either

1 side provided me any law on that issue. I gather,
2 Mr. Farmer, you sort of say that you didn't
3 necessarily think that was the argument the government
4 was going to make, but -- but are you aware of any law
5 on that issue? You say that's not the law.

6 MR. FARMER: The law -- the law as to
7 conspiracy to take a weapon or a dangerous weapon into
8 the Capitol, I don't cite that, but I think that was
9 required (indiscernible).

10 THE COURT: So it's --

11 MR. FARMER: I do cite in my motion a --
12 some law about -- and I guess that's about elements,
13 about the elements about this issue.

14 THE COURT: Okay. So you argue that in
15 order for her to be guilty of -- or to meet the
16 standard for conspiracy to possess the dangerous
17 firearm, there has to be some agreement between her
18 and Mr. Munchel to take that Taser in. It's not
19 enough that he had it on his person. There has to be
20 some evidence of an agreement that he was going to go
21 in, that she was a part of that.

22 MR. FARMER: I think that's exactly
23 right.

24 THE COURT: Okay. What about you,
25 Mr. Kurtzman? Are you aware of any case law on that

1 issue that you can speak to?

2 MR. KURTZMAN: Your Honor, case law on
3 that issue, no, not -- not sort of at the -- at the
4 ready. But she's -- Ms. Eisenhart isn't charged with
5 conspiracy to possess that Taser. She's charged with
6 conspiracy to violate the other charges in her
7 charging document. She knows and knew at the time
8 that Mr. Munchel had that Taser on his hip. She knew
9 he had packed it, knew he had it with him the night
10 before, she knew he had it that day. And they went
11 into the Capitol with it. And that's sufficient to
12 form the basis to have a detention hearing.

13 THE COURT: Well, the -- the possession
14 of that firearm is not a necessary element of any of
15 the crimes with which she's charged, is it? I mean,
16 isn't that the argument that you make on probable
17 cause, that all I have to do is find probable cause as
18 to any of the elements under the offense. And I could
19 find that without the dangerous weapon being present,
20 couldn't I?

21 MR. KURTZMAN: As you look at 1752,
22 Your Honor, at this point you're not looking to apply
23 the (b) (1) (A) enhancement.

24 THE COURT: Right. I'm just looking for
25 probable cause on 7152(a) (sic); right?

1 MR. KURTZMAN: Yes, Your Honor.

2 THE COURT: And I could -- I could find
3 that without possession of a dangerous weapon,
4 couldn't I?

5 MR. KURTZMAN: You could, Your Honor.

6 THE COURT: Okay. And the same is true
7 for the other offenses with which she's charged;
8 right?

9 MR. KURTZMAN: Well, Your Honor, I'd
10 contend that 231 defines itself as a felony undertaken
11 in a violent fashion. So I think if we look -- if
12 we're going to rely on the letter, as I described
13 before, I believe it's -- Title 18 United States Code
14 Section 232(1) defines what civil disorder is, which
15 is something that Ms. Eisenhart is charged with. And
16 the language of that law defines it as a violent
17 offense or an offense undertaken in a violent matter.

18 THE COURT: Right. But the elements of
19 231, if you look at 231(a)(1) through (3), again like
20 1752(a), I could find probable cause on that without
21 there being an act of violence or possession of a
22 firearm or use of a dangerous device or possession of
23 a dangerous device, can't I? I mean, aren't we in the
24 same boat with 231 that we are with 1752(a)?

25 MR. KURTZMAN: Yes, Your Honor. I

1 guess -- yes, Your Honor. I would agree, but I think
2 ignoring the fact that that dangerous weapon is there
3 is frankly not appropriate when we are only looking at
4 it from the perspective of detention and whether we
5 can have a detention hearing.

6 So we're sort of saying, imagine that
7 Taser's not there to see if we can meet the threshold,
8 but that's not -- we're sort of ignoring the Taser's
9 there and then saying you can't make the threshold
10 when we all have seen (indiscernible).

11 THE COURT: Right. But we certainly know
12 that she didn't possess the Taser. So, therefore, the
13 only theory for her to be accountable for the Taser is
14 the conspiracy. So we're right back to where we
15 started, aren't we?

16 MR. KURTZMAN: Your Honor, eventually,
17 but I think it ignores the fact that that conspiracy
18 resulted in Ms. Eisenhart with her co-conspirator, who
19 has the dangerous weapon on his hip, roaming through
20 the Capitol with zip ties trying doorways to enter as
21 other individuals are ultimately wondering where the
22 lawmakers are and where they went.

23 And so when we look at that, those facts
24 in the context of charges, I think that conspiracy
25 takes on a more significant -- rises to a more

1 significant level and it's appropriate to look at the
2 circumstances underlying the charges, even though the
3 Court is correct, you can find probable cause without
4 getting to the dangerous weapon.

5 THE COURT: And the government's position
6 is that Ms. -- because you allege that there's this
7 conspiracy between Mr. Munchel and Ms. Eisenhart, that
8 then she is responsible and accountable for anything
9 that he does or possesses; right?

10 MR. KURTZMAN: Yes, Your Honor.

11 THE COURT: Okay. All right. I'm going
12 to reserve ruling on that. What I want to do is hear
13 from you on -- well, first let me -- Mr. Farmer,
14 anything else you want to argue on probable cause at
15 this point?

16 MR. FARMER: No, Your Honor.

17 THE COURT: All right, thank you.

18 I'm going to reserve ruling on the
19 statutory basis -- on the basis for detention. I want
20 to hear argument on detention, assuming that we get
21 past that threshold. And, again, Mr. Farmer, your --
22 your argument is still preserved on that. I just
23 think it's more efficient to go through the argument
24 and see where we are and I'll make my ruling on that
25 point.

1 Mr. Kurtzman, do you want to be heard on
2 the detention issue?

3 MR. KURTZMAN: Yes, Your Honor.

4 I'm getting a little feedback.

5 THE COURT: Okay, I'm sorry.

6 MR. KURTZMAN: That seems to be better.

7 Nope.

8 THE COURT: All right. I refreshed my
9 screen. I don't know if that's any better for you.
10 I'm hearing you okay.

11 MR. KURTZMAN: I can -- it sounds better
12 for me as well. Thank you.

13 THE COURT: Sure. Sorry about that,
14 Mr. Kurtzman. Go ahead.

15 MR. KURTZMAN: Your Honor, as you look at
16 the nature and circumstances of the offense here, it's
17 sometime on January 4 this year the defendant and her
18 son left Nashville prepared for battle. They packed
19 tactical vests, stun gun, knives and likely other
20 weapons that they mentioned in the video they recorded
21 of themselves in preparation for the events of
22 January 6 which culminated in the storming of the
23 Capitol and the evacuation of lawmakers.

24 So any assertion the defendant did not
25 play in that engaging in the conduct that we saw on

1 January 6 is simply inaccurate. She packed in
2 Nashville on January 4 ready for violence and ready
3 for whatever may come.

4 As we turn to the events of January 6,
5 the best evidence is Exhibit 3, the 50-minute video
6 depicting her actions. When moving into the Capitol,
7 she was preceded by violent, fellow insurrectionists
8 who cleared a path. In fact, members of the militia
9 known as Oathkeepers were encountered as she moved
10 towards (indiscernible). As the video makes clear,
11 she was not moving with the crowd. In fact, she was
12 asking people to get out of the way so she could get
13 up to the front, which is what she eventually did.
14 And the video also (indiscernible) were pleased that
15 members of this group, the Oathkeepers, were advancing
16 in front of them as they approached the Capitol.

17 Prior to entering the Capitol, the
18 defendant directs her son to stash their weapons
19 before they (indiscernible). At this point her son
20 stated that he was not going to go inside the Capitol.
21 The defendant insisted that we drop something off and
22 then advance towards the Capitol. And she's
23 encouraging other protesters to do the same as they go
24 forward and remark that the tear gas pointed against
25 her would not be sufficient to stop her.

1 She approaches -- as she again approaches
2 the Capitol, she accuses representatives of treason.
3 And then runs into somebody who says he just punched
4 two in the face, presumably referring to law
5 enforcement. Ms. Eisenhart, advancing towards the
6 Capitol, said good, and continued to encourage this
7 person by saying while everyone else is on their
8 couch, you guys are training and getting ready for it.
9 And "it" is the insurrection that she herself wanted
10 to participate in that day.

11 After learning that the events of the
12 Capitol were on the news, Ms. Eisenhart
13 (indiscernible) and her son stated, we ain't playing
14 Fing nice no Goddamn more, to which she replied,
15 that's right. Moments later another person in the
16 crowd sees them advancing towards the Capitol. The
17 (indiscernible) look like y'all are ready to go, and
18 her son, advancing with her, says "Fing ready to F
19 shit up."

20 Your Honor, the next -- there's just
21 footage on the video (indiscernible). You know, I
22 think that one of the most concerning parts is what
23 they do once they get inside the Capitol. As the
24 Court is well aware, there were a lot of people who
25 walked into the Capitol, albeit breaking the law and

1 were charged with misdemeanors.

2 In this case, Ms. Eisenhart and her son
3 walked in (indiscernible), and then obtained zip ties
4 and began roaming the hallways checking for unlocked
5 doors. Now, there's plenty of (indiscernible)
6 statements now that they wanted to keep those zip ties
7 away from others. They walked by plenty of police
8 officers and didn't give them to them. And they
9 didn't take all of them. Her son took approximately
10 four and she had one. So the idea that they were
11 somehow acting benevolently is not supported by their
12 actions.

13 At one point the defendant can be seen
14 (indiscernible) police officers who had just
15 (indiscernible) and she yells from the banister,
16 "Freedom," "Traitors." "We want a fair election" and
17 "We want rule of law."

18 The defendant then proceeded inside the
19 Senate gallery armed with a stun gun, she walking with
20 the zip ties as other individuals that they are
21 commiserating with moving through the Capitol saying
22 "anybody home, where'd you go," "they're cowards,"
23 yelling "treason."

24 So the idea that those zip ties were not
25 taken -- or were taken in a benevolent move by the

1 defendants is just not supported -- not supported by
2 the evidence.

3 As we look at the evidence of
4 dangerousness, after storming the Capitol, the
5 defendant reveled in what she had done rather than
6 (indiscernible). In interviews the following day, she
7 explained to a reporter that she was prepared to fight
8 and ultimately die for the cause. She said it would
9 be (indiscernible) to live under an oppressive
10 government and would rather fight and rather die.

11 Her son also participated in the
12 interview, said that their collective purpose in
13 coming to Washington was to show that we're willing to
14 rise up, band together to fight, if necessary, same as
15 our forefathers who established this country in 1776.

16 That's why the defendant packed a tac
17 vest. That's why they packed the stun gun. That's
18 why they packed other weapons, because they knew they
19 were going to get into something. They know exactly
20 what? No. They were willing participants
21 (indiscernible).

22 Your Honor, Ms. Eisenhart's conduct and
23 statements here are dangerous and clearly those of an
24 insurrectionist who tried to derail the United States
25 government, and in this case through violence.

1 If you divorce her statements from her
2 actions, you can say, well, that's just somebody
3 saying something. But she's saying she wants to fight
4 and is willing to die for her cause, which is
5 overthrowing the election and installing
6 (indiscernible). She said she's willing to die for
7 that.

8 And on January 6 she stormed the Capitol
9 in furtherance of her agenda. And I don't think we
10 can divorce her statements and actions when we look at
11 both the nature and circumstances of the offense and
12 the weight of evidence as to dangerousness if
13 released.

14 Based on these statements and her
15 actions, I don't think there's any way the Court can
16 set conditions of release that would alleviate the
17 danger the defendant poses to the community. She was
18 willing to break the law and then openly state that
19 she was willing to die on behalf of her cause. I
20 think we need to believe her. And accordingly, the
21 United States would ask the Court to detain
22 Ms. Eisenhart pending trial.

23 THE COURT: Mr. Kurtzman, what is the
24 danger that the government believes Ms. Eisenhart
25 poses between now and the time she stands for the

1 offenses with which she's charged? What do you think
2 she's going to do, in other words, between now and
3 then?

4 MR. KURTZMAN: Your Honor, it appears,
5 based on her own public statements, that the
6 lawlessness that she engaged in on January 6
7 emboldened her and encouraged her in what she has
8 defined as her cause. So the government would rely
9 upon the danger that she has told you she wants to
10 fight and die to overthrow the government. We're just
11 asking you to believe what she has said.

12 THE COURT: So you think she's -- you
13 think if I let her out she's going to overthrow the
14 government?

15 MR. KURTZMAN: Your Honor, I think she is
16 going to be involved in more insurrectionist
17 behavior --

18 THE COURT: Such as?

19 MR. KURTZMAN: -- absolutely.
20 Your Honor, she's shown that she will -- she will jump
21 in at any opportunity. There's a lot of people, as
22 the Court knows, in that video not advancing towards
23 the Capitol, not cheering the assault of law
24 enforcement, not accompanied by someone with a stun
25 gun.

1 There's a lot of people inside the
2 Capitol who didn't go into the Senate gallery with zip
3 ties, as others around them are openly looking for
4 lawmakers. I don't think any set of conditions could
5 prevent her from engaging in the same sort of conduct
6 if given the opportunity.

7 THE COURT: Well, that's an important
8 point, if given the opportunity, right? Can't I
9 deprive her of the opportunity through conditions? I
10 mean, if I tell her she can't go to Washington, DC and
11 can't be in the Capitol, haven't I deprived her of the
12 ability to do what you're saying you think she's going
13 to do?

14 MR. KURTZMAN: Your Honor, as the Court
15 is likely aware and as a matter of public record,
16 there were plans, albeit -- I'm not sure the level to
17 which they came to fruition, there were plans to have
18 armed -- armed protests at every state Capitol shortly
19 after the inauguration.

20 I don't think the Court can set
21 conditions that would prevent Ms. Eisenhart from
22 engaging in local activities that would also be viewed
23 as insurrectionist, antilaw enforcement.

24 THE COURT: What if I ordered home
25 detention? Wouldn't that keep her from going to those

1 events? Couldn't I order that she not go or
2 participate in any of these events? Why would that
3 not prevent that from happening?

4 MR. KURTZMAN: Your Honor, nothing --
5 Ms. Eisenhart stormed the Capitol of the
6 United States. That's something that is relatively
7 unimaginable. And the fact that she knew federal
8 prison was a likely result of that -- she says that on
9 the video -- that did not dissuade her, and I don't
10 think -- I don't think you setting a condition that
11 she remains at home would alleviate that danger.

12 THE COURT: Why is that? What evidence
13 do you have that she wouldn't comply with any
14 condition that I imposed?

15 MR. KURTZMAN: Your Honor, she has -- she
16 has told the public that she is willing to fight and
17 die for her cause and that she would prefer that over
18 living under the current system. I'm just asking --
19 I'm just asking the Court to believe her. That --
20 that is not just rhetoric when it's coupled with her
21 actions here.

22 THE COURT: You would agree with me that
23 the term fight has multiple connotations, doesn't it?

24 MR. KURTZMAN: Not -- not when you're
25 saying you're willing to fight and die,

1 no, Your Honor. When you say you're willing to fight
2 and die, that is -- I don't -- I don't agree that
3 there's a different connotation that doesn't involve
4 violence.

5 THE COURT: So it's your belief and the
6 government's arguing that Ms. Eisenhart's statement
7 that, as set forth on page 10 of your memorandum, "I'd
8 rather die and would rather fight" is a literal
9 statement.

10 MR. KURTZMAN: Yes, Your Honor.

11 THE COURT: Okay. Based on what? Who
12 did she fight on January the 6th?

13 MR. KURTZMAN: She was actively looking
14 for people, Your Honor.

15 THE COURT: Right. Who did she fight on
16 January the 6th, Mr. Kurtzman?

17 MR. KURTZMAN: Your Honor, she and her
18 son and other individuals were actively seeking
19 lawmakers with -- her son having a stun gun and both
20 of them possessing zip ties.

21 THE COURT: Did she fight any lawmakers?

22 MR. KURTZMAN: Fortunately she did not
23 encounter any, Your Honor.

24 THE COURT: She encountered law
25 enforcement that day; right? Walked by them in the

1 video. That's seen in the video; right?

2 MR. KURTZMAN: It is, Your Honor.

3 THE COURT: Did she fight any of them?

4 MR. KURTZMAN: She did follow them and
5 yell that they had committed treason and somehow
6 stolen the election, Your Honor.

7 THE COURT: Let's talk about that. She
8 followed them, you say. Is there a difference between
9 following somebody and chasing someone?

10 MR. KURTZMAN: I would agree, I would
11 agree that there's a distinction there.

12 THE COURT: And in this video, did
13 Ms. Eisenhart or Mr. Munchel ever say anything to the
14 effect -- with this particular instance that you're
15 talking about, where she allegedly followed these
16 officers, did they ever say anything about, there's
17 some officers, let's go get them, let's chase them,
18 let's follow them?

19 MR. KURTZMAN: No, Your Honor.

20 THE COURT: You've seen the surveillance
21 video of that situation, haven't you?

22 MR. KURTZMAN: Yes, Your Honor.

23 THE COURT: And the surveillance video
24 shows an altercation between a number of individuals
25 who had entered the Capitol and it looked like maybe a

1 couple of what appeared to be like plainclothes
2 officers. Is that -- that's the incident that you're
3 referring to, isn't it?

4 MR. KURTZMAN: I believe so, yes,
5 Your Honor.

6 THE COURT: And those two plainclothes
7 officers, those heros are standing at the door of the
8 Senate chambers; right?

9 MR. KURTZMAN: Yes, Your Honor.

10 THE COURT: At the lower level; correct?

11 MR. KURTZMAN: I believe that's correct,
12 Your Honor.

13 THE COURT: And a group of folks that
14 have entered the building come up to them and then
15 they move away from the doors down a hallway, right?
16 And you would -- it's fair to say, don't you think,
17 that those -- those protesters, those rioters, they
18 forced those -- those officers away from the Senate
19 chamber doors; right?

20 MR. KURTZMAN: I think that's what the
21 video depicts, yes, Your Honor.

22 THE COURT: Right. And at the time
23 that's occurring, based on the video from Mr. Munchel,
24 Ms. Eisenhart and Mr. Munchel are nowhere even near
25 that, are they?

1 MR. KURTZMAN: I don't think so,
2 Your Honor.

3 THE COURT: And then in the video from
4 the surveillance cameras, the police officers, at
5 least one of them, appears to take some sort of a
6 boxing-type pose where he looks like he's going to box
7 or defend himself and some of the protesters or
8 rioters take a similar pose; isn't that right?

9 MR. KURTZMAN: I think so, Your Honor.

10 THE COURT: And at that time, again,
11 Ms. Eisenhart and Mr. Munchel are nowhere near that;
12 right?

13 MR. KURTZMAN: I don't -- it's certainly
14 not -- that I ever recall it's not on the video that
15 Mr. Munchel recorded.

16 THE COURT: Right. And there's no
17 evidence to believe that Ms. Eisenhart or Mr. Munchel
18 had any knowledge that that was even happening at that
19 time, is there?

20 MR. KURTZMAN: Your Honor, they were --
21 they were both well-informed that there was violence
22 being inflicted upon the law enforcement that was
23 trying to protect the Capitol.

24 THE COURT: Right.

25 MR. KURTZMAN: (indiscernible).

1 THE COURT: Yes, sir. We're talking
2 about this incident that you've referred to of them
3 following these officers. No evidence that they knew
4 that that was going on, is there?

5 MR. KURTZMAN: Not that I know of,
6 Your Honor.

7 THE COURT: All right. And then some
8 other rioters step in between and the officers proceed
9 down a hallway; correct?

10 MR. KURTZMAN: Yes, Your Honor.

11 THE COURT: And the officers have been
12 gone for several seconds, 15, 20 -- I don't know what
13 it is, but several seconds before Ms. Eisenhart and
14 Mr. Munchel even come into the scene, into the picture
15 of the surveillance camera; isn't that right?

16 MR. KURTZMAN: I believe so, Your Honor.
17 If you look at Mr. Munchel's video, I think the
18 officers are already off screen when you see the
19 defendant move towards them --

20 THE COURT: Right.

21 MR. KURTZMAN: -- down the stairs.

22 THE COURT: Right. So in reality, they
23 happened to go into the same direction that those
24 officers went. There's no evidence that they were
25 following, pursuing, chasing or going after them in

1 any way, was there?

2 MR. KURTZMAN: Your Honor, it appeared on
3 the video that she is yelling directly (indiscernible)
4 sort of down that stairwell.

5 THE COURT: Okay.

6 MR. KURTZMAN: She didn't proceed down
7 the stairwells, certainly. But -- but I think
8 everything else you've said is accurate.

9 THE COURT: Yeah. So the point that
10 she's yelling that you're talking about, again, the
11 officers aren't in the frame -- we couldn't even see
12 them, can we?

13 MR. KURTZMAN: No, because Mr. Munchel's
14 behind her, that's right, Your Honor.

15 THE COURT: Right. And she's yelling
16 over a balcony as is someone else; right?

17 MR. KURTZMAN: That's correct,
18 Your Honor.

19 THE COURT: And the government doesn't
20 have any evidence at all about who's under that
21 balcony or below that balcony that she might be
22 yelling at; right?

23 MR. KURTZMAN: Other than what we've
24 discussed, Your Honor.

25 THE COURT: Right. But you don't know

1 that those officers are even there. There's no
2 evidence to suggest one way or the other, is there?

3 MR. KURTZMAN: I mean, I think they
4 departed that area shortly before they get there.

5 THE COURT: Right. But you don't know
6 where they went, do you?

7 MR. KURTZMAN: I'm presuming they were
8 going down the stairs.

9 THE COURT: Right, you're presuming. You
10 don't have any evidence; right?

11 MR. KURTZMAN: I cannot -- I do not have
12 any footage of her -- over her shoulder with the
13 officers in sight, that's correct, Your Honor.

14 THE COURT: Okay. So what we know from
15 that is that we know that these officers went in a
16 direction, and Ms. Eisenhart also went in the same
17 direction and that she yelled some things; right?
18 That's really what that boils down to, isn't it?

19 MR. KURTZMAN: That instance?

20 THE COURT: Yes.

21 MR. KURTZMAN: Yes, Your Honor.

22 THE COURT: And there's no other instance
23 that you're aware of of Ms. Eisenhart or Mr. Munchel
24 threatening or following any officers, is there?

25 MR. KURTZMAN: Threatening or following

1 officers, no, Your Honor. She certainly, at least in
2 the government's -- or the government's position, was
3 endorsing that conduct.

4 THE COURT: Okay.

5 MR. KURTZMAN: (indiscernible) to the
6 Capitol.

7 THE COURT: Okay.

8 MR. KURTZMAN: She was incredibly pleased
9 that she had learned that the House or Senate chamber
10 had been tear gassed. I believe she said one of the
11 best days of her life --

12 THE COURT: Okay.

13 MR. KURTZMAN: -- hearing that.

14 THE COURT: Okay.

15 MR. KURTZMAN: And she also talked to an
16 individual who was going away from the Capitol after
17 encountering Capitol police and fighting them.

18 THE COURT: Okay.

19 MR. KURTZMAN: And she was also
20 encouraging of that conduct. So she knew -- as she
21 was moving up there, she knew what she was moving
22 towards, and that was violence.

23 THE COURT: Okay. Well, there's --
24 there's a difference between encouraging and
25 supporting, isn't there?

1 MR. KURTZMAN: Certainly, Your Honor.

2 THE COURT: Yeah. And yet another one
3 between actually doing it; right?

4 MR. KURTZMAN: I would -- your Honor, I
5 think I might have conceded too quickly.

6 THE COURT: Okay.

7 MR. KURTZMAN: Encouraging and
8 supporting, I think -- I think both these are here.

9 THE COURT: Okay.

10 MR. KURTZMAN: Ms. Eisenhart --

11 THE COURT: I'm just thinking of -- I'm
12 just thinking of the -- the example you used of the
13 individual who said he punched two in the face. She
14 didn't say go back and punch some more; she said words
15 to the effect that she supported what he did. Right?

16 MR. KURTZMAN: She said it was great --

17 THE COURT: Right.

18 MR. KURTZMAN: -- and praised him for
19 actively training the militia to engage in the sort of
20 conduct that she was a part of.

21 THE COURT: Right. And that's different
22 than saying "go fight those people," isn't it?

23 MR. KURTZMAN: Your Honor, it was -- it
24 was reminiscent of thanking a returning Service member
25 for their service.

1 THE COURT: Okay.

2 MR. KURTZMAN: Except she's giving that
3 praise to a violent insurrectionist who's going to
4 take a break after assaulting Capitol police officers.

5 THE COURT: Okay. All right. So back to
6 the statements at page 10 about I'd rather die and I
7 would rather fight. What day was Ms. Eisenhart
8 arrested?

9 MR. KURTZMAN: I want to say it was the
10 17th, Your Honor.

11 THE COURT: Okay. So it was 11 -- 11
12 days after the riot; right?

13 MR. KURTZMAN: I believe that's correct,
14 Your Honor.

15 THE COURT: Okay. And is there any
16 evidence that the government has that in those 11 days
17 Ms. Eisenhart engaged in any fighting activity?

18 MR. KURTZMAN: Not that I'm aware of,
19 Your Honor.

20 THE COURT: You heard that Mr. Farmer
21 questioned the FBI agent about Ms. Eisenhart
22 contacting the FBI on a daily basis. Do you have any
23 reason to dispute that?

24 MR. KURTZMAN: I don't, Your Honor.

25 THE COURT: And when she -- she

1 surrendered to the FBI; right? They didn't have to go
2 arrest her, did they?

3 MR. KURTZMAN: That's correct,
4 Your Honor.

5 THE COURT: The FBI can -- can arrest
6 people subject -- under the law, when they believe
7 they're dangerous; right? And they're charged with an
8 offense; right?

9 MR. KURTZMAN: Right. And, Your Honor,
10 here she had not been charged yet.

11 THE COURT: Okay. She -- when she found
12 out she'd been charged, the FBI didn't go out to
13 arrest her; right?

14 MR. KURTZMAN: That's correct,
15 Your Honor.

16 THE COURT: They told her she'd been
17 charged; right?

18 MR. KURTZMAN: Yes.

19 THE COURT: And the consequences of that
20 was literally taking her freedom; right? She was
21 going to go into custody; right?

22 MR. KURTZMAN: She was, yes, Your Honor.

23 THE COURT: She didn't fight anybody
24 then, did she?

25 MR. KURTZMAN: Not that I'm aware of,

1 Your Honor. No. And I would be aware if she did.

2 THE COURT: Right. Okay. In fact, what
3 she was expressing concern about, in part, was that
4 she didn't feel like she had the ability to express
5 herself on the Internet. Do you think she was going
6 to fight over the Internet but yet when her liberty
7 was taken away from her she didn't fight? Isn't that
8 somewhat inconsistent and doesn't that suggest that
9 maybe that fighting and dying is more hyperbole than
10 it is, as you say, take her at her word?

11 MR. KURTZMAN: No, Your Honor. Based on
12 her conduct and the conduct of her co-conspirator,
13 it's not just rhetoric.

14 THE COURT: When somebody -- when
15 somebody's ready to fight and die, don't you think
16 when they find out that they're going to be arrested,
17 they might fight?

18 MR. KURTZMAN: Potentially, Your Honor.

19 THE COURT: Wouldn't you expect that if
20 she's willing to fight and die, that she really
21 wouldn't want to turn herself in and go into custody?

22 MR. KURTZMAN: Your Honor, I think her
23 decision could have been informed by the fact that her
24 son was already in custody and all the weapons had
25 been seized from his house. So I think -- I think --

1 you know, I think if -- if Ms. Eisenhart's cause are
2 different here, I think her rhetoric would be -- would
3 be taken a little more seriously. And I just ask that
4 we take it seriously because of the conduct she's
5 charged with.

6 And the seriousness of what's in that
7 video, which is her and her son -- Mr. Farmer will
8 dispute, but it's she and her son illegally roaming
9 the halls of the Capitol with a stun gun and zip ties
10 as people are looking for lawmakers. Now -- so I just
11 ask that we take her at her word that this is a cause
12 that she very much believes in and that she is willing
13 to undertake criminal conduct to further her cause.

14 THE COURT: You talked about the advance
15 planning about, you know, making a decision to go to
16 Washington, DC, taking the tactical jacket,
17 Mr. Munchel take the stun gun and perhaps taking other
18 weapons as well. Is there any evidence that the
19 government can point to that at the time those plans
20 were made that there was actually a plan by
21 Ms. Eisenhart and/or Mr. Munchel to go into the
22 Capitol and commit the crimes with which she's
23 charged?

24 MR. KURTZMAN: I don't know if they had
25 planned to go in the Capitol, Your Honor. I have not

1 seen any advance planning on their part of entering
2 the Capitol.

3 THE COURT: Right.

4 MR. KURTZMAN: I would submit there are
5 others around the country being charged with that
6 advance planning. Mr. Munchel and Ms. Eisenhart are
7 not amongst that group. But Your Honor witnessed the
8 FBI agent testified today, and he is in a suit. He
9 did not bring his tactical vest. He did not have
10 weapons.

11 The advance planning is that they knew
12 they were going to more than likely engage in violent
13 conduct in support of the cause. You don't -- one
14 does not bring a tactical vest and multiple weapons to
15 a free speech rally if one does not also anticipate
16 participating in other unlawful or violent activity.

17 THE COURT: If your FBI agent thought he
18 was going to be attacked by somebody, wouldn't that be
19 a reasonable reason to wear some sort of protective
20 gear?

21 MR. KURTZMAN: Your Honor, if he were
22 making an arrest, I would more than likely expect him
23 to be in it.

24 THE COURT: Because he would expect at
25 least there was a possibility that he might be

1 attacked; right?

2 MR. KURTZMAN: I would imagine that's a
3 policy thing as well, Your Honor. I'm not --

4 THE COURT: Okay.

5 MR. KURTZMAN: (indiscernible).

6 THE COURT: I've seen media reports that
7 the government has authorized members of Congress to
8 purchase bulletproof vests. Are you aware of that
9 reporting?

10 MR. KURTZMAN: I was not, Your Honor.

11 THE COURT: Okay. Isn't it possible,
12 though, that someone would wear a bulletproof vest for
13 their protection rather than to offensively engage in
14 conduct?

15 MR. KURTZMAN: Perhaps, Your Honor, but
16 that divorces us from the fact that they brought
17 weapons with them. So -- and one would also not -- I
18 thought my screen broke up.

19 One would also not expect that a free
20 speech rally would be something necessary -- would be
21 necessary to wear a tactical vest, carry multiple
22 weapons and do those sorts of things. So I think the
23 government's inference, at least, is that all that
24 stuff was packed for both offensive and defensive
25 purposes.

1 THE COURT: But you concede that
2 offensive purposes would not be the only reason that
3 someone would have that kind of gear; right?

4 MR. KURTZMAN: Fair, Your Honor. It
5 would be -- it would be reasonable that someone arming
6 themselves with a weapon would wear that to protect
7 themselves from others armed with weapons. In this
8 case those individuals were the -- unfortunately on
9 January 6 were the Capitol police officers.

10 THE COURT: You read Mr. Farmer's
11 position paper here today?

12 MR. KURTZMAN: I have, Your Honor.

13 THE COURT: He makes an estoppel
14 argument. What do you think about that argument?

15 MR. KURTZMAN: I think that's probably
16 not for us, Your Honor. And I've seen the argument,
17 but I think at this preliminary/detention hearing it
18 is probably unnecessary for us to dive into that.

19 THE COURT: Well, okay.

20 MR. KURTZMAN: (indiscernible).

21 THE COURT: Okay. Well, let me ask this:
22 You certainly don't think that I should detain
23 Ms. Eisenhart as punishment for engaging in the crimes
24 she's alleged to have committed on January the 6th, do
25 you? That's not the government's position, is it?

1 MR. KURTZMAN: No. Our position is that
2 she's a danger to the community based on her words and
3 her actions.

4 THE COURT: And it would be unlawful and
5 unconstitutional and against the body of the law for
6 me to engage her -- to detain her just because I
7 believe she's guilty of what she's alleged to have
8 done on January 6; right?

9 MR. KURTZMAN: Absolutely, Your Honor.
10 As the Court knows, I'm in front of -- in front of you
11 very often and often don't seek detention for
12 individuals; sometimes do. It's a case-by-case
13 determination, which is what the government did here.

14 THE COURT: Right. That's what happened
15 in this case as well. In fact, there have been two
16 individuals that have been brought before me where the
17 government did not seek detention; right?

18 MR. KURTZMAN: They were only charged
19 with misdemeanors, Your Honor. That's the
20 distinction. I don't think I had a statutory basis
21 there --

22 THE COURT: Yeah, okay.

23 MR. KURTZMAN: -- to seek detention.

24 THE COURT: Give me just a minute. That
25 might be all I need to ask.

1 Oh, I wanted to ask you about one issue.
2 And in your memorandum, Mr. Kurtzman, you refer to a
3 charge that Ms. Eisenhart had for driving -- I think
4 it was driving on a suspended license from 1990 in
5 Georgia. The bond report doesn't have any information
6 about any charges. Do you know anything about that
7 discrepancy?

8 MR. KURTZMAN: I do not. I don't know
9 about the discrepancy there. Potentially -- it's
10 obviously very old, so it's potentially -- potentially
11 it was purged from the system. As Your Honor knows,
12 charges like that sometimes improperly appear. Or we
13 learn of them on someone's NCIC report or something
14 like that. So it could have been any number of
15 things.

16 THE COURT: There's nothing about
17 Ms. Eisenhart's prior criminal history that would
18 suggest that she's a danger to the community; right?

19 MR. KURTZMAN: Other than the charged
20 offenses, Your Honor?

21 THE COURT: Yeah, right. I'm talking
22 about any prior criminal history.

23 MR. KURTZMAN: Correct, Your Honor. The
24 government's unaware of any.

25 THE COURT: And there are no prior

1 examples of Ms. Eisenhart that the government's aware
2 of not showing up for court, not making appearances
3 when she's supposed to?

4 MR. KURTZMAN: Not that I'm aware of,
5 Your Honor.

6 THE COURT: There's not any examples that
7 the government's aware of of Ms. Eisenhart not
8 complying with conditions that any court might impose
9 on her to -- to engage or not engage in any kind of
10 conduct, is there?

11 MR. KURTZMAN: Her past interaction while
12 on conditions of supervised release? I don't think
13 there's ever an instance that she's been under that,
14 Your Honor --

15 THE COURT: Okay.

16 MR. KURTZMAN: -- so...

17 THE COURT: Okay. Thank you,
18 Mr. Kurtzman. I appreciate your spirit and answers to
19 my questions. Thank you.

20 Mr. Farmer, you want to be heard?

21 MR. FARMER: Yes, Your Honor. I'll just
22 cover the factors that I -- of course, if Your Honor
23 has any questions, I'm happy to answer them as well.
24 The first factor is the nature and circumstances. I'm
25 going to break those out because they're not the same

1 thing. The nature of these charges, (indiscernible)
2 what are they charged with.

3 (indiscernible) is not charged with
4 killing anyone, is not charged with treason, is not
5 charged with sedition. She's charged with going into
6 the Capitol when she wasn't supposed to, clearly, and
7 the government is doing everything they can to try to
8 make it more serious than what it was. It was an act
9 of civil disobedience and not these revolutionary
10 insurrection-type charges that they seek detainer on.

11 The circumstances of the offenses, I
12 think we spent a lot of time on the hearing about
13 that, so I'll be brief. I guess first I'd be remiss
14 if I didn't point out that the government in its
15 argument said there were knives and other items on --
16 with Ms. Eisenhart and Mr. Munchel.

17 First, I've not heard the word knife in
18 this proceeding. There has been no evidence that I
19 recall one way or another regarding a knife or any
20 weapon whatsoever. I think the proof that Your Honor
21 heard is we think they might have had weapons, but
22 we're not positive. I don't think it's really
23 anything (indiscernible).

24 The evidence has been clear and unrefuted
25 that Ms. Eisenhart is not in a militia, an

1 insurrectionist group, a revolutionary group. The
2 evidence has been clear and unrefuted that she didn't
3 conspire with any of those people. She didn't plan
4 with any of those people. She went to Washington, DC.
5 True enough, it appears she took a -- or that her son
6 took a tactical vest. But that, as Your Honor points
7 out, a tactical vest is not an offensive weapon. It
8 is a defensive piece of equipment.

9 And I think Your Honor -- I think we
10 would all have to have heads in the sand if we weren't
11 aware that during protests such as these, protesters
12 with the left wing persuasion and protesters from the
13 right wing persuasion clash. So that every bit of
14 evidence was that that was the purpose of the tactical
15 vest.

16 While -- and I guess I'll say on the way
17 up she didn't make any attempt to hide her identity.
18 She registered under her own name. She was open and
19 obvious and clear about why she was there. She came
20 up there because she was to attend a rally, to make
21 her voice heard, to stop an injustice that she
22 perceived and, frankly, millions of people in our
23 country perceive occurred in the presidential election
24 in November.

25 While in DC before going in -- before the

1 rally, before going to the Capitol, there's no
2 evidence that she had a weapon, despite the
3 government's (indiscernible). There just simply
4 isn't. They have video of her, they have pictures of
5 her. Never, ever, ever do you see her with a weapon.

6 Mr. Munchel didn't say she had a weapon,
7 the witnesses they interviewed didn't say she had a
8 weapon. She didn't say she had a weapon. There's
9 just simply no proof to that. There's no proof that
10 she acted violently in whatever form that takes. She
11 didn't vandalize anything. She didn't break anything.
12 She didn't assault anybody. She didn't physically
13 encounter anyone in an aggressive way whatsoever. And
14 I'm talking about the time period going into the
15 Capitol. The video is clear that on the way to the
16 Capitol they are in a sea of people.

17 The video is clear when they get to the
18 steps, they have a eureka moment where they decide --
19 where the statement is, you'll get in trouble,
20 basically, if you bring some kind of weapons in there.
21 And they go back, and the video shows that Mr. Munchel
22 put weapons up. The video doesn't show anything else
23 about weapons, vis-à-vis Ms. Eisenhart.

24 They then make their way through the
25 throng back to the Capitol where they enter. And,

1 again, same stuff. No violence. No breaking things,
2 no vandalizing things, no breaking windows, no
3 assaulting police officers. No assaulting other
4 protesters. No going into private offices, no
5 stealing sensitive documents. None of that.

6 Now, what -- I don't think it's, frankly,
7 any secret that what has them so hung up in the eyes
8 of the government are these zip ties. I would submit
9 but for Mr. Munchel being essentially the poster boy
10 for this act on the 6th that we wouldn't be here. But
11 that's kind of a fact beyond change, the picture of
12 him with zip ties. So the national media is running
13 with it, and apparently the government has too.

14 Now, the government introduced as an
15 exhibit Ms. Eisenhart's statement to the newspaper
16 reporter where she says, look, I wasn't -- I didn't
17 have a nefarious intent. I wasn't going to do
18 anything bad with them. I was actually trying my best
19 to keep them out of bad people's hands. And the
20 government is skeptical of that.

21 But what the government hasn't addressed
22 and doesn't address is that on-site in the Capitol
23 Ms. Eisenhart is asked by another person inside the
24 Capitol, hey, what about those zip ties. And she says
25 (indiscernible) but she says some version of we're not

1 going to do anything with them. I just wanna -- I
2 just wanna keep them. I want to keep them out of bad
3 people's hands.

4 That's what she says on-site to another
5 person that the government claims is a treasonous
6 insurrectionist. So if ever there was a time for her
7 to say, we intend to use these zip ties to find
8 somebody and tie them up and do bad things, that was
9 the time to say it. So the government wants to take
10 her on the word at one hand but not on the other hand.

11 And frankly, the taking of the zip ties
12 to protect is consistent with the way Ms. Eisenhart
13 and her son behaved in there and that they were
14 concerned about other people breaking things and
15 vandalizing. They didn't want that to happen. They
16 were concerned about the police, telling them they
17 supported them and (indiscernible).

18 THE COURT: Mr. Farmer, before you leave
19 that, I want to ask a question because I'm thinking
20 about it and since it won't interrupt your train of
21 thought. Isn't there a third alternative to her
22 statements about the zip ties? Isn't it possible that
23 she took the zip ties in order to prevent law
24 enforcement from using those on the rioters, and maybe
25 the bad people she's talking about, in her mind, were

1 law enforcement?

2 MR. FARMER: I don't think anyone has
3 said anything that makes me say, no, that's absolutely
4 impossible, out of hand. But I don't think there's
5 any support for that. I think what we've heard is
6 that she and her son were prolaw enforcement. She
7 treated the police officers they encountered with
8 respect. There's not any evidence at all
9 (indiscernible) law enforcement.

10 THE COURT: Well, the --

11 MR. FARMER: (indiscernible).

12 THE COURT: What is your -- what's your
13 response to Mr. Kurtzman's point that if -- if she
14 really was well-intended and really wanted to make
15 sure that those didn't get in the hands of bad actors,
16 all those rows of police officers that we saw her
17 encounter, why didn't she give the zip ties to them if
18 that was really her intent?

19 MR. FARMER: Well, and so because someone
20 forms an intent to do something, it doesn't mean every
21 act they take is 100 percent aligned with
22 the (indiscernible) in the very best way. And so
23 certainly it would have been the best practice for her
24 to take those and give them to police officers if that
25 was the intent. But because she didn't do that

1 doesn't therefore mean that she didn't have that
2 intent.

3 THE COURT: Okay. Go ahead. Sorry to
4 interrupt.

5 MR. FARMER: That's okay, that's okay.
6 Actually, I think I was finished with the
7 circumstances piece of it, except to add that, you
8 know, she left nonviolently, walked out the door
9 without causing any violence at all.

10 The next thing I'd like to address is the
11 weight of the evidence. And I think Your Honor and I
12 and Mr. Kurtzman have already had kind of a back and
13 forth about the -- where the Taser fits in and what
14 the proof is about the Taser and those sort of things,
15 so I won't rehash that to the Court.

16 I will point out, as Your Honor said, I
17 have raised on some level two affirmative defenses.
18 First is just simply the First Amendment right because
19 at its core what Ms. Eisenhart did is she went into
20 the Capitol and yelled that she felt like the
21 lawmakers were -- were doing terrible things, that
22 they were treasonous and she was against what they
23 were doing and using her voice to make those things
24 heard certainly (indiscernible) the First Amendment.

25 Secondly is the due process argument.

1 And, again, I'm not expecting a ruling from Your Honor
2 (indiscernible), but I think we would be remiss to not
3 at least mention it, and the facts are undisputed that
4 she was -- she and millions of others like them were
5 summoned up there to help then-President Donald Trump
6 what he claimed was the biggest injustice in American
7 history. And the incendiary language that
8 then-President Trump used, if the government applied
9 the same standard they have to him as they applied to
10 Ms. Eisenhart, they would arrest him as well.

11 But that hasn't happened and it was -- at
12 least not to my knowledge. But the language he used
13 to rile supporters up and convince them that this is
14 good versus evil, right versus wrong and we need to go
15 up there, can't be ignored. When you combine that
16 with the fact that he is -- was at the time the
17 president of the United States, the commander in
18 chief, and the head of the executive branch of
19 government, one of our three branches of government,
20 that statement has power and it (indiscernible) of
21 legality.

22 And that's what the elements of
23 entrapment by estoppel require, a statement from a
24 government agent (indiscernible) and that's what you
25 do.

1 So they were called to the Capitol.
2 While at the -- on the grounds they were told we're
3 going to go down to Congress and we're going to
4 object, we're going to give strength to our Republican
5 Senators who are objecting and we're all going to go
6 and President Trump -- then-president Trump said he
7 was going to go with them.

8 This belief of legality, frankly, is
9 compounded, at least on some levels by when they had
10 to get into the building. The door they go to isn't
11 (indiscernible) and there are police officers lined on
12 the wall and aren't objecting or stopping them.

13 So I raise all that to say, there are
14 constitutional concerns with this entire prosecution
15 on more than one level. This is not a case where
16 somebody got pulled over and has a handgun in the
17 console or whatever.

18 In regards to the gun, the government and
19 I frankly disagree about the strength of the evidence,
20 but there are angles and wrinkles to this case that
21 aren't found in most cases. And that makes the end
22 result of this case more uncertain, frankly, than
23 those cases.

24 So moving on to Ms. Eisenhart's history
25 and characteristics. In their pleadings -- and I

1 don't know if the government stands by this still, but
2 in their pleadings they acknowledge the factor
3 regarding history and characteristics weighs in
4 support of release for Ms. Eisenhart. And we
5 obviously agree.

6 She has a 30-year career as a registered
7 nurse. She has no criminal record. You've heard
8 evidence of a stable home and family life. No ties to
9 violence, no ties to militia. No cache of weapons.
10 Described, frankly, as a follower of the law, a rule
11 follower. Out of frankness to Your Honor, in almost
12 any other case, there would be no question that she
13 would be released.

14 And then lastly, the last piece is this
15 concept of dangerousness. And I think this is where
16 the government hangs its hat. And its position is
17 frankly, as I understand it, she did something bad and
18 therefore she's dangerous. So dangerous that we are
19 to ignore her 57-year life of being a law-abiding
20 citizen and finding that she can't mingle with the
21 public, she's so dangerous.

22 And I think if you dig down closely, what
23 they're most upset about, frankly, is the word she
24 uses. That's what they seem to be relying on,
25 primarily. And I understand the government's

1 argument, we've got to combine, we've got to look at
2 them together. But it's the words that was -- I'd
3 rather die.

4 Well, let me ask this. What if she wore
5 a shirt that said "live free or die?" That's a
6 popular slogan out there. What if she had a T-shirt
7 or a hat that said that? Would that matter? What if
8 she was handing out pamphlets that had Patrick Henry's
9 statement on it, "Give me liberty or give me death."
10 Isn't that kind of what she was saying?

11 This is hyperbole, these are political
12 statements, and for the government to argue, well, we
13 should ignore information about the zip ties on the
14 one hand but believe that she's actually going to
15 fight to the death against all evidence to the
16 contrary on the other hand and, therefore, keep her in
17 jail, it frankly strains credibility.

18 And I want to touch on a couple of things
19 as well. You know, you heard testimony from the FBI
20 agent about this incident in the hotel with the mace.
21 I was frankly appalled at that testimony. And I heard
22 him to testify that he understood from those tweets
23 that Ms. Eisenhart herself went in and maced -- or
24 threatened to mace somebody and followed somebody to
25 their room. There's just simply not any support for

1 that whatsoever in the record.

2 Your Honor has read the tweets. I don't
3 know, frankly, if the government stands by that at
4 this point, but it was amazing to me that they would
5 try to spin that tweet in such a way.

6 Similarly, they use the statements,
7 Ms. Eisenhart said we've got to stash our weapons.
8 That's not what Ms. Eisenhart said. The FBI agent
9 testified to that, but when I drove down on it, he
10 said, well, no, she didn't say it like that. That's
11 not exactly what she said at all.

12 So I don't -- frankly, it's concerning to
13 me that the government's taking (indiscernible). And
14 I think, frankly, it's got as much to do with
15 anything, as I said, with the words she says and the
16 phrases she uttered and the fact that she was with,
17 quote/unquote, Zip Tie Guy, the national face of this
18 insurrection.

19 But none of that is for today. What is
20 for today is what do we do with Ms. Eisenhart. It
21 looks to me, it seems to me that she went to
22 Washington, DC and engaged in civil disobedience. And
23 I think -- well, first thing, I think we shouldn't
24 have a detention hearing. I think that Your Honor
25 should rule that the government hasn't met the

1 threshold to conduct this analysis.

2 In the event that Your Honor disagrees
3 with me, I think minimal conditions are appropriate.
4 I think this concept that we have to keep her locked
5 up because she might go to Washington, DC and attempt
6 to assassinate the president or some nonsense like
7 that is absurd. And I think conditions could be
8 framed around some remote possibility that that might
9 happen.

10 Same with the (indiscernible). Frankly,
11 Your Honor, if Your Honor is inclined to impose
12 conditions at all, I think regular reporting to the
13 probation or the pretrial services office would be --
14 would be sufficient but not greater than necessary.

15 All that to say, we've offered up a
16 third-party custodian. And if Your Honor disagrees
17 with me as to whether that is appropriate,
18 Ms. Eisenhart is willing to abide by whatever
19 restrictions Your Honor -- Your Honor decides to
20 impose, third-party custodian, the same restrictions
21 that Mr. Munchel received, whatever.

22 She obviously has never been in jail
23 before, doesn't want to be back. So don't hear me
24 saying it's my way or the highway. But the legal
25 analysis is that the least restrictive conditions

1 necessary is probably just regular reports to pretrial
2 services office. Thank you.

3 THE COURT: Hang on just a minute,
4 gentlemen.

5 (Pause in proceedings.)

6 THE COURT: Okay, thank you.

7 Mr. Kurtzman, I will give you the last word if you
8 want it since it's the government's burden.

9 MR. KURTZMAN: Thank you, Your Honor.
10 Just a couple points based on Mr. Farmer's argument.

11 THE COURT: Sure.

12 MR. KURTZMAN: (indiscernible) as a
13 rationale of supporting police. And the government's
14 counter to that would be, Your Honor, Ms. Eisenhart
15 was prepared to throw all that away with her -- by her
16 actions that day. She understood she was breaking the
17 law, and all the things she's done in her life, her
18 stable career, her long career, her family, none of
19 that prevented her from storming the Capitol alongside
20 her fellow insurrectionists.

21 To call the barnstorming of the Capitol
22 of the United States civil disobedience I think
23 stretches both the word civil and disobedience beyond
24 their point. She was not engaged in civil
25 disobedience. The video is replete with people who

1 are doing what the president said during his speech,
2 which was to go and protest outside of the Capitol.

3 Ms. Eisenhart and her son were clearly
4 not amongst that (indiscernible) they were there to go
5 into the Capitol and that's exactly what they did. As
6 the Court can see in the video, which at the
7 conclusion of the hearing the government would ask
8 that that be placed under seal, or filed under seal --

9 THE COURT: The video?

10 MR. KURTZMAN: Yes, Your Honor,
11 Exhibit 3.

12 THE COURT: Okay.

13 MR. KURTZMAN: The momentum of the crowd
14 is not heading towards the Capitol. If anything,
15 Ms. Eisenhart and her son are swimming upstream to get
16 in. And they would not be denied. They knew there
17 was violence up there against Capitol police officers.
18 They knew that for a fact. They believed at the time
19 that they were approaching that the lawmakers of this
20 country had been tear gassed in the Senate and House
21 chamber and that was a great development. That is
22 what she was headed for.

23 Now, fortunately for both Ms. Eisenhart
24 and the lawmakers, she didn't encounter anyone really
25 other than a few police officers and other -- and

1 other rioters. But to say that somehow just her --
2 that she just walked in there, she and her son are
3 actively going through hallways where there are not
4 many other rioters with a stun gun and zip ties and
5 they're checking nearly every door.

6 And there's only one thing to be looking
7 for back there and those are the lawmakers that they
8 had not found to that point. That's belied by the
9 fact that everyone around them is also looking for
10 lawmakers and you can hear them saying, "where'd they
11 go, those cowards."

12 I guess sort of all of that leads -- the
13 idea -- I was present at the hearing the other day.
14 The idea that either Mr. Munchel or Ms. Eisenhart are
15 prolaw enforcement is not supported by a single thing,
16 other than their self-serving statements that they
17 are.

18 Your Honor, and I'll just quote -- I
19 close -- I would just ask that Your Honor believe the
20 statements of Ms. Eisenhart, believe how she feels
21 about her cause, believe that she was willing to
22 engage in criminal behavior in advance of that. And
23 when that is done, I think any other decision other
24 than detention is hard to get to. Thank you.

25 THE COURT: I want to ask you a question,

1 Mr. Kurtzman, about Ms. Eisenhart's statement to the
2 media about rather die and rather fight. Does the
3 government believe that that was Ms. Eisenhart's
4 sentiment before she went into the Capitol or that she
5 somehow developed that sentiment after going into the
6 Capitol?

7 MR. KURTZMAN: The statement was made
8 after they entered the Capitol.

9 THE COURT: Right.

10 MR. KURTZMAN: Based on -- based on her
11 conduct in advance of getting into the Capitol, she
12 had that same intent.

13 THE COURT: Okay. If that was her intent
14 prior to going into the Capitol, why would someone who
15 had that intent not take weapons into the Capitol if
16 they had them available?

17 MR. KURTZMAN: Your Honor, she was
18 prepared to go in with whatever weapons her son had.
19 It was her son's objection to going inside with them.
20 So any idea that she was against, her son expressed, I
21 don't want to go in there with weapons, albeit still
22 carrying his stun gun.

23 THE COURT: Right.

24 MR. KURTZMAN: And she said, well, just
25 go put it in the bag or something to that effect. So

1 the fact that she didn't want to go in there with
2 weapons is not, I think, accurate.

3 THE COURT: Well, she said go put them in
4 the bag. She didn't say, I don't care, let's go in
5 with the weapons, did she?

6 MR. KURTZMAN: Well, her son had said at
7 that point, I'm not going in. And she -- then to get
8 him to go in with her, at least, you know, an
9 inference I'm making --

10 THE COURT: Yeah.

11 MR. KURTZMAN: -- is she said, go put
12 them in the bag. And whatever it was, one would
13 presume it's more serious than a Taser.

14 THE COURT: Right.

15 MR. KURTZMAN: And that he
16 (indiscernible).

17 THE COURT: Right.

18 MR. KURTZMAN: And (indiscernible)
19 repercussions from that. So the idea that the
20 government can't prove it, I'm not going to ever tell
21 you I can prove it --

22 THE COURT: Yeah.

23 MR. KURTZMAN: -- but there's a heavy
24 inference on what was in that fanny pack.

25 THE COURT: Yeah. But it just seems --

1 it just seems inconsistent with what you're telling me
2 to believe about her I'd rather die and rather fight.
3 If that's really how she felt, you wouldn't think that
4 somebody who had those feelings would say, but I'm not
5 going to take a firearm or whatever other weapon into
6 the -- into the chamber.

7 MR. KURTZMAN: Your Honor, I think that
8 was more her (indiscernible).

9 THE COURT: Yeah.

10 MR. KURTZMAN: And he still was armed
11 with the stun gun when they went in there, so it's
12 not -- the idea that they were doing anything other
13 than meeting a condition that he had demanded I think
14 is -- is not correct.

15 THE COURT: Okay. All right. Thank you,
16 Mr. Kurtzman.

17 Okay. What we're going to do right now
18 is we're going to take another short recess. This
19 will be significantly shorter than the last. I don't
20 have any hour-long videotapes to go through. So,
21 again, you-all can take a little break, but don't go
22 too far. I'll be back shortly. Thank you all again.
23 If you could bear with us, thanks. We'll be in
24 recess.

25 (Whereupon, a break was taken.)

1 THE COURT: All right. We're back on the
2 record after a short recess. Thank you all for your
3 patience. The Court's heard the proof in this matter.
4 As I indicated at the outset, we had this matter set
5 today for detention hearing and preliminary hearing
6 with regard to this out of district-complaint.

7 I want to begin by thanking the lawyers
8 for their hard work and their diligence. I appreciate
9 your written submissions, as well as your arguments.
10 As always, it's -- it's very fortunate that we have
11 the caliber of lawyers that we do in this district who
12 can advance argument on behalf of their clients that
13 are well thought out and very effective as advocates.
14 So thank you all for that. I also want to thank the
15 witnesses who participated today and tell you my
16 appreciation for you being here and your willingness
17 to testify in this case.

18 The issue of identity as sort an initial
19 matter, I'll note Mr. Farmer indicated at the
20 beginning of this hearing was going to be waived. And
21 so that's not an issue. As I stated, the two matters
22 are preliminary hearing/probable cause, and detention.

23 With respect to the preliminary hearing
24 in this case, again, the Court's heard the proof in
25 this matter. I've considered the charges in this

1 case, as well as the elements for each of those
2 charges. As the parties are aware, the burden of
3 proof is on the government and it's a relatively low
4 standard of proof in this particular case.

5 And based upon all the facts and
6 circumstances, as well as arguments of counsel, the
7 Court finds that the government has satisfied its
8 burden of establishing probable cause as to each of
9 the charges brought in this criminal complaint.

10 Now on to the issue of detention. As a
11 threshold matter, Mr. Farmer has raised the issue of
12 whether or not the charges brought in this criminal
13 complaint are even subject to detention. The
14 government in its pleadings and arguments have
15 suggested several different bases for which the Court
16 can consider detention in this particular case.

17 While the Court believes that this is a
18 relatively close call, the Court's satisfied with the
19 arguments that the government's advanced with regard
20 to the conspiracy aspects charged in this case and
21 will find that in light of those arguments and in
22 light of those charges, that the Court can consider
23 detention in this particular case; and, therefore,
24 I'll move on to the issue.

25 Mr. Farmer's objections are preserved and

1 he can advance those as he sees fit, if necessary, in
2 subsequent proceedings.

3 With respect to the issue of detention,
4 the Court, again, has heard proof in this matter, as
5 well as the arguments of counsel. To paraphrase
6 Winston Churchill, the true measure of a civilized
7 society is how it treats those accused of a crime.
8 Unlike autocratic or authoritarian governments, we in
9 the United States provide and protect the rights of
10 the accused. Those rights are enshrined in the
11 Constitution, primarily in the Fourth, Fifth, Sixth
12 and Eighth Amendments to the constitution. And chief
13 among those rights is the presumption of innocence,
14 that all persons charged with crimes are presumed
15 innocent, unless and until convicted or found guilty
16 of the charges for which they are facing.

17 We don't punish people in this country
18 based on what they're accused of. We punish them
19 based upon what they're convicted of.

20 The government has acknowledged that it
21 would not be appropriate or lawful for this Court to
22 detain Ms. Eisenhart in this matter simply because I
23 believe she's guilty of the charges she's facing on
24 January the 6th for her conduct there.

25 The conduct alleged on January the 6th is

1 disputed, but what's not disputed is that
2 Ms. Eisenhart was a part of this mob that entered into
3 the Capitol unlawfully.

4 The issue, however, before the Court
5 today is not whether Ms. Eisenhart is guilty of the
6 crimes with which she's charged. The issue is whether
7 there are any conditions that will reasonably ensure
8 the safety of the community and her appearance at
9 future court proceedings.

10 The Bail Reform Act ordinarily requires
11 that a defendant be released pending trial unless
12 there are no conditions that will reasonably assure
13 the appearance of the person at future court
14 proceedings and the safety of the community.

15 In making this determination, the Court
16 must consider a number of factors, including the
17 nature and circumstances of the offense charged, the
18 weight of the evidence against the defendant, the
19 history and characteristics of the defendant and the
20 nature and seriousness of the danger posed by the
21 defendant's release. These are often referred to, and
22 have been in this hearing, as the 3142(g) factors.

23 With respect to the factor regarding the
24 weight of the evidence, it's important to note that
25 this goes to the weight of the evidence of

1 dangerousness and risk of flight, not the weight of
2 the evidence of the defendant's charges -- guilt as to
3 the charges brought against her in this case.

4 In our society, liberty is the norm and
5 detention prior to trial or without trial is the
6 carefully limited exception. As the Supreme Court has
7 stated, unless this right to bail before trial is
8 preserved, the presumption of innocence secured only
9 after centuries of struggle would lose its meaning.

10 The traditional right to freedom before
11 conviction permits a defendant to prepare his defense
12 and prevents the infliction of punishment prior to
13 conviction.

14 The Court is mindful of the tension that
15 exists between the Bail Reform Act and the presumption
16 of innocence that applies to Ms. Eisenhart and all
17 defendants in criminal cases.

18 Ms. Eisenhart's involvement in this riot
19 is undisputed. The Court has to determine, however,
20 whether there are any conditions or combination of
21 conditions that will reasonably assure her appearance
22 at court proceedings and the safety of the community.

23 I'll begin with the issue of flight. The
24 government advances in its sentencing memorandum that
25 Ms. Eisenhart poses a risk of flight. Specifically at

1 page 22 of the memorandum, the sum and substance of
2 the government's argument is: As noted Eisenhart
3 faces a significant statutory maximum penalty if she
4 is convicted of the charges in the complaint. For
5 this reason, the Court should find by a preponderance
6 of the evidence that Eisenhart poses a serious risk of
7 flight and detain her on that basis.

8 As Mr. Farmer notes, virtually every
9 offense for which someone comes before this Court in
10 the federal system is a serious charge that often
11 carries significant statutory maximum penalties. The
12 Court is not persuaded by this fact alone that
13 Ms. Eisenhart would pose a significant flight risk.

14 What's equally if not more important with
15 regard to any risk of flight in this case is that the
16 Court believes that there are conditions of release
17 that would reasonably assure her appearance at future
18 court proceedings. And the Court has no reason to
19 call into question whether or not she would comply
20 with those conditions.

21 The evidence that's been presented before
22 this Court is that Ms. Eisenhart does not have a
23 significant criminal record. In any event, she does
24 not have any history of not appearing for any court
25 proceedings, of violating any conditions of release

1 that have previously been imposed or violating any
2 conditions of probation that she might have been
3 subject to in the past.

4 And more importantly, the evidence in
5 this case shows, and it was undisputed, that upon
6 learning that she was potentially a subject -- subject
7 to arrest, Ms. Eisenhart made daily contact with the
8 FBI to determine whether she was being sought and
9 whether she should make arrangements to surrender
10 herself, including when she was advised, finally, that
11 there were charges against her, and she thereafter
12 reported and turned herself in, surrendered on those
13 charges.

14 For these reasons the Court does not
15 believe that Ms. Eisenhart poses a significant risk of
16 flight and that there are not conditions that I can
17 impose that would reasonably assure her presence at
18 court proceedings. So the Court finds that flight
19 does not provide a basis for Ms. Eisenhart's continued
20 detention.

21 Therefore, the remaining issue the Court
22 must determine is whether or not there are conditions
23 of release that will reasonably assure the safety of
24 the community in this particular case.

25 As noted before, the Court's heard the

1 proof in this matter, as well as the arguments of
2 counsel. The government's argument of dangerousness
3 really boils down to, as Mr. Farmer alluded to, three
4 significant elements. The first is her conduct on the
5 day of January 6 and thereabouts, of traveling to
6 Washington, DC, of taking certain articles of clothing
7 and equipment with her in advance of that trip, and
8 storming the Congress with a group of insurgents
9 dissatisfied with the results of the presidential
10 election.

11 No. 2, her obtaining a pair of hand ties
12 or what have been commonly referred to as zip ties
13 while she was in the Capitol and her presumed
14 intentions of holding those zip ties during the time
15 she was in the Capitol.

16 And No. 3, statements she has made, in
17 particular statements she's made to media outlets
18 following the events on January the 6th. Those
19 statements specifically are, as indicated on page 10
20 of the government's memorandum: The left has
21 everything, the media, organizations, the government.
22 We have to organize if we're going to fight back and
23 be heard.

24 Eisenhart further made clear that she was
25 willing to die for that cause, explaining, this

1 country was founded on revolution. If they're going
2 to take every legitimate means from us and we can't
3 even express ourselves on the Internet, we won't even
4 be able to speak freely. What is America for. I'd
5 rather die as a 57-year-old woman than live under
6 oppression. I'd rather die and would rather fight.

7 It appears that Ms. Eisenhart's
8 possession of the zip ties and her statements are
9 really what the government suggests distinguishes her
10 from the hundreds or thousands of other individuals
11 who entered the Capitol on that day. They argue that
12 she went into the building, that she dressed for
13 combat, that she picked up the pair of zip ties and
14 she made these statements, reflecting her intention to
15 die and fight, rather than live under oppression.

16 According to the government, she had the
17 motive, opportunity and means to fight on January the
18 6th; however, the evidence in this case suggests that
19 she didn't do that. She entered the Capitol
20 unlawfully, but she didn't appear to fight her way
21 into the Capitol, other than fighting her way through
22 the crowd.

23 She walked through an unsecured door,
24 past law enforcement, none of whom said to her to stop
25 or turn around or not go in. She went into the

1 Capitol. It appears clear from the video evidence
2 that the Court's reviewed that there was no grand
3 master plan that she was a part of in advance of that.

4 The government's admitted they have no
5 evidence of her making any plans to storm the Capitol
6 before the circumstances and events on January the
7 6th. There is no evidence or record of her having
8 ever engaged in any prior conduct of a similar nature
9 to that.

10 While she was in the Capitol, there's
11 conversation between her and her son at which point
12 her son says, what's the plan here, what are you going
13 to do, words to that effect, which, again, would
14 suggest that there was a master plan in advance of
15 that. If there had been a plan, then certainly there
16 would be no need to have asked those questions.

17 The possession of the zip ties seems to
18 be clearly by chance. Everyone's acknowledged that
19 she didn't bring the zip ties into the Capitol
20 herself. She found them in the cabinet and took that
21 from inside the Capitol itself.

22 Her motives and intent with the zip ties
23 are far from clear in this case. The Court's heard
24 evidence contemporaneous with the events when speaking
25 with other alleged insurgents that Ms. Eisenhart made

1 the statements that she was just trying to keep them
2 from bad people or words to that effect.

3 She certainly didn't tell those
4 insurgents that she had any intent to use those zip
5 ties to capture or take hostage or take any other
6 action against anybody, quite frankly. And, again,
7 there's no evidence that in advance of having gone in
8 there that that was her intention to do.

9 And most importantly, I suppose, is the
10 fact that she didn't do that. She didn't attempt to
11 put zip ties on anybody. She never said to anybody,
12 I'm going to come put these zip ties on you or
13 anything to that effect.

14 So the Court's not convinced that her
15 picking up the zip ties is anything that's consistent
16 with any sort of grand plan in advance to fight or die
17 in this case.

18 Likewise, there's no evidence that she
19 was engaged in any assaultive behavior while she was
20 in the Capitol. The government concedes that they
21 have no evidence at this time that she exercised
22 physical violence against anyone, law enforcement,
23 members of Congress, staff of the Congress, other
24 insurgents or anyone for that matter. Again, none of
25 this suggests her stated intention to die and fight

1 rather than live under her perceived oppressions.

2 Similarly, the government suggested that
3 Ms. Eisenhart and her son had or at least had access
4 to weapons more dangerous than a Taser gun, but,
5 again, rather than take those weapons that one might
6 use to die and fight into the Capitol, Ms. Eisenhart
7 and her son apparently left any weapons that they had,
8 other than the Taser gun, outside the Capitol. This
9 undercuts the government's suggestion of her stated
10 intent in this regard.

11 There's also the issue that I spent some
12 time with Mr. Kurtzman about, because it -- on its
13 face appears very troubling. It's the information
14 suggested on page 19 of the government's memorandum at
15 Docket No. 8 in the last paragraph where the
16 government suggests that it appears from Capitol
17 surveillance video that Eisenhart is following after
18 two Capitol police officers who had just encountered a
19 mob outside the entrance to the Senate gallery.
20 Eisenhart shouts from the banister, "Freedom,"
21 "Traitors," "We want a free and fair -- want a fair
22 election. And "we want rule of law."

23 Again, these allegations on their face
24 seem very serious and very significant. If
25 Ms. Eisenhart was giving chase to law enforcement

1 officers who were there in the Capitol, that would be
2 indicative of a desire and intent to do violence.

3 However, upon questioning the government conceded that
4 the evidence doesn't suggest or support a theory that
5 Ms. Eisenhart was giving chase to these Capitol police
6 officers. In fact, it doesn't support the contention
7 that she even had any idea that those officers were
8 there.

9 The idea that she was shouting from the
10 banister at these officers is, likewise, unproven from
11 the evidence that's in this record. The record does
12 suggest and show that she was shouting something from
13 a banister, but it's not clear at all who she was
14 shouting at or that she was shouting at those
15 officers.

16 The evidence that is on the videotapes
17 about the encounter of the mob and those officers is
18 extremely concerning to the Court, but, again, there's
19 simply no evidence that Ms. Eisenhart was engaged in
20 that kind of conduct or even engaged in the conduct
21 that the government suggests she was engaged in in
22 their memorandum in support of detention in this case.

23 So that factor, likewise, fails to
24 substantiate her alleged stated goal of fighting and
25 dying because of her misplaced beliefs of being

1 oppressed.

2 What is clear and can be taken as
3 judicial notice by the Court is that there were many
4 other individuals in the Capitol who were doing the
5 same thing as Ms. Eisenhart. Individuals who went
6 into the Capitol, who were themselves not armed, who
7 were making boisterous, loud statements of a similar
8 nature to Ms. Eisenhart, suggesting their belief that
9 the election results were improper, that their rights
10 had been denied in some way, and that they sought to
11 overthrow or at least obstruct the efforts to certify
12 the vote for president in this case of the electoral
13 college.

14 Many of those individuals have been
15 released. Specifically the Court takes judicial
16 notice of the release of Mr. Brock, an individual who
17 was observed on the floor of the Senate with combat
18 gear on, including a combat helmet, who was holding
19 zip ties and who also made similar statements to those
20 asserted by Ms. Eisenhart. Mr. Brock was released by
21 a judge in Texas. And the government, to my
22 knowledge, has not appealed that decision.

23 But in any event, this Court is also
24 aware of two other individuals in this court who have
25 come before the Court who made statements and whose

1 presence suggested their intention to participate in
2 these activities who likewise did not, to the Court's
3 knowledge, harm anybody but were released without
4 objection by the government.

5 And those situations and examples go on
6 and on and on. In other words, this Court is not an
7 outlier in finding that release is appropriate for
8 these individuals. Certainly there are individuals
9 who engaged in very serious misconduct. And nothing
10 about my statements is intended to suggest that I
11 don't believe that the conduct of Ms. Eisenhart was
12 serious and dangerous as of itself. But everything
13 that Ms. Eisenhart did on January the 6th I can
14 address through conditions of release. And that's
15 what the law requires me to do.

16 The law requires me to impose the least
17 restrictive conditions that I can impose in order to
18 reasonably assure her appearance at court proceedings
19 and the safety of the community.

20 I also want to take a moment to note the
21 allegations that were raised in the testimony with
22 regard to an incident that allegedly occurred after
23 the events on January the 6th at the hotel related to
24 Mr. Turton. The Court heard that proof. I've been
25 provided with the Twitter threads. And the Court

1 gives that evidence very little weight in this
2 circumstance.

3 The Court doesn't dispute Mr. Turton's
4 account of what happened to him on that occasion. But
5 as it relates to this defendant, the Court believes
6 that the government's inference that Ms. Eisenhart was
7 the person who was engaged in the conduct alleged by
8 Mr. Turton is too much of a stretch without additional
9 proof that the Court doesn't have before it.

10 The Court notes that Mr. Turton was able
11 to identify, apparently, Mr. Munchel, based on video
12 as an individual who allegedly assaulted him, or at
13 least laid hands upon him at the hotel. The Court
14 notes, as Mr. Farmer pointed out, that Ms. Eisenhart
15 is also visible in that video. However, Mr. Turton
16 did not, as one would expect, say, that's the woman
17 who pointed the Taser at me.

18 The evidence on this matter is just too
19 thin for the Court to rely on in support of a
20 contention that Ms. Eisenhart poses a danger that
21 cannot be addressed through appropriate conditions.

22 So having considered all of the factors
23 and circumstances that the Court is required to under
24 Section 3142(g), the Court believes that there are
25 conditions of release that would reasonably assure the

1 safety of the community with regard to Ms. Eisenhart.

2 Now, my decision in this matter should
3 not be misunderstood or misconstrued. I am in no way
4 condoning the behavior and conduct of Ms. Eisenhart or
5 the others on January the 6th of 2021. The events of
6 that day are shocking and they're disturbing.

7 We witnessed an attack on the Capitol
8 that many of us could never have imagined. The sight
9 of confederate flags in the Capitol and antisemitic
10 messaging is unthinkable. Understandably, people are
11 angry and they're scared by what they saw. They feel
12 like the rioters attacked our constitution and our
13 democracy, and they rightfully want accountability for
14 that.

15 However, the time for accountability for
16 that conduct is not what's before this Court. As I
17 noted at the outset and have continued to note, my
18 decision to detain or not to detain is not to be based
19 upon whether or not I think Ms. Eisenhart is guilty of
20 the crimes for which she is accused. In fact, if I
21 were to make such a finding, it would be improper and
22 unlawful, and the government concedes as such.

23 Protecting the rights of the accused is
24 often difficult and unpopular. But when we disregard
25 those rights based on anger and fear, we damage the

1 very constitution and democracy that we seek to
2 protect.

3 As a judge, I take an oath to secure and
4 defend the constitution. That can't be based on
5 emotion. It must be based on the law and the evidence
6 that comes before the Court. Even as I talk about the
7 events on January the 6th and what happened at the
8 Capitol, I feel my own emotion in dealing with this
9 issue. But that's why it's so important to make
10 decisions based only on the law and the evidence as a
11 judge. It's what John Adams meant when he said that
12 we are a law -- or a nation of laws and not of men.

13 Based on the laws and the evidence in
14 this case, the Court finds that there are conditions
15 of release that will reasonably assure the defendant's
16 appearance and the safety of the community.

17 And, therefore, it will be the order of
18 the Court that Ms. Eisenhart be released subject to
19 the following conditions: She must not violate
20 federal, state or local law while on release. She
21 must advise the Court or pretrial services in writing
22 before making any change of residence or telephone
23 number. She must appear in court as required and, if
24 convicted, must surrender as directed to serve any
25 sentence that the Court may impose.

1 Ms. Eisenhart, I need to make sure that
2 you listen closely to these conditions because when I
3 complete them, I'm going to ask you if you've heard
4 them and understand them. In addition to those
5 conditions, I'm going to impose some additional
6 conditions. The defendant will be placed in the
7 custody of the third-party custodian proffered by
8 Mr. Farmer and whom the Court has heard testimony from
9 in these proceedings.

10 That individual agrees to supervise
11 Ms. Eisenhart, to use every effort to assure her
12 appearance at all court proceedings, and to notify the
13 Court immediately if she violates a condition of
14 release or is no longer in the custodian's custody.
15 The Court is satisfied that the custodian understands
16 the responsibilities and obligations and will fulfill
17 those obligations to the best of her ability.

18 The Court will likewise require that
19 Ms. Eisenhart submit to supervision by and report for
20 supervision to the pretrial services office as
21 directed. She's to continue or actively seek
22 employment. She is to abide by the following
23 restrictions on personal association, residence or
24 travel. That will be limited to within the Northern
25 District of Georgia unless preapproved by pretrial

1 services.

2 The defendant must not travel outside the
3 continental United States without Court approval. The
4 defendant must participate in all future proceedings
5 as directed. The defendant may not go to
6 Washington, DC unless she is appearing for court,
7 meeting with pretrial services or consulting with her
8 attorney.

9 She is to get medical or psychiatric
10 treatment as determined by pretrial services, if
11 deemed appropriate. She is not to possess a firearm,
12 destructive device or other dangerous weapon.

13 She's to participate in the following
14 location restriction program and comply with the
15 requirements: That will be home detention. You are
16 restricted to your residence at all times except for
17 employment, education, religious services, medical,
18 substance abuse or mental health treatment, attorney
19 visits, court appearances, Court-ordered obligations
20 or other activities approved in advance by the
21 pretrial services office or supervising officer.

22 You are to submit to a location
23 monitoring as directed by the pretrial services office
24 and comply with all the program requirements and
25 instructions provided. You must pay all or part of

1 the cost of the program based on your ability to pay,
2 as determined by the pretrial services.

3 You're to report as soon as possible,
4 within 48 hours to the pretrial services office every
5 contact with law enforcement personnel, including
6 arrests, questioning or traffic stops. And you're to
7 permit the pretrial services officer to visit you at
8 home or elsewhere at any time, and allow the officer
9 to confiscate any contraband in plain view.

10 I need to also advise you of the
11 following penalties and sanctions: Violating any of
12 the foregoing conditions of release may result in the
13 immediate issuance of a warrant for your arrest, a
14 revocation of your release, an order of detention, a
15 forfeiture of any bond, and a prosecution for contempt
16 of court and could result in imprisonment, a fine or
17 both.

18 While on release if you commit a federal
19 felony offense, the punishment's an additional prison
20 term of not more than ten years, and for a federal
21 misdemeanor offense, the punishment's an additional
22 prison term of not more than one year.

23 This sentence will be consecutive,
24 meaning in addition to any other sentence you receive.
25 It's a crime punishable of up to ten years in prison

1 and \$250,000 fine or both to obstruct a criminal
2 investigation, to intimidate a -- tamper with a
3 witness, victim or informant, retaliate or attempt to
4 retaliate against a witness, victim or informant or
5 intimidate or attempt to intimidate a witness, victim,
6 juror, informant or officer of the Court.

7 Penalties for tampering, retaliation or
8 intimidation are significantly more serious if they
9 involve a killing or attempted killing.

10 If after release you knowingly fail to
11 appear as the conditions of release require, or to
12 surrender to serve a sentence, you may be prosecuted
13 for failing to appear or surrender and an additional
14 punishment may be imposed. If you're convicted of an
15 offense punishable by a term of imprisonment of five
16 years or more than but less than 15 years, you will be
17 fined not more than \$250,000 or imprisoned for not
18 more than five years or both.

19 For any other felony, you'll be fined not
20 more than \$250,000 or imprisoned for not more than two
21 years or both. For a misdemeanor, you'd be fined not
22 more than \$100,000 or imprisoned for not more than one
23 year or both. A term of imprisonment imposed for
24 failure to appear or surrender will be consecutive to
25 any sentence you receive.

1 Now, Ms. Eisenhart, normally this is the
2 point in the proceedings where I would pass this order
3 down for you and Mr. Farmer to review and have you
4 execute it in open court. But since we're proceeding
5 by video conference, I need to ask you several
6 questions and I need you to respond, please.

7 Do you acknowledge that you're the
8 defendant in this case and that you're aware of the
9 conditions of release previously announced?

10 THE DEFENDANT: Yes.

11 THE COURT: Do you promise to obey all
12 the conditions of release, to appear as directed and
13 surrender to serve any sentence imposed?

14 THE DEFENDANT: Yes.

15 THE COURT: And that you're aware of the
16 penalties and sanctions set forth in the document
17 above?

18 THE DEFENDANT: Yes.

19 THE COURT: All right, very well. This
20 will be the order of the Court. Ms. Eisenhart will be
21 released subject to these conditions.

22 MR. KURTZMAN: Your Honor, the
23 government, as we did in Ms. Eisenhart's codefendant's
24 case, would ask that the order be stayed until
25 Thursday at 1:00 p.m.

1 THE COURT: Okay. Go ahead,
2 Mr. Kurtzman.

3 MR. KURTZMAN: I expect the prosecuting
4 attorneys in Washington to file an appeal, as they've
5 done both in Mr. Munchel's case, as well as
6 Mr. Barnett's case out of Arkansas. The commonalities
7 between these three is that they were all essentially
8 charged with the same offenses, and that in all of
9 them involved (indiscernible). As the Court's aware
10 the judge in DC ordered at least Mr. Munchel and
11 Mr. Barnett to be transported pending that appeal.

12 THE COURT: All right. Thank you,
13 Mr. Kurtzman.

14 Mr. Farmer, do you have any response?

15 MR. FARMER: A couple of responses,
16 Your Honor. First just as to whether a stay should be
17 imposed. I think the primary consideration is there
18 any irreparable harm to the government. And in light
19 of the conditions that you have outlined, there is
20 virtually no risk that Ms. Eisenhart is going to be
21 anywhere except exactly where we think she's going to
22 be.

23 So if the government wants to kind of
24 have a review of that, I don't think it's appropriate
25 to keep Ms. Eisenhart incarcerated while that happens.

1 If Your Honor disagrees or thinks a stay
2 maybe is the best route, Thursday at 1 o'clock is
3 entirely too long. I think the government has filed a
4 motion like this already for Mr. Munchel. It's the
5 same complaint, so if Your Honor is inclined to grant
6 the stay, it shouldn't be any longer than tomorrow.

7 THE COURT: All right, very good.

8 Mr. Kurtzman, anything else you want to
9 say about that?

10 MR. KURTZMAN: Just in general, I think
11 the primary consideration was the likelihood of
12 success. I would concede that irreparable harm is a
13 factor, but the likelihood of success is the
14 predominant one. As the Court notes, the court in DC
15 has, in two extremely similar cases and in the
16 codefendant's case, during that stay has authorized
17 the transport of these individuals pending the appeal
18 of the release order.

19 THE COURT: Very good, thank you,
20 Mr. Kurtzman. Thank you, Mr. Farmer.

21 The Court was aware of the government's
22 position based upon the information contained in their
23 memorandum. I've considered this matter. I believe,
24 particularly taking into account this is an
25 out-of-district matter, the Court's satisfied that the

1 government intends to file the appeal. They've
2 expressed their intention to do so. I think that a
3 stay is appropriate in this case.

4 I agree, however, with Mr. Farmer that a
5 delay till Thursday is unnecessary, given the
6 circumstances here. I'm going to grant the stay until
7 close of business, till 5 o'clock tomorrow. That will
8 give the government the day to address whatever they
9 feel like they need to do. I'm satisfied that the
10 government's in a position to be able to do that in
11 light of the previous litigation in this case. And as
12 I note, because this is an out-of-district case, it's
13 candidly a little bit unusual that we are generally
14 making these decisions anyway, but certainly
15 Ms. Eisenhart had the right to ask this court to
16 consider it.

17 I've done that, I've made my ruling, but
18 I think it's appropriate to grant the government's
19 motion for a stay. I'll stay my ruling until
20 5:00 p.m. Central standard time tomorrow.

21 Again, thank you to the parties. I
22 appreciate everyone's participation by video
23 conference today. Thank you for your efforts and
24 advocacy in this case.

25 Mr. Kurtzman, is there anything else

1 further from the government's standpoint that we need
2 to do in this matter today?

3 MR. KURTZMAN: No, Your Honor.

4 THE COURT: Very good. Thank you, sir.

5 Mr. Farmer, anything else for your
6 client?

7 MR. FARMER: No, Your Honor. Thank you.

8 THE COURT: All right. Very good. We'll
9 be in recess.

10 *****END OF ELECTRONIC RECORDING*****

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REPORTER'S CERTIFICATE

I, Roxann Harkins, Official Court Reporter for the United States District Court for the Middle District of Tennessee, in Nashville, do hereby certify:

That I transcribed from **electronic recording** the proceedings held via video conference on January 25, 2021, in the matter of UNITED STATES OF AMERICA v. LISA EISENHART, Case No. 3:21-mj-2679;

that said proceedings in connection with the hearing were reduced to typewritten form by me; and that the foregoing transcript is a true and accurate transcript of said proceedings.

This is the 2nd day of February, 2021.

s/ Roxann Harkins
ROXANN HARKINS, RPR, CRR
Official Court Reporter